



Governance: Environmental policy under scrutiny

Governing, regulating, controlling, coordinating – the term “governance” encompasses various aspects of political activity. Governance may be in the hands of state bodies, such as the federal government, agencies at various levels or local authorities, but companies and actors from other sectors of society also contribute to the governance of our common life.

In relation to nature and the environment, governance refers to approaches that help to protect the environment, cut resource consumption, mitigate climate change, reduce pollution or conserve biodiversity. Such approaches may involve the establishment of constitutional principles and a wide range of policy instruments such as orders and prohibitions, taxes and information campaigns. Governance also encompasses consultations with organisations and associations and opportunities for public participation. Finally, governance tools include voluntary commitments, private-sector management approaches (such as corporate sustainability strategies), trade association standards (e.g. on sustainability certification) and round tables with diverse stakeholders.

Choosing a form of governance: From knowledge to action

What forms of governance does a society adopt? How does it move from knowledge to action? Societal ideas and discourses, stakeholder interests and strategies, institutional contexts, power structures and the nature of the issues at hand all influence the ways in which a society achieves its governance today.

Researchers at the Oeko-Institut contribute to environmental governance by exploring the societal aspects of environmental issues, drawing up proposals for policy objectives and suggesting strategies for achieving them. They appraise which instruments are suitable in given constellations and advise government agencies on practical and legal issues – for example, in connection with the preparatory work on the Federal Climate Change Act.

The interdisciplinary team at the Oeko-Institut analyses state regulations and private-sector standards, evaluates implementation of them and reviews the outcomes of specific measures. Advice is provided to policy-makers and to stakeholders in industry and society. The Oeko-Institut is also involved in a consultative capacity in setting standards, in the work of various state advisory boards and in infrastructure planning processes.

Discourse: Language shapes perceptions and solutions

The political approach to an issue and the extent to which an issue can be shaped through policy depend to a significant degree on how the issue is perceived and discussed within society. For example, different stakeholders may see wind power as an opportunity or as a risk, as unavoidable, stoppable or shapeable in various ways. Different perspectives involve different views on problems, problem causes, responsibilities and possible solutions.

Language plays a central part in this: it frames substance, assigns meaning, steers associations and interpretations, and shapes perceptions and ideas. A social discourse can be highly controversial or characterised by broad unity. Polarised positions sometimes emerge that are difficult to resolve. Before defining approaches towards governance, it is therefore important to understand the underlying discourse.

Example: The bioeconomy discourse

Oeko-Institut researchers were commissioned by the German Federal Environment Agency (UBA) to examine the heavily polarised discourse on the bioeconomy. They identified three strands within this discourse:

- an “affirmative” bioeconomy discourse that emphasises the opportunities of the bioeconomy,
- a “pragmatic” bioeconomy discourse that weighs up the opportunities and risks of the bioeconomy and calls for stringent sustainability standards, and
- a “critical” bioeconomy discourse that sees the “dominant” concept of the bioeconomy (shaped by the affirmative strand) as entailing more environmental and social risks than opportunities and calls for more fundamental change.

In a study, the research team analysed various ways of dealing with the polarisation of the different strands of the discourse.

[Bioökonomiekonzepte und Diskursanalyse](#) [Bioeconomy concepts and discourse analysis]: Report by the Oeko-Institut, the Ecologic Institute, the University of Mannheim and the University of Sussex, commissioned by the German Environment Agency UBA

Strategies: Paths to the goal

To achieve society’s long-term objectives, such as climate neutrality or the conservation of biodiversity, these objectives must be underpinned by concrete strategies: targets (preferably quantifiable) must be specified, needs and opportunities for action analysed and measures and indicators of success identified. There must also be coordination among stakeholders and between levels.

Finally, it is important to monitor success and establish learning mechanisms so that strategies can be adjusted and if necessary adapted to a changing context. There are often various strategic points of leverage. The opportunities, risks and possible forms of each need to be identified: who can be brought on board as a supporter or multiplier, which processes can serve as connection points, which instruments are effective, which narratives are persuasive?

Researchers at the Oeko-Institut have for some time been working on a number of projects on strategic approaches in environmental policy. These projects are highly diverse and thus represent a wide range of perspectives on environmental policy:

- In the project “Environmental policy in the 21st century”, commissioned by the Federal Environment Agency (UBA), the Oeko-Institut explores the opportunities and risks of economic strategies for nature conservation and protection of the environment.

