

[Draft] European Sustainability Reporting Standard S4

Other work-related rights

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This working paper should therefore not be interpreted in any way whatsoever as representing the views of the PTF-ESRS as a whole at this stage, nor the position of relevant co-construction partners. Also, the content of this working paper is the sole responsibility of the PTF-ESRS and can under no circumstances be regarded as reflecting the position of the European Union or European Commission DG Financial Stability, Financial Services and Capital Markets Union (DG FISMA).

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[Draft] European Sustainability Reporting Standard S4 Other work-related rights

Objective

1. The objective of this [draft] standard is to specify additional Disclosure Requirements for undertakings to report on how they affect their own workforce, in terms of material impacts, risks and opportunities. The disclosure scope of this [draft] standard is a specific set of work-related rights, including the rights to:
 - (a) collective bargaining and freedom of association,
 - (b) social dialogue,
 - (c) freedom from child labour,
 - (d) freedom from forced labour, and
 - (e) privacy at work.
2. This [draft] standard is applicable to the undertaking's 'own workforce', which is understood to include both employees, i.e. those persons in an employment relationship with the undertaking, and non-employee workers engaged in a undertaking's core business, i.e. persons who are not in an employment relationship with the undertaking, but whose work is controlled by it and perform roles that are the same as or similar to those of its employees or are otherwise engaged in the undertaking's core business. Thus, an undertaking's 'own workforce' is clearly distinguished from 'value chain workers', which includes workers for whom neither work nor workplace are controlled by the undertaking ('typical value chain workers'), as well as workers whose workplace is controlled by the undertaking but perform non-core services for it ('non-core contractors').
3. This [draft] standard builds on international and European human rights conventions and standards, including the UN Guiding Principles on Business and Human Rights and the OECD Multinational Guidelines, and EU legislation, including the EU labour law acquis and the EU taxonomy on sustainable finance, especially regarding "do no significant harm" criteria and minimum social safeguards.

Interactions with other ESRS

4. This [draft] standard prescribes the performance measures for undertakings to report on and it is complementary to ESRS S1, which defines the Disclosure Requirements for policies, targets, action plans and resources, with regard to work-related rights of the undertaking's own workforce listed in paragraph 1.
5. The contents of this [draft] standard shall be read in conjunction respectively with cross-cutting standards ESRS 1, ESRS 2, ESRS 3, ESRS 4 and cross-cutting reference standard ESRS 5.

Disclosure Requirements

[Disclosure Requirement 1] Grievances and complaints related to other work-related rights

6. **The undertaking shall state the number of grievances and complaints received and resolved relating to workers' other work-related rights.**
7. The principle to be followed under this Disclosure Requirement is to provide an understanding of the undertaking's grievance mechanism or channel. This is the mechanism or channel through which those workers whose other work-related rights are impacted by the undertaking are able to lodge a concern or complaint, and that can provide access to remedy by resolving those complaints. Furthermore, it is to provide an understanding of the number of complaints raised and resolved at National Contact Points for OECD Multinationals.

8. The disclosure required by paragraph 6 shall include:
- (a) the number of complaints filed through operational-level grievance mechanisms for each of the matters described under the objective in paragraph 1;
 - (b) the number of complaints raised through internal grievance mechanisms for each of the matters described under the objective in paragraph 1 that are found to be substantiated by the undertaking;
 - (c) the number of complaints resolved through remediation for each of the matters described under the objective at section 1.
 - (d) the number of complaints raised to National Contact Points for the OECD Multinational Enterprises for each of the matters described under the objective in paragraph 1;
 - (e) the number of complaints resolved through National Contact Points the OECD Multinational Enterprises for each of the matters described under the objective in paragraph 1;

[Disclosure Requirement 2] Collective bargaining coverage

9. **The undertaking shall disclose information on the extent to which the working conditions and terms of employment of its own workforce are determined or influenced by collective bargaining agreements.**
10. The principle to be followed under this disclosure requirement is to provide an understanding of the importance of collective bargaining agreements for its own workforce.
11. The disclosure required by paragraph 9 shall include:
- (a) the percentage of total employees covered by collective bargaining agreements;
 - (b) for employees not covered by collective bargaining agreements, a description of whether the organisation determines their working conditions and terms of employment based on collective bargaining agreements that cover its other employees or based on collective bargaining agreements from other organisations;
 - (c) a description of the extent to which the working conditions and terms of employment of non-employee workers in their own workforce are determined or influenced by collective bargaining agreements.
12. The disclosure required by paragraph 9 shall include a breakdown of the collective bargaining coverage rate for employees for each country in which the undertaking has significant employment.

[Disclosure Requirement 3] Work stoppages

13. **The undertaking shall disclose the extent of major work stoppages (including both strikes and lockouts) because of disputes between the undertaking and its own workforce.**
14. The principle to be followed under this disclosure requirement is to provide an understanding of the extent of worker disputes and their impact on the undertaking's operations.
15. The disclosure required by paragraph 13 shall include a description of:
- (a) the number of major work stoppages,
 - (b) for each major work stoppage,
 - (i) the number of workers involved;
 - (ii) the length in days of each stoppage;
 - (iii) a description of the reasons for each major work stoppage and the steps taken to resolve each disput.;
 - (c) a calculation of the total number of idle person-days FTE due to major work stoppages.

[Disclosure Requirement 4] Social Dialogue

16. **The undertaking shall disclose the extent and functioning of social dialogue with trade union and worker representatives of its own workforce.**
17. The principle to be followed under this disclosure requirement is to provide an understanding of the extent to which the institutional prerequisites for social dialogue in the undertaking exist and the extent to which rights to social dialogue are respected in the EU/EEA operations of the undertaking.
18. The disclosure required by paragraph 16 shall include a description of:
 - (a) the percentage of own workforce represented at the establishment level by trade union and/or worker representatives, for each EU/EEA country in which the undertaking has a significant workforce;
 - (b) the existence of any agreement with its workforce for representation by a European works council, an SE (Societas Europaea) Works Council, or an SCE (Societas Cooperativa Europaea) Works Council
 - (c) if any worker representatives are included in the undertaking's governing bodies, and if so, a description of the rights, selection process and number of worker representatives in the bodies
 - (d) whether significant reorganisation events which trigger information and consultation rights for workers in the EU labour law acquis and/or national legislation took place and, if so, how these information and consultation rights were respected in each case. Such events which trigger information and consultation rights in the EU include:
 - (i) cross-border mergers, takeovers and conversions;
 - (ii) changes in ownership, including takeovers and transfers of undertakings;
 - (iii) significant decreases in employment, including site closures;
 - (iv) insolvencies;
 - (v) if an EWC, SE or SCE works council exists, transnational issues including transfer of production across borders.
 - (e) For operations outside of EU/EEA countries, the undertaking shall report the:
 - (i) minimum number of weeks' notice typically provided to employees and their representatives prior to the implementation of significant operational changes that could substantially affect them;
 - (ii) for undertakings with collective bargaining agreements, report whether the notice period and provisions for consultation and negotiation are specified in collective agreements.

