

# Human rights in business

## Abstract

On the international forum, the subject of business and human rights is increasingly being taken. It is in the scope of interest of such organizations as: the European Union, the Council of Europe, the United Nations and the Organization for Economic Cooperation and Development. The international community has developed numerous initiatives and taken practical measures to precisely define the role and responsibility of individual entities in the field of protection and respect for human rights. Poland is also actively involved in the process of creating a new approach to this issue.

States have the obligation to respect and implement the provisions relating to human rights. It is a lasting process because human rights are changing. Their scope of protection increases in response to changing political, social and technological conditions. United Nation Human Rights Council, in 2011, adopted guidelines on business and human rights. Their goal is to reduce the risk of infringing these rights in connection with business operations.

**Keywords:** human rights, corporate social responsibility, human resource management strategy.

## 1. Introduction

The European Union pays special attention to issues concerning business and human rights in external policy. In the document “EU Action Plan on Human Rights and Democracy in 2015-2019”, adopted by the Foreign Affairs Council on 20<sup>th</sup> June 2015. The Union has identified activities in this area. The goal of the plan is to take into account the principles of corporate social responsibility.

Issues regarding business and human rights were also included in the documents adopted by the Council of Europe.

Poland as a member state of the Council of Europe should:

- 1) review the law and national practice to ensure compliance with the recommendations, principles and further guidance set out in the Recommendation,
- 2) ensure broad popularization of the Recommendation to raise awareness of corporate responsibility and human rights,
- 3) share examples of good practices related to the implementation of the Recommendation with a view to their subsequent inclusion in the public information exchange system,
- 4) prepare and to make known the National Action Plan on the UN Guiding Principles on Business and Human Rights,
- 5) check the implementation status of the Recommendation no later than five years after its adoption.

## 2. Business activities and human rights

Acting in accordance with applicable civil, criminal and administrative law is the basis for running a business. It means the business activity should be done in accordance with the Labour Code, environmental standards and industry regulations.

The United Nation guiding principles about the business and about human rights refer to the responsibility of companies for respect for these rights. It is the responsibility of enterprises for their impact on society. It manifests itself in the care of companies for the natural environment, employees and working conditions. It is also about recognition of people in the processes of production, distribution and consumption as well as about implementing the principles of social responsibility in all areas of the company's operation.

A wider approach to responsible conducted business is applied by the Organization of Economic Community and Development (OECD).

It draws the attention to respect for human rights and to due diligence in its activities based on risk assessment. There is specified that organizations should respect human rights, avoid breaking them, and respond to such events. The organization must have a policy that respects human rights. It must make company analysis in the context of human rights as well as cooperate in the field of processes aimed at eliminating the occurrence of a negative impact on respect for human rights.

The OECD guidelines for multinational enterprises cover issues related to employment and employment relationships. It draws the attention to the fact

that the organization respects the laws regarding establishing or joining trade unions and the effective elimination of child labour. Also, it draws the attention to elimination of forced forms of work. The organization should use the principle of equal opportunities and equal treatment and avoiding discrimination against employees due to their race, colour, pays, religion and political views.

The issues of a responsible approach to running the business were developed in the strategic vision of the development of our country – it means in the Plan for Responsible Development. It assumes support for the development of companies, their productivity and foreign policy. The National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights has been developed on the basis of three pillars:

- I State obligations to protect human rights,
- II Corporate responsibility for respect for human rights,
- III Access to remedies.

It is related to the conscious policy of the state supporting enterprises while emphasizing the need to respect human rights. The state has a duty to protect human rights as a standard of conduct. It is the duty of the state to protect and promote the rule of law, including by taking measures to ensure equality before the law, fairness in its application, as well as procedural and legal transparency.

The state's obligation regarding the protection of human rights results from the Constitution of the Republic of Poland and from ratified international agreements. Those documents command the respect, the protection and the implementation of human rights.

