

Full Length Research Paper

The corporate governance in Vojvodina – The state and perspectives

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Accepted 18 October, 2019

The structure of corporate governance in Serbia corresponds to the European model, primarily to the Germanic legal tradition. The research in this paper has aimed at the establishing of the state of corporate governance in Vojvodina (Serbia province) and giving the recommendations for further development. The research was conducted in the period 2004 - 2008 by the method of the data analysis, of the survey and of the interview with: the members of board of directors and the members of supervisory board, the shareholders and the persons in charge of the contact with investors. The survey questionnaire was composed on the basis of OECD principles. The questions in the questionnaire are grouped into four groups: the first group of questions refers to the basic data on corporation, the second group is about the manner of governance, the third group comprises the data on the composition, operation and remuneration of board of directors and supervisory board and the fourth group of questions refers to transparency and audit. Besides the survey, the data is analysed on the ownership structure, the composition of boards of directors and supervisory boards, the reporting by web pages and the volume of trading in the stock market. On the basis of the research results, the recommendations for improvement have been given.

Key words: Corporate governance, ownership structure, legal protections, board of directors.

INTRODUCTION

A modern corporation, as an organisational form of business company, is the innovation of the last century. It has been a crucial incentive for the acceleration of economic growth, it has had an impact on the efficient allocation of the resources, it has contributed to the creating of new technologies, products and services and to the increasing of productivity. It is a form of business company in which the owners are not accountable for the responsibilities that business company creates, there is the separation of two functions: ownership and governance (Begovic, 2003; Lojpur, 2004). The essential requirement that is set to a modern corporation is the creating of wealth for the owners and other groups of interest in a responsible way. In order to fulfil its economic purpose, a corporation must harmonize the various interests such as: be ethical, be responsible and profitable.

Successful corporations require top-class corporate governance that leads to the progress. Good practice of corporate governance ensures: prosperity in the market, obtaining of the capital on favourable terms, competitive advantage, foreign investments and economic growth.

Corporate governance includes the set of relationships between managers, shareholders, board of directors and supervisory board and other groups of interest (stakeholders), it sets the goals, defines the means for attaining those goals and follows the achievement of the goals through the business results (Cadbury Report, 1990; Blair, 1995). The efficient supervision of business stimulates the companies to use the available resources effectively.

The transition process towards the market economy leads to the changes in the ownership structure and at the same time it changes the rules and practices of the governance in business companies. Besides the expectations of investors and uncertainty that the market implies, the requirements of the regulatory institutions are set before managers and other members of management, chairmen and members of supervisory board,

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accountants, lawyers and other participants in making business decisions. Complex legal, institutional, economic and social framework in which corporate governance is taking place requires the responsibility for success and the legality of business. Besides the existing organisational, technical, marketing, legal and financial knowledge and experience, a manager is also required to gain new knowledge and experiences necessary for a successful solving of the quoted issues and problems.

In Serbia, the change and concentration of the ownership structure is the consequence of the privatization. The goal of the privatization was to eliminate the state and social ownership in the economic sector, to establish competition and private property and to create the conditions for functioning of the market economy. It was not possible to carry out the privatization in a short period of time, since there were not any domestic investors and foreign investors had a low interest because of the undeveloped capital market and ineffective transfer of ownership. Therefore, the state was selling its share directly to the investors, which has resulted in the conflict of interests, which has arisen from the state's double role, as an owner and as a regulator. In contrast to the privatization, creating the complete legal framework, and especially its effective enforcement in the area of corporate governance may be the object of constant change and adaptation to good corporate governance practice (Radovic, 2010; Ristic, 2004).

The issue of corporate governance becomes increasingly important by the process of privatization and forming the institutions of the market economy. Spreading a good practice of corporate governance goes slowly because of the ineffective laws and institutions, and it results in non-transparent business of business companies, weak protection of the shareholders' rights, insolvent and undeveloped capital market.

