
JACEK GAD*

**The Relationship Between Supervisory Board And Management
And Their Communication Processes In Publicly Listed
Companies In Poland**

Abstract

The focal point of this study is to present the results of empirical research concerning operation of supervisory boards in the practice of companies listed on the Warsaw Stock Exchange (WSE).

The main subject of interest concerns two research areas: the character of the relationship between as well as the methods and tools employed in communications between a supervisory board and management. The research paper consists of theoretical concepts regarding the supervisory boards' tasks and the relationship between a supervisory board and a management board. Moreover, another area of interests concerns legislative changes that, according to the author, have had a great influence on functioning of supervisory boards in the practice of WSE-listed companies.

The conclusions presented in the paper have been formulated on the basis of a review of the literature, analysis of pertinent regulations, and a questionnaire survey of members of supervisory boards which was conducted in September, October and November 2011 (the data was obtained by means of postal surveys).

Keywords: *supervisory board, management, corporate governance, communication*

* Ph.D., University of Lodz, Faculty of Management, Department of Accounting

1. Introduction

Corporate governance plays an important role in the modern free-market economy. What's more, it needs to be kept in mind that corporate governance, together with an appropriate level of financial disclosure and high standards of financial reporting, is one of the engines of modern capital markets' development. According to C. Mallin (2002, pp. 254-255), if a given country is not perceived as one in which good corporate governance practices are followed, capital will flow to other countries instead. If investors believe that the disclosure level or when a certain country has low accounting and reporting standards, capital also flows to other countries. All companies in a given country – no matter how professional is the practice of individual companies – suffer the consequences of such a situation. In Poland, the development of corporate governance structures has run parallel with the growth of the young capital market.

A significant link in corporate governance, especially in the two-tier model, is the supervisory board. It plays the role of an internal and independent guardian of a company's interests. What's more, due to the financial scandals of the early 21st century and the economic crisis, business and national legislators, as well as international organizations, impose requirements related to the operation of supervisory boards and to some extent they transfer responsibility for the security of business transactions onto supervisory bodies. This process is reflected in, among other things, the imposition of responsibility for the accuracy and reliability of financial statements onto supervisory boards.

At the same time it should be stressed that in the young Polish free-market system, where a two-tier governance model is used, the role of the supervisory board is not precisely specified. As J. Jeżak (2010, p. 53) notes '(...) there is a need in Poland to elaborate a new model of corporate governance, comprising reevaluation of supervisory bodies' functions and fundamental modification of their methods and style of work'. This problem also exists in other countries where the two-tier model is in operation (Hopt and Leyens 2004, p. 141). Hence empirical research into the activities of supervisory boards seems very timely and necessary. It should be emphasised that there is a vast body of scientific research concerning some aspects of the functioning of supervisory boards. Studies in this area have been conducted both in Polish and foreign research units (IFAC 2009; Levrau and van den Berghe 2007; Urbanek 2008; Opalski 2006a; Opalski 2006b; Jeżak 2005; Hilb 2005; Jeżak 2004; Zalega 2003; Millstein 1995; Zahra 1990; Pfeffer and Salancik 1978).

The purpose of this present study is to present the results of empirical research concerning operation of supervisory boards in the practice of companies listed on the Warsaw Stock Exchange, with particular focus on the character of the

relationship between the supervisory board and the management of a company, as well as the methods and tools employed in communication between them.

This paper presents theoretical concepts regarding the supervisory board's role in the functioning of a company and discusses selected legislative changes relevant to the practices employed in publicly listed companies.

The conclusions presented in the paper have been formulated on the basis of a review of the literature, analysis of pertinent regulations, and a questionnaire survey of members of supervisory boards that was conducted in September, October and November 2011 (the data was obtained by means of postal surveys).

2. The relationship between the supervisory board and the management board in a two-tier governance model – review of the literature

Two governance models, i.e. a one-tier (unitary) and two-tier (board) system, are presented in the literature on this topic. In both models supervisory and management functions are present. In a unitary model, the supervision function is devolved upon the board of directors, whereas in a two-tier system it is performed by the supervisory board. The board of directors (in a unitary system) as well as the supervisory board (in the two-tier system) are both called into being by the shareholders. In both models these bodies are responsible for the establishment, repeal and determination of managers' remuneration, as well as ensuring the integrity of financial reports and control systems (European Commission 2002). However, the involvement of the board of directors in the functioning of a company in the one-tier system is far greater than that of the supervisory board in the two-tier model.

In a two-tier system, which is of particular interest in this article, problems arise regarding the distribution of tasks between the supervisory board and the management board. As K. J. Hopt and P. C. Leyens (2004, p. 141) observed, 'while the clear responsibility of the management board is the running of the business, the role of the supervisory board is not easy to describe.' The problem boils down mainly to the fact that in practice the process of supervision over a company quite frequently contains an unidentified list of tasks. In the literature on the subject attempts have been made to systematise and group the supervisory boards' tasks. Researchers dealing with corporate governance divide those obligations/functions into control, personnel, motivational and advisory, as well as strategic tasks (see Haus 1999, p. 21; Opalski 2006a, p. 333). The latter category particularly concerns activities that influence the operation of a company in the long-run.

