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The Privatising Industry in Europe

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Executive summary

European citizens have witnessed a wave of privatisations in their countries in recent years. Transnational Institute (TNI)'s report, *Privatising Europe,*[1] published in 2013 showed how the European Union (EU) and the International Monetary Fund (IMF) used the economic crisis as a way to push through privatisation programs in indebted EU countries, despite major popular opposition. Three years on, this briefing examines the consequences of those privatisations. It puts a spotlight on the process, the corporate players that have profited, and examines whether the sale of state-owned assets has delivered on the promises used to justify their privatisation.

The European Privatisation Industry reveals how:

- **The rationale put forward by advocates of privatisation does not stand up to the evidence.** Privatisation has been justified on the basis of providing revenue for indebted states and increased efficiency. Yet in nearly all cases, only profitable firms are being sold and consistently at undervalued prices. Meanwhile research by the IMF and by European universities shows that there is no evidence that the privatised firms are more efficient. Instead privatisations have undermined wages, weakened labour conditions and growing income inequality.

- **A small coterie of legal and financial firms is reaping significant profits from the new wave of crisis-prompted privatisations.** These include the financial and legal advisors and the accounting firms. These players are active advocates for privatisation throughout Europe, and have benefited from the highly lucrative business, winning contracts worth millions of euros.

- **A number of the key lead corporate players, such as Lazard, have been involved in both advising on privatisation and then profiting from their advice.** For example, Lazard advisory branch was the principal financial adviser for the privatisation of Royal Mail thus directly influencing the price setting for it shares, yet its asset management branch was one of 16 firms to be given priority investor status. This allowed the firm to make an 8 million pound profit from purchasing and then reselling shares.

- **Despite the rhetoric in favour of private management, many of those who win concessions and buy formerly privatised assets are state-owned companies.** Chinese state-owned corporations have for example become dominant players in buying up European energy companies, buying stakes in Portuguese, Greek and Italian public utilities. German and Azerbaijani state-owned companies have also been involved in buying in up privatised assets in other European countries.

- **Privatisation in Europe has encouraged a growth in corruption, with all-too-frequent cases of nepotism and conflicts of interest.** In Greece, this has led to constant scandals at the HRADF, the main body responsible for privatisation, with three HRADF board members currently being charged by the Greek Corruption Magistrate for corruption. Similar cases have emerged in Italy, Spain, Portugal and the UK.

Introduction

The bailout negotiations between Greece and the 'Troika' (European Commission, European Central Bank and International Monetary Fund) in July 2015 put the issue of privatisation back in the headlines. The Syriza government, elected on a platform that opposed the deeply unpopular privatisation of key state-assets such as water services, was humiliatingly forced to agree to sale of state assets. In fact, privatisation plans imposed on Greece under the latest and third Memorandum of Understanding (MoU) are even more extensive than previous ones.

While Greece stands out as the most emblematic case of Troika –forced privatisations, the Mediterranean country is not the only one being pressurised into implementing such programmes. Portugal, Italy, Spain, Ireland and the UK have all seen a renewed effort to privatise the last remaining state services.

What drives the privatisation of public services and common goods in the EU?

The IMF, the European Central Bank (ECB) and the European Commission (EC) see privatisation of public utilities and state companies as a panacea for Europe's economic woes. They claim that private ownership will make companies more cost effective and competitive and that the public will benefit from lower prices and better service. Yet, as this report explores, they ignore the evidence of recent privatisations which have more often led to reduced state revenue, increased corruption and poorer services. They also ignore the wage losses, redundancies and erosion of labour rights that have resulted from privatisation that have further exacerbated the economic crisis.

The blindness of the Troika to the detrimental effects of short-term liquidation of state assets may be ideological in nature, but it is bolstered by the growth of a powerful privatisation industry in Europe that profits immensely from these sales and actively lobbies for continued business.

Given the far-reaching economic and social implications of privatisation programmes in Europe, we believe it is critical to understand how the privatisation process works, which parties are involved and who really benefits. This report hopes to cast a spotlight on these forces in order to support resistance to Europe's controversial renewed privatisation drive that puts corporate profits above public needs and human rights.

State aid to the financial sector led to privatisation programmes

As revealed in the TNI's *Privatising Europe* report, the financial crisis in 2008 had far reaching consequences for the EU, particularly in Eurozone countries. Following the US Government's strategy, the European Commission advised EU member states to bail out banks threatened by bankruptcy. Between October 2008 and October 2011, the EC approved €4.5 trillion (equivalent to 37% of EU GDP) of state aid measures to financial institutions.[2]

State aid measures to rescue the financial sector created an unprecedented quantity of public debt, which had already spiralled due to rising costs of unemployment benefits and decreasing tax revenues caused by the economic crisis.

A number of countries on the Eurozone periphery were unable to cope with this sharp rise in debt, aggravated further by credit agencies downgrading their credit ratings.[3] As a result, Portugal, Greece and Ireland signed a MoU with the Troika. The MoU approved loans in exchange for the implementation of economic policies, also known as 'rescue' packages. Romania, Hungary, Latvia and Spain also signed different agreements for financial aid within the framework of the 2012 European Stability Mechanism (ESM).

EU Economic Governance

Parallel to individual MoU agreements with EU countries, the EU as a whole has undergone a comprehensive process of institutional reform with the approval of a series of treaties – including the Two-pack, the Six-pack and the Fiscal Compact. These treaties move decision-making away from national parliaments towards Brussels, which now takes an active role in monitoring, preventing and correcting the economic policies of member states. The declared goal is to create a 'Genuine Economic and Monetary Union'. See TNI's *Unpacking Competitiveness: A primer.*[4]

One of the central policies that the Troika and the ESM set as a requirement in exchange for loans is the privatisation of publicly owned assets.[5]

This report looks at those processes by focusing on the following countries:

- Countries that have entered into one or several MoU's: Greece, Portugal, Ireland and Cyprus.
- Spain, which received a €100 billion rescue package in exchange for reforms.
- Italy, which has not signed a formal agreement with EU institutions but is under increased political pressure to implement reforms that are similar to those in countries with a MoU.[6]
- UK, as a pioneer in the implementation of privatisation programmes and still one of its main advocates.

