REINGENEERING OF THE MANAGEMENT BOARDS – THE NEED OR THE NECESSITY

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Abstract: *In the scientific and technical literature, and in everyday life appears the dilemma of the utility of boards, and in general existing of these bodies in corporate and other institutions and sectors of government, such as public administration, public funds, health, educational, cultural, and other institutions. Discussion and recommendations go in three directions, namely: (1) to hold the boards in the current form, (2) to abolish the boards, as proved not only inefficient but also very damaging to the success of public sector, and (3) that the boards should be re-designed, and above strengthened in order to demonstrate a greater impact on the efficiency and effectiveness of the public sector.*

For each of these routes, there are different actors, as well as arguments challenging or points to their sustainability, i.e. unsustainability. Serbia, as a country in transition has no experience regarding the management boards in businesses organizations. The experience of developed countries in corporate practices may be useful for understanding the needs, or the necessity of re-engineering existing management boards in the public sector in Serbia, who founded and operate on the principle of amateurism, ideologization, and politicization.

The aim of this paper is to point out the practice of developed countries in this regard, especially the practice of corporate organizations in the United States, as well as the basic arguments in favor of particular options, or in favor of further survival or re-engineering of managerial boards and other bodies that have the same or similar functions (school boards, councils, etc.).

Keywords: *Management boards, management, professionalization of management*

1. INTRODUCTION

Practice shows that in the management of the public sector in Serbia, a bugaboo of amateurism and politicking is present. In fact, most of the Serbian public sector, which includes the public enterprises and public (non-profit) institutions, public administration, public organizations, etc., was not affected by the wave of professionalism. Under this term should be considered public sector management by professional managers and experts who have completed high business schools and who have sufficient knowledge, skills, and experience to deal with any management jobs. Amateurism is affecting the public sector in depth and breadth of the organization and management boards, top management, middle, and a lower management level.

To this should add another alpha plus, and that is the impaired organizational structure, both the state and public sector. It is so-called "deep" organizational structure with number of hierarchical levels where each higher level has a higher quantum of power in relation to the lower levels with interpersonal i.e. rigid, strictly controlled, and formalized relationships, both among individuals and between different organizational groups and teams. These organization designs are more suitable for the organization of the fifties, or industrial, but the modern organization that is based on information technology and knowledge as the most valuable resource. In other words, while the modern state and public sectors leave the hierarchy and introduce entrepreneurial philosophy, countries in transition and Serbia still foster a spirit of deep hierarchy, which inevitably produces lethargy, inertia, and inability to quickly and efficiently respond to new challenges posed in the modern world.[1]

Therefore, the Serbian state and its government and state institutions should be reorganized according to the principle of re-engineering, i.e. the introduction of radical and fundamental changes in all its institutions. Reorganization of the Government that was made in early 2011 was of poor quality while basic criteria for the structuring of certain state sectors and ministries were not observed. Heterogeneous sectors and industries, such as agriculture and trade, culture and information sector, urban planning and ecology were connected, while on the other side combining of certain sectors created cumbersome and dysfunctional structures. The reason for the reconstruction of the government was the lack of success of the government as a whole, or individual ministries. By joining, i.e. re-design created even more dysfunctionality, which will lead to bigger problems than they were in earlier organizational setting. Negative results recorded over the last few months have been partly a result of inadequate organizational structuring.

It seems that salvation will come from the abandonment of centralism, which is more or less been applied in the state organization, and adopt an integrated decentralization as the most effective model of a modern organization. This means, to keep the most vital government functions at the government level, and delegate the rest to the level of local governments, which would be authorized, but also responsible for solving local problems. Regionalization, which is advocated by some political leaders, is not a good solution, because it represents a dislocation or duplication of government to more regions. Instead of a political and economic center that existed and still exists in Serbia, more centers with increased administration will be created, which on one side will not be effective, and on the other side will be a big burden for individual local governments. For example, the state system of Bosnia and Herzegovina by the cantons is actually non-functional design in which in one state there more, often independent mini-states, and where there is no strong central authority (government) that would be integrative, and that would connecting and articulating the interests of all the cantons.

Professionalization of the state and managing public sector, the hottest topic in Serbia today, is not going in the right direction. The election of managers in an open competition for all public companies is proposed, i.e. other parts of public administration and in this is seen the basic mechanism for the elimination of management ideologization. This solution is necessary, but it is not enough, because control over the selection of CEOs of public companies continues to be the responsibility of party committees, i.e. other bodies directly or indirectly. On the other hand, the issue cannot be resolved partially, but systemically, so that would include everything from re-defining to the abolition of the administrative board or other so-called management bodies, as did the U.S. as the most competent economy in the world. In this context, an organizational redesign of the public sector and its aligning with modern organizations that exist in the world is necessary.

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[1] William E. Halal: The new portable MBA, John Wiley MBA ", 2004. p. 355

2. THE PRACTICE OF THE MANAGEMENT BOARDS FUNCTIONING IN THE U.S.

Studies of American business practices, and literature in the field of governance, shows that managing boards are the recurrences from the past that were current in the corporations of seventies, i.e. eighties. Theoretically, the administrative (or supervisory boards of the national legislations of the EU) supervise the work of top management and can take action for dismissal, if the managing board is not pleased with the results of operations. P. Drucker, the connoisseur of the best management in the world didn't have a positive meaning about them, noting that managing board or board of directors by U.S. law is considered the governing body of the corporation. Therefore, the managing board is theoretically the largest concentrated power, because it mainly consists of shareholders with the largest share of capital, and chairman of the board is often a shareholder who has the biggest share of stocks. In the traditional sense, these bodies formulated policy, i.e. the objective that should be achieved, while top or strategic management made the adoption of strategies and methods and instruments needed to implement policies.

