

# **Business ethics and the law**

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**Part 1: Taking a look at EU law**

# Business ethics

## Concepts of ethics

- Attitude of ethics
- Practical reasoning
- Duty of ethics
- Ethics of consequences

## Scope of business ethics issues

- Legal and institutional framework
- Governance of business organizations
- Relationships, stakeholders
- Relevant market and its participants
- Welfare of the general public

# EU legal framework



## **General concept** of the **EU Treaties**

- **Enforcement of common values and policies**
- **Strengthening of the EU market**

also by **standardization**

including **harmonization of laws in the EU**

# Structure of EU Law

Source	Addressees	Binding effect on private party
Treaties + Charter of Fundamental Rights	Member States, private parties	Yes, if suitable
Regulations	Private parties, Member States	Yes
Directives	Member States only	Only as to specified goals: Directives must be implemented by Member States

Judicial review by European Court of Justice

Table based on Hakenberg (2015), p. 60.



# Freedom versus regulation



## **Fundamental human rights**

## **Market oriented rights**

**in particular right of free movement**

-> persons, workers, goods, capital



## **Restrictions on business enterprises affecting**

- Corporate governance
- Competition
- Capital market
- Contracts
- Conditions of employment



# Protection of particular stakeholders



## Structurally weaker contract party

- **Consumers**, in particular in b2c transactions
- **Employees** (further-reaching health and safety issues)
- **Parties at risk of personal discrimination**
- **Parties at risk** because of the **other party`s dominant market position**

# Protection of particular stakeholders



## Shareholders and investors

especially with regard to companies listed on a stock exchange

- **Transparency rules** (information to shareholders, public financial statements)
- **Rules for conflict of interest** (compensation, insider dealing)
- **Online participation of shareholders**
- **Protective proceedings in take-over situations**

# Market participants and the general public



## Competition

### Prohibition of competition restraints

(Article 101 TFEU)

### Prohibition of abuse of a dominant market position

(Article 102 TFEU)

### Sanctions include:

Nullity of agreement, fines and third party damage claims

## Anti-Corruption law

### EU Convention against Corruption of Officials 1997

Status of law regarding corruption also in the private sector differs in member states.

Germany has ratified

- **OECD Convention of 17 December 1997**
- **UN Convention of 31 October 2003** (approved by the EU in 2008)

**Sanctions** include: Nullity of agreement, punishment under criminal law



# Corporate Social Responsibility (CSR)

## **Broad Concept** of the **EU Commission**

“...responsibility of enterprises for their impact on society...”

by “... ”

following the law;  
integrating social, environmental, ethical, consumer, and human rights concerns into their business strategy and operations.”

thus serving the interests of enterprises, EU economy and society

[http://ec.europa.eu/growth/industry/corporate-social-responsibility\\_de](http://ec.europa.eu/growth/industry/corporate-social-responsibility_de)



# Corporate Social Responsibility (CSR)

## **Strategy** of the **EU Commission**

### **built on**

United Nations Global Compact

United Nations Guiding Principles on Business and Human Rights

ISO 26000 Guidance Standard on Social Responsibility

International Labour Organization Tripartite Declaration of Principles concerning Multinational Enterprises on Social Policy

OECD Guidelines for Multinational Enterprises

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# Corporate Social Responsibility (CSR)

## Pressure by disclosure obligations: CSR Directive 2014/95

For **public-interest entities**  
with more than 500 employees

**Mandatory non-financial statement on**

„...as a minimum, **environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters** including...”

Reporting on **business model, policies, processes, outcome of policies, risks, key performance**

