

CSR, a European issue

Contribution to the work
of the French Presidency
of the Council of the European Union

SYNTHESIS

Facing global challenges: greater corporate responsibility

20 years after the European Commission's Green Paper "[Promoting a European framework for Corporate Social Responsibility](#)", the major role of companies in the ecological transition and the achievement of the Sustainable Development Goals is underlined by Europe.

Defined since 2011 by the European Commission as "the responsibility of companies for the effects they have on society¹", CSR, by setting up a multi-stakeholder dialogue, takes into account the expectations of stakeholders and allows for a better understanding of the link between the company and society.

In light of environmental and social challenges, greater corporate responsibility is now expected. Companies must account for the management of risks and negative impacts generated by their activities, but also for their concrete contribution to the resolution of environmental or social problems (climate change, precariousness, etc.) in a forward-looking manner. The scope of corporate responsibility is thus broadened and the question of their social utility raised.

Europe, world leader in just transition

The European Union is presenting itself through the Green Deal for Europe as a "world leader" for a just transition. Numerous texts and initiatives thus mark a rich European agenda on CSR issues. The CSR Platform has focused its work and reflections on three topical issues: sustainable corporate governance and duty of care, the "*Taxonomy*" regulation, and the revision of the directive on non-financial information.

Corporate Sustainability Reporting Directive (CSRD): in terms of non-financial reporting, the objective of the revision of the 2014 European directive on transparency and publication of non-financial information² (known as the "NFRD") is to allow for better comparability of ESG (Environment, Social, Governance) information: it aims to ensure that companies publish information that is relevant, reliable and easy-to-access.

¹ COM (2011) 681 final, [Corporate Social Responsibility: a new EU strategy for 2011-2014](#).

² Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

The replacement of the term "*non-financial reporting*" by "*sustainability reporting*" underlines the qualitative change in *reporting* and the desired coherence between financial and non-financial information.

Taxonomy Regulation: as part of the EU Sustainable Finance Strategy, this regulation aims to define sustainable activities, i.e. a list of economic activities together with performance thresholds that measure the contribution of these activities to six environmental objectives: (a) climate change mitigation, (b) climate change adaptation, (c) sustainable use and protection of water and marine resources, (d) transition to a circular economy, (e) pollution prevention and reduction, and (f) protection and restoration of biodiversity and ecosystems, with the aim of guiding financing flows.

Due diligence: a draft directive is to be presented on due diligence covering the activities of companies, their subsidiaries, suppliers, and subcontractors in their value chain by the European Commission in the second half of 2021. The aim is to oblige companies to take effective measures to prevent and mitigate the risks of human rights and environmental abuses throughout their value chain, and to give victims and affected persons access to justice before European courts when they feel their rights have been violated.

The French Presidency of the Council of the EU: an opportunity to give an ambitious boost to CSR

These three initiatives illustrate the European Union's global leadership in defining international standards for sustainable finance and due diligence, a leadership and political will that the Union must maintain in order not to lose its sovereignty in this area.

As France prepares to preside over the Council of the European Union in the first half of 2022, the CSR Platform **calls for an ambitious CSR policy supported by Europe.**

The European Union has a long experience in CSR. It can rely on the experience and initiatives of its various members, particularly France, a pioneer country in this field. France must continue to play its role as a leader in Europe and inspire a high degree of ambition in European texts.

At the same time, many international initiatives are emerging. However, they take a different approach to that advocated by Europe. While the American vision, illustrated in particular by the Blackrock letter, sees CSR solely in terms of its impact on the company's shareholder value, for Europe, CSR is a means of putting companies at the service of a vision of society. Actively promoting European *reporting* standards and taxonomy on the international scene is becoming a real issue of sovereignty.

To enshrine the specificities of the European vision of CSR

This asserted European sovereignty in the area of CSR is reflected in particular in the mandatory and standardised nature of ESG *reporting* on a European scale, the enshrinement of the notion of "double materiality" (or double relative importance) and the participation of all stakeholders in the legislative and normative process.

Ambitious and harmonized CSR through standardisation

Common rules and shared logic in terms of *reporting* (*CSRD*, *taxonomy*) and duty of care are necessary to avoid the fragmentation of legislative texts and to allow the effective implementation of the United Nations Guiding Principles and other relevant legal instruments in this area. Standardization through the development of standards will allow for better comparability and reliability of ESG information.

Similarly, the need for a legal framework at the European Union level allowing the prevention of risks of serious human rights and environmental abuses throughout the value chain is underlined by the members of the CSR Platform. This is an obligation of constant behaviour, the control of which is entrusted to the judge, and which can engage the civil liability of the company.

