

# Chapter 51

## CSR, Public Spending, and the State:

### The Use of Public Procurement as a Lever to Foster Social Responsibility

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#### **ABSTRACT**

*Starting with a brief introduction to Corporate Social Responsibility (CSR), and political attempts that aim at promoting social responsibility of enterprises, this chapter focuses on regulatory instruments to use states' consumer power as a lever to promote CSR in a world that is increasingly shaped by supranational trade agreements. By taking into account socially responsible behavior of potential business partners when making procurement decisions, states' agencies can aim to promote CSR a business case for companies. Yet, in the light of increasing supranational regulation aiming to promote free trade, tensions arise between market-building and free trade on the one hand and political attempts to use public procurement as a means to foster CSR on the other. This chapter provides an outline of the current state of supranational regulative policies on public procurement, with special emphasis to the European Union, and explores their implications for strategic public procurement.*

#### **INTRODUCTION**

Over the past few decades, Corporate Social Responsibility (CSR) has received increasing attention. In brief, CSR is “[...] a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.” (European Commission, 2001, p. 6) Two characteristics are essential to CSR, first, the material content (i.e. the integration of social and ecological concerns in business practices) and second that it is based on a voluntary commitment of the individual company. Hence, complying with legally binding regulations on certain social and/ or environmental business practices does not form part of CSR.

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As the rather broad formulation of social and environmental aspects highlights, corporate social responsibility can refer to a broad range of specific measures as companies may seek to facilitate the reconciliation of work and family life, foster equal opportunities and promote decent working conditions in global supply chains. It can also refer to Diversity Management, or actions towards being more environmentally friendly to name just a few well-known examples.

Voluntarily committing to social and environmental action beyond the realm of legally binding regulatory policies may not only benefit employees or, in the case of environmental criteria, the environment. CSR has also been argued to have positive impacts for the company itself (see among others Knudsen & Brown, 2015, p. 52; Trommsdorff, 2008, pp. 4f). For example, it has often been highlighted that companies can benefit financially from the introduction of Diversity Management as it may:

- Lower the risk of legal litigations,
- Reduce absenteeism as well as the turnover of staff,
- Provide enterprises advantages in the competition for bright minds,
- Help attract skillful employees, and
- Increase productivity etc. (among others Krell, 2008a, pp. 67f; Sarter et al., 2011, pp. 20ff).

In addition, it has been highlighted that today, growing moral demands regarding business practices that have been raised by a broad range of stakeholders can hardly be ignored without risking reputational damage (Dombois, 2010, pp. 30f). In this context, an increasing prominence of strategies that attach importance to the conditions under which products are produced, their environmental impact in consumption (among others Clarke, 2007, p. 588; Trommsdorff, 2008, p. 2) as well as increasing pressures from non-governmental associations (NGOs) have added to these benefits (Dombois, 2010, p. 40; Trommsdorff, 2008, pp. 3, 5f).

Beyond the direct effects generated for the direct beneficiaries (i.e. the people directly affected by the measures implemented and/ or the environment) and the company, introducing CSR can benefit the (wider or smaller) community, e.g. by creating employment opportunities for disadvantaged groups. It can foster general social goals (such as e.g. gender equality) and promote sustainable development by influencing working and living conditions in the Global South.

As voluntary commitments can have a broad and distinct impact for attaining a range of policy objectives, it comes as no surprise that national and supranational policy-makers as well as international institutions have shown increasing interest in promoting CSR. Starting “where the legal framework ends” (Steurer, 2010, p. 50) CSR can accompany public policies in fostering social (policy) goals and assist governments in governing (Moon, 2007, p. 302). But policy-makers and institutional actors have not only been interested in CSR because it can accompany public policies. Promotion of CSR can also be used by governments as a complement or supplement to, or a functional equivalent of, existing policies, and it can help circumvent resistance to hard regulation (Knudsen & Brown, 2015, p. 52; Steurer, 2010, pp. 50f). Encouraging voluntary practices at company level can therefore also be an alternative to hard regulation. By promoting voluntary actions policy-makers can benefit from the comparatively lower adversity that soft mechanisms tend to encounter in comparison to hard regulation (Steurer, 2010, p. 50). The advancement of CSR can furthermore be a potentially influential means to foster certain social outcomes for institutions that do not by themselves have the power to pass and control binding regulations on business conduct. Political attempts to promote voluntary commitments to responsible business

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