

ASSESSMENT OF THE POTENTIAL OF THE EU ENDEAVOURS TO IMPROVE CORPORATE SOCIAL RESPONSIBILITY PROCESSES AND DISCLOSURES

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Abstract

The EU's commitment to Corporate Social Responsibility (CSR) is reflected in a set of mandatory and facultative measures. Since the CSR is perceived as the responsibility of companies, it should be predominantly incorporated in companies and their policies. The EU wants to play a supporting role through a mix of voluntary measures and, only if needed, complementary regulations. This strategy aims at the improvement of the self and co-regulation processes and of company disclosures with respect to the CSR. However, is this endeavour correctly set and applied, i.e. can and does it improve the CSR processes and disclosures? The EU framework on CSR is explored along with the most recent annual reports of the top ten Czech companies. A holistic Meta-Analysis reveals a myriad of achievements and shortcomings, as well as compatibility and contradictory elements pointing to inherent differences and the challenging feasibility of the EU endeavours and the questionable potential to truly contribute to the CSR in this manner across the entire EU. This leads to the pioneering propositions about how the endeavours of the EU could be improved to make the CSR of European enterprises a positive element in the global environment.

Key words: Corporate Social Responsibility (CSR), European Commission, Strategy.

JEL Code: K22, M14, O38.

Introduction

Our post-modern global society is marked by the use of information systems and information technology (IS/IT) (Balcerzak, 2016) and by a vigorous competition (MacGregor Pelikánová, 2017), where the EU, with its internal single market, wants to play the role of a sustainable leader (MacGregor Pelikánová, 2019a). The modern concept of sustainability was proclaimed by the influential report 'Our Common Future – A global Agenda for Change', aka the Brundtland Report, which was published as the UN Annex to document A/42/427 in 1987 (MacGregor Pelikánová, 2019b). Over time, sustainability has been perceived as a systematic and visionary tool governed predominantly by soft law and the self-regulation of businesses,

while corporate responsibility was seen as rather a normative and moral tool regulated by the law (Pakšiová, 2016). Ultimately, sustainability and corporate responsibility merged into Corporate Social Responsibility (“CSR”) (Bansal & Song, 2017). Indeed, during the last three decades, a significant shift from the thinking that companies are operated solely for the (immediate) profit of their owners has occurred (Turečková & Nevima, 2017; Polcyn, 2018; Sroka & Santo, 2018). Since the EU aspires to achieve a smart, sustainable and inclusive growth, the CSR has gained importance (MacGregor Pelikánová, 2019b). Inasmuch as the CSR is the responsibility of companies and should be predominantly taken on and assumed by them and their policies, the EU wants to play a supporting role by setting out a framework consisting of a mix of voluntary policy measures issued by the European Commission, such as guidelines and recommendations, and, only if needed, of complementary hard law instruments, such as Regulations and Directives (MacGregor Pelikánová & MacGregor, 2018). This framework aims at the improvement of the self and co-regulation processes and disclosures with respect to CSR. However, can, and, if so, does it improve the CSR processes and disclosures? EU input regarding the CSR processes and disclosures needs to be researched, juxtaposed and critically evaluated. The aim is to assess whether the EU endeavors, as proclaimed and projected in the mix of voluntary and mandatory measures, has the potential to contribute to the CSR of European enterprises, namely their CSR processes and disclosures. A set of EU Directives, Communications and Guidelines is explored, along with processes and disclosures of selected European enterprises. A holistic Meta-Analysis leads to a unique overview of the hard and soft law framework and its application in the light of competitiveness strategies and an empirical analysis (Staníčková & Melecký, 2014). This ultimately reveals a myriad of achievements and shortcomings, as well as compatibility and contradictory elements pointing to inherent differences and the challenging feasibility of the EU endeavors. This leads to the propositions about how the endeavors could be improved.

