

The Role of EU Legal Regulation in the Responsibility of Private Business for the Implementation of Sustainable Development Concepts

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ABSTRACT

The study considers the mechanism of legal regulation of the practical implementation of sustainable development by private business. The main periods of implementation of this mechanism are determined and it is indicated that the practical implementation began in 2015-2017. The implementation trends were quite peaceful, without administrative pressure and legal abuses. Despite numerous scientific studies of this scientific problem, it should be noted that the implementation of EU legal requirements by international companies outside the EU legal area has not been sufficiently studied. Therefore, the purpose of the study was to assess the EU legal requirements in the development of sustainable development through the information content of financial and non-financial reporting of TNCs operating in Ukraine. The analysis of compliance with the conditions for the implementation of Directive 2014/95/EU in Ukraine is carried out. It is established that in the modern period the concept of sustainable development is realized by the management of private business structures. They realize that it is necessary to disseminate and convey information about the activities of enterprises to a wide range of society. It is noted that according to Directive 2014/95/EU, business structures do not submit financial statements in an arbitrary form, but the practice has developed three forms: Sustainability report (SR), Integrated report (IR), Corporate Social Responsibility (CSR) report. The evolution of changes in the approach to non-financial reporting is traced. It is indicated that the main efforts in these reports companies focus on the social and environmental component. It corresponds to the global trends of international political cooperation of developed countries. At the same time, the social responsibility of corporations is focused on their own staff in terms of compliance with international human rights and labor laws. It has been proven that the environmental aspects of non-financial reporting are mainly declarative in nature and act as a significant lever for changing public opinion on the public image of companies. In general, it is determined that Directive/2014/95/EU is a successful method of legal regulation of large private business both within the EU and beyond, on the example of international companies in Ukraine. The value of the study concerns the theoretical aspects of the implementation and responsibility of the legal framework for the development of the concept of sustainable development by private business structures.

HIGHLIGHTS

- The study considers the mechanism of legal regulation of the practical implementation of sustainable development by private business.
- The value of the study concerns the theoretical aspects of the implementation and responsibility of the legal framework for the development of the concept of sustainable development by private business structures.

Keywords: Sustainable development, Directive 2014/95/EU, financial and non-financial reporting, social and environmental component, integrated reporting of companies, corporate social responsibility

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Building democracy leads to the realization that private business has to adapt to social needs and priorities. Accordingly, such requirements have led to the introduction of the concept of sustainable development (United Nations, 2015). However, the voluntary fulfillment of social obligations by corporations does not ensure an increase in their profitability, so the state regulation is forced to introduce relevant regulations. At the EU level, such a norm was Directive 2013 (European Parliament and of the Council, 2013) and Directive 2014/95/EU (European Parliament and of the Council, 2014). Initially, these norms of financial law were aimed at the social and environmental component of the activities of large business structures. A separate aspect of the development of financial law in line with sustainable development is the introduction of anti-money laundering rules for business. It is Directive 2014/95/EU that allows assessing compliance with such norms by international companies through the submission of non-financial reporting. This reporting is a necessary condition in the system of communication “company-society”. In the economic aspect, the submission of non-financial reporting indirectly forces the owners and managers of companies to allocate additional funds for the improvement of production technologies and compliance with environmental requirements. Therefore, the aim of the study is to assess compliance with the requirements of Directive 2014/95/EU on the submission of financial and non-financial reports of international companies in Ukraine. In accordance with the objective, the following tasks have been set:

- ♦ to analyze the necessity and conditions for the implementation of Directive 2014/95/EU;
- ♦ to assess the nature, quality and content of non-financial reports of TNCs operating in Ukraine.

Literature Review

The European Union Directive 2014/95 (European Parliament and of the Council, 2014) put forward legal requirements for the mandatory publication of non-financial statements in addition to financial statements of business entities. Its legal legitimacy came into force only in 2017. In fact, since 2017, EU countries have implemented this European legal norm in national legislation in the field of financial law.

For European companies, the open publication of non-financial reporting is focused on explaining their own corporate responsibility to the society of the country. It reveals the impact of its activities on social development, legal responsibility to the personnel involved, as well as ethical and legal responsibility for the preservation and improvement of the environment (Lu & Abeysekera, 2021).

Undoubtedly, the submission of non-financial reporting is a key point in the transparency of companies, primarily for interested social groups and individuals and private investors who thoroughly calculate the future legal risks of investing their own funds (Bannier *et al.* 2022). Since the European Union Directive 2014/95 does not define an unambiguous clear structure of non-financial reports, EU research is focused on the assessment and analysis of a structure, submitted by companies (Jackson *et al.* 2020; La Torre *et al.* 2020; Baluchi *et al.* 2021). The non-financial reporting of the company is summarized in three main forms: corporate social responsibility (CSR) report, sustainability report (SR) and integrated report (IR).

