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# The Legal Framework for Effective, Innovative and Sustainable Governance of State-Owned Enterprise: A Comparative Analysis of Provisions in Selected Economies

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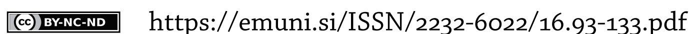
State-owned enterprises (hereinafter referred to as SOEs) play an important role in the worldwide economy. Despite the privatisation processes in place, they are still key participants in the economies of numerous countries. The study considers seven factors to analyse and compare selected cases (Austria, Poland, Slovenia, Sweden). All of four countries are members of the Union for the Mediterranean (UfM), which is an intergovernmental institution bringing together 43 countries to promote dialogue and cooperation in the Euro-Mediterranean region. This paper aims to compare the legal framework for corporate governance in selected economies to highlight the progress made so far as well as the shortcomings of the existing framework. The paper will also identify the differences between the systems of corporate governance in various countries and is divided into seven sections. Each section considers a particular aspect of the corporate governance framework as practiced in the selected countries. These are: national approaches to exercising the ownership function; board nomination and efficiency; equitable treatment of shareholders; implementation of the EU directive on non-financial and diversity information; rule of law; sustainable governance effectiveness and innovation score.

*Key Words:* corporate governance, rule of law, environmental responsibility, public interest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## Introduction

The effective management of organizations, including those owned by the state, is heavily influenced by corporate governance. In the midst of changing environmental and social conditions, it is vital to have effective governance in order to manage crises, take advantage of new opportunities, and promote innovation. This comparative analysis aims to explore the diverse approaches to corporate governance and innovation in selected countries, shedding light on the strategies and practices employed by their respective SOEs.

The article's outline consists of seven sections that explore the variations in corporate governance systems across different countries. Each section focuses on a specific aspect of the corporate governance framework in the selected countries. These aspects include:

1. National approaches to exercising the ownership function
2. Board nomination and composition
3. Equitable treatment of shareholders
4. Implementation of the EU directive on non-financial and diversity information
5. Rule of law
6. Sustainable governance effectiveness
7. Innovation score

By examining these areas, the article aims to highlight the disparities and similarities in corporate governance practices among the countries under consideration and to answer the following questions: How do different countries address corporate governance practices and how do they promote innovation in their state-owned enterprises SOEs?

## Methodology

As an example of a general definition of a case study, we can cite Sturman's definition, which states that a case study is a general term for the investigation of an individual, group or phenomenon (Sturman 1997). Within a case study, we can study a single case (singular single case study) or several cases (plural or 'multiple' case studies,

multiple case studies); in the second case, we examine each case separately, as if it were an individual study, and then compare the cases with each other, or build the analysis of each subsequent case on the knowledge gained from the analysis of previous cases (Mesec 1998, 384).



Based on a previously conducted analysis of documents from the Organisation for Economic Cooperation and Development (hereinafter OECD), the World Bank, the European Union and national authorities, we selected four European countries that tested different management models. A country with a two-tier management model is represented by Slovenia, a country with a centralised model is represented by Sweden, an example of a country with a decentralised model is Poland, and Austria is a country that has chosen a holding form of organisation. While examining the national context, we will review the literature that will acquaint us with the tradition and historical role of the country in all four selected units of study, as well as their current legislative frameworks that pertain to the field being studied.

## THEORETICAL BACKGROUND

Over the recent 20 years, the portion of state-owned enterprises among the 2,000 largest companies in the world has doubled to 20%. It is estimated that the total assets of state-owned enterprises in the world amount to roughly US$45 trillion, which is equivalent to half of the global gross domestic product (International Monetary Fund 2020). Preserving government oversight of crucial corporations for the economy is a form of agreement that balances productivity with wider social and economic concerns. This practice is typical of not only developing economies, but also numerous developed countries (Bank Pekao 2020). From this perspective, the objectives established for government-owned enterprises are distinct from those of private enterprises. While private enterprises prioritise profit generation for their investors, government-owned entities accomplish, in addition to economic objectives, other particular social aims such as job creation, serving public interests, or providing essential goods (Ahmad, Aliahmed, and Razak 2008).

The content of autonomous legal sources in the field of corporate governance is particularly influenced by the OECD and European Union (hereinafter EU) documents, as well as corporate governance codes adopted in EU member states (e.g. German and English codes) and documents of the European Confederation of Directors' Associations (Strojin Štampar 2017, 104). European corporate law is mainly harmonised with the help of directives that oblige member states to adapt their corporate legislation in certain areas (Bohinc 2001, 227). European countries regulate the management of state property in accordance with OECD Guidelines, taking different paths (Rus 2011, 30). Slovenia, like the other members of the OECD, has undertaken to respect the recommendations of the OECD when adopting its heteronomous legal sources. OECD documents are characterised by the fact that they are not directly applicable but have the legal nature of autonomous legal sources. The state can summarise the content of such acts in its heteronomous legal sources (laws and bylaws), or it can shape its heteronomous legal sources in such a way as to achieve the goals that the OECD aims to achieve with its recommendations (Strojin Štampar 2017, 109). Thus, we recognise different types of management organisation, which differ according to the degree of centralisation of the ownership function (OECD 2015; Rus 2011, 30): decentralised or sectoral ministerial model, dual ministerial model, centralised model and other special management structures (holding companies and specialised consulting companies).



When discussing the objectives of managing government-owned businesses, it is important to acknowledge the reality that these objectives may at times clash or be incompatible with each other, as recognised by the OECD Guidelines (OECD 2015; Nahtigal 2015). To address this, it is crucial to establish clear definitions of the goals, prioritise them, and formulate a strategy for reconciling any conflicting objectives (OECD 2015). Even at the outset, the constitutional arrangements of nations have distinct interpretations of the state's role and the notion of common welfare. Due to their unique historical and cultural backgrounds, countries exhibit varying behaviours. On the one hand, we have the legalistic (Rechtsstaat) approach, and on the other, the Anglo-Saxon system that is quite

liberal. The Germanic nations are known for their robust culture of the rule of law. For citizens of these nations, authority, hierarchy, and legality hold greater significance than administrative efficiency. While Central European nations (Germany, France) prioritise the functioning of the state as per the law, more market-oriented nations (Great Britain and especially, the USA) focus on creating competition through quasi-markets and enabling the free choice of providers (Ferfila 2007).



Despite the specified disparities, as we track the patterns in the advancement of the governmental sector across the globe, we can observe a remarkable resemblance of concepts. The novel management of the public sector as a contemporary paradigm, for instance, originally gained recognition in the Anglo-Saxon region and subsequently disseminated from the United States, New Zealand, and Australia, via the United Kingdom, to the European region (including the Netherlands, Germany, France, Switzerland, and Sweden). The impact of corporations on society is on the rise, which is why discussions surrounding the management and objectives of corporations, as well as the consideration of the interests of shareholders, employees, and the public, are becoming more prominent. Along with financial performance metrics, investors are increasingly focusing on a company's stance, on environmental preservation, social accountability, and organisational governance. Numerous pressures (cost, adaptability, impractical time frames and quality expectations, along with a lack of education, knowledge, weak voice, and bargaining power) are frequently intensified when transferred throughout the global supply chain. The saturation, fragmentation, and deregulation of established markets, as well as the intensification of competitive pressure, make good reputation even more crucial, particularly for publicly visible companies (Behnassi 2008).

As a result of frequent changes and fluctuations in financial markets, environmental shifts, income disparity, digitalisation, and the spread of populist movements, numerous suggestions and updated regulations for corporate governance have emerged in recent years. These include the 'New Paradigm,' 'Principles of Common Sense,' 'King Report IV,' and the 'UK Corporate Governance Code 2018.'

While some of these proposals uphold established and traditional beliefs, others advocate for a stronger commitment to harmonise corporate actions with societal interests and to foster a more comprehensive, equitable, and sustainable economy (Paine and Srinivasan 2019).



