

Aleksandra Gregoric¹, Katarina Zajc², Marko Simoneti³: AGENT'S RESPONSE TO INEFFICIENT JUDICIARY: SOCIAL NORMS AND THE LAW IN TRANSITION

Very first draft. Please, do not quote.

Abstract

The paper re-examines the concerns on the rule-based governance in poor institutional environment. We claim that if a society internalizes the general norm of obedience to law, the 'law on books' may still play a role, even though no formal enforcement applies. Consequently, we believe that the policy efforts in less developed countries should be oriented also towards re-enforcing this complementary support to the rule to the law. We claim that, by disseminating information about the legal rules, Corporate Governance Code could be one result of such efforts and may help the society internalize the 'new' corporate legislation. We furthermore expose the potential of the Corporate Governance Code as the 'signaling tool' and provide evidence as to why in a weak institutional environment the Code's potential may be even stronger than in the developed market economies.

I. Introduction

It is the aim of our paper to re-examine the concerns regarding the limited impact of corporate legislation in transition. We study three former Yugoslav countries: Slovenia, Croatia and Montenegro. While varying in the degree of their economic development and proximity to the European Union, all the three countries have been quite extensively introducing new corporate rules (EBRD Transition Report, 2006) and the so-called 'soft-law' (i.e. Best practice recommendations or Corporate Governance Codes). The extent of the legal reform in the field of corporate law has been impressive by any standard (Bobirca and Miclaus, 2007). However, high court delays and general mistrust in the courts and law making institutions hamper the functioning of the law and in turn, largely undermine any efforts in improving corporate regulation in any of the three countries. Specifically in regard to transition, it has been often claimed that improving company law makes no sense and contributes little to the investor protection if not supported by efficient institutions, i.e. judiciary (Pistor *et al.*, 2000; Dyck, 2001; Berglöf and Claessens, 2004).

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People (entities) however seldom obey the law only because they fear the (formal) punishment. They may obey it simply because they believe it is *'proper to do so'* (Tyler, 1990).⁴ If the society shares the *'general norm in favor of obeying the law'*, it will penalize legal disobedience (Cooter, 1998); any violator will bear a loss of self-esteem, reputation and disdain (Posner in Eisenberg, 1999). This societal 'attention' may be particularly strong in transition countries, where institutions are neither yet fully developed nor efficient. As shown by Bohnet et al. (2000:3)^{5,6}, if the players⁷ know that the legal system is inefficient, i.e. that contracts are rarely enforced, they will be extremely cautious. In the same line, Gilson and Krakmaan (1984) propose firm reputation⁸ and related signals of corporate character (e.g. financial intermediaries' ratings, experts' verification of product quality, etc.) as the alternative mechanisms that help investors economize on the transaction costs when the market or other institutions are not fully efficient and information in the market is asymmetric. Several other studies show that investors, employees, customers and other firm constituencies make their choices by evaluating firm trustworthiness, which is primarily determined by firm reputation. Consequently, the desire to protect their reputation can inhibit the firms from engaging in activities that the investors and other stakeholders deem unacceptable (Fombrun and Shanley, 1990:233).

However, the reputation mechanism will matter only if the investors or other members of the society attribute the non-obedience of the legal rules to the defecting player rather than to environmental inefficiencies (e.g. lack of confidence in the courts) and act accordingly. The question here is if legal obedience can be a norm also in the societies with poor institutions and mistrust in the legal apparatus itself. Is the lack of legal enforcement also preventing the incorporation of the law in general social norms? We address this question by performing an experiment and option survey specifically focusing on the legislation in the area of company and commercial law⁹. Notwithstanding the lacunas in the institutional enforcement, general mistrust

⁴ See also Sunstein (1996).

⁵ We believe that the arguments made by Bohnet et al. (2000) in relation to contractual obligations can be extended to the compliance with the legal rules in general. Even though respecting contracts and obeying rules overlap to a certain extent, they are not the same. We could say that by obeying rules, firms signal their credibility and trustworthiness in general. By respecting contracts they might only focus on the other contracting party, even though there is some spillover effect, probably because this kind of signal is cheaper.

⁶ As claimed by Cooter (1998:598): *'Good character increases person's value in cooperative activities.'*

⁷ We interchangeably use the world player or firm or agents. Given the nature of the legal issues addressed, with the world 'players' we mostly mean the companies, whose shares are listed on the stock markets.

⁸ We treat reputation as a general perception of firm quality, based on different signals such as information about the firm management, financial performance, quality of product and services, long-term investment value, innovativeness, financial soundness, reliability to perform contracts and promises, ability to attract, develop and keep talented people, community and environmental responsibility and the use of corporate assets. These are the factors included in the Fortune reputation ranking. See <http://www.prfirms.org/resources/research/harris/page4.asp>.

⁹ We focus on the company law. Two reasons apply. One being that our research is mainly in the corporate governance field and therefore we dispose with the necessary knowledge and empirical evidence, and

in the judiciary and small size of the economy, where personal relations may have more importance in governing market transactions than the rules, legal obedience is embedded in the social norms. We provide evidence that legal non-compliance, when disclosed and observed, may result in a loss of firm reputation and trustworthiness.¹⁰ However, our results also imply that the strength of these social sanctions may vary across countries in relation to the level of economic development, proximity with other-developed countries, corruption, culture and general awareness/knowledge of rules and regulation.

Apart from introducing new legal principles, many transition countries have been also very active in introducing the recommendations of business practice¹¹ or, the so-called Corporate Governance Codes. The recommendations of the Codes are quite general and their implementation is purely voluntary; there is no 'moral norm of compliance' attached. This cast doubt on the rationale of the Codes' adoption in less developed countries. It is not so seldom to hear business representatives complain that the proponents of the Codes are simply too 'eager' to introduce changes that are even ahead of the business practices in the developed countries. First and very tentative results for Slovenia¹² confirm that managers do not (yet) perceive the market pressure for the adoption of the best practice as relevant. Moreover, the superiority of the law with regard to the Code is to a certain extent reflected in the analysis of the declarations of the compliance with the CG Code. Non-complying with the recommendations of the business practice is also considered as 'less' or 'not' harmful by the participants of our experiment. The question here is whether such voluntary regulation can still play a role in transition? Should the countries in transition care to introduce the governance principles, given that they still struggle with the implementation of the 'law' itself?

First of all, the Codes provide a summary of the legal rules in relation to the corporate governance. This informational role in our view provides a support to the 'social' enforcement of the legal rules. One should keep in mind that the defecting behaviour can be properly detected and penalized only if the society knows which kind of behaviour is not in line with the law. Secondly, while still not accepted as 'the norm', the Code may represent a mechanism for the firms to 'signal' quality. The low consensus¹³ in relation to the introduction and obedience of the Code makes it more likely that the market will attribute the behavior of the firms to the intrinsic

second reason being that we believe that company law is very similar across countries and therefore it is very unlikely that it is captured by special interest groups. However, we do believe that certain segments of company law may be indeed still influenced by special interest groups.

¹⁰ This assumption is a logical extension of the theoretical claims made by *Cooter (1998)*, supra, footnotes 7 and 8.

¹¹ See also *Black (2001)*, p. 2131 and 2134.

¹² We will implement an equivalent survey in Croatia and Montenegro in the fall 2008.

