CORPORATE LAW AND GOVERNANCE: A CASE OF TUNISIA AFTER THE ARAB SPRING

Wajdi Ben Rejeb *

* National Institute of Applied Sciences & Technology, Carthage University, Tunis, Tunisia
Contact details: National Institute of Applied Sciences & Technology, Carthage University, Center Urbain Nord BP 676, 1080 Tunis, Tunisia

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Abstract

This paper reviews the corporate governance practices of listed Tunisian companies. Besides that, the paper explores the evolution of corporate governance legislation between 2013 and 2017 in order to identify the changes caused by the revolution to accompany the current context's needs and the democratic transition in Tunisia. Although the most of companies in Tunisia are dominated by family small and medium enterprises (SMEs) and very small enterprises (VSEs) we have chosen to focus on listed companies. These companies present more advanced practices of corporate governance given the legislation in force. Results of this paper shed light on several important features of the Tunisian corporate governance system, for example, interlocking directorates. It is interesting to notice that a limited number of directors control the majority of the market capitalization in Tunisia. The practice of interlocking directorates reflects the Tunisian way of economic lobbying. As for gender diversity, although there are no laws imposing a minimum quota of women directors, the proportion of female board members has slightly increased during the last years, moving from 7.87% in 2013 to 9.92% in 2017. In contrast to Arab and African countries, it should be noted that the majority of women directors sit on boards as members of the family controlling the company or because they are civil servants representing the state's interests in state-owned enterprises.

Keywords: Corporate Governance, Corporate Law, Tunisia, Legislation, Board of Directors, Shareholders

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1. INTRODUCTION

In January 2011, Tunisia has experienced a popular uprising that became known as the Arab Spring, which led to the collapse of Ben Ali's regime and the beginning of the democratic transition. The Arab Spring has been accompanied by popular and spontaneous movements of demands for more freedom, justice, and dignity. These claims, economically motivated, revolve around the issues of justice and equity with regard to wealth distribution including issues of transparency, nepotism, and corruption. These issues are at the heart of the mission of good governance. In addition, the democratic transition has been accompanied by the expansion of freedom of expression's field. Besides, the new Tunisian constitution of 2014 guarantees Tunisians the right to strike and to make peaceful social claims.

Traditionally, the governance system of Tunisian companies is marked by the weight of state and family capitalism. Indeed, the state and the family businesses have been the locomotives of the Tunisian economy after the country's independence. This resulted in a concentration of Tunisian companies' ownership structure and a preference for bank financing and self-financing which made the functioning of Tunisian companies opaque. In this respect, the number of Tunisian listed companies remains relatively small in comparison with other countries with a similar level of economic development. This is due, among other things, to the transparency and financial disclosure requirements imposed on listed companies.

It is interesting to question the consequences of the Arab Spring on the Tunisian companies' governance and their contribution to the community as well. In this sense, this paper proposes to review the corporate governance practices of listed Tunisian companies as well as the evolution of corporate governance legislation between 2013 and 2017 in order to identify the changes brought by the revolution to accompany the current context's needs and the democratic transition that Tunisia is experiencing. It should be noted that, although the fabric of companies in Tunisia is dominated by family small and medium enterprises (SMEs) and very small enterprises (VSEs), we have chosen to focus on listed companies as they present relatively advanced practices of corporate governance given the legislation in force.

This paper is structured as follows. Section 2 provides an overview of Tunisian legislation on corporate governance as well as its evolution over time. Section 3 focuses on the ownership structure of Tunisian listed companies. Section 4 deals with the characteristics of boards of directors in Tunisian listed firms. Section 5 deals with remuneration systems while Section 6 provides a discussion on shareholder rights in Tunisia. Section 7 focuses on the relationship between corporate governance and corporate social responsibility (CSR) in Tunisia through the review of the practices and recent studies in the field. Section 8 sets out to review the results of the most recent studies conducted in the Tunisian context on the effect of corporate governance on performance and other organizational outcomes in Tunisia. Finally, Section 9 is dedicated to the conclusion of the paper.

2. THE EVOLUTION OF CORPORATE GOVERNANCE REGULATION

The legal and institutional provisions on corporate governance in Tunisia are relatively recent. The Code of Commercial Companies (CCC) is the main reference in the matter; it was promulgated under Law n. 2000-93 of November 2000, following the presidential decision to review the regulation governing business in Tunisia on the occasion of the celebration of national company day in 1996.

According to the Code, the board of directors (BoD) or the management board and supervisory board, are the main governance bodies of public limited companies in Tunisia. In this perspective, the Tunisian legislator allows companies to choose between two forms of governance: the monistic model or single-tier based on the existence of a BoD and the dualistic model or two-tier characterized by the separation of management and control responsibilities through a management board and a supervisory board.

The CCC provides Tunisian public limited companies with mandatory practices regarding their corporate governance such as board size and composition, directors and board chair appointment, board chair's profile, directors' term of office and renewal, directors' duties, responsibilities, and compensation of board members, interlocking directorate, etc.

