

**Women on Boards: Evaluating  
Portugal's Progress Under Law 62/2017  
and analyzing the EU Directive  
2022/2381**

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**ABSTRACT** THIS THESIS EXAMINES THE EVOLUTION OF GENDER BALANCE WITHIN CORPORATE GOVERNANCE BY FOCUSING ON PORTUGAL'S LAW 62/2017 AND THE EU DIRECTIVE 2022/2381. DESPITE THE STRIDES MADE THROUGH LEGISLATIVE EFFORTS LIKE THE EUROPEAN PACT FOR GENDER EQUALITY AND THE EUROPE 2020 STRATEGY, WOMEN REMAIN UNDERREPRESENTED IN SENIOR LEADERSHIP POSITIONS WITHIN THE EU. THIS RESEARCH ASSESSES THE EFFECTIVENESS OF PORTUGAL'S NATIONAL LAW AND THE EU DIRECTIVE IN ENHANCING GENDER REPRESENTATIVITY ON CORPORATE BOARDS. UTILIZING A MIXED-METHODS APPROACH, THE STUDY EXPLORES THE HISTORICAL CONTEXT AND THE CONTEMPORARY IMPLICATIONS OF THESE LEGAL FRAMEWORKS. THE QUALITATIVE ANALYSIS FOCUSES ON LEGISLATIVE TEXTS AND SECONDARY LITERATURE TO UNDERSTAND THE MOTIVATIONS AND IMPACTS OF THESE LAWS. IN CONTRAST, THE QUANTITATIVE ANALYSIS DRAWS ON DATA FROM CORPORATE GOVERNANCE REPORTS TO EVALUATE TRENDS IN GENDER REPRESENTATION. THE FINDINGS INDICATE THAT WHILE PROGRESS HAS BEEN INCREASING WOMEN'S REPRESENTATION, SIGNIFICANT CHALLENGES PERSIST, PARTICULARLY IN EXECUTIVE ROLES. THE THESIS CONCLUDES THAT ACHIEVING TRUE GENDER EQUALITY ON CORPORATE BOARDS REQUIRES AN APPROACH THAT ADDRESSES BEYOND NUMERICAL REPRESENTATION AND TACKLES SUBSTANTIVE REPRESENTATION IN SENIOR LEADERSHIP ROLES. RECOMMENDATIONS FOR FUTURE POLICY AND CORPORATE GOVERNANCE PRACTICES ARE OFFERED TO FOSTER AN INCLUSIVE ENVIRONMENT WHERE DIVERSE TALENT THRIVES.

**KEYWORDS:** GENDER EQUALITY, CORPORATE GOVERNANCE, EU DIRECTIVE 2022/2381, LAW 62/2017, LEADERSHIP DIVERSITY

## **RESUMO**

ESTA TESE ANALISA A EVOLUÇÃO DO EQUILÍBRIO DE GÊNERO NA GOVERNANÇA CORPORATIVA, FOCANDO NA LEI 62/2017 DE PORTUGAL E NA DIRETIVA DA UE 2022/2381. APESAR DOS AVANÇOS REALIZADOS POR MEIO DE ESFORÇOS LEGISLATIVOS, COMO O PACTO EUROPEU PELA IGUALDADE DE GÊNERO E A ESTRATÉGIA EUROPA 2020, AS MULHERES CONTINUAM SUB-REPRESENTADAS EM POSIÇÕES DE LIDERANÇA SÊNIOR DENTRO DA UE. ESTA TESE AVALIAR A EFICÁCIA DA LEI NACIONAL DE PORTUGAL E DA DIRETIVA DA UNIAO EUROPEIA EM MELHORAR A REPRESENTATIVIDADE DE GÊNERO NOS CONSELHOS DE ADMINISTRAÇÃO. UTILIZANDO ABORDAGEM DE MÉTODOS MISTOS, O ESTUDO EXPLORA TANTO O CONTEXTO HISTÓRICO QUANTO AS IMPLICAÇÕES CONTEMPORÂNEAS DESSES QUADROS LEGAIS. A ANÁLISE QUALITATIVA INVESTIGA TEXTOS LEGISLATIVOS E LITERATURA SECUNDÁRIA PARA ENTENDER AS MOTIVAÇÕES E OS IMPACTOS DESSAS LEIS, ENQUANTO A ANÁLISE QUANTITATIVA RECORRE A DADOS DE

RELATÓRIOS DE GOVERNANÇA CORPORATIVA PARA AVALIAR TENDÊNCIAS NA REPRESENTAÇÃO DE GÊNERO. OS RESULTADOS INDICAM QUE, EMBORA TENHA HAVIDO PROGRESSO NO AUMENTO DA REPRESENTAÇÃO FEMININA, DESAFIOS SIGNIFICATIVOS PERSISTEM, PARTICULARMENTE EM CARGOS EXECUTIVOS. A TESE CONCLUI QUE ALCANÇAR A VERDADEIRA IGUALDADE DE GÊNERO NOS CONSELHOS DE ADMINISTRAÇÃO EXIGE UMA ABORDAGEM QUE VÁ ALÉM DA REPRESENTAÇÃO NUMÉRICA E ABORDE A REPRESENTAÇÃO SUBSTANTIVA EM CARGOS DE LIDERANÇA SÊNIOR. SÃO APRESENTADAS RECOMENDAÇÕES PARA FUTURAS POLÍTICAS E PRÁTICAS DE GOVERNANÇA CORPORATIVA, COM O OBJETIVO DE PROMOVER UM AMBIENTE INCLUSIVO ONDE TALENTOS DIVERSOS POSSAM PROSPERAR.

**PALAVRAS-CHAVES:** IGUALDADE DE GÊNERO, GOVERNANÇA CORPORATIVA, DIRETIVA DA UE 2022/2381, LEI 62/2017, DIVERSIDADE DE LIDERANÇA

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## Table of Contents

Contents	
ACKNOWLEDGEMENTS .....	4
TABLE OF CONTENTS .....	5
Table of Figures.....	7
ABBREVIATIONS & ACRONYMS .....	8
I. INTRODUCTION .....	1
1. Background, objectives and methodology .....	9
1.1. <i>Background and Context</i> .....	9
1.1. <i>Research Objectives and Questions</i> .....	11
1.2. <i>Methodology and Review of Thesis Structure</i> .....	12
II. EXAMINATION OF THE CONTEXT SURROUNDING GENDER QUOTAS IN CORPORATE GOVERNANCE.....	13
2. Equality and gender quotas in the Portuguese Context .....	19
3. Affirmative Action and Gender Quotas: Legal and Practical Implications.....	22
4. Analysis of Law 62-2017 and regulatory framework.....	25
5. Directive (EU) 2022/2381: Improving Gender Balance on Corporate Boards ..	28
6. Comparative analysis of Law 62/2017 and Directive (EU) 2022/2381 .....	32
III. QUANTITATIVE ANALYSIS: FINDINGS OF DATA RELATED TO WOMEN’S REPRESENTATION ON CORPORATE BOARDS BEFORE AND AFTER LAW 62 2017 IN LISTED FIRMS .....	34
1. Data Collection .....	34
2. Analytical Framework .....	36
2.1. <i>Trends in total Female Representation on Corporate Boards in Portuguese listed companies</i> .....	36
2.2. <i>Executive and non-executive members</i> .....	37

2.3. <i>Gender Diversity on Corporate Boards by Geography: comparison between European countries</i> .....	41
IV. CONCLUSION .....	44
1. Recommendations .....	45
1.1. For Policymakers .....	45
1.2. For Companies.....	47
2. Future Research .....	48
3. Limitations of the Research.....	49
References .....	50

## **Table of Figures**

Table 1 Comparison between Law 62/2017 and EU Directive 2022/2381 .....	34
Figure 1: Trend in Female Representation on Boards of Portuguese listed companies post law 62/2017. Source: author's elaboration and research.....	36
Figure 2: Analysis of Female Representation in Executive and Non-Executive Board Positions in Portugal.Source: author's elaboration .....	40
Figure 3: Comparative overview of gender representation on corporate boards across various European countries. Source: Author’s elaboration based on data from the European Institute for Gender Equality (EIGE): Gender Statistics.....	42

## **ABBREVIATIONS & ACRONYMS**

- CEDAW - Convention on the Elimination of All Forms of Discrimination against Women
- CIG - Comissão para a Cidadania e Igualdade de Género (Commission for Citizenship and Gender Equality)
- CITE – Comissão para a Igualdade no Trabalho e no Emprego (Commission for Equality in Labor and Employment)
- CMVM - Comissão do Mercado de Valores Mobiliários (Securities Market Commission)
- CSC – Código das Sociedades Comerciais (Commercial Companies Code)
- CSR - Corporate Social Responsibility
- EIGE - European Institute for Gender Equality
- EU - European Union
- IPCG – Instituto Português de Corporate Governance (Portuguese Institute of Corporate Governance)
- NEDs - Non-Executive Directors
- NO – Normative Order
- PI - Planos para a Igualdade (Plans for Equality)
- SDGs - Sustainable Development Goals
- SDI – Sistema de Difusão da Informação (Information Dissemination System)
- SGPS - Sociedade Gestora de Participações Sociais (Society for Managing Equity Holdings)
- TFEU - Treaty on the Functioning of the European Union
- UN – United Nations

## I. INTRODUCTION

### 1. Background, objectives and methodology

#### 1.1. Background and Context

Women are still significantly outnumbered by men in corporate leadership roles throughout the European Union (EU) in the corporate sector, even though they possess strong qualifications and academic achievements<sup>1</sup> (EIGE, 2024). Historically, women have been underrepresented in leadership roles, facing numerous structural barriers that have limited their access to decision-making and leadership positions in both the public and private sectors<sup>2</sup> (Smith, 2025). This lack of representation reflects systemic inequalities and undermines diversity's potential benefits to organizational performance and innovation.<sup>3</sup>(Ahmed & Adnan, 2021). Despite legislative measures aimed at improving gender diversity, progress remains slow. According to the European Institute for Gender Equality<sup>4</sup> (EIGE, 2024), women occupy only 30% of senior leadership positions in the EU, and the gender gap in corporate boardrooms is narrowing to just 1% per year.

Considering this scenario, a series of key European initiatives and policies have been strategically implemented to enhance gender equality in corporate leadership and to address the historical underrepresentation of women in senior roles within the business sector.

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<sup>1</sup> European Institute for Gender Equality (EIGE). (2024). *Gender equality in the EU: Progress and challenges*. Available at <https://eige.europa.eu>.

<sup>2</sup> Smith, H.K. (2025). *Cultural and societal barriers to women's leadership and strategies to overcome them*.

<sup>3</sup> Ahmed, A., & Adnan, H.M. (2021). Does board gender diversity affect firm performance? Empirical evidence from Standard & Poor's 500 Information Technology Sector. *Financial Innovation*, 7(1), 1-15. <https://doi.org/10.1186/s40854-021-00265-x>.

<sup>4</sup> See footnote 1.

The European Pact for Gender Equality (2011-2020)<sup>5</sup>, concluded on March 7th, 2011, by the EU Council, marked an early commitment to addressing gender disparities across the EU. This pact not only focuses on enhancing gender equality but also aims to integrate these principles firmly within all EU policies. The pact emphasized the need for sustained efforts to close the gender gap, particularly in decision-making roles, which directly influenced later policies and directives.

