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DRŽAVNE POTPORE i FINANSIJSKA KRIZA

LISABONSKI UGOVOR EUROPSKE UNIJE (2007)

*Konsolidirani tekst Ugovora o EU (Maastricht, 1992)
Konsolidirani tekst Ugovora o funkcioniranju EU (Rim, 1957)
protokoli, prilozi i izjave*

Glavni redaktor hrvatskoga prijevoda Davorin Rudolf

[http://www.scribd.com/doc/56728561/157/UGOVOR-O-FUNKCIONIRANJU-EUROPSKE-UN
%C4%B2E](http://www.scribd.com/doc/56728561/157/UGOVOR-O-FUNKCIONIRANJU-EUROPSKE-UN%C4%B2E)

ODOBRENE DRŽAVNE POTPORE (članak 107.)

1. Osim ako Ugovorima nije drukčije predviđeno, svaka potpora koju odobri DČ ili koja je odobrena putem državnih sredstava u bilo kojem obliku koji narušava ili prijeti narušavanjem tržišnog natjecanja stavljajući određena poduzeća ili proizvodnju određenih roba u povoljniji položaj, **nije u skladu s unutarnjim tržištem** ako utječe na trgovinu između DČ.

2. Ove vrste potpora **su u skladu s unutarnjim tržištem**:

- a. potpora **socijalne prirode** koja se odobrava pojedinim potrošačima, ako se to čini bez diskriminacije u pogledu podrijetla dotičnih proizvoda;
- b. potpora za popravak štete nastale zbog **prirodnih nepogoda** ili izvanrednih događaja;
- c. potpora koja se odobrava gospodarstvu **određenih područja SRN koje je uzrokovala podjela Njemačke**, u mjeri u kojoj je ta potpora potrebna kako bi se nadoknadile posljedice gospodarski nepovoljnijeg položaja prouzročеноg tom podjelom.... 5 godina nakon

3. Ove se vrste potpora **mogu smatrati sukladnima s unutarnjim tržištem**:

- a. potpora za promicanje gospodarskog razvoja na **područjima na kojima je životni standard neuobičajeno nizak** ili na kojima postoji velika nezaposlenost, te regija iz čl. 349.
- b. **potpora za promicanje provedbe važnog projekta od zajedničkog europskog interesa ili za otklanjanje ozbiljnih poremećaja u gospodarstvu neke DČ**;
- c. potpora za olakšavanje razvoja **određenih gospodarskih djelatnosti** ili određenih gospodarskih područja, ako takva potpora ne utječe negativno na trgovinske uvjete u tolikoj mjeri da je nesukladna sa zajedničkim interesom;
- d. potpora za promicanje **kulture i očuvanje nasljeđa**, ako takva potpora ne utječe na uvjete trgovanja i tržišnog natjecanja unutar Unije u tolikoj mjeri da je nesukladn sa zajedničkim interesom
- e. **druge vrste potpore** koje Vijeće odredi svojom odlukom donesenom na prijedlog Komisije.

107/1

ZABRANJENE POTPORE

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POTPORE U SKLADU S UNUTRANJIM TRŽIŠTEM

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-

107/3

USLOVNO SUKLADNE POTPORE

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 - e. **druge vrste potpore** koje Vijeće odredi svojom odlukom donesenom na prijedlog Komisije.
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PRAKSA

na
članak 107.

COMMISSION DECISION of 3 March 1999 concerning aid granted by Italy to firms affected by the bankruptcy of Sirap SpA
(notified under document number C(1999) 584)

HAS ADOPTED THIS DECISION:

Article 1: The measures to assist firms affected by the bankruptcy of Sirap SpA, which are provided for in the law of the Region of Sicily approved on 24 March 1996 and subsequently adopted as Regional Law No 8 of 22 March 1997 and which take the form of guarantees and interest subsidies, constitute aid within the meaning of Article 92(1) of the Treaty.

The portion of that aid which exceeds the ceiling of EUR 100 000 over three years provided for in the de minimis notice is illegal inasmuch as it was granted before a decision was taken by the Commission under Article 93(3) of the Treaty.

