



Cooling down the heating debate? Learnings from the transformation of the German “Heating Law” to the Building Modernisation Act

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ABSTRACT

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The article examines the transformation of the German Building Energy Act (GEG)—particularly its reform known as the ‘Heating Law’—into the German Building Modernisation Act. It outlines the relevant national and European legal framework and reconstructs the timeline of the relevant legislative process. The article analyses the proposed amendments to the GEG and assesses their compatibility with key provisions of European law (Climate Law, Effort Sharing Regulation, EPBD, RED III) and German constitutional law (Art. 20a GG). It argues that if implemented without additional measures, the proposed changes are likely to conflict with both EU and constitutional requirements. The article concludes by drawing lessons from the policy process.

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INTRODUCTION

In 2023, Germany revised its Building Energy Act (GEG). The GEG is a key legislation aimed at improving the energy efficiency of buildings and promoting the use of renewable energies in heating. It is central for efforts to reduce energy consumption and greenhouse gas emissions, in line with national, European and international climate goals.

The revision of the GEG became known as the so-called ‘Heating Law’. One of the most significant changes was the introduction of the ‘65% renewable heat rule’: From 2026 (or 2028, depending on the municipality), any replacement heating system must meet at least 65% of its heat demand with renewable energy sources. The rule is one of the main instruments for advancing the heating transition in Germany’s existing building stock.

The revision of the law received an unforeseen level of media attention and came to dominate the energy policy debate in Germany and beyond. The debate was partly based on misinformation, and it has influenced—and continues to influence—both the law itself and the design of other energy efficiency policies (see e.g. [Braungardt, Keimeyer & Loschke 2024](#)). After early elections in February 2025 following the collapse of the then governing coalition in November 2024, the two current governing parties first agreed to abolish the Heating Law and finally announced, in December 2025, that instead a Building Modernisation Act will be introduced. The legislative outline for this Building Modernisation Act has now been published. The 65% renewable heat rule will be removed. Instead, a combination of a bio-fuel phase in schedule for heating systems based on fossil fuels (‘bio-ladder’) and a green gas/oil quota for distributors will be introduced. The outline has received harsh reactions from environmental and consumer protection organisations but also faced criticism from industry stakeholders and the media.

This paper examines the 65% renewable heat rule, and the policy processes associated with it from a legal perspective. It outlines the existing legal framework, including proposed amendments to the GEG and its transformation into the Building Modernisation Act. In doing so, it considers EU and constitutional law. Finally, the paper reflects on the law and policy process to derive lessons for future and ongoing energy policy.

METHODS

The paper is based on previous publications on the Heating Law, see e.g. [Braungardt, Keimeyer & Loschke 2024](#), which have analysed the timeline and media coverage associated with the development and introduction of the Heating Law. Building on, extending and transforming this analysis, the authors of this paper have done extensive desktop research. The desktop research focussed first on establishing a timeline to reflect the relevant political and legislative process. In this regard, newspaper articles and published opinions from stakeholders were searched, collected and analysed. During the legal research phase, relevant legal perspectives on the development of the Heating Law were collected and analysed. In this regard, legal texts, such as available materials from the legislative process and legal literature have been used. While the document-based analysis was extensive, methodological limitations derive from its inherent selectivity (e. g. due to restricted access to materials). Further, potential uncertainties regarding the legal conclusions and lessons learned derive from the evolving nature of the legislative process discussed. Changes taking place after the finalization of this text could lead to new or (partly) differing conclusions.

LEGAL FRAMEWORK FROM 2020 TO 2026

This section describes the legal framework leading up to the announced transformation of the GEG (2020 to 2026). It aims to provide the relevant background for the following legal assessment and discussion.

NATIONAL LEGAL FRAMEWORK—GEG

The GEG has first come into force in 2020. In its original form it aimed at simplifying the legal framework for energy saving in buildings, while at the same time implementing relevant EU legislation on the energy performance of buildings ([Radimeczky-Krekel & Fröhlich 2025, p. 445](#)).

The most prevalent change to the GEG has been its amendment in 2023 (Heating Law). According to its 65% renewable heat rule—starting in June 2026 in large cities or June 2028 in all other municipalities—newly installed heating systems would have to be operated with 65% renewable energy in existing buildings. For some new buildings the rule applied right away from January 2024 ([Radimeczky-Krekel & Fröhlich 2025, p. 445](#)). Existing heating systems could continue to operate (until 2045) and could also be repaired ([Braungardt, Keimeyer & Loschke 2024, p. 236](#)).

