

JURIDICAL AND ECONOMIC ANALYSIS OF THE CORPORATE SOCIAL RESPONSIBILITY IN THE BANKING MANAGEMENT FROM ROMANIA

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Abstract: *At present, the corporate social responsibility must be regarded from a complex perspective. We consider that the social responsibility of the banks is what the community expects from a bank ecologically, economically, juridically, ethically, and philanthropically. Thus, the banking corporate social responsibility includes all these types of responsibilities: the ecological responsibility, the economic responsibility, the juridical responsibility, the ethical responsibility, and the philanthropic responsibility. Combining the juridical analysis with the marketing research, this work aims at the actual compliance with the corporate social responsibility by the banks from Romania, an European Union member state. The juridical regulations adopted mid 2013 at the European Union level bring a new approach to the relation between the most important categories of stakeholders – consumers and employees – and the bank by means of actual juridical specifications regarding the banking management. Presenting the most important provisions of Directive 2013/36/UE of the European Parliament and Council regarding the access to the activity of the credit institutions and prudential supervision of the credit institutions and investment companies, and of Regulation no. 575/2013 of the European Parliament and Council regarding the prudential requirements for the credit institutions and investment companies, in relation to the corporate social responsibility aspects offers an interesting image of the evolution of the legislative aspects regulating the banking management. One can note, in practice, the assimilation by the banks of the corporate social responsibility only with its philanthropic component, ignoring the most important elements of the social responsibility: the juridical responsibility, the ethical responsibility, or the economic responsibility. This work shows results of a quantitative marketing research which has been performed in Braşov municipality in 2014. The marketing research on “Attitudes and opinions of the Braşov citizens regarding social responsibility” had a final sample made up of 386 persons, with a random error of $\pm 4.99\%$, which can be considered a minimum limit of representativeness. Thus, the results of this research are representative for Braşov town, and can also be extended in the case of other large towns of Romania. This work presents pertinent proposals regarding the improvement of the juridical framework regarding the corporate social responsibility which can be developed within the banking management.*

Keywords: social responsibility, banks, quantitative marketing research, juridical analysis, European Union.

JEL classification: M31.

1. Aspects regarding the corporate social responsibility developed by the banks.

Several traders instinctively know that “to do the right thing” – serve the clients, take care of the staff’s morale, be careful with the providers, be good neighbours, and protect the

environment – means commercial sense. The socially responsible activity regards the provision of the economic success of a commercial company by including social and ecological aspects into its activity. [European Commission]

It is considered that the social responsibility can also be regarded as a fundamental ethical principle which expresses towards “whom” and for “what” a commercial company is responsible, in the light of the ethical system accepted and promoted by it. In this view, the social responsibility implies: the compliance with the laws, with the contractual provisions – starting from the premise that the contract is the law of the parties which obliges them to comply with it –, honesty, but also the consideration of desiderates of several groups interested in the existence and operation of a economic operator. [Schreiner, Ciobanu, Huțu, 2002]

The social responsibility can also be characterized as being the firm obligation of a commercial company to act beyond the legal obligations or those imposed by economic restrictions, and to pursue long-term objectives to the use of the community. The respective commercial company is considered responsible not only towards their owners (shareholders) but also towards clients, providers, employees, governmental organisms, creditors, local communities, public opinion.

At present, the social responsibility of the commercial companies must be regarded from a complex perspective. We consider that the social responsibility of the commercial companies is what the community expects from a commercial company ecologically, economically, legally, ethically and philanthropically. In my opinion, the social responsibility includes all these types of responsibilities: ecological responsibility, economic responsibility, legal responsibility and philanthropic responsibility. [Poțincu, 2012]

The philanthropic responsibility does not mean corporate social responsibility

2. Analysis of the results of a quantitative marketing research performed on the consumers of the Brașov municipality regarding the socially responsible activity of the banks from Romania

In 2014, we performed the quantitative marketing research on “Attitudes and opinions of the Brașov citizens regarding social responsibility”. The purpose of performing this marketing research was getting to know the view of the consumers regarding the activity of the banks operating in Brașov municipality.