The state-owned enterprise has a distinctive opportunity to utilise its external influence by collaborating with other stakeholders in society and acting as a catalyst or driver for external positive growth, aligned with its purpose, mission, and strategic objectives. SOEs can also play an active part in developing local, regional, and national innovation systems by offering testing grounds and fast prototyping opportunities for promising entrepreneurs and startups. This could involve providing an 'incubating' atmosphere and infrastructure for ideas to thrive and grow. Ideas with potential can then be accelerated for execution and implementation through a fast prototyping and large-scale demonstrator approach, which evaluates new concepts and ideas as a transformational project before scaling up for adoption at a broader level. Large-scale demonstrators provide a means of reducing innovation risk by presenting a staged process in which a range of solutions are initially developed, tested, and then selected for further rounds of support. Demonstrators progress from small-scale prototypes to a small number of larger-scale near-market projects that combine the three critical elements of infrastructure, market framework, and people and skills. The R&D factor also plays a supportive role. This, in turn, creates intelligent ecosystems and improves interoperability (PWC 2015).

## NATIONAL APPROACHES TO EXERCISING THE OWNERSHIP FUNCTION

### *Austria*

The Austrian Ministry of Finance oversees 18 direct equity investments of the government and monitors three public institutions. To achieve this, they have established an effective management system that adheres to the budgetary principles of frugality, productivity, practicality, and openness. The ministry's ownership rights in the companies are aimed at generating responsible, sustain-

able, and enduring value, and are therefore, aligned with the interests of all taxpayers in Austria (Bundesministerium für Finanzen 2022).

In Austria, the Federal Ministry of Finance has the responsibility of managing federal POEs (SOEs). The Österreichische Beteiligungs AG (ÖBAG) is used by the Austrian federal government to manage its SOEs. ÖBAG is an independent holding company, with the Federal Minister of Finance acting as the representative of the shareholder – thus, the Austrian federal government is the only proprietor (Bundesministerium für Finanzen 2022). Austria has a lengthy history of SOEs. After the Second World War, 71 firms were transferred to public ownership to safeguard them from Soviet demands for reparations.



After Austria's accession to the EU in 1995, some former SOEs were completely privatised, while others became large mixed enterprises. In February 2015, ÖIAG was transformed into a limited liability company, the ÖBIB. This change was made to ensure the board of directors was independent in its official functions, as opposed to a managing director of a limited liability company, who is dependent on the owner's directives. The Federal Minister of Finance has the authority to give directives to ÖBIB. The aim of ÖBIB is to maintain and increase the value of associated companies, while taking into account public interests in securing Austria's position as a location for industry and research and creating jobs. In 2019, ÖBIB was converted into a stock corporation, the ÖBAG, which focuses on managing shareholdings. Overall, ÖBAG secures 135,000 jobs in Austria and aims to optimise the alignment of holdings, particularly regarding the federal government's ownership interests (Bundesministerium für Finanzen 2022).

Furthermore, alongside the ÖBAG, the Federal Ministry of Finance also possesses shares in the Österreichische Nationalbank (ÖNB), Österreichische Bundesfinanzierungsagentur (ÖBFA), Bundesbeschaffung GmbH (BBG) and the Bundesrechenzentrum GmbH (BRZ). Additionally, the federal government holds equity holdings in various road construction companies, namely the Großglockner Hochalpenstraßen AG (GROHAG), Felbertauernstraße AG (FAG)

and Villacher Alpenstraßen-Fremdenverkehrs GmbH (Bundesministerium für Finanzen 2022). Therefore, the ÖBAG is not the sole management holding company of SOEs in Austria, but it is the largest. Furthermore, there are other (independent) SOEs at federal level in Austria, such as Verbund AG (energy) which is a partially public entity, as well as ÖBB (Austrian Railroad), ÖBF (Austrian Forestry), ASFINAG (Highway) and the ORF (Austrian Broadcasting Corporation), which are pure public entities (Bundesministerium für Finanzen 2022).



*Poland*

The primary legal act that governs the process of creating, dissolving, organising, and running state-owned businesses in Poland is the 1981 Act on State-Owned Enterprises (Ustawa z dnia 25 września 1981 r. o przedsiębiorstwach państwowych, tekst jednolity 2002), which has been revised subsequently. State-owned businesses can be established by top-level, central, or local state administration organisations, as well as by the National Bank of Poland and state-owned banks. SOEs are either created as general principle businesses or as public utility businesses, with the latter being mainly focused on satisfying the needs of citizens. These businesses are primarily intended to provide services in areas such as:

1. Sanitation engineering
2. Public transportation
3. Gas, electricity, and heating
4. Management of state-owned housing resources
5. Management of state-owned green areas
6. Management of spas

Based on the data released by the Polish government in September 2020, there are presently 30 SOEs in Poland. Most of these SOEs are under the control of individual ministries, with the Ministry of Justice owning 13, the Ministry of Climate owning two, and the Ministry of Infrastructure and Ministry of Maritime Economy and Inland Navigation each owning one. The remaining SOEs are managed

by voivodes, who serve as the government's representatives in the region or voivodship (Ciesielska-Klikowska 2019).

Examples of state-owned enterprises include Drukarnia Nr 1, a printing house, Zakład Unieszkodliwiania Odpadów Promieniotwórczych, a radioactive waste disposal plant, and Polska Żegluga Morska, a cargo ship operator (Ciesielska-Klikowska 2019). The largest of these SOEs are Polska Żegluga Morska, which employs nearly 2,700 individuals, and Porty Lotnicze, the leading entity of aviation transport infrastructure in Poland, which employs 1,700 people. These SOEs perform differently in economic terms, with some generating less profit, such as Drukarnia nr 1 with PLN 8,000, and others generating more, such as Zakład Unieszkodliwiania Odpadów Promieniotwórczych with PLN 2 million, and Porty Lotnicze with PLN 356 million in 2019.



It is important to note that the SOEs mentioned above do not include state-controlled enterprises (SCEs), which are established through a commercialisation process conducted by the Minister of Treasury, at the request of the director and employee council of a state-owned enterprise. The operation and existence of SCEs are defined in the Act on Commercialisation of State Enterprises (Ustawa z dnia 30 sierpnia 1996 r. o komercjalizacji i prywatyzacji przedsiębiorstw państwowych 1996). The companies in which the State Treasury holds the largest shares operate in industries considered strategic from the state's perspective. These industries include energy, fuel, insurance, mining, transport, real estate, and representatives from the chemical and banking sectors. The most recent list of companies with treasury shareholdings includes 417 entities (Ciesielska-Klikowska 2019).

The current proportion of state-managed businesses in the Polish economy, as measured by their contribution to added value or revenue in the enterprise sector, is approximately 13–15% annually. This figure is likely the highest among all European Union member states. The list of such businesses includes Poland's two largest financial institutions, PKO BP SA and PZU SA. Additionally, the third major financial entity, Bank Pekao SA, is indirectly managed by the state through PZU SA and Polish Development Fund SA. When con-

sidering the group of 50 most important Polish businesses, the share of state-managed enterprises in the overall economy becomes even more significant. Despite a gradual decrease since 1989, this figure remains at a very high level, and the role of state-controlled businesses in the Polish economy is greater than a simple share quantification would suggest. Significantly, the top 20 largest Polish state-owned enterprises employ over 56.3% of the workforce in the 50 largest companies in Poland, surpassing all other countries in the CEE region. What is even more noteworthy is that, unlike other CEE countries, the percentage of employment in the largest state-owned or controlled companies has not decreased over the past decade, remaining at over 50%. To summarise, the majority of state control in Polish companies is due to the phenomenon known as 'reluctant privatisation,' where privatisation processes were not completed, resulting in the state retaining significant blocks of shares and a disproportionately greater scope of corporate control. The advantage of state-owned and controlled enterprises is the profits they generate, even during difficult periods. In the long run, the state benefits from nationalised firms, as seen with PKN Orlen SA and Lotos, which operate expansionary policies in the oil sector and generate substantial profits for the state. These companies are often economic gold mines (Ciesielska-Klikowska 2019).



