Principles of Business Activity in the Context of Sustainable Development

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Abstract. Scientific research is based on the fact that the business activity of subjects is one of the key elements in achieving sustainable development goals. Considering that business activity is carried out on the basis of certain principles, the authors believe that the goals of sustainable development have an impact on the modernisation and the formation of new principles of business activity. Compliance with these principles contributes to the actualisation of the business (economic) turnover in modern reality.

The aim of the article is to substantiate the formation of new principles of business activity of subjects as the main guiding principles of its implementation and appropriate regulation in the context of sustainable development.

This study aims to prove that the following elements can be considered the new principles of management: a) ensuring the vital interests of entrepreneurs, consumers and society in information environment; b) corporate social responsibility; c) fair competition in entrepreneurship; d) corporate greening.

To achieve this goal, the authors provided the characteristics of these principles and analysed the current state of their application. To solve the problem, first, the relationship between the listed principles and the goals of sustainable development is analysed. And secondly, the analysis of the influence of each of the principles on business activity is carried out.

While conducting the scientific research, methods such as dialectical, system-structural analysis, formal-legal, comparative, as well as other methods and scientific approaches were used to achieve the goal of the study.

In the course of the study, it was substantiated that the listed principles fully fit into the concept of sustainable development, which includes economic, social and environmental components. The conclusions summarise the characteristics of each of the new principles of business activity. Also, recommendations were formulated regarding the optimisation of the regulatory consolidation and the practical implementation of these economic principles, taking into account the European and Ukrainian experience. The results of the study are important for theory and practice, since they regard the presented principles as those that can be used to assess the activities of specific business entities, as well as the state of
legislation and government policy. The obtained results of the assessment can be used to develop proposals for improving the legal regulation and state policy of the economic sphere (including business and entrepreneurial activity).

**Keywords:** Corporate Greening Process · Corporate social responsibility · Economic competition · Information environment · Limitation of economic competition · Principles of business activity · Sustainable development

1 Introduction

Based upon the definition of sustainable development as repletion of today’s generation needs avoiding the threat for future generations to have their needs unsatisfied, the United Nations identified the Sustainable Development Goals (2015), which replaced the Millennium Development Goals (2000), and set a fifteen-year period for its achievement. With due account for these goals, countries, including Ukraine (2017), have designed national systems of sustainable development goals and indicators to monitor the success.

Taking a closer look at these goals, we may conclude that its achievement depends considerably on business entities whose role in this process is essential. For example, the starting point for the relevant markets functioning is the economic competition. Little wonder that a special discussion of the economic competition purpose in European integration processes has been activated; modern government economic development programs with set of economic and legal competition tools (in Ukraine backed by the Law “On Domestic and Foreign Policy Framework” (2010) [1], the Decree of the President “On Sustainable Development Goals to be achieved by Ukraine in 2030” (2019) [2]); international economic indicators (GCI [3], “Doing Business” [4], etc.) raise certain questions related to appregension of its legal nature, role and possible modifications. Sustainable development should be at the top of the agenda in terms of business decision-making, as complete decay of global ecosystem and, respectively, the society will dissipate both business and government policy [5].

Currently, business activity is carried out with due consideration of the real-world effects and challenges of the global information society, formulation of guidelines for the use of information and communication technologies. Also, the development of business sector must ensure free movement of commodities, increase the social responsibility of business entities, mainstream the the environmental component in business activity and reduce the negative impact on the environment.

All of the abovementioned statements clearly demonstrate that there is a need to reconsider and ensure the use of regulatory potential of such tool as legal principles to the fullest extent possible [6, p. 49].

