

ACCOUNTABILITY AND TRANSPARENCY POLICIES IN AUSTRIAN STATE OWNED ENTERPRISES ON THE FEDERAL LEVEL



Workshop 'Accountability, anti-corruption and transparency policies in Public owned enterprises (POEs)'

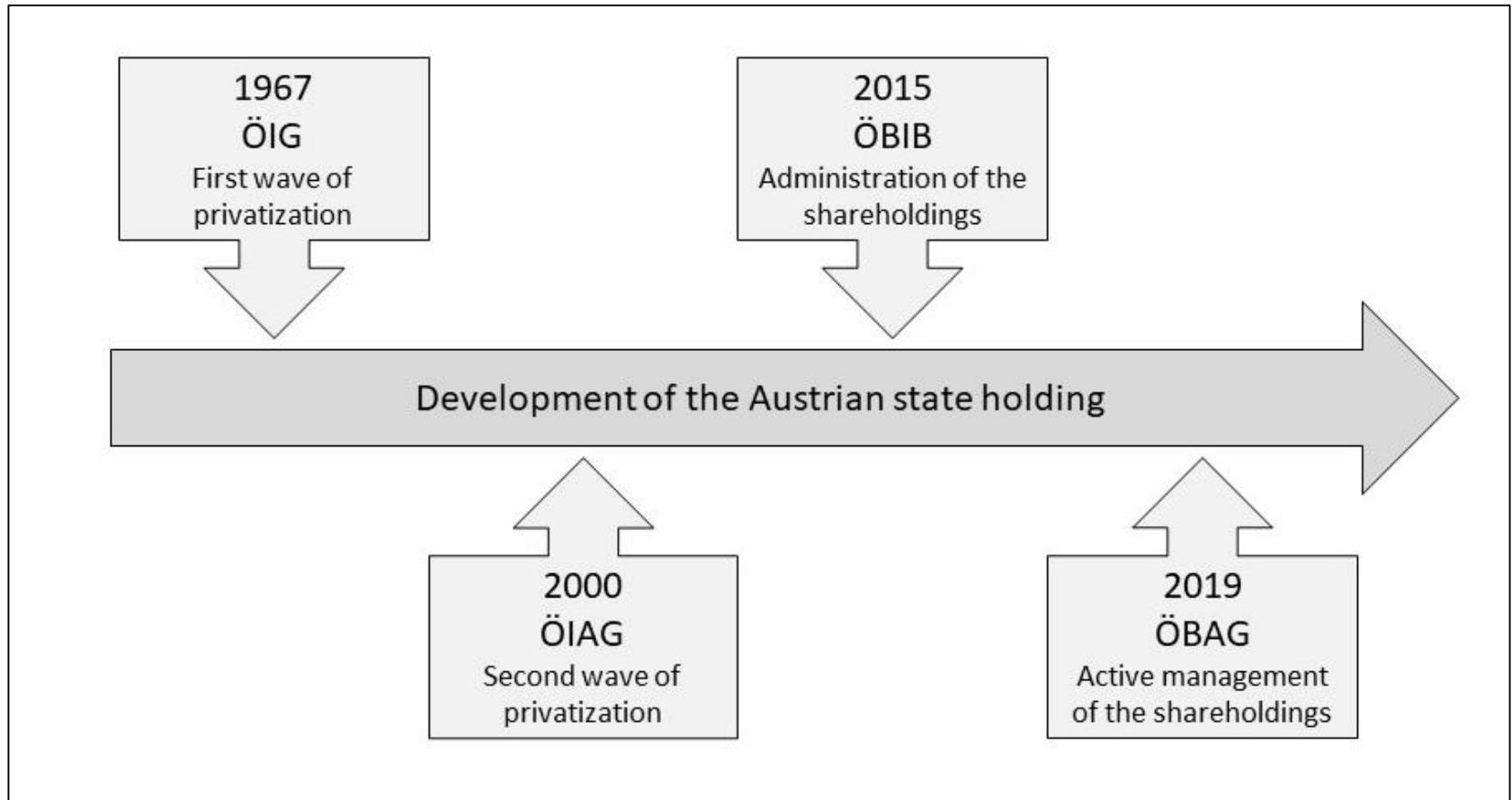
STATE OWNED ENTERPRISES (SOES)

