Rödl & Partner

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Information on Law, Taxes and Economics in the Czech Republic

Czech Law Firm of The Year 2024

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Content:

→ Law

Post-closing obligations in company sales – a practical guide

M&A transactions are generally structured so that the buyer gains full control of the target company from the closing date. In principle, the seller should have no influence over the target company after this date, and all information, including historical data, concerning the target company, its assets, and employees should be available only to the buyer.

Hans-Ulrich Theobald
Rödl & Partner Prague

In today's interconnected world, where control of companies through standardized group data management systems is of fundamental importance, it is increasingly difficult to execute a complete data handover precisely on the designated day, especially when the target company is a subsidiary of an internationally operating group.

In such cases, it typically becomes necessary to conclude a "Transition Service Agreement" (TSA), which governs the terms under which the seller continues to provide certain services for a period after closing.

It is therefore essential to thoroughly document the necessary processes in the target company, including hardware and software usage and data storage, during the due diligence process. Given the legal framework regarding data protection and GDPR applicable to the buyer, the buyer must verify the extent to which the seller can maintain data access, what services will be provided until data is fully transferred, what period is necessary for technically and legally secure data transfer, and the quality standards for these services. The latter point can be addressed in a "Service Level Agreement" (SLA), which, in addition to establishing quality standards and scope of free data access, also includes provisions on response times for malfunctions, necessary maintenance work, and penalties for non-compliant service provision.

These services can generally be charged at standard market conditions. Given the typically high importance of the TSA for the buyer, the service provider's options for early termination should be limited to exceptional cases; instead, provisions should be included for the opposite scenario – necessary extensions of the term of agreement. Beyond the data processing case described above, other services can of course be subject to TSA, such as continuing supply of certain components or provision of specific services.

In some cases, however, the buyer may need to provide the services, as the seller transfers the entire infrastructure to the buyer but remains dependent on certain services or other support for a period of time.

Contact details for further information

Hans-Ulrich Theobald
advokát
Attorney-at-Law
Partner
P +420 236 163 760
hans-ulrich.theobald@roedl.com

→ Taxes

Floods 2024: How will they impact property tax?

The floods that struck Czechia on Friday, September 13, 2024, resulted from the convergence of two frontal systems over Central Europe. The persistent rainfall affected most of the country, causing flooding in 262 waterways. A hundred-year flood was recorded at 55 locations, tragically claiming at least 13 lives. Similar to the floods of 1997, this was truly a catastrophic event of exceptional magnitude.

Petr Koubovský
Rödl & Partner Prague

Is there any possibility of property tax relief?

Solutions emerge when the will is there...

Following the natural disaster (floods and inundations) that struck the Czech territory in September 2024, the Czech Financial Administration has published crucial information on its website https://www.mfcr.cz/cs/rozpoctova-politika/podpora-z-narodnich-zdroju/zivelni-pohromy/2024/informace-financni-spravy-ohledne-povodni-57109.

Affected property owners may indeed receive relief, provided their local councils demonstrate willingness to act. The Property Tax Act empowers municipalities to grant tax relief through exemptions during extraordinary events. In response to extraordinary events, particularly natural disasters (which these floods undoubtedly qualify as), municipalities can offer full or partial property tax exemptions for affected real estate within their jurisdiction for up to 5 years. This tax exemption must be implemented through either:

