



Council of the
European Union

Brussels, 9 February 2024
(OR. en)

6172/24

LIMITE

DRS 14
EF 35
ECOFIN 126
SUSTDEV 22
COMPET 125
CODEC 297

Interinstitutional File:
2023/0368(COD)

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	14574/23
Subject:	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2013/34/EU as regards the time limits for the adoption of sustainability reporting standards for certain sectors and for certain third-country undertakings - Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 17 October 2023, the Commission submitted to the Council and the European Parliament a proposal for a Decision of the European Parliament and of the Council amending Directive 2013/34/EU as regards the time limits for the adoption of sustainability reporting standards for certain sectors and for certain third-country undertakings¹.
2. The proposal aims to postpone the deadline for the adoption of sustainability reporting standards for certain sectors and for non-EU companies by two years (from 2024 to 2026). This proposal was put forward as part of the overall package published by the Commission on 17 October 2023 to reduce the administrative burden for companies by 25%.

¹ doc. ST 14574/23

3. The draft Decision is based on Article 50 of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).
4. At its meeting of 17 January 2024, the Permanent Representatives Committee adopted a negotiating mandate on the proposal (I-item).²
5. The European Parliament's Committee on Legal Affairs (JURI) appointed Mr. Axel Voss (EPP, DE) as rapporteur on the proposal. The report was voted in the JURI Committee on 24 January 2024 and announced at the Plenary session on 5 February 2024.
6. The European Economic and Social Committee delivered its opinion on 13 December 2023³.
7. One political trilogue was held on 7 February 2023. During this trilogue, the co-legislators reached a provisional political agreement on an overall compromise text.
8. The compromise text is set out in the Annex to this Note. The changes are marked in bold underlined for additions and strikethrough for deletions.
9. The main elements of this compromise text are set out in Section II below. The Presidency considers that the overall compromise reached with the European Parliament is balanced and in line with the granted mandate.

II. MAIN ELEMENTS OF THE COMPROMISE

10. It was agreed to change the legal form of the proposal from a Decision to a Directive. This change was introduced since this proposal is based on Article 50 TFUE, which only allows for Directives and not for Decisions. Legal adjustments have therefore been made across the text.

² doc. ST 5284/24

³ doc. ST 5119/24

11. The proposal postpones the deadline for the adoption of sustainability reporting standards for certain sectors and for certain third-country undertakings by two years from 30 June 2024 to 30 June 2026. To find an agreement with the European Parliament, it was agreed to add an amendment suggesting to the Commission to publish eight sector-specific reporting standards as soon as they are ready, without waiting for the new deadline on 30 June 2026.

III CONCLUSION

12. In the light of the above, the Permanent Representatives Committee is invited:
- to give its approval to the compromise text set out in the Annex to this Note; and
 - to mandate the Presidency to send a letter to inform the Chair of the Committee on Legal Affairs (JURI) that, should the Parliament adopt its position at first reading in accordance with Article 294(3) TFEU and in the exact form set out in the Annex to this Note, subject to legal-linguistic revision, the Council would, in accordance with Article 294(4) TFEU, approve the European Parliament's position and the act would be adopted in the wording which corresponds to the European Parliament's position.

2023/0368 (COD)

Proposal for a

~~DECISION~~ DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2013/34/EU as regards the time limits for the adoption of sustainability reporting standards for certain sectors and for certain third-country undertakings

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 50(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Sustainability reporting requirements play a key role in ensuring market transparency and in ensuring that undertakings are accountable for their impacts on people and the environment. However, it is important to streamline those requirements, in order to ensure that they fulfil the purpose for which they were intended and to limit the administrative burden.

⁴ OJ C [...], [...], p. [...].

