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THE DIRECTIVE 2014/95/EU – IS THERE A "NEW" BEGINNING FOR CSR IN ROMANIA?

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Abstract:
The global commandments of sustainable development, assumed and translated by the EU into a series of communications and resolutions, have found themselves a new (and more powerful) expression into the "Directive 2014/95/EU (…) as regards disclosure of non-financial and diversity information by certain large undertakings and groups"; in order to increase the transparency of their sustainability-related actions and results, these companies need to report (starting from 2018, by referring to the financial year 2017) information "relating to, as a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters". As regards the Romanian companies, although they have had a relatively delayed start in terms of embracing CSR initiatives and practices (and SCR reporting respectively), the Directive 2014/95/EU could represent a great opportunity for diminishing the gap – if properly internalized and strategically operationalized. The paper aims to perform a strategic diagnosis analysis on the CSR practices and CSR reporting in Romania, on the threshold of the Directive 2014/95/EU enforcement, in order to make an effective prognosis on its consequences and impacts.

Key words: *CSR practices, CSR reporting, Directive 2014/95/EU, Romania*

1. Introduction

Sustainable development and its practical correspondent at company level – either it is called corporate social responsibility (Visser, 2011), triple bottom line (Smith & Sharicz, 2011), or shared value (Kramer & Porter, 2011) – have increasingly become constant concerns (and targets) for companies in their search for sustainable competitiveness. Due to the long-term benefits this kind of approach is able to provide to companies (not to mention the competitive disadvantages the lack of it could sometimes bring), Romanian companies (inspired by the initiatives and practices of the multinational companies) have also started to integrate CSR initiatives and practices (including CSR reporting) into their strategies and business models.

Especially since the last decade or so, a series of researchers have been analyzed the "Romanian case" in terms of sustainability, CSR and CSR reporting:

Korka (2005) has offered "comments on the perception of CSR by local managers and academia as well as considerations on how to implement CSR in the specific business environment of an EU candidate country"; more recently: Zaharia, Stancu, & Chelcea (2010) have developed a *country profile analysis of corporate sustainability and responsibility*; Dumitrescu, & Simionescu (2014) have brought *empirical evidence from Romania* to the question: *should developing countries adopt CSR?*; Crişan-Mitra, & Borza (2015) have conducted *an empirical analysis* on *approaching CSR in Romania*; Lungu and colleagues (2016) have performed an *archival analysis of CSR research* – by revealing *the Romanian perspective*.

Up until now, both the CSR actions/initiatives and CSR reporting were rather discretionary developed and undertaken by companies; but now, the **Directive 2014/95/EU** as regards disclosure of non-financial and diversity information by certain large undertakings and groups could represent – if properly internalized and operationalized – a huge opportunity for the Romanian companies on their path to sustainable competitiveness. If, at the EU level, the Directive will affect about 6.000 companies (Breniuc, 2014), in Romania about 700 companies will have to comply with the new regulations (CSRMedia, 2016); more than that, the Directive (and its implementation) could serve as reference (and benchmark) for the Romanian companies that do not fall under the incidence of the Directive, generating propagate and synergistic effects at a larger scale.

2. The Directive 2014/95/EU and its transposition into the Romanian legislation

The first article of the **Directive 2014/95/EU** contains *Amendments to the Directive 2013/34/EU* (on annual and consolidated financial statements and related reports) and refers to the non-financial statement and the consolidated non-financial statement specific (large) business entities have to include into their annual management reports (no details on those two statements will be given at this point, because their transposition into the Romanian legislation is quite accurate).

The second article of the Directive is on *Guidance on reporting* and stipulates that, by 6 December 2016, "the Commission shall prepare non-binding guidelines on methodology for reporting non-financial information (…), with a view to facilitating relevant, useful and comparable disclosure of non-financial information by undertakings". In order to develop the guidelines, the European Commission has launched a public consultation with stakeholders, and in 20 September 2016 it has released the Feedback statement on the public consultation – which contains the summary of the 346 responses (European Commission, 2016).

The third article of the Directive refers to *Review* and asks the Commission to submit a report to the European Parliament and to the Council on the implementation of the Directive; the due term for publishing this report – which "shall be accompanied, if appropriate, by legislative proposals" – is 6 December 2018.

The forth article of the Directive – on *Transposition*: sets the deadline by which "Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with” the Directive: 6 December 2016; and stipulates some implementation related specific elements: the need for the Member States to inform the Commission on the diligences they have made and the regulations they have adopted, and the entry into force of the regulations: the financial year starting on 1 January 2017 or during the calendar year 2017.

