



# To the point!

Cross-Asset- and Strategy-Research

## Top court reprimands German government

**Berlin must now develop a sustainable position on debt brake**

That's probably the last thing the coalition government needed. As if they didn't already have enough problems, a big one was added on Wednesday. How big? 60 billion euros. This is the amount that the coalition had shifted from authorized but undisbursed loans to overcome the coronavirus crisis to the climate and transformation fund. This state fund is intended to help finance Germany's transition to climate neutrality.

The Federal Constitutional Court in Karlsruhe has now overturned precisely this shunting around of unused funds. The court argues that such maneuvers circumvent the debt brake enshrined in the constitution. The debt rule had been suspended during the pandemic. The federal government was therefore allowed to take out additional loans above and beyond what the debt brake would have permitted. Transferring these credit authorizations to years in which the funds are no longer needed to deal with the pandemic fall-out is not acceptable, says the court.

### Climate protection and debt brake do not rhyme

The court deserves thanks. This is because the ruling forces a fundamental decision on a sustainable financial policy. The Constitutional Court has not questioned the intention of the climate fund at all. On the contrary: in spring 2021, [the same court ruled](#) that the protection of citizens' integrity explicitly includes the state's obligation to protect life and health from the consequences of climate change. Climate protection is a constitutional obligation. But so is the debt brake. And this is precisely where there has now been a collision.

The ruling makes it clear that Germany will not be able to cope with future expenditure on climate, defense, [an aging society](#),



**Moritz Kraemer** -- Chief Economist

LBBWResearch@LBBW.de

November 17, 2023

---

## Constitutional Court stops reallocation of corona funds worth billions

---

education, and infrastructure without making more funds available through the regular budget process. Not to mention the rapidly increasing [interest burden](#). The attempt to square the circle has now been exposed as unconstitutional. But even if the court had waved through this budgetary sleight of hand, it would only have bought a little time. This short-sighted hand-in-mouth policy is now off the table.

### A less dogmatic budget rule is needed

What Germany needs now is an honest discussion on the future of the debt brake. Because if you categorically rule out tax increases (and that is what the coalition agreement does), but at the same time have additional expenditure, the only way to achieve this is through new borrowing. A less dogmatic budget rule seems increasingly unavoidable. Credible measures are needed to ensure that these additional loans can really only be used for investment expenditure. The current ruling has made it clear that the court can credibly fulfill the role of guardian.

There is currently no constitutional majority in parliament supporting a reform of the debt brake. But I believe this is only a matter of time. The fiscal predicaments will only increase: Even today, politicians have only trifling financial wiggle room if they make savings in increasingly painful areas. Purposeful policies are impossible this way.

Of course, taxes could also be increased in certain areas, something I had advocated [elsewhere](#) and which has not only made me friends. When the ink had barely dried on the 2021 coalition agreement, I pointed out the inherent contradiction between the coalition's ambitions and the resources at its disposal. The Constitutional Court has now forbidden any further muddling through. That's a good thing. It forces parliament's hand to agree on a budget framework that makes Germany fit for the future.

---

#### Disclaimer:

This publication is addressed exclusively to recipients in the EU, Switzerland, Liechtenstein and the United Kingdom.

This report is not being distributed by LBBW to any person in the United States and LBBW does not intend to solicit any person in the United States.

LBBW is under the supervision of the European Central Bank (ECB), Sonnemannstraße 22, 60314 Frankfurt/Main (Germany) and the German Federal Financial Supervisory Authority (BaFin), Graurheindorfer Str. 108, 53117 Bonn (Germany) / Marie-Curie-Str. 24-28, 60439 Frankfurt/Main (Germany).

This publication is based on generally available sources which we are not able to verify but which we believe to be reliable. Nevertheless, we assume no liability for the accuracy and completeness of this publication. It conveys our non-binding opinion of the market and the products at the time of the editorial deadline, irrespective of any own holdings in these products. This publication does not replace individual advice. It serves only for informational purposes and should not be seen as an offer or request for a purchase or sale. For additional, more timely information on concrete investment options and for individual investment advice, please contact your investment advisor.

**We retain the right to change the opinions expressed herein at any time and without prior notice. Moreover, we retain the right not to update this information or to stop such updates entirely without prior notice.**

Past performance, simulations and forecasts shown or described in this publication do not constitute a reliable indicator of future performance.

The acceptance of provided research services by a securities services company can qualify as a benefit in supervisory law terms. In these cases LBBW assumes that the benefit is intended to improve the quality of the relevant service for the customer of the benefit recipient.

Additional Disclaimer for recipients in the United Kingdom: Authorised and regulated by the European Central Bank (ECB), Sonnemannstraße 22, 60314 Frankfurt/Main (Germany) and the German Federal Financial Supervisory Authority (BaFin), Graurheindorfer Str. 108, 53117 Bonn (Germany) / Marie-Curie-Str. 24-28, 60439 Frankfurt/Main (Germany). Deemed authorised by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details of the Temporary Permissions Regime, which allows EEA-based firms to operate in the UK for a limited period while seeking full authorisation, are available on the Financial Conduct Authority's website.

---

## Structural solution for fiscal policy becomes more urgent

---

---

## Debt brake is slowing Germany down

---