However, professional management in developed corporations for more than 60 years marginalizes the role of the managing board, reducing their power and independence. This is due to several facts:[2]

- That corporations in the late twentieth century have grown to such an extent that some of them supersede the economic power of individual countries of the developed west,
- That modern business and business in all segments of the economy and society is so complicated, that is necessary to bring fast and quality decisions. It is impossible to do at the board meetings, which are held every three months, even in longer intervals. Even if board members are familiar with the problem, it is difficult to achieve consensus in making management decisions, and because of this, most things are often kept at the level of observation or left to general managers.
- Changes in ownership structure, where instead of small shareholders, a dominant ownership having belonged to the investment funds, has led the administration of these funds in a position to invest in many companies, thus losing the ability of investors to objectively exert more influence on managing companies. Rather than exert more influence on managing companies, investment funds rather followed the philosophy: "If a company has poor management and results, it is necessary to sell their shares, rather than change the management, and that's why it is often impossible to achieve the consent of other shareholders." Inclusion of fund representative in management, as well as engagement of independent board members, did not produce the expected results.
- Analysis of the structure of the board members shows that the majority of members come from outside of the company and the activities of the organization, due to which they are not familiar with the basic problems to be able to actively participate in making strategic decisions. It is even less likely that such managing board evaluates and assesses the effectiveness of the decisions made by the general manager, or to make strategic decisions alone.
- General Manager has the administrative apparatus that provides him with the logistics while making management decisions. He has a monopoly on information, which often allows him to some of the information "leave up" to the board, and

[2] Previous statements and arguments on the reduced power of managing boards exist in U.S. companies too. (*E. Collins & M. Devanna: The new portable MBA, Massachusetts, 1999, pp. 407-408)*

keeps other for himself. The general manager leave up the information that will help him to stay on that position as long as possible, and will diminish negativity of the information which is not in his favor, such as loss, decreasing of the market share, fluctuation of employee, increased costs, and so on.

- Board members are friends in many cases, or at least friendly toward general manager, while being afraid that possible shifts could lead to chaos in the companies. In this context, in the period 1992-93, there was a change of CEOs at several companies, such as American Express, GM, IBM, Westinghouse, Eli Lilly, Scott Paper, and Eastman Kodak. This is still a small number of shifts for the vast U.S. economy, on which could be made the conclusion on the practical power of managing boards in U.S. companies.
- The managing boards were the latest coming up to the information on problems or scandals that occurred in companies that were in these situations a fait accompli. Of course, after a long time they were not able to act preventively, which would be their primary role and should be, and any subsequent resolution of these problems could lead to more problems in relations between the managing board and CEO.

The weakness of the functioning of the administrative board was especially pronounced in the U.S. in the latest economic and financial crisis of 2008-2009, when the world's largest financial institutions should be saved from insolvency in 2008, with the help of large government assistance, many blamed managing boards of companies for irresponsibility in the management and not taking timely action to eliminate the causes, i.e. eliminating the consequences of the crisis at the national and global level.

Practice of management and the science, in particular corporate management, considered this problem solved about decade ago. Initial cap a decade ago was famous worldwide scandal with the Enron, when, despite the positive opinions of independent auditors, the major world multinational company bankrupt. It turned out that in practice corporate governance works poorly, that some big mistakes existed that led Congress to adopt Sarbanes-Oxley act (SOX). The new rules are looked promising. The key role in enhancing corporate governance was to be independent of management, which in theory, would provide better protection to shareholders, especially when it comes to securing long-term stability and growth of the company. Of senior executive was required to conduct annual assessments of internal controls over external audit, as an independent body that corresponded to the shareholders and as such were excluded from the competence of management. This independent institution, i.e. its findings was to be controlled by the state supervisory board, as the top institution at the national level.

Recent financial "melting" in the most recent economic crisis has highlighted, however, that the new rules are not sufficient. The largest financial institution in 2008, were more than compliant with the adopted act. Indeed, before the collapse of banks, 80% of board members were independent, as well as members of the supervisory board, compensation committee, and nominating committee. All companies were evaluating state in an internal control every year, and in external audit reports since 2007, material weaknesses are not listed in these controls. Therefore, there was a high level of alignment between internal and external controls. However, this did not prevent the errors or omissions, and hence major problems in presenting the results, especially when it comes to reliability.3

Why the reforms started with the SOX act was ineffective? Regardless of the diversity of opinions, the fact is that the initial attitude was to provide obligation that business, i.e.

[3] Robert C. Pozen: “The Big Idea - The Case for Professional Boards", Harvard Business Review, CEC, 2010, p. 54

managing boards to perform specific tasks by legislation, to comply with certain procedures and standards in performing the duties and tasks. Here, as in other cases, was shown that organizations are living mechanisms and that many operations, even the processes cannot be standardized, as in real life there is no two the same organization or two of the same situation. On the other hand, the human factor was neglected, i.e. the quality of managing board, i.e. president, or director of the managing board. The new legal framework, above all, did not change managing board behavior, which proves that everything in organization can be relatively easily changed, but it is difficult to change the individual, his habits and behaviors or thoughts.

Experience and analysis of the functioning of the managing board in the United States has shown several important characteristics, i.e. weaknesses in the functioning of corporate managing boards, which can be summarized in following:

- Managing boards, i.e. managing boards often were too big, which made it difficult to quickly and efficiently make strategic management decisions.
- Managing board members have often had a lack of competence in the activity for which they were elected, so their impact on corporate performance was missing.
- Most importantly, several members of the managing board devoted sufficient time to fully understand the complexity of the overall operations of the company, and then to actively participate in solving corporate problems.