The rule laid out various options for meeting the requirement of 65% renewable energies but was not technically limited to these options. The provided options simply included standard cases. In this regard all types of electric heat pumps (including geothermal energy) would have been sufficient to install, § 71c GEG. Further, the establishment of a connection to district heating would have sufficed, § 71b GEG. Similar options of fulfilment were e.g.

- direct electricity heating such as night storage heaters, § 71d GEG;
- hybrid heating (however, in this case requirements on minimum thermal output of the heat pump had to be fulfilled), § 71h GEG;
- solar thermal systems, typically in combination with outer renewable heat sources, § 71e GEG;
- solar thermal hybrid heating, § 71h GEG;
- green hydrogen or solid, liquid and gaseous biomass, §§ 71f, 71g GEG.

Additional rules for transition periods applied—e.g. when a heating system broke down unexpectedly giving more time to comply with the rule, § 71i GEG. For a more detailed description see [Braungardt, Keimeyer & Loschke 2024](#).

The Heating Law also established rules for the installation of fossil fuelled heating systems in buildings between 2024 and June 2026, § 71(9) GEG. Such heating systems would have to be operated with 15% renewable energy from January 2029, 30% starting January 2035 and 60% starting from January 2040 ([Braungardt, Keimeyer & Loschke 2024](#)).

Furthermore, from 1 January 2045 on, heating systems operated with fossil fuels would be prohibited entirely, § 72(4) GEG.

It should be noted that the climate effects of replacing fossil fuel-based heating with electricity-based systems, such as heat pumps, depend on the carbon intensity of the electricity supply. Although the decarbonization of the power sector is central to the decarbonization of the heating sector, its discussion is beyond the scope of this paper. At present, the carbon intensity of the German electricity system remains higher than that of gas; however, this must be assessed in light of the ongoing decline in grid carbon intensity and the higher efficiency of e.g. heat pumps. The carbon intensity of the German electricity mix has decreased in recent years: from 379 gCO₂/kWh in 2023 and 353 gCO₂/kWh in 2024 to 344 gCO₂/kWh in 2025 ([Umweltbundesamt 2026](#)). This trend is expected to continue, with Germany aiming for an electricity mix based on at least 80% renewable energy by 2030 according to § 1 of the German Renewable Energy Law (EEG). Further, according to Chaigneau, Häußler and Nienborg, in 2024, emissions from heat pump systems were already 58% to 65% lower compared to gas boiler systems ([2025](#)). This is due to the higher efficiency of heat pumps transforming electricity into heat.

EUROPEAN LEGAL FRAMEWORK – EPBD AND RED III

In the following years, notable EU reforms and legislation came into force. Relevant in this regard are especially, the reform of the Energy Performance of Buildings Directive (EPBD—Directive (EU) 2024/1275), and of the Renewable Energy Directive (RED III—Directive (EU) 2023/2413 amending Directive (EU) 2018/2001). The deadline for the implementation of the EPBD is May 2026, while the deadline for the implementation of the RED III was mostly May 2025.

EPBD

The EPBD addresses the improvement of the energy performance of buildings with the goal to decarbonise the buildings sector in the EU until 2050. It introduces among other aspects zero emission buildings, Art. 7, 11 EPBD, requiring new buildings from 2030 on to fulfil higher energy efficiency requirements and prohibiting them from causing on-site carbon emissions. The

transition to an emission-free heating sector is one of the key objectives of the directive, recital no°24 of the EPBD ([Radimeczky-Krekel & Fröhlich 2025, p. 447](#)). Accordingly, the EPBD requires for Member States to detail strategies in their national building renovation plans on how to achieve zero emission buildings for existing buildings until 2050 as well. It further prohibits financial incentives for the installation of stand-alone boilers powered by fossil fuels, Art. 17(15) EPBD. The EPBD further introduces minimum energy performance standards ('MEPS') for existing non-residential buildings and new rules with regards to e.g. energy certificates and inspections.

RED III

RED III regulates the energy sector and establishes the basis for the expansion of renewable energy in Europe. It was introduced to the backdrop of the European Climate Law, determining the EU goal to become climate neutral in 2050, and to reduce net greenhouse gas emissions by 55% compared to 1990 until 2030.

Art. 15a RED III regulates the deployment of renewable energy in buildings and seeks the transition from fossil fuel-based heating systems to renewable heat sources. In addition, Art. 23(1) RED III requires Member States to increase the share of renewable energy in the heating sector annually until 2030 ([Radimeczky-Krekel & Fröhlich 2025, p. 446](#)). Art. 15a(1) RED III requires the determination of a reference value for the share of renewable energy in final energy consumption in the building sector for 2030, which must be consistent with the objective of achieving a minimum EU-wide share of 49% renewable energy in final energy consumption in buildings by 2030. For Germany, the European Commission proposes a reference value of 43% for the building sector ([Radimeczky-Krekel & Fröhlich 2025, p. 446](#)).

