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Revista de Ciências Jurídicas
e-ISSN: 2317-2150
Universidade de Fortaleza

The convergence of corporate governance in MERCOSUR countries towards the OECD principles

A convergência da governança corporativa nos países do MERCOSUL em direção aos princípios da OCDE

Luís Alexandre Carta Winter*

Ana Cláudia Pereira Silva Lechakoski**

Abstract:

Good corporate governance practices are recognized around the world as essential tools for building a safe and reliable business environment, both for investors and other stakeholders. Its application is even more relevant in developing countries, such as those that make up MERCOSUR. The historical context of regional integration in Latin America, the attempts to harmonize national norms and policies of the States that are part of the bloc, and the result of the analysis of normative evolution and private codes of corporate governance in MERCOSUR countries, indicate a trend towards adoption of the OECD Principles of Corporate Governance in their constructions. Thus, it is necessary to answer the following research question: are the MERCOSUR countries converging towards the adoption of good corporate governance practices based on the OECD's Corporate Governance Principles? The research is qualitative hypothetical-deductive, exploratory in nature, based on bibliographic and documentary research. The study carried out suggests that there is a trend in the adoption of the OECD Principles of Corporate Governance by the MERCOSUR countries in the construction of their internal regulations, but that it would be premature to speak of convergence, as the most likely, in this scenario, is that the countries of the bloc begin to coexist and create hybrid systems of governance.

Keywords: Mercosur, regional integration, corporate governance, convergence, OECD.

Resumo:

As boas práticas de governança corporativa são reconhecidas em todo o mundo como ferramentas indispensáveis para a construção de um ambiente de negócios seguro e confiável, tanto para investidores quanto para as demais partes interessadas. Sua aplicação é ainda mais relevante nos países em desenvolvimento, como os que compõem o Mercosul. O contexto histórico de integração regional na América Latina, as tentativas de harmonização de normas e políticas nacionais dos Estados que fazem parte do bloco, e o resultado da análise da evolução normativa e de códigos privados de governança corporativa nos países do Mercosul indicam uma tendência pela adoção dos Princípios de Governança Corporativa da OCDE em suas construções. Assim, pretende-se responder à seguinte pergunta de pesquisa: os países do Mercosul estão convergindo para a adoção de boas práticas de governança corporativa baseadas nos Princípios de Governança Corporativa da OCDE? A pesquisa é de natureza hipotético-dedutiva qualitativa de caráter exploratório, realizada a partir de pesquisa bibliográfica e documental. O estudo realizado sugere que há uma tendência na adoção dos Princípios de Governança Corporativa da OCDE pelos países do Mercosul na construção de seus regramentos internos, mas que seria prematuro falar em convergência, pois o mais provável, nesse cenário, é que os países do bloco passem a coexistir e criar sistemas híbridos de governança.

Palavras-chave: *Mercosul, integração regional, governança corporativa, convergência, OCDE.*

1 Introduction

Good corporate governance practices are recognized around the world as indispensable tools for building a safe and reliable business environment, both for investors and other stakeholders.

The application of good governance practices has a special purpose in developing countries, where there is less legal protection and where financial markets are less developed. In this sense, the study of the application of good corporate governance practices in the Mercosur countries (Southern Common Market) is of absolute relevance.

Mercosur is an economic bloc, the result of a historical process of regional integration in Latin America, in response to globalization, the growing integration of the world market and the diminishing importance of national borders and sovereignty. In this context, States are increasingly seeking the harmonization of their national norms and policies to the detriment of their autonomy, towards global governance. Will this search for harmonization lead to the convergence of these countries towards a single model of corporate governance?

The analysis of the regulatory evolution and private codes of corporate governance in the Mercosur countries indicates a trend towards the adoption of the OECD (Organization for Economic Cooperation and Development) Principles of Corporate Governance in their constructions. These principles have been developed on the basis of experience in OECD Member States and third countries and, although voluntary, point the way to an environment of institutional trust.

