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Statement of position on the submission of Lawyers Jakob & Kollegen, Mr. Simon G. Jakob, 69115 Heidelberg, of 31st May 2011

We call on the German Bundestag

- to put a stop to the European "super debt". Affected countries must be allowed a new start in the form of orderly and controlled national insolvency.
- to observe the requirements of the stability and growth pact, also including the implicit national debt.
- to defend budgetary authority as a sovereign right of the parliament.

We state our position on this matter as follows:

It is quite correct that the times of incurring debts are over. The main *objective* of the government and the German Bundestag at the moment is therefore to take all measures necessary in order to reduce the level of debt of the Federal Republic of Germany, and to ensure that partner countries throughout the common Euro currency area also reduce excessive national debt and prevent such debt in future:

- Together with its European partners, the Federal government, at the summit meeting of the heads of state and government of the European Union on 24th and 25th March 2011, decided to decisively improve the stability and growth pact, in order to bring new debt and the debt level of the Euro countries under control. In future therefore, greater weight will be attributed to the debt status of a country. All countries of the Currency Union have now firmly committed themselves to balancing their budgets. The pact will also be given significantly more strength and power of enforcement. The range of sanctions will be extended and the procedural channels greatly simplified. In concrete terms, the following important changes have been agreed:

- A strict rule on the reduction of national debt above the reference level of 60% of GDP,
- A strengthening of the so-called preventive arm of the stability and growth pact (deficit < 3% of GDP), by which the achievement of the medium-term objective of a balanced or almost balanced budget will also be reinforced by sanctions,
- Earlier applicable and semi-automatic sanctions for member states of the Euro currency region in the stability and growth pact.

- In 2009 the Federal government introduced a so-called "debt brake" into the constitution, which is why the Federal Republic of Germany is today considered throughout Europe as a model in matters of economy efforts. This debt brake is deliberately based on the regulations of the preventive arm of the stability and growth pact. The so-called "medium-term objective" of the pact is therefore anchored in our constitution.

- The Federal government is emphatically committed to ensuring that the other member states also implement the regulations of the stability and growth pact in their own constitutions and national legislation. In May 2010, in our key points for strengthening the Euro zone, we drafted a 9-point plan, which includes a corresponding requirement: "All Euro member states should commit themselves politically and credibly to observing the regulations of the stability and growth pact, in particular the preventive arm, and including internally." With the Euro-Plus package, the heads of state and government of the Euro currency region agreed on 11th March 2011 on corresponding joint obligations: "The member states of the Euro currency region undertake to implement the budget regulations specified in the stability and growth pact of the EU in national law. The member states may continue to decide on the type of the applicable national legal instrument, but will ensure that it is sufficiently binding and permanent (e.g. constitution or framework law)." At the latest German-French special summit on 16th August 2011, the German Chancellor together with the French Prime Minister called for all member states to implement these obligations by the summer of 2012.

- In the course of the reform measures for the stabilisation of the European Economic and Currency Union, it will of course be consistently ensured that the budgetary authority of parliament is preserved. The draft laws to be submitted by the Federal government at the decision of the European Council of 25th March 2011 on the amendment of the agreement on the working method of the EU, the implementation of the ESM by ratification of the agreement concluded on its foundation and a law in accordance with Article 115 Paragraph 2 GG, and the law currently under parliamentary consideration on the amendment of the law on the assumption of guarantees as part of a European stabilisation mechanism for the purposes of "strengthening" the EFSF, will take into account the budgetary authority of the German Bundestag. The starting point is formed by the existing control, cooperation and budgetary authority of the German Bundestag with regard to so-called international finance institutions (IFI). Like other IFI's, the ESM will capital paid in and on call (guarantee authorisations according to German budgetary law must be given for capital on call). In the case of IFI's, the German Bundestag, in the exercise of its budgetary authority, decides on the level of financing.

