

# PEOPLE'S NEWS

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## Fool you once ... !

The EU commissioner for economic and monetary affairs and the euro, Olli Rehn, now says the blanket bank guarantee of 2008 was a catastrophic error.

Rehn, one of the chief architects of Irish strategy since the crash, says: "In retrospect I think it is quite easy to spot some mistakes, like the blanket guarantee for banks." But there is no going back: "That is now water under the bridge, and now we have redirected the river, and we are in a better place for the moment."

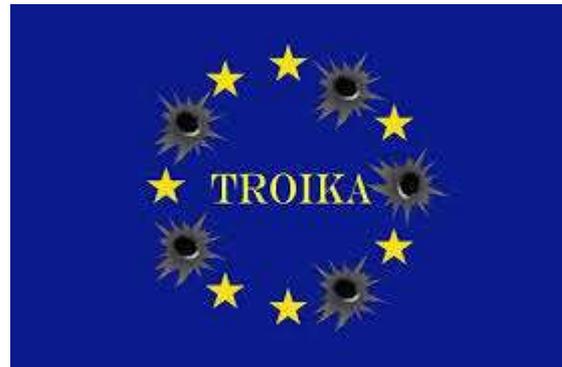


And so it is timely to remember Noonan's promise to "burn" the bondholders: forget about Varadkar's "not a red cent" guff for the moment! On 15 June 2011, speaking from Washington, Noonan flexed his muscles and told us he would impose losses on senior bondholders in Anglo-Irish Bank. He claimed he had told the International Monetary Fund: "Look, it's no longer a bank. Anglo is now merged with Irish Nationwide. It's a warehouse for impaired assets. Its deposit base has been moved out into the pillar banks ... We don't think the Irish taxpayer should have to redeem what has become speculative investment." But we weren't off the hook, because Noonan was telling porkies!

Last week on "Prime Time" he let it slip that two months previously he had already caved in to instructions from Jean-Claude Trichet of the European Central Bank to abandon plans to burn Anglo-Irish and Irish Nationwide bondholders. So Noonan, by his own admission, coddled us in 2011; but it's hard to credit that he went to the IMF with his hands up, as Trichet would have us believe, while the ECB was bailing out Italy.

Is it conceivable that he was told to put his hand up—despite the protestations of Trichet?

## Troika bullies



The Troika "held a gun to the head" of Cyprus and Portugal, and showed little sympathy for social measures, Jürgen Klute, a German member of the EU Parliament who led a delegation looking into its activities, has said.

"Both countries had very little room for manoeuvre in negotiating the terms of the bail-outs. What they said basically was that 'a gun was held to our head,' especially in Cyprus."

The first draft of their report, due to be voted on in the EU Parliament in March, points out that "due to its *ad hoc* nature there was no appropriate legal basis for setting up the troika on the basis of Union primary law"; and, with

the European Central Bank's legal mandate limited to monetary policy, any involvement in budgetary, fiscal and structural policies is "on uncertain legal ground."

Another issue is the approval—by both the Commission and the ECB—of policy measures that were struck down by national constitutional courts, for instance in Portugal.

"The troika had very little interest in social measures: they were only concerned about cutting back the deficit," Klute said. He pointed out that there was a lack of democratic supervision when it came to the work of the Troika. "We are criticising the way it was done—with basically no involvement of national parliaments or social partners," he said.

The committee has subsequently visited Ireland and will submit a further report.

### **"Preserving the integrity of the euro area monetary policy": ripping off the citizens!**

Readers may be tired of our harping on about the "bail-out"; but here are some of the latest twists in one of the greatest disasters to hit this country.

Those of us who were convinced that orders had come from Brussels or the ECB not to touch the bondholders have come a lot closer to being vindicated in yet another example of the EU looking after the "haves" and loading the burden on the "have-nots."



Recently the former president of the ECB, Jean-Claude Trichet, blamed EU governments for

what he called the "worst economic crisis since World War II" and said the euro zone is still at risk.

