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Aida-Lavinia Neagoe

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A REVIEW OF CORPORATE GOVERNANCE MODELS

Aida-Lavinia Neagoe (Barbu)
Lucian Blaga University, Sibiu, Romania
aidalavinia.neagoe@ulbsibiu.ro

Abstract

One of the most important factors that influences the success of a company is its corporate governance, the rules adopted and designed to provide the resilience structure for the whole business, to regulate the decision-making process, to support the relationships between the management of the companies and their shareholders and to solve any conflicts that may arise between these categories, protecting, on the one hand, the shareholders' rights, and, on the other hand, ensuring the independence the management needs, in order to increase the performance and value of the company.

There is no universal model of corporate governance. Corporate governance models and practices are different from one country to another, influenced by several factors, such as: the legislation, the history and culture of each country. Therefore, some companies consider that they achieve their goal as long as the company's profitability and owners' wealth increase, while others believe that the rights of all their stakeholders (employees, government agencies, customers, creditors) must be protected.

In this paper, I have synthetized three main corporate governance models: the European model – oriented towards protection of all stakeholders, with their representatives in the supervisory boards and with a high ownership concentration; the Anglo-Saxon model – concerned about the protection of shareholders, including minority ones, with a very dispersed ownership; and the Japanese model – strongly influenced by culture and history, with an important role of the banks as the major capital providers.

Keywords: corporate governance, corporate governance models, mechanisms, ownership concentration

1. Introduction

Corporate governance is a key aspect, followed by analysts and investors, because of the important role it plays in building and organizing the relationships within the companies, in generating profits for companies, for its shareholders and for other stakeholders, in increasing the organization's ability to adapt and cope with a crisis. The stability and the success of a company cannot be possible without a solid framework based on clear principles and values, such as integrity, honesty and accountability. This way, corporate governance provides this basis for running the activity of the entire organization, ensuring the transparency and efficiency of the whole process by which a company is led and controlled, making it more attractive for investors.

The current paper is structured in two parts. In the first part of the study, the concept of corporate governance is being defined, along with its mechanisms, principles and the recommendations, that provide the basis of these notions.

These were developed by different international institutions and they provide a framework for companies' corporate governance codes and for the national regulators. The second part includes a description of the main corporate governance systems existing at international level: the Anglo-Saxon model, the European model and the Japanese model. The methodology applied makes use of qualitative research techniques and methods, by collecting and studying the results obtained from economic theories and practices in the field, from books, studies and articles.

2. Literature review

There are many definitions given to corporate governance in the literature. In a narrow sense, corporate governance is the resilience structure of a company, the whole 'process by which a company is led and controlled' (Cadbury Report, 1992). In a broad sense, corporate governance establishes the rules that support the relationships between the management of the companies and their shareholders, specifying each party's rights and responsibilities, regulates the decision-making process, the setting up and reaching the company's main goals. To the same extent, corporate governance regulates the relationships between the company (as a whole) and its stakeholders.

Thus, corporate governance establishes the rules that underlie all the relationships in which the company is involved, but it also has the role of resolving the conflicts that may arise within the company, between shareholders and those they choose to run the company (managers), according to the agency theory promoted by Berle and Means. The theory advanced by Adolf Berle and Gardiner Means in 1932 highlights the importance of separating the shareholders of a company from its management. According to the theory, the agent (manager) is empowered by the principal to perform certain tasks on his behalf and his interest. (Jensen & Meckling, 1976) have further developed the agent theory and described the firm as a 'black box' in which the goals and interests of all the categories of participants must be aligned and balanced to achieve the maximum profitability and return. The management's role is to run the company, while the shareholders' role is to see if the organization is managed well, in the right direction and in their best interest.