Following the Pact, the Europe 2020 Strategy<sup>6</sup> further highlighted the importance of inclusive growth, including achieving a higher employment rate for women. This strategy was instrumental in framing the economic arguments for gender equality, presenting it as essential to the EU's broader economic growth objectives.

More recently, the Porto Declaration of May 8th, 2021<sup>7</sup>, underscored the EU's dedication to upholding and advancing social rights, including gender equality. This declaration, alongside the European Pillar of Social Rights Action Plan<sup>8</sup>, set forth concrete actions to strengthen gender equality across the union.

Moreover, the Gender Equality Strategy 2020-2025 detailed the EU's objectives to foster a gender-equal Europe. This strategy laid out ambitious goals to combat gender-based violence and ensure women's full participation in the economy, highlighting the critical link between gender diversity on corporate boards and improved business outcomes.

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<sup>5</sup> European Council. (2011). European Pact for Gender Equality (2011-2020). Available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC\\_2011\\_155\\_R\\_0010\\_01](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC_2011_155_R_0010_01).

<sup>6</sup> European Commission. (2020). A Union of Equality: Gender Equality Strategy 2020-2025. Retrieved from [https://ec.europa.eu/info/publications/union-equality-gender-equality-strategy-2020-2025\\_en](https://ec.europa.eu/info/publications/union-equality-gender-equality-strategy-2020-2025_en).

<sup>7</sup> European Council. (2021). The Porto Declaration. Retrieved from <https://www.consilium.europa.eu/en/press/press-releases/2021/05/08/the-porto-declaration/>.

<sup>8</sup> European Commission. (2021). European Pillar of Social Rights Action Plan unveiled on March 4th, 2021, focusing on concrete actions to strengthen gender equality and access to the labor market. Retrieved from [https://employment-social-affairs.ec.europa.eu/policies-and-activities/european-pillar-social-rights-building-fairer-and-more-inclusive-european-union/european-pillar-social-rights-action-plan\\_en](https://employment-social-affairs.ec.europa.eu/policies-and-activities/european-pillar-social-rights-building-fairer-and-more-inclusive-european-union/european-pillar-social-rights-action-plan_en).

Additionally, Directive EU 2019/1158<sup>9</sup> on work-life balance for parents and caregivers has been a major legislative step, influencing corporate cultures and policies by promoting equal parenting roles. This Directive aims to reduce the career penalties often faced by women and supports a more balanced share of family responsibilities, essential for achieving gender parity in senior corporate roles.

The EU's Gender Equality Strategy 2020-2025<sup>10</sup> and Portugal's Law 62/2017<sup>11</sup>, represent necessary steps toward promoting female inclusion. As the EU introduced Directive 2022/2381<sup>12</sup> it further emphasized the commitment to gender equality. These legislative frameworks aim to create a more equitable corporate environment.

### *1.1. Research Objectives and Questions*

This thesis analyzes the evolution of gender balance within corporate governance by examining Portugal's Law 62/2017<sup>13</sup> and the subsequent EU Directive 2022/2381<sup>14</sup>, both aimed at promoting greater gender diversity on the boards of listed companies. Given that the Directive was proposed to address shortcomings recognized across EU member states, including Portugal, this research assesses the effectiveness of applying the national law. It explores how the new EU Directive could enhance or alter the existing framework. The

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<sup>9</sup> European Union. (2019). Directive (EU) 2019/1158 on work-life balance for parents and caregivers. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L1158>.

<sup>10</sup> European Commission. (2020). A Union of equality: Gender Equality Strategy 2020-2025 (COM[2020] 152 final). Publications Office of the European Union. [https://ec.europa.eu/info/sites/default/files/aid\\_development\\_cooperation\\_fundamental\\_rights/gender-equality-strategy-2020-2025\\_en.pdf](https://ec.europa.eu/info/sites/default/files/aid_development_cooperation_fundamental_rights/gender-equality-strategy-2020-2025_en.pdf)

<sup>11</sup> Portugal. (2017). Law No. 62/2017 of August 1st, 2017, on the representation of women and men in public sector and publicly traded companies' management and supervisory bodies. Retrieved from <https://diariodarepublica.pt/dr/detalhe/lei/62-2017-107791612>

<sup>12</sup> European Union. (2022). Directive 2022/2381 concerning measures to ensure that at least 40% of non-executive board members of companies listed on stock exchanges are women. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2381>.

<sup>13</sup> See footnote 11

<sup>14</sup> See footnote 12

objective is to understand the progression from national to EU-wide legislation and identify key areas for future improvement. The specific objectives of this research are to:

1. Examine the motivations for implementing Law 62/2017<sup>15</sup>, its key provisions, and the mechanisms for its enforcement;
2. Examine the objectives and requirements of EU Directive 2022/2381<sup>16</sup>, as well as its implications for national legislation in Portugal;
3. Identify similarities and differences between Law 62/2017<sup>17</sup> and the EU Directive and assess their combined impact on gender representation on corporate boards;
4. Evaluate the effectiveness of these legislative measures in increasing women's representation in leadership positions and analyze trends over time in Portuguese-listed companies. Conduct a practical analysis of how the composition of the Board of Directors in Portugal has evolved since 2018, when Law 62/2017<sup>18</sup> Came into effect. This will include examining the corporate governance reports of all Portuguese listed companies, analyzing the differences between executive and non-executive members, and comparing the numbers with those from the rest of the EU and countries without quota laws;
5. Identify Key Trends and Implications, summarizing significant trends in gender representation within Portuguese and EU boards, with policy and corporate governance adjustments recommendations.

### *1.2. Methodology and Review of Thesis Structure*

This research employs a mixed-methods approach, combining qualitative and quantitative analyses to evaluate the effectiveness of gender equality legislation in Portugal. The qualitative component involves a comprehensive review of legislative texts

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<sup>15</sup> See footnote 11

<sup>16</sup> See footnote 12

<sup>17</sup> See footnote 11

<sup>18</sup> Ibid

and literature that illustrates the implementation and impact of Law 62/2017<sup>19</sup> and the EU Directive 2022/2381<sup>20</sup>. The quantitative analysis collected data on women's representation on corporate boards from various sources, including governmental reports, corporate reports, and databases such as the Portuguese Corporate Governance Institute.

By examining the legislative frameworks and their impacts on gender representation in corporate governance, we aim to contribute to the ongoing discourse on gender equality in leadership roles and inform future policies and practices.

## **II. EXAMINATION OF THE CONTEXT SURROUNDING GENDER QUOTAS IN CORPORATE GOVERNANCE.**

### **1. Gender inequality in the Corporate Governance Context**

According to the European Institute for Gender Equality<sup>21</sup> (EIGE, 2024), women represent 34% of board members in the largest publicly listed companies in the EU. Women occupy only 29% of positions on the boards of central banks. Globally, LinkedIn data from 2024, as cited in the Global Gender Gap Report 2024 by the World Economic Forum<sup>22</sup>, shows that women constitute 42% of the global workforce but only 31.7% of senior leadership roles, and less than 25% of C-suite positions. This "drop to the top" reflects a 21.5 percentage-point gap in representation from entry-level to executive roles. Additionally, women's hiring into leadership positions has declined in recent years, dropping from 37.5% in 2021 to 36.4% in early 2024<sup>23</sup> (World Economic Forum, 2024)<sup>24</sup>.

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<sup>19</sup> See footnote 11

<sup>20</sup> See footnote 12

<sup>21</sup> European Institute for Gender Equality (EIGE). (2024). Gender Equality Index 2024: Sustaining Momentum on a Fragile Path. Retrieved from <https://eige.europa.eu/publications-resources/publications/gender-equality-index-2024-sustaining-momentum-fragile-path>.

<sup>22</sup> World Economic Forum. (2024). Global Gender Gap Report 2024. Retrieved from <https://www.weforum.org/publications/global-gender-gap-report-2024/digest/>.

<sup>23</sup> Ibid

<sup>24</sup> Instituto Superior de Economia e Gestão (ISEG). (2024). Género, Trabalho e Poder. Retrieved from <https://www.iseg.ulisboa.pt/genero-trabalho-poder/>

In Portugal, the gender pay gap persists despite gradual improvements. According to data from the Gender Work and Power Observatory (2022)<sup>25</sup>, the unadjusted pay gap for base salary stood at 13.2%, while the pay gap for total earnings, which includes additional payments such as bonuses and overtime, was 16%. Notably, when adjustments are made for individual attributes like age, education level, and job tenure, the gaps widen significantly: the base salary gap increases to 15.3%, and the total earnings gap to 18.4%<sup>26</sup>.

Gabaldon and Ratiu<sup>27</sup> (2024) emphasize that increasing gender diversity in boardrooms promotes fairness and acts as a catalyst for reducing gender-based pay disparities by fostering more equitable organizational practices. The exclusion of women from these roles reinforces a cycle where men dominate the most lucrative opportunities, leaving women with fewer pathways to achieve comparable financial rewards. Board positions and executive roles are among the highest-paying jobs in the corporate hierarchy, shaping organizational strategies and the distribution of economic opportunities. Increasing the presence of women on corporate boards is not merely a matter of equity in representation but also a critical step toward closing the gender pay gap, ensuring that leadership remuneration reflects the diverse capabilities and contributions of the workforce. (Gabaldon, 2024)<sup>28</sup>

One of the primary cultural barriers women encounter in the corporate world is the persistence of traditional gender stereotypes. Leadership traits such as assertiveness, confidence, and control are traditionally associated with men. In contrast, women are expected to exhibit nurturing and cooperative qualities—attributes often undervalued in

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<sup>25</sup> Ibid

<sup>26</sup> Ibid.

<sup>27</sup> Gabaldón, P., & Ratiu, R. (2024). Gender Diversity in the Boardroom: A Catalyst for Pay Parity. IE Insights. Retrieved from <https://www.ie.edu/insights/articles/gender-diversity-in-the-boardroom-a-catalyst-for-pay-parity/>

<sup>28</sup> Ibid

leadership roles (Kaiser & Wallace, 2016)<sup>29</sup>. This discrepancy reinforces a double bind for women in leadership: if they adopt a more assertive and directive approach, they risk being perceived as overly aggressive or domineering. Conversely, if they demonstrate more collaborative and supportive behaviors, they may be viewed as weak or lacking authority (Ibarra et al., 2013)<sup>30</sup>.

The mismatch between stereotypically feminine characteristics and those typically associated with leadership qualities leads to negative evaluations of female leaders (Tremmel & Wahl, 2023)<sup>31</sup>. Women who display agentic traits, which are usually seen as integral to effective leadership, are often perceived as less likable, less hireable, and subject to more prejudice than their male counterparts exhibiting similar traits (Williams & Tiedens, 2016; Eichenauer et al., 2022, as cited in Tremmel & Wahl, 2023). Additionally, dominant male leaders are regarded as the norm, facilitating the perception of men as leaders. In contrast, dominant female leaders are often viewed as abnormal, making it more difficult for them to gain acceptance in leadership roles (Kim et al., 2020, as cited in Tremmel & Wahl, 2023).

The devaluation of female leaders is particularly pronounced in male-dominated fields, where women are frequently perceived as less competent and less influential compared to their male peers (Eagly et al., 1992; Koch et al., 2015, as cited in Tremmel & Wahl, 2023).