This report does not however examine the privatisation or recapitalisation of partial or totally state-owned European banks. Due to the specificities of those processes, TNI plans to dedicate a separate report to this.

Pro-privatisation rationale

Troika members provide two main arguments in support of privatisation programmes: first the need to raise funds to alleviate public debt and second the alleged increased efficiency of private companies.

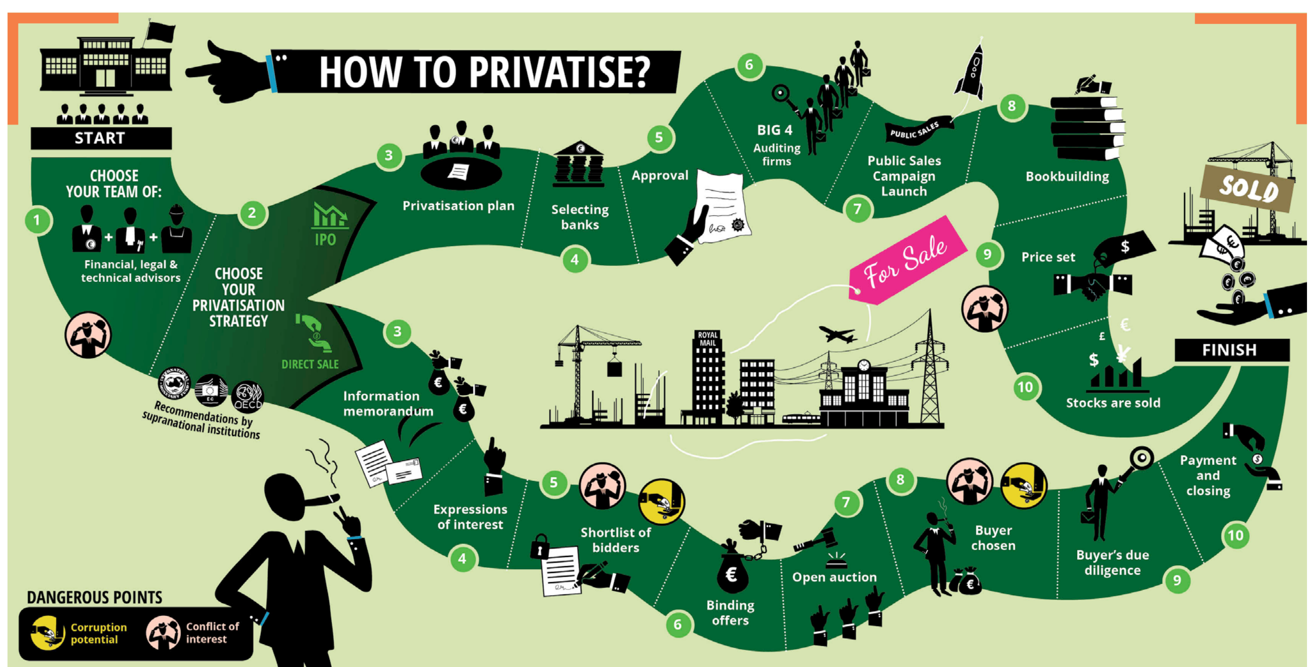
The IMF has always been an advocate of privatisation; this measure has been a constant factor in nearly all the economic agreements the institution has entered into with debtor countries (known as 'Structural Adjustment Programs').[7] The EU has also pursued a similar policy for decades and the EC has become very explicit in its endorsement of privatisations.

In a 2012 letter to a group of civil society movements, the EC described its rationale as follows:

> *"privatisation of public companies contributes to the reduction of public debt, as well as to the reduction of subsidies, other transfers or state guarantees to state-owned enterprises. It also has the potential of increasing the efficiency of companies and, by extension, the competitiveness of the economy as a whole, while attracting foreign direct investment."*[8]

The promotion of privatisation has hence become obligatory for all highly-indebted countries signing an MoU. The legality of this imposition is nevertheless questionable: Article 345 of the Treaty on the Functioning of the European Union (TFEU) requires the EC to take a neutral stance on public or private ownership of companies: "The Treaties shall in no way prejudice the rules in member states governing the system of property ownership".

However, as TNI demonstrated in the 2013 *Privatising Europe* report, the economic crisis provided a favourable atmosphere for the EU institutions to promote and impose austerity policies – of which privatisations were made a key component - on EU's debt-ridden countries regardless of the lack of democratic legitimacy and despite extensive popular opposition.



How to privatise?

To understand to what degree advisors and banks influence privatisation procedures, it is useful to look at the privatisation process and the steps involved. In general there are three ways for a government to privatize its assets:

1. Through an Initial Public Offer (IPO), when government shares in a State Owned Enterprise (SOE) are sold through a public share offering on the stock market;
2. Through a Trade Sale, when government shares in a SOE are sold to a strategic private investor;
3. A combination of these two methods.[9] With regard to Greece, trade sales account for most of the assets being sold.

Outlined below in a very broad terms, are the main steps in a privatisation process, either through an IPO or a direct sale.

Step 1 *Choosing a privatisation team:* Financial advisers, legal advisers and technical advisers.

Step 2 *Developing a privatisation strategy:* How to privatize? IPO, direct asset sale to private investor or a combination of both? What % of the company should be sold? General recommendations are often given by supranational institutions like the European Commission (EC), the International Monetary Fund (IMF), the World Bank (WB) or the Organisation for Economic Co-operation and Development (OECD).

IPO (Initial Public Offer)

Step 3 Financial advisers prepare a privatisation plan.

Step 4 Selection of banks that will place the shares of the privatised company in the market (underwriters).

Step 5 Government and public enterprise approve the privatisation plan.

Step 6 *Due diligence:* Investigation (audit) of assets by the underwriters. This is usually done by one of the ‘Big Four’ accountancy firms (Deloitte, PricewaterhouseCoopers, KPMG or Ernst & Young).

Step 7 Launch of public sales campaign and organisation of road shows.

Step 8 *Bookbuilding:* Underwriter attempts to determine a price based on demand from institutional investors.

Step 9 *Price set:* Agreement between government, investors and underwriters on the price per share. The financial adviser plays an important role in this process. The price is determined by the size, revenue and profits of the company, the success of the road show and current market conditions.