The main gaps and shortcomings of the European Union Directive 2014/95 are analyzed in the legal research of European scientists and lawyers. In particular, a high level of compliance of financial law with the requirements of the European Union Directive 2014/95 has been noted for Italy (Venturelli *et al.* 2017). This explains the high quality and richness of non-financial information.

In Romania, on the contrary, companies are reluctant to submit such reports, and their content desires better information content. In 2015, the results of the research of Romanian companies showed that the management of the companies has a mediocre attitude to the requirements of the declaration (Guse *et al.* 2019). The non-financial reports provided general information that did not allow a full assessment of the information of these companies in accordance with the requirements of Directive 2014/95. At the same time, the management of Romanian companies is very serious about providing information on the social and labor aspect. Working conditions and respect for the rights of workers are priorities in the implementation of the norms of the directive on social responsibility. Also, sufficient attention is paid to environmental responsibility and the requirements of the Directive.

This trend was also observed in 2020. Thus, Beleneși et.al. (2021) note a slight increase in the disclosure of information by companies in the country that are listed on euro exchanges.

In Austria, the companies of metallurgical and mining complexes of the economy have been investigated. It was noted that corporate social responsibility is presented in the explanation of liquidity risks that private investors are interested in. Social and environmental information is presented in a typical way and meets the requirements of the directive. Sustainability reports of Spanish companies for 2018 reflect the operational information of companies' activities in relation to the requirements of the Directive (Sierra-Garcia *et al.* 2018). Aras, Tezcan & Furtuna (2019) have studied the Turkish banking sector and noted a steady trend in the presentation of non-financial information in corporate reports.

The legal requirement to conduct a mandatory audit has played an important role in improving the quality and content of non-financial reports of corporations (Bajra & Čadež, 2018). A fairly common trend in 2018 was the duplication of information on sustainable development in both financial and non-financial reporting, as noted by Carini *et al.* (2018). They mention that European legal requirements have provided conditions for the effective presentation of non-financial information in the productive sectors of the economy, in particular oil/gas processing and industrial production. The authors clarify the previous provisions and note that information on social and environmental measures of the company is not sufficiently reflected, thereby reducing their investment attractiveness.

Studies of 2020-2022 note that third-party organizations and entities pay significant attention to financial reports, thereby forcing company management to improve their efficiency (Artene *et al.* 2020; Oprean-Stan *et al.* 2020; Băndoi *et al.* 2021; Bannier *et al.* 2022).

Research of Polish companies on the requirements of Directive 2014/95/EU for the period of 2017 indicated that the vast majority of listed companies do not reflect in any way the environmental component in their activities (Dyduch & Krasodomska, 2017). The authors have identified the main factors that affect the presentation of non-financial information by Polish companies, namely the environmental

sensitivity of the sector of the economy, the reputation of firms, capital turnover, and the duration of listing on the stock market. At the same time, the study of Polish companies in 2020 notes other trends regarding the new legal requirements of the Polish Accounting Act (PAA). The authors noted that company management prefers annual reports, while information on corporate social responsibility is limited. This applies primarily to the component of national legal requirements on anti-corruption legislation and human rights.

Manes-Rossi *et al.* (2018) conducted a fairly thorough assessment of non-financial reports by ranking them according to the Responsibility Index in relation to the requirements of Declaration 2014/95/EU. The authors noted that the vast majority of enterprises prefer social, environmental and risk assessment reports. At the same time, it is marked that the factor of the timing of submission of reports by the management is little taken into account.

Another aspect of the study of non-financial reporting was the period 2020-2022, namely the deployment of the coronavirus pandemic and the introduction of anti-pandemic restrictions and measures. Thus, Biondi *et al.* (2020) note that for such extreme periods, all additional reporting is an extra challenge for the company's management.

The review of the studies has shown that, in general, companies in different countries comply with the implemented requirements of Directive 2014/95/EU. However, different countries have varying priorities in assessing these requirements and submitting non-financial reports. This is partly due to national legislation and the level of development of the EU member state.

METHODS

The study of financial and legal regulation in the aspect of social responsibility of business was conducted on the basis of the following methods:

- ◆ The imperative method is used for financial reporting of business structures and is mandatory in financial law. The specificity of the application of this method in the study is that the general financial indicators were assessed according to accounting.
- ◆ Regarding the analysis of non-financial statements, the method of authority

prescriptions was applied. This method is applied to legal regulations in the form of EU declarations. It is noted that non-financial reporting is mandatory, but does not require a clear structure and indicators. The nature and quality of the report is transferred to the right holders and managers of the company.

