

Datum prijema: 08.09.2023. god.  
Datum prihvatanja: 29.09.2023. god.

DOI: 10.5937/bankarstvo2303202P

# ODRŽIVO POSLOVANJE – DA LI SU ESG STANDARDI STUBOVI OTPORNOSTI NOVOG MODELA POSLOVANJA?

**Prof. dr Nataša Petrović Tomić**  
redovni profesor,  
Pravni fakultet Univerziteta u Beogradu  
nataly@ius.bg.ac.rs

**Rezime:** Od kompanija u savremenom svetu očekuje se da rade na jačanju odgovornosti. Poslednjih godina je u prvi plan stavljen koncept održivog poslovanja, koje počiva na tri stuba: ekološki prihvatljivo stvaranje profita, dobro korporativno upravljanje i briga o društveno angažovanim temama. To je u osnovi skraćenice, koja se ovih dana uveliko sreće i u Srbiji. Autorka objašnjava za naše prilike nedovoljno poznati termin ESG, pošavši od Pariskog sporazuma o klimatskim promenama, koji je usvojen u atmosferi makar proklamovanog konsenzusa i usaglašenosti razvijenih i zemalja u razvoju. Pošavši od cilja ovog sporazuma, a to je delotvoran i napredan odgovor na pretnju klimatskih promena, kompanije će ubuduće morati da usvoje strategije sa ciljem smanjenja uticaja na životnu sredinu, koji se in ultima linea reflektuju na globalno zagrevanje. Autorka dokazuje da su ESG standardi stubovi otpornosti novog modela poslovanja svih kompanija koje bi pro futuro trebalo da dovedu do ostvarenja cilja klimatske neutralnosti.

**Ključne reči:** ESG, održivo poslovanje, Pariski sporazum, klimatske promene, odgovornost kompanija

**JEL klasifikacija:** G11, F34

## Uvodna razmatranja

Poslovni ambijent u dvadeset i prvom veku karakterišu bitno drugačije prilike u odnosu na one koje su obeležile prethodni vek. Ključna promena u biznisu je nesumnjivo transformacija cilja poslovanja: dok je u vreme liberalne ekonomije bez imalo neprijatnosti istican profit kao primarna ciljna funkcija poslovanja („maksimizacija profita akcionara/vlasnika kompanije“), poslednjih decenija u prvi plan se ističe etička dimenzija moderne ekonomije (Hart, 2010). Poslovna etika i društvena odgovornost kompanija idu ruku pod ruku i doprinose moralizaciji biznisa (Petrović Tomić, 2008; Vasiljević, 2007). Dobronamerna ekonomija ustupila je mesto čisto tržišnom mehanizmu, koji je pod uticajem savremenih tendencija postao prevaziđen, bar u čistom obliku (Friedman, 1970). Pod uticajem aktivista koji se bore za zaštitu životne sredine, principa dobrog korporativnog upravljanja i zaštite opšteg interesa, došlo se do pojma održivog razvoja, koji polako ali sigurno osvaja i korporativni teren. Od kompanija se danas očekuje da sačine strategije održivog razvoja, kao i da iste implementiraju u svoje poslovanje. Štaviše, ide se ka tome da standardi održivog razvoja budu jedan od elemenata na osnovu koga se odlučuje da li će biznis određene kompanije biti prijemčiv za osiguranje. Da li nas čeka budućnost u kojoj će ESG poslovanje biti ulaznica u svet odabranih/osiguranih kompanija? Po našem mišljenju, takva budućnost je više nego izvesna.

## Pogled na Pariski sporazum

U saradnji sa ključnim finansijskim institucijama Ujedinjene nacije su 2005. godine sačinile izveštaj pod nazivom „Ko se brine, taj pobeđuje“. U njemu je premijerno upotrebljen termin ESG ulaganje (zaštita životne sredine, društvena odgovornost i korporativno upravljanje – „Environmental, Social and Corporate Governance“). Sledeći bitan korak Ujedinjene nacije preduzele su 2015. godine, održavanjem konferencije o održivom razvoju, na kojoj je usvojen Program globalnog razvoja za 2030. godinu (Agenda 2030) koji se sastoji od 17 Ciljeva održivog razvoja (eng.: Sustainable Development Goals, SDG). Ovi ciljevi se generalno govoreći odnose na zajedničku borbu protiv globalnog zagrevanja, siromaštva, stvaranje uslova za održivu potrošnju (Campbell, 2015). Napori međunarodne zajednice vezani za klimatske promene nastavljeni su zaključenjem Pariskog sporazuma (fran.: Accord de Paris), koji predstavlja novi globalni sporazum o klimatskim promenama (dalje: PS) (Todić, 2017). Najbitniji deo ovog sporazuma je akcioni plan za ograničenje globalnog zagrevanja, koji se odnosi i na države u razvoju koje su ga ratifikovale. Kao globalno pitanje, klimatske promene iziskuju saradnju svih zemalja sveta, kako najrazvijenijih, tako i onih u razvoju (Weart, 2012).

PS je međunarodni ugovor po svojoj pravnoj prirodi, te kao takav za svoje strane predstavlja izvor međunarodno-pravnih prava i obaveza (Streck, Keenlyside, von Unger, 2016). Glavna svrha PS jeste, kako to proizlazi iz člana 2, nastojanje da se u kontekstu održivog razvoja i borbe za iskorenjivanje siromaštva, pojača globalni odgovor na opasnost od klimatskih promena.

Generalno govoreći, težnja kompanija da postanu održive nije nova ideja. Međutim, 2015. godina donosi značajan preokret, jer je tada usvojen Pariski klimatski sporazum kao „globalni odgovor na pretnje izazvane klimatskim promenama, uvažavajući održivi razvoj“, a Ujedinjene nacije predstavljaju Ciljeve održivog razvoja u sklopu Agende 2030. god. Osnovni cilj Konferencije u Parizu bio je postizanje dogovora i usvajanje novog pravno obavezujućeg dokumenta, koji će definisati obaveze država članica Konvencije za period posle 2020. godine i time sprečiti porast temperature na globalnom nivou preko 2 stepena, u skladu sa zahtevima nauke. Iz preambule Pariskog sporazuma proizlazi da je neophodan delotvoran i napredan odgovor na neposrednu pretnju klimatskih promena. Ove inicijative značajno doprinose da se koncept ekološke i društvene odgovornosti redefiniše.

Naglašavamo: Pariski sporazum postavlja okvirni plan delovanja u cilju ograničavanja globalnog zagrevanja (Rosen, 2015). Njegove ključne karakteristike su:

