Recent Developments in German Environmental Policy and Law (2025–2026)

Main Policy Shifts and the Evolving Landscape of Climate Litigation

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1. Summary

The period from 2025 to early 2026 marks some changes in German environmental and climate policy. A new federal government led by Chancellor Friedrich Merz (CDU/CSU–SPD coalition), which took office in May 2025, has retained the architecture of Germany's climate framework — including the legally binding 2045 net-zero target — but has visibly reordered priorities towards industrial competitiveness, energy security and technology-neutral approaches. The repeal of the controversial Building Energy Act (the so-called "Heating Law"), the planned expansion of up to 20 GW of new gas-fired generation, and a new commercial framework for carbon capture and storage (CCS) signal a significant turn.

At the same time, German courts have become arguably the most assertive guardians of climate ambition. The Federal Administrative Court's ruling of 29 January 2026, which obliged the Federal Government to substantially upgrade its Climate Action Programme, and the Higher Regional Court of Hamm's decision of 28 May 2025 in the Lliuya v. RWE case, recognising in principle the civil liability of major emitters, together establish a doctrinal corridor in which climate targets are enforceable as a matter of public law while private corporate liability remains tightly circumscribed — a position confirmed by the Federal Court of Justice on 23 March 2026.

2. The 2025 Coalition and the Reorientation of Climate Policy

2.1 The "Verantwortung für Deutschland" Coalition Agreement

On 9 April 2025, the CDU/CSU and SPD concluded the coalition agreement "Verantwortung für Deutschland" ("Responsibility for Germany"), paving the way for Friedrich Merz to assume the chancellorship in May 2025. The agreement reaffirms Germany's legally anchored climate targets — a 65 % reduction in greenhouse gas emissions by 2030, 88 % by 2040, and net greenhouse gas neutrality by 2045 — but recasts the means of achieving them. Its leitmotif is "technology neutrality" combined with major public investment, including the EUR 500 billion Special Infrastructure Investment Fund and the newly announced "Germany Fund".

Three features of the agreement deserve particular attention from a European perspective. First, the coalition has committed to lowering electricity prices and introducing an industrial electricity price, partly financed through the Climate and Transformation Fund (KTF). Second, it endorses an unprecedented build-out of dispatchable gas-fired capacity — up to 20 GW by 2030, twice what the previous coalition envisaged — without any binding hydrogen-readiness requirement. Third, it has reframed the German position on CCS, designating storage and pipeline infrastructure as being of "overriding public interest" (überragendes öffentliches Interesse), a planning-law instrument already familiar from the renewables sector.

The Climate Action Tracker has accordingly downgraded its assessment, observing that the policies described in the contract are insufficient to meet the targets enshrined in the Climate Change Act (Klimaschutzgesetz, KSG). Germany has fallen six places in the 2026 Climate Change Performance Index to 22nd place, with national experts citing a lack of additional ambition and the risk of fossil-fuel lock-in from new gas plants.

2.2 The Repeal of the Building Energy Act ("Heating Law")

Few legislative reforms have generated as much political controversy in Germany as the 2023 Building Energy Act (Gebäudeenergiegesetz, GEG), known colloquially as the "Heating Law". Its central provision — that newly installed heating systems must run on at least 65 % renewable energy — was identified by Merz during the 2025 campaign as a symbol of regulatory overreach, and its repeal became a coalition priority.

In late 2025 the GEG was relabelled the Building Modernisation Act (Gebäudemodernisierungsgesetz, GMG), and on 24 February 2026 the parliamentary group leaders of the coalition presented a five-page outline of the reform. Its main features are: elimination of the mandatory 65 % renewable quota for new heating systems; permission to continue installing new gas and oil boilers; an obligation on energy suppliers to gradually blend "green gas" or "green oil" into their networks (beginning at 10 % in 2029); continuation until at least 2029 of subsidies for climate-friendly systems such as heat pumps; and simplified municipal heat planning rules for towns under 15,000 inhabitants.

