

STRENGTHENING TÜRKİYE’S CLIMATE CHANGE LEGISLATION: A COMPARATIVE EXAMINATION WITH GERMANY’S FEDERAL CLIMATE CHANGE ACT

Selin Levi, Sinem Ayhan, Başar Baysal

Executive Summary

This policy analysis critically examines Türkiye’s draft Climate Change Law, highlighting its strengths and limitations in the context of addressing climate change and achieving carbon neutrality by 2053. While Türkiye has made commendable progress on climate change policy, the lack of a legally binding force in its current efforts has been a cause for concern. The draft law places considerable emphasis on the proposed Emissions Trading Scheme (ETS) but is limited in its provisions for broader climate regulations beyond carbon pricing. Using Germany’s Federal Climate Change Act as a model, this analysis evaluates Türkiye’s legislative approach and emphasizes the importance of setting well-defined and binding emissions reduction targets. Germany’s experience demonstrates the effectiveness of an independent expert council on climate change and provides insights into the need for Türkiye to establish a similar body for informed policy-making. The analysis also identifies key shortcomings in Türkiye’s draft law, including ineffective ETS design, unclear implementation procedures, and inadequate stakeholder engagement. It suggests that environmental NGOs, scientific experts, and civil society should be involved in the legislative process to ensure a more inclusive and accountable framework. In addition, the analysis underlines the need for Türkiye to mandate a phaseout of fossil fuels.



Introduction

While Türkiye has taken tangible strides in climate policy since 2021, such as announcing the Green Deal Action Plan, ratifying the Paris Agreement in parliament, and committing to achieve carbon neutrality by 2053, these efforts are not legally binding. Currently, Türkiye's climate change regulations are spread across various strategy papers and action plans. One recent notable legislative development is the announcement of the draft Carbon Market Regulation in November 2023.¹ This regulation introduces an emissions trading system (ETS) in response to the EU's carbon border tax, aiming to address mounting concerns and pressures from Turkish exporters. The ETS is expected to be enacted by 2025.²

In parallel to this, a draft Climate Change Law was published on August 18, 2023, which will set the legislative foundation for Türkiye's climate policies. The draft law is reportedly being prepared to submit to parliament.³ Although the draft shows a proactive approach to tackling environmental challenges, there are a number of shortcomings. Notably, it heavily emphasizes the enforcement of the ETS, yet it remains unclear to what extent the law will encompass regulations beyond carbon pricing. Türkiye's commitment to developing a comprehensive and enforceable climate law, crucial for advancing decarbonization efforts, requires acknowledging existing shortcomings. With this objective in mind, we seek to contribute to the ongoing discourse by analyzing the sole publicly available version of the draft act and highlighting its deficiencies. Furthermore, we examine the best practices of Germany, which underwent a similar process by enacting a climate law in 2019 to ensure the legal enforceability of national and European climate targets. The choice to consider Germany as a model is further motivated by the

aligned environmental protection approaches of both countries. Both nations emphasize a clear government role for environmental conservation rather than relying exclusively on individual rights.⁴ Additionally, Germany's leading position in the EU economy and its continuous dedication to advancing the industry sector while adhering to environmentally friendly regulations serve as a noteworthy example for Türkiye, an EU candidate country. By understanding and learning from Germany's experiences, Türkiye can make well-informed decisions when formulating its climate change law. These insights may not only advance environmental objectives but also take into account the economic benefits of embracing sustainable practices.

Türkiye's Draft Climate Change Law

The proposed Climate Change Law indicates the country's attempts to address climate change, delineating specific strategies to mitigate its impacts. These include strengthening local administration roles, incorporating climate considerations into infrastructure projects, and promoting renewable energy and energy efficiency. Central to the law is the establishment of an extensively detailed ETS, outlining market procedures, the responsibilities of authorities, and data submission requirements. Financial aspects are also addressed, with provisions for funding climate change measures through auction proceeds and fines, along with guidelines for budget allocations. Additionally, the law emphasizes accountability and enforcement mechanisms, including audit authority and penalty enforcement, positioning Türkiye as an active participant in the global fight against climate change.⁵



The renewable energy targets outlined in the draft law align with Türkiye's 2023–2035 National Energy Plan, which was introduced earlier in the year by the Ministry of Energy and Natural Resources. However, the plan notably favors investments in nuclear power over solar and wind energy projects for electricity production. It does not include a commitment to phasing out coal, which contradicts the country's goal of achieving net-zero emissions by 2053.⁶

