THE QUALITY OF CORPORATE GOVERNANCE IN ROMANIA

ALINA HAGIU[1], Marinela BĂRBULESCU[2]

[1]University of Pitesti, alina.hagiu@upit.ro
[2] University of Pitesti, marinela.tanascovici@upit.ro

Abstract: *Corporate governance in Romania is primarily regulated by the Financial Supervisory Authority (ASF) and the National Securities Commission (CNVM). The legal framework includes the Corporate Governance Code, which provides guidelines for listed companies. Romania has made efforts to align its corporate governance practices with international standards, emphasizing transparency, accountability, and shareholder rights.*
In this paper we aim to realize an analysis of the corporate governance in Romania in the present context. We will present a short literature review, the overview of the main corporate governance models, the characteristics of corporate governance environment in Romania and the challenges faced by Romanian companies in this field in order to determinate the quality of the corporate governance in Romania.

Key words: corporate governance, quality, business environment, performance

JEL Classification Codes: G30, G34, G38

1. INTRODUCTION

Corporate governance refers to the system of rules, practices, and processes by which a company is directed and controlled. It involves balancing the interests of a company's many stakeholders, such as shareholders, management, customers, suppliers, financiers, government, and the community. The primary objectives of corporate governance include ensuring transparency, accountability, fairness, and responsible decision-making to protect the interests of all stakeholders and promote the long-term success of the organization.

Corporate governance is paramount for ensuring transparency, accountability, and ethical conduct within organizations. It establishes a framework that guides decision-making processes, safeguards stakeholders' interests, and promotes long-term sustainability. Effective corporate governance fosters investor confidence, attracts capital, and ultimately contributes to the overall health and success of businesses. It is a cornerstone in building trust among shareholders, employees, and the broader community, emphasizing the need for responsible and ethical business practices.

2. THEORETICAL BACKGROUND. CORPORATE GOVERNANCE - A FEW DEFINITIONS

According to OECD Principles of Corporate Governance, corporate governance involves a set of relationships between a company's management, its board, its shareholders, and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.

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As defined by the British almost three decades ago, corporate governance is the system by which a company is run and controlled (Cadbury Code - UK, 1992).

The UK Corporate Governance Code by Financial Reporting Council (FRC) states that corporate governance is the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies. The shareholders' role in governance is to appoint the directors and the auditors and to satisfy themselves that an appropriate governance structure is in place.

The relationship between shareholders can be represented like in the next figure.

