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Review paper

DEVELOPMENT PROCESS OF CAPITAL MARKETS - THE EXAMPLE OF CENTRAL EUROPEAN AND BALKAN COUNTRIES

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Nada Vignjević[1], Safet Kurtović[2], Borislav Radević[1]

[1]State University of Novi Pazar, Serbia
[2]Alfa University Belgrade, Serbia

Abstract. *Privatization processes, which marked the last quarter of the last century, are an effective method of improving the performance of state business enterprises and they were driven by government decisions in the developed and developing countries. With privatization processes, governments generally seek to achieve the same goals: 1) increase government revenues, 2) reduce government interference in economic trends, 3) strengthen economic efficiency, 4) increase competition, and 5) ensure the development of domestic capital markets. Numerous studies have confirmed that after privatization has been carried out, increased production, improved efficiency, increased investment in capital and dividend payments are recorded. The roots of corporate governance in developing countries and transition economies lie in the initiatives for privatization that have strengthened since the end of the seventies and eighties of the twentieth century. A healthy corporate structure is a fundamental prerequisite for the success of privatization, both from the standpoint of the government, which wants to sell a company, and in terms of potential investors. In addition, scandals associated with corporations put the improvement of corporate governance issues in the foreground, both in developing countries and transition economies and developed economies. This put corporate control into the center of interest of the international business community and international financial institutions.*

Key Words: *Privatization, state, competition, stock exchanges, securities.*

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Corresponding author: Nada Vignjević
State University of Novi Pazar, Vuka Karadžića bb, 36300 Novi Pazar, Serbia
E-mail: nvignjevic@np.ac.rs

1. Legal Protection of Investors as an Instrument for the Development of Capital Markets

Privatization programs around the world have resulted in a significant reduction of state ownership, especially since 1980. The role of state-owned enterprises in high-income countries (industrialized countries) is significantly reduced, with about 8.5% of GDP in 1984 to less than 6% of GDP in 1991. In low-income countries there has been an even greater decrease in the share of state ownership, with about 16% of GDP in 1984 to about 7% of GDP in 1995, assuming that there is much less participation in recent years, amounting to about 5% of GDP.

It is well known that the privatization programs influenced the development of financial markets in the world as well as corporate governance. Offering shares to the public has significantly increased the number of issued ordinary shares and trading volume in shares. Many empirical findings confirmed that privatization, based on the distribution of shares to citizens, resulted in an increase in stock trade in the financial markets. The total market capitalization in the world during the period 1983-2003 increased rapidly in all countries. In the 1983-1999 period, it increased tenfold in developed countries, while in developing countries, the market capitalization of the stock markets increased 26 times (the 1983-2003 period) [1]. During the reported period, there was a significantly greater increase in the volume of share trading, compared to the increase in market capitalization.

The privatization process, the revival of the role of private owners, contributed to a general increase of interest in corporate governance in transition economies. This is a consequence of the increase in the total value of issued securities in the global capital markets and mergers and acquisitions increasing worldwide. Greater interest in corporate governance has caused the East Asian economic crisis that emerged in 1997. Studies have shown that certain corporate governance and legal systems significantly affected the size of the capital market, ownership structure and efficiency of enterprises in different countries. The differences between the legal protection of investors in different countries affect the development and operation of capital markets. Financial markets are more developed in countries with a "common law or customary law" system, providing better protection for investors, than in those with a "civil law – civilian law" system, which provides less protection for investors. Although some authors point out that there may be other factors involved with the legal system of the country, which may explain these findings, it is clear that the legal system affects the functioning of financial markets and the structure of corporate governance in all countries. The structure of the legal system in a similar way affects the process of privatization. Privatization has been a catalyst for major changes in the structure of management companies. Success depends in part on the privatization of the system of legal protection of investors. In addition, privatization is associated with changes in the legal system in many countries. If the distribution of government actions is such, many citizens who become small shareholders may face expropriation unless there is adequate protection of shareholders and/or widespread activity of insiders. Therefore, when the government begins the programme of privatization, a regulatory authority must be established together with adequate legal protection of investors and the holders of securities.