While Türkiye has committed to the Paris Agreement and aims to achieve carbon neutrality by 2053, the current law lacks well-defined targets for reducing carbon emissions. Aşıcı⁷ highlights that projected greenhouse gas (GHG) emissions based on historical data are already significantly below the Nationally Determined Contributions (NDC) targets. This essentially means that the NDC targets do not inherently require any reduction in GHG emissions. Developing an accurate trajectory for emissions caps and budgets, as well as establishing and revising emissions reduction goals, would necessitate a comprehensive scientific assessment. This would require establishing an impartial scientific board that provides expert advice, similar to the approach taken by Germany's Federal Climate Change Act. However, such a board is currently absent in Türkiye's draft law process.

Similarly, the input from environmental NGOs and professionals has been overlooked in the drafting of the law. For an open, inclusive, and accountable legislative and implementation process, it is essential to engage various stakeholders, including civil society and the scientific community, in the process.⁸

While the law places a strong emphasis on establishing the ETS, it has faced criticism for

its ineffective design, particularly regarding the non-binding cap.⁹ Moreover, similar to several examples around the world, the law should extend beyond a mere carbon pricing regulation. Türkiye's ETS needs to ensure the preservation of natural systems and biodiversity while also establishing mechanisms for adaptation to climate change.¹⁰

Although the law emphasizes the role of public institutions in integrating climate goals into their decision-making processes, a well-defined mechanism for its application is lacking. The absence of a clear delineation of responsibilities among relevant ministries and other public authorities jeopardizes the enforceability and accountability of the targets set previously.¹¹

In summary, the proposal has significant limitations in terms of its scope, the absence of an agenda for coal phaseout, the lack of well-defined and binding emissions reduction targets, the limited scope of the proposed ETS, unclear implementation procedures and responsibility for execution, inadequate input from scientific experts, and limited civil society involvement. These numerous inadequacies in the current version of the draft law make it unlikely to significantly contribute to decarbonization efforts.

Germany's Federal Climate Change Act

The Climate Change Act in Germany, enacted on December 17, 2019, was a response to growing concerns about environmental sustainability and the need to align with both national and European climate targets. It was part of a wider climate package to pursue the country's GHG neutrality goal by 2050, endorsed and operationalized by the United Nations (UN).¹²



The key components of the law can be summarized as follows: (i) The Act sets climate targets and yearly emissions budgets for sectors like energy, industry, and transport, with room for adjustments for compliance. (ii) It calls for climate action planning through the adoption of specific programs to reach these targets, with input from stakeholders and scientific bodies. (iii) It establishes an independent Council of Experts on Climate Change, consisting of experts in climate, environment, social sciences, and economics. This council assesses emissions data, reviews effective measures, and produces reports for climate action guidance. (iv) Public authorities are mandated to integrate climate targets into their decision-making processes and prioritize climate-friendly investments.¹³

Before the introduction of the Act, Germany's approach to climate action was fragmented across various national laws, EU regulations, and international agreements. While the country had established climate targets in policy programs dating back to 2007 and 2010, these were not legally enforced.¹⁴ However, the Climate Change Act became a focal point during the early stages of the 2018–2021 coalition government formed by the Christian Democratic Union/Christian Social Union and Social Democratic Party (SPD). The government set up the coal exit commission and similar multi-stakeholder bodies for transport and buildings to propose concrete measures to reach sector-specific goals. However, initial attempts faced criticism, and doubts arose within the government about the feasibility of a major climate law. This changed with growing public pressure following events such as heatwaves, droughts, and the Fridays for Future protests, prompting the government to take decisive action.¹⁵

Still, upon its introduction, the Climate Change Act received substantial criticism from different sectors. In response to a constitutional complaint in 2021, the Act underwent amendments in the same year to enhance its targets and address concerns raised by the Federal Constitutional Court. Essentially, the Court deemed existing provisions of the Act unconstitutional due to the irreversible burden of emissions reductions placed on future generations. The amended Act reflects stricter targets,¹⁶ aiming for a 65% reduction in GHG emissions by 2030, increased from the previous target of 55%. Targets for 2040 aim to achieve an 88% reduction, with the ultimate goal of achieving climate neutrality by 2045 (instead of the prior goal of 2050). The roadmap toward climate neutrality includes milestones such as determining annual reduction targets for various sectors up to 2045.¹⁷

