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INVESTORS HAIRCUTS IN "BANKRUPT" COUNTRIES

At the level of declarative statements, the European Commission (EC) keeps stressing the need to regain the trust and confidence of investors.

In contrast, in the actual steps required by the EC and "troika" in return for emergency lending to the PIIGS countries, the investors are always among the first to suffer losses with various "haircuts", often based on retroactive rules, implemented via ad hoc and constitutionally questionable laws.

GREECE

In Greece, the private holders of gov't bonds suffered 75% haircuts, while official holders retained the right to full nominal value and accrued interest on these bonds.

The legality of this is highly questionable, as bonds' prospectus guarantees equal treatment (pari passu) to all holders, and moreover contains no collective action clause. Subject to a lawsuit at the Council of State in Athens (Greece's highest administrative court).

CYPRUS

In Cyprus, the depositors of both the second largest bank (Laiki, declared insolvent) and the largest bank (BoC, officially still solvent) were forced into large (40 to 80%) haircuts to the uninsured part of their deposits (amounts over 100000 EUR), although the shareholders of the largest bank retained the ownership of their shares.

This haircut is also legally highly questionable, as the shareholders should be the first to absorb bank's losses. Subject to several lawsuits at national courts in Cyprus, and a group action lawsuit at the European Court of Justice in Luxembourg is in preparation.

SLOVENIA

In Slovenia, which has not yet requested any financial aid from the EC or troika, EC is nonetheless forcing the implementation of a new law allowing haircuts of up to 100% to bondholders of banks asking for state aid.

Neither the prospectus nor the existing Slovenian legislation allow for such haircuts without the issuer bank declaring insolvency. The national union of banks (ZBS) and securities exchange commission (ATVP) expressed strong doubts about the new law's constitutionality. Yet, the government presses on with its implementation, stating that "Brussels insists", and with the parliamentary vote scheduled for the coming days.