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## **FROM CONSENSUS TO CONTENTION:** THE POLITICAL REVERSAL OF THE CSRD AND ITS IMPLICATIONS FOR EUROPEAN SUSTAINABILITY GOVERNANCE

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## A Critical Analysis of Regulatory Evolution, Stakeholder Alignment, and the Rise of Passive Resistance within the EU Framework

### Executive Summary<sup>1</sup>

This paper examines the evolution, implementation, and political challenges of the European Union's Corporate Sustainability Reporting Directive (CSRD) within the broader context of the European Green Deal and the Sustainable Finance agenda. Initially conceived as a cornerstone of Europe's global leadership on ESG regulation, the CSRD emerged from a rare alignment among institutional, political, and stakeholder interests – including businesses, investors, trade unions, and NGOs – all demanding reliable, comparable, and enforceable sustainability data.

Driven by the European Commission's post-Paris Agreement commitment to integrate environmental, social, and governance dimensions into its legislative architecture, the CSRD was widely supported across EU institutions and Member States.

It introduced key innovations such as the principle of double materiality, sector-agnostic European Sustainability Reporting Standards (ESRS), and an effort to align corporate governance with climate and human rights responsibilities.

However, the political environment has shifted dramatically since the CSRD's adoption. The rise of anti-regulatory sentiment, ideological backlash, and electoral changes in 2024 have resulted in a partial rollback of the EU sustainability framework. Through the "Omnibus I & II" legislative packages and the adoption of the "Stop the Clock" Directive, implementation timelines have been delayed, and key provisions reopened for negotiation. The CSRD, once a symbol of EU sovereignty in global standard-setting, now risks becoming collateral damage in a broader deregulatory trend.

Despite this institutional uncertainty, the paper shows that many companies and investors across the EU are moving ahead with implementation of the CSRD and ESRS, recognizing their strategic value.

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Surveys confirm that a majority of firms view the new standards as useful tools for risk management, transparency, and competitive positioning. In parallel, the Due Diligence Directive (CSDDD), which complements the CSRD by introducing obligations to act rather than merely disclose, has faced more virulent opposition, exposing deeper tensions in the EU's political economy of sustainability.

The paper concludes that while the legislative push may be weakening, stakeholder-driven momentum persists. This transitional moment calls for regulatory clarity, legal stability, and a renewed effort to anchor sustainability in Europe's long-term economic and democratic model.



*"There's a simple solution to every complex problem, and it's wrong".*

*Umberto Eco*

## Introduction: The origins of legislation

Understanding the European Green Deal, or at least trying to understand it, means coming to grips with the complexity of a world in total evolution and transformation. Anyone who tries to explain today that we will respond to the physical, economic and social realities of the 21<sup>st</sup> century with the tools of the 20th century is on the wrong track.

Admittedly, mankind has already had to face up to upheavals how it trades, consumes, produces and travels, but the current situation is unique in that, for the first time in human history, it poses a risk to its environment and ecosystem, and *ultimately* to its own civilisational survival.

For thousands of years, human evolution and progress have been based primarily on access to exploitation and sharing of natural resources - land and subsoil, flora and fauna, minerals, water and fisheries. But all these riches, and their fair sharing, are in great danger because of our capacity to behave as predators of nature and destroyers of resources.

The major contribution of the Meadows Report, the work of the Club of Rome in 1972, the Rio Summit in 1992, and the Paris Agreements in 2015, was not simply to state that the environment and climate were becoming major issues, but to link them indissolubly to issues of human, social and economic development, reminding us that there can be no sustainable future without all ESG parameters being taken into account.

It was no longer a question of dealing with issues of air or water pollution in isolation, but of understanding that our economic model of unlimited development and the creation of material wealth rested on a singularly fragile foundation, that of the finiteness of resources and the fragility of living beings.

Without being a Cassandra, nor predicting the immediate disappearance of mankind or the Planet, we had to understand and admit that we could not - this 'we' being taken as a multiple and collective entity - continue as before, as if nothing new had appeared in our environment, meaning what surrounds us.

It is of course possible to imagine a future without strong regulation of environmental, human and social issues, but will it then be possible to maintain our democracies and the rule of law as they exist, or will we be entering a period of regression of individual rights, conflict, power struggles and violence?

