

Climate Change in Domestic and International Law

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Workshop Environmental Rule of Law (“Estado de Direito Ambiental”)

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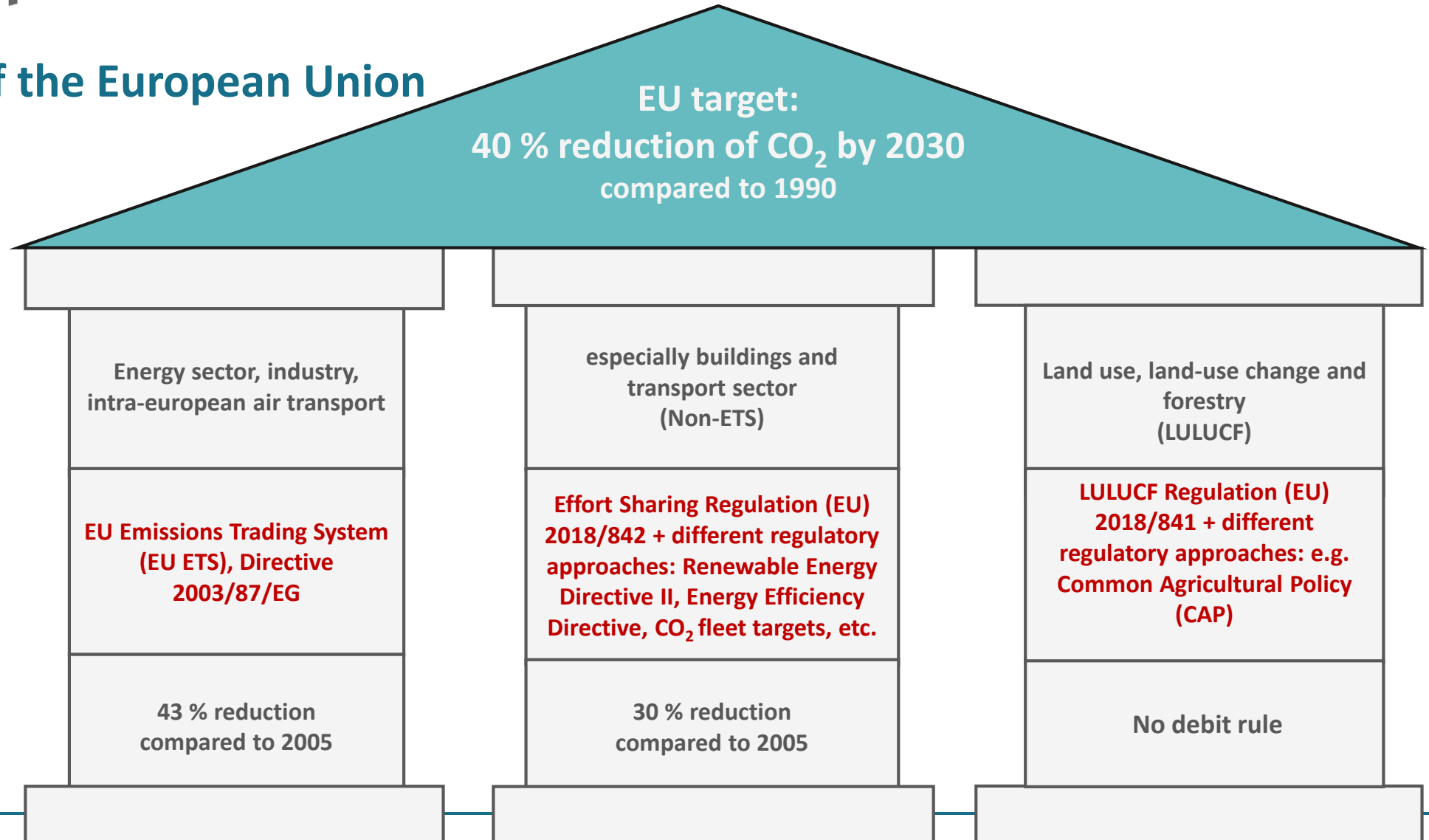
Climate Protection Law is...

