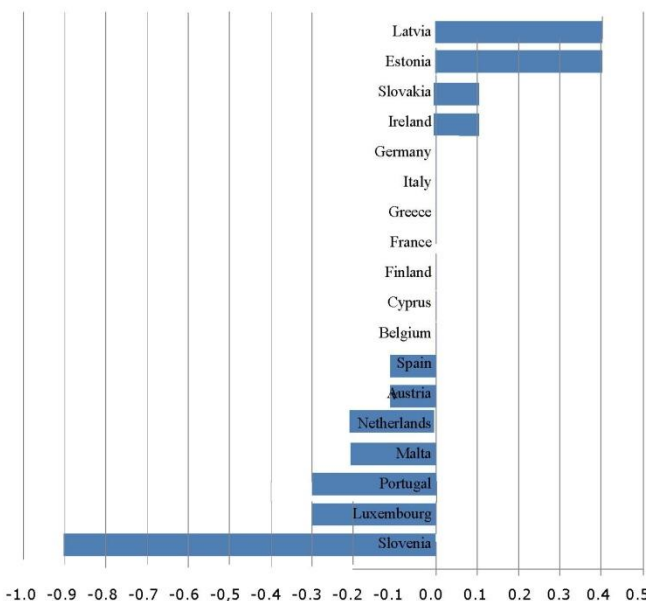


## Counterarguments to recent statements by the Bank of Slovenia along with additional disclosure of misleading statements, falsehoods and unlawfulness

1. By the same token, the Report on bank restructuring by the Bank of Slovenia, prepared for the National Assembly of the Republic of Slovenia in March 2015, contains a host of falsehoods and contradictions. In the second box on page 63, it is written that conducting stress tests using the bottom-up approach is »a common practice«, whereas in the box on page 62 this method was defined as the only permissible option- »stress tests are conducted according to the bottom-up approach, and always include two macroeconomic scenarios - baseline and adverse one«. Were there a binding rule that solely bottom-up test results are applicable and relevant for the purpose of the bank restructuring in the EU, the Bank of Slovenia would definitely quote the legal instrument and the pertaining provision prescribing this. **That such a rule does not actually exist is corroborated by the fact that stress tests in Spain were conducted using both top-down and bottom-up approaches and both results were adhered to** (the final, combined results were used as Spain's argument that no financial aid by troika needed to be requested, but it could draw down funding of the EFSF/ESM fund for the purpose of the bank restructuring).

THE EXTENT TO WHICH THE ECB HAS CHANGED ASSUMPTIONS IN STRESS TESTS OF THE SPRING FORECAST OF THE EC, WHICH WERE PRESUMABLY TO BE COMPLETELY UNCHANGED IN ALL COUNTRIES AS STATED BY THE BANK OF SLOVENIA

■ in percentage points of the annual real change (growth or decline) of the GDP



Sources: European Commission, European Central Bank, European Systemic Risk Board (ESRB)

2. On page 64 of the Report, the Bank of Slovenia provides the assumptions used in its tests in December 2013, that is, in the period when it was already possible to estimate actual values of macroeconomic indicators for 2013. **The Bank of Slovenia's assumptions both for 2013 and 2014 extremely differed from the actual values which is explicitly indicated in the following table:**

macroeconomic indicator	2013			2014		
	Bank of Slovenia's assumption - baseline	Bank of Slovenia's assumption - adverse	actual	Bank of Slovenia's assumption - baseline	Bank of Slovenia's assumption - adverse	actual
GDP change	-2.7%	-3.1%	<b>-1.0%</b>	-1.5%	-3.8%	<b>+2.6%</b>
real estate price change	-9.6%	-11.0%	<b>-7.4%</b>	-4.3%	-12.2%	<b>-2.6%</b>
unemployment rate	11.3%	11.4%	<b>9.9%</b>	11.5%	12.6%	<b>9.7%</b>

\* change in the first half year of 2014 relative to the first half year of 2013, whereas the annual data will probably be known in April

3. In the box on page 68, the Bank of Slovenia argues as if to say that: »if the value of bank assets, considering a liquidation valuation, in bankruptcy proceedings would not suffice even for the repayment of all bank liabilities to ordinary creditors, it is understood that the value of subordinated bonds should equal zero«. This is preposterous as, in

this case, each bank which operates regularly and has been issued subordinated instruments which could (or even must?) expire as soon as the capital valuation under the assumption of the liquidation showed that ordinary creditors would not be entirely repaid!? **Could the Bank of Slovenia name a single bank where subordinated bonds had been canceled based on such a hypothetical calculation, and the bank went on with its regular operations afterwards? Could the Bank of Slovenia name any bank which would set itself to do liquidation capital valuation during its regular operations?**

4. The rationale behind this deceit becomes more evident in the sentence written on page 68 of the Report, right above the aforementioned box: *»In the event of emergency measures, bank creditors are namely entitled to compensation solely in the amount as if their claims had been settled in bank insolvency proceedings«*. **This has not been specified in the Report of the EC as of August 1, 2013, however this method (making decisions based on the liquidation capital valuation) was laid down in the ZBan-1L merely because the cancellation was previously arranged. For this reason, our regulation (ZBan-1L) is considerably more stringent than the Report of the EC, as in the array of measures defined in the Report (partial write-off, conversion, complete cancellation) it only provides for complete cancellation.** To show that wording of ZBan-1L is such that it calls for cancellation as an emergency measure at all times, [in the session of the Public Finance Supervision Committee of the National Assembly of the Republic of Slovenia](#), referring to the question of Mr. Tadej Kotnik to Mr. Boštjan Jazbec whether he can confirm that this was established together by them in March 2014, **was confirmed by Mr. Boštjan Jazbec, the governor of the Bank of Slovenia. For what reason would the Bank of Slovenia, despite that fact, persist in the unsubstantiated claims that the cancellation was determined by the Report of the EC?**