2 References Review

The concept of sustainable development, goals formulated to ensure its achievement, are actively explored by the scientific community [7, 8]. Also, various research are conducted to identify the problems, conditions, and instruments to achieve these goals. For example,
a study is launched on the problems of the global information society and the use of information as a priority resource for sustainable development goals achievement. E. Brynjolfson and E. McAfee in “The Second Machine Age: Work, Progress and Prosperity in a Time of Brilliant Technologies” [9] stipulate that humanity was “blessed” with two major events in our history due to exponential, digital and non-combinatory forces: birth of real, useful artificial intelligence and provision of uninterrupted connection for the majority of people on the planet through digital network [10, p. 90]. In the context of social focus of economic development we may distinguish one crucial component of this process as object of analysis - “corporate social responsibility”. It is indicated that the conceptualization of corporate social responsibility in the global business community started paving its way in the mid-1950s and by millenium has turned into a global concept [11, p. 9]. However, up to now there is still no generally accepted definition of this concept, and corporate social responsibility is usually understood as alloy of charity and corporate strategy. Researchers express the need to reach a common ground otherwise it will be impossible to talk about any dialogue, including its effectiveness, between society and companies [12].

Analysis of legitimate economic competition as the basic principle of market economy system is built upon results of numerous studies carried out by experts in the field of economic competition theory (economists), competition law (antimonopoly and antitrust - lawyers). Thus, a peculiar postulate is presented in Edwin S. Rockfeller’s work: “I will start… by defining the anti-trust as a certain religion that exists independently from anti-trust laws” [13, p. 24]. Among Ukrainian researchers we may note the statement of K. Smirnova: “Competition is a highly objective market mechanism, designed by centuries of human civilization evolution. Still, the essential concept of competition and its role in market relations establishment between the business entities may be quite different in terms of market system maturity level” [14, p. 30].

A significant number of studies is devoted to the problems of ecology and environmental protection, sustainable development achievement, importance of environmental taxation and other related aspects [15, 16].

All things considered, one can share the opinion that economic growth leads to a heavier burden placed on environment and business entities profit prevails which does not contribute to the achievement of sustainable development goals. In turn, this requires consideration of the sustainable development goals as the foundation for the effective implementation of the business activity principles.

3 Research Methodology

The study was carried out using methods that are determined by the aim and objectives of the study. So, the choice of research methods depended on the need to analyse the relationship between the goals of sustainable development, business activity and the principles of engaging in such activities by subjects. Also, the choice of methods was carried out on the basis of the need to substantiate the formation of new principles of business activity and offer recommendations for achieving compliance with these principles.

First of all, such methods as dialectical and the method of analysis and synthesis were used for the research. With their help, the place and role of the principles of business
activity in the context of sustainable development are concretised. In particular, the method of analysis and synthesis made it possible to consider each principle separately, as well as to identify and substantiate the links between the goals of sustainable development and the formation of new principles of business activity.

The method of systemic-structural analysis made it possible to carry out a systematic analysis of legal norms that regulate business activity and/or contribute to the practical implementation of new principles of management. Using this method, the elements and tools necessary to ensure compliance with the new business principles, such as the principle of corporate greening, were identified.

The use of the comparative legal method was aimed at analyzing the provisions of the legislation of certain countries, the norms of the international law and identifying similar or distinctive features with respect to the principles of corporate social responsibility and ensuring fair competition in business.

In the course of the study, a formal legal method was used, with the help of which the definitive principles of corporate social responsibility and economic competition were analysed in the context of the topic of this scientific work.

Also, when formulating recommendations regarding the optimisation of regulatory consolidation and the practical implementation of new principles of business activity, the forecasting method was used, which made it possible to assess the impact of these methods on the implementation of business activities in sustainable development.

4 Results

First of all, it should be noted that many legal studies have been carried out with aim to compare the Ukrainian approach for various legal relations regulation with the international one, the experience of other countries [17, 18], reflected to some extent in this paper.

One of the challenges on the way to achievement of sustainable development goals is to ensure public access to information. Information has become the basis of social and informational development, the main resource nurturing social and economic relations, its value has already equated to that of traditional resources, and is also an important element in the process of individual and society development [19, p. 155]. The information-oriented society, according to most scientists, has made information its basic operational tool. Moreover, the spread of information and communication technologies has not only the potential for communication and mutual assistance in society, but also the development of a digital economy. Modern economy is characterized as highly transformative and adaptive, with rapid changes and shifts: over the past decades, the digital revolution has restructured almost each industry, including the media, entertainment, advertising, retail, every sphere of society, every profession [20, p. 23; 10, p. 88]. More and more business entities operate using information and communication technologies. It should also be noted that development of these technologies contributed to emergence of new business activity. We are talking about the activities of providers, named differently in various countries: ISP (intermediary service providers), ASP, owners of information advertisement services (from message boards to online auctions), “intermediary service providers”, on-line service providers, providers of access, providers of the informational
content, information intermediaries and subjects responsible for the transmitted information; propaganda of illegal activities, cybercrime, fraud, industrial espionage, criminalization of business, suspension/termination of state information resources functioning and so on.

