

Il-Ġurnal Uffiċjali

C 147

tal-Unjoni Ewropea



Edizzjoni bil-Malti

Informazzjoni u Avviżi

Volum 57

16 ta' Mejju 2014

Werrej

II *Komunikazzjonijiet*

KOMUNIKAZZJONIJIET MINN ISTITUZZJONIJIET, KORPI, UFFIĊĠI U AĠENZIJI TAL-UNJONI EWROPEA

Il-Kummissjoni Ewropea

2014/C 147/01	Bidu ta' proceduri (Każ M.7000 — Liberty Global/Ziggo) ⁽¹⁾	1
2014/C 147/02	Ebda oppożizzjoni għal koncentrazzjoni notifikata (Każ M.7145 — Veolia Environnement/Dalkia International) ⁽¹⁾	2

IV *Informazzjoni*

INFORMAZZJONI MINN ISTITUZZJONIJIET, KORPI, UFFIĊĠI U AĠENZIJI TAL-UNJONI EWROPEA

Il-Kummissjoni Ewropea

2014/C 147/03	Rata tal-kambju tal-euro	3
2014/C 147/04	Opinjoni Tal-Kumitat Konsultattiv dwar ftehimiet restrittivi u pożizzjoni dominanti Laqgħa fis-17 ta' Frar 2014 Dwar abbozz ta' deċiżjoni preliminari marbut mal- Kawża C.39398 Visa MIF — Relatur: Malta	4
2014/C 147/05	Rapport Finali tal-Uffiċjal tas-Seduta — VISA MIF (AT.39398)	5

MT

⁽¹⁾ Test b'rilevanza għaż-ŻEE

2014/C 147/06	Sommarju tad-Deciżjoni tal-Kummissjoni tas-26 ta' Frar 2014 — Li tirrigwarda procediment skont l-Artikolu 101 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea u l-Artikolu 53 tal-Ftehim ŻEE (Kawża AT 39398 Visa MIF) (notifikata bid-dokument C (2014) 1199 final)	7
---------------	--	---

V Avviżi

PROCĊEDURI DWAR L-IMPLIMENTAZZJONI TAL-POLITIKA TAL-KOMPETIZZJONI

Il-Kummissjoni Ewropea

2014/C 147/07	Għajnuna mill-Istat — ir-Repubblika tal-Latvja — Għajnuna mill-Istat Nru SA.36612 (2014/C) (ex 2013/NN) — Għajnuna mhux notifikata mogħtija mil-Latvja lil Citadele u Parex — Stedina għas-sottomissjoni ta' osservazzjonijiet skont l-Artikolu 108(2) tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea ⁽¹⁾	11
---------------	---	----

⁽¹⁾ Test b'rilevanza għaż-ŻEE

II

(Komunikazzjonijiet)

KOMUNIKAZZJONIJIET MINN ISTITUZZJONIJIET, KORPI, UFFIĊĊJI
U AĠENZIJI TAL-UNJONI EWROPEA

IL-KUMMISSJONI EWROPEA

Bidu ta' proċeduri

(Każ M.7000 — Liberty Global/Ziggo)

(Test b'rilevanza għaż-ŻEE)

(2014/C 147/01)

Fit-8 ta' Mejju 2014, il-Kummissjoni ddecidiet li tibda proċeduri fil-każ ta' hawn fuq wara li sabet li l-konċentrazzjoni nnotifikata tqajjem dubji serji dwar il-kompatibilità tagħha mas-suq komuni. Il-bidu tal-proċeduri jiftah it-tieni fażi ta' investigazzjoni fir-rigward tal-konċentrazzjoni nnotifikata, u jsir mingħajr preġudizzju għad-deċiżjoni finali dwar il-każ. Din id-deċiżjoni hi bbażata fuq l-Artikolu 6(1)(c) tar-Regolament tal-Kunsill (KE) Nru 139/2004⁽¹⁾.

Il-Kummissjoni tistieden lil partijiet terzi interessati sabiex jissottomettu lill-Kummissjoni l-osservazzjonijiet li jistgħu jkollhom dwar il-konċentrazzjoni proposta.

Sabiex l-osservazzjonijiet jiġu kkunsidrati bis-shih fil-proċedura, dawn għandhom jaslu għand il-Kummissjoni mhux iktar tard minn 15-il jum wara d-data tal-pubblikazzjoni. L-osservazzjonijiet jistgħu jintbagħtu lill-Kummissjoni bil-fax (+32 22964301) jew bil-posta, bin-numru ta' referenza Nru M.7000 — Liberty Global/Ziggo, fl-indirizz li ġej:

Kummissjoni Ewropea
Direttorat-Ġenerali għall-Kompetizzjoni,
Reġistru ta' l-Amalgamazzjonijiet
1049 Bruxelles/Brussell
BELGIQUE/BELGIË

⁽¹⁾ ĠU L 24, 29.1.2004, p. 1 (ir-“Regolament dwar l-Għaqdiet”).

Ebda oppożizzjoni għal koncentrazzjoni notifikata
(Każ M.7145 — Veolia Environnement/Dalkia International)
(Test b'rilevanza għaż-ŻEE)
(2014/C 147/02)

Fis-7 ta' Mejju 2014, il-Kummissjoni ddecidiet li ma topponix il-koncentrazzjoni notifikata msemmija hawn fuq u li tiddikjaraha kompatibbli mas-suq intern. Din id-deċiżjoni hi bbażata fuq l-Artikolu 6(1)b tar-Regolament tal-Kunsill (KE) Nru 139/2004⁽¹⁾. It-test shiħ tad-deċiżjoni hu disponibbli biss fl-Ingliż u ser isir pubbliku wara li jitnehha kwalunkwe sigriet tan-negozju li jista' jkun fih. Dan it-test jinstab:

- Fit-taqsimha tal-amalgamazzjoni tal-websajt tal-Kummissjoni dwar il-Kompetizzjoni (<http://ec.europa.eu/competition/mergers/cases/>). Din il-websajt tipprovdi diversi facilitajiet li jghinu sabiex jinstabu d-deċiżjonijiet individwali ta' amalgamazzjoni, inklużi l-kumpanija, in-numru tal-każ, id-data u l-indiċi settorjali,
- f'forma elettronika fil-websajt EUR-Lex (<http://eur-lex.europa.eu/en/index.htm>) fid-dokument li jgħib in-numru 32014M7145. Il-EUR-Lex hu l-aċċess fuq l-Internet għal-liġi Ewropea.

⁽¹⁾ ĠU L 24, 29.1.2004, p. 1.

IV

(Informazzjoni)

INFORMAZZJONI MINN ISTITUZZJONIJIET, KORPI, UFFIĊĠI U AĠENZJI
TAL-UNJONI EWROPEA

IL-KUMMISSJONI EWROPEA

Rata tal-kambju tal-euro ⁽¹⁾

Il-15 ta' Mejju 2014

(2014/C 147/03)

1 euro =

Munita	Rata tal-kambju	Munita	Rata tal-kambju		
USD	Dollaru Amerikan	1,3659	CAD	Dollaru Kanadiż	1,4845
JPY	Yen Ġappuniż	139,17	HKD	Dollaru ta' Hong Kong	10,5882
DKK	Krona Daniza	7,4644	NZD	Dollaru tan-New Zealand	1,5786
GBP	Lira Sterlina	0,81520	SGD	Dollaru tas-Singapor	1,7108
SEK	Krona Żvediza	8,9740	KRW	Won tal-Korea t'Isfel	1 401,78
CHF	Frank Żvizzeru	1,2227	ZAR	Rand ta' l-Afrika t'Isfel	14,1337
ISK	Krona Izlandiza		CNY	Yuan ren-min-bi Ċiniz	8,5090
NOK	Krona Norveġiza	8,1050	HRK	Kuna Kroata	7,5910
BGN	Lev Bulgaru	1,9558	IDR	Rupiah Indoneżjan	15 599,43
CZK	Krona Ċeka	27,440	MYR	Ringgit Malażjan	4,4064
HUF	Forint Ungeriz	303,62	PHP	Peso Filippin	59,797
LTL	Litas Litwan	3,4528	RUB	Rouble Russu	47,4450
PLN	Zloty Pollakk	4,1792	THB	Baht Tajlandiż	44,333
RON	Leu Rumun	4,4328	BRL	Real Braziljan	3,0197
TRY	Lira Turka	2,8466	MXN	Peso Messikan	17,6440
AUD	Dollaru Awstraljan	1,4589	INR	Rupi Indjan	80,9842

⁽¹⁾ Sors: rata tal-kambju ta' referenza ppubblikata mill-Bank Ċentrali Ewropew.