¹³ That is, the fact that most of the other actors (firms) do not act in the same way in the same situation (*Kelley, 1967 in Friedman et al., 2007*).

motivation and characteristics of the firms, namely their voluntary commitment to improve the way they are governed. We believe that, in order for this mechanism to be effective, the Code should address some country-specific issues; this would also promote the Code's acceptance in the rules of doing business. A tentative analysis of the compliance with the disclosure of Code recommendations in the Slovenian listed firms speaks in favor of our claims. We find that firm's voluntary disclosure mostly follow the expected payoff from signalling, which are in turn determined by the characteristics of the firm ownership structure, the efficiency of the stock market and the identity of the main investors.

The article is structured as follows. After the introduction, the second part briefly describes the judiciary system Slovenia, Croatia and Montenegro. The third part overviews the theory on the interaction between the law and social norms. Perceptions and opinions on the role of rules and recommendations are evaluated in the fifth part. Conclusion and discussion follow.

II. Judiciary in Slovenia, Croatia and Montenegro

According to the EBRD (2006), corporate legislations in the countries of our analysis provide a 'medium level of compliance' with the international corporate governance standards. A case scenario analysis also indicates quite a reasonable level of effectiveness or applicability of the law in practice, particularly in regard to some selected governance mechanisms. For instance, minority shareholders in Slovenia dispose of several options for legal action, procedures are reasonably clear and easy, courts seem to be competent and company books reliable (*Law in Transition*, p. 42). Rather sound and reasonably effective regulatory environment is reported also for Croatia. In Montenegro, the compliance is medium, quite effective are in particular the rules regarding redress.

Despite the improvements of the governance rules, the lengthy procedures largely undermine the effectiveness of the law in all the three countries. It still takes more than one year to get an executable court order in Slovenia (*Law in Transition*, p.4). According to the World Bank, one needs as long as 2 years to recover debt in Slovenia (*World Bank*, 2005), the same time approximately as in Colombia, Mozambique and Lebanon.^{14,15} Lengthy court procedures characterize also Croatia and Montenegro. The average time needed to obtain an executable judgment regarding redress or other investor related issues in Montenegro amounts from 3 up to 5

¹⁴ <http://www.doingbusiness.org/ExploreTopics/EnforcingContracts/Details.aspx?economyid=169>.

¹⁵ There are 2448 cases at Slovenian courts that are older than 10 years; two of them date back to 1974. Due to the lengthy trials, Slovenia had to pay, up until July of 2006, approximately EURO 500.000,00 in damages to Slovenian entities. There are approximately 100 cases against Slovenia still pending at European Court for Human Rights at Strasbourg (*Finance*, 2006, p.12) and the number keeps on increasing.

years. The legal costs related to minority investors' actions in both Croatia and Montenegro are estimated at 20 percent of the damage suffered by the plaintiff and largely exceed the ones in Slovenia. Differently from Slovenia, Croatia and Montenegro also score relatively low in terms of the corruption perception index; according to the 2007 Survey, Montenegro is one of the countries with the highest level of perception of corruption in Europe.

The three countries thus face challenges in regard to the functioning of the courts and consequently, the enforcement of the legal rules. Poor enforcement reduces the exposure of any player to the 'threat of liability', related to the law. This consequently reduces the ability of the law in providing the right incentives to the players and to discourage them from acting against the law. It may moreover hinder any positive interaction between the law and social norms. At the same time, the three countries have started to introduce some form of soft regulation. A Corporate Governance Code (CG Code) based on OECD principles is apparently on its way in Montenegro (*Bobirca, A., Miclaus, P., 2007*), Croatia has introduced a CG Code in 2007, while Slovenian firms have their own Code of governance since 2004. These Codes are relatively general and reflect the 'desired' way of doing business in the developed countries. Thus, they may be too advanced to be easily internalized by the countries in transition. What is thus the role of these Codes, if any, in the less developed countries? Is there any rationale for their implementation in the countries in which the 'mere' enforcement of the legal rules still represents a challenge?

III. Law, best practice and social norms

Even when legal rules are not accompanied by an enforcement regime, they may be effective through their interaction with social norms.¹⁶ Thus, a legal rule may provide a reason for acting in a certain way because the player fears legal sanction or desires legal benefits, because she (the player) has internalized the rule itself or because she fears external non-legal sanctions, like reputational sanctions, or desires non-legal benefits, like reputational gains (*Eisenberg, 1999*). In the words of *Eisenberg*¹⁷ (1999), legal rules may act as an 'obligational'¹⁸ social norm; the player not only self-consciously adhere to or engage in (i.e. a norm is internalized), but feels obliged in some sense to adhere to or engage in since non-complying will have an effect on their social character. The long-term cost of non-adherence to the social norms involves loss of reputation,

¹⁶ A norm exists when almost everyone in a community agrees that they ought to behave in a particular way in specific circumstances, and this agreement effects what people actually do (*Cooter, 1998, p.3*).

¹⁷ Eisenberg (1999) explores the interrelation between the law and social norms in regard to fiduciary duties, corporate governance and takeover rules that are not explicitly incorporated in the legal rules. We extend the same line of reasoning to the general rule of law in less developed countries, where the lack of enforcement prevents the functioning of the 'sanctions treat'.

¹⁸ The name 'obligational norm' is taken from *Eiseneberg (1999)*.

including diminished esteem, public shame and disdain. Given the high information asymmetries in transition, the reputation in transition markets could be a more desirable commodity than in more developed countries.¹⁹

Non-compliance with the law will be penalized only when the society itself considers non-compliance with a rule as something ‘abnormal’ that is, when the general norm or ‘obeying the law’ is actually embedded in the society.²⁰ We support this claim by relying on psychology and the ‘attribution theory’: the society will attribute a particular behavior (e.g. non-compliance with a legal rule) to internal characteristics of the player (i.e. her character) when her behavior differs from the one observed at or expected as a normal one (*Evans, 2006:7*). Thus, only if legal disobedience is perceived as something ‘normal’, the society will tend to discount its importance by searching for a justification in the factors external to the defecting player (firm). This can likely be the case in the countries, where the legitimacy of the rules is questioned due to poor enforcement and general mistrust in the legal apparatus. To put it differently, in the societies when the ones in charge of enforcing the law have their own motivations and become themselves players within the limits of the law, it may well be that all the players taken together are free to ignore the law (Basu, K. , 1998). With reference to Russia, *Black (2001)* for instance states the following: ‘*Across all three dimensions, Russia offers a strong case. Its corporate and securities laws are unenforced and widely ignored. Behavioral norms reinforce bad behavior – self dealing and often outright looting*’. This may be even more the case when, as in transition countries, the legal rules have been in part transposed from other countries and are, as such, a reflection of other country’s societal norms and thus not internalized by the society implementing them. When this is the case, the respect of a given norm will be even more ‘instrumental’ and conditional on the enforcement and third party monitoring capabilities.

As a support and complement to the legal reforms, most of the transition countries have been introducing the so-called Corporate Governance Codes as recommendations of best practice. Being completely voluntary, they are not supported by the social norm of ‘obeying the law’. Notwithstanding the fact that they should account for country-specific characteristics, the recommendations are remarkably similar and still mostly based on very general OECD principles (Bobirca A., Miclaus, P.; 2007). This again raises doubts on the effectiveness of best practice recommendations in transition.