Step 10 Stocks are sold on the market.

Direct sale

Step 3 Information memorandum sent to potential buyers.

Step 4 Expressions of interest containing non-binding prices.

Step 5 Shortlist of bidders (who sign a confidentiality agreement).

Step 6 Bidders submit binding offers.

Step 7 Open auction.

Step 8 Buyer chosen.

Step 9 Buyer’s due diligence (audit of assets to be bought).

Step 10 Payment and closing.

Inspired by *A beginner’s guide to privatisations* published by the Cyprus branch of the Global Auditing Firm PricewaterhouseCoopers in May 2013

Pro-privatisation arguments are echoed by institutions that take part in privatisation processes and thereby make up part of the "Privatisation Industry". These include financial institutions such as banks and asset management firms, advisory companies and accountancy firms. Deutsche Bank (DB), for example, is an important player in European privatisations and often acts as financial adviser or bookrunner for IPO's (Initial Public Offerings) of State Owned Enterprises (SOE). DB publishes an annual report called 'Privatisation in the Euro Area', in which it actively endorses privatisations, stating in its 2015 report that:

> *"governments should grasp opportunities." "There is a lot to be said for privatisation as an element of market-oriented structural policy, and the time is good for respective political action." "Privatisation entails more than simply reassigning assets and the cash flow they generate from the state to the private sector. It is basically a core element of a sustainable growth strategy."*[10]

Other key players in the privatisation industry such as the 'Big Four' accountancy firms (Deloitte, PriceWaterhouseCoopers, KPMG, and Ernst & Young) are equally explicit in endorsing privatisation. KPMG, for example, sponsors the only publicly available online privatisation database called the 'Privatisation Barometer'. Moreover, PriceWaterhouseCoopers has published numerous reports on privatisation, in which it states, for example, that:

> *"private companies have a greater incentive and capability to be more productive, more efficient and hence increase their performance"*[11]

The interest that financial institutions and accountancy firms take in the privatisation industry can be explained by the profit opportunities provided by privatisation. Governments spend millions of Euros on financial, strategic, legal and technical advice. When a privatisation is implemented through an IPO, bookrunners can typically collect a fee of up to 5-7% of the gross proceeds, excluding advisory fees.[12] The advisory giant Lazard, for example, received 1.5 million pounds in fees for its advice during the privatisation process of Royal Mail in the UK.[13] The world's biggest investment banks are often present when governments decide to sell their most valuable assets through an IPO.

The privatisation advisory business

The two biggest financial advisers for privatisations in Europe are the firms Lazard and Rothschild. Lazard is the number one firm when it comes to sovereign advice. Its operational global headquarters are in New York City, however the firm is officially incorporated in Hamilton, the capital of Bermuda. The firm has a long history as an adviser to governments with financial troubles and has been referred to by Bloomberg as the 'advisor of the broke', due to its services to countries struggling with unsustainable debts, such as Argentina and Ukraine.[14] The European crisis was an opportunity for the firm to offer its services to Greece and other indebted countries.

William Cohan, a former Lazard banker said the following about Lazard's public sector advisory services:

> *"This is a very high-margin business… All their expenses are paid, and they have no capital at risk. This is as sweet as it gets."*[15]

Lazard has both a financial advisory branch and an asset management branch and each of these branches accounts for roughly fifty % of the firm's total revenues.[16] Due to its reputation as the number one sovereign advisory firm, many governments in Europe involve Lazard in their privatisation activities.

In recent years, Lazard seems to have taken advantage of its prominent status to involve not only its advisory services branch, but also its asset management branch when it is contracted as privatisation advisor.

Upon the Initial Public Offering (IPO) of important state companies, Lazard has on a number of occasions undervalued the price of a company, which has allowed its asset management branch to buy up the stock at low prices which have then been sold for considerable profit when stock prices soared. As shown later in this report, this occurred in both the privatisations of Royal Mail in the UK (post mail and logistic services) and AENA in Spain (airports and air traffic management). This kind of handling raises questions about the business ethics of Lazard and about the responsibility of governments using its services. Up to now, Lazard's actions have never been punished.

Whereas Lazard is currently the world's largest privatisation advisory player, the worldwide trend of privatisations that began in the 1980's was initiated by another firm: the British financial firm NM Rothschild, subsidiary of Rothschild & Co, which has its headquarters in Paris. When Margaret Thatcher came to power in the UK in 1979, privatisations were still uncommon in Europe and many industries were still partly or entirely in the hands of the national states. Led by Thatcher and Reagan, privatisation became a popular economic measure during the 1980's as neoliberal economic policies became hegemonic. The Rothschild group played a crucial role in the establishment of a 'privatisation culture' in the UK and thereafter in Europe as a whole. On its website, Rothschild characterises its history of dominance in the privatisation advisory business as follows:

> *"The 1980s gave birth to the international phenomenon of privatisation. Rothschild was involved from the beginning and developed a pioneering role which spread out to more than 30 countries worldwide."*[17]

And they are right. During Thatcher's reign, Rothschild played a pivotal role in the government's privatisation scheme not just as an adviser, but also as a policy-steering entity. Thatcher had close ties with Rothschild's bankers before and during her time in power. Due to these close ties, Rothschild men were often offered important state positions and advisory roles. Positions such as the Financial Secretary to the Treasury and various roles in the government's No 10 Policy Unit were filled by Rothschild staff. Due to its role Rothschild became known in this period as the 'Privateer of Privatisation'.[18]

The considerable number of privatisations in the UK during the eighties created lucrative advisory roles for NM Rothschild and the firm made millions in the process. Ever since then, Rothschild has been at the forefront of privatisation schemes worldwide including Europe's current privatisation wave. The firm and its subsidiaries have obtained profitable advisory jobs in indebted countries such as Italy, Cyprus, Greece and Spain, and it remains active in the UK's advisory business.

Another important opportunity for corporate profits in the privatisation process is the area of legal advice. Legal advisers are needed for every privatisation to ensure a sound, officially authorised package of measures that regulate legal conditions for selecting investors and also the setting up

of a post-privatisation legal framework by which investors must abide. Furthermore, in accordance with strict legal procedures, valid documents need to be drawn up for the sale. Just like the financial advisory business, Anglo-Saxon firms also dominate the market of legal advisers.