Article 2: The aid not covered by the de minimis rule referred to in Article 1 is also incompatible with the common market as it does not qualify for exemption under Article 92(2) and (3) of the Treaty.

Article 3: Italy shall abolish the part of the aid scheme in question that is not covered by the de minimis rule and shall take the necessary steps to recover the aid granted illegally and described in Article 1 of this Decision. Where the financial position of a firm receiving aid referred to in Article 1 of this Decision would have afforded it normal access to the capital market without the State guarantee, recovery shall apply only to the interest subsidy. Where a recipient would not have been able to obtain the loan in question without the State guarantee, the full amount of aid shall be recovered.

Article 4: The aid shall be recovered in accordance with the procedures and provisions of Italian law, together with interest starting to run from the date on which the aid was granted to the date on which it was repaid. The rate shall be the reference rate, applicable on the date the aid was granted, used to calculate the net grant equivalent of regional aid in Italy.

Article 5: The Italian Government shall inform the Commission, within two months of the date of notification of this Decision, of the measures taken to comply herewith.

Article 6: This Decision is addressed to the Italian Republic.

Done at Brussels, 3 March 1999.

For the Commission Karel VAN MIERT Member of the Commission

Case 234/84 Belgium v Commission

State aid - Subscription of capital of an undertaking - Right to a fair hearing

- 1. THE TREATY APPLIES TO AID GRANTED BY STATES OR THROUGH STATE RESOURCES ' IN ANY FORM WHATSOEVER '. ACCORDINGLY, NO DISTINCTION CAN BE DRAWN BETWEEN AID GRANTED IN THE FORM OF LOANS AND AID GRANTED IN THE FORM OF A SUBSCRIPTION OF CAPITAL OF AN UNDERTAKING. AID TAKING EITHER FORM FALLS WITHIN THE PROHIBITION CONTAINED IN ARTICLE 92 OF THE TREATY WHERE THE CONDITIONS SET OUT THEREIN ARE FULFILLED.**

AN APPROPRIATE WAY OF ESTABLISHING WHETHER A SUBSCRIPTION OF CAPITAL OF AN UNDERTAKING IS A STATE AID IS TO DETERMINE TO WHAT EXTENT THE UNDERTAKING WOULD BE ABLE TO OBTAIN THE SUMS IN QUESTION ON THE PRIVATE CAPITAL MARKETS. IN THE CASE OF AN UNDERTAKING WHOSE CAPITAL IS HELD BY THE PUBLIC AUTHORITIES, THE TEST IS, IN PARTICULAR, WHETHER IN SIMILAR CIRCUMSTANCES A PRIVATE SHAREHOLDER, HAVING REGARD TO THE FORESEEABILITY OF OBTAINING A RETURN AND LEAVING ASIDE ALL SOCIAL, REGIONAL-POLICY AND SECTORAL CONSIDERATIONS, WOULD HAVE SUBSCRIBED THE CAPITAL IN QUESTION.
 - 2. SINCE THE UNDERTAKING CONCERNED EXPORTED ABOUT 40% OF ITS OUTPUT TO OTHER MEMBER STATES, EXCESS PRODUCTION CAPACITY EXISTED IN THE MARKET IN QUESTION AND, IN THOSE CIRCUMSTANCES, THE AID GRANTED TO THE UNDERTAKING HAD THE EFFECT OF REDUCING ITS FINANCIAL COSTS BY COMPARISON WITH THOSE OF ITS COMPETITORS, THE COMMISSION WAS ENTITLED TO CONCLUDE, IN THE ABSENCE OF ANY INFORMATION TO THE CONTRARY, THAT THE AID IN QUESTION AFFECTED TRADE BETWEEN MEMBER STATES AND DISTORTED, OR THREATENED TO DISTORT, COMPETITION WITHIN THE MEANING OF ARTICLE 92 (1) OF THE TREATY.**
 - 3. OBSERVANCE OF THE RIGHT TO BE HEARD IS, IN ALL PROCEEDINGS INITIATED AGAINST A PERSON WHICH ARE LIABLE TO CULMINATE IN A MEASURE ADVERSELY AFFECTING THAT PERSON, A FUNDAMENTAL PRINCIPLE OF COMMUNITY LAW WHICH MUST BE GUARANTEED EVEN IN THE ABSENCE OF ANY RULES GOVERNING THE PROCEDURE IN QUESTION. THE PRINCIPLE OF THE RIGHT TO BE HEARD REQUIRES THAT THE PERSON AGAINST WHOM AN ADMINISTRATIVE PROCEDURE HAS BEEN INITIATED MUST HAVE BEEN AFFORDED THE OPPORTUNITY, DURING THAT PROCEDURE, TO MAKE KNOWN HIS VIEWS ON THE TRUTH AND RELEVANCE OF THE FACTS AND CIRCUMSTANCES ALLEGED AND ON THE DOCUMENTS USED BY THE COMMISSION TO SUPPORT ITS CLAIM THAT THERE HAS BEEN AN INFRINGEMENT OF COMMUNITY LAW. WHERE THE PERSON CONCERNED HAS NOT BEEN AFFORDED AN OPPORTUNITY TO COMMENT ON DOCUMENTS CONTAINING INFORMATION COVERED BY BUSINESS CONFIDENTIALITY, THE COMMISSION MAY NOT USE THAT INFORMATION IN ITS DECISION.**
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Case C-288/96 Germany v. Commission

