“CSR management and reporting between voluntary bonding and legal regulation. First empirical insights of the compliance to the German Sustainability Code”

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Abstract

CSR management and reporting as stated in the German Sustainability Code have currently gained an increasing relevance in the context of business reporting. Focussing on the comparison with the German Corporate Governance Code, this article investigates the conception and major opportunities and risks of the German Sustainability Code. Furthermore the authors present the first empirical analysis of declarations of conformity voluntarily published by 75 companies. It is examined, whether stock companies on the one hand and public enterprises, medium-sized as well as family-owned businesses on the other hand apply the Sustainability Code differently. In view of the main reporting heterogeneity and reporting lags the current European regulation of CSR reporting can be justified.

Keywords: corporate governance, business reporting, CSR reporting, CSR management.
JEL Classification: G34, M42, J15, J16.

Introduction

Due to the increasing amount of information required by various stakeholders and the decreasing confidence in the quality of corporate reporting, the financial reporting in accordance with statutory regulation is considered insufficient, particularly with respect to capital market-oriented companies (Behncke & Hoffmann, 2012, p. 411; Miolo & Veser, 2012, p. 479; Müller & Stawinoga, 2013a, p. M I; Vaessen, 2013, p. I). For company disclosures to be relevant in the decision-making process, a differentiated presentation of the value added for the business owners and society as a whole should be achieved within a sustainability report (corporate social responsibility report) by equally taking into account economic, social and environmental aspects. Recent controversial discussions in this context focus on the extent to which the voluntary sustainability reporting currently practised should be integrated into the traditional financial reporting tools (primarily the (group) management report under commercial law), and consequently become mandatory, or whether it should be designed as a separate publicity disclosure instrument (stand-alone report) (Müller & Stawinoga, 2014b, p. 63).

This issue is relevant at present from both a normative and an empirical perspective. Due to the reduced confidence placed by capital market participants in the quality of corporate reporting, supranational regulatory bodies – such as the EU Commission – have introduced a variety of reform measures in relation to the rendering of accounts, the annual audit and corporate governance since the most recent financial crisis in 2008/09 (EU Commission, 2010, pp. 1-24; EU Commission, 2011, pp. 1-27; EU Commission, 2012, pp. 1-18; EU Commission, 2013, pp. 1-176; EU Commission, 2014a, pp. 77-112). In this context, the Directive 2014/95/EU amending Directive 2013/34/EU as regards the disclosure of non-financial and diversity information by certain large undertakings and groups deserve special attention, as it seeks non-financial disclosures in the (group) management report of certain companies of public interest (EU Commission, 2014b, p. 4; also Glaser, 2015, p. 55; Spießhofer, 2014, p. 1281; Villiers & Mähönen, 2015, p. 121). Moreover, various frameworks regarding the preparation, audit and disclosure of sustainability reports have been established (Stawinoga, 2013, pp. 26-31), which results in a continuous increase of voluntary reporting in both the private and the public sector. While the Global Reporting Initiative (GRI) provides the key framework from an international perspective (Levy et al., 2010, p. 94), the Sustainability Code of the German Council for Sustainable Development initially adopted in October 2011 (German Council for Sustainable Development, 2011, p. 1) and revised in August 2014 (German Council for Sustainable Development, 2014a, p. 1) epitomises the key national standard for the disclosure of sustainability Key Performance Indicators (KPIs) as part of a compliance statement (Bassen et al., 2011, p. 362; Dienes & Velte, 2014, p. 347; Kleinfeld & Martens, 2014, p. 227; Stawinoga & Velte, 2014, p. 193; Zwick, 2014, p. 244). In accounting practice, the standards predominantly applied in the preparation of sustainability reports are those put forward by the GRI (KPMG, 2013, p. 9). Consequently, research activities analyzing the manner of publication of sustainability information are regularly based on this conceptual framework. Notwithstanding the fact that the Sustainability Code of the German Council for

Sustainable Development is gradually becoming more important in national reporting practice for the disclosure of non-financial performance indicators, publication behavior in terms of this transparency standard is not a current focus of empirical studies.

In light of the above, this analysis aims to establish a theoretical foundation for the economic necessity for sustainability reporting (section 1) and subsequently to illustrate the concept of the Sustainability Code of the German Council for Sustainable Development and the associated compliance statement to the sustainability report (section 2). In the course of this discussion, the key differences to the German Corporate Governance Code formulated by the German Corporate Governance Commission and the new aspects included in the amended version of the Sustainability Code adopted in August 2014 will be discussed, highlighting the degree to which criticism voiced over the initial version of the Sustainability Code has been resolved successfully.

This contribution focuses on the empirical evaluation of all statements of compliance with the Sustainability Code on the homepage of the German Council for Sustainable Development as at September 10, 2014 in order to produce a snapshot of the sustainability reporting arrangements in terms of this transparency standard (section 3). Potential factors of influence and reporting gaps will be included in this discussion. The analysis will then critically examine the extent to which the concept of the Sustainability Code in its current version can contribute to company disclosures relevant to decision-making and the extent to which the supplementation of the EU Directive as regards the disclosure of non-financial information can be considered necessary (section 4). In these contexts, the progression of sustainability reporting towards integrated reporting in accordance with the current framework concept of the International Integrated Reporting Council (IIRC) will also be mentioned.

1. Theoretical foundation of CSR reporting

The economic necessity for sustainability management in general and specifically for sustainability reporting, can be established with a variety of theoretical explanatory approaches, though the stakeholder theory has been dominating this discussion since the financial crisis (Cyert & March, 1963). According to this theory, a company operates within a network of different exchange relationships with heterogeneous target groups, which have a major impact on business success (Freeman, 1984). The company is a subset of society and specific social expectations as to the intended value generation must be fulfilled. This gives rise to increased demands on the management needs to reconcile the sometimes conflicting demands of the various stakeholders and their partially contradicting corporate objectives. In order to ensure the going concern of the company, the consideration of stakeholder objectives must be expressed through sustainability reporting (Clarkson, 1995, pp. 92-117). Therefore, a positive correlation between the bargaining power of stakeholders, sustainability performance and sustainability reporting is often imputed in the literature (Roberts, 1992, pp. 595-612).

