COMPARING CORPORATE GOVERNANCE CODES IN GERMANY AND EASTERN EUROPE – AN ANALYSIS OF DIFFERENT CORPORATE GOVERNANCE CHARACTERISTICS

Marc Eulerich*, Carolin van Uum*, Sarah Zipfel*

*University of Duisburg-Essen, Germany

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Abstract

A series of accounting scandals and company failures led to a loss of trust by investors in an organization's management, which triggered extensive debates regarding Corporate Governance. Eastern European countries require additional regulatory actions due to the privatization programs as a result of the transformation from the planned to market economy. The different corporate governance systems of the individual countries in terms of the monistic one-tier or the dualistic two-tier system resulted in distinctive contents of the corporate governance codes. Despite the differences, all codes have a common objective: to strengthen the confidence of investors through good corporate governance. The objective of this paper is to evaluate the similarities and differences of the Corporate Governance Codes (CGC) in various Central and Eastern European (CEE) countries. To do so, the CGCs of Romania, Slovakia, Slovenia, Hungary and Poland are illustrated and compared to the German Corporate Governance Code. On the basis of a broad theoretical model, the national characteristics of the CEE countries are linked to the respective code and the central components are evaluated in detail.

Keywords: Corporate Governance Codes, Germany, Eastern Europe, Transformation Theory, Comparison

1. INTRODUCTION

Several global corporate scandals and company failures and consequentially the loss of trust by investors in an organization's management have triggered extensive discussions and debates on the topic of Corporate Governance (hereafter CG) (Kraus 2011). As a result, numerous countries established regulatory frameworks, which discuss and deal with an organization's management and control: with these frameworks we imply the so-called Corporate Governance Codes (Welge/Eulerich 2014). The notion Corporate Governance itself can be understood as the "principles of a business' management".

The Codes are based on a country's CG system. Basically, one can differentiate between two decisive systems: the monistic one-tier system that is characterized by a union of management and control, and the dualistic two-tier system, which can be identified by the stern separation of the two duties (Mallin 2010). In addition, the two CG systems can be differentiated by their fundamental objective. While shareholder oriented systems are focused on the interests of such, stakeholder oriented systems also integrate additional organizational stakeholders, such as employees (Witt 2003).

In the European Union (EU) alone nowadays 27 individual codes exist, which differ significantly in scope, content and structure. This is mainly due to diverse underlying CG systems, different organizational traditions, cultural differences, and national laws and regulations (Clarke 2007). However, all codes pursuit the same overall objective that is to strengthen the trust of investors.

Until today, no consistent CG framework for all member states of the EU exists (Solomon, 2010). Nonetheless, the European Commission (EC) has recently published a Greenbook addressing the CG topic in which the monitoring responsibility of the supervisory boards and the shareholder rights are discussed (Velte 2012). Germany is known to be one of the first-movers to implement a suggestive CG code. However, in Eastern European member states, the codes can be neither defined as a well-employed tradition nor as an early-mover approach. Due to the transformation of systems, from a planned economy to a western European oriented market economy, these countries were long and profoundly shaped by market and business uncertainties. Thus, the development and convergence of the Eastern European governance codes towards central

European one's has recently become an essential matter of CG discussion.

With regard to transformation theory in the Eastern European countries, "system transformation" is defined as the fundamental restructuring of social regulations. Thus, it can be understood as a complete and fundamental change of a country's political and economic framework, which leads to a complete replacement of the old framework by a new one. Consequently, the system transformation in these countries was namely a radical change of the socio-economic and political system, which replaced the established social frameworks with novel and modern frameworks entirely. This alteration of system incorporated all social, political and economic subsystems and embraced a fundamental modification of the established institutional structures. The alteration was executed equally on the political as well as market level and involved the transformation away from a planned economy to a democratic and constitutional system with respect to a pluralistic social order. Within the reformed countries the implementation of such market economy and the appropriate democratic constitutional structures had to occur parallel and the new structures had to operate properly and further be accepted by the population to not jeopardize the transformation process. (Wollmuth 2003, Franzen/Haarland/Niessen 2005, Leschke 2011, Stöhr 2011)

Right from the beginning, the reform countries had the aim of EU accession. Meanwhile, the majority of European reform countries achieved this aim. However, in comparison to the "old" EU countries there are still to some extent significant differences regarding the constitutional understanding and economic standards within the new member states. Notwithstanding, the process of system transformation can be evaluated positively.

