



The Government and Civil Society Roles in the CSR – Case of Poland

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Summary

Taking for granted that a joint action of all actors of the society is necessary to ensure sustainable development and human rights protection universally, and that State and civil society roles not only compliment each other, but often overlap, this paper attempts to define the roles of the State and civil society in the area of CSR, focusing on Poland as a case study.

The role of State with regards to CSR is approached from a human rights perspective. States are not only obliged to ensure that appropriate legislation protecting human rights from abuse by business, is in place and is enforced, but also have an explicit duty under ratified treaties to promote human rights. The author argues that promoting CSR should be viewed as a way of contributing to a better realization and respect for human rights and therefore constitutes part of a State's obligations.

Finally, the author provides a number of suggestions regarding State policies, strategy, 'leading by example' approach and relevant institutional frameworks, which aim at encouraging CSR practices among companies and involve civil society organisations. These, due to their very nature and purpose, could be a State's natural ally in this quest, particularly in the area of multi-stakeholder engagement, ensuring mechanisms of verification and raising awareness.

Keywords: Corporate Social Responsibility (CSR), Civil Society, Poland

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The Government and civil society roles in the CSR¹ – Case of Poland

"Globalisation is a fact of life. But I believe we have underestimated its fragility. The problem is this. The spread of markets outpaces the ability of societies and their political systems to adjust to them, let alone to guide the course they take."

Kofi Annan, Davos 1999²

Traditionally, those were governments that have assumed principal responsibility for ensuring that appropriate social, environmental and development policies and mechanisms are in place. When problems have arisen, the public sector has generally borne the responsibility for mitigation of the negative consequences. However, the pace of the current 'globalization wave', constantly increasing number of trans-boundary and trans-jurisdictional transactions, makes it difficult for the states to follow it with appropriate regulatory and monitoring mechanisms quickly enough. Therefore, if we are to ensure global sustainable development and ensure human rights protection, there is a need for joint action of all actors of the society.

While the Global Compact initiative dates back barely to 1999, the idea that companies can play a vital role in creating a "better world" and influencing respect for human rights by going beyond their legal obligations is not new. As far back as 1950s Bowen saw social responsibility as a potential 'third way' of managing privately social issues, while initiatives that we would badge today as CSR-type have even longer history.³ With increasing numbers of traditionally public services, e.g. water supply, sewage services that have direct impact on human rights enjoyment being privatized throughout the world such an approach that goes beyond the economic justification for social goals is crucial. It is also an important element of sustaining the business social licence to operate⁴ in an environment where the unprecedented access to

¹ For the purpose of this article, the corporate social responsibility (CSR) will be defined as a voluntary business behaviour, over and above compliance with legal and regulatory requirements, which stems from the commitment of business to contribute to sustainable socio-economic development by respecting human rights of all its stakeholders and "by working with employees, their families, the local community and society at large to improve their quality of life" (based partially on the World Bank, CSR definition, <www.ifc.org/ifcext/economics.nsf/Content/CSR-IntroPage>).

² The address of Secretary-General Kofi Annan to the World Economic Forum in Davos is often seen as the launch of the Global Compact: the world's largest, voluntary, global corporate citizenship initiative, that creates a framework for businesses that are committed to aligning their operations and strategies with ten principles in the area of human rights, labour, the environment and anti-corruption. See: <www.unglobalcompact.org>

³ HR Bowen, *The Social Responsibilities of the Businessman* (Harper and Row, New York 1953) 8-21; JP Gond and D Matten, *Rethinking The Business-Society Interface: Beyond The Functionalist Trap* (ICCSR Research Paper Series No. 47-2007) 7

⁴ Carroll and Buchholtz argue that CSR can be described as "economic, legal, ethical, and discretionary expectations that society has of organizations at a given point in time" (AB Carroll, AK Buchholtz, *Business and Society: Ethics and Stakeholder Management* (5th edn Thomson South-Western, 2003) 36

information goes along with a widespread society expectation of business to respect human rights and stimulates readiness on the side of society to question and critique irresponsible business behaviour. Legal compliance is no longer enough, as prevailing social expectations typically move faster than the law.

While CSR is considered to be voluntary on the side of business, creation of environment encouraging and stimulating such behaviour can be argued to be obligatory on the side of States in the view of their human rights obligations. State role in this respect should also be further supplemented by society involvement, in line with the Universal Declaration of Human Rights of 1948 (UDHR), which underlines that “every individual and every organ of society, (...) shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”⁵ Isn't promoting CSR a way of contributing to the better realization and greater respect for human rights?

Before we embark on discussion of the role of the State and civil society in CSR in more detail, it is important to set the stage with regards to the current CSR situation in Poland.⁶

Various researches have shown that CSR awareness among companies and general public in Poland is rather low.⁷ While hardly surprising, it is a rather worrying statement in a country where during the transformation process the State limited its social functions quite substantially. It is also worrying for another reason: as responsible is described a company that respects people, enables personal development, pays taxes, respects law, etc.⁸ Although a slightly different perspective is displayed by managers from the biggest companies and by consultants, who conceive it is a part of the comprehensive management strategy that enables creation of competitive edge through the use of innovative methods (that appeal to social values)⁹, one cannot help being disappointed that what should be the norm (respecting employers rights, ensuring safety and quality of the product, operating within the law, paying taxes, etc.) is treated as the best CSR practice. Judging by the general public expectations¹⁰, statistical data of the Ministry of Justice concerning cases of employees' rights abuse¹¹, the National Labour

⁵ Text: www.un.org/Overview/rights.html. Re legal status of the UDHR: G Alfredsson and A Eide, 'Introduction' in G. Alfredsson and A. Eide (eds.) *The Universal Declaration of Human Rights. A common standard of achievement* (Martinus Nijhoff Publishers, 1999) xxx

⁶ For more extensive background information see e.g. Andrzej Brzozowski and others, *Corporate Social Responsibility in Poland. Baseline Study* (Warsaw 2007) 15-18; (Further referred to as 'Baseline study'), www.acceleratingcsr.eu/uploads/docs/Corporate%20Social%20Responsibility%20in%20Poland%20Baseline%20Study.pdf

⁷ See e.g. P Mazurkiewicz, R Crown, *Public Expectations for Corporate Social Responsibility in Poland* (World Bank (2005)

⁸ I Kuraszko and others, *CSR w firmie – zysk dzięki odpowiedzialności. Przewodnik FORBESA* (Warszawa 2007); K Jasiocki, 'Społeczna odpowiedzialność biznesu w percepcji Polaków' (Portal Dobry Biznes Info, 27.06.2006) <www.dobrybiznes.info/?module=Default&action=ShowArticle§ionId=69&articleId=335>

⁹ I Kuraszko (n. 8)

¹⁰ See e.g. P Mazurkiewicz, R Crown (n. 7) 4

¹¹ According to the Ministry of Justice statistical data concerning convictions from the articles 281-283 of the Labour Law Code, in 2006, in 1594 out of 1876 cases employers were found guilty of the employees' rights abuse. In 2007 the numbers were 1538 and 1746 respectively. New proceedings were initiated in 2451 (2005), 1902 (2006) and 1961 cases (2007). Ministry of Justice (Personal e-mail communication 27.05.2008)

Inspectorate data¹² and results of monitoring of e.g. working conditions in factories¹³, one cannot help form the impression that if companies obeyed the existing law, there would not be much need for CSR.