The complexity lies in this conjunction of apparently contradictory phenomena: preserving the planet and our environment, while at the same time preserving in our societies the fundamental elements of a social and economic model that has led to a substantial material



improvement in our living conditions.

The main question raised by the sustainability of our model is what kind of social project it fits into.

How can we maintain high social standards (compared with the rest of the planet), an open, competitive market economy and make the European internal market the world's leading market, while integrating climate and environmental issues to limit the pressure on ecosystems and avoid their degradation or even disappearance?

The pre-eminence of the "economic" issue and the desire to complete the construction of the internal market, together with the subsidiarity constraints of the EU Treaty, have for years confined social, environmental and health issues to sectoral, partial, non-cross-cutting legislation.

The negotiation by the European Union itself, followed by the ratification of the Paris Agreement in 2015, have revolutionised the macro-economic approach adopted by the European Commission, which demonstrated its political will to rely on the 3 pillars - social, environmental and economic - without opposing or dissociating them.

This political approach, which will also be underpinned by a new discourse on European sovereignty and the Union's political power, will take concrete form after Ursula von der Leyen's election as head of the European Commission in October 2019 with the European Green Deal, a cross-cutting project designed to make the European Union the first economic power to commit to achieving the objectives of carbon neutrality by 2050 and the active preservation of biodiversity.

If we refer to medium- and long-term objectives of general interest, if we value their construction as the result of collective democratic deliberations at state or supra-state level and based on international agreements, the usefulness and even the necessity of European texts relating to climate, biodiversity and human rights make sense.

These standards, desired by the stakeholders, constitute the framework for regulating social relations, and are the concrete expression of political trade-offs between the protection of private or category interests and the general interest.

For the players and advocates of a new economy based on sustainability objectives, regulating the new markets seemed even more imperative given that globalisation was accompanied by considerable social tragedies, such as the collapse of the Rana Plaza in Dhaka, Bangladesh, in 2013, with its thousand dead.

Amid the rubble and labels of European clothing brands, the West was discovering, or pretending to discover, that the outsourcing of production sites was not only leading to factory closures and increased unemployment in Europe, but also that in other parts of the world, children and women were being over-exploited and sometimes dying so that we could fill our wardrobes with cheap T-shirts.

This systemic transformation and the accelerated globalisation of trade generated profits and



wealth for some, but also injustice, uncertainty and doubts about a common planetary future. This obvious fact has not left many companies and investors indifferent, and without even waiting for binding standardisation, they have spontaneously decided to take an active part in the changes to their production and distribution methods. They have been followed by others, worried about the risk of lasting damage to their reputation and the loss of consumer confidence.

This globalisation of risks is in fact a tremendous opportunity to rethink our models on a planetary scale, to get out of our intellectual comfort zones and imagine other paths that are just as profitable economically, while being more economical in terms of resources and carbon emissions, more respectful of the living world and more socially virtuous.

It is precisely these objectives that the texts of the Green Deal proposed by the European Commission in December 2019, adopted by the Parliament by an overwhelming majority (482 votes to 136) and then developed through a number of texts, agricultural, climate, the taxonomy on green investments, then sustainability reporting in 2022 and the duty of care adopted in 2024, are intended to serve

## 1. Aligned stakeholders

When the President of the EU Commission Ursula von der Leyen presented her programme for the period 2019- 2024, she was following on the negotiation of the Paris Agreement, with the stated objective of making the European Union the global driving force in the fight against climate change. To this were quickly added the objectives of combating unbridled globalisation, which is socially harmful and destroys biodiversity and ecosystems, destroying lives such as primary forests of irreplaceable ecological value.

The need for regulation within the EU seemed all the more essential given that many of the countries of the so-called 'Global South' have neither legislation nor a judiciary that is sufficiently independent and legitimate to ensure that the major supra-national groups comply with a minimum of international standards.