At the beginning, large-scale privatization of the national stock exchanges were generally illiquid and non-transparent, which forced governments to establish listing and other regulations in order to provide potential investors and convince them that this is a market place with a reputation and a recommendation for investment and trade. Thus, privatization, as part of the transition process, ensures economic development by improving the quality of corporate governance and creating an efficient economy, which is the primary objective of transition to a market economy system. The research done by many authors has shown that corporate governance can explain the performance of privatized firms and the success of privatization is higher with better quality of corporate governance. The privatization process is actually a market for corporate control state enterprises. Empirical findings show that the countries where the privatization process was quick and did not provide quality corporate governance, there has been significant economic growth [2]. The development of capital markets in countries in transition is a continuation of the process of privatization, where the pace of development is associated with the choice of privatization method. Transactions in the secondary market have specific characteristics. The objectives of the participants in the capital market transition are significantly different from the goals of the participants in the markets of developed economies. The differences between traditional capital markets and those in developing and transition economies depend on the importance that these markets have on the financial needs of privatized companies. The regulation of capital markets in transition countries by using standard regulations of the capital market of developed countries can be counterproductive, because of different motives that are intertwined in the transitional conditions. Regulators in emerging markets should strive to create rules to maintain a constant balance between efforts to ensure the safety of local investors (who often do not have enough experience with regard to investments in the capital market) and to avoid excessive regulation at the stage when the capital market is still not fully operating.

The process of financial market development involves changes in size, structure, and the way in which transactions are taking place in the market. Market developments and changes in size, structure and methods of operation aim to improve the market performance of the market and increase the benefits realized by commercial entities. Market size depends on the population of the country and the possible internationalization of markets, the introduction of products that can attract foreign investors. Market development is encouraged by changing the conditions for market entry costs and thus also changes its structure. The way of doing business in the market is changing alongside innovation, changes in pricing policies and the manner of conducting business. All these changes affect the investor's decision whether to participate in the financial market. The performance improvement is reflected in the increasing market efficiency by reducing operating costs as compared to costs in other markets, providing greater price transparency and greater liquidity. Capital market development and diversification includes a range of products, which is reflected in the increase in the number of traded instruments, collective investment schemes, the techniques used to raise capital. Activities of regulators in this regard must be based on realistic and achievable goals and priorities. In addition, it must be borne in mind that the complete elimination of risk and investments in the capital market is not possible in a market economy so that failure of individual participants in the market is a reality in market economy. Transaction costs are smaller if the new formal rules are compatible with the prevailing informal rules of a society. The basic institutions of capitalism can be developed successfully only if the prevailing moral and customary norms, traditions and current cultural patterns in transitional societies are in accordance with them. Private property and clearly defined property rights should result in increasing the efficiency of the economy and the development of capital markets should be the possibility of free trade to the privatization of property rights.

Since the awareness of the population in the former socialist countries of the functioning of capital markets is very low, the privatization process has faced the challenge of just educating the population in transition. Practice and privatization results showed that informal rules, cultural patterns, customs and traditions have a strong influence in this segment of the transition. Research and the analysis of financial markets suggest that culture has a great influence on these processes. Culture understood as an expression of shared values, social norms and interpersonal relationships in a society is the framework in which daily financial transactions take place. Informal rules and interpersonal interactions can be a limiting and motivating factor for the development of financial markets. However, faced with the biggest challenges are the regulators of capital markets in the countries in which markets are emerging. In the capital market in transition countries the main actors have goals different from the goals of the participants in the developed economies, and their behaviour is different in so far as there are different significance and importance of these markets for the financial needs of privatized companies. What is more important for the market as a new source of funding is that it is more akin to the behaviour of market participants in developing/transition countries than in developed economies.

When regulating capital markets in the countries in transition, it is necessary to take into account the different incentive structure, because the unilateral application of the standard regulations of the capital market of developed countries can not achieve the objectives of efficient capital markets. Regulators in emerging markets should strive to create rules to maintain a balance between ensuring security of investors (who do not have enough experience in the investment in the capital market) and optimal control (resisting the tendency towards excessive regulation) at a stage when the capital market is developing. In developed economies certain fundamental rights of shareholders are implied, as defined in the Companies Law and the statutes of the companies themselves. Given that laws are strictly observed and enforced, the investor decides whether or not to buy shares of a company if they estimate the eligibility of rules set by the statute. Public companies in developed economies tend to attract investors to generally respect the basic rights of shareholders.

