


Dukić Mijatović S. Marijana*

 <https://orcid.org/0000-0001-9535-2962>

Uzelac N. Ozren**

 <https://orcid.org/0000-0001-6991-1644>

Stoiljković V. Aleksandra***

 <https://orcid.org/0000-0002-4324-4537>

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CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABLE DEVELOPMENT – INTERNATIONAL LEGAL FRAMEWORK FOR GOALS ACHIEVEMENT AND SOME THEORETICAL INSIGHTS

ABSTRACT: Achieving a sustainable development should be one of the top priorities for the whole society. However, achieving a sustainable development is a complex function of different economic, social, institutional, political and historical factors. By implementing the corporate social responsibility, companies contribute to a sustainable development of the entire social system. According to the fact that it is not entirely clear at the micro level what corporate social responsibility involves, and that most of the company-level social activities are voluntarily initiated, it is necessary the institutional bodies encourage socially desirable forms of corporate behavior and implement the legal framework to business obligations to elicit responsible business procedures. Though responsible corporate business is highly desirable, companies have to consider the

* LLD, Associate professor, University of Novi Sad, The Faculty of Technical Sciences, Novi Sad, Serbia, e-mail: marijana.mijatovic@uns.ac.rs

** LLD, Assistant professor, University of Novi Sad, The Faculty of Economics in Subotica, Subotica, Serbia, e-mail: ozren.uzelac@ef.uns.ac.rs

*** LLM, Teaching Assistant, University of Novi Sad, Faculty of Economics in Subotica, Subotica, Serbia, e-mail: aleksandra.stoiljkovic@ef.uns.ac.rs

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fact that the corporate interests and corporate social responsibility will always be constrained by the profit-maximizing prerequisites and general economic circumstances.

Keywords: *corporate social responsibility, sustainable development, business procedures, profit-maximizing orientation, legal framework.*

1. Introduction

Smooth and sustainable social development is a prerequisite for the stability and progress of the local, regional, and supranational political communities. It requires the economic, social and environmental dimensions to be achieved through the balanced and continuous progress of the national and international organizational units that corresponds to the rules and principles of the United Nations and other international organizations. Sustainable development (SD) is one of the top priorities for the national legislators that enact the country-specific regulations and implement defined international standards, rules and principles for sustainable local and regional development. Corporate Social Responsibility (CSR) is only one part of the stated ideal that economic and legal theory has stated in determining its content and defining it. Companies are becoming increasingly aware of the importance and impact they have on the environment in which they operate. If they want to be competitive, they should contribute to fulfilling the interests of their stakeholders. By implementing corporate social responsibility, companies not only have numerous benefits, but also contribute to national sustainable development.

Corporate Social Responsibility emerges as a new challenge in the light of the COVID-19 pandemic, and more than ever, it rises numerous concerns tightly connected to corporate social responsibility and sustainable development. We are witnessing a global interdependence, both at the company and national levels. Furthermore, there is a lack of classical interpretation of a company, having in mind its dual status as a legal entity and a profit-maximizing business entity. This paper treats some of these issues, aiming at analyzing the existing international legal framework for corporate social responsibility. Additionally, the paper highlights that the new reality requires CSR to be implemented just as an initial step toward sustainable development and overall social welfare.

The paper is structured as follows. After the introductory notes, the second section emphasizes the importance and benefits of corporate social

responsibility, the legal framework and the importance of institutions in achieving socially desirable forms of corporate behavior. The question is whether companies can behave socially unacceptable at all, or socially responsible, even when it is not required by law, having in mind that the modern business conditions imply competitiveness as the prerequisite of the long-term sustainability of companies.

The third section lists certain limitations in the implementation of corporate social responsibility, depending on the conditions and circumstances of a profit-oriented business. As Friedman states “The Social Responsibility of Business is to Increase its Profits” (Friedman, 1970) and companies must be careful when implementing the socially responsible activities. Namely, they should primarily pursue the corporate interests by making optimal economic decisions. On the other hand, society needs successful companies, those that not only prioritize responsible businesses, but also external activities that affect wider environment.

