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BANK RESOLUTION UNDER STATE AID CONTROL: LEGAL AND POLICY IMPLICATIONS OF EXPORTING THE EU FRAMEWORK TO CANDIDATE COUNTRIES

Summary

This article examines how EU State aid conditionality shapes the application of resolution tools foreseen in the Bank Recovery and Resolution Directive (BRRD) and explores its implications for accession countries in the context of approximating State aid control and transposing the BRRD. To elucidate the interconnection and mutual conditionality between the bank recovery and resolution regime and State aid control as a form of competition protection, the paper first clarifies the taxonomy of instruments introduced by the BRRD. It outlines their operation within the EU's soft law on State aid to banks, highlighting both the strengths and deficiencies. These inconsistencies between the two regimes pose particular challenges for EU candidate countries, especially in defining pre-accession conditionalities. The challenges extend beyond the formal transposition of provisions to issues of implementation and effective enforcement. Serbia and Montenegro are examined as case studies: Serbia illustrates partial alignment with the *acquis*, whereas Montenegro's approach relies on a general legislative reference to EU law and defers the application of State aid rules in the resolution framework until accession to the EU.

Keywords: Bank Resolution, State Aid, Harmonisation of Laws, Candidate Countries, Pre-accession Conditionalities.

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SANACIJA BANAKA POD KONTROLOM DRŽAVNE POMOĆI: PRAVNE I POLITIČKE IMPLIKACIJE USKLAĐIVANJA SA EU OKVIROM U ZEMLJAMA KANDIDATIMA ZA PRIJEM

Sažetak

U ovom članku ispitaćemo na koji način uslovljenost državne pomoći u okviru prava Evropske unije oblikuje primenu instrumenata za sanaciju banaka predviđenih Direktivom o oporavku i sanaciji banaka (BRRD) i analizira njene implikacije za zemlje kandidate u procesu usklađivanja kontrole državne pomoći i transponovanja odredbi BRRD-a. Radi objašnjenja povezanosti i međusobne uslovljenosti režima oporavka i sanacije banaka i kontrole državne pomoći kao oblika zaštite konkurencije, u radu se najpre razjašnjava taksonomija instrumenata predviđenih u BRRD i prikazuje njihovo funkcionisanje u okviru mekog prava EU u oblasti državne pomoći bankama, uz isticanje njihovih prednosti i nedostataka. Nedoslednosti između ta dva režima stvaraju posebne izazove za zemlje kandidate, naročito u definisanju obaveza u pretpristupnom periodu. Problemi se ne odnose samo na formalno usklađivanje sa odredbama propisa, već i na njihovu implementaciju i efektivno sprovođenje. Srbija i Crna Gora odabrane su kao studije slučaja: Srbija kao primer delimičnog usklađivanja sa pravnim tekovinama EU, a Crna Gora zbog pristupa koji se zasniva na opštem zakonodavnom upućivanju na pravo EU i odloženoj primeni pravila o državnoj pomoći u okviru režima sanacije sve do pristupanja EU.

Ključne reči: sanacija banaka, državna pomoć, usklađivanje prava, zemlje kandidati, pretpristupne obaveze.

1. Introduction

The European Union's response to the global financial crisis of 2008-2013 transformed the legal architecture for banking crisis management. Successive State aid communications (2008-2013) issued by the European Commission authorised public support for banks under Article 107(3)(b) TFEU ('serious disturbance'), while progressively tightening conditions relating to viability, restructuring, and burden-sharing (Collinet, 2014, pp. 137-142; Kokkoris, 2013, pp. 387-394). Subsequently, the Union adopted the Bank Recovery and Resolution Directive (BRRD)[1]

[1] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014

and established the Single Resolution Mechanism (SRM)[2] to replace ad hoc rescues with a harmonised, rules-based framework centred on bail-in and the preservation of critical functions (World Bank Group, 2017, 16-49; Nicolaides, 2016, pp. 222-240). This produced a lasting 'dual discipline': prudential resolution under the BRRD/SRMR and competition control under State aid rules. The resulting interaction is conceptually complementary but institutionally complex. It has remained at the core of reform debates under the Crisis Management and Deposit Insurance review (CMDI), a decade later, culminating in a political agreement by the European Parliament and the Council on the Commission's proposal to review the bank crisis management and deposit insurance framework.[3]

This paper draws on academic literature and institutional evaluations to argue that the persistence of State aid control is normatively justified but requires stronger coordination with resolution practice (Laprévote, Gray & de Cecco, 2017, pp- 538-574; Kokkoris, 2013, pp. 387-394; Smolenska, 2017, pp. 168-175; Lastra, Russo & Bodellini, 2019; Schillig, 2025, pp. 221-240). The Paper shows how State aid control shapes the application of BRRD tools and how this is translated into policy issues arising from the export of this dual regime to Serbia and Montenegro as candidate countries. Following the Introduction, the second chapter briefly presents the development of the EU framework on State Aid to Banks (Communications), on the one hand, and the BRRD framework and crisis resolution mechanisms, on the other. Before turning to the interplay and recurring tensions between the State aid regime and the resolution mechanism, the third chapter provides a typology of public support to banks under the BRRD and State aid control. The purpose of the analysis of the main issues in the interplay between State Aid rules and BRRD, as the subject matter of Chapter 4, is to indicate how State aid conditionality affects the application of resolution tools. These uncertainties and tensions also represent challenges in transposing the bank

establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council Text with EEA relevance OJ L 173, 12.6.2014, pp. 190–348 (BRRD).

[2] Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010

OJ L 225, 30.7.2014, pp. 1–90.

[3] Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions on the review of the crisis management and deposit insurance framework contributing to completing the Banking Union, COM/2023/225 final.

resolution regime in candidate countries. The dilemmas in determining the scope of pre-accession conditionality and policy choices are considered in Chapter 5. The Conclusion recommends clearer sequencing and decision-making standards within the EU: as the dual conditionality between the BRRD and State aid control remains unresolved even within the EU, this asymmetry creates risks of incomplete policy transfer in candidate countries.