2. Regulators in Emerging Markets

In transition economies, the priority is to ensure adherence to basic ownership rights (voting rights, rights to dividends, free transfer of shares) in privatized companies, and to all shareholders on equal terms (minority and majority, insiders and outside owners). Protecting the rights of the companies is a prerequisite for the protection of investors when trading in the market. In the context of privatization, the objectives of managers in public companies are generally to reduce the desire to retain control of the company. Dissatisfied investors are not the main problem, because they do not pose a threat to management. As is common for management of companies that were privatized through a public offering, trading shares on the regulated market or favoring regular reports to investors will not be the subject in transition economies. In addition, transactions are often prevented by the register of shares controlled by the company's management and shareholders' meetings are organized in a way that discriminates against certain shareholders. The standard approach to regulation would be counterproductive (eg, removal from listing companies that do not submit the reports is not a punishment but a reward for the management of these companies). The problem is more complicated in the mass privatization which is dominated by insiders, who are in a better position to realize and enjoy their property rights rather than external shareholders, even though the law provides the same rules for all. The laws that have been copied from the developed economies do not take into account the realities of quasi public companies: many of them are controlled by insiders, many are not interested in foreign financing, foreign owners have already volunteered to legal restraint, and we would like to get rid of property, but it can not do without cooperation with insiders. The only long-term solution to these problems is the transformation of quasi public companies into public or private companies in which the motives of the company, managers and investors/owners are the same as in developed economies. Therefore, it is important to note the initial conditions for the emergence of markets and regulatory priorities in relation to the development of capital markets in countries in transition.

The system of corporate governance, in developed countries, is relatively efficient because through investors' confidence to achieve return on investment, the corporation provides the necessary resources to finance investment projects. However, the mechanisms of management and legal protection of investors in developing countries are generally lower, so there is a much greater risk that the shareholders and management will have control over shares of minority shareholders and will operate exclusively realizing personal gain. So, if strong protection for investors is not provided, the privatization process will result in improved efficiency of firms, and a significant agency problem will arise in different forms of expropriation of the owner and the processes of "tunneling" by management.

Although the government or private institutions may, in a given period, provide certain aspects of legal protection of investors, it is wrong to conclude that it can be developed anytime, anywhere and fill a gap in the law. Most importantly, there is evidence that legal reform is working and that the rules are constantly improving investor protection depending on the needs in specific cases and, as a result of perception and understanding of proven hypothesis that the legal protection of investors is an important prerequisite for the economic development of a country.

The relation between the real sector and financial markets needs to be adequately controlled to reduce the risk for all participants. One of the major shortcomings of capital markets in transition countries is the lack of transparency, low efficiency in detecting and unexpected price fluctuations of stock prices, indicating that the integrity of the market is not built. Therefore, the supervisory role of the market depends on the size and sophistication of the local capital market. Therefore, the risk of getting to know the local corporate governance imperfections (idiosyncratic risk) and their alliance with the cost of capital is an important foundation for a stable business environment of the domestic economy. The scenario in which privatization aims to increase social wealth, and not stick to legislation that will provide an indirect route to reaching this goal, leads to property theft and dilution of wealth [3]. This topic is of great importance for the development of economic science in the field of financial markets in our region, which is characterized as determinants of market transition.

Several important hypotheses in this field are set by Stiglitz who criticized Washington Consensus solutions. He notes that when there is a large dispersion of ownership, property rights do not include the actual control of a company. The owner is partially or completely separated from the so-called natural incentives of ownership. It is likely that a number of representations, as the voucher privatization schemes lead to inefficiency and corruption, which will start production and will certainly hinder the recovery process of successful companies. According to Stiglitz, this is the reason why the privatization method is essential for the successful operation of privatization of companies. The importance of corporate governance in the transition process is the fact that the area of corporate governance is one of the ten areas that have been added as the key to an extended list of important aspects of the Washington Consensus reforms necessary for achieving economic progress in countries in transition.

