

28.02.2022

# The German Sustainability Code

Consideration of the Sustainability Code in  
the context of current EU sustainability  
regulatory measures and the SDGs as an  
international reference framework

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## Executive Summary

The report is structured as follows: At the beginning, the Corporate Sustainability Reporting Directive (CSRD) including the reference to the planned European Sustainability Reporting Standards (ESRS) as well as the EU taxonomy are considered. The regulatory measures are systematically compared with the Sustainability Code (German Sustainability Code, DNK) at various levels in order to highlight similarities and differences. The comparison also includes the basic orientations and subject areas of the regulatory measures, and the underlying indicators are mapped.

As a result, no contradictions are identified that would stand in the way of harmonising the Code with the regulatory measures. On the contrary, based on the current state of knowledge, the Code seems to be well aligned with the CSRD. With regard to the EU taxonomy, there are thematic overlaps, but the granularity differs significantly from that of the Code, so that harmonisation is only possible at an aggregated level.

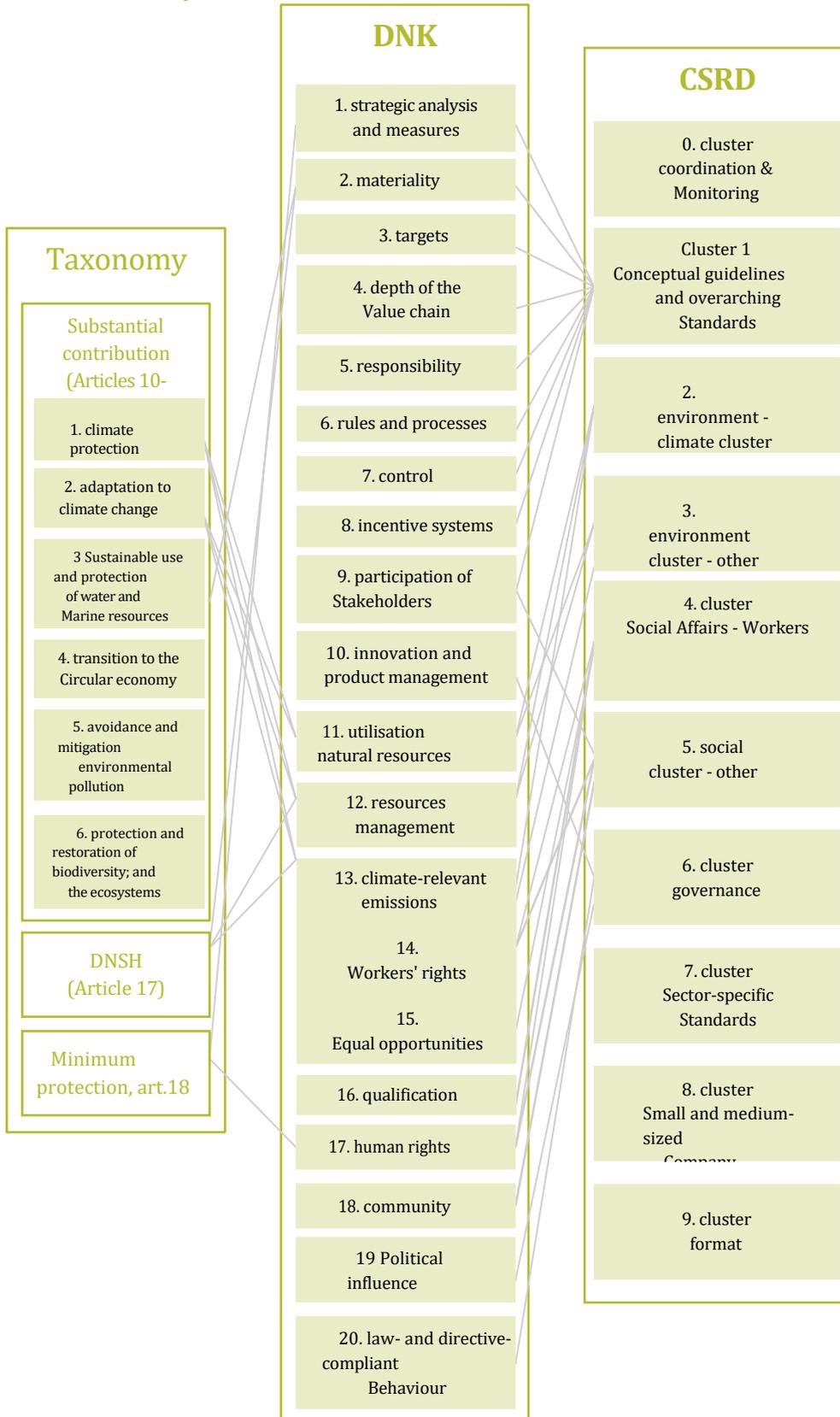
In order to be able to better assess the need for companies to adapt to the EU taxonomy, a text analysis is also carried out, which examines the extent to which the companies already implicitly refer to the EU taxonomy in their Code reports. The result shows that the various environmental goals of the EU taxonomy are addressed differently in the Code reports. In some cases, the Sustainability Code reports even go significantly beyond the EU taxonomy.