With respect to sustainability reporting, the stakeholder theory is directly linked with the legitimacy theory, which proposes that an implicit contract between an enterprise and society exists (Prexl, 2010, p. 62). On account of this "social contract" (Shocker & Sethi, 1973, pp. 97-105), companies must act in accordance with a certain set of values (Dowling & Pfeffer, 1975, p. 127) and must continuously subject their actions to a legitimacy review supported by CSR reporting (Fernando & Lawrence, 2014, p. 161). If stakeholders confirm the company's legitimacy as positive, it can expect unrestricted access to resources, as well as a positive impact on corporate image, competitive strength, and customer, employee and investor satisfaction (Ungericht & Hirt, 2010, p. 179). Communication of information in the form of sustainability disclosure is the central element for exercising influence on the way the company is perceived by society (Adams & Zutschi, 2004, p. 32).

Moreover, the concept suggested in resource theory establishes the corresponding economic significance of sustainability reporting (Barney, 1986, pp. 1231-1241). According to this theory, the main factor for the achievement of exceptional profits is the successful employment of resources. Every company is considered as a resource bundle, comprising specific and unique tangible and intangible – as well as human and financial – resources (Zobolski, 2008, p. 3). As each entity has access to a unique combination of resources, its specific resource availability is the foundation for creating competitive advantages and strategies, which may result in exceptional profits (Bamberger & Wrona, 1996, p. 386). CSR reporting is presented as a central indicator for this objective insofar as the risks associated with sustainability can be reduced by appropriate management (Salama et al., 2011, p. 194). This entails making social and ecological resources available, whereby excess resources promote communication supported by sustainability reporting in the context of various beneficial spillover effects, such as the increase in enterprise value.

2. Concept of the German Sustainability Code

The German Council for Sustainable Development appointed by the German Federal Government presented the initial version of the Sustainability Code on November 13, 2011 in response to the international discussion on enhancing the quality of company disclosures (German Council for Sustainable Development, 2011, p. 6). The objective of standardizing the reporting on sustainable operations was adopted (Bassen et al., 2013, p. 187). In August 2014 the German Council for Sustainable Development released a revised version of the Sustainability Code (German Council for Sustainable Development, 2014a, p. 1) as well as a guide for small and medium-sized enterprises applying the Sustainability Code in December 2014 (German Council for Sustainable Development, 2014b, p. 6; see also Thieme, 2015, p. I). With the "(…) update of the Sustainability Code, the German Council for Sustainable Development reinforces its aim of advancing thoughts of sustainability and of making companies' sustainability performance transparent and comparable" (German Council for Sustainable Development, 2015, p. 7).

Based on the Sustainability Code the various stakeholder groups should be given the opportunity to evaluate corporate sustainability performance (Bassen et al., 2011, p. 363). In the ideal case scenario, standardized sustainability reporting facilitates the achievement of reputation and competitive advantages, which may have a positive impact on enterprise value. At the same time, recognized guidelines should prevent management from reducing the CSR report to an instrument of positive self-portrayal (greenwashing) without actually stepping up their efforts in the social and environmental domains (Hamborg & Jung, 2014, p. 152). The standards proposed by GRI and the European Federation of Financial Analysts Societies (EFFAS) heavily influenced this concept (Bassen et al., 2011, p. 363).

During the draft phase, an enhanced binding character for the compliance with the Sustainability Code was intended by incorporating a mandatory compliance statement by analogy to the mandatory statement of compliance with the recommendations of the German Corporate Governance Code for publicly listed companies (Section 161, German Companies Act) (Hecker & Peters, 2012, p. 56). However, this intention was not realized for a number of reasons including the different objectives of the Sustainability Code and the German Corporate Governance Code, the deviation from statutory regulation which would constituted by an inclusion of a Sustainability Code compliance statement in Section 161 of the German Companies Act, and potential liability risks (Hamborg & Jung, 2014, p. 150). In contrast to the German Corporate Governance Code, the (failure of) application of the Sustainability Code cannot lead to risks of contestation for resolutions of the general meeting (Hecker & Peters, 2012, p. 57). This prevents an additional intervention in the set of norms that exists under company law, and an increased risk for the business management bodies. Therefore, the final version of the Sustainability Code only contains recommendations for CSR reporting, and no mandatory compliance statement (German Council for Sustainable Development, 2014a, p. 1). Nevertheless, reporting may give rise to legal consequences, e.g. compensation in the event of inaccurate presentation (Sections 8, 9, German Unfair Competition Act).

The content of the Sustainability Code can be divided into the four reporting categories strategy, process management, environment and society, with a total of 20 Sustainability Code criteria that can generally be addressed with free text (German Council for Sustainable Development, 2014a, pp. 3-5). They should further be explained or quantified by means of one or two key performance indicators. Reference is made to the performance indicators of the GRI and EFFAS guidelines (German Council for Sustainable Development, 2014a, pp. 8-10). In the "strategy" category, the company outlines its strategic positioning with respect to its own sustainability. Meanwhile, the "process management" chapter focuses on the application of rules and processes in the implementation of the strategy. In the "environment" chapter, the company should state its position on the use of renewable energies and resources. Finally, the "society" chapter discusses the company's position on social issues and their impact on development.

Even though the Sustainability Code is not embedded in Section 161 of the German Companies Act, the "comply or explain" model of the German Corporate Governance Code was adopted, which requires a company to either comply with criteria of the code or issue an explanatory statement for its non-compliance (German Council for Sustainable Development, 2014a, p. 6). If a company already practices comprehensive sustainability reporting – for instance, by disclosing a CSR report in accordance with the highest GRI (A+) or EFFAS (Level III) reporting standard – this is deemed as compliance with the Sustainability Code and the company may state this as part of a "short statement". The compliance statement should be published on the internet, in the annual report, and in a stand-alone or integrated report (if available). In contrast to the German Corporate Governance Code, there is no obligation for a substantive assessment of the compliance statement or the sustainability report by the auditor (Stawinoga, 2015, p. 8).

Unlike the German Corporate Governance Code, the Sustainability Code is not expressly aimed at publicly listed companies, but also includes public organizations and medium-sized companies with a broad range of stakeholders (German Council for Sustainable Development, 2014a, p. 1; Hamborg & Jung, 2014, p. 153). Nevertheless, operational practice shows a preference for capital market-oriented companies primarily using their sustainability report to inform investors and analysts.

