

Act on the Assumption of Guarantees within the Framework of a European Stabilisation Mechanism (Stabilisation Mechanism Act – StabMechG)¹

Date of signature: 22 May 2010

Full citation:

Stabilisation Mechanism Act of 22 May 2010 (Federal Law Gazette I, p. 627), as amended by Article 1 of the Act of 23 May 2012 (Federal Law Gazette I, p. 1166)

Enacting Clause

The Bundestag has adopted the following Act:

Section 1 – Guarantee authorisation

(1) The Federal Ministry of Finance shall be authorised to assume guarantees for up to a total of 211.0459 billion euros for financing operations which the European Financial Stability Facility carries out to implement the emergency measures to the benefit of a euro-area Member State granted under the preconditions of subsections (2) and (3) below. Emergency measures as described in the first sentence shall mean loans from the European Financial Stability Facility to the respective Member State, including those which the Member State uses to recapitalise financial institutions, precautionary measures and purchases of government bonds of this Member State on the primary market or secondary market. Guarantees under the first sentence above may only be assumed up to 30 June 2013. At that time the authorisation for the unused portion of the guarantee facility shall expire. A guarantee shall be offset against the maximum amount of this authorisation at the amount at which the *Bund* may be drawn on from the guarantee. Interest and costs shall not be offset against the facility for the authorisation.

(2) Emergency measures within the meaning of subsection (1) above may, at the request of a euro-area Member State, be taken to maintain its solvency if this is indispensable to safeguard the stability of the euro area as a whole. Excluding the respective Member State, but together with the European Central Bank and, where possible, with the International Monetary Fund, the euro-area Member States shall ascertain, by common agreement, whether the financial

¹ This working translation of the *Gesetz zur Übernahme von Gewährleistungen im Rahmen eines europäischen Stabilisierungsmechanismus* is provided by the Language Service of the Federal Ministry of Finance. Only the German text of this Act is authentic.

stability of the euro area is under threat prior to the granting of emergency measures. Precautionary measures, loans to recapitalise financial institutions and the purchase of government bonds on the secondary market shall be effected under these conditions in order to avoid the risks of contagion. The purchase of the government bonds of a euro-area Member State on the secondary market shall also require that the European Central Bank ascertains that there are exceptional financial market circumstances.

(3) Emergency measures shall be subject to strict conditions which the respective Member State generally agrees with the European Commission, in cooperation with the European Central Bank, and, where possible, with the International Monetary Fund in the context of an economic and fiscal policy programme prior to the granting of the emergency measure and which are unanimously approved by the euro-area Member States. Should, on account of the nature of the emergency measure, it not be possible to agree all necessary conditions prior to the commencement of the emergency measure, such agreement shall be obtained subsequently without delay and prior to the ending of the emergency measure.”

(4) Before the Federal Ministry of Finance assumes guarantees, the agreement on the special-purpose entity² must be submitted to the Budget Committee of the German Bundestag.

(5) Subject to the conditions of section 37 subsection (1), second sentence, of the Federal Budget Code, the guarantee facility defined in subsection (1) above may with the prior consent of the Budget Committee of the German Bundestag be exceeded by up to 20 per cent of the amount stated in subsection (1) above.

Section 2 – Budgetary responsibility and responsibility for stability

(1) In matters concerning the European Financial Stability Facility for the purpose of implementing emergency measures to the benefit of a euro-area Member State, the German Bundestag shall exercise its budgetary responsibility and its responsibility for the continued development of the stability of the monetary union in accordance with the following provisions in particular.

(2) The German Bundestag shall consider and vote on bills under this Act within a reasonable time frame. In so doing it shall take account of the relevant time limits for the decision-making at the euro-area level.

² *Translator's note:* “special-purpose entity” here refers to the European Financial Stability Facility

Section 3 – Requirement of parliamentary approval for decisions in the European Financial Stability Facility

(1) In matters concerning the European Financial Stability Facility, the Federal Government may, through its representative, approve a proposal for a decision which affects the overall budgetary responsibility of the German Bundestag or abstain from voting on such a proposal only after the German Bundestag has taken an affirmative decision to that effect. In the absence of such a decision by the German Bundestag, the German representative must reject the proposal for a decision.