However, to leave the picture as it is would do injustice to genuine CSR initiatives of many companies, examples of which are described e.g. in annual CSR best practices reports by the Responsible Business Forum (FOB)¹⁴, as well as to the awareness raising, research and practice oriented initiatives by a number of other actors (e.g. FOB, Centrum Wolontariatu¹⁵, CentrumCSR.PL¹⁶). Nonetheless, there is no doubt that there is still a long way to go, and on this road NGOs and State should reinforce each others initiatives and actions – education and publicity campaigns aimed at fixing the concept in public consciousness being only the first steps.¹⁷

State role in the CSR as human rights obligation

Although it is rather uncommon in the CSR debate, the role of State in CSR will be approached from the human rights perspective.¹⁸

If we understand human rights as an umbrella type of concept, we will see that it allows us to create an all encompassing framework covering not only ‘traditional’ human rights but also what tends to be seen in CSR discussions separately as labour rights¹⁹ and environment protection²⁰. The main advantage of such an approach is that it is human centred, and at the same

¹² According to the NLI information, only in 5% of 67.1 thousand companies that were inspected in 2000 by the NLI no infringements of labour law were identified. Info available at: <www.pip.gov.pl/html/en/html/00000005.htm>.

¹³ J Szabuńko, A Seibert and A Kamińska, *Work conditions of women working in cloth factories in Poland, Research results, 2005* (Karat Coalition, Warsaw 2005); Karat Coalition, *Fair Play zawsze w modzie. Świadoma konsumpcja a warunki pracy kobiet przy produkcji odzieży sportowej* (Karat Coalition, Warsaw 2007); See also: <<http://kobietypraca.org/fairplay/raporty.html>>

¹⁴ Forum Odpowiedzialnego Biznesu (Responsible Business Forum - FOB) was established in 2000 as an initiative of Polish businessmen, academics and civil society groups, to provide in-depth focus on the concept of CSR. To meet its objectives, FOB cooperates closely with business. See:<www.fob.org.pl/responsible-business-forum-221_878.htm>

¹⁵ Since 2005 Volunteer Centre Association runs ‘Business Volunteer Work’ programme, the aim of which is to build local partnerships between the business community, NGOs and public institutions.

¹⁶ CentrumCSR.PL is an independent foundation established in 2006 by private individuals aiming to contribute to dissemination and research in the area of CSR. See:<www.centrumcsr.pl>

¹⁷ See e.g. P Mazurkiewicz, R Crown (n. 7) 4

¹⁸ Texts of the core human rights treaties that set legal standard for States parties are available at <www2.ohchr.org/english/law/>. Poland has ratified majority of the UN human rights treaties.

¹⁹ Labour rights from the very outset were considered to be part of the human rights regime. See particularly art. 6, 7 and 8 the International Covenant on Economic, Social, and Cultural Rights (ICESCR), (<http://www2.ohchr.org/english/law/cescr.htm>). CESCR Committee that monitors the implementation of the treaty, requires States to provide information on the ratification and implementation of the relevant International Labour Organization (ILO) treaties in periodic country reports recognising the fact that practical implementation of ILO treaties’ contributes significantly to the realization of the ESCR.

²⁰ While there is a new tendency to recognize the right to clean environment as a fully fledged, human right on its own, in the traditional human rights discourse, clean environment is treated as a pre-condition for enjoyment of human rights. E.g. as indicated in UN CESCR, ‘General Comment No. 14’ (2000) (UN Doc E/C.12/2000/4) it is understood that in line with their obligation to respect and fulfil the right to health, States should refrain from unlawfully polluting air, water and soil, e.g. through industrial waste from State-owned facilities (para. 34). States are also required to adopt measures e.g. against environmental and occupational health hazards. For this purpose they should formulate and implement national policies aimed at reducing and eliminating pollution of air, water and soil,

time inclusive of the community and environmental issues. It also allows us to take account of a human being in all its complexity and able to flourish and develop fully only when all his/her rights are respected.²¹ From this perspective, the protection of the environment is not only seen as a prerequisite but also as an important element of human rights enjoyment.

It is worth noting that States parties to human rights treaties, are 'gently requested' by Human Rights Treaty Bodies to provide information not only on legislation and practical implementation measures of such rights as right to health or right to work²² but also measures undertaken to ensure e.g. clean environment or safe and healthy working conditions, as indispensable for their full enjoyment. Committees are also starting to consider whether states fulfilled their obligation to protect individuals' human rights from abuse by business entities – and that not only on the territory of the given state, but also beyond. Consideration of Canada's report by the Committee Against Racial Discrimination is a good example of this approach.²³

including pollution by heavy metals such as lead from gasoline (para. 36). While only States are parties to the Covenant and thus ultimately accountable for compliance with it, all members of society - individuals, including (...) local communities, intergovernmental and non-governmental organizations, civil society organizations, as well as the private business sector - have responsibilities regarding the realization of the right to health. State parties should therefore provide an environment which facilitates the discharge of these responsibilities (para. 42).

In para. 15 Committee reminds states of their obligation to prevent and reduce "the population's exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health".

Note also a broad understanding of the right to health "as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions (...). A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels" (Para. 11). "(...) The vital medicinal plants, animals and minerals necessary to the full enjoyment of health of indigenous peoples should also be protected. (...) in indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension. (...) development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health" (para. 27).

Among non-human rights agreements ratified by Poland, Aarhus Convention of 1998 on access to information, public participation in decision-making and access to justice in environmental matters (O.J. 2003, No. 78, Item 706) is a good example of a treaty that recognizes interdependence of humans and their environment. See: <www.unece.org/env/pp/documents/cep43e.pdf>

²¹ Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (25.06.1993; UN Doc A/CONF.157/23) underlines in part I(5) that "all human rights are universal, indivisible and interdependent and interrelated".

