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DISTINCTIVE TRAITS OF THE CORPORATION SEEN BY THE GOVERNANCE PRISM

Oana BOCĂNETE

[1]PhD Lecturer,"Tomis" University – Faculty of Economic and Administrative Studies, Constanta, Romania, E-mail: oana_bocanete@yahoo.com

Abstract *Despite all the reforms that have been made so far, the market of professional managers who could be employed in joint-stock companies has not been formed in the Romanian economy. There is no effective control over the management and management of corporations by shareholders. Majority shareholders are an impediment to the integration of Romanian companies, foreign companies, attraction of foreign investments, exit to foreign markets, etc. Thus, the evolution of the forms of interaction, of the majority shareholders and the hired managers not only did not solve the problem of increasing the efficiency the activity of oocytes on stock, but has aggravated the existing problems. The key issue in this case is the lack of a methodical toolkit for systemic assessment of the economic efficiency of corporate management.*

Key words:
Investitors
Commercial society
Corporation
Methodical
Instrumentation

JEL Codes:
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1. INTRODUCTION

The struggle for influence within the corporation, the control of financial flows, in the conditions of common goals and evaluation criteria could transform into jointly and jointly, the welfare of the corporation, the shareholders, the majority shareholders and the managers. From this point of view, the theme is current.

Contemporary research in this field focuses on adapting methods, international technologies, to contemporary corporate governance issues of joint stock companies.

Thus, no attention is paid to the national models of Romanian corporate governance at the training stage. The solution of this problem we see in the necessity to develop a new, based principle, not on the copying of the positive forms of relations, but on the creation of the conditions for the formation of the new type of corporate management, taking into account the historical, economic and social specificity of national management.

2. CENTRALIZED ADMINISTRATION OF THE CORPORATION

Many economists report this criterion, due to the widespread spread of corporate governance, and consider it a fundamental feature of the corporation. Even in US federal law, for limited tax purposes, limited liability is determined to be the main feature of the corporation (Ghiță, 2008).

"Limited liability means that investors do not have personal patrimonial responsibility for corporate obligations, in which they have invested their means, and by doing so transpose the corporation." (**Holban (Oncioiu), Bocănete, Ion-Bocănete, 2010)**

The maximum losses that investors can bear are not the redemption of funds invested in the corporation. This, in turn, raises the trend towards diversification by investors, investment in various corporations, and allows considerable financial resources to be obtained in parallel with risk-taking; the level that a separate investor considers too high.

The two criteria listed above set the boundary between the patrimony and corporate responsibility as a legal person and the patrimony and investor liability.

This feature of the corporation appears as a result of the investor's transmission to the corporate headquarters, together with the responsibility for its work and its management powers. That is, corporate governance is done not by shareholders - the owners of the corporation, but by the direction. This allows, by selecting highly qualified specialists, the achievement of higher corporate governance effectiveness (Cobzari and Ulian, 1998).

The analysis of the differences between corporate and non-corporate governance allows the assessment of the degree of correspondence of one or another type of entrepreneurial association as a form of corporate management. In other words, we came to an important conclusion. If, for example, in an open-ended joint stock company recognized as a corporation, management is not carried out by hired managers, but by the owners, then by content, because it is not the subject of corporate relations, it is not a corporation. And vice versa, in entrepreneurial associations, which are not corporations, under certain conditions elements of corporate management can be observed. For example, in the case of a complete company, if the owner submits the management powers to the hired manager.

In the context of the above conclusions, we consider it rational to introduce the notion of "pure corporation". Pure corporation is an entrepreneurial association, which according to its form and content corresponds to the corporation.

Unfortunately, at present, there is very little systemic economic research on the issue - which forms of entrepreneurial associations can be reported to corporations (the notion of "corporation" comes from Latin "corporatio", meaning "association") the theoretical analysis of the literature used has allowed the next result to be obtained in relation to this problem.

3. THE FEATURES OF THE CORPORATION IN TERMS OF DEFINITIONS

There are different points of view on the issue: which forms of entrepreneurial associations relate to corporations. This is explained by the difference, in the definition by the economists, of the characteristic features of corporations.

