Golden Shares in Italy: a brief survey of national law

Eugenio Simone de Nardis

Ottobre 2005

© Luiss Guido Carli. La riproduzione è autorizzata con indicazione della fonte o come altrimenti specificato. Qualora sia richiesta un’autorizzazione preliminare per la riproduzione o l’impiego di informazioni testuali e multimediali, tale autorizzazione annulla e sostituisce quella generale di cui sopra, indicando esplicitamente ogni altra restrizione.
Golden shares in Italy: a brief survey of national law

Eugenio S. de Nardis

1. Introduction
2. Special powers (golden shares): law 30.7.1994, n. 474-
3. Changes in national law: law 23.12.1999, n. 488-
4. European Union intervention
5. General considerations
5.1 Article 295 of the Treaty
5.2 Other Treaty provisions
5.3 A policy objective: diffusion of shareholdings
5.4 Other sectors which could become involved

1. Introduction

Italy privatised consistently in the nineties – as did most other Member States - after a long phase of State intervention through State-owned economic entities, begun in the wake of World War II (eg. through IRI – istituto per la ricostruzione industriale and ENI – ente nazionale idrocarburi). The privatisation of State owned entities has been aimed at a series of intertwined objectives: budget deficit reduction, fostering the growth and expansion of the financial market, increasing the competitiveness of public enterprises, adopting and pursuing market economics. The first wave of privatisations involved banks, which were transformed into limited liability companies (società per azioni) (L.d. 20-10-1990 n. 356, also known as Amato law). In 1992 (Law 8-8-1992 n. 359) other public economic entities began to be involved in the privatisation process.

The State has often chosen to keep the totality or at times the majority of the privatised company’s shares, to the extent that it may well be questioned whether most privatised companies have effectively ceased to be a public entity. Even where the majority of the voting capital has been transferred, the national legislation has often reserved special powers to the State, allowing it to intervene in company matters and de facto permitting it to retain control.

The Italian legislation has reserved special powers to the State in those areas where particular reasons related to national interests exist: thus mainly in the public utilities sector. Special powers differ from golden shares, as no share exists to which special rights are attached. National law has allowed the possibility that a special clause,
providing for such special powers, be inserted in the articles of those companies operating in areas where particular reasons related to national interests exist.

Italian ‘special powers’ have recently come under scrutiny by the European Commission and the European Court of Justice. With a judgement delivered on the 23 May 2000\(^2\), Italy was found to have failed to fulfil its Treaty obligations under the free movement of capital and the freedom of establishment provisions, in relation to the special powers foreseen by its national legislation.

This discussion paper focuses on the recent changes to the national law establishing and regulating the exercise of special powers. There have indeed been recent significant changes, brought about by the intervention of the European Commission (infringement proceedings etc.) and the European Court of Justice (golden share decisions). This paper will thus briefly consider different problems which flow from recent discussions on golden shares, offering a ‘national perspective’.

2. Special powers (golden shares): law 30.7.1994, n. 474

In its original version, the 1994 law regarding ‘special powers’ (Law 30-7-1994, n. 474\(^3\)) was the hastily modified conversion of decree-law 31-5-1994 n. 332, the last of a series of decrees that had not been converted within the time period set forward by art. 77, par. 3, of the Italian Constitution. The law, entitled ‘Rules for the acceleration of the procedures for the sale of shareholdings held by the State and public bodies in joint stock companies’, was adopted because of the strict time limits imposed by the Italian Constitution, although most Members of Parliament manifested their very meagre satisfaction.

Article 2(1) of the 1994 law deals with the special powers the State can reserve itself in companies operating in the public utilities sector. More specifically, article 2(1) provides that the President of the Council of Ministers is to determine by decree in which companies directly or indirectly controlled by the State and operating in the defence, transport, telecommunications, energy resources and other public service sectors, before the adoption of any measure resulting in the loss of control, a provision must be inserted in the articles of association, by decision taken at an extraordinary general meeting, conferring on the Minister for Economics one or more ‘special’ powers to be exercised in accordance with national objectives related to economic and industrial policy. The law lists four different special powers.

The Minister for Economics can be granted the power to approve the acquisition of a relevant participation in the privatised company (i.e. at least 5% of shares with voting rights in the general assembly or less if so determined by a decree of the Minister for Economics). Until such an approval, the purchaser cannot exercise any rights related

---

\(^3\) Gazz. Uff. n.177/1994.
to his shares, except for the patrimonial rights. Moreover, if the time period for the approval expires or the approval is denied, the shares will have to be sold within a year and the sale may be ordered by a Court.