5. On page 68 of the Report it is also stated that **the transfer price of property upon transfer to the Bank Asset Management Company (BAMC) »was set above the estimated market value and that in this scope (market price surplus) it represented the state aid to the bank«**. Even this is completely discrepant with the notorious facts -, for instance, the one that the transfer [price of Letrika stocks](#) was set at EUR 10 per stock although the market price of the stock (stock exchange rate) during the transfer was adding up to approximately EUR 33 per share. How could this go along the lines of the claim that the transfers to the BAMC *»were carried out below the market value and hence represented a state aid«*? **How many times will it be required to prove the falsehoods of one and the same untruths, which have been uttered and written down by the representatives of the Bank of Slovenia time and again with slight modifications?**

6. As regards discrepancies between dates of issuing Decisions on emergency measures in December in 2013, the Bank of Slovenia still claims (however also in a slightly modified version) that in these Decisions the **setting the date to December 17, 2013 - although referring to the Decisions of the EC as of December 18, 2013 as its legal basis (namely in the past tense with no conditionals or any mention of suspensory condition) - is something common and even unavoidable**. This time, the Bank of Slovenia - as stated on page 68 of the Report - laid down that *»Preparation of decisions to be served to banks implies also technical preparations, which is why the Council of the Bank of Slovenia was deciding over issuing decisions in the session as of December 17, 2013 and thus enabled conditions to draft decisions«*. Should this mean that they were entirely written only after the Council of the Bank of Slovenia had already been deciding and also had made the decision? Did they write all of the five decisions on emergency measures comprising in total 61 pages of the technically demanding text in less than 24 hours from December 17, 2013 - after the closure of the session of the Council of the Bank of Slovenia - to December 18, 2013 in the morning? Not to forget - **if such actions are not only common, but also unavoidable, why weren't they undertaken in the same "unavoidable" manner in Banka Celje, but in this case the Decision of EC and all three decisions of the Bank of Slovenia (on**

emergency measures, on validation of the nominal capital increase, and on the expiration of emergency measures) were issued on the same day - December 16, 2014?

7. On page 71 of the Report, the Bank of Slovenia explicitly stated that *»Capital surplus of all three banks according to the baseline scenario adds up to EUR 754.7 million«*. How does this go together with the statement of the Bank of Slovenia - made so many times in the last weeks - that during recapitalization in December in 2013, the banks supposedly had not received excess incoming payments, and that the cancellation of all subordinated bonds should have been urgent? **Due to the cancellation or unjustified expropriation, the requirement for the budgetary resources decreased by EUR 440 million, but now the Bank of Slovenia itself acknowledges that the state paid EUR 754 million more than it would suffice for their capital adequacy at least by the end of 2016**, were the macro-economic indicators to evolve according to the most likely scenario! In other words: **hadn't the subordinated bond been cancelled, the state would have paid in the banks EUR 300 million less, and the banks would have still retained capital adequacy nevertheless - now and further on, at least by the end of 2016**; all the other statements are far-fetched hypotheses about so-called unlikely future, under exceedingly pessimistic assumptions, questionability of which is clearly illustrated in the table under item 4.

8. On page 68 of the Report, the Bank of Slovenia argues that is obliged to *»acquire the assessment of an independent asset valuer - liquidation valuation of bank funds«*. **However, when determining liquidation value of banks, the Bank of Slovenia has not been provided an opinion of an independent asset valuer and did not comply with otherwise contentious provisions of the Banking Act** (hereinafter: ZBan-1L), which implies that the **Emergency measure decisions have not been based on the valuations as they should be** pursuant to ZBan-1L provisions. ZBan-1L in Article 261b namely provides that: *»The Bank of Slovenia shall decide upon expiration or conversion of evaluated liabilities based on the assessment of bank asset value provided by the independent asset valuer of companies...«*

Act Defining the Measures of the Republic of Slovenia to Strengthen Bank Stability (ZUKSB) clearly distinguishes between "person" and "company", which means that both ZBan-1 and ZUKSB distinguish between a person and a company i.e. a legal entity. Regulation on the implementation of measures to strengthen the stability of banks, which was adopted by the Government of the Republic of Slovenia based on the provisions of ZUKSB, provides that: ***»independent valuer« is a person, who possesses required qualifications, knowledge and experience to perform valuation of individual types of assets or companies, and who is not involved in the decision-making process regarding transactions of the assets of company which is the subject of valuation.*** Item 31 of Article 3 of the Auditing Act provides that: *»Certified valuer/auditor (hereinafter: certified valuer) is a natural person with the professional title of certified valuer of company values, properties or machine and equipment, and who has a valid permission to perform tasks of an independent valuer pursuant to this Act.«*

As follows from [all Emergency measures decisions](#), the Bank of Slovenia substantiated all emergency measures on bank liquidation score provided by companies Ernst & Young Svetovanje d.o.o. and Deloitte svetovanje d.o.o., however not by Ernst & Young d.o.o. and Deloitte revizija d.o.o.! **Ernst & Young Svetovanje d.o.o. and Deloitte Svetovanje d.o.o. are not auditing companies, and under the law cannot be independent corporate valuers as required by the ZBan-1L. It follows that the liquidation value of banks, which served as a basis for emergency measures and cancellations (expropriations) of shareholders and bondholders, was not calculated under ZBan-1L provisions, and which is why it may not be a legal basis for emergency measures.**