State aid - Operating aid - Guidelines in the fisheries sector - Article 92(1) and (3)(c) of the EC Treaty (now, after amendment, Article 87(1) and (3)(c) EC) - Rights of the defence - Statement of reasons

THE COURT (Fifth Chamber)
hereby:

1. Dismisses the application;
 2. Orders the Federal Republic of Germany to pay the costs.
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Zadeva C-66/02 Italija proti Komisiji ES

Ničnostna tožba – Državne pomoči – Odločba 2002/581/ES – Bankam dodeljene davčne ugodnosti –
Obrazložitev odločbe – Kvalifikacija državne pomoči – Pogoji – Združljivost s skupnim trgom – Pogoji
– Pomemben projekt skupnega evropskega interesa – Razvoj določenih dejavnosti“ zaradi ničnostne
tožbe na podlagi člena 230 ES

Iz teh razlogov je Sodišče (drugi senat) razsodilo:

- 1) Tožba se zavrne.
 - 2) Italijanski republiki se naloži plačilo stroškov.
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C-148/04 Commissione tributaria provinciale di Genova v Unicredito Italiano SpA v. Agenzia delle Entrate

Državne pomoči – Odločba 2002/581/ES – Bankam dodeljene davčne ugodnosti – Obrazložitev odločbe – Kvalifikacija državne pomoči – Pogoji – Združljivost s skupnim trgom – Pogoji – Člen 87(3)(b) in (c) ES – Pomemben projekt skupnega evropskega interesa – Razvoj določenih dejavnosti – Prej dodeljene davčne ugodnosti – Vračilo pomoči – Načelo varstva legitimnih pričakovanj – Načelo pravne varnosti – Načelo sorazmernosti

Iz teh razlogov je Sodišče (drugi senat) razsodilo:

1. Preizkus vprašanj ni pokazal takih elementov, ki bi vplivali na veljavnost Odločbe Komisije 2002/581/ES z dne 11. decembra 2001 **o sistemu državnih pomoči, ki ga je v korist bank izvajala Italija.**
 2. Člen 87 ES in naslednji, člen 14 Uredbe Sveta (ES) 659/1999 z dne 22. marca 1999 o določitvi podrobnih pravil za uporabo člena 93 Pogodbe ES ter načela varstva legitimnih pričakovanj, pravne varnosti in sorazmernosti **ne morejo nasprotovati nacionalnemu ukrepu, ki odreja vračilo pomoči zaradi izvršitve odločbe Komisije, ki je to pomoč kvalificirala kot nezdružljivo** s skupnim trgom in katere preizkus v zvezi z istimi določbami in splošnimi načeli ni pokazal takih elementov, ki bi vplivali na njegovo veljavnost.
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85/276/EEC
Commission Decision of 24 April 1985 concerning the insurance in
Greece of public property and loans granted by Greek State-
owned banks