**...the sum of all legal norms intended to
protect the climate from anthropogenic
impacts.**

International Law: The Paris Agreement

- entered into force on 4 November 2016
- 187 Parties have ratified of 197 Parties to the Convention
- aims at keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial level and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius
- **instrument:** Nationally Determined Contributions (NDCs)

Climate Strategy of the European Union



European Commission (Ursula von der Leyen):

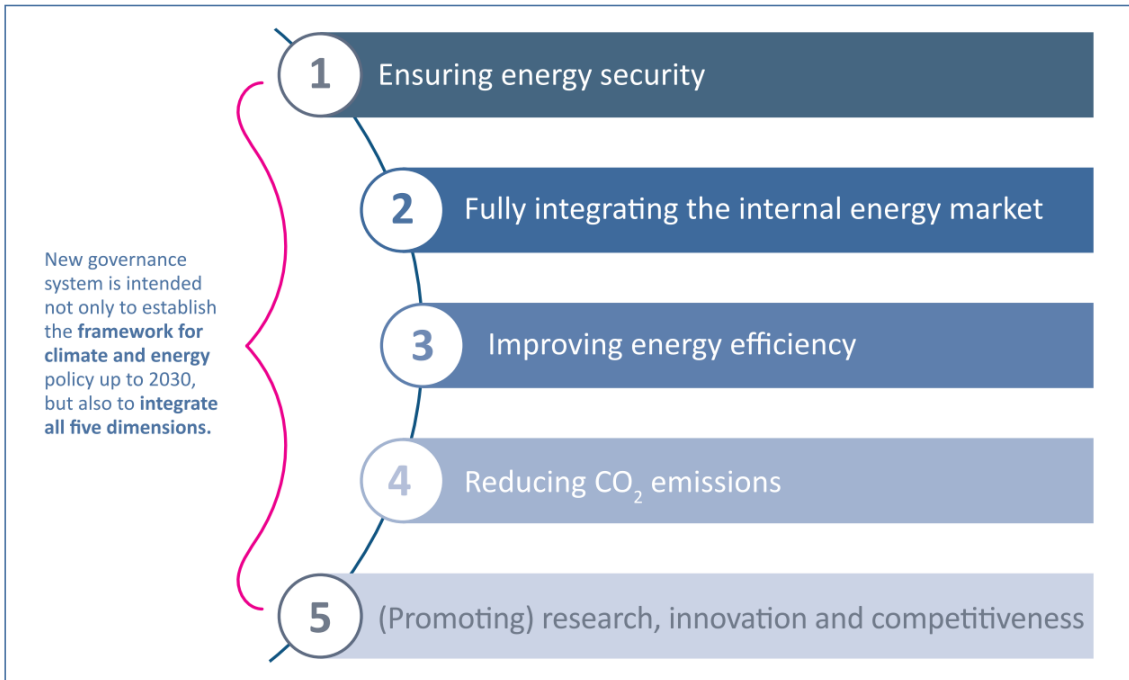
Green Deal...

...aims to make Europe the first
climate-neutral continent by
2050.