Thus, the present work -which is a hypothetical-deductive qualitative research of an exploratory nature, carried out from bibliographic and documentary research- aims to answer the following research question: are the Mercosur countries converging towards the adoption of good corporate governance practices based on the OECD Principles of Corporate Governance? To answer the question, the convergence aspects of corporate governance are initially addressed from the perspective of Toru Yoshikawa and Abdul Rasheed who, in the study analyzed, make an overview of several empirical studies already carried out on the subject. Next, an analysis of the adoption of corporate governance practices in each of the Mercosur countries is carried out. From there, it is possible to verify the influence of the OECD Principles of Corporate Governance ON THE INTERNAL RULES AND CODES OF MERCOSUR COUNTRIES, AS WELL AS THE HISTORICAL CONTEXT OF THE ATTEMPTS TO HARMONIZE PRIVATE INTERNATIONAL LAW BY LATIN

AMERICAN COUNTRIES. In the end, the interrelation between the topics addressed and the answer to the question initially formulated is sought.

2 Convergence of Corporate Governance from the Perspective of Yoshikawa and Rasheed

The term convergence in the context of corporate governance is defined by Yoshikawa and Rasheed (2009, p. 390) as "[...] *to the increase in isomorphism in the governance practices of public companies in different countries*".[1] But the authors themselves admit the need for clearer definitions, considering that complete isomorphism is unlikely, even between firms within the same country (Yoshikawa; Rasheed, 2009, p. 390).

These authors cite the views of other researchers on the subject, such as the distinction between convergence in form and convergence in function. The first concerns the increased similarity between the legal framework and institutions. Function convergence, on the other hand, indicates that, although countries have different rules and institutions, they are capable of performing the same function (Yoshikawa; Rasheed, 2009, p. 390).

Another distinction present in the literature is the so-called de *jure convergence and* de facto convergence. The first occurs when two countries adopt similar corporate governance laws, but when the practices are actually implemented, there is de facto convergence (Yoshikawa; Rasheed, 2009, p. 390).

Finally, the authors mention the so-called contractual convergence, which occurs when there are political barriers that limit or prevent formal institutional change. Faced with the impossibility of changing the laws, contracts emerge as a viable alternative (Yoshikawa; Rasheed, 2009, p. 390), as is the case of contracts adhering to the differentiated levels of corporate governance of B3. Bortolón and Leal (2010, p. 24) recall that "The first attempt of the stock exchange at the end of the 1990s was to try to propose changes in the laws, which proved difficult, and then opt for the private contracting agreement that led to the emergence of the Novo Mercado".

Thus, for a discussion of convergence to be complete, it is necessary to be able to specify in which direction the entities of a given group are converging, either towards the governance

[1] The increase in isomorphism in the corporate governance practices of public companies in different countries.

practices of one of them, towards a middle ground between them, or towards a normative ideal different from their current positions (Yoshikawa; Rasheed, 2009, p. 390).

Yoshikawa and Rasheed (2009, p. 391) point to the existence of forces that push countries and firms towards convergence in governance practices ("*Drivers of Convergence*") and forces that prevent this convergence ("*Impediments of Convergence*"). It is the interaction between these two forces that determines how fast and to what degree convergence occurs, both at the country level and at the firm level.

Bortolón and Leal (2010, p. 25) raise the following question: "Would there be an optimal system towards which we should all advance?" And they respond by recalling the excerpt from the preamble to the 2004 revision of the Principles of Corporate Governance of the Organisation for Economic Co-operation and Development (OECD), which mentions:

> There is no single model of good corporate governance. However, work in OECD Member States and third countries, as well as within the organisation, has identified some common elements underpinning good corporate governance. The principles are based on these common elements and are formulated in such a way as to encompass the different models that already exist.

Yoshikawa and Rasheed (2009, p. 391) refute the idea that "globalization accelerates competition for 'best practices,' and firms that are most exposed to global markets are forced to adopt the Anglo-American model, as it is considered a global standard fact." For the authors, as studied in institutional theory, corporate governance can become isomorphic over time as a result of three types of pressures: mimetic (e.g., companies in one country begin to follow what they consider to be the best governance practices of another country), normative (e.g., international harmonization of disclosure and accounting standards), and coercive (e.g., the need for a company to comply with regulatory requirements to access the capital market of another country).

The authors highlight the integration of financial and asset markets, the dissemination of governance codes, and the harmonization of accounting standards as the main drivers of convergence (Yoshikawa; Rasheed, 2009, p. 391).