Table 1 The concept of extended Washington Consensus

Washington Consensus (the original version of the field):	"Extended" Washington Consensus: ... previous ten field plus:
1. Fiscal discipline	11. Corporate Governance
2. Review of public spending	12. The fight against corruption
3. Tax reform	13. Flexible labour market
4. Liberalization of interest rates	14. Accession to WTO
5. Unique and competitive exchange rate	15. Adopting international financial rules and standards
6. Trade liberalization	
7. Openness to foreign direct investment	16. Supervision
8. Privatization	17. Interim exchange rate regimes
9. Deregulation	18. Central bank independence
10. Security of property rights	19. Development of a network of social security
	20. The reduction of power

Source: [4]

Stock prices are the most important indicator of business of joint stock companies because they point to the success and market valuation of the corporation. It is important to note that there are factors that affect stock prices at the corporate level and at the level of the whole economy; therefore, the factors that influence the corporate and external do not seem possible. This is the primary reason why the relationship between stock prices and the causes which lead to changes in prices, in some cases, is clearly visible, while in some it is very difficult to link the factors and determine the direction of influence, whether it is on the external or internal factors of corporate governance.

An important factor for a successful privatization program is also the quality of the institutional environment in the country. In countries where there is an institutional basis, privatization was associated with significant further improvement of institutional quality, and strengthening of the regulatory structure. The basic premise of a successful privatization is the respect for legal rules. The counterbalance to this positive development is an indication that in countries with poor institutional quality at an entry level of privatization, the formal institutions of government have not been developed and the underdeveloped institutions are difficult to sustain.

Privatization has had a significant impact on the development of stock markets around the world. World Bank study on the stock market in transition countries shows that privatization policy, which is aimed at the development of formal institutions and corporate governance which prescribed for companies listing on the stock exchange as a mandatory segment of the privatization process, has failed to develop the capital market. In countries that have carried out the mass voucher privatization (Bulgaria, Lithuania, Macedonia), many of the actions were insolvent, regulators and exchanges are not able to monitor the listing standards [5]. These problems have resulted in a significant delisting of shares, reports on the abuse of minority shareholders and the subsequent concentration of ownership and control. After the initial increase in the number of listed companies, there was a reduction in the number of companies that are listing the stock market. The method of privatization through initial public offerings, despite selling fewer shares, managed to secure a stable development trend of the Stock Exchange (Croatia, Hungary, Poland) [6]. Apart from these, the countries in transition often implemented hybrid forms of privatization which represented a combination of both. Studies show that, in transition countries, a business performance improvement was achieved in the companies that have a concentrated ownership structure, especially in cases where the owner was a concentrated foreign investor (strategic partner). The influence of foreign owners and foreign strategic partners was significantly more positive for the business performance of companies in relation to the impact of decentralized local owner.

Increasing interest in corporate governance as a development factor of the economy in the transition countries was carried out in parallel with the launch of the initiative for the privatization of state enterprises and translating the corporate form of business. This required the adoption of a set of commercial laws and the need to acquire new knowledge related market operations system. Countries that have rushed to the privatization of a wide range (the Czech Republic, Russia) met with great failures in corporate governance (including robbery and embezzlement of capital), while better results were achieved by those economies which systematically implemented privatization of large enterprises or sold to strategic investors from abroad [7]. However, nowadays all the transition economies must confront the necessity to standards and corporate governance practices which can improve significantly if updated regularly.

3. Corporate Governance and Privatization Models and their Influence on the Development of Capital Markets

The models of privatization in transition countries provide different operational efficiency and quality of corporate governance. Although, at the end of the eighties, it was thought that each privatization method contributes to better corporate governance by providing property owners, fifteen years of experience in transition countries and practice of the different models of privatization have shown that this is not the case. The dominant approach to privatization was the public offering of stock, which resulted in dispersed ownership structures, and the sale of assets, which is usually associated with the sale of the majority share of an investor or consortium of investors [8]. In transition countries, the choice of privatization method was connected and influenced by the level of investor protection and the development of formal corporate governance. Countries with weaker legal protection of investors used mostly the method of selling assets as a privatization method. However, some countries, even when the initial level of legal protection of investors was low, implemented voucher privatization as the primary method of sale.