Despite an increasing observation of the Sustainability Code in recent years, criticism is put forward in the literature – in particular, with respect to the lack of binding character and practicality (Hamborg & Jung, 2014, p. 155). Some authors question the rationale of a primarily national reporting standard and demand stronger interlinking of the Sustainability Code and the German Corporate Governance Code (Kleinfeld & Martens, 2014, p. 227). Even though the four reporting categories and the 20 Sustainability Code criteria are aligned with the GRI and the EFFAS, the resulting diversity and high degree of complexity mean that the implementation of the Sustainability Code is time-consuming and expensive. Therefore, a focus on environmental protection and resource preservation as the dominant reporting component is proposed. Moreover, the intended purpose of the specification of the individual sustainability criteria is not properly explained, wherefore the reasonableness of the Sustainability Code may be doubted (Hamborg & Jung, 2014, p. 156). In addition to the complexity, gaps in the clarification of the Sustainability Code which compromise its practicality as a preparation and analysis instrument are pointed out. The lack of binding character compared to the German Corporate Governance Code means that the Sustainability Code suffers acceptance issues and causes stakeholders to distrust the quality of sustainability reporting.

On account of the diversity of guidelines for sustainability reporting on an international level, the German Council for Sustainable Development examined potential compatibility versions closely when updating the Sustainability Code. For instance, the corporate governance report in accordance with recital 3.10 of the German Corporate Governance Code is now listed as an example. Since the compliance statement in accordance with Section 161 of the German Companies Act is mandatory and corporate governance reporting pursuant to German Corporate Governance Code is not identical to sustainability reporting pursuant to Sustainability Code, such harmonization of the two is questionable. While it is beyond doubt that numerous inter-dependencies exist between corporate gover-nance and sustainability reporting (e.g. with respect to remuneration reporting) (Freidank & Hinze, 2015, pp. 66-69), parallel disclosure can frequently be observed in business practice.

In light of the increasing importance of integrated reporting, the German Council for Sustainable Development further lists the International Integrated Reporting Framework published in December 2013 as a compatible reporting concept (German Council for Sustainable Development, 2014a, p. 6). This allows companies to issue a statement of compatibility with the Sustainability Code on the basis of an integrated report in terms of the specifications of the IIRC. Whether or not companies will use this interlinking option for sustainability reporting and integrated reporting and the extent to which a reference to an integrated report can fulfil the Sustainability Code criteria remains to be seen.

3. Empirical analysis

3.1. Methodology and design. Our empirical study primarily examines the question of whether and to what degree the disclosure of sustainability information in terms of the Sustainability Code specifications differs for different types of reporting entities – listed or unlisted public limited companies, public organizations and medium-sized or family-managed companies – and how this might be explained. This examination will be based on all available compliance statements on file on the German Council for Sustainable Development homepage as at September 10, 2014[1]. Up to this date, a total of 75 companies have issued a short or full-length statement in line with the Sustainability Code on one or several occasions.

In light of the leading research question, the current state of usage of the Sustainability Code for sustainability reporting behavior is analyzed. In particular, the country in which the companies issuing compliance statements have their registered offices and the sector in which they operate will be determined.

The second issue for investigation is the existence and extent of any differences in the disclosure behavior in terms of the German Council for Sustainable Development transparency standard for different types of reporting entities. For this purpose the total number of 75 compliance statements are categorized according to their issuance by a stock

[1] The compliance statements can be viewed under: http://www.nachhaltigkeitsrat.de/deutscher-nachhaltigkeitskodex.

company, public enterprise or medium-sized or family-owned business and the variance of the short and full declaration between these three company types is examined.

3.2. Research findings. *3.2.1. General research findings*. The headquarters of 73 of the 75 companies examined are in Germany (97.33%). Only one company was registered in Finland and another one in Sweden (total of 2.67%). This result indicates that the Sustainability Code is predominantly observed in a national context and therefore primarily used for the reporting on sustainability-related aspects of corporate actions, by domestic companies.

The German Council for Sustainable Development recognized this issue and plans a linguistic adaptation of the code to achieve international connectivity of the transparency standard. When the Sustainability Code was updated in August 2014, the German Council for Sustainable Development expressed this by leaving out the adjective "German" in the signet and text of the standard (German Council for Sustainable Development, 2014c). Thus, the code is now referred to as "The Sustainability Code" in the international context. Moreover, the German Council for Sustainable Development has submitted a modified version of the code in English, French and Greek. The linguistic adaptation and translation should be welcomed in general, as it creates an impetus for the use of the code, especially within the European Single Market.

The relative majority of companies which have issued a compliance statement are stock companies (33 companies; 44%) and 23 of these are listed. In addition, 24 public enterprises (32%) have submitted a short or full-length statement to the homepage of the German Council for Sustainable Development. Three of these are listed. Then, 17 medium-sized or family-owned companies (22.67%) have issued a compliance statement on the German Council for Sustainable Development homepage, one of which is listed. Finally, one research institute has submitted a statement (1.33%). These findings show that the broad range of users of the Sustainability Code envisaged by the German Council for Sustainable Development has been realized in reporting practice (see Figure 1). This indicates that the DNK is practicable for different types of companies.