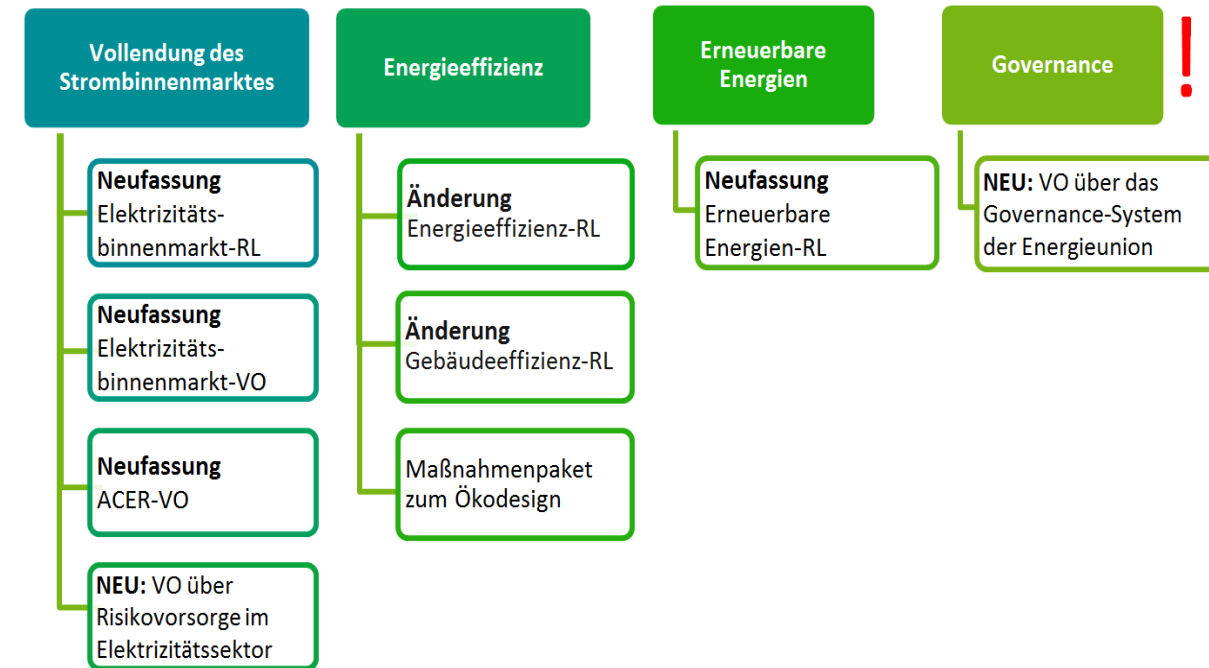


Building a European Energy and Climate Union

COM 2015:
“Five dimensions” of the European Energy Union



Legislative package 2018/2019:
“Clean Energy for All Europeans”



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

- „Umbrella regulation“
- Reaching the climate targets of the Paris Agreement
- Increasing share of renewable energies: at least 32 % (with regard to gross final energy consumption)
- Increasing energy efficiency: at least 32,5 % (compared to a reference development)

Instruments

Obligations of the Member States:

- Development of **long-term strategies** (2021–2050, obligation of the PA)
 - Germany: Climate Action Plan 2050 (created in 2016)
- Development of **Integrated National Energy and Climate Plans** (NECPs, 2021–2030) + **progress reports**

