

LEGAL ASPECT OF CORPORATE SOCIAL RESPONSIBILITY IN REPUBLIC OF NORTH MACEDONIA

Ceneta Telak Durmishi

International Balkan University - Skopje, telak.ceneta@gmail.com

ABSTRACT

As a candidate country to full membership in the European Union, North Macedonia has been reviewing and harmonizing its laws, bringing the North Macedonia legal system to an equal level with the material and procedural laws of most developed countries in the world. After the introduction of CSR in 2002, the importance of this concept was quickly acknowledged by the government and other stakeholders. In 2008, North Macedonia became the third country in the EU, after Denmark and Lithuania, to adopt a national CSR Agenda and the North Macedonia document stipulates that the concept of CSR includes compliance with legal obligations.

The fact that corporate social responsibility has been increasingly present in today's society cannot be denied. Despite the continuous debate as to whether or not firms should have social responsibilities, research indicates that consumers seem to care about CSR and therefore it is in the best interest of the company to do so as well, it is 'seem to care' because the concept of CSR is characterized by a significant attitude-behaviour gap. Nevertheless, studies indicate that nowadays most consumers expect companies to have fairly high levels of CSR. It reveals the legislative efforts of a country in transition to raise awareness and include CSR principles in business strategies, culture, and day-to-day business operations. The research gives examples of the measures taken to create legal obligations in respect of CSR-behaviour and CSR-reporting.

Almost ten years after its introduction, CSR is still a relatively new concept in North Macedonia. Yet, with a comprehensive approach that includes the government, various ministries, business organizations, labour unions, NGOs, academia, and the media, the country managed to become a leader in the region regarding CSR.

KEYWORDS: North Macedonia, CSR, legal obligations, behaviour

1. INTRODUCTION

There are different views regarding the relationship between CSR and business. The concept of CSR is still unclear because there are many institutions that focus only on business to make and increase profits while other businesses are interested in adopting a good sense of CSR. According to Carroll (1983), "corporate social responsibility involves the conduct of a business so that it is economically profitable, law abiding, ethical and socially supportive. To be socially responsible then means that profitability and obedience to the law are foremost conditions when discussing the firm's ethics and the extent to which it supports the society in which it exists with contributions of money, time and talent" (p.608). From the above definition, CSR entails that companies should give back the benefits to the consumers and other stakeholders. This means that companies should not only be concerned with their profit but they need to help socially and environmentally. If the company doesn't have responsibility with the society, the people or non-government organizations (NGOs) will criticize the company. Thus, companies have to be responsible with other stakeholders and the social environment. However, nowadays it is difficult at times for some companies to adopt a good sense of CSR because they often want to engage only in direct profitable ventures. According to Porter and Kramer (2003), the Strategic Philanthropist, companies can benefit by engaging in CSR activities. It will focus on the cluster and improve capability of the business

but CSR should make the profit at the same time. So, companies find the best strategy for making sure that businesses have responsibility regarding social issues and make profit at the same time. CSR is examined through existing literature leading to a definition and social responsibility is explored. CSR is viewed as an umbrella concept, which includes corporate citizenship, corporate sustainability. As the market incentives for socially responsible behavior of companies are still rather rudimentary in north Macedonia's context, the recent debate on CSR is confirmed in the increased number of companies interested in implementing CSR. As already mentioned, this is relevant phenomenon that has interesting implications in several economic fields. In order to analyse this topic further, as a starting point we need to understand the factors that are main pushers to this action. It is especially important to investigate why business corporations or organizations decide to sustain the costs required for taking this action. Our results will allow us to distinguish different aspects and to offer certain reflections.

2. UNDERSTANDING CORPORATE SOCIAL RESPONSIBILITY THROUGH DEFINITIONS

The European model is much more focused on operating the core business in a socially responsible way, complemented by investment in communities for solid business case reasons. Personally, I believe this model is more sustainable because Social responsibility becomes an integral part of the wealth creation process - which if managed properly should enhance the competitiveness of business and maximize the value of wealth creation to society. When times get hard, there is the incentive to practice CSR more and better - if it is a philanthropic exercise which is peripheral to the main business, it will always be the first thing to go when push comes to shove. But as with any process based on the collective activities of communities of human beings (as companies are) there is no 'one size fits all'. In different countries, there will be different priorities, and values that will shape how business act. And even the observations above are changing over time. The US has growing numbers of people looking towards core business issues. For instance, the CSR definition used by Business for Social Responsibility is:

- ☐ Operating a business in a manner that meets or exceeds the ethical, legal, commercial and public expectations that society has of business.