Thus, the Code is confirmed as an overall concept that can, in principle, maintain its relevance and future viability with regard to comprehensive thematic areas of sustainability.

Furthermore, it is examined whether conceptual differences exist between the EU taxonomy and the Sustainability Code. First, the overall process of the sustainability approach in the company is considered, then various key figures are analysed. It is shown that the Code focuses primarily on the process approach, while the EU taxonomy follows the performance logic by focussing on key figures. The report recommends strengthening the performance level within the Code, but also integrating the environmental goals of the EU taxonomy at the process level. The goal here should be to unite both levels.



Figure 1: Thematic overlaps between DNK, CSRD and EU taxonomy





In addition, a systematic comparison between the Code and the Sustainable Finance Disclosure Regulation (SFDR) is carried out. The SFDR is linked to the EU taxonomy and specifically targets financial market actors. The report identifies the disclosure obligations for financial market actors and the overlaps of the Code with the 18 sustainability factors of the draft Regulatory Technical Standards (RTS). By revising the Code in the sense of integrating the taxonomy, a Code report could serve as a basis for financial market actors to obtain the information they need for the reporting obligations under Articles 8 and 9 of the SFDR. It becomes clear that the Code currently only partially fulfils these information needs under Article 4 and that indicators or Code aspects would have to be supplemented to ensure harmonisation. Thematically, however, the Code already covers most of the areas of the proposed RTS, so that an adaptation of the Code would be possible in principle.

Based on the analyses, three possible options are elaborated on how the DNK can be revised with regard to the CSRD, the EU taxonomy and the SFDR. Taking into account the future direction of the DNK, the expert opinion recommends the third option, which is as follows: The Code serves as a platform that connects the different regulatory measures and thus enables companies to report across the board. At the level of regulatory measures, this means that the information required by the CSRD and EU taxonomy is fully integrated into the Code. On a formal level and following the current draft of the CSRD, the mention within the management report as well as the audit (limited assurance) will become mandatory. The contents of a Sustainability Code report would then have to be integrated into the management report of the respective company in order to comply with the proposed requirements of the CSRD.

With regard to the SFDR, information that is not mandatory to be reported by non-financial companies but is relevant for financial companies will be added to the Sustainability Code. This option may initially (potentially) represent an additional effort for applying companies, but in the light of current developments, such a revision of the Code would be understood as a proactive signal - because in this way companies (via voluntary implementation by non-reporting companies, such as SMEs) could send a signal to investors, financial market actors and society.

Through the proposed adjustments, the Code would position itself as a pioneer and would be prepared for future developments, for example through a European tightening of the Due Diligence Act passed at the beginning of June 2021 as well as an integration of



sustainability aspects into the lending process, well positioned. The various options should be included in the Sustainability Code as opt-in variants: The individual elements to be reported would be shown at thematically appropriate points, analogous to the previous integration of the CSR RUG.

In addition, considerations must be made with regard to time horizon and indicators. A final recommendation does not make sense at this point in time for the following reasons: Firstly, the Code in its current version allows the applying companies to select a set of indicators, either GRI (Global Reporting Initiative) or EFFAS (European Federation of Financial Analysts Societies). The Project Task Force ESRS cooperates with GRI with regard to the preparation of the ESRS, which is why an even greater use of GRI indicators can be expected in the future through their integration into reporting. As a result, the further potential use of the EFFAS indicators within the Code could prove to be obsolete due to the additional effort for the applying companies. For this reason, this report recommends that in future only the GRI indicators be included in the Sustainability Code and, if necessary, expanded to include other approaches (TCFD, SASB). This approach can also be applied to sector-specific publications, as current sector-specific standards with sustainability relevance are being developed by the GRI. The various Code sector guides provide a good basis here.

