

# NON-FINANCIAL INFORMATION AND **DISABILITY** REPORTING IN THE EUROPEAN UNION

AN IN-DEPTH ANALYSIS  
OF THE SPANISH CASE



With the collaboration of:



**Non-financial and disability reporting in the European Union. An in-depth analysis of the spanish case**

A study carried out under the framework of Disability Hub Europe, a project led by Fundación ONCE and co-funded by the European Social Fund

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# TABLE OF CONTENTS

Foreword .....	4
Executive Summary .....	6
1. A European approach to disability and non-financial information.....	8
2. Objective and methodology of the study .....	12
3. An overview of disability reporting in the EU .....	14
4. In-depth analysis of disability reporting in Spain: Law 11/2018.....	20
4.1. Disability in CSR, Sustainability and non-financial information reports	21
4.2. Disability in Corporate Governance Reports .....	31
5. Roadmap and recommendations .....	35
Bibliography.....	38
Appendixes.....	40

# FOREWORD

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Ever since non-financial reporting, sustainability and corporate social responsibility (CSR) reports became a widespread practice of transparency, accountability and communication with stakeholders, the ONCE Foundation has been aware that this reporting is of particular importance, as it makes clear, among other social, environmental and corporate governance issues, the commitment and performance of companies with respect to people with disabilities.

People with disabilities, 100 million in the EU and 1 billion worldwide, constitute a vulnerable group of the population, as reflected in the Agenda 2030 and the Sustainable Development Goals. People with disabilities are clearly faced with multiple obstacles in areas as varied as employment, education and access to products and services, among others.

In this context, we firmly believe that guidelines, directives and existing legislation in the non-financial reporting field play a major role, not only to lay the foundations for reporting, but also to give clear messages as to where responsible and sustainable companies should be headed, specifically in this case, as regards the inclusion of people with disabilities.

In Europe, as explained later in this report, disability has gradually increased in importance in CSR, sustainability, corporate governance, diversity and human rights agendas, something that has been reflected in the reporting of non-financial information. At the ONCE Foundation, and especially through our *Disability Hub Europe* initiative, which is co-funded by the European Social Fund and forms the framework for the preparation of this document, we have contributed to several of these processes.

As a next step, we set out to analyse, on the basis of the European Directive 2014/95/EU on non-financial information and diversity, to what extent the transpositions of the EU legislation by the Member States took into consideration disability.

Secondly, bearing in mind that Spanish non-financial reporting legislation is a pioneer as regards the consideration of people with disabilities, we set out to study what impact this legislation might have had on the information published by leading Spanish companies (through their non-financial information reports, sustainability/CSR reports and corporate governance reports). The results are very encouraging indeed.

Companies that are committed to the inclusion of people with disabilities are our travelling companions on this journey, without whom we could not make progress in achieving our two primary and underlying goals: training and employment of people with disabilities, on the one hand, and universal accessibility of products, services and environments, on the other. All of this is underpinned by our understanding that people with disabilities are a source of talent that cannot be ignored, and that this could lead to numerous new business opportunities and markets.

Non-financial information -both its regulation and its practice- is undoubtedly an important engine to move towards an inclusive economy. In fact, it is now more important than ever due to the social and economic fallout in the wake of the COVID-19 pandemic, as people with disabilities is one of the societal groups that has been hardest hit.

I trust this report will shine some light on the steps already taken, the milestones reached, and the potential of future regulations in the area of sustainability reporting, so as to foster practices that contribute to making the principle of leaving no one behind, including people with disabilities, a reality.

# EXECUTIVE SUMMARY

The enforcement of the Directive 2014/95/EU on the disclosure of non-financial and diversity information has set a clear path to enhance business transparency as regards sustainability within the European Union (EU). The 27 EU Member States have transposed the Directive into their national legislation and, therefore, have established a national framework for businesses on the disclosure of environmental, social and employee-related matters, human rights, anti-corruption and bribery.

Although disability and accessibility are currently considered part of the Corporate Social Responsibility (CSR), sustainability, diversity and human rights agendas, the Non-Financial Reporting Directive has only considered diversity from a broad perspective, without explicitly mentioning disability. However, the non-binding 2017 European Commission guidelines following Directive 2014/95/EU<sup>1</sup>, did include disability as part of the social and employee matters that need to be disclosed.

Most **national transpositions** of the Directive have followed the same path by including diversity in general terms, without explicit reference to disability and accessibility. However, this did not deter two countries, **Spain and France**, from including specific, measurable metrics for disability and accessibility. The ground-breaking Spanish transposition stands out in this regard and has led to an increase in disability reporting by Spanish companies.

A further in-depth analysis of the **Spanish IBEX 35® constituents**<sup>2</sup> (considering a total of **235 company reports**<sup>3</sup>) reveals that the entry into force of Law 11/2018 (transposing Directive 2014/95/EU into Spanish legislation) had an impact on greater transparency as regards the disclosure of disability indicators.

- In 2019, 100% of IBEX 35® companies reported on the total number of workers with disabilities in their Sustainability/CSR reports and non-financial information statements (versus 57% in 2017, prior to Law 11/2018), while 71% of them described specific measures to ensure universal accessibility (26% in 2017).
- Furthermore, in 2019, 49% of IBEX 35® companies included disability in their annual Corporate Governance reports, compared to 20% in 2017. The main findings of this study underline the importance of including explicit disability indicators and metrics in legislative frameworks, as well as in binding measures, as this can help companies to effectively measure, report, follow up on and reveal areas of discrimination that have been neglected and must be addressed, thus increasing the inclusion of employees with disabilities.

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1. The European Commission guidelines on non-financial reporting adopted in June 2017 contained various specific references to people with disabilities in relation to employment and accessibility.

2. The IBEX 35® Index is a benchmark stock market index which tracks the performance of the 35 most liquid stocks traded on the Continuous market on the *Bolsa de Madrid* (Appendix II: IBEX 35® Index constituents).

3. The analysis was based on IBEX®35 Sustainability reports, non-financial statements and Corporate Governance reports, for the years 2017 (before Law 11/2018), 2018 and 2019 (after Law 11/2018).

This can also serve as a driver to boost the diversity and inclusion strategies of companies and align them with the 2030 Agenda for Sustainable Development, which specifically refers to people with disabilities (who amount to 100 million citizens in the EU and 1 billion around the world) and to ultimately promote a more *inclusive economy*, that leaves no one behind. It also enriches the scope of sustainability strategies, with the understanding that it involves all environmental, social and government aspects.

Against this backdrop, if European institutions and regulators pushed the inclusion of disability and accessibility in the non-financial reporting agenda, they should create a framework that would benefit organisations, as they could enhance the quality and transparency of non-financial reporting and more effectively measure and manage their diversity and inclusion strategies.

In view of the impact of including disability-specific indicators and metrics in the legislative framework, disability and accessibility need to be present in forthcoming and future non-financial reporting developments, standards and regulations, including the review of the Non-Financial Reporting Directive 2014/95/EU and the future eventual European Reporting Standard.

# 1. A EUROPEAN APPROACH TO DISABILITY AND NON-FINANCIAL INFORMATION

Non-financial information requirements for companies have evolved dramatically over the last 20 years. Since the foundation at the beginning of 2000 of the Global Reporting Initiative (GRI)<sup>4</sup>, the provider of the most widely used standards for non-financial reporting, we have seen non-financial reporting grow from a voluntary to a mandatory corporate transparency exercise, especially following the entry into force of **Directive 2014/95/EU on non-financial and diversity information**<sup>5</sup> (hereinafter NFRD or the Directive).

The date of 22 October 2014 marks a watershed in terms of transparency and diversity reporting by large groups and undertakings operating in the EU<sup>6</sup>. The enactment of the Directive sought to establish a significant benchmark for non-financial reporting and provide companies with a more stable framework for transparency regarding sustainability matters within the EU. The Directive requires certain large companies<sup>7</sup> to disclose information on environmental, social and employee-related matters, human rights, and anti-corruption and bribery.

The NFRD has been transposed into the national laws of the 27 EU<sup>8</sup> countries and aims to support corporate reporting as a means of integrating sustainability within the business models. Sustainability and non-financial reporting can foster responsible business practices and help to integrate them more seamlessly into the business strategy.

The Directive included the concept of diversity in relation to administrative, management and supervisory bodies with regard to aspects such as age, gender or educational and professional background, but it did not make any explicit reference to disability-specific reporting or to any indicators of employment and accessibility. However, even though no such specific mention is made, disability is understood as a concept that is encompassed within diversity.

Indeed, the concept of disability did form part of the EU institutions' discussions prior to the approval of the Directive. Disability, in particular, was considered by almost all the European Parliament Committees involved in the process and was included in the final report approved on 17 December 2013 by the JURI<sup>9</sup> Committee, Report A7-0006/2014 of 8 January 2014<sup>10</sup>.

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4. Global Reporting Initiative is an independent organisation that helps businesses and other organisations to take responsibility for their impacts by providing them with the common language to report them: the sustainability reporting standards.

5. Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

6. Date of adoption of the Directive, which entered into force on 6 December 2014.

7. Large undertakings which are public-interest companies exceeding on their balance sheet dates the criterion of the average number of 500 employees during the financial year and that have either a balance sheet total of more than EUR 20 million or a net turnover of more than EUR 40 million shall include a non-financial statement in their annual report.

8. Please see Appendix I: National transpositions of Directive 2014/95/EU by country.

9. European Parliament Committee on Legal Affairs.

10. Report A7-0006/2014 of 8 January 2014 on the proposal for a directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups.

