



TRENDBOOK

2024

UNDERSTANDING
TODAY
TO BETTER
DECIDE
TOMORROW

 LE CERCLE
D'ÉTHIQUE
DES AFFAIRES

ÉTHIQUE & CONFORMITÉ DES ENTREPRISES

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2024, the trends

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Le Cercle d'Éthique des Affaires

Founded in 1993, the Cercle d'Éthique des Affaires is dedicated to promoting ethics and compliance in organisations, particularly those in the private sector. House of professionals, the Cercle also examines the conditions and methods of ethical economic development, i.e. development that respects principles such as human dignity and autonomy, social justice, and respect for planetary limits.

In a profoundly uncertain and multi-crisis world, ethics is a valuable tool. In a profoundly uncertain, multi-crisis world, ethics is an invaluable tool. It enables us to re-examine the legitimacy of accepted behaviors to set a course, beyond the whims of circumstances, while arbitrating between the - sometimes conflicting - demands of the organization's various stakeholders. ■

2nd edition of the trend book



This year, and for 30 years already, the Cercle d'Éthique des Affaires has been promoting and stimulating ethical reflection applied to the world of business, large organisations, and enterprise. This approach, once pioneering, now seems to have become consensual and accepted by the majority.

Under pressure from civil society and legislators, many of the concerns that used to come under the heading of ethics now belong to the realm of legal compliance:

prevention of offences against probity, protection of personal data, preservation of the environment, respect for human rights, and so on. Ethics always feed and precede the law.

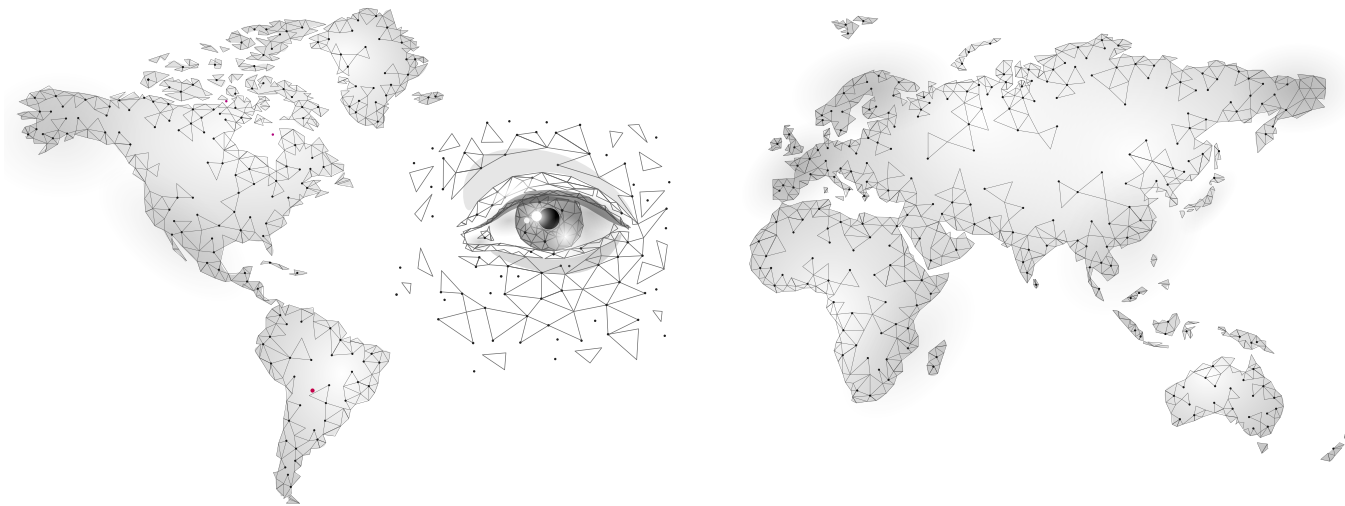
And this trend will never cease! The many technological and societal changes we are experiencing, and the unprecedented environmental situation we are facing, mean that we need to question ever more deeply the way our institutions operate, first and foremost that of major multinational corporations, these systemic players with ever-greater economic, informational, and functional powers.

Given these exceptional challenges, it is urgent and essential to dedicate time and space to break away from the hustle and bustle of non-stop information, to rigorously analyze the weak signals of our times and to imagine, debate and question the socio-economic trajectories that are opening. This second edition of the Trend Book, based on the analysis and cross-views of the members of the Cercle d'Éthique des Affaires on the 2023 news, has been conceived as an instrument for doing so.

“ The future is not what is going to happen, but what we are going to do ”
Henri Bergson, philosopher

Both foresight and ethics lead us to step back from the object of study and the present to consider the long term. The two are complementary: the former opens perspectives, while the latter enables us to examine and discuss them in the light of principles and values. By blending the two, the Cercle d'Éthique des Affaires provides ethics and compliance professionals, as well as strategic functions, with keys to reading the world that is coming, the tensions that accompany it and the principles that can frame it. ■

Stéphanie Scoupe,
Chairman of the Cercle d'Éthique des Affaires





Value conflicts in the 21st century

1. Value conflicts in the 21st century

According to Harmut Rosa, a German philosopher and author of several essays on the relationship with time, the current era, "high modernity", is characterised by a fundamental instability due to "the rapid wear and tear and obsolescence of trades, technologies and objects", but also of cultural practices, "marriages, families, political programmes, people, experience and know-how". If the continuity of experience in pre-modern societies enabled a grandfather to pass on his knowledge and values to his grandchildren, can he still do so today?

In an environment of constant change and uncertainty about the future, isn't it more comfortable to abandon potentially rigid principles and values in favour of elastic opportunism? "Seizing opportunities", "keeping all options open", "being flexible", "adapting to change" – aren't these the injunctions most in tune with the "Zeitgeist" – the spirit of the time?

In this context, what is the place of ethics, the discipline that aims to question behaviour in the light of principles or values that should enable people to lead a good life, respect human dignity, preserve social justice or the environment? Can it still be the source of a normative process that is always out of step with technological or societal metamorphoses? In an age of 24-hour news channels, instant reactions on X (formerly Twitter) and shared knowledge on Wikipedia, how are **mores**, whose Greek translation 'ethos' gave rise to the word '**ethics**', changing?

Initiated in American faculties and campuses, post-colonial or decolonial studies are now appearing alongside movements for the recognition of different forms of sexuality and gender identity (LGBTQ+), the denunciation of systems of domination and discrimination and invitations to radical ecology as the different components of a culture, dubbed '**woke**' by its detractors.

Opposite it, a **conservative** movement, led by leading political figures such as Donald Trump, Jair Bolsonaro, Giorgia Meloni

and the very recently elected Javier Milei, warns of a possible "clash of civilisations", the excess of legal standards, the throes of state bureaucracy and defends a broad conception of individual freedom and private property.