Hence, motivated by the current discussions this paper investigates the analogies as well as differences of CG codes of five Eastern European countries and compares these to the central European GCGC. We use the GCGC as a comparison as it is, due to its early implementation in 2002, highly developed and serves as a special case due to the dualistic nature of the German CG system. This fact renders the comparison more interesting and unique. Thus, section two presents CG in Central and Eastern European (CEE) countries in general. Section 2.1 covers the transformation theory, which applies to Eastern European countries. Section three presents a profound understanding of the various Eastern European CG codes and demonstrates a comparison to the GCGC.

2. CORPORATE GOVERNANCE IN CEE

The Anglo-Saxon term "Corporate Governance" denotes accurate organizational monitoring and conditions of the firm (Rode 2009). CG is supposed to guarantee long-term value appreciations through efficient management and control, specifically for listed organizations (Rechkemmer 2003). It defines the constitutional frame and an organization's activities that apply to all actors who are part of the organizational environment (Metten 2007).

One main element of CG is organizational monitoring. Here, the examination of the separation of ownership and control between shareholders and management provides the ground for the main conflict of interests. In the scientific world this conflict is referred to as the well-known Principal-Agent problem (Jensen/Meckling 1976; Bress 2007; Stiglbauer 2010). The centre of today's CG discussion evolves however not only around shareholders and managers but also other organizational stakeholders (Bress 2007).

The basic principles of any CG Code serve the respective country to identify the objectives of the legislator and to demonstrate different possibilities to fulfill these. In addition, these principles can be adjusted regarding the economic and social as well as constitutional and cultural conditions of each country (OECD 2004).

The GCGC was developed and published in 2002 with the support of Gerhard Cromme[5] (Welge/Eulerich 2014). Since then, the code has been adjusted and changed on a yearly basis, given new international regulations and incidents. The main intention of the GCGC was a comprehensive representation of the German CG system, which is based on the dualistic two-tier system. Also the formulation of additional constitutional recommendations for the management of listed companies, particularly with respect to foreign investors, is a major part of the GCGC (Grothe 2006). The code is thereby based on the 'Comply and Explain' approach, which indicates that changes have to be disclosed and justified (GCGC 2015). The code itself is composed of two different categories:

- the compulsory compliance with national legal provisions, and
- proposals and recommendations.

The Eastern European market has been very unappealing for many foreign investors, due to the economic, political and social instability in this region. The country-specific risks, the nationalization of numerous organizations, as well as social turmoil and reoccurring walkouts have decreased the number of direct investments. Due to the accession to the EU, countries such as Rumania or Slovenia have made some progress with respect to politics, social responsibilities and economics and have developed respective codes to support the organization's legislature. How these changes and transformations occurred and how these may have influenced the respective codes of this region will be further illustrated in the next section.

3. UNDERSTANDING THE CORPORATE GOVERNANCE CODES IN CEE

This paper analyses the analogies as well as differences of CG codes of five Eastern European countries and compares these to the central European GCGC. The following table provides an overview regarding the five relevant countries: Romania, Slovakia, Slovenia, Hungary and Poland. The CG codes were summarized und presented on the basis of distinct aspects, such as the year of publication, scope, structure, governance model, "comply or explain" statement and the general goal. The summarizing table is followed by the detailed presentation of the five CG codes and the comparison to the GCGC.

[5] Gerhard Cromme is one of Germany's most well-known managers. Currently, he is/has been chairman as well as a member of numerous board of directors and German supervisory boards at leading German and international companies.

Table 1. Comparison of Corporate Governance Codes

	Romania	Slovakia	Slovenia	Hungary	Poland
Code	Bucharest Stock Exchange Corporate Governance Code (RomCGC)	Corporate Governance Code for Slovakia (SkCGC)	Corporate Governance Code (SloCGC)	Corporate Governance Recommendations (HunCGC)	Code of Best Practice for WSE Listed Companies (PolCGC)
Year of publication	2009	2007/2008	2009	2004	2009
Scope	Companies listed at the Bucharest Stock Exchange	Companies that have securities admitted to trading on the BSSE's regulated market	Listed companies, especially Prime Market and Standard Market companies	Companies listed on the stock exchange	WSE listed companies
Structure	Preamble Art. 1 – Corporate Governance Framework Art. 2 – The share- & other financial instruments holders' rights Art. 3 - The role and duties of the Board Art. 4 - Composition of the Board Art. 5 - Appointment of Directors Art. 6 - Remuneration of Directors Art. 7 - Transparency, financial reporting, internal control and risk management Art. 8 - Conflicts of interests and related parties' transactions Art. 9 - Treatment of corporate information Art. 10 - Corporate social responsibility Art. 11 - Management and control systems	Introduction Members of the Working Group The Underlying Principle: Ensuring the Basis for an Effective Corporate Governance Framework I. Principle: The Rights of Shareholders and Key Ownership Functions II. Principle: The Equitable Treatment of Shareholders III. Principle: The Role of Stakeholders in Corporate Governance IV. Principle: Disclosure and Transparency V. Principle: The Responsibilities of the Board Legend: Pertaining Laws	Corporate Governance Framework Relations with Shareholders Supervisory Board Management Board Independence and loyalty Audit and system of internal controls Transparency of operations Adoption, and entry into force	Introduction The Shareholders´ Rights and Treatment of Shareholders Responsibilities of the Managing Body and the Supervisory Board Committees Transparency and disclosure	Preamble Recommendations for Best Practice for Listed Companies Best Practice for Management Boards of Listed Companies Best Practice for Supervisory Board Members Best Practices of Shareholders
One-tier model vs. two tier model	One-tier model	Two-tier model	Two-tier model	Two-tier model but opportunity to establish a one-tier model	Two-tier model
"comply or explain" statement	Yes	Yes	Yes	Yes	Yes
Goal	Clear and transparent framework	Guideline, Balance between control and entrepreneurial freedom, communication, transparency	Transparent and understandable governance system, confidence of investors, employees and the general public.		Transparency, communication, strengthening protection of shareholders' rights

