ACCOUNTANCY EUROPE.

COMPARING EUROPEAN CORPORATE GOVERNANCE MODELS

Groundwork to advance the EU sustainability agenda

Survey results

FACTS.

HIGHLIGHTS

This publication explores the different corporate governance systems based on a survey of 17 European countries. We identify significant differences in national legislation and practice to lay the groundwork for EU sustainable corporate governance initiatives to be well integrated into the national corporate structures.

The climate and environmental crisis have made it undeniable that business and sustainability are interrelated. Corporate governance is one of the most powerful tools to implement sustainable targets for companies. European initiatives such as CSRD (Corporate Sustainability Reporting Directive), CSDDD (Corporate Sustainability Due Diligence Directive), ESRS (European Sustainability Reporting Standards) strongly depend on good corporate governance. A better understanding of the corporate governance systems applied across Europe will help ensure an effective implementation of the sustainability related legislation. The paper looks into:

- board of directors: structure, composition and legal framework
- board remuneration and evaluation
- internal controls and transparency
- shareholders' and stakeholders' roles

INTRODUCTION

Scientific evidence on climate change and environmental damage is overwhelming and confirms the urgent need to change the way we do business. In recent years, the European Commission (EC) has introduced several initiatives to deliver on the European Green Deal's objectives and the EU's international commitments on climate and sustainability. The CSRD (Corporate Sustainability Reporting Directive), CSDDD (Corporate Sustainability Due Diligence Directive), ESRS (European Sustainability Reporting Standards) introduce corporate governance as the right tool to embed sustainability into business.

Corporate governance is an integral part of the EC's sustainability agenda. However, implementing the targets on sustainability across the EU can be a challenge. Member States' different national corporate governance systems complicate the implementation of any related EU initiatives. Accountancy Europe has been working on corporate governance for several years. Our thought-leadership paper 10 ideas to make corporate governance a driver of sustainable economy (2019) highlights the important role of governance in supporting sustainable transition.

OBJECTIVE AND SCOPE

This publication explores the main corporate governance provisions in 17 European countries and brings forward differences in national legislation and related to the practical implementation. For example, some national corporate governance provisions rely on voluntary standards or 'comply or explain' codes of conduct instead of on national legislation. This data is relevant for the current and upcoming sustainability related EU initiatives and can be used as a baseline for other areas interconnected with corporate governance.

The data for this publication were provided by Accountancy Europe's members (national accountancy bodies) and ecoDa (national institutes of directors) through an online survey. The participating countries were Austria, Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Germany, Ireland, Italy, Latvia, the Netherlands, Romania, Slovenia, Spain, Sweden and the United Kingdom. While this accounts for a small part of our combined membership, these 17 responding countries provide a good representation of European corporate governance models, as many countries have adopted similar systems.