On the other hand, the European Commission hedges its bets with two definitions wrapped into one:

- ☐ A concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment. A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.

When you review each of these, they broadly agree that the definition now focuses on the impact of how you manage your core business. Some go further than others in prescribing how far companies go beyond managing their own impact into the terrain of acting specifically outside of that focus to make a contribution to the achievement of broader societal goals. It is a key difference, when many business leaders feel that their companies are ill equipped to pursue broader societal goals, and activists argue that companies have no democratic legitimacy to take such roles. That particular debate will continue.

3. CORPORATE SOCIAL RESPONSIBILITY IN NORTH MACEDONIA

Even the activities of Corporate Social Responsibilities of the business corporations in Republic of North Macedonia in the recent years has an increase aware from the same cooperation's is still unknown and unclear for the big part of the people in the same country. In some recent research done and years before it is stated that 21.65% of the population in this country the CSR term is unknown, 48.45 % has heard about CSR term but for them is still unclear to define it, and at last 29.9% of the people this term is well known. In North Macedonia companies that are implementing this Corporate Social Responsibility strategy has fully understood the real meaning of this term and they are explaining it like not to care just about the profit but also to care about the well situation of the environment and the people living in that same environment. Also companies in North Macedonia has understood CSR as an outdoor component

which is indented from the requirements of the environment, in which they are trying to give them responses with all their abilities and also like a component in which every company should and must involve it in its strategy and in its mission statement. While in the well developed countries the concept of Corporate social responsibilities implementations are connected with the good will of the company which are overpassing the law requirements in order to minimize negative and to maximize the positive effect of the same companies effects over the community and the environment, for North Macedonia Managers on the other hands they are understanding and implementing this practices parallel with the law requirements from them, for example: giving the workers' salaries on time, payment of the taxes on time, payment of the liabilities to the suppliers on time, on time delivering the products to the customers. This reflects that in which rule of law cannot be taken for granted. Taking all this in consideration Corporate Social Responsibilities of the companies in North Macedonia reacting on one community can be defined in the three main levels:

Firstly, adherence to legal obligations (for example taxes, health and security, workers' rights, customer's rights, ecological regulative)

Second, minimizing or eliminating the negative effects of business of society (for example, breaking the human rights or pollution)

Finally, it refers to increasing positive effects of business and creating value through innovation (for example, opening new working places, solving conflicts.)

SWOT Analysis for the Corporate Social Responsibility Development in North Macedonia

3.1. Business Prospective of Social Responsibility in North Macedonia

The ongoing process of economic globalization and the emergence of new commercial and technological capabilities have shifted the border of the responsibilities of those governments and businesses. Businesses now face growing pressure despite compliance with laws explicitly commit to voluntary measures for environmental and social. They are required to accept the responsibilities which lie beyond the gates of their facilities and the boundaries of their home country.

Companies that make real achievements in environmental protection, ensuring the welfare of its employees and helping the society to develop not only meet the expectations of their stakeholders, but also serve their own vital interests. As for this, it is important that CSR should not be seen as something modern, but to develop and implement CSR strategy which is incorporated into the overall business strategy to ensure its sustainability.

However, it should keep in mind that the pressures they feel North Macedonia companies from the media, NGOs, consumers, trade unions, investors, business partners and the state, in response to socially irresponsible behaviour are much weaker than those in developed countries. On the other hand, companies with socially responsible activities often do not provide sufficiently strong recognition of the domestic market from the media and the state.

3.2. Government Perspective

3.2.1. EU Accession

The European Commission sees social responsibility as part of the business contribution to sustainable development and to the European strategy for growth and jobs, given that CSR has the potential to contribute to various common goals, such as social cohesion, economic competitiveness and a more rational use of natural resources. In the EU, CSR is grounded in the employment and social policies of companies, environmental policy, consumer policy, public procurement policy and external relations.