Implicit biases also play a critical role in shaping corporate cultures. These unconscious biases affect recruitment opportunities, often to the detriment of women (Johnson,

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<sup>29</sup> Kaiser, Robert & Wallace, Wanda. (2016). Gender bias and substantive differences in ratings of leadership behavior: Toward a new narrative. *Consulting Psychology Journal: Practice and Research*, 68, 72-98. [10.1037/cpb0000059](https://doi.org/10.1037/cpb0000059)

<sup>30</sup> Ibarra, H., Ely, R., & Kolb, D. (2013). Women rising: The unseen barriers. *Harvard Business Review*, 91, 61–66.

<sup>31</sup> Tremmel, M., & Wahl, I. (2023). Gender stereotypes in leadership: Analyzing the content and evaluation of stereotypes about typical male and female leaders. *Frontiers in Psychology*, 14, 1034258. <https://doi.org/10.3389/fpsyg.2023.1034258>

2024)<sup>32</sup>. For example, women are frequently seen as less committed to their careers, particularly if they have caregiving responsibilities. The so-called "motherhood penalty" reflects the assumption that family obligations make women less reliable employees (EU, 2022)<sup>33</sup>. Ridgeway and Correll (2004) argue that motherhood functions as a devalued status characteristic in the workplace. They suggest that the societal expectation of "good mothers" prioritizing family directly conflicts with the ideal worker image, which emphasizes total work commitment. As a result, mothers are often viewed as less competent and suitable for leadership roles, experiencing a wage penalty and limited advancement opportunities. This status bias is especially pronounced in roles with high demands and strict schedules, where these cultural expectations conflict with the perception of mothers as primary caregivers, and therefore, there is a significant impact on women's career advancement, particularly in leadership roles<sup>34</sup>. (Ridgeway, 2004)

Similarly, research by Coffman et al. (2018) sheds light on another facet of discrimination women face in the workplace: statistical discrimination. Their study shows that women are significantly less likely to be hired than men, even when they have identical qualifications. The discrimination is not necessarily rooted in gender-specific stereotypes or explicit bias but rather in the perception that men, on average, perform better in certain tasks. (Coffman et al., 2018)<sup>35</sup>.

The glass ceiling effect is one significant obstacle to women's rise in leadership positions. This barrier persists even with the growing presence of women in the

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<sup>32</sup> Johnson, E. (2024). *Influence of gender stereotypes in hiring decisions*. University of Lagos. Accepted: February 28th, 2024; received in Revised Form: March 28th, 2024; published: April 28th, 2024.

<sup>33</sup> See footnote 13.

<sup>34</sup> Ridgeway, C. L., & Correll, S. J. (2004). Motherhood as a status characteristic. *Journal of Social Issues*, 60(4), 683–700. <https://doi.org/10.1111/j.0022-4537.2004.00380.x>

<sup>35</sup> Coffman, K. B., Exley, C. L., & Niederle, M. (2018, November 8). *When gender discrimination is not about gender*. [https://web.stanford.edu/~niederle/CEN\\_discrimination.pdf](https://web.stanford.edu/~niederle/CEN_discrimination.pdf)

workforce, which is influenced by higher education, economic demands, and corporate diversity initiatives (Saleem et al., 2017)<sup>36</sup>.

First popularized by The Wall Street Journal in 1986<sup>37</sup>, the glass ceiling is defined as an invisible barrier preventing qualified women from advancing in the corporate hierarchy. Taparia and Lenka (2022) refine this concept, defining the glass ceiling as the culmination of societal, individual, organizational, and policy factors that prevent or restrict women from attaining top management positions.<sup>38</sup>

Additionally, structural barriers within corporate governance, such as the lack of mentorship and sponsorship, impede women's ascent to boardroom positions. Women often find themselves excluded from informal networks of power—commonly referred to as the "old boys' club"—which are crucial for accessing mentorship and sponsorship opportunities (Henderson, 2016)<sup>39</sup>.

Gender diversity on corporate boards has been increasingly recognized as a vital factor for improving corporate governance and financial performance (Ahmed & Adnan, 2021)<sup>40</sup>. A balanced gender representation on boards enhances access to critical resources such as financial capital, human expertise, relational networks, and legitimacy, ultimately

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<sup>36</sup> Saleem, S., Rafiq, A., & Yusaf, S. (2017). Investigating the glass ceiling phenomenon: An empirical study of glass ceiling's effects on selection-promotion and female effectiveness. *South Asian Journal of Business Studies*, 6(3), 297–313. <https://doi.org/10.1108/SAJBS-04-2016-0028>

<sup>37</sup> Hymowitz, Carol and Timothy D. Schellhardt “The Glass Ceiling: Why Women Can't Seem to Break the Invisible Barrier That Blocks Them from the Top Jobs.” The Wall Street Journal. No. March 24th, 1986. pp. 1

<sup>38</sup> Taparia, M., & Lenka, U. (2022). An integrated conceptual framework of the glass ceiling effect. *Journal of Organizational Effectiveness: People and Performance*, 9(3), 372–400.

<sup>39</sup> Henderson, P. A., Ferreira, M. A. de A., & Dutra, J. S. (2016). Barriers to women's advancement to hierarchical positions: A study from Brazil's perspective of diversity management. *Revista de Administração da UFSM*, 9(3), 488–505. <https://doi.org/10.5902/198346598208>

<sup>40</sup> See footnote 3.

strengthening firm performance and market confidence (Nguyen et al., 2015)<sup>41</sup>. Research indicates that gender-diverse boards bring diverse perspectives, experiences, and problem-solving skills, which improve decision-making, facilitate conflict management, enhance management oversight, and ensure broader stakeholder representation, contributing to long-term corporate sustainability (Carmo et al., 2022)<sup>42</sup>.

This aligns with resource dependence theory, which posits that organizations rely on external resources to function effectively and that board members play a crucial role in securing them. In this context, Nguyen et al. (2015)<sup>43</sup> demonstrate that gender-diverse boards are positively associated with improved financial performance, reinforcing that diverse leadership contributes to firm success. Similarly, García-Meca et al. (2015) show that gender-diverse boards have a powerful impact on bank performance, especially in institutional environments that support diversity initiatives<sup>44</sup>.

Moreover, women are more inclined to prioritize social causes, ethical issues, and environmental protection, leading to improved corporate social responsibility (CSR) outcomes and enhanced reputations for organizations (Carmo et al., 2022)<sup>45</sup>.

The review of the cultural, structural, and systemic barriers in corporate governance shows some of the challenges women face in reaching leadership positions: entrenched gender stereotypes, implicit biases, and structural impediments that hinder the advancement of female leaders. As we move forward, the next sections will explore Portugal's legal frameworks and legal initiatives, examining how these measures aim to

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41 Nguyen, H., Locke, S., & Reddy, K. (2015). Does boardroom gender diversity matter? Evidence from a transitional economy. *International Review of Economics & Finance*, 37, 184–202.

<https://doi.org/10.1016/j.iref.2014.11.022>

42 Carmo, C., Alves, S., & Quaresma, B. (2022). Women on boards in Portuguese listed companies: Does gender diversity influence financial performance? *Sustainability*, 14(6186).

<https://doi.org/10.3390/su14106186>

43 See footnote 37

44 García-Meca, E., García-Sánchez, I. M., & Martínez-Ferrero, J. (2015). Board diversity and its effects on bank performance: An international analysis. *Journal of Banking & Finance*, 53, 202–214.

<https://doi.org/10.1016/j.jbankfin.2014.12.002>

45 See footnote 38.

counteract these entrenched disparities and foster greater gender equality in corporate leadership.

## **2. Equality and gender quotas in the Portuguese Context: Legal Background on Gender Equality**

In Portugal, gender equality is firmly embedded in national and international legal frameworks, demonstrating a strong commitment to addressing gender-based inequalities.

The Portuguese Constitution establishes, as a fundamental duty of the State, the obligation to promote equality between men and women (“*promover a igualdade entre homens e mulheres*”)<sup>46</sup>. Article 13 affirms that all citizens have the same social dignity and are equal before the law (*todos os cidadãos têm a mesma dignidade social e são iguais perante a lei*). This provision explicitly prohibits discrimination on various grounds, including ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation, social condition, or sexual orientation (*ascendência, sexo, raça, língua, território de origem, religião, convicções políticas ou ideológicas, instrução, situação económica, condição social ou orientação sexual*)<sup>47</sup>.

The 1997 constitutional revision was a critical milestone, marking the inclusion of gender equality as an essential part of democratic governance and mandating state action to promote equality across political, social, and economic spheres (Neto, 2009)<sup>48</sup>. The constitutional amendment introduced Article 109, which mandates equal participation of men and women in public and political life. This legal foundation for gender quotas ensures that the State actively promotes gender balance in elected offices and other spheres of decision-making. As a result, gender equality in Portugal is seen as formal

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<sup>46</sup> Constituição da República Portuguesa, 1976/2005, Art. 9.

<sup>47</sup> Constituição da República Portuguesa, 1976/2005, Art. 13).

<sup>48</sup> Neto, L. (2009). O direito e a igualdade de género. *Julgar*, (8).

legal parity and an evolving process aimed at achieving substantive equality by addressing systemic and material inequalities (Neto, 2009)<sup>49</sup>.

At the European level, several foundational legal instruments reinforce Portugal's national initiatives to achieve gender equality. The Treaty on the Functioning of the European Union (TFEU) plays a significant role, with Article 2 highlighting the promotion of gender equality as a core objective of the EU.<sup>50</sup> Article 157 explicitly establishes the principle of equal pay for equal work, requiring member states to eliminate wage disparities between men and women.<sup>51</sup> Article 23 of the EU Charter of Fundamental Rights also asserts that "equality between men and women must be ensured in all areas, including employment, work, and pay."<sup>52</sup>

The EU has also introduced specific directives aimed at advancing gender equality. The Directive 2006/54/EC on equal treatment of men and women in employment and occupation consolidates previous EU legislation on gender equality and mandates that member states implement measures to eliminate direct and indirect discrimination in employment.<sup>53</sup>

In addition to European legislation, Portugal is bound by international treaties shaping its commitment to gender equality. The most significant is the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Portugal in 1980<sup>54</sup>. According to the UN, the CEDAW is "often described as an

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<sup>49</sup> Ibid.

<sup>50</sup> Treaty on the Functioning of the European Union. (2012). Official Journal of the European Union, C 326/47. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012E%2FTXT>

<sup>51</sup> Ibid

<sup>52</sup> Charter of Fundamental Rights of the European Union. (2000). *Official Journal of the European Communities*, C 364/1. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

<sup>53</sup> Directive 2006/54/EC. (2006). *On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. Official Journal of the European Union*, L 204/23. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32006L0054>

<sup>54</sup> United Nations. (n.d.). *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. <https://www.un.org/womenwatch/daw/cedaw/>

international bill of rights for women,” obligating signatory states to adopt measures to eliminate discrimination against women and ensure equal opportunities in all spheres of life, including political participation, education, and employment. Article 7 of CEDAW explicitly calls for eliminating discrimination against women in public and political life, advocating for equal participation in decision-making processes.<sup>55</sup>

Moreover, Goal 5 of the United Nations Sustainable Development Goals (SDGs) reinforces these international commitments by calling for gender equality and the empowerment of all women and girls by 2030<sup>56</sup>. This goal explicitly targets the elimination of discrimination and harmful practices, such as violence against women, while promoting women’s full and effective participation in decision-making processes at all levels.<sup>57</sup>

Finally, it is essential to invoke Article 14 of the European Convention on Human Rights, established by the Council of Europe, which prohibits discrimination based on gender, thus complementing national measures and EU legislation in favor of gender equality. This article reinforces the obligation of member states to ensure that all individuals, regardless of gender, have equal rights in all spheres of public and private life.<sup>58</sup>

These comprehensive legal and regulatory frameworks collectively provide a legal foundation for affirmative action to achieve gender equality. By deeply embedding the principle of equality within national and international law, Portugal and the European Union have established a strong basis for measures that address formal legal parity and target substantive equality. This legal infrastructure mandates proactive State and EU

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<sup>55</sup> Ibid, art 7.

