

# ANALYSIS

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Sustainability

## European reform of the sustainability reporting regime under Directive (EU) 2026/470: consequences of its non-transposition into domestic law

Directive (EU) 2026/470 of 24 February amends the audit directive, the accounting directive, the corporate sustainability reporting directive (CSRD) and the corporate sustainability due diligence directive (CSDDD). It reduces the number of companies required to publish a sustainability report by approximately 80%.

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### REYES PALÁ LAGUNA

Professor of Corporate & Commercial Law, University of Zaragoza  
Academic counsel, Gómez-Acebo & Pombo

On 26 February, the long-awaited Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements was published in the Official Journal of the European Union. As its title indicates, the Directive amends the audit directive, the accounting directive, the corporate sustainability reporting directive (CSRD) and the corporate sustainability due diligence directive (CSDDD). This is a comprehensive reform of the regulation of sustainability reporting and the assurance thereof, which was already anticipated by directives of lesser material significance.

Thus, Directive (EU) 2025/794 of the European Parliament and of the Council of 14 April 2025 amending Directives (EU) 2022/2464 (CSRD) and (EU) 2024/1760 (CSDDD) as regards the dates from which Member States are to apply certain corporate sustainability reporting and due diligence requirements - whose transposition into domestic law has already been completed - delays by two years the obligation to prepare a sustainability report for public-interest entities that were not yet required to submit one because they had fewer than 500 employees or were SMEs. In other words, the mandatory preparation of sustainability reports by *group two* and *group three* companies (large undertakings and public-interest entities with less than 500 employees on average and SMEs that are public-interest entities) that should have submitted them in 2026 (FY 2025) and 2027 (FY 2026). Following the changes introduced by Directive (EU) 2025/794, these companies will have to submit the aforementioned report in 2027 and 2028, respectively. However, as indicated below, following the incorporation of the recent

Directive (EU) 2026/470 into domestic law, even these *group two* and *group three* companies will not be required to prepare the aforementioned report. *Group one* companies with an average number of employees in excess of 1,000 and a net turnover of more than €450 million in the the preceding financial year will be required to do so.

With regard to the corporate sustainability due diligence directive (CSDDD), the transposition deadline has been postponed by one year to 26 July 2027. Therefore, in this paper, we will focus on the state of play following the entry into force of Directive (EU) 2026/470 regarding the obligation for large Spanish public-interest entities to prepare sustainability reports. We provided an overview of this major reform in a paper last December, which implies, *de facto*, that more than 80% of companies required to prepare a sustainability report will be exempt after the implementation of Directive (EU) 2026/470. The deadline for transposition with regard to the sustainability report is set in Article 5 as 19 March 2027.

Firstly, it should be noted that none of the sustainability reporting directives have been transposed into Spanish law: neither Directive (EU) 2022/2464 as regards corporate sustainability reporting (transposition deadline: 6 July 2024), nor, of course, Directive (EU) 2025/794, whose transposition deadline expired on 31 December.

In this regard, the only publicly available text (already very outdated with respect to EU legislation) is the Spanish Corporate Sustainability Reporting Bill, amending the Code of Commerce, the Companies Act and the Audit Act, published in the *Official Journal of the Spanish Parliament* (Lower House) on 14 November 2024. This Bill is still passing through Parliament and has been subject to forty-eight

extensions of the deadline for amendments. Therefore, *de lege lata*, Spanish law does not refer to sustainability reporting, but rather to the non-financial statement (EINF) referred to in Act 11/2018 of 28 December, amending the Code of Commerce, the Recast Version of the Companies Act and the Audit Act in relation to non-financial and diversity information, although it is true that part of the content of the CSRD is included in the information to be disclosed in the non-financial statement following the changes to company law introduced by the aforementioned Act 11/2018.

## *Directive (EU) 2026/470 drastically reduces the number of companies required to prepare sustainability reports*

With regard to Spanish companies required to prepare this non-financial statement, Article 262(5) of the Companies Act refers to public-interest entities—which are those provided for in EU law in relation to the obligation to prepare and disseminate the sustainability report—that have an average number of employees in excess of five hundred during the financial year.

