Publicationes Universitatis Miskolcinensis
Sectio Juridica et Politica, Tomus XLIII/1 (2025), pp. 109–124.
https://doi.org/10.32978/sjp.2025.006

THOUGHTS ON THE CRIMINAL LIABILITY OF COMPANIES FROM A LABOUR PERSPECTIVE

GONDOLATOK A VÁLLALATOK BÜNTETŐJOGI FELELŐSSÉGÉRŐL A MUNKA VILÁGA SZEMPONTJÁBÓL

ZSÓFIA RÁCZI*

Liability is key to society's self-correction. In recent years, we may now say decades, and especially recently, numerous reports, research and forecasts have warned that humanity is heading in the wrong direction and that urgent change is needed. Companies have a particularly significant impact on the achievement of sustainability, with influence extending to the environmental, economic and social pillars. The paper touches on the issue of corporate criminal liability, focusing in particular on how the current legal framework can be strengthened to achieve sustainability goals, for example through the regulation of supply chains. The aim of the paper is to provide food for thought to further consider the legal and moral aspects of corporate liability in the context of sustainability.

Keywords: *liability, criminal law, companies, sustainability, regulation*

A felelősség kulcsfontosságú a társadalom önkorrekciójában. Az elmúlt években, mostanra már mondhatjuk, hogy évtizedekben, és különösen a közelmúltban számos jelentés, kutatás és előrejelzés arra figyelmeztet, hogy az emberiség rossz irányba halad, és sürgős változásra van szükség. A vállalatok különösen jelentős hatással vannak a fenntarthatóság elérésére, befolyásuk kiterjed a környezeti, gazdasági és társadalmi pillérekre is. A tanulmány a vállalatok büntetőjogi felelősségének kérdéskörét érinti, különösen arra összpontosítva, hogy a jelenlegi jogi keretek hogyan szigoríthatók a fenntarthatósági célok érdekében, például a beszállítói láncok szabályozása révén. A tanulmány célja, hogy gondolatébresztőként szolgáljon a vállalati felelősség jogi és erkölcsi aspektusai továbbgondolásához a fenntarthatóság jegyében.

Kulcsszavak: *felelősség, büntetőjog, vállalatok, fenntarthatóság, szabályozás*

* ZSÓFIA RÁCZI
PhD student
University of Miskolc
Faculty of Law
Institute of Civil Law
Department of Agricultural and Labuour Law
3515 Miskolc-Egyetemváros
zsofiaraczi@gmail.com

Introduction

Gyula Eörsi called the institution of liability one of the means of self-correction of the society.[1] Over the last few years, we might now say decades, and especially recently, a number of reports, research and forecasts have confirmed that humanity is undoubtedly on an unsustainable path and in need of some kind of 'correction'. For example, the WWF Living Planet Report 2024[2], which measures the average change in population sizes of more than 5,000 vertebrate species, shows a decline of 73% between 1970 and 2020.[3] Based on trends and results in recent years over half the Sustainable Development Goal targets for 2030 will be missed, with 30% of them stalled or getting worse from the 2015 baseline.[4]

The role of companies in achieving sustainability or driving away from it is huge. Sustainability has three pillars: environmental, economic and social sustainability, and the activities of companies have a significant impact on all three. The link with the economic pillar is evident. The impacts on the environment are very diverse and often very destructive. The social impacts can be looked at from many different angles. On the one hand, the impact of companies on broader groups or even on society as a whole can be examined. On the other hand, companies are almost in all cases employers, so their actions also have consequences for their own employees. What is more, their decisions also have an impact on the workers in their supply chains. At the same time, it is important to emphasise that one of the basic principles of sustainable development is that it takes a holistic approach, taking into account the needs of environmental, social and economic development simultaneously, and that it also takes into account that actions in one area will have an impact on others, and that development must balance social, economic and environmental sustainability, thus it is not advisable to sharply demarcate the three pillars.

The fact that companies have such a significant impact on the environment, the economy and the members of society raises the question of how their liability for these impacts is defined, and whether the framework of legal liability within the systems of responsibility is still adequate in the current economic and social context, or whether the time has come to redefine it.

Nevertheless, the purpose of this paper is not to provide a complete description of the legal liability regime for companies, but rather to have a look at their criminal liability, and to ask whether a more restrictive or comprehensive interpretation of corporate liability for their social and environmental impacts, especially in relation to their supply chains, might be an appropriate way to achieve sustainability.

---

1 EÖRSI Gyula: Tézisek a polgári jogi felelősségről. *Állam- és Jogtudomány* 1976/2., 185.

2 *Living Planet Report 2024 – A System in Peril*. WWF, Gland, Switzerland, 2024.

