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The EU regulation of sustainable investment: The end of sustainability trade-offs?

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ABSTRACT

Objective: The objective of the article is to explore and assess whether the SFDR legal framework creates a legitimate, effective, and efficient mechanism that supports a genuinely sustainable investment and eliminates greenwashing and other trade-offs. It targets the Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial service sector aka SFDR which sets a law duty on financial market participants and advisers concerning information about sustainability (Art. 1). Corporate Social Responsibility (CSR) parasitic practices, such as greenwashing, are to be eliminated in disclosures, communications, and internet pages (Art. 9 – Art.13) by appropriate information (Art. 1(17)) and the principle of doing no significant harm (Art. 2a).

Research Design & Methods: A deep holistic five-step chronological contextual analysis of key legislative and semi-legislative instruments with LIWC assessment was performed. It was supported with a comparative and teleological interpretation and refreshed with Socratic questions.

Findings: The research led to four rather unexpected propositions: (i) the endorsement of SFDR by EU institutions varies, (ii) key instruments are expressed neutrally and technically but their authenticity varies, (iii) morality appears to be avoided, and (iv) the interpretation litigates against an artificial disassociation of concepts linked to sustainability, CSR, and shared values.

Implications & Recommendations: Since the performed analysis was instantaneous and textual and led to rather unexpected propositions, it should be juxtaposed and extended by adding the longitudinal dimension, the applied dimension, and the outside perspective along with empirical field observation.

Contribution & Value Added: This is a pioneering study regarding the wording assessment of the EU law on sustainability. Considering the critical importance of a legitimate, effective, and efficient legal framework in this area and the pre-existing academic vacuum regarding such an exploration of SFDR and related instruments, this contribution is a valuable first step.

Article type:	theoretical (conceptual) article
Keywords:	Corporate Social Responsibility (CSR); EU; Regulation 2019/2088 (SFDR); sustainable investment
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INTRODUCTION

Since a drive for competitiveness has destructive potential, the current global and highly competitive society turns more and more to the modern sustainability concept (MacGregor Pelikánová *et al.*, 2021a; 2021b; Nowak & Kasztelan, 2022; Andronie *et al*., 2021a; 2021b; Solesvik *et al.*, 2023; Stanek-Kowalczyk, 2021), which relies on the multi-stakeholder approach and cross-sector co-operation (Van Tulder *et al.*, 2016, Van Tulder & Keen, 2018; Matuszewska-Pierzynka, 2021) in both domestic and multinational dimensions (Rosińska-Bukowska, 2022). Perhaps, it has even the ambition to go above and beyond mere

social responsibility and philanthropy, *i.e.*, potentially attempt to achieve the authentic synergy labelled as shared values (Porter & Kramer, 2011; Kramer & Pfitzer, 2016; Çera *et al*., 2022).

Every member of society should carry the responsibility for the future of society and do more for society than what is strictly imposed by the law (Apostu & Gigauri, 2023). An integral element of such a modern sustainability concept is the corporate social responsibility (CSR) of businesses which needs to be communicated transparently and reliably to other stakeholders, *e.g.*, employees, investors, and consumers (Dvouletý, 2017, MacGregor Pelikánová & MacGregor, 2020a; Mura *et al*., 2021; Majerova *et al.*, 2020; Otavova *et al*., 2023), to allow them to make educated and, hopefully, pro-sustainability choices. This is complemented by the growing consideration of behavioural economics (Reed *et al.,* 2013).

