Proportionality in European Banking Regulation:

Proportionality as a function of banking diversity

Professor Dr. Christos Vl. Gortsos

Professor of Public Economic Law, Law School, National and Kapodistrian University of Athens

13 February 2017

A. The three (3) pillars of proportionality

- Cost-benefit analysis for individual regulations *and* for the entire regulatory framework
- Complexity in regulation *vs*. *excess* complexity
- Differentiation and materiality
  - diversity of banks in terms of size, business models and mix, ownership structure and interconnectedness
  - application of rules in a simplified way *vs*. waiver of rules

B. Areas of application

- Micro- and macro-prudential banking regulations (capital requirements and buffers – liquidity requirements – leverage requirements)
- In particular: corporate governance rules
- Investor protection regulations (to the extent that banks provide investment services)
- Resolution preparation
- Resolution actions and tools: the case against bail-in
- Reporting requirements and the ‘coordination deficit’

C. Some specific points of concern

- On the cost-benefit analysis:
  - better micro-prudential supervision *vs.* more stringent micro-prudential regulations
  - linking more closely macro-prudential oversight with macro-prudential regulations
  - the optimal size of prudential rules under an optimal resolution regime (in normal macro-economic times)
- On bank resolution in the case of 'structural crises': adequacy of applying resolution tools to the entire banking system