Trichet said he had warned EU governments of growing economic divergences in the euro area as far back as 2005, and that he had criticised member-states, notably France and Germany, for ignoring the deficit and debt rules that underpin the common currency.

The euro zone could not have avoided some kind of fall-out when the American mortgage bubble burst, he said, "but it could have avoided becoming the centre of the sovereign debt crisis."

Trichet pointed out that the ECB intervened on bond markets and bought up Greek debt as early as May 2010, when he was still its head and when the first EU bail-out was still being drafted. It intervened again in 2011 to buy Italian and Spanish debt when investors began to bet against the larger euro states.

So were we treated exceptionally?

Turning to Ireland, where the Government first used taxpayers' money to guarantee all deposits in Irish banks and then "had to seek" a rescue package, Trichet said: "Nobody advised them to do so."

Yet in an interview with Dan O'Brien of the *Irish Times* the late Brian Lenihan said Ireland had been "bounced" into the EU-IMF bail-out, and that the first hard indication he had of the ECB wanting Ireland to accept a bail-out came in a letter he received from Trichet on 12 November 2010. In the letter, according to Lenihan, Trichet "raised the question about whether Ireland would be participating in a programme at that stage."

But, in refusing to release the letter, the ECB stated: "The letter, dated 19 November 2010, is a strictly confidential communication between the ECB and the Irish Minister of Finance and concerns measures addressing the extraordinarily severe and difficult situation of the Irish financial sector *and their repercussions*

on the integrity of the euro area monetary policy and the stability of the Irish financial sector.” (Emphasis added.)

Now, according to the president of the Bundesbank, Jens Weidmann, the bank favoured “contributions of investors” rather than a full bank bail-out for Ireland in 2010. However, the move was blocked by the ECB.

Back in 2010 the IMF said Greece could never repay its debt and should write off some of its private and public liabilities. It’s similarly obvious that Ireland cannot pay back the odious debt, or will do so at enormous intergenerational cost to the Irish people. But in the Greek case the EU, under a deal by the French and German governments, wanted the private sector to take the hit alone in what it called PSI (private-sector involvement), putting Trichet in a tough spot. He said the IMF talks were “difficult,” but in the end the two sides agreed, on the understanding that the Greek PSI would be a one-off.

One member of the EU Parliament asked him why he “denied reality” for more than a year, ignoring the IMF’s predictions on the unsustainability of Greek debt, in a situation that drove up the final cost of the Greek bail-out and the PSI losses. Trichet said he did it to buy time to fight the Franco-German idea of PSI as a model for all bail-outs, a policy that might have helped Ireland but for his opposition.

Despite his actions, PSI came back with a vengeance in Cyprus in 2013, when it was renamed a “bail-in.” Lenders absorbed a portion of the savings of well-to-do private depositors on top of private bondholders. But Trichet was long gone from the ECB.

### **“Unlikely that Ireland will participate” in EU African force**

The minister for foreign affairs, Éamon Gilmore, has confirmed that Ireland is unlikely to participate in the EU intervention in the Central African Republic agreed by EU foreign

ministers. “I think it is unlikely that Ireland will participate in that mission, as we are already heavily committed with the troops,” he said before the meeting, pointing out that Ireland is committed in Lebanon and near the Syrian border.



EU countries reached “political agreement” to go ahead, stating that the European Union Force, or EUFOR, is to last six months and that an EU operations centre in the Greek city of Lárissa will do detailed planning. EU diplomats have said the force will comprise some five hundred soldiers and is to be deployed “at the end of February.”

European Union Force is the generic name for EU states’ joint rapid-reaction forces, which are created *ad hoc* as situations arise.

It is not clear who will contribute troops, but Germany has stated that it has other commitments, and Britain is also unlikely to become involved, while Estonia has said it will send fifty-five soldiers. Several other countries are considering contributions, including Lithuania, Romania, Austria, and Finland.

France, the former colonial power in the Central African Republic, already has about 1,600 soldiers there, and some EU politicians have now accused both France and Belgium of taking a special interest in the country because of its uranium deposits.