Thus, we can agree that modern civilization is a risk society which may easily turn any vital resources into destructive weapon [21, p. 15]. Modern information technologies enable business entities to prioritize their interests, inflict significant damage to the competitor’s (business entity) security deprived of effective protection system aimed to withstand negative information impacts. This leads to unpredictable results of business activity performance and in some - to bankruptcy. These factors pose a significant threat to both individual enterprises and organizations, and to national security as well.

Therefore not only the “pure” information itself is of significant value for the humanity but also the compliance to established rules and guidelines on its handling (generalization, analysis, structuring, “filtering”, classification etc.).

Accordingly, the rules of global information society and information handling play an important role in the process of business activity performance, and the information component itself is becoming more significant and can be used as a framework to design new principle of business activity, namely ensuring the vital interests of entrepreneurs, consumers and society in the information sector.

Sustainable development goals contain a considerable social component which stimulates a powerful shift towards the social profiling economic development in most countries of the world. Nowadays socially responsible thinking and behavior of business are identified as the essential components of this process, which is most often defined as “corporate business responsibility” or “corporate social responsibility” (CSR). Moreover, we can state that no common understanding is there for the content of such responsibility.

Clarification of the conceptual approach to define CSR. What can be used as a foundation in this case? Transition from anthropological (social responsibility as a characteristic of a certain subject) to the philosophical concept of social responsibility (social responsibility as a characteristic of society) [22, p. 14]. This approach will allow to refocus the understanding of CSR concept from the actions performed by individual actors to change the processes in society. Relevant surveys presented the following results. In Poland respondents mentioned friendly attitude towards employees (equal treatment of customers) as the most important feature of a socially responsible company. Almost four times less attention was paid to activities of companies that are aimed at supporting charity and protecting the environment [23]. However, at the same time, this approach is much narrower in comparison with France, where social responsibility package of any entity includes the solution of the following (all) essential problems: organizational management; human rights; relationships and working conditions; environmental protection; consumer-related issues; communities and local (regional) development [24]. In 2018 a similar survey was conducted in Ukraine – it showed that the majority of respondents (75%) understood CSR as a policy of developing and improving the working conditions for staff, a third of respondents chose support to the veterans of Anti-Terrorist Operation and residents of relevant areas, charitable assistance and environmental protection. A very small number of respondents understand social responsibility as fight against corruption and assistance provided to internally displaced persons [25, p. 18]. In general, this approach is almost identical to the position of business representatives and stakeholders in other countries.
Thus, CSR can also be considered a new principle of business activity – if followed in the course of its performance, it may definitely contribute to the achievement of numerous sustainable development goals. However, the important question is: should the abovementioned CSR compliance be voluntary or mandatory, and what should be the nature of CSR regulation? [26]. Here we can distinguish the countries regulating the procedure for full CSR provision - France transposed the provisions of Europian Union (EU) Directive 2014/95/EU on non-financial reporting to Decree on the publication of non-financial information by certain large companies and certain business groups dd. July 19, 2017 and the Decree on its implementation dd. August 9, 2017. These texts form a new basis for the publication of non-financial information, and the whole system is codified in articles L 225-102-1 of the French Commercial Code [26]. Other states enshrined only selected aspects of corporate social responsibility in rather specific interpretation at legislative level – e.g. Indian government obliged corporations to spend a share of profit on social projects (Law on companies 2013).

In 2017 new reporting form was introduced in Ukraine – management report where both financial and non-financial information must be presented [27]. Currently Ukrainian legislation does not envisage any standardized management report template and enterprises individually structurize the data using European standards applied in this area as well.

