Theses of the doctoral (PhD) dissertation

FORMS OF RESPONSIBLE BUSINESS CONDUCT AND ITS REGULATORY TENDENCIES FROM A LABOR LAW ASPECT

dr. Sipkáné dr. Puskás Ágnes

Supervisor: Dr. Nádas György habil.

University of Debrecen
Géza Marton Doctoral School of Legal Studies

Debrecen, 27 February 2021

1. Prelude of the doctoral dissertation

As result of the globalization, transnational and multinational companies, growing and spreading like mushrooms, have constantly woven nation-states together and nowadays often live as enclaves in our global society. In the last century, civil society has been putting increasing pressure on businesses to behave in a transparent and ethical manner in their business activities and to act responsibly in their decisions affecting society and the environment, and to reduce the harmful impact of their activities on society and the environment. All this is needed, as there is a lack of political integration behind the economic integration that has developed in the world economy over the last two decades. Many companies operate in countries with different economic development and legal cultures, where legal certainty, respect for fundamental human rights and fair working conditions prevail in different ways and to different degrees. This sphere, regulatory space[1] that is only vaguely covered by international legal norms, provides an opportunity for companies to organize their economic activities using these benefits, thereby typically reducing their social costs. At the same time, on the other hand, there is a heavy cost to profit growth that is paid not by the company but by the environment or society. At present, there is no political power that can force transnational corporations to act responsibly, or to prevent, in general and firmly, human rights violations or environmental damage that large corporations commit directly or through their supplier systems. As a result, the role of the internal "conscience" of external social organizations and companies is appreciated. While nation-state regulation was suitable for enforcing minimum social standards in a relatively closed market environment, its strength has been gradually declining since the 1970s due to the proliferation of the international market. During the same period of time, the practice of corporate social responsibility (CSR) or responsible business conduct (RBC) appeared and was being shaped despite their controversy.

Social responsibility or responsible business conduct refers to all the values, practices and strategies in which companies voluntarily take social and environmental considerations into account in their business activities and their relationships with their partners.

In parallel with (but not in connection with) the growing phenomenon of responsible business conduct, we are witnessing labor law regulation running aground. Namely, the globalization, the explosive development of the technology, the digitalization, the growth of the service industry, the increased skills and professional autonomy of employees, the changes in the quality of employers and employees, the geographical diversification[2] of the place of work

[1] KISSINGER, Henry, *World Order*, Penguin Press, New York, 2014.
[2] MARSDEN, David and STEPHENSON, Hugh, *Labour law and social insurance in the new economy: a debate on the Supiot Report.* Centre for Economic Performance, London School of Economics and Political Science, London, 2001, 21.

have created a new scene and seem to be overturning the traditional principles. Accepting that, due to the high level of economic dependence and the inability to share risks, the protection of workers in the future is justified[3], the scientific debates surrounding the role of labor law are diverse, and there is no consensus on how the modern labor law of the 21st century can relate to a changing transnational economy while retaining the values it has fought for and achieved as a result of past centuries.[4]

D'Antona says the labor law of the future will be very different from today's labor law, but it will still be labor law. Even the Hungarian academic literature shows a colorful picture of what this may mean, today's labor law discourse is characterized by questions and dilemmas rather than exact answers, which are further complicated by strong expectations from the economy, which calls for flexibility and efficiency.[5]

Henriett Rab points out that labor law has begun to "prepare" for a breakthrough in the framework of classical employment[6] in recent decades. According to György Kiss, "the quantum leap-like change in employment methods is almost blurring the boundaries of labor law", and the legislator could not or did not want to follow these leaps. He argues for the complete overhaul of Hungarian labor law. The legal environment may provide the conditions for the employment contract to function as a relational contract[7], but this requires going back to the principles of the contract and applying its core institutions[8]. According to Jácint Ferencz, in the world of the polarizing labor law, the detailed regulation can bring the image of a late-reacting legislator, the regulatory solution is returning to the basic principles.[9]

According to Attila Kun, labor law is in great need for regulatory experimentation, during which the pathways that can promote the enforcement of classical labor law values in the 21st century may become clear. The system of norms of responsible business conduct is directly related or can be related to the world of labor law, but in the strict sense it does not qualify as a classic instrument of labor law regulation. They bring a new approach to the labor law system,

---

[3] DAVIDOV, Guy: A Purposive Approach to Labour Law. Oxford University Press, Oxford, 2016, 48.

[4] See e.g. PENNINGS, Frans: *European Social Security Law*, 6th ed., Intersentia, Cambridge-Antwerp-Portland, 2015

[5] SIPKA Péter –ZACCARIA Márton Leó*, Kísérlet a magyar munkaviszony-fogalom újragondolására az NMSZ 198. számú ajánlásának fényében* [An attempt to rethink the Hungarian concept of employment in the light of NMSZ Recommendation No. 198], Miskolci Jogi Szemle, 2019, 1. 50. 49-67.