- ♦ The method of administrative and legal regulation, namely general legal regulation, is manifested in the analysis of the obligations of business structures through direct legal obligations provided for by the EU administrative norm.

The analysis of corporate reports was based on content analysis, i.e. by selected categories (environment, social component, management, personnel). This allowed non-financial reporting to be broken down by categories and to disclose information of the enterprise at the appropriate levels. Sustainability reports, financial reports, audit reports, corporate governance reports were used in the study. The basis of the analysis was the reporting of enterprises: Philip Morris International (2022), Imperial Tobacco (2022), PJSC A/T Tobacco Company (2022).

RESULTS

The concept of sustainable development adopted at the Earth Summit in 2002 has made significant adjustments to the activities of large international and national business structures. First of all, it concerns non-financial reporting. A further step in the publicity of companies was the adoption of Directive 2014/95/EU on non-financial information and diversity information, which introduced the obligation to disclose financial information for public access to European society. A further milestone in the dissemination of business information publicity was the EU Directive 2017/C215/01 (EUG), which guaranteed support for business entities in public access to information. In particular, it is envisaged that companies receive an appropriate package of assistance enabling them to disclose high quality, relevant, useful, consistent and more comparable non-financial (environmental, social and governance) information. It should be done in a way that promotes sustainable growth and employment, as well as transparency for stakeholders to produce relevant, useful concise non-financial reports in

accordance with the requirements of the Directive. In fact, this directive concerned the mandatory access to non-financial information of business, that is, it noted the mechanism for compiling relevant, useful, concise non-financial reports that meet the requirements of Directive 2014/95/EU. These legislative requirements obliged business structures to expand the process of submitting financial data in accordance with International Financial Reporting Standards (IFRS) and concerned companies listed on European stock exchanges for the open publication of their activities and reporting. At the same time, business structures were allowed to form the content and structure of non-financial reporting independently.

While analyzing the reporting of non-financial information of large international companies in Ukraine (Table 1), the following tendencies have been revealed:

1. All companies submit information on financial statements and audit reports, information on the company's management and ownership structure.
2. The sustainability report is provided only by PJSC A/T Tobacco Company, and the integrated report by Philip Morris International. In addition, it was found that all companies apply an energy-efficient approach in their own production. They improve the motivational mechanism of their own staff, clearly monitor compliance with international and Ukrainian legislation, and pay considerable attention to waste disposal from the point of view of ecology and environmental protection.
3. Philip Morris International's report most fully meets the requirements of Directive 2014/95/EU on international financial law. Accordingly, the company presents financial indicators, indicators of ecological activity and environmental protection, indicators of company management and business transformation, general indicators of the social component in its reports.
4. PJSC A/T Tobacco Company in the public report includes the following information: development strategy, social contribution to society and performance indicators, as well as

discloses information on the creation of value of its activities. As for the environmental aspect, the indicators characterizing the reduction of the company's waste and environmental protection are presented.

Table 1: Reporting forms according to the norms of Directive 2014/95/EU for international companies in Ukraine

Company name	Philip Morris International	Imperial Tobacco	PJSC A/T Tobacco Company
ESG sustainability report	-	-	+
Financial reporting and auditor's report	+	+	+
Integrated report	+	-	-
Management report	+	+	+
Ownership structure	+	+	+

Source: Formed by the authors based on Philip Morris International (2022); Imperial Tobacco (2022); PJSC A/T Tobacco Company (2022).

It should be noted that Directive 2014/95/EU contributed to the formation of integrated reporting of companies. In fact, this is a form of reporting that allows combining financial and non-financial information in one report. Therefore, it is a manifestation of an innovative form of communication with interested public groups and becomes a universal tool for transparency and publicity of the company's activities. Interest in these reports is constantly growing (Table 2).

Table 2: Characteristics of the components in non-financial reporting

Components of the non-financial report	Key aspects of the component
Business strategy and organizational structure	Company development strategy (mission, brand recognition, etc.)
Basic financial and economic indicators	Profit (net, operating, financial), cost, revenue
Derivative financial indicators (liquidity and liabilities)	Values of actual and standard liquidity ratios of the company's financial statements
Environmental policy	Environmental protection

Social policy	Motivational measures of employees, system of safety techniques, observance of human rights and anti-corruption legislation, system of professional development and training
Vulnerability of the activity	Macroeconomic and political factors of government policy taken into account in managerial decisions
Innovation and investment activity	Lack of own scientific and technical developments and research, partial marketing research, portfolio financial investments
Integration mechanisms	Commodity policy according to commodity regulatory requirements

Source: Formed by the author based on Philip Morris International (2022); Imperial Tobacco (2022); PJSC A/T Tobacco Company (2022).

