

THE CONCEPT OF RESPECT OF HUMAN RIGHTS AS A PART OF CORPORATE SOCIAL RESPONSIBILITY IN NORTH MACEDONIA

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Summary

The core interest of the authors of this paper is analyses of the application of The United Nations Guiding Principles on Business and Human Rights in North Macedonia. In 2011, The United Nations presented to the public the Guiding Principles on Business and Human Rights. Although the non-binding normative text intends to serve as a "global standard of practices". The document itself is based on three pillars: (i) the State duty to protect human rights, (ii) the corporate responsibility to respect human rights and (iii) the need for greater access to an effective remedy for business-related abuse victims. Relevant national legislation and practices related to the current situation of the promotion and application of the principles promoted in The UN Guiding Principles on Business and Human Rights shall be examined. Finally, the authors will give their reflections and recommendations on how to accelerate the application of The UN Guiding Principles on Business and Human Rights in the national legislation and practice.

Keywords: corporate social responsibility, human rights, companies

I. RESPECTING OF HUMAN RIGHTS AS AN INTEGRAL PART OF THE FUNCTIONING OF CORPORATIONS

The influence of large corporations is particularly important today. The respect of human rights by businesses is particularly attached to the activities of multinational corporations. How big and important are the multinational enterprises (MNEs), the following findings of research done in 2013 can be underlined: 1) In 1993 there were only 37,000 MNEs, with 170,000 foreign affiliations, while in 2012 there were more than 100,000 MNEs, with more than 900,000 foreign affiliations, and in 2012 their assets were estimated to be more than US\$82 trillion, close to 15 times the same figure in 1990 with more than 70 million employees. Moreover, the following can be noticed: "diverse parties in the business and human rights debate have held wider or narrower expectations about the extent of businesses' responsibility comes as no surprise, particularly in the case of multinational corporations, which have large concentrations of wealth and span the globe

* Goran Koevski, PhD., Full Professor, Ss. Cyril and Methodius University in Skopje, Iustinianus Primus Law Faculty, e-mail: g.koevski@pf.ukim.edu.mk

** Darko Spasevski, PhD., Associate Professor, Ss. Cyril and Methodius University in Skopje, Iustinianus Primus Law Faculty, e-mail: d.spasevski@pf.ukim.edu.mk

with their operations.”¹ In addition, "with the positive and negative social, environmental, and economic impacts of multinational corporations, the widespread concern voiced by the corporate accountability movement is that MNEs are allowed to externalize risks, not least through the multitude of subsidiaries, contractors, and other affiliates."² Finally, in the context of the Covid-19 pandemic, the question of the goals and objectives that should be met by companies, and their position towards the protection of human rights is a question of great importance for all stakeholders.

Some authors are noticing that the companies are not very interested in investing in the process of safeguarding human rights. According to these authors, the reluctance of companies is based on the fact that they are enjoying the privileges of limited liability. In that direction, it is said that "the compartmentalization of the multinational corporations is facilitated by company laws and has resulted in risk shifting, excessive risk-taking and lack of remediation for those injured. The law creates a firewall that makes claims against parent companies extremely difficult."³ The leading instrument in the *business and human rights field* are the UN Guiding Principles on Business and Human Rights (UNGPs). These principles mention the principle of legal separation as one of the barriers to remedies: "How legal responsibility is attributed among members of a corporate group under domestic criminal and civil laws facilitate the avoidance of appropriate accountability."⁴

By the 1930s an institutional view of the corporation moved into the mainstream and the notion that corporations are influential actors in society with responsibilities not just to shareholders, but also to employees, customers, and the general public gained credence with some respected business leaders and academics.⁵ But the debate shifted again with the emergence of neoclassical economics and a stagnant economy in the 1970s.⁶ Namely, in 1970, Milton Friedman proclaimed that the business of business was business, and corporations primarily need to focus on shareholder value.⁷ The corporate perspective has evolved significantly since then, though there is ongoing debate as to whether a commitment to social purpose activities detracts from profitability and growth.⁸ The issue of whose interests should be considered in corporate decision making is particularly contentious, with some authorities giving primacy to shareholders' interest in maximizing their financial returns and others, arguing that shareholders' other interests — in corporate strategy, executive compensation, and environmental policies, for example — and the interests of other stakeholders must be respected as well.⁹