The final sample was made up of 386 persons, with a random error of $\pm 4.99\%$, which can be considered a minimum limit of representativeness.

Considering the fact that the size of the sample has been established probabilistically, simply random, and taking into account the fact that the level of the admitted error is $\pm 5\%$, and the probability of guaranteeing the results is 95%, we consider that the results of the research are representative for the entire adult population of Brașov municipality, and – also – these could also be extrapolated at the level of other municipalities with a similar size and structure of the population from Romania. Thus, one can note the view of the citizens on the banks operating on the Romanian market.

Within this marketing research, we have analysed the opinions of the Brașov consumers regarding the banks operating on the Romanian market as far as their socially responsible attitude is concerned.

To the question “*Do you consider that the banks operating on the Romanian market perform their activity while complying with the requirements of the corporate social responsibility?*”, the questioned Brașov consumers, in a percentage of 45%, have answered “Yes, I consider that the banks operating on the Romanian market perform their activity while complying with the requirements of the social responsibility”. This aspect is highlighted in diagram 1.

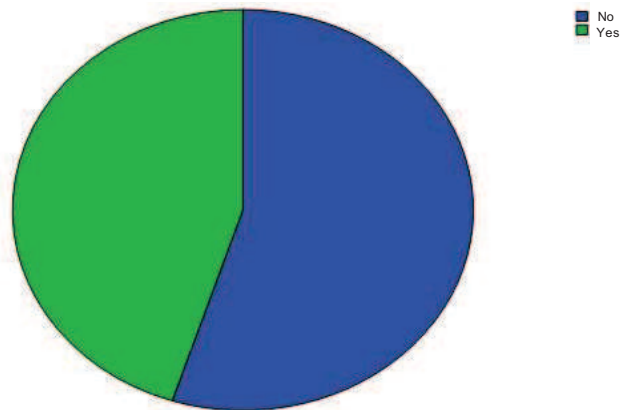


Figure 1: Analysis of the question “Do the banks operating on the Romanian market perform their activity while complying with the requirements of the corporate social responsibility?”

Source: Quantitative marketing research performed by the authors

The interesting fact is the answer of 55% of the questioned persons: “no, I consider that the banks operating on the Romanian market do not operate while complying with the requirements of the corporate social responsibility”.

One notes the fact that over 5 out of 10 questioned consumers consider that the banks operating on the Romanian market do not perform their activity while complying with the requirements of the corporate social responsibility. From our point of view, this should be a warning for the banks, i.e. attention must be paid to the implications of the corporate social responsibility concept in the activity.

The fact according to which over 1 out of 2 consumers consider that the banks do not comply with their legally established rights, excluding the reality of not complying with the consumers’ moral rights, is a problem, especially under the circumstances in which most of the banks in Romania state that they are socially responsible.

As previously highlighted, directing certain funds with the purpose of supporting a social cause, while complying with the philanthropic component of the corporate social responsibility, does not imply ignoring the other responsibilities included in the social responsibility. Also, the relations between the bank and several categories of stakeholders – consumers or employees – in complying with the juridical, ethical or economic responsibility, must be given an increased attention, as compared to the aspects of philanthropic responsibility.

Within the same marketing research, we have analysed the opinions of the Braşov consumers in relation to their age.

Table 1: Do you consider that the banks operating on the Romanian market perform their activity while complying with the requirements of the corporate social responsibility? * Age Cross tabulation

	Age							Total
	18-29 years old	30-39 years old	40-49 years old	50-59 years old	60-69 years old	70-79 years old	80 years old and over	
NO	40 27,8% 55,6%	28 19,4% 59,6%	27 18,8% 50,9%	27 18,8% 60,0%	16 11,1% 59,3%	0 0,0% 0,0%	6 4,2% 100,0%	144 100,0% 55,0%
YES	32 27,1% 44,4%	19 16,1% 40,4%	26 22,0% 49,1%	18 15,3% 40,0%	11 9,3% 40,7%	12 10,2% 100,0%	0 0,0% 0,0%	118 100,0% 45,0%
Total	72 27,5% 100,0%	47 17,9% 100,0%	53 20,2% 100,0%	45 17,2% 100,0%	27 10,3% 100,0%	12 4,6% 100,0%	6 2,3% 100,0%	262 100,0% 100,0%

