

Federal Constitutional Court, 2nd Senate
PO Box 1771
76006 Karlsruhe

18.9.12

Constitutional complaint regarding urgent legal protection against the ESM and Fiscal Pact

here:

Subsequent submission of basic information reinforcing the grounds of 12.6. and 2.7. of this year for file ref. 2 BvR 1296/12

Dear Sirs,

As a follow up to my fax of 11.9.2012 (dated 10.9.12) I hereby enclose an original version containing additional text to the fax, with the note that due to the haste of the writing of the fax, some errors had slipped in, which are corrected in the following text to ensure better rendition of the meaning.

In the course of your announcements following the verbal discussion of constitutional complaints received, and in addition to urgent applications regarding the ESM and Fiscal Pact, you suspended a decision of the Federal Constitutional Court until 12th September 2012, and requested the President not to sign the law adopted by the German Bundestag / Bundesrat on 29th June 2012, until the Federal Constitutional Court had reviewed the complaints and applications submitted.

Following the interim hearing on 10th July 2012, you announced - as was reported in the press - that in addition to the extensive discussions on the grounds of the complaint, information should also be obtained on the position of the Federal Government regarding technical Euro rescue measures and plans of the Federal Government for a decision of the Federal Constitutional Court.

Since we are aware that the information on the part of the Federal Government has failed to materialise, we would like to take the opportunity to reinforce the grounds stated with the following information regarding the establishment of national budgets since 2010.

1. All matters concerning the citizens should be reflected in a national budget.

This is not the case. Matters that affect the citizens have been divided on the one hand into those which are included in the national budget, and others which are not.

When citizens, labelled on their own behalf as the "state" by their spokesman, namely their popular representation, the German Bundestag, and then the Federal Government, are compelled to support non-German countries of the European Monetary Union, then this is usually done through funds, and if they are not available without borrowing, then the corresponding loans must be taken out to support the national budget, if the banks consider that adequate security is available. The resultant funds then flow in the form of loans on behalf of citizens to countries considered eligible for support, such as those in the European Monetary Union, which then, if they have already been insolvent or on the brink of insolvency, are still considered as insolvent, but are even placed in a position of continuing to be able to purchase goods from the supporting country, and slightly increase the exports of the supporting country, than if they were no longer able to import goods.

Interest on such loans would be interest payments to banks, which would have to appear in the national budget. The fact is that by enabling these loans, which are assumed not by the government as the representative of the people, but granted where the supported country

itself is the borrower, and can only act as such if the Federal Government is liable, i.e. the people, but not formally by the Federal Government and the State, but liability is conceded on the part of the people for the loans towards the banks. By this means the government avoids the disclosure of interest which would have to be itemised as direct loan interest, although they are with 99 % probability and ultimately simply debts, since the supported countries that assume these loans are insolvent, and are likely to remain so, and the liability of the people in the event of default on the part of these countries when they become insolvent must inevitably lead to transfer of liability to the people of the supporting country. And in this way the loans to support national financing would be circumvented.

This is however deliberately avoided by the government, and falsifies national budgets, because it is known that the following situations can thereby be prevented:

- a. New borrowing remains unburdened by additional interest and an additional increase of debt, i.e. new debt does not increase at all by this procedure.
- b. The basic legal requirement that new debt may not be higher than corresponding investments during the same period.
- c. The total debt level is not affected by loans which are assumed directly but are redirected via the supported countries.
- d. The debt brake, which is to take effect no later than 2015 and is enshrined in the basic law, is totally circumvented by the preceding points. The redirection of debt into liabilities, which are not yet statistically recorded as liabilities, but will in all probability ultimately be realised as debts, takes place blatantly by entering into liabilities, although it is clear that without support, these loans cannot be paid back in the future, especially since it is already difficult enough with the correspondingly high risk rates of the supported countries to fund the debt, which the German citizen will also have to pay for in the form of delayed insolvency costs through the direct loans of the German state.
- e. Even without corresponding rescue measures, the total debt limit of 60% of GDP has already increased to 81% relative to gross domestic product, and the trend is still increasing.
- f. The disclosure of state funding, which is also prohibited for Germany at the European level via a liability structure in the form of rescue packages – that it is not the citizens who are liable, as the Federal Government claims, and is seen simply as a means of circumvention, arises from the fact that in the conversion of liability into debt in the event of insolvency of the supported country, the payment obligations of the supported country or the banks granting the loans, are not claimed directly from the almost 82 million citizens, but from the state. It is therefore obvious that the state is entering into payment obligations, and not the people of the country responsible for the liability.

It must also be noted in this respect:

- g. The obvious schizophrenia of this plan is also revealed by the fact that the government believes that it can still conduct such prohibited state financing both by passing liability on to the citizens, and on the other hand by not having credit-financed cash payments

made by the citizens (but in the form of further loans, again as state financing). The citizens is thus doubly deceived. This all reflects the hopelessness and desperation of this government, which sees its only resort in trickery, such as falsified national budgets, and obviously had the ulterior motive of concealing the already existing delaying of insolvency, and in abetting other countries to do the same.

- h. The state is also concealing from the people of the country that the debt costs of interest, as well as the liability capital (debt), will have to be borne by the people in the form of delayed insolvency costs, and thereby be burdened further without their knowledge, and fails to reveal that as a result of loans to supported countries, the interest is higher than it would have been if the state furnishes funds at lower interest (e.g. through government bonds) and then passes these on directly to the supported countries.

The rescue package mechanism is therefore more costly for the people than if they had to pay the interest on loans assumed directly by the state – which in any event they will still have to do in the final analysis.

