



# LEGAL NEWS

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## CORPORATE SUSTAINABILITY REPORTING DIRECTIVE (CSRD)- READY FOR THE FUTURE? WHAT CAN YOU ALREADY DO NOW?

### I. THE NEW CSRD

The directive on sustainability reporting ((EU) 2022/2464, Corporate Sustainability Reporting Directive, abbreviated “CSRD”) leads to an expansion of the reporting obligation for thousands of companies throughout Europe, starting from financial year 2024, for reports published in 2025. The CSRD amends the existing directive on non-financial reporting and establishes both more detailed reporting obligations, on the one hand, and a larger circle of companies required to issue such reports on the other.

The reporting obligation includes information from the areas of environmental, social and governance (ESG), as well as key figures on the EU taxonomy. The reporting topics range from ecological indicators such as the corporate carbon footprint and social impacts along the value chain to risk management and compliance. In future, companies will have to provide information about the sustainability risks they face and their own impact on the population and environment.

The most important innovations are:

- a. Expansion and standardisation of reporting obligations
- b. External audit (initially only limited)
- c. Clarification of company information and application of the new European sustainability reporting standards (ESRS)
- d. Publication in the management report

### 1. WHO IS AFFECTED BY THIS?

In future, the obligation to report on sustainability will apply to all capital market-oriented

companies, as well as to all companies that meet at least two of the following criteria:

- at least 250 employees
- over 40 million euros in turnover
- over 20 million euros total assets.

The group of obligated parties will expand further from 2026. This will affect around 49,000 companies in the EU.

The management or the board of directors and the supervisory boards are responsible for the fulfilment of CSRD.

### 2. WHAT CAN YOU ALREADY DO NOW?

Examine reporting structures and data collection of non-financial metrics at an early stage. Identify internal resources (such as budget, responsibilities, personnel). Even if you as a company are not directly affected by the new reporting obligation, you may be indirectly confronted with data queries from your customers, for example as a supplier.

Implement a transparent sustainability management system. Companies that successfully address ESG issues are not only able to generate more investor interest, gain advantages on the capital market or be perceived as particularly attractive employers, but also minimise risks in business operations and save costs.

Consider the new challenges an opportunity! The fulfilment of the requirements strengthens the trust of customers and employees, as well as all stakeholders in the company and shows that it is a responsible, sustainable organisation.

Below, we provide our partner law firms with an overview of national regulations regarding



ESG in certain countries, as well as insights into statutory sustainability reporting.

## II. AUSTRIA

### 1. WHAT SPECIFIC ESG REGULATIONS SHOULD BE HIGHLIGHTED?

Austria already has an incredible number of ESG-related standards. Environmental standards range from public law requirements and, for example, environmental protection, water law or contaminated sites management to obligations for energy saving and heat protection in building regulations of the Austrian federal states.

The sustainability factor "social" can be found, for example, in employee protection regulations, anti-discrimination requirements, as well as in human and fundamental rights in general.

Statutory requirements on governance include, for example, governance standards, compliance regulations and obligations to combat terrorism and money laundering.

Since 2021, sustainability has also been a proven supervisory and audit focus of the Austrian Financial Market Authority. The focus here is, on the one hand, on the appropriate integration of sustainability risks in the areas of strategy, governance and risk management of regulated companies and, on the other hand, on compliance with the required disclosures regarding sustainable financial products in order to reduce the risks of greenwashing.

### 2. ARE THERE ANY SUSTAINABILITY REPORTING OBLIGATIONS?

The existing EU directive on non-financial reporting was implemented at the national level in Austria in 2017 with the Austrian Sustainability and Diversity Improvement Act. This already affects capital market-oriented companies and financial institutions with more than 500 employees. The choice of the reporting framework is the responsibility of the companies. The guidelines of the Global Reporting Initiative (GRI), the UN Global Compact or the Environmental Management and Audit System (EMAS) should be mentioned here. The GRI guidelines

have established themselves as the most internationally applied reporting standard. Currently, a content-related external audit is not mandatory in Austria. The auditor only has to check the existence of the non-financial declaration.

Currently, around 100 Austrian companies are obliged to provide non-financial reporting. With the implementation of the new sustainability reporting directive, this figure will rise to around 2,000.

The topic of sustainability reporting and ESG is becoming increasingly important in Austria. As a result, the number of Austrian companies that carry out voluntary sustainability reporting is also growing. SCWP Schindhelm has prepared a first, voluntary sustainability report with reference to the GRI standards. Read [here](#).

## III. CHINA

### 1. WHAT SPECIFIC ESG REGULATIONS SHOULD BE HIGHLIGHTED?

In addition to the long-standing ESG regulations in the Chinese Environmental Protection Act, the Law on the Protection of Consumer Rights and Interests, the Employment Contract Act, the Law on the Prevention and Control of Occupational Diseases, the Occupational Safety Act, the Law against Unfair Competition and the Social Security Act, many new ESG-related standards on ESG assessment and disclosure have been adopted in China since 2022, such as the guidelines for the disclosure of ESG information by companies, the ESG assessment system for companies, the preparation of ESG reports by companies and the ESG assessment standards for energy companies. The Chinese securities regulator has also issued the industry standard for carbon financial products.