Art. 15a(3) RED III obliges Member States to take appropriate measures to increase the share of electricity and heating from renewable energy sources in the building sector. Furthermore, Member States are required to establish mandatory minimum shares of energy from renewable sources ([Radimeczky-Krekel & Fröhlich 2025, p. 446](#)).

TIMELINE OF THE REVISION

This section describes the relevant timeline following the introduction of the Heating Law and preceding the announced Building Modernisation Act (for a detailed timeline on the Heating Law, see [Braungardt, Keimeyer & Loschke 2024](#)). The timeline shows the length and multiple delays of the process and aims to illustrate its difficulties.

- May 2025: After a heated election campaign and early federal elections in February 2025 the governing parties (Christian Democratic Union – CDU, Christian Social Union – CSU and Social Democratic Party – SPD) agree to abolish the Heating Law ([CDU, CSU and SPD 2025, p. 24](#)).
- September 2025: The Federal Minister for the Environment, Carsten Schneider (SPD), argues that the 65% renewable heat rule should remain in principle, and only a revision of the provisions would be necessary ([Bauchmüller 2025](#)).
- November 2025: The speaker of the Federal Ministry for Economic Affairs and Energy (BMWE) announces 'talks' regarding the GEG reform ([Bundesregierung 2025](#)).
- December 2025: The Chancellor, Friedrich Merz (CDU), announces that the Heating Law will be abolished and instead a Building Modernisation Act will be introduced. Key outlines would be presented by the end of January and by the end of February 2026 a law would be agreed on in the cabinet ([CDU 2025](#)).
- January 2026: The speaker for the BMWE confirms negotiations between the speakers of CDU and SPD in parliament (Fraktionsspitze), the BMWE and the Federal Ministry for Housing, Urban Development and Building (BMWSB) ([Bundesregierung 2026](#)).
- 6 February 2026: The party speaker in parliament, Matthias Miersch (SPD), announces that the legislative outline will be delayed until the end of February ([Zeit 2026](#)).
- 24 February 2026: The legal outline ('Eckpunkte') for the new Building Modernisation Act is presented. According to the outline the German government aims to agree on a draft bill for the Building Modernisation Law in the Cabinet by Easter 2026. The legislative process is to be completed in such a way that the new law enters into force on 1 July

2026. However, the outline for the green gas/oil quota will only be presented by summer 2026 (CDU, CSU & SPD 2026).

- April 2026: Media outlets report that the ministry of finance has raised reservations regarding the legislative process (e.g. Fasse 2026). While it is scheduled to be brought into Cabinet by the 29th of April, it seems unclear if the process will be delayed further (Walker 2026a).

If no bill amending the GEG passes by 1st of July, the legal framework remains as it is currently. This means the 65% renewable heat rule would apply until an amending regulation replaces it.

During the process a multitude of stakeholders positioned themselves. Environmental organisations called for the Heating Law to remain (DNR et al. 2025) and to leave no room for fossil fuel lock-ins (DUH 2025; Bundesverband Wärmepumpe e.V. (BWP) 2025). Arguments arise that a removal of the Heating Law would face constitutional issues and risk violating EU law (BWP 2025).

Others argued to simplify the Heating Law but to generally uphold the 65% renewable heat rule (BDEW et al. 2026) or argued for a shift of the system to also consider other energy efficiency measures to fulfil the 65% renewable energy rule (BuVEG et al. 2026). However, also deeper reforms were proposed, such as a regulation focussed more on CO₂ reductions per euro invested over the lifecycle (ZIA 2025).

All in all, only the gas and oil lobby and apartment and property owners' associations argued directly for the abolishment of the Heating Law (Haus & Grund 2026a; Deutscher Verband Flüssiggas et al. 2026).

THE LEGISLATIVE OUTLINE OF THE HEATING LAW 2.0

On February 24, 2026, the party speaker in parliament presented the legislative outline for the new Building Modernisation Act (CDU, CSU & SPD 2026).

KEY ELEMENTS OF THE BUILDING MODERNISATION ACT

The key message of the legislative outline is that the Heating Law will be removed.