The CCC has been amended in October 2005 with Law n. 2005-96 that aims to reinforce the existing regulatory framework by consolidating financial relations' security. This amendment was a timely reaction of the Tunisian legislator to some international financial scandals in order to prevent similar scandals occurrence in Tunisia. The Law aims to strengthen corporate financial disclosure and good governance policy by making it mandatory for all companies making a public offering to create a permanent audit committee.

In March 2009, Law n. 2009-16 introduced new provisions to supplement the CCC by addressing the transactions subject to prior authorization of the BoD, the shareholders' general meeting, and the audit committee. The 2009's law also focuses on how to avoid conflicts of interests and to foster transparency by making it mandatory for all companies making a public offering to disclose top management members' annual remuneration and benefits received.

In June 2011, *Banque Centrale de Tunisie* (the Central Bank of Tunisia) issued *Circulaire aux Établissements de Crédit n.°2011-06* (a circular n.°2011-06) to introduce more independence within financial institutions' boards which must include at least two independent directors. In addition, the circular requires financial institutions to create three ad-hoc specialized committees, namely, an audit committee, a risk committee, and a credit committee (Banque Centrale de Tunisie, 2011).

Regarding corporate governance best practices, the Arab Institute of Business Managers (IACE) has published in June 2008 the first corporate governance guidelines in Tunisia entitled "*Guide de Bonnes Pratiques de Gouvernance des Entreprises Tunisiennes*" ("The Tunisian Code of Best Practice of Corporate Governance" (TCBP)) serving as good practices to disseminate in Tunisian companies. The guide covers several elements of good governance such as shareholder rights, board structure and responsibilities, roles of managers, employer-employee relations, internal audit, tax transparency, auditors' roles, business ethics and corporate social responsibility, top management remuneration, and the governance of family businesses. Even though the guide was revised in 2012, the application of its recommendations is relatively limited because they are not mandatory, depending on the discretion of the companies and business owners.

3. OWNERSHIP STRUCTURE AND M&A

According to the data disclosed in Tunis Stock Exchange's annual reports, the number of listed companies has slightly increased during the last years moving from 56 companies in 2010 to 81 companies in 2017. However, the number of Tunisian listed companies remains low in comparison with other financial markets around the world. Such situation number can be explained by several reasons: the absence of a stock market culture among managers and Tunisian households were given the nature of the business fabric in Tunisia which is largely dominated by family businesses and private groups, the lack of transparency and traditions of information disclosure, the absence of large institutional investors, and a preference for debt financing.

Table 1 reports a breakdown of Tunisian listed companies by their control model. Here we note that the Tunisian market is characterized by a great ownership concentration. In this respect, in 2017, about 44% of the firms (i.e., 36 out of 81) are controlled by a single shareholder that holds at least 50% of the ordinary shares. More than 34% of the Tunisian listed companies (i.e., 28 out of 81) are weakly controlled having a single shareholder holding a share at least equal to 30% of the ordinary shares.

Finally, for 17 firms representing 21% of the total number of listed companies, the control is exerted via shareholders' agreement.

Table 1. Control model of Tunisian listed bompanies

Year	*Controlled companies*									*Total*	
	Majority controlled[1]			*Weakly controlled[2]*			*Controlled by a shareholders' agreement[3]*				
	No.	*%*	*% mc*	*No.*	*%*	*% mc*	*No.*	*%*	*% mc*	*No.*	*% mc*
2013	29	42	43.2	26	37.7	47.1	14	20.3	9.7	69	100
2014	35	45.5	49.9	24	31.2	38.9	18	23.4	11.2	77	100
2015	32	41.6	42.7	25	32.5	45.9	20	26	11.4	77	100
2016	35	44.3	49.3	28	35.4	44.4	16	20.3	6.3	79	100
2017	36	44.4	46.8	28	34.6	47.8	17	21	5.32	81	100

Notes: [1] Companies where a single shareholder owns more than half of the ordinary shares. [2] Companies where a single shareholder holds at least 30% of the ordinary shares. [3] Companies, not controlled by a single shareholder, on whose capital exists a shareholders' agreement regarding at least 20% of the ordinary shares. No.: Number; mc: Market capitalization.
Source: Author's elaboration based on Bourse de Tunis (n.d.).

Regarding their contribution to market capitalization, we observe that weakly controlled companies display the highest contribution to market capitalization in Tunisia (i.e., 47.8%). We note that their market capitalization is constant over time with a slight decrease in 2014 in favor of companies controlled by shareholders' agreement. For the latter, after a steady rise between 2013 and 2015, the market capitalization of firms controlled by shareholders' agreement fall to 5.32% in 2017 confirming the high concentration of Tunisian listed companies' ownership. In this respect, the market capitalization of majority-controlled companies is significant over time with peaks in 2014 and 2016 (i.e., 49.9% and 49.3%, respectively).

