

Commission Decision of 18 February 2004 on restructuring aid implemented by Germany for Bankgesellschaft Berlin AG (notified under document number C(2004) 327) (Only the German text is authentic) (Text with EEA relevance) (2005/345/EC)

*Article 1*

1 The following measures for the Bankgesellschaft Berlin AG group ('BGB') constitute state aid within the meaning of Article 87(1) of the EC Treaty:

- a the capital injection of EUR 1,755 billion by the *Land* of Berlin in August 2001;
- b the guarantees ('risk shield') with a maximum nominal value of EUR 21,6 billion granted by the *Land* of Berlin on 20 December 2001 and 16 April 2002;
- c the agreement of 26 December 2002 between the *Land* of Berlin and the Landesbank Berlin (LBB) on the treatment of any claims brought by the *Land* of Berlin against LBB following a final decision by the Commission in case C 48/2002, which is pending.

2 The aid measures referred to in paragraph 1 are compatible with the common market, provided that Germany fully observes the undertakings communicated by Germany and set out in Article 2(1) of this decision and in the Annex hereto and provided that the aid referred to in paragraph 1(c) does not give rise to a core#capital ratio, as at 1 January 2004 of over 6 % for BGB group (taking into account the hiving#off of IBB in accordance with Article 2(1)(d).

*Article 2*

1 Germany has undertaken:

- a to ensure timely implementation of the notified restructuring plan in accordance with the conditions laid down in the Annex;
- b to ensure that the *Land* of Berlin sells its holding in BGB in accordance with the conditions laid down in the Annex;
- c to ensure that the BGB group sells or liquidates all holdings in real estate service companies covered by the risk shield of 16 April 2002 in accordance with the conditions laid down in the Annex;
- d to ensure that IBB's special reserve is transferred back in accordance with the conditions laid down in the Annex;
- e to ensure that the BGB group sells the 'Berliner Bank' division of LBB in accordance with the conditions laid down in the Annex;
- f to ensure that the BGB group sells its holding in BGB Ireland plc by no later than 31 December 2005.

2 Where appropriate, and on a sufficiently reasoned request from Germany, the Commission may:

- a grant an extension of the deadlines specified in the undertakings, or
- b in exceptional cases, dispense with, amend or replace one or more of the requirements or conditions set out in those undertakings.

If Germany requests that a deadline be extended, a sufficiently reasoned request shall be sent to the Commission at the latest one month before expiry of that deadline.

*Article 3*

Germany shall inform the Commission, within two months of notification of this decision, of the measures that have been taken and the measures it intends to take to comply with this decision.

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**Changes to legislation:** *There are currently no known outstanding effects for the Commission Decision of 18 February 2004 on restructuring aid implemented by Germany for Bankgesellschaft Berlin AG (notified under document number C(2004) 327) (Only the German text is authentic) (Text with EEA relevance) (2005/345/EC). (See end of Document for details)*

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*Article 4*

This decision is addressed to the Federal Republic of Germany.

Germany is required to forward a copy of this decision to the recipient of the aid immediately.

Done at Brussels, 18 February 2004.

*For the Commission*

Mario MONTI

*Member of the Commission*

**Changes to legislation:**

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