2. A Short Overview of the EU Framework on Bank Resolution and State Aid

The Bank Recovery and Resolution Directive (hereinafter: the BRRD) replaced discretionary national interventions with rules-based crisis management. It provides a common legal framework for resolving failing banks, aiming to safeguard financial stability, protect depositors, and minimise taxpayer costs. The Directive introduces four primary tools: (i) sale of business; (ii) bridge institution; (iii) asset separation; and (iv) bail-in. The resolution trigger requires a determination that an institution is failing or likely to fail (FOLTF), that no private alternative would prevent failure, and that resolution is in the public interest – principally to maintain critical functions and avoid severe systemic disruption. The Directive also provides Government Financial Stabilisation Tools (GFSTs) in exceptional circumstances as a backstop within resolution and a junction between fiscal intervention and bail-in discipline (Gortsos, 2016). Within the Banking Union, the Single Resolution Mechanism (SRM) centralises resolution planning and execution. Outside the Banking Union, national resolution authorities coordinate via resolution colleges. Nevertheless, the ability to deploy public backstops (such as liquidity in resolution or guarantees) continues to depend on Member State arrangements, creating variability even within a harmonised framework (Schillig, 2018).

To summarise, the BRRD lays down the substantive rules for recovery and resolution in the EU, including the resolution tools and the conditions under which they may be applied in the event of bank failure. The SRM, established by the SRM Regulation, provides the institutional and procedural framework within the Banking Union, centralising resolution decision-making for significant institutions through the Single Resolution Board and the Single Resolution Fund.

While the BRRD defines the "rules of the game" (tools and substantive criteria), the SRM determines "who decides and how" in the Member States participating in the Banking Union.

In parallel, State aid control under Articles 107-109 TFEU governs selective advantages financed through State resources. During the crisis, the Commission

articulated a corpus of 'Banking Communications.'[4] These communications progressively codified the conditions for compatibility, including necessity/proportionality, burden-sharing by shareholders and junior creditors, and credible restructuring to restore long-term viability (Collinet 2014, pp. 137-142; Galand, Dutillieux & Vallyon, 2017, pp. 83-102). The extensive accession process completed in the mid-2000s demonstrated that the obligations of candidate countries for EU admission extend beyond the formal transposition of EU legal acts to include the monitoring of implementation, particularly the practice of the Court of Justice of the European Union (Venice Commission, 2010; Kühn, 2005, pp. 563-582). For example, the Court of Justice clarified key boundary issues in the provision of financial aid to banks. In *Kotnik*, it held that the Commission's communications are not binding on Member States as such, yet they guide compatibility assessments and create a legitimate expectation of equal treatment.[5] In *Tercas*, the Court refined the circumstances under which interventions by deposit guarantee schemes constitute State resources (or are attributable to the State).[6] In *Braesch* (BMPS), the General Court confirmed that Commission approval of aid does not transform

[4] Communication from the Commission – The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis (2008/C 270); Communication from the Commission – The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition (2009/C 10/2) (Recapitalisation Communication); Communication from the Commission on the treatment of impaired assets in the Community banking sector (2009/C 72/1) (Impaired Assets Communication); Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules (2009/C 195/9) (Restructuring Communication); Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis (2010/C 329/7) (First Prolongation Communication); Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis (2011/C 356/7) (Second Prolongation Communication); and Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis (2013/C 216/1) (2013 Banking Communication).

[5] In *Kotnik*, the Court of Justice upheld the lawfulness of Slovenia's bail-in measures required by the Commission during bank restructuring. (C-526/14 *Tadej Kotnik and Others v Državni zbor Republike Slovenije*, ECLI:EU:C:2016:570).

[6] The *Tercas* judgment clarified that financial interventions by a deposit guarantee scheme do not constitute State aid where the scheme is privately financed, acts autonomously, and its decisions cannot be attributed to the State, thereby narrowing the circumstances in which such support is treated as involving State resources. (*Italian Republic and Others v European Commission* [Banca Tercas], Joined Cases T-98/16, T-196/16 and T-198/16, ECLI:EU:T:2019:167). See also: Case C-425/19 P, *European Commission v Italian Republic, Banca Popolare di Bari Società Cooperativa per Azioni, Fondo interbancario di tutela dei depositi, Banca d'Italia*, ECLI:EU:C:2021:154.

national burden-sharing into a Union act; Member States remain accountable for their measures.[7] These cases highlight the distinction between national acts implementing aid and the Commission's compatibility assessment – a distinction that candidate countries must internalise through legal approximation.

The net result of the two regimes is dual control: the BRRD addresses prudential failure and the continuity of critical functions, while State aid control constrains fiscal support that may distort competition. Scholars and policymakers recognise their complementarity, but also note the costs of overlap, particularly the timing frictions between urgent resolution actions and ex ante aid clearance. For example, Nicolaides (2016, pp. 222-240) observed that the EU's resolution framework did not eliminate fiscal interventions; rather, it subjected them to stricter oversight. The European Court of Auditors (2020) confirmed that tensions between State aid law and resolution practice persist. The Commission's continued reliance on the 2013 Banking Communication, despite profound market changes, demonstrates regulatory inertia. The challenge is even greater for candidate countries, such as Serbia and Montenegro, which must transpose the EU framework without its fiscal backstops or institutional depth.

Clarity regarding support 'within' versus 'outside' resolution, and concerning the solvency status of beneficiaries, is indispensable to avoid inadvertent triggering of resolution or the provision of unlawful aid. From the practical perspective of harmonising laws across candidate countries and ensuring effective enforcement, it is essential to explore the instruments available for providing public funds to banks. Accordingly, the central part of this paper is the taxonomy of measures and the evaluation of the mutual relationship between the instruments provided for by the BRRD, on the one hand, and the EU's soft law, on the other hand, in the domain of financial assistance to banks from public sources.