The privatisation advisory law firms include some of the biggest global law firms, with annual revenues of more than a billion Euros each. In Europe, legal firms most active in national privatisation programmes include Freshfields Bruckhaus Deringer (UK), Clifford Chance (UK), Allen & Overy (UK), Shearman & Sterling (US) and Norton Rose Fulbright (UK).

For these legal actors, the European economic crisis has been a welcome opportunity to expand their government advisory work. However, it was not the only business these firms have managed to expand in recent years. In the context of the economic crisis, many of these same firms have been active in the investment dispute business, encouraging their corporate clients to contest government actions taken in response to the crisis that have purportedly affected corporate profits. They have also encouraged other corporations to use the threat of potential investment disputes as a way to prevent regulatory action. This has been especially the case in the most debt-ridden countries such as Greece, Cyprus and Spain.[19]

Many of the debt-restructuring and other measures (such as cuts in subsidies) taken by these countries during the crisis were contested by big financial corporations and their legal advisors. While these countries took measures in order to protect their economy, corporate investors and their lawyers responded to them with huge damage claims (700 million euros from Spain; more than one billion euros from Cyprus and undisclosed amounts from Greece),[20] which have placed a huge financial burden on countries with already insufficient funding for tackling a growing social crisis of unemployment and poverty. It has also led to the massive reduction of state support for renewable energy in Spain.

Most of the legal actors involved in the privatisation advisory business are also active in investor-state cases in Greece, Cyprus and Spain. Freshfields, for example, has been involved in cases against Cyprus; Shearman & Sterling and Allen & Overy have been involved in cases against Spain. While these countries are bound to implement far-reaching austerity measures due to their high sovereign debts, they are spending millions on lawyers' fees and arbitration claims. Consequently, for the multinational law firms the crisis and its consequences have proved to be a very lucrative business, for both their public- and their private sector advisory services.[1]

How the pro-privatisation arguments stand up in practice

Do privatisations help governments raise income to pay their debts?

In agreements drawn up between the EU and indebted countries about implementation of austerity measures, the key argument for privatisation is that it helps to reduce public debt. However, due to the imposition of quickly-held privatisations by the Troika or the EC, assets are often sold at bargain prices to vulture funds and in most cases, governments end up losing money in the long run. Especially during a recession or an economic crisis, the value of State-Owned Enterprises (SOEs) is often reduced to a mere fraction of their pre-crisis value. Selling public assets in the middle, or right after a crisis always leads to selling at discount prices. This is especially true in Greece, where the privatisation agency set

1 More information on how the crisis has been used by international law firms to expand their business at the expense of European states can be found in the 2014 working paper 'Profiting from Crisis', by TNI and Corporate European Observatory (CEO).

up by the Troika HRADF (Hellenic Republic Asset Development Fund) focuses solely on selling off all valuable assets as quickly as possible to comply with Troika demands, rather than trying to raise as much money as possible from the sale.

Although Greece is one of the most striking examples, this pattern of underselling valuable state assets is evident in all the other countries that have enacted privatisation as a result of an agreement with the EC or the Troika. In the case of AENA in Spain, the price of the shares released to the market increased by 20% the first day of going public, which meant a loss of almost 1 billion euros for the Spanish state. The following months the stocks' price increased even further. In other cases, as shown later, losses from underselling within the first days of a sale also amount to billions of Euros.
Alongside underselling, the state more often than not also loses out on potential revenue, because rather than selling-off their inefficient and unprofitable companies, privatisation targets set by an MoU often force governments to sell off their most valuable and profitable enterprises. While a government might enjoy a steady annual income from certain companies, it is pressured into selling-off these assets because they are easy to sell, thereby quickly attaining their privatisation targets and conceding to debtor demands. While private companies are only too happy to buy these companies at bargain prices for a one-time outlay, governments are deprived of any future dividends.

At the same time, unprofitable and subsidy-consuming national assets often remain in the hands of the state. As shown later, of the 37 regional airports owned by the Greek state, only the 14 that are profitable have been included in the privatisation programme, leaving the unprofitable rest to be subsidised by the tax-payers.

Conclusion: No. Privatisation often means loss of income to the state as valuable public assets are sold for bargain prices to corporations. Profitable state companies that provide annual revenue are sold off, while unprofitable subsidy-consuming assets remain in state hands.

Does privatisation lead to greater efficiency?

Privatisation advocates argue that the increased competition of an open market helps former state-owned companies to produce more efficiently and leads to lower prices. However, research has shown that these conclusions are based on myths; no real evidence exists that privatisation leads to greater efficiency.[21]

Moreover, whereas privatised companies do in fact seek to optimize cost efficiency (as opposed to efficiency of service), they tend to do this by lowering wages and labour standards and increasing prices for consumers rather than by improving their technical efficiency through innovation.[22]

Especially when it comes to utility companies, the effect of privatisations on the product price has proven to be extremely negative. In the 34 OECD countries, for example, the average price for energy charged by private companies is 23.1% higher than the price charged by public companies.[23] In France, which has a long history of privatised water supply, the price of water provided by private companies is 16.6% higher than water provided by municipal utilities.[24] The surge of cities deciding to 'remunicipalise' their water services - 235 cases in the last decade - shows how communities globally have recognised the negative costs of privatisation. The experience of privatisation of services time and time again has been one of poor performance, under-investment, disputes over operational costs and price increases, soaring water bills, monitoring difficulties, lack of financial transparency, workforce cuts, and poor service quality causing public health risks and creating environmental problems.[25]

The impact of privatisations on labour standards has also proven to be extremely negative. In 2009, the EC authorised a consortium of six universities and research centres across Europe to undertake an extensive cross-country investigation into the relationship between employment, productivity and quality of public services undergoing a process of liberalisation and privatisation.[26] This European research project, PIQUE, concluded:

> *"The liberalisation and privatisation of public services has led to a fundamental transformation of the established labour-relations regimes in the public sector with far-reaching consequences for employment and working conditions"*[27]
>
> *"liberalisation and privatisation have so far promoted a model of competition that is largely based on the reduction of wage costs and not on the improvement of quality and innovation."*[28]

According to the report, privatisation and liberalisation have frequently had extremely negative impacts including:

- Trade unions tend to weaken, resulting in a decline in collective bargaining powers.
- Privatisation tends to lead to a race to the bottom: on being introduced to the open market, former SOEs tend to boost their competitiveness by slashing wages and diluting labour agreements rather than focussing on more innovation, quality and accessibility.
- Privatisation often leads to income inequality within companies: privatisation (and liberalisation) tends to enhance a growing division between 'old' and 'new' employees, where the latter is confronted with less job security and often lower wages for the same job.
- Privatisation leads to a higher market concentration by large private players. The resultant reorganisations and mergers invariably lead to large-scale lay-offs.