These and other facts and circumstances have imposed the need to redesign the existing system of management through managing committees, which are increasingly taking over functions of shareholder assembly. The solution was found in the introduction of the so-called new model of corporate governance, which significantly rationalized management.

2.1. The tendency to redesign the managing boards in the U.S.

One of the most effective ways to increase successful performance in managing corporative systems is to strengthen, i.e. to raise the competence and professionalism of the management boards and their involvement when it comes to business management. This model would be applied differently to each company or public sector, depending on its trade, business complexity, size, etc. which indicate that each universalism is counterproductive and unacceptable as such.

In this model, all the managing boards would be limited to a maximum of seven members, which means that their number may be lower depending on the size and complexity of companies. Chief Executive Officer (CEO) would represent management and the remaining six members would be independent. Of the majority of independent managers would be required to have a high level of competence in the field of work whose managing board presiding over, and would spend at least fifty percent of the time in a month getting familiarized with the problems of the company, not including the time of the managing board sessions.

2.1.1. Less managing board members

Analysis of a large number of financial institutions that have collapsed in the great financial crisis in 2008, had big management boards, and each had a majority of independent managers. "Citigroup", for example, had 18 directors, of which 16 were independent. Big managing boards, like this, are widespread in the financial sector. Industrial companies tend to have slightly lower managing boards - the average size for the companies who entered the

S&P 500 was the eleven members in 2009, according to the estimates of Spencer Stuart, the consultant.

Nevertheless, eleven directors are too much for effective decision making. In such large groups, members are faced with something that psychologists call "social loafing": they try to take personal responsibility for group actions and leave others to take the lead. Large groups also adopt consensus vote, which is actually the way in which managing board usually works: the more members, the harder it is to reach an agreement and therefore use the tactics of making decisions. Thus, bulky teams are inert and need some time to adjust attitudes and make quick management decisions, which are seeking a way to reduce them and to increase their dynamics in business activities.

Researchers involved in researching group dynamics, suggest that a group of six or seven members is the most effective in decision-making. They are small enough so that all members took personal responsibility for group decisions, and can reach a consensus in a relatively short period of time. The advantages of small groups, i.e. groups of 6-7 members exceed all benefits of large corporate management board.

In this context is the method of the management boards functioning. Practice has shown that the managing boards need to work on the principle of so-called "closed group". This stems from the indisputable proposition that interact with each other can achieve greater synergy, in relation to the partial or communication and decision making through a "mounted courier".

Six independent directors in the new management model are sufficient to meet the needs of corporate governance, and above all the creation and monitoring of legislation at the level of the corporation. Two different people would preside over committees, i.e. the supervisory and status board, and the remaining four members would be members of these committees.

For the selection of professional managers in addition to competence and extensive experience, an important criterion is teamwork, i.e. action, if and to what extent an individual is a team player and how his team have demonstrated the characteristics of business practice. For the president of the management board, this feature is even more important, which is natural, because the ability to integrate and directing the team members towards defined objectives, which is becoming a key feature of business success.

2.1.2. Greater competence of the managing board

The problem of competence of the managing board members in recent years gained in importance, especially in large international companies, which was not the case in the past. For example, the company, "Citigroup" was filled with people who did not know the business of the company, such as chemical engineers, telecommunications engineers, and freelance artists. Only one of three independent directors had experience in the financial sector - and that person was the executive director of a large house in the field of entertainment. Of course, each managing board needs member with general knowledge to introduce other members with the company's strategy, and the financial expert for the accounting to chair the Supervisory Board. Other members, however, should be experts in knowing the company's main activity, i.e. the individual stages of management processes, such as planning, designing, controlling, etc.

Lack of expertise among the directors is a major problem. Many directors of large companies are struggling with having a good understanding of business. Today's companies, whose managing board members are engaged in a wide range of operations, have developed a business at the global level along with international partners and operating in complex political and economic environments. Some jobs, such as retail and manufacturing, for example, of straw hats are easy to undertake, but others - such as, for example, production of air and spacecrafts, drug development, financial services and telecommunications, are technically very complex and require specialized knowledge for certain operations. This creates problems when experts leave the company. However, any change of independent directors has the negative effects on business performance, which establishes the topic of career planning of an individual from the company, and the practice is to retain longer executives at companies.

Practice shows there is a large gap between the managing board and executive officers (CEO). In order to reduce these gaps, large companies must have independent directors who successfully use their expertise to evaluate the large amount of information they receive from management. However, perhaps even more important is that managers need to know to ask questions about the information they have not received. Consider "Medco", and pharmaceutical benefit manager (PBM). When it was a part of the pharmaceutical giant "Merck", "Medco" recognized participations of their patients as its own revenue, although those incomes never belong to the company, it is only administered them and forwarded to the health insurer. Director of the Merck’s Supervisory Board was unaware of this procedure, as long as "Merck" didn’t try to sell a certain number of shares to public. If one of the independent directors was an expert in this field, he would know to recognize how to recognize revenues and could assess the business pitfalls that "Merck" fail into.[4]

Indeed, the managing board of the company must insist that independent auditors identify any significant accounting policy that is different from the adopted standards or accounting theory. In any case, the independent auditors would have to provide to managing board, i.e. to shareholders a detailed analysis of the risks and benefits of possible alternatives. In this context, a practice that managing boards conclude contract with the independent auditor is developed, so the finding i.e. opinion of an independent auditor would be more reliable.

2.1.3. Increasing the commitment of management board member

Analysis of the work of managing boards in the majority of transnational and multinational companies shows that the boards of directors is a little dedicated to strategic problems of the company. This could be especially seen from a small number of meetings organized during business year, the matters discussed, particularly the lack of attention paid to preventing problems and active participation in solving them when they are incurred, or elimination of the consequences that have emerged in companies.