3.1. Romania

The establishment of the Bucharest stock exchange in 1995 in Romania induced the implementation of the Bucharest Stock Exchange Corporate Governance Code (RomCGC) in 2008. This code can be voluntarily applied by companies, which are listed at the Bucharest Stock Exchange (RomCGC 2008: 3). The aim of the code is to establish a clear and transparent corporate governance framework, which is available for the general public (RomCGC 2008: 5). The RomCGC comprises eleven sections and begins with a preamble that illustrates the principles, objectives and recommendations of the Romanian code (RomCGC 2008: 3). The first section reflects the regulatory framework of ‘good‘ corporate governance (RomCGC 2008: 5). Furthermore, the shareholders’ rights, the participation in the shareholder meeting, the election procedure and the information management are elaborated on in the second section (RomCGC 2008: 5). The subsequent sections illustrate the composition, occupation and compensation of the board of directors (BoD) (RomCGC 2008: 6). Additionally, issues such as transparency, external auditing and accounting are explained in the seventh section. Section eight provides a summary of potential conflicts of interests within the administrative board and thus recommends possible methods of resolution. Lastly, the subjects regarding corporate information, social responsibility and control systems are incorporated in the last three sections of the RomCGC. The companies have to enclose the Corporate Governance Compliance Statement (the “comply or explain” statement) in their annual report. In this statement the companies have to specify, which recommendations have or have not been implemented (RomCGC 2008: 3).

According to the RomCGC as well as the GCGC, all shareholders have the same voting rights and thus have to be treated equally. The shareholders have to attend the shareholder meeting in order to receive all relevant information. However, a voting right representation, analogous to the GCGC, is also possible. In accordance with both, the RomCGC and the GCGC, the chair of the shareholder meeting has to ensure an appropriate procedure of the shareholder meeting. The RomCGC does not provide any information regarding the number or frequency of shareholder meetings within a fiscal year as opposed to the GCGC, which prescribes that shareholders meet at least once a year (RomCGC 2008: 5-6). Besides the shareholder rights, the legally established rights of the stakeholders have to be considered to ensure a cooperation between the firm and the stakeholder (RomCGC 2008: 13).

Unlike the German CG system, numerous Romanian companies are based on the monistic one-tier system and hence the system constitutes only one BoD. Thus, a supervisory board does not exist in the majority of Romanian firms. The BoD, consisting of executive and non-executive members, is the only executive body and in charge of both, controlling and monitoring the organization. Analogously to the GCGC, the BoD in Romanian companies is obliged to manage the company with respect to the interests of the investors (RomCGC 2008: 6). Both codes demand the consideration of diversity among board members. The RomCGC does not refer to gender diversity within boards, nevertheless, the female quota in Romanian boards is about 16 percent (Feleaga 2011).

In Romanian companies the non-executive board members compensate for the supervisory board as this body is missing in the one-tier model. In accordance with the GCGC, a certain number of the non-executive board members have to be independent. Opposing to the German code, the decision-making processes take place in cooperation with executive and non-executive board members (RomCGC 2008: 8).

The determination of compensation represents a major difference between the German and Romanian code. According to the GCGC, the executive compensation is determined by a plenum of the supervisory board and the shareholder meeting establishes the compensation of the supervisory board members. In the RomCGC, however, the BoD elects a committee that is responsible for defining the compensation. Furthermore, the compensation structure is very similar as both codes suggest fixed and variable compensation components. Additionally, the compensation structure as well as the amount has to be published for every fiscal year (GCGC 2015: 7; RomCGC 2008: 10). In general, the regulations for transparency in the RomCGC correspond to the GCGC’s in its main points.