The IMF and the World Bank are the two main institutions that promote and impose wide-scale privatisation programmes, primarily on indebted countries through their so-called 'Structural Adjustment Programs'. However, its own joint research in 2004 stated:

> *"when [outsourcing, privatisation or] Public-private partnerships (PPPs) result in private borrowing being substituted for government borrowing, financing costs will in most cases rise. Then the key issue is whether [outsourcing, privatisation or] PPPs result in efficiency gains that more than offset higher private sector borrowing costs... much of the case for [outsourcing, privatisation or] PPPs rests on the relative efficiency of the private sector. While there is an extensive literature on this subject, the theory is ambiguous and the empirical evidence is mixed.... It cannot be taken for granted that [outsourcing, privatisation or] PPPs are more efficient than public investment and government supply of services..."*[29]

In other words, the IMF and the World Bank themselves recognise that there is no significant difference between public and privately operated companies in terms of efficiency or other evaluations of performance. So even though they continue to endorse privatisations and impose them on countries they provide with loans, their own findings completely contradict this policy.

Conclusion: No. Research by European universities, the IMF and World Bank shows no evidence that privately operated companies are more efficient than public ones. Furthermore they show privatisation has a cost in terms of market concentration by private players, declining labour standards and growing income inequality.

Case studies of privatisation – private profits and public losses

The following case studies illustrate the extent to which certain private players have acquired a determining role in the privatisation of public companies. Moreover, these cases demonstrate how privatisation programmes often lead to a structural underselling of state assets and how privatisation processes tend to be highly susceptible to nepotism, conflicts of interest and corruption.

Greece

33% of Greek Organisation of Football Prognostics S.A. (OPAP)
Financial advisers: Deutsche Bank, National Bank of Greece, NBG Securities
Legal advisers: Freshfields Bruckhaus Deringer, Karatzas & Partners

The liquidation of Greece's former state betting monopoly OPAP (Greek Organisation of Football Prognostics S.A.) is a striking example of the sale of an undervalued, profitable state company. At the time of its sale in 2013, the Greek state still held a 33% stake in the once wholly state-owned company. OPAP was a very profitable company with a net income of more than €500 million in 2012 (the year before the sale).

Due to the strict privatisation targets imposed upon Greece by the Troika, the country decided to sell its most saleable assets first. On the day of the sale of the state's remaining OPAP shares to the Greek-Czech group Emma Delta, the shares were listed on the Athens Stock Exchange at €9.13 per share. However, the Greek government advised by Deutsche Bank and others, sold its shares for €6.13 apiece, a whopping 50% less than their denoted value, thus creating a very lucrative deal for buyers.[30]

Just hours after the deal was made and announced, Stelios Stavridis, the then director of HRADF (the privatisation agency created under the first MoU), was en route to his holiday destination on the Greek island of Kefalonia on board a private jet owned by Dimitris Melissanidis, one of Greece's wealthiest businessmen and owner of OPAP's buyer Emma Delta. The incredibly undervalued OPAP shares raised questions about the relationship between the HRADF chief and OPAP's buyer. The case ultimately led to the dismissal of Stavridis from the Fund, but the sale was upheld.[31]

Hellenic Republic Asset Development Fund (HRADF)

"The Troika is interested in collecting immediate revenue and nothing else."[32]
— Anna Zoirou, former board member of the HRADF

One of the key demands of the Memorandum of Understanding (MoU) between the Greek government and the Troika is that Greece pursues an 'ambitious privatisation programme'.[33] This programme initialised in 2010, when Greece signed its first MoU, included the founding of a privatisation agency, the Hellenic Republic Asset Development Fund (HRADF, also known by its Greek acronym TAIPED). Established in 2011, the agency was originally supposed to sell €50 billion worth of Greek assets before the end of 2015. Because the agency was established under private law, it fell outside the jurisdiction of the Greek parliament.[34] This made the HRADF a perfect instrument for Greece's debtors to control the country's assets. Once assets were transferred to the agency, they could not be handed back and had to be sold. Moreover, although the Greek government appointed the HRADF board of directors, the Troika had the right to replace board members when it deemed them ineffective. In addition, two permanent Troika 'observers' serve on the board to monitor the agency's actions.

Since its establishment, the HRADF has been surrounded by controversy and scandals. Although its board members have been granted immunity from criminal prosecution, in the past years many of them have been under investigation for corruption. In less than five years, leadership of the agency has changed hands six times due to scandals, conflicts of interest and mismanagement. The HRADF has proven highly ineffective, having only managed to privatise about one tenth of its original target. The latest negotiated MoU includes the establishment of a new privatisation agency with an extended time limit to reach its €50 billion privatisation target.

14 Real Estate properties
Financial advisers: Alpha Bank, Eurobank Equities Investment Firm, National Bank of Greece and Piraeus Bank
Legal advisers: Watson, Farley & Williams

Another notable case in the HRADF's handling of privatisations relates to the sale of 14 of Greece's most valuable real estate properties, which ultimately led to the Greek taxpayer having to pay an extra €135 million to the buyer. In 2014, the HRADF sold 14 state-owned properties to real estate developer, Eurobank Property Services, a subsidiary of Greece's Eurobank Ergasias, for a total of €145.81 million.[35] Part of the deal, however, included the state leasing back these properties for a total of 20 years for an annual lease of €14.05 million. The ultimate result was not only the liquidation of valuable real estate but also a loss of roughly €135 million for the Greek state. In other words, by buying the properties, the buyer, a Greek-based real estate developer (subsidiary of Eurobank Ergasias, owner at the same time of one of the financial advisers of the HRADF, Eurobank Equities Investment Firm)[36] will now double its original investment within 20 years, at the expense of the Greek state and its citizens.[37] Yet the HRADF clearly considered it a good deal.

