

German Constitutional Court to rule on euro rescue fund

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Today the German Constitutional Court (BVG) in Karlsruhe will announce its verdict on the legality of the European Stability Mechanism (ESM) and the European Fiscal Pact. The decision is being tensely awaited all over the globe. Should the judges decide against the ESM, observers expect a worsening of the euro crisis and a possible stock market panic.

The ESM is due to replace the temporary European Financial Stability Facility (EFSF) next year and then remain a permanent institution. Its task is to bail out ailing euro zone countries. The credits it awards are attached to strict austerity conditions, such as those currently dictated to Greece, Portugal and Ireland.

The Fiscal Pact obliges all signatory countries to reduce their budget deficits and to this end include a German-style “debt brake,” or balanced budget amendment, in their constitution.

The treaties establishing the ESM and the Fiscal Pact were originally signed on February 2 by all the governments of the euro zone, as well as eight other EU members. Only Great Britain and the Czech Republic withheld their support.

On June 29 both houses of the German parliament, the Bundestag and Bundesrat, approved the treaties by a two-thirds majority. Germany still has not officially ratified the treaties, however, because federal president Joachim Gauck declared he will only sign the necessary laws into force when the BVG has decided in favor of their constitutionality.

A wave of appeals against the ESM and Fiscal Pact has landed with the BVG in Karlsruhe. They come from representatives of a broad political spectrum, stretching from right-wing Christian Social Union (CSU) MP Peter Gauweiler, to the “More Democracy” alliance of former SPD Justice Minister Herta Däubler-Gmelin, to the Left Party.

All of the legal complaints argue that the ESM and the Fiscal Pact are a violation of democracy. They contend that the right of the federal parliament to determine budget policy would be undermined when democratically unaccountable institutions such as the ESM and the European Central Bank are able to spend hundreds of billions of euros, which are ultimately guaranteed from the public purse. As a result, voters will no longer have a say in the direction of policy.

In the event of the ESM being forced to relinquish all its loans, Germany would be liable to pay out €190 billion. This represents about two-thirds of its annual federal budget. This sum has no upper limits, however. In the event of a country that pays into the ESM going bankrupt and being unable to pay its contributions then the rest of the contributing countries must automatically take over its share, thereby increasing the liability limit.

In addition the ESM can itself take out loans for which the member countries are liable. Worst-case scenarios, therefore, assume that with a deepening of the crisis the German budget would be liable for €400 billion to €700 billion. This would increase the national debt from its current level of 80 percent of GDP to 110 percent.

These numbers are even higher after the decision last week by the European Central Bank to buy up government bonds of financially weak euro countries without any upper limit. If the ECB makes losses in the process, then liability falls upon the euro zone countries. Even so, the government or parliament has no influence on the decisions of the ECB, as is the case—at least to a limited extent—with the ESM.

CSU MP Gauweiler responded to the ECB decision by submitting an urgent application to the BVG on Monday. He requested that the court reconsider its decision and postpone its announcement if necessary.

According to Gauweiler the purchase of government bonds by the ECB increases the financial risks for national budgets, under conditions of a complete lack of parliamentary oversight. This created an entirely new situation, he argued, which the Constitutional Court should take account of when ruling on the ESM and the Fiscal Pact.

The BVG discussed Gauweiler's application. But on Tuesday it announced that it would deliver its judgment on Wednesday as planned.

Political and media observers expect that the court will approved the ESM and the Fiscal Pact, but with conditions. Possible requirements for ratification may include a proviso to limit German financial risk to €190 billion, the inclusion of a termination clause in the contract, or a referendum on the transfer of sovereignty to the EU.

It is unlikely that the Karlsruhe court will rule against the treaties in their entirety. Such a ruling would have potentially explosive economic and political consequences. Nevertheless, a ruling of no from the court is not altogether excluded.

Whatever the BVG finally decides, it will not answer the fundamental problem: the dictatorship of the financial markets over every aspect of social life, which is undermining all democratic rights and institutions.

The Stability Pact, the ESM and the purchase of bonds by the ECB serve the interests of finance capital and make a mockery of democratic norms. They are transferring hundreds of billions into the vaults of banks, hedge funds and the super-rich, while the working population must pay the bill in the form of one round of austerity after another.

The strengthening of the nation state and its institutions demanded by all applicants in Karlsruhe, however, is not a step towards recovering democracy. National parliaments and governments are also at the mercy of the financial markets and are their willing servants. This is being confirmed every day. The same goes for the European Parliament.

The principal motive of the plaintiffs is not the defense of democracy, but rather the defense of German interests in Europe. The plaintiffs have either openly supported or tolerated in silence the brutal austerity measures imposed on Greece by the troika of the European Union, European Central Bank and International Monetary Fund. The insistence on

national interests, for which Gauweiler has been a spokesman for decades, is just the flip side of the dictatorship of finance capital. It does not lead to democracy but rather to chauvinism, dictatorship and war.

The defense of democratic rights and the establishment of genuine democracy in Europe is only possible by breaking the stranglehold of the financial markets on the economy and society. Banks, corporations and major fortunes must be nationalized and placed at the service of society instead of private profit. This requires the independent mobilization of the working class on the basis of an international socialist program.



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