1 Sources and methods

This paper is founded upon a pioneering study dealing with two objectives. The first objective is the search and mapping of the EU endeavours to improve CSR processes and disclosures via an exploration of EurLex and European Commission postings, along with an already available legislative overview provided by the authors in the recent academic literature (MacGreogr Pelikánová, 2017; MacGreogr Pelikánová & MacGregor, 2018, MacGregor Pelikánová, 2019a, MacGregor Pelikánová 2019b). The first objective is to provide an overview of this framework,

consisting of hard and soft instruments, including Regulations, Directives, policies, strategies, Communications and Guidelines, and their interpretation.

The second objective focuses on the application of this framework, in particular on the assessment of its impact and perception by the ten top Czech companies included in a micro case study. These top ten Czech companies, based on annual revenues in 2017 and 2018, have a legal form of either a shareholder company or a limited liability company, employ more than 500 employees, and file their annual reports with the Czech Commercial Register. They are clearly among the targets of the EU endeavors to improve CSR processes and disclosures by the mentioned framework, and they offer information about their commitment to CSR via annual reports filed with the Commercial Register. These companies have annual revenues exceeding CZK 50 billion, their assets range from CZK 10 billion to CZK 600 billion and their net income oscillates between red numbers and black numbers of CZK 20 billion.

Tab. 1: Companies, ID, industry, number of employees, the last available annual report

Company	ID	Industry	# of employees	Annual Report
Škoda Auto a.s.	00177041	automobiles	32 738	2018
ČEZ, a.s.	45274649	power/electricity	29 837	2017
Agrofert, a.s.	26185610	conglomerate, agri.	32 770	2017
RWE Supply & Trading CZ a.s.	26460815	conglomerate, oil and gas	15 (holding)	2017
Foxconn Technology CZ s.r.o.	27516032	consumer electronics	1 141	2017
UNIPETROL, a.s	61672190	chemicals	4 824	2018
Hyundai Motor Manufacturing Czech s.r.o.	27773035	automobiles	3 287	2017
ČEPRO, a.s.	60193531	oil and gas	757	2017
Continental Automotive Czech Republic s.r.o.	62024922	automobiles	10 291	2017
Finitrading a.s.	61974692	iron, steel,finance.	Not avail.	2017

Source: Prepared by the authors

Their understanding and perception was tested based on the criteria implied by the first objective, mapping of the framework, i.e. whether they directly or indirectly refer to the hard and soft law on CSR and how they address the key CSR categories. Similar to preceding studies (MacGregor Pelikánová, 2019b), these qualitative aspects were addressed by a holistically manual approach employing a simplified Delphi method. The last available annual report for each company was studied by three CSR experts, who have a strong law and/or economic backgrounds (EDC, LM and ZF), while following a universal set of guidelines and simple questionnaires prepared by the authors. Their replies met the expertise expectations. Based on

these first-round replies, the authors prepared a summary which was communicated to these three experts for the second round. Thereafter, they made a few changes with respect to their prior answers and sent their updated replies to the authors. This data, generated from the second round, was used for the paper. Specifically, each of these three experts categorized the provided CSR information as (+) or (++) or (+++). The guidelines required ranking as no more than general information (+), as more developed and concrete information (++) and as robust information (+++) all statements about real and controllable actions for good CSR behavior.

Both primary data, such as hard and soft law instruments and the input of the European Commission, along with the entire framework, Business Registry exploration and a field observation about the attitudes of the companies, included in the micro case study, towards the CSR and CSR e-reporting, and secondary data, such as academic publications, were mined, teleologically interpreted and critically explored while using a holistic approach and Meta-Analysis (Silverman, 2013). The implied preliminary results suggest that there is a myriad of shortcomings, a reduced awareness and often there is lacking a robust and genuine commitment to CSR by companies. The preliminary field search and micro case study suggests that the intensity of the commitment of companies to CSR is just weakly influenced by the EU endeavours, and thusly offers valuable propositions for improvement.