Finally, the fourth section concludes. In this regard, corporate social responsibility will be additionally regulated, not only within the companies and relations with the society as a whole, but also in defining business ethics, both in terms of maintaining existing economic activities and in choosing the future activities.

2. Is Corporate Social Responsibility a Choice, Obligation or Necessity in The Business of Today’s Companies?

The undisputed goals of every social community are to meet the needs of its members, survival of the community and its development and improvement. The role of the way the system of management of social, economic and other areas of life functions is obvious. Democracy, the rule of law and the liberal economy stands out as the generally accepted model of the organization of modern society, which should guarantee the achievement of the above goals. However, how can a society resist and counteract the negative impact of excessive consumerism and the race for profit created by nothing but selfishness that leads to poverty and social exclusion of other members of society when the practice of socializing the capital losses of large businesses has settled? This inevitably raises a question about the morality of systems and institutions that should play a key role in preventing such phenomena. The last global financial crisis exposed this as a manifestation of when taxpayers, instead of financing programs of general interest to society, covered the consequences of other people’s greed and disinterest in the common good

(Jovanović, 2012, p. 72). Thus, the minority in the financial power centers jeopardized the sustainable functioning of the state and deprived individuals and their families of the right and opportunity to enjoy the present and future due to unemployment, loss of social security and pensions (Jovanović, 2012, p. 72). Such events indicate that today's societies need to go a long way to the highest possible level of conscientiousness and honesty of decision-makers who can significantly influence the sustainable development of individuals' rights and social balance.

The behavior of individuals in society is governed by various norms: educational, customary and institutional (laws and by-laws). Legal rules of conduct are a special kind of so-called "obligatory" morality by which a society protects certain values or achieves its desired goals (Jovanović, 2013, p. 156). The extent to which the practice of acting under the norms of the law is an imperfect means of combating the irresponsible social behavior of business entities can also be seen from the fact that the use of a fact or condition to obtain an advantage in the market may not always be contrary to the law.

There are many examples of socially irresponsible behavior of businesses such as cheating consumers, investors, government institutions, exploiting and mobbing employees, putting consumers in dangerous situations, polluting the environment, etc. Socially irresponsible behavior of an economic entity is determined by applying certain standards of guaranteed rights (right to a healthy environment, right to consumer protection, etc.) and general legal principles (the principle of conscientiousness and honesty, the principle of prohibition of abuse of rights and other legal and other principles), coercive and other regulations and codes of conduct in relation to the disputed facts.

Campbell (2007), in his Institutional Theory on Corporate Social Responsibility, stresses the importance of institutions in achieving the goal of market participants behaving socially responsible, while also bearing in mind the free-market institutions whose inadequate functioning was the cause of the global financial crisis that erupted at the end of 2007. We believe that this theory is due to the nature of the liberal economic system, in which it is considered that the role of the state in the market should be minimal. Consequently, this means that all third parties interested in the business of corporations are left to the conscientiousness and morality of their corporate governance and business procedures, which, after the outbreak of the global financial crisis, was seen as a key issue. The same author plastically explains that if corporations are to maximize profit and share value, then it is logical that corporations will do anything to achieve this goal, perhaps by acting in

socially irresponsible ways if they think they will go unpunished (Campbell, 2007, p. 946). In legal theory, there are occasional attempts to illustrate CSR behavior with specific examples. For example, in the field of business of an insurance company, the legal theory points out that socially responsible and moral conduct of insurance companies entails abstaining from certain actions (refraining from discriminating against the insured regarding the possibility of concluding insurance under certain insurance conditions, refraining from the unreasonable delay with payment insurance premiums, etc.) (Jovanović, 2013, p. 163). We believe that the above examples of unacceptable behavior in the insurance industry cannot be the only ones by which the corporate social responsibility of insurance companies is measured, because it is much broader and depends on the specific circumstances. It should be borne in mind that efforts to maintain or expand insurance coverage can also be seen as positive behavior by insurance companies, which thus extend the distribution of socially valuable and useful goods and contribute to collective well-being (Stone, 2002, p. 70). Likewise, citing individual examples of socially irresponsible behavior in other economic-legal relationships certainly cannot constitute a definitive list of all possible manifestations of such behavior by economic entities.