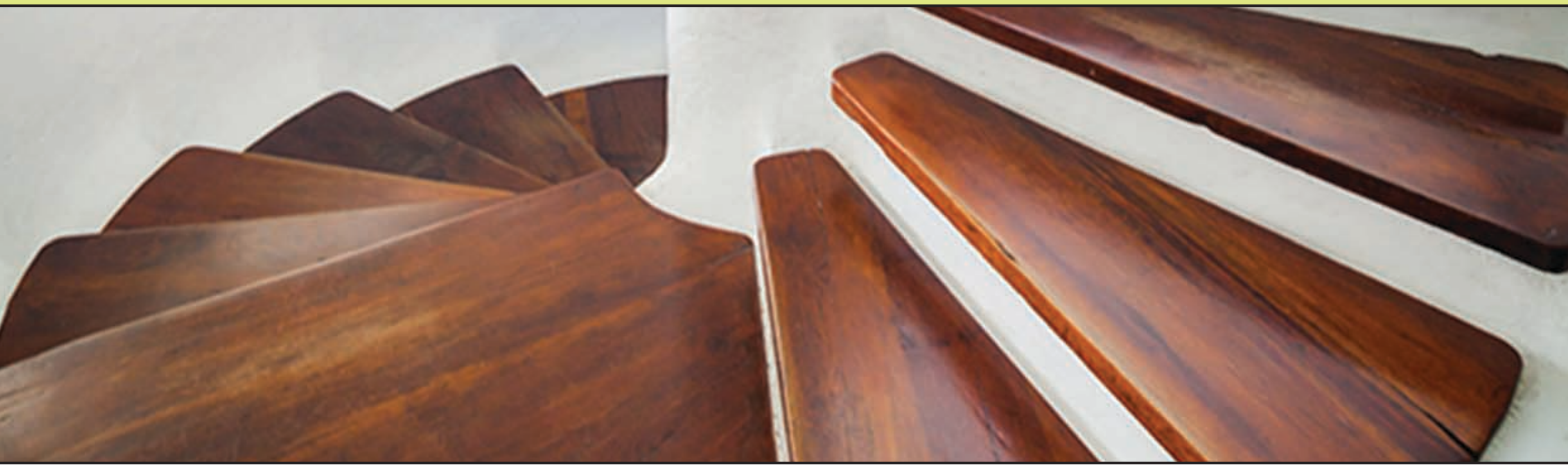
- a municipal decree, encompassing all real estate, land, or taxable buildings and units either throughout the entire municipality or within specific cadastral areas affected by the extraordinary event;
- a general measure issued by the municipal council, targeting specific properties affected by the extraordinary event, provided they are designated according to Section 12e; importantly, any real estate not explicitly designated in this measure remains non-exempt.

The municipality must issue and implement either the municipal decree or general measure by March 31 of the year following the taxable period in which the extraordinary event occurred. For the current situation, this means no later than March 2025. This timing allows for retroactive application to the current taxable period. Partial exemptions are expressed as a percentage reduction.

Taxpayers must actively claim these exemptions through their regular tax returns. For claims relating to past periods or those filed after the regular tax return deadline, taxpayers should submit an additional tax return accompanied by a request for tax overpayment refund.

Contact details for further information

Ing. Petr Koubovský
daňový poradce (Tax Advisor CZ)
Associate Partner
Head of Property Tax Section of the Chamber of Tax Advisors of the Czech Republic
P +420 236 163 246
petr.koubovsky@roedl.com



→ Taxes

VAT law amendment for 2025 (Part 2)

Following our November Newsletter coverage of the VAT changes, we continue with additional amendments approved by the Chamber of Deputies in late October 2024. While most changes take effect from January 1, 2025, some provisions have later implementation dates. Here's our overview of the second set of significant modifications.

Michael Pleva, Johana Imbr, Barbora Dolejšová
Rödl & Partner Prague

When unpaid means unpaid back

A new obligation requires debtors to return previously claimed input VAT deductions on outstanding receivables that remain pending for 6 months past their due date. Specifically, at the end of the 6th month following the payment due date, debtors must retroactively return the claimed input VAT on any unpaid portion. The input VAT can be reclaimed once the debt is settled.

Real estate: New rules of the game

From July 1, 2025, the time test for VAT-exempt property transfers will be shortened. The current 5-year period from the first occupancy permit (or permit after substantial modification) will be replaced with a simpler rule: only the first property transfer within 2 years of completion will be subject to VAT. Note that VAT-exempt property sales require adjustment of previously claimed input VAT.

The definitions of residential and social housing properties are being revised, with classification now based on the territorial identification registry. The scope of reduced VAT rates for social housing will be expanded.

Tax base and place of supply changes

The amendment clarifies tax base determination for gratuitous supplies, incorporating established interpretative practice. For mixed monetary and non-monetary consideration, VAT applies to the higher of either market value or received funds. Market value as the base of assessment also applies to property transfers to employees or their relatives.