²² UNCESCR, 'General Comment No. 18' (2006) UN Doc E/C.12/GC/18

<[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.GC.18.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.GC.18.En?OpenDocument)>

²³ UNCERD, 'Concluding observations on Canada report' (25.05.2007) UN Doc CERD/C/CAN/CO/18, <<http://daccessdds.un.org/doc/UNDOC/GEN/G07/421/69/PDF/G0742169.pdf?OpenElement>>:

para. 17. "The Committee notes with concern the reports of adverse effects of economic activities connected with the exploitation of natural resources in countries outside Canada by transnational corporations registered in Canada on the right to land, health, living environment and the way of life of indigenous peoples living in these regions (article 2.1d), article 4 a) and article 5e)).

In light of article 2.1 d) and article 4 a) and b) of the Convention and of its general recommendation 23 (1997) on the rights of indigenous peoples, the Committee encourages the State party to take appropriate legislative or administrative measures to prevent acts of transnational corporations registered in Canada which negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada. In particular, the Committee recommends to the State party that it explore ways to hold transnational corporations registered in Canada accountable. The Committee requests the State party to include in its next periodic report information on the effects

In this context, as the *UN Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises*, John Ruggie, underlines in his report²⁴ to the Human Rights Council, State's primary role with respect to business is to protect people from such business actions that would interfere directly or indirectly with their enjoyment of human rights. This is easiest done by establishing and enforcing appropriate legal measures. However this obligation has to be seen within the background of the overall responsibility of State under human right treaties, which apart from protecting individual's human rights requires State also to respect and promote human rights.

Leaving aside State's duty to respect and responsibility to protect, we will concentrate here on State's obligation to promote human rights that, in some cases, like under art. 2.1. of the ICESCR, may even take a form of an explicit duty to "undertake to take steps" to ensure "achieving progressively the full realization" of the human rights, whereas the means to be used in order to satisfy this obligation are "all appropriate means, including particularly the adoption of legislative measures", and steps considered "appropriate" "include, but are not limited to, administrative, financial, educational and social measures".²⁵

To sum up, State has an obligation to ensure that respective legislation protecting human rights, including from abuse by business, is in place and is enforced properly, and simultaneously is under obligation to promote and support socially responsible behaviour of business entities that goes beyond this enforceable legal minimum, and leads to an increase of human rights enjoyment by individuals. By doing so, it encourages behaviour that is complementary to its own social and environmental programmes, and has potential to contribute to an accelerated achievement of objectives set out in such strategic documents as Sustainable Development Strategy "Polska 2025"²⁶. And that is where the role of States comes in focus with regards to Corporate Social Responsibility.

While there are many ways in which State could encourage CSR practices, we can distinguish several main roles: establishing an institutional framework that will enable multi-stakeholder engagement and 'sanction' verification mechanisms; awareness raising; direct involvement into specific projects; supporting civil society groups, in particular those of monitoring, assessment and "watch-dog", and last but not least, leading by example by setting good examples by socially responsible management of State-owned enterprises (SOEs).

of activities of transnational corporations registered in Canada on indigenous peoples abroad and on any measures taken in this regard.";

Also: Mark Cherrington, UN Body Holds Canada Responsible for Corporations' Actions Abroad, *Cultural Survival - Errore. Riferimento a collegamento ipertestuale non valido.*, 10.04.2007, <www.cs.org/publications/win/win-article.cfm?id=2917>.

²⁴ Report of the SRSG on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, 'Protect, Respect and Remedy: a Framework for Business and Human Rights' (7.04.2008) UN Doc A/HRC/8/5, <www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>.

²⁵ UNCESCR, 'General Comment No. 3' (1990) Contained in UN doc E/1991/23, paragraphs 3, 7 <[www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument)>

²⁶ In fact, if we compare the elements of the social, environment and even economic dimension of the Strategy with the human rights treaties ratified by Poland, we will notice that they overlap extensively. See: Ministerstwo Środowiska, *Strategia Zrównoważonego Rozwoju Polski do 2025 roku. Wytyczne dla resortów opracowujących strategię sektorowe* (Warszawa 1999), http://194.181.245.194/2materiały_informacyjne/raporty_opracowania/strategia/strategia1-3.html#_Toc479658106

Development of the CSR institutional framework:

Cooperation between public administration institutions

In Poland, as all over the world, the corporate social responsibility idea was first promoted by civil society groups before it appeared on the public administration radar in 2004, with Ministry of Labour and Social Policy being charged with representing the Government at the EU High Level Group on CSR²⁷. However, four years into the process there is still certain lack of clarity, at least as seen from NGO or business perspective, whether it is responsible also for coordination of the overall government CSR activity.²⁸ Why than not take advantage of this situation and reconsider, whether e.g. the Ministry of Economy, with its close links with industry chambers and employers organizations, would not be better suited for the role of the coordinating institution, not the least because being responsible for coordination of the implementation of the ICESCR, it could make CSR promotion part of this process. With majority of measures undertaken in CSR context focusing on economic actors, it seems also to be most relevant institution to issue relevant guidelines and recommendations. Independent of which institutions is/will be charged with coordination of all policies, the need for a close cooperation of a number of public administration institutions and coordination of their activities is unquestionable.

It is therefore time to transform an informal inter-disciplinary inter-ministerial Workgroup for CSR, established back in 2006, into more formal body that would focus on identifying CSR objectives and actively participate in multi-stakeholder dialogue, helping to identify measures that could enhance adoption of CSR practices by business. Its active contribution could include developing proposals for amendments to the existing legislation to make undertaking CSR initiatives easier and create incentives for initiatives even wider in scope.

Unfortunately, so far group's existence is unknown to the wider public, and neither are any tangible outcomes of its meetings. While informal group might have been enough till now, author's personal experience seems to suggest, that only formalization of the group's existence will increase chances of greater government involvement and ensure attention CSR advancement requires.

The coordination facilitating function of the Workgroup (of CSR-related activities of public administration), should include ensuring that policies, projects and legislation proposals developed by one of the institutions are enhanced by complementary action of other actors wherever possible. The Workgroup should also initiate a creation of a devoted internet website providing comprehensive information about the government's CSR policy, institutions involved, their responsibilities and initiatives, as well as participation by Polish authorities in international fora, e.g. EU High Level Group on CSR²⁹. In particular, sharing information about the best practices in other countries can contribute to the multi-stakeholder multi-sectoral dialogue and inspire innovative solutions. Such transparency is necessary not only because it is a good practice that helps building trust-based relations, but also as part of the 'leading by example' approach.

Workgroup should also be actively engaged in the work of the multi-sectoral platform.