- According to the wording of the document this encompasses not only the 65% renewable heat rule itself but also the general prohibition to operate a heating system with fossil fuels from January 2045 on.
- Consequently, it will remain possible to install new (fossil) gas and oil heating. However, as a new requirement a so-called bio-ladder is introduced. This means that from 2029 owners of heating systems must ensure that an increasing share of fuel used in their heating system must be 'climate-friendly' (e.g. biomethane, H₂ or other green gases). For 2029 this share is set to be at least at 10%. The relevant share for successive steps of the bio-ladder remains unclear to date.
- Additionally, and separately to the bio-ladder, a quota for green gas or oil in the building sector will be introduced. The quota targets fuel distributor. They will be required to distribute a certain share of climate-friendly gases or heating oil (e.g. biomethane, but also e.g. green, blue or other hydrogen). The corresponding quota can be met through accounting. In 2028 the quota will start at 1%. The trajectory of the pathway is to be aligned in such a way that it makes an "additional" contribution to achieve the climate targets.
- The green gas/oil quota can be 'credited toward' the bio-ladder. The legislative outline gives no further details on the practical implementation in this regard.
- The outline further expresses the need for rules to protect tenants, specifically, from excessive heating costs, resulting from the installation of inefficient heating systems. However, no details are provided.
- According to the outline, if an evaluation in 2030 shows that the building sector will miss its climate targets, there will be a readjustment of the instrument. In this regard, the authors note that the building sector has already missed its climate targets every year for many years.
- Other aspects in the outline touch on the existing financial support system for buildings (Bundesförderung Effiziente Gebäude—BEG), for which 'adequate' funding will be ensured until at least 2029; on the implementation of the EPBD and the simplification of heat planning for smaller municipalities and with regards to data rules.

REACTIONS

While interest groups from gas and oil companies and the apartment and property owners associations Haus & Grund welcomed the outline (Haus & Grund 2026b), which widely followed their recommendations (Deutscher Verband Flüssiggas et al. 2026), other industry groups seemed more hesitant or even sceptical, emphasizing mostly relief that a decision had been made but wanting to wait for the draft law before giving a clear reaction (BEE 2026; BDEW 2026). Especially environmental and tenant organisations, however, expressed high concerns with regards to both the climate implications of the outline and the cost risks for consumers and tenants specifically (e.g. DUH 2026; BUND 2026; Deutscher Mieterbund 2026). These concerns were widely echoed in the media:

- **Climate implications:** The outline would constitute a breach of climate policy commitments and effectively amount to an admission of failure in energy policy (DUH 2026). One of the most effective instruments in the building sector would be discarded for short-term political considerations (DUH 2026; BUND 2026). This would be particularly problematic given the already existing gap in achieving climate targets, which the proposal would further widen (BUND 2026; Walker 2026b; Ochs & Zaremba 2026; Kreutzfeldt 2026).
- **Resource allocation:** The limited availability of biomethane and green hydrogen was highlighted, with the argument that these resources should be prioritised for industrial applications rather than for heating. Other hydrogen derivatives and synthetic methane are likewise expected to remain scarce and would not be fully climate-neutral (BUND 2026; Götze 2026).
- **Geopolitical independence:** Due to the limits in sustainably upscaling biomethane production, imports might become increasingly necessary. This could lead to stronger dependencies in the energy market instead of the promised strengthened independence (BUND 2026; Suliak 2026).
- **Cost risks:** Rising costs for gas, biomethane and hydrogen in the 2030s were highlighted (Götze 2026; BUND 2026). As more homeowners switch to heat pumps or district heating, grid costs are expected to increase for those who continue using gas. In addition, the CO₂ price for the fossil share of the fuel mix is likely to rise further (BUND 2026).
- **Cost risks for tenants:** Specifically, tenants would have to pay the price for these rising costs as they can usually not decide which heating system is installed in their home (Götze 2026; DUH 2026; BUND 2026; DMB 2026; Suliak 2026). Especially, since it remains unclear how the planned protection of tenants against excessive heating costs would be designed (BUND 2026).
- **Cost risks for taxpayers:** Further, taxpayers, generally, would have to foot the bill for possible penalties/additional costs on an EU level if obligatory climate targets are not achieved in the building sector (Götze 2026; Walker 2026b).
- **Legal uncertainty:** Legal risks with regards to both constitutional principles and EU regulation were pointed out (BEE 2026; BUND 2026; Walker 2026b; Franke & Willert 2026). These will be discussed in the legal assessment below.

