

Chapter 6

Workplace rights and sustainability reporting – is the workforce a well-informed stakeholder?

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1. Introduction

This chapter focuses on the current state of workplace rights in Europe to information on different dimensions of sustainability, including social and environmental aspects. This is an important issue since the workforce must be adequately informed about these issues to exercise effective ‘voice’ in corporate governance and company affairs in support of long-term sustainable investment. To summarise, workplace rights to sustainability information vary greatly from country to country in Europe, but on the whole these rights are not adequate to ensure that workers are a well-informed stakeholder.

Transparency in reporting and open-minded communication are central elements of the Sustainable Company (Vitols and Kluge 2011; Hojnik 2012). As such they can be important elements of a company’s social policy. These activities contribute to a positive image and demonstrate that social responsibility is not just lip service paid to international standards or theoretical codes. Non-financial reporting to the workforce on sustainability-related issues can help to demonstrate that shareholder value is not the sole concern and that a committed workforce is a key objective of the company’s policy. In this respect, at least three dimensions of non-financial reporting can be defined:

- (i) The use of a clear normative framework. The normative framework can have a legal background, but can also be of a voluntary nature. Reference to (and practical use of) this framework deals with the question: is reporting based systematically on existing fundamental principles related to an information and consultation policy which take into account the requirements of social and sustainable coherence, or is it oriented to image building and the opportunistic daily rate of ‘marketing’ values?

- (ii) The social dimension of sustainable development in practice. Are any production- and work-related sustainability goals made operational (e.g. connected to work environment, health and safety of users and workers, life cycle and waste)? Formulated in a broader sense this is also related to HRM policies in the field of training and retraining, innovation and obtaining further qualifications. In essence, it concerns the question of how to make and keep the workforce fit for the challenges connected to a more sustainable company policy.
- (iii) The broader productive environment and its impact must be taken into account. This is not only about pollution and the use of (non-) renewable sources but also about liability for sustainability issues further down the chain of production, including outsourcing, subcontracting and supply.

At the end of 2011, in a survey dedicated to workplace information, consultation and codetermination rights, the SEEurope network looked into the existing legal framework and the practices of non-financial reporting on sustainability-related issues.¹ Based on the input of the national experts of the network a Europe-wide overview was produced (Cremers 2013). This chapter explores the outcome of that exercise.

According to some authors, the road towards reporting is just as important as the actual reporting (Oxford Research 2003). Therefore, this chapter starts with a summarised overview of the existing reporting frameworks in the countries included in the inquiry. The second section is dedicated to the relationship between ‘usual’ subjects of social dialogue and aspects of sustainability, followed by a section on internal and

1. SEEurope is a project conducted by an international network of researchers under the leadership of the ETUI. The project, which started in 2004, began by observing the transposition into national law of the European legal obligations related to the Regulation on the Statute for a European Company (SE). In the SEEurope inquiry dedicated to workplace information, consultation and codetermination rights on sustainability issues, the SEEurope network produced a first overview of the existing legal frameworks and the current practices of non-financial reporting on sustainability-related issues in different European countries. The resulting Europe-wide overview was based on the input of the experts of the network (26 Member States plus Norway and Switzerland). The national experts, all committed network partners, were asked to report along the lines of an open list of items. The topic of the inquiry was to analyse company policies in the area of sustainability-related issues and reporting to the workforce in different European countries. This resulted in country observations prepared by the experts.

external reporting. The role of trade unions is sketched out, followed by some practices that are worth mentioning. In the final part the results of this exploratory research are summarised.

2. Reference to workers' representatives and sustainability reporting

The SEEurope investigation pinpointed a few indicative items related to the relevance of non-financial reporting on sustainability related issues in Europe. It was a first exercise designed to go beyond the superficial registration of official and abstract declarations. The results were summarised in a report divided in five sections, followed by a concluding part that reflects on the incidence of this type of reporting and on various challenges, including the future role of the trade unions in this debate. The starting point of the reporting task was to map the normative framework, i.e. the legal or conventional rights of workplace representatives to information, consultation and codetermination on sustainability-related issues in various European countries. The experts were asked to summarise the legal rights of workers' representatives in their country to information, consultation and codetermination specifically related to issues such as training, skills and workforce development, labour force characteristics (turnover, diversity, age distribution), health and safety, environmental impacts and risks, as well as outsourcing and supply or production chain management (including environmental and social standards in the supply chain).

The focus was thus on the normative framework formulated with guidelines regarding contents, structure and process in connection with the preparation of reports and accounts that give information on more than just the financial status of the company. These reports may include very diverse descriptions of non-financial assets.

The normative framework for non-financial reporting that was sketched out in the contributions had various forms. The regulatory frameworks for industrial relations and the labour market traditions in European countries are also different in this regard. In a very general way it is possible to distinguish between four types of norms related to non-financial reporting:

- (i) norms that can be derived from legislation, with either a mandatory or a non-binding character;
- (ii) norms based on corporate governance and/or corporate social responsibility codes and principles, which are almost always of a voluntary nature;
- (iii) norms formulated in collective agreements between social partners, with compliance a task for the contract partners, depending to a great extent on the discipline and strength of the partnership; and
- (iv) norms settled in individual companies through company agreements, international framework agreements, codes of conduct and the like, either with different signatories (workers' representatives, works councils, trade unions, European or global unions) or unilateral.

It is not an easy task to summarise the findings in the field of the legal framework that exist in the 28 countries that were involved in the inquiry. The overall picture is rather diverse. With some exceptions non-financial reporting does not belong to the core of the workers' rights enshrined in legislation or codes. The most outspoken policy area with references to non-financial reporting regards social legislation. Surprisingly, existing national environmental legislation is rarely referred to in the reporting rights of workers, apart from the often stringent rules for the handling of chemicals and carcinogenic and other toxic substances. Notwithstanding the diversity that can be seen, some types of norms in this area are more developed than others.