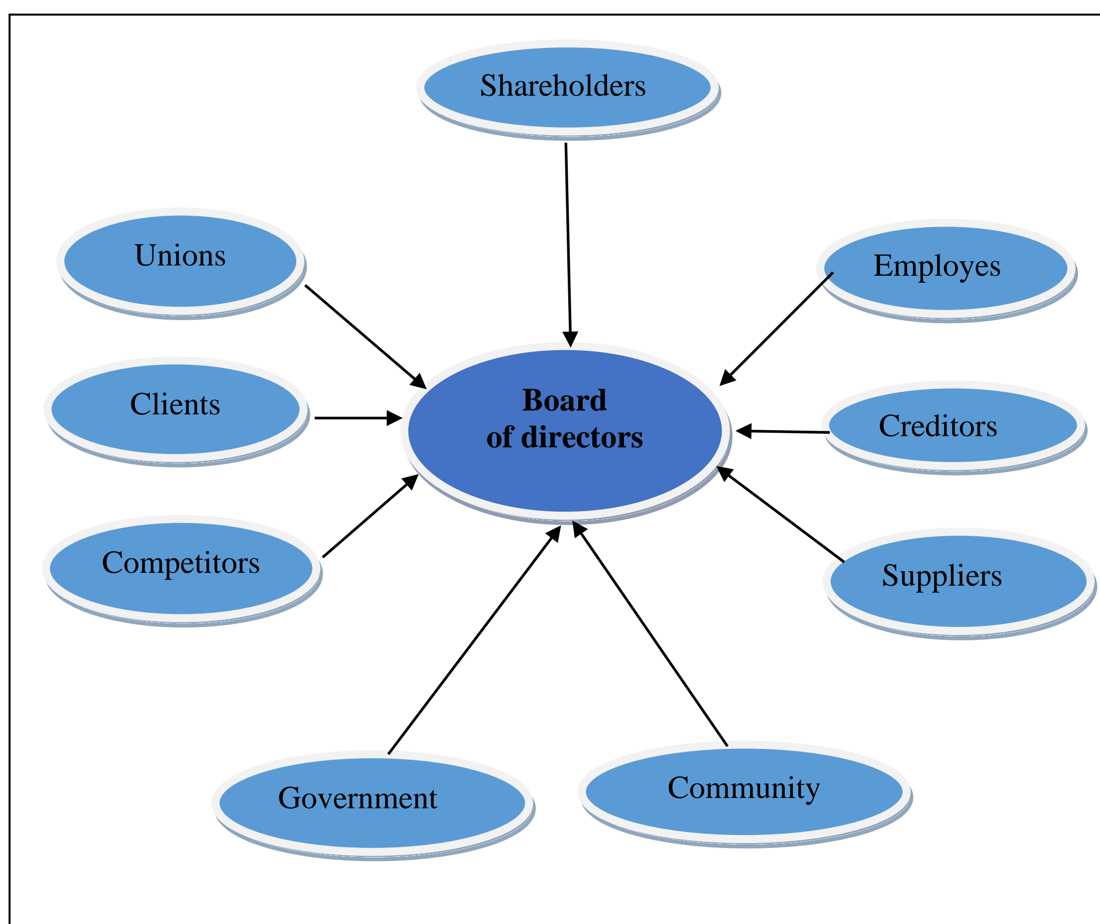

Figure no. 1 The relationship between the shareholders of a company

Source: Sarchizian S., Popovici V., Corporate Governance in Romania - Current Trends, Economic Sciences Series, "Ovidius" University Annals, Volume XIX, Issue 1/2019, p. 116;

Bob Tricker in Corporate Governance: Principles, Policies, and Practices affirms that corporate governance refers to the mechanisms, processes, and relations by which corporations are controlled and directed. Governance structures and principles identify the distribution of rights and responsibilities among different participants in the corporation (such as the board of directors, managers, shareholders, creditors, auditors, regulators, and other stakeholders) and include the rules and procedures for making decisions in corporate affairs. (Tricker, 2012)

Adrian Blundell-Wignall and Patrick Slovik in Corporate Governance: A Survey of OECD Countries considers that corporate governance refers to the way a company is directed and controlled. Good corporate governance contributes to sustainable economic development by enhancing the performance of companies and increasing their access to outside capital. (Blundell-Wignall&Slovik, 2011)

Monks and Minow in Corporate governance opinion that corporate governance is the relationship among various participants in determining the direction and performance of corporations. The primary participants are the shareholders, management, and the board of directors.

In Gatekeepers: The professions and corporate governance, John C. Coffee says that corporate governance refers to the way a corporation is directed, administered, or controlled. It also involves the relationships among a company's many stakeholders, such as its management, its board of directors, its shareholders, its auditors, and other regulators. (Coffee, 2006)

These definitions provide insights into the complex dynamics of corporate governance as described by different authors in the field. It offer insights into the multifaceted nature of corporate governance, emphasizing its role in establishing effective structures, relationships, and mechanisms for responsible and accountable business conduct.

3. MODELS OF CORPORATE GOVERNANCE

There are several models of corporate governance, each reflecting different approaches and structures. Common models include:

A. Anglo-American Model:

- Emphasizes shareholder primacy.
- Board of directors is crucial, with a separation of roles between the CEO and board chair.
- Focus on market-oriented mechanisms.

The Anglo-American model of corporate governance, prevalent in the United States and the United Kingdom, is characterized by a clear emphasis on shareholder primacy. At its core is the conviction that maximizing shareholder value should be the primary goal of corporations. This model typically features a unitary board structure, where the roles of CEO and board chair are often separated to ensure a system of checks and balances.