HAS ADOPTED THIS DECISION:

Article 1: The provisions of Article 13 of Greek Law No 1256/1982 of 28/31 May 1982 - amending Articles 31 (1) and 54 (1) of Law No 400/1970 of 13/17 January 1970 on private insurance - laying down that all public property, including the assets of Greek public undertakings, must be insured exclusively with Greek public-sector companies and that Greek State-owned credit banks must recommend their customers to take out insurance with a public-sector insurance company are incompatible with Article 90 (1) of the EEC Treaty read in conjunction with Article 52, Article 53, the second paragraph of Article 5, and Article 3 (f) of the said Treaty.

Article 2: Greece shall inform the Commission within two months of the date of notification of this Decision of the measures it has taken to comply therewith.

Article 3: This Decision is addressed to the Hellenic Republic.

2008

WHAT WENT WRONG ?

2007 & 2008 PROBLEMI, DOGAĐAJI, ODAZIVI, EKONOMIKA, TRŽIŠNO NATJECANJE

http://professorgeradin.blogs.com/files/08_jevonsforum_vickers.pdf

PROBLEMI

Globalna neravnoteža + makroekonomska stabilnost + *laissez faire*: vode u ...

- ... širenje banaka & co na nove trgove
 - kreacija i trgovanje derivatima
 - fondovi
 - ... loš risk management, koji vodi dalje u ...
 - ... sistemsku finansijsku osjetljivost
 - ... ne samo re-pricing rizika
 - ... probleme solventnosti
 - ... probleme s likvidonošću
 - ... spiralu na tržištu nekretnina
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DOGODKI

- 8/2007: prvi znakovi krize, sektor nekretnina
 - 9/2007 Northern Rock, rescue package
 - 3/2008 2008: Bear Stearns
 - 3-5/2008: bankarski sektor
 - 9/2008: Fannie Mae, Freddie Mac, Lehman, BoA/Merrill Lynch, AIG, WaMu, Wachovia, ...
 - 9/2008: Lloyds TSB/HBOS najava koncentracije
 - 10/2008: Fortis, Isladnija
-

ODZIVI POLITIKE

- shema likvidnosti centralnih banaka
 - produljenje jamstva na depozite
 - zabrana kratke prodaje
 - rasterečivanje programe za zajmoprimce
 - državno vlasništvo banaka
 - ukidanje odluke o koncentraciji Lloyds TSB / HBOS
 - nacionalni paketi
-

EKONOMIKA POVJERENJA I EKONOMIJA INFEKCIJE

- Banka daje kratkoročni, dugoročni najam: učinkovito i poželjno, što uzrokuje pad pouzdanja
 - **Dobra ravnoteža:** investitori - deponenti deponiraju kako bi banke osigurale projekte do faze zrelosti
 - **Loša ravnoteža:** navala u pravcu brzog izlaza - banka ne želi refinansirati - investitor ostaje bez sredstava
 - Širenje infekcija u svijetu na tržištu nektetnina SAD
 - Povjerenje je samo dio krize
 - Ciklički uzroci
 - Loši krediti
 - Strah od pada cijena: realizacije, koji uzrokuju ... znate što
-

POTREBA: SISTEMATIČNA REKAPITALIZACIJA

- POTREBA PO JAČANJU BILANCI
BANAKA
 - Paketi: SAD, EU, DČ (Nemačka, VB,
LUX/NL/B, RS) RH ...
 - ...
-

PRAVO TRŽIŠNOG NATJECANJA U RECESIJI: ZABRANA SPAJANJA (merger) Lloyds TSB/HBOS

- OK 9/2008
 - ali: pad povjerenja u instrumente i institucije tržišnog natjecanja
 - greške: ispotkopana vjerodostojnost prava tržišnog natjecanja
-