¹⁹ If markets are efficient, firm reputation should not matter. The game theory models evidence that the higher the informational asymmetry in the markets, the more reputation (among other signaling and bonding devices) should matter in determining the choices of firm constituencies (1978). Assuming that firm wants to build a reputation, the reputation can be gained even in the finitely repeated games (Kreps and Wilson, 1982).

²⁰ The human judgment about corporate reputation in fact depends on the individuals’ perception of the environment and to its related interpretation of the information of the observed behavior (*Dhir, 2005*).

IV. Public perception of non-compliance and related social sanctions

When the norm of ‘obeying the law’ is embedded in the social norms, the players will know that the society marks any legal defection as significant. Consequently, they will have more reasons to obey since the defection payoffs may be lower than the reputation losses (Eberl, 2004:263). Similar arguments may apply to other rules and recommendations when perceived as ‘obligational’. An operational test of whether a norm (i.e. legal rule or recommendation) is ‘obligational’ is whether a departure from the norm is likely to involve either self-criticism or criticism by others. In order to evaluate this, we perform an experiment involving a group of 54 MBA students at the Faculty of Economics at the University of Ljubljana (Slovenia), a group of 40 Master students at the Economics Faculty in Zagreb and Split (Croatia) and a group of 26 people with economic and social background in Montenegro.²¹ The experiment was originally constructed in English and then translated into corresponding national languages. The participants were identified with numbers, so that their anonymity was fully preserved. As shown in Table 1, they have some general knowledge of good governance practice and most of them have at least sometimes invested in shares. Their perception about the legal environment complies with the finding in section II: they generally perceive that there is some deficiency in the process of law making and that the rules are in general poorly enforced

Table 1: Perception of the legal environment by the participants of the experiment

	Slovenia	Croatia	Montenegro
OPINIONS ABOUT THE LEGAL ENVIRONMENT	Mean (Median)	Mean (Median)	Mean (Median)
<i>What is your knowledge about Corporate Governance? 1-poor 5-I know the subject well</i>	3(3)	3(3)	3.4(3)
<i>Have you ever invested in firm shares? 1-never 5-very often</i>	2.11(2)	2.35(2)	3.5(4)
<i>How effective is your national Parliament as a law-making institution? 1-very ineffective 5-very effective</i>	2 (2)	2.1(2)	2.8(3)
<i>The legal framework in your country for private businesses to settle disputes and challenge the legality of government actions and/or regulations is: 1-inefficient and subject to manipulation; 5-efficient and neutral</i>	2.35(2)	1.7(2)	2.8(3)
<i>Is the judiciary in your country independent from influences of members of government, citizens or firms? 1-no,-heavily influenced; 5- yes ,entirely independent</i>	2.47 (3)	1.59(1)	2.34(2.5)
<i>Is the judiciary in your country efficient in enforcing law? 1-totally inefficient; 5-very efficient</i>	2.41(2)	1.86(2)	2.8(3)
<i>How often do you, as individual, act against the law? 1-never 5-often</i>	2.3 (2)	1.73 (1)	1.6 (1)
<i>How often do you, as individual, act against the general norms or societal standards?</i>	2.8 (2)	2.16(2)	1.81(2)

²¹ As future business executive and entrepreneurs, the Master (MBA) students of Economics may be a harbinger of attitudes in the broader business community (Fukukawa, K. 2007). Being economic students, they are also not particularly sensitive to issues of corporate law (which would be the case with law student).

The participants ²² were asked to evaluate the decision to appoint a former CEO (currently in retirement) on the firm's Supervisory Board. Initially ('control'), they were provided with a general description of the nomination of a former CEO on the Supervisory Board. They were told that the nomination of the former CEO on the Supervisory Board was proposed by the current CEO. The latter was actually employed by the former CEO and the two have been working closely since then. After the retirement, the former CEO continued having lunches with the new CEO and the Management Board members. The members of the Management Board proposed the nomination of a former CEO claiming that *'his experience in the field will largely contribute to the company's success.'* The description included no reference to any rule or best practice in relation to the appointment of a former CEO on the Supervisory Board. The students had to indicate the agreements (on a scale from 1: *'I definitely don't agree'* to 5: *'I strongly agree'*) with the statements capturing the impact of the nomination on the student's perception of firm's reputation and trustworthiness. The statements and the corresponding results are presented in Table 2 below.

The second round of questions instantly followed the first round. The participants were not allowed to discuss among themselves in between the two rounds. In the second round, they were randomly split in two equal groups. The first version of the case, which was distributed to a half of the students, included the following statements: *'In proposing the new member of the Supervisory Board, the management has disregarded that he may not be objective in supervising the Management Board since, due to the past collaboration, he and the Management Board are old friends. In fact, the proponents of the good business practice do not recommend appointing an old manager on the Supervisory Board. On the other hand, the new member has a substantial experience in business, which may largely offset the drawbacks associated with eventual conflict of interests or lack of objective supervision'*. The aim of this version was merely to convey to the participants the information on the potential conflict of interest related to the nomination of a former manager on the supervisory board and not to test the perception of a explicit recommendation (i.e. Corporate Governance Code).

The second version ('law'), on the other hand, included the following statements: *'By appointing the former board member on Management Board, the firm voluntary violated the article 10 of the Companies Act which explicitly states that: 'The person who has been member of the company's Management Board or member of the management of associated companies within the last three*

²² Many thanks to Vlado Miheljak from the Faculty of Social Sciences in Ljubljana and to Mateja Drnovsek from the Faculty of Economics in Ljubljana for their comments and suggestions in regard to our experiment. The mistakes are our own responsibility. We thank Niksa Alfirovic from Split, Katarinna Ott from Zagreb and Jelena Zvizdojevic from Montenegro for their help with the experiment.

years can not be appointed on the Supervisory Board'. In fact, the legislator doubts about the objectivity of an ex board member to exert supervision over his 'old friends'. However, given the court delays in the country, it would take a shareholder more than 5 years to get a redress for the violation (when finding out that he/she was misled). The managers of the company believe that the benefits from appointing a former CEO on the Board largely exceed the costs of potential court litigation.'

After the second round of reading, the participants were again asked to express their agreement/disagreement with the statements indicated in Table 2. The table also presents the means and the significance in the difference between the means of the control conditions and each of the two versions respectively. In order to double-check the results of the experiment, we asked the participants to express their opinions on the role of a given factor for firm reputation on the stock market. Finally, the participants answered some manipulation checks and demographic questions (for more on the experiment, see the Appendix).