In the Anglo-American model, corporate governance relies heavily on market-oriented mechanisms, with an active and informed shareholder base playing a significant role in influencing company decisions. Shareholders exercise their rights through voting on crucial matters and electing directors, fostering a competitive and dynamic corporate landscape.

Transparency and disclosure are paramount, with a focus on providing investors with comprehensive and timely information. This not only enhances accountability but also allows shareholders to make informed decisions, contributing to the efficiency of capital markets.

While the Anglo-American model has been praised for its flexibility and responsiveness to market forces, it has also faced criticism for potential short-termism and a narrow focus on financial metrics. Striking a balance between shareholder interests and broader stakeholder considerations remains an ongoing challenge within this corporate governance framework.

B. Continental European Model:

- Emphasizes a stakeholder approach, considering interests beyond just shareholders.
- Often involves a two-tier board structure, with a management board and a supervisory board.

The Continental model of corporate governance, prevalent in many European countries such as Germany and France, stands in contrast to the shareholder-centric approach of the Anglo-American model. At its core, the Continental model emphasizes a stakeholder approach, recognizing the interests of a broader array of parties beyond just shareholders.

One distinctive feature is the two-tier board structure, comprising a management board responsible for day-to-day operations and an independent supervisory board overseeing strategic decisions. This separation of roles aims to prevent a concentration of power and fosters a more comprehensive evaluation of corporate actions.

In this model, the interests of employees, creditors, and the local community are considered alongside those of shareholders. The emphasis on long-term stability and sustainable business practices reflects a commitment to corporate social responsibility and ethical considerations. (De Villiers&Dimes, 2021)

While the Continental model is praised for its emphasis on a balanced and inclusive approach to governance, critics argue that it may sometimes result in slower decision-making processes. Striking the right equilibrium between stakeholder interests and efficient corporate functioning remains a key challenge within the Continental model of corporate governance.

C. Asian Model:

- Blends elements of both Anglo-American and Continental European models.
- Emphasizes long-term relationships and stability.
- Strong influence of family-owned businesses.

The Asian model of corporate governance represents a unique blend of elements from both the Anglo-American and Continental European models, shaped by the cultural and economic contexts of countries like Japan and South Korea. Unlike the strong emphasis on shareholder primacy in the Anglo-American model, the Asian approach often places a significant focus on long-term relationships and stability.

Key features include a close relationship between companies and financial institutions, with banks playing a substantial role in corporate governance. This reflects a collaborative decision-making process and a commitment to maintaining stability and trust in business relationships.

Family-owned businesses are prevalent in the Asian model, contributing to a sense of continuity and loyalty. Decision-making often involves consensus-building, and there's an emphasis on maintaining harmony within the organization and the broader business ecosystem.

While the Asian model has been successful in fostering long-term commitment and stability, it also faces challenges in terms of adaptability and responsiveness to rapidly changing market conditions. Balancing tradition with the need for innovation remains a constant tension in the evolving landscape of Asian corporate governance.

D. Scandinavian Model:

- Balances shareholder and stakeholder interests.
- Typically features a dual-board structure, similar to the Continental European model.

The Scandinavian model of corporate governance, exemplified by countries like Sweden, Norway, and Denmark, strikes a balance between shareholder interests and broader stakeholder considerations. This model often features a dual-board structure, combining elements from both the Anglo-American and Continental European approaches.

In the Scandinavian model, there's an emphasis on corporate social responsibility, and companies are expected to consider the interests of various stakeholders, including employees and the local community. The dual-board structure typically consists of an executive board responsible for day-to-day operations and a supervisory board tasked with strategic oversight.

This separation of roles aims to prevent conflicts of interest and promote a more comprehensive decision-making process.

Employee representation is common on boards, fostering a sense of inclusivity and cooperation. The Scandinavian model also values gender diversity, with efforts made to ensure women's participation in corporate leadership roles.

While this model has been commended for its inclusive and socially responsible approach, challenges include potential complexity in decision-making and the need for ongoing adaptation to maintain a competitive edge in the global business landscape. The Scandinavian model reflects a commitment to a holistic view of corporate governance that extends beyond financial considerations.

E. Japanese Model:

- Focuses on consensus decision-making.
- Strong influence of banks and other financial institutions.
- Emphasis on company loyalty.