These shareholder – manager problems disappear when the shareholders directly run their company, being themselves managers (this is the case of small companies, companies with a highly concentrated ownership or family-owned companies). In this case, the owner-manager has every reason and incentive to pursue and achieve the company's goals, since maximizing its value will lead to an increase in his wealth, but, in this case, there is also a conflict when a dominant shareholder holds the position of manager and, pursuing his own interests, and neglects the interests of minority shareholders. Although the agency theory most commonly refers to the conflict between shareholders (as owners) and managers (those appointed to exercise the control of the company), it can be restricted within ownership, between dominant and minority shareholders. Controlling shareholders have more power in selecting the management, and this way they can influence decisions and impose their own interests to the detriment of minority shareholders.

Those who support stakeholder theory believe that managers should focus on all the stakeholders' interests and needs, not just those of shareholders, as all stakeholders (employees, creditors, customers, suppliers, regulators) play an important role in achieving the company's goal (Kusumaningtias, Ludigdo, Irianto, & Mulawarman, 2016).

In order to solve these agency problems, some mechanisms had to be established to protect shareholders' rights on the one hand, and to ensure the necessary independence of the management on the other hand, in order to maximize the value of the company, to improve the performance and to strengthen investors' confidence and to reduce financial problems.

(Banks, 2004) mentions as internal mechanisms of corporate governance: 1) the board of directors (advisory committees, board structure, the independence of the chairman); 2) executive directors; 3) internal controls; 4) companies' corporate governance codes.

All companies' governance codes must be in harmony and must comply with relevant national laws and regulations. Governments are responsible for providing the support and the basis for corporate governance codes of the companies. Alongside legislation, capital market regulations, credit rating agencies, external auditors are among the external mechanisms of corporate governance (Banks, 2004).

The concern for good governance does not come only from inside the companies. The governments and other national and international institutions have been concerned with the implementation of the corporate governance principles, because it influences both the companies' activity and the national economy. These principles and recommendations set the way internal and external mechanisms work so as to avoid conflicts of interests and to increase firm value and performance.

In 1999, OECD issued a set of corporate governance principles, that were revised in 2004 and again in 2015, and these are the most widely used internationally as a basis for national regulations in the field. There is no obligation for these principles to be included in national legislations, they are only guidelines, a set of rules of good practices to help the companies' management to build and improve their own codes, their reporting processes, internal relationships and the relationships with third parties.

Important recommendations on corporate governance good practices and business ethics are provided by the Cadbury Report, issued in 1992, being the first code of governance rules and guidelines, designed to help companies to raise their governance standards. It represents the basis of the London Stock Exchange Code, bringing more clarity managers' responsibilities, the role of auditors, in order to strengthen investors' confidence. It is based on three concepts: transparency, integrity and accountability.

These principles of good practices of corporate governance do not seek to impose a universal model of corporate governance. From the perspective of all those involved in the governance of a company, two models can be identified: the shareholder-oriented model and the stakeholder model.

- **Shareholder-oriented model** – the company's goal is to maximize profits and thus the shareholders' wealth. The main task of managers in this case is to run the company following the interests and for the benefit of its owners. According to the agency theory, the main conflict that may arise is between shareholders and managers, between ownership and control. Shareholders and investors are interested in increasing the profitability of the company because it will lead to an increase in their investments and wealth, while managers may have other objectives (an increase in their personal income, certain acquisitions or investments). This kind of problem arise in companies controlled by a strong management, and where the ownership is dispersed.

In this case governance mechanisms need to align the interests of these two categories by strengthening the shareholders' rights (through legislation and/or governance codes) so they can better monitor the activity of managers and can protect themselves against possible abusive behavior coming from the managers or against hostile takeovers.

- **Stakeholder-oriented model** – managers must focus on the interests of all stakeholders: employees, creditors, customers, suppliers, government institutions. This way company adopts a socially responsible attitude, with broader objectives, and is concerned not only with improving its financial performance, but also with protecting the environment, keeping the employment rates at bay and strengthening the relationships with customers and suppliers.

