

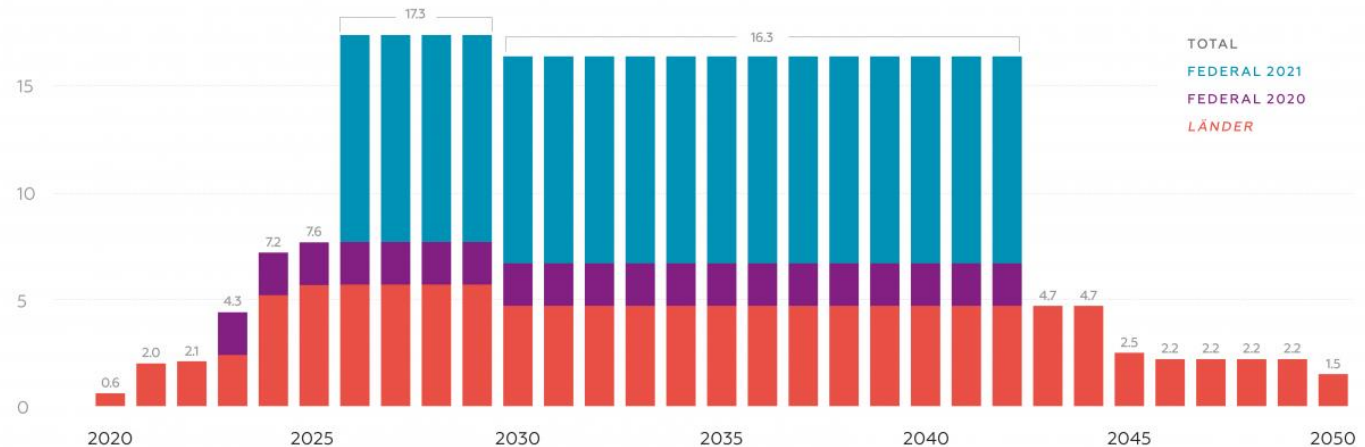
# The case for schuldenbremse reform

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# Schuldenbremse: what can be done?

- Extending a State contingent suspension
- Gradual reintroduction of the rules
- Frontloading the use of reserves:
  - the asylum and refugee reserve (€48.2 billion),
  - the energy and climate fund (€6.2 billion),
  - Bundeswehr reserve fund (€0.6 billion).
- Modifying the cyclical component
  - Budget sensitivity parameter
  - Changing the output gap reference
- Extending the repayment plan (Federal/Länder)
- Cancelling *AltSchulden* of municipalities

4 – REPAYMENT PLANS FOR THE NET BORROWING EXCEEDING THE MAXIMUM PERMISSIBLE LIMIT IN BILLION EUR\*



Source: Table 2, BMF, own calculations. Note: The total for all 16 Länder is €130.4 billion. The yearly repayment amount for each of them is determined by using the total appropriated amount and the repayment period, assuming a linear proportional repayment over the longest possible period. Repayments will continue for four of the Länder after 2050.\*

\* In December 2020, the German Press Agency (DPA) interviewed the finance ministers of the Länder to inquire about their net borrowing plans. DPA found that the total debt allowances given by the parliaments of the Länder totalled €128 billion. According to our research based on the newest developments, this collective debt could reach up to €130.4 billion.

# Constitutional Change

- The limits of German Constitutional patriotism (Habermas). Constitution can be both sacred and modifiable.
- The Basic Law was adopted in 1949, initially as a provisional framework for the basic organization of the state until German reunification.
- At reunification, instead of drafting a new constitution with a subsequent referendum (in accordance with Article 146), the same Basic Law was adopted.
- The Basic Law has been subject to more than 60 amendments since 1949.
  - the constitutional provisions for rearmament in 1956
  - emergency legislation in 1968.
  - Major constitutional reforms in 1994 following reunification
  - 2006 and 2009 in order to reorganize the federal competences and financial structures of Germany.

# Brief History of German Fiscal Federalism

- **1992** Constitutional Court ruling backing the bail outs of/transfers to the Lander of Saarland and Bremen on account of their extreme budgetary hardship.
- **2006** clarify autonomy of Landers in areas of shared competence (more ability to raise taxes and less despondency on Federal Government)
- **GFC reform 2009** reform of fiscal federalism introduces debt break at the Federal and Lander level
  - Fiscal responsibility
  - Control of Lander's finances
  - Limit transfer and redistribution between (finanzausgleich until 2016)
- **Migration crisis reform 2017** constitutional reform in aftermath of migration crisis
  - Overturned Lander autonomy of 2006
  - Revisit the 2009 settlement and create new the finanzausgleich (potentially permanently) for Saarland, Bremen and Berlin
  - Autobahn / Infrastructure financing off-balance sheet / public-private partnership
- **COVID reform 2020** constitutional amendment to extend transfers to municipalities (bypassing Landers)
  - Question of AltSchulden unresolved

# The battle of the judges

- The battle of the judges between national constitutional courts and the ECJ
- The battle of the judges within the BVerfG between the First (CPA Ruling) and Second Senate (Weiss/PSPP ruling)
- April 2021 Court Ruling on Climate Protection Act creates two legal precedents:
  - Recognition of international law on German Constitutional order (IPCC)
  - Potential friction between Climate transition and Schuldenbremse
- Generationengerechtigkeit vs. Schuldenbremse. The new Black Zero (Emissions)
- Do we want these debates to be settled by judges in Karlsruhe?

# The case for constitutional reform

1. Output Gap (in the constitution) is not a good instrument to allow stabilization
2. Climate protection and green investment is not compatible with the debt brake
3. Germany's fiscal federalism is broken (domestic *transferunion* is needed)
4. Transparency and democracy (off balance sheet items are undermining parliamentary controls)

## **German debate has not taken these issues seriously enough:**

- 2021 election campaign
- KoalitionsVertrag
- European elections in 2024