Environmental NGOs and think tanks have warned of the climate consequences. The Wuppertal Institute has stated that without the 65 % requirement, Germany's 2050 zero-emission building stock target is "seriously jeopardised", while the Öko-Institut has projected that the abolished provision would have saved approximately 30 million tonnes of CO_2 between 2024 and 2030. Heat-pump sales, which had set a record in 2023, fell to fewer than 200,000 units in 2024 — well below the previous government's 500,000 annual target. The buildings sector remains 50 % above its sectoral 2030 trajectory under the KSG, with cumulative overshoot estimated at around 110 $MtCO_2eq$ for 2021–2030.

2.3 The Carbon Dioxide Storage and Transport Act (KSpTG)

The new Carbon Dioxide Storage and Transport Act (Kohlendioxid-Speicherungs- und Transportgesetz, KSpTG) entered into force on 28 November 2025. Replacing the highly restrictive 2012 Carbon Dioxide

Storage Act (KSpG) — under which not a single commercial storage facility had been licensed — the KSpTG establishes for the first time a legal framework for industrial-scale CCS and CCU activity, transposing in part the EU Net Zero Industry Act (Regulation 2024/1735).

Three elements stand out. First, the Act permits commercial-scale CO_2 storage in the German exclusive economic zone and continental shelf, with onshore storage subject to an opt-in by individual federal states. Second, it creates a unified planning approval regime (Planfeststellungsverfahren) for CO_2 pipelines, treating them — like CCS facilities themselves — as serving an "overriding public interest", with an explicit exception for marine protected areas. Third, accompanying legislation passed on 29 January 2026 implements the 2009 amendment to Article 6 of the London Protocol, enabling cross-border export of CO_2 for storage abroad, principally to Norway and Denmark, which is likely to be the dominant short-term use case.

The political economy of the reform is delicate. Northern coastal states have expressed concern that CO_2 pipeline expansion will compete with the hydrogen core network for routing and resources. No federal state has yet announced an opt-in for onshore storage, and several have explicitly rejected it. Environmental associations have criticised the Act in an open letter dated 11 September 2025 for potentially preserving "technically avoidable" emissions. Yet from an industrial perspective, the KSpTG is a long-awaited legal foundation: a six-billion-euro CCS/CCU funding programme for 2026 was announced by the Federal Ministry for Economic Affairs in October 2025.

2.4 Carbon Pricing, Renewables and the Energy Transition

The national emissions trading scheme for fuels (Brennstoffemissionshandelsgesetz, BEHG) will undergo a structural shift in 2026: certificates, fixed at EUR 55 per tonne in 2025, will from January 2026 be auctioned within an initial price corridor of EUR 55–65. The scheme is scheduled to merge with the new EU ETS II for buildings and transport in 2028. The German Environment Agency (Umweltbundesamt, UBA) has cautioned that, on current settings, prices well above EUR 100 per tonne would be required to align the buildings and transport sectors with their statutory budgets.

In the electricity sector, renewables covered 56 % of consumption in 2025, and a record permitting volume of approximately 14 GW of onshore wind was approved in 2024 — an 85 % increase year-on-year — partly owing to the EU Emergency Regulation and the recognition of wind as serving an overriding public interest. Yet actual installation lags far behind: only around 3 GW of new onshore wind was on track for 2025, against an annual requirement of approximately 10 GW to reach the 84 GW target by 2026. Sixteen coal-fired power plants had been shut by June 2025, and the legal coal phase-out date remains 2038, although the new coalition has signalled that some plants may operate even longer.

2.5 The Climate Action Programme 2026

Under § 9 of the KSG, each new federal government must adopt a Climate Action Programme within twelve months of taking office. The programme adopted in 2026 sets out 67 additional measures aimed at closing the projected gap to the 2030 target, plus 23 measures for the LULUCF sector. The

Federal Government estimates total emission savings of approximately 27.1 $MtCO_2eq$ in 2030, financed by 8 billion euros from the federal budget over 2027–2030. Headline measures include additional auctions for 12 GW of onshore wind, a renewed support framework for industrial electrification and process-heat decarbonisation (to be developed by summer 2026), and expanded subsidies for district heating networks. The UBA's March 2026 emissions projections nevertheless show a widening rather than narrowing of the gap to both the 2030 and 2040 targets.