- Dugoročan cilj – jačanje sprovođenja Okvirne konvencije i globalnog odgovora na pretnje izazvane klimatskim promenama u kontekstu održivog razvoja i napora za iskorenjivanje siromaštava (Savaresi, 2016). To podrazumeva tri konkretnije definisana cilja, i to: 1) ograničavanje povećanja prosečne temperature na nivou „znatno ispod 2 stepena Celzijusa“, odnosno nastavak napora za ograničavanje povećanja temperature na 1,5 stepeni Celzijusa u odnosu sa pred-industrijski nivo; 2) jačanje sposobnosti adaptacije na negativne uticaje klimatskih promena i jačanje otpornosti na klimu i razvoj zasnovan na niskoj emisiji gasova sa efektom staklene bašte na način koji ne ugrožava proizvodnju hrane; i 3) obezbeđenje odgovarajućih finansijskih sredstava u skladu sa modelima koji podrazumevaju niske emisije sa efektom staklene bašte, te razvoj koji je prilagodljiv u odnosu na klimu.
- Nacionalno utvrđeni doprinosi – pre pariske konferencije i u toku njenog trajanja zemlje su podnele sveobuhvatne nacionalne akcione planove za borbu protiv klimatskih promena (takozvani nacionalno utvrđeni doprinosi) za smanjenje emisija. Sporazumom se utvrđuje kako bi razvijene zemlje trebale imati vodeću ulogu u sprovođenju cilja Sporazuma, a posebna se pažnja posvećuje „malim ostrvskim državama u razvoju,“ čije obaveze u sprovođenju cilja Sporazuma sam Sporazum utvrđuje na još nižem stepenu obaveznosti, odnosno dobrovoljnosti: „najmanje razvijene zemlje i male ostrvske države u razvoju mogu pripremiti strategije, planove i mere za razvoj u smeru niskog stepena emisija sa efektom staklenih bašti, koji odražavaju njihove posebne nacionalne okolnosti, te obavestavati o tim strategijama, planovima i merama.“
- Ambicija – vlade su se složile da će svakih pet godina izveštavati o svojim akcionim planovima i da će svakim novim planom postavljati ambicioznije ciljeve. Time se ispoljava „hibridna arhitektura“ ovog sporazuma u odnosu na sve prethodne instrumente rešavanja gorućih klimatskih problema globalnom akcijom (Bodansky, 2012).
- Transparentnost – zemlje su se dogovorile da će izveštavati jedne druge i javnost o tome kako napreduju u postizanju svojih ciljeva kako bi se osigurali transparentnost i nadzor. Sporazum se oslanja na odgovornosti država za vlastite programe i sastav izveštavanja Stranaka konferencije, kao i na periodično proveravanje sprovođenja Sporazuma kako bi se procenio kolektivni napredak u smeru postizanja svrhe Sporazuma i njegovih dugoročnih ciljeva (što se naziva „globalni pregled stanja“) u smislu čl. 12 PS (Salaj, 2017).

- Solidarnost – države članice EU-a i druge razvijene zemlje i dalje će financirati borbu protiv klimatskih promena kako bi zemljama u razvoju pomogle da smanje emisije i izgrade otpornost u cilju odgovora na posledice klimatskih promena.

Budući da je EU jedna od potpisnica, Pariski sporazum je jedan od osnova za donošenje brojnih direktiva i uredbi. U EU su shvatili da je borba protiv klimatskih promena ključna za budućnost Evrope i sveta. Taj se cilj nadovezuje na obavezu koju su EU i njene države članice preuzele pri potpisivanju Pariskog sporazuma. Ključna ambicija je postizanje klimatske neutralnosti do 2050. godine. Šta u stvari znači klimatska neutralnost i kako EU planira ostvariti taj cilj? U skladu sa zahtevima iz tog sporazuma, EU je pre kraja 2020. godine izradila svoju dugoročnu strategiju smanjenja emisija i ažurirane klimatske planove, u kojima se obvezala da će svoje emisije do 2030. god. smanjiti za najmanje 55 % u odnosu na njihov nivo iz 1990. god.

## Šta je ESG i zašto je važan?

Implementacija održivog razvoja u korporativnom kontekstu – pojam ESG standarda

Implementacija održivosti u korporativnom svetu prošla je određenim razvojni put. Najpre, na osnovu implementacije regulativa o zaštiti radnika i životne sredine tokom osamdesetih godina prošlog veka u korporativnom svetu raste značaj zdravlja, zaštite i bezbednosti radnika, kao i ekološkog uticaja poslovanja. Devedesetih godina prošlog veka održivi razvoj dobija sve više na značaju, s tim da je fokus stavljen na smanjenje negativnog uticaja na životnu sredinu. Početkom 21. veka, u daljnim pokušajima da ostvare održivost, kompanije razvijaju koncept društveno odgovornog poslovanja (eng. Corporate Social Responsibility – CSR). S obzirom na goruće ekološke i klimatske probleme, danas CSR polako evoluirala u ESG koncept, sa ciljem da se uticaj kompanija kvantifikuje i rangira po industrijama u skladu sa stepenom održivosti. Buđenje svesti o značaju održivog razvoja dovodi do toga da se od samoregulacije i dobrovoljnih aktivnosti pređe na zakonodavnu delatnost. Lider u normiranju pitanja od značaja za održivi razvoj je EU, koja je usvojila brojna pravila koja regulišu ovu oblast, uključujući zahteve i standarde nefinansijskog izveštavanja (Direktiva 2014/95/EU Evropskog parlamenta i Veća o izmeni Direktive 2013/34/EU u pogledu objavljivanja nefinansijskih informacija i informacija o raznolikosti određenih velikih preduzeća i grupa, OJ L 330, 15.11.2014. god., poznatija kao NFRD (engl.: Non-Financial Reporting Directive), ESG merila, zahteve o izveštavanju za kompanije, preporuke o negovanju dugoročnog pristupa korporativnom upravljanju, usmeravanju tokova kapitala u održive ekonomske aktivnosti, itd. U EU postoji impresivna regulativa usvajana tokom prethodnih decenija, a naročito godina, u cilju olakšanja društvene i ekološke transparentnosti velikih kompanija, kao i olakšanja procene stejkholdera o održivosti kompanije za koju su zainteresovani. U EU, dakle, postoji kompleksan paket ESG regulative, koji iziskuje rad na usklađivanju poslovanja (Petrović Tomić, 2021).

Skraćenica ESG potiče od reči Environmental (životna sredina), Social (društvena zajednica) i Governance (upravljanje) (Lund, Pollman, 2021; Pargendler, 2021). U pitanju je kišobran pojam (eng.: umbrella term), sada već odomaćen u korporativnom svetu i koji pruža fleksibilan okvir koji varira u zavisnosti od konteksta, koji je globalno primenljiv, koji evoluirala i koji se može raščlaniti na brojne podteme i koji se odnosi kako na najširi krug investitora, tako i na širok spektar zainteresovanih lica (Pollman, 2022).

Kada se upotrebi akronim ESG uz njega se sreću sledeće odrednice: „kriterijumi“, „faktori“, „standardi“, „strategija“, „rizici“, „aktivnosti“, „ciljevi“, itd. Da li ESG upućuje na tri stuba na osnovu kojih se vrednuje održivost kompanije? (Booth, Nicholas, Singhai, 2020). Ili je to set standarda koje socijalno osveščene (probuđene) kompanije koriste radi procene potencijalnih ulaganja? Upravo ove karakteristike mogu biti i najveća pogodnost i najveća mana ESG standarda, već prema okolnostima slučaja. Dok je po jednim ESG odlikama savesnog biznisa, odnosno probuđenog kapitalizma, po drugima je ovaj koncept samo dobro osmišljeni marketing, odnosno obmanjivanje investitora (fenomen greenwashing), koje navodi na pogrešne zaključke korporativnu javnost, odnosno prikriva odgovornost kompanija (Pollman, 2022). Najlakše je postići konsenzus oko toga da je skoro sve u vezi sa pojmom ESG prilično nejasno i da je neophodan teorijski okvir, kojim bi se postavila polazna osnova daljih istraživanja.

ESG kriterijumi predstavljaju set standarda koje banke i drugi investitori razmatraju ukoliko imaju težnju da ulažu novac u ekološke i društveno korisne projekte. Ekološki kriterijumi treba da pokažu koliko se neka kompanija vodi ekološkim principima u svom poslovanju, odnosno koliko kroz svoje aktivnosti štiti životnu okolinu. Kriterijum društvene zajednice pokazuje koliko kompanija upravlja odnosima sa zaposlenima, dobavljačima, kupcima i, generalno, sa životnom zajednicom u kojoj posluje. Kriterijum načina upravljanja jedne kompanije bavi se time kako upravlja svojim procesima, na koji način nagrađuje menadžere, kako sprovodi interne revizije i kontrole i koja su prava akcionara.