Respect for labour and employee rights standards results from international commitments adopted by Poland, in particular from the International Covenant on Economic, Social and Cultural Rights of the United Nations and from the European Social Charter. The implementation of the basic principles of labour law is possible on the basis of the provisions of the Labour Code and other acts. Among other things, you should indicate here:

- The rules of freedom of work (article 10)
- The principle of freedom of employment (article 11)
- The principle of respecting the employee's personal rights (art. 11<sup>1</sup>)
- The principle of equal treatment in employment (article 11<sup>2</sup>)
- The right to fair remuneration for work (article 13)
- The principle of ensuring by the employer the safe and hygienic conditions (article 15)

In the national law, four areas of fundamental human rights related to the work and job issue deserve special attention. There are:

1. The prohibition of forced labour. Although the Labour Code does not define forced labour, according to article 65 of the Constitution of the Republic of Poland, everyone has the freedom to choose and practice the particular profession and to choose a job place.
2. The equal rights in the field of employment and occupation. This principle is reflected in further provisions of the Code, in particular in Chapter IIa „Equal treatment in employment” (articles 183a -183e). The employer is obliged to provide the employees with the text of provisions on equal treatment in employment in the form of written information.

Ensuring equal treatment, inter alia, in the field of taking up and pursuing a business or professional activity is regulated by the Act on the implementation of certain European Union provisions in the field of equal treatment. The Act has implemented six European Union directives, including: the Directive of the European Parliament and of the Council 2014/54/EU of 16<sup>th</sup> April 2014. on measures to facilitate the exercise of rights granted to employees in the context of the free movement of workers (Official Journal of the European Union I 128 of 30/04/2014)

Every employer is obliged to counteract mobbing, which means actions directed against an employee (article 94<sup>3</sup> of the Labour Code). They consist in persistent and long-lasting harassment or intimidation of an employee. The result of mobbing may be negative health effects.

The reason to create the regulation is to guarantee the safe and fair treatment of people – workers in the workplace.

### **3. Corporate responsibility for respect for human rights**

The workers are protected against the human rights violation by enterprises by the United Nation guidelines which recommend that the enterprises should:

- make it clear that companies have an obligation to respect human rights at every stage of their activity,
- introduce and monitor the law imposing an obligation on enterprises to respect human rights,
- ensure that all legal regulations relating to the activities of enterprises enable and do not hinder the observance of human rights,

- encourage and to require that enterprises promote the idea of respect for human rights among their business partners,
- take steps towards particularly careful respect for human rights by state-owned enterprises,
- develop the appropriate policy of government and state institutions by providing training and providing relevant information and support in this area.

Professor John Ruggie points out that the promotion of business and the observance of human rights remain inseparable. The responsible activities of private and state business take into account the importance of human rights and they should believe that it will bring the benefits to both – businesses and the entire community of citizens. It helps create jobs. It enlarges the group of consumers and develops a sense of integrity, contributes to the stabilization of the market and thus to economic growth.

#### **4. Interpretive Guide to the Corporate Responsibility to Respect Human Rights Office of the High Commissioner for Human Rights**

The possibilities of development are the effect of maintaining appropriate guarantees of human rights, such as: democratic freedom, the rule of law, good governance, and property rights.

The entrepreneurs should recognize and understand the benefits of respecting human rights, which may:

- help to protect and increase the reputation and positive image of the company,
- keep and expand the circle of clients,
- enable companies to attract and retain good staff,
- build and develop sustainable relationships with employees and stakeholders,
- reduce threats to business continuity that could arise within the company or in the company's relationship with the local community or with other external partners,
- attract investors who are increasingly taking into account ethical issues, including the observance of human rights,
- become an investor – partner for other companies or governments taking into account the issue of human rights in their policy,
- reduce threats of lawsuits for violations of human rights,
- support ethics in the company.

The company's activities are highly attuned to the social issues, as well as to open reporting and transparency of activities. These behaviours are designed to protect the image and reputation of the company. It helps to protect the interests of both clients and investors.

United Nation guidelines are the best way to promote a responsible approach to run the business and to implement international standards including OECD guidelines for multinational enterprises.

Through the tasks included in the National Action Plan, the public administration:

- formulates expectations towards entrepreneurs,
- supports access to effective remedies for victims of human rights violations,
- promotes understanding for the need of countering against emerging threats,
- conducts coherent policy and informs about planned activities in the field of respect for human rights in business.