3. The Taxonomy of Public Support to Solvent and Insolvent Banks in the EU

3.1. Introduction to the Instruments of Public Aid to Banks

Several types of public aid are available to banks in the EU. However, the duality of instruments foreseen by the BRRD and the EC Communications contributes to their complexity. The EC Communications on State aid to banks do

[7] The *Braesch* judgment confirmed that privately funded bank resolution or restructuring measures may still constitute State aid where the State exercises decisive influence or control over the decision-making process, thereby broadening the criteria for attributing ostensibly private interventions to the State. (Case C-284/21 P *European Commission v Anthony Braesch and Others*, ECLI:EU:C:2023:58).

not fully align with the BRRD taxonomy. The EC soft law distinguishes between liquidity, restructuring, and liquidation aid, while both regimes correspond to the general classification of public funds use under resolution and out-of-resolution frameworks, which is particularly important from the perspective of accession countries. Both the BRRD and Banking Communications differentiate between two broad categories of instruments: a) instruments of public intervention, including financial stabilisation tools, and use of resolution and deposit guarantee funds; and b) instruments for precautionary support, such as public guarantees and the injection of own funds.

To better understand the scope of EU soft law on State aid to banks and its interplay with the BRRD, the following explanation, drawing on Ghibellini (2021, p. 41-50), clarifies the primary forms of public assistance to banks.

1) Guarantees on deposits, bonds, or the entirety of a bank's liabilities – Designed to improve access to financing and to revive wholesale market liquidity, this category of instruments may take the form of ad hoc measures or operate within an approved scheme. Under such a scheme, eligible banks may agree with the State to have their newly issued debt instruments – specific bonds or loans – guaranteed by the State, subject to an appropriate remuneration fee. The Commission considers State guarantees compatible with State aid rules where the State remuneration is properly reflected in the asset purchase price. Moreover, beneficiaries of such aid are subject to behavioural commitments designed to prevent distortions of competition.

2) Recapitalisations – The purpose of recapitalisations is to strengthen the capital base of financial institutions. A capital injection into a failing bank may be carried out either ad hoc or as part of a scheme. A distinction should be made between precautionary recapitalisations (outside the resolution process), which are usually linked to a capital shortfall that does not breach the prescribed capital limits, and recapitalisations of failing banks. Acknowledging the irreversible nature of capital injections, the Commission requires that recapitalisation schemes include clear ex ante behavioural safeguards, to be monitored and enforced by Member States in order to prevent distortions of competition. The main challenge associated with such schemes lies in determining the appropriate remuneration rate for the State providing the aid (Ghibellini, 2021, pp. 43-45). The Recapitalisation Communication introduced two key elements to be considered in determining the remuneration rate for capital injections: proximity to market prices and incentives to redeem the State as soon as possible.

3) "Bad bank" solutions – This term commonly refers to loss absorption for institutions in distress when so-called "bad banks" are created. Bad banks may be privately held by a bank in difficulty, the banking sector at large, or by the State,

usually through the deposit guarantee fund. Even when the State is the owner, they are separate legal entities whose purpose is to relieve financial institutions of their impaired assets, strengthen their balance sheets, restore access to liquidity, and reduce leverage. However, from a competition policy perspective, bad banks pose fundamental challenges, particularly regarding the book value of transferred assets (Ghibellini, 2021, p. 46). The Impaired Assets Communication introduced rules on ex ante transparency and disclosure, as well as methodologies for valuing impaired assets and determining the State remuneration for the aid provided. The European Commission, *inter alia*, assesses the adequacy of burden sharing for the costs related to asset transfers and generally considers such transfers compatible where the State remuneration is embedded in the asset purchase price. Where the transfer price exceeds the market value, the impaired asset measure is considered to constitute State aid, but it may be declared compatible if the transfer price does not exceed the actual (real) value.

4) Nationalisations – Nationalisations occur when the State takes over all, or a significant part, of a bank's assets in difficulty. In most cases, such programmes aim to restore the bank's health and, where possible, return it to the private sector at a later stage. Nationalisation, in itself, does not constitute State aid, as the TFEU is neutral regarding the form of ownership. However, capital injected into the shares of a failing bank may constitute State aid (Athanasaki, 2017, p. 623). Although EC Communications do not explicitly use the term 'Government Stabilisation Tools,' precautionary and rescue recapitalisations should be distinguished, the latter often corresponding to the BRRD construct 'Government Stabilisation Tools.' The key issues in this context are burden sharing and State remuneration.

Given the varied taxonomies of public intervention, this paper examines public support within and outside the BRRD resolution procedure, with a view to clarifying the potential scope of State aid authorities' competences.

3.2. An Overview of the BRRD Rools

As noted above, the BRRD establishes four primary resolution tools: the sale of business, bridge institution, asset separation, and bail-in mechanisms. Each serves distinct policy objectives while collectively ensuring the continuity of critical functions and the preservation of financial stability with minimal recourse to taxpayers. The guiding principles of the BRRD, particularly the no-creditor-worse-off rule and the internalisation of losses, reflect a shift from discretionary bailouts to ex ante burden-sharing within the private sector (Directive 2014/59/EU, Arts. 37-58). The sale-of-business and bridge-bank tools aim to maintain operations by transferring viable parts of a failing bank to another entity, typically accompanied by temporary

guarantees or liquidity assistance to ensure stability. Asset separation allows for the isolation of non-performing or illiquid assets in a separate vehicle, while the bail-in tool converts or writes down capital instruments and eligible liabilities to recapitalise the institution internally. Although expectations for this instrument were initially high, doubts soon emerged regarding the punitive nature of creditor bail-in regimes (Tröger, 2018, pp. 35-72). Despite the strong emphasis on bail-in, political-economy considerations have rendered the full application of loss-sharing rare in systemic cases (Dewatripont, 2014, pp. 37-43). The World Bank Guidebook (World Bank Group, 2017, pp. 111-120) similarly underscores that liquidity in resolution – through temporary financing or public guarantees – remains indispensable for maintaining market confidence even under a bail-in regime.

In addition to defining the main tools, a further division can be made according to the sources of bank resolution financing (Hadjiemmanuil, 2016, pp. 177-207). The BRRD also provides for the use of Government Financial Stabilisation Tools (GFSTs) in exceptional circumstances, which include temporary public ownership and public equity support measures (BRRD, Art. 56 – Government Financial Stabilisation Tools).

As Gortsos argues, this "poisonous mix" of bail-in discipline and residual fiscal intervention was designed as a narrow safeguard. Yet, it inevitably blurs the line between resolution and traditional public recapitalisation (Gortsos 2016). These government tools can be deployed only when the systemic stability of the financial system is at stake and when the use of the SRF or other resolution financing arrangements is insufficient. This framework illustrates the delicate balance between prudential resolution objectives and fiscal constraints, and it is precisely here that the interface with State aid control becomes decisive.