The EU and EU policies have fully recognized that and joined these efforts by issuing the key EU strategy for 2010-2020 aka EU strategy for smart, sustainable, and inclusive growth (Europe 2020), and more specifically the Green Paper: Promoting a European Framework for CSR (MacGregor Pelikánová *et al.*, 2021a). This has been matched by legislative instruments, see *e.g.,* the updated Directive 2013/34/EU (Balcerzak, & MacGregor Pelikánová, 2020) imposing a CSR report duty upon certain large businesses (MacGregor Pelikánová & MacGregor, 2020b) and newly the Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial service sector (SFDR). This setting has been subjected to a set of crises, see Covid-19 (Balcerzak & MacGregor Pelikánová, 2020; Vavrova, 2022; Androniceanu & Marton, 2021; Androniceanu, 2020) or the Russo-Ukrainian War. These crises have worsened the social and economic disparities which have appeared over the last three decades (Ashford *et al.,* 2020) and magnified the pre-existing differences in society (MacGregor Pelikánová *et al*., 2021c), including customers (MacGregor Pelikánová *et al.*, 2021a; Kiba-Janiak *et al.,* 2022; Waliszewski & Warchlewska, 2021; Lăzăroiu *et al.,* 2019; Lăzăroiu *et al.,* 2020). Nevertheless, the European Commission president, Ursula Von der Leyen, is determined to maintain the endorsement of the modern sustainability concept and keeps referring to 'our common priorities, like the European Green Deal, digitalization and resilience' (European Commission, 2020) and 'a climate-neutralized and resilient economy' (European Economic and Social Committee, 2019; Kowalska & Bieniek, 2022). In this context and considering the dramatic impact of these events on both public and private finances, the need for a robust EU law pro-sustainability framework inducing the engagement of all stakeholders (Hála *et al.,* 2022) appears even more important than ever before. The two most significant pillars of this framework are Directive 2013/34/EU and SFDR. Considering the legal nature (Directive v Regulation) as well as the level of specificity and potential enforceability, undoubtedly the most critical instrument in the current EU law for the financial support of sustainability from the private sector is SFDR. It sets a law duty on financial market participants and advisers regarding information about sustainability (Art. 1). The CSR parasitic practices, such as greenwashing, should be eliminated in pre-contractual disclosures, websites, reports, and marketing disclosures and communications (Art. 9 – Art. 13) by proper information (Art. 1(17)) and the principle of doing no significant harm (Art. 2a). Does SFDR mean that trade-offs regarding sustainability are to be eliminated from the financial sector? To reflect upon these complex issues, the theoretical background with a literature review and a proper research methodology need to be identified, presented, and employed. This creates the potential for a proper study of the legislative and policy evolution as well as the wording, its interpretation and assessment, refreshed by Socratic questioning. Ultimately, this could lead to a number of truly relevant and rather unexpected observations and pioneering propositions with suggestions for further studies as well as legislative and other endeavours.

LITERATURE REVIEW

Concerns regarding the sustainability and continuous existence of the society and civilization have millennial roots, *e.g.,* parables in the New Testament, the administrative, management, and building construction models employed in ancient Egypt, the sustainability of water management in Mesopotamian and Babylonian empires, or the progressive expansion of the Roman Empire and its administration.

The transformation into the modern concept of sustainability was launched by the endeavours of the Hanseatic League and the German perception of sustainability aka *Nachhaltigkeit*, see the eighteenth-century famous manuscript *Sylvicultura Oeconomica* by the German Colberist Hans Carl von Carlowitz

and the nineteenth-century milestone manuscript *Einfachste den höchsten Ertrag und die Nachhaltigkeit ganz sicher stellende Forstwirthschafts-Methode* by Emil André (MacGregor Pelikánová *et al.*, 2021a). This trend towards perpetuity of sustainability was cemented in 1948 by the Universal Declaration of Human Rights (UDHR) declared by the United Nations (UN), which incorporated in the international law that everyone has both the right to a standard of living adequate for the health and well-being of himself and of his family (Art. 25 UDHR) and the duty to the community (Art. 29 UDHR). At the same time, it must be admitted that UDHR does not deal with sustainability and CSR *per se*. The following decades brought a focus on social progressive values, see 'communitarianism' in the 1960s, compensated by a shift to a more individualist approach, see the move from the Keynesian economic theory to neoliberal theory in the 1970s (Balcerzak & MacGregor Pelikánová, 2020). This was the contextual foundation for a set of fundamental pro-sustainability instruments of the UN, starting with the pivotal report prepared in 1987 by the Gro Harlem Brundtland Commission and issued as the UN Annex to document A/42/427 called the Report of the World Commission on Environment and Development Report: Our Common Future (Brundtland Report, 1987) and leading to the current UN Resolution A/RES/71/1 from 2015 known under the name 2030 Agenda for Sustainable development (UN Agenda 2030; Dat & Hung, 2023).

