

# European court rejects Cheminade suit, okays ruin of LaRouche's ally

by Sophie Durand

On Jan. 26, in jurisprudence which has established a precedent for all of Europe, the European Court of Human Rights refused to hear the suit of Jacques Cheminade, a candidate for President of France in 1995, against the French state, over the refusal to reimburse his Presidential campaign accounts by the French Constitutional Council. The court's decision is final and cannot be appealed. Cheminade is thus left with the legal obligation to pay for his campaign expenses — a total of 4.7 million francs (about \$860,000), of which FF 1 million is to reimburse the funds advanced by the state and FF 3.7 million to reimburse his lenders — with his personal money.

The court justified its decision by claiming that Article 6, paragraph 1 of the European Convention pertains only to civil or criminal cases, and that Cheminade's case, being "purely political," is therefore outside of its jurisdiction, because of the court's "respect for national sovereignty." At a time when, *en bloc*, the European elites holding official positions have given up the very principle of "national sovereignty," through the Maastricht Treaty and similar policies, it is ludicrous for the European Court to invoke this principle in this context. The European Court's decision rubberstamps a state to ruin a Presidential candidate with all the civil, legal, and political consequences that that entails.

## The ruling

The decision of the court stresses that "according to its jurisprudence, following Art. 6 para. 1 of the European convention, the right to be a candidate in an election is of a political nature and not civil, therefore the litigations related to the organization of its practice — such as those on the regulation of campaign expenses — are out of the jurisdiction of this disposition." The court "estimates that the patrimonial incidence [loss of personal property which resulted from the Constitutional Council's rejection of Cheminade's campaign accounts] of a procedure pertaining to the conditions of practice of a right of a political nature, does not confer to it a civil nature in the sense of Art. 6 para. 1 of the convention. The impossibility to obtain the reimbursement of one's campaign expenses and the obligation to reimburse the public treasury for an advance of funds granted by the state, are nothing but corollaries of the obligation to limit electoral expenses. The Court therefore holds that the grounds for complaint on a

supposed violation of Art. 6 para. 1 of the convention, must be rejected because they are *rationae materiae* incompatible with the dispositions of the convention."

On Articles 10 and 14 of the convention, the court stresses — against all evidence — "that the decision of the Constitutional Council has not deprived the plaintiff of property in any amount of money but has only obliged the plaintiff to reimburse to the state a million francs because he did not meet the legal conditions to claim the contractual reimbursement of the campaign expenses."

According to the court's hypocritical argument, Cheminade has not "lost" the FF 4.7 million he has to pay. He has only to reimburse money lent to him that never entered his personal property.

Such a decision amounts to a very simple message to the European states in general, and to the French authorities in particular: We won't stick our nose in your political matters, whatever the civil or penal consequences for individuals. Hypocritically using the pretext of "national sovereignty" — a national sovereignty which no longer exists for monetary, financial, fiscal, and economic matters — you can do whatever you want in the political area. So long as you submit to neo-liberalism, both at home and abroad, you can deal with your subjects as you please.

It is thus now clear that a state can impose 19th-century-style "civil death" on one of its troublesome subjects, provided it labels it "political." This case of utter judiciary nominalism — note that the relevant section of the court was headed by a British judge — means also an endorsement of an approach to law like that of Nazi legal theorist Carl Schmitt: throwing away natural law. It is therefore clearly established that positive law rules in Europe, without any disguise.

## A 'Venetian' punishment

A reading of Friedrich Schiller's novella about the Venetian oligarchy, *The Ghostseer*, gives a good insight into how the Cheminade case developed, from the April 1995 Presidential elections to today's decision of the European Court of Human Rights. In March 1995, Cheminade fulfilled the requirements to become a Presidential candidate: He gathered more than 500 signatures from mayors or higher-ranking elected officials from throughout France. There are 45,000 may-



*Jacques Cheminade's 1995 campaign for President of France, which presented Lyndon LaRouche's solutions to the global economic crisis, was well received among French citizens, which scared the oligarchy.*

ors in France, and Cheminade's candidacy was sponsored by more than 1% of them. His candidacy was approved by the Constitutional Council, and like any other candidate, Cheminade received from the state a FF 1 million advance to launch his campaign. The reimbursement of his campaign expenses was guaranteed, as was equal-time access to media. On paper, and according to de Gaulle's 1965 will, it is probably the fairest and most open system for a Presidential election in the world.