A coherent CSR

The coherence of European texts must be guaranteed in order to have shared standards and logic. Indeed, the "*Taxonomy*" and "*CSRD*" texts, as well as the sustainable governance initiative and the future directive on the duty of care, are intrinsically linked. However, their respective timetables for adoption could raise uncertainties as to their applicability and the coherence of the obligations that they put in place.

Vigilance will also be required with regard to the various national transpositions in order to ensure the harmonisation of national texts. In addition, consistency between European texts and national initiatives that are being developed, both in terms of *reporting* (Impact.gouv platform, reflection on environmental and social labelling of products and services, etc.) and sustainable finance (Article 29 of the energy-climate law, SRI label, etc.) must be ensured.

CSR based on solid and balanced ESG information

The need to take into account the "double materiality" which is at the heart of the European vision of ESG *reporting* must be affirmed. This approach bases the ESG *reporting* framework on the risks and opportunities to which companies are exposed, but also on their impact on society and the environment within the European Union and in all third countries. It is this holistic view that makes it possible to understand the interaction of financial and non-financial indicators and to model the sources of value creation of companies.

The CSR Platform stresses the importance of solid *reporting* on the three dimensions of ESG in order to enhance the environmental dimension as well as the social and governance dimension, and to better document the impact of companies' activities.

It emphasizes that human rights constitute a legal basis that cuts across the three dimensions of ESG.

CSR built with stakeholders

Dialogue with stakeholders is part of the common ground and cross-cutting issues on which CSR is based. Stakeholders must be involved in the legislative and normative process in the field of CSR in a spirit of dialogue and transparency.

CSR as a source of opportunities

Beyond the accountability mechanisms that CSR puts in place, it establishes a risk prevention logic that should enable companies to demonstrate resilience in the face of crises, and be a source of opportunities by leading them to rethink their business model.

How can we ensure the effective implementation of the various texts?

Useful and usable *reporting* allowing everyone to be an actor at their own level

There is a real need for a global understanding of the different texts. *Reporting* must be usable in practice by companies and meet the expectations of stakeholders by being understandable, credible and accessible. Capitalizing on the feedback from companies and various stakeholders allows us to take into account the difficulties they have encountered, to understand the limits of the existing frameworks and to provide answers in the texts.

New deployments of CSR must also be taken into account and permeate all European texts, in particular the concepts of corporate digital responsibility) and corporate territorial responsibility.

Given the importance of the issues at stake and the proper understanding of the requirements, certain terms, such as "resilience", "intangible assets", "supply chain" and "materiality", should be clarified to avoid misinterpretation. Concerning the forthcoming translation of the term "*sustainability*", the CSR Platform stresses the importance of the choice of words, and regrets that the French version of the draft directive currently available has been translated by the term "durabilité" and not "soutenabilité", which more clearly reflects environmental and social issues.

Integrate a differentiated and sectoral approach and support businesses

Depending on the profile of the companies, there are many challenges related to *reporting* and taxonomy for real economy actors in terms of resources, skills and organisation. For SMEs, the formalisation of the voluntary *reporting* framework will need to be simplified to be easily accessible, clear and proportionate.

Monitor and evaluate the impact of regulations

The impact of the taxonomy on financial markets will need to be assessed, in particular whether there is a positive impact with an inflow of private investment into activities that are defined as sustainable.

In general, the establishment of relevant supervisory bodies to monitor and evaluate the different regulations could be considered in order to keep the primary objective of a just transition in mind.

Recommendations of the CSR Platform

In view of the French Presidency of the Council of the European Union, the CSR Platform makes **11 recommendations**.

The CSR Platform recommends to the French authorities in the framework of the Presidency of the Council of the European Union, and to the French Members of the European Parliament:

ASSERTING EUROPEAN SOVEREIGNTY IN CSR

(1) actively promote European *reporting* and taxonomy standards, by :

- ensuring the ambition of the European Commission's ongoing work on *reporting*;
- fostering constructive international cooperation;
- encouraging reflection on the creation of a European agency for the public evaluation of ESG information.

(2) to make the European CSR requirement a differentiation tool, by :

- extending the scope of the various texts to non-European companies operating within the European Union ;
- pursuing a trade policy that facilitates trade and investment in green goods and services, ensures fair and undistorted trade, and promotes environmentally and human rights friendly public procurement;
- by drawing up an action plan for Responsible Business Conduct (RBC) based on international texts (ILO conventions, UN guidelines on business and human rights, OECD guidelines for multinational enterprises, etc.) and on national legislation on vigilance, with French legislation as the minimum standard.

ENSHRINE THE SPECIFICITIES OF THE EUROPEAN VISION OF CSR

(3) to promote a balanced and demanding vision of CSR according to the principles of sustainable development, by :

- clearly establishing the notion of dual materiality³;
- Ensuring balanced progress between the three ESG pillars within the European Union's normative framework (*reporting*, green pact, etc.);

³ The notion of double materiality is understood as the impact of ESG risks on companies, but also the impact of companies on society and the environment. See p. 16 of this opinion.