Secondly, this report only takes into account the status of the regulatory measures until 31.10.2021. Since neither the EU taxonomy nor the CSRD have been fully completed, further adjustments will be necessary in the future in various places, which cannot be addressed at this point in time. Apart from the optional adaptation of the Code outlined above, coordination at the regulatory level will also have to be awaited; for example, the ESRS will still have to be coordinated with the Regulatory Technical Standards.

In addition to looking at the DNK in the context of the regulatory measures, the report goes on to analyse the Code and its application. On the one hand, the status quo of the feedback process within the scope of the critical review of the Sustainability Code office as a point of interaction between the Code and the user companies is shown. On this basis, possible revisions of this Code element are discussed from the perspective of improving the scope and quality of the submitted Code reports, The report recommends greater use of this point of interaction, in particular to support new user companies in their reporting and to provide incentives for more comprehensive and higher-quality sustainability reporting. These recommendations of the report include the preparation of additional information material

by the Sustainability Code and the possibility for user companies to receive optional feedback along with the completeness check.

Finally, the 17 SDGs of the United Nations are discussed and thematic overlaps with the Code are presented. At national level, the SDG target achievement for Germany is examined at indicator level. It is shown that the indicator underpinning for measuring target achievement by the Federal Statistical Office is very advanced and thus no point can be identified where the Code can be linked to the corresponding Destatis database.

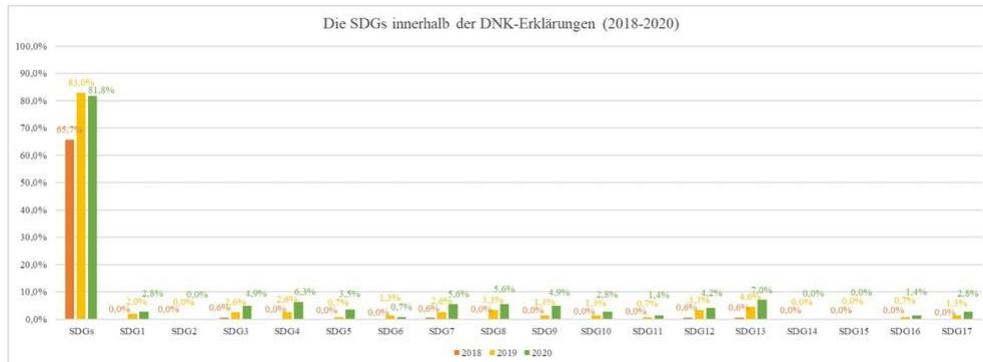
Figure 2: Overview of the assignment of the DNK criteria to the UN SDGs<sup>1</sup>



Furthermore, the integration of the 2030 Agenda and its 17 SDGs into the Code reports and the annual reports of the DAX companies is examined by means of a text analysis. The analysis shows that overall very little explicit reference is made to the individual SDGs.

<sup>1</sup> Figure 2 shows the thematic assignment of the Code criteria to the SDGs. The overlaps shown are based on thematic aspects and therefore do not indicate complete coverage by the SDG criteria. Source: Own representation based on the German government's publications on the SDGs.

Figure 3: Result of the text analysis - SDGs as report components of the Sustainability Code reports (2018-2020)<sup>2</sup>



The SDGs are an integral part of the German Sustainability Strategy; they are thematically assigned to the six transformation areas.

Figure 4: Allocation of the SDGs to the six transformation areas<sup>3</sup>

Agenda 2030



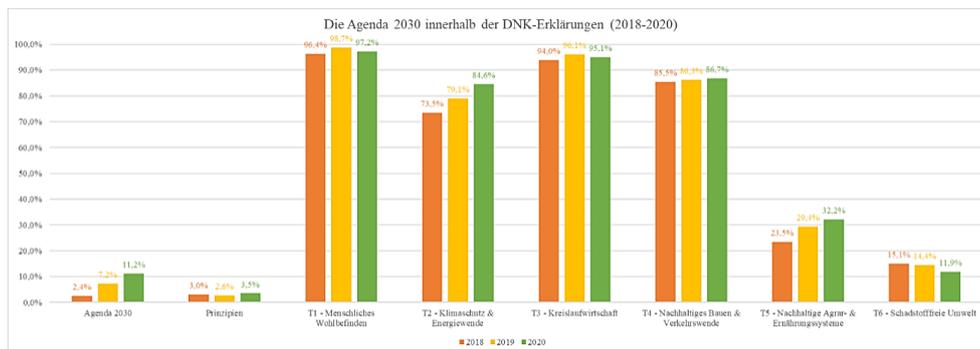
<sup>2</sup> Source: Own representation based on own calculations

<sup>3</sup> Source: Own representation based on the Federal Government's publications on the SDGs.