The Japanese model of corporate governance is a unique blend of traditional values and modern business practices. At its core is a strong emphasis on consensus decision-making and maintaining stability and harmony within the organization. In contrast to the shareholder-centric approach of the Anglo-American model, the Japanese model often prioritizes long-term relationships over short-term financial gains.

One distinctive feature is the influence of banks and other financial institutions, which play a significant role in shaping corporate decisions. This close relationship contributes to a sense of loyalty and trust, aligning with the Japanese cultural values of group harmony and collaboration. (Wang&Zhou&Wang, 2020)

The Japanese model typically involves cross-shareholdings, where companies hold shares in each other, fostering a network of mutual support. This interconnectedness is seen as a strategy for long-term stability and resilience against market fluctuations.

Despite its strengths, the Japanese model has faced challenges, particularly in adapting to the demands of a rapidly changing global business environment. Balancing traditional values with the need for innovation and agility remains an ongoing consideration in the evolution of Japanese corporate governance.

These models highlight the diversity in corporate governance approaches globally, each shaped by cultural, legal, and economic factors.

4. CORPORATE GOVERNANCE IN ROMANIA

Corporate governance in Romania has undergone significant development in recent years, reflecting the country's commitment to aligning its business practices with international standards. The regulatory framework emphasizes transparency, accountability, and protection of shareholders' rights.

Romania follows a unitary board structure where executive and non-executive functions are typically combined. The Corporate Governance Code for Listed Companies provides guidelines for governance practices, promoting the separation of roles between the board chair and CEO to enhance checks and balances.

Efforts have been made to strengthen the role of independent directors, ensuring unbiased decision-making and safeguarding the interests of all stakeholders. Shareholders' rights are protected through mechanisms like the Annual General Meeting, providing them with a platform to voice concerns and participate in key decisions.

In terms of sustainability and social responsibility, there's a growing awareness within the Romanian corporate landscape. Companies are increasingly recognizing the importance of considering environmental and social factors in their operations.

While progress has been made, challenges persist, including the need for enhanced enforcement of governance practices, increased diversity on boards, and fostering a culture of ethical business conduct. Continued commitment to these principles will contribute to the ongoing maturation of corporate governance in Romania.

Romania predominantly follows a corporate governance model influenced by both the Continental European and Anglo-American approaches. The country's governance framework reflects a commitment to balancing the interests of various stakeholders, combining elements of shareholder primacy with considerations for broader stakeholder concerns.

The unitary board structure is common in Romania, with a focus on effective oversight and decision-making. While the roles of CEO and board chair are often separate, flexibility exists to accommodate variations based on the needs of individual companies.

The Corporate Governance Code for Listed Companies serves as a guideline, emphasizing transparency, accountability, and the protection of shareholders' rights. Independent directors play a crucial role in ensuring impartial decision-making and representing the interests of minority shareholders.

Romanian corporate governance places importance on shareholder activism, with mechanisms like the Annual General Meeting providing a platform for investors to engage with company leadership. Efforts are ongoing to enhance the role of institutional investors and improve corporate governance practices across different sectors.

While Romania has made strides in aligning its governance practices with international standards, there's a continual focus on strengthening enforcement mechanisms, fostering diversity on boards, and promoting ethical business conduct to ensure the resilience and sustainability of the corporate governance model in the country.

5. QUALITY OF CORPORATE GOVERNANCE IN ROMANIA

The quality of corporate governance in Romania has experienced notable improvements in recent years, reflecting a commitment to align with international standards and enhance the overall business environment. The regulatory landscape has evolved to promote transparency, accountability, and the protection of shareholders' rights.

Romania has adopted a governance model that incorporates elements from both Continental European and Anglo-American approaches. The emphasis on a unitary board structure, often with separated roles of CEO and board chair, contributes to effective oversight and decision-making. The Corporate Governance Code for Listed Companies serves as a key instrument, providing guidelines for companies to uphold best practices.

Independent directors play a pivotal role in ensuring unbiased decision-making, adding credibility to the governance framework. Shareholder activism has gained prominence, with mechanisms like the Annual General Meeting facilitating engagement between investors and company leadership.