For North Macedonia the accession to EU will require acceptance of the norms and principles of the EU, including Recognizing and promoting CSR and its contribution to social cohesion and sustainable competitiveness and development. This would inevitably require reviewing of governmental policies in

areas affected by the concept CSR, developing a comprehensive CSR agenda, implementing activities to support and monitor progress in achieving the goals of CSR.

3.2.2. Organization and Coordination of Activities

National Coordinating Body for CSR as a permanent working group of the Economic and Social Council of the Government, is responsible for developing dialogue between stakeholders and identify joint activities to promote and implement CSR.

Ministry of Economy acts as coordinator of activities to promote CSR in the state institutions and this role should be formalized by a government decision. The body serves as a key focal point for activities to promote CSR in North Macedonia, as coordinator of different sectors and actors co involved in this field, and based on the reference study on CSR and the National Agenda, will develop action plans for CSR. National Coordination Body should submit proposals, strategic guidelines and action plan to the Economic and Social Council.

3.3. Potential Sources of Funding

CSR is increasingly attracting funding from multilateral and bilateral donors on the basis of prepared action plans, especially when it comes to EU funds. Other international development agencies such as the World Bank, UNDP, USAID, In Went, also provide funding for specific areas of CSR. Government, with its long-term strategic visions and plans can channel external funds in the mostly used areas and to ensure coordination between different initiatives. The government can create a platform and good conditions to attract further external attention and funding through demonstration of good results in key areas such as social protection of vulnerable groups, the emergence of workers and strengthening the social dialogue between social partners.

Despite external funding opportunities, the resources of the North Macedonia government are of great importance and should create an incentive for financial participation of local authorities and other stakeholders.

The Ministry of Economy of the Republic of Macedon acts as a coordinator of CSR promotion activities on behalf of state institutions. It has a dedicated unit for CSR promotion and provides a Secretariat to the National Coordinating Body on CSR – which is consisted of 16 institutions, organizations and one independent expert.

3.4. The Coordinating Body

- Serves as a multi-stakeholder forum for policy dialogues and consultations between various CSR stakeholders;
- Drafts a national CSR policy and through the Ministry of Economy submits it the Government for adoption;
- Coordinates activities on promoting CSR among the members and other organizations working in North Macedonia;
- Disseminates knowledge and best practice cases among members and other organizations working in North Macedonia through initiating and preparing informational materials on CSR as well as learning, dialogue and advocacy events;
- Advocates for a better environment for CSR;
- Promotes and raises support and resources for CSR promotion activities.

4. ADVANTAGES OF SOCIAL - RESPONSIBLE COMPANIES-INCENTIVE TO PRACTICE SOCIALLY

4.1. Responsible Business

Promoting social responsibility is important for attracting foreign investments because the approval marks loans or investment securities, experts say this issue. Multinational corporations in management Risk management and supply chains require environments which has advanced practices in corporate social responsibility. It is considered as an advantage in business in developing countries. This practice leads to competitive advantage, by improving the company's image, preserving its reputation, fostering motivation of employees, and satisfaction with the workplace, encouraging innovation, and certain conditions and by reducing costs and increasing customer loyalty.

North Macedonian companies to use part of these investment vehicles, you have to change the way I lead everyday business activities and should incorporate the principles of socially responsible behaviour into their development strategies. Legal requirements (at least on paper) have been designed especially advantages offered socially responsible companies in the area of tax relief pursuant to Donations and sponsorships in public activities. The way his implementation and understanding of the term public interest is special theme for yourself to cultivate, but here I will focus only on tax breaks enjoyed by companies that allocate a part of its assets (tangible or intangible) to the common good community.

Profit tax - the company donating donation is recognized as expenditure in the tax balance totalling 5% of total revenue, and sponsorships amount of up to 3%. Property tax is the donation of objects and material goods exempt from inheritance tax and gift. Freed from taxes property within five years following the year in which the donation is done. VAT, the donation will not be burdened with VAT and the compensation of tickets for cultural, sports or other public event VAT is calculated if all proceeds are used for financing activities of public interest. VAT is not calculated nor the compensation for communication service when a user donates money for financing activities of public interest.