Although a wide range of information and consultation rights exists in the countries examined, the common denominator is that workers representatives and/or trade unions are entitled to obtain general information and to be consulted on the company's activities, future strategies, environmental impact and sustainability related measures. In general terms, information and consultation appears in various forms prescribed in a set of regulations of a legal and/or conventional nature. The framework for information and consultation rights covers a wide range of subject matters (e.g. qualifications, labour force characteristics, health and safety, outsourcing, gender-related pay). To just give a few examples: in France workers representatives have the right to be informed every three months about the monthly composition of the

workforce, in particular by type of contract (fixed, temporary, agency work, part-time, outsourcing, apprenticeship and so on), including reasons for any hiring on a contract basis. Works councils can appoint an expert paid for by the company to examine the annual economic report, in case of dismissals for economic reasons or in case of important technological changes. The expert shall have access to the company and its documents. German works councils have the right to submit proposals on a broad range of items, including job security, new forms of work organisation, qualifications, outsourcing and investment plans. Rights in the area of health and safety at work and involvement with environmental protection in the establishment often go hand in hand. This includes the right to take part in inspections, the monitoring of compliance with accident prevention and environmental protection. Works councils in the Netherlands have a general right to initiate consultations on relevant issues (Art. 23 and 24 of the Works Council Act) and a right of initiative with regard to sustainability issues. Spain's Workers' Statute (1980, adapted in 1995) entitles workers and their representatives to information on a quarterly basis about environmental decisions taken by the firm with an impact on employment.

The legal instruments for these rights are grounded in some countries in national information and consultation practices, and in other countries these rights are mainly the result of the transposition of European Council directives and European framework agreements signed within the context of the European social dialogue. In addition to this Labour Codes, Labour Constitution Acts, Industrial Relations Codes and the like sometimes refer to this type of right. Companies have to provide workers representatives with certain non-financial data, such as information on strategies, organisation, prospects and operations, paying particular attention to employment issues. However, most countries have no specific rights defined in relation to sustainability and environmental issues; these issues therefore do not figure prominently on the agenda that can be derived from the information and consultation provisions.

Secondly, some countries also have rather extensive participation and co-determination rights. Based on these rights workers' representatives have the right to receive all relevant information in a company. Through these further-reaching codetermination and participation rights in the supervisory board, in principle all questions regarding the company can be addressed to the CEO. Based on the general supervisory tasks of the supervisory board in Germany's codetermination system, worker

representatives on the board have the right to discuss most of the items (for example, health and safety, workforce development, labour force characteristics, risk management and environmental risks), as these items are subject to regular reporting in the supervisory board. The supervisory board can address compliance with CSR or other guidelines. Sustainability-related issues, such as financial sustainability or energy efficiency, can be part of the board's strategic planning tasks. For example, energy costs can be a prominent factor in production costs and in sectors like steel production might even exceed personnel costs. Thus, focussing on energy costs in the supervisory board might reduce the pressure on personnel costs. Article 4 of the Act on Workers' Participation in Management (AWPM) in Slovenia states that the right of workers to participate in management individually and collectively may be exercised in particular in making decisions about and influencing plans regarding work organisation and in the determination and implementation of activities designed to improve working conditions, humanise the work environment and encourage successful economic performance.

A third component of social legislation that has some links with non-financial reporting is legislation on health and safety at work. Especially in countries where this policy field has been progressively developed into a broader concept of a safe 'work environment', information and consultation rights sometimes have expanded in a sustainable direction. For example the Belgian safety committee for prevention and protection at work must take a position with regard to the annual environmental report that every major company has to establish. The committee also has a controlling function; general consent is required for the hiring, appointment or replacement of an internal prevention advisor (a knowledgeable collaborator of the safety and health department) and for the environmental coordinator (who can be an in-house professional or an external expert). The French committees on health, safety and working conditions (CHSCT), legally introduced in 1982, have the right to conduct inspections and investigations. If an establishment is classified as having environmental risks, the information and consultation rights of the CHSCT are extended to cover this type of risk. In Ireland a wide range of occupational health and safety and dangerous substances legislation and associated codes of practice are administered and enforced, in whole or in part, by the Health and Safety Authority. Works councils in the Netherlands have extended rights of information and consultation in the field of health and safety when the employer intends to take measures related to the environment. In many cases this will be part of investment

decisions, on which the works council also has a right of consultation. When the employer does not follow their advice and there is conflict, the works council may go to court to challenge the decision. Poland's environmental legislation states that an operator of an establishment that presents a high risk to the environment must provide an opportunity to be involved in proceedings to employees directly exposed to the effects of industrial accidents, as well as to social work inspectors and representatives of trade unions responsible for occupational safety and health. Certain aspects of sustainability, such as emissions policy or control, can be dealt with in Switzerland on the basis of health and safety regulations. In the United Kingdom, safety representatives are entitled to full information from their employers to enable them to carry out their functions involving changes that may affect workers' health and safety, hazards and prevention, occupational diseases and health and safety statistics. Along the same lines, safety representatives should be consulted in good time about the introduction of measures or new arrangements that affect health and safety, necessary training and introduction of new technologies.

In addition to inclusion in social legislation some countries have non-financial reporting duties enshrined in their company legislation. Regulations sometimes refer to mandatory 'social' or 'environmental' audits and accountancy rules that include sustainability reporting. Some legal specificities are worth mentioning. The Austrian legislator has implemented EU Directive 2003/51 EC in the Company Act (*Unternehmensgesetzbuch*). It prescribes that annual reports and consolidated annual reports should not be restricted to financial aspects. Pursuant to §243 (5) annual reports must include non-financial performance indicators, with specific mention of environmental and employee matters. In Belgium, the legal framework for the federal coordination of sustainable development formulated in the Law of 5 May 1997 led to the foundation of the Belgian Federal Council for Sustainable Development (FRDO-CFDD). Requirements for companies to provide non-financial information are mostly laid down in the regulations on company accounting; enterprises make public certain elements of non-financial data via their annual report. On top of that, companies have to provide information on social policies by means of the so-called 'social audit'. Surprisingly, the social balance concept did not originate from the traditional consultations between employers' and trade union organisations: this legislation was rather a pro-active initiative of the federal government. In France the law prescribes that companies with

more than 300 employees must present an annual social report ('bilan social'), including a broad range of items. The works council is consulted on the content; trade unions, the labour inspectorate and individual employees who ask for it shall receive copies. The Grenelle II law of July 2010 extends the external social and environmental reporting obligation from listed to other big companies.

