



ESG and the role
of company lawyers

Why company lawyers are crucial in achieving their companies ESG goals

The global climate crisis requires a thorough review of the way in which we conduct business today. The transition to a decarbonized economy has begun; the war in Ukraine and dependence on Russian gas is putting additional time pressure on this transition process.

Closely related to these environmental issues are the social challenges that companies are facing today. The corona pandemic marked a new era of a different, more flexible way of working. This new way of working creates challenges, but also opportunities. How can companies develop strategies for a sustainable workforce? How can business goals be reconciled with staff retention and recruitment? The social purpose of companies will be inseparably linked to their sustainability and ultimately to their profitability.

“Environmental Social Governance” (“ESG”) refers to three criteria used to measure how sustainable and ethical a company is from a corporate governance and investment perspective, but increasingly also from an employee perspective. The objective of ESG is to capture all the non-financial risks and opportunities of the day-to-day operations of companies. The criteria underpin corporate social responsibility.

ESG is no longer a buzzword; it is here to stay. Thus, more and more investors are incorporating ESG elements into their investment decisions. In contrast, however, gratuitous and unsubstantiated sustainability claims will eventually disappear from the scene. Financial institutions and regulators are working on rules to streamline ESG reporting. The first legislative steps are being taken to address greenwashing, i.e., misleading environmental claims. Companies will have to inform consumers about the sustainability and reparability of their products. Companies will be held more accountable for, and will have to become more transparent about, the effects they have on people and the environment. After a classification system for ecologically sustainable economic activities, mandatory sustainability reporting by companies is now a proposition, as well as an obligation for due diligence on the protection of human rights and the environment, not only of the companies' own activities, but also those in the value chain.

As companies increase their efforts to meet their ESG goals, so does the involvement of their lawyers. Corporate lawyers have traditionally played an important role in managing environmental, social and ethical conflicts for their companies. Dealing with labor law issues, respecting human rights, avoiding bribery and fraud, and corporate governance are among the daily tasks of a corporate lawyer.



Today, however, their role is no longer purely reactive. Company lawyers are increasingly becoming proactively involved in managing ESG risks and opportunities and are increasingly taking the lead in defining their companies' sustainability strategies. Corporate lawyers are particularly well placed to do this, in part because they have an overall view of the business and can thus help develop a comprehensive sustainability policy, but also because they are good risk assessors and are familiar with due diligence and deontology. They can navigate the complex regulatory landscape to separate the wheat from the chaff and counter “false” sustainability claims. This is precisely why it is so important as a corporate lawyer to embrace ESG, and not simply dismiss it as irrelevant to his or her pursuits or a litigation risk. This will help companies make an even better transition to truly sustainable business.

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