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ISO 26000: The new face of corporate social responsibility?

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Policy implications

'ISO 26000 – Guidance for Social Responsibility' **(GSR), an international standard deriving in full from the International Organization for Standardization (ISO), is the first ISO international social standard. Unlike other standards, it is political rather than technical, taking on the role of organisations within society even though it is not intended for certification purposes. In addition, ISO 26000 brings about deep-seated changes aimed at altering the entire landscape of corporate social responsibility (CSR) as developed within and by the European Union. Some see it as an unrivalled revolution designed to frame the activities of market and non-market players in society, in a determined step towards sustainable development. Others see it rather more as a game of deceit, not merely because of the derogatory procedure put in place to set the norm but also in terms of the confusion established between legal responsibility and social responsibility and, finally, with a view to the degree of generalisation in respect of issues and stakeholders, which draws attention away from multinational companies.**

Organisational social responsibility

The ISO (International Organization for Standardization (ISO), the largest private standards organisation in the world, bringing together a network of national standardisation bodies in 162 countries (ISO 2011), has a twofold vocation of setting technical, non-legal, standards with a view to product standardisation; but it must also harmonise national regulations and standards so as to ensure better international circulation of goods. Whereas the ISO initially confined itself to drawing up technical standards, ISO 26000 on Guidance for Social Responsibility constitutes one of the first immaterial private international standards (Daugareilh, 2010). It forms part of a triptych dealing with matters that are more managerial than technical, alongside standards ISO 14001 (2004) on the environment and ISO 9001 (2008) on quality management.

The purpose of ISO 26000 is to define and clarify the concept of 'social responsibility' in its social, economic and environmental dimensions and to make it applicable to every organisation. The idea is to set out a basis for reflecting the growing recognition of the need for a methodology applicable to all management systems: to establish a diagnosis guiding the activities to be carried out within the organisation, to assess and scrutinise them.

This should be done in order to promote transparent, ethical behaviour with all due respect for legality and human rights, as well as compliance with international texts, taking into account the interests of all organisational stakeholders. ISO 26000 is inspired by the best practices developed by existing CSR initiatives in the public and private sectors, but also by international framework agreements or transnational company agreements which, above and beyond CSR, are an integral part of transnational company bargaining and transnational social dialogue. The overriding idea is 'to replace Man and the social dialogue at the heart of the economic system (...) by harmonising social, environmental and economic obligations on organisations in compliance with international conventions, especially those dealing with human

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rights, consumers and the ILO' (D. Gauthier, Chairman of the Afnor SR Committee, May 2009).

There are seven core subjects relating to organisational governance. These relate to human rights, labour practices, the environment, fair operating practices, consumer issues, and community involvement and development. The social dimensions of ISO 26000 can be found mainly in Chapters 6.3 on human rights and 6.4 on labour practices. Although labour issues are only one key issue among others within ISO 26000, this part of the standard is qualitatively and quantitatively richer than the others: it deploys clear, specific, stringent and more legalistic language in view of the close cooperation between the ISO and the ILO (International Labour Office) and the numerous references to international labour legislation laid down by the ILO (International Labour Organization) (Daugareilh, 2010).

An exceptional standard?

The process was initiated in 2001 by the ISO Committee on Consumer Policy (COPOLCO 2002), handing over the initiative of consumer organisations so as to confront the impact of multinational practices on populations' living and working conditions (Boy, 2009), and taken up in 2002 by a multi-party group mandated by the ISO (Strategy Advisory Group - SAG). Work on ISO 26000 began in effect in 2004 with the formation of the social responsibility working group, headed up by the Swedish and Brazilian national standardisation agencies. They were tasked with drawing up the future ISO 26000 standard, following the basic SAG recommendations and a multi-step process based on a stakeholder agreement concerning the content of the working documents.

It should be noted that ISO 26000 emerged from a derogatory procedure in two stages, in that on the one hand it relies on 'stakeholders' rather than on national experts. These stakeholders belonged as individuals to national delegations and not, therefore, to their respective national bodies. Those bodies comprised six categories of participants: government, consumers, employers, workers, NGOs and others. Secondly, ISO 26000 envisages participation with observer status (no voting rights) of 35 contact institutions consisting of trade unions (TUAC, ITUC) and employers' organisations (IOE), as well as private international bodies (CSR Network). The participation of international public institutions such as the ILO, OECD and United Nations was ensured in a rather odd fashion: at the ISO's invitation, the UN's Global Compact bureau signed a memorandum in 2006, and the OECD another one in 2008, in order to be able to attend the ISO meetings so as to draw up ISO 26000: even though the ILO had signed a cooperation agreement in 2005 giving itself the right of veto, specifically so as to ensure that ISO 26000 did not encroach on its spheres of competence.

