

# Minority Shareholders' Protection: the Romanian Experience

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***Abstract.** This paper performs an analysis of the regulation regarding minority shareholders protection in Romania. The paper estimates the level for minority shareholders protection based on the Pistor, Raiser and Gelfer (2000) index during the period 1996-2008. This index improved from 13 (January 1996) to 17.25 (March 2008) having a maximum value of 17.75 during May 2002- November 2006.*

**Key words:** corporate governance; minority shareholders protection; Romania.

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**JEL Codes:** G34.  
**REL Codes:** 11B.

## 1. Introduction

Since the Anti-Communist Revolutions, from the end of twentieth century, the Eastern Europe emergent markets are in a continuous transition process to functional market economies. Although most of these countries became members of the European Union, the capital markets regulation still remains a main issue for the capital markets development.

The Romanian experience can be interesting for at least two reasons: i) no knowledge of the market economy for a very long period of time (after 1938) and ii) no economic freedom or even relationships with the market based economies for this period. The result of this study can be useful for investors, as they will be able to find out whether their rights as minority shareholders are protected by Romanian regulators. This result might prove to be very important in the context of Romania's accession within the European Union, with constantly growing opportunities and no barriers for capital flows within EU.

Most of the countries in transition adopted organizational structures inspired by the ones in the developed countries. Anecdotally, the Romanian over the counter market is called RASDAQ, from NASDAQ. Yet, the implementation mechanism was not always brought into practice. As a result, a heterogeneous system has been created, which gathered structures and institutions some of them typical to the market economy, others of the state-owned economy.

Historically, in December 1989, the time of the Romanian anti-communist revolution, individuals were not familiar with market economy mechanisms. This state was due to more than fifty years of a non-market economy. In fact, before the Second World War, Romania was under a royal (1938-1940) and, after that, a fascist (1940-1941) dictatorship. Between 1941 and 1945, Romania fought in the Second World War, and beginning with 1945 was under the influence of the Union of Soviet Socialist Republics. During this period information related to anything that was associated with the market economy doctrine was practically unavailable to the majority of the Romanian population. Moreover, maybe in connection with this state, even after 1989, the mechanisms of the market economy were not enforced soon. Hence, there is an opportunity for studying the evolution of regulations related to corporate governance, especially to minority shareholders protection in a country that had no recent history of a market economy. The results can be analysed comparatively to Gillies et al. (2002) for Estonia. However, the situation in Romania is very different relative to Estonia. For instance, if Estonia benefited from the Finnish television network from 40 miles away, Romania's neighbours were only communist countries – USSR, Hungary, Yugoslavia, and Bulgaria so these television networks were under the Communist doctrine, too.

Historically, the Romanian stock market exchange activity began in 1839, when trade markets were open. On January

1<sup>st</sup> 1882 Bucharest Stock Exchange Market (BSE) was officially opened, and after one week the stock market quotations were published in the Romanian Official Journal. During its existence the stock market's activity was influenced by the socio-political events of the time (the 1907 revolt, the Balkan war in 1912-1913), but it was closed only during the First World War. The activity of the stock market is interrupted in 1948 following nationalization. At the moment of its closure, there were listed shares of 93 companies and 77 fixed income assets (bonds) ([www.kmarket.ro](http://www.kmarket.ro), section "Documentaries").

After a break of almost 50 years, the BSE was reopened in 1995, the first day of trading being November 20<sup>th</sup> 1995. BSE is a share-owned company and was set up by the decision of the National Securities Commission (NSC). Presently, it offers the possibility to invest in equity securities (shares and allocation rights), debt securities (municipal bonds and corporate bonds), securities issued by mutual funds (shares and fund units), and futures contracts. Shares, rights and corporate

bonds are divided in three tiers, depending on how they fulfil the NSC requirements ([www.kmarket.ro](http://www.kmarket.ro), section "Presentation. History"). Currently, at the first tier there are 21 securities listed, at the second 38 securities and at the third one security ([www.kmarket.ro](http://www.kmarket.ro), section "Listed shares").

Several indices are computed by the BSE. The most important are BET, which includes the most liquid 10 shares from the first tier, and BET-COMPOZIT, which include all the shares from the first and the second tier. Some descriptive statistics for the BET Index evolution are presented in Figure 1.

In this figure descriptive statistics are provided for the series of nominal and real return on BET. The data regarding the BET index was provided by the Bucharest Stock Exchange site ([www.bvb.ro](http://www.bvb.ro)). Monthly data for the period 1997 - 2007 was used, taking into account that the BET index was computed starting with July 1997. In this study the index value has been considered as the last working day of the month. The index monthly return was computed according to the relationship:

$$\text{Return on Index} = \frac{\text{Index at the end of the month} - \text{Index at the beginning of the month}}{\text{Index at the beginning of the month}}$$

As the studied period was characterized by high inflation, an analysis of the real monthly return was also performed. Data

on the monthly inflation rate was provided by the Romanian National Institute of Statistics.