Table 2: Perception of non-compliance of legal rules and recommendations (mean values)

(5-I strongly agree; 4-I agree; 3-I am uncertain; 2-I don't agree; 1-definitely don't agree)

	SLOVENIA		CROATIA		MONTENEGRO	
	(Control) Law	(Control) Practice	(Control) Law	(Control) Practice	(Control) Law	(Control) Practice
The nomination of a former manager in the Supervisory Board is beneficial to the company.	(3.58) 2.87***	(3.41) 2.83***	(3.71) 2.62***	(3.52) 3.05**	(2.31) 2.53*	4.08 3.5*
The new member will exert an objective and efficient supervision of the managers.	(3.34) 2.75***	(3.03) 3.03	(3.52) 3.19**	(3.16) 3.16	(2.53) 2.23*	(3.46) 3.38
The company's management can be trusted.	(3.24) 2.68***	(3.38) 3.19	(3.50) 3.15*	(3.0) 3.0	(2.84) 2.53*	(3.77) 3.46*
Following the nomination of a new member, my opinion of the company and its management has deteriorated.	(2.78) 3.28**	(2.8) 3.10*	(2.19) 3.19***	(2.42) 2.84***	(4.00) 4.00	(2.16) 2.92*
I believe most of the other companies also have former managers on their Supervisory Boards.	(3.18) 2.64***	(3.07) 2.90	(3.04) 3.19	(3.37) 3.37	(4.0) 4.0	(3.2) 3.2
Non-appointing Jan on the Supervisory Board would increase the reputation of firm Y in the investor society.	(3.00) 3.00	3.00 3.00	(2.67) 3.43**	(2.79) 3.05	(3.69) 4.08**	(2.38) 2.76

**Difference in means between the (control) and law or best practice recommendation variable significant at 5 percent level (one-tail test).

The comparison between the versions 'control' and 'law' evidences significant differences in the participants' perception of the firm reputation and trustworthiness. On the other hand, the difference between the 'control' version and the version, where the participants were only confronted with a recommendation of best practice ('practice'), is in many of the cases not

significant. When confronted with the 'law', the participants express a significantly lower agreement in relation with the nomination of a former CEO; they agree less with the fact that the nomination is beneficial for the company and with the fact that the new Board member will exert an objective supervision. They trust less in the management of the company and they on average support less the appointment of the CEO. However, the strength of the degree by which a legal rule influences the participants' perception of a firm decision (behavior) varies across the three countries. For instance, only in Slovenia the participants expect that other firms will follow the law, while this is not the case in Croatia and Montenegro. As argued by Eisenberg (1999) the expectation about the other actors' behavior re-confirms the 'obligatory' nature of a law. A player will feel obliged to respect a norm depending on her expectation on what other actors will do. To put it differently, a norm is internalized by the society, when a sufficient number of actors change their behavior so that tipping point is crossed (Eisenberg, 1999). The 'stronger' impact of the law in Slovenia relatively to other countries, Montenegro in particular, is confirmed also when comparing the other statements in Table 2. For instance, the participants in Croatia and Montenegro believe that the fact that a firm respects the law will improve firm reputation. On the other hand, no improvement in reputation is expected due to legal compliance in Slovenia. According to the attribution theory, this re-confirms that the moral pressure for 'legal obedience' is relatively stronger in Slovenia than in the two other countries. The differences in the responses may be due to the lower number of participants (i.e. in Montenegro) or, most likely, to the different level of economic development, proximity to the developed economies, their rules and practices, the level of corruption and the internationalization of a country's economy. The analysis of the factors underlying the degree to which 'obeying the law' is internalized by the society is certainly an interesting issue for further research.

To provide robustness to the results of our experiment, we finally asked the participants to fill in a questionnaire on the importance of a specific factor for firm reputation on the stock market (5-very important, 4- important, 3- I am uncertain, 2- not important, 1-definitely non important). In all countries, the participants agree with the fact that respecting legal rules and contractual obligations is important for firm reputation on the stock market. While both legal rules and contracts are considered equally important for reputation in Slovenia ($M^{23} = 3.9$ for contracts and $M=3.8$ for legal rules, $t(53)= 0.86$), a higher importance was assigned to the legal rules in Croatia ($M=4.23$ for legal rules and $M=3.86$ for contracts, $t(35)=-2.85$, $p<0.1$), while the opposite holds for Montenegro ($M=3.85$ for legal rules, $M=4.23$ for contracts, $t(26) = 1.92$, $p<0.07$). When it comes to disclosure of corporate information, significantly less importance has been assigned to the disclosure of information required by the Code or business practice ($M=3.95$ for legal information, $M=3.5$ for information required by best practice, $t(114)=4.61$, $p<0.01$).

²³ M stands for the Mean.

One may claim that the MBA students in Economics are not a good representative of the today's decision makers. Unfortunately, the implementation of the experiment itself is too demanding to make it possible for us to include the actual firm managers. However, in order to provide robustness to the results of our experiment, we addressed the managers through questionnaires. In Slovenia²⁴, we collected the opinions about the role of legal compliance for firm reputation from a sample of 32 successful executives (of age under 40) of the top Slovenian companies. If the non-compliance with the legal rule is generally attributed to the inefficiencies in the legal environment and the low reliance on the law, the managers will feel little social pressure to comply with the legal rules. First, the managers were asked to express their agreements or disagreements with the statements reflecting the importance of different factors for firm reputation (*1-completely disagree; 3-partly agree; 5-fully agree*). The questionnaires were again anonymous and the results provide support to the claims stated above. The managers in general fully agree that the reputation is important for corporate performance (M=4.51, SE²⁵=0.15). Similarly, they fully agree that the compliance with the legal rules (M = 4.27, SE=0.19) and respect of contractual obligations (M= 4.53) is important to preserve firm reputation. Also, firm financial performance (M = 4.18, SE=0.17) and listing on the Stock Exchange (M = 4, SE= 0.20) were stated as important in regard to firm reputation. Similar importance as to the legal rules was attributed to the accepted social standards (M=4.14, SE=0.18; t (28) = 0.55, p<0.3). Compliance with the CG Code is however less important (M = 3.7, SE = 0.19), t (27) = 2.7497, p<0.1) than the compliance (or non-compliance) with the legal rules themselves.

The superiority of social pressure for legal compliance in relation to recommendations is for instance evident also from the Declarations of Compliance with CG Code, issued by the Slovenian joint stock companies. Several companies deviate from the Code provisions with a justification that they '*comply with the legislative requirements*'. Some companies rely on this justification quite extensively. This validation is most frequently used for the recommendation to determine rules on limitations of trade in company's share in internal bylaws, the use of international accounting standards for non-consolidated accounts, etc. Moreover, the improvements in the number of issued declarations since the first adoption of the CG Code can be attributed to an actual change in the regulation: the amendment of the Ljubljana Stock Exchange Rules in 2005, which now require the issuers of shares traded on the official market to make a public disclosure of the declaration of compliance (*Cankar, 2006*).²⁶ All the stated results

²⁴ We plan to perform the same double-check upon a similar sample of executives also in Croatia and, most likely, in Montenegro. This part of the project as well as the data collection on company disclosure in both countries should be concluded by the end of 2008.

²⁵ SE stands for the Standard Error of the Mean.

²⁶ In 2004, only 14 out of 24 firms quoted on the official market of the Ljubljana Stock Exchange actually issued a 'declaration of compliance'; the number of issued declaration increased to 29 (out of 30) in 2005,

somehow imply that, beyond the information it conveys, the fact that a ‘norm’ is framed into the law significantly affects the public perception of the necessity to comply. This conclusion may be important for the policy makers: a stronger effect on firms governance may be obtained by incorporating ‘some’ key recommendations of best practice directly in the country’s legislation and by providing for proper dissemination of information about the new rules.