3.3. Public Support Within and Outside the BRRD Resolution Framework

A fundamental analytical distinction in the post-crisis architecture concerns the nature of public support – whether it is provided within resolution, in accordance with the BRRD's procedural safeguards, or outside resolution to solvent institutions. The within-resolution category encompasses State-financed interventions under the aegis of resolution authorities, such as contributions from the Single Resolution Fund (SRF) or national resolution funds, temporary liquidity facilities, and guarantees. The same applies to the use of deposit guarantee schemes (DGS) to facilitate transfers (BRRD, Arts. 44–58; DGSD 2014/49/EU – as applicable to DGS contributions). Such interventions remain subject to State aid rules whenever they involve State resources or confer selective advantages (Hancher, Ottervanger & Slot, 2016, p. 521).

Conversely, outside-resolution measures typically address solvent institutions experiencing temporary capital or liquidity stress. They include guarantees, liquidity lines, or precautionary recapitalisations that do not trigger resolution because the bank is not "failing or likely to fail." Of particular importance is the Emergency Liquidity Assistance (ELA) framework, which falls within the remit of the central bank. In contrast, the prohibition of monetary financing means that solvency support is a government responsibility (Opinion of the ECB of 3 February 2017 on liquidity support measures, a precautionary recapitalisation and other urgent provisions for the banking sector, CON/2017/01, fn 40). Both the BRRD and Banking Communications therefore recognise specific rules for ELA (Laprévote & Coupé, 2017, p. 118). In practice, banking crises often occupy a grey area between liquidity and solvency (Fernandez, Pardo & Martin, 2015, p. 1).

Ghibellini provides a detailed analysis of this grey zone, emphasising that the classification of such support determines whether the State aid notification requirement applies and which burden-sharing obligations arise (Ghibellini, 2021, pp. 35-75). Smolenska identifies five main types of public interventions that may constitute State aid when granted selectively: recapitalisations, impaired-asset schemes, guarantees, liquidity support, and interventions by resolution or guarantee funds (Smolenska, 2017, pp. 168-175). By contrast, she notes that Emergency Liquidity Assistance (ELA) provided by central banks and depositor pay-outs through DGS do not constitute State aid unless, in the case of ELA, they are State-guaranteed, or, in the case of DGS, they are used for restructuring rather than depositor reimbursement (Smolenska, 2017, p. 172). This distinction between monetary policy instruments and fiscal interventions reflects the functional boundary between prudential and competition disciplines. The operational complexity of determining whether a given measure constitutes aid, and thus requires prior Commission approval, has become one of the central challenges of the EU crisis-management regime. The European Court of Auditors, in its 2020 Special Report on State Aid Control of Financial Institutions, underlined the lack of clarity in defining public resources and attributability in hybrid interventions combining national and supranational funding (European Court of Auditors, 2020). This issue has direct implications for the speed and predictability of resolution actions.

3.4. Solvent and Insolvent Banks: Precautionary Recapitalisation

Article 32(4)(d)(iii) BRRD explicitly provides for precautionary recapitalisation – a public capital injection into a solvent institution to remedy a capital shortfall identified under stress-testing scenarios. Such recapitalisation is permissible only if it does not offset losses already incurred or likely to be incurred, and if it is

temporary and proportionate to the identified capital needs. It therefore sits outside the resolution framework, functioning as a preventive measure to preserve financial stability without triggering the "failing or likely-to-fail" condition.

If a Member State undertakes a public recapitalisation scheme that does not involve burden sharing with private investors, the European Commission is likely to declare such public aid incompatible with EU competition law. Therefore, precautionary recapitalisations presuppose prior "burden sharing" under State aid rules. Furthermore, the State aid framework requires that a restructuring plan for the bank be submitted to and approved by the Commission before the precautionary recapitalisation measure can be implemented. The supervisory authority or the resolution authority is responsible for determining whether a bank is failing or likely to fail, and for ensuring that precautionary recapitalisation benefits a solvent bank. Within the Single Resolution Mechanism (SRM), the supervisor, in consultation with the Single Resolution Board (SRB), determines whether a bank is failing or likely to fail. The Commission must then verify whether the aid can be granted outside resolution and assess its compliance with the conditions set out in Article 32(4)(d)(iii) BRRD. If private capital or loss absorption cannot be secured, the bank will be considered likely to fail and may be placed under resolution.

If the conditions for a precautionary recapitalisation are not fulfilled, the granting of State aid would require compliance with both the BRRD conditions for extraordinary public financial support within resolution and the requirements of the State aid framework. This implies that the BRRD introduces, in addition to the traditional State aid criteria, an additional prerequisite –namely, the prior bail-in of at least eight per cent of total liabilities. This 8% bail-in threshold, set out in Article 44(5) BRRD, is distinct from the Minimum Requirement for Own Funds and Eligible Liabilities (MREL) under Article 45 BRRD,[8] which constitutes an ex ante requirement ensuring that institutions maintain sufficient liabilities capable of absorbing losses. While conceptually related, the two operate at different stages: MREL aims to guarantee the availability of "bail-inable" instruments ahead of failure, whereas the 8% threshold functions as an ex post condition for accessing public funds in resolution.

The legal and policy implications of precautionary recapitalisation have been the subject of sustained academic debate (Olivares-Caminal & Russo, 2017; Bodellini, 2017, pp. 144-164). Ghibellini interprets this provision as a compromise between financial stability considerations and State aid discipline, allowing limited public intervention where private markets are unable to provide capital swiftly (Ghibellini, 2021, pp. 213-245). However, she also stresses that, once losses are

[8] See also Guidelines on the types of tests, reviews or exercises that may lead to support measures under Article 32(4)(d)(iii) of the Bank Recovery and Resolution Directive, EBA/GL/2014/09.

realised or solvency is impaired, such measures cease to qualify as precautionary and must be treated as resolution. The case of Monte dei Paschi di Siena exemplifies the tensions surrounding this mechanism. The bank, though formally solvent, received extraordinary public financial support after stress-test results revealed capital vulnerabilities. The Commission approved the measure as compatible aid under Article 107(3)(b) TFEU, subject to extensive burden-sharing and restructuring obligations (European Commission, 2017).