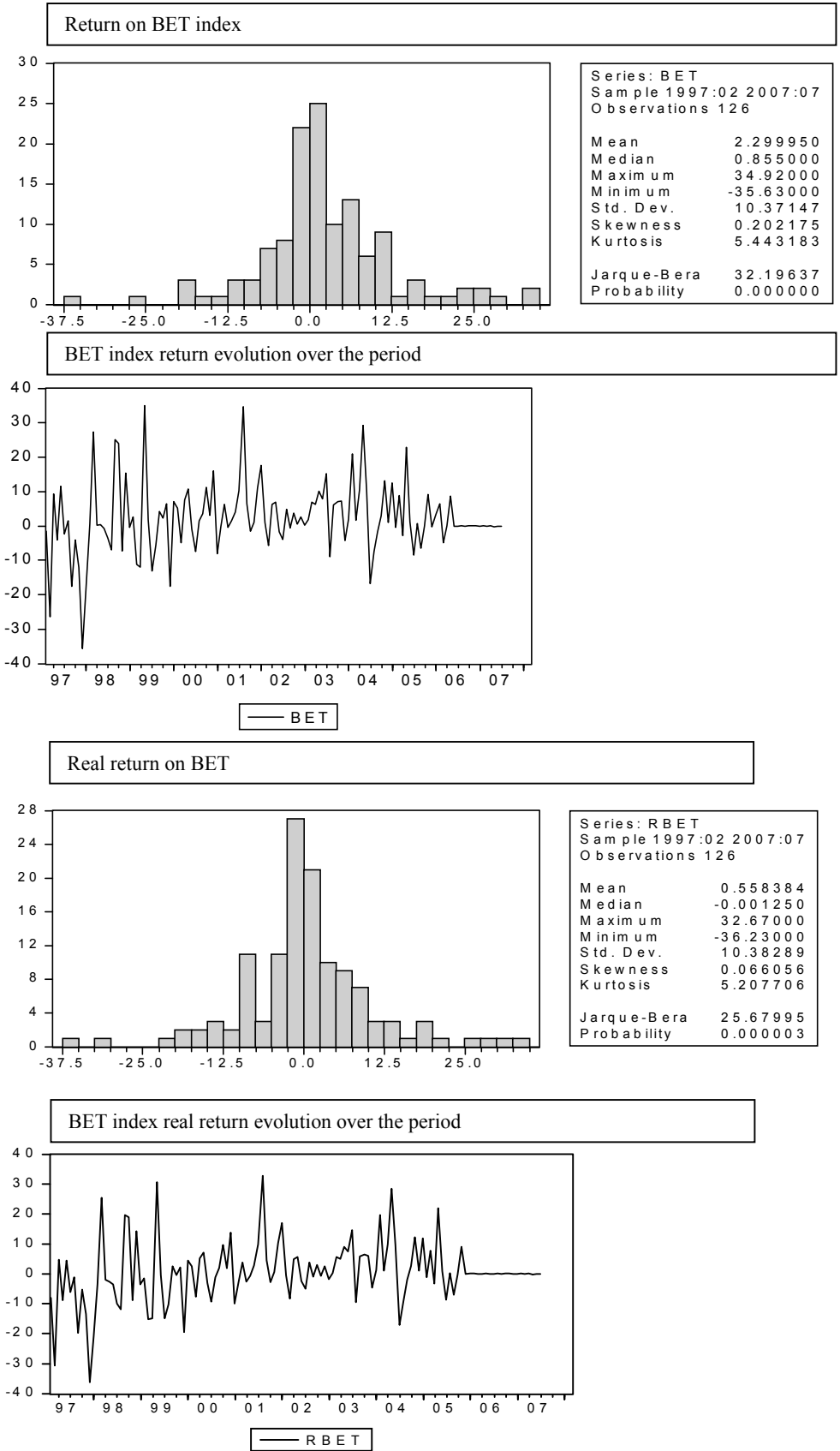


Figure 1. Descriptive statistics for BET Romanian market index (1997-2007)

In the development period of the Romanian capital market (before 2002), the most important events were: (i) setting up the market for unlisted securities traded through the system of the stock market (1999); (ii) the listing of the five financial investment companies - SIF (1999); (iii) the trade of the first deposit certificates issued by a bank and the first issue of corporate bonds (listed on RASDAQ in 2000); (iv) the first transaction with derivatives at the Sibiu Monetary – Financial and Commodities Exchange (2000); (v) the first listing of municipal bonds at the Bucharest Stock Market Exchange (2001) ([www.kmarket.ro](http://www.kmarket.ro), section “Documentaries and analysis”).

The year 2002 brought changes for the capital market regulations that created the framework for introducing a lot of innovations: rights’ transactions, options on shares, futures on stock market indices, short sales etc. Among the effects of the new regulations that can be mentioned are: raising the standards of transparency, investors’ protection, improving the activity of the market’s intermediaries and the growth of the market’s activity. The change of investors’ perception made the capital market a viable alternative to invest, 2002 being a year of growth in shares’ quotations and as a result in indices.