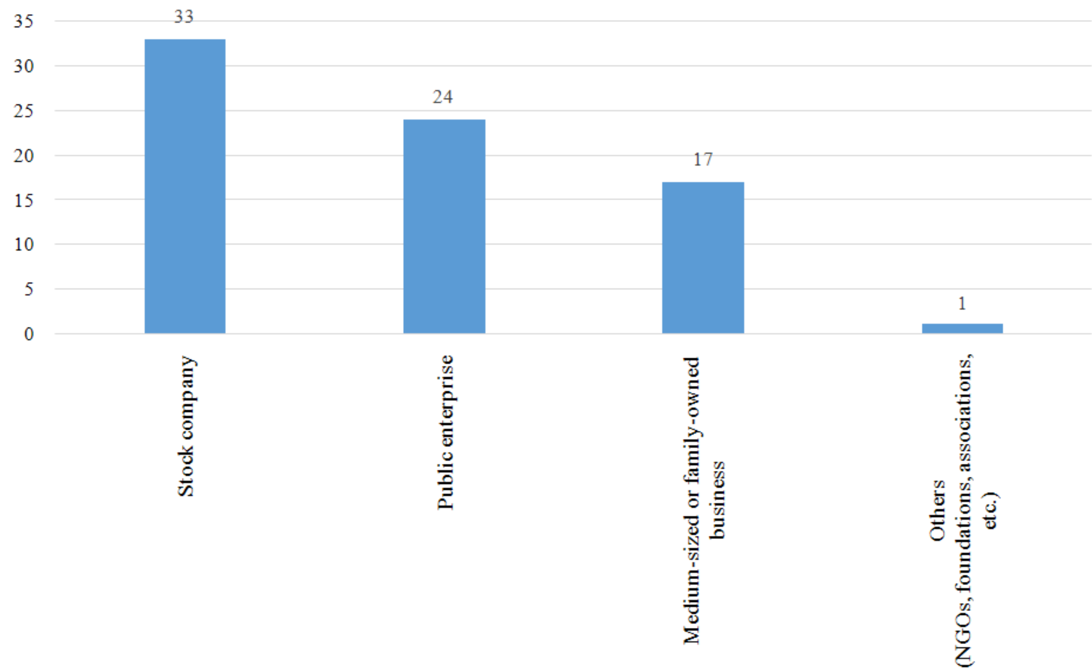

Fig. 1. Company type

The companies issuing compliance statements can be categorized by sector (see Figure 2). While no clear dominance of one sector can be established, banks and companies producing or providing (non-) cyclical consumer goods and services account for a sizeable proportion of the companies issuing compliance statements in terms of the Sustainability Code. The remaining companies voluntarily informing their internal and external stakeholders about the characteristics of their corporate responsibility tend to operate in environmentally sensitive sectors, such as basic resources, chemical, healthcare, waste and water management.

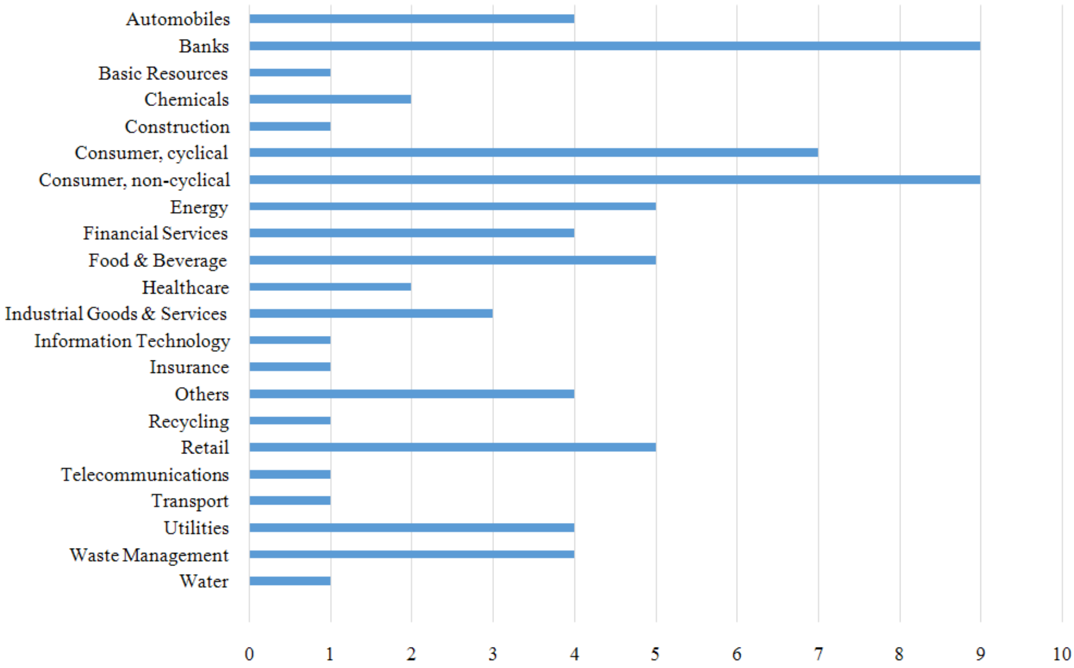

Fig. 2. Sector distribution

3.2.2. Specific research findings. The stock companies show no clear preference with respect to the preparation of a short or full declaration. Almost half of the companies disclosed either a short or full declaration (see Figure 3). According to these statements, a large number of companies already prepare a sustainability report according to the highest level of GRI (GRI A+) or EFFAS (Level III) specification and expresses their compliance with the Sustainability Code guidelines in the form of a short declaration with reference to such a report. Meanwhile, a simple majority of the public enterprises and medium-sized or family-owned businesses has disclosed a full-length declaration on the German Council for Sustainable Development homepage. These findings may be based on the fact that – in contrast to stock companies – most of these companies cannot produce comprehensive sustainability reporting in terms of the highest GRI or EFFAS specifications and are therefore limited to achieving compliance with the Sustainability Code in the form of a full declaration.

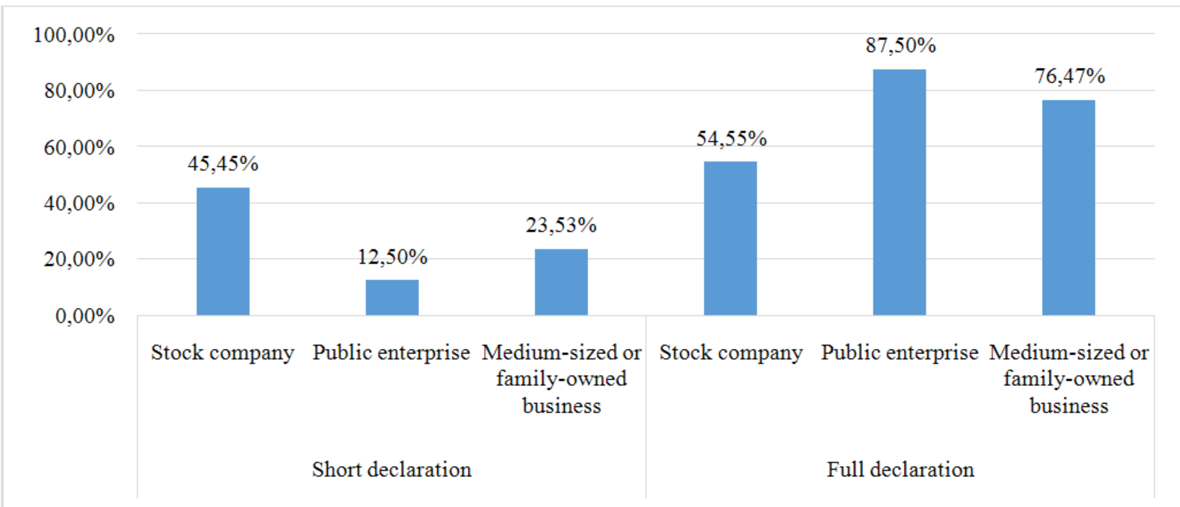

Fig. 3. Declaration type

While public enterprises and medium-sized or family-owned businesses predominantly disclose their short declaration in the German language, stock companies tend to publish their declarations in both German and English (see Figure 4). This means that public enterprises and medium-sized or family-owned businesses primarily aim to address a national audience with their short declaration. In contrast, stock companies want to include both a national and an international audience with the disclosure of their short declaration.