The difficulties in precisely defining of supervisory boards' list of tasks result from, *inter alia*, the various expectations of the capital market with respect to supervisory bodies in public companies. It is hard to clearly determine whether, and if so to what extent, the supervisory board, together with management, should be involved in the development of a company's strategy.

Three basic approaches can be traced in the literature of the subject, i.e. a traditional approach, an approach of increased (in contrast to the traditional one) board activity, and the last one assuming a key role of a board in establishing the strategy of a company (see Gad 2011, pp. 44-48; Urbanek 2008, pp. 178-183; Millstein 1995, pp. 1427-1443; Zahra 1990, pp. 109-117; Fama and Jensen 1983, pp. 301-325; Fama 1980, pp. 288-307; Pfeffer and Salancik 1978). The first approach is connected with the principles of agency theory, the latter in turn is consistent with the principles of stewardship theory.

The traditional approach is associated with the lowest level of supervisory board engagement in the process of the company's strategy formulation. According to this concept the supervisory board is the leader of a company and does not engage either in its current affairs or in its strategy. The adherents of such *modus operandi* define the role of a board as activities aimed at the representation of the stakeholders (ancillary role) and control targeted at securing their business by monitoring managers' decisions (control role) (Fama 1980, pp. 288-307; Fama and Jensen 1983, pp. 301-325; Urbanek 2008, pp. 178-183).

In accordance with the second approach, the supervisory board should display increased activity in evaluation of the company's strategy. Members of the board do not shape a new strategy but they participate in the process by means of: suggesting improvements in strategic plans, verifying findings concerning the company and its surrounding accepted by managers, and controlling the process of strategy implementation (Pfeffer and Salancik 1978).

The last approach advises partner cooperation between the management and the supervisory board in preparation of strategic directions that a company should follow. The supervising body is not restricted exclusively to approving decisions made by managers, but it can initiate and develop the existing modifications in the strategy (Millstein 1995, pp. 1427-1443; Zahra 1990, pp. 109-117). As was observed by A. Opalski (2006b, pp. 353-354), 'the supervisory board should support managers in establishing goals of the company and defining ways to their realisation, so it should play the role of an institutional advisor and the management's partner. Counselling is a specific form of supervision, which allows strengthening its effectiveness'.

As regards the supervisory board's involvement in the operation of their company, including its strategy construction, it should be remembered that certain proportions need to be maintained. In the two-tier model the body that is

responsible for management of a company is the management board, therefore the supervisory board participation in strategy development may cause competence conflict. As is noticed in the literature, the conflict can be levelled when the supervisory board conceives of their role as an agency assessing the rationality of actions performed by the management in a limited way; the board should counsel the management rather than extort particular actions (Opalski 2006a, p. 512). At the same time the supervisory board should control if the management follows the law and provisions of the articles of association, and the implemented strategy.

The effectiveness of any supervisory board action is determined by the attitude of the managers and specificity of the company operations, as well as the level of preparation and experience of board members. Only a competent supervisory board can take proper care of a company's business affairs and also may provide support for the management board. The relationship between the chief executive and the chairman of the supervisory board is of considerable significance. As various authors note, 'the two-tier boards are, however, only effective where there is an effective relationship between the chief executive, heading the management board, and the chairman, heading the supervisory board' (Solomon 2007, p. 79).

3. The change in supervisory board's role caused by new regulations incorporated into Polish law

As it is noted in the literature, currently, in the co-called post-Enron age we have to deal with the process of global convergence of various concepts of corporate governance. Additionally, increasingly important become solutions derived from the Anglo-Saxon system which is also characterized by the one-tier model of governance. Increasingly, we are dealing with the implementation of the solutions derived from the Anglo-Saxon system into legal systems of continental Europe (e.g., into Germany, Austria, France, and Poland) (Jeżak 2014, p. 377).

The legislative changes concerning corporate governance undertaken at the beginning of the 21st century in the USA¹ became an inspiration to develop a comprehensive legislative initiative in the European Union (European Commission 2003). The provisions of the EU directives in regard to various aspects of corporate governance have been introduced into the Polish legal system (Gad 2010, pp. 23-41). The author believes that particularly significant changes refer to:

¹ For instance Sarbanes-Oxley Act.

- extended responsibility of supervisory board members for the content of financial statements and activity reports (Article 4a of the Polish Accounting Act),
- obligation to create audit committees in public interest entities (Article 86 of the Polish Act on Statutory Auditors, Their Self-Governing Organisation, Entities Authorised to Audit Financial Statements and on Public Oversight),
- compulsory additional disclosures included in activity reports (§ 91. 5 point 4 of the Polish Ordinance of the Minister of Finance on current and periodic information provided by issuers of securities and conditions for recognizing as equivalent information required by the law of a non-member state),
- restrictions regarding regulations imposed on the electoral process and contract termination of a statutory auditor (Article 66 of the Polish Accounting Act).