During 2003-2007 BSE had an encouraging evolution, which could be explained by the increase of foreign investors’ funds flow as an effect of Romania’s accession to the European Union, and by the development of large companies and also by several mass

privatizations. However, some studies related to Romanian capital market questioned the market efficiency (see, for instance, Dragotă, Mitrică, 2004).

The development of capital markets seems to depend, in a great measure, on ensuring the conditions for information disclosure and also on setting up the framework which would encourage the minority shareholders to invest. Therefore, studying minority shareholders’ protection became a frequent subject of analysis. In the existing literature, some issues can be mentioned: (i) the analysis of minority shareholders’ protection in different countries (La Porta, Lopez-de-Silanes, Shleifer, and Vishny, 1998, 2000; Pajuste, 2002; Klapper, Laeven, Love, 2006); (ii) the impact of minority shareholders’ protection on capital market development (Modigliani, Perotti, 1997, Pagano, Volpin, 2006); (iii) the estimation of the optimum control level and its impact on company value (Butz, 1994, Pagano, Roell, 1998, Claessens, Djankov, Fan, Lang, 2002, Edwards, Weichenrieder, 2004)<sup>(1)</sup>; (iv) the protection of the investors and the effects on company value (Yarrow, 1985, Zingales, 1994, La Porta, Lopez-de-Silanes, Shleifer, Vishny, 2002, Buyschaert, Deloof, Jegers, 2003) etc.

Modigliani and Perotti (1997) consider that the essential conditions for capital market development are: (i) the existence of proper legislation; (ii) the appropriate enforcement of the law and (iii) the guarantee of free trade. The absence of adequate legislation or of an efficient implementation mechanism generates a low

confidence in capital markets and weak efficiency, as a result of restricted transactions. Inadequate legislation or inefficient enforcement mechanisms lead to a low protection of minority shareholders, thus making possible the existence of higher control premiums. The conclusions of Modigliani and Perotti (1997) are similar to Nenova (2003), revealing that lower control premiums are connected to economies with developed capital markets, while higher levels are specific to the bank-oriented countries. Hence, Romania, having a small capital market<sup>(2)</sup>, may be included in the class of countries with low protection. In this context, Dragotă et al. (2007) estimated a control premium for Romanian listed shares in the period 2002-2004, with a median of 44.62% and an average of 82.44%.

It has to be emphasized that it is not only the institutional factors that have a dominant influence on the capital market, but the company financial policies and the corporate governance, too. Thus, in some countries, even if the legislation is more relaxed, the shareholders benefit from an adequate treatment because of the custom of the company to acquire financial resources through the capital market (Albuquerque, Wang, 2005).

Analyzing the influence of minority shareholders' protection on the development of the capital market, Pagano and Volpin (2006) build a model used to prove the existence of a bidirectional relationship between the variable reflecting minority shareholders protection, namely La Porta et al. (1998) index, and variables

reflecting capital market development. The conclusion is that the improvement of minority shareholders' protection leads to capital market development and that a developed capital market determines the efficiency of the mechanisms ensuring the minority shareholders' protection.

The issue of corporate governance for Romania became a field of interest in the past few years (Mallin, 2000, Pajuste, 2002, Hashi, 2004, Claessens, Tzioumis, 2006, Dragotă, Semenescu, Pele, Lipară, 2008 etc.). The seminal literature dealing with the protection of the minority shareholders in ex Communist countries is represented by Pistor et al. (2000) and Pajuste (2002). We can mention that in Romania, companies with major shareholders owning a large percentage of the capital set dividend ratios lower than the others (Dragotă, 2006). The average stake owned by the major shareholder is very large (the average first shareholder control percentage is 53%, and for the second is 16.6%). Also, the control premium for the companies listed on the Romanian capital market is higher than the world average (Dragotă et al., 2007).

This study analyzes the evolution of minority shareholders' protection regulations measured through the Pistor, Reiser and Gelfer (2000) index applied to the Romanian capital market. The rest of this paper is organized as follows. The evolution of regulation in the field of capital markets over the period 1996-2008 and the way it was reflected in the index quantifying the minority shareholders protection in Romania is described in Section 2. Section 3 concludes the study.

## 2. Minority shareholders protection in Romania

The measurement of the minority shareholders protection may be completed by construction of some indices like the one of La Porta et al. (1998), Pistor et al. (2000), Lele and Siems (2007), etc. A specific index for the East European countries, the ex-communist ones, is the one recommended by Pistor et al. (2000).

The present Romanian capital market is relatively young and the legislation has had a dynamic evolution. The main legislative events that influenced the protection of minority shareholders' rights are presented in Appendix 1. In order to reveal the evolution of Romanian legislation related to minority shareholders' protection, Pistor et al. index (2000) was estimated. This index was also used by Pajuste (2002) in order to analyse corporate governance issues behind stock market performance in nine Central and Eastern European (CEE) countries, over the period June 1994-June 2001.