SURVEY RESULTS

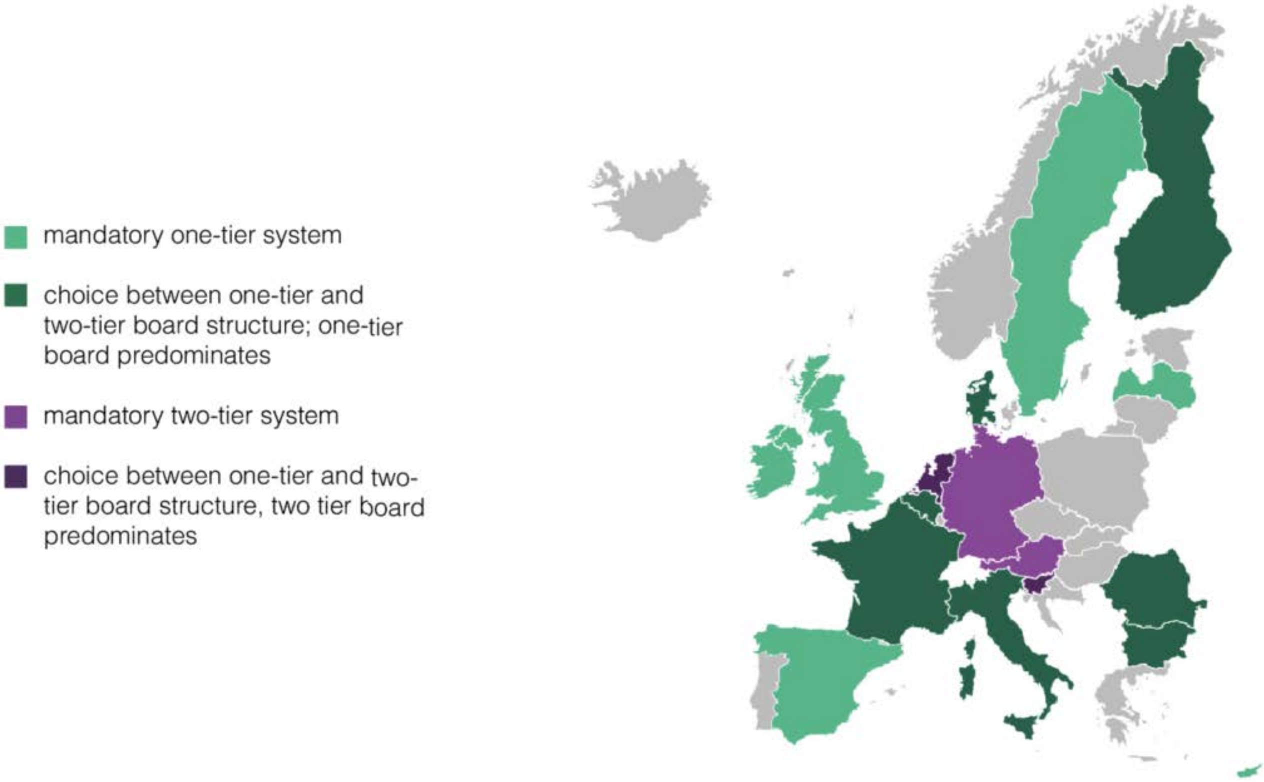
BOARD OF DIRECTORS

A strong and effective board of directors (board)[1] is an invaluable asset to a company and is key to achieving any future changes to corporate governance. The board's role is not limited to company direction and control but also serves to ensure transparency, accountability, strategic direction, credibility, and legitimacy. This section provides an overview of the existing board structures, compositions, and legal frameworks in European countries. We also explore different sources of corporate governance models.

BOARD STRUCTURE

One tier and two-tier systems[2] co-exist in Europe. The survey shows that most countries apply the one-tier system:

- 13 countries apply the one-tier system
- 4 countries apply a two-tier system



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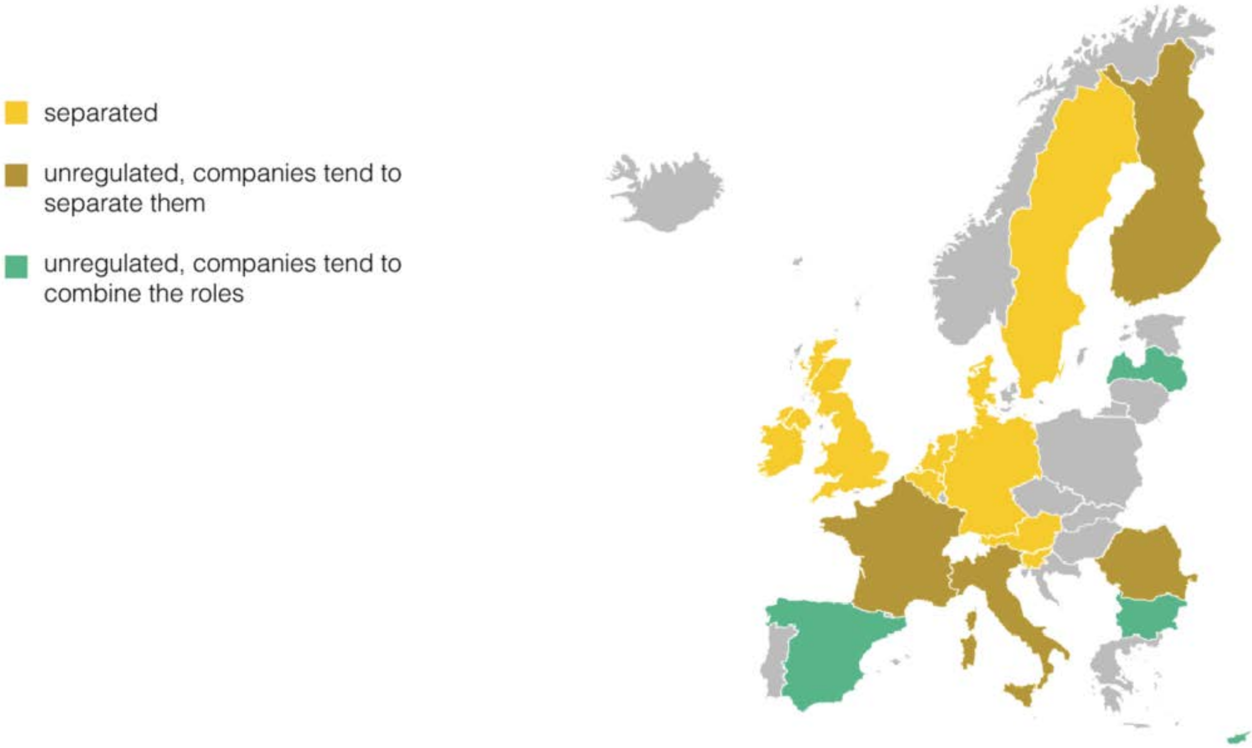
[1] Board: referring to a one tier system concerns executive and non-executive directors and referring to a two-tier system concerns the management and supervisory board