Following the NFRD, the **European Commission guidelines on non-financial reporting** adopted in June 2017<sup>11</sup> (the so called non-binding guidelines<sup>12</sup>) contained various specific references to people with disabilities as regards employee and board diversity, accessibility of products and services, and human rights, while also incorporating examples of key performance indicators (KPIs). These included section 4.6 Thematic aspects: b) social employee matters and c) respect for human rights; and section 6. Board diversity disclosure. The number of people with disabilities employed or the accessibility of company facilities, documents and websites for people with disabilities were some of the explicit indicators included<sup>13</sup>.

One of the main milestones in disability reporting was the launch of the **Guide on “Disability in Sustainability Reporting”** published in 2015 by GRI and Fundación ONCE and co-funded by the European Social Fund (ESF). This guide aimed to help organisations communicate their commitment to respecting and promoting the rights of people with disabilities, as well as providing a better understanding of the value of disability for business through sustainability reporting. In 2019, the Guide on “Disability in Sustainability Reporting” was updated to reflect GRI’s transition from the G4 Guidelines to the Sustainability Reporting Standards, as well as to include the latest leading insights from the business and disability fields regarding the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs)<sup>14</sup>.

The inclusion of disability in the non-financial reporting agendas is aligned with the **renewed EU Strategy 2011-2014 for Corporate Social Responsibility (CSR)**, the **European Parliament resolutions of 6 February 2013 on CSR**, and the **UN Convention on the Rights of Persons with Disabilities (CRPD)** of 2006, ratified by the EU in 2011 and by all the EU Member States so far.

Of note is the fact that **EU non-discrimination legislation** explicitly recognises people with disabilities<sup>15</sup>, and the **European Pillar of Social Rights** refers, in its principle 17, to the inclusion of people with disabilities. The **European Disability Strategy 2010-2020** (being re-configured into the **Disability Rights Agenda for 2021-2030**), called for the mainstreaming of disability across all EU policies, while specific legislation such as the **European Accessibility Act** establishes requirements for a range of products and services.

Likewise, in the context of business and human rights, the **United Nations Guiding Principles on Business and Human Rights (UNGPs)** implementing the UN ‘Protect, Respect and Remedy’ Framework and the Organisation for Economic Co-operation and Development (**OECD Guidelines for Multinational Enterprises**) also include disability. In the context of the EU, so do other European Commission instruments, such as the **Action Plan on Human Rights and Democracy Plan 2020-2024**.

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11. The European Commission prepared the non-binding guidelines pursuant to Article 2 of Directive 2014/95/EU in order to help companies concerned disclose non-financial information in a relevant, useful, consistent and more comparable manner. Companies using these guidelines may also rely on international, EU-based or national frameworks.

12. The objective of the non-binding guidelines is to help companies disclose relevant non-financial information in a more consistent and more comparable manner.

13. The participation of organisations such as Fundación ONCE in the preparation process of the guidelines has contributed to this result.

14. The guide on “Disability in Sustainability Reporting” was launched on March 2019 at the European Parliament, within the framework of Disability Hub Europe, a multi-stakeholder initiative led by Fundación ONCE and co-funded by the European Social Fund.

15. Disability is one of the discrimination grounds addressed by the EU’s non-discrimination legislation (Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation) and it is also recognised by the EU Treaty together with age, gender, racial or ethnic origin, religion or belief, or sexual orientation (article 10), as well as in the EU Charter of Fundamental Rights (articles 21 and 26).

Furthermore, the inclusion of people with disabilities lies at the heart of the **2030 Agenda and the SDGs**. People with disabilities are recognised as a vulnerable group and 5 out of the 17 SDGs specifically refer to people with disabilities (SDG 4 on Quality Education, SDG 8 on Decent Work and Economic Growth, SDG 10 on Reduced Inequalities, SDG 11 on Sustainable Cities and Communities with a specific mention of accessibility, and SDG 17 on Partnerships for the Goals).

Overall, disability is mentioned 7 times in the targets and 11 times in the official indicators. Also, the introduction of the indicator framework states that indicators should be disaggregated by disability, whenever possible. Bearing this in mind, no goal can ever be achieved if a part of the population, such as people with disabilities, is forgotten.

## OVERVIEW OF THE EU NON-FINANCIAL REPORTING DIRECTIVE (NFRD)

Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

### SCOPE

The NFRD requires public-interest entities exceeding on their balance sheet dates the criterion of the average number of 500 employees during the financial year and that have either a balance sheet total of more than EUR 20 million or a net turnover of more than EUR 40 million to include a non-financial statement in their annual report. It includes: listed companies, banks, insurance companies and other companies designated by national authorities as public-interest entities.

### DIVERSITY REFERENCES

The Directive includes the concept of diversity in relation to administrative, management and supervisory bodies with regard to aspects such as age, gender or educational and professional background, but did not make any explicit reference to disability. In particular, diversity is mentioned as follows:

*“(18) **Diversity of competences and views** of the members of administrative, management and supervisory bodies of undertakings facilitates a good understanding of the business organisation and affairs of the undertaking concerned. It enables members of those bodies to constructively challenge the management decisions and to be more open to innovative ideas, addressing the similarity of views of members, also known as the ‘group-think’ phenomenon. It contributes thus to effective oversight of the management and to successful governance of the undertaking. It is therefore important to enhance transparency regarding the **diversity policy** applied. This would inform the market of corporate governance practices and thus put indirect pressure on undertakings to have more **diversified boards**”.*

*“(19) The obligation to disclose **diversity policies** in relation to the administrative, management and supervisory bodies with regard to aspects such as, for instance, age, gender or educational and professional backgrounds should apply only to certain large undertakings. Disclosure of the **diversity policy** should be part of the corporate governance statement, as laid down by Article 20 of Directive 2013/34/EU. If no **diversity policy** is applied there should not be any obligation to put one in place, but the corporate governance statement should include a clear explanation as to why this is the case”.*

Article 1. Amendments to Directive 2013/34/EU.

In particular, Article 20 is amended as follows:

*“A description of the **diversity policy** applied in relation to the undertaking's administrative, management and supervisory bodies with regard to aspects such as, for instance, age, gender, or educational and professional backgrounds, the objectives of that **diversity policy**, how it has been implemented and the results in the reporting period. If no such policy is applied, the statement shall contain an explanation as to why this is the case”.*

On 11 December 2019 in the Communication on the European Green Deal the European Commission announced its commitment to review the Non-Financial Reporting Directive in 2020 as part of the strategy to strengthen the foundations for sustainable investment.

Considering the specific references to disability included in the 2017 EC Guidelines on non-financial information (non-binding guidelines), it is worth highlighting that the review of the NFRD should be seen as an opportunity to consider a wider approach on diversity by including specific references to disability in the future Non-Financial Reporting Directive, as well as in the future eventual European Reporting Standard.

## 2. OBJECTIVE AND METHODOLOGY OF THE STUDY

This pioneering publication aims to analyse the inclusion of disability in corporate reporting as a result of the transpositions of the NFRD in each of the 27 Member States. Furthermore, this report aims to address disability reporting in Spain from a wider perspective, since it is one of the most advanced transpositions in terms of disability reporting.

The importance of including explicit disability indicators and metrics in a legislative framework is paramount, as it can help companies to measure, report on, ensure effective follow-up and, therefore, improve the inclusion of people with disabilities in their workforce. It can help companies to manage their diversity internally, foster a diverse society and enhance the responsibility of corporate groups for protecting human rights.

In order to deepen the knowledge of the transposition of Directive 2014/95/EU into national laws and to understand the evolution of corporate reporting regarding the incorporation of the concept of disability, this study is based on:

**1. An analysis of disability inclusion and accessibility in each of the national transpositions by the 27 EU Member States of the Non-Financial Reporting Directive 2014/95/EU.** This analysis included:

- Identification, compilation and translation of the national transpositions of the Directive 2014/95/EU in each of the 27 Member States<sup>16 17</sup>.
- Analysis and identification of *disability* and *accessibility*-related metrics and indicators in each transposition.
- Additional analysis and identification of further *non-discrimination* and *diversity*-related metrics and indicators in each transposition.

**2. An in-depth analysis of the transposition of Directive 2014/95/EU into Spanish law through Law 11/2018, based on Spain's IBEX 35® companies.**

The Spanish non-financial reporting regulation through Law 11/2018<sup>18</sup> is the most advanced standard in terms of disability reporting and the study shines a spotlight on the progress made in disability reporting as a result of the entry into force of the Directive transposition.

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16. United Kingdom has not been included. Exceptionally, the scope of the analysis was extended to analyse the amendment of UK "The Companies Act 2006" (Strategic Report and Directors' Report) Regulation.

17. The analysis derives from detailed scrutiny of each country's law, irrespective of the format or language of the official law (national laws available only in the local language were translated into English) (please see Appendix I: National transpositions of Directive 2014/95/EU by country).

18. Law 11/2018 of 28 December amending the Commercial Code, the revised text of the Companies Act approved by Royal Legislative Decree 1/2010 of 2 July and Law 22/2015 of 20 July on the Auditing of Accounts, with regard to non-financial information and diversity. It was published in the BOE on 29 December 2018. BOE, *Boletín Oficial del Estado* is the official gazette in Spain.

Therefore, the second part of the study is devoted to describing the impact of and changes in disability reporting within Spanish companies, based on the IBEX 35®<sup>19</sup>. To this end, and to be able to compare the situation before and after Law 11/2018 (which applied to reports prepared in 2019 referring to the 2018 fiscal year), the following documents were analysed:

- *Sustainability and CSR reports* (from 2017, 2018 and 2019).
- *Non-financial information statements* (from 2018 and 2019<sup>20</sup>)
- *Corporate Governance reports* (from 2017, 2018 and 2019).

