

High Court To Rule On EU Dictatorship

by Rainer Apel

July 8—*Whether Europe will proceed down the path to financial dictatorship, or return to an alliance of sovereign nation-states, will, to a significant degree, be determined by the outcome of an extraordinary oral argument before Germany's highest court on July 5. There, for the first time in a court of law, opponents of the British-dominated European Union identified the tyrannical nature of that institution, and how it threatens all of Europe, forcing the government to defend the policies which are destroying not only Germany, but Europe as a whole. If the court decides for the plaintiffs, the whole scheme for supranational bankers' rule goes down the drain.*

Our chief German correspondent Rainer Apel was on the scene, and provided the following report.—ed.

On July 5, the Constitutional Court of Germany held a public hearing on some of the charges which numerous plaintiffs have filed against the government's bailout policies for the Eurozone. The fact that the Court held this hearing in public, is, to a large extent, due to the very broad, nationwide mobilization of the LaRouche movement against the banking bailout policies—a mobilization that kept the issue upfront in the public debate, although the mainstream media tried to suppress any such debate throughout the entire past year. The plaintiffs, which were heard at the Court, had filed their legal challenges already a year ago.

The Court heard two groups of plaintiffs: the meanwhile famous “five anti-euro professors” (Wilhelm Hankel, Wilhelm Nölling, Karl Albrecht Schachtschneider, Joachim Starbatty, and Dieter Spethmann), who have gone against the euro in several constitutional challenges before; and Peter Gauweiler, a dissident member of the Christian Democrats in the national parliament, whose case also has the support of 14 *Mittelstand* family entrepreneurs. The Court also heard the other side: representatives of the Executive and of the Parliament. Trying to prevent a repeat of the June 30 Lisbon Treaty

ruling of the Court which—unexpected by the government—set narrow standards for what Germany is allowed to accept in terms of EU policies, the Finance Ministry this time wanted to be better prepared, and brought 15 ministry officials into the courtroom. The ministry, as well as the parliament, also chose an aggressive strategy against the plaintiffs at the hearing.

Carl Schmitt Exhumed

The more than seven hours of hearing left no doubt that the government and the parliamentary majority of the nation have apparently chosen none other than Nazi crown jurist Carl Schmitt as their legal counsellor: Throughout their testimonies, the terms “emergency” or “extraordinary” could be heard. More than 89 years ago, Schmitt formulated the doctrine that “emergency creates new law,” opening the door to the Nazi coup d'état in 1933, which justified all its actions with the claim that it was “necessary to act against emergency and threats.”

The arrogance of power and the cynicism displayed by the spokesmen of the pro-bailout camp, were so apparent, and their disrespect of the Court procedure so open, that the judges ought to have thrown out the bailouts right at the start, for contempt of the Constitution. Instead, the Court permitted them to rant and rave against the plaintiffs for more than three hours. Only during the last two hours of the hearing, did the Court provide occasion for the plaintiffs to elaborate their positions in some detail.

The aim of the bailouters was, from the start, to talk the Court into simply dismissing the case: Finance Minister Wolfgang Schäuble began his testimony with the coercive argument that “the highly nervous financial markets are watching very closely whether Europe can stand firm”; that there have been “emergency situations in which we had to act”; that there had been the “risk that an uncontrolled default and other uncontrolled developments” could have been unleashed by the “financial markets.” As a matter of fact, everything that Schäuble and the other spokesmen of the bailout camp said confirmed what the plaintiffs charged: namely, that a supranational emergency, outside of any law, was taken as the basis for rushing through all the bailouts.

One of the legal experts for the government simply tried to dismiss the fact, cited by the plaintiffs, that after all, the chief economic advisory council of the government had warned the finance minister last year against the bailout, and that, of more than 200 German economists, 189 voted against the bailout and only 7 for it.

The government expert said there were “other serious experts” which the government chose to listen to, for example at the IMF, which he claimed had the “best experience” on how to deal with debt problems.

