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The Experience of the Formation of Corporate Governance Principles of Countries Experiencing a Period of Transition

Abstract

Transition countries face a number of difficulties in the process of transition from a socialist planned economy to a market economy. These changes directly affect the formation and application of corporate governance principles.

In such countries, it requires the development of the corporate management system, the implementation of economic and legal reforms, the privatization of property, the establishment of a market system, and the adoption of international standards.

The formation of corporate governance principles in transition countries is a complex and multifaceted process. Changes in the economic, legal and social environment affect the activities of enterprises and shape the development of their management systems. Faced with various challenges, these countries should ensure economic development, social stability and the creation of a sustainable environment by adopting modern corporate governance principles.

This process plays an important role not only in economic growth, but also in creating an environment that meets the social and ethical requirements of society. As a result, countries in transition are aiming to build a more sustainable and equitable economy by modernizing their corporate governance systems and implementing effective governance models. This creates a system that benefits both property owners and all stakeholders.

Keywords: *management principles, corporate, entrepreneur, socialist, investor*

Introduction

The transition to a market economy in Central and Eastern European countries, as well as the accession of some of these countries to the European Union, increases the fundamental importance of corporate governance and economic growth for the process of modernization in former socialist countries. It is the demand of the time to study the legislative framework of corporate governance, which has both achievements and shortcomings in a number of countries with transition economies.

We can define the term "corporate governance" as a set of rules and mechanisms that regulate the behavior of a corporation. This behavior ensures the protection of the interests of shareholders, investors and creditors in front of managers, prompting them to invest and lend to the corporation (Antonov, 2020).

Fourteen years of post-socialist development experience has shown that as the market economy develops in these countries, there is a great need for corporate governance that should protect shareholders, investors and creditors, that is, the most important agents of a dynamically developing economy. The "important mechanisms of corporate governance" mentioned for the first time by R.Fridman, E. Phelps, A. Rapachinski and A. Shlyafer are of special importance when these countries have already established a market economy, and some of them are approaching the end of the transition stage.

Research

In general, effective corporate governance is created either through advanced legislation and an active securities market, or through concentration of ownership. Researchers confirm that financial markets are more developed in countries where the legal protection of shareholders is provided at a high level, and corporations have great development opportunities by taking advantage of foreign financial sources (Ansoff, 2018). A number of experts have compared the regulation of the stock exchanges in Poland and the Czech Republic in the same way and have shown that, thanks to the

existence of the system of protection of the interests of investors and small shareholders, in Poland by 1998 it was possible to attract 1 billion dollars to both previously existing and newly created companies and 138 to shares. it was possible to organize a new open offer. At the same time, it has become clear that the Prague stock exchange is not yet functioning satisfactorily (Chub, 2006).

In addition, in a number of works, the traditional "principal-agent" problem (i.e., conflicts between owners and managers) has been applied to the conflict of interests in the enterprise itself. For example, between small shareholders and entrepreneurs with a controlling share portfolio; between shareholders and employees of enterprises; conflicts between managers and creditors. It should be noted that the main problem of concentrated ownership (families or the state) and corporate management in large corporations all over the world is to protect small shareholders from the hegemonic behavior of large owners (Estrin & Prevezer, 2010).

In a number of countries with transition economies, especially in the states where mass privatization has been carried out, the processes of ownership renewal have led to the disintegration of the original structure of ownership in most of the privatized enterprises. However, starting from the mid-90s, a rapid concentration of ownership was observed in such enterprises. For example, almost half of the Czech companies currently undergoing mass privatization have a hegemonic shareholder with more than 50 % of the shares. Scholars who researched both the right of ownership and the right of control in the enterprises of 12 former socialist countries (including all the countries admitted to the European Union) whose shares are valued (quoted) on the stock exchanges have come to this conclusion (Garaveliyev, 1967).

Such concentration of ownership and control, as well as the emergence of dominant owners in transition economy countries, once again shows the importance of corporate governance mechanisms, especially mechanisms that protect the interests of small shareholders and ensure that managers fulfill the requirements in the field of transparency and disclosure of information. Countries that are members of the Organization for Economic Cooperation and Development, the European Union, as well as international trade union organizations have developed provisions of the most advanced practice aimed at improving the functioning of corporate governance systems. The legal framework and voluntary obligations developed in these countries are very important. It is appropriate for Azerbaijan to accept them. This principle is of exceptional importance for any corporate management system (Popov, 2010, p. 65).

The separation of ownership and control functions and the potential conflict in the "principal-agent" relationship in joint-stock companies means that special attention should be paid to the rights of shareholders, especially the right to participate in the adoption of more important decisions for the corporation at annual and extraordinary meetings of shareholders. In order to exercise this right, the legal framework should determine the procedure for timely information to shareholders about annual and extraordinary meetings (O'Sullivan, 2000). This should be done in such a way that shareholders can participate in decision-making without any difficulty or expense. In addition, it is very important that the geographical distance of the corporation does not affect the decision-making process of the shareholders.

In order to implement these principles, it is important to have, first, reliable registers of shareholders and, second, the possibility of voting by post and by proxy. Although most of these requirements are widespread in the countries of the Organization for Economic Co-operation and Development (OECD), they are not considered mandatory from the point of view of law in transition economies and are not applied in the practice of many countries. The participation of entrepreneurs in the decision-making process is carried out in various ways, while in most areas the tendency to adapt national legislation and practice to OECD principles is quite noticeable. In most countries, especially in the European Union, there are independent registers of shareholders (Suleymanov, 2014).

