

A good transposition of the Women on Boards Directive

Ireland has incorporated the mandatory presence of 40% of female non-executive directors on the boards of listed companies by amending the Companies Act 2014.

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Earlier this year, the European Commission sent a letter of formal notice to seventeen EU countries requiring them to fully transpose Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies into their national law. This directive should have been transposed into the domestic law of the Member States by 28 December 2024 at the latest (Article 11). Spain did so by means of Act 2/2014 of 1 August. Among the non-com-

pliant countries was Ireland, which on 30 May published in its official journal the transposition of the aforementioned directive through the European Union (Gender Balance on Boards of Certain Companies) Regulations 2025.

According to data from 2024, Irish companies listed on the Irish Stock Exchange (Euronext Dublin Exchange) have 43.9% female non-executive directors (the figure rises to 47.1% for those also included in the ISEQ 20 index). The percentage is lower for female executive

directors: 11.3% of women on all boards and 10.5% of those on the ISEQ 20 (Irish Government, Balance for Better Business, November 2024, p. 18).

Unlike Spain, Ireland has opted to incorporate a gender-balanced representation only among non-executive directors, with mandatory balanced representation to be achieved by 30 June 2026 at the latest. As is well known, Article 5 of the Directive offers Member States two options: that 40% of non-executive directors are from the under-represented sex by 30 June 2026 or that, by the same date, 33% of both executive and non-executive director positions in the listed company are held by the under-represented sex (without exceeding, in either case, 49% of the members of the board). The reform of Irish company law

percentage of women out of the total number of directors was 36.58% (41.27% in IBEX companies).

Irish law clarifies, unlike Spanish law, that this statutory instrument applies to the selection process for candidates appointed or elected to the position of non-executive director of a company listed on a regulated market through the vote of the shareholders or employees of the company in question. It is therefore not directly applicable in cases of co-optation provided for in the Companies Act 2014.

Companies listed on any regulated market in the European Union and domiciled in Ireland that are not SMEs (i.e., companies that employ 250 persons or more and have an annual turnover exceeding €50,000,000 or

an annual balance sheet total exceeding €43,000,000) must provide to the minister in such form and manner as the minister may specify, and publish on their website, from 30 November 2026, information concerning the gender representation on the board of directors, distinguishing between executive and non-ex-

ecutive directors. They must also report on the measures taken with a view to achieving the objectives with regard to gender balance on boards, as well as the reasons why, where applicable, these objectives have not been achieved.

The Irish statutory instrument also incorporates the obligations set out in the directive regarding selection processes and positive discrimination in cases of equal merit, positive discrimination not applicable in exceptional cases where there are reasons of greater legal

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opts to establish a quota of 40% of female non-executive directors, while in Spain, Article 529 bis of the Companies Act, as amended by Act 2/2014 of 1 August, goes beyond the minimum required by the Directive and does not distinguish between the type of director in requiring 40% of the under-represented sex to be on the board of directors. In our country, the de facto situation is similar or even worse than in Ireland with regard to female executive directors: according to the Spanish Securities Market Authority, the percentage of female executive directors in 2024 was 8.55%. The

weight (Article 6 of the Directive). The transposition has been carried out in that country with better drafting than in the Spanish case and with greater respect for the autonomy of listed companies to achieve a balanced presence of women and men on the board.

With regard to penalties, these regulations only provide for a public reprimand by publishing on the website of the Ministry for Children, Disability and Equality the identity of the listed company that has failed to comply with one or more of the obligations laid down in the statutory instrument and the reasons why the relevant minister is not satisfied with the information provided. The penalties provided for in the Directive are therefore not included.

Unlike the Equal Representation and Balanced Presence of Women and Men Act 2/2024 of 1 August on, which transposes the European directive, the Irish statutory instrument includes an illustrative table in the schedule detailing, based on the number of seats on the board, as is also done in the annex to the Directive, the minimum number of non-executive directors of the under-represented sex required to achieve the 40% target. And also with better drafting than in the Spanish case, as we pointed out in our GA_P paper of 3 September 2024¹, Article 10 of the Directive is incorporated, designating the minister for the monitoring and analysis of gender balance on boards and the Irish Human Rights and Equality Commission for the promotion of gender balance on the boards of listed companies.

¹ See the [link](#).