*Slovenia*

According to the Decree on the State's Capital Investment Management Strategy (Odlok o strategiji upravljanja kapitalskih naložb države 2015), the Republic of Slovenia is an important owner of assets in companies that have been created by generations in the past until today. This property, which remained partially or fully owned by the state in the process of expropriation, represents the basis for the implementation of key functions of the state from the point of view of ensuring infrastructure tasks and the coordinated promotion of balanced and sustainable economic development and other strategic goals. The state's capital investment management strategy follows the goals of individual sector strategies. The basic goal here is the pursuit of stable, balanced, and sustainable economic devel-

opment, thereby ensuring the stable long-term well-being of the inhabitants of the Republic of Slovenia.

The state's financial assets are represented by cash, receivables, debt securities and shares and ownership interests in companies and other investments in legal entities (public institutions, public funds and public agencies) (Vlada Republike Slovenije 2009, 4). As of December 31, 2020, the vast majority of investments in management were made up of investments from the Transport and Energy pillars (72.9% of the total portfolio). After bank sales, the share of the Finance pillar has been on the decline in recent periods, while the share of the Tourism and Economy pillar has remained below 10%, even at the end of 2020. On December 31, 2020, the total book value of equity shares of capital investments in the management of SSH amounted to EUR 9.9 billion (Slovenski državni holding 2020).



SOEs play an important role in Slovenian social development. Improving corporate governance is therefore one of the key development challenges; better corporate management of Slovenian SOEs not only increases their yield and value, but also contributes significantly to the realisation of the country's development and other strategic goals and to the realisation of the public interest. According to the views of the OECD, the state must ensure that state assets are managed in accordance with *OECD Guidelines on Corporate Governance of State-Owned Enterprises* (2015) and with the legislation on commercial companies, which must comply with OECD Principles of Corporate Governance. The OECD also explicitly declares that the state must ensure the appointment of professional and qualified members to the supervisory board of SSH and the supervisory board of SOE (Vlada Republike Slovenije 2009, 4).

In Slovenia the term state-owned company includes (Vlada Republike Slovenije 2009, 4):

1. Companies established under the law governing companies and in which the Republic of Slovenia has a financial investment.
2. Public companies and institutes established under the law governing public services in which the Republic of Slovenia

has a financial investment, assets under management or another form of its financial assets.

3 Other entities under public law (public institutions, public agencies, public funds) in which the state has assets under management.



According to Slovenian legislation, as stated in the government document entitled Policy on the Management of State-Owned Enterprises (Vlada Republike Slovenije 2009, 4), the reasons for ownership by the Republic of Slovenia in SOEs and its goals can be purely proprietary (such as profitability, profitability, productivity) or they can also be set to achieve public interests (such as public services, public economic services, other activities in the public interest, monopolies and other regulated activities). Therefore, line ministries must set priorities in sectoral policies, while avoiding interference in SOE management and thus respecting the independence of SOE management. Tendencies to consider non-financial indicators in company operations are also reflected in newer legal sources. The amendment to the Companies Act (Zakon o spremembah in dopolnitvah Zakona o gospodarskih družbah (ZGD-1J) 2017) thus harmonised the Slovenian legal order with Directives 2014/95/EU (2014) and 2005/56/EC (2005) and increased the transparency of operations of certain companies and improved the relevance, consistency and comparability of non-financial information.

*Sweden*

By the end of 2021, the state-owned enterprise portfolio comprised 38 wholly owned and 7 partially owned firms, with a total value of approximately SEK 820bn. Together with their subsidiaries, state-owned enterprises employ roughly 107,000 individuals, a figure that increases to around 134,000 when associates are taken into account. Of these enterprises, 22 have been assigned public policy duties by the Riksdag, signifying that they generate public benefits that cannot always be quantified in financial terms. State-owned enterprises are renowned brands and play a critical role in Swedish society. Many originated as public enterprises, commercial activities within government agencies, or state monopolies. Today, most operate in

fully competitive markets, necessitating that they adopt a long-term outlook, are efficient and profitable, and have the capacity to grow, much like privately-owned firms. This implies that state-owned enterprises must adhere to the provisions of the Swedish Competition Act (Konkurrenslag 2008) in the same way as privately-owned firms. The government is obligated to actively manage the state's assets in the form of shares in SOEs to maximise their value, performance, and returns while maintaining a balanced risk profile and ensuring that public policy duties are carried out effectively. It is crucial that the state functions as an active, professional owner with a focus on creating long-term, sustainable value. As an active and professional owner, the state must assess the rationale for continued state ownership and review the various assignments and directives of the enterprises. The direction of operations and public policy duties of many of these firms warrant the state's continued significant ownership. The government's corporate governance is based on the Swedish corporate governance model. This means that state-owned enterprises are governed in the same way as privately-owned firms in terms of company law, with the General Meeting of shareholders serving as the highest decision-making body. This also implies that the board of directors is responsible for the enterprise's organisation and management, including adopting business objectives and strategies, while the executive management handles the day-to-day management of operations. In essence, SOEs are subject to the same laws and regulations as privately-owned firms (Government Offices of Sweden 2021).



The Government's State Ownership Policy lays down the mandates and objectives, applicable frameworks, and fundamental principles governing the corporate governance of state-owned enterprises. The 2020 State Ownership Policy outlines the Government's principles for corporate governance, remuneration, and other terms of employment for senior officers, and external reporting. This policy applies to all enterprises with majority state ownership. For those with minority state ownership, the State engages in dialogue with the other owners to ensure adherence to the ownership policy. The Swedish Government's management principles align with

*OECD Guidelines on Corporate Governance of State-Owned Enterprises* (2015). These guidelines provide a predictable framework for SOEs and their owners and clearly segregate the state's ownership role from its other roles. Sweden actively participated in the drafting of the original guidelines in 2005 and the revised guidelines in 2015. The guidelines recommend that governments ensure SOEs operate efficiently, transparently, and accountably, and serve as an international standard to avoid the state being a passive owner or intervening excessively as an owner. The Minister for Business, Industry, and Innovation is responsible for a unified ownership policy for state-owned enterprises and manages most of the enterprises (Government Offices of Sweden 2021).

The Ministry of Enterprise and Innovation has a dedicated unit that specialises in overseeing corporate governance and investment management, with the aim of ensuring long-term value creation in the state-owned enterprise portfolio. The investment management unit comprises investment directors and experts in company analysis, sustainable business, business law, and board recruitment. The investment directors are appointed to serve on various enterprise boards and lead the unit's ongoing work related to the holdings, which is organized in investment teams. The investment management unit operates within the framework of the state model of corporate governance and employs a range of tools and processes to achieve active and professional management. Active ownership is practiced through investment teams, which are responsible for developing and managing enterprise holdings. Each investment team is headed by an investment director and includes specialists in analysis, business law, board recruitment, and sustainable business. The team composition varies depending on the size, complexity, or agenda for change of the enterprises. This approach ensures that each team has comprehensive knowledge of the market and the enterprise's business environment, as well as an understanding of the challenges and risks facing the enterprise. As a result, the investment management unit can contribute to positive value performance by the enterprise. Targets and tracking are essential tools for the state as an enterprise owner. Regular tracking of enterprise per-

formance against set targets allows for measurement of progress. If an enterprise fails to meet its targets, the owner can request an action plan. Financial and public policy targets are approved at a general meeting. Financial targets measure profitability, efficiency, and risk levels (Government Offices of Sweden 2021).