[Disclosure Requirement 5] Forced Labour and Human Trafficking

19. **The undertaking shall disclose the number of incidents forced labour and/or, the trafficking of persons for the purposes of forced or compulsory labour i.e. human trafficking identified in its own workforce.**
20. The principle to be followed under this disclosure requirement is to provide an understanding of the likelihood of instances of forced labour and/ or human trafficking in the undertaking's own workforce.
21. The disclosure required by paragraph 19 shall include a report of:
 - (a) the number of confirmed incidents of forced labour and/or human trafficking identified in the reporting entities' own operations in the reporting period.
 - (b) the part of the organisation, geographic location and type of worker affected
 - (c) If no such incidents have been confirmed, the undertaking shall also state this.

[Disclosure Requirement 6] Child Labour

22. **The undertaking shall disclose the number of incidents of child labour identified in its own workforce**
23. The principle to be followed under this disclosure requirement is to provide an understanding of the likelihood of instances of child labour in the undertaking's own workforce
24. The disclosure required by paragraph 22 shall include a report of:
- (a) the number of confirmed incidents of child labour identified in the reporting entities' own operations in the reporting period.
 - (b) the part of the organisation and geographic location where those incident(s) occurred.
 - (c) If no such instances have been confirmed, the undertaking shall also state this.

[Disclosure Requirement 7] Privacy at work

25. **The undertaking shall disclose the right to privacy at work for its own workforce.**
26. The principle underlying this Disclosure Requirement is to understand an undertaking's measures on personal data protection concerning its workforce and the nature and extent of worker surveillance that is conducted.
27. The disclosure required by paragraph 25 shall include:
- (a) a description of the Information Security System utilised with respect to the protection of personal data of workers;
 - (b) the number of data breaches involving worker data. If no such data breaches have been detected, the undertaking shall also state this;
 - (c) a description of the types of workforce surveillance used and the percentage of workers subject to each form of surveillance.

[Disclosure Requirement 8] Violations of workers' other work-related rights

28. **The undertaking shall report on the violation of workers' other work-related rights in cases where it is financially material to the undertaking.**
29. The principle underlying this disclosure requirement is to understand the extent to which violations of workers' other work-related rights have been financially material to the undertaking.
30. The disclosure required by paragraph 28 shall include a report of whether (and if so, to what extent) the financial position of the undertaking has been affected by negative and positive impacts on workers' other work-related rights, for each of the matters described under the objective in paragraph 1:
- (a) the total amount of fines, penalties, and compensation for damages as a result of violations regarding workers' other work-related rights as specified under the objectives section;
 - (b) if no such material penalties have been incurred, the undertaking may also state this.
31. The undertaking shall reconcile the monetary amounts disclosed with the most relevant amount presented in the financial statements.

Appendix A: Defined terms

This appendix is an integral part of the [draft] ESRS S4 Other work-related rights

<p>Child labour</p>	<p>Work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:</p> <ul style="list-style-type: none"> • is mentally, physically, socially or morally dangerous and harmful to children; and/or • interferes with their schooling by: depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work. <p>For the purpose of this definition, a child refers to a person under the age of 15 years, or under the age of completion of compulsory schooling, whichever is higher. Exceptions can occur in certain countries where economies and educational facilities are insufficiently developed, and a minimum age of 14 years applies.</p> <p>These countries of exception are specified by the International Labour Organisation (ILO) in response to a special application by the country concerned and in consultation with representative organisations of employers and workers.</p>
<p>Collective bargaining</p>	<p>Collective bargaining is a fundamental right at work covered in the International Labour Organization (ILO) Right to Organise and Collective Bargaining Convention. Collective bargaining refers to negotiations that take place between one or more employers or employers' organizations and one or more workers' organizations (e.g., trade unions). The objective of these negotiations is to reach a collective agreement on working conditions and terms of employment (e.g., wages, working time) and to regulate relations between employers and workers. These negotiations are an important means through which employers' organizations and workers' organizations can improve working conditions and labor relations. Collective agreements can be made at the level of the organization, at the level of a particular site, at the industry level, and at the national level in countries where this is the practice. Collective agreements can cover specific groups of workers, for example, those performing a specific activity or working at a specific location.</p>
<p>Confirmed incident</p>	<p>Incident of child or forced labour or human trafficking that has been found to be substantiated</p> <p>Note: Confirmed incidents do not include incidents of child or forced labour or human trafficking that are still under investigation in the reporting period.</p>
<p>Forced labour</p>	<p>All work or service which is exacted from any person under the threat of penalty and for which the person has not offered himself or herself voluntarily. The term</p>

	<p>encompasses all situations in which persons are coerced by any means to perform work, and includes both traditional 'slave-like' practices and contemporary forms of coercion where labour exploitation is involved, which may include human trafficking and modern slavery.</p>
<p>Grievance mechanisms</p>	<p>Grievance mechanisms refer to any routineized, state-based or non-state-based, judicial or non-judicial processes through which stakeholders can raise grievances and seek remedy. Examples of state-based judicial and non-judicial grievance mechanisms include courts, labour tribunals, national human rights institutions, National Contact Points under the OECD Guidelines for Multinational Enterprises, ombudsperson offices, consumer protection agencies, regulatory oversight bodies, and government-run complaints offices.</p> <p>Non-state-based grievance mechanisms include those administered by the organisation, either alone or together with stakeholders, such as operational-level grievance mechanisms and collective bargaining, including the mechanisms established by collective bargaining. They also include mechanisms administered by industry associations, international organisations, civil society organisations, or multi-stakeholder groups.</p> <p>Operational-level grievance mechanisms are administered by the organisation either alone or in collaboration with other parties and are directly accessible by the organisation's stakeholders. They allow for grievances to be identified and addressed early and directly, thereby preventing both harm and grievances from escalating. They also provide important feedback on the effectiveness of the organisation's due diligence from those who are directly affected</p> <p>According to UN Guiding Principle 31 [14], effective grievance mechanisms are legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. In addition to these criteria, effective operational-level grievance mechanisms are also based on engagement and dialogue. It can be more difficult for the organisation to assess the effectiveness of grievance mechanisms that it participates in compared to those it has established itself.</p>
<p>Human trafficking</p>	<p>Human Trafficking is the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit.</p>
<p>Major work stoppage</p>	<p>A work stoppage involving 100 or more employees or non-employee workers in own workforce</p>
<p>Significant workforce</p>	<p>50 or more employees in a country. In the EU/EEA this is an employment level threshold which triggers social dialogue obligations under the Information and Consultation Directive (2002/14/EC).</p>