Another significant principle of business activity that contributes to the implementation of sustainable development goals is to ensure fair business competition. Economic and legal versatility of this principle, as well as the fluidity and variability of the essence of this principle bring us to issues of its legal interpretation and role. It should be noted that Sustainable Development Goals (2015) do not directly mention the economic competition as such. But the very idea of acquiring the best with minimal expenditures (it is worth noting the natural limitations, the need for its optimized (rational) spending, etc.) after a choice is made, it should be assumed, corresponds to the general concept of development: today’s balance for the future of tomorrow’s generations. In addition, any reference to innovation, entrepreneurship, and trade is also, in general terms, related to economic competition in the framework of economic development (gradual, inclusive and sustainable economic growth). The Ukrainian Report (2017) [28] actively uses the categories of economic competition, competitiveness of the national economy, competitiveness of industries, competitive position, competitive product, etc.

Moreover, Ukrainian legal environment operates with a legal definition of economic competition (competition). The Economic Code of Ukraine (2003) and special legislation present the definition of competition based on its behavioral and structural characteristics, referring to the general principles of management (Articles 25, 6 of the Economic Code of Ukraine (2003) [29]). And constitutional norms provide relevant legislative level to the rules of competition and anti-trust regulation in the country, stipulating the person’s constitutional right to entrepreneurship on a competitive basis (Articles 92, 42 of the Constitution of Ukraine (1996) [30]).

It should be noted that problems related to understanding of economic competition essence are not often thoroughly studied in modern legal dimension. Categorization is carried out, as a rule, by means of adapting the economists’ competition theories and its use by lawyers: both the state (characteristics) of the commodity market, and the types of
commodity markets, and market rivalry, etc. Economic and legal science is saturated with many opinions on the competition concept [14, p. 30]. Moreover, only some national legal systems can present the definitive establishment of economic competition (availability of special legal regulation in this matter is not crucial).

Once initiators of the EU framework documents modernization also faced a problem related to comprehension of free competition concept in the framework of updated official texts. As you know, the European integration goal of free competition has been removed from the projects’ content. The motivational background was presented as follows: it is necessary to consider (define) economic competition as a means of market economy functioning, one of its principles, but not the goal of the European Union. Moreover, no one intended to cancel the programming to develop the competitiveness of the European economy in the upcoming decades [31, p. 32, 36]. Thus, Article 3 of the Treaty on the European Union (TEU) outlines that European sustainable economic development is based, inter alia, on a highly developed competitive social market economy. And the initial attitude to free competition as a core principle [32, p. 187] the EU functional objective [33, p. 10] and current – not as an objective itself [34], but efficient tool with a condition that competitive internal EU market is protected with the system preventing any competition disbalance (mentioned in the Protocol № 27 on the internal market and competition).

Of course, legal casuistics should take into account other points able to reflect the actual absence of absolute economic competition in the relevant sector. That is, if considering the situation of real complication of the abovementioned paradigm by intermediate states that justify subjects’ “business-life” without any economic competition or with its legal restrictions in the law. And not just directly prescribed legal constructions (which, it should be recognized, are also very complex and ambiguously defined, even a more or less stable situation with natural monopolies could potentially involve replacement of the economic structure of such a monopolistic relevant market with a competitive one), but also permanent approaches, which are substantiated, for example, by the vibrant economic situation or the need to take other factors into account. A classic example here is, for example, the US law enforcement practice: anti-trust cases «Standard Oil», «IBM», «Microsoft» (with truly bright chapter titles in book by Edwin S. Rockefeller: «From «Standard Oil» to «IBM» and «Microsoft»- attacking the winner», «No clear Rules – Arbitrary Decisions» [13, p.p. 120–123, 35–37]). Or in Ukraine actual (not legal) refusal to impose this sanction as a forced monopoly separation. But we must admit that decision of the Antimonopoly Committee of Ukraine (2019) [35] – for the first time within an extended period of time – stipulated imposition of a sanction on monopolist for competition rules violation. “Greening” is the next principle of business activity on the way to sustainable development. Currently, new views and approaches have been presented regarding the correlation of economics and ecology at international, national, regional levels, which may be summarized as follows. Firstly, any business activity can harm the environment, albeit the level of this damage varies; secondly, ecology takes precedence over economics, which means that there is a need to assess human needs and production of material goods, taking into account the capabilities of our planet to “give” resources and “process” the humanity waste. This explains the fact that majority of UN goals in the field of sustainable development contain an environmental component.
Accordingly, the achievement of these goals largely depends on the currently, the process of natural resources used is backed by a licensing system and environmental tax payment. Issuance of permits is typical for most OECD countries (Organization for Economic Cooperation and Development) and the Eastern Partnership states. As a rule, permits are issued for each individual type of natural resources [36, p. 27]. These permits also include establishment of limits for the use of natural resources. It should be recognized that differentiated approach may be used as a positive practice already applied in different countries. For example, in France there is a requirement to register equipment with high risk level. In England small and medium-sized business entities receive permits from local authorities for pollutants emissions into the air; in Scotland and the Netherlands, the norms of general application are prevalent [36, pp. 27–28]. In general, this approach stipulates that obtaining permits or registration is mandatory for those business entities whose activities carry great environmental risks. For others norms of general application may establish mandatory maximum permissible indicators of environmental pollution in case if requirement for relevant state bodies notification of their activities is absent [36, pp. 28–29].