<sup>56</sup> United Nations. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development (A/RES/70/1)*. New York: United Nations. <https://sdgs.un.org/goals/goal5>

<sup>57</sup> Ibid

<sup>58</sup> Council of Europe. (1950). *European Convention on Human Rights, Article 14*. Rome: Council of Europe. [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

actions to eliminate gender-based disparities, ensuring that gender equality transcends mere legal formalism and becomes a tangible reality.

### **3. Affirmative Action and Gender Quotas: Legal and Practical Implications**

Novais (2022) describes equality as a fundamental pillar of the modern democratic State and a core concept within constitutional law. This principle has evolved significantly over time, shifting from its original form—formal equality, or “equality before the law”—to a modern understanding that emphasizes substantive equality.<sup>59</sup> Formal equality, central to the liberal rule of law, required that laws be applied consistently across individuals, irrespective of social status, gender, or race. While this approach aimed at fairness in legal treatment, it largely failed to address deeper societal imbalances caused by historical and structural inequalities<sup>60</sup>. Novais explains that as societies became more complex, it became evident that merely applying laws uniformly was insufficient to achieve true justice. In response, the social State shifted towards material or substantive equality, which advocates for equitable treatment according to individual needs and circumstances.

This approach supports differentiated treatment for groups disadvantaged by systemic inequalities to attain real equality. This modern view of equality adopts the motto, “equal treatment for equals, and unequal treatment for unequal,” encapsulating the idea that systematic disparities often require special measures, especially in contexts like gender equality<sup>61</sup>.

Quota policies have emerged as practical tools to foster substantive equality. These policies mandate the inclusion of underrepresented groups—such as women in corporate boards or political institutions—to counteract historical discrimination and promote diversity. Initially, quota policies were seen as contradictory to traditional interpretations of equality, which focused on formal, uniform treatment. However, they are now widely

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<sup>59</sup> Novais, G. R. (2022). *Os princípios constitucionais estruturantes da República Portuguesa*. Coimbra Editora, p. 22

<sup>60</sup> *Ibid.*, p. 75-76

<sup>61</sup> *Ibid.*, p. 76-77

recognized as instruments of positive discrimination intended to address systemic exclusions and promote fair representation in decision-making roles<sup>62</sup>.

In the context of gender equality in the corporate world, quotas ensure that women gain access to leadership positions, particularly in fields historically dominated by men. Without such measures, ingrained biases and social barriers would likely continue to hinder women's progress. Quotas, therefore, not only promote gender equality but also enhance democratic representation by incorporating diverse perspectives and experiences into decision-making.<sup>63</sup>

Novais<sup>64</sup> also emphasizes that implementing gender quotas in corporate and governmental contexts reflects a commitment to substantive equality, enabling fair opportunities for all individuals to contribute to societal development. This shift from a strict formal interpretation of equality to a more inclusive and nuanced approach illustrates the flexibility of constitutional law in adapting to societal changes. This constitutional commitment to equality mandates that the State not only guarantee formal equality but also actively promote substantive equality where certain groups, such as women, have been historically marginalized, legitimizing quota policies as tools for fostering inclusive and representative institutions.<sup>65</sup>

Alexandrino (2008) emphasizes interpreting the equality principle as a duty of the State rather than a right held by individuals. Alexandrino observes that, in practice, the concept of equality does not immediately afford individuals a claimable right; instead, it is, first and foremost, a requirement imposed on the State<sup>66</sup>. This perspective frames equality as an obligation for the State to justify any actions or policies that may contradict, either in

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<sup>62</sup> Novais, G. R. (2004). *Os princípios constitucionais estruturantes da República Portuguesa*. Coimbra Editora, p. 100

<sup>63</sup> *Ibid*, p. 105

<sup>64</sup> *Ibid*, p. 75

<sup>65</sup> *Ibid.*, p. 75-76

<sup>66</sup> Alexandrino, J. M. (2008). *Direitos Fundamentais: Introdução Geral* (2ª ed.). Principia, p. 205.

potential or reality, the ideal of equality as a “reference” standard. In other words, the State must have a solid, material basis for any deviations from equality, ensuring that these actions are not arbitrary but grounded in necessity and rationale. This requirement turns equality into a guiding legal hypothesis or principle that the State must uphold, especially when addressing complex socio-political issues where equality and inequality often coexist in various forms.<sup>67</sup> According to the author, equality, in this sense, contrasts with the concept of freedom, which he views as primarily a right of individuals and only secondarily as a duty imposed on the State. While freedom focuses on individual actions and choices, demanding that the State safeguard these liberties, equality emphasizes the State's actions, treating equality itself as a fundamental obligation. Consequently, equality is seen as a duty imposed on the State to treat individuals without unjust discrimination rather than as an immediately enforceable right for individuals themselves.<sup>68</sup>

Furthermore, Alexandrino addresses the dual dimensions of the principle of equality—both negative and positive<sup>69</sup>. Negatively, the principle upholds the "equality of all before the law," rooted in the principles of legality and universal applicability, and reinforces the idea that laws should apply uniformly across time and individuals. However, the principle asserts that the State must treat "unequal" situations or individuals differently to the degree necessary to address those inequalities. This positive dimension justifies the introduction of compensatory mechanisms, such as affirmative actions or quota policies, designed to alleviate initial disparities and promote substantive equality. Alexandrino links this positive approach to social justice and solidarity, arguing that, although these measures operate on different levels, they collectively advance equality by addressing foundational inequalities.<sup>70</sup> Alexandrino's treatment of equality thus recognizes the dual

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<sup>67</sup> Ibid.,p.206

<sup>68</sup> Ibid.,p.207

<sup>69</sup> Ibid., p.208

<sup>70</sup> Ibid., p.209

responsibilities of the State: to uphold formal equality as a baseline legal standard while also pursuing substantive equality through measures that rectify societal imbalances<sup>71</sup>.

#### **4. Analysis of Law 62-2017 and regulatory framework**

In the context of efforts to promote gender equality in leadership roles, Portugal introduced Law 62/2017<sup>72</sup>, which aimed at increasing the representation of the underrepresented gender on the boards of publicly listed companies and public sector enterprises. Before the law, initiatives focused on voluntary measures and recommendations had shown limited success, with the number of women in leadership positions growing notably slowly. As a precursor to Law No. 62/2017<sup>73</sup>, Law No. 10/2001<sup>74</sup> initially established frameworks for promoting gender equality in the workplace, which were significantly expanded and modified by Law No. 60/2018<sup>75</sup>. This amendment reinforced the requirements for public entities and private companies to report their gender equality practices, increasing transparency and accountability.

Law 62/2017<sup>76</sup> applies to public sector enterprises, including those at the local level and the autonomous regions of the Azores and Madeira, as well as companies listed on the stock exchange. For public sector enterprises, the law mandates that, as of January 1st, 2018, at least 33.3% of the members of both management and supervisory bodies must be of each gender. In the case of listed companies, the law introduced a phased implementation: starting from the first general assembly held after January 1st, 2018, at

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<sup>71</sup> Ibid., p.209

<sup>72</sup> Portugal. (2017). Law No. 62/2017 of August 1st, 2017, on the representation of women and men in management and supervisory bodies of public sector companies and publicly traded companies. Retrieved from <https://diariodarepublica.pt/dr/detalhe/lei/62-2017-107791612>

<sup>73</sup> Ibid

<sup>74</sup> Portugal. (2001). Law No. 10/2001, of May 21st. Diário da República. Retrieved from <https://diariodarepublica.pt/dr/detalhe/lei/10-2001-341800>.

<sup>75</sup> Portugal. (2018). *Law No. 60/2018, of August 21st*. Diário da República. Retrieved from <https://diariodarepublica.pt/dr/detalhe/lei/60-2018>.

<sup>76</sup> See footnote 72

least 20% of the members of these bodies must be of each gender, with this threshold increasing to 33.3% from the first general assembly held after January 1st, 2020.

In public sector enterprises, failure to meet the required gender representation results in the invalidation of appointments, and the responsible government ministers must propose new appointments within 90 days to correct the imbalance. For listed companies, non-compliance leads to the appointment of non-conforming members being deemed provisional, with a 90-day window for rectification. If the company fails to comply within this period, sanctions may follow, including public reprimands and financial penalties.

The law also requires public sector entities and listed companies to develop and implement annual equality plans to promote equal treatment and opportunities between women and men. These plans must be publicly available on the entities' websites and submitted to the relevant oversight bodies, such as the Commission for Citizenship and Gender Equality (CITE).

To ensure compliance, CITE is responsible for monitoring the law's application, preparing annual reports on its implementation, and overseeing compliance with the thresholds. Companies must also notify the commission of any changes in the composition of their management and supervisory bodies within 10 days of such changes.

Additionally, the law mandates an evaluation five years after its enactment to assess its effectiveness and propose any necessary amendments. Such a review mechanism underscores the law's flexibility and adaptability to evolving societal and corporate realities.

Furthermore, Law No. 26/2019<sup>77</sup> complements the provisions of Law No. 62/2017<sup>78</sup> by specifying that annual reports on progress toward gender equality must address not only general issues of employment and vocational training but also include specific data on the evolution of balanced representation between women and men in leadership positions

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<sup>77</sup> Portugal. (2019). *Law No. 26/2019, of March 28th*. Diário da República. Retrieved from <https://diariodarepublica.pt/dr/detalhe/lei/26-2019-121665677>.

<sup>78</sup> See footnote 72

and decision-making bodies. This level of detail helps monitor the direct impact of gender quotas and provides a basis for additional political and legal adjustments if necessary.

Ordinance 174/2019<sup>79</sup> specifically regulates the recorded reprimand process for non-compliance to Law No. 62/2017<sup>80</sup>, applying distinct protocols for public sector entities and listed companies. For the public sector, the Gender Equality Commission (*Comissão para a Cidadania e a Igualdade de Género*) (CIG) is responsible for applying and notifying entities of non-compliance, which is publicly disclosed and remains until rectified<sup>81</sup>. For listed companies, the Portuguese Securities Market Commission (*Comissão do Mercado de Valores Mobiliários* (CMVM)) follows similar procedures under the Administrative Procedure Code, with non-compliance notifications including potential sanctions for breaches<sup>82</sup>.

Normative Order 18/2019<sup>83</sup> delineates the procedures for mandatory communications concerning changes in the composition of corporate bodies. Public sector entities and listed companies must report any changes to their management and supervisory bodies through designated state systems, such as the State Organization Information System [*Sistema de Informação da Organização do Estado* (SIOE)] for public entities and the Information Dissemination System [*Sistema de Difusão de Informação* (SDI)] for listed companies. These reports must be made within ten days of appointment changes and are essential for maintaining transparency and compliance oversight<sup>84</sup>.

