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The Myth of International CSR Standards: Imposing or Imitating Responsibility?

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1. Introduction

The corporate social responsibility (CSR) has grown into a mantra word in countless business circles, societies and states. States and international organizations understand their limits and often unequal powers with globalizing business, cultures and societies, thus self-regulation and voluntary responsibility practices are ever more seen as bringing more flexibility and competence into the global governance. The tendency for the standardization of the voluntary CSR practices on international and regional levels signals a likely transition in the regulation of business: business should become more conscious about the short and long term consequences of their activity and share the responsibility with the governments before the society. In many opinions the CSR standards could embody a model of shared global governance.

It has also been often argued that CSR can produce a functioning standard of responsible business in cases of government failures, with business bringing more advanced corporate culture and respect for human rights than weak governments in African or Eastern European states can guarantee to their people. Therefore for the countries in transition that undergo complex changes in their political, economic and social systems, CSR notion brings one more challenge to regulation of their internal affairs. However one of the main issues that are important to consider to every CSR beneficiary state and stakeholder *before* falling in love with the idea of the CSR – is to determine what function CSR is going to serve in the business-state-society relations. Can states possessing weak administrative capacity effectively rely on the instruments of CSR hoping to advance respect for human rights and their domestic rule of law? Do international and business self-made CSR standards offer qualitative substitute and/or complement national and international business responsibility regulation or just bring *placebo*-type treatment?

The discussion paper is going to address these issues in the context of Lithuania that started its political, economic and social transformations with the proclamation of the independency 17 years ago, where one could now witness an emerging trend for the CSR movement. The analysis is divided into three main parts. In part 2 of the

paper the general features of CSR concept and its development are outlined. Part 3 discusses the emergence of CSR practices, drivers behind its development in Lithuania and suggests the reasons for the late introduction and publicity of the CSR standards in Lithuania. Part 4 examines the issue of reliability of CSR standards drawing on the Lithuanian examples. The conclusions are briefly presented in part 5.

2. The elasticity of the CSR concept

There is no universal understanding of corporate social responsibility and it “means different things to different people”.¹ However it is possible to distinguish at least two major developments of CSR concept: CSR as voluntary practices of responsible business and CSR as state governance policy to share the responsibility for the society’s well-being with business. The concept of responsible business owes much of its history to the development of business culture in the United States and was designed to address the negative effects of the activity of mainly large, publicly traded corporations abusing their power and being socially and environmentally negligent.² Corporate corruption, sweatshop practices, or gross environmental business negligence triggered the mobilization of the civil society movements and resulted in their pressure on corporations to develop ethical business practices in the form of codes of conduct or other.³ In addition the idea behind the concept was to increase business contribution to the welfare of the society beyond maximization of the profits of the shareholders *and* beyond the requirements established by state made law. The companies were supposed to become not so much exclusively profit generating institutions but governments’

¹ D. Crowther and L. Rayman-Bacchus. Introduction: Perspectives on Corporate Social Responsibility. In: David Crowther, Lez Rayman-Bacchus (eds.). Perspectives on Corporate Social Responsibility. 2004, p. 2.

² T. F. McInerney. Putting Regulation Before Responsibility: The Limits of Voluntary Corporate Social Standards. Voices of Development Jurists, Vol. II No. 3, 2005. Available at http://www.idlo.int/DLRC/vdj/vdj3_2005.pdf. D. Vogel. The Market for Virtue. The Potential and Limits of Corporate Social Responsibility. 2005, p. 6 ff.

³ V. Haufler. A public role for the private sector: industry self-regulation in a global economy. 2001, p. 9.

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and societies' partners tackling human rights or environmental concerns. A company should contribute to the society's well-being as a constituent member of the society⁴ by voluntary integration of society's needs into corporate agenda.

On the other hand the idea of CSR duly served deliberations over the reform of costly, inefficient and rigid regulatory strategies of the states, unable to expertly follow the rapid changes in the practices and complexity of business in the context of globalization. This problem was particularly relevant in European social welfare states where many social and environmental concerns constituted an integral part of legal requirements.⁵ CSR notion gave new impetus in search of a more flexible and less burdensome regulation and invocation of the business expertise to pursue voluntary self-regulation.⁶ The CSR agenda brought a perspective of shifting burden of regulation from state to private institutions and share responsibility.

The moment for raising an idea of business self-regulated responsibility was also inseparable from globalization process involving the growing strength of the multinational corporations on international level. The trans-border activities and increase of the power of multinationals and private sector generally weakened states capacity to regulate and control them. The power of multinationals also threatened the role and authority of the states to enforce international human rights obligations. Therefore there was an immense concern of many governments to regulate transnational corporate power on international level. The problem of business transcending the national borders of regulation caught attention and filled in agendas of many major international universal and regional organizations from the United Nations⁷, the ILO⁸, to the OECD⁹, the EU¹⁰ as well as

fueled many non-governmental initiatives such as Global Reporting Initiative, AccountAbility standards or future ISO 26000 standard that will provide 'guidelines for social responsibility' within the ISO framework.¹¹ However the effective, comprehensive regime for transnational business responsibility never came into being and to a large extent thanks to the 'preventive actions' of the same multinationals.

Year after year with its development, the 'overall agenda for CSR' became very 'confused and fragmented'¹² and extremely complex. The stakeholders as well as their interests to whom the business might respond were broadening behind the *social* context with every new wave of concerns: from safety of the products, environmental concerns, employment conditions, fair pay to corruption and universal human rights.¹³ Nowadays CSR plays a multiplicity of tones from philanthropy, corporate citizenship, and sustainable business to public-private partnerships between the state, business and society institutions.¹⁴ It is also remarkably confusing that all efforts of CSR standardization at international level led to substantial differences in the scope and substance of business engagement, so in order to make CSR practices more coherent cooperation vows between different organizations finally had to be made.¹⁵ Thus for the

⁴ N. Yakovleva. Corporate Social Responsibility in the Mining Industries. 2005, p. 9.

⁵ D. Matten, J. Moon. Pan-European Approach- A Conceptual Framework for Understanding CSR. In: A. Habisch, J. Jonker, M. Wegner, R. Schmidpeter (eds.). Corporate Social Responsibility Across Europe. 2005, p. 339.

⁶ For overview see e.g. T. F. McInerney. Putting regulation before responsibility: The Limits of Voluntary Corporate Social Standards. Voices of Development Jurists, Vol. II No. 3, 2005. Available at http://www.idlo.int/DLRC/vdj/vdj3_2005.pdf, part II.

⁷ After the failures with the process of drafting comprehensive Code of Conduct on Transnational Corporations and subsequent widely dismissal by the governments and business of the ambitious Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights adopted by Sub-Commission on the Promotion and Protection of Human Rights in 2003 (see e.g. P. Utting. Rethinking Business Regulation. From Self-Regulation to Social Control. Technology, Business and Society Programme Paper No. 15, United Nations Research Institute for Social Development. September 2005, p. 16, available at

<http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/f02ac3db0ed406e0c12570a10029bde>

[c8/\\$FILE/utting.pdf](#)), UN Secretary General was more successful with proposing liberal but ambitious 10 principles under the Global Compact Initiative heading.

⁸ E.g. 1998 ILO Declaration on Fundamental Principles and Rights at Work; 1977 Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (last updated in 2006).

⁹ Arguably the most influential instrument in the OECD is the Guidelines for Multinational Enterprises that have been revised in 2000 last time.

¹⁰ Commission Green Paper 2001 'Promoting a European framework for Corporate Social Responsibility' COM(2001)366 Final; Communication from the Commission 2002 on 'Corporate Social Responsibility. A business contribution to Sustainable Development' COM(2002)347 final; Communication from the Commission 'Implementing the Partnership for Growth and Jobs: Making Europe a Pole of Excellence on Corporate Social Responsibility' (COM(2006)136 final.