These various observations, shared by a broad spectrum of people, have led to a convergence of views initially quite far apart:

- NGOs, trade unions and consumer organisations who wanted reliable information about the products they were buying and the environmental and social impacts of companies' activities around the world - their negative externalities.
- The companies that wanted to establish the European internal market on the basis of healthy and fair competition and to put an end to the coexistence of solid, complete and verified non-financial declarations with purely communicative or even misleading information; in short, to get away from the *greenwashing* that is detrimental to virtuous European companies.
- Boards of directors, finance and CSR departments wanted to have reliable and



comparable information within the same sector, and to get out of the thicket of disparate information and vague criteria.

- Shareholders, investors and financial institutions, who wanted to obtain information on sustainability that was as reliable, accurate and controlled as that on finance, in order to limit their risks.

This convergence of seemingly contradictory interests, and the shared recognition of the inadequacy of existing legislation, made political consensus within the three European institutions much easier to achieve.

Representatives of major employers' organisations, trade unions and NGOs spontaneously expressed their agreement on greater transparency and a more structured framework for European sustainability norms and standards.

The hearings held by the Parliament's JURI Committee and the studies commissioned by the Commission and carried out prior to the presentation of the CSRD, including that of E&Y, all converged in highlighting the shortcomings of the former NFRD Directive and the need to extend, regulate and monitor sustainability data in a more formal and precise manner.

The expectations of reliable information by investors, who are themselves subject to reporting obligations, were also very much in the minds of the Vice-President of the Commission responsible for the CSRD, Mairead Mac Guinness.

This desire to enable the European Union to define its own norms and standards was all the more consensual given that, politically, due to new geopolitical crises and uncertainties, the time had come to seek greater European independence and sovereignty.

Furthermore, it was generally accepted that the European political vision of climate, environmental and social issues should no longer be limited to a simple assessment of economic performance after analysing the risks and opportunities for the company, - traditionally summarised in a financial impact analysis - but should also take into account all the impacts that the company's activities have on society and the environment.

This European principle of double materiality will be the cornerstone of the text presented by the European Commission and will not be challenged by any political group in the European Parliament or by any Member State within the Council.

## 2. Regulatory competition

This distinctive feature of European legislation clearly set it apart from the other vision of climate risks and challenges developed within the ISSB, a private-law body emanating from the IFRS Foundation, which sought to take global leadership on sustainability standards with



a much more restrictive mandate and vision, limiting its standards to climate issues alone.

The race to be the first regulator and to define international standards was clearly underway, with strong competition between different visions of the objectives to be achieved.

An initial debate arose between those in favour of specific European legislation and those, largely in the minority within the institutions, who wanted the EU, either for fear of seeing standards multiply or out of a desire to limit efforts, to align itself with international standards, particularly those of the ISSB, which were not yet defined.

In this initial phase, only the issues of interoperability of standards and administrative burden were addressed.

However, the lack of a historical European regulatory framework for sustainability served as a pretext for some to justify their desire to delegate the task of defining the norms and standards to be applied within the EU to other bodies, mainly outside Europe and in the private sector.

Behind the desire not to impose multiple standards on global companies was also the lobbying of advocates of global alignment. Despite the convenience of a single global standard, this constitutes a form of renunciation of the adoption of sovereign European rules.

When it comes to accounting standards, the phenomenon of submission to a global "lowest common denominator" had already occurred. Some were therefore tempted to extend it to non-financial issues, all the more easily since, within many companies, it was ultimately the finance department that decides on CSR risk trade-offs.

Finally, and this argument would later be used to support attacks on "Brussels bureaucracy", European economic legislation was the product of a long tradition of "soft law" and self-regulation, and establishing mandatory standards and norms, certified and monitored and, where necessary, enforced by independent or judicial authorities, was diametrically opposed to this practice.

However, Joe Biden's election in the US in 2020 considerably limited the scope of the European Green Deal's detractors, as the US administration also aligned itself with a strong climate and environmental dynamic, notably with the adoption of the Inflation Reduction Act in 2022.

Large sovereign and private funds followed suit, and central banks supported the move (e.g. creation of the Network for the Greening of the Financial System, statements by the ECB, the Bank of England and others). As a result, criticism of stronger legislation or the introduction of sustainability reporting was marginalised.

The European Union was therefore able to legislate, set its own standards and even introduce a principle of extraterritoriality designed to protect the internal market from distortion of free competition by foreign companies based in the EU that did not comply with the same obligations.