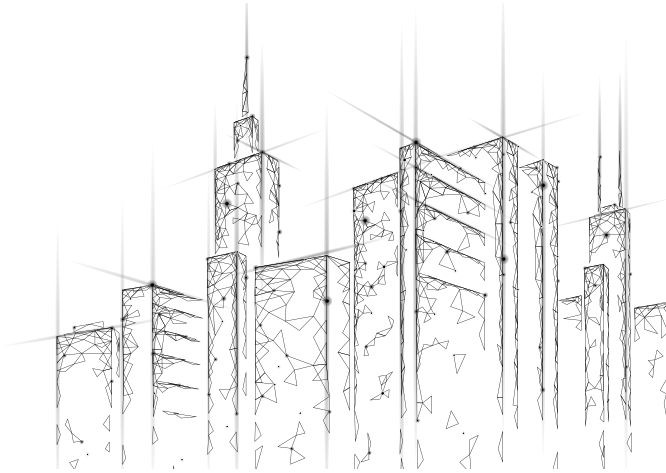
Large private companies, these "civilisational agents", are not immune to the pitched ideological battles being waged by the two camps, and are often caught in the middle, sometimes willingly taking part.

The clash between Ron de Santis, candidate for the Republican nomination in the United States and Governor of Florida, and the Disney entertainment group, owner of an Orlando theme park, is a paradigmatic example. Major employer in Florida and defender of progressive positions on the issue of sexuality, Disney has publicly criticized, through its boss, a bill to ban the teaching of subjects related to sexual orientation carried by Ron de Santis. Since then, the two parties have been going at each other blow for blow: withdrawal of tax benefits, filing of complaints, invective...

Similarly, Elon Musk, founder of Tesla, Space X and current owner of X (ex-Twitter), has no end of vituperations against ESG ratings, which he describes as "a scam (...) used by pseudo-warriors for social justice". An outspoken supporter of the 'libertarian' ideology, the South African billionaire has gone so far as to make company X (formerly Twitter) an instrument for his political convictions, despite the dubious economic and regulatory consequences of such a move.

In this context, what 'political' **responsibility** should companies assume and what values should they promote? Isn't it perilous to arbitrate such a highly inflammatory debate – even though it probably exists among employees?

Data from the European Values Studies survey – carried out in 35 European countries between 2017 and 2022 – tend to show an



increase in individualisation and a clear decline in individualism. Observers distinguish between the two: while the former refers to a desire for autonomy and a rejection of traditional culture (freedom of morals and expression, a search for meaning at work, a desire to participate in public decision-making), the latter corresponds to an attitude of withdrawal into one's own interests – the two being inversely proportional.

The study shows that Europeans seem to be increasingly attached to their **autonomy of thought** and their ability to participate and express their ideas in public, and that this goes hand in hand with so-called "**progressive**" demands: gender equality, democratic aspirations, rejection of xenophobia, and so on.

Another study published in 2023 by Oxford University in conjunction with the European Council on Foreign Relations (ECFR) points out that the United States and Europe remain the world's top two geographical areas for planned emigration. Most emigrants prefer the West, not only for the standard of living and quality of life they expect to find there, but also for the values that underpin Western societies, and in particular their respect for human rights.

While the number of democracies in the world and the preservation of the individual freedoms that are generally attached to

this type of regime are tending to decline – including in Europe – companies seem to have to continue to be on the side of the law, and, through their practice, bring to life the 1948 Universal Declaration of Human Rights and all the standards that its respect implies, still perceived by the majority of people in the world as sources of human progress. As the cornerstone of any ethical policy, they are therefore cardinal principles capable of setting a course beyond the fog of conjecture.

For E&C departments, this necessity makes it imperative to formalize ethical dilemmas, as well as to objectify the process of reflection and decision-making criteria to settle debates that are often thorny and highly political, where the risk of subjectivity on the part of individuals is high. ■

TO FIND OUT MORE:

11 July 2023, The guardian, *Disney ramps up spending in California amid war with Ron DeSantis in Florida.*

28 August 2023, Le Monde, Pierre Bréchon, politiste :
« *L'individualisme a nettement regressé en Europe* ».

3 November 2023, Le Monde, *Pour la sixième année de suite, la démocratie a reculé dans le monde.*

15 November 2023, ECFR, *Living in an à la carte world: What European policymakers should learn from global public opinion.*

1st December 2023, Mashable, *Walmart joins the X / Twitter ad boycott – this one will sting.*



2 Digital systems ethics

2. Digital systems ethics

Since it went online on 14 March 2023, 43% of French people, including 65% of under-35s and 67% of managers, have already used Chat GPT, according to an Ipsos-Sopra Steria survey published in December 2023. It is true that the progress of generative artificial intelligence systems has received considerable media coverage this year, fueled by the governance turmoil at OpenAI, one of the main players in the ecosystem and designer of the famous ChatGPT, a general-purpose conversational agent based on large language models (LLMs).

The imbroglia was caused by alleged differences of sensibility between two co-founders, Sam Altman and Ilya Sutskever, on their vision of the Open AI project and the risks induced by its flagship model: some observers even described a "schism" between **techno-optimists** and "**doomers**" (people worried about the collapse of civilization). While the latter had succeeded in convincing the board of directors to dismiss the former – accusing him of betraying OpenAI's initial mission of "building AI that benefits humanity" – Sam Altman, backed by Microsoft, a 49% shareholder in the company, returned to head the company just five days after his ouster, thus confirming the "victory" of the techno-optimists. The decision is likely to have major repercussions on the governance of the organisation and significantly strengthen Microsoft's grip on the strategy of the now not-for-profit and still loss-making organisation.

Earlier this year, in April 2023, the Future of Life Institute published a petition calling for a moratorium on developments in artificial intelligence. Signed by nearly 30,000 people, including hundreds of influential figures from the world of Tech, foremost among them Elon Musk, the petition called for the creation of regulatory authorities to oversee and monitor the most advanced AI systems. Similarly, in a note published on its website in May 2023, OpenAI called for global regulation of AI.

How ironic in this context to see these same players denouncing the European Union's regulatory ambitions! While Elon Musk is threatening to withdraw X (formerly Twitter) from European users to avoid complying with the requirements of the DSA (Digital Service Act) already in force, Sam Altman has incurred the wrath of European Commissioner Thierry Breton by doing the same about the AI Act. These reversals are not confined to American companies. As Cédric O, former French digital minister and as such an advocate of AI regulation, now declares that the AI Act "could kill" MistralAI, a company in which he is a shareholder and a European flagship in AI.

More broadly, many observers criticize Tech players for marketing stances that exaggerate the capabilities of their models by instilling fear, while aggressively lobbying to keep them from being subject to overly stringent regulations. What's more, by exacerbating potential long-term existential risks, these rhetoric **invisibilize the real and immediate risks** already posed by the deployment of digital systems.