[6] RAB Henriett, *A CSR-szemlélet munkajogi vetületei* [Labor law aspects of the CSR approach], Pro Publico Bono, 2018, 4, 202-217., 202.

[7] In relational contract theory, a contract is a specific way of cooperation. In addition to continuous cooperation, its essence is to analyze the circumstances, renegotiate the conditions and, if necessary, change them by mutual will. See KISS György, *A foglalkoztatás rugalmassága és a munkavállalói jogállás védelme (Egy lehetséges megközelítés a munkajogviszony tartalmának vizsgálatához)* [Flexibility of the employment and protection of the status of employees (A possible approach to examining the content of employment relationship)], Wolters Kluwer, Budapest, 2020, 15.

[8] KISS György*, A foglalkoztatás rugalmassága* [Flexibility of the employment], op. cit. 17.

[9] FERENCZ Jácint, *Jogalkotás a munkaviszonyok szolgálatában, a munkajogi szabályozás gazdasági és társadalmi kihívásai* [Legislation in the service of labor relations, the economic and social challenges of labor law regulation], Universitas-Győr Nonprofit Kft. 2018, 138.

while questioning some of the pillars of traditional labor law regulation.[10] Starting on this path designated by Attila Kun, I sought answer to the question of how the principles of social responsibility can be used to effectively encourage market participants to enforce the rights of the employees. The dissertation does not directly look for ways out of the crisis of labor law regulation, it only points to a possibility that does not replace labor law regulation, nor does it establish the protection function of labor law, but it can support it from the outside.

2. Research questions, hypotheses

We rightly have ambivalent feelings about responsible business conduct. The phenomenon is two-faced: it can mean real commitment however it can also serve only as a marketing tool with shallower content. The aim of the dissertation is not to take a stand on the actual value of the phenomenon, but it rather focuses on what economic and social trends can contribute to its wider application in the future, what labor law norms they can promote and what regulatory aspirations they want to frame and use to serve public legislative purposes.

The volunteering of the phenomenon is a fragile, shaky ground. The regulation that supports or strengthens it is not contrary to the essence of the institution, nor is it necessarily against the interests of business actors. I do not intend to underestimate or neglect the altruistic or ethical beliefs behind RBC, but in the course of my analysis, I started from the premise that the decisions of business actors are determined by three criteria: growth, sustainability, and profit. This is an interest that can, in the long run, support the framing and regulation of mechanisms based essentially on self-regulation, as this will ensure that companies with responsible business conduct do not suffer a competitive disadvantage as a result of compliance or their commitments beyond the law. Thus, for example, the creation of a full supply chain duty of care aimed at eliminating child labor from a corporate point of view is not a purely ethical issue, as it has an economic interest in ensuring that if they do so voluntarily, then its competitors may not benefit from it. Thus, although CSR is a commitment beyond voluntary legal obligations, it is in the interest of truly responsible companies that certain principles developed in the framework of CSR take root in legislation, as this serves their short- and long-term competitiveness.

My research is based on three hypotheses:

[10] KUN Attila, *A munkajogi megfelelés ösztönzésének újszerű jogi eszközei* [New legal instruments to promote compliance with labor law], L'Harmattan, Budapest, 2014, 14. 188.

H1. There is an increasingly strong regulatory network for responsible business conduct that seeks to improve its credibility and transparency by combining voluntary, mandatory and binding international, regional and national standards.

H2. Regulatory efforts are twofold: on the one hand, frameworks are created to steer businesses towards responsible business conduct, and on the other hand, a principle or institution that is taken out of the world of self-regulation - with stronger or weaker force - transforms into law, they are embedded in hard law.

H3. The practice of responsible business conduct, as well as the tools created as its underlying ideology, can contribute to more effective enforcement of employee rights.

3. The aim and limitations of the research

The research focuses on an interdisciplinary topic regarding which there is a lively, international discourse and rule-making, but it is far from being an immanent part of Hungarian public policy and is a less popular area of the Hungarian (labor) law literature. The aim of my work was partly to summarize and systematize some of the international, EU and relevant national standards for responsible business conduct, and on the other hand to highlight the relevant rulemaking trends, focusing on facts relevant to labor law. I did all this with the intention of attracting interest and attention, emphasizing the need for its appearance in Hungarian legal policy thinking.

My research examines a process characterized by infinite dynamism. All this is manifested in terminological changes, in the intensity of regulation, in the ups and downs that occur in the methodological approach. This also justifies the use of the terms responsible business conduct (RBC) and corporate social responsibility (CSR) as synonyms in the dissertation, as until a few years ago the term CSR was used in both the literature and relevant state acts, but - thanks to the UN Principles on Business and Human Rights, published in 2011, and subsequent EU legislation - CSR has been replaced gradually by the term responsible business conduct, so the latter now seems to be more prevalent.[11] The content of the definition is extremely diverse, due to the interdisciplinary and relatively "young" nature of the phenomenon, it does not currently have a uniform content. Due to the intense developments, I could not strive for more than to create a snapshot, and I also drew my conclusions from all this.