Despite progress, challenges persist, and there is a continued focus on enhancing the quality of corporate governance. Efforts to strengthen enforcement mechanisms, increase board diversity, and promote ethical conduct are ongoing, reflecting a dedication to fostering a business environment that is not only compliant with global standards but also resilient, adaptive, and conducive to sustainable economic growth.

5.1. The corporate governance environment in Romania

The corporate governance environment in Romania has undergone significant evolution, reflecting a concerted effort to align with international standards and foster a transparent and accountable business landscape. The regulatory framework, influenced by both Continental European and Anglo-American models, establishes the foundation for governance practices in the country.

A notable feature is the prevalence of a unitary board structure, often with separated roles of CEO and board chair, aiming to ensure effective oversight and decision-making. The Corporate Governance Code for Listed Companies provides guidelines, emphasizing transparency, equitable treatment of shareholders, and the protection of their rights.

Romania's governance landscape has witnessed progress in enhancing the role of independent directors, contributing to unbiased decision-making and increased board effectiveness. The engagement of institutional investors is gradually gaining momentum, with a growing recognition of their pivotal role in influencing corporate decisions.

Challenges persist, including the need for robust enforcement mechanisms to ensure consistent adherence to governance standards across industries. Board diversity remains an area of focus, with ongoing efforts to promote the inclusion of women and individuals from diverse backgrounds.

Ethical conduct and anti-corruption measures are integral components of the corporate governance agenda, emphasizing the importance of integrity and responsible business practices.

As Romania continues to refine its corporate governance environment, a commitment to addressing these challenges and building on the achieved progress will contribute to a resilient and globally competitive business environment in the country.

Regarding the corporate legislation, the way of setting up and running the companies in Romania is regulated by the Companies Law no. 31/1990 updated. According to the provisions of the law, joint stock companies whose financial statements are (legally) required to be audited must have a Board of Directors consisting of at least 3 members. The chairman of the Board is elected from among the members of the board, by the board members or by the shareholders’ meeting, if the company’s articles of association so provide. (Neagoe, 2022)

The Board has the ability to set up advisory committees (audit, remuneration of directors, auditors, employees or appointments for management positions) for recommendations or expertise needed in the decisional process. (Constantin, 2021)

In addition to complying with the provisions of the Companies Law, Romanian companies listed on the Bucharest Stock Exchange must assume the provisions of the BSE’s Corporate Governance Code. The first Code issued in 2001 was revised in 2008 and during 2015 it was replaced by a new Corporate Governance Code developed according to the OECD Principles. (Neagoe, 2022)

The BSE Corporate Governance Code is structured into four sections (A to D), encompassing principles and recommendations. Section A outlines the roles, responsibilities, and election process of the Board of Directors and Supervisory Board. It also sets criteria for Board size and member qualifications. Section B focuses on risk management and internal control, emphasizing the formation and responsibilities of the internal audit committee for listed companies. Section C addresses the remuneration policy, requiring transparency in annual statements regarding remuneration decisions and underlying assumptions. Lastly, Section D delves into investor relations, mandating the publication of constitutive acts, rules for shareholder meetings, governance code, board and management CVs, corporate events, and the company's involvement in sports, culture, science, or education. The Code also

obligates listed companies to conduct semi-annual meetings or conference calls with analysts and investors, with details publicly available on the company's website.

To illustrate, we undertook a comparative analysis of two corporate governance frameworks within the Romanian context. The study focused on an "open" company, namely ARGUS S.A., and a "closed" company, PRUTUL S.A., both operating in the food industry and holding national significance.

Table no. 1 Similarities and differences between PRUTUL S.A. and DOBROGEA GRUP S.A.