The most significant legislative change, drawn from the solutions adopted in the one-tier model, is the extension of the responsibility of supervisory board members for the content of financial statements and activity reports. According to the Accounting Act, supervisory board members are liable to assuring that financial statements and activity reports are consistent with provisions of the aforementioned Act. The extended supervisory boards' responsibilities are associated with a range of new actions that the body needs to take, as well as with increased involvement in the running of the accounting system (Gad 2009, pp. 213–226).

The Act on Statutory Auditors, Their Self-Governing Organisation, Entities Authorised to Audit Financial Statements and on Public Oversight places public interest entities (e.g. issuers of security) under the obligation to establish so called task force units, i.e. audit committees within the structure of a supervisory board. The main aim of this unit is to monitor the financial reporting process and the effectiveness of internal control systems, internal audit system and risk management. The committee should be comprised of at least one independent supervisory board member being competent in the fields of finance and accounting. It seems that audit committees are among the most important tools in monitoring the accounting system.

Another important tool that allows the supervisory board to fulfil the responsibility of maintaining financial reports integrity is the supervision over the process of external audit. According to the Accounting Act, the entity that is to investigate or to have insight into financial reports cannot be chosen by the management board. The choice of such an entity relies on approval by a general assembly of shareholders or, if the articles of association or an agreement state so, the supervisory board.

This provision aims at preventing a situation in which the management can pressurise the auditor to formulate a positive evaluation due to the fact that they have made a decision on the auditor's employment. In addition to that, in

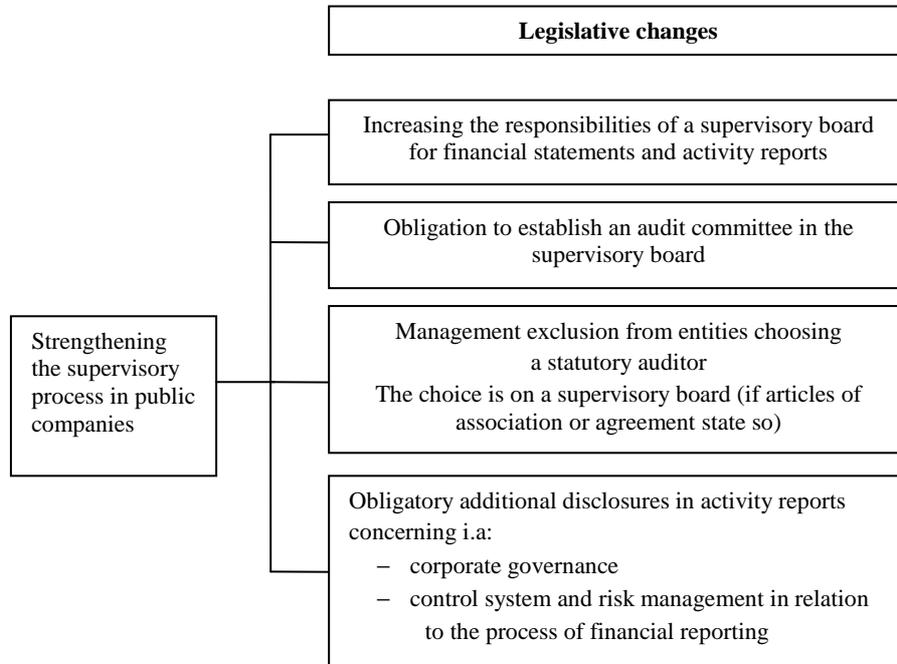
accordance with the provisions of the Act on Statutory Auditors, Their Self-Governing Organisation, Entities Authorised to Audit Financial Statements and on Public Oversight, the recommendation regarding the choice of a statutory auditor can be made by the audit committee². In such a case the supervisory board members become a sort of an intermediary between the supervisory board and the statutory auditor.

The emphasis should be put on the fact that since 2009, issuers of securities are obliged to disclose particular notifications in the activities reports that concern i.a. information on utilisation of corporate governance and on main characteristics employed in the process of the internal control and risk management in relation to the process of financial reports creation. It needs to be stressed that the main objectives of the audit committee revolve around supervising the internal control system and risk management. The provisions in question constitute another mechanism used to supervise the process of financial reporting. The WSE listed companies present information on control over financial reporting within the 10 main groups of disclosures: (1) Characteristics of internal control and risk management systems; (2) IT Tools; (3) Risk; (4) Managerial Accounting; (5) Preparation of financial statements; (6) Regulations; (7) External audit; (8) Audit committee; (9) Security and data protection; (10) Internal audit (Gad 2014, p. 143).

There is no denying that the legislative changes mentioned above are a milestone in the direction of professionalization of supervisory boards. It appears that the changes might influence the strengthening of the supervisory process in public companies (see Figure 1).

² The statutory auditor should systematically inform board members of any anomalies. However, any differences of opinion between the auditor and management concerning the application of accounting principles and auditing standards may not constitute valid grounds to terminate the contract.

Figure 1. Strengthening the supervisory process in public companies by means of legislative changes



Source: (Gad 2012, p. 781).

Yet the crucial point that needs to be borne in mind is that a supervisory board needs an appropriate information support to realise its responsibilities. What is meant here is mainly information about the company itself and its environment—information ex post and ex ante alike. A supervisory board should be in possession of financial and non-financial (e.g. organization of work, employment structure, markets) information.