Table 2. Identity of the Ultimate Controlling Agent (UCA) in Tunisian listed companies by industry

Ultimate controlling agent	*Financial*		*Manufacturing*		*Services*		*Total*	
	No.	*% mc*	*No.*	*% mc*	*No.*	*% mc*	*No.*	*% mc*
Families	4	26.85	28	58.95	8	80.67	40	43.86
State and local authorities	4	16.99	4	5.45	4	8.29	12	11.62
Financial institutions	12	41.22	4	1.80	0	0	16	22.05
Mixed	3	2.64	2	1.67	2	9.78	7	2.73
No UCA	3	12.31	2	32.12	1	1.26	6	19.69
Total	26	100	40	100	15	100	81	100

Notes: No.: Number; mc: Market capitalization.
Source: Author's elaboration based on Bourse de Tunis (n.d.).

Concerning the identity of the ultimate controlling agent (UCA), in Table 2, we report the last data available (i.e., data of 2017) by industry. It shows that the majority of Tunisian listed companies, corresponding to 49.4% (i.e., 40 out of 81), are owned by families. Most of them belong to the manufacturing industry and the service industry and account for more than 58.95% and 80.67% of the manufacturing and service industries' market capitalization respectively. In this respect, Tunisian families traditionally play an important role in the economy, mainly through diversified business groups. It should be noted that the founding shareholders of some family business groups have significant shares of Tunisian financial institutions. Even though this situation may create issues of conflicts of interest, it benefits the groups in terms of securing funding for their activities.

Table 2 shows that the state-owned companies operate in all the industries and represent 14.8% of total listed firms (i.e., 12 out of 81). If at first view, the weight of state-owned companies may seem limited with regard to their number, we note that state-owned companies account for almost 17% of the financial sector in terms of market capitalization.

Finally, it is no surprise that the financial institutions own the majority of Tunisian listed firms belonging to the financial sector (12 out of 26). Tunisian banks hold important shares of listed companies operating in the insurance and financial leasing industries. However, we observe that financial institutions have non-significant ownership of listed firms operating in manufacturing and service industries.

4. BOARD OF DIRECTORS

The Tunisian legislator allows companies to choose between two forms of internal governance mechanisms: the monistic structure represented by the BoD which has the management and the monitoring functions and the dualistic structure characterized by the separation of management and control responsibilities through a management board and a supervisory board (Code Des Sociétés Commerciales, 2000).

Table 3. The Tunisian listed firms and the corporate governance models

Model	2013		2014		2015		2016		2017	
	No.	%	No.	%	No.	%	No.	%	No.	%
Traditional	68	94.51	76	96.30	76	96.79	78	96.81	80	97.16
Two-tier	1	5.49	1	3.70	1	3.21	1	3.19	1	2.84
Total	69	100	77	100	77	100	79	100	81	100

Source: Author's elaboration based on the information disclosed by listed companies.

In Tunisia, almost all companies use the traditional corporate governance model. Table 3 shows that only one company uses the two-tier model of corporate governance. It should be noted that, at the beginning of the 2000s, several financial listed institutions have adopted the two-tier model 4 to 5 years before resuming the traditional board model.

The CCC suggests that board members are appointed by the general meeting of shareholders for a duration fixed by the statutes but their term should not exceed 3 years. In this respect, being a shareholder is not required to be a director (Code Des Sociétés Commerciales, 2000). In addition, employees can be members of the BoD if they have a seniority of 5 years at least. With regard to board leadership, the CCC stipulates that board members elect from among themselves a Chairman and a Chief Executive Officer (CEO) who must be natural persons and shareholders of the company.

Concerning board size, the CCC suggests that the BoD should include at least 3 members and at most 12 members (Code Des Sociétés Commerciales, 2000).

Table 4. The average number of directors among the different corporate governance models

Year	BoD	Management board	Supervisory board	Companies
2013	9.09	4	12	69
2014	8.75	4	12	77
2015	8.79	4	11	77
2016	8.81	4	12	79
2017	8.79	3	12	81

Source: Author's elaboration based on the information disclosed by listed companies.

The average number of directors of Tunisian listed firms has roughly remained steady with a very slight decrease of average boards' sizes from 9.09 members in 2013 to 8.75 members in 2017.

With regard to board composition, Tunisian listed firms' boards consist of executive, non-executive, and independent directors. In the next subparagraphs, we analyze Tunisian listed companies' board composition and diversity as well as their evolution after the Arab Spring.

Board composition

The concept of independence varies from an institutional context to another. In this respect, the CCC does not provide any requirements for independent directors' appointments. In 2011, the Central Bank of Tunisia issued a circular n.°2011-06 which aims to strengthen good governance practices in Tunisian credit institutions. The circular made mandatory the appointment of at least two independent directors in credit institutions' boards.

According to the Central Bank of Tunisia, an independent director is "every person who does not have a direct or indirect holding in the capital of the company, who he is not acting on behalf of a customer, supplier or service provider of the company; is not an employee of the company or has not been employed by the company in the past; has not been a director representing shareholders' interests for more than 9 years, and has not held an auditor mandate in the company for more than 6 years" (Banque Centrale de Tunisie, 2011, p. 6).