PRAVO TRŽIŠNOG NATJECANJA U RECESIJI

POLITIKA TRŽIŠNOG NATJECANJA U RECESIJI

- **Dupli riziko politike tržišnog natjecanja**
 - recesija jača skrivene interese protunatjecateljskog karaktera
 - vlada u recesiji uvijek u potrazi za nefinancijska i netransparentna rješenja
 - **Onemogućavanje OSNOVNOG rizika u recesiji**
 - tvrtka s tržišnom snagom može ograničiti proizvodnju i povećati cijene
 - **Pravila tržišnog natjecanja nisu igračka i ne koriste se samo za Božić ...**
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1. *“... Three key German banks have announced they will need to reach into the government’s 470 Billion € rescue fund in the wake of the world financial crisis...”*

- second- biggest bank **Commerzbank AG**: seeking 8.2 Bil € capital injection
- Two banks run by **Germany’s states**,
 - **HSH Nordbank AG**: seeks 30 billion Euro in debt guarantees
 - **WestLB**: did not disclose the scale of debt guarantees (reported a nine-month loss 360 mil €)



2. Ryanair launches **state aid complaint against Alitalia bailout** - October 03, 2008

<http://www.shephard.co.uk/news/300/>



Alitalia
Official Carrier

- Ryanair, Europe's largest low fares airline: formal complaint to the Commission regarding the **latest unlawful bailout** of Alitalia.
- Ryanair's action: after the Italian Government announced that it had reached agreement with Alitalia's unions regarding an offer made by a consortium of Italian investors (CAI). The deal calls for another farcical **renaming of Alitalia and writing off between €1.2 and €2bln.** worth of its debt in order to secure investors.
- Ryanair has previously submitted **several complaints against Alitalia** and other flag carrier airlines, including **Olympic, Air France and Lufthansa**, against which the **EU Commission has taken no action.**
- ... this ongoing unlawful protection of flag carriers by their member state governments, which amounts to billions of euro, increasingly makes a mockery of the Commission's enforcement of the state aid rules.
- Ryanair's Director of Legal and Regulatory Affairs, Jim Callaghan:
 - "This is the latest and perhaps most blatant example of the Italian Government doing whatever it takes to protect their failed airline, Alitalia. It is also the second time that they have used the trick of simply shifting debt out of the airline and into a subsidiary in order to keep the airline afloat. In this instance, the Italian government is writing off up to €2bln. in Alitalia debts and is guaranteeing the investments by the members of the consortium and underwriting huge concessions to the unions in exchange for their agreement to these ludicrous plans."
 - "However, despite the blatant nature of the Italian Government's breaches of the EU state aid rules, **we have no doubt that the EU Commission will again rubber stamp this unlawful bailout**, as they did 3 years ago and more recently in a similar case involving Olympic. In such case, Ryanair will appeal this decision to the European courts to expose the corrupt and biased application by the Commission of its own state aid rules."
- "Ryanair has already been forced to **take several cases against the Commission for its failure to take action** against other blatant breaches of the state aid rules by member state governments to protect and bail out their inefficient flag carriers. These repeated failures by the Commission are contributing to a massively distorted playing field in European aviation."

3. FORTIS: Commission has 'no reason' to question Fortis deal



<http://euobserver.com/9/26827>

- EUOBSERVER: Despite Benelux governments announcing a partial nationalisation of Fortis Bank on Sunday, the ongoing financial crisis continued to collect scalps through Europe on 29.9.2008, with the UK and Germany intervening to save financial institutions. Meanwhile, the ECB has announced it would lend eurozone banks €120 billion in "a special term refinancing operation."
- The decision by the Belgian, Dutch and Luxembourg governments **to purchase half the Belgo-Dutch banking giant for €11.2 billion** represents **the biggest bailout of a European bank since the beginning of the crisis.**
- Commission: we have been consulted during the negotiations and had **so far no reason to believe the deal was in breach of EU competition rules.**
 - *"Up until now the national authorities in Belgium, the Netherlands and Luxembourg have been listening to what the commission has been saying, so we have no reason to think that what they are going to notify the Commission of is not going to be acceptable to the commission in terms of state aid rules*
 - **... transaction itself was in compliance with the rules**, as the purchase did not exceed the going market rate. He also expressed confidence that any "accompanying measures" that may be taken alongside the purchase, of which the commission will be notified "will be compatible with the rules on competition, in particular the rules on state aid."