In addition, the petitioners request answers to six questions, which are given below:

1. <u>To what extent exactly has the Federal Republic of Germany given guarantees as part of the aid packages for Greece, Ireland and Portugal?</u>

   <u>Greece:</u>
   The IMF/EU aid programme for Greece set up in May 2010 comprises a total of € 110 billion, of which € 30 billion will be provided by the IMF, and € 80 billion by the Euro member states under the bilateral Greek credit facility.

   The <u>German share</u> in the aid measures for Greece depends on the ECB capital proportion, which for Germany is 27.13 %. Without the inclusion of Greece, the ECB proportion is increased to 27.92 %. The guarantee framework established by the law on the assumption of guarantees for the maintenance of the solvency of the Hellenic Republic required for financial stability in the Currency Union (Currency Union Financial Stability Act - WFStG) amounts to a total of up to € 22.4 billion. On the basis of this authorisation, the government on 8th May 2010 assumed a guarantee in the amount of € 22.4 billion towards the "Kreditanstalt für Wiederaufbau (KfW)", which acts on behalf of Germany as the lender.

   <u>Ireland:</u>
   The aid programme for Ireland comprises a total of € 85 billion, which is made up as follows:

   - € 17.5 billion from Ireland itself, covered by its own pension funds
   - € 45 billion from EU states (€ 22.5 billion from the European Financial Stabilisation Mechanism (EFSM) and € 17.7 billion from the European Financial Stabilisation Facility (EFSF), € 4.8 billion from bilateral contributions of GBR, SWE, DNK).
   - € 22.5 billion from the IMF

The German share of the guarantees for the EFSF also depends on the ECB rate (i.e. 27.13%). without including Greece, Ireland and Portugal, the German share for the guarantees of aid measures for Ireland from the EFSF amounts to 29.16%.

The law on the assumption of guarantees as part of a European stabilisation mechanism (StabMechG) sets the possible guarantee framework of Germany in favour of the EFSF at up to € 123 billion. This guarantee framework was made use of by assuming a guarantee fur the adjustment programme for Ireland. The amount of the German guarantees therefore currently amounts to around € 8 billion.

Portugal;

The EU/IMF aid programme for Portugal amounts to € 78 billion, which is made up as follows:

- € 26 billion from the IMF
- € 26 billion from the EFSM
- € 26 billion from the EFSF

The German share in the guarantees for the EFSF, as in the case of Ireland, is 29.16%. The German share in the EFSF aid for Portugal results in a guarantee volume of around € 12 billion, on the assumption that current market conditions will be applied, and the total aid will be provided under the previously valid framework agreement of the EFSF.

2. To what extent have the "Kreditanstalt für Wiederaufbau" and other responsible institutions granted aid loans as part of the above aid packages? At what terms (interest, repayment date)?

   The guarantee framework set by the law on the assumption of guarantees for the maintenance of the solvency of the Hellenic Republic required for financial stability in the Currency Union (Currency Union Financial Stability Act - WFStG) comes to an amount of up to € 22.4 billion. On the basis of this authorisation, the government on 8th May 2010 assumed a guarantee in the amount of € 22.4 billion towards the "Kreditanstalt für Wiederaufbau (KfW)", which acts on behalf of Germany as the lender.

Greece:

Of this total volume, € 65 billion has already been paid out in five tranches - € 47.1 billion by the Euro zone (including € 13.45 billion by Germany) and € 17.9 billion by the IMF.

Ireland:

As part of the aid programmes, € 22.2 billion, or one third of the total amount of the programme has already been paid out.

Portugal:

€ 18.4 billion has so far been paid out under the Portuguese aid programme.

3. What decisions have already been made, and by whom, on what date and with what content (actual wording) at European level? Is there already an existing draft for the amendment of the AEUV? Is there already an existing draft for a European ordinance on the regulation of the permanent rescue package? If so, we request the wording of such decisions and drafts.

   A chronology on the Internet site of the Federal Finance Ministry (www.bundesfinanzministerium.de - see the heading "Stabilisation of the Euro") gives an overview of the individual developments and decisions with regard to the stabilisation of the Economic and Currency Union. Documentation on such decisions is also available on the corresponding government and parliament sites on the Internet. There is at the moment no draft of a European ordinance on regulation of the permanent rescue package.