Comparatively to the La Porta et al. (1998) index, the Pistor et al. index (2000) was considered because of the more detailed analysis of legislation concerning minority shareholders' protection<sup>(3)</sup>. As a result, small changes of the regulations in force are reflected in the index level.

The legal index introduced by Pistor et al. (2000) is based on the sum of three indices, in their turn explained by some market characteristics as follows: (1) *Voice*, which shows the minority shareholders power to be informed and to exercise their right to vote. This index quantifies the

voting power of minority shareholders, the easiness of exercising their right to vote and of subscribing to the new shares issues; (2) *Exit*, which is a variable showing how easy the minority shareholders may liquidate their positions at the right price if they consider their rights are not fulfilled; (3) *Stock Market Integrity index*, which is a variable defining the capital market regulation and the legislative protection of the minority shareholders.

Based on the Pistor et al. (2000) index, a similar analysis for the Romanian legislation for the period 1996-2008 has been performed. The 24 characteristics taken into account in the Pistor et al. (2000) index have been analysed in accordance with the Romanian legal settlements concerning the minority shareholders protection. The index has been computed monthly. The impact of the legislative changes on this index was considered starting the month after they appeared. After analysing the regulations on corporations and capital market (see Appendix 1), the result was 13 points for the legislative index registered in 1996, reaching a maximum of 17.75 points in May 2002, a level which remained the same until the end of 2006 (see Table 1)<sup>(4)</sup>. The updates of Company Law (Law no. 441/2006) that allow decisions of the Shareholders' Assembly be taken with a quorum of only 1/4 of the shareholders have decreased the index level to 17.25. The issues for which the legislation has registered deficiencies during the entire period of the study are as follows: (i) the right for voting by mail; (ii) the lack of an

obligation to register the shares by a specific date in order to have the right to participate in the Shareholders General Meeting; (iii) the requirement of the qualified majority (at least 3/4) for fundamental decisions, including charter changes, liquidation of companies, sales of major assets; (iv) the existence of the right to transfer the shares without legal, statutory or constitutive documents' restrictions; (v) the obligation that corporate statutes must specify a certain amount of dividends to be paid to shareholders. The cumulative vote; the

existence of a minimum limit above which takeover offers are compulsory, the shareholders' register to be kept by an independent company, the right of the shareholders owning less than 10% to invoke the censors' committee, the prohibition of insiders' transactions, the disclosure obligation on transactions which result in the acquisition of a significant percentage of shares. These represent criteria which have been fulfilled over time, the effect being the growth of the index from 13 to 17.75 (until December 2006).

**The monthly level of Pistor, Raiser and Gelfer legislative index, estimated for Romanian case in the period Jan. 1996 –March. 2008**

Table 1

No.	Year	Quarter	Month	Pistor, Raiser and Gelfer Index	No.	Year	Quarter	Month	Pistor, Raiser and Gelfer Index	No.	Year	Quarter	Month	Pistor, Raiser and Gelfer Index
1	1996	I	Jan.	13	50	2000	I	Feb.	16	99	2004	I	March	17.75
2	1996	I	Feb.	13	51	2000	I	March	16	100	2004	II	Apr.	17.75
3	1996	I	March	13	52	2000	II	Apr.	16	101	2004	II	May	17.75
4	1996	II	Apr.	13	53	2000	II	May	16	102	2004	II	June	17.75
5	1996	II	May	13	54	2000	II	June	16	103	2004	III	July	17.75
6	1996	II	June	14	55	2000	III	July	16	104	2004	III	Aug.	17.75
7	1996	III	July	14	56	2000	III	Aug.	16	105	2004	III	Sept.	17.75
8	1996	III	Aug.	14	57	2000	III	Sept.	16	106	2004	IV	Oct.	17.75
9	1996	III	Sept.	14	58	2000	IV	Oct.	16	107	2004	IV	Nov.	17.75
10	1996	IV	Oct.	14	59	2000	IV	Nov.	16	108	2004	IV	Dec.	17.75
11	1996	IV	Nov.	15	60	2000	IV	Dec.	17	109	2005	I	Jan.	17.75
12	1996	IV	Dec.	15	61	2001	I	Jan.	17	110	2005	I	Feb.	17.75
13	1997	I	Jan.	15	62	2001	I	Feb.	17	111	2005	I	March	17.75
14	1997	I	Feb.	16	63	2001	I	March	16	112	2005	II	Apr.	17.75
15	1997	I	March	16	64	2001	II	Apr.	16	113	2005	II	May	17.75
16	1997	II	Apr.	16	65	2001	II	May	16	114	2005	II	June	17.75
17	1997	II	May	16	66	2001	II	June	16	115	2005	III	July	17.75
18	1997	II	June	16	67	2001	III	July	16	116	2005	III	Aug.	17.75
19	1997	III	July	16	68	2001	III	Aug.	16	117	2005	III	Sept.	17.75
20	1997	III	Aug.	16	69	2001	III	Sept.	16	118	2005	IV	Oct.	17.75
21	1997	III	Sept.	16	70	2001	IV	Oct.	16	119	2005	IV	Nov.	17.75
22	1997	IV	Oct.	16	71	2001	IV	Nov.	16	120	2005	IV	Dec.	17.75
23	1997	IV	Nov.	16	72	2001	IV	Dec.	16	121	2006	I	Jan.	17.75
24	1997	IV	Dec.	16	73	2002	I	Jan.	16	122	2006	I	Feb.	17.75
25	1998	I	Jan.	16	74	2002	I	Feb.	16	123	2006	I	March	17.75
26	1998	I	Feb.	16	75	2002	I	March	16	124	2006	II	Apr.	17.75