Opinjoni Tal-Kumitat Konsultattiv dwar ftehimiet restrittivi u pożizzjoni dominanti Laqgħa fis-17 ta' Frar 2014 Dwar abbozz ta' deċiżjoni preliminari marbut mal- Kawża C.39398 Visa MIF

Relatur: Malta

(2014/C 147/04)

- (1) Il-Kumitat Konsultattiv jaqsam it-thassib tal-Kummissjoni espress fl-abbozz tad-Deċiżjoni tagħha kif ikkomunikat lill-Kumitat Konsultattiv fil-5 ta' Frar 2014 skont l-Artikolu 101 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea ("TFUE") u l-Artikolu 53 tal-Ftehim taż-ŻEE.
 - (2) Il-Kumitat Konsultattiv jaqbel mal-Kummissjoni li l-proċedimenti dwar Visa Europe jistgħu jiġu konklużi permezz ta' deċiżjoni skont l-Artikolu 9(1) tar-Regolament (KE) Nru 1/2003.
 - (3) Il-Kumitat Konsultattiv jaqbel mal-Kummissjoni li l-impenji offruti minn Visa Europe huma xierqa, neċessarji u proporzjonati u għandhom isiru jorbtu legalment fuq Visa Europe.
 - (4) Il-Kumitat Konsultattiv jaqbel mal-Kummissjoni li, fid-dawl tal-impenji offruti minn Visa Europe, m'għadx hemm raġunijiet għal azzjoni mill-Kummissjoni kontra Visa Europe, bla preġudizzju għall-Artikolu 9(2) tar-Regolament (KE) Nru 1/2003.
 - (5) Il-Kumitat Konsultattiv jitlob lill-Kummissjoni tikkunsidra kwalunkwe punti oħrajn li tqajmu matul id-diskussjoni.
 - (6) Il-Kumitat Konsultattiv jirrakkomanda l-pubblikazzjoni tal-opinjoni tiegħu f'Il-Ġurnal Uffiċjali tal-Unjoni Ewropea.
-

Rapport Finali tal-Uffiċjal tas-Seduta ⁽¹⁾**VISA MIF (AT.39398)**

(2014/C 147/05)

Introduzzjoni

(1) L-abbozz ta' deċiżjoni skont l-Artikolu 9(1) tar-Regolament tal-Kunsill (KE) Nru 1/2003 ⁽²⁾ huwa indirizzat lil Visa Europe Limited ("Visa Europe") u jirrigwarda parti tal-proċedimenti fil-Kawża AT.39398 — Visa MIF.

(2) Fis-6 ta' Marzu 2008, wara investigazzjoni *ex officio* li nfetħet fit-28 ta' Novembru 2006, il-Kummissjoni bdiet proċedimenti fir-rigward tal-iffissar ta' "tariffi ta' interskambju miftiehma b'mod multilaterali" ("MIFs") applikabbli b'mod awtomatiku għal tranżazzjonijiet transfruntieri, u f'ċerti każijiet, tranżazzjonijiet domestiċi fil-punt tal-bejgħ li jsiru għewwa ż-Zona Ekonomika Ewropea ("ŻEE") billi jintużaw karti ta' pagament bl-isem tal-VISA.

(3) Wara l-ewwel Dikjarazzjoni ta' Oġġezzjonijiet fl-2009, il-Kummissjoni fit-8 ta' Diċembru 2010 adottat l-ewwel deċiżjoni skont l-Artikolu 9(1) tar-Regolament Nru 1/2003 li għamlet vinkolanti fuq Visa Europe ċerti impenji fir-rigward ta' MIFs intrareġjonali u ċerti MIFs domestiċi applikabbli għal tranżazzjonijiet li jsiru bil-karti tad-debitu tal-konsumatur bi hlas immedjat ⁽³⁾. Il-Kummissjoni kompliet l-investigazzjonijiet tagħha dwar MIFs ta' karti tal-kreditu tal-konsumatur.

(4) Fil-31 ta' Lulju 2012, il-Kummissjoni nnotifikat lil Visa Europe b'Dikjarazzjoni Supplimentari ta' Oġġezzjonijiet ("id-DSO") li fiha hi esprimiet, prinċipalment, l-opinjoni preliminari li l-iffissar mill-iskema tal-Visa ta' MIFs u ċerti regoli relatati applikabbli għal tranżazzjonijiet imwettqa billi jintużaw karti ta' kreditu tal-konsumatur bl-isem tal-VISA fejn il-kummerċjant ikun jinsab għewwa ż-ŻEE ma setgħux ikunu eżenti mill-projbizzjoni stipulata fl-Artikoli 101(1) TFUE u 53(1) ŻEE.

Aċċess għall-fajl

(5) F'Awwissu 2012, Visa Europe nġhatat aċċess għall-fajl permezz ta' DVD fil-format access-to-file. Hija talbet aktar aċċess għal: (1) riżultati ta' stharrig dwar banek akkwirenti mwettaq mill-Kummissjoni fl-2010 ("l-Istharrig tal-Akkwirenti") u (2) dokumenti li jikkoncernaw studju kkuntratat mill-Kummissjoni fl-2008 dwar "L-ispejjeż u l-benefiċċji għan-negożjanti meta jaċċettaw metodi differenti ta' pagamenti" ("L-Istudju tal-Ispejjeż").

Aċċess għall-kamra tad-dejta għall-Istharrig tal-Akkwirenti

(6) Bi twegiba għat-talba ta' Visa Europe, id-DĠ għall-Kompetizzjoni ppropona l-organizzazzjoni ta' kmamar tad-dejta separati li bihom konsulenti legali esterni ta' Visa Europe jkollhom aċċess biss għal informazzjoni kwalitattiva anonimizata mressqa minn banek akkwirenti fil-kuntest tal-Istharrig tal-Akkwirenti u l-konsulenti ekonomiċi esterni tagħha jkollhom aċċess biss għal informazzjoni kwantitattiva. Il-konsulenti legali esterni ta' Visa Europe għaldaqstant kisbu aċċess f'Jannar 2013 għal parti mill-informazzjoni tal-banek akkwirenti dwar "akkwisti transfruntieri".

(7) Madankollu, fir-rigward tal-kumpliment tal-informazzjoni tal-banek akkwirenti, Visa Europe ma qablitx mad-DĠ għall-Kompetizzjoni dwar ċerti regoli li jirregolaw it-termini tal-aċċess għall-kamra tad-dejta u rreferiet il-kwistjoni lili skont l-Artikolu 7 tad-Deċiżjoni 2011/695/UE. B'mod partikolari, Visa Europe talbitni: (a) biex nippermetti d-divulgazzjoni lill-konsulenti esterni tagħha tal-pajjiż ta' kull bank li ppartecipa fl-Istharrig tal-Akkwirenti; (b) biex nimmodifika r-regola li permezz tagħha l-konsulenti legali u ekonomiċi esterni kellhom aċċess biss għad-dejta kwalitattiva u kwantitattiva rispettivament.

⁽¹⁾ Skont l-Artikoli 16 u 17 tad-Deċiżjoni 2011/695/UE tal-President tal-Kummissjoni Ewropea tat-13 ta' Ottubru 2011 dwar il-funzjoni u t-termini ta' referenza tal-uffiċjal tas-seduta f'ċerti proċedimenti dwar il-kompetizzjoni (ĠU L 275, 20.10.2011, p. 29) ("id-Deċiżjoni 2011/695/UE").

⁽²⁾ Ir-Regolament tal-Kunsill (KE) Nru 1/2003 tas-16 ta' Diċembru 2002 fuq l-implimentazzjoni tar-regoli tal-kompetizzjoni mniżżlin fl-Artikoli 81 u 82 tat-Trattat (ĠU L 1, 4.1.2003, p. 1).

⁽³⁾ Ara r-Rapport finali tiegħi tas-26 ta' Novembru 2010 (ĠU C 79, 12.3.2011, p. 6).

(8) Jien irrifjutajt it-talba (a) peress li kien hemm riskju serju li l-identità tal-banek li pparteċipaw fl-Istharrig tal-Akkwirenti jiġi żvelat jekk il-pajjiżi tal-orijini tagħhom jiġu divulgati. Barra minn hekk, Visa Europe ma kinitx ippruvat li informazzjoni dwar il-pajjiżi tal-orijini ta' daww il-banek kienet indispensabbli għall-eżerċizzju tad-drittijiet ta' difiża tagħha. Fir-rigward ta' (b), ikkonkludejt li l-konsulenti legali u ekonomiċi esterni ta' Visa Europe għandhom jingħataw aċċess għall-informazzjoni kollha fil-kmamar tad-dejta, peress li l-limitazzjonijiet ta' aċċess proposti ma dehrux iġġustifikati fiċ-ċirkustanzi tal-każ sabiex tithares informazzjoni kunfidenzjali u, min-naħa l-oħra, kien importanti mill-perspettiva tad-drittijiet ta' difiża ta' Visa Europe li l-konsulenti ekonomiċi u legali jkun jistgħu jikkonsultaw lil xulxin fuq id-dokumenti li jkun hemm aċċess għalihom.

Aċċess għad-dokumenti tal-Istudju dwar l-Ispejjeż

(9) Bir-rifjut tal-aċċess għad-dokumenti tal-Istudju dwar l-Ispejjeż, id-DĠ għall-Kompetizzjoni kkunsidra li daww id-dokumenti ma kinux jagħmlu parti mill-fajl tal-Kummissjoni, li ma ġewx użati jew inkella qağħdu fuqhom għad-DSO u li ma kien fihom l-ebda elementi li jiskulpaw. Madankollu, minhabba li l-ispeċifikazzjonijiet tal-offerta tal-Istudju tal-Ispejjeż imsemmija fil-proċedimenti kontra Visa Europe u wara li kkunsidrajt id-definizzjoni fil-paragrafu 8 tan-Notifika tal-Fajl għall-Aċċess⁽¹⁾, ikkonkludejt li d-dokumenti tal-Istudju tal-Ispejjeż jiffurmaw parti mill-fajl tal-Kummissjoni. Madankollu, innutajt li mhux daww id-dokumenti kollha kellhom isiru aċċessibbli għal Visa Europe. Korrispondenza bejn il-Kummissjoni u l-kuntratturi tagħha dwar l-evalwazzjoni tax-xogħol tal-kuntratturi u dwar l-aspetti finanzjarji tal-istudju, korrispondenza li tirrifletti d-deliberazzjonijiet interni bejn il-Kummissjoni u l-esperti tagħha, u dokumenti oħra ta' natura preliminari jikkostitwixxu dokumenti interni (mhux aċċessibbli⁽²⁾).