While the exact figures depend on the steps and trajectories ultimately defined for the bio-ladder and the green gas/oil quota, according to an early analysis by Braungardt & Bei der Wieden, abolishing the 65% renewable heat rule while simultaneously introducing the bio-ladder and the green gas/oil quota would significantly widen the already existing gap in meeting the national climate targets set under the German Federal Climate Change Act (Braungardt & Bei der Wieden 2026a, p. 10). This concerns both the climate targets for 2030 and 2040 as well as the cumulative emissions budget up to 2040. For 2030, the gap would increase by 5–8 Mt CO₂-eq per year, from 25 Mt CO₂-eq to 30–33 Mt CO₂-eq. For 2040, the gap would widen by 14–22 Mt CO₂-eq per year, rising from 102 Mt CO₂-eq to 116–124 Mt CO₂-eq. In terms of the cumulative emissions budget up to 2040, the shortfall would grow by 108–172 Mt CO₂-eq, increasing from 473 Mt CO₂-eq to 582–646 Mt CO₂-eq (Braungardt & Bei der Wieden 2026a, pp. 7–9). The 65% renewable heat rule had so far contributed to about 80% of the emission reductions of the whole GEG (Braungardt & Bei der Wieden 2026a, p. 5).

The limited availability of biogas and bio-oil is likely to significantly increase heating costs for these technologies, with tenants particularly affected (Willert et al. 2026, p. 2). Gas prices

are expected to rise by around 3 ct/kWh from 2027 due to CO₂ pricing ([Nesselhauf & Müller 2023, p. 3](#)). In addition, grid charges may increase substantially; if gas networks are partially decommissioned, they could rise by up to a factor of ten ([Meyer & Palovic 2025](#)). A recent analysis by Braungardt & Bei der Wieden, which already takes the legislative outline into account, shows that prices for heating with gas could rise from 11 ct/kWh in multiple family homes to 15 ct/kWh in 2029 and more than 25 ct/kWh in 2040 ([Braungardt & Bei der Wieden 2026b, p. 9](#)).

LEGAL ASSESSMENT

The following section provides a legal assessment of the legislative outline. Legal discussions on the future of the 65% renewable heat rule predate the recent legislative outline and have identified several potential concerns regarding the dismantling of the rule.

THE LEGISLATIVE OUTLINE AND EU LAW

EU law shapes national climate policy, including in the building sector. It sets (minimal) targets and obligates Member States to take appropriate measures. Any future legislation in the building sectors must comply with these targets and obligations. Of relevance in this regard are the European Climate Law, the Effort Sharing Regulation, EPBD and RED III.

European Climate Law (Regulation (EU) 2021/1119) and Effort Sharing Regulation (Regulation (EU) 2018/842)

The European Climate Law requires the EU and its Member States to achieve climate neutrality by 2050 (Art. 2(1)), establishing a binding target under Union law. Although the framework does not mandate specific policy instruments, the removal of an existing mitigation measure would necessitate the adoption of alternative measures capable of achieving comparable emission reductions ([re|Rechtsanwälte 2025, p. 10](#)).

The Effort Sharing Regulation sets binding sectoral emission reduction obligations for Member States. For Germany, Art. 4(1), in conjunction with Annex I requires a 50% reduction in emissions by 2030 compared to 2005 levels. Member States must also comply with annual emission allocations (Art. 4(3)). Although the Regulation does not prescribe specific policy instruments, it establishes a binding obligation to reduce emissions. Any failure to meet the targets can only be compensated to a limited extent through the purchase of emission allocations, which would likely involve substantial costs ([re|Rechtsanwälte 2025, p. 10](#)).

Consequently, any revised policy mix must ensure compliance with the obligations established under the European Climate Law and the Effort Sharing Regulation. However, based on the current legislative outline, this appears uncertain. In particular, the apparent deletion of § 72(4) of the current GEG, which prohibited the use of fossil fuels in heating systems from 2045 onwards, raises concerns. This provision has not been replaced by a comparable measure, such as a prohibition with a later deadline (e.g. 2050). This may place the proposal in tension with the target of climate neutrality by 2050 in the European Climate Law. It should be noted, however, that even an extension of the deadline—while potentially compatible with the European Climate Law—would have raised legal concerns under national constitutional law ([Radimeczky-Krekel & Fröhlich 2025, p. 449](#)).

Furthermore, as discussed above, the emission reduction potential of the proposed measures appears to be significantly lower than under the current regulatory framework. The proposal therefore risks undermining the achievement of the binding targets established by the European Climate Law and the Effort Sharing Regulation.

Energy Performance of Buildings Directive—EPBD

As noted, the EPBD sets requirements for the building sector. The proposed measures, thus, must be sufficient to implement these requirements.