### 3. Open and constructive legislative debates on the CSRD

The first texts of the Green Deal were adopted in 2020, with texts on the circular economy and agriculture, followed in 2021 by the European Green Deal and its climate targets for 2030 and 2050, with a very large majority in Parliament, with all groups supporting the Commission, and around three-fifths of Parliament - and more than 80% in the Council.

Regarding the CSRD, which the French Presidency of the European Union, due to take office for six months in January 2022, had made one of its priorities, there is unanimous support among all political groups - even those not belonging to the so-called von der Leyen majority - from the outset in the European Parliament on certain points:

- The scope of the legislation, which must exclude unlisted SMEs but be much broader than that of the NFRD adopted in 2014, with the aim of eventually covering around 50,000 companies within the EU, compared with fewer than 10,000 in the previous directive;
- The binding nature of the legislation;
- Double materiality;
- The autonomy of the sustainability report, which will have to be analysed and certified separately, even if only one overall report is submitted for shareholder approval;
- "Limited assurance", which will have to evolve towards "reasonable assurance";
- The role of the EU's own standardisation agency, EFRAG, which is setting up a "sustainability" structure under the supervision of the Commission, is to define European standards and norms, known as ESRS;
- A very gradual implementation of the CSRD over several years, with a review clause in the Directive and a report to be presented by the Commission and the Council by April 2029 to analyse initial feedback and make any necessary legislative adjustments.

The differences between political groups in the European Parliament will ultimately be limited, even if they concern important issues such as opening up the sustainability audit market to independent third-party bodies that are not part of the accounting profession, or whether the same audit firm can carry out both financial and non-financial audits.

The temporary conclusion of this debate was to open up the market while allowing Member States the freedom to maintain the status quo of a de facto monopoly for large audit firms by not opening up the sustainability audit market to independent bodies.

The European Commission's initial choice to propose a directive rather than a regulation unfortunately paved the way for different implementation approaches among Member States.

The discussion also focused on the implementation of extraterritoriality, which the Commission was initially opposed to for reasons of control, as it claimed, but which it



eventually accepted under intense pressure from the European Parliament, which did not want European companies to be subject to standards that large non-European groups would not have to comply with in the same market.

The issue of voluntary standards for SMEs with fewer than 250 employees and an annual turnover of less than €40 million was also the subject of lengthy debate.

The issue was complex and not limited to whether SMEs should be exempted from any additional administrative burdens, but also whether access to finance, public procurement and contracts with large groups subject to the CSRD would be restricted or even closed to companies that did not provide reliable and standardised sustainability information.

Without a common regulatory framework, SMEs also risked being subject to constraints unilaterally defined by their clients and returning to a non-transparent market subject to the arbitrariness of the most economically powerful parties.

These open and interesting debates were finally concluded with the decision to ask EFRAG to define simplified voluntary standards for SMEs and to analyse their relevance when the Directive is reviewed, in order to observe how the market reacts to this possibility of voluntary but regulated reporting.

EFRAG, working to an extremely tight deadline, did a remarkable job of providing the EU with so-called agnostic standards - the ESRS - without allowing the Union's detractors to criticise the seriousness or comprehensiveness of the work accomplished.

However, a silent movement of opposition to increased environmental obligations soon developed and became increasingly vocal as it was taken up by certain Member States and political groups.

#### **4. Towards passive resistance to the CSRD, rallying around the CSDDD:**

While the democratic process leading to the adoption of the CSRD took place in an open and constructive atmosphere within the three institutions (Commission, Parliament, Council of Ministers), the same cannot be said for the adoption of the Due Diligence Directive, where certain lobbies, with the complicity of many right-wing political groups, attempted to sabotage the scope and implementation of this directive from the outset, despite its essential role in changing certain harmful and ethically shocking practices.

The CSRD consists of an obligation to analyse, disclose and transmit data on the risks, opportunities and practices of the company, but while this information is essential, it is generally only a legal obligation to "say" and leaves a great deal of freedom of choice to management.



On the other hand, the CSDDD is technically different in its approach and de facto more relevant for taking concrete action against human, social or environmental rights violations across the globe.