Accounting principles are not codified in the RomCGC. However, the statutory audit is based on legal regulations. As well as in the GCGC, the BoD forms an audit committee in order to support an appropriate audit.

The privatization process of the public organizations in Romania contributed to the companies’ adaptation and acceptance to the RomCGC. Nevertheless, the Romanian corporate governance system does not correspond to the CG systems of developed countries, such as Germany, yet. This may be due to the fact that Romanian companies are significantly smaller and the demand for reforms regarding financial, political and social issues is still large. As Romania is currently attractive for investors, the influence of the capital market as well as the EU may improve the corporate governance in the future.

3.2. Slovakia

The Corporate Governance debate in Slovakia in the 1990s was triggered by increasing corruption and, simultaneously, by the weak legal system. After the liberalization of Czechoslovakia in 1993, a multi-phase privatization of state-owned organizations occurred (Olsson 1999). Therefore, today the Slovakian CG system is denoted as being rather young compared to other European member states and their CG systems. Increasing corruption scandals and a weak constitutional system were the major reasons that provoked the CG debate (CECGA 2012a; Vravec/Bajus 2008). At the same time, the convergence toward the EU raised the awareness of CG matters. The in the course of the transformation originated “Bratislava Stock Exchange” (BSSE) initiated the development of a Slovakian CG code. In 2007, the discussion resulted in the “Corporate Governance Code for Slovakia” (SkCGC). As the SkCGC is part of the “Stock Exchange Rules for Securities Admission“ since 2008, the yearly ‘Comply or Explain’ report regarding the SkCGC for listed corporations is legally authorized and is under the charge of the BSE and the Slovakian National Bank (SkCGC 2008: 4). The main goal of the SkCGC is to maintain a good and balanced relationship between an organization's management and supervision as well as to promote communication and transparency (SkCGC 2008: 4).

The Corporate Governance Code for Slovakia begins with an introduction, which describes the most important aspects on the development and the use of the code followed by a presentation of the members of the working group. The code contains an underlying principle, which is the basis for an effective framework and consists of five sub-principles. The first two principles elaborate on the rights and equal treatment of shareholders. Furthermore, the role of the stakeholder is explained in the third principle. The norms on disclosure, transparency and liabilities are illustrated in the last two principles. In the final step the code mentions the pertaining laws (SkCGC 2008: 7).

The predominant system in Slovakia is the two-tier system (SkCGC 2008: 35). Therefore, the regulations for Slovakian organizations are similar to those in Germany. As in Germany, the BoD or executive board is responsible for the organization's management while the supervisory board carries out the monitoring and consultancy tasks of the BoD. While the GCGC presents a detailed description of the tasks and responsibilities of the BoD and supervisory board and how these two bodies can cooperate with each other, this aspect is not mentioned in the SkCGC (GCGC 2015: section 4.1 for BoD and section 5.1 for supervisory board).

Moreover, the SkCGC assumes the equal treatment of all investors. However, there is one difference to the "one share – one vote" principle, which is also regulated for in the GCGC. Shareholders of one class of common stock have the same rights. Shareholders have, as in the GCGC, the privilege to exercise their shareholder rights in the shareholder meeting, in which they have the possibility to discuss the composition of the executive and the supervisory board. Nevertheless, the SkCGC is more precise in comparison to the GCGC with respect to minority shareholders: it lists specific measures that minority shareholders are entitled to in case of violations (SkCGC 2008: 11, 13). The shareholders should be informed about the remuneration policy. Therefore, the supervisory board or the management is responsible for the remuneration of the board members (SkCGC 2008: 13).

Regarding the composition of the supervisory board, there are no differences between the GCGC and the SkCGC. Unlike the GCGC shall the chair of a Slovakian supervisory board meet the criteria of independence. In addition, the chair of the supervisory board is supposed to not have been a member of the BoD or executive board within the last five years or worked as an external auditor for his/her current organization. Furthermore, his/her time of employment as a member of the supervisory board is limited to 15 years. As in the GCGC, Slovakian employees can be elected into the supervisory board of a corporation (SkCGC 2008: 40).

Moreover, the audit of the supervisory board is outlined more extensively in the SkCGC than in the GCGC, as the SkCGC schedules a yearly evaluation. While section 5.6 of the GCGC discusses merely a vague recommendation of a regular audit of the supervisory board, the Slovakian code stipulates a yearly evaluation of the productivity of the supervisory board (SkCGC 2008:37). Additionally, the code denotes that the audit should be conducted by an independent unit or by the audit committee itself.