These risks are not lacking! The manufacture and use of the infrastructures required for digital systems are extremely energy-intensive and voracious in terms of both raw materials and... water!! A study published in April 2023 by researchers at the University of Carolina estimates that ChatGPT consumes the equivalent of 50cl of water, or a small bottle of water, every 10 to 50 requests! Yet the ever-growing **environmental impact** of the digitisation of the world remains a subject rarely discussed by the main players in the sector.

Similarly, discussions about the risks to employment, which often focus on the quantitative aspect, mostly overlook the metamorphoses in forms of work and the **new forms of human exploitation** induced by digital transformation: from Kenyan workers underpaid to train Chat-GPT's learning models to all professions now subject to robotized and unmanageable cadences.

More generally, there are many negative effects and hidden costs to be considered when deploying artificial intelligence tools in the workplace: psychosocial risks, operator training, possible loss of skills, dependence on digital systems, data security, maintenance costs, etc.

Finally, **the opacity of the models** and their operating logic raises questions about the legitimacy of their use, especially when the purpose or effect of the system is to process personal data. Recent events provide numerous examples of this: evaluations of facial recognition algorithms used in the United States show false negative rates of up to 50%, and it is not unusual for two algorithms using the same database not to return the same answers. Despite its efforts, Meta is struggling to regulate the many discriminatory biases identified on its platform. Similarly, the algorithm used since 2010 by the French family allowance funds (CAF) significantly discriminates against the most vulnerable beneficiaries...

These use cases demonstrate, if proof were needed, that many artificial intelligence systems today remain imperfect instruments – "unfinished products" in the words of some of ChatGPT's designers when describing the famous conversational agent – sometimes lacking any scientific basis, and with potentially serious effects on people's daily lives, without individuals being aware of them or able to avoid them.

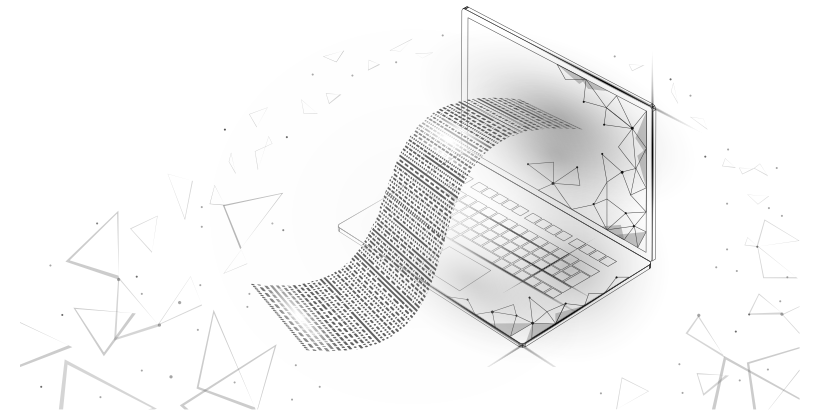
Against this backdrop, regulatory initiatives are taking shape. At the first AI Safety Summit on 1er and 2 November 2023, 25 countries, including the United States, China, the United Kingdom and the European Union, signed the "**Bletchley Declaration**", committing themselves to establishing a common line of conduct to oversee the development of AI, based on a risk assessment process and greater transparency on the part of private players developing such systems. In addition, the UN and the International Committee of the Red Cross (ICRC) want to achieve a binding international treaty banning autonomous weapons systems by 2026.

On a regional scale, on 30 October 2023, the United States, through an **executive order** issued by President Joe Biden, laid the foundations for a regulatory framework. In future, this will

require companies working on generative artificial intelligence models to share the results of safety tests with a new dedicated federal agency, working in conjunction with the National Institute of Standards and Technology (NIST), which is responsible for issuing safety standards to guarantee the marketing of such systems.

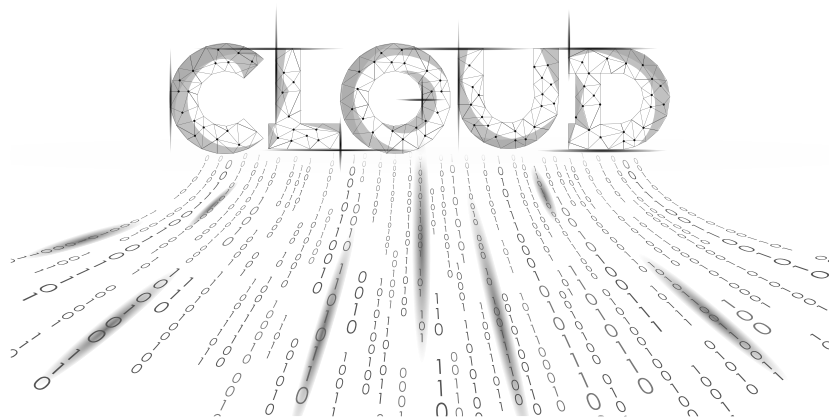
A few weeks later, after intense negotiations, the European Union adopted the **AI Act** on Friday 8 December. While the actual scope of the text still depends on the technical discussions that will take place in January 2024, the underlying logic is already known: social rating and mass surveillance tools will be banned – barring exceptions that have yet to be specified – and for the rest, a risk-based approach will determine the degree of constraints and potential sanctions depending on the type of application. More generally, transparency requirements have been strengthened, particularly for systems based on large language models (LLMs). Finally, there are penalties for non-compliance, which can amount to up to 7% of global turnover.

In addition, a provisional agreement between the European Parliament and the Council was reached on 14 December 2023 with the aim of adapting the liability regime to technological developments and subjecting designers of AI systems to the no-fault liability regime for defective products.



While some experts continue to point the finger at the supposed shortcomings of these legislative advances, we are nonetheless forced to note the emergence of a genuine "**digital compliance**", already partly structured by regulations on the protection of personal data, but also by the emergence of ISO standards dedicated to the management of risks arising from the use or design of AI systems.

The scale of the task should not be underestimated, and the time seems ripe for companies to take a practical approach to the issue of technology ethics by looking at governance, appropriate procedures and, in particular, systematic impact analyses to identify the projects that should be given priority. This assessment process must be continuous over time, so that any problems can be identified and resolved quickly and appropriately, and the real impact of the digital tools deployed can be measured over time. Given the complexity of the issues at stake, this can only be achieved by bringing together a wide range of profiles and expertise. ■



TO FIND OUT MORE:

18 January 2023, Time, *Exclusive: OpenAI Used Kenyan Workers on Less Than \$2 Per Hour to Make ChatGPT Less Toxic.*

21 November 2023, Le Monde, *Sam Altman contre Ilya Sutskever : le schisme de l'intelligence artificielle est consommé.*

31 October 2023, Le Monde, *Joe Biden annonce un plan de mesure pour contrôler l'intelligence artificielle.*

4 December 2023, Le Monde, *Profilage et discriminations : enquête sur les dérives de l'algorithme des caisses d'allocations familiales.*

5 December 2023, MIT Technology Review, *AI's carbon footprint is bigger than you think.*

6 December 2023, CNBC, *A 'thirsty' generative AI boom poses a growing problem for Big Tech.*



3

**Sobriety or shortages:
managing scarcity**

3. Sobriety or shortages: managing scarcity

Has humanity opened "the gates to hell" by failing so far to rid itself of its **addiction to fossil fuels**? Yes, according to UN Secretary-General Antonio Guterres, who stated in September 2023 that "**climate collapse**" has begun. Guterres, who is accustomed to making sweeping statements, divides opinion. Criticised by some for being too alarmist, he is supported by others who believe that he is taking part in a "semantic revolution" that is necessary in view of current issues.

