

(English version)

**Question for written answer P-001467/19
to the Commission**

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(22 March 2019)

Subject: Request for reopening of the reimbursement procedure with reference to the illegitimate decision concerning the intervention by the 'Fondo Interbancario per la tutela dei depositi'

On 19 March 2019, the Court of Justice of the EU ruled that the intervention in support of Banca Tercas by the 'Fondo Interbancario per la tutela dei depositi' (Inter-bank Deposit Guarantee Fund) (FITD) was entirely compatible with internal market rules, whereas the Commission had wrongly decided that it constituted 'illegitimate state aid'.

The FITD is a consortium under private law formed by banks of the mutualist type, and the misapplication of the state aid rules made it necessary to adopt solutions far harsher to savers and creditors than the 'four banks' then subject to a bail-in (Etruria, CariChieti, CariFerrara and Marche).

1. Can the Commission clarify the consultation procedures which led it to decide that the intervention by the FITD constituted illegal state aid, and can it disclose any outside pressure that may have been brought to bear on it in this regard?
2. Why was a particular interpretation adopted without giving consideration to the provisions of Article 11(3) of the EU Directive on Deposit Guarantee Schemes (DGS), which expressly permits intervention to prevent credit institutions from going bankrupt?
3. How will the Commission take note of the illegitimacy of the decision, and how will it provide compensation for the damage caused to savers and the banks concerned?

Supporter ⁽¹⁾

Answer given by Ms Vestager on behalf of the European Commission

(7 June 2019)

The Commission set out its case why this measure constituted state aid in its decision in 2015. Its legal reasoning was based on a detailed assessment of the facts in the precise circumstances of the case at hand.

The Commission took its decision after opening a formal investigation procedure, giving all interested parties including the Member State and its authorities, the possibility to comment. In its final decision, the Commission considered the arguments brought forward. All Commission decisions are subject to judicial review by the Union courts.

The Commission has received the General Court's judgment that annulled its 2015 decision. The Commission is now assessing that judgment carefully and reflecting on possible next steps.

Directive 2014/49/EU on deposit guarantee schemes was not applicable at the time the measures were implemented for Banca Tercas. In any event, in the directive 2014/49/EU the co-legislators have recognised, when considering the possibility for Member States to carry out measures other than reimbursing depositors, that 'those measures should always comply with the state aid rules.' ⁽²⁾

Indeed, as other Commission decisions on Italian banks have shown, even where an intervention was considered aid, it did not prevent the use of deposit guarantee schemes. ⁽³⁾

⁽¹⁾ This question is supported by a Member other than the author: Dario Tamburrano (EFDD).

⁽²⁾ Recital (3) in the directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes, OJ L 173, 12.6.2014, p. 149-178.

⁽³⁾ For example where the deposit guarantee scheme supported the sale of parts of a bank under insolvency proceedings in line with state aid rules (Commission decision of 2.7.2015 in SA.41924 — Banca Romagna Cooperativa, OJ C/369/2015 and Commission decision of 13.4.2018 in SA.50640 — Italy — liquidation scheme for small banks, OJ C/424/2018).