



The German Federal Constitutional Court's Decision on the Climate Change Act

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In a decision published in May 2021, the German Constitutional Court held that the Federal Climate Change Act is partly unconstitutional and has to be amended by the end of 2022. This policy brief explains the court's key arguments and findings.

The Climate Change Act ("Klimaschutzgesetz" - KSG), which has been in force since the end of 2019, sets binding climate targets for the first time. For the period until 2030, it requires reductions in greenhouse gas emissions of 55 % compared to 1990, as well as decreasing annual emission budgets for certain economic sectors. However, climate targets after 2030 were dropped during the legislative process. The Climate Change Act merely requires the federal government to set, by statutory instrument in 2025, annually decreasing emission budgets for periods after 2030.

Several individuals and environmental associations had considered these provisions insufficient and had raised legal challenges on the grounds that the Climate Change Act violated their fundamental rights.

Key findings of the court include:

- The fundamental right to life and physical integrity in the constitution also includes a duty of the state to actively protect life and health from the dangers of climate change. However, the state has a wide margin of discretion, which the Climate Change Act does not overstep.
- The provision on environmental protection in Article 20a of the constitution imposes a constitutional duty on the state to achieve climate neutrality. This duty to protect the climate is justiciable and limits political discretion.
- Based on Germany's targets, the emission levels that the Climate Change Act allows until 2030 would use up a large part of the total emissions budget that is available until 2050. The Climate Change Act is unconstitutional insofar as it does not sufficiently protect persons against future curtailing of their rights that could then become necessary as climate change progresses.

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