<p>Work-related dispute</p>	<p>A difference of opinion between employers or an association of employers with workers or trade unions. There may be a disagreement on rights, conflicting interests, a dispute over termination of employment, or a dispute among trade unions within one undertaking that could be caused by differences in implementation or interpretation concerning the laws and regulations, work agreements, undertaking's regulations, or a collective bargaining agreement.</p>
<p>Workers' representative</p>	<p>ILO convention 135 defined as a person who is recognized as such under national law or practice, whether they are:</p> <ul style="list-style-type: none"> • a trade union representative, namely, a representative designated or elected by trade unions or by members of such unions; or • an elected representative, namely, a representative who is freely elected by the workers of the undertaking in accordance with provisions of national laws, regulations, or collective agreements, whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.
<p>Workforce surveillance</p>	<p>Any form of worker monitoring undertaken by an undertaking. This can include any of the following:</p> <ul style="list-style-type: none"> • Keylogger software • Video surveillance (on premises or working from home e.g., CCTV or through webcams) • Facial recognition software • Screen recording • Audio recording (e.g., of calls) • Geolocation tracking • Social media monitoring • Physical searches • Timing work activities
<p>Worst forms of Child Labour</p>	<p>Article 3 of C182 - Worst Forms of Child Labour Convention, 1999 (No. 182) identifies the worst forms of child labour as:</p> <p>(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;</p> <p>(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;</p> <p>(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;</p> <p>(d) work which, by its nature or the circumstances in</p>

	which it is carried out, is likely to harm the health, safety or morals of children.
Young workers	A person above the applicable minimum working age and younger than 18 years of age.

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Appendix B: Application Guidance

This appendix is an integral part of the proposed [draft] ESRS S4 Other work-related rights. It describes the application of the requirements set for in paragraphs [6-31] and has the same authority as the other parts of the [draft] ESRS Standard.

[Disclosure Requirement 1] Grievances and complaints related to other work-related rights

AG1. The undertaking shall disclose the information for the reporting year at an aggregate level for categories defined in paragraph 8.

[Disclosure Requirement 2] Collective Bargaining Coverage

AG2. The undertaking shall report the percentage of employees whose working conditions and terms of employment are regulated by one or more collective bargaining agreements. The percentage shall be reported for each country in which the undertaking has significant employment.

AG3. The percentage of employees covered by collective bargaining agreements is calculated using the following formula:

$$\frac{\text{Number of employees covered by collective bargaining agreements}}{\text{Number of employees}} \times 100$$

AG4. The employees and non-employee workers in own workforce covered by collective bargaining agreements are those individuals to whom the undertaking is obligated to apply the agreement. This means that if none of the employees and non-employee workers in own workforce are covered by a collective bargaining agreement, the percentage reported is zero. An employee and non-employee worker in own workforce covered by more than one collective bargaining agreement only needs to be counted once.

AG5. This requirement is not aimed at obtaining the percentage of employees represented by a works council or belonging to trade unions, which can be different. The percentage of employees covered by collective bargaining agreements can be higher than the percentage of unionised employees when the collective bargaining agreements apply to both union and non-union members. Alternatively, the percentage of employees covered by collective bargaining agreements can be lower than the percentage of unionised employees. This may be the case when there are no collective bargaining agreements available or when the collective bargaining agreements do not cover all unionised employees.

AG6. The description of the importance of collective bargaining contracts for non-employee workers should include an estimate of the percentage of non-employee workers whose working conditions and terms of employment are determined or influenced by collective bargaining contracts. This information should be reported for each country in which the undertaking has a significant number of non-employee workers in its own workforce.

[Disclosure Requirement 3] Work stoppages

AG7. The undertaking shall report if the information provided for the disclosure required in paragraph 15 (b) (i) (number of persons in own workforce involved in a major work stoppage) is an absolute number of persons or FTE persons.

AG8. The information required by paragraph 15 (c) shall be the sum of the products of the number of persons in own workforce (FTE) involved and the total duration (in work days) of each major work stoppage.

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- AG9. Where exact figures are not available, the undertaking may provide an estimate according to ESRS 1.
- AG10. The scope of DR 3 includes work stoppages due to disputes between labour and management, including strikes and lockouts.

[Disclosure Requirement 4] Social dialogue

- AG11. For calculating the information required by Paragraph 18 (a), the undertaking shall first identify in which EU/EEA countries it has significant employment. For these countries it shall report the percentage of own employees in that country which are employed in establishments in which employees are represented by workers' representatives at the establishment level. For countries in which there is only one establishment the percentage reported should be either 100% or 0%.

$$\frac{\text{Number of employees working in establishments with workers' representatives}}{\text{Number of employees}} \times 100$$

- AG12. With regard to Paragraph 18 (c), the undertaking shall disclose if there are any worker representatives in its governance bodies, including supervisory and administrative boards. This should include whether these workers have equal rights to participating in board decisions as other board members or have observer status, and whether these worker representatives are chosen by election by the workforce or by nomination by trade unions or works councils.
- AG13. With regard to Paragraph 18 (d), the undertaking shall disclose if it experienced a restructuring or reorganisation event which triggers obligations to inform and consult trade union and worker representatives, and if so, how these obligations were implemented. Specific types of reorganisation events which trigger obligations to inform or consult workers under the EU labour law *acquis* include: bids to acquire listed securities of the undertaking with voting rights (takeover bids), , transfer of ownership (transfer of undertakings), cross-border mergers, cross-border divisions, cross-border conversions, redundancies and insolvencies. If the undertaking has a European Works Council, additional types of events trigger information and consultation rights, such as cross-border transfers of production. Additional types of reorganisation events may be triggered by national labour law.

