



# **CORPORATE GOVERNANCE IN ROMANIA**

*Meeting Hosted By*  
**The National Securities Commission and the Bucharest Stock  
Exchange**

**Summary Note: Corporate Governance in Romania**

**Bucharest,  
18 - 19 September 2001**

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**Meeting held September 18-19, Bucharest Romania**  
**Prepared by David Robinett, OECD**

**Introduction**

On September 18-19 a high level meeting was held in Bucharest to disseminate and discuss the OECD's draft Assessment Report and Preliminary Recommendations on Corporate Governance in Romania, in preparation for the release of the final Assessment Report later this year. The meeting was co-hosted by the National Securities Commission of Romania and the Bucharest Stock Exchange, and was sponsored by USAID.

The dozens of presenters and other participants at the meeting included the head of a publicly listed Romanian company, SIF (official investment fund) president, chief executive of a major Romanian bank, a representative of the National Union Block, board member with a Romanian company, a very vocal former member of parliament, the head of a major Romanian business organization, presidents of both the Stock Exchange and the RASDAQ, minority shareholder activists, and practicing corporate lawyers in Romania, as well as our own staff and a number of distinguished experts from OECD countries. Overall the presentations were of high quality, and the discussions during the sessions quite lively. There is no question that many of the issues raised at the conference are taken quite seriously by the business community in Romania

Both the co-hosts, the Bucharest Stock Exchange, and the OECD's public affairs representative, Nicholas Bray, were quite successful in establishing contact with the local media and the wire services. The result was coverage on both television and the print media, most notably in Bursa, a major financial newspaper, where the conference was front page news for both days.

The meeting opened with comments from the president of the National Securities Commission, Gabriele Anghelache, who also read remarks in the name of the Prime Minister, Adrian Nastase. She was followed by Eric Burgeat, Director of the OECD Center for Cooperation with Non-Members, Sergiu Oprescu, the President of the Bucharest Stock Exchange, and Denny Robertson, head of mission for USAID in Romania. In his remarks, Mr. Robertson advocated a high level steering group as a means continuing the drive for corporate governance reform in Romania.

**Sessions I and II: Overviews of Corporate Governance in OECD Countries and Romania**

The two sessions that followed discussed general issues involving corporate governance in both the OECD countries and Romania. Mats Isaksson of the OECD gave a history of the OECD Principals of Corporate Governance and a very informative discussion on what exactly corporate governance is. Stilpon Nestor of the OECD discussed governance trends in OECD countries, reminding the participants that issues like privatization and loose control of management and majority owners, i.e. the case of the so called new economy, are issues even in the most developed economies.

Aurelian Dochia, the principal author of the draft assessment report, provided an overview of corporate governance in Romania. A key issue in this and the following sessions was the impact that the privatization process had on the current structure of Romanian industry. In fact one of the most important conclusions of the entire conference was that the privatization process had led to far too many publicly listed small and medium sized enterprises, often with very dispersed ownership. At the same time, ownership of Romania's

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potential 'blue chips' is concentrated in the hands of strategic investors, usually foreign, or is still held by the state. This ownership structure greatly amplifies many of the problems with corporate governance in Romania today.

### **Session III: The Rights and Equitable Treatment of Shareholders**

The following six sessions followed the OECD principles of corporate governance. Session three, on The Rights and Equitable Treatment of Shareholders discussed, many of the issues that have been at the heart of the current debate on corporate governance in Romania. It was agreed that while certain institutional investors play an active role, smaller investors-the typical Romanian-do not. One reason for this is that shareholder's are very poorly informed, and don't know what they should be 'active' about. The small value of the shares held in a typical company also (rationally) deters shareholder activism. In this context the need for small and medium companies to consolidate and delists was reinforced. To facilitate this process while protecting the rights of minority shareholders, Mr. Nestor of the OECD recommended developing a fair and equitable tender and *evaluation* process for Romania's illiquid market.

The vast gap between Romania's seemingly strict laws and actual practice was also discussed. This gap highlights one of the other major issues emphasized during the meeting: the importance of improving the implementation and enforcement of Romania's existing laws, which everyone agrees is currently quite poor. The current recommendations offer a number of suggestions in this area. Improving enforcement and implementation will be a top priority for the final report.

This session also featured an interesting discussion on Romania's commercial law by Sorin David of PWC, Noel Hinton on the Takeover Panel-a model of corporate governance regulation-and Mr. Dochia discussing Romania's dismal history of state as shareholder. His recommendations: "First privatize, second privatize, third privatize after putting the proper regulations in place".

