



CORPORATE GOVERNANCE IN ROMANIA

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

FINAL AGENDA

**Bucharest,
18 - 19 September 2001**

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ABOUT THE ROMANIAN CORPORATE GOVERNANCE INITIATIVE

Background

In order to promote good corporate governance in emerging markets and transition economies, the OECD has entered into a co-operative agreement with the World Bank Group, establishing a Global corporate governance Forum. Within this agreement, the OECD is taking the lead in establishing a set of Regional Corporate Governance Roundtables around the world. Presently, such Roundtables are operating in Asia, Latin America and Eurasia.

The Global Forum is also designed to assist in co-ordinating the design and implementation of concrete projects for improving governance in specific countries. Thus, a specific Roundtable has been launched for Russia. An activity aiming to assist Romania in improving its corporate governance framework and practices is also under way. This activity is sponsored by the United State Agency for International Development and its results will serve as a valuable input to the South East Europe Roundtable, to be launched in Bucharest on 20-21 September.

The Purpose of the Romanian corporate governance activity

The purpose of the Romanian corporate governance activity is to facilitate public and private sector policy dialogue and exchange of experiences between senior policy-makers, regulators and market participants. It also seeks to provide concrete recommendations for improvement, based on an in-depth assessment of the Romanian corporate governance landscape. Input to the assessment and dialogue will include national codes of best practices, legislative proposals and individual papers on specific issues.

This meeting

The meeting will discuss the OECD assessment of the Romanian corporate governance framework and practices. It will seek the comments of Romanian and OECD corporate governance experts from the public and private sector on the main issues of concern and further policy action, as identified by the assessment. It will constitute a forum for a frank exchange of opinion and will contribute to the definition of concrete recommendations for improving corporate governance in Romania.

The Agenda

The structure of the agenda corresponds to the main chapters of the OECD assessment paper. It also reflects the five different chapters of the OECD Principles of Corporate Governance, endorsed by the OECD Council in 1999. In order to encourage discussion, presentations will be relatively short and generally supported by written background. A set of issues for discussion in each session is provided in the notes below.

Next Steps

Drawing on the conclusions of this meeting, the OECD will prepare and distribute a final draft of its corporate governance assessment of Romania. The OECD will also explore possibilities for publishing the assessment in order for its conclusions and recommendations to reach a wider audience and assist in raising awareness of the main problems and ways of addressing them in order to improve the governance of Romanian corporations. This assessment and the Romanian experts involved in this high-level meeting will also be included in the policy discussions planned in the framework of the SouthEast Europe Roundtable.

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17 SEPTEMBER

18:30 - 20:00 *Welcome cocktail-reception hosted by the Bucharest Stock Exchange*

DAY 1: 18 SEPTEMBER, 2001

8:30 – 9:00 *Registration*

9:00 – 9:30 *Welcoming address*

Mrs. Gabriela-Victoria Anghelache, *President, Romanian Securities Commission*
Mr. Sergiu Oprescu, *President, Bucharest Stock Exchange*

Keynote address

Mr. Adrian Nastase, *Prime Minister, Romania*,
Delivered for the Prime Minister by Mrs. Gabriela-Victoria Anghelache

Opening Remarks

Mr. Denny Robertson *Mission Director USAID Romania*

Mr. Eric Burgeat, *Director, OECD Centre for Co-operation with Non-Members (CCNM)*
The Importance of Corporate Governance in Transition Economies

9:30-9:45 *Coffee break*

SESSION I: CORPORATE GOVERNANCE IN OECD COUNTRIES

Chair: **Prof. Daniel Daianu**, *Romanian Centre for Economic Policies*

9:45 – 10:45 *Presentations:*

The OECD Corporate Governance Principles: Key Features and Relevance to Non-OECD countries, **Mr. Mats Isaksson**, *Principal Administrator, DAFPE, OECD*

Recent Developments in Governance in OECD countries
Mr. Stilpon Nestor, *Head of Corporate Affairs Division, OECD*

General discussion

10:45-11:00 *Coffee break*

SESSION II: THE CORPORATE GOVERNANCE FRAMEWORK IN ROMANIA

Chair: **Mr. Paul-Gabriel Miclaus**, *Commissioner, Romania National Securities Commission*

11:00-12:30 *Presentation*

Today's Ownership and Control Structure of the Romanian Corporate Sector and its Determinants
Mr. Aurelian Dochia, *OECD Consultant, Managing Director, Romanian Bank for Development*

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Panel Discussion

- **Mr. Sergiu Oprescu**, *President, Bucharest Stock Exchange*
- **Mr. Vergil Popescu**, *President, National Association of Securities Dealers*