¹¹ See ISO preparatory work on social responsibility standard, available at <http://isotc.iso.org/livelink/livelink/fetch/2000/2122/830949/3934883/3935096/home.html?nodeid=4451259&vernum=0>.

¹² N. Roome. Pan-European Approach: Some Implications of National Agendas for CSR. In: A. Habisch, J. Jonker, M. Wegner, R. Schmidpeter (eds.). Corporate Social Responsibility Across Europe. 2005, p. 320.

¹³ Ibid, p. 320-321.

¹⁴ L. Fekete. Hungary: Social Welfare Lagging Behind Economic Growth. A. Habisch, J. Jonker, M. Wegner, R. Schmidpeter (eds.). Corporate Social Responsibility Across Europe. 2005, p. 141-142.

¹⁵ Thus for example, ISO and the Global Compact Office agreed to collaborate extensively on the development, promotion and support of the new ISO International Standard on Social Responsibility, which among other instruments is going to be consistent with the Global Compact's ten principles,

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European Union CSR means the integration of social and environmental concerns in business operations,¹⁶ whereas Global Compact promotes 'a set of core values in the areas of human rights, labour standards, the environment, and anti-corruption'. In case of the ISO preparatory work, the understanding of social responsibility involves "the actions of an organization to take responsibility for the impacts of its activities on society and the environment where these actions are: consistent with the interests of society and sustainable development; based on ethical behaviour, compliance with applicable law and intergovernmental instruments; and integrated into the ongoing activities of the organization".¹⁷ As drafters of future ISO 26000 standard put in other words 'organization must base its actions on the widely shared expectations of society with respect to what constitutes ethical behaviour, in addition to relevant legal requirements and universally recognised principles'.¹⁸

Thus in practice the notion of CSR is based on the balance of the triad of interests: those of the government, society and business. The common accord in every of the CSR standards though is the expectation for every company to *voluntary act/engage beyond* what is required by law by making extra effort and contribution to the welfare of a society. However the biggest confusion over CSR label is the uncertainty over its content: how much should a company promise/undertake to be entitled to bear 'socially responsible' label? What exactly are we talking about when we speak of a socially responsible company? Can society entrust corporations with the protection of their human rights when it means so many different things and is based merely on business goodwill? As the following examples of Lithuanian experience show, the business social responsibility grows into the hard-core and meaningful mechanism only in case when state and society are strong enough and capable to hold business accountable for its public promises within the ambiguous CSR framework.

<http://www.iso.org/iso/en/commcentre/pressreleases/2006/Ref1010.html> (2006-11-22). On the OECD and Global Compact synergy the UN Global Compact Office and the OECD Secretariat prepared a document 'UN Global Compact and the OECD Guidelines for Multinational Enterprises: Complementarities and Distinctive Contributions' (26 April 2005) available at <http://www.oecd.org/dataoecd/23/2/34873731.pdf>.

¹⁶ Commission Green Paper 2001 "Promoting a European Framework for Corporate Social Responsibility", COM(2001)366 Final.

¹⁷ ISO/TMB/WG SR TG4 N0046-SR Context, 29 August 2006, p. 6, available at <http://isotc.iso.org/livelink/livelink?func=ll&objId=4590941&objAction=browse&sort=name>.

¹⁸

<http://www.iso.org/iso/en/commcentre/pressreleases/2006/Ref1010.html> (2006-11-22), p. 7.

3. The origins of the CSR standards and business culture in Lithuania

3.1. Building the state, economy and society

The concept of corporate social responsibility has not attracted considerable attention in Lithuania for a long time. And there are economic, political and social reasons for that.

The restoration of independence of Lithuania in the beginning of the 90ies led to the major transformations in political and economic system. The people had to start living with an idea of private ownership after being denied that for 50 years. However the return to a market economy was not a smooth process and we still experience many downsides of this transformation. Perhaps one of the main reasons for many negative effects of transformation is the fact that many changes took place too quickly, whereas people were not capable to change along with new laws, concepts, or institutional structures.

Lithuania duly implemented the IMF's request for prompt privatization and it proceeded at a rapid rate, however the regulatory structure that would cope with the shortcomings of market economy and its establishment was not yet in place. The government was not experienced enough to run the country in free market economy, neither had it sufficient number of competent professionals with foreign language skills to represent and defend state interests in international institutions or business negotiations, nor could it afford to hire expensive independent experts and lawyers. The privatisation process was accompanied by misuse of power, terrific lack of information and corruption (e.g. every citizen formally had a right to his/her share in privatization by using so called investment cheques, however majority of the population did not possess either information on real situation about the companies under privatization, or knowledge to make an investment, thus to a large extend privatization of state enterprises with investment cheques brought benefit to very few). The State was in a vital need of foreign investments, thus it was quite generous at granting exclusive rights, tax exemptions and other favourable conditions to new comers who could also negotiate fewer obligations and exceptional status sometimes almost up to the level of constitutional norms. Rumour has it that one of the foreign corporations during negotiations of their contract was asked by Lithuanian government to change their proposal so that it complies with the Lithuanian constitution. The company's representative bluntly remarked to that: "You should better change your constitution". Another eloquent example is perhaps the most scandalous FDI agreement in Lithuanian history, which was signed in 1999 by the Williams International for the privatisation of AB 'Mazeikiu nafta' oil refinery. The Government in exchange of 27 percent of shares and management rights for 75 mln USD paid for the shares and undertaking of several hundreds of mln in future

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investments for modernization (that allegedly never took place to an expected degree) not only granted different substantial priority rights and guarantees, fixed the transportation tariffs, but also changed many national laws and undertook numerous disproportionate obligations, including an obligation not to undertake decision that might aggravate business environment for 10 subsequent years. The agreement was signed after the Prime Minister and Ministers of Economy and Finance resigned refusing to sign it and at the time when it was obvious that business regulation will have to change in the process of the preparation for the EU membership. However as new laws were being adopted Williams considered itself entitled to bring new and new claims for compensation on the table of Lithuanian government, which at one time reportedly reached 400 mln USD.¹⁹ The commission that later investigated the reasons and details of this FDI concluded that the company was not sold but merely given away.

On the state building level the development of the rule of law in the new state was overshadowed with high degree of corruption, nonexistent ethics among politicians, and malfunctioning courts and state legal system. The government went for a meticulous regulation of any aspect of business, including production and labour standards, what very soon produced a web of vague, confusing, contradictory, often out of date regulation. The state officials were rarely held accountable for erroneous and untimely implementation of laws, abuse of powers and incompetence. Transparency and co-operation with business, public deliberations over draft laws and regulations were not on the agenda of rule-makers either. All this resulted in the widespread distrust and antagonism towards regulatory authorities that sank deep into the society and business community.

The fundamentals of Lithuanian business culture had to be built anew on our own achievements and mistakes, often the latter by far outnumbering the former. Disregarding a tendency of CSR development in Europe at that time, businesses in Lithuania were primarily and almost exceptionally concerned with making fast profits. The economic transformations led to high unemployment rate, hyperinflation, loss of savings, and bank crisis and were accompanied by corruption, misuse of powers, incompetence and tremendous lack of experience. The ethics, values or even compliance with the laws was not on a business or ordinary people's agenda. In addition Lithuanian businesspeople were not experienced to do business and were often traded on their credibility by

more knowledgeable from East and West. Business ended up very quickly with debts, bankruptcy, or personal crisis for many beginners. The employees were often mistreated and exploited by their employers and people were not used nor did they have enough information and experience to defend their rights.²⁰ The trade unions were not trusted due to historical reasons and have not become popular enough to fill in the gap of missing social partnership between employers and employees. All this just strengthened ordinary people believes (brought along from the Soviet Union times) that business and capitalism represented "wild West" type of economy with no or little hope for respect of the interests of employees and prosperity of society at large.

