Privatisations and golden shares : bridging the gap between the State and the market in the area of free movement of capital in the EU

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Propositions relating to the dissertation

Privatisations and golden shares

Bridging the gap between the State and the market in the area of free movement of capital in the EU

by Ilektra Antonaki

1 Unfettered capital liberalisation can cause financial instability and income inequality.

2 The third-country dimension of the free movement of capital is a potential gateway through which third-country investors can access the EU's Internal Market. However, the Court does not allow extra-EU economic operators to rely on Article 63 TFEU in order to circumvent the intra-EU territorial scope of the freedom of establishment and services and allows additional justification grounds in relation to restrictions on extra-EU capital movements.

3 Article 63 TFEU should be horizontally applicable for reasons of legal consistency and equality between the State and private parties as market operators, when the latter have the power to impose certain contractual conditions on other private parties.

4 The true meaning of the principle of neutrality under Article 345 TFEU is that national measures relating to the property ownership systems of the Member States (i.e. either nationalisation or privatisation) should be exempted from internal market scrutiny.

5 In relation to golden shares, the test for the determination of a 'capital restriction' should be recalibrated through the introduction of a *Keck*-inspired concept of 'investment arrangements' in the field of free movement of capital.

6 Article 63 TFEU should not be regarded as a *carte blanche* to abolish all national company law requirements derogating from the *principle of proportionality between ownership and control* or not adhering to the *principle of shareholders' primacy* on the assumption that they render foreign investment less attractive.

7 In the golden shares case law, a *procedural proportionality test* based on *legal certainty* can guarantee an objective judicial review that respects national regulatory diversity, whilst at the same time promoting procedural uniformity in the EU and facilitating foreign investment.

8 Self-critique is a prerequisite to self-improvement. If the EU does not allow for space to debate and engage with the democratic legitimacy of its decision-making processes and its socio-economic policies, eurosceptic parties will continue to divide the European population.

9 Austerity exacerbates social inequality.

10 For an individual, studying and working abroad can be an extremely beneficial and rewarding experience, both professionally and socially. For Southern European States, however, the 'brain drain' that they have experienced as a result of the economic crisis constitutes an acute social and economic problem, undermining their prospects of economic recovery.

11 Specialisation is inevitable in modern science. However, overspecialisation deprives academics of the more flexible generalist approach and does not allow them to embrace polymathy and the ideal of *homo universalis*.

12 Maternity can be the most fulfilling and the most overwhelming experience in a woman's life.