



**PART I**

**ACCOUNTABILITY,  
ANTI-CORRUPTION, AND  
TRANSPARENCY POLICIES IN  
PUBLIC-OWNED ENTERPRISES (POES)**

**by Andrea ZATTI (ed.)**

**CIRIEC STUDIES SERIES 2 - 2020/2021**



**Andrea ZATTI (ed.)**

**Accountability, anti-corruption, and transparency  
policies in Public-Owned Enterprises (POEs)**

**Part I**

**2020-2021**

**CIRIEC Studies Series – No. 2**

**CIRIEC (International Centre of Research and Information on the Public, Social and Cooperative Economy) is a non-governmental international scientific organization.**

Its objectives are to undertake and promote the collection of information, scientific research, and the publication of works on economic sectors and activities oriented towards the service of the general and collective interest: action by the State and the local and regional public authorities in economic fields (economic policy, regulation); public utilities; public and mixed enterprises at the national, regional and local levels; the so-called “social economy” (not-for-profit economy, cooperatives, mutuels, and non-profit organizations); etc.

In these fields CIRIEC seeks to offer information and opportunities for mutual enrichment to practitioners and academics and to promote international reflection and action.

***CIRIEC activities, publications and researches are realized with the support of the University of Liège, the Walloon-Brussels Federation, the Walloon Region and the Belgian National Lottery.***



This publication has been peer-reviewed.

No part of this book may be reproduced in any form, by print, photocopy, microfilm or any other means, without prior written permission from the publisher. All rights reserved.

© CIRIEC aisbl, 2021

Université de Liège

Quartier Agora

Place des Orateurs, 1

Bât. B33, bte 6, BE-4000 Liège

[ciriec@uliege.be](mailto:ciriec@uliege.be); <https://www.ciriec.uliege.be>

ISSN 2795-8825 (epdf)

ISBN 978-2-931051-54-2 (epdf) • December 2021 • 144 pages

EAN 9782931051542

<https://doi.org/10.25518/ciriec.css2book>

This publication is indexed and available in [RePEc](#)

## Contents

<b>Acknowledgements</b> .....	5
<b>Foreword</b> .....	7
<b>General concepts and main contents of the study / Introduction</b> .....	9
<i>Andrea Zatti</i>	
<b>Public-Owned Enterprises (POEs): definition, evolution, and evaluation / Context</b> .....	21
<i>Andrea Zatti</i>	
<b>The case of Italy</b> .....	43
<i>Andrea Zatti</i>	
<b>Accountability and transparency policies in Spanish Public-Owned Enterprises / Spain</b> .....	61
<i>María del Carmen Sánchez Carreira</i>	
<b>Portuguese Public-Owned Enterprises: between the fight against corruption and the search for a modern role / Portugal</b> .....	85
<i>Paulo Reis Mourão &amp; Cilina Vilela</i>	
<b>Accountability and transparency policies in Austrian Public-Owned Enterprises / Austria</b> .....	101
<i>Birgit Grüb &amp; Dorothea Greiling</i>	
<b>Key Performance Indicators of Public-Owned Enterprises in North Macedonia</b> .....	113
<i>Merita Zulfu Alili</i>	
<b>Accountability, anti-corruption and transparency policies in Public-Owned Enterprises in Albania</b> .....	125
<i>Nevila Mehmetaj</i>	
<b>Presentation of the Authors</b> .....	143



## Acknowledgements

The scientific Editor of this first publication output is happy to present the research on *Accountability, anti-corruption and transparency policies in Public-Owned Enterprises (POEs)* carried out within CIRIEC's International Scientific Commission "Public Enterprises / Public Services". He is acknowledgeable to CIRIEC's Direction and International secretariat for the support and help given to achieve this e-book. A special recognition and thanks go to Carmela De Cicco for all the layout and proofreading work achieved.

Further gratitude goes to the experts and researchers who, despite the difficult sanitary situation in Spring-Summer 2020, succeeded in achieving the first part of their research work they presented and discussed in early June 2020. Together, they then agreed on a common structure allowing for cross-country comparative analysis, and pursued and deepened their work. This is now made public, with a view to gathering further insight, additional studies, and raising interest in this important governance issue.

We wish you an interesting reading experience!

Prof. Andrea Zatti

University of Pavia, Italy





## Foreword

CIRIEC's International Scientific Commission "Public Enterprises / Public Services" launched an international reflection programme on various topics linked to the governance of State-owned enterprises on all government levels.

One Working Group, coordinated by Professor Andrea ZATTI (University of Pavia, Italy), devotes its work to "Accountability, anti-corruption and transparency policies in Public-Owned Enterprises (POEs)".

A specific research programme frames the country reports along the same structuring topics: National approach to POEs; Impact on transparency and integrity of public intervention; Assessment of national legislation and regulation on corruption prevention mechanisms; Anti-corruption practices in POEs; Empirical findings.

Instead of meeting physically at the occasion of CIRIEC's Congress in Thessaloniki – that was cancelled because of COVID –, a discussion webinar took place virtually on 4 June 2020 and gathered some 35 participants. Seven experts and researchers from Albania, Austria, Georgia, Italy, the Republic of North Macedonia and Spain presented their first results. Their presentations are available online.

The present e-book features a first batch of country studies from Albania, Austria, Italy, the Republic of North Macedonia, Portugal and Spain. Finalised in spring-summer 2021, those studies might be updated and completed by others in the coming year, in order to widen the territorial coverage.

As the second volume of the *CIRIEC Studies Series*, it matches CIRIEC's vocation to develop scientific analysis on the potentialities and action of public economy in the implementation of general interest.



## General concepts and main contents of the study / Introduction

Andrea ZATTI\*

### Abstract

Chapter 1 presents the main concepts and definitions considered in the following analysis (corruption, corruption measures, corruption effects, Public Owned Enterprises-POEs) and the overall structure of the study. A specific focus is dedicated to the notion of hybrid organizations presented as simultaneously quasi-public subjects and enterprises. Due to the coexistence of private-oriented and public-oriented traits, POEs represent an interesting context of analysis in order to study the adoption of anticorruption and compliance measures on forms of control and accountability aiming at removing or mitigating the factors that make more difficult the accomplishment of their original assignments and results. Through a multi country-perspective, the study aims understanding the state of implementation of different anti-corruption and compliance measures in POEs in several European countries; a relatively new subject and one lacking in-depth theoretical and research exploration.

**Keywords:** General introduction, Definitions, Corruption, Public Owned Enterprises (POEs), Hybrid organizations

**JEL-Codes:** D23, D73, G38, H11, K23, K42, L32

---

\* Researcher and Professor, University of Pavia; President of the Romagnosi Foundation - Local Government School, and Rector of the Cairoli College, Pavia (Italy) ([andrea.zatti@unipv.it](mailto:andrea.zatti@unipv.it)).

Corruption is a complex and subtle phenomenon, without a uniform definition and without consolidated measurement indexes and methodologies. In the approach adopted by the non-governmental organisation Transparency International and the OECD, for example, corruption is intended as the abuse of an entrusted discretionary power for private gains. Though, the United Nations Convention against Corruption (UNCAC) does not provide a single definition of corruption, rather it defines specific acts of corruption, and recommends States parties to criminalize these acts in their jurisdictions (UNODC, 2004). The illegal actions defined by UNCAC as corruption offences include:

- Bribery in the public and private sectors (articles 15, 16 and 21)
- Embezzlement in the public and private sectors (articles 17 and 22)
- Trading in influence (article 18)
- Abuse of functions (article 19)
- Illicit enrichment (article 20)
- Money-laundering (article 23)
- Concealment (article 24) and Obstruction of justice (article 25) related to the offences listed above

Alongside, even more inclusive definitions have been developed, contemplating not only crimes and legal violations but even acts, decisions, and procedures that, pursuing a personal or biased profit, go far from the general interest because are unjust, dishonest, or simply ineffective. A situation also referred to as maladministration or mismanagement (LGA, 2013; Previtali et al., 2018)<sup>1</sup>, which presents close interconnections with the principal-agent model and the related agency problem.

Even if someone has argued that corruption can have positive effects, helping the economic system overcoming rigid bureaucracy and excessive regulation (the ‘grass-the-wheel hypothesis’<sup>2</sup>), it is widely acknowledged that in the absence of mechanisms to identify, analyze, prevent and respond to corruption risks, they can bring about negative consequences like lower macroeconomic growth and prosperity levels (Figure 1), declining investments and financial performances of firms, security breaches and reputational damages (OECD, 2017; Baum et al., 2019<sup>3</sup>; IMF, 2019; Belhoncine & Jirasavetakul, 2020).

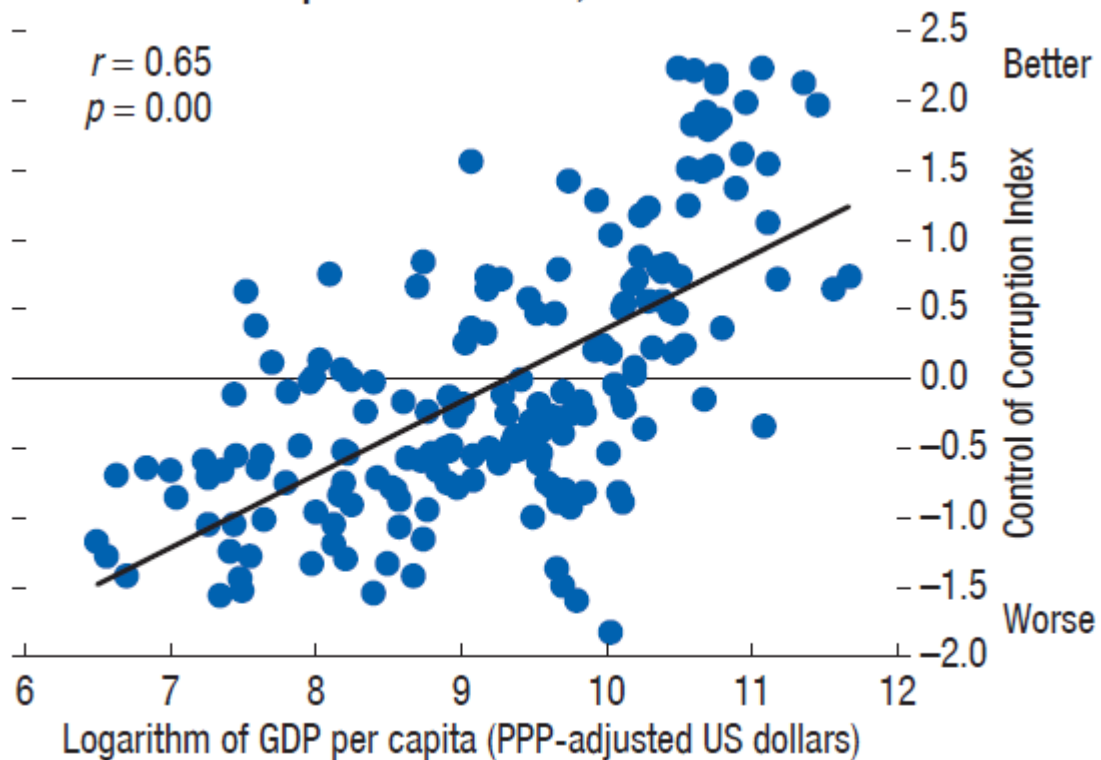
---

<sup>1</sup> The same approach is adopted by the Italian Anticorruption Authority when assuming the strict relationship of the notion of corruption with that of maladministration (ANAC, 2015).

<sup>2</sup> See Baum et al. (2019) for some references on this aspect.

<sup>3</sup> In the case of firms, it is shown that distortive behaviors emerge. Instead of focusing on being the most efficient, firms may put their efforts, including by paying bribes, to get privileged access to public contracts, public services or infrastructure, relaxing regulatory oversight, and avoiding paying taxes (Baum et al., 2019).

**Figure 1. Control of corruption and GDP per capita in different countries (2017)**



Note: The Control of Corruption Index provides a relative measure of perceived corruption that ranges from -2.5 (high corruption) to 2.5 (low corruption). The figure shows the logarithm of GDP per capita in PPP-adjusted US dollars.  $p$  =  $p$  value; PPP = purchasing power parity;  $r$  = coefficient of correlation.

Source: IMF (2019, p. 40).

Furthermore, the evidence suggests that corruption distorts how governments define priorities and use public money. In fact, investments in social capital and human capital<sup>4</sup> are found to be shrank as resources are diverted from their most beneficial use, causing the most detrimental effects above all on the most vulnerable categories and countries<sup>5</sup>. This assumes a specific importance in the pandemic era, when it has been highlighted that widespread forms of corruption at the point of service delivery led to lower accessibility and quality of healthcare services (Vrushni & Kukutschka, 2021).

<sup>4</sup> IMF (2019, p. 44) reports that 'Indeed, corruption is associated with fewer resources allocated to education or health spending, especially for low-income and emerging market economies'. In the same direction a recent study by Vrushni & Kukutschka (2021): 'Where corruption is systematic, funds are often diverted from essential public services such as healthcare or education'.

<sup>5</sup> OECD (2020, p. 2) reports, for example, that: 'The Africa Union estimates that the equivalent of one quarter of the total economic output (GDP) of African states, amounting to USD 148 billion, is lost to corruption every year. The US health care programmes Medicare and Medicaid estimate 5-10% of their USD 870 billion annual budget is lost to overpayment'.

The widely disruptive effects of corruption on the economic system and, as well, on public institutions and governance have led to its inclusion in the United Nations Sustainable Development Goals (target 16.5 on corruption and bribery), making anti-corruption efforts a global imperative in building strong, transparent and accountable institutions. At the same time, corruption hinders the realization of many other SDGs, as the vast sums that are lost to corruption could have been used to upgrade standards and resource efficiency by improving housing, healthcare systems, education and water services.

It is clear from the above reflections, that corruption occurs and embraces both the public and the private spheres. In both cases, corruption and mismanagement occur when individuals or organizations promote interests that are different from the interest they were entrusted to serve. Alongside, integrity is seen as the capacity of upholding and prioritising the general-organizational interest over private-oriented interests (OECD, 2019a). Yet, definitions and the consequent investigations often focus on the public sector, i.e. when corruption and integrity issues involve public officials, civil servants, or politicians<sup>6</sup>, influencing the general interest. Consequences can be particularly severe in this case since corruption and mismanagement cause direct financial losses and increases in the cost of government, while, at the same time, the quality of services and infrastructures can be dramatically undermined when government decisions are distorted by bribes, nepotism or conflict of interests (IMF, 2019; Wilkinson, 2018). Moreover, and even more dangerously, corruption in the public sphere contributes to the erosion of citizens' trust in public institution, leading to biased misperception and social and political instability (IMF, 2019; OECD, 2017<sup>7</sup> & 2019a).

In the following analysis, focused on Public Owned Enterprises (POEs), the line between public and private is however intrinsically ambiguous since both their legal dress and intrinsic mission often lay in a grey area. For the same reasons, UNCAC broadly defines "public official" including any person who performs a public function. Thus, offences typical of the public sector such as trading in influence or abuse of functions are offences that can be committed by persons working in POEs when providing services with a general interest.

---

<sup>6</sup> The general definition of corruption is in this case 'the *abuse of public office for private gains*' (IMF, 2019). Similarly, OECD defines the concept as "active or passive misuse of the powers of Public officials (appointed or elected) for private financial or other benefits" (OECD, Glossary of statistical terms).

<sup>7</sup> In this view (p. 214): '*Trust in government is strongly correlated with citizens' approval of their country's leadership and perceived spread of corruption in government in OECD countries. Where countries are perceived to have high moral integrity, more people trust government. Similarly, the actions of country leaders and the resulting public opinion about them may have an impact on the public perception of the government institutions they represent*'.

This is a relevant issue since Public Owned Enterprises (POEs)<sup>8</sup> play a key role in the global and local economies and societies (European Commission, 2016; Bertocchi, 2017; Wilkinson, 2018; OECD, 2019a&b; Baum et al., 2019; Sorrentino, 2020), providing value added, employment, goods and services in sectors such as transport, utilities, telecommunications, postal services, health and the extractive and financial sector (G20, 2018; Wilkinson, 2018). Currently, it is estimated that around 20% of the world's largest enterprises are publicly-owned (mainly State) and the trend is clearly upward (G20, 2018; OECD, 2019a<sup>9</sup>). Also local POEs have proliferated during the last two to three decades, often as an attempt of seeking for flexibility outside the bureaucratic structures and the related constraints on the use of public money applied within the perimeter of public administration (Grossi & Reichard, 2008; Karantounias & Pinelli, 2016; Bergh et al., 2019).

As a result, an increasing share of decisions and resources, while being kept within the public sphere initiative, are finally allocated to these, at least partially, autonomous organizational forms. Accordingly, their efficiency, efficacy, but also their sustainability, accountability and transparency should represent key concerns for both public policy makers and theoretical analysis (Klein, 2012; Zatti, 2013; Grossi et al., 2015; Previtali et al., 2018; Wilkinson, 2018<sup>10</sup>; Voorn et al., 2018). Still, the attention of scholars on this development has been scant (Bergh et al., 2019) and not enough is known about the effects of POEs on the overall operations of public governments.

In what follows we do not discuss the controversial and widely investigated ownership effects on the overall profitability and efficiency performance of enterprises (Bognetti & Obermann, 2008; Bruton et al., 2015; European Commission, 2016; Curci et al., 2017; Wollmann, 2018), but we focus on a more specific issue regarding the management of POEs. In fact, concerns with poor governance and accountability have increasingly fueled doubts about the capacity of POEs in implementing public policy and addressing market failures (European Commission, 2016; Baum et al., 2019). In particular, a recent challenge POEs are having to deal with is the internalisation of effective corruption prevention mechanisms (Previtali et al., 2018; Bergh et al., 2019).

---

<sup>8</sup> In the following analysis, by POEs we mean State or regionally/locally owned (controlled or participated) organizational entities and companies which are given a legal status /personality separate from State/regional/municipal administration and are endowed with, at least to some extent, operational and financial autonomy.

<sup>9</sup> According to this study, this share has tripled since the turn of the century.

<sup>10</sup> For this author (p. 16): *'This evolving model of state capitalism brings a requirement for the state to ensure that the power entrusted in it by the public is expressed responsibly in its market interventions, and that it requires (and monitors) responsible behaviour of its SOEs, other entities and investments through which it intervenes in markets'*.

According to many observers (World Bank, 2014; Wilkinson, 2018; Baum et al., 2019; OECD, 2019a), in fact, POEs are prone to greater corruption risks due to some additional challenges compared to private sector firms. These are mainly due to specific vulnerabilities such as multiple principals, multiple objectives, lack of incentives and professionalism in the exercise of the (public) ownership, politicized boards and management, weaker budget constraints, poor internal and external governance and low levels of transparency and accountability (Dela Rama, 2011; World Bank, 2014; Bertocchi, 2017; Curci et al., 2017; Wilkinson, 2018; OECD, 2019a; Mocetti & Roma, 2020).

Starting from these premises there is both the theoretical and empirical need to focus on the specific nature of these hybrid organizations that are simultaneously quasi-public subjects and enterprises (Wollmann, 2014; Previtali et al., 2018; Bergh et al., 2019). In fact, the presence of a more complex principal-agent chain (general public, public sector administrators, supervisory board and board of directors, CEO and professional management) and the coexistence of private-oriented and public oriented performance measures can be cause of unclear lines of responsibility, lack of accountability and reduced democratic transparency, raising the likelihood of self-serving and corrupted behavior by corporate insiders and politicians (Previtali et al., 2018; Voorn et al., 2018; Bergh et al., 2019; Ye & Hu, 2019). Consequently, POEs represent an interesting context of analysis in order to study the adoption of anticorruption and compliance measures on forms of control and accountability in organizations characterized by a hybrid nature, as a means to facilitate the achievement of hybrid organizational and strategic objectives, aiming at removing or mitigating the factors that make more difficult the accomplishment of results. It is necessary to go beyond the simple analysis that consider the adoption of anti-corruption and compliance practices as a “formal” process: the mere introduction of these practices could be not sufficient to create the conditions to implement innovative practices and policies in POEs. The anticorruption and compliance mechanisms characterized just by rule-based processes may have negative consequences especially in POEs, reducing these mechanisms to an add-on for internal control and compliance to external regulations, derailing any real process of hybridization with the pre-existing organization management systems and practices.

However, despite an awareness of how the effectiveness of both anticorruption and compliance mechanisms depends greatly on the way in which they are introduced and implemented, there are few contributions exploring “if” and “how” they work in practice. Moreover, most of the analytical approaches adopted and the policy measures implemented concern, on the one hand, private-oriented enterprises and, on the other (and more recently) public administrations. POEs remain in the middle ground, with clear risks of ambiguity, opacity and, at the same time, overregulation (GRECO, 2017; Previtali et al., 2018). In our knowledge, few or none multi-countries comparative studies on this subject exist. This study aims at filling this gap by understanding the state of implementation of different anti-corruption and compliance measures in POEs in several European countries; a relatively new subject



and one lacking in-depth theoretical and research exploration. This accomplishes the need, clearly stated by the OECD, to provide “*guidance for governments by combining existing corporate governance and anti-corruption instruments, and developing new guidance to shine the light into the grey area between general government and private business that SOEs occupy*” (OECD, 2018 p. 10).

The overall study is organized as follow.

The second chapter gives an overview of the main definitions and analytical approaches adopted in the rest of the analysis, providing also a brief historical reconstruction of the role of POEs. The examination shows how, within a general pathway characterized by several stops and goes and changes of course, POEs have more recently become a widespread and specific way to manage public functions with respect to both internal management and full outsourcing. This phenomenon, often called satellization or corporatization, has thus attracted increasing interest by scientific studies, emphasizing at the same time positive aspects and pitfalls. Furthermore, the peculiarities of the links and inter-relationships among POEs, governance and corruption are presented, focusing on the guidelines and operative instructions elaborated by many international organizations and institutions to enhance anti-corruption and integrity in POEs.

The third chapter depicts the situation of **Italy**, investigating the state of art of POEs and the main anti-corruption and transparency policies adopted in this field. Italy turns out to be an interesting case study because, on the one hand, it is among the worst performing countries in the G7 and the EU members in terms of corruption and, on the other, it has experienced a strongly proliferation of POEs during the last two or three decades, involving nearly all activity sectors of the economy. This process is deemed to have weakened the chain of control on shared units, delegating relevant financial and political decisions to a milieu of ambiguity and uncertain accountability (the ‘escape’ argument). A progressive change of direction occurred more recently, when corporatized public enterprises have been submitted to specific and increasing limits, including transparency and anti-corruption policies. The anti-corruption package, adopted in Italy starting with 2012, has promoted important steps in this direction, yet the effects of these new measures have not been resolute, and many challenges are still open.

In the fourth chapter, María del Carmen Sánchez Carreira presents the state of the art of accountability and transparency policies in **Spanish** POEs. A wide use of private law entities controlled by public authorities is described also in this case, mainly aimed at escaping administrative law, considered more rigid, slow and less responsive. The overall legislative and regulatory framework concerning these hybrids form of organization is described as scarce and very fragmented, bringing about, above all at the local level, centrifugal boosts, and financial irresponsibility. This circumstance has been more recently (2013) handled by specific normative acts on transparency and good governance in the public sector, including public enterprises; also

two interesting voluntary bottom-up initiatives in terms of corporate social responsibility and accountability are illustrated. The overall situation is however considered unsatisfactory and mainly based on formal acts with a further need of improvement and learning by doing, even through non normative instruments as training and the internalization of ethics.

Paulo Reis Mourão and Cilina Vilela describe in chapter five the **Portuguese** case, presenting the need to find an equilibrium between the urgency to fight against corruption and the search for a modern role for POEs. In Portugal, even if the importance of the public sector intervention declined in the last three decades, public companies, mainly in the form of limited liability companies ruled by commercial law, still play a relevant role. In the field of anti-corruption policies, a more incisive action by the judicial forces on outbreaks of corruption (both active and passive) has been recently carried on through the creation of a Corruption Prevention Council and a National Anti-Corruption Unit dedicated to investigation, while also obligations in terms of report information has been strengthened. Yet, the described increase in the number of cases of corruption involving public owned companies shows how several challenges persist in this field, requiring that those interested in the fight against corruption do not neglect the role played by public companies.

Birgit Grüb and Dorothea Greiling illustrate in chapter six the case of **Austria**, where POEs have a long tradition, operating at all institutional levels (federal, state, municipal) and with several legal forms. In general, the anti-corruption efforts are rather well established, and Austria shows a score of 77 on the corruption perception index, ranking on place 12 out of 180 countries (Transparency International, 2019). POEs have to comply with a specific Corporate Governance enacted in 2012, proving their special status in the fact that the public authorities as owners have a special responsibility towards public property and the public itself. Yet, the Public Corporate Governance Codex does not apply to large stock corporations, where private-oriented rules on corporate governance prevail.

In chapter seven, Merita Zulfiu Alili presents some key features of POEs in **North Macedonia** where, as in many other South Eastern Europe countries, they are still the main providers of key public goods and services, such as water, electricity, transport, telecommunications and postal services. Operations of public enterprises and state-owned companies are regulated through several acts and norms: the Law on Public Enterprises, the Company Law, as well as sub-sector laws defining the operations in specific areas. Different legal forms are applied with potential ambiguities and conflicts in terms of aims, governance structures, and staff recruitment rules. North Macedonia has established a law on corruption prevention since 2002, with a specific focus on the public administration, but its implementation and enforcement turn out to be low. The role of POEs to improve this situation is crucial, since the research indicates that basic elements and requirements of the system for preventing corruption in POEs are not yet established.

Finally, Nevila Mehmetaj describes the situation of POEs in **Albania** (chapter eight), starting with their historical background and arriving to the evolutionary process begun in the post-communist era. Even if massive privatizations occurred in the transition period, often lacking an overall implementation programme, POEs still operate in relevant economic sector, both at the national and local level. As a whole, the quality of their governance and control remains relatively weak with phenomena of mismanagement, clientelism and low efficiency. In the last two decades, Albania has implemented anti-corruption efforts, following the results of the different GRECO rounds of evaluation, as part of the National Strategy for Development and Integration. POEs are part of these efforts, but a more comprehensive approach to their management is required to improve transparency, accountability and the audit system.

## References

- ANAC, 2015, *Aggiornamento 2015 al Piano Nazionale Anticorruzione*, Determinazione n. 12, Roma.
- Baum A., Hackney C., Medas P., Sy M., 2019, *Governance and State-Owned Enterprises: How Costly is Corruption?*, IMF Working Paper, WP/19/253.
- Belhoncine N., Jirasavetakul L., 2020, *Lessons from Two Public Sector Reforms in Italy*, IMF Working Paper, WP/20/40.
- Bergh A., Erlingsson G., Gustafsson A., Wittberg E., 2019, 'Municipally owned Enterprises as Danger Zones for Corruption? How Politicians Having Feet in Two Camps May Undermine Conditions for Accountability', *Public Integrity*, 21/3, 320-352.
- Bertocchi M., 2017, 'Transparency in Local State-Owned Enterprises in Italy', *Symphonya. Emerging Issues in Management*, 2, 31-46.
- Bognetti G., Obermann G., 2008, 'Liberalization and privatization of public utilities: origins of the debate, current issues and challenges for the future', *Ann. Public Coop. Econ.* 79(3-4), 461-485.
- Bruton G.D., Peng M.W., Ahlstrom D., Stan C., Xu K., 2015, 'State-owned enterprises around the world as hybrid organizations', *Acad. Manage. Perspect.*, 29(1):92-114.
- Curci N., Depalo D., Vadalà E., 2017, *Municipal socialism or municipal capitalism? The performance of local public enterprises in Italy*, Banca d'Italia, Questioni di Economia e Finanza, number 408.
- Dela Rama M., 2011, 'Corporate Governance and Corruption: Ethical Dilemmas of Asian Business Group', *J. Bus. Ethics* 109(4), 501-519.
- European Commission, 2016, *State Owned Enterprises in the EU: lessons learnt and ways forward in a Post-Crisis Context*, European Economy, Institutional paper 031/ July.

- GRECO-Group of States against Corruption, 2017, *Fourth evaluation round. Corruption prevention in respect of members of parliament, judges and prosecutors*, Council of Europe, Strasbourg.
- G20, 2018, *G20 High-level principles for Preventing Corruption and Ensuring Integrity in State Owned-Enterprises*, G20 Argentina 2018.
- Grossi G., Reichard C., 2008, 'Municipal Corporatization in Germany and Italy', *Pub. Manage. Rev.* 10(5), 597-617.
- Grossi G., Papenfuß U., Tremblay M.S., 2015, 'Corporate governance and accountability of state-owned enterprises. Relevance for science and society and interdisciplinary research perspectives', *International Journal of Public Sector Management* 28(4/5):274-285.
- IMF-International Monetary Fund, 2019, *Fiscal Monitor. Curbing Corruption*, Washington DC.
- Karantounias V., Pinelli D., 2016, *Local State-Owned Enterprises in Italy: inefficiencies and ways forward*, European Economy, Economic Brief 010, April.
- Klein M., 2012. *Corporatization and the behavior of public firms: how shifting control rights affects political interference*. EPPP DP n.3, Chaire EPPP IAE Pantheon-Sorbonne, Paris.
- LGA-Local Government Association of South Australia, 2013, *The ICAC Act 2012. Key issues for local government*, Information Paper 11. Understanding Maladministration, October.
- Mocetti S., Roma G., 2020, *Da 8.000 a 1.000? Razionalizzazione e governance delle società pubbliche*, Banca d'Italia, Questioni di economia e finanza, Occasional papers, n. 570.
- OECD, 2017, *Government at a glance 2017*, Paris.
- OECD, 2018, *State-owned enterprises and corruption. What are the risks and what can be done?. Highlights*, Paris.
- OECD, 2019a, *Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises*, Paris.
- OECD, 2019b, *Recommendation of the Council on guidelines on anti-corruption and integrity in State-Owned enterprises*, C/MIN(2019)5/FINAL, Paris.
- OECD, 2020, *Boosting Integrity. Fighting Corruption*, CleanGovBiz, Paris.
- Previtali P., Zatti A., Scarozza D., 2018, 'Public owned enterprises in Italy: A hybrid nature for a hybrid regime of over-compliance', *African Journal of Business Management*, 12(6), pp. 140-153.
- Sorrentino M., 2020, 'State-Owned Enterprises and the Public Mission. A Multidimensional Lens', in Bernier L., Florio M., Bance P. (eds), *The Routledge Handbook of State Owned Enterprises*, Routledge.
- UNODC-United Nations Office on Drugs and Crime, 2004, *United Nations Convention against Corruption*, United Nations, New York.
- Voorn B., Van Genugten M., Van Thiel S., 2018, *Background, Autonomy, Steering, and Corporate Governance: Determinants of the Effectiveness of (Governance of) Municipal Corporations*, Conference Paper, EGPA 2018, Lausanne, Switzerland.

- Vrushi J., Kukutschka R.M.B., 2021, *Why Fighting Corruption matters in times of Covid-19*, Transparency International.org.
- Wilkinson P., 2018, *State-owned enterprises: beacons of integrity? The case for implementing the 10 anti-corruption principles for state-owned enterprises*, Transparency International, Berlin, Germany.
- Wollmann H., 2014, 'Public Services in European Countries. Between Public/Municipal and Private Sector Provision – and Reverse?', in Nunes C. and Bucek J. (eds.), *Fiscal Austerity and Innovation in Local Governance in Europe*. Ashgate, Farnham, 49-76.
- Wollmann H., 2018, 'Public and Personal Social Services in European Countries from Public/Municipal to Private-and Back to Municipal and "Third Sector" Provision', *International Public Management Journal*, 21:3, 413-431.
- World Bank, 2014, *Corporate Governance of State-Owned Enterprises: A Toolkit*. Washington, World Bank Group.
- Ye S., Hu S., 2019, *Research on Mixed Ownership Reform, Executive Corruption and Corporate Performance*, 2019 International Seminar on Education, Teaching, Business and Management (ISETBM 2019).
- Zatti A., 2013, *European Local Public Transport between Convergence and Diversity*, in Paramithiotti G. (eds.), 'Servizi pubblici e imprese pubbliche in Europa tra convergenza e sussidiarietà', Quaderni della Rivista il Politico, 60, 123-158.



## **Public-Owned Enterprises (POEs): definition, evolution, and evaluation / Context**

Andrea ZATTI\*

### **Abstract**

The second Chapter gives an overview of the main analytical approaches adopted in the rest of the analysis, providing also a brief historical reconstruction of the role of Public Owned Enterprises (POEs). The examination shows how, within a general pathway characterized by several stops and goes and changes of course, POEs have more recently become a widespread and specific way to manage public functions with respect to both internal management and full outsourcing. This phenomenon, often called satellization or corporatization, has thus attracted increasing interest by scientific studies, emphasizing at the same time positive aspects and pitfalls. Furthermore, the peculiarities of the links and inter-relationships among POEs, governance and corruption are presented, focusing on the guidelines and operative instructions elaborated by many international organizations and institutions to enhance anti-corruption and integrity in POEs.

**Keywords:** Public Owned Enterprises (POEs), Hybrid organizations, Corporatization, Historical evolution, Corruption, Accountability

**JEL-Codes:** D23, D73, G38, H11, K23, K42, L32

---

\* Researcher and Professor, University of Pavia; President of the Romagnosi Foundation - Local Government School, and Rector of the Cairoli College, Pavia (Italy) ([andrea.zatti@unipv.it](mailto:andrea.zatti@unipv.it)).

## 1. Definitions and main characteristics

Public Owned Enterprises (POEs) are usually defined as enterprises where public authorities have significant control through full, majority, or qualified minority ownership (European Commission, 2016<sup>1</sup>; Bertocchi, 2017; Baum et al., 2019; OECD, 2019a). In some cases, also companies where public authorities have a minority share and no special powers are included as POEs<sup>2</sup>. We will keep in this paper a flexible and inclusive definition, focusing mainly on entities controlled by the public sector<sup>3</sup>.

A certain degree of autonomy with respect to the ownership entity is a key feature of POEs, even if with arrangements and structures varying across countries and sectors. On one extreme, there are organizations sheltered from direct constraints and more intrusive political insights, enjoying a high degree of financial, managerial, and organizational autonomy (European Commission, 2016; Sorrentino, 2020). On the other side of the range, companies fully owned by the public sector, characterized by a more direct and detailed regulatory, financial, and organizational environment implemented by the public ownership entity. From this point of view, it has been observed that, when public entities become more independent, the fulfilment of public goals is no longer (or to a lesser extent) directly embedded within the firm's boundaries, becoming often implicit and therefore less immediately visible (Sorrentino, 2020).

POEs are commonly considered as one means of the public action to address market failures such as natural monopolies, correction of externalities, provision of public goods and redistributive issues, both interpersonal and territorial (European Commission, 2016; Baum et al., 2019; Sorrentino, 2020). Other reasons in terms of national interest and macroeconomic (counter-cyclical) stabilization can justify their presence in the economy (Sorrentino, 2020). With respect to alternative means of public intervention (public subsidies, light regulation, contractualization and external regulation) public owned enterprises represent a specific organizational solution where the 'public', 'social' or 'general' interest is pursued (also) through ownership rights and other forms of control mechanisms (Saussier & Klein, 2014). The extent

---

<sup>1</sup> According to the Institutional Paper of the European Commission (2016), POEs can include the following categories:

- companies fully owned by public authorities;
- companies where public authorities have a majority share;
- companies where public authorities retain a minority share but have special statutory powers. Also companies where public authorities have a minority share and no special powers, although not formally included as POEs, can be taken into consideration in order to have a more complete picture of governments' stake in the economy.

<sup>2</sup> See the Italian case below.

<sup>3</sup> Even if, according to the established definition, the ownership control can be exercised also with minority share through legal stipulations or corporate articles of association, to be addressed on a case-by case basis, the ownership condition most commonly assumed in empirical investigations is that the public authorities, central or subnational governments, must have the controlling share of more than 50% (Bergh et al., 2018; Baum et al., 2019).



to which a POE pursues social goals should be set by the mandate from the public owner expressed through different possible regulatory tools: statutes, strategic planning documents, public service obligations, operative guidelines, hierarchical and procedural controls and ex-post reporting requirements.

These characteristics clearly disclose within POEs a distinctive mix/dichotomy of faces, with, on the one hand, organizational autonomy, managerial independence, output-based measurement and market-driven approach, and, on the other, public mission and values, political influences, regulatory power and the need to hold POEs accountable with respect to the broader general interest (Voorn et al., 2018; Bergh et al., 2019). Specifically, in POEs, as hybrid organizations, market-oriented transactions and characteristics of hierarchies coexist, with real situations falling between the two alternatives (Bruton et al., 2015). Hybridity can be viewed as an intrinsic strength, in terms of flexibility and adaptability, but also as a weakness, bringing about both a departure from public goals<sup>4</sup> and a risk of economic inefficiency and commercial failures<sup>5</sup> (Bruton et al., 2015; Wilkinson, 2018; Sorrentino, 2020).