The weakest element in the potential for CSR in Lithuania was the missing social capital and barely smouldering civil society movement. As the history of the emergence of the idea and practice of corporate social responsibility shows, 'we cannot expect responsible behaviour from corporations unless we behave responsible as individuals'.²¹ Unfortunately the society could not catch up with all political and economic changes and the tradition of societal cooperation was absent. The relations among business, government and society at large were built in the environment of suspicions. The transformations of the social, political and economic systems during many years of our independency involving slow, controversial and corrupted land reform with the restoration of individual property rights at its heart, depreciation of money, malfunctioning social security system, loss of savings by majority of Lithuanian households, exploitative employment practices and many other events contributed to and augmented the distrust. The laws were changing quicker than fashions on the Paris streets, while governments have never served full term in their office during first ten years of independency. People lived with a feeling that they have to rely only on themselves and fight for everything even if that was only for a seat on a bus. It was a widespread perception among consumers that it is a duty of every salesman to deceive a customer. Thus the first thing that came on the people's mind in association with state and business was the abuse of power and exploitation.²²

Therefore it is not surprising that on the whole during first decade of independence business followed the best of the oft-cited of M. Friedman's advice in Lithuania – the social responsibility a company could have was to make

¹⁹ Verslo žinios. Nr. 217, 2001 12 03, p. 6. After few years of loss-making activity, in 2002 Williams International withdrew from the Lithuanian market selling its shares to YUKOS, leaving behind a company close to a bankruptcy. In 2004 criminal charges of abuse of power related with the signing of the 1999 privatisation agreement were lodged, however later the case was closed due to expiry of prescription term.

²⁰ N. Vasiljeviene, A. Vasiljev. Lithuania – The Roadmap: From Confrontation to Consensus. In: A. Habisch, J. Jonker, M. Wegner, R. Schmidpeter (eds.). Corporate Social Responsibility Across Europe. 2005, p. 187.

²¹ As cited by D. Crowther and L. Rayman-Bacchus. Introduction: Perspectives on Corporate Social Responsibility. In: David Crowther, Lez Rayman-Bacchus (eds.). Perspectives on Corporate Social Responsibility. 2004, p. 2

²² N. Vasiljeviene. Organizacijų etika kaip vadybos optimizavimo įrankis. *Ekonomika*. 2004, 67 (2), p. 3.

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profit. The profit was made benefiting from the cheap labour force, widespread “matter-of-course” violations of employees’ rights and interests (such as illegal employment practices, unpaid overtime, forced unpaid vacations, humiliation, widespread illegal payments of undeclared salaries in “little envelopes”), engagement in unfair commercial practices, etc. The social dialogue was not only ‘lost in translation’; the notion of socially responsible business was not known to overall majority of Lithuanians.²³ Non-compliance with laws was a rule of the business (greatly influenced by Soviet-times non-compliance and distrust in the state authorities “tradition”) as well as way of life for many ordinary people from salesmen to politicians. Therefore market economy started to function in Lithuania plainly at the cost of business “social responsibility”. Thus it should not come as a surprise that to a considerable number of people, especially elder generation, the notions of private business or free market have plainly negative implications.²⁴

3.2. The developments towards responsible society: drivers of CSR

After the period of failures and recession the economic development of Lithuania gained speed. Since last few years Lithuania established itself among the world leaders in the GDP growth and enjoys relatively high ratings in economic freedom (22nd place according to Index of Economic Freedom 2007²⁵), global competitiveness (40th according to Global Competitiveness Index 2006-2007 of World Economic Forum) and other ratings. Notwithstanding the economic success major problems of earlier years related to complicated and confusing regulation, malfunctioning state legal system and non-transparent courts, protectionism, especially in privatization and public procurement practices, irresponsible and unaccountable activities of state and local officials, and other problems persisted. One of the biggest concerns remains a high level of corruption, especially in public procurement and construction sectors. More than ten different laws regulate corruption prevention, several national programmes on the governmental level have been adopted, however it did not improve the situation significantly. According to the Corruption Perception Index of Transparency International Lithuania with 4.8 points last year remains in the group of countries encountering serious corruption problems, while the most shocking news came in the end of last year with Gallup Corruption Index 2006 according to which Lithuania was ranked in the last - 101 place – as the most perceived corrupt country. Therefore there was always a room for socially responsible business practices.

²³ N. Vasiljeviene, A. Vasiljev. Lithuania – The Roadmap: From Confrontation to Consensus. In: A. Habisch, J. Jonker, M. Wegner, R. Schmidpeter (eds.). Corporate Social Responsibility Across Europe. 2005, p. 186-187.

²⁴ *Ibid.*, p. 185, 187.

²⁵ <http://www.heritage.org/research/features/index/index.cfm>.

Although the notion of CSR was not common in Lithuanian business environment until lately many separate ‘CSR type’ initiatives were taking place in the corporate sector. Many foreign and national companies and their associations adopted codes of conduct, although according to the survey they are not the norm in Lithuania yet.²⁶ 78 percent of the respondents claimed to have a code of conduct, however 40 percent admitted that they spoke of verbal code (which is of doubtful effect and even more uncertain enforcement in Lithuania), while 23 percent could not even answer whether they have a code of conduct.²⁷ The idea of business ethics and sustainable development has been discussed for a considerable time in Lithuania in various forums, numerous academic publications (e.g. Lithuanian Confederation of Industrialists organized 11 Ethics Forums over the last few years). Majority of Lithuanian companies surveyed for the CSR attitudes claim to be engaged in environmental (68 percent), social (55 percent), health or education projects (around 50 percent).²⁸ Certain individual companies, mostly foreign capital, were voluntarily choosing higher standards for their business activity in Lithuanian market. For example, construction company UAB ‘Constructus’ does not use certain building materials, which are not prohibited by laws however the effect on environment and people’s health of which is not established; insurance company Commercial Union chooses cleaning services of the companies that guarantee higher pay to their employees; brewery UAB ‘Švyturys-Utenos alus’ introduced the deposit system of the glass containers.²⁹ Different courses on business ethics were introduced into many educational institutions, however its impact on business practices remains minimum due to lack of close cooperation and synergy between the academic community and business. As recent study showed the number of the NGOs is growing and they are increasingly raising concerns over environmental, cultural heritage, human rights and other matters although the number of people participating in the NGOs activities remains steady low.³⁰ Media is progressively increasing its focus on business ethics however many perverse business practices are usually screened from the perspective of their correspondence with laws whereas social responsibility undertakings remain unquestioned.

The CSR discourse gradually emerged in academic and business discussions and publications around 2000-2003 and intensified throughout 2004-2006. I would suggest

²⁶ The Report prepared by a team led by Piotr Mazurkiewicz on the basis of survey by the World Bank and supported by the European Commission ‘What Do Business Think about Corporate Social Responsibility? Part I: Attitudes and Practices in Estonia, Latvia and Lithuania’, 2005, p. 64.

²⁷ *Ibid.*

²⁸ Survey ‘What Do Business Think about Corporate Social Responsibility? Part I: Attitudes and Practices in Estonia, Latvia and Lithuania’, 2005, p. 71-78.

²⁹ Interview with L. Jakulevičienė, the head of the UNDP Office in Lithuania.

³⁰ <http://www.bernardinai.lt/index.php?url=articles/56321>.

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that there were several factors for the ultimate surfacing of the CSR vocabulary in Lithuania. First of all the biggest impulse for the CSR awareness and promotion in Lithuania could be associated with the foreign standards: a) developed and fostered by international organizations; b) introduced by multinational corporations into their Lithuanian daughter companies or imposed on Lithuanian subcontractors.