[2] One tier system: one board that consists of both the management and the supervisors (executive and non-executive directors)
Two tier system: the directors and the supervisory board are two separate bodies

CHAIRMAN AND CEO ROLES

Most_countries tend to separate the chair and CEO roles with:

- 13 countries separating them
- 4 countries combine both in one person



BOARD EMPLOYEE REPRESENTATION

In 6 countries, board employee representation is mandatory or the norm. 11 countries, however, do not include employee representation on the board.

	Voluntary and is the norm	Mandated by national law	Recommended but exceptional	Not recommended and it is not the norm
COUNTRY	Slovenia	Austria, Danemark, France, Germany, Sweden	The Netherlands	Belgium, Bulgaria, Cyprus, Finland, Ireland, Latvia, Romania, Spain, UK
	1	5	1	10

WOMEN'S BOARD PARTICIPATION

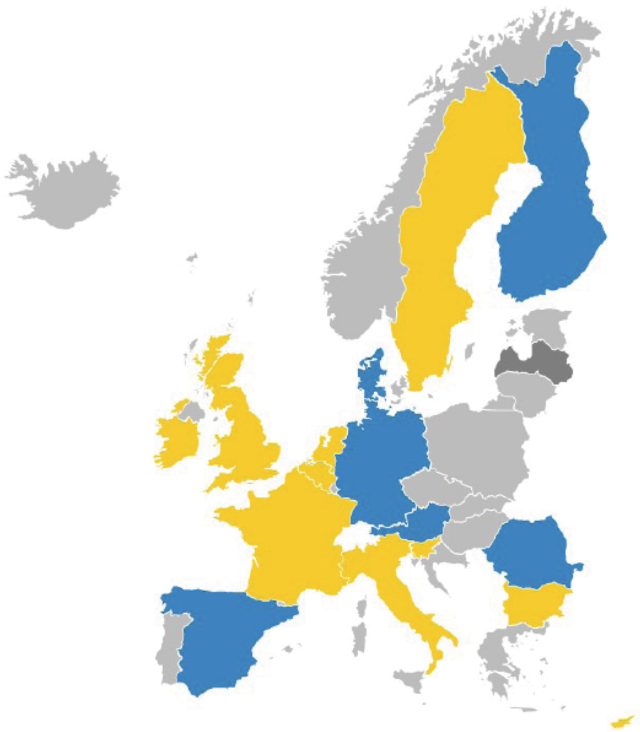
Women's participation on boards is required by law in 6 countries, in 7 it is recommended by companies' quotas but remains voluntary, and in 3 countries no requirement exists in this regard.

	Required by law	Voluntary - can be required by company's quota	is not the norm
COUNTRY	Austia, Belgium, France, Germany, Italy, the Netherlands	Bulgaria, Ireland, Romania, Slovenia, Spain, Sweden, the UK	Cyprus, Finland, Latvia
	6	7	3

LEGAL FRAMEWORK FOR BOARD'S DUTIES

The map below details how the board's role and responsibilities are defined in national laws.