5. CHANGES IN THE NORTH MACEDONIA LAW FOR CORPORATE SOCIAL RESPONSIBILITY

The most important changes in the law introduced by the amendments of 2014 are:
Improving the functionality and availability of tax incentives terms of personal income tax;
Acquisition of tax incentives in case of advance payment of personal income tax;
•Resolving the differences between monetary and non-monetary benefits in provisions regulate tax incentives for value-added tax;
Improve the efficiency of reporting to donors by allowing them to make their statements with the annual financial report;
Allowing exceptions for signing up for donations in writing form associations and foundations that have the status of public interest or which are engaged in activities of public interest; and
Giving the right and the recipients' administration to seek a solution to confirming the public interest.

5.1. Main Challenges Identified Through North Macedonia Law for Corporate Social Responsibility:

Definitions of key terms and terminology used in the Act inconsistent;

- Administrative procedure for obtaining tax relief is long and complex, with no clear determination of how determined the public interest;
- The public interest is related is confirmed for a specific donation / sponsorship instead of the recipient;
- The law does not comply with the public benefit status introduced by the Law on associations and foundations;

- The law does not distinguish between profit and nonprofit recipients of donations and sponsorships;
- The law is restrictive in terms of cross-border philanthropy.
- The provisions governing reporting and control donations / sponsorships not determined proportionate requirements; and
- The law provides for personal responsibility of the representatives of legal entities for violations of the law without distinction between intentional and negligent behavior.

Financial sustainability is one of the main challenges that need to cope with civil society organizations. In order to preserve financial sustainability, citizen organizations need to diversify its assets and cannot be rely solely on funding from foreign donors. One potential sources of income are contributions from the general public through philanthropic donations.

To support philanthropic donations, countries around the world have introduced tax incentives for potential individual and corporate donors. In this country, the first law regulating philanthropic activities was adopted in 2006 on the initiative of five MPs and support from a number of MPs of all parliamentary groups. The main purpose of the Donations and Sponsorships public services was to increase the number of payments (donations and sponsorships) for Public activities of public interest (e.g.: activities in the field of protection of human rights, the promotion of culture, education, etc.), by introducing tax incentives for donors. Despite the good initiative, the Law had a few problem areas which resulted in complications in its practical application. One of the main challenges was inconsistent use of terminology throughout the Law and the misalignment of its provisions with other related laws. Moreover, the law introduces complicated administrative procedure for obtaining tax incentives that discouraged potential donors. The changes were amended three times, with the last amendments of February 2014.

Preparation of recent amendments began in 2012, but because philanthropy was a priority area for reform, the process was stopped. The discussion of the law continued in 2013 when the Ministry of Justice (hereinafter: "DOJ") proposed amendments to the Law and published for public consultation. On receiving feedback from various stakeholders, the DOJ decided to accepted three proposals regarding tax incentives. Consequently, in February 2014 Parliament adopted amendments to the Law. Amendments to the law were mostly of a technical nature, but changes Articles relating to tax incentives for personal income tax and VAT constitute positive steps towards development philanthropy. However, the changes still do not resolve the challenges administrative procedure for verifying the public interest the donation or sponsorship. Decision confirming the public interest is a prerequisite for gaining tax relief.

Recent amendments to the law include several improvements for praise:

1. Tax incentives in terms of personal income tax became more functional and more accessible to more individuals

□ CHANGES Article 13, which regulates tax incentives in respect of personal income tax make the whole concept more functional. Besides reducing determined, but unpaid personal income tax by the amount of the donation, the law now also allows return of paid personal income tax. This allows individuals to gain tax incentives in cases of advance payment of personal income tax.

□ Challenge: Article 13 of the law stipulates that individuals have the right to reduce tax amount of the donation, but not more than 20% of the annual tax debt of the donation provider, up to 24,000 denars. You should consider the idea to increase the limit of 24.000 denars in order to stimulate wealthier individuals to donate more.

2. Changes in tax incentives in respect of VAT value relating to the difference between cash and in-kind donations Technical amendments to Article 15 which regulates tax incentives in terms of value added tax system make the difference between cash and non-cash donations.