THE RESEARCH – MATERIALS, METHODS AND INSTRUMENTS

The subject of research of this paper is the establishing and analyzing of the state of corporate governance in Vojvodina as a question of essential importance for the economy development and it aims at pointing out the problems of the corporate governance in Vojvodina, and at giving the recommendations for their solution. The problems of the corporate governance primarily arise in those business companies in which there is a clear separation of ownership and governance.

They manifest themselves in the form of the conflict of interests between shareholders and managers, and/or major shareholders and minority shareholders, of the reporting that is not objective, of violation of capital market integrity, but also of disrespect for the regulation that only can disable the abuse.

Corporate governance has the direct influence on striking the balance among all holders of material interest within and out of the business company and on overall economic development. It is a dynamic and current form of governance that arises due to necessity for overcoming the conflicts of interest that occur in every joint stock company.

The aim of this paper research has been the achievement of the level of scientific knowledge on the subject of research, in terms of establishment and analysis of the state of corporate governance in Vojvodina, and the suggestion of the measures for its improvement on the scientific basis, with particular reference to the definition of elements of the corporate governance strategy and the creation of the recommendations for its further development. Studying the phenomenon of corporate governance, researching and analyzing of the significant parameters that influence on its course and effects create the conditions for creation the recommendations and conclusions about pace, direction and way of the corporate governance development.

The fundamental characteristic of the modern market is the increasing level of globalization. The globalization leads to freer flow of commodities and services, capital, information and the creation of highly globalized, standardized and integrated market (Carver, 2002; Cox, 2003; Stability Pact, 2003). The result of this process is the transfer of competitiveness from the local to the global level. Increase in competition on the global scale and the development of the global market affect the need for forming the new pattern of international business and governance. Considering those, a key question becomes the enlargement of capital and the need for raising the company competitiveness to transnational level. The improvement of corporate governance is of great importance for raising the competitiveness of the companies in Vojvodina (Radovic, 2010).

The following hypotheses were tested in the paper:

1. The ownership structure has solved the problems between a shareholder and a manager,
2. The concentration of ownership in the corporations in Vojvodina has opened a problem of protection of small shareholders' rights,
3. There is the correlation between the level of ownership concentration and corporate control, and
4. The economic potential of the corporations and the state of corporate governance in Vojvodina give the realistic foundation for the improvement of corporate governance that should contribute to the confidence of investors and to increase the competitiveness of the companies.

General, cognitive and special methods of research are applied in the research. The legal method has been applied as a special method at studying legal texts from this field, whereas the project method, the case study and the surveying have been applied as the auxiliary methods in order to study the practice, characteristics and experiences in corporations, foreign and domestic institutions with the aim of reaching the appropriate conclusions and establishing the certain legalities, uniformities and rules of conduct. The survey includes the corporations in Vojvodina whose shares are quoted at Belgrade market. The analysis of the corporations in Vojvodina is focused on the specific relationships and questions about the practice, with the aim of pointing out the state and prospects for further development of corporate governance.

Besides the survey, the data on the ownership structure of the corporations from the sample has also been analysed, and on the business results as well. The business of the business companies, in the period 2004 - 2008, is analysed in the categories of size, business success, solvency, leverage and economy of financing.

The data has been analysed on the ownership structure, the composition of boards of directors and supervisory boards, the information on reporting by means of web pages and the scope of trading in the market. The survey focuses on the specific relationships and questions concerning the governance, remuneration and transparency in the corporations, with the aim of evaluating the state of the corporate governance.

The survey includes four groups of interviewees, which comprise the basic structure of corporate governance in the corporations:

1. The members of board of directors,
2. The members of supervisory board,
3. The shareholders,
4. The persons in charge of the contact with investors.

The survey questionnaire for the members of board of directors contains the questions grouped into four entireties, which refer to:

1. The basic data on the business company,
2. The composition and operation of board of directors,
3. Remuneration, and
4. Transparency and audit.

