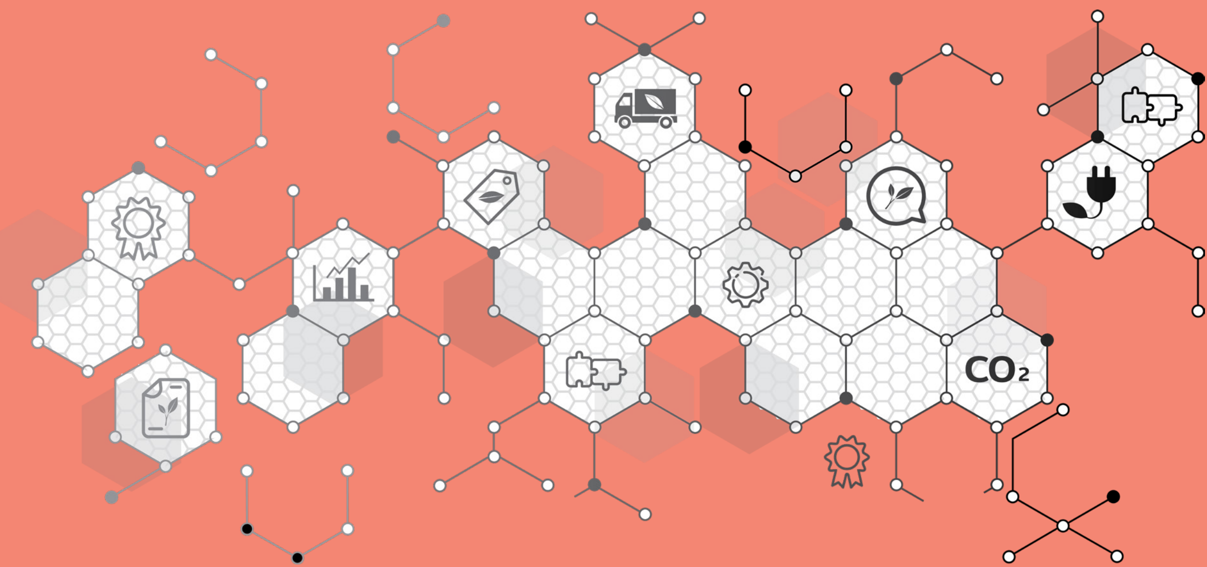

3rd Scientific Conference

CORPORATE GOVERNANCE AND TECHNOLOGY IN THE AGE OF ESG

Piran, Slovenia,
23 June 2025

BOOK OF CONFERENCE ABSTRACTS

3rd Scientific Conference

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ANNALES ZRS

Koper 2025

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Dear Ladies and Gentlemen,

We are pleased to invite you to the 3rd Scientific Conference, titled Corporate Governance and Technology in the ESG Era, to be held in Piran, Slovenia (onsite & online), on June 23, 2025.

The organizer of the conference is the Science and Research Centre Koper (ZRS Koper), and the co-organizers are EMUNI University and IRDO (Institute for the Development of Social Responsibility), all from Slovenia. The conference is part of a research project titled SOCIAL RESPONSIBILITY OF COMPANIES AS THE RESPONSIBILITY OF DIRECTORS (ARIS registration number: J5-4582), project holder: Science and Research Centre Koper - Law Institute.

The authors will present papers at the intersection of corporate governance and technology, with an emphasis on how boards can represent shareholder views and values, and the responsibilities of boards to operate their companies sustainably.

Conference participation is for free. Registration is demanded for all participants (online & onsite). Final conference program will be published in May 2025 at latest.

We look forward to your participation and discussion at this important conference. Sincere thanks in advance for your interest!

With kind regards,

Prof. Dr. Rado Bohinc,
President of the Conference Program Committee,
EMUNI University

Ladies and Gentlemen, Distinguished Guests

of the 3rd Scientific Conference: Corporate Governance and Technology in the ESG Era,

Esteemed Colleagues of the Science and Research Centre Koper, the EMUNI University and IRDO Institute.

It is a pleasure and an honour for me to greet you all here in Slovenia, in the beautiful coastal town of Piran. We are privileged to organize such a conference, with many renowned legal scientists, experts, scholars and practitioners from many countries around the world.

Your insights will undoubtedly shape the future of corporate governance and technology regulations - both with awareness on importance of social responsibility and sustainability.

A special word of gratitude goes to Prof. Dr. Rado Bohinc, the President of EMUNI, and Professor Dr. Jeff Schwartz from Utah Law School, for their idea to organize it and for their invaluable contributions to this event.

Our institution, ZRS Koper, is proud to work closely with EMUNI. Together, we strive for research excellence and innovation in the Mediterranean area.

As you embark on your legal discussions, let us embrace the exchange of ideas and foster partnerships that drive meaningful progress. We hope you enjoy not only the intellectual stimulation of the conference but also the charm of Piran, Koper and entire Slovenian Coast.

Looking forward for fruitful cooperation with you - today and in the future, to create better science and better world.

Thank you for your presence and contributions.

Prof. dr. Rado Pišot,
Director of ZRS Koper

CORPORATE GOVERNANCE AND TECHNOLOGY IN THE AGE OF ESG

CONFERENCE PRESENTATION

CORPORATE GOVERNANCE AND TECHNOLOGY IN THE AGE OF ESG

On June 23, 2025, the 3rd International Scientific Conference will be held in Piran, where several top legal experts from different countries of the world will give lectures. Participation in the conference is free of charge.

(Koper, June 18, 2025) On June 23, 2025, the 3rd International Scientific Conference entitled Corporate Governance and Technology in the ESG Era will be held in Piran, at the premises of EMUNI University, Kidričevo nabrežje 2, Slovenia, EU. The conference will be held both, on-site and online.

Ten top authors will discuss corporate governance and technology. The conference will bring together leading scientists from Slovenia and the world to discuss ***how boards can integrate broader societal interests into their decision-making and to what extent technology can bridge the gap between corporations and what is the public good***.

The participants will be greeted by **Prof. Dr. Rado Pišot, Director of the Science and Research Centre Koper**, and **Prof. Dr. Rado Bohinc, President of the EMUNI University and Chairman of the Conference Program Committee. The** lectures will be given by the following professors of law: **Alessio Bartolacelli, Rado Bohinc, Jill Fisch, Dušan Jovanovič, Yaron Nili, Jerneja Prostor, Sergio Alberto Gramitto Ricci, Christina Sautter, Jeff Schwartz, Urška Velikonja**.

Participation in the conference is for free, you can register here: https://us02web.zoom.us/meeting/register/50fnXVq1Q_O0nXaC0uH0Zw#/registration

The conference is organized by **the Science and Research Centre Koper,** the co-organizers are **EMUNI University and IRDO - Institute for the De-**

velopment of Social Responsibility, all from Slovenia, EU. The conference is part of the research project entitled **CORPORATE SOCIAL RESPONSIBILITY AS THE RESPONSIBILITY OF DIRECTORS** (ARIS number: J5-4582), project leader: Science and Research Centre Koper - Institute of Law. The co-financer is ARIS – Slovenian Research and Innovation Agency. #

Co-financer:

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ORGANISER
Science and Research Centre Koper (ZRS Koper)

CO-ORGANISERS

EMUNI University

IRDO – Institute for the Development of Social Responsibility

ACKNOWLEDGMENT

The conference is part of a research project entitled SOCIAL RESPONSIBILITY OF COMPANIES AS THE RESPONSIBILITY OF DIRECTORS (ARIS registration number: J5-4582), project holder: ZRS Koper, Law Institute, funded by the Slovenian Research and Innovation Agency.

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CONFERENCE PROGRAM

3rd Scientific Conference
CORPORATE GOVERNANCE AND TECHNOLOGY IN THE ESG ERA
Piran, Slovenia, June 23, 2025

8:30
Registration, morning coffee

9:00–9:20
INTRODUCTION
Moderator: **Anita Hrast**

Prof. Rado Pišot, PhD,
Director of Science and Research Centre Koper

Prof. Rado Bohinc, PhD,
President, EMUNI University

Prof. Jeff Schwartz,
Hugh B. Brown Presidential Professor of Law, University of Utah,
S.J. Quinney College of Law

9:20–10:40
Panel 1: SHAREHOLDER VOTING
Moderator/Discussant: **Yaron Nili**, J.S.D.

Rado Bohinc
CSR as Directors' Duty? Comparative Reflections and Findings

Jeff Schwartz:
Can Shareholders Vote their Values?

Jill Fisch:
Corporate Political Disclosure and Shareholder Voting

Christina Sautter:
Corporate Disenfranchisement

Panel Discussion

10:40–11:00
Coffee break & networking

11:00–12:20
Panel 2: CORPORATE GOVERNANCE
Moderator/Discussant: **Jeff Schwartz**

Kobi Kastiel and **Yaron Nili**:
Opting Out of Court? Reputation and Informal Norms in Private Equity

Sergio Alberto Gramitto Ricci
The Shareholder Democracy Lie

Jerneja Prostor:
Business Decisions by Artificial Intelligence

(**Dušan Jovanovič:** *Supervisory Body – Quo Vadis?*, abstract without presentation)

CORPORATE GOVERNANCE AND TECHNOLOGY IN THE AGE OF ESG

Panel Discussion
12:20–13:20
Lunch & Networking

13:20–14:40
Panel 3: DIGITAL RIGHTS, ESG & SECURITIES ENFORCEMENT
Moderator/Discussant: **Rui Dias**

Alessio Bartolacelli:
Guess Who's Coming to Dinner? Instruments to Internalize the Stakeholders in the Companies: A European View"

Rado Bohinc:
Legal Aspects of Digitalisation

Urška Velikonja:
The Point of Jarkesy

Panel Discussion

14:40–15:00
3rd Scientific Conference conclusions
Discussion with Participants, Feedforward, Conclusions of the conference
Moderators: **Jeff Schwartz**, **Anita Hrast**

PHOTOGALLERY

(photo by Tomaž Primožič)


3. Christina Sautter, "Corporate
Disenfranchisement"
Panel Discussion (20 min)
[Moderator/Discussant: Yaron Nili, J.S.D.]
University
EMUNI

ABSTRACTS

Panel 1:
SHAREHOLDER VOTING

CSR AS DIRECTORS' DUTY? COMPARATIVE REFLECTIONS AND FINDINGS

Rado BOHINC[1]

ABSTRACT

This article examines whether corporate social responsibility (CSR) and sustainability obligations are part of directors' fiduciary duties. Using a comparative legal approach, it analyses EU, UK, French and German corporate law frameworks. It focuses particularly on the EU Corporate Sustainability Due Diligence Directive (CSDDD) as a landmark regulatory development. The study explores the duty of loyalty, duty of care, and the duty to promote the success of the company in the context of sustainability, risk management, and stakeholder engagement. It argues that CSR is increasingly becoming legally embedded in directors' duties, marking a convergence of corporate governance theory and legal practice.