Based on the process of reexamining the role of the corporation in modern society, the new concept under the name *corporate social propose* was developed. This concept, as a broader concept than the traditional corporate social responsibility (CSR) one, incorporates a wide range of elements including 1) paying attention to the human rights and environmental performance of the supply chain and vendors; 2) respecting and supporting diversity in areas such as hiring, training, and pay

¹Radu Mares, "Respect" human rights: Concept and convergence", p.7, in Robert C. Bird, Daniel R. Cahoy and Jamie Darin Prenkert, "Law, Business and Human Rights Bridging the Gap", Edward Elgar Publishing, Inc., 2014

²*Ibid*, p.8.

³*Ibid*, p.8.

⁴ Human Rights Council, "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" p. 15, 2011.

⁵Lynn S. Paine, Suraj Srinivasan, "A Guide to the Big Ideas and Debates in Corporate Governance, " available at <https://hbr.org/2019/10/a-guide-to-the-big-ideas-and-debates-in-corporate-governance>, accessed on 10.9.2002

⁶*Ibid*.

⁷ Amy Silverstein, Debbie McCormack, and Bob Lamm, "The Board's Role in Corporate Social Purpose", available at <https://corpgov.law.harvard.edu/2018/07/20/the-boards-role-in-corporate-social-purpose/>, accessed on 10.9.2002

⁸*Ibid*.

⁹Lynn S. Paine, Suraj Srinivasan, *op.cit*.

equity; 3) treating employees properly, among other things by providing a safe, harassment-free, and supportive workplace; 4) safeguarding the environment through strong compliance and sound practices, both generally and in the communities in which the company operates; 5) supporting their communities through educational, recreational and cultural activities, advocacy of human rights, and fair labour practices; 6) pursuing shared value initiatives that address social issues through core business and inclusive market solutions, and 7) demonstrating broad oversight of the company's role in political spending and government affairs.¹⁰

Some scholars argue that corporations will have a more positive impact on human rights if these issues – business and corruption, and business and human rights – are considered together.¹¹ Namely, corporate social responsibility initiatives aimed to improve corporations' human rights performance must directly consider the impact of corruption and how combating corruption can improve human rights outcomes. In other words, combating corruption should not just be considered as an end of itself, but also as a mean for preventing human rights abuses.¹²

Understanding the nature and reliability of public corporate commitments to respect specific moral standards, like human rights standards, has two important dimensions.¹³ The first one, respecting and encouraging respect for human rights is not just a cost for corporations as they pursue their business objectives.¹⁴ They also play a significant part in creating an environment where the efficient and effective corporate pursuit of profitability is also enhanced.¹⁵ The second, where human rights are respected, the business has access to human resources that would otherwise not be available. Potential and actual employees are encouraged to develop skills and knowledge for their own and the benefit of their employers, and finally, working conditions are created that are conducive to labour productivity.¹⁶

A 2017 study of institutional investor trust, yielded some surprising data, including that: 1) seventy-six per cent of investors expect companies to take a public stand on social issues; 2) sixty-nine per cent of investors care about how a company treats its employees, and 3) eighty-two per cent of investors say trust is important when considering whether to invest in a company.¹⁷ Another study, conducted by Arthur Andersen and the London Business School in 1999, found that the motivation for introducing codes of conduct in 22% of companies surveyed was 'negative publicity'.¹⁸

¹⁰ Amy Silverstein, Debbie McCormack, and Bob Lamm, *op. cit.* see also: Tom Campbell, Seumas Miller "Human Rights and the Moral Responsibilities of Corporate and Public Sector Organizations", Kluwer Academic Publishers, 2005

¹¹ Norman Bishara and David Hess, "Human rights and a corporation's duty to combat corruption". P.73, in Robert C. Bird, Daniel R. Cahoy and Jamie Darin Prekert, "Law, Business and Human Rights Bridging the Gap", Edward Elgar Publishing, Inc., 2014

¹² *Ibid.* p. 73.