Thus, 2023 is already considered to be "the hottest year ever recorded in history", according to the European observatory Copernicus, which points to "six record months and two record seasons for the year". A climate change so sudden and brutal that the highly prestigious journal of the US National Academy of Sciences did not hesitate to publish an article in March 2022 inviting scientists to reconsider more rigorously the risks of "the collapse of society on a global scale, or even the extinction of humanity" by 2100.

But one emergency can hide another. Among the ten commonly accepted planetary limits, the collapse of **biodiversity** and living organisms – to which the human species belongs and from which it cannot escape – continues to be of the utmost concern to the scientific community. As France's former Prime Minister Elisabeth Borne acknowledged on 27 November 2023 before the members of the National Biodiversity Committee, "the collapse of biodiversity is so strong, so widespread" that it represents "an existential threat to our societies".

Against this backdrop, the debates on how to implement the necessary ecological transition remain tempestuous. At COP28, held from November 30 to December 13 in Dubai, United Arab Emirates, the issue of fossil fuel phase-out – a prerequisite for achieving carbon neutrality by 2050 – was the subject of fierce

debate. Rather than an "exit", the final agreement mentions a "transition away" from fossil fuels, which is nonetheless an unprecedented step forward!

This energy transition implies an absolute reduction in final energy consumption – around 40% in the case of the French National Low Carbon Strategy (SNBC). To achieve this, there are two distinct levers – although they are sometimes used indiscriminately. The first, **energy efficiency**, aims to reduce the quantity of energy used to satisfy a constant need, by choosing the most economical system. The second, **sobriety**, consists in questioning needs in order to prioritize the most essential and abandon the most superfluous.

In France, the Agence de l'environnement et de la maîtrise de l'énergie (ADEME) (Environment and Energy Management Agency) has been promoting the second method, by broadcasting adverts featuring "non-salesmen", fake advisers who encourage people to consume less. The humorous campaign drew the ire of retailers' federations on the eve of Black Friday, while also provoking sharp dissension within the French government.

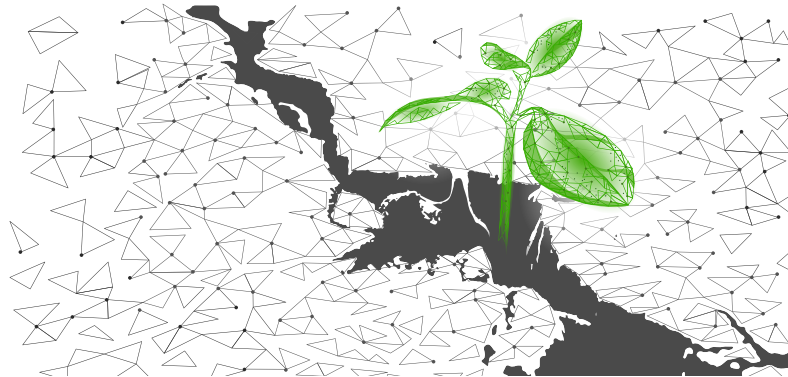
However, much more than environmental necessity, recent efforts at sobriety – energy consumption in France has fallen by around 12% since 2022 – are primarily due to the rising cost of energy, and in particular natural gas, following the war in Ukraine. Similarly, the "deconsumption" of food in France, unprecedented since the 1980s and a veritable "tsunami" according to Carrefour CEO Alexandre Bompard, can be explained primarily by galloping inflation in Europe. In these cases, it's less a question of sobriety – a voluntary, chosen effort – than a form of **suffered austerity**.

In addition to environmental imperatives, the question of resource availability is becoming increasingly pressing. Population growth

and rising demand for food, energy and materials continue to deplete stocks of limited resources. Tensions over gas supplies, the risk of **shortages** of sand for the construction industry, copper – an essential material for the energy transition – and even water, all around the world, in Europe as well as in the Global South. This non-exhaustive list is a reminder of the limits of managing essential resources by price alone in a constrained environment.

In this context, while the French President, Emmanuel Macron, announced in 2022 "the end of abundance", in May 2023 the President of the European Commission, Ursula Von der Leyen, gave the opening speech at a conference entitled "**Beyond Growth**" organised by the European Parliament in which, in the words of Robert Kennedy, she asserted: "GDP measures everything except what makes life worth living: the health of our children, or the joy of their games".

A strong signal sent out to supporters of a post-growth or degrowth economic model, macroeconomic translation of sobriety efforts on a microeconomic scale. The latter term is defined by Timothée Parrique, economist and author of a successful thesis on the subject, as "the planned and democratic reduction of production and consumption in rich countries, to reduce environmental pressures and inequalities, while improving quality of life".



In the end, this is a consensual position among the scientific community, for whom the hypothesis of a **decoupling** between GDP and CO2 emissions remains improbable. According to a study published in 2023 in the scientific journal Nature Sustainability, 73% of them consider that it is necessary to envisage non-growth or degrowth strategies to meet sustainability objectives. Beyond climate imperatives, isn't the increasing scarcity of resources making this necessary?

How should such a policy be implemented in companies? Can it? This question is the subject of a great deal of research and raises questions about the measurement of activity, corporate governance, and the ways in which the wealth created is produced and shared. A daunting but essential task, according to the Centre des Jeunes Dirigeants (CJD), which, through its president, Mélanie Berger, is calling for a "Copernican revolution" and dares to assert, in an article published in La Croix newspaper in August 2023, that today "defending degrowth means being pragmatic and reasonable". ■

TO FIND OUT MORE:

25 March 2022, PNAS, *Climate Endgame: Exploring catastrophic climate change scenarios*.

15 May 2023, Discours de la Présidente von der Leyen à l'occasion de la conférence « *Au-delà de la croissance* » organisée au Parlement européen.

4 August 2023, La Croix, Jeunes dirigeants : « *Défendre la décroissance c'est être pragmatique et raisonnable* ».

14 August 2023, Eco-Business, *Climate experts from Global South cool on degrowth: survey*.

23 November 2023, Le Point, Publicité de l'Ademe : *les «dévendeurs» ne font pas rire les commerçants à la veille du Black Friday*.