- SOEs often have to cope with “**improper political intervention**, poor governance and a **lack of transparency** and accountability” (Wilkinson 2018, 4).
- One form of improper intervention can be **potential influence in the composition of management and advisory boards by politicians and public officials**. → Public officials in their function of board members may be faced with conflicts of interest (OECD 2016).
- The risk of **political intervention** increases, when SOEs are not “equipped with autonomous, professional and independent boards responsible for ensuring an arms-length relationship between the SOE and the government” (OECD 2016).
- Therefore, “it is necessary to improve the internal [and external] supervision mechanism and strengthen the restriction and supervision of executive power” (Ye/Hu 2019, 266).
- → Will reporting guidelines help for more transparency and integrity?

THEORETICAL FRAMEWORK

- **Stewardship-theory** assumes an intrinsically motivated agent – the steward – who, even in the absence of control by the principal, is assumed to act in the principal's sense and not opportunistically and self-interestedly → SOE acts in the role of the steward in the public interest and aims to reduce negative externalities that could affect society and to encourage and support positive effects
- **Legitimacy theory** → organisations (also SOEs) must behave in a way that is accepted by society as socially acceptable and ethically correct

SOES IN AUSTRIA



Not all federal SOEs in Austria are part of the state holding (ÖBAG):
ÖBB, ORF, ASFiNAG, ÖBF

SOES IN AUSTRIA – MOST IMPORTANT COMPANIES BEING PART OF ÖBAG

Entity	Share of ÖBAG (in %)	Total revenue (in Euro)	Employees
Post AG	52.85	1,959 Mio	20,545
Verbund	51	2,848 Mio	2,742
Casinos Austria	33.24	4,487 Mio	3,438
OMV	31.5	22,930 Mio	20,231
Telekom Austria	28.42	4,466 Mio	18,695
BIG Bundesimmobilien- gesellschaft	100	1,075 Mio	923
APK Pensionskasse	32.9	-	-
FIMBAG	With 03.11.2015 it was decided to dissolve the company after having largely fulfilled the tasks assigned		

Source: Data from the ÖBAG website 2020

METHOD

- RQ: How do the federal SOEs in Austria perform under anti-corruption and integrity criteria?

- For analysing performance of SOEs in Austria under Anti-Corruption and integrity criteria, we used the
 - **OECD Guidelines on Corporate Governance of SOE (2015)** as well as the
 - **OECD Guidelines on Anti-Corruption and Integrity in SOE (2019).**

- With the criteria of the guidelines we analysed the annual reports and the CSR reports of federal SOEs in Austria in the timeframe of 2015-2018

FINDINGS FIRST EVALUATION - OECD GUIDELINES ON CORPORATE GOVERNANCE OF SOE (2015)

Disclosure and transparency		2015	2016	2017	2018
A.	SOEs should report material financial and non-financial information on the enterprise in line with high quality internationally recognized standards of corporate disclosure, and including areas of significant concern for the state as an owner and the general public. This includes in particular SOE activities that are carried out in the public interest. With due regard to enterprise capacity and size, examples of such information include:				
1.	A clear statement to the public of enterprise objectives and their fulfilment (for fully-owned SOEs this would include any mandate elaborated by the state ownership entity)	●	●	●	●
2.	Enterprise financial and operating results , including where relevant the costs and funding arrangements pertaining to public policy objectives	●	●	●	●
3.	The governance, ownership and voting structure of the enterprise, including the content of any corporate governance code or policy and implementation processes	●	●	●	●
4.	The remuneration of board members and key executives	●	●	●	●
5.	Board member qualifications , selection process , including board diversity policies , roles on other company boards and whether they are considered as independent by the SOE board	●	●	●	●
6.	Any material foreseeable risk factors and measures taken to manage such risks	●	●	●	●

FINDINGS FIRST EVALUATION - OECD GUIDELINES ON CORPORATE GOVERNANCE OF SOE (2015)

Disclosure and transparency		2015	2016	2017	2018
7.	Any financial assistance, including guarantees , received from the state and commitments made on behalf of the SOE , including contractual commitments and liabilities arising from public-private partnerships	●	●	●	●
8.	Any material transactions with the state and other related entities	●	●	●	●
9.	Any relevant issues relating to employees and other stakeholders	●	●	●	●
B.	SOEs' annual financial statements should be subject to an independent external audit based on high-quality standards . Specific state control procedures do not substitute for an independent external audit.	●	●	●	●
C.	The ownership entity should develop consistent reporting on SOEs and publish annually an aggregate report on SOEs. Good practice calls for the use of web-based communications to facilitate access by the general public.	●	●	●	●