²⁷ Statement by Mr. Palutko, Department of Social Dialogue and Social Partnership, Ministry of Labour and Social Policy (Personal communication 19.05.2008, DDP-V-61-18-MP/O8)

²⁸ B Rok, Wspieranie Rozwoju Społecznej Odpowiedzialności Biznesu w Polsce. Raport ze spotkań z interesariuszami (Warszawa, 2008) 5; available at: <www.undp.org.pl/files/745/CSR_Dialog_Podsumowanie.pdf>

²⁹ <http://ec.europa.eu/employment_social/soc-dial/csr/hlg_meetings.htm>

Multi-sectoral platform: “Commission for CSR”

Although research conducted by the World Bank and the Polish Office for Competition and Consumer Protection (UOKiK) among the general public in Poland suggests that public expects authorities to play the role of a guarantor of CSR initiatives³⁰, State should be aware not to overshadow or worse, undermine the role of the civil society. State should foster CSR friendly climate, endorse CSR initiatives and act as a partner in specific cases, but foremost it should use this opportunity to boost the role and activity of the civil society groups and thus contribute to developing a social network and conscious citizenship to balance the ‘invisible hand of the market’.

Plans to stimulate creation of a CSR Platform announced by Government representatives at the recent conference seem to be the right step in the right direction.³¹ “The Commission for CSR”, to use its working name, is conceived by the government as a structure anchored in a specific regulation, that would enable development of the basis of the state’s CSR policy, and would facilitate coordination and stimulation of the implementation of the pro-CSR measures and activities. Commission’s membership and participation in its work is not to be restricted only to the government representatives but is meant to encompass also social partners, non-governmental and consumer organizations, members of the academia and other relevant institutions. Steps were already undertaken to initiate the creation of this structure.³²

Mixed composition of the Commission should ensure that it operates in a fully transparent manner, with all initiatives and proposals widely consulted (e.g. by placing them on the dedicated portal) with all stakeholders.

CSR Policy

The creation of the “Commission for CSR” should ensure a stable environment for an informed multi-stakeholder and multi-sectoral dialogue leading to formulation of a country-specific CSR policy. Policy that will not only take into account such issues as the importance of SMEs for the Polish economy, but will also look into the future and ensure that it shapes certain trends from the outset, e.g. in view of a growing FDI³³ – it could encompass measures ensuring that companies respect broadly understood human rights also when operating abroad, by e.g. linking investment guarantees or export credits to properly functioning CSR policy.

It can be hoped that such wide consultation basis and increased CSR awareness³⁴, will protect the renewed attempts to develop a CSR policy from sharing the fate of the National CSR Strategy a few years back.

³⁰ World Bank, *CSR implementation Guide. Non-legislative options for Poland* (2006)

<<http://siteresources.worldbank.org/EXTDEVCOMSUSDEVT/Resources/CSRImplementationGuideNovember2006.pdf>>

³¹ Statements by Mr. Mleczko, Undersecretary of State at the Ministry of Labour and Social Policy, and by Mr. Baniak, Undersecretary of State at the Ministry of Economy at the conference ‘Społeczna odpowiedzialność biznesu jako polityka publiczna? Wnioski i rekomendacje interesariuszy dot. rozwoju społecznej odpowiedzialności biznesu w Polsce’ (Warsaw, 7.03.2008) UNDP – Global Compact Poland News info, <www.globalcompact.org.pl/aktualnosci_kraj.php>

³² Statement by Mr. Palutko (n. 27)

³³ Although foreign investment by Polish companies is rather small, their FDIs have been increasing, and reached USD 1.5 billion in 2005, as compared to USD 0.8 billion in 2004. See also: Baseline study (n. 6) 18

³⁴ Not the least thanks to the “*CSR implementation guide. Non-regulatory options for the Poland*” prepared by the World Bank that, as stated in the personal communication from Mr. Palutko, contributed to the ongoing debate and influenced the decision about raising the rank of the CSR in public administration. Statement by Mr. Palutko (n. 27)

Legislative framework:

While State should enhance CSR awareness mainly in non-regulatory way, improving the quality of law and introducing changes in specific areas might accelerate achievement of the desired results. Such legislative measures could include, e.g.:

- Amendment of the Public Procurement Act to enable including social and environmental considerations in the decision making process;³⁵
- Ensuring full transparency of all lobbying activities – danger of being exposed to the “name and shame” campaign might make companies think twice before embarking on the lobbying campaign contrary to the CSR spirit;
- Following example of UK, Sweden, Belgium and other countries, State could consider introducing legislation requiring pension funds to declare how, if at all, social, environmental and governance factors influence their investment decisions; to encourage socially responsible investment – phenomena still largely unknown in Poland;³⁶
- Improving law in the area of insurance of the volunteers, 1% donations, VAT on donated food, etc.;³⁷
- Introducing provisions equivalent (at least) to the art. 172 (1) (d) of the UK Company Act 2006 that requires directors to “have regard” to such matters as “the impact of the company’s operations on the community and the environment”, which placed duty on the directors to have regards to the impact of the whole group, including subsidiaries.³⁸

Awareness raising

Taking into account low CSR awareness, greater Government involvement in its promotion is crucial. There are two issues that need to be addressed first: raising awareness in the public administration circles and low level of compliance with the existing law/regulations.

While some institutions became familiar with the CSR idea in the recent years, for some it is still *‘terra incognita’*. Therefore trainings for government administration personnel initiated by

³⁵ E.g. Minister of Economy submission for consideration by the Government, ‘Nowe podejście do zamówień publicznych. Zamówienia publiczne a małe i średnie przedsiębiorstwa, innowacje i zrównoważony rozwój’ (8.04.2008) <www.kprm.gov.pl/s.php?doc=1333>; Baseline study (n. 6) 24

³⁶ In Poland recently only SKOK considered introducing Ethical Investment Funds into its offer: <www.skok.pl/?uXBFk9c9W95W44Ii0sXPmHjrz55FRJdezRGfmDkiVXKLA9SRTtOQUNdtiPSSH-a1wAFxvSw5nH0yHHGdFBZ10A==;IE86548012A4>

³⁷ B Rok (n. 28) 5

³⁸ D Chivers QC, *The Companies Act 2006: Directors’ Duties Guidance* (The Corporate Responsibility Coalition, 2007) 19: “9. Management of subsidiaries.