Enterprises that have taken on public policy assignments are given specific targets to assess their performance. To effectively integrate sustainable business practices into the enterprise's strategy and development, owners have directed enterprise boards to set strategic targets for creating sustainable value. All targets are monitored through owner dialogues. The Riksdag determines the overall missions of the enterprises, while the State Ownership Policy outlines the Government's mandates and objectives for corporate governance. Financial, public policy, and strategic targets are established to clarify the enterprise's mission, ensure efficient and sustainable operations, and facilitate monitoring. The Ministry of Enterprise and Innovation oversees most state-owned enterprises, with other ministries also sharing administrative responsibility. Owner dialogues are regularly held between political leaders, board chairs, and management to track public policy and financial targets, and discuss significant operational issues. State-owned enterprises must maintain transparency in their external reporting, including annual and interim reports, corporate governance reports, sustainability reports, and remuneration reports, to maintain public and business community confidence. Active management of enterprise holdings ensures a long-term insight into operations and ongoing ownership issues. The State Ownership Policy mandates that state-owned enterprises act responsibly and adhere to international guidelines regarding environmental considerations, human rights, working conditions, anti-corruption, and business ethics. The Government has identified various global principles and standards that hold significance for state-run businesses: the Ten Principles of the UN Global Compact, the UN's Directives on Business and Human Rights, and the OECD's Regulations for Multinational Enterprises. Furthermore, state-run enterprises must scrutinise the Global Goals of the 2030 Agenda within their operational purview

to determine which objectives are impacted and advanced by their operations (Government Offices of Sweden 2021).



## BOARD NOMINATION, COMPOSITION AND EFFICIENCY

### *Austria*

Comparable to, for instance, the German system, Austrian stock corporations have a two-tier board structure comprising the Management Board and the Supervisory Board. Societas Europeae (SE) may also opt for a one-tier board system with a single administrative board. The Management Board represents the stock corporation in and out of court. It shall manage the company in such a way as is necessary in the company's best interests, taking into due account the interests of the shareholders and employees as well as the public interest. The Management Board carries out its activities on its own responsibility; the Supervisory Board and The Annual General Shareholders' Meeting (AGM) have no authority to issue instructions to the Management Board. However, if the Management Board seeks a resolution by the AGM on a management measure, it is bound by such a resolution (*Corporate Governance* 2022).

The Supervisory Board is responsible for monitoring the Management Board. The Supervisory Board shall adopt the annual financial statements together with the Management Board, unless the Supervisory Board does not approve the annual financial statements, or the Management Board and the Supervisory Board decide that the annual financial statements shall be adopted by the AGM. The Supervisory Board consists of at least three natural persons, unless the Articles of Association stipulate a higher number, and a maximum of 20. In listed companies and in companies in which more than 1,000 employees are permanently employed, at least 30% of the Supervisory Board shall consist of women and at least 30% of the Supervisory Board consist of men, provided that the Supervisory Board consists of at least six (shareholder-appointed) members and at least 20% of the company's workforce consists of female or male employees, respectively. Employees are entitled to delegate members to the Supervisory Board. They have the right to

nominate one employee representative for every two members appointed by the shareholders, and in the case of an uneven number of shareholder representatives, a further employee representative. A (co-determined) Supervisory Board, therefore, consists of at least five members, three of whom are appointed by the shareholders and two by the employees. Especially in larger Supervisory Boards, the establishment of sub-committees is common practice; public interest companies (including listed companies) and large stock corporations must establish an audit committee, which needs to include a financial expert. Members of the Management Board are appointed and removed by the Supervisory Board. The maximum term of office is five years; reappointment is permissible. Appointment to the Management Board may only be revoked before the end of the term of office for good cause. In particular, this is the case when there is a material breach of duties, the inability to conduct business properly or a no-confidence vote by the AGM for reasons that are not obviously unjustified (*Corporate Governance* 2022).



*Poland*

In Poland, only publicly traded companies are eligible for listing. The pertinent regulations of the Commercial Companies Code (CCC) dictate that joint-stock companies must have a mandatory two-tier board structure, comprised of a Management Board and a Supervisory Board. The Management Board needs to have at least one member, with no maximum limit unless otherwise specified in the Articles of Association. Only natural persons may serve as members, and it is not permissible for another company to appoint a member to the Management Board. If the Articles of Association stipulate a fixed or minimum number of Management Board members and that number is not filled, the ability of the Management Board to validly represent the company may be compromised. To avoid this issue, most companies specify in their Articles of Association that the Management Board consists of one or more members (Wiercinski, Wojciechowska, and Wyrzykowska 2017)

The authority to appoint, dismiss, or suspend a Management Board member is vested in the Supervisory Board, unless the Ar-

ticles of Association provide otherwise (e.g., by requiring that Management Board members are appointed via a shareholders' resolution or by granting nomination rights to a particular shareholder). Management Board members may always be removed or suspended by the shareholders during a general meeting. Since the CCC was amended on 1 January 2017, the Articles of Association or a general meeting resolution may specify certain qualifications that Management Board candidates must meet or establish a detailed qualification procedure. Under extraordinary circumstances (such as when a Management Board member resigns and before a replacement is appointed), it is feasible to appoint a Supervisory Board member to the Management Board in a temporary capacity. This appointment, which is an exception to the general division of functions between company bodies and the non-compatibility rule, is only allowed for a maximum of three months. The Best Practice Code advocates for high-quality and relevant experience for Management Board members, and for the Board to be diverse in areas such as gender, age, education, and professional background. In terms of gender diversity, the requirement is for a minority of no less than 30% in both the Management Board and Supervisory Board (Wiercinski, Wojciechowska, and Wyrzykowska 2017).



Generally, there is no minimum term for Management Board appointments, but a single term cannot exceed five years. Reappointment cannot occur until one year before the current term ends. If the Articles of Association do not specify a term, the mandate of the Management Board member expires at the latest on the date of the general meeting approving the financial statements for the final full financial year of service. If a term is specified, the mandate expires on approval of the financial statements for the final full financial year of that term. In 2016, the Supreme Court ruled that the final full financial year is the last financial year that began during the term of office. This ruling was crucial in the debate on the legal doctrine regarding this aspect of the regulation. It is significant because an invalid mandate could have significant consequences, and a Management Board member without a valid mandate cannot represent the company effectively. Following the amendment of the Civil Code

in 2018, it is possible for a company to confirm legal acts undertaken by a member of the Management Board without a valid mandate (akin to acts of a falsus procurator) from 1 March 2019 onwards. This resolves the debate regarding the controversies regarding whether such a possibility exists with respect to acts undertaken by a company's bodies. The Articles of Association can stipulate a collective term of service for the Management Board members. In such cases, the mandates of all members typically conclude simultaneously, regardless of whether a specific Management Board member was appointed during the term. The general meeting or other nominating entity generally retains the power to dismiss a Management Board member without providing a reason. Nonetheless, the Articles of Association may limit this authority to situations in which there are justifiable grounds for removal (Wiercinski, Wojciechowska, and Wyrzykowska 2017).



*Slovenia*

Most Slovenian listed companies operate on a dual-tier system, consisting of two separate bodies: the Management Board and the Supervisory Board. The Management Board acts as the company's representative, and if it has multiple members, they act jointly unless otherwise stated in the Articles of Association. In cases of joint representation, any expression of will from a Management Board member is binding on the company as a whole if all members share the same powers of representation. However, the Articles of Association may require the Management Board to obtain consent from the General Meeting for certain contracts or acts to be valid. The Management Board is also responsible for carrying out the General Meeting's resolutions. In contrast, companies operating on a one-tier system have a single Board of Directors responsible for managing and supervising the company's operations. If the Board of Directors appoints Executive Directors from among its members, they act as the company's representatives unless otherwise stated in the Articles of Association (*Corporate Governance* 2022).

The Supervisory Board appoints members of the Management Board, who may not be reappointed until one year before the end

of their term. The Supervisory Board may only discharge individual members or the President of the Management Board for justified reasons, such as serious breach of obligations, incapacity to conduct business, a vote of no confidence from the General Meeting (except for unfounded reasons), or other economic and business reasons (such as significant changes in shareholder structure or reorganisation) (*Corporate Governance* 2022).