- defined by law in general and broad terms (10)
- defined by law with a certain degree of specificity (6)
- not specifically defined in any provisions (1)



BOARD LIABILITY REGIME

When it comes to the board's liability regime, 10 countries state that their boards are subject to a common liability regime[3] whilst the other 8 claim that their boards are subject to specific provisions regarding liability on matters such as bankruptcy and regulatory infringements. Some countries like Austria, Slovenia and Sweden are reflected in both tables since they stated that board's liability regime is subject to both, common liability regime and to specific provisions.

	Subject to a common liability regime	Subject to specific provisions regarding civil liability
COUNTRY	Austria, Bulgaria, Cyprus, Denmark, Finland, France, Ireland, Italy, Slovenia, Sweden	Austria, Belgium, Germany, the Netherlands, Romania, Slovenia, Sweden, the UK
	TOTAL = 10	TOTAL = 8

SOURCES OF CORPORATE GOVERNANCE MODELS

Most countries indicate that the main sources of their corporate governance national models are 'comply or explain' codes of conduct[4] and national laws/regulations.

	COUNTRY	TOTAL
	Bulgaria, the UK	2
	Austria, Belgium, Denmark, Finland, France, Germany, Italy, Latvia, the Netherlands, Romania, Slovenia, Sweden	12
	Cyprus, Spain	2
	Ireland	1

national laws/ regulations

comply or explain codes of conduct

stock market listing rules

voluntary, non-binding codes of conduct

BOARD REMUNERATION AND EVALUATION

Both the [Shareholder Rights Directive II](#) (approved in 2017) and the CSDDD (currently under negotiation) bring up the issue of linking the board's variable remuneration with company's long-term value and sustainability targets. The visuals below provide an overview of the remuneration procedures and applied criteria.

BOARD REMUNERATION

10 countries disclose that the remuneration committee and shareholders are responsible for deciding on remuneration. This means that depending on the country, shareholders approve the remuneration committee's proposal, or advise on the final decision. In 4 countries remuneration is subject to shareholders' considerations alone, and in 2 it is up to remuneration committee's criteria. In Latvia, it is not defined which body is responsible for the board's remuneration.

[3] Common liability regime is a common regime defined by national law and is applicable to all the companies in the same way

[4] Comply or explain means that compliance with a governance code is not mandatory, but it is compulsory to disclose and explain reasons of non-compliance

	COUNTRY	TOTAL
	France, the UK	2
	Bulgaria, Finland, Ireland, Slovenia	4
 	Austria, Belgium, France, Germany, Italy, the Netherlands, Romania, Sweden, the UK	9

 remuneration committee competence    shareholders' considerations

BOARD REMUNERATION CRITERIA

With respect to factors determining the board's remuneration, answers vary. 6 countries state that ESG performance is one of the factors that affect the board's remuneration, whereas in 2 countries only financial performance is considered. In the rest of the countries, remuneration policy is either entity-specific or there are no known criteria yet.

	COUNTRY	TOTAL
	France	1
 	Austria, Belgium, Denmark, Germany, Ireland, Slovenia	6
	Bulgaria, Romania	2
	Cyprus, Finland, Latvia, the Netherlands, Spain, Sweden	6

 no criteria    ESG    Financial    Entity specific

BOARD INDEPENDENT (THIRD PARTY) EVALUATION

Most countries disclose that there is an independent third-party board evaluation, but it remains voluntary. In Belgium, Denmark, Finland, Germany, Netherlands, Sweden and the UK, board independent evaluation is recommended by national Corporate Governance Codes

	Voluntary - can be required by company's quota	is not the norm
COUNTRY	Bulgaria, Germany, Ireland, Romania, Slovenia, Spain, Sweden, the UK	Cyprus, Finland, Latvia
	8	3

INTERNAL CONTROLS AND TRANSPARENCY

In a speech, Commissioner McGuiness highlighted the importance of maintaining quality internal control systems to ensure corporations function well. Indeed, internal controls support companies in ensuring that their processes are effective and efficient, preventing risks and potential pitfalls and reducing liability.

This section indicates countries' internal controls' regimes related to:

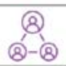
- public reporting requirements on corporate governance matters
- monitoring responsibilities on internal controls' effectiveness
- public reporting legal obligation on internal controls' effectiveness

PUBLIC REPORTING REQUIREMENTS

All the surveyed countries report that there are obligations for public reporting on matters such as environmental impact, social issues and governance. Most note that the reporting obligation is limited to certain entity types such as listed, or large, companies.