The board must accept that its decisions may impact indirectly upon stakeholders in the company’s wider business. In particular, where a company operates through subsidiaries it is not sufficient for directors to turn a blind eye to such operations simply because the directors may not be directly responsible for the management of those subsidiaries. (...) Directors of holding companies must have regard to the same matters in relation to the exercise of control over a subsidiary (even a foreign incorporated subsidiary) as in relation to any other aspect of the holding company’s operations. (...) Directors cannot avoid their responsibilities under the Act by placing intermediate holding companies between themselves and the operational companies in a group. Where such a structure does exist, directors will have to ensure that the operational companies (...) provide to the parent company sufficient material to enable the parent directors to exercise their powers (including their powers of control over the subsidiaries) lawfully. Suitable reporting procedures should therefore pass vertically through corporate structures without regard for separate legal personalities.”

the Ministry of Labour and Social Policy and conducted by the World Bank in 2007 should be continued.³⁹

Improvement of the enforcement of the existing law is most obvious way to address the problem of low law compliance. However, some of its underlying causes e.g. ignorance, can be addressed by less ‘forcible’ means along with promotion of the CSR approach to business: by raising employees’ awareness of their rights and empowering them to engage with employers in a dialogue leading to increased stakeholder engagement⁴⁰, and by making employers aware of their obligations under law and possibility of introducing CSR approach in their operations. Checklists for small companies (supplemented by extensive comments enabling employers to assess working conditions in their firms and to prepare for visits by labour inspectors) and employees (enabling employers to control the state of conformity to labour law and work safety in their companies) prepared by the National Labour Inspectorate are good example of an effective tool, that contributes to the realization of human rights.

Such tools, can simultaneously promote understanding of the strategic dimension of the CSR that can help a company not only to comply with existing law but even go beyond, and gain competitive advantage or at least reduce costs and impact of its operations.

It is important that State underlines necessity of making CSR part of the everyday business management, and draws a clear line between CSR and a ‘charitable topping’ (e.g. foundation charged with redistribution of part of the profits), while not diminishing the importance of philanthropy as such. Drafting CSR implementation guidelines for companies and promoting them in close cooperation with employer’s organizations, chambers of commerce, trade unions and civil society groups could be a step in the right direction.

Other measures undertaken by State on its own or in cooperation with other actors can take numerous forms:

- Organization of fully fledged CSR information campaign, addressed to various stakeholders and encompassing a variety of measures ranging from articles, publications, educational activities to trainings targeted at specific groups. The campaign should also raise awareness of already established, national and international standards, mechanisms and initiatives, like OECD Guidelines for Multinational Corporations⁴¹, Global Compact⁴², SA8000⁴³, Global Reporting Initiative - G3 (reporting framework)⁴⁴, Human Rights Compliance Assessment tool⁴⁵, ISO14000⁴⁶, Equator Principles⁴⁷, Forest Stewardship Council certification scheme⁴⁸, Extractive Industries Transparency Initiative⁴⁹ to name but a few.

³⁹ Baseline study (n. 6) 23

⁴⁰ E.g. *Act of 7th April 2006 on informing and consulting employees* (O.J. 2006, No 79, Item 550) features provisions for establishment and functioning of the employees’ councils and ensures greater involvement of employees into decision making processes in the company.

⁴¹ <www.oecd.org/dataoecd/56/36/1922428.pdf>

⁴² <www.unglobalcompact.org/>, <www.unglobalcompact.org/pl>

⁴³ <www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageId=617&parentID=473>

⁴⁴ <www.globalreporting.org/Home>

⁴⁵ Danish Institute for Human Rights, Human Rights Compliance Assessment, <www.humanrightsbusiness.org/>

⁴⁶ <www.iso14000-iso14001-environmental-management.com>

⁴⁷ <www.equator-principles.com>

⁴⁸ <www.fsc.pl>

⁴⁹ <<http://eitransparency.org>>; <www2.dfid.gov.uk/news/files/extractiveindustries.asp>

Specific projects within such campaign could be organized by State on its own⁵⁰ and/or run in cooperation with non-governmental organizations and business. State institutions could also use their authority by taking specific events under their auspices and/or by delegating state officials to participate in them, to help raise the importance of the issue and draw media attention to such events.

- Creation of the internet platform providing information about the CSR, State CSR policy, public administration institutions involvement (e.g. Workgroup on CSR), work of the “Commission for CSR”, CSR implementation guidelines, reporting and assessment tools. Such portal should also include information about civil society and business initiatives, and host or be linked to best practices database.

Such central “reference” point would make finding relevant information much easier, as currently majority of it is very dispersed⁵¹ and thus difficult for those new to the subject to find. It is crucial that such portal not only provides links to various assessment tools and standards, but provides also their Polish version. At present, majority of the CSR information and tools is available only in English, what for many willing creates an obstacle in itself.

- Supporting existing programmes and initiatives of non-state organizations, such as e.g. The Good Practice Guide “How to manage an equal opportunity company” developed by Gender Index project⁵², Code of Business Ethics⁵³ promoted by the Polish Chamber of Commerce or FOB’s annual reports on best CSR practices in Poland.
- Supporting awards and competitions that promote various aspects of CSR and while being lessons in transparency have at the same time big promotional value. The annual competition leading to “Equal Opportunites Company”⁵⁴ award for the company with the best record in this area of equal opportunities, is a good example of awareness raising initiative of promotional character, which is transparent and based on objective, measurable criteria (for each of the participating companies an individual Gender Index is calculated and expressed in a numerical form). On the government side, such initiatives of big promotional significance as the "Employer – Organiser of Safe Work" competition organized by NLI, and “Halina Krahelska’s Award”⁵⁵ for people involved in actions for the improvement of work safety, are worth popularising and imitating.
- Introducing a special SR index with clear screening criteria on Warsaw Stock Exchange⁵⁶ could encourage companies to introduce CSR policies and undergo independent, social responsibility assessment to attract ethical investors.

⁵⁰ One of the examples being UOKiK workshops on CSR organized for college students and development of the education materials available from Office’s website.

<www.uokik.gov.pl/pl/informacja_i_educacja/educacja/m_konsumenckie_abc/publikacje>

⁵¹ E.g. MPIPS, <[www.pozYTEK.gov.pl/Spoleczna_odpowiedzialnosc_biznesu\(CSR\).653.html](http://www.pozYTEK.gov.pl/Spoleczna_odpowiedzialnosc_biznesu(CSR).653.html)>;

MG <www.mg.gov.pl/Zrownowazonyrozwoj/Spoleczna+Odpowiedzialnosc+Biznesu>;

UOKiK <www.uokik.gov.pl/pl/informacja_i_educacja>.