Business entities’ commitments include also environmental tax payment (calculated on the basis of physical unit with specific proved negative impact towards environment. Apart from performance of compensatory function this tax can also facilitate the innovative technology evolution, its implementation in business activity or creation of more environmentally-friendly technology [16].

The promotion of business activity greening can also be carried out by establishing liability for violations of natural resources use and/or damage inflicted to the environment. The most widely applied measure is reimbursement of damage, usually in the form of pecuniary compensation. In addition, for example, in Ukraine, it is possible to limit or terminate the activities of a business entity if it operates in violation of the legislation on the environmental protection. At the same time, it is worth supporting the proposal of some researchers on the need to establish criminal liability for business entities for environmental crimes commission, following the practice of several European states [37, p. 266].

Compliance with the principle of economic activity greening is facilitated by measures aimed to prevent the negative impact of such activities and stimulation of responsible production. Preventive measures must include the assessment of economic activity impact on the environment. At the international level, assessment of the estimated environmental impacts is enshrined as one of the principles of the Declaration on Environment and Development, adopted in Rio de Janeiro in June 1992; such assessment is applied as domestic tool for economic activity types with potentially high level of negative environmental impact. To implement this principle, countries have adopted laws regulating environmental assessment. In 2017, Ukraine – the only EaP state - adopted an appropriate law breaking planned activities and facilities into two categories (with potential impact on the environment and, therefore, subject to preliminary assessment concerning commencement of such activities).

To some extent, preventive measures include the fulfillment of business entities’ commitments for the primary registration of emissions/discharges, use of natural resources, implementation of environmental protection measures, environmental
passports handling, conducting environmental self-assessment or environmental audits, etc.

Stimulation of responsible production is a significant step towards the economic activity greening. Responsible production involves introduction of green economy principles, which is confirmed by environmental management system certification in accordance with ISO 14001. It should be noted that in many countries, including Ukraine, the development of national sustainable development goals is the basis of “green” economic growth model [28]; therefore, even the use of separate individual elements of such model (for example, energy-saving, energy-efficient practices) will result in maximum compliance with the principle of economic activity greening and will positively affect the environment, fill the agricultural market with safer agricultural products of higher quality, and will reduce waste along with set of other positive changes.

5 Conclusions

Summarizing the brief analysis of normative consolidation and individual aspects of the sustainable development goals, the following conclusions are formulated.

In modern conditions, any type of business activity has to overcome not only the predicted but a whole range of uncontemplated new challenges (which was clearly demonstrated, for example, during the COVID-19 pandemic). It can be stated that both now and in the future, a large number of business activity aspects won’t be duly reflected in the legislation.

In this case, the basic legal principles may ensure the business activity performance in socially acceptable formats. At the same time, the widespread use of legal principles creates opportunities to overcome the ever-growing complexity of legal regulation [6, p. 49]. Thus, basic principles of business activity as legal tools can be successfully used to coordinate the actions of business entities, their coordination to achieve sustainable development goals.