When analysing the text of Code reports with regard to the transformation areas to which the SDGs are assigned, a more positive picture emerges: companies are more responsive to them. Here it becomes clear that the willingness to report is more pronounced at the national level and that especially transformation areas 1 to 3 are served. In contrast, the reporting of transformation areas 4 to 6 can be expanded even more.

Figure 5: Result of the text analysis - SDGs as report components of the DNK reports at the level of the transformation fields (2018-2020)<sup>4</sup>



Based on the results, the report recommends a stronger reference of the Code to the SDGs and their inclusion as an optional element. Based on the results of the text analyses, implementation is recommended using the transformation areas of the German Sustainability Strategy.

The entirety of the recommendations of the report are presented as a hierarchically structured cascade of recommendations. Highest priority is given to harmonising the Sustainability Code with regulatory measures. Medium priority is assigned to the more detailed adaptation in the context of EU taxonomy, which provides for the integration of the environmental objectives of the EU taxonomy also at the process level and thus goes beyond the requirements of the EU taxonomy. The integration of the SDGs is also classified in this medium priority. A lower priority is the adaptation of the framework of the Sustainability Code. This includes the adaptation and expansion of the feedback process, the information provided and the additional planning of workshops on transition for applying companies.

<sup>4</sup> Source: Own representation based on own calculations



Figure 6: Recommendation cascade<sup>5</sup>

Highest priority	<p>Adaptation to the current EU regulatory measures</p> <ul style="list-style-type: none"><li>○ Revision of the Code recommended so that it is in line with the EU's Regulatory measures harmonises (option 3, chapter 3)<ul style="list-style-type: none"><li>○ CSRD: Integration of the ESRS</li><li>○ EU taxonomy: harmonisation, so that the reporting obligation by the DNK can be covered</li><li>○ SFDR: Integration of the possibility for financial companies to fulfil their reporting obligations at company level within the Code. In addition, consideration of the increased information needs of financial companies, therefore integration of the RTS also for non-financial companies. No harmonisation at product level</li></ul></li><li>○ No further integration of the EFFAS indicators, instead integration of the ESRS, which are likely to be underpinned by GRI indicators, among others.</li></ul>
Medium priority	<p>Adaptation of future viability</p> <ul style="list-style-type: none"><li>○ Reinforcement of the performance logic through integration of the EU taxonomy in particular. In addition, integration at the process level, so that companies can address the environmental goals of the EU taxonomy within the Code.</li><li>○ Integration of the SDGs into the Code at the level of the six transformation fields of the 2030 Agenda</li></ul>
Lowest priority	<p>Adaptation of the framework of the Code</p> <ul style="list-style-type: none"><li>○ Adaptation of the feedback process so that user companies are more aware of Reporting aspects to be drawn attention to<ul style="list-style-type: none"><li>○ Voluntariness of this feedback option</li><li>○ Adaptation should include all reporting components of the Code, i.e. Regulatory measures and SDGs</li><li>○ Carrying out a feasibility analysis regarding the scope and the concrete design of the feedback process by the DNK</li></ul></li><li>○ Adaptation of the provided materials by the DNK to facilitate the changeover for the applying companies</li><li>○ In addition, planning of workshops to facilitate the transition for the applying companies. Here in particular focus on SMEs</li></ul>

<sup>5</sup> Source: Own representation

### About the German Council for Sustainable Development

The German Council for Sustainable Development (RNE) advises the Federal Government on sustainability policy. It is independent in its activities and has been appointed by the Federal Government every three years since 2001. Its members are 15 public figures from civil society, business, science and politics. Since 2020, it has been chaired by Dr Werner Schnappauf and deputy chaired by Prof. Dr Imme Scholz. The Council also carries out its own projects to advance sustainability in practice. In addition, it provides impetus for political and social dialogue. The Council is supported by an office based in Berlin.

### Imprint

German Council for Sustainable Development, Secretariat  
c/o German Society for International Cooperation  
(GIZ) GmbH  
Potsdamer Square 10  
10785 Berlin  
↳ [sustainabilitycouncil.de](https://sustainabilitycouncil.de)

### Design

↳ Studio Hoekstra, Berlin