Keywords: CSR, corporate governance, fiduciary duty, sustainability, director

Introduction

Corporate governance is undergoing a profound transformation as sustainability and corporate social responsibility (CSR) reshapes the traditional shareholder-centric model. Directors are increasingly expected to consider environmental, social, and governance (ESG) factors in strategic decision-making. This article investigates whether CSR obligations are or should be considered part of directors' fiduciary duties. The focus is on comparative legal perspectives, with emphasis on EU developments, including the Corporate Sustainability Due Diligence Directive (CSDDD). The analysis addresses the duties of loyalty, care, and to promote the success of the company, examining their scope in the context of sustainability and risk management. It also

1 Euro-Mediterranean University (EMUNI), Piran

considers stakeholder engagement as part of directors' duties and explores how emerging jurisprudence and regulation are shaping these obligations.

The contemporary evolution of corporate governance increasingly challenges the traditional shareholder-centric model of the corporation. The integration of corporate social responsibility (CSR) and sustainability into the legal duties of directors reflects a paradigm shift in corporate law theory—from maximizing shareholder value to ensuring long-term corporate sustainability and social legitimacy.

This paper explores whether, and to what extent, directors' fiduciary duties under corporate law encompass sustainability obligations. It examines this question through comparative analysis of European, UK, and international developments, with a focus on recent EU legislation, particularly the Corporate Sustainability Due Diligence Directive (CSDDD).

The central question is: *To what extent does the law transform CSR and sustainability into binding directors' duties?*

Theoretical Framework

The theoretical debate on CSR and directors' duties draws on both corporate law and management literature. Stakeholder theory, as articulated by Freeman (1984), emphasizes that corporations have responsibilities not only to shareholders but to a broader set of stakeholders including employees, customers, suppliers, and communities.

Fiduciary duty theory traditionally prioritizes shareholder wealth maximization; however, recent scholarship, including Stout (2012) and Keay (2010), proposes the notion of 'enlightened shareholder value', where long-term corporate success is inherently linked to sustainable practices.

This theoretical lens provides a basis for understanding why directors' legal duties may extend to sustainability considerations. Risk management theory also supports this approach: environmental and social risks can generate material financial consequences, making their management part of the directors' duty of care. Finally, corporate purpose literature highlights that companies are social institutions whose responsibilities include creating value for society while pursuing economic success

CORPORATE GOVERNANCE AND TECHNOLOGY IN THE AGE OF ESG

Directors' Fiduciary Duties and Sustainability

Fiduciary duties traditionally include the duty of loyalty, the duty of care, and, in some jurisdictions, the duty to promote the success of the company. In the sustainability era, these duties are being reinterpreted in light of environmental, social, and governance (ESG) challenges.

Duty of Loyalty

The duty of loyalty requires directors to act in the best interests of the company. Historically, this meant prioritizing shareholders. However, contemporary interpretations recognize that long-term company interests are intertwined with environmental, social, and governance outcomes. OECD Guidelines (2023) and the UN Guiding Principles on Business and Human Rights (2011) suggest that directors must consider wider societal impacts as part of their loyalty obligation. Thus, sustainability considerations may be legally within the scope of loyalty duties.

The duty to act in the best interests of the company, traditionally has been interpreted as the interests of shareholders collectively. However, as *Hansmann and Kraakman (2001)* observed, the "end of history" for corporate law—its convergence on shareholder primacy—was premature.

Increasingly, the "interests of the company" are being understood to include long-term sustainability and the company's purpose beyond immediate profits. This approach aligns with the principle articulated by the OECD Guidelines for Multinational Enterprises (2023) and the UN Guiding Principles on Business and Human Rights (2011), which emphasize that companies have responsibilities that extend beyond their shareholders to society and the environment.

Thus, the key question emerges: Does acting in the company's best interests include ensuring the sustainability of its operations, stakeholders, and ecological context? If so, sustainability is not merely a policy choice—it becomes part of the loyalty duty itself.

Duty of Care

The duty of care obliges directors to make informed, prudent decisions. ESG-related risks—including climate change, biodiversity loss, and human rights issues—can pose significant financial and reputational threats. Therefore, directors are expected to integrate these risks into strategic and operational decision-making.

To make informed, prudent, and diligent decisions in the sustainability context requires directors to understand and manage sustainability-related risks—including climate risks, biodiversity loss, human rights violations, and supply chain vulnerabilities.

As the *Task Force on Climate-related Financial Disclosures (TCFD)* and *International Sustainability Standards Board (ISSB)* frameworks demonstrate, failure to consider sustainability risks can lead to material financial harm and, therefore, to breaches of the duty of care.

European jurisprudence is increasingly recognizing this link. In *Milieudefensie v. Shell* (The Hague District Court, 2021), directors' failure to adopt adequate climate policies was argued to breach their duty of care to the company and society. This signals an emerging judicial understanding of sustainability as a component of due diligence and risk oversight.

Duty to Promote the Success of the Company

UK Companies Act 2006, Section 172, explicitly requires directors to consider long-term consequences, employee and community interests, and environmental impact. This provision exemplifies how CSR and sustainability objectives are increasingly embedded in statutory directors' duties, aligning with the 'enlightened shareholder value' concept

The UK *Companies Act 2006*, Section 172, provides perhaps the most explicit statutory formulation of sustainability-oriented governance. It requires directors to act in a way they "consider, in good faith, would promote the success of the company for the benefit of its members as a whole," and in doing so, to have regard to:
– the long-term consequences of decisions,
– the interests of employees, suppliers, and customers,

CORPORATE GOVERNANCE AND TECHNOLOGY IN THE AGE OF ESG

– the impact of operations on the community and the environment, and
– the company's reputation and standards of conduct.

This provision integrates the logic of CSR directly into company law, blurring the line between voluntary responsibility and legal obligation. It demonstrates a model of "enlightened shareholder value"—a balance between profit and purpose, as theorized by *Keay (2010)* and *Stout (2012)*.

Risk Management, Strategy, and Oversight

Boards must integrate sustainability into enterprise risk management frameworks, corporate strategy,

capital allocation, and research and development. Directors are increasingly expected to align executive incentives with sustainability performance, reflecting fiduciary duties in the modern ESG context. Failure to do so may result in both material financial loss and potential liability under evolving corporate law.

Sustainability is no longer an adjunct to corporate strategy—it is a core governance responsibility. Boards are expected to identify and integrate sustainability-related risks (climate change, human rights, regulatory shifts) into enterprise risk management (ERM) frameworks.

This expectation extends beyond voluntary ESG reporting. It forms part of the directors' obligation to ensure resilience and long-term value creation. As *Eccles and Klimenko (2019)* note, investors increasingly expect boards to demonstrate how sustainability shapes strategy, capital allocation, and R&D priorities.

Furthermore, executive remuneration and incentives are now commonly linked to sustainability performance indicators, reinforcing the idea that sustainability is not only an ethical imperative but a strategic fiduciary concern.

Stakeholder Engagement as a Governance Duty

Modern corporate law and governance practice recognize that directors must engage with a broad set of stakeholders. This includes employees, customers, investors, regulators, and local communities.

Understanding stakeholder expectations on diversity, climate, human rights, and supply chain ethics is becoming an implicit legal expectation. EU directives, such as the CSRD, operationalize these duties, requiring companies to account for stakeholder interests in corporate reporting and strategy.

Modern corporate law recognizes that sustainable success depends on trust and engagement with broader stakeholders—employees, consumers, suppliers, regulators, and communities.

Directors are therefore expected to understand stakeholder expectations on diversity, human rights, climate impact, and ethical conduct. The EU Corporate Sustainability Reporting Directive (CSRD) requires precisely this form of stakeholder-based materiality assessment.

The question is whether stakeholder engagement is a legal duty or a soft obligation. Comparative developments suggest a gradual move toward the former: while EU company law still prioritizes the "interests of the company," the interpretation of that interest is expanding to include stakeholder well-being as a precondition for corporate continuity.

Legal Regulation in the European Union

The EU has introduced a regulatory framework that increasingly embeds sustainability into directors 'duties. The Corporate Sustainability Due Diligence Directive (CSDDD), adopted in 2024 and effective from 2026/2027 (Directive (EU) 2024/1760, OJ L 1760, 5 July 2024), mandates human rights and environmental due diligence for large companies. Directors are legally obliged to oversee and implement due diligence measures, integrate sustainability into corporate strategy, and manage related risks. This effectively transforms CSR from voluntary guidance to a binding legal duty, consistent with fiduciary obligations.