4. The structure and methods of the dissertation

[11] See OECD Due Diligence Guidance for Responsible Business Conduct; COM(2011) 681; SWD(2019) 143, 2, HELMINEN, Sakari, ALENIUS, Jani, WALTA, Ville, DONNER, Sofia, *Judicial Analysis on the Corporate Social Responsibility Act,* Publications of the Ministry of Economic Affairs and Employment, Fiinland, 2020. 12.

The dissertation is divided into three major structural units. The first unit is primarily intended to clarify the conceptual framework, after a brief overview of the evolution of responsible business conduct, it defines the content I use and points out its common points of connection with labor law. Secondly, it wants to illustrate the economic and social processes, from which I conclude that the phenomenon of CSR is not a momentary fad, but it can be a strategic tool influencing competitiveness and future processes.

The second structural unit of the dissertation aims to summarize and analyze the standards and recommendations for responsible business conduct in general on international, EU and Member State level.

The third structural unit is further divided into three parts, in which I present three institutions related to responsible business conduct as case studies: transnational collective agreements, the "due diligence" principle, and sustainability reports.

The first case study is the transnational framework / company agreement (TFA, TCA), which is a key institution in the field of collective labor law. It is a dynamically evolving phenomenon that is at the crossroads of the "regulatory" or "encouraging" efforts of various organizations. The TFA or TCA is a bilateral or multilateral agreement between large companies and trade union federations that aims to ensure the enforcement of labor rights as a transnational standard across the full spectrum of the large company's scope of operations. Any agreement that extends beyond national borders[12] is cooperation between multinational companies and trade unions at global and European level.[13] Transnational agreements are very different in their name, content and scope, but based on the above characteristics they can still be arranged in a well-defined, specified set. Although their number is small today, it has the potential to catalyze the exercise of collective rights at the national level, and it could be a step forward in the fatigue of the collective institutional system of the 21st century.

The second case study is the principle of "due diligence" or, more precisely, "human rights due diligence" (HRDD). It is a principle, a process, an outcome (can be applied in all three senses) that has been a key element of responsible business conduct since the UN Business and Human Rights Directive, and which can gradually become a guarantee system for "enforcing human rights compliance, employee protection and social responsibility in complex corporate structures and subcontracting chains."[14] Businesses, in the course of their activities, should thus avoid causing adverse human rights impacts and contribution to their development,

---

[12] TELLJOHANN, Volker, COSTA, Isabel, MÜLLER Torsten, REHFELD Udo, ZIMMER Reingard, *European and International Framework Agreements: New Tools of Transnational Industrial Relations*, Sage, London, 2010. 508

[13] SCHÖMANN, Isabelle, *The Impact of Transnational Company Agreements on Social Dialogue and Industrial Relations* in. PAPADAKIS, Konstantinos (ed), *Shaping Global Industrial Relations The Impact of International Framework Agreements*, Palgrave Macmillan, London, 2011, 21.

[14] KUN Attila (2017) op. cit. 296.

and they should also seek to prevent or mitigate adverse human rights impacts directly related to their business, products or services, even if they themselves do not contribute to these effects.[15]

The third case study deals with non-financial reports, which, within the meaning of European Union law, is a statement containing information on environmental, social and employment issues, respect for human rights, anti-corruption and bribery issues to the extent necessary to understand the company's development, performance, situation and impact of its activities, contained in the management report.[16]

The common connection point of the three institutions explained in the three case studies is that they can help enforce all three labor rights, they came to be as self-regulation, but there is a growing need for their regulation, however, regularization efforts are at different stages: the first seems to get stuck, but for the second, a definite regulatory effort is underway, for the third, we can evaluate specific regulatory results. They are different in terms of their purpose, they support responsible business conduct from different angles, they help transparency and accountability through collective labor law tools, process management and the publication of information.

My research is basically descriptive research. Methodologically, the processing of the domestic and international literature dominates in the first structural unit, reviewing the evolution of the development and concept of CSR in its historicity. The second unit is the historical processing of standards, guidelines, recommendations and legislation on responsible business conduct in three dimensions: international, EU and Member State. The third structural unit is case studies. I examined the purpose, essence, labor law effects and regulatory tendencies of the three legal institutions in a methodologically diverse framework: I supplemented the processing of the basic international literature with statistical data analyzes, content analysis, and secondary analysis of empirical research data.

5. New academic results of the dissertation

The economic power of large companies and the impact of their activities on society and the environment have gradually increased over the last fifty years, but at the same time their responsibility for the social and environmental impacts of their activities is fragmentary. For the dissonance of corporate responsibility issues, the phenomenon of CSR can serve as a voluntary solution.

[15] OECD Directive IV.2., IV.3, UNGP 13 (a)-(b)
[16] 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, Articles 19a and 29a.

In the culture of large companies, the norms of responsible behavior, the practice according to which companies voluntarily incorporate social and environmental aspects into their operations, appear as an increasingly definite expectation.