- i. State liabilities are not entered into because any control via the ESM would be impossible.

When one considers that the payment obligations resulting for Germany from the rescue packages already exceed the national budget of a whole year (e.g. 2013), and the volume of such a budget already makes up between 12 % and 14 % of the gross domestic product, then it is obvious that the Federal Republic of Germany, if neglecting a rescue package and with direct borrowing and passing on of these loans, and irrespective of the increased new debt, would exceed the Maastricht criteria of the stability pact, so that it would be proven that the total debt is not only 81% instead of the approved 60%, but much higher, such as 100 % and more (as also in the case of other supported countries). This fact is being carefully covered up.

The budget is therefore falsified through the construct of subsidiary economic guarantees and liabilities to an extent that would otherwise be impossible. Now the citizen is the fundamental measure for the establishment of national budgets, and this cannot be divided into: real debt and deferred debt due to assumed liabilities.

The fact that all this could happen so is due to the political chaos of the German Bundestag, and with the agreement of all parties, although every party is entitled to make applications against such draft or final budgets, and at least to vote against their adoption. Why this is done so by the Federal Government, and the Chancellor together with the Finance Minister also deceives other countries in this manner is obvious. Germany as the still best-placed industrialised country of the 17 countries of the EMU would like to be a role model, which it also documents, under the direction of Chancellor Merkel, with the implementation of Fiscal Pact regulations in connection with the ESM. Because it would not fit well if Germany from the national budget point of view were only a number in the list of all supporting countries of the EMU, although it is itself being supported, namely by its citizens, and has long been living in a state of delayed insolvency.

The fact is however that the Federal Government has over-extended itself in a manner which, on the introduction of Euro-bonds, Germany would immediately be bankrupt due to the mixed interest rate then to be applied and the explosion of the interest rate burden (the ESM and the Fiscal Pact are simply a preliminary stage in this process). Germany is insolvent, the insolvency is being delayed and

the costs of the delay will be borne by the citizens. And the delay will last all the longer if the ESM and Fiscal Pact are approved by the Federal Constitutional Court. The people are paying for this political insanity, because since the ECB agreed to the purchase of junk government bonds, the ESM as a limited recovery package has become an unlimited facility. This has been brought about by the policy of the current government, and the German people has no influence any more over this attack on the private purse. This will fuel inflation to the point of already known hyperinflationary development as in 1929.

Through wrong policy, transfer policy in the legal social systems and transfer policy for the bankrupt countries as a whole, under the guise of the creation of the European Monetary Union with the Euro, in order to preserve the face of the leadership incumbents for as long as possible, we are being led into a system of absolute collectivism in the passive and active area, where the latter then corresponds to the political idea of madness and the shift in power. It has been announced in the press that the Spanish Prime Minister thinks that as a gesture of thanks, Angela Merkel should be made leader of Europe in return for the fact that the ECB should then in this way support the countries which need to be supported, thereby achieving solidarity for the bankrupt countries. A beautiful story, which corresponds to the madness of all involved and the idea of Mr. Putin for a Eurasia, in which the European part would be governed by the current Chancellor. In this sense Mrs. Merkel would then no longer be concerned with Germany alone, but with the whole of Europe, or rather her position as the leader of Europe. The law then indicates that the Federal Constitutional Court will judge accordingly and once more subordinate itself to politics; but normality is that of the reverse path, where the highest court will in the last resort control the observation of constitutional, democratic (liberal) legal norms by politics.

These are press rumours, but which nevertheless have a serious background, when one considers the duplicity of the Chancellor, in that she signalled to the ECB Presidency that she had nothing against the purchasing of junk government bonds, i.e. starting up the presses to print more money. On the other side her critics, who at the same time assured Bundesbank President Jens Weidmann of their support on the ECB Council that every attempt would be made to prevent such a thing happening. This must surely exceed the legally protected freedom of action of a Chancellor and be afforded no legal protection.

The democracy of the Federal Republic of Germany and the European treaties with the ban on state financing require an ECB which must act completely independently and without influence in terms of the criticism of the Bundesbank, but is being seduced by a Chancellor elected within the framework of the basic law, i.e. the constitution of a democratic state, not to remain independent. In this way, power can be abused, and it is to be feared that by a second coup of the political class, this abuse will be taken to the most extreme extent if politics again supports the transformation of justice into injustice.

When it is also taken into account that cash injections by the ECB, which already amount to the order of $2 \times \text{€ } 500 \text{ billion} = \text{€ } 1 \text{ trillion}$, continue to be made, and, as already practiced, the losses of these banks are socialized and must be borne by the citizens, while the profits are privatized, then we are reminded of the words of Ludwig Erhardt: "That a market economy is an institution for consumers, not for producers and certainly not for banks."

As long as it is possible for the European Central Bank and the countries in the EMU to support the banks of other countries, before they even make their way to the insolvency courts, something is rotten in politics, and also in the relevant jurisdiction. Not to mention the fact that a national insolvency regulation, which is totally excluded under § 1 of the insolvency regulations of the FRG, is the fundamental reason that the Euro crisis has occurred at all. It is unacceptable to support institutions, at the expense of the people, whose business activities, and as a result their speculation by them as customers, have only become possible from conservative business and the investment of

savings. Financial markets would not exist if countries, such as in this case the FRG, did not operate on the basis of a debt-driven economy.

A national budget without debt creates no financial market, which is the state itself. Financial markets emerge only when countries incur debt, and this results in a vicious circle of debt and competition in incurring debt. The entire financial market practice is due to the fact that there is no control over the power of politics and governments; this is the task of the law and supreme court jurisdiction.