For example, in the years before the financial crisis, Citigroup’s managing board met only seven times to discuss problems and make important management decisions. According to rough estimates, we can conclude that independent directors of "Citigroup" spent an average 200 hours per year doing managing board business, excluding travel time to work, which means that during the year more than twenty-five working days during year were devoted.

Managing board also had a number of telephone sessions, or meetings, each lasting several hours. This practice has affected many companies, often the individual governments, where it should be noted that this is a more formal participation, i.e. the formalities for CEO or president of the corporation to justify the decisions of the managing board.

If we take into consideration that the board members before the meetings were often reluctant to actively participate in working sessions of the board, that many did not even read the materials for the sessions of managing boards, we can say that in terms of increased business complexity and uncertainty, managing boards were not enough engaged and committed to their task. Was it enough time to fully understand the operation of a complex system of global firm such as a "Citigroup"? The answer is obviously not.

[4] Robert C. Pozen, Ibidem p. 55

Even directors, i.e. managing board members with banking experience would have to spend twice as much time, not counting the time spent in meetings, i.e. sessions, where they should be fully aware of the problems, if they want that company, including multinationals, such as Citigroup to be concurrent. In fact, two days per month is the commitment time of one of the elders.

Analysis of the managing boards of major Canadian companies shows that managing board members and financial professionals spend long time in companies. In addition to formal contacts, managing board members perform informal communication between themselves and with members of the management team. In this way, they gain insight into the overall conduct of operations and financial condition in particular, through analysis of "financial circulation". In these circumstances, the meetings of the managing board sessions become a formality, which formalize already prepared decisions.

Thanks to this, the gap between the management team and management board as an organ of governance was reduced. Often, management board members and the management board itself as a collective, i.e. team authority were more constructive and objective in looking at business and other problems and providing quality solutions, even from management. So, for the first time was created situation where managing board members "knew what management didn’t knew, or not noticed," stated Donald Rumsfeld, former U.S. Secretary of Defense.

In some companies a practice that independent members of the management board hold an annual meeting in some part of the company, instead of the head, or its directorate was developed. The goal was to familiarize management board members with specific problems in certain parts and to manifest their power when it comes to making important decisions. This practice has not proved effective, and even showed its controversy, because the management boards did not see what they wanted to see, but what management of that part prepared, and that was mainly fixed up so it was losing its reality, i.e. its objectivity. Employees interviewed by the independent directors at the workplace are usually have prepared answers to possible questions. Therefore, if everything went according to plan, directors would hear and see just what the management of some part wanted them to see and hear. Therefore, sudden visits and sessions are necessary, as Sam Walton used to do, creator of one of the biggest retail trading company in the world, Wall-Mart, he used to go to its retail objects presenting itself as a customer and secretly recorded the responses of sales staff, and then listetning and analyzing the quality of answers.[5]

All this indicates and proves that managing boards must to devote time and attention to company more than they currently do, learning about the business of the company and following the internal problems and external circumstances that may affect the company. Of course, more time devoted to a company leaves less time to devote to other managing boards. Independent directors, to whom now is allowed to participate in four or five managing boards of public companies, should have a limit to a maximum of two.

All this is added to a new class of professional managers who possess the required expertise and time of commitment, because it is necessary to understand the business and to effectively monitor the work of large public companies. The work of the management board should not be a casual job in their professional lives, as it is now generally happens. Membership of the managing board must be the main and the most important job, because it shows that the commitment of board members and management board as a team largely depends on business success.

[5] Radosavljevic, Z.: Tajne uspeha velikih imena svetskog biznisa – primer Sem Voltona“, Pronalazastvo, Beograd, 1998 str. 154

3. TENDENCY TO INTRODUCE A PROFESSIONAL MANAGEMENT BOARD

Competence and teamwork are becoming the basis for raising the competitiveness of companies. This applies equally to corporative, but also the public companies, which is logical, because in the post-industrial society, knowledge, skills and abilities are the basis of each business success. In the U.S., professional management boards are introduced by SOX act and are considered radical corporate reform. The dilemma of their practical and legal nature remains, because despite this, economic and financial crisis that emerged at the end of the first decade of this century was largely the result of inadequate corporate governance.
Institute of the management board is relatively new, but enough to notice some problems of legal and organizational nature.

- Professional managers are hard to find, even in developed countries where there is a significant cult of the managerial profession. It is shown that highly competent professionals are becoming the target of big and successful companies, which often recruit experts from the competition, not only to increase their competitive advantage, but also to reduce the competitive ability of companies that are classified as main competitors at the same time. On the other hand, professional managers, especially those who are committed to their companies, can hardly find time and energy to devote to the company in which independent members of the managing board exist.
- Given the above, the practice shows that retired experts from different fields, which have demonstrated their ability and proven in some companies, engaging as independent members of the professional management board. This is a very rational solution, because these experts have the knowledge, skills, and experience in business and in life in general and can invest that in the new company. The advantage is also that people relatively early retire, around 65 years; they have good health and are able to respond to the efforts required by the professional membership of the managing board. It turns out that for retired professionals an individual membership in the management board is perfect, because who is going to play golf the next twenty-five years or more. For a company this is a good solution, because it engages experts who voluntarily want to continue working. The company also engages trusted people and experts who have the conditions to be independent and to follow the spirit of profession and professionalism proven in the practice.

  In developed countries, this problem is much easier because there are professional agencies and developed business infrastructure (agents, specialists, etc.) that have records of people from the world of business and who can recommend individuals depending on the type of activity that the company deals with, the size, intellectual level, and so on. Experts from the company rarely appoint a retired person into professional management board directors, practice shows, and the reason is that they cannot be independent and unbiased and therefore cannot serve to make quality management decisions.

