

CSR AND LAW: HOW THEY INTERACT

By

Danae Voulgari

S&B Group Legal Counsel

OUTLINE

1. Definition of CSR
2. CSR through law
 - a. CSR beyond individual initiatives
 - b. CSR through soft law
 - c. CSR through hard law
 - d. Conclusion
3. CSR for law
 - a. Initiating rules
 - b. Implementing and interpreting rules
4. Conclusion

Definition of CSR

“The responsibility of enterprises for their impacts on society”

*Communication of the EU Commission to all European bodies
on EU CSR strategy 2011-2014 (25.10.2011)*

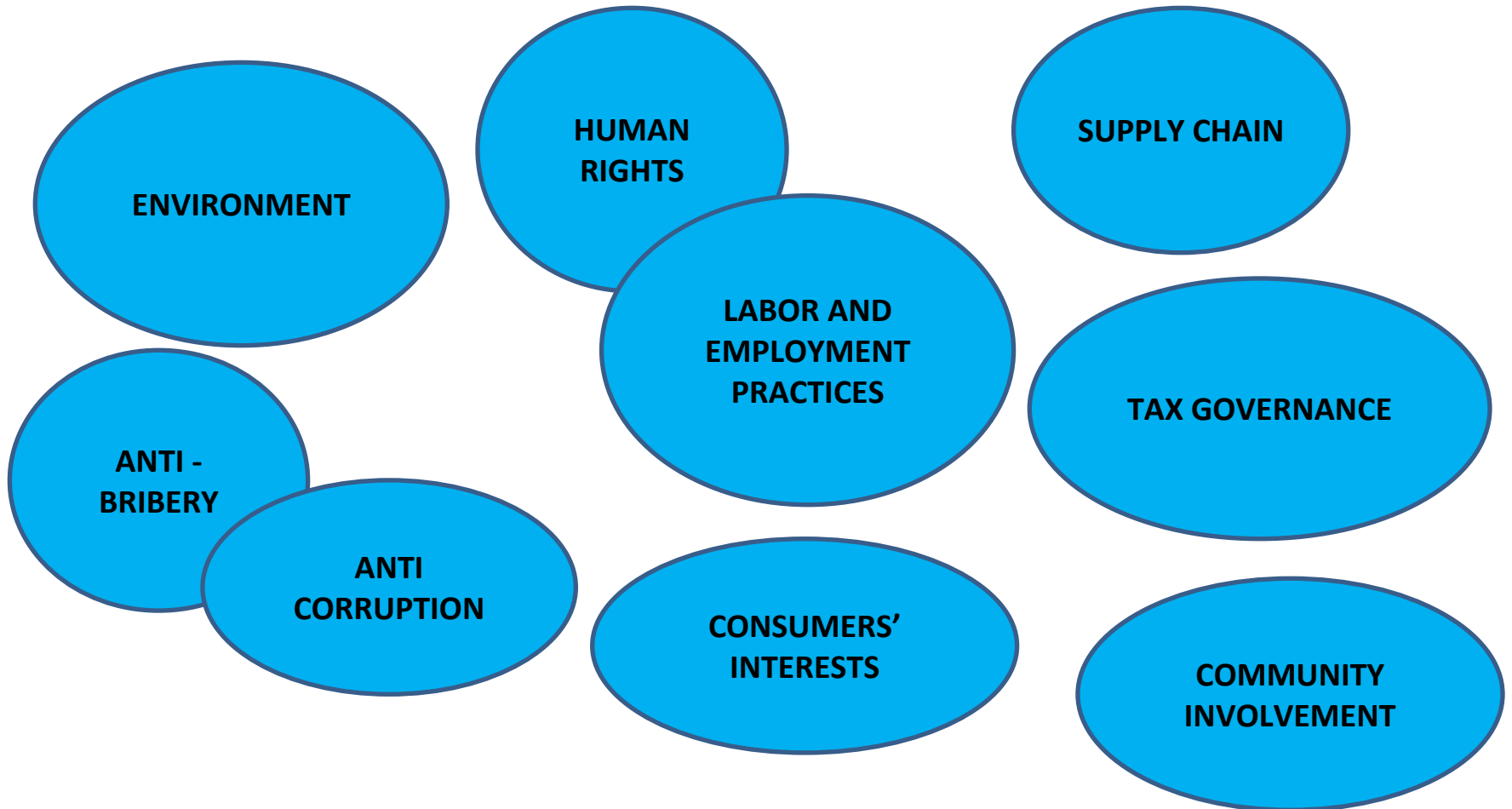
Panic-
stricken
*react and
resolve the
crisis ad hoc*

Aware
**identify rising
CSR issues in
business and
sector on time**

Leaders
**can influence
CSR issues in
business and
sector ahead of
time**

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A rather extensive CSR agenda



RULES:

- ADDRESS COMPLEXITY IN A UNIFORM WAY
- SERVE AS A SHELTER AGAINST ARBITRARY ALLEGATIONS FROM VARIOUS STAKEHOLDERS
- OFFER A COMPETITIVE ADVANTAGE AGAINST PEERS

EU requirement

“Respect for applicable legislation and for collective agreements between social partners...”

EU Commission Communication of 25.10.2011

HARD LAW refers to legally binding obligations issued by the competent legislative authorities

SOFT LAW refers to legally non binding Codes, Principles, Declarations issued by non state actors

CSR CHARACTERISTICS

- A DIALOG ENGAGING MULTIPLE OPPOSING INTERESTS FROM VARIOUS ACTORS
- IT LIES AT THE CROSSROADS OF INTSTITUTIONAL AND DISCIPLINARY PATHS
- IT ADRESSES THE TRIPLE BOTTOM LINE (PEOPLE – PLANET – PROFIT)

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SOFT LAW IS:

- FLEXIBLE
- INTERNATIONAL
- ENGAGING MULTIPLE ACTORS
- PROACTIVE
- MODERN

TRIPLE BOTTOM LINE PRINCIPLE

PROFIT

- UN Anti – Corruption and Bribery Convention
- International Accounting Standards
- Anti-trust and money - laundering Convention
- Corporate Governance

PLANET

- Kyoto Protocol
- Johannesburg Action Plan
- Rio Declaration
- UN Biodiversity Convention

PEOPLE

- International Bill of Human Rights
- ILO's Declaration on Fundamental Principles and Rights at work
- UN Guiding Principles for Business and Human Rights

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HARD LAW

State intervention:

- provides a certain, concrete and consistent regulatory framework
- constitutes the proper guardian of the public interest
- supports and encourages CSR as a behavior

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Hard Law and Soft Law are complementary; their relationship is mostly characterized as a continuum rather than a dichotomy

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Companies may initiate CSR hard laws when such regulation:

- Seems highly likely or unavoidable
- Strengthens their competitive advantage
- Enables/facilitates their compliance with global reporting standards

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CSR versus “Creative Compliance”

Being socially responsible means honoring the spirit of law and not merely its letter by escaping or circumventing its spirit.

An example of “creative compliance”

Tax avoidance

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CONCLUSION

Even if CSR is becoming increasingly a legal issue, significant part of its value lies still in its original conceptualization as going “beyond the law”, as being ultimately about business ethics in its ends, social and market pressure in its means.