

The German Constitutional Court tries to assert German power over the ECB and the European Court.

In a sweeping judgement the German Court dismissed the judgement of the European Court as a “view”, and gave its own instead.

At issue is the right of the European central Bank to print billions of Euros, buy up the bonds of member states, and keep interest rates around zero. Many Germans think this is a very damaging policy, hitting savers and dragging German taxpayers towards responsibility for the debts of other countries with less prudent financial management. Various German interests brought this court case to demand Germany is insulated from the debts of Italy and Greece, and from any inflationary threats were the ECB to overdo the money printing.

At issue is also the powers of the EU Institutions themselves. Elsewhere in the EU – including the UK when we were a member – domestic courts accepted the superiority of the European Court of Justice, and accepted all EU policies and laws emanating from the Commission, Court and Parliament. The German Court has always tried to maintain a different doctrine, limiting the EU’s powers to the massive range and depth of powers bestowed by Treaty but keeping open the possibility that there is some power they claim that goes beyond their Treaty entitlements.

The German Court has up to this point found very little and has not been that willing to pursue German powers instead of EU powers, as the German Court generally supports the EU federal scheme. That is what makes this judgement so much more revolutionary, claiming as it does that the ECB and EU has acted ultra vires in such a dismissive judgement.

It is one thing to say this, and another to turn it into any kind of reality. The detail of the judgement gives the ECB a three month period to show it has used its powers proportionately. Only if the ECB fails to satisfy the German Court and government on that matter will the judgement become a declaration of some independence, and only then will the ECB have to change its bond buying policy to avoid schism.

Maybe this German judgement will turn out to be just another “view” in a bitter row about how much money the ECB can print and how much of a free ride it gives to financially weaker countries. It is likely to mean more Euro austerity and smaller increases in bond buying, as the EU moves to head off a more radical declaration of German independence in these economic areas.