(2) The overall budgetary responsibility shall be deemed to be affected in particular

1. in the event of the conclusion of an agreement on an emergency measure from the European Financial Stability Facility at the request of a euro-area Member State,
2. in the event of a significant amendment to an agreement on an emergency measure, an amendment to its instruments and terms, and in the event of an amendment that has an impact on the amount of the guarantee facility,
3. in the event of amendments to the Framework Agreement for the European Financial Stability Facility,
4. in the event of the transfer of rights and obligations from the European Financial Stability Facility to the European Stability Mechanism, and
5. in the event of the adoption of a significant amendment by the Federal Government to the guidelines of the Board of Directors of the European Financial Stability Facility.

(3) To the extent that a purchase of government bonds on the secondary market is planned, the Federal Government may invoke the particular confidentiality of the matter. In this case, the German Bundestag's rights of participation designated in subsection (1) above shall be exercised by members of the Budget Committee who are elected by the German Bundestag for one legislative term by secret vote and by a majority of its members. The number of members and an equal number of substitute members shall be the smallest possible which allows each parliamentary group to nominate at least one member and ensures that the ratio of

representation is respected (special panel). The special panel may lodge an objection to the assumption of particular confidentiality. In the case of an objection, the German Bundestag shall exercise the rights of participation designated in subsection (1) above. The special panel shall inform the German Bundestag about the content and outcome of its deliberations without delay once particular confidentiality ceases to apply.

Section 4 – Participation of the Budget Committee of the German Bundestag

(1) In all matters concerning the European Financial Stability Facility affecting the budgetary responsibility of the German Bundestag, in which a decision by the German Bundestag is not provided for pursuant to section 3, the Budget Committee shall be involved. It has the right to deliver an opinion. The Budget Committee of the German Bundestag shall monitor the preparation and execution of the agreements on emergency measures.

(2) Unless they fall under section 3 subsection (2) number 5, other amendments to the guidelines of the Board of Directors of the European Financial Stability Facility shall require the advance approval of the Budget Committee of the German Bundestag. In these cases, the Federal Government may, through its representative, approve a proposal for a decision in matters concerning the European Financial Stability Facility or abstain from voting on such a proposal only after the Budget Committee has taken an affirmative decision to that effect. The Federal Government may also table a corresponding motion in the Budget Committee. In the absence of such a decision by the Budget Committee, the German representative must reject the proposal for a decision.

(3) In the cases not covered by subsection (2) above which affect the budgetary responsibility of the German Bundestag, the Federal Government shall involve the Budget Committee and give consideration to its opinions. This shall apply in particular to decisions which may only be taken unanimously under the Framework Agreement for the European Financial Stability Facility, such as a decision on the provision of financial assistance pursuant to an existing financial assistance facility agreement, as well as to the nomination of the German board member for the Board of Directors of the European Financial Stability Facility.

(4) The plenary of the German Bundestag may take over the powers of the Budget Committee at any time by means of a decision taken by a simple majority and exercise the powers by simple decision.

(5) A motion or an item of business submitted by the Federal Government shall be deemed as referred to the Budget Committee within the meaning of the Rules of Procedure of the German Bundestag. Rule 70 of the Rules of Procedure shall apply accordingly, and the demand of a quarter of the members of the Budget Committee must be supported by at least two parliamentary groups on the Committee.

Section 5 – Provision of information by the Federal Government

(1) The Federal Government shall provide the German Bundestag with information on a comprehensive basis, as early as possible, continuously and, as a rule, in writing in matters pertaining to this Act. The Federal Government shall provide the Bundesrat with information in writing. Details shall be left to be determined by an agreement between the *Bund* and the *Länder*.

(2) The Federal Government shall transmit to the German Bundestag all the documents available to it which serve the purpose of participation on the part of the German Bundestag under sections 3 and 4.

(3) The German Bundestag shall take account of the particular need to protect current confidential negotiations by according them confidential treatment.

(4) In the case that a Member State requests emergency measures from the European Financial Stability Facility, the Federal Government shall, within seven days of the request being made, transmit an appraisal of the content and extent of the assistance to be granted as well as an assessment of the financial impact to the German Bundestag.

(5) The Budget Committee of the German Bundestag shall furthermore be provided with information in writing on a quarterly basis about the guarantees assumed and their proper use.

(6) The continuous provision of information by the Federal Government shall also comprise details regarding the respective consideration given to the opinions of the German Bundestag and of the Budget Committee submitted under this Act in negotiations.

(7) The rights to be provided with information under subsections (1) to (6) above may, in cases of particular confidentiality under section 3 subsection (3), be limited to the relevant members of the Budget Committee, as long as the reasons for particular confidentiality

persist. Once these reasons cease to apply, the Federal Government shall latterly provide this information to the German Bundestag without delay.

Section 6 – Entry into force

This Act shall enter into force on the day after its promulgation.