IACE (2012) advocates for board independence and recommends that keyboard committees be made up by independent directors. The guide defines an independent director as "any person free from any direct or indirect relationship with the firm and its group of companies as well as its management" (p. 13).

Table 5. The evolution of BoD composition in Tunisian listed firms

Type of director	2013	2014	2015	2016	2017
Executive	0,49	0,39	0,39	0,39	0,33
Non-executive	8,03	7,89	7,87	7,88	7,95
Independent	0,57	0,47	0,53	0,54	0,51
Total	9,09	8,75	8,79	8,81	8,79

Source: Author's elaboration based on the information disclosed by listed companies.

As it is shown in Table 5, the presence of independent directors is roughly constant with a slight variation due to the new flotation of non-financial companies that do not have independent directors on their boards. Except for financial companies, other listed companies are not requested to appoint independent directors. In this respect, only 5.45% of the non-financial companies (i.e., 3 out of 55) have appointed independent directors in their boards.

Tunisian listed firms' board composition is dominated by non-executive directors who are often representatives of large shareholders confirming the importance of capital owners' interests in the Tunisian corporate governance system as a result of ownership concentration.

We notice that the average number of executive directors has slightly decreased from 0.49 in 2013 to 0.33 members in 2017 confirming the view that boards of Tunisian listed firms are rather closed clubs restricted to shareholders and owners. In this respect, even if, after the Arab Spring, employees have the right to strike without fear of reprisal or discipline, we notice there are no directors representing employees' interests in Tunisian listed firms' boards. Although the Tunisian employers' organization (Tunisian Union of Industry, Trade and Handicrafts (UTICA)) and the Tunisian Labor Union (UGTT) played together with the leading roles during the national dialogue as part of the democratic transition process, it is interesting to note that Tunisian companies continue to devote the supremacy of capital over labor and do not integrate their employees in their governance as it is the case in other countries.

Board diversity

Diversity within top management bodies has received a lot of attention from scholars and professionals given its potential positive effect on several organizational outcomes such as performance, innovation, corporate social responsibility, etc. Since 2011, Tunisia has begun a democratic transition promoting dialogue and social peace. To succeed, the democratic transition needs, as its corollary, an economic transition that cannot be done without the active participation of women in business and corporate governance.

It should be noted that, even before the Arab Spring, the place occupied by women in Tunisian society is more like that of women in Western societies than that in Arab and Muslim societies. Indeed, since Tunisia's independence, the principle of gender equality is set out in the Tunisian constitution and the legislative texts as well. However, although the rate of graduated women is higher than men (i.e., 66%), women represent barely 26% of the active population (IACE, 2016).

Table 6 shows that the presence of women on boards of directors has steadily increased during the last years. We observe that the number of companies having at least one female director has grown from 34 in 2013 to 43 in 2017. Moreover, the proportion of women directors shows a steady increase from 7.87% in 2013 to 9.92% in 2017.

It should be noted that state-owned companies have the highest rate of women directors (i.e., 58.3% in 2017) followed by family firms (i.e., 42.5% in 2017). In this respect, the high rate of women in the state-owned companies' boards is explained by the high degree of females' penetration in the public service in Tunisia even though there is no regulation or official policy establishing quotas for women presence on governing bodies.

Regarding family-listed firms, women are often appointed to companies' boards because they belong to the controlling families or they hold shares in the family business.

Table 6. The evolution of female directors in Tunisian listed firms

Year	*Number of female*	*% on total number of directors*	*Firms with at least one woman*	*% on total number of companies*
2013	51	7.87	34	49.28
2014	57	8.42	37	48.05
2015	57	8.39	38	49.35
2016	69	9.89	41	51.90
2017	70	9.92	43	53.09

Source: Author's own elaboration based on the information disclosed by listed companies.

Some Tunisian listed firms have significant foreign shareholders. They are often former state-owned companies that have been privatized or Tunisian companies having partnerships and alliances with foreign firms (Ben Rejeb, 2016). Besides, some foreign directors are appointed to represent the interests of foreign investment funds.

As it is shown in Table 7, Tunisian listed companies experienced a variation of foreign directors' number. The proportion of foreign board members has increased between 2013 and 2015 (i.e., moving from 8.89% in 2013 to 10.16% in 2015) but it slightly decreased in 2016. This can be explained by the fact that the foreign directors are replaced by local directors once the investment funds end their participation in the listed firms' capitals.

Table 7. The evolution of foreign directors in Tunisian listed firms

Year	*Number of foreign director*	*% on total number of directors*	*Firms with at least one foreign director*	*% on total number of companies*
2013	56	8.89	22	31.88
2014	68	10.04	27	35.06
2015	69	10.16	27	35.06
2016	64	9.17	26	32.91
2017	66	9.24	28	34.57

Source: Author's own elaboration based on the information disclosed by listed companies.

Board committees

To ensure the proper fulfillment of its mission, BoD is assisted by specialized committees. Literature on corporate governance suggests the creation of supervisory committees, whose mission is to protect the interests of shareholders and to ensure that the company's functioning complies with legislation and business ethics. The most common committees are the audit committee, the remuneration committee, and the nomination committee.