The Minister for Economics can also be granted the power to approve voting agreements if they involve at least 5% of shares with voting rights in the general assembly or the lower percentage foreseen by a decree of the Minister for Economics. Until the approval is given and anyway after the expiry of the time-limit for the granting of the approval, the shareholders participating in the agreement cannot exercise any right except for patrimonial rights.

The Minister for Economics also has the power to veto any decision regarding the dissolution of the company, its merger, the transfer of seat, changes in the articles that modify any of the special powers and other important operations of the company.

Lastly, the law also foresees the power to nominate at least one director or a number of directors not greater than a quarter of the total number of directors, and an auditor.

Article 2 also applies to companies which are directly or indirectly controlled by public bodies and other territorial entities operating in the transport and other public service sectors. In such instances, those bodies or entities assume the role of the Minister for Economics in determining in which companies special powers may be inserted, the extent of those powers and the manner in which they are exercised.

In application of law n. 474/1994, the President of the Council of Ministers has inserted in the articles of ENI s.p.a., ENEL s.p.a., Finmeccanica s.p.a., STET s.p.a. and Telecom Italia s.p.a. which later merged, clauses establishing the special powers provided for by article 2 of law n. 474/1994.


The Italian government sought to modify the 1994 law in the light of the European Commission’s arguments, whilst an infringement proceeding was already pending against Italy. Although the Italian government had accepted to comply with the Commission’s reasoned opinion, it failed to do so within the prescribed time period. The Court of Justice thus found that Italy had failed to fulfil its obligations pursuant to Articles 43 and 49 of the Treaty, regarding the free movement of capital and the freedom of establishment (23.5.2000).

Law number 488 of the 23 of December 1999 is the first legislative step to rendering the Italian legislation ‘compatible’ with the evolving European standards. Article 66, numbers 3 and 4 of law n. 488/1999 establish that the special powers foreseen by article 2 of law n. 474/1994 can be introduced solely for relevant and imperative general interest reasons, in particular in relation to public order, public
security, public health and defence, in a way proportionate to the protection of such interests, as far as the duration of these powers is concerned as well.

Moreover, the law prescribes that these powers be conferred in the full respect of both the national and European legal systems, with regard had to non-discrimination and in a way that is coherent with the objectives of privatisation and the safeguarding of the market and of competition. The same article also refers to a future legislative material which will determine the specific criteria for the exercise of the special powers.

This was done with a decree of the President of the Council of Ministers, 11 February 2000\(^4\). Article 2 of this decree provides, in its first paragraph, that special powers are exercised within those limits foreseen by the companies’ articles of association and in the full respect of the principle of non-discrimination, with the aim of safeguarding imperative reasons of public interest, in accordance with the principle of proportionality in relation to the interest protected and in adherence to the specific criteria set out in the second paragraph of the same article.

The specific criteria set out for the exercise of the special powers, in an attempt to curb the Commission’s interventionist stance, outline the cases in which the approval to the acquisition of shares (art. 2, letter a of law n. 474/1994) can be denied. The approval can be denied if such a denial is adequate to prevent purchases of shares that:

(a) are not transparent and do not assure, anyway, the knowledge of the shareholdings which are relevant as far as the control of the company is concerned, as well as the industrial policy of the purchaser, in relation to the general criteria mentioned in the first paragraph of the article;

(b) are an impediment to liberalisation, privatisation of the company, or lead to conflict of interest situations capable of prejudicing the public interest pursued by the company;

(c) result in risks of an objective nature that the company may become involved with criminal organisations,

(d) could be in prejudice to the protection of the special powers;

(e) could cause great prejudice to the interests listed in the first paragraph of the article, in relation to the security and autonomy in the access to essential goods and raw materials, the persistence of the supply of essential public services, the development of highly technologically developed sectors.

Article 2 of the decree extends such criteria to all special powers foreseen by law n. 474/1994.

In the light of the above mentioned legislation it is evident that the criteria for the introduction and the exercise of Italian special powers, were still very general in 2000,

after the first modifications to the 1994 Law. Nonetheless, the shift in the national legislation, in an attempt to satisfy the evolving community standards, is evident.

