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# CORPORATE GOVERNANCE IN ROMANIAN ENTERPRISES: FEATURES, DIMENSIONS AND LIMITS

Case study

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Theories of corporate governance  
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## Abstract

*The paper aims to determine the level of voluntary disclosure of relevant information in accordance with the corporate governance code by Romanian companies listed on the stock exchange.*

*The study of methodology is based on both fundamental research on corporate governance theory and the empirical study on critical analysis of the principles of corporate governance disclosure in annual reports of 20 listed companies BVB*

*The results of the empirical study confirm that the executive management of the majority of Romanian listed companies do not realize the benefits of corporate governance and consequently ignores the relevant disclosure on its basic principles.*

*This paper can be a useful material for other future studies on the measurement of corporate governance practice Romanian companies.*

## 1. INTRODUCTION

Corporate governance in developed countries occurs in response to failures of large companies, a situation that led to the loss of investor confidence and to receive remuneration for the funds provided.

In the literature, two models of corporate governance are addressed with a predominant frequency: the model based on investors (Shareholders) and the model based on stakeholders (stakeholders). According to the shareholders model, the principles of corporate governance protect the interests of investors who are interested in recovering the investment made but also the associated benefits. The stakeholders associate the corporate governance with a system that ensures optimal use of resources for the benefit of stakeholders.

The concept of corporate governance has received new meanings as a result of financial events that affected the finances and the global economy.

Currently, corporate governance is seen as a system that ensures protection of shareholders but also the expectations of society through sustainable growth and increased confidence.

The Organization for Economic Cooperation and Development (OECD) established the principles to be followed for effective corporate governance. An efficient structure requires full compliance with each principle in order to ensure market transparency of information provided in order to define the role of the governing body and the managerial leadership. To attract investors in recent years, emerging economies were and are concerned with the implementation of corporate governance practices.

This study aims to be a theoretical one but also considers an empirical perspective on the reality and the extent of disclosure of companies listed on the Bucharest Stock Exchange under the code of corporate governance implemented. In the literature there are several approaches regarding the corporate governance:

- determining the valuation models of corporate governance practices;[2]
- comparative analysis of corporate governance frameworks of several national economies;[4]
- determining the relationship between the quality of the principles of corporate governance in companies and their performance;[1]
- establishing the link between corporate governance quality and relevance of information provided ;[5]
- internal and external audit approach in connection with the corporate governance.[3]

## 2. MODELS REGARDING THE EVOLUTION AND DEVELOPMENT OF CORPORATE GOVERNANCE SYSTEMS

In the '30s and '60s in the United States the Manager-oriented Model enjoyed some success; according to this, the company managers were considered reliable technocrats who ran corporations in harmony with the general interests of the public.

Since '80-'70s, the attractive normative emphasis on managers of large corporations is destroyed by the decline of conglomerate era. Today, the consensus is that managers aim to satisfy their own interests no matter how well-intended they would be.[7]

*The Labour-oriented Model* considers that employees should be directly involved in the governance by selecting them as members of the Board of Directors. This model has as a starting point Germany in '52 and '76 when employees were entitled to elect half of the members of the Administrative Council in large German firms. This model has been tried in some other European countries too at a more modest scale, a stimulus being the draft law of the fifth company law Directive, implemented by the European Community. Currently, we believe that meaningful participation in the elections of workers

leads to ineffective boards that generate costs that outweigh the potential benefits related to improving employment.

After the Second World War, *State-oriented model* is adopted widespread in France and Japan. The recorded performances of the Japanese economy and other Asian economies led by state gave credibility to the model until the 80s. The rise of Thatcherism in Britain and the sudden collapse of communism are the main factors that contributed to the decline of this model.

We believe that there are currently few in number who would freely accept state's intervention in corporate affairs.

The three models presented above, as alternatives to the model oriented towards shareholders seek to serve the interests of constituents who do not hold shares.

*Shareholder Model* is based on the principle of defending the interests of all shareholders, including the minority who is not entitled control. Without reliable protection of minority shareholders, corporations would have difficulties in their financing by the capital markets. The primacy of shareholder interests does not exclude the interests of corporate stakeholders (workers, creditors, public etc). Conclusions of existing theoretical and empirical studies in the literature converge to claim that the best way of corporate governance through which can be traced the general social welfare is that corporate managers are directly responsible for satisfying the interests of shareholders. Shareholder primacy model does not privilege any form of property.[7]

*The Stakeholder Model* is an attractive normative alternative compared with the strongly oriented models to shareholders. Corporate law should ensure that managers will be responsible to the stakeholders (employees, creditors, clients, beneficiaries of a well protected environment, etc.).

Stakeholder model combines elements of traditional models oriented towards manager and work.

We believe that the mandatory inclusion of stakeholder representatives on the Board of Directors may undermine stakeholder model as a viable alternative to shareholder-oriented model.