4. <u>What is the "legislation plan" of the German Bundestag? When is a decision to be made on the ratification of the AEUV and implementation in national law?</u>
The national implementation of the decisions of the European Council on the establishment of the ESM and strengthening of the EFSF will take the form of the following four legislative measures:

	Legislative measures
Amendment of the StabMechG for strengthening of the EFSF	Amendment of the law on the assumption of guarantees as part of a European stabilisation mechanism (StabMechG) for strengthening of the EFSF
Agreement on amendment of Art. 136 AEUV	Law on the decision of the European Council of 25.03.2011 on the amendment of the agreement on the method of operation of the European Union (AEUV)
Agreement on the ESM	Ratification of the agreement on establishment of the ESM
ESM financing act	Authorisation in accordance with Art. 115 Para. 1 GG for participation in the ESM

<u>Schedule</u>
The amendment of the StabMechG for the strengthening of the EFSF will provisionally be able to be concluded by the end of September. As soon as the negotiations are concluded at the European level, the national legislative procedure for both laws on the ESM agreement and the law on the decision of the European Council of 25.03.2011 on Art. 136 Para. 3 AEUV can begin.

5. <u>What measures does the German Bundestag intend to take in order to be able to observe the constitutional stipulations of the "Debt brake" even in the event of greater utilisation of guarantee commitments? Will reserves be formed?</u>
The stipulations of the debt brake expressly restrict only the assumption of loans. According to Art. 115 Para. 1 GG, the assumption of securities, guarantees or other guarantee commitments which might lead to expenditure in future fiscal years requires authorisation under national law. Securities, guarantees or other guarantee commitments may however not be assumed if it is most probable that the nation will as a result become financially committed (see also VV No. 5 to § 39 Federal budget regulations). In this case, expenditure or commitment authorisations to would have to be incorporated into the budget plan.

The constitutional requirements of the debt brake are therefore not infringed on a legal basis by the assumption of guarantees.

However, in the event that this results in a payment obligation on the part of Germany, through which the structural components are significantly exceeded, provision is made under the stipulations of Art. 115 Para. 2 p. 6ff GG, in the event of unusual emergency situations which are beyond the control of the state, and which significantly impair the state's financial situation, that the regular upper credit limits of the debt brake may be exceeded by resolution of a majority of the members of the Bundestag. Such decision must be accompanied by a repayment plan, which ensures the repayment of such loans within an appropriate period. In accordance with the repayment plan, the repayment rates and interest resulting from the additional loans, must be taken into account in the following budgetary years within the scope of the maximum permissible net borrowing limit.

The risks to the national budget accruing from the assumption of guarantees are taken into account by the formation of a global risk provision in the national budget covering all guarantee cases. In the course of the annual budget compilation, the risks resulting from the assumed guarantees are reassessed, and the global risk provision updated.

6. How does the German Bundestag intend to preserve its budgetary authority under the European stabilisation mechanism?

   The above statements on this question may be expanded at this point: As in the case of the inter-country establishment of the European Financial Stabilisation Facility (EFSF), in which the member states of the Euro currency region are independent and equally entitled shareholders, there will be no surrender of German sovereignty rights on the establishment of the permanent European Stability Mechanism (ESM) from July 2013.

   All major decisions, including the decision on the granting of financial aid, will be made unanimously by the finance ministers of the Euro currency region in the Governers' Council. Changes to the assigned capital may only come into effect following corresponding national implementation measures.

For Germany, this means that the German Bundestag would have to agree to this increase by national legislation.

According to the ESM agreement, the liability of member states remains restricted to their share in the assigned capital of the ESM under all circumstances, including the resignation of a member of the ESM.

As stated initially, a law in accordance with Art. 59 Para. 2 GG is required for the establishment of the ESM, and there will be a law which governs the financing of the German participation in the ESM. All stipulations on the type and amount of capital payments and guarantees are therefore subject to the approval of the Bundestag. The budgetary authority of the Bundestag as founded in the constitution is therefore preserved.

By order