2.6 Biodiversity and Nature Restoration

The Federal Cabinet adopted the National Biodiversity Strategy 2030 (NBS 2030) on 18 December 2024, setting 64 targets across 21 fields of action and explicitly aligning the German framework with the Kunming-Montreal Global Biodiversity Framework and the EU Biodiversity Strategy for 2030. The NBS provides the platform for Germany's implementation of the EU Nature Restoration Regulation (Regulation 2024/1991), under which Member States must submit their National Restoration Plans by September 2026. The technical, bureaucratic and financial demands are substantial. So far, the transposition of the EU-FFH-Regulation in the context of German infrastructure and other projects has been a bureaucratic nightmare. Financially a LANA estimate, still cited as a baseline, put the cost of implementing the Art. 4 NRR in Germany alone at approximately EUR 1.7 billion annually. On the whole: Bernhard Wegener, NVwZ 2026, forthcoming).

Other notable instruments include the Battery Law Implementation Act of October 2025, which transposes EU Regulation 2023/1542 and replaces the previous Battery Act, introducing extensive take-back and recovery obligations. The Federal Government has also announced its intention to repeal the Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz) and replace it with a new instrument aligned with the EU Corporate Sustainability Due Diligence Directive — a development of considerable significance for harmonisation and easing of corporate sustainability obligations across the Union.

3. Climate Litigation: Two Landmark Years

3.1 The Constitutional Backdrop: From Neubauer (2021) to the Present

Any analysis of recent German climate litigation must begin with the Federal Constitutional Court's decision of 24 March 2021 in Neubauer and Others v. Germany (1 BvR 2656/18 and others), which declared parts of the original 2019 KSG incompatible with fundamental rights for offloading drastic emission-reduction burdens onto the post-2030 period. The doctrine of an "intertemporal guarantee of freedom" articulated in that ruling continues to frame both governmental and private climate litigation. The 2024 reform of the KSG, which removed the binding character of annual sectoral budgets while preserving overall national targets, has narrowed but not eliminated the litigation surface.

3.2 The Klimaverfassungsbeschwerde 2.0 (Pending)

A pending climate case before the Federal Constitutional Court is the so-called Klimaverfassungsbeschwerde 2.0 (also referred to as the "Zukunftsklage"). Filed in autumn 2024 in direct response to the April 2024 reform of the KSG — which abolished the binding annual sectoral emission budgets that had been the backbone of the 2019 Act — the litigation is structured as three parallel constitutional complaints coordinated to test different legal theories and complainant constellations. The first was filed jointly by Greenpeace and Germanwatch with several individual complainants, including three Fridays for Future activists; the second by Deutsche Umwelthilfe with the youth complainants from the successful 2021 proceedings; and the third by the Bund für Umwelt und Naturschutz Deutschland (BUND) and the Solarenergie-Förderverein Deutschland (SFV).

The substantive arguments combine three doctrinal strands. First, the complainants invoke the intertemporal guarantee of freedom established in the 2021 Klimabeschluss, arguing that the removal of binding sectoral budgets reproduces precisely the constitutional defect identified at that time. Second, they rely on the state's duty to protect life and physical integrity under Article 2(2) of the Basic Law, citing intensifying heatwaves and flooding as concrete present-day impairments of fundamental rights. Third, they integrate two recent international developments: the European Court of Human Rights' judgment in Verein KlimaSeniorinnen Schweiz v. Switzerland (April 2024) and the International Court of Justice's Advisory Opinion of 23 July 2025 on the obligations of states in respect of climate change, both of which the complainants treat as confirming binding obligations to pursue 1.5°C-compatible mitigation pathways.