¹³ Wesley Cragg, "Human Rights, Globalisation and the Modern Shareholder Owned Corporation", p.126., in "Human Rights and the Moral Responsibilities of Corporate and Public Sector Organisations", Tom Campbell, Seumas Miller editors, Kluwer Academic Publishers, 2005

¹⁴ *Ibid.*, p.126.

¹⁵ *Ibid.* p.126.

¹⁶ *Ibid.* p.126.

¹⁷ Amy Silverstein, Debbie McCormack, and Bob Lamm, *op. cit.*

¹⁸ Doreen McBarnet, "Human Rights, Corporate Responsibility and the New Accountability", p.63., in "Human Rights and the Moral Responsibilities of Corporate and Public Sector Organisations", Tom Campbell, Seumas Miller editors, Kluwer Academic Publishers, 2005.

Achieving benefits by companies through the implementation of the concept of corporate social purpose can create quantifiable business value on six key dimensions, including:

- 1) Brand differentiation: social impact initiatives may help companies boost their brands and achieve penetration in new markets. Brands with a demonstrated commitment to sustainability are seeing average sales growth and outperform brands without demonstrated commitment;
- 2) Talent engagement: companies with a strong social strategy tend to see higher employee engagement and have more success attracting and retaining talent. Employee engagement levels are shown to yield year-over-year increases in net income and earnings per share;
- 3) Risk mitigation: companies have engaged in what is now called "social activities" to mitigate regulatory and social risks, and these activities are increasingly important today. Eighty-eight per cent of consumers say they would boycott a brand due to irresponsible business practices;
- 4) Innovation: identifying underserved social needs can be a strong driver of innovation, enabling companies to explore new models and technologies that might generate new market opportunities. Companies that are sustainability leaders are more than four times more likely to be recognized as innovation leaders in separate, independent rankings;
- 5) Operational efficiency: operational efficiencies sourced from implementing more sustainable practices have been shown to save companies up to forty-five per cent in costs, with an ever-growing list of major companies seeing annual savings in the hundreds of millions; and
- 6) Access to market capital: companies with strong corporate social purpose see increased access to financing. The Morgan Stanley Capital International and KLD Research & Analytics, Inc. 400 Social Index is a market-cap-weighted stock index of 400 publicly traded companies that have met certain standards of social and environmental excellence. Companies added to this index have realized a two per cent average gain in share price, while those companies removed from the list have seen an average three per cent loss.¹⁹

In the process of balancing between the profit and corporate social purpose, the following challenges can be marked: 1) corruption, 2) health and safety of local communities, 3) environmental impact of corporate activities and 4) human rights impact of global private sector activities.²⁰

It is very important for the process of adjustment of the (multinational) corporations to the local environment to be ensured. In that respect, theory suggests that firms need to incorporate both, the social norms and political milieu of the host country into their corporate practices.²¹ Pressures and expectations from the environment force respective organizations to conform to institutional requirements. This conformance, on its side, contributes and helps the organization to compete for favourable political policies and earn institutional legitimacy.²² Failure to comply with certain norms means the environment may reject the organization and jeopardize the organization's operation²³

¹⁹ Amy Silverstein, Debbie McCormack, and Bob Lamm, *op. cit.*

²⁰Mendes P. Errol, "Global Governance, Human Rights and International Law - Combating the Tragic Flaw", p.183, Rutledge, 2014.