## **5. Implementation of the UN's sustainable development goals**

Both, the concept of responsible development and the strategy for responsible development, implement the goals of the UN's Sustainable Development adopted by Agenda 2030 in September 2015. The main challenges for the world are widespread poverty, growing inequalities, unemployment, disproportions in terms of opportunities, living standards, and threats related to climate change.

The Agenda includes a framework development plan and it indicates to seventeen goals of the Sustainable Development. The development which guarantees a dignified life for all is the basis of this document.

The goals of Agenda 2030 are relevant to all social groups, organizations, business, science as well as to local and national authorities. The sustainable business models and active involvement of companies from the SME sector with limited operational capacity should also be promoted.

## **6. Exchange of knowledge and experience in the implementation of CSR**

The activities carried out in the area of exchanging the knowledge and experience in the implementation of corporate social responsibility may include:

- shaping the ethical organizational culture,
- dialogue with employees, care for safety at the workplace,

- responsible management of natural resources,
- to the supply chain, including the extraction and transportation of raw material

## 7. Investment strategy

An important element of the investment strategy is defining the criteria for government support for selected investors (Catalogue of good practices). They are part of the concept of a responsible attitude of enterprises. The appropriate level of remuneration for employees is also important. The entrepreneurs – investors who declare supporting employees in raising their qualifications play an extremely important role in this area. They influence economic development in the social area, environmental protection and work culture.

The special attention is deserved to the investors who aim to create specialized jobs under employment contracts. These activities are in line with the Declaration of the International Labour Organization and the Philadelphia Declaration. Signatories of these declarations undertake to implement the programs which take care of the best working conditions. They will contribute to personal development and full use of employees' potential.

It needs to be emphasized that the dignified work means, above all, an appropriate level of remuneration for employees, as well as proper motivation of the employees.

The organizations are set up to achieve the goals and effectively fulfil the adopted strategy. To implement these assumptions, they must employ the right people with the resources to perform the right functions in the organization. The most important component of the human resource is knowledge, abilities, skills, health, attitudes and motivation. The goal of human resources management is to use and provide value to stakeholders through high work activity. In addition, it is extremely important to raise the value of human capital, which corresponds to the superior objectives of the organization.

## 8. The concept and goals of strategic human resource management

In modern organizations, the human resources management gains strategic importance. It results from a combination of business management and people management. The planning of human resources of an enterprise is the effect of a personnel strategy. There are three strategic phases of Human Resources

Management in the company (Zajac, 2007, p. 35):

- formulating a personnel strategy,
- and promotion of the personnel strategy,
- control and evaluation of the strategy.

The personnel strategy is an indispensable element of the overall strategy, which should include comprehensive and long-term activities aimed at achieving the objectives (Rostkowski, 2004, p.27).

It needs to be emphasized that the personnel strategy is one of the elements of the business strategy of the entire organization. Unfortunately, it must overcome many difficulties that may be caused by (Armstrong, 2000, pp. 64-66):

- the variety of strategic processes, levels and styles,
- the evolutionary nature of creating a company's strategy,
- the unwritten nature of the company's overall strategy (treated as a way to achieve its most important business goals),
- the qualitative nature of human resources management principles.

It is up to the top management to overcome the barriers that exist at every organizational level of the company. Their task is to create an organizational culture by promoting among the employees the missions, values and standards as well as principles of human resources management. It naturally forces the change in the organizations. The effectiveness of changes depends primarily on the competence of managers and on the knowledge of the principles of social and psychological actions are the bases for those changes. It enforces their perception both in the organization and in its surroundings, as well as proper management, so that the human capital can co-create the image of the enterprise. A well-designed organization strategy is needed to allow the products and services to be tailored to the customer's needs.

## 9. Protection of employees' interests

The guidelines on human rights and human work emphasize the importance of employees' interests in the organization. This applies first of all to the rules of conduct and terms of the agreement in the employer-employee system.

The European Union formulates the provisions of the state's legislation in shaping standards for the protection of employees' interests in the European area.