Kada je reč o pravnoj prirodi ESG, postoji nekoliko gledišta. Prvo, ESG kriterijumi se posmatraju kao faktori koji su normalno integrisani u mainstream investicionu analizu. Kada se stvari ovako postave, ESG nije sinonim za etičko investiranje, već deo investicione strategije (Pollman, 2022). Drugo, ESG je sredstvo upravljanja rizikom. Po ovoj liniji razmišljanja, ESG nije samo metod identifikovanja investicionih mogućnosti, već i upravljanja rizikom. Za mnoge investitore i profesionalne menadžere, ključno upravljanje za implementaciju ESG faktora u investicionu analizu je njihov mogući učinak na nivo rizika u portfelju određene kompanije. U skladu sa ovim stanovištem, u razvijenim kulturama korporativnog upravljanja, ESG se razvio u odvojenu funkciju, sa ciljem vršenja monitoringa i upravljanja rizicima sa kojim se kompanije suočavaju zbog uticaja ekoloških i društveno angažovanih pitanja. Treće, ima onih koji ESG konceptualno izjednačavaju sa društvenom odgovornošću kompanija i nove termin smatraju sinonimom.

Stubovi otpornosti poslovanja i nužan uslov osigurljivosti biznisa

Posmatrano iz ugla poslovne prakse, manje je bitna pravna kvalifikacija ESG principa. Od ključnog je značaja ukazati na ulogu koju oni imaju ili će imati u biznisu. ESG se koristi kao okvir za procenu kako neka kompanija upravlja rizicima i prilikama koje promenljivi tržišni i ne-tržišni uslovi kreiraju. Promenljivost se ogleda kroz promene u ekološkim, društvenim i ekonomskim sistemima, koji utiču na celokupan ambijent u kome kompanije posluju. Akcenat je na prilagođavanju poslovnih ciljeva. Paragraf 14 Preambule SFDR Uredbe definiše rizik održivosti kao ekološki, društveni ili korporativni događaj (slučaj), čije ostvarenje može uzrokovati stvaran ili potencijalno negativan bitan učinak na vrednost ulaganja, dok su „činioци održivosti“ u smislu člana 2 (24) iste Uredbe ekološka i socijalna pitanja, pitanja u vezi sa zaposlenima, poštovanjem ljudskih prava, borbom protiv korupcije i podmićivanjem. Od učesnika na finansijskom tržištu očekuje se da objavljuju politike u vezi sa uključivanjem rizika održivosti u svoj proces odlučivanja o ulaganjima.

ESG faktori koji determinišu održivost poslovanja nisu samo trend u EU ili u razvijenim državama (Pietrancosta, des Grottes, 2022). Oni su u središtu novog, holističkog pristupa vođenju poslovanja koji je direktno suprotan tradicionalnoj analizi maksimizacije profita. Na osnovu analize dostupne literature, koja je uglavnom nepravna, može se zaključiti da koncept održivog poslovanja pozajmljuje elemente četiri bolje etablirana koncepta: 1) održivi razvoj; 2) korporativna društvena odgovornost; 3) teorija zaštite interesa zainteresovanih lica i 4) teorija odgovornosti kompanija (Sjåfjell, Bruner, 2020; Wilson, 2003; Peterdy, 2022).

Imajući u vidu doprinos korporativne odgovornosti, odnosno usvajanja standarda održivog razvoja reputacionom imidžu kompanija, ESG koncept predstavlja neku vrstu osiguranja od štete za ugled, koje je uočljivo u poslovnom upravljanju prema najboljim praksama (Tafrā-Vlahović, 2009). Pod uticajem ovog trenda, jezik i merila poslovanja su se preokrenuli. Biznis prema izmenjenom shvatanju služi tome da se zarađenim profitom učini nešto korisnije i bolje za čoveka, odnosno zajednicu (Zaradi profit da bi činio dobro, a ne čini dobro da bi zaradio profit!). S tim u vezi, došlo je i do semantičkog prilagođavanja. Od 2000. godine pa na dalje sve češće je u upotrebi izraz „korporativna društvena mogućnost“, čime se impliciraju mogućnosti koje povlači opredeljenje kompanije u prilog odgovornog poslovanja. Razlika u odnosu na raniji koncept sastoji se samo u njegovoj nadogradnji. Dok je u konceptu odgovornog poslovanja akcenat na standardima koji obezbeđuju trenutni imidž korporativnog odgovornog građanina, kod održivog poslovanja insistira se na poslovnom modelu koji će dugoročno obezbediti promociju vrednosti koje su usklađene sa opštim interesom. Sve više kompanija i deklarativno i suštinski potvrđuje svoj izbor u pogledu odgovornog poslovanja (ne moram biti odgovoran, već biram biti odgovoran, jer to znači dobar biznis!) (Handy, 2003).

Iako u ovom trenutku postoje velike razlike u pogledu pravnog okvira, činjenica je da je ESG uveliko u fokusu: u vodećim državama i finansijskim institucijama već postoji regulatorni okvir, dok se u državama koje kaskaju u razvoju rasprava o ESG tek otvara. U svakom slučaju, kompanije koje posluju na globalnom planu moraju uvrstiti u svoju poslovnu agendu pripreme za ono što je već nova realnost, jer je to jedini način da formiraju stubove otpornosti. Samo od njih i njihove ažurnosti zavisice da li će ESG predstavljati poslovnu šansu ili pretnju (Almeyda, Darmansyah, 2019).

## Uloga osiguranja u procesu verifikacije održivog poslovanja

Kao profesionalci u preuzimanju i upravljanju rizikom, osiguravači i reosiguravači, i industrija kao takva, igraju značajnu ulogu u promovisanju ESG. Ne samo što imaju finansijski potencijal da stvore fondove koji će smanjiti rizike njihovih klijenata, već su i u poziciji da utiču na razvoj društva. Pri tom ne smemo zaboraviti da na poslovanje sektora osiguranja najviše utiče kapital poverenja, koji se godinama gradi, a za neverovatno kratko vreme može biti doveden u pitanje. U teoriji se, naime, predlaže da se odnos sa klijentima gradi na 5P konceptu: purpose, pride, partnership, protection and personalization (Selimović, Danijela Martinović, Džana Hurko, 2020). Upravo krizna razdoblja poput onoga kroz koje prolazimo pružaju priliku osiguravačima i uopšte industriji osiguranja da se izdigne i pokaže šta istinski znači društvena odgovornost kompanija. Isto tako, osiguravači u svojstvu investitora su izloženi riziku pada vrednosti kompanija u koje oni investiraju, između ostalog i zbog neuvažavanja ESG standarda. Stoga, investiranje u odnos sa klijentima i upravljanje reputacionim rizikom čine osnovu održivog razvoja osiguravajućih kompanija (Khovrak, 2020).