Companies that intend to list their shares on multiple exchanges around the world, especially in the United States and England, need to overcome the entry costs derived from the need to adapt to regulation and *compliance*, and continue to do so, indicating that the benefits outweigh the costs (Yoshikawa; Rasheed, 2009, P. 391-392).

The substantial growth of foreign investment in various regions of the world is also a factor of convergence, since in an attempt to attract and retain capital, companies seek to meet their expectations of good corporate governance (Yoshikawa; Rasheed, 2009, p. 392).

The question of whether the integration of product markets can have an effect on governance similar to the integration of financial markets is under discussion. In this context, corporate governance is seen as a technology or an innovation that, in a few years, will be seen as a competitive advantage. Countries and companies that follow suboptimal governance systems will not be as efficient and will have to adopt the most efficient governance system. The result of this is convergence. In the same vein, countries will need to have attractive regulations, including corporate governance regulations, to attract companies (Yoshikawa; Rasheed, 2009, p. 392).

The spread of codes of good governance and the harmonization of accounting practices are, in turn, important drivers of convergence, especially in "countries with weak shareholder protection, high government liberalization, and a strong presence of foreign institutional investors" (Yoshikawa; Rasheed, 2009, p. 392). This is because "legitimation pressures (when a country has weak rights to protect shareholders) and the need for efficiency due to market pressures drive the diffusion of codes" (Yoshikawa; Rasheed, 2009, p. 392). The codes are voluntary and express a commitment on the part of those who adopt them. The adaptability facilitates the transfer of similar sets of best practices between countries and becomes a good source of institutional pressure for convergence. On the other hand, harmonization of accounting standards can facilitate the convergence process by requiring uniform disclosure requirements (Yoshikawa; Rasheed, 2009, p. 392-393).

Regarding the obstacles to convergence, the authors identify seven opposing forces (Yoshikawa; Rasheed, 2009, p. 393-395):

a) Path dependence: A country's governance system is the result of a series of historical and political events that stem from them, and consequently, countries have different governance systems.
b) Complementarities: The governance practices that prevail in a country are the result of a system of complementary interdependent institutions, laws, and practices that, when they fit together, the attempt to improve one element can affect the efficiency of the entire system.
c) Multiple optimals: Complementarities can lead to the occurrence of multiple sweet spots, in terms of governance structures, so that, even if countries adopt different sets

of practices, they end up leading to equivalent models of governance with each other. However, once this model is achieved, there is resistance to change, as it leads to transaction costs and multi-party resistance.

d) Rent-seeking by interest groups: Demonstrably inefficient governance structures may persist due to the presence of groups that resist change, in order to preserve their private benefits of control at the expense of various actors.
e) Differences in property rights regimes: There are many different ways of defining property rights applied in different countries. Governments have a fundamental role to play in the allocation of control rights and in the legal enforcement of those rights, and while there are converging forces, such as the integration of product, financial, and labor markets, none are equivalent to the forces at work in each country's political markets to create similar rules regarding property rights. Property rights are the main source of diversity among national governance systems.
f) Economic nationalism and differences in social norms: While the discourse that globalization is an unstoppable force predominates, there is a school of thought that sees globalization and economic integration as a threat. Foreign investors often demand corporate governance reforms, which can lead to a backlash against such investors, making it difficult for foreigners to control. The presence of social and business norms is also an obstacle, as the goals of business organizations differ from country to country. To the extent that there is divergence in the socially accepted objectives of companies between countries, it is possible that the ideal governance structure will also differ between them.
g) Lack of consensus on an ideal organization: Practices that are considered ideal or that contribute to performance or legitimacy are widespread among countries. The explanation for the lack of strong convergence in governance may be the lack of consensus on what constitutes the best governance system, as each model has its strengths and weaknesses. Thus, it is understandable that companies and countries are not in a hurry to adopt practices that are considered strange, of unproven quality and dubious.

Based on the survey of several empirical studies on convergence in governance practices, the authors take stock of the evidence accumulated over the last decade, identify which generalizable conclusions can be drawn from them, which unresolved issues and suggest an agenda for future research. The studies are divided into institutional comparisons with the

country as the unit of analysis, and with companies as the unit of analysis (Yoshikawa; Rasheed, 2009, p. 395).