CSR has a short historical history and, due to its interdisciplinary nature, has a diverse content, but many economic and social changes (megatrends, new economic principles, new public policy practices and generational processes) reinforce a perspective that is not a passing fad, but a strategic business practice that is intensifying in the future.

If we accept the future right for existence of social responsibility, then it is also expedient to deal with the question of whether labor law can benefit from social responsibility, if so, how, and under what conditions.

The employee is standing in the intersection between labor law and social responsibility. Both are norms that are meant to serve the enforcement and protection of the rights of the employee, in different ways, with different force, at different levels. The content and boundaries of CSR are uncertain and blurred, but not more uncertain and blurred than the current transformations of some fundamental labor law (or thought to be) institutions in the changing world of labor law. When we face the problems of cross-border employment every day, the concept of employee, employment and labor relations is fragmented, the power of economic considerations in labor law regulation is becoming more strengthened, it is worth confronting how labor law norms can be blended with social responsibility principles, as the goal of the labor law can be ensured through the CSR toolkit in a complementary or gap-filling manner.

The contribution of this phenomenon may be that the rights under its umbrella, including some employee rights, may be protected by it. The use of the word “protection” may seem imperfect for the time being, as the phenomenon itself is fragmentary and fragile. At the same time, it is an opportunity that can arouse and arouses the interest of public legislators and has launched a process of self-regulation, co-regulation and regulation that together can become effective tools of ensuring responsible business conduct.

I present my research results along my three hypotheses.

H1. There is an increasingly strong regulatory network for responsible business conduct that seeks to improve its credibility and transparency by combining voluntary, mandatory and binding international, regional and national standards.

In the general unit of the dissertation (second structural unit) I have collected and analyzed the policies and regulatory instruments that seek to contribute to the spread and increase the credibility of CSR in general at international, EU and Member State level, thus indirectly strengthening the mentioned protection function.

The framework for responsible business conduct is established by soft law norms at the international level, the basic pillars of which is the OECD Guidelines for Multinational Enterprises, the UN Principles on Business and Human Rights and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. Although the documents are not binding, despite repeated proposals for binding legislation within the UN framework show up, the impact of the current instruments is not negligible either.

The OECD Directive forms the responsible business practice regarding a wide range of rights, mainly through its monitoring, complaint handling and enforcement network at national level, and by its “naming and shaming by watchdogs” function. The ILO Declaration is essential in defining the content of work-related rights, and the UNGP principles play a key role in their "survival" and their spilling-over into regional and national policies, primarily in the human rights dimension. The aspirations of the three organizations determining the basic directions are not separate, they appear in harmony with each other and in connection with each other, they carry out more and more intensive guidance and culture-forming activities in order to enforce their standards in practice.

The European Union initially envisaged a package of measures in line with international regulation, but with a much stronger general RBC policy, but with a much stronger general RBC policy, but in terms of the strength and type of measures, there was a significant difference between the ideas of the EU institutions. The Commission emphasized the need for information and partnership tools with a view to promoting the issue and raising awareness, and Parliament responded to the need for standard-setting. The EU's role in defining RBC policy now appears to be declining, while its commitment to implementing international norms and its commitment to human rights is growing, and a process has been cautiously started off which seeks to establish a legal framework for a phenomenon that is the result of corporate self-regulation and to embed it in hard law (such as making sustainability reports mandatory, making due diligence mandatory on a specific topic).

The EU level can be seen as a collection of initiatives from Member States that are committed and have traditions, and the expectations of international standards. It can help the practical implementation of international soft law norms, and can help to expand their scope, through their institutional system. There has been slow progress, but so far in terms of its activities in those states where there is a lack of internal commitment to the topic (see Hungary), the results of its activities are formal.

At Member State level, there is a sharp difference between the classical Member States (Western European States) and the 'new' (Eastern European) Member States: while in the case of the former the issues of more efficient implementation of the measures, in the case of the latter the localization of the institution, the reformulation of its pejorative meaning or the

justification of its necessity. In Hungary, the RBC is only a peripheral part of legal policy thinking, but in the light of international processes, a stronger state role seems justified.

The need to shape the culture of responsible business conduct that escaped public policy thinking two or three decades ago is now clearly evident. From the outside, from the point of view of a particular enterprise, it appears that the three levels of regulation, reinforcing each other, surround business practices with an increasingly densely woven network of norms. All three levels can be attributed to different functions and need for tools with different powers.

The international level has an orienting, culture-shaping, regional mediating, pressing, national validating and executing function. The key to the effectiveness and adoption of standards is action at Member State level, but in global market conditions this is inconceivable without regional and international coordination.

At the same time, we face the dilemma of what level of intervention can simultaneously maintain and encourage the dynamism of the volunteering of responsible business operation, but creating a single standard that creates a systematic, reliable and evolving institution from the currently dispersed "good practices". A mixture of volunteering and regulation may be needed that can preserve the motivations of the phenomenon's market operation, but at the same time ensures its credibility and transparency. In my view, RBC's case can be served by an increasingly densely woven network of norms at three levels, in which voluntary and mandatory instruments are present together in a healthy harmony. In addition to soft law norms, in the long run it seems inevitable to create hard legal roots of the principles, a process that has started slowly, as illustrated by the measures presented in the chapters of the dissertation.