### 3. CORPORATE GOVERNANCE IN ROMANIA BETWEEN REALITY AND PROSPECTS

In Romania, the conceptual approach to corporate governance and the regulatory framework for its implementation is disheartening since 2000. In 2001, the Organisation for Economic Cooperation and Development (OECD) formulated a set of recommendations to improve corporate governance in our country. A revised Corporate Governance Code has been published by the Bucharest Stock Exchange, based on the recommendations of the World Bank, in 2007. The applicability of the principles of governance developed by the OECD in the national governance codes has been achieved difficultly in the context of cultural and economic differences, of the obstacles faced by Romanian companies. Romanian companies with low levels of corporate governance practices do not perceive the benefits and therefore do not take steps to implement them on the ground that they have a very high cost. On the other hand, Romanian companies avoid interacting strategic advice to disclose certain information for fear of losing their comparative advantage. A major difficulty of the Romanian entities is represented by the agency problems, respectively the managers' interest to maximize the personal profit, which creates a lack of transparency to current or potential investors.

The legal framework for the implementation of corporate governance in Romania is: L31/1990R Companies Law, as amended, the Capital Market Law (L 297/2004, as amended), regulations of the National Securities Commission (CNVM),

Code of corporate Governance SC BSE S. A.

In 2008-2009, BSE revises existing governance code to align with European regulations and thus the actual code of governance issue which requires mandatory reporting statement "clearly applies."

This governance Code contains 19 principles and within these, several recommendations. Concrete Governance Code issued by BSE includes the following sections: [8]

**a) Shareholders' rights:**

- **Principle I:** "Companies traded on the BSE regulated market are obliged to respect the rights of shareholders and to provide them fair treatment";

- **Principle II:** "Companies traded on the BSE regulated market shall endeavour to achieve effective and active communication with their shareholders."

**b) The role and duties of the Administrative Board:**

- **Principle III:** "The companies listed on the BSE regulated market are headed by a Board of Directors which meets regularly and makes decisions that allow to fulfil the duties of an effective and efficient manner";

- **Principle IV:** "The Board of Directors will act in the interests of society and protect the general interests of the shareholders by ensuring a sustainable development of the company in question."

**c) The structure of the Administrative Board:**

- **Principle V:** "The structure of the Administration Council (CA) will ensure a balance between executive and non-executive directors (and in particular independent non-executive directors) such that no individual or small group of persons can dominate the decision making process;

- **Principle VI:** "An adequate number of members of the Board will be independent directors, in the sense that they do not have or have recently had, directly or indirectly, any business relationship with the issuer or

persons involved, of such importance as to influence the objectivity opinions";

- **Principle VII:** "The Board of Directors has a membership which guarantees efficiency of its ability to monitor, analyze and evaluate the work of the executive directors and the fair treatment of shareholders."

**d) Appointment of Directors Board:**

- **Principle VIII:** "The appointment of board members will be a formal, rigorous and transparent procedure";

- **Principle IX:** "The Board of Directors will evaluate whether it is possible the formation of a nomination committee consisting of its members, composed mainly of independent directors."

**e) Remuneration of Directors Board members:**

- **Principle X:** "Companies traded on the BSE regulated market shall provide the services of directors and CEOs quality through adequate remuneration policy, consistent with the strategy and long-term interests of these companies."

**f) Transparency, financial reporting, internal control and risk management:**

- **Principle XI:** "The corporate governance structures must ensure an appropriate and regular reporting on all important events related to the society, including the financial situation, performance, ownership and direction";

- **Principle XII:** "The Board of Directors will adopt strict rules to protect the company's interests in the areas of financial reporting, internal control and risk management."

**g) Conflict of interest and transactions with related parties ("Transactions with himself"):**

- **Principle XIII:** "The Board of Directors shall adopt appropriate operational solutions to facilitate the identification and resolution of the position in which a director has a material interest in its own name or on behalf of others";

- **Principle XIV:** "BC members will make decisions in the interests of society and will not take part in any deliberation or

*decision that creates a conflict between their personal interests and those of society or of controlled subsidiary company"*

**-Principle XV:** *"CA will determine, after consultation with internal control structures, approval and implementation procedures for transactions entered into by the issuer or its subsidiaries, with the parties"*.

**h) The regime of corporate information:**

**-Principle XVI:** *"Managers and directors will maintain the confidentiality of documents and information received during their office and shall comply with the procedure adopted by the issuer for the internal and disclosure to third parties of such documents and information."*

**i) Corporate Social Responsibility:**

**-Principle XVII:** *"The corporate governance structures must recognize the legal rights of stakeholders, stakeholders, and to encourage cooperation between the company and the creation of wealth, jobs and sustainability of businesses financially sound."*

**j) Corporate governance structures:**

**-Principle XVIII:** *"Companies traded on the BSE regulated market will adopt clear and transparent corporate governance structures that will adequately disclose the general public."*

**k) The dual and unified system of management and control**

**-Principle XIX:** *"If it is adopted a system of management and control, dual or unitary, the items above will apply properly adapting their system of uniform, fully consistent with the objectives of good corporate governance, transparency and investor protection information and the market, followed by the Code and in accordance with this article."*

"We believe that the implementation of corporate governance principles is an objective necessity for Romanian businesses resulting from a long and incomplete privatization process and the managerial control is one way or even non-existent. Corporate governance principles

form the basic criteria for measuring corporate governance.

