

At the end of each legislative period, the FRFG confers a non-monetary Positive Prize on a law or judgment that either promotes justice for future generations or protects them from foreseeable burdens. Such legislation thereby advances the principle of intergenerational justice. For the 20th legislative period, the FRFG has once again selected a judgment of the Federal Constitutional Court, this time concerning the debt brake, delivered in 2023, as the recipient of the award.



Second  
Supplementary  
Budget Act  
for 2021

## Rationale of the FRFG:

The judgment of the Federal Constitutional Court of 15 November 2023 on the debt brake constitutes a milestone for intergenerational justice. It safeguards the democratic rights and fiscal freedoms of future generations.

In 2022, the Federal Government sought to reallocate €60 billion in unused coronavirus-related credit authorisations to the Climate and Transformation Fund. This reallocation was challenged by the CDU/CSU parliamentary group in the Bundestag and ultimately declared unconstitutional by the Federal Constitutional Court. The Court held that there was no sufficient causal link between the pandemic-related borrowing authorisations and the subsequent reallocation to climate protection. It further clarified that credit authorisations may only be used within the fiscal year in which they are granted and that budgets may not be altered retroactively. The Court thereby prevented a circumvention of the debt brake and declared the transfer of the €60 billion to the Climate and Transformation Fund void.

The ruling provided the first comprehensive clarification of the constitutional limits of the debt brake during emergency situations. Although the Federal Government had justified its actions by invoking intergenerational justice through climate-neutral investment, the Court rejected this reasoning. For the FRFG, this is the ruling's core significance: it prevents present governments from undermining the debt brake by appealing to presumed future benefits, thereby restricting the fiscal autonomy and rights of future generations. Ecological intergenerational justice must not be played off against financial intergenerational justice. Future parliaments must retain the freedom to determine for themselves how available financial resources are to be allocated.

The Court's emphasis on transparency, fiscal clarity, and democratic oversight is of central importance for intergenerational justice. For future generations, it ensures not the inheritance of opaque debt burdens, but rather a transparent and reliable fiscal framework. As interest obligations take effect in the future, while current expenditure often serves electoral purposes, governments face structural incentives for short-term borrowing. Without clear constitutional limits on public debt, future generations would be confronted with financial constraints that undermine their ability to act politically in areas such as education, infrastructure, and social security. The Court's interpretation ensures that borrowing remains confined to the parameters of the debt brake or genuine emergency situations, thereby protecting the fiscal latitude of future generations from the legacy of past political cycles.

At the heart of the judgment lies the principle that public debt may only be incurred to address the specific crisis for which it was authorised. Borrowing powers may not be misused or deferred across fiscal years without being counted towards the debt brake. This strengthens parliamentary scrutiny and reinforces the democratic legitimacy of fiscal governance.

Intergenerational justice means that no generation may live at the expense of those to come. By protecting the fiscal self-determination of future generations, promoting transparency and democratic accountability, and upholding the debt brake as a cornerstone of intergenerationally just policy, the Federal Constitutional Court's ruling of 15 November 2023 merits the Positive Prize awarded by the Foundation for the Rights of Future Generations.