During the process of privatization, public interest in the functioning of financial markets, corporate governance and laws on securities increases. Studies provide evidence that the system of corporate governance significantly affects the size of the capital market, ownership structure and efficiency of the privatized companies [9]. The differences in the legal protection of investors, in different economies, affect the development and functioning of capital markets. Countries with a "common law" system, providing better protection for investors, with large financial markets compared to countries with a "civil law" system that provides less protection for investors. Therefore, the legal system primarily affects the functioning of financial markets and corporate governance in transition countries [10].

The area of corporate governance is an important element in the transition strategy, primarily as a factor in achieving economic growth, financial stability and increase in the private sector productivity. However, it appears that the transition countries did not pay enough attention to this factor, the improved performance, and quite a long transition period typically passed before they began to apply the recommendations of the observance of codes of business and apply the standards and guidelines of international organizations. Creating a system of corporate governance in a transition economy needs to be aligned with the specific circumstances of transition and privatization in particular the organization of the stock exchange, because the challenges that lie ahead of corporate governance reform in transitional economies are considerably larger and heavier than the current corporate governance reform implemented by developed economies. The problem of corporate governance in developing countries and countries in transition is quite different from the problems that developed countries are facing [11]. The transition process of each country is specific, so there is no unique way of improving this sphere of business. The formulation of national models of corporate governance requires involvement of the state in a transition economy, understanding the long process of improving corporate governance throughout the entire duration of the transition period, the need for the adoption and implementation of effective legislation, and radical intervention in the market.

The experience of countries in different regions has shown that the mere making of the methods and manner of implementation of privatization is usually not sufficient for the transition to a market economy system. Especially the large scale implementation of complementary measures, from building an institutional environment and law enforcement, to stimulating competition, market development and strengthening of corporate governance which themselves are separate from the process of privatization and require specific policy decisions [12]. Necessary preconditions for improving corporate governance mechanisms in developing countries are developed institutions and providing an efficient inference and respect for the rights of the contract. It turned out to be a less effective means of action to protect the rights of small shareholders when institutions are poorly developed. In addition, privatization must provide a strong protection for investors because, otherwise, they will not be able to provide better performance of company operations due to the emergence of serious agency problems (with various forms of expropriation). It turned out that, in developed economies, the difference between the market-oriented banking and corporate governance system was based on large differences in ownership structures and institutional environment [13].

However, it is unclear whether there is a mechanism of corporate governance in transition countries which could be applied at the time when there is a gap in management resulting from the withdrawal of the state as the corporate controller. Is it possible and advisable to choose any of the existing systems of corporate governance at the beginning of economic transformation in order to prevent permanent gaps in the institutional setting after changing the economic system? According to some sources, prior to application of specific models that would be grounds for corporate control of security after the withdrawal of the state from the management processes in companies, the German type of corporate governance can be accepted in the European transition economies. The argument is that such a system is much easier to implement compared to a market-oriented system of corporate governance. Considering the introduction of the common law in the typical "civil law" provision of most countries in transition, to the overall reform of the law on corporate and securities, it may seem desirable, but closer analysis shows that such an approach to the problem is the lack of a unified position on the most important safety feature of the "common law" legal system [14]. Although "common law" systems provide a far better protection of small shareholders than "civil law" legal systems, it is necessary to develop a strong securities market, with high standards of disclosure, while protecting shareholders from insider action. For economies in transition which later entered the European transitional stage a large number of questions remain in order to find an answer to how to define and implement appropriate corporate governance structures in the circumstances. Problems about the design of effective corporate governance from the very beginning of transition remain open [15].