2 EU law and Commission endeavors at improving the CSR - Framework

The EU's general drive for sustainability and the constantly proclaimed smart, sustainable and inclusive growth entails the CSR. At the same time, the EU makes it clear that, primarily, the CSR should be assumed by companies. The EU should play a supporting role through a mix of voluntary measures and, only if needed, complementary mandatory measures.

Hence the endeavors of the EU taking the form of hard measures via EU law provisions, such as Directives, are complementary and have both an important and limited scope and application. The most significant are the Directive 2013/34/EU on the annual financial statements ("Directive 2013"), as amended by Directive 2014/95/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups ("Directive 2014"). These provide that public-interest entities with over 500 employees must report about the CSR pursuant to the set minimum requirements, i.e. nonfinancial key performance indicators. The Directive 2017/1132/EU, relating to certain aspects of company law ("Directive 2017"), provides for compulsory disclosure by companies and the interconnection of central,

commercial and company registers aka BRIS on the e-Justice portal (MacGregor Pelikánová & MacGregor, 2018). Large public interest companies, with more than 500 employees, have to disclose information about how they address five challenging categories: (i) environmental protection, (ii) social responsibility and treatment of employees, (iii) respect for human rights, (iv) anti-corruption and bribery and (v) diversity on company boards (age, sex, background). They have to include such non-financial statements in their annual reports and file these reports with their commercial register and ultimately allow this e-data to be migrated via BRIS, and thus become, at least partially, available to the public-at-large. The table below summarizes these hard measures and their key provisions.

Tab. 2: Overview of the hard law - EU law regarding CSR processes and disclosures

Legislative instrument	Key provisions
Directive 2013/34/EU (amended by Directive 2014/95/EU)	<i>Art.19a Non-financial statement 1. Large undertakings which are public-interest entities exceeding on their balance sheet dates the criterion of the average number of 500 employees during the financial year shall include in the management report a non-financial statement containing information ...relating to, as a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, including:.....(e) non-financial key performance indicators relevant to the particular business.</i>
Directive 2014/95/EU amending Directive 2013/34/EU	Amended Directive 2013/34/EU by adding Art.19a Delegated the power to issue Guidelines <i>Art.2 Guidance on reporting The Commission shall prepare non-binding guidelines on methodology for reporting non-financial information, ..</i>
Directive (EU) 2017/1132 relating to certain aspects of company law	<i>Article 14 Documents and particulars to be disclosed by companies Member States shall take the measures required to ensure compulsory disclosure by companies of at least the following documents ...: ... (f) the accounting documents ...;</i> <i>Article 16 Disclosure in the register 1. In each Member State, a file shall be opened in a central, commercial or companies register ('the register'), for each of the companies registered...</i>

Source: Prepared by the authors

The EU Commission is concerned, regarding the CSR along with the Responsible Business Conduct (“RBC”), because of the impact of companies on the entire society, including social, environmental and innovation consequences (EC, 2019). In sum, the EU is well aware that sustainability cannot be reached without CSR, that enhancement of awareness about social, environmental, ethical, consumer, and human rights concerns is critical and that the voluntary

commitment can be much more effective and efficient than strict enforcement of EU law measures. Hence, the European Commission is tasked to lead initiatives and prepare recommendations in co-operation with companies, while implementing the UN principles, newly set by the Resolution adopted by UN Transforming our world: the 2030 agenda for sustainable development from 2015 (“UN 2030 Agenda”). The first step in this mission was made in 2011 when the European Commission adopted its strategy for CSR – Com(2011) 681 Communication: A renewed EU strategy 2011-14 for CSR (“EC 2011 Strategy”), which attempts to reconcile European and global approaches to CSR, combines horizontal approaches to promote CSR and RBC with specific approaches and encourages companies to adhere to international guidelines and principles. The EC 2011 Strategy targets both CSR self- and co-regulated processes and CSR disclosures (EC, 2019).