MONITORING INTERNAL CONTROLS

As for monitoring the effectiveness of the internal controls, those who are responsible for this vary by country as seen in the table below:

	COUNTRY	TOTAL
	Denmark, Latvia, the Netherlands, Spain	4
	Slovenia	1
	Belgium, Bulgaria, Cyprus	3
	Austria, Italy, Romania, Sweden, UK	5
	France	1
	Finland, Germany, Ireland	3

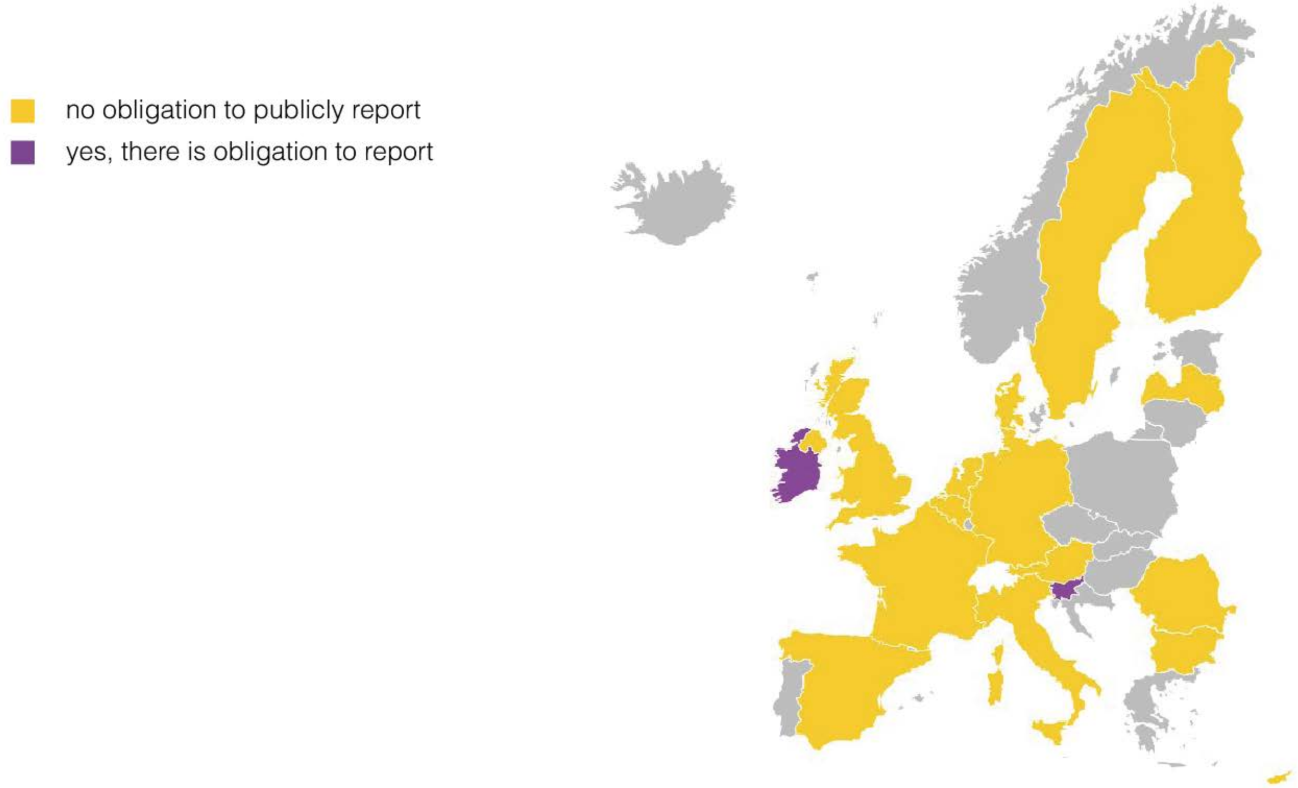
 Board  CEO  Audit committees

PUBLIC REPORTING OBLIGATION

With regards to public reporting on the effectiveness of internal controls', most countries currently do not have any such legal obligation:

- 15 countries do not have such obligation
- 2 countries must publicly report on it

Belgium and the Netherlands have noted that while there is no legal obligation to report on the effectiveness, there is a requirement to describe the internal controls systems.