Complying with the provisions of the Directive 2014/95/EU’s fourth article – regarding the transposition of the Directive into the national law systems, the **Romanian Ministry of Public Finances** has issued (in 17.08.2016) the **Order No. 1938/2016 as regards the modification and completion of some accounting regulation**; the Order has been published into the Romanian Official Monitor No. 680/02.09.2016, and it has come into force on 1 January 2017. Basically, as the Directive 2014/95/EU sets forth, the Order regulates the requirements regarding the non-financial statement (and the non-financial consolidated statement) of some categories of companies; thus, it stipulates:

A. **general aspects related to the non-financial statement** (and the non-financial consolidated statement):

- ✓ the categories of companies which are subject to the regulation: the public-interest entities which, at the balance sheet date, have an average number of more than 500 employees during the financial year (and the public-interest entities which are parent companies of a group and which, at the consolidated balance sheet date, have an average number of more than 500 employees during the financial year – respectively);
- ✓ the minimum content of the non-financial statement – which is part of the management report: environmental, social and employee related information, as well as information regarding the respect for human rights, anti-corruption and bribery matters – in so far they are necessary in order to understand the development, performance and position of the entity, and the impact of its activity;
- ✓ the main categories of information: (a). a brief description of the business model; (b). a description of the policies adopted by the entity as regards the above-mentioned aspects, including the due diligence applied procedures; (c). the results of those policies; (d). the main risks related to those aspects, which arise from the entity’s operations – including, when it is relevant and proportional, its business relationships, its products or services that could have a negative impact on those areas and the way the entity manages those risks; (e). key non-financial performance indicators which are relevant for the specific activity of the entity.

B. **details on the content of the non-financial statement**:

- ✓ as regards the environmental aspects: the current and foreseeable impact that the entity’s operations has on the environment and, where appropriate, on health and security; the use of renewable and non-renewable energy; the greenhouse effect gas emissions; the water use and the air pollution;
- ✓ as regards the social and employee related issues: the actions taken in order to ensure gender equality; the implementation of the International Labor Organization’s fundamental conventions; the working conditions; the social

dialogue; the respect of employees' right to be informed and consulted; the respect of unions' rights; the health and safety at work; the dialogue with local communities and/or the actions taken in order to protect and develop these communities;

- ✓ as regards the human rights, the fight against corruption and bribery: information on preventing the abuses in the field of human rights, and/or on the instruments put in place in order to fight against corruption and bribery;
- ✓ as regards the entity's impact in terms of sustainability: the consequences that the activities of the entity, as well as the use of the goods and services it produces have on climate change, on the company's commitments towards sustainable development, on the fight against food waste, and in favor of non-discrimination and diversity;
- ✓ as regards the diversity policy towards the administrative, management and supervisory bodies of the entity: aspects concerning the age, gender, education and professional experience; the objectives of the diversity policy; the way it was implemented and its results.

C. elements of formality, discretion and exception:

- ✓ the need for a clear and motivated explanation – if an entity does not apply policies as regards one or many of the above mentioned matters/aspects;
- ✓ the need for correlation – in terms of references and additional explanations regarding the reported sum of money, when necessary, between the non-financial statement and the financial statement;
- ✓ the non-limitative character of the information required to be part of the non-financial statement;
- ✓ the discretionary (but specified) use of national, EU or international reference frameworks when entities are asked to display the information that are present in their non-financial statements;
- ✓ the exceptional (and properly justified by the entity) situations of possible non-disclosure of information: when information is related to imminent evolutions or ongoing negotiations – which, if revealed, could seriously damage the market position of the entity – but only if these omissions cannot prevent the fair and balanced understanding of the development, performance and position of the entity and the impact of its activity.

3. CSR practices and CSR reporting in Romania on the threshold of the Directive 2014/95/EU enforcement – three synthesis reports

Since 2013, **CSRMedia** annually develops a study and releases a report on the **CSR Trends and Realities in Romania**; basically, "CSR trends and realities in Romania explores and analyzes the perception of executives and specialists in CSR; the survey is related to both initiated and ongoing projects during [the reference / previous year], but also to the CSR perspectives in the next period" (CSRMedia, 2013). The objectives of the study are expressed as questions: What is the current situation of the Romanian CSR sector?; What are the CSR trends in Romania?; What is the role of the CEO, CFO and other C-suites in developing CSR programs and why is it important for the company to undertake CSR initiatives?; and What is the role of the CSR team in the strategic positioning of the company through CSR efforts? (CSRMedia 2013; CSRMedia, 2016).

Against the background of the increasing concerns (and search for viable and consistent solutions at all levels) regarding sustainability – as they are especially reflected into the UN Sustainable Development Goals and the Directive 2014/95/EU, the consultancy agency **The Azores** has launched in 2016 the **Romania CSR Index 2015** report (Liciu, 2016). The objectives of the study were as follows: to recognize the leading companies in Romania in the field of CSR; to analyze the CSR trends in Romania, comparative to the international standards; to provide a tool of comparative analyses for companies; to emphasize on the good practices in the field of CSR; and to raise the awareness towards CSR in Romania (The Azores, 2016).