Regarding CSR self- and co-regulation, the European Commission launched a consultation project, the Community of Practice (“CoP”). Between 2013 and 2018 the European Commission met with various stakeholders, such enterprises, academia and organizations and searched with them how to improve and promote CSR and CSR processes. The resulting CoP Principles for Better Self- and Co-Regulation (“CoP 2015 Principles) were endorsed by the European Commission in 2015 and cover, among other items, energy efficiency, consumer protection, intellectual property rights and responsible innovation. Regarding CSR disclosures, the European Commission used Directive 2013 and Directive 2014 as a foundation to issue non-binding 2017/C 215/01 Guidelines on non-financial reporting, aka a methodology for reporting non-financial information (“2017 EC Guidelines on non-financial reporting”) regarding the mentioned five challenging areas by large companies. In sum, there are basically three types of guidelines how these non-financial statements are to be prepared – international, such as the UN Global Compact, OECD guidelines for multinational enterprises, and the ISO 26000, and European, such as 2017 EC Guidelines on non-financial reporting. Recently, the European Commission published two documents discussing the achieved result. The Reflection Paper: Towards a Sustainable Europe by 2030 with Annex I (EC 2019 Reflection Paper”) and the SWD (2019) 143 Staff Working Document: CSR, RBC and Business & Human Rights: Overview of Progress (“EC 2019 Overview of Progress“) addresses both CSR processes self- and co-regulation and CSR disclosures. The table below summarizes the soft measures and provisions representing the outcome of the EU “non- legislative” endeavors in this arena (EC, 2019).

Tab. 3: Overview of the soft law – EC, UN and ISO on CSR processes and disclosures

Policy	Key provisions
ISO 26000 Guidance standard on social responsibility	<i>2.18 social responsibility = responsibility of an organization (2.12) for the impacts (2.9) of its decisions and activities on society and the environment (2.6), through transparent and ethical behavior (2.7) that contributes to sustainable development (2.23), including health and the welfare of society; takes into account the expectations of stakeholders (2.20); is in compliance with applicable law and consistent with international norms of behavior (2.11); and is integrated throughout the organization (2.12) ...</i>
EC 2011 Strategy	<i>The positive impacts of CSR on competitiveness are increasingly recognised, but enterprises still face dilemmas when the most socially responsible course of action may not be the most financially beneficial, at least in the short term. The EU should leverage policies in the field of consumption, public procurement and investment to strengthen market incentives for CSR</i>
UN 2030 Agenda	<i>This Agenda is a plan of action for people, planet and prosperity... The 17 Sustainable Development Goals and 169 targets. ... The Goals and targets will stimulate action over the next 15 years in areas of critical importance ...</i>
CoP 2015 Principles	<i>Except in cases where the competitive nature of an initiative makes this inappropriate, participants should represent as many as possible of potential useful actors in the field concerned, notably those having the capacity to contribute to success.</i>
EC 2017 Guidelines on non-financial reporting	<i>The non-financial statement should include material narratives and indicator-based disclosures, commonly referred to as key performance indicators (KPIs). Companies are expected to report KPIs The KPIs should be consistent with metrics...</i>
EC 2019 Reflection Paper	<i>Sustainable development is about upgrading people's living standards by giving people real choices, creating an enabling environment, and disseminating knowledge, and better information...the United Nations 2030 Agenda and the 17 SDGs.</i>
EC 2019 Overview of Progress	<i>The Directive on disclosure of non-financial information ... entities with more than 500 employees...Key Performance Indicators (KPIs)...in four areas: environment, social and employment matters, respect for human rights, and anti-corruption and bribery.</i>

Source: Prepared by the authors.

3 The impact and perception of these endeavors by companies

The most recent annual reports of the top 10 Czech companies were processed while using the above indicated holistic manual approach, and while employing a simplified Delphi method. This tedious work within the micro case study brought out valuable data, summarized in Table 4.