For virtual cultural, artistic, and sporting events, the place of supply will be determined by the recipient's location. Selected services (including professional, financial, and equipment rental services, excluding transport) provided to non-business customers from third countries but consumed domestically will be taxed in the Czech Republic.

DIY Assets: A new vhapter

The amendment also brings changes to taxation of self-constructed fixed assets. The entire concept of self-constructed assets will be abolished, and the special mechanism that allowed claiming full input VAT deduction on progressively acquired assets (typically construction of real estate and similar projects) intended for future use with proportional or reduced VAT deduction rights will no longer be available.

Taxpayers will need to apply the reduction of input VAT deduction at the time of claiming based on the estimated use of the asset. After asset completion, a final adjustment of the deduction should be made based on actual use. This change may have significant cash-flow implications, particularly for developers.

Changes in VAT deduction limitation for luxury vehicles

The current VAT Act limits full input VAT deduction for luxury vehicles with purchase prices exceeding CZK 2 million. This limitation should be abolished effective from 2027. Taxpayers will be able to claim unrestricted input VAT deduction on all luxury vehicles, though we must wait for this change to take effect.

Want to get ahead of these changes? We're putting together a comprehensive seminar covering these topics and more. We can even tailor the content to your specific interests and VAT concerns. Don't hesitate to reach out – we're here to help you navigate these changes smoothly.

Contact us to reserve your spot or discuss how these changes might affect your business. After all, when it comes to VAT, it's better to be prepared than surprised!

Contact details for further information

Ing. Michael Pleva
daňový poradce
(Tax Advisor CZ)
Associate Partner
P +420 236 163 232
michael.pleva@roedl.com

Ing. Johana Imbr
daňová poradkyně
(Tax Advisor CZ)
Senior Associate
P +420 236 163 249
johana.imbr@roedl.com

→ Taxes

Czechia and Brasil sign Social Security Agreement: What's in store?

The Social Security Agreement between the Czech Republic and the Federative Republic of Brazil took effect on November 1. Previously, with no bilateral treaty in place, both countries had to evaluate insurance claims based solely on their national legislation.

The agreement rests on four pillars that are sure to make life easier for international workers. These include the principle of equal treatment for nationals of both countries, insurance coverage in the country of employment, the aggregation of insurance periods for pension eligibility, and the export of benefits to the other contracting state.

Another key highlight covers the provisions for „posted workers“ (or „detached workers“ as they're sometimes called in international agreements). When these globe-trotting professionals are assigned overseas for up to 36 months, they remain subject to the social security legislation of their sending state.

It's worth noting what the agreement doesn't cover: sickness insurance benefits, occupational injury and disease benefits, unemployment benefits, social assistance, benefits for war victims and their consequences, and health insurance coverage.

We're here to help you navigate these waters – don't hesitate to reach out with any questions.

Contact details for further information

Ing. Martina Šotníková
martina.sotnikova@roedl.com

Ing. Daniel Ďuriš
daniel.duris@roedl.com

→ Taxes

Global minimum tax amendment: New safe harbor rules in Parliament

As 2024 draws to a close, members of large business groups whose fiscal year coincides with the calendar tax years face a crucial question: how should they account for the global minimum tax in their financial statements?

Milan Mareš
Rödl & Partner Brno

As previously reported, this new tax was introduced into Czech law through Act No. 416/2023 Sb. Large group entities have already been identified, and ultimate parent entities (or intermediate parent entities) are working on implementing this global tax.

A new amendment to this law is now before the Chamber of Deputies, responding to documents adopted by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting.

The amendment primarily addresses safe harbor provisions and administrative guidelines for the Pillar Two project. These documents remain subject to ongoing revisions, with updated versions to be reflected in future amendments.

For upcoming financial statements, the ability to apply one of the safe harbor rules will likely be most crucial.

In terms of top-up tax, a safe harbor represents a mechanism offering exemption from calculating the jurisdictional top-up tax for the group. Implementing the top-up tax is a multi-year process, and the safe harbor mechanism allows taxpayers to “navigate” through full implementation without significant one-time additional costs.

When safe harbor rules can be applied to a given jurisdiction and the filing entity chooses to use them, the jurisdictional top-up tax isn’t calculated and is considered to be CZK 0.