Similarities and differences	**ARGUS S.A.**	**PRUTUL S.A.**
Industry they belong to	Food industry	Food industry
Main activity	Manufacture of oils and fats	Manufacture of oils and fats
Social capital	Private	Private
Turnover	167267674	648261231
Profit	1966065	15967197
Employees	217	418
Privatization method	MEBO	MEBO
Shareholders	Slightly dispersed	Very dispersed
The Chairman of the Board of Directors is also General Manager	No	Yes
The existence of a voluntary code of corporate governance	No, but following the principles of corporate governance described in the Corporate Governance Code of the Bucharest Stock Exchange	No
Applying OECD Corporate Governance Principles	Yes	Yes
Respect for the rights of smallholders	Yes	Yes
Vote through power of attorney	Yes	Yes
Share trading	Through B.S.E.	Only among the shareholders, with the approval of the Board of Directors
Transparency in the presentation of financial statements	Published on company website and on the Stock Exchange website	Limited to shareholders
Transparency in communicating GMS decisions	Published on company website and on the Stock Exchange website	Limited to shareholders
Involvement in the social life of the community	Yes	Yes
Pricing method	Stock exchange mechanisms	Free negotiation between seller and buyer

The comparative exploration of corporate governance models, pitting an open company (ARGUS S.A.) against a closed counterpart (PRUTUL S.A.), unveils various merits and drawbacks, leading to intriguing insights. One notable observation is that in an "open" company, listed on a regulated financial market, internal information is transparently communicated through both the company's website and the relevant stock exchange. Shareholders also benefit from a dedicated email channel for communication. Another key distinction lies in the trading mechanisms and price formation of shares. While an open company engages in regulated market transactions (B.S.E), allowing anyone to purchase shares with prices determined transparently, a closed company restricts transactions to shareholders, necessitating Board of Directors approval. Although share prices are negotiated between buyers and sellers, the opacity in reaching a specific trading value raises questions in a non-regulated market. Additionally, a listed company is mandated to have its corporate governance code, adhering to the principles of the Bucharest Stock Exchange's Corporate Governance Code. It's worth noting that a listed company enjoys easier access to financial resources and a higher credit rating compared to an unlisted counterpart.

5.2. Challenges of corporate governance in Romania

Corporate governance in Romania faces several challenges, reflecting both the complexities of the business environment and the ongoing efforts to align with international best practices. One notable challenge lies in the enforcement of governance standards. While regulatory frameworks exist, ensuring consistent adherence across diverse sectors remains a work in progress, necessitating a robust and transparent enforcement mechanism.

Board diversity is another focal point. Despite progress, there is a need for greater representation of women and individuals from diverse backgrounds on corporate boards. This not only enhances decision-making perspectives but also contributes to a more inclusive and dynamic governance landscape.

Ensuring the effective engagement of institutional investors poses a challenge. Encouraging active participation in corporate decision-making and fostering a culture of responsible investment can strengthen governance practices.

Ethical conduct and the prevention of corruption represent persistent challenges. Embedding a culture of integrity within organizations requires continuous efforts, emphasizing the importance of ethical behavior and compliance with anti-corruption measures.

Improving the quality and transparency of financial reporting is an ongoing concern. Enhancing the accuracy and timeliness of financial information contributes to building investor trust and confidence in the Romanian business environment.

As Romania continues its journey toward strengthening corporate governance, addressing these challenges will be crucial. Sustained efforts in these areas will not only elevate the quality of governance practices but also contribute to a resilient and competitive business landscape in the country.

CONCLUSIONS

Corporate governance in Romania reveals distinctive characteristics. The comparative study between an "open" company (ARGUS S.A.) and a "closed" company (DOBROGEA GRUP S.A.) highlights key insights. In open companies, transparency in internal information communication is pronounced, facilitated by public disclosure on websites and stock exchanges, along with dedicated communication channels for shareholders. The regulated market environment ensures transparent share trading and pricing mechanisms. Conversely,

closed companies involve transactions solely among shareholders, with less transparent pricing negotiations.

Furthermore, the obligation for listed companies to adhere to corporate governance codes, such as those outlined by the Bucharest Stock Exchange, underscores a commitment to ethical practices. This adherence not only fosters transparency but also facilitates easier access to financial resources and enhances credit ratings. In conclusion, Romania's corporate governance landscape emphasizes the importance of transparency, market regulation, and adherence to established governance codes for sustaining trust and facilitating financial stability in the business environment.

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