The findings in the field of norms based on corporate governance and/or CSR codes lead to the conclusion that the current regulations derived from the mainstream codes grant employers considerable liberty to determine which non-financial information is relevant to stakeholders. In countries like Bulgaria, where the debate on sustainability issues is still in its initial stages, most companies – even those that have accepted the National Code for Corporate Governance – prefer not to disclose information, especially concerning environmental issues, health and safety at work or strategy and marketing. At the other end of the spectrum one can find countries like Germany or France. The five French union confederations participated together with a series of companies, employers' organisations, investment funds and NGOs in creating a CSR Observatory (ORSE) in June 2000. The reporting regulations are summarised on the ORSE portal, which is available in French and English.² The German unions were involved in the extensive general debate on sustainability that led in 2011 to a new voluntary sustainability code (the Nachhaltigkeitskodex). The code that was formulated in line with existing international reporting standards (UN Global Compact, ISO 26000, GRI, EFFAS) follows the comply-or-explain principle similar to the corporate governance code, but is not binding (Der Rat für Nachhaltige Entwicklung 2012). Although workers are defined in this Kodex as stakeholders and therefore can derive general dialogue and information rights, the paragraphs on workers' rights mainly describe traditional rights (on labour standards, equality in the workplace, employment, health and safety). The German Corporate Governance Code explicitly favours the stakeholder approach, with a clear long-term focus. In its preamble, the Code clarifies the obligation of the Management Board and the Supervisory Board to ensure the continued existence of the enterprise and sustainable value creation in conformity with the principles of the social market economy. Works councils in the Netherlands have legal possibilities to render advice with regard to

2. See www.orse.org

sustainability and reporting on (international) CSR. The important Swiss framework of corporate governance and CSR codes has led to another type of reporting. However, there is no direct reference to workers' representatives or trade unions. The main channel through which sustainability is presented in the UK is corporate social responsibility (CSR) reports, which most large companies produce. However, they do not normally deal with issues of employment and workplace conditions, other than to try to get employees to actively support other CSR goals.

Norms for non-financial reporting can be the subject of collective bargaining. This is sometimes the case in the Nordic countries, but also in other countries trade unions can have the right to negotiate parameters of working conditions that go beyond working time, working environment and health and safety. However, environmental issues can often be tabled only as far as they concern health and safety at work or working conditions in general. It is noteworthy to mention that the Industrial Relations Code in Cyprus, which dates back to 1977, is not part of the legal framework, but is based on an agreement between the social partners. However, there is no reference to non-financial reporting in this Code and there is little room in the voluntary context for information and consultation or codetermination on sustainability-related issues. In Denmark the social partners (trade unions and employers' organisations) have entered into cooperation agreements which, besides regulating general cooperation, also regulate the rights and duties of employees and companies with regard to information and consultation rights that include questions about education, training, the development and quality of the labour force and outsourcing. Concerns about sustainability are often expressed in terms of competitiveness and discussed with the trade unions in relation to efforts to maintain a well-qualified workforce or to introduce new systems of production (lean production, for example). Although sustainability belongs to the hard core of recent debates in Luxembourg on wage setting arrangements, it has not had a substantial effect on reporting policy.

Norms on non-financial reporting that can be derived from company agreements are rather rare. A specific form of representation at company level is the Italian Unitary Workplace Union Structure (RSU) with general competences, such as the economic situation, employment structure and substantial changes, and specific arrangements that are the result of bargaining. Sustainability issues are seldom a subject of these agreements. In Norway, employees at company level are represented by

local trade unions, with competences and rights enshrined in basic collective agreements. Regulations laid down in the agreements are binding for the company (if it is a member of the employers' association) and for the trade union representatives. The agreements set the rules for collaboration at company or group level with different definitions of information, consultation and negotiation rights. In recent agreements the enterprise's influence on the external environment and a decent and sustainable working life are formulated as important concerns. There is a long list of items with regard to which information and consultation rights apply, including various sustainability-related items, both internal – for example, recycling, use of electric cars and so on – and external, related to products or the production process as such. According to Sweden's 1977 Work Environment Act the employer and employees cooperate on working environment issues; in this field the workers' representatives have to heed the interests of all employees, including members of other unions and non-organised workers.

3. Social dialogue and non-financial reporting

According to EU Directive 2003/51 EC, annual reports and consolidated reports should not be restricted to the financial aspects of a company's business. For an understanding of the company's development, the analysis has to include 'non-financial key performance indicators relevant to the particular business, including information related to environmental and employee matters' (European Parliament 2003). The bridge between the 'usual' subjects of social dialogue and aspects of sustainability is interesting, notably with reference to the social dimension of sustainable development in practice. The implicit question is whether any production and work-related sustainability goals are formulated and reported on in the traditional areas of workers' representatives' concerns, such as work environment, health and safety of users and workers and life cycle and waste. Formulated in a broader sense this can be related to HRM policies on training and retraining, innovation and further qualification; in other words to policies that serve to make and keep the workforce fit for the challenges connected to a more sustainable company policy.

The number of published reports is slowly but constantly growing and in countries such as Belgium, Germany, France, Austria and the Netherlands reports are now produced by all types of organisations, from

private to public companies, and also not-for-profit organisations; however, non-financial information addressing both shareholders and other stakeholders is often limited to risks and uncertainties with which the company might have to cope. Sustainability reporting continues to be a management prerogative and part of a unilateral process. With some aspects (health and safety, energy conservation, emissions and saving programmes) having been regulated the reporting landscape remains rather patchy. Even in a country such as Austria, with legislation that can serve as a guideline for non-financial reporting, and with institutions such as the Chamber of Labour that have the capacity to monitor such voluntary, non-binding guidelines, workforce and workplace conditions are not seen as a key part of sustainability. In the field of codetermination on working conditions fewer than 10 per cent of companies gave full or at least partial information. Items going beyond the workplace were not reported at all, not to mention sustainability issues.

To the extent that dialogue takes place at all it is mainly in the form of dialogue at national level (or in some countries at sectoral level) in round tables or meetings of national Economic and Social Councils and other national bodies related to CSR policy. In Belgium, for instance, two important social dialogue bodies situated at the federal level – the Central Economic Council and the National Labour Council – in which trade unions play an important role, had a joint discussion in 2006 on the notion of enterprises' social responsibility, a debate closely related to sustainability. The social partners underlined that this concept goes far beyond mere adherence to regulatory requirements and includes investment in human capital, in the environment and in relations with all stakeholders. However, there has not been a direct effect on either non-financial reporting or dialogue at company level in this area. Latvia has a Sustainability Index, within the framework of which companies are assessed according to a number of criteria, including safety at work and workforce conditions, in order to be recognised as sustainable economic operators and employers.