The questions in the survey questionnaire for the members of supervisory board refer to:

1. The basic data on the business company,
2. The composition and operation of supervisory board,
3. Remuneration, and
4. Transparency and audit.

The shareholders have answered to the questions that refer to:

1. The basic data on the business company,
2. The ownership and participation in the management, and
3. Transparency and audit.

The persons in charge of the contact with investors have answered to the questions in the questionnaire referring to the way of convening and work of shareholders' assembly.

RESULTS OF THE ANALYSIS OF THE STATE OF CORPORATE GOVERNANCE IN VOJVODINA

The surveyed companies have been privatized. Of total capital of the surveyed companies 15% is in the state ownership. The ownership structure includes current and former employees of the company, domestic and foreign shareholders, institutional investors, natural persons and legal entities, and also the members of board of directors and the members of supervisory board. The members of board of directors and the members of supervisory board possess the shares by virtue of the privatization of the business company, or by virtue of buying in the exchange market, and not by virtue of the remuneration through shares or options.

Ownership structure

This is extremely concentrated in the first ten shareholders. Namely, in 40% of the business companies there is one, the owner with major share in the capital, who disposes of more than 50% of the capital, no matter whether it is natural person or legal entity, whereas the first ten shareholders possess 93% of the capital.

Boards of directors

They have 6 members on the average, and 80% of that

number are men. In all enterprises the proposers of a nominee for a member of board of directors are shareholders or nomination committees. In 22% all are the members of board of directors employed in the company, whereas 78% of the companies also include the members who are employed out of the corporation. The meetings of board of directors are held: over 15 times annually in 22%, from 10 to 15 times in 22% and less than 10 times in 56% of the companies. In 10% of the business companies, the members of board of directors have limited access to the information and documents, which is not acceptable from the aspect of corporate governance.

Rules of procedure of board of directors exist only in 60% of the corporations. The situations in which the conflict of interests of the members of board of directors exists or may exist in relation to the corporation or shareholders have also been in 60% of the cases completely or partly regulated. The members of board of directors are highly-educated and so they possess at least the university degree (77%), and/or master's degree or doctor's degree (11%), but also the secondary education (11%). 87% of the surveyed members of board of directors do not participate in boards of directors and in supervising boards of other companies, whereas only 13% participate in yet two boards of directors and supervising boards. The research has shown that there is not more considerable accumulation of functions that may influence negatively on the quality of corporate governance.

In the opinion of 60% of the members of boards of directors, there are no rules of procedure that regulate the transactions with related parties. The members of board of directors have on the average 6-7 years of service in the work of board of directors or supervising board of some company. Although, there is the fluctuation of memberships in boards of directors of the business companies, the survey points out that the considerable number of members of board of directors holds their functions in the corporations and thus accumulates satisfactory level of management experience.

The members of board of directors are in 65% of the cases completely satisfied with the quality of communication, 25% are partly satisfied and 10% of the surveyed have not answered. The question arises whether the supervision and transparency of business are adequate towards the shareholders and the public.

The criteria for the remuneration of the members of board of directors are in most cases defined only by contract. There are not explicitly defined criteria of the remuneration, but they are determined by negotiations depending on the specific conditions. The most important criteria for remuneration are fulfillment of the plan, achievement of strategic goals and success of business for the field that the individual member of board of directors is in charge of. The criterion such as loyalty to the company and quality of reporting is of less

importance on the occasion of remuneration. Special privileges in the remuneration exist only in 30% of the companies and that is in the form of a car for private needs. In the majority, even 70%, there is not any form of remuneration as a special privilege, which points out the possibility for additional stimulating in achieving the results.

In 60%, the remuneration is paid fixedly in the form of money. In 40% of the companies, the members of board of directors receive the remuneration in the form of fixed and variable part. The ratio of fixed to variable part is in proportion 50 - 50% or 70 - 30% in behalf of fixed part, whereas variable part is paid in cash. The remuneration in shares and options or in the form of credit of the business company is very little present, and even 40% of the companies do not have the developed criteria of the additional remuneration. The data on remunerations for the members of board of directors are not transparent .