Taking the ownership structure as a starting point, two models of corporate governance can be identified: the Anglo-Saxon model (predominant in UK, US, Canada and Australia) and the European model (present mostly in the continental European countries and Japan) Most of the largest companies in the US and UK have a very dispersed ownership, in continental European countries the ownership is much more concentrated, many companies being controlled by rich families as a controlling shareholder (holding over 20% of the total shares).

3. Models of corporate governance

The European Model of corporate governance

In addition to a concentrated ownership, another characteristic of European companies is the pyramidal ownership. This refers to a structure where one shareholder has the control over another company through one or more other listed companies. That is, a chain of companies holding shares (and voting rights) to each other. This type of pyramidal ownership does not exist in US or UK companies, but is common in large companies in Germany, France and Italy. One reason this kind of ownership no longer exists in the United States may be the introduction in 1935 of intercompany dividend taxation (Enriques & Volpin, 2007).

Another characteristic of the European governance model is the two-tier structure, consisting of two independent boards – management and supervisory – mandatory in all German companies and optional in other continental European countries. The number of its members, its composition and employee representation on these boards differs from country to country and I will detail these in the following section for each country. Some European countries may opt for a horizontal dualistic model, consisting of a Board of Directors and an Audit Committee as a supervisory body, both reporting to the Shareholders' Assembly. In Italy, for example, listed companies are able to choose between one of the three organizational systems: the horizontal dualistic system, the vertical dualistic or two-tier system (the German model) or a unitary board (the Anglo-Saxon model). Until 2003, Italian companies could only opt for a traditional structure (the horizontal dualistic model), consisting of a Board of directors and an Audit Committee (Gandini, Astori, & Cassano, 2009).

Another important characteristic of the European governance model is the employees' representation in the management of the companies (co-determination). In fact, the recognition of the employees' rights is a particularity of the European model. Employees' representation in the companies' management can take different forms in European countries. The employees' representation in Supervisory Boards gives employees the most power, allowing them to participate in all the activities of the company. Employee representation in company management is specific to dual board structures. A special case, however, is Iceland, where, although a dualistic structure is mandatory, the Supervisory Board is composed only of non-executive members, so employees are not represented on the board (OECD, 2021). In France, the election of employees' representatives to the Supervisory Board is mandatory in state-controlled companies, in companies where employees own more than 3% of the company's shares or in companies with (with their subsidiaries) more than 1000 employees in France or more than 5000 employees worldwide (OECD, 2021).

Table 1. Requirements of Board structure in the European states (adapted by the author)

Country/region	***Corporate structure***	***No of members of the Board of directors (or of the SB in dualistic systems)***		***No of members of the Board of directors (dualistic systems)***		***Independent members***		***Maximum term of office of the Board of Directors members***
		min	*max*	*min*	*max*	*number*	*%*	
Austria	Dualistic	3					50%	5 years
Belgium	Optional (unitary or dualistic)	3		3		3		6 years
Czech Republic	Optional (unitary or dualistic)	3		3				there are no requirements
Danmark	Optional (unitary or dualistic)	3		1			50%	4 years
Estonia	Dualistic	3		1			50%	5 years
Finland	Optional (unitary or dualistic)						>50%	1 year
France	Optional (unitary or dualistic)	3	18	1	7		50% or 33%	4 years (6 years)
Germany	Dualistic	3	21	1-2				5 years
Greece	Unitary	3	15			2		6 years
Hungary	Optional (unitary or dualistic)	3		3			50%	5 years
Iceland	Dualistic	3					50%	there are no requirements
Ireland	Unitary	2					50%	there are no requirements
Italy	Optional (3 models)	3		2		1-2		3 years
Latvia	Dualistic	5	20	3			50%	5 years
Lithuania	Optional (unitary or dualistic)	3					33%	4 years
Luxembourg	Opțional (unitar sau dualist)	3						6 years
Netherlands	Optional (unitary or dualistic)						>50%	4 years
Norway	Optional (unitary or dualistic)	3(unitar) 12 (d)		5		2	50%	2 years (4 years)
Poland	Dualistic	5		1		2		5 years
Portugal	Optional (3 models)						>50%(SB)	4 years
Slovak Republic	Optional (unitary or dualistic)	3		1				5 years

Slovenia	Optional (unitary or dualistic)	3					50%	6 years
Spain	Unitary	3				2		4 years
Sweden	Unitary	3					>50%	1 year
Switzerland	Optional (unitary or dualistic)	1					>50%	1 year (4 years)

Source: OECD Corporate Governance Factbook 2021 (available at: https://www.oecd.org/corporate/corporategovernance-factbook.htm.)