In 2005, the CCC was amended by Law n. 2005-96 that requests companies issuing securities to the general public to create a permanent audit committee.

According to the Code, the audit committee must "ensure that the company complies with the implementation of effective internal control systems that promote efficiency, effectiveness, and protection with regard to the company's assets, reliability of the financial information and compliance with legal and regulatory provisions" (Law n. 2005-96 of 2005, p. 6).

Regarding the audit committee's composition and size, the law requires that the committee must include a minimum of three members appointed among the directors. However, the board chair, the CEO, and the Deputy CEO cannot be members of the audit committee (Law n.°2005-96 of 2005). Regarding the other specialized board committees, the code gives the companies the freedom to create committees according to their needs.

Since 2001, the Central Bank of Tunisia requests financial companies to create three key committees: audit, risk, and credit committees. Tunisian financial companies are requested to appoint independent directors as chairs of the audit and the risk committees (Banque Centrale de Tunisie, 2011).

IACE (2012) suggests setting up specialized board committees such as audit, remuneration, and nomination committees taking into account the characteristics and particularities of each company. The guide suggests that the board committees must include at least one independent director.

During the last 5 years, the number of internal committees in the BoD of Tunisian listed companies has increased following the evolution of corporate governance regulation and investors' requirements.

As shown in Table 8, the audit committee is the most widespread committee among Tunisian listed companies. Firms having an audit committee in 2013 were about 69.6% of the whole listed companies and their proportion increased to 75.3% in 2017. With regard to the nomination committee, the percentage has decreased from 23.2% in 2013 to 19.8% in 2017. This result is explained by the fact that the number of companies having a remuneration committee remained stable while the overall number of listed companies has increased through time. Finally, regarding the remuneration committee, the number of companies adopting this committee has slightly increased between 2013 and 2015 but their percentage has decreased from 24.6% in 2013 to 22.2% in 2017 due to the new flotation of companies that do not have such board committees.

Table 8. The committees inside the BoD of Tunisian listed firms

Year	*Remuneration committee*		*Nomination committee*		*Audit committee*	
	Number of firms	*Weight (%)*	*Number of firms*	*Weight (%)*	*Number of firms*	*Weight (%)*
2013	17	24.6	16	23.2	48	69.6
2014	17	22.1	15	19.5	55	71.4
2015	17	22.1	16	20.8	52	67.5
2016	17	21.5	16	20.3	58	73.4
2017	18	22.2	16	19.8	61	75.3

Source: Author's elaboration based on the information disclosed by listed companies.

Board leadership

The Chairman organizes, plans, and manages board meetings. Some companies appoint the same person to manage the company and to chair the BoD. In this respect, corporate governance scholars are divided with regard to the effects of duality. Agency theory recommends separating functions of CEO and Chairman for better control (Fama & Jensen, 1983). On the other hand, stewardship theory supports the idea that duality provides the board with in-depth knowledge and information regarding company strategy and operations (Kiel & Nicholson, 2003).

The CCC stipulates that the BoD elects from among its members a Chairman who must be a physical person and a shareholder of the company (Code Des Sociétés Commerciales, 2000).

As shown in Table 9, the majority of Tunisian listed companies (i.e., 43 out of 81) have a dual leadership structure. However, the percentage of duality has slightly decreased from 55.1% in 2013 to 53.1% in 2017.

Table 9. Board leadership structure in Tunisian listed companies

Year	*Duality*		*Non-duality*	
	Number of firms	*Weight (%)*	*Number of firms*	*Weight (%)*
2013	38	55.1	31	44.9
2014	42	54.5	35	45.5
2015	42	54.5	35	45.5
2016	43	54.4	36	45.6
2017	43	53.1	38	46.9

Source: Author's elaboration based on the information disclosed by listed companies.

It should be noted that financial companies have the highest percentage of separation between the roles of CEO and Chairman (i.e., 61.5%) while 60% of non-financial companies have opted for duality in their boards. In this respect, firms controlled by the State and families display the highest rates of duality (i.e., 66.7% and 60%, respectively).

Interlocking directorates

Interlocking directorates refer to the situation where a director also serves on another company's board. According to the CCC, a director cannot be simultaneously a member of the BoD of more than 8 companies in Tunisia (Code Des Sociétés Commerciales, 2000).

IACE (2012) recommends the removal of interlocking directorates if there are no significant capital links between companies.

Holding several boards' positions by the same director is a widespread practice within Tunisian firms reflecting financial ties between companies as well as the lobbying structure of the Tunisian economy.

As it is shown in Table 10, the number of firms having directors serving in other companies' boards increased over the last three years. More than half of Tunisian listed companies have at least one director serving in another listed company's board. In 2017, 45.7% of Tunisian listed companies have at least one director with 3 board positions in other listed companies. It is interesting to point out that a small group of directors holding 12.8% of the total number of boards' seats govern companies representing 61.7% of the Tunisian market capitalization.