After eight international meetings, the standard was adopted by a majority of 2/3 of the ISO membership in September 2010 and published in November 2010. Out of the 71 ISO members involved in drafting the ISO 26000 standard, 66 voted in favour including the in extremis vote cast by China, even though it had opposed the draft ever since the start of negotiations and up until 2009, for fear that the standard might one day become a parameter to be taken into account in a world trade context. Once the voluntary implementation of the standard had been made crystal clear, China went along with the consensus even though the US, India, Turkey, Luxembourg and Cuba all voted against. This, then, was the culmination of an international consensus around a universally applicable standard on the concept of Guidance on Social Responsibility (GSR) making it applicable to every organisation.

'Social Responsibility': what is at stake?

The ISO 26000 Guidance on Social Responsibility differs in more than one way from CSR, as developed within and by the European Union. Although the aim remains that of identifying and implementing the responsibility of economic players, the material and personal scope of this responsibility has been amended with the move from 'social' to 'socially responsible', and by embracing not just multinational companies but all organisations too. This semantic adaptation of the CSR concept results from a stakeholder compromise. The idea, whose initiative apparently came from employers' representatives, would be to clarify the players' responsibilities, which are part of a step towards sustainable development, covers all 'social', 'environmental' and 'economic' activities and all other actions with a broader impact on society, without being restricted to employer-employee relationships. What is more, this responsibility is incumbent not only on multinational companies but also on all types of market and non-market organisations in the public and private sectors, including in developed and developing countries as well as in the transition economies, regardless of, their size, sector(s) of activity or location. Thus the emphasis is placed on the fact that 'the socially responsible principles and challenges related to the CSR concept must be assimilated and held up by all' (Ruwet, 2009).

Even though this semantic change endeavours to minimise the ambiguities connected with the CSR concept, opinions appear to be divided on their implications. On the one hand, employers generally see this as a means of invalidating what might seem to be surrealist endeavours vis-à-vis companies and hence eradicating a pejorative concept of the multinational company as steered by CSR. Thus a more pragmatic attitude towards companies will enable them to participate and receive support for sustainable development through 'social responsibility'. For others, such as Thierry Dedieu, a (CFDT) expert/member of the French delegation at the workers' group negotiations the central, crucial question concerns the change in the reference to major companies - now 'organisations'. This semantic change shifts the debate to other entities - public bodies, the State as a purchaser - all of them equally involved in society, all of which must equally respond with socially responsible behaviour. In this sense, we are dealing with a dilution in the CSR concept, diminishing the demands being made of multinational companies by putting them on the same footing as all other organisations, even though there can be no comparison of the impact of their activities on the environment or on society in general. In addition, this change serves to call into question, or even make optional, certain key CSR principles

such as those connected with the responsibility of multinationals for the activities of their suppliers and subcontractors, or even the principles connected with consumers' rights.

These semantic changes reflect weighty balance of power politics within the delegations. By broadening out the framework of recipients and moving on from social to social responsibility, the ISO 26000 standard looks strategically different from the array of potentially concurrent CSR tools, and gaining at the same time from an international scale of reference deriving from a top-level political compromise among the stakeholders.

Human rights and labour practices at the core of 'Social Responsibility'

The purpose of ISO 26000 is to define and clarify the concept of 'Social Responsibility' in its social, economic and environmental dimensions and to make it applicable to every organisation. The idea is to set out a basis for reflecting the growing recognition of the need for a methodology applicable to all management systems: to establish a diagnosis guiding the activities to be carried out within the organisation, to assess and scrutinise them, and to do this in order to promote transparent, ethical behaviour with all due respect for legality and human rights, as well as compliance with international texts, taking into account the interests of all organisational stakeholders. By asking about human rights and labour practices as building blocks in the structure of organisational governance, the message from the ISO to organisations claiming to be socially responsible is unquestionable, whereas human rights remain the poor relations in CSR initiatives.

On the one hand, 'social responsibility' should respect fundamental principles and rights such as those enunciated by the ILO, including in particular freedom of association, the right to collective bargaining, the prohibition on forced labour, the abolition on child labour and the elimination of discrimination at work. Furthermore, ISO 26000 links social responsibility and social justice, recalling that work is not a product (Philadelphia Declaration 1944 and ILO Declaration 1998) and that 'socially responsible labour practices are essential to social justice, stability and peace' (ISO 2011). Finally, while recalling the governments' responsibility for ensuring workers fair and impartial treatment, ISO 26000 stipulates that ensure 'adopting legislation consistent with the Universal Declaration of Human Rights and applicable ILO labour standards' (ISO 2011).