I mentioned earlier the tragedy in Dhaka, Bangladesh, but we could also mention issues such as forced labour in Myanmar and the treatment of Uighurs in China, child exploitation, the expropriation of local populations with insufficient compensation in Africa, major environmental damage, particularly in Latin America, and so on.

The CSDDD is based on formal obligations of vigilance and diligence to avoid infringing the various rights of third parties mentioned above, by putting an end to the damage or, where this is impossible, by compensating for it.

We are moving from an obligation to "say" to an obligation to "do", while specifying that this obligation to do remains very limited and is restricted to an obligation of means and not of results.

However, this text, which opened access to Western justice for local populations and victims of prohibited or predatory practices, was a cause for concern for many interest groups, who did everything in their power to undermine its scope.

The difficulty for these opponents is that they cannot publicly state, without seriously damaging their reputation and image, that they consider the use of forced labour, child exploitation or the destruction of primary forests to be acceptable.

So, with the support of certain Member States that are ideologically opposed to the concept of environmental justice and the defence of human rights or highly sensitive to pressure from their most reactionary economic forces, and with the active complicity of part of the European Parliament, attacks will be launched against the CSDDD.

In addition to the usual arguments about damage to competitiveness and administrative overload, a whole range of issues will be raised, including implementation thresholds, corporate responsibility and the role of boards of directors throughout the value chain and subcontracting, effective control by state authorities, the nature and level of sanctions, and finally access to justice for stakeholders and their representativeness.

However, the fundamental question raised by the duty of vigilance is exactly the same as that raised two centuries ago by slavery or a century ago by child labour.

Is it more competitive to have slaves or machines working in a cotton field or children or adults working in a coal mine?

Is this how our predecessors defined human progress and the underlying social project they were promoting?

Do we want to go down in history as those who said that we did not care about the collapse of a factory in Bangladesh or the death of children in mines in African countries, as long as our 'competitiveness' was preserved?



But this discussion, far from being theoretical because it illustrates an economic and social reality, has not been raised or even addressed since the text was presented by the Commission in February 2022 and fiercely defended by the French Presidency of the European Union.

I mentioned the CSDDD above because, between its presentation by the Commission in 2022 and its difficult adoption in 2024, with strong opposition within the Council, and the political changes linked to the European elections in May-June 2024, a generalised discourse of assimilation between two texts - the CSRD and the CSDDD - which are nevertheless of a different legal nature - will saturate the political discourse.

Unfortunately, election periods are rarely marked by nuance, and a conflation of all sustainability legislation will therefore take place, justifying a change of course for the new Von der Leyen II Commission from the start of 2024.

The CSRD, which I still believe to be collateral damage, is seeing its implementation hampered by Member States, with only 10 of them set to transpose the directive by the original deadline of July 2024, the 17 holdouts include Germany, the Netherlands, Spain and Poland.

Between 2023 and 2025, the discourse shifted from a consensus text that was widely praised for its progress, the dominant discourse has shifted towards harsh criticism of the alleged administrative burden, the uselessness of the new norms and standards, or at the very least the excessive complexity and granularity of the ESRS.

A new confusion will also arise between the text of the CSRD, which provides a framework, and the norms and standards - ESRS - which are its operational and technical implementation.

## 5. What now?

The latest European Parliament elections and various national elections have increased the number of representatives in the Parliament, the Council and the Commission who are ideologically opposed to legislation on environmental, social and human issues, even though the majority supporting the Commission has, in theory, remained the same.

The same is true in the United States with Trump's victory in 2024 and in many other countries around the world.

Even if these different election periods have been conducive to demagogic and simplistic attacks and promises, this is the law of democracy and must be respected. It is therefore up to the defenders of the CSRD, the CSDDD and the Green Deal, even if they regret it, to accept the political constraints within which they will now have to operate.

However, as no one can predict the future, this period may be very short-lived or, on the contrary, may last for a long time. It is therefore essential to preserve what can be preserved



and to rebuild the conditions for a more peaceful and scientifically sound debate.