*Sweden*

In Sweden, the CEO is responsible for the day-to-day management of the company while matters beyond this scope necessitate Board approval. The Swedish Companies Act (*The Swedish Companies Act 2005 in Translation* 2006) mandates that the Board establishes its own governance procedures, which outline the responsibilities of Board committees and provide CEO instructions for matters requiring Board approval. Listed companies under the Companies Act must form an audit committee consisting of non-employee Board members, with at least one member possessing auditing or accounting expertise. According to the Code, the majority of the committee members must be independent of the company and its executive management, with at least one member also independent of the company's major shareholders. Alternatively, the full Board may assume the responsibilities of the audit committee, which include monitoring financial disclosure integrity, internal financial control and risk management, and reviewing the auditor's independence. Listed companies must also establish a remuneration committee under the Code, unless the full Board assumes the responsibilities, with the exception of a Board member who is part of the executive management team, typically the CEO, who may not participate in executive remuneration matters. The remuneration committee is responsible for monitoring executive variable remuneration, assessing the company's remuneration guidelines, and preparing Board resolutions on executive remuneration (*Corporate Governance* 2022).

Board members are appointed and removed by shareholder vote, with a resolution passed by relative majority. The term of Board membership lasts until the next annual General Meeting. Listed

companies must have a nomination committee and adopt procedures for the committee under the Code, with most companies appointing one nomination committee member each from the three to five largest shareholders. The Board chairman typically serves as a committee member. The nomination committee's responsibilities include proposing Board members and Board remuneration for approval by the annual General Meeting. Finally, the Board appoints the CEO (*Corporate Governance* 2022).



### EQUITABLE TREATMENT OF SHAREHOLDERS

#### *Austria*

In the Austrian two-tier system of stock corporations, shareholders only have indirect influence over the company's strategy, management, and operations. The Management Board is responsible for the statutory management and operation of the corporation. Shareholder influence on strategy depends on their ability to elect candidates, or delegate registered shares to the Supervisory Board, who then become the majority or most influential members of the Board. The Supervisory Board advises and controls management, and decides on contract terms, including remuneration and appointments of Management Board members. The EU Shareholders' Rights Directive II (Directive (EU) 2017/828) has strengthened shareholder influence, but not significantly changed it.

The Stock Corporation Act (Bundesgesetz über Aktiengesellschaften 2022) mandates the competences of the shareholders' meeting, and sometimes requires higher majorities, usually 75%, instead of a simple majority. Qualified majorities may also be required for certain matters, although this is uncommon in listed companies. Shareholders regularly vote on matters such as distributable profit, discharge of Supervisory and Management Board members, appointment of auditors, and appointment of Supervisory Board members. Beginning in 2020, they will also vote on remuneration policies (at least every four years) and remuneration reports (annually). Other matters reserved for the shareholders' meeting include compensation of Supervisory Board members, capital measures, decisions of major importance like investments or divestitures, and

reorganisation matters like mergers and demergers. Shareholders may also authorise the acquisition of treasury shares. In exceptional cases, the shareholders' meeting may be called to decide on special audits, amendment of the Articles of Association, premature dismissal of Supervisory Board members, or capital decreases or issuance of convertibles (*Corporate Governance* 2022).



*Poland*

In Poland, the Management Board of joint-stock companies operates under the principle of separation of capital from management and the presumption of competence. As such, the General Meeting and Supervisory Board cannot issue binding directives regarding the company's operations. This ensures that liability for decisions rests with those who make them. However, non-binding guidance and advice may be given by these bodies. Failure to comply with such guidance does not result in liability or dismissal of board members, unless the Articles of Association specify valid reasons for dismissal. Such provisions are rare, and board members should be aware of the potential for dismissal in these circumstances. Additionally, the Management Board is subject to various restrictions outlined in the CCC, Articles of Association, Management Board by-laws, and resolutions of the Supervisory Board and General Meeting.

Hence, if the Articles of Association include competence for this, the Management Board may be influenced by the General Meeting. Nevertheless, this right is exclusively reserved for the shareholders' meeting and not individual shareholders. The latter have restricted rights, which are limited to obtaining information and do not extend to influencing the Board (unless the expected CCC Amendment on group law is passed, which permits the dominant company to issue binding instructions to its subsidiaries) (Wiercinski, Wojciechowska, and Wyrzykowska 2017). In accordance with the CCC, shareholders must give their consent for:

1. Reviewing and approving a Management Board report on the company's activities, financial statements for the previous fiscal year, and approving members of the company's bodies for the discharge of their duties.

2 Decisions concerning claims for compensating damage caused during the formation of the company or during management or supervision.
3 Disposal or lease of the enterprise or an organised part thereof, and establishment of a limited right in rem thereon.
4 Acquisition and disposal of real property, perpetual usufruct or an interest in real property, unless the Articles of Association stipulate otherwise.



In order to acquire assets from a specific group of affiliates at a certain price within two years of the company's registration, the approval of shareholders is mandatory. Moreover, if a company wishes to enter into a loan agreement, credit agreement, surety agreement or any other similar agreement with a member of the Management Board, Supervisory Board, Auditors' Committee, holder of a commercial proxy, liquidator, or for the benefit of any of those persons, a resolution of the General Meeting is required. If the company intends to enter into any of these agreements with a member of the Management Board, holder of a commercial power of attorney, or liquidator of the dominant company, the consent of the General Meeting of the dominant company is necessary. The CCC requires a shareholders' resolution, which may be granted within two months after the action at the latest. Failure to obtain such a resolution renders the action invalid. The Articles of Association may also specify other matters that are reserved to the competence of the shareholders' meeting. Although the absence of a shareholders' resolution required by the Articles of Association does not invalidate a particular action, members of the Management Board may still be held liable for violating the Articles of Association (Wiercinski, Wojciechowska, and Wyrzykowska 2017).

*Slovenia*

Shareholders in the Republic of Slovenia are only able to indirectly influence a company's strategy, operation, and management through their legally guaranteed rights. One of their key rights is the ability to elect members of the Supervisory Board. This is significant

as the Supervisory Board not only oversees the Management Board, but also has the power to appoint and dismiss members of the Management Board and determine their individual compensation. As a result, shareholders primarily exert their influence through the Supervisory Board.



While the 2021 amendment to the Slovenian Companies Act (Zakon o spremembah in dopolnitvah Zakona o gospodarskih družbah 2021) enhanced shareholder influence, it did not significantly alter it. Nevertheless, shareholders possess specific rights under the Slovenian Companies Act, which are typically exercised during shareholders' meetings. Such meetings can contain the obligatory majority to pass decisions, including the allocation of the distributable profit, approval of the annual report (if the Supervisory Board or Board of Directors in a one-tier system has not already approved it or if the Management Board or Supervisory Board leaves the decision to the General Meeting), the appointment of the auditor, measures to increase or decrease share capital, amendment of Articles of Association, the establishment of remuneration policies for members of the Management and Supervisory Boards, issuance of convertible and dividend bonds (requiring at least three-quarters of the share capital represented at the General Meeting), squeeze-out (90% of shares held by one shareholder), approval of mergers, spin-offs, and split-ups (75% of the share capital represented at the General Meeting), and authorisation to acquire Treasury shares. Finally, shareholders may appoint a special auditor by a simple majority of votes cast during the General Meeting to verify the foundation procedures and management of the company's individual operations over the past five years, including increases and reductions of share capital (*Corporate Governance* 2022).

*Sweden*

Theoretically, shareholders in Sweden have the ability to make decisions regarding the direction, operations, or management of the corporate entity/entities in which they have invested, provided that the Board remains ultimately responsible for managing the company. However, in practice, shareholders typically exert their influ-

ence by interacting with the Board. Shareholder approval is required for certain matters, such as authorisations for the Board to issue equity instruments, spin-offs, dividend payments, other forms of returning capital to the shareholders, and the composition of the Board. As a result, major shareholders can generally exercise a substantial amount of de facto influence on the company's strategic direction outside of general meetings, as well as through influencing the composition of the Board. There is a clear indication of a growing trend of shareholder activism in Sweden. Recent examples of activist campaigns have also raised awareness among Swedish companies. These examples are not restricted to attempts to influence corporate events, such as the outcome of a takeover, but also include open letters about alleged transparency issues and attempts to influence the agenda of annual general meetings. Additionally, recent shareholder engagement has expanded into the realm of sustainability, with the goal of improving the company's environmental or social policies. As a result, many companies actively monitor their share registers and establish response protocols that address not only the receipt of a takeover offer, but also approaches by activists (*Corporate Governance* 2022).



