

‘Stakeholder value’ as a new phenomenon of company law

Abstract

The thesis deals with "stakeholder value" as one of the approaches to corporate governance. The primary aim of the thesis is to provide a description of the stakeholder value approach and to describe its position in (in particular) the Czech company law *de lege lata*; the secondary aim is to reflect on the possible legal regulation *de lege ferenda* and notice of problematic points of legislation in relation with the stakeholder value concept. Another goal is to clarify through the empirical research the position of the stakeholder value and some other concepts related to this phenomenon in the Czech Republic.

The thesis is divided into seven chapters. It begins by introducing the concept of "stakeholder value" as one of the corporate governance models, pursuing as one of the goals of a business company to satisfy interests of a wide range of stakeholders, i.e. constituencies tied to a business corporation in a certain way. Following is a theoretical introduction to corporate governance. The second chapter deals with the shareholder value model, contrasted with the stakeholder value approach, with an emphasis on taking into account solely the interests of shareholders. The third chapter is devoted to the so-called enlightened shareholder value model of corporate governance, consisting in taking into account the interests of a wider range of stakeholders in order to maximize the profit of a business corporation. The fourth chapter deals with the theoretical basis of the stakeholder value model and defines the purpose of a business corporation by its optics. In addition to the profits, the purpose is also seen as fulfilling the interests of other groups of stakeholders. Furthermore, the relationship between the stakeholder value and a value of a business company is described, as well as the approach to determining the value of a company by factors influencing the utility for stakeholders, which is essential for their decision to cooperate with a corporation.

Furthermore, a chapter on corporate social responsibility is followed by the sixth chapter devoted to stakeholder value in Czech corporate law, with a focus on a fiduciary duty and a related business judgment rule, which opens up a space for discussion regarding stakeholder value in view of the requirement for business conduct being in the defensible interest of a business corporation. The interpretation of defensible interest is complicated due to the absence of case law, and consideration of stakeholder interests by members of statutory bodies of companies at the expense of profit maximization may pose a risk for these members, consisting in particular of the possibility of legal recourse in the sense of shareholder action, subsequent liability to creditors, and easy revocability. As the empirical research conducted to determine the stakeholder value position in

the Czech corporate environment, described in the seventh chapter, has shown, the stronger the members of statutory bodies feel the threat of legal responsibility in relation to the consideration of stakeholder interests, the less these interests are taken into account. The results of the research also showed that about two thirds of managers of business corporations in the Czech Republic include the interests of a wider range of stakeholders in decision-making within the corporate governance. However, this does not signify the stakeholder value model of corporate governance. At the same time, the research shows that more than 95 % of statutory body members agree to some extent that business companies benefit from taking into account the stakeholder interests. They can thus take them into account in the sense of enlightened shareholder approach in order to maximize profits, and in such case, they should not, according to the knowledge underlying this work, face the threat of legal recourse for breach of good managerial care, as well as when deciding in terms of shareholder value.

Key words: stakeholder value, stakeholders, corporate governance