Yet the case illustrates the fragility of the solvent/insolvent distinction in practice and the potential for divergent assessments between the Commission and resolution authorities. Smolenska's conceptual framework usefully describes this continuum by differentiating between State support within resolution, precautionary recapitalisation, and ordinary public aid (Smolenska, 2017, p. 174). Building on her model, the following taxonomy distinguishing interventions according to: (i) legal basis (BRRD or TFEU), (ii) beneficiary condition (solvent or insolvent), (iii) procedural oversight (resolution authority or Commission), and (iv) fiscal impact (temporary or structural). This analytical table clarifies the overlapping yet distinct competences that characterise the EU's dual banking crisis-management regime.

Table 1 – Taxonomy of State support measures

Category	Legal Basis	Beneficiary Status	Supervisory Authority	Fiscal Nature	Example
Resolution support	BRRD Arts. 37–58	Insolvent/ FOLTF	SRB or NRA	Temporary, backstop	SRF contribution to bridge bank
Extraordinary Public Financial Support (EPFS)	BRRD Art. 56	Insolvent, systemic	NRA + Commission (Aid control)	Structural	Temporary public ownership
Precautionary recapitalisation	BRRD Art. 32(4)(d)(iii)	Solvent	MoF + Commission	Temporary	Monte dei Paschi Case (2017)
Liquidity guarantees	TFEU Art. 107(3)(b)	Solvent	Commission	Temporary	Guarantee scheme during liquidity stress
Deposit Guarantee Support	DGSD + BRRD	Insolvent or transfer	NRA + DGS	Limited, contingent	DGS transfer financing
Monetary ELA	Central bank competence	Solvent	Central bank	Liquidity – neutral	Non-aid instrument

3.5. Extraordinary Public Financial Support

3.5.1. Extraordinary Public Financial Support Under the BRRD

In exceptional circumstances of systemic crisis, once all resolution tools have been exhausted to safeguard financial stability, the resolution authority may resort to public financing. Such intervention is permissible when a bank within the EU is deemed failing or likely to fail, no private-sector solution exists, and a public interest in preserving financial stability can be demonstrated. Generally, the need for extraordinary public financial support indicates that the institution fulfils the failing or likely-to-fail condition under Article 32(4)(d) BRRD, and – where the remaining prerequisites are satisfied – should therefore be subject to resolution. This represents a public support outside resolution and may be implemented through the following instruments: 1) extraordinary public recapitalisation; or 2) a) a State guarantee of newly issued liabilities, or 2) b) a State guarantee to back up Emergency Liquidity Assistance (ELA). These are exceptional circumstances in which public financial support may be provided to an otherwise solvent bank without triggering resolution, the conditions for which are stipulated in Article 32(4)d(iii) BRRD. Public support under resolution – Government Stabilisation Tools (Articles 56–58 BRRD) – does not apply to solvent banks; instead, it is reserved for banks that are failing or likely to fail (FOLTF). The ability of a Member State to utilise this option depends on how the BRRD has been transposed into its national legal order, as well as on any domestic limitations governing the use of public funds. It is worth noting that the Single Resolution Board (SRB), as an EU agency, cannot interfere with the sovereignty of Member States when the national government decides to support a bank through Government Financial Stabilisation Tools (Eurostat, 2016, p. 17). The only authority that could challenge the use of such national financial aid is the European Commission, if the use of these tools contravenes the State aid rules.

Resolution authorities may resort to Government Stabilisation Tools when seeking funding from alternative financing sources, in addition to the resolution and deposit insurance funds. The conditions specified in Articles 56–58 BRRD must be satisfied: there should be a contribution from private sources – including shareholders, holders of other ownership instruments, holders of relevant capital instruments, and other bail-inable liabilities – towards loss absorption and recapitalisation, amounting to no less than eight per cent of total liabilities, including own funds of the institution under resolution at the time of the resolution action, in accordance with the valuation requirements stipulated in Article 36 BRRD. Once this condition is met, the use of Government Stabilisation Tools remains conditional on prior and final approval under the EU State aid framework.

Under Article 107(3)(b) of the TFEU, Government Stabilisation Tools are designed to assist systemic financial institutions in cases of severe economic disturbance. The 2008 Banking Communication (no longer in force) underlined that: "*The Commission reaffirms that, in line with the case law and its decision-making practice, Article 87(3)(b) [nota bene – now Article 107] of the Treaty necessitates a restrictive interpretation of what can be considered a severe disturbance of a Member State's economy.*" Subsequent EC Communications, which remain in force, contain numerous provisions supporting the restrictive interpretation of what can be considered a severe disturbance of a Member State's economy. The Communications emphasise that such support is appropriate: "*only in genuinely exceptional circumstances where the entire functioning of financial markets is jeopardised,*" "*where there is a serious disturbance,*" "*crisis-related support measures,*" and "*only as long as the crisis situation persists, creating genuinely exceptional circumstances where financial stability at large is at risk.*"

As the BRRD also refers to the need to avoid a serious disturbance in the economy (see, for instance, Article 32(4)(d)), it is useful to note that Article 107(3)(b) TFEU provides a more permanent legal basis for assessing the compatibility of State aid measures in the banking sector. Under this provision, aid may be considered compatible not only when a serious disturbance has occurred, but also where such a disturbance would arise in the absence of intervention. It means that aid may be compatible not merely with remedying an existing serious disturbance, but with preventing a potential future disturbance, thereby contributing to the preservation of financial stability (Olivares-Caminal & Russo, 2017, p. 11).

3.5.2. Extraordinary Public Financial Support Under the Serbian Law on Banks: Alignment with the BRRD Framework?

Provisions of Serbian Law on Banks[9] (Article 128ž (1)) incorporate the three main conditions for taking resolution action under BRRD: 1) the bank is failing or likely to fail (FOLTF); 2) no alternative private-sector measures exist to prevent the bank from failing; 3) the resolution is in the public interest. The Law and Banks (Article 128ž (2)) is also harmonised with the BRRD's four legal conditions that an institution must meet to be deemed FOLTF (BRRD Article 32(4)): a) the bank infringes the requirements for continuing authorisation in a manner that would justify the withdrawal of such authorisation; b) the bank's liabilities exceed its assets ("balance sheet" insolvency); c) the bank cannot pay its due debts ("cash flow" or illiquidity insolvency); d) extraordinary public financial support is required.