This study allows us to formulate the following principles of business activity: ensuring the vital interests of entrepreneurs, consumers and society in the information area; corporate social responsibility; ensuring fair competition in entrepreneurship and economic activity greening. The listed principles are fully embedded in the concept of sustainable development, including economic, social and environmental components.

Business activity performance in the global information society requires correct and legitimized information processing aimed to ensure the vital interests of entrepreneurs, consumers and society in the information area, overcome the risks of information and communication technologies use. It can be successfully achieved in the era of informatization through formation of a global sustainable partnership between the state and society, the establishment of close cooperation of the state with business entities and public organizations.

In order to increase the effectiveness of CSR tools, extra attention should be paid to the need of a purposeful, comprehensive solution instead of separate on-the-spot decisions formulated on the basis of the functional subsystems for sustainable development promotion already available in the legislation [38, p. 26]. In Ukrainian context it seems appropriate to use the concept of public business order as a way of mediating the interaction of private and public interests in the economic area; this order must be backed
by legislation and true public interests, a system of legal and economic means aimed to ensure stability and efficiency of economic management [6, p. 52–53], with the foundations enshrined in the Economic Code of Ukraine. This approach will allow to focus on the coordination of interests of all entities involved in implementation of CSR, and will provide an emphasis on its ultimate goals achievement rather than implementing individual components.

In order to ensure compliance with the CSR principle, we can distinguish such areas of further development.

Implementation of CSR should take into account aspects that are important and motivating in a specific situation in a particular country, and aimed also at solving specific problems related to business and society. In Ukraine, it should be aimed, first of all, at intellectual capital maintenance and development, minimization of the labor resources from the country, stable social dialogue in society (providing assistance to internally displaced persons, minimizing the consequences of the temporary occupation of separate Ukrainian territories); minimization of the negative consequences of the coal enterprises massive closure, etc.

It is necessary to adopt an action plan at the national level in support and development of corporate social responsibility, development of reference standards for corporate social responsibility.

Following the example of France, which is one of the world leaders in this sector, it is advisable to create a special CSR Platform, whose mission is to organize dialogue, consultations and develop proposals, promote corporate social responsibility both through public policy and by supporting voluntary initiatives expressed by individuals, disseminating best practices and developing collaboration.

We consider it completely reasonable to bring such principle of business activity as economic competition to a basic level. But certain questions arise if we do - why reasoning and attempting to theorize economic competition? Clarifying certain essential characteristics through goals, conditions, principles, etc., because the semantic load of economic categories may be changed, described with different methodological tools, and investigated in different areas? And what about law? How to formulate legislative requirements for business if there such categorical versatility is observed? And if, in one case, competition is perceived as an effective counteraction to excessive state interference, and, in another, as a need of the latter in the context distortion elimination (negligence, illegality) of economic competition? And all this - within the framework of the economic component of Sustainable Development?

That is why:

- while using the legislative tools defining the economic competition, take maximum account of its uniformed interpretation in all relevant legal requirements, ensure its institutional relevance, by judicial system as well;
- it should be borne in mind that law enforcement practice requires consideration of not only the lack of universality in economic assessment of the competition category, but also the multifaceted nature of its legal interpretation, including the framework of the national legal system. For example, commercial legislation of Ukraine, providing
a legal definition of economic competition, relates it to the basic principles of business activity, correlating with the principle of limiting state regulation of economic processes; and the conditions for doing business.

– taking into account the European integration economic and legal practice of free competition transformational (broad) understanding, the mobility of the basic concept of the business activity absoluteness as a principle, it is necessary to provide for “cleavages” in legal regulation of subjects’ business relations.

The business activity greening as a business principle can be defined as a desire to reduce the negative impact on the environment, the implementation of responsible production or the introduction of certain elements of the environmentally-friendly economy model.

Compliance with this principle is ensured by legal standards providing for the assessment of potential negative impacts on the environment, regulating the use of natural resources in business activity, introducing measures to protect the environment from business activity negative impact, and establish the liability of business entities for violations in the course of its activities.

Strengthening of conscious international cooperation in the field of environmental protection, as well as close cooperation between states sharing different natural resources (primarily water resources, forests, etc.) plays an important role in successful implementation of the principle of business activity greening.

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