**In total, 235 reports were analysed.**

The analysis has focused on:

- *Disability-related metrics and indicators in 2017 reports, before the enactment of the Spanish transposition of Directive 2014/95/EU by Law 11/2018.*
- *Disability-related metrics and indicators after the enactment of the Spanish transposition, considering reports from 2018 to 2019. In this regard, a specific distinction is drawn between the disability-related requirements of Law 11/2018 and further indicators.*

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19. The IBEX 35® Index is a benchmark stock market index which tracks the performance of the 35 most liquid stocks traded on the Continuous market on the Bolsa de Madrid

20. The Non-financial information statements are only available from fiscal year 2018 onwards since the enforcement of Law 11/2018 – Spanish transposition of the EU NFRD-. From 2018 onwards, Spanish companies affected by the Law include the non-financial information statement either as one report (acting as both the Sustainability/CSR report and as the non-financial information statement) or as an independent document that exclusively covers the requirements of Law 11/2018.

## 3. AN OVERVIEW OF DISABILITY REPORTING IN THE EU

### MAIN RESULTS

The analysis carried out highlights that most national transpositions of Directive 2014/95/EU in the 27 EU Member states<sup>21</sup> have followed the same path by including the general term “*diversity*”.

However, the lack of **disability-specific** requirements did not deter **Spain** and **France** from including specific indicators related to disability in their national transpositions. Therefore, they are the only two EU countries which have gone beyond the Directive, providing a more disability-inclusive approach in their national regulations regarding non-financial information.

Extending the scope of the analysis beyond the EU Members to include the **United Kingdom**, the concept of disability, in terms of employment and training, was found there, as well.

In a further analysis, it was found that **Italy** and **Romania** have incorporated non-**discrimination** and **diversity**-related metrics and indicators into their national transpositions of Directive 2014/95/EU, such as the requirement to disclose policies and measures implemented to combat all types of **discrimination** and promote **diversity**.

### DETAILED ANALYSIS

It is worthwhile analysing the **French and the Spanish transpositions**, as they are the only countries out of the 27 EU Member States that have included **disability-specific** metrics and indicators, in order to better understand the progress of disability reporting in Europe.

**France**, in particular, included in its national transposition -Decree no. 2017-1265 of 9 August 2017 implementing Order no. 2017-1180 of 19 July 2017 relating to the publication of non-financial information by certain large companies and certain groups of companies- the requirement to report disability as “*measures adopted in favour of **employment** and **integration of people with disabilities***” in the section on equal treatment.

France is a particular case, as it can be considered one of the most advanced countries in terms of legislation on sustainability reporting.

21. The Appendix I: National transpositions of Directive 2014/95/EU by country includes both the national transpositions of the 27 EU member states and the summary of the main findings.

As far back as 1977, France introduced the *bilan social* (currently repealed) into the French Labour Code<sup>22</sup>, which was the requirement by companies with over 300 employees to publish a document disclosing information on several employment indicators (employment, remuneration, health and safety aspects), including employees with disabilities. This legislation was expanded upon in 2010 by the Grenelle Law<sup>23</sup> that required certain companies to report on how they take into account the social and environmental consequences of their activity and their social commitments in favour of sustainable development. Finally, in 2017, the French transposition of the NFRD -Decree no. 2017-1265 of 9 August 2017 implementing Order no. 2017-1180 of 19 July 2017 relating to the publication of non-financial information by certain large companies and certain groups of companies- replaced the provisions of the Grenelle Law and introduced several amendments to the Commercial Code.

## OVERVIEW OF THE FRENCH TRANSPOSITION OF DIRECTIVE 2014/95/EU:

Decree no. 2017-1265 of 9 August 2017 implementing Order no. 2017-1180 of 19 July 2017 relating to the publication of non-financial information by certain large companies and certain groups of companies.

**Transposition year:** 2017

### General context

Decree no. 2017-1265 came into force in 2017 and introduced several amendments to the Commercial Code, in particular its article L. 225-102-1, and, the Labour Code, in particular its article R. 2323-1-3.

### Scope

- a) Over 500 employees
- b) Public Interest Entities: listed companies, credit institutions, insurance providers, non-listed *sociétés anonymes* and non-listed investment funds shall comply if they have a net turnover in excess of EUR 100 million

### Mentions of disability, related indicators and metrics

Disability is mentioned once in Article 2 of Decree no. 2017-1265, which specifies that all companies mentioned in article L. 225-102-1 must include the following information:

*“F) Equal treatment:*

- *Measures taken in favour of the employment and integration of **people with disabilities**.*
- *The **anti-discrimination** policy.”*

22. Bilan social is defined by the articles L. 2323-68 to L. 2323-77 and R. 2323-17 of the French Labour Code or “Code du travail”.

23. Law no. 2015-994 of 17 August 2015 on social dialogue and employment; and Law no. 2010-788 of 12 July 2010 establishing a national commitment to the environment

For its part, **Spain**, through Law 11/2018, incorporated disability and accessibility<sup>24</sup> in the non-financial reporting indicators, such as the total number of workers with disabilities or measures adopted to ensure universal accessibility for people with disabilities in the workplace.

Regarding the diversity policy, the NFRD itself requires a description of the **diversity policy** applied in relation to the **undertaking's administrative, management and supervisory bodies** regarding aspects such as age, gender or educational and professional background<sup>25</sup>. In this case, only the Spanish transposition includes disability as a diversity issue along with the aforementioned aspects. Disability is an additional matter in the diversity policy and was initially included in previous Spanish Decree 18/2017<sup>26</sup>, requiring listed companies to include in their annual Corporate Governance report a description of the diversity policy applied in relation to their board of directors, and indicating that the diversity policy should address issues such as training and professional experience, age, disability and gender.

## OVERVIEW OF THE SPANISH TRANSPOSITION OF DIRECTIVE 2014/95/EU:

Law 11/2018 of 28 December 2018 amending the Commercial Code, the revised text of the Companies Act approved by Royal Legislative Decree 1/2010 of 2 July 2010 and Law 22/2015 of 20 July 2015 on the Auditing of Accounts, with regard to non-financial information and diversity.

**Transposition year:** 2017, 2018

### General context

Royal Decree-Law 18/2017 precedes the Law 11/2018 and it is the first legal norm that refers to Directive 2014/95/EU. Law 11/2018 included the major new items and specific requirements of Directive 2014/95/EU and it amended the Commercial Code, the revised text of the Companies Act approved by Royal Legislative Decree 1/2010 of 2 July 2010 and Law 22/2015 of 20 July 2015 on the Auditing of Accounts.

### Scope

- a) Over 500 employees
- b) Public Interest Entities<sup>27</sup> or entities that for two consecutive financial years meet, on the closing date of each financial year, at least two of the following circumstances:

24. The terms "disability" and "accessibility" are mentioned nine times and four times, respectively in the Spanish transposition.

25. Disclosure of the diversity policy should be part of the corporate governance statement, as laid down by Article 20 of Directive 2013/34/EU. If no diversity policy is applied there is no obligation to put one in place, but the corporate governance statement should include a clear explanation as to why this is the case.

26. Royal Decree-Law 18/2017 of 24 November 2017 amending the Spanish Commercial Code, the Revised Spanish Companies Act approved by Royal Legislative Decree 1/2010 of 2 July 2010, and Law 22/2015 of 20 July 2015 on the Auditing of Accounts, with regard to non-financial information and diversity.

27. Listed companies, credit institutions, insurance undertakings, payment and electronic money institutions, pension funds which during two consecutive years at the closing date of each year have at least 10,000 participants, investment services and collective investment institutions which have more than 5,000 clients or more than 5,000 shareholders.

I. Net turnover of over EUR 40 million

II. Total assets of over EUR 20 million

III. Total average employees in excess of 250

- c) Public interest companies drawing up consolidated accounts also fall within the scope of this rule provided that the group qualifies as “large”, as defined by Directive 2013/34/EU, and the average number of employees during the financial year of all the companies making up the group exceeds 500.

However, a subsidiary company belonging to a group will be exempt from the above obligation if the company and its subsidiaries are included in the consolidated annual report of another company.

### References to disability, indicators and metrics

Both disability and accessibility are included several times throughout Law 11/2018:

1. *“The consolidated non-financial statement shall include the information necessary to understand the evolution, results and situation of the group, and the impact of its activity with respect to, at least, environmental and social issues, respect for human rights and the fight against corruption and bribery, as well as in relation to personnel, including any measures adopted to promote the principle of equal treatment and opportunities between women and men, non-discrimination and inclusion of **persons with disabilities**, and **universal accessibility**”.*

2. *“The consolidated statement of non-financial information will include significant information on the following matters:*

- *Employment: (...), total **employees with disabilities**.*
- ***Universal accessibility for people with disabilities**.*
- *Equality: measures adopted to promote (...) the **integration and universal accessibility for people with disabilities**”.*

3. Regarding the management report:

*“To the extent necessary for an understanding of the company's development, performance or position, this analysis shall include both financial and, where appropriate, non-financial key indicators relevant to the particular business, including information on environmental, personnel and compliance issues relating to equality and non-discrimination and **disability**. The obligation to include information of a non-financial nature is waived for companies that are classified as small and medium-sized enterprises in accordance with Directive 34/2013”.*

4. Regarding general meeting of shareholders:

*“According to current legislation, listed companies must guarantee, at all times, equal treatment of all shareholders who are in the same position, with regard to information, participation and the exercise of voting rights at the general meeting.” Law 11/2018 on non-financial information and diversity also introduces that *“in particular, they must cover the requirements of **accessibility for people with disabilities** and the elderly that guarantee their right to have prior information and the necessary support to exercise their vote”.**

5. About the board of directors:

*"The Board of Directors shall ensure that the procedures for the selection of its members are conducive to diversity with regard to issues such as age, gender, **disability** or professional training and experience and are not subject to any implicit bias that might imply discrimination".*