The CSRD requires public-interest entities—notably listed companies—with more than 500 employees to publish such a report, initially for the 2024 financial year, as part of their directors' report. This obligation will remain in force until the significant amendments introduced by the 2026 Directive are incorporated into Spanish law, which, as we have indicated, limits the personal scope of application (scope *ratione personae*) of the mandatory preparation of the sustainability report to large public-inter-

est entities with an average number of employees in excess of 1,000 and a net turnover of more than €450 million in the preceding financial year, as well as to the parent undertakings of a large group that exceed these figures on a consolidated basis. However, the amendment made to Article 5 CSRD allows Member States to exempt companies or issuers that, on a consolidated basis, do not generate a net turnover of more than €450 million or do not have an average number of employees in excess of 1,000 during the financial year, from preparing the sustainability report (and from reporting in-

formation on certain sustainability matters in accordance with the Transparency Directive) to which they are obligated under current EU law, i.e., those public-interest entities with an average number of em-

ployees exceeding 500. This means that it will be up to Member States to decide whether public-interest entities with between 500 and 1,000 employees will be exempt from preparing a sustainability report for the 2026 financial year.

The lack of action at the national level, i.e., maintaining the current thresholds for mandatory sustainability reporting (public-interest entities with an average number of employees in excess of 500), could lead to comparative disadvantage between companies listed on Spanish regulated markets (and issuers listed on BME Growth with this number of employees) that are required to prepare such reports and companies in other EU countries, such as France, where the Senate approved a bill last February incorporating various EU directives, including the aforementioned Directive (EU) 2026/470, which excludes listed companies

with between 500 and 1,000 employees and a turnover of between €50 million and €450 million from the scope of the obligation to prepare a sustainability report. Therefore, for these companies already subject to the obligation, the sustainability report for the 2025 financial year may be the last one subject to a statutory obligation to prepare and publish sustainability reports.

Returning to the law currently in force in our country, the Spanish Securities Market Authority (CNMV), in view of the foreseeable failure to transpose the CSRD before 31 December 2024, issued a statement together with the Spanish Auditing and Accounting Standards Board (ICAC) in November 2024 with a series of recommendations. As there has been no change in domestic law regarding the non-transposition of the 2022 directive (or the subsequent one mentioned above), in November 2025 a second joint statement was issued with the aforementioned standards board “pending transposition of the CSRD and subsequent amendments to Spanish law” recommending that large public-interest entities publish their 2025 sustainability report in accordance with European sustainability reporting standards (ESRS) “with the aim of ensuring that the information is comparable with that provided by most other issuers in the European Union”. This is a recommendation from the supervisor for listed companies and issuers of securities on BME Growth with more than 500 employees.

In relation to these European sustainability reporting standards, the European Commission took the lead in simplifying the sustainabili-

ty reporting regime set out in Directive (EU) 2026/470, so that Commission Delegated Regulation (EU) 2025/1416, of 11 July, amending the delegated regulation (EU) containing those standards (Delegated Regulation (EU) 2023/2272), establishes a postponement of the date of application of the disclosure requirements for certain undertakings. Specifically, it replaces the “List of phased-in Disclosure Requirements” in Appendix C of ESRS 1 and Section 17 of ESRS 2, which affects, respectively, large undertakings with more than 750 employees and those that are also large public-interest entities with up to 750 employees. The aim is to delay certain reporting obligations in view of the fact that Directive (EU) 2026/470 was going to be approved - as has been the case - which also includes a simplification of reporting requirements, so that “it would not be reasonable to require undertakings to comply with additional reporting requirements” when they have fewer than 1,000 employees and, therefore, for the 2026 financial year, these public-interest entities will no longer have to disclose any information.

Finally, with regard to the responsibility of the board of directors for the preparation of the financial statements, the directors’ report and the corporate governance statement, the amended Article 33 of the Accounting Directive enables Member States to limit the collective responsibility of board members, for ensuring compliance with the requirements as regards the digitalisation of the directors’ report, to the publication of the report in a single electronic reporting format (Article 29d of the Accounting Directive), including the marking-up of the sustainability reporting therein.