“Neutral” Sweden’s minister of foreign affairs, Carl Bildt, commented that the use of the EUFOR model in the Central African Republic could spell the end of the EU’s “battle groups.”

Battle groups are also EU rapid-reaction forces. They are composed of soldiers from small coalitions of EU states, who train together and are supposed to be on standby for when a crisis breaks out. They came into life in 2007 in

what some described as the nucleus of a future EU army. “They are designed precisely for this [Central African] kind of mission,” Bildt declared. “So, if not now, then when? They are supposed to be ready. If they are not ... the battle group concept as such will be open to debate.”

### Water charges: think EU!

No, it’s not Phil Hogan, or the Troika—even though the former and his coalition cronies are all too happy to squeeze ordinary people a bit harder, and the latter were anxious not to “waste a good crisis” (in the words of Frau Merkel). In the end it’s all due to the EU and the Water Framework Directive from back in the year 2000.

Article 9 of that directive, under the heading “Recovery of costs for water services,” states that “*Member States shall take account of the principle of recovery of the costs of water services, including environmental and resource costs, having regard to the economic analysis conducted according to Annex III ...*” which is entitled “Economic Analysis.”



This annex in turn outlines how such costs are to be recovered, “*taking account of long term forecasts of supply and demand for water in the river basin district and, where necessary: estimates of the volume, prices and costs associated with water services, and estimates of relevant investment including forecasts of such investments and make judgements about the most cost-effective combination of measures in respect of water uses to be included in the programme of measures under*

*Article 11 based on estimates of the potential costs of such measures.*”<sup>1</sup>

The directive was transposed into Irish law by statutory instrument SI 722 (2003), article 11 (1) (b) of which seeks to ensure “that water-pricing policies and practices are in place in compliance with Article 9 of the Directive, not later than 31 December 2009.”<sup>2</sup>

They’re late; but they were busy spending our money on the banks.

John Gormley, then minister for the environment, said that the Government wanted to squeeze €1 billion a year from householders in water charges, and then gave the game away by stating that “we are the only country in Europe where we don’t have water-metering and where we don’t charge domestically. That needs to be reversed, and reversed as soon as possible”—as if that was a logical reason for doing so! Successive ministers have continued to do the EU’s bidding.

The present Government confirmed to the then managing director of the International Monetary Fund, Dominique Strauss-Kahn, on 3 December 2010 that it would “move towards full cost-recovery in the provision of water services.”<sup>3</sup>



But why did it take so long to implement it in Ireland? Noel Dempsey had consistently resisted EU attempts to force the Fianna Fáil Government to bring in charges and succeeded, in negotiations on the Water Directive, in achieving a concession that allowed Ireland to opt out of domestic water charges for a designated period. The issue of

water charges had proved to be an extremely emotive one with the public, particularly in Dublin, where election candidates campaigned against them and mobile squads poured cement on newly installed meters.

Now, in yet another Orwellian stitch-up, the public are being blamed for the water crisis being experienced in many local authority areas; and the proposed solution—in the interests of “conservation”—is, in effect, to impose another tax on the hard-pressed population. Years of under-investment have led to a wastage of more than 40 per cent of *treated* water in many areas, through leaks from broken pipes, and meanwhile simple conservation measures, such as the installing and retro-fitting of dual-flush toilets, have been ignored.

But the real reason for these punitive charges is the Water Framework Directive from the EU Commission, which seeks to commodify the provision of water through the establishment of the principle of recovering the costs of water services. This is supported by IBEC, which sees the possibility of easy profits after the taxpayer has upgraded the system. “There are still too many sectors in Ireland where providers are shielded from competition,” it said, “one of which is water. Business would like to see more competition introduced into the water market.”



There are powerful interests seeking to profit from the installation of water-metering and the inevitable privatisation of the system. Water supply has become a major global business,

with transnational corporations amassing enormous profits from the privatisation of domestic water supplies.