6. In relation with the annual corporate governance reports:

*"A description of the diversity policy applied in relation to the board of directors, management and the specialized committees that are formed within it, with regard to issues such as age, gender, **disability** or the training and professional experience of its members; including their objectives, the measures adopted, the way in which they have been implemented, in particular, the procedures for seeking to include a number of women on the board of directors to achieve a balanced presence of women and men, and the results in the reporting period, as well as the measures, if any, agreed upon by the appointments committee in respect of these matters."*

In addition to the 27 EU Member States, the **United Kingdom**<sup>28</sup> possesses the Companies Act 2006 (Strategic Report and Directors' Report) Regulation which came into force on 1 October 2013. In December 2016, the government published new regulations implementing the NFRD that amended the Companies Act 2006 requirements for the Strategic Report and included diversity requirements in the Disclosure and Transparency Rules. Regarding the amendments that affect the contents of the Directors' Report (Part 3) for Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008, disability is included as follows:

*"Amendments to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008*

*7.(1) The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008(3) are amended as follows.*

*(2) For regulation 10(2) (directors' report: structure of Schedule 7) substitute—*

*(2) In Schedule 7—*

*Part 1 relates to matters of a general nature including political donations and expenditure,*

*Part 2 relates to the acquisition by a company of its own shares or a charge on them,*

***Part 3 relates to the employment, training and advancement of disabled persons,***

*Part 4 relates to the involvement of employees in the affairs, policy and performance of the company,*

*Part 6 relates to certain disclosures required by publicly traded companies, and*

*Part 7 relates to disclosures in relation to greenhouse gas emissions."*

28. Although the scope of this analysis only includes the 27 EU member states, a brief analysis of the United Kingdom amendment has been included, since the NFRD came in to force when the United Kingdom was EU member state (December 2014).

To conclude, in general terms, most EU Member States have followed similar criteria in terms of diversity in their national transpositions of the NFRD (25 out of the total 27 Member States, or 93%). Only Spain and France stand out for taking a more advanced approach with explicit disability-related requirements.

As regards Spain in particular, there was a remarkable movement that sought to bring on board and involve disability associations, led by CERMI<sup>29</sup> -building upon elements such as the non-binding 2017 European Commission guidelines on non-financial reporting and the GRI-Fundación ONCE work on Disability in Sustainability reporting-, which was a key factor for the inclusion of specific references to disability in the Spanish transposition.

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29. Spanish Committee of Representatives of Persons with Disabilities.

## 4. IN-DEPTH ANALYSIS OF DISABILITY REPORTING IN SPAIN: LAW 11/2018

The 1982 Spanish ‘**Law on the integration of people with disabilities**’ reiterated in 2013 in the ‘**General Law on the rights of persons with disabilities and their social inclusion**’<sup>30</sup>, stipulates that companies employing 50 or more workers are required to hire people with disabilities <sup>31</sup> to cover at least 2% of their total staff.

Advances in Spanish legislation have given to sustainability and non-financial reporting a fundamental and essential role in promoting the social and environmental performance of companies. Disability indicators have made it possible to measure, evaluate and ultimately improve the inclusion of people with disabilities in the world of business.

Following Directive 2014/95/EU on Non-financial and Diversity Information, Spanish **Royal Decree-Law 18/2017**<sup>32</sup> included a reference to disability<sup>33</sup>. However, **Law 11/2018**<sup>34</sup> marked a significant milestone as it contained explicit disability reporting requirements on the back of the European Commission guidelines on non-financial reporting adopted in June 2017.

Decades ago, the most advanced Spanish companies voluntarily reported their commitment to disability disclosures through Sustainability and Corporate Social Responsibility (CSR) reports. Today, the reporting landscape has changed and in recent years those same companies with more than 500 employees have been compelled to report on the integration of diversity, including disability, through non-financial information statements.

In response to this evolution in non-financial reporting, and to the application of Law 11/2018, Spanish companies affected by the latter, currently report their social and environmental performance in three different ways:

- Through two different reports: a Sustainability or CSR report and a statement of non-financial information<sup>35</sup>.

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30. Royal Legislative Decree 1/2013, of 29 November 2013, approving the Revised Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion.

31. Based on the Spanish General Law on Rights of People with Disabilities and their Social Inclusion: people with disabilities are those who present physical, mental, intellectual or sensory impairments, predictably permanent, which, by interacting with various barriers, may impede their full and effective participation in society on equal terms with others. In addition to what is established in the previous section, and for all purposes, those with a degree of disability equal to or greater than 33 percent shall be considered persons with disabilities.

32. Royal Decree-Law 18/2017 of 24 November 2017 amending the Spanish Commercial Code, the Revised Spanish Companies Act approved by Royal Legislative Decree 1/2010 of 2 July 2010, and Law 22/2015 of 20 July 2015 on the Auditing of Accounts, with regard to non-financial information and diversity.

33. The Royal Decree-Law indicates that the diversity policy in relation to the boards of directors must cover issues such as professional background, age, disability and gender.

34. Law 11/2018 of 28 December 2018 amending the Commercial Code, the revised text of the Companies Act approved by Royal Legislative Decree 1/2010 of 2 July 2010 and Law 22/2015 of 20 July 2015 on the Auditing of Accounts, with regard to non-financial information and diversity.

35. Regarding those companies that publish two separate documents, the information gathered in the statement of non-financial information is usually included in greater detail in the Sustainability or CSR report.

- Through one consolidated annual report that acts as both the Sustainability/CSR report and as the non-financial information statement.
- Through a non-financial information statement<sup>36</sup>, exclusively responding to Law 11/2018<sup>37</sup>.

This varied reality has been taken into account in this study.

As a result, a total of **130** reports from Spanish IBEX 35<sup>®</sup><sup>38</sup> companies were analysed; the reports refer to fiscal years 2017, 2018 and 2019.

Additionally, the growing requirements of Spanish legislation on non-financial reporting have led to listed companies having to report on the diversity policy regarding the board of directors in their Corporate Governance reports. Thus, **105** Corporate Governance reports for 2017, 2018 and 2019 of IBEX 35<sup>®</sup> companies were analysed, too.

**In total, the analysis carried out involved 235 company reports (Sustainability/CSR, non-financial information statements and Corporate Governance).**

## 4.1. DISABILITY IN CSR, SUSTAINABILITY AND NON-FINANCIAL INFORMATION REPORTS

The analysis of Sustainability and CSR reports (from 2017 to 2019) and non-financial information statements (from 2018 and 2019) reveals the impact of the enactment of Law 11/2018 in Spain.

The disability-related concepts most frequently addressed in the reports can be grouped into seven major blocks, two of them required by Law 11/2018. For each of them, the identified indicators are broken down below:

### INDICATORS REQUIRED BY LAW 11/2018

- A. Number of employees with disabilities: disclosure of total number of employees with disabilities in the workforce. Additionally, the quality of this indicator is measured by the scope (group level, national) and level of disaggregation (e.g. by gender, professional category, age).
- B. Universal accessibility: specific measures to ensure the physical and digital accessibility of employees.

36. In accordance to the NFRD, the non-financial information statement can be incorporated into the directors' report or presented as a separate report

37. In 2018, 49% of the IBEX 35<sup>®</sup> companies published a single report (encompassing the Sustainability/CSR reports and non-financial information statement), compared to 60% in 2019.

38. Spanish benchmark stock market index

## FURTHER INDICATORS ANALYSED

- C. Commitment to disability: an explicit commitment to disability is included in the report.
- D. Benefits and actions for employees: measures and actions to ensure the inclusion and integration of employees with disabilities, specific benefits and aid for employees with disabilities (flexitime, home working) or for direct relatives with disabilities.
- E. Social initiatives and corporate volunteering in relation to disability: cooperation with external alliances, non-governmental organisations (NGOs) and associations related to disability and accessibility.
- F. Products and services: products and services with 'design for all' or 'universal design' considerations or those specifically designed for people with disabilities.
- G. Extension of the disability inclusion commitment to the supply chain: consideration or promotion of suppliers according to their performance regarding disability.

The analysis identified two aspects:

- Whether or not each of the disability-related indicators above is reported.
- Additionally, in the case of indicator A. Number of employees with disabilities, the scope and level of disaggregation are analysed.

In order to study the impact of the enactment of Law 11/2018, the Sustainability/CSR reports from fiscal years 2017 onwards were considered and, as regards fiscal years 2018 and 2019 -that is after the enactment of Law 11/2018-, the Sustainability/CSR and non-financial information statements were analysed jointly.

As a result of this analysis, the progression of disability reporting can be seen in the main conclusions below, as well as the full information included in *Appendix III. Overview of disability-related indicators in CSR and non-financial information reports of IBEX 35® companies.*

**When comparing the scenarios before and after Law 11/2018, all IBEX 35® companies show greater transparency in their disability reporting (employment and accessibility) after enactment.**

## IBEX 35® COMPANIES WHOSE SUSTAINABILITY/CSR REPORTS INCLUDE REFERENCES TO DISABILITY

TYPE OF REFERENCE TO DISABILITY	2017		2018		2019	
	N	%	N	%	N	%
<b>A. Employees with disabilities</b>	20	57%	33	94%	35	100%
<b>B. Universal accessibility</b>	9	26%	19	54%	25	71%
<b>C. Commitment to disability</b>	24	69%	29	83%	32	91%
<b>D. Benefits and actions for employees</b>	12	34%	17	49%	22	63%
<b>E. Social initiatives and corporate volunteering</b>	27	77%	27	77%	29	83%
<b>F. Products and services</b>	15	43%	17	49%	20	57%
<b>G. Extension of the disability inclusion commitment to the supply chain</b>	13	37%	16	46%	14	40%

Table 1. Percentage and total IBEX 35® companies whose Sustainability/CSR and non-financial information reports include references to disability<sup>39</sup>

From a general perspective the figures show that:

- **The impact of the Law has been particularly visible in 2019, when 100% of IBEX 35® companies reported on the total number of employees** and more than 90% of companies reported on their commitment to disability, benefits and actions for employees or social initiatives and volunteering.
- **Although there is a considerable increase in companies reporting on universal accessibility, there is still room for improvement** since this indicator is an explicit mandatory requirement of the regulation.
- In 2019, the number of companies reporting on the **other disability concepts such as social initiatives and corporate volunteering or extension to the supply chain, showed less significant change** compared to the scenario before the enactment of Law 11/2018. It seems that most companies concentrated their efforts on those disability indicators actually required by the Law.