Source: Quantitative marketing research performed by the authors

Table no. 1 shows that the questioned persons aged 40 - 49 years old consider, in an almost equal proportion, that the banks operating on the Romanian market perform or do not perform a socially responsible activity. 49% of them have answered "Yes", while the rest of 51% have answered "No, I consider that the banks operating on the Romanian market do not operate while complying with the requirements of the corporate social responsibility."

Progressively, the results are as follows::

- the consumers aged between 18-29 years old which have been questioned consider, in a percentage of 56%, that the banks operating on the Romanian market do not perform their activity while complying with the requirements of the social responsibility,
- the consumers aged between: 30-39 years old, 50-59 years old, 60-69 years old, consider, in a percentage of 60%, that the banks operating on the Romanian market do not perform their activity while complying with the requirements of the social responsibility.

The interesting fact is that, in the case of the questioned ones aged between 70 and 79 years old, the situation is trenchant: 100% of the questioned persons have chosen the answer "Yes". In the case of the questioned consumers aged between 80 years old and over, the situation is exactly the opposite: 100% of the questioned ones have chosen the answer "No, I consider that the banks operating on the Romanian market do not operate while complying with the requirements of the corporate social responsibility."

The trust the consumers have in banks and the strict compliance with the contractual obligations by a large part of the Romanian consumers, including the Braşov consumers, have determined a good relation with the banks, which has led to a positive response regarding their evaluation of the compliance with the requirements of the corporate social responsibility by the banks. Also, the consumers' failure to know the entirety of rights provided by the legislation protecting the consumer of banking products and services, has led to their wrong manner of evaluating the activity of the banks. If the banks had considered the juridical and ethical responsibility, there would not have been so many legal actions commenced by the consumers of the banks operating on the Romanian market.

3. Directive 2013/36/EU for the development of the social responsibility of the banks

Directive 2013/36/EU of the European Parliament and Council regarding the access to the activity of the credit institutions and prudential supervision of the credit institutions and investment companies, modifying Directive no. 87/2002/CE and abrogating Directives nos. 48/2006/CE and 49/2006/CE, and Regulation no. 575/2013 of the European Parliament and Council regarding the prudential requirements for the credit institutions and investment companies, and modifying Regulation (EU) no. 648/2012 is the juridical framework at the European Union level regarding the socially responsible management of the banks. The second juridical document extends the provisions of the directive.

If, until mid 2013, the legislation adopted at the European Union level juridically regulated only the contractual and pre-contractual relation between the consumers of banking products and services and the banks, the two normative documents adopted at the European Union level are centred on the regulation of the banking management, including the bank-consumers relation.

We shall further present and analyse the aspects regarding the socially responsible management of the banks, integrated in Directive 2013/36/EU of the European Parliament and Council.

Argument 13 of the Preamble of Directive 2013/36/EU states the need of supervision practices and decisions which would be transparent, predictable and harmonized, underlying the activity of the market and coordination of the cross-border groups of banks, with the purpose of providing a proper operation of the internal market.

Also, argument 51 stipulates that "adopting stricter regulations" shall provide transparency, a reduction of the systemic risk, and elimination of any improper practices, as these are "necessary for the stability of the financial system." Transparency is a very important element of the social corporate responsibility, as the European normative document makes the connection between the stability of the financial system in its whole and the stability of the banks by means of the transparency of their activity, as well as the transparency of the banks supervision activity.

Argument 52 of the Preamble of Directive 2013/36/EU directly refers to the social responsibility. Thus, *the increased transparency regarding the activities of the banks, especially regarding the achieved profits, paid taxes and received subsidies is essential for regaining the trust of the Union citizens in the financial sector*". Our conclusions, further to the prior analysis of the results of the marketing research, support this provision. They further stipulate that *the mandatory reporting in the mentioned field can be considered an important element of the corporate responsibility of [the banks, authors' note - AN] to the interested factors [stakeholders AN] and society*".