Yoshikawa and Rasheed (2009, p. 400) draw three main conclusions from empirical studies at the institutional level: (i) although convergence is noted to be desirable and inevitable, there is only limited evidence indicating that this convergence is actually occurring; ii) even in cases where there is ostensible convergence, much of it is only in form and not in substance; (iii) Governance convergence is context-dependent, and understanding it can provide more *information* than simply empirically searching for evidence of convergence.

The authors also point out that one of the limitations of institutional-level studies is the great attention paid to examining the effects of macro or country factors, leaving aside the processes that shape the content of codes or laws. This is because rules are not simply imposed by the state or regulatory bodies, but are often the result of complex interactions and negotiations between key actors. Thus, it is necessary to examine the impact of institutions and the motivations and interactions of the main actors, in order to understand how and why new codes or laws are adopted (Yoshikawa; Rasheed, 2009, p. 400).

Next, we will examine the similarity and convergence of corporate governance practices among Mercosur countries.

3 Corporate governance practices in Mercosur countries

The implementation of a regulatory framework, which offers answers to the need to incorporate international corporate governance practices, has been a subject of interest and commitment of different countries, so that their companies are strengthened, there is stability in the financial markets and attraction of investments, always in favor of economic growth (López; Ruiz, 2015, p.3).

Around the 1990s, core countries began to implement corporate governance practices, as a response to the shocks that occurred in the financial markets due to the crises that occurred in Asian countries and Russia and other cases of fraud, lack of transparency and poor corporate governance in the United States and Europe (Corzo, 2016, p. 52).

In 1999, the Organisation for Economic Co-operation and Development (OECD) published the *OECD Principles for Corporate Governance,* as a result of the joint work of member countries with various committees of this organisation and taking into account data

and recommendations from the World Bank, the International Monetary Fund, the business sector, investors, trade unions and other actors (Corzo, 2016, p. 52).

These principles are suggestions, of voluntary adoption, that indicate the path that companies and government regulations of countries should follow to obtain an increase in investor confidence, through the promotion of transparency and shareholder protection, considering ethical and environmental issues (Corzo, 2016, p. 53).

The OECD presented two revisions of the Principles, one in 2004 and another in 2015. A new principle was added in 2004 to "Lay the foundation for an effective regulatory framework for corporate governance". In addition, the Principles have been taken into account not only by member countries, but also by non-member countries in the adequacy of their institutional and legal frameworks, as well as by financial markets and companies that want to improve their competitiveness and profitability (Corzo, 2016, p. 53).

Currently, the OECD Principles of Corporate Governance are summarized in six themes, which are: (i) ensuring the foundations for an effective corporate governance framework; (ii) the protection of the rights and equitable treatment of shareholders; (iii) the rights of shareholders and incentives for the proper functioning of the securities market; (iv) the role of social interest groups in corporate governance and the recognition of the rights of stakeholders; (v) transparency in communication and information; and (vi) strategic orientation of the company, effective control of the management team by the board of directors and accountability of the board of directors to the company and its shareholders (OECD, 2016, p. 12).

Another important milestone on the international stage was the passage of the Sarbanes Oxley Act (SOX) in 2002 in the United States, as a response to the financial scandals of companies such as Enron, Tyco International, WorldCom and Peregrine Systems, among others. From this law, new requirements began to be required for the information provided by companies listed on the Securities Exchange Commission (SEC) and the roles and responsibilities of the managers (CEOs), directors, and the Audit Committee. It also highlights the internal control system, the quality of audits, and accounting and financial information (Corzo, 2016, p. 53).

Studies show that corporate governance is especially relevant for companies located in countries with a poor judicial system and little shareholder protection. In these cases, best governance practices are associated with better performance and better market assessment. In addition, the level of governance is linked to factors that reduce problems related to information asymmetry and imperfect contracts (Klapper; Love, 2004).

This is the relevance of deepening the study of the application of good corporate governance practices in Mercosur, considering that it involves countries where legal protection is less and where financial markets are less developed. An example of this is Argentina, which has one of the least developed stock exchanges in Latin America. In the Buenos Aires Stock Exchange (BCBA) there are only 208 registered active issuers, and historically, government securities have the highest trading volume (Corzo, 2016, p. 51).