### 2. ARE THERE ANY SUSTAINABILITY REPORTING OBLIGATIONS?

Apart from the aforementioned guidelines, there is currently still no legal obligation for sustainability reporting.



## IV. CZECH REPUBLIC

### 1. WHAT SPECIFIC ESG REGULATIONS SHOULD BE HIGHLIGHTED?

There is currently no comprehensive legal regulation for ESG matters in the Czech Republic. However, companies must consider the EU's legal acts, which must be incorporated into the legal system in the coming years.

It is beneficial for companies in the Czech Republic to start reporting on ESG issues before it is required by law. Data collection and process design take time, so we recommend that companies in the Czech Republic start as early as possible.

Some particularly large trading companies voluntarily commit to ESG compliance through ethical codes of conduct they create themselves and in which they set out certain principles that are consistent with ESG and that they wish to comply with.

However, there are already some signs that some pieces of legislation are promoting ESG. For example, in June, 2022, a new legal provision came into force that supports the promotion of low-emission mobility and offers companies incentives to switch to low-emission company cars or install new charging stations. Since 01/01/2023, major companies (with more than 500 employees) in the Czech Republic will publish the proportion of their revenue derived from products or services related to sustainable activities.

### 2. ARE THERE ANY SUSTAINABILITY REPORTING OBLIGATIONS?

The Czech Republic has implemented the EU Directive on the Disclosure of Non-Financial Information and Diversity Information by certain large companies and corporations into the Czech legal system under the Accounting Act. Under the Accounting Act, public companies with more than 500 employees are required to disclose certain types of non-financial and diversity information in their annual reports.

A company reporting non-financial information is expected to disclose the relevant information

necessary to understand the development of the company or group, its performance and the impact of its activities. This includes at least information on environmental, social and employee-related issues, respect for human rights and anti-corruption measures.

In the event of a breach of this obligation, a fine of up to 3% of the company assets may be imposed. Banks are also the driving forces for a focus on sustainable entrepreneurship. Already today, they are obliged to evaluate loan applications on the basis of "non-financial reporting", which is an important feature for companies.

## V. GERMANY

### 1. WHAT SPECIFIC ESG REGULATIONS SHOULD BE HIGHLIGHTED?

Since work on the European Supply Chain Directive had recently stalled, German legislators have decided to regulate the supply chain issue nationally. With the Supply Chain Due Diligence Act ("LkSG"), the legislator has created a national legal framework with international impact, which already came into force on 1 January, 2023. For the time being, the direct regulatory area of the LkSG only covers companies with more than 3,000 domestic employees on a regular basis. The threshold will be lowered to 1,000 employees as of 1 January, 2024. However, the fact that a company is excluded from the scope of application of the LkSG does not mean in any way that it may ignore this topic. On the contrary: Almost all German SMEs and even various non-German companies will have to contend with the LkSG very soon, at least if they directly or indirectly supply a larger company that is covered by the regulatory area of the LkSG.

### 2. ARE THERE ANY SUSTAINABILITY REPORTING OBLIGATIONS?

Since 2017, the CSR reporting obligation has applied to certain companies in Germany. The EU directive on CSR reporting was implemented into national law by the CSR Directive Implementation Act. In their management report or a separate sustainability report, the companies concerned must disclose non-financial information on the following aspects, among



others: Environmental, social and employee concerns, respect for human rights, combating corruption and bribery, diversity concept for the composition of the company management, the supervisory bodies and the Supervisory Board. All capital market-oriented companies, as well as credit institutions and insurance companies are directly affected. The reporting obligation also applies to companies that have more than 500 employees on average in a financial year and whose revenues amount to more than 40 million euros or whose balance sheet total is more than 20 million euros.

Small and medium-sized companies are not directly affected, but it can be assumed that large companies will demand CSR information from their supplier companies. It is up to the companies themselves to determine the standard they will use for reporting. National, European or international frameworks are usable. It is up to the companies themselves to determine the standard they will use for reporting. National, European or international frameworks are usable.

## VI. FRANCE

### 1. WHAT SPECIFIC ESG REGULATIONS SHOULD BE HIGHLIGHTED?

In order to accelerate the implementation of ESG principles, the French Labour Code has recently been expanded to include new provisions that grant workers' representatives certain powers in this area. For several years now, employee representatives have had to be consulted on various topics that are directly related to ESG, such as equal treatment of women and men, vocational training, working conditions, etc. Workers' representatives must also address the question of how to deal with ESG. Since August, 2021, the Social and Economic Committee (CSE) has now become more involved in environmental issues by equipping it with new rights and means. According to the Climate Change Act, in companies with more than 50 employees, the CSE must be informed and consulted on all environmental impacts of projects that affect the organisation, management and general operations of the company (e.g. a consultation on a change of workplace must include all environmental aspects of the planned move).