When special powers were originally introduced in 1994 the only criteria in determining in which companies to introduce a special powers clause and when and how to exercise the special powers, was the general interest related to national objectives of economic and industrial policy. In 1994 the criteria for the introduction and the exercise of special powers were thus extremely vague, essentially regulated on a case by case basis and certainly allowing for a considerable discretion in the introduction and exercise of special powers.

The 1999-2000 legislative intervention has noticeably limited the Government’s discretion in both the introduction and the exercise of special powers. After the year 2000, special powers could be introduced only for imperative general interest reasons and in a way proportionate to the protection of such interests. These powers expressly had to be fully compatible with both the national and European legal systems, in particular with regard to non-discrimination and the safeguarding of the market and of competition. Moreover, as mentioned above, specific criteria for the exercise of the special powers were set out by a decree of the President of the Council of Ministers.

Even though the criteria set out for the adoption and the exercise of special powers were still quite general after 2000, they constituted a noticeable change. Nonetheless, a renewed Commission interest indicated that, at the European Union level, the changes were considered insufficient in reducing the discretion inherent in the exercise of these special powers.


The Commission found that the criteria for the exercise of the special powers, as narrowed down in 2000, were still too broadly defined: it thus began infringement proceedings against Italy on the 5 February 2003. Such infringement proceedings persuaded the Italian legislator to newly intervene, applying the Court of Justice’s findings, in particular as far as Commission v. Belgium was concerned. On the 24 December 2003, law number 350 modified in certain noticeable aspects the 1994 law establishing special powers.

Article 4(227) has substituted article 2(1) of law number 474 of 1994, with a new text, providing first of all that the special powers must be exercised by the Minister for Economics in agreement with the Minister for Productive Activities.

The special power of approval to the acquisition of a relevant participation (i.e. at least 5% of shares with voting rights in the general assembly or less if so determined

---

by a decree of the Minister for economics), is substituted with a power to oppose the acquisition. The opposition must be expressed within 10 days from the communication given by the company’s board, if the Minister for Economics believes the acquisition causes prejudice to the vital interests of the State. In the 10 day time-period elapsing from the directors’ communication, the voting rights related to the shares are suspended. If there is an opposition to the acquisition, the shares must be sold within a year. The Minister for Economics is under the obligation to give reasons for the opposition and against the exercise of such a power, redress is obtainable in front of the administrative court of the Lazio region.

In much the same way, the power to approve voting agreements if they involve at least 5% of shares with voting rights in the general assembly or the lower percentage foreseen by a decree of the Minister for Economics, has been modified into a power to oppose these. The Italian market authority (CONSOB) has to inform the Minister for Economics of the presence of such agreements and the Minister can exercise his special power within ten days. Once again the Minister for Economics must give reasons for the opposition with regard to the concrete prejudice to the vital interests of the State. Judicial redress is obtainable in front of the administrative court.

The power to veto certain important decisions such as the dissolution of the company, its merger, the transfer of seat, must be exercised giving reasons with regard to the concrete prejudice afforded to the vital interests of the State. Once again, judicial review is expressly foreseen.

Lastly, the law continues to foresee the power to nominate a director without the power to vote in directors’ meeting.

The special powers already contained in the articles of association of privatised companies are automatically modified in accordance to this new law. Moreover, the Government is under the obligation of identifying the ‘new’ criteria for the exercise of these special powers, limiting them only to the cases of prejudice to the vital interests of the State.

The Government has indeed identified the ‘new’ criteria for the exercise of these special powers. Paragraph 2 of article 1 of the decree of the President of the Council of Ministers of 10 June 2004 states that special powers foreseen by letters a), b) and c) of art. 2 of L. d. n. 332 of 1994, according to the aims set forth in paragraph 1, can be exercised in the following instances:

a) A clear and severe risk of shortage of energy or petrol goods, or services connected with energy production or distribution or in general of primary goods essential to general welfare, or upkeep of basic communication or transport services.

---

b) Clear and severe risk of impairment of public services or general services brought to the general public.

c) Clear and present danger to security of infrastructures or assets of essential public services.

d) Clear and evident danger to national defence, military security, public order and safety.

e) General health risks.

