

#### Corporate Governance in Transition Economies: the Case of Different Countries in the Field of CG.

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#### Albertract.

Corporate Governance Lessons from Transition Economy Referres explores a timely topic at the intersection of economics, law, and policy reform. To date, most sophisticated theoretical work on corporate governance has focused on advanced market economics. In developed market economics, a system of corporate governance has been built gradually through centuries, and today it can be defined as a complex mosaic consisting of laws, regulations, politics, public institutions, professional associations and ethics codes. However, in transition economy countries a lot of details of the mosaic are still missing.

#### Corporate governance problem in the economic literature.

The corporate governance problem was first referred to by Berle and Means (1932) as the problem arising out of the separation of ownership and control in large corporations. Given their discritionary power, company managers may use company resources to their own advantage. Investors therefore cannot take their returns of cash flow from the company's projects for granted. There is no such problem in companies with concentrated ownership as large shareholders have both the incentive to be actively involved in monitoring management and to bear the costs, as they reap most of the benefits. However, ownership concentration also reduces capital market liquidity and hence investors' willingness to provide funds to companies in the market. Dispersed ownership and liquid capital markets can be found in both the United States and the United Kingdom.

On the other hand, most European Countries have highly concentrated ownership and relatively illiquid capital markets. La Porta et al. (1997,1998,1999) explain these differences by the differences in investors' legal protection. The legal protection that investors receive determines their readiness to finance companies. The strong legal protection of creditors in German law for example explains the prevailing role of banks in company financing. Highly developed equity and debt markets in the United Kingdom are the result of the strong legal protection of British shareholders and creditors. Conversely, the underdeveloped equity and debt markets in France, Befgium and Italy arise from the low protection of both creditors and shareholders afide.

Appropriate legal protection of investors prevents their rights from being expropriated by managers and is therefore one of the ways of solving the agency problem. In countries with poor legal protection, as is generally the case of continental European countries, investors seek out alternative ways to overcome management. The concentration of ownership and the resulting concentration of voting rights is, according to the proponents of the legal perspective of corporate governance, one example of large investors exercising their power (LaPorta et al., 1999). In companies with concentrated ownership the agency problem takes on a new dimension in the sense of the expropriation of the rights of minority shareholders by the large shareholders.

The large shareholders can make managers act in their interests and at the expense of the company's value, the minority shareholders and other stakeholders in the company. The feat of such expropriation by large shareholders reduces the willingness of the minority shareholders to invest funds in companies and thus has a negative impact on the capital market (LaPorta et al., 1996; Peresti, Modigliani, 1998). This could be

<sup>&</sup>lt;sup>1</sup> This so-called agency problem represents the heart of the Jensen, Meckling and Coase contractual view of the firm. Hart, Grasuman and Moore explain this problem by focusing squarely on the investors' power relative to the insiders. By distinguishing between the contractual and residual control rights that investors have, the authors explain the incapability of the latter to write complete contracts that could determine all the actions and limit the discretion of the managers, also in unpredictable future circumstances.

<sup>&</sup>lt;sup>3</sup>Thus, there are different systems of corporate governance. Most authors refer to the so-called outsider (USA, UK) and insider (Germany, Japan, Continental Europe) systems of corporate governance.

**TD Snyder** 

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