In the most obvious cases issues of non-financial reporting and sustainability are being approached in connection with corporate social responsibility policies. Non-financial reporting is seen as a way to develop this responsibility. It is noted that the existing good practices related to the Stock Exchange, for instance in Poland, do not refer to employees but focus on the needs of shareholders. In the Czech Republic individual businesses have launched websites that provide information about

sustainability-related issues and other promotional materials.³ Partly, these initiatives are in line with the EU's promotion of CSR and the work of the European Business Network (with comparable initiatives in other countries, such as Greece, Slovenia, Romania or Portugal leading to CSR networks and portals);⁴ partly, the sites are run by commercial consultancies. Scarce evidence and a lack of relevant research does not allow us to assess the extent to which, in practice, improving workplace conditions is seen as a key part of sustainability. The general impression is that CSR reporting is on the rise. An increasing number of – mainly large – companies in Italy carries out sustainability reporting, while small and medium-size companies are more likely to adopt some CSR without reporting on their application. Romanian figures indicate a substantial increase in reporting (from 24 per cent in 2008 to 54 per cent in 2010), motivated by 'brand reputation and economic considerations'.

The French public debate and public opinion, which called for stronger regulation of companies' activities, led in 2001 to a law on 'new economic regulations' which contains an obligation for social and environmental reporting for listed companies. France was the first European country to adopt this type of legislation. Greece has over the past decade launched initiatives and activities on what is called 'sustainability or non-financial reporting' as part of debates on corporate governance and corporate responsibility. But research between 2002 and 2006 does not indicate substantial growth in published non-financial reports; a limited number of companies are compiling sustainability reports, but there are significant gaps in practice. In the Netherlands, sustainability is a regular issue in the Social and Economic Council (SER). Recently (2011 and 2012), works councils in multinational enterprises have devoted much attention to the issue. Currently, the role of works councils with regard to sustainability and reporting on (international) CSR is the subject of political debate. During the Polish EU presidency in the second half of 2011 several examples of CSR practice were presented at an international CSR conference. Among the reports was an interesting case of non-financial reporting described by a representative of the LOTOS group (Twardowska 2011). In the presentation of this case the barriers to sound

3. In 1994 a group of European entrepreneurs and business directors signed the European Declaration of Business against Social Exclusion, as a result of which the European Business Network for Social Cohesion was created in 1995. One of the key objectives was to support the creation of corresponding National Networks.

4. As an example see: <http://www.csr-romania.ro/english.html>

CSR reporting were listed, including: limited awareness of the concept and related reporting, reports treated as PR tools, lack of openness in the communication of difficult issues and restricted resources and limited access to data. The United Kingdom had extensive debates about sustainability in companies, the main channel being corporate social responsibility reports, which most large companies produce. However, they do not normally deal with issues of employment and workplace conditions, other than to mobilise employees to support other CSR goals.

Reporting to the workforce with the explicit aim of building bridges between ‘ordinary’ workplace-related issues and sustainability goals happens only where there is pressing need. For instance, in Bulgaria environmental issues are discussed mainly with workers’ representatives when serious problems exist and where EU standards should be implemented or improved. One traditional aspect frequently discussed is the quality of the workforce, which in many countries is linked to debates on lifelong learning. The observation was made in several countries that these deliberations are dictated mainly by concerns of labour market friction. Non-financial reporting is too often an internal management affair; involvement of workers’ representatives is rare and if it happens it is in the context of the work of EWCs. For the rest reference is rare to issues related to workforce and workplace conditions in sustainability reports. In the 70–80 Greek companies in which sustainability reporting is practiced there is no evidence of a move from traditional concerns of workers’ representatives to more ‘universalistic’ concerns with sustainability.⁵ In the Netherlands no research has been conducted on the ‘real’ impact of sustainability practices on the workforce. There are reports by individual firms on (supposed) effects on absenteeism due to sickness, labour participation of disadvantaged groups, health and safety (number of accidents), satisfaction of employees with their job and so on, but not at the macro level. One link reported in Denmark concerns worries about financial sustainability and competitiveness. Although questions concerning payments are included, the real issue is how to maintain a well-qualified labour force.

Remarkable in this context is the finding in Sweden that there has been practically no debate concerning the sustainability of companies within Swedish borders; the view is more how companies should behave abroad.

5. Sustainable Development Ltd (www.sdev.gr) has developed a database with Greek CSR Reports.

The Norwegian debate on CSR also focuses on the behaviour of companies abroad (for example, the most extensive green paper on social responsibility was issued by the Ministry of Foreign Affairs). An interesting initiative has been launched in Slovenia: the project Family-Friendly Enterprise Certificate is aimed at introducing work-family life balance as an issue to be discussed at the workplace. The Horus award, another initiative in Slovenia, aims to promote integrity in thinking, innovation and accountability in the operations of Slovenian companies.⁶ The award seeks to promote awareness of the importance of social responsibility and has become the leading award in the field of balanced and innovative social responsibility. Horus is open to small, medium-size and large businesses and institutions engaged in any activities and projects aimed at the long-term welfare of employees, the environment, communities and customers which exceed the minimum statutory standards for at least one year; these can therefore be considered socially responsible, regardless of whether the efforts have formally been approved by certificates, prizes or awards. Polish trade union *Solidarność* has introduced its own label 'Przyjazny pracodawca' (Friendly employer). Its main characteristics are: priority given to open-ended employment and compliance with labour law and trade union rights. Legislation in Spain entitles workers' representatives to information on a quarterly basis on environmental measures taken by firms with an employment impact. This is aimed at getting workers on board with regard to environmental sustainability in cases when there is explicit reference to this goal.

Before the crisis, political and socio-economic reflections on climate change and, both at national and European level, on 'fair' and 'green deals' raised expectations of a broadening of company policies. However, our blunt conclusion is that, in the majority of the European countries, not enough ground has been gained. To summarise the findings:

- (i) In a group of countries there is a complete standstill. As a consequence, the debate about sustainability and impacts on the workplace and workforce conditions is rather theoretical.
- (ii) There is hardly any evidence of non-financial reporting by individual companies in the past decade that goes beyond the 'traditional' items. The legislative focus is generally on employment

6. The annual call for applications is also available in English: <http://www.horus.si/images/2011-call.pdf>

security, health, training and the provision of economic data and management issues. There are no empirical data to verify the extent to which these issues are being further developed.