11 December 2023, Novethic, *Déconsommation alimentaire du jamais vu depuis les années 80*.



4 Work: the new balance of power

4. Work: the new balance of power

The labour **shortage is hitting** all the economies of the industrialised countries with full force – the United States, the United Kingdom, Germany, France, the Nordic countries, Switzerland, Australia, South Korea, Japan, etc. Without mentioning specific local factors such as Brexit in the UK, the main causes of this situation are first and foremost the catching-up of the economy following the covid-19 pandemic, against a backdrop of widespread population **ageing** in Western countries, most of which do not have a fertility rate – 2.05 children per woman – sufficient to ensure the renewal of generations.

South Korea, for example, has the lowest fertility rate in the world – 0.78 children per woman in 2022 – and risks seeing its population halved by the end of the century. While the United States (1.66 children per woman in 2021), France (1.8) and Germany (1.46) face far less perilous situations, governments and employers in these economies are concerned. In this context, the latter do not envisage being able to do without a foreign workforce, as Patrick Martin, President of MEDEF, the main French employers' organisation, pointed out in December 2023.

Meanwhile, for the first time in decades, economic power seems to have shifted from capital to labour. In France, according to the Pôle Emploi (now France Travail) 2023 survey on labour needs, 61% of recruitments were deemed difficult, with 85% of respondents pointing to an insufficient number of candidates. In Switzerland, according to a survey conducted by UBS in 2022, 80% of the companies surveyed said they were having difficulty filling vacancies – an increase of 35% in six years!

At the same time, the conditions in which work is carried out have been marked by an **intensification of work**, due notably to the increasing digitisation of working environments and the effects this is having: shorter deadlines, accumulation of constraints, acceleration of organisational and strategic changes, real-time measurement of productivity, etc.

France is a particularly symptomatic example of employee unease in the face of these changes. According to the benchmark Empreinte Humaine – Opinion Way barometer published in November 2023, almost one French employee in two (48% to be exact) feels **psychologically distressed** – with 7 out of 10 observing "a very great intensification of the workload". Among managers, 61% have the "feeling of an insurmountable workload" (APEC survey, September 2023), compounded by an increasing number of contradictory demands.

The sociologist Guy Bajoit, taking up a concept developed by the German economist Albert Hirschman, proposed four types of individual reaction to discontent: exit, voice, loyalty and apathy. In an economic context favourable to employees' bargaining power, the price of loyalty to the company seems increasingly high, outweighed by **loyalty** to the principles and interests of the individual.

Although the trend towards the "Big Quit" seems to be fading slightly- although the figures remain at historically high levels – the "**exit**" option is still being considered by many employees. 43% of French employees say they want to leave their company (Empreinte Humaine-Opinion Way Barometer), while 87% say they are ready to change jobs (IFOP – Action Survey)! However, these resignations seem to be increasingly justified by ethical reasons.

So much so, in fact, that the former CEO of Unilever, Paul Pulman, has coined the term "conscious quitting" to describe this phenomenon, which consists of leaving one's company when its values no longer correspond to one's own. According to a wide-ranging survey published in February 2023, 51% of American and 45% of British employees say they are ready to stop making this type of decision, and 35% of American and British employees say they have already done so. In France, according to

the 2023 Ethical Climate Barometer (CEA - Occurrence), 89% of employees say they would leave their company if they observed discrimination or harassment.

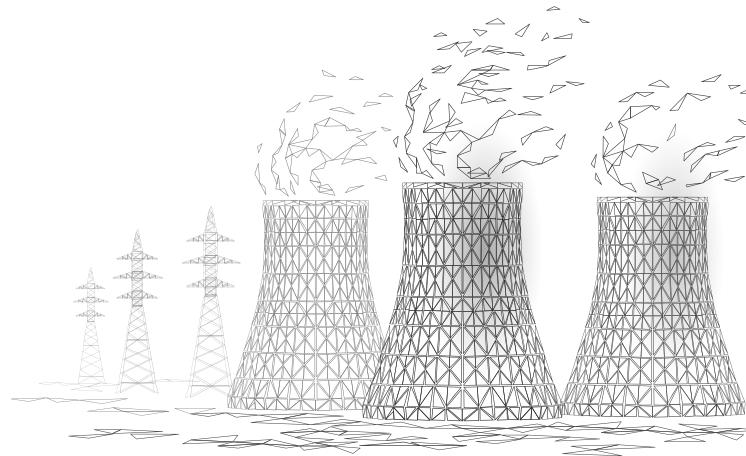
At the same time, the protest approach – **voice** – is also gaining in strength. The example of the United States is spectacular in this respect. Accepted demands from rail workers, a strike by the guild of scriptwriters and actors unionised in Hollywood, and above all a massive strike in the automotive sector which has led to basic pay rises of 25% by 2028 – never for a long time has pressure from unions across the Atlantic seemed so strong. In France, too, there has been an upsurge in industrial action. In France, too, the number of protest movements has multiplied. The Banque de France estimates that for 2023, negotiated increases will amount to 4.4% (compared with 2.8% in 2022 and 1.4% in 2021), a figure far from the American records but indicative of the trend at work.

More discreet, the apathetic posture – **apathy** – also seems to be able to be appreciated in the light of several weak signals. According to an IFOP study published in January 2023, 37% of French employees consider themselves to be "**quiet quitters**", i.e. people who decide to stay in their job while doing the bare

minimum. Various studies published in 2023 tend to show equivalent or even higher results for the United States. Another indicator of this disengagement is the absenteeism rate. In France, it rose by 21% between 2019 and 2023, while short-term sick leave soared by a factor of 2.3 in just one year (15th Barometer of Absenteeism and Engagement – Ayming – AG2R La Mondiale)!

According to an international study published by the Gallup Institute in 2023, only 7% of French people say they are "committed" to their work. The figure is 32% in the United States, 16% in Germany, 10% in the United Kingdom, 5% in Italy...

And what if, far more than a hypothetical "laziness epidemic" and rather counter-intuitively, these figures demonstrated the growing attachment of individuals, in particular the younger generations, to work? That's the view of some experts, who point out that, according to a Harris Interactive survey in October 2023, 77% of French people under 30 would continue to work even if they didn't need the money to live. Rather than a general disinvestment, these would be times of **heightened demands on work**, which has become one of the main ways of giving "meaning to life".



Against a backdrop of environmental disaster; almost 70% of French people aged between 18 and 30 say they are prepared to give up applying for a job in companies that do not take ecological issues into account, with employment becoming an instrument for serving the common good and their convictions.

In the light of these figures, there is an urgent need for companies to structure a genuine reflection on work that brings together the expertise of human resources, corporate social responsibility, and ethics, and that should answer the following question: what are the conditions for a sustainable and fulfilling working environment?