Table 10. The evolution of interlocking directorship in Tunisian listed companies

Year	Directors with 2 board positions				Directors with 3 board positions				Directors with 4 board positions				Directors with 5 board positions and more			
	No.	%	No. of firms	%	No.	%	No. of firms	%	No.	%	No. of firms	%	No.	%	No. of firms	%
2013	89	14.13	41	59.4	38	6.03	25	26.2	17	2.70	16	23.2	12	1.90	12	17.4
2014	95	14.03	43	55.8	32	4.73	21	27.3	21	3.10	16	20.8	06	0.89	06	7.8
2015	80	11.78	44	57.1	57	8.39	35	45.5	18	2.65	17	22.1	13	1.91	13	16.9
2016	80	11.46	44	55.7	57	8.17	35	44.3	18	2.58	17	21.6	13	1.86	13	16.5
2017	81	11.34	45	55.6	61	8.45	37	45.7	18	2.52	17	21	13	1.82	13	16.05

Source: Author's elaboration based on the information disclosed by listed companies.

5. THE REMUNERATION SYSTEM

The relationship between top management compensation and performance has received significant attention from corporate governance researchers. In Tunisia, the majority of companies are not used to disclosing executive pay and show opacity with respect to compensation issues. In 2009, Law n.°2009-16 brought new provisions to complete the CCC with regard to executives' compensation disclosure. The law stipulates that, in publicly traded companies, the report to the shareholders must include the annual salaries of top management members, namely: the CEO and the deputy director, but also the attendance fees and all perceived benefits such as company's cars, gas vouchers, housing and other bonuses (Law n.°2009-16 of 2009).

Regarding board members' remuneration, the CCC stipulates that directors may not receive any remuneration from the company, other than attendance fees and exceptional remuneration allocated by the board for missions or mandates assigned to directors.

As shown in Table 11, the increase in remuneration varies depending on the role covered. In the last years, the average remuneration, paid to the BoD members, has increased from 95.000 TND in 2013 to 110.000 TND in 2016. The CEOs receive the highest remuneration. Their compensations show a positive trend between 2013 and 2015 and the variation is higher than that of average directors' remuneration (i.e., a raise of 42% of CEOs' remuneration while board members' remuneration increased only by 16%). Table 11 shows that the remuneration of the non-executive president has decreased both at the total and average levels.

Table 11. Remuneration policy (data in thousands of Tunisian dinar)

Year	CEO		President		Board members	
	Total annual remuneration	Average annual remuneration	Total annual remuneration	Average annual remuneration	Total annual remuneration	Average annual remuneration
2013	17201	257	819	12	6382	95
2014	20382	265	1010	13	7404	96
2015	26429	343	688	9	7990	104
2016	28923	366	643	8	8717	110

Source: Author's elaboration based on the information disclosed by listed companies.

After the Arab Spring and the beginning of the democratic transition process in Tunisia, press freedom has made significant progress in Tunisia to cover all areas of political, social, and economic life. In this respect, the issue of executive pay has been raised by the media due to its incompatibility with the situation of the Tunisian economy but also with regard to the increasing gap between the incomes of top executives and those of the staff.

It is interesting to note that the growth of top executives' salaries does not reflect the situation of the Tunisian economy or even, in some cases, the performance of Tunisian listed companies. In this respect, between 2013 and 2016 the average remuneration of CEOs increased by more than 10% a year, while the Tunisian economy struggles to make economic growth (i.e., 1.17% and 1.9% of GDP growth in 2016 and 2017 respectively). Also, in 2016, the average annual pay of a Tunisian listed firms' CEO is approximately 1000 times higher than the minimum wage in Tunisia raising the issue of fairness and justice which are key principles of good corporate governance.

6. SHAREHOLDERS' RIGHTS AND CORPORATE GOVERNANCE

In Tunisia, conventional agency conflicts arising between shareholders and managers are not as common as in western economies because of the concentrated ownership of Tunisian firms. In addition, it is common in Tunisia to find the main shareholder at the controls of the company which reduces the issues of managerial opportunism. However, in Tunisian companies, agency disputes often oppose majority shareholders to minority shareholders. In this respect, the CCC was amended in 2009 to strengthen the protection of the rights of minority shareholders.

However, even though minority shareholders can convene a general shareholders' meeting and include items to the agenda, a supermajority is needed to approve major changes. In this respect, IACE (2012) advocates for fair treatment of all shareholders, whether majority or minority, according to the principle of an action equal to a right to vote but also through access to relevant information.

Although the Tunisian revolution has embraced the values of democracy and good governance, there have been no major changes related to their implementation in Tunisian companies especially with regard to transparency requirements. In this respect, the CCC only requires a 15 days notice of the general shareholders' meetings while 21 days are often recommended by good corporate governance best practices. IACE (2012) suggests disclosing shareholding information as well as informing and documenting shareholders at least 30 days in advance before the general shareholders meeting. Regarding shareholders' information and disclosure, Law n.°2009-16 of 2009 allows the shareholders to benefit from a comprehensive financial disclosure however, non-financial disclosure remains very limited and does not allow non-executive shareholders to have a good understanding of the company's organization and functioning.