The case of the Southern Water Company in England demonstrates how global financial interests are profiting from the commodification and privatisation of domestic water. The company has passed through the hands of various private investors since the Thatcher water privatisation scheme in 1989. In 2007 Royal Bank of Scotland sold the company to a consortium of international investors for £4.3 billion. The Greensands consortium bought a 32 per cent stake, the Australian Challenger Infrastructure fund took 27 per cent, and the merchant bank UBS took 18 per cent. The remaining shares are divided between an Australian pension fund and an infrastructure investor.

In 2012 Southern Water declared a pre-tax profit of more than £270 million, while domestic users paid an average of almost £400 in water charges in 2011, according to the Water Services Regulation Authority in England and Wales.

In 2007 the authority imposed a fine of £20 million on Southern Water for supplying false customer service data. The data supplied by the company suggested that it was performing better than it was, which resulted in higher domestic water charges. In 2008 the Environment Agency named Southern Water as Britain’s second-biggest polluting water firm.

According to the Water Services Regulation Authority, domestic water and sewage bills have increased by an average of 44 per cent since the privatisation of the domestic water supply and sewage treatment system in England and Wales in 1989. In 2011 the

average household bill was just under £400; however, the water regulator has since approved increased charges, and households face higher bills this year.

The high salaries of Irish Water's executives, and the recently revealed bonus payments in a company that is not yet operating, point clearly to the establishment of private-sector norms within this state enterprise. Equally, the Water Services Investment Programme, 2010–12, gave details of more than 130 contracts and water conservation projects in progress, with a value of about €1 billion, some 340 contracts to be progressed to construction over the period 2010–12, with a value of €1.8 billion, and some 190 schemes and water conservation projects on which planning work will continue.

This is a familiar and depressing pattern of large-scale public investment in utilities in order to make them more attractive to private investors.

Dr Frank Groome of UCD predicts that privatisation will not take place until after public funds have covered the upgrade of the water supply network, "an irreversible and costly investment that no private company could afford or would be willing to pay for."

The most likely eventual buyer would be one of the major transnational water companies, such as Veolia, Suez, or Thames Water. Veolia already has a sizable water operation in Ireland, including the Srowland Water Treatment Plant in Athy, Co. Kildare, opened last October by Phil Hogan. The other likelihood is retaining Irish Water in public ownership but allowing for competition from private companies.

Price-Waterhouse-Coopers, which conducted an independent assessment of Ireland's water provision in 2011, suggested that *"once Irish Water is well established as a self-funding utility the Government and Regulators may wish to assess international experience of the introduction of competition in water and sewerage services to identify whether Ireland*

*could benefit from competitive markets in the water sector at a later date."*



The privatisation of water has had disastrous results in other countries. Two Irish filmmakers, Muireann de Barra and Aisling Crudden, have made a documentary, *Water Rising*, on the impact of the privatisation of water in Bolivia. The Bechtel Corporation was effectually forced out of the country following a popular revolt against its water policies in the city of Cochabamba—where a licence was even required to collect rainwater—and the water supply was returned to public ownership.

And what does international law say about water? In 2010 the United Nations General Assembly adopted a declaration on the right to water. The declaration recognises *"the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights."*

Ireland abstained in the vote. No reasons were given; but readers can draw their own conclusions.

But one thing is certain: all this has come to you by courtesy of the EU; and when water is eventually handed over to private interests, after all the infrastructural investment has been completed and big water bills come in the door, don't forget where it all started.

1. EUR-Lex: Water Framework Directive (2000).
2. [S.I. No. 722/2003](#).
3. [IMF letter of intent](#).

## Having another go at the Coughlan judgement

The *Irish Times* recently published an article under the name of three writers, one of them Prof. David Farrell, professor of politics in UCD, criticising the Coughlan judgement of 2000 on the allocation of broadcasting time in referendums.

This article is a clear indication that the *Irish Times* is about to embark on another of its reactionary campaigns to push for legislation on broadcasting that would undermine the Coughlan judgement in favour of the political parties. At the very least it is an attempt by interests in the paper's editorial office to strengthen the Government's hand in future referendums, in particular those related to the EU.