II. Is there a role for the Code?

The results show that ‘the compliance’ with best practice (when not incorporated in the law) is still not perceived as ‘obligational’. Consequently, while the compliance with the legal rule are mostly driven by the consideration of the costs of non-compliance, the compliance with the code and other recommendations should be thus driven by the benefits of compliance that realize through increased reputation. Assuming that the best practice in transition countries is internalized to a lower extend, the reputational effect could be even stronger than in the developed countries. In terms of the attribution theory, low consensus behavior (i.e. a behavior that differs from the behavior of the others in the same situation) is more likely to be attributed to the internal characteristics of the player. Thus, by complying with the best business practice, the firm may signal its ‘commitment’ to applying the ‘above-high’ standards of corporate governance. Moreover, the absence of social pressure to a certain extent ensures the credibility of the signals provided. As shown by *Cowen, Glazer and Zajc (2000)*²⁷ when firms do not feel threatened to comply, they might reveal about themselves much more and more detailed information or adopt more (or less) credible actions as compared to the situation in which they are bound by stringent rules.

These claims reflect in the empirical studies. For instance, while the US studies often find no correlation between a firm’s governance attributes and its market value, *Black (2001)* shows that a firm’s corporate governance behavior can have a huge effect on its market value in Russia.²⁸ *Klapper and Love (2002)* also provide some evidence that firm-level corporate governance provisions matter more in countries with weak shareholder protection and poor judicial efficiency and that what it matters is the improvements in governance relative to the country average and not

while in 2006 all of the companies with share traded on the Ljubljana Stock Exchange issued a Declaration of Compliance (*Cankar, 2006*).

²⁷ In a theoretical model concerning the central bank operations, the authors show that discretion, which motivates the agents to reveal their type (i.e. by complying with a general rule), can sometimes increase the credibility of the agent beyond what a regime of rules can. They show that it is often difficult to discover information about market players, when most of their behavior is constrained by the rules.

²⁸ See *Black*, p. 2133-2134, footnote 2 for a brief overview of the literature.

the absolute improvements in firm level governance.²⁹ The limited empirical evidence therefore shows that, in a poorly functioning institutional environment, firms can, to a certain degree, rely on the market forces to increase reputation and build trust in the market.

We provide further support to the above stated argument by exploring the factors that underlie the adoption of best practice in Slovenia. The study is a tentative analysis and will be extended to Croatia and Montenegro. We focus on the level of firm compliance with the disclosure requirements since the latter is easy to observe and verify. Our aim is to identify factors that explain firm incentives to disclose and to test whether they reflect the pay-offs from disclosure. The latter are (in our view) determined by the investors' capacity and motivation to understand and 'use' the information provided by the firms. The study involves 72 Slovenian public companies in 2006/2007. In evaluating the level of disclosure, we rely on the web disclosure index constructed by *Berglöf and Pajuste (2005)*: we assign 0 points to the index if the company does not have a web site; 0.5 if the web is only in local language, 1 if the web site is also in English. The firm is assigned 0 points if the latest annual report is not available on line and 0.5 if it is available in local language and 1 point if it is available also in English. If a firm publishes a specific CG section on the web site, we assign 1 point and 0 otherwise. Points are correspondingly assigned for the availability of the names of the key managers, board members, ownership structure and company bylaws (7 points in total). While the disclosure lags behind in a large part of the firms, we find that few firms (6) publish a separate Corporate Governance section on the web page, 17 firms had bylaws available on-line, while 33% of firms provided some kind of information on the ownership structure (although not yet recommended by the Code at the time of our analysis). The results of our empirical analysis are presented in Table 3 below.

Table 3. Regression results

	WEB DISCLOSURE	WEB DISCLOSURE	WEB DISCLOSURE
$\ln(c/(100-c))^{30}$	-0.15 (-0.70)	-0.02 (-0.80)	-0.05 (-0.34)
$\ln(\text{sales})$	0.23** (2.32)	0.30** (2.38)	0.23 (2.07)**
$\ln(\text{shareholders})$	0.56*** (4.08)	0.43*** (3.43)	0.44 (3.15)***
Leverage	-0.01 (-1.70)	-0.01* (-1.72)	-0.02* (-1.87)
ROA		-0.05 (-1.40)	

²⁹They used the sample provided by the Credit Lyonnais Securities Asia (CLSA) that constructed corporate governance rankings for 495 firms across 25 emerging markets and 18 sectors.

³⁰ Similar results are obtained when applying alternative measures of ownership concentration (size of the first largest shareholder in % at the end of 2004 and average size of the largest block over the 1999-2004 period in %).

ROA1			-0.03 (-0.63)
Market to book value	0.18 (1.04)		
Official market dummy	0.22 (0.51)	0.75* (1.72)	0.80* (1.70)
Financial investors' share		0.011** (1.95)	
Non-financial firm as largest shareholder			-0.39 (-1.30)
Constant	-5.03 (-3.34)	-3.76* (-2.50)	3-3.21 (-2.05)
N of observations	67	72	72
R-squared	0.58	0.58	0.58

*Significant at 10 percent level;

** Significant at 5 percent level;

*** Significant at 1 percent level

Note to the table: All the explanatory variables are lagged for one year. Firm size is measured in the logarithm of total sales, averaged across the 5-year period 1999-2004; firm's leverage is measured in the percentage of total liabilities over total assets (in %, averaged across 1999-2004), ROA is measured as the operating profit over total assets (in %, averaged across 1999-2004 period) and alternatively as net profit over total assets (ROA 1 in %, averaged across 1999-2004 period). The ownership concentration is calculated as the ratio between the percentage of shares held by the largest shareholder and the percentage of shares held by other shareholders $\ln(C1/(100-C1))$. Financial investors' holdings and state's holdings are represented by the sum of the shares held by all financial investors (state-controlled funds, investment funds, banks and insurance companies) within the 5 largest blocks. The number of shareholders is the average number of the shareholders across the 1999-2004 period.

;

The empirical results confirm that the level of disclosure follows the potential pay-offs from 'signaling'. Transparency is higher in larger firms, in firms with a higher number of small shareholders and in the firms with the shares listed on more efficient (official market), which ensures a better incorporation of the information in the firm value. The disclosure is higher also in the firms with a larger share of financial investors, which probably value firm transparency more highly. The effect of leverage is negative. The impact of the ownership concentration and firm financial performance turned out negative but not significant. The results are somehow in line with the conclusions of other studies, which predict the compliance with the Code to increase with the growing influence of institutional shareholders and their willingness to invest on a global scale, with a country's integration in the world trading system and with its progress in the economic liberalization and integration (Cankar et al., 2007; Aguilera and Cuervo-Cazurra, 2004).