Realisation of duties regarding maintaining integrity of financial statements and activity reports and their compliance with accounting law demands creation of appropriate communicative channels and tools between the management and supervisory board. Such a role could be played by an information packages system, by means of which the management would forward certain information about current affairs and activities, as well as notifications concerning the accounting system, or finally those dealing with forecasting assumptions. The efficient communication system between the management and the supervisory board developed in a company makes it possible to realise new responsibilities of the

supervisory board connected with ensuring accounting system reliability. Moreover, effective communication between the bodies in a company may contribute to creation of an added value to the company by the supervisory board.

It should be noted that a two-tier model of governance is practiced not only in Poland but also in Germany and Austria and does not guarantee the members of the supervisory boards the access to full information on the company. Members of the supervisory board coming from the outside of the company often do not have enough knowledge about the company. Therefore, they cannot effectively control the activities of the management board nor advise it (Jeżak 2014, p. 375).

4. The relationship between the supervisory board and the management and the process of their communication in the light of empirical research

Research organisation

The operation of the supervisory board was the subject of empirical research that was conducted in September, October and November 2011³. The research group was made up of members of supervisory boards of Warsaw Stock Exchange listed companies. During the conduct of the research, the questionnaire interview was employed, while the tool utilised to gather data was a postal survey⁴. The research had anonymous character. The organisation of the research disabled identification of persons taking part in it.

In the research process the following questions were asked:

1. What is the experience and substantial preparation of members of supervisory boards of WSE listed companies?
2. What is the nature of the relationship between the supervisory board and the management in WSE listed companies?
3. What issues arise most frequently during supervisory board meetings in WSE listed companies?
4. Are the issues raised at supervisory board meetings initiated by its members in the practice of WSE listed companies?

³ A similar study was carried out in September, October and November 2009.

⁴ 37 questionnaires were received from 383 submissions (one questionnaire was sent to each company). The low rate of questionnaire return (9.7%) does not allow generalization of the results to the entire community. It seems, however, that the obtained results can be an important signal for the operation of the supervisory boards of Polish public companies.

5. Should the supervisory board's responsibilities include monitoring the scope and compliance with the actual state of information disclosed by a company?
6. In what way is the communication process between the supervisory board and the management organised in WSE listed companies?
7. What tools are utilised in the process of communication between the supervisory and the management board in the practice of WSE listed companies?

Qualifications and experience of supervisory board members

The majority of respondents were experienced members of supervisory boards. More than 76 percent of them sat on at least three supervisory boards. Only for 17.6 percent of the surveyed the company in which they were supervisory board members was their first company (see Table 1). Therefore it can be supposed that the opinions voiced in the research are based on extensive professional experience of the respondents.

Table 1. Respondents' experience in the role of supervisory board members

Question: What is your experience in holding the role of a supervisory board's members?	
Answer options:	Percentage distribution of answers:
This is the first company where I am a member of supervisory board	17.6%
This is the second company where I am a member of supervisory board	5.9%
I have been a supervisory board member in at least three companies	76.5%

Source: own study.

The supervisory board members who took part in the survey reported that they had no (36.1 percent) or little qualifications (22.2 percent) in the field of human resources. Similarly, they had little (30.6 percent) or no (27.8 percent) qualifications in the field of production and technology. The most respondents regarded themselves as experts in management science – 47.2 percent stated that they had very extensive or extensive (36.1 percent) experience in management. Only 11.1 percent of the survey participants reported high qualification in the field of law and administration, 25 percent said they had no background in law and administration, and 30.6 percent had very little experience in this field (see Table 2).

The most significant qualifications appear to be connected with accounting: 15.2 percent of the respondents regarded their qualifications in finance and accounting as very extensive, over 30 percent as extensive, and one quarter of all the respondents admitted that they had no qualifications in this field (see Table 2).

Table 2. Selected qualifications of supervisory board members

Question: Are you qualified in the following fields?					
Field:	Level of qualification				
	none	low	average	extensive	very extensive
Percentage distribution of answers:					
Finance and Accounting	25.0%	13.9%	16.7%	30.6%	15.2%
Law and Administration	25.0%	30.6%	19.4%	13.9%	11.1%
Management	8.3%	2.8%	5.6%	36.1%	47.2%
Production	27.8%	30.6%	2.8%	25.0%	13.9%
Human resources issues	36.1%	22.2%	11.1%	27.8%	2.8%

Source: own study.

Relationship between supervisory board and management in the practice of WSE listed companies

In this study, the respondents were presented with different types of the relationship between the supervisory board and the management: (1) very close cooperation between the management and the supervisory board, in which the latter plays the role of the management's advisor, (2) the supervisory board is only a supervisory body, (3) the supervisory board is a disengaged administrator of the company's affairs, (4) a compromise option, in which the supervisory board plays the role of a supervisory body and is the management's advisor only on some aspects.