As far as their legal status is concerned, the POE's definition includes both private law corporations (joint stock companies, limited liability companies, partnerships limited by shares) and public law entities, above all when their activities, at least in part, are of a largely economic/commercial nature (OECD, 2019a)<sup>6</sup>. In what follows we will keep an inclusive approach, also because anti-corruption policies, principles and recommendations are extensively directed to a wide range of public controlled entities (Wilkinson, 2018). At the same time, we will focus specific attention on private-law organizations (so-called corporatized public enterprises) considering that they have assumed a considerable relevance in the last decades<sup>7</sup> and that they can impact significantly on the conditions for political accountability and control (Previtali et al., 2018; Bergh et al., 2019; Sorrentino, 2020). A further distinction is generally done between listed POEs, more commonly operating in liberalized, often cross-border, markets and according to an almost private-oriented approach; and non-listed POEs, operating in non-competitive market and more influenced by social and noncommercial objectives and obligations set by the public ownership entity.

From a fiscal (public budgeting) point of view, according to the rules defined in the European System of national and regional accounts (ESA 2010), POEs are classified

---

<sup>4</sup> In the words of McDonald (2014, p. 13): *"The emphasis on monetary performance in neoliberal corporatization has had particularly corrosive effects on the publicness of services"*.

<sup>5</sup> In this second direction, for example, Wilkinson (2018, p. 16): *"SOEs are often less profitable, heavily loss-making and debt-laden. Their effectiveness can be impaired when objectives are ill-defined or clash when social objectives are prioritized at the expense of economic objectives"*.

<sup>6</sup> The same approach can be found in Wilkinson (2018, p. 7): *"There is no universal definition of an SOE but commonly they are considered to be commercially active enterprises owned fully or partially by the State, and they can also include agency set up by the State, such as health services or museums"*.

<sup>7</sup> In Wilkinson (2018, p. 16) it is observed that *"the OECD, in a 2017 report, found that 92 per cent of the SOEs surveyed were incorporated and the other eight per cent were statutory corporations governed by law"*.

as part of general government if they are involved in non-market activities<sup>8</sup>, while they are classified as enterprises/corporations if they are involved in market activities (European Commission, 2016). If a publicly controlled unit is included within the general government perimeter, its revenues, expenditures, and debt directly affect the government's balance and debt. This is not the case, at least in the short run, for units outside general government, while in the long-run the impact is expected to be similar, considering that surpluses are distributed as dividends and occasional losses are borne by owners (*ibidem*). General government's potential losses due to the participation in public corporations (market nature) may be interpreted as contingent liabilities, representing a relevant challenge of the intertemporal scenario of public budgets.

From a spatial perspective, we include POEs which are owned by the central State S-POEs and those owned by regional and local governments L-POEs. While S-POEs include some of the largest companies in the world, L-POEs are generally smaller-scale enterprises providing core public services to local communities or instrumental assets and goods to local but also regional governments. L-POEs need to be addressed with attention both because they are becoming increasingly numerous (European Commission, 2016; Voorn et al., 2018; Wilkinson, 2018<sup>9</sup>) and because they are characterized by specific features and flaws. In particular, they are supposed to impact negatively on the conditions for accountability of the public action (Bergh et al., 2018), facing higher corruption risks due to the application of lower transparency standards, the lack of skills and competences, and the close existing ties between the political decision makers and the senior executives (European Commission, 2016; Wilkinson, 2018<sup>10</sup>).

Finally, POEs are operating in a wide range of sectors, from traditional network services (like water, local transport, and waste management) to extractive and natural resources industries, from housing and social services to infrastructure management. Public enterprises/agencies play also a role in the production of goods and services for public administrations (web master assistances, design services, public works, green areas maintenance, research services etc.) up to the exercise of administrative functions (regional and local development planning; public tender management and awarding; regulatory and control tasks in public service provision). It is not infrequent to find POEs active also within other miscellaneous area where the identification of the public mission/market failure is more questionable and where potential competition conflicts with private firms clearly emerge (Bergh et al., 2019). The evaluation of POEs should take into consideration this wide context of the sectors and markets where they are active (European Commission, 2016; Voorn et al., 2018).

---

<sup>8</sup> Non-market activities are those where producers provide all or most of their output to third parties free of charge or at prices that are not economically significant (European Commission, 2016).

<sup>9</sup> This author underlines (p. 4) how "*while large SOEs have high profiles and attract widespread attention, most countries' SOEs exist at the regional and municipal levels*".

<sup>10</sup> "*Large SOEs grab the headlines but smaller SOEs, mostly in the utilities sectors, represent the bulk of the world's needed to counter corruption*" (p. 19).

In fact, when POEs operate in competitive market, according to a commercial logic, they should be (mainly) assessed relying on output measures of performance (productivity, cost-effectiveness, profitability), while a level playing field with competing firms needs also to be granted. Where the POE is entrusted with a public mission, publicness measures of performance become more important together with the implementation of special principles and strict regulatory environment (European Commission, 2016).

## 2. Historical evolution

Historically, the spread of public entrepreneurship in Europe from the end of the 19th century has been largely explained as a process of reacting to market failures, through which public administrations progressively supplanted the market and behaved as an entrepreneur in designing and managing services (Millward, 2005; Clò et al., 2015; European Commission, 2016; McDonald, 2016; Previtali et al., 2018; Boggetti, 2020). The disillusionment with private initiated regimes gave way in most countries to direct self-production as the dominant form of regulation, where public authorities governed the whole process of service provision both through internal departments or organizing entities strictly organic to state and local authorities<sup>11</sup>. In these entities local authorities kept the responsibility to define aims and strategic goals, to directly appoint the administrative organs, to approve fundamental acts and to supervise the management.

In the concept and terminology of principal agent theory the term “internal agencification” has been coined to describe this last organizational option (Torsteinsen & van Genugten, 2016; Wollmann, 2020). This quasi-monopoly of the public sector was grounded in the conviction that services were provided best under the direct guidance and oversight of elected public authorities (‘government’) as advocate and guardian of the general interest (Klein, 2012; Wollmann, 2020).

Starting from this almost generalized background, new organizational models progressively came out in the last decades of the 20th century, following the impact of New Public Management (NPM) principles and of the EU driven market liberalisation approach (Zatti, 2013; Alexius & Cisneros Ornberg, 2015; McDonald, 2016; Wollmann, 2018; Bergh et al., 2019). Bureaucratic failures, together with other technological, political, and economic forces triggered de-integration and decentralization, bringing about a changing regulatory environment. This trend led, in some cases, to the

---

<sup>11</sup> In the same direction (Wollmann, 2020, p. x): *“During this period the majority of public services was provided by MOE’s – mostly in an organizational ‘quasi-in house’ form in which, lacking legal, operational and financial autonomy, they remained practically integrated into local administration and politically under the sway of local government and its “common good” mandate. Exemplar of this quasi in-house organisational form were the Stadtwerke in Germany as Eigenbetriebe”.*

complete liberalisation of significant market segments of public services where private initiative and commercial interests become predominant. In other cases, the public services have been outsourced /contracted out to outside providers (both public and private) bringing about a market-organization form often termed 'functional privatization' or 'French-style privatization' (Wollmann, 2020). In many other cases, the NPM-inspired search for organisational flexibility and economic efficiency has triggered the expansion of more independent organizations and companies (both S-POEs or L-POEs). While remaining in public (municipal or State) ownership, they were given increasing legal, operational ('entrepreneurial') and financial autonomy<sup>12</sup>. The terms 'external agencification' or 'satellization' has been exploited to describe this situation where the competent public administration acts as a hub of a multitude of increasingly independent spokes/units (Torsteinsen & van Genugten, 2016; Wollmann, 2020).

Following the economic crisis of 2007/2008, the evolution over time has been more ambiguous. On the one hand, in fact, in many European countries there has been a reduction in the scope of public ownership, driven by specific targets for privatization and the reorganization of specific sectors (transport, water and sewage, non-core sectors), but also by the need of containing public expenditures (spending review approach). On the other, a renewed interest in government ownership emerged (McDonald, 2014; European Commission, 2016; Wilkinson, 2018). Some firms become POEs after governments intervened to save private companies from bankruptcy, others justified by governments' aims to develop global markets and/or safeguard strategic sectors (European Commission, 2016<sup>13</sup>). This trend has been fueled also by several studies suggesting that, as far as the provision of public services is concerned, public enterprises can be on a plane or even superior level to private sector providers, above all when the transaction costs of outsourcing are considered (Wollmann, 2018). In this perspective, it is interesting to underline that, while initially POEs have been often seen as a transitional step towards full contracting out and privatizations (McDonald, 2014; Bruton et al., 2015), more recently these organizations have become a specific and alternative way to manage public functions (Klein, 2012; McDonald, 2014)<sup>14</sup>. Re-centralization, return to hierarchies and post-new public management era have been terms and concepts evoked to describe this evolving tendency (Grossi et al., 2015).

---

<sup>12</sup> According to Saussier & Klein, 2014 (p. 4): *"Instead of real privatization, most municipalities have separated enterprise operations from the administrative body, either remaining sole owner of the enterprise or bringing in a partner. In the former case, i.e. corporatization, governments simply spin off tasks or whole departments into a publicly owned company"*.

<sup>13</sup> *With the outbreak of the financial crisis, the public sentiment also turned in favour of SOEs and public control"* (p. 80).

<sup>14</sup> In the same way, Grossi & Reichard (2008, p. 604): *"Like in other EU countries, in Germany and in Italy the opening up of the capital to private investors was sometimes presented as a first step towards a full privatization but was rarely completed"*; (European Commission, 2016, p. 20): *"While it is an essential preparatory step for the (full or partial) privatization of a SOE, it can be carried out as a self-standing reform measure"*.

As already mentioned, within the ‘agencification’ or ‘satellization’ process, a particular and predominant role has been acquired almost everywhere by private-law entities, (Grossi & Reichard, 2008; Zatti, 2012; McDonald, 2014; Wilkinson, 2018; Bergh et al., 2019; Wollmann, 2020): that’s what we specifically label as ‘corporatisation’. This solution furtherly increases the hybridity of the organisational and regulatory environment. In fact, with respect to direct public management (internal department), corporatized enterprises bring about vertical de-integration and reduction of hierarchical control. Corporatization goes also further compared with simple “agencification”, as a corporatized company is a unit with its own legal status (ruled by the private law), its own budget, its own staff and an increasing organizational and management autonomy (Grossi & Reichard, 2008)<sup>15</sup>. At the same time corporatisation is not a market-oriented solution (McDonald, 2016), as it is still deeply rooted in the public initiative perspective and envisages none or negligible involvement of private and/or external actors.<sup>16</sup> That is why corporatisation can be seen as an alternative to both self-production, on the one hand, and external regulation and privatization, on the other<sup>17</sup>. “Formal or organizational privatization”, “legal privatization”, “formal outsourcing” are terms frequently exploited to label this evolutionary model of shaping the public sector (Zatti, 2013; Wollmann, 2020).

In terms of ownership rights, the above assumptions make corporatized publicly controlled enterprises not much dissimilar to directly managed agency, seeing that private ownership is merely ancillary and public influence turns out to be dominant in the shareholders’ assembly. The main difference is commonly found in the allocation of decision rights, as control rights over business decision are, at least partially, handed over from politicians to managers (Osculati & Zatti, 2005; Klein, 2012; Saussier & Klein, 2014). In other words, if a certain degree of managerial and operative independence always existed in direct management and public agencies, corporatization decision rights are delegated at a higher stage of the decisional chain, leading to a decrease in control intensity and political intrusion. In its classical and ideal typical form (arm’s length control) the government principal (ministry, region, municipality, etc.) sets the public mission agenda, appoints managers (board of directors and, eventually, CEO) and avoids interference in their discretionary decisions (Florio, 2014). In reality, many other levers can be (and are) adopted to steer the behavior of the enterprise (Table 1).

---

<sup>15</sup> Similarly, corporatisation changes the status and nature of SOEs and brings the organisation/modus operandi closer to that of private companies, notably in terms of management and financial reporting practices (European Commission, 2016).

<sup>16</sup> If the private influence becomes non negligible, we have a mixed enterprise and no longer a corporatized public enterprise.

<sup>17</sup> The same approach can be found in Wollmann (2020): “*This article aims at mapping the providers of public services between public/municipal sector (“in house”), corporatized (State/municipally owned enterprise) and contracted out private actors in European countries*”.

**Table 1. Possible control mechanisms in corporatized enterprises**

<b>Political levers</b>	Statute, strategic and planning documents, social and policy agenda, appointing rules and criteria.
<b>Managerial levers</b>	Control and authorizations on inputs, approval of the main operative decision (budgets, contracts financial report, investments, human resources, organizational structure, service levels), codes of conduct.
<b>Structural levers</b>	Supervisory and control boards, anti-corruption devices, hierarchical and accountability lines.
<b>Financial levers</b>	Level of budget, pricing policies and influence, guarantees on debt.
<b>Reporting levers</b>	Financial, environmental, ethical reporting, minimum transparency and data access requirements.

Source: elaborations and adaptation on Saussier & Klein, 2014.

The intensity of the control is to be very strong, in particular, to meet the so called “in house” rules established by the EU law<sup>18</sup> where it is required that the contracting public authority has the same control over the in-house company than it has over its departments. In this perspective, the control that, according to private law, the shareholders exert over management is not enough, and other steering mechanisms, as those described in Table 1, must be implemented and, in concrete, verified (Osculati & Zatti, 2005). Alternatively, the company may be, at least partially, separated from the organizing authority, having a wider discretion in relation to the main management levers (innovation, tactical or operative decisions, budget, enrolments criteria, etc.). In this case, since a direct and strict administrative control is not established, legally enforceable contractual agreements, together with open awarding procedures are important tools for disciplining the performance of the operator, also guaranteeing the respect of the non-discrimination rules.

### **3. Potential and pitfalls**

The hybrid nature of corporatized enterprises has been subject to diverse, in some cases opposite, evaluations (Zatti, 2012; Previtali et al., 2018; Voorn et al., 2018<sup>19</sup>; Sorrentino, 2020).

On the one hand, following the influence of the New Public Management reform wave, corporatization has been seen as a positive opportunity, bringing about efficiency and effectiveness in the public sector through organizational specialization, results-based management and performance measurement (Grossi & Reichard, 2008; OECD, 2015; Alexius & Cisneros Ornberg, 2015; McDonald, 2016; Bergh et al., 2019; Mocetti & Roma, 2020). A strong emphasis has been put on the strict separation of roles between the public authority as an owner and the management of POEs

---

<sup>18</sup> See for example: Cause 258/03 Parking Brixen, Judgement 13 October 2005.

<sup>19</sup> For these authors (p. 4): “*There is no consensus in the empirical literature if autonomy is in the end harmful or beneficial*”.

(OECD, 2019a). In particular, managerial autonomy and professionalization are expected to favor de-politicization, shielding directors and professional bureaucrats from the day-by-day pressure of politicians, the short term vision of election cycles and interferences from other government agencies (Klein, 2012; OECD, 2015; McDonald, 2016; Voorn et al., 2018<sup>20</sup>). In this perspective, the amphibious nature of public controlled enterprises has been considered a valuable vehicle to keep critical decisions, at least partially, within the public sphere, escaping at the same time from the rigid and bureaucratic framework (budgeting and accounting rules, recruiting mechanisms, public works awarding regulations) of public administrations (Grossi & Reichard, 2008; Sorrentino, 2020<sup>21</sup>).

On the other hand, de-integration and reduced political control can be cause of unintended critical effects (European Commission, 2016<sup>22</sup>), mainly due to the creation of entities that behave like private companies without the political and financial risks associated with direct private sector participation (McDonald, 2014). As observed by Alexius & Cisneros Ornberg (2015), hybridity in public enterprises, attempting to reconcile potentially conflicting logics and values, risks to be not a straight forward tool for the simultaneous creation of social and commercial value, but rather often *“sites of confusion and criticism for failing to do so”* (p. 288). Mission drift, reduced accountability, market distortions, and increasing transaction costs are commonly considered as the main pitfalls emerging from this governance option.

Firstly, the emphasis on commercial results and economic rationality may have counterproductive effects on the public missions and general interest of services, leading to short-termism and the commodification of the public approach (McDonald, 2016; Wollmann, 2020). The rhetoric of “customers” instead of “citizens” and cost-reflecting pricing are supposed to weaken the attainment of broader public goals, with values not expressed in monetary or quantitative terms that risk being penalized in decision making. Furthermore, the lack, or in any case lower, presence of synergistic planning and the diverging interests of ring-fenced corporations develop centrifugal dynamics (Grossi & Reichard, 2008; Wollmann, 2020) and isolationism (McDonald, 2016), undermining economies of scale and a more holistic execution of the public mandate. This ‘centrifugal dynamics’ can be expected to become stronger the more distanced and autonomous from ‘core’ administration these outside actors are positioned and also the more explicit their economic and market-oriented profiles are established (Wollmann, 2020).

---

<sup>20</sup> *“One of the key reasons to engage in ‘governance at arm’s length’ is to allow (non-political) delivery of public services”* (p. 4).

<sup>21</sup> She remarks that (p. 85) *“the state-owned enterprise is characterized by its hybridity, by its mixed character, and that, far from reproaching it for its lack of purity, we should regard this as the quality from which it can derive its strength, especially if it shows itself to be sufficiently “plastic” to adapt to variable, changing and constantly evolving situations. ... Finally, its capacity for autonomy from the public authorities, its long-term vision, not subject to short-term political imperatives, and the expertise that it can amass, may certainly have some disadvantages, but these are vital qualities if it is to serve the general interest”*.

<sup>22</sup> *“Recent experience has shown that SOEs can be an important source of concerns”* (p. 1).

Secondly, the presence of a more complex principal-agent chain (general public, public sector administrators, supervisory board and board of directors, CEO and professional management) can be cause of unclear lines of responsibility, lack of accountability and reduced democratic transparency (Osculati & Zatti, 2005; Klein, 2012; Saussier & Klein, 2014; Tonurist & Karo, 2016; Curci et al., 2017; Bergh et al., 2019). Actually, in the case of a corporatized company there is (at least) a third party that intervenes between the principal and the agent (Osculati & Zatti, 2005; Bergh et al., 2019<sup>23</sup>): the company board of directors and top management, often made up of members with a political background and/or directly appointed by the political shareholder. Every link in the chain brings about a transfer of powers and therefore contains a risk of deviation (agency loss) from the ultimate outcome in terms of citizens' welfare (European Commission, 2016<sup>24</sup>; Bauby, 2019; Bergh et al., 2019). Moreover, it is thus possible that this organizational structure complicates control, since the electors are uncertain whether to entrust voice and compulsion to the elected administrators or to the company's appointed and professional administrators (Bishop, 1990). The agency problem raises the likelihood of self-serving behavior by corporate insiders and managers (OECD, 2015, 2019a). At the same time, governance ambiguity can allow politicians to influence, also through informal practices, managerial decisions and operational choices according to their self-interest (on budget, on employees recruitment, on input provisions) shifting, at least partially, the responsibility (and the eventual blame) to the outside entity (Klein, 2012).

A third difficulty relates to accountability and evaluation. The presence of multiple missions and a broader concept of performance, where more quantitative goals are blended with more intangible/qualitative ones, makes benchmarking and ex-post evaluation more difficult since the indices of effective operations are likely to be less precise and potentially ambiguous (Tonurist & Karo, 2016<sup>25</sup>; Voorn et al., 2018; Bauby, 2019; Sorrentino, 2020). These factors may boost informational asymmetries and the agency problem, rendering governance and proper accountability of POEs an intricate matter. The risk of governance opacity turns out to be particularly severe in relation to financial integrity<sup>26</sup>. Public ownership, in fact, is typically associated with soft budget constraint (Grossi & Reichard, 2008; Bruton et al., 2015), creating the opportunity to have loss making corporations and debt accumulation not reflected, at least in the short period, in the public budget (Osculati & Zatti, 2005; Saussier & Klein, 2014; European Commission, 2016<sup>27</sup>). In a phase of tight fiscal constraints for

---

<sup>23</sup> "In MOEs, chains of delegations, and hence accountability, become more complex processes than in ordinary firms since they are one additional step farther away from their ultimate stakeholders- the citizens" (p. 324).

<sup>24</sup> "The 'organizational distance between the managers and the owners of SOEs may create a situation of both incomplete and asymmetric information leading to mission drift and X-inefficiencies" (p. 22).

<sup>25</sup> "Due to political meddling multiple, vague and sometimes inconsistent objectives (e.g. profit maximization vs welfare concerns) can become serious problem for the companies" (p. 626).

<sup>26</sup> In the Italian case the Court of Auditor has recently observed that: "The focus on public owned companies has been increasing, both at the central and local level, due to the belief that corporatization may represent an elusive device with respect to public budget constraints" (Corte dei Conti, 2017, p. 2, our translation).

<sup>27</sup> This is the case for units classified outside the general government (p. 12) "participation in the capital of public corporations can represent a potential liability for the government...when the corporation is experiencing



central and local governments, this opportunity favors corporatization as a device to reduce budget pressure and to buy consensus through lower tariffs and better services. Similar considerations can be done if corporatization is exploited to circumvent public sector employment regulations, becoming a mean to expand the workforce without creating a direct impact (at least in the short time) on government expenditures<sup>28</sup>.

Fourthly, these effects are exacerbated by the fact that declining hierarchical controls and administrative constraints are not adequately compensated by a stronger market influence. In fact, the main disciplining factors that are considered essential for policing management in private sector corporations, i.e. the possibility of takeover and bankruptcy and the pressure exerted by other market competitors are not (or only in some cases) concretely active (Mocetti & Roma, 2020), with the eventual risk that *“corporatized firms represent an institutional configuration which has both weak economic and political incentives”* (Klein, 2012 p. 4). Furthermore, even when POEs operate in a market-driven environment (open entry or regulated competition context), competition disciplining effects may be weakened if they are not kept independent from the competent regulatory authority or they can rely on ‘special treatments’ in terms of softer budget constraints or lower level of profitability with respect of the rest of market participants (European Commission, 2016).

It is finally to be observed that the proliferation of independent public owned enterprises may increase transaction and administrative costs, mainly due to service complexity and to the checks and balances to be adopted by the ownership entity to regularly and effectively monitor, audit and assess corporate performance and compliance with required standards (appointing rules and procedures, salient contract design, disclosure standards, service standards, supervising devices, code of conducts, external auditing procedures, etc.). More complex services and organizational structures rely crucially on the institutional capacity of the competent authority to govern them and can be strongly jeopardized by the impoverishment of service expertise within core public administrations frequently brought about by agencification and corporatisation (Bauby, 2019).

The above review points out the difficulty to reconcile two potentially conflicting institutional logic: the public and the commercial one (Alexius & Cisneros Ornberg, 2015). Hybrid organization as POEs, and even more corporatized ones, create confusion and/or complexity, requiring active management and multifaceted

---

*temporary difficulties or in the case the corporation is failing, the government as a controlling entity or a majority owner may need to step in. This intervention need cannot in most cases be quantified in advance, however, as the probability of occurrence and its impact are not known. The liability is thus contingent, i.e. it may develop into an actual liability if some specific event occurs”.*

<sup>28</sup> This is the so called ‘escaping’ argument, through which POEs ‘tried to escape from the rigid and bureaucratic legal framework of public administration into the relative ‘freedom’ of the business sector’ (Grossi & Reichard, 2008 p. 607). Civil servant regulation, budgeting and accounting systems and restrictions to the salaries of managers in public-law-based entities are deemed the main constraints to be bypassed.

corporate governance. The main source of confusion and ambiguity, in this perspective, is related to the ‘mantra’ of autonomy. In the OECD approach (OECD, 2019a, b), a strict separation of roles between the state as an owner and the management of the SOEs is recommended: the state allowing SOEs full operational autonomy and deriving its authority from the law, that, in this case, is the private-company law. This approach is basically coherent with POEs operating in a competitive environment, where the main concern is related to avoid unfair advantages due to the proximity to the public owner and, at the same time, to avoid they are overburdened with regulations and controls compared to private firms (ibidem). That can be also the case of corporatized public enterprises when they represent an intermediate step towards privatization and liberalization. But where POEs are established mainly or exclusively to pursue the general interest and to correct market failures, (full) autonomy and the organizational distance between the managers and the owner can have controversial effects, weakening the incentives of management to perform in the best interest of the general public (European Commission, 2016<sup>29</sup>; Bertocchi, 2017). The role of autonomy is maximally debatable in those cases, not so infrequent, of private law status entities holding regulatory and administrative powers, becoming de facto partners in policy making (European Commission, 2016). This concept is lucidly recognized by Sorrentino (2020, p. 84): *“although some public status organizations lack public powers, a number of private law status organisations do hold such powers. The bigger problem affects the latter type of organisations, which, while endowed with public powers, have accountability structures that pertain solely to their membership. Their autonomous sources of authority allow them to operate with significant independence from the authorizing body. In such conditions, it is hard to ensure effective regulative action though rigorous and detailed guidelines, which may not be enough”*<sup>30</sup>.

Consequently, an important prerequisite to be considered should be that to better clarify in advance the scope and the role of POEs and, accordingly, define an adequate accountability framework able to monitor financial performance as well as effectiveness vis-à-vis non-financial targets (European Commission, 2016).

---

<sup>29</sup> “Where SOEs operate in competitive markets, a level playing field with competing firms is necessary, also as regards access to finance. Where the SOE has a de facto monopoly, a strong regulatory monitoring and oversight is required” (p. 17).

<sup>30</sup> The difficulty to find an equilibrium between autonomy and accountability can be found also in the G20 High level principles for preventing corruption and ensuring integrity in State-owned enterprises (2018, p. 1-2) for which *‘the state should act as an active and informed owner of enterprises, but should abstain from intervening in their daily management....minimizing opportunities for inappropriate ad-hoc interventions and other undue influence by the state in SOEs’*.

#### 4. POEs and corruption

In the public sector corruption is defined as the ‘abuse of public office for private gains’ (IMF, 2019). The private/particular/related-party enrichment may be financial, non-financial (favors, gifts, etc.) or even political (votes and consensus). Corruption is deemed to weaken key functions of the public sector such as the ability to collect taxes, to make expenditures allocation genuinely targeted to the general interest, or, again, to ensure the high quality and cost-effectiveness of public services and infrastructures. When systemic (real or perceived) corruption erodes trust in public institutions<sup>31</sup>, strongly jeopardizing confidence in the government (IMF, 2019). These effects tend to be persistent and strongly path-dependent, with improvement to be gained with perseverance and strong political commitment over many years or even decades (ibidem).

In the field of enterprises, corruption may acquire a more complex pattern, with both passive and active behaviors. In the first case, individuals or groups of individual demand or accept money, gifts, or other undue advantages to act or to refrain to act in the correct exercise of their function, thus penalizing the interest of the company. In the second, managers and directors try to gain contracts and benefits for the enterprise, being mainly active bribe payer. POEs faces both kinds of risks, generally depending on their prevalent nature<sup>32</sup>. Large commercial operators, in fact, can be committed (also) to expand their market share, getting privileged access to contracts and concession<sup>33</sup>, or to obtain a relaxed regulatory oversight in markets in which they operate. For non-commercial POEs, directly entrusted of public policy objectives, passive bribery is likely to be predominant, being a concrete threat for the general interest pursued. Many operative areas and items can be involved: administrative acts and authorization, contracts awarding procedures, grants and other donations policy, workforce recruitment and career progression, tariff definition, appointment and nomination rules, control, and inspections, lobbying and political party financing. In this perspective, passive and active corruption, certainly related and equally deplorable from an ethical point of view, are to be kept distinct so as commonly separated/complementary are policies aiming to their prevention and control (Previtali et al., 2018).

---

<sup>31</sup> “Trust in government is strongly correlated with citizens approval of their country’s leadership and perceived spread of corruption in government in OECD countries. Where governments are perceived to have high moral integrity, more people trust government” (OECD, 2017, p. 214).

<sup>32</sup> This dichotomy is clearly stated by the OECD (2018, p. 5): “On the one hand, SOEs with public policy objectives may be more able to justify illicit activity to compensate for financial losses or reduced profit margins that can be associated with delivering on policy objectives. On the other hand, SOEs (and other firms) with entirely commercial objectives may try to justify corruption because of the pressure to remain competitive or to perform”.

<sup>33</sup> For example, Telia, a Sweden-based telecommunication company owned in part by the Swedish and Finnish governments, obtained contracts in Uzbekistan that generated over US\$2.5 billion through bribery from at least 2007 to 2010 (Baum et al., 2019).

Corruption and other irregular practice are acknowledged as a major obstacle to good corporate governance in POEs (OECD, 2019a). The consequences of such corruption can be serious and variegated (Wilkinson, 2018): raising input costs, labor force overexpansion, lower profitability, financial losses, diversion of managerial attention and time, reduced quality of projects and services, substantial costs for legal and other advices, loss of reputation and brand deterioration. Due to the power entrusted by public authorities, corruption in POEs is not only detrimental for internal operations but causes negative externalities and systemic effects, contributing to weakening the general trust in public institutions.

According to many observers and reports (World Bank, 2014; Wilkinson, 2018; Baum et al., 2019; OECD, 2019a) POEs are prone to greater corruption and mismanagement risks than private sector due to some specific characteristics and challenges.

Firstly, the proximity to the government can favor political opportunism, undue influence, and conflict of interest, especially when board and chief executives are politicized and directly influenced by elected organs. For example, corrupt politicians and civil servants can use political pressure and favoritism to influence the choice of management, or to distort procurement processes and hiring policies. Several studies (Auriol & Blanc, 2009; Nguyen & Van Dijk, 2012; Previtalli et al., 2018; IMF, 2019) have explored the connection between firms and politicians, finding corporate political connections to be relatively widespread, more evident among larger firms and particularly common in countries that are perceived as being highly corrupt. Accordingly, a recent OECD report (2018) brings evidences that POEs with fewer politicians and more independent members on their boards are associated with lower risks of corruption.

Secondly, the room for bribes and corruption is favored, with respect to private entities, by the presence of less informed principals (citizens) and more opaque financial relationships with the ownership authority. A lack of transparency regarding financial support and other transactions between the public owner and the POE, also due to cross subsidization among different public owned units or among different activities managed by the same unit, could result in large hidden costs, making easier to veil bribes and other forms of mismanagement.

Thirdly, POEs, when characterized by a mix of commercial and more public-oriented objectives – whether well-defined or more implicit – are thought to be affected by more risks of corruption or other irregularities not only with respect to private entities, but also to POEs with entirely commercial objectives (OECD, 2018). Mission drifts, multiple mandates or goals vagueness make control and reporting activities based on objective indicators more difficult, potentially increasing the room for mismanagement and maladministration.

Finally, POEs, often originating from markets with large economic rents and monopolistic power, are usually associated with institutional weaknesses

(Baum et al., 2019). Lack of professional boards and management, lack of a consolidated culture in terms of risk assessment, weak transparency and regulatory oversight are the most commonly vulnerabilities emphasized in case studies<sup>34</sup>. Bergh et al. (2019) reports evidences that incompetent board members may explain the high incidence of municipally owned enterprises occurring in Swedish corruption scandals. Baum et al. (2019) observe that many POEs have traditionally less developed and formalized internal controls and procedures or inadequate accounting and audit methods. For the same authors, even reporting on POEs operations, both to the ultimate owner and to the general public, are less developed and rarely in line with international standard, with the risk of preventing the uncovering of financial and operative distortions<sup>35</sup>.

Following this view, many international organizations and institutions have elaborated guidelines and operative instructions to enhance anti-corruption and integrity in POEs (OECD, 2018, 2019a, b; G20, 2018; Wilkinson, 2018<sup>36</sup>; IMF, 2019). Even if the full contents of these efforts are beyond the scope of this contribution, we briefly sum-up in Box 1 the key elements addressed.

**Box 1. Principles and operative recommendation for corruption prevention and control in POEs**

- Exercise the state ownership in a rules-based economic environment, where each actor derives its authority from, and behaves in line with, applicable laws (OECD, 2019a).
- Adopt a strict separation of roles between the state as an owner and the management of the SOE, the state allowing full operational autonomy to POEs' decision-making bodies (OECD, 2019a, 2018).
- SOEs should not receive unfair advantages due to their proximity to the state, nor they should be overburdened with regulations and controls compared to private firms (OECD, 2019a).
- Clearly specify POE objectives, making publicly available information about the ownership structure, ownership rights, financial transactions and public support (OECD, 2019a, 2018; G20, 2018).
- Ensure that the state (public owner) acts as an active and informed owner with regards POEs (OECD, 2019a; IMF, 2019; G20, 2018).
- Establish accountability and review mechanism for state-owned enterprises (OECD, 2019a).
- Operate to the highest standard of ethics and integrity (OECD, 2019a; G20, 2018).
- Include SOEs in government-wide anti-corruption initiatives (OECD, 2018).
- Ensure that SOEs are overseen by effective and competent board of directors that are empowered to oversee company management and to act autonomously from the state (OECD, 2019a; IMF, 2019; G20, 2018; Wilkinson, 2018).
- Ensure that an appropriate number of independent members – non-politicians and non-executives – is on each board and sit on specialized board committees (OECD, 2019a).
- Develop mechanisms to manage conflicts of interest and to guarantee disclosure on remuneration and personal ownership of board members (OECD, 2019a).
- Be accountable to stakeholders through transparency and public reporting (OECD, 2019; IMF, 2019; G20, 2018; Wilkinson, 2018).

<sup>34</sup> For the OECD (2019a p. 3): *'many lack the sophisticated risk-management and compliance mechanisms found in best-practice private firms'*.

<sup>35</sup> In the same direction, Wilkinson (2018) states that SOEs are less transparent than business, mainly because there is not yet a consistent level of good practice in SOE transparency.

<sup>36</sup> Peter Wilkinson is the author of the report by Transparency International setting out 10 anti-corruption principles for POEs.

- Monitor SOEs' corruption risks, integrity and anti-corruption efforts as part of risk analysis and performance (G20, 2018).
- Design the anticorruption programme based on thorough risk assessment and ensure best governance and oversight (OECD, 2019a, 2018; IMF, 2019; G20, 2018; Wilkinson, 2018).
- Ensure human resources policies and procedures support the anti-corruption programme (OECD, 2019a, 2018; Wilkinson, 2018).
- Implement detailed policies and procedures to counter key corruption risks (Wilkinson, 2018).
- Use communication and training programmes on ethics, anti-corruption, compliance or similar (OECD, 2018; Wilkinson, 2018).
- Encourage stakeholder engagement to promote accountability and the public interest (OECD, 2019a, 2018; G20, 2018).
- Provide secure and accessible advice and whistleblowing channels (OECD, 2019a; G20, 2018; Wilkinson, 2018).
- Ensure transparency of contracting process, including bidding, awarding and delivery (Wilkinson, 2018).
- Develop e-procurement and public registers of approved third parties (Wilkinson, 2018).
- Encourage that anti-corruption and integrity standards are made applicable to all levels of the corporate hierarchy and to third parties (OECD, 2019a; Wilkinson, 2018).
- Monitor, assess and continuously improve the implementation of the anti-corruption programme (Wilkinson, 2018).
- Establish accountability and review mechanisms carried out by external control bodies and/or supreme audit institutions (OECD, 2019a, b).

Principles, recommendations and actions are mainly directed to three, mutually reinforcing, pillars: i) to improve the integrity of the public authorities and their execution of the ownership responsibilities (clear specification of objectives, reporting systems, accountability and review systems, setting of high standards anti-corruption and integrity principles and practices; disclosure of all financial support by the state, risk assessment of the overall risk exposure of the state, etc.); ii) to improve corporate governance and promote integrity and prevention of corruption at the enterprise level (risk management systems; procurement and contracting processes, high standards of transparency and disclosure, professionalized boards and management structures, presence of an appropriate number of independent members in internal boards and committee, selection criteria for board members, etc.); iii) to enhance, horizontally, a culture of integrity to counter pressure and undue influence (code of conducts, ethical training and communication programmes, integrity pacts).

This array of measures represents an important steering tool to improve the management of POEs and to overcome deficiencies and pitfalls in terms of accountability and deviated behaviors, with one main potential weakness/bias. The approach adopted is mainly focused on large SOEs, operating in competitive markets and following a commercial logic<sup>37</sup>, while its extensibility to smaller entities, operating

<sup>37</sup> This is implicitly recognized by the OECD Recommendation when '*recognizing the important role that state owned enterprises play in many economies, their increasing participation in international markets and the large benefits resulting from corporate governance in state-owned enterprises*' (OECD, 2019b, p. 13). The ACI (Anti-corruption and Integrity) guidelines of the OECD (OECD, 2019a) are deemed to be applicable to all SOEs

at the local scale and with an almost exclusive interface with their ownership authorities can result, at least partially, being misleading or inappropriate. The OECD and G20 principles, for example, explicitly aim to insulate SOEs from politics, requiring them to adopt corporate governance structures that guarantee transparent relationships with the shareholder as well as financial equilibria, i.e a level playing field with private competitors for financing, taxes and subsidies. The underpinning idea is that POEs operate as an alternative to private companies and that these governance principles and operative reforms are key element to make *“SOEs operate with similar efficiency, transparency, and accountability as best-practice private companies”* (OECD, 2019a, p. 10). Therefore, even evaluation criteria and indicators are usually those used for private enterprises. For example, Curci et al. (2017) evaluate the performance of Italian local public enterprises in terms of operational efficiency (total factor productivity) and profitability (return on asset-ROA, equity-ROE and investments-ROI); Baum et al. (2019) assess corruption effects on the performance of POEs considering as key performance indicators profitability (return on equity and operating profit per sales) and productivity and efficiency (sales per worker and labor costs). A similar approach can be found in Mocetti & Roma (2020) who evaluate the effect of the presence of politicians in the board of directors of POEs on their performance, measured through return on sales and the incidence of labor costs on sales.