Commentator

- **Mr. Ziad Alahdad**, *Chief of Mission, WB, Romania*

General discussion

12:30 –14:30 *Lunch hosted by SIF Muntenia*
Press Conference

SESSION III: SHAREHOLDERS RIGHTS AND EQUITABLE TREATMENT

Chair: **Mr. Stilpon Nestor**, *Head of Corporate Affairs Division, OECD*

14:30 - 16:15 *Presentation*

Main Issues of Shareholders Rights and Equitable Treatment in Romania
Mr. Stilpon Nestor, *Head of Corporate Affairs Division, OECD*

Panel discussion

The Legislative Framework and its Implementation:

- **Mr. Stere Farmache**, *General Manager, Bucharest Stock Exchange*
- **Mr. Sorin David**, *Head of Legal Group, PriceWaterhouseCoopers, Romania*
- **Mr. Gilbert Wood**, *Managing Director, Hall, Dickler (Romania) SRL*

General discussion

16:15-16:30 *Coffee break*

16:30 - 17:45 *Panel discussion*

Equitable Treatment and Corporate Control Issues

- **Mr. Teodor Horia Mihaescu**, *President, Muntenia Invest S.A.*
- **Ms. Angela Ionita**, *Member of the Supervisory Board, Terapia SA Cluj Napoca*

Commentator:

- **Mr. Noel Hinton**, *Deputy Director General, The Takeover Panel, UK*

17:45 - 18:30 *Presentation*

The State as a Shareholder

- **Mr. Aurelian Dochia**, *OECD Consultant, Managing Director, Romanian Bank for Development*

Commentator:

- **Mr. Charles Smedley**, *Executive Officer, The Growth Group, Bucharest*

General discussion

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DAY 2: 19 SEPTEMBER 2001

SESSION IV: THE ROLE OF STAKEHOLDERS

Chair: Mr. Misu Negritoiu, Deputy General Manager, ING Barings

9:15 - 10:45 Presentation

The Stakeholders in Romania: Overview of the Main Issues
Mr. Mats Isaksson, Principal Administrator, Corporate Affairs Division, OECD

Discussant:

- Mr. Patrick Gelin, Chief Executive Officer, Romanian Bank for Development
- Mr. Dan Bunea, Capital Market Director, BCR
- Ms. Steluta Enache, National Union Block (BNS)

Commentators:

- Mr. John Evans, General Secretary, TUAC (Trade Union Advisory Committee to the OECD)

General discussion

10:45-11:00 Coffee Break

SESSION V: RESPONSIBILITY AND ACCOUNTABILITY OF THE BOARD

Chair: Dr. John Sullivan, Executive Director, Center for International Private Enterprise (CIPE)

11:00 - 12:45 Presentation

The Role of the Board in Ensuring Effective Monitoring of Management in Romanian Companies and its Accountability to the Company and Shareholders
Ms. Mathilde Mesnard, Consultant, Corporate Affairs Division, OECD

Discussant

- Mr. Radu Nicosevici, President, PECT; Strategic Alliance of Business Associations

Commentator

- Mr. Leo Goldschmidt, Chairman, Corporate Governance Association of Securities Dealers, Belgium

General discussion

12:45-14:30 Lunch hosted by PriceWaterhouseCoopers

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SESSION VI: THE IMPORTANCE OF TRANSPARENCY AND DISCLOSURE

Chair: Mr. Sergiu Oprescu, *President, Bucharest Stock Exchange*

14:30-16:00 *Presentation*

Building Effective Disclosure Systems in Romania

Mr. John Rieger, *Principal Administrator, Corporate Affairs Division, OECD*

Panel discussion

- **Mrs. Gratiela Iordache** *Romanian Shareholders Association.*
- **Mr. Obie Moore**, *Vice-President, Board of Administrators, American-chamber of Commerce. Partner, Moore, Vartires & Associates SCPA; Altheimer & Gray Law Offices*

Commentators:

- **Mr. Paulo Câmara**, *Head of Issuers Department, Securities Commission (CMVM), Portugal*

General discussion

16:00-16:15 *Coffee break*

CONCLUDING ROUNDTABLE

Chair: Mr. Eric Burgeat, *Director, CCNM, OECD*

16:15-17:00

Mr. Cristian Coltanau, *State Secretary, Romanian Ministry of Foreign Affairs*

Mr. Aurelian Dochia, *OECD Consultant, Managing Director, Romanian Bank for Development: Summary of discussions and main policy implications*

Comments on main policy implications:

- **Mr. Stilpon Nestor**, *Head of Corporate Affairs Division, OECD*
- **Mr. Sergiu Oprescu**, *President, Bucharest Stock Exchange*

General discussion

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NOTES TO THE AGENDA

Main presentations will take approximately 15-20 minutes and discussants are invited to limit their comments to 10 minutes. These time limits are required in order to have ample time for general discussion. During the concluding session, chairpersons are invited to make a summary, limited to 5 minutes each, of the conclusions and recommendations emerging from their respective sessions.