- (2) Article 29b(1), third subparagraph, of Directive 2013/34/EU of the European Parliament and of the Council⁵ requires the Commission to provide for sustainability reporting standards by means of delegated acts by 30 June 2024 specifying the information that undertakings are to report with regard to sustainability matters and the reporting areas specific to the sector in which an undertaking operates, in addition to the information that undertakings are already **required** to provide under Commission Delegated Regulation (EU) XX/XXX⁶.
- (3) To reduce the reporting burden on undertakings, as set out in the Commission Communication on ‘Long-term competitiveness of the EU: looking beyond 2030’⁷, undertakings should be allowed to focus first on the implementation of sustainability reporting requirements laid down in Delegated Regulation (EU) XX/XXX. For that reason, the time limit for the adoption of the delegated acts containing the complementary sustainability reporting requirements referred to in Article 29b(1), third subparagraph, of Directive 2013/34/EU should be postponed by 2 years. **However, this does not prevent the Commission from publishing the sector specific sustainability reporting standards before that date and the Commission should endeavour to adopt eight of the sector-specific sustainability reporting standards as soon as each is ready.**

⁵ 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 (OJ L 182, 29.6.2013, p. 19).

⁶ [Publications office, please insert the full reference to this Delegated Act, once published: COMMISSION DELEGATED REGULATION (EU) .../... of 31.7.2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards (C(2023) 5303 final)].

⁷ COM(2023)168.

(3a) Undertakings in the same sector are often exposed to similar sustainability-related risks, and they often have similar impacts on society and the environment. Comparisons between undertakings in the same sector are especially valuable to investors and other users of sustainability information. Sustainability reporting standards should therefore specify both information that undertakings in all sectors should disclose and information that undertakings should disclose depending on their sector of activity. Sector-specific sustainability reporting standards are especially important in the case of sectors associated with high sustainability risks for or impacts on the environment, human rights and governance, including sectors listed in Sections A, B (including oil, gas, mining and coal) to H, K and L of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council, and the relevant activities within those sectors. When adopting sector-specific sustainability reporting standards, the Commission should ensure the information specified by those sustainability reporting standards is proportionate to the scale of the risks and impacts related to sustainability matters specific to each sector, taking account of the fact that the risks and impacts of some sectors are higher than for others. The Commission should also take account of the fact that not all activities within such sectors are necessarily associated with high sustainability risks or impacts. For undertakings that operate in sectors particularly reliant on natural resources, sector-specific sustainability reporting standards would require the disclosure of nature-related impacts on and risks for biodiversity and ecosystems.

(4) Article 40b of Directive 2013/34/EU also requires the Commission to adopt, by 30 June 2024, a delegated act to provide for sustainability reporting standards to be used for the disclosure of sustainability information concerning third-country undertakings with a net turnover above EUR 150 million and with either subsidiaries in the Union that are large undertakings or small and medium-sized undertakings with securities admitted to trading in the Union regulated markets, or with branches in the Union with a net turnover above EUR 40 million.

- (5) The reporting requirements for certain third-country undertakings only apply as of financial year 2028. Since the time limit for the adoption of the delegated acts containing the complementary sustainability reporting obligations referred to in Article 29b(1), third subparagraph, of Directive 2013/34/EU will be postponed by 2 years, the time limit for the adoption of the sustainability reporting standards for certain third-country undertakings standards should also be postponed by 2 years.

(5a) In order to foster democratic control, scrutiny and transparency, the Commission should, at least once a year, consult the European Parliament, and jointly the Member State Expert Group on Sustainable Finance and Accounting Regulatory Committee on EFRAG's work programme as regards the development of sustainability reporting standards. EFRAG's work programme as regards the development of sustainability reporting standards should include information on its planning, prioritisation and timelines for future draft standards and other deliverables.

- (6) Directive 2013/34/EU should therefore be amended accordingly. **Since the targeted amendments concern a specific element of an empowerment to adopt delegated acts granted to the Commission, there is no need for the Member States to transpose the amendments in case their national legislations only make reference to such empowerment,**

HAVE ADOPTED THIS ~~DECISION~~ **DIRECTIVE**:

Article 1

Amendments to Directive 2013/34/EU

Directive 2013/34/EU is amended as follows:

- (1) ~~In~~ Article 29b(1), third subparagraph, **the** introductory wording, ‘30 June 2024’ is replaced by ‘30 June 2026’;

(1a) in Article 29b(1), a new subparagraph is inserted before the fourth subparagraph:

‘The Commission shall endeavour to adopt eight of the sustainability reporting standards referred to in point (ii) as soon as each is ready.’

- (2) in Article 40b, ‘30 June 2024’ is replaced by ‘30 June 2026’.

Article 2

Entry into force

This ~~Decision~~ **Directive** shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President