Looking back at the decades of development of regulation of responsible business conduct, we can see that it is a linear and dynamically evolving process, from which it follows that in the absence of a major global economic collapse, it will continue in a similar direction in the future. Due to the current pathfinding of labor law and the unpredictability of future forms of employment, the form of labor law regulation, its normative structure and possible voluntary, but still generally accepted nature, cannot yet be estimated, however, based on research, its system of norms will become more and more intensively part of the transnational, company-level regulation of work in the next decade.

H2. Regulatory efforts are twofold: on the one hand, frameworks are created to steer businesses towards responsible business conduct, and on the other hand, a principle or institution that is taken out of the world of self-regulation - with stronger or weaker force - transforms into law, they are embedded in hard law.

Norms and tools for responsible business conduct in general have a slight binding force and are more informational, partnership-based. Thus, although a growing interest can be identified at these levels, there is no hardening in terms of legal norms.

In contrast, if we look at the case studies of the third unit of the dissertation, which are concrete examples of the manifestation of responsible business conduct, then a more definite process can be identified regarding the consolidation of the power of legal norms. Although efforts to regulate transnational agreements have so far failed, sustainability reports have broken out of the framework of self-regulation, human rights due diligence is about to break out, so they can survive in a modified form as a self-regulatory regulatory tool. The three tools can support responsible business conduct from different angles: transnational agreements strengthen partnerships, due diligence strengthens the companies 'duty of care, sustainability reports strengthen transparency.

Thus, there is a system of horizontal, general expectations of responsible business conduct at the same time, which currently creates more lenient interventions at the international, EU and national levels that induce and shape the development of the institutions presented in the case study. At the same time, these principles and institutions embody truly responsible business practices, therefore they can become vertical pillars of the phenomenon, their consolidation and placing on hard legal foundations is justified and probable in the long run.

Thus, in the area of responsible business conduct, we see that there is no general, mandatory and declared set of rules, no mandatory standards for what a company needs to do to act responsibly, and no system of sanctions for irresponsible conduct. In general, there are expectations and guidelines, both at international, regional and Member State level, in my opinion there is no significant change in the intensity and hardening of the regulation, and if I wanted to predict future trends, I do not think this direction is going to have a decisive influence on the subject.

At the same time, there is a much stronger public policy interest and regulatory intensity in the institutions formed as a result of responsible business conduct, their embedding in law and their involvement with strict legal norms is becoming more and more obvious. The most glaring example of this process is the development of HRDD. It points out that the value to be protected, in this case respect for human rights, may be of such weight that the rules laid down in the basic principles of responsible business conduct and the voluntary framework prove insufficient. Thus, it will gradually replace voluntary norms - first sector-specific and then comprehensively. The evolution of HRDD alone convincingly justifies the existence of my second hypothesis.

Especially since my HRDD dissertation remains "only one case study", but today its significance goes far beyond the scope of the case study. In the context of international and EU standards of responsible business conduct, following the UNGP and then the SDG, there has

been a shift in the focus to a degree that places the issue of responsible business conduct in the dimension of human rights and environmental obligations and sustainability, and that places all achievements and efforts to date at its service. I am convinced that the HRDD will be the starting point for further research on this topic, the interpretive framework that CSR still means in my research. This topic is the driving force of the processes and results of the near future, which needs to be emphasized even if this difference in emphasis does not appear either structurally or in terms of the depth of the explanation due to the verification of the original hypotheses of the dissertation.

Overall, horizontal and vertical regulatory interventions, voluntary and mandatory instruments, and increasingly top-down actions can result in a truly responsible business environment. The emerging trends point in this direction and justify my assumption of the existence of an increasingly densely woven regulatory network.

H3. The practice of responsible business conduct, as well as the tools created as its underlying ideology, can contribute to more effective enforcement of employee rights.

Responsible business conduct involves a broader set of socio-environmental goals than labor law [17], the common intersection is the enforcement of the employee and the rights related to the employee. In examining the relationship between CSR and labor law, we focus on the internal dimension of social responsibility, accordingly, on the social aspects applied to employees, the phenomenon of how CSR can complement, strengthen or, in extreme cases, replace existing or non-existent labor law.[18]

Both CSR policy and labor law pursue similar and common goals, it seeks to achieve namely the creation of socially responsible treatment of employees, the improvement of working conditions and the humanization of jobs. The significant difference is that common goals are achieved in different ways and by different means. Labor law is a set of codified rules created by the state, a set of "hard law" norms that create legal liability. The ethical principles that appear in CRS policies and are the result of self-regulation, and that are included in codes of conduct and strategies are "soft law" norms, which rather create moral responsibility.[19] While labor law rules are fundamentally sector-neutral, universal, and designed to serve the safety of employees, CSR is highly individualized, diverse, market-oriented, and serves employer flexibility. In contrast to the predictability of labor law norms[20], the norms of social