- (iii) Workforce and workplace conditions are not seen as a key part of sustainability. An exemplary finding was a Swiss transnational company ranked in the Dow Jones Index at the top of the sustainability ranking even though it does not take into account working conditions or work environment issues.
- (iv) CSR is on the rise, but partly due to the crisis, and partly due to the fact that unions are on the defensive, the role of workers' representatives and their organisations is still in its infancy. Recognition of the crucial role they might play cannot be the result of a free ride.

The debate on the concepts of corporate social responsibility (CSR), sustainability and stakeholder value has become of particular interest among politicians, the public and the corporate sector in Europe since the end of the 1990s; however, reporting with accounts in which environmental, social and economic indicators are combined with a view to illustrating the work environment and the influence on the surrounding society is still in its infancy. Even in a country such as France, with extensive legislation and stakeholders' rights, non-financial reporting does not play an important role in the dialogue with those stakeholders, including employees' representatives. However, some promising initiatives do exist, as detailed in the following sections.

4. Internal and external reporting

Internal reporting is supposed to provide key internal stakeholder groups with information on progress, successes and challenges to 'help maintain commitment and reinforce ownership' (BMA 2011). The nature and timing of internal reporting will depend upon governance structures, the key stakeholder groups with which communication is planned, internal communication procedures, data availability and the resources available to compile reports. Accurate and honest reporting to an external audience on the organisation's activities and performance can be a powerful tool for strengthening dialogue, engendering trust and demonstrating leadership (Sustainable Procurement Task Force 2006). Several

reference methods exist, such as ISO 26000, the standard on social responsibility. This standard offers guidance on socially responsible behaviour and possible actions. It does not contain requirements and, therefore, in contrast to ISO management system standards, is not certifiable. For the time being, it can be used only as a self-assessment tool. Various useful reporting frameworks also have been developed for sustainable development and environmental reporting, such as the Balanced Scorecard derived from ISO9000, the AA1000 Accountability Assurance Standard⁷ or the Global Reporting Initiative – Sustainable Reporting Guidelines.⁸ First, the role of workers' representatives in the development of reporting systems will be treated. The next section is dedicated to the involvement of trade unions in debates on strengthening external non-financial reporting, for example through a mandatory requirement for companies or an extension of the items on which they should report.

It was already mentioned that there is little specific reporting to workers and their representatives. The ETUC statement might be correct that there is reason for concern, against the backdrop of the financial, economic and social crisis, the dominance of neo-liberal policies and heightened competition, that 'more European companies will consider CSR to be a "luxury" and will show much less respect for human rights, labour standards and environmental concerns' (ETUC 2011). Although some scholars have come to the 'reasonable conclusion' that regulation is an effective mechanism for enforcing change in internal reporting systems and improving public reporting practices (Eccles *et al.* 2010) most reporting is of a non-binding character.

Given the very limited amount of internal reporting on sustainability issues it is difficult to see a link between internal and external reporting. The two cannot be inconsistent because the internal barely exists. This is not a specifically European problem; in a New Zealand survey it was found that a significant majority (83.1 per cent) of the companies that

7. The AA1000 AccountAbility Principles were developed by a platform with the aim of aligning the non-financial aspects of sustainability with financial reporting and assurance. The intention is to give stakeholders assurances concerning the way an organisation manages sustainability performance and how it communicates this in its sustainability reporting, without verifying the reliability of the reported information. See: <http://www.accountability.org/standards/aa1000as/index.html>, AccountAbility (2008).

8. The Global Reporting Initiative has pioneered the development of the world's most widely used sustainability reporting framework: <https://www.globalreporting.org/Pages/default.aspx>

responded to the survey had not asked stakeholders in the past five years whether they would like to receive more information on the company's environmental and social performance (Eccles *et al.* 2010: 246). Second, even in countries with developed CSR and corporate governance practices, overall compliance with reporting is still not particularly good, at least from a European perspective, although significant differences exist. And third, if reporting takes place it is mainly addressed to the market and to shareholders. Although case study evidence shows that workers' representatives expect more and/or earlier information than what is provided to the shareholders and the general public, it is a common complaint of representatives that they receive just the information that has already been made public. Qualitative research results on the impact of sustainability reporting on working conditions are scarce. Most research projects are oriented to analyse the relationship between CSR and financial performance.

As a result, the analysis in this section is relatively short:

- (i) There is a category of countries in which no significant reporting can be found. Findings about reporting in practice hardly exist, and one could say that there is no substance beyond the theoretical 'lip service' formulated within the normative framework described earlier on. This is the case in, for example, Lithuania, Latvia, Hungary, Estonia and the Slovak Republic.
- (ii) In a second category of countries, reporting is mainly restricted to financial and economic matters. In these countries, workers' representatives receive the same information that is given to the public through annual reports, website information and announcements to shareholders. In some cases, selected parts of this information are provided and exchanged at works council meetings (usually EWC meetings).
- (iii) In some countries, a substantial proportion of the reporting is dedicated to social policy and CSR. Again, there is normally no difference between reporting to the general public and to workers' representatives and there is hardly any interaction between social policy and the sustainability dimension. Sustainability issues are treated as concerning external effects of the company on, for example, the environment or the community. Sometimes an overlap can be found between external and internal reporting on

social matters because of the common genealogy of the reporting indicators, next to similarities in monitoring.

- (iv) Finally, in a few countries reporting goes further. According to the 2011 KPMG survey of the CSR reporting of the 100 biggest companies in each country, in 2008 France was in a leading position in Europe, just after the UK, with 94 per cent of companies reporting on CSR. But, after three years of initial progress, stagnation set in as regards reporting (KPMG 2011).