On the other hand, all socially responsible governance contains an aspect relating to labour practices, which are spelled out in quite impressive detail in the ISO 26000 standard. Thus, by envisaging the organisation in its traditional, contemporary form (including companies taking the form of social networks), ISO 26000 fleshes out the notion of a sphere of influence whereby the responsibilities of an organisation encompass work done for it by others. This covers subcontractors and suppliers in particular. This reference to a broad-based approach of organisations emerges from ILO texts but also from OECD ones. It promotes some of the good practices from transnational company agreements and indirectly suggests to organisations that they may wish to embed their socially

responsible commitments in the trade relations they draw up with their co-contractors (Daugareilh, 2007). Furthermore, 'social responsibility' splits into five areas identified by the standard: employment, labour practices, social dialogue, health and safety at work and human resources, making detailed references to the ILO conventions and recommendations on each topic. On labour practices, for instance, ISO 26000 recalls the supremacy of laws, regulations and national collective agreements that are legally binding, as mandatory sources for socially responsible organisations. Since this is about social dialogue, the standard incorporates developments deriving from transnational social dialogue and promotes the recognition and information derived from collective bargaining institutions and structures, including at international level permitting social dialogue. On occupational health and safety, finally, ISO 26000 calls on organisations to draw up and implement a health policy and an occupational safety policy complying with international standards to ensure a high degree of physical, moral and social well-being for workers.

Thus the ISO 26000 standard gives the basic ILO standards, as well as the main international texts on human rights and labour practices, a private, international anchor-point in the standardisation world that promotes the spirit of these texts. This extension of the sphere of international rights by means of a private standard, which is not risk-free, is of interest on more than one count. First, ISO 26000 is literally inspired by the international texts to which it refers, and has developed a 'notion derived from that of human rights' (Daugareilh, 2010), the notion of *international norms of behaviour.* It is defined as 'expectations of socially responsible organizational behaviour derived from customary international law, generally accepted principles of international law, or intergovernmental agreements that are universally or nearly universally recognized' (ISO 26000, 3). International norms of behaviour are incumbent on organisations, irrespective of the 'social responsibility' variability expected from one country to another. The principle of complying with human rights is written into international norms of behaviour, and every socially responsible organisation is duty-bound to substitute them for any national legislation or implementation thereof which 'does not provide for adequate protection of human rights' (ISO 2011). This, then, is a genuine safety net to ensure that organisations cannot, under cover of legalism or local law, escape from compliance with human rights. International norms of behaviour, which are key elements of the ISO 26000 standard, thereby serve as 'nor is it intended to provide a basis for any presumption or finding that a measure is consistent with WTO obligations. Further, it is not intended to provide a basis for legal actions, complaints, defences or other claims in any international, domestic or other proceeding, nor is it intended to be cited as evidence of the evolution of customary international law. This International Standard is not intended to prevent the development of national standards that are more specific, more demanding, or of a different type (Daugareilh, 2010) inaction or impotence to implement their private international law obligations (ISO 2011).

However, these links between private international law and private standards, between law and standardisation, result in confusion between technical standards and legal norms, and participate in a process of de-legalising or eroding the rule of law (Supiot,

1984) in the face of private regulations which do not have the attributes of the rule of law relating to respect for legislation. This constellation operates against private standards whose legitimacy and credibility are thereby called into question.

Limitations of ISO 26000

Will 'social responsibility' enable organisations to move from good intentions to good practices? Nothing could be less certain.

Some believe that the reputation of ISO standards will serve as a stimulus for organisations (Ruwet, 2009) and for the retail and business world to use the ISO 26000 standard like other ISO standards, that is by imposing a form of mandatory harmonisation derived from social responsibility on a large number of organisations. Others assert on the other hand that the ISO lacks legitimacy to create a standard that is not technical but is political, universal and legitimate. Even though contractual use was put in place to ensure that the players are multi-representative and that the ILO will help to draw up any standardisation, this use by no means responds to the basic principles necessary for every (public) organisation that enacts the law in respect of democracy, defence of private and public freedoms, and human rights. This lack of legitimacy and hence credibility could push certain economic stakeholders to dissociate themselves from this new standard (Igalens, 2009).