#### **4. THE APPRECIATION OF THE LEVEL OF CORPORATE GOVERNANCE FOR THE LISTED COMPANIES AT BUCHAREST STOCK EXCHANGE**

The objective of the study is to determine the degree of disclosure of information in accordance with the principles of corporate governance by companies listed on the Bucharest Stock Exchange. We focused on companies listed on the Stock Exchange on the grounds that they are interested in attracting investors voluntarily applies the Corporate Governance Code.

Since 2010, companies listed on the stock exchange are required to apply the "Comply or Explain" that voluntarily complete information about the extent of application or non-application of the 19 principles and associated recommendations of the Corporate Governance Code.

Specifically, for each principle, for all its related guidance, the company listed on the Stock Exchange completes the "Yes" (applying principle, the recommendation in question) or "No" (you do not apply the principle of the recommendation and explain the non-compliance).

#### **Research Methodology**

The scientific approach is based on an empirical approach, using quantitative methods of research, inductive and deductive judgements.

Corporate governance will remain a fantasy level of discourse, if you cannot measure in real terms. Standard & Poor's rating agency considers the corporate governance score given to a country also the score given to a company. Score country state support measures in implementing governance practices by the legislature, the national regulations of the capital market. Company score is rated based on criteria that take into account the

effectiveness of the interaction between shareholders and other stakeholders.

This study assumes that the degree of dissemination of information in the "Comply or Explain" on compliance or non-compliance of recommendations reflects the extent to which corporate governance principles are implemented in leading companies listed on the Bucharest Stock Exchange.

For the conduct of research, we chose a sample of 20 companies listed on the Bucharest Stock Exchange.

Since the implementation and completion of Declaration "Comply and Explain" is influenced by the peculiarities of the industry, we classified the 20 companies studied in four categories, as follows: 9 companies in the sector "Food and drink", 4 companies the "Textiles and clothing", 5 companies in the "electricity electronics and two companies in the" transport equipment".

We analyzed the statements "Comply or Explain" applied and completed the 20 companies in the financial year 2012. We also analyzed the annual reports of those companies published by the National Securities Commission during the period mentioned above.

In order to collect the information provided on the website of the entities studied, the degree of implementation of corporate governance principles, we used the non-participating observation method.

### **The results of the research**

For each company's sample we determined the number of positive responses within the 28 recommendations of the Corporate Governance Code taken from the "Comply or Explain" published on their website. Number of answers "yes" significantly exceeds the number of responses to "No" which means an improvement of the dissemination of information on the application of corporate governance practices.

By sectors of activity, there are similarities regarding compliance or non-compliance with the principles referring to the Corporate Governance Code.

All companies included in the study were negative in conformity with principle 19 on their administration of the dual system. The explanation given was that they managed a unitary system "according to the Articles of Incorporation." It follows that national legislation is not aligned properly with the Corporate Governance Code criteria, requiring further review in this regard.

Principle 3 "The structure of the Administration Board" is the only criterion on which all companies provide rich information on the composition, responsibilities, training and experience of the council.

The evaluation of Principle 5 of the Code of Corporate Governance that the information given by the companies chosen for the study, reflect the absence of real, relevant Council or director of the composition, the lack of conflict of interests, responsibilities and areas of competence of senior executives. Another criterion, which is prevalent to negative responses, is the existence of a nominating committee within the company. Most companies replace this with the council nominating committee of Directors, intending to reduce personnel costs.

### **Conclusions**

Although corporate governance has seen real progress in Romania, implementing its principles remain at the stage of speech. The speculative nature of the Romanian stock market is a main barrier and increase transparency in the dissemination of information on voluntary corporate governance code recommendations. It requires a revision of the Romanian legal framework to achieve real compatibility with corporate principles concerning the duties and powers of the Audit Committee.

## 5. References

- [1] Bolton, B., *Corporate governance and firm performance*, Journal of Corporate Finance, No.3, pp260-270,2008.
- [2]Cereola S.J.,*Do institutional shareholder services corporate governance ratings reflect a company's operating performance?*, Critical Perspectives on Accounting , No.8,pp 1140-1150, 2008
- [3]Dobroeaneu, C.L., Rileanu, A.S., *Independen a auditorilor în contextul guvernan ei corporative*. Audit financiar nr 3, 2010.
- [4] Dobroeaneu, C.L., Rileanu, A.S.,*A comparative study of corporate governance frameworks in US,United Kingdom and Romania*, Analele Universit ii din Oradea, seria tiin e Economice, 2009.
- [5] Pigé, B., *Reporting financier et gouvernance des entreprises: le sens des normes IFRS*, Editions, EMS, Paris, 2005.
- [6] Shleifer,A., Vishny, R.W.,*Large shareholders and corporate control*,Journal of Political Economy, pp 465-490, 2006.
- [7] Vasile,C.M., *Autoritatea managerial i un nou model de guvernan corporativ* , Editura ASE, 2009
- [8] Codul de guvernan corporativ al Bursei de Valori Bucure ti Retrieved from <http://www.bvb.ro/info/Rapoarte/Diverse>