[Disclosure Requirement 5] Forced labour and human trafficking

- AG14. With regard to Paragraph 21 (a), the undertaking shall disclose the number of confirmed incidents of forced labour and/ or human trafficking identified in own workforce.
- AG15. Where cases of forced labour and/ or human trafficking have been confirmed. The undertaking may also explain the following in relation to Paragraph 21 (a):
- how the undertaking contributed to finding and providing an appropriate remedy, including through consultation with the affected workers and trade union and worker representatives;
 - how the effectiveness of the remedy is assessed;
 - how the undertaking integrates learnings into future business strategy to prevent similar incidents as much as possible in the future.

[Disclosure requirement 6] Child labour

- AG16. With regard to Paragraph 24 (a), the undertaking shall disclose the number of confirmed incidents of child labour identified in its own workforce.

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- AG17. Where cases of child labour have been confirmed. The undertaking may also explain the following in relation to Paragraph 24 (a):
- (d) how the undertaking contributed to finding and providing an appropriate remedy, including through consultation with the affected workers and trade union and worker representatives;
 - (e) how the effectiveness of the remedy is assessed;
 - (f) how the undertaking integrates lessons learned into future business strategy to prevent similar incidents as much as possible in the future

[Disclosure requirement 7] Privacy at work

- AG18. With regard to Paragraph 27 (a), the undertaking shall explain the Information Security System utilised with respect to the protection of personal data of own workers. The undertaking shall describe:
- (a) the procedures in place to secure and monitor data privacy rules followed by 3rd party service providers with respect to employee and contractor data;
 - (b) the number of employees handling sensitive personal data of employees and the number of such employees having received specific training on personal data security;
 - (c) whether a Data Protection Manager, Information Security Manager or equivalent exists including a description of the role and responsibilities relative to personal data of employees and contractors;
 - (d) the average response time to inquiries by the data subject (e.g., requests for information, deletion, correction).
- AG19. With regard to Paragraph 27 (b), the undertaking shall state the number of data breaches involving worker data. The undertaking shall describe:
- (a) the number of data breaches reported and resolved during the reporting period;
 - (b) the nature of those breaches and their severity;
 - (c) whether the relevant supervisory body was notified;
 - (d) whether remedy granted, the nature of that remedy and how the affected worker was involved in establishing that remedy.
- AG20. With regard to Paragraph 27 (c), the undertaking shall state what types of workforce surveillance they engage in, if any;
- (a) what data is collected from this surveillance, what it is used for, who has access to it and how long it is retained;
 - (b) how workers, trade unions and worker representatives were consulted in the use of workforce surveillance;
 - (c) whether monitoring is focused on specific groups of workers, and what the justification for this is;
 - (d) how the undertaking is transparent with workers about their use of surveillance, including how the undertaking informs workers that they are being monitored, what is being monitored, how they are being monitored, what monitoring data is used for, and who has access to this data;
 - (e) whether worker consent is required before surveillance methods are implemented;
 - (f) the criteria used to determine whether workforce surveillance is necessary and proportionate.
- AG21. The undertaking shall state what percentage of its own workers are covered by each type of surveillance utilised.
- AG22. The undertaking shall state the main types of own workers that are covered by each kind of surveillance utilised:

- (a) the undertaking's employees;
- (b) the undertaking's non-employee workers in own workforce on-site;
- (c) the undertaking's non-employee workers in own workforce off-site;

AG23. The undertaking may state what percentage of each of these groups of own workers are covered by each type of surveillance utilised.

[Disclosure Requirement 8] Violations of workers' other work-related rights

AG24. The undertaking shall report whether actual negative and positive impacts on workers' other work-related rights have materially altered the financial position of the undertaking during the reporting period.

AG25. If the undertaking has suffered penalties as a result of such violations, the undertaking shall report on the total amount of monetary losses suffered.

AG26. The undertaking may report on any corrective action taken in response to such violations.

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Basis for Conclusions

Context

- BC1. This [draft] Basis for conclusions accompanies, but is not part of [draft] ESRS S4 Other work-related rights. It summarises the considerations and references of the [EFRAG Sustainability Standards Board (the 'Board')] in developing the contents of the [draft] standard. [Individual Board members may be giving greater weight to some factors than to others.]
- BC2. The general approach followed by (the Board) covers the following steps:
- (a) complying first with the requirement of the draft CSRD;
 - (b) seeking guidance if necessary from the existing NFRD and its 2017 and 2019 implementation guidelines;
 - (c) analysing the current international frameworks as recital 37 of the CSRD requires that "sustainability reporting standards should take account of existing standards and frameworks for sustainability reporting and accounting where appropriate. Those include the Global Reporting Initiative, the Sustainability Accounting Standards Board, the International Integrated Reporting Council, the International Accounting Standards Board, the Task-Force on Climate-related Financial Disclosures (TCFD), the Carbon Disclosure Standards Board, and CDP. Guidance from and coherence with these existing standards and frameworks have been sought;
 - (d) analysing the key findings and path to improvement indicated in the European Reporting Lab of EFRAG report issued in October 2021: Towards sustainable businesses: Good practices in Business model, risks and opportunities reporting in the EU;
 - (e) analysing the concordance and compatibility with the publication dated 3 November 2021 from the Technical Readiness Working Group (TRWG) of the IFRS Foundation for consideration by the International Sustainability Standards Board (ISSB) for general requirements for disclosure of sustainability-related financial information.

Objective

- BC3. Based on the relevant provisions from the CSRD-proposal as illustrated in table 1, other EU legislation and the mandate and approach of the EFRAG PTF-ESRS, the objective of the ESRS S4 on *Own workforce – other work-related rights* is to ensure that stakeholders of the reporting undertaking obtain information that enables them to understand:
- (a) how the reporting undertaking impacts the other work-related rights of its own workforce in both positive and negative ways and the approaches to taking action on these impacts, specifically in relation to:
 - (i) collective bargaining and freedom of association;
 - (ii) social dialogue;
 - (iii) freedom from child labour;
 - (iv) freedom from forced labour, and
 - (v) privacy at work.
 - (b) the plans and capacity of the undertaking to adapt its business model(s) and operations with regard to enhancing the other work-related rights of its own workforce
 - (c) the nature, type and extent of the material risks or opportunities for the business which arise from the impacts described above as well as from other interactions with the workforce and the approaches to mitigating these risks and pursuing these opportunities

- BC4. The [draft] standard derives from the draft CSRD stating that the sustainability reporting standards shall specify information to disclose about other work-related rights of the undertaking's own workforce.
- BC5. This [draft] standard supplements the general disclosures set out in the General Standard on Own Workforce (ESRS S1). It further enables undertakings to report on their impacts, risks and opportunities on own workforce with regard to performance measures on a specific set of work-related rights, including the rights to:
- (a) an undertaking's own workforce includes both employees, and
 - (b) non-employee workers whose work is under the direct control of the undertaking.