Skadenzja biex titwieġeb id-DSO

(10) Visa Europe wieġbet għal partijiet tad-DSO fi Frar 2013, wara li d-DĠ għall-Kompetizzjoni estenda l-perjodu inizjali ta' 12-il ġimgħa li fih kellha tiġi ppreżentata risposta.

Impenji

(11) Fl-10 ta' Mejju 2013, Visa Europe ppreżentat impenji sabiex tissodisfa t-thassib tal-Kummissjoni. Fl-14 ta' Ġunju 2013, il-Kummissjoni ppubblikat avviż skont l-Artikolu 27(4) tar-Regolament Nru 1/2003⁽³⁾ u rċeviet 17-il tweġiba minn persuni terzi interessati. Visa Europe ressqet proposta ta' impenn emendata f'Novembru 2013.

(12) L-abbozz tad-deċiżjoni tal-Kummissjoni jagħmel l-impenji offruti vinkolanti fuq Visa Europe għal erba' snin. Id-deċiżjoni tikkonkludi, essenzjalment, li ma għadx hemm raġunijiet għal azzjoni fir-rigward tal-MIFs stabbiliti minn Visa Europe li jirrigwardaw tranżazzjonijiet imwettqa ġewwa ż-ŻEE li jużaw il-karti tal-ħlas tal-konsumaturi li jkun bl-isem tal-VISA u r-regoli ta' Visa Europe dwar akkwisti transfruntieri.

(13) Jien ma rċevajt l-ebda talba jew ilment mingħand l-ebda parti fil-proċedimenti fir-rigward tal-impenji proposti⁽⁴⁾.

(14) Fid-dawl ta' dan kollu ta' hawn fuq, inqis li l-harsien effettiv tad-drittijiet proċedurali tal-partijiet kollha ġie rrispettat.

Brussell, id-19 ta' Frar 2014.

Wouter WILS

(1) L-Avviż tal-Kummissjoni dwar ir-regoli għal aċċess għall-fajl tal-Kummissjoni f'każijiet skont l-Artikoli 81 u 82 tat-Trattat tal-KE, l-Artikoli 53, 54 u 57 tal-Ftehim ŻEE u r-Regolament tal-Kunsill (KE) Nru 139/2004 (ĠU C 325, 22.12.2005, p. 7).

(2) Avviż dwar Aċċess għall-fajl, paragrafu 12.

(3) Komunikazzjoni mill-Kummissjoni ppubblikata skont l-Artikolu 27(4) tar-Regolament tal-Kunsill (KE) Nru 1/2003 fil-Kawża AT.39398 — VISA MIF (ĠU C 168, 14.6.2013, p. 22).

(4) Skont l-Artikolu 15(1) tad-Deciżjoni 2011/695/UE, il-partijiet għall-proċedimenti li joffru impenji skont l-Artikolu 9 tar-Regolament (KE) Nru 1/2003 jistgħu jirrikorru għall-uffiċjal tas-seduta fi kwalunkwe stadju tal-proċedura sabiex jiżguraw l-eżerċizzju effettiv tad-drittijiet proċedurali tagħhom.

Sommarju tad-Deċiżjoni tal-Kummissjoni**tas-26 ta' Frar 2014****Li tirrigwarda proċediment skont l-Artikolu 101 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea u l-Artikolu 53 tal-Ftehim ŻEE****(Kawża AT 39398 Visa MIF)***(notifikata bid-dokument C (2014) 1199 final)***(It-test bl-Ingliż biss huwa awtentiku)***(2014/C 147/06)*

Fis-26 ta' Frar 2014, il-Kummissjoni adottat deċiżjoni li tirrigwarda proċediment skont l-Artikolu 101 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea u l-Artikolu 53 tal-Ftehim taż-ŻEE. Skont id-dispożizzjonijiet tal-Artikolu 30 tar-Regolament tal-Kunsill (KE) Nru 1/2003⁽¹⁾, il-Kummissjoni qiegħda hawnhekk tippublika l-ismijiet tal-partijiet u tal-kontenut prinċipali tad-Deċiżjoni, inkluż kull penalità imposta, fid-dawl tal-interess legittimu tal-imprizi fil-protezzjoni tas-sigrieti kummerċjali tagħhom.

(1) Il-kawża tikkonċerna l-iffissar ta' tariffi ta' interskambju miftiehma b'mod multilaterali ("MIFs") minn Visa Europe Limited ("Visa Europe"), applikabli għal tranżazzjonijiet Intraregjonali, għal ċerti tranżazzjonijiet domestiċi⁽²⁾ u intra-Visa Europe li mhumiex fil-punt tal-bejgħ ("POS") fiż-ŻEE⁽³⁾ b'kards ta' kreditu tal-konsumatur tal-Visa u b'kards ta' debitu tal-konsumatur tal-Visa u r-regoli li jirrigwardaw l-akkwisti transfruntieri.

1. THASSIB PRELIMINARI DWAR IL-KOMPETIZZJONI

(2) Fid-Dikjarazzjoni ta' Ogġezzjonijiet tagħha tat-3 ta' April 2009, ("id-Dikjarazzjoni ta' Ogġezzjonijiet"), il-Kummissjoni waslet għal konklużjoni proviżorja li Visa Europe kisret l-Artikolu 101 tat-Trattat u l-Artikolu 53 tal-Ftehim taż-ŻEE meta stabbilixxiet il-MIFs.

(3) Fit-8 ta' Diċembru 2010, il-Kummissjoni adottat deċiżjoni skont l-Artikolu 9 tar-Regolament (KE) Nru 1/2003 ("id-deċiżjoni ta' impenn ta' debitu"). Id-deċiżjoni għamlet legalment vinkolanti għal erba' snin għal Visa Europe l-impenni li (i) l-medja peżata tal-MIF applikabli għal tranżazzjonijiet ta' debitu tal-konsumatur koperti mill-proċedimenti tiġi llimitata sa 0,20 % u (ii) żżomm u/jew tintroduċi għadd ta' tibdiliet fir-regoli tan-network tagħhom.

(4) Fid-Dikjarazzjoni Supplimentari ta' Ogġezzjonijiet tagħha tal-31 ta' Lulju 2012 ("id-Dikjarazzjoni Supplimentari ta' Ogġezzjonijiet") il-Kummissjoni rreformulat u rfinat iktar l-oġġezzjonijiet tagħha fir-rigward ta' tariffi ta' interskambju b'mod multilaterali tal-kards ta' kreditu tal-konsumatur ("MIFs"). Estendiet ukoll l-ambitu tal-proċedimenti għall-applikazzjoni diretta ta' MIFs Interregjonali (jew internazzjonali) meta negozjanti jinsabu fiż-ŻEE u mxiet ukoll mal-opinjoni preliminarja li r-regoli tal-Visa Europe dwar l-akkwist transfruntiera kisru l-Artikolu 101 tat-Trattat u l-Artikolu 53 tal-Ftehim taż-ŻEE.

(5) It-tariffi tal-interkambju jithallsu minn bank kummerċjali ("l-akkwirent") lill-bank ta' detentur ta' kard ("l-emittent") għal kull tranżazzjoni li tkun saret fi stabbiliment ta' negozju b'kard tal-hlas. Meta detentur ta' kard juża kard tal-hlas biex jixtri oġġetti jew servizzi minghand negozjant, in-negozjant ihallas tariffa għas-servizz tan-negozjant lill-akkwirent tiegħu. L-akkwirent iżomm parti minn din it-tariffa (il-marġni tal-akkwirent), parti tinghadda lill-emittent (l-MIF) u parti żghira tinghadda lill-operatur tal-iskema (f'dan il-każ Visa). Fil-prattika, parti kbira mit-tariffa għas-servizz tan-negozjant hija ddeterminata mill-MIF.

⁽¹⁾ ĠU L 1, 4.1.2003, p. 1.

⁽²⁾ Attwalment dan isehh fil-Belġju, l-Ungerija, l-Islanda, l-Irlanda, l-Italja, il-Lussemburgu, Malta, il-Pajjiżi l-Baxxi, il-Latvja u l-Isvezja.

⁽³⁾ Dawn huma tranżazzjonijiet imwettqa minn negozjanti li jinsabu fiż-ŻEE b'kards tal-konsumatur tal-Visa mahruġa f'pajjiżi mhux taż-ŻEE fit-territorju tal-Visa Europe. It-territorju Visa Europe jinkludi ż-ŻEE, Andorra, il-Gżejjer Faeroe, il-Groenlandja, l-Iżrael, Monaco, San Marino, il-Gżejjer Svalbard u Jan Mayen, l-Isvizzera, it-Turkija u l-Belt tal-Vatikan.