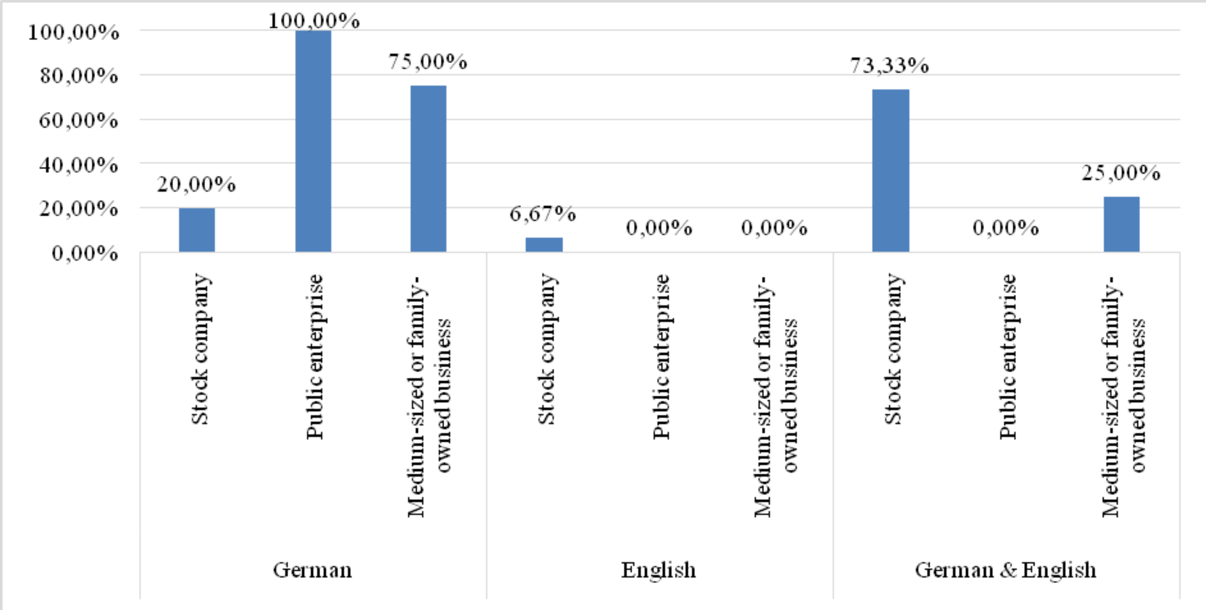

Fig. 4. Language of the short declaration

In their short declaration, all three types of company largely refer to a sustainability report prepared on the basis of application level A of the GRI guidelines (see Figure 5) audited by an independent third party (see also Stawinoga, 2015, pp. 14-18). A reference to a sustainability report according to GRI A+ or EFFAS Level III is of lesser significance. This indirectly confirms the dominance of the Global Reporting Initiative guidelines in the preparation of a stand-alone sustainability report, which has already been noted in other studies (Blaesing, 2013, p. 175; KPMG, 2013, p. 9).

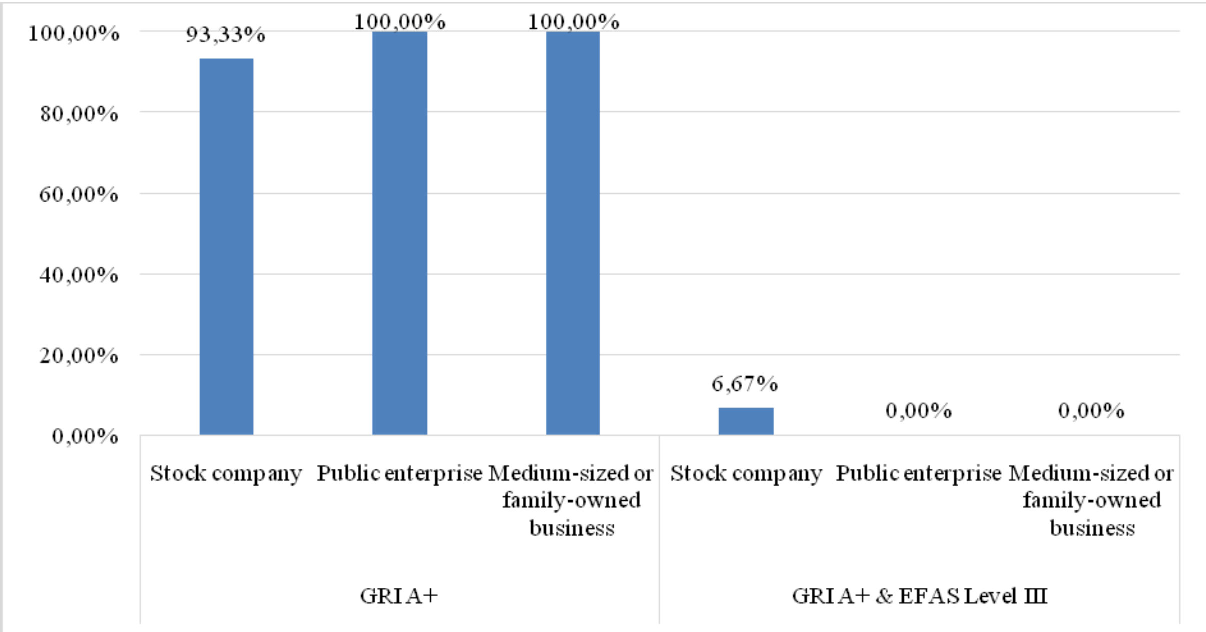

Fig. 5. Reference of the short declaration

The full-length declarations submitted to the German Council for Sustainable Development are on average 11.5 pages long, whereby the range extends from 7 to 24 pages. These findings indicate that the succinct reporting on sustainability-related aspects on the basis of the Sustainability Code envisaged by the German Council for Sustainable Development has already been incorporated into disclosure practice. The full declarations of all three types of companies are predominantly prepared in the German language (see Figure 6). Compliance statements published in the English language, or in both German and English, play a subordinate role. This may indicate that all three types of company examined primarily seek to address a national audience.