  The upper limit of engagement of retired men and women as independent members of professional management board is seventy-two years, with the prospect of further increasing. There are individuals who are members of professional management boards at seventy-five years, which is conditional by health status of individuals and their desire for employment. Regardless of the fact up to when pensioners are involved in the managing boards, they can be dismissed easily, because it is not necessary to respect the usual dismissal procedure provided for by collective agreements.

- Professional managers who would enter into the composition of a professional management board would be exposed to great efforts, both in running the company, as well as management board members, provided they are committed to the company in which they are the independent management board members. In order to use the potential of these professionals work at the best possible way, their work is limiting to a maximum of two managing boards. For this participation usually pays about $400,000, which is twice more in relation to current annual compensation ranging from $200,000. Although this is a relatively high amount, however, the reduction of independent management board members from 12 or 10 to 6 significantly reduced this expenditure in relation to the past.

  Far more important thing in relation to the amount of the fee is the structure of fees in the amount of $400,000. It turns out that independent management board members receive an average of 58% of compensation through shares or options on shares and the rest in cash or special benefits. The idea is that the amount of compensation of management board members is associated with the business success, which is expressed through the share price. Higher stock price means greater participation of the management board in the number of shares and participation in the distribution of cash, and vice versa. Some theorists support the idea to increase the participation of independent directors in the professional management board in actions to 75%, so they would have been more interested in achieving greater business success in the long run. So-called “optional agreements” have been developed also, under which, if management board achieve greater effect than planned, it is entitled to additional compensation on that basis. For example, if profits increase by 20%, the managing board will have increased participation in the distribution of these effects by 3%. The growth and development of the company also takes into account, not only for the time as the managing board manages, but also after the arrival of the other sets of the managing board. Even the parameter of the functioning of the company after four years of departure of a managing board is the best to assess the best performance in running the company. In this way it will indicate to all managers to consider the interests not only while they are at the head of the company, but to take care of hiring quality people after that.[6]

In addition to material satisfaction, for many independent directors a membership in the professional managing board is a professional challenge. There is an idea that this attitude needs to be reinforced by causing the disposal of shares on the two conditions. First, the shares would be distributed in equal parts over four years. Second, at least half of all approved shares would have to remain in the ownership of manager, until it withdraws from the management board. This and the other half of shares, managers could sell to pay taxes on shares and options on shares when sold.

Often, in theory raises the question whether and to what extent professional managers are responsible for the consequences that occur due to wrong decisions made, incurred losses or negative consequences when it comes to the prospects of the company? There is no doubt that they will be subject to the legal regulations, if there is a regression in the business. However, this issue opens other questions. For example, the president or chairman of the board take responsibility for managing the financial function, the dilemma is whether he

[6] According to R. Pozen, quoted work, p. 57

will be more responsible than other professional managers, if the financial statements or balance sheet, income statement and statement of financial flows contain material errors. The answer is probably negative; if he can prove that independent auditor knew or could have known about the wrong application of accounting standards.

When the court examines the activities of corporate managing board and personal liability of individual members, the main parameter for the possible launching of personal responsibility is whether and how the managers were independent. Regardless of the relativity of the independence term, because there is no absolute independence, nor can be, if the assessment that managers acted independently indeed, American courts generally delay or fail to process a personal responsibility. Therefore, courts tend not to consider responsible independent managers for wrong decisions, even when companies lose billions of dollars, either through loss of the substance, or because of unrealized income or profit. For example, courts have even abolished independent managers of Citigroup from personal liability, although the company had huge losses in the economic crisis in 2008-2009.

Generally, American courts process a personal responsibility only in case that some independent managers were not acting on their conscience and the rules of the profession, if not carefully considered all the facts and legal issues, if ignored advice of independent experts, or have made an appropriate decision relatively quickly, not paying enough attention to relevant facts and circumstances to bring a logical and reasonable decision. In other words, it seems that here the intention or belief i.e. disbelief plays a crucial role. Accordingly, the independent managers, while acting as professionals and by professional standards, will be responsible for material error for which they knew or could know, for a mistake if they ignore important facts.

3.1. Relationship between the board and general manager

The relationship between the management board and general manager is a significant issue, which is regulated by the respective normative act, or organizational manual i.e. according to a scheme. In practice, there are two extremes on this issue.

The first extreme is that between the board and companies' management there are no clear distinctions, and that their relationship is relatively blurred. Jurisdictions between the two bodies are mixed, leading to the so-called dual system of governance, i.e. to a situation where orders often overlap, and in the feedback, there are no clear lines of communication. Imagine a managing board that interferes in daily operations that needs to be undertaken by management. In this situation, management is not autonomous, and autonomy is a basic requirement for managing each organization. Practice shows that a very small number of top managers are willing to transfer power and authority to a managing board. Of course, most management opposes taking jurisdictions of the managing board when it comes to the management process and interference with daily operations. In this sense, management reduces information that go to the managing board in order to preserve the monopoly of decision-making.

The undefined role of individual organs leads to blurred vision and mission of the company, which has a negative effect on policies, i.e. strategies to achieve goals, but often blurs responsibility. This is normal, because when everyone is responsible, then nobody is responsible. It is therefore imperative for every management process to define the powers and responsibilities of individual authorities in the management process, which could be achieved through designing organizational settings, and its construction, i.e. through the management process.

