

PODCAST 1

Diversity and inclusion regulations



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The Corporate Sustainability Reporting Directive, known as the CSRD, was officially issued by the European Commission in April 2021. The CSRD aims to enhance the quality, consistency, comparability, and relevance of sustainability reporting across the member states by mandating companies to provide a richer bank of information on their sustainability matters. Article 2 of Regulation 2019/2088 defines “sustainability matters” as “environmental, social and human rights, and governance factors, including sustainability factors”. One sustainability aspect of this directive is diversity and inclusion in the workplace. Businesses must report on a series of policies they have or are going to implement such as the board make-up, gender balance and pay within the company, or equality and diversity policies. The EU writes that “if undertakings carried out better sustainability reporting, the ultimate beneficiaries would be individual citizens and savers, including trade unions and workers’ representatives who would be adequately informed and therefore able to better engage in social dialogue.” This highlights the importance of companies, of any size, to carry out sustainability reporting to a high standard to have a wide impact on society. The European Commission suggests that sustainability reporting should be directed towards two groups: the company investors and civil society actors. Company investors, to make the best decisions, need to be aware of the diversity and inclusion issues and impacts to build coherent strategy and analyse risks and opportunities, whereas civil society actors can be informed on the company’s impacts, outside of just statistics on financial information.

The EU requires company bodies to include an overview of their diversity policy and its application in administrative, management and supervisory areas. This must include points on gender, age, disabilities or educational and professional background; main aims of this policy, how it is beneficial to different groups of people; description of how it has been implemented in the company; and results of the effectiveness of the policy during the reporting period. It is stated that “If no such policy is applied, the statement shall contain an explanation as to why that is the case.”.

In addition, undertakings are to include information in regard to a range of social and human rights points:

- equal treatment and opportunities for all, including gender equality and equal pay for work of equal value
- training and skills development
- employment and inclusion of people with disabilities
- measures against violence and harassment in the workplace, and diversity
- working conditions, including secure employment, working time, adequate wages, social dialogue, freedom of association, existence of works councils, collective bargaining, proportion of workers covered by collective agreements

- participation in the rights of workers regarding work-life balance and health and safety
- respect for the human rights, fundamental freedoms, and democratic principles as set out by the United Nations.

The Racial Equality Directive (2000/43/EC) prohibits discrimination based on race and ethnic origin in the workplace which apply to vocational training, working conditions, and access to promotion opportunities. The European Commission explains that there are two different types of discrimination. Firstly, there is direct discrimination – this is when one person is treated, has been treated, or would be treated less favourably than another in a comparable situation on grounds of racial or ethnic origin. This could occur when only a certain racial group is invited to a post work event, or an application is denied based on the persons origin alone. Secondly, indirect discrimination is when “an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary”. This could occur when there are certain employment criteria such as “English must be your native language”. One way companies can ensure that their work practice is inclusive, is to reach out to non-governmental organisations to get professional advice on the implementation of strategies against discrimination.

The Employment Equality Directive (2000/78/EC) prohibits discrimination based on religion or beliefs, disability, age, and sexual orientation. The directive highlights that women are often the victims of multiple discrimination, as well as that people who have been subject to workplace discrimination on those grounds must have adequate means of legal protection. Therefore, as a company you may wish to have external legal associations or entities open to workers if needed. Article 5 outlines that employers shall take appropriate measures to create reasonable work accommodations for disabled persons “to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer”. Article 6 includes the justification of differences of treatment on grounds of age which include the setting of special conditions on access to employment and vocational training, minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment, a maximum age for recruitment based on training requirements.

Expanding on this, the Equal Treatment Directive (2010/41/EU) strengthens equal treatment between men and women, in self-employment. It prohibits discrimination based on sex in the access to and supply of goods and services as well as the protection of self-employed women during pregnancy and motherhood.

This is mostly concerned at member states and national law, however if your company employs self-employed workers, we encourage you to research this directive further, and make the appropriate workers aware of its existence. It is your responsibility as the employer to hold the appropriate level of knowledge and information to direct your employees, even the self-employed, to appropriate bodies as part of your social pillar.

The Work-Life Balance Directive (2019/1158) upholds workplace inclusion by improving work-life balance for working parents and carers. As opposed to some of the other directives mentioned and strategies your organisation may wish to implement to directly uphold diversity and inclusion, this directive indirectly fosters diversity and inclusion through recognising that there is a range of needs and responsibilities of individuals in the workplace. It includes definitions on paternity (minimum of 10 days) and parental leave. One type of leave, termed carers leave, is not often discussed. This is when an employee can leave work to provide care or support to a relative, or to a person who lives in the same household as the worker, of five working days a year. Furthermore, a type of working arrangement which grows day by day termed Flexible working, specifies that workers with children up to a specified age of at least eight years, and carers, have the right to request flexible working arrangements for caring purposes, with the right to return to the original working pattern. If an employee has applied or undertaken any of these arrangements, it is prohibited to treat them any less favourably than employees who have not done so, such as refusing a promotion or being demoted.

These directives collectively promote diversity and inclusion in the workplace within the EU by seeking to eliminate discrimination and ensure equal opportunities and treatment for individuals from diverse backgrounds. Key stakeholders and managers should not just be aware of what the law states, but also how it impacts their organisation and its functioning. All these strategies and company policies are a key of the yearly non-financial report, but also essential to a healthy workplace and employee morale.

Sources:

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