It's a question that opens a wide range of perspectives: from aligning corporate strategies with the major challenges of the century to the material conditions in which we work, from defining a purpose and values that are truly translated into action to introducing practical measures such as coaching, philosophy or psychology, as well as the four-day week. The latter is currently enjoying renewed interest. Seen as one of the main solutions to the current shortage of jobs by the European Commissioner for Employment, Nicolas Schmidt, it is currently the subject of numerous experiments around the world. Once tried, the four-day week would be adopted definitively by 90% of companies. ■



TO FIND OUT MORE:

28 May 2023, Le Monde, *La semaine de quatre jours comme solution à la pénurie de main-d'œuvre en Europe, selon le commissaire européen à l'emploi.*

9 September 2023, Capital, « *Conscious quitting* » : quelle est donc cette nouvelle tendance qui affole le monde du travail ?

26 October 2023, Le Monde, *L'intensification du travail, longtemps niée, est à présent posée comme inéluctable.*

14 December 2023, Les Echos, *Il n'y a pas d'épidémie de flemme en France.*

15 December 2023, Le Figaro, Patrick Martin, patron du MEDEF : *Nous aurons besoin de main d'œuvre venue de l'extérieur.*



**From stakeholder
management to corporate
democracy**

5. From stakeholder management to corporate democracy

The year 2023 was marked by the adoption on July 31 of the new European Sustainability Reporting Standards (ESRS) at European Union level. These give substance to the obligations arising from the Corporate Sustainability Reporting Directive (CSRD), the final text of which was published in the Official Journal of the European Union on 16 December 2022, and transposed into French national law by an ordinance dated 7 December 2023.

The CSRD significantly strengthens extra-financial reporting requirements and, alongside the SFDR (Sustainable Finance Disclosure Regulation) and the green taxonomy, aims to channel more capital flows towards sustainable and responsible activities. Of the 12 ESRS proposed, two are cross-cutting, five are dedicated to environmental issues, four to social issues and one to corporate governance and responsible business conduct.

Each ESRS has Disclosure Requirements (DRs), reporting points that directly target an indicator, or more broadly describe a process implemented within the company concerned. When reading the requirements concerning the four social components – the company's workforce, employees in the value chain, affected communities, consumers and end users – it is interesting to note that, for each of these target groups, the directive requires the reporting company to detail an **engagement process** as well as the means of "remedying any negative impacts" affecting them and the "channels through which they can express their concern".

Corporate social responsibility, whose definition has long been influenced by Edward Freeman's work on stakeholders, seems to find a natural outcome in this new requirement. By standardising the practice of non-financial reporting, the directive tends to make it compulsory to put in place a genuine stakeholder **management strategy**, and consequently invites companies

to make available the material and human resources needed to maintain an ongoing dialogue with stakeholders.

This trend is in line with the one that has led companies to set up **stakeholder committees**. According to Wavestone's CSR Barometer 2023, 21% of French companies surveyed have already set up such a committee, and 30% are currently considering doing so.

At the same time, the notion of stakeholders is tending to broaden as a result of recent legal advances. In addition to the consecration of "affected communities" in the CSRD, the notion of "**future generations**" is increasingly being used in environmental litigation. On 27 October 2023, for example, France's highest court, the Conseil Constitutionnel issued a landmark decision establishing the right of future generations to "satisfy their own needs". This ruling has already been emulated, with the burial of waste in the Stocamine case being blocked on this basis following a ruling by the Strasbourg administrative court a few weeks later.

Similar decisions have already been handed down in Germany – in April 2021, the Karlsruhe Constitutional Court invalidated the Climate Protection Act on this basis – and in the United States, where in August 2023 a Montana court recognised a right to a clean and healthy environment and an obligation on the part of the State towards future generations.

In this context, some observers envisage the creation of new institutions representing future generations, such as an "assembly of the future" on the model of a parliamentary chamber or a defender of rights dedicated to protecting their interests. While it is not the role of the private sector to create such structures, its representatives could benefit from integrating these legal developments into their thinking on stakeholder management.

More fundamentally, against a backdrop of environmental peril and major sociological changes, and under pressure from new CSR regulations, large companies seem to be being asked to moderate the demands and control of shareholders over corporate strategy, which is characteristic of so-called Anglo-Saxon capitalism, in favour of reconciling the distinct and sometimes divergent interests of the different groups of individuals who affect or are affected by the way the company operates. By considering all the dimensions of the company's activity, they move from "the search for an economic optimum to that of a **social** and environmental **optimum**", in the words of Antoine Frérot, Chairman of Veolia's Board of Directors.

The gradual introduction of **countervailing powers** to internal governance, which is subject to shareholder decisions, and the search for an outside perspective on the purpose and operation of companies have led some researchers to (re)pose the question of **corporate democracy**, one of the few 'political entities' to remain a 'free zone in which the democratic project, i.e. a government based on the recognition of our equality, is suspended', in the words of Isabelle Ferras, professor at the University of Louvain, associate researcher at Harvard and co-authored a book on the subject with several international academics.

Should democracy stop at the company gates? Can it? According to the 2ème Baromètre de l'Entreprise de Demain conducted by Opinion Way in 2022, 43% of French employees have never been consulted by their company on strategic or operational

decisions. And employee representative bodies do not constitute a satisfactory proxy: 80% of employee representatives consider that CSE debates (the French trade union consultation body) have not changed management's point of view on the company's strategy, according to the 2ème Baromètre relatif à l'état du dialogue social published in April 2023 by the Alpha group.

Yet the situation seems untenable in a context where participative forms of democracy such as citizens' conventions are gaining ground. Faced with these facts, the trend seems to require companies to imagine new spaces for deliberation with their internal and external stakeholders, while enabling them to have sufficient skills and knowledge to intervene in a relevant way. A path paved with difficulties, but one that could help to strengthen and enrich corporate decision-making with a diversity of viewpoints. ■

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7 December, Les Échos, *La France publie ses nouvelles règles sur le reporting extra-financier.*

11 December 2023, Le Monde, Isabelle Ferreras, sociologue : « L'entreprise est une entité politique qu'il faut démocratiser ! ».



From reporting to impact

6. From reporting to impact

Against a backdrop of massive financialisation of economies over the last twenty years – McKinsey estimates that between 2000 and 2021, the global stock of virtual wealth will have increased by 160,000 billion dollars – the reinforcement of **capital flows** towards sustainable and responsible activities is one of the main policy tools for continuing to ensure human emancipation and protecting it from environmental threats.

This ambition has been made possible by a movement, which began more than twenty years ago, of increasing and continuous improvement in the quality of **non-financial ratings**. Today, this trend is entering a new phase, marked by fierce opposition between proponents of different reporting methodologies.