(6) L-evalwazzjoni preliminari uriet it-thassib li l-MIFs għandhom bhala għan u ukoll bhala effett restrizzjoni sinifikanti tal-kompetizzjoni fis-swieq tal-akkwist b'detriment għan-negozjanti u, indirettament, għall-klijenti tagħhom. L-MIFs jidhru li qed jgħollu l-bażi li fuqha l-akkwirenti jistabbilixxu t-tariffi għas-servizzi tan-negozjant (MSC) billi jgħollu element sostanzjali ta' spiza li hu komuni għall-akkwirenti kollha. Skont il-Valutazzjoni Preliminari tal-Kummissjoni, l-MIFs ta' Visa Europe mhumiex oggettivament b'żonnjużi. L-effett restrittiv fis-swieq tal-akkwist qed jiġi msahhah aktar bl-effett tal-MIFs fuq is-swieq tan-netwerk u fuq dawk emittenti kif ukoll b'regoli u prattiki oħrajn tan-netwerk, jiġifieri r-Regola li għandek tonora l-Kards Kollha (Honour All Cards Rule - "HACR"), Regola tal-Ebda Diskriminazzjoni (No Discrimination Rule - "NDR"), il-fużjoni⁽¹⁾ u s-segmentazzjoni ta' swieq tal-akkwist minhabba regoli li jirrestringu l-akkwist transfruntier⁽²⁾. Barra minn hekk, skont id-Dikjarazzjoni ta' Ogġezzjonijiet u d-Dikjarazzjoni Supplimentari ta' Ogġezzjonijiet, l-MIFs ma jissodisfawx ir-rekwiżiti għal eżenzjoni skont l-Artikolu 101(3) tat-Trattat billi jipprovdu titjib fl-effiċjenza filwaqt li jgħaddu sehem ġust tal-benefiċċji li jirriżultaw minnhom lill-konsumatur.

(7) Fis-sistema tal-Visa Europe, akkwirenti transfruntieri huma soġġetti għal regola ta' mandat għall-applikazzjoni tal-MIFs li huma applikabbli fil-pajjiż tat-tranzazzjoni. Skont din ir-regola, akkwirenti transfruntieri għandhom japplikaw bhala awtomatiċi il-MIFs speċifiċi tal-Pajjiż jew il-MIFs Intrareġjonali jew il-MIFs domestiċi rreġistrati. Membri tal-hruġ u tal-akkwist tal-Visa fil-pajjiż tat-tranzazzjoni u akkwirenti transfruntieri jistgħu jiddevjaw minn MIFs domestiċi jew MIFs speċifiċi tal-Pajjiż billi jikkonkludu ftehim bilaterali li jinvolvi tariffi baxxi jew tal-interkambju. Madankollu, akkwirenti transfruntieri huma soġġetti li jkunu fi żvantaġġ jekk iridu jidhru fi ftehim bilaterali ta' dan it-tip, għax x'aktarx ma jkollhomx rabtiet b'sahhithom ma' emittenti domestiċi f'pajjiżi fejn hemm ftehim bilaterali sinifikanti li jinvolvi akkwirenti domestiċi, akkwirenti transfruntieri tipikament ikollhom japplikaw il-MIFs għoljin speċifiċi tal-Pajjiż jew il-MIFs Intrareġjonali jew il-MIFs domestiċi rreġistrati. Din ir-regola hija kkunsidrata wkoll bhala restrizzjoni fuq il-prezz u waħda territorjali u skont l-għan jew l-effett, li tfixkel l-akkwirenti f'pajjiżi fejn il-MIF hija iktar baxxa biex toffri s-servizzi tagħhom f'pajjiżi oħrajn bi prezzijiet li jirriflettu l-MIFs baxxi tagħhom. Fid-dawl tal-oġġettiv tal-ksib ta' suq intern fi hlasijiet, din hija restrizzjoni serja hafna li ma tidhirx iġġustifikata. Diviżjoni artifiċjali bħal din tas-swieq tal-akkwist hija ta' hsara għall-konsumaturi, billi n-negozjanti huma obbligati jhallsu prezzijiet oghla għal servizzi tal-akkwist. Għalhekk il-Kummissjoni adottat l-opinjoni preliminari fid-Dikjarazzjoni Supplimentari ta' Ogġezzjonijiet li l-oġġettiv u l-kontenut ta' din ir-regola għandhom iżommu d-diviżjoni tas-swieq nazzjonali billi jillimitaw il-kompetizzjoni tad-dhul u tal-prezzijiet minn akkwirenti transfruntieri.

2. DEĊIŻJONI TA' IMPENN

(8) Fl-10 ta' Mejju 2013 Visa Europe offriet impenji skont l-Artikolu 9 tar-Regolament (KE) Nru 1/2003 biex ittaffi t-thassib tal-Kummissjoni dwar il-kompetizzjoni.

(9) Fl-14 ta' Ġunju 2013, gie ppubblikat avviż f'Il-Ġurnal Uffiċjali tal-Unjoni Ewropea skont l-Artikolu 27(4) tar-Regolament (KE) Nru 1/2003, li jagħti taqsira tal-kawża u tal-impenji proposti u li jistieden lill-partijiet terzi interessati jagħmlu l-osservazzjonijiet tagħhom dwar l-impenji fi żmien xahar mill-pubblikazzjoni. Fit-30 ta' Awwissu 2013, il-Kummissjoni kkomunikat lil Visa Europe l-osservazzjonijiet li waslu mill-partijiet terzi interessati wara l-pubblikazzjoni tal-avviż. Fil-5 ta' Novembru 2013, Visa Europe ressqet verżjoni riveduta tal-impenji tagħha.

⁽¹⁾ L-HACR hija regola ta' sistema tal-Visa li tobbliga negozjanti li aċċettaw b'kuntratt il-hlasijiet b'marka ta' kard partikolari (pereżempju, VISA, VISA Electron jew V PAY) biex jaċċettaw il-kards kollha pprezentati kif xieraq ta' marka bħal din mingħajr diskriminazzjoni u mingħajr ma jingħata kas tal-identità tal-bank emittenti jew tat-tip tal-kard f'dik il-marka. L-NDR hija regola ta' sistema tal-Visa li tipprevjeni noġozjanti milli jżidu soprataxxi għal tranzazzjonijiet b'kards tal-hlas VISA, VISA Electron jew VPAY, sakemm il-ligi lokali tirrikjedi espressament li negozjant jithalla jimponi soprataxxa. Il-fużjoni hija prattika li biha akkwirenti jitolbu imposta lin-negozjanti l-istess MSC għall-aċċettazzjoni ta' kards tal-hlas differenti tal-istess skema ta' hlas (pereżempju, VISA debitu u kreditu) jew għall-aċċettazzjoni ta' kards tal-hlas li jappartjenu għal skemi ta' kards tal-hlas differenti (pereżempju, kards tal-Kreditu VISA u MasterCard). Fil-Valutazzjoni Preliminari tagħha li dawk ir-regoli u l-prattiki jnaqqsu l-kapaċità tan-negozjanti biex jillimitaw l-eżerċizzju kollettiv tas-sahha fis-suq tal-membri tal-Visa Europe permezz tal-MIF, u b'hekk jissahhu l-effetti ta' kontra l-kompetizzjoni tal-MIF.

⁽²⁾ L-akkwist transfruntier huwa l-attività mwettqa minn akkwirenti li jimmiraw għal tfitix ta' klijenti għal aċċettazzjoni u li jgħixu f'pajjiż taż-ŻEE differenti minn dak fejn l-akkwirent huwa stabbilit.

(10) Permezz tad-Deċiżjoni tagħha tat-26 ta' Frar 2014, skont l-Artikolu 9 tar-Regolament (KE) Nru 1/2003, il-Kummissjoni rendiet dawn l-impenji riveduti bħala vinkolanti fuq Visa Europe għal erba' snin. Il-kontenut ewlieni tal-impenji huwa miġbur fil-qosor hawn taht:

(a) Visa Europe timpenja ruhha li tillimita l-medja ppeżata ta' kull sena tal-MIFs tagħha tal-kreditu Intra-ŻEE applikabbli għal tranżazzjonijiet li jsiru bil-kards tagħha ta' kreditu tal-konsumatur għal livell ta' 0,3% xahrejn wara n-notifika tad-deċiżjoni ta' impenn lil Visa Europe.

(b) Dan il-limitu se japplika wkoll separatament sentejn wara n-notifika tad-deċiżjoni ta' impenn f'kull wieħed minn dawk il-pajjiżi taż-ŻEE li għalihom Visa Europe tistabbilixxi direttament ir-rati domestiċi speċifiċi tal-MIF għall-konsumaturi u f'dawk il-pajjiżi taż-ŻEE fejn il-MIFs ta' kreditu Intra-ŻEE japplikaw fin-nuqqas ta' MIFs oħrajn.

(c) Visa Europe qed tipproponi wkoll li tiżgura li, mill-1 ta' Jannar 2015,

— il-limitu ta' kreditu ta' 0,3% tal-MIF japplika wkoll għall-MIFs kollha stabbiliti minn Visa Europe li jirrigwardaw it-tranżazzjonijiet imwettqa ma' negozjanti li jinsabu fiż-ŻEE b'kards ta' kreditu tal-konsumatur tal-Visa mahruġa f'pajjiżi mhux fiż-ŻEE li jagħmlu parti mit-territorju ta' Visa Europe⁽¹⁾ ("MIFs ta' kreditu intra-Visa Europe li mhumiex fiż-ŻEE"), u

— il-limitu ta' debitu ta' 0,2% tal-MIF japplika wkoll għall-MIFs kollha stabbiliti minn Visa Europe li jirrigwardaw it-tranżazzjonijiet imwettqa ma' negozjanti li jinsabu fiż-ŻEE b'kards ta' debitu tal-konsumatur tal-Visa mahruġa f'pajjiżi mhux fiż-ŻEE li jagħmlu parti mit-territorju ta' Visa Europe ("MIFs ta' debitu intra-Visa Europe li mhumiex fiż-ŻEE").

(d) Visa Europe timpenja ruhha li tamenda r-regoli tagħha dwar l-akkwist transfruntier mill-1 ta' Jannar 2015 biex tippermetti lill-akkwirenti transfruntieri biex jew joffru l-MIF tad-debitu domestiku jew il-MIF tal-kreditu domestiku applikabbli fil-post tan-negozjant jew rata MIF ta' 0,2% għal tranżazzjonijiet ta' debitu tal-konsumatur u 0,3% għal tranżazzjonijiet ta' kreditu tal-konsumatur, soġġetti għal ċerti kundizzjonijiet.