3. Requirements for reporting to donors become more efficient The amendment of Articles 13 and 14 of the law provides more efficient reporting to donors because their reports will be submitted together with the final bill. These two articles regulate tax incentives terms of personal income tax and corporate income tax.

□ Challenge: Article 19 requires the submission of a report of the donation / sponsorship within 30 days from performance of the contract. Based on this provision donor / sponsors are required to submit the same

documents to PRO twice a year. In order to eliminate administrative burden of donors / sponsors, as well as the Public Revenue it is recommended to withdraw the previous request to submit the report within 30 days.

The request for the conclusion of an agreement in writing for each donation /Charity becomes less rigid and provides exceptions to this obligation Article 4, paragraph 2 provides an exception to the obligation of the recipient and the donor sign agreement in writing for the donation. This exemption is granted to associations or foundations which have acquired the status of public interest or where the recipient of the donation is association or foundation established to provide financial support related to the public interest. Additional amendments to this article include special regulation. Phone donations and events fundraising how good European practice these ways of donating subject to exemption from VAT.

□ Challenge: I would like to emphasize the good intentions of the legislator to eliminate the administrative burden for certain recipients to a contract in writing. However, article 21 paragraph 2 provides that in cases where there is no agreement in writing, the donation recipient must submit a "written a notarized statement "that requires a decision in the public interest. I believe that the obligation to submit notarized statement removes the administrative burden and introduces additional financial burden (notary fee) recipient. With this exclusion order to be more effective in terms of time and costs, I recommend to withdraw the obligation to submit a notarized statement. Thus, Article 19 paragraph 2 provides that "mandatory to submit the contract Donation and sponsorship referred to in Article 4 "without mentioning the exception of Article 4, paragraph 2. In order to ensure consistency with the provisions included in the law, legislators can appropriate to amend Article 19.

5. Amendments to the law allow both the user and the donor / sponsor to apply for validation of public interest or received a donation / sponsorship The amendment to Article 21, paragraph 1, extends the possibility of recipients require the Department of Justice to confirm the public interest the donation / sponsorship. Previously only the donors / sponsors were allowed to submit the application.

□ Challenge: While this initiative which is worthy of praise, Article 21 paragraph 2 stipulates that the application for a certificate of public interest donations without agreement writing may be submitted only by the recipient of the donation. In order to donors not depend on the activities of the recipients in the process of obtaining tax breaks, I recommend allowing both sides to submit this request.

Problems

- Definitions of key terms and terminology used in the Law inconsistent most importantly, two definitions of key terms "public business" and "public interest ' They comply, and the scope of the areas that fall into these two terms are different.

Recommendation: I recommend legislators to harmonize terminology used throughout the Act and provide definitions of key terms in order to prevent any confusion in the implementation of the Act.

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-Recommendation: I recommend legislators to harmonize terminology used throughout the Act and provide definitions of key terms in order to prevent any confusion in the implementation of the Act. -The administrative procedure for obtaining tax relief is long and complex, with no clear understanding of how to determine the public interest Administrative procedures described in Article 21 is long and complicated. The law primarily provides decision / decision from the Ministry of Justice for the public interest, but this decision is based on the opinion of the "competent authorities". When the decision will be issued within 15 days, in the process, other institutions are provided with new deadlines for their acts and decisions. As a result, length of proceedings is inconsistent with the nature of donations / sponsorships and only creates additional liability for the institutions responsible for carrying out other tasks.

Moreover, Article 21 paragraph 2 is a long list of documents that to be attached to the request for public interest donations made without agreement in writing. This creates an additional administrative burden for recipients' donations.

The law requires extensive list of supporting documents to confirm the public interest in the case of donations without a written contract. law does not distinguish between different amounts of donations / sponsorships largest recipients or other important factors in determining the rules for decision-making in the public interest. The criteria for making decisions in the public interest are not clearly defined. There is no legal certainty for donors / sponsors that they will receive tax breaks for their donation / sponsorship.