This typically eliminates the need to precisely quantify qualified income and included taxes.

Decisions regarding safe harbor rules can be made for both allocated and domestic top-up tax, except for safe harbors based on qualified domestic minimum top-up tax, which makes sense only for the domestic top-up tax.

Given the established Country-by-Country Reporting system, we expect most multinational large groups to utilize these types of safe harbor rules.

While the deadline for filing information summaries will likely be extended to June 30, 2026, these matters must be addressed in the 2024 financial statements, specifically in the notes to the financial statements.

Remember that you’ll need to document eligibility for using these rules. Our team of specialists can assist you, particularly in cooperation with your ultimate or intermediate parent entities.

Contact details for further information

Ing. Milan Mareš
daňový poradce
(Tax Advisor CZ)
Associate Partner
P +420 530 300 545
milan.mares@roedl.com

→ Taxes

Agreement reporting requirements: A U-turn ahead

A new amendment making its way through Parliament is set to shake up – yet again – the taxation and insurance contribution rules for agreements to complete a job (DPP). This marks another chapter in this year's ongoing saga of DPP regulation changes.

Martina Šotníková, Daniel Ďuriš
Rödl & Partner Prague

Since July 1, 2024, employers have been required to report information about these agreements to the Czech Social Security Administration, while changes to taxation and insurance contributions were pushed back to January 1, 2025.

In a welcome twist, the current amendment proposes scrapping the "reported agreements regime" altogether. Given the massive administrative overhaul the planned changes would have required from employers, this return to the original system is being met with sighs of relief. However, employers will still need to keep records of these agreements.

That said, some DPP changes regarding taxes and insurance are still coming our way on January 1, 2025. The threshold for mandatory sickness insurance participation is getting a smart upgrade – it will now be linked to 25% of the average wage, automatically adjusting to wage growth in the economy. For 2025, the DPP threshold is expected to land at CZK 11,500. For income from DPP not exceeding CZK 11,500:

– No social security and health insurance contributions will be required, and this income will form a separate base for withholding tax.

A word of caution: according to the amendment's explanatory memorandum, registered agreements will continue to be monitored, and the reported agreements regime might make a comeback in the future.

Need clarity on these changes? We're here to help.

Contact details for further information

Ing. Martina Šotníková
daňová poradkyně
(Tax Advisor CZ)
Associate Partner
P +420 236 163 237
martina.sotnikova@roedl.com

→ Taxes

Transfer Pricing adjustment: Your key to getting prices right

When it comes to multinational groups, getting transfer prices right isn't just good practice – it's essential for staying on the right side of tax regulations and for keeping tax authorities happy. Enter the Transfer Pricing (TP) adjustment – a powerful tool that lets companies fine-tune their transfer prices at year-end to reflect real-world results and ensure profitability meets the arm's length principle.

Martin Koldinský, Petr Tomeš, Sabina Levá
Rödl & Partner Prague

Here's the reality for companies in multinational groups: intra-group transactions are typically based on projected costs or revenues. But as we all know, plans and reality don't always see eye to eye – economic conditions shift, markets fluctuate, surprises pop up. That's where TP adjustments come in handy, allowing companies to bridge the gap between year-end results and initial plans, bringing profitability in line with arm's length market conditions.

As the year draws to a close, multinational group companies should take a good hard look at their profitability and stack it up against their independent counterparts performing similar activities. This comparison, known as benchmarking analysis, is a crucial piece of transfer pricing documentation. Think of it as a reality check – are your transfer prices truly in sync with market rates?

If your benchmarking analysis raises red flags – showing profitability out of step with comparable independent companies – it's time to consider a TP adjustment. Consider it your financial fine-tuning instrument, helping align your company's profitability with the arm's length principle.

For multinational group companies, keeping tabs on profitability and making benchmark-based adjustments shouldn't be an afterthought – it should be front and center in their tax strategy. This is doubly true for companies with limited functional and risk profiles. The golden rule? Such companies – those handling mainly supportive or routine activities – should maintain stable, albeit relatively lower, profitability. Post a loss, and you might find yourself under the tax authority's scrutiny for a transfer pricing audit.