On the other hand, literature offers various complaints against the rapid implementation of either of the two prevailing corporate governance system in the industrialized countries, and in particular, the anti-copy type of German corporate governance. It is noted that the institutional system of each market economy developed in a particular historical setting, specific to each country. The efficiency of any organization can be a path which is so dependent on the same institutional system, that it may be less effective if applied elsewhere. In addition, different systems of corporate governance can produce similar results in similar, advanced, industrialized countries. However, the results can be very different if these systems are transplanted in emerging economies, where the initial conditions differ significantly from the industrial economy. Assuming that the risk of failure is higher in transition economies than in industrial countries, transitional economies can "try to establish an institutional solution that contains a self-correction mechanism" [16]. Options for self correction may be limited in strengthening the inside relations in the transition period. An important recommendation is that countries in transition should avoid copying the model applied in other countries and stencil printing laws, which most Western experts recommend, while foreign donors insist on. The opening of the Institute for Strategic Research and educational institutions network can play an important role as it will enable training of the local population. Such centers can be established through the support of wealthy local companies that will help in the development and support of the corporate governance system, but also adaptation to peculiarities of each country. These changes, policy reforms in the country will result in better corporate governance systems in privatized enterprises and emphasize the need for further reform in this area. From the macroeconomic point of view, the medium-term prospects are of paramount importance in the economic restructuring in transition economies. The legacy of central planning is the need for re-development approach in the use of available resources and investment in physical and human capital. However, the wrong choice of models in the management of structural changes can result in quite the contrary to the practice needs of transition economies.

In addition, the transition economies must be cautious in carrying out the reform and in terms of cost of delays in privatization and institutional reforms that can fill the gap after the withdrawal of the state from corporate control [17]. In addition, institutional gaps can have an adverse impact on the restructuring of the company, rather than any existing model of corporate governance in market economies. Studies of privatization in transition countries have shown that the subjects, who are expected to carry out monitoring and corporate influence on the improvement of corporate governance (institutional investors and privatization investment funds), have shown little interest in monitoring the management of the privatized companies. They often used their position to get insider information and trade in a weak and non-transparent market environment in order to secure their own interests. If the market in a transition economy is more transparent and does not have established protection of minority shareholders, the market transition will be more cost-effective and easier to expropriate wealth than create it. When such engagement results in the winner who gained control, it is often only the beginning of the process of "tunneling". Stocks in the transition region are highly vulnerable to sudden collapse, so when a scandal happens in the market, the decline of market indicators is fast and investors (domestic and foreign) lose confidence and automatically leave the market [18].

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PROCES RAZVOJA TRŽIŠTA KAPITALA NA PRIMERU SREDNJOEVROPSKIH I BALKANSKIH ZEMALJA

Nada Vignjević, Safet Kurtović, Borislav Radević

Privatizacioni procesi, koji su obeležili poslednju četvrtinu prošlog veka, predstavljaju efikasan metod unapređenja performansi poslovanja državnih preduzeća i pokretani su odlukama vlada u razvijenim i zemljama u razvoju. Procesima privatizacije vlade zemalja uglavnom teže da ostvare iste ciljeve: 1) povećanje državnih prihoda, 2) smanjenje uplitanja države u privredna kretanja, 3) jačanje ekonomske efikasnosti poslovanja, 4) povećanje konkurencije i 5) obezbeđenje razvoja domaćeg tržišta kapitala. Brojna istraživanja su potvrdila da nakon sprovedene privatizacije dolazi do povećanja proizvodnje, poboljšanja efikasnosti poslovanja, porasta investicija u kapital i isplata dividendi. Koreni korporativne vladavine u zemljama u razvoju i tranziciji leže u inicijativama za privatizaciju, koje su jačale od kraja sedamdesetih i tokom osamdesetih godina XX veka. Zdrava korporativna struktura je bila osnovni preduslov za uspeh privatizacije, kako sa stanovišta vlade koja želi da proda neku kompaniju, tako i sa stanovišta potencijalnih investitora. Pored toga, skandali koji se vezuju za korporacije nametnuli su pitanja unapređenja korporativnog upravljanja u prvi plan, kako u zemljama u razvoju i tranziciji, tako i u razvijenim privredama. Ovim je korporativna kontrola dospela u centar interesovanja međunarodne poslovne zajednice i međunarodnih finansijskih institucija.

Ključne reči: privatizacija, država, konkurencija, berze, hartije od vrednosti.