Corrupt “Secret” Global Trade and Investor Agreements: EU Facilitating Corporate Plunder

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Since the economic crisis hit Europe, international investors have begun suing EU countries struggling under austerity and recession for a loss of expected profits, using international trade and investment agreements. Speculative investors are claiming more than 1.7 billion Euros in compensation from Greece, Spain and Cyprus in private international tribunals for the impact of measures implemented to deal with economic crises. This is the conclusion from a new report released by the Transnational Institute (TNI) and Corporate Europe Observatory (CEO).

The report, ‘Profiting from Crisis – How corporations and lawyers are scavenging profits from Europe’s crisis countries’ (1), exposes a growing wave of corporate lawsuits against Europe’s struggling economies, which could lead to European taxpayers paying out millions of euros in a second major public bailout, this time to speculative investors.

These lawsuits provide a warning of the potential high costs of the proposed trade deal between the US and the EU, which has just begun its fourth round of negotiations in Brussels.

Pia Eberhardt, trade campaigner with CEO and co-author of the report says:

> “Speculative investors are already using investment agreements to raid the cash-strapped public treasuries in Europe’s crisis countries. It would be political madness to grant corporations the same excessive rights in the even more far-reaching EU-US trade deal.”

The report examines a number of investor disputes launched against Spain, Greece and Cyprus in the wake of the European economic crisis. In most cases, the investors were not long-term investors, but rather invested as the crisis emerged and were therefore fully aware of the risks. They have used the investment agreements as a legal escape route to extract further wealth from crisis countries when their risky investment didn’t pay off.

For example, in Greece, Poštová Bank from Slovakia bought Greek debt after the bond value had already been downgraded and was then offered a very generous debt restructuring package, yet sought to extract an even better deal by suing Greece, using the bilateral investment treaty between Slovakia and Greece. In Cyprus, a Greek-listed private equity-style investor, Marfin Investment Group is seeking €823 million in compensation for their lost investments after Cyprus had to nationalise the Laiki Bank as part of an EU debt restructuring agreement. In Spain, 22 companies (at the time of writing), mainly private equity funds, have sued at international tribunals for cuts in subsidies for renewable energy. While the cuts in subsidies have been rightly criticised by environmentalists, only large foreign investors have the ability to sue.

Cecilia Olivet, co-author of the report for TNI said:

> "At a time when ordinary people across Europe have been stripped of many basic social rights, it is perverse that the EU supports an international investment regime which provides VIP protection to largely speculative foreign investors. It is time to reject a privatised justice system that supports predatory corporate vultures and undermines crucial regulation in the public interest."

The report also unveils how speculative investors have been backed by international law firms that actively encourage investor-state lawsuits. Law firms are reaping substantial financial rewards in the process. UK-based Herbert Smith Freehills, hired to represent Spain in at least two cases, for example, could earn up to 1.6 million euros for the cases.

Growing controversy around the EU-US trade talks has forced the European Commission to temporarily halt negotiations on the investor rights chapter in the proposed transatlantic deal and announce a public consultation on the issue expected to start this month.

'Investor rights' is essentially a big business agenda that constitutes little more than a recipe for the further plundering of economies by powerful corporations. This agenda allows big business to bypass democracy and bully sovereign states into instituting policies that trample over ordinary citizens' rights in the name of even higher profits (2).

However, the Commission has already indicated that it does not want to abandon these controversial corporate rights, but rather reform them.

Pia Eberhardt:

> "The investor-state arbitration system cannot be tamed. Profit-greedy law firms and their corporate clients will always find a way to attack countries for actions that threaten their profits – even when it is much needed legislation to get out of a financial crisis. Corporate super-rights should be abolished."

The report's findings show how the global investment regime thrives on economic crises. While speculators making risky investments are protected, ordinary people have no such protection and through harsh austerity policies are being stripped of basic social rights.

Corporate investors have claimed in arbitration disputes more than 700 million euros from Spain, more than one billion euros from Cyprus and undisclosed amounts from Greece. This bill, plus the exorbitant lawyers' fees for processing the cases, will be paid for out of the public purse at a time when austerity measures have led to severe cuts in social spending and increasing deprivation for vulnerable communities. In 2013, while Spain spends millions on defending itself in lawsuits, it cut health expenditure by 22 per cent and education spending by 18 per cent.

The report's authors conclude that the European Commission (EC) has played a complicit and duplicitous role, effectively abetting this wave of corporate lawsuits battering crisis-hit countries. Some of the lawsuits have arisen due to debt and banking restructuring measures that were required as part of EU rescue packages. Moreover, the EU continues to actively promote the use of investor-state arbitration mechanisms worldwide, most prominently in the current negotiations for the controversial EU-US trade agreement.

This whole scenario is but one more ploy to facilitate what has been the biggest shift of wealth from the poor to the rich in modern history (3). The authors state that it is time to turn a spotlight on the bailout of investors and call for a radical rewrite of today's global investment regime. In particular, European citizens and concerned politicians should demand the exclusion of investor-state dispute mechanisms from new trade agreements currently under negotiation, such as the proposed EU-US trade deal. A total of 75,000 cross-registered companies with subsidiaries in both the EU and the US could launch investor-state attacks under the proposed transatlantic agreement. Europe's experience of corporate speculators profiting from crisis should be a salutary warning that corporations' rights need to be curtailed and peoples' rights put first.

Notes

1) http://corporateeurope.org/sites/default/files/profiting_from_crisis.pdf

2) http://www.globalresearch.ca/free-trade-agreements-the-bypassing-of-democracy-to-institute-economic-plunder/5354197

3) http://www.zerohedge.com/news/2013-09-19/druckenmiller-blasts-biggest-redistribution-wealth-poor-rich-ever

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