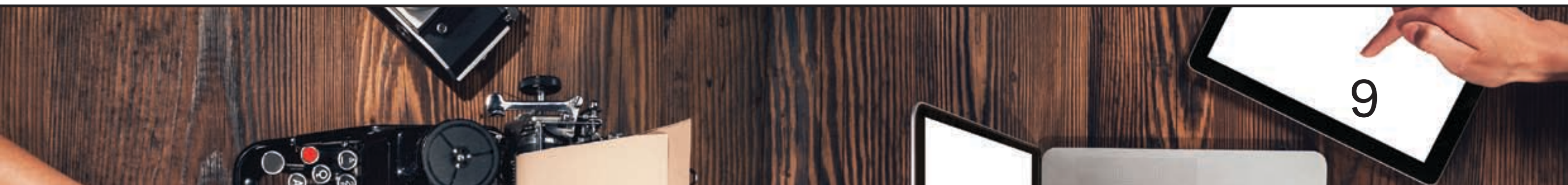
Don't be fooled – implementing a proper TP adjustment isn't a walk in the park. It demands deep expertise in tax regulations and transfer pricing principles. To stay compliant with Czech legislation and international standards, you'll need solid intra-group contractual arrangements and a meticulously conducted benchmarking analysis.

If transfer pricing keeps you up at night, our transfer pricing specialists are here to help. They can assess whether your transfer prices tick all the boxes for tax regulations and Czech tax authority requirements, and guide you through the TP adjustment process if needed.

Contact details for further information

Ing. Martin Koldinský
znalec
(Certified Expert CZ)
Partner
P +420 236 163 750
martin.koldinsky@roedl.com

Ing. Petr Tomeš
daňový poradce
(Tax Advisor CZ)
Partner
P +420 236 163 750
petr.tomes@roedl.com



→ Taxes

Tax exemption limit for employee benefits set to rise

A new income tax amendment currently making its way through the approval process aims to increase the tax exemption limit for non-monetary benefits, commonly also known as leisure benefits. While the 2024 limit stands at half the average wage, the proposed amendment could push this threshold up to one and a half times the average wage in 2025.

Martina Šotníková, Daniel Ďuriš
Rödl & Partner Prague

Currently, all leisure benefits share a single limit. If approved, the increased limit would be split into two categories:

Average wage limit (projected at CZK 46,557 for 2025) covering benefits such as
- Goods or services of medical, therapeutic, hygiene, and similar nature from healthcare facilities, or medical devices obtained with prescription

Half the average wage limit (projected at CZK 23,278 for 2025) covering benefits such as
- Use of educational or recreational facilities
- Holiday packages or trips
- Preschool childcare facilities including kindergartens under the Education Act
- Employer libraries
- Sports facilities
- Contributions to cultural or sporting events
- Contributions for printed books, including children's picture books (excluding books where advertising exceeds 50% of space).

This would bring the total benefits exemption limit to CZK 71,184 for 2025.

The increased limit for "health-related" benefits reflects a push to enable enhanced employee healthcare support.

Important reminder: To qualify for the exemption, benefits must be funded from non-tax-deductible expenses, after-tax profits, or social funds. Benefits exceeding the limit that are taxed as employee income may be tax-deductible for the employer.

The proposed law is expected to take effect on January 1, 2025.
Our specialists are ready to help you optimize your employee benefits package.

Contact details for further information

Ing. Martina Šotníková
daňová poradkyně
(Tax Advisor CZ)
Associate Partner
P +420 236 163 237
martina.sotnikova@roedl.com

→ ESG Insights

ESRS S1 – S4

turn our attention to the social dimension of sustainability reporting – the “S” standards that govern how businesses report their social impacts.

Ivan Brož
Rödl & Partner Prague

Like all sustainability reporting standards, the ESRS “S” standards don’t operate in isolation. They must be read and interpreted alongside the cross-cutting standards ESRS 1 and ESRS 2. These standards follow a consistent framework:

- Objective
- Interaction with other ESRS’s
- Disclosure Requirements
  - Governance
  - Strategy
  - Impact, Risk and Opportunity Management
  - Metrics and Targets
- Appendix A: Application Requirements

The “S” standards offer a distinct advantage over their environmental counterparts: they’re generally more straightforward to understand, and the underlying data is typically more accessible. This allows us to examine all four social standards together in this article.

