

WRITTEN QUESTION P-2541/06
by Sahra Wagenknecht (GUE/NGL)
to the Commission

Subject: Commission decision of 18 February 2004 to approve restructuring aid for the Bankgesellschaft Berlin AG (BGB); answer to Written Question P-0546/06

1. In the answer given on 2 March 2006 to my Written Question P-0546/06 the Commission stated that it would insist that Germany complied with its commitments, as laid down in Decision 2005/345/EC¹ of 18 February 2004 and the Annex thereto. To give me a complete picture of those commitments and how they arose, could the Commission supply me with the unconsolidated confidential versions of the following documents, mentioned several times in Decision 2005/345/EC and the Annex thereto, namely the restructuring plan notified by Germany on 29 January 2004, the initial German restructuring plan of 28 January 2002, the German opinion of 17 June 2002 containing further documents and information, and the detailed agreement of 16 April 2002, including Annex 29.1, the 'negative list' within the meaning of Article 29 of the agreement?

2. Secondly, was the Commission consulted about the substance of the Berlin Savings Bank Act before the act was passed; and is it aware that there is some dispute among German legal writers on the question whether it is constitutionally admissible to use a loan – as is provided for in the Berlin Savings Bank Act of 28 June 2005 – in order to confer the function of guarantor of a public savings bank on a private-law company, even when the company concerned is one in which state representatives hold most of the seats on the decision-making bodies? The implication is that the sale of the BGB to institutes such as (regional) Land banks, in which public authorities have a controlling interest, might be inadmissible. Given that, if the sale of the BGB is inadmissible, the possibility of discrimination cannot be entirely ruled out, what is the Commission's view as regards compliance with the conditions imposed?

3. Thirdly, if an institution, 'Sparkasse in Berlin', were to be set up as a fully functioning legal entity governed by public law, with its own assets, organisational structure, and banking licence, would this infringe the EU requirement for the BGB to be sold without discrimination?

¹ OJ L 116, 4.5.2005, p. 1.