The other extreme is that there is a clearly defined rights and responsibilities of managing board and management in which each part does its work, i.e. where the managing board formulates strategic goals for the company and monitor their implementation, and management makes strategy that makes these goals achievable. More or less, the managing board defines the goals, appoint management that needs to achieve these goals, and monitor its business performance. Most of the management boards meet quarterly to discuss the financial state of the company, share price on the stock exchange, meets with internal and external auditors, with major customers, i.e. customers, considering customer complaints, employees, etc. In the jurisdiction of the managing board is appointment of independent auditors, the decision on the status and other changes in the company. In such operations, management of the company is often excluded, although under its jurisdiction all the business processes in the organization are taking place.

To which extremes to join is the current issue of theory and practice of managing and organization. The number of relevant factors, i.e. internal and external forces that act on the business, determines answer to this question. If it is a weak and inexperienced management team, there is likely to be accepted the first case. However, this assumption is unrealistic in practice, because it is unlikely that shareholders and management boards will choose weak management teams. Therefore, in practice another possibility is more present, namely that the authorities and responsibility of the management team and board clearly defined and their activities are taking place in that scope.

In the modern context, a strong management board is necessary, but also a strong management team who will work together and not partial. Of course, the relationship between the management board, as a collective body of professional managers and management should be established on a holistic basis. This concept is based on the premise that functions and activities should be complete, functioning as a whole, and not partially. In this way, a greater synergy is achieved. Therefore, this notion, especially holistic thinking and action leads company to a situation where the joint effect of decisions is already made, greater than the sum of partial decisions. In other words, the management board in the process of making strategic management decisions must include management, employees, as well as larger customers or suppliers. It's not just that employees and customers, i.e. clients need to talk managing board what to do, but the need to gain insight regarding customer satisfaction and employee, as a condition of each performance. Successful companies apply this concept in their work.[7]

For the successful corporate governance, professionalism is essential, as of the managing board, management, and all employees. The company is strong enough, how much can handle the weakest link in the chain, which makes it necessary that every organization is at the same time meeting place for consumers, but also a place of permanent learning. Therefore, modern business requires a high professionalism of all employees, but the request must be extended to suppliers and subcontractors involved in the preparation of the final product, or service provision. Everybody must learn and acquire new knowledge, skills, and abilities to ensure the survival or growth and development. This marks the end of the manual, but the average quality of the organization, because today starts with the phrase that "only the best is good enough" and that leads us to digression, and thus the disappearance.

However, each company should shape the relationship between the professional management board and management. There is no universal solution, nor can be, since practice shows there are no two same organizations, and therefore the same model of governance, i.e. organization cannot be applied. Any assignment of roles between the

[7] Radosavljevic, M: Holisticka tehnologija uspesnosti, FORKUP, Novi Sad, 2011.

management board and management in market economies, primarily the United States, is possible if done within the legal system of some countries and is largely similar.
Government regulation and the adoption of the new business legislation can significantly contribute to improving corporate governance. If professional managers should limit the management in taking risks, they must have strong business and, above all, financial experience and must spend considerable time on responsible jobs in the economy and corporations. They must also be much more committed to company's business, outside of regular meetings of managing boards.
To some extent, we can already see changes in this direction within the financial sector that U.S. regulators have imposed the "Citigroup" and other big banks by replacement of managers and the general knowledge and recalling retired officers during the financial crisis, which was rising in its highest point. Second, shareholders could get together and impose pressure on the company to accept a new model of business behavior. Under recently adopted rules of the U.S. Securities and Exchange Commission, large shareholders have the right to elect their own candidates for managers, who will represent them in the management team, and so they can choose those managers who support the new model. Large companies with a history of poor performance and negative image of business can benefit most from the introduction of professional managers, which would be a good start to launch a campaign of shareholders, so professional managers could be one of the factors of achieving business success.
Finally, a few brave and reliable general managers of the most renowned companies may be willing to try the new model of business behavior in corporate governance. We have seen significant changes earlier: the practice of majority voting began at the initiative of CEOs with more power. If experiments with the new model should generate higher earnings or price of the share for companies in which they are applied, then we should expect this model to expand and begin to live in practice.
Legal profession that was trying to solve problems by creating quality procedures which management board must observe had influence on SOX Act and recent reform of financial regulation. It turns out that there are no such rules and procedures that can cover all situations in which management boards and management companies can be found. It turned out also that, some rules were unclear, the other logical, but not enough to respond to new challenges in business. Hiring competent experts with extensive experience in business and their focus on the control of complex activities, remains a priority task of shareholders and other constituents who directly or indirectly participate in the distribution effects of the company.
To meet the goals, we need another level of legal procedures, but also a new culture and organizational management behavior, one in which professional managers would see themselves in the lead roles and activities. In this context, they should provide enough timely and quality information to be able to ask questions and not to give up until they get satisfactory answers.

4. THE MANAGING BOARD IN SERBIA AND THEIR PROSPECTS

Increasingly complex operating conditions in which is necessary to provide a high level of competitiveness, and deliver better quality product, at lower price, imposed the need that the most important functions and roles of traditional managing board be changed and aligned with the new challenges that arise in the corporate system in developed countries, public sector and public administration, etc.

In terms of management boards in the public sector, as noted, there are two competing views with each other, the need for survival in their current form and its abolition. The professionalization of management boards in the public sector through the introduction of professional managers, as is the case with corporative organizations in developed countries does not make sense, because those are monopoly companies not exposed to market competition, but are privileged by the state to hold public activities with the creation of huge losses, and for them no one is responsible. In Serbia, more than 95% of all public companies in 2010 were suffer losses, in Novi Sad, all public companies also suffered losses, and this fact speaks on the state of the public sector and public enterprises in Serbia. Accordingly, it would be better insisting on transforming the public sector to private then to propose the transformation of the management board. Nevertheless, in the near future, due to high ideologization, Serbia is not able to quickly and efficiently carry out the conversion of public to private or mixed enterprises. Therefore, below is given the rationale for the survival of the managing boards in public sector in its current state, i.e. the rationale for their removal.

