

**CDU demands inclusion of a clause into the European Constitutional Treaty
enabling a judicial review of compliance of secondary European law
with the principle of subsidiarity
(Courtesy Translation)**

**Resolution of the National Committee on European Politics of CDU Germany
chaired by Elmar Brok MEP
August 2002**

The CDU rejects the proposal recently taken up again to create a new political body of the European Union consisting e. g. of members of parliaments of member states of the EU and of members of the European Parliament. A new political body would be solely subject to political considerations and could therefore not guarantee a legally relevant review. A political review already exists by the European Commission, the European Parliament, and the Council on part of the EU member states.

The CDU demands the preservation and promotion of the political and cultural variety on our continent as a central aim of European politics. Despite the introduction of the principle of subsidiarity in the EU-Treaty of Maastricht and its precise description in a protocol of its own attached to the EU-Treaty of Amsterdam, an abuse of competence by the European level is only insufficiently ruled out. Therefore the CDU demands both a more precise separation of competences between the European Union and its member states including its regions and municipalities, and the inclusion of a clause into the EU Constitutional Treaty enabling a review of a presumed violation of the principle of subsidiarity.

The CDU demands in particular the inclusion of a clause of a legal review by a constitutional and competence senate of the European Court of Justice. The European Commission, the European Parliament, the Council, the national governments, and the national parliaments should be entitled to bring a claim. CDU and CSU demand in their proposals for a European constitutional treaty of November 26, 2001: "In the event of competency disputes between the EU and its member states, relevant decisions are made by a competency senate of the European Court

of Justice, which may also require the participation of national constitution judges“.

The adherence to the principle of subsidiarity can be legally guaranteed only by a possibility to have a review by independent judges. This is central for preserving the political and cultural variety in Europe. Since in such a case the Bundesrat (the Upper House of the German parliament representing the federal states) would also be entitled to bring a claim, the federal states of Germany, the *Länder*, would also have a good instrument to defend their competences versus the European Union.