What is more, the implementation of this standard relies on voluntary action by organisations in a step that is certainly one of quality but not of certification. 'Certification' refers to the issuing of a written assurance (the certificate) by an independent external body that it has audited a management system and verified that it conforms to the requirements specified in the standard (ISO 2011 Certification). This non-certification condition, obtained at the employers' request and retained during the preparation of the ISO mandates for negotiating ISO 26000, plays in its disfavour (Quairel-Lanoizelée, 2011) and makes it lose credibility and interest, because what would be the purpose of the 'umpteenth guidelines', and who would be foolish enough to believe in the impartiality of self-certification? Moreover, this condition, which contradicts the assertion that socially responsible organisations are those which realise it (Article 4), appears not to be respected, in that the labelling market has already seized hold of the ISO 26000 standard (see in particular *Pour aider les organisations à évaluer la pertinence et le niveau de maturité de leurs pratiques selon l'ISO 26000* [in French], AFNOR Certification proposes AFAQ 26000'). Finally, and as a response to the strong lobby led by countries opposing the standard, ISO 26000 has no built-in standards and 'Further, it is not intended to provide a basis for legal actions, complaints, defences or other claims in any international, domestic or other proceeding, nor is it intended to be cited as evidence of the evolution of customary international law. This International Standard is not intended to prevent the development of national standards that are more specific, more demanding, or of a different type' (ISO 2011, 1). Therefore, a standard, albeit private, lacking any penalties and suffering from so many limitations, when it is up to organisations to respond for their actions, must surely be a trap too? Some people persist in seeing it as a victory of the

company world over any desire for regulation, even procedural, deriving from social responsibility (Daugareilh, 2010).

ISO 26000 is just a guidance document, nothing more

ISO 26000 has been dubbed with an array of terms such as guidelines, reflection format, reference tool, non-binding reference framework, practical guide, featured document - which of course takes us back to the anarchy surrounding CSR initiatives. According to Thierry Dedieu, its merit is that it represents a complete document, albeit rather a descriptive and non-mandatory one, and of clarifying many principles which should be complied with by any stakeholder declaring him/herself socially responsible. But it must also be grasped as a tool, a didactic instrument that can be used against both economic and trade union players, wishing to uphold it morally against their economic partners, whether those be companies, groups, SMEs or even countries with low-level democratic governance. Generally speaking, in any event, trade unions appear less inclined to take up the standard, which could perhaps be explained partly by the under-representation of the trade union movement during the negotiations, and hence the little information they possess about this private international legislation.

Moreover, ISO 26000 has taken up a highly controversial topic seeking to clarify 'the significance and content of CSR, the outlines and legitimacy of companies in the era of globalisation' (Gendron 2009). It is an attempt to attribute a role to companies in a globalised economy, so as to ensure their contribution to the sustainable development of society. It tries to do no less than set out a framework for relationships between companies and society, which is a qualitatively different problem from the normally technical ones that the ISO has traditionally contended with (Enjeux 2005). The ISO has therefore made a foray into a field which until now had been foreign to it, given that it was not technical, marked by global institutional players and surrounded by private international law.

Such a foray is not harmless with regard to the inglorious developments affecting CSR in Europe but also, on a more positive note, those of transnational company bargaining. Given the European trade unions' long-standing – and unfulfilled – demand to put CSR on a legal footing in Europe, it is interesting but disturbing to see that the global initiative comes from consumer groups, and that it was taken up systematically and thoroughly by the ISO, even though it touches on hitherto unknown areas, namely human rights, decent work and labour practices. Although the procedure was adapted to the new mission invented by the ISO, and although this new-type standardisation is what has emerged from a worldwide consensus (still absent in Europe), it is interesting but worrying to note the low-level representation of workers at the negotiations. After all, if ISO 26000 sets out to try and encourage organisations to contribute to sustainable development on this earth, why would it deprive itself of the resources at its disposal to ensure more effective implementation of the standard? Is it not a delusion to believe that organisations will make better use of the standard because of their involvement

in its preparation, even where it appears that the participation of certain groups was connected with the desire to diminish the requirements of the standard, to try and rule themselves out of it by focusing attention on other groups (Ruwet 2009)? Groups whose unstated but real goal had been to put forward a private, non-binding alternative to the social calls for global regulation of the activities of transnational companies (Daugareilh 2010)?