In relation to this case, there is an ongoing investigation with charges for breach of trust against the Council of Experts of the HRADF, for creating potential damages to the state amounting to more than €580 million.[38] Moreover, three HRADF board members are currently being charged by the Greek Corruption Magistrate Constantinos Sargiotis for corruption and the withholding of state dividends amounting to a sum of nearly €500 thousand.[39]

Former Athens Int. Airport Hellinikon land property
Financial advisers: Citibank, Piraeus Bank
Legal advisers: Fortsakis, Diakopoulos, Mylonogiannis and Partners, Watson, Farley & Williams LLP

In 2014 the sale of a plot of land known as Hellinikon, formerly accommodating the International Airport of Athens was drawn up. Hellinikon is a 6.2 million square metre area located in one of the most affluent suburbs of southern Athens. For more than a decade inhabitants of the area were promised that the land would be turned into a park. However, the then Greek government eventually decided to sell it to a private company.[40] Although the HRADF originally valued the site at no more than €700 million, the Technical Chamber of Greece later published a report asserting that the true value of Hellinikon was over €3 billion.[41] In 2014, a consortium led by Lamda Development (owned by Spiros Latsis, one of the richest men in Greece) and the Chinese private investment giant Fosun, won a 99-year lease of the entire area and obtained direct ownership of 30 % of the area. The deal included the payment of a mere €915 million, spread over ten years. Because Lamda Development was the only bidder according to the HRADF, this meagre bid was the only option. However, the agency is now

under investigation "for setting unduly restrictive criteria for the participation of investors".[42] In other words: only Lamda Development was allowed to bid at the auction while other potential investors were excluded because of dubious conditions set by the HRADF. Thanks to these 'unduly restrictive criteria' the Greek taxpayer was potentially deprived of privatisation proceeds exceeding €2 billion.

14 regional airports
Financial advisers: Citibank, Eurobank Ergasias
Legal advisers: Drakopoulos & Vasalakis, YourLegalPartners, Norton Rose Fulbright

Right after the new bailout negotiations between the Greek government and the Troika in July 2015, a deal was struck on the sale of the 14 most profitable regional airports in Greece. While the country owns a total of 37 regional airports which serve the numerous islands within its borders, the airports included in the deal are the only profitable ones, as they are located in popular tourist destinations such as Corfu, Kos, Rhodes, Mykonos and Santorini.[43] The other (subsidised) airports will remain in the hands of the Greek state. The deal which grants the German company Fraport a concession to run the airports for up to 50 years, stipulates a one-off payment of €1.23 billion, with an additional annual fee of €22.9 million.[44] One of the advisers to the HRADF on this deal is Lufthansa Consulting GmbH, an independent subsidiary of the German aviation company. However, while Lufthansa in an advisory capacity oversaw the sale of the airports, it is also a stakeholder in Fraport, the company buying the airports; this clearly points to a very serious conflict of interest. Considering the fact that the total number of flights landing at the 14 Greek airports has risen by 13.8% in 2014 and passengers numbers have increased by 19% to more than 22 million, this deal has definitely been a bargain for Fraport and very profitable for Lufthansa.[45] Moreover, the transaction is particularly interesting in the light of Germany's aggressive push for Greek privatisations during the bailout negotiations. Besides Lufthansa, the German state is also a shareholder in Fraport; through regional and municipal ownership, it has a stake of 51%. Basically this deal illuminates how Greece's profitable assets and the dividends they yield are being transferred to the coffers of the German state.

Ireland

Bord Gais Energy (Gas and Electricity supplier)
Financial advisers: RBC Capital Markets, Barclays
Legal advisers: Norton Rose Fulbright, Mason Hays & Curran, McCann Fitzgerald, Allen & Overy, Arthur Cox, Freshfields Bruckhaus Deringer, A&L Goodbody

In Ireland one of the biggest privatisations to date has been the sale of the state owned utility company **Bord Gais Energy (BGE)** to a consortium comprising Centrica plc, Brookfield Renewable Power Inc and iCON Infrastructure. The Troika pressurised Ireland to sell off its lucrative energy supplier to alleviate the precarious financial situation it faced in 2012. Valued at roughly €1.5 billion, BGE eventually sold for only €1.1 billion, because no reserve auction price had been set.[2] Ultimately, due to additional costs, the state was able to cash about €1 billion.[46] The sale included a brand new power station, for which just four years previously in 2010, BGE had paid €400 million. Bord Gais, the mother company of the energy supplier, was forced to change its name to Gas Networks Ireland. In addition, the state-owned company lost its profitable wind farms, plants and the right to supply gas to nearly a million customers in Ireland.[47] As a state asset BGE had yielded rising profits with an EBITDA[3] of €91 million in 2013.[48] Despite the disappointing result of the privatisation, adviser fees for the process amounted to €27 million.[49]

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[2] The reserve price is the minimum price determined by the seller at which the asset should be sold during an auction.

[3] EBITDA is a financial indicator that reflects a company's net earnings, before interest expenses, taxes, depreciation and amortization.

