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The social pillar of ESG: informing local communities about investment projects

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Protests by residents against investment projects that affect their surroundings show that formally correct administrative procedures do not ensure public acceptance and that the method of informing local communities is becoming an ESG risk factor.

I. Public acceptance as an element of ESG social pillar

An investment project may fulfill all the planning, environmental and building requirements and still meet with opposition from the residents. Local communities most often point to the burden on power and water supply networks, noise, the taking up of extensive areas of land and changes to the character of the surroundings. Formal fulfillment of the requirements for the community to take part in the environmental impact assessment process does not eliminate the risk of conflict, delays or reputational costs. The OECD guidelines combine effective stakeholder engagement with obtaining and maintaining a social license to operate, early risk identification, avoidance of conflict costs and reducing the time to obtain permits.

II. ESRS S3 – affected communities

The ESRS are reporting standards for entities subject to the CSRD. ESRS S3 covers, among others, communities living or working near a reporting entity's operating sites and facilities. Disclosures under S3 are required when a double materiality assessment identifies material impacts, risks or opportunities relating to these communities. The scope of disclosures includes due diligence policies and processes, community engagement, complaint reporting procedures, impact on sources of income, rights to land and use of land, health and cultural heritage, as well as objectives and actions. In the event of a material negative impact the entity reports on preventive, mitigating and remedial actions. The materiality of S3 is supported by undertakings associated with large-scale use of land and prior complaints or incidents relating to communities.

III. Amended ESRS and application timetable

After the Omnibus I reform, the requirement to report under the CSRD covers entities and groups that exceed both of the following thresholds: 1000 employees and 450 million euros in annual net revenues. The European Commission adopted the amended ESRS on 3 July 2026. Their application is mandatory for financial years beginning on or after 1 January 2027 and voluntary for the year 2026. The amended standards combine the requirements that relate to community engagement processes, complaint reporting channels and remedial actions. Many of the S3 data points are conditional and data on the communities in the value chain are subject to a three-year implementation period. Delegated Regulation 2025/1416 allows wave 1 entities to omit S3 data for the financial years 2025 and 2026.

IV. Stakeholder engagement in the amended CSDDD

As of 26 July 2029 the amended Corporate Sustainability Due Diligence Directive (CSDDD) will cover companies and groups with more than 5000 employees and over 1,5 billion euros in global net revenues. Member states have until 26 July 2028 to adopt transposing regulations. The definition of stakeholders

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has been narrowed down by, among others, excluding consumers, although the circle of entities with which a company engages in dialog remains quite broad. The situations in which stakeholder engagement is mandatory have been, however, limited. Due diligence covers own operations, subsidiaries and relevant relationships in the business chain. The directive generally limits the obligation to perform an in-depth assessment to direct business partners unless there is credible information about negative impacts further down the chain.

V. OECD Guidelines: meaningful stakeholder engagement

The OECD Guidelines are a soft-law instrument that sets the standard for responsible business conduct. Violations of the Guidelines can be reported to the OECD National Contact Point. Proceedings before the Point are mediatory in nature and do not constitute an administrative or judicial process, although they may have real reputational consequences. Meaningful engagement means a two-way dialog conducted in good faith, taking into account the needs of the other party and continuing throughout the entire duration of operations. The Guidelines differentiate informing, i.e. one-way communication, from consulting, negotiating and responding. A unilateral announcement of an investment project may therefore fulfill the requirement of formal notice, but it does not constitute meaningful engagement as defined by the OECD. Priority is given to stakeholders most at risk of negative effects.

VI. Scope and form of reported information

In accordance with the OECD Guidelines, material information is provided to stakeholders in a timely manner, and in an understandable and accessible form. The information concerns the project's objectives and planned activities, including the anticipated demand for water and its sources, as well as use of land. It also covers the planned infrastructure, risks of negative effects and the plans to mitigate them, complaint reporting procedures and impact assessments. The company responds with information on how stakeholder comments were considered or why they were not. The scope and format of the information are agreed in consultation with the stakeholders by balancing transparency with the protection of trade secrets and privacy. If necessary, the company provides materials and training in the language of the stakeholders, appoints an intermediary accepted by the community, as well as pays for an independent expert opinion for the stakeholders.

VII. Polish legal framework for community participation

Community participation in environmental proceedings is regulated by the Act of 3 October 2008 on providing information on the environment and its protection, community participation in environmental protection and on environmental impact assessments. As a general rule, the deadline for submitting comments and motions is 30 days, and the Act does not provide a general mechanism for its extension by the organ due to the complexity of the case. When there are more than 10 parties, they are notified by public announcement, and the proceeding documentation is made available in the Public Information Bulletin. Draft amendment UD224 calls for increasing the public announcement threshold to 20 parties, extending the comments

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deadline to more than 30 days, enabling the electronic submission of comments through the SOPOOŚ system, and transferring the authority to issue environmental decisions to starosts (heads of county government). The Council of Ministers did not adopt the draft by the planned deadline, i.e. the third quarter of 2026, and the list of legislative work does not contain any information on its discontinuation. The described solutions are not binding law.

VIII. Consequences of insufficient information

Absence of early communication can lead to legal and administrative disputes. A conflict that is only revealed at a late stage may lead to decisions being questioned by the parties to the proceeding, environmental organizations or other entities with the appropriate legal basis, also through administrative court proceedings. Draft amendment UD224 provides that suspending the enforcement of an environmental decision or revoking its immediate enforceability results in the suspension of work on the investment project, but this provision is not in effect. According to the OECD Guidelines, early identification of community problems reduces the risk of loss of reputation and the costs of conflicts, including downtime, while an improperly conducted engagement can in itself have negative effects. Under ESRS S3, prior complaints and incidents relating to the community speak in favor of the importance of the issue, and engagement processes and complaint reporting channels are subject to disclosure.

The information presented herein does not constitute comprehensive information or opinion. Consult your adviser before making any decisions.

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