A closer look at the 'leaders of the pack' in the KPMG survey, from European countries that have addressed CSR and reporting for over a decade, indicates that some companies have demonstrated both strong communication and professionalism over time. In Germany, the annual report and the consolidated annual report should not be restricted to the financial aspects of the company's business. According to German law (Sec. 289 Sub par. 3 HGB) the annual report must include non-financial performance indicators with environmental and employee matters. It is not sufficient to report only on internal business risks. Risk reporting must include external risks, for example, concerning the environment, politics, law and society. Before being published, this annual report by the management is subject to examination and discussion in the supervisory board, along with the annual financial statement. This constitutes a strong link between internal and external reporting besides the extensive information and consultation in works councils and financial committees. Furthermore, listed companies must issue a statement on the management of the company which includes information on management practices that goes beyond what the legal requirements and has relevance for the whole company. In the Netherlands non-financial reporting is said to be on the increase, especially among the largest (listed) companies, and examples of firms are mentioned (such as DSM) that have worked with different reports for different stakeholders. In some companies an effort is made to integrate notions of CSR with sustainability. In Norway reporting and information to trade unionists considerably exceeds the information made public; this may also be the case in other countries with systems characterised by strong general information and consultation rights.

5. The role of trade unions

Trade union involvement can partly be seen as a mirror of the four categories described in Section 4. Trade unions too often do not appear particularly concerned with sustainability reporting. Legislation in Lithuania refers to the obligation to include in the report of private or public limited liability company inter alia analysis of financial and non-financial results and information related to environmental issues and personnel. However, no specific rights of employees' representatives are mentioned and the unions are not involved. The Trade Union Act in Estonia does not include specific provisions on sustainability and the unions are absent from related debates. For Cyprus it is reported that CSR and sustainability reporting have not been on the trade union agenda.

In Greece, trade unionists with some international exposure and activities are perhaps aware if and when exposed – for example, in EWCs – to occasional references to sustainability reporting by their employers. But things are very different with regard to the interest and knowledge of the vast majority of trade union activists and officials. A Bulgarian report with findings of first surveys related to non-financial reporting since 2007 shows that most companies (even those that have accepted the National Code for Corporate Governance) prefer not to disclose most of the relevant information, especially information concerning environmental issues, health and safety at work, business strategy and marketing. As in Greece, reporting in Bulgaria is occasionally to be found in companies with EWCs, with trade unions only being marginally involved. The trade union confederation CITUB has criticised the fact that relations between corporate governance and the existing mechanisms for workers' information, consultation and participation have not been clarified.⁹

Nowadays rigid austerity policies exert a strong influence on the 'climate' for fruitful talks. Trade unions often consider it a luxury to discuss sustainability issues when established social dialogue on traditional core items is under threat. Changing legislation reduces workers' opportunities to get involved in companies' reports, and trade union involvement is minimised by deregulation, which can easily lead to the

9. CITUB contribution at the public hearing 'The Green paper – European Framework for Corporate Governance', organised by the European Economic and Social Committee in September 2011.

destruction of social dialogue, not its enhancement. In Romania this has led to a rupture, not a strengthening of internal and external reporting. The trade unions in Latvia take part in the public debate and discussion of sustainability issues to some extent; but they do not seem to be playing a leading role. Besides rather outdated information provided on websites and sympathy for the ‘greening’ of the economy, the Portuguese trade unions do not really have a prominent role in debates on sustainability and non-financial reporting and other worries prevail. The key concern of the trade unions in Ireland is the preservation of jobs and dealing with the fall-out from the deep economic recession the country is experiencing, as well as the austerity measures introduced by the IMF, ECB and European Commission (the so-called ‘troika’). The trade unions in Malta have been engaged in public debates about sustainable development and energy policy. Non-financial reporting, characterised by voluntarism rather than by legal provisions, has only been touched upon in the field of health and safety. Although the trade unions in Slovenia are involved in debates and initiatives promoting sustainable development of companies it can be concluded that they are currently fairly inactive in this area. In Spain, a political initiative on worker’s participation in corporate social responsibility was launched in 2010 by a group of Ministry for Employment and Immigration experts. However, this was not included in the final legislation. Although non-financial reporting and CSR are not prominent issues in industrial relations debates, the major Spanish union confederations (CCOO and UGT) have included the issue of corporate social responsibility in their agendas.¹⁰

The trade unions in Sweden are as interested as any other group in society in participating in creating sustainable companies, whether in terms of the environment, the economy or social responsibility. Danish companies listed on the stock exchange have to comply with the reporting obligations enforced by the stock exchange. In companies where the employees have elected representatives to the company board, they are involved in producing the report. The trade unions in the Czech Republic support the trend towards sustainability-oriented issues and share the view that companies should strengthen their efforts towards sustainability. The unions have been calling for the establishment of a general and compulsory framework of corporate social responsibility, but their overall involvement is fairly weak. The manual ‘Corporate Social Responsibility’

10. UGT established a CSR Observatory, <http://www.observatorio-rse.org.es/default.aspx>.

that was created in the Czech Republic provides basic information about corporate social responsibility and the role of the social partners and also refers to sustainability and non-financial reporting.¹¹ In order to promote integration and reduce competition, Italian trade unions, in line with the European social partners, have pressed for a negotiated road to CSR through adopting the most inclusive and participatory approach in defining CSR instruments. One example of the trade unions' attempt to maintain CSR instruments within a balanced control framework based on a participatory approach is the increasing inclusion of so-called 'corporate welfare' in collective bargaining at national and company level. These are collective services from which workers benefit not only as employees but also as citizens, such as health insurance, pension plans and healthcare systems. It is striking that in some Italian cases, such as Unicredit, a clear distinction exists between primary stakeholders (employees, clients, shareholders and supervisory authority) and secondary stakeholders (media and opinion leaders, NGOs, trade unions, EWCs and consumer associations), while in other cases, employee representatives and trade unions are not even mentioned in the sustainability report.

British trade unions are involved in the environmental debate and several have developed environmental policies for their industries. The TUC is conducting a survey of union activists to examine their activities concerning environmental and climate changes issues (TUC 2009). In Norway, a distinction can be made between the national level (trade unions involved in several sustainability codes) and the local level (the more 'dirty' the industry, the more environmental concerns are seen as issues for collaboration with the unions).¹² The Belgian unions have claimed their place in the debate on sustainability, starting from the point of view that Corporate Social Responsibility begins where legislation stops (ABVV 2007). Nevertheless, a round table with trade union representatives on this issue in Belgium in the early 2000s concluded that trade union organisations and workers' representatives still had little to contribute to a social audit process. The Belgian trade confederations have taken the initiative in the Flemish part of the country to create, with environmental NGOs, an organisation called Arbeid & Milieu (Labour & Environment). One of the key goals is the conclusion of covenants setting

11. Only in Czech: http://www.cmkos.cz/data/articles/down_2527.pdf.

12. In Norway research is ongoing on sustainable companies. See: <http://www.jus.uio.no/ifp/english/research/projects/sustainable-companies>

stricter targets for major companies and sectors. In the chemicals sector a responsible care project has been initiated with trade unions as partners. It involves a commitment to continuously improve health, safety and environmental performance.

