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2. Бобровник С. В. Конфедерація / Юридична енциклопедія в 6-ти томах / за ред. Ю. С. Шемшученка. Т. 3. К.: Вид-во «Українська енциклопедія» імені М. П. Бажана, 2001. С. 330.
3. Міжнародне право: навч. посібник / за ред. М. В. Буроменського. К.: Юрінком Інтер, 2006. 336 с.

## **TO THE QUESTION OF THE RELATIONSHIP OF HUMAN RIGHTS AND BUSINESS IN THE CONDITIONS OF A MODERN SOCIETY**

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*«Human rights are the foundation of a healthy society and sustainable business»*

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The protection of human rights is the duty, first of all, of the state. This statement is confirmed by a number of international acts in the field of human rights, for example, numerous conventions of the International Labor Organization, which stipulate the obligation of the state to take all necessary measures to ensure the implementation and protection of human rights. However, despite the fact that the state has a direct responsibility to protect human rights, business<sup>1</sup> is required to comply with international human rights standards, which means not to violate human rights and eliminate the adverse human rights impacts that they cause or contribute to.

Today, there is no doubt that the business is able to have a significant impact on human rights and their implementation. In particular, commercial companies can influence the following areas:

- a wide range of labor rights, such as trade union rights, the right to safe working conditions, the prohibition of discrimination, etc.;
- protection of the environment and ecology;
- consumer protection and product safety;
- respect for privacy, freedom of speech and the right to information;
- freedom of religion, etc.

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<sup>1</sup> In this article, the term «business» is considered as, on the one hand, entrepreneurial (economic) activity aimed at obtaining profit as a result of its implementation, on the other hand, it is the totality of all business entities engaged in this activity.

Business and human rights are the relationships between a huge single system - business - and a small person: an employee, a client, local communities that arise in the process of making a profit.

Many companies believe that showing respect for human rights gives them an advantage over competitors who do not pay attention to ensuring the implementation of human rights. Respecting human rights can help companies attract investment. Large investment companies, such as BlackRock, AXA Investment Manager, Calvert and HSBC, invest only in a business that, in its activities, shows due respect for the implementation of human rights, and good investment is always considered the key to the success of any business project.

Also, in the event of a successful corporate policy in the field of human rights, a business is able to participate in a tender for a state order, which is also an important area of activity for many companies around the world. For example, in the Netherlands, in order for a company to be a supplier for state needs, it must have an ideal reputation for ensuring the realization of human rights.

One of the most important and fundamental documents governing the relationship between business and human rights was **the UN Guidelines for Entrepreneurship in the Field of Human Rights** adopted in 2011 (hereinafter – the Principles). This act enshrined the obligation of commercial organizations to respect human rights; after its adoption, companies began to impose increased requirements on the observance of human rights in their economic activities. The principles proclaimed three key points: firstly, the state should take all measures to prevent human rights violations from the side of business, and secondly, business should take responsibility in its activities to respect and abide by the established international legal acts of law and freedom third, a business should develop a mechanism for legal protection of citizens whose rights have been violated as a result of business activities.

The state ensures the protection of human rights from violations through the implementation of international human rights standards in national legislation. Nowadays, states are making more and more demands requiring companies to report on how they solve human rights violations, including forced labor, land rights and environmental quality. For example, in the UK, the Modern Slavery Act (2015) requires companies operating in whole or in part in the UK to report on measures taken by them to ensure that slave labor and human trafficking are not used in their enterprises or in the supply chain [1].

Also, a number of states have developed **the National Action Plan on Business and Human Rights** to ensure more effective implementation of the UN human rights regulations and their respect for business. The importance of this plan is that it subsequently becomes the foundation for the development and improvement of national legislation in this area. Similar

plans operate in 23 countries around the world, among these states there are Ukraine, Lithuania, Poland and Georgia. The Republic of Belarus is not among the states that are working on the preparation of a national plan on business and human rights or have included a chapter on business and human rights in the existing national plan on ensuring human rights, although in the Republic of Belarus today there is a National human rights plan.

As for business and how it fulfills the obligation imposed on it in accordance with the Principles, to prevent human rights violations in the process of carrying out its activities. Businesses «must avoid infringement of human rights and solve the problems of adverse effects in which they are involved». The first step is to develop a human rights policy. This is a public expression of a company's commitment to respecting internationally recognized human rights standards.