[17] ABRIATA, Bruno - DANTE-GUILLAUME, Delature, *What Drives CSR? An Empirical Analysis on the Labour Dimension of CSR*, ILO Working Paper 7, 2020., 4.
[18] KINDERMAN, D, „*Free us up so we can be responsible!" The co-evolution of Corporate Social Responsibility and neo-liberalism in the UK, 1977-2010",* Socio-Economic Review, 2012, 1, 29-57 44-45.
[19] GOND, J.P. - KANG, N. - MOON, J., *The government of self-regulation: on the comparative dynamics of corporate social responsibility, in Economy and Society*, 2011, 4, 640-671. 650.
[20] Accordingly, the same norms live in a prosperous economic environment and crisis.

responsibility are "Business case" dependent, they are affected by the current market situation of the company. In case of violation of labor law norms, the main dispute resolution forum is the court, the conflict is settled in legal proceedings, their enforcement is controlled as external bodies by state bodies, labor and labor protection agencies within the framework of state tasks. The enforcement of social responsibility standards is ensured by voluntary, alternative dispute resolution procedures and internal complaint mechanisms (whistle blowing). External monitoring activities are performed by consulting companies, qualification and certification systems have been set up, accordingly, the mechanism of external control is "privatized" and does not require a state presence.[21]

CSR is thus a set of norms with similar objectives to labor law, but based on a much more flexible, uncertain self-regulatory mechanism, thus being able to serve competitiveness, a feature that can play a complementary, bridging role in the rapidly changing employment and market conditions of the 21st century in the system of protection of employees.[22]

If we analyze the relationship between responsible business conduct and labor law, we can take more skeptical and optimistic positions.

Some see the RBC as the "privatization" of labor law, as it can be considered the "response of the market" to today's rigid and ineffective labor law rules, and that may be suitable to undermine the authority of classical labor law thinking.[23]

RBC can also be interpreted as the trend to replace classical labor law, which is an alternative and challenger to labor law, as public and media attention to RBC and the influence of multinational companies may distract from the need for further development of labor law.[24]

Others say that the voluntary standards of RBC guard and protect the legislation, and "pre-empt" it, because, if companies themselves behave responsibly, what legal norms may be needed.[25]

A skeptical approach should be mentioned, according to which the RBC is not an additional content, tool, opportunity in addition to labor law, as the conduct of the responsible company has no labor law relevance, since it fully complies with labor law standards.[26]

More optimistic positions interpret the RBC as a dimension beyond the rights in connection with work, as the "extension" of labor law, since it is always beyond and above the

---

[21] KUN (2011) op. cit. 26.
[22] RAB Henriett, *A CSR szemlélet Munkajogi vetületei* [Labor law aspects of the CSR approach], Magyar Közigazgatás, 2018, 4, 202.
[23] BURKETT, Brian W. - CRAIG, John D.R. - LINK Mathias, *Corporate Social Responsibility and Codes of Conduct, The Privatization of International Labour Law,* Canadian Councilon International Law Conference, 15 October 2004.
[24] KUN (2009) op. cit. 273.
[25] BAKAN, Joel, *The Corporation, The Pathological Pursuit of Profit and Power,* 2005., 29.
[26] KUN (2009) op. cit. 273.

law. The right directions of the RBC stimulate the enforcement of labor law norms, they exceed it.[27]

At the same time, RBC can internalize, reshape the letters of the law, thus facilitating their fulfillment, in fact, it does nothing more than redrafting the legal norms, providing more flexibility for the employer side, however, the violation of the legal minimum does not even occur optionally, the flexibility prevails in the dimensions above the legal minimum.[28]

At the same time, the RBC can also be a catalyst for labor law, facilitating and helping legislation by bringing to the surface ethical dilemmas that will later be legally confirmed.[29]

Many experts view RBC tools as the gap-filling tool of the international labor law, meaning that RBC's potential success lies in the cases where neither national nor international standards can deliver and achieve results.[30]

The approach that expresses the relationship between RBC and labor law the most precisely for me lives as a general perception today; according to this, the RBC is a "background ideology" of the labor law, as in the long run a paradigm shift within labor law is conceivable, that moves towards general and social responsibility of the employer instead of the responsibility based on classical labor law. This would result in the extension of the boundaries of labor law and the harmonization of regulation and self-regulation, but this way of thinking is no longer very far away from the ever-changing and increasingly flexible range of ideas of the labor law.[31]

The impact of responsible business conduct on the employees' rights was carried out in the special unit along the three case studies. Out of the three, transnational agreements and human rights due diligence have specific, identifiable labor law effects, the sustainability reports have a rather remote and indirect effect.

Transnational agreements can be seen as an element of the transnational labor law institutional system, and they offer a promising opportunity for the development of transnational partnerships, and they can be a means of transnational enforcement of the right to collective bargaining, through which the rules of the Parties are established that, at international level, lead to the effective enforcement of certain labor standards, working time, working conditions or more favorable conditions.