The Polish trade union *Solidarność* was involved in a project initiated by the employers' organisation *Lewiatan* with the participation of Deloitte and funded by the EU on the Promotion of CSR standards in the enterprises. One of the outcomes of this project was the setting up of a website; another outcome is the report 'Mistakes and obstacles in the dialogue with stakeholders in Poland'. The report identifies the main weakness of CSR in the country as the failure to engage in dialogue with workers. Improving cooperation with works councils and trade unions is recommended as a remedy (Gólcz *et al.* 2011). The Norwegian Trade Union Confederation has revised its Strategic Climate Plan, which emphasises the need to incorporate sustainability efforts into traditional forms of cooperation. In collective bargaining in Norway several agreements have been concluded which include references to employee responsibility and sustainable development as well as statements on employers' obligations to engage in consultation and trade union representatives' right to demand it. In practice, a large number of environmental and climate change issues could be covered. Social partners in the Netherlands have – both separately and jointly – produced statements on sustainability and CSR, and in 2012, eight transnational companies of Dutch origin established the Dutch Sustainable Growth Coalition. It is important to mention that the Dutch unions prefer integrated reporting to separate reports.

By means of collective bargaining, trade unions and a few companies have started to go beyond what is laid down in the law and have signed transnational agreements on fundamental labour rights and CSR at the international or European level. French unions in particular are fully engaged in negotiating and signing international company agreements, which are seen as a vehicle for promoting and securing employee and human rights worldwide and for putting pressure on companies for more transparency. International framework agreements have been signed by global union federations, and sometimes also by EWCs and/or national unions, which introduce reporting or monitoring procedures with a role for employee representatives. The latter can be either the global unions themselves, the EWC or a special body. Danone was the first company to sign an agreement in 1988 and in the meantime has signed several others

that include a special reporting procedure monitored bilaterally by the company and the global union federation IUF. EDF has an agreement on social responsibility that contains environmental standards, which was signed in 2005 by four global union federations as well as by national union federations present in the company and its foreign subsidiaries.

In Austria, the trade unions and the Chamber of Labour have been trying for a long time to clarify the provisions on non-financial performance indicators in company law (Unternehmensgesetzbuch). Particularly interesting in this respect is a report commissioned by the Danish LO that explicitly brought together a series of social, human rights, environmental and work environment standards that can be used in reporting (Oxford Research 2003). Although not unified in this respect the French unions are very active. Union leaders from the CFDT took the initiative in 2002 to create Vigeo, the second social rating agency in France (Vigeo 2010). The CFDT has made use of a stakeholder approach to stress the links between the taking of a sustainable long-term approach by companies, corporate governance, CSR and employee participation. Trade unions in Germany have been at the forefront of developing national sustainability codes, demanding the closer involvement of workers' representatives in implementation policies at company level, which can serve as crucial 'messengers' of sustainable practices. Workers' representatives can function as efficient controllers of compliance with companies' commitments. Non-financial information has to be given in a separate sustainability report. The DGB has suggested examining the basic principles of the German national CSR forum, for instance, fair treatment, efficient and respectful use of resources, social and ecological chain production, human rights and global standards, cultural diversity and transparency.¹³ The Swiss unions have organised campaigns through the union-related NGO Solidar Suisse to promote workers' and human rights in public procurement. The Swiss unions also participated in the work of the national standardisation institutions that dealt with sustainable company practices, such as the norm (Social Accountability) SA8000 and ISO Norm 24000, and in related compliance supervision.

13. See: http://www.csr-in-deutschland.de/portal/generator/8276/property=data/2009__04__28__zweites_csr_forum_anlage.pdf

6. Beyond the minimum – some practices

If the 'laissez faire' attitudes and low-key policies adopted by some companies and to a certain extent even signalled among the social partners and governments are left aside, a few interesting practices on how the workforce can influence sustainability practices can be mentioned.

Firstly, reference can be made to company portals/websites with information on CSR reporting or on annual reports about the implementation of a corporate governance policy. In general, listed companies must make public any information that could affect the share price and thus this information becomes available to shareholders and other stakeholders. In some countries there are 'competitions' or comparable incentives in this area. In Slovenia for example the business daily Finance and Business Academy awards prizes (according to various criteria) for the best annual company reports. In 2011, the competition was held for the twelfth time. Prizes were given in several categories, including for the best sustainability reporting in the annual report.

Besides this, specialised bureaus such as Alpha in France have pursued analytical research. In its analysis of the practice of the 40 most important listed companies, Alpha deplors that works councils rarely exercise their legal options (Alpha Group 2012). If there are employee representatives on the management or supervisory board, they too are rarely involved in companies' social and environmental reporting. Furthermore, the quality of reporting is still insufficient: it tends to be merely a communication exercise (Seguin and Fayolle 2010). In Poland, Accreo Taxand and GES Investment Services have prepared an analysis at the request of the government on the state of non-financial reporting of state enterprises and companies owned or co-owned by the state.¹⁴ In Germany, an interesting study was published in 2010 on CSR and codetermination with five case studies: Norsk Hydro, Danone GmbH, Beiersdorf AG, Unilever and Wilkhahn (Beile *et al.* 2010). Another German study in 2010 on personnel reporting, after evaluating the reports of the DAX 30 companies showed a trend towards wider and more extensive reporting practice in human resources; most companies included the information in their sustainability reports (Wilke and Beile 2010). The Dutch Sustainable Growth Coalition was launched in Davos in January 2012 by

14. For details, see: http://odpowiedzialnybiznes.pl/public/files/RaportowanieESG_pp_ssp_2011.pdf

Akzo Nobel, DSM, FrieslandCampina, Heineken, KLM, Philips, Shell and Unilever and supported by the employers' confederation VNO-NCW. The basic philosophy is expressed as follows: 'shape' (development of sustainable strategies that lead to added value), 'share' (exchange of good practices) and 'stimulate' (development of policy recommendations) (EY 2012). However, in the list of stakeholders (international and Dutch communities, governments, consumers, investors and civil society, including NGOs and universities) there is no explicit reference to workers' representatives. In a study by the Austrian Chamber of Labour the annual reports of large Austrian companies were evaluated in terms of employee-related indicators. The study was based on a sample of 108 companies, chosen from the 500 largest in the country (Goldberg 2009).