Nearly 46 percent of the respondents answered that in their companies supervisory boards inspected the management's actions and only in some matters they assumed the role of the advisor. More than 21 percent of the interviewees said that the supervisory board oversees the actions of the management in their companies. Results of the research show that supervisory boards act as advisors in almost 30 percent of the surveyed companies. Only 2.7 percent of the respondents stated that the supervisory board in their companies performs the function of the administrator (see Table 3).

The results show that the relations between the management and the supervisory board vary widely in the companies that were surveyed and a dominant model of the relationship cannot be clearly identified. Nonetheless, the

majority of the interviewees indicated that in their companies the compromise model is in use, i.e. the supervisory board plays the role of a supervisory body and is the management's advisor only in some aspects.

Table 3. Character of the relationship between supervisory board and management in the surveyed companies

Question: How would you characterize the relationship between the supervisory board and the management in your company?	
Answer options:	Percentage distribution of answers:
Members of supervisory board act as advisors and management's partners	29.7%
Members of supervisory board mainly inspect actions of management	21.6%
Members of supervisory board inspect actions of management and act as advisors only in some aspects	45.9%
Members of supervisory board perform the role of administrators	2.7%
None of the above	0.0%

Source: own study.

Main areas of supervisory boards' activities

The issues that were most frequently addressed at supervisory board meetings were the company's current affairs that called for the board's resolution. Such an answer was given by 100 percent of the respondents (see Table 4).

As much as 94.7 percent of the interviewees said that during the meetings the supervisory board dealt with evaluation of the results of the company's operations. Supervisory boards also were frequently concerned during the meetings with realisation of the financial plan (answer given by 86.7 percent of the respondents).

At the meetings, supervisory boards relatively seldom dealt with establishing the goals of a company (answer given by 16.2 percent of the respondents) and with initiating and formulating the strategy (answer given by 35.4 percent of the interviewees).

The survey reveals that during the meetings supervisory boards were more concerned with current affairs than with issues relating to evaluation or formulation of a company's strategy. It can also be concluded that supervisory boards in the companies that were surveyed mainly performed the monitoring functions, and to a lesser extent acted as management advisors.

Table 4. Issues most frequently addressed at supervisory board meetings

Question: Which of the issues are most frequently addressed at supervisory board meetings?	
Answer options:	Percentage distribution of answers:
Formal evaluation of management activities	59.8%
Adoption of financial plan	60.0%
Control of financial plan implementation	86.7%
Evaluation of company's results	94.7%
Strategy initiation and formulation	35.4%
Strategy evaluation	57.0%
Formulation of company's goals	16.2%
Company's current affairs requiring supervisory board's resolution	100.0%
Discussion on general direction of company's development	70.4%
Other	19.4%

Source: own study.

More than 61 percent of the respondents stated that in their companies supervisory board members quite often raised issues to be addressed at the meeting. In case of 5.6 percent of the companies, the initiative in bringing up matters to be dealt with at the meeting has always belonged to supervisory board members. None of the respondents indicated that the members never initiate issues being the topic of the meeting (see Table 5).

Table 5. Supervisory board members' initiative in raising matters dealt with at meetings

Question: How often matters dealt with at supervisory board meetings are brought up by its members?	
Answer options:	Percentage distribution of answers:
Never	0.0%
Rarely	13.9%
Occasionally	19.4%
Frequently	61.1%
Always	5.6%

Source: own study.

Almost 57 percent of the respondents stated that the supervisory board's responsibilities in their company included monitoring the scope and compliance with the actual state of information disclosed by the company. 13.5 percent of the interviewees did not have an opinion on this matter (see Table 6). Nearly 30 percent said that in their opinion the supervisory board's responsibilities did not

include monitoring information disclosed by a company. It needs to be stressed that in accordance with the European Commission Recommendation of 15 February 2005, supervisory boards should monitor reliability of information disclosed by a company, especially financial information.⁵

Table 6. Monitoring the scope and compliance with actual state of information disclosed by company as supervisory board's responsibility from the respondents' perspective

Question: Do the supervisory board's responsibilities in your company embrace monitoring scope and compliance with actual state of information disclosed by company?	
Answer options:	Percentage distribution of answers
Yes	56.8%
No	29.7%
Hard to say	13.5%

Source: own study.

Almost 60 percent of the respondents totally disagree with the claim that the supervisory board is responsible for operational activities of a company, while 34.4 percent of them tend to disagree with this statement. None of the interviewees answered that they completely agree with this claim. The answers confirm that the respondents view the supervisory board's role in a company in an appropriate way (see Table 7) – organisation of operational activities is the management's domain.

Over 18 percent of the respondents completely agree and 39 percent of them tend to agree with the statement that the main role of supervisory boards is formulation of the rules and directions of management's activities. As much as 24.2 percent of the interviewees could not decide on answer to this question (see Table 7). Only 6.1 percent of the respondents answered that they totally disagree with the claim that the role of a supervisory board is to formulate directions of management's activities. The interviewees' answers suggest that in some of the surveyed companies (24.2 percent) the relations between the supervisory board and the management in respect of determining the directions of management's activities are not fully explicit.

The majority of the respondents (54.1 percent) strongly agree and 32.4 percent of them tend to agree with the statement that the best way to evaluate a company's condition is a continual dialogue between the supervisory board and the management (see Table 7). Only 2.7 percent of the interviewees totally disagree with this statement.