### Implementation of the EU Directive on Non-Financial and Diversity Information

The Non-Financial Reporting Directive 2014/95/EU (2014) (the NFRD) requires (large) public-interest entities (PIEs) with more than 500 employees on average to report as a minimum on environmental, social, employee matters, respect for human rights, anti-corruption and bribery matters. Such entities must comply with these requirements in their reports starting from 2018. Overall, there is a variety of practices across Europe due to the flexibility given to Member States when transposing the NFRD requirements into national law.

The Directive 2014/95/EU (2014) allows Member States to impose specific state requirements on companies regarding the three key aspects of reporting: reporting framework, disclosure format and reporting content. While these have been critical in the adop-

tion of the Directive, Member States also have the authority to determine which organisations must adhere to the Directive's requirements. Member States differ in how they define an organisation as a large undertaking and consider organisations to be public interest entities. Member States are also allowed to define whether or not reports must be verified by an independent assurance services provider and if any penalties will be imposed upon organisations that fail to report adequately. Moreover, the European Commission (EC) encourages Member States to work towards 'further improvements to the transparency of undertakings' non-financial information'. This has prompted some Member States to broaden the definitions of large undertakings and public interest entities, thus expanding the Directive's scope (CSR Europe and GRI 2018).



In table 1 there are some main parameters presented for selected countries based on the data collected by the European Commission with the help of Member States.

### RULE OF LAW

The WJP Rule of Law Index was developed by the World Justice Project (WJP) to serve as a quantitative tool that measures the rule of law in practice. The Index's methodology and comprehensive definition of the rule of law are the results of intensive consultation and vetting with academics, practitioners, and community leaders from more than 100 countries and jurisdictions and 17 professional disciplines. The World Justice Project's original data in 140 countries and jurisdictions shows that adherence to the rule of law fell in 61% of countries the year of 2022. Here is a brief overview of four chosen nations, derived from the primary data of the World Justice Project (2022).

Austria's overall score for the rule of law declined slightly by less than 1% in this year's Index. Despite this, Austria maintained its 9th position out of 139 countries and jurisdictions across the globe, holding its place in the global ranking. In the European Union, European Free Trade Association, and North America region, Austria's score places it at 8 out of 31 countries, and among high-income countries, it ranks 9 out of 46.

TABLE 1 Implementation of the EU Directive 2014/95/EU (2014) in Selected Countries

| Country | Company scope | Report matters | Report content | Information presented in | Additional aspects |
|---|---|---|---|---|---|
| Austria | Employees: over 500.<br>Net turnover: over EUR 40 million; or balance sheet total: over EUR 20 million.<br>Public Interest Entities: listed companies, credit institutions, insurance undertakings, capital market oriented enterprises. | Environmental performance.<br>Social and employee matters.<br>Human rights performance.<br>Corruption and anti-bribery matters. | A description of the undertaking's business model.<br>Company policies relating to non-financial matters, and the outcomes of those policies.<br>Principle risks related to non-financial matters and business activities.<br>Any non-financial KPIs which are used. | The management report or a separate non-financial report published later, but to be filed together with the management report. | Comply and explain principle.<br>Safe harbour principle.<br>Diversity statement: applies to all large public interest entities.<br>Auditor's involvement: presence of statement.<br>Fines: specified in the Business Code. |
| Poland | Employees: over 500.<br>Net turnover: over PLN 170 million; or balance sheet total: over PLN 85 million.<br>Public Interest Entities: listed companies, insurance undertakings, banks, investment undertakings, pension funds, national payment institutions, electronic money institutions, entities intending or pending for admission to one of the EOG regulated markets. | Environmental.<br>Social and employee matters.<br>Respect for human rights.<br>Anti-corruption and bribery matters. | A description of the undertaking's business model.<br>Company policies relating to non-financial matters, and the outcomes of those policies.<br>Principle risks related to non-financial matters and business activities.<br>Any non-financial KPIs which are used. | The management report, or a separate report published alongside the management report or within 6 months of the balance sheet date, made available on the undertaking's website and referenced in the management report. | Comply and explain principle.<br>Safe harbour principle.<br>Diversity statement.<br>Auditor's involvement: presence of statement.<br>Fines: specified in Accounting Act. |

*Continued on the next page*

TABLE 1 *Continued from the previous page*

| Country | Company scope | Report matters | Report content | Inf. presented in | Additional aspects |
|---|---|---|---|---|---|
| Slovenia | Employees: over 500.<br>Net turnover: over EUR 40 million; or balance sheet total: over EUR 20 million.<br>Public Interest Entities: listed companies, credit institutions, insurance undertakings. | Environmental.<br>Social and employee matters.<br>Respect for human rights.<br>Anti-corruption and bribery matters. | A description of the undertaking's business model.<br>Company policies relating to non-financial matters, and the outcomes of those policies.<br>Principle risks related to non-financial matters and business activities.<br>Any non-financial KPIs which are used.<br>An explanation of the sums indicated in the financial statement which are relevant to corporate social responsibility. | The business report, or a consolidated business report, or a separate report published alongside the business report or within 6 months of the balance sheet date, made available on the undertaking's website and referenced in the business report. | Comply and explain principle.<br>Safe harbour principle.<br>Diversity statement: applies to large and medium listed companies and must be published in the annual report.<br>Auditor's involvement: presence of statement.<br>Fines: specified in Companies Act. |
| Sweden | Employees: over 250.<br>Net turnover: over SEK 350 million; or balance sheet total: over SEK 175 million.<br>Scope: the reporting obligation applies to all types of companies or legal entities that fulfils at least two of the criteria regarding turnover, assets or numbers of employees, and is not limited to PIEs. | Environmental.<br>Social and employee matters.<br>Respect for human rights.<br>Anti-corruption and bribery matters. | o A description of the undertaking's business model.<br>Company policies relating to non-financial matters, and the outcomes of those policies.<br>Principle risks related to non-financial matters and business activities.<br>Any non-financial KPIs which are used.<br>An explanation of the sums indicated in the financial statement which are relevant to corporate social responsibility. | The annual report, or a separate sustainability report published alongside the annual report. | An international, EU-based or national reporting framework additional aspects.<br>Comply and explain principle.<br>Safe harbour principle.<br>Diversity statement.<br>Auditor's involvement: presence of statement.<br>Fines: specified in Annual Report Law. |

TABLE 2 Rule of Law in Selected Countries

| Country | 2016 | 2019 | 2022 |
|---|---|---|---|
| Austria | 0.83 | 0.82 | 0.80 |
| Poland | 0.71 | 0.66 | 0.64 |
| Slovenia | 0.67 | 0.67 | 0.68 |
| Sweden | 0.86 | 0.86 | 0.86 |



Poland's overall score for the rule of law dropped by 2.4% in this year's Index. As a result, Poland slid one position to 36th place out of 139 countries and jurisdictions worldwide. In the European Union, European Free Trade Association, and North America region, Poland's score places it at 26 out of 31 countries, and among high-income countries, it ranks 35 out of 46. The factors that measure Constraints on Government Powers and Fundamental Rights showed a significant decline in Poland.

Slovenia's overall score for the rule of law also decreased slightly by less than 1% in the 2022 Index. Slovenia's ranking is now 31st out of 140 countries worldwide, dropping two places since the previous year. In the European Union, European Free Trade Association, and North America region, Slovenia ranks 23rd out of 31 countries, while among high-income countries, it ranks 30th out of 43.

Sweden, on the other hand, saw a slight increase of less than 1% in its overall score for the rule of law in the 2022 Index. Sweden maintained its 4th position out of 139 countries and jurisdictions worldwide, retaining its place in the global ranking. In the European Union, European Free Trade Association, and North America region, Sweden's score places it at 4 out of 31 countries, and among high-income countries, it ranks 4 out of 46.