United Kingdom

Royal Mail

Financial advisers: Lazard, UBS

Legal advisers: Freshfields Bruckhaus Deringer

In October 2013, 60% of the British state-owned postal company Royal Mail (RM) was sold through an IPO for 330 pence per share, amounting to proceeds of roughly 2 billion pounds. The IPO was initially oversubscribed 24 times[4] and on the first day of trading, RM shares went up 38% to reach 455 pence per share.[50] Due to enormous investor interest, RM shares soared in the following days to more than 50% above their original notation and 72% above their initial IPO price within the first five months of trading.[51] Whereas the British government initially planned on selling 51% of the company, its financial advisors, Lazard and UBS, recommended that 60% of the company be sold via an IPO. The increase in share value on the first day of trading meant that the 60% stake the government sold immediately rose in value by 750 million pounds in eight hours. Sixteen institutional investors were given priority status to buy RM shares in order for them to form a long-term and supportive shareholder base. Nonetheless, within a few weeks, more than half of the shares allocated to them had already been sold on the market, with huge profits.[52]

Lazard's role in the floating of RM shares on the stock exchange is particularly interesting. While Lazard's advisory branch was the principal financial adviser for the privatisation of Royal Mail and thus directly influenced the price setting for the IPO, its asset management branch was one of 16 firms to be given priority investor status. It allowed the firm to purchase six million shares worth almost 20 million pounds and sell them the week after the IPO with an eight million pound profit. As Lazard was the main financial advisor during the privatisation, it played a major role in the huge undervaluation of RM shares; it actually advised the British government against raising the price of the shares, despite warnings from other advisors that the price was too low (Lazard was paid 1.5 million pounds solely for its advisory work).[53] Through its priority investor status, Lazard was able to benefit enormously from the RM shares its financial advisors had undervalued. Nonetheless, William Rucker, Lazard's chief executive, denied all accusations of conflict of interest after RM's flotation. He claimed that the 'Chinese Walls' between Lazard's corporate advisory branch and its asset management division were maintained at all times.[54]

A 'Chinese wall' is the name for the ethical barrier between different divisions of a financial institution set up to avoid conflict of interest.[55] These 'barriers' are set in place in order to prevent illegal trading based on insider information by multi-service businesses. However, due to scandals in the past, such as the case of Lazard and the Royal Mail in the UK, the effectiveness of these barriers is highly disputed.

[4] There were 24 more investors interested in buying the shares at the offered price than available shares.

Spain

AENA airports

Financial advisers: Lazard, N+1 Corporate Finance
Legal advisers: Pérez-Llorca Abogados

In February 2015 the Spanish government undertook one of its biggest privatisations in years by selling a 49% stake in **AENA airports**. At the IPO, AENA shares were floated on the stock market for 58 Euros per share, thereby valuing the company at €8.7 billion. On the same day, shares closed at €70 a share, an increase of 20.7%. After less than two months, shares were worth more than €100 each and they have not fallen since. Although the IPO generated immediate proceeds of more than €4 billion for the Spanish state, the under-evaluation of the share price deprived the Spanish taxpayer of a potential €3 billion. Yet while, the Spanish taxpayer lost out, the same can't be said for the banks that coordinated the IPO; they were given an option to buy 10% of the shares at their initial share price of €58 one month after the IPO (the 'green shoe').[56] At that moment, the shares prices had already risen to more than €80 implying an immediate minimum profit of €150 million for the banks.[57]

As with the Royal Mail, Lazard, Europe's favourite privatisation advisor, played a key role in AENA's under-evaluation before its IPO as it helped determine the IPO price. And comparable to what happened during the privatisation of UK's Royal Mail, one of Lazard's asset management branches, Lazard World Dividend & Income Fund, acquired AENA shares at the IPO and sold them roughly a month later netting a 60% profit.[58] By buying up and selling the AENA shares within such a short period of time, Lazard's World Dividend & Income Fund deviated from its usual strategy. As the name suggests, the company usually focuses on long-term investments and profit generated by dividends.[59] In the case of AENA however, Lazard's World Dividend & Income Fund were only too happy to drop their customary strategy when it yielded a 60% increase of their investment in just four weeks. Once again, Lazard took full advantage of its privileged position on both sides of the fence, as seller and buyer, making a huge profit in the process.

Portugal

EDP and REN

Financial advisers: Caixa BI, Perella Weinberg, Banco Espirito Santo de Investimento, BBVA
Legal advisers: Morais Leitão, Shearman & Sterling, SLCM, PLMJ, GAP, Linklaters

The partial sale of two of Portugal's biggest utility companies is another good example of the controversial role played by some financial advisers and the benefits they reap from privatisation processes. In 2011 and 2012, the Portuguese state began its privatisation programme by selling a 21.35% and a 40% stake in its energy companies Energias de Portugal (EDP) and Redes Energéticas Nacionais (REN). The 21.35% stake of EDP was sold to the Chinese SOE's Three Gorges Corporation while 25% of the 40% of REN was sold to State Grid Corporation of China. Both these privatisation cases were marred by a serious conflict of interest. The Portuguese bank Banco Espirito Santo de Investimento was asked to assess if a privatisation of both companies was possible. Later, however, the Portuguese investment bank financially advised both Chinese companies attempting to buy the assets.[60] This means that the Chinese companies could have possessed potentially crucial inside information during the bidding process. According to a 2015 report by a Portuguese Court of Audit, the bank's dual role in the privatisation of the electricity sector failed to safeguard the national interest. The report condemned Parpublica (the government agency in charge of the privatisations) and stated that it neglected to take the necessary measures to ensure that advisers of the state would not later change sides and offer their

services to interested buyers. Moreover, the report also concluded that the Portuguese state, by selling off its remaining stake in the energy companies, would be deprived of substantial future dividends. The government would lose out on roughly €1.6 billion with the sale of EDP and around €400 million with the sale of REN.[61] In September 2014, only three years after these deals were made, the Portuguese government passed a law aimed at protecting strategic state assets in the future, including those in the energy sector.[62]

Italy

Poste Italiane and Ferrovie dello Stato

Financial advisers: Lazard, Rothschild, Mckinsey, The Brattle group Ltd, Bank of America Merrill Lynch, Ernst & Young

Legal advisers: Cleary Gottlieb Steen & Hamilton, Gianni, Origoni, Grippo, Cappelli, Clifford Chance, Chiomenti Studio Legale, Shearman & Sterling LLP

Yet another striking conflict of interest case related to two privatisations is currently underway in Italy. Two of Italy's biggest state companies are being privatised: the Italian postal service Poste Italiane, of which a 40% stake was offered through an IPO in October 2015 and the Italian railways Ferrovie dello Stato, 40% of which will be privatised in 2016 while the network infrastructure will remain in public hands.[63] Due to the magnitude of both privatisations, advisory roles are very lucrative. However, serious allegations of conflict of interest have surfaced in both transactions. The president of Poste Italiane, Luisa Todini, a former Forza Italia politician is also a board member of Rothschild & Co, which is financially advising the company on its privatisation.[64] The same goes for Daniela Carosia, who is a member of the board of directors of Ferrovie dello Stato, but also holds various high posts at Ernst & Young, one of the financial advice companies involved in the privatisation.[65] Both these cases demonstrate how high-placed officials have the potential to take advantage of their position for their own benefit or their associates. They also show how many financial advisory firms and consultancies are able to obtain highly lucrative commissions and bypass formal selection procedures that might normally disqualify them.