CSDDD, adopted in 2024 represents a significant step in integrating sustainability into directors' duties. Article 25 introduces explicit duties for directors to consider the consequences of their decisions on human rights, climate change, and environmental sustainability. Article 26 requires directors to oversee due diligence implementation and to integrate it into corporate strategy. The CSDDD, mandates human rights and environmental due diligence for large companies. Member States must transpose it by 26 July

2026, with application staggered across company size and sector. Directors must integrate sustainability into strategy, risk management, and corporate oversight, making CSR legally enforceable.

However, the Stop-the-Clock Directive (Directive (EU) 2025/794, OJ L 794, 16 April 2025) postpones certain CSRD and CSDDD application deadlines by one to two years, providing legal certainty and alignment with national implementation timelines. The broader Omnibus package, currently under negotiation, aims to amend thresholds, ESRS reporting requirements, and transposition schedules but is not yet adopted.

These provisions effectively transform sustainability oversight from a voluntary CSR measure into a legal fiduciary obligation. As *Sjåfjell and Richardson (2015)* have argued, this marks a turning point in European corporate law—a move from "corporate social responsibility" to "corporate social accountability."

Comparative Perspectives

Comparative analysis highlights converging trends across jurisdictions. These examples demonstrate a convergence legally embedding sustainability in directors' fiduciary duties. While the EU approach is regulatory and systemic, other jurisdictions show complementary trends:

In the United Kingdom, the *Companies Act 2006* sets the legislative foundation for stakeholder-oriented governance.

In Germany: Gesetz über die unternehmerischen Sorgfaltspflichten in Lieferketten (LkSG) — adopted 16 July 2021, entered into force 1 January 2023 (initially for companies with ≥3 000 employees) and extended in 2024 to companies with ≥1 000 employees. Also the *AktG §93* on the duty of care is being interpreted in light of sustainability risk management, aligning with EU due diligence principles.

In France, the Loi PACTE (n°2019486, 22 May 2019, JORF n°0119, 23 May 2019) allows companies to define a *raison d'être*—a social or environmental purpose that informs corporate decisions and obliges boards to integrate social/environmental objectives into strategy. Amendments to the Civil Code (Art. 1833) and Commercial Code reinforce board accountability for corporate purpose. Boards are expected to consider ESG factors in risk oversight, strategy, and executive compensation, aligning with the EU CSDDD framework.

Outside Europe, Canada's Supreme Court (BCE Inc. v. 1976 Debentureholders, 2008) and India's Companies Act (2013) also recognize that directors must consider stakeholder and community interests in decision-making.

The EU CSDDD, the Stop-the-Clock directive, and national frameworks in Germany and France demonstrate a clear trend: directors' fiduciary duties are expanding beyond shareholder wealth to include sustainability, human rights, and ESG considerations. These obligations now span strategy, risk management, capital allocation, and stakeholder engagement, reflecting a convergence of corporate law, governance theory, and sustainable business practice. Together, these developments suggest a convergence toward sustainability-oriented fiduciary duties, albeit with national variations in enforcement and interpretation.

Conclusion: From CSR to Legally Embedded Sustainability

CSR and sustainability are no longer peripheral; they are central to directors' duties. The combination of EU directives, pending Omnibus amendments, and national legislation in Germany and France shows that **legal enforcement of sustainability obligations is now a core aspect of fiduciary duties**. Directors must integrate ESG considerations into decision-making to ensure long-term corporate success aligned with societal and environmental responsibility.

CSR and sustainability are no longer merely ethical or strategic considerations; they are increasingly integral to directors' fiduciary duties. The EU CSDDD represents a landmark regulatory shift, making sustainability oversights a legally binding obligation. Directors must now integrate ESG considerations into corporate strategy, risk management, and stakeholder engagement. This reflects a convergence of corporate law, governance theory, and sustainable business practice, ensuring that companies pursue long-term success while respecting social and environmental responsibilities.

The debate on whether CSR constitutes a directors' duty is no longer purely theoretical. The legal and regulatory evolution—especially in the

EU—demonstrates that sustainability has entered the core of fiduciary governance.

Directors today are expected to ensure that corporate strategies promote long-term resilience, environmental stewardship, and respect for human rights. Failure to do so may increasingly expose them not only to reputational risks, but also to legal liability under corporate and due diligence laws.

As *Lynn Stout* reminded us, "corporations are social institutions, not merely private property." The transformation of directors' duties to include sustainability is a necessary step in aligning corporate governance with this broader societal role.

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France: Loi n° 2019-486 du 22 mai 2019 relative à la croissance et la transformation des entreprises (PACTE) — introduced corporate "raison d'être", board obligations to consider social/environmental issues; amends Civil Code Article 1833 and Commercial Code.

CAN SHAREHOLDERS VOTE THEIR VALUES?

Jill FISCH[1] & Jeff SCHWARTZ[2]

Corporate decision-making is suffused with political and moral considerations, from existential questions about the propriety of producing potentially harmful products to routine packaging choices. Polarization and heightened scrutiny of issues such as diversity, climate change, and corporate philanthropy have sharpened focus on the role of values in business. Under the director-primacy model of corporate law, boards of directors retain broad discretion over these matters, constrained only by the duty to act in shareholders' interests and protected by the business judgment rule if they act in good faith. Yet this discretion raises a fundamental question: should directors' choices reflect shareholder values?

We argue that shareholder input could align corporate values with societal norms, bolster managerial legitimacy, and reduce capricious shifts in corporate stances, ultimately resounding to the financial benefit of the corporation, but that shareholders are today stymied in providing such input. We identify how institutional intermediation obscures shareholder values, as does the structure of corporate governance, and recommend ways to provide shareholders with greater say.

1 Saul A. Fox Distinguished Professor of Business Law, University of Pennsylvania Carey Law School, Fellow, European Corporate Governance Institute.
2 Hugh B. Brown Presidential Professor of Law, University of Utah, S.J. Quinney College of Law.

CORPORATE GOVERNANCE AND TECHNOLOGY IN THE AGE OF ESG

CORPORATE POLITICAL DISCLOSURE AND SHAREHOLDER VOTING

Jill E. FISCH[3] & Adriana Z. ROBERTSON[4]

We combine empirical analysis and qualitative research to offer new insights into the shareholder voting process. Our research focuses on shareholder proposals requesting increased disclosure of corporate political activity. These proposals are notable for three reasons. First, they are among the most enduring categories of shareholder proposals and have consistently received substantial amounts of support from shareholders. Second, because political disclosure proposals tend to be relatively low salience, they shed light on the dynamics of the proposal process when it is least likely to attract outside attention. Finally, the Supreme Court in Citizens United placed corporate political influence squarely in the realm of corporate governance. Studying political disclosure proposals sheds light on the effectiveness of this mechanism in providing transparency about corporate political activity.

We analyze the basis on which issuers are targeted with political disclosure proposals, the result of such targeting, and the targeted firms' subsequent disclosure practices. In sum, we find that a diverse array of investors sponsored the political disclosure proposals in our sample (2015-2023), the proposals tended to be relatively successful, and disclosures tended to improve in subsequent years. On average, both the targeting and voting appear to reflect existing disclosure practices and political contributions rather than firm performance.

We also uncover important institutional details of the shareholder proposal process. Roughly a third of political disclosure proposals are settled and withdrawn, meaning that studies that rely exclusively on voting results convey an incomplete picture. At the same time, the absence of an authoritative source of all shareholder proposals complicates the analysis. We also

3 Jill E. Fisch is the Saul A. Fox Distinguished Professor of Business Law at the University of Pennsylvania Carey Law School and is an ECGI Fellow.
4 Adriana Z. Roberston is Donald N. Pritzker Professor of Business Law at the University of Chicago Law School and is an ECGI Research Member.

document the involvement of a critical governance entrepreneur – the Center for Political Accountability – and demonstrate its central role in the submission and apparent success of political disclosure proposals.

[We also study voting support across various institutional investors. Here we uncover high levels of investor engagement but levels of support that vary across investors and investor types. Even among those investors who support such proposals, we find strikingly low correlation among individual voting decisions. We further identify factors that appear to influence specific investor voting decisions.]

CORPORATE DISENFRANCHISEMENT

Sergio Alberto GRAMITO RICCI[1],
Christina M. SAUTTER[2]

This article examines the fundamental failures of collective decision-making in corporate shareholder meetings by drawing historical parallels to ancient Athenian democracy. Despite formal equality in participatory rights, both the Athenian ekklesia and modern shareholder meetings are dominated by elite voices while effectively excluding everyday participants, revealing persistent patterns of elite dominance across millennia. Contemporary corporate governance mirrors ancient democratic limitations. Just as only skilled orators with sufficient resources could meaningfully participate in Athenian assemblies despite theoretical isegoria (equal speech rights), today's shareholder meetings are controlled by institutional investors, activist hedge funds, and the "Big Three" asset managers, while individual retail shareholders remain marginalized despite formal voting rights.

Central to this analysis is the U.S. proxy system's evolution from its 1930s origins, when it was designed to address management manipulation of shareholder voting, to its current form that paradoxically perpetuates shareholder disenfranchisement. Complex proxy machinery creates insurmountable barriers for retail investors: electronic delivery systems that reduce voting participation, confusing proxy statements requiring specialized knowledge to navigate, and inadequate notification procedures that leave shareholders uninformed about their rights.

A critical examination of the shareholder proposal system reveals how Rule 14a-8 has become increasingly restrictive over eight decades. While initially allowing any qualified shareholder to submit proposals regardless of ownership size, amendments introduced escalating ownership requirements culminating in 2020's three-tier system requiring between $2,000

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and $25,000 in holdings with extended holding periods, effectively exclude smaller retail investors from proposing governance reforms. We contrast this exclusionary system against historical examples of independent shareholders like the Gilbert brothers and Wilma Soss, who used wealth, education, and persistence to challenge corporate management in mid-20th century shareholder meetings. Their activism led to governance improvements now considered standard practice, yet today's proxy system makes such individual advocacy nearly impossible.