Analysis of reports on social and environmental responsibility of companies shows that the information is provided in general, without specification. That is, companies do not take measures to eliminate the negative impact on the environment. As for social information, it is focused exclusively on their employees through encouragement in training, increasing their productivity through motivational aspects. Furthermore, general measures on anti-corruption activities in the Ukrainian market are presented. Management activities in the reports were most fully presented by Imperial Tobacco. The company's management system ensures business stability by minimizing the risks of Ukrainian legislative amendments. Their corporate governance system is based on compliance with the law, identification of risks and clear definition of their level and implementation of expertise centers. The company provides information on its prospective development through corporate social responsibility. It also focuses its management efforts through a series of market research and makes financial investments in other companies.

The most complete information for the analyzed companies is provided on financial indicators and liquidity ratios of the financial report. The risks related to macroeconomic regulation of the Ukrainian economy and political factors of public administration are described in detail. In general, the report complies with Directive 2014/95/EU and is available for study and analysis.

Regarding the requirements of Directive 2014/95/EU, the listed companies provide information that

meets these requirements, and their own structural approach is being formed for the stakeholders' familiarization. In general, this information traces that companies focus on explaining approaches to reducing the cost of production and methods of increasing competitiveness in the Ukrainian market (Table 3).

The analyzed companies implement and adhere to international standards in production, ecology and environmental protection. British American Tobacco Ukraine conducts fruitful activities with local authorities. Thus, it financially supports the entrepreneurship center in Pryluky and implements environmental programs in the Ichnia National Nature Park.

In general, TNCs in Ukraine comply with the requirements of Directive 2014/95/EU in good faith and responsibly. Thus, European financial law has provided image advantages for companies in foreign markets. This leads to additional

opportunities. Among them - quick VAT refund, partial control of the domestic market without the possibility of its monopolization, attracting highly qualified employees and improving their skills and creativity, economical use of national resources, implementation of environmental programs and projects.

DISCUSSION

The study shows that foreign companies in Ukraine comply with the requirements of Directive 2014/95/EU. They submit their reports on time and develop various aspects of non-financial reports. This confirms that their management is aware of the problems of ecology and sustainable development. Therefore, our study confirms the findings of Manes-Rossi *et al.* (2018) that the disclosure of non-financial information in company reports is a stable phenomenon. We agree that legal regulations do not significantly affect the

Table 3: Characteristics of non-financial reporting of international corporations in Ukraine

Investigated international corporations in Ukraine	Completeness of non-financial reporting of the company
Philip Morris International	Concentration on the formation of other socially important products. Social advertising of public health in society. Conducting clinical trials and investing in the development of vaccines against coronavirus. Reducing CO ₂ emissions by 40% by 2030. Reducing the amount of plastic waste from products by 50% by 2025. Reducing water consumption. Social policy of employees is focused on the global project "Guidebook for success"
Imperial Tobacco	Commodity policy is focused on state regulation of product manufacturing and compliance with product safety indicators. Dependence on state regulation and changes in fiscal policy. Implementation of measures to counteract the growth of the illegal market and instability of the exchange rate. Current liabilities to the companies controlled by the underlying shareholders of the companies. Minimization and elimination of negative impact on the environment through compliance with ISO14001;2015. Involvement of employees in the ecological space Ecosteps. Recycling of waste up to 70%. Creating decent working conditions, improving health and providing opportunities for further training. Implementation of the I am healthy system. Occupational health and safety measures. Social insurance (taking into account 29 key indicators of occupational safety and health). Implementation of the code of conduct. Absence of pressure and restriction of employees' rights. Development of legal documents regulating the behavior of employees, taking into account local specifics and current Ukrainian legislation. Implementation of anti-bribery and corruption policy. Expanding the range of products through the introduction of new technologies and innovations. Protection against illegal distribution of products
PJSC A/T Tobacco Company	Minimization of risks in the workplace and prevention of accidents. Implementation of the tool «Rapid risk prediction», implementation of the project «Pulsar» (Monitoring of employee behavior and providing them with feedback). 98% of production waste is subject to recycling. Implementation of projects on environmental education, fight against poaching and fires, creation of ecological and educational trails. Permanent program ECO-club, annual planting of tree seedlings. Custody of the orphanage "Nadiya" and the rehabilitation center for children "Sonechko"

Source: Formed by the author based on Philip Morris International (2022); Imperial Tobacco (2022); PJSC A/T Tobacco Company (2022).

disclosure of such information. At the same time, the practice of submitting non-financial reports of international companies does not depend on regulatory requirements and standards, but is based on the legal practice of European institutionalism. Nicolo *et al.* (2020) concludes that state regulation has not intensified the provision of non-financial information by companies. However, in our opinion, in the Ukrainian political and social context, the requirements of European financial legislation together with the legal traditions of European institutionalism are a necessary and sufficient condition for the provision of public information by companies.