Interaction with other ESRS

- BC6. This standard supplements the disclosures in the General Standard on Own Workforce (ESRS S1). Specifically, it adds requirements for disclosures which are performance related and are relevant for the specific set of work-related rights of the undertaking's own workforce listed in paragraph 1. It complements the other Standards requiring additional disclosures on sub-sub-topics in ESRS S1 (Own workforce general standard, i.e. the Standard on Equal Opportunities (ESRS S2) and the Standard on Working Conditions (ESRS S3).

Structure of the [draft] standard

- BC7. The recommendations from the EFRAG PTF are that the standard-setter should adopt a four-category approach to promote comprehensive coverage. The present standard defines how to report impacts to and from the undertaking's own workforce within the following structure:
- (a) own workforce – general (ESRS S1);
 - (b) own workforce – working conditions (ESRS S2);
 - (c) own workforce – equal opportunities (ESRS S3);
 - (d) own-workforce – other work-related rights (ESRS S4).
- BC8. The standard should be seen in connection with the standards defining the corresponding reporting requirements for the own workforce.
- BC9. The development of the present initial reporting standard for the reporting years 2023 and onwards has been guided by a strong prioritisation and will be further expanded in the follow-up standard to be applicable for reporting years 2024 and onwards. The expansion in 2024 will build on the principles outlined in this standard.
- BC10. Prioritisation has been guided by the following principles:
- (a) the provision of an appropriate 'core' of disclosures consolidating and complementing best achievements based on existing standards and frameworks where these sufficiently meet the quality of information and standards guidelines;
 - (b) the maturity of the reporting landscape;
 - (c) the adopted regulation, reporting requirements and agreed initiatives in the field of sustainable finance.

[Draft] ESRS S4 Other work-related rights

- BC11. Due consideration to help preparers of all sizes, including SMEs, to respond to the increasing demand for sustainability information. Preparers are confronted with an increasing pressure from stakeholders and a key priority for them is to move towards a coherent system that avoids multiple requests for information in different formats.
- BC12. Considering that the GRI standard is the most elaborated reporting standard on other work-related rights, a number of disclosure requirements have been inspired by the GRI standards in terms of structure and disclosure requirements; a number of disclosure requirements from SASB have also been included.
- BC13. Complying with the requirements of the draft CSRD and the provided disclosure requirements of the Sustainable Finance Package, in particular the Taxonomy Regulation and related (draft) delegated acts, as well as reflecting on the existing NFRD, the following disclosure requirements emerge as most relevant:

Disclosure Requirement	CSRD Reference	Reporting Framework Reference	International and European conventions and declarations relevant for work-related rights
[Disclosure Requirement 1] Complaints related to other work-related rights	Article 19a, Article 19b, b iii	GRI 102-17, ISO 30414 4.7.2	SDG 8.8
[Disclosure Requirement 2] Collective bargaining coverage	Article 19a, Article 19b, b iii, c. iv	GRI 2-30; SASB TR-AU-310a.1	UDHR 20+23(4) ILO Co.87+97, etc
[Disclosure Requirement 3] Work stoppages	Article 19a, Article 19b, b iii	SASB TR-AU-310a.2	UDHR 20+23(4) ILO Co.87+97, etc
[Disclosure Requirement 4] Social Dialogue	Article 19b c. iv	French commercial code	EU Charter of Fundamental Rights 27, European Social Charter (revised) 21
[Disclosure Requirement 5] Forced Labour and Human Trafficking	Article 19a 2 f, Article 19b. b iii, c. v	GRI 409-1, SFDR RTS, Workforce Disclosure Initiative 2021 13.4,	UNGC LA.2.A. Forced and compulsory labour, ILO C029 - Forced Labour Convention, 1930 (No. 29), ILO P029 - Protocol of 2014 to the Forced Labour Convention, 1933, C105 - Abolition of Forced Labour Convention, 1957 (No. 105) UN International Covenant on Civil and Political Rights
[Disclosure Requirement 6] Child Labour	Article 19a 2 f, Article 19b c. v	GRI 409-1, SFDR RTS, Workforce Disclosure Initiative 2021 2.10, CHRB A.1.2, CHRB D.1.4, CHRB D.2.4,	ILO C138, ILO C182 UN Convention on the Rights of the Child CRBP United Nations (UN) Children's Rights and Business Principles SDG 8.7, SDG 16.2

[Disclosure Requirement 7] Privacy at work	Article 19a 2 f, Article 19b c. v	Workforce Disclosure Initiative 2021 2.12, EU GDPD Art 88. Para 2, ISO27001, ISO27701, Article 1. Regulation (EU) 2016/679. 27 April 2016. Art 2. Directive (EU) 2016/1148/ 6 July 2016. Article 286 1, Treaty Establishing the EU Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108)	ILO 13.1 code of practice on protection of workers' personal data
[Disclosure Requirement 8] Violation of workers' other work-related rights	Article 19a	SASB/ ISSB	

BC14. The basis for conclusion is structured as follows for each Disclosure Requirement:

- (a) a summary explanation of the DR;
- (b) why has the specific DR been regarded as mandatory by EFRAG PTF-ESRS in line with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights;
- (c) EU legislation that is relevant (e.g. CSRD, NFRD, SFDR/RTS);
- (d) reporting frameworks that have been drawn upon for the DR (e.g. GRI, SASB...).

Specific disclosure reference content

[Disclosure Requirement 1] Grievances and complaints related to other work-related rights

BC15. This disclosure requests information on the number of complaints raised, confirmed and resolved through internal grievance mechanisms and raised and resolved at National Contact Points for OECD Multinational Enterprises for each of the matters specified in paragraph 1 of this standard, i.e.:

- (a) collective bargaining and freedom of association,
- (b) social dialogue,
- (c) freedom from child labour,
- (d) freedom from forced labour, and
- (e) privacy at work.