²¹Lynn S. Paine, Suraj Srinivasan, *op. cit.*

²²*Ibid.*

²³*Ibid.*

II. LEGISLATIVE ACTIVITIES TOWARDS IMPLEMENTING THE CONCEPT OF THE BUSINESS AND HUMAN RIGHTS

i. Main international trends

As it is noticed by some authors, it is clear that a discourse on ethics and international business is widely developing.²⁴ This may be justified philosophically by appeals to a ‘social contract’ and to the need of all actors, including non-state actors, to observe the preservation of human dignity through adherence to fundamental human rights.²⁵ Given that there are no doubts about the interconnection of human rights and activities of corporations, and the impact of the corporations on the international economy and development, different initiatives, organizations and state actors developed a wide spectrum of codes of ethics, guidelines, statements of principles, reporting standards and, in some cases, the necessary implementation and verification systems. These codes can be divided into five categories: 1) corporate codes and compliance systems, 2) sectoral and industry-wide initiatives (involving coalitions from civil society and the private sector, 3) multi-stakeholder national and transnational guidelines and principles, 4) global standards and guidelines and 5) initiatives by multilateral organizations.²⁶

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions²⁷ that come into force in 1999 is one important international milestone in the field. This Convention establishes legally binding standards to criminalize bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective.²⁸ It is the first and only international anti-corruption instrument focused on the ‘supply side’ of the bribery transaction.²⁹ Additionally, in 2005 the United Nations proclaimed the Convention against Corruption.³⁰

In the United States of America, the US Department of Justice increased enforcement of the Foreign Corrupt Practices Act in the last several years through well-publicized settlements and guilty pleas of major corporations, such as Siemens, Daimler AG, and Pfizer.³¹ Other potential

²⁴Peter Muchlinski, “International Business Regulation: An Ethical Discourse in the Making?”, p.103, in “Human Rights and the Moral Responsibilities of Corporate and Public Sector Organizations”, Tom Campbell, Seumas Miller editors, Kluwer Academic Publishers, 2005.

²⁵ On the other hand, the precise content of this discourse remains open to ideological contest. There are several main positions in this. The first, a ‘hard libertarian’ position, adhere strictly to a Lockean version of the social contract and limits the ethical agenda to the protection of private property and basic market freedoms. It seeks no wider social duties to be observed by corporations and, indeed, sees such wide duties as being illegitimate. The second position, that of the ‘neo-liberals’, emphasizes the benefits of an ‘economic constitution’ based on international free trade, but, unlike the libertarian position, it is not opposed to the protection of fundamental rights or the environment. *Ibid.*

²⁶Mendes P. Errol, “Global Governance, Human Rights and International Law - Combating the Tragic Flaw”, p.191., Rutledge, 2014.

²⁷The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is available at the link: [http://www.oecd.org/corruption/oecdantibriberyc onvention.htm](http://www.oecd.org/corruption/oecdantibriberyc%20onvention.htm)

²⁸“OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”, available at [http://www.oecd.org/corruption/oecdantibriberyc onvention.htm](http://www.oecd.org/corruption/oecdantibriberyc%20onvention.htm), accessed on 29.9.2020

²⁹“OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”, available at [http://www.oecd.org/corruption/oecdantibriberyc onvention.htm](http://www.oecd.org/corruption/oecdantibriberyc%20onvention.htm), accessed on 29.9.2020

³⁰ The text of the Convention is available at the link <https://www.unodc.org/unodc/en/treaties/CAC/>

³¹ Amy Silverstein, Debbie McCormack, and Bob Lamm, *op. cit.*

enforcement activity, such as the UK Anti-Bribery Act in effect from 2011, has made controlling the supply side of corruption through the criminal law an important, and highly controversial topic.³²

Several other activities can be observed in the previous period, including publication of statements, proposals, and revised codes of corporate governance, such as the “New Paradigm,” the “Common Sense Principles,” the “King IV Report,” and the “2018 UK Corporate Governance Code,” that reaffirm conventional doctrines and practices, or call for efforts to better align the activities of corporations with society’s interest in a building a more inclusive, equitable, and sustainable economy.³³ In the US, leading institutional investors have been calling on corporate boards for several years to clarify their companies’ purpose and contribution to society.³⁴

Mayor landmark case law of conflicting views in a company's goals is the case *Lovenheim v. Iroquois Brands, Ltd.* Through Lovenheim's court decision, a new legal precedent was introduced, confirming the empowerment of minority ‘social’ shareholders via proxy solicitations.³⁵

