

NEWSLETTER

ESG

**New obligations for companies**

Considering that already in 2024 it is necessary for some companies in Slovakia to implement obligations and reporting in connection with “ESG”, we hereby provide you with brief information on the issue in question.

## What does “ESG” mean

The concept of ESG contains a summary of three essential factors, the activities of companies:

Environment	Social	Governance
The company's approach to the environment	The company's approach to employees, clients and suppliers	Management (administration) of the company
<ul style="list-style-type: none"> <li>reducing the carbon footprint,</li> <li>reducing pollution,</li> <li>rational use of resources and waste treatment and other</li> </ul>	<ul style="list-style-type: none"> <li>equal treatment and equal opportunities for all, regardless of race, gender, disabilities,</li> <li>working conditions, remuneration and training of employees, protection of employee health and safety,</li> <li>respect for human rights and other</li> </ul>	<ul style="list-style-type: none"> <li>control and risk management, so-called good corporate governance</li> <li>corporate culture and business practices, with a focus on anti-corruption, political influence management (lobbying) and payment practices and other</li> </ul>
Objective: company practices aimed at sustainability and climate improvement	Objective: just and responsible attitude of society towards people	Objective: efficient and legally compliant operation of the company

## Who is affected and deadlines for the introduction of the ESG reporting obligation

The introduction of the obligation to implement ESG in their processes and the related reporting within companies is differentiated depending on the nature of individual companies, the number of their employees, their turnover, whether or not the shares of a given company are listed on a regulated market for financial instruments, but in general it is possible to divide the individual dates of application of ESG in relation to the **obligation to report ESG information** for companies as follows:

- from 2025, **public interest entities** with more than 500 employees are obliged to report and publish ESG information (sustainability information) **for the year 2024**,
- from 2026, **large companies that meet at least two of the following three criteria** will be required to report and disclose ESG information for the year 2025: **(i) revenues of more than EUR 40 million, (ii) more than 250 employees and/or (iii) assets of more than EUR 20 million**,
- from 2027, **small and medium-sized enterprises whose shares are admitted to trading on a regulated market** will be required to report and disclose ESG information for the year 2026;
- from 2029, third country entities with a net turnover of more than EUR 150 million will be required to report and disclose ESG information, provided they have at least one subsidiary or branch in the EU, for the year 2028.

**Companies subject to the ESG Phase 1 obligation (point a) above) must therefore start collecting data as early as 2024!**

Thus, it is true that the companies to which ESG obligations will apply will include, in addition to companies - public interest entities, which include, for example, the following within the meaning of the Accounting Act, companies whose securities have been admitted to trading on a regulated market, **banks, branches of banks, insurance companies, branches of insurance companies, reinsurance companies, health insurance companies, asset management companies and their branches, pension management companies, BSSE, CSD, and other generally regulated companies**, will include companies, **which have (i) revenues of more than EUR 40 million, (ii) more than 250 employees and/or (iii) assets of more than EUR 20 million**, if they meet at least 2 of these 3 criteria, **which means that ESG obligations will affect a wide range of companies conducting ordinary business activities in the Slovak Republic, in addition to regulated financial institutions.**

## Main impacts of ESG on the corporate reporting process

As a consequence of the introduction of ESG, new obligations arise for companies, mainly related to the reporting of data by companies, in particular:

- a) **the company's management report (annual report) must contain information on ESG - sustainability report**, including, for example, (i) a description of the company's business model and business strategy in relation to ESG areas, (ii) a description of time-bound targets relating to sustainability aspects, (iii) a description of the role of the company's administrative, management and supervisory bodies in relation to sustainability aspects, (iv) a description of the company's policies in relation to sustainability aspects, (v) social and environmental information; and (vi) information on the main actual or potential adverse impacts associated with the company's activities and the measures taken by the company to prevent, mitigate, remedy or eliminate actual or potential adverse impacts and the outcome of such measures, including a description of the company's governance, management and control processes,
- b) **the report must be prepared in accordance with the standards for reporting sustainability information** set out in delegated acts adopted by the European Commission,
- b) the company's obligation to **inform and discuss with company employees the information and means for obtaining and verifying sustainability information** associated with the company,
- c) **the responsibility of the members of the company's governing bodies** for the preparation and disclosure of the company's relevant documents, in particular the financial statements, the annual report and the corporate governance statement,
- d) the obligation to **audit sustainability information (ESG)**, including assurance on the compliance of sustainability information reporting in the management report with the requirements of the CSRD Directive, in the cases provided for by legislation.