Tab. 4: Companies – direct references, indirect references, CSR indicators

Company	Dir. ref.	Ind. ref.	Envir.	Empl.	Soci.	H. Rig.	Anti-C.	R&D
Škoda	0	GRC, Code of Ethics	++	+++	++	0	+	+++
ČEZ	0	Code GPW	++	+++	+++	0	+	+++
Agrofert	0	Code of Eth	++	++	++	+	0	++
RWE	0	0	+	++	+	0	0	++
Foxconn	SER, RBA	ISO, OHSAS	++	++	++	++	++	++
Unipetrol	0	UniCRE	++	++	+	0	0	+++
Hyundai	0	ISO	+	+	+	+	0	++
ČEPRO	0	ISO, ELA, OHSAS	++	+++	++	+	+	++
Continent.	0	SchFriendly	++	++	++	+	0	++
Finitradin.	0	0	0	0	0	0	0	0

Source: Prepared by the authors

Škoda and ČEZ appear to be aware and committed to CSR and, in compliance with the EU framework on CSR without referring to it, they seem to progress towards CSR, regardless of EU endeavors and embrace all categories except Human Rights. Škoda follows IFRS and displays, as its top CSR categories, employees and R&D, focusing mainly on new model innovations, car competitions and children. For ČEZ, the top CSR categories are employees, R&D and social matters, while stressing that ČEZ is the biggest charitable donor in the Czech Republic and a key entity participating in Euroatom projects. Agrofert seems also aware and committed, without directly referencing the EU framework on CSR, and is pretty active in most all categories. Unlike Škoda and ČEZ, Agrofert proclaims as well its commitment to the Human rights category, but omits any concern regarding anti-corruption and unfair competition matters. RWE, with its very short and general statements, is on the edge of compliance and misses human rights and anti-corruption and unfair competition categories.

Foxconn refers to a number of elements and instruments belonging to or referred to by the European framework on CSR and covers all CSR categories, including human rights. Unipetrol and Hyundai do not directly refer to, and skip explicit mention of, certain CSR categories, but are still in compliance with the EU framework on CSR, while Hyundai focuses predominantly on the R&D category and Unipetrol on the environment. Čepro and Continental comply with the EU framework on CSR without directly referring to it. Perhaps due to litigation

issues, including bankruptcy challenges, Čepro stresses the employee category, perhaps due to loyalty concerns. Continental appears committed to the social impact and wants to work with the youth population. Finitrading does not mention CSR in its annual report at all. In sum, nine companies have complied but only one seems to be influenced by the European framework on CSR. Further, Czech companies appear to be interested in the environment, employment and R&D categories and not interested in anti-corruption, fair business competition and human rights issues. The biggest variation regarding one category is to be observed by the social category, i.e. the top Czech companies perceive differently the importance of the social impact aka “doing something” for the society at large, e.g. children.

Conclusion

The EU framework on CSR entails hard and soft law instruments and can be presented in a satisfactory manner. Based on the performed micro case study, it appears that companies are either aware about this framework or, for other reasons, follow, or at least comply, with EU endeavours to improve CSR. However, the intensity and focus of their commitment varies dramatically. The annual reports of the top Czech companies suggest that the CSR disclosure is a reality with many shades, i.e. companies go for CSR and present information about it, but they prefer different CSR categories. The environment, employment and R&D categories are perceived as much more important than anti-corruption, fair business competition and human rights categories, while the social category offers the biggest difference within the tested sample. Naturally, these results are preliminary and need to be boosted by a more extensive search and case study. Nevertheless, in the light of the already well-argued and published conclusion of the authors (MacGregor Pelikánová & MacGregor, 2018; MacGregor Pelikánová, 2019b), there are sufficient indices that EU endeavors are more effective than efficient. They go for goals perceived as right by the public-at-large, including companies, but they do not seem to impact and support companies' endeavors towards CSR. The soft law, in particular, including EC 2011 Strategy and CoP2015 Principles, appears to be rather detached from business reality. It is deplorable because, as witnessed by the Czech insufficiencies, such as vis-à-vis anti-corruption, fair business competition and human rights categories, companies need more guidance and all Europeans deserve a more positive assistance in this respect by the EU.

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