In 2018, companies provided non-financial reporting in the form of integrated reports and in a rather concise form (Nechita, 2019), in addition to duplicating information on financial and non-financial reports (Carini *et al.* 2018). This is not the case for Ukrainian multinational companies. However, their reports do not sufficiently disclose aspects of social responsibility to Ukrainian society and insufficient attention is paid to overcoming corruption and bribery. The company's sustainable development is characterized from the perspective of compliance with legal norms of labor and human rights and legal requirements for environmental protection (Olsen *et al.* 2021). Benlemlih *et al.* 2018 notes that a company's social responsibility reports are a priority for private investors' portfolio investment decisions.

We support Andrew (2021), who argues that top management presents non-financial reporting only in a positive way. This is also typical for Ukrainian companies with foreign capital. While this was typical for the EU during the period of implementation of Directive 2014/95/EU, for Ukraine, this situation is traditional and corresponds to the political and legislative regulation, which is changeable and unstable.

Pizzi (2018) proves that sustainability reports of companies are not a guarantee of effective solution of socio-environmental problems. The assessment of modern global environmental conflicts confirms the author's conclusions. For Ukrainian companies, it is typical that environmental information in reports is more widely presented by those companies that operate in an environmentally sensitive environment. Thereby they reduce the level of

environmental concern of the public and increase the perception of the corporate image.

Prior to Directive 2014/95/EU, financial markets in EU countries assessed solutions to the socio-environmental problems of European countries in different ways. However, with the introduction of requirements, there were targeted processes of unification of information on the social and environmental component of reports (Mio *et al.* 2017). Accordingly, Ukrainian foreign companies are implementing this unified reporting system.

In accordance with the legal requirements of Directive 2014/95/EU, organizations make their own decisions on the implementation of the social responsibility model. This, in turn, ensures the availability and truthfulness of information on social issues in non-financial reports. Therefore, Raucci *et al.* (2020) note that, sustainability indicators are becoming a tool in shaping the added value of corporations from the standpoint of non-financial communications and serve as a yardstick in making internal corporate decisions.

The implementation of Directive 2014/95/EU was a significant step in expanding the legal provisions on the publicity of business processes of firms. It guarantees the public understanding and perception of the role of modern business in solving global pressing problems of sustainable development. However, the EU's legislative initiatives do not take into account the problems of financial and economic crises and migration and refugee flows to the EU countries as a result of aggravation of military and political confrontation.

CONCLUSION

The change of the global paradigm in the system of management and business has led to the adaptation of European legislation to these requirements. This was manifested primarily in the formation of new requirements of financial law. It indicated to the management of large business companies the mandatory submission of non-financial reporting in addition to financial reporting. At the same time, financial law gave these companies the opportunity to independently form the structure and logic of such reporting. In general, reporting covers information aspects of social, environmental and human resources directions. Such reporting reflects the minimum responsibility of management

to the norms of the current European financial law. For companies operating in the Ukrainian market, the management aspects of non-financial reporting are descriptive and reflect the superficial content of management. This does not allow to fully characterize both social and environmental responsibility of these companies. At the same time, companies pay considerable attention to the legal requirements of Directive 2014/95/EU regarding the rights of engaged personnel, in particular working conditions and respect for their rights and respect. And this is a significant factor in increasing the trust of companies by stakeholders, which generally increases the social responsibility and efficiency of the company itself. The requirements of Directive 2014/95/EU on environmental issues force business structures to introduce the latest innovative production technologies and comply with standards in the system of post-production waste and defects disposal. In general, compliance with Directive 2014/95/EU leads to the adaptation of business strategies and models of companies to a deeper implementation of sustainable development strategies in developing countries.

Further research should target the identification of a methodology for assessing non-financial reporting by specific indicators. Such a methodology will allow to fully assess the level of compliance with financial law not only by TNCs, but also by other business structures. At the same time, it will reveal effective mechanisms for improving business social responsibility.

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