This historic review reveals that until the twentieth century, sustainability was basically in the sphere of concerns shared by states, but the industrial revolution, wars with a global dimension, and the emergence of the recognition of not only negative but as well positive human rights contributed to the enlargement of the pool of sustainability proponents. Interestingly, sustainability as an outcome of public concerns and endeavours has evolved rather in the continental law tradition universe while CSR as an outcome of the projection of sustainability into the private sphere originated in the USA and has common law roots. A turning point in the CSR development was the emergence of the manuscript *Social Responsibilities of the Businessman* by Howard R. Bowen in 1953, which argued that the biggest US businesses are centres of power and decision-making and influence the lives of all (Carroll, 2016). Logically, rights come with duties and no power should be exercised at the detriment of others. This implies that the traditional, aka conventional, approach endorsed by Theodore Levitt and Milton Friedman and arguing for the exclusive profit maximization command of businesses should be put under scrutiny and a pro-CSR stakeholder approach depicted via the famous Carroll´s pyramid and founded upon shared values should be considered (Kramer & Pfitzer, 2016). Despite the expectations of traditional economics, real-life subjects do not always exhibit *a homo economicus* profile aiming at the full maximization of the conventionally perceived gain (Reed *et al*., 2013). Instead, these subjects can be either irrationally myopic with respect to what is best for them (Reed *et al.,* 2013) or prophetically visionary and altruistic with respect to what is best for the entire society in the long term (MacGregor Pelikánová & Hála, 2021). The set of behavioural factors influencing decision-making is so large and hardly measurable that the ultimate decision might be perceived as irrational (Reed *et al*., 2013), see the drive to *buy less, buy better* as embodied by, *e.g.,* the circular premium (D´Adamo & Lupi, 2021). It is more and more important especially in the modern entrepreneurial economy (Sieja & Wach, 2019), which is knowledge-based and uses artificial intelligence (Korzyński *et al.*, 2023), also in the context of sustainability.

Indeed, it cannot be overemphasized that the modern concept of sustainability rests on three pillars (Richterová *et al.,* 2021; Skvarciany *et al.,* 2021), namely economic, environmental, and social ones and hence for a business to be sustainable means to go ahead with the CSR which jeopardizes neither environmental nor social nor economic aspects. To put it differently, CSR should assist with value creation, an amelioration of the business's reputation, and the growth of the trust and respect of customers (Streimikiene & Ahmed, 2021; Rozsa *et al*., 2022) for the sake of permanent competition prosperity (Gallardo *et al*., 2019; Metzker *et al*., 2021), and the advantages of well-developed social capital (Mishchuk *et al*., 2022; Metzker & Zvarikova, 2021). Moreover, CSR needs to be in compliance or even in a synergetic interaction with demands for ethics (Sroka & Szántó, 2018) and the synergy of eco-efficiency and human capital efficiency (Polcyn, 2021). Concerning these relationships, firms implement advanced decisions aiming to take into consideration the value proposition for employees (Samoliuk *et al*., 2022), development of human resource management based on CSR principles (Stachova *et al.,* 2020), including measures within age management and CSR development (Urbancová & Vrabcová,