⁵ European Commission Recommendation of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board.

Table 7. Selected responsibilities of supervisory board from the respondents' perspective

Question: Do you completely agree with the following statements?					
	I totally disagree	I tend to disagree	It is hard to say	I tend to agree	I completely agree
Percentage distribution of answers:					
Supervisory board is responsible for operational activities of a company	59.4%	34.4%	3.1%	3.1%	0.0%
Supervisory board's role is to formulate rules and directions of management's activities	6.1%	12.1%	24.2%	39.4%	18.2%
Most efficient way to evaluate a company's condition is a continual dialogue between supervisory board and management	2.7%	5.4%	5.4%	32.4%	54.1%

Source: own study.

The answers above indicate that the respondents treat communication with the management as a significant tool of supervision.

Principles and tools of communication between management and supervisory board

The research area concerning communication between the management and the supervisory board is of paramount importance. Access to information determines the effectiveness of the supervisory board. As is highlighted in the literature, 'The success of both stronger involvement in management decision and strengthening of control efficiency as a whole depends foremost on the level of information' (Hopt and Leyens 2004, p. 147).

The vast majority of the respondents (89.2 percent) answered that communication between the management and the supervisory board took place not only at the meetings but also outside of them. It should be noted that 10.8 percent of the interviewees said that those two bodies in their companies communicated only during the meetings (see Table 8).

Table 8. Organisation of communication between management and supervisory board in the surveyed companies

Question: In what way is communication between management and supervisory board organised?	
Answer options:	Percentage distribution of answers:
At the meetings	10.8%
Outside the meetings	0.0%
At the meetings and outside the meetings	89.2%

Source: own study.

The answers given by the respondents regarding the methods of communication between the management and supervisory board indicate that in the majority (64.9 percent) of cases, the management provides the supervisory board with information on selected areas of a company's operations without specific request, while other information is provided only when asked for. Most of the respondents pointed out that in companies in which they serve as supervisory board members, the management provides information of their own initiative only to a limited extent. Therefore there is a certain degree of risk in those companies that the management may hold back information adverse to the supervisory board. In such a case the supervisory board may not demand particular information due to the fact that it may be oblivious of its existence. Such organisation of the communication system may result from the fact that the management does not want to burden the supervisory board with information that is not crucial from the perspective of the company's functioning. It needs to be stressed that 27 percent of the respondents answered that the management provides the supervisory board with information without specific information demands from that body (see Table 9).

Table 9. Rules of communication between management and supervisory board in the surveyed companies

Question: In what situation does management provide supervisory board with information?	
Answer options:	Percentage distribution of answers:
Without demands from supervisory board members for this information	27.0%
Only when supervisory board members demand particular information	8.1%
Concerning specific areas of company's functioning, without demand from supervisory board members for this information, and when the board demands particular information	64.9%

Source: own study.

The answers given by the respondents suggest that in the case of 24.3 percent of the entities, the management provides the supervisory board with information mainly in the form of financial statements. The majority of the supervisory boards members (62.2 percent) who participated in the research communicate with the management by means of information package generated by their company (see Table 10).

Table 10. Communication tools between management and supervisory board in the surveyed companies

Question: What is the form of information that management provides to supervisory board members?	
Answer options:	Percentage distribution of answers:
Studies on the content and structure defined by management	10.8%
Mainly in the form of financial statements	24.3%
Information package generated by the company	62.2%
None of the above	2.7%

Source: own study.

It was specified in the questionnaire what is understood by information package. According to that definition, it is a set of information with fixed content and structure transmitted to the supervisory board periodically by the management. Its content is agreed upon by the both bodies.

The practical use of information packages indicates that the process of communication between the supervisory board and the managements is conducted in a professional way. Yet, one has to remember that the efficiency of the supervision process depends on the content of the information packages.

5. Conclusions

The role of supervision in the modern global economy is continually growing. Particularly important, especially among companies listed in continental Europe, is the action of the internal corporate governance mechanisms. These mechanisms include, among others, control executed by the supervisory board. The kind of relationship between the supervisory board and the management board has a large impact on the efficiency of the supervisory board's work. It is also important to clearly define its powers, duties and responsibilities.

Changes in regulations introduced in the last decade pose a real challenge for members of supervisory boards operating under the current two-tier model, e.g., in Poland and Germany. The purpose of these changes was to increase the professionalization of this body. The functioning of supervisory boards is also strongly affected by expectations of economic practice. Corporate scandals of the early twenty-first century made capital market participants pay more attention to the activities of supervisory boards (in the two-tier model) or the boards of directors (in the one-tier model).

As noted by J. Jeżak (2014, p. 377), the supervisory boards operating in Poland are characterized by a weaker formal and legal position than the supervisory boards operating within the same model of governance (two-tier) in Germany. Both in Poland and Germany, supervisory boards are required to approve selected actions of management board. In Germany, the list of these actions is definitely longer. Additionally, in Poland, when the supervisory board refuses to approve certain actions of the management board it may request the approval of the general assembly of shareholders. This makes the position of supervisory boards in Poland worse than in Germany.