In the real world, however, *“smaller SOEs form the bulk of the world SOEs, and the corruption risks for them should not be overlooked”* (Wilkinson, 2018, p. 23). These POEs, above when established through what we have previously called corporatization, have been mainly an alternative to self-production rather than to external regulation and/or full privatization. If it is true that the corporatized entity has lower interests and margins to corrupt public officials (active bribery), the new entity itself buys services, works and other inputs from outside, becoming the possible target of distortive offers and promises (passive bribery). Under this scheme, it has been observed that the increased decentralization of responsibilities may increase the risk of corruption and of other ethical problem (Grossi & Reichard, 2008, p. 611): *“The risk of corruption and of other ethical problems may grow. Managers have more opportunities and temptations to bribe other actors, for instance, in purchasing processes”*.<sup>38</sup>

---

pursuing economic activities, either exclusively or together with the pursuit of public policy objectives and the exercise of governmental authority or a governmental function.

<sup>38</sup> Similarly, Ye & Hu (2019, p. 266): *“Many existing studies also show that with the enhancement of executives’ real power, they are more likely to carry out connected transactions, seek for excess compensation, and implicit money for extravagant consumption. Therefore, in order to fundamentally curb executive corruption, it is necessary to improve the internal supervision mechanism and strengthen the restriction and supervision of executive power”*.

More independent managers have additional opportunities and instruments to influence other actors in purchasing processes and in the recruiting of the workforce. At the same time, the public shareholder has lower incentive to exert control since the monetary effects of mismanagement do not immediately affect public budgets, as it happens with direct internal provision. These opaque and karstic financial relations may be also exploited by elected officials to influence operative choices to gain political consensus (lowering prices for public services, increasing the staff, etc.) without being directly responsible of the negative impacts in terms of costs and revenues. The overall treat, even in terms of corruption prevention, is that the ambiguous nature of public controlled enterprises weakens the checks normally operating in the public sector (hierarchical control, more formalized awarding procedures, direct voice from the public, ethic control) without (or only partially) being guided by the discipling effects of market pressure.

The criterion of autonomy and separation of the owner and the management<sup>39</sup>, largely recommended in the market-oriented approach, in this setting runs the risk of becoming a dogmatic cul-de-sac.

On the one hand, in fact, it looks to be based on a supposed 'ethical superiority' of professional managers with respect to elected politicians and public officials. Why should an independent manager always act more honestly and in an impartial way? It could have been the case in some specific circumstances, but the generalization sounds in many respects ideological<sup>40</sup>. The main challenge turns out to be that of the incidence of adequate checks and balances along the principal-agent chain able to influence and guide all the involved actors. In corporatized public owned enterprises these mechanisms tend to be weak on both sides, because corrupt managers can benefit of weaker controls and financial constraints, while for corrupt politicians may be easier to intervene in publicly-owned firms as they will benefit from the rents without directly bearing the costs (Baum et al., 2019).

Moreover, if compared to other forms of external regulation, corporatized public enterprises are justified not only by the presence of market failures, but also by the fact that the construction of extensive and complete contracts and other extrinsic mechanisms is difficult, when not impossible. In this context, principal-steward agent and network theorists emphasize the role of interdependence between the principal and the agent, together with the importance of relational contracting, intrinsic motivation, and trust (Voorn et al., 2018). The weight given to autonomy, separation

---

<sup>39</sup> In the most recent OECD recommendation (2019b) it is explicitly stated that (p. 7). '*Adherents should ensure that SOEs are overseen by effective and competent boards of directors that are empowered to oversee company management and to act autonomously from the state as a whole*'.

<sup>40</sup> In this direction Ye & Hu (2019) observe that: "*Although the phenomenon of corporate executive corruption is a universal reality in the society, it is extremely harmful, but scholars at home and abroad pay little attention to this aspect. At present, academic and corruption-related research results are mainly concentrated in the field of government officials' corruption*".



of roles, ex post-steering, private-shaped management and organization can be misleading<sup>41</sup>, crowding out intrinsic motivation and downplaying values hard to quantify and measure (Alexius & Cisneros Ornberg, 2015). In the extreme (but not residual) case of the in-house option, autonomy and separation of roles are openly conflictual and cannot be requested or suggested as viable organizational options.

In this perspective, many of the externally imposed/suggested standards for the prevention of criminal misconduct, while being certainly important, are not resolute. It is in fact argued (Previtali, 2017) that stressing (mainly) the role of symbolic structures, compliance standards, audit and enforcing procedures, there is a strong risk of creating a compliance system that is merely formal and paper-based and that has no real impact on traditional managerial procedures and approaches. Extra monitoring and bureaucracy may also increase compliance costs, while making managers less innovative and more defensive. POEs, or at least many of them, should contribute to the realization of non-economic missions and their underlying values (Alexius & Cisneros Ornberg, 2015; Bauby, 2019), requiring different and probably more articulated interpretative and regulatory approaches.

## References

- Alexius S., Cisneros Ornberg J.C., 2015, 'Mission(s) impossible? Configuring values in the governance of state-owned enterprises', *J. Pub. Sector Manage.* 28(4/5):286-306.
- ANAC, 2018, *Relazione 2018*, Roma.
- Auriol E., Blanc A., 2009, 'Capture and corruption in public utilities: The cases of water and electricity in Sub-Saharan Africa', *Utilities Policy* 17(2):203-216.
- Bauby P., 2019, *The governance of State-owned Enterprises (SOEs) operating under monopoly situation*, CIRIEC Working Paper No. 31.
- Baum A., Hackney C., Medas P., Sy M., 2019, *Governance and State-Owned Enterprises: How Costly is Corruption?*, IMF Working Paper, WP/19/253.
- Belloc F., 2014, 'Innovation in State-Owned Enterprises: Reconsidering the Conventional Wisdom', *J. Econ. Issues* 8(3):821-848.
- Bergh A., Erlingsson G., Gustafsson A., Wittberg E., 2019, 'Municipally owned Enterprises as Danger Zones for Corruption? How Politicians Having Feet in Two Camps May Undermine Conditions for Accountability', *Public Integrity*, 21/3, 320-352.

---

<sup>41</sup> The difficulty to find an equilibrium between political influence and managerial independence is clarified by Bergh et al. (2019, p. 327): "While having politicians represented in the MOEs boards could serve an important purpose as an information channel between MOEs and the council/municipal board, having local elite players represented on MOE boards is associated with risks".

- Bertocchi M., 2017, 'Transparency in Local State-Owned Enterprises in Italy', *Symphonya. Emerging Issues in Management*, 2, 31-46.
- Bishop W., 1990, 'A Theory of Administrative Law', *Journal of Legal Studies*, vol. XIX, p. 489-528.
- Bognetti G., 2020, 'History of western state-owned enterprises: from the Industrial Revolution to the age of globalization', in Bernier L., Florio M., Bance P. (eds), *The Routledge Handbook of State-Owned Enterprises*, Routledge.
- Bruton G.D., Peng M.W., Ahlstrom D., Stan C., Xu K., 2015, 'State-owned enterprises around the world as hybrid organizations', *Acad. Manage. Perspect.*, 29(1):92-114.
- Clò S., Del Bo C.F., Ferraris M., Florio M., Vandone D., Fiorio C., 2015, 'Public enterprises in the market for corporate control: recent worldwide evidence', *Ann. Public Coop. Econ.*, 86(4):559-583.
- Corte dei Conti, 2017, *Gli organismi partecipati dagli enti territoriali. Relazione 2017, Deliberazione N.27/SEAUT/2017/FRG*, Roma.
- Curci N., Depalo D., Vadalà E., 2017, *Municipal socialism or municipal capitalism? The performance of local public enterprises in Italy*, Banca d'Italia, Questioni di Economia e Finanza, number 408.
- European Commission, 2016, *State Owned Enterprises in the EU: lessons learnt and ways forward in a Post-Crisis Context*, European Economy, Institutional paper 031/ July.
- Florio M., 2014, 'Contemporary public enterprises: innovation, accountability, governance', *J. Econ. Pol. Reform* 17(3):201-208.
- G20, 2018, *G20 High-level principles for Preventing Corruption and Ensuring Integrity in State Owned-Enterprises*, G20 Argentina 2018.
- Grossi G., Reichard C., 2008, 'Municipal Corporatization in Germany and Italy', *Pub. Manage. Rev.* 10(5), 597-617.
- Grossi G., Papenfuß U., Tremblay M.S., 2015, 'Corporate governance and accountability of state-owned enterprises. Relevance for science and society and interdisciplinary research perspectives', *International Journal of Public Sector Management* 28(4/5):274-285.
- IMF-International Monetary Fund, 2019, *Fiscal Monitor. Curbing Corruption*, Washington DC.
- Klein M., 2012. *Corporatization and the behavior of public firms: how shifting control rights affects political interference*. EPPP DP n.3, Chaire EPPP IAE Pantheon-Sorbonne, Paris.
- McDonald D.A., 2014, *Rethinking Corporatization and Public services in the Global South*, London: Zed Books.
- McDonald D.A., 2016, 'To corporatize or not to corporatize (and if so, how)', *Utilities Policy* 40:107-114. [doi.org/10.1016/j.jup.2016.01.002](https://doi.org/10.1016/j.jup.2016.01.002)
- Millward R., 2005, *Private and Public Enterprise in Europe: Energy, Telecommunications and Transport, 1830–1990*. Cambridge, UK: Cambridge University Press.  
[http://assets.cambridge.org/97805218/35244/frontmatter/9780521835244\\_frontmatter.pdf](http://assets.cambridge.org/97805218/35244/frontmatter/9780521835244_frontmatter.pdf)

- Mocetti S., Roma G., 2020, *Da 8.000 a 1.000? Razionalizzazione e governance delle società pubbliche*, Banca d'Italia, Questioni di economia e finanza, Occasional papers, n. 570.
- Nguyen T.T., van Dijk M.A., 2012, 'Corruption, growth, and governance: Private vs. state-owned firms in Vietnam', *J. Bank. Financ.*, 36:2935-2948.
- OECD, 2015, *OECD Guidelines on Corporate Governance of State-Owned Enterprises*, Paris.
- OECD, 2017, *Government at a glance 2017*, Paris.
- OECD, 2018, *State-owned enterprises and corruption. What are the risks and what can be done?. Highlights*, Paris.
- OECD, 2019a, *Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises*, Paris.
- OECD, 2019b, *Recommendation of the Council on guidelines on anti-corruption and integrity in State-Owned enterprises*, C/MIN(2019)5/FINAL, Paris.
- Osculati F., Zatti A., 2005, 'The Services of General Economic Interest. The Case of Local Public Transport in Italy', *Il Politico*, n.3, pp. 411-447.
- Previtali P., 2017, 'The application of legislative decree no. 231/2001 through organizational models: rethoric or real effectiveness?', *Impresa Progetto - Electronic Journal of management*, n.2, 2017.
- Previtali P., Zatti A., Scarozza D., 2018, 'Public owned enterprises in Italy: A hybrid nature for a hybrid regime of over-compliance', *African Journal of Business Management*, 12(6), pp. 140-153.
- Saussier S., Klein M., 2014, *Local Public Enterprises: A Taxonomy*, EPPP DP n.12, Chaire EPPP IAE Pantheon-Sorbonne, Paris.
- Sorrentino M., 2020, 'State-Owned Enterprises and the Public Mission. A Multidimensional Lens', in Bernier L., Florio M., Bance P. (eds), *The Routledge Handbook of State Owned Enterprises*, Routledge.
- Torsteinsen H., van Genugten M., 2016, 'Municipal waste management in Norway and the Netherlands – from in-house provision to intermunicipal cooperation', pp. 205-220, in: Kuhlmann S. and Bouckaert G. (eds.) *Local Public Sector Reforms in Times of Crisis*. Houndsmills, Palgrave Macmillan.
- Tonurist P., Karo E., 2016, 'State owned enterprises as instruments of innovation policy', *Ann. Public Coop. Econ.*, Vol. 87, No 4, pp. 623-648.
- Voorn B., Van Genugten M., Van Thiel S., 2018, *Background, Autonomy, Steering, and Corporate Governance: Determinants of the Effectiveness of (Governance of) Municipal Corporations*, Conference Paper, EGPA 2018, Lausanne, Switzerland.
- Wilkinson P., 2018, *State-owned enterprises: beacons of integrity? The case for implementing the 10 anti-corruption principles for state-owned enterprises*, Transparency International, Berlin, Germany.
- Wollmann H., 2018, 'Public and Personal Social Services in European Countries from Public/Municipal to Private-and Back to Municipal and "Third Sector" Provision', *International Public Management Journal*, 21:3, 413-431.

- Wollmann H., 2020, 'Local public enterprises as providers of public services in European countries: shifts and dynamics', in Bernier L., Florio M., Bance P. (eds), *The Routledge Handbook of State-Owned Enterprises*, Routledge.
- World Bank, 2014, *Corporate Governance of State-Owned Enterprises: A Toolkit*. Washington, World Bank Group.
- Ye S., Hu S., 2019, *Research on Mixed Ownership Reform, Executive Corruption and Corporate Performance*, 2019 International Seminar on Education, Teaching, Business and Management (ISETBM 2019).
- Zatti A., 2012, 'New Organisational models in European Local Public Transport: from Myth to Reality', *Ann. Public Coop. Econ.*, Vol 83, No 4, pp. 533-559.
- Zatti A., 2013, *European Local Public Transport between Convergence and Diversity*, in Paramithiotti G. (eds.), 'Servizi pubblici e imprese pubbliche in Europa tra convergenza e sussidiarietà', *Quaderni della Rivista il Politico*, 60, 123-158.

## The case of Italy

Andrea ZATTI\*

### Abstract

The third Chapter depicts the interconnections between the two themes (bribery and anti-corruption policies, on the one hand, and the role of public controlled entities, on the other) in the Italian case. Italy turns out to be an interesting case study because, on the one hand, it is among the worst performing countries in the G7 and the EU members in terms of corruption and, on the other, it has experienced a strongly proliferation of Public Owned Enterprises (POEs) during the last two or three decades, involving nearly all activity sectors of the economy. This process is deemed to have weakened the chain of control on shared units, delegating relevant financial and political decisions to a milieu of ambiguity and uncertain accountability (the 'escape' argument). A progressive change of direction occurred more recently, when corporatized public enterprises have been submitted to specific and increasing limits, including transparency and anti-corruption policies. The anticorruption package, adopted in Italy starting with 2012, has promoted important steps in this direction, yet the effects of these new measures have not been resolute, and many challenges are still open.

**Keywords:** Italian case study, Corruption Perceptions Index, Anti-corruption package, Consolidated Code of Publicly Owned Enterprises, Compliance regime

**JEL-Codes:** D23, D73, G38, H11, K23, K42, L32

---

\* Researcher and Professor, University of Pavia; President of the Romagnosi Foundation - Local Government School, and Rector of the Cairoli College, Pavia (Italy) ([andrea.zatti@unipv.it](mailto:andrea.zatti@unipv.it)).

Analysing in the Italian case study the interconnections between the two themes considered in this study - bribery and anticorruption policies, on the one hand, and the proliferation of public controlled entities, on the other - turns out to be interesting for at least two kinds of reasons.

Firstly, according to the 2020 Corruption Perception Index (CPI) by Transparency International<sup>1</sup>, Italy ranked 52th on a total of 180 countries scored. As to the CPI, on a scale from 0 to 100, whereby 100 refers to the lack of corruption, Italy got a score of 53, with an improvement over the past few years (Figure 1), placing Italy rather among the worst performing countries in the G7 (7 out of 7) and the EU members (23 out of 27). Similarly, the Control of Corruption Index (CCI)<sup>2</sup>, constructed by the World Bank as one of the six composite World Governance Indicators, is estimated to be for Italy at a value of 0,24 (2018 data), even in this case experiencing an upward trend since 2015, but still at the bottom of the EU ranking (22 out of 27). Notwithstanding, in recent years, Italy has embarked in a wide range of structural reforms, including an anticorruption package in 2012, corruption is still perceived as a key and pervasive phenomenon, affecting all sectors of society, both in the public and the private sphere (GRECO, 2017). Consequently, public trust in politicians and citizens' confidence in public service remain low (ibidem). The latest Eurobarometer on corruption, dating 2019<sup>3</sup>, reports that 91% of the Italian businesses think corruption is widespread (very widespread + fairly widespread): third highest value in the EU, where the overall average is well below (63%).

---

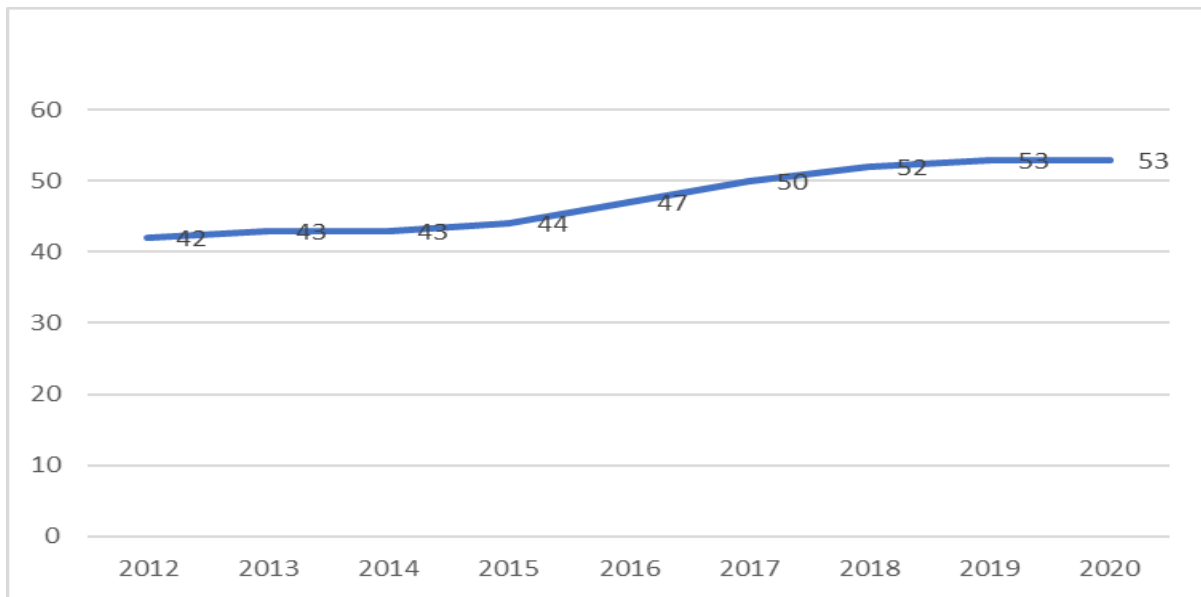
<sup>1</sup> <https://www.transparency.org/en/cpi/2020/index/ita> . The CPI is calculated using 13 different data sources from 12 different institutions that capture perceptions of corruption within the previous two years.

<sup>2</sup> CCI is estimated on a scale of -2.5 to +2.5, where the higher the index the less the corruption indicated. CCI reflects perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.

<https://databank.worldbank.org/databases/control-of-corruption> .

<sup>3</sup> Flash Eurobarometer 482.

**Figure 1. Corruption Perceptions index-CPI: the rank of Italy**



Source: Elaborations on Transparency international, several years.

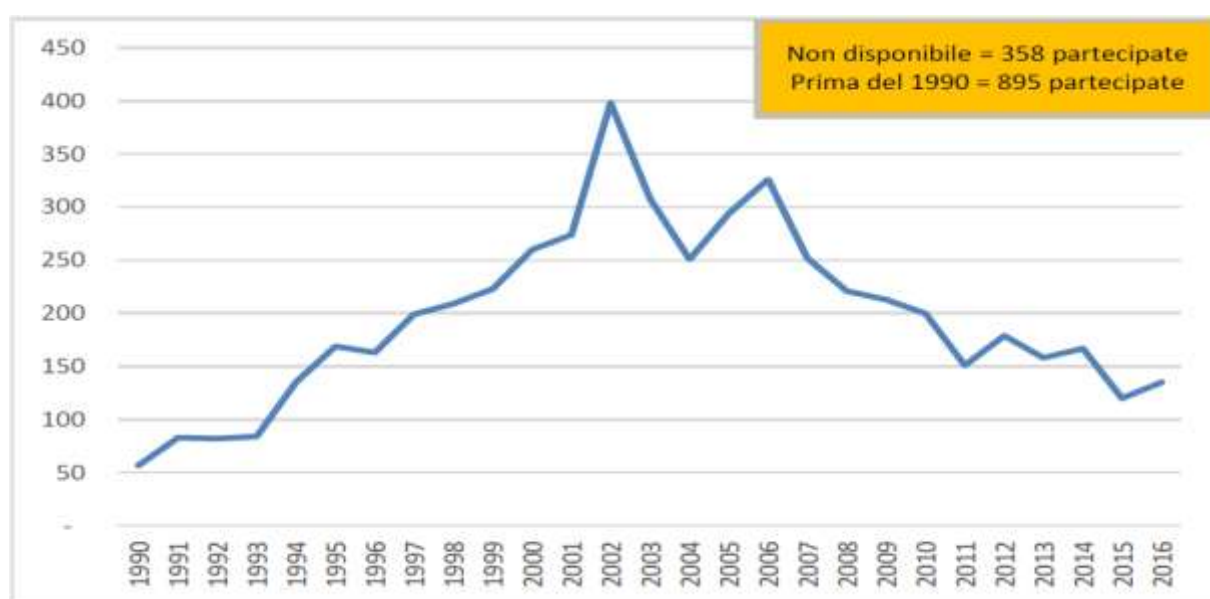
Secondly, POEs, above all local POEs, strongly flourished in Italy during the last two or three decades, involving nearly all activity sectors of the economy (Zatti, 2013; Karantounias & Pinelli, 2016; Bertocchi, 2017; Corte dei Conti, 2019; MEF, 2019a; Belhoncine & Jirasavetakul, 2020; Istat, 2020). This phenomenon, mainly characterized by the creation of private-law corporate structures, has been initially driven by a mounting economic, political, ideological and theoretical background, aimed to shape the public sector in a more business-like fashion by introducing principles and tools of private management into public administration in order to improve POEs' performance (McDonald, 2016; Previtali et al., 2018). More recently, POEs have also become an instrument of re-publicization in the provision of services of general interest previously outsourced: an evolution fostered, among others, by the economic crisis and by the reappraisal of the merits of the public approach (European Commission, 2016; McDonald, 2016; Wollmann, 2018). As a whole, de-integration and reduced political control have been often the cause of unintended critical effects, mainly due to the creation of entities that behave like private companies without the political and financial risks associated with direct private sector participation (Alexius & Cisneros Ornberg, 2015; Previtali et al., 2018). The result has been "*a multiform state participation in the economy with no clear orientation*" (Karantounias & Pinelli, 2016, p. 1) or, in the words of the Italian Court of Auditors, "*an emblematic case of public intervention in the economy that has progressively acquired worrisome dimensions, demanding radical measures to limit negative effects on public finances and on the economic system in general.*"<sup>4</sup> (Corte dei Conti, 2018, p. 17).

<sup>4</sup> Translation by the author.

## 1. POEs in Italy: a general overview

The rate of birth of new POEs has been characterized in the last decades by a reverse U-shaped curve (Figure 2), with an increasing trend till the first years of the 20th century and a clear decline in the more recent period. As a result, a plethora of publicly- and semi-publicly-owned undertakings emerged, particularly at the regional and municipal level, active in several areas: services instrumental to the public administration, administrative functions, management of state assets, network industries or other services of general interest, but even provision of services on the open market<sup>5</sup> (Karantounias & Pinelli, 2016; Curci et al., 2017; Corte dei Conti, 2019; Mocetti & Roma, 2020).

**Figure 2. POEs in Italy: private law companies by year of foundation**



Source: Ministry of the Economy and Finance<sup>6</sup>.

POEs are numerous and difficult to monitor, even due to the presence of complex and intricate ownership relationships. The most recent investigation of the Italian Institute of Statistics<sup>7</sup> (Istat, 2020) reports 9.118 entities participated in Italy by the public sectors in 2017 (Table 1). 6.310 are enterprises in activity, representing 70% of total units and 96% of total people employed; 964 are non-active enterprises, and 1.844 other entities (associations, foundations, NGOs, public institutions, not classified entities), mainly operating in the agriculture sector and in non-commercial activities. Active POEs declined by 18% in the period 2012-2017 due to the most

<sup>5</sup> Such as shops, drugstores, tourist activities, etc.

<sup>6</sup> MEF (2019a). The figure is based on a sample of 6.500 private law entities in activity in 2016, divided by year of foundation. 850 participated companies already existed before 1990. The sample includes POEs at the national, regional and local level, both controlled and even simply participated.

<sup>7</sup> ISTAT database includes entities directly controlled and participated by public administrations and entities indirectly participated by other entities controlled by public authorities.



recent reforms adopted by the Italian government that lowered the favour towards the use of private-status entities to manage the public mission (Mocetti & Roma, 2020). This effect is less significant on people employed where the reduction, for the same period, has been of nearly 11%. If we concentrate on the last two years (2015-2017) for which statistics are available, the decrease in terms of the number of active POEs (-8%) has not been associated with any effect on the workforce<sup>8</sup>, giving evidence of a process mainly based on the elimination/aggregation of marginal units.

**Table 1. Entities participated by the public sectors in Italy (2017)**

	N.	Under public control (%)	People employed
<b>Total participated entities</b>	9.118	53,3%	884.757
Active POEs	6.310	59,2%	847.232
Non Active POEs (in liquidation)	964		/
Other entities	1.844		37.524

Source: elaborations on Istat (2020).

Nearly 60% of active POEs are controlled by public entities and their share regarding total employed people is close to 75% (Table 2). At the same time there is a non-negligible number of participated entities for whom the stake of the public shareholders appears too low for the purpose of influencing their management towards the public interest (26% of enterprises feature below 20%).

**Table 2. Active POEs and employment by % of public share (2017)**

	Total		Employed people	
	N.	%	N.	%
< 20% of public share	1.622	25,7	178.012	21,0
20% < Public share <= 50%	952	15,1	37.236	4,4
Public share > 50%	3.736	59,2	631.984	74,6
<b>TOTAL</b>	<b>6.310</b>	<b>100,0</b>	<b>847.232</b>	<b>100,0</b>

Source: elaborations on Istat (2020).

Private law entities represent by far the largest part (Table 3) with a share of more than 98% on both the total number of POEs and employed people<sup>9</sup>. Joint stock companies, in particular, are characterized by higher average dimensions, counting for only 1/3 of total POEs, but employing nearly 83% of the whole workforce. As observed in previous surveys (Grossi & Reichard, 2008), the process of agencification has been in Italy mainly a process of corporatization, with a dominant role of limited liabilities companies and joint stock option companies, often originated from the transformation of public legal form entities (so called *aziende speciali*).

<sup>8</sup> Employed people in POEs are 847.232 in 2017 against 848.705 in 2015.

<sup>9</sup> The share of private law enterprises on total active entities participated by the public sector is respectively 75,8% (total number) and 94,4% of employed people.

This result is coherent also with the outcome of the survey on entities participated by public authorities conducted by the Ministry of Economy and Finance, according to the data provided by the extraordinary review carried out in 2017. Total scrutinized entities have been 9.184 (106 data), with 81% of them having the status of private law companies or consortia (MEF, 2019a).

**Table 3. Active POEs: Number of entities and employment by legal form (2017)**

	N. entities	Employed people	Average employed people
Joint stock companies	1.939	704.589	363
Limited liability companies	2.726	78.130	29
Cooperative companies	396	29.047	73
Private law consortium	1.122	23.153	21
Public law entities	127	12.313	97
<b>TOTAL</b>	<b>6.310</b>	<b>847.232</b>	<b>134</b>

Source: elaborations on Istat (2020).

In terms of the ownership composition, local POEs<sup>10</sup> are predominant (4.253, i.e 67% of total active POEs) even if their weight respect to total employed people by POEs is sharply lower (32,6%). Considering only entities controlled by public authorities (Table 4), the leading role of the Ministry of Economics and Finance clearly arises, mainly due to the large average size of the shared entities (1.109 employed people). POEs controlled by municipal and provincial governments are very numerous (43% of the total number) but with a restrained weight on employment (21%).

**Table 4. POEs controlled by public authorities (total number and %) (2017)**

authority	N. Enterprises	%	N. Employed people	%	Average employed people
Ministry of Economics and Finance	322	8,6	357.227	56,5	1.109
Other Ministries and Central Authorities	64	1,7	1.378	0,2	22
Regions	239	6,4	35.139	5,6	147
Provinces, Metropolitan Cities and Municipalities	1.612	43,1	131.176	20,8	81
Autonomous Provinces	46	1,2	2.137	0,3	46
Chamber of Commerce	55	1,5	1.772	0,3	32
Healthcare system entities	29	0,8	7.062	1,1	244
Other local administrations	129	3,5	5.441	0,9	42
<b>Singly owned entities</b>	<b>2.496</b>	<b>66,8</b>	<b>541.331</b>	<b>85,7</b>	<b>217</b>
<b>Jointly owned entities</b>	<b>1.240</b>	<b>33,2</b>	<b>90.653</b>	<b>14,3</b>	<b>73</b>
<b>Total</b>	<b>3.736</b>	<b>100,0</b>	<b>631.984</b>	<b>100,0</b>	<b>169</b>

Source: elaborations on Istat (2020).

The shareholdings spanned over all the sectors, with a numerical prevalence of services, including professional services, technical and scientific services, and instrumental services for the public administration. In terms of employed people, the main share is represented by network industries with transport (32,7%), and water/sewerage/waste (28,6%) at the top (ISTAT, 2020)<sup>11</sup>.

<sup>10</sup> POEs participated by at least one regional or local government.

<sup>11</sup> A similar figure is reported by the Court of Auditors in its yearly survey (only) on entities participated by local public authorities (Corte dei Conti, 2019). 40,75% of them (representing 71% of the total production) are in fact enterprises providing local public services (waste, water, transport, energy, health and social services), while 59,25% provide other services, including services instrumental to the controlling authority.

Beyond the ownership relationship, the use of other steering levers turns out to be uncertain, with only 37% of entities explicitly entrusted to provide goods or services for the public administration, both in terms of services of general interests and instrumental services (MEF, 2019a)<sup>12</sup>. Inside services entrusted to POEs, a strong prevalence of direct awards (94% of contracts) is documented, while tenders (both open tenders and double tendering to mixed enterprises) assume a residual role (6%) (MEF, 2019a; Corte dei Conti, 2019)<sup>13</sup>. Transfers from the public administration occur on various grounds, where compensations for public service obligations represent on average less than 50%, being generally complemented by other grants and capital increases to cover losses, without a clear distinction between them (Karantounias & Pinelli, 2016). The overall figure remains opaque, lacking a clear evidence about the prevalent nature of the participated entities (in-house or market oriented) and making it difficult to assess whether funds obtained by controlling authorities are commensurate to the benefits performed by the corresponding activity.

Even if POEs are often seen has a source of financial losses, on aggregate level a limited fiscal risk comes to light. Within the 4.326 local public entities with a financial report available for 2017, the Court of Auditors reports profits for 4,8 billion euros and losses for 1,1 billion euros (Corte dei Conti, 2019). Similarly, the Ministry of Economics and Finance (MEF, 2019b) reports that 62,5% of corporations participated by local governments has experienced profits in 2016, with better results for entities with a higher public share. Mocetti & Roma (2020), focusing on a sample of corporations controlled and participated by public authorities, finds that only 20% of controlled entities and 30% of participated entities have experienced losses in 2018. As a whole, reported profits are higher than losses, showing how the evaluation of the participation in POEs should be based on other, more complex, features. Actually, a loss-making result can be the effect of an inefficient administration, but also of an inadequate contractual compensation granted for the entrusted public mission. At the same time, profit-making entities can be due to good management, but also to over-compensations and/or granted exclusive market powers. Transparency measures and evaluation criteria should take into consideration this complex framework, providing for a broader concept of performance, where efficiency-oriented indicators need to be merged with more socially-oriented ones.

## **2. POEs in Italy: from favour to disfavour**

The deep impulse towards corporatization experienced since the 1990s (Figure 2, above) has been strongly favored by the legislative acts adopted by the Italian government. Initially, Law 142/1990 allowed local governments to manage public

---

<sup>12</sup> This evidence is related to local POEs.

<sup>13</sup> The same evidence can be found in Karantounias & Pinelli (2016), p. 7: *“the vast majority of local SOEs are awarded services contracts directly, with no open tender. Lack of compliance with the EU and national legislation on direct award (‘in house’) is reportedly commonplace”*.

services through corporations while, later, Law 388/2000 made the transformation of public-law entities (*aziende speciali*) into stock option companies or limited liability companies compulsory. The use of private law structures has been largely exploited to search for flexibility, specialization and entrepreneurship outside the rigid approach characterizing the public sphere (Karantounias & Pinelli, 2016; Bertocchi, 2017; Mocetti & Roma, 2020). The ‘escape’ argument has been also an opportunity to circumvent constraints on the use of public resources in the post-Maastricht era (Osculati & Zatti, 2005; Bertocchi, 2017; Corte dei Conti, 2018, 2019; Mocetti & Roma, 2020).

Three main criticisms marked this evolutionary trend (Corte dei Conti, 2019). Firstly, distortive effects on competition and proper market functioning have been put in light, due to the limited recourse to open tenders and the privileged position exploited by participated/controlled entities (above all in-house) with respect to other market suppliers. Secondly, inefficient management, operational difficulties and poor service quality have commonly been associated with the wide presence of POEs in the economic sector. Thirdly, opaque financial relations and weaker budget constraints have been sources of misconducts, deviant behaviors and lack of transparency, leading to a widespread negative perception of their role inside the public sphere.

In several cases, both at the State and at the local scale, corporatized POEs have been entrusted also the role of managing indirect participations (through the so-called holding entities) and to carry out functions traditionally developed within the boundaries of the ‘core’ public administration: development agencies, payment agencies, project management, research and development, consulting, etc. This process is deemed to have weakened the chain of control on shared units, delegating relevant financial and political decisions to a milieu of ambiguity and uncertain accountability (Corte dei Conti, 2018, 2019)<sup>14</sup>.

A progressive change of direction occurred in the first decade of the 21st century. Corporatized POEs, while initially subject to the same laws and regulations as other enterprises, since 2006 have been submitted to specific and increasing limits, special norms and derogations adopted by the Italian legislator<sup>15</sup>. Their reform (downsizing) has been considered an indispensable step also in the spending review of August 2014, where the emphasis has been almost completely directed to the

---

<sup>14</sup> Describing the case of a regional holding, the Court of Auditors underlines how *‘the decisional center has been translated outside the public administration, making difficult, from this point of view, the control by the public shareholder... it has been detected that the attribution of a relevant volume of resources to this holding, on the one hand, subtracts them from the direct control of the local public government and, on the other, shifts the decisional barycenter from the political body to the board of directors of the corporation’* (Corte dei Conti, 2019, p. 98, own translation).

<sup>15</sup> In the words of Sorrentino (2020, p. 84): *‘It brought those unlisted companies in which a public entity held equity back into the bureaucratic administration fold from which they had previously been shooed away’*. Only listed SOEs demonstrate no significant deviations from privately held companies (Karantounias & Pinelli, 2016), being concretely comparable to true market operators.

potential savings obtainable for public finances (Commissario alla spesa, 2014; Karantounias & Pinelli, 2016; Mocetti & Roma, 2020). Special rules and restrictive limits have included several aspects (MEF, 2019b): ceilings on the remuneration for the members of the management boards, more stringent recruitment and procurement procedures, controls by the Court of Auditors<sup>16</sup>, detailed boundaries on specific expenditure items (consultancy, advertising, sponsorships, etc.), mandatory adoption of consolidated financial statements covering the entire public administration and the controlled entities, mandatory set-aside of public funds to cover future losses of participated entities.

This evolving process tried to tackle many of the pitfalls and criticisms mentioned before, without a comprehensive vision of the scope and the role of corporatized entities. The multiplicity of provisions introduced, generally focused to relieve single problems (lack of competition, avoidance of public rules, excessive production costs, lack of transparency), contributed to create an instable and uncertain framework (MEF, 2019b), without a resolute effect on the overall status quo. To overcome this situation, Legislative decree 175/2016 (modified and integrated by Legislative decree 100/2017), the so called 'Consolidated Code of Publicly Owned Enterprises', was approved to integrate and streamline previous fragmented legislation to better manage and rationalize publicly owned enterprises (European Commission, 2016 & 2019).

The Consolidated Code is based on the 'comply or explain' approach, through which public authorities are required to motivate both the general need of the public intervention, and the more specific choice to rely on a controlled private law entities, with respect to internal production or a regulated externalization. The aim is to reduce the direct public role in sectors not related to the public mission or to the existence of market failures, leaving however to the competent public authority the responsibility to delimit these concepts (MEF, 2019b). It is in fact to be noted that there is not a codification of what is a service of general interest, so that the definitive assessment is left to the autonomous (but nonetheless transparent and accountable) motivation adopted by the public administrations in their periodic review (Belhoncine & Jirasavetakul, 2020). At the same time, the specific focus on certain quantitative and efficiency criteria (small entities, entities with a negative budget result, high operative costs) concentrates the attention to the possible causes of operational failures in existing POEs, pursuing budget savings and lower public expenditure.