In legal theory, Porter and Kramer emphasize that corporate social responsibility should not be the result of tensions, but its manifestation should be sought in the interdependence of firms and society (Porter & Kramer, 2006, p. 5). According to him, interdependence manifests itself as a link that acts two-way through the impact of the firm's business on the company and through the influence of social conditions on the realization of the company's strategy and its overall business. Under social conditions, it entails four basic categories: the first are quantitative and qualitative business conditions (available workforce, transport, infrastructure, etc.), the second is a legal framework that affects competition (in relation to intellectual property, transparency, combating corruption and fostering investment), the third is the size and sophistication of local demand (influenced by the product quality and safety standards, consumer rights and fairness in public procurement) and the fourth is the existence of an accompanying industry and machine manufacturer (Porter & Kramer, 2006, p. 6).

Socially responsible business practices in companies represent a concept according to which economic entities consciously and voluntarily dedicate themselves to activities in order to have a positive impact on their work, social and natural environment. This behavior is a consequence of developing an awareness of the importance that companies have in modern society (Aleksić,

Komazec & Stoiljković, 2017, p. 9). CSR has been used as a synonym for business ethics, defined as tantamount to corporate philanthropy, and considered strictly as relating to environmental policy (McWilliams, Siegel & Wright, 2006, p. 8). Modern business philosophy assumes that an organization must be responsible for its actions and deeds that affect all active members of the community. Companies that want to be competitive should satisfy the interests of a large number of interest groups operating within a particular business environment (Ćeha, 2013, p. 1). The need to balance the content and scope of corporate social responsibility was aided by the positively formulated definition of the International Organization for Standardization. This definition defines the content of social responsibility not only of economic entities but also of groups of persons with easily identifiable competences, authorities and goals. According to this definition, social responsibility is the responsibility of an organization or group of persons for positive or negative changes in society, economy or environment that are wholly or partly due to decisions and activities of the past or present through transparent and ethical behavior that: – contributes to sustainable development, including the health and well-being of society; takes into account the expectations of stakeholders; which is in accordance with positive regulations and international standards of behavior; and which is integrated throughout the organization and applicable to the relationships it enters into (International Organization for Standardization, sec. 2.18). The above definition covers four important assumptions of corporate social responsibility, namely: sustainable development of society, protection of interested parties (for example, consumers), the legality of concrete behavior and adaptation of corporate organization to the principles of corporate social responsibility. We believe that the essential prerequisites for achieving the set goal are thus covered. The aforementioned assumptions also represent the obligations of the legislative and supervisory-regulatory bodies in adopting regulations, adopting rules and supervising them, as well as all other institutions and economic entities that they must implement when satisfying individual interests (consumer protection and profit-making – authors note).

Today's organizations are immersed in a global market, where any detail can provide a competitive advantage over rival companies and condition their sustainability (Herrera & de las Heras-Rosas, 2020, p. 841). CSR is becoming increasingly important for business organizations. It is clear that this is going to become a standard in business, having in mind that EU commission created a certain number of directions, there is already presented ISO standard 26000 related to the social responsibility, and also many other benefits that CSR can bring to the business and wider community and environment (Grubor, Berber,

Aleksić & Bjekić, 2020, p. 9). According to Van Marrewijk the philanthropic approaches might be the roots of CS, but the different approaches to corporate responsibility clearly show that CSR is a new and distinct phenomenon. Its societal approach especially appears to be a (strategic) response to changing circumstances and new corporate challenges that had not previously occurred (Van Marrewijk, 2003, p. 3). Modern management emphasizes that one of the obligations of business institutions is to engage in solving certain social problems that are outside their usual field of activity if they have the knowledge and experience to solve them (Certo & Certo, 2008, p. 51).