As a general rule the CSR standards developed by international organizations were imported to Lithuania as a consequence of its membership and participation in relevant organization: the European Union, the OECD, and the United Nations. In 2003 the National Contact Point under the OECD framework has been established through which Lithuania undertook to promote and monitor Guidelines on Multinational Corporations, however this initiative did not make CSR dialogue more noticeable. The membership in the European Union in 2004 brought the harmonisation of national legal environment with the EU *acquis* and raised expectations for better quality of life and changes in business culture among many ordinary citizens and business people. However, in my opinion, the major turning point for the CSR initiative was made by the United Nations Development Programme (UNDP) Office in Lithuania. Under the initiative of the UNDP and in cooperation with the Association 'Investors' Forum' (uniting over 30 largest and most active investors in Lithuania) 11 leading Lithuania's companies established a National Network on Socially Responsible Business in April 2005. In June 2005 under the guidance of the UNDP the Global Compact initiative was launched officially in Lithuania with 39 Lithuanian companies representing biggest producers, business associations, financial institutions, other business sectors. Since then Investors' Forum and UNDP Lithuania organizes yearly conferences and seminars on business social responsibility as well as invites government officials to exchange the views on the improvement of regulation.

Another group of actors that introduced CSR terminology into business relations in Lithuania were foreign investors. However in my opinion, the foreign investors did not take significant steps to promote the ideas of corporate social responsibility pursued by their mother companies all over the Europe and United States in the beginning of the 90ies as could have been expected.³¹ The creation of new jobs, introduction into business know-how and Western technologies were considered by foreign companies to be the best contribution into the Lithuania's welfare. Many companies came to Lithuania to benefit from low paid skilful labour force, new market or good

location of Lithuania between the EU and Russia. Foreign investors were also benefiting from the weak bargaining power of Lithuanian government and received many special treatment provisions, exclusive rights in the market (often leading to monopolisation of the market), exemptions from taxes, and other favourable treatment (e.g. Philip Morris, Williams International, Telia and Sonera with investments into Lietuvos Telekomas, Danisco sugar, E. ON Energie AG, etc.).

The investors often tried to adjust themselves in the market, rather than influence changes in the Lithuanian business culture that would naturally lead to increase in the cost of business they were saving for the motivation behind every investment was primarily economic. It was conceived that working environment and corporate culture in foreign capital companies was much better than national ones. On the other hand corporate social practices brought along with the mobile foreign capital differed. One of the first important investors Philip Morris acquired tobacco factory in Lithuania and established representative model for social responsibility. After reorganization of the factory the company paid significant extra severance payments for dismissed employees. Newly build factory also became well known for fair wages, conditions for professional training, voluntary private pension schemes and other benefits.³² The company also actively takes part in various cultural, social activities, engages in philanthropic actions. However many other investors limited their social awareness to philanthropic activity, or concentrated merely on the re-qualification and training of their employees (e.g. Lietuvos Telekomas covered fees for relevant studies at universities to their employees). There were also those foreign companies that neglected their philosophy of social responsibility in investment practices. For example, the investment of 'Danisco sugar' in Lithuanian sugar industry came through a questionable privatization process³³ and brought the plans of closing the acquired factories that might have led to social disaster in poor region with adversarial consequences on employees and suppliers of sugar beets. Only after the public protests involving trade union, media and local community and with the government's intervention the company abandoned the plans. However trade union activist and president was fired from a company.³⁴

National companies that are mainly small and medium sized enterprises were slow to engage in CSR dialogue due to many reasons. First of all the general awareness

³¹ This tendency has been also observed in Hungarian practice, see L. Fekete. Hungary: Social Welfare Lagging Behind Economic Growth. In: A. Habisch, J. Jonker, M. Wegner, R. Schmidpeter (eds.). Corporate Social Responsibility Across Europe. 2005, p. 145.

³² T. Davulis. CSR practices throughout the region, Comparing and contrasting areas that have been differently affected by the economic reforms and changing environment. 2003. Available at <http://www.itcilo.it/srer/athens/presentations/12DAVULIS.doc>

³³ Verslo žinios, Nr. 39, 1999-02-26, p 7.

³⁴ T. Davulis. CSR practices throughout the region, Comparing and contrasting areas that have been differently affected by the economic reforms and changing environment. 2003. Available at <http://www.itcilo.it/srer/athens/presentations/12DAVULIS.doc>.

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of corporate social responsibility notion and its implications was and remains very low. According to the survey on current CSR attitudes in Lithuania the majority of the companies link socially responsible conduct to ethical activities and transparency in operations.³⁵ Environmental protection as social responsibility was named only by one third of respondents. Only 41 percent of Lithuanian companies that responded to the survey implement core labour standards adopted by ILO.³⁶ Those acquainted with the CSR notion often consider it too costly and alien to small and medium-sized enterprises practices.³⁷ In practice many of small and medium sized companies claim being able to stay in business only by paying minimum salaries (often with extra money paid illegally in 'little envelopes') and non-complying with social security, tax, labour or other laws that according to the owners of the companies and their associations are too burdensome and killing entrepreneurship. Nonetheless many national companies were quick to adopt ISO 9001 or 14001 standards discovering their positive effect on the improvement of their relations with Western business partners. However the adoption of these standards was often viewed as a mere formality and was not treated seriously enough as a source of new corporate culture. Thus it is not surprising that at the time being only one company in Lithuania AB 'Utenos trikotažas' (production of outer clothing and underwear) has introduced the SA 8000 standard on social accountability (which, contrary to ISO 9000 and 14000 standards aims at the enforcement of international agreements in the fields of human rights and labour regulation) and made this at the request of their Swiss 'RemeiAG' trading partner.³⁸ The idea of ethical investment is only emerging in discussions, whereas the Corporate Governance Code adopted by Vilnius Stock Exchange in 2004 (new wording of 2006) and applicable to listed companies does not extend its reporting beyond the protection of shareholders' interests, efficient and transparent management and disclosure of corporate information for the moment. Moreover, business considers that the main obstacle to CSR practices is lack of appropriate regulation and it is the government's responsibility to take actions in CSR field by encouraging proliferation of CSR practices!³⁹

However on the governmental level none of the Lithuanian governments had seriously considered pursuing deregulation policy and trusting business with self-regulation therefore no comprehensive actions were undertaken to introduce and promote CSR in Lithuania. On the other hand Lithuania has been pursuing a policy of building a social welfare state where state and its institutions occupied a central role. Thus many elements traditionally attributed to CSR practices have been imposed on the companies by legal requirements (such as e.g. main principles of corporate governance, minimum salary, meticulous regulation of employment relations, social allowances and compulsory social insurance, state pensions, hygiene and safety standards, etc.).⁴⁰

Among the first Government efforts to commence a social dialogue and engage in social partnership with business and society was the creation of the Tripartite Council. In 1995 the first agreement on the establishment of the Tripartite Council was signed between the government, trade unions and employers organizations. In 2005 commemorating the decade of cooperation the new agreement on cooperation was signed. So far Tripartite Council became one of the major public-private forums for debating various employment and economic matters such as, e.g. the increase of monthly minimum wage and conditions of social support, other employment conditions, improvements in employment regulation (however, even today with low membership in the trade unions in Lithuania the interests of majority of employees are doubtfully voiced there as they represent merely from 10 to 15 percent of labour force according to the most optimistic surveys.).

In 2000 National Commission on Sustainable Development was established seeking to introduce the principles of sustainable development. In 2003 the Government adopted the National Strategy on the Sustainable Development and since 2004 the indicators of sustainability are published by the Department of Statistics. The aim of the promotion of the concept of CSR has been finally included into the Government Programme in 2004, however no specifications what means should be employed were made at the time. Only recently in December 2005, mostly with the assistance of the UNDP Lithuanian Office a policy paper was adopted by the Ministry of Social Security and Labour on the measures to encourage the development of the CSR in Lithuania in 2006-2008. The document based on the Global Compact initiative and the EU recommendations identifies 3 state priorities in the field of CSR: 1) raising awareness and improving knowledge about the CSR; 2) improving CSR

³⁵ Survey 'What Do Business Think about Corporate Social Responsibility? Part I: Attitudes and Practices in Estonia, Latvia and Lithuania', 2005, p. 61-62.