No.	Year	Quarter	Month	Pistor, Raiser and Gelfer Index	No.	Year	Quarter	Month	Pistor, Raiser and Gelfer Index	No.	Year	Quarter	Month	Pistor, Raiser and Gelfer Index
27	1998	I	March	16	76	2002	II	Apr.	16	125	2006	II	May	17.75
28	1998	II	Apr.	16	77	2002	II	May	17.75	126	2006	II	June	17.75
29	1998	II	May	16	78	2002	II	June	17.75	127	2006	III	July	17.75
30	1998	II	June	16	79	2002	III	July	17.75	128	2006	III	Aug.	17.75
31	1998	III	July	16	80	2002	III	Aug.	17.75	129	2006	III	Sept.	17.75
32	1998	III	Aug.	16	81	2002	III	Sept.	17.75	130	2006	IV	Oct.	17.75
33	1998	III	Sept.	16	82	2002	IV	Oct.	17.75	131	2006	IV	Nov.	17.75
34	1998	IV	Oct.	16	83	2002	IV	Nov.	17.75	132	2006	IV	Dec.	17.25
35	1998	IV	Nov.	16	84	2002	IV	Dec.	17.75	133	2007	I	Jan	17.25
36	1998	IV	Dec.	16	85	2003	I	Jan.	17.75	134	2007	I	Feb.	17.25
37	1999	I	Jan.	16	86	2003	I	Feb.	17.75	135	2007	I	March	17.25
38	1999	I	Feb.	16	87	2003	I	March	17.75	136	2007	II	Apr.	17.25
39	1999	I	March	16	88	2003	II	Apr.	17.75	137	2007	II	May	17.25
40	1999	II	Apr.	16	89	2003	II	May	17.75	138	2007	II	June	17.25
41	1999	II	May	16	90	2003	II	June	17.75	139	2007	III	July	17.25
42	1999	II	June	16	91	2003	III	July	17.75	140	2007	III	Aug.	17.25
43	1999	III	July	16	92	2003	III	Aug.	17.75	141	2007	III	Sept.	17.25
44	1999	III	Aug.	16	93	2003	III	Sept.	17.75	142	2007	IV	Oct.	17.25
45	1999	III	Sept.	16	94	2003	IV	Oct.	17.75	143	2007	IV	Nov.	17.25
46	1999	IV	Oct.	16	95	2003	IV	Nov.	17.75	144	2007	IV	Dec.	17.25
47	1999	IV	Nov.	16	96	2003	IV	Dec.	17.75	145	2008	I	Jan.	17.25
48	1999	IV	Dec.	16	97	2004	I	Jan.	17.75	146	2008	I	Feb.	17.25
49	2000	I	Jan.	16	98	2004	I	Feb.	17.75	147	2008	I	March	17.25

Although the changes in regulations seem to improve the minority shareholders protection, the enforcement of the law is the problem that remains. An exhaustive presentation for enforcement of the law indices is made in Kaufman et al. (2005). However, in their paper there is no clear evidence regarding a change in enforcement of the law in Romania over the analyzed period. The evolution of the Romania enforcement of the law index is presented in the International Country Risk Guide. The figures revealed by this publication show a decrease of “law and order” index, that had a level of 5 (from a maximal value of 6) in the period 1996 – January 1999, to 4 points since February 1999. From this perspective, the improvement of legislative protection

of the minority shareholders can be partly offset by the regress manifested in the enforcement of the law field.

### 3. Conclusions

This study offers a presentation of the stages in the evolution of the developments related to the minority shareholders protection in Romania for the period 1996-2008, measured by the Pistor, Raiser and Gelfer (2000) index. It can be noticed that this index improves from 13 (January 1996) to 17.25 (March 2008). The result shows to investors interested in the Romanian capital market that the minority shareholders’ protection has increased over the years.

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## Notes

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- (1) Given the characteristics of each economy, the optimal control level is not the same. The deviations from this optimal level generate a decrease in company market value, with effects on investors' behaviour on the specific share market.
- (2) In 2007, the market capitalization represented 35,326.04 millions USD, respectively around 21.24% from the gross domestic product, but the annual transaction volume represented almost 15.72% of the market capitalization.
- (3) The Antidirector Rights Index, proposed by La Porta, Lopez-de-Silanes, Shleifer and Vishny (1998),

- quantifies the existence of adequate regulations, scaling from 0 to 6, where 0 represents the lowest minority shareholders protection. In Romania this index reached 2.75 points in 2005 (Dragotă, 2006). This level is very close to the world average. For comparison, the median values for this index in English-origin countries, based on „common law”, equals 4, as for the countries based on French law and German law the average level is 2.33, while Scandinavian law countries reach 3 points.
- (4) The maximum level for this index is 23.