Cyprus

Cyprus is one of the four bail-out countries that signed a formal MoU with the Troika. In its agreement with the Troika, the country was pushed to implement a wide ranging privatisation programme that encompassed strategic sectors of the economy. The programme includes the privatisation of some of its important ports, its telecommunications companies and its energy companies.[66] The sale of energy companies, in particular has led to large protests from both the workers of the electricity companies and the general public. The bill put forward by the government was initially rejected by parliament. However, as the Troika did not accept the rejection of the plan, the bill eventually passed parliament in a second round of voting. In July 2015, in its last revision of the MoU, the Troika anticipated some delays but is satisfied with the overall advance in the privatisation programme.[67] Most of the advisers and banks that will assist the Cyprus government are still to be decided.

The privatisation paradox:

Chinese state actively buying up European utilities

Although the Troika's mantra for privatisations is that the benefits of private companies outweigh those of public enterprises, many SOEs in Europe are actually being transferred not to private hands but from the hands of one state to another. The privatisations in Greece, for example, have already led to the transfer of some of the country's assets to Germany and Azerbaijan. One country particularly active in buying up European state assets in recent years is China. Chinese SOE have purchased important formerly state-owned companies all over Europe, especially in the utilities sector where China is gradually becoming a major European player.

In 2011, China's SOE Three Gorges Corporation acquired a 21.35% stake in Portugal's electricity supplier Energias de Portugal (EDP). EDP is one of Europe's biggest electricity suppliers with a dominant presence in the UK, Spain, Italy and France among other countries. In 2012, China's SOE State Grid Corporation of China (SGCC) obtained a 25% stake in Portugal's energy company REN, which holds the concession for Portugal's two main energy infrastructure networks, the National Electricity Transmission Grid (RNT) and the National Natural Gas Transportation Grid (RNTGN).

In 2014, SGCC bought a 35% stake in Italy's CDP Reti, which owns roughly 30% of the Italian energy companies SNAM (Natural gas infrastructure company) and TERNA (Electricity transmission systems operator). Moreover, since 2014, the state-owned People's Bank of China has acquired a small stake in both TERNA, Italy's energy supplier Enel and Italy's oil and gas multinational ENI. Also in 2014, Shanghai Electric, a partially state-owned Chinese company, bought a 40% stake in Italy's power engineering company Ansaldo Energia.[68]

In January 2015, Greek officials announced that 66% of Greece's national electricity distributor ADMIE would also be sold to China's SGCC.[69] When Syriza came to power a week later, the deal was cancelled. However, after the bailout negotiations in July 2015, China is once again eyeing Greece's energy assets.

China's hunger for electricity companies in Europe is not limited solely to Mediterranean countries. In 2015, the UK government announced a public-private partnership between the UK, China and the French state-owned company EDF. China's SOE, China General Nuclear Power Group (GNP) and EDF will build a nuclear power plant in the UK called the Hinkley Point. The reactor aims to provide 7% of UK's energy upon its completion in 2025.[70] The deal has been widely denounced for offering EDF and GNP a guaranteed price for its electricity at double the current market rate for up to 35 years.[71]

All these acquisitions in past years start to make the Chinese state a dominant player in European electricity and utility networks. China has already expressed its interest in expanding its influence in the future and State Grid Executive Vice President Zheng Baosen has stated that China is ready to invest further in European utilities "if the price is right".[72]

Conclusions

The cases highlighted in this report show how the European privatisation agenda has proved to be highly lucrative for financial and legal firms and a selected group of private corporations and investors, but have provided little public benefit.

The evidence shows that state companies are consistently undersold and even end up costing governments extra money (undermining the argument that privatisation generates revenue). Particularly in Greece, state assets have often been sold for prices far below their true market value. Research also shows that privatisation has negative implications for labour rights and what consumers pay for public services.

Due to the different, complex levels of financial and legal advice and the many parties involved in privatisations, the processes tend to be very susceptible to different kinds of corruption and conflicts of interest if they are not strictly supervised and monitored. Whereas cases involving flagrant corruption occur relatively often in countries accused of loose transparency and accountability like Greece, conflicts of interest also take place in countries that serve as global hubs for financial and legal services, like the UK.

The question remains therefore why the Troika insists on making privatisation a cornerstone of the austerity packages it has imposed on European debtor nations. Not only do the privatisations fail to deliver the revenues and efficiency that justify them, they are also fuelling nepotism, corruption and profiteering by small privileged groups at a time when the social costs of austerity are more blatant than ever. They are therefore exacerbating a social crisis of growing inequality and leading to social unrest and growing disaffection with the political system at national and European levels.

The fact the EU institutions are responsible for overseeing the implementation of privatisation programmes makes their capacity for good governance an additional concern, especially in the current circumstances where there is an increased transfer of sovereignty from member states to bureaucrats in Brussels.

The fact that the European Commission (and the Troika) persists in its privatisation agenda despite the evidence of its failures and the growing economic and social costs suggests two possible motives. One, that the European Commission is so ideologically wed to neoliberal policies that it unwilling to even consider the concrete evidence of the economic, social and political costs of privatisation for its own member states. Or two, that there is such a powerful corporate industry at work in support of privatisation, from the advisers to the corporations that buy up state assets, that it is impossible for the EU institutions to reverse course. Either motive or the likelihood that both are true reflects very badly on the European Union. It also goes along a way to explain the growing disaffection and popular resistance to the privatisation agenda and more broadly to the whole European Union project.

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In the last years the Troika (made up of the European Commission, European Central Bank and the International Monetary Fund) has pushed through privatisation programmes in indebted EU countries, despite major popular opposition. This briefing examines the consequences of those privatisations. It puts a spotlight on the process, exposes the corporate players that have profited, and examines whether the sale of state-owned assets has delivered on its proponents' promises.

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