While issues like forced labor, social protection, and indigenous peoples’ rights might seem distant concerns for EU-based companies, the reality is more complex. Most companies operate value chains that extend well beyond EU borders – chains that will increasingly fall under sustainability reporting requirements. In these extended networks, such social issues remain very real concern.

ESRS S1 – Own workforce
ESRS S2 – Workers in the value chain

- Collective bargaining and social dialogue
- Social security (social and health insurance)
- Fair remuneration and working hours
- Workers with disabilities
- Health and safety
- Work-life balance
- Training and skills development
- Gender equality and equal pay for work of equal value
- Violence and harrasment at work
- Diversity
- Child labor and forced labor
- Human rights
- Human trafficking

ESRS S3 – Affected communities

- Economic, social and cultural rights of communities
- Civil and political rights of communities
- Particular rights of indigenous peoples

ESRS S4 – Consumers and end users

- Information for consumers and end-users
- Social inclusion of consumers and end-users

The standards distinguish between companies with up to 750 employees companies with up to and those with higher employee numbers. For these relatively "smaller" companies, it's important to note that some some disclosure requirements need not be published in the sustainability report in the first year (i.e., for 2025). They can delay the obligation to report information under standards S2 – S4 by up to two years. From standard S1, these "smaller" companies only need to report selected information in the first two years. For many companies, such exemption could be beneficial, as there are indeed many required information points (data points), as shown in the table:

INDICATOR	DISCLOSURE REQUIREMENT		TOTAL
	VOLUNTARY*	COMPULSORY	
Narrative	68	192	260
Semi-narrative	26	39	65
Percentage	2	10	12
Table value	16	42	58
Other	0	12	12
TOTAL	112	295	407

* Unless compulsory for specific undertaking.

The phase-in rules are outlined in Appendix C – List of Phased-in Disclosure Requirements, which is an integral part of ESRS 1.

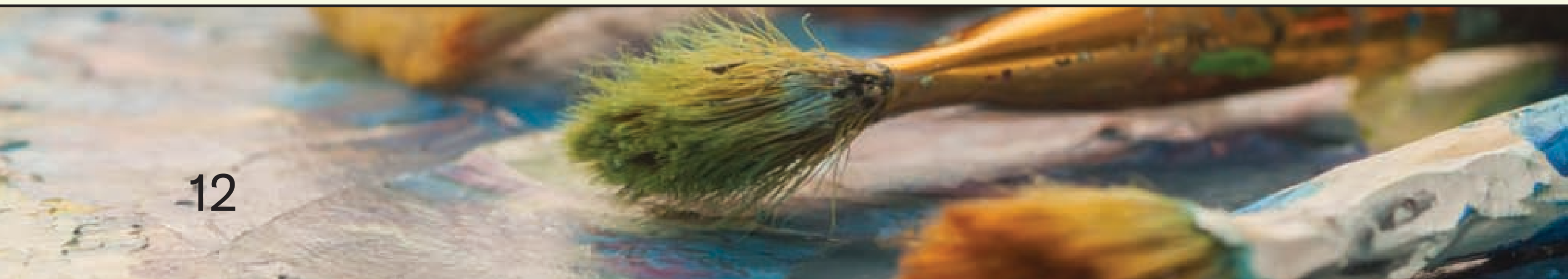
Given the extensive scope of individual standards, in today's article we'll try to explain their significance and provide examples of disclosure requirements and data points.

Standards S1 and S2

Standards S1 and S2 are very similar. They focus on own workforce and workers in the value chain. The main difference lies in the definition of dependent work (employment relationship), which is determined by local legislation. For example, self-employed contractors („IČO“) in the Czech Republic will be reported under ESRS S2. In some countries, these workers might fall under ESRS S1, depending on how dependent work is defined.