- ensuring that *reporting* standards take into account key human rights instruments: the numerous European (the Charter of Fundamental Rights of the European Union, the European Social Charter, the European Social Charter, the European Convention on Human Rights, etc.) and international texts (ILO conventions, UN guidelines on business and human rights, the OECD guidelines for multinational enterprises, etc.)
- working for the continuation of the negotiations for an international treaty on business and human rights currently under discussion at the United Nations and for an active contribution by the European Union to the process, in line with its European initiatives;

(4) ensure stakeholder involvement and transparency in the legislative and standard-setting processes by, for example, ensuring a balanced representation of the various stakeholders in the Efrag task force⁴ responsible for developing future ESG reporting standards;

(5) establish mandatory and effective due diligence **mechanisms** covering the activities of companies, their subsidiaries, suppliers and subcontractors in their value chain;

(6) to ensure the coherence of the various European regulations and to be vigilant with regard to the various national transpositions of the CSRD in order to **ensure the harmonisation of national texts**;

(7) ensure that national initiatives are consistent with European and international **texts**; and ensure that the future directive is better translated into French. For example, ensure that the future single access point for regulated information published by European listed companies (*European Single Access Point* - ESAP) and the Impact platform developed by the French government are linked.

ENSURE EFFECTIVE IMPLEMENTATION TO MOVE TOWARDS A JUST TRANSITION

(8) to develop clear, understandable, accessible and usable information enabling everyone to be an actor at his or her level, by :

- capitalizing on the feedback from companies and their stakeholders in order to take into account the difficulties they have encountered and provide answers in the texts;
- ensuring the accessibility of information already published by companies, and in coherence with the ESAP project;
- ensuring, with regard to the future directive on the duty of care, that mechanisms for access to information are put in place ;
- ensuring that digital issues are included in the new directives on the extra-financial impact of companies and on the duty of care, and ensuring that the obligations between data protection, extra-financial *reporting* and the duty of care are consistent⁵;
- taking into account the territorial dimension of CSR;

⁴ Composition of the Efrag task force ([PTF-ESRS](#))

⁵ CSR Platform (2021), [Corporate Digital Responsibility](#).

(9) promote a differentiated and sectoral approach and support businesses by :

- Developing accompanying guidelines for companies on ESG taxonomy and *reporting*, specifying and clarifying all terms;
- developing an easily accessible, clear and proportionate standard for SMEs, taking into account a sectoral approach;
- applying a principle of proportionality, in particular for SMEs, with regard to the means of implementing the duty of vigilance ;

(10) to carry out effective monitoring, and to assess the impact of regulations and the relevance of indicators by setting up supervisory bodies;

(11) ensure the application of general principles of law, in particular by guaranteeing and facilitating access to justice and redress for those whose rights have been affected by the activity of companies and their value chain.



Set up by the Prime Minister within France Stratégie in 2013, the CSR Platform, a *national platform for global action on corporate social responsibility*, brings together the relevant government departments, organisations representing businesses and the economic world, employee trade unions, representatives of civil society and research, and includes a Member of Parliament and a Senator among its members.

It issues opinions on the issues submitted to it and makes recommendations on social, environmental and governance issues raised by corporate social responsibility (Article 60 of Law No. 2005-882 of 2 August 2005; Article 5 of Decree No. 2013-333 of 22 April 2013).

This work is published on the France Stratégie website:

www.strategie.gouv.fr/plateforme-rse

Full member organisations of the CSR Platform (October 2021)

Companies and the economic world: Association française des entreprises privées; Association Française de la Gestion Financière; Association Nationale des Directeurs des Ressources Humaines; C3D; CPME; Coop FR; Forum pour l'investissement responsable; France Chimie; Global Compact France; MEDEF; OREE; ORSE; Réseau Alliances-World Forum Lille; U2P

Pole of employee trade unions: CFDT; CFE-CGC; CFTC; CGT; Force ouvrière; UNSA.

Civil society organizations: Amnesty International France; Association 4D; ATD Quart Monde; CCFD-Terre; Forum citoyen pour la RSE; France Nature Environnement; Humanité et Biodiversité; Léo Lagrange Consommateurs; Ligue des Droits de l'Homme; SHERPA

Pole of CSR researchers and developers: ADERSE; RIODD; Conference of University Presidents; Conference of Grandes Ecoles; Comité 21; Syntec Conseil; Fondation Agir contre l'exclusion; Observatoire des achats responsables.

Public institutions: National Assembly; Senate; Economic, Social and Environmental Council; Ministries of Europe and Foreign Affairs, Ecological Transition, Economy, Finance and Recovery, Labour, Employment and Integration, Justice, Agriculture and Food; Regions of France; CCI France; CNCDH; Defender of Rights.

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