But a Venetian stench immediately permeated what followed: The fairness "on paper," the written scenario, was at all stages contradicted by reality.

Before the candidate could hit the campaign trail, a huge slander campaign was launched against Cheminade, first through the smaller, private radio stations, and then at the national level, calling him an extreme right-winger, a fascist, an anti-Semite—in a word, a man who is "a friend of Lyndon LaRouche." Almost all the TV news labelled him so throughout the campaign, despite all contrary evidence, and despite his continuous protests. He was denied equal-time access. The scandal was so great—Cheminade received only 45 minutes coverage from journalists, as compared to an average for the other candidates of 1 hour 25 minutes—that two state-controlled bodies recognized it: "The principle of equal treatment vis-à-vis the candidate" was not respected in his case, they said. But these "admissions" were empty: Merely 48 hours

before the election, the journalists were told to change their behavior, and no sanctions were imposed against them.

Second, during the campaign, Cheminade was constantly accused of "having robbed an old lady." The heirs of the lady appeared on national TV programs to repeat their charges, and just after the election, Cheminade was sentenced to a nine-month suspended jail sentence and ordered to personally reimburse FF 1.1 million to the heirs. The "old lady" was allegedly suffering from Alzheimer's disease, but because no proof could be given (the "old lady" drove her own car, managed her bank accounts, and, during one year, had been reimbursed more money than she had contributed to the organizations close to Cheminade), the tribunal said that at such age, no person in full command of his or her actions, and a third party should have noticed it! The tribunal omitted to say that the "old lady" was 64 years old when she died, and that she disliked her heirs and had written many letters expressing approval of the political actions of the Cheminade associations. For comparison, President François Mitterrand was by then nearly 80, President Jacques Chirac is today over 65, and Charles de Gaulle retired from politics at 79.

Third, Cheminade's campaign accounts were rejected by the Constitutional Council on Oct. 11, 1995. The reason—an absolutely laughable one for an American audience—was that Cheminade had borrowed money without interest from private lenders, "which indicates an intention to donate not acknowledged by the candidate." Those interest-free loans, taken after the date of the election, when the candidate is allowed to take loans but not to receive more contributions, were thus the cause for the rejection (a reason opposite to the one raised against LaRouche in the United States, who was accused of soliciting loans *with* interest). The Constitutional Council added, furthermore, that they were made too late to compensate campaign expenses after the election date, and that they represented too big a proportion of all expenses (one-third of the total)—none of which is forbidden by the electoral code. The decision of the Constitutional Council could not be appealed in France, prompting Cheminade to bring his suit before the European Court of Human Rights. Cheminade was not accused of inadequate expenses (each of which had to be justified), or of having overspent the official ceiling.

While the Constitutional Council applied nonexistent provisions against Cheminade, it approved fully the accounts of Chirac (who was reimbursed more than FF 100 million, 25 times more than Cheminade) despite the fact that everybody knew that he had gone way beyond the official spending ceiling, including mobilizing full-time campaign workers who were paid by the City of Paris (where Chirac was then Mayor) and whose wages never appeared in the campaign accounts. Similarly, candidate Edouard Balladur had created local support committees in each of the 90 departments of France, and went well above the official ceiling. But those "local" expenses were not taken into account, on the pretext that the candidate "was not aware of them"!

At the time, the Constitutional Council was headed by someone who has since become notorious as a crook: Roland Dumas; its General Secretary was Olivier Schrameck, now Prime Minister Lionel Jospin's Cabinet director; and Cheminade's account was checked by Louis Gautier, now in charge of defense affairs in Prime Minister Jospin's Cabinet.