Finally, we use virtual shareholder meetings as a case study in technology's failed promise to democratize corporate governance, showing how companies have used virtual formats to further limit rather than expand shareholder engagement. The proxy system functions as a "proxy card in a vacuum," representing a fundamental departure from shareholder participation toward a model favoring concentrated wealth over distributed ownership.

Panel 2:
CORPORATE GOVERNANCE

OPTING OUT OF COURT? REPUTATION AND INFORMAL NORMS IN PRIVATE EQUITY

Kobi KASTIEL[1],
Yaron NILI[2]

Private equity, an industry characterized by high-stake investments and complex contractual arrangements, operates almost entirely outside of courts. Despite the substantial financial stakes involved—billions of dollars locked in for years—and the potential for fiduciary conflicts, litigation between limited partners (LPs) and general partners (GPs) who manage the investment is exceptionally rare. In stark contrast to public markets, where shareholder litigation plays a prominent role in deterring misconduct and shaping corporate norms, the private equity world is largely defined by its absence. The puzzle, then, is this: In an industry where fiduciary breaches or misaligned incentives are not uncommon, why do LPs almost never turn to courts to enforce their rights? Drawing on proprietary documents, public records, and qualitative interviews with market players, this article provides the first account of the rarity of litigation in private equity and the ecosystem of extralegal relations and informal norms that serve as a substitute for formal legal channels.

This article makes three contributions to the literature on private equity. First, using hand-collected data, the article provides the first empirical account of the non-litigious private equity landscape and its underlying causes. It also highlights how opting out of court is a result of reputational concerns, contractual barriers, and institutional disincentives. Second, the article investigates how private equity resolves disputes and enforces norms without recourse to courts. Based on a unique set of interviews with LPs, GPs, and legal advisors, this article sheds light on the alternative mechanisms that dominate the private equity landscape. Third, the article explores the implications of this non-litigious environment for investor protection, market efficiency, and regulatory oversight, questioning whether reliance on reputation and extralegal mechanisms is sustainable in the face of growing industry complexity.

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2 Professor of Law, Duke University School of Law; Research Member, the European Corporate Governance Institute. We would like to thank [to be added].

THE SHAREHOLDER DEMOCRACY LIE

Sergio Alberto GRAMITO RICCI[1],
Daniel J.H. GREENWOOD[2],
Christina M. SAUTTER[3]

This article systematically debunks the myth of "shareholder democracy" by demonstrating that neither corporate governance structures nor share ownership patterns in America resemble democratic principles. The term "shareholder democracy," first popularized in the 1920s by Wall Street firms and the NYSE to attract retail investors while resisting government regulation, fundamentally misrepresents the mechanics of corporate power and control.

Corporations lack basic democratic features such as equal voting rights, protections for minority voices, or mechanisms for loyal opposition. Unlike political democracies where votes cannot be purchased, corporate governance operates on a one-share-one-vote basis that enables the wealthy to buy electoral control. Directors are explicitly prohibited from representing shareholder interests, instead serving as fiduciaries to the corporation itself, while incumbent management can use corporate resources to defend their positions against challengers.

A comprehensive analysis of share ownership inequality exposes how centuries of discrimination, including slavery, Jim Crow laws, and employment discrimination, created enduring barriers to stock market participation for minorities and women. The article sheds light on how discriminatory employment practices not only excluded minorities from jobs but also from employee stock ownership plans (ESOPs), perpetuating intergenerational wealth gaps that persist today; we dub this phenomenon "minorities double jeopardy."

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The article analyzes the so-called "de-retailization" of share ownership, showing how institutional investors now control approximately 70% of U.S. public company shares. The "Big Three" asset managers—BlackRock, Vanguard, and State Street—have become the largest shareholders in nearly all S&P 500 companies, wielding unprecedented voting power through small, demographically homogeneous stewardship teams. Most critically, proxy advisory firms like ISS and Glass Lewis have effectively captured corporate governance by providing voting recommendations to institutional investors. These firms exercise consequential influence over shareholder votes despite having no financial stake in the companies they evaluate, effectively transferring control from shareholders to entities with no skin in the game and potential conflicts of interest.

"Shareholder democracy" constitutes dangerous rhetoric that obscures fundamentally undemocratic corporate power structures. This mischaracterization has significant implications beyond corporate law, as corporate power substantially influences political and social institutions. An accurate and deep understanding of the dynamics that govern corporate control and ownership and rejecting deceitful rhetoric is essential for meaningful reforms that foster transparent and fair corporate laws.

BUSINESS DECISIONS BY ARTIFICIAL INTELLIGENCE

Jerneja PROSTOR[1]

Despite isolated initiatives aimed at integrating artificial intelligence (AI) into corporate management (or supervisory) bodies, current legal frameworks preclude AI from formally assuming such roles. At present, AI can only function as a tool to support the decision-making processes of these bodies, rather than as an autonomous actor within them. Even if members of a corporate governance body consent to incorporate AI-generated output (AI-derived recommendations) into the decision-making process, such output can, at most, function as an assistive tool rather than an autonomous decision-making entity. Accordingly, the role of AI in company law remains limited, particularly when contrasted with the more immediate and pressing legal challenges posed by AI in areas such as intellectual property law, human rights law, data protection, and health and safety regulation. Nonetheless, in the longer term, the continued advancement of AI technologies and its mass use may challenge fundamental assumptions underpinning company law, potentially necessitating a reconsideration of core legal principles.

This paper explores the legal implications of business decisions made by corporate management bodies with the assistance of AI outputs. It examines the standards by which such decisions should be assessed under existing corporate law, particularly with respect to the duty of care. The paper further considers the legislative changes that would be required should AI be granted formal roles within management (or supervisory) bodies. In addition, it offers a forward-looking perspective on the possibility of fully autonomous companies operated exclusively by AI systems, analyzing the potential impact on the legal relationships between the company, its shareholders, creditors, and AI-driven management. Finally, while outlining these developments, the author expressly states a normative position against the replacement of human decision-makers with AI in corporate governance structures.

Artificial intelligence (AI) systems currently exist at varying stages of development, and their relevance differs significantly across industries. In certain sectors – such as logistics, marketing, and finance – AI-generated outputs have already proven to be of substantial practical value. As a result, members of corporate governing bodies who disregard the development, implementation, or outputs of AI systems in relevant decision-making contexts may risk falling short of the standard of care required by law. Corporate directors and officers are generally bound by the duty to act with the care of a reasonably prudent businessperson, assessed according to objective benchmarks. Accordingly, if peer companies within a particular industry and of comparable size have adopted AI systems and derived demonstrable benefits from them, a failure by similarly situated firms to consider or utilize such tools could potentially amount to negligence in fulfilling fiduciary duties.

Should a governing body make a fundamentally flawed business decision due to its failure to consider relevant outputs generated by AI, it may be held liable for resulting damages on the grounds of inadequate preparation and insufficient information. In such cases, the decision-making process may be deemed to have fallen short of the standards of due care. More specifically, the refusal to engage with or rely upon AI solutions that have demonstrably yielded effective results within a given industry could, under certain circumstances, justify the removal of a member of the management body for failure to fulfill their fiduciary responsibilities.

Conversely, if a corporate management body relies on AI-generated outputs when making business decisions, such outputs – at best from the perspective of AI-developing entities – may be functionally analogous to the opinions of retained experts (e.g., chartered business valuators or legal advisors) or, in the case of internally developed AI, comparable to input from domain-specific middle management. However, if the AI-generated output is manifestly erroneous, or if the management fails to provide the AI system (or, analogously, the expert) with all critical and correct facts necessary for an informed assessment, the management remains liable for any damage resulting from decisions made based on such incomplete or incorrect information. It is important to emphasize a key distinction: certified human experts are professionally accountable for their advice, often under the threat of disciplinary measures, including revocation of licensure. In contrast, AI systems lack formal accountability structures, and even in the most severe case – e.g., dissolution of the company offering the AI system – there is no structural

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barrier to the redeployment of the same or similar technology under a new corporate entity.

At present, the relevance of AI to company law manifests in two primary ways. First, where a governing body fails or refuses to develop and utilize AI systems that are already well established and widely adopted within a particular industry, such inaction may constitute negligence under corporate law standards. Second, when a management body does rely on AI-generated outputs in its business decision-making, its conduct should be assessed according to the same legal criteria that would apply if the decision had been made without the involvement of AI. In other words, the use of AI neither diminishes nor heightens the duty of care; it remains the quality and reasonableness of the decision-making process that is subject to scrutiny. As a natural person, a member of the management body is legally and ethically required to exercise the duty of care characteristics of a diligent and prudent manager. This fiduciary obligation entails accountability for decisions and actions undertaken on behalf of the company. Such decisions are typically assessed under the business judgment rule, which provides a framework for evaluating managerial conduct based on the reasonableness and informed nature of the decision-making process rather than its outcomes.

Looking ahead, there are two conceivable scenarios in which AI might assume a role within a company's management body. The first involves the organization of a corporate structure wherein the company provides an AI-driven consultancy service, thereby being appointed as a member of another company's management body. Under current Slovenian legislation, however, legal entities cannot serve as members of management bodies, implying that such an arrangement would necessitate a legislative amendment. The second, more speculative, scenario entails granting AI systems' legal personality. From a legal-theoretical perspective, there appears to be neither a compelling normative basis nor a practical justification for such a move. AI systems, as company assets, should remain subject to human governance and control, operating in alignment with the directives of the economic owners of the firm.

