# High court says Germany has right to withdraw from European Union

by Gabriele Liebig

In its decision on Oct. 12, Germany's Constitutional Court in Karlsruhe delivered a restrictive reinterpretation of the Treaty of European Union, which in a number of essential points diverges widely from the "Monster of Maastricht." The court either disputed the especially monstrous aspects of the treaty, or else restricted them in such a way that any minute variance would render them unconstitutional. In the worse case, Germany could even withdraw from the Union altogether. This reminds one of someone who makes a contract to purchase a rattlesnake, while with his own family he makes the contract contingent upon the rattlesnake behaving like a squirrel. If the animal later turns out to indeed be a rattlesnake, the contract would be declared invalid.

What is the sense of such antics?

The German Constitutional Court's decision was in response to a suit filed by a former European Community official Brunner, who challenged the validity of the treaty on the grounds that it violates Article 38 of Germany's Basic Law, which says that citizens and voters have the right to influence the policies of the Federal Republic of Germany. This right would be encroached upon, he argued, if Germany's national sovereignty were to be partially suspended. The court decided that such a thing would not occur, and that the "principle of democracy" does not prevent the Federal Republic from becoming a member of a supranationally organized, multistate community, so long as "legitimization and influence can also be exerted by the public within the framework of the alliance of states."

## 'Pacta sunt servanda' no longer valid

The German government has argued both before the Constitutional Court and elsewhere, e.g., in the so-called Edinburgh Declaration of December 1992, that the treaty is merely "an alliance of states for the realization of an increasingly tight union of the nationally organized peoples of Europe, and not a state based on a single state citizenry."

This formulation, however, is not included in the Maastricht Treaty, which explicitly treats the unification of Europe's economies and currencies as a preliminary step toward full political union.

In fact, the German judges found that the European Parliament has insufficient democratic control over the European Community's executive bodies. But then the European Council consists of the heads of state of all member countries, and thus, according to the court, the primary parliamentary control remains with the German parliament.

The European Union is not permitted to further expand its own powers, unless further laws are passed which would change the German constitution. It is not an "independent legal entity" and should not become one. "The plaintiff's concern that the European Community, considering its long-term goals, will be unable to develop into a political union with as yet unspecifiable sovereign rights, unless further parliamentary orders are issued concerning the application of law, is unfounded," according to the court's decision. Such a development, the court added, would bring the Maastricht Treaty into conflict with the German Basic Law.

And in that case, the judges found that the Federal Republic, despite the formulation that the Union treaty is for "an unlimited period," could "cancel its membership by means of a contrary act." As the daily *Frankfurter Allgemeine Zeitung* rightly pointed out, such a withdrawal would fly in the face of the standard doctrine of international law, according to which treaties are to be kept once they are made. But after what has happened in Bosnia, who worries about the niceties of international law anymore?

## Bank domination remains intact

The treaty's provisions on currency union were not challenged by the Karlsruhe judges. However, they understand the hard date for introducing the third state of economic and currency union, namely 1999, as "more of a declaration of goals than a legally enforceable date."

This is all the more remarkable, because a special protocol has been attached to the Maastricht Treaty on this very point, stating the exact opposite. The "Protocol on the Transition to the Third Stage of Economic and Currency Union" states, "With this signature, the high treaty partners declare . . . the irreversibility of the Community's transition into the third stage of economic and currency union. . . . In the event that by the end of 1997 the date for the beginning of the third stage is not yet set, the relevant member states . . . over the course of 1998 will speed up all preparatory work in order that on Jan. 1, 1999 the Community can irrevocably enter into the third stage, so that the European Central Bank and the European Central Banking System can take up the full


*A demonstration of the Association of German Farmers in Bonn, March 1993. The banner reads "IMF and GATT Are Wrecking Steel and Farming." The Maastricht Treaty for European Union will impose more of the monetarist austerity policies that are destroying industry and agriculture, while stripping nations of the sovereign right to determine their own economic policies.*

scope of its activity at that time."

Karlsruhe found nothing to criticize about the fact that according to the Maastricht Treaty, a highly "independent legal entity" is to be created which will be acting outside of any parliamentary control to determine the future monetary, interest rate, and credit policy—and thus the economic fate—of the European states. We are referring to the core of the entire treaty: The European Central Banking System (ECBS) and the European Central Bank (ECB). No parliament, and no government, will be able to instruct or oppose the actions of this body, which is to consist exclusively of appointed representatives from the financial world. This authority will be enthroned in "absolute independence" over the peoples of Europe—a new instrument of power in the hands of the banking establishment which is now obsessed as never before with imposing its insane ideology of rampant speculation and monetarist "shock therapy" upon the productive economy.

As German Chancellor Helmut Kohl emphasized in Paris on Oct. 13, the second stage of currency union is supposed to begin on Jan. 1, 1994. According to the Maastricht Treaty, a European Monetary Institute is to be formed as a precursor to the ECB. "It will have a juridical personality. . . . Its president will be selected from among the circle of individuals recognized for their experience in monetary and banking questions" (Article 109f).

People in Germany seem to be especially proud of the fact that the ECB will most likely be headquartered in Frankfurt. That, however, does not exempt Germany from the negative consequences of an ECB policy of hostility against physical production and against the citizenry. After all, the independent U.S. Federal Reserve System has its headquarters in New York, and this does not prevent the Fed from shamelessly ruining the U.S. economy and society in the service of the banks. U.S. banks, for example, obtain Fed credits at 3% interest, but then turn around and lend money back to the government at 7% and more. The difference between the two rates is a pure subsidy to the banks at taxpayers' expense, inflates the budget deficit, and steers away from public investment in infrastructure, education, etc.