Owing to the empirical study we gained new insights into the functioning of the supervisory boards of companies listed on the Warsaw Stock Exchange. The results of empirical studies indicate that the supervisory boards in the surveyed companies dealt mainly with the supervision over the activities of the management boards, and only in certain areas acted as their advisers. It should be noted that one-third of respondents indicated that their company supervisory board acted as adviser, a partner of the management board. This clearly shows that the solutions characteristic of the one-tier model, in force primarily in the Anglo-Saxon system, permeate into a two-tier model, characteristic of continental Europe.

The significant involvement of the supervisory board in the process of supervision is manifested by the fact that supervisory boards in most of the surveyed companies affected the agenda of their meetings. A. Demb and F. Neubauer (2001, pp. 158, 160) confirmed in their studies that the involvement of the supervisory board in the development of the agenda of its meetings is regarded as an important mechanism to control the flow of information to the board.

In the majority of the surveyed companies, members of supervisory boards engage in supervision of the company's current affairs. Supervisory boards' responsibilities include the monitoring of the scope of information disclosed by a company.

The active role of the supervisory boards in the process of communication with the management board is reflected by the fact that most of the surveyed companies have a system of information packages, developed jointly by the management board and the supervisory board. In addition, in most of the surveyed

companies this package was supplemented when the supervisory board declared a definite demand for information. It appears that this way of communication within the structures of a company enhances the effectiveness of the supervision process. As indicated by the results of research carried out by D. Johanson (2008, p. 372) information package as an oversight tool is also important in the case of a one-tier model. The results of D. Johanson's (2008, p. 372) research indicate that in the process of supervision particularly important, due to the reliability, are the financial data which are subject to external control carried out by the statutory auditors.

According to J. Jeżak (2014, pp. 378-379) the two-tier system of supervision, mandatory also in Poland, loses its importance not only in the world but also in continental Europe. „A convergence of the monistic and dualistic systems that has been visible in Europe for some years now as well as the evolution of the dualistic system in Germany should become an impulse for departing from the existing, conservative approach to the separation of managerial and supervisory functions in the Polish commercial law” (Jeżak 2014, p. 378).

It seems, therefore, that due to the continuous legislative and economic changes problems presented in this article require further research and analysis.

References

- Demb A., Neubauer F. (2001), *Rada nadzorcza [Supervisory board]*, PWN, Warsaw.
- European Commission (2002), *Comparative Study Of Corporate Governance Codes Relevant to the European Union And Its Member States*, Study Contract ETD/200/B5-3001/F/53, Brussels.
- European Commission, Communication from the Commission to the Council and the European Parliament (2003), *Modernising Company Law and Enhancing Corporate Governance in the European Union – A Plan to Move Forward*, KOM (2003) 284, Brussels.
- Fama E. (1980), *Agency Problems and the Theory of the Firm*, 'Journal of Political Economy', 88.
- Fama E., Jensen M. (1983), *Separation of Ownership and Control*, 'Journal of Law and Economics', 26.
- Gad J. (2009), *Odpowiedzialność rad nadzorczych za rachunkowość w świetle regulacji polskiego prawa bilansowego [Supervisory Board's Responsibility for Accounting in the Light of the Polish Accounting Regulations]*, [in:] eds. I. Sobańska, T. Wnuk-Pel, *Rachunkowość w procesie tworzenia wartości przedsiębiorstwa*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź.
- Gad J. (2010), *Wybrane zmiany legislacyjne prowadzące do zwiększenia wiarygodności sprawozdań finansowych [Selected Legislative Changes Leading to the Reliability Increase of Financial Statements]*, [in:] E. Walińska, P. Czajor, J. Gad, *Aneks. Rachunkowość. Wybrane zmiany w regulacjach międzynarodowych i krajowych rachunkowości – już obowiązujące i propozycje na przyszłość*, Wolters Kluwer business, Warsaw.