In an even more speculative, future-oriented scenario, it is conceivable that fully autonomous, AI-managed companies could emerge. Even in such cases, the company would remain a legal entity with identifiable shareholders, who would bear the consequences of AI's business decisions – particularly if the AI system had been developed internally and appointed to management functions by the shareholders themselves. In this context, the principle of *volenti non fit iniuria* would apply, as those who voluntarily assume a risk cannot later claim injury. For interactions with third parties, such a company could be represented by a human proxy or legal representative, while the company itself would be treated as operating a high-risk system. As such, it would be subject to enhanced regulatory oversight, including requirements related to (strict product) liability, insurance coverage, and the acquisition of certification attesting to legal compliance in order to maintain the legitimacy of its operations in the legal and economic system.

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Although these prospective alternatives may currently appear conceptually remote and impractical, it is likely that some form of experimentation will eventually take place, potentially paving the way for their gradual integration into corporate governance frameworks. From a normative perspective, the notion that a member of a governing body could exonerate themselves from responsibility on the grounds that an AI system failed to provide adequate output – analogous, for instance, to relying on a property valuation in the absence of any red flags – challenges established principles of managerial accountability. Nonetheless, given the increasing trend of states competing to establish attractive legal environments for capital investment, it would be prudent to begin considering the regulatory implications of AI integration into corporate management. As current Slovenian legislation permits only natural persons to serve as members of management bodies, such developments would require fundamental legislative reform.[2]

2 The text was originally translated from Slovenian into English using the DeepL tool and then improved using the ChatGPT-4o (instruction: scientific text suitable for publication in the American scientific journal). The free version was used for both tools.

CORPORATE SOCIAL RESPONSIBILITY – QUO VADIS?

Dušan JOVANOVIČ[1],
Nikola JOVANOVIĆ[2]

The article examines the homogenization of information flow in corporate governance and oversight facilitated by modern technologies. The „push & pull" principle enabled by digital tools significantly impacts decision-making processes and the accountability of management. It discusses the concept of extended management, focusing on the increasing supervisory role of boards and the consequent limitations on the exculpation of management boards. Technological advancements are altering the application of the business judgment rule, raising questions about its current scope and effectiveness. The analysis includes the decision and practical example in the Luka Koper case, evaluating whether the outcome might have been different if these technologies and expanded supervisory mechanisms had been fully implemented. Finally, the article critically examines the future role of supervisory boards in corporate governance.

Key Words: digitalization, standardization, CG (Corporate Governance), supervisory role, liability, BJR (Business judgment role), case study

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Panel 3:

DIGITAL RIGHTS, ESG & SECURITIES ENFORCEMENT

GUESS WHO'S COMING TO DINNER? INSTRUMENTS TO INTERNALIZE THE STAKEHOLDERS IN THE COMPANIES: A EUROPEAN VIEW

Alessio BARTOLACELLI[1]

The paper[2] examines the role of corporate finance instruments in embedding stakeholders (and therefore also) sustainability within corporate governance structures. It argues that sustainability—understood in its full environmental, social, and governance (ESG) dimensions—must be treated as a normative imperative rather than a discretionary strategic choice. The analysis challenges the traditional shareholder primacy paradigm, advocating instead for a governance model that enables stakeholder integration through financial and legal mechanisms.

The discussion is grounded in a liberal, contractarian view of the corporation, wherein shareholders retain ultimate authority to define the firm's purpose and governance structure. Within this framework, stakeholder involvement is not imposed externally but emerges from shareholder intent—whether driven by ethical commitments, reputational considerations, or long-term value creation strategies. The paper also considers the practical and legal implications of such arrangements, including the potential for conflicts, the need for safeguards against greenwashing, and the importance of aligning financial instruments with measurable sustainability outcomes.

In light of the fragmented and often insufficient regulatory landscape, particularly at the international level, the author emphasizes the importance of market-based incentives and voluntary best practices. The paper explores how equity instruments (e.g., special share classes), hybrid securities, and sustainability-linked debt instruments can be designed to confer governance rights or influence to stakeholders. These rights may include enhanced information access, voting privileges on ESG matters, or board representation,

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2 Based on A. , Promoting Sustainability by Means of Corporate Finance Instruments with Influence on Governance: Some Observations, in A. (ed), The Prism of Sustainability. Multidisciplinary Profiles, Editoriale Scientifica, Naples, 2025, 151-198.

thereby institutionalizing stakeholder engagement within the corporate decision-making process.

Ultimately, the study calls for a reconceptualization of shareholder primacy—not as a mandate for short-term profit maximization, but as a flexible principle that accommodates non-financial objectives and supports the transition toward more sustainable corporate practices. By leveraging financial instruments to internalize stakeholder interests, firms can enhance ESG accountability, foster innovation in governance, and contribute meaningfully to broader societal goals.

LEGAL ASPECTS OF DIGITALISATION

Rado BOHINC

General on social impact of digital transition

Human-centered approach to digital transition aims to human well-being, meaning to develop digital technology towards people, because of their needs, because of the more efficient, easier and faster performance of various tasks, therefore for the benefit of people and not simply because of faster economic growth and profit. The application of AI as digital tools is especially challenging from the point of view of greater risks to fundamental human rights and sustainable development violations. This is the EU vision, however far from being implemented. It is crucial that the rapidly growing digitization is closely monitored and comprehensively supported by legal regulation and followed by education.

AI has a transformative role in the creative industry, offering tools that enhance, automate, and inspire various creative fields, enhancing and expanding the ways in which creators work, allowing creators to automate tasks and collaborate in innovative ways. However, it's crucial that the creative community, balance between human intuition and AI's capabilities, ensuring that technology is used responsibly and ethically. The development of digital technologies must be human-oriented not just profit driven; the fundamental goal of digital transition cannot be economic effect and profit only, but primarily benefits for people, the community and sustainable development.

EU legal regulation on digital rights

The following legal acts form the core regulatory framework safeguarding digital rights in the EU, addressing privacy, freedom of expression, platform accountability, and user empowerment in the digital space:

- **European Declaration on Digital Rights and Principles** (Declaration on digital rights) sets out digital rights grounded in EU values such as freedom of expression, data protection, privacy, inclusion, and

digital sovereignty. It builds on the EU Charter of Fundamental Rights and guides EU digital policy and legislation.

- **Digital Services Act (DSA,** 2022**)** governs online platforms and intermediaries, focusing on illegal content, transparency in advertising, disinformation, and user rights such as explanations on content moderation and algorithmic transparency. It aims to protect fundamental rights online while ensuring safe and reliable digital services.
- **General Data Protection Regulation (GDPR)** (implied from data protection references) is a foundational EU regulation protecting personal data and privacy, closely linked to digital rights.

Digital rights and principles (Declaration on digital rights)

1. Putting people and their rights at the centre of the digital transformation, meaning universal access to inclusive technology that upholds EU rights. Everyone should have access to affordable and high-speed digital connectivity, be able to acquire the education and skills necessary to enjoy the benefits of digital technology, have fair and just working conditions, have access to key digital public services.

2. **Supporting solidarity and inclusion**; universal access to inclusive technology that upholds EU rights means that everyone should have access to affordable and high-speed digital connectivity. be able to acquire the education and skills necessary to enjoy the benefits of digital technology, have fair and just working conditions, have access to key digital public services

3. Ensuring freedom of choice online. This includes when interacting with artificial intelligence systems, which should serve as a tool for people, with the ultimate aim to increase human well-being. The EU and Member States notably commit to promote human-centric, trustworthy and ethical artificial intelligence systems, which are used in a transparent way and in line with EU values.

4. Fostering participation in the digital public space. Everyone should have access to a trustworthy, diverse and multilingual online environment and should know who owns or controls the services they are using. This encourages pluralistic public debate and participation in democracy.

5. Increasing safety, security and empowerment of individuals (especially young people), meaning that everyone should have access to safe, secure and privacy-protective digital technologies, products and services. The EU and Member States notably commit to protect the interests of people, businesses and public services against cybercrime, and to ensure that everyone has effective control over their personal and non-personal data in line with EU law.

6. Promoting the sustainability of the digital future. While digital technologies offer many solutions for climate change, we must ensure they do not contribute to the problem themselves. Digital products and services should be designed, produced, and disposed of in a sustainable way.

THE POINT OF JARKESY

Urška VELIKONJA

The regulation of securities markets in the United States is a creature of administrative law. Surprisingly, it has also become a vehicle for changing administrative law. Jarkesy v. the Securities and Exchange Commission, was a blockbuster case by the U.S. Supreme Court in June 2024, generated a lot of attention and consternation among those whose work is affected by the federal government. And yet, for securities lawyers, Jarkesy was beside the point by the time it was decided, a waste of judicial resources and newsprint. The SEC stopped bringing enforcement actions before administrative law judges that work for the SEC after Lucia in 2018; it has sued them in federal district court, like it used to before Dodd-Frank expanded ALJ jurisdiction. The last initial decision by an ALJ was issued in May 2023.

So what was the point of Jarkesy if it did not change SEC enforcement? Congress has revisited securities laws since 2018, so it could have amended the jurisdictional provision but did not. Perhaps the case was about right to a jury, which was the basis for the Supreme Court's decision to bar litigation of fraud cases before ALJs. But as is widely known, very few cases make it to a jury, even for defendants set on litigating: summary judgment disposes of all but a small share of cases.

Jarkesy was never about the SEC, securities laws or juries. Jarkesy, Lucia, Kokesh, etc., were useful vehicles to advance conservative causes and reduce the power and size of the administrative state using Article II appointments and removal challenges, equal protection, and now the Seventh Amendment. If that's right, nondelegation doctrine and perhaps even the First Amendment will soon be revived as mechanisms to limit the administrative state, possibly in cases originally brought as SEC enforcement actions.