Business practices of the world's most successful corporations show that there is a high degree of correlation between the positive opinions of interest groups within the company and the quality of business (Čeha, 2013, p. 9). Corporate responsibility as strategic determination of business increases financial performance of company, decreases some costs, reinforces ethical behaviour and job satisfaction, and enhances business reputation (Knežević & Mijoković, 2017, p. 31). Accordingly, in recent years, CSR activities have been recognized as a natural obligation of firms. As sustainable management has become much more important, firms have begun to recognize CSR internally as an important business strategy (Cho, Chung & Young, 2019, p. 1). Enterprises become aware that a corporate social responsibility can be used as a strategy to foster sustainable development of enterprises (Jarmuševića & Iliško, 2019, p. 82). The responsibility of a company towards environment strengthens its reputation, increases the value of corporate brand and ensures long-term sustainable development (Mandarić & Milovanović, 2016, p. 412). The companies that establish a symbiosis between the principles of profitability and social responsibility have long-term growth prospects (Krivokapić, 2014, p. 281).

Realizing the importance the corporate social responsibility has for the business development, the biggest challenge facing the modern organizations is to develop politics and practices in the CSR area and to successfully implement them into the organization's corporate development strategy (Petrov-Stoyanov, 2018, p. 728). Business organizations face globalization processes and related economic competition, technological change as well as new cultural models, notably, those related to sustainable development, the dynamics of social networks and the knowledge society. They are not only at the forefront of numerous social transformations but are also compelled to change their own perspectives and to integrate, either voluntarily or under external pressure, new concerns, such as CSR and sustainable development, which are now widely recognized at the international level (Sales, 2019, p. 3). In order to move CSR from the zone of voluntarism to the zone of obligation, it

is necessary to institutionally define and achieve a balance between economic, environmental and social imperatives (Drašković & Lojpur, 2014, p. 20).

3. Some Limitations and Business Implications of CSR Implementation

Implementation of sustainable development according to the UN Resolution “The Future We Want” (United Nations, 2012) depends on the active engagement of both the public and private sectors. The resolution emphasizes the special role of national regulatory and policy frameworks that enable business and industry to advance sustainable development initiatives, while the private sector should engage in responsible business practices (United Nations, 2012, p. 46). Also, the Resolution affirms the importance of corporate sustainability reporting and states that listed and large companies in particular should consider integrating sustainability information into their reporting cycle (United Nations, 2012, p. 47).

The above-mentioned UN recommendations are covered at EU level in the form of regulations that had to be implemented by EU Member States several years ago (Directive 2014/95/EU), to further elaborate on how to implement it later on by the European Commission with its implementing regulation. Probably given that large businesses have a decisive influence on the sustainability of development, and referring to the aforementioned UN Resolution of 2012, the 2014 EU Directive stipulated that the obligation to report facts necessary to understand their development, performance, position and impact of business at least in relation to the environment, impact on society and employees, respect for human rights, and anti-corruption issues are experienced by large companies, joint-stock companies and public enterprises with an average of 500 employees during the financial year. It is non-financial reporting that can be an integral part of the regular financial and operating reports or in the form of stand-alone reports. Also, these reports should not deal with the overall business and all circumstances of the business entity, but only those that were relevant to sustainable development in the reporting year. Recognizing the reasons why SMEs (small and medium-sized enterprises) and entrepreneurs are exempt from this obligation, the question arises as to whether and to what extent they can decisively influence the fastness of sustainable development? Can any of them in their business lead to environmental pollution or otherwise impair the interests of others? We believe that the answer to the question posed is far from certain, given that large enterprises have a decisive influence on all aspects of corporate social

responsibility, and that entrepreneurs, small and medium-sized enterprises, do not have this importance (Guidelines on non-financial reporting, 2017).