The writers call for "legislation to guide the broadcasters on how to cover referendum campaigns," implying that political parties should be especially favoured in this regard. This is in line with the campaign the *Irish Times* ran following the first referendum on the Nice Treaty in 2001 in favour of taking away from the Referendum Commission the function of setting out the main Yes and No arguments—a campaign that succeeded and was important in enabling the No result in that referendum to be turned into a Yes result in the second referendum on the same treaty in 2002.

The writers do not point out that there is already legislation to guide broadcasters in referendums—the legislation that both the High Court and the Supreme Court judged RTE to have breached in the 1995 divorce referendum—namely, the Broadcasting Acts, as amended, which require broadcasters to be objective, impartial and "fair to all interests concerned" in covering issues of public controversy and debate. And every individual citizen is an "interest concerned" when it comes to a constitutional referendum.

The Coughlan case was taken under these Broadcasting Acts, and the High Court and the

Supreme Court found that RTE had been in breach of its obligations under the same acts in allocating some 42 minutes of free broadcasting time to the political parties on the Yes side in the 1995 divorce referendum, as against 10 minutes to non-party groups on the No side on that occasion. There was no political party opposed to divorce in that referendum, even though the people generally were equally divided on the issue, as the referendum result showed.

The voting patterns in that referendum showed the fallacy in any proposal to privilege political parties in referendums. The members and supporters of political parties are likely to be as divided on a topic as the country as a whole, while the official party lines, decided on by the politicians who run the parties, do not necessarily correspond at all to the views of the party members and supporters on any particular referendum proposition.



The central issue in the Coughlan case was whether political parties (which are not even mentioned in the Constitution) should have some kind of privileged position in referendums. The traditional practice of RTE had been to allocate some 7 minutes of broadcasting time to Fianna Fáil, as it was usually the largest party, some 4 minutes to Fine Gael, as the second-largest, some 2 to 3 minutes to the Labour Party, and no free broadcasting time at all to any party that had fewer than seven TDs.

If the courts had decided that the Government was entitled to allocate special amounts of free broadcasting time to the political parties in referendums on the grounds that they were important organisers and articulators of public opinion it would have opened the way to unequal funding of political parties in referendums on the same grounds. This would have been to find a way around the Supreme

Court judgement in the McKenna case (1995), that it was unconstitutional of the Government to spend public money seeking to obtain a particular result in a referendum. That was the issue that was really at stake in the Coughlan case.

Referendums in Ireland are not just occasions when the views or opinions of the people are being ascertained. Properly understood, they are forms of direct legislation by the citizens. The people, who are the repositories of sovereignty under the Constitution, are being asked by the Government and Oireachtas to legislate on a particular proposition, which is presented to them as a bill—in the case of the Austerity Treaty referendum the Thirtieth Amendment of the Constitution Bill. It is open to the people to turn that bill into an act if they approve of it or else to reject it and decline to legislate in its favour.

The function of citizens as legislators can be respected only if their own money and taxes are not used by the Government or political parties to influence their votes. If the Government were to introduce a referendum to extend the life of each Dáil to ten years, or to abolish the judiciary, do people think it should be entitled to use taxpayers' money or free broadcasting time to obtain such a result? And if not, why not?

### **Majority of Dutch people and politicians want referendums on EU issues**

A majority of members of the Dutch parliament have expressed support for holding referendums on EU issues in a debate sparked by a campaign that managed to collect 63,000 signatures. The governing Labour Party said it wants "to get on quickly with a possible non-binding referendum," and the Christian Union also voiced support for such referendum.

Meanwhile a new Maurice de Hond opinion poll showed that 67 per cent of Dutch citizens

want a referendum when new powers are transferred from the Netherlands to the EU.

### **Rehn defends the Troika**

Olli Rehn has defended the role of the EU-ECB-IMF Troika, arguing that its bail-outs helped avert an economic disaster in Europe. During a visit to Portugal and Cyprus, however, a delegation of members of the EU Parliament found that the governments had little choice about the terms of their bail-outs, and Rehn indirectly acknowledged that some euro-zone countries—notably Germany—had dictated the way the euro-zone rescue was designed.