³⁶ Ibid, p. 70.

³⁷ Ibid, p. 81.

³⁸ Presentation by representative of AB "Utenos trikotažas" at the Annual Global Compact Conference: "Driving Forces for CSR: How to Sustain and Find New Opportunities" 2006-11-30, available <http://www.investorsforum.lt/uploads/new/SA%208000Utenos%20trikotazas%203.ppt#18>

³⁹ What Do Business Think about Corporate Social Responsibility? Part I: Attitudes and Practices in Estonia, Latvia and Lithuania", 2005, p. 81, 83.

⁴⁰ Remarkable that in 2005 the Government introduced temporary (for two years) corporate social tax to meet governance obligations financing social needs. Such decision was undertaken fearing reduction in state revenue after other taxes were reduced or abolished. However as it could have been expected the tax was vigorously criticized by business.

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implementation capacity; 3) increasing transparency, reliability and effectiveness of CSR practices, methods and means as well as improving legal framework. The guide on CSR for information purposes was prepared by the Institute of Labour and Social Research as well as special site devoted to CSR issues appeared on the website of the Ministry of Social Security and Labour. In addition special commission responsible for coordination of CSR development in Lithuania was established. However even this effort signals the lack of a comprehensive governmental policy on the potential role of the CSR practices for the other key institutions such as Ministry of Environment or Ministry of Economy were rather passive on the initiative.

Therefore it could be concluded from the above that CSR is to a large extent an imported product in Lithuania, where the encouragement by the foreign companies and international organizations is the main stimulation to engage in socially responsible projects.⁴¹ However the seeds of this foreign product started to spring and grow recently not only due to the influence of international organizations but for one more reason - the emergence of stronger, more active and mobile society. One of the critical 'CSR-awakening' factors became the alarming number of emigration – the process that was named 'voting with feet'. The membership in the EU brought almost immediate shortage in labour force as it stimulated emigration to such numbers that threatened the country's potential economic development and might also prevent future investments. It is estimated that since 1990 more than 400 000 of population left Lithuania that makes more than 10 percent of total population.⁴² According to the Eurobarometer data, Lithuania leads in the EU concerning number of people planning to emigrate as more than 8 percent of Lithuanian population are planning to leave for other EU states within 5 years.⁴³ The emigration was largely driven by better pay opportunities, however another major reason for leaving Lithuania was often voiced concern of exploitative and humiliating employment practices. Many economic emigrants boast of 'being treated as a human being' in their new jobs and countries of destination. Thus in just one year after the EU membership the voices and tones of Lithuanian employers changed dramatically: advertisements for jobs were full of the promises of all social insurance and other guarantees (which a company was obliged to pay in any case by the law!) as well as other benefits. The salaries, especially in booming construction industry, began to grow literally by day as workers were leaving in groups. Feeling the pressure of the emigrating labour force the

employers quickly began "recalling" their social responsibilities to their employees. A website for placement of claims and exchange of information concerning conditions of employment, products or services of the companies emerged on the Internet (skundai.lt) and became a popular tool to express concerns about exploitative employment conditions. However what was even more surprising that lately it also induced employers and companies to start responding on the same website to individual though virtually anonymous complaints.

Another important incident, which greatly encouraged CSR publicity and rhetoric, at least in respect of employment practices, took place in 2006 and challenged the longstanding practice of the untaxed salary payments in "little envelopes". It is estimated by different surveys that from around 20 to 40 percent of the employees in Lithuania receive part of their salaries untaxed, in little envelopes.⁴⁴ In March 2006 Dalia Budrevičienė, an employee of the company producing meat products AB "Krekenavos agrofirma", at the meeting with one of its shareholders and a leader of a controversial political party holding biggest number of seats in the Lithuanian parliament, publicly confronted him with a question when the company would stop paying part of the salary to its employees illegally, in "little envelopes". This event within just days resolved into major public debates (a personality of the former Minister of Economy was one of the main reasons for that). A woman was dismissed from the factory and a criminal case against her has been initiated accusing of slander of the director of the company. The state authorities initiated the investigation and inspections into the company's affairs.

The most interesting in this case were the reactions of the society at large, business and trade unions. The considerable number of people was condemning the action of Mrs Budrevičienė. Many employees of the company were denouncing the woman for reducing the shares in their little envelopes after the scandal broke; she and her family could not feel safe as many people felt betrayed and unhappy. To my best knowledge only one company offered the woman a job which she could not accept as she would have to move to live in another town. The trade unions, having the insider's knowledge of such illegal payments and their consequences on the social benefits of employees, react rather passively to the practices of illegal payments of the salaries. The quickest to respond were few NGOs which offered money to support the woman financially, whereas Kęstutis Čilinskis, the president of the board of one of the NGOs, offered his services of legal advice and representation before the courts, which she gladly accepted. After a few months of litigation, the court declared the termination of her employment contract illegal as well as acquitted of

⁴¹ Institute of Labour and Social Research, Ministry of Social Security and Labour; Tripartite Council of the Republic of Lithuania. The Guide on Corporate Social Responsibility. 2006, p. 5. Available at <http://www.socmin.lt/index.php?1344093231>

⁴² Department of Statistics to the Government of the Republic of Lithuania <http://www.stat.gov.lt/lt/news/view/?id=1767>.

⁴³ [http://www.omni.lt/?i\\$9359_84776\\$z_386323](http://www.omni.lt/?i9359_84776z_386323)

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http://www.info.lt/index.php?page=naujienos&view=naujiena_arc_h&id=69269

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the slander. In December 2006 Human Rights Monitoring Institute awarded Mrs Budrevičienė the title of Human Rights Champion 2006 for high moral standards and public spirit.

In the end of a day this scandal as well as the emigration factor were arguably among major reasons to cause two important changes in the employment practices. First of all, in June 2006, after the scandal broke State Tax Inspectorate under the Ministry of Finance established a direct line of confidence and encouraged people to call and inform about payments in "little envelopes" and other breaches of tax laws. In few months the Inspection reported the most successful year of fighting against illegal salary payments and other breaches of tax laws. On the other hand in the end of 2006 the Department of Statistics reported the significant increase in the average salary in Lithuania – nearly by 20 percent in just the third quarter of the year. Many commentators interpreting this data agree that the increase in salaries is to a considerable extent caused by withdrawal from the practice of untaxed payments in "little envelopes" and rising wages under the influence of the scandal, more persistent pattern of inspections, and emigration.

Unfortunately, looking at the Internet forums the Budrevičienė's story had little impact on one of the most important elements indispensable for the emergence and efficient functioning of the CSR – individual responsibility and civil society. A vast majority of people debating on the Internet support the practice of "little envelopes". People at large revolt at the thought that they have to pay a considerable percentage of their salary to the government they do not trust, whereas employers, especially of small and medium size enterprises claim that they would not be able to survive were they to pay all taxes from employees' salaries. Thus it is not surprising that for almost a year Mrs Budrevičienė remains unemployed.⁴⁵

As a case of Lithuania shows the instruments and policies of the CSR surfaced on a later stage of the country's development and thus could not to a large extent assist the government in building the state with the efficient enforcement of human rights and functioning rule of law in earlier stages of its development. As quite a few researches and surveys on CSR practices concluded, although there are many positive actions, however business understanding and engagement in socially responsible activities in Lithuania remains limited to philanthropic actions, whereas participation in social projects

remains largely PR activity.⁴⁶ And I would indicate few reasons for that.

