Update: ESG reporting obligations in Bulgaria, Croatia, the Czech Republic, Hungary, Romania and Slovakia

With the 6 July 2024 deadline for the implementation of the EU Corporate Sustainability Reporting Directive (EU) 2022/2464 (the "CSRD", the “Directive”) looming, Member States across the EU have been moving at different speeds to adopt their respective local implementing legislation.

Three of the six countries in Central and Eastern Europe (“CEE”) that we have been following – the Czech Republic, Hungary and Romania – have already adopted legislative acts that, at least partially, implement the CSRD into national legislation. Slovakia has brought a draft act to parliament, while the proposals of Bulgaria and Croatia are still pending. Some initial CSRD rules have therefore entered into force in January 2024 in the Czech Republic, Hungary and Romania. Bulgaria, Croatia and Slovakia have indicated that they also intend to transpose the Directive by the deadline.

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CSRD implementation taking shape unevenly across the region

Bulgaria

The formal process of transposing the CSRD into national law in Bulgaria was initiated by the Ministry of Finance in October 2023 with the formation of an inter-institutional working group tasked to discuss draft proposals for the implementation. Two proposals have been drafted: one amending the Accounting Act, and another amending the Independent Audit Act. Some minor changes to the Public Offering of Securities Act will also be proposed.

Among other things, the Accounting Act needs to be revised to specify that the required non-financial information must be presented in accordance with the European Sustainability Reporting Standards and that this information is a separate part of the company's annual report and thus subject to verification by auditors. The Ministry has indicated that the new rules will not deviate significantly from the provisions of the CSRD. The Accounting Act will also include new thresholds in the definition of some of the undertakings that are subject to the CSRD, with the aim of reducing the initial scope of the Directive.

The amendments to the Independent Audit Act will set up the rules under which auditors will be able to provide the limited assurance required by the CSRD. The Institute of Certified Public Accountants is set to be responsible for training and act as the central register of sustainability auditors.

The proposals will most likely be available for public consultation in the beginning of March 2024.

Croatia

In Croatia, no official CSRD implementation strategy has yet been published. However, the Ministry of Finance is currently holding working-group meetings to formulate effective guidelines for the implementation of the CSRD.

It is expected that the Accounting Act will be amended with regard to threshold criteria and specific disclosure information for sustainability reports. Changes may also be proposed in the provisions of the Companies Act, the Audit Act and the Corporate Governance Code of the Zagreb Stock Exchange. It is unclear at this stage whether the implementing legislation will be adopted in one or two phases.

According to available information, the draft legislation implementing the provisions of the CSRD is expected to be available for public consultation in March 2024, with adoption in Q2 or early Q3 2024.

Czech Republic

The Czech Republic has opted for a two-phase implementation process. The first phase implements the rules for companies that are subject to the Non-financial Reporting Directive 2014/95/EU ("NFRD") with the adoption of Act No. 349/2023 Coll. Amending Act No. 563/1991 Coll. in December 2023. The Act entered into force on 1 January 2024. In the second phase, a new Accounting Act will be approved to introduce the reporting rules for the remaining companies in accordance with the timeline set out in Article 5 of the CSRD. The Accounting Act, which has yet to be submitted to parliament, is expected to come into force on 1 January 2025.

The newly adopted Act has expanded the scope of public entities that will be required to report in 2025 to include not only listed companies, banks, insurance and reinsurance companies, pension and health insurance companies (all under the relevant public law), but also systemically important entities. In all other respects, it fully implements the CSRD and does not contain any other significant gold-plating.

According to the Act, in the event of non-compliance with the new rules, the Tax Office may impose a fine of up to 3% or 6% of the value of the company's assets (i.e., if the offence concerns the preparation of a sustainability report that does not contain all the requisite information, a fine of up to 3% of the value of the company's assets may be imposed, and if the offence concerns failure to prepare the sustainability report, a fine of up to 6 % of the value of the company's assets may be imposed).

The rules for the companies in the second reporting cycle starting in 2026 will be implemented in the forthcoming Accounting Act. The proposal for the new accounting rules has completed the intergovernmental comment procedure stage and now needs to be formally approved by the government before being submitted to Chamber of Deputies for deliberation. The draft text can still be amended during the legislative process, and therefore the difference in scope and timing of the final legislative text cannot be predicted. Nevertheless, adoption is still expected to be completed in the second half of 2024, as the proposed text does not change the effective date of the Accounting Act.

Hungary

Hungary adopted Act CVIII of 2023 ("the ESG Act"), which partially implements the CSRD, on 12 December 2023. It will enter into force in several stages, first on 1 January 2024, then on 7 January 2024, 1 July 2024, 1 January 2025, and 1 January 2026. However, the ESG Act does not yet include detailed rules, which will be set out in a government decree, a ministerial decree, and a Supervisory Authority for Regulated Activities ("SZTFH") decree. No specific deadline for adopting the rules has been provided.

