The Ark NoA

NoA has come. This famous and long-awaited Notion on the concept of an aid. This brings this journal to the core question it has been trying to answer since the day it was born. State aid, what is it?

On its pages that have been filled for more than 14 years numerous authors looked for an answer to this question. Academic articles have been handed in to interpret the jurisprudence of the EU Courts and, hopefully so, to influence it. Most importantly, quite a solid number of these authors have later become judges in Luxemburg themselves. Many of the articles that have been written for this “European State aid Law Quarterly” find themselves quoted in opinions of Advocate Generals. Much to our regret, the rulings themselves never quote anything than other rulings.

In essence, State aid has long been perceived to be sharing the nature of a jelly fish, meaning once you think you have grasped it with your hands it slips out of your control again. Now, it is all clear-cut written down, in just 68 pages, much less than an average issue of the „European State aid Quarterly“ comes up with. Surprisingly so, it is a far cry from what has been expected when we learnt that the main Inspirator of it came from the ranks and files of the Commission’s Legal Service. So, many thought, that this would come up as this sort of papal bull, carrying the inner dogma of infallibility and nurturing the ambition of binding the whole State aid community and, maybe even, the EU Courts themselves.

In the end, it is not the dogmatic piece expected, it is moreover truly democratic. Because for being democratic you cannot be dogmatic, for succeeding in democracy you must have a majority, most ideally an absolute majority.

Therefore, for the NoA to succeed, it must not be the Notion of the „either or“, it must be the notion of the „as well as“. It must be the Notion of the aid beneficiaries and its competitors at the same time. It must be the Notion of the fiscally austere as well as of the tax squanderers, the Notion of the honest and of the corrupt granting authorities. It must serve the interests of the tax evaders as well as of the honest tax payers, it must be the Notion of the Multinationals striking deals with tax authorities in Ireland, Luxemburg and the Netherlands as well as the Notion of the SMEs in the rural hinterlands of assisted regions. In other words it must be the Notion of EU cohesion.

When looking at the wording „NoA“, it carries an onomatopoeic resemblance with the famous ark from the book Genesis of the Holy Bible. In order to obey God’s will that he and his wife should survive the flood, NoA had to bring a remnant of all the world’s animals into it. And here the dots are connecting. The NoA, if it is to carry us through the floods, has to bring all these aforementioned animals together.

If the NoA really achieves this, it may indeed not only carry us through the floods, but eventually turn out to be the “ring that rules them all”. Whether the Berlaymont building, where it has been created, really is the like the “land of Mordor where the shadows lie” is debatable and will certainly be debated for as long as this journal lives.

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