The changes brought by the most recent legislative intervention have been manifest. The Italian legislator has sought to adopt all of the recommendations the European Court of Justice had outlined in the other golden share cases, and in particular in Commission v. Belgium. All prior approval powers have been transformed into powers to oppose, with the obligation to give reasons for the exercise of the powers and expressly foreseeing judicial review. The powers must be exercised only if the vital interests of the State are being prejudiced or are in any way at risk. Specific cases for the exercise of special powers are also foreseen with a much greater precision than before: for example in case of a clear and severe risk of shortage of energy or petrol, or difficulty in upkeep of basic communication or transport services.

National legislation now seems compatible with European standards as discretion in the exercise of special powers has been dramatically reduced. The obligation to give reasons for the particular course of action taken, judicial review, strict time limits for oppositions, all contribute to a more objective application and exercise of special powers. This should in turn greatly reduce hindrances to the free movement of capital and the freedom of establishment, as envisaged and interpreted by the European Commission and the European Court of Justice.

4. European Union intervention

The European institutions and in particular the Commission, have slowly stepped up their intervention in the privatised sector. The Commission’s communication on ‘Certain legal aspects concerning intra-EU investment’ (97/C 220/06) has set out, in the light of the European Court of Justice’s case-law, the criteria that were to guide the Commission’s Treaty enforcement.

Commission v. Italy (delivered on the 23 May 2000) failed to spur on a debate as the original version of the Italian ‘golden share’ was indeed characterised by the large discretion given to the Minister for Economics. Moreover, the Italian government immediately accepted the Commission’s arguments without proposing any defences, but simply failing to modify its law in time.

The three judgments delivered on the 4th of June 2002 brought with them a much more participated discussion, not only between the Commission and the three Member
States involved (Portugal, France and Belgium as well as those who were granted leave to intervene) but between the Advocate General and the Court as well. The judgments delivered by the Court in 2003, as well as the infringement proceedings initiated since, confirm the European Union’s stance in relation to what it perceives to be restrictions to the free movement of capital. For example, the Commission has also chosen to examine, in the light of the free movement of capital provisions, areas of law which do not constitute golden shares, such as the German Volkswagen law.

The Commission has sustained that in the light of an interpretation of directive 88/361/EEC, where direct investments are defined as “…participation …(which) enables the shareholder… to participate effectively in the management of the company or in its control”, golden shares or special powers such as those originally present in the Italian legislation, restrict the free movement of capital (e.g. direct investments), by rendering investment in a company less attractive.

Measures restricting the free movement of capital can be justified, in accordance with article 58 of the Treaty, on grounds of public policy or public security as long as they follow the Court’s proportionality test, the measure being necessary and no other measure being able to achieve the same results in a less restrictive way. In particular, with regard to non-discriminatory measures, the Court’s case-law has always indicated that national measures liable to hinder or make less attractive the exercise of fundamental freedoms must fulfil essentially four conditions: they must be applied in a non-discriminatory manner; they must be justified by imperative requirements in the general interest; they must be suitable to attain the objective they pursue; they must not go beyond what is necessary to attain it.

Applying such principles the Court struck down against prior administrative approval and wide discretion, in the exercise of the powers conferred by golden shares without any possibility of judicial review. Commission v. Belgium has set the standard: this was in fact the only golden share application to be dismissed by the Court. The Court found that the power to oppose certain operations was indeed a restriction on the movement of capital between Member States but was justified on grounds of public security and the proportionality test was also satisfied. The system of approval was an ex post opposition system, to be adopted within strict time limits, explaining the reasons for the opposition, and judicial review was expressly granted by the decree. Moreover, the Commission did not demonstrate that a least restrictive measure was possible.

5. General considerations

10 A 1970 German law privatising Volkswagen establishes a 20% voting cap in combination with a 20% blocking minority and a mandatory representation of public authorities on the VW board.
The European institutions had already become involved in the Italian privatisation process for the State’s payment of debts in companies it controlled (e.g. the EFIM group, or certain operations conducted by IRI with regard to Alfa Romeo). Such State intervention would indeed have caused a distortion in competition and could well be considered state aid, incompatible with the Treaty.

The most recent intervention of the European institutions, with regard to golden shares, has been founded on other grounds: the free movement of capital and the freedom of establishment, although the Court has not specifically examined the effect on the freedom of establishment.