Procedurally, the proceedings reached an important threshold in August 2025, when the Federal Constitutional Court formally invited observations from the Federal Government, the Bundestag, the Bundesrat, several federal ministries, and key expert bodies — including the German Council of Environmental Experts (SRU), the Council of Experts on Climate Change (ERK) and the Potsdam Institute for Climate Impact Research (PIK). While not a decision on the merits, this step is generally read as indicating that the Senate is seriously engaging with the legal arguments. The Federal Government, after a two-month extension, submitted its observations in late December 2025, defending the 2024 KSG reform as constitutionally compliant; the SRU and PIK submissions, by contrast, identified substantial deficiencies in the amended Act.

The case is doctrinally and politically significant for at least three reasons. First, it will determine whether the constitutional ceiling above the emerging public-law floor — clarified by the Federal Administrative Court in January 2026 — remains intact. Second, the Federal Administrative Court has formally stayed parallel proceedings brought by BUND concerning the Federal Government's duty to adopt emergency programmes (Sofortprogramme), pending Karlsruhe's ruling, demonstrating the cascading effect a substantive decision would have across German climate jurisprudence. Third, the Klimaverfassungsbeschwerde 2.0 must be distinguished from the chamber decision of 12 February 2025 (1 BvR 2047/23), in which the First Chamber declined to admit a separate complaint directed against the 2023 Climate Action Programme on subsidiarity grounds; the present litigation targets the statute itself rather than its implementing programme. No hearing date has been announced, but a Senate decision in 2026 or 2027 appears realistic, with possible outcomes ranging from non-admission to a renewed declaration of partial unconstitutionality with a deadline for legislative amendment.

3.3 The Federal Administrative Court Ruling of 29 January 2026

The most consequential public-law ruling of the period is the Federal Administrative Court's judgment of 29 January 2026 (BVerwG, 7 C 6/24), upholding the 2024 decision of the Higher Administrative Court of Berlin-Brandenburg in proceedings brought by Deutsche Umwelthilfe (DUH). The Court confirmed that the Federal Government's Climate Action Programme 2023 failed to comply with the requirements of § 9 KSG, identifying a projected shortfall of at least 200 million tonnes of CO_2 against the 2030 target. The Federal Government is now legally obliged to supplement the programme with additional measures sufficient — on the basis of methodologically sound projections — to ensure achievement of the 65 % target by 2030, although it retains broad discretion as to which specific measures it adopts.

Three doctrinal features of the ruling are of European significance. First, the Court accepted that the Climate Action Programme is the central steering instrument of climate policy and that its measures must be adequate to achieve the binding national target — converting a procedural duty into a substantively reviewable obligation. Second, the ruling affirms the standing of recognised environmental associations to enforce climate obligations under § 9 KSG, consolidating a strong NGO role in administrative climate litigation. Third, the decision is final and not subject to further appeal, leaving the government with no option but compliance: State Secretary Jochen Flasbarth confirmed on the day of the ruling that the 2023 programme would be replaced by a new one by the end of March 2026.

3.4 Lliuya v. RWE: The Higher Regional Court of Hamm, 28 May 2025

In civil-law the judgment of the Higher Regional Court of Hamm of 28 May 2025 in Saúl Luciano Lliuya v. RWE AG made some headlines. The appellate ruling confirmed that major corporate emitters can in principle be held liable in civil law for climate-related risks to property — even where the affected claimant lives several thousand kilometres away. Although the specific claim was dismissed on factual grounds (the court found the flood risk to the claimant's home in Huaraz, Peru, was not sufficiently elevated), the doctrinal acceptance of attributable civil liability under §§ 1004 and 906 of the German Civil Code (Bürgerliches Gesetzbuch, BGB) sets a precedent of some significance for parallel proceedings in Switzerland, Belgium and elsewhere. Nevertheless it seems rather doubtful, that the Federal Civil Court would have come to the same generous conclusions in principle.

Significantly, the Hamm ruling stands apart from a strikingly consistent line of contrary authority: the Higher Regional Courts of Braunschweig, Munich and Stuttgart had all previously dismissed climate claims against German automobile manufacturers, holding that the necessary balancing of policy interests belongs to the democratically legitimised legislature, not to civil courts. The Hamm court took a markedly different approach, developing extensive non-binding obiter dicta suggestive of a general openness to corporate climate liability.