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<sup>79</sup> Portugal. (2019). *Ordinance No. 174/2019, of June 6th*. Diário da República. Retrieved from <https://diariodarepublica.pt/dr/detalhe/portaria/174-2019-122520771>.

<sup>80</sup> See footnote 72

<sup>81</sup> Portugal. (2019). *Ordinance No. 174/2019, of June 6th, art. 2*. Diário da República. Retrieved from <https://diariodarepublica.pt/dr/detalhe/portaria/174-2019-122520771>.

<sup>82</sup> *Ibid.*, art.3

<sup>83</sup> Portugal. (2019). *Normative Order No. 18/2019, of June 13th*. Diário da República. Retrieved from [https://cite.gov.pt/documents/14333/137054/DespachoNormativo\\_18\\_2019.pdf/7a322dae-156f-4c3f-b0d4-677fa093d1df](https://cite.gov.pt/documents/14333/137054/DespachoNormativo_18_2019.pdf/7a322dae-156f-4c3f-b0d4-677fa093d1df)

<sup>84</sup> *Ibid.*, art. 2

## 5. Directive (EU) 2022/2381: Improving Gender Balance on Corporate Boards

The historical context of Directive (EU) 2022/2381<sup>85</sup> stems from years of EU efforts to address gender imbalances in corporate leadership. The European Parliament has long advocated for measures to increase the representation of women in decision-making roles, particularly within business leadership. A critical milestone was the resolution passed on July 6th, 2011, calling for companies to achieve 30% female representation in management bodies by 2015 and 40% by 2020.<sup>86</sup> However, voluntary measures proved inadequate. By 2021, women accounted for only 30.6% of board members in the largest listed companies, and just 8.5% of chairpersons were female, demonstrating the slow pace of progress without binding measures<sup>87</sup>.

In response to these challenges, the European Commission proposed a quota in 2012 to improve gender balance on corporate boards, targeting a minimum of 40% representation for each gender among non-executive directors of listed companies. After over a decade of negotiations, EU Directive 2022/2381<sup>88</sup> was finally adopted in 2022 (Hickman, 2023)<sup>89</sup>. The Directive represents a continuation of EU advocacy for gender equality, aiming to catalyze broader reforms to eradicate gender inequalities in economic decision-making positions. (Hickman, 2023)<sup>90</sup>.

EU institutions themselves have committed to achieving gender balance in leadership positions. The Gender Equality Strategy 2020-2025<sup>91</sup> issued by the European Commission emphasized that EU bodies should ensure gender-balanced representation at

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<sup>85</sup> European Union. (2022). Directive 2022/2381 concerning measures to ensure that at least 40% of non-executive board members of companies listed on stock exchanges are women. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2381>.

<sup>86</sup>European Parliament. (2011). European Parliament resolution of July 6th 2011 on women and business leadership (2010/2115(INI)). Retrieved from <https://eur-lex.europa.eu>

<sup>87</sup> See footnote 85.EU, 2022. *Recital 18*

<sup>88</sup> Ibid

<sup>89</sup> Hickman, E. (2023). The EU Directive on Women on Boards. *European Company Law Journal*, 20(4). <https://doi.org/10.54648/eucl2023013>

<sup>90</sup> See footnote 85.EU, 2022. *Recital 11*

<sup>91</sup> See footnote 11

all levels of management. Alongside this, the Directive complements other EU legislation, such as EU Directive 2019/1158<sup>92</sup>, which promotes work-life balance and encourages the equitable sharing of caregiving responsibilities between men and women. By addressing gender equality through economic and social policies, the EU aims to create an environment where women can thrive in leadership roles without being hindered by societal norms or structural barriers<sup>93</sup>.

Previous EU efforts also laid the groundwork for this Directive: Recommendation 84/635/EEC<sup>94</sup> encouraged Member States to implement positive actions to promote gender equality, including in leadership roles, and Recommendation (96/694/EC)<sup>95</sup> explicitly urged Member States to take steps to achieve balanced representation of men and women in decision-making processes through voluntary measures<sup>96</sup>. However, these non-binding efforts proved insufficient, leading to the need for binding legislation.

The EU Directive 2022/2381<sup>97</sup> sets clear targets for gender representation in corporate leadership. By June 30th, 2026, at least 40% of non-executive director positions or 33% of all director positions must be held by members of the underrepresented gender. The Directive applies exclusively to listed companies, excluding micro, small, and medium-sized enterprises (SMEs).

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<sup>92</sup> European Union. (2019). Directive (EU) 2019/1158 of the European Parliament and of the Council of June 20th, 2019, on work-life balance for parents and carers and repealing Council Directive 2010/18/EU. Official Journal of the European Union. Retrieved from <https://eur-lex.europa.eu/eli/dir/2019/1158/oj>

<sup>93</sup> Ibid

<sup>94</sup> European Commission. (1984). *Recommendation 84/635/EEC on the promotion of positive action for women*. Official Journal of the European Communities. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31984H0635>

<sup>95</sup> European Commission. (1996). *Recommendation 96/694/EC on the balanced participation of women and men in decision-making*. Official Journal of the European Communities. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31996H0694>

<sup>96</sup> See footnote 85

<sup>97</sup> See footnote 85

However, as Hickman highlights, a notable limitation of the Directive is its primary focus on non-executive roles<sup>98</sup>. This approach allows companies to meet the 40% non-executive or 33% overall board quota without addressing the significant underrepresentation of women in executive leadership. Hickman<sup>99</sup> emphasizes that this focus risks creating only superficial progress, as non-executive directors are less involved in the day-to-day decision-making processes where corporate power is concentrated.

The Directive requires Member States to enforce the 40% non-executive quota to ensure companies set measurable objectives for improving gender balance among executives). However, if the 33% overall board quota is enforced instead, this obligation does not apply, allowing companies to meet their targets without diversifying executive positions. (Hickman, 2023) This discrepancy, as Hickman<sup>100</sup> argues that it undermines the Directive's potential to address systemic inequalities in leadership and limits its ability to achieve meaningful, long-term gender equality in corporate decision-making roles.

Member States must transpose the Directive into national law by December 28th, 2024, with the Directive remaining in effect until December 31st, 2038. A review in 2030 will assess its effectiveness and determine if adjustments are necessary<sup>101</sup>.

Companies failing to meet the targets must revise their selection processes to adopt transparent, non-discriminatory, and merit-based criteria to ensure compliance. Priority must be given to candidates from the underrepresented gender when qualifications are equal, barring overriding legal reasons. Companies must also publish annual reports on board composition and outline corrective actions if targets are unmet. Penalties for non-compliance, such as fines or the annulment of appointments, focus on failures in reporting and procedural adherence rather than directly addressing unmet quotas<sup>102</sup>.

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<sup>98</sup> See footnote 89

<sup>99</sup> Ibid

<sup>100</sup> Ibid

<sup>101</sup> See footnote 85.EU, 2022. Articles 5, 11, 13, 14

<sup>102</sup> See footnote 85.EU, 2022, articles 6, 7, 8

The Directive's reliance on selection processes, noting that their subjective and confidential nature often perpetuates existing power structures (Hickman, 2023)<sup>103</sup>. As Hickman points out, while the Directive mandates transparency, the privileged nature of board appointments can obscure whether decisions are genuinely merit-based. Moreover, there is a need to consider the challenges faced by candidates from underrepresented groups who are not selected. Legal recourse is rarely pursued due to the potential reputational harm and negative impact on future career prospects<sup>104</sup>.

Recognizing the differing levels of progress among Member States, the Directive included a suspension mechanism for those with significant gender representation on boards by December 2022. Member States with at least 30% non-executive or 25% total representation of the underrepresented gender can temporarily suspend specific provisions. However, if progress stalls, these exemptions automatically expire after six months to maintain momentum toward gender equality<sup>105</sup>.

The Directive emphasizes regular monitoring and reporting, requiring Member States to submit updates to the European Commission every two years starting in 2025. These reviews enable ongoing oversight and allow adjustments if progress is insufficient. While the Directive aims to standardize approaches across the EU, its flexibility may result in uneven outcomes, particularly in jurisdictions where pre-existing institutional and governance structures pose challenges<sup>106</sup>.

## **6. Comparison between Law 62/2017 and Directive (EU) 2022/2381**

Law 62/2017<sup>107</sup> and Directive (EU) 2022/2381<sup>108</sup> are legislative instruments designed to enhance gender equality on corporate boards. As explained, Law 62/2017<sup>109</sup>, applies to

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<sup>103</sup> See footnote 89

<sup>104</sup> Ibid

<sup>105</sup> See footnote 85.EU, 2022, article 12

<sup>106</sup> Ibid

<sup>107</sup> See footnote 72

<sup>108</sup> See footnote 85

<sup>109</sup> See footnote 72

public sector enterprises and listed companies in Portugal, and mandates gender representation for management and supervisory board members. In contrast, the Directive applies exclusively to listed companies and excludes SMEs.

Both instruments establish gender representation thresholds, but their targets and flexibility differ. Law 62/2017<sup>110</sup> mandates that at least 33.3% of the total composition of management and supervisory bodies must be the underrepresented sex, whereas Directive 2022/2381<sup>111</sup> provides a more nuanced option by requiring 40% of non-executive directors or 33% of all directors, including both executive and non-executive roles, to be from the underrepresented gender.

Law 62/2017<sup>112</sup> relies on invalidating non-compliant appointments and, in the case of listed companies, imposes financial penalties, though the law also encourages corrective measures by giving companies a 90-day window to rectify any imbalances. The Directive places a stronger emphasis on proportionate and dissuasive penalties, requiring Member States to implement systems that could include fines, the annulment of board decisions, or public disclosure of non-compliance.

In terms of transparency and accountability, both Law 62/2017<sup>113</sup> and the Directive 2022/2381<sup>114</sup> require regular reporting. Under Portuguese law, companies are required to develop and implement annual equality plans and submit them to oversight bodies such as the Commission for Citizenship and Gender Equality. Similarly, the Directive mandates that companies publish annual reports on the gender composition of their boards, but it enforces a more standardized format for reporting across the EU. This emphasis on uniformity under the Directive ensures greater comparability of gender

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<sup>110</sup> Ibid

<sup>111</sup> See footnote 85

<sup>112</sup> See footnote 72

<sup>113</sup> Ibid

<sup>114</sup> See footnote 85

equality efforts across Member States, promoting consistency in enforcement and accountability.

Law 62/2017<sup>115</sup> marked a significant step forward in promoting gender equality within Portuguese corporate governance, as Portugal anticipated future developments by enacting this legislation when it did. However, the introduction of the new Directive (EU) 2022/2381<sup>116</sup> introduces updated requirements that must be transposed into national law—as mandated by Article 11. Consequently, once the Directive's transposition occurs, Law 62/2017<sup>117</sup> will naturally evolve to align with these new standards. This evolution may involve measures such as increasing the representation target for non-executive directors to 40% or adopting the Directive's flexible approach by applying a 33% threshold to all board members. Additionally, adjustments to penalties, reporting mechanisms, and the implementation timeline (aligned with the Directive's 2026 deadline<sup>118</sup>), will be necessary to ensure full compliance.

