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### **Decision of the Federal Constitutional Court on the Lisbon Treaty**

On 30 June '09 the German Federal Constitutional Court outlined in a 147 pages long explanation its decision on the various claims against the Lisbon Treaty.

Here a short summary:

1. The Lisbon Treaty is compatible with the German constitution. All attacks against the Reform Treaty by the appellants (e.g. "deprivation of the German statehood", European super state, democracy downsizing, unconstitutional militarisation, unsocial orientation towards competition) were rejected by the judges.

Conclusion: The Lisbon Treaty remains untouched. Neither changes nor a new ratification in Germany or any other countries are therefore necessary.

2. The Federal Constitutional Court regarded the accompanying law on the "Act Extending and Strengthening the Rights of the Bundestag and the Bundesrat in European Union Matters" as insufficient. Thus, this internal German law needs to be improved (if possible before the next national elections).

3. The core of the Court's reasoning is that Germany (as any other EU member state) has to keep full democratic sovereignty over every step of the European integration. The **principle of conferral** regarding the transfer of competences from the national to the European level needs to be maintained.

4. The accompanying law on the "Act Extending and Strengthening the Rights of the Bundestag and the Bundesrat" is considered inadequate when it comes to the "dynamic Treaty clauses". Thus, the simplified procedure for amendment of the Treaty, the 'passerelle' clauses for the passage from unanimity to majority vote in the Council, as well as the flexibility clause in Art. 352, which accords the Council the right to decide on endorsements of Treaty competencies.

5. In all of the above cases the Court demands, prior to the vote of the German government in the Council, an approval by the Bundestag and, in the appropriate cases the approval of the Bundesrat, as well.

#### **My conclusions:**

1. Green light for the Lisbon Treaty; neither the referendum in Ireland nor the signings in Prague or Warsaw need to be postponed.

2. The Bundestag and therefore all national parliaments are considerably strengthened in their rights regarding "constitutional" questions in the frame of the European Treaties.
3. These prerequisites for approvals by a 2/3 majority of the Bundestag for new transferrals of competences effectively functions as a "break" for the EU.
4. The national parliament wins some, without the European Parliament loosing some. The new shift of powers takes place from the national executive to the national legislative.