In an article published on 10 October 2023, Emmanuel Faber, Chairman of the International Sustainability Standards Board (ISSB), the international body responsible for non-financial accounting standards, questioned the value of the 'dual materiality' principle enshrined by Europe and EFRAG through its Corporate Sustainability Reporting Directive (CSRD). Although the European standards (ESRS) were definitively adopted in July 2023 and will therefore apply to European companies and those operating in Europe, this does not mean that the battle between the two bodies is over.

Translated into English, Emmanuel Faber's statement seems designed to convince the players in Asia, Africa and South America who have not yet taken a position – the United States, represented by the American Chamber of Commerce in Europe, having already indicated its preference for the ISSB project. At the end of November 2023, the Global Reporting Initiative (GRI), another global standard-setter whose standards are used by nearly 14,000 companies worldwide, particularly in Asia, signed a close cooperation agreement with EFRAG.

Beyond their geopolitical aspects, these debates illustrate above all **two conceptions of tomorrow's capitalism**. While advocates of simple materiality, such as the ISSB, believe that investment decisions can be made based on socio-environmental impacts on financial performance alone, their opponents argue that '**dual materiality**' – considering not only socio-environmental impacts on financial performance, but also the impact of companies on their environment and stakeholders – is the only way to respond to today's ecological and social emergencies.

These different philosophies fundamentally clash over the question of whether the operation of the market alone, via shareholder decisions, makes it possible to achieve socio-environmental objectives, or whether it is necessary to provide public authorities and civil society with a correct assessment of **the impact of companies** to enable the former to better supervise the private sector and the latter to denounce its turpitude more easily. While 'simple' or financial materiality is aimed at investors, 'impact' materiality seems more broadly intended to provide information to public decision-makers, civil society and its scientific observers.

The **paradigm shift** appears to be a major one and is part of a trend aimed at strengthening and clarifying the evaluation of the choice of strategies, action plans, procedures and real impacts of CSR policies implemented by companies. New indices dedicated to measuring impact are flourishing, such as the Vérité40 index, which ranks France's top 120 market capitalizations according to their real environmental impact, asking whether value creation covers the environmental damage caused by CO2.

These initiatives have already been deployed by several private players, such as Pierre Fabre, a Purpose-company, which, in partnership with Afnor, the leading French standards body,

has developed the Green Impact Index, comprising 20 socio-environmental criteria. This measurement tool is now used by 200 companies in the cosmetics sector and has led Pierre Fabre to adapt the formulas of 80% of its products.

The shift from measuring resources deployed to measuring impact is part of a wider phenomenon – particularly marked in Europe – of the **institutionalisation of CSR**. In this context, the voluntary and therefore heterogeneous approaches of companies are gradually being replaced by standardised and regulated requirements.

The Corporate Sustainability Due Diligence Directive (CS3D), on which the Council and the European Parliament reached a provisional agreement on 14 December 2023, will strengthen transparency obligations regarding the due diligence procedures put in place within companies to prevent human rights and environmental abuses in their value chains. More stringent than France's duty of care legislation, the directive is likely to include penalties of up to 5% of turnover and the possibility of excluding a company from public contracts. While the logic here again is to impose a new reporting effort on companies, it should ultimately provide valuable information for assessing, and if necessary, sanctioning, the potential negative impacts of companies on society or the environment, considering the risk remediation measures put in place.

In this context, ethical and CSR initiatives seem to have reached a turning point and should in future be assessed less and less in terms of the efforts made by companies and more and more through the prism of the **real effects** of their activities and policies, which are increasingly objectivized, measured and contextualized. A "science of data and an industry of verification", in the words of

one sector expert, therefore, seem poised to emerge.

The fact remains that reporting is a time-consuming exercise that carries ethical risks. In the first place, it cannot become an end and should always remain a means to an end – in the service of real impact. It cannot be limited to being a simple exercise in communication – a potential that still exists insofar as "figures are fragile beings which, by dint of being tortured, always end up admitting what we want them to say", in the words of the statistician and demographer Alfred Sauvy. On the other hand, the time devoted to measurement and reporting should not replace the time devoted to action!

These observations suggest that, while ethics and CSR departments must measure and describe as respectfully as possible the real impact of their company's activities on society and the environment, they can no longer be the sole bearers of issues that have become highly strategic. They must therefore multiply the number of **intermediaries and custodians** of ethical policies – from the fight against corruption to the protection of human rights and the preservation of the environment – both within their organisation and on its periphery. ■

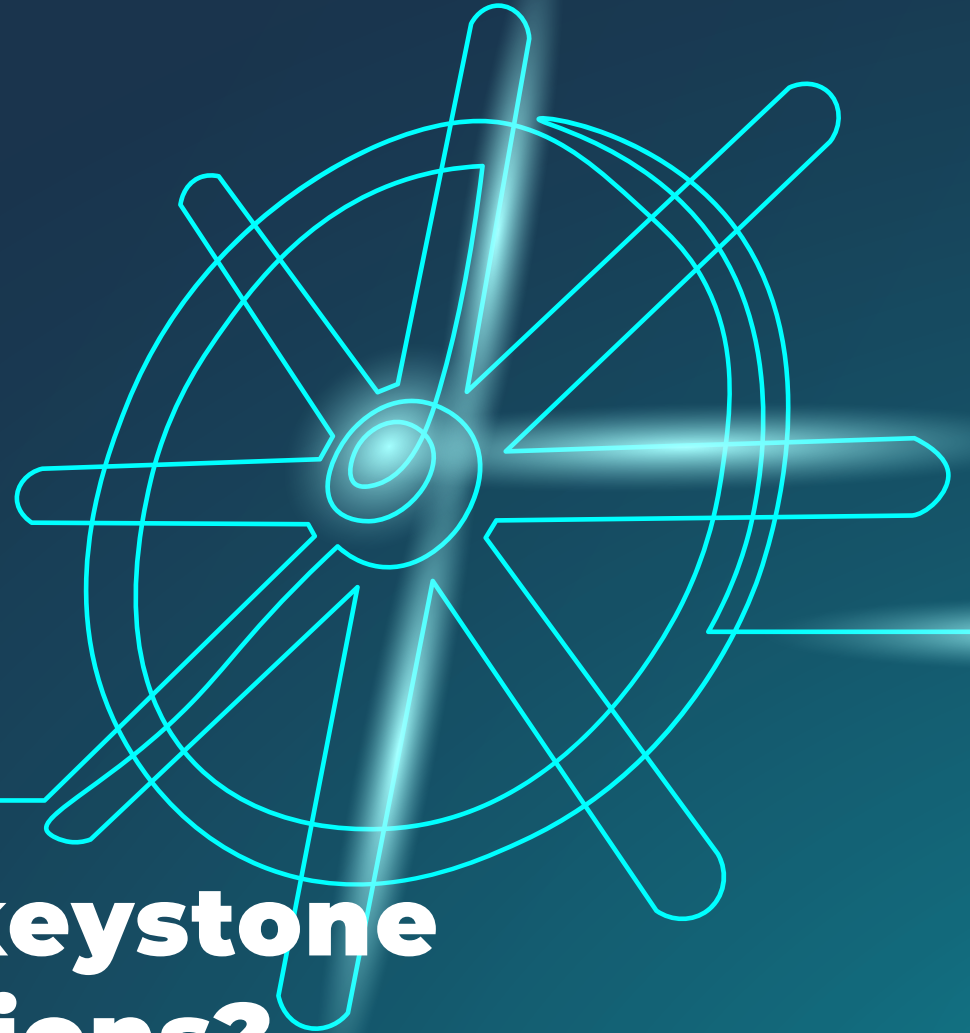
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8 September 2023, Le Monde, Florence Palpacuer : « *La marchandisation de l'éthique est indispensable au fonctionnement du capitalisme contemporain* ».