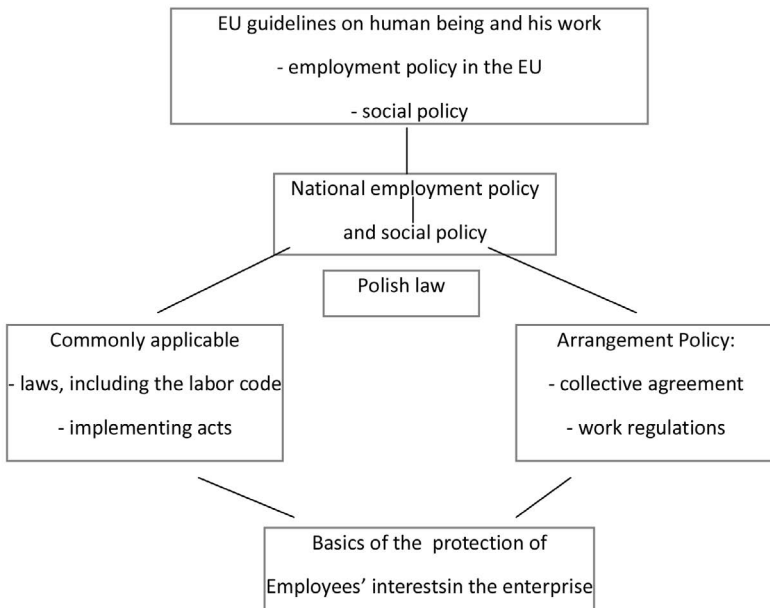
The European Union guidelines related to the human rights and to work rights are defined by the employment policy, which is an integral part of the planning process and the human resources management. It is a permanent process which



determines personal needs. The employment policy analyzes the status and structure and well as it monitors the implementation of employment plans in the organization. The increasing importance of the human factor requires anticipation in the following issues (Armstrong, 2002, p. 278):

- many and what employees will be needed in the future,
- what forms of employment will be the most adequate for the needs of the company,
- how the employment status (the number of workers) may be increased or decreased,
- how the best investments in the development of human capital may be done,
- how to minimize costs and maximize work productivity.

**Figure 1:** Protection of employees' interests in the context of the Community (European Union) and Polish legislation.



Source: Gableta, 2012, p.34

It should be emphasized that planning of the employment is an integral part of the personnel function. It is necessary in the activities undertaken as part of the employment process. Its scope includes (Pocztowski, 2008, p. 103):

- planning of personal needs,
- planning of personal equipment,
- planning staffing.

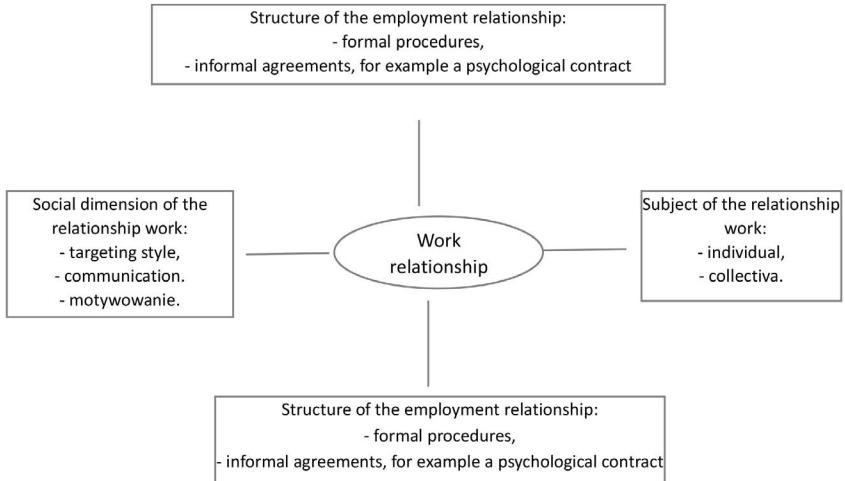
In the employment planning process, it is necessary to define personal needs for a given organization, including competence profiles.

**Table 1:** Example of the competence of the manager – the creator of human capital

Basic competences	Distinctive competences
Expertise Troubleshooting Communication Shaping the relationship Use of advisors' services	Leadership Empathy Readiness to learn Tolerance for ambiguity Creativity Orientation for the future Awareness of values

Source: Pocztowski, Miś, 2000, p. 71.

