

Abstract

Monistic organizational structure of a Czech join-stock company after recodification of private law

Traditionally, the only board structure available for national joint-stock companies under the laws of the Czech Republic was two-tier model based on strict division of corporate governance functions between two separate boards. With the effect as of January 1st 2014, new Business Corporations Act no. 90/2012 Coll. (“Act”) has introduced alternative statutory framework for one-tier board structure for join-stock companies which have its seat in the Czech Republic and thus are governed by the Czech laws. The Act made it possible for shareholders to choose between both models of board structures as what they deemed would fit best the purpose of their business. In this narrow sense the addition may have been looked at as praiseworthy. However the imperfect implementation of one-tier model of corporate governance into Czech law has raised serious interpretational issues which may effectively render this model unacceptable for adoption because the division of powers between the board of directors and general manager remains unclear.

The main purpose of my thesis is to address this issue by clarifying the scope of powers which are vested by the law in the board of directors and general manager of the join-stock company which opts for one-tier board structure. Since there is little experience with this model of corporate governance in the Czech Republic I had to search for inspiration in foreign literature. I chose English company law as reference point for my observations. It helped me to understand some basic elements of one-tier board structure for which England is world-renowned.

Thus first part of the thesis is focused on short description of doctrinal development in area of company law because it helps to put the field of corporate governance in the broader perspective of companies’ regulation. This is followed by brief description of the nature of British company law mainly in regard to board of directors which illustrates why I put such an emphasis on interpretation of strong position of the board and its wide powers under the Act.

The chapter number four is the core of the thesis where I deal with aforementioned issue of division of powers between the board of directors and general manager in particular. By providing the description of the role which board of directors, as opposed to management board

and supervisory board in traditional two-tier model, should perform, I try to answer the question of the true nature of the one-tier model as adopted by the Act.

Unfortunately, since the range of potential interpretation of relevant provisions of the Act is really wide, it is not possible to arrive at final conclusion regarding the nature of one-tier model of corporate governance in the Czech Republic. In this sense the thesis should be viewed as contribution to ongoing discussion on concepts of modern domestic regulation of corporations.