7. CORPORATE GOVERNANCE AND CORPORATE SOCIAL RESPONSIBILITY

Corporate social responsibility (CSR) refers to the company's consideration of social, environmental, and ethical issues in all its activities and relationships with its stakeholders. Although the issue of CSR has received considerable attention since the 1980s, it has only received due attention in Tunisia relatively recently. In this respect, after several years of steady economic growth, the Tunisian economic model showed its limits. The revolution revealed the setbacks of economic growth gained without equitable distribution as well as its negative effects on social cohesion and sustainability.

Tunisian firms are beginning to take an interest in CSR for several reasons. According to Koleva and Gherib (2012), strengthening brand image is the most important driver for CSR orientation among large Tunisian companies. Other companies comply with the principles of CSR as they are suppliers or partners of European companies (Ben Rejeb, 2016). Although the majority of the companies are in the early stages of CSR, Tunisia has made significant progress in terms of CSR after the Arab Spring, which allowed pushing the country up 26 places within 4 years to occupy the 59th position in 2017 in the RESPECO Institute's ranking on countries' openness to CSR.

We identify recent initiatives in favor of CSR in both the public and private sectors. The Confederation of Corporate Citizens of Tunisia (CONNECT), the second employers' organization in Tunisia, places CSR at the heart of its interests since its creation in 2011. In this respect, CONNECT has created the first CSR label in Tunisia adapted to the local economic fabric. For its part, Tunis Stock Exchange adheres to the principles of CSR by being part of the United Nations financing mechanism "The Green Climate Fund" since 2015.

On the political front, Law n. 2018-35 of June 11, 2018, relating to corporate social responsibility was adopted by the Tunisian Parliament in May 2018. The law provides a legal framework for companies' societal actions. In this respect, the law is consistent with Articles 12, 45, and 129 of the Tunisian Constitution of 2014 which emphasizes the importance of social justice, sustainable development and justice between regions, and citizens' rights to a healthy environment. The law is aimed at listed companies operating in the field of natural resources management.

IACE (2012) clearly identifies the main stakeholders of Tunisian companies and gives recommendations to companies to manage their relationships with them. According to the code, corporate governance should identify, segment, and involve stakeholders to build a relationship of trust with them. The guide indirectly refers to CSR and sustainable development by calling on Tunisian companies to endow themselves with a code of conduct promoting the values of responsibility, integrity, transparency, fairness, justice, and respect for the person, future generations, and the environment (IACE, 2012).

Regarding CSR disclosure, although Law n.°2009-16 obliges public listed firms to ensure a regular disclosure of information related to their financial performance, governance structure, and top management's remuneration, CSR disclosure is not mandatory and it largely depends on the will of the companies' top management. In this respect, Ben Rejeb (2016) reported that the most disclosed items by Tunisian listed firms are related to the shareholding structure, employees' profiles, employee training, and product quality. However, Tunisian listed companies do not provide much disclosure in relation to employees' morale, employment of minorities, social contribution activities, and the conservation of the natural environment and biodiversity (Ben Rejeb, 2016). In this respect, the author found evidence of a positive link between board composition (i.e., the presence of foreign directors, independent directors, and state directors) and CSR disclosure. The study has also revealed a negative link between CEO duality and CSR disclosure in Tunisian listed companies (Ben Rejeb, 2016).

8. CORPORATE GOVERNANCE AND PERFORMANCE

Even though the effect of good corporate governance practices on performance in Tunisia has received local scholars' attention, the published literature in this field is not as abundant as in western countries. This can be explained by the difficulty to access relevant information, often considered by Tunisian firms' top management as sensitive. In this section, we review the most relevant studies carried out in Tunisia over the last 5 years that have focused on the effect of ownership structure and board characteristics on firms' performance and other organizational outcomes.

Authors have examined the relationship between ownership structure and type, and the financial performance of Tunisian firms. In this respect, studies have reported a positive link between concentrated ownership, the presence of large blockholders, and Tunisian firms' performance measured by ROA and ROE (Mnasri & Ellouze, 2015; Soufeljil, Sghaier, Kheireddine, & Mighri, 2016). Regarding the type of ownership, Dabboussi, Kouki, and Rajhi (2015), using a sample of 11 Tunisian listed financial institutions over a period ranging from 2000 to 2011, have found that foreign ownership has a positive effect on firms' performance. Finally, Soufeljil et al. (2016), based on a sample of 51 Tunisian listed companies observed across the years 2008–2012, have reported a positive impact of institutional investors' ownership on firms' performance.

With regard to board characteristics, studies have focused on the effect of the "usual suspects", i.e., board size, leadership, and composition on firms' performance as well as other organizational outcomes such as disclosure quality, innovation, internationalization, CSR, etc.