FINDINGS FIRST EVALUATION - OECD GUIDELINES ON ANTI-CORRUPTION AND INTEGRITY IN SOE (2019), SAFEGUARD THE AUTONOMY OF STATE-OWNED ENTERPRISES' DECISION-MAKING BODIES

Promotion of Integrity and Prevention of Corruption at the Enterprise Level		2015	2016	2017	2018
9.	It is a prime responsibility of the state to ensure that boards have the necessary authority, diversity, competencies and objectivity to autonomously carry out their function with integrity. The corporate governance framework should ensure the board is accountable to the company and to the shareholders and, where legislated, subject to parliamentary control, recognizing citizens as the ultimate shareholder. This includes, inter alia, that:				
i.	Politicians, who are in a position to influence materially the operating conditions of SOEs, should not serve on their boards. Civil servants and other public officials can serve on boards under the condition that qualification and conflict of interest requirements apply to them. A pre-determined "cooling-off" period should as a general rule be applied to former politicians.	●	●	●	●
ii.	An appropriate number of independent members – non-state and nonexecutive – should be on each board and sit on specialised board committees.	●	●	●	●
iii.	Any collective and individual liabilities of board members should be clearly defined. All board members should have a legal obligation to act in the best interest of the enterprise, cognisant of the objectives of the shareholder. All board members should have to disclose any personal ownership they have in the SOE and follow the relevant insider trading regulation.	●	●	●	●
iv.	Members of SOE boards and executive management should make declarations to the relevant bodies regarding their investments, activities, employment, and benefits from which a potential conflict of interest could arise.	●	●	●	●

FINDINGS FIRST EVALUATION - OECD GUIDELINES ON ANTI-CORRUPTION AND INTEGRITY IN SOE (2019), SAFEGUARD THE AUTONOMY OF STATE-OWNED ENTERPRISES' DECISION-MAKING BODIES

Promotion of Integrity and Prevention of Corruption at the Enterprise Level		2015	2016	2017	2018
v.	Board members should be selected on the basis of personal integrity and professional qualifications , using a clear, consistent and predetermined set of criteria for the board as a whole, for individual board positions and for the chair, and subject to transparent procedures that should include diversity , background checks and, as appropriate, mechanisms aimed at preventing future potential conflicts of interest (e.g. use of asset declarations)	●	●	●	●
vi.	Mechanisms should exist to manage conflicts of interest that may prevent board members from carrying out their duties in the company's interest, and to limit political interference in board processes. Potentially conflicting interests should be declared at the time of appointment and the declarations should be kept up to date during board tenure .	●	●	●	●
vii.	Mechanisms to evaluate and maintain the effectiveness of board performance and independence should be in place. These may include, amongst others, limits on the term of any continuous appointment or the permitted number of reappointments to the board , as well as resources to enable the board to access independent information or expertise .	●	●	●	●
10	The state should express an expectation that the board apply high standards for hiring and conduct of top management and other members of the executive management, who should be appointed based on professional criteria . Special attention should be given to managing conflict of interest and, relatedly, movement of actors between public and private sectors (also known as "revolving door" practices)	●	●	●	●

CONCLUSION FOR THE FIRST CASE ANALYSIS

- Against the background of the OECD Guidelines on Corporate Governance of SOE (2015):
 - 6 out of 11 indicators are reported
 - 2 out of 11 are neutral in reporting
 - 3 out of 11 indicators are not reported
- Against the background of the OECD Guidelines on Anti-Corruption and Integrity in SOE (2019), Safeguard the autonomy of state-owned enterprises' decision-making bodies
 - 4 out of 8 are neutral in reporting
 - 4 out of 8 indicators are not reported

Note: SOEs in Austria have to consider the Austrian Corporate Governance Codex, OECD guidelines are recommendations