First of all, to certain extent Lithuania represented a rather 'neutral' country for the CSR practices. On the one hand, there were no serious, systematic violations of fundamental human rights in business practices in Lithuania (involving child labour, threatening lives, etc.), therefore it did not attract considerable attention of ethical consumers' movement and governments in Western countries. On the other hand the country is not rich in natural resources, and due to many reasons stated above the flow of FDI was relatively low comparing to other countries whereas national transnational corporations barely emerge.

Second, as was already explained above, the government undertook the lion share of competence across economic, environmental, social and other concerns, so that many 'voluntary practices beyond legal requirements' of the corporations that everywhere in Europe were associated with CSR formed part of the mandatory legal requirements in Lithuania. In fact the detailed regulation of the labour market, protectionism, complicated land acquisition and planning processes continue to be listed among the major obstacles for the FDI flow.

Third, national business culture is still largely based on the exploitative practices and profit generating goal and is changing very slowly. With the independence many 'newborn' and often self-educated business people were thrilled by the opportunity to own property and engaged into make profit for the sake of profit. Others came from the soviet nomenclature. In both cases the business commitments to the society and environment were naturally excluded or largely ignored. Non-compliance with laws and corruption was and often remains a pattern of behaviour for many individuals. However the major issue in pursuing law compliant behaviour is distrust in the government and legal system that led to deep nihilism. According to the latest Eurobarometer survey Lithuanians for many years distrust all public institutions. 82 percent of respondents distrust political parties, 77 percent – the Parliament, 67 – the Government, 64 – legal system. Only 16 percent and 25 percent trust our Parliament and the Government correspondingly, however even 60 percent trust European Union.⁴⁷

⁴⁵ As she told in an interview lately the companies withdraw their job proposals just at the moment she introduces herself by her name.
<http://www.info.lt/index.php?page=naujienos&view=naujiena&id=92529>.

⁴⁶ Institute of Labour and Social Research, Ministry of Social Security and Labour; Tripartite Council of the Republic of Lithuania. The Guide on Corporate Social Responsibility. 2006, p. 5. available at <http://www.socmin.lt/index.php?1344093231>; Interview with V. Gudonienė, associate professor of the Faculty of Communication, University of Vilnius, <http://www.atsakingasverslas.lt/nr.html>.

⁴⁷ Standard Eurobarometer 66, Lithuania, December 2006.

Available at:

http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_lt_nat.pdf

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Forth, civil society movement is barely emerging. The society as such is not yet organized to voice their concerns (many calls for public protest and boycott attract the attention and attendance of few hundred people at most), and is not ready to consume ethically and responsibly. What is more important society has not become the main driving force behind corporate social responsibility.⁴⁸ NGO's activity and social protests are gaining speed very slowly. As the survey recently undertaken by Human Rights Monitoring Institute revealed 60 percent of respondents are unaware where to apply in case of breach of their human rights, and more than 44 percent of respondents believe that the court is the institution that violates human rights at most.⁴⁹ In addition there is a huge disproportion between economically stronger large cities and poor regions that make people working there and competing for few working places available indifferent to breaches of their rights.⁵⁰ As various surveys show majority of Lithuanians are ready to pay bribes in order to solve their problems. In the case with 'little envelopes' scandal at meat processing company AB 'Krekenavos agrofirma' the call to boycott company's meat products went almost unnoticed. Few months ago an enquiry was made concerning the possibility to introduce 'fair trade' products a share from the sale of which would go for the support of people in Africa or Southern America. Both supermarket chains and consumers fiercely rejected the idea as consumers choice is still based on a price only.⁵¹

Many of the above stated factors could be weakened had there been sufficient knowledge and promotion about CSR concept and practices. Therefore insufficient knowledge of the CSR concept and insufficient emphasis on CSR in education are also very important indicators for missing CSR in Lithuania.

Thus disregarding the political, legal and economic changes in Lithuania during last 16 years, the most important change – transformation of morals, behaviour patters, usages - have not taken place so far.⁵² The main problem, as Štreimikienė ir Vasiljevienė pertinently indicated in their research, is that "to many Lithuanian people, scientists or researchers emphasis on the hu-

⁴⁸ Institute of Labour and Social Research, Ministry of Social Security and Labour; Tripartite Council of the Republic of Lithuania. The Guide on Corporate Social Responsibility. 2006, p. 5. available at <http://www.socmin.lt/index.php?1344093231>

⁴⁹ The Survey is available at http://www.hrmi.lt/admin/Editor/assets/ZT_menuo_2006_Vilmorus_pristatymas.pdf

⁵⁰ See e.g. T. Davulis. CSR practices throughout the region, Comparing and contrasting areas that have been differently affected by the economic reforms and changing environment. 2003. Available at <http://www.itcilo.it/srer/athens/presentations/12DAVULIS.doc>.

⁵¹ <http://www.delfi.lt/archive/article.php?id=10889345>.

⁵² D. Štreimikienė, N. Vasiljevienė. Etiniai darnaus vystymosi aspektai ir jų ryšys su socialinėmis ir aplinkosauginėmis darnaus vystymosi dimensijomis. Organizacijų vadyba: Sisteminiai tyrimai. 2004.32, p. 189-190.

manistic ethical dimensions of economy sounds as social romantics or utopia".⁵³

4. Whose responsibility?

Therefore at present, when CSR vocabulary is eventually emerging in Lithuania the government is facing an important decision whether it should entrust business with self-regulation in their field of activity so that it would also undertake responsibility for the protection of human rights, labour standards or environment protection. The analysis of the nature of CSR and pattern of its application in Lithuania shows that it is very unlikely that international and business self-established standards of CSR represent an enforceable instrument to answer societal and environmental concerns unless legal quality of the content of the CSR would be established together with the implementation mechanism. Five groups of concerns can be identified to defend this statement.

The major problem with the CSR is the blurred content of the CSR standard. The content of a standard is so diverse and vague that it is impossible to determine what exactly (e.g. labour rights or environment, labour rights and environment?) we are talking about when we speak about corporate social responsibility. Furthermore it is difficult to establish which and whose standards of CSR we imply – those established by and within the framework of international organizations (OECD, EU, UN), drafted by the companies themselves in the form of codes of conduct or reporting standards (e.g. Global Reporting Initiative), those invoked under international and national law by the governments of the states to held multinational corporations responsible for their activity abroad? In addition it is very difficult to determine out of this confusing mixture what a company is *particularly* responsible for, what is the content of its commitment for society or environment. The biggest danger that such variety of standards blurs the boundaries of the notion itself as every of the companies can claim to be socially responsible if it either: a) adheres to ISO 14001 on environmental management or to ISO 9000 on quality management, or b) joins Global Compact where a company can essentially undertake no steps for two consecutive years until it might be delisted as inactive (e.g. none of the Lithuanian participants submitted a report yet, although nearly two years has passed from many of their admission)⁵⁴; or c) a company that simply states on its

⁵³ Ibid, p. 190 (translation by the author).

⁵⁴ Generally Global Compact that claims to be 'the world's largest voluntary corporate citizenship initiative' with nearly 4000 companies and organizations participating in the initiative. However GC Office delisted 537 companies as inactive already (http://www.globalcompact.com/NewsAndEvents/news_archives/2006_12_28.html) and over 700 participants are listed as non-communicating participants, i.e. failing to develop a Communication on Progress or engage into the dialogue on integrity measures

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webpage without making it more explicit that it is socially responsible (e.g. Hansabank in Lithuania), or d) a supplier of electricity that urges its consumers to pay the debts for electricity consumption (AB 'Rytų skirstomieji tinklai') or publishes a manual on ecologic agriculture (Danisco sugar). Therefore as it was aptly summarized in Corporate Watch Report 2006, "CSR has created a language shift, a re-brand and a new caring image, but no substance".⁵⁵ Thus in many cases the CSR rhetoric serves primarily as an empty shell, window dressing terminology. In Lithuania the companies that now increasingly speak in social responsibility rhetoric engage themselves mainly in the traditional form of philanthropy - support of education, sport or culture (i.e. the fields where they reap the greatest benefit of advertising). Moreover in case with Lithuania CSR commitment often amounts to a declaration that the company simply complies with the laws and is not engaged in unfair commercial practices.