39. Please see Appendix III: Overview of disability-related indicators in CSR and non-financial information reports of IBEX 35® companies

It is worthwhile analysing each individual indicator in order to better understand the progression of disability reporting, making a distinction between those required by Law 11/2018 (indicators A and B) and the additional indicators (from C to F).

#### 4.1.1. DISABILITY RELATED CONTENT REQUIRED BY THE LAW

The main findings regarding indicators A (employees with disabilities) and B (universal accessibility) can be found below:

#### DISABILITY-RELATED REPORTING REQUIRED BY LAW 11/2018

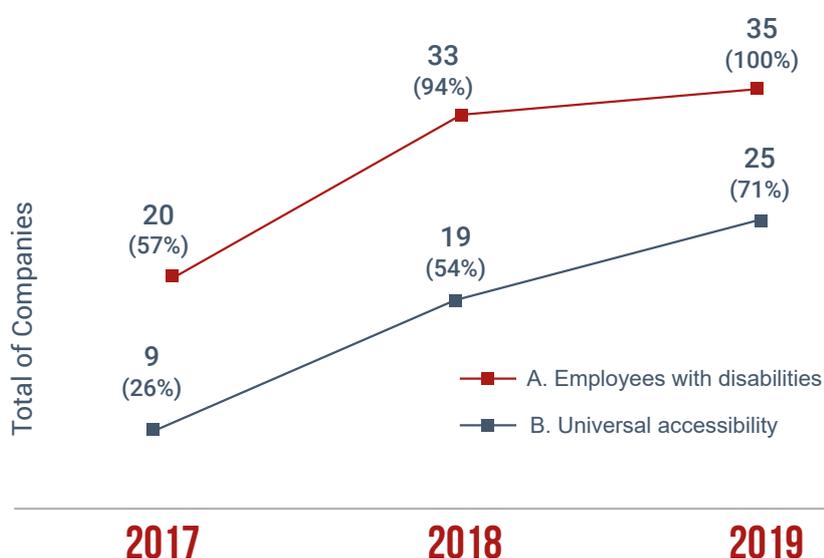


Figure 1. Companies whose Sustainability/CSR reports (2017, 2018, 2019) and non-financial information statements (2018, 2019) include the disability indicators required by Law 11/2018<sup>40</sup>.

As regards the figures provided, it has been verified that all companies that published two separate annual reports (Sustainability/CSR report and non-financial information statement) in 2018 and 2019 have included the disability-related indicators required by Law 11/2018 (number of workers with disabilities and universal accessibility) in their non-financial information statements.

#### A. Number of employees with disabilities

In 2017, before Law 11/2018, 20 (57%) of IBEX 35<sup>®</sup> companies disclosed the number of employees with disabilities. Whereas the scope of this indicator only included Spain in 7 (20%) of the companies, in the remaining 13 (37%), the entire worldwide organisation was considered. In the 2018 fiscal year -after Law 11/2018- 33 (94%) of companies were already reporting on the percentage of employees with disabilities (increase of 65% compared to 2017).

40. Please see Appendix III: Overview of disability-related indicators in CSR and non-financial information reports of IBEX 35<sup>®</sup> companies

The scenario in 2019 showed that the total sample (35 companies) included the number of employees with disabilities in their reporting, and 32 (91%) covered the whole company, not just the Spanish operations.

Regarding the disaggregation of data, in 2019, 3 (9%) of the companies stood out in terms of best practices by reporting on employees with disabilities by gender and professional category, while 3 (9%) of the companies disclosed by gender only; 1 (3%) of them disclosed by professional category and, additionally, 6 (17%) of the companies disclosed their employees with disabilities by country or geographical region. Conversely, 1 (3%) reported on vulnerable employees describing these as people at risk of social exclusion, victims of gender-based violence and people with disabilities.

This aspect has to be improved as the use of disaggregated data such as the disclosure of people with disabilities by gender, age, category, type of contract, etc., can help to ensure that diversity and inclusion commitments are met.



### RECOMMENDATION

Disaggregation is essential to ensure the commitment to “no one left behind” and to reveal the main discrimination areas which need to be addressed<sup>41</sup>. There is a need to integrate intersectional breakdowns such as gender, age, category or type of contract in order to identify areas of inequality and discrimination e.g. women with disabilities.

Disaggregation of data by disability must be the next step to make reporting an effective diversity management tool and to develop inclusion strategies within Spanish companies.



### COMPLEMENTARY ANALYSIS OF THE SPANISH GENERAL LAW ON THE RIGHTS OF PERSONS WITH DISABILITIES AND THEIR SOCIAL INCLUSION<sup>42</sup>

A brief complementary analysis was conducted on how the 100 largest companies in Spain in terms of turnover (N100) address the compliance of one of the main requirements of the Spanish General Law on the Rights of Persons with Disabilities and their Social Inclusion.

41. European Philanthropy at the nexus of disability and the SDGs. Fundación ONCE and the European Foundation Centre within the framework of Disability Hub Europe, 2020.

42. Royal Legislative Decree 1/2013, of 29 November 2013, which approves the Revised Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion

To this end, the latest public Sustainability/CSR reports or Non-Financial Information Statements of the N100 Spanish companies<sup>43</sup> have been compiled and analysed.

According to the General Law on the Rights of Persons with Disabilities and their Social Inclusion, companies that have had an average of 50 or more employees in the last 12 months are required to hire **at least 2% of employees with disabilities** (with a degree of disability equal to or higher than 33%).

For those companies that do not meet this requirement, they may request a declaration or certificate of exemption, provided they can prove that it is impossible to comply with the law through direct hiring. In this case, there are alternative options such as entering into a contract with **Special Employment Centres** (e.g. to supply raw materials, machinery, equipment or for the provision of external services for the company), or by carrying out **donations and sponsorship** activities for the development of employment activities and job creation for people with disabilities.

## MAIN CONCLUSIONS AND FINDINGS

The analysis reveals that 71% of the companies analysed mention in their latest public report how they meet the General Law (by direct employment or alternatives options), as opposed to 29% that do not explicitly mention the General Law or the measures implemented to meet it.

Of those companies that mention how they meet the law: 40% comply by direct employment while 60% use alternatives options such as contracts with Special Employment Centres (SEC) or through donations and/or sponsorship activities.

According to the results, it can be observed that additional efforts are needed to increase transparency on the information regarding the employment rate amongst people with disabilities, as well as to increase the employment rate of this group in itself. Ensuring hiring practices are accessible for all, implementing effective inclusion and diversity strategies and identifying stigma and discrimination areas can help business ensure the integration and engagement of employees with disabilities.

## B. Universal accessibility

According to the analysis, only 9 (26%) of the companies included their specific measures to ensure universal accessibility in the CSR/Sustainability reports in 2017. Once Law 11/2018 came into force, the number jumped to 19 (54%), a remarkable increase of 111% on the previous year.

In 2019, although 25 (71%) of the companies reported on the specific measures taken (a 178% rise over 2017) there is still considerable room for improvement as this is a requirement under Law 11/2018. This progress, however, leads one to expect that companies that do not yet mention universal accessibility in their policies will do so explicitly in the coming years.

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43. The scope of this analysis refers only to Spanish companies or subsidiaries that publish non-financial information in Spain. A total of 99 out of 100 companies have published a sustainability report or a non-financial information statement. However, 14 out of those 99 companies reported at group level so they are excluded from the scope analysis. Therefore, the exposed conclusions refer to those 85 companies that have published Sustainability reports, Corporate Social Responsibility reports or Non-Financial Information Statements in Spain.

It is worth remarking on the divergence observed as to how companies address this issue. The main references include the measures taken to ensure physical and/or digital accessibility.



### RECOMMENDATION

Given that universal accessibility is an essential condition to ensure inclusion in the workplace and having observed the divergence in the interpretation of the Law, there is an urgent need to include a specific definition of accessibility in the non-financial regulatory reporting framework.

Including this in future revisions of Law 11/2018 could help to provide a framework for companies and to improve the quality of disability reporting in terms of accessibility, as well as in terms of measures taken.