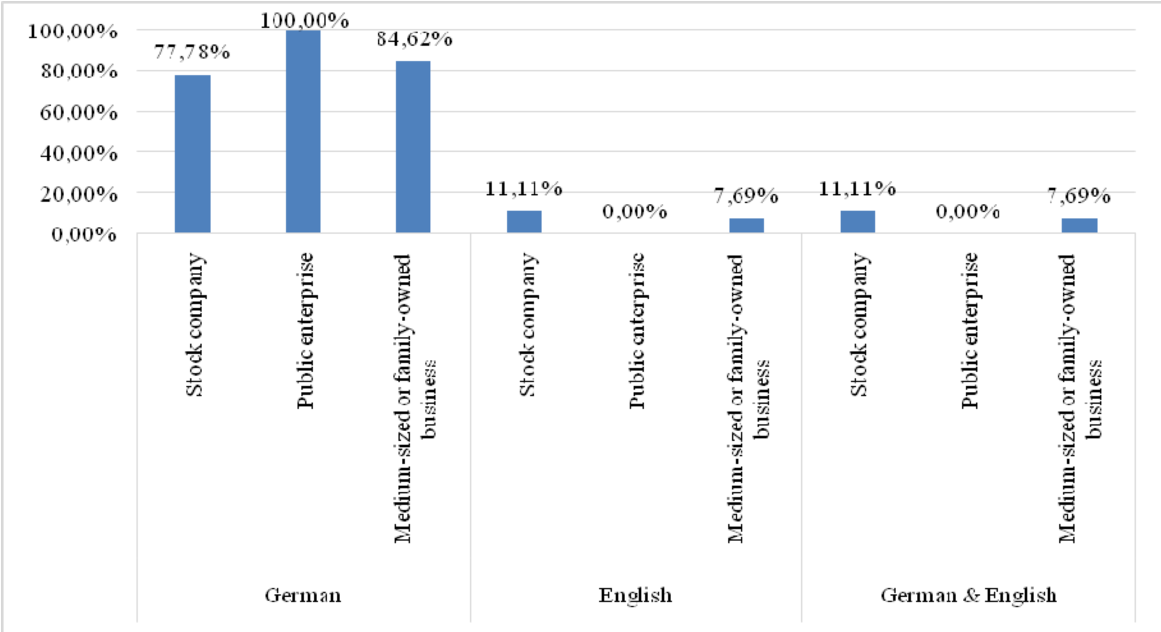

Fig. 6. Language of the full declaration

All companies address the 20 Sustainability Code criteria in free text form and clarify these largely on the basis of the performance indicators proposed in the GRI guidelines or recommended by the German Council for Sustainable Development. In contrast, the performance indicators proposed by the European Federation of Financial Analysts Societies (EFFAS) are rarely published, and then usually as a supplement to the GRI performance indicators (see Figure 7). Only one public enterprise exclusively addresses the 20 Sustainability Code criteria in free text form and discloses no additional performance indicators. In particular, the performance indicator GRI FS11, which describes financial assets evaluated from an environmental and social perspective, is not compiled and is therefore not referred to in the full declarations. The reporting organizations largely explain this with a future presentation of this performance indicator.

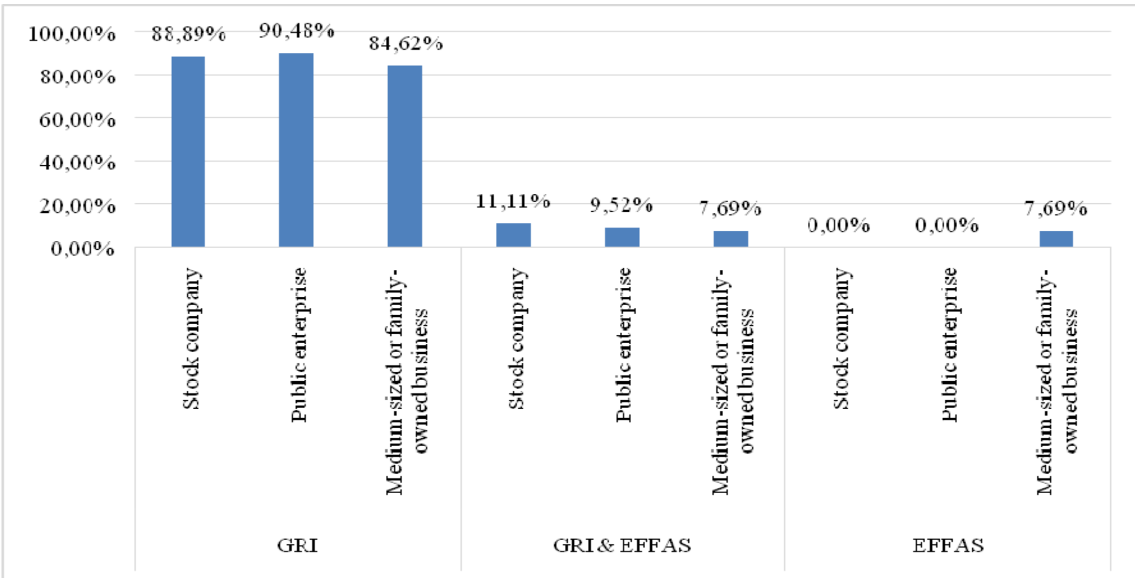

Fig. 7. Performance indicators of the full declaration

The majority of organizations submitting a full declaration to the German Council for Sustainable Development do not voluntarily provide external assurance by an independent third party or as part of an "application level check" performed by the GRI (see Figure 8). Even though the German Council for Sustainable Development generally does not impose an external audit on the compliance statement, the quality or credibility-enhancing effect of such an audit or review of the full declaration by an auditor, other independent expert or similar is currently not fully realized in the reporting practice.