3 Over the past 50 years (1970–2020), the average size of monitored wildlife populations has shrunk by 73%, as measured by the Living Planet Index (LPI). This is based on almost 35,000 population trends and 5,495 species of amphibians, birds, fish, mammals and reptiles. Freshwater populations have suffered the heaviest declines, falling by 85%, followed by terrestrial (69%) and marine populations (56%).

4 *Living Planet Report 2024 – A System in Peril*. WWF, Gland, Switzerland, 2024, 7–8.

However, this paper does not seek to attempt to deliver an accurate answer to this complex and difficult question, but merely to provide food for thought.

1. About liability

If we talk about responsibility in a general, everyday sense, then responsibility for something and liability because of something are distinguished. The former represents agreement with a cause and commitment to it.[5] The present paper relates to liability in the latter sense, where the fundamental pattern of all forms of liability is that some human behaviour that is subject to adverse judgement is in conflict with one or more normative systems and therefore results in a disadvantage, thus serving to prevent, educate and deter the continuation of such behaviour.[6] This human behaviour may be active or manifested in some form of omission, but in all cases it is always some form of misconduct, a violation of some kind of obligation. Therefore, in essence, liability is a kind of sanction, a negative consequence. Depending on the origin of the responsibility and the norm on which it is based, the norm-violator may have moral, political, legal or more than one of these types of obligations towards society or a specific subject. However, this will be a specific secondary obligation that will arise following a breach of the primary obligation.[7]

It is important to also mention ethical liability in the context of the issue raised by this paper. Although it per se merely refers to the negative human judgements and related consequences of behaviour or omissions that are in violation of ethical requirements in a particular community, it is also very closely related to legal liability.[8] Ethics and law constituted a single social subsystem up until the emergence of more developed societies. The first appearance of the state was the beginning of the long, historical and relative separation of law and ethics, in which some of the norms were taken out of the realm of what had previously been merely customary law. This process took place in such a way that a significant part of the ethical norms was promoted to the level of law, while others remained ethical rules. The social relations which have been and are regulated by law are those to which the state attributes a high level of importance, and therefore it also ensures the use of state enforcement instruments to enforce them.[9] Fundamentally, one might say that legal liability refers to a position that is brought about by the commission of a conduct prohibited by law or by a moral norm that has been declared to be enforceable by

---

5 KOMPORDAY-OROSZ Noémi: A büntetőjog és polgári jog kárfogalma – azonos terminológia, eltérő definíciók. *Ügyészek Lapja* 2021/1–2., 35–54.

6 EÖRSI Gyula: *Kártérítés jogellenes magatartásért*. Közgazdasági és Jogi Könyvkiadó, Budapest, 1958., 23.

7 CSÉCSY Andrea – FÉZER Tamás – HAVASI Péter – TÓTH Endre Tamás – VARGA Nelli: *A kártérítési jog magyarázata*. Complex Kiadó Kft., Budapest, 2010, 19.

8 MISKOLCZI BODNÁR Péter: Az erkölcs és a jog szoros kapcsolata. *Polgári Szemle* 2015/4–6., 27–33.

9 FÖLDESI Tamás: Jog, erkölcs, gazdaság. *Iskolakultúra – Természettudomány, Az Országos Közoktatási Intézet folyóirata* IV, 1994/18., 2–3.

law, or by the failure to perform a conduct required by law, and typically results in a legal consequence, usually some kind of sanction.[10]

For a few years, from the 18th century onwards, the prevailing attitude towards the application of ethical principles to economic activity was that the economy and the operation of companies should be based solely on the principles of the market, and therefore ethical responsibility was not applied. Nowadays, this attitude seems to be receding. This can be observed in corporate practices such as corporate social responsibility or responsible business conduct, the creation of corporate codes of ethics and codes of conduct or the emergence of green jobs. However, unfortunately, the integration of various ethical aspects into the operation of companies is often not motivated by real moral convictions, but rather still by the aim of maximising profits. The implementation of such practices has a positive impact on the company's reputation and is considered as an element of its PR and marketing strategy. At the same time, ethical responsibility also comes into play, because if a company is found to be engaging in practices that are highly questionable from an ethical point of view – for example, its supply chain might not be described as sustainable or ethical – it usually suffers a significant economic disadvantage, as consumers can choose which of the numerous products from the many companies on the market they favour, and there are more and more conscious consumers on the market who are also integrating, for example, moral, environmental or social considerations into their choices.

So, in effect, companies are currently forced to comply with a certain level of ethical requirements in addition to their legal obligations. The phenomenon of *greenwashing* is also linked to this issue. As the way of thinking about sustainability changes in society and among consumers, the economic and social pressure on companies increases, as they are expected to meet higher and higher standards. Companies therefore often tend to resort to the practice of not investing significant sums in change because it would not always be profitable for them, but in order to maintain their reputation and market position, they prefer to maintain the appearance of environmentally friendly and sustainable practices so as to avoid negative judgement and the adverse consequences of their actions. However, this could come at a heavy price in the long run, as nothing is more damaging to a company's brand than being found to have deceived its customers.