#### 4.1.2. ADDITIONAL DISABILITY-RELATED INDICATORS

The main findings regarding the additional indicators C (commitment to disability), D (benefits and actions for employees), E (social initiatives and corporate volunteering), F (products and services) and G (extension of the disability inclusion commitment to the supply chain) can be found below:

#### ADDITIONAL DISABILITY-RELATED REPORTING EVOLUTION

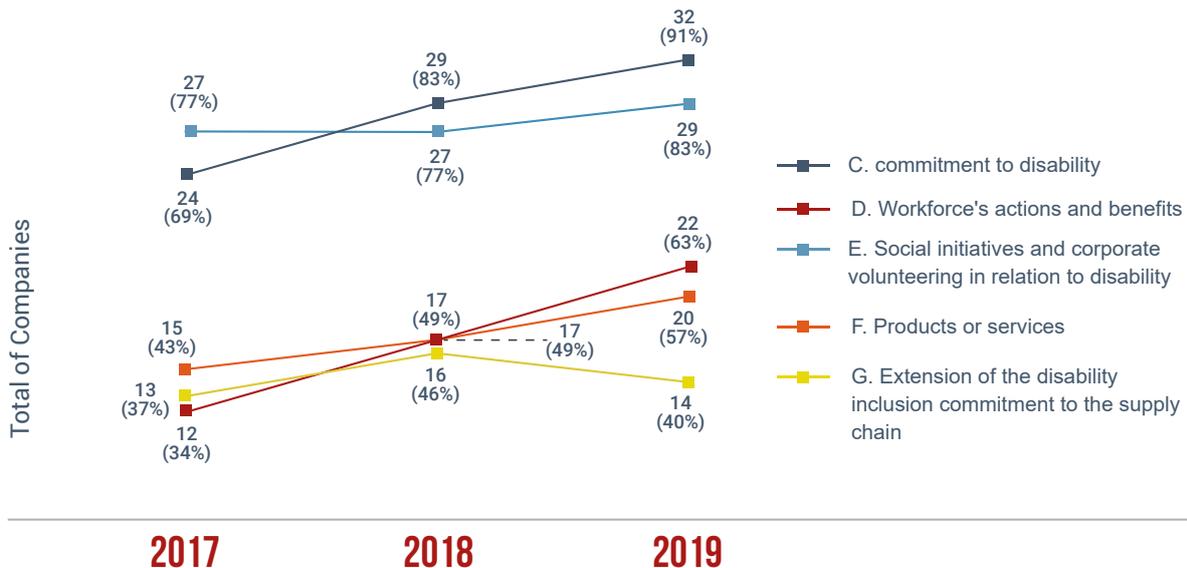


Figure 2. IBEX 35® companies whose Sustainability/CSR reports (2017, 2018, 2019) and non-financial information statements (2018, 2019) include additional disability-related metrics and indicators<sup>44</sup>.

44. Please see Appendix III: Overview of disability-related indicators in CSR and non-financial information reports of IBEX 35® companies.

### C. Commitment to disability

Before Law 11/2018 came into force, 24 (69%) of companies included an explicit public commitment regarding disability in their Sustainability/CSR reports. Some of those companies that offered an explicit commitment to disability also linked it to a code of ethics or company policy such as diversity or anti-discrimination measures.

Considering the initial figure was high (24 out of 35 companies, 69%), there has not been a significant variation in subsequent years. Only small increases can be observed in 2018, with 29 (83%) of the companies including a disability-related commitment (increase of 21% compared to 2017), and in 2019, when 32 (91%) companies did so (increase of 10% compared to 2018).

In an effort to be more transparent, some companies reported on the total budget or percentage allocated to disability.

### D. Benefits and actions for employees

In 2017, 12 (34%) of the companies included benefits/actions for employees in relation to disability. An increase of 42% was observed in 2018, when 17 (49%) reported on benefits and actions. Finally, in 2019, 22 (63%) companies reported on this indicator (increase of 29%).

Some of the companies included actions such as disability-related training, activities for the International Day of Persons with Disabilities, and complementary support or benefits for employees with disabilities (flexitime, remote working) or for their close relatives with disabilities.



#### RECOMMENDATION

The actions aimed at raising diversity and inclusion and the disclosure of related data can help businesses to combat discrimination and to ensure effective integration in the workplace, while increasing employee engagement and retention. Likewise, they can help businesses to align themselves with the Agenda 2030 and the Sustainable Development Goals.

### E. Social initiatives and corporate volunteering in relation to disability

In 2017, most of the companies (27 or 77%) reported on social initiatives and corporate volunteering in relation to disability in their Sustainability/CSR reports. Most of those social initiatives were conducted in cooperation with external associations and foundations.

In 2018, the same number of companies included disability-related social initiatives in their reporting, and 29 (83%) companies reported this information in 2019. Therefore, Law 11/2018 does not seem to have had an observable impact on this indicator and a possible explanation could be that companies concentrated efforts on the disability indicators required by the Law.

Some companies went beyond this by measuring the impact and reporting quantitative metrics such as the number of disability-related programmes and the total number of beneficiaries.

## F. Products and services

A certain degree of stability, albeit with a slight increase, can be observed amongst companies that report on products and services with 'design for all' or 'universal design' considerations or those designed for people with disabilities. Specifically, 15 (43%) companies in 2017, 17 (49%) in 2018, and 20 (57%) in 2019 reported on products and services of this kind.

This means that during the three-year period analysed, less than half of the companies reported on their products or services having 'design for all' or 'universal design' considerations.



### RECOMMENDATION

Contributing to the creation of new market opportunities related to accessible products and services can help reduce avoidable discrimination, address new challenges (digitalisation, ageing of the population), broadening market choices for consumers such as people with disabilities and their families.

Universal design<sup>45</sup> must be at the heart of product innovation and development, and having people with disabilities involved from the earliest step of the design is key to obtain products and services that are accessible for all.

The European Standard EN 17161:2019 'Design for All -Accessibility following a *Design for All* approach in products, goods and services- Extending the range of users' can help organisations to design, develop and provide products, goods and services for people with disabilities.

## G. Extension of the disability inclusion commitment to the supply chain

Regarding this indicator, 13 (37%) companies in 2017 included the extension of disability inclusion commitment to the supply chain in their reporting. This barely changed in 2018 and 2019 reports, with 16 (46%) and 14 (40%) companies reporting on this indicator respectively. The most common practices were the acknowledgment of the best-performing suppliers in terms of disability (e.g. those that meet a minimum percentage of employees with disabilities or those who provide specific disability-related training for their employees).

Additionally, some companies expressed their commitment to the supply chain through quantitative metrics such as: number of Special Employment Centres engaged; expenditure on purchases from Special Employment Centres; number of suppliers that comply with the 'General Law of the Rights of Persons with Disabilities and their Social Inclusion'; number of suppliers trained in disability issues.

45. "Universal design" is defined in Article 2 of the Convention on the Rights of Persons with Disabilities (CRPD) as the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.



## RECOMMENDATION

Extending the disability commitment to global supply chains is challenging but can offer new opportunities for companies that show a strong commitment through better management of risks and opportunities across the value chain.

Likewise, the social economy is a paradigm that demonstrates that economic and social profitability are not only feasible but compatible. Some exponents of the social economy, such as Special Employment Centres <sup>46</sup>, help improve the social impact of companies. As they contract their goods and services from SECs, they indirectly foster the generation of employment for people with disabilities, which enhances the social impact of businesses and the entire value chain and helps companies meet the “General Law of the Rights of Persons with Disabilities and their Social Inclusion”.



## RECOMMENDED TOOL

The Guide on “[Disability in Sustainability Reporting](#)”, updated in 2019 by Global Reporting Initiative (GRI) and Fundación ONCE with the co-funding of the European Social Fund, includes specific guidance and indicators related to business and disability. This guide can help businesses to identify and understand the impact on the rights of people with disabilities, as well as to identify a number of GRI disclosures that can help companies report on disability.

46. A Special Employment Centre (SEC) is a Spanish model of work centre whose workforce is composed of people with disabilities in at least 70%. The SEC ensures remunerated employment and the provision of personal and social services required for their employees.

## 4.2. DISABILITY IN CORPORATE GOVERNANCE REPORTS

In order to understand and go into greater depth on the impact of Law 11/2018 on disability reporting once it came into force, apart from the analysis of CSR/Sustainability reports, **105 Corporate Governance reports for the years 2017, 2018 and 2019 of IBEX 35® companies have been examined.**

The minimum content of the Corporate Governance report is enshrined in article 540.4 of the Spanish Companies Act<sup>47</sup>. Since 2017, this article has been amended twice with regard to the diversity of the board of directors. The first time was by the aforementioned Royal Decree-Law 18/2017 of 24 November 2017, which requires certain large companies to include a description in their governance reports of the diversity policy applied to their board of directors and to indicate whether the diversity policy addresses issues such as training and professional experience, age, disability and gender.

The second was through Law 11/2018, of 28 December 2018, which amends article 540.4.c) regarding the diversity policy applied, which should refer not only to the board of directors but also to the management board and the specialised committees, with regard to issues such as age, gender, disability or the training and experience of its members. Therefore, disability considerations were included in question C.1.5<sup>48</sup> on diversity policies in relation to the board.

**The enactment of Law 11/2018 set a new precedent as IBEX 35® companies increased their reporting on the inclusion of disability criteria in their Corporate Governance reports.**

However, in practice, there is some divergence as to how the concept of disability is included, as some companies address the requirements of Law 11/2018 by including disability:

- In the board selection policy.
- Considering diversity as a criterion during the selection process for the board of directors.
- In the board regulations.
- To a lesser degree, in the company's diversity policy.

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47. Royal Legislative Decree 1/2010, of 2 July 2010, approving the revised text of the Companies Act.

48. Question C.1.5 is part of section C. Structure of the Company's Management, specifically sub-section C.1 Board of Directors of the Spanish Corporate Governance Reports.

## EVOLUTION OF DISABILITY-RELATED REPORTING

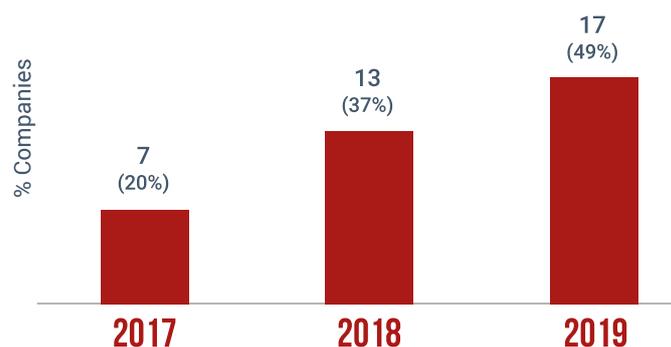


Figure 2. Number of companies whose annual Corporate Governance reports (2017, 2018, 2019) include the concept of disability.