One caveat however applies. In arguing about the role of the CG Code as a ‘signal of commitment’ to good practice, we implicitly assumed that the public (investors, managers) agrees with the recommendations of the CG Code. Thus, the Code has to be internalized by the relevant societies (i.e. investors). We believe that it is (also) the role of the regulator and institutions to stimulate this internalization of the Code. Let us provide the example of the Ljubljana Stock Exchange approach in this regard. Firstly, Slovenian CG Code was adopted as a product of the general business practice; it emerged as a compromise between the external recommendations (OECD Principles) and the requirements of the Slovenian managers and their supervisors. With the aim to reach a general consensus, the Ljubljana Stock Exchange invited two additional partners to draft the CG Code: the Managers’ Association (representing the CEOs) and the Association of the Supervisory Board Members (representing the supervisors). The three ‘underwriters’ of the CG Code have fully committed to the promotion of the CG Code among its members. Secondly, the underwriters continuously evaluate the appropriateness of the provisions for the average firm in the economy and adjust them accordingly.³¹ Thirdly, it is important that the general acceptance of the Code is explicit: with this aim, the authors of the Code invited several institutions to express their support to the Code. In 2006, the Slovenian Institute of Auditors, the Stock Exchange Members’ Association, the Slovenian Employers’ Association, the All-Slovenian Association of Small Shareholders, and the Chamber of Commerce and Industry of Slovenia have signed the statements of accession to the CG Code and thus committed to strive to implement and promote the Code in their respective areas of businesses. The implementation of the CG Code has also won the support of the Bank of Slovenia, while no such support was unfortunately (yet) expressed by the main shareholders of Slovenian firms: the State-controlled Funds and the Association of the Investment Funds’ Management Companies.

V. Discussion and conclusions

Our analysis indicates that improving law on books and/or recommendations might still have a role, even in the deficient institutional environment such as Slovenia. This finding to certain extent contradicts some of the existing claims in literature, which condition the functioning of the legal rules to their enforcement in the legal practice. Indeed, as argued by *Sunstein* (1996:909), people feel shame when they violate social norms. This may be the case also in the absence of any formal mechanism that would sanction the violation of norms in the society. Thus, if the

³¹ For instance, two years ago a group of experts examined the Code for the first time. The proposed changes, to name only the few most important ones, included a more precise definition of the firm goal (since not properly defined in the Slovenian Company Law), a better disclosure of the conflict of interest and of the independence of the Management and Supervisory Board members, also with reference to the Co-Determination as the specific of the Slovenian corporate governance. All the changes were well received and were incorporated in the disclosure documents by most of the companies.

society internalizes a legal rule or if obeying the law is perceived as a social norm, the society might sanction any non-compliance, when (if) observed. One of the mechanisms, through which social sanctions work, is through the loss of firm reputation and trustworthiness. By relying on experiments and opinion survey as a research vehicle, we show that the above-mentioned social sanctions may apply even in an environment with inefficient judiciary, where the incorporation of the legal rules and their respect and obedience in social norms may be limited. Notwithstanding the fact that the social pressures to obey law on books can to a certain extent substitute the formal institutions, strong effort should still be directed towards improving the functioning of the courts and the judiciary. There is in fact an extensive range of empirical research confirming the role of institutions in promoting economic growth and ensuring the success in transition.³²

It is moreover not our intention to generalize the results to all the countries with poor judiciary and to the implementation of the 'law on books' in general. We believe that, in order for the (social) norms to have a role, some other conditions need to be satisfied: a certain level of economic development, openness, culture and morality. Most importantly, there has to be some legal knowledge, information dissemination about the 'rule of law' and the 'verifiability' of the compliance in practice. In this regard, the CG Code may play an important role. By summarizing the main legal requirements³³ (i.e. propositions with *must*) it certainly increases the public (investors) awareness of its rights and raises the 'anchor' of the public judgments in relation to the firms and their behavior. Also, by its recommendations, the Code potentially increases the public's awareness of certain standards, which are desired in the business community and lays the grounds for internalization of such rules.

Literature

Aguilera, R., and Cuervo-Cazura, A. (2004), 'Codes of good governance worldwide: what is the trigger?', *Organizational Studies*, 25(3), p. 415-443.

Bohnat, I., Frey, S.B., Huck, S. (2000), 'More Order with Less Law: On Contract Enforcement, Trust and Crowding', *KSG Working Paper*, No. 00-009, July 2000.

Bohnet, I., Huck, S. (2004), 'Repetition and Reputation: Implications for Trust and Trustworthiness When Institutions Change', *Realism in Experimental Economics, AEA Papers and Proceedings*, Vol. 94, No.2, May 2004.

³² As Cooter (1998, p.595) stated: 'In reality, a combination of expression and coercion accounts for the effectiveness of many laws'. See also McMillan and Woodruff, 1999.

³³ Apart from the provisions of the relevant legislation with direct bearing on the corporate governance system (expressed by means of an appropriate form of '*must*'), the CG Code introduces voluntary practice through: i) the provision containing the word '*should*', which have the nature of recommendations and are not legally binding but need to be complied with or explained; ii) optional provisions, which are expressed with the words '*it is recommended that/it can be done*'.

Bobirca, A., Mićlaus, P. G. (2007), 'Extensiveness and Effectiveness of Corporate Governance Regulations in South-East Europe', *International Journal of Humanities and Social Sciences*, Volume, 1, Number 1.

Bratina, B., Damjan P.J., Gregorič, A. in Zajc, K. (2005), 'Neodvisnost nadzornega sveta, Kodeks upravljanja gospodarskih družb in razvoj dobre prakse korporacijskega upravljanja v Sloveniji', *Expert Study on the Implementation of the Slovenian CG Code*, Ljubljana Stock Exchange, Ljubljana 2005.

Frey, B. S., Jegen, R. (2000), 'Motivation crowding theory: a survey of empirical evidence', *CESifo Working Paper Series*, January 2000.

Basu, K. (1998), 'Social Norms and The Law', *The New Palgrave Dictionary of Economics and the Law*, London.

Bebchuk, L., Neeman, Z. (2005), 'A Political Economy Model of Investor Protection', *Incomplete Working Draft*.

Berglof, E., Claessens, S. (2004), 'Enforcement and Corporate Governance', *Policy Research Working Paper Series 3409*, The World Bank.

Berkowitz, D., Pistor, K. in J. F. Richard (2001), 'Economic Development, Legality and the Transplant Effect', *European Economic Review*, November, 2001.

Bernstein, L. (1992), 'Opting Out of the Legal System: Extralegal Contractual Relations in the Diamond Industry', *Journal of Legal Studies Vol 21*.

Black, B. (2001), "Does Corporate Governance Matter? A Crude Test Using Russian Data," *University of Pennsylvania Law Review*, Vol. 149, pp. 2131-2150

Cankar, N. (2006), 'Relationship between Legislation and Self-Regulation: The Case of Slovenian Corporate Governance Code', *Ph.D. Dissertation*, Faculty of Law, University of Ljubljana, 2006.

Cankar, N., Deaking, S., M. Simoneti (2007), 'The Reflexive Properties of Corporate Governance Codes: The Transplantation and Reception of the 'Comply or Explain' Approach in Slovenia', *Paper presented at the 23rd EGOS Colloquium*, Vienna, 2007.

Company Law, Official Gazette of the Republic of Slovenia, No. 30/93 and further amendments.

Company Law – 1 (2006), Official Gazette of the Republic of Slovenia, No. 42/2006 and further amendments and changes.

Corporate Governance Code (2004) and further amendments and changes.

Cowen, T., A. Glazer, and K. Zajc (2000), 'Credibility may require discretion, not rules', *Journal of Public Economics*, Volume 76, Number 2, May, pp. 295-306

Cooter, R. (1998), 'Expressive Law and Economics', *Journal of Legal Studies*, Vol. 27, 585-608.

Dhir, K. S. (2005), 'Managing Corporate Respectability. Concept, issues, and policy formulation', *Corporate Communications: An International Journal*, Vol. 10, No. 1, pp. 5-23.