(e) Visa Europe timpenja ruhha li tkompli timplimenta aktar miżuri ta' trasparenza. Partikolarment, Visa Europe timpenja ruhha li:

— iddahhal regola li titlob lill-akkwirenti joffru lin-negozjanti pprezzar tal-hlas għas-servizz tan-negozjant fuq bażi "MIF plus plus" għal tariffa amministrattiva (fi kliem ieħor, l-akkwirenti jridu, jekk mitluba, jikkategorizzaw b'mod ċar fil-kuntratti u l-fatturi tagħhom l-MSK fi tliet komponenti, jiġifieri l-MIF, is-sistemi tat-tariffi l-oħra kollha ta' hlas applikabbli u t-tariffa tal-akkwirenti). Visa Europe se titlob lill-akkwirenti jimplementaw din ir-regola fi żmien 12-il xahar wara n-notifika tad-deċiżjoni ta' impenn lil Visa Europe fir-rigward tal-ftehim il-ġdid kollu u fi żmien 18-il xahar għall-kuntratti eżistenti;

— tintroduċi struttura simplifikata tal-MIF għall-MIFs stabbiliti minn Visa Europe li tipprevedi tnaqqis ta' mill-inqas 25% fl-għadd ta' kategoriji tat-tariffi biex tgħin it-trasparenza u t-tqabbil bejn ir-rati.

(11) Visa Europe jkollha tahtar Fiducjarju ta' Monitoraġġ biex jissorvelja l-konformità ta' Visa Europe mal-impenji tagħha. Qabel il-hatra, il-Kummissjoni jkollha s-setgħa li tapprova jew li tirrifjuta l-Fiducjarju propost.

(12) L-impenji se jkunu validi għal perjodu ta' erba' snin mid-data tan-notifika tad-deċiżjoni ta' impenn lil Visa Europe.

(13) Il-limitu pprovdut fl-impenji, għall-medja ppeżata tal-MIFs ġie vvalutat skont il-MIT (Merchant Indifference Test). Id-deċiżjoni ssib li l-impenji huma xierqa u meħtieġa biex jindirizzaw it-thassib identifikat mid-Dikjarazzjoni tal-Ogġezzjonijiet u mid-Dikjarazzjoni Supplimentari tal-Ogġezzjonijiet mingħajr ma jkunu sproporzjonati.

⁽¹⁾ It-territorju Visa Europe jinkludi ż-ŻEE, Andorra, il-Gżejjer Faeroe, il-Groenlandja, l-Iżrael, Monako, San Marino, il-Gżejjer Svalbard u Jan Mayen, l-Isvizzera, it-Turkija u l-Belt tal-Vatikan.

(14) Il-Kumitat Konsultattiv fil-Qasam tal-Prattiki Restrittivi u Pożizzjonijiet Dominanti hareġ opinjoni favorevoli dwar l-adozzjoni tad-deċiżjoni fis-17 ta' Frar 2014. Fid-19 ta' Frar 2014 l-Uffiċjal tas-Seduta hareġ ir-rapport finali tiegħu.

(15) Id-deċiżjoni temmet il-proċedimenti f'dak li jirrigwarda t-tariffi tal-Kreditu Intra-ŻEE tal-iskambji miftiehma b'mod multilaterali tal-Visa Europe, MIFs tal-Kreditu Domestiċi stabbiliti minn Visa Europe, MIFs ta' Kreditu Intra-Visa Europe Mhux fiż-ŻEE u MIFs ta' Debitu, MIFs Internazzjonali u r-regola ta' Visa Europe fuq il-MIF applikabbli fil-każ ta' akkwist transfruntier.

(16) Madankollu, id-deċiżjoni, ma' tkoprix il-MIFs stabbiliti minn Visa Inc. u l-Assocjazzjoni tas-Servizz Internazzjonali tal-Visa li l-Kummissjoni se tkompli tinvestiga.

V

(Avviżi)

PROCEDURI DWAR L-IMPLIMENTAZZJONI TAL-POLITIKA
TAL-KOMPETIZZJONI

IL-KUMMISSJONI EWROPEA

GĦAJNUNA MILL-ISTAT — IR-REPUBBLIKA TAL-LATVJA

Għajnuna mill-Istat Nru SA.36612 (2014/C) (ex 2013/NN) — Għajnuna mhux notifikata
mogħtija mil-Latvja lil Citadele u Parex

Stedina għas-sottomissjoni ta' osservazzjonijiet skont l-Artikolu 108(2) tat-Trattat dwar
il-Funzjonament tal-Unjoni Ewropea

(Test b'rilevanza għaž-ŻEE)

(2014/C 147/07)

Permezz tal-ittra datata s-16 ta' April 2014 riprodotta fil-lingwa awtentika fil-paġni ta' wara dan is-sommarju, il-Kummissjoni nnotifikat lir-Repubblika tal-Latvja bid-deċiżjoni tagħha li tagħti bidu għall-proċedura stipulata fl-Artikolu 108(2) tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea dwar il-miżura msemmija hawn fuq.

Il-partijiet interessati jistgħu jressqu l-kummenti tagħhom għall-miżuri li dwarhom il-Kummissjoni tiftah proċedura, fi żmien għaxart ijiem mid-data tal-pubblikazzjoni ta' dan is-sommarju u tal-ittra segwenti, lil:

European Commission
Directorate-General for Competition
State aid Greffe
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Nru tal-faks: +32 22961242

Dawn il-kummenti se jiġu trażmessi lir-Repubblika tal-Latvja Il-parti interessata li tressaq il-kummenti tista' titlob bil-miktub biex l-identità tagħha tibqa' kunfidenzjali, filwaqt li tagħti r-raġunijiet għat-talba.

IT-TEST TAS-SOMMARJU

Il-proċedura

1. Fil-15 ta' Settembru 2010⁽¹⁾, il-Kummissjoni approvat il-pjan ta' ristrutturar ta' AS Parex banka. Il-pjan ta' ristrutturar kien jinkludi l-qsim ta' AS Parex banka f'AS Citadele banka u AS Reverta⁽²⁾. Fl-10 ta' Awwissu 2012 il-Kummissjoni approvat emendi għal tliet impenji inklużi fid-deċiżjoni li tapprova l-pjan ta' ristrutturar⁽³⁾.

2. Minn dak iż-żmien, fil-kuntest ta' monitoraġġ il-pjan ta' ristrutturar approvat u l-impenji relatati, il-Kummissjoni identifikat għajnuna mogħtija mil-Latvja lil hinn mill-miżuri ta' għajnuna diġà approvati mill-Kummissjoni.

⁽¹⁾ Id-Deciżjoni tal-Kummissjoni C 26/2009, ĠU L 163, 23.6.2011, p. 28.

⁽²⁾ Il-bank il-ħażin għall-ewwel zamm l-isem ta' Parex banka wara l-qsim li seħħ fl-1.8.2010, iżda minn Mejju 2012 gie rreġistrata bl-isem tal-korporattiv "AS Reverta".

⁽³⁾ Id-Deciżjoni tal-Kummissjoni SA.34747, ĠU C 273, 21.9.2013, p. 1.

Deskrizzjoni tal-miżuri

3. Abbazi tad-dokumenti li waslu għand il-Kummissjoni, jirriżulta li l-Latvja daħhlet fis-seħh il-miżuri li ġejjin minghajr notifika minn qabel lill-Kummissjoni:

- (i) fit-22 ta' Mejju 2009, il-Latvja tat lil AS Parex banka self subordinat, li jikkwalifika bhala kapital tal-Grad 2, b'maturità ta' seba' snin, li jaqbeż l-ammont massimu ta' maturità ta' hames snin approvat mill-Kummissjoni fir-regoli dwar l-ghajjnuna mill-Istat;
- (ii) fis-27 ta' Ġunju 2013, il-Latvja tat lil AS Citadele banka estensjoni ta' 18-il xahar addizzjonali tal-maturità fuq l-ammont pendenti tal-istess self subordinat;
- (iii) sa mill-2011 il-Latvja pprovdiet lil AS Reverta b'sostenn ta' likwidità feċċess tal-limitu massimu approvat mill-Kummissjoni permezz tad-Deciżjoni tagħha tal-15 ta' Settembru 2010.

4. Barra minn hekk, jirriżulta li l-Latvja naqset milli tikkonforma mal-impenn tagħha li tnehhi n-Negozju tal-Ġestjoni ta' Ġid ta' AS Citadele banka sal-iskadenzi pprovduti.

Valutazzjoni tal-miżuri

5. AS Parex banka u sussegwentement AS Citadele banka u AS Reverta irċiew miżuri mil-Latvja minbarra l-miżuri ta' ghajjnuna approvati mill-Kummissjoni skont ir-regoli dwar l-ghajjnuna mill-Istat.

6. Abbazi tal-fatti li:

- (i) kemm il-maturità inizjali ta' seba' snin kif ukoll dik estiża tad-dejn subordinat u s-sostenn ta' likwidità akbar b'mod ċar jirrapprezentaw vantaġġi addizzjonali meta mqabbla mal-miżuri ta' ghajjnuna approvati, u għalhekk huma ghajjnuna addizzjonali (minhabba li l-kriterji l-oħra kollha fl-Artikolu 107(1) tat-Trattat għadhom fis-seħh); u
- (ii) fl-assenza ta' kwalunkwe notifika lill-Kummissjoni għal dawk il-miżuri ta' ghajjnuna addizzjonali, il-Kummissjoni għalhekk tqis li dawn it-tliet miżuri jirrapprezentaw ghajjnuna illegali.