2020). These efforts are effective regardless of the size or age of the company (Çera *et al*., 2020). Besides, they positively affect the environmental, social, and governance performance of companies, especially in sectors with ethical implications (Cayón & Gutierrez, 2021). As a result, it is even often argued that sustainability and CSR might lead to 'a more sophisticated form of capitalism' (Porter & Kramer 2011). Nevertheless, it has been already observed that wrongly set, interpreted, applied, or communicated CSR could be a heavy contra-productive burden (MacGregor Pelikánová, & Hála, 2021). After all, the multi-stakeholder model means that sustainability and CSR can succeed only if businesses go for them effectively and efficiently and at the same time their endeavour is properly communicated to other stakeholders (Hála *et al.,* 2022), such as investors and consumers (Ting *et al.,* 2019), and they act accordingly (MacGregor *et al.*, 2020a; 2020b). The EU got this message and one decade ago, it came up with the idea of the compulsory CSR reporting of certain large businesses and materialized it with the Directive 2013/34/EU as well as with a radical modernization of traditional EU policies, such as the readjustment of six priorities of the Common Agricultural Policy, including the 2020 key objective 'to rebalance power in the food chain' by improving the cooperation between farmers and market transparency, supporting the development of market-driven production models (geographical indications, organic production and local food systems), and fostering research, development, and innovation (Borychowski *et al.,* 2020). An even more radical step happened in 2019 when the EU adopted the SFDR, *i.e.,* a Regulation applicable across the entire EU and bringing rules regarding sustainability-related disclosures in the financial services sector. Namely, financial market participants and financial advisers in the EU must transparently inform the public about sustainability risks and adverse sustainability impacts, so investors and consumers could learn about the entire and genuine impact and make their educated decisions (Androniceanu, 2021). Greenwashing and other CSR parasitic practices, including manipulative and misleading practices, should be ended and genuine and transparent sustainability reporting should build mutual trust and induce other stakeholders, including investors and consumers, to veto bad investments and to pay a CSR premium aka sustainability bonus or circular premium (D´Adamo & Lupi, 2021). The EU, EU key institutions, and EU law are conceptually very clear about it, *e.g.,* the current taxonomy drive (MacGregor Pelikánová & Rubáček, 2022). However, what is the reality? The SFDR and other sources need to be methodologically processed and analysed to find out whether the EU has brought forth a legitimate, effective, and efficient framework, in particular, whether SFDR means that trade-offs regarding sustainability are to be eliminated from the financial sector.

RESEARCH METHODOLOGY

The study and assessment of whether the EU creates a legitimate, effective, and efficient framework regarding sustainability-related disclosures, in particular, whether SFDR means that trade-offs regarding sustainability are to be eliminated from the financial sector, demanded the use of multidisciplinary and multi-jurisdictional data, its processing by appropriate methods and a critical comparative juxtaposition of the yielded propositions. A strong aspect was the call for a dynamic and chronological study of the evolving legislation.

The primary source of data was the key EU law database called EurLex, the e-platforms of the European Commission and European Parliament, which offer SFDR, related legislative, semi-legislative, and policy instruments. Naturally, at the very centre, there was the SFDR and information about the legislative process leading to its enactment. However, to obtain sufficiently robust data, novelization, and amendment instruments and their preparatory process had to be included in the analysis. Therefore, a deeper dynamic understanding of EU regulation about the sustainable investment required a holistic approach and five-step chronologic analysis addressing (i) the legislative history of the Regulation of sustainable investment, (ii) in particular SFDR and (iii) its Art. 2a, which was added by Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment (Regulation 2020/852) and which creates the demand for (iv) the exploration of the new taxonomy Regulation, and (v) the newest contribution of the European Commission to this framework.

The selected methods were chosen based on the nature of the sources and data (Yin, 2008). Considering the law's nature, it was relevant to consider legal modelling, systemic interpretation, and sim-

ilar methods. Specifically, considering the EU law nature, the teleological approach focusing on the 'spirit of the law' had to be prioritized. As a support, the literate approach and trend monitoring had to be added. Naturally, a thematic analysis and content analysis was central for all employed methods, regarding all processed data (Silverman, 2013). The resulting thematic analysis entailed both induction and deduction addressing the conceptual background points to categories and keywords for the legislative data assessment (Vourvachis & Woodward, 2015). The involved content analysis extended to legislative, semi-legislative, and policy documents (Krippendorff, 2013) and entailed both quantitative aspects presented by automatic word counts (frequency and concentration of pre-set keywords) and qualitative aspects (Kuckartz, 2014) revealed by the combination of manual scoring and glossing and of automatic processing by artificial intelligence such as Linguistic Inquiry and Word Count (LIWC) (Boyd, 2017; Tausczik & Pennebaker, 2010), in particular LIWC-22 exploring of 1000 words, see https://www.liwc.app/. Namely, LIWC is suggested as the gold standard in software for analysing word use, it is suitable for the assessment of legislative, semi-legislative and policy documents, and it allows different assessment based on the type of document (such as personal writing or formal writing). It offers two sets of results, that is, traditional LIWC dimensions deal with the tenor, social and cognitive aspects, while the summary variables are composites derived from scientific research and include one category about analytical or formal thinking and another category about authenticity as a property of language that reflects when someone is speaking in an unfiltered, off-the-cuff fashion.