Second, the companies often do not treat corporate social responsibility standards as comprehensive undertaking and engage in CSR-contradictory practices. There can be found at least 3 major paradoxes in the behaviour of socially responsible business in Lithuania. First paradox lies in the *watered-down and double-sided actions* of the companies and their associations pursuing CSR ideas. For example, many of the foreign and national investors together with the President of the Investors' Forum promoting social responsibility practices demand the simplification of immigration laws so that cheap labour force from third countries could be brought into Lithuania thereby halting an increase in the salaries and improvement of working conditions for local employees. The companies that engage in social projects (organization of ecological actions, charity concerts for children, or give donations to hospitals) often exploit their employees forcing to work overtime, paying minimum salaries, etc. (this behaviour can be observed among supermarkets operating in Lithuania). Tobacco companies successfully lobbied for transitional period in increase of excise duty for tobacco products in Lithuania after it joins the EU. In 2006 the Council of Vilnius municipality adopted a controversial decision to collect a *voluntary* support for the development of the social infrastructure (building of new kindergartens, hospitals, roads, etc.) in Vilnius from the construction companies operating in the capital. However companies claimed that contrary to the idea of voluntary contribution the financial support became an inalienable part of every development agreement in Vilnius municipality. It is an irony that during the debate with municipality concerning the legality of the forced voluntary support companies, confirming their readiness to support social

infrastructure development, expressed their satisfaction with the fact that the amount of the financial support would be permanently fixed by municipality so that they will be able to include the amount of "support" in the sale price of the apartments or other objects. That is to say they are simply ready to externalise costs of their social responsibility on the shoulders of buyers. Another interesting example is an ecologic labelling of goods. The labelling of non-food products with ecologic labels has been initiated in Lithuania ten years ago; a special sign featuring water lily has been created. The criteria for the labelling of a good that is not dangerous to its environment are the same as of "European flower", however, to my best knowledge, none of the goods bears such a signature up to this time. The reason why companies do not produce under this sign is still the same - the ignorance and reluctance of the society to buy goods of higher quality, less dangerous to the environment, as they are more expensive.⁵⁶ As consumers are not ready to invest into theirs and their children's future, companies are unenthusiastic to show the initiative in this field.

Second 'paradox' of socially responsible business in Lithuania is the support by companies pursuing CSR policies of the ideas of completely deregulated free market. One of the most active NGOs in the country, established as early as 1990, is Lithuanian Free Market Institute. It is a private institution, which is arguably the most supported by business people. Its representatives claiming to be independent experts are almost always present in the debates on new draft laws in the Government, ministries, or Parliament, however most often they voice big business concerns about doing business as if there were no social welfare agenda. The Institute fights for the idea of regulation-free state with limited or almost inactive government, fully entrusting the market with self-regulation, full privatization and cutting the taxes. The 'God' they believe in for many years is M. Friedman's ideology. Just recently, in August 2006 the President of the Institute Dr. R. Šimašius published an article 'Irresponsible Social Responsibility' fiercely rejecting the idea of corporate social responsibility declaring that '(b)usiness' social responsibility is an invention which consumes but not creates welfare, which erodes but not strengthens society itself.⁵⁷ In addition the experts of the Institute criticized the Government's target to promote corporate social responsibility as "an undertaking, which is not depended on its will".⁵⁸ However it is interesting to observe that the majority of the income of the Institute

⁵⁶ <http://www.organic.lt/lt/pages>.

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http://www.lrinka.lt/index.php/menu/newsletter_the_free_market_newsletter_the_free_market/articles/irresponsible_social_responsibility/3846

⁵⁸

http://www.lrinka.lt/index.php/menu/leidinys_laisvoji_rinka/leidinys_laisvoji_rinka/straipsniai/naujienos_2006_liepa_rugsejis/38461

(http://www.globalcompact.com/CommunicatingProgress/non_communicating.html)

⁵⁵ Corporate Watch Report 2006 'What's Wrong with Corporate Social Responsibility?', p. 12, available at <http://www.corporatewatch.org.uk/?lid=2670>.

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comes from the financial support of the companies that promote CSR and/or joined Global Compact initiative lately. Even more, the representatives of 'socially responsible' companies (e.g. Hansabank, SEB Vilnius bank, ERGO insurance company) delegated their people to the Board of the Institute, which according to the information on the website consists of "persons who uphold the institute's mission and provide an active contribution with their ideas to the mission's accomplishment."⁵⁹

Third paradox lies in the *non-disclosure practices* or dormant publicity and no visible promotion of the CSR culture by corporate sector. This is especially evident from the means of manifestation of the corporate social responsibility or corporate governance policies by multinational corporations in their Lithuanian business practice. Even up to this date many multinational companies have not introduced their Lithuanian versions of websites, or display scarce information on Lithuanian version, omitting corporate governance issues and social responsibility statements (see e.g. Nestle, Ericsson, Danisco Sugar, Ernst & Young, Berlin-Chemie, ERGO, etc.). It is also remarkable that the initiative to join Global Compact was primarily organized and promoted by the UNDP office in Lithuania and not by the business themselves, and only one company have joined it before that. However what is even more remarkable that nearly every second company, which joined Global Compact, does not consider it important to include into their websites information about their participation and new responsibility commitments (at best many of them store information on the membership in Global Compact in the old 'news' sections). The 10 universal principles are seldom included in the majority of the companies' mission statements. Since its official launch in Lithuania Global Compact initiative has not become popular and attracted only five more companies in almost 2 years so that now the Global Compact unites 44 business and other organizations in Lithuania. Non-disclosure practices also relate to non-transparent decision-making (consumers often cannot verify the observance of declared principles of social responsibility, the 'social' quality of the products, their origin as they are very much distant and isolated,⁶⁰ although globalization made it more difficult to conceal information available elsewhere).

Third reason is the lack of comprehensive coverage. The voluntary nature of a standard implies that a company is free to choose where, when, to what degree, if at all it wants to be socially responsible (from choosing the field of application, the stakeholders, language of the commitment, time of engagement and termination, etc.). The government cannot guarantee that important labour or

other human rights would materialize in certain industry and to a desired extent. Thus often companies choose to educate their employees, provide them with cheaper gym or other services (e.g. Lietuvos Telekomas) and generally go philanthropic rather than undertake external actions or restructure their business. Some companies tend to treat their engagements to be socially responsible as mere "saving of paper and electricity campaign".⁶¹

Fourth reason is a degree and nature of the commitment. Relying on a voluntary nature of the standard the codes of conduct, guidelines, ethical standards and other CSR instruments have been attached to the soft law category implying that from a legal perspective these standards can bear no binding obligation. It is also true that the words that are used by the companies to describe them being socially, environmentally or human rights *responsible* often have nothing in common with responsibility, but serve merely as expression of the concern and awareness.⁶² The argument often used against bindingness of CSR standard that the voluntary nature of CSR is the only way to guarantee flexibility of regulation conveys primarily one message – a will to have free hands against an enforceable commitment. However we speak about essential conditions preserving the dignity of an individual in his/her life and working place. Thus it is the greatest paradox that we speak about *responsibility* that is not supposed to involve and obligation, an undertaking, or a right to a beneficiary. As Haufner stated, 'the problem that governments and publics have with these voluntary initiatives is precisely that they are voluntary, with often-weak enforcement mechanisms'⁶³. That the companies are not eager to treat their CSR announcements seriously is evident from many cases. The companies are very active lobbying against the introduction of national and international rules regulating their voluntary commitments and monitoring them (e.g. new UN Norms on the Responsibility of the TNC's failed to a large extent due to efforts of business actors that considered them unnecessary and unacceptable⁶⁴). *Nike vs Kasky* case in

⁶¹ Interview with the owner Dobilas Kezys of a company "Pas Dobilą", a member of the Global Compact, available at <http://www.bernardinai.lt/index.php?url=articles/55364>.