However, the fourth condition, "the extraordinary public financial support," is subject to the three explicitly listed exceptions in Article 32(4)(d) BRRD (similarly,

[9] *Official Gazette*, Nos. 107/2005, 91/2010, 14/2015, and 19/2025.

Article 128ž, para. 2.4 – (1)(2) and (3) of the Law on Banks). It requires that extraordinary public financial support to solvent institutions be provided "*in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability... of a precautionary and temporary nature... proportionate to remedy the consequences of the serious disturbance, and shall not be used to offset losses that the institution has incurred or is likely to incur in the near future*."

Table 2 – Public support for solvent and FOLTF banks

PHASE: WITHIN OR OUTSIDE RESOLUTION	FORM	SOLVENT/ FOLTF
Public support outside resolution Art. 32(4)d BRRD	State Guarantee of newly issued liabilities State Guarantee to back Emergency Liquidity Assistance	Solvent
Art. 128ž para. 2.4 – (1)(2) and (3) Law on Banks	Extraordinary Public Recapitalisation	
Public support under resolution (Arts. 56–58 BRRD) Not transposed in the Law on Banks	Government Stabilisation Tools: - Public equity support tool - Temporary public ownership tool	Failing or Likely to Fail Bank

The wording of *Article 128f of the Law on Banks* appears to refer exclusively to banks that are not solvent, i.e., those falling into the category of "Failing or Likely to Fail," for the following reasons. First, paragraphs 1 and 2 of this Article both refer to restructuring financing. Second, the wording of paragraph 3 pertains to funds to be used in the resolution process: "*If assets from funds specified in paragraphs 1 and 2 of this Article are insufficient to fund bank resolution… to achieve the resolution objectives to the greatest possible extent by applying other resolution tools, and particularly to preserve financial stability – the National Bank of Serbia shall submit to the ministry in charge of finance the application for a positive opinion on ensuring financial support funds from paragraph 1 hereof…*". Finally, paragraph 8 of the same Article provides: "*If the Government does not adopt the proposal from paragraph 5 hereof, the National Bank of Serbia shall adopt the decision on revoking the bank's licence, unless the bank's licence was revoked in the course of determining the conditions to initiate the resolution procedure*."

Additionally, Article 128ć, paragraph 5, of the Law on Banks explicitly refers to "*the extraordinary support granted in the course of resolution procedure*." Consequently, the wording of Article 128f cannot be interpreted as applying to State guarantees of newly issued liabilities, State guarantees backing Emergency Liquidity

Assistance, or extraordinary public recapitalisation (.Art. 32(4)d BRRD and Art. 128ž para. 2.4 – (1), (2) and (3)). Instead, it appears to address public support within resolution, corresponding to the two 'Government Stabilisation Tools.' However, Articles 56-58 BRRD have not been transposed in the applicable Law on Banks, which, *inter alia*, does not contain a formal definition of the term "extraordinary public financial support."[10] It is worth noting that the implementation of government financial stabilisation tools remains a matter of national discretion – it is for the Member State to decide whether to use these tools, and the resolution authority cannot compel their use (IMF, 2017, p. 44). Any other approach would constitute a direct infringement of the Member State's budgetary sovereignty.

4. The Interplay and Tensions Between the BRRD and the EU State Aid Regime as an Aggravating Factor for Candidate Countries

The coexistence of the BRRD and EU State aid control produces a durable dualism in crisis management: prudential objectives centred on the continuity of critical functions and systemic stability, on the one hand, and competition policy aimed at preventing selective advantages financed from State resources, on the other. Nicolaides (2016, pp. 222-240) argues that this dualism is deliberate rather than accidental, constituting a check-and-balance arrangement in which distinct legal tests are applied to the same intervention. The Single Resolution Board (SRB) and national resolution authorities determine whether a credit institution (FOLTF) has failed and whether public interest requires resolution. Simultaneously, the Commission, applying Article 107(3)(b) TFEU, assesses whether a measure constitutes State aid and, if so, whether it is compatible with the internal market.

The conceptual complementarity is evident, yet practical frictions remain persistent. Three recurrent divergences structure the interface (Nicolaides, 2022, pp. 79-90). *First*, authorities may disagree on the existence and scope of State aid. The classification of State resources and imputability has been particularly controversial in cases involving deposit guarantee schemes (DGS) or resolution funds. In *Tercas*, the Union courts refined the circumstances under which DGS interventions are attributable to the State, compelling a narrower reading than the Commission's earlier practice. *Second*, authorities may diverge on the concepts of public

[10] According to Article 2 BRRD "Definitions" under point (28) "'*extraordinary public financial support' means State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supranational level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency* of *an institution or entity referred to in point (b), (c) or (d) of Article 1(1) or of a group of which such an institution or entity forms part*."

interest versus serious disturbance. The SRB's public-interest test is tailored to the continuity of critical functions, whereas the Commission's serious-disturbance test focuses on macroeconomic stability and competition effects (Lastra, Russo & Bodellini, 2019, pp. 15–18). These lenses do not always converge, which can lead to the approval of liquidation aid outside a BRRD resolution, as in the cases of Veneto Banca and Banca Popolare di Vicenza,[11] where the SRB did not find that resolution was in the public interest (Asimakopoulos, 2018, pp. 156-162). Since national insolvency laws within the EU are not harmonised, this may result in differential treatment of creditors in liquidation versus resolution.[12] *Third*, authorities may differ in how they treat solvent institutions. Precautionary recapitalisation under Article 32(4)(d)(iii) BRRD falls outside resolution, yet it is almost always classified as State aid, subjecting it to Commission control and creating potential timing conflicts.