Considering the above-mentioned aspect of the relationship between law and ethics, as well as the current trends in social attitudes and expectations, it would not be unexpected if the emerging ethical norms were to take on a legal form in the future, since the actual boundaries between the ultimate psychological limits of liability are determined by the legislator, the judicial practice and the legal policy decisions adapted to social requirements.[11]

---

[10] BARTA Judit – BARZÓ Tímea – CSÁK Csilla (ed.): *Magyarázat a kártérítési jogról*. Wolters Kluwer Kft., Budapest, 2018., 13.

[11] EÖRSI Gyula: Tézisek…, 199.

The most important difference between legal and ethical liability is embodied in the consequences that they entail. The enforceability of legal liability by the state is what makes this form of liability so much more effective in fulfilling its functions.

The liability of companies is already quite wide-ranging, with many different obligations, legal liabilities and, in some cases, specific forms of liability. The fundamental element of liability is, in the case of a natural person, the actions of the natural person, and in the case of a legal entity, the organisational activity, which is the sum of the actions of individuals in the given organisation.[12]

Legal liability basically serves a two-purpose function. Besides its role as a negative legal consequence, its purpose goes beyond that and seeks to prevent breaches of the norms and to discourage wrongdoing. As Gyula Eörsi expressed it, „Liability is that part of the educational function of society which reacts with repression to behaviours that are dangerous to society."[13] By threatening with sanctions, it has preventive psychological and sociological effects. This preventive nature derives from the predictability of legal liability. In all situations, individuals are given a freedom of choice, which can be reduced to a choice between compliance with the norm and deviation from the norm. The institution of legal liability offers the individual an orientation in this choice and, considering that it only applies sanctions to the individual for acting in violation of the norm, it leads the individual's choice in a single direction, towards acting in accordance with the law.[14]

Apart from this, the preventive function in the era of mass production runs into major problems at times. The reason for this is that, for business enterprises today, legal liability is no longer a matter of ethics, but merely one of the many cost considerations taken into account in business decisions based on cost-benefit analyses. As a result of that, compensation or a possible fine will not have a deterrent effect if the financial gains that can be achieved through the violation are higher than the amount of the damage that could be caused and the amount of the compensation or fine to be paid. This problem is also very common in the context of environmental liability, but perhaps criminal liability has a greater deterrent effect, given that its system of sanctions is not limited to financial consequences.

2. Fundamentals of corporate criminal liability

For a long time, traditional European criminal law excluded the criminal liability of legal persons on the basis of the „societas delinquere non potest" principle, since the commission of a crime requires a psychological link between the perpetrators and their acts, which can only be interpreted in the case of natural persons. However, in modern society, crimes committed in the context of organisations, especially

[12] SÁNTHA Ferenc: A szervezetek büntethetőségének elméleti kérdései a magyar büntető-jogban: büntetőjogi felelősség vagy büntetőjogi szankcionálhatóság. In: *Wiener A. Imre Ünnepi Kötet.* KJK-KERSZÖV Jogi és Üzleti Kiadó Kft., Budapest., 2005, 99–109.

[13] EÖRSI Gyula: *Kötelmi jog. Általános rész*. Nemzeti Tankönyvkiadó, Budapest, 2003, 239.

[14] CSÉCSY Andrea – FÉZER Tamás – HAVASI Péter – TÓTH Endre Tamás – VARGA Nelli: op. cit. 19.

economic and environmental crimes, are increasingly common, and liability issues are difficult to address on the basis of traditional legal categories (e. g. perpetrator, accomplice).[15] A number of cases, including the Bhopal industrial disaster[16], the Deepwater Horizon oil spill[17], the Rana Plaza collapse[18] and the Love Canal case[19], have shown that the traditional tools of criminal law are not adequate to deal with such complex cases.

---

15 POLT Péter – PALLAGI Anikó – SCHUBAUER László: *Büntetőjog a gyakorlatban.* Dialóg Campus, Budapest, 2020, 149–151.

16 On the night of 2 December 1984, over 35 tonnes of toxic gases leaked from a pesticide plant in Bhopal owned by Union Carbide India Limited (UCIL), an Indian subsidiary of the US multinational Union Carbide Corporation (UCC). Over 7,000 people died within days. Another 15,000 died in the following years. The disaster shocked the world and raised fundamental questions about government and corporate responsibility for industrial accidents that devastate human lives and the local environment. Efforts by survivors' organisations to use the US and Indian legal systems to seek justice and adequate compensation have so far been unsuccessful. See on this: *Clouds of Injustice – Bhopal Disaster 20 Years On*. Amnesty International. https://theconversation.com/bhopal-after-40-years-ongoing-effects-of-worlds-worst-industrial-disaster-show-environmental-racism-is-alive-and-well-245287, 10 February 2025.