Based on the insight into selected international legal sources, certain conclusions can be drawn. Failure to prescribe more precise obligations with respect to desirable – corporate responsible behavior, apart from the summary reporting obligation as assessed by the business entity, seems to leave much room for omitting or distorting negative facts and circumstances. Apart from the aforementioned, given that the views expressed in the resolutions of the UN General Assembly are, by their nature, recommendations for action, and that the rules of the aforementioned EU Directive 2014 do not regulate many other issues of social development, there are a number of areas (activities of various associations, providing humanitarian assistance, assistance in cases of natural disasters, support for civil initiatives or actions, etc.) in which corporate social responsibility remains a matter of goodwill of corporate governance whose decisions are limited by the interests of shareholders. It is precisely the shareholder-oriented attitude that is problematic in the shareholder form of capitalism, and even more so in relation to corporate social responsibility (Smith, 2011). Pelgrin described this problem in the business of reinsurance companies, which states that relativistic ethical guidelines that emerge from the inside out (ethics, interpretation and treatment in the way understood by corporate governance in external interactions – authors note) are aimed at improving financial business and management efficiency, not to apply an ethical approach inherent in an individual, organization, and society in open systems (Pelgrin, 2008, p. 15). In any case, corporate social responsibility will always be limited by the conditions and circumstances of a profit-oriented business, with corporate social responsibility still dependent on the corporate governance conscientiousness and ethics. It will primarily take into account the corporate interest that cannot be the victim of economically irrational decisions. In the market economy and extreme competition in the global market, economic motives play an important, and perhaps even the most significant role in making decisions on the implementation of socially responsible activities, which is totally understandable. After all, companies are profit organizations, and it is illogical to expect from them to take actions that are inconsistent with the goal of achieving positive financial results (Stojanović-Aleksić & Bošković, 2016, p. 1383). Social activities, as a rule, are useful and achieve certain social goals, but it is not realistic to expect that their financing is fully borne by socially responsible companies. There is still intensive discussion whether business schools have failed to incorporate enough of business ethics and a deep understanding related to real-world responsibilities (Blomkvist &

Uppvall, 2008, p. 58). However, we believe that corporate social responsibility must be respected to the greatest extent possible when it comes to protecting human rights and protecting the environment.

In addition to the above, one should also bear in mind the conclusions of economic theory regarding the definitions and possibilities of achieving corporate social responsibility. Thus, attempts were made to measure the degree of comparative corporate social responsibility in a number of countries in business practice, and it was concluded that the prevailing definitions of corporate social responsibility were not suitable as a basis for comparative measurement (Gjølberg, 2009, p. 12), that the statistics on the relationship between corporate social responsibility and corporate financial performance are too variable and fragmented to draw any general conclusions (Orlitzky, Schmidt & Rynes, 2003). Attempts to measure or compare corporate social responsibility are likely to remain only an unfulfilled goal due to the large number of variables in terms of data and methodology.¹ The literature also cites one reason why it is not always realistic that corporate social responsibility will be manifested in the right way. It is a matter of passing on the social costs associated with any activity, product or service to customers through their higher prices (Certo & Certo, 2008, p. 51), which is certainly not acceptable for consumers and for companies that may lose competitiveness on the market.

4. Conclusions

The idea of sustainable development relies on the existence of a constantly evolving society in order to preserve social cohesion and peace. In achieving this objective, national legislators must implement properly selected policies at the local and regional levels that are also harmoniously integrated at the national and international levels. The National Assembly

¹ Some of the variables are: The Dow Jones Sustainability™ Europe Index, which consists of 20% of Europe's largest corporate leaders out of 600 in the area of corporate social responsibility according to the S&P Global BMI (Standard and Poor's Global Broad Market Index) based on long-term economic, environmental and social criteria. Available online: <https://eu.spindices.com/indices/equity/dow-jones-sustainability-europe-index> (accessed on 01/10/2021); The WBCSD (The World Business Council for Sustainable Development) made up of CEOs from over 200 companies working for sustainable development by advocating for best business practices in corporate responsibility. Available online: <https://www.wbcsd.org/Overview/About-us> (accessed on 01/10/2021) and the UN Global Compact, an initiative of over 11,500 companies, non-governmental organizations, universities, UN bodies and labor unions, with a view to achieving 10 basic principles in the fields of human rights, labor relations, protecting the environment and fighting corruption. This is an initiative of the UN Secretary-General. Available online: <https://www.unglobalcompact.org/> (accessed on 01/10/2021).