1. **Session I** will discuss the OECD Principles of Corporate Governance and their relevance to non-OECD countries. It will also provide an overview of corporate governance mechanisms in OECD countries together with their legal and regulatory underpinnings and highlight recent developments in the international corporate governance debate and practice.

The OECD Principles are intended to assist Member and non-Member governments in their efforts to evaluate and improve the legal, institutional and regulatory framework for corporate governance in their countries, and to provide guidance and suggestions for stock exchanges, investors, corporations, and other parties that have a role in the process of developing good corporate governance. The Principles focus on publicly traded companies. However, to the extent they are deemed applicable, they might also be a useful tool to improve corporate governance in non-traded companies, for example, privately held and state-owned enterprises.

The Principles represent a common basis that OECD Member countries consider essential for the development of good governance practice. They are intended to be concise, understandable and accessible to the international community. They are not intended to substitute for private sector initiatives to develop more detailed "best practice" in governance.

Building good corporate governance has been an integral part of developing a sound private sector basis for economic growth in OECD economies. Public and private sector decision-makers have paid considerable attention to issues, such as property protection, and the rights and responsibilities of different participants in the governance of the corporation. This interest stems from a broader concern for the efficient allocation of resources and the development of capital markets.

Countries and corporations within the OECD are also experiencing a convergence in governance practices. Driving this convergence is the institutionalisation and internationalisation of equity ownership. This trend provides new investment opportunities, and better access to capital for companies. However, for countries to reap the full benefits of these opportunities, governance arrangements must be credible and well understood across borders.

Main issues for discussion:

- *What areas do the OECD Principles of corporate governance cover?*
- *What have been the most important legal and regulatory cornerstones for developing effective corporate governance practices in the OECD countries?*
- *What examples can illustrate good governance as enshrined in the Principles?*
- *To what extent they are relevant to non-OECD countries and how they can be implemented in a transition setting?*
- *What are the main recent trends shaping the corporate governance landscape in OECD countries?*

2. **Session II** will examine the current corporate governance framework in Romania with a special emphasis on the ownership and control structure of the Romanian corporate sector and their determinants.

The history and achievements of the transition process from a centrally planned to market economy in Romania are important to understand the development of the corporate sector. One of the most important reform efforts since transition began is privatisation, through which the ownership and control of enterprises is transferred to private hands. The policies addressing enterprise restructuring and exit, as well as the main actors in this process and its results are also important determinants of the current corporate ownership structure.

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The need to mobilise outside capital is another important factor in shaping corporate governance. As in OECD countries, stock exchanges in Romania are promoting good governance practices. However, their influence may still be limited due to the fact that the markets are in their infancy. The banks, which currently serve as the main source of corporate finance, may play a significant role in disciplining and monitoring management.

Main issues for discussion:

- *What are the recent developments in corporate governance practices in Romania and their driving forces?*
- *What are the main characteristics of corporate ownership and control in Romania? What are the determining factors that shape these characteristics?*
- *What is the role of the equity market in the financing of corporations and how important is the stock market in corporate finance? What is the ownership and control situation in an average listed company? Is stock market discipline perceived as an important governance factor?*
- *What is the role of the banking sector in corporate governance? Do banks own a considerable part of industry? Do they have other means to exercise corporate control and if so, how do these arrangements work?*

3. The purpose of **Session III** is to discuss issues related to the rights of shareholders and their equitable treatment.

Shareholders have certain basic rights including those to secure ownership and registration, convey and transfer shares, obtain relevant information, share in residual profits, participate in basic decisions and at general shareholder meetings, and fair and transparent transfers of control. The protection of minority shareholders enhances investor confidence and ultimately improves access to external capital for the company. In order to obtain a perspective on corporate behaviour toward shareholders, representatives of listed companies and institutional investors will address accomplishments and challenges in managing shareholder relations.