The main findings in the annual Corporate Governance reports of IBEX 35® companies regarding disability underlines the impact of the enactment of Law 11/2018:

- It was observed that **in 2017, only 7 (20%)** companies mentioned disability in relation to their policies and processes for selecting directors in their Corporate Governance reports. These companies reported that disability is included in policies that established diversity criteria for board selection processes and ensured the absence of implicit bias that might imply discrimination on the grounds of age, gender, race, religion or any other circumstance, including disability.
- **In 2018, 13 (37%)** companies addressed disability in their Corporate Governance report. Specifically, 7 (20%) mentioned that disability is included in their board selection policy; all 13 (37%) stated that disability is a criterion for their recruitment procedures; 2 (6%) mentioned that it is included in their board regulations and 2 (6%) companies referred to it in their diversity policy.
- **In 2019, 17 (49%)** companies (up 143% on 2017) included disability in their Corporate Governance reports. 12 (34%) companies mentioned that disability is directly included in their board selection policy; 17 (49%) of them mentioned the consideration of disability in their selection processes; 4 (11%) companies stated that disability is considered in the board regulations; 2 (6%) referred to it in their diversity policy.

From a wider perspective, there are several questions in the Corporate Governance report that include the concept of diversity:

### **2017 CORPORATE GOVERNANCE REPORT – 8 QUESTIONS:**

- C.1.5: on measures to ensure a sufficient number of female directors on the board.
- C.1.6 and C.1.6 bis: C.1.6 on appointing female directors and C.1.6 bis on director selection policy and the percentage target of female board members.
- C.1.19: procedures for selecting, appointing, re-electing and removing directors.
- C.1.20 bis: on the evaluation of the board process and the areas assessed, including diversity of its composition and responsibilities.
- G.14: on the recommendation to approve a director selection policy.
- G.36: on the recommendation to conduct an annual evaluation of the board, including diversity membership and competencies.
- G.53: on the recommendation to assign to one board committee the duty of supervising compliance with the corporate social responsibility policy and the process for reporting information of a non-financial nature, as well as other matters concerning diversity issues.
- G.54: on the recommendation to state in the corporate social responsibility policy the principles or commitments (diversity issues among others) the company will voluntarily comply with in its dealings with stakeholders.

### **2018 AND 2019 CORPORATE GOVERNANCE REPORT – 8 QUESTIONS:**

- C.1.5: on diversity policies.
- C.1.6: on appointing female directors.
- C.1.7: on director selection policy and percentage target of female board members
- C.1.16: on procedures for selecting, appointing, re-electing and removing directors.
- G.14: on the recommendation to approve a director selection policy.
- G.36: on the recommendation to conduct an annual evaluation of the board, including diversity membership and competencies.
- 53: on the recommendation to assign to one board committee the duty of supervising compliance with the corporate social responsibility policy and the process for reporting information of a non-financial nature, as well as other matters concerning diversity issues.
- G.54: on the recommendation to state in the corporate social responsibility policy the principles or commitments (diversity issues among others) the company will voluntarily comply with in its dealings with stakeholders.

Legal provisions in recent years (Royal Decree-Law 18/2017 and Law 11/2018) have changed the content and structure of these questions, but most of them remain faithful to their original intent. The only question that has been amended to include a specific reference to disability is question C.1.5: “Indicate whether the company has diversity policies in relation to the company’s board of directors with regard to issues such as age, gender, disability, or professional training and experience”.

Numerous studies such as the McKinsey<sup>49</sup> report entitled “*Diversity Wins: How inclusion matters*” recognises the relationship between diversity on executive teams and the likelihood of financial outperformance. This report also underlines the importance of paying attention to inclusion, including for companies that are already diverse, since the most diverse companies are now more likely than ever to outperform less diverse peers on profitability. Some of the best practices identified in the report include ensuring the representation of diverse talent, strengthening leadership accountability and capabilities for diversity and inclusion or fostering belonging through unequivocal support for multivariate diversity. On the other hand, Fundación ONCE underlines in the publication “The impact of the inclusion of people with disabilities on business reputation”<sup>50</sup> that those companies perceived to have strong and engaged employment and social inclusion policies for people with disabilities also benefit from an improved reputation, thereby leading to a positive impact on their bottom line.

For its part, the European Banking Authority, in its comparative report<sup>51</sup> on diversity practices in the management bodies of credit institutions and investment firms published on 3 February 2020, recommends that these institutions increase gender diversity on their boards of directors. It calls on the institutions of the European Union, its Member States and the supervisory authorities to consider additional measures to promote balanced representation on boards of directors and, at the same time, to seek to ensure compliance by financial institutions with the adoption of diversity policies.

The National Securities Market Commission (CNMV, by its Spanish acronym) has therefore taken a step further in promoting gender diversity on the board of directors and has introduced a new threshold, recommending that the number of female directors should represent at least 40% of total board members before the end of 2022 and should not be less than 30% before that date.

It can be observed that board diversity usually encompasses gender, ethnic or culture diversity, but efforts are needed to enhance all forms of diversity beyond gender or ethnic differences, such as disability. This trend is also observed in the previous analysis since only one out of eight questions regarding diversity in the Corporate Governance report (C.1.5, C.1.6, C.1.7, C.1.16, G.14, G.36, G.53, G.54.) includes the concept of disability.

49. Diversity wins: How inclusion matters. McKinsey & Company. May 2020.

50. The impact of the inclusion of people with disabilities on business reputation. Fundación ONCE, 2019, co-funded by the ESF.

51. EBA Report. On the benchmarking of diversity practices at a European Union level under article 91(11) of Directive 2013/36/EU. 2020.

## 5. ROADMAP AND RECOMMENDATIONS

Important steps have been taken by the European Union in recent years to include disability and accessibility as part of Corporate Social Responsibility (CSR), diversity, sustainability, business & human rights, and non-financial reporting agendas. It is particularly significant to highlight some of the main milestones in terms of disability reporting such as the European Commission guidelines on non-financial reporting adopted in June 2017 -the so-called non-binding guidelines<sup>52</sup>- with various specific references to disability<sup>53</sup> or the guidelines on “*Disability in Sustainability Reporting*”<sup>54</sup> published in 2015 (updated in 2019) by the Global Reporting Initiative (GRI) and Fundación ONCE.

**The review of the NFRD** and the drafting of a **European Reporting Standard** are key steps to ensure a more comprehensive approach to diversity and, therefore, a major opportunity to include **explicit references to disability**. As the analysis of the Spanish case shows –which included disability in the transposition of Directive 2014/95/EU into national Law 11/2018- inclusion of disability in binding non-financial regulations not only fosters transparency on how companies report on disability-related issues, but also indirectly enhances more disability-inclusive business performance.

The table below reflects a **roadmap** that stakeholders should embrace to improve the transparency of disability-related reporting.

### PUBLIC AUTHORITIES

- Include explicit references to disability indicators in the new EU Directive on non-financial information, as well as related instruments such as the European Reporting Standard (EU institutions).
- Establish, in the new EU Directive on non-financial information, disability indicators that are relevant or material to be reported by every sector (EU institutions).
- Create an EU-wide framework for enhancing the quality and transparency of non-financial reporting and by measuring and managing the corporate diversity and inclusion strategies more effectively (EU institutions).
- Promote a homogeneous disclosure of disability indicators across companies in the EU, based on pre-existing tools.

52. [Guidelines on non-financial reporting \(methodology for reporting non-financial information\) \(2017/C 215/01\) European Commission.](#)

53. More detailed information is included in chapter 1. Disability and non-financial information from a European approach.

54. [Guidelines on “Disability in Sustainability Reporting” by the Global Reporting Initiative \(GRI\) and Fundación ONCE.](#)

- Continue promoting the inclusion of disability and accessibility in the European non-financial reporting, sustainability, business and human rights and diversity agendas.
- National authorities play a key role in transposing EU Directives. They need to ensure their binding non-financial reporting regulations include references to disability and accessibility.
- Take advantage of the developments in the non-financial reporting field as regards disability inclusion in order to enrich the sustainable finance agenda and sustainable investment regulations, including a possible future social taxonomy.
- Involve civil society organisations representing people with disabilities or working for their inclusion in advancing non-financial reporting policies, norms, measures or related bodies at both a Member State and EU level.

## REPORTING FRAMEWORK ORGANISATIONS

- Non-financial or Sustainability Reporting frameworks are varied and new ones can be developed (as is the case of the European Reporting Standard). They should all consider a broader approach to diversity and non-discrimination by including references to people with disabilities and accessibility.
- Building upon existing tools<sup>55</sup>, taking stock of business practices and promoting the generation of comparable information as regards disability issues is key (even if using different standards). To this end, indicators set the need to be clear as regards the definitions, scope, measurement methodology and metric units to be used.
- Consult with leading disability organisations when integrating disability indicators.

## INDEPENDENT ASSURANCE SERVICES PROVIDER AND CONSULTANCY FIRMS<sup>56</sup>

- Use reference frameworks (e.g. GRI, IIRC) and tools such as the Guide to “*Disability in Sustainability Reporting*” when providing assurance services to ensure homogeneous criteria in terms of disability reporting.

55. Some existing tools can include the [Guidelines on non-financial reporting \(methodology for reporting non-financial information\) \(2017/C 215/01\) European Commission](#). It contained specific references to people with disabilities in relation to employee and board diversity, accessibility of products and services, and human rights, incorporating examples of key performance indicators and the [Guide on “Disability in Sustainability Reporting” by the Global Reporting Initiative \(GRI\) and Fundación ONCE](#) on the basis of the following areas related to the rights of people with disabilities: organisational governance and values, embedding respect, employment and decent work, accessibility, business relationships and local community.