Supervisory boards

They have 3 members on the average, and only 27% are women on the average. Supervisory boards consist of 83% persons with the university education, and 16% have master's or doctor's degree. Membership in supervisory boards is mostly conditioned by the connection to the company or some shareholders, and not by professional position. The members of supervisory board have something more than 5 years, on the average, of service in board of directors or supervisory board of some company. The majority of companies, even 66%, do not have the programme of introducing the new members of supervisory board into the company business and work of supervisory board. Considering vocational training is rarely used as the measurement of promotion of the work of supervisory board, there is a need for increasing the level of competence of supervisory board members. Supervisory board exists in 80% of the companies, executive board exists in 77%, whereas commissions within board of directors and supervisory board exist in only 45%. In the supervisory board of the surveyed business companies there are neither the representatives of shareholders, the state nor the workers. The most common are the independent experts in all business companies.

In 66% of the business companies there are rules of procedure that regulate the work of supervisory board. The members of supervisory board are to a great extent satisfied with the cooperation with board of directors. The remuneration for participation in supervisory boards is in principle fixed, but in 17% of the companies the remuneration does not exist. Transparency of remuneration is present in 50% of the companies, and supervisory board is appraised as active in 50% of the companies, whereas it is inactive in 50%. Of total number of the analysed companies, 93% possess the Internet presentation, and

73% have also the English presentation. Website content is directed towards the information for buyers and its own advertisement, whereas the data of importance for investors is missing. 60% of the analysed companies publish the financial statements on its Website, and the data on members of board of directors and members of supervisory board, and also the important events are published only by 7% of the companies. None of the business companies has the business strategy on its Internet presentation. Websites of the business companies also do not contain the information about: decisions and results of voting at the meeting of shareholders, every member of board of directors and supervising board in company (especially their professional biography, their functions in other companies and their number of shares of companies), code of company corporate governance. It is perceived that the highest share transaction has been achieved while taking over of the company. After the takeover, the interest of investors for that security has been decreasing, which has led to the decline in share price, decreased transaction and insolvency in the capital market.

Privatized companies have not been raising funds by new issues of shares, but they have been getting into debt. Due to less profit, only 23% of the companies have paid the dividend and that have been in shares. There is a high degree of agreement among interviewees about equal rights of all shareholders. Interviewees also highly appraise legal protection of rights and interests of other interest groups in the business companies. However, there are indications that the shareholders are not always equal, for example, the materials on the strategic plans of the company are not accessible to all shareholders equally. Interviews with the representatives of small shareholders' association also have showed that there are cases of unequal treatment of small shareholders, as e.g. the impossibility of obtaining the financial statement (only in the company premises), then, the disregard of their remarks at the meeting of shareholders and other.

In practice, the participation of all shareholders in the assembly is rarely found. In the business companies in which there are major owners, shareholders' assembly mostly passes calmly. Existing of minority shareholders' clubs is the exceptional example. Many aspects of transparency of joint-stock companies are largely satisfied. The information about important events that may significantly influence on the share price of the company is missing. Business companies rarely regulate stock trade by the employees that dispose of privileged information, which may negatively reflect on transparency of stock trade and on processes of their fair price formation in the market.

DISCUSSION

The research of ownership concentration points out the

existence of separation of ownership and governance in the corporations in Vojvodina. High concentration of ownership prevents the opportune behaviour of management because of the control of owners, but they may accomplish self-interests at the expense of other material holders, and first of all, at the expense of small shareholders.

Process of privatization has caused the concentration of ownership. By the privatization, small shareholders became the owners for whom it is characteristic poverty, lack of knowledge and information about the shares and functioning of capital market. On the other side, the companies did not achieve high yields, nor did they pay the dividend to the shareholders, so the tendency towards the sale of shares from privatization and to concentration of ownership occurred. Further concentration may cause the closing of companies, and/or withdrawal of such corporations from capital market.