An important example of employee representation is Germany, which also has a specific model of corporate governance. Employee representation and status in German companies has a long history, dating back to 1848, when the first initiative to create workers` councils was taken. They were created in 1920 by the Work Council Act, and since 1922 employees have been represented with full rights on supervisory boards. The Co-Determination Act (1976) established that, depending on the size of the workforce (whether 500 - 2000 or more than 2000 employees), the Supervisory Board should have one third or one half of its members elected from among or by the employees. The other half of the members of the board is composed of shareholders' representatives, business partners, representatives of creditors or representatives of the state. (Block & Gerstner, 2016). In fact, the German corporate governance model is strongly oriented towards stakeholder protection, with mechanisms to protect the long-term interests and relationships between stakeholders.

The Anglo-Saxon model of corporate governance

While in continental Europe, corporate governance is concerned both with the protection of shareholders and all stakeholders, the Anglo-American model is mainly focused on the protection of shareholders, including minority shareholders. Ownership in this model is much more dispersed than in the European model and is dominated by institutional investors.

The corporate structure of companies in the countries that have adopted this model (US, UK, Canada, Australia) is one-tier, with a Board of Directors embodying both managerial and supervisory responsibilities. In the UK, the management structure consists of a single board of executive directors, non-executive directors and independent members, which makes most of the decisions when running the company, with few requiring shareholder's approval. The UK Corporate Governance Code requires that at least half of the board members must be independent (Cox, 2021).

Table 2. Requirements of Board structure în United States, United Kingdom and Canada (adapted by the author)

Country	***Corporate structure***	***No of members of the Board of directors***		***Independent members***		***Maximum term of office of the Board of Directors members***
		min	*max*	*number*	*%*	
UK	Unitary	2			50%	1 year
Canada	Unitary	3		2		1 year
United States	Unitary	3			>50%	3 years

Source: OECD Corporate Governance Factbook 2021 (available at: https://www.oecd.org/corporate/corporategovernance-factbook.htm.)

In the UK system, it is recommended that the roles of CEO and chairman should be separated to avoid the concentration of power in the hands of one person and that the responsibilities of these two roles should be clearly defined and delimited. The cumulation of these functions can only be allowed with the agreement of shareholders and the company is required to justify this publicly, in line with the "apply or explain" principle (Cox, 2021).

In the United States, the board is traditionally composed of a CEO, the chairman of the board (in many cases, this is also the CEO), executive directors and independent directors. (Block & Gerstner, 2016) In 2005, 29% of the companies that were part of the S&P 500 index, separated the role of chairman from that of CEO, and in 2020, the percentage increased to 55% and shareholders in 47 companies requested the chairman to be independent. US-listed companies are required to describe their executive management structure (including whether one person holds these roles simultaneously) in their annual disclosures and explain why they consider the structure they have adopted is appropriate. Boards are required by federal securities law to have an audit committee and to provide clear disclosures regarding auditor nomination, compensation and oversight. (Emmerich, Savitt, Niles, & Abdel-Malek, 2021)

In terms of employee representation, UK law does not provide any provisions for employee representation on the board, but the tendency is to nominate either an executive or a non-executive director or to form a committee with responsibility for ensuring that the employees' opinions are known to the board, and around 60% of listed companies have already opted for the one or two non-executive directors (Cox, 2021).

