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Press Release

ESM Treaty not unconstitutional

No unlimited additional funding commitment for Austria

The Constitutional Court has brought to a close its proceedings on the European Stability Mechanism (ESM). The applications filed by government of the province of Carinthia are unfounded and therefore dismissed. The ESM does not infringe the Austrian Federal Constitution.

The main points of the decision:

- o The Federal government and the National Council decided to accede the ESM and have therefore entered into contractual and limited commitments in order to prevent potential, unforeseeable economic and social losses. This procedure is in conformity with the Constitution. In essence, the government of the province of Carinthia has argued that a course of action other than the one chosen by the Federal government or the National Council would have been more obvious or correct. This, however, is a matter of legal policy which is not for the Constitutional Court to judge upon.
- o Sovereign rights were not unduly transferred by the conclusion of the ESM Treaty.
- o Contrary to what the government of the province of Carinthia believes, Austria is not bound to make unlimited subsequent payments to the ESM.

Based on the understanding of the ESM Treaty which the Federal government and also the National Council had when authorizing the Treaty, and backed by a subsequent interpretative declaration (declaration by the parties to the Treaty on how certain provisions of the Treaty are to be interpreted), all payment liabilities of the ESM Members under the Treaty are limited to the authorized capital stock corresponding to each ESM Member as set out in the Annex to the ESM Treaty (for Austria approx. EUR 19.4 billion).

o The adoption of the said interpretative declaration without again involving the Austrian National Council is not in breach of the Constitution. The interpretative declaration does not amend the ESM but merely ensures its understanding as outlined above. As stated, this understanding existed before the National Council originally authorized the ESM Treaty.

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