In previous sections, reference has been made to the modest role of European Works Councils. In some countries, the EWC is the only way to get information. In such cases, EWCs have an important monitoring role in verifying the correct application of CSR policies. In Italy several examples could be found. In the case of Unicredit, for example, EWC members were asked to take part in selecting what themes should be dealt with in the sustainability report. The practice at ENEL seems to represent an exception as the Protocol signed in 2009, along with the CSR Protocol, provides for the setting up of a Joint Committee made up of company representatives and union representatives: a special forum in which the company and the unions can address the industrial, environmental and employment strategies that ENEL intends to pursue.

7. Summary

Transparency in reporting and open communication can be important elements of a company's social policy and are considered a key part of the Sustainable Company. These activities can contribute to a positive image and demonstrate that social responsibility is taken seriously, not just lip service to international standards or abstract codes. Non-financial reporting on sustainability-related issues to the company's own workforce indicates that shareholder value is not the company's sole concern and that a committed workforce is a key objective.

The normative framework for non-financial reporting sketched out here takes a number of different forms. The regulatory framework for industrial relations and the labour market traditions in European countries are

also different in this regard. In a very general way we can distinguish four types of norms related to non-financial reporting:

- (i) Norms derived from legislation, with either a mandatory or a non-binding character.
- (ii) Norms based on corporate governance and/or corporate social responsibility codes and principles, almost always of a voluntary nature.
- (iii) Norms formulated in collective agreements, with compliance control a task for the contracting partners, greatly depending on the discipline and strength of the partnership.
- (iv) Norms settled in individual companies through company agreements, international framework agreements, codes of conduct and the like, with different signatories (workers' representatives, works councils, trade unions, European or global unions) or unilaterally.

The dominant reporting registered is of a non-binding character, although regulation has proven to be an effective mechanism for enforcing change in internal reporting systems and improving public reporting practices (Eccles *et al.* 2010). The 'comply or explain principle' often referred to in the field of corporate governance in relation to minimum auditing standards for companies has not found its way into non-financial reporting. The overall picture that emerges is the prevalence of voluntary norms: with few exceptions the normative framework in European countries is a mixture of non-binding legislation and CSR codes based on voluntary compliance. In summary:

- (i) With some exceptions, sustainability reporting continues to be a management prerogative and the output of a unilateral top-down process. The participation of workers' representatives at the highest level of decision-making (as in Germany) is one of the only guarantees of a more equal footing in reporting issues. But even codetermination as such is not a warranty.
- (ii) In several countries a tradition of dialogue has been established, mainly in the form of national-level (or sometimes, sectoral level) dialogue at round tables, meetings of national Economic and

Social Councils and of other national social dialogue bodies related to CSR policy.

- (iii) Issues of non-financial reporting and sustainability are being approached in connection with corporate social responsibility policies, often with reference to the EU's promotion of CSR.
- (iv) For listed companies, discussions about 'new economic regulations', which contain certain obligations with regard to social and environmental reporting, have become more topical in recent years.
- (v) Hardly any bridge can be found between 'ordinary' workplace-related issues and sustainability goals.
- (vi) The overall picture is not uniform: in some countries, integrity issues are at the forefront of companies' concerns, while in others company image and 'social behaviour' or elements of HRM policy with a direct effect on family life are among non-financial concerns.

It can be concluded that, in the majority of European countries, not enough ground has been gained. There is a substantial group of countries that have made no progress. In other countries there is no evidence that non-financial reporting practices of individual companies go beyond traditional items; in any case, workforce and workplace conditions are not seen as a key part of sustainability concerns and workers' representatives and their organisations are too often absent. Non-financial reporting in which environmental, social and economic indicators are combined with a view to illustrating the work environment and the influence on the surrounding society is still in its infancy.

In the section dedicated to disparities between internal and external reporting the findings were rather patchy. Given the limited amount of specific internal reporting on sustainability issues to workers and their representatives it is difficult to discern a link between internal and external reporting. Second, even in countries with developed CSR and corporate governance practices overall, compliance with reporting is still not marked, at least from a European angle (although significant differences exist). Third, the reporting that does take place is addressed mainly to the market and to shareholders. Although case study evidence shows that workers' representatives expect more and/or earlier

information than what is provided to the shareholders and the general public, it is a common complaint that they receive only information that has already been made public (internally or to shareholders). This ranges from countries with no significant reporting, to countries with reporting that is mainly restricted to financial and economic issues and finally to countries with a substantial part of reporting dedicated to social policy and CSR items. In countries often labelled 'leaders of the CSR pack' efforts to integrate notions of CSR with sustainability can be documented. However, adequate research on the magnitude of compliance and real impact on company behaviour is often lacking.

Trade union involvement reflects the current state of play with regard to the incidence and quality of non-financial reporting. The presented range of reporting practices manifests itself in a similar range with regard to the trade union role: from completely absent to a serious partner in bargaining and in defining performance indicators. The current rigid austerity policies being applied throughout the EU strongly influence the climate for talks and even established social dialogue about traditional core items is under threat. Deregulation is reducing workers' opportunities to be involved in company reporting and trade union involvement is being minimised. Trade unions in many countries often regard discussion of sustainability issues as a luxury these days.

In a second category of countries trade unions take the view that they are in a similar situation to any other stakeholder, with no specific demands beyond aiming at a general and compulsory framework for corporate social responsibility. This framework might be the result of a negotiated process or reporting obligations enforced by a stock exchange.

A third category of countries has a tradition of branch-related involvement, with unions that have tried to clarify the provisions on non-financial performance indicators in dialogue and union activists examining environmental and climate change activities. Among key goals is the conclusion of agreements setting stricter targets for major companies, sectors or projects with the aim of improving work and environmental performance. Results vary from recommendations to improve cooperation with works councils and trade unions to agreements with references to employee responsibility and sustainable development. International framework agreements on fundamental labour rights and CSR can be seen as a transnational version of these activities.

Finally, there are countries in which the unions have been trying to clarify the provisions on non-financial performance indicators in national company law. This can lead to participation in national standardisation or rating institutions or to union campaigns in favour of the development of national sustainability codes.

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