	<b>Law 62/2017</b>	<b>EU Directive 2022/2381</b>
<b>Objective</b>	Correct gender imbalances in the boards of directors of listed and public companies in Portugal.	Correct gender imbalances in corporate boards across the EU.
<b>Scope of Application</b>	Applies to listed and state-owned companies in Portugal.	Applies to all listed companies in EU member states.

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<sup>115</sup> Ibid

<sup>116</sup> See footnote 85

<sup>117</sup> See footnote 72

<sup>118</sup> European Union. (2022). Directive 2022/2381, Article 11. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2381>.

<b>Representation Targets</b>	33% representation in the board of directors by 2020.	40% for non-executive directors or 33% for all board members.
<b>Implementation Timeline</b>	Progressive application from the first elective meeting after 2018; full target by 2020.	Implementation deadline: June 30th, 2026.

Table 1 Comparison between Law 62/2017 and Directive 2022/2381

### **III. QUANTITATIVE ANALYSIS: FINDINGS OF DATA RELATED TO WOMEN’S REPRESENTATION ON CORPORATE BOARDS BEFORE AND AFTER LAW 62 2017 IN LISTED FIRMS**

This section examines the effectiveness of Law 62/2017<sup>119</sup> in promoting gender-balanced representation within management bodies in Portugal, by analysing the composition of corporate boards, from 2018, when the law was first introduced, to 2023, using the most recently available corporate reports. By examining these five years, the objective is to evaluate how much the law has influenced gender diversity in boardrooms. This analysis will provide a data-driven perspective on the law's outcomes and identify areas for further improvement.

#### **1. Data Collection**

Data was sourced from several reputable sources to ensure accuracy and reliability. These include the Portuguese Institute of Corporate Governance (IPCG)<sup>120</sup> for insights into governance practices, the *Comissão do Mercado de Valores Mobiliários* (CMVM)

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<sup>119</sup> See footnote 72

<sup>120</sup> Governo das Sociedades. (2018). Relatórios de governo das sociedades. Comissão do Mercado de Valores Mobiliários. Retrieved from <https://cgov.pt/governo-das-sociedades/relatorios-de-governo-das-sociedades/2018>

website<sup>121</sup> for regulatory updates and corporate disclosures, and the websites of listed companies for annual reports and transparency data. Additionally, the Euronext Lisbon website<sup>122</sup> provided essential information on market listings and Governance Reports. Together, these sources contribute to a comprehensive and up-to-date overview of gender representation within corporate governance frameworks in Portugal.

In this study, data collection was conducted through a review of corporate annual reports for all companies listed on Euronext Lisbon as of October 2024. The analysis focused on data from 2018, the year when Law 62/2017<sup>123</sup> began to take effect through 2023, the most recent year data is available.

Since 2018, the composition of the exchange has shifted, with several companies exiting and some new ones entering. These changes are influenced by various factors, including mergers, acquisitions, and strategic restructurings, leading to prominent companies' departure. Meanwhile, a few new listings were added. By referencing October 2024, this analysis ensures it captures the latest structure of publicly traded companies, supporting accurate evaluations of corporate governance and gender representation trends among Portugal's listed entities. The final sample consists of 34 companies, reflecting the landscape of the Portuguese stock exchange by October 2024.

These reports provide insights into board composition, including gender representation, as part of the mandatory corporate governance disclosures. The data gathered corresponds to each fiscal year, with a focus on data as of December 31st for each respective year to ensure consistency and accuracy across the analysis for companies with reporting periods that conclude mid-year (e.g., July 1st, 2018, to June 30th, 2019), the data assigned to the year-end date of the first year in the reporting period (December 31st, 2018, in this example). This ensures that all data aligns consistently across years, facilitating

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<sup>121</sup>Comissão do Mercado de Valores Mobiliários. Página institucional. Retrieved from <https://www.cmvm.pt/PIInstitucional/Content?Input=3EA73836D7F29F7CE4DBCC5304268C87D47741FEC542D4D55D57058613CEC1D6>

<sup>122</sup> Euronext. *List of equities*. Retrieved from <https://live.euronext.com/en/markets/lisbon/equities/list>

<sup>123</sup> See footnote 72

comparisons and allowing for uniform tracking of trends in gender representation across corporate boards in Portugal. This method maintains chronological consistency in data analysis by anchoring data to the earlier year.

Following data collection, all relevant information was compiled into a structured spreadsheet, with entries organized by year, company, position type (executive vs. non-executive), and gender representation.

## 2. Analytical Framework

Evaluating gender representation on corporate boards involves examining various dimensions, including board roles, trends over time, and compliance with legislative frameworks. To provide a broader context, gender diversity in Portuguese companies is compared to trends observed across the EU, offering insights into Portugal's position within the wider European region. A key aspect of this analysis is the distinction between executive and non-executive members, which sheds light on how gender diversity is distributed across leadership positions, which will be analyzed in subsection 2.1 below.

### 2.1. Trends in total Female Representation on Corporate Boards in Portuguese-listed companies

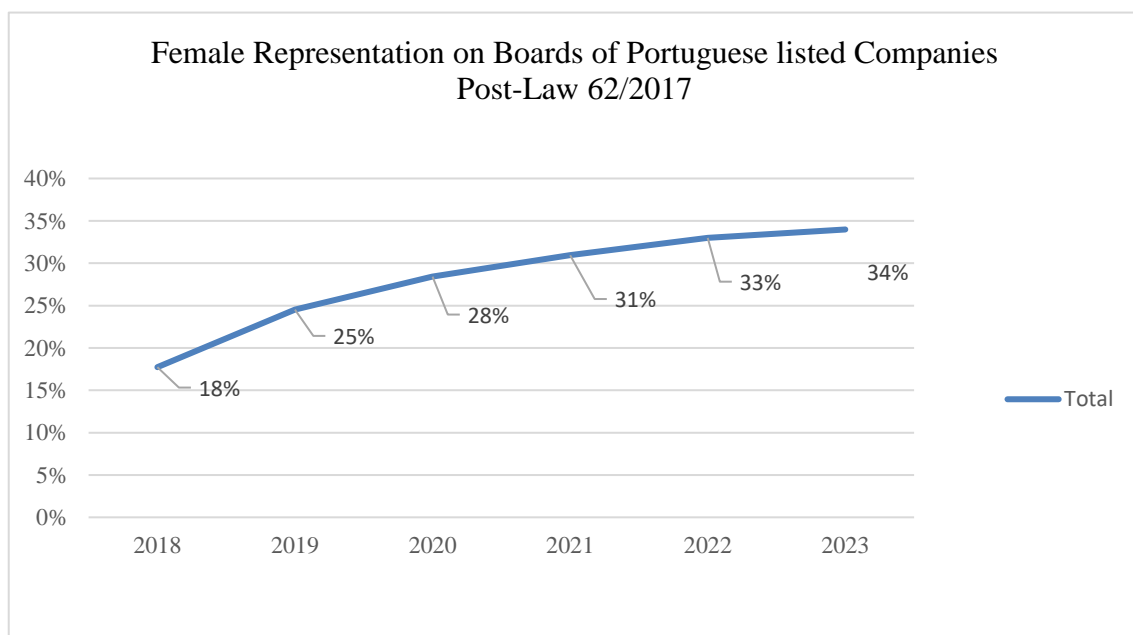


Figure 1: Trend in Female Representation on Boards of Portuguese listed companies post law 62/2017. Source: author's elaboration and research

Figure 1 shows the evolution of female representation on corporate boards in Portuguese companies, showing a steady increase following the implementation of Law 62/2017<sup>124</sup>. The data from 2018 to 2023 highlights a consistent upward trend in compliance. Starting below 20% in 2018, the average percentage of women on boards gradually rose to over 30% by 2023. This progression suggests that the law has had a positive impact, driving companies to enhance gender diversity within their governance structures.

While there has been a notable increase in the percentage of women on corporate boards, the overall progress across companies remains uneven. The introduction of new legal frameworks, as discussed by Casaca et al. (2021)<sup>125</sup>, has positively impacted female representation, elevating it significantly. However, despite these advances, not all companies have achieved the minimum thresholds mandated by the law, highlighting the challenges in enforcing compliance across different corporate environments.

The apparent leveling off in growth suggests that additional measures may be necessary to sustain progress and encourage companies to move beyond compliance and toward a deeper commitment to gender diversity.

## 2.2. *Executive and non-executive members*

The Portuguese Commercial Companies Code establishes three distinct corporate governance models for corporations: the classic, German, and Anglo-Saxon frameworks.<sup>126</sup> Each model defines the roles and responsibilities of directors differently, primarily distinguishing between executive and non-executive directors, who hold unique functions in terms of management, supervision, and governance.

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<sup>124</sup> See footnote 72

<sup>125</sup> Casaca, S. F., Guedes, M. J., Marques, S. R., Paço, N., Perista, H., Curtinhal Pires, I., Bento, J., & Gato, M. M. (2021). Livro branco – Equilíbrio entre mulheres e homens nos órgãos de gestão das empresas e planos para a igualdade. SOCIUS - Centro de Investigação em Sociologia Económica e das Organizações. ISBN: 978-989-96593-6-0.

<sup>126</sup> Portugal. (1986). Commercial Companies Code (Código das Sociedades Comerciais), Articles 278(1)(a)-(c), 390, and 413. Diário da República. Retrieved from <https://diariodarepublica.pt/dr/legislacao-consolidada/decreto-lei/1986-34443975>.

In the classic model, a board of directors exists alongside a separate supervisory board or a sole auditor<sup>127</sup>. This model separates executive and non-executive directors when management powers are delegated to an executive committee or designated directors. Non-executive directors in this model do not manage the company daily but oversee the executive functions, providing checks and balances within the board<sup>128</sup>

In the German model, governance structures include an executive board and a general supervisory board.<sup>129</sup> This model, which is less common in Portugal, integrates executive directors in management and supervisory processes. Notably, this framework excludes non-executive directors, as it is designed for corporations where management roles cannot be delegated. This emphasis on unified executive responsibility distinguishes it from the other governance models, as the supervisory board oversees but does not directly interfere with day-to-day operations.<sup>130</sup>

The Anglo-Saxon model, introduced to Portugal through the 2006 CSC reform<sup>131</sup>, incorporates a board of directors that includes an audit committee composed of non-executive directors who assume internal supervisory responsibilities. This structure promotes active and real-time oversight by including the audit committee as a sub-organ within the board.<sup>132</sup> Non-executive audit committee members contribute to transparency and accountability by supervising executive actions closely, essentially serving as an internal regulatory body that ensures executive compliance with corporate objectives and regulations.<sup>133</sup>

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<sup>127</sup> Ibid.

<sup>128</sup> Pereira Santos, G. M. (2022). O papel e responsabilidades dos administradores não executivos na gestão das sociedades [Master's thesis, Universidade Católica Portuguesa].

<sup>129</sup> See Footnote 99, articles 431 and 432

<sup>130</sup> See footnote 101

<sup>131</sup> Portugal. (2006). Decree-Law No. 76-A/2006, of March 29th. Diário da República. Retrieved from <https://diariodarepublica.pt/dr/detalhe/decreto-lei/76-a-2006>.

