

**Act on the Exercise of the Rights of the Bundestag and the Bundesrat  
deriving from the Treaty of 29 October 2004 establishing a Constitution  
for Europe**

Bill, adopted by the German Bundestag on 12 May 2005  
and by Bundesrat on 27 May 2005

**Section 1**

**EU documents**

The Bundestag and the Bundesrat shall regulate in their Rules of Procedure how documents transmitted to them under Articles 1 and 2 of the Protocol on the role of national Parliaments in the European Union annexed to the Treaty establishing a Constitution for Europe ... (insert: details of the law requiring the consent of the Bundesrat relating to the Treaty establishing a Constitution for Europe) are to be treated.

**Section 2**

**Subsidiarity objection**

(1) The Federal Government shall notify the Bundestag and the Bundesrat comprehensively about draft legislative acts of the European Union which are, under Article 2 of the Protocol on the role of national Parliaments in the European Union annexed to the Treaty on a Constitution for Europe, to be transmitted to the Bundestag and the Bundesrat, as soon as possible after the beginning of the six-week time limit under Article 6(1) of the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty establishing a Constitution for Europe, but no later than two weeks after the beginning of the time limit. This notification shall include the necessary information relating to the assessment of the draft's compliance with the principle of subsidiarity under Article I-11 (3) of the Treaty establishing a Constitution for Europe. The Federal Government shall, for this purpose, transmit to the Bundestag and the Bundesrat the official documents of the institutions of the European Union which have been drawn up in connection with the preparation of the draft legislation and which are available to the Federal Government, as well as the official opinions of the Federal Government.

(2) The Bundestag and the Bundesrat shall regulate in their Rules of Procedure how a decision is to be reached on the delivery of a reasoned opinion in accordance with Article 6 of the

Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty establishing a Constitution for Europe.

(3) If the Bundestag or the Bundesrat has adopted a reasoned opinion, the respective President shall send it to the Presidents of the European Parliament, the Council and the Commission, and inform the Federal Government.

### **Section 3**

#### **Subsidiarity proceedings**

(1) The Federal Government shall inform the Bundestag and the Bundesrat of the conclusion of a European Union legislative procedure at the earliest possible time, but no later than one week after publication of the European legislative act. This notification shall also include an assessment of whether the Federal Government considers the legislative act to be compatible with the principle of subsidiarity under Article I-11 (3) of the Treaty establishing a Constitution for Europe.

(2) Upon the motion of a parliamentary group, the Bundestag shall decide to initiate proceedings under Article 8 of the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty establishing a Constitution for Europe, unless two thirds of the Members of the Bundestag object. Upon the motion of one or more parliamentary groups who do not support the initiation of proceedings, their view shall be made clear in the application initiating proceedings. Details shall be regulated by the Rules of Procedure of the German Bundestag.

(3) The Bundesrat may regulate in its Rules of Procedure how the Bundesrat is to reach a decision on the initiation of proceedings under Article 8 of the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty establishing a Constitution for Europe.

(4) The Federal Government shall forward the application without delay to the Court of Justice of the European Union on behalf of the body which has decided to initiate proceedings under subsection (2) or subsection (3).

(5) In the case of proceedings under Article 8 of the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty establishing a Constitution for Europe, the body which has decided to initiate proceedings shall conduct the case before the Court of Justice.

(6) If a motion to initiate proceedings is tabled in the Bundestag or the Bundesrat, the other body may state its opinion.

#### **Section 4**

##### **Passerelle clause**

(1) The Federal Government shall inform the Bundestag and the Bundesrat if the Council is involved in the preparation of an initiative of the European Council under Article IV-444 of the Treaty establishing a Constitution for Europe.

(2) The Federal Government shall inform the Bundestag and the Bundesrat if the European Council has taken an initiative under Article IV-444 of the Treaty establishing a Constitution for Europe.

(3) For the rejection of an initiative of the European Council on a move from unanimity to a qualified majority for decision-making in the Council under Article IV-444 (1) of the Treaty establishing a Constitution for Europe, or a move from a special legislative procedure to the ordinary legislative procedure under Article IV-444 (2) of the Treaty establishing a Constitution for Europe, the following provisions shall apply:

1. If an initiative primarily affects exclusive legislative powers of the Federation, the initiative shall be rejected if the Bundestag so decides with a majority of the votes cast.
2. If an initiative primarily affects exclusive legislative powers of the *Länder*, the initiative shall be rejected if a majority of the Bundesrat so decides.
3. In all other cases, the Bundestag or the Bundesrat may decide, within four months of the initiative of the European Council being forwarded, to reject this initiative. In these cases, the initiative shall only be rejected if such a decision is not overridden by the other body no later than two weeks before expiry of the time limit of six months in accordance with Article IV-444 (3) of the Treaty establishing a Constitution for Europe. An initiative shall also not be rejected if a body overrides the decision of the other body within this time limit, insofar as it believes that there is no case under number 1 or under number 2. If the

Bundestag has rejected the initiative with a two-thirds majority, the Bundesrat shall require a two-thirds majority to override it. If the Bundesrat has rejected the initiative with at least a two-thirds majority, the Bundestag shall require a two-thirds majority and the votes of at least the majority of the Members of the Bundestag to override it.

Details shall be regulated by the Bundestag and the Bundesrat in their Rules of Procedure.

(4) The Presidents of the Bundestag and the Bundesrat shall jointly transmit a resolution reached under subsection (3) to the Presidents of the European Parliament and of the European Council, and shall inform the Federal Government.

(5) The Federal Government shall inform the Bundestag and the Bundesrat whether the European Parliament has given its consent to an initiative under subsection (2), and whether the European Council has taken a decision on it.

## **Section 5**

### **Bundestag Committee on the Affairs of the European Union**

The Bundestag may empower the Committee on the Affairs of the European Union it establishes under Article 45 of the Basic Law to exercise the rights of the Bundestag under this Act.

## **Section 6**

### **Agreements on notifications**

Details of the notifications under this Act shall be subject to the agreement to be reached between the Bundestag and the Federal Government under Section 6 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union and the agreement between the Federal Government and the *Länder* under Section 9 of the Act on Cooperation between the Federation and the *Länder* in Matters concerning the European Union.