4.1. The rationale for the existence of managing boards in the public sector in its current state

The political elite of the ruling parties mainly represent this option and it is justified by the fact that it is logical that the political option that has gained confidence in elections should have a mandate in the management of public sector, including public companies, to thereby realize a program that is gained support from voters. Thus, changes in the political options, a management structure changing and in its place comes a new political option which will remain as long as its party provides certain benefits and privileges, or until the new party comes, i.e. new coalition.

In this context, it was made division of managing board taking into account political affiliation, which creates feudalization and parcellation of the management. The biggest problem is that every member of the board, more or less is trying to provide the management system for the benefit of its party, not the interests of a public company.

This problem should be considered in unison with the changes of management and executive structures, such as general or executive directors. The change of government, the structure change and by the rule, CEOs of large public companies become people who get power and in which the political elite in power have confidence. These people also remain in these places until a new political option win, while providing privileges to its party.

This attitude of the place and role of management boards in the public sector has produced a number of mechanisms to ensure that crucial positions in public companies get people from the party, usually those who are most loyal to its political opinion, although they do not have any competence and experience for these strenuous and highly complex activities. In the broader context, management here appears as a function, not a profession to which people are educated and prepared through business activities.

It is clear that the politicization of the public sector, in particular spheres of control, caused great damage to the Serbian economy. It is recognized, even by the proponents of this attitude, while trying to trick everyone and maintain the status quo, especially when it comes to choosing CEOs of public companies through public tenders. This is certainly a good effort, but it is not enough, especially if the final say have ideological party boards and the appoint members of the board as the heads of companies, but management board members too. Accordingly, the management boards of the public sector, in its current state are unsustainable and it is necessary to transform them into the governing bodies that exist in corporate systems of developed countries.

4.2. The rationale for the abolition of the management boards in the public sector of Serbia

From the analysis of practices of the corporation managing boards functioning is now clear that the role of management boards, even in developed countries, is more and more marginal and consists mainly in dismissal or appointment of management, and that all vital functions of the corporation are under the jurisdiction of professional management. P. Drucker says that in the traditional non-governmental or nonprofit organizations, professional and highly competent management must take the traditional role of management. He notes, "The American Red Cross is probably the largest non-governmental agencies in the world and certainly one of the most complex. It is responsible for completing the destruction of the world: it leads to thousands of blood banks and the banks of the bones and skin in hospitals, and it conducts training of the first aid for cardiac and respiratory problems throughout the nation, and provides first aid courses in thousands of schools. This great organization longtime operated without a paid manager, and the arrival of R. Reagan for president, this organization introduces a professional chief executive officer (CEO) who has taken over the main levers of control. In a word, management boards were impotent to problems that occurred in the sphere of business, and the CEO took over many powers that traditionally belonged to the managing boards, and even to organize managing board. Thus, the function of management and leadership found itself in the hands of professional managers who mainly formulate goals and ways of their realization, and shareholders assembly, or their managing boards assess the success in achieving profit and corporate development. If the shareholders are happy, a professional management receive the trust in the future, and if not, the current management gets fired and new management is required.
The rationale for the abolition of the managing boards of public companies in Serbia is similar to large companies in developed countries, except that it is stronger in some specific socio-political milieu of Serbia. However, the key argument for the abolition of the administrative board is that it does not contribute to increasing the business success of these companies, but rather a negative impact on their efficiency, as can be seen in the following:[8]

- In Serbia, public enterprises and public institutions (hospitals, educational, cultural, and artistic and other institutions) are not joint stock companies, but operate on the principles of state property. Any public company or public institution has the competent ministry that formulates goals and creates the conditions they are implementing, including funding through the budget. State, as the titular, sets a manager by the decree that should manage the public institutions and achieve the set objectives. The manager of a public company or institution is responsible to state and the relevant ministry for their acts or omissions. In order to achieve maximum performance, the manager should be professional for the management of public enterprise, or institution, which means has the knowledge, skills, and ability to manage public company, or institution, or other state institutions.
- Accordingly, the managing board in public companies and institutions in Serbia was redundant and as such is not aimed at increasing public sector performance. It is derived as an institute from a joint-stock companies, but in its minimalistic form

[8] Radosavljevic, Z : Kraj klasicne i nastanak ekonomske drzave", Medjunarodna konferencija LEMIMA 2011, Beograd, Srbija, 2011

that "there is no responsibility, and has great power." Therefore, the management boards in the public sector are recurrences from the past that often interfere with the management to successfully manage the entrusted institution. It turns out that managing boards made certain decisions, but are not responsible for their performance, but the responsibility is transferred to a manager who has the control mechanisms within their jurisdiction. For example, a public company "Kolubara" in a famous scandal confirms that, but also the strike of educators in Serbia, in which ministries weren’t going through the school boards to solve problems out of the strike, but through the principals, who are civil servants appointed to manage schools. The same situation is with other public companies and institutions.

- Management boards are divided by the political options and work on the principles of feudalism. Each member follows the voice of its political leader and party that has appointed him into managing board, than chairperson of the management board and in general committee that should function as a team, take care of the interests of the company and the state as a whole, not partial political interests.