⁵² Gender Index Project <www.genderindex.pl>

⁵³ <www.kig.pl/index.php/Kodeks-etyki-dla-przedsiębiorców>

⁵⁴ Competition Firma Równych Szans” (“Equal Opportunites Company”) constitutes one of the outcomes of the Gender Index Project organized by the UNDP in Poland. See: Konkurs Firma Równych Szans, <www.undp.org.pl/kobiety/aktualnosci.php?news=1107>, <www.pkpplewiatan.pl/konkurs>,

⁵⁵ NLI portal, <www.pip.gov.pl/html/pl/html/01070527.htm>

⁵⁶ Over 98% of the Warsaw Stock Exchange shares are owned by the State Treasury.

<www.gpw.pl/gpw.asp?cel=ogieldzie&sky=1&i=index&nagnaz=O%20%20gieldzie>

- Promoting ethical and sustainable consumption patterns among consumers – by raising awareness of customers’ rights and CSR issues and promoting understanding of social labels and eco-labels (Fair trade - Sprawiedliwy Handel, ECOLabel⁵⁷, low mileage, locally produced, etc.). Empowered customers, aware of their rights and issues linked to production process and aware of the ‘label code’, will be able to make a conscious choice, hopefully based on ethical criteria that in turn will put pressure on the companies and lead to greater sustainability and human rights observance in the production process. Making people aware of having a choice between ethically and not-so-ethically produced items is often enough to make them choose the ethical products.⁵⁸

State is already involved in such actions and there is no reason why it should not lend its authority to other initiatives. Ministry of Environment engagement in promotion and information development activities concerning the Eco-Management and Audit Scheme (EMAS) and its cooperation with Polish ISO14000 is worth noting also because of its use of the EU funds to foster specific aspects of CSR in Poland.⁵⁹

Its activity shows clearly that potential exists for greater involvement of other public administration institutions, including the OECD National Contact Point⁶⁰, which despite its main goal being to promote and disseminate the OECD Guidelines for Multinational Enterprises, is not very visible.

Co-operation

State can and should support the role of a civil society institutions and organizations geared towards CSR monitoring and assessment by entering into cooperation or partnership with them, or at least by subjecting the SOE to such external verification. If it is possible for the Helsinki Foundation to monitor conditions in e.g. prisons along the Ombudsman’s representatives, there is no reason why, providing confidentiality of the company critical economic data, SOE should not undergo verification by the civil society, in whose name theoretically SOEs are managed.

Element of social verification and assessment could be also introduced into NLI inspections of companies, pending consent of the concerned employers/companies. The low level of trust in the effectiveness of the NLI inspections is the result of the fact that employees perceive the relationship between inspectors and employers as too ‘familiar’. Therefore inviting, were appropriate, a member of a civil society organization to participate in the inspection process, has the potential to both improve the trust in the protection and supervision mechanisms of the state and to change and encourage business owners to agree or even invite NGOs to undertake monitoring exercise on their own. Currently, as problems faced by KARAT Coalition when conducting research concerning work conditions in garments factories indicate, openness of the business sectors to external verification by civil society organizations is very limited.⁶¹ Mixed

⁵⁷ECO-label, <www.pcbc.gov.pl/ecolabel/>

⁵⁸ M Varul, ‘Fairtrade consumer ethics: moral problems and pragmatic perspectives for the future’ (Global Centre Series Presentation, 6.05.2008). See research project: ‘Fair Trade Consumerism as an Everyday Ethical Practice / A Comparative Perspective’ <www.esrcsocietytoday.ac.uk/ESRCInfoCentre/minisite/mzv/index.html>

⁵⁹ Baseline study (n. 31) 24

⁶⁰ It is located in the Polish Information and Foreign Investment Agency (PALiIZ) <www.paiz.gov.pl/index/?id=ffd52f3c7e12435a724a8f30fddadd9c>

⁶¹ Kinga Lohmann, *Sytuacja kobiet na rynku pracy. Proponowane rozwiązania w kontekście CSR*, Conference ‘Koncepcja CSR w Polsce - stan obecny i perspektywy rozwoju’ (6.06.2006),

teams of public and social experts might be thus better positioned to conduct a thorough assessment of the situation in a company. Particularly that there is already a track of NLI cooperation with e.g. trade unions or social labour inspectors, upon which such ‘refreshed’ model of cooperation could build.

Supporting non-governmental organizations

While there is a need for a full dialogue with the government and business, it is important that State stimulates creation of a pool of independent NGOs focusing on CSR, by e.g. providing special, goal specific grants.

There is a particular need to fill in the vacuum in the area of NGOs with expertise in independent CSR assessments and those with typically monitoring role (‘watch-dogs’). With no such organization to verify against an objective set of CSR criteria the reality behind the individual companies’ CSR statements or CSR awards given by business-linked organizations, many of such initiatives could soon become reduced to medially catching PR and philanthropic actions. Taking into account that, at present, only small percentage of companies incorporated CSR into their strategy, while majority focuses on philanthropy, stimulation of an independent monitoring creation is critical.

Leading by example

Governments are uniquely placed to foster corporate culture in which respecting human rights is an integral part of doing business. By leading by example, including subjecting themselves to external verification, they can reinforce actions by companies themselves to respect human rights. With senior management in SOEs typically appointed by and reporting to State entities, it should be relatively easier to ‘induce it’ to embracing human rights and CSR corporate culture.⁶²

This can be done in a variety of ways, most obvious including adoption of the CSR guidelines or Human rights guidelines requiring SOEs to make CSR/Human rights considerations part of their strategy. Ensuring effective implementation of such provisions, could include independently assured reporting, using Global Reporting Initiative Guidelines (G3) – solution that is already successfully implemented e.g. in Sweden.⁶³ Such process, if approached as a CSR tool and not just as a ‘writing exercise’, can bring very fruitful results. Author’s experience with preparing country reports on human rights implementation in Poland suggests that involvement of the NGO community into the drafting process gives opportunity to assess the situation more accurately, which is the first step to addressing the problematic issues. Additionally, by involving both governmental and non-governmental actors in more or less formal form of exchange, it helps to build trust, or at least understanding of each other position and limitations.

