

At the end of each legislative period, the FRFG confers this non-monetary Negative-Prize for a law adopted during that period which either creates injustices at the expense of future generations or fails to protect them from foreseeable burdens. Such legislation thereby violates the principle of intergenerational justice. For the 20th legislative period, the FRFG has selected the Second Amendment to the Federal Climate Protection Act as the recipient of this award.

SECOND ACT AMENDING THE FEDERAL CLIMATE PROTECTION ACT OF JULY 15, 2024

Rationale of the FRFG

The German government, through the second amendment to the Federal Climate Protection Act, is violating the principle of intergenerational justice and risks restricting the civil liberties of future generations.

Following the Federal Constitutional Court's ruling, which stemmed from successful legal challenges against the original Federal Climate Protection Act of 2019, the legislature was compelled to introduce stricter regulations for reducing greenhouse gas emissions by the end of 2021. This led to the passage of the first amendment in 2021. The second amendment, enacted in 2024 and which is the subject of this critique, aims to reform the law's control mechanism. The climate targets themselves remain the same: emissions are to be reduced by 65% by 2030, and by 88% by 2040 (both compared to 1990 levels), with carbon neutrality to be achieved by 2045.

The second amendment to the Federal Climate Protection Act introduces two key changes:

1. The sectoral, annually permissible emission quantities will be abolished and replaced by a single, aggregated multi-year total for annual emissions. This shifts accountability from individual federal ministries to the federal government as a whole. Ministries will now only be required to make an 'appropriate contribution' towards achieving the climate targets.
2. The control mechanism is being revised. Instead of mandating an immediate action plan within three months if targets are missed, corrective measures will only be initiated if projection data for two consecutive years indicate that the total emissions for the respective compliance period (namely, 2021–2030, 2031–2040, and 2041–2045) will be exceeded. Crucially, the period from 2031 to 2040 will not be specifically assessed until 2029, and measures will only be planned and implemented from 203

On 26 April 2024, the second amendment to the Federal Climate Protection Act was passed in the Bundestag with the votes of the so-called 'traffic light' coalition (SPD, Alliance 90/The Greens, FDP). All opposition factions, including The Left, voted against the amendment. Environmental organisations BUND, SFV, Germanwatch, and Greenpeace, alongside over 54,000 citizens as complainants, have filed a constitutional complaint with the Federal Constitutional Court, arguing that the law is incompatible with the protection of intertemporal freedoms as guaranteed in the German Basic Law.

In light of new scientific findings that Germany's emissions budget for meeting the Paris Agreement's target (to keep warming well below 2°C and preferably to 1.5°C above pre-industrial levels) has been effectively exhausted, one fact is clear: any further greenhouse gas emissions will exacerbate the climate crisis. According to the European Environment Agency, Europe and Germany are experiencing particularly rapid warming. The consequences not only affect current generations but also burden future generations with extreme weather events, health risks, and enormous costs. For instance, a failure to meet Germany's EU climate targets could force the country to purchase billions of euros' worth of emission rights from other member states. Postponing climate measures at the expense of future generations constitutes a clear violation of the principle of intergenerational justice.

The FRFG is awarding the Negative-Prize to the Act Amending the Federal Climate Protection Act for the second time for the following reasons: The reform weakens key control mechanisms, fails to introduce more stringent reduction targets, abolishes sectoral targets and responsibilities, and shifts accountability further into the future. This jeopardises the health, freedoms, security, and financial stability of future generations. It is profoundly unfair that today's generations continue to cause high emissions while future generations are left to suffer more severe climate impacts, and simultaneously are required to do significantly more to combat climate change.

Conclusion: The second amendment to the Federal Climate Protection Act represents a dangerous step backwards. At a time when scientists are escalating their warnings, Germany is demonstrably watering down climate protection. This is a direct threat to the rights and freedoms of future generations. Furthermore, the failure to act decisively now will severely burden future generations in terms of their freedom, health, and security.