Particular emphasis will be put on the legal framework of shareholder rights and protection. Legal protection is particularly important for minority shareholders as management has fewer incentives to address their interests than those of controlling owners. With unequal access to information, minority shareholders may be vulnerable to abuse such as insider trading or abusive self-dealing. It is vital that effective legal procedures be established so that minority shareholders could obtain redress for grievances at a reasonable cost and without excessive delay.

Main issues for discussion:

- *What are the mechanisms for shareholder protection in Romania? How effectively are the rights of shareholders being protected? Have shareholders been treated equitably?*
- *How can minority shareholders be protected against transactions that are based on conflicts of interest between the corporation and its major shareholders/management? What are the most common practices in this respect?*
- *Does the legal framework provide for fair treatment of shareholders? How can enforcement be strengthened? Can shareholders obtain redress for violation of their rights? Are there institutional issues to be addressed for better shareholder protection?*

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4. The way a company is managed matters not only to shareholders but also to other persons who may have a stake in the company. **Session IV** will assess the corporate governance role of stakeholders, including employees, creditors, suppliers, customers and the communities in which the company operates.

Although a key aspect of corporate governance is the interaction between shareholders and management, corporate governance is also concerned with finding ways to encourage the various stakeholders in the enterprise to undertake socially efficient levels of investment in firm-specific human and physical capital. It is important that the corporate governance framework recognise that the interests of the corporation are served by acknowledging the interests of stakeholders and their contribution to the long-term success of the corporation.

In some OECD countries, certain stakeholders are significantly involved in the corporate governance process. Where credit is a primary source of finance, banks may play an important role in providing external discipline to corporate management. Employees are sometimes formally admitted to participate in the governance process through board representation. Employee stock ownership plans are also widely used to align the interest of owners and employees. In Romania, privatisation provided employees with the opportunity to own shares. Employees have, however, reportedly been inactive in decision-making.

Main issues for discussion:

- *What is the role of stakeholders in the corporate governance practices of Romania? How are they involved in the governance of the enterprise?*
- *Does the corporate governance framework permit performance-enhancing mechanisms for stakeholders?*
- *Where stakeholders participate in the corporate governance process, how much access to information should they have?*

5. **Session V** will examine the legal framework and the practical functions of the board, focusing upon its responsibility and accountability to the company and shareholders.

The board is an important mechanism for monitoring management and providing strategic guidance. Members of the board are appointed directly or indirectly and are accountable to the shareholders. They are expected to act in good faith, with due diligence and in the best interest of the company and the shareholders. At the same time, the board must ensure compliance of the company with applicable laws and take into account the interests of stakeholders.

Certain key responsibilities of the board such as audit, nomination and executive remuneration may require the attention of independent, non-executive directors. It is often accepted as best practice that the board in public joint-stock companies include a sufficient number of members who are not employed by the company and (except for share ownership) are not closely related to the company or its management through significant economic, family or other ties.

Main issues for discussion:

- *What is the role of the board in corporate governance in Romania? What are the main responsibilities of the board?*
- *What is the common board structure? Does it work? What are the major obstacles? What can be done to enhance the responsibility and accountability of the board?*
- *How do boards balance the interest of minority shareholders against those of controlling ones?*

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- *How has thinking been evolving on the need for independent directors? What role should they play and what duties should they have?*

6. **Session VI** will highlight the importance of transparency and disclosure for good corporate governance. It will also explore recent developments in accounting and auditing standards in Romania.

Disclosure can be a powerful tool both for influencing the behaviour of companies and for protecting investors. Shareholders and potential investors require access to regular, reliable and comparable information in sufficient detail for them to make informed decisions about the acquisition, ownership and sale of shares. Disclosure also plays an important role in the monitoring of enterprises.

Main issues for discussion:

- *Is disclosure adequate for investors in Romania? Are the current financial accounting standards adequate for market participants and for the purposes of governance?*
- *To what degree do existing disclosure channels provide users with timely, accurate and relevant information? What areas require further development?*
- *What mechanisms can be useful in improving effective transparency and disclosure? In this connection, who should be the main bodies that set rules and/or ensure effective implementation?*
- *Are international standards being used? What are the merits and risks of introducing international accounting standards? Should the standards be applied to all corporations? How can effective implementation of such standards be ensured?*
- *What instruments do securities market regulators have at their disposal to ensure compliance with legislation related to transparency? Have these been effective? What are some of the challenges and how can they be addressed? Is the existing institutional set-up effective?*

7. **The concluding session** will assess the policy implications of the discussion for the future development of corporate governance in Romania.

8. The analytical report on the corporate governance framework and practices presented at the meeting will be updated to reflect the main conclusions and recommendations from the papers and discussion and will be sent to participants after the meeting.