The SEC was not the only agency that conservatives re-purposed as a vehicle to advance their agenda: the CFPB was also thus used. But the CFPB is a post-Financial Crisis agency with novel features, while the SEC is approaching its 100th birthday. My contention in this paper is that the SEC is attractive for a number of reasons: (1) over the decades, much of SEC enforcement was governed by the common law of securities, mostly supported by courts exercising equitable jurisdiction, not statutes; (2) it's work is important but not so important that it would upend the lives of many; (3) defendants who push the administrative law envelope are not large financial institutions but rather small-time and ambitious financiers who have nothing to lose, while the victims of securities fraud are not particularly sympathetic; and (4) surprisingly effective albeit misleading reporting by the Wall Street Journal and the NYT.

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ADDITIONAL PAPER CONTRIBUTIONS FROM PARTICIPANTS

THE INNOVATION IN THE CANADIAN EDUCATIONAL INSTITUTION AND CULTURAL DIFFERENCES IN MANAGERIAL APPROACH – UNIVERSITY OF WATERLOO, CANADA

Marica MAZUREK[1]

ABSTRACT

The innovation has generally specific rules in managerial decision processes depending on the environment, country, and culture. Some generic rules are valid in all cultures and environments, but several specific rules are more typical for countries with different cultures, for instance for the multicultural countries like Canada. The cohabitation of these three aspects (innovation, digitization, and sustainability) will be declared as a fact in the competitive landscape. A case study approach was used with an emphasis on the new system of processes in educational institution of Waterloo, Ontario, Canada. Cohesion between the purpose of this study and practice could be explained as a need to see educational institutions as an important factor of innovation, economic development, and cultural diversity. Based on this case, several cities might be influenced and willing to follow a journey of Waterloo-Kitchener Technological Triangle and Canada generally by respecting the 3T values – talent, tolerance and transparency.

Key words: Innovation, Process Innovation, Culture, Multiculturalism, Tolerance, Governance

1 **Introduction**

A territory is a place where economic and social processes transform. The city applying a modern strategic approach to marketing and planning with an innovative goal should also be concerned by the modern approach to governing a territory (a city). The concept of Triple Helix means closer cooperation and partnerships among the partners, as are, for instance, the universities and the other representatives of the public and private sectors in a city.

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According to Reinisto (2003), not only economic indicators influence competitiveness in cities but also the satisfaction and quality of life of their inhabitants and entrepreneurs living in the city.

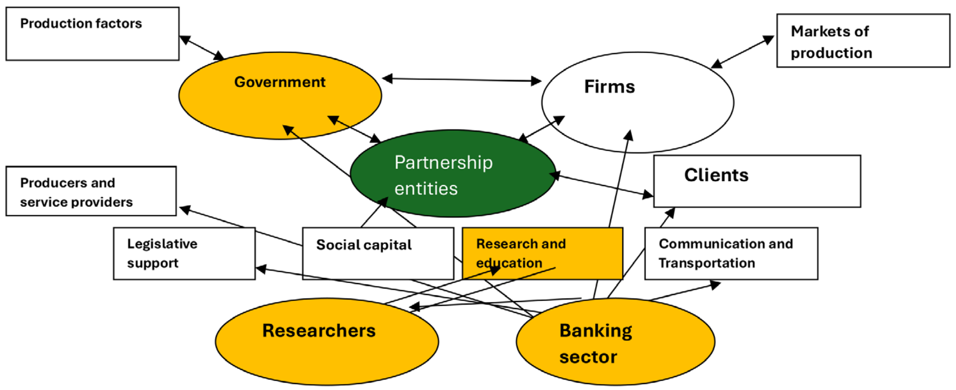
Soft factors are also crucial for image, reputation, and competitiveness and fulfill the criteria of the ethical approach to development. Even partnerships are more open to common collaboration and trust if the partners in the territory achieve a good reputation and image. This has been confirmed by several authors, as for instance Kotler (2002b), and this especially underlines the importance of co-operation of businesses and government entities in destinations, where the question of image and reputation is crucial.

2 Place branding and partnerships, Triple Helix model

In the concept of place branding is crucial to mention also the importance of partnerships among the partners in a destination. This idea was supported by Go and Govers (2009). The growing importance of partnerships improves the competitiveness of destinations.

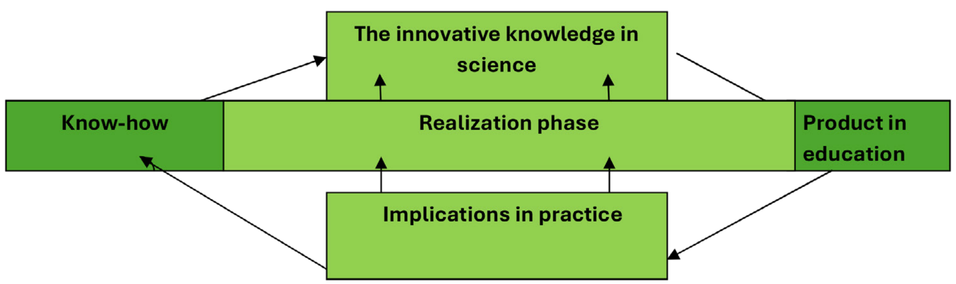
The Triple Helix model means a partnership among the partners in the city, and especially the most important partner, besides the public sector and the entrepreneurship environment, is the existence of a competitive university in a city. This means a real knowledge base for increasing the city's economic potential, and the idea was also supported by Cai (2013). Etzkowitz and Leydesdorff (2000, 2011), Etzkowitz and Zhou (2007) supported the idea of co-operation of partners in destinations by the creation of strategic alliances at the universities with partners in the city. Lewis (2003) confirmed these ideas in his work "Theory of Growth," as did authors Krugman (1995) in his work "New Economic Geography" and Porter (1995) in his work "Competitive Advantage."

These authors underlined in their academic discourse the importance of support of educational activities in destinations, the creation of alliances and the impact on the quality of educational institutions (especially universities). This means a rapid growth of the knowledge potential in a city, the enlargement of mutually beneficial bases, and the forming of clusters. This innovation based on institutional collaboration in cities has been discussed by Hjalager (2002) and Morschett et al. (2009). The following amended scheme presents some of the ideas of Morschett et al. dealing with the creation of knowledge infrastructure in cities.



Scheme 1: Infrastructure of co-operation at universities. Source: amendment based on Morschett et al. (2009).

In this scheme is crucial to the idea that the university is not only an academic institution but is oriented on entrepreneurship activities, and this means using a more interactive and co-operative approach. The formerly used linear model has been replaced by the following innovative interactive model as has been drawn and amended by the authors, Rothwell and Zegveld (1985).



Scheme 2: The Model of Innovation based on the interactive relationship in education. Source: amended and based on Rothwell and Zegveld (1985).

There is a visible switch in the approach to marketing in destinations from classical marketing to place branding, driven by the ideas of partnerships and value creation with customers. It supports the continual switch from the Chicago School to Neoliberalism. The authors, Lusch and Webster (2011), depicted in the following amended scheme the development discussed above.

Table 1: Marketing and the change of value for the consumer

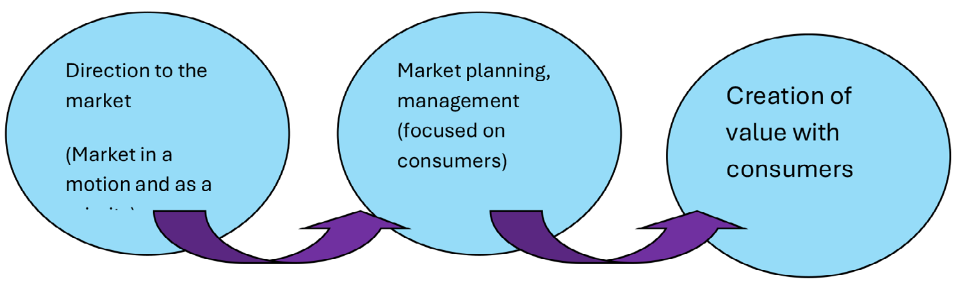
Creation of value	**User Value**	**Consumer focused marketing**	**Value with the consumer**
Source of value	Value in exchange	Use of a value	Meaning of value
Base of concept	Technical equipment	Organization	Partnerships
Aim	Profit	The property of co-owners	Partners and their value Value for customers
Goal	Value creation	Satisfaction of needs of customers	Financial flow
Financial meaning	Profit	Financial return of investments	Customers service
Purpose of marketing	Value creation	Satisfaction of needs of customers	Knowledge
Sources	Natural	Information about customers	Knowledge
Main managerial concepts	Specialization, centralization, competences spreading	Analyzing, planning, implementation, control	Educational Customers´ demand Reaction to demand
Companies	Private companies, unions	Management, Marketing Planning	Ecology Rights of humans

Source: Amended upon Lusch and Webster (2011), Marketing's Changing Contribution to Value, Journal of Macromarketing, 31(2) 129-134.

Ashworth and Kavaratzis (2008) discussed in their work the importance of collaboration in cities and the importance of co-creation. Similarly, the authors, Kotler (2002a), Ashworth and Voogd (1990), Rainisto (2001and Hankinson (2001, 2004, 2005) agreed with this opinion. Kotler and Gertner (2002), confirmed the importance of cooperation for a community and the meaning of trust and ethics for the partnership creation. Asplund (1993), Crouch and Ritchie (2003,) similarly to Kotler, supported the idea of growing importance of sustainability, improved life quality, and stronger support for such factors as education and culture in territorial development strategies.

Sundbo (2008) underlined the importance of psychographic factors in marketing and their growing impact. The continual change from marketing management to marketing means a discourse based on Vargo and Lusch (2004), Lusch (2007) the authors of a New Dominant Logic. These approaches promote such ideas as the value of services, exchange processes, and connections as partnerships.

The concept of partnerships has also been described in Poon's model of competitiveness. For this reason, cities have to be focused on value creation with their customers, e.g., inhabitants and entrepreneurs. The following scheme depicts the progress in marketing development over a 60-year period, as presented by Lusch et al. (2007) after amendments.