Rehn quoted the new German minister of foreign affairs, Frank Walter Steinmeier, who said during a recent visit to Athens that Germany wants the Troika to continue in its present form and sees no reason for the IMF to leave. "The new Grand Coalition [in Germany] is unequivocally in favour of the continuation of the Troika, and the Euro Group [of finance ministers] shares that view," Rehn said. "So this creates a certain institutional context for the European Commission and European Parliament."

The Troika has proved deeply unpopular, particularly because it insists on the painful austerity measures that accompany forced bail-outs. But Rehn argues that the Troika should continue its work "for the foreseeable future," laying the blame for bail-out countries' difficulties squarely at the feet of their politicians. "The responsibility must in the first place be carried by those who let [economic] imbalances accumulate," he told the EU

Parliament's economic committee. "The [bail-out] programmes did not mark the beginning of the crisis but a start of its resolution."

The committee has launched an inquiry into the activities of the Troika, whose lack of democratic accountability is widely recognised.

Rehn acknowledged that "compromises" were made "in the heat of the crisis." But he also argued that it "functions reasonably well ... Conditionalities are not dictated by anyone but agreed with the beneficiary country, which is accountable to its national parliament," rather than being dictated by the Troika.

Rehn was the first in a series of EU politicians to testify before the EU Parliament's economic committee in Strasbourg.

### The EU's "green" credentials

The EU Commission has abandoned a plan for new laws to regulate the extraction of shale gas, leaving it instead to national governments to make decisions on the controversial practice. The Commission proposes instead to issue a set of recommendations for governments to maintain environmental standards. These include rules on minimum distances between fracking sites and residential and water-protection areas.



In another blow to its "green" credentials, the list of recommendations, which are not legally binding, marks the completion of a U-turn by the EU, which promised to legislate on shale-gas exploration a few months ago only to backtrack in the face of concerted lobbying. The U-turn significantly followed the December summit, which saw the first big discussion on

energy policy since the agreement of the EU's energy package in 2009, aimed at liberalising the industry by "unbundling" production and supply.

The move was predictably welcomed by industry. "Shale gas can be developed in Europe respecting the environment within the current legislation," said Roland Fester, director of the Oil and Gas Producers' Association.

Several EU countries, including Britain and Poland, have lobbied hard for the Commission to leave regulation in the hands of governments. But, according to Green Party MEPs and lobbying groups, "Barroso has bowed to the pressure of the fossil fuel lobby and its political cheerleaders like David Cameron," who offered robust support for European exploitation of shale gas at the December EU summit, telling journalists: "No regulation must get in the way."

The policy officer for the campaigning group Food and Water Europe, Geert de Cock, said: "The Commission proposals on unconventional fossil fuels fail to deliver the robust rules that the Commission's own impact assessment, the Parliament, opinion polls and the International Energy Agency have called for. The lack of courage by EU leaders to stand up to industry pressure will galvanise our campaign for a complete ban on fracking."

Friends of the Earth states that "shale gas regulations have been cracked to pieces by corporations and fossil fuel-fixated governments," and that "insufficient and non-binding recommendations and monitoring mean fracking will go ahead improperly regulated and local communities will be the ones who suffer."

Next month members of the EU Parliament will vote on a review of the Environmental Impact Assessment Directive, which also seems likely to exempt fracking projects. Under a compromise text agreed by ministers, environmental impact assessments for shale-

gas projects will be prepared voluntarily by member-states.

But there is a bright side to this story for those who oppose fracking. Now they will not be facing an impenetrable EU apparatus but national politicians, who can be reached and held to account. No doubt the big lobbying groups will adjust their focus; but this can be more effectively countered by effective local and national mobilisation—though it is very clear that the change had nothing to do with subsidiarity!

### EU treaty change “indispensable” in the long run



Germany’s minister of foreign affairs, Wolfgang Schäuble, has said that “in the long run treaty change is indispensable,” though he admitted that he could not wait for change in the treaties in moving ahead with the euro-zone banking union.