[Draft] ESRS S4 Other work-related rights

- BC16. The rationale of this disclosure requirement is to seek insight into the frequency of grievances and complaints concerning the undertaking with respect to these work-related rights and the extent to which they are being resolved.
- BC17. As detailed in ESRS S1 (Own workforce general standard) the international and European human rights instruments referenced in the CSRD specify the rights listed in paragraph 1 of this standard. The existence of effective grievance mechanisms is central to addressing and remediating negative impacts on these rights.
- BC18. In addition to being enshrined in international and European human rights instruments, the rights listed in paragraph 1 of this standard are also contained in a host of EU legislation, particularly in the EU labour law acquis and the General Data Protection Regulation (GDPR). ESRS S1 (Own workforce general standard) provides detail on this EU legislation.
- BC19. The most relevant reporting frameworks for this disclosure are GRI and ISO, with a basis for this disclosure being provided, in particular, by GRI disclosure 102-17 and ISO standard 30414 4.7.2.

[Disclosure Requirement 2] Collective bargaining coverage

- BC20. This disclosure reference content requires information on the extent to which collective bargaining is relevant for the determination of the working conditions and terms of employment of the undertaking's own workforce. The existence of a collective bargaining contract is demonstrated by a significant body of research to be a key determinant of the quality of working conditions. The disclosure differentiates between employees and non-employee workers in an undertaking's core operations, as the situation of these two categories of persons may be and frequently is quite different. It also recognizes that some undertakings may apply the contents of collective bargaining contracts to some employees, although a collective bargaining contract may not be legally binding for them. The disclosure specifies that collective bargaining coverage should be reported on a country-by-country basis in countries in which the undertaking has significant employment (defined in this standard as 50 or more employees), as the coverage rate may vary greatly between countries, in which case an undertaking-wide figure for a multinational undertaking would obscure significant differences across countries.
- BC21. As detailed in ESRS S1 (Own workforce general standard), freedom of association and collective bargaining are fundamental rights enshrined in the international and European human rights instruments referenced in the CSRD. Information provided by this disclosure demonstrates the extent to which these rights have been exercised for the determination of the working conditions of an undertaking's own workforce.
- BC22. As detailed in ESRS S1 (Own workforce general standard), freedom of association and collective bargaining are also rights specified and reinforced through European legislation. A particularly significant piece of legislation is the Minimum Wage Directive, which specifies that EU/EEA countries should have a collective bargaining coverage rate of at least 70% of workers. As this is a country-level norm, this disclosure is designed to give users information on the degree to which undertakings are aligned with this norm.
- BC23. Collective bargaining coverage is a disclosure included in a number of widely-used reporting frameworks. It is one of the disclosures included by GRI in its Universal Standards (disclosure 2-30), and is also included in SASB sector-specific disclosures e.g. TR-AU-310a.1.

[Disclosure Requirement 3] Work stoppages

- BC24. This disclosure is aimed at obtaining information on the extent to which an undertaking's operations have been interrupted due to disputes between the undertaking and its own workforce. The disclosure includes interruptions due to strikes as well as lockouts. This disclosure provides insights into the nature of labour-management relations and possible negative impacts on working conditions leading to worker dissatisfaction, as well as on the extent to which an undertaking's operations have been affected.

- BC25. As detailed in ESRS S1, collective bargaining and freedom of association are rights enshrined in the international and European human rights instruments referenced in the CSRD, and in European and national legislation. The right to strike is an integral part of these rights. This disclosure is designed to inform users that this right has been exercised by workers; furthermore, to provide users with the information needed to understand the reasons for work stoppages and their severity.
- BC26. This disclosure is partially based on the SASB disclosure TR-AU-310a.2.

[Disclosure Requirement 4] Social Dialogue

- BC27. This disclosure requests information on the structure and functioning of social dialogue in an undertaking's operations in EU/EEA countries. The DR first requires information on the extent of collective representation of own workforce through trade unions and works councils, as such collective representation is a prerequisite for enabling social dialogue to take place. The disclosure requires country-by-country reporting for countries in which the undertaking has substantial employment (defined in this standard as 50 employees or more), as representation rates may vary greatly between countries, in which case an undertaking-wide figure for a multinational undertaking would obscure significant differences across countries. The disclosure also requires information on the functioning of social dialogue in when reorganisation events occur which trigger information and consultation rights under the EU labour law acquis. For operations outside EU/EEA countries, the disclosure requires information on any contractual agreements on minimum notice periods prior to operational changes.
- BC28. As detailed in ESRS S1, social dialogue is a right enshrined in many of the international and European human rights instruments referenced in the CSRD, as well as in European and national legislation and court decisions. The disclosure is designed to give stakeholders the information they need to understand if and how this right is exercised.
- BC29. Established international reporting frameworks provide limited information on social dialogue. GRI disclosure 402-1 requires information on minimum notice periods in collective agreements prior to operational changes. However, social dialogue is an established right in Europe which goes beyond information and involves consultation with trade union and worker representatives prior to the final decision by management on key issues, including decisions on reorganisations. This disclosure thus draws upon GRI disclosure 402-1 for operations outside EU/EEA countries; however, it requires more information for operations in EU/EEA countries. The French commercial code includes a disclosure requirement on social dialogue. However, innovation is required in order to fulfil the requirement of the CSRD on reporting on social dialogue.

[Disclosure Requirement 5] Forced Labour and Human Trafficking

- BC30. This disclosure is aimed at obtaining information on the number of confirmed incidents of forced labour identified in the undertaking's own operations.
- BC31. Forced labour is addressed in a number of international legal instruments and international standards. Forced labour is prohibited in the Universal Declaration of Human Rights (article 4), the International Covenant on Civil and Political Rights (article 8), International Covenant on Economic, Social and Cultural Rights (article 6), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (article 11) Convention on the Rights of Persons with Disabilities (article 27), the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the European Convention on Human Rights (article 4), and the Charter of Fundamental Rights of the European Union (article 5).
- BC32. The requirement to prohibit and actively tackle forced labour is also addressed in a number of International Labour Organisation (ILO) standards and conventions, including the Declaration on Fundamental Principles and Rights at Work (article 2b), the Forced Labour Convention, 1930 (No. 29); the Protocol of 2014 to the Forced Labour Convention, 1930, and the Abolition of Forced Labour Convention, 1957 (No. 105).