In this regard, Art. 7 and 11 of the EPBD require new buildings to be zero emission buildings (ZEB) from 2028/2030. The legislative outline states that it will implement the EPBD on a 1:1 basis. While the proposed bio ladder seems to be directed only at the existing building stock,

it can be assumed that for new buildings separate requirements will be set. These will have to comply with the requirements for ZEB.

Importantly, the EPBD also requires Member States to establish a national roadmap aimed at transforming the entire national building stock into a zero-emission building stock by 2050, including interim targets for 2030 and 2040 (Art. 9(2) EPBD). Member States must set out their strategies for achieving this objective in their national building renovation plans (Art. 3 EPBD) (Klein 2025a, p. 409; Hinkfoth 2025, p. 160; Radimeczky-Krekel & Fröhlich 2025, p. 447).

Against this background, Heinicke argues that the zero-emission standard should lead to a tightening of the GEG rather than the removal of central rules (2025, p. 113). The objective of the EPBD could be undermined if the legislator permits the installation of new fossil-fuel heating systems with a technical lifetime of at least 20 years (re|Rechtsanwälte, p. 16). Especially, as it appears unlikely that other instruments could achieve a level of effectiveness comparable to the former legal prohibition (re|Rechtsanwälte, p. 16).

According to Art. 13(7) EPBD, Member States are furthermore required to aim for the replacement of stand-alone fossil fuel-fired boilers in existing buildings. However, the Directive does not establish a direct prohibition on heating systems based on fossil fuels. Art. 17(15) EPBD merely provides that Member States may no longer grant financial incentives for the installation of fossil fuel-fired boilers (Klein 2025b).

Nevertheless, Member States are required to set out in their national building renovation plans a strategy for the progressive removal of fossil fuel-fired boilers from existing buildings by 2040. This timeline is earlier than that established under the current § 72(4) GEG, which prohibits the operation of heating systems exclusively fuelled by fossil fuels only from the end of 2044 onwards. The 2040 timeline follows both from the recitals and from Annex II of the EPBD (Klein 2025b; Hinkfoth 2025, p. 160).

Although the EPBD does not establish an explicit prohibition on the use of fossil fuel boilers, these provisions clearly indicate the regulatory intent and amount to what has been described as a ‘binding policy target’ (Klein 2025a).

It remains unclear, how the proposed measures in the outline can be brought in line with these targets. In principle, the EPBD allows for different strategies to fulfil these obligations. They do not necessarily require prohibitions. In this context, the design and ambition of the planned ‘bio-ladder’ will be decisive. This is particularly relevant given the apparent removal of § 72(4) GEG.

Renewable Energy Directive—RED III

The Renewable Energy Directive (RED III) establishes binding targets for the expansion of renewable energy. For 2030, the Directive sets a minimum share of 42.5% renewable energy in gross final energy consumption (Art. 3(1) RED III). In the building sector, this objective is further specified by a target requiring that at least 49% of energy consumption be covered by renewable sources by 2030, Art. 15a(1) RED III. To achieve these targets, Member States are required to adopt the necessary measures.

According to Art. 15a(3) subpara 2 RED III, Member States are required to implement regulations that establish mandatory minimum levels for the use of energy from renewable sources in new buildings and, in cases of major renovation or the replacement of heating systems, in existing buildings. Furthermore, Art. 15a(3) subpara 1 RED III requires the general transition towards a heat supply system based on renewable energies.

The 65% renewable heat rule was an effective measure to ensure these requirements. In principle, the bio-ladder can be seen as a minimum level for the use of energy from renewable sources, Art. 15a(3) RED III.

However, RED III was to be implemented by 2025. This implies that a corresponding minimum level—such as the bio-ladder—also has to apply from 2025 onwards rather than only from the beginning of 2029. In addition, Member States have been required to implement a comparable obligation since 2014 (Cremer & Calliess 2014, regarding the previous regulation Art. 13(4) Directive 2009/28/EG).

Furthermore, according to the legislative outline, the bio-ladder applies only to existing buildings and not to new buildings. While the ZEB requirements are in place from 2028/2030,

Art. 7, 11 EPBD, until then the outline suggests that there would be no minimum levels for the use of renewable energy in new buildings (2026 to 2029). This too would be a violation of Art. 15a(3) RED III.

THE LEGISLATIVE OUTLINE AND CONSTITUTIONAL LAW

The German Basic Law (Grundgesetz—GG) sets constitutional limits for the legislature with regard to the level of climate protection. According to the Federal Constitutional Court (Bundesverfassungsgericht), Art. 20a GG constitutes the central constitutional standard for assessing the adequacy of climate protection measures ([Bundesverfassungsgericht 2021](#)).