17 On 20 April 2010, the Deepwater Horizon oil rig operating in the Macondo well in the Gulf of Mexico exploded and sank, killing 11 Deepwater Horizon workers and causing the largest oil spill in the history of offshore oil drilling. 4 million barrels of oil gushed from the damaged Macondo well over a period of 87 days. BP eventually paid billions of dollars in compensation, but the failure of the oil drilling industry and the regulatory system to hold individuals accountable has resulted in only partial success. See on this: *Deepwater Horizon – BP Gulf of America Oil Spill*. United States Environmental Protection Agency. https://www.epa.gov/enforcement/deepwater-horizon-bp-gulf-america-oil-spill, 10 February 2025. Summary of Criminal Prosecutions. United States Environmental Protection Agency. https://cfpub.epa.gov/compliance/criminal_prosecution/index.cfm?action=3&prosecution_summary_id=2468, 10 February 2025.

18 Rana Plaza was a multi-storey garment factory building that collapsed, killing more than 1,100 people. The tragedy was caused by structural defects in the building and negligence on the part of the employers. Although some of those responsible have been brought to justice, Western companies in the international fashion industry that had their products manufactured in the factory have largely escaped prosecution. See on this: Diana OTLEWSKI: *The Incubation of Environmental Disasters: Case Study of the Rana Plaza collapse*. Major Paper, Master of Environmental Studies, Faculty of Environmental Studies, York University, Bangladesh, 2014.

19 Love Canal was a residential area in upstate New York that was used as an industrial landfill in the 1940s and 50s. Toxic substances buried there later leached into the soil and water, causing serious health problems for residents. Determining responsibility was a lengthy legal process, and the US government was eventually forced to intervene. See on this: Theodore BAURER: Love Canal: Common law approaches to a modern tragedy. *Environmental Law* 11 (1), 1980, 133–160, http://www.jstor.org/stable/43265529, 11 February 2025.

By now the criminal liability of legal entities and other organisations has become a generally accepted legal institution and liability mechanism in national legal systems. The sources of law enacted within the framework of the European Union and other international organisations require Member States or States Parties to penalise legal entities for a number of criminal offences when committed within the framework of the organisation. In addition, several international legal instruments, including UN conventions and EU directives, also provide for the establishment of liability of legal entities in the case of the perpetration of so-called transnational crimes.[20] Currently, the criminal liability of companies falls within the following regulatory framework.

The criminal liability of legal entities, such as companies and business associations, is specific. In Hungary, this subject is addressed by a dedicated Act, Act CIV. of 2001 on Criminal Law Measures Applicable to Legal Entities, which was adopted in the context of the necessary preliminary process regarding the harmonisation of laws in preparation for accession to the European Union. In addition to the harmonisation of laws, the rapid increase in the number of companies following the change of regime made criminal liability necessary.

For this purpose, the baseline was provided by the Corpus Juris Europae, created in 1997, which sets out three levels of liability for offences committed within the corporate framework. These are individual criminal liability (of natural persons), criminal liability of the head of the business and criminal liability of organisations.[21]

In Europe, the general principle of criminal liability of legal entities under Corpus Juris is the indirect, imputation model, according to which the liability of an organisation is established by the conduct of a natural person.[22, 23] The liability of the organisation in Corpus Juris comprises a narrower range of offences than the liability of the natural person and the manager, and the situation of legal entities is also different when it comes to penalties.

When examining the criminal liability of a legal entity, it is always necessary to determine upon which action the liability of the entity is based on and by who was it committed. Several models have been developed to address this issue, which are usually grouped into 3 broad categories. One of them is the aforementioned imputation model, which imputes the individual guilt of the individual offender to the legal entity. This includes the identification theory and the model of respondent superior. The second group emphasises the independent liability of the organisation,

---

[20] SÁNTHA Ferenc: A gazdasági társaságok, egyéb szervezetek felelőssége a nemzetközi büntetőjogban. *Miskolci Jogi Szemle* XVII, 2022/5., 127–137.

[21] FANTOLY Zsanett: *A jogi személyek büntetőjogi felelősségének megítélése az Európai Unióban.* http://jesz.ajk.elte.hu/fantoly8.html, 10 October 2024.

[22] Ibid.