Status quo



Draft NECP
2018

Final NECP
2019

Progress
report 2023

if necessary
NECP update
2024

Progress
report 2025

Progress
report 2027

Draft NECP
2028

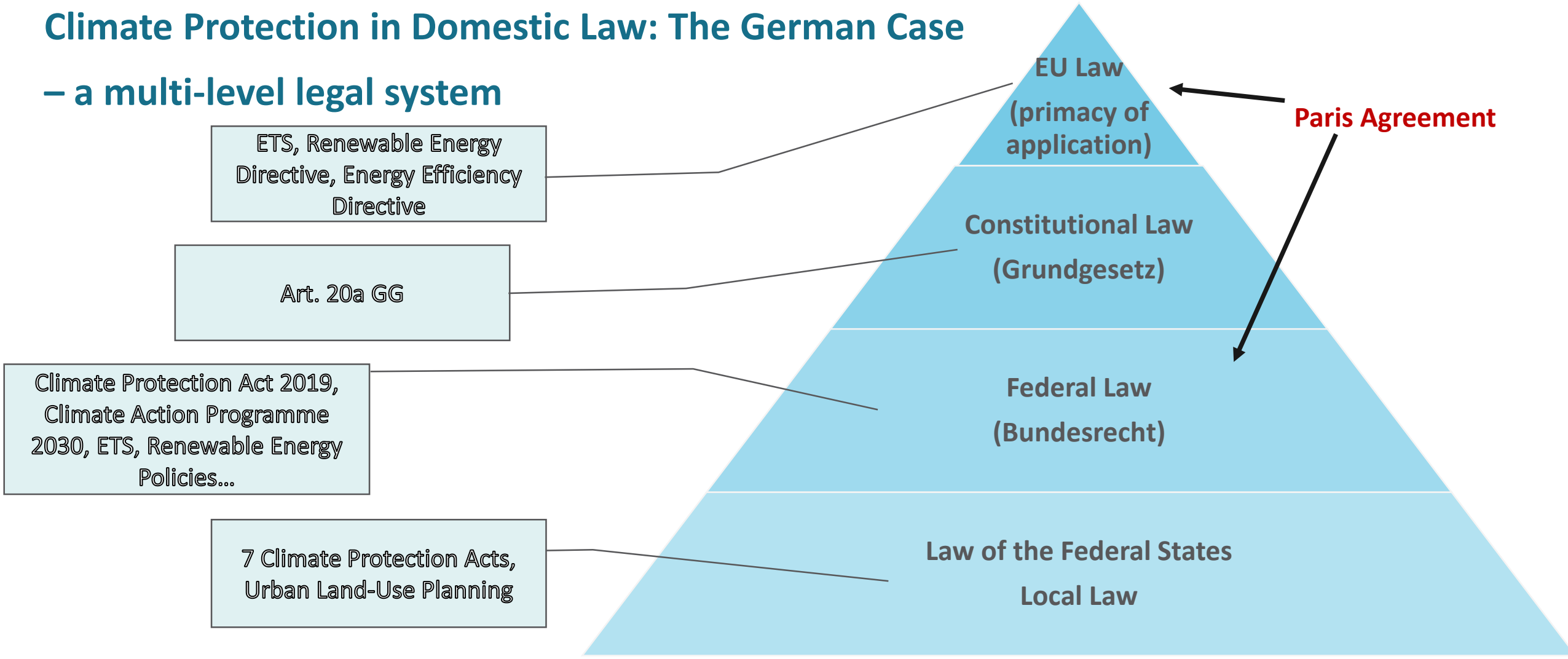
Interim Conclusion

The EU Governance Regulation...

- ⇒ interlinks energy and climate protection policies
- ⇒ contains medium and long-term reporting and planning obligations for member states
- ⇒ does not contain standards like levels of ambition for the member states to ensure the fulfilment of the European renewable energy and efficiency targets
- ⇒ EU targets have to be achieved through voluntary contributions (NECPs) of the member states!