**Financial institutions, companies whose securities are admitted to trading on a regulated market (e.g. the Bratislava Stock Exchange, etc.) and companies that meet at least 2 of the following criteria: revenues of more than EUR 40 million, more than 250 employees and assets of more than EUR 20 million, should start preparing now to comply with ESG obligations, i.e. start the process of collecting the necessary information, modify and update the companies' internal guidelines, including the appropriate modification of the control system, quality management systems and reporting in general, in order to be ready for 2025 and 2026 respectively, when they will have to report the above ESG information in their annual reports and management reports.**

**In the event that companies fail to comply with these obligations, they face appropriate sanctions, such as a financial penalty determined according to the annual turnover and/or size of the company, the seriousness of the breach of ESG obligations, or non-financial consequences such as the sanction of a ban on conducting business, a ban on the use of EU funds, reputational and regulatory risks and, in a borderline case, the theoretical emergence of criminal liability of the company and/or its statutory and management bodies.**

## ESG legislative framework

Directive of the European parliament and of the Council (EU) 2022/2464 from 14 corporate sustainability reporting (hereinafter referred to as "**CSRD**"), which will replace Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014, on the disclosure of non-financial information (hereinafter referred to as "NFRD"). Compared to the NFRD, the CSRD will affect a wide range of companies within the EU and the Slovak Republic, while some of them will be obliged to collect and report information on sustainability as early as 2024.

The legislative framework for the publication of non-financial information consists mainly of:

- a) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (hereinafter referred to as "**Accounting directive**") and
- b) Act No. 431/2002 Coll. on accounting (hereinafter referred to as "**Accounting Act**") – by 6 July 2024 the Slovak Republic must implement the CSRD in the Accounting Act.

For **financial institutions**, Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability disclosures in the financial services sector, as amended by Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 (hereinafter referred to as "**SFDR Regulation**"), also applies.

In particular, the primary purpose and objective of the CSRD is to (i) redirect capital flows into sustainable investments in order to achieve sustainable and inclusive growth, (ii) manage financial risks arising from climate change, resource depletion, environmental degradation and social issues, and (iii) promote transparency and a long-term outlook in the financial and economic activities of enterprises (companies).

## Summary

Following the above-mentioned obligations, it is clear that socially responsible behaviour and sustainability, including the related ESG reporting obligations of companies, are becoming important factors in corporate decision-making and management. The reporting and disclosure of ESG-related information involves a comprehensive set of relevant areas affecting individual companies and the environment, and given the deadlines, there is now a **pressing need to start collecting and preparing an information package** that will be used by the company in its subsequent ESG reporting.

Companies that implement ESG rules into their processes and demonstrate this through ESG reporting will generally be judged by third parties to be less risky, competently managed, focused on environmental sustainability, good corporate governance strategies, including social and related ESG aspects, thereby making them more **attractive to their business partners or potential investors, and better placed to secure financing**, when already ESG factors are taken into account by corporate finance institutions and are ESG aligned in their decision making to provide financing to companies.

**Therefore, companies should already be preparing to meet their ESG obligations, in particular in the area of collecting ESG-related data and information and their subsequent incorporation into company reporting in accordance with the CSRD Directive and related EU and Slovak legislation in this area. If companies neglect this area and fail to prepare for their ESG obligations in a timely manner, they will expose themselves to the risk of both financial and non-financial penalties and, not least, significant reputational risk in relation to their business partners, customers and clients.**

**Thanks to our experience in the area in question, our law firm is ready to assist its clients in setting up processes so that they comply with the ESG obligations mentioned above and avoid the risks associated with possible non-compliance with these obligations.**

Please do not hesitate to contact us for more information.

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