should pass appropriate legislative and appropriate budgets, whereas the executives should effectively implement the prescribed obligations in cooperation with local/regional governments, national and international institutions and organizations. Such a legal framework must highlight the role and comparative advantage of an adequately organized and coordinated system in achieving sustainable development within a country. However, the legal framework itself is not a guarantee of achieving the predefined goals without an effective and substantive implementation that can deliver the intended results.

Companies are facing globalization, increasing competition and various pressures from consumers, NGOs, etc., which in a way forces them to behave socially responsible. By implementing corporate social responsibility through the socially oriented activities, companies can achieve numerous benefits such as better reputation, increasing financial performance, long-term growth and business sustainability. The company-level voluntary social activities are very important for achieving sustainable development; however, society cannot rely only on the willingness of the companies, and it is necessary to move CSR from the zone of voluntarism to the zone of obligation.

Corporate social responsibility in the implementation of the legal framework for harmonious sustainable social development is primarily about the obligation of business entities to adopt and implement responsible business procedures. They must reconcile the interests of an economic entity with the interest of national development. Bearing in mind frequent disinterests of the business entities in undertaking socially responsible measures, the role of institutional bodies should be more pronounced through the sophisticated incentives for socially desirable forms of corporate behavior. This kind of practice will propagate from the micro-level to the national level and have a positive impact on sustainable development of the Republic of Serbia.

We believe that the Republic of Serbia should follow the rules and standards of the European Union, including the 2014 Non-Financial Reporting Directive and pay a special attention to large enterprises and their impact on aspects of corporate social responsibility. On the other hand, entrepreneurs, and the small and medium-sized enterprises do not have such a huge impact on the economy and should not be unnecessarily overwhelmed by these obligations.

Dukić Mijatović S. Marijana

Fakultet tehničkih nauka, Univerzitet u Novom Sadu, Srbija

Uzelac N. Ozren

Ekonomski fakultet u Subotici, Univerzitet u Novom Sadu, Srbija

Stoiljković V. Aleksandra

Ekonomski fakultet u Subotici, Univerzitet u Novom Sadu, Srbija

DRUŠTVENA ODGOVORNOST I ODRŽIVI RAZVOJ – MEĐUNARODNI PRAVNI OKVIR ZA OSTVARIVANJE CILJEVA I NEKI TEORIJSKI UVIDI

REZIME: Postizanje održivog razvoja trebalo bi da bude jedan od glavnih prioriteta celog društva. Međutim, postizanje održivog razvoja je složena funkcija različitih ekonomskih, društvenih, institucionalnih, političkih i istorijskih faktora. Sprovedenjem društveno odgovornog poslovanja kompanije doprinose održivom razvoju celokupnog društvenog sistema. S obzirom na to da na mikro nivou nije sasvim jasno šta je korporativna društvena odgovornost i da se većina društvenih aktivnosti na nivou kompanije pokreće dobrovoljno, neophodno je da institucionalni organi podstiču društveno poželjne oblike korporativnog ponašanja i primenjuju zakonski okvir na poslovne obaveze i time da izazovu primenu odgovornih poslovnih procedura. Iako je odgovorno korporativno poslovanje veoma poželjno, kompanije moraju da uzmu u obzir činjenicu da će korporativni interesi i korporativna društvena odgovornost uvek biti ograničeni preduslovima za maksimiziranje profita i opštim ekonomskim okolnostima.

Ključne reči: korporativna društvena odgovornost, održivi razvoj, poslovne procedure, orijentacija ka maksimizaciji profita, pravni okvir.

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