Di Biaggi, M. (2003), 'Trust Generation through Extralegal Mechanisms: Reputation as a Valued Assets in eMarkets', *16th Bled eCommerce Conference*, Bled.

Dyck, I.J.A., (2000), 'Ownership Structure, Legal Protection, and Corporate Governance', *Annual World Bank Conference on Development Economics*.

EBRD (2004), Commercial Laws of Slovenia, An assessment by the EBRD, EBRD.

EBRD (2006), Law in Transition.

Eberl, P. (2004), 'The Development of Trust and Implications for Organizational Design: A Game and Attribution Theoretical Framework', *Schmalenbach Business Review*, Vol. 56, July 2004, pp. 258-273.

Eisenberg, T., S. Sundgren and M. Wells (1998), 'Larger Board Size and Decreasing Firm Value in Small Firms', *Journal of Financial Economics*, 48

Feld, L., P., and S. Voigt, (2004), 'Making Judges Independent—Some Proposals Regarding the Judiciary', *CEsifo Working Paper No. 1260*.

Fombrun, C., Shanley, M. (1990), 'What's in a name? Reputation building and corporate strategy', *Academy of Management Journal*, Vol. 33, No. 2, p.233-258.

Friedman, R., Liu, W., Chen, C., C., Chi, S., S. (2007), 'Causal attribution for inter-firm contract violation: a comparative of Chinese and American commercial arbitrators', *Journal Applied Psychology*, 92(3):856-64

Gertner, R. in S. Kaplan (1996), 'The Value-Maximizing Board', *Working Paper*, University of Chicago.

Gilson, R., J. and R., H. Kraakman (1984), 'The Mechanisms of Market Efficiency', *Virginia Law Review*, Vol. 70: 549644.

Goldberg, V. P. (1985), 'Price Adjustments in Long-Term Contracts', *Wisconsin Law Review*, pp.527

Heritage Foundation (2005), Heritage Foundation Index, 2005.

Islam, R. (2003), 'Institutional Reform and the Judiciary: Which Way Forward', *World Bank Policy Research Working Paper 3134*

Johnson, S., McMillan, J. and Wudroof, C.(1999), 'Contract enforcement in transition', *CEPR discussion paper # 2081*.

Judicial Order, *Official Gazette of the Republic of Slovenia*, No.17/1995.

Klein, B. in C. J. Jr. Coffee (1996), *Business Organization and Finance: Legal and Economic Principles*, The Foundation Press, New York.

Klein, B. in Leffler, K.B. (1981), 'The Role of market Forces in Assuring Contractual Performance', *Journal of Political Economy*, Vol.89, N0.4

Lipton, M. in J. Lorsch (1992), 'A Modest Proposal for Improved Corporate Governance', *Business Lawyer*, 48 (1).

Macaulay, S. (1963), 'Non-Contractual Relations in Business: A Preliminary Study', *American Sociological Review*, Vol. 28., No. 55

Macaulay, S. (1985), 'An Empirical View of the Contract', *Wisconsin Law Review*, p.456

MacAvoy, P. S. Cantor, J. Dana and S. Peck (1983), 'ALI Proposals for Increased Control of the Corporation by the Board of Directors: An Economic Analysis', in *Statement of the Business Roundtable on the American Law Institute's Proposed »Principles of Corporate Governance and Structure: Restatement and Recommendations*, New York: Business Roundtable

McMillan, J. and C. Woodruff (2000), 'Private Order Under Dysfunctional Public Order', *98 Michigan Law Review*, 2421

McMillan, J. and Woodruff, C (1999), 'Dispute Prevention without Courts in Vietnam', *Journal of Law, Economics, and Organization*, Vol. 15, No.3: 637-58.

Oman, C., Blume, C. (2005), 'Corporate Governance: A Development Challenge', *Policy Insights*, OECD Development Centre, No. 3, 2005.

Pistor, K., M. Raiser in S. Gelfer (2000), 'Law and Finance in Transition Economies', *Economics of Transition*, 8.

Pistor, K. and C. Xu (2005), *Corporate Governance: An International Review*, Vol. 13, No. 1, pp. 5-10.

Posner, E., A. (1998), 'Symbols, and Social Norms and Politics and the Law', *The Journal of Legal Studies*, Vol. 27, No. 2, pp. 765-798.

Ramasastri, A., S. Slavova in D. Bernstein (1999), 'Market Perceptions of Corporate Governance – EBRD Survey Results', *Law in Transition*, autumn.

Raz, J., (1980), *The Concept of Legal System: An Introduction to the Theory of Legal System*, Clarendon Press, 1980

Rock, E.B. (2002), 'Securities Regulation as Lobster Trap: A Credible Commitment Theory of Mandatory Disclosure,' *23 Cardozo Law Review* 675

Selten, R. (1978), "The Chain.store Paradox," *Theory and Decision*, Vol. 9, pp. 127-159

Sunstein, C., S., (1996), 'Social norms and social roles', *Columbia Law Review*, Vol. 96, 903-968.

Sunstein, C., S., (1998), 'On the Expressive Function of Law', *University of Pennsylvania Law Review*, Vol. 144, 2021-2053.

Telser, L.G. (1980), A Theory of Self-Enforcing Agreements, *53 Journal of Business* 27.

Tyler, R.,T. (1990), *Why People Obey the Law*, Yale University Press

Williamson, O. E. (1975), *Markets and Hierarchies: Analysis and Antitrust Implications*, The Free Press.

Wu, Y., (2000), »Honey, I Shrunk the Board,« *Working Paper*, University of Chicago.

Zajc K. and A. Trampuž (2005), 'Sodni zaostanki', in *Poročilo o razvoju*, Murn, A., Rojec, M., Stare, M. in R. Kmet (ed.), Ljubljana, UMAR.

Internet sources:

<http://www.doingbusiness.org/ExploreTopics/EnforcingContracts/Details.aspx?economyid=169;>
<http://www.prfirms.org/resources/research/harris/page4.asp>

APPENDIX: THE EXPERIMENT

YOUR NUMBER (to be used for all answers)

PART 1: COMPANY Y (VERSION 0)

Company Y is a large and successful company with shares listed on the Stock Exchange in the country X. More than 4000, mostly foreign shareholders, own the shares. Until last year, Mr. Jan Kovac, a well-known businessman with strong reputation in the local business environment, guided the company. Mr. Kovac retired last year, after serving the company for more than 40 years. Upon the suggestion of Mr. Kovac, the Supervisory Board nominates as the new CEO, a young economist, Tom Fus, who arrived in the company during Jan's presidency and has been working closely with Jan since then.

Soon after retiring, Jan got bored. He wanted some new challenges. He often went for lunch with Tom and other Management Board members from the company Y. One day at lunch, one of the Board members suggests that Jan should continue being active and should get a position in the Supervisory Board of company Y. Jan is enthusiastic. Thus, at the subsequent shareholders' assembly, the Management Board suggests the shareholders to approve the nomination of Jan as the member of the Supervisory Board of the company Y. The members of the Management Board believe that Jan's experience in the field will largely contribute to the company's success. Since one of the 'old' Supervisory Board members just resigned due to medical problems, the shareholders approve the proposition. Consequently, the information is published on the company's web page.

You are thinking of investing in company Y and you've been following the company and its activities.