Art. 20a GG establishes the state objective of protecting the natural foundations of life and animals. While Art. 20a GG does not confer specific individual rights, it constitutes an objective constitutional norm that binds all three branches of government and obliges the legislature to protect the environment and the climate. While the legislature enjoys a broad margin of discretion in selecting appropriate policy instruments, the required level of protection is constitutionally defined. In this context, the legislature must not only consider the interests of the present generation but also bears a long-term responsibility to safeguard the natural foundations of life for future generations (intertemporal duty of protection). Consequently, the legislature may not make use of regulatory freedoms in a manner that would impose an unreasonable burden on future generations.

Furthermore, the legislature is required to limit private activities that may lead to significant environmental or climate-related harm ([Murswiek 2024](#)). In addition, the precautionary principle obliges the legislature to prevent environmental risks even where potential harms cannot yet be fully quantified ([Calliess 2021, p. 330](#)). At the same time, the state is required to address existing environmental damage; in this respect, greenhouse gas emissions must be reduced or compensated ([re|Rechtsanwälte 2025, p. 20](#)). Finally, Art. 20a GG requires the responsible and sustainable use of natural resources, including regarding energy and material consumption ([re|Rechtsanwälte 2025, p. 20](#)).

In light of the advancing impacts of climate change, the constitutional duty to protect the climate has gained increasing weight ([Bundesverfassungsgericht 2021](#)).

Relevant legal literature, consequently, argues that Art. 20a GG entails a strict non-regression principle ([Willert et al. 2026, p. 18](#) with further references). In this regard, the Constitutional Court has already emphasized that any weakening of climate targets is subject to a particular burden of justification due to the ecological regression associated with it ([Bundesverfassungsgericht 2021, para. 212](#)). In this context, the Constitutional Court also cites the principle of progression in Art. 4(3) of the Paris Agreement and the national equivalent in § 3(4) German Federal Climate Action Act: “Climate targets may be raised but not lowered.”

In the current context, this requirement must apply not only to the targets themselves but also to the measures implemented to achieve them ([Willert et al. 2026](#)). Although Art. 20a GG does not require the legislature to adopt specific measures, it prohibits both complete inaction and the adoption of manifestly unsuitable measures. Further, the legislature may not lower the general level of climate and environmental protection. Rather, the state is obliged to prevent a regression of environmental protection ([Radimeczky-Krekel & Fröhlich 2025, p. 449](#)). Accordingly, [Calliess & Kirchhof \(2025\)](#) argue that a complete removal of central environmental laws without alternative represents an infringement of Art. 20a GG. The weakening of specific rules may be permissible only if it is accompanied by ‘normative compensation’ or if it is necessary to protect other legal interests of constitutional rank, provided that no alternatives are available ([Calliess & Kirchhof 2025, p. 61](#); similarly e.g. [Willert et al. 2026, p. 19](#)).

From a constitutional perspective, a departure from the 65% renewable heat rule can therefore only be justified if other measures are adopted that fully compensate for the resulting reduction in climate protection, or if such a change is necessary to protect other legal interests of constitutional rank. In case of the latter, however, the burden of justification is especially high due to the rising intensity of climate change ([Willert et al. 2026, p. 19](#)).

According to Willert et al., it results that without a clearly at least equally effective compensatory measure, any weakening of the 65% renewable heat rule constitutes a breach of constitutional obligations ([2026, p. 4](#)).

As discussed, the legislative outline does not provide for sufficient equivalent measures. The proposed measures are particularly difficult, because they leave the decision (almost) entirely to the individual homeowners. However, as Willert et al. discuss, future price signals do not influence investment decisions in the heating sector in the same way as price changes for everyday consumer goods. The lower upfront costs of fossil fuel boilers must be weighed against uncertain projections regarding future gas prices, the long lifetime of heating systems, and potential availability constraints. These factors must then be compared with the lifetime costs of alternatives such as heat pumps, including expected electricity prices. For individual homeowners, making such long-term and complex calculations can be difficult. Moreover, in the rental sector the relevant decision-makers typically do not bear the full costs of their decisions. While landlords decide which heating system is installed, the resulting heating costs are largely borne by tenants. This split incentive further weakens the effectiveness of price signals as a driver of decarbonisation in heating (Willert et al. 2026, p. 6).

While there are plans to avoid the landlord-tenant dilemma, it is unclear what these will look like. Importantly, however, analysis shows that the proposed measures, which rely mostly on individual choice and non-obligatory incentives, are not equivalent to the 65% renewable heat rule. The legislative outline allows for homeowners to delay important investments in renewable energy and causes them to misallocate resources. Financial incentives cannot sufficiently close this gap as they still require significant investments, which not everyone might be willing or able to provide. Especially, since financial incentives had also been in place before and thus cannot be seen as an additional contribution.