3. FORTIS - reakcija

Bailouts, 'illegal state aid' and the Commission's value system

(29.9.2008)

<http://www.eurotrib.com/story/2008/10/1/54319/8932>

- He said the **transaction itself was in compliance with the rules, as the purchase did not exceed the going market rate**. He also expressed confidence that **any "accompanying measures"** that may be taken alongside the purchase, of which the commission will be notified "will be compatible ...
 - Vsi komentatorji:
 - "... consensus of all the commenters seems to be that **this looks like a breach of 'State Aid Rules' as they would be applied in other industries**.
 - In fact, taking a cue from the discussions of the Paulson bailout, if the situation is one of **insolvency** and not illiquidity, the Commission's argument that **the purchase did not exceed the going market rate** cannot possibly be right.
 - It was **not a purchase of 50% of the shares, it was an equity injection**.
 - But if (as was argued on that thread) "**Banks are the lynchpin of the economy**" and **that's why the Commission sees no reason to intervene on competition grounds, this signals something very important about the Commission's value system**.
 - **The stability of the financial system trumps perfect competition in a single market**
 - And if perfect competition is not the unquestionable top priority of the Commission, other national (and European) economic goals should be taken into account when non-financial businesses crucial to local economies fail and would need to be rescued. Also, when a Commission policy clearly is built around market competition as a goal rather than (as it should be) a policy to attain other goals, it needs to be called into question more forcefully on these grounds
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4. BRADFORD & BINGLEY (UK) HYPO REAL ESTATE HOLDING (D) DEXIA (B-F)



- September: the British government **nationalised mortgage lender Bradford & Bingley on Monday, taking over some €62 billion of the bank's mortgages.**
 - Gordon Brown: "We will work night and day to make sure that Britain can come through fairly this downturn"
- Germany: the government is to provide **a guarantee to save Hypo Real Estate Holding** – the country's second biggest commercial property lender, from insolvency
- **Dexia:** Belgo-French bank Dexia's shares plunging to a record low of €6.75
 - France and Belgium said they would help Dexia, if needed, according to reports from Agence France Presse, although the bank itself claims it is in no immediate danger of collapse
 - Sarkozy: will meet banks' and insurance companies' directors to assess the financial sector's situation in his country, his office announced
 - EU president-in-office he would propose initiatives for a European response to the crisis

5. KOMISIJA + ... ECB

ECB pours €120 billion



- Separately, the ECB announced it would **lend eurozone banks €120 billion** via a **special term tender** aimed at soothing liquidity tensions.
 - "The governing council of the European Central Bank (ECB) decided to conduct a special term refinancing operation. The aim of this operation is to improve the overall liquidity position of the euro area banking system," the bank said in a statement.
 - "[The special term refinancing operation] will be settled on 30 September 2008 and will mature on Friday, 7 November 2008," but it will be renewed "at least until beyond the end of the year," the institution added.

UPUTE KOMISIJE 2008

<http://eulaw.typepad.com/eulawblog/2008/10/banking-crisis-state-aids-and-commission-guidance.html>

- 10/2008 (Listopad): nove upute Komisije o tome kako vlade DC mogu koristiti financijska sredstva kako bi se rješavalo insolventne banke