---

<sup>16</sup> The scope of the control of the Court of Auditors is mixed: the Court has always jurisdiction for in house companies; the Court has no power for companies with a minority public share (< 50) and for listed companies; for other cases the Court has power only for damages directly caused to the public asset (as in the case of damages to image), but not to the company asset.

### Box 1. Consolidated Code of Publicly owned Enterprises<sup>17</sup>: main contents and provisions

- It applies only to joint stock and limited liability companies.
- POEs must be scrutinized on an annual basis: extraordinary review of their shareholding by September 2017 and annual progress review each year.
- Restrictions and motivations to the use of POEs: established and maintained only if necessary for the pursuit of the institutional goals of the controlling public authority and/or for providing services of general interest (*comply or explain approach*).
- Specific (restrictive) focus on: companies that do not have employees or have more directors than employees; companies that perform similar activities to those carried out by other publicly-owned companies or by instrumental public agencies; companies with an average turnover (three years period) less than a certain threshold<sup>18</sup>; companies that have been loss-making for four out of the five preceding years; companies that need to contain operating costs.
- Confirmation of the special rules and restrictive limits adopted for POEs.
- Selection of directors according to principles of honorability, professionalism, and autonomy.
- Restrictions and limits are tighter for controlled entities (max. for in-house POEs).

The extraordinary and periodic rationalization plans may bring about two main results: i) the (motivated) intention to preserve the participation without any reform or change or ii) the adoption of different rationalization options (disposal of the holding, change in structure and organisation of the enterprise, merger of the company, liquidation, withdrawal, transfer of shares for free). At present, the process has delivered limited effects, with the retention of 73% of participations (76% in terms of overall employed people) and the adoption of some forms of rationalization for the remaining 27% (MEF, 2019b). The absence of a clear-cut and more objective definition of the concept of service of general interest, the predominance of a formalistic respect of the law together with the difficulties in identifying and managing adequate disinvestment procedures are considered the main obstacles to a more incisive application of the reformatory framework (Corte dei Conti, 2019; MEF, 2019b; Belhoncine & Jirasavetakul, 2020).

Finally, the Code does not resolve the intrinsic ambiguity of the use of corporatized public enterprises to pursue the public mission. On the one hand, in fact, their use in this field is subject to several derogations and special norms, so that they represent an in-between option that can complicate the ownership function and the daily management and chain of governance. On the other, they are addressed with methods and criteria often driven (at least formally) by the private sector (profitability, separation of roles, remuneration of directors linked to the financial results<sup>19</sup>, autonomy of the directors, etc.), opening up for potential tradeoffs between financial and non-financial values and objectives.

---

<sup>17</sup> Legislative decree 175/2016 modified and integrated by Legislative decree 100/2017.

<sup>18</sup> Originally set at 1 million € and later reduced to 500.000€.

<sup>19</sup> The Consolidated Code specifies that the variable part of the remuneration should be commensurate to the financial results obtained the previous year.

### 3. Transparency and Anticorruption policies in POEs

Italy has recently embarked on a path of wide-ranging structural reforms among which the anticorruption front acquired a key position.

The anticorruption package implemented since 2012 (mainly through Law 190/2012 on corruption prevention in public administrations and Leg. Decree 33/2013 on transparency rules) represented a landmark in the approach adopted, with a policy shift from a (only) punitive approach to a (mainly) preventive one (Box 2). A key role in this direction has been given to the newly established National Anticorruption Authority (ANAC) that soon also assumed a surveillance and supervision role on public works. Broad anti-corruption plans have been launched since then to both consolidate the initiatives already launched (efficiency of public administration, transparency and public access to information, increased citizens' participation in public decision-making, etc.) and develop new ones (prevention of conflicts of interest, rotation of personnel, adoption of code of ethics, whistle-blower protection, etc.).

**Box 2. Main anticorruption and transparency measures introduced  
by L. 190/2012 and Leg. Decree 33/2013 for all public entities**

- Identification, within the organisation, of a person Responsible for Corruption Prevention and Transparency (RCPT) who must assess the suitability of the corruption prevention and transparency plan and oversee both its implementation and operation and the effectiveness of the control procedures and processes.
- The RCPT is appointed by the political board among the organization's executives. The RCPT must be assigned functions, powers and resources adequate for carrying out his/her role with full autonomy and effectiveness.
- Formal adoption of a Three-Years Plan for Anti-corruption and Transparency that identifies and assesses the main activities and areas at risk of corruption (procurement, staff recruitment, grants and donations policies, tariff definition, appointment and nomination rules and control and inspections).
- Adoption of specific risk prevention measures, which coincide with procedures and protocols that cover sensitive issues such as: conflict of interest, authorization to make appointments outside the company, incompatibilities and ineligibility for top positions, whistleblowing, the rotation of staff and training.
- Adoption of a code of ethics and conduct: a set of values, principles, and guidelines for behavior to which employees should aspire for as part of their belonging to a public organization.
- Full integration of transparency measures into the corruption prevention model.
- Creation of a specific section of the internet site, named 'Transparent Administration', dedicated to the publication of information regarding the organization and its activities.
- Full civic access by citizens to data, documents and information held by the organization and not published on the section 'Transparent Administration'.

In this evolving framework, POEs have been handled in line with their ambiguous nature, privileging initially their private dress and, later one, shifting to the public one.

Since 2001, POEs have been required to apply the Legislative Decree no. 231 issued to implement the OECD Convention of 17 September 1997 on the fight against corruption. The Decree covers a large range of offences (including active corruption) that can be committed by persons in the interest or to the advantage of the company, providing a new form of liability for all private-shaped companies, which the legislator

describes as “administrative”, independent from the liability of the executor who has actually committed the crime (Previtali et al., 2018). In fact, under articles 6 and 7 of the Decree, in a case of corruption or bribery the company body may be exempted from liability if it can prove it has adopted and effectively implemented some organizational and governance measures (Model 231) such as the following (Previtali, 2017):

- (a) the Board of Directors adopted and efficiently enacted, prior to commission of the act, organizational and management models which can prevent offences of the type occurring;
- (b) the task of overseeing such operations has been delegated to a Supervisory board vested with powers to act on its own initiative and conduct monitoring;
- (c) the persons committed the offence by fraudulently circumventing the organizational and management models;
- (d) there has been no omission or insufficient oversight on the part of the Supervisory board referred to in subparagraph (b).

In the last decade the viewpoint changed radically due to the emergence of a different vision of POEs. If we concentrate on corruption prevention, in fact, the perspective to be adopted for a POE should be designed in accordance with its mission and operating environment. In fact, the director and managers can be, as in a private entity, active agents in corruptive behaviors, trying to gain contracts and benefits for the enterprise (Belloc, 2014); but they can also be passive subjects when they demand money, gifts or other undue advantages to act or to refrain to act in the exercise of their function, thus penalizing the interests of the company and, as a consequence, of the general public (Dela Rama, 2011; Previtali et al., 2018; Ye & Hu, 2019).

As we have observed above, most POEs in Italy are controlled by public shareholders (60% of total POEs, representing 75% of employed people) with limited or no financial relation with third parties outside the public sphere, if we exclude the revenues obtained by user tariffs and service charges (Corte dei Conti, 2019). This figure is emphasized in the in-house case, where financial and commercial relations with private entities are the facto excluded. In all these instances the space/risk of bribery and active corruptive actions is limited, making the relevance of Leg. Decree n.231/2001 almost ancillary. When a public enterprise is entrusted with important public policy objectives and do not operate under a commercial logic, passive bribery is clearly predominant, being a concrete threat for the general interest pursued. Many operative areas can be involved: administrative acts and authorization, contracts awarding procedures, grants and other donations policy, workforce recruitment and career progression, tariff definition, appointment and nomination rules, control and inspections. In this perspective, passive and active corruption, certainly related and equally deplorable from an ethical point of view, are to be kept distinct so



as commonly separated/complementary are policies aiming to their prevention and control.

For these reasons, following the adoption of the Law 190/2012, an increasing relevance has been directed to POEs as a source of passive corruption behaviours. At the same time, considering their wide presence at the national and local levels, improving anti-corruption and transparency in their conduct became a key option to improve the overall effectiveness of the public sector. As a result, after two years of uncertainty, ANAC, recognizing the special character of these entities, approved in 2015 (Deliberation 8/2015) specific guidelines on the application of the anti-corruption and transparency discipline within POEs. These Guidelines have been integrated and updated in 2017 through the Deliberation ANAC n. 1134/2017.

The general approach is based on the same principles defined for public administrations, but with some adaptations to the specific context of private law entities (Bertocchi, 2017). It also established a different level of applicability depending on the share of public participation in the company. The discriminatory criteria used by the ANAC guidelines to define the applicability for POEs of the rules adopted for public administrations is the existence of public control<sup>20</sup> and the managing by the enterprise of activities of public interest (*ibidem*).

Enterprises under public control are required to implement anti-corruption and transparency measures at the same way as public administrations. These companies are de facto completely assimilated to public administrations, with the need of introducing all the organizational and operational instruments provided by Law 190/2012 and Leg. Decree 33/2013. On the one hand, they must design risk assessment (Box 3) and risk prevention measures, coinciding with procedures and protocols that cover sensitive issues, with a specific focus on passive corruption. These sections can be included within a specific 'Three-Years Plan for Anti-corruption and Transparency' or as a special part of the Model 231 previously adopted according to their private-law formal shape. On the other hand, they are required to reinforce and standardize transparency and disclosure measures, to be fully integrated in the general anti-corruption plan.

---

<sup>20</sup> As stated by Legislative decree 175/2016, public control exists when: i) public shareholders have the majority of votes in the shareholders' meeting; ii) public shareholders have sufficient voting rights to exercise a dominant influence in the ordinary shareholders meeting; iii) a company – regardless of the direct participation by the public administration - is under the dominant influence of the public by virtue of particular contractual links; iv) the control of a company is exercised jointly by a plurality of administrations through specific pacts, statutory norms or agreements.

### Box 3. Main risk assessment factors (Probability x Impact)

- Level of directionality
- External relevance of adopted decisions
- Economic relevance of operations and their consequences
- Frequency of operations
- Previous corruptive events and misuse regarding the same operation/factor
- Reputational impact

Source: our elaborations on ANAC, 2018.

Companies under public participation are characterized by a vaguer implementation of the anti-corruption and transparency package. They are not required to formally nominate an RCPT (Responsible for Corruption Prevention and Transparency), nor to implement the discipline on corruption prevention established by Law 190/2012. At the same time, public authorities should encourage their participated entities to implement the 'Model 231', integrating also organizational and executive measures to prevent passive forms of corruption and mismanagement. The adoption of transparency and publication requirements (ex Leg. Decree 33/2013) are mandatory only for data and documents related to activities of 'public interest governed by national or European Union law'<sup>21</sup>. The same perimeter applies for civic access. To accomplish these requests, participated companies should deliver, within their organization, a monitoring and certification activity regarding disclosure requirements. This function is preferably entrusted to the Supervisory Board under Leg. Decree 231/2001, without prejudice to the internal organizational choices considered most appropriate, given the need to limit operative costs and to rely on the already existing control systems.

Finally, as far as listed companies are concerned, both in the case of control or simple participation, they are subject to the same regime as participated entities: encouragement to implement the 'Model 231' and adoption of transparency and publication obligations concerning activities of 'public interest'. Moreover, the general provisions included in the Consolidated Code of Publicly Owned Enterprises do not apply, as it is supposed that the market discipline they are exposed to is a mechanism suitable to guarantee enough accountability and transparency. On this point, as underlined by the Court of Auditors (Corte dei Conti, 2019), their ambiguous nature emerges once more. In fact, while market pressure and control can be adequate to monitor their financial and economic situation, these are not necessarily a correct way to pursue other, more general, interests entrusted to the shared company. At the same time,

---

<sup>21</sup> Public interest activities include the exercise of administrative functions, the provision of goods and services for the public administrations and the provision of public services (services of general interest). In the absence of a clear-cut delimitation of the concept of public interest, the POE and, even more, the public entity owning the POE, is expected to exactly single out what can be considered of public interest in order to guarantee an adequate regime of corruption prevention and transparency.

if disclosure obligations should not compromise essential corporate confidentiality and should not penalize POEs with respect to private competitors, such obligations represent as well a key instrument to disclose the fulfillment of social and non-commercial objectives. Again, ambiguities and grey area effects may arise.

ANAC enforced a double compliance regime for POEs: public enterprises are invited to comply with Legislative Decree no. 231 as private companies, but, at the same time, they are obliged, at different degrees, to comply with Law no. 190 (Previtali, 2017). With reference to in-house cases, ANAC fully equates POEs to public administrations. From here, the risk is to create redundancies and unclear boundaries between the two systems: the organizational model and the supervisory body established under Decree no. 231 risk overlapping with the adoption of the corruption prevention plan and the appointment of a compliance officer, as explicitly stated by the Law no. 190. The risk here is the creation of an "over-compliance framework" which can lead to a "conformity trap" (Vit, 2016). Moreover, this complex regulatory framework could apply a "rule-based compliance", creating the conditions for a "protect and justify" approach to possible failures of POEs (as well as the behavior of poorly performing employees).

#### **4. Some concluding remarks on the Italian experience**

POEs, and particularly corporatized public enterprises, turned out to be a distinguishing feature of the Italian public intervention in the economic system in the last three decades. Among the different and controversial consequences brought about by their diffusion, an increasing interest has been directed to the effects on the overall accountability and integrity of the public sphere.

POEs, in fact, may "benefit" from less rigid decision and control mechanisms that could potentially be used for committing corrupt and fraudulent crimes. As a consequence, the process of escaping from the rigid and bureaucratic legal framework of public administration into the relative freedom of the business sector can bring about a perverse result: that of creating freedom and lessening control coupled with more opaque systems of political rewards and penalties.

The anticorruption package adopted in Italy in the last decade has promoted important steps to prevent this menace. It is in fact based on a systematic approach to risk management, providing that the mechanisms for risk prevention and control are closely interconnected with performance appraisal, transparency and general accountability. Yet, the effects of these new measures have not been resolute, and many challenges are still open.

Multiple and contradictory rationales and governing rules have led to an inadequate conduct of POEs, largely stigmatized by the national Supreme audit institution. Corruption and mismanagement events frequently involved POEs, shedding light on their weak organizational and accountability systems. At the same time, the mere

introduction of anti-corruption and transparency rules turned out to be not sufficient to create the conditions to implement innovative practices and policies in POEs. The anticorruption and compliance mechanisms characterized just by rule-based processes may have negative consequences especially in POEs, reducing these mechanisms to an add-on for internal control and compliance to external regulations, derailing any real process of hybridization with the pre-existing management systems and practices.

In this perspective, the main challenge seems to be that of promoting a better set up of POEs' internal organisational models, consistent with the mission there are entrusted. The case of corporatization we have described is in many cases coherent with the provision of services and functions where the control and influence exerted by the public owner should be kept high to safeguard the public mission. Often corporatized enterprises derive from the transformation of public agencies, so that they do not operate in a competitive environment and are strictly linked to the territory and the political structure they originate from. These features are emphasized in the case of the so-called in-house option, where there is not a true delegation to a third party and the concept of internal regulation still applies. In these circumstances many of the recommendations usually adopted for POEs can be misleading or hardly applicable. That is true, for example, for concepts like stock markets listing or competitive pressure, but even as far as de-integration and de-politicization of the board of director are concerned. While, in fact, the idea of relying on directors and bureaucrats with higher technical and business experiences, selected through transparent and well-designed criteria, is certainly to be welcomed, it must also be ensured that political or policy goals are still central in the company strategy and actions to avoid that it loses its focus on public interest and thus becomes politically questionable. In these cases, the public authority/organising authority must act as an informed and active owner, defining the overall rationale for state ownership, establishing statutes and procedures for effective steering and control and ensuring that the link with the controlled entity is carried out in a transparent manner. Diversely, when POEs are more market oriented and operate in a competitive environment, the private-like approach can prevail, contributing to a level playing field with other operators.

Also anti-corruption devices must be designed in a similar manner. Where the public mission is prevalent, the public-oriented approach should lead, with public governments responsible to put in practice a unitary system of steering and control of their owned entities. Until now, as stated by the Italian Court of Auditors (Corte dei Conti, 2019), there has been an *'insufficient awareness of this steering role'* (p. 180), leading to the recommendation to develop for the future (p. 35): *'a strong governance on participated entities, to guarantee the continuous monitoring of their results and of their effects on the financial equilibria of the controlling governments'*. In this perspective, POEs must be subject to particular pressures given the strong interaction of business considerations with political and public policy ones.

Laws, regulation and codes have a role in this direction, but cannot be enough and can also be too much in some cases, leading to over-compliance and conformity trap effects. Separation of commercial and non-commercial objectives, clear focus on the public policy assignments, higher burden of responsibility, ethics programme that emphasize values, self-governance, identity, training, trust and demanding stakeholders could be important integrative elements of the future agenda in this field.

## References

- Alexius S., Cisneros Ornberg J.C., 2015, 'Mission(s) impossible? Configuring values in the governance of state-owned enterprises', *J. Pub. Sector Manage.* 28(4/5):286-306.
- ANAC, 2018, *Relazione 2018*, Roma.
- Belhoncine N., Jirasavetakul L., 2020, *Lessons from Two Public Sector Reforms in Italy*, IMF Working Paper, WP/20/40.
- Belloc F., 2014, 'Innovation in State-Owned Enterprises: Reconsidering the Conventional Wisdom', *J. Econ. Issues* 8(3):821-848.
- Bertocchi M., 2017, 'Transparency in Local State-Owned Enterprises in Italy', *Symphonya. Emerging Issues in Management*, 2, 31-46.
- Commissario alla spesa, 2014, *Programma di razionalizzazione delle partecipate locali*.
- Corte dei Conti, 2018, *Gli organismi partecipati dagli enti territoriali. Relazione 2018*, Deliberazione N.23/SEZAUT/2018/FRG, Roma.
- Corte dei Conti, 2019, *Gli organismi partecipati dagli enti territoriali e sanitari. Relazione 2019*, Deliberazione N.29/SEZAUT/2019/FRG, Roma.
- Curci N., Depalo D., Vadalà E., 2017, *Municipal socialism or municipal capitalism? The performance of local public enterprises in Italy*, Banca d'Italia, Questioni di Economia e Finanza, number 408.
- Dela Rama M., 2011, 'Corporate Governance and Corruption: Ethical Dilemmas of Asian Business Group', *J. Bus. Ethics* 109(4), 501-519.
- European Commission, 2016, *State Owned Enterprises in the EU: lessons learnt and ways forward in a Post-Crisis Context*, European Economy, Institutional paper 031/ July.
- European commission, 2019, *Country Report Italy 2019 Including an In-Depth Review on the prevention and correction of macroeconomic imbalance*, SWD(2019) 1011 final.
- Grossi G., Reichard C., 2008, 'Municipal Corporatization in Germany and Italy', *Pub. Manage. Rev.* 10(5), 597-617.
- ISTAT, 2020, *Le partecipate pubbliche in Italia. Anno 2017*, Statistiche Report, Febbraio.
- Karantounias V., Pinelli D., 2016, *Local State-Owned Enterprises in Italy: inefficiencies and ways forward*, European Economy, Economic Brief 010, April.
- McDonald D.A., 2016, 'To corporatize or not to corporatize (and if so, how)', *Utilities Policy* 40:107-114. [doi.org/10.1016/j.jup.2016.01.002](https://doi.org/10.1016/j.jup.2016.01.002)

- MEF, 2019a, *Rapporto sulle partecipazioni delle Amministrazioni pubbliche. Dati 2016*. Dipartimento del Tesoro, Roma.
- MEF, 2019b, *Rapporto sugli esiti della revisione straordinaria delle partecipazioni pubbliche*, Roma.
- Mocetti S., Roma G., 2020, *Da 8.000 a 1.000? Razionalizzazione e governance delle società pubbliche*, Banca d'Italia, Questioni di economia e finanza, Occasional papers, n. 570.
- Osculati F., Zatti A., 2005, 'The Services of General Economic Interest. The Case of Local Public Transport in Italy', *Il Politico*, n.3, pp. 411-447.
- Previtali P., 2017, 'The application of legislative decree no. 231/2001 through organizational models: rethoric or real effectiveness?', *Impresa Progetto - Electronic Journal of management*, n.2, 2017.
- Previtali P., Zatti A., Scarozza D., 2018, 'Public owned enterprises in Italy: A hybrid nature for a hybrid regime of over-compliance', *African Journal of Business Management*, 12(6), pp. 140-153.
- Vit G., 2016, *Over-Compliance and the Conformity Trap*. Paper presented at European Group for Organization Studies Conference, Naples, Italy.
- Wollmann H., 2018, 'Public and Personal Social Services in European Countries from Public/Municipal to Private-and Back to Municipal and "Third Sector" Provision', *International Public Management Journal*, 21:3, 413-431.
- Ye S., Hu S., 2019, *Research on Mixed Ownership Reform, Executive Corruption and Corporate Performance*, 2019 International Seminar on Education, Teaching, Business and Management (ISETBM 2019).
- Zatti A., 2013, *European Local Public Transport between Convergence and Diversity*, in Paramithiotti G. (eds.), 'Servizi pubblici e imprese pubbliche in Europa tra convergenza e sussidiarietà', *Quaderni della Rivista il Politico*, 60, 123-158.

## **Accountability and transparency policies in Spanish Public-Owned Enterprises (POEs) / Spain**

María del Carmen SÁNCHEZ CARREIRA\*

### **Abstract**

The hybrid nature of Public Owned Enterprises (POEs) presents opportunities, difficulties, and challenges. This paper focuses on the implementation of transparency, anti-corruption and accountability in POE in Spain. Spain is one of the European countries with lower importance of public owned enterprises. However, the privatisation process has been intense in Spain and it is accompanied by a parallel process of development of public enterprises at the regional and local levels.

The analysis shows the need to improve the compliance of anti-corruption, transparency, and accountability measures by public enterprises in Spain. The mere existence of laws on this field is not enough to prevent corruption. The main risks and problems identified concern the political influence, the lack of professional management, the contracting procedures, and the confusion between the public and private sphere.

**Keywords:** public owned enterprises, transparency, accountability, corruption, anti-corruption, compliance, organizational forms, Spain

**JEL-Codes:** H11, H4, H70, H82, H83, L3

---

\* Associate Professor, Department of Applied Economics, ICEDE Research Group, CRETUS, Faculty of Economics and Business, Universidade de Santiago de Compostela, Galicia (Spain) ([carmela.sanchez@usc.es](mailto:carmela.sanchez@usc.es)).

## 1. Introduction

Public owned enterprises are a hybrid form of organization between public administration and private enterprises. Nowadays, the framework of the New Public Management provides a more business-oriented approach to the management of POEs.

POEs present some features that may constitute advantages for their relevant role in economy, in terms of their dimension and contribution in national and global spheres, as well as drivers of structural change (Wade, 1990; Chang & Cheema, 2001; Comín & Díaz, 2004; Millward, 2005; Bernier, 2014; Sánchez-Carreira, Vence & Rodil, 2020). However, POEs also face some specific difficulties and risks. Among these risks, bad behaviours, such as corruption, arise (World Bank, 2014; OECD, 2015, 2018, 2019; G20, 2018; Wilkinson, 2018).

Although the wide literature about POEs is mainly focused on efficiency, some relevant issues are neglected. In this sense, there is a research gap about the transparency, anti-corruption, and compliance in POEs (Florio, 2014; Grossi, Papenfuß & Tremblay, 2015). This is striking, given that bad behaviours concerning these issues may increase costs and undermine efficiency (Wilkinson, 2018).

This paper addresses the accountability, transparency, and anti-corruption policies in POEs in Spain. Specifically, it poses the following five questions:

1. Which are the main legal and organizational forms adopted for POEs in Spain?
2. Which is the relevance of public enterprises in Spain (number of people employed, economic impacts, sectors, trend in the last decades)?
3. Which is the current situation/approach on accountability and anti-corruption in Spain?
4. Which have been the main anti-corruption and compliance measures (legal acts, guidelines, etc.) adopted for POEs in Spain?
5. Which are the main effects, risks, and flaws emerging from the previous analysis concerning accountability, transparency, and anti-corruption policies in POEs in Spain?

This paper is organised as follows. After this introduction, the second section presents the configuration of the institutional public sector and the main legal and organizational forms adopted for POEs in Spain. The third section approaches the current relevance of public enterprises in Spain and their evolution. The fourth section deals with the current situation on accountability, anti-corruption, and transparency in POEs in Spain, presenting the legal framework and main anti-corruption and compliance measures. The fifth section tackles the main risks, problems and flaws



concerning accountability, anti-corruption, and transparency in POEs in Spain. Finally, some conclusions and remarks derived from the analysis of the Spanish situation are presented.

## **2. The main legal and organizational forms of POEs in Spain**

The public sector is a complex organization composed by a broad range of varied entities. In fact, the entities that form the public sector in Spain account for a total of 17.688 in 2020. Overall, the public sector can be divided into Public Administration and Institutional Public Sector. The public administration in Spain consists of 13.010 entities in 2020, according to the Inventory of entities belonging to the Public Administrations sector, elaborated by the Spanish Ministry of Finance. These entities are mainly concentrated on the local level (12.986 entities, which means 99,82% of the total), while the regional and even more the central levels are residual, with 17 and 7 entities, respectively. The institutional public sector embraces different kinds of legal forms with the purpose of performing different public functions, being considered as instrumental. According to the article 2 of the General Budget Law (Law 47/2003 of 26 November 2003), the central public sector consists of the following entities:

- a) The General Administration;
- b) Autonomous bodies dependent on the General Administration;
- c) Public corporate entities, dependent on the General Administration, or any other public bodies linked to or dependent on it;
- d) The managing bodies, common services, and mutual insurance companies for accidents at work and occupational illnesses of the Social Security in their public function of collaboration in the management of the Social Security;
- e) Trading companies, as defined in the Public Administration Assets Act;
- f) Public sector foundations, as defined in the Law on Foundations;
- g) Public entities under public law other than those mentioned in paragraphs b) and c);
- h) The consortiums endowed with their own legal personality according to the article 6.5 of Law 30/1992, of 26 November, on the Legal Regime of Public Administrations and Common Administrative Procedure, and 87 of Law 7/1985, of 2 April, regulating the Bases of the Local Regime.

Article 2.1 of Law 40/2015 on the Legal Regime of the Public Sector sets up that this law is applied to the public sector, which comprises the General State Administration, the Administrations of the Autonomous Communities, the entities that make up the

Local Administration, and the institutional public sector. Therefore, it is applied to the different levels of government, which are national, regional, or local levels. Likewise, the institutional public sector is defined in the article 2.2. It comprises any public bodies and public law entities linked to or dependent on the Public Administrations, private law entities linked to or dependent on the Public Administrations, and public universities.

Within the institutional public sector, it is found the public enterprise sector. The delimitation of the public enterprise sector is a complex task, due to its functional and institutional heterogeneity. There are different definitions of public enterprises, but all of them share that they carry out an economic activity and that they are owned or controlled by the public sector. Spain follows the criteria of the European System Account (ESA-2010), OECD and United Nations, based on the ownership and/or control for a public administration at any government level. Thus, a majority participation is not required to be a POE, being decisive to have the control of the entity. In this way, the definition of public owned enterprise is difficult and not precise. Whereas the criterion of ownership is accurate, the criterion of control is vaguer, because how public authorities can control an enterprise differ. Therefore, it can be concluded that a public enterprise is defined as that type of economic unit that is controlled by the public sector, regardless of the total or partial ownership. In the case of partial ownership, the criterion for deciding whether a company should be considered public is not primarily the exact percentage of ownership, but rather the effective control that the public sector exercises over the enterprise and its decision-making. It means that it can be POEs without majority participation by the public sector and even without public participation. Moreover, it may exist an enterprise totally owned by the public sector, which is not considered POE, because it is not controlled by the public sector. This is the case of the Spanish Radio and Television Corporation<sup>1</sup>, ruled by the Law of Creation of the RTVE Corporation (Law 17/2006 of 5 June 2006) to ensure its independence, neutrality, and objectivity (IGAE, 2020).

According to article 3 of Law 47/2003, the public enterprise sector encompasses public corporate entities, trading companies and the entities mentioned in the former paragraphs g) and h) of article 2 not included in the administrative public sector.

There are different modalities of legal forms for POEs. The combination of public and private law differs according to the legal form. Any of the different legal forms provide own legal status, more flexibility and agility. Moreover, they are mainly ruled by private law, although they require certain guarantees concerning transparency, publicity and the management of the assets, budget, economic contracting, and personnel hiring. However, there are no clear criteria to select the concrete legal form. The key element is to seek the escape from administrative law, which is more rigid, bureaucratic, slow, and less responsive. Furthermore, the different levels of government, which are national, regional, or local levels, also follow this structure.

---

<sup>1</sup> The Spanish denomination is Corporación Radio Televisión Española (RTVE).

However, they may use other similar denominations, because each region has autonomy to create their own legal forms. This leads to increase confusion about the different legal forms for public ownership.

The legislation concerning public enterprises in Spain is scarce and very fragmented (García Ruiz, 2009; Matilla, 2016). The general framework for the existence of the POEs is composed by the Spanish Constitution (article 128.2) approved in 1978, the different regional Statutes of Autonomy and even the Treaty of Rome, which is the founding treaty of the EU (articles 7, 85, 94, 222). Article 128.2 of the Spanish Constitution allocates the possibility of public economic initiative to the central public sector, extending it to the Autonomous Communities and Local Entities. The regions can create their own regional public business sector, subject to the state laws, the Statutes of Autonomy, and the regional assets laws. Within the European framework, article 222 of the Treaty of Rome states that the European Community does not preclude the ownership of the enterprises, setting the principle of neutrality and equal treatment for public and private companies, dominating the principle of free competition and not discrimination by nationality or ownership, which is one of its fundamental bases (Sánchez, 2006). The specific framework on POEs consists of the Law 39/2015 on the Common Administrative Procedure of Public Administrations, the Law 40/2015 on the Legal Regime of the Public Sector, and the Law 47/2003 General Budgetary Law.

Table 1 presents the composition of the public institutional sector in Spain by level of government, data retrieved from the Spanish Inventory of State, Autonomous and Local Public Sector Entities (INVENTE<sup>2</sup>), elaborated by the General Intervention of the State Administration (IGAE<sup>3</sup>), which is part of the Ministry of Finance. INVENTE is a public administrative register, which provides public information and the organisation of all the entities that comprise the institutional public sector, regardless their legal nature. This inventory contains information on the name, legal form, structure of ownership, activity, and other legal data. Nevertheless, it does not include economic information, such as turnover, employment or economic and financial results. The public institutional sector in Spain is composed of 4.678 entities on 31 December 2020. Most of these entities (2.885 entities, 61,67% of the total) depend on the local level, due to the existence of 8.131 municipalities. Moreover, 1.348 entities (28,82% of the total) belong to the regional level, in which are 17 Autonomous Communities and 2 Autonomous Cities. Finally, 445 entities (9,51%) correspond to the central level. Therefore, the total number of entities show that Spain is a high decentralized country both in territorial and functional terms.

---

<sup>2</sup> The Spanish denomination is *Inventario de Entes del Sector Público Estatal, Autonómico y Local* (INVENTE). It is regulated by Royal Decree 749/2019, of 27 December, which approves the Regulations for the operation of the Inventory of State, Autonomous and Local Public Sector Entities, developing the lines set out in articles 82 and 83 of Law 40/2015, of 1 October, on the Legal Regime of the Public Sector.

<sup>3</sup> The Spanish denomination is *Intervención General de la Administración del Estado*.

Concerning the public enterprise sector, it is composed of 2.623 entities at the different levels of government. The distribution by level of government shows a similar pattern than in the whole of the public institutional sector, with the local level concentrating 65,15% of the public enterprise sector entities; the regional level accounts for 26,28% of these entities, while the central level represents 8,58%.

**Table 1. Composition of public institutional sector in Spain in 2020**

Legal form	Level of government			Total
	Central	Regional	Local	
Administrative Autonomous Bodies	0	91	618	709
Agencies	9	16	0	25
Autonomous Bodies	59	50	221	330
Commercial Autonomous Bodies	0	12	6	18
Consortia	73	149	289	511
Foundations	36	394	302	732
Fund without legal personality	28	23	0	51
Independent Administrative Authority	6	0	0	6
Management entities, common services of the Social Security	6	0	0	6
Mutual collaborator with the Social Security	21	0	0	21
Other body and entity under public law linked to or dependent on the State Administration	31	0	0	31
Other non-profit institutions	0	24	20	44
Other public law entities	23	1	0	24
Public corporate entities	13	52	55	120
Public entities	0	152	0	152
Public Universities	1	48	0	49
Trading companies	139	336	1.365	1.840
User communities	0	0	9	9
Total	445	1.348	2.885	4.678

Source: INVENTE (IGAE).

The characterization of the public enterprise sector shows a clear predominance of the trading companies (1.840 entities, 70,15%). This legal form is followed at a considerable distance by consortia (511 entities, 19,48%). Moreover, there are 152 public entities (5,79%) and 120 public corporate entities (4,57%).

It should be underlined that the trend of the public institutional sector as well as the public enterprises sector is to increase the number of entities since mid-90s until the recent years. Many of them were created for instrumental purposes, including hiding or centrifuging deficits, because the budgets of these entities were not consolidated with public sector budgets for many years. This growth trend is opposite to the privatisation trend at the central level. Moreover, the regional and local entities are

mainly service enterprises or instrumental ones (investment or cultural events). The reports of the Ministry of Finance show a decrease in the number of these entities can be noted, in particular, at the regional and local levels, due to the approval of plans for rationalisation of the public sector since 2010.

### **3. The relevance of public owned enterprises in Spain**

This section approaches the current economic relevance of POEs in Spain, as well as their evolution in the last decades. Concerning the relevance of public enterprises, Spain is currently one of the countries with less relevance of POEs enterprises in quantitative terms within the EU. This is due to the traditional lower significance of POEs in Spain, as well as the strong privatization process.

Despite the lower relevance of POEs in Spain, they have been relevant players in the industrial and technological development (Braña, Buesa & Molero, 1984; Martín & Comín, 1990; Comín & Díaz, 2004; Sánchez, 2006; Sánchez-Carreira et al., 2020). The contribution of the POEs in the industrial sector has been very significant, underlining in several key activities, such as energy, defence, manufacture of transport equipment or services (Myro, 1981). In fact, the leading industrial group in the country has been the public corporation National Institute of Industry (INI<sup>4</sup>) for many years. This entity has also directly participated in more than 200 enterprises of all sectors (Martín & Comín, 1990; Sánchez, 2006).

#### **3.1. The current relevance of public owned enterprises in Spain**

As it was mentioned in the section 2, INVENTE does not include economic information concerning the institutional and enterprise public sectors. Thus, there is a lack of homogeneous and aggregated data at the regional and local levels. The public sector as a whole (including the decentralized administration) amounts to 2.598.481 employees in Spain in 2020, according to the Ministerio de Política Territorial y Función Pública (2020). The staff of the public enterprise sector is estimated at 161.500 employees in Spain in 2020. This total shows that the larger local and regional public sectors provide less employment than the central public enterprise sector. This fact is explained by the different activities, more oriented to services and instrumental functions in the decentralized public enterprise sector. Moreover, it accounts for most of the entities, although the size of the entities is smaller than in the central public enterprise sector, with some exceptions (such as the entities that manage health or radio and television).

Therefore, this section focuses on the central public enterprise sector. According to the last annual report of the IGAE concerning the central public enterprise sector in Spain (IGAE, 2020), it is comprised of a total of 201 entities on 31 December 2018.

---

<sup>4</sup> The Spanish denomination is Instituto Nacional de Industria.

Table 2 presents the distribution of these entities by activity. Transport and storage is the most relevant branch, which represents 27,86% of the total number of entities. It is followed by Financial and insurance activities (18,41%) and Construction and real estate activities (11,94%). A total of 14 entities (6,97%) are found without economic activity or in dissolution.

**Table 2. Distribution by activity of the central public enterprise in Spain in 2018**

Activity	Number of entities	% of entities
Agriculture, livestock, forestry and fisheries and extractive industries	6	2,99
Manufacturing industry	8	3,98
Water supply, sanitation, waste management and decontamination activities	5	2,49
Construction and real estate activities	24	11,94
Wholesale and retail trade and hotel and catering trade	3	1,49
Transport and storage	56	27,86
Information and communications	13	6,47
Financial and insurance activities	37	18,41
Scientific, technical and administrative professional activities and support services	19	9,45
Public Administration and Defence, Compulsory Social Security and Education	12	5,97
Artistic, recreational and entertainment activities	4	1,99
No economic activity	14	6,97
Total	201	100,00

Source: IGAE (2020).

The main economic data of the public enterprise sector are presented in Table 3.

**Table 3. Main economic data of the central public enterprise sector in Spain in 2018**

Economic Indicator	Value
Turnover (in thousands of euros)	28.716.647
Results (in thousands of euros)	2.107.002
Asset (in thousands of euros)	253.970.820
Employment (number of people)	144.580

Source: IGAE (2020).

Nowadays, the most relevant public enterprises at the central level can be dependent on different ministries, underlining the transport area (77 entities in 2018), due to the management of the entities concerned with rail, port or airport infrastructures. Apart from the entities depending directly on the ministries, most of the POEs (85 entities) in Spain are grouped in the following two institutional groups depending on the Finance Ministry.