SHAREHOLDERS AND STAKEHOLDERS

The EC expressed its willingness to move corporate governance from the pure shareholder model, toward a stakeholder one, in its public consultation on Sustainable Corporate Governance (October 2020). In the same consultation, several replies indicated the difficulties identifying the relevant stakeholders for a company and for the company managing any conflict of interests. In the maps below we examine: i) the shareholders' rights in existing corporate governance models ii) whether they are a priority for the board iii) whether stakeholders' mapping is a common practice in the countries participating in the survey.

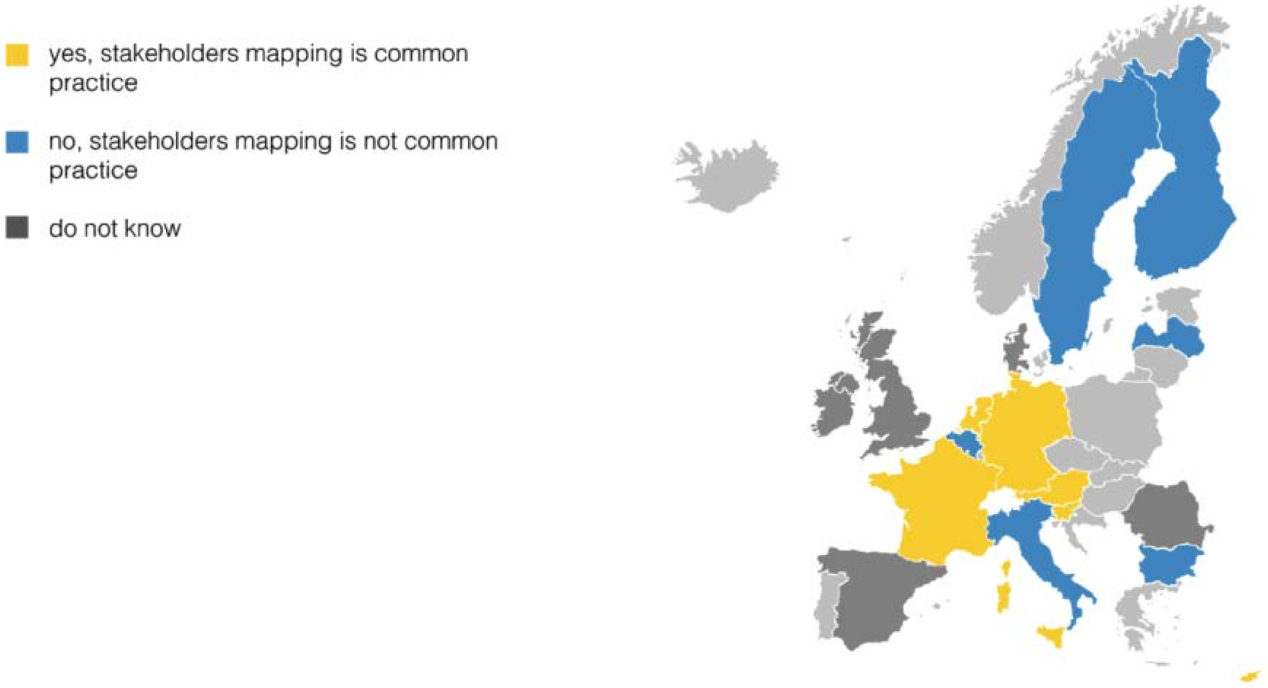
SHAREHOLDERS' RIGHTS

All participating countries declare that shareholders' rights are embedded in the law and are a priority for the board. Stakeholders' interests must be also taken into consideration in Germany, Ireland and the Netherlands.

STAKEHOLDER MAPPING

With regards to stakeholder mapping, the map shows that:

- 5 countries consider it a common practice
- 6 countries do not have a requirement or practice of mapping of stakeholders
- 5 countries are not aware whether this practice is common



CONCLUSION

This paper provides a high-level overview of how national corporate governance systems in the EU operate. The significant differences amongst countries are relevant to EU initiatives that require minimum levels of corporate governance harmonisation.

It is equally important to assess what applies in practice, and how different the national models are to reach implementation targets. The results of our survey show that stakeholders' management is a raising concern for most countries which is an important development for the implementation of sustainable targets. We also noted countries' interest and willingness to create a more inclusive corporate governance model by embedding ESG into the business operations.

The means to integrate sustainability in corporate governance can vary between countries depending on their national models but the targets should be the same and agreed at EU level. The current differences in governance models across Europe should be considered when it comes to successfully implementing relevant EU initiatives on sustainability and climate objectives.

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