Finally, the possibility of companies enjoying human rights under the European Court of Human Rights (ECHR) should be addressed. The essential question is should companies enjoy human rights and if so, under what conditions and to which extent.³⁶ The theory has given arguments both in favour and against the extensive interpretation of human rights protection.³⁷ Reasons in favour of extending the scope of rights protection can be summed up as follows: affording rights to companies provides protection not only for the entity but also protects the interests of natural persons and acts as a safeguard for the rule of law and democratic society.³⁸ Granting human rights to companies wouldn’t deprive human beings of their rights, but would make companies more aware of the need for human rights protection.³⁹ Case *Yukos v. Russia* is seen as a perfect example of why companies should enjoy protection – the possibility to appear before ECHR offers a corporation, whose rights were violated by its own state, an independent international venue for judicial review.⁴⁰

³²*Ibid.*

³³*Ibid.*

³⁴Perhaps the most noteworthy development in the US is the Business Roundtable’s new statement on corporate purpose issued in August 2019. The 181 CEOs who signed the statement declared their commitment not just to shareholders but to all stakeholders, thus reversing the BRT’s previous espousal of shareholder primacy and the view, expressed in their 1997 statement, that the corporation’s purpose is to generate returns to its owners. Lynn S. Paine, Suraj Srinivasan, *op.cit.*

³⁵ Peter Lovenheim became a social activist. Social proposals of a shareholder may easily result in corporate activism. This type of activism arises from shareholders' expectations of the social result. The economic power and visibility of companies are good reasons for pursuing social changes by means of corporate activism. In common practice, activist shareholders are, for example, interested in the disclosure of the environmental files of the company, the term of contracts with suppliers, the employment of child labour and the end of testing products on animals. In addition to this, they will organize a media campaign for better results. See: Lynn S. Paine, Suraj Srinivasan, *op.cit.*

³⁶ Aleksandra Višekruna, "Protection of rights of companies before the European Court of Human Rights", available at https://www.researchgate.net/publication/323762879_PROTECTION_OF_RIGHTS_OF_COMPANIES_BEFORE_THE_EUROPEAN_COURT_OF_HUMAN_RIGHTS, accessed on 28.9.2020.

³⁷*Ibid.*

³⁸*Ibid.*

³⁹*Ibid.*

⁴⁰*Ibid.*

ii. The importance of United Nations Guiding Principles on Business and Human Rights

In 1976, the United Nations Commission on Transnational Corporations was tasked to draft a Code of Conduct for Transnational Corporations.⁴¹ It can be noticed that this code, which would have regulated various business practices on a global level, was beset with opposition from developed countries and other sources.⁴² Later efforts, during the 1990s and early 2000s, produced the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Respect to Human Rights (Norms).⁴³ While promoted as a restatement of existing international norms related to corporations, it was hoped that it would serve as a foundation for a binding treaty on the legal duties of corporations or become part of customary international law.⁴⁴

According to the United Nations Human Rights Council on Implementing the Business and Human Rights Framework Final Report, respect for human rights may be operationalized by businesses in three ways: (1) adoption of a high-level human rights policy, (2) performance of due diligence and (3) creating processes for enabling the remediation of adverse impacts caused or contributed by the firm.⁴⁵

Consecutively, the United Nations Human Rights Council in 2011 proclaimed and published with unanimous support the newly created document known as the “United Nations Guiding Principles on Business and Human Rights”. This document represents a set of guidelines for various actors such as States and corporations, to ensure and protect human rights and to sanction the abuses committed in business operations. The United Nations Guiding Principles on Business and Human Rights is structured in three chapters: protect, respect and remedy. Each part deals with distinct, actionable steps for governments and corporations to meet their respective duties and responsibilities in preventing human rights abuses in company operations and provide remedies if such abuses take place. The Guiding Principles affirm that under existing international human rights law, States must protect against human rights abuses by all actors in society, including businesses.⁴⁶ This means States must prevent, investigate, punish and redress human rights abuses that take place in domestic business operations.⁴⁷ Furthermore, The Guiding Principles recommend that States set clear expectations that companies domiciled in their territory/jurisdiction respect human rights in every country and context in which they operate. These Guiding Principles are grounded in recognition of: (a) States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms; (b) the role of business enterprises, as specialized organs of society performing specialized functions, requires them to comply with all applicable laws and to respect human rights; (c) the need for rights and obligations to be matched to appropriate and effective remedies when breached.⁴⁸

⁴¹Robert C. Bird, ” Human Rights And Business At The Indeterminate Crossroads”, p.9 in Robert C. Bird, Daniel R. Cahoy and Jamie Darin Prekert, "Law, Business and Human Rights Bridging the Gap", Edward Elgar Publishing, Inc., 2014

⁴²*Ibid.* p.9.