Scheme 3: Marketing ideas and its development. Source: amended upon Lusch et. al. (2007).

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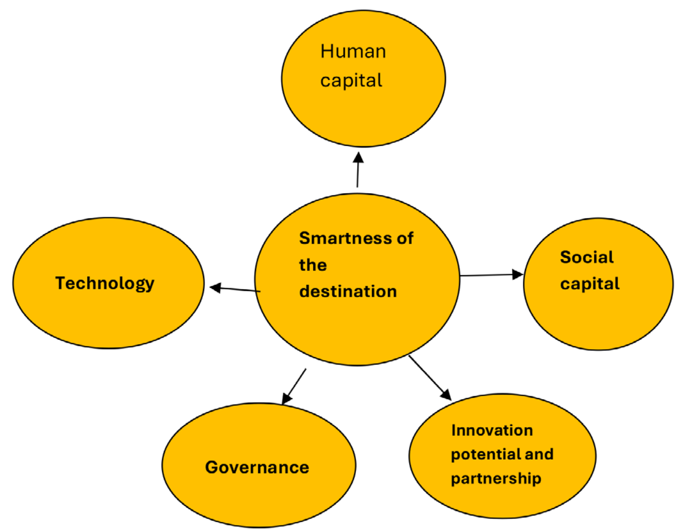
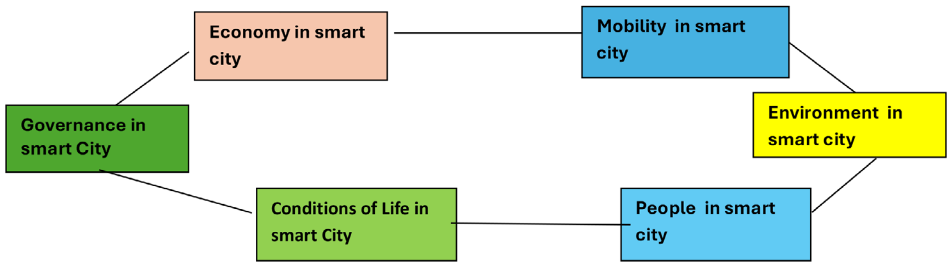
The authors Vargo and Lusch (2006) discussed in their work that "the client is always a value generator" and these ideas were supported also by the authors Prahalad and Ramaswarny (2000, 2004). For this reason, it is crucial to take into account governance and its role, partnerships, and the meaning of value creation in cities for competitiveness improvement. According to the above statement, Boisen (2007), Baarn, and Daniels (1995) discussed in their work that the traditional approach to marketing can be joined with the neoliberal approach, which includes crucial concepts such as governance, partnership creation (collaborative governance), and co-creation. This type of city governance is called participatory governance. One of the trends that have been proposed recently in city development strategies is the creation of smart cities and creative clusters. Some of these concepts have been discussed by academics as Buhalis (2014).



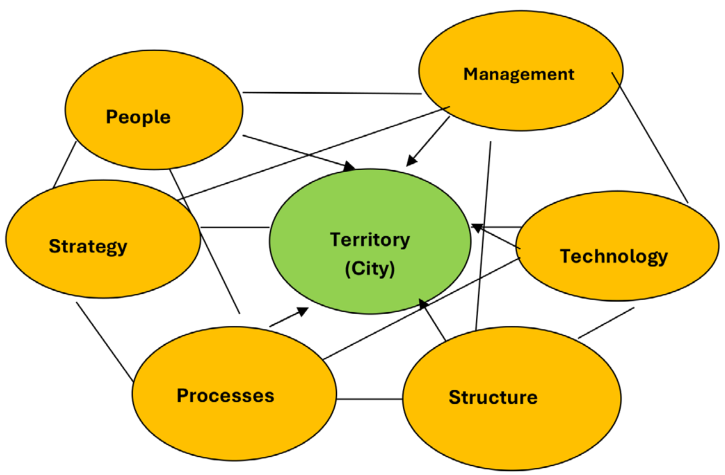
Scheme 4: Smart city. Source: Amended upon Buhalis (2014).

The authors, such as Anthopouls et al. (2011), Carvalho et al. (2015), Hollands (2015), Kitchin (2015), Nam et al. (2011), Shelton (2015), Suzuki et al. (2013), Suzuki (2017), also discussed the idea of smart cities and this idea has been depicted in the following scheme:



Scheme 5: Components of smart city. Source: Amended and based on www.smart-cities.eu, 2016.

City innovation means a mutual co-existence of trends in technical development with an ethical approach and social rules. This means that co-creation principles and consumer-centric marketing are good examples of this approach. The following scheme, which was based on the work of Lendel (2009) and slightly amended, contains the concept of consumer-centric marketing.



Scheme 6 : 6 Concept of customer-centric marketing - Stars model amended for the territorial purposes. Source: amended upon Lendel, 2009.

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Co-creation, customer-centric marketing, and the Triple Helix Model are approaches to successful development in cities and in marketing strategies. Canada, with its Technological Triangle of Kitchener-Waterloo-Guelph Canada became a suitable place for a description of a case study because it is a country with excellent results in competitiveness, and it also means competitiveness in the creation of innovative centers of excellence at universities based on the concept of Triple Helix. Innovation and sustainability are also driving forces for this country, and the University of Waterloo and the cities of Stratford and Kitchener are good examples of the innovativeness based on digitalization in service sector (education).

3 Innovation, Competitiveness and Knowledge

There exists mutual connectivity among knowledge, innovation and competitiveness leading to the creation of knowledge economy. Competitiveness and innovation are inextricably linked, with innovation serving as the backbone of destination competitiveness. In today's pressured global economy, more competitive dynamics and need for innovation are rising. Drucker (1993) and Metcalfe (2005) admitted in their work the importance of knowledge and knowledge economy for innovation. Cooper (2005) and Malthora (2002) underlined the importance of tacit knowledge transfer for the innovation especially due to the inability to transfer or copy this knowledge so easily. This creates the competitive advantage for specific places, where this knowledge is originated. Competitiveness and knowledge are interrelated and innovation means knowledge transfer.

Innovation and changes accompanying innovation processes have been discussed by the authors as Hoelzl et al. (2005) and Slappendel (1996). Figure 2 showed the differences between the revolutionary, incremental, and architectural innovations and explained the content of the transilience model as has been described by Abernathy and Clark (1998).

Aside from current technologies, education belongs to the crucial sources of innovation. It entails the establishment of educational, knowledge, spin-offs, wisdom clusters, and modern businesses, as well as places for the application of new technologies and environmental protection, innovations in social environment and the provision of the sustainable places with a high quality of life and focused on wellbeing and happiness of their inhabitants.

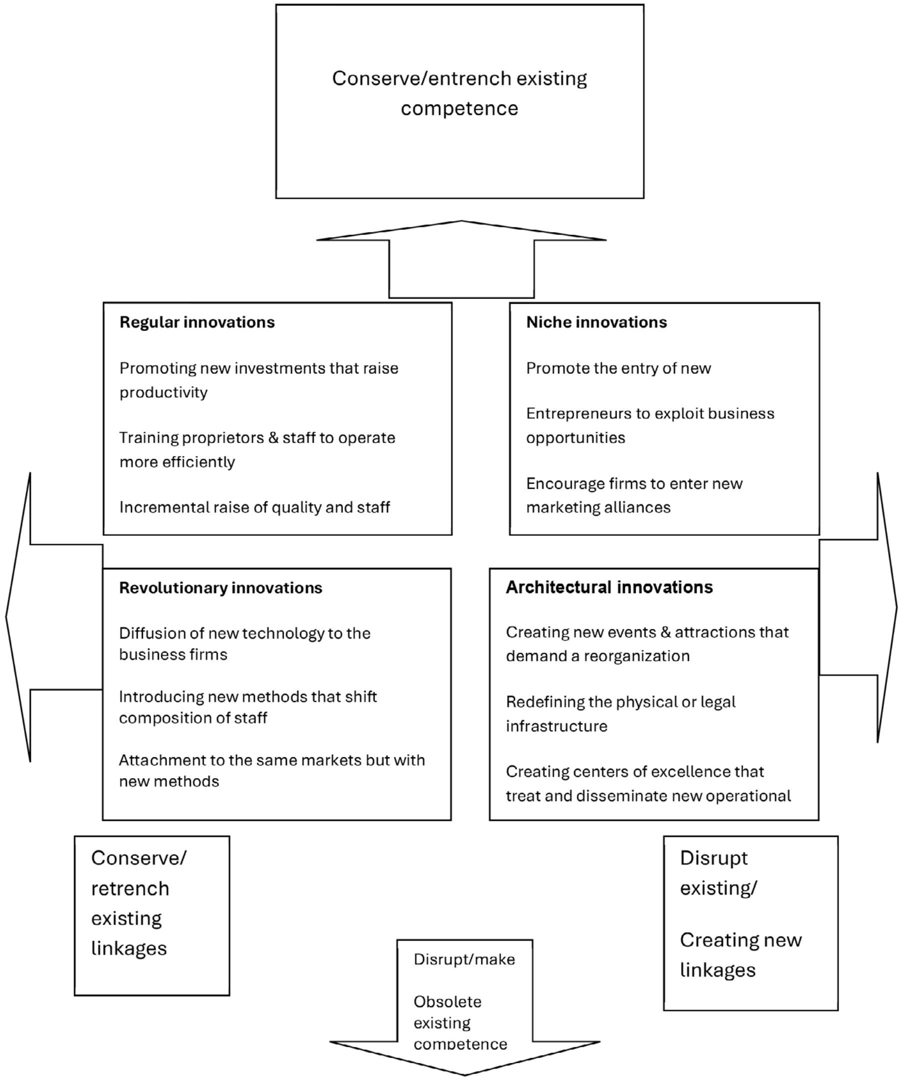

Fig. 1: The Abernathy & Clark Approach to Tourism Innovations. Source: Abernathy and Clark, 2002, In Hjalager, A. M. (2002) (Eds.).