Concerning the "convergence criteria" for states' membership in the European Union, which specify a required rate of inflation, national indebtedness, annual net government borrowing, interest rates, and currency rate bandwidths, the court determined that the treaty "adequately ensures that the convergence criteria cannot be 'softened' without German consent."

It should be pointed out, that at the present time, not a single European country, with the exception of the tax haven Luxembourg, meets the criteria laid out in these supplementary protocols of the Maastricht Treaty. So only Luxembourg will be permitted to join the currency union!

It is well known that the Exchange Rate Mechanism within the European Monetary System (EMS) has been thrown into chaos by ruthless speculators, and that the rate variation bandwidths have been "softened" into absurdity—something that the Karlsruhe judges seem to have overlooked. In the "Protocol on the Convergence Criteria According to Article 109j," Article 3 states, "during the two years previous to its examination [for membership], a member state must have kept within the normal bandwidths foreseen for the EMS exchange rate mechanism, without suffering any great strain."

In the meantime, the EMS has experienced not simply "strain," but has practically blown apart. Nevertheless, the Constitutional Court has pronounced that there must be no softening of the entry criteria. So is the currency union, if it ever comes about, in violation of both the German constitution and of the treaty itself? Here the rattlesnake is clearly biting its own tail.

## A different strategy for Europe

The question remains why anyone who actually wants a squirrel, would purchase a rattlesnake instead. Helmut Kohl is such a person. While giving lip-service to the Maastricht rattlesnake, he is simultaneously pushing in the exact opposite direction. While in Paris he reconfirmed Franco-German friendship, along with the Elyseé Treaty signed 30 years ago by French President Charles De Gaulle and German Chancellor Konrad Adenauer, and stressed the key role of the French and the Germans for Europe: "How closely we work together, how well we understand one another—this is what will ultimately determine how things will go on the entire continent." European unity means "unity in manyness," said Kohl, echoing an expression from Cardinal Nicolaus of Cusa, and also stressed that for him "the thought [is] unacceptable that the western border of Poland and of the Czech Republic should forever continue to be the eastern boundary of the European Union." But an essential included purpose of the Maastricht monster is the continuation of the Iron Curtain in a different form.

Regardless of whether European policy is organized as a Europe of the Fatherlands, as a community of sovereign states, a European association of states, or anything else, such arrangements can only function on the basis of a coherent strategy for overcoming the world economic crisis, mass unemployment, and the terrible economic, political, and psychological damage which has been inflicted in the East by banking establishment-dictated monetary shock therapy.

Concretely, this means implementing a Eurasian program for the construction of modern infrastructure throughout the continent, as Lyndon LaRouche had already proposed immediately after the fall of the Berlin Wall in 1989. The area within the "Productive Triangle" described by Paris, Berlin, and Vienna would serve as a driver for this endeavor.

These investments must not be allowed to be curtailed or prevented because of empty treasuries and expensive private credits. Rather, it would be necessary to issue new productive credit through transforming Germany's central bank, the Bundesbank, into a National Bank.

Such a European continent-wide development strategy would of course conflict with the geopolitical dogma of the Anglo-American financial elite who are currently setting the tone in the West, and is contrary to the neo-liberal, monetarist dogma of the "free market." Indeed, Maastricht itself was a reaction by these circles to the opening of the Iron Curtain and the reunification of Germany: the Maastricht Treaty explicitly forbids the issuance of national bank credit.

If Chancellor Kohl really believes that with Maastricht "the evil spirits of the past" can be banished and war prevented, then he is yielding to a dangerous bit of self-deception. *We already have war in Europe*. The war in former Yugoslavia was largely caused by the same International Monetary Fund shock therapy which has just led Russia back into a dictatorship. And it will get even worse, unless a line is finally drawn against this dishonest dance with the rattlesnake.

## The Canadian Election

# Voters reject NAFTA and bankers' austerity

by Gilles Gervais

Canadian voters on Oct. 25 delivered an overwhelming defeat to the ruling Progressive Conservative Party, in a popular revolt against austerity, unemployment, and the Anglo-American bankers' plans to loot the entire continent through the North American Free Trade Agreement (NAFTA).

Kim Campbell's Progressive Conservative government, which went into the election campaign with 157 seats in the House of Commons, came out with only 2 seats, terminating its 126 years of existence as one of the two major Canadian political parties. The Liberal Party, headed by Jean Chrétien, won the elections with 178 seats (out of 295), and 41% of the popular vote. Chrétien will become the new prime minister, and has pledged to renegotiate the NAFTA treaty.

Among the other parties which will enter the new Parliament, the social democratic NDP lost 36 seats, ending up with 8 seats and 7% of the popular vote. The western-based populist Reform Party elected 52 members of parliament with a popular vote of 19%, while the separatist Bloc Québecois got 54 MPs elected, with a popular vote of 14% overall and 49% within French-speaking Quebec. The growth of these regional parties is fraught with danger to the continued existence of Canada as a nation.

### Situation shaken up

*EIR* sources report that, despite the dangers, rejoicing is being heard throughout the land. It is not that people are particularly pleased that the Liberals won; there is little or no expectation that their policies will be an improvement. Rather, the common view is that the election results "have opened everything up," shaking the institutions and making it possible for an alternative policy to emerge.

Chrétien's party swept Toronto, the capital of Ontario, the most populous province and the industrial heartland of Canada, which was hit by heavy unemployment after the 1989 free trade agreements went into effect.

"Citizens in Canada have turned their opposition to NAFTA into political change," said Lori Wallach, director of the Public Citizens Trade Program, to the *Globe and Mail,*