

Report from Bonn by Rainer Apel

A ship pre-programmed to sink

The European Monetary Union, scheduled to go into effect in January 1999, will not survive the global crisis.

On April 2, the Constitutional Court ruled against five plaintiffs who had tried to block the European Monetary Union (EMU) project on grounds that it would violate the German Constitution, including Article 14 (guarantee of property) and Article 38 (national sovereignty).

After only 30 minutes of deliberation, the court threw out the sovereignty issue, arguing that concerns about the constitutionality of the agreements were unfounded, because the government and Parliament had approved, in compliance with international law, a "limited" transfer of sovereignty to the EMU and the new European Central Bank (ECB). The Parliament being the legal representative of the citizen, the individual citizen had no case, because everything was done "according to the law," the court said.

The court further ruled that there is no constitutional right of the citizen to the protection of his or her individual monetary property, so that the case of the five plaintiffs against the EMU and ECB could not be accepted by the court.

This pro-monetarist ruling has cleared the way for the diplomatic schedule of events finalizing the EMU: On April 23-24, both houses of the German Parliament will vote, and on May 2-3, the German government and its 14 EU partners will sign the final EMU documents, to go into effect in January 1999.

The five plaintiffs are Professors Rupp, Noelling, Hankel, Schachtschneider, and Starbatty — the last four

having joined for a combined legal action at the court. On behalf of the four plaintiffs, Schachtschneider said in interviews immediately after the court ruling, that the judges are fleeing from the responsibility to uphold the law and the Constitution, and that it was a "black day for German law." He and others addressed the fact that there had been massive political coercion, not only against the plaintiffs, but also of the court, to turn the case down.

Legal efforts to stop the EMU having failed, the question now, is whether the EMU will work. Here, a perspective is opening up, which is as chaotic as it is promising.

It is generally expected among experts that the monetarist EMU simply must come into open conflict with the fact that most of the 15 EU member-states define social security as a fundamental right of their citizens. Moreover, as the constitutional rights of the citizens have been eroded, while at the same time being usurped by the parties and leading institutions of the political establishment, the identification of the citizens with their state, which largely runs through the functioning of the social welfare system, has weakened. Once the social welfare structures are threatened, the formerly peaceful citizens will begin to protest.

Most EU governments have experienced such rebellions, including strikes and protest marches, over the last two years of increased budget-cutting. In Germany, there is the absurd but revealing situation in which the government passed a law abolishing sick pay for workers, but has not been

able to make it stick. After some strikes in autumn 1996, labor unions and management have simply resolved to ignore the law and reaffirm the sick pay regulations for 15 million workers and employees in the private sector.

This gives a foretaste of what might happen, as soon as the ECB takes monetarist decisions that do not, by statute, pay attention to specific national or regional traditions in social and labor relations. The EMU and ECB will look fine on paper, but the political reality will be turbulent and chaotic. This is what many experts expect to happen.

For example, in a discussion with this author on Jan. 13, the day after the four plaintiffs had presented their case against the EMU at the Constitutional Court, a senior analyst of the Frankfurt office of Goldman Sachs said that, in his view, the 15 EU governments were much too obsessed with the EMU project to even consider a review, let alone a freeze of the project (as the plaintiffs were recommending). The project would not work the way its authors had designed it.

On the one hand, he remarked, a protracted Asian crisis would affect the physical economies of the EU members, which means that all Maastricht criteria would have to be reviewed, and, likely, modified. In the course of a likely deepening depression in 1998, nobody would be able to explain to a rioting public, why new state borrowing had to be 3% or less, as the Maastricht Treaty prescribes. The rioters would demand state intervention to create jobs, in open defiance of the EMU budgeting rules. The Maastricht framework might be kept, but it was pre-programmed for a flood of emergency crisis corrections and ice pick amendments.

In other words, the EMU is like the *Titanic*, except that its leaks are already built in.