  What is the absurdity of the existence of administrative committees in the public sector can be partly seen in the fact that principal in the school council (equal to management board in companies), suggest, remove, and re-appoint members of the council (except those appointed by the state). In this way, it ensures continuity in the management of public institutions, even when the director is not successful. On the other hand, all decisions in the jurisdiction of management board or council, prepares the principal with its professional services, and the administrative authorities are just institutes that stands behind the principal’s decision. In this way, the public companies and institutions actually became a private company in which a number of ideologically like-minded exercise various privileges, i.e. are in function of political options that appointed them to the managerial position. When they are no longer able, or renounce obedience, they leave managerial position, and their place takes those who are better able to achieve the interests of the party in power. The practice shows that several hundred people, many years, alternates from one to another leadership position in the public sector, there is a high level of tolerance and practice of non-reproach, even when errors, and harm of the public interest are obvious.
- Managing boards are a great burden on public companies and the state, especially since a number of public companies realized losses to be covered from the budget or the taxpayers cover the loss. It turns out that Serbia now has about 700 public enterprises and institutions with managing boards of 5-21 members, who meet 2-3 times during the year. Members of the managing board are composed according to party affiliation and many of them have nothing to do with the activities of the public sector, regarding profession. They generate decent benefits, or additional income, rather as a reward for loyalty to a particular political option, but for the work, responsibilities that the position of a management board member carries. Therefore, the management boards in Serbia must to exist to settle the appetites of political parties, not to improve efficiency of public sector. Abolition of the managing boards would increase the effectiveness of public sector in Serbia. On the other hand, three to four thousand people would be eliminated from the payroll of public enterprises and institutions, which would save about ten million dollars a year, so these funds could be used to improve infrastructure of public sector, which is mostly on the verge of a functional use.
- Abolition of the managing boards of public enterprises and other institutions would be an initial sign that in Serbia awareness of the cost cuts of all kinds matures, to

release the huge economy of expenditures imposed by the state in order to maintain its own bureaucracy.

- In these circumstances, management would gain the increasing importance, which should be trained to manage public enterprises or other state institutions and agencies, as well as direct insight of relevant ministries (rather than indirectly by the managing board) in their current financial status, i.e. the ability to respond to competition.

The abolition of managing boards in the public sector in Serbia, as redundant, unnecessary, even harmful institutes, should be done by passing a special law. In this way, public companies would be rescued from the political claws and involved in economic system, along with other companies. In parallel, it is necessary to redesign the existing ministries, independent review or state audit, but primarily the management of the public companies. In other words, it is necessary to introduce high competent people who are trained to manage certain segments of the public sector, such as electric power industry, post office, railroads, public utilities and other companies and industries that are under the jurisdiction of the state. This would be a continuation of managerization of all structures of the economy and society, from government, through local government, public enterprises, and institutions to other segments of the economy and society. Therefore, management must be understand, practiced, and developed in accordance with the type of the activity and characteristics of the organization when there are certain common principles and decisions.[9]

5. RESUME

From the previous text, you can see one of the problems that emerged in the economic and financial crisis, i.e. in corporate organizations and financial institutions. The analysis showed that one of the causes of economic crisis and the general inefficiency of the U.S. economy, are ineffective managing boards. Their inefficiency is the result of bulky management boards, i.e. double than necessary. The main reason of this is due to the misconception that bigger managing boards cover all functional areas and as such have advantages over small, where the function merge. However, the smaller managing boards are more flexible and quickly coordinate positions, making them operational and successful in making quick and better strategic decisions.

Another problem is the fact that in managing boards are often individuals who are not familiar with the activities of the company, they are incompetent and often lack experience in managing organizational systems. The problem of lack of commitment to a professional company where managers participate as members represents a serious problem, which is natural, because in this case neither knowledge nor experience can give a satisfactory result. Limitation of membership in the two management boards at the most is the logical outcome of this situation, but it is not enough.

In the considered arguments about the place and role of management boards in the modern business, a need to redesign the boards on the principle of re-engineering is demonstrated, particularly by introduction of professional independent managers, which correspond to the uncertainties and turbulences of what they are today and what will be in the future. It was pointed out that the optimal number of management board members should be seven

[9] Avdagić, M., „The role of management in realization of economic, social and human rights, International journal of economics and law, Novi Sad, 2011.

independent managers, of which one was supposed to preside over. Team members should meet and discuss current affairs in the company at regular intervals, but preferably, as professional managers to be familiar with the work outside of regular sessions and through ongoing discussions with middle and lower managers, direct performers, consumers of products or services, etc.

In addition, it is necessary that professional managers are experts with relevant knowledge and skills and extensive experience in the business to make it easier to diagnose major problems, and to provide quick and quality solutions for their removal or elimination of their consequences. If necessary, they can hire additional associates who participate in resolving certain issues. A good manager is not expensive, in relation how expensive can be if you entrust flying plane to total amateur - much more than the cost of its creation.

Retired experts from specific functional areas are suitable for engaging in management boards. They have extensive work experience, may dedicate themselves to the job because they have formed a family and they haven't so-called "personal life", or personal problems. If they would be paid partly through the actions, and partly in cash, with a tendency to increase the share of payments through the action, it would increase the motivation of the entire management board to invest time and creative energy to increase the value of the company.

Besides the upgrading of legislation in the field of business law, it is necessary to build a new culture, i.e. organizational behavior of management boards and management teams. It seems that this is much more complicated to do than the legislation, which has its legitimate, i.e. legality.

The analysis showed the necessity of de-politicization of governance in Serbia and if not the abolition of the management board as the party institutes installed in public companies to achieve privileges by the political elite in power, then a complete re-engineering of the body. This radical transformation should be performed by the system concept, which means that management should be redesigned too, so it would be depoliticized, and then highly professionalized. This is a very complex job, especially since the politicking syndrome affects all areas of social and economic life, which become the style, i.e. the way of life and work. However, this work must begin as soon as possible; as the old folk wisdom says, "The longest journey starts with a single step."

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