

Jan Broulík – Law and Economics and Decision Making Processes in Corporations

Abstract

The thesis analyses Czech legal regulations concerning decision making in bodies of corporations. For the purposes of this analysis it employs mainly the apparatus of the economic analysis of law. Its basic concepts are also outlined. The author focuses on two kinds of legal entities which are public universities and joint stock companies. The main difference between these two kinds of legal entities, which also impacts the decision-making processes, is the great extent of governmental interventions in public universities.

The analysis of legal norms shows how reasons of the economic analysis of law correspond with provisions regulating (i) body elections, (ii) body competence allocation and (iii) the body decision making procedure. The criterion for evaluating the quality of legal norms is effectiveness, meaning an increase of social wealth. The detected imperfections are for example (i) prevailing filling of bodies of universities in accordance with the principle of seniority, rather than according to the management skills of candidates (ii) the impossibility of protection against breach of shareholder's loyalty duty which leads to not passing of a general meeting decision and (iii) the mandatory nature of provisions regarding some of the institutes of the corporate law such as the provision on qualified majority vote of the general meeting or the duty of care.

Particular decisions important for joint stock companies' decision making are also introduced. These decisions concern with (i) the decision making of a sole shareholder, (ii) the provision of information concerning issues discussed at the general meeting to shareholders by means of the general meeting invitation, (iii) the concurrent exercise of a corporate body member function and employment contract based manager role, and (iv) the business judgement rule. The cases are used to demonstrate how economic arguments may influence court decisions.

Key words: decision making, corporation, economic analysis of law