- Početne procjene: nije čisti suspenz 107
 - ... *the Commission's **intention to continue to apply EC state aid rules during the economic crisis** ...*
 - ... *however, it also indicates the Commission **is prepared to take a flexible approach**, while setting some parameters to avoid discrimination and undue distortions of competition. Further, the Commission makes it clear that it will have a **continuing role in overseeing state aid schemes** and that it will expect member states to implement further measures to put the sector on a sounder footing ...*
 - pokušaj da se u skladnosti s pravilima o državnim potporama na temelju 107 (3) b) UFEU (**potpora za promicanje važnog projekta od zajedničkog europskog interesa ili za uklanjanje ozbiljnih poremećaja u gospodarstvu DC**), ako nacionalna mjera zadovoljava 6 osnovnih uvjeta:

6 USLOVA (1-3)

1. Nediskriminirajući pristup državnim potporama kako bi se osiguralo

- funkcioniranje jedinstvenog tržišta i
- da se pristup shemi ne temelji na kriteriju nacionalne pripadnosti

2. Obaveze DČ ograničene su u vremenu

"... so that support can be provided as long as it is necessary to cope with the current turmoil in financial markets but will be reviewed and adjusted or terminated as soon as improved market conditions so permit ..."

3. Državna potpora mora biti pažljivo definirana i ograničena:

- striktno za određenu namjeru: za rješavanje akutne krize na financijskim tržištima,
 - korist dioničara mora biti isključena
-

6 USLOVA (4-6)

1...
2...
3...

4. Uključen treba biti **odgovarajući doprinos od strane privatnog sektora** (npr. putem ... udruge privatnih banaka), uz to moraju biti

- naknada (*remuneration for the introduction of general support schemes - such as a guarantee scheme*)
- i pokriče privatnog sektora barem u visini znatnog dijela nastalih troškova

5. DČ treba postaviti **odgovarajuće pravila** za primatelja ... na primjer širenje i agresivne marketinške strategije u zamjenu za državnu garanciju

... ta je pretpostavka instrument kako bi se spriječilo zlostavljanje, a manje pravilo Komisije

6. **Odgovarajuće praćenje (follow-up)** sa strukturnim prilagodbama mjera za financijski sektor i / ili restrukturiranje pojedinih financijskih institucija

+ 7. NIJE USLOV
VJEČITO NAČELO: **PROPORCIONALNOST**
(RAZMJERNOST)

Mjera bi trebao biti ograničena u vremenu i svrsi na ono što je apsolutno nužno za postizanje legitimnog cilja

- na primjer: Komisija smatra potrebnim da se **osigura jamstva** za depozite građana, za wholesale depozite, za kratko- ili srednjoročne dužničke instrumente
 - ali: ... **produljenje jamstava mora biti restriktivno** + nadzor
 - ... *Further, guarantee schemes must ensure a **significant contribution from the beneficiary and/or the sector.** This contribution may be in the **form of fees** paid for the provision of the guarantee, **or claw-back fortunes clauses** allowing the member state to receive compensation for the guarantee at a later date*
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REZULTAT ...

*"... so, if member States do that, the **Commission promises** to rubber stamp its approval, if possible in **24 hours.**"*

PROCJENA

- **MATRIKA/MODEL**
- **INSPIRACIJA**
- **NOVE UPUTE V. STARE UPUTE**
- **UVJETI**

<http://www.legalweek.com/Navigation/32/Articles/1182318/State+aid+bailouts+Rules+on+rescue.html> (Catriona Hatton, Michel Debrux, Jean-Michel Coumes and Christoph Wunschmann)

1. PROCJENA

MATRIKA & INSPIRACIJA

Matrika / model bile su prijašnje **Upute za reševanje in restrukturiranje**

R&R guidelines - for rescue and restructuring aids

2. PROCJENA

NOVE UPUTE vs. STARE UPUTE

ŠIRE

- DČ može upotrebiti opcije mjere

BRŽE

- 24 sati

FLEKSIBILNIJE

DUŽE

- do 2 godine
 - prema R&R najviše 6 mjeseci
-

3. PROCJENA

USLOVI

- Isti uslovi kao i za obične državne potpore
 - Sheme za garancije i rekapitalizacije mogu biti:
 - u trajanju samo **privremene**
 - **kontrolirane** sa strane revizijskih institucija eU
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