Naturally, the collected information could be accepted *per se*, without a strong forensic juxtaposition leading to the critical comparison, refreshed by Socratic questioning (Areeda, 1996) and glossing. Although dominated by qualitative features, still the comparison and Meta-Analysis have their merits (Glass, 1976; Schmidt & Hunter, 2014) while demonstrating that we ultimately had known (or should have recognized that we knew) more than we initially believed. The LIWC results are not conclusive, instead, this artificial intelligence tool is a good instrument to be used along with the other above-described instruments and strategies, as presented in the five-step analysis.

RESULTS AND DISCUSSION

A deeper understanding of EU regulation about sustainable investment requires a holistic approach and five-step chronologic analysis addressing (i) the legislative history of the Regulation of sustainable investment, (ii) in particular SFDR, and (iii) its Art. 2a, which was added by Regulation 2020/852 and which creates the demand for (iv) the exploration of the new taxonomy Regulation, and (v) the ultimate 'self-presentation' of this framework by the European Commission.

The first step addresses the legislative history towards SFDR. In March 2018, the European Commission released the action plan on financing sustainable growth with 10 actions (Action Plan), while Action 9 included the strengthening of sustainability disclosure and the material (EC, 2022). Namely, the Action plan outlines 10 reforms in three areas: a) reorienting capital flows towards sustainable investment, to achieve sustainable and inclusive growth, b) mainstreaming sustainability into risk management, and c) fostering transparency and long-termism in financial and economic activity. On 24 May 2018, the European Commission presented, while referring to Action 9, the proposal for SFDR including a developed memorandum, see 2018/0179(COD) (EurLex, 2022). The legal basis was Art. 114 TFEU, and the process was the ordinary legislative procedure (ex-codecision procedure) (European Parliament, 2022). European Committee of Regions, European Central Bank, and Economic and Social Committee presented their opinions between July and December 2018. Interestingly, the Council of EU has engaged in a long discussion about this proposal, which extended from May 2018 to November 2019. The European Parliament appeared to be more satisfied with the proposal and after hearing the opinion of its Committee on Economic and Monetary Affairs and its Committee on the Environment, Public Health and Food Safety went in April 2019 ahead with the first reading. One of the key reasons for that was the fact that the Committee on Economic and Monetary Affairs adopted the report by Paul Tang, with the recommendation that the European Parliament's position adopted at first reading under the ordinary legislative procedure should merely amend the proposal (European Parliament, 2022). On 27 November 2019, the SFDR was signed, to be soon amended by Regulation 2020/852, see

the issue of taxonomy (MacGregor Pelikánová & Rubáček, 2022). In the summer of 2022, the Parliament launched a preparatory phase about 2022/2634(DEA – Delegated Acts Procedure), *i.e.,* Delegated Regulation supplementing Regulation (EU) 2019/2088 aka Supplementing 2018/0179(COD) (European Parliament, 2022). The new proposal addresses the principle of 'do no significant harm,' while addressing the content, methodologies, and presentation of information about sustainability indicators and adverse sustainability impacts, including the information regarding the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, on websites and in periodic reports (Parliament, 2022). The legislative evolution appears rather smooth and organic, while the procedure 2018/0179/COD might be replaced by 2022/2634(DEA) in rather a more evolutionary than revolutionary manner, while correctly observing various factors, such as behavioural influences (Reed *et al*., 2013).

The second step was to explore the valid wording of the SFDR, *i.e.,* to identify the SFDR, to realize that the original version was amended in 2020 by Regulation (EU) 2020/852 and to localize and further use the consolidated version of SFDR. Therefore, all consecutive references to the SFDR mean the text after the 2020 amendment, unless otherwise specified. The SFDR includes a preamble with 35 paragraphs and a body with only 20 Articles. Table 1, below, recapitulates the most relevant provisions of the SFDR for the consideration of the statement that SFDR eliminates, or at least contributes to the elimination of trade-offs regarding sustainability in the financial services sector.