In the United States, employees are not represented on companies' boards either, (Coffee Jr., 1999) explaining that the interest for employees' protection and representation in European companies is caused by the fact that the workforce in Europe is not as mobile than it is in the United States. In the US, the workforce can migrate very easily from one country to another, whereas a European worker will find it more difficult to migrate from one country to another, language and culture being major obstacles (Coffee Jr., 1999).

Japanese corporate governance

Japan has a distinct system of corporate governance and it is certainly one of the most strongly influenced by culture and history. Japan's corporate governance model is highly oriented towards all stakeholders. Some authors (Learmount, 2002)((Allen & Zhao, 2006) claim that managers of Japanese companies have strong commitments to all stakeholders: employees, creditors, suppliers, customers and society, much stronger than the responsibility to shareholders (compared to the Anglo-American model) (Allen & Zhao, 2006) and that the long-term performance of companies is closely linked to the value creation for all stakeholders.

The governance structure of Japanese companies is a hybrid one, says OECD (2021). Listed companies have a unitary management system with a board of directors, but, according to the Companies' Act (the most important corporate governance regulation in Japan), are able to dismiss the board of directors, in this case the decisions being taken by a majority of directors (Harada, Nakayama, & Omata, 2021). Compared to companies with a board, in those without one, shareholders have a greater decision-making authority, being able to approve or reject certain activities or decisions of the directors (Harada, Nakayama, & Omata, 2021).

Beside the board of directors, Japanese companies are able to opt for 3 models of governance structures: the model with a statutory audit committee (model A); the model with three committees (model C) that consists of a nomination, an audit and a remuneration committee; the model with an audit and a supervisory committee (model S) (OECD, 2021).

An important particularity of the Japanese governance model is the status of employees. Although they are not represented in management structures of the companies, permanent, lifetime employment is still a practice in Japanese companies.

The influence of Japanese culture and history is best seen in the relationships built between companies. In Japan there are unique networks, called *keiretsu* consisting of companies from different sectors, banks, suppliers, customers. Within these *keiretsu*, companies have close, long-term relationships, holding shares in one another to strengthen the ties between them, and the bank is usually in the center of this *keiretsu* as the main capital provider (Morck, Nakamura, & Shivdasani, 2000)

Keiretsu can operate as a vertical network, like a supply chain, consisting of suppliers and distributors of raw materials, helping to reduce time and costs. A horizontal *keiretsu* includes companies with cross-shareholdings, usually concentrated around a bank. (Aoki & Lennerfors, 2013). This kind of corporate structures have their origins in *zaibatsu*, large, family-owned companies founded in different parts of Japan that used to hold the monopoly over an industry (Morck, Nakamura, & Shivdasani, 2000).

The Japanese governance system is thus experiencing changes, however, *keiretsu* are proving to be durable, and the Japanese business practices (from inter-company relations, lifetime employment contracts, promotion by age) are still strongly influenced by culture.

4. Conclusions

Some authors argue that family-controlled firms are better managed and perform better than those with dispersed ownership. This does not mean that family-owned firms are also better governed than others, but in this case, shareholders are protected against managers' abuses, because the controlling shareholder and manager are the same person, as the family members who own the first companies in the chain are also the managers in the companies they control. From another point of view, as mentioned above, this concentrated ownership can be considered harmful, as the controlling shareholders can abuse their power and the company's resources for personal gain, and unlike dispersed ownership, they cannot be removed by hostile takeover or replacement at board meetings (Enriques & Volpin, 2007).

Like all scientific research, this one has certain limitations and risks. One of the limitations, from a quantitative point of view, is the restriction to a limited number of surveyed countries (only OECD member states and, of these, only those considered relevant in the subsequent presentation of governance systems). As the research was not intended to be exhaustive, the analysis of corporate governance principles was only made from the perspective of those issued by The Organization for Economic Cooperation and Development (OECD) and the Cadbury Report recommendations. These were considered to be the most important in the field, as the OECD principles serve as the foundation for most corporate governance codes around the world.

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