In the meantime, in practical terms, due to the "Omnibus I and II" legislation proposed by the von der Leyen II Commission under pressure from the new political configuration, the texts have been considerably weakened:

- In their implementation, with the adoption in April 2025 of the "Stop the Clock" Directive, which delays the application of the CSRD by two years for companies that were not subject to it as of 2025 (more or less those already under the NFRD).
- In their scope, with the opening of renegotiations on the thresholds for application, on the scope of audits, whether moderate or reasonable, and for the CSDDD more specifically on the scope of corporate responsibility along the value chain.

A period of uncertainty and legal instability is beginning for the market and stakeholders, as it is likely that no text will be finalised before the end of 2025 at the earliest.

Does this mean that the debate is over and that we should despair of those who are now publicly condemning what they praised yesterday?

I don't think so, and despite the disappointment - which is legitimate - at the moment, there are reasons to be hopeful.

First, and most importantly, by looking at what investors, companies and stakeholders are doing, regardless of the unsettling reversals by legislators.

It is therefore very interesting to note that in countries such as Germany and the Netherlands, which had not transposed the CSRD and where governments had expressed a rather hostile stance, dozens of CSRD reports were filed as early as the beginning of 2025.

In other words, despite political uncertainty and pressure, many European companies are continuing to develop their sustainability reporting based on the ESRS defined by EFRAG and have no intention of backtracking, as demonstrated by a number of recent studies, such as the one by WeAreEurope.

This study, conducted in May 2025 with nearly 1,000 European companies in 26 member countries, indicates that more than 60% of respondents are satisfied with the CSRD as it currently stands, and other key indicators illustrate the usefulness of ESRSs in improving the management of their activities, their CSR strategy or comparability.

Finance and CSR departments that have established effective and committed structures are increasingly working in harmony and have established solid frameworks for analysing CSR risks and opportunities.

They are also developing transition plans that do not limit sustainability reporting to mere compliance exercises. They have recognised the strategic importance of this issue for their companies and for society as a whole.



This major point, which is factually indisputable, shows that, far from any ideology, companies are making dynamic progress on all these issues - which are not new to them - and that sustainability dashboards provide crucial information for the activities of the companies that use them, including for their competitiveness.

Secondly, this "stop the clock" imposed by the Omnibus Act will allow the sceptical members of the political class, if they conduct their hearings and workshops correctly and objectively, to see that stakeholders, companies, investors and NGOs have already largely embraced the ESRS norms and standards and that it would be counterproductive to destroy this useful transparency tool for corporate governance.

This pause will also make it possible to simplify what needs to be simplified and to constructively examine the so-called "simplified voluntary standards for SMEs" to see to what extent they can also be used for medium-sized companies.

In short, we should not compromise on the ambition of the text, while improving and simplifying its operational applicability.

However, these aspects or opportunities must be tempered by two observations.

On the one hand, it is regrettable that the decision to present revision legislation has come so quickly (less than a year after its entry into force and without sufficient distance) and undermines one of the most cherished principles of the business world and lawyers: legal certainty.

Companies, like investors, need to be able to plan their strategy and know in advance the context in which they are operating. Legislative changes and the regulatory framework should be a source of stability, not constant disruption.

Furthermore, in order to combat it and prevent it from gaining legitimacy, it is important to highlight the mediocrity of the arguments used to reject any legislative developments in the area of sustainability.

Partly within the EU, but ostentatiously in the US, scientific findings are dismissed out of hand, planetary boundaries and the destruction of life are at best neglected, at worst denied, and economic threats are even made against companies that wish to continue pursuing a strong sustainability policy.

Far from demobilising us, this observation prevents us from taking the easy way out and engaging in intellectual laziness. We must combat this simplistic ideological vision that would make a brutal regulatory regression and the erosion of the rule of law in favour of economic power relations the solution to the new issues and challenges of the 21st century.

In a complex and constantly changing world, we must continue to promote rigorous science, exchanges between stakeholders, experimentation, technical and intellectual debate, and strengthen educational and academic work so that new solutions can emerge and be shared.

This legislative development on sustainability remains essential to the resilience of economic



activity on our continent, which is poor in raw materials and natural resources but rich in its balance between seemingly, but only seemingly, contradictory imperatives.

It is in this dynamic of seeking a balance between efficiency, justice and a spirit of tolerance that we will find the keys to a sustainable future for the European Union itself. As with nature, we must be aware of its fragility and preserve it.