In June 2023, the new ruling coalition of the SPD, Green Party, and Free Democrats proposed a reform package that represents a shift toward a more cross-sectoral approach, departing from the previous sector-specific targets. Under this proposal, if a target in one sector, such as industry, transport, or buildings, is not met, another sector would compensate for these shortcomings.¹⁸ However, the reform package, while addressing various measures like reforms to renewable energy and nature protection laws, has faced criticism from environmental NGOs, which have expressed concerns about potential delays in climate action.¹⁹

Acknowledging the insufficiency of previous emissions reduction efforts, in October 2023 the Federal Government unveiled its long-awaited Climate Action Programme 2030. This program targets all major economic sectors and includes specific transformation roadmaps extending until 2030.²⁰



Even with the implementation of the program, projections indicate that Germany will still emit around 200 million tons more CO₂ than planned by the end of the decade. The transportation sector is expected to contribute significantly to this shortfall.²¹

What Can Be Learned from Germany's Journey?

Germany's Federal Climate Change Act, from its inception to recent reforms, serves as a valuable model for countries like Türkiye as they embark on their climate legislation journeys. Despite criticism and debate, Germany maintains its commitment to accelerating emissions reductions to align with international climate targets. A clear signal of this dedication to climate neutrality is the establishment of the coal exit commission during the law's drafting phase. For Türkiye's climate change legislation to effectively contribute to climate neutrality, it must mandate the phaseout of fossil fuels. This crucial aspect is missing not only in the draft law but also in any white paper on climate change in Türkiye. Establishing the Council of Experts is another critical step demonstrating Germany's commitment to effective and informed climate policymaking. An independent body of experts in the law-making process is essential, particularly in the field of climate change, which demands complex and technical knowledge for conducting impact assessments.

A notable shortcoming in Türkiye's experience is the lack of resilience in civic engagement and active participation in the decision-making and policy-making processes.²² Stakeholder and public participation have been integrated into the German Climate Protection Law via a

range of consultation methods and direct public feedback, including comments on draft versions of the framework's climate action plans, as well as during the 2021 Constitutional Court amendment process.²³ This highlights the importance of effective communication avenues for increasing the inclusiveness and the quality of the climate law, ensuring its full integration into society.²⁴ As suggested by SHURA Energy Transition Center,²⁵ establishing a supra-agency "coordination board" with representatives from all sectors empowered to formulate and implement energy transformation plans would help to achieve such a goal.

Germany's journey in climate legislation not only emphasizes the importance of inclusivity and expert input but also stresses the necessity of a comprehensive implementation roadmap and well-defined, step-by-step targets. The German model provides a detailed framework that also includes contingency measures in case of target failures, offering a clear path toward achieving the overarching goal of climate neutrality by 2045. This approach ensures a structured and phased transition. In contrast, Türkiye's current draft law lacks a comparable level of detail regarding implementation strategies and specific, measurable targets. The inclusion of a robust implementation roadmap would enhance Türkiye's climate legislation, providing a more effective guide for achieving its carbon neutrality commitments and fostering public confidence in the country's climate action initiatives.

While it is commendable that nations now recognize climate change as a national security issue, there is a need to fortify this commitment by addressing the aforementioned shortcomings. In conclusion, this policy analysis has placed a special focus on the German Act as a role model for Türkiye, but it is not meant to suggest that it is the sole useful model for examination.²⁶



Türkiye must adapt global best practices to its unique context to overcome the identified shortcomings, including the absence of defined emissions reduction targets, a lack of a fossil fuel exit plan, limited stakeholder engagement, and the absence of an independent expert council. We believe that addressing these shortcomings can help to create a more holistic approach to tackling climate change and other environmental threats.