State your agreement/disagreement with the following statements:

(5-I strongly agree; 4-I agree; 3-I am uncertain; 2-I don't agree; 1-definitely don't agree)

<i>The nomination of Jan in the Supervisory Board is beneficial to the company.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Jan will exert an objective and efficient supervision of the managers.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>The company's management can be trusted.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Following Jan's nomination, my opinion of the company and its management has deteriorated.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>I believe most of the other companies also have former managers on their Supervisory Boards.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Non-appointing Jan on the Supervisory Board would increase the reputation of firm Y in the investor society.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>

PART 1: COMPANY Y (VERSION ‘law’)**YOUR NUMBER**

Company Y is a large and successful company with shares listed on the Stock Exchange in country X. More than 4000, mostly foreign shareholders own the shares. Until last year, Mr. Jan Kovac, a well-known businessman with strong reputation in the local business environment, guided the company. Mr. Kovac retired last year, after serving the company for more than 40 years. Upon the suggestion of Mr. Kovac, the Supervisory Board nominates as the new CEO, a young economist, Tom Fus, who arrived in the company during Jan’s presidency and has been working closely with Jan since then.

Soon after retiring, Jan got bored. He wanted some new challenges. He often went for lunch with Tom and other Management Board members from the company Y. One day at lunch, one of the Board members suggests that Jan should continue being active and should get a position in the Supervisory Board of company Y. Jan is enthusiastic. Thus, at the subsequent shareholders’ assembly, the Management Board suggests the shareholders to approve the nomination of Jan as the member of the Supervisory Board of the company Y. The members of the Management Board believe that Jan’s experience in the field will largely contribute to the company's success. Since one of the ‘old’ Supervisory Board members resigned due to medical problems, the shareholders approve the proposition. Consequently, the information is published on the company’s web page.

In proposing Jan as the member of the Supervisory Board, the managers misled the un-informed shareholders and voluntarily violated the article 10 of the Companies Act which explicitly states that: ‘*The person who has been member of the company’s Management Board or member of the management of associated companies within the last three years can not be appointed on the Supervisory Board*’. In fact, the legislator doubts about the objectivity of an ex board member to exert supervision over his ‘old friends’. However, given the court delays in country X, it would take a shareholder more than 5 years to get a redress for the violation (when finding out that he/she was misled). The managers of the company Y believe that the benefits from appointing Jan on the Board largely exceed the costs of potential court litigation.

You are thinking of investing in company Y. Thus, you’ve been following the company and its activities.

State your agreement/disagreement with the following statements:

(5-I strongly agree; 4-I agree; 3-I am uncertain; 2-I don’t agree; 1-definitely don’t agree)

<i>Jan will exert an objective and efficient supervision of the managers.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>The nomination of Jan in the Supervisory Board is beneficial to the company Y.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>The company’s management can still be trusted.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Following Jan’s nomination, my opinion of the company and its management has deteriorated.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>I think all the other companies also keep nominating former managers on Supervisory Board.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Non-nominating Jan on the Supervisory Board would increase the reputation of company Y in the investor society.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>

PART 1: COMPANY Y (VERSION ‘best practice’)

YOUR NUMBER

Company Y is a large and successful company with shares listed on the Stock Exchange in country X. More than 4000, mostly foreign shareholders own the shares. Until last year, Mr. Jan Kovac, a well-known businessman with strong reputation in the local business environment, guided the company. Mr. Kovac retired last year, after serving the company for more than 40 years. Upon the suggestion of Mr. Kovac, the Supervisory Board nominates as the new CEO, a young economist, Tom Fus, who arrived in the company during Jan’s presidency and has been working closely with Jan since then.

Soon after retiring, Jan got bored. He wanted some new challenges. He often went for lunch with Tom and other Management Board members from the company Y. One day at lunch, one of the Board members suggests that Jan should continue being active and should get a position in the Supervisory Board of company Y. Jan is enthusiastic. Thus, at the subsequent shareholders’ assembly, the Management Board suggests the shareholders to approve the nomination of Jan as the member of the Supervisory Board of the company Y. The members of the Management Board believe that Jan’s experience in the field will largely contribute to the company's success. Since one of the ‘old’ Supervisory Board members resigned due to medical problems, the shareholders approve the proposition. The information is published on the company’s web page.

In approving Jan as the member of the Supervisory Board, the shareholders have disregarded that Jan may not be objective in supervising the Management Board since, due to the past collaboration, Jan and the Management Board members are ‘old friends’. In fact, ‘proponents of good business practice’ do not recommend appointing an old manager on the Supervisory Board. On the other hand, Jan has substantial experience in the business, which may largely offset the drawbacks associated with eventual conflict of interests or lack of objective supervision.

You are thinking of investing in company Y. Thus, you’ve been following the company and its activities.

State your agreement/disagreement with the following:

(5-I strongly agree; 4-I agree; 3-I am uncertain; 2-I don’t agree; 1-definitely don’t agree)

<i>Jan will exert an objective and efficient supervision of the managers.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>The nomination of Jan in the Supervisory Board is beneficial to the company Y.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>The company’s Management Board can still be trusted.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Following Jan’s nomination, my opinion of the company and its Management Board has deteriorated.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>I believe that other companies also appoint former managers on the Supervisory Board.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Non-appointing Jan would increase the reputation of company Y in the investor society.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>

PART 2: TO BE DISTRIBUTED AFTER PART 1

YOUR NUMBER

State your opinion about the role of the stated factors for corporate reputation on the stock market!

(5-I very important; 4-Important; 3-I am uncertain; 2-Not important; 1-definitely not important)

<i>Financial performance</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Payment discipline</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Relation to the employees</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Respect of legal rules</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Respect of contractual obligations</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Publication of corporate information, as required by law</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Publication of additional (non-legally required) corporate information, as suggested by Governance Code</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Publication of all other (non-legally required or recommended) information that may be relevant for firm stakeholders</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Public appearance of the Board members in the media discussions, round tables, etc.</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Corporate risk</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Relation to investors, minority investors in particular</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Ownership structure</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Significant ownership by institutional investors</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Significant ownership by foreigners</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>
<i>Significant managerial ownership</i>	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>

YOUR NUMBER

State your personal characteristics and opinions (cross the appropriate box below or on the right)!

Male Female

Nationality: Slovenian (other) EU (other) South-East European other

What is your knowledge about Corporate Governance Practices?

Poor 1 2 3 4 5 I know the subject well

Have you ever invested in shares?

Never 1 2 3 4 5 Very often

How often have you as individual done things that are legally incorrect?

Never 1 2 3 4 5 Very often

How often have you as individual done things that are not in line with the general behaviour standards (norms, moral standards, peers' behaviour)?

Never 1 2 3 4 5 Very often

How effective is your national Parliament as a law-making institution?

Very ineffective 1 2 3 4 5 Very effective

The legal framework in your country for private businesses to settle disputes and challenge the legality of government actions and/or regulations is:

Inefficient and subject to manipulation 1 2 3 4 5 Efficient and neutral

Is the judiciary in your country independent from influences of members of government, citizens or firms?

No-heavily influenced 1 2 3 4 5 Yes-entirely independent

Is the judiciary in your country efficient in enforcing law?

Totally inefficient 1 2 3 4 5 Very efficient