<sup>132</sup> See footnote 99. CSC Art. 423-B

<sup>133</sup> See footnote 101

Whether executive or non-executive, directors share duties of loyalty and care as specified in CSC Article 64. Executive directors oversee operational management and decision-making, engaging daily in the corporation's activities. Their role aligns with CSC Article 407(3), which allows certain directors or an executive committee to receive delegated powers for current management. Non-executive directors provide critical oversight without engaging in routine management, instead focusing on monitoring executive actions and aligning them with the company's strategic goals. Their supervisory role reinforces corporate governance by promoting transparency and helping ensure that decisions prioritize shareholders' interests.<sup>134</sup>

This governance structure is essential in the Anglo-Saxon model, where non-executive directors hold a legally defined supervisory position on the audit committee and must comply with CSC Article 423-B (3) restrictions to avoid conflicts of interest. This dual responsibility allows non-executive directors to challenge executive decisions when necessary, acting as advocates for shareholders and other stakeholders. This delineation of powers between executive and non-executive directors thus forms the core of internal checks and balances in Portuguese corporate governance, particularly under the Anglo-Saxon model, where non-executive directors protect the company's integrity and ensure accountability.<sup>135</sup>

Women have been progressively joining corporate boards as non-executive directors (NEDs), a role characterized by its focus on oversight and impartial judgment in areas such as strategy, performance, resource allocation, and governance standards. Unlike executive directors, who handle the company's daily operations, NEDs offer an external perspective that strengthens accountability and governance. This independent oversight often elevates the role of NEDs within the corporate hierarchy, enhancing their influence and strategic importance.(Gabaldon and Ratiu, 2024)<sup>136</sup>

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<sup>134</sup> Ibid

<sup>135</sup> Ibid

<sup>136</sup> See footnote 27

NEDs are typically compensated through fixed fees, with additional payments for duties such as serving on board committees. However, compensation can vary significantly, with factors such as gender influencing remuneration levels. For instance, research indicates progress in gender representation among NEDs in the UK, where women accounted for 45.5% of NEDs in FTSE-100 companies in 2022, compared to just 15% in 2007. Despite this progress, gender pay disparities persist, underscoring the importance of addressing systemic barriers and promoting equity in boardroom compensation. (Gabaldon and Ratiu, 2024)<sup>137</sup>

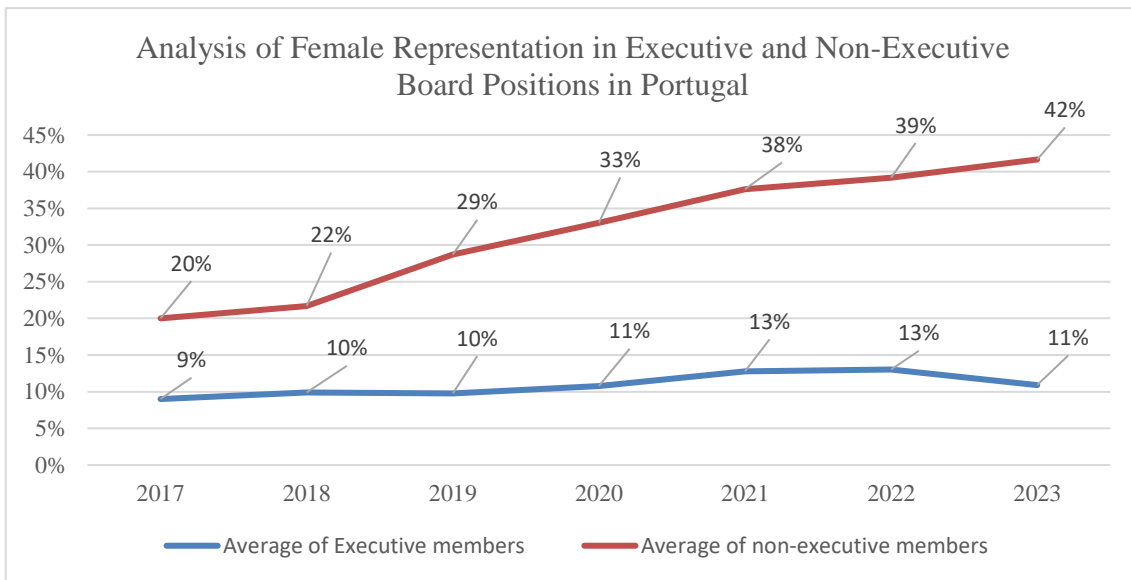


Figure 2: Analysis of Female Representation in Executive and Non-Executive Board Positions in Portugal. Source: author's elaboration

Figure 2 illustrates the evolution of female representation in executive and non-executive board positions within Portuguese-listed companies from 2018 to 2023. An apparent disparity between the two categories reveals significantly different trajectories for women in executive versus non-executive roles.

The average percentage of women in non-executive positions has had a consistent upward trend, rising from approximately 25% in 2018 to nearly 40% by 2023. This steady growth suggests that companies have made substantial progress in increasing gender diversity at the non-executive level. Non-executive positions, generally perceived as advisory rather

<sup>137</sup> See footnote 27

than core decision-making roles, might be considered more straightforward entry points for meeting gender diversity targets.

Non-executive directors play a crucial role in providing oversight and promoting transparency, and the representation of women in these non-executive positions has shown significant improvement in recent years, driven by gender quota policies (Casaca et al., 2021)<sup>138</sup>.

In contrast, female representation in executive positions remains comparatively stagnant. The percentage of women in executive roles hovers around 10-15% throughout the period, with only minimal fluctuations and a slight decline after 2021.

As Casaca et al. (2022) highlight <sup>139</sup>that while gender quota laws have led to a reconfiguration of corporate boards in Portugal, increasing the number of women in these spaces, the impact has been largely limited to descriptive representation. The presence of women on boards has grown, but this shift has not translated into substantive representation or substantive equality, particularly in executive roles such as CEOs and chairpersons. This pattern reflects broader international trends, where numerical advancements in gender diversity do not necessarily equate to meaningful shifts in power dynamics or influence over decision-making (Seierstad et al., 2021, as cited in Casaca et al., 2022). Instead, most newly appointed women occupy supervisory or non-executive positions, limiting their ability to shape corporate strategy and policy.

Casaca et al. (2022) adopt theoretical insights from political science to analyze this phenomenon, drawing on Childs & Krook (2006) and Krook & Zetterberg (2014a, 2014b) to highlight the distinction between descriptive and substantive representation. These authors argue that merely increasing female presence in decision-making bodies does not

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<sup>138</sup> Casaca, S. F., Guedes, M. J., Marques, S. R., & Paço, N. (2021). Pode uma lei progressista acelerar uma trajetória de grande lentidão? Mulheres nos conselhos de administração em Portugal. *RAE - Revista de Administração de Empresas*, 61(2), 1–7. <https://doi.org/10.1590/S0034-759020210206>

<sup>139</sup> Casaca, S. F., Marques, S. R., Guedes, M. J., & Seierstad, C. (2022). Gender-balanced seats, equal power, and greater gender equality? Zooming into the boardroom of companies bound by the Portuguese gender quota law. *Social Sciences*, 11(449), 449. <https://doi.org/10.3390/socsci11100449>

automatically translate into greater influence over policy or governance. In the corporate context, Casaca et al. (2022) emphasize that, despite an increase in the number of women on boards, key strategic decisions and access to critical information continue to occur informally, reinforcing preexisting gender hierarchies.

Therefore, while the Portuguese quota law has been instrumental in improving representation, it has not yet fostered substantive representation.

***Gender Diversity on Corporate Boards by Geography: comparison between European countries***

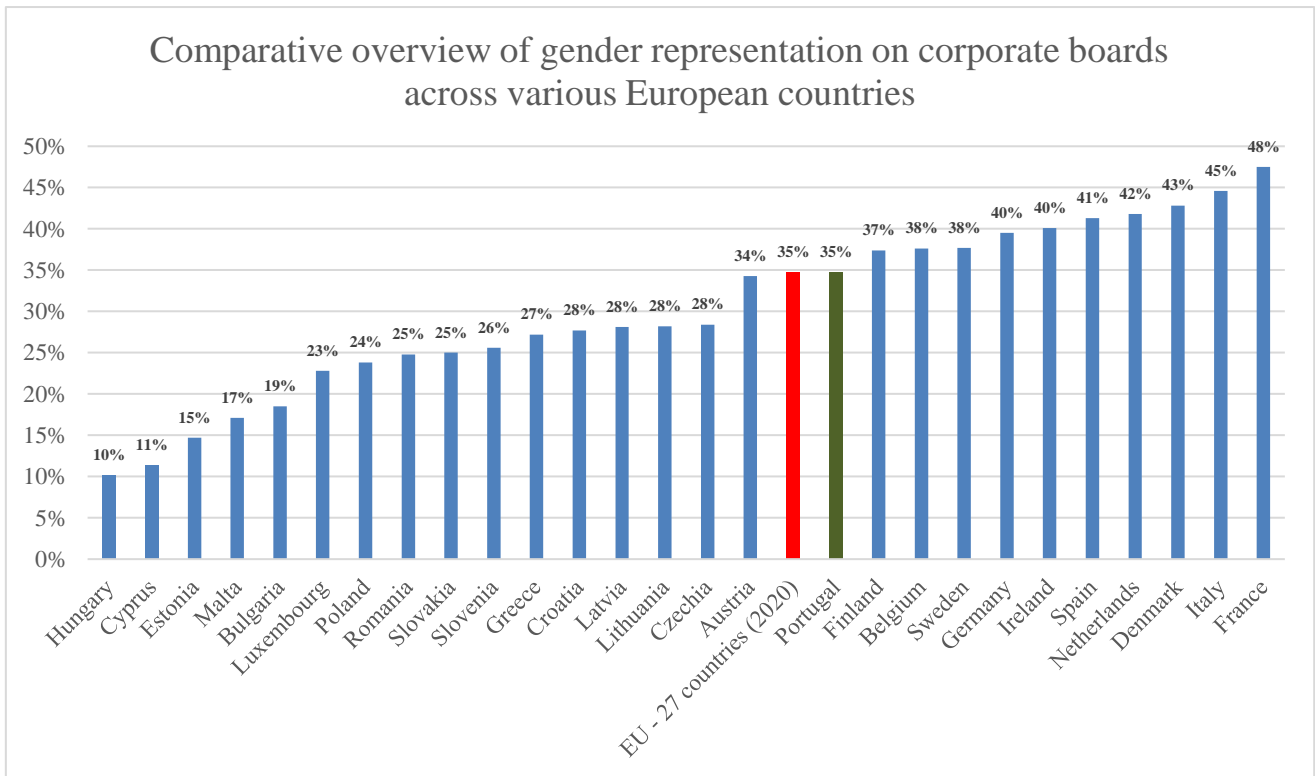


Figure 3: Comparative overview of gender representation on corporate boards across various European countries. Source: Author’s elaboration based on data from the European Institute for Gender Equality (EIGE): Gender Statistics

The comparative chart (Fig. 3) illustrates the percentage of women on corporate boards across various European countries as of 2020, revealing significant disparities in gender representation. The EU27 average for female representation on corporate boards is

approximately 35%, serving as a benchmark that highlights the uneven progress among Member States (EIGE, 2024)<sup>140</sup>.

Countries like France, Sweden, and Finland exceed this average, with France achieving 48% female board representation, the highest among EU Member States. France's success can largely be attributed to its national quota introduced in 2011, mandating 40% gender representation on corporate boards<sup>141</sup>. Similarly, countries such as Germany (40%) and the Netherlands (42%) also demonstrate strong performance, supported by gender quota laws. These cases illustrate how robust and enforceable quotas can lead to significant strides toward gender balance in corporate leadership<sup>142</sup>.