If the most optimistic people see the ISO 26000 standard as a potential extension of private international law into areas that are inaccessible to it (above all organisations) as well as a reference list (added to an already long list) which 'raises the demands that a society imposes on itself' (Garanderie 2011), the doctrine remains cautious about developments likely to be associated with ISO 26000, particularly on account of the confusion introduced between law and standardisation. In addition, the ISO 26000 standard takes on board the traditional, authoritative ISO standards with which it is now merged, and which are assimilated into regulations, conferring a presumption of conformity with conduct which will not be submitted to certification. The already porous nature of public standards and private standards (Gendron 2009) will be worsened, in the sense of an erosion of law to the profit of voluntary private regulation. And in n equally political

debate, on the role of organisations in contributing to sustainable development, 'Governments can assist organisations in their efforts to operate in a socially responsible manner in many ways. However, 'promoting the social responsibility of organizations is not and cannot be a substitute for the effective exercise of state duties and responsibilities' (ISO 26000, 9). However, promoting the social responsibility of organizations is not and cannot be a substitute for the effective exercise of state duties and responsibilities' (Comte-Sponville, 2008).
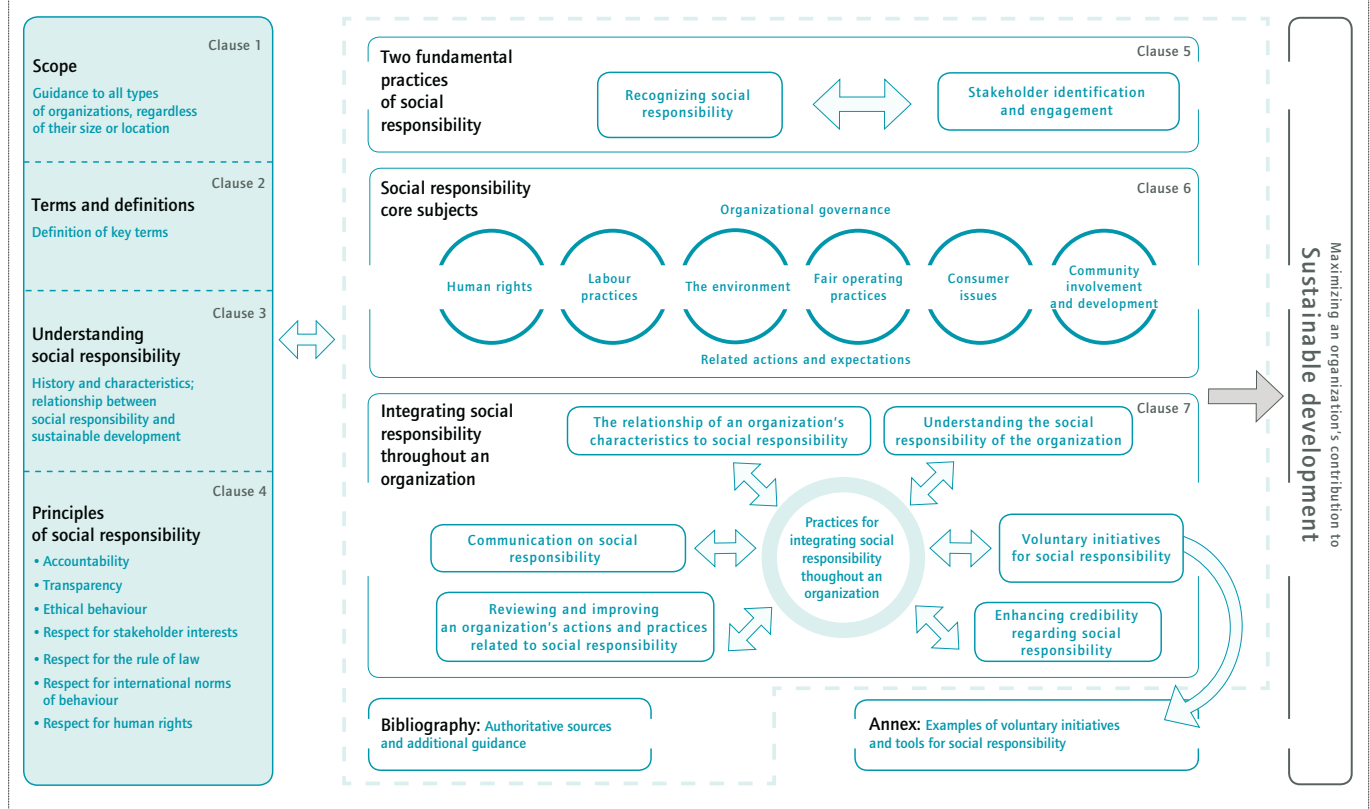
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Annex: **Panorama of ISO 26000**

Source : ISO 26000 (2011a)

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