7. Il-Kummissjoni tinnota li, fuq il-bażi tal-informazzjoni disponibbli bhalissa, il-Latvja ma ressqitx argumenti biex turi l-kompatibbiltà tal-ghajjnuna li tirriżulta minn seba' snin ta' maturità originali tas-self subordinat u l-estensjoni ta' 18-il xahar addizzjonali tal-maturità tad-dejn subordinat.

8. Il-Kummissjoni tinnota wkoll li l-Latvja ma ressqitx argumenti biex turi l-kompatibbiltà tal-ghajjnuna li tirriżulta mis-sostenn tal-likwidità addizzjonali mogħti lil AS Reverta.

9. Il-Latvja kkonfermat li n-Negozju tal-Ġestjoni ta' Ġid ma kienx divestit sal-iskadenza maqbula. Dan jikkostitwixxi ksur tal-patti tad-Deciżjoni Finali Parex u għalhekk użu hażin tal-ghajjnuna mogħtija.

10. Fir-rigward għall-ghajjnuna llegali deskritta hawn fuq, il-Kummissjoni tikkonkludi li tqajmu dubji dwar il-kompatibbiltà mas-suq intern fuq il-bażi tal-informazzjoni disponibbli f'dan iż-żmien. Għalhekk il-Kummissjoni ddecidiet li tiftaħ proċedura formali ta' investigazzjoni skont l-Artikoli 13(1) u 4(4) tar-Regolament (KE) Nru 659/1999.

11. Barra minn hekk, il-Kummissjoni tikkonkludi li l-ksur ta' impenn biex ikun divestit n-Negozju tal-Ġestjoni ta' Ġid jikkostitwixxi użu hażin ta' ghajjnuna. Il-Kummissjoni għalhekk iddecidiet li tiftaħ proċedura ta' investigazzjoni formali anke għal użu hażin ta' ghajjnuna skont l-Artikolu 16 tar-Regolament (KE) Nru 659/1999.

Skont l-Artikolu 14 tar-Regolament tal-Kunsill (KE) Nru 659/1999, kull ghajjnuna illegali tista' tkun soġġetta għal irkupru mingħand il-benefiċjarju.

TEST TAL-ITTRA

The Commission wishes to inform Latvia that, having examined the information supplied by your authorities on the aid referred to above, it has decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union ("the Treaty").

1. PROCEDURE

(1) On 10 November 2008 Latvia notified to the Commission a package of State aid measures in favour of AS Parex banka ("Parex banka"), designed to support the stability of the financial system. The Commission approved those measures on 24 November 2008⁽¹⁾ ("first rescue Decision") based on Latvia's commitment to submit a restructuring plan for Parex banka within six months.

(2) Following requests from Latvia, the Commission approved two sets of changes to the aid measures concerning Parex banka, the first on 11 February 2009⁽²⁾ ("second rescue Decision") and the second on 11 May 2009⁽³⁾ ("third rescue Decision").

(3) On 11 May 2009 Latvia notified a restructuring plan for Parex banka. By decision of 29 June 2009⁽⁴⁾ the Commission came to the preliminary conclusion that the notified restructuring measures constituted State aid to Parex banka and expressed its doubts that such aid could be found compatible. As a result the Commission decided to initiate the procedure laid down in Article 108(2) of the Treaty and required Latvia to provide information needed for the assessment of the compatibility of the aid.

(4) Between 11 May 2009 and 15 September 2010, several information exchanges and discussions occurred between Latvia and the Commission concerning the restructuring plan for Parex banka. Latvia provided information and clarifications on several occasions throughout the investigation procedure, and the restructuring plan of Parex banka was also updated six times.

(5) On 1 August 2010, some assets of Parex banka were transferred to a newly established so-called "good bank" named AS Citadele banka ("Citadele"), in line with the restructuring plan. The restructuring plan envisaged a split of Parex banka into Citadele, which would take over all core assets and some non-core assets⁽⁵⁾, and a so-called "bad bank" ("Reverta")⁽⁶⁾ which kept the remaining non-core and non-performing assets.

(6) By decision of 15 September 2010⁽⁷⁾ ("the Parex Final Decision"), the Commission approved the restructuring plan of Parex banka, based on a commitment paper submitted by the Latvian authorities on 3 September 2010.

(7) On 10 August 2012, at the request of the Latvian authorities, the Commission approved amendments to three commitments included in the Parex Final Decision ("the Amendment Decision")⁽⁸⁾. Those amendments: 1) extended the disposal deadline for the CIS loans⁽⁹⁾ until 31 December 2014; 2) increased the limit of minimum capital adequacy requirements allowed for Citadele at the level of the bank and the group before the asset remuneration described in the Parex Final Decision would be triggered; and 3) allowed carry-over of previous years' unused caps on lending, whilst respecting market share caps.

(8) On 1 October 2013 Latvia notified a requested for a further amendment of the Parex Final Decision, asking for the postponement of the divestment deadline for one of the divisions of Citadele, the Wealth Management Business⁽¹⁰⁾. While analysing Latvia's submissions in support of that amendment request, the Commission identified aid that had been granted by Latvia over and beyond the aid measures already approved by the Commission.

(9) Between [...] (*) and 4 March 2014, several information exchanges have taken place between Latvia and the Commission with regard to the additional aid measures. Latvia submitted information and documents on 30 October 2013, 31 January 2014 and 4 March 2014 (including a revised restructuring plan of Parex banka).

(1) Commission Decision NN 68/2008, OJ C 147, 27.6.2009, p. 1.

(2) Commission Decision NN 3/2009, OJ C 147, 27.6.2009, p. 2.

(3) Commission Decision N 189/2009, OJ C 176, 29.7.2009, p. 3.

(4) Commission Decision C 26/2009 (ex N 189/2009), OJ C 239, 6.10.2009, p. 11.

(5) In particular, performing loans to borrowers located in the Commonwealth of Independent States, the Lithuanian subsidiary, branches in Sweden and Germany and the wealth management business, with the latter including the Swiss subsidiary.

(6) The bad bank initially kept the name of Parex banka after the split that took place on 1 August 2010, but has been registered since May 2012 under the corporate name "AS Reverta".

(7) Commission Decision C 26/2009, OJ L 163, 23.6.2011, p. 28.

(8) Commission Decision SA.34747, OJ C 273, 21.9.2013, p. 1.

(9) Meaning loans to borrowers located in the Commonwealth of Independent States.

(10) The Wealth Management Business consists of the private capital management sector of Citadele, asset management subsidiaries and AP Anlage & Privatbank AG, Switzerland.

(*) Confidential information.

(10) Since 11 November 2013, the Commission has also received monthly updates regarding Latvia's progress in selling Citadele, a process it began in October 2013.

(11) The Latvian authorities have informed the Commission that for reasons of urgency they exceptionally accept that this Decision is adopted in the English language.

2. DESCRIPTION

2.1. The undertaking concerned

(12) Parex banka was the second-largest bank in Latvia with total assets of LVL 3,4 billion (EUR 4,9 billion) as of 31 December 2008. It was partially nationalised in November 2008.

(13) In April 2009, the European Bank for Reconstruction and Development ("EBRD") acquired 25 % of the share capital of Parex banka plus one share. Following the split of Parex banka into a good bank and a bad bank in 2010 along with subsequent changes in the shareholding structure, the shareholders of Citadele are now Latvia (75 %) and the EBRD (25 %), while the shareholders of Reverta are Latvia (84,15 %), the EBRD (12,74 %) and others (3,11 %).

(14) A detailed description of Parex banka up to the time of the Parex Final Decision can be found in recitals 11 to 15 of that decision. Parex banka was authorised to receive a series of aid measures (including liquidity support, guarantees and recapitalisation and asset relief measures) which are specified in the Parex Final Decision. Those measures were approved by the Commission in the first, second and third rescue Decisions (the "Rescue Decisions") and the Parex Final Decision.

2.2. The aid measures approved for Citadele and Reverta

(15) The restructuring plan approved by the Commission with the Parex Final Decision provided that the rescue aid previously approved by the Commission was to be extended over the restructuring period and split between Citadele and Reverta. The Parex Final Decision also approved additional restructuring aid for Reverta and Citadele. It also laid down a utilisation mechanism for the aid which had been provisionally approved through the Rescue Decisions after Parex banka was split, in regard to:

- a) liquidity support in the form of State deposits for both Citadele and Reverta ⁽¹⁾;
- b) State guarantees on liabilities of Citadele and Reverta ⁽²⁾;
- c) a State recapitalisation for Reverta and Citadele ⁽³⁾; and
- d) an asset relief measure for Citadele ⁽⁴⁾.

2.3. The commitments given by Latvia in the Parex Final Decision and the Amendment Decision

(16) In order to enable the Commission to find the restructuring aid compatible with the internal market Latvia provided commitments to ensure full implementation of the restructuring plan and limit distortions of competition that result from the restructuring aid ("the commitments").

(17) The main commitments regarding Citadele are described in recitals 73 to 83 of the Parex Final Decision. They include: a commitment to divest the CIS loans; a commitment to divest the Wealth Management Business within fixed deadlines (one which applied to divestment by Citadele itself and another which applied to divestment under the control of a Divestment Trustee); the preservation of viability, marketability and competitiveness; a hold-separate obligation in relation to the Wealth Management Business; a commitment to sell Citadele within a fixed deadline; caps on new lending and deposits in the Baltic countries; caps on the deposits in the German and Swedish branches; no increase in the number of branches; remuneration in respect of the asset relief measure; an acquisition ban; and a ban on making new CIS loans.