The same expert even went so far as to polemicize against the plaintiffs’ claim that the citizens’ democratic rights were being violated, whereas, according to the expert, “there is not a single person in this country who thinks that way. Where, after all, are the citizens protesting against the rescue measures in the streets of Bremen or Berlin? Where are they? Show me these citizens.”

But the bailouters overplayed their hand several times, as in the aforesaid case: At one point, the presiding judge, Andreas Vosskuhle, interjected that he found “too much artificial optimism” on the side of the government and of the European Central Bank: “What haven’t you told us a year ago about how things would work out in Greece, and they did not; and you told us the same concerning Ireland; and now on Portugal. What shall be believed? I am skeptical, to tell you the truth.”

At another point, Udo di Fabio, one of the eight judges who coordinate the proceedings on this case, said that he wanted to remind the parliament that “the budget right is the last remaining crown jewel of the parliament. If you give that away, what is left of the freedom of the parliament, then?” This was in response to a remark of one of the parliament representatives that “in the era of globalization, what is left of the budget right anyway?” The speakers of the government and parliament exposed their shamelessness in one testimony after the other.

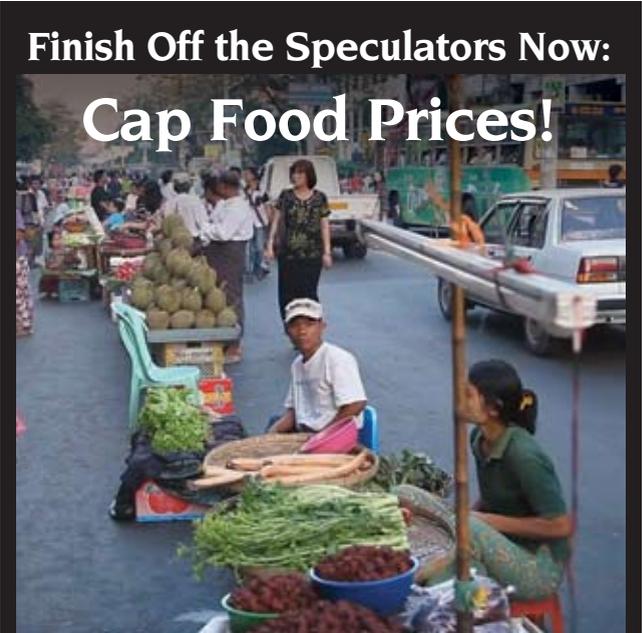
The Last Responsible Institution

The plaintiffs were quite on the mark. Schachtschneider attacked this “coup against European institutionality”; Murswiek, legal counsellor for plaintiff Peter Gauweiler, called it “an emergency above the law, above the Constitution, above EU laws,” “an emergency standard which no court can accept.” The Court has it in its hands to “prevent this catastrophe for Europe” by “tying the hands of the policymakers,” Nölling added. The Court “is the last institution that is trusted in the population,” Schachtschneider and Murswiek said, calling on the judges to be aware of their responsibility for the Constitution, the State, and the citizens.

The way that the hearing developed is most remarkable, one may even say, historic: There rarely is an occasion in Germany where it is possible to expose the government’s flaws and complicity with the banks in a concentrated way. The parliament no longer does its job

to control the government, and Germany does not have the institution of a popular referendum through which the people could correct the government’s policies. And Germany has not had commissions like those in the United States, one, chaired by Phil Angelides, and another by Sen. Carl Levin, which exposed the practices of the banks and hedge funds in reports of several hundred pages each.

The mainstream media of Germany have mostly been on the side of the banks, and the financial markets, and shown almost no sympathy for the victims of the financial crisis. Therefore, the courtroom at the Constitutional Court has proved to be the last place offering a real chance to cut the government and the bailouters down to size—which is what the judges must do with their ruling. And their ruling must come soon, because by mid-September already, the national parliament of Germany is to debate the government’s plan for creating a permanent bailout structure, the European Stability Mechanism, for the eurozone. The only institutional power that still can prevent the parliament from rubber-stamping this insane project, and help to bury the above-mentioned undead Carl Schmitt for good, is the Constitutional Court.



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