The ESG Act applies to large enterprises established in Hungary and enterprises of public interest, ESG certifiers, ESG consultants, institutions that train ESG consultants, and companies distributing and manufacturing sustainability software. Any organisation not covered by the above list that voluntarily or contractually undertakes to provide ESG data under the bill should also follow its provisions. The ESG Act also amends Act C of 2000 on Accounting by adding a subsection on sustainability reporting. With that amendment, Hungary fulfils its obligation to transpose the CSRD by defining the rules for sustainability reporting.

In addition to sustainability reporting, the ESG Act introduces ESG reporting – a report independent of the sustainability report. The difference from the sustainability report is that ESG reporting refers to the reporting of a company's fulfilment of its sustainability due diligence obligations during the previous financial year. However, the detailed rules for ESG reporting have not yet been adopted.

The responsibilities for managing sustainability obligations are divided between the Ministry for Economic Development and the Supervisory Authority for Regulatory Affairs Hungary ("SZTFH"). As a supervisory body, the SZTFH will monitor companies' compliance with ESG due-diligence obligations and the transparency of the processes. It is envisaged that the SZTFH will maintain a register of companies subject to ESG reporting, ESG certifiers, companies distributing and producing sustainability software, and ESG insurers. It will also have accreditation tasks, responsibility over sanctions, and a role as an operator of a Hungarian online ESG management platform. The Chair of the SZTFH is required to establish a National ESG Council, the main role of which will be to help determine the minimum requirements for ESG reporting.

The complete rules, such the reporting requirements, should be laid down in a Government Decree and other ministerial decrees.

We cover the more details of the ESG Act in our previous overview of the status of the CSRD implementation, available here.

Romania

Romania has transposed the CSRD through a Ministry of Finance Order No. 85/2024 on sustainability reporting aspects with effect on 26 January 2024. It amends and supplements the accounting regulations in Romania (the Accounting Regulations on Individual Annual Financial Statements and Consolidated Annual Financial Statements and the Accounting Regulations in accordance with IFRS). The new legislation sets out the main reporting rules for all entities concerned, irrespective of the phased application of sustainability reporting obligations. It introduces provisions on issues such as: the content of sustainability reporting, the exemptions from sustainability reporting, the mandatory use of the single electronic reporting format, reporting by third-country entities, and responsibility for sustainability reporting.

Although the transposition legislation is generally in line with the CSRD, some differences are worth highlighting:

- Under the Romanian accounting provisions, the same thresholds apply to define large and medium-sized undertakings (unlike the CSRD provisions). Therefore, medium-sized companies are subject to the reporting conditions applicable to large companies.
- The regulations introduce a lower threshold for listed subsidiaries that need to report. Subsidiaries that meet that threshold are not exempted from the general reporting obligations under the CSRD, even if included in the consolidated report of the parent company, as opposed to the CSRD rules, which only require reporting by large listed entities.
- There is a difference in the size of listed companies that are allowed not to report on sustainability in their management report for financial years starting before 1 January 2028, provided that they note in the management report the reasons why sustainability reporting was not included.

Before the issuance of Order 85/2024, in an attempt to increase the number of entities publishing non-financial statements or sustainability reports, the government adopted the Romanian Sustainability Code, published in the Official Gazette of Romania no. 1052 bis on 21 November 2023. As a non-binding normative act, the purpose of Code is to ensure the transparency, consistency and comparability of non-financial sustainability information for all market participants, even for those that are not required by law to report on their sustainability performance.

Slovakia

The national law implementing the CSRD has been submitted to parliament. The proposed date of entry into force is 1 June 2024, provided that the legislative process is completed prior to that date.

The draft law proposes amendments to a number of legal acts, namely the Accounting Act, the Commercial Code, the Stock Exchange Act, the Commercial Register Act and the Statutory Audit Act. The most significant changes concern the Accounting Act and the Statutory Audit Act.

How we can help

While to some extent the national laws in CEE countries implementing the CSRD thus far do not differ significantly from the Directive, we have seen that some countries differ in, among others, the definition of the undertakings that need to comply with the Directive at the different reporting stages.

Kinstellar will continue to monitor these developments and publish updates on the transposition of the new rules in the countries where we are present. We are proud to provide our clients with valuable assistance in the area of the CSRD, in particular in assessing the applicability of the obligations arising from the Directive to both EU and non-EU companies. We work with technical consultants to provide the full range of technical and legal advice on the preparation and review of CSRD reports and the related data collection.

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