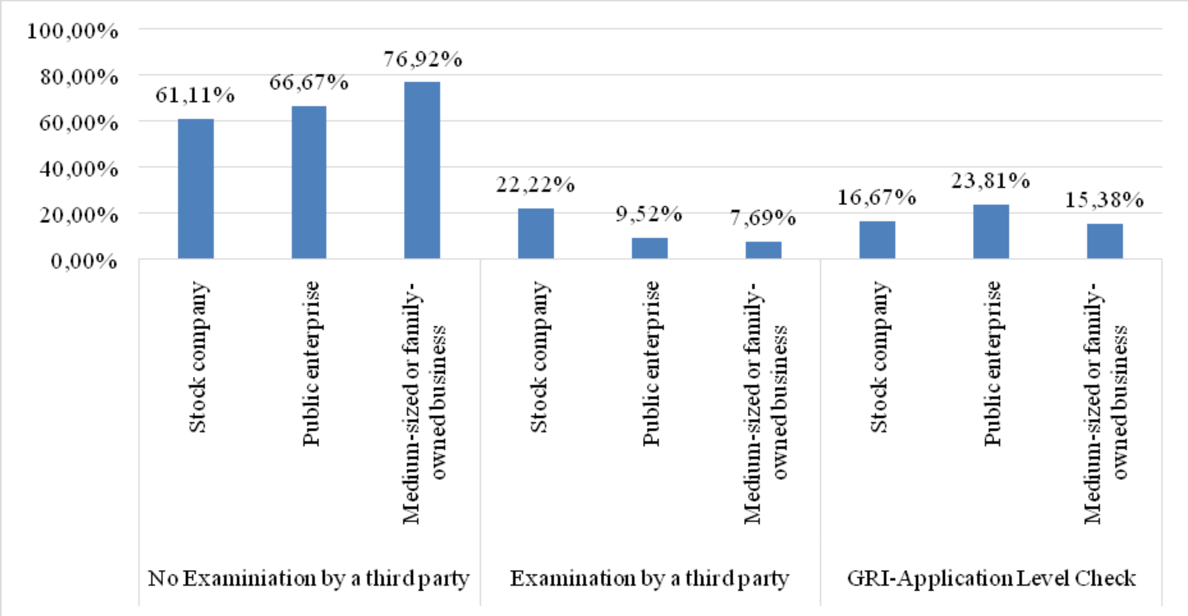

Fig. 8. Assurance of the full declaration

4. Regulation of CSR reporting and integrated reporting

While at present stand-alone sustainability reports are frequently prepared by German companies it should be noted that the management report or group management report of larger limited companies must already address certain sustainability aspects de legelata (Schmidt, 2012, pp. 92-252; Dienes & Velte, 2013, pp. 231-233; Hoffmann, 2013, pp. 458-462; Stawinoga, 2013, p. 111-146). Article 29 of the EU Accounting Directive 2013/34/EU already required the inclusion of key non-financial performance indicators relevant to business operations – e.g. information on environmental or employee issues – in the analysis presented in the (group) management report, insofar as this affected understanding of the business trends, the operating results or the overall position of the company. Insofar as appropriate, this should also include references to figures disclosed in the annual financial statements and additional notes.

From a national perspective, Section 289 Subsection 3 of the German Commercial Code ("Handelsgesetz-buch") only addresses large corporations as defined in Section 267 Subsection 3 of the German Commercial Codeor group's entities pursuant to Section 315 Subsection 1 clause 4 of the German Commercial Code. The term "non-financial performance indicators" comprises "environmental and employee issues", whereby the German legislature lists the additional examples of:

- the development of the customer base;
- human capital;
- research and development; and
- the social reputation of the limited company (Explanatory Memorandum of the German Accounting Reform, 2004, p. 31; see also Hartmann, 2006, pp. 85-90).

Moreover, the company needs to evaluate the materiality threshold with respect to its reporting (Fink et al., 2013, p. 72). However, a limitation of the reporting of those non-financial performance indicators, which have already affected the balance sheet, profit and loss account or notes to the accounts of the relevant financial year, is not suggested.

In terms of the group management report, the professional German Accounting Standards (GAS) of the Accounting Standards Committee of Germany should also be noted. According to German Accounting Standards, the most important non-financial performance indicators must be included in the group management report in analogue to Section 315 Subsection 1 clause 4 of the German Commercial Code, if they are material for the understanding of the business trends or the position of the group (German Accounting Standard 20, 2012, par. 105). The same performance indicators which are consulted for the internal steering of the group should be named here (management approach) (Zülch & Höltken, 2013, p. 2463).

According to German Accounting Standards, quantitative statements – insofar as they are material for the informed audience and consulted for internal steering purposes – must be provided for non-financial performance indicators (German Accounting Standard 20, 2012, par. 108). However, many non-financial performance indicators are linked to limited objectivity, as is the case with organizational culture (Müller & Stawinoga, 2013b, p. 308). The Accounting Standards Committee of Germany does not require a stand-alone sustainability report, even though financial and non-financial performance indicators can also be declared the object of sustainability reporting pursuant to German Accounting Standard 20 (Lackmann & Stich, 2013, p. 236). Nevertheless, it necessitates at least a partial embedding of sustainability-related issues in the group management report, because material information about environmental and social issues must be "included" in the analysis of business operation and the position of the company (Schmidt, 2012, p. 58; Barth et al., 2014, p. 54). Individual aspects of sustainability can also regularly be found in other mandatory components of the group management report, such as the reports on risks, the outlook, research and development, remuneration, or additional reports such as the voluntary strategy report, as well as the corporate governance statement pursuant to Section 289a of the German Commercial Code (Dienes & Velte, 2013, p. 233; Haller et al., 2014, p. 2543). Moreover, German Accounting Standards point out that the correlation between sustainability and the performance indicators, any recognized framework concept applied, and the significant changes of the performance indicators as compared to the previous year must be stated (German Accounting Standard 20, 2012, par. 111-113).

A significant national requirement for implementation results from the amendment of the EU Accounting Directive of November 2014 (EU-Commission, 2014b, pp. 1-9) which introduces a "non-financial statement" or "consolidated non-financial statement" (Velte, 2014, p. 1046; Wulf & Niemöller, 2015, pp. 109-111). This new requirement affects large companies, which are of public interest (single-entity financial statements), and parent companies of a large group of companies, which are of public interest and employ more than 500 employees on average over the course of the financial year (EU-Commission, 2014b, p. 4; see also Voland, 2015, p. 67). The (group) management report for these companies must contain a non-financial statement, which must include disclosures necessary for the understanding of the business trends, the results of operations and the position of the company, as well as the impact of its operations, and which must address environmental, social and employee issues, respect for human rights and anti-corruption and anti-bribery measures as a minimum (EU-Commission, 2014b, pp. 4-5; see also Lanfermann, 2015, pp. 323-324).