- 1) The General Direction of State Assets (DGPE<sup>5</sup>) was created in 1967 with the purpose of the management, processing and information on issues related to the public participation. It is composed of a heterogeneous group of companies, mainly from non-industrial sectors, such as accommodation and catering, lottery, and credit insurance; and other enterprises devoted to investment, cultural events, instrumental and others. This group employs 6.520 people, its turnover amounts to 8,451 million euros, and net results are 1.015.857 thousand of euros. Table 4 presents the enterprises that form DGPE and their economic data in 2020.

**Table 4. Enterprises that form the DGPE in 2020**

Activity	Name of enterprise	Turnover (thousands of euros)	Net result (thousands of euros)	Employment
Services enterprises	CESCE	147.768	25.041	423
	Paradores de Turismo	131.647	-63.830	3.700
	S.E. Loterías y Apuestas del Estado	7.310.974	1.489.251	513
Investment enterprises	Aguas de las Cuencas de España (Acuaes)	82.715	13	87
	Aguas de las Cuencas Mediterráneas	119.000	-13.852	84
	Canal Navarra	9.404	-12.841	2
	Infraestructuras Agrarias	31.130	-3.083	71
	S.E. Infraestructuras Transporte Terrestre	201.229	-394.935	551
	SIEPSE	335.273	-295	43
Cultural activities enterprises	S.E. de Acción Cultural (SEACSA)	31	-13.803	54
Instrumental enterprises	SEGIPSA	28.351	1.831	240
	SEGITTUR	561	-45	49
	SENASA	31.909	-966	607
Other enterprises	CIA. Española de Reafianzamiento (CERSA)	0	0	15
	Empresa Nacional de Innovación	21.120	5.036	52
	EXPASA	34	-1.665	19
	SECEGSA	0	0	10
Total enterprises		8.451.446	1.015.857	6.520

Source: DGPE.

<sup>5</sup> The Spanish denomination is Dirección General de Patrimonio del Estado.

2) The National Society of Industrial Participations (SEPI<sup>6</sup>) was created by Royal Decree-Law 5/1995, of 16 July 1995, to group public shareholdings in industrial and service companies. Its main objective is to achieve the strengthening of its companies and their future viability, allowing them to face new competitiveness factors and the challenge of globalisation and continuous technological innovation. SEPI is the successor to the former INI. It is composed of 14 enterprises with majority participation in the sectors of postal service, shipbuilding, energy, food distribution, agricultural and environmental services, mining, tobacco, business promotion, leisure and sports, and financial services. Moreover, nine enterprises are minority owned by SEPI in the energy, technology, food, aerospace, telecommunications, or waste management areas. It also has indirect participation in other 100 enterprises. It employs more than seventy-eight thousands workers in 2019. Its turnover amounts to five thousands million euros. The group also invests around 153 million of euros and exports 938 million of euros in 2019.

Table 5 presents the enterprises that form the SEPI and the available economic data. It should be mentioned that the public sector does not provide economic data for the minority owned enterprises. For this reason, the table collects the information published in the last annual report of this entity, which correspond to 2019.

**Table 5. Enterprises that form the SEPI**

Majority-owned enterprises					
Activity (Market share)	Name of enterprise	% of public participation	Turnover (million of euros)	Net result (million of euros)	Employment
Postal service (45,2%)	Grupo Correos	100	2.266	14,5	56.236
Shipbuilding (24,7%)	Grupo Navantia	100	1.237	-145	4.112
Environmental and agriculture (18,9%)	Grupo Tragsa	51	879	6,5	13.194
	Cetarsa	79,18	69,6	1,7	366
	Mayasa	100	0,9	-2,2	61
	Saeca	80	5,8	3,1	42
Food distribution (0,4%)	Grupo Mercasa	51	19,5	7,1	154
Energy (7,9%)	Grupo Enusa	60	324	3,8	797
	Ensa	78,75	73,3	-3,8	653
Communication (1,8%)	Agencia Efe	100	87,9	-8,8	1.110
Mining (0,6%)	Grupo Hunosa	100	31	-11	750

<sup>6</sup> The Spanish denomination is Sociedad Estatal de Participaciones Industriales.



Majority-owned enterprises					
Activity (Market share)	Name of enterprise	% of public participation	Turnover (million of euros)	Net result (million of euros)	Employment
Business promotion (0,3%)	Grupo Sepides	100	20,1	3,6	123
Leisure and sport (0,2%)	Hipódromo de la Zarzuela	95,78	8,9	-6,9	136
Orderly management and winding-up of dormant companies	Cofivacasa	100	-	-	-
Minority-owned enterprises					
Activity	Name of enterprise	% of public participation	Fair value participation (million of euros)	Result contribution (million of euros)	Publicly listed companies
Aerospace	Airbus Group	4,16	4.207	-56	Yes
	Alestis Aerospace	24,05	-	-	No
Air transport	IAG	2,52	363	33	Yes
Energy	Red Eléctrica Corporación	20,00	1.940	144	Yes
Energy	Enagás	5,00	298	21	Yes
Radioactive waste management	Enresa	20	-	-	No
Technology	Indra	18,71	337	10	Yes
Telecommunications	Hispatat	7,41	-	-	No
Food	Ebro Foods 3	10,36	307	5	Yes
	<b>Turnover (million of euros)</b>	<b>Net result (million of euros)</b>	<b>Employment</b>	Exports (million of euros)	
Total enterprises	5.009	-237	78.079	<b>153</b>	

Source: Own elaboration based on SEPI (2020).

### 3.2. The evolution of public owned enterprises in Spain

This subsection briefly deals with the history and evolution of POEs in Spain, following a comparative approach with the EU.

Like in other European countries, the roots of public enterprises in Spain are found in the Royal Factories of the 18<sup>th</sup> century. They were mainly dedicated to textiles and metallurgy. During the 19<sup>th</sup> century under the predominance of liberalism, privatizations arose concerning land, mines, canals, and Royal Factories. However, forest, state mines, public services (roads, ports, post, or telegraph) remain public (Martín & Comín, 1988; Sánchez, 2006).

The major importance of the POEs in Spain is in the 20<sup>th</sup> century, in particular, after the Second World War, in the context of the golden age of the capitalism. Previously, in the first third of that century, public enterprises rise, mainly in the activities of official banks, municipal services, telecommunications (Telefónica), air transport (Iberia) or oil (CAMPSA) (Martín & Comín, 1990; Sánchez, 2006).

A key element in the growth of POEs in Spain has been the creation of the National Institute of Industry (INI) in 1941, following the Italian experience. It was an instrument of industrial policy, aimed at industrializing the country in a context of economic autarchy, ensuring the supply of basic and economic products, given the low ability of the private initiative and the limited financial resources to invest in industrial and new activities. The INI became the main national industry holding and many enterprises were the main player of its sector. It participates in around two hundred enterprises of different sector during the more than five decades of its existence. Its main focus was on strategic and basic activities (iron, coal, energy, oil, defence, transport manufacturing, steel, transport services, equipment, ...). During the first decades, the holding addresses its expansion and ambitious industrial projects. In the sixties, its role is reduced and mainly secondary, acting only to fill the absence of private initiative. In the seventies, its main role is social, taking over private enterprises in crisis across a wide range of sectors. Thus, the INI became a hospital for private enterprises in crisis, being a countercyclical policy instrument. This fact increased the complexity of management due to the variety of enterprises, many of them going into losses and setting the path for starting privatization in the 1980s (Martín & Comín, 1990; Carreras, Tafunell & Torres, 2000; Sánchez, 2006).

Concerning privatizations in Spain, three main steps can be identified. The process has begun in mid-1980s within the difficult situation of the INI, mainly due to its social function during the seventies. New business-oriented criteria were introduced to restructure INI, with the purpose of seeking productive efficiency, profitability, and financial reorganisation. Thus, the public sector divested unprofitable enterprises, activities that are not considered strategic and even those that require high investment to upgrade in industrial and technological terms. The main method used for privatization in this first step is direct selling. Most of the large enterprises were sold to foreign enterprises (e.g., automotive or computer industry), which provide the financial and technology viability. It should also be mentioned that some of these processes were undertaken at a negative price. This means that the public sector does not receive real income from privatization, given that it assumes the debts of the enterprise, the required investments to guarantee its viability or the restructuring of employment. The main reasons for the privatization at this stage were strategic, as well as the budgetary and technological constraints. Thus, privatization was explained by financial, industrial, and technical rationalities and based on a microeconomic pragmatic approach (Bilbao, 1995; Martín, 1996; Bel & Costas, 2001; Sánchez, 2006).

The second step began in the early 1990s and the main reason for privatization is the reduction of public deficit. The process affects to service enterprises in regulated and less competitive sectors, which generated profits. Most of the privatizations were carried out through the stock market. It should be underlined that the privatizations were partial, remaining the public sector as shareholder of the enterprises (Bilbao, 1995; Martín, 1996; Bel & Costas, 2001; Sánchez, 2006). This is a gradual process but progressively advancing until a full privatization. In this sense, the privatization process is based on a pragmatic character with a predominance of the macro-economic perspective (Martín, 1996).

The third step started in 1996, when the privatizations were accelerated. They form part of a global plan to privatize all the public enterprises. In this time, the main enterprises, also named the crown jewels, were privatized mainly through the stock market. The public sector lost the participation in strategic sectors. It involves the most relevant process both in quantitative terms and in speed. Although there is an ideological approach to privatization, the economic reasons concerning the access to the euro is critical in the process as in other European countries.

At the turn of the century there has been a slowdown in privatization processes. It is true that the bulk of the public enterprise sector was already privatized, but there was still room for privatization. Table 6 shows the evolution of revenues from privatization process in Spain in the period 1986-2001. The revenues are mainly concentrated in the last half of the 90s and specifically in the years 1997 and 1998, with revenues exceeding 25.000 million of euros. Spain has one the most outstanding countries in the privatization process, although the importance of the POEs is low.

**Table 6. Revenues from privatizations in Spain**

Year	Revenues (million of euros)	% GDP
1986	79	0,04
1987	579	0,3
1988	551	0,2
1989	815	0,3
1990	-	-
1991	-	-
1992	480,81	0,1
1993	2.404,5	0,7
1994	1.081,82	0,3
1995	2.449,12	0,6
1996	2.025,41	0,5
1997	12.481,46	2,7
1998	13.083,29	2,6
1999	2.899,67	0,5
2000	993,10	0,16
2001	836,33	0,13

Source: CCP.

Finally, it should be mentioned that in the 21<sup>st</sup> century, some privatization process has occurred, but their dimension is low. Moreover, new public enterprises emerge, in some cases due to the financial crisis. The current situation derived from the Covid-19 incidence leads to increase the role of public sector in the economy, including its role as producer.

Table 7 presents the economic relevance of the POEs in Spain in the period 1966-2001. It shows the increasing contribution of POEs to value added, investment and employment until mid-80s. Therefore, POEs contributed to the Spanish economy with the 10% of the added value, 27% of the investment and almost 5% of employment in 1985. Since then, their economic relevance continuously decreases, mainly during the 90s. Thus, POEs contributed 2,1% of added value, 3,6% of investment, and 1,1% of employment in 2001.

Unfortunately, IGAE has not longer published this economic information since 2001. The importance of the investment effort of public enterprises in comparison with its lower impact on employment shows that public enterprises in the Spanish economy were highly specialised in capital-intensive activities. In a business structure characterized by its small dimension, as it happens in the Spanish case, the public enterprises are relatively large, and comparable to those of the large European groups. The INI has been the leading Spanish company for many years, ranking among the top twenty European companies, and including in the Fortune Global 500. Moreover, several SOEs occupied the top positions among the most relevant Spanish enterprises in different variables (Carreras et al., 2000; Sánchez, 2006).

**Table 7. Evolution of the economic relevance of public enterprises in Spain**

Year	% Gross Added Value	% Gross Fixed Capital Formation	% Employment
1966	4,25	14,45	2,80
1970	5,37	14,59	3,25
1975	5,87	16,30	3,72
1981	8,10	23,20	4,93
1983	8,60	26,70	5,02
1985	10,40	27,70	4,55
1987	8,90	14,60	4,05
1989	8,60	16,60	3,81
1991	7,20	13,48	3,24
1995	8,00	6,27	3,50
1999	3,90	5,00	3,30
2001	2,12	3,56	1,12

Source: Own elaboration based on Comín, Martín & Jiménez (1992), IGAE (Several years), Myro (1993), and Sánchez (2006).

The evolution of the public enterprise sector in Spain follows a similar pattern to the European one in both expansion and privatization stages, as it can be observed in Table 8. This trend is identified, despite the varying importance of SOEs in different European countries. It should be underlined the traditional low relevance of the public enterprises in Spain. The European countries with the greatest weight of public enterprises are Austria, France, Italy, and Germany. Spain belongs to the group of countries with less relevance of POEs, together with the United Kingdom and the Netherlands. These data are the mean of three indicators (contribution to Gross Added Value, investment, and employment) based on the data of the European Centre for Public Enterprises (CEEP). Unfortunately, this series of data has not been updated.

**Table 8. Evolution of the economic relevance of public enterprises in EU**

Country	1988	1991	1995	1999
Germany	11,6	11,1	10,7	11,0
France	18,3	17,6	14,7	11,8
Italy	19,0	18,9	14,2	9,6
Great Britain	7,4	4,4	2,7	2,3
Spain	10,0	9,0	8,0	4,1
Austria	27,0	16,9	13,3	12,0
Greece	20,8	20,2	15,4	14,3
Portugal	24,0	20,7	12,3	8,6
Netherlands	9,6	7,5	6,8	4,6
Denmark	11,9	11,5	9,7	7,8
European Union	13,3	11,8	10,4	8,9

Source: CEEP.

Concerning the relevance of the POES in Spain, three main facts highlight: the high relevance of public enterprises in industrial sector; the intensity of the privatization process departing from a minor relevance of the public enterprises in Spain; and finally, the growth of public enterprises at the regional and local level in contrast to the privatization at the central level. Many of these enterprises are instrumental, created to avoid controls or not to be considered for the overall public deficit until a few years ago.

#### **4. Current situation on accountability, anti-corruption, and transparency in POEs in Spain**

Once presented the relevance of public enterprises in Spain, the current situation on of POEs is approached.

Previously, it should be indicated the current situation of corruption in Spain. Spain ranks thirty out of 180 countries in the Corruption Perception Index elaborated by International Transparency, achieving a score of 62 (from 0 to 100) in 2019. The higher the value of the index, the lower the level of corruption. It shows an improvement compared with 2018, when it scores 58 and ranks in the forty-one position, after several years worsening. However, it is far from what it would be expected for an economy among the top fifteen in the world. International Transparency estimates that Spain should be achieved a score of 70 points. The best scoring for Spain was in 2012, when it achieved 65 points. Denmark and New Zealand rank first, while Somalia is in the last position. It should be noted that this index is subjective, depending on the perception of citizens and, therefore, affected by the different tolerance and sociocultural issues.

Likewise, the Control of Corruption Index is estimated at the value of 0,65 (from lowest -2,5 to highest 2,5) for Spain in 2019, placing on the 73 percentile. The trend shows a decrease since 2012 and a shift towards growth since 2017. However, the current value is lower than 1,12 corresponding to 2012. This indicator also shows perceptions concerning the exercise of public power to get private interests and gains.

Concerning the legal framework for accountability, anti-corruption, and transparency in Spain, the main reference is the Law 19/2013 on transparency, access to public information and good governance approved in 2013. It means a novelty to improve transparency and good governance in the public sector. It addresses the following three main goals: to broaden and strengthen the transparency of public activity, to regulate and guarantee the right of access to information concerning public activity, as well as to establish the obligations of good governance and compliance measures. It involves a requirement of the responsibility for all those who carry out activities of public relevance. This regulation is applied to all public administrations and public enterprise sector, as well as to other institutions concerning the activities subject to administrative law.

Other relevant references of the legal framework concerning the public enterprise sector deal with assets, budgets, or contracts (adopted in twenty and seventeen) or retribution for directives. They are the following ones:

- Law 33/2003 on the State Assets of Public Administrations;
- Royal Decree 1373/2009 approving the General Regulations of Law 33/2003 on Public Administration Assets;

- Law 9/2017 on Public Sector Contracts;
- Law 19/2013 on transparency, access to public information and good governance;
- Law 22/2015 on the Auditing of Accounts, regarding non-financial information and diversity;
- and Royal Decree 451/2012 regulating the system of remuneration of senior managers and directors in the state public sector.

One relevant issue is to know the effects and results of the implementation of the Law 19/2013 on transparency, access to public information and good governance in POEs. For that purpose, the Index of Transparency of Public Enterprises in Spain elaborated by International Transparency as a novelty is useful. This index assesses the 45 largest public enterprises in Spain, which represent 2,3% of GDP, 7% of the employment and invests 22% percent of GDP. It measures six areas based on sixty indicators.

This index shows an average score of 45,3 (out of 100) for public enterprises in Spain in 2018. Only 19 of the 45 public enterprises overcome the test. The first enterprise scores 74,2 and the last one 15,8. Table 9 shows the distribution of public enterprises by score of Index of Transparency of Public Enterprises. There is a high dispersion among the values of the enterprises, as it can see in Table 9. Only three enterprises overcome the score of seventy, while two enterprises scores less than twenty.

**Table 9. Distribution of enterprises by the score of Index of Transparency of Public Enterprises**

Score	Number of enterprises
> 10-20	2
> 20-30	9
> 30-40	9
> 40-50	6
> 50-60	5
> 60-70	11
> 70	3

Source: Index of transparency of public enterprises in Spain by International Transparency.

The analysis of the scores by area shows that in overall any area achieve fifty points out of 100. The highest scores correspond with the areas of “Relations with society, users or stakeholders and quality of services”; and Transparency in contracting and agreements are near, followed by “Information about the enterprise”. The lowest score is in the area “Corruption prevention and compliance in transparency and good governance” (36). The second weakest field is “data access right”.

**Table 10. Distribution of scores by area of the Index of Transparency of Public Enterprises**

Area	Score
1. Information about the enterprise	48,6
2. Relations with society, users or stakeholders and quality of services	49,7
3. Financial and economic transparency	44,0
4. Transparency in contracting and agreements	49,3
5. Data access rights	36,1
6. Corruption prevention and compliance in transparency and good governance	30,6

Source: Index of transparency of public enterprises in Spain by International Transparency.

The analysis of this indicator shows a low performance, although a law on transparency and accountability exists. It should be underlined that this index only analyses the transparency, but not corruption. It aims at promoting the information culture of public enterprises and increasing the level of useful and important information that these enterprises provide. Finally, the indicators used for measuring Corruption prevention and compliance in transparency and good governance area by this index are presented in the Table 11. It is based on six indicators about the existence or publicity of system of prevention, body, manuals, codes of ethics, conduct or good corporate governance. Thus, there are based on formal aspects instead about the effectiveness.

**Table 11. Indicators to measure Corruption prevention and compliance in transparency and good governance area**

A system for the prevention of corruption approved by the Council or Governing Body exists, and its description is published, detailing the main risks and controls that are carried out, and there is a body responsible for monitoring and updating them
The training and/or dissemination actions carried out on the compliance programme and/or system for the prevention of corruption and criminal risks are published (if they have not been carried out, this will be expressly indicated on the website)
A code of ethics, code of conduct or good corporate governance exists and is published (in accordance with Article 112 of Law 40/2015)
There is a link to the Whistleblower Channel, which is regulated by a protocol detailing procedures for the protection of the whistleblower and which will also accept anonymous complaints
Possible sanctions and disciplinary measures for non-compliance with the Corruption Prevention Programme or the Code of Ethics and Good Governance are published, as well as the sanctions imposed in such cases
Existence of a Manual, Protocol or Plan of procedures for Transparency and good governance, approved by the highest governing body, which details the responsibilities in matters of active transparency, as well as the mechanisms and means in place for regulatory compliance

Source: Index of transparency of public enterprises in Spain by International Transparency.



Many public enterprises have developed guides and codes of ethics, conduct or good governance to improve accountability and transparency. Most of these documents follow the models of the national and regional entities and they have a low participation both in internal and external terms.

Nowadays, two initiatives concerning public enterprises in Spain should be noted. It is curious that none of them comes from the public sector. The first one is developed by Forética, an association of enterprises and professionals of corporate social responsibility and sustainability leader in Spain and Latin America. Its mission is to promote the integration of social, environmental and good governance aspects in the strategy and management of companies and organisations. Forética created a Corporate Social Responsibility Action Group as a collaborative business platform composed of twenty-eight public enterprises to advance in the achievement of Sustainable Development Goals and transparency in public enterprises.

The second initiative is developed by the Foundation for Research on Law and Enterprise (FIDE<sup>7</sup>). It created a Working Group to improve the governance of public enterprises in Spain, which presents a report in 2020 (FIDE, 2020). The group identifies 25 proposals grouped in 5 axes, which are autonomy, market, appointment forms, good governance and transparency and boards. Some of these measures are in accordance with the results of these researches.

## **5. Main risks, problems and flaws concerning accountability, anti-corruption, and transparency in POEs in Spain**

Public enterprises face several risks, problems, and flaws concerning accountability, anti-corruption, and transparency in Spain. The main concerns identified in the analysis are the following ones.

- Mission drafts, due to the existence of many and different goals (sometimes contradictory or ambiguous) and the problem of the principal and agent (which is not exclusive of public enterprises).
- Undue political influence. The political criteria, personal or own interests decide against technical decisions. In this sense, the responsibilities are not clearly defined.
- Lack of professional management, using the management and directive positions according to political criteria to reward friends or politicians, even if they have not specific knowledge concerning the sector. Moreover, there are no incentives for being good professionals and good managers.

---

<sup>7</sup> The Spanish denomination is Fundación para la Investigación en la Empresa y el Derecho.

- Short-term management periods. The limited period means that there is no opportunity to change, to plan and develop long-term plans.
- Contracting procedures are also relevant. The divisions of contracts at the different government levels avoid some controls and publicity. The criteria are a key issue. This field has generated problems in the different government levels in Spain, from the local to regional or national ones, including international operations of POEs.
- Confusion between the public and private spheres. The reverse doors for former politicians, or the privatization and outsourcing processes that open new ways of public-private collaboration, such as public private partnerships, are bad behaviours.

Moreover, there are excessive bureaucratic, administrative, and formal controls carried out by the General Intervention ex-ante and ex-post. However, these controls are not effective. There are not a clear, comprehensive, and effective system to detect, prevent and avoid bad practices. Another critical issue that can be considered a weakness is what happens when there is no compliance with laws and guides and these behaviours arise.

## **6. Final remarks**

The analysis shows a clear need to increase the current level of anti-corruption, transparency, and accountability of public enterprises in Spain. The Law 19/2013 on transparency, access to public information and good governance means a step forward, but it is not enough. The mere existence of laws on transparency, anti-corruption or accountability does not seem enough if it is not combined with effective measures and actions to prevent corruption.

The main risks and problems identified in Spain are the political influence, the lack of professional management, the contracting procedures, and the confusion between the public and private sphere.

Moreover, the existent controls are not effective to detect, prevent and avoid bad practices. There is a clear need of improvement with implementation of clear and simple procedures, best practices and effective regulations and controls. Training and internalisation of ethics are also crucial. POEs need to understand that it is useful for them. In this sense, they should be aware that good accountability, transparency and anti-corruption policies, transparency is not only efficient, but also create added value for the entity and sustainability, in line with Grossi, Papenfuß & Tremblay (2015). However, a merely formal compliance (for instance, if there is or not a protocol) is not enough for a real improvement.

This research means only a first approach to the situation in Spain. It is needed a deeper analysis and better economic information and about good and bad practices. It provides input for giving advice and improving the effectiveness of accountability, anti-corruption, and transparency policies. The next steps will be an in-depth study of some cases and the comparison with the situation of other European countries.

## References

- Bel, G., & Costas, A. (2001). La privatización y sus motivaciones en España: de instrumento a política. *Revista de Historia Industrial*, 19-20, pp. 39-65.
- Bernier, L. (2014). Public enterprises as policy instruments: The importance of public entrepreneurship. *Journal of Economic Policy Reform*, 17(3), 253-266.
- Bilbao, J. (1995). Privatización y política financiera del sector público. *Hacienda Pública Española*, 132, pp. 49-61.
- Braña, J., Buesa, M., & Molero, J. (1984). *El Estado y el cambio tecnológico en la industrialización tardía. Un análisis del caso español*. Madrid: FCE.
- Carreras, A., Tafunell, X., & Torres, E. (2000). The rise and decline of Spanish state-owned firms. In P. A. Toninelli (Ed.), *The rise and fall of State-Owned Enterprise in the Western World*, pp. 208-237. Cambridge: Cambridge University Press.
- CEEP. (Several years). *Las empresas con participación pública en la Unión Europea*. Brussels: Centro Europeo de la Empresa Pública.
- Chang, H. J., & Cheema, A. (2001). Conditions for successful technology policy in developing countries: Learning rents, state structures and institutions. *Economics of Innovation and New Technology*, UNI-INTECH Discussion Papers 2001-8, United Nations University.
- Comín, F., & Díaz, D. (2004). *La empresa pública en Europa*. Madrid: Síntesis.
- Comín, F., Martín, P., & Jiménez, J. C. (1992). Problemas actuales de la empresa pública en España. *Papeles de Economía Española*, 52-53, pp. 231-246.
- Consejo Consultivo de Privatizaciones. (Several years). *Informes de actividades, 1998-2002*. Madrid: Consejo Consultivo de Privatizaciones.
- DGPE: Principales Magnitudes Sociedades del Grupo Patrimonio 2020.  
<https://www.hacienda.gob.es/Documentacion/Publico/D.G.%20PATRIMONIO/Empresas%20p%C3%BAblicas/Principales-Magnitudes.pdf>
- FIDE. (2020). *FIDE proposals for the improvement of governance. PLAN 5-25. FIDE Working Group's conclusions and proposals: "5-25" plan to improve the governance of public companies in Spain*. FIDE Foundation.
- Florio, M. (2014), Contemporary public enterprises: innovation, accountability, governance. *Journal of Economic Policy Reform*, 17(3), pp. 201-208.

- G20. (2018). *G20 High-level principles for Preventing Corruption and Ensuring Integrity in State Owned-Enterprises*. G20.
- García Ruiz, E. (2009). *La nueva sociedad anónima pública*. Madrid: Marcial Pons.
- Grossi, G., Papenfuß, U., & Tremblay, M. S. (2015). Corporate governance and accountability of state-owned enterprises. Relevance for science and society and interdisciplinary research perspectives. *International Journal of Public Sector Management* 28(4/5):274-285.
- IGAE. (2020). *Empresas y Fundaciones Estatales. Informe económico-financiero 2018*. Madrid: IGAE, Ministerio de Hacienda.
- IGAE. (Several years). *El sector público empresarial*. Madrid: IGAE, Ministerio de Economía y Hacienda.
- IGAE. Inventario de entidades del sector público estatal, autonómico y local INVENTE. Available at <https://www.igae.pap.hacienda.gob.es/sitios/igae/es-ES/BasesDatos/invente/paginas/inicio.aspx>
- International Transparency: International Transparency Index, Spain: <https://transparencia.org.es/>
- Martín, C. (1996). Breve historia de las privatizaciones en España, 1985-1995. *Cuadernos de Relaciones Laborales*, 8, pp. 131-143.
- Martín, P., & Comín, F. (1988). Una nota sobre los orígenes del Instituto Nacional de Industria. *Economía Industrial*, 262, pp. 19-26.
- Martín, P., & Comín, F. (Eds.) (1990). *Empresa pública e industrialización en España*. Madrid: Alianza.
- Matilla, L. (2016). *La estructura organizativa y el régimen jurídico de las sociedades públicas*. [Doctoral Thesis]. Alicante: Universidad de Alicante.
- Millward, R. (2005). *Private and public enterprise in Europe*. Cambridge: Cambridge University Press.
- Ministerio de Hacienda: Inventario entidades pertenecientes al sector AAPP. Available at <https://www.igae.pap.hacienda.gob.es/sitios/igae/es-ES/Contabilidad/ContabilidadNacional/InformacionGeneral/Paginas/InformacionGeneral.aspx>
- Ministerio de Política Territorial y Función Pública (2020). *Boletín estadístico del personal al servicio de las administraciones públicas. Registro Central de Personal Julio 2020*. Madrid: Ministerio de Política Territorial y Función Pública.
- Myro, R. (1981). *El INI en la industria española: especialización sectorial, eficacia económica y rentabilidad*. [Tesis Doctoral]. Madrid: Universidad Complutense de Madrid.
- OECD (2015). *OECD Guidelines on Corporate Governance of State-owned Enterprises*. Paris: OECD.
- OECD (2018). *State-owned enterprises and corruption. What are the risks and what can be done?*. Paris: OECD.

- OECD (2019). *Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises*. Paris: OECD.
- Sánchez, M. C. (2006). *O papel do sector público empresarial na innovación: Aproximación á experiencia española no contexto privatizador do período 1980-2003* (Doctoral dissertation). Santiago de Compostela, Spain: Servizo de Publicacións da Universidade de Santiago de Compostela.
- Sánchez-Carreira, M. C., Vence, X., & Rodil-Marzábal, Ó. (2020). The role of state-owned enterprises as drivers of innovation. In L. Bernier, M. Florio, & P. Bance (Eds.), *The Routledge Handbook of State-Owned Enterprises* (pp. 618-637). London: Routledge.
- SEPI (2020): *Informe anual 2019*. Madrid: SEPI.
- Wade, R. (1990): *Governing the market. Economic theory and the role of government in East Asian Industrialization*. New Jersey: Princeton University Press.
- Wilkinson, P. (2018). *State-owned enterprises: beacons of integrity? The case for implementing the 10 anti-corruption principles for state-owned enterprises*. Berlin: Transparency International.
- World Bank. (2014). *Corporate governance of state-owned enterprises: A toolkit*. Washington: World Bank Group.
- World Bank: World Bank Governance Indicators, Control of Corruption:  
<https://databank.worldbank.org/databases/control-of-corruption>



# Portuguese Public-Owned Enterprises (POEs): between the fight against corruption and the search for a modern role / Portugal

Paulo REIS MOURÃO\* and Cilina VILELA\*\*

## Abstract

The Portuguese State continues to hold a significant amount of public companies which, in turn, are responsible for important values for the Portuguese economy. This work analyzes the evolution of the Portuguese State as owner or manager of companies in the national economy. Additionally, this work also focuses on the evolution of the strategies developed by Portugal to identify and fight corruption cases involving public companies.

The respective legislation has had more frequent contributions in the last 20 years. There was also a stimulus to fight corruption on a European scale, which motivated the Portuguese State to fight a more incisive fight against a problem that also attacks public companies themselves. This work will also reflect that when there is corruption in the universe of public companies – the resulting distortions are also, in turn, increased.

**Keywords:** Corruption, Public companies, State-owned companies

**JEL-Codes:** D7, D73

---

\* Department of Economics/EEG & NIPE, University of Minho, Braga (Portugal) (*Corresponding author:* [paulom@eeg.uminho.pt](mailto:paulom@eeg.uminho.pt)).

\*\* MSC Finance and Management/UTAD - University of Trás-os-Montes and Alto Douro, Vila Real (Portugal).

## **1. Introduction**

Over the last few decades, corruption has been a growing concern for Portugal and the Portuguese economy. The reasons are linked to a more incisive action by the judicial forces on outbreaks of corruption (both active and passive) and to the notoriety of some citizens involved in identified and tried cases of corruption.

According to the latest data from Transparency International's Corruption Perception Index, Portugal ranked 10th among European Union countries and 30th globally. This study indicated that 94% of Portuguese considered that corruption is widespread in their country.

However, the problem of corruption in the sphere of public companies has received less attention. If the weight of public companies in Portugal in the 21st century is clearly less than the weight observed after 1974, the associated employment and reported turnover have also shown correlated parallelism. However, several challenges persist, requiring that those interested in the fight against corruption in Portugal do not neglect the role played by public companies. As we will discuss ahead, in this work, public companies – both those managed by the Central State and those managed by the municipalities – have made significant use of the creation of jobs for high-paid managers, helped by a significant number of expensive human resources. Thus, not only this number, but these expenses also increased risks of corruption. Additionally, these public managers have been under pressure in economic or pandemic crises such as the current one.

Thus, the structure of this work is based on the following sections. Section 2 defines public-owned enterprises (POEs) in the Portuguese legislative context, develops the various typologies, and discusses the evolution of the main data over the last 50 years. Section 3 discusses strategies to fight corruption in the context of public companies, highlighting what has been seen in Portugal. This section also discusses emerging risks and threats that require extra attention to the phenomenon. Finally, section 4 concludes.

## **2. Definition, typology, and evolution of public companies in Portugal**

### **2.1. Portuguese definition of public company (POE)**

The image of the public company gained significant weight after the military coup of April 25, 1974. Before 1974, the Portuguese state owned the post offices, some companies in the storage industry, the ports management, the National Development Bank, the Caixa Geral de Depósitos (nowadays the most important Portuguese bank), and some other minority interests.



According to Baklanoff (1996), the Portuguese private sector was dominated by large families before the 1974 coup. Ten of these families owned all the important commercial banks in Portugal's economy. In a study presented by Maria Belmira Martins (1973, 16), referred to by Baklanoff, in 1971, there were 40,051 private companies, and 168 of those companies held about 53% of all commercial goods.

After 1974, in a phase of revolutionary process in 1975, Decree No. 203-C/75 was approved to fill the "deficient use of the country's productive capacity in human and material resources, accompanied by a reduction in the level of investment, a growing imbalance in the balance of payments and the persistence of inflationary pressure". This Decree aimed at "dismantling the power of monopolistic capital, and giving the state broad powers over companies with greater leverage in the country". The consolidation of the socialist revolution had two primary objectives: "guaranteeing the national independence, avoiding extreme situations of the economic crisis that placed Portugal in reinforced and delicate external dependencies and identifying the working class with a socialist project".

Thus, Portuguese authorities initiated a process of nationalizations to change the economic structure of the previous regime and with a desire to increase public participation in the public sectors of the economy. This process began first with the nationalization of the banks and insurance companies. In this way, the Portuguese Airlines TAP, railways, the integrated steel industry in the country, national oil companies, petrochemical and electricity industries, major shipping companies, two main shipyards, and the main companies of the Companhia União Fabril (CUF group) were nationalized. The majority of urban and interurban transport, the main breweries, and the cement, tobacco, pulp, and fertilizer companies were also nationalized. The Portuguese state also started to control radio and television networks (except those belonging to the Catholic church) and important companies in the glass, mining, and fishing industries (Baklanoff, 1996). In view of all these nationalizations, the State Participation Institute was created to manage this wide range of different companies, with the conviction that by transforming them into public companies, they would be better managed and bring greater economic efficiency.

With this boom of nationalizations in 1975-76, in such a short period of time, and with important positions in basic sectors of the Portuguese economy, the first Decree-Law appeared on the sector: Decree-Law no. 260/76 of April 8 set the general bases of public companies and gave them a legal personality. This Decree-Law defined the public company as a company created by the state, with its own capital or provided by other public entities, for the exploitation of activities of an economic or social nature, according to national economic planning, to build and develop a democratic society and a socialist economy (Article 1). Pursuant to Article 49, banking institutions, parabanks, and insurance companies became subject to specific legislation. According to point 4, the activity and management of public companies were governed by the rules of private law. The government designated and

exonerated members of its administrative body and guided these members' activity according to the planned national economic system. The Portuguese government also had the power to decide on these bodies' extinction.

Article 83 in the Decree of April 10, 1976 stated that all "nationalizations carried out after April 25, 1974 are irreversible conquests of the working classes", thus establishing the principle of the nationalization's irreversibility. However, this principle was abolished in the 2nd Constitutional Review of 1989, and re-privatization could only start after 1989.

On January 1, 1986, Portugal joined the European Community (EC). This adhesion imposed changes on the country's economic structure. The reduction of differences in income between Portugal and the other adherent countries became a clear challenge. Portugal had to increase labor and capital productivity, and it began by nationalizing the Porto and Lisbon stock exchanges in 1991. The financial sector underwent significant structural reforms, privatizing commercial and insurance banks. Entering a much more flexible regime, already distant from a dictatorial and pre-revolutionary heritage, a new amendment of the law was necessary. There was a reformulation of the general bases in the business sector of state and public companies, thus resulting in Decree-Law no. 558/99. This Decree set out to "act in harmony with the normal rules of corporate law" and to apply the same right to public business activity as private business. Article 3 of the same Decree-Law stated that public companies "are companies incorporated under the terms of commercial law, in which the state or other state public entities can exercise, directly or indirectly, a dominant influence by virtue of any of the following circumstances: holding of a majority of the capital or voting rights and the right to designate or remove the majority of the members of the management or supervisory bodies." Their mission, according to Article 4, was to contribute to the economic and financial balance of the public sector as a whole and to obtain adequate levels of satisfaction for the needs of the community.

As already mentioned, the principle of the irreversibility of nationalizations was extinguished by Prime Minister Cavaco Silva. With this constitutional revision, the privatization law would come into effect in 1990, beginning with the dismantling of private companies and only leaving within the public sector some companies considered essential to the economy, such as post offices or rail transport.

Later, Decree-Law no. 133/2013, of October 3, 2013 established a normative framework for the operations of public companies. This Decree came to cover not only companies incorporated in the form of a commercial company but also public corporate entities.