The most interesting part of the previous provision is considered to be the transparency of the received subsidies, which can come from public funds, but also private, and can – in extreme cases – cause pressures from those offering them.

Argument 53 explains the fact that *certain deficiencies of the corporate governance of a number of [banks AN] have contributed to taking excessive and imprudent risks in the banking sector, which has led to the bankruptcy of the individual institutions and systemic problems both at the member states level, and globally. The very general dispositions regarding the governance of the [banks AN] and the non-mandatory nature of an important part of the corporate governance framework, which is mainly based on voluntary conduct codes, have not sufficiently encouraged the effective implementation of solid practices of corporate governance by the [banks AN]*.

In some case, the absence of effective control mechanisms within the institutions results in the lack of an effective supervision of the decisional administration process, which has

encouraged the administration strategies centred on short-term and extremely risky objectives.

The unclear role of the competent authorities in supervising the corporate governance systems of the [banks AN] has not allowed a sufficient supervision of the effectiveness of the internal governance processes.” These provisions capture the reality prior to the current economic crisis and the problems faced by the European and international banking system.

Consequently, argument 54 of the Preamble of Directive 2013/36/EU stipulates: *“in order to counteract the possible negative effects which the improperly conceived corporate governance mechanisms can have on a healthy administration of risks, the member states should instate principles and standards which would provide an effective supervision by the management body, promote a solid culture at all the levels [of the banks AN], and allow the competent authorities to monitor the adequacy degree of the internal governance mechanisms.*

The respective principles and standards should be applied considering the nature, size and complexity of the activities [of the banks AN]. The member states should be able to impose corporate governance principles and additional standards to the ones provided by this directive”. One can note the transmission as an obligation to be fulfilled by the European Union member states, including by Romania, to develop and impose corporate social responsibility principles and standards.

Directive 2013/36/EU states in Art. 74 align. 1 the fact that banks are obliged to enforce *“solid measures regarding governance, which include a clear organisational structure with well-defined, transparent and coherent responsibility lines, effective processes for identifying, managing, monitoring and reporting risks to which they are or can be exposed, adequate internal control mechanisms, including rigorous administrative and accounting procedures, as well as remuneration policies and practices which would promote and be in accordance with an adequate and effective management of risks”.* These provisions underline the need for a socially responsible management in order to develop and support a healthy banking management.

Art. 96 establishes the compulsoriness of the banks to maintain a website regarding the corporate governance and remuneration.

Argument 63 of the Preamble of Directive 2013/36/EU stipulates the following: *“in order for the institutions to enforce healthy remuneration policies, clear principles regarding the governance and structure of the remuneration policies must be specified. Especially the remuneration policies should fit the appetite for risk, the long-term values and interests of the [bank AN]. For this purpose, the evaluation of the structure of remuneration depending on performances should be based on the long-term results, and take into account the current and future risks associated to these performances”.* We consider it important to establish clear juridical rules regarding the protection of the banks employees, regarding their remuneration, in the spirit of the corporate social responsibility.

Also interesting are the provisions of Art. 91 align. 7 and 8. Thus, *“the management body generally possesses proper knowledge, skills and experience in order to understand the activities of the institution, including the main risks”.* Also, *“each member of the management body acts in honesty, integrity and spirit independence in order to evaluate and effectively dispute the decisions of the upper management whenever necessary, and in order to supervise and efficiently monitor the decision-making process by the management team”.* The persons involved in developing a socially responsible management must be prepared, and must want this.

4. Conclusions and proposals

Analysing the view of the Braşov municipality citizens on the integration of the corporate social responsibility aspects in the banking management activity, one can note which aspects should be included and developed within the normative documents which constitute and shall constitute the juridical framework of a healthy banking management, with positive influences on the economy of the European Union.

