

§ 3 General climate protection policy

I. International commitment to climate protection

- participation in the global international climate protection agreements
 - the UN Framework Convention on Climate Change (UNFCCC) of 1992
 - the Kyoto Protocol to the UNFCCC of 1997 and its Doha Amendment of 2012
 - the Paris Agreement on climate protection of 2015
 - with its binding *target to hold increase in global average temperature below 2° C* above pre-industrial levels of 1750
 - participation of both the European Union and its member states
- Europe as a driving force behind the growing international climate protection cooperation

II. Key activities in European climate protection policy

1) Fulfilment of the obligations under the international climate protection agreements

- by both the European Union and its member states

2) The EU Regulation on the Governance of the Energy Union and Climate Action of 2018 (EU Governance Regulation) (Regulation 2018/1999)

- establishes a binding *common governance mechanism* to achieve the EU's ambitious energy & climate targets
 - an example that illustrates how national policies are no longer free but coordinated in Europe
- requires the following governance measures of the member states:
 - long-term strategies with a 30-year perspective (all 10 years)
 - integrated national energy and climate plans (for 10 years)
 - integrated national energy and climate progress reports (all 2 years)
 - annual reports with greenhouse gas inventories and other information
- the European Commission will monitor and assess the member states' submissions and issue recommendations

3) The EU Effort Sharing Regulation of 2018 (Regulation 2018/842; tightened in 2023)

- *obliges* every member state *to reduce its greenhouse gas emissions annually* on the basis of *annual emission allocations* by the European Commission
 - up to a percentage determined for each state individually in the annex (Germany: 50 %)
 - in the sectors of energy, industrial processes & product use, agriculture and waste
- compliance is facilitated by certain *flexibilities*, i.e. the option to borrow from or bank to the following year or transfer parts of the allocations between member states

4) The European Climate Law of 2021 (Regulation 2021/1119)

- the main instrument to implement the Paris Agreement and the Green Deal
- see slide 2, § 2 IV.1

5) The trend-setting EU Emissions Trading System (EU ETS)

a) The EU Emissions Trading Directive of 2003 (Directive 2003/87)

- an innovative approach for the reduction of greenhouse gas emissions, first developed in the USA but first implemented on a wide scale in the European Union
 - frequently amended to further develop the system; last major reform: 2023
 - has inspired climate protection policies worldwide

- a *"cap and trade" system for greenhouse gas emissions* in the energy, industry, aviation and maritime transport sectors
 - Every year the EU member states issue *emission allowances* to the participating companies. Some are for free, most are auctioned off. Each allowance entitles to emit one ton of greenhouse gas. Each company must submit each year the appropriate number of allowances for the amount of greenhouse gas it has emitted. If necessary, it needs to buy more allowances on the market.
 - The quantity of available allowances is limited by the *"cap"*, a political decision on the maximum amount of greenhouse gases that may be emitted by all participating companies together. The cap is *lowered every year* and the rules on the cap are constantly tightened.
 - A *Market Stability Reserve* shall counteract allowance oversupply or shortage that could render emissions trading dysfunctional. The mechanism allows to remove surplus allowances from the market and reintroduce them later, if necessary.
- b) The coming second EU Emissions Trading System (EU ETS 2)**
 - a separate system that addresses emissions from fuel combustion in the building, road transport and other sectors
 - fully operational in 2027
 - does not refer directly to greenhouse gas emissions but to the *placing of fossil fuels on the market*
 - fuel suppliers must purchase and surrender the emission allowances
 - to avoid social hardships caused by the rising energy prices, the European Social Climate Fund will support vulnerable households and micro-enterprises

III. German climate protection policy

1) Changing climate protection policies due to changes in government

- recently in 2021 and 2025

2) The early promotion of renewable energies

- see infra, slide 4, § 4 II.

3) The German emissions trading system

a) The Greenhouse Gas Emissions Trading Act of 2025 [Treibhausgas-Emissions-handelsgesetz] (originally of 2004)

- the transposition of the EU Emissions Trading Directive into German law

b) The Fuel Emissions Trading Act [Brennstoffemissionshandelsgesetz] of 2019

- a genuine German *"cap and trade"* system for greenhouse gas emissions resulting from fossil fuels use that precedes the new EU ETS 2 until it becomes operational
- also refers to the placing of fossil fuels on the market by the fuel suppliers

4) The German Federal Climate Action Act (FCAA) [Bundes-Klimaschutzgesetz] of 2019 and its development

- the centrepiece of German climate protection legislation
- legally binding *concrete targets* for a gradual reduction of greenhouse gas emissions through decreasing annual emission budgets
 - until 2030 (reduction by 65 %)
 - until 2040 (88 %)
 - until 2045 (100 %)
 - until 2050 (negative greenhouse gas emissions)
- the originally significantly less ambitious targets, especially for the early years, were tightened after the Federal Constitutional Court had declared them unconstitutional in its climate protection ruling of 2021 (BVerfGE 157, 30; see above slide 1, § 1 II.3)
- the FCAA only stipulates the targets; achieving them necessitates flanking special legislation on specific measures in special areas of law

- provides for climate action programmes and reports of the Federal Government and the involvement of an independent Council on Experts on Climate Change
- requires a climate-neutral federal administration by 2030

5) Topic: After a referendum in the Land Hamburg on 12.10.2025: climate neutrality must be achieved in Hamburg until 2040

- a referendum initiated by a popular initiative with broad civil society support, originally proposed by Fridays for Future
- 5 years earlier than in the rest of Germany under the German Federal Climate Action Act
- 10 years earlier than in the rest of the European Union under the European Climate Law
- Hamburg Climate Protection Act [Hamburgisches Klimaschutzgesetz] will now be amended

IV. The European ban on combustion engines in new cars from 2035 and the lobbying of the European car industry against it (→ Regulation 2019/631)

- since an amendment of 2023, art. 1(5a) lit. a Regulation 2019/631 effectively prohibits the registration of new passenger cars and light commercial vehicles that emit greenhouse gases in the EU from 2035
- environmental associations have celebrated the ban as important step forward for climate protection
- however, most European, especially German car manufacturers have failed to develop electric vehicles that are competitive with their Asian, in particular Chinese rivals
- in 2025, European car manufacturers, led by Mercedes, but also BMW and the Japanese producer Toyota, have launched an intense lobbying campaign for reversal of the ban, while others who have modernised their products, such as Hyundai, support it

V. Perspectives

- concerns about a decline in ambition in the face of growing right-wing populism, massive influence from fossil fuel and car lobbies and pressure from the U.S. Government
- a tendency among the population to ignore the urgency of climate protection - but only until the next disaster strikes
 - uncertain: does Hamburg referendum of 12.10.2025 stand for a revival of the ambition?
- the European Union will continue to pursue its objective of climate neutrality
 - it has already progressed too far to abandon it