"Knowledge is the only relevant resource today," according to Drucker (1993, p. 38); nevertheless, this may be a little deceptive, because knowledge is not only about having it, but also about disseminating and applying it in companies, regions and the whole country.

A city›s educational institution could be a fantastic illustration of inventive and wise initiatives that lead to increased competitiveness. Hjalager (2002) supported the idea of the importance of the institutional innovations and universities are for this reason are places, where these innovations could be found due to their knowledge capital. Similarly, Ward (1998) agreed that the educational institutions as for instance the universities are crucial for innovations, smart technologies.

4 Methodology

Qualitative research was conducted in this study and a case study approach has been applied. It was based on the collection of data by applying the research techniques of primary and secondary research. Primary research was conducted by the collection of questionnaires and by the application of the structured and unstructured interviews. Secondary research was based on the collection of materials from academic publications and materials about the studied destination, existing projects, and internet materials.

The University of Waterloo was a place of research and a major research activity during the post-graduate study stay in the years from 2006 to 2010 and later were collected additional sources.

The questionnaires were delivered by using social networks; however, in some cases were applied the direct interviews with the academics at the University of Waterloo by using the structured and unstructured interviews in order to complete the final view about the studied problematic.

5 Findings

The studied area of Waterloo is called the Technological Triangle and Knowledge Triangle of Canada and is compared to the American Silicon Valley in some ways. The population size of this region is about half a million. The City of Waterloo, as one of these three cities in the Technological and

Knowledge Triangle of Waterloo, with a population of over 113 thousand people, plays an important role in this agglomeration. The designation Technological and Knowledge Triangle was given to the city of Waterloo due to the existence of a well-known university, Waterloo University, in the area of the city as well as the existence of a second university, Wilfred Laurier University. Waterloo University has been ranked as one of the most innovative universities in Canada and in the world (http://www.macleans.ca/education/national-reputational-ranking-2016).

The science-oriented character of the university with a strong co-op program allowing students to combine their studies with practical experience enables them to support the entrepreneurship activities and the creation of start-ups not only among the students but also among the small entrepreneurs of the city. The existence of RIM (Science and Technological Park Research in Motion and The Centre for International Governance Innovation and the Institute for Quantum Computing) enabled us to provide a positive scientific environment for research and innovative activities. In the last decade, the university has focused on technical field studies on nanotechnologies. The second university, Wilfred Laurier University, in Waterloo, is business-oriented and is within walking distance of Waterloo University, which allows students to combine the programs and study courses. Wilfred Laurier University, which has an excellent business department, is also located in Waterloo.

It should be stated that the Waterloo region has, due to its education potential, a skilled and educated labor force, and excellent leadership and governance, the ability to attract investors, to create businesses, and to achieve financial success. The innovation component in the development of this city is evident in the presence of an enormous number of high-tech companies, as, for example, the above mentioned RIM (Research in Motion), Desire2Learn, OpenText, McAfee, Agfa, Sybase, Google, Electronic Arts, Dalsa,; and Sandvine, Kik Interactive, Miovision Technologies, Thalmic Labs, etc. Research in the field of physics is situated at the Perimeter Institute for Theoretical Physics.

The City of Waterloo ranks at the top positions in the number of patents, entrepreneurship incubators, and start-ups in Canada. In the primary research, conducted in the city of Waterloo were mostly valuated in the responds such qualities as the ethical principles, which were used by the local governmental representatives; an excellent image of a city; well-established

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governance; and transparency. The respondents also valued good investment and entrepreneurship prospects; excellent opportunities to promote culture; the quality of the educational institutions, health care facilities, well-governed social services; and the abundant employment opportunities. It could be stated that Waterloo ranks 25th in the world as the most productive city for ecosystems and start-ups. In order to keep this designation, Waterloo should become a leader in partnerships, technical expertise, and in the academic prestige built by two already mentioned universities.

Crucial for the designation of the innovative city and the innovation and technological hub is the collaboration of the University of Waterloo with the city representatives, with the second university, Wilfred Laurier University, and with the start-up companies. The Business Educational Partnerships program, promoted by the government of Canada as well as the provincial government, enables students to participate in hands-on learning at local businesses. The government is also providing financial support from the public budget and private companies are also participating in the financing of technological research at the University of Waterloo.

There exist several companies in the city of Waterloo that co-operate tightly in the programs of creating start-ups and innovation activities, and among such companies are, for instance, a company called Communitech and the Accelerator Centre, which are famous for the support of entrepreneurship in high-technologies. The University of Waterloo created alliances with the Waterloo Region and also cities of Waterloo, Kitchener, Cambridge, Stratford, Dumfries, Wellesley, Wilmont, and Woolwich. Partnerships are important for success and mutually beneficial growth.

Important is the collaboration of the University of Waterloo with the Chamber of Commerce and the Deputy for Entrepreneurship. The partnership has also been created with the company Communitech. This cooperation with public sector entities and companies is beneficial for the whole region and enables cities to attract new investors, students, visitors to the region and all neighboring cities. Several Ontario government activities were focused on the start-up creation.

Silicon Valley in the United States and the Ontario Technology Corridor are closely interrelated, especially through the educational institutions that tightly cooperate. There are exchange study stays for students and specialists. Entrepreneurs and companies from the USA visit the University of Waterloo and provide an employment campaign in order to hire the best graduates for their companies.

The city of Waterloo, by housing over 6,000 enterprises in the IT industry in the special centre of the city, is allowed to employ approximately 250 thousand employees. A good example is the Ontario Technology Corridor. It is important to mention in connection to this fact that the existing potential in the Waterloo Region, which has been strongly supported by the government and the city representatives as well as academia, is generating by the application of new IT technologies about 20% of Canada's GDP.

One good example of the partnerships is the companies Intuitive Business Intelligence Today and OpenText, which also contributed to the fact that Waterloo has become an intelligent city with the most innovative technologies and approaches.

Therefore, it is no surprise that in 2007, the city of Waterloo became a city with a designation as one of the world's intelligent communities. The city admitted that one reason might also be a tight collaboration between the city and both universities.

It is really beneficial that the municipality and the academic partners cooperate with numerous think tanks, for example, the already mentioned Perimeter Institute and the Center for International Governance, and the other creative business entities. There have been two case studies that have been described as good practice cases of collaboration between Waterloo University and other city partners for the case study purpose. These cases are two companies, e. g., Communitech and Velocity.

The company's Communitech goal is innovation, leadership, networking, and promotion. This alliance is a partnership of 450-members and its mission is to provide support for technological companies in a region and build technological clusters. Important is also a network of partners the cities of Waterloo and Kitchener and the whole region. A good example is the creation of the Canadian Digital Media Network (CDMN) and MIN (Manufacturing Innovation Network).

Another case of the productive mutual collaboration of the University of Waterloo with a practice is Velocity. This company has helped, since 2008,

approximately 160 entrepreneurs to create or run their businesses, raise money, and provide new employment opportunities in the city. This company is also strongly supported by the Ontario and Canadian governments in their activities. Since 2008, the activities of this company have been named as the Velocity Residence, Velocity Garage, Velocity Alpha, Velocity Science, Velocity Foundry, and Velocity Fund Finals (VFF). The last mentioned company is involved in the forming of start-ups in education and due to the partnership with the University of Waterloo were established 75 new companies. The University of Waterloo and their partners pay attention to the inclusion and support of young entrepreneurs in their entrepreneurial activities, which means creation of conditions for their business activities, the financial support in the first stages of their business activities. Velocity Fund, for example, provides a cash award of 375 thousand CAD to young entrepreneurs each year in exchange for their entrepreneurial support.

6 Conclusion

In this paper have been proposed several examples of mutual co-operation and partnership creation and co-creation in the Waterloo-Kitchener region. Waterloo is a city defined by the existence of two universities, one of which has been designated as the most innovative university in Canada. The designation is strongly based on the mutual cooperation of the university with its partners in the city and region, as well as the creation of a milieu on the university campus that supports the idea of entrepreneurship among students and local start-ups. In this process, a strong foundation has been established for the growth of knowledge capital, the knowledge economy, and smart technologies, which are part of the innovative activities. This has been strongly supported by the authors (Etzkowitz and Leydesdorff (2000) and also Hjalager, 2002).

The City of Waterloo and Waterloo University, as well as the cities of Kitchener and Stratford, are excellent examples of this success, and the Triple Helix Model (the educational co-operation among partners in the city) is a valuable case of good practice. It enables us to promote a process of innovation in the academic environment and to provide good conditions for innovations, digitalization, and also sustainable development in the service sector, where education belongs, as well as in the entrepreneurship environment.

Educational services, the digitalization process, and the quality of life in a territory could all be fully enhanced through the innovation process. The Waterloo region is one of the most developed regions not only in Ontario, but the entire country and continent of North America, and Waterloo University is one of Canada's most creative universities.

The examples of the city of Waterloo and its Waterloo University, as well as Kitchener and Stratford, are good examples of successful cooperation, which could be beneficial for different parts of Canada and the world as well.

It could be finally stated that even if there exist similar cities, it is not guaranteed that these cities achieve the same result. Even if these cities or regions apply the same management or marketing techniques, there are still more factors influencing their differences or success. It might be, for instance, safety, security, image, reputation, trust.

7. Limitation and future research

In the text above, it might be evident that some limitation could be that the research has been done in two phases due to the existing conditions at the University of Waterloo. The first stage was during the period between 2006 and 2010, and the second phase was between the years of 2011 and 2016 and recently was added new knowledge after the global crisis and uncertainty time in the world.

In the future, research could be done a comparison between the different cities and their universities in different cultural settings.

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