⁴³*Ibid.* p.9.

⁴⁴Mendes P. Errol, ” Global Governance, Human Rights and International Law - Combating the Tragic Flaw”, Rutledge, 2014, P.188

⁴⁵Janine S. Hiller and Shannon S. Hiller, "A co-opetition approach business, human rights organizations and due Diligence", , p.121. in Robert C. Bird, Daniel R. Cahoy and Jamie Darin Prekert, "Law, Business and Human Rights Bridging the Gap", Edward Elgar Publishing, Inc., 2014

⁴⁶Human Rights Council, ‘Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy”’ p. 17, 2011.

⁴⁷*Ibid.*

⁴⁸*Ibid.*

The Guiding Principles include operational provisions that recommend specifications for States to meet their duty to protect human rights in the context of business operations. This includes enacting and enforcing laws that require businesses to respect human rights; creating a regulatory environment that facilitates business respect for human rights; and providing guidance to companies on their responsibilities.⁴⁹ The Guiding Principles also stipulate that States should ensure that policies are coherent across departments and functions and that their participation in multilateral institutions is aligned with their human rights obligations.

III. MACEDONIAN COMPANY LAW AND THE CONCEPTS: BUSINESS AND HUMAN RIGHTS AND CORPORATE SOCIAL PURPOSE

The basic legislative act in North Macedonia regulating the companies is the Law on Companies.⁵⁰ The Law on Companies, defines the commercial entity, as "any person that independently and permanently as an occupation performs a commercial activity in order to gain profit by...."⁵¹ This definition conceptually is based on the approach set by Milton Friedman in the concept that "business of business was business". The Law on Companies declaratively provides mechanisms that can be said to enable the inclusion of different stakeholders. For example, the Law provides a provision according to which is a joint-stock company, "The participation of the employees in the management of the company shall be regulated by law."⁵² Although a mandatory provision, special codetermination provisions are not yet introduced in the Macedonian legal system. However, this is only one fragment of the concept of corporate social purpose. A broader examination of the provisions set out in the Law on Companies, does not show provisions that incorporate the postulates of the concept of corporate social purpose. The same can be inferred regarding the United Nations Guiding Principles on Business and Human Rights, too. As already mentioned, the United Nations Guiding Principles on Business and Human Rights document sets its priorities in the part titled: "operational principles". In this part, the document provides the following: "In meeting their duty to protect, States should: (a) enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps; (b) ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights; (c) provide effective guidance to business enterprises on how to respect human rights throughout their operations; and (d) encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts."⁵³

When it comes to the alignment of the national legislation with the legislation of the European Union, it is important to be mentioned the Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups. This Directive aims

⁴⁹*Ibid.*

⁵⁰"Official Gazette of the Republic of Macedonia" no. 28/2004, 84/2005, 25/2007, 87/2008, 42/2010, 48/2010, 24/2011, 166/2012, 70/2013, 119/2013, 120/2013, 187/2013, 38/2014, 41/2014, 138/2014, 88/2015, 192/2015, 6/2016, 30/2016, 61/2016, 64/2018, 120/2018 and "Official Gazette of the Republic of North Macedonia" no. 290/2020,

⁵¹Article 4(1) of the Law on Companies.

⁵²Article 342(4) of the Law on Companies.

