



vfggh

Verfassungsgerichtshof
Österreich

1010 Wien, Freyung 8
Österreich

Mag. Christian Neuwirth
Sprecher des
Verfassungsgerichtshofes
Tel ++43 (1) 531 22-1006
Fax ++43 (1) 531 22-499
christian.neuwirth@vfggh.gv.at
www.verfassungsgerichtshof.at

Press Release

European Fiscal Compact not held to be unconstitutional

Concerns raised by Members of Parliament are unfounded

The Constitutional Court has ended its proceedings on the Fiscal Compact in response to an application filed by Members of Parliament (representing the Austrian Freedom Party (FPÖ), the Alliance for the Future of Austria (BZÖ), and the Green Party). The Constitutional Court has decided as follows:

o The application is inadmissible inasmuch as the applicant MPs are challenging the constitutionality of a provision of the Fiscal Compact which sets the ceiling for the deficit at 0.5%. And this because the “more stringent” provision contained in the Fiscal Compact which prescribes a balanced budget (= zero deficit), or even a budgetary surplus, would apply in the event that the challenged provision is inapplicable. Allowing this challenge would add to the alleged unconstitutionality of the Fiscal Compact, since the deficit margin would then be even narrower. The applicant MPs have therefore failed to scope their challenge sufficiently wide. Any such formal error renders an application which is filed with the Constitutional Court inadmissible.

O Considering its merits, the application filed by the MPs was found admissible and such dealt with in terms of its substance. The concerns raised against the Fiscal Compact are however unfounded. The application was dismissed.

o In simplified terms, the MPs have in essence criticised that it would not suffice to adopt wide-ranging provisions such as those contained in the Fiscal Compact by a simple legislative act, arguing that a constitutional law which is to be passed by a 2/3 majority would have been required.

On this point, they are mistaken.

Inasmuch as the applicant MPs maintain that a provision of the Fiscal Compact would in a way create a power to issue directions vis-à-vis the Austrian Minister of Finance in the European Council and would curtail the National Council's power of co-determination, the Constitutional Court held: Under constitutional law, it is admissible to determine through a state treaty provision the voting behaviour of a federal minister in an international body. Any such obligation under international law vis-à-vis the other parties to the state treaty does not affect the national powers of the National Council under constitutional law at domestic level, i.e. vis-à-vis a member of the federal government.

Moreover, the applicant MPs considered other individual provisions of the Fiscal Compact unconstitutional, maintaining that sovereign rights are being transferred to European Union bodies. The Constitutional Court held that the Fiscal Compact is a treaty under international law outside the scope of Union law. Its conclusion therefore did not require a 2/3 majority in the National Council which is prescribed for Union law treaties. Neither is the transfer of competences to European Union bodies of such nature which would exceed the scope of what is admissible under constitutional law, nor are the constitutional law provisions which govern the federal budget thereby violated.

o According to the decision of the Constitutional Court the very fact that extensive provisions having an impact on the budget may be adopted by simple majority is (verbatim quote) *“part of its policy-making role within the democratic parliamentary system foreseen by the Federal Constitutional Act and not an exclusive prerogative of the “constitutional majority”, as argued in essence by the applicant MPs.*