Sektor osiguranja odgovara na izazov održivog poslovanja strategijom koja se odnosi na preuzimanje rizika i investicije, što je dovelo do usvajanja Principa održivog razvoja u osiguranju (skraćeno: PSI). Vodeći osiguravači su inkorporirali odredbe o zaštiti životne sredine u odredbe o osiguravajućem pokriću i strategije preuzimanja rizika, usmeravajući svoj biznis ka ekološki održivim kompanijama (Capiello, La-gasio, Santoboni, 2020). Uloga osiguravača je u najmanju ruku dvostruka. Oni najpre kao izuzetno moćni igrači na finansijskom tržištu treba da obezbede da njihov portfolio ulaganja i vođenja poslovanja bude održiv. Drugo, oni vrše screening funkciju, budući da je izgledno da će usklađenost poslovanja sa ESG standardima i zahtevima postati jedan od faktora osigurljivosti rizika kompanija. One kompanije za koje se ispostavi da nisu implementirale nova pravila igre, mogle bi ostati bez osiguravajućeg pokrića.

Nakon predstavnika same industrije, i tela nadzora su uvrstila agendu održivosti u vršenje nadzorne funkcije. Polazeći od instrukcija Evropske komisije, EIOPA je 2019. god. objavila završni izveštaj o tehničkom savetu o integraciji rizika i činioca održivosti u delegirane akte vezane za Solventnost II i IDD. Kada je reč o samim rizicima održivosti i uopšte politici održivosti pri donošenju investicionih odluka, EIOPA je istakla kako će to uticati na ključne funkcije, a najviše funkciju upravljanja rizikom, načelo savesnosti, pisane politike o upravljanju rizicima, kao i na sopstvenu procenu rizika (eng.: ORSA - Own Risk and Solvency Assessment) (Alfieri, 2020). EIOPA je objavila posebno mišljenje o održivosti u kontekstu Solvency II, sa akcentom na ublažavanje posledica klimatskih promena. Mišljenje se odnosi na integraciju rizika povezanih sa klimatskim promenama prema zahtevima Solvency II. U mišljenju je istaknuto da bi osiguravači trebalo da testiraju svoju izloženost rizicima održivosti, jer će oni pro futuro itekako uticati na sektor osiguranja.

Jedan od izazova sa kojim će morati da se suoče učesnici na finansijskom tržištu sastoji se u uspostavljanju adekvatnih sistema za obradu ESG podataka, izračunavanje ESG rizika i uvođenje internih pravila i politika vezanih za ESG standarde. Posebno će biti izražena obaveza nadzornih tela da daju uputstva subjektima na koje se odnosi nova regulativa o pravilnoj implementaciji novih obaveza. Ostaje bojazan da će različiti delovi finansijskog sektora usvojiti različite strategije implementacije standarda održivog poslovanja, što bi moglo dovesti do neujednačene prakse. Tako nešto u velikoj meri može biti posledica nedovoljnog poznavanja materije, koja je sadržana u brojnim dokumentima i koja se stalno nadograđuje usvajanjem novih standarda.

## Zaključak

ESG predstavlja jedan od najznačajnijih trendova korporativnog upravljanja, investicija i uopšte savremenog korporativnog prava. Iako je termin na dnevnoj agendi savremenog poslovnog čoveka, malo njih zaista zna odakle potiče kovanica ESG, ko je izmislio, ostvarenju kojih ciljeva je izvorno trebalo da posluži. Ono što se sa izvesnošću može reći je da pojava ESG strategije označava buđenje kapitalizma i prelazak iz faze maksimizacije profita u fazu dobronamerne i održive ekonomije.

ESG kriterijumi predstavljaju set standarda koje banke i drugi investitori razmatraju ukoliko imaju težnju da ulažu novac u ekološke i društveno korisne projekte. Ekološki kriterijumi treba da pokažu koliko se neka kompanija vodi ekološkim principima u svom poslovanju, odnosno koliko kroz svoje aktivnosti štiti životnu okolinu. Kriterijum društvene zajednice pokazuje koliko kompanija upravlja odnosima sa zaposlenima, dobavljačima, kupcima i, generalno, sa životnom zajednicom u kojoj posluje. Kriterijum načina upravljanja jedne kompanije bavi se time kako upravlja svojim procesima, na koji način nagrađuje menadžere, kako sprovodi interne revizije i kontrole i koja su prava akcionara.

ESG standardi ne mogu biti zanemareni od strane kompanija koje pretenduju na imidž održivog poslovanja. Kako svest o održivosti pojačano utiče na zahteve potrošača i kako se regulatorna pažnja usmerava ka ovim temama, kompanije se moraju izjasniti u pogledu ovih zahteva kako kroz poslovnu strategiju, tako i u day-to-day poslovanju. Ovo će biti značajno zbog očuvanja reputacije, ali i konkurentnosti na tržištu koje se suočava sa sve suptilnijim i zahtevnijim potrošačima.

Da zaključimo: usvajanje ESG strategije više nije stvar izbora. Ovaj koncept je, zapravo, nametnut svima, od građana do države. Izveden iz ideje da ako velike kompanije učestvuju u stvaranju problema, logično je da imaju ključnu ulogu u pronalaženju rešenja. Na nivou EU je do sada već dovoljno učinjeno u pogledu normiranja ekološki održivog poslovanja. Osim Direktive kojom je uvedena obaveza sačinjavanja izveštaja sa nefinansijskim pokazateljima poslovanja, EU je usvojila i kriterijume na osnovu kojih se privredne, a posebno, finansijske delatnosti klasifikuju kao ekološki održive, tranzicione ili neodržive.

Kao lideri u upravljanju rizikom, osigurači i reosiguravači igraju značajnu ulogu u promociji ESG poslovanja. ESG kriterijumi se smatraju glavnim faktorima procene održivog i etičkog uticaja kompanija. Industrija osiguranja svakako prednjači u usvajanju i promociji ESG standarda i politika. Kao osvedočeni stručnjaci za upravljanje rizikom, predstavnici industrije osiguranja uzimaju u obzir rizik neodrživog poslovanja i sa njime se nose na jedan način: ne primaju u pokriće kompanije čije poslovanje odstupa od standarda prihvaćenih u EU. Naše je predviđanje da će budućnost doslovno izgledati na sledeći način. Ako je kompanija implementirala ESG model poslovanja, moći će da se učlani u klub osiguranih/ili bolje reći odabranih. Ako nije postigla usklađenost poslovanja u ovom segmentu, nijedan društveno odgovoran osiguravač neće želeći da se upušta u avanturu osiguranja njenog biznisa. Ovaj scenario, pri tom, nije isključivo zamisliv za EU. S obzirom na opseg obaveza iz regulatorne trilogije EU, svaki izvoznik/kompanija koja želi da posluje u EU, moraće da se povinuje novoustanovljenim trendovima ekološki održivog i uopšte osvešćenog poslovanja, nezavisno od toga da li pripada svetu EU ili je osnovana u nekoj od država tzv. trećeg sveta.

Iako u ovom trenutku postoje velike razlike u pogledu pravnog okvira, činjenica je da je ESG uveliko u fokusu: u vodećim državama i finansijskim institucijama već postoji regulatorni okvir, dok se u državama koje kaskaju u razvoju rasprava o ESG tek otvara. U svakom slučaju, kompanije koje posluju na globalnom planu moraju uvrstiti u svoju poslovnu agendu pripreme za ono što je već nova realnost, jer je to jedini način da formiraju stubove otpornosti. Samo od njih i njihove ažurnosti zavisice da li će ESG predstavljati poslovnu šansu ili pretnju.



