



Council of the European Union  
General Secretariat

Brussels, 28 November 2023

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**Interinstitutional files:  
2023/0368 (COD)**

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**WK 15870/2023 INIT**

**LIMITE**

**DRS**

**EF**

**ECOFIN**

**SUSTDEV**

**COMPET**

**CODEC**

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## MEETING DOCUMENT

|               |                                                                                                                                                                                                                                                                                                              |
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| From:         | General Secretariat of the Council                                                                                                                                                                                                                                                                           |
| To:           | Working Party on Company Law                                                                                                                                                                                                                                                                                 |
| N° Cion doc.: | ST 14574 2023 INIT                                                                                                                                                                                                                                                                                           |
| 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 (2023/0368 (COD)) - Written comments from Member States |

Delegations will find attached, for their information, the consolidated table containing the comments sent by Member States with regard to the 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 (2023/0368 (COD)).

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WK 15870/2023 INIT

**LIMITE**

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## FRANCE

### **Comments from the French authorities on the proposed decision to extend the deadline for adopting ESRS for certain sectors and certain third-country companies**

The French authorities reaffirm their full support for the development and implementation of the CSRD and ESRS standards. The implementation of the CSRD on January 1, 2024 is an important step in the setting up of an ambitious sustainability reporting framework for companies. This will enable the publication of robust and comparable information on sustainability impacts, risks and opportunities. This will be a valuable decision-making tool for companies, investors, financial actors and public authorities. The publication of this information will enable precise assessment of companies' contribution to meeting our climate commitments to limit global warming to 1.5 degrees.

The scope of the CSRD and the level of disclosure required make it a substantial workload for companies to implement. As part of its proposals to strengthen the competitiveness of the European Union, the Commission has taken initiatives to limit companies' disclosure obligations. The French authorities support this general objective, and are concerned that the application of the CSRD directive represents a workload that companies can afford. This is a condition both for the competitiveness of the European economy and for the success of the first sustainability reporting exercises.

To this end, the Commission has submitted a proposal for a decision of the Council and the European Parliament to postpone by two years the deadline for adoption by the Commission of sector-specific standards and those applicable to certain third-country companies. The deadline for adoption would be June 30, 2026.

The French authorities support the postponement of this deadline to give EFRAG time to define these new standards, and for the consultation process to take place under the best possible conditions. It is necessary for EFRAG to concentrate its efforts - as is the case at present - on developing application guides and answering the questions raised by the implementation of the first sustainability reporting exercise. In accordance with its working capacity, EFRAG should be in a position to propose sector-specific standards and standards for certain third-country companies when it considers them to be complete. Sector-specific standards could help companies to meet their obligations to publish a sustainability report. In particular, they will make it possible to specify the most material issues for each sector, thus facilitating the materiality analysis exercise. The possibility of adopting some of these standards before June 20, 2026 must therefore be maintained, which is made possible by the extension of the adoption deadline.

Finally, we need to stick to the objective of adopting all sector standards within a reasonable timeframe - between 2026 and 2028 - in order to ensure the economic and ecological effectiveness of the information requirements defined by the ESRS.

## **THE CZECH REPUBLIC**

### **Comments of the Czech Republic on 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**

Following the Council working group meeting on 16 November 2023, the Czech Republic would like to comment on the draft of the 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.

We are very surprised and taken aback by the opinion of the Council Legal Service regarding the legal form of the proposal. In our view there are two levels of the problem from a legal perspective

- the legal form of the proposal
- possibility to change the form of the proposal by the Council

Both aspects must be assessed properly and clearly, so that there can be no challenge to this legislation, even from the European Court of Justice.

Our preliminary assessment is that the Directive of the European Parliament and of the Council should again be amended by a Directive of the European Parliament and of the Council, but we will leave this assessment to both the Council Legal Service and Commission Legal Service.

The Czech Republic is prepared to support any change of this legislation, provided that the change is properly justified and it is ensured from the point of view of legal certainty that the Council can make such a change and also there is no legal challenge to this legislation.

**NOTAT**

20 November 2023

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**Danish response on the 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**

Denmark welcomes the proposal on delaying the Commission adoption date of the sector specific and third country standards.

Denmark supports an ambitious approach to sustainability reporting that will support the transition to a more sustainable economy. To achieve this, we consider it crucial that undertakings are able to implement and administer the sector-specific and third country standards in practice.

The proposal will give the undertakings sufficient time to focus on the implementation of the first set of European Sustainability Reporting Standards (ESRS).

However, by postponing the adoption of the sector-specific standards, large undertakings and listed SMEs might risk having shorter time to prepare and implement the sector-specific standards.

It is crucial to focus on reducing administrative burdens for the undertakings from upcoming sustainability reporting requirements and that the new requirements are proportionate.

We urge the Commission to consider this by also delaying the entry into force of these standards when they are eventually adopted in order to provide the undertakings enough time to prepare their reporting on the sector-specific standards.

Regarding the legal instrument, we take note of the assessment by the Council Legal Service and can support the proposed way forward.

## **ESTONIA**

**Estonia** supports the postponement of deadlines as proposed by the Commission.

As a side note, we don't have a preference / view on the legal form. Our hope remains that the legal issue will not overshadow / unduly lengthen the process.

## **THE NETHERLANDS**

**The Netherlands** welcomes ambitious reporting standards that can provide the required guidance for companies to fulfil the reporting requirements from the CSRD. It would therefore like to ask the Commission how a 2-year postponement of adoption deadlines for sector-specific ESRS and ESRS for certain non-EU companies will limit the burden of reporting requirements, as the availability of these reporting standards is providing these companies the tools and guidance required to fulfil their reporting requirements?

## **POLAND**

Poland fully supports the postponement of the adoption of sectoral ESRS and ESRS for third-country undertakings as proposed by the Commission. We are flexible on whether it should be done in the form of a decision or a directive. We call on the swift proceeding of this file in the Council and its adoption.