<www.centrumcsr.pl/pliki/22_Kinga_Lohmann.pdf>

⁶² Without being prejudgmental, it is worth noting that recently even China issued an advisory opinion on this subject; China’s State-owned Asset Supervision and Administration Commission of the State Council ‘Instructing opinions about central State-owned enterprises fulfilling social responsibility’ (4.01.2008),

<http://www.syntax.com/E_Page_Show.asp?Page_ID=6407>;

<<http://www.sasac.gov.cn/gzjg/zcfg/200801040109.htm>>

⁶³ “Guidelines for external reporting by Swedish State-owned companies”, adopted 29.11.2007, available at <<http://www.sweden.gov.se/sb/d/8194/a/93506>>

Related model of basic human rights *due diligence* to be undertaken by companies, advocated for by the SRSG on Human Rights and Business⁶⁴, includes:

- Adoption of a human rights policy (it could constitute part of the CSR policy or *vice versa* – CSR objectives could be integrated into HR policy);
- Impact assessments – companies must take proactive steps to understand how existing and proposed activities may affect human rights. Such assessments can be linked with other processes like risk assessments or environmental and social impact assessments, but they should include explicit references to internationally recognized human rights. Based on the information uncovered, companies should refine their plans to address and avoid potential negative human rights impacts on an ongoing basis;⁶⁵
- Integration of human rights policies throughout a company. Leadership from the top is essential to embed respect for human rights throughout a company; as is training to ensure consistency and capacity to respond appropriately when unforeseen situations arise;⁶⁶
- Tracking performance is crucial as regular monitoring and auditing processes permit a company to track ongoing developments and generate information needed to create appropriate incentives and disincentives for both management and employees and ensure continuous improvement.

While the model developed by Ruggie is claimed to be applicable to all companies, it is even more so with regards to SOEs, as beyond any legal obligations, human rights harm caused by SOEs reflects directly on the State's reputation, providing it with an incentive in the national interest to exercise greater oversight.

At the moment we can see some very modest steps in the right direction, such as the declaration by the Ministry of Labour official to introduce the Gender Index in the ministry and undertake steps leading to assessing the whole public administration with it, to give a good example.⁶⁷

Another way of leading by example would be to establish CSR coordinators in all public administration institutions (e.g. situated within the Director General's office) charged with identifying ways to minimize social, human and environmental impact of those institutions and promote sustainable behaviour patterns among employees.

Civil society role

In promoting CSR, State will find a natural ally in a civil society that is also bound by the UDHR to “strive by teaching and education to promote respect” for human rights and freedoms. In fact it was the civil society in the form of the Responsible Business Forum that first responded to the changing environment and initiated discussion on social responsibility of business.

⁶⁴ Report of the SRSG (n. 24) para. 57-64

⁶⁵ How far or how deep this process must go will depend on circumstances. After all even Polish company could have contributed to the conflict in Liberia by buying wood logged in this until recently conflict torn country. See e.g. Arthur G. Blundell presentation, ILA (British Branch) 2008 Annual Conference ‘Does International Law Mean Business - A Partnership for Progress?’ (London, 16-17.05.2008)

⁶⁶ BLIHR, OHCHR, and the Global Compact, *A Guide for Integrating Human Rights into Business Management*, available at <www.ohchr.org/Documents/Publications/GuideHRBusinessen.pdf>

⁶⁷ Magda Sikorska (UNDP), ‘Gender Index w Ministerstwie Pracy’ (UNDP Poland News, 21.03.2008) <www.undp.org.pl/kobiety/aktualnosci.php?news=1107>

The top priority for civil society should be providing both general public and business with verified information and “multiple interpretative horizons”. As there is a danger of infusing the debate with the beliefs and philosophy of just one party (e.g. that realization of CSR is a goal to pursue as long as it can be economically justified – which seems to be indicative of business; or that social goals/human rights observance etc should always take priority, even in situation when it would mean compromising the very existence of the business), I believe there is a need for a variety of actors and approaches to ensure access to the full and unbiased information not only on both negative and positive impact of business on society and environment,⁶⁸ but also on every individual’s potential to contribute to making a change for good.

Variety of perspectives is necessary to make it impossible to take over the CSR discourse solely by promoters of only one perspective. Although it is not my goal to condemn the business initiatives involved in CSR discussion as (a) they often do a good job, and (b) because such apparent need for corporations to address the issue of CSR in a collective, organized manner, suggests a change of attitude among the business community and sometimes allows to “separate sheep from the goat”; it is necessary to ask why such involvement is done through new means traditionally seen as reserved for activists and not through already established industry or trade associations, membership of which, like that of International Chamber of Commerce, overlaps with that of the ‘CSR initiatives’.⁶⁹

In order to fulfil their awareness raising, partnership enhancing, know-how transfer and monitoring role NGOs themselves must ensure efficiency and transparency of their operations and activities, and ensure maximum professionalism in carrying out their work.

There is also a need for existing NGOs active in the area of CSR (or related fields) to form a knowledge/best practices exchange platform, a forum which would enable civil society groups to coordinate their efforts and thus, potentially, make their business and government lobbying more effective.

Awareness raising

Awareness raising activities of civil society groups should target not only companies but also consumers. Promotion of conscious, ethical consumption patterns⁷⁰ and sustainable models of living among the general public will help to lessen individual’s impact on the environment and society, and increase, in the long run, pressure on the companies to take broadly understood human rights/ethical issues into consideration in their activities.⁷¹ As already stated, making people aware that they can choose e.g. ‘Fair trade’ tea or ‘child-labour free’ product, is often enough to influence them towards making the ‘ethical’ choice, as their conscience will not allow

⁶⁸ See e.g. activity of the project CSRinfo that aims “to support practitioners in their decisions, contribute to their development in CSR field and raise awareness about CSR and sustainable development in CEE region”. See: <www.csrinfo.org>

⁶⁹ Segerlund, Lisbeth, ‘Violators and/or Advocators’ The Janus Faced Involvement of Business in Corporate Social Responsibility’, in: ‘Score Conference in Stockholm 13-15 October 2005, Organizing the World: Rules and Rule-Setting Among Organizations. Theme 1: Organizing Rule-Setting’ (Stockholm Center for Organization Research, Stockholm University, Stockholm, 2005)

⁷⁰ Issues raised could include e.g. Fair Trade, environmentally friendly products, organic production, carbon emissions awareness and ways to offset one’s negative impact on the environment, energy saving schemes, possibility to switch to ‘green energy’ providers, etc.

⁷¹ If not for consumer demand, supermarkets would not follow The Body Shop in catering for clients that seek cosmetics not tested on animals or made only from natural ingredients.

them to make a different one.⁷² Preventing people from unconsciously reproducing unsustainable patterns of behaviour and thus tacitly legitimizing current *status quo* will in the longer run exert pressure on the companies, hopefully making them adapt to the changing consumer demand. By providing consumers with relevant information, NGOs will not only enable them to turn shopping into a conscious ‘action’ but also to undertake informed critique of the unsustainable practices, what might even lead to organized boycott of goods produced in environment sustaining human rights abuses.

While public advertising campaigns are probably the best way to reach a large percentage of the population with information about such ‘simple’ issues as the meaning of specific labels, prohibition of discrimination, recycling schemes or energy-efficient solutions; more specific issues require more sophisticated approaches. Just as in case of State, such actions could range from organizing events and trainings to publications and cooperation with companies in establishing effective due diligence systems. There is also no reason why NGOs should not get involved in education facilitation – and approach schools with lesson schemes and projects concerning CSR.