### **Session IV: The Role of Stakeholders**

Session IV covered the role of stakeholders. Mr. Isaksson opened the session by explaining what exactly a stakeholder is. For the meeting the focus was on two critical stakeholders, creditors and labor. Creditors were represented at the meeting by the high ranking officers of two of Romania's biggest banks. Currently the relationship between banks and the corporate sector is very poor, banks lend primarily, and in some cases almost exclusively, to the government. Hence one implication of improved corporate governance is a return of the banking sector to their principal role in the economy: lending to business.

Labor was well represented at the session by Stella Enanche for the National Union Block, as well as John Evans, Secretary General, TUAC (Trade Union Advisory Committee to the OECD). Trade unions are very strong in Romania, especially in the National Companies. However better consultation with labor remains essential for both government, especially in regards to restructuring and privatization, and the private sector. It should be noted that such consultation not only protects the legal rights of labor, but in many cases can lead to more consistent government policy, and better long run returns for shareholders. An important example of this is 'whistle blower' protection that allows workers to reveal improper behaviour by management and board members. The current danger to workers who reveal improper behaviour is very high in Romania, and correcting this sort of corruption is essential for both the Romanian economy as well as Romanian Society.

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Session IV concluded with a lively discussion on defining the boundaries for both the corporation and its stakeholders. In the communist era companies seemed to be responsible to all people for all things. This raises a concern that contemporary Romanians will make undesirable demands on the corporate sector. However, it was pointed out that in Western Europe, the labor movement played a critical role in limiting the reach of the corporate sector, pushing for the government and civil society to expand their role, while allowing business to focus on business.

**Session V and VI: The Role of the Board and Transparency and Disclosure**

Session V covered the very important role of the Board in Romania. Mathilde Mesnard of the OECD discussed boards in Romania, their problems, and some recommendations. Board members in Romania tend to lack the proper qualifications, both in the sense of not knowing enough about the workings of the corporation in a free enterprise system, and in not having proper independence from management or, as is often the case, the state. To help solve the first part of the problem Ms. Mesnard recommended a Director's Institute to assist in the training of board members. In regards to the second part, the importance of independent board members emphasized, as well as holding board members liable to *all* shareholders. These reforms are particularly important given that most of Romania's large, publicly listed companies have single, majority owners.

Another issue discussed in Session V, as well as the following session on Transparency and Disclosure, was the role of the censors. Romania's censors (similar bodies exist in Japan and Italy) have vaguely defined powers that overlap with that of an internal auditor and an audit committee of board members. Given the ineffectiveness of the censors to date in Romania, and the problems with similar institutions in other countries, the Preliminary Recommendations suggested replacing them with an audit committee of the board, along with effective external and internal auditing. However other proposals have also been made for the censors, including strengthening them to make them an effective check on management and the board, or, as in Russia, allowing censors to be board members and serve as an effective audit committee.

In addition to discussing the censors, Session VI featured a very educational presentation by John Rieger, of the OECD, on what Romania needs to do to ensure effective transparency and disclosure. The poor quality of transparency and disclosure in Romania has been widely noted within the meeting and without, hence the importance of Mr. Rieger's remarks, and the related recommendations. Establishing an effective accounting system in Romania, as anywhere, will be an involved and difficult task that will require changes within companies, substantial development of the accounting profession itself, and a positive role for government as a licensing and regulating body. Completing the adoption of IAS is also critical.

**Concluding Remarks and Future Plans for the Assessment Report**

The meeting concluded with a final session chaired by Mr. Burgeat, with remarks by Mr. Dochia, Mr. Nestor, and Mr. Oprescu. Also present was a representative of the Ministry of Foreign Affairs, confirming the government's commitment to corporate governance reform based on the OECD principals in conjunction with the Stability Pact for South East Europe.

During the session Mr. Dochia emphasized that many of the potential reforms suggested for Romania are potentially quite costly, resources are limited, and hence priorities must be set. Mr. Nestor followed up on this, outlining priorities for future reform, based on the draft report and the dialogue of the meeting. At the top of the list is facilitating the 'maturation of the capital market' i.e. the delisting and consolidation of many of the small and medium enterprises listed on the RASDAQ. Another priority, which could actually

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be revenue enhancing for the government, is greater effort to improve the corporate governance standards of the National Companies in preparation for privatization. Central to this effort is the transfer of control from the ministries to independent boards, and performance-enhancing compensation combined with high standards for management. Mr. Nestor also mentioned legal reform, however he made it clear that this should be secondary to enhancing the capacity of the judiciary and the National Security Commission to effectively enforce the laws that are already in place.

Mr. Nestor also announced the OECD's plans for finalizing report. Until October 5 the OECD would continue to receive outside comment. Based on those comments, as well as those from the meeting itself, the report will be amended, and translated into Romanian, in preparation for its final release in mid December. It was also suggested that the report would be presented in Bucharest in the presence of a high level team from the OECD, high level officials from the Romanian Government, the stock exchanges, and USAID.