According to one of the widespread hypotheses (corresponds to the continental law system), the corporation is a collective organization, recognized as a legal entity, based on the capital association (voluntary shares) and conducting a certain useful social activity. (Mercer, 1997). Thus, the corporate definition corresponds practically to the definition of legal person. In this case, corporations are characterized by the following features (Graham, 1996).

1. the existence of the legal person;

2. institutional division of administration and ownership functions;

3. the collective adoption of decisions by owners and (or) employed managers

Therefore, in the notion of corporation, in addition to joint-stock companies, many other legal entities are included: different types of companies (complete, limited), economic associations (concerts, associations, holdings etc.), cooperatives for production and consumption, collective enterprises, leasing, as well as state-owned enterprises and institutions with the purpose of carrying out cultural, economic or other socially useful activities based on the nonprofit principle (Brealy and Myers, 2000).

The concurrent hypothesis (which corresponds to the Anglo-Saxon law system), which limits the circle of entrepreneurial associations included in the notion of corporation to open-ended joint-stock companies, is based on the statement that the most important features of the corporation are as follows: corporate independence a legal person, limited liability of individual investors, centralized management, as well as the possibility to pass on to others the shares belonging to individual investors (Burlacu, 1996). The first three criteria have been examined above.

In this way, the discord in the dialogue between different scientists is the question of including or not including in the features of the corporation the ability to freely transmit the actions and hence limit or not limit the notion of " corporation "through the form of open-ended joint stock company (Bocanete and Burlacu, 2011).

The most eloquent example of building this distinctive feature of the corporation is the development of legislation in the field of securities market.

In the USA. for example, from earlier times, the "common law" rule, according to which actions were not recognized as patrimony in the usual sense of this word.

The judgment annulled the theory of the Common Law, the lack of material character of the actions, which excluded the possibility of identifying them. Under the Delaware State Law, the corporation's actions were, not just personal patrimony, but also such a good that can be identified, seized and sold to pay the owner's debts (Fusea and Ciuncan, 2008).

The reason for the existence in the economic literature of different points of view on the definition of free transmission of shares as a characteristic feature of the corporation is „the influence of certain institutions of the market economy including the forms of entrepreneurial associations on the formation and development of the national economy of the countries, which examines the activity of the corporation." (Ionescu, 2008).

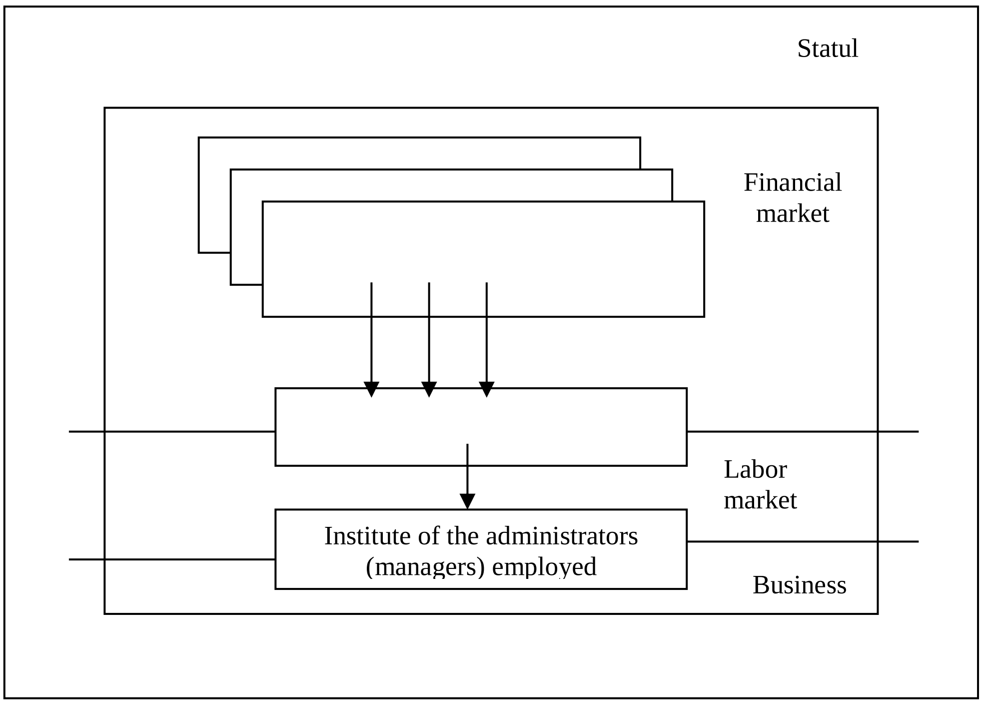
This explains the difference between the views on the corporate definition of the Anglo-American Methodological Toolkit of Corporate Governance and CEI studying the German and Japanese corporate governance models. Indeed, the Anglo-American Methodological Toolkit of Corporate Management is characterized by the existence of an overwhelming number of joint-stock companies as a form of organization for large companies in the United States. 6000 in England 2000 (Grant, 2002), second, a strong influence on the stock market and the corporate governance market on corporate relations.