Analysing the aspects which can be correlated with the corporate social responsibility stipulated in Directive 2013/36/EU of the European Parliament and Council, and Regulation no. 575/2013 of the European Parliament and Council, we consider it to be a good start to adopt the two normative documents at the European Union level, documents which are mandatory for all European Union member states, including Romania. However, supporting a socially responsible behaviour, understanding, and correctly and completely developing a socially responsible management can only be achieved by means of a special regulation exclusively centred on the banking social responsibility. A minimum of social responsibility requirements agreed upon at the European Union level in the activity performed by the banks, and a juridically clear explanation of the corporate social responsibility activities and strategies, which can be supervised and controlled by the already instated bodies at the European Union level would be, in our opinion, the next step in the evolution of the juridical framework of the banking management.

In this respect, it would be important to integrate and develop at least the following elements in the future legislation adopted at the European Union level, which shall be mandatory for the banks in all member states:

- Explaining and controlling all types of responsibilities which are part of the corporate social responsibility: the juridical responsibility, the economic responsibility, the ethical responsibility, the ecological responsibility, and the philanthropic responsibility;
- Integrating the social responsibility elements in the relation with their own employees, by developing the remuneration aspects initiated by Directive 2013/36/EU of the European Parliament and Council, and Regulation no. 575/2013 of the European Parliament and Council, and by adding new elements regarding the protection of the banks employees;
- Integrating the social responsibility elements in the relation with their own consumers, by developing information programs, extending certain ethical rights of the consumers by means of their juridical regulation, explaining certain juridically regulated rights of the banking products and services consumers, transposing fundamental rights from the common civil and commercial law into the field of the juridical protection of the banking products and services, performing a real control from the banking supervision bodies – operating at the level of the European Union and in the member states – of the compliance with the rights supported by the normative documents in force, and compliance with the solutions given by the courts of law correlated with observing the law.

We believe that the previously mentioned *de lege ferenda* proposals are an essential step in the development of a socially responsible management in all the banks operating on the European market, including Romania.

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References

- Ciutacu C., Chivu L., Preda D., *Responsabilitatea socială a companiei - o provocare pentru lumea contemporană. (Corporate Social Responsibility – a challenge for the contemporary world)* în Revista Română de Economie Nr. 2/2005, Editura Centrul de Informare și Documentare Economică, Institutul de Economie Națională, București. p. 79.
- Comisia Europeană, Direcția Generală pentru Întreprinderi: *Introducere în CSR pentru întreprinderile mici și mijlocii. (Introduction to CSR for small and medium enterprises)* http://ec.europa.eu/enterprise/csr/campaign/documentation/download/introduction_ro.pdf, pp. 2-3.
- Directive no. 36/2013/UE of the European Parliament and Council regarding the access to the activity of the credit institutions and prudential supervision of the credit institutions and investment companies, modifying Directive no. 87/2002/CE and abrogating Directives nos. 48/2006/CE and 49/2006/CE published in the Official Gazette of the European Union L 176/338 of 27 June 2013
- Filali Meknassi R., *Quel avenir pour la responsabilité sociale des entreprises au Maroc? (Which is the future for the corporate social responsibility in Morocco?)* Sedjari A.: Droits de l'Homme et développement durable. Quelle articulation. (Human rights and sustainable development. What is the link) Edition l'Harmattan-GRET, Imprimerie El Maârif Al Jadida – Rabat, 2008, p. 190.
- Iamandi I. E., Filip R., *Etică și responsabilitate socială corporativă în afacerile internaționale. (Ethics and corporate social responsibility in international business)* Editura Economică, București. 2008.
- Regulation no. 575/2013 of the European Parliament and Council regarding the prudential requirements for the credit institutions and investment companies, and modifying Regulation (EU) no. 648/2012 published in the Official Gazette of the European Union L 176/1 of 27 June 2013
- Schreiner C., Ciobanu R. C., Huțu C. A., *Etica tehnică și a afacerilor. (Technical Ethics of Business)* Editura G. Asachi, Iași. 2002, pp. 145 – 147.
- Poțincu L., *Ethics and Social Responsibility in the Marketing Domain. Economic and Juridical Analysis on Romania, Member State of European Union*, Lap Lambert Academic Publishing, Saarbrücken. Germany, 2012.