⁶² E.g. MG Baltic Concern simply states that it raises the highest requirements to its activity concerning the impact on the nature, society, its security and public spirit (http://www.mgbaltic.lt/lt.php/visuomene_ir_mes/26, 2006-11-16), or a company supplying electricity 'Rytų skirstomieji tinklai' stating that it 'seeks to contribute to the welfare of the society and creation of nice environment, providing people with possibility to enjoy the benefit of electricity, the light and beauty it sheds' (<http://www.rst.lt/lt/?itemId=1005068>, 2007-01-18, translation by the author).

⁶³ V. Haufner. A public role for the private sector: industry self-regulation in a global economy. 2001, p. 2; K. Slack. Putting Teeth in Corporate Social Responsibility. Policy Innovations. 21 November 2006. Available at <http://www.policyinnovations.org/ideas/innovations/data/CSR>.

⁶⁴ For a wider account see e.g. P. Utting. Rethinking Business Regulation. From Self-Regulation to Social Control. Technology,

⁵⁹ http://www.lrinka.lt/index.php/menu/about_lfmi/board/643.

⁶⁰ Corporate Watch Report 2006 "What's Wrong with Corporate Social Responsibility?", p.16, available at <http://www.corporatewatch.org.uk/?lid=2670>.

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the US Supreme Court in 2002 and especially briefings from corporations revealed that corporations do not treat their public communication seriously. The companies do not consider themselves bound by their public statements on human rights, environment or social issues even in case of very clear and specific statements.⁶⁵ Thus the call for 'socializing' business responsibility is challenged by one of its major flaws – an 'elastic' content of responsibility. Each and every of organizations introduce their own individual *notion, content* and consequently boundaries of *their own understanding* of social responsibility. Each company can be and is very selective not only in the scope, but also about the degree of its engagement⁶⁶ and international institutions encourage this practice fiercely rejecting the idea of regulation and policing the implementation of the CSR. Consequently the idea of social responsibility tends to swing into marketing strategy and turn the idea about responsibility into a myth. However it is clear now that after 40 years of the proliferation of the CSR practices and their role in the governance it is too primitive to ignore the CSR statements on the excuse of 'nonlegal' arguments.

Fifth, the implementation of a standard. The vagueness of the content and degree of commitment paves the way for the companies to ignore the implementation of it or to take the action when a company pleases. The arguments against binding CSR standards or supervision of their implementation allow the companies to be quite relaxed about the consequences for the non-observance of the social responsibility declarations. On the other hand there are often 'no institutions and structures to resist harmful, locally inefficient regulatory proposals of business and international institutions' in developing countries or countries under transition.⁶⁷ At the given time indifference to social responsibility promises are 'encouraged' in Lithuania by the dormancy of civil society as well as the lack of the interest of the government to treat CSR instruments more seriously. It should be a duty of the state to develop institutions able to fight against harmful and speculative corporate policies, and with the assistance of the courts to invoke the necessary instruments

Business and Society Programme Paper No. 15, United Nations Research Institute for Social Development. September 2005, p. 16, available at

[http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/f02ac3db0ed406e0c12570a10029bec8/\\$FILE/utting.pdf](http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/f02ac3db0ed406e0c12570a10029bec8/$FILE/utting.pdf).

⁶⁵ See e.g. (Appellate Brief) Brief of Exxonmobil, Microsoft, Morgan Stanley, and Glaxosmithkline as Amici Curiae in Support of Petitioners (Feb. 28, 2003), available at Westlaw or at <http://www.reclaimdemocracy.org/nike/>.

⁶⁶ T. F. McInerney. Putting Regulation Before Responsibility: The Limits of Voluntary Corporate Social Standards. *Voices of Development Jurists*, Vol. II No. 3, 2005. Available at http://www.idlo.int/DLRC/vdj/vdj3_2005.pdf

⁶⁷ T. F. McInerney. Putting Regulation Before Responsibility: The Limits of Voluntary Corporate Social Standards. *Voices of Development Jurists*, Vol. II No. 3, 2005. Available at http://www.idlo.int/DLRC/vdj/vdj3_2005.pdf.

to make business responsible for their public promises, such as, for example, prohibition of unfair competition, legitimate expectations, good faith or abuse of rights. However only in strong states the courts could be relied upon to hold persons liable before the laws, however in case of Lithuania the courts continue to be one of the weakest chain upholding the rule of law and protection for human rights.

5. Conclusion

Over the years of its development the CSR grew into a very complex phenomenon, possessing multiple dimensions and faces.⁶⁸ The blurred content and all-tastes-fitting elastic concept of the CSR makes it look similar to 'one drug from all diseases' recipe that is not necessarily able to cure all the problems. The multiplication of CSR standards, vague and changing concept of CSR as well as abuse of its voluntary nature leads to a depreciation of the notion so that the proprietor of a standard does not necessarily represent a more responsible person. The notion of CSR tends to become a synonym to an elastic conscience of business. The danger with treating CSR as a tool complementing legal regulation is that CSR in fact becomes to a certain degree a 'privatization' of the governmental functions with very vague instruments of accountability and means of redress against it.⁶⁹ Therefore the CSR concept should not sell the idea of responsibility in principle, but rather responsibility for *something* in particular. Otherwise the CSR becomes a 'mechanism in the weakening of government' as it 'sidelines democratic decision making' and 'replaces the (dis)enfranchised citizen with the 'stakeholder'.⁷⁰

As the short general overview of Lithuanian experience shows the existence of international standard does not guarantee its application and effectiveness in local environment irrespective of the fact that the same company everywhere in the world formally invokes the standard. Voluntary business engagement in CSR practices depends very much on the peculiarities of the legal and political system as well as society's maturity to demand socially responsible behaviour. At present the path towards CSR practices in Lithuania often implies merely the law-complying behaviour and remains in a phase of CSR promotion rather than its implementation.

As can be concluded from the examples referred above the state possessing weak administrative capacity as well as dormant civil society is less likely to produce a comprehensive and efficient business dedication to and

⁶⁸ N. Roome, Pan-European Approach: Some Implications of National Agendas for CSR, In: A. Habisch, J. Jonker, M. Wegner, R. Schmidpeter (eds.). *Corporate Social Responsibility Across Europe*. 2005, p. 317.

⁶⁹ Corporate Watch Report 2006 'What's Wrong with Corporate Social Responsibility?', p. 17, available at <http://www.corporatewatch.org.uk/?lid=2670>.

⁷⁰ Ibid.



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implementation of the CSR. Thus in case of rather passive society and weak NGOs one of the major state functions along the promotion of CSR and encouragement of responsible behaviour should become the development of the institutions able to take actions against the abusive and speculative content of CSR policies, at least by way of disclosing fraudulent CSR declarations and providing members of the society with the means of redress against misuse of corporate power.

The international, i.e. external voluntary CSR standards that were copied or 'borrowed' to a large extent are not going to have a major impact and would more often lead to imitation of responsibility unless they become part of a culture of particular society. As R. Sims aptly observed '(t)he issue is not having the standards, however. It is living by them on a daily basis.'⁷¹

⁷¹ R. Sims. Ethics and Corporate Social Responsibility: Why Giants Fall. 2003, p. 40.