In 78% of the companies there are also the outside, so-called independent members of board of directors. The presence of independent members points out that independent members do not depend on the management in any formal way and with their independent attitude they may contribute to the work of board of directors, whereas, on the other side, they may be less interested in the fate of business company just because they do not have neither financial nor other interests in it.

In 60% of the companies there are no rules of procedure that regulate the transactions with connected persons, and it is one of the problems in the development of corporate governance quality, hence it is necessary to give attention to this problem in the development of corporate governance code. The shareholders' protection from the abuse of the market by the insiders should be regulated so as the insiders would not take the advantage over in relation to the shareholders. It should be prohibited to all who possess insider information to buy shares before the announcement of information. The system of remuneration should be improved by increasing the variable part of remuneration, for the purpose of more high-grade motivation of members of board of directors for attaining business objectives, especially in the business companies where the remuneration is paid only in fixed amount.

Supervisory boards hold 2 - 3 sessions annually on the average, which speaks of their inactivity. Supervisory boards in the sample are, proceeding from their role and significance, passive, insufficiently rewarded, so that they are inactive in their work. All shareholders should be able to exercise their right to vote without excessive costs and procedural difficulties or obstructions by the company.

Conclusion

Based on the conducted research it may be concluded that the state of corporate governance in the corporations

in Vojvodina is gradually improving, but there still exists the important space for improvement and acceleration of those processes (Koprivica 2009). Positive shifts are present in greater transparency. The influence of politics on the business in the business companies is reduced, it almost does not exist. Advance of stock trade of some companies is possible to relate to numerous factors, including successful business results, risk reduction, expectation of share price rise, undervalued value in the capital market, but also the reporting on company business. The research results show that the corporate governance in Vojvodina has the following features:

1. The privatization has led to the concentration of ownership,
2. Small number of majority shareholders has taken over the control in the governance,
3. Due to the concentration of ownership, the problem of minor shareholders' protection opens,
4. After the privatization of the business companies, it comes to the reduction of trade volume and solvency of shares of the privatized companies,
5. The transparency of the companies is insufficient, because the information significant for selling and advertisement is published on the Websites, and the information significant for the investors is missing such as the information about: the results of vote at the shareholders' assembly, every member of board of directors and supervisory board in the company (especially their professional biography, functions in other companies and number of shares of the companies that they possess), the important events, the business strategy, the code of corporate governance of the company,
6. The influence of politics on the business in the privatized business companies is significantly reduced,
7. The companies are not financed by issue of shares, but by credit,
8. The dividends are rarely paid,
9. There are rules of procedure about the work of board of directors, but they rarely regulate the situations of conflict of interests and transactions with related persons,
10. The system of remuneration of managers is poorly developed,
11. The members of supervisory board are poorly stimulated to work, inactive, but very satisfied with the cooperation with the board of directors,
12. The shareholders formally have rights, they are often poorly informed, but because of the lack of financial education they make decisions spontaneously,
13. The legal acts in the companies do not regulate the stock trade by the employees, who have the privileged information,
14. Internal and external audit fulfill legal preconditions.

The state of corporate governance in Vojvodina requires the active engaging of all holders of material interests so as to become well conducted and competitive in domestic

and foreign market. The implementation of good corporate governance practice, the end of privatization, the creation of its own code of corporate governance on the basis of its own experience and the enhancing of rule of law will doubtlessly increase the efficiency and competitiveness of the companies and overall economy. Good practice of corporate governance ensures: obtaining of capital under favourable conditions, the efficiency of business, good business results and efficient instruments of control of the business company (Koprivica, 2008; Radovic, 2010). The fundamental problems are the facts that a short-term benefit of corporate governance is not visible because the results are often immeasurable. The results on a long term bring advantages, and the examples are the most successful companies that are rated in the world exchange markets.

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