10 October 2023, Le Monde, Comptabilité d'entreprise : « *Exiger que la matérialité s'étende au-delà du domaine économique est en réalité simpliste* ».

16 October 2023, Novethic Essentiel, Tribune : « *pourquoi la double matérialité est indispensable* », par Alexandre Rambaud.



**Ethics, the keystone
of organisations?**

7. Ethics, the keystone of organisations?

Although the institutionalisation of the ethical approach in large companies seems to be well advanced, it must be acknowledged that, despite the pressure exerted by civil society on these issues, many organizations outside multinational corporations are not yet as mature as the latter on this subject. The compliance programs and ethical risk management systems deployed by large companies are now robust, but although they need to be significantly strengthened, they are still struggling to find equivalents among **medium-sized companies, public bodies, sports federations** and large organisations that are suppliers, customers and partners of large groups.

The trend towards these players being increasingly subject to compliance obligations is likely to gain strength rapidly. It is true that, despite their size or status, they nonetheless carry significant risks. As a result of the **cascade of obligations** placed on large companies, and in response to societal demands, several of their partners have already adopted dedicated policies. This trend is set to increase considerably soon.

The number of medium-sized companies still escaping the **thresholds for applying** compliance regulations should therefore be reduced. In specifying the procedures for setting up an internal whistleblowing system, the French Wasserman Act reiterated the legal threshold for doing so: 50 employees at the end of two financial years. In addition, the agreement reached between the European Parliament and the European Commission on a draft directive aimed at obliging companies with more than 500 employees and a turnover of 150 million – or 250 employees and a turnover of 40 million in high-risk sectors – to carry out due diligence on all of their **upstream commercial relations** and part of their downstream relations should logically lead to a growing number of small and medium-sized companies being subject to the environmental, societal and governance requirements of large corporations.

This trend should also apply to French **public-sector bodies** – large municipalities, public establishments, regions, etc. – which, although already subject to obligations such as the appointment of a compliance officer and the implementation of a whistle-blowing system, are still few to comply with law. Some of them are subject to the Wasserman Act, but municipalities and other public bodies, except for certain local public offices or companies, are not affected by article 17 of the Sapin II Act. The absence of any legal obligation to set up anti-corruption management systems deprives the French Anti-Corruption Agency (AFA) of any means of constraint and limits it to issuing injunctions where necessary. By way of example, in its 2022 survey, the AFA estimates that while 14.4% of public bodies say they have had to deal with breaches of probity, only 24.7% say they have adopted a code of conduct, 19.3% have deployed an internal whistleblowing system and 12.4% have assessed their third parties. While the departments appear to be relatively good performers – 26.7% of them have carried out a risk mapping exercise – the municipalities, which are less well endowed with resources, show astonishing results: only 1.7% of them claim to have carried out the mapping exercise!

Against this backdrop, proposals for the adoption of a **Sapin III** law, including the white paper published by the Observatoire de l'Éthique Publique in September 2023, focus mainly on strengthening the obligations on public players – France remaining 20ème in the 2023 ranking of the Corruption Perceptions Index drawn up by Transparency International. Equally significant, the public consultation launched on 19 October 2023 by the Agence Française Anticorruption, the French anti-corruption authority, to draw up a **national anti-corruption plan** for 2024-2027 focuses on the fight against breaches of probity in the public sector. Taken together, these signals tend to demonstrate the rapid acceleration in the deployment of ethics policies in public bodies.

On a wider scale, it seems that all civil society organizations will soon have to incorporate ethical considerations into their opera-

tions. Published in February 2023, an article co-authored by Yves d'Hérouville, President of the Institut des Dirigeants d'Association et de Fondations (IDAF), recalls "the importance of ethics in the **associative sector**", particularly regarding the risks of conflicts of interest, issues linked to work ethics (harassment, discrimination, respect for people) and the evaluation of relations with third parties in the light of socio-environmental criteria.

Several **sports federations**, which are generally associations, are particularly exposed and have unfortunately distinguished themselves in this respect: high-profile cases of corruption within the International Football Federation (FIFA), suspicions of similar facts at the French Tennis Federation, accusations of harassment in many disciplines, questioning of the environmental impact of competitions, etc.

The world of sport, with its media exposure, the financial flows it generates and the fantasies it conveys, accumulates both risks and criticisms. And yet, the degree of maturity of the bodies that bring it to life seems largely perfectible. During his trial for corruption, Bernard Laporte, former president of the French rugby federation, admitted "not having read, but having heard about" the French sports ethics charter. Similarly, despite the obligation to set up **ethics committees**, some French federations still do not have them, and some that have been officially set up are in fact totally ineffective.

In this context, initiatives and calls for firmer control of the sporting sector are multiplying. In France, the National Committee for the Strengthening of Ethics and Democratic Life in Sport, ad-hoc committee, has issued a report due on 7 December 2023. Democratizing governance, reinforcing financial transparency, strengthening the powers dedicated to federal ethics committees, creating an ethics committee for the French sports movement, a plan to combat discrimination and harassment, training managers in ethics and integrity issues... These proposals, supported by the French Minister for Sport, Amélie Oudéa-Castéra, should result in a legislative initiative by the end of 2024.

At international level, proposals to create a **global administrative authority** responsible for fighting against breaches of probity in the sports sector continue, for the time being, to come up against the principle of the "autonomy" of international sport, which currently protects it from any interference by governments. Here again, experts warn: "The question is no longer whether or not an institution is needed to regulate sport; the urgent issue is to determine how it should be done".

Initially developed and restricted to large companies, ethics and compliance policies now appear to be on the way to becoming more democratic and being more widely adopted by small and medium-sized enterprises, public bodies, and the associative sector. All these organisations are exposed to the demands of civil society as well as the compliance requirements of large multinational corporations, and therefore have a duty to create and maintain the conditions of trust with their stakeholders. Could this movement put an end to the trend that has seen large companies become the most advanced players on these issues? ■

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6 December 2023, Le Monde, Marie-George Buffet : « *Le sport français est malade et fragilisé* »

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Written by Louis Colin, Poincaré Consulting

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