Between the beginning of 1980 and the following decade, a weighted average of the importance of the public business sector in Portugal showed a decrease of six to seven percentage points (almost one per year) in terms of national gross added value in the country. Baklanoff (1996) computed this average at around 18%. Since then,

as reflected in the generation of several legislative packages identified by Ferreira (2015), this importance has decreased. The competitiveness shocks brought by Portugal's entry into the EEC (1986), the impact of the Troika's restrictive policies (2011), and the emergence of public-private partnerships reduced this value from 18% to the current 4%.

## **2.2. Types of POE and legal framework in Portugal**

There has been a wide debate about the concept of POE/public company. Actually, we can read from Rodrigues (2017): "the terminology of POEs might cause confusion since the term can be referred to as government-owned corporations, state-owned entities, state enterprises, parastatals, publicly owned corporations, government business enterprises and commercial government organizations".

According to the OECD, the state-owned enterprise (POE) has some specific characteristics: It is an enterprise, and the control of this enterprise (which can be assessed by the quality of the State as director or voter in boards) depends upon state figures (government, but also regional governments of municipal authorities).

Considering the distribution of shares of capital, a POE reflects a reasonable position of the state as a shareholder, which means that the state can have a full majority, a significant majority, or even a strategic minority position. This differentiation can lead to three major classes: majority-owned listed companies, majority-owned non-listed companies, and statutory corporations.

Rodrigues (2017) also states that according to the International Public Sector Accounting Standards, POEs are profit-oriented enterprises, selling goods and services as a profit or cost recovery.

For a more detailed framework of POE in Portugal, we suggest Ferreira (2015). According to Ferreira (2015), the main legislative milestones of the recent evolution of POE were:

- Decree-Law no. 260/76;
- Decree-Law no. 558/99;
- and Decree-Law no. 133/2013.

If we look at this Decree-Law no. 133/2013, we will find there some details explaining which cases the Portuguese legislation considers as cases of State participation in the private companies.

From the outset, there is a definition of public companies in Article 5: "Public companies are business organizations constituted in the form of a limited liability company under the terms of commercial law, in which the state or other public entities may exercise, individually or jointly, directly or indirectly, dominant influence,

in the terms of the present Decree-Law (nr.1) and also the public business entities (nr.2), regulated in chapter IV of this diploma”.

Regarding their legal forms, we find them in Article 13 of Decree-Law no. 133/2013. This legislative document also enshrines the functioning and running of the local business sector (Art. 2) without prejudice to the autonomy of local authorities and municipalities. Another pertinent innovation in this Decree is the establishment of clear rules regarding the limitation of the indebtedness of public non-financial companies “in order to prevent the increase of situations that contribute to the increase of debt and the imbalance of public sector accounts”.

Another major innovation from Decree-Law no. 133/2013 was the creation of the Technical Unit for Monitoring the Public Business Sector (Articles 1-3), an entity which is regulated in articles 68 and following. The Technical Unit’ missions are the “reinforcement of administrative protection and control of legality in terms of local business activity”. The idea behind the creation of this Unit is to provide technical support to those in the shareholding function of companies.

In the local business sector, Article 64 reinforces the reporting obligations, namely to establish and disclose the business plans of the companies, the respective annual and multi-annual budgets, the investment plans and financing sources, as well as the annual accountability documents and budget execution reports. When it is found that a local public company has acted in breach of the legal regime, the Technical Unit is obliged to inform the Inspectorate General of Finance under the terms of the law.

### **2.3. Current data of Portuguese POE**

The number of (private and public) companies in Portugal has registered a slight growth in the last decade. From 2012 to 2018, the number of companies increased by 19.17%. However, the relative weight of public companies with respect to all Portuguese companies is decreasing since it was valued at 0.06% in 2012 and 0.04% in 2018. The most significant decrease was reported for the local administrations of POE, with a decrease of 57.58%.

Let us detail the following. The central administration includes public bodies that serve the whole country, from public institutes to directorates-general and regional ministries. The central administration can be divided into state and autonomous funds and services. The local administration includes the closest public bodies, such as parishes, municipalities, or municipal companies. The regional administration includes public services that depend on regional governments, as in Portugal with the autonomous regions of the Azores and Madeira.

**Table 1 - Portuguese State-Owned Enterprises**

Year	Firms/Enterprises (POE and Non- POE)	POE	POE %	Public Administrations				Public Companies		
				Total	Central	Regional	Local	Total	Non- financial Companies	Financial Companies
2012	1 086 915	692	0,06%	359	133	28	198	333	304	29
2013	1 119 447	649	0,06%	340	129	27	184	309	281	28
2014	1 147 154	634	0,06%	324	127	27	170	310	278	32
2015	1 181 406	575	0,05%	298	122	24	152	277	242	35
2016	1 214 206	599	0,05%	284	126	24	134	315	236	79
2017	1 260 436	560	0,04%	241	123	23	95	319	231	88
2018	1 295 299	500	0,04%	219	112	23	84	281	224	57

Source: Pordata (2020).

From 2012 to 2019, the number of jobs in all companies in Portugal increased by 18.29% (Table 2). With regard to jobs in public companies, these numbers fell by 23.03% until 2017 but returned to behave upwards of 7.65%.

There has been a significant decrease in jobs in the local administrations' POE (57.63% over eight years) – see Table 1, which is probably due to the population decrease in some municipalities (Mourão, 2020). Public societies also registered a drop of 42.10%, more significant than the decrease in the number of companies in this area, which was only 15.62%. A curiosity is that although public companies have a small weight in all companies in Portugal, public companies ensure a significantly higher share of paid jobs.

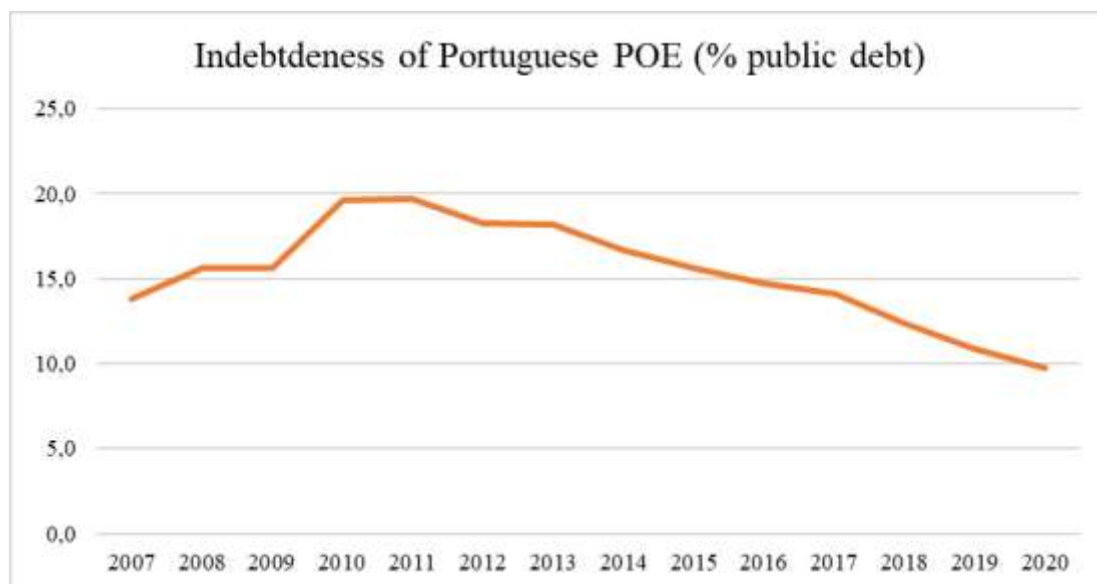
**Table 2 - Employment in Portuguese POE**

Year	Employment (Portuguese Firms and Companies)	Employment (Portuguese POE)	% Employment	Public Administration				Public Companies		
				Total	Central	Regional	Local	Total	Non-financial Companies	Financial Companies
2012	3 511 719	196 512	5,60%	125 892	111 570	8 927	5 395	70 620	57 058	13 562
2013	3 480 731	176 699	5,08%	120 886	107 771	8 604	4 511	55 813	40 438	15 375
2014	3 548 584	172 391	4,86%	116 093	104 252	8 459	3 382	56 298	40 750	15 548
2015	3 676 464	171 269	4,66%	117 719	106 891	8 381	2 447	53 550	38 520	15 030
2016	3 800 110	174 310	4,59%	119 871	108 952	8 684	2 235	54 439	40 359	14 080
2017	3 985 479	160 720	4,03%	120 581	109 655	8 708	2 218	40 139	31 808	8 331
2018	4 154 185	165 251	3,98%	124 718	113 482	9 076	2 160	40 533	32 756	7 777
2019	4 320 492	173 019	4,00%	132 133	120 158	9 689	2 286	40 886	33 595	7 291

Source: Pordata (2020).

Figure 3 describes the evolution of the indebtedness of Portuguese POEs. Corporate indebtedness increased during the crisis suffered from 2008 onwards. This indebtedness was reduced after 2010 reaching a minimum in 2020 it had not had in 14 years. As we saw earlier, the number of public companies has decreased, contributing to decreasing their total public debt (Figure 1).

**Figure 1**



Source: Portada (2020).

**Table 3 - Indebtedness of Portuguese public administration (unit: Million Euros)**

Years	Indebtedness (Portuguese Public Administration)				
	Total	Public Administration			Non-financial Companies
		Total	Central	Regional & Local	
<b>2007</b>	30.550	17.669	15.695	1.974	12.881
<b>2008</b>	36.251	21.119	19.002	2.117	15.132
<b>2009</b>	41.067	23.970	21.475	2.495	17.097
<b>2010</b>	49.219	35.250	32.757	2.493	13.969
<b>2011</b>	54.275	39.661	37.342	2.319	14.614
<b>2012</b>	49.478	39.793	37.589	2.204	9.685
<b>2013</b>	49.598	40.676	38.556	2.120	8.922
<b>2014</b>	46.339	38.497	36.206	2.291	7.842
<b>2015</b>	43.823	36.726	34.517	2.210	7.097
<b>2016</b>	42.619	36.055	33.920	2.135	6.564
<b>2017</b>	41.294	34.770	32.672	2.098	6.524

Years	Indebtedness (Portuguese Public Administration)				
	Total	Public Administration			Non-financial Companies
		Total	Central	Regional & Local	
2018	37.670	30.958	28.928	2.030	6.712
2019	34.431	27.319	26.104	1.215	7.112
2020	33.600	26.368	25.372	996	7.233

Source: Pordata (2020).

From 2007 to 2013, there was an increase of 62.35%. Since 2013, we have observed a decrease in values that were usual before the financial crisis. We continue to note that the local public companies are showing a retracted behavior.

**Table 4 - State participation in several sectors**

State Participation (unit: Euros)		
Sectors	Share Capital	
	2017	2020
1. Public non-financial companies	24 569 301 455,40	29 174 738 981,69
Social communication	1 438 098 340,00	1 438 097 565,00
Culture	10 935 890,50	10 935 890,50
Infrastructure	5 815 682 605,50	9 822 348 411,82
Urban requalification	15 000 000,00	15 000 000,00
Health	3 326 760 000,00	3 340 926 000,00
Transportation	6 648 440 121,04	7 927 168 978,05
Parapublic sector	2 000 000 000,00	2 000 000 000,00
Public services	32 046 988,80	
Communications		1 614 500,00
Defense		107 367 789,10
Other sectors	5 282 337 509,56	4 511 279 847,22
2. Public financial companies	7 689 775 619,20	4 207 916 845,40
3. Companies headquartered abroad	72 851 823,67	31 676 791,34
4. International bodies European Stability Mechanism (ESM)	701 935 300 000,00	704 798 700 000,00
<b>Total</b>	<b>734 267 228 898,27</b>	<b>738 213 032 618,43</b>

Source: Pordata (2020).

The portfolio the state holds on public companies is quite diversified, covering a wide area of activities. Table 4 compares the years 2017 and 2020. In this way, we have a sense of the flow of state participation over four years.

Non-financial companies had a weight of 3.35% in 2017 and 3.95% in 2020. These non-financial companies have the production of non-financial goods and services as their main objective. The total portfolio had a capital increase of 18.74% from 2017 to 2020. The greatest relative weight increase was that of infrastructure with an increase of 68.89% (see Table 4).

In transport, we observed in Table 4 an increase of 19.23% from 2017 to 2020, with airlines TAP appearing in the shareholding table. The state has 22.50% of the share capital of TAP. Even Metropolitan de Lisboa registered a capital increase of 44.14%. The communications portfolio appears in 2020 with SIRESP, which became wholly owned by the state in 2019. In the other sectors' portfolio, we saw a decrease of 14.60% in share capital, but in nominal value, it increased by 10.24%.

In companies headquartered abroad, there was a reduction of 56.52% in the controlled share capital by the Portuguese state due to the entry into liquidation of IO (Investment Opportunities, S.A.) in 2019. In the portfolio as a whole, we see an increase of 0.54% in total share capital and 6.49% in terms of nominal value.

### **3. Fight against corruption in the context of public companies: strategies and emerging risks**

#### **3.1. National initiatives against corruption through the public business sector/POE**

In Portugal, the fight against corruption has been embodied in a set of legislative documents. Among these documents, we suggest the following. The Portuguese Penal Code foresees, in articles 372 to 374-B, crimes of undue receipt of advantage and crimes of corruption. Corruption crimes are presented mainly in two configurations: active corruption and passive corruption, depending on whether the agent is, respectively, offering/promising or requesting/accepting an undue patrimonial or non-patrimonial advantage, distinguishing them if each one, according to the requested act or to the act to be performed, is or is not contrary to the duties of the corrupt official's position. The criminal concept of corruption also includes, even if there is no public power or function, the crimes of corruption in international trade and private activity – provided for in Law no. 20/2008, of April 21 – and those provided for in the Penal Liability Regime for Ungentlemanly Behaviors (Law no. 50/2007, of August 31). The legal principle in Portugal considers that passive corruption is more serious than active corruption, which holds public officials personally responsible. However, according to reports from 2021 (National Homeland Security Report, 2021), many agents linked to active corruption end up being



whistleblowers or protected witnesses in corruption cases. As a legal consequence, many of the cases related to corruption charges end up being suspended.

In the National Strategy against Corruption (2020), several phenomena related to the concept of corruption in the exercise of public functions are identified:

- embezzlement,
- economic participation in business,
- abuse of power,
- malfeasance,
- influence trafficking,
- or money laundering.

This document recognizes that corrupt phenomena, in their different configurations, violate fundamental principles of the rule of law, weaken the credibility and confidence of citizens in institutions, and undermine social and economic development, fostering inequality, reducing investment levels, hampering the correct functioning of the economy, and weakening public finances.

The main legislative milestones in Portugal in the fight against corruption have been the following:

- Since 1977, the Judiciary Police has had a unit dedicated to economic and financial expertise.
- Legislation has been in force since 1994 that allows the Public Prosecution Service and the Judiciary Police to carry out preventive actions in relation to crimes related to corruption.
- In 1997, the Technical Advisory Center was created in the Attorney General's Office, with functions of advisory and technical consultancy in economic, financial, banking, accounting, and securities markets.
- In 2008, an independent administrative entity named the Council for the Prevention of Corruption was installed to develop activities in the field of preventing corruption and related infractions.
- In more recent years, the Public Ministry has created units dedicated to investigating this type of crime, including the National Anti-Corruption Unit (UNCC).

Several recent actions have been developed in this line. With challenges ahead, the Portuguese justice system has put in place several anti-corruption policies, including in 2019 the creation of a Transparency Entity. Even so, the European Commission's report points out that an evaluation of this mechanism is necessary, "since the Transparency Entity is not yet operational."

For a clearer focus on the actions taken in the fight against corruption in public companies, we will use the reports issued by the Court of Auditors in Portugal. From the 2021 Report, which focuses on the year 2020, we have several indicators of the actions developed:

*The 738 judicial communications correspond to 396 orders for filing, 240 notifications of the opening of the Inquiry and 102 decisions based on the presence of elements indicating or evidencing the occurrence of criminal offenses in public entities and bodies or which were entrusted with the exercise of functions with that authority.*

The main areas of public administration in which the 102 judicial communications related to decisions with indicative or evidential elements of the occurrence of criminal practices occurred were: the process of making the administrative decision; resource management; the exercise of delegated public functions; the management of the treasury and accounting areas; the management of computer systems; the exercise of public functions in addition to other functions; public procurement; and the concession areas with benefits and financial support.

These documents are not clear in identifying the reported cases involving POE, especially the most important POE linked to the Central State. On the other hand, these documents allow the identification of cases linked to companies owned or managed by the municipalities. For these, the evolution has been as follows (Table 5).

**Table 5 - Corruption cases linked to companies owned or managed by the Portuguese municipalities**

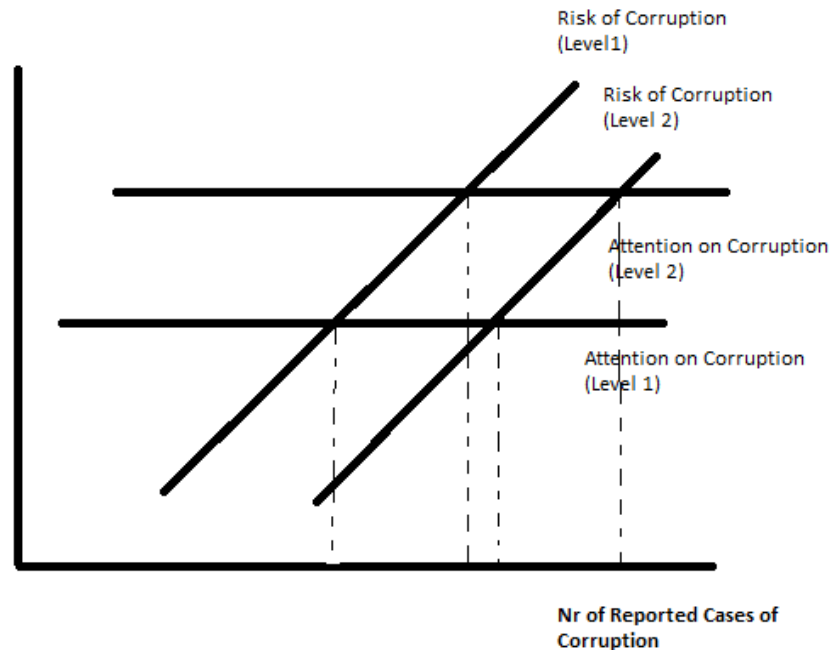
Year	Number of cases
2010	4
2011	1
2012	6
2013	3
2014	5
2015	5
2016	7
2017	14
2018	9
2019	10
2020	19

Source: Relatório Anual de Segurança Interna (2021).

Even if these cases are reported at a municipal level, an increasing trend in the number of noticed cases involving corruption at the level of enterprises owned or managed by municipalities is clear. We claim that, although the cases involving POE have a larger number, we may expect a correlated movement (although the available reports do not allow the precise identification of all cases involving POE). Therefore, for this Portuguese sample, we observe that,

- There has been more effective attention on corruption practices related to POE;
- There has been a persistent (or even an increasing) risk of these crimes;
- The combined result of these forces leads to an increasing number of noticed cases of corruption (Figure 2).

**Figure 2 - Evolution of Corruption Cases (Changes in Risk and Attention)**



### 3.2. Risks and threats

Despite the developments made by Portuguese entities to fight corruption, there are risks and threats in this area, identified by academic literature and specialized civil society bodies (such as the Observatory of Economics and Fraud Management or the Transparency and Integrity Association). Therefore, we highlight the following six points.

- 1) The massive creation of public entities, namely public companies and independent regulators, has exponentially increased the number of senior public positions and their responsibilities/exposure to the risk of corruption. It should also be noted that the increase in the number of senior public positions tends to generate other associated jobs (such as special advisers for these senior positions) and expenses plus salaries, bonuses, subsidies, first-class travel, stays in quality hotels, etc.
- 2) Pressure from investment cycles (at international, national, and local levels), in the face of downtrend phases, increases the pressure for compensatory opportunities in realities more permeable to corruption.

- 3) The negative shocks of the Covid-19 pandemic have increased the risk of pressure on POE decision-makers to increase the value of orders, accelerate decision processes, and take options that can harm society as a whole (due to the risk of favoring local economic agents or those with a political or personal affinity).
- 4) The perception in certain areas of the national territory more divested of a certain abandonment of the Central Power may relativize the local corrupt practices, leading to fewer complaints and a certain acceptance by the involved communities.
- 5) Recourse to the suspension of trial procedures, with a notable frequency in this type of crime in Portugal, reached 67% of cases in 2020 (National Homeland Security Report, 2021).
- 6) Finally, given the role of producers of goods and services, POE can distort the fair values of market shares and equilibrium prices, in addition to being able to unduly influence (in excess or by default) other economic agents in the participating markets.

#### **4. Conclusion**

This paper discussed the current dimension of the Portuguese state as a manager or owner of companies/enterprises. Thus, it focused on the reality of Portuguese public companies. However, this focus was also directed towards the fight against corruption, especially in the context of public companies.

The evolution of the concept of a public company, or a company participated in by the central or decentralized state, has evolved with repercussions in the Portuguese legislative update. This evolution accompanied the main moments in Portugal in terms of the transformation of public companies. If, after 1974, there was a movement to reinforce the figure of the public company due to nationalizations, with Portugal's entry into the European Economic Community (1986), the weight of public companies was reduced in number, added value, and the dimension of associated jobs.

However, this movement has led to different insights into the risks of corruption. Portuguese society has been more attentive to the phenomena surrounding corruption for the last 20 years. The latest official reports show an increase in the number of cases identified and tried, which obliges us to recognize that cases of corruption in public companies exist, and many of these active cases may still be hidden—with serious socio-economic consequences for the Portuguese economy and society.

After this work, it is expected that, in a meeting with other European partners, strategies for analyzing cases of corruption in public companies within the

European Union, as well as the design of strategies to combat corruption in these dimensions, will be outlined.

## References

- Baklanoff, Eric N. (1996). Breve experiência de socialismo em Portugal: o sector das empresas estatais. *Análise Social*. Vol XXXI (138), 1996 (4.º), 925-947.
- Ferreira, Bárbara Rodrigues (2015). *A Evolução das empresas Públicas em Portugal*. Faculdade de Direito da Universidade Nova de Lisboa, Lisboa, Portugal.
- Martins, M. Belmira (1973). *Sociedades e grupos em Portugal*. Lisboa, Estampa.
- Mourão, P. (2020). *Economia do Esquecimento*. Braga, UMinho Editora.
- National Homeland Security Report/ Relatório Anual de Segurança Interno (2021). Available at: <https://www.portugal.gov.pt/pt/gc22/comunicacao/documento?i=relatorio-anual-de-seguranca-interna-2021>
- National Strategy Against Corruption (2020). Available at: <https://www.portugal.gov.pt/pt/gc22/comunicacao/documento?i=estrategia-nacional-de-combate-a-corrupcao-2020-2024>
- PORDATA (2020). Several indicators. Available at: [www.pordata.pt/](http://www.pordata.pt/)
- Rodrigues, J. (2017). *Privatization of state owned enterprises: arguments and perceptions: the case of Tap and its privatization*. Dissertation in Strategy and Entrepreneurship, at the Universidade Católica Portuguesa. Lisboa.

## Legislation:

- Decree-Law 133/2013.
- Decree-Law 203-C/75 - Decreto-Lei n.º 203-C/75, de 15 de Abril de 1975 (1975). Aprova as bases gerais dos programas de medidas económicas de emergência.
- Decree-Law 269/76 - Decreto- Lei n.º 269/76, de 10 de Abril de 1975 (1975). Permite, em situações especiais de desemprego, a criação de esquemas de protecção.
- Decree-Law 558/99 - Decreto-Lei n.º 558/99, de 17 de Dezembro de 1999 (1999). Estabelece o regime jurídico do sector empresarial do Estado e das empresas públicas.
- Law 20/2008.
- Law 50/2007.
- Portuguese Penal Code.



# Accountability and transparency policies in Austrian Public-Owned Enterprises (POEs)/ Austria

Birgit GRÜB\* and Dorothea GREILING\*\*

## Abstract

Public owned enterprises (POEs) are important to the daily lives of citizens. As they provide employment as well as services of general economic interest. Nevertheless, researchers also indicate negative side effects like undermining political control, accountability or public ethics. Fully public or partly privatized POEs have to balance the interests of society for service provision and the economic interests of shareholders. The paper gives an overview about accountability and transparency policies in Austrian Public Owned Enterprises.

**Keywords:** Accountability, Anti-corruption and compliance measures, Austria, Public Owned Enterprises, Transparency

**JEL-Codes:** H11, H44, D73, M48

---

\* Associate Professor, Faculty of Social Sciences, Economics and Business Administration, Institute for Management Accounting, Johannes Kepler University, Linz (Austria) ([birgit.grueb@jku.at](mailto:birgit.grueb@jku.at)).

\*\* Full Professor, Faculty of Social Sciences, Economics and Business Administration, Institute for Management Accounting, Johannes Kepler University, Linz (Austria) ([dorothea.greiling@jku.at](mailto:dorothea.greiling@jku.at)).

## 1. Introduction

Public owned enterprises<sup>1</sup> (POEs) are important to the daily lives of citizens. By providing employment as well as services of general economic interest in sectors as infrastructure (postal service or telecommunication), transport, health or education (Wilkinson, 2018; EC, 2020). About 20% of the Fortune Global 500 companies are POEs like railway or energy companies (Kowalski and Perepechay, 2015, Wilkinson, 2018). POEs have diverse functions for government, in particular national security, economic and social development as well as generating public services and public goods (Wilkinson, 2018). Christensen and Laegreid (2003) describe partial privatization of POEs as a result of the public sector reform like New Public Management seeking for more efficiency. Nevertheless, researchers also indicate negative side effects like undermining political control, accountability or public ethics, of these reforms (e.g. Bergh et al., 2018; Shaoul, Stafford and Stapleton, 2012; Andersson and Erlingsson, 2012). Fully public or partly privatized POEs have to balance the interests of society for service provision and the economic interests of shareholders.

Hence, POEs (public or partly privatised) often have to cope with corruption. These problems increase 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, (Apriliyanti & Kristiansen, 2019). Public officials in their function of board members may be faced with conflicts of interest (OECD, 2016). The risk of corruption and political intervention increases, when POEs are not “equipped with autonomous, professional and independent boards responsible for ensuring an arms-length relationship between the SOE [POE] and the government” (OECD, 2016, 10). In POEs (public or privatised) we find the typical power rent-seeking (Ye and Hu, 2019; Krueger, 1974). Due to agency problems, public sector managers with control of the POEs may not aim at maximizing the interests of society or shareholders. In order to deal with corruption in POEs, “it is necessary to improve the internal [and external] supervision mechanism and strengthen the restriction and supervision of executive power” (Ye and Hu 2019, 266).

Against this background we state the following questions:

1. Which is the relevance of public enterprises in Austria (number, people employed, economic impacts, sectors, trend in the last decades)?
2. Which are the main legal and organizational forms adopted for POEs in Austria (private law, special law, role of holdings, governance structures)?

---

<sup>1</sup> In the paper at hand, we use the term public owned enterprise (POE) for public utilities on all government levels (federal, state, municipal) but sometimes also state owned enterprise (SOE), if only the federal level is meant.



3. Which is the current situation/approach on accountability and anti-corruption in Austria (importance of the theme, main legislative acts, etc.)?
4. Which have been the main anti-corruption and compliance measures (legal acts, guidelines, etc.) adopted for POEs in Austria?
5. Which are the main effects, risks, flaws emerging from the previous points?

## 2. Development of POEs in Austria - Which is the relevance of public enterprises in Austria?

To date March 2021 there exist 7.982 public enterprises in Austria on all levels (federal, state, municipal) (Statistik Austria, 2021). Details can be found in Table 1.

**Table 1. Overview of public sector units according to ESA 2010 (Statistik Austria, 2021)**

	ESVG 2010 (Europäisches System Volkswirtschaftlicher Gesamtrechnung = European System of National and Regional Accounts (ESA 2010))			
Sector	Non-financial corporate sector	Financial corporate sector	Government	Sum
Federal (Bund)	311	11	374	696
State (Land)	579	29	348	956
Municipal (Kommune)	1,650	9	4,543	6,202
Social insurance	8	2	48	58
Sum	2,548	51	5,377	7,982

With respect to persons employed in POE there exists no clear data in Austria. The data available in Austria is accumulated data of employees in public entities and public administration, there exists no separated data. The aggregated number of employees (Full Employment Equivalents) for the public sector (exclusive outsourced institutions) is as follows (<https://www.oeffentlicherdienst.gv.at>):

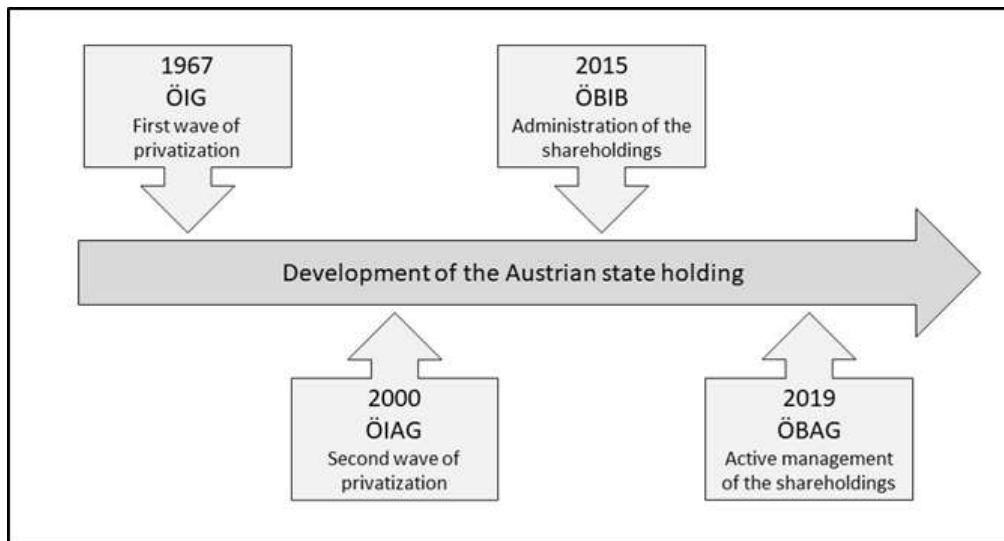
- Federal level: 135.128 (to date 2019)
- State level: 144.297 (to date 2019)
- Municipal level: 76.966 (to date 2018)

In Austria the management of federal POEs (SOEs) is under responsibility of the Federal Ministry of Finance (Federal Ministry of Finance, 2020). For managing its SOEs the Austrian federal government uses the Österreichische Beteiligungs AG (ÖBAG). ÖBAG is an autonomous holding company with the Federal Minister of Finance as shareholder representative – hence, the Austrian federal government is the sole owner (Federal Ministry of Finance, 2020).

Austria has a long tradition of SOEs. After Second World War, 71 companies were transferred to public ownership, to protect them from Soviet demands of reparations. Since 1955 the management of these SOEs was under responsibility of the Österreichische Industrie- und Bergbau Gesellschaft (IBV). Under the 1956 Competence Act, the managing directors of IBV had the right to appoint supervisory boards and managing directors – principally, these should have been independent of party politics. The proportional representation was the result of mutual distrust between the parties (Korom, 2014). Economic crises and reforms within government lead to first the foundation of the ÖIG (Österreichische Industrieverwaltungsgesellschaft mbH) in 1967 and in the beginning of the 1970s the transformation into a public limited company (ÖIAG: Österreichische Industrieverwaltungs Aktiengesellschaft, transformation into Aktiengesellschaft conformable to Artikel I (1) ÖIG-Gesetz-Novelle 1969 from 21. January 1970, BGBl. 47/1970, for changing and complementing ÖIG-Gesetz) (Weber, 2011). In the 1970s ÖIAG was responsible for managing a total of eight mixed enterprises with more than 200 associated companies. In the mid-1980s, ÖIAG underwent a reorientation, initially in favour of sectoral holding companies, which were to be restructured with proceeds from privatisation and later privatised. A further change of direction took place with the 1993 law amendment of the ÖIAG. The law amendment provided to sell the majority of the shareholdings of ÖIAG within a reasonable period of time. At the time the resulting mixed economy was considered to be an intermediate step which, ex post, has in part proved to be long-lasting. The returns of privatisation were partly used to repay the government debts, that occurred due to subsidizing ÖIAG companies that were in deficit. With Austrian EU membership in 1995 some of the former SOEs were completely privatized. Some others developed into large mixed enterprises. In February 2015 ÖIAG was converted back into a limited liability company, the ÖBIB (Österreichische Bundes- und Industriebeteiligungs GmbH). One of the reasons for the conversion of ÖIAG into a limited liability company was that the board of directors of corporation is independent in its official functions, whereas a managing director of a limited liability company is dependent by the directive of the owner. With respect to ÖBIB, the authority to give directives lies with the Federal Minister of Finance. ÖBIB had the aim to maintain and increase the value of the associated companies. This is to be achieved while taking into account public interests in securing Austria as a location for industry and research, and in securing and creating jobs (§ 7 Abs. 1 ÖBIB-Gesetz).

Since 2019 ÖBIB was again converted into a stock corporation, the ÖBAG (Österreichische Beteiligungs AG). Focus of the ÖBAG is the management of the shareholdings. Overall ÖBAG secures 135,000 jobs in Austria. The aim of the ÖBAG is to optimise the alignment of the holdings, especially with regard to the federal government's ownership interests (ÖBAG, 2020). Hence, the development of the Austrian state holding is shown in Figure 1.

**Figure 1. Development of the Austrian state holding**



The following Table 2 shows the portfolio of ÖBAG in April 2020.

**Table 2. Portfolio of the ÖBAG (Data from the ÖBAG website 2020)**

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 Bundesimmobiliengesellschaft	100	1,075 Mio	923
APK Pensionskasse	32.9	Managed assets: 4.465 Mio	
FIMBAG	With 03.11.2015 it was decided to dissolve the company after having largely fulfilled the tasks assigned.		
GKB-Bergbau	The organization is a 100 percent holding of ÖBAG. It realizes the withdrawal from the mining sector. It bundles the remaining rights and obligations of the former Austrian Mining Holding. GKB also carries out the legally anchored safety and closure measures including recultivation.		
IMIB (Immobilien und Industriebeteiligungen GmbH)	In 1987, the operating units of the steel and technology division of the former VOEST-ALPINE AG became independent. Furthermore, IMIB holds 13 percent of the shares in VAMED AG and focuses on the handling of open business cases.		
Schoeller-Bleckmann	Until 1995 the organization was the parent company of several companies specialized in the processing of high-alloy stainless steel. In the course of the privatization order of the Republic of Austria, the organization was sold. The company is now concentrating on the legally anchored securing of the former plant site.		

In addition to the ÖBAG, the Federal Ministry of Finance has shares at the Österreichische Nationalbank (ÖNB), Österreichische Bundesfinanzierungsagentur (ÖBFA), Bundesbeschaffung GmbH (BBG) as well as the Bundesrechenzentrum GmbH (BRZ). Furthermore, the federal government owns equity holdings, as road construction companies namely Großglockner Hochalpenstraßen AG (GROHAG), Felbertauernstraße AG (FAG) and Villacher Alpenstraßen-Fremdenverkehrs GmbH (Federal Ministry of Finance, 2020). Hence, ÖBAG is not the only management holding of SOE in Austria, but the biggest.

Besides the SOE managed by ÖBAG there are other (independent) SOEs on federal level in Austria. These are Verbund AG (energy) as partially public entity as well as ÖBB (Austrian Railroad), ÖBF (Austrian Forestry), ASFINAG (Highway) and the ORF (Austrian Broadcasting Corporation) as pure public entities.

### 3. Which are the main legal and organizational forms adopted for POEs in Austria?

In Austria public enterprises can be under public or private law. The following table shows possible legal forms for POE.

**Table 3. Legal forms of POEs**

Legal form	Description
Government operated system (Regiebetrieb)	They are legally and economically dependent and not separated from the administration. This form is more administration than entity. The organisation is subject to regulation by the municipality and has to apply the usual requirements for budget and accounting. They are found on municipal level.
Owner-operated municipal enterprise (Eigenbetrieb)	Owner-operated municipal enterprises are the economic enterprises of communities. They are more independent than government operated systems but still legally dependent. They are also found on municipal level.
Public law institution (Anstalt öffentlichen Rechts)	Public law institutions are organisational and economically independent. As a legal entity it is equipped with its own rights and obligations and has its own personnel management and material resources.
Public law foundation (Stiftung öffentlichen Rechts)	Public law foundations are about earmarked assets, as these assets should be used to fulfil public administration tasks.
Limited liability company (GmbH)	The limited liability company belongs to the corporations. A corporation is a legal entity with its own rights and obligations, which are incumbent on the company alone, detached from the founders. The nominal capital has to be at least 25.000 Euro.
Stock Corporation (AG)	While the limited liability company is suitable for small and medium-sized enterprises, the stock corporation is a common legal form for large companies.

The specific governance structure depends on the legal form. The bigger POEs are in most cases in form of limited liability companies or stock corporations. As stated before, some of the SOEs are managed by different state holdings.