Notes

- 1 | EMRA, “Regulation on the Operation of Carbon Markets” (in Turkish), Republic of Türkiye Energy Market Regulatory Authority (EMRA), November 13–23, 2023, <https://www.epdk.gov.tr/Detay/Icerik/4-13184/karbon-piyasalarinin-isletilmesine-iliskin-yonetm>.
- 2 | Ahmet A. Aşıcı and Sevil Acar, “Channels of Cooperation Between the EU and Turkey on Green Transformation,” *Ankara Avrupa Çalışmaları Dergisi* 21, no. 1 (August 5, 2022): 43–67, <https://dergipark.org.tr/en/pub/aacd/issue/71405/1148598>; Ahmet A. Aşıcı, “A Preliminary Analysis of the Turkish Emissions Trading System,” *IPC-Mercator Analysis* (Istanbul: Istanbul Policy Center, February 2024), <https://ipc.sabanciuniv.edu/Content/Images/CKeditorImages/20240220-11024563.pdf>.
- 3 | “Climate Law is Coming... Environmental Commission Chairman Murat Kurum Announced Details” (in Turkish), *Hürriyet*, August 25, 2023, https://www.hurriyet.com.tr/gundem/iklim-kanunu-geliyor-cevre-komisyonu-baskani-murat-kurum-detaylari-acikladi-42320455?utm_source=t.co&utm_medium=post.
- 4 | Wolfgang Kahl, “Climate Protection and Fundamental Rights” (in German), *Juristische Ausbildung* 2 (2021): 117–129, <https://doi.org/10.1515/jura-2020-2727>.
- 5 | MEUCC, “Climate Change Law Draft” (in Turkish), Republic of Türkiye Ministry of Environment, Urbanization, and Climate Change (MEUCC), August 18, 2023, <https://www.baib.gov.tr/files/downloads/PageFiles/f345dbce-f055-ed11-a91b-000c29511bae/Files/ek-3.pdf>.



- 6 | MENR, “Türkiye National Energy Plan” (in Turkish), Republic of Türkiye Ministry of Energy and Natural Resources (MENR), 2022, accessed March 8, 2024, https://enerji.gov.tr/Media/Dizin/EIGM/tr/Raporlar/TUEP/T%C3%BCrkiye_National_Energy_Plan.pdf.
- 7 | Aşıcı, “A Preliminary Analysis of.”
- 8 | Ebru Voyvoda, “Climate Law Draft as an Emissions Trading Regulation: Interview” (in Turkish), *artigerçek*, October 7, 2023, <https://artigercek.com/makale/ebru-voyvoda-iklim-kanunu-taslagi-bir-emisyon-ticareti-yonetmeligi-gibi-267936>.
- 9 | Aşıcı, “A Preliminary Analysis of.”
- 10 | Erinç A. Yeldan, “Targeting Net Zero Emissions Against the Global Climate Crisis and the Issue of Justice in Distribution” (in Turkish), *İktisat ve Toplum Dergi* 141 (2022): 18–24, <https://iktisatvetoplum.com/kuresel-iklim-krizine-karsi-net-sifir-emisyon-hedeflemesi-ve-bolusumde-adalet-sorunsali-a-erinc-yeldan/>.
- 11 | Voyvoda, “Climate Law Draft as.”
- 12 | CCLW, “Federal Climate Protection Act,” Climate Change Laws of the World (CCLW), 2019, https://climate-laws.org/document/federal-climate-protection-act-and-to-change-further-regulations-bundesklimaschutzgesetz-or-ksg_c1c2.
- 13 | Kerstine Appunn and Julian Wettengel, “Germany’s Climate Action Law,” Clean Energy Wire, June 19, 2023, <https://www.cleanenergywire.org/factsheets/germanys-climate-action-law-begins-take-shape>; Bundesgesetzblatt, “Gesetz zur Einführung eines Bundes-Klimaschutzgesetzes und zur Änderung weiterer Vorschriften,” *Bundesgesetzblatt Teil I*, 48 (2019): 2513, https://www.bgbl.de/xaverv/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=/*%5b@attr_id=%27bgbl119s2513.pdf%27%5d#__bgbl__%2F%2F%5B%40attr_id%3D%27bgbl119s2513.pdf%27%5D__1709911844067
- 14 | Appunn and Wettengel, “Germany’s Climate Action Law.”
- 15 | Ibid.
- 16 | Markus Burianski and Federico P. Kuhnle, “Reshaping Climate Change Law,” White & Case LLP, July 14, 2021, <https://www.whitecase.com/insight-alert/reshaping-climate-change-law>.
- 17 | Bundesregierung, “Climate Change Act 2021—Intergenerational contract for the climate,” May 12, 2021, <https://www.bundesregierung.de/breg-de/schwerpunkte/klimaschutz/climate-change-act-2021-1913970>; Burianski and Kuhnle, “Reshaping Climate Change Law.”
- 18 | Appunn and Wettengel, “Germany’s Climate Action Law.”
- 19 | Sören Amelang, “New climate action package fails to get Germany on course for 2030 targets,” Clean Energy Wire, June 14, 2023, <https://www.cleanenergywire.org/news/new-climate-action-package-fails-get-germany-course-2030-targets>.
- 20 | BMWK, “Climate Action Programme 2023: Course set for climate neutrality by 2045,” Federal Ministry for Economic Affairs and Climate Action (BMWK), November 3, 2023, <https://www.bmwk-energiewende.de/EWD/Redaktion/EN/Newsletter/2023/09/Meldung/news1.html>.