⁵³Human Rights Council, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" p. 5, 2011.

to create rules for disclosure of non-financial information by undertakings allowing for high flexibility of action, to take account of the multidimensional nature of corporate social responsibility (CSR) and the diversity of the CSR policies implemented by businesses matched by a sufficient level of comparability to meet the needs of investors and other stakeholders as well as the need to provide consumers with easy access to information on the impact of businesses on society.⁵⁴ The set of non-financial information includes environmental matters, social and employee-related matters, respect for human rights, anti-corruption and bribery matters etc.

Given that international experience shows that many of the goals set within the concept of corporate social purpose are achieved through the so-called soft law, the Corporate Governance Code of the Macedonian Stock Exchange and the available codes of corporate governance of the joint-stock companies listed within the frame of the MBI 10 Index of the Macedonian Stock Exchange will be analyzed in this section⁵⁵.

The Corporate Governance Code of the Macedonian Stock Exchange⁵⁶ was published in 2006. Generally, the Code sets standards of conduct for the shareholders, the managing body and the supervisory body and their interrelations. The Code stays quiet when it comes to the concept of corporate social purpose. In that direction, a substantial revision of the Code is needed. The revision should be based on the best practices in the field of business and human rights concept described in this paper. This is very important because the discussed Corporate Governance Code of the Macedonian Stock Exchange is a very important body of soft legal rules in North Macedonia.

The Corporate Governance Code of the Komercijalna Banka AD Skopje⁵⁷, a joint-stock company in the field of the banking industry, is published in 2010. This Code is very similar in its structure to the Code of the Macedonian Stock Exchange. This means that the Bank's Code sets material provisions regulating the relations between the managing body, the supervisory body, its shareholders, including the relations with the clients and the national regulatory authorities. This is stated in the first section of the Code titled "Basic Principles". It should be noted that in the second part of the Code titled "Principles of Corporate Governance", the third paragraph titled "Social Responsibility", prescribes that the Bank is responsible for its conduct, among the others, and towards the society and the State. Paragraph 7 of the same section refers to the implementation of the Ethical Code of the Bank⁵⁸.

⁵⁴ Paragraph (3) of the Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095>, accessed on 22.10.2021.

⁵⁵ The MBI 10 Index is formed of 10 listed joint-stock companies. Most of the analyzed documents in this section of the paper were located on the official web pages of the respective companies. However, some listed companies are not so transparent, since their documents were not disclosed for searching on their internet pages. Fortunately, by the latest amendments of the Law on Companies in 2020, a new mandatory rule was enacted, by which corporate governance statement must be included in listed companies as a specific section of the board's annual report (Article 384-a).

⁵⁶ The Code is available at <https://www.mse.mk/mk/content/1/2/2008/other-acts-of-stock-exchange>, accessed on 22.10.2020

⁵⁷ The Code is available at <https://www.kb.com.mk/Default.aspx?sel=1130&lang=1&uc=1>, accessed on 22.10.2020

⁵⁸ This document is not available on the internet page of the company.

The Code of Conduct of Makedonski Telekom AD Skopje⁵⁹, a joint-stock company in the field of the telecommunication sector, includes provisions about corruption, money laundering, prohibition of financing of political parties, etc.

NLB Tutunska Banka AD Skopje⁶⁰, another joint-stock company within the banking industry, in its Corporate Governance Code, regulates the issues directly connected to the functioning of the company. The provisions regulating issues of corruption, anti-discrimination, protection of the environment can be met in the Code of Conduct of the NLB Group.⁶¹

TTK Banka AD Skopje, in its Code of Corporate Governance⁶² sets rules regarding matters such as corruption and the possibility to report corruption based on the concept of a whistleblower.

The Ethical Code of the Alkaloid AD Skopje⁶³, pharmaceutical joint-stock company, contains provisions regulating the 1) prevention of corruption, bribery and money laundering, 2) environmental protection, 3) communication with government agencies and representatives, 4) gifts and offers for service (entertainment), etc.

Granit AD Skopje, a joint-stock company in the field of the construction industry in its Code of Ethics⁶⁴ includes provisions for money laundering, corruption, international crime, protection of the environment, etc.