- Gad J. (2011), *Rachunkowość w procesie nadzoru w spółkach publicznych [Accounting in the Supervisory Process in Public Companies]*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź.
- Gad J. (2014), *Disclosures on Control over Financial Reporting: The Reporting Practice of Banks Listed on the Warsaw Stock Exchange*, [in:] Proceedings of the International Scientific Conference for Doctoral Students and Young Researchers, University of Economics in Bratislava, Bratislava.
- Haus B. (1999), *Rola i miejsce rad nadzorczych w spółkach kapitałowych [The Role and Place of the Supervisory Boards in Companies]*, [in:] ed. S. Rudolf, *Nadzór właścicielski w spółkach prawa handlowego*, PWN, Warsaw.
- Hilb M. (2005), *New Corporate Governance. Successful Board Management Tools*, Springer, Heidelberg.
- Hopt K. J., Leyens P. C. (2004), *Board Models in Europe – Recent Developments of Internal Corporate Governance Structure in Germany, the United Kingdom, France, and Italy*, 'European Company and Financial Law Review', 1(2).
- International Federation of Accountants (IFAC) (2009), *Evaluating and Improving Governance in Organizations. International Good Practice Guidance*, New York.
- Jeżak J. (2004), *Rola i funkcje rady nadzorczej w przeciwdziałaniu sytuacjom kryzysowym w przedsiębiorstwie [The Role and Functions of the Supervisory Board in Preventing Crisis in the Company]*, [in:] ed. S. Rudolf, *Ekonomiczne i społeczne problemy nadzoru korporacyjnego*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź.
- Jeżak J. (2005), *Struktura i formy sprawowania władzy w spółkach kapitałowych [The Structure and Form of Governance in Companies]*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź.
- Jeżak J. (2010), *Rada nadzorcza a sytuacja kryzysowa w spółce [The Supervisory Board and the Company's Crisis Situation]*, [in:] ed. P. Urbanek, *Nadzór korporacyjny w warunkach kryzysu gospodarczego*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź.
- Jeżak J. (2014), *Corporate Governance in Developing Countries: Finding the Balance between Global Standards and Local Context – The Case of Poland*, 'International Journal of Trade, Economics and Finance', 5(4).
- Johanson D. (2008), *Corporate governance and board accounts: exploring a neglected interface between boards of directors and management*, 'Journal Management and Governance', 12.
- Levrau A., Van den Berghe L. (2007), *Corporate Governance and Board Effectiveness: Beyond Formalism*, 'The Icfai Journal of Corporate Governance', 6(4).
- Mallin C. (2002), *The Relationship between Corporate Governance, Transparency and Financial Disclosure*, 'Corporate Governance: An International Review', 10.
- Millstein I. M. (1995), *The Professional Board*, 'Business Lawyer', 50(4).
- Opalski A. (2006a), *Prawo gospodarcze i handlowe. Rada nadzorcza w spółce akcyjnej [Commercial and corporate law. The supervisory board in a public limited company]*, C.H. Beck, Warsaw.

Opalski A. (2006b), *Rada nadzorcza jako strategiczne ogniwo ładu korporacyjnego spółki akcyjnej* [The Supervisory Board as a Strategic Link of Corporate Governance in Public Limited Company], [in:] ed. M. Cejmer, J. Napierała, T. Sójka, *Europejskie prawo spółek. Tom III. Corporate governance*, Wolters Kluwer, Cracow.

Ordinance of the Minister of Finance dated 19 February 2009 on Current and Periodic Information Provided by Issuers of Securities and Conditions for Recognizing as Equivalent Information Required by the Law of a Non-member State; Journal of Laws of 2009, No. 33, Item. 259.

Pfeffer J., Salancik G. (1978), *The External Control of Organisations: A Resource Dependence Perspective*, Harper & Row, New York.

Polish Accounting Act of 29 September, 1994; Journal of Laws 2002, no. 76, item. 694, with further changes.

Polish Act of 7 May 2009 on Statutory Auditors, Their Self-Governing Organisation, Entities Authorised to Audit Financial Statements and on Public Oversight; Journal of Laws of 2009, no. 77, item. 649.

Solomon J. (2007), *Corporate Governance and Accountability*, John Wiley & Sons, Chichester.

Urbanek P. (2008), *Ewolucja funkcji rad nadzorczych w polskich spółkach publicznych* [The Evolution of the Function of Supervisory Boards in Polish Public Companies], [in:] ed. S. Rudolf, *Rola nadzoru korporacyjnego w kreowaniu wartości przedsiębiorstwa*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź.

Zahra S. A. (1990), *Increasing the Board's Involvement in Strategy*, 'Long Range Planning', 6(6).

Zalega K. (2003), *Corporate governance w podmiotach gospodarczych powiązanych kapitałowo – aspekty praktyczne* [Corporate Governance in Related Entities - Practical Aspects], 'Przegląd Organizacji', 9.

Streszczenie

RELACJE MIĘDZY RADĄ NADZORCZĄ I ZARZĄDEM ORAZ PROCES ICH KOMUNIKACJI W PRAKTYCE SPÓŁEK PUBLICZNYCH W POLSCE

Celem głównym niniejszego opracowania jest prezentacja wyników badania empirycznego dotyczącego działalności rad nadzorczych w praktyce spółek notowanych na GPW.

Przedmiotem szczególnego zainteresowania w ramach niniejszego artykułu są dwa główne obszary badawcze: charakter relacji między radą nadzorczą i zarządem oraz sposoby i narzędzia komunikacji między tymi organami spółki. W artykule zaprezentowano różne koncepcje teoretyczne dotyczące zadań rad nadzorczych oraz relacji między radą

nadzorcą i zarządem. Co więcej, w artykule wskazano zmiany legislacyjne, które zdaniem autora, miały największy wpływ na funkcjonowanie rad nadzorczych w praktyce spółek notowanych na GPW.

Prezentowane w niniejszym artykule wnioski sformułowane zostały na podstawie studiów literaturowych, analizy regulacji oraz wywiadu kwestionariuszowego dokonanego wśród rad nadzorczych na przestrzeni września i listopada 2011 r. (techniką gromadzenia danych była ankieta pocztowa).

Słowa kluczowe: rada nadzorcza, zarząd, nadzór korporacyjny, komunikacja