- BC33. This aligns with article 19b of the CSRD proposal, which requires sustainability reporting standards to specify the information that undertakings are to disclose about social factors, including information about respect for the human rights, fundamental freedoms, democratic principles and standards established in the International Bill of Human Rights and other core UN human rights conventions, the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work and the ILO fundamental conventions and the Charter of Fundamental Rights of the European Union.
- BC34. The elimination of forced labour is also included within additional key normative frameworks and standards, including the Sustainable Development Goals (goal 8, target 8.7), the OECD Guidelines for Multinational Enterprises (V. Employment and Industrial Relations 1.d.) and the Ten Principles of the UN Global Compact (principle 4).
- BC35. In addition to the inclusion of forced labour in the Charter of Fundamental Rights of the European Union, on 15 September, during the 2021 State of the Union Address, EU Commission President Ursula von der Leyen announced the European Commission's intention to introduce a ban on the import of products made with forced labour into the EU market.
- BC36. Forced labour, as addressed in DR 5, also reflects the draft Regulatory Technical Standards for the Sustainable Finance Disclosure Regulation (Regulation (EU) 2019/2088) (SFDR RTS), particularly the 'share of the investments in investee companies exposed to operations and suppliers at significant risk of incidents of forced or compulsory labour in terms in terms of geographic areas and/or the type of operation' (Additional indicators for social and employee, respect for human rights, anti-corruption and anti-bribery matters - 13).
- BC37. Forced labour is covered extensively in other reporting frameworks. The requirement to provide information on the operations considered to have significant risk for incidents of forced or compulsory labour in DR6 reflects GRI 409: Forced or compulsory labour and the Workforce Disclosure Initiative (11.8).
- BC38. In requesting information on the number of instances of forced labour identified, DR6 is very closely aligned with GRI 409: Forced or compulsory labour. Similarly, where it has been deemed to be material for particular industries, the SASB standards also request information on the Suppliers' social and environmental responsibility audit (1) non-conformance rate and (2) associated corrective action rate for (a) major and (b) minor non-conformances, which covers forced labour incidents (see, for example, FB-PF-430a.2). A number of other reporting initiatives also require similar disclosures on instances of forced labour, including nFIS FSR, the Workforce Disclosure Initiative (13.4) and the WEF Core Indicators (People: Dignity and Equality 4).
- BC39. The aspect of DR 5 which addresses the process through which an undertaking has identified instances of forced labour reflects the Workforce Disclosure Initiative (13.4a) and the DJSI 2021 (3.3.2 Human Rights Due Diligence Process).
- BC40. Some disclosures relating to forced labour included in existing disclosure frameworks were not included in this standard. Disclosures specifically addressing the use of prison labour, as included in the BLab B Impact Assessment and the Workforce Disclosure Initiative (2.11), were not included. This is due to the lower levels of maturity on reporting on prison labour, the predominant saliency of prison labour for the value chain, rather than own operations, and because information reported to DR 5 as currently formulated should be inclusive of any instances of forced labour in workers in undertakings' own operations who are also prisoners. This standard also does not ask for information on whether undertakings have a forced labour policy or the content of that policy, as is requested in the IRIS Taxonomy 5.2 (OI4432), Nasdaq (S9.1, S9.2), Workforce Disclosure Initiative (1.6), SFDR RTS (Additional indicators for social and employee, respect for human rights, anti-corruption and anti-bribery matters - 11) and DJSI 2021 (3.3.1 Human Rights Commitment), or for information on the steps the company has taken to prevent forced labour, as requested in SDG Action Manager (13220, 13218), Global Compact Self-Assessment Tool (LA.2.A. Forced and compulsory labour). This is because this information is instead requested under DR 6 in ESRS S1, on the basis that the broad principles underpinning these disclosures (policies and actions) are applicable to the entirety of an undertakings' own workforce, and are not exclusively relevant to forced labour.

[Disclosure Requirement 6] Child Labour

- BC41. This disclosure has been designed to obtain information on the number of confirmed incidents of child labour identified in the undertaking's own operations.
- BC42. The rights of the child, both in relation to work and as part of basic human rights, are addressed in a number of international legal instruments. The UN Convention on the Rights of the Child, which sets out the civil, political, economic, social and cultural rights that all children everywhere are entitled to, is the most widely ratified international human rights treaty. Article 3 states that 'The best interests of the child must be a top priority in all decisions and actions that affect children'. While Article 32 outlines the obligation of governments to protect children from economic exploitation and work that is dangerous or might harm their health, development or education.
- BC43. All societal actors, including business, must comply with applicable national law and respect international standards on children's rights.
- BC44. Article 27, of the ILO's 'Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy', and the UNGC's Children's Rights and Business Principles elaborate on existing standards for business in terms of respecting and supporting children's rights throughout their activities and business relationships, and call on businesses to secure the elimination of child labour within their operations.
- BC45. Not all work done by children should be classified as child labour that is to be targeted for elimination. 'Child labour' refers to an abuse, which is not to be confused with 'children working' or with 'young persons working', which may not be abuses as stipulated in ILO Convention 138. The internationally-agreed understanding of the meaning of child labour is set out in the International Labour Organization (ILO) Convention 138 'Minimum Age Convention'. The Convention specifies a minimum age of 15 years or the age of completion of compulsory schooling (whichever is higher). Exceptions exist for certain countries where economies and educational facilities are insufficiently developed and a minimum age of 14 years might apply. These countries of exception are specified by the ILO in response to special applications by the country concerned, and in consultation with representative organisations of employers and workers.
- BC46. The minimum age for hazardous work is 18 years for all countries. Hazardous child labour is defined by Article 3 (d) of ILO Convention 182 'Worst Forms of Child Labour Convention' as 'work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.'
- BC47. The requirements under DR 6 also align with Article 19b of the CSRD-proposal, which requires sustainability reporting standards to specify the information that undertakings are to disclose about social factors, including information about respect for the human rights, fundamental freedoms, democratic principles and standards established in the International Bill of Human Rights and other core UN human rights conventions, the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work and the ILO fundamental conventions and the Charter of Fundamental Rights of the European Union.
- BC48. SA8000 states that a company shall not expose children or young workers to any situations – in or outside of the workplace – that are hazardous or unsafe to their physical and mental health and development.
- BC49. Article 4 of the EU Convention on Human Rights and Fundamental Freedoms and Article 5 of the EU Charter for Fundamental Rights prohibit forced or compulsory labour, including that of children. Article 24, and 32 of the EU Charter for Fundamental Rights speak directly to the rights of, and protections afforded to the child and explicitly prohibit child labour and enshrine the protection of young people at work. The rights of children are also enshrined within EU Strategy on the Rights of the Child and the European Child Guarantee 2021.
- BC50. In line with the ILO minimum age convention 138, the EU Directive on the protection of young people at work (94/33/EC) insists that Member States must prohibit the employment of children (i.e., those under the age of 15 or still in full-time compulsory education).