(18) The main commitments regarding Reverta are described in recitals 84 to 87 of the Parex Final Decision. They include commitments that there would be no new activities; there would be a wind-down or divestment of activities; and a cap on the total amount of capital that would be provided by Latvia in whatever form.

(19) Recitals 88 to 93 of the Parex Final Decision describe the commitments jointly applying to Reverta and Citadele. They provide for: a dividend and coupon ban; a ban on any reference to State support in advertising; a separation between Citadele and Reverta; and the appointment of Monitoring and Divestiture Trustees.

⁽¹⁾ Recitals 55-57 of the Parex Final Decision.

⁽²⁾ Recitals 58-61 of the Parex Final Decision.

⁽³⁾ Recitals 62-68 of the Parex Final Decision.

⁽⁴⁾ Recitals 69-70 of the Parex Final Decision.

(20) As recalled in recital 16, the Commission subsequently amended three of the commitments applicable to Citadele under the Parex Final Decision. That approval was based on new commitments undertaken by Latvia and Citadele to compensate for any distortion of competition.

2.4. The additional measures implemented by Latvia for Parex banka, Citadele and Reverta

(21) Based on the report submitted on 29 August 2013 by the Monitoring Trustee⁽¹⁾ and based on documents and information submitted by Latvia since October 2013, it appears that Latvia has put into effect the following measures without prior notification to the Commission:

- (i) on 22 May 2009, Latvia granted to Parex banka a subordinated loan of LVL 50,27 million (qualifying as Tier 2 capital) with a maturity of seven years (i.e. until 21 May 2016). The duration of that subordinated loan exceeds the maximum five-year maturity set in first rescue Decision and confirmed in the Parex Final Decision;
- (ii) on 27 June 2013, Latvia granted Citadele an additional 18-month extension of the maturity for an amount of LVL 37 million of subordinated debt (out of the total of LVL 45 million held by Latvia at that time)⁽²⁾. Table 1 gives an overview of the subordinated debt maturity changes, as of 31 December 2013. Latvia did not notify the extension of the maturity of that subordinated debt to the Commission;

Table 1

Issuer	Principal (LVL million)	Maturity approved by the Parex Final Decision	Maturity date throughout the restructuring period	Extended Maturity (granted in 2013)
LPA ⁽³⁾	7,87	May 2014 (five years starting from 2009)	8.8.2016	—
LPA	37,34		21.5.2016	20.12.2017
[...]	[...]		[...]	[...]
Total	50,27			

- (iii) in addition, since 2011 Latvia has provided Reverta with liquidity support in excess of the maximum limit set and approved by the Commission in the Parex Final Decision, both for the base case and for the worst case scenario (presented in Table 2⁽⁴⁾). The actual amounts of liquidity support from which Reverta has benefited were communicated by the Latvian authorities through the revised restructuring plan submitted in January 2014 and are reflected in Table 3:

Table 2

Liquidity caps for Reverta as reflected in the Parex Final Decision

LVL million	1.8.10	31.12.10	31.12.11	31.12.12	31.12.13
Base case	458	446	419	349	315
Best case	458	446	419	356	322
Worst case	458	446	419	344	307

⁽¹⁾ The Monitoring Trustee was appointed through a Mandate signed by Reverta, Citadele and the Latvian authorities on 28 February 2011. The Monitoring Trustee has submitted bi-annual monitoring reports covering the preceding semester, starting with the one ending 31 December 2010.

⁽²⁾ Following the split of Parex banka, Citadele was established on 1 August 2010. The Parex Final Decision approved the transfer to Citadele of all of the subordinated loans previously granted to Parex banka. No Tier 2 capital was provided to Parex banka by Latvia at the time of the split or could have been provided by Latvia after the split.

On 3 September 2009 the EBRD agreed to refinance part of the subordinated loan previously granted by Latvia to Parex banka. As of 31 December 2009 the subordinated loans granted by Latvia to Parex banka amounted to LVL 37 million, while the subordinated loan granted by the EBRD amounted to LVL 13 million.

At the time of the split Latvia took over LVL 8 million out of the LVL 13 million subordinated loan held by the EBRD. As of 1 August 2010, the total amount of subordinated loans held by Latvia was LVL 45 million (with different maturities), while that held by the EBRD was LVL 5 million.

⁽³⁾ The Latvian Privatisation Agency, owned by Latvia.

⁽⁴⁾ That information is contained in Table 6 of the Parex Final Decision.

Table 3

Actual amounts of liquidity from which Reverta has benefited

Outstanding of liquidity support					
	1.8.10	31.12.10	31.12.11	31.12.12	31.12.13
LVL million	446,32	446,32	427,82	384,86	362,52

In light of those developments and findings, the Commission has asked Latvia to provide additional information and explanations.

(22) Latvia has confirmed through the submissions set out in recital 9 that those additional measures have already been put into effect.

2.5. The breach of the commitment to divest the Wealth Management Business of Citadele

(23) Latvia has failed to comply with its commitment to divest the Wealth Management Business of Citadele by 30 June 2013 without a Divestiture Trustee, or by 31 December 2013 with a Divestiture Trustee, which was recorded in the Parex Final Decision⁽¹⁾. Therefore that commitment to divest the Wealth Management Business by those deadlines has been breached.

3. POSITION OF THE LATVIAN AUTHORITIES**3.1. On the un-notified maturity extensions of the subordinated debt**

(24) In its submissions of information regarding the un-notified aid which are mentioned in recital 9, as well as in the revised restructuring plan, the Latvian authorities submit that the Commission had been informed of the possibility of the maturity extension of the subordinated debt on a number of occasions. In consequence, Latvia considers that the longer maturity of the subordinated debt does not entail un-notified State aid.

(25) More specifically, Latvia expresses the view that:

- (i) the Commission had been informed of the possibility of the maturity extension of the subordinated debt on a number of occasions, as it was expressly referred to in the restructuring plan and the reports of the Monitoring Trustee;
- (ii) according to the final version of the restructuring plan, it was not planned that the subordinated debt would be fully repaid by 2017. In addition, the restructuring plan assumed when determining the eligible capital for calculating capital adequacy that the maturity of the subordinated financing would be extended to avoid suffering from a 20 % amortisation rate starting from the fifth year and until maturity;
- (iii) in line with those provisions, the Parex Final Decision provided that the subordinated loans were expected to mature in the period 2015-18, thus envisaging a prospective extension of the subordinated debt⁽²⁾;

(26) Moreover, Latvia has argued that the payment by Citadele of interest rates in excess of market conditions allays any State aid concerns that could exist.

(27) Finally, Latvia notes that discussions [...] are currently being held [...].

3.2. Regarding the un-notified liquidity support granted to Reverta

(28) Latvia explained that it provided Reverta with liquidity in excess of the support limits in the Parex Final Decision because the deposits from the State were not transformed into capital support by capitalising the principal of State treasury deposits to the extent that had been envisaged in that Decision. That transformation did not occur because after Reverta's banking licence had been revoked the relevant Latvian legislation no longer required statutory capital to be maintained. The Parex Final Decision had mentioned capitalising LVL [40-110] million of principal in the base case, whereas in fact only LVL 12,4 million of principal was capitalised.

(29) Latvia argues that capitalising less principal benefitted the State because:

- (iv) Latvia receives interest on liquidity aid but has no income from capital aid;
- (v) Latvia remains a senior secured creditor rather than junior equity holder, which ensures higher recoverability of funds in case of insolvency or liquidation, given that the State Treasury will have priority towards proceeds collectable within the insolvency process;

⁽¹⁾ See recital 73 of the Parex Final Decision.

⁽²⁾ In that respect, Latvia points to recital 148 of the Parex Final Decision.

- (vi) the capital invested as Tier 1 will not be recovered by the State⁽¹⁾; and
- (vii) there is more burden-sharing by legacy minority stakeholders as a result of interest payments by Reverta to the State.

3.3. Regarding the breach of the commitment for Wealth Management Business divestment

(30) Latvia states that the return of Citadele as a stand-alone entity to the private sector would have been put at risk if Citadele had divested the Wealth Management Business by 30 June 2013 as foreseen in the restructuring plan of 2010 or, in any event before Latvia had divested its stake in Citadele. Latvia claims that Citadele without the Wealth Management Business has no viable business model.

(31) The Latvia has therefore requested the Commission to amend the Parex Final Decision in order to allow Citadele to retain the Wealth Management Business until after the entire bank passes to the private sector.

(32) Such a request was first made in August 2012 in discussions between Latvia and the Commission before the Amendment Decision was taken. During those discussions the Latvian authorities ultimately decided not to request an extended deadline for divesting the Wealth Management Business.

4. ASSESSMENT

(33) Pursuant to Article 13(1) in conjunction with Article 4(4) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union⁽²⁾ the Commission may open a formal investigation procedure if it finds that doubts are raised as to the compatibility with the internal market of an unlawful aid measure⁽³⁾.

4.1. Existence of unlawful aid

(34) Article 107(1) of the Treaty provides that, save as otherwise provided in the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is in so far as it affects trade between Member States, be incompatible with the internal market.

(35) As described in recital 21, Parex banka and subsequently Citadele and Reverta have obtained measures from Latvia in addition to the aid measures examined in the Rescue Decisions and the Parex Final Decision.

(36) **With regard to the subordinated debt**, the fact that such a measure contains State aid was established in the first rescue Decision, when the Commission approved the issuance of subordinated debt with five years maturity as a compatible aid measure. The Commission decided at that time that a market economy investor would not have granted subordinated debt with a five-year maturity⁽⁴⁾.