---

[27] WOLFF, Franziska - BARTH Regine, *Corporate Social Responsibility: Integrating a business and societal governance perspective*, RARE, Berlin, 2005, 15.
[28] GJOLBERG, M., "The origin of corporate social responsibility: global forces or national legacies?", in Socio-Economic Review, 2009, 4, 605-637, 606.
[29] Demos Magyarország, *Több, mint üzlet: Vállalati Társadalmi Felelősségvállalás* [More than business: Corporate Social Responsibility] Study, 24.
[30] BLOWFIELD, Michael - FRYNAS, Jedzej George, *Settig new agendas, Critical Perspectives on Corporate Social Responsibility in developing world*, International Affairs, 2005., 505.
[31] KUN (2009) op. cit. 281.

The results of this phenomenon are uncertain, but its development is also worth being monitored if we are skeptical about the credibility and effectiveness of the legal institutions that have been developed in the self-regulation of large companies.

Its effect can be identified in two directions. On the one hand, it can ensure the enforcement of fundamental rights across borders; even if its successes in this area are questionable for the time being, the embrace of the issue and the existence of accountable, fixed legal declarations can also contribute to the deepening of the prevalence of fundamental rights. At the same time, the TCA is a channel for information sharing, consultation, a framework for social dialogue between the management and the GUF, which can open the door for the results of national dialogue to be infiltrated and embraced, or, inversely, it can lead by example and stimulate national social dialogues. According to Schömann, the real significance of the TCA lies not in the results it has achieved so far, but in what it disguises and thus draws our attention to, namely, the need for a new form of international cooperation. The agreement is a "bottom-up" response from the people concerned to the challenges of globalization, a bottom-up support for a responsible business policy that should encourage public bodies to take action.[32]

Kun speaks of due diligence as an unusual, flexible transnational norm, a modern, overriding legal principle that conceals the possibility of enforcing human rights compliance, employee protection and social responsibility.[33] For the time being, its impact is much narrower than this, but its developmental tendency may give reason for optimism, as stated in the previous sentence. Existing international standards have embraced the phenomenon, for the time being, with different emphasis and legal protection. Out of its multi-layered meaning, its principled content is the likeliest to emerge in the future. Currently its human rights dimension is dominant, so it can currently have a supportive effect on the level of compliance regarding basic labor rights, but there is still untapped area in its current labor law report, and its development tendencies are encouraging.

The labor law effects of the sustainability reports should be examined in a broader aspect, as they can occur indirectly, through the application of the power of transparency. As information concerning practices related to collective system of relationships, occupational health and safety, training, education, equal opportunities, child labor, forced labor and compulsory labor becomes available, it is rightly hoped that a higher level of compliance will be strengthened by them for all these rights. We can assume a kind of direct proportionality in terms of the stricter transparency rules and the increasing benefits of labor law, so that from an optimistic point of view the institution can become a guarantee of employees' rights, thus promoting a better functioning market and self-responsibility.[34]

---

[32] SCHÖMANN (2011) op. cit. 214.
[33] KUN Globális szabályozás… [Global regulation…] (2016) op. cit. 2.
[34] Estlund op. cit.

After examining the case studies, it can be concluded that responsible business conduct appears as a shaping factor in both labor law and other contractual relationships. As a result, companies select their contractual partners and suppliers along these labor law values, accordingly, when making a business decision, they do not necessarily consider only economic aspects, but also stipulate that the given partner should be obliged to comply with the values they profess. In this way, therefore, a non-normative value choice is converted into a specific contractual obligation, which is obviously passed on to the supplier level, also influencing the legal environment it creates.

The approach to the topic, plans and concrete actions of Hungary are immature, despite the intense global processes, there seem not to be a need or real intention to join them. My dissertation would like to draw attention to this shortcoming, the creation of a special Hungarian way is not only necessary but increasingly urgent. State intervention cannot be avoided because for cultural reasons a social base of the approach that could catalyze the processes from below has not developed, so it is futile to hope that social processes will create a culture of responsible business conduct in Hungary from below.

All of this may undoubtedly be the result of a long maturation process, but, in my view, the first real steps should be taken as soon as possible. This requires a real state action plan, awareness-raising campaigns and forward-looking measures beyond the formal fulfillment of EU obligations.

UNIVERSITY AND NATIONAL LIBRARY
UNIVERSITY OF DEBRECEN
H-4002 Egyetem tér 1, Debrecen
Phone: +3652/410-443, email: publikaciok@lib.unideb.hu

Registry number: DEENK/68/2021.PL
Subject: PhD Publication List

Candidate: Ágnes Puskás
Doctoral School: Géza Marton Doctoral School of Legal Studies
MTMT ID: 10057148

List of publications related to the dissertation

Articles, studies (5)

1. **Puskás, Á.**: A fenntarthatósági jelentés az Európai Unió szabályozásának szemszögéből. *Közjogi Szemle. 4*, 48-55, 2019. ISSN: 1789-6991.