Table 1. SFDR: selected provisions about sustainable investment

Art. 1 Subject matter	Harmonized rules for financial market participants and financial advisers on transparency about sustainability risks.
Art. 2 (17) Definitions	'Sustainable investment' is an investment in an economic activity that contributes to an environmental objective, without causing significantly harm.
Art. 2a Principle of doing no significant harm	Technical standards to be developed by the European Supervisory Authorities (the 'ESAs').
Art. 3 Transparency of sustainable risk policies	Financial market participants and advisers must publish information about sustainability on their websites – integration of sustainability risks.
Art. 4 Transparency of adverse sustainability impacts at the entity level	Financial market participants and advisers must publish information about their sustainability on their websites – adverse impact, etc.
Art. 5 Transparency of remuneration policies	Remuneration policies mentioning the integration of sustainability risks to be published on their websites.
Art. 6 Transparency of the integration of sustainability risks	Descriptions about the integration of sustainability risks in investment decisions. Descriptions of pre-contractual disclosures.
Art. 10 Transparency of the promotion … on websites	Description of the environmental or social characteristics …. Description of the methodology used.
Art. 11 Transparency of the promotion …. in periodic reports	Description of environmental or social characteristics …. the sustainability indicators … the designated index.
Art. 12 Review of disclosures	Duty to update.

Source: own elaboration based on SFDR and EurLex.

This rather developed and sophisticated wording has to be interpreted and applied following the prevailing EU law approach, namely the teleological approach. Although it demands a deeper and contextual understanding, its foundation entails the advanced linguistic exploration of its wording. This can be formed by artificial intelligence digital instruments, such as LIWC. Due to the technical setting of LIWC and the segment feature of SFDR, the selected provisions of SFDR are split into two groups for LIWC assessment.

The first group included Art. 1, Art. 2(17), Art. 2a, Art. 3, and Art. 4 and LIWC revealed unsurprisingly a neutral tenor and a surprising lack of moralization. Of course, SFDR is, after all, a legislative instrument (neutrality), but considering its scope and aim, at least some moralization might be expected, see Table 2.

The second group included Art. 5, Art. 6, Art. 10, and Art. 11 and LIWC revealed an even more neutral tenor along with the average analytic and authentic features and a surprising lack of allure and

moralization, *i.e.,* these more specific SFDR provisions are even more technically dry and remote from soft law and an ethical correlation, see Table 3.

Table 2. SFDR: first group of provisions assessed by LIWC (formal writing category used)

Category	Art. 1, Art. 2(17), Art. 2a, Art. 3 and Art. 4	Average for Formal Language
Traditional LIWC Dimension		
I-words (I, me, my)	0.00	0.67
Positive Tone	1.10	2.33
Negative Tone	0.37	1.38
Social Words	5.31	6.54
Cognitive Processes	13.37	7.95
Allure	1.10	3.58
Moralization	0.00	0.30
Summary Variables		
Analytic	97.52	87.63
Authentic	29.82	28.90

Source: own elaboration based on LIWC.

Table 3. SFDR: second group of provisions assessed by LIWC (formal writing category used)

Category	Art. 1, Art. 2(17), Art. 2a, Art. 3 and Art. 4	Average for Formal Language
Traditional LIWC Dimension		
I-words (I, me, my)	0.20	0.67
Positive Tone	0.20	2.33
Negative Tone	0.59	1.38
Social Words	3.35	6.54
Cognitive Processes	15.35	7.95
Allure	0.39	3.58
Moralization	0.00	0.30
Summary Variables		
Analytic	99.16	87.63
Authentic	41.44	28.90

Source: own elaboration based on LIWC.

The third step was to consider perhaps the most important SFDR provision regarding sustainable investment and the (alleged) end of sustainability trade-offs, *i.e.,* Art.2a *Principle of do no significant harm* which was incorporated into SFDR by the legislative change done through Regulation 2020/852. The LIWC exploration of this very specific provision revealed a significantly less neutral tenor and noticeable drive to allure. However, moralization is still omitted here. The most surprising feature is the extremely low value for authenticity, see Table 4.