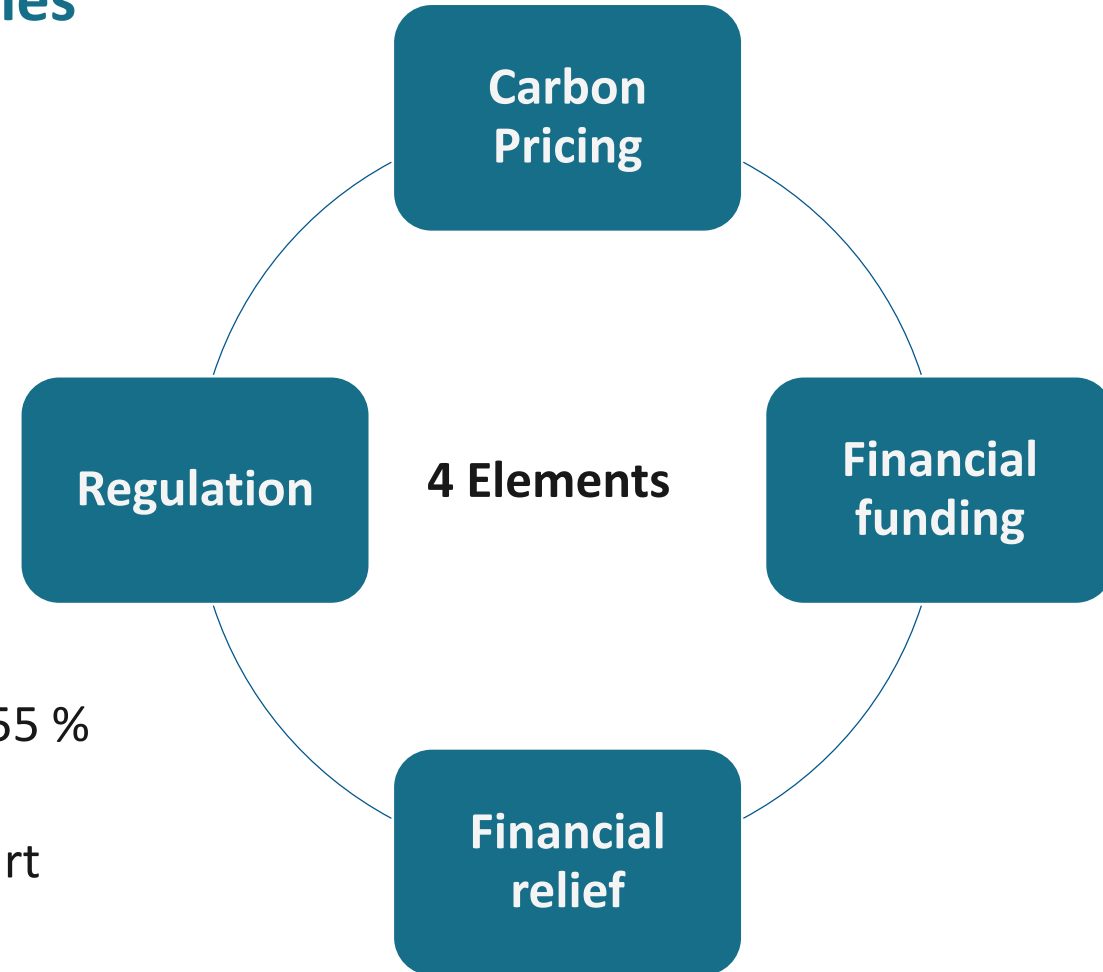
Climate Protection in Domestic Law: The German Case

– a multi-level legal system



Core Elements of Federal Climate Protection Policies

- **Climate Action Plan 2050 (2015): Long Term Strategy** (PA, EU-Governance Regulation → non-binding)
- **NECP:** EU Governance Regulation, Ministry of Energy → non-binding
- **Climate Action Programme 2030 (2019/2020):** legislative packages, **connects** sector-specific and cross-sectoral measures
- **Climate Protection Act (11/2019)** contains
 - **national climate protection target:** reduction rate of at least 55 % by 2030 compared to 1990
 - **sectoral annual emission quantities** → Non-ETS: industry, (part of) energy, transport, buildings, agriculture, waste/others



Conclusion

- Step in the right direction: **legal basis for a federal climate protection goal** is established
- **Federal Climate Protection Act: “Umbrella Act” with deficiencies:**
 - incoherent (different ministries, double structures, different strategies, different plans, no consistent integration of energy and climate protection policies)
 - bureaucratic governance system (e.g. carbon pricing)
 - lack of consistency with EU Governance System
 - more substantive development of energy efficiency and of renewable energies
- **Control?**
 - no legal protection/access to justice → § 4 I 5: „Subjective law and actionable legal positions are not established by or on the basis of this Act.“
 - NECP and Climate Action Plans are not subject to the SEA Directive → no judicial control

Thank you for your kind attention!

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