3.5 The Federal Court of Justice and Automobile Manufacturers (23 March 2026)

The boundaries of private climate liability were significantly clarified by the Federal Court of Justice (Bundesgerichtshof, BGH) in two parallel rulings of 23 March 2026 (VI ZR 334/23 and VI ZR 365/23). Members of environmental associations had sought injunctions to require two German car manufacturers to cease placing new internal combustion vehicles on the market after 31 October 2030, arguing that emissions from the vehicles would breach attributable CO_2 budgets and thereby violate constitutional rights.

The BGH dismissed both appeals. While accepting that future restrictions on personal life resulting from climate change would interfere with the general right of personality (Article 2(1) of the Basic Law in conjunction with Article 1(1)), the Court held that no specific residual CO_2 budget could be attributed to the defendants. Drawing on the 2021 Constitutional Court ruling and subsequent jurisprudence, the BGH held that such attribution is a precondition for actionable claims and that, in the absence of an attributable share, no civil-law obligation arises. The Court further held that manufacturers in full compliance with the EU Car Emissions Regulation (Regulation 2019/631) are not subject to additional due diligence obligations regarding CO_2 emissions: the EU regulatory framework constitutes a complete and specific scheme, and additional civil-law duties cannot be superimposed upon it.

3.6 Greenwashing and Unfair Commercial Practices Litigation

A parallel and increasingly active strand of climate-related litigation concerns climate-related advertising claims under unfair commercial practices law. The Regional Court of Nürnberg-Fürth (judgment of 25 March 2025, 3 HK O 6524/24) and the Regional Court of Frankfurt (judgment of 26 August 2025, 3-06 O 8/24) have continued to apply a strict standard to "climate-neutral" claims, building on the BGH's earlier ruling that consumers must be clearly informed of the basis on which such labels are used. The forthcoming national transposition of Directive 2024/825 — which will introduce per se prohibitions of certain green claims — is widely expected to harden this jurisprudence further during 2026 and 2027.

4. The European Dimension

Three interfaces between German developments and the wider European framework deserve attention. First, the KSpTG implements core elements of the EU Net Zero Industry Act, contributing to the binding EU target of 50 million tonnes of annual CO_2 storage capacity by 2030. Germany's ratification of the London Protocol amendment, completed in early 2026, removes a long-standing obstacle to cross-border storage and is likely to make the country a net exporter of CO_2 for storage in the medium term, primarily to Norwegian and Danish facilities.

Second, the Building Modernisation Act's green-gas blending obligation raises significant questions of compatibility with EU energy and emissions law. Both the Renewable Energy Directive (RED III) and the EU ETS II framework presuppose verifiable greenhouse-gas accounting; biomethane and synthetic fuel volumes capable of supplying a 10 % blend by 2029, scaled across the German gas grid, are widely considered insufficient. The Wuppertal Institute and utility associations have expressed scepticism that the quota can be met without disproportionate cost increases for consumers.

Third, German implementation of the Nature Restoration Regulation will be one of the most-watched in the Union. Implementation responsibility lies primarily with the federal states, raising classic challenges of coordinated federalism. The forthcoming National Restoration Plan, due in September 2026, will be the test case for whether the German "cooperative federalism" model can accommodate the binding, area-based obligations of the NRR — particularly given the substantial restoration backlog in non-natural coniferous forests, which dominate over half of the German forest area.

Selected Sources

Bundesverfassungsgericht, Order of 24 March 2021, 1 BvR 2656/18 et al. (Neubauer); Federal Administrative Court, Judgment of 29 January 2026, 7 C 6/24; Higher Regional Court of Hamm, Judgment of 28 May 2025 (Lliuya v. RWE); Federal Court of Justice, Judgments of 23 March 2026, VI ZR 334/23 and VI ZR 365/23; Federal Climate Change Act (Klimaschutzgesetz, KSG); Carbon Dioxide Storage and Transport Act (KSpTG), Federal Law Gazette 2025 I No. 282, in force 28 November 2025; Coalition Agreement "Verantwortung für Deutschland" of 9 April 2025; National Biodiversity Strategy 2030, adopted 18 December 2024.