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The German Constitutional Court delivers a verdict on the EFSF

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On 7 September, the Federal Constitutional Court (FCC) dismissed three complaints against the first rescue package for Greece and the establishment of the European Financial Stability Facility (EFSF), deeming these instruments compliant with the German constitution. Several professors in economics and law and an MP from the CSU claimed for example that the rule under which eurozone member states take no responsibility for the bankruptcy of other eurozone member states and the rule that the Bundestag decides on the German budget had been breached. The court emphasised that the regulations included in the German laws accompanying the act on the ratification of the Treaty of Lisbon provide a sufficient guarantee for the Bundestag's decision-making autonomy. At the same time, it imposed an obligation on the government to consult its decisions bailing out the eurozone with the parliamentary budget commission.

Commentary

- The obligation to consult decisions concerning aid packages with the budget commission means that Germany's future stance on bailing out the eurozone will depend on this commission's decision. A negative opinion from this body may provide a pretext for refusing to further bail out states which go bankrupt (76% of German citizens oppose the enhancement of the EFSF, which was agreed at the summit of the Council of the European Union on 27 July, envisaging for instance increasing funds as part of this facility, introducing the possibilities of granting loans by this facility to support banks which are going bankrupt in the eurozone and buying state bonds on the secondary market).

- The court's verdict will settle the dispute inside the CDU/CSU/FDP coalition over the stance it should take during the vote in the Bundestag on the ratification of the second rescue package for Greece, which will take place on 29 September. The constitutional court's decision is likely to convince those MPs from the CDU and the FDP who are sceptical about this package to support it. A debate is currently underway concerning the form in which the parliament is to be involved in issues regarding the EFSF. Decisions on new loans for indebted eurozone member states and on buying bonds on the secondary market are likely to be consulted at the plenum of the Bundestag, while other issues (such as amending the conditions of the loans which have already been made available) will be discussed by the budget commission.

- The need to consult most decisions to be taken with the budget commission may slow down the launch of the EFSF, the idea of which was to be a rapid response instrument to deal with the eurozone's problems. However, consultations with this body will impede the operation of this fund to a lesser extent than does the debate taking place each time at the Bundestag forum. This seems to have been the intention of the constitutional court, whose verdict means minimal interference with the functioning of the facility, while emphasising the role of the Bundestag, which is required from the treaty's point of view (the primacy of national parliaments in decisions regarding financial policy).

- The constitutional court's decision will strengthen the position of Chancellor Angela Merkel, for whom failure to gain majority support within the coalition would mean a serious undermining of her prestige and would signify the weakness of her leadership. However, this will not eliminate further disputes about the direction the government's European policy should take, especially given the radically different points of view on excluding countries which go bankrupt from the eurozone (for example, the FDP allows for the controlled bankruptcy of Greece, which is being opposed by the Christian Democrats).