[23] At the same time, the question of the application of the direct model arises sharply in the case of negligent offences. In this case, the negligence can be traced back to the attitude and policy of the organisation itself, insofar as it enabled the offence to take place. See on this: FANTOLY Zsanett: op.cit.

its own legal entity under criminal law, based on organisational liability; the legal entity is seen here as a separate entity. Finally, the model of measures, which also provides the framework for Hungarian legislation, should be taken into account. The sanctions applicable are not criminal penalties, but specific measures, with the emphasis on deprivation of pecuniary advantage and also on prevention.[24] This means that the model of measures does not regulate the legal consequence against an organisation as a punishment, which would require criminal culpability, but rather as a specific type of criminal measure. The legal entity cannot have culpability, and this interpretation also avoids the use of the terminology „criminal liability of the legal entity", and accordingly the above interpretation is that the entity is subject to criminal sanctions. The basis and reason for the application of the sanction is the relationship of the legal entity with the perpetrator, which is to be regarded negatively, or the unlawful enrichment of the legal entity, given that culpability cannot be directly interpreted, and the legal entity cannot commit a crime. However, the recognition that a legal entity may be held criminally liable is not precluded.[25]

3. Problems and possibilities for wider application of criminal liability for negative economic, social and environmental impacts of companies

Generally speaking, the power of legal liability as a tool to force companies, and especially large companies, to operate sustainably is greatly undermined by the problem mentioned above, that in the profit-oriented operation of companies legal liability is also only a cost factor, which is often worth bearing (e. g. a possible fine), because the financial benefits of a violation of law are greater than the possible financial disadvantages. In the future, it will be absolutely necessary to find a solution to this issue, for example by increasing fines and penalties to such an extent that they represent a real financial risk and disadvantage. The European Union has already recognised this and in recent years has introduced turnover-based fines in some legislative measures to ensure that companies comply with the various regulations. This solution is primarily designed to target and influence large companies. For example, the Digital Markets Act (DMA)[26], effective from 2023, the Directive on corporate sustainability due diligence (CSDDD)[27], adopted in 2024, and

[24] SÁNTHA Ferenc: *A jogi személyek büntetőjogi felelőssége*. KJK-KERSZÖV Jogi és Üzleti Kiadó Kft., Budapest, 2002, 29–37.

[25] CSEMÁNÉ VÁRADI Erika – GÖRGÉNYI Ilona – GULA József – HORVÁTH Tibor – JACSÓ Judit – LÉVAY Miklós – SÁNTHA Ferenc: *Magyar büntetőjog - általános rész*. Wolters Kluwer Kft., Budapest, 2017, 578.

[26] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).

[27] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859.

the General Data Protection Regulation (GDPR)[28], effective from 2018, use this approach to determine fines.

However, for most of the negative impacts caused by companies, we do not really even get to the problem outlined above in the context of criminal liability.

In this context, I would like to refer to the operation of global supply chains or even transnational corporations, where the production and manufacturing is outsourced to countries or simply the supplier is operating in a country where much less stringent rules must be complied with. In these cases, there are problems in operational terms, both from an environmental and a social point of view, since, in addition to the inadequacy or absence of environmental regulation, basic labour and social standards are also flouted, thus also violating the conditions of decent work. However, because the regulation is lenient, in many cases there is no violation of the law of the country in question.

The line between voluntary and forced labour has never been more blurred than it is today. Currently, the supply of eager, willing workers is very high in developing countries, where these questionable practices are usually carried out by supply companies. The majority of these workers sooner or later find themselves somewhere in the grey zone, where they are forced to cooperate with dishonest and unethical employers or even human traffickers for employment opportunities, and where even the use of coercion is not without precedent. Policy makers are looking for new ways to tackle trafficking for labour exploitation, where the focus has now shifted to the demand (employer) side of labour exploitation.

Several different approaches have been developed to address the liability of companies in connection with human trafficking, labour exploitation and other unethical and unsustainable practices in their supply chains. The issue is currently being addressed through a variety of different avenues, including labour law, civil law, criminal law and also self-regulation by companies. The problem with most of the current methods is that, for example, although many large multi- and transnational companies have established codes of conduct (third party codes of conduct) for their suppliers, subcontractors and contractors, there are in fact very few real consequences for breaching them.

A more effective direction would certainly be an enforceable regulatory direction based on legal liability. In recognition of this need, the EU and some countries have already been taking steps in this direction. In this context, the CSDDD and the Corporate Sustainability Reporting Directive (CSRD)[29] are worth mentioning among

[28] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

[29] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting.

the EU regulations and the German Supply Chain Act (*Lieferkettengesetz*, LkSG)[30] among the national laws, although they are not closely related to the topic of this study as they contain mostly administrative legal consequences. What these three legal documents have in common is that they hold companies legally or otherwise accountable, to varying degrees, for the actions and potential violations in their supply chains.