Selected indicators of ESRS S1

DISCLOSURE REQUIREMENT	SELECTED DATA POINT
S1–8 Coverage of collective and social dialogue	– Percentage of employees covered by collective bargaining agreements
S1–9 Diversity indicators	– Gender distribution at senior management level by heacount – Percentage of employees under 30 years of age
S1–10 Fair remuneration	– Percentage of employees whose wage is below the fair wage benchmark for the country (if not all employees receive for wage according to applicable reference values)
S1–13 Traning and skills development indicators	– Average number of training hours per employee, broken down by gender
S1–16 Remuneration indicators (pay gap and total compensation)	– Gender pay gap, expressed as the difference between average gross hourly earnings of male and female employees as a percentage of male earnings – Annual total compensation ratio of highest-paid individual to median annual total compensation for all employees
S1–17 Incidents, complaints and severe human rights issues	– Total number of discrimination incidents, including harrasment, reported during the reporting period



Standard S3

ESRS S3 addresses affected communities. For ESRS standards purposes, affected communities are defined as: "People or group(s) living or working in the same area that has been or may be affected by the reporting undertaking's operations or through its value chain. Affected communities can range from those living adjacent to the undertaking's operations (local communities) to those living at a distance. Affected communities include actually and potentially affected indigenous peoples."[1]

Specifically (for example):

- Communities living or working around operating sites, factories, facilities or other physical operations of an undertaking, or more remote communities affected by activities at these sites (e.g., downstream water pollution)
- Communities along the undertaking's value chain (e.g., those affected by suppliers' facility operations or by logistics or distribution providers' activities)
- Communities at one or both endpoints of the value chain (e.g., at the point of extraction of metals or minerals or harvesting of commodities, or communities around waste or recycling sites)

The undertaking must therefore report its positive and negative impacts on these communities, what policies and measures the company adopts to address these impacts, and what targets the company has set and how it measures its progress in this area.

Standard S4

ESRS S4 focuses on consumers and end-users. Companies must report information about how their activities affect areas such as:

- Information-related impacts on consumers and/or end-users
  - Data protection
  - Personal data protection
  - Freedom of expression
  - Access to (high-quality) information
- Personal safety of consumers and/or end-users
  - Health and safety
  - Personal security
  - Protection of children
- Social inclusion of consumers and/or end-users
  - Non-discrimination
  - Access to products and services
  - Responsible marketing practices

The report must therefore describe the undertaking's policies regarding consumers and end-users, and what processes the undertaking uses to engage consumers and end-users to obtain their feedback (complaints). Let's look at two examples:

Product safety excellence

A food manufacturing company could report specific measures taken to protect the health of its customers – consumers. For instance, it could describe how it tests products for potentially harmful substances such as pesticides or allergens. Furthermore, it could outline its quality assurance processes during production and provide specific metrics, such as the number of tests performed or the percentage of products that passed inspection. If the company identified any issues (such as exceeding dangerous substance limits), it should also describe how the problem was addressed and what measures were taken to prevent recurrence.

Consumer feedback systems

An electronics company should have a system in place that allows customers to report problems or file complaints, for example about product safety

[1] For the definition of indigenous peoples, refer to Appendix 2 Abbreviations and Glossary of Terms) Commission Regulation EU 2023/2772.

or functionality. This mechanism should be accessible, transparent, and enable customer feedback. In its sustainability report under ESRS S4, the undertaking should describe how many complaints were received, how quickly they were resolved, and how many were successfully addressed. If certain issues had serious impacts (e.g., risk of customer injury), the undertaking should also describe how addressing these complaints influenced subsequent decisions in production or product design.

Conclusion

ESRS standards define over a thousand data points, of which "S" standards comprise approximately 40 %. This indicates a significant amount of information undertakings must report regarding social impacts. It is therefore important to give this area adequate attention well in advance when preparing sustainability reports.

In this installment of the series, we must again recommend that undertakings use this time to conduct a double materiality assessment (see our previous articles), which will reveal material topics and the scope of potentially disclosed data. Subsequently, it is necessary to ensure access to all required data, involve key departments, and set up internal systems for regular information collection and evaluation.

Contact details for further information

Ing. Ivan Brož
auditor
(Auditor CZ)
Partner
T +420 236 163 370
ivan.broz@roedl.com

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Reg. No. 25724231
Reg. Metropolitan Court in Prague, C 64494

P +420 236 163 111
www.roedl.cz/en

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