Mercosur (Southern Common Market) was founded on the basis of the Treaty of Asunción, of 1991, and the Protocol of Ouro Preto, of 1994, bringing together the countries of the Southern Cone: Brazil, Argentina, Paraguay and Uruguay (Reis; Reis, 2004, p. 117-118).

Article 1 of the Treaty of Asunción establishes the objectives of the bloc, among which is "the commitment of the States Parties to harmonize their legislation, in the relevant areas, to achieve the strengthening of the integration process."

The economic, financial and political crises in the countries that make up Mercosur have postponed the long-term objectives of the economic bloc (Reis; Reis, 2004, p. 118). As for good corporate governance practices, there is no institutional and uniform recommendation for their implementation by the countries of the bloc. Thus, its implementation is very uneven and fragmented.

3.1 Argentina

In Argentina, attempts have been made to implement good corporate governance practices, such as the Code of Good Practices for the Governance of Organizations of the Argentine Republic, promoted in 2004 by the Argentine Institute of Organizational Governance – IAGO, but it was not until 2007 that the National Securities Commission (CNV) approved General Resolution No. 516. which now requires companies under the public offering regime to report on compliance with the Corporate Governance Code (CGS) (Corzo, 2016, p. 53).

Subsequently, this Resolution was replaced by Resolution No. 606/12, which continued to require the presentation of the Corporate Governance Code together with the financial statements of the companies, and a self-assessment of governance, reporting whether it complies with the recommendations proposed by the CNV and, if not, explaining the reasons why it does not comply. Compliance is voluntary, but the duty to inform is not. In June 2019, the CNV issued Resolution No. 797/19, which took the CGS from an educational perspective (Corzo, 2016, p. 54).

This standard includes nine principles, namely: (i) transparency of the relationship between the issuer, the economic group it manages and/or integrates, and its related parties; (ii) laying the foundations for sound management and supervision of issuers; (iii) support an effective policy to identify, measure, manage and disclose business risks; (iv) protect the integrity of financial information with independent audits; (v)respect the rights of shareholders; (vi) maintain a direct and responsible link with the community; (vii) remunerate fairly and responsibly; (viii) promote business ethics; (ix) to delve into the scope of application of the Code (Corzo, 2016, p. 54). In other words, it is not alien to corporate governance practices.

3.2 Brazil

In Brazil, one of the important milestones in corporate governance was the creation of the Brazilian Institute of Corporate Governance (IBGC), on November 27, 1995, in São Paulo, which in 1999 published the Code of Best Practices in Corporate Governance. The Code was revised and expanded in 2001, following the creation of the so-called Novo Mercado de Bovespa, currently Brasil Bolsa Balcão (B3), in 2000 (Ramos, 2016, p. 347). Currently, the Code is in its 5th edition (IBGC, 2015, p. 13)

The Novo Mercado, along with N2, N1 and Bovespa Mais, is a listed segment with different levels of corporate governance. There are also sustainability indices: Corporate Governance Index (CGI), Corporate Sustainability Index (ISE) and Carbon Efficiency Index (ICO2).

As Ramos (2016, p. 347-348) reminds us, adherence to the Novo Mercado is voluntary, but there is a tendency for public companies to do so, in order to attract investor confidence. The commitments made by joining this list involve a series of corporate governance measures, in addition to those already required by the Capital Companies Act (LSA), such as:

> (i) the arbitration option to resolve conflicts of interest between shareholders; (ii) the existence of a board of directors with at least five (5) members, of which 20% are independent directors, and a maximum term of two years; (iii) accountability in accordance with uniform international standards (accountability); (iv) the establishment of codes of ethics; (v) the capital is composed exclusively of ordinary voting shares; (vi) in the event of a sale of control, the right of the minority shareholders to sell their shares at the same price as the shares of the majority shareholder (100% Tagalong); (vii) in the event of delisting from the Novo Mercado, the obligation to make a public offer to repurchase the shares of all shareholders at least at their economic value; (viii) the Company's commitment to hold at least 25% of the outstanding shares (freefloat).