[Draft] ESRS S4 Other work-related rights

- BC51. The reporting obligations of businesses in relation to the identification and mitigation of child labour risks and impacts will also be codified in the Sustainable Finance Reporting Directive (SFDR): 12, which requires undertakings to disclose their operations and suppliers at significant risk of incidents of child labour.
- BC52. Disclosure on Child Labour is also aligned with major sustainability reporting initiatives, a number of which, including the WBA D.2.5, and IFC CL3-5 focus on a company's adherence to existing (inter)national laws and principles including the OECD Guidelines and the UN Global Compact.
- BC53. Adherence to SDG 8.7 and 16.2 of the SDG normative framework, allows companies report on their progress to end forced labour, modern slavery and human trafficking, eliminate the worst forms of child labour and to end abuse, exploitation, trafficking and all forms of violence and torture against children.
- BC54. DR 6 is closely aligned with the Global Reporting Initiative (GRI) 408-1, which calls for companies to report on the operations, suppliers and locations identified as most at risk of child labour and measures taken to contribute to the abolition of child labour.
- BC55. SASB requests data on supplier's social and environmental responsibility audit conformance: (1) major nonconformance rate and associated corrective action rate and (2) minor non-conformance rate and associated corrective action rate TA08-11- 01. A number of other reporting initiatives also require similar disclosures on forced labour, including nFIS FSR, the Workforce Disclosure Initiative (2.10) and the WEF Core Indicators (People: Dignity and Equality 4).
- BC56. Some disclosures relating to child labour included in existing disclosure frameworks were not included in DR 6. These were disclosures requesting specific measures and actions taken to prevent and/ or eliminate instances of child labour as requested in SDG Action Manager (13220, 13218), Global Compact Self-Assessment Tool (LA.2.A. Forced and compulsory labour), including age verification measures. This is due to the lower levels of maturity of reporting on these topics.
- BC57. ESRS S4 also does not request information on whether undertakings have a child labour policy or the content of that policy, as is requested in the IRIS Taxonomy 5.2 (OI4432), Nasdaq (S9.1, S9.2), Workforce Disclosure Initiative (1.6), SFDR RTS (Additional indicators for social and employee, respect for human rights, anti-corruption and anti-bribery matters - 11) and DJSI 2021 (3.3.1 Human Rights Commitment). This is because this information is instead requested under DR 6 in ESRS S1, on the basis that the broad principles underpinning these disclosures (policies and actions) are applicable to the entirety of an undertakings' own workforce, and are not exclusively relevant to forced labour.

[Disclosure Requirement 7] Privacy at work

- BC58. This disclosure is seeking to obtain information on the Information Security System used with respect to protection of workers' personal data, the number of data breaches involving workers data, and the types of workforce surveillance used and the percentage of workers subject to each form of surveillance.
- BC59. The right to privacy, including for workers, is a fundamental human right and is addressed in a number of international legal instruments. Protection from interference with privacy is included in Article 12 of the Universal Declaration of Human Rights, Article 17 of the International Covenant on Civil and Political Rights, Article 16 of the Convention of the Rights of the Child, Article 14 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and Article 7 of the Charter of Fundamental Rights of the European Union. The ILO Code of Practice on the Protection of Workers' Personal Data also sets out a number of principles reflected in DR 7, including the need to process data lawfully and fairly and to integrate protection of workers' privacy in data collection and management.

[Draft] ESRS S4 Other work-related rights

- BC60. This aligns with article 19b of the CSRD-proposal, which requires sustainability reporting standards to specify the information that undertakings are to disclose about social factors, including information about respect for the human rights, fundamental freedoms, democratic principles and standards established in the International Bill of Human Rights and other core UN human rights conventions, the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work and the ILO fundamental conventions and the Charter of Fundamental Rights of the European Union.
- BC61. Data protection and the right to privacy is also addressed in other international standards, namely ISO/IEC 27001 Information security management and SO/IEC 27701:2019 Security techniques — Extension to ISO/IEC 27001 and ISO/IEC 27002 for privacy information management — Requirements and guidelines.
- BC62. The EU has intervened through legislation to protect workers' right to privacy through Regulation (EU) 2016/679 (General Data Protection Regulation) (GDPR). The GDPR provides a number of stipulations surrounding the protection of personal data, covering areas including the rights of the data subject relating to information about data collected (article 13), access to personal data (article 15), and the rights to restrict (article 18) and object to processing of personal data (article 21). The GDPR also sets out a number of obligations for how personal data should be controlled and processed (chapter 4, section 1), and the security measures that should be in place (chapter 4, section 2) and the need for data protection impact assessments and prior consultation (chapter 4, section 3). Articles 4, 33 and 34 addresses data breaches in particular. All of these principles were integrated into DR8. These demonstrate how data protection and the right to privacy is likely to be a material topic for all or a large majority of undertakings, given the focus on these topics in EU sustainability policies, objectives, and legislation.
- BC63. Both data breaches and workforce surveillance, as set out in DR 7, are addressed in existing reporting standards. Where it has been deemed to be material for particular industries, the SASB standards require disclosures on the number of data breaches and the percentage that involve personally identifiable information (see, for example, FN-CF-230a.1). The Workforce Disclosure Initiative requires disclosures on the forms of workforce surveillance used and the percentage of workers subject to each form of surveillance.

[Disclosure Requirement 8] Violations of workers' other work-related rights

- BC64. This disclosure reference content asks for information on whether (and if so, to what extent) the financial position of the undertaking has been materially affected by negative and positive impacts on workers' other work-related rights, for each of the matters described under the objective in Section 1.
- BC65. The European Commission's proposal for the Corporate Sustainability Reporting Directive (CSRD) states in revised Article 19a of Directive 2013/34/EU that undertakings 'shall include in the management report information necessary to understand the undertaking's impacts on sustainability matters, and information necessary to understand how sustainability matters affect the undertaking's development, performance and position.' Recital 25 of (draft) CSRD elaborates on the double-materiality perspective that was introduced already in the Directive 2013/34/EU. Regarding both perspectives (impact materiality and financial materiality) the recital emphasises that 'undertakings should consider each materiality perspective in its own right, and should disclose information that is material from both perspectives as well as information that is material from only one perspective.'
- BC66. As a consequence, information on sustainability matters which is material from one or both of these perspectives ('double materiality') should be included in the reports.
- BC67. Connecting sustainability impacts with financial reporting is a relatively new concept. There is some precedent, in that, for some industries, SASB asks undertakings to disclose the amount of legal and regulatory fines and settlements associated with their business activities.