56. Some European Member States require that the information in the consolidated non-financial statement be verified by an independent assurance services provider.

- Participate in consultation processes concerning possible mandatory verification by an independent assurance provider to ensure the reliability and comparability of the information reflected in the non-financial statement, including that related to disability.
- Develop guidance and tools based on ISAE 3000 to ensure an independent assurance engagement on non-financial information.

## **CORPORATE SECTOR**

- Disaggregate data by disability in the annual reports. These indicators should be accurate, balanced, clear, comparable, reliable and timely.
- Report on the company's approach to people with disabilities. In other words, report on the company's governance, commitment, policies, procedures, strategies, plans, actions, initiatives, Key Performance Indicators (KPIs) and targets as regards people with disabilities.
- Report on people with disabilities and accessibility in the supply chain and in stakeholder engagement strategies (including employees, consumers, suppliers and society generally).
- Report on how the company contributes to the creation of new market opportunities for people with disabilities related to products and services.

## **DISABLED PERSONS' ORGANISATIONS (DPOS) AND NGOS**

- Take active advocacy action for strong data disaggregation by disability and the inclusion of disability-related indicators and metrics in regulation and frameworks.
- Disseminate and share knowledge on people with disability indicators reported by companies.
- Participate actively in stakeholder consultation processes carried out by business in line with their CSR or Sustainability strategies, considering the information reported by companies.

## **ACADEMIA**

- Analyse and compare what disability/accessibility indicators are currently reported by companies in each EU country.
- Research on best practice regarding disability indicators to be reported by companies.

# BIBLIOGRAPHY

- [CSR Europe, Global Reporting Initiative and Accountancy Europe \(2017\). A comprehensive overview of how Member States are implementing the EU Directive on Non-financial and Diversity Information.](#)
- [Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.](#)
- [Disability Hub Europe \(2020\). Position Paper for the revision of the European Non-financial Reporting Directive.](#)
- [EBA Report \(2020\). On the benchmarking of diversity practices at European Union level under article 91\(11\) of Directive 2013/36/EU.](#)
- [European Parliament and the Council of the European Union. Directive 2013/34/EU of the European Parliament and of the council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.](#)
- [European Parliament. Committee on Legal Affairs \(2014\). Report on the proposal for a directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups.](#)
- [Fundación ONCE, CERMI and Fundación Bequal \(2019\). Disability, non-financial information, transparency and governance \(only available in Spanish\).](#)
- [Fundación ONCE \(2019\). The impact of the inclusion of people with disabilities on business reputation. \(only available in Spanish\).](#)
- [Law No. 2015-994 of August 17, 2015 on social dialogue and employment \(only available in French\).](#)
- [Law No. 2015-994 of 17 August 2015 on social dialogue and employment \(only available in French\).](#)

- [Law No. 2010-788 of 12 July 2010 establishing a national commitment to the environment \(only available in French\).](#)
- [Ministry of Health, Social Services and Equality, Spain. Royal Legislative Decree 1/2013, of 29 November, approving the Revised Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion \(only available in Spanish\).](#)
- [McKinsey & Company \(2020\). Diversity wins: How inclusion matters.](#)
- [Report A7-0006/2014 of 8 January 2014 on the proposal for a directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups.](#)
- [Royal Legislative Decree 1/2013, of 29 November, which approves the Revised Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion \(only available in Spanish\).](#)
- [Royal Decree-Law 18/2017 of 24 November 2017 amending the Spanish Commercial Code, the Revised Spanish Companies Act approved by Royal Legislative Decree 1/2010 of 2 July 2010, and Law 22/2015 of 20 July 2015 on the Auditing of Accounts, with regard to non-financial information and diversity \(only available in Spanish\).](#)
- [Royal Legislative Decree 1/2010, of 2 July 2010, approving the revised text of the Companies Act \(only available in Spanish\).](#)
- [The Global Reporting Initiative \(GRI\) and Fundación ONCE \(2019\). Guide to Disability in Sustainability Reporting.](#)
- [The Secretary of State, United Kingdom. The Companies Act 2006 \(Strategic Report and Directors' Report\) Regulations 2013.](#)

# APPENDIXES

## APPENDIX I:

### NATIONAL TRANSPOSITIONS OF DIRECTIVE 2014/95/EU BY COUNTRY<sup>57</sup>

National transposition of Directive 2014/95/EU	Disability-related metrics and indicators	Additional diversity and discrimination related metrics and indicators
<a href="#">Austria</a>		
<a href="#">Belgium</a>		
<a href="#">Bulgaria</a>		
<a href="#">Croatia</a>		
<a href="#">Cyprus</a>		
<a href="#">Czech Republic</a>		
<a href="#">Denmark</a>		
<a href="#">Estonia</a>		
<a href="#">Finland</a>		
<a href="#">France</a>	✓	✓
<a href="#">Germany</a>		
<a href="#">Greece</a>		
<a href="#">Hungary</a>		
<a href="#">Ireland</a>		
<a href="#">Italy</a>		✓
<a href="#">Latvia</a>		
<a href="#">Lithuania</a>		
<a href="#">Luxembourg</a>		
<a href="#">Malta</a>		
<a href="#">Netherlands</a>		
<a href="#">Poland</a>		
<a href="#">Portugal</a>		
<a href="#">Romania</a>		✓
<a href="#">Slovakia</a>		
<a href="#">Slovenia</a>		
<a href="#">Spain</a>	✓	✓
<a href="#">Sweden</a>		

✓ *Included in the national transposition*

57. Disclaimer: The information compiled with respect to national transpositions took place between May and July 2020. Changes after this date may not be reflected in this document.

## APPENDIX II: IBEX 35® INDEX COMPANIES<sup>58</sup>

### Company

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Acciona, S.A.

---

Acerinox, S.A.

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Actividades de Construcción y Servicios, S.A. (ACS)

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Aena, SME S. A.

---

Amadeus IT Group

---

ArcelorMittal

---

Bankia, S.A.

---

Bankinter, S.A.

---

Banco Bilbao Vizcaya Argentaria (BBVA)

---

CaixaBank, S.A.

---

Cellnex Telecom, S.A.

---

CIE Automotive, S.A.

---

Inmobiliaria Colonial, SOCIMI, S.A.

---

Enagás, S.A.

---

Ence Energía y Celulosa, S.A.

---

Endesa, S.A.

---

Ferrovial, S.A.

---

Grifols, S.A.

---

International Consolidated Airlines Group, S.A. (IAG)

---

Iberdrola, S.A.

---

Inditex, S.A.

---

Indra Sistemas, S.A.

---

Mapfre, S.A.

---

Masmóvil Ibercom, S.A.

---

Mediaset España Comunicación, S.A.

---

Meliá Hotels International, S.A.

---

Merlín Properties, SOCIMI, S.A.

---

Naturgy Energy Group, S.A.

---

Red Eléctrica Corporación, S.A.

---

Repsol, S.A.

---

Banco Sabadell, S.A.

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Banco Santander, S.A.

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Siemens Gamesa Renewable Energy, S.A.

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Telefónica, S.A.

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Viscofan, S.A.

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58. Companies on 11 May 2020.

## APPENDIX III: OVERVIEW OF DISABILITY-RELATED INDICATORS IN CSR AND NON-FINANCIAL INFORMATION REPORTS OF IBEX 35® COMPANIES

	Number of companies whose Sustainability/ CSR and non-financial information statements refer to disability			% companies whose Sustainability/CSR reports and non-financial information statements refer to disability			Yearly percent variance		
	2017	2018	2019	2017	2018	2019	(%) VARIANCE 2017/2018	(%) VARIANCE 2018/2019	(%) VARIANCE 2017/2019
<b>A. Employees with disabilities</b>	20	33	35	57%	94%	100%	65%	6%	75%
<b>B. Universal accessibility</b>	9	19	25	26%	54%	71%	111%	32%	178%
<b>C. Commitment to disability</b>	24	29	32	69%	83%	91%	21%	10%	33%
<b>D. Benefits and actions for employees</b>	12	17	22	34%	49%	63%	42%	29%	83%
<b>E. Social initiatives and corporate volunteering in relation to disability</b>	15	17	20	43%	49%	57%	13%	18%	33%
<b>F. Products and services</b>	14	15	17	40%	43%	49%	7%	13%	21%
<b>G. Extension of the disability inclusion commitment to the supply chain</b>	13	16	14	37%	46%	40%	23%	-13%	8%

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The main goal of Fundación ONCE for the Cooperation and Social Inclusion of People with Disabilities (Fundación ONCE) is to promote the quality of life of people with disabilities and their families, particularly focusing on the areas of training, employment and universal accessibility of environments, products and services.

Based in Spain and founded by ONCE (the National Organisation of the Spanish Blind), Fundación ONCE has extensive experience in labour inclusion of people with disabilities, and has collaborated beyond borders with private companies, governments at all levels and other organisations from civil society, making the disability dimension in this field much more visible.

Website: [www.fundaciononce.es](http://www.fundaciononce.es)

Fundación ONCE runs the Spanish Operational Programme “*Social Inclusion and Social Economy*” 2014-2020, co-funded by the European Social Fund, which allows it to develop several key activities, including the transnational initiative “*Disability Hub Europe for sustainable growth and social innovation*”, that focuses on best practice exchange, dissemination, mutual learning and awareness-raising on the binomial Disability and Sustainability. Aligned with the 2030 Agenda and the SDGs, Disability Hub Europe serves as the framework for this Publication.

Website: [disabilityhub.eu](http://disabilityhub.eu)



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