-The law does not cover situations where the purpose of the donation / sponsorship It becomes void or is successfully achieved without having to spend the whole amount ZDSJD does not answer the question of what happens to the remaining amount of donation / sponsorship when the target becomes invalid or is successfully achieved. With to prevent problematic situations, laws governing donations in other European countries often allow recipients to change the purpose of the donation with a similar purpose.

However, such cases should be exceptional and the recipient should inform the general public and / or government bodies change of the goal.

Recommendation: Legislators should consider introducing special a provision that would govern these exceptional circumstances. This will bring clear Rules for using the remaining amount of the donation and prevent problematic situations that may arise in the future.

6. CONCLUSION

As an EU Candidate State and with the assistance of the several international development organizations, North Macedonia is constantly updating its laws and accepting new EU trends and developments. It has come a long way from the first introduction of CSR as a voluntary concept to engaging the government in establishing a CSR Body and a CSR Agenda. The CSR Body, in cooperation with the government and the economic chambers and associations, has managed to turn the country into a regional leader in the field of CSR. North Macedonia is a fertile ground for developing CSR because there is a history of social engagement and support from the businesses to the society. However, the reality in the country shows that at the present moment the companies are mostly preoccupied with surviving. The volatile business climate, the weak enforcement of consumer rights and the lack of consumer activism, the weak corporate governance and the widespread corruption are some of the weaknesses that are recognized as such in the CSR Agenda. Another important weakness is the lack of understanding of the CSR concept, its scope and the business case for it. As previously stated, CSR is often perceived as an obligation for the more profitable companies, which consider it to be a philanthropic activity. This is not a good attitude since donations cannot cover for the possible negative consequences a company can have on the environment or on society (Jelena Stamenkova, 2011).

Almost ten years after its introduction in North Macedonia, CSR is still a relatively new concept and it will take more time, work and foreign influence to really integrate it in the daily business of the companies. The CSR Agenda and the work of the CSR Body is a good start, which provides for a comprehensive approach to CSR. Unfortunately, North Macedonia is still a country where the quality of law enforcement, and the effectiveness of the legal institutions, is very much disputable. The author of this paper sadly agrees with the findings of the Baseline Study, which point to the unreliability of the legal and judicial institutions as one of the main factors that affect businesses' confidence and its readiness to fulfil social and environmental responsibilities.

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ANNEX – Tables and Figures

TABLE 1: SWOT Analysis for CSR Development in Macedonia

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> history of the presence of social perception in business history of support to local communities by business entities body established by multiple stakeholders (national coordinating body for CSR) policy making CSR - a forum and body aimed at implementing CSR strong development of corporate philanthropy (developing links between the business sector and civil society) 	<ul style="list-style-type: none"> lack of knowledge and understanding of the concept of CSR, its scope and the business justification for CSR unpredictable business climate lack of socially responsible investment insufficient capacity to represent their interests of certain stakeholders and their organizations
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> The value and potentially a strategic approach to CSR for businesses The increasing importance attributed to CSR in the EU and in the global context Funding opportunities for CSR provided by the EU Opportunities for SMEs arising from the promotion of acceptance of CSR Positive attitude of citizens towards active inclusion 	<ul style="list-style-type: none"> Lack of regulative framework Lagging behind other countries - Candidate for EU member states behind the EU Risk of exclusion from certain segments of the EU market Risk to marginalize the role of government in the early stages of promoting CSR Risk of insufficient support and insufficient efforts of Baladan

Source: Сојуз на стопански комори на Македонија – Финансиски можности за малите и средни претпријатија во Република Македонија, Скопје, 2008

Composition of the national Coordinating Body on CSR:

Business associations

Economic Chamber of Macedonia
Macedonian Chambers of Commerce
Economic Chamber of North-western Macedonia

Organizations of employers'

Organization of employers of Macedonia
Business Confederation Macedonia
Association of employers in the area of transport and communications

Labour unions

Federation of Trade Unions of Macedonia
Union of Independent Autonomous Trade Unions
Confederation of Free Unions

Academia and experts

SS. Cyril and Methodius University, Faculty of Economics in Skopje
Independent expert

Other organizations

Consumers' association of Macedonia
Macedonian network of the UN Global Compact

Media

Media representative

Government

Ministry of Labour and Social Policy
Ministry of Economy
Ministry of Environment and Physical Planning