Studying the link between board characteristics and real earning management, Chouaibi, Harres, and Ben Brahim (2018), using a sample of 29 Tunisian listed companies across the years 2009–2013, found that board size, board independence, and board meetings have a negative effect on sales manipulation.

Kachouri Ben Saad and Jarboui (2015), based on the study of 28 Tunisian listed companies between 2006 and 2013, have found evidence of a positive impact of outside directors' proportion and the existence of audit committees on the level of disclosure and financial communication transparency.

Regarding the impact of corporate governance on non-financial disclosure, Ben Rejeb (2016) has found evidence of a positive effect of board composition, i.e., the presence of foreign directors, state directors, and independent directors on CSR disclosure. The study has also reported a negative effect of CEO duality on CSR disclosure (Ben Rejeb, 2016).

Concerning the effects of directors' gender diversity, Loukil and Yousfi (2013), using a sample of 30 non-financial listed Tunisian firms across the years 1997–2010, have observed that the presence of female directors politically connected and women directors who are state officers increases firms' cash holding and investments. However, Berraies and Ben Rejeb (2019), using a sample of 81 Tunisian listed companies, have not found a significant effect of female directors' presence on ambidextrous innovation.

Regarding top management remuneration, the study of Hentati and Bouri (2015), conducted on a sample of Tunisian listed companies observed between 1999 and 2005, has shown, in line with the ideas of the entrenchment theory, that firms providing remuneration based on shareholding, do not achieve the expectations of the majority shareholders. The authors have observed that, due to the taxation that penalizes distributed dividends, managers tend to take advantage of other sources of remunerations like salaries and others advantages.

9. CONCLUSION

During the last 10 years, attention has been paid by lawmakers, practitioners, and researchers to improving Tunisian corporate governance practices. This resulted in the amendment of existing legislation, the publication of codes of good corporate governance, and the development of academic research on the effect of corporate governance on performance. This improvement effort expanded after the Arab Spring to break with mismanagement, embezzlement, and corruption practices. In this regard, some progress has been made in terms of boards' independence in financial institutions, audit committee implementation, and the reinforcement of shareholders' interests' protection mechanisms.

The paper has focused on reviewing corporate governance practices' evolution after the revolution in order to meet democratic transition's imperatives and to help overcome the economic difficulties that Tunisia is experiencing. Although the fabric of companies in Tunisia is largely consisting of SMEs, we have chosen to focus on listed companies given the lack of information on the governance of SMEs but also because reforms have mainly targeted publicly traded companies.

The gathered data shows that the number of listed companies has slightly risen in recent years, despite the incentives offered by the government. This is due, in particular, to transparency and disclosure requirements imposed on listed companies as well as a strong preference of businesses for bank financing. The majority of Tunisian listed firms are majority controlled often having families as the ultimate controlling agent.

In Tunisia, the most widespread corporate governance model is the monistic board structure. In this respect, out of 81 Tunisian companies listed in 2017, only one financial institution adopts the dualistic board structure consisting of a supervisory board and a management board.

The majority of Tunisian listed firms' board members are non-executive directors representing the majority shareholders. Independent directors are found primarily in financial institutions' boards. Non-financial companies have no obligation to appoint independent directors, which explains the relatively constant proportion of independent directors as the number of listed financial institutions has remained constant over the last years. Executive directors are rather rare. They are usually general CEOs of companies separating the functions of executive management and board chairmanship.

Regarding gender diversity, although there are no laws imposing a minimum quota of women directors, the proportion of female board members has slightly increased during the last years, moving from 7.87% in 2013 to 9.92% in 2017. Even though Tunisia is relatively in advance, in terms of gender equality, compared to Arab and African countries, it should be noted that the majority of women directors sit on boards as members of the family controlling the company or because they are civil servants representing the state's interests in state-owned enterprises.

Our results shed light on an important feature of the Tunisian corporate governance system, namely interlocking directorates. In this respect, it is interesting to notice that a limited number of directors control the majority of the market capitalization in Tunisia. The practice of interlocking directorates reflects the Tunisian way of economic lobbying. In 2017, 45.7% of listed Tunisian companies have at least one director sitting on the boards of three other listed companies.

Regarding top management and directors' remuneration, the data shows a significant increase in CEOs' remuneration compared to that of directors over the last years. This rise in salaries and perceived benefits is rather problematic taking into account the economic downturn of Tunisia but also in comparison with the average salaries in Tunisia.

In terms of CSR, the disclosure of non-financial information is not mandatory and remains dependent on the discretion of companies that often confuse CSR and greenwashing. However, 2018 is the year of CSR in Tunisia insofar as a law was passed in May 2018 by the Tunisian Parliament to promote the CSR practices of listed companies operating in the field of natural resources.

Overall, we can conclude that there have been some improvements in the governance practices of Tunisian listed companies during the last years, however many aspects of good governance remain at the discretion of companies such as board independence, diversity, and disclosure of non-financial information. In addition, Tunisian companies must improve their practices to meet the needs of the current post-revolutionary context, particularly by providing more efforts regarding stakeholders' rights and CSR.

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