

Emergency without ending? The federal budget in limbo

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The second supplementary budget 2021 is incompatible with basic constitutional law and thus null and void

With the second supplementary budget 2021, the federal government seemed to have found the solution to its problems: The € 60 billion in unused funds earmarked for the consequences of the corona pandemic were transferred to the “Climate and Transformation Fund” (KTF). This special fund was intended to promote energy transition and climate protection instruments while at the same time complying with the debt brake. The diverging interests of the three coalition partners were therefore no longer subject to any budget restrictions; there was money for everything at once – and thanks to the credit authorizations “in reserve” until after the next federal election. However, a “win-win” turned into a “lose-lose situation” after the ruling of the Federal Constitutional Court on November 15, 2023. The supplementary budget was “incompatible with the basic constitutional law and thus null and void”, making the reallocation of funds unconstitutional.

Exceptional emergency situation also in 2023

There were four possible solutions for the federal government to react to this ruling in the short term: *Firstly*, in order to generate additional revenue, taxes could be increased. However, a lack of revenue is the least of the problems in the federal budget; it regularly and foreseeably rises faster than wages and economic output. *Secondly*, it would have been possible to consistently cut the projects planned with the funds from the KTF, e.g., also high subsidies for chip factories and “green steel”. *Thirdly*, individual projects could have been financed from core budget funds as a substitute, which would have necessitated savings elsewhere.

The federal government chose the *fourth* option and announced on November 23, 2023 that it would seek to retroactively declare an “exceptional emergency situation” in order to suspend the debt brake and raise the sums already planned.² This contradicts its own statements from July of this year, when Minister of Finance Christian Lindner correctly stated that the budget was facing structural challenges, but not an exceptional emergency situation.³ One may rightly ask what dramatic changes in terms of the constitutional regulation may have occurred since then that do not again give the appearance of a bad sleight of hand.

Emergency without ending?

The supplementary budget created in this way is only an attempt at repair and does not offer a solution in the medium and long term. Yes, the German economy is still weakened by previous challenges and crises in recent years. However, the geopolitical situation is becoming increasingly complex, and reasons to suspend the debt brake could probably be found every year. And yes, the country has been suffering from a lack of investment for years. But the reasons for this lie elsewhere; even with the current restrictive requirements of the debt brake, existing leeway has regularly not been exploited in the past.

Missed opportunity for greater efficiency and clear prioritization

The ruling from Karlsruhe could have been an – admittedly painful – opportunity for the German government to critically review the prioritization of expenditures in the federal budget. Contrary to the short-term illusion, not all desirable projects can be implemented at the same time with

sound budget management. The resulting need to weigh up diverging interests is a core task of political leadership that cannot be avoided in the long term.

This prioritization must of course take into account that the state can and should continue to implement measures for climate protection and sustainability – regardless of the specific funding of a KTF. However, it should also be aware that more subsidies are not always the

best way to achieve this goal. Market-based incentives can be the more efficient means in many cases and by no means mean a departure from climate policy goals.

Ultimately, Germany needs budgetary resilience for the challenges that lie ahead. Moderate public debt and a return to the debt brake are not only a contribution to intergenerational fairness, they also create the financial scope for the next crisis, which will undoubtedly come.

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- 1 Federal Constitutional Court (2023): Second Supplementary Budget Act 2021 is null and void; press release no. 101/2023 of 15 November 2023.
 - 2 Handelsblatt (2023): Finanzpolitik nach dem Schulden-Urteil - Ampel am Abgrund, issue 228/2023 from 24 November 2023.
 - 3 Interview with Finance Minister Christian Lindner, 5 July 2023, online at: https://www.youtube.com/watch?v=fUA_fZP1n0 (last accessed on: 24 November 2023).

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