Another important milestone was the reform of the Corporations Law (Law 6,404/76), carried out by Law 10,303/01, which delegated more powers to minority shareholders and

introduced some of the principles of corporate governance, such as transparency, accountability and equal treatment of shareholders. It is also worth highlighting the attribution of social responsibility to companies, as Freitas (2020, p. 10) points out:

> Worthy of mention is Law 6,404, of 12/15/1976, which provides for the Company, which, in its article 154, explicitly refers to the duty of the director to exercise all his legal and statutory obligations, in order to achieve the purposes and interests of the company, "satisfied with the requirements of the public good and the social function of the company". The manager referred to in the law is the controlling shareholder, whose functions are described in article 116 of the aforementioned law.

It is also worth highlighting the Booklet of Recommendations on Corporate Governance of the CVM – Securities and Exchange Commission – which aims to encourage the development of the Brazilian capital market through the disclosure of good governance practices, as well as the State Companies Law (Law 13.303/2016), which incorporates several principles of corporate governance in public administration.

3.3 Paraguay

In Paraguay there is no regulation especially focused on corporate governance. Even so, several articles of the Securities Market Law, such as No. 1284/1998, stipulate governance conditions for issuing entities, in addition to the provisions of the Civil Code of Paraguay with respect to companies, their management, administration and inspection bodies. The supervisory body for companies with shares on the stock exchange is the National Securities and Exchange Commission (CNV). In addition, listed financial institutions are under the supervision of the Superintendency of Banks with regard to compliance with the corporate governance rules established for this type of entity (IIMV, 2015, p. 147).

In the country, there is no obligation for issuers to publish their share distribution or change of ownership with a defined periodicity; however, issuers shall disclose such information, as public information, to the Securities and Exchange Commission and the Securities Exchange within the time limits established for that purpose. In this sense, the financial statements of companies listed on the BVPASA (Bolsa de Valores y Productos de Asunción) are audited by professionals authorized by the CNV (IIMV, 2015, p. 312).

In addition, in Paraguay there is no formal process of adoption and/or convergence with international standards. Knowledge and guidance activities are being carried out in this regard with local companies, however, nothing in regulatory matters. The feasibility of producing internationally harmonized information has only been established for those who need it, for

companies that are listed on the stock exchange or that wish to do so on a voluntary basis (López; Ruiz, 2015, p. 14). This, in part, confirms the need for the bloc itself, Mercosur, to contribute to reducing asymmetries.

3.4 Uruguay

In Uruguay, companies operating in the Stock Market must comply with corporate governance rules and are supervised by the Central Bank of Uruguay (BCU), which has inspection and control powers with sanctioning power (IIMV, 2015, p. 149).

Article 34 of BCU Circular No. 1987/2008 establishes that:

> Financial intermediation institutions must implement a corporate governance that complies with the definitions, principles and objectives set forth in the following articles and with those derived from the Minimum Management Standards for Financial Intermediation Institutions established by the Superintendence of Financial Intermediation Institutions.

The BCU's sanctions are published and vary according to the seriousness of the verified infraction, and can range from fines to the suspension or cancellation of the authorization to operate in the market (Article 118 of the Securities Market Law, No. 18,627/2009, and 33 of the BCU Organic Charter, Law No. 18,996). In addition, sanctions may be imposed on members of the Board of Directors, members and auditors of the tax commission, administrative staff or the audit committee of the entity. The country's Internal Audit, for its part, controls the constitution and statutory modifications of Corporations and Accounting Records (IIMV, 2015, p. 149).

The Securities Market Law and Decree 322/2011, which regulates it, stipulate the obligation of issuers of public offerings of securities to constitute an audit and inspection committee, an independent internal audit and, by statute, an executive committee (IIMV, 2015, p. 325).

In addition, the Corporate Governance Code of the Montevideo Stock Exchange S.A. (BVM) includes policies and procedures that aim to create a system in which the institution is directed, monitored and controlled. The Code is based on the aforementioned Law No. 18,627/2009, Decree 322/011 and the Circulars and Communications of the BCU. In addition, it incorporates the provisions of international standards: OECD Principles, Basel Committee standards and IOSCO (International Securities Organization) standards (BVM, 2021, p. 2). Important advances for corporate governance practices.

