

The Legality of Golden Shares under EC Law

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Abstract

Golden shares are special rights or powers vested in the State or in other public entities granting certain control in privatised companies. They have been a much debated issue since the year 2000 when the European Court of Justice (ECJ) delivered its first decision on golden shares. This decision was followed by other rulings where the Court found that Member States' special rights violated EC law. However, in *Commission v Belgium* (C-503/99) the ECJ ruled that golden shares do not violate Articles 56 and 43 of the EC Treaty per se. The Court thus opened a door for Member States, who do not wish to waive their golden shares. To preserve special rights in privatised companies, Member States should consider that their golden shares must satisfy the criteria of legality established by the Court.

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