### 2. ARE THERE ANY SUSTAINABILITY REPORTING OBLIGATIONS?

It is not "mandatory" in France to have an ESG strategy or to be a responsible company itself, but it is mandatory to publish a range of information related to social and environmental challenges and to put in place certain processes. The legal obligations that French companies have in relation to ESG include:

- Publication of non-financial information or non-financial reports: Some companies are required to publish a range of information related to their impact on the environment, social or governance (the information associated with ESG data).
- The introduction of a due diligence plan that includes measures to identify, prevent and mitigate risks to human rights, the environment, health and safety across their entire value chain.
- The introduction of clear communication for investors on how they contribute to combating global warming and how they consider ESG criteria in their investment policy.

## VII. ITALY

### 1. WHAT SPECIFIC ESG REGULATIONS SHOULD BE HIGHLIGHTED?

In Italy, the following 2 regulations in particular must be highlighted: On the one hand, since 2015, it has been possible to register a corporation as a Società Benefit (Benefit Corporation); these are "companies which, in the exercise of their economic activity, pursue one or more objectives of the common benefit, in addition to the objective of distributing profits and act in a responsible, sustainable and transparent manner". In order to obtain the status, the specific common benefit must be named in the articles of association and the obligations of the management to achieve it must also be laid down. In addition, an impact manager must be appointed and a benefit report must be published in the annual financial statements and on the website. The status brings various advantages, for example in the context of certain public tenders or also to defend against accusations of unfair competition in connection with greenwashing.





On the other hand, the so-called gender certificate introduced at the beginning of 2022 should be highlighted, which allows companies to be certified as an employer focused on gender equality. Such certification provides, among other things, a partial exemption from the social security contributions to be paid (1% up to a maximum amount of €50,000), as well as benefits within the framework of public tenders. To maintain the certificate, a report to this effect must be prepared every 2 years.

## 2. ARE THERE ANY SUSTAINABILITY REPORTING OBLIGATIONS?

In anticipation of the implementation of the Sustainability Reporting Directive, in Italy there is currently a partial obligation to draw up a sustainability balance sheet. According to the current legal situation, this obligation only applies to companies and public-law corporations listed on the stock exchange. From 1 January, 2026, this obligation will extend to all companies with more than 250 employees, an annual turnover of more than €50 million and a balance sheet total of more than €43 million. In essence, the sustainability balance sheet is a report to the respective stakeholders on the goals set in the area of sustainability and the achievement of these goals, i.e. for example, on energy consumption, specifying the respective energy sources, the situation of health at the workplace or also on the status of gender equality. In summary, the sustainability balance sheet must provide a truthful picture of the company's activities and condition in the various areas covered by the key word sustainability. In accordance with the requirements of the CSRD Directive, the Italian legal situation is now being adapted to the extension of the scope of application of the reporting obligations provided there; in addition, the aforementioned "gender certificate" is mentioned, which pursues the same goal.

## VIII. POLAND

### 1. WHAT SPECIFIC ESG REGULATIONS SHOULD BE HIGHLIGHTED?

The main objective of ESG is to draw the attention of companies in the European Union to environment aspects, social issues and corporate

governance. The concept of ESG has significantly influenced Polish national legislation, in particular:

- The Accounting Act of 29 September, 1994 with regard to expanded non-financial information;
- The Labour Code with regard to the prohibition of discrimination and the violation of the principle of equal treatment, as well as health and safety in the workplace, new parental leave regulations and new rules for granting existing leave;
- The Regulation of the Minister of Finance of 29 March, 2018 concerning the current and periodic information of issuers of securities and the conditions for recognition of disclosure of information required by the legislation of a State that is not a Member State, i.e. with regard to the diversity approach applied to the composition of corporate bodies as equivalent;
- The regulations concerning the law of 27 April, 2001, Environmental Law;

ESG also affected the regulations that must be amended by the CSRD Directive; this primarily involves the regulations on auditors pursuant to the law of 11 May, 2017 on auditors, auditing companies and public supervision.

### 2. ARE THERE ANY SUSTAINABILITY REPORTING OBLIGATIONS?

One of the most important national obligations with regard to sustainability reporting is Art. 49 of the Accounting Act of 29 September, 1994, which stipulates that the head of a company mentioned in the above article must prepare a management report together with the annual financial statements.

In addition, the companies mentioned in Art. 49 b Para. 1 of the above-mentioned law are obliged to append a declaration on non-financial information to the management report.

This declaration must contain the information listed in Art. 49 b Para. 2 of the above-mentioned law, including a description of the policies applied by the company with regard to so-



cial matters, employees, the environment, respect for human rights and the fight against corruption, as well as a description of the results of the application of the policy in these areas.

There are options for carrying out the state-recognised audits. An example of how to recognise the results of an audit at a national level is an ISO audit. In order to obtain an ISO certificate, such an audit is required.

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