In contrast, several countries remain below the EU average, with some, such as Hungary (10%) and Estonia (15%), reporting alarmingly low female representation. Eastern European nations, including Romania (25%) and Bulgaria (19%), also show limited progress, reflecting the absence of enforceable gender diversity policies in these regions (Hickman, 2023)<sup>143</sup>. These discrepancies underscore the critical role of quotas in driving representation, as countries without such mandates tend to lag in achieving gender balance.<sup>144</sup>

While some nations have made commendable progress, others fall significantly short of achieving gender parity. For instance, Cyprus (11%) and Malta (17%) exhibit some of

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<sup>140</sup> European Institute for Gender Equality (EIGE). (2024). Gender Equality Index 2024: Sustaining Momentum on a Fragile Path. Retrieved from <https://eige.europa.eu/publications-resources/publications/gender-equality-index-2024-sustaining-momentum-fragile-path>

<sup>141</sup> Hickman, E. (2023). The EU Directive on Women on Boards. *European Company Law Journal*, 20(4). <https://doi.org/10.54648/eucl2023013>

<sup>142</sup> Ibid

<sup>143</sup> Ibid

<sup>144</sup> Ibid

the lowest female representation, emphasizing the challenges of cultural and structural barriers to gender equality (EIGE, 2024)<sup>145</sup>.

Portugal exceeded the EU average of 34% in 2020, indicating a significant advancement towards gender equality in corporate governance. This achievement places Portugal among the leading nations in the EU for female representation in boardrooms, alongside other countries that have also made notable progress.

Countries with established and enforced quotas consistently outperform those relying on voluntary or non-existent measures. However, the disparities also highlight the need for targeted, region-specific strategies to address structural and cultural barriers hindering gender diversity on corporate boards (Hickman, 2023)<sup>146</sup>.

#### **IV. CONCLUSION**

The implementation of gender quotas under Law No. 62/2017<sup>147</sup> has undeniably increased the representation of women on corporate boards, yet substantive gender equality remains an elusive goal. Casaca et al. (2021) highlight that vertical segregation persists, with women occupying significantly fewer executive roles than non-executive positions—only 14% of executive roles compared to 37% of non-executive roles in 2020. Casaca et al. (2022)<sup>148</sup> further emphasize the role of gender quotas in promoting the appointment of women to boardrooms, suggesting that while quotas increase female representation, they do not necessarily equate to gender equality in board dynamics.

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<sup>145</sup> European Institute for Gender Equality (EIGE). (2024). Gender Equality Index 2024: Sustaining Momentum on a Fragile Path. Retrieved from <https://eige.europa.eu/publications-resources/publications/gender-equality-index-2024-sustaining-momentum-fragile-path>.

<sup>146</sup> See footnote 76

<sup>147</sup> See footnote 72

<sup>148</sup> Casaca, S. F., Marques, S. R., Guedes, M. J., & Seierstad, C. (2022). Gender-balanced seats, equal power, and greater gender equality? Zooming into the boardroom of companies bound by the Portuguese gender quota law. *Social Sciences*, 11(449), 449. <https://doi.org/10.3390/socsci11100449>

## 1. Recommendations

### 1.1. For Policymakers

The Second Report by the CIG<sup>149</sup> Identified multiple cases of non-compliance with Law No. 62/2017<sup>150</sup> among publicly listed companies. In 2023 alone, six new cases of non-compliance were reported involving four companies. Two of these cases affected both administrative and supervisory boards, with one stemming from the resignation of a member of the underrepresented gender, followed by an irregular appointment that remained unresolved within the stipulated timeframe. Financial constraints were frequently cited as a barrier to compliance, with one company eventually delisted, rendering further sanctions inapplicable.

*The* PLANAPP 2024 report<sup>151</sup>, which evaluates the implementation and impact of Law No. 62/2017<sup>152</sup> highlights that while the law has made significant strides in promoting gender equality in corporate leadership, several challenges and areas for improvement remain. Despite these positive trends, the law's effectiveness is hampered by operational shortcomings, including non-compliance by certain companies and a lack of consistent enforcement mechanisms.

One critical issue identified is the fragmentation of data collection and monitoring processes. The lack of a centralized platform for data reporting has led to inefficiencies and inconsistencies, as entities like the CIG, CMVM, and CITE operate independently with overlapping responsibilities. This fragmentation has resulted in delays, incomplete

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<sup>149</sup> Commission for Citizenship and Gender Equality (CIG). (2023). Regime da Representação Equilibrada entre Homens e Mulheres nos Órgãos de Administração e de Fiscalização das Entidades do Setor Público Empresarial e das Empresas Cotadas em Bolsa: Segundo Relatório de Monitorização. Retrieved from <https://cig.gov.pt>

<sup>150</sup> See footnote 72

<sup>151</sup> PLANAPP. (2024). Representação equilibrada de mulheres e homens nos cargos de direção das empresas: Relatório de avaliação da Lei n.º 62/2017. Retrieved from [https://cite.gov.pt/documents/14333/137054/Planos\\_Igualdade\\_Guiaio.pdf](https://cite.gov.pt/documents/14333/137054/Planos_Igualdade_Guiaio.pdf)

<sup>152</sup> See footnote 72

data, and significant administrative burdens for companies and monitoring agencies. To address these challenges, the report recommends establishing a centralized platform that facilitates seamless data sharing and streamlining reporting processes, reducing redundancies and improving transparency. Another significant challenge lies in the enforcement framework of the law. The current system treats all violations equally, regardless of severity, and fails to account for companies' financial constraints. For example, companies experiencing economic hardship may struggle to comply with the law's requirements, and imposing financial penalties on these entities can be counterproductive. The report calls for a revised sanction framework that differentiates between minor and severe violations, ensuring penalties are proportional and effective. It also emphasizes the need for a more straightforward and consistent application of these sanctions to strengthen compliance. (PLANAPP, 2024)<sup>153</sup>

The report also criticizes the lack of coordination between regulatory entities. Overlapping responsibilities among the CIG, CMVM, and CITE creates inefficiencies and delays, with insufficient communication hindering effective monitoring and enforcement. Clearer definitions of roles and improved collaboration between these entities are essential to prevent duplication of tasks and ensure smoother implementation of the law. (PLANAPP, 2024)<sup>154</sup>

Concerning the Equality Plans, the report highlights that the timelines for data updates and Equality Plan evaluations are overly burdensome. Companies must submit quarterly updates and annual plans, which can hinder their ability to develop and implement effective strategies. Extending these timelines, potentially to three years or aligning them with board mandates, would provide companies with the flexibility needed for meaningful planning and execution. Equality plans themselves identify a need for a clearer focus. Currently, these plans lack well-defined objectives and measurable outcomes, which limits their utility as tools for driving change. The report recommends redesigning the plans to prioritize key indicators and align them with broader policy goals,

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<sup>153</sup> See footnote 152

<sup>154</sup> Ibid

enabling better assessment of their impacts. Greater transparency is also urged, with a call for all Equality Plans from state and local public sectors to be published in a single, accessible location, ensuring accountability and fostering public awareness. (PLANAPP, 2024)<sup>155</sup>

Based on the issues identified in the PLANAPP 2024 report, the Second Report by the CIG, the review of relevant literature, and the findings presented in the preceding sections, the following policy recommendations aim to enhance the effectiveness of Law No. 62/2017:

- 1- To ensure meaningful progress, legislation must be detailed enough to eliminate loopholes allowing superficial compliance. Women should not only be included on boards of directors but specifically in executive roles with significant influence and responsibility rather than serving as a formalistic measure.
- 2- Establishing a centralized data platform for regulatory bodies would improve coordination, reduce redundancies, and enhance transparency in compliance monitoring.
- 3- The enforcement framework should be revised to differentiate between minor and severe violations, ensuring that sanctions are proportionate and account for financial constraints faced by certain companies.
- 4- To ensure that equality plans effectively promote gender diversity, policymakers should establish clearer guidelines that require companies to define specific objectives and measurable outcomes.

### *1.2. For Companies*

Companies must adopt proactive measures to enhance transparency when publishing information about the gender composition of their boards. An essential aspect of this transparency involves providing explicit and standardized gender identifiers in annual reports and corporate governance statements beyond relying on name assumptions. Reports often disclose names, but these names do not always provide certainty regarding

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<sup>155</sup> Ibid

the individual's gender, given cultural, linguistic, or personal variations. This ambiguity can hinder regulatory oversight and academic research and compromise the reliability of data analysis.

To address this issue, companies should implement reporting practices that explicitly specify the gender of board members, ideally through self-identified gender declarations. By doing so, companies not only ensure the accuracy of their gender representation data but also promote inclusivity and respect for diverse identities.

As detailed by Casaca et al., 2021<sup>156</sup>, the analysis of the Plans for Equality (PI) 2021 released by companies in 2020 revealed that many still do not fully meet the effectiveness criteria established by NO 18/2019<sup>157</sup> and the CITE Guide<sup>158</sup>. The research focused on how the measures were formulated—whether they were clearly defined and had detailed monitoring indicators. It was found that only a fraction of the measures exhibited a high potential for effectiveness, with many PIs failing to provide concrete details that ensure the effective implementation of gender equality policies. The discrepancies observed among different business segments point to the need for stricter supervision and adjustments in monitoring mechanisms. The lack of publication of the PIs on websites, as required by law, especially among local business sector entities, was also highlighted as a critical area needing attention.

## **2. Future Research**

Future studies could expand beyond binary gender categories to explore broader aspects of diversity within corporate boards, including gender identity and other intersectional factors. This expanded focus would provide a more comprehensive understanding of diversity in corporate governance and its impact on decision-making and organizational culture.

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<sup>156</sup> See footnote 98

<sup>157</sup> See footnote 72

<sup>158</sup> See footnote 119

Future research could also examine the gender composition of corporate boards in countries outside the EU, where disparities in gender representation may be even more pronounced. A comparative analysis with other regions or countries could provide further insights into the strengths and limitations of gender quotas in corporate governance, offering a broader perspective on the role of policy in driving corporate evolution toward gender equity.

Additionally, future research could focus on the internal dynamics of boards to better understand the impact of women's contributions on governance, innovation, and organizational culture. Studies highlighting best practices for fostering inclusivity can offer valuable insights for companies striving to create environments where diverse talent thrives.

Finally, future research should explore the pay gap between genders and between executive and non-executive board members. This analysis would provide deeper insights into the economic aspects of gender representation in corporate leadership, helping to understand the financial implications of gender diversity on board.

### **3. Limitations of the Research**

This research is limited in its scope, focusing exclusively on biological sex as inferred from the names of board members. The collected data relies on the cultural and linguistic context of the Portuguese language to determine gender, which may not fully capture the complexities of gender identity. This approach assumes that names align with binary gender categories and traditional associations within Portuguese culture, potentially overlooking individuals who do not identify within this framework or whose names do not conform to these conventions.

This limitation also stems from those inherent in the laws, which do not mandate more detailed or nuanced reporting of gender identity and diversity. As a result, the research reflects these legal limitations, highlighting the need for legislative advancements to improve data collection and enhance understanding of diversity within corporate governance.

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