The Court of Justice has sought to dismantle those legislative constructions in which the State has stepped in, modifying the contractual nature of the company, in order to impose a certain business structure. In such a perspective, the special powers of opposition, present in the recently modified Italian legislation, still interfere with corporate management and control. Investors may well be less attracted to invest in such a privatised company, even though discretion in the exercise of such special powers, as mentioned above, has been limited.

For the safeguard of vital State interests, the Italian legislator has chosen to adopt a device similar to a golden share, or the French action spécifique. The possibility of exercising special powers is nonetheless not linked to any shareholding by the State in the privatised company. Indeed, special powers do not introduce any exception to the one share – one vote principle, and no special class of shares is created.

The British government, in Commission v. United Kingdom of Great Britain and Northern Ireland (13th May 2003)\(^{11}\), relied upon the defensive argument that a golden share merely was the creation of a special class of shares. The Court responded that although national company law may foresee the possibility of different classes of shares, with different rights attached to them, both in relation to sharing in the profits and participating in management, the restrictions deriving from a golden share do not arise out of the operation of normal company law, but are the result of the State’s intervention and thus it did not matter whether national company law foresaw such a possibility. Similar considerations could be set forth with regard to special powers, which are specifically inserted by the State in the company’s articles, regardless of any proprietary interest in the company.

5.1 “This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership” (art. 295)

In the last 15 years, privatisations in Italy have resulted in a revenue of 129 billion euros, amounting to 12,3% of the nation’s Gross Domestic Product (only the

\(^{11}\) Case C-98/01, ECR 2003.
U.K. has privatised more, circa 13.4% of the GDP). Nonetheless, operations in which all of the voting capital was sold by the State amount to only 3.9% of the GDP. The primary policy concern has thus been to reduce the public deficit and the State has not effectively sought to eliminate its intervention in the economy, especially in the key public utilities sector. Moreover, the State has often maintained, either directly or indirectly, a controlling participation in the company in which special powers have been introduced. This probably explains why the exercise of the special powers foreseen by the Italian legislation has not had much relevance in practice - these powers have indeed been seldom exercised.

Where the State still detains the majority of the voting capital, the company remains essentially a State enterprise. In much the same way, where the State holds special powers, even though not linked to any participation in the company, conceptually it is difficult to speak of a truly private enterprise.

Indeed, it could be said that in both of the above cases there has merely been a change in the formal structure of the company (the public economic entity has become a company limited by shares), and the State has merely modified the way it intervenes in the economy. In the first case (participation and majority of voting capital) the State will have both control and ownership, in the second (special powers without ownership) it will have control without ownership. In the latter case, even though the discretion in the exercise of special powers might be limited by specific and objective criteria, and even though the actual exercise of these powers might remain dormant, the State may intervene at any moment. The corporate interest is thus modified to encompass the public interest, not in an invasive way as if the company was still completely State-owned, but in a way which is indeed very similar to when the company is still under State control. This is all the more evident where the legislation concerning special powers also provides for the power to nominate members of the board. The end result is that a privatised company with special powers remains quite different from all other companies, and this may constitute a hindrance to investment.

In the light of such brief considerations, the arguments set forth by Advocate General Ruiz-Jarabo Colomer (opinions delivered on the 3 July 2001 and 6 February 2003) in relation to article 295 of the Treaty prove quite interesting. Such an article establishes the neutrality of the Treaty with regard to the system of property ownership in the Member States, in the sense that the Treaty will not prejudice the rules governing the national systems.

Article 295 of the Treaty could be interpreted in the sense that the neutrality extends to any measure which allows the State to intervene in a company’s operations, imposing specific objectives other than that of profit maximisation, typical of a private enterprise. Such an interpretation would apply article 295 disregarding any formal criterion such as the identity of the shareholder (i.e. public v. private).
Following from such considerations, in the opinions delivered before the Court, the Advocate General established that the existence of special powers was not contrary to any of the fundamental freedoms, although indeed their specific application could be. The State may certainly be intervening to control the sharing of property among private individuals, as the Court had pointed out, but this was the indirect result of the State’s retention of control in the company, presumably exempted in general by art. 295 of the Treaty.

It has been correct to oppose such an interpretation, as it considers the special powers that the State has reserved itself, as ownership of the company. Ownership must instead be intended solely as the participation in the business risks of the company and control must thus be distinguished from ownership. Indeed special powers have more to do with control than ownership. The fact that often where the State has privatised, it has done so only formally, not selling the majority of the voting capital of the company, does not foreshadow the divide between control and ownership.