The temporal dimension accentuates these divergences. Resolution actions demand immediate execution, whereas State aid clearance, even when expedited in crises, still requires a coherent notification and assessment record. The European Court of Auditors (2020) found that the 2013 Banking Communication, conceived before the BRRD's application, was not fully aligned with the Banking Union context and urged a fitness check. Stakeholder submissions in the Commission's 2022 targeted consultation reinforce this picture. The European Savings and Retail Banking Group called for more precise guidance on the use of DGS and on the interaction between liquidation, transfer tools, and aid control (ESBG, 2022). At the same time, the Netherlands advocated streamlined procedures and clarified responsibilities between national authorities, the SRB, and DG Competition (Government of the Netherlands, 2022). Goodhart and Avgouleas (2015, pp. 3-29) memorably describe the outcome as a "double lock": sound in principle, but prone to delay when the windows for decisive action are narrow. Ghibellini (2021, pp. 247-254) and Smolenska (2017, pp. 173–175) note that the current framework blurs the line between resolution funding and State aid, particularly when public funds under State control, such as the SRF, require the Commission's clearance. These tensions suggest that, despite a decade of integration, Europe's crisis management remains bifurcated.

Doctrinally, courts have delineated the boundary between EU and national responsibilities. *Kotnik* confirms that the Commission's communications guide compatibility but do not bind Member States as such; yet once a selective advantage arises from State resources, notification is mandatory, and failure to notify triggers

[11] Single Resolution Board, 'The SRB will not take resolution action in relation to Banca Popolare di Vicenza and Veneto Banca,' 23 June 2017.

[12] For this reason, the International Monetary Fund recommended that the SRB be assigned the powers to administer bank liquidation as a separate tool. IMF. 2018. Euro Area Policies, Financial System Stability Assessment, IMF Country Report No. 18/226, p. 7.

illegality and recovery. *Braesch (BMPS)* clarifies that the Commission's approval of aid does not transform national burden-sharing into an EU measure, a crucial reminder that legal accountability for investor losses lies with domestic authorities. These rulings underscore that dual control is not a hierarchy but a coordination problem: distinct legal regimes applied in parallel to the same episodes of financial distress. Recent scholarship suggests that, even under CMDI reforms, State aid is likely to remain the operative channel for small and medium-sized banks; the task is to make that channel faster and more coherent (Schillig, 2025, pp. 221-240). In conclusion, it appears that, in circumstances of last resort, both the State aid framework and the resolution regime place greater emphasis on safeguarding financial stability than on strictly limiting the use of public resources (Olivares-Caminal & Russo, 2017, p. 15; Lastra, Russo & Bodellini, 2019, pp. 13–14). This is justified by the assumption that, without public funds, the bank's financial position could quickly deteriorate, leading to financial instability (Bodellini, 2017, p. 155).

The resilience of the EU model lies in this dual discipline, while its exportability depends on whether states without EU-level backstops can sustain the same coordination burden. The following chapter considers these legal and policy challenges in candidate countries, with specific reference to Serbia's framework for extraordinary public financial support and its interaction with emerging resolution practice.

5. Exporting the EU Framework to Accession Countries: Legal and Policy Challenges with Special Reference to Serbian and Montenegrin Legislative Frameworks

The above analysis and taxonomy of State aid to banks are intended to assist in understanding and clarifying the obligations of candidate countries. Candidate countries seeking alignment with the *EU acquis* must transpose both the BRRD and the State aid control regimes. The dual-control model is challenging to export. In Member States, the Single Resolution Board (SRB) and the Commission operate in tandem, supported by the Single Resolution Fund and EU budgetary capacity. Candidate countries lack such instruments and must therefore ensure legal clarity to avoid conflicts between prudential supervision and competition enforcement. The experience of the EU's own Banking Union suggests that regulatory coordination, rather than mere transposition, is decisive. Case law, such as *Braesch*, confirms that national authorities retain primary responsibility for notification and implementation. Not only legislation, but also case-law principles (e.g., notification discipline, attribution of measures, private-investor test) must be internalised domestically.

Nicolaides (2016, pp. 222-240) warned early that State aid rules would continue to prevail over resolution tools in the absence of fiscal coordination. As Schillig (2025, pp. 221-240) argues, even within the CMDI reform agenda, State aid remains the primary avenue for resolving small and medium-sized banks. This implies that the tensions observed within the EU are likely to arise in accession countries unless a coherent mechanism for fiscal support and competition control is established. For accession countries, replicating this model without a central budgetary backstop risks perpetuating moral hazard rather than resolving it. Consequently, candidate countries face several structural asymmetries: no fiscal backstop, limited resources for the resolution fund, and weaker administrative capacity. Setting these policy challenges aside – which further complicate the implementation of the legal regime of state aid to banks – the discussion below focuses on the difficulties of transposing this regime in accession countries, specifically Serbia and Montenegro.

In accordance with Article 73 of the Stabilisation and Association Agreement between the European Communities and their Member States and the Republic of Serbia,[13] and correspondingly Article 73 of the Stabilisation and Association Agreement between the European Communities and their Member States and the Republic of Montenegro,[14] alignment with the *EU acquis* in the area of competition law is foreseen, and includes State aid. Both Serbia and Montenegro are required to establish an operationally independent authority entrusted with powers related to State aid that distorts, or threatens to distort, competition by favouring certain undertakings or products between the EU and Serbia, and the EU and Montenegro, respectively. Such authorities must be equipped with the powers to authorise State aid schemes and individual grants, as well as to order the recovery of unlawful State aid.

Although the SAAs concluded with both countries are clear, several questions arise. From a technical perspective, the first question is whether the EC Communications on State aid to banks in difficulty, as soft law,[15] must be transposed into a national act (bylaw) or, as is already the case in Montenegro's banking resolution framework, whether the legislation on resolution of credit institutions should simply provide a reference to the applicable European legal framework.[16] To the best of the author's knowl-

[13] Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part OJ L 278, 18 October 2013, pp. 16-473.

[14] Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Montenegro, of the other part OJ L 108, 29 October 2010, pp. 3-355.

[15] Under the presumption that national authorities responsible for State aid control are expected to apply the regime established by the EC Communications on State aid to banks prior to EU accession.