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## References

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- Albuquerque, R. Wang, N., „Agency Conflicts, Investment and Asset Pricing”, *Social Science Research Network*, Centre for Economic Policy Research Discussion Paper, 2005, 4955
- Buysschaert, A., Deloof, M., Jegers, M., „Equity sales in Belgian corporate groups: expropriation of minority shareholders? A clinical study”, *Journal of Corporate Finance*, 10, 2004, pp. 81-103
- Claessens, S., Djankov, S., Fan, J., Lang, L., „Disentangling the Incentive and Entrenchment Effects of Large Shareholdings”, *The Journal of Finance*, 57, 2002, pp. 2741-2771
- Claessens, S., Tzioumis, K., Ownership and Financing Structures of Listed and Large Non-listed Corporations, *Corporate Governance: An International Review*, 14, 2006, pp. 266-276
- Dragotă, I.M., Semenescu, A., Pele, D.T., Lipară, C., „Capital Structure and Financial Performance - Related or Independent Variables? Empirical Study on Romanian Companies Listed on Capital Market”, *Theoretical and Applied Economics*, vol. 4(04(521)) (s), 2008, pp. 143-150, April
- Dragotă, V., Mitrică, E., „Emergent capital markets' efficiency: The case of Romania”, *European Journal of Operational Research*, vol. 155(2), June, 2004, pp. 353-360
- Dragotă, V., „Minority shareholders' protection in Romanian capital markets: evidence on dividends”, *Euro Mediterranean Economics and Finance Review*, 1, 2006, pp. 76-89
- Dragotă, V., Dumitrescu, D., Ruxanda, G., Ciobanu, A., Braşoveanu, I., Stoian, A., Lipară, C., „Estimation of Control Premium: The Case of Romanian Listed

- Companies”, *Economic Computation and Economic Cybernetics Studies and Research*, Vol. 41, No. 3-4, 2007, pp. 55-72
- Edwards, J., Weichenrieder, A., „Ownership Concentration and Share Valuation”, *German Economic Review*, 5, 2004, pp. 143-171
- Gillies, J., Leimann, J., Peterson, R., „Making a Successful Transition from a Command to a Market Economy: the lessons from Estonia”, *Corporate Governance: an International Review*, 10, 2002, 175-186
- Hashi, I., „The Legal Framework for Effective Corporate Governance: Comparative Analysis of Provisions in Selected Transition Economies”, *Center for Social and Economic Research*, 268, 2004
- Kaufmann, D., Kraay, A., Mastruzzi, M., „Governance Matters: Governance Indicators for 1996-2004”, *World Bank Policy Research Working Paper 3630*, June, 2005
- Klapper, L., Laeven, L., Love, I., „Corporate Governance Provision and Firm Ownership: Firm-Level Evidence for Central Europe”, *Journal of International Money and Finance*, 25, 2006, pp. 429-444
- La Porta, R. Lopez-de-Silanes, F., Shleifer, A., „What Works in Securities Laws?”, *Journal of Finance*, 61, 2006, pp. 1-32
- La Porta, R., Lopez de Silanes, F., Shleifer, A., Vishny, R., „Investor protection and corporate valuation”, *Journal of Finance*, 57, 2002, pp. 1147-1170
- La Porta, R., Lopez-de-Silanes, F., Shleifer, A., Vishny, R., „Agency Problems and Dividend Policies Around the World”, *Journal of Finance*, 55, 2000, pp. 1-33
- La Porta, R., Lopez-de-Silanes, F., Shleifer, A., „Corporate Ownership around the World”, *The Journal of Finance*, 54, 1999, pp. 471-517
- La Porta, R., Lopez-de-Silanes, F., Shleifer, A., Vishny, R., „Law and Finance”, *The Journal of Political Economy*, 106, 1998, pp. 1113-1155
- Lele, P., Siems, M., „Shareholder Protection: a Leximetric Approach”, *Journal of Corporate Law Studies*, 17, 2007, pp. 17-50
- Levine, R., Zervos, S., „Stock Markets, Banks, and Economic Growth”, *American Economic Review*, 88, 1998, pp. 537-558
- Lopez-de-Silanes, F., „A Survey of Securities Laws and Enforcement”, *World Bank Policy Research Working Paper*, 3405, 2004
- Mallin, C., Jelic, R., „Developments in Corporate Governance in Central and Eastern Europe”, *Corporate Governance: An International Review*, 8, 2000, pp. 43-51
- Menzie, D.C., Ito, H., „What Matters for Financial Development? Capital Controls, Institutions, and Interactions”, *National Bureau of Economic Research Working Paper Series Working Paper*, 2005, 11370
- Milgrom, P., Roberts, J., „Relying on the information of interested parties”, *Rand Journal of Economics*, 17, 1986, pp. 18-32
- Modigliani, F., Perotti, E., „Protection of Minority Interest and the Development of Security Markets”, *Managerial and Decision Economics*, 18, 1997, pp. 519-528
- Nenova, T., „The Value of Corporate Votes and Control Benefits: A Cross-country Analysis”, *Journal of Financial Economics*, 68, 2003, pp. 325-351
- Pagano, M., Roell, A., „The Choice of Stock Ownership Structure: Agency Costs, Monitoring, and Decision to go Public”, *The Quarterly Journal of Economics*, 113, 1998, pp. 187-225
- Pagano, M., Volpin, P., „Shareholder Protection, Stock Market Development, and Politics”, *Finance working paper 105/2005*, 2006, European Corporate Governance Institute
- Pajuste, A., „Corporate Governance and Stock Market Performance in Central and Eastern Europe: A Study of Nine Countries”, 1994-2001, SITE, 2002, Stockholm School of Economics
- Pistor, K., Raiser, M., Gelfer, S., „Law and finance in transition economies”, *Economics of transition*, 8, 2000, pp. 325-368
- Pistor, K., Xu, C., „Governing Emerging Stock Markets: legal vs. Administrative Governance”, *Corporate Governance: An International Review*, 13, 2005, pp. 5-10
- Shleifer, A., Vishny, R.W., „A Survey of Corporate Governance”, *Journal of Finance*, 52, 1997, pp. 737-783
- Stigler, G., „Public regulation of the securities market”, *Journal of Business*, 37, 1964, pp. 117-142
- Trojanowski, G., „Equity Block Transfers in Transition Economies: Evidence from Poland”, *EFA Annual Conference*, 467, 2003
- Wei, S. J., Shleifer, A., „Local Corruption and Global Capital Flows in Reports”, *Brookings Papers on Economic Activity*, 2, 2000, pp. 303-354
- Yarrow, G.K., „Shareholder Protection, Compulsory Acquisition and Efficiency of the Takeover Process”, *The Journal of Industrial Economics*, 34, 1985, pp. 3-16
- Zingales, L., „The Value of the Voting Right: A Study of the Milan Stock Exchange Experience”, *The Review of Financial Studies*, 7, 1994, pp. 125-148
- www.bvb.ro
- www.kmarket.ro