   Level of HAS Committee on Legal and Political Sciences: A

2. **Puskás, Á.**: A kollektív szerződés jogi természetéről. *Pro futuro. 9* (2), 65-81, 2019. ISSN: 2063-1987. DOI: http://dx.doi.org/10.26521/Profuturo/1/2019/3783

   Level of HAS Committee on Legal and Political Sciences: A

3. **Puskás, Á.**: Hullócsillag vagy a kollektív autonómia megjelenésének új európai dimenziója? *Miskolci Jogi Szemle. 14* (2), 111-130, 2019. ISSN: 1788-0386.

   Level of HAS Committee on Legal and Political Sciences: A

4. **Puskás, Á.**: Opportunities and challenges in International Framework Agreements, as new legal institutions to the emerging international collective bargaining. *Curentul Juridic. 78*, 41-53, 2019. ISSN: 1224-9173.

   Level of HAS Committee on Legal and Political Sciences: B

5. **Puskás, Á.**: A szociálisan felelős közbeszerzés elve az új közbeszerzési törvényben. *Jegyző és Közigazgatás. 2016* (2), 25-27, 2016. ISSN: 1589-3383.

   Level of HAS Committee on Legal and Political Sciences: B

Conference presentations (4)

6. Sipka, P. M., **Puskás, Á.**: New Coat for Labour Law? In: Economics and Social Developments:"Legal Challenges of Modern World" : Book of Proceedings. Ed.: Marijan Cingula, Douglas Rhein, Mustapha Machrafi, Varazdin Development and Entrepreneurship Agency, Split, 427-436, 2018.

7. **Puskás, Á.**: A transznacionális megállapodások hatékonyságát befolyásoló tényezők. *Profectus in litteris. 9*, 241-249, 2017. ISSN: 2062-1469.

8. **Puskás, Á.**: Emberi jogok a munkához kapcsolódó jogok? *Doktori Műhelytanulmányok. 2017*, 259-272, 2017. ISSN: 2064-1788.

9. **Puskás, Á.**: Munkavállalói jogok védelmét eredményező munkáltatói stratégiák. In: Doktoranduszok Fóruma: Állam- és Jogtudományi Kar szekciókiadványa. Szerk.: Szabó Miklós, Miskolci Egyetemi Kiadó, Miskolc, 289-293, 2017. ISBN: 9789633581247

List of other publications

Articles, studies (4)

10. **Puskás, Á.**: A felelős üzleti magatartás elveinek megjelenése az Európai Unióban. *Közjogi Szemle. [közlésre elfogadva]*, 1-11, 2021. ISSN: 1789-6991.

    Level of HAS Committee on Legal and Political Sciences: A

11. **Puskás, Á.**: Köztulajdonú gazdasági társaságok úton a társadalmi felelősségvállalás felé?: egy kormányrendelet újszerű olvasata. *Közjavak. [közlésre elfogadva]*, 1-5, 2021. EISSN: 2498-7190.

    Level of HAS Committee on Legal and Political Sciences: D

12. **Puskás, Á.**: A szociális beszerzés lehetséges hatása a munkajogokra hazánkban. *Közjavak. 4* (1), 18-23, 2018. EISSN: 2498-7190. DOI: http://dx.doi.org/10.21867/KjK/2018.1.3.

    Level of HAS Committee on Legal and Political Sciences: D

13. **Puskás, Á.**: A várandós nők jogainak érvényesülése, különös tekintettel az egészséget nem veszélyeztető biztonságos munkafeltételekre. *Gazdaság és Jog. 9.*, 24-29, 2016. ISSN: 1217-2464.

    Level of HAS Committee on Legal and Political Sciences: B

UNIVERSITY AND NATIONAL LIBRARY
UNIVERSITY OF DEBRECEN
H-4002 Egyetem tér 1, Debrecen
Phone: +3652/410-443, email: publikaciok@lib.unideb.hu

Conference presentations (1)

14. **Puskás, Á.**: A kollektív alku nemzetközi megjelenésének egy innovatív jogintézménye. In: A Selye János Egyetem 2017-es "Érték, minőség és versenyképesség - a 21. század kihívásai" Nemzetközi Tudományos Konferenciájának tanulmánykötete. Szerk.: Bukor József, Korcsmáros Enikő, Univerzita J. Selyeho, Komarno, 406-412, 2017. ISBN: 9788081222252

By the directives of HAS Committee on Legal and Political Sciences:
Publications in periodicals level „A": 4, related to the dissertation: 3.
Publications in periodicals level „B": 3, related to the dissertation: 2.
Publications in periodicals level „D": 2, related to the dissertation: 0.

The Candidate's publication data submitted to the iDEa Tudóstér have been validated by DEENK on the basis of the Journal Citation Report (Impact Factor) database.

26 February, 2021

DEBRECENI EGYETEM Egyetemi és Nemzeti Könyvtár