[Ökonomisierung der Umwelt und ihres Schutzes: Unterschiedliche Praktiken, ihre theoretische Bewertung und empirische Wirkungen](#) [Economisation of the environment and its protection: Different practices, their theoretical evaluation and empirical effects]: Interim report by the Oeko-Institut, commissioned by the German Environment Agency UBA

[Vom Wert des Grashüpfers und dem Preis des Flächenverbrauchs. Chancen und Risiken der Ökonomisierung im Naturschutz](#) [On the value of the grasshopper and the price of land take. Opportunities and risks of the economisation of nature conservation]: Article in *Aus Politik und Zeitgeschichte* (11/2020)

- In the project “The future of EU environmental policy”, conducted for the European Commission, a group of researchers at the Oeko-Institut worked with Trinomics to produce a paper on strategies for a just transition.

[Just transition in the context of EU environmental policy and the European Green Deal](#): Issue paper by the Oeko-Institut and Trinomics

- In the UBA-funded project “Shaping ecological change”, Oeko-Institut researchers reflected on the role of time in environmental policy and sustainability transformation.

[Die Rolle von Zeit für Umweltpolitik und Nachhaltigkeitstransformationen](#) [The role of time in environmental policy and sustainability transformation]: Report by the Oeko-Institut as part of the ReFoPlan programme “Shaping ecological change”, commissioned by the Federal Environment Agency UBA

Policy instruments: Matching “hard” with “soft” measures

While strategies mark out the path to the desired goal, individual policy instruments or measures represent the building blocks by means of which change – such as a shift towards more sustainable behaviour – is to be achieved. They can be divided into “hard” and “soft” measures.

Orders and prohibitions, taxes, liability law and planning law are classed as “hard” measures because they are mandatory. “Soft” instruments include information services (education, product details), cooperative instruments (round tables, dialogue) and nudges – that is, instruments that address routine behaviours. Soft measures intervene less in target group behaviour and are mostly voluntary. In between are borderline cases: for example, labelling requirements impose a duty on producers and retailers but not on end consumers.

While “hard” measures are universally applicable and it is therefore possible to monitor their implementation and impose sanctions if necessary, they often lack acceptance and may hence be difficult to enforce. Herein lies the strength of soft instruments. In the worst case, hard and soft measures may weaken each other – for instance, “soft” measures sometimes delay or even replace the introduction of “hard” measures. However, the different types of instrument can also be combined productively. To achieve this, a balance should be struck as far as possible between their strengths and weaknesses.

Example: Measures for more sustainable consumption

In the research project “Thinking ahead regarding sustainable consumption” (NaKoWei) funded by the German Federal Environment Agency UBA, the Oeko-Institut and partners investigated how measures of different types in the field of sustainable consumption can become mutually reinforcing: “Soft” measures promote long-term transformation processes across society as a whole.

- “Soft” measures promote the political enforceability of specific “hard” measures.
- “Soft” measures promote the successful implementation and development of “hard” measures.
- The announcement or expectation of “hard” measures promotes the use of “soft” measures.

Cutting across the distinction between “hard” and “soft” measures, policy instruments can further be classified into “strong” and “weak” instruments. Strong instruments are adopted in the pursuit of ambitious goals and are implemented rigorously, whereas weak ones are not. A hard instrument is not necessarily strong – and a soft one is not always weak. On top of being “hard” or “soft”, the concrete design and enforcement of measures is always crucial, too.

[Weiterentwicklung des Nationalen Programms für nachhaltigen Konsum: Handlungsempfehlungen](#)

[Further development of the National Programme for Sustainable Consumption: Recommendations for action]: Study by the Oeko-Institut and various partners, commissioned by the Federal Environment Agency UBA

Micro, meso, macro: On the scope of policy instruments

Policy instruments differ not only in terms of intervention depth but also with regard to their scope. Higher level “macro instruments” such as the European Emissions Trading System cover various economic sectors and thus have a broad scope. Small-scale “micro instruments”, such as energy standards for individual appliances or technologies, are tailored to particular areas of application, while “meso instruments” like the Ecodesign Directive address a number of product groups.

On behalf of the German Federal Environment Agency, researchers at the Oeko-Institut analysed the advantages, drawbacks and interplay of instruments of varying scope that are designed to reduce energy consumption.

A literature analysis showed that higher-level macro instruments are necessary to achieve an absolute reduction in energy consumption. They provide the framework for decisions by companies and consumers (e.g. through internalisation of external costs) and for further policy measures. Because of their broad geographical and sectoral scope they can prevent rebound, leakage and substitution effects. In addition, macro instruments operationalise visions and objectives across society as a whole, thus promoting cultural change.

Micro instruments, on the other hand, are designed to have a narrower area of application and are therefore particularly suitable for overcoming specific obstacles – for example, they can be used to improve infrastructure or prompt behavioural change. In addition, they can cushion unwanted social effects.

[Das Zusammenspiel von Makro- und Mikro-Instrumenten zur Energieverbrauchsreduktion durch verbrauchsarmes Verhalten](#)

[The interplay of macro and micro instruments for reducing energy consumption through low-consumption behaviour]: Report by the Oeko-Institut, commissioned by the Federal Environment Agency UBA

Policy evaluation: Do the measures work?