Information about the holding of shareholders' meetings is given more by mass media than by letters sent to the addresses of individual shareholders. Given the prevalence of bearer shares, such a departure from Western principles can be considered deliberate. Although technically possible, in

most countries voting by proxy is preferred over postal voting, and in many countries this requires a formal proxy to be drawn up.

In addition, in a number of countries, certain remaining shares must be deposited with a third party before the start of the shareholders' meeting. Undoubtedly, these restrictions reduce the ability of shareholders to participate in decision-making and create favorable conditions for the violation of the rights of small shareholders by the owners of controlling shares. According to the OECD code, small and large, local and foreign shareholders should have the same rights and opportunities. An important aspect of the equal regime is the "one share – one vote" principle practiced in most OECD member countries.

In accordance with the Anglo-American practice, all shares should give the same right to vote in order to create equal opportunities in decision-making. Another approach is common in many countries (including OECD countries).

This approach is based on non-voting and voting-enhancing shares, etc. it consists of being applied. In some countries, the voting rights of large shareholders are restricted. This means that their rights are reduced compared to small shareholders. In such circumstances, small shareholders have an extremely strong influence on decision-making. OECD principles do not favor any practice, but in a number of countries some types of voting shares are not welcomed or are prohibited altogether (eg. in Denmark and Greece). The international network of corporate governance also considers any deviation from the "one share – one vote" principle undesirable. In cases where the shares are bearer, the possibility of voting by mail and by proxy is strictly limited. Because the corporation cannot verify the identity of the shareholders. There is also a widespread belief that bearer shares are widely used in various forms of fraud and in cases where it is necessary to keep the identity of the real owner secret.

Another aspect of equal treatment is the attitude of large shareholders to small shareholders. As a result, small shareholders can become the object of opportunistic (unprincipled, self-serving, hypocritical) and sometimes even fraudulent actions of large shareholders. Of course, in cases where large shareholders enjoy large control rights derived from their shares in the authorized capital (either due to the dispersed nature of ownership or because some shares have multiple voting rights), the problem of equal treatment becomes decisive.

In this regard, it is important to have concrete mechanisms that ensure equal treatment for all shareholders. Small shareholders have certain self-defense methods (Suleymanov, 2014). These are the following:

- authorized majority in the adoption of a number of decisions at the general meeting of shareholders. This creates a legal basis for the minority to make some decisions (capital increase, liquidation, merger, etc.); quorum at the general meeting of shareholders;
- placement of a representative of small shareholders in the supervisory board (board of directors) (application of cumulative voting);
- the right to purchase newly issued shares in proportion to the number of shares previously held by the shareholder (preferential right to purchase shares);
- the right to file a claim related to the actions of the manager of the corporation.

As it can be seen, the situation in most of the transition economy countries does not correspond to the recommendations of the OECD. Undoubtedly, all countries strive to ensure an equal regime for both small and large shareholders. Therefore, attention is paid to the development and improvement of the legislative framework. It seems that the principle of "one share – one vote" is the norm for most countries.

Transition countries face a number of difficulties in the process of transition from a socialist planned economy to a market economy (Zhang & Wu, 2017). These changes directly affect the formation and application of corporate governance principles. In such countries, it requires the development of the corporate management system, the implementation of economic and legal reforms, the privatization of property, the establishment of a market system, and the adoption of international standards.

1. Economic structural changes

Countries in transition have to change their economic structures. The process of privatization of state property, the separation of ownership, the creation of free market conditions and the formation of independent enterprises are the basis of the principles of corporate governance. This process makes it possible to manage enterprises more effectively, attract investors and increase financial transparency.

2. Creation of legal framework

A strong legal framework is essential for the successful formation of corporate governance. In countries in transition, it is necessary to strengthen legislation related to the protection of property rights, company registration, shareholder rights and financial reporting requirements. This increases the confidence of investors and ensures that companies operate in accordance with modern management standards.

3. Increased transparency

Transparency is an important factor in the formation of corporate governance principles. In transition countries, the disclosure of financial statements, the establishment of internal control systems and the involvement of independent auditors help enterprises to operate more transparently. This increases the confidence of both investors and society in enterprises.

4. Social responsibility and public approach

In countries in transition, corporate governance principles should focus not only on economic profit, but also on social responsibility. Companies' relations with the community and the environment should be in focus as an important part of corporate governance. Increasing social responsibility increases customer loyalty and public support, which affects long-term success.

5. Acceptance of international standards

Countries in transition should learn and adopt international practices to shape corporate governance standards at the international level. International financial organizations and the practices of developed countries help to modernize and improve the efficiency of the corporate management systems of these countries.

Conclusion

The formation of corporate governance principles in transition countries is a complex and multifaceted process. Changes in the economic, legal and social environment affect the activities of enterprises and shape the development of their management systems.

Faced with various challenges, these countries should ensure economic development, social stability and the creation of a sustainable environment by adopting modern corporate governance principles.

This process plays an important role not only in economic growth, but also in creating an environment that meets the social and ethical requirements of society. As a result, countries in transition are aiming to build a more sustainable and equitable economy by modernizing their corporate governance systems and implementing effective governance models. This creates a system that benefits both property owners and all stakeholders.

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