The stink of the whole affair gave only two choices to the European Court: Either declare its jurisdiction and break with the Venetian dirty tricks, affirming that Cheminade's human rights had been repeatedly violated, or announce that the suit has no standing before the court, because accepting it would have amounted to political interference with the sovereignty of France. The court chose the second solution, and concluded its deliberations after only a few minutes, without even calling Cheminade or his lawyer to testify. The lawyer was informed of the decision through a simple letter, which beyond the decision, stated that no appeal was possible.

The European court of "human rights" decision is not only a flagrant injustice, but a clear stand against what Cheminade represents politically: a man who stood up for a new Marshall Plan, the European Land-Bridge, and a commitment for close cooperation with Lyndon LaRouche for a New Bretton Woods global financial system. The failure of the French institutions and the European court is not only the shame which history will deliver upon it, but in the short term, within the context of the present financial collapse, the tragedy is their incapacity to take far-reaching initiatives.

The only thing "original" in the treatment applied against Cheminade is its Venetian flavor: Cheminade was neither sentenced to jail, nor taken away in handcuffs, but persecuted, step by step, and personally ruined to present him as an example of "political failure" and not a case of human rights violation.

### **Cheminade prepares a counter-attack**

The only way to shift the tide in his case, say Cheminade and his friends in France, is to organize harder and thereby force his enemies to further unmask themselves.

The way to do it, is to expose the stupidity of Europe's "four men club" court and their legal positivism, and relentlessly play up the LaRouche-Cheminade alliance internationally. Cheminade has circulated a strategic note to various authorities in France, denouncing their stubbornness in defending the bankrupt International Monetary Fund global financial system, and not collaborating instead with LaRouche and his associates.

On the court case itself, French and European authorities abroad, and all juridical circles, must be confronted with what such an outrageously unjust decision means. A statement for mass circulation internationally is being prepared on the case. Cheminade declared that he is also preparing other actions, but is currently withholding details; rather, he plans to use the same method he used during his Presidential campaign—to again take the French-speaking Venetian gnomes by surprise.

## **New Zealand to give legal rights to apes**

by Mark Burdman

At his "Reinventing Government" conference in Washington in late January, U.S. Vice President Al Gore presented New Zealand as his model country, that he wants other countries to imitate.<sup>1</sup> It is therefore fitting, that New Zealand is now following the cue of Gore, who, in a July 14, 1993 address to the United Nations, attacked what he called "human exceptionalists" who claim that human beings are less subject to ecology than animals. New Zealand is now slated to become the first country in the world to grant legal rights, similar to those for human beings, to great apes.

Thirty-eight New Zealand scientists, lawyers, and philosophers have succeeded in attaching an amendment to an Animal Welfare Bill, the which is due to be voted on in the next weeks. The amendment would grant great apes—gorillas, chimpanzees, orang-utans, and bonobos—such as the right to life, to not suffer cruel or degrading treatment, and to not take part in all but the most benign experiments, as well as granting them "freedom from imprisonment without due legal process." The latter would, in effect, bar zoos from keeping them, and would evidently imply teams of lawyers being created to argue for apes in court. Promoters of the amendment in New Zealand argue that apes share 98.4% of their DNA with humans, are self-aware, have distinct personalities, form emotional bonds, have intelligence, and have basic linguistic abilities.

The New Zealand move, is the latest initiative by something called the "Great Ape Project," which was founded in the early 1990s by co-thinkers of Britain's own leading would-be great ape (no insult to great apes intended), Prince Philip. As argued by such Great Ape Project activists as Peter Singer, the "animal liberation" propagandist of Australia, and Richard Dawkins, the Darwinian fanatic of Oxford University, the ultimate aim of the project is to break down any notion of a "species barrier" or "species discontinuity," between humans and animals. Singer is agitating for a gradual broadening of the "sphere of moral concern" to include, first, the great apes, and then other species. He has compared the Great Ape Project to campaigns for full rights for women and homosexuals, and has argued that the life of a chimpanzee has more value than that of what he calls a "gravely defective

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1. See Michele Steinberg and William Jones, "Gore Pushes Bureaucracies for a Fascist World Order," *EIR*, Feb. 5, 1999.