(37) The measure which was in fact granted by Latvia in favour of Parex banka was identical with the measure approved by the Commission except for the fact that it had a longer maturity. As such, the measure which was in fact granted would also be State aid unless the longer maturity eliminated any advantage to Parex banka. However, subordinated debt with a seven-year maturity would give the borrower a greater advantage since the risk perceived by an investor for any given investment increases as the maturity of the investment is extended. When the subordinated debt with a seven-year maturity was granted, it would have been even less likely for a market economy investor to grant the subordinated debt under those extended terms than it would for it to have done so for five years. For that reason, the longer maturity of the subordinated debt represented an additional advantage for Parex banka compared to the form of the subordinated debt that was approved in the Rescue Decisions and the Parex Final Decision.

(38) The maturity of the subordinated debt was later further extended by an additional 18 months. As the risk perceived by an investor for any given investment increases as the maturity of the investment is extended, a market economy investor would not have granted the subordinated debt under those extended terms in the absence of any countervailing payment fully offsetting the investor's increased risk. For that reason, the longer maturity of the subordinated debt represents an additional advantage for Citadele compared to the form of the subordinated debt that was approved in the Rescue Decisions and the Parex Final Decision.

(39) Latvia justifies granting subordinated loans with a longer maturity than approved by claiming that the Commission had been informed of a possible maturity extension through the restructuring plan and submissions of the Monitoring Trustee.

⁽¹⁾ Recital 49 of the Parex Final Decision.

⁽²⁾ OJ L 83, 27.3.1999, p. 1.

⁽³⁾ Under Article 1 of Regulation (EC) No 659/1999, unlawful aid means new aid put into effect in contravention of Article 108(3) of the Treaty — i.e. without notification to the Commission of aid measures before they are put into effect.

⁽⁴⁾ Recital 40 of the first rescue Decision.

(40) The Commission does not accept that argument. The possible need to extend the maturity of the subordinated loan was only incidentally mentioned, for information, by the Monitoring Trustee in previous monitoring reports (e.g. that of 30 June 2012) as an option under consideration by Latvian authorities. A mention of the possibility that additional aid may be granted by a Member State does not constitute or substitute for a formal notification of aid measures, within the meaning of Article 108(3) of the Treaty.

(41) Latvia also contends that the recital 148 of the Parex Final Decision explicitly provided that the subordinated loans were expected to mature in the period 2015-18, thus envisaging a prospective extension of the subordinated debt.

(42) The Commission does not share that interpretation. Recital 148 of the Parex Final Decision refers to the subordinated loans by legacy shareholders in Parex, and not to the subordinated loans granted by Latvia.

(43) **With regard to the liquidity support granted to Reverta**, it was initially approved as part of the compatible State aid measures approved in the first rescue Decision, in the form of State deposits. At that time, the Commission noted that Parex banka lacked liquid collateral and that Latvia had deposited the funds, taking into account the bank's liquidity needs, when no market investor was willing to provide liquidity in view of the fragile situation of Parex banka ⁽¹⁾.

Following the Parex Final Decision (and the split in a good and a bad bank) the liquidity aid was subsequently transferred to Citadele and Reverta. The former has already repaid in full its share of the liquidity support, whereas the latter had to limit the amounts of liquidity support it received, as set out in recital 21(iii). However, the amount of liquidity support actually granted to Reverta exceeds even the worst case scenario level approved within the Parex Final Decision. That additional liquidity support provides a supplementary advantage for Reverta compared to the aid approved by the Rescue Decisions and Parex Final Decision. None of the other features of the liquidity support apart from its quantity have been altered and so the Commission concludes that the measure constitutes State aid.

(44) None of those three additional measures (the seven-year subordinated loan; the 18-month extension; and the additional liquidity support) had been notified to the Commission. Latvia has therefore not complied with the standstill obligation under Article 108 of the Treaty.

(45) Based on the facts that:

- both the longer initial maturity and the extended maturity of the subordinated debt and the increased liquidity support clearly represent additional advantages compared to the approved aid measures, and therefore are additional aid (as all of the other criteria under Article 107(1) of the Treaty are still in place), and
- the absence of any notification to the Commission for those additional aid measures,

the Commission therefore considers that the measures described in recital 21 represent unlawful aid.

4.2. Compatibility of the aid

4.2.1. *The subordinated loans with extended maturity*

(46) In line with the 2008 Banking Communication ⁽²⁾ which was in force when the subordinated loan was initially granted and when it was subsequently extended, in order for aid to be compatible, it had to comply with several conditions:

- appropriateness (to be well targeted to its objective, e.g. to remedy a serious disturbance in the economy, and take the most appropriate form for that purpose to remedy the disturbance),
- necessity (to be necessary to achieve the objective, and remain at the minimum necessary to do that),
- proportionality (the positive effects of the aid must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measures' objectives).

(47) The objective of granting a subordinated loan qualifying as Tier 2 capital to Parex banka was to enable it to continue to satisfy the capital adequacy ratio and to ensure that it is sufficiently capitalised so as to better withstand potential losses, in order to avoid a serious disturbance in the Latvian economy.

⁽¹⁾ Recital 41 of the first rescue Decision.

⁽²⁾ Communication on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis OJ C 270, 25.10.2008.

(48) In the first rescue Decision, the Commission noted that the subordinated debt for Parex banka was limited to the minimum necessary in scope and time. Among other elements, the limitation to the minimum necessary was based on the commitment of the Latvian authorities to grant subordinated debt with a maximum maturity of five years. In that regard, the Commission noted in that decision that the minimum maturity for the subordinated debt to qualify as Tier 2 capital under Latvian legislation was five years. The aid measure was therefore qualified as compatible.

(49) The second and third rescue Decisions, the Parex Final Decision and the Amendment Decision did not alter the assessment of the first rescue Decision in that respect, concerning the limitation to the minimum necessary.

(50) The Commission notes that Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the extended maturity of the subordinated loans.

(51) Therefore, based on the information available to Commission at this time, the un-notified aid measure concerning the subordinated debt issued with a maturity of seven years instead of five years as initially approved cannot be qualified as compatible, considering that: a) the existing assessment is that a five-year maturity of the subordinated debt was what ensured limitation to the minimum necessary and b) no new arguments have been presented for justification of compatibility.

(52) Equally, based on the information available to Commission at this time, the un-notified aid measure concerning the additional prolongation of the subordinated debt maturity by 18 months cannot be qualified as compatible, considering that: a) the existing assessment is that a five-year maturity of the subordinated debt was what ensures limitation to the minimum necessary and b) no new arguments have been presented for justification of compatibility.

(53) The Commission invites Latvia and any interested parties to present it with additional elements relevant to whether the seven-year duration of the subordinated loan and its subsequent extension by 18 months constitutes aid which was limited to the minimum necessary.

4.2.2. *The liquidity support measure*

(54) The assessment of the restructuring plan in the Parex Final Decision was based on assumptions presented at that time regarding the expected inflows of liquidity into Reverta which would allow it to start repaying the liquidity support granted in the form of State deposits, up to a certain level⁽¹⁾.

(55) The amounts expected to remain unpaid, as described in the Parex Final Decision, ranged from LVL [...] million (the base case scenario) to LVL [...] million (the worst case scenario). As explained in recital 21, the actual amounts from which Reverta has benefited have constantly exceeded those laid out in the Parex Final Decision.

(56) The Commission notes that Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the additional liquidity support.

(57) In view of this, and considering also the fact that the revised restructuring plan presented by Latvia includes numerous other adjustments compared to the plan approved through the Parex Final Decision, the Commission is not in the position at this time to qualify the additional liquidity support as compatible with the internal market. A more in-depth assessment of the impact the revised levels of liquidity support will have to be carried out, taking into account the revised restructuring plan in its entirety.

4.3. **The breach of the commitment to divest the Wealth Management Business**

(58) Pursuant to Article 16 of Regulation (EC) No 659/1999 the Commission may open a formal investigation procedure if aid is misused, i.e. if the beneficiary used aid in contravention of a decision taken pursuant to Article 7(3) of that Regulation.

(59) In the Parex Final Decision⁽²⁾ Latvia committed that Citadele would divest the Wealth Management Business by certain deadlines.

(60) Latvia confirmed that the Wealth Management Business has not been divested within the agreed deadlines. This constitutes a breach of the terms of the Parex Final Decision and hence a misuse of the aid granted. The Commission invites Latvia and interested parties to comment on that conclusion and to present any elements which would allow the Commission to consider whether aid obtained by Citadele could be considered compatible with the internal market if the Wealth Management Business were not to be divested separately from Citadele.

⁽¹⁾ Recital 55 of the Parex Final Decision.

⁽²⁾ See recital 73 of the Parex Final Decision.

5. CONCLUSION

The Commission concludes, in regard to the unlawful aid described in recital 21, that doubts are raised as to the compatibility with the internal market based on the information available at this time. The Commission therefore has decided to open a formal investigation procedure pursuant to Articles 13(1) and 4(4) of Regulation (EC) No 659/1999.

Moreover, the Commission concludes that the breach of commitment described in recital 23 constitutes misuse of aid. The Commission therefore has decided to open a formal investigation procedure also for misuse of aid pursuant to Article 16 of Regulation (EC) No 659/1999.

In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union, requests Latvia to submit its comments and to provide all such information as may help to assess the measures (in particular the compatibility of the un-notified aid), within ten working days of the date of receipt of this letter. It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.

The Commission would draw your attention to Article 14 of Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.

The Commission warns Latvia that it will inform interested parties by publishing this letter and a meaningful summary of it in the *Official Journal of the European Union*. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the *Official Journal of the European Union* and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within ten working days of the date of such publication.'