Human rights policy development is a complex process that requires knowledge of international standards and national legislation on a wide range of issues, as well as an understanding of the structure of the company, the nature and place of its business, as well as specific human rights issues that may arise in specific company.

The Company's human rights policy must be based on universally recognized human rights and freedoms as enshrined in the Universal Declaration of Human Rights, the Declaration of the International Labor Organization on Fundamental Principles and Rights at Work, the United Nations Global Compact and the United Nations Business Guidelines and human rights. The importance and importance of developing a company's human rights policy is supported by the following examples. So, since 2008 Nestle collaborates with the Danish Institute for Human Rights. The company asked the Institute to conduct a detailed analysis of the shortcomings and shortcomings regarding the observance of human rights and occurring in commercial activities and corporate policy [2]. And in 2010 a partnership agreement was signed between Nestle and the Danish Institute, the purpose of which was to fully support the company's obligations to respect and respect human rights, which is directly reflected in the Nestle Corporate Business Principles. Also, a number of large international companies, for example, Coca-Cola Company, Johnson & Johnson Company, Petra Diamonds, Unilever developed similar strategies for carrying out corporate activities taking into account human rights.

In external activities, the practical application of corporate rules in the field of human rights protection involves conducting comprehensive due diligence and assessing the impact on human rights. Therefore, the second important step is to assess the impact of business on human rights.

Human Rights Impact Assessment (HRIA) is a systematic process for identifying, predicting, and responding to potential human rights impacts by a commercial project, corporate rules, investment, or business.

It should be noted that the concept of «impact assessment» is associated with another concept of «comprehensive verification». This term means the activities of the company, which includes not only the implementation of an impact assessment, but also the implementation of human rights rules, as well as other «measures that are developed and taken by the company to obtain information about the adverse effects on human rights by the company, as well as in order to prevent this impact or to eliminate the consequences that arose».

However, unfortunately, it has become common practice in the world that, despite the company's human rights policy, the majority do not evaluate their impact on human rights, they are only limited to creating certain rules that take into account all international and national human rights standards, but they do not carry out important work to study and verify their activities in the context of respect for human rights.

Thus, according to a recent survey of participants in the UN Global Compact, more than 90% of the companies surveyed report establishing human rights policies and practices, but less than 20% say they conduct a comprehensive human rights assessment or impact assessment [3].

If we talk about the Republic of Belarus, today the issue of developing the policies of individual companies in the field of human rights is not quite relevant. Only some companies have their own developed policies, but their development was due to the fact that this company is a branch or representative office of a large international company that has a good reputation in the field of creating guarantees for the implementation of human rights. So, for example, in the representative office of the international Coca-Cola company in the Republic of Belarus, the company's corporate policy standards are developed by the central office of the company.

In addition, the business is responsible for restoring the violated rights that it caused or was involved in. The application of human rights rules within the company should be accompanied by monitoring their compliance and the existence of mechanisms for restoring violated rights. One of such mechanisms is the implementation of compensation payments to an employee or a person whose rights have been violated as a result of guilty actions by the company on a voluntary basis. If the company does not recognize a violation of human rights, a person can always go to court to protect their violated rights.

Thus, in modern society, not only the state must protect human rights, business is also obliged to take all necessary measures to ensure that no human rights are violated in the process of their activities. Many companies have recognized the importance of incorporating human rights and have taken appropriate measures to achieve this goal.

The Republic of Belarus at the present stage does not have significant achievements in ensuring the interaction of business and human rights. An important step for the state should be the development of a National Plan on Business and Human Rights, since national legislation complies with all international standards in the field of human rights, therefore, we can begin the process of developing a specialized act aimed at ensuring human rights in a specific area of society. Another direction of state policy that contributes to improving the situation in the field of interaction between business and human rights is the work of state bodies with major national companies on issues of explaining to them the importance and importance of taking human rights into account in the process of their activities.

#### **REFERENCES:**

1. The law of Great Britain «On modern slavery». 2020. URL: <https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide/> (Access date: 16/04/2020).
2. Nestle Partnership with Denmark: experience. 2020. URL: <https://www.humanrights.dk/projects/nestle-partnership> (Access date: 16/04/2020).
3. The Basics of Business and Human Rights for Every Company. 2020. URL: <https://www.unglobalcompact.org/take-action/events/1725-the-basics-of-business-and-human-rights-for-every-company> (Access date: 16/04/2020).