## LITERATURA:

1. Alfier K. (2020). Odgovorno ulaganje i održivost u sektoru finansijskih usluga Evropske unije, Hrvatski časopis za OSIGURANJE, No. 3, 2020, str. 133-151
2. Almeyda R., Darmansyah A. (2019). The Influence of Environmental, Social, and Governance (ESG) Disclosure on Firm Financial Performance, IPTEK Journal of Proceedings Series, No. 5, str. 278-290.
3. Bodansky D., The Durban Platform: Issues and Options for a 2015 Agreement, Center for Climate and Energy Solution. Posećeno: 29.7.2023. Dostupno na: <https://www.c2es.org/wp-content/uploads/2012/11/durban-platform-issues-and-options.pdf>.
4. Boomgaard P. h. (2010). Globalization, Environmental Change, and Social History: An Introduction, International Review of Social History, Vol. 55, Supplement, str. 1-26
5. Booth C., Nicholas A., Singhai N. (2020). ESG consideration in the insurance industry, Milliman White Paper, June 2020, str. 1-8.
6. Campbell D. (2015). What is climate change policy now trying to achieve?, Economic Affairs, Vol.35, No. 3, str. 428-442.
7. Capiello M. B. A., Lagasio V., Santoboni F. (2022). Determinants of insurance companies' environmental, social and governance awareness, Corporate Social Responsibility and Environmental Management, Vol. 29, str. 1357-1369.
8. Friedman M., Capitalism and freedom, University of Chicago Press, Chicago, 1970.
9. Handy C. (2003). What's a Business For?, Harvard Business Review on Corporate Responsibility, Harvard Business Press, str., 65-83.
10. Khovrak I. (2020). ESG-Driven Approach to Managing Insurance Companies' Sustainable Development", Insurance Markets and Companies, Vol. 11, str. 42-52.
11. Lund D. S., Pollman E. (2021). The Corporate Governance Machine", Columbia Law Review, Vol. 121, str. 2563-2634;
12. Pargendler M. (2021). The Rise of International Corporate Law", Washington University Law Review, Vol. 98, Issue 6, 1765-1820.
13. Peterdy K., (2022). What is ESG (Environmental, Social and Governance)?" Corporate Finance Institute, 2022, <https://corporatefinanceinstitute.com/resources/esg/esg-environmental-social-governance>. Posećeno: 14. 6. 2023.
14. Petrović Tomić N. (2019): Načelo zakonitosti poslovanja u sektoru osiguranja – tezice o odgovornosti članova uprave društva za osiguranje u svetlu compliance funkcije," u: V. Radović (ured.), Usklađivanje poslovnog prava Srbije sa pravom Evropske unije, Beograd, str. 99-115.
15. Pietrancosta A., Marraud des Grottes A., (2022). Trends – What the boards of all companies should know about ESG regulatory trends in Europe, Avgust 2022, Harvard Law School, str. 1-18.
16. Pollman E., (2022). The Making and Meaning of ESG", Law Working Paper No. 659/2022, 5. Dostupna na: [http://ssrn.com/an+bstarct\\_id-4219857](http://ssrn.com/an+bstarct_id-4219857), posećeno: 16.6.2023.
17. Rosen M. A. (2015). The Wrong Solution at the Right Time: The Failure of the Kyoto Protocol on Climate Change, Politics & Policy, Vol. 43, No. 1, str. 30-58.
18. Salaj Z. (2017). Međunarodno pravo i izazovi održivog razvoja: klimatske promjene, države koje tonu i migracije", Zagrebačka Pravna revija, Vol. 6, No. 2, str. 203-227.

19. Selimovic J., Martinovic D., Hurko D. (2020). Critical Success Factors in Insurance Companies, Management – Journal of Contemporary Management Issues, No. 25 (1), str. 215-233.
20. Streck C., Keenlyside P., von Unger M. (2016). The Paris Agreement: A New Beginning, Journal for European Environmental & Planning Law, Vol. 13, str. 3-29.
21. Savaresi A. (2016). The Paris Agreement: A New Beginning, University of Edinburgh School of Law Research Paper 2016/03, str. 1-12.
22. Sjäfjell B., Bruner C. (2020). The Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability, CAMBRIDGE UNIVERSITY PRESS, Cambridge.
23. Stamelos C. (2022). Corporate Sustainability and ESG Factors in Greece and Cyprus: Compliance, Laws and Business Practices, Towards a Holistic Approach, Intereulaweast, Vol. IX (2), 2022, str. 289-313.
24. Tafra-Vlahović M. (2009). Konceptualni okvir društveno odgovornog poslovanja, MediAnali : međunarodni znanstveni časopis za pitanja medija, novinarstva, masovnog komuniciranja i odnosa s javnostima, Vol. 3, No. 5, 2009, str. 163-184
25. Todić D. (2017). Pariski sporazum o klimi u svetlu ciljeva i principa savremene politike i prava životne sredine, Megatrend revija, Vol. 13, No. 3, str. 45-62.
26. Vasiljević M. (2007). Korporativno upravljanje - pravni aspekti, PRAVNI FAKULTET U BEOGRADU I PROFINVEST, Beograd.
27. Wilson M. (2003). Corporate Sustainability: What is it and where does it come from?, Ivey Business Journal, March-April, 2003, str. 1-10.
28. Weart S.R. (2012). The Evolution of International Cooperation in Climate Science, Journal of International Organizations Studies, Vol. 3, No. 1, str. 43-60.

Received: 08.09.2023.

Accepted: 29.09.2023.

DOI: 10.5937/bankarstvo2303202P

# SUSTAINABLE BUSINESS – ARE ESG STANDARDS POWERING THE RESILIENCE OF A NEW BUSINESS MODEL?

**Prof. Nataša Petrović Tomić, PhD,**  
tenured professor, Faculty of Law,  
University of Belgrade  
nataly@ius.bg.ac.rs

**Summary:** The modern world requires companies to work on strengthening their responsibility. In recent years, the concept of sustainable business was placed in the forefront, and it relies on three pillars: ecologically acceptable profiting, good corporate governance, and care about social issues. That is the core of the abbreviation that has been increasingly present in Serbia, as well. The author explains the term ESG, as it is insufficiently familiar in her region, starting from the Paris Agreement on climate change, adopted in a proclaimed consensus and harmonisation of developed and developing countries. Starting from the aim of this Agreement, which is an efficient and advanced response to the threat of climate change, companies will from here on out have to adopt strategies to reduce their environmental impact, which is ultimately reflected on global warming. The author proves that ESG standards are powering the resilience of the new business models for all companies, which should lead to reaching climate neutrality in the future.

**Keywords:** ESG, sustainable business, The Paris Agreement, climate change, corporate responsibility

**JEL classification:** G11, F34

## Introductory Remarks

The business environment of the 21st century is characterised by significantly altered circumstances than those that had marked the previous century. The transformation of the business aim is undoubtedly a key change in business operations: while profit had been unashamedly highlighted as a primary business goal in the era of liberal economics (“shareholder/owner profit maximisation”), the ethical value of modern economics has been in the forefront in the previous decades (Hart, 2010). The corporate business ethics and social responsibility go hand in hand and contribute to the moralisation of business (Petrović Tomić, 2008; Vasiljević, 2007). Well-intentioned economics has been replaced with a purely market-based mechanism, which became obsolete due to modern tendencies, at least in its pure form (Friedman, 1970). Under the influence of activists advocating for protection of the environment, good corporate governance principles, and the protection of common interests, the term “sustainable development” emerged, and slowly but surely it started spreading into the field of corporate business. Companies are now expected to draft sustainable development strategies, as well as to implement them into their operations. Moreover, the tendency is to make sustainable development standards one of the key elements that determine whether a company’s business will be open to insurance. Are we looking at

## An Overview of the Paris Agreement

In cooperation with key financial institutions, the UN drafted a report in 2005, titled “Who Cares, Wins”. It first featured the term ESG investments (Environmental, Social and Corporate Governance). The UN made its next important step in 2015, by holding a conference on sustainable development, where the Global Development Programme for 2030 was adopted, containing 17 Sustainable Development Goals (SDG). These goals are generally focused on the joint efforts of fighting global warming and poverty, and creating conditions for sustainable consumption (Campbell, 2015). The efforts of the international community regarding climate change continued with the signing of the Paris Agreement (Accord de Paris), a new global agreement on climate change (Todić, 2017). The most important part of this agreement is the Action Plan for limiting global warming, which also relates to the developing countries which ratified it. As a global issue, climate change demand cooperation of all countries worldwide, both the most developed ones, and the developing countries (Weart, 2012). The PA is legally an international agreement, and hence is a source of international law and obligations (Streck, Keenlyside, von Unger, 2016). The main purpose of the PA, according to Article 2, is to strive to strengthen the global response to the danger of climate change, in the context of sustainable development and fight to end poverty.