Based on the above analyses, it is clear that the principles of the concepts of *business and human rights* and *corporate social purpose* are developed appropriately, neither by hard law nor by soft law. It should be noted that most of the available codes are not updated enough in direction to reflect the content of the United Nations Guiding Principles on Business and Human Rights. The authors of this paper hope that this paper will serve as an incentive for the key stakeholders (both legislators and key people in the listed companies on the Macedonian Stock Exchange), to revise and update both the legislation and the soft law acts (codes, guidelines, etc), to achieve full compliance with the standards promoted by the concepts *business and human rights* and *corporate social purpose*.

IV. CONCLUSION

It is obvious that in the twenty-first century, businesses cannot be observed separately of their “duty” to protect human rights and to provide mechanisms for the protection of human rights

⁵⁹ The Code is available at https://www.telekom.mk/content/pdf/COC_Brochure_MK_Makedonski%20Telekom.pdf, accessed on 25.10.2020.

⁶⁰ The Code is available at https://nlb.mk/%D0%97%D0%B0_%D0%91%D0%B0%D0%BD%D0%BA%D0%B0%D1%82%D0%B0/%D0%9F%D1%80%D0%B5%D1%82%D1%81%D1%82%D0%B0%D0%B2%D1%83%D0%B2%D0%B0%D1%9A%D0%B5_%D0%BD%D0%B0_%D0%91%D0%B0%D0%BD%D0%BA%D0%B0%D1%82%D0%B0/%D0%9E%D1%81%D0%BD%D0%BE%D0%B2%D0%BD%D0%B8_%D0%BF%D0%BE%D0%B4%D0%B0%D1%82%D0%BE%D1%86%D0%B8.aspx, accessed on 25.10.2020.

⁶¹ The Code is available at https://nlb.mk/%D0%97%D0%B0_%D0%91%D0%B0%D0%BD%D0%BA%D0%B0%D1%82%D0%B0/%D0%9F%D1%80%D0%B5%D1%82%D1%81%D1%82%D0%B0%D0%B2%D1%83%D0%B2%D0%B0%D1%9A%D0%B5_%D0%BD%D0%B0_%D0%91%D0%B0%D0%BD%D0%BA%D0%B0%D1%82%D0%B0/%D0%9E%D1%81%D0%BD%D0%BE%D0%B2%D0%BD%D0%B8_%D0%BF%D0%BE%D0%B4%D0%B0%D1%82%D0%BE%D1%86%D0%B8.aspx, accessed on 25.10.2020.

⁶² The Code is available at <http://www.ttk.com.mk/?ItemID=4787C1B2AEE35F48A44AFD6607F97B4B>, accessed on 27.10.2020.

⁶³ The Code is available at <https://alkaloid.com.mk/kod-na-eticko-i-delovno-odnesuvanje.nspj>, accessed on 25.10.2020.

⁶⁴ The Code is available at <https://www.granit.com.mk/mk/about-us/>, accessed on 25.10.2020.

abuses. It is clear that the companies are established primarily to create profit for their shareholders, based on Milton Friedman's point that "business of business was business". However, the businesses are faced with the ongoing issue of their responsibility towards the community as a whole, in terms of "paying the debt to the community". Creating rules and procedures which will ensure that activities undertaken by the companies aren't violating human rights is an additional important issue. A notorious fact is that there are businesses that allegedly show their engagement in the field of corporate social purpose just to avoid bad publicity and to obey the mandatory hard legal rules. But, on the other hand, there is a large number of researchers and practitioners who address and validate that companies that ethically, actively and without reserves act as socially responsible entities, achieve additional value for themselves and their constituencies. This added value can ultimately result in material benefits for the company.

In that sense, in different countries, or by different international organizations, numerous codes, guides, guidelines, collections of rules have been created. The United Nations Guiding Principles on Business and Human Rights from 2011 have a special significance in the world business practice.

The analyses in this paper clearly show that the update of both the hard and the soft law in North Macedonia is inevitably needed, to ensure full compliance with the concepts of *business and human rights* and *corporate social purpose*. This incentive primarily should address the Corporate Governance Code of the Macedonian Stock Exchange and the related codes of the listed companies on the Macedonian Stock Exchange.

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