

Volkswagen: Still Too Much Power with Majority Shareholders?

Regulations protecting minority shareholders are not enough. States must enforce them.

On Friday 5th February in a “coup de théâtre” Volkswagen (VW) announced that the publication of the company’s results and its annual general meeting would be delayed to integrate the costs incurred following the diesel engine emission scandal. The company’s dramatic declaration was the climax of a stormy six months that had brought serious flaws in VW’s management and governance to light.

The company has received heavy criticism of its corporate governance, but more recently, the head of Norway’s sovereign wealth fund, Yngve Slyngstad, and minority shareholder in VW, **criticised VW’s ownership structure**, arguing that it concentrates too much power in the hands of the Porsche and Piëch families, which control the holding company, Porsche Automobil Holding SE.

Although the holding company has a 31.5 percent stake in VW, its voting rights total 50.73 percent. This ownership structure gives the family shareholders disproportionate power, weakening the influence of minority shareholders. Suggestions to change the group’s structure from minority shareholders following the scandal have been ignored. “This cannot be a role model for Germany,” said Slyngstad in an interview with the liberal German daily *Frankfurter Allgemeine Zeitung*.

So is VW’s governance partly reflective of German

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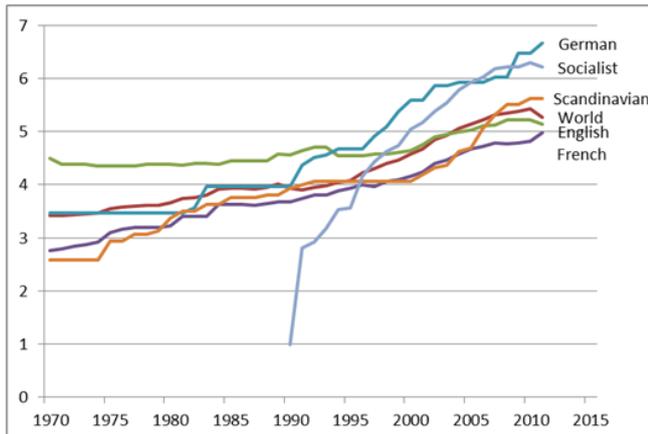
corporate governance in general or of its protection of minority shareholders?

Protecting minority shareholders pays

Business performance is influenced by both the quality of firm-level governance practices and that of its national legal system. If Germany is distinguished by the importance of the protection afforded to creditors then what about the legal protection provided for minority shareholders? In our study, **State Capacity, Minority Shareholder Protections and Stock Market Development**, my colleague from Wharton, **Professor Mauro Guillén** and I find that countries operating under German law have strengthened legal protection for minority shareholders in recent decades, as shown in the figure below.

(Figure 1: Average Index of Minority Shareholder Rights Protections for Countries within the same Legal Tradition, 1970-2011 (Guillén, Capron, 2016)
* Note: The index ranges between zero and 10.)

Minority Shareholder Rights Protection Index - Average for countries within same legal tradition



Source: Capron and Guillén

This finding was determined by looking at the adoption of minority shareholders' legal protections and the development of the stock market in 78 countries between 1970 and 2011.

Enforcement is essential

In light of our study, it appears that VW's shareholder structure is therefore an anomaly given the favourable legal framework that protects the interests of minority shareholders in Germany. But, as we elaborate [in this earlier Knowledge article](#), the adoption of legal provisions protecting minority shareholders is far from adequate. Enforcement of regulations is essential to building confidence in markets for investors to take risks. The beneficial effects of such protections are larger when the state has the capacity to enforce them by formulating and implementing policy.

In Germany's case, the adoption of measures to assure the protection of minority shareholders does not appear to be enforced in the implementation of corporate governance practices.

It is acknowledged that "common law" countries (mainly Anglo-Saxon) best serve minority shareholders' rights. According to Professor Rafael La Porta of Harvard University, in these countries nearly half of large corporations have a diffused ownership structure (i.e. low level of ownership concentration) that **reflects minority shareholders' trust**. This is reduced to a quarter in countries that have French, Napoleonic civil legislation or are derived from German and Scandinavian law. In these countries minority shareholder protection is the lowest.

If the state cannot guarantee enforcement through legislation then the adoption of minority shareholder protection measures is of ceremonial nature. Responsibility for improving corporate governance rests not only on companies but also on the state

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which must guarantee the effective implementation of legislation to protect all types of shareholders.

* The data related to **Guillen-Capron Shareholder protections Index** are made freely available by the authors.

Laurence Capron is a Professor of Strategy at INSEAD and The Paul Desmarais Chaired Professor of Partnership and Active Ownership. She is also the programme director of **M&As and Corporate Strategy**, one of INSEAD's Executive Development Programmes and the author of **Build, Borrow or Buy: Solving the Growth Dilemma**. Capron is also a LinkedIn Influencer. This article is a translated and edited version of one that appeared on **LinkedIn Pulse**.

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