Regarding the organization's transparency, the SkCGC requires a distinct disclosure of the company's ownership structure. Thus, shareholders are able to evaluate their rights compared to other owners. The SkCGC mentions the explicit publication of so-called "pyramid structures" and cross-shareholding[6].

The accounting regulations are also illustrated in the SkCGC. The SkCGC contains extensive comments in section IV, "Disclosure". This also applies to the compensation systems of the executive and supervisory board. In a more restricted form, similar regulations exist in the GCGC (SkCGC 2008: 28f.).

The SkCGC is considerably extensive and offers detailed explanations. The code captivates through its visual presentation as well as its extensive context, which is revealed by the so-called "notes". It fulfills in the broadest sense its objectives by, i.e., posing the importance of transparency for (international) investors and stakeholders.

Therefore, the sometimes unfortunate understanding of the code may not only be the result of the bad translation, but may also justify that 16 Slovakian organizations misinterpreted the code in 2010. In response, these organizations developed their own CG code (CECGA 2012b: section IV.A). In addition, the SkCGC contains in part recommendations, which have rather explanatory character. Thus, the SkCGC explains for instance in section III.E solely why good CG could positively influence the terms of loans.

The ownership structure in Slovakian organizations can be described as very concentrated. Although a similar situation prevails in Germany, the SkCGC outlines and discusses the rights of the minority shareholders more evidently, as mentioned earlier. This can be perceived by the comprehensive claims regarding the equality of treatment of shareholders. Worthwhile, Slovakian shareholders have the right to vote cumulatively, while companies in Germany exercise the so-called "straight-voting" (Sell 2008).

A substantial variation of the SkCGC to the GCGC exists through section III, which debates the interests of stakeholders explicitly. In order to achieve "good corporate governance" a trustful relationship between the company and its stakeholders, such as shareholders or employees is essential (SkCGC 2008: 4). This is mainly due to the fact that the SkCGC strongly adheres to the principles of the OECD, which prescribe this subject being part of the code (SkCGC 2008: 3). Although the GCGC does not focus on the interests of stakeholders in such detail as the SkCGC, a stakeholder orientation becomes somewhat visible in the GCGC as well, as, e.g., through the opportunity of co-determination of employees in the supervisory board (Schmidt 2006).

[6] Pyramid structures are a result of cross-ownership structures between several organizations: Holmen/Högfeldt (2004): 324-358.

3.3. Slovenia

The Slovenian Corporate Governance Code (SloCGC) was established in 2004 and revised in 2009 (EC 2009). The code provides the CG basis for capital market-oriented corporations and is clearly characterized by the transformation process from socialism to market economy. The objective of the code is to create a transparent and understandable governance system in Slovenia in order to increase investors' the confidence in the Slovenian capital market. The SloCGC is based on the predominant two-tier system, which comprises both, an executive and a supervisory board. The first section in the code is the preamble, which represents the goals and the application of the code followed by the corporate governance framework. The subsequent sections describe the relation to shareholders, the supervisory board and the management board. Furthermore, the code deals with decisive aspects, such as independence and loyalty. The following sections provide information on audit and the system of internal controls, which are very relevant for the company. In section eight the importance of a corporate communication strategy with regard to transparency is explained. Lastly, the adoption and the validity are illustrated in the SloCGC (SloGCG 2009).

The SloCGC highly corresponds to the GCGC, yet, some parts contain more detailed and stringent guidelines than the GCGC. Among other things, this applies to the information provision of the shareholders, the responsibility of the shareholder meeting to decide about the appropriation of profits as well as to the requirement that the executive and the supervisory board cooperate when it benefits the company. The SloCGC and the GCGC have in common that the issuers of the SloCGC also have to establish an annual statement, which is based on the "comply or explain" statement (SloCGC 2009: 2).

In the third section the SloCGC elaborates on the relationship between the company and its shareholders. The shareholder meeting in Slovenia presents a similar purpose as the German shareholder meeting, as both require extensive information material in order to support the shareholders (SloCGC 2009: 6). Section 5.10 of the SloCGC determines that the five largest blockholders have to be published in the course of the invitation to the shareholder meeting (SloCGC 2009:8). Such a regulation is not included in the GCGC, which may be due to the differentiating ownership structure (Bundeszentrale für politische Bildung 2010).

The range of responsibilities of the executive board is equally regulated in the SloCGC and the GCGC, whereas the SloCGC postulates a high economic ethical standard of the members of the executive board (SloCGC 2009: 16) The SloCGC states that the interests of all different stakeholder are equally important for the companies (SloCGC 2009: 16) – an equivalent regulation does not exist in the GCGC.