## The evolution of minority shareholders' protection legislation in Romania. A chronological presentation

The Romanian legislation may be divided into two categories: (a) Primary legislation: laws, ordinances, governmental resolutions; (b) Secondary legislation: regulations and decisions of the National Securities Commission. The following dates represent points in time when the respective documents came into force.

- December, 17<sup>th</sup>, 1990: The Law no. 31 – The Company Act established the fundamental characteristics for corporations. It is the first act that established the shareholder's rights equality. As there were no specific rules, the transactions with shares were made respecting the simple trading rules. The ones who wanted to sell using publicity had to make a prospectus. It was established that the shareholders will be represented in the general shareholders meeting proportionally with equity holdings. Each share gave the right to one vote, but it was possible to diminish the number of votes for the shareholders who owned more than one share.

- October, 15<sup>th</sup>, 1992: The „*Agencia Națională pentru Titluri de Valoare*” (The National Agency for Securities) was set up as regulator for trading shares and trading agents. It was a part of the Economics and Finance Ministry. The content of a public offer was also established and the rules for giving information to the shareholders on a company's result.

- August, 26<sup>th</sup>, 1993: “*Agencia Națională pentru Titluri de Valoare*” (The National Agency for Securities) transformed into “*Agencia de Valori Mobiliare*” (*The Agency for Securities*), which represented a general office of the Ministry of Finance. The transactions with securities had to be made only by an authorized agent. For the first time some rules were established in the shareholders' protection field.

- September, 1<sup>0th</sup>, 1994: The Law No. 52, on securities and stock exchanges. It settled “*Comisia Națională de Valori Mobiliare*” (The National Securities Commission) - an autonomous administrative authority and a legal person. It undertook the tasks from the Agency for Securities which stopped functioning. It settled the public offer and the securities trading. It also established that stock exchanges be created as public institutions, by the decision of the National Securities Commission. It regulated the operations allowed on a stock exchange. It also established some rules about investors' protection, portfolio consultants and the share register.

- April, 24<sup>th</sup>, 1995: The Decision No. 20 of the National Securities Commission, which created the Bucharest Stock Exchange. Its first transaction session was on November, 20<sup>th</sup>.

- May, 7<sup>th</sup>, 1996: The National Securities Commission regulates the periodical and continuous information reports made by the issuers of securities. It established the reports which had to be made by the issuers to the National Securities Commission and published, for example: current reports, semester reports and annual reports. It also established the treatment for confidential information and the list of persons considered to have such information.

- October, 25<sup>th</sup>, 1996: RASDAQ was founded, the Romanian over-the-counter market.

