Title

The dynamics of regulating sustainability assurance by non-state actors

Abstract

Non-state actors have been increasingly engaged in regulation, operating and setting rules outside of, and parallel to, existing legal institutions. This paper adopts the case of sustainability assurance to analyse regulation through standards by the audit profession, in an area outside its core competence. It focuses on how sustainability assurance standards by non-state actors are developed at the international level, and with the case of Sweden, how standards in this area are developed and used at a national level. This paper has drawn on the applied socio-legal perspective. The analysis had been conducted using multi-paradigms to capture the context, within which sustainability assurance standards were drafted and applied; the developments in the contents of standards; and the dynamic interaction between the two, in regulating sustainability assurance from 1997 to 2010.

Empirical evidence shows the presence of polymorphous actors that brought competing norms, concepts and regulatory logic into the space. The patterns of influence in the regulatory space highlight the normative challenges of decentred regulation. The empirical observations of standards in action provided insights on how standards work as a regulatory instrument, its properties and inherent limitations. Sustainability assurance engagements performed by the accountancy profession in Sweden are guided by RevR6. RevR6(2006) was aligned with ISAE3000 that represents the accountancy profession’s conceptual understanding of assurance. The amorphousness of the standard allowed their necessary adaptation to the norms of the profession and suit practical circumstances allowing assurance providers to customise the scope of the assurance to each engagement. Sustainability assurance however, is potentially supervised by the Supervisory Board of Accountants according to hard law based on the legal concept of an audit. The case shows a fragmentation of systems within which sustainability assurance engagements operate which potentially lead to uncertainty and systemic challenges.

Key words: norms of the audit profession; standard setting; law; regulation by non-state actors; sustainability assurance

By Amanda Tan-Sonnerfeldt

Department of Business Law

School of Economics and Management

Lund University