4 Convergence of corporate governance from Mercosur to the OECD

As López and Ruiz (2015, p. 16) point out, both Argentina and Brazil have taken the OECD Principles and the Latin American Corporate Governance Guidelines issued by the Andean Development Corporation (CAF) as the basis for the construction and issuance of their Corporate Governance Codes and legal reforms in the stock market.

As we have seen, in Argentina, the main legal reforms focused on the capital market were promoted by the National Securities Commission, especially the Commercial Companies Law, which contains provisions on the rights of minority shareholders and the regulation of Boards of Directors and the General Shareholders' Meeting. There is also the Public Offering Law No. 17,811 on the need for timely disclosure of the financial and non-financial information of companies listed on the stock exchange. The Institute of Corporate Governance (IAGO) promoted the Code of Good Corporate Governance Practices of the Argentine Republic, which promoted the application and implementation of good governance practices in the country's companies in general. And, finally, Circular 516, which, through the principle of "comply or explain", ensures the duty of companies to report in annual reports on their practices or to explain in a reasonable manner when there is no possibility of disclosure (López; Ruiz, 2015, p. 16).

In Brazil, there are several institutions in charge of strengthening good corporate governance practices, especially in the issuance sector, such as the Securities and Exchange Commission, B3 and the Brazilian Institute of Corporate Governance (IBGC). This is intended to create an environment of confidence for investors and, especially, with the protection of the rights of minority shareholders and the disclosure of transparent information to the market, and thus increase the levels of competitiveness (López; Ruiz, 2015, p. 16).

Uruguay has also taken as a basis the OECD principles for the formulation of its Corporate Governance Code, issued by the Montevideo Stock Exchange S.A. (BVM), which expressly admits the incorporation of provisions of the OECD Principles, the Basel Committee standards and the IOSCO standards (BVM, 2021, p. 2).

Paraguay is the only Mercosur country that does not agree with this scenario of incorporating the OECD Principles of Corporate Governance into its internal regulations, especially if one takes into account that the country's main corporate governance rules, namely

the Securities Market Law, No. 1284/1998, and the Civil Code of Paraguay, Law No. 1183/85 predates the first publication of the Principles by the OECD.

It is important to note that Brazil has been a member of the OECD since 2007 and has therefore already agreed on several instruments, but since it has not yet become a full member, it does not have voting rights (OECD, 2019).

Among the Mercosur countries, both Argentina and Brazil are being considered by the OECD Council as possible members. Likewise, together with Paraguay and Uruguay, they are part of the OECD Development Centre and the Steering Group of the Regional Programme for Latin America and the Caribbean (OECD, 2021).

For this reason, as can be seen, the OECD Principles have been voluntarily adopted by non-member countries, given their recognized relevance in contributing to the design of a reliable environment for investors and, thus, improving their competitiveness and profitability (OECD, 2004).

Thus, it is understood that the influence of the OECD on the adoption of good corporate governance practices by the aforementioned countries is not accidental.

As Amaral (2004, p. 93) points out, "the integration process in the Americas has historical, philosophical, political, social, and economic origins." The common roots of all attempts to group the countries of the Americas are marked by the beginning of the nineteenth century, but the principles that guide the rapprochement between the former colonies have assumed interesting delineations throughout the twentieth century and, more specifically, today (Amaral, 2004, p. 93)

The United States has long influenced the economic and trade policy of the Americas, and has determined the development of continental international law in line with an exclusively economic integration between countries (Reis; Reis, 2004, p. 98).

Private International Law in Latin America has its own characteristics, since, on the one hand, its nature is hidden by the dissemination of norms that end up being lost in the legal system of each of the countries; On the other hand, there are, to a certain extent, attempts at harmonisation, while respecting the intergovernmental aspect. In the search for this harmonization, the Treaty of Lima of 1877/8, the Treaty of Montevideo of 1889 and 1939/40, and the Bustamante Code of 1928 stand out. (Gomes; Winter, 2019, p. 248).

On the continent, there was discussion about whether the Bustamante Code would be modernized or whether the countries would deliberate on specific issues. The draft reform of the Bustamante Code was abandoned and a series of agreements restricted to specific matters were created, which replaced the corresponding provisions of the Code. In this context, the

CIDIPs (Inter-American Specialized Conference on Private International Law) emerged, sponsored by the OAS (Organization of American States) (Gomes; Winter, 2019, p. 248).

