

A Seat at the Table for Women in Croatia: Changes in the Croatian Companies Act Transposing Directive (EU) 2022/2381 on Improving the Gender Balance among Directors of Listed Companies and Related Measures

1. Introduction

For decades, the European Union has been a strong advocate for the protection of minorities and underrepresented groups, with a particular emphasis on achieving gender equality across all spheres of social and business life. Through sustained political and legal action, the EU has progressively articulated and reinforced its commitment to attaining the highest possible standards of equality throughout its Member States.

Directive (EU) 2022/2381 on improving the gender balance among directors of listed companies and related measures constitutes one of the many concrete steps undertaken in pursuit of a more gender-balanced future—an objective that is increasingly reflected in the Union's contemporary legislative agenda. Pursuant to Article 11 of the Directive, Member States are required to adopt and publish the laws, regulations, and administrative provisions necessary for its implementation by 28 December 2024.

The amendment to the Croatian Companies Act was therefore introduced shortly before the expiration of this transposition deadline, underscoring the urgency attributed to the legislative change. Such urgency is particularly justified given that delays in the implementation of EU directives may result in significant consequences, including financial sanctions. These outcomes are undesirable not only due to potential monetary losses, but also because delayed compliance may negatively affect a Member State's political position and social standing within the European Union.

This article first outlines the key requirements of Directive (EU) 2022/2381, followed by an analysis of the amendments to the Croatian Companies Act through which the Directive has been transposed, and concludes with a discussion of the relevance and broader implications of these legal changes.

2. Requirements of Directive (EU) 2022/2381 on Improving the Gender Balance among Directors of Listed Companies and Related Measures

Directive (EU) 2022/2381 establishes binding requirements aimed at improving gender balance on the boards of listed companies across the European Union. Pursuant to Article 5 of the Directive, Member States are required to ensure that, by 30 June 2026, listed companies achieve a minimum level of gender representation on their boards. Specifically, members of the under-represented sex must occupy at least 40% of non-executive director positions, or alternatively, at least 33% of all director positions, including both executive and non-executive roles.

It is important to emphasize that, in accordance with Article 2, the scope of the Directive is limited to listed companies and does not extend to micro, small, or medium-sized enterprises. As stated in Article 1, the Directive aims to achieve a more balanced representation of women and men among directors of listed companies by establishing effective measures to accelerate

progress toward gender equality, while simultaneously allowing companies sufficient time to make the necessary organizational and procedural adjustments.

Article 5 further defines the objectives relating to gender balance on corporate boards and requires Member States to ensure that listed companies are subject to these objectives and have achieved them by the prescribed deadline. Article 6 complements these provisions by setting out the mechanisms for achieving the targets established in Article 5. It obliges Member States to ensure that listed companies which fail to meet the prescribed thresholds adjust their procedures for the selection of candidates for director positions. In particular, where candidates are equally qualified in terms of professional competence, priority must be given to the candidate of the under-represented sex.

Furthermore, Article 6 introduces transparency obligations in the selection process. Upon request by an unsuccessful candidate who participated in the selection procedure, the company must disclose the qualification criteria applied, provide an objective comparative assessment of the candidates based on those criteria, and, where relevant, explain the specific reasons that justified the selection of a candidate who is not of the under-represented sex.

3. Changes in the Croatian Companies Act Transposing Directive (EU) 2022/2381

The Croatian Companies Act has undergone a number of amendments in order to transpose Directive (EU) 2022/2381; however, from a practical perspective, the most significant changes are those introduced in Article 272 of the Act. At the outset, it should be noted that micro, small, and medium-sized enterprises are excluded from the scope of Articles 272.s to 272.v of the Act. These enterprises are defined as companies employing fewer than 250 employees and whose annual turnover does not exceed EUR 50,000,000, or whose total assets, as stated in the balance sheet, do not exceed EUR 43,000,000.

Articles 272.s to 272.v introduce extensive reporting obligations for companies subject to gender balance requirements in their supervisory boards or boards of directors. Under these provisions, the supervisory board or board of directors must ensure that the management board or executive directors include a dedicated section on gender representation in the annual report on the state of the company. This section must contain information on: the number and proportion of women and men among all members of the supervisory board and management board, or the board of directors and executive directors; the number and proportion of women and men specifically within the supervisory board; whether gender balance has been achieved within the supervisory or management board and, if not, the reasons for non-compliance; a description of measures already implemented or planned to achieve gender balance; the number and proportion of women and men in company management; and the objectives set by the supervisory or management board regarding gender representation in management, including whether those objectives have been met and, if not, the reasons for their non-achievement, together with an action plan for their fulfilment.

These amendments primarily aim to enhance transparency and accountability with regard to gender representation in corporate governance structures. The management board or executive directors are required to submit the relevant information to the Gender Equality Attorney General within 15 days from the date of the general meeting at which the annual report on the state of the company is presented to shareholders.

The Act further specifies that balanced representation of women and men must be ensured in the supervisory or management boards of companies whose shares are traded on a regulated market. Such balance is deemed to have been achieved where the proportion of members of the under-represented sex in the supervisory board corresponds to the thresholds set out in Annex 7 of the Act, namely a minimum of 33%. Importantly, representation is calculated based on the total number of elected and appointed members of the supervisory or management board, rather than the number of board members prescribed by the company's statute.

In addition, at least every two years, the supervisory or management board of a listed company is required to set targets for the participation of members of the under-represented sex in the management board or among executive directors. These targets are to be freely determined by the company and expressed in terms of both absolute numbers and percentages. Measures for achieving the set targets must be defined, together with an implementation deadline not exceeding 18 months.

The Gender Equality Attorney General is designated as the competent authority responsible for promoting, analysing, monitoring, and supporting gender balance within the governing bodies of listed companies. At least once per year, the Attorney General is required to publish a list of all listed companies that meet at least one of the criteria set out in Article 272.s of the Act.

4. Relevance and Implications

According to the Gender Equality Index, Croatia ranks 20th among EU Member States, with a score of 60.7 out of 100—approximately 9.5 points below the EU average. In this context, EU legislative initiatives aimed at enhancing gender equality are of particular relevance for Croatia, as they represent an important step toward narrowing existing disparities.

From a practical perspective, the amended Croatian Companies Act imposes substantial obligations on companies whose shares are traded on a regulated market. Such companies are required not only to pursue the objective of balanced gender representation in their supervisory or management boards, but also to demonstrate compliance through detailed reporting and transparency measures. Where the prescribed thresholds are not met, companies must provide clear justification for non-compliance, outline the measures envisaged to achieve compliance in the future, and specify the relevant deadlines.

These requirements should be approached with a degree of nuance. In practice, initial implementation is likely to necessitate internal organizational changes, particularly within human resources departments, as well as broader adjustments to corporate culture, governance practices, and core values. While from an economic perspective these measures may be viewed critically by company owners due to the potential costs associated with training, restructuring, and compliance, their broader social implications are significant.

From a societal standpoint, the legislative changes constitute a meaningful advancement toward addressing structural inequalities in the business sphere. By fostering increased opportunities for an under-represented group that has historically faced disadvantages in corporate leadership, the amended legal framework contributes to the promotion of substantive

gender equality and aligns Croatian corporate governance more closely with the evolving standards of the European Union.