5.2 Other Treaty provisions

It has been questioned whether it has been appropriate to consider golden shares (and special powers) under the free movement of capital and freedom of establishment provisions. Indeed, the second paragraph of article 86 of the Treaty establishes the application of all Treaty rules, in particular those related to competition, to undertakings entrusted with the operation of services of general interest insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular task assigned to them. In much the same way, article 16 of the Treaty provides that services of general economic interest operate on the basis of principles and conditions which enable them to fulfil their missions.

Golden shares (and special powers) cannot be examined under such Treaty provisions, as these provisions apply essentially in relation to the moment in which the company operating in the public utilities sector receives its operating license. These provisions apply when the public utilities company first enters the market and they deal with the effect, primarily on competition, that the privatised company can have.

On the other hand, special privileges influencing the management of the company, such as those contained in a golden share, clearly indicate that the State is intervening in the company’s day-to-day operations, limiting party autonomy and thus possibly restricting the free movement of capital. These restrictions can be deemed compatible with the Treaty only insofar as they satisfy the conditions set out in article 58 and in the Court’s case-law.

The official authority exception (article 45 of the Treaty) in relation to the chapter regulating the right of establishment does not apply either, as privatisation has meant that the State has officially recognised that the activities of the privatised
companies are not connected with the exercise of official authority. Indeed, the existence of special powers merely indicates that the companies operate in areas of public interest, which need specific protection.

Compatibility problems may also exist with regard to secondary European legislation (e.g. the second company law directive).

5.3 A policy objective: diffusion of shareholdings

Italian privatisation has been characterised by conflicting aims, one of which has certainly been to stimulate a greater diffusion of the property of privatised companies, among the general public. The main instrument to pursue truly public companies was to be, in the original intent of the Italian legislator, the sale of shares through public offerings. Nonetheless, the attempt to achieve such a public company model has proven unsuccessful and the State has often preferred other techniques for the sale of privatising companies, such as the accelerated book building technique.

The Italian capital market remains characterised by its family capitalism, with concentrated shareholdings and a growing mutual fund participation. The Italian government is reconsidering the policy aims behind privatisation amidst recent operations such as the sale of a noticeable part of the stock of the Cassa depositi e prestiti and discussions on the sale of the majority holding in Poste Italiane. A special parliamentary Commission has been set up to investigate and reconsider the present and future privatisation policy. Policy objectives guiding the privatisation of previously State-owned economic entities must probably first of all take into account the deficit reduction function, the only policy aim which has been seriously and effectively achieved in the past fifteen years.

5.4 Other sectors which could become involved

It is interesting to briefly consider to what extent the principles developed and set forth for golden shares (and special powers) are applicable to other sectors of the legal-economic system and in particular to companies operating in sectors where the State is present by enacting a pervasive monitoring function. This occurs in the insurance sector and, more specifically, in the banking sector.

National surveillance authorities and legislations achieve, in practice, a series of restrictions that are similar to those attached to a golden share and which are thus arduous to justify in the light of the Treaty. An example consists in the policy pursued by the Italian banking surveillance authority, expressed in numerous speeches and contributions of the Governor of the Central Bank, to condition the control of Italian banks by foreign banks to the previous reinforcement of the Italian banking system. Such an instrument is quite similar to a golden share, and thus not easily made
compatible with the golden shares case-law even in the light of the particular nature of
the banking sector.

Such a theme has recently been subject to considerable debate, after the public
offerings of a Spanish and a Dutch bank on the shareholdings of two Italian banks. The
initially negative stance of the Governor of the Central Bank has had to make way, upon
the European Commission’s pressures as well, to a more permissive stance. The moral
suasion adopted by the Governor of the Central Bank has indeed been an instrument
quite similar to special powers as it has allowed the Governor to exercise a veto power
on any operation involving the banking sector, which he believed might have a negative
impact on the stability of banks.

In the light of the golden share decisions, the most recent public offerings, and
the pressure on the Governor of the Central Bank to move away from a traditionally
conservative stance, are a clear sign that within the European Union much integration is
still to come and yet much is coming. The golden share decisions have been an
indication to all sectors of the legal-economic system, that situations of State privilege
must be justified and the discretion related to the exercise of such privileges must be
limited in accordance with the Treaty and the European Court of Justice’s case-law.