

**Thesepapier zum Thema:** The Corporate Governance of the Turkish Joint Stock Companies and Harmonisation with European Union Acquis

**A. Corporate Governance As a Term**

- There is no single definition of corporate governance.
- We can narrowly define that “corporate governance is a set of relationships, rights and segregation of responsibilities between a company’s management, its board of directors, shareholders, and other stakeholders.”

**B. Basic Principles of Corporate Governance**

- Equality
- Transparency
- Accountability
- Responsibility

**C. Corporate Governance in Turkey and Harmonisation with EU Acquis**

**I. Legal Framework of the Capital Markets in Turkey**

- Turkish Commercial Code (TCC), since 1957.
- Turkish Capital Market Law (CML), since 1981.
- New Turkish Commercial Code (New TCC), from 1<sup>st</sup> July 2012.
- Regulations and Communiqués of Capital Market Board (CMB), since 1981. This board can be compared with Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin).

**II. Enforcement of Corporate Governance Principles**

- Corporate Governance Principles of CMB are essentially “comply-or-explain” principles and related to publicly held joint stock companies which do not have to implement them.
- The companies have to show the degree of their compliance with these principles and explain reasons for any diversions.
- Provisions of CMB communiqués, TCC, New TCC and CML relating to corporate governance principles are mandatory rules.

**III. Harmonisation with EU Acquis**

**1. Shareholders**

- The main target of the corporate governance is to strengthen the shareholder’s position. In order to provide this, a set of rights such as dividend rights, the right to information, the right to participate in the general shareholders’ meeting, minority rights or voting rights are reserved.

- One of the important directives on shareholder rights is “The Exercise of Certain Rights of Shareholders in Listed Companies (2007/36/EC)”. By New TCC, Turkey has also adhered to this Directive to a large extent.
- Turkish legislation is incompatible with EU Acquis about the convocation period of general shareholders` meeting.
- Voting by correspondence right of the shareholders is given by the Directive. On the contrary, there is no provision in the existing TCC and New TCC for voting by correspondence. To adapt to the EU Acquis, legislation needs to be done.

## ***2. Audit, Financial Reporting and Transparency***

- New TCC, changing the audit system completely, has brought a new system compatible with EU Acquis.
- New TCC aligned standards of financial reporting and auditing system with the International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS) in accordance with EU Acquis.
- CMB has largely aligned Turkish accounting system with EU standards by publishing communiqués. Turkish Accounting Standards Board (TASB) in addition published Turkish accounting Standards (TAS) and has an aligned accounting system with IAS/IFRS.

## ***3. Board of Directors***

- The most affected unit of the corporate governance principles is the board of directors. For adding a new one every day to the proposals about structure of the unit, duties of members, their positions and responsibilities, the reform process is permanent.
- CMB started the application of “Independent Board Members” and establishment of the committees in accordance with EU Acquis.
- New TCC has brought the possibility “single member company” in accordance with the EU Acquis (Art. 359/1). The New TCC in accord with the EU Acquis mentioned that early risk recognition and management committee, audit committee and nominations committee shall be set up and these committees shall be bound by non-executive directors.
- There are some differences between Corporate Governance Principles at the New TCC and recommendations of EU about remuneration.

## ***4. Stakeholders***

- New TCC has a special importance in the concept of stakeholders and it has provided shareholders herewith creditors, employees, customers, suppliers and distributors the beneficial opportunity of the transparency principle. It has been provided that these persons can easily access fair information.
- There is no provision about representation of employees in the New TCC.