#### **4. Efforts in Austria against corruption**

##### **4.1. Which is the current situation/approach on accountability and anti-corruption in Austria (importance of the theme, main legislative acts, etc.)?**

There exist different approaches for corruption prevention. Under the responsibility of the Federal Ministry – Interior there exists the Federal Bureau of Anti-Corruption (BAK) dealing with issues of corruption ([www.bak.gv.at](http://www.bak.gv.at)). The Federal Bureau of Anti-Corruption (BAK) was established on 1<sup>st</sup> January 2010 and is based in Vienna. Its tasks are the nationwide prevention and combating of corruption. The BAK works in close cooperation with the Attorney for Economic Affairs and Corruption (WKStA) and has central functions in the cooperation with foreign and international institutions fighting against corruption (BAK, 2018).

Also the Federal Ministry of Justice aims for corruption prevention. In 2012 the “Korruptionsstrafrechtsänderungsgesetz 2012” was adopted (Federal Ministry of Justice, 2020).

In the international context Austria is involved in the Group of States against Corruption (GRECO) as well as in the OECD Working Group against bribery.

##### **4.2. Which have been the main anti-corruption and compliance measures (legal acts, guidelines, etc.) adopted for POEs in Austria?**

SOEs in Austria have to comply with the Public Corporate Governance Codex (Bundes Public Corporate Governance Kodex 2017, (B-PCGK 2017)). The codex was enacted on October 30<sup>th</sup> 2012. Corporate governance codices of SOEs and state-affiliated enterprises find their special meaning in the fact that the public authorities as owners also have a special responsibility towards public property and the public itself. The guidelines are aimed primarily at enterprises that have their own legal personality. The Public Corporate Governance Codex is formulated to apply only to the federal government and federally owned or affiliated companies. The necessities from which the Public Corporate Governance Codex was developed are of course the same for federal states and municipalities. The application of this codex is therefore open to all state levels. The Public Corporate Governance Codex does not apply to stock corporations, since according to § 243c UGB these enterprises have a specific code. Legally, the regulations of the Public Corporate Governance Codex represent a self-binding commitment of the Federal Government, the observance of which is incumbent on the bodies of the Federal Government (Bundes Public Corporate Governance Kodex 2017, (B-PCGK 2017)).

The ÖBAG as a stock corporation refers specifically to the Austrian Corporate Governance Codex. With respect to governance issues, responsibility and integrity concerning the supervisory boards, the law for ÖIAG Act 2000, in the version of 22.05.2020 points several times to the Austrian Corporate Governance Code and additional laws concerning transparency. In §4 (1) it is defined that six members of the supervisory board are elected and dismissed by the general meeting. The professional and personal qualifications of these members must comply with the provisions of the Stock Corporation Act and the highest corporate governance standards. The law points out that the members of the supervisory board who are to be elected by ÖBAG at the annual general meetings and general meetings of its affiliated companies or who are to be appointed on the basis of contracts with third parties must, without prejudice to other provisions of federal law, comply with the rules of the Austrian Corporate Governance Code (ÖIAG Act 2000 §5 (1)). The candidates for the supervisory board are generally recognised entrepreneurs, freelance workers or managers from the private or public sector. They should be personalities with several years of practical experience as a management body or as a member of the supervisory board of a company. In particular, when appointing these persons, the strict criteria for independence and incompatibility of the Austrian Corporate Governance Code have to be considered. They have to perform their duties on the supervisory board of the associated company independently of their own interests or those of related legal entities (ÖIAG Act 2000 §5 (2)). No one should be candidate, who was member of the management board of the respective ÖBAG affiliated company in the two years prior to assuming the position. Also, the person should not have exercised an activity pursuant to § 1 of the Federal Act on Transparency and Incompatibilities for Top Management and other Public Officials (Unv-Transparenz-Gesetz, BGBl. No. 330/1983). The principles of Rule 52 of the Austrian Corporate Governance Code must be observed (ÖIAG Act 2000 §5 (3)).

In general, in Austria exists the “Korruptionsstrafrecht” and the “Korruptionsstrafrechtsänderungsgesetz“ (law on corruption). Additionally, in the criminal code (Strafrechtsgesetz) includes several paragraphs on corruption (§§302-309 StGB).

For public tender, national and European law defines specific thresholds, that have to be considered.

Hence, in Austria there exist several laws, codices and guidelines, that should help to prevent corruption in SOE. It depends on the implementation and realization of those guidelines, if they are successful in preventing corruption.

## 5. Which are the main effects, risks, flaws emerging from the previous points?

In general, the anti-corruption efforts in Austria are rather well established. Hence Austria shows a score of 77 on the corruption perception index, ranking on place 12 out of 180 countries (Transparency International, 2019).

One fundamental problem is that there is no sufficient data basis about POEs in Austria. There is only insufficient information about employees on the different state levels and about employees within POEs without administrations.

Another issue is the so called “crony capitalism” meaning that person that jobs and positions are assigned by personal networks or politically driven. Within the appointment of members of the management board and supervisory board in POEs, the political influence of the company is always controversially discussed. In some cases, a failure of the Supervisory Board is assumed by political mandate holders. Political elites would maximize their self-interest, and party-political proportional representation would be able to foil effective control. Additionally, competence of political mandate holders to perform Supervisory Board functions is sometimes questioned.

## References

- Andersson, S. and Erlingsson, G. O. (2012), New public management and danger zones for corruption. In D. Tänzler, K. Maras, and A. Giannakopoulos (Eds.), *The social construction of corruption in Europe* (pp. 33-58). London.
- Apriliyanti, I. D. and Kristiansen, S. O. (2019), “The logics of political business in state-owned enterprises: the case of Indonesia”, *International Journal of Emerging Markets*, Vol. 14 No. 5, pp. 709-730. <https://doi.org/10.1108/IJOEM-08-2018-0433>
- BAK (2018), Jahresbericht, Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung, [https://www.bak.gv.at/501/files/Jahresberichte/BF\\_Jahresbericht\\_2018\\_Homepage.pdf](https://www.bak.gv.at/501/files/Jahresberichte/BF_Jahresbericht_2018_Homepage.pdf), last access 11.05.2021.
- Bergh, A., Erlingsson, G., Gustafsson, A. and Wittberg, E. (2019), “Municipally Owned Enterprises as Danger Zones for Corruption? How Politicians Having Feet in Two Camps May Undermine Conditions for Accountability”, *Public Integrity*, 21(3), 320-352.
- Christensen, T. and Lægreid, P. (2003), “Administrative Reform Policy: The Challenges of Turning Symbols into Practice”, *Public Organization Review* 3(1): 3-27.
- European Commission (EC) (2020), Services of General Interest, [https://ec.europa.eu/info/topics/single-market/services-general-interest\\_de](https://ec.europa.eu/info/topics/single-market/services-general-interest_de), last access 11.05.2021.

- Federal Ministry of Finance (2020), Management of State-Owned Enterprises, <https://www.bmf.gv.at/en/topics/budget-economic-policy/management-of-state-owned-enterprises.html>, last access 11.05.2021.
- Federal Ministry of Justice (2020), Korruptionsbekämpfung in Österreich, <https://www.bmj.gv.at/themen/korruptionsbekaempfung/korruptionsstrafrechtsaenderungsgesetz-2012.html>, last access 11.05.2021.
- Historischer Firmenbuchauszug zur ÖIAG, Firmenbuch Wien, FN 80286 v (ursprünglich: Handelsgericht Wien, HRB 36032).
- Kowalski, P. and Perepechay, K. (2015), "International Trade and Investment by State Enterprises", *OECD Trade Policy Papers*, No. 184, OECD Publishing, Paris, available at: <http://dx.doi.org/10.1787/5jrtcr9x6c48-en>
- Krueger, A. O. (1974), "The Political Economy of the Rent-Seeking Society", *American Economic Review*, 64(3):291-303.
- ÖBAG (2020), Organisation, <https://www.oebag.gv.at/>, last access 11.05.2021.
- OECD (2015), OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition, OECD-ilibrary.org, [https://www.oecd-ilibrary.org/governance/oecd-guidelines-on-corporate-governance-of-state-owned-enterprises-2015\\_9789264244160-en](https://www.oecd-ilibrary.org/governance/oecd-guidelines-on-corporate-governance-of-state-owned-enterprises-2015_9789264244160-en), last access 11.05.2021.
- OECD (2016), Combatting Corruption and Promoting Business Integrity in State-Owned Enterprises: Issues and Trends in National Practices, OECD, Mexico City, <https://www.oecd.org/daf/ca/2016-SOEs-issues-paper-anti%20corruption-and-business-integrity.pdf>, last access 11.05.2021.
- OECD (2019), Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises, <https://www.oecd.org/fr/gouvernementdentreprise/anti-corruption-integrity-guidelines-for-soes.htm>, last access 11.05.2021.
- Öffentlicher Dienst (2020), Basiskenndaten, <https://www.oeffentlicherdienst.gv.at/fakten/oesterreich/basiskenndaten/basiskenndaten.html>, last access 11.05.2021.
- ÖIAG Act (2000), Bundesrecht konsolidiert: Gesamte Rechtsvorschrift für ÖIAG-Gesetz 2000, in the version of 22.05.2020, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20000660>, last access 11.05.2021.
- Shaoul, J., Stafford, A., and Stapleton, P. (2012), "Accountability and corporate governance of public private partnerships". *Critical Perspectives on Accounting*, 23(3), 213-229.
- Statistik Austria (2021). Einheiten des Öffentlichen Sektors gemäß ESVG - Stand März 2020, [https://www.statistik.at/web\\_de/statistiken/wirtschaft/oeffentliche\\_finanzen\\_und\\_steuern/oeffentliche\\_finanzen/oeffentlicher\\_sektor/index.html](https://www.statistik.at/web_de/statistiken/wirtschaft/oeffentliche_finanzen_und_steuern/oeffentliche_finanzen/oeffentlicher_sektor/index.html), last access 11.05.2021.
- Transparency International (2019), Corruption Perceptions Index 2019, [https://www.ti-austria.at/wp-content/uploads/2020/01/download\\_cpi\\_2019\\_pdf.pdf](https://www.ti-austria.at/wp-content/uploads/2020/01/download_cpi_2019_pdf.pdf), last access 11.05.2021.



- Weber, F. (2011), „Verstaatlichung und Privatisierung in Österreich 1946-1986“, *ZögU - Zeitschrift für öffentliche und gemeinwirtschaftliche Unternehmen*, 34(2), 126-147.
- Wilkinson, P. (2018), *State-owned enterprises: beacons of integrity? The case for implementing the 10 anti-corruption principles for state-owned enterprises*, Ed. Transparency International.
- Ye, S. and Hu, S. (2019), *Research on Mixed Ownership Reform, Executive Corruption and Corporate Performance*, 2019 International Seminar on Education, Teaching, Business and Management (ISETBM 2019).



## **Key Performance Indicators of Public-Owned Enterprises (POEs) in North Macedonia**

Merita ZULFIU ALILI\*

### **Abstract**

Private sector leads the production and distribution process in many countries. However, Public Owned Enterprises (POEs) are also an important element of many developing and developed economies in this context. This analysis examines the main legal organisation forms of public owned enterprises and their financial performance. It also briefly analyses the national legislation and regulation on corruption prevention mechanisms and policy measures and anticorruption practices in public owned enterprises. Almost half of public owned enterprises in North Macedonia are working with losses and have the highest maturity and unpaid liabilities in the last five years. Public owned enterprises can either contribute or obstruct the competitiveness of the economy depending on their efficiency and productivity. This sector needs to be transparent to provide competing enterprises with a fair overview of the fundamental market conditions.

**Keywords:** public owned enterprises, efficiency, corruption, North Macedonia

**JEL-Codes:** H00, L32, D73

---

\* Associate Professor of Labour Economics, Faculty of Contemporary Social Sciences, South East European University, Tetovo (North Macedonia) ([m.zulfiu@seeu.edu.mk](mailto:m.zulfiu@seeu.edu.mk)).

## 1. Introduction

In many countries, the primary support for production and distribution lies in the private sector rather than the public sector. One of the main reasons is that this form of economic organisation leads to the efficiency of resource allocation. However, Public Owned Enterprises (POEs) are also an important element of many developing and developed economies. POEs are special forms of legal entities that perform activities of public interest. Most of the literature comparing different models of ownership (i.e. public, private or mixed) finds no conclusive evidence that the private model is more efficient than the others, however it suggests that efficiency depends on factors such as country context, the characteristics of the sector they operate in, firm's organisation, rather than ownership (GCPSE, 2015).

According to OECD (2018) state owned enterprises in South East Europe are the main providers of key public goods and services, such as water, electricity, transport, telecommunications and postal services. This sector should be transparent and provide competing enterprises with a non-discriminatory overview of the fundamental market conditions.

Public owned enterprises often operate in sectors with large potential environment impacts and can be at risk of corruption. In order to ensure high level of competitiveness POEs need to respect their legal obligations, apply good standards of responsible business conduct, and take into account the environmental and social objectives of development (OECD, 2018). "Anti-corruption policy is directly relevant to SOE governance because poorly governed SOEs are particularly vulnerable to corrupt practices. OECD experience shows that a disproportionate share of bribes paid to public officials tend to pass via the procurement processes of large SOEs" (OECD, 2018, p. 233).

This analysis addresses the following questions:

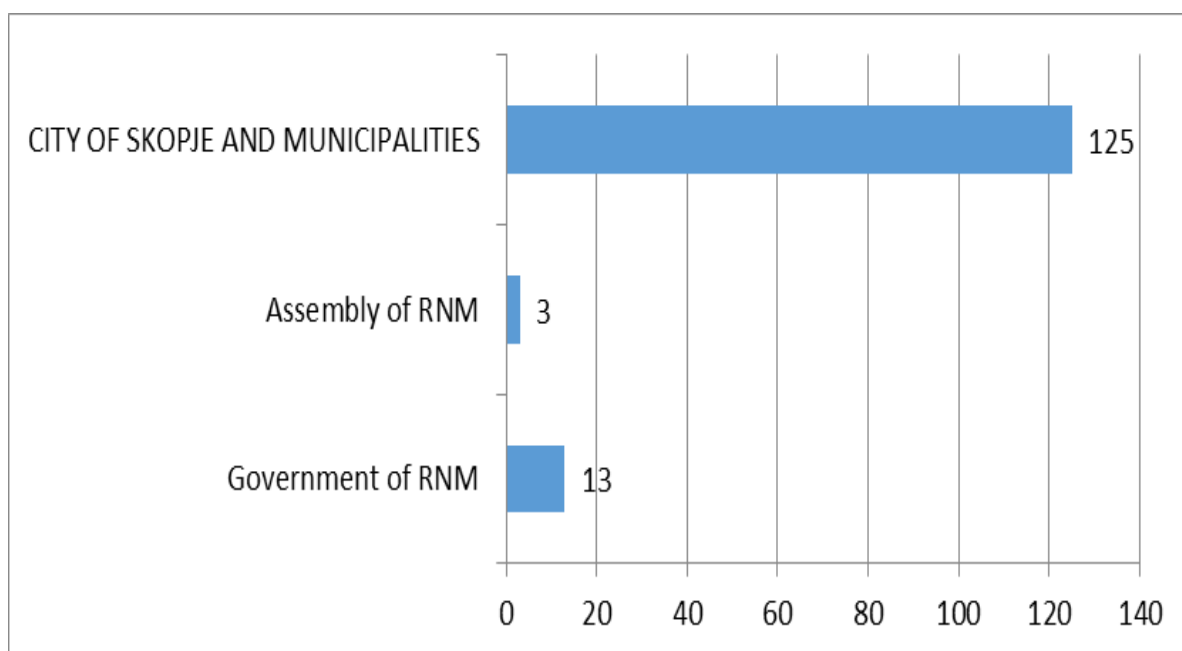
1. What is the relevance of public enterprises in North Macedonia (number of POEs, sectors, people employed, management of POEs, financial indicators)?
2. Which are the main legal and organizational forms adopted for POEs (PE, LLC, JSC)?
3. Which is the current situation/approach on accountability and anti-corruption in North Macedonia (importance of the theme, main legislative acts, etc.)?
4. Which have been the main anti-corruption and compliance measures (legal acts, guidelines, etc.) adopted for POEs in North Macedonia?
5. Which are the main effects, risks, flaws emerging from the previous points?

## 2. The relevance of public owned enterprises in North Macedonia

The process of privatisation of the public owned enterprises in North Macedonia began in 1989 (with the Law on Social Capital of the former Yugoslav Federation). The model of privatisation has a commercial, case-by-case approach. This approach was selected, instead of the mass privatisation approach, in order to improve the efficiency of the economy through increase of the enterprise management efficiency as well as to attract foreign capital, develop a capital market and provide new possibilities in servicing the internal and external debt of the country (Belogaska & Sajnoski, 2001).

In 2019, there were 75914 active business entities and 141 public owned enterprises in North Macedonia. The privatisation process in North Macedonia is almost complete and private capital is dominant in the market. The majority of POEs are public utilities in which the central government is the majority shareholder. The 81 local governments also own local public utility enterprises. From the total of 141 public enterprises, 13 are founded by the Government of RNM, 3 are founded by the Assembly of RNM, and most of them, i.e. 125 are founded by the City of Skopje and municipalities (Figure 1).

**Figure 1. Number of public enterprises by founder, 2019**



Source: MISA, 2020.

POEs operate in several strategic sectors including energy, transportation, and media. In 2019, most of public enterprises are in the area of utility services, agriculture and forestry, other area of public interest, followed by public transport enterprises, public enterprises in the area of information and information society (Table 1).

In 2019, public enterprises are numbering a total of 18,026 employees, divided into three groups, administrative (state) officials, public service providers and auxiliary-technical staff. Most employees are in public enterprises in the field of utility services, followed by transport, agriculture and forestry, information, information society and other area of public interest (Table 1).

**Table 1. Number of public enterprises by area and number of employees in public enterprises by area, 2019**

	Number of public enterprises by area	Number of employees in public enterprises by area
Utility Services	118	10710
Agriculture, Forestry	8	2699
Transport	4	3507
Information	2	849
Information Society	1	140
Other area of public interest	8	121
Total	141	18026

Source: MISA, 2020.

The number of employees in 50 state owned enterprises has increased for 8% in the period 2010-2016 in North Macedonia. A 2016 report by Transparency International-Macedonia commented that “policy decisions related to SOEs often comply with the political needs of the ruling political establishment, such as needs for employment...rather than with the actual needs of the SOEs.” (U.S. Department of State Report, 2018).

Analysing the gender structure of POEs employees the 2019 data show that men dominate in public enterprises (83.36%), which affects the balance of gender representation at the level of the entire public sector. The average age of employees in public enterprises was 48.75 years in 2019, whereas the age group 26-35 years was represented with 10.50% (MISA, 2020).

In order to provide a mechanism for achieving the basic principle of equitable representation of community members, in 2015 was adopted the Law of Public Sector Employees for the recruitment procedure where ethnicity is one of the parameters taken into account during the recruitment after the candidates demonstrate they are fully qualified for the job in the selection procedure. However, from 2017 each institution has to elaborate an annual employment plan and implement requirement procedure according to it. The data show that 74.75% of employees in public enterprises in 2019 were ethnic Macedonians, 16.90% were ethnic Albanians, 3.64% were ethnic Roma, whereas other communities were represented with 4.71% (MISA, 2020).

The educational structure of POEs employees is one of the important parameters affecting the quality of services offered by public enterprises. Data on educational profile of public enterprise employees in 2019 show that most of employees were with secondary education (Table 2).

**Table 2. Educational profile in public enterprises, 2019**

Type of institution	NQ	SQ	Q	PE	SVE	HQ	HE	UE	MA	Ph.D
Public Enterprise	0.27%	0.16%	0.07%	24.84%	51.04%	8.99%	0.40%	13.43%	0.79%	0.02%

NQ=non-qualified; SQ=semi qualified; Q=qualified; PE=primary education; SVE=secondary education; HQ=highly qualified; HE=higher education; UE=university education; MA=Master’s degree; Ph.D=doctoral degrees

Source: MISA, 2020.

## 2.1. Effective management of POEs

“Effective management of public bodies is a key pre-condition for good governance and building citizens’ trust in the public administration... Good governance means effective, co-ordinated and transparent state institutions – with structures, processes that are fit for purpose. When there is good governance, corruption does not have a home and public funds are managed effectively. As citizens, we invest in our institutions through the taxes we pay and in return, we expect transparency from institutions on how they spend the money” (British Embassy Skopje, 2019).

Management of POEs and independent state bodies are closely related to the general condition of good governance in the country. Their number and availability with public resources imposes questions such as who manages these entities, how they are assigned in those positions and how it can be assured that these enterprises will be managed by qualified people and in accordance with the needs of POEs (Popović and Pankovski, 2019). In theory, one public enterprise should be governed by a managing board comprised of fields’ experts, a CEO who shall execute their decisions and a supervisory board comprised of legal experts and economists which shall ensure that the decisions are lawful and to the best interest of the enterprise and the public. In practice, they are most often governed by CEOs as political officials, whereas managing and supervisory boards are filled-in by lower political party-affiliated or other non-expert staff who are there because of the fees in the amount of several thousands MKD they are entitled to monthly. The research of IDSCS shows that 43% of managing board members have had no experience in the field covered by the enterprise-water supply, roads, forests, public hygiene, etc. There are also members of supervisory boards who have no legal or economic educational background, which is a legal pre-condition so that they could be a member of such a body. This explains why some enterprises are flying in the wrong or undefined direction (IDSCS, 2019). Analysing internal procedures for monitoring the performance of

management in the field of public procurement the IDSCS (2019) results suggest that when conducting public procurement, public enterprises must respect the basic principles and the economy because they represent an important segment of the capital and operating expenses of any public enterprise. Legal obligations for public procurement should result in reduced space for subjective behaviour of the contracting authorities and abuses in spending public funds, on the one hand, but also with an easier and more efficient process of public procurement, on the other hand (Smilevska et al., 2019).

POEs in North Macedonia are governed by board of directors consisting of members appointed by the government. They are subject to the same tax policies as private sector companies and are allowed to purchase or supply goods and services from the private sector without material advantages such as preferential access to land and raw materials (U.S. Department of State, 2018). According to the amendments of the Law of Public Enterprises as of April 2018, public enterprises are obliged to submit annual and quarterly reports on their websites in order to ensure transparency by providing timely and transparent monitoring of the financial operations of these entities (Government of the Republic of North Macedonia, 2019).

## **2.2. Financial indicators of POEs**

The analysis of the financial results of POEs according to the data for 2017 taken from the Central Registry show that 86 state-owned enterprises performed with positive financial balance, while 36 state-owned companies reported financial losses. All POEs earned revenues in the amount of 141 million euros, whereas losses were reported in the amount of 30 million euros. The net effect is positive and amount to 111 million euros (Center for Civil Communications, 2018).

Analysing five state enterprises with highest revenue in 2017 the data in Table 3 indicate that JSC ELEM is at the top of the rank list of state enterprises according to their revenue, with total annual revenue of 219 million euros, which is by 3.4% lower compared to 2016. Second rank according to the revenue is PE State Roads and compared to 2016 is increased by 41.6%. However, this increase in revenue of this company by 41.2 million euros in one year is due to the positive exchange rate differences of the loan taken in dollars from Chinese Exim Bank for the construction of two highways in the country. Third ranked is JSC MEPSO with an increase by 7.1% compared to previous year. Next on the list is PE Macedonian Forests which increased by 4.86% from 2016. The fifth position is held by the Public Transport Enterprise Skopje (JSP) and compared with previous year it recorded an increase of 9% (Center for Civil Communications, 2018).

The rank list of five state enterprises according to financial losses (Table 3) features the public enterprise for railway transport Macedonian Railways which for the previous three years also showed negative financial results. Compared to 2016, however, the loss has decreased by 27%. The loss of the public enterprise railway infrastructure within Macedonian Railways-Skopje, amounted to 7.2 million euros



in 2017 and decreased by 10.3% annually. Next on the list is PE “Strezevo”-Bitola, which has been at a loss for more than four years. In 2017, the company reported a loss of 3.7 million euros. After several years of modest profits, in 2017 Macedonian Post also reported a loss of 3 million euros, followed by the joint stock company for airport services “Airports of Macedonia-Skopje” with reported financial losses in the amount of 1.9 million euros (Center for Civil Communications, 2018).

**Table 3. Financial indicators of POEs, 2017**

<b>5 POEs with highest revenue in 2017</b>	JSC ELEM	PE State Roads	JSC MEPSO	PE Macedonian Forests	Public Transport Enterprise Skopje (JSP)
<b>million euro</b>	219	146.3	89.9	27.9	27.4
<b>5 POEs with highest financial losses in 2017</b>	Macedonian Railways transport	Macedonian Railways-Skopje infrastructure	PE “Strezevo”-Bitola	Macedonian Post	Airports of Macedonia-Skopje
<b>million euro</b>	8.2	7.2	3.7	3.0	1.9

Source: Center for Civil Communications, 2018.

Financial indicators from the financial operations of public enterprises and state-owned companies, shown on accrual basis, indicate positive performance in the overall operations of public enterprises and state-owned companies in 2018 with efficient improvement of public services they provided to the citizens and business sector (Government of the Republic of North Macedonia, 2019).

Total revenues of public enterprises and state-owned companies in 2018, according to the data from the annual reports, amount to Denar 39.2 billion, total expenditures were executed in the amount of Denar 35.1 billion, whereby as a final result in 2018, gross profit in the amount of Denar 4.1 billion was realized (Government of the Republic of North Macedonia, 2019). However, the data indicate that almost half of them are working with losses and have the highest maturity and unpaid liabilities in the last five years. Many of the POEs that reported profits did not actually pay taxes to the state and can be found on the Public Revenue Office blacklist.

### **3. The main legal and organizational forms of public owned enterprises in North Macedonia**

Operations of public enterprises and state-owned companies are regulated in the Law on Public Enterprises, the Company Law, as well as sub-sector laws defining the operations in specific areas (Law on Energy, Law on Railway System, Law on Public Roads, etc.) (Government of the Republic of North Macedonia, 2019).

A public enterprise, in the name of the Republic of North Macedonia, can be established by the Government of the Republic of North Macedonia. For carrying out certain economic activities of public interest, public enterprises can also be established by municipalities and by the city of Skopje, within their competences, under conditions and in a manner prescribed by Law (Article 3). The legal forms of POEs are described in Table 4.

**Table 4. Legal forms of POEs**

Legal form	Description
Public Enterprise (PE)	<p>In the Law of Public Enterprises the term "public enterprises" is used as a generic term covering not only PEs but also other management models (LLC, JSC) which are authorized with performing public interest activities.</p> <p>Regarding public enterprises and limited liability companies, there is a dualism in the regulation, although both of them carry out business activity, they have different legal regime for election and dismissal of members of the management bodies and different legal treatment in relation of staff recruitment.</p> <p>Pursuant to the Law on Trade Companies they are private companies where the government is the owner.</p> <p>Public enterprises do not perform their business activity only for the profit, but they work on the principle of self-financing by achieving a financial balance i.e. balancing income and expenditure. Excess income, and not profits, benefits the public enterprise.</p>
Limited Liability Company (LLC)	<p>Pursuant to the Law on Trade Companies they are private companies where the government is the owner.</p> <p>In the limited liability companies in state ownership, the role of the shareholders meeting is performed by the Government of the Republic of Macedonia, directly or through the Government bodies authorized to do so.</p>
Joint Stock Company (JSC)	<p>A distinction should be made between a state-owned joint stock company when the state is the sole shareholder (State-owned Single-Member Limited Liability Companies) and a joint-stock company where the state appears as one of the shareholders (State-owned Joint Stock Companies).</p> <p>State-owned joint-stock companies and limited liability companies in which the state appoints managers and elects members of the supervisory board are companies that operate and are organized in accordance with the Law on Trade Companies, hence the employees have the status of employees in accordance with the Law for Labor Relations.</p> <p>Joint stock companies in state ownership are joint stock companies in which the sole shareholder on is the Government of the Republic of Macedonia and provide public services activity for which they have a public authorization obtained from the founder itself or from the competent ministry. They work for profit, but profits are issued as a dividend to the founder i.e. the Government.</p>

Legal form	Description
	<p>Public enterprises are organized in JSC if private individuals or legal entities invest in them.</p> <p>Government of the Republic of North Macedonia is founder of 14 public enterprises and single shareholder/shareholder in 15 companies, 13 out of which are state-owned joint stock companies, and 2 are state-owned Single-Member Limited Liability Companies.</p>

Source: Gocevski & Velkovska (2019); Ministry of Finance (2020).

#### 4. Efforts against corruption in North Macedonia

The State Program for Prevention and Repression of Corruption and Prevention and Reduction of Conflict of Interest is issued by the specialized anticorruption body in North Macedonia, the State Commission for the Prevention of Corruption (SCPC). SCPC was established by the Parliament of the Republic of Macedonia in 2002 with the Law on Prevention of Corruption. “At the central governmental level, the SCPC functions as a specialized anti-corruption institution responsible for prevention of corruption and conflict of interests in the public administration. Although the Commission does not have traditional investigative or prosecutorial powers, it has the power to request public officials or responsible persons in public enterprises suspected of corruption crimes to submit to the Commission information about his/her assets or other data relevant for the provisions of the Law on Prevention of Corruption. Also, the Commission is the competent authority for the implementation of the relevant legislation on conflict of interest” (RAI, 2020).

Despite the efforts of the State to enforce laws, there are numerous reports that some officials are engaged in corrupt activities (U.S. Department of State, 2020). North Macedonia with a score 35 was ranked in 106th out of 180 countries on the Corruption Perception Index in 2019, down 13 spots from the prior year (Transparency International, 2020).

Managing with the system of preventing corruption aims to help public owned enterprises to fight corruption of their employees and to assess the risk from corruption practices in their operations (Smilevska et al., 2019). Results of IDSCS (2019) research indicate that basic elements and requirements of the system for preventing corruption in POEs are not established. This condition, according to IDSCS (2019) analysis is as a result of lack of information and non-recognition of the benefit of the system for preventing corruption which should set the basic mechanisms and focus of activities in public enterprises, which will prevent the occurrence of corruption, i.e. will discourage employees from undertaking activities related to corruption (Smilevska et al., 2019).

## 5. Conclusion

North Macedonia has laws intended to counter corruption, abuse of official position, and conflicts-of-interest, and government officials and their close relatives are legally required to disclose their income and assets, however, enforcement of anti-corruption laws has been weak (U.S. Department of State, 2020).

Public owned companies today face a number of problems and demands from the city and the surrounding area. All these demands, justified or unjustified, derive from the needs of the urban living of the population. All users of public services, especially public utilities, have the right to seek to improve their living and working conditions in their environment. However, public enterprises, with their existing facilities, cannot meet most of the requirements if they do not take actions to expand their facilities. All this imposes the need for more fundamental changes in the organization, management and behaviour, i.e. there is a need for long-term investment planning of the company. The company must be prepared for the rapid changes imposed by the environment. All public owned companies need to plan their long-term investment policy to respond to changes. The basis of investment policy is in defining and collecting information from all relevant sources to determine the priority needs of citizens and the economy, and based on them deciding to plan a possible feasible capital investment, positive for the development of the enterprise itself (Trumpeska, 2016).

Public owned enterprises can either contribute or obstruct the competitiveness of the economy depending on their efficiency and productivity. These factors determine the quality of the goods and services they deliver to the economy and the degree to which they unfairly compete with the private sector (OECD, 2018). The POE sector needs to be transparent to provide competing enterprises with a fair overview of the fundamental market conditions. Poorly governed POEs are particularly vulnerable to corrupt practices and hence anti-corruption policy is relevant to public owned enterprises governance (OECD, 2018).

## References

- Belogaska, E., & Sajnoski, S. (2001). *Privatisation and Restructuring of the Socially- and State-Owned Enterprises in the Republic of Macedonia and its Implications on Corporate Governance*. Skopje: Privatisation Agency of the Republic of Macedonia, by Marija Jovanovska, Director.
- British Embassy Skopje (2019, March 29). *Towards efficient management of public bodies in North Macedonia*. Retrieved from British Embassy Skopje: <https://www.gov.uk/government/news/towards-efficient-management-of-public-bodies-in-north-macedonia>
- Center for Civil Communications (2018, July 13). *PEN Data-Even 36 state-owned companies ended with a loss in 2017*. Retrieved from Center for Civil Communications: <https://www.opendata.mk/Home/TekstualniDetails/74?Category=1>
- GCPSE (2015). *Is the Private Sector more Efficient? A cautionary tale*. Singapore: UNDP Global Centre for Public Service Excellence.
- Gocevski, D., & Velkovska, I. (2019). "Effects of State-Owned Enterprise Model on Organizational Productiveness in Macedonia". *CEA Journal of Economics*, 14(1), 23-33.
- Government of the Republic of North Macedonia (2019). *2020-2022 Fiscal Strategy of the Republic of North Macedonia*. Skopje: Government of the Republic of North Macedonia.
- IDSCS (2019). *IDSCS*. Retrieved from Video: Who governs the public enterprises in North Macedonia, and what should be done: <https://idscs.org.mk/en/2020/04/23/video-who-governs-the-public-enterprises-in-north-macedonia-and-what-should-be-done/>
- Ministry of Finance (2020, December 26). *Public enterprises and state-owned companies*. Retrieved from Ministry of Finance, Republic of North Macedonia: [Public enterprises and state-owned companies - finance.gov.mk](https://www.finance.gov.mk/public-enterprises-and-state-owned-companies)
- MISA (2020). *Annual Report on Public Sector Employees, Register 2019*. Skopje: Ministry of Information Society and Administration.
- OECD (2018). *State-owned enterprises in South East Europe*, in *Competitiveness in South East Europe: A Policy Outlook 2018*. Paris: OECD Publishing. <https://doi.org/10.1787/9789264298576-en>
- Popović, M., & Pankovski, M. (2019). *Koj moa tamu upravuva?* Skopje: IDSCS.
- RAI (2020, December 26). *Regional Anti-Corruption Initiative (RAI)*. Retrieved from North Macedonia Anti Corruption Institutional Framework: [North Macedonia Anti Corruption Institutional Framework | Regional Anti-Corruption Initiative \(rai-see.org\)](https://rai-see.org/north-macedonia-anti-corruption-institutional-framework)
- Smilevska, Z., Jurukovski, R., Lazarov, D., & Ivanovski, D. (2019). *Процедурални празнини во управувањето со јавните претпријатија и друштвата во целосна државна сопственост*. Skopje: IDSCS.
- Transparency International (2020, December 27). *Transparency International*. Retrieved from CORRUPTION PERCEPTIONS INDEX 2019: <https://www.transparency.org/en/cpi>

Trumpeska, S. (2016). *Значењето на инвестиционите проекти на јавните претпријатија-студија на случај ЈКП Комуналец Прилеп*. Bitola: University Sv. Kliment Ohridski.

U.S. Department of State Report (2018). *Investment Climate Statements: Macedonia*. Retrieved from U.S. Department of State: [https://www.state.gov/reports/2018-investment-climate-statements/macedonia/#report-toc\\_section-7](https://www.state.gov/reports/2018-investment-climate-statements/macedonia/#report-toc_section-7)

U.S. Department of State (2020, December 27). *U.S. Department of State*. Retrieved from 2020 Investment Climate Statements: North Macedonia: <https://www.state.gov/reports/2020-investment-climate-statements/north-macedonia/>

## **Accountability, anti-corruption and transparency policies in Public-Owned Enterprises (POEs) in Albania**

Nevila MEHMETAJ\*

### **Abstract**

Public-Owned Enterprises (POEs) are generally large economic enterprises owned and governed by state institutions. POEs generally are the sole or the main provider of the key public goods and services as water, electricity, transport, telecommunications, and postal services. If administered efficiently, the POEs are important for national development and perspective of natural economic resources. The concern is how accurately these monopolistic enterprises are organized in aspects of administrative and managerial perspectives to function as effectively as possible for the objectives they are created. Therefore an overall summary of the public-owned enterprises is presented through their process of emerging, privatization, and evolution in Albania, southeast Europe. The process was accompanied by shortcomings due to its ad-hoc nature; and associated with negative effects of bad management, governance corruption, and low efficiency of the operational activities and results.

**Keywords:** public-owned enterprises, privatization, governance, corruption

**JEL-Codes:** H82, H83, L32

---

\* Lecturer of Microeconomics, Macroeconomics and International Economics, Faculty of Economics, University of Shkodra 'Luigj Gurakuqi' (Albania) ([nevila.mehmetaj@unishk.edu.al](mailto:nevila.mehmetaj@unishk.edu.al)).

## Introduction

The word institution (institutum in.) is derived from the Latin 'instituo' (create, form). According to a more synthetic definition, an institution is a "structure of rules or a set of norms" accepted en masse by society and which individuals must follow. Formal institutions are grouped into two categories: economic institutions and political institutions. Economic institutions or enterprises determine the rules governing decision-making interactions in the economic field. In the legal sense, a public-owned enterprise is a legal entity that has its activity financed by public funds and controlled by the state. Public-Owned Enterprises (POEs) are in most monopolistic enterprises and have an extremely high value for a nation if are used appropriately for policymaking, implementation, and administration. If administered efficiently, the POEs are important for national development and perspective of natural economic resources. POEs generally are the sole or the main provider of the key public goods and services as water, electricity, transport, telecommunications, and postal services. The subject matter is how accurately these monopolistic enterprises are organized in aspects of administrative and managerial perspectives to function as effectively as possible (Waldo, 1947). The economic policy of POEs is the regulation of decisions and actions based on certain laws and rules for achieving economic and social objectives through the optimal functioning of each local economic unit.