### SUSTAINABLE GOVERNANCE EFFECTIVENESS

The Sustainable Governance Indicators (SGI) were first published in the spring of 2009 and are updated every two or three years. SGI analyse and compare the need for reform in OECD member countries and monitor each country's ability to respond to current social and political challenges. Indicators rely on a combination of

qualitative assessments by country experts and quantitative data drawn from official sources. They contain 71 qualitative indicators and 86 quantitative indicators, which means that the overall assessment of the 41 sample countries entailed a total of 6,437 ratings (i.e., scores). The Project aims to create a comprehensive data pool on government-related activities in the countries considered the world's most developed free-market democracies while using international comparisons to provide evidence-based input for reform-related public discourse taking place in these countries. Below is a concise summary of four selected countries, based on the original information provided by the Sustainable Governance Indicators (https://www.sgi-network.org/2022).



Once renowned for its consensual policy style, Slovenia has been subject to growing political polarisation since the June 2018 early elections. The polarisation had an extensive effect particularly on the media, making the defence of media freedoms and pluralism in Slovenia a major challenge. Polarisation has negatively affected the working of supervisory institutions such as the Court of Audit and Commission for the Prevention of Corruption, in the appointment of Constitutional Court justices, the selection and promotion of civil servants, and in daily policymaking. Recovering public trust in political institutions and political elites will require taking a hard stance on corruption and restoring trust in both media professionalism and the judiciary.

Both the effects of the economic decline in 2020, which was the aftereffect of the COVID-19 pandemic, and the subsequent rapid rebound in the last part of 2020 and the start of 2021 (which came at the expense of spiralling public debt) are reminders that economic activity cannot be underestimated and that the requirement for structural reform remains persistent. Without major pension and healthcare reforms, demographic trends, such as population aging, are likely to result in significant fiscal pressures in the medium to long run.

Concerning some of the established indicators of political stability, Austrian politics has gone through some ups and downs recently. As in most other countries, this can be to some degree credited

to the complex and unprecedented challenges that emerged due to the COVID-19 pandemic while other developments are related more specifically to Austrian domestic politics. Austria turned into a perfect representation of personalisation-driven de facto centralisation in the absence of constitutional reform, which was more a showcase of successful power-seeking than fruitful policymaking. One of the areas needing change is civic education, with the overall aim of improving the state of political knowledge among the population and cultivating a genuine interest in politics. Moreover, misleading information and propaganda in social media, and also in more traditional media channels have to be addressed directly by future policies, while respecting the boundaries of freedom of speech. Another topic worth addressing by new education programmes is the concept of sustainability, in particular concerning the environment.



With the 2023 parliamentary elections, political majorities in Poland are transitioning. The Government's current adaptation of its populist financial and social approaches, the so-called Polish Deal, represents a challenge for both the governing coalition and the opposition, as additional public spending and tax cuts have further increased budgetary pressures. The future economic and political development of Poland is very much dependent upon international elements. Even before the Russian invasion of Ukraine, relations between Poland and the European Union had weakened. The European Commission has opened a new infringement procedure, imposed hefty fees on Poland for its non-compliance with decisions by the Court of Justice of the European Union, and has withheld payments from the European Union's Recovery and Resilience Facility. Poland's record in combatting the COVID-19 pandemic has been mixed. The Government succeeded in limiting the economic and social fallout from the pandemic. Real GDP declined by only 2.5% in 2020, much less than in most OECD and EU nations, and recovered strongly in 2021. The unemployment rate did not increase in 2020.

The uncertainty and the limitations placed on human mobility together with disturbance in the supply chains have affected economic growth globally, however Sweden, together with other Nordic

countries, has performed better than the EU overall. Sweden continues to perform very well across the whole scope of indicators, exhibiting a sustainable economy and society, large-scale integrity when it comes to democratic values and civil protections, and robustly good governance despite the various challenges of the last two years.



Nonetheless, the country is facing several challenges. Despite government efforts to improve integration policies, recent immigrants who arrived in Sweden as refugees often find themselves in segregated urban spaces with limited opportunities to take up well-paid and secure employment. Furthermore, the pandemic revealed issues in the Swedish healthcare system, especially the shortage of staff in hospitals and nursing homes. These issues are also the topic of some controversial debate against the background of progressing privatisation in the Swedish welfare state. The comparison between the issues covered by mainstream media, such as the economy, the labour market and healthcare, and the issues taken up in social media, such as migration, equality, taxes, and law and order also reflect the cultural polarisation within Swedish society. Finally, the political crisis of 2021 that followed the first-ever vote of no confidence against a Swedish prime minister could also be one of the signs of expanded political instability and the trickiness of political compromise.

## EUROPEAN INNOVATION SCOREBOARD

Innovation in state-owned enterprises can be influenced by various factors, including government policies, corporate governance, and the overall business environment. Below is a brief overview of four chosen nations, derived from the initial data by The World Bank and The European Innovation Scoreboard (European Commission 2022).

According to data from the World Bank, Austria's gross domestic expenditure on R&D as a percentage of GDP has been consistently high. In 2019, it was 3.1%, placing Austria among the top countries in terms of R&D investment. This investment in R&D has a positive impact on innovation across industries, including state-owned enterprises (https://data.worldbank.org/indicator/GB.XPD.RSDV

.GD.ZS). The Austrian Government has launched several initiatives to support innovation, such as the Research and Technology Funding Act (Bundesgesetz über die Finanzierung von Forschung, Technologie und Innovation 2020), which aims to promote research, technology, and innovation. The Government also established the Austrian Research Promotion Agency (FFG) to fund and manage research and innovation projects. Austrian state-owned enterprises have a history of collaborating with universities and research institutions. For example, the Austrian Institute of Technology (AIT) is a state-owned research institution that works closely with both private and public sector organisations to develop innovative technologies and solutions. The Austrian Government has established various funding programmes and agencies, such as the Austrian Wirtschaftsservice (AWS), which provides financial support for innovative projects by state-owned and private enterprises (European Commission 2022).



Based on data published for the year 2022, Austria is one of the Strong Innovators with a performance at 118.3% of the EU average. Its performance is above the average of the Strong Innovators (114.5%) and is increasing (4.6%-points) at a rate lower than that of the EU (9.9%-points). Austria's performance lead over the EU is becoming smaller. The country's relative strengths are public-private co-publications, foreign doctorate students, design applications, international scientific co-publications, and government support for business R&D. Among its relative weaknesses, knowledge-intensive services exports, non-R&D Innovation expenditures, broadband penetration, venture capital expenditures, resource productivity are listed (European Commission 2022).

Based on the data from the World Bank (https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS), Poland's gross domestic expenditure on R&D as a percentage of GDP has been gradually increasing over the years. In 2019, it was 1.3%, which is relatively low compared to some other European countries, but still demonstrates investment in research and development. The Polish Government has implemented various policies and strategies to promote innovation, such as the Strategy for Responsible Development (Minis-

terstwo Rozwoju 2017). The strategy focuses on innovation, digitalisation, and economic growth. The Government has also established the National Centre for Research and Development (NCBR) to support research and innovation activities. Polish SOEs often collaborate with universities and research institutions to drive innovation. For example, the Institute of Aviation is a research institution that works closely with both private and public sector organisations, including SOEs, to develop innovative technologies and solutions in the aerospace industry. The Polish Government has established various funding programmes and agencies, such as the Polish Development Fund (PFR), which provides financial support for innovative projects by state-owned and private enterprises.



Poland is an Emerging Innovator with a performance at 60.5% of the EU average, which is above the average of the Emerging Innovators (50.0%). Poland's performance is increasing (11.3%-points) at a rate higher than that of the EU (9.9%-points) and its performance gap to the EU is becoming smaller.

The country's relative strengths are design applications, job-to-job mobility of human resources in science and technology (HRST), a population with tertiary education, broadband penetration, and trademark applications, while its relative weaknesses are doctorate graduates, environment-related technologies, innovation expenditures per employee, PCT patent applications and business process innovators (European Commission 2022).