According to the SloCGC, the supervisory board has similar responsibilities and authorities as codified in the GCGC. However, the supervisory board does not have a say in decisions regarding the strategic orientation of the company, which the executive board assesses exclusively. Furthermore, a reservation of consent by the supervisory board, as it is included in the GCGC, is not part of the SloCGC (SloCGC 2009: 15; GCGC 2015: Sec. 3.2 and 3.3). Both codes emphasize the personal and professional qualifications of board members, whereby the SloCGC contains more extensive and concrete criteria regarding the required qualification (GCGC 2015: Sec. 5.4.1; SloCGC 2009: 9). Additionally, the SloCGC comprises more stringent requirements with respect to independence of the board members, as at least half of the board has to consist of independent members. Unlike the Slovenian code, the GCGC allows the supervisory board itself to decide on the proportion of independent board members (SloCGC 2009: 8; GCGC: Sec. 5.4.2). Both codes enable the companies to constitute committees. However, as the GCGC incorporates only recommendations, the SloCGC prescribes that at least an audit committee, a nomination committee and a compensation committee have to be established (SloCGC 2009: 9 and 14).

In the SloCGC as well as in the GCGC, the compensation of the executive board is regulated on the basis of a compensation system by the supervisory board. Unlike the GCGC, the SloCGC requires permission for the compensation system, which was determined by the supervisory board. In accordance with the GCGC, the shareholder meeting determines the compensation of the supervisory board members (SloCGC 2009: 16-17).

Both CG codes stimulate the demand for an efficiency audit. The transparency regulations are widely similar in the German and Slovenian code. In contrast to the GCGC, the SloCGC explicitly requires the establishment of a system against insider trading (SloCGC 2009: 20). As opposed to the GCGC, the SloCGC does not imply any publication regulations regarding the share ownership of executive and supervisory board, although Appendix C of the code stresses a share ownership as a conflict of interest for supervisory board members.

Concerning the necessity and objective of financial accounting, both codes are unified. The GCGC, however, contains more extensive or strict guidelines than the SloCGC. Nevertheless, regarding the statutory audit this relationship is reverse. Furthermore, both codes set high priority to the independence when selecting the annual auditor although the SloCGC has more stern requirements than the GCGC.

In summary, the German and Slovenian CG code are very similar which is due to the common two-tier governance model. Additionally, the comparison of the codes has exposed that the SloCGC contains more extensive and strict regulations than the GCGC. In the future, further developments and revisions of the code are expected as the ownership structure, which was characterized by the transformation process, is becoming more heterogeneous. Furthermore, businesses with external investors are more profitable, the state's influence as an investor decreases, and the shareholder-value approach becomes more relevant. These developments as well as the influence of the EU may induce future adaptations and revisions of the Slovenian corporate governance code (Lahovnik 2010; Lahovnik 2011; OECD 2011).

3.4. Hungary

The Hungarian Corporate Governance Recommendations (HunCGC) were established in 2004 and address large listed organizations (HunCGC 2012: 4). The regulations included in the HunCGC can be divided into recommendations, proposals and explanations. The code begins with an introduction, where general facts are described. Afterwards, the code explains the shareholders´ rights and the treatment of shareholders. One essential topic in this chapter is the general meeting. In the second section the responsibilities of the management and the supervisory board are illustrated. Furthermore, this section deals with the independence, the conflict of interest, the evaluation and the remuneration of the members of the executive board and the supervisory board. The following section provides information regarding the audit, nomination and remuneration committee. The last section of the code deals with the transparency and the disclosure (HunCGC 2012: 2). The Hungarian code applies, as the GCGC, the 'Comply or Explain' approach. Opposing to the German code, the HunCGC does not contain Applicable Law (HunCGC 2012: 5). Furthermore, one of the most important differences of the HunCGC to the German code is the possibility to establish a one-tier system (HunCGC 2012: 4).

The regulations regarding the treatment of the shareholders and the convention of the annual general meeting are generally the same as in the GCGC. The Hungarian code specifically addresses the provision of relevant information to the shareholders to enhance investors' confidence in Hungarian companies. The voting rights of the shareholders follow the "one share – one vote" principle, as it is also the case in the GCGC (HunCGC 2012: 6).