Environmental policy is designed to mitigate environmental problems. Evaluation helps to assess how well a political programme or measure is actually working. It describes which factors restrict or promote the effectiveness of the policy. By identifying examples of good practice and the conditions that enable policies to succeed, it processes the positive lessons learned and makes them more widely available.

As well as exploring ecological outcomes and impacts, evaluation can also provide useful information on the relevance, coherence, cost-effectiveness, social effects and acceptance of a measure. Evaluation can take place before (ex ante), during, or after (ex post) the implementation of measures. Evaluation – performed well and taken seriously by the recipients – is therefore a key instrument for making environmental policy more relevant, more effective, cheaper, fairer or more coherent.

Researchers at the Oeko-Institut support policy-makers at various levels by evaluating measures or producing guidelines on evaluation.

[Handreichung für Evaluationen in der Umweltpolitik](#) [Guide for evaluations in environmental policy]: Working Paper by the Oeko-Institut

[Evaluation des Nationalen Programms für Nachhaltigen Konsum: Ex-ante-Betrachtung und Kurzbewertung ausgewählter Maßnahmen](#) [Evaluation of the National Programme for Sustainable Consumption: Ex-ante consideration and brief assessment of selected measures] by the Oeko-Institut and various partners, commissioned by the Federal Environment Agency UBA

Coherence analysis: Harnessing synergies, resolving conflicts

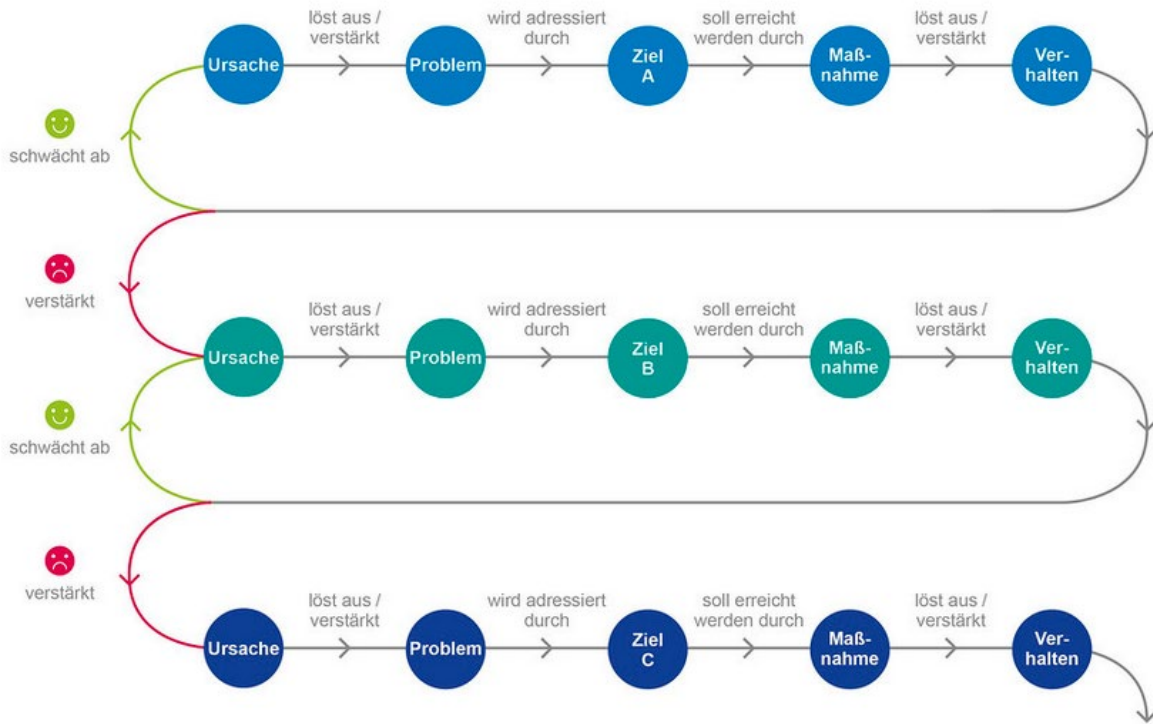
The objectives and instruments of environmental policy on the one hand and social policy on the other are strongly interconnected. Sometimes objectives conflict. For example, when buildings are refurbished in order to save energy, the desired energy saving is accompanied by extensive resource use and the concern that housing is being made more expensive. In many cases, however, there are synergies that can be harnessed – for instance, if more natural management of farmland and forests both mitigates climate change and promotes biodiversity.

To ensure that objectives and measures are consistent, it is necessary to first survey the relevant action areas, objectives and instruments and their impacts and interactions. Coherence analysis is a specific form of policy evaluation that analyses cause-and-effect chains in order to identify the interactions between policy objectives.

