When Germany's Constitutional Court hears a complaint this week about the legality of euro-zone monetary policy, the justices in Karlsruhe won't be combing official documents on the European Central Bank's most controversial recent program. They also won't be studying its implementation or costs to date. Rather, they'll hear arguments about a monetary policy that barely exists outside the minds of policy makers and bond markets.

We're referring to the central bank's "Outright Monetary Transactions" (OMT) program. ECB President Mario Draghi vowed last September to buy short-term bonds, in unlimited quantities, of any member government that has access to private funding but is still engaged in a bailout program. On the strength of this promise, borrowing costs across Southern Europe have dropped toward crisis-era lows with nary a single bond bought.

"[I]t's really very hard," Mr. Draghi said at his monthly press conference last week, "not to state that OMT has been probably the most successful monetary policy measure undertaken in recent time." That's quite a feat for a tool that's never been used. It's hard even to call it an official ECB program at all, existing as it does only as a 462-word press release and a series of remarks by Mr. Draghi.

The proverbial raised eyebrow is nothing new in central banking. And there's no doubt that the threat of OMT has brought yields down in Spain and Italy. But there are real concerns about OMT implementation—if and when it comes.

Take Mr. Draghi's promise that bond purchases will be unlimited. The Frankfurter Allgemeine Zeitung reported over the weekend that ECB officials have set an internal ceiling on the program of €524 billion. This is the total value of short-term debt outstanding issued by Spain, Italy, Portugal and Ireland.

The ECB denied the FAZ's report, but the question of a ceiling, implicit or otherwise, is crucial. To be effective, OMT would have to be able to spend whatever is necessary to keep bond yields pegged. If traders know, or suspect, there's a limit, you can bet they'd test it.

Yet if the central bank simply buys up Madrid's entire debt stock, for instance, then it has clearly contravened its own charter, which bars it from funding governments. History shows that the only way to defend a peg, whether of bond yields or exchange rates, is to go all in. But ensuring that not a shred of doubt exists in markets could be costly for the ECB's underwriters—namely, European taxpayers.

The other big issue is the central bank's independence. Mr. Draghi has justified OMT on grounds that it reduces the risk of a euro breakup and thus repairs the transmission of ECB monetary policy into the real economy. But ECB policy is meant to be set with the entire euro zone's interests in mind, and without regard to the borrowing behavior of governments. To offer a helping monetary hand to specific countries in exchange for conditions on spending and reforms is a form of fiscal policy.

Which brings us back to this week's constitutional challenge in Germany. The Karlsruhe court has ruled in favor of all crisis-fighting measures to date. The ECB doesn't fall within the court's jurisdiction, so it can't technically halt OMT even if the program is deemed unconstitutional. A ruling isn't likely before September.

Yet the German court will be considering important questions about the commitments of taxpayers across the euro zone. For now, those commitments remain as theoretical as OMT itself, and so the justices may well conclude that they can't rule on a hypothetical.
But if the ECB does have to go all in for Spain or Italy, it could be too late by then for the court to rule on the constitutionality of German involvement. If it ducks the issue now, Mr. Draghi will be pleased, but German taxpayers may pay the price down the road.