Duties and responsibilities of the executive board are widely identical to what is mentioned in the GCGC. As stated in the GCGC, the executive board is responsible for monitoring and controlling the risk management. Additionally, the executive board is expected to not pursue its own interests or the interests of a third party (HunCGC 2012: 10). The executive board has to protect the interests of shareholders and other stakeholders (HunCGC 2012: 12). However, the German and Hungarian codes also vary in certain points, e.g. regarding the issue of conflicts of interests of executive and supervisory board members. According to the GCGC, executive board members are subject to a non-competition agreement, are not allowed to receive any financial contribution, and have to achieve a permission of the supervisory board in case they want to pursue any other activities (GCGC 2015: Sec .4.3.2, 4.3.4 and 4.3.5). These or any related regulations, which aim at improving the independence of board members, are not comprised in the HunCGC.

In accordance with the HunCGC, the number of executive and supervisory board members is restricted in order to achieve an efficient cooperation and communication within the boards. Furthermore, the board members are supposed to consist of both, members of the management and board members who do not operate within the management of the firm (HunCGC 2012: 11). The regulations concerning the composition of Hungarian executive and supervisory boards differ or are not included as in the GCGC. Hence, the HunCGC neither implies the consideration of diversity or age restrictions within boards nor the limitation of additional supervisory board mandates.

The transposition of executive board members to the supervisory board is regulated differently in the German and Hungarian code. As the HunCGC pursues a strict prohibition, the GCGC allows a transposition after a time period of two years or in case the election is based on a suggestion of a shareholder who owns at least 25 percent of the company's shares (HunCGC 2012: 12; GCGC 2015: Sec. 5.4.4).

Furthermore, both codes comprise the establishment of committees although the regulations vary. According to the HunCGC, committees are formed within the executive board while the GCGC expects the supervisory board and its members to generate specialized committees (HunCGC 2012: 18 and GCGC 2015: Sec. 5.3.1).

The compensation of executive and supervisory board members is stated differently in both codes. According to the HunCGC, a committee consisting of members of the executive board designs guidelines for the compensation of management members and the executive board members, which then must be authorized by the shareholder meeting. Thereby, executive board members compose guidelines for their own compensation. Both codes have in common that the compensation is supposed to be long-term based to reduce inappropriate risks (HunCGC 2012:14; GCGC 2015: Sec. 4.2.3). Additionally, the separation of fixed and variable compensation components is subject to both, the German and the Hungarian code. Furthermore, the GCGC and the HunCGC incorporate the publication of the compensation of executive and supervisory board (HunCGC 2012: 22-23; GCGC 2015: Sec. 4.2.4). The regulations in the GCGC regarding transparency are not part of the HunCGC. The disclosure of insider information is present in both codes denoting the same rules (HunCGC 2012: 21-22; GCGC 2015: Sec. 6.1; 6.3; 6.7).

A substantial difference between the HunCGC and the GCGC is the placement of an auditing assignment. In the GCGC, the general meeting places the auditing order. According to the HunCGC, the company or its management is responsible for the placement (HunCGC 2012: 6). Therefore, an objective selection of the annual auditor is not indicated in the HunCGC, opposing the GCGC.

3.5. Poland

The development of the CG system in Poland began with the privatization in the course of the transition process. Thereby, conflicts between a few powerful majority shareholders and the minority shareholders originated (Aluchna 2008; Tamowicz 2011). This fact as well as the aim to approach the EU standards was reason for the development of the CG code. As a consequence, in 2009 the Code of Best Practice for WSE Listed Companies (PolCGC) was established. The code aims to increase the reliability of the investors and the rights of the minority shareholders. Therefore, the transparency with regard to the communication between the companies and the investors shall be improved (PolCGC 2012: 2). The PolCGC has five chapters. First, information on the development and the application of the code are given. The second chapter provides recommendations for listed companies. In the following three chapters the best practices of the executive board, the supervisory board and the shareholders are clarified (PolCGC 2012). The Polish two-tier system is only implicitly mentioned in the PolCGC. The Polish code addresses publicly listed companies and is based on the 'Comply or Explain' approach (PolCGC 2012: 1). Furthermore, companies that are listed at the Warsaw Stock Exchange (WSE) are obliged to deliver an annual statement, as this statement is also a condition for the admission (Dyczkowska 2012).

In contrary to the GCGC, the PolCGC contains only occasional indications on the shareholders rights and their decision-making requirements, e.g. regarding the discharge of the board. Both codes are congruent with respect to the arrangement of the shareholder meeting: all shareholders can participate in the general meeting through live transmission (PolCGC 2012: 10; GCGC 2015: Sec. 2.3.2, 2.3.4). Different to the GCGC, the PolCGC emphasizes the appropriate performance of the shareholder meeting. Each modification or cancellation of the shareholder meeting has to be justified by the executive board. This requirement may be established due to past experiences as short-term modifications or cancellations of the shareholder meeting were utilized as strategic instruments in order to prevent the shareholders from exercising their rights (Tamowicz 2011).