The fourth step is to holistically consider Regulation 2020/852, and in particular to quickly review the events leading to Regulation 2020/852 and to consider the suggested issue of authenticity. On 22 April 2016, the Paris Agreement was approved by the EU. On 22 November 2016, the European Commission issued a Communication on the next steps for a sustainable European future in order to bring the SDGs into the EU framework. On 20 June 2017, the Council re-affirmed the endorsement (by both the EU and EU member states) of the 2030 Agenda in a full, coherent, comprehensive, integrated, and effective manner, in close cooperation with partners and other stakeholders. On 11 December 2019, the European Commission published its communication on 'The European Green Deal.' However, prior to that, on 24 May 2018, the European Commission adopted its proposal for Regulation 2020/852, which was prepared by Valdis Dombrovskis from the Directorate General for Financial Stability. The legislative pathway to the signature of Regulation 2020/852 was definitely not as smooth and fast as

in the case of SFDR and *e.g.,* a second reading in the European Parliament was needed. Ultimately, on 18 June 2020, Regulation 2020/852 was adopted and since 12 July 2020, it has been applicable.

Table 4. Art. 2a added to SFDR and assessed by LIWC (formal writing category used)

Category	Art.2a	Average for Formal Language
Traditional LIWC Dimension		
I-words (I, me, my)	0.00	0.67
Positive Tone	0.96	2.33
Negative Tone	0.96	1.38
Social Words	0.96	6.54
Cognitive Processes	8.65	7.95
Allure	3.85	3.58
Moralization	0.00	0.30
Summary Variables		
Analytic	99.73	87.63
Authentic	2.92	28.90

Source: own elaboration based on LIWC.

Regulation 2020/852 has a manifest potential to be much more than merely a technical legislative instrument to amend the SFDR by making replacements and additions regarding Art. 2a, Art. 8, Art. 9, and Art. 11. It must be emphasized that Regulation 2020/852 ambitiously attempts to set unified criteria to define across the EU whether an economic activity can be considered environmentally sustainable. Consequently, Regulation 2020/852 is labelled as a 'taxonomy' regulation. It is one of myriads of actions set up to help to reach the following three objectives of the action plan: (i) to push capital flows towards sustainable investments; (ii) to manage financial risks implied by climate change, natural disasters, environmental degradation, and social issues; and (iii) to foster transparency (EurLex, 2020b). It is absolutely crucial to demonstrate that the particular economic activity is environmentally sustainable because it significantly contributes to at least one of the six environmental objectives set out in Regulation 2020/852 and at the same time does not significantly harm ANY of these six environmental objectives (Art.3 Regulation 2020/852). These six key environmental objectives are a) climate change mitigation; b) climate change adaptation; c) the sustainable use and protection of water and marine resources; d) the transition to a circular economy; e) pollution prevention and control; f) the protection and restoration of biodiversity and ecosystems (Art.9 Regulation 2020/852). The LIWC exploration of pertinent provisions of Art. 3-6 of Regulation 2020/852 reveals significantly a very neutral tenor and drive to allure, but moralization is still omitted. The most positive feature is a high value for analytic features and a very high value for authenticity, see Table 5.

Table 5. Art. 3-6 of Regulation 2020/852 assessed by LIWC (formal writing category used)

Category	Art.3-6	Average for Formal Language
Traditional LIWC Dimension		
I-words (I, me, my)	0.00	0.67
Positive Tone	0.14	2.33
Negative Tone	0.27	1.38
Social Words	0.68	6.54
Cognitive Processes	8.17	7.95
Allure	1.50	3.58
Moralization	0.00	0.30
Summary Variables		
Analytic	98.56	87.63
Authentic	40.23	28.90

Source: own elaboration based on LIWC.

The fifth step represents a potential future legislative instrument, *i.e.,* Commission Delegated Regulation supplementing SFDR concerning regulatory technical standards (RTS) while focusing on the content and presentation of the information in relation to the principle of 'do no significant harm' (Delegated Regulation on SFDR). In February 2021, the EBA, EIOPA and ESMA aka European Supervisory Authorities (ESAs) submitted the draft RTS to the Commission. On 6 April 2022, the European Commission brought its proposal which defines the content, methodology, and publication of data to be disclosed, and thus ameliorated its quality and comparability (EC, 2022). This proposal, COM(2022) 1931 final is undergoing legislative scrutiny with a scheduled application in 2023/2024. It includes a directly applicable regulation which brings further disclosure demands and so expands demands imposed upon pre-existing sectoral legislations (AIFMD, UCITS, Solvency II, IDD and MiFID II), through a self-standing text (lex specialist) establishing full harmonization, multi-sectorial consistency and regulatory neutrality (EC, 2022). Similarly to Regulation 2020/852, the LIWC exploration of pertinent provisions of Art. 2-4 of the proposal for Delegated Regulation RTS reveals significantly a very neutral tenor and a drive to allure, but moralization is still omitted. The most positive feature is a high value for analytic features and a very high value for authenticity, see Table 6.