In general, the endeavour of companies to become sustainable is not a new idea. However, a significant turning point happened in 2015, when the Paris Agreement was adopted, as a “global response to threats caused by climate change, bearing in mind sustainable development”, and the United Nations presented the Sustainable Development Goals within the 2030 Agenda. The core goal of the Paris Conference was to reach an agreement and adopt a new, legally binding document, to define the obligations of the Convention’s member countries, for the period after 2020, and thus prevent a global temperature increase of over 2 degrees, in accordance with scientists’ demands.

The preamble of the Paris Agreement stipulates that an effective and advanced response to the imminent threat of climate change is necessary. These initiatives significantly contribute to redefining the concept of ecological and social responsibility.

We note: the Paris Agreement sets and framework for acting with the aim of limiting global warming (Rosen, 2015). Its key characteristics are as follows:

- Long-term goal – strengthening the implementation of the Framework Convention and the global response to threats caused by climate change in the context of sustainable development and efforts to eradicate poverty (Savaresi, 2016). This includes three more specifically defined goals: 1) limiting the increase of average temperature at the level “significantly below 2 degrees Celsius”, i.e., continuing the efforts to limit the temperature increase to 1.5 degrees Celsius compared to the preindustrial level; 2) strengthening the ability to adapt to the negative effects of climate change and strengthening climate resilience and development based on a low emission of greenhouse gasses, in a way that does not endanger food production; and 3) securing appropriate financial means, in accordance with models that include low emissions of greenhouse gasses, and development that is adaptable with respect to climate.
- Nationally defined contributions – prior to the Paris Conference and during its programme, countries had submitted thorough national action plans for fighting climate change (so called nationally defined contributions) to reduce emissions. The Agreement defines how the developed countries should have a leading role in implementing the goal of the Agreement, while special attention should be given to “small, developing island countries” whose obligations in implementing the goals of the Agreement are defined by the Agreement to be less bindings, i.e., based on their willingness: “the least developed countries and small developing island countries can prepare strategies, plans, and measures for development in terms of low emissions of greenhouse gasses, which reflect their specific national circumstances, and then report on those strategies, plans, and measures”.
- Ambition – the governments agreed to report every five years on their action plans and to set more ambitious goals with each new plan. Thus, a “hybrid architecture” of this agreement is achieved, compared to all previous instruments of solving key climate problems through global action (Bodansky, 2012).
- Transparency – the countries agreed to report to each other and the public on how far they are getting in terms of achieving their goals so as to ensure transparency and supervision. The Agreement is based on the responsibilities of the countries for their own programmes and the contents of their reports to the members of the conference, as well as to periodically monitor the implementation of the Agreement, in order to estimate the collective improvement towards achieving the purpose of the Agreement and its long-term goals (“global overview”) in terms of Article 12 of the PA (Salaj, 2017).
- Solidarity – EU member states and other developed countries shall still finance the fight against climate change, so as to help developing countries to reduce emissions and build resilience, in order to respond to the consequences of climate change.

Seeing as how the EU is one of the parties in this Agreement, the PA is one of the bases for adopting numerous directives and regulations. The EU realised that the fight against climate change is key for the future of Europe and the world. This goal is linked to the obligation undertaken by the EU and its member states when signing the PA. Achieving climate neutrality by 2050 is a focal ambition. What is climate neutrality and how does the EU plan to achieve it? In accordance with the demands of that agreement, the EU drafted its long-term emission decreasing strategy by the end of 2020 and updated its climate plans, where it undertook to lower its emissions by 2030, by at least 55% compared to the levels from 1990.

What is ESG and Why is it Important?

Implementation of sustainable development in a corporate context – the concept of ESG standards

The implementation of sustainability in a corporate context has had its own road of development. Firstly, the implementation of worker and environmental protection regulations during the 1980s caused an increased importance of health, protection and safety of workers, as well as the ecological impact of business. During the 1990s, sustainable development gained more and more importance, with the focus being on the reduction of the negative environmental impact. At the start of the 21st century, companies developed a concept of corporate social responsibility (CSR) with their endeavours to achieve sustainability. Bearing in mind the burning ecological and climate issues, CSR is now slowly evolving into an ESG concept, with an aim to quantifying the impact of companies and rank it by industry, in terms of their level of sustainability. Raising awareness on the importance of sustainable development leads to the shift from self-regulation and voluntary activities towards law-making activities. EU is a leader in regulating key issues of sustainable development, adopting numerous rules regulating this field, including demands and standards of nonfinancial reporting (Directive 2014/95/EU of the European Parliament and Council on amending Directive 2013/34/EU in terms of publishing nonfinancial information and information on the diversity of certain large companies and groups, OJ L 330, 15.11.2014, aka Non-Financial Reporting Directive), ESG indicators, requests for reporting for companies, recommendations for fostering a long-term approach to corporate management, directing capital flows into sustainable economic activities, etc. The EU has impressive regulations adopted in the previous decades and years, with the aim to ease social and ecological transparency of large companies, as well as to ease stakeholders' assessments on the sustainability of a company they are interested in.

The EU thus has a complex package of ESG regulations, which demands work on business compliance (Petrović Tomić, 2021).

The abbreviation ESG stands for Environmental, Social and Governance (Lund, Pollman, 2021; Pargendler, 2021). This is an umbrella term, now in standard use in the corporate world, providing a flexible framework varying in respect of context, it has worldwide applicability, its meaning is evolving, and it can be segmented into various subtopics and relate to a wide spectrum of investors and interested persons (Pollman, 2022). When the acronym ESG is usually used with the collocations: "criteria", "factors", "standards", "strategy", "risks", "activities", "goals", etc. Does ESG point to the three pillars on which the sustainability of a company is measured? (Booth, Nicholas, Singhai, 2020) Or is it a set of standards that socially progressive companies use to assess potential investments?

These characteristics can be one of the largest benefits and the largest flaw of ESG standards, depending on the circumstances. While some consider ESG a trait of conscientious business, i.e., enlightened capitalism; others see it as well thought out marketing, or misleading investors (the greenwashing phenomenon) and the corporate public, and covering up a company's responsibility (Pollman, 2022). It is easiest to reach a consensus on everything about ESG being pretty unclear, and that a theoretical framework is necessary to set a basis for further research.

ESG criteria are a set of standards that banks, and other investors, consider if they want to invest in ecological and socially responsible projects. Ecological criteria should indicate how much a company is mindful of ecological principles in its operations, i.e., how much it protects the environment through its activities. The social criterion shows how much a company manages its relations with employees, procurers, buyers and, generally, the society in which it operates. The governance criterion deals with the management of processes, awarding managers, undertaking internal audits and control, and shareholders' rights.