- 21 | Julian Wettengel, “Germany’s climate action programme 2023,” Clean Energy Wire, June 14, 2023, <https://www.cleanenergywire.org/factsheets/germany-draft-climate-action-programme-2023>.
- 22 | CAN Europe, “Climate Laws in Europe. Essential for achieving climate neutrality,” Climate Action Network, May 2022, <https://www.germanwatch.org/sites/default/files/climate-laws-briefing-eng.pdf>.
- 23 | Ibid.
- 24 | Güven Sak, “And What About the Communication Policy of Climate Change?” (in Turkish), *Ekonomim*, October 9, 2023, <https://www.ekonomim.com/kose-yazisi/peki-ya-iklim-degisikliginin-iletisim-politikasi/710853>.
- 25 | SHURA, *Net Zero 2053: Policies for the Energy Sector* (in Turkish) (Istanbul: SHURA Energy Transition Center, January 2024), https://shura.org.tr/wp-content/uploads/2024/01/SHURA-2023-11-Rapor-Enerji-Sektoru-icin-Politikalar_Ocak2024.pdf.
- 26 | As recently reported by Anadolu Agency, the Turkish Grand National Assembly has included examples of pertinent laws from various countries in their discussions to find an answer to the question of which type of model can be utilized in Türkiye. In the lead-up to the presentation of the Climate Change Law, anticipated to be tabled in parliament during the current legislative year, the General Directorate of Research Services conducted comprehensive research on relevant legislation from other nations, including Germany and the European Union. See: “The Grand National Assembly of Turkey (TBMM) has examined climate change laws in various countries”

(in Turkish), Anadolu Agency, September 13, 2023, <https://www.aa.com.tr/tr/politika/tbmm-cesitli-ulkelerdeki-iklim-degisikligine-iliskin-kanunlari-inceledi/2990906>.



About the Istanbul Policy Center-Sabancı University-Stiftung Mercator Initiative

The Istanbul Policy Center–Sabancı University–Stiftung Mercator Initiative aims to strengthen the academic, political, and social ties between Turkey and Germany as well as Turkey and Europe. The Initiative is based on the premise that the acquisition of knowledge and the exchange of people and ideas are preconditions for meeting the challenges of an increasingly globalized world in the 21st century. The Initiative focuses on two areas of cooperation, EU/ German-Turkish relations and climate change, which are of essential importance for the future of Turkey and Germany within a larger European and global context.

Selin Levi, Intern, Istanbul Policy Center

Sinem Ayhan, 2023/24 Mercator-IPC Fellow, Istanbul Policy Center

Başar Baysal, 2023/24 Mercator-IPC Fellow, Istanbul Policy Center

The comments and conclusions in this analysis belong solely to the authors and do not reflect IPC's official position.

Strengthening Türkiye's Climate Change Legislation: A Comparative Examination with Germany's Federal Climate Change Act for Enhanced Efficacy and Legal Enforceability
9 p.; 30 cm. - (Istanbul Policy Center-Sabancı University-Stiftung Mercator Initiative)

ISBN 978-625-6956-38-4

Cover Design and Page Layout: MYRA

Istanbul Policy Center

Bankalar Caddesi Minerva Han No: 2 Kat: 4
34420 Karaköy-İstanbul

T +90 212 292 49 39

ipc@sabanciuniv.edu - ipc.sabanciuniv.edu



IPC

ISTANBUL POLICY CENTER

SABANCI UNIVERSITY

STIFTUNG MERCATOR INITIATIVE