Speaking at the Frankfurt Stock Exchange, Schäuble reiterated that in order to “create a strong Europe” it is necessary to “adjust the EU treaties to the current realities. Whoever believes this is difficult is right ... [but] this has to be made up for as soon as possible.”

### The proposed EU banking union

The proposed EU banking union is not only one of the most complicated pieces of legislation drawn up in the EU but would give unprecedented powers to a restricted body of non-elected people to manage the economies of member-states, and to make real reforms almost impossible.

The legislative proposal rules out any attempt by an EU member-state to ring-fence banking operations, which, the proposed inter-

governmental treaty for a “single resolution mechanism” (SRM) asserts, “creates obstacles to the exercise of fundamental freedoms and distorts competition in the internal market.”

The EU proposal for ring-fencing from the High-Level Expert Group headed by Erkki Liikanen in October 2012 was delayed by the Commission, so there is no chance of any decision this year, though a proposal for a directive may come this spring. This lends credibility to the report published by the *Financial Times* (London) on 6 January, according to which the EU commissioner for the internal market and services, Michel Barnier, is working on a watered-down version of the already toothless Liikanen ring-fencing scheme.

The bank resolution is extremely important, as it regulates the authority to change the power structure of the banks and their customers. The process begins with deciding which bank to put in “resolution” (liquidation). One of many options could then be implemented: the bank could be sold, or reconstituted with a new management; its assets could be transferred to separate bridge institutions (“bad banks”); its assets could be sold; or, with a “bail-in,” the liabilities to creditors and depositors could be written off or converted into bank shares. In addition, the available bank resolution funds can be allocated for a bail-out.



Bank resolution procedures are specified in a draft directive. This cannot be rejected by EU member-states, but in order to be implemented it needs the new SRM Treaty to be ratified.

The SRM Treaty establishes a Single Resolution Fund and a special EU authority to deal with

banks in crisis within the euro zone, the Single Resolution Mechanism. Contrary to previous reports, governments are completely sidelined in the new body, which is to be managed by a Board of five persons. According to the SRM agreement itself, this Board is “a new unique kind of organisational structure of the EU system.” It will work alongside the already established and very powerful single supervisor (SSM) at the ECB.

Decisions on what to do with a bank that has been identified by the SSM will be worked out by the SRM Board and sent to the EU Commission for approval. Only if the Commission fails to approve the proposal by the Board will the governments of the EU member-states be contacted. The Commission needs the support of the finance ministers to reject the SRM Board’s proposal. But, as the Commission is represented in the SRM Board, any disagreement is highly unlikely, and any question of exercising national sovereignty is gone.

The general procedure for handling banks in crisis was laid down in the Directive on Bank Recovery and Resolution (BRRD), applicable to all twenty-eight EU member-states. As concerns the non-euro states it will be handled by national bank resolution authorities, just as SRM names the authority responsible in the euro zone. Alongside the SRM inter-governmental treaty, the content of the BRRD was agreed in a final compromise at the EU summit.

Fearing a public backlash after the bail-in system implemented in Cyprus, the EU

authorities have solemnly promised that the accounts of small and medium-sized investors will be better protected, and all deposits below €100,000 are secured (within the limits of the deposit guarantee system, of course). These accounts could, under “exceptional circumstances,” be given priority among the unsecured creditors. However, there is still priority for others, for instance derivatives, which would make the improved protection meaningless in a crisis.

Privileged creditors in the event of a bank being in crisis are all secured liabilities (including hedging instruments, secularisations and counterparties for those assets in accordance with article 68(2)), and all liabilities with a maturity of less than seven days. The intention from the draft proposal of the BRRD to protect all derivatives straight away, before the depositors, is toned down but is *de facto* still in.

The EU directive on bail-in procedures can be implemented only if the SRM Treaty is ratified by national parliaments and by the EU Parliament. EU leaders hope to rush the treaty through before the EU Parliament elections in May, fearing that a new Parliament dominated by euro-critical forces will shelve the treaty. The SRM will be approved intergovernmentally, and if the big rush to ratification emerges as expected it will provide an opportunity for principled governments to protect their remaining sovereignty by voting against the ominous SRM Treaty.