When it comes to the legal nature of ESG, there are several viewpoints. Firstly, ESG criteria are considered factors normally integrated into mainstream investment analysis. From that point of view, ESG is not synonymous with ethical investment, but a part of the investment strategy (Pollman, 2022). Secondly, ESG as a means of risk management. From this perspective, ESG is not just a method of identifying investment possibilities, but also a method of risk management. For many investors and professional managers, the key of implementing ESG factors into the investment analysis is their possible impact on the levels of risk in a company's portfolio. In line with this view, ESG has developed into a separate function in developed corporate management cultures, in order to monitor and manage risks that companies face due to ecological and social matters. Thirdly, there are some who conceptually equate ESG with social responsibility of companies and consider the new terms synonymous.

#### Powering the Business Resilience and a Necessary Condition of Business Insurability

From the view of business practice, the legal qualification of ESG principles is less important. It is crucial to highlight the role they have or will have in business. ESG is used as a framework for assessing the way a company manages risks and opportunities that the fluctuating market and non-market conditions create. This changeability is featured in changes in ecological, social and economic systems, that affect the entire environment in which companies operate. The focus is on adapting business goals. Paragraph 14 of the preamble of the SFDR Directive defines the sustainability risk as an ecological, social, or corporate event whose realisation can cause a real or potentially negative important impact on the value of investment, while the "sustainability element" in terms of Article 2 (24) of the same Directive are the ecological and social issues, employee issues, respecting human rights, the fight against corruption and bribery. Participants on the financial market are expected to publish policies on including sustainability risk into their decision-making process, in terms of investments.

ESG factors determining the sustainability of business are not just a trend in the EU or developed countries (Pietrancosta, des Grottes, 2022). They are the core of a new, holistic approach to business, that is directly opposite from the traditional analysis of profit maximisation. Based on the analysis of the available literature, mostly non-legal in nature, it can be concluded that the concept of sustainable business borrows elements from four better established concepts: 1) sustainable development; 2) corporate social responsibility; 3) theory of protecting stakeholders' interests; 4) company responsibility theory (Sjåfjell, Bruner, 2020; Wilson, 2003; Peterdy, 2022)

Bearing in mind the contribution of corporate responsibility, i.e., the adoption of sustainable development standards for the reputational image of a company, the ESG concept is a sort of insurance from reputational damages, as can be seen in business management according to best practices (Tafrā-Vlahović, 2009). Due to this trend, the language and indicators of business have shifted. According to this altered view, the goal of business is to do something useful or better for mankind and the community, with the earned profits (“Earn profit to do good”, and not “Do good to earn profit!”). Similarly, a semantic adjusting occurred. Since 2000, the term “corporate social possibility” has been more commonly used, implying the possibilities stemming from a company’s decision to operate responsibly. The difference compared to the earlier concept is in its further broadening. While the basis of the concept of responsible business are the standards enabling the current image of a corporate, responsible citizen, sustainable business insists on the business model for a long-term promotion of values in line with the general best interest. More and more companies, both declaratively and truly confirm their choice when it comes to responsible business (I do not have to be responsible, but I choose to be responsible, because it means good business!) (Handy, 2003).

Although there are still large discrepancies in terms of the legal framework, ESG is, for a fact, largely in focus: leading countries and financial institutions already have a regulatory framework, while developing countries are just now raising the issue of ESG. Nonetheless, companies operating globally must amend their business agendas with preparations for the new reality, as that is the only way to build resilience. Whether ESG will be a business opportunity, or a threat, depends on the companies and their response-time (Almeyda, Darmansyah, 2019).

## The Role of Insurance in the Sustainable Business Verification Process

Insurers and reinsurers, as professionals in taking on and managing risk, together with the entire industry as such, play a key role in promoting ESG. Not only do they have the financial potential to create funds to lower their clients’ risks, but they are also in the position to influence the development of society. Also, we must note that the work of the insurance sector is mostly influenced by the trust capital, that takes years to build and can be compromised in an unbelievably short time. In theory, it is suggested that relationships with clients should be built on the 5P concept: purpose, pride, partnership, protection, and personalization (Selimovic, Danijela Martinovic, Džana Hurko, 2020). Periods of crisis, like the one we are currently facing, give an opportunity to insurers and the insurance industry in general to rise above and show the true meaning of social responsibility of companies. Likewise, insurers in the role of investors are exposed to the risk of decreasing value of companies they invest in, among other things due to noncompliance with ESG standards. Thus, investing into client relationships and managing reputational risk are the basis of sustainable development of insurance companies (Khovrak, 2020). The insurance sector responds to the challenge of sustainable business with the strategy that includes taking on risks and investments, which led to the adoption of the Principles of Sustainable Development in Insurance (PSI). Leading insurers incorporated the provisions on environmental protection into provisions on insurance coverage and risk-taking strategies, directing their operations towards ecologically sustainable companies (Capiello, Lagasio, Santoboni, 2020). The role of insurers is at least twofold. They are most of all incredibly strong players on the financial market and they must secure their investment and management portfolio and make it sustainable.



Secondly, they perform the screening function, as it is evident that compliance with ESG standards and demands will become one of the factors of the insurability of companies' risk. Those companies that do not end up implementing the new rules of the game, might be left with no insurance coverage.

Following the industry representatives, the supervisory bodies have also added the sustainability agenda into their supervisory function. Starting from the European Commission, in 2019 EIOPA published a final report on the technical advice on integrating risk and sustainability factors into delegated acts linked to Solvency II and IDD. When it comes to sustainability risks and the general sustainability policy when making investment decisions, EIOPA pointed out that this will impact key functions, and mostly with risk management function, the conscientiousness principle, the written risk management policies, and the Own Risk and Solvency Assessment) (Alfier, 2020). EIOPA published a special opinion on sustainability in the context of Solvency II, with a focus on mitigating climate change consequences. This opinion concerns the integration of risk connected to climate change, based on the requirements of Solvency II. The opinion highlights that insurers should test their sustainability risk exposure, as they will pro future have a great impact on the insurance sector.

One of the challenges that players on the financial market will have to face is the establishment of adequate systems for processing ESG data, calculating ESG risk, and adopting internal rules and policies for ESG standards. It will be highly necessary for supervisory bodies to provide directions for those subject to this new regulation on the appropriate implementation of new obligations. The possibility remains that different parts of the financial sector could adopt different strategies of implementing sustainable business standards, which could lead to unharmonized practices. Something like that could be a significant consequence of insufficient knowledge on the matter which is contained in numerous documents and is constantly updated by the adoption of new standards.

## Conclusion

ESG is one of the most significant trends of corporate management, investments, and contemporary corporate law as a whole. Although the term is now on the daily agenda of the modern businessman, few of them know where the abbreviation comes from, who came up with it, and which goals it had originally been made to achieve. What can be said with certainty is that the emergence of ESG strategies signifies the waking of capitalism and the transition from the phase of maximising profit to the phase of benevolent and sustainable economics.

ESG criteria are a set of standards which banks and other investors consider if they lean towards investing into ecological and socially beneficial projects. The ecological criterion should show how much a company is following ecological principles in its operations, i.e., how much it protects the environment through its activities. The social criterion shows how much a company manages its relations with employees, procurers, buyers and, generally, the society in which it operates. The governance criterion deals with the management of processes, awarding managers, undertaking internal audits and control, and shareholders' rights.