CONCLUSION FOR THE FIRST CASE ANALYSIS

- First Case Organisation reports rather well against the background of the OECD Guidelines on Corporate Governance of SOE (2015)
- Against the background of the OECD Guidelines on Anti-Corruption and Integrity in SOE (2019) (Safeguard the autonomy of state-owned enterprises' decision-making bodies), less criteria are reported

OUTLOOK

- Comparison of SOEs on federal level
- Evaluation, how the organisations perform under Anti-Corruption and integrity criteria?
- Evaluation, if there are any differences e.g. due to ownership-structure

BACKUP

CRITERIA FOR ANALYSIS

OECD Guidelines on Corporate Governance of SOE (2015)	
A.	SOEs should report material financial and non-financial information on the enterprise in line with high quality internationally recognised standards of corporate disclosure, and including areas of significant concern for the state as an owner and the general public. This includes in particular SOE activities that are carried out in the public interest. With due regard to enterprise capacity and size, examples of such information include:
	1. A clear statement to the public of enterprise objectives and their fulfilment (for fully-owned SOEs this would include any mandate elaborated by the state ownership entity);
	2. Enterprise financial and operating results, including where relevant the costs and funding arrangements pertaining to public policy objectives;
	3. The governance, ownership and voting structure of the enterprise, including the content of any corporate governance code or policy and implementation processes;
	4. The remuneration of board members and key executives;
	5. Board member qualifications, selection process, including board diversity policies, roles on other company boards and whether they are considered as independent by the SOE board;
	6. Any material foreseeable risk factors and measures taken to manage such risks;
	7. Any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE, including contractual commitments and liabilities arising from public-private partnerships;
	8. Any material transactions with the state and other related entities;
	9. Any relevant issues relating to employees and other stakeholders.
B.	SOEs' annual financial statements should be subject to an independent external audit based on high-quality standards. Specific state control procedures do not substitute for an independent external audit.
C.	The ownership entity should develop consistent reporting on SOEs and publish annually an aggregate report on SOEs. Good practice calls for the use of web-based communications to facilitate access by the general public.

CRITERIA FOR ANALYSIS

OECD Guidelines on Anti-Corruption and Integrity in SOE (2019)	
Safeguard the autonomy of state-owned enterprises' decision-making bodies	
9.	It is a prime responsibility of the state to ensure that boards have the necessary authority, diversity, competencies and objectivity to autonomously carry out their function with integrity. The corporate governance framework should ensure the board is accountable to the company and to the shareholders and, where legislated, subject to parliamentary control, recognising citizens as the ultimate shareholder. This includes, inter alia, that:
	i. Politicians who are in a position to influence materially the operating conditions of SOEs should not serve on their boards. Civil servants and other public officials can serve on boards under the condition that qualification and conflict of interest requirements apply to them. A pre-determined "cooling-off" period should as a general rule be applied to former politicians.
	ii. An appropriate number of independent members – non-state and nonexecutive – should be on each board and sit on specialised board committees.
	iii. Any collective and individual liabilities of board members should be clearly defined. All board members should have a legal obligation to act in the best interest of the enterprise, cognisant of the objectives of the shareholder. All board members should have to disclose any personal ownership they have in the SOE and follow the relevant insider trading regulation.
	iv. Members of SOE boards and executive management should make declarations to the relevant bodies regarding their investments, activities, employment, and benefits from which a potential conflict of interest could arise.
	v. Board members should be selected on the basis of personal integrity and professional qualifications, using a clear, consistent and predetermined set of criteria for the board as a whole, for individual board positions and for the chair, and subject to transparent procedures that should include diversity, background checks and, as appropriate, mechanisms aimed at preventing future potential conflicts of interest (e.g. use of asset declarations).
	vi. Mechanisms should exist to manage conflicts of interest that may prevent board members from carrying out their duties in the company's interest, and to limit political interference in board processes. Potentially conflicting interests should be declared at the time of appointment and the declarations should be kept up to date during board tenure.
	vii. Mechanisms to evaluate and maintain the effectiveness of board performance and independence should be in place. These may include, amongst others, limits on the term of any continuous appointment or the permitted number of reappointments to the board, as well as resources to enable the board to access independent information or expertise.
10.	The state should express an expectation that the board apply high standards for hiring and conduct of top management and other members of the executive management, who should be appointed based on professional criteria. Special attention should be given to managing conflict of interest and, relatedly, movement of actors between public and private sectors (also known as "revolving door" practices).