[16] Article 13(3) of the Law on Resolution of Credit Institutions of the Republic of Montenegro

edge, no accession country fully transposed all relevant banking communications into national legislation prior to joining the EU. In implementing the BRRD recovery tools, Member States' legislation generally refers to the European legal framework on State aid control to banks. Similarly, the Law on Resolution of Credit Institutions of the Republic of Montenegro in a chapter dedicated to "Principles of Recovery," prescribes that: "When applying rescue and recovery instruments and exercising powers, if necessary, the procedure should be conducted in accordance with the regulations of the European Union governing State aid." (Art. 13(3)). Given that Montenegro has successfully achieved harmonisation in this area during accession negotiations, could the same approach suffice for amending the Serbian Law on Banks?

From an institutional perspective, if both competent bodies – the Serbian Commission for State Aid Control and the Montenegrin Agency for Protection of Competition – are expected to implement the EU State aid *acquis* related to aid to banks in the same manner as the European Commission applies it under the TFEU, both SAA imply that "any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products" is incompatible "insofar as it may affect trade between the Community…" (Art. 73, para. 1 and para. 1. iii). Given the small size of both the Serbian and Montenegrin markets, the question arises whether aid granted to banks in these countries could meaningfully affect trade with the EU.

Furthermore, let us suppose that national authorities responsible for state aid control are expected to apply the regime established by the EC Communications on State aid to banks prior to EU accession. In that case, it is worth noting that the Communications would apply in the event of a severe economic disturbance, when the functioning of financial markets would be jeopardised. This raises the question of whether exceptional public financial support should be limited solely to insolvent banks, and whether recourse to funds should be limited to the initiation of the resolution procedure ("Government Stabilisation Tools") rather than being available beforehand (i.e., in recovery activities outside the resolution framework). The Serbian Law on Banks recognises the jurisdiction of the Commission for State Aid Control only in cases of major economic disruptions and financial crises.

The adoption of specific legal acts, notably the BRRD and its implementing legislation, has posed several challenges in implementing the State aid framework

(*Official Gazette*, Nos. 72/209, 82/2020, 8/2021, 113/2024) is insightful as it shows that provisions of the EC Communications do not have to be transposed into national legislation but referred to, and the application of the European legal framework on State aid to banks can be postponed until EU accession. The Law makes a generic reference to all applicable EC Communications by referring to the duty to consider "the applicable legislation of the EU on State aid" and specifies, in its final provisions, that it is applicable "upon the Republic of Montenegro's accession to the EU."

discussed in this paper. Taking into account that the European Commission has announced the modernisation of the framework on State Aid to banks, transposing the provisions of the Communications into national legislation carried the risk of creating confusion with the implementation of the BRRD requirements in Serbia and Montenegro.

The above analysis of Article 128f of the Serbian Law on Banks indicates that its application is confined to situations involving severe economic disturbances, in which the National Bank of Serbia (NBS) may seek the Government's intervention and access to additional funds that could constitute State aid. By contrast, the use of resources from the deposit insurance scheme and the resolution fund is explicitly excluded from the scope of State aid (Article 128f(7)). Consequently, the competence of the Serbian State aid authority would arise only in cases where extraordinary financial support is requested from the Government in the form of additional aid. Furthermore, Serbian legislation does not define "extraordinary public financial support," and it remains unclear whether it encompasses more than the Government Stabilisation Tools specified in Articles 56–58 BRRD.

The previous analysis indicates that the State aid implications of bank support funded by public funds in Serbia are limited to "the extraordinary support granted in the course of resolution procedure," which raises the question of how to transpose the EU soft law in the area of State aid control. Since the Montenegrin State aid framework has been assessed as compatible under the Negotiation Chapter 8 – Protection of competition, this demonstrates that referencing the EU legal framework is possible. However, it remains unclear whether these provisions will be applied at all prior to EU accession, and whether the national authority responsible for State aid control is competent.

Since the European Commission has explicit competence in the field of State aid to banks, Member States do not assume responsibility for the soft law instruments (State Aid Banking Communications). None of the accession countries had previously chosen to fully transpose the Communications, to the best of the author's knowledge. The above questions, and the fact that the adoption of specific legal acts – notably the BRRD and its implementing legislation – posed various challenges in implementing the framework on State aid, must be considered. Taking into account that the European Commission has announced the modernisation of the framework on State aid to banks, transposing the provisions of the Communications carries the risk of creating confusion with the implementation of the BRRD requirements in candidate countries. The transposition of the directive also raises questions about the capacity of national State aid control authorities in the complex area of finance.

5. Conclusion

The coexistence of the BRRD and State aid control constitutes both a safeguard and a structural constraint in EU crisis management. The coexistence of the two regimes embodies both the strength and the complexity of the EU's approach to financial stability. It ensures discipline through competition law while allowing flexibility through prudential resolution tools. While it promotes fiscal discipline and market integrity, it also fragments decision-making, as overlapping procedures and institutional frictions can slow the process. The persistence of parallel procedures and the continued relevance of State aid approvals suggest that the EU has not achieved full integration between prudential and competition frameworks. The ongoing CMDI reform offers an opportunity to streamline this interaction by aligning the definitions of 'public interest' and 'serious disturbance.'

The Commission's ongoing evaluation and the CMDI reform highlight the need for recalibration: aligning definitions, procedures, and intervention thresholds. As the dual conditionality between BRRD and State aid control remains unresolved even within the EU, this asymmetry creates risks of incomplete policy transfer in candidate countries. The key lesson for candidate countries is that legal approximation alone is insufficient; the key requirement is to strengthen the institutional capacity and mandates of State aid authorities. Institutional coordination, credible backstops, and procedural clarity are prerequisites for a sustainable transposition of EU crisis-management norms. Without these, exporting the dual BRRD–State aid model risks importing its inconsistencies rather than its safeguards.

For candidate countries, the challenge lies not in legal imitation but in institutional adaptation. Without an EU-level fiscal backstop or a central resolution fund, reproducing the BRRD–State aid duality may create legal uncertainty rather than stability. The future of crisis management in Europe, both within and beyond the Union, depends on resolving this interplay rather than perpetuating parallelism. For candidate countries, this intersection necessitates a dual institutional structure – coordination between the competition authority and the resolution authority – to emulate the EU model effectively.

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