The analysis reveals trade-offs as well as synergies between the objectives and instruments of different areas of environmental policy. It can also provide an advance assessment of the consistency of possible new objectives and instruments and thus support the development of environmental strategies. Researchers at the Oeko-Institut and the Free University of Berlin developed the approach in 2015 in a project commissioned by the German Federal Environment Agency. Since then it has been applied in various other projects – in relation to both the interactions between environmental policies (such as climate policy and biodiversity policy) and the interactions between environmental policies and social policies.

Figure: Consistency and conflicts between environmental policy objectives

Kohärenz und Konflikte zwischen umweltpolitischen Zielen
Schematisierte Wirkungskette zwischen mehreren Zielen



QUELLE: ÖKO-INSTITUT 2015

Source: Oeko-Institut

Kohärenz und Konflikte zwischen umweltpolitischen Zielen	Coherence and conflicts between environmental policy objectives
Schematisierte Wirkungskette zwischen mehreren Zielen	Schematic cause-and-effect chain involving multiple objectives
Ursache	Cause
löst aus/verstärkt	triggers/amplifies
Problem	Problem
wird adressiert durch	is addressed by
Ziel	Objective
Maßnahme	Measure
Verhalten	Behaviour
schwächt ab	attenuates
verstärkt	amplifies

[Kohärenzprüfung umweltpolitischer Ziele und Instrumente](#) [Checking the consistency of environmental policy objectives and instruments]: Paper by the Oeko-Institut and the Free University of Berlin, commissioned by the Federal Environment Agency UBA

[Coherence between the 7th EAP, the Juncker priorities and the Sustainable Development Goals](#): Issue paper by the Oeko-Institut, commissioned by the European Commission

Enforcement: When implementation hits a snag ...

For good environmental outcomes, the authorities must be able to actually perform the tasks that the law has assigned to them and to enforce environmental standards and laws. There have long been complaints that enforcement of environmental law is inadequate. Such difficulties are particularly apparent in relation to cross-border environmental problems that arise from globalisation. German authorities sometimes need additional leverage so that they can require international companies that import their products into Germany to comply with key environmental standards. In various projects, researchers at the Oeko-Institut have come up with several ways to tackle this issue.

- The project “Product responsibility in online trade” addresses the problem of foreign manufacturers using the German market but failing to comply with the rules on waste (e.g. with regard to registration, paying the costs of waste disposal). One option is to task companies that are based in Germany and involved in the trade flows – specifically platforms such as Amazon or fulfilment centres – with ensuring that the manufacturer becomes registered.

[Produktverantwortung im Onlinehandel – Regelungsoptionen zur Verhinderung von Drittland-Trittbrettfahrern und Retourenvernichtung](#) [Product responsibility in online trade – Regulatory options to prevent third-country free riders and the destruction of returns]: Input paper by the Oeko-Institut and Prof. Thomas Schomerus, commissioned by the Federal Environment Agency UBA

- Similar problems apply to global supply chains generally. Companies that, for example, mine raw materials in the Global South or have pre-products manufactured there do not always take appropriate steps to ensure that environmental and human rights standards are adhered to abroad. Administrative bodies in those countries are often too weak, while those here are not empowered to monitor compliance with the rules in other countries. One solution involves introducing legislation on due diligence requirements.

[Umweltschutz wahrt Menschenrechte! Deutsche Unternehmen in der globalen Verantwortung](#) [Protecting the environment safeguards human rights! German companies have global responsibilities]: Donation-funded project by the Oeko-Institut

- It is unfortunate that European environmental law, too, has for some time suffered from enforcement problems in the EU member states, sometimes on a significant scale. In a research project commissioned by the German Federal Environment Agency, legal experts at the Oeko-Institut analysed the European Commission’s plans for strengthening enforcement.

[Dialog mit Expertinnen und Experten zum EU-Rechtsakt für Umweltinspektionen – Austausch über mögliche Veränderungen im Vollzug des EU-Umweltrechts](#) [Dialogue with experts on the EU statutory instrument on environmental inspections – Discussion of possible changes in the enforcement of EU environmental law]: Study by the Oeko-Institut, commissioned by the Federal Environment Agency UBA

Contact

Friedhelm Keimeyer

Deputy Head of Division

Environmental Law & Governance (Berlin)

Oeko-Institut e.V., Office Berlin

Phone: +49 30 405085-308

Mail: f.keimeyer@oeko.de

Oeko-Institut is a leading independent European research and consultancy institute working for a sustainable future. Founded in 1977, the institute develops principles and strategies for realising the vision of sustainable development globally, nationally and locally. Oeko-Institut is represented at three locations in Germany – Freiburg, Darmstadt and Berlin.