ESG standards cannot be disregarded by companies that want to achieve an image of sustainable operations. As the awareness on sustainability increasingly affects the consumers' demands, and as the regulations are more focused on these issues, companies must respond to these demands, both through business strategies, and through day-to-day operations. This will be significant for reputation maintenance, and for competition on the market that is faced with increasingly more subtle and demanding consumers.

To conclude: adopting an ESG strategy is no longer a matter of choice. This concept is, essentially, imposed on everyone, from the citizens to the state. It was deduced from the idea that if large companies take part in the creation of a problem, they should, logically, have a key role in finding a solution. So far enough has been done at the EU level to define ecologically sustainable business. Aside from the Directive establishing the obligation of drafting reports with nonfinancial business indicators, the EU also adopted the criteria for the classification of economic, and especially financial activities as ecologically sustainable, transitional, or unsustainable.

As leaders in risk management, insurers and reinsurers play a key role in the promotion of ESG business. ESG criteria are the main factors of estimating sustainable and ethical impact of companies. The insurance industry certainly spearheads the adoption and promotion of ESG standards and policies. As certified risk management experts, the insurance industry representatives take into account the risk of unsustainable business and handle it in their way: they do not cover companies whose business deviates from the standards accepted by the EU. Our estimate is that the future will literally look as follows. If a company has integrated an ESG business model, it will be able to join the club of the insured/or better said the selected. If it did not achieve compliance in this segment, no socially responsible insurer will want to be adventurous and insure their business. By the way, this scenario is not exclusively likely in the EU alone. Considering the scope of obligations defined by the regulatory trilogy of the EU, each exporter/company that wants to work in the EU, will have to comply with the newly established trends of ecologically sustainable and enlightened operations, regardless of whether they are part of the EU or if they were established in one of the so called third world countries.

Although there are still large discrepancies in terms of the legal framework, the fact is that ESG has largely been in focus: leading countries and financial institutions already have a regulatory framework, while developing countries are just raising the issue of ESG. In any case, companies operating on a global level must add preparation for the new reality to their business agenda, since that is the only way to build resilience. Whether ESG will become a business opportunity, or a threat depends solely on these companies and their responses.

## Literature:

1. Alfier K. (2020). Odgovorno ulaganje i održivost u sektoru finansijskih usluga Evropske unije, Hrvatski časopis za OSIGURANJE, No. 3, 2020, str. 133-151
2. Almeyda R., Darmansyah A. (2019). The Influence of Environmental, Social, and Governance (ESG) Disclosure on Firm Financial Performance, IPTEK Journal of Proceedings Series, No. 5, str. 278-290.
3. Bodansky D., The Durban Platform: Issues and Options for a 2015 Agreement, Center for Climate and Energy Solution. Posećeno: 29.7.2023. Dostupno na: <https://www.c2es.org/wp-content/uploads/2012/11/durban-platform-issues-and-options.pdf>.
4. Boomgaard P. h. (2010). Globalization, Environmental Change, and Social History: An Introduction, International Review of Social History, Vol. 55, Supplement, str. 1-26
5. Booth C., Nicholas A., Singhai N. (2020). ESG consideration in the insurance industry, Milliman White Paper, June 2020, str. 1-8.
6. Campbell D. (2015). What is climate change policy now trying to achieve?, Economic Affairs, Vol.35, No. 3, str. 428-442.
7. Capiello M. B. A., Lagasio V., Santoboni F. (2022). Determinants of insurance companies' environmental, social and governance awareness, Corporate Social Responsibility and Environmental Management, Vol. 29, str. 1357-1369.
8. Friedman M., Capitalism and freedom, University of Chicago Press, Chicago, 1970.
9. Handy C. (2003). What's a Business For?, Harvard Business Review on Corporate Responsibility, Harvard Business Press, str., 65-83.
10. Khovrak I. (2020). ESG-Driven Approach to Managing Insurance Companies' Sustainable Development", Insurance Markets and Companies, Vol. 11, str. 42-52.
11. Lund D. S., Pollman E. (2021). The Corporate Governance Machine", Columbia Law Review, Vol. 121, str. 2563-2634;
12. Pargendler M. (2021). The Rise of International Corporate Law", Washington University Law Review, Vol. 98, Issue 6, 1765-1820.
13. Peterdy K., (2022). What is ESG (Environmental, Social and Governance)?" Corporate Finance Institute, 2022, <https://corporatefinanceinstitute.com/resources/esg/esg-environmental-social-governance>. Posećeno: 14. 6. 2023.
14. Petrović Tomić N. (2021): Načelo zakonitosti poslovanja u sektoru osiguranja – tezice oodgovornosti članova uprave društva za osiguranje u svetlu compliance funkcije," u: V. Radović (ured.), Usklađivanje poslovnog prava Srbije sa pravom Evropske unije, Beograd, str. 99-115.
15. Pietrancosta A., Marraud des Grottes A., (2022). Trends – What the boards of all companies should know about ESG regulatory trends in Europe, Avgust 2022, Harvard Law School, str. 1-18.
16. Pollman E., (2022). The Making and Meaning of ESG", Law Working Paper No. 659/2022, 5. Dostupna na: [http://ssrn.com/an+bstarct\\_id-4219857](http://ssrn.com/an+bstarct_id-4219857), posećeno: 16.6.2023.
17. Rosen M. A. (2015). The Wrong Solution at the Right Time: The Failure of the Kyoto Protocol on Climate Change, Politics & Policy, Vol. 43, No. 1, str. 30-58.
18. Salaj Z. (2017). Međunarodno pravo i izazovi održivog razvoja: klimatske promjene, države koje tonu i migracije", Zagrebačka Pravna revija, Vol. 6, No. 2, str. 203-227.

19. Selimovic J., Martinovic D., Hurko D. (2020). Critical Success Factors in Insurance Companies, Management – Journal of Contemporary Management Issues, No. 25 (1), str. 215-233.
20. Streck C., Keenlyside P., von Unger M. (2016). The Paris Agreement: A New Beginning, Journal for European Environmental & Planning Law, Vol. 13, str. 3-29.
21. Savaresi A. (2016). The Paris Agreement: A New Beginning, University of Edinburgh School of Law Research Paper 2016/03, str. 1-12.
22. Sjäfjell B., Bruner C. (2020). The Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability, CAMBRIDGE UNIVERSITY PRESS, Cambridge.
23. Stamelos C. (2022). Corporate Sustainability and ESG Factors in Greece and Cyprus: Compliance, Laws and Business Practices, Towards a Holistic Approach, Intereulaweast, Vol. IX (2), 2022, str. 289-313.
24. Tafr-Vlahović M. (2009). Konceptualni okvir društveno odgovornog poslovanja, MediAnali : međunarodni znanstveni časopis za pitanja medija, novinarstva, masovnog komuniciranja i odnosa s javnostima, Vol. 3, No. 5, 2009, str. 163-184
25. Todić D. (2017). Pariski sporazum o klimi u svetlu ciljeva i principa savremene politike i prava životne sredine, Megatrend revija, Vol. 13, No. 3, str. 45-62.
26. Vasiljević M. (2007). Korporativno upravljanje - pravni aspekti, PRAVNI FAKULTET U BEOGRADU I PROFINVEST, Beograd.
27. Wilson M. (2003). Corporate Sustainability: What is it and where does it come from?, Ivey Business Journal, March-April, 2003, str. 1-10.
28. Weart S.R. (2012). The Evolution of International Cooperation in Climate Science, Journal of International Organizations Studies, Vol. 3, No. 1, str. 43-60.