The German methodic instrument of corporate management, on the other hand, is characterized by an insignificant number of open-ended joint stock companies (650), the strong influence of bank financing instead of shareholder financing, the control of directors rather than the market corporate governance over the efficiency of managers' activity. To achieve the goals of this research, the most acceptable, in our opinion, is the hypothesis of the Anglo-American system of corporate management, following a number of factors:

- the tendency to increase the influence of transnational corporations, the form of which is an open-ended joint stock company, is increasing in the world economy, which leads today to the unification of the notion of corporations in different systems of corporate governance;

- the purpose of the research is to assess the efficiency of corporate governance in Romania, where open-ended joint-stock companies constituted the main form of enterprises in the post-privatization period.

Fig. no. 1 Methodical instrumentation of the corporate management



Source – (Bocanete and Burlacu, 2009)

Defining and studying the content of the corporate management concept allows us to study the corporate governance mechanism. For these purposes, we consider it rational to examine the methodical tools of corporate management presented in a deployed manner (Fig. NO 1).

The methodical instrumentation presented in Figure 1.2 allows the study of the corporate management mechanism, its participants and the relations within the methodological toolkit. We note that the parties involved in corporate relations within the presented methodological toolkit are the owners, managers, internal and external intermediaries. In order to characterize corporate management, it is necessary to examine the following relationships: within the group of owners, within the group of managers, relations between managers and owners, relations between owners and financial markets, relations between owners' representatives and the labor market, relations between managers and commodity markets.

4. RELATIONS IN THE GROUP OF OWNERSHIP

Talking about relationships within the group of owners, it is necessary to determine who they are. It is accepted practice to divide corporate owners into individuals and institutions. Individual investors refer to individuals, organizations and other corporations, while institutional pension funds, insurance companies, investment funds, banks.

As specified, the sole obligation of the member of the joint stock company is the patrimonial share, but this does not include participation in the management.

From this it follows that relationships do not arise between the owners of the corporation, but between the corporation and the owners, ie the relations within the group of owners are missing or minimized.

At the same time, we assume that owner relations within the Consul of Directors are relations between the owners and the corporation, not between themselves. Owners' relations within the group may be reported as receiving proxies for voting by some owners with the actions of others and making a proposal for a tender to buy shares, although these operations are usually done with the help of intermediaries. These relationships will be examined below.

5. CONCLUSIONS

Managing such a complicated system, such as a corporation, is impossible to achieve in a single person, for which reason the corporation is run by a group of managers who form the corporate body of the corporation empowered with certain attributions. In the economic literature dedicated to the issue of corporate governance, there is no revelation of the relationship within the group of corporate managers.

Although the mutual relations between managers in the Board of Directors are sufficiently described, which will be described in the description of its functioning. It is necessary to note that this is a separate direction of research, studied by such scientific disciplines as organizational theory, organizational behavior, management psychology, etc., where the details of the processes of interaction within the group of managers and their organization are described effective. That is why we will not stop at them at this stage.

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