Table 6. Art. 2-4 of Proposal for Delegated Regulation RTS assessed by LIWC (formal writing category used)

Category	Art.2 – Art.4 of Proposal for Delegated Regulation RTS	Average for Formal Language
Traditional LIWC Dimension		
I-words (I, me, my)	0.52	0.67
Positive Tone	0.52	2.33
Negative Tone	0.00	1.38
Social Words	4.77	6.54
Cognitive Processes	8.76	7.95
Allure	1.80	3.58
Moralization	0.00	0.30
Summary Variables		
Analytic	98.78	87.63
Authentic	39.30	28.90

Source: own elaboration based on LIWC.

CONCLUSIONS

Does the EU law framework regarding sustainable investment create a legitimate, effective, and efficient mechanism supporting a genuinely sustainable investment and eliminating greenwashing and other trade-offs? The performed five-step chronological contextual analysis of key legislative and semi-legislative instruments with LIWC assessment led to highly relevant and rather unexpected observations and offers at least four pioneering propositions with suggestions for further studies as well as legislative and other endeavours.

Firstly, this framework having at its centre SFDR is in process of a very dynamic evolution prompted by the European Commission and partially, but not fully, endorsed by the European Council and European Parliament. Secondly, key legislative and semi-legislative instruments are expressed in a rather neutral and technical manner, but their authenticity varies dramatically. The trend observation suggests a progressive increase in authenticity and this should be applauded. Thirdly, highly surprisingly, morality appears to be totally avoided, which is plainly in contrast with the entire sustainability and CSR evolution, especially its last milestones. Fourthly, already the plain literate interpretation of the wording of the explored documents, Action Plan, SFDR, Regulation 2020/852 on taxonomy and Proposal for Delegated Regulation on RTS, strongly litigates against an artificial disassociation of concepts linked to sustainability, CSR, and shared values. The contextual and teleological interpretation even points to the drive for the synergetic and holistic approach by the European Commission and this is in line with behavioural economics. In sum, between 2018 and 2022, the European Commission engaged in a myriad of endeavours

to stimulate sustainable investment and progressively has been working on more and more detail-oriented and truly enforceable legislative measures, see the way from recommendations to RTS. Stakeholders, especially managers, should keep a close eye on this development and adjust their attitude to general issues, such as long-term strategies, as well as very particular issues, such as shaping their reports.

Since the performed analysis was instantaneous, textual and, had no empirical field observation, it has inherent limitations which should be reflected by future studies. Its longitudinal dimension is underdeveloped, especially the observation of the destiny of the Proposal for Delegated Regulation on RTS should be done in the future. Further, the applied dimension is missing and needs to be added, especially the observation regarding compliance and enforcement, including giving sanctions. Further, the multi-stakeholder model test is missing and should be brought, *e.g.,* via surveys, in order to learn the points of view of various groups of stakeholders and update the framework accordingly. Finally, the LIWC exploration should be complemented by parallel software and other content exploration instruments. Thus far, the European Commission has demonstrated commitment and closely worked with ESAs towards the establishment of a legitimate, effective, and efficient framework for sustainable investment. At the same time, the European Commission does not seem to enthusiastically engage and include others, except ESAs, in this process. However, the sustainable growth and meeting of SDGs truly need support across the entire society and the EU, via European Commission, should proclaim it in a very clear manner. The historical examples, regardless of whether they concern the Hanseatic League or the Brundtland Report 1987 are self-explanatory. Those who do not learn history are doomed to repeat it, as stated by George Santayana, a famous follower of Spinoza.

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The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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