The CSDDD aims to hold large companies accountable for environmental and human rights abuses in their supply chains. The legislation imposes mandatory due diligence obligations and allows for the imposition of effective, proportionate and dissuasive sanctions (in particular fines) and the possibility of compensation for victims. Member States have until 26 July 2026 to transpose the Directive into national law and communicate the texts to the Commission. One year later, the rules will apply to the first group of companies in a phased approach (with full application on 26 July 2029).[31]

The CSRD tightens the EU's sustainability reporting obligations, requiring large companies and some SMEs to produce detailed reports on their environmental, social and human rights impacts, including risks and violations in their supply chains. The first companies have to apply the new rules for the first time on the 2024 financial year, for reports published in 2025. By increasing transparency, the CSRD helps investors, consumers and public authorities to hold companies to account for their compliance with sustainability principles.[32] When human rights or environmental violations occur in a company's supply chain, it can lead to reputational risk, legal action or funding difficulties as financial actors and regulators monitor sustainability compliance more closely.

From 2023, the LkSG requires large German companies to ensure that their supply chains respect human rights and environmental standards and to implement appropriate risk management measures. If they fail to do so, administrative fines may be imposed. These can amount to up to 8 million euros or up to 2% of annual global turnover. The fines system based on turnover applies only to enterprises with an annual turnover of more than 400 million euros. Moreover, they also risk exclusion from public procurement procedures.[33]

The three regulations mentioned above show that European decision-makers have already recognised the need both to establish rules in Europe to guarantee the basic

---

[30] Gesetz über die unternehmerischen Sorgfaltspflichten zur Vermeidung von Menschenrechtsverletzungen in Lieferketten https://www.gesetze-im-internet.de/lksg/, 13 February 2025.

[31] *Corporate sustainability due diligence*. European Commission. https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en, 13 February 2025.

[32] *Corporate sustainability reporting*. European Commission. https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en, 13 February 2025.

[33] *Supply Chain Act*. https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Supply-Chain-Act/supply-chain-act.html, 13 February 2025.

human rights of workers in supply chains and to set the level of sanctions in a way that makes them a factor for each large company. In this context, the possible criminal law options that may arise are also very interesting and should also be considered at EU or international level, having regard also to the fact that criminal law, by its ultima ratio nature, is generally more dissuasive than other legislation.

Although the document is not binding, efforts to hold corporations accountable under criminal law for illegal acts that result in human rights harm (corporate criminal liability) have gained traction since the United Nations Guiding Principles on Business and Human Rights (UNGPs) were released in 2011. The UNGPs do not create new legal obligations per se, but leave it to States to determine criminal liability, for which they provide guidance in line with modern requirements. The principles require states to ensure that companies can be held liable for human rights violations, especially when they constitute a crime (e. g. forced labour).[34]

At EU level, for a more than a decade the most important legal instrument for preventing and combating trafficking in human beings and protecting its victims was Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA. Its recent review has revealed a considerable number of identified shortcomings. They recognised that, despite all the efforts made, the demand for sexual services, cheap labour and cheap products persists. This in turn fuels trafficking for sexual exploitation and labour exploitation. The proposal following this review was designed to achieve further harmonisation between Member States to reduce demand. The proposal also recognised that criminal law is only part of the response to reduce demand and should continue to be accompanied by education, training and awareness-raising activities in line with the anti-trafficking directive.[35]

The Commission proposed to strengthen the rules to prevent and combat trafficking in human beings on 19 December 2022, by submitting a new draft Directive which also amended the existing Directive 2011/36/EU of the European Parliament and of the Council. One of the most significant innovations of the Directive, which could be of particular importance for the criminal liability of companies in their supply chains, is the introduction of a new crime. The Commission has proposed to make it a requirement for Member States to criminalise the use of services where the victim is exploited to render such services, and the user of the services knows that the person providing the service is a victim of trafficking in human beings. Establishing this as a criminal offence is part of a comprehensive

---

[34] See on this: Guiding Principles on Business and Human Rights. United Nations, 2011, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf, 13 February 2025.

[35] COM(2022) 732 final – Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022PC0732, 15 October 2024.

approach to reduce demand, which aims at tackling the high levels of demand that foster all forms of exploitation.[36] The amendment to Directive 2011/36/EU was adopted by the European Parliament and the Council on 13 June 2024. Member States must bring into force the provisions necessary to comply with the Directive by 15 July 2026. Directive 2011/36/EU already addressed the use of services related to the exploitation of victims of trafficking prior to its amendment in 2024. Article 18(4) of the Directive provided that Member States should consider criminalising the knowing use of services known to be provided by victims of trafficking in human beings. This provision encouraged Member States to consider criminalising such conduct, but did not impose a legal obligation.[37]

Article 18a of the Directive requires Member States shall take the necessary measures to ensure that, when it is an intentional act, the use of services provided by a victim of an offence referred to in Article 2 constitutes a criminal offence, where the victim is exploited to render such services and the user of the services knows that the person providing the service is a victim of an offence referred to in Article 2.[38] Article 2 sets out the offences of trafficking in human beings as defined in the Directive, and contains the following: *"3.Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs, or the exploitation of surrogacy, of forced marriage, or of illegal adoption."*[39] The question is whether the purchase of products produced by forced labour can be included in this category somehow, given that it is indirect exploitation.