As opposing to the GCGC, the PolCGC does not include details on the number of executive board members. However, the GCGC requests the executive board to consist of several members and to appoint a chairman of the executive board (GCGC 2015: Sec. 4.2.1). Furthermore, the PolCGC does not determine any restrictions regarding the exchange of board members from the executive to the supervisory board, such as the retention period of two years recommended by the GCGC.

The PolCGC is more concrete compared to the GCGC regarding the requirement that at least two members of the supervisory board have to be independent. Both codes postulate that the members of the supervisory board are sufficiently experienced and have the knowledge to appropriately perform their responsibilities (PolCGC 2012: 3).

However, regarding the cooperation of the executive and supervisory board, the PolCGC provides less detailed information than the GCGC. One guideline states that the executive board needs permission by the supervisory board for business transactions with affiliated enterprises. A further differentiation of competencies between the two bodies is missing in the PolCGC.

The codes have in common that they both stress the aspect of diversity among board members as gender diversity is supposed to be considered in executive and supervisory boards. However, the GCGC contains a rather broad formulation which leads to the interpretation that the consideration of diversity is not limited to gender but also includes further diversity aspects, such as professional or national diversity (GCGC 2015: Sec. 4.1.5, 5.1.2).

Different to the GCGC, the PolCGC specifies the compensation models and that each company should determine its own compensation for the executive and the supervisory board (PolCGC 2012: 3). In contrast to the GCGC, the PolCGC does not provide more detailed or specified information but rather refers to the respective recommendations of the EU (EC 2004).

Regarding the transparency criteria, both codes attach great importance to an appropriate access to company data, for instance via the Internet (PolCGC 2012: 3). Additionally, the PolCGC pays special attention to the quality of the information policy. The disclosure duties of the executive board are of great importance. The regulations of the PolCGC are more restrictive than those of the GCGC as any connection between the board and the shareholders has to be published.

Furthermore, the statutory auditor is not mentioned in the PolCGC. While the PolCGC from 2002 recommended an auditor rotation after a period of five years, the current version of the PolCGC does not include this issue anymore.

The Polish code in its current version significantly deviates from the German CGC. Due to the fact that the PolCGC is composed as a 'best practice' code, it does not refer to any legal regulations. The GCGC implies the intention to outline the corporate governance structures in Germany for the shareholders. This feature is entirely missing in the PolCGC.

Nevertheless, it is certainly a positive aspect that the PolCGC focuses on the minority shareholders' rights and the related disclosure requirements. Additionally, the regulations in the PolCGC concerning the independence of supervisory board members are more detailed and specific. However, most of the supervisory board members in Polish companies do not meet the independence requirements and the influence of majority shareholders is still predominant (Aluchna/Koladkiewicz 2010; Kowalewski 2008).

4. CONCLUSION

The information provided is the first result of a detailed comparison of the different corporate governance codes to the GCGC. A complete evaluation of the principles and guidelines allows the identification of patterns and which kind of CG mechanisms are relevant in CEE. The CG systems in the five exemplary Eastern European countries show distinctive states of development. While Slovenia, Slovakia and Hungary have already reached a high maturity level by basically fulfilling the legal objectives, the Romanian CG system does not correspond to the CG systems of developed countries such as Germany. This may be due to the fact that Romanian companies are significantly smaller. Moreover, the demand for reforms regarding the fiscal policy and in the political and social arena in Romania is still substantial. The Romanian CG system, however, is likely to improve under the influence of the EU. In addition, as Romania is currently attractive for investors, the influence of the capital markets may further enhance CG in the future.

A substantial variation of the SkCGC to the GCGC persists given the debate on the interests of stakeholders. The SkCGC strongly adheres to the principles of the OECD, which prescribe this subject being part of the code. Although the GCGC does not focus on the interests of stakeholders in such detail, a stakeholder orientation becomes somewhat visible in the GCGC.

Moreover, the German and Slovenian CG code are very similar which is due to the common two-tier governance model. Additionally, SloCGC contains more extensive and stern regulations than the GCGC.

With reference to the Hungarian CG code, differences to the German code persist regarding the composition and independence of the executive and supervisory board and the members' compensation schemes. Independence is thereby less regulated in the HunCGC. According to the HunCGC, a committee consisting of executive board members designs the compensation of management members and the executive board members, which then must be authorized by the shareholder meeting. Thereby, it is worth noticing that the executive board members compose guidelines for their own compensation, which may in fact be counterintuitive with respect to good CG.

The PolCGC in Poland partially contains recommendations, which are not strictly relevant CG facts, but rather relate to a good business environment. In summary, critics state that the PolCGC is rather weak, as various regulations are disregarded in practice.

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