Raising awareness among companies should focus not only on highlighting issues they need to take into consideration but also promoting guidelines concerning the conduct of companies’ operations (e.g. OECD Guidelines for Multinational Enterprises), specific certification standards (e.g. Fair Trade Labelling, SA8000, ISO14000, Forest Stewardship Council, etc.), multi-stakeholder involvement and consultation mechanisms, as well as reporting initiatives (e.g. GRI G3) and assessment tools (Human Rights Compliance Assessment)⁷³. Where invited to do so, civil society should also engage in dialogue with companies that will help companies to delineate their ‘sphere of influence’ in terms of stakeholders, relationships, space and activities – and design adequate CSR strategy. There is also a space for CSR rankings and awards, which would recognize, support and promote the best CSR practices as at the moment this scene is dominated by business awards.

Co-operation

Civil society can also contribute to CSR development by actively engaging in the multi-stakeholder dialogue and, where genuine opportunity arises, getting involved in partnerships with business to assist it in introducing change. This work is currently done to some extent by already mentioned Responsible Business Forum, Centrum Wolontariatu and Academy for the Development of Philanthropy⁷⁴. Support in the form of training is offered also by CentrumCSR.PL or experts associated with CSR-Info.⁷⁵ There are numerous other civil society groups that focus on specific issues (e.g. gender discrimination, discrimination on the grounds of disability, decreasing carbon footprint⁷⁶) and could contribute with their expertise to developing

⁷² M Varul (n. 58)

⁷³ Danish Institute for Human Rights, Human Rights Compliance Assessment (HRCA) an online indicator tool, allowing companies to run a check of HR risks in the company or a project – including subsidiaries, suppliers or subcontractors; <www.humanrightsbusiness.org/>

⁷⁴ Akademia Rozwoju Filantropii (Academy for the Development of Philanthropy) is an independent NGO founded in 1998. Its active in several programme areas, including social business involvement, social entrepreneurship and individual philanthropy. It organizes annual competition “Benefactor of the Year”. See: <<http://www.filantropia.org.pl/>>

⁷⁵ Baseline study (n. 6) 27-29, CentrumCSR.PL <www.centrumcsr.pl/>; <www.fob.org.pl/>.

⁷⁶ E.g. program “Czas na Las” Fundacji AERIS Futuro <www.aeris.eko.org.pl/>

‘subject-specific’ CSR programmes that would complement each other. To use this potential fully, NGOs need to create a platform, forum of knowledge and practice exchange – that would enable not only coordination of dispersed activities but also combining different expertise to develop innovative solutions and projects, as well as ensure increased visibility of many initiatives unknown on the wider scale. Such ‘forum’ could be also perfect starting point for business willing to develop more or less specific CSR strategy and looking for civil society partner(s) to assist it in this undertaking, that could profit from the social partner expertise.

Monitoring organizations and “watch-dogs”

As mentioned earlier, Poland is lacking NGOs of a truly ‘watch-dog’ character to monitor compatibility of business practices with generally recognized human rights standards and voluntary adopted codes of conduct/policies, and make the general public aware of the cases of corporate misbehaviour.⁷⁷ Such organizations should not only use typical monitoring mechanisms but should develop the capacity and knowledge that would enable them to use the existing law and judicial and enforcement mechanisms to ensure better behaviour of companies. Case of *Kasky v Nike* is a good example of situation when using existing legislation (unfair competition and false advertising law) can help target the negative behaviour, and ensure negative publicity of a company not delivering on its CSR promise.⁷⁸ What makes the social oversight over companies in Western Europe effective is exactly this type of civil society supervision and often its greater professionalism.

As such groups should avoid any financial linkages with business to prevent potentially compromising their independence; they need to ensure that their funds come from other sources, e.g. State grants.

NGOs with certification and assessment expertise

There is also a need to fill in the vacuum in the area of NGOs with expertise in independent CSR assessments, able to provide an objective and professional support to companies who request it. Such civil society groups would need to possess the required knowledge and skills, and be able to carry out their tasks in an effective and professional way. We could leave such ‘assessment’ exercise solely to specialized consultancies, but after the Enron scandal one can question whether it is the best way forward. Involvement of the adequately trained, professional civil society representatives would ensure a social supervision element and show the openness of the given company to public scrutiny.

NGO’s have also a potential role to play in the process of drafting companies CSR reports. An annual reporting exercise could constitute great opportunity to review all activities, assess progress and achievements but also failures, and help to identify their causes, in a form of a dialogue between company and its stakeholders. Those two areas, monitoring and external assessment, will increasingly gain on importance after the initial phase of awareness rising. Unless we are ready to accept that a company, whose CSR policy is condensed in one sentence, treats its commitment really seriously.⁷⁹

⁷⁷ See also: B Rok, (n. 37) 4-5

⁷⁸ <www.sustainability.com/aboutsustainability/article_previous.asp?id=61>; Text of court submission: <www.corpwatch.org/article.php?id=3448>

⁷⁹ E.g. CSR statement at the Kredyt Bank website, <www.kredybank.pl/o_banku/Corporate_Social_Responsibility/>

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As can be seen, there are many ways in which the State can meet its human rights obligations and ensure their progressive enjoyment by stimulating CSR. Many of such actions do not require financial resources but simply willingness to “undertake to take steps”. Civil society that like any other actor of society also has a role to play in promoting human rights observance is State’s natural ally in this respect. What distinguishes those two actors is that State has an explicit duty under ratified treaties to promote human rights, while for civil society it is their *raison d’être*.

Except for the leading role of the public administration in the creation of the formal CSR framework and enhanced easiness with regards to submitting amendment proposals of the existing legislation on the one hand, and, on the other hand, monitoring and ‘watch-dog’ type of activities being undertaken mainly by civil society groups, State and civil society roles not only compliment each other, but often overlap to a great extent. This can be seen in particular in relation to the awareness raising activities targeted at companies, their stakeholders, and general public, that in order to reach the desired audience, require combined efforts of civil society and government. Therefore, the ability and readiness to support and complement each others’ actions by all actors involved is a key to ensuring the implementation of the CSR in Poland.

A crucial role in supporting such cooperation should be played by the “Commission for CSR” (hopefully soon to be established) as the central forum for multi-stakeholder ‘action-centre’ and a ‘guarantor’ of the CSR initiatives. One that would aim for the CSR approach to company management being embraced not only by the MNEs present in Poland, but foremost by SMEs that dominate Polish economy.