The amended Directive 2011/36/EU focuses primarily on criminalising traffickers and direct exploiters, but in my view does not exclude the interpretation that a company in the supply chain can be held liable for purchasing products produced by forced labour. The Directive contains that it only establishes a minimum legal framework in this regard, and Member States are free to adopt or maintain more stringent criminal rules. [40] Although it is not clear from the text of the Directive that

---

[36] COM (2022) 732 final – Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022PC0732, 15 October 2024.

[37] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA.

[38] Consolidated text: Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA.

[39] Consolidated text: Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA.

[40] Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in

the purchase of a product made using forced labour constitutes the offence of using such services, the criminal law of a Member State may cover this case, as the purchaser (typically a company) contributes to the exploitation intentionally in this case. The EU is introducing increasingly stringent rules to ensure liability for supply chains, so that, as the study shows, civil and administrative consequences already exist and criminal liability may be extended in the future.

Summary

Within the current framework of criminal liability, enforcing it to deter unsustainable practices by companies faces several problems, but the European Union and researchers are looking for a way forward to effectively deter unsustainable and unfair employer practices as widely as possible.

As has already been pointed out in the paper, ethical responsibility does have some sanctions in these cases, but it is not considered sufficient to drive forward the resolution of the problems. It is likely, on the other hand, that if there is a demand from the majority of society for the relevant moral standards to be enshrined in law, this will eventually happen, and the scope of liability will be broadened. Enforceability by the state is the characteristic whose absence will always mean that ethical and moral responsibility alone will prove inadequate in matters of this kind.

The criminal liability of legal entities is already an established legal instrument, also provided for by EU and international rules for certain offences.

Another factor that makes it difficult to take effective action against companies is that, in their profit- oriented operations, legal liability is also a cost factor, which is often worth bearing because the financial benefits of the infringement are greater than the potential financial losses.

For transnational corporations, holding them liable for unsustainable and potentially unethical practices in their supply chains is even more difficult. The boundaries of modern labour exploitation are blurring, especially in developing countries, where workers are often forced to turn to unethical employers or even traffickers. Legislators are increasingly focusing on strengthening the liability of the demand side – employers – to curb exploitative practices. Although there are various legal approaches (labour law, civil law, criminal law and voluntary self-regulation), the effectiveness of current instruments is limited because many ethical standards can be breached without consequences.

The EU and some Member States have already taken steps to enforce legal liability, for example through the CSDDD, the CSRD and the German LkSG, which contain administrative and financial sanctions to hold companies accountable for violations in their supply chains. The 2024 amendment to the anti-trafficking Directive 2011/36/EU introduces the intentional use of services by victims of

human beings and protecting its victims - Outcome of the European Parliament's first reading (Strasbourg, 22 to 25 April 2024). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CONSIL:ST_9241_2024_INIT, 18., 16 October 2024.

trafficking as a new criminal offence. Although this primarily concerns direct services, it cannot be excluded that Member States may extend liability in their criminal law to companies that purchase products made from forced labour. The EU is therefore developing increasingly stringent rules to ensure liability for supply chains, and although civil and administrative sanctions currently predominate, criminal liability could be strengthened in the future.

Thus, the issue of liability for supply chains remains an open question in this respect.

Bibliography

[1] BARTA Judit – BARZÓ Tímea – CSÁK Csilla (eds.): *Magyarázat a kártérítési jogról*. Wolters Kluwer Kft., Budapest, 2018.

[2] Theodore BAURER: Love Canal: Common law approaches to a modern tragedy. *Environmental Law* 11 (1), 1980, 133–160. http://www.jstor.org/ stable/43265529, 11 February 2025

[3] *Clouds of Injustice – Bhopal Disaster 20 Years On*. Amnesty International. https://theconversation.com/bhopal-after-40-years-ongoing-effects-of-worlds-worst-industrial-disaster-show-environmental-racism-is-alive-and-well-245287, 10 February 2025.

[4] COM(2022) 732 final – Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022PC0732.

[5] Consolidated text: Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

[6] *Corporate sustainability due diligence*. European Commission. https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en, 13 February 2025.

[7] *Corporate sustainability reporting*. European Commission. https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en, 13 February 2025.