If the company does not intend to adopt any particular strategy with respect to one or several subject areas, it must provide a "clear and detailed explanatory statement" (EU-Commission, 2014b, p. 5; see also Maniora, 2015, p. 153). The Member State options for the preservation of the protection against competition should be noted in this context. This means that information on the future development of such issues, which are subject to negotiation may be omitted, if the members of the management deem a disclosure to materially compromise the company's business position. However, such non-disclosure must not be in conflict with the true and fair view principle.

Additional exemptions from the preparation of a non-financial statement in the (group) management report are provided primarily in the "group clause" pursuant to Art. 19a III of the EU Directive. If these disclosures are included in the group management report or a stand-alone report, the disclosure requirement in the single-entity financial statements is waived (EU-Commission, 2014b, p. 5; see also Voland, 2014, p. 2815). In addition, Member State options (Art. 19a IV) exist for the omission of sustainability information in the management report, if the company publishes a stand-alone sustainability report together with the management report, or publishes a stand-alone report on the company website (incl. a reference to the management report) within a reasonable period (no later than six months after the balance sheet date).

Companies may consult national, EU-based, or international frameworks for sustainability reporting in their preparation of the non-financial statement or the stand-alone report (EU-Commission, 2014b, p. 5; see also Kreipl, 2015, pp. 105-106). For instance, the Sustainability Code published by the German Council for Sustainable Development, the GRI recommendations, or the integrated reporting framework of the IIRC may be used, whereby the relevant guidelines must be stated.

The integrated reporting concept embodies the most recent stage of evolution in the progression of regular corporate disclosure behavior and is promoted in particular by the IIRC. While a first principle-based framework has been in existence since December 2013 (IIRC, 2013, pp. 4-5), and accounting practice has access to a guideline for the preparation of integrated reports for the first time, a range of unanswered questions with respect to the preparation, audit and disclosure of integrated reports remains (Adams, 2015, p. 27; Cheng et al., 2014, pp. 97-99; De Villiers et al., 2014, pp. 1059-1062; Flower, 2015, pp. 13-15; Zicari, 2014, pp. 211-213).

On account of its international applicability, the IIRC framework concept is marked by a deliberate principle-oriented approach which leaves the management with significant flexibility of arrangement and margins of discretion in its practical implementation (IIRC, 2013, p. 7; see also Haller & Zellner, 2013, p. 1131). The IIRC framework concept comprises seven guiding principles, which must be observed in the preparation and disclosure of integrated reports: strategic focus and future orientation, connectivity of information, stakeholder relationships, conciseness, materiality, reliability and completeness, and consistency and comparability (IIRC, 2013, p. 15; see also Müller & Stawinoga, 2014a, p. 42). In addition, the IIRC framework concept typically envisages eight content elements in an integrated report: organizational overview and external environment, governance, business model, risks and opportunities, strategy and resource allocation, performance, outlook, and basis of preparation and presentation. A separate discussion of the individual components is not indicated. Rather, they should be reported in an integrated manner in accordance with the company-specific description of the added value for the business owners and society (IIRC, 2013 p. 24; see also Haller & Zellner, 2014, pp. 256-257). The objective is to achieve a connective presentation of the business performance by means of the six types of capital highlighted in the framework: financial, manufactured, intellectual, human, social and relationship, and natural capital (Flower, 2015, pp. 3-4; Lorson et al., 2015, p. 627). Traditional financial reporting limits the presentation to the financial capital and manufactured capital, with a partial inclusion of intellectual capital, and is primarily aimed at the investors in the reporting entity. The IIRC framework concept aims to integrate all types of capital, both in terms of governance and of integrated reporting (IIRC, 2013; see also Haller, 2014). The objective is to modify financial reporting towards an integrated disclosure of the key influencing factors on the added value created for the business owners and for society in a single report primarily aimed at long-term investors (IIRC, 2013, pp. 11-14; see also Thomson, 2015, pp. 19-21). In contrast, sustainability reporting addresses all of the internal and external stakeholder groups of a company and in addition to the financial capital reported, it focuses primarily on human, social and natural capital (Kajüter, 2015, pp. 303-306). Thus, the concepts of integrated reporting and sustainability reporting differ, which means that there is no tension or immediate competition between them (Freidank & Hinze, 2015, p. 83; Kajüter, 2014, pp. 604-607; Müller & Stawinoga, 2013c, pp. 464-466).

Summary and outlook

Since the most recent financial crisis in 2008/09, CSR management and reporting have become increasingly popular, especially among capital market-oriented companies, also in Germany. Apart from the internationally recognized GRI guidelines, the Sustainability Code of the German Council for Sustainable Development is gaining central significance. Thus far, national legislature has consciously avoided the anchoring of the preparation, audit and disclosure of sustainability reports in commercial law – with the exception of the reporting on non-financial performance indicators in the (group) management report. While the Sustainability Code shows some analogies to the German Corporate Governance Commission because of the adoption of the “comply or explain” principle, it lacks the binding character of the compliance statement pursuant to Section 161 of the German Companies Act. In light of the above, the question arises as to how companies realize their reporting and explanation in accordance with this transparency standard, which is at the centre of this empirical study.

The evaluation of all available compliance statements issued by 75 companies on the German Council for Sustainable Development homepage as September 10, 2014 shows that a diverse range of company types use the Sustainability Code for the reporting of sustainability-related affairs. For around half of the reporting stock companies, a short declaration suffices on account of the existing comprehensive sustainability reporting. In contrast, public enterprises and medium-sized or family-owned businesses tend towards disclosing a German-language full declaration. While this empirical study indicates a cross-sectoral acceptance of the Sustainability Code in national disclosure practice, international connectivity of the code must be established over time, and the reporting organizations should be encouraged to enhance the credibility of their full declaration by means of an external audit or review. On account of the reporting deficiencies established, the approach of the European Union focusing on the stricter regulation of sustainability reporting within the (group) management report can be justified from an economic perspective. Notwithstanding the tendency towards increasing EU-wide regulation and extension towards integrated reporting, the Sustainability Code of the German Council for Sustainable Development will provide valuable guidance for the reporting on non-financial performance indicators for both capital market-oriented companies and organizations removed from the capital market. The focus of future research on compliance to the German Sustainability Code should aim on analyzing larger sample and periods in order to integrate long-term effects. Consequently, on the basis of this study it is necessary to develop the statistical analysis further. But up to now regression analysis would be of rather low validity because the declaration on compliance to the CSR code is optional for all companies and the amount and structure of firms that publish a declaration is not very appropriate. Further research should also analyze the quality of CSR reporting and the demand for CSR assurance to increase the decision usefulness of CSR reporting in Germany.

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