It is the purpose of this study on state-owned enterprises to present the situation of POEs in Albania, their organizational forms, the privation processes, and corruption associated with their economic governance. After a brief overview of the POEs landscape through decades in Albania, the focus is given on three essential sub-dimensions. The first sub-dimension has assessed the importance of public-owned enterprises through the ownership privatization process. In the second, the current situations on accountability corruption and compliance measures are presented. POEs' efficiency and governance accountability indexes give an overview of Albania's ranking toward other southeast European countries. Third, anti-corruption issues are presented through policies and implementation of reforms.

The study includes a summary of the overall process of emerging, privatization, and evolution of the state economic enterprises, associated with governance corruption, miss leading of political parties in POEs governance. Abusive phenomena-have been associated with negative effects on hampering the POEs' economic and social objectives, and consequently the outcomes of the economy.

Against this background the following questions are presented for SOEs in Albania:

1. Which is the relevance of public enterprises in Albania (number of people employed, economic impacts, sectors, trend in the last decades)?
2. Which are the main legal and organizational forms adopted for POEs in Albania (private law, special law, role of holdings, governance structures)?



3. Which is the current situation/approach on accountability and anti-corruption in Albania (importance of the theme, main legislative acts, etc.)?
4. Which have been the main anti-corruption and compliance measures (legal acts, guidelines, etc.) adopted for POEs in Albania?
5. Which are the main effects, risks, flaws emerging from the previous points?

## 1. History of Public-Owned Enterprises in Albania

In the history of Albania, the distinction between the two political epochs is considered very significant and fundamental in the evolutions of the public-owned enterprises in the country's history. Of particular importance is distinguished the period of the communism-socialism political system, during the years 1945-1990. During this period the Albanian economy was characterized by the centralized economic model. The communist party through almost half a century, established an autocratic form of governance in all the sectors of the economy by the abolition of all forms of private property, through full nationalization of industries, wholesale and retail trade, and extreme collectivization of agriculture (Angjeli, 2013). In 1976 the country Constitution completely banned any private-owned property, including private plots in rural areas. The Soviet model of industrialization of the planned economic system was strictly implemented and the party-state model has been running through all the country economic' sectors. Many public-owned enterprises began operational activities in the country with the establishment of many industrial factories of heavy and light industry. The economic development model paid special attention to the country's heavy industry sector which accounted for up to 45 percent of the country's output. This was implemented not taking into consideration the specific conditions of Albania, as neglecting tourism and agriculture sectors. Before the communist regime and after its collapse, the Albanian economy consisted of a significant agricultural sector.

**Table 1. Sectoral Distribution of Output (in percentage), 1938-1994**

Sector	1938	1950	1989	1992	1994
Agriculture	93.1	73.2	32.7	52	55.5
Industry	3.8	7	44.6	25	12.6
Construction	0.8	3.1	6.4	7.6	9.5
Services	2.3	16.7	16.3	15.7	22.4
Total	100	100	100	100	100

Source: IMF, Albania: IMF Staff Country Report, 1995.

The public economic policies based on party ideology and collective leading directives created a huge gap in the lack of knowledge on the country's real economic situation, needs, and demands of its citizens. Other factors as continuous financial subventions

of state factories that were operating with a deficit, lack of updated and new technologies, employment of all population or zero unemployment socialism country objectives, etc. were determinant to the country deterioration of the financial situation. Albania became the most backward and poorest country in Europe, a direct result of 45 years of mismanagement of the public economic capital, monetary and human resources. The corruption of the communist bureaucrats created an economic gap in their standard of living detaching from the mass population living in poverty and the miserable reality of the country. Having benefits and personal advantages of the centralized economic system, the communist bureaucrats were the most conservatives for its preservation. Unpunished corruption in the ranks of officials was high and people were disappointed by the failure of economic equality among them and to their promises of a better life (Duka, 2007). By the 1990s, increased social tensions led to massive population protests that ended the era of the communist regime. This period was associated with the demolition of almost all public-owned enterprises throughout the country. Revolted people guided by new democratic leaders destroyed all the capital, machinery, buildings, and everything in public-owned enterprises build in the socialism era (Zotaj, 2014). Massive work efforts and people sacrifices for 45 years of work building the heavy industries POEs in the country were destroyed in a short period under the pretext of destroying the communism-property. The transition period between the two political systems was characterized by a serious dislocation of economic order, aggravated by destruction and theft of public property, and widespread vandalism (Aslund & Sjoberg, 1992).

During the transition years, there have been massive privatizations of state-owned enterprises. The process was accompanied by shortcomings due to its ad-hoc nature. The overall privatization plan program was implemented through numerous decisions of the Council of Ministers, and not through a privatization law that lacked the framework and effective methods of implementation of the program. The process was carried with difficulties and controversy. Auctions were the main method of privatization ensuring significant income for the treasury. Many state-owned enterprises were sold or transferred to their previous employees. One aspect of privatization was the weak corporate governance mechanism which replaced state ownership and brought the rise of political allegations and favoritisms.

**Table 2. Privatization of Small Scale Units, 1991-1994**

Sector	No. of privatized units sold (cumulative)		
	1991-92	1993	1994
Trade	5,993	9,262	10,489
Public Services	3,464	4,517	4,597
Transport	1,835	4,185	5,194
Agriculture	1,489	5,189	7,479
Other	1,174	2,759	5,091
Total	13,955	25,912	32,850

Source: Dervishi, P. (1992), Privatization in Albania in 1992.

After years of transition experience, it was well established that privatization was not just about changes in ownership and legal status of enterprises. Privatization was expected to change the incentive system, alter managerial behavior, speed up restructuring, bring about new investment and raise enterprise efficiency. But whether or not privatization led to these outcomes depended on the used privatization method and the specific structure of public enterprise governance (Frydman, Phelps, & Rapaczynski, 1993; Stiglitz, 1994; Gray, 1996).

Although a massive privatization program took place rapidly, no serious attention was paid to the public enterprise governance of the remained public-owned enterprises. Through years their governance and their control were associated with problems of bad management and low efficiency in their operational activities results (Hashi & Xhillari, 1999).

How has been this 'control' organized, and how was used the flow of statistical information obtained from the activity of public-owned companies? There have been natural organizational aspects of the administration of these companies, where naturally the state, as well as any private owner, has been implementing the full right to decide the appointment of governing bodies, the number of employees, the system of salaries and bonuses, etc. While focusing in terms of economic activity, there has been regular planning over an annual basis as annual income; activity expenses; profit of the company; outflows (contributions) to the state budget; dividend for the state; investments, etc. But all these processes are associated with negative effects of bad management and low efficiency in their operational activities results during the last decades.

## **2. The Relevance of Public-Owned Enterprises in Albania (people employed, economic impacts, sectors, trend in the last decades)**

State-owned enterprises (SOEs) are in many economies the sole or the main provider of key public goods and services, such as water, electricity, transport, telecommunications, and postal services. They generally also account for and ensure to be productive and efficient entities. Therefore their activity is crucial for economic development, public service delivery, and the competitiveness of the whole enterprise sector. In general, the overall objectives of public enterprises fall into the following categories: 1) supporting national economic and strategic interests; 2) ensuring continued national ownership of enterprises; 3) supplying specific public goods or services (after deeming that the market cannot supply the same goods or services); 4) performing business operations in a “natural” monopoly situation; and 5) other operations such as creating or maintaining a state-owned monopoly (or oligopoly) where market regulation is deemed infeasible or inefficient (OECD, 2018). POEs in Albania fulfill only two categories of objectives supporting economic and

strategic interests, and supplying specific public goods and services. While there is a lack of ensuring continued national ownership of enterprises and the lack of performing business operations in a “natural” monopoly situation.

**Table 3. Rationales for state ownership of enterprises**

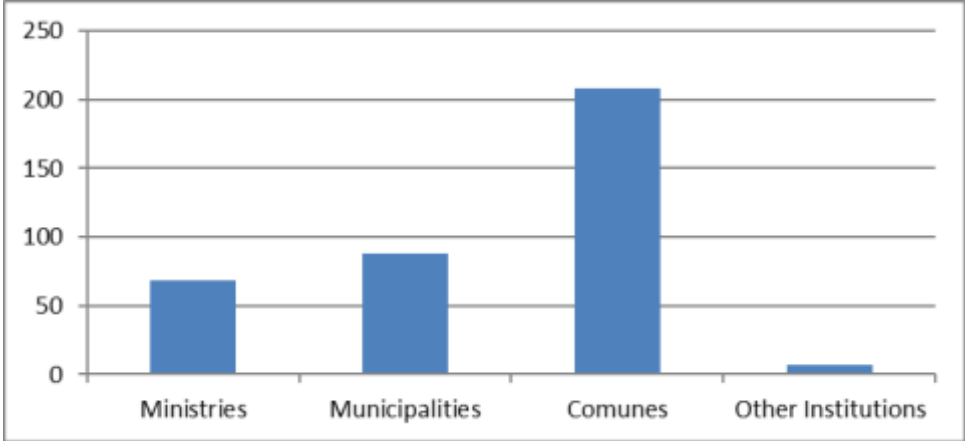
	Albania	Bosnia and Herzegovina	Kosovo	North Macedonia	Montenegro	Serbia
Supporting economic and strategic interests	✓	✓	✓	✓	✓	✓
Ensuring continued national ownership of enterprises		✓	✓			
Supplying specific public goods or services	✓		✓	✓		✓
Performing business operations in a “natural” monopoly situation		✓				
Other						✓

Source: OECD, Competitiveness in South East Europe: A Policy Outlook 2018.

When governed transparently and efficiently, SOEs can correct market failures, improve public service delivery, provide work for the high number of employees, and contribute to a large share in the GDP of the country.

In public-owned enterprises, the capital is owned by one or more public institutions of central government such as ministries, or local government such as municipalities or communes. In Albania, there are 371 public-owned enterprises with a total value of shareholder capital of 724.3 million Euros. Local communes are the dominant shareholders with 208 POEs in the country, followed by municipalities with 88 POEs and ministries with 68 POEs, and others 7 POEs. (Gjergji, 2014).

**Figure 1. The list of Public Institutions with shares in POEs, 2014**



Source: Open Data Albania, 2014.

POEs capital owned in the form of shares by ministries operate in important sectors such as industry, transport, telecommunications, financial services, etc. The value of POEs capital shares owned by ministries amounts to 636.6 million Euros. Communes and municipalities of the local government are in most cases the owner shares of in water supply POEs, sports activity POEs and local agro-food markets POEs. The value of POEs capital owned by the local government institutions is 82.6 million Euros, and other public entities own 5 million Euros POEs capital shares (Gjergji, 2014).

Ministries have different shares of capital on POEs. The Ministry of Economic Development, Trade and Entrepreneurship has the biggest number of POEs in its ownership, followed by the Ministry of Energy and Industry, which is a shareholder in 8 public-owned enterprises with a capital of 231.1 million Euros, and the Ministry of Finance, shareholder in 8 public-owned enterprises with a capital of 2.7 million Euros. A symbolic share both in terms of the number of POEs and capital engaged have the Ministry of Defense and the Ministry of Education and Sports.

**Table 4. Ministries with shares in POEs, 2014**

Ministry of Economic Development, Trade and Entrepreneurship	50
Ministry of Energy and Industry	8
Ministry of Finance	8
Ministry of Defense	1
Ministry of Education and Sports	1
Total	68

Source: Open Data Albania, 2014.

Regarding the number of POEs and their distribution of capital according to the field activities they perform, the situation is slightly different. About 31.8% of the total public share capital is engaged in the field of energy and extractive industry (energy, oil, minerals), followed by 20.8% operating in the industry and 15.9% in transport activity (air, sea, road, railways). Areas, where public capital is less present, are sports clubs with 1.1% and food and storage markets with 0.6% of the total. While from the number list of 153 public enterprises, the majority of them are 47 water supply and sewerage are owned by the municipalities of the country. These enterprises make up over 1/3 of the total number of public enterprises in Albania. The port authorities of Durres, Vlora, Shengjin, and Saranda are public commercial companies owned by the Albanian state. "Mother Teresa" Airport is a state-owned commercial company whose services have been given on concession to a private company. Railway transport is liberalized, but Albanian Railways is the only company operating in the railway transport market in Albania. Postal services are also liberalized, although there are emerged some private postal companies, still, the public post service has the majority of the market share. About 28 public enterprises are football clubs, sports clubs, or sports centers, mainly owned by municipalities. Other types of public enterprises are inherited from the socialist regime such as

Student dormitories of the public universities. In the financial sector, there are only a few savings and loan associations and investment funds with the primary objective of economic and regional development. While the insurance and banking sector has had privatization of all insurance companies and commercial banks, now owned only by the private shareholders.

**Table 5. Number of POEs and Capital as per Activity, 2014 (in Euro)**

Water supply and sewerage entities	47	70,243,020
Agro food markets	7	4,118,494
Sports Clubs	28	8,101,476
Transport activity (air, sea, road, railways)	9	115,424,925
Students Dormitories	5	74,088,600
Energy and industry of oil, and minerals	9	230,028,604
Light and Heavy industries	22	150,822,822
Financial Services	3	15,178,953
Telecommunications	2	32,852,895
Others	21	23,338,208
Total	153	724,197,997

Source: Open Data Albania, 2014.

Based on financial data of the National Business Center the capital share of POEs is approximately 9.7% of Albania's GDP in 2014. According to IMF, countries with high GDP per capita income have the rate of POES capital share to 8-13% of GDP; middle-income countries to 7-9% of GDP; and developing countries between 14-28% of GDP. Individual public enterprises ranked according to the largest share capital is Albanian Railways with 52 billion ALL followed by Albanian Railways, Albanian Energy Corporation, Salt Enterprises, Alb petrol, University Student Residence, Alb control, "Mother Teresa" national Airport, Tirana Water Supply, and Sewerage, Albanian Post, etc. (IMF, Report for Selected Countries and Subjects, 2014).

In 2020, the list of public administration spending units is recalculated based on the European System of Accounts 2010 methodology (ESA), as well as other additional manuals published by Eurostat and the International Monetary Fund (IMF). The change in the number of budget spending units comes as a result of structural changes in the central government, reclassifications, as well as new or closed units.

**Table 6. Summary of spending units that are classified as part of the Public Sector**

Classification of spending units in the Public Sector		Year 2019
Central Government		<b>966</b>
Budgeting	S.1311	900
Extra-Budgeting		66
Federal Government	S.1312	-
Local Government		<b>283</b>
Budgeting	S.1313	195
Extra-Budgeting		88
Insurance Funds	S.1314	<b>2</b>
Public Non-Financial Corporations	S.11001	<b>16</b>
Public Financial Corporations	S.12701	<b>1</b>
<b>Total</b>	-	<b>1268</b>

Source: Institute of Statistics, 2020.

SOEs have been an important source of employment in the economy of Albania. During the socialist period, 100 percent of labour force was employed in the public sector till the 1990-s. After the change of the political system, there has a sharp decline of the labour force in the first year to 60.5 percent in 1991 up to 18.9 percent in 1999.

**Table 7. Total employment and public sector, 1991-2000**

	1991	1992	1993	1994	1995	1996	1997	1998	1999
Total Employees	1,404,091	1,094,821	1,045,918	1,161,546	1,137,829	1,115,760	1,107,677	1,085,104	1,065,104
Public sector	850,091	614,607	375,338	308,080	275,887	238,850	226,295	212,750	201,429
Public sector in %	60.5%	56.1%	35.9%	26.5%	24.2%	21.4%	20.4%	19.6%	18.9%

Source: Institute of Statistics, Labour Force Statistics.

In later years the employment rate in the public sector has been experiencing low fluctuations rates. During the last decade, the highest rate was 17.7 percent in 2013 and the lowest of 14.7 percent in 2017 of employment in the public sector.

**Table 8. Total employment and public sector participation, 2012-2020**

	2012	2013	2014	2015	2016	2017	2018	2019	2020
Total Employees	962,434	926,561	934,178	1,003,047	1,051,546	1,122,635	1,134,982	1,154,017	1,144,509
Public sector	164,000	164,000	163,810	163,850	165,100	164,480	172,870	174,388	182,547
Public sector in %	17.0%	17.7%	17.5%	16.3%	15.7%	14.7%	15.2%	15.1%	15.9%

Source: Institute of Statistics, Labour Force Statistics.

### **3. Which are the main legal and organizational forms adopted for POEs (private law, special law, role of holdings, governance structures)?**

In 1996, state-owned enterprises in Albania were transformed into companies through Law no. 7926, dated 20.4.1995 "On the transformation of state-owned enterprises into companies". Companies with state capital according to the Albanian legislation have the legal status classified "public-owned enterprises" into joint-stock companies (SH.A.), limited liability companies (SH.P.K.), and collective companies (SH.K.).

The shareholders of state-owned companies in Albania are mainly the Ministry of Economic Development, Tourism, Trade and Entrepreneurship, the Municipalities, and some other public entities. Public institutions, mainly the ministry and the municipalities, are shareholders in 344 cases with about 100.3 million shares (Open.data.al. 2014).

### **4. Which is the current situation/approach on accountability and anti-corruption in your country (importance of the theme, main legislative acts, etc.)?**

The performance of POEs is related to the outcome results of its activities, processes, activities, mechanisms, instruments, etc. Performance means how the organization is managed and how much value it creates for its customers and owners (Moullin, 2003). Performance means performing certain activities measured in terms of standards or objectives fulfillment in terms of time, costs, and outcomes. Financial performance is a narrower perspective of the overall performance and relates to the quality of the enterprise's financial activity and to the extent to which the financial objectives have been achieved. In Albania, many SOEs are loss-making, in these cases government guarantees transfers of large and economically significant financial amounts regularly in time.



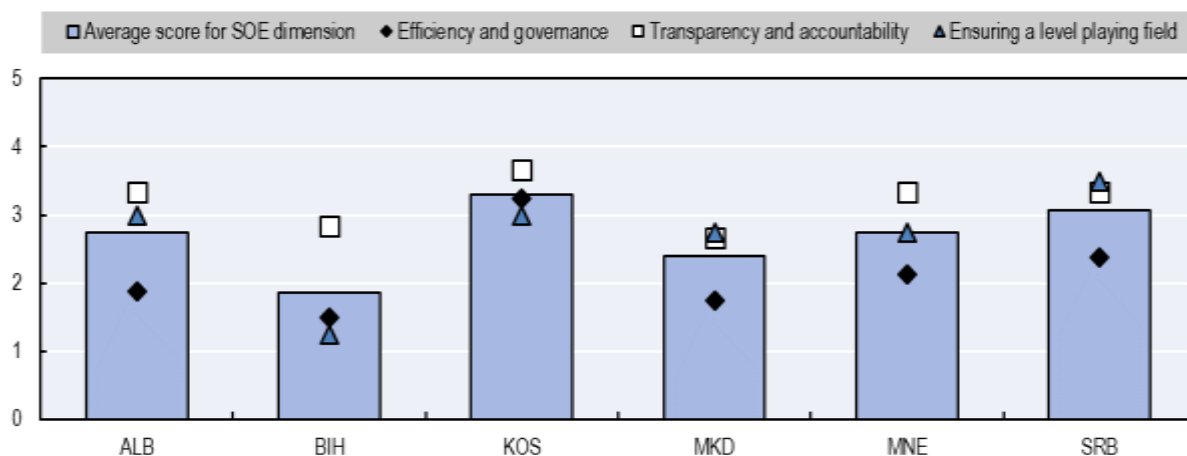
**Table 9. State-owned enterprises: Indicator scores**

<b>Efficiency and governance</b>	ALB
Ownership policy and rationales	2.0
The exercise of ownership	2.0
Nomination of board members	2.0
Board independence and professionalism	1.0
<b>Transparency and accountability</b>	
Reporting and disclosure	3.0
Auditing practices	3.0
Equitable treatment of shareholders	4.0
Ensuring a level playing field	
Legal and regulatory treatment	4.0
Access to finance	2.0

Source: OECD, Competitiveness in South East Europe: A Policy Outlook 2018.

Organization for Economic Co-operation and Development (OECD) has classified the performance of POEs through different scores. Compared to other southeast European economies, Albania is not in the best position. In the category of efficiency and governance, Albania has a 1.88 score (of 5), which shows better positions compared to Bosnia and Herzegovina and slightly better compared to North Macedonia. While is ranked after Montenegro, Serbia, and Kosovo. In the category of transparency and accountability of POEs, Albania is ranked after Kosovo, is in the same score level as Montenegro and Serbia with 3.33 (of 5), and is in better positions than North Macedonia and Bosnia Herzegovina. However, the overall quality of SOE governance and ownership practices among the six southeast European economies remains relatively weak compared to other European economies or referring to the international standards (OECD, 2018).

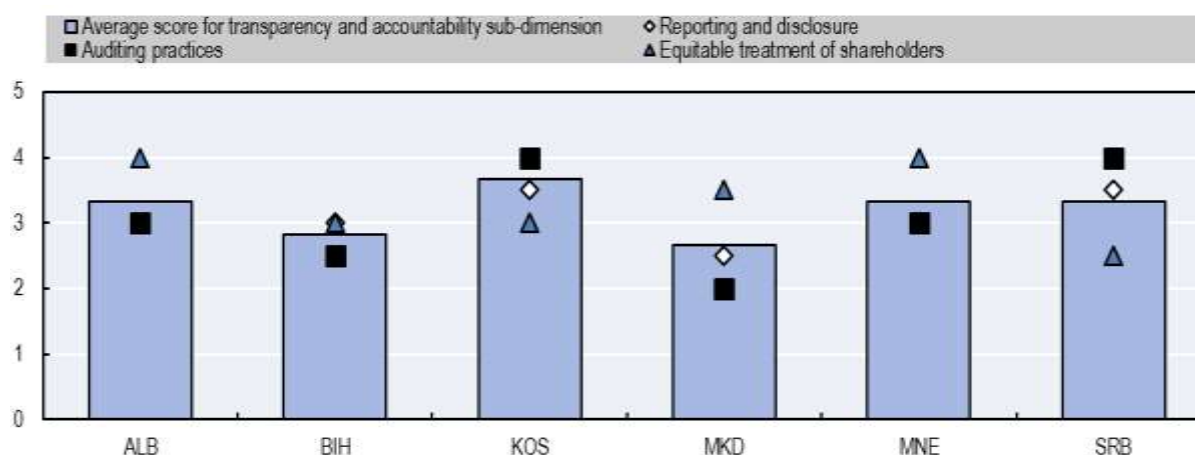
**Figure 2. Public-owned enterprises: dimension and sub-dimension average scores**



Source: OECD, Competitiveness in South East Europe: A Policy Outlook 2018.

Regarding transparency and accountability, Albania with an average score of 3.33 (of 5) is listed below Kosovo and is in equal conditions with Montenegro and Serbia. While in its sub-categories scores, Albania has equal scores of 3 in reporting and disclosure and auditing practices (of 5).

**Figure 3. Transparency and accountability:  
Sub-dimension average scores and indicator scores**



Source: OECD, Competitiveness in South East Europe: A Policy Outlook 2018.

According to Bogdani and Loughlin, the continuing weakness of the state has created a favorable environment for cultivating the mentality of abuse of power (Bogdani and Loughlin, 2004). The policy of the clan' supporting affairs except at leading political posts, continued also in POEs through practices through the promotion of political individuals in different hierarchical managing positions. No skills, merit, or professional abilities were considered in most hiring processes. In this regard, many factors have to lead to a misguided of the POEs' management approach.

*Movements in public administration.* It has affected the weakening state institutions and produced a weak state, dependent on the ruling parties. The hiring of the POEs public administration with parties militants has been a widespread phenomenon happening with political parties' rotation.

*The arbitrariness of dismissal of professional public staff.* It is evidenced by the high number of fired employees' tribunal processes won by unfair decisions. The concept of "governing" in general and specifically in the economic aspect is distorted and this has made the state and its institutions dependent on politics and not the other way around.

*Monopolization of power of executives.* The new executives of POEs set up an example of abuse of state property and institutional distortion by giving priorities to their interests, over the enterprise's financial efficiency, law, and order (Rama, 2012).

*The desire for enrichment.* Executive managers continued with the model of the indisputable unit. They deliberately kept hiring political individuals to administrative positions close to them so they could fulfill all their economic requests.

This misguided approach of the country's economic management continued to reflect the political parties' primary role over the state and state structures. As a result, lack of trust and obedience to the rules of law combined with the former historical tradition resulted in the set up of primitive behaviors of self-regulation and revival of authoritarian actions, self-judgment, increased crime, etc. (Meksi, 2008).

## **5. The main anti-corruption and compliance measures in Albania (reforms, legal acts, guidelines, etc.)**

Many anti-corruption efforts have taken place in Albania, still, the process is not well established after many years of endeavors. Albania shows a score of 36 in the corruption perception index, ranking at the bottom of the 180 countries list (Transparency International, 2020).

The Government of Albania has been implementing the anti-corruption strategy as part of the National Strategy for Development and Integration (NSDI). The "New Cross-cutting Strategy for the Prevention and Fight against Corruption and for Transparent Governance" was implemented, in order of corruption reduction, improvement of the integrity of public administration, and promoting good governance and transparency during the years 2008-2013. The strategy represented the government response to the second round of GRECO compliance ratio for Albania, adopted in October 2007. Furthermore, it represented a tool for the implementation of the Stabilization and Association Agreement (SAA) and the European Partnership of Albania. As a result, the project's technical assistance had the aim of contributing to a better implementation of the measures and objectives set out in the above-mentioned strategic documents. It served as an instrument for the provision of support reforms and interventions in the following fields:

- Implementation of anti-corruption policies and strategies (Anti-Corruption Strategy and Action Plan 2007-2013);
- Drafting/providing expert opinions and technical support for anti-corruption legislation, by following international standards;
- Promoting and involving civil society in monitoring and implementing anti-corruption initiatives;
- Increasing the capacity of anti-corruption and law enforcement agencies and the judiciary system to ensure that they effectively met their obligations under applicable law and best international practices;

- Contributing to the prevention of corruption in the POEs governance sector by improving transparency, accountability, and the auditing system;
- Carrying out risk analysis and raising economic awareness and responsibilities of objectives;
- Providing mechanisms to increase integrity and resolve conflicts of interest regarding staff administration;
- Development of anti-corruption educational modules in primary and secondary schools;
- The establishment of a professional and independent administration for long-term employment life circle against corruption.

Other instruments were used as decriminalization and testing of the public administration officials. In the framework of the implementation of the decriminalization law, self-declaration forms were mandatory to be submitted by all the public serving officials. On the other hand testing procedure was developed in the framework of the knowledge evaluation of human resources, and to update additional knowledge.

During 2019, reforms with the aim of reduction of corruption in public servants focused also on the training and achievement areas according to the job positions. Specific reforms were performed as evaluation of the work results through the job evaluation manual with procedures and “benchmarking”; strengthening the capacities of the public administration’ schools programs for training and developing the capacity of qualified human resources; unifying the procedures of public administration through monitoring the implementation of the legislation on civil servants in coherence with international standards. POEs in Albania have implemented the international auditing standards in order of improving the efficiency performance of POEs governance. Some enterprises apply external audits consistent with the private sector practices, while others continue to rely mostly on their state audit functions. Governments need to establish strong POE governance arrangements to maximize their contributions to development. In particular, POEs must have well-defined objectives, professional and independent boards of directors, and clear lines of accountability for their performance.

## **6. Which are the main effects, risks, flaws emerging from the previous points?**

The privatization of state-owned enterprises did not play a significant role in the transition process of the economic systems of Albania as it should have. The process was accompanied by shortcomings due to its ad-hoc nature which lacked an

effective framework and the methods of implementation of the program. Policymakers did not pay sufficient attention to all aspects of privatization. Issues relating to corporate governance and rapid change of POEs ownership were not given sufficient consideration.

During the years the POEs sector has not been transparent enough to provide a fair overview of accounting governance or prevailing economic and social objectives. Although reforms are implemented to increase the quality of public sector governance, still Albania lack in establishing a comprehensive approach to state ownership practices. According to Competitiveness Outlook in the ranking scores of sub-dimensions of POEs, Albania is less advanced in establishing a comprehensive approach to public ownership practices.

Adoptions of international auditing standards by following the developed economies in the region are applied for external audits of POEs. This consists not only with their state audit functions that they rely mostly on but also with the private-sector practices.

Improving coordination of state ownership should be further steps of reform implementation. The ownership of at least part of the POEs portfolios should be exercised on a whole government basis rather than by individual ministers or political communities.

Other instruments as foster clarity in financial and nonfinancial objectives of POEs and ensure aggregate reporting to the government parliamentarians and the public, would be helpful for POEs performance. It helps the media to raise awareness of SOE efficiency; the taxpayers and the general public to have a comprehensive picture of SOE performance; and the parliament evaluate the performance of the state as an owner.

## References

- Angjeli, A. (2013). *Ditari i Tranzicionit Ekonomik*. Tiranë: Toena & UMSH Press.
- Aslund, A. A., & Sjoberg, O. (1992). Privatisation and Transition to a Market Economy in Albania. *Communist Economies and Economic Transformation*, 4, No. 1, 135-150.
- Biberaj, E. (2011). *Shqipëria në tranzicion, Rruga e vështirë drejtë demokracisë 1990-2010*. Tiranë: AIIIS.
- Bogdani, M., & Loughlin, J. (2004). *Shqipëria dhe Bashkimi Europian, Integrimi Europian dhe Prespektiva e Pranimit*. Tiranë: Dajti.
- Dervishi, P. (1992). Privatisation in Albania in 1992, in A. Bohm and M. Simoneti (ed), *Privatisation in Central and Eastern Europe 1992*. Ljubljana, Slovenia: CEEP.
- Duka, V. (2007). *Histori e Shqipërisë 1912-2000*. Tiranë: Kristalina\_KH.
- Frydman, R., Phelps, E. S., & Rapaczynski, A. (1993). Needed Mechanisms of Corporate Governance and Finance in Eastern Europe. *Economics of Transition*, 1, No. 2, 171-207.
- Gjergji, A. (2014). *Institucione publike, organizma jo-fitimprures dhe Institucionet nderkombetare qe jane Aksionare ne SHA shqiptare*. Open Data Albania.
- Gliozheni, N. (1994). Privatisation in Albania in 1994, in A. Bohm (ed), *Privatisation in Central and Eastern Europe 1994*. Ljubljana, Slovenia: CEEP.
- Gray, C. W. (1996). *In Search of Owners*. World Bank Policy Research Working Paper.
- Hashi, I., & Xhillari, L. (1999). Privatisation and Transition in Albania. *Post-Communist Economies*, 11, 1, 99-125.
- IMF (1995). *Albania: IMF Staff Country Report*. Washington: International Monetary Fund.
- IMF (2014). *Report for Selected Countries and Subjects*. International Monetary Fund.
- INSTAT (2020). *Proçesi i klasifikimit të sektorit publik*. Tiranë: Institute of Statistics of Albania.
- Krisafi, K. (1999). *Emigrimi i elitës intelektuale nga Shqipëria gjatë periudhës së tranzicionit*. Tiranë: Universiteti Luarasi.
- Meksi, S. (2008). *Mbi disa aspekte të trashëgimisë totalitare gjatë periudhës së tranzicionit shqiptar*. Tiranë: Jehona.
- Moullin, M. (2003). *Defining performance measurement*. Perspectives on Performance, Vol. 2.
- OECD (2018). *Competitiveness in South East Europe: A Policy Outlook 2018*. Paris: OECD Publishing.
- Pipes, R. (2002). *Komunizmi, Historik i Shkurtër*. Tiranë: Gjergj Fishta.
- Rama, S. (2012). *Përrallat e tranzicionit Shqiptar*. Tiranë: Botimet Princ.
- Rama, S. (2006, pg 4.). *Probleme Politike Shqiptare 1*. Shkoder: ISKSH.

Stiglitz, J. (1994). *Whither Socialism*. Cambridge, Mass.: MIT Press.

Transparency International (2020). *Corruption Perceptions Index*. Retrieved from <https://www.transparency.org/en/cpi/2020/index/nzl>

Waldo, D. (1947). *The Administrative State*. Osmania University, Digital Library of India. The Ronald Press Company.

Zotaj, E. (2014). *Tranzicioni Politik dhe Roli i Tij në Marrëdhëniet e Shqipërisë me Bashkimin Evropian*. Tirane: Universiteti i Tiranës dhe Insitutui i Studimeve Evropiane.





## Presentation of the Authors

**Dorothea Greiling** is a Full Professor at the Faculty of Social Sciences, Economics and Business Administration at the Johannes Kepler University in Linz, Austria. She is head of the Institute for Management Accounting. Active member of CIRIEC for more than 20 years, including CIRIEC's International Scientific Council and CIRIEC's International Scientific Commission on "Public Services and Public Enterprises". Her main research focuses on accountability, performance management, sustainability control and sustainability reporting of public and non-profit organisations, as well as regulated industries. The governance structures and accountability of state-owned enterprises has been one of her ongoing research topic since the early 1990s. Dorothea Greiling is also a co-editor (together with Marie J. Bouchard and Philippe Bance) of the e-book entitled "New perspectives in the co-production of public policies, public services and common goods" (2022) which is the result of a CIRIEC transversal working group on public, social and solidarity economy partnerships.

**Birgit Grüb** is Associate Professor at the Institute for Management Accounting, Faculty of Social Sciences, Economics and Business Administration at the Johannes Kepler University in Linz, Austria. Her research interests include performance evaluation and reporting, sustainability as well as public value and public value management in the public sector. In her research, she uses qualitative as well as quantitative methods. She is member of several international research organisations (IRSPM, VHB, Special Interest Group Accounting and Accountability) and has extensive experience in organising panels at conferences and as a member of scientific committees.

**Nevila Mehmetaj** (PhD in Economics) is a Lecturer of Microeconomics, Macroeconomics and International Economics at Faculty of Economics, University of Shkodra 'Luigj Gurakuqi', Albania, since 2009. Her education includes Bachelor of Business Administration at University of Shkodra; Master of Science in Financial Management at University of Modena, Reggio Emilia, Italy; and PhD in Economics at the Swiss Management Center, Zurich, Switzerland. Since 2015 she is a 'Career Integration Fellow, (CIF)' to CERGE-EI, Prague, Czech Republic. She has been teaching mobility experiences at the International Business Department at the 'Duale Hochschule Baden-Württemberg Cooperative' State University in Mannheim, Germany; at the International College of Varna, Dobrich, Bulgaria, etc. She has been involved in international research projects such as HELIX project "Entrepreneurial Skills for Sustainable Hospitality" - Interreg Balkan-Mediterranean (2019); U-SIA Project "University to Society Innomediaries in Albania: Co-Production of knowledge and research that matters" (2021).

**Paulo Reis Mourão**, PhD, born in Vila Real, Portugal, is Associate Professor with Habilitation, Department of Economics/EEG & NIPE (University of Minho, Braga, Portugal). He is the author of several scientific articles indexed by ISI Thompson and of some books. His works are focused on Economics, Public Finance, Social Economics and Sports Economics. He appears often in national and international media for commenting social and economic issues. Paulo Mourão has been awarded several times for his scientific works.

**María del Carmen Sánchez Carreira** is Associate Professor at the Department of Applied Economics of University of Santiago de Compostela, Galicia, Spain and member of the Innovation, Structural Change and Development Research Group-ICEDE, Galicia, Spain. Her main research topics are state-owned enterprises, privatisation, public procurement, innovation policies, targeted policies to develop new sectors (biomedicine, renewable energies-wind- or eco-innovation), circular economy, regional development and policies, regional disparities, and Welfare State (education, social inequalities). She has also carried out research on technology intensity of trade, interregional trade, and foreign direct investment. She has published numerous papers, chapters, and books on these fields at national and international levels. She has also participated in several international and national projects and she has supervised several doctoral theses. She has carried out several stays in international prestigious centres, and is reviewer for prestigious national and international scientific journals.

**Cilina Vilela** holds a Master degree on Finance and Accountability (University of Trás-os-Montes and Alto Douro, Vila Real, Portugal). She has worked as Manager of Private Companies and as Alderwoman (São Lourenço Ribapinhão/Sabrosa, Portugal).

**Andrea Zatti** is Researcher of Public finance in the University of Pavia, Italy, and Professor of European public finance and Local public finance at the Faculty of Political Science, University of Pavia.

He also chairs the Romagnosi Foundation - Local Government School and he is Rector of the Cairoli College, Pavia.

Andrea Zatti has worked in the research area with ISPRA (Italian National Environmental Agency), CIRIEC (International Centre of Research and Information on the Public, Social and Cooperative Economy) and OCSE on public finance themes and environmental and territorial issues.

**Merita Zulfiu Alili** is Associate Professor of Labour Economics at Faculty of Contemporary Social Sciences, South East European University, Tetovo, North Macedonia.

Merita completed her MSc and PhD studies in Economics at Staffordshire University, United Kingdom. In 2015 and 2018 she joined CERGE-EI Career Integration Fellows, Prague, Czech Republic. Merita's scientific interests are: labour market inequality, foreign direct investment, labour migration transition economies.






The **CIRIEC STUDIES SERIES** proposes research results from working groups and commissions of the CIRIEC scientific network in both social and cooperative economy and public economy.

To facilitate accessibility to those research works, this electronic series is proposed in open access, on CIRIEC's website, but also as new series in RePEC.

Each study is available and downloadable as a whole document but also chapter by chapter.

 [ciriec@uliege.be](mailto:ciriec@uliege.be)

 [www.ciriec.uliege.be](http://www.ciriec.uliege.be)

 <https://ideas.repec.org/s/crc/livres.html>