[8] CSÉCSY Andrea – FÉZER Tamás – HAVASI Péter – TÓTH Endre Tamás – VARGA Nelli: *A kártérítési jog magyarázata*. Complex Kiadó Kft., Budapest, 2010.

[9] CSEMÁNÉ VÁRADI Erika – GÖRGÉNYI Ilona – GULA József – HORVÁTH Tibor – JACSÓ Judit – LÉVAY Miklós – SÁNTHA Ferenc: *Magyar büntetőjog – általános rész*. Wolters Kluwer Kft., Budapest, 2017.

[10] *Deepwater Horizon – BP Gulf of America Oil Spill*. United States Environmental Protection Agency. https://www.epa.gov/enforcement/deepwater-horizon-bp-gulf-america-oil-spill, 10 February 2025.

[11] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

[12] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting.

[13] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859.

[14] EÖRSI Gyula: *Kártérítés jogellenes magatartásért*. Közgazdasági és Jogi Könyvkiadó, Budapest, 1958.

[15] EÖRSI Gyula: *Kötelmi jog. Általános rész*. Nemzeti Tankönyvkiadó, Budapest, 2003.

[16] EÖRSI Gyula: Tézisek a polgári jogi felelősségről. *Állam- és Jogtudomány* 1976/2. 185–207.

[17] FANTOLY Zsanett: *A jogi személyek büntetőjogi felelősségének megítélése az Európai Unióban.* http://jesz.ajk.elte.hu/fantoly8.html

[18] FÖLDESI Tamás: Jog, erkölcs, gazdaság. *Iskolakultúra – Természettudomány, Az Országos Közoktatási Intézet folyóirata* IV, 1994/18., 2–11.

[19] Gesetz über die unternehmerischen Sorgfaltspflichten zur Vermeidung von Menschenrechtsverletzungen in Lieferketten https://www.gesetze-im-internet.de/lksg/, 13 February 2025.

[20] Guiding Principles on Business and Human Rights. United Nations, 2011, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf, 13 February 2025.

[21] KOMPORDAY-OROSZ Noémi: A büntetőjog és polgári jog kárfogalma – azonos terminológia, eltérő definíciók. *Ügyészek Lapja* 2021/1–2., 35–54.

[22] *Living Planet Report 2024 – A System in Peril*. WWF, Gland, Switzerland, 2024.

[23] MISKOLCZI BODNÁR Péter: Az erkölcs és a jog szoros kapcsolata. *Polgári Szemle* 2015/4–6., 27–33.

[24] Diana OTLEWSKI: *The Incubation of Environmental Disasters: Case Study of the Rana Plaza collapse*. Major Paper, Master of Environmental Studies, Faculty of Environmental Studies, York University, Bangladesh, 2014.

[25] POLT Péter – PALLAGI Anikó – SCHUBAUER László: *Büntetőjog a gyakorlatban.* Dialóg Campus, Budapest, 2020.

[26] Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims – Outcome of the European Parliament's first reading (Strasbourg, 22 to 25 April 2024). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CONSIL:ST_9241_2024_INIT.

[27] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

[28] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

[29] SÁNTHA Ferenc: A gazdasági társaságok, egyéb szervezetek felelőssége a nemzetközi büntetőjogban. *Miskolci Jogi Szemle* XVII, 2022/5., 127–137.

[30] SÁNTHA Ferenc: *A jogi személyek büntetőjogi felelőssége*. KJK-KERSZÖV Jogi és Üzleti Kiadó Kft., Budapest, 2002.

[31] SÁNTHA Ferenc: A szervezetek büntethetőségének elméleti kérdései a magyar büntetőjogban: büntetőjogi felelősség vagy büntetőjogi szankcionálhatóság. In: *Wiener A. Imre Ünnepi Kötet.* KJK-KERSZÖV Jogi és Üzleti Kiadó Kft., Budapest, 2005, 99–109.

[32] Summary of Criminal Prosecutions - United States Environmental Protection Agency. https://cfpub.epa.gov/compliance/criminal_prosecution/index.cfm?action=3&prosecution_summary_id=2468, 10 February 2025.

[33] *Supply Chain Act*. https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Supply-Chain-Act/supply-chain-act.html, 13 February 2025.

[34] Yasmin VAN DAMME – Gert VERMEULEN: Towards an EU Strategy to Combat Trafficking and Labor Exploitation in the Supply Chain. Connecting Corporate Criminal Liability and State-Imposed Self-Regulation Through Due Diligence? In: *Regulating Corporate Criminal Liability*. (ed.: Dominik BRODOWSKI – Manuel ESPINOZA DE LOS MONTEROS DE LA PARRA – Klaus TIEDEMANN – Joachim VOGEL) Springer Cham, 2014, 171–193. https://doi.org/10.1007/978-3-319-05993-8_15