FINAL POINTS

There appears to be broad agreement that a complete departure from the 65% renewable heat rule, without the adoption of compensatory measures, would have violated both EU law and national constitutional law (e.g. Radimeczky-Krekel & Fröhlich 2025, p. 449; Lee 2025, p. 890; re|Rechtsanwälte). The proposed new measures in the legislative outline must stand the test of whether they can adequately replace the 65% renewable heat rule. At present, it appears highly unlikely that these measures represent such an adequate replacement. Their expected climate impact is significantly lower, which risks widening the gap on the pathway to achieving both the national and European climate neutrality targets for 2045 and 2050, respectively. This, further, represents a regression in direct conflict with the non-regression principle in Art. 20a GG.

DISCUSSION

As illustrated above, the original Heating Law has caused political and public controversy for several years. While the reactions during the legislative process and immediately after the adoption of the original Heating Law were partly based on misinformation, e.g. narratives promoted a picture that the 65% renewable energy rule applied to all heating systems, including existing boilers (see Braungardt, Keimeyer & Loschke 2024, p. 238), other parts of the criticism were understandable. In this regard, the original Heating Law has repeatedly been criticised as overly complex, cumbersome, inflexible, and excessively detailed (Heinicke 2025, p. 112; Lee 2025, p. 892). Further, much of the media coverage focussed on potential high costs and social hardship, especially for homeowners (Braungardt, Keimeyer & Loschke 2024, p. 238). Heinicke also argued that the federal government had not succeeded in conveying the original Heating Law's core messages to the public (2025, p. 112).

Both the discussions surrounding the original heating law and the reactions to the legislative outline raise the question of what lessons can be drawn from both legislative processes for future energy and climate policy.

From a legislative drafting perspective, a first lesson could be to keep regulation as simple as possible. While the issues regulated were complex and did require special provisions and exemptions, a little less detail in the original law might have made the law more robust.

A second point that has been raised, is to strengthen the connection of regulatory frameworks to long-term perspectives of financial incentives to avoid delaying necessary investments (Heinicke 2025, p. 115). While this can face difficulties with regards to budget requirements, anchoring financial incentive programmes more robustly might support future energy and climate policies.

According to Braungardt, Keimeyer & Loschke, furthermore, the development of communication strategies and timing, especially in combination with funding, is especially necessary. This is particularly important given that further significant and demanding regulations will be necessary to reduce emissions, many of which will directly affect people in the future.

Another highly relevant aspect, which has become even more prominent following the legislative outline for the Heating Law 2.0, is the need to carefully consider disproportionate burdens. This is particularly important in situations where well-organized interest groups exert political influence that may conflict with the needs of economically disadvantaged households. In such contexts, it is a central responsibility of the government to ensure that the interests and constraints of vulnerable groups are adequately considered. Even the original Heating Law risked placing a higher burden on economically disadvantaged groups, such as low-income households, especially when they were tenants. When the legislative outline for the Heating Law 2.0 was published, critics have rightly called for better protection of tenants and emphasized the importance of socially just financing mechanisms. Future energy and climate policy processes will need to take these concerns seriously.

Lastly, the political and public controversy surrounding the Heating Law contributed to high uncertainty among homeowners. This caused many to delay investments in new heating systems. However, a longer-term perspective appears more nuanced. Public perception of technologies such as heat pumps seems to have shifted, with heat pumps becoming the most sold heating system in 2025 (Stiebel 2026). The wave of criticism following the legislative outline for the new “Heating Law 2.0” has been voiced by a broad range of stakeholders, including environmental and consumer protection organisations as well as industry representatives, and has received substantial attention in the media. These strong reactions to the Heating Law 2.0 should serve as a reminder for climate policy to remain courageous and ambitious.

Before the legislative outline was presented, Heinicke noted that a reform of the GEG could have been an opportunity to create a simpler, more broadly accepted law—one that would have maintained the requirement for renewable energy use and potentially even strengthened its ambition (2025, p. 116). Instead, the Heating Law 2.0 has not succeeded in cooling down the heated political debate—and it is unlikely to contribute meaningfully to cooling the planet.

ADDITIONAL FILE

The additional file for this article can be found as follows:

- **PowerPoint Slides.** PowerPoint Slides relating to this article. DOI: <https://doi.org/10.66506/essp.3-031-26.s1>

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