**Figure 2:** The dimension of the employment relationship



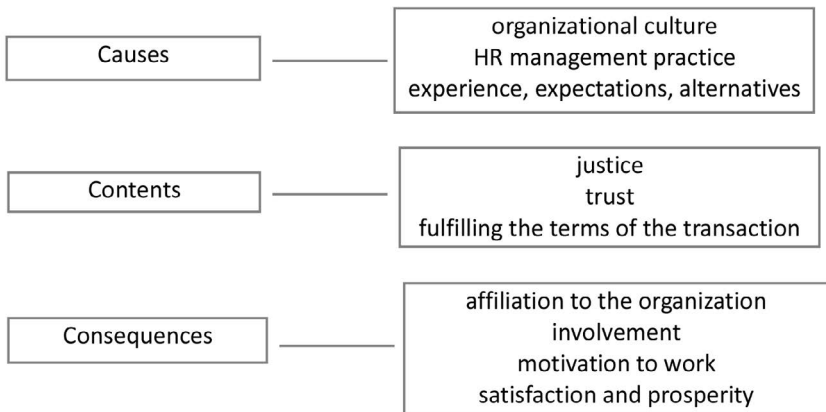
Source: Armstrong, 2000, p.172.

In the process of personnel selection, the listed competences can be used as one of the categories of their selection. The professional activity of people in the meaning of employment determines the skills and abilities to provide work, as well

as the knowledge they have. The social dimension of the employment relationship concerns the style of management, types and methods of communication, as well as motivating.

The employment relationship that results from the organizational culture of the company and the personnel strategy is the human resources management instrument. The task of the HR manager is to guarantee fair remuneration. In addition, it is to create the training programs for professional development. It is extremely important to create psychological contracts between an employee and an organization based on mutual, mostly unwritten, expectations changing in time (Kozusznik, 2002, pp. 43-44). This is a certain interpretation of the employment relationship.

**Figure 3:** The psychological contract model



Source: own study based on Guest and others, 1996, p. 3.

The use of the mentioned psychological contract promotes a proper and harmonious relationship between the employee and the organization. Its shaping should be a continuous process due to the changing of internal and external conditions of enterprises. Therefore, it is necessary to continually educate and improve staff in this field (Szejniuk, 2014, p.396).

The psychological contract is a kind of reflection of the employment relationship. From the point of view of employees, the elements of the employment relationship given in the psychological contract include (Armstrong, 2000, pp. 1881-182):

- the way they are treated by the employer,
- the employment stability,
- the ability to demonstrate skills,
- the expectations related to a career,
- the commitment and influence,
- the trust in the management of the company.

From the point of view of the employer, the psychological contract includes the following elements of the employment relationship (Armstrong, 2000, pp. 1881-182):

- competences,
- effort,
- compatibility,
- observing the rules,
- involvement,
- loyalty.

The basic issue of human resources management is to create an appropriate work climate, which is based on the right relationship between the employee and the employer. The effective use of human resources tools guarantees the organization's success on the market. Employees' involvement, their knowledge and skills contribute to increase the competitiveness of the organization. In the enterprise, it is important to improve both working staff as well as managerial staff, and above all, to develop and to improve a fair assessment and evaluation system (Szejniuk, 2015, p. 34).

## 10. Conclusion

The issues of business and human rights are currently more often being undertaken not only by international organizations, but above all by enterprises in our country.

It should be emphasized that every business activity must comply with the applicable civil and administrative law. The responsibility for respecting human rights, irrespective of the title of ownership, is borne by all enterprises. They should propagate a modern model of functioning based on social responsibility and sustainable development which comprehensively covers ethical and pro-social principles. One of the fundamental human rights resulting from the applicable law is the obligation to treat all employees equally. Therefore,

one of the main obligations coming from human rights is to counteract the discrimination.

Those actions taken against the discrimination in work place may include the maintaining equal access for men and women to promotion and training, the diversity management in the field of recruitment and selection of employees, as well as in the sphere of organizational culture of the company.

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## Law

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