The OAS was founded in 1948, with headquarters in Washington (Reis; Reis, 2004, p. 105).

The various CIDIP conventions have been largely ratified by OAS countries, resulting in a high level of codification of private international law. There are various topics addressed in the agreements, such as credit instruments, letters rogatory, proof of foreign law, domicile, adoption, minors, foreign judgments, alimony, movable guarantees, contracts, sale, transport, arbitration, and also programmatic and conceptual rules (such as CEDIP II, 7th Convention, or CEDIP III, 2nd Convention) (Gomes; Winter, 2019, p. 248).

CIDIP-VI, signed at OAS headquarters in Washington in 2002, is especially important in the context of corporate governance, since it adopts the Inter-American Model Law on Transferable Securities, which aims to regulate transferable securities to guarantee obligations of any nature. In addition, CIDIP-VII, of 2009, which adopted the Model Rules for Registration under the Inter-American Model Law on Transferable Securities (OAS, 2021), stands out.

The model laws are of great importance for the harmonization of Private International Law in Latin America, which includes Mercosur, in addition to having immediate effect since, for example, they made it possible for Brazilian and Mexican companies to have shares on Wall Street.

As Yoshikawa and Rasheed (2009, p. 401) point out, "it is somewhat simplistic to view change in corporate governance as a monolithic change from one regime to another, in which all organizations move from one set of practices to another." On the contrary, movements and pressures for changes in governance can lead to hybrid practices, that is, those that unite local practices with new models that are often imported from other institutional contexts. In other words, institutional change ends up being very complex, as companies and states do not abandon old models and simply adopt new practices, especially if they come from different institutional contexts (Yoshikawa; Rasheed, 2009, p. 401).

An example of this is the European Union, where the development of regional institutions influences all aspects of economic activity in that bloc. In this sense, the existence of regional and global institutions indicates that any examination of the institutional environment would be incomplete, unless the role of these supranational institutions is disregarded. Increasing harmonization initiatives at the regional level, as in Latin America, make the state act as an

intermediary between regional external pressures for change and internal forces that resist this change (Yoshikawa; Rasheed, 2009, p. 401).

Finally, it is worth noting that there is no unanimous acceptance of the evidence or even possibilities of convergence, not even at the regional level, as is the case with Mercosur. Several researchers have already pointed out the difficulties of this movement, either ruling out its possibility of occurrence, or presenting as an alternative the idea that economic institutions would end up adapting to foreign practices. Thus, contrary to convergence, there would be a hybridization, an adaptation of international practices to local environments (Yoshikawa; Rasheed, 2009, p. 401). It is understood that, in this context, at least greater synchronization is still necessary.

5 Final considerations

The study suggests that there is a trend in the adoption of good corporate governance practices by Mercosur countries, through the incorporation of international recommendations, such as the OECD Principles, in the construction of their internal regulations.

Referring to the regional integration proposed for the member countries of Mercosur and the historical attempts to harmonize Private International Law among Latin American nations, the issue of corporate governance is very fragmented and dispersed in the internal regulations of the States. There is no single, uniform recommendation from the bloc to guide the adoption of good corporate governance practices within countries.

The corporate governance codes adopted by Brazil, Argentina and Uruguay may imply convergence only in form and not in substance, since, in the case of civil law countries, the lack of coerciveness of these codes leads to non-compliance by companies.

In fact, based on the data collected, and in response to the question posed, it would be premature to speak of convergence of Mercosur countries for the adoption of good corporate governance practices based on the OECD Principles of Corporate Governance.

Thus, although there is a notable global movement towards the adoption of international standards of corporate governance, the local rules of the countries analyzed still persist. Paraguayan legislation was not even revised after the publication of the OECD Principles, and in the other countries of the bloc, adaptations were made to the main regulations that already existed.

Therefore, it is most likely, in this scenario, that Mercosur countries will begin to coexist and create hybrid systems, that is, that companies have some freedom to choose their governance system, and that local institutions will import some practices from other institutional contexts.

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