- June, 27<sup>th</sup>, 1997: the Company Act was modified: preferential shares were introduced and the regulation of shares transactions was left to the special law on securities and stock exchanges. It was also decided that the shares not fully paid will not have voting rights, unless the company by-laws permitted this.

■ August, 6<sup>th</sup>, 2001: Bucharest Stock Exchange adopted the Running and Management Code of Corporate Governance, which undertook the corporate governance principles of OECD. This established the shareholders' rights as follows: the right to participate in the General Meetings, the right to ask questions at the General Meetings gathering, the right to debate the issues on the General Meeting's agenda, the right to receive information, the right to receive dividends, the right to participate in the major decisions of the company's management, the right to be represented in the Administration Board, the preference shareholders' rights. There were also established the duties of administrators in the shareholders' protection area. The Company Act in 1990 had fixed all these rights and the capital market specific legislation supported the shareholders' right to be informed.

■ April, 4<sup>th</sup>, 2002: There were established the roles and objectives of the National Securities Commission on the market. These are as follows: "a) to establish and maintain the necessary background for the development of the regulated market; b) the promotion of trust in regulated markets and in financial instruments investments; c) to ensure the protection of investors and operators against the illegal, abusive and fraudulent practices; d) the promotion of the correct and transparent functioning of the regulated markets; e) the prevention of market manipulation, of fraud and the insurance of the integrity of the regulated markets; f) to fix the standards for the financial solidarity and honest practice of the regulated markets; g) to adopt the necessary measures to avoid systemic risk in markets; h) to prevent the lack of equality in investors' information, treatment or in the respect of their interests".

■ April, the 9<sup>th</sup>, 2002: A new Governmental Ordinance on securities, financial investment services and the regulated markets. It established the stock exchanges as public institutions but also the

possibility to organize other regulated markets as joint-stock companies. It regulated the types of market operations and introduced margin transactions, transactions of preferential rights and also transactions with derivatives. It detailed the significance of investors' protection emphasizing the importance of the Company Act in this area and the special rules for listed companies. It established rules for market-disclosure and equality between investors. For the first time in Romania, it prohibited the handling of the market and transactions based on inside information. The Fund for Investors' Compensation started its activity. Also, this Act regulated the activity of the financial investments companies, the investment consultants, the compensation, deduction, deposit and registering systems, etc.

■ August, 5<sup>th</sup>, 2002: The Governmental Ordinance was approved by law with some amendments. In the initial version, the shareholders may ask for intermediary reports about the financial situation of the company only if they own individually 5% or in common 10%. The law modified the threshold to 5% of the capital for both individually or in common.

■ July, 1<sup>st</sup>, 2004: A new settlement of The National Securities Commission on the issuers and the securities operations. It established the reports which had to be presented by the listed shares issuers and the treatment of preferential information.

■ July, 29<sup>th</sup>, 2004: The Law No. 597 on the capital market. It transposed the European orders in the capital market field, as follows: a) Directive No. 93/22/CEE, on investment services in the securities field; b) Directive No. 97/9/CEE, on investor-compensation schemes; c) Directive No. 85/611/CEE, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS); d) Directive No. 98/26/CEE on settlement finality in payment and securities settlement systems; e) Directive No. 2003/71/CEE, on the pro-

spectus to be published when securities are offered to the public or admitted to trading and amending Directive No. 2001/34/EC; f) Directive No. 2001/34/CEE, on the admission of securities to official stock exchange listing and on information to be published on those securities; g) Directive No. 2003/6/CEE, on insider dealing and market manipulation (market abuse); h) Directive No. 2002/65/CEE, concerning the distance marketing of consumer financial services; i) Directive No. 1993/6/CEE, on the capital adequacy of investment firms and credit institutions.

■ January, 13<sup>th</sup>, 2006: The Regulation No.1 in 2006, on the issuers and the securities operations. It assumes the following European orders: a) Directive No.2001/34/EC, on the admission of securities to official stock exchange listing and on information to be published on those securities; b) Directive No.2003/71/CEE, on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive No. 2001/34/EC; c) Directive No. 2003/6/CEE, on insider dealing and market manipulation (market abuse); d) Directive No. 2004/39/EC, on markets in financial instruments; e) Directive No. 2004/25/EC, on takeover bids; f) Directive No. 2004/109/EC, on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive No. 2001/34/EC; g) Directive No. 2003/124/EC, implementing

Directive No. 2003/6/EC of the European Parliament and of the Council as regards the definition and public disclosure of inside information and the definition of market manipulation; h) Directive No. 2004/72/EC, implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions; i) Regulation No. 2273/2003/EC implementing Directive No. 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments; j) Regulation No. 809/2004 implementing Directive No. 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements.

■ December 1<sup>st</sup> 2006, The Law no. 441 modified the Company Act bringing fundamental changes as regards the companies' administration. Thus two systems of administration were introduced: a unitary system, based on an administration council, and a dualist system, based on a managerial board and a supervisory council. A fundamental change was that the decisions of the Shareholders' Assembly may be taken with a quorum of only 1/4 of the shareholders.