The benefits of CSR reporting, on one hand, and the imperatives of the Directive 2014/95/EU, on the other hand, have been the drivers behind the **Romanian Center for European Policies** (CRPE)' initiative (supported by Raiffeisen Bank and Romanian Business Leaders) to develop a **Report** on the way companies are seeing non-financial reporting – report that also represents a mirror of the Romanian responsible business environment, which is a step ahead regulation (Ardelean, 2015). The objectives of the study, as they are reflected into the report's structure, address the following issues: Why do report those companies that report and Where from did they start? Costs and difficulties in implementing non-financial reporting; Reporting methods and reasons for choosing them; Ethical codes and fighting against corruption; Including sub-contractors into the ethical policies (CRPE, 2015).

The three studies have used different methodologies in order to achieve their objectives: **(a).** for the 2016 survey, CSRMedia team has applied a 32 questions questionnaire (comparative to a 28 questions one in 2013) to 150 executives and CSR specialists (comparative to 77 respondents in 2013) (CSRMedia 2013; CSRMedia, 2016); **(b).** in its study, The Azores team has comparatively analyzed the Top 100 companies that operate in Romania – by turnover – in terms of their CSR; the sources of information were represented by the companies' websites, as well as by their CSR and financial reports, while the companies' ranking was made according to an index composed of 36 indicators, grouped into nine categories (The Azores, 2016); **(c).** the CRPE team's research endeavor was both quantitative – a questionnaire-based survey of a self-selected sample of 24 companies that practice non-financial reporting – and qualitative – interviews with people responsible for the non-financial reporting in 10 large companies that operate in Romania (CRPE, 2015).

Although neither one of the studies have had in focus the specific group of companies that will fall under the incidence of the Directive 2014/95/EU, their results sets the premises for a pretty good diagnosis of the CSR practices and CSR reporting in Romania, while identifying the most problematic/thorny issues:

A. on the concept of CSR and the CSR practices:

- ✓ according to the CSRMedia report (2016): (a) by CSR companies mostly understand community involvement (26%) and sustainable business strategy (21%), but also: business ethics (16%), responsible management of the supply chain (11%), and significant interactions with stakeholders (10%); (b) the main reasons why companies involve themselves into CSR practices are: recognition and visibility (56%), and the fact that this kind of activity is part of their PR strategy (46%); in addition, their involvement is due to: shareholders' demands (40%), the impact on the company's financial value (25%), the company's policy (21%); (c) the fields of highest interest for companies to involve in are: education (75%), health (61%), environment (51%), social (48%), and sports (40%); the preferred forms of involvement are through: money donations (69%), volunteering (67%), donations (65%), responsible business practices (39%).

B. on CSR reporting:

- ✓ *according to the CSRMedia report (2016):* (a) as concerns the awareness on the Directive 2014/95/EU: half of the respondents (51%) have declared that they have internally discuss the subject, while 28% of them have realized (due to those discussions) that they have to comply with the Directive; (b) as concerns the main benefits a CSR/sustainable development report could bring, have been mentioned: proving that the company has current practices and a strategy for sustainable development (62%), proving that the management is dedicated to the ethical and transparent processes and practices (59%), improving the internal processes of managing sustainability (42%), improving the credibility of the company in comparison to its competitors (41%), responding to stakeholders' needs to be informed (34%), complying to the national/European regulations (24%);
- ✓ *according to the CRPE report (2015)*: (a) the main barriers in collecting the information are: difficulties in understanding the reporting standards (58%); lacking of an standardized electronic system to collect information (50%); the absence of a specific procedure (33%); colleagues' reluctance in providing information (29%); management's reluctance on disclosing non-financial information (17%); (b) the most common reference framework used: the company's own one (58%); GRI (46%); UN Global Compact (21%); Dow Jones SI (8%); LBG (8%); (c) elaborating the first report of CSR has meant for the company: rethinking the communication process (63%), rethinking of some internal procedures or processes (46%), personalizing a soft (13%);
- ✓ *according to The Azores report (2016):* (a) the most common categories of companies' reporting refer to: community (22%), economic impact (19%), employees (18%), diversity (16%), corporate governance and transparency (15%), consumers (13%), human rights and anti-corruption policy (10%), environment (6%); supply-chain (5%); (b) top 10 the most responsible (large) Romanian companies in 2015 were: Coca-Cola HBC, Raiffaisen, Ursus, Heineken, Petrom, Telekom, Rompetrol, Alro, Cez Distributie, Auchan Romania.

4. Conclusions

The Directive 2014/95/EU (and the internal/national regulations adopted in order to implement it) could represent the premises for a "new" beginning for CSR in Romania. The new duty of disclosing non-financial and diversity information by large companies not only sets a common standard for these companies – in terms of reporting, but also forces them to think twice about their practices – to be reported; as result, in search for (sustainable) competitiveness, many responsible business practices could emerge, and more companies (beside those that have to comply with the Directive) could become parts of a virtuous circle of sustainability.

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