Data from the World Bank show that Slovenia's gross domestic expenditure on R&D as a percentage of GDP has shown a gradual increase over the years. In 2019, it was 1.9%, which is relatively high among countries in the region. This investment in R&D can positively impact innovation across industries, including state-owned enterprises (https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS). The Slovenian Government has implemented various policies and strategies to promote innovation, such as the Research and Innovation Strategy of Slovenia (RISS). The Government also established the Slovenian Research Agency (ARRS) to support research and innovation activities. Slovenian state-owned enterprises often collaborate with universities and research institutions to drive in-

novation. For example, the Jožef Stefan Institute is a prominent research institution in Slovenia that works closely with both private and public sector organisations to develop innovative technologies and solutions. The Slovenian Government has established various funding programmes and agencies, such as the Slovene Enterprise Fund, which provides financial support for innovative projects by state-owned and private enterprises.



Slovenia is categorised as a Moderate Innovator with a performance at 93.5% of the EU average. Its performance is above the average of the Moderate Innovators (89.7%) and is increasing (2.0%-points) at a rate lower than that of the EU (9.9%-points). Slovenia's performance gap to the EU is becoming larger. The country's relative strengths are public-private co-publications, lifelong learning, international scientific co-publications, a population with tertiary education and enterprises providing ICT training. Slovenia's relative weaknesses are venture capital expenditures, non-R&D innovation expenditures, knowledge-intensive services exports, innovation expenditures per employee and design applications (European Commission 2022).

According to World Bank data, Sweden's gross domestic expenditure on R&D as a percentage of GDP in 2019 was 3.3%. This high level of R&D investment reflects Sweden's commitment to fostering innovation and technological advancement across industries, including state-owned enterprises (https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS). SOEs in Sweden often collaborate with academia, including universities and research institutions. This collaboration plays a crucial role in driving innovation and fostering the development of new technologies, products, and processes. By working with academic institutions, SOEs can tap into cutting-edge research and knowledge, helping them stay competitive and advance their respective industries. These collaborations can take various forms, such as joint research projects, knowledge sharing, or even the establishment of research centres or institutes focused on specific industries or technologies. Swedish SOEs typically have access to funding for innovation projects, either through government funding or by raising capital from the market. Swedish SOEs

often operate in international markets, which exposes them to new ideas, technologies, and practices that drive innovation (European Commission 2022).



Sweden falls into the group of Innovation Leaders with a performance at 135.7% of the EU average. Sweden's Performance is above the average of the Innovation Leaders (134.4%) and is increasing (10.5%-points) at a rate higher than that of the EU (9.9%-points). The country's performance lead over the EU is becoming larger. Its relative strengths are public-private co-publications, lifelong learning, international scientific co-publications, employed ICT specialists and foreign doctorate students. The country's relative weaknesses are job-to-job mobility of HRST, resource productivity, government support for business R&D, non-R&D Innovation expenditures, and medium and high-tech goods exports (European Commission 2022).

## CONCLUSION

The present complex changes in the environment require immediate response in times of crisis (such as the COVID-19 outbreak) and encouragement of innovation to capitalise on new tactical opportunities for environmental, societal, and governance investments. Effective corporate governance is fundamental to such a process. In addition to financial indicators, investors are now placing more emphasis on a corporation's position on safeguarding the environment, upholding social responsibility, and maintaining effective governance. The constant fluctuations in financial markets, changes in the environment, income inequality, digital transformation, and the emergence of populist movements have resulted in several recommendations and revised rules for corporate governance in recent times. All economies observed in the present paper have made significant progress in developing a corporate governance framework and moving toward adopting the OECD Principles on a voluntary or statutory basis.

Austria has implemented the Austrian Code of Corporate Governance, which provides guidelines and recommendations for good corporate governance practices. This code applies to both private

and public companies, including state-owned enterprises. Most Austrian-based listed companies have a two-tier board structure (consisting of a Management Board and a Supervisory Board), even though the two-tier structure is mandatory only for the joint-stock corporation (JSC) as Societas Europaea (SE) may choose between a one-tier and two-tier structure. Shareholders in publicly traded companies do not possess any direct control over the decisions made by the Management Board and are not authorised to provide directives or guidance to the Management Board in any manner. Austria is one of the Strong Innovators and Austrian state-owned enterprises have a long history of collaborating with universities and research institutions. High investment in R&D has a positive impact on Austrian innovation across industries, including SOEs.



The Polish State Treasury is responsible for managing the state's capital assets, including state-owned enterprises. The Government has been working on improving corporate governance practices in SOEs to foster a culture of innovation within. Due to the continuous growth of the Polish national economy, it is evident that the public market will progress. The corporate market and the listed companies market could be impacted by a change to Polish corporate law that became effective on 1 July 2021. This change concerns the introduction of the Polish simplified joint-stock company. The inspiration for the regulation of a new company in Polish law arose from the notion of creating a new simplified and inexpensive tool for start-up investments. However, this should not be the only objective of the new company structure, which is also intended to serve other larger enterprises. The simplified functioning of the simplified joint-stock company and its financing could attract more investors than the public stock market, where companies and their executives may be subject to substantial administrative penalties. Moreover, the new simplified joint-stock company may be appealing to investors from English-speaking regions, given that it allows for the establishment of a single-tier board of directors, which is familiar to the corporate concepts of British and US law. The legal model of this new type of company also diverges from the conventional notion of protecting a company's creditors based on the company's share capital, in-

stead introducing a new flexible model for these companies based on solvency tests preceding payments made to shareholders. The Polish Government has implemented various policies and strategies to promote innovation. Polish state-owned enterprises often collaborate with universities and research institutions to drive innovation. Poland is an Emerging Innovator with an above-average EU performance and is increasing at a rate higher than that of the EU, with its performance gap to the EU becoming smaller.



The Slovenian Sovereign Holding is responsible for managing the state's capital assets and ensuring good corporate governance practices in state-owned enterprises. The Slovenian Companies Act is the primary legal framework governing companies and their corporate structure in Slovenia. Among the legal forms of companies commonly used for conducting business in Slovenia are limited liability companies and joint stock companies. Every company must comply with the legal requirement of having corporate bodies, including a Management Body, which serves as the legal representative in transactions, a Supervisory Body (not always necessary), and a Shareholders' Assembly. The setup of these bodies does not depend on the size of the company, but rather on the legal form of the entity. The Shareholders' Meeting comprises all shareholders who hold the authority to vote and make decisions regarding the management of the organisation during gatherings. SOEs in Slovenia frequently collaborate with research institutions and universities to drive innovation. The Slovenian Government has also set up several funding programmes and agencies, which provide financial support for innovative projects by private and state-owned enterprises. Slovenia is classified as a Moderate Innovator, with a higher than that of the Moderate Innovators' average, but it is increasing at a slower rate than the EU.

Swedish SOEs are generally well-managed, with a strong emphasis on transparency, accountability, and long-term value creation. The Swedish Government supports innovation through policies that encourage research and development, collaboration, and investment in new technologies. It also sets strategic priorities for SOEs to drive innovation. Sweden is known for its high levels of R&D

investment, which helps SOEs stay competitive and develop new products, services, and processes. Many Swedish SOEs collaborate with universities and research institutions to drive innovation. This collaboration can lead to the development of new technologies and products that help SOEs remain competitive. By fostering strong relationships with academia, Swedish SOEs contribute to the overall innovation ecosystem and help maintain Sweden's reputation as a country with a strong focus on research and development. The revised Shareholders Rights Directive of the Directive (EU) 2017/828 (2017) has led to modifications in legislation and the Code, but these changes have not significantly impacted the Swedish corporate governance system overall. The Directive has limited the leeway of listed companies regarding compensation for executive management and has imposed more stringent transparency requirements in this regard. Listed Swedish companies are now mandated to prepare an annual remuneration report and present it at the General Meeting. The provisional legislation that enabled companies to conduct general meetings virtually and alters the prerequisites for postal voting and collection of proxy forms may bring about changes in Swedish corporate governance practices and a shift towards embracing remote or postal participation in general meetings.



Overall, all four countries have made progress in developing corporate governance frameworks and promoting innovation in their respective economies. Collaboration with universities, research institutions, and investment in R&D are common practices among their SOEs.

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