Corporate Governance in Europe: Has the Crisis Affected Corporate Governance Policies?

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1 Introduction: Corporate Governance and the Financial Crisis

Initiatives related to best practices in corporate governance (CG) have increased in recent years because of the onset of the international financial crisis and widespread appreciation of the importance of supervising management and transparency at listed companies to generate value, improve economic efficiency, and strengthen investor confidence [Code of Good Governance for listed companies, CNMV (2015)].

According to Kirkpatrick (2009), the financial crisis can be, to a great extent, attributed to failures and weaknesses in corporate governance arrangements, which did not serve their purpose of safeguarding against excessive risk-taking at a number of financial services companies, while regulatory requirements proved insufficient in some areas. Therefore, there have been several legal reform efforts and countries have enacted new corporate governance codes to strengthen governance in light of the collapse of the international financial markets in 2008 and the well-known scandals (Tihanyi, Graffin, & George, 2014).

However, not all countries have reacted to the crisis on the same scale. Although the four countries considered in this study (Spain, Germany, France and UK) decreased their economic activity in 2009, all, except Spain, went on to increase or maintain their activity after 2010 (Fig. 1a). At the same time, the unemployment rate increased in Spain from 8.25% in 2007 to 24.45% in 2014, while in France this figure is around 10%, and in Germany and the UK it is even lower (Fig. 1b).

The decline in economic activity, the destruction of employment, company closures, and the lack of consumer and investor confidence in companies and

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M. Aluchna, S.O. Idowu (eds.), *Responsible Corporate Governance*, CSR, Sustainability, Ethics & Governance, DOI 10.1007/978-3-319-55206-4_5

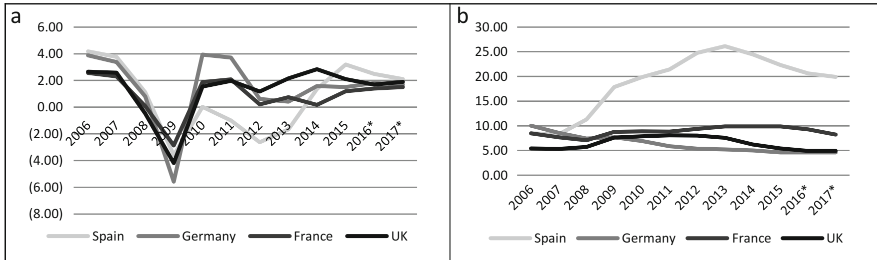

Fig. 1 (**a**) Real GDP Growth (%). (**b**) Unemployment Rate (%) (*asterisk*) Estimated values. Source: SNL

institutions have created an environment where it is essential to develop mechanisms to generate confidence. Company governance policies help to increase stakeholder confidence, which improves company competitiveness and sustainability.

In this economic environment, and taking into account that countries have different national governance systems, it is worthwhile to ask whether corporate governance practices at firms were different prior to the crisis than after it, and whether there were differences in these practices between the European countries. This research focuses on Spain but also considers another three large economies in Europe (Germany, United Kingdom and France) in order to draw conclusions about significant differences in corporate governance practices among them.

The paper is structured as follows. Section 2 reviews the importance of corporate governance regulations and the revision of codes of conduct in the countries analysed, to establish the framework where the analysis will be performed. Section 3 describes the sample, corporate governance variables, and the methodology for the empirical analysis. Section 4 shows the main results obtained when comparing pre- and post-crisis corporate governance policies in different countries. Finally, Section 5 summarises the main conclusions.

2 Corporate Governance Regulation and Codes of Conduct

Research on international corporate governance cannot be addressed without taking into account the contributions of the law & finance approach, initiated by La Porta, Lopez-de-Silanes, Shleifer, and Vishny (1997, 1998); La Porta, Lopez-de-Silanes, and Shleifer (1999) in the late 1990s and which has provided a new perspective on the analysis of corporate governance. This approach is based on the idea that both the laws protecting the rights of investors, and their level of effective enforcement, are the major drivers of corporate governance development in each country. This argument highlights the need for an integrated analysis of corporate governance and the legal system, as a proxy for the institutional framework of the country in which the company operates.

Table 1 Classification of countries according to their legal protection of investors

Country	La Porta et al. (1997) classification	Doing business classification (2016). Minority investors protection index
UK	Common Law	7.8
Germany	German civil Law	6
Spain	French civil Law	6.4
France	French civil Law	6.4

Legal origin is both historically predetermined and highly correlated with shareholder protection (La Porta et al., 1999). Although there are hundreds of legal systems around the world, researchers try to group them by legal families (Matoussi & Jardak, 2012). La Porta et al. (1997, 1998, 1999); La Porta, Lopez-de-Silanes, Shleifer, and Vishny (2000, 2002) show that common law countries tend to provide better protection to minority shareholders than civil law countries do. Within civil law, the strongest legal protection corresponds to the German legal tradition, and the weakest to the French one, with the Scandinavian tradition occupying an intermediate position. The La Porta et al. (1997) classification can be complemented by the Doing Business classification (managed by the World Bank), which estimates an index for minority investor protection for each OCDE country. According to this last classification the UK boasts the greatest investor protection, followed by Spain and France, which are at the same level, followed by Germany (Table 1).[1]

An effective legal system protects shareholders from being expropriated by a firm's management, and protects minority shareholders from being expropriated by large blockholders (La Porta et al., 1997, 1998; Martynova & Renneboog, 2010). Therefore, the presence of comprehensive laws and regulations, together with effective enforcement mechanisms, indicates a well-developed national governance system.

The national governance system consists of formal institutions, such as laws and regulations, political and economic rules and procedures, and other explicit constraints on a firm's behaviour, as well as informal institutions, including unwritten yet quite influential societal norms, conventions, codes of conduct, and values (Kumar & Zattoni, 2014).

Until the financial crisis national governance systems in Europe were dominated by informal institutions, in which voluntary compliance with codes of conduct dominated governance activities, and the legislative framework did not specify rules of corporate governance mechanisms. However, corporate scandals during the crisis period raised serious doubts about the effectiveness of corporate governance policies developed by companies, and corporate law has specified rules on corporate governance.

[1]According to the Doing Business classification, Germany ranks below Spain and France in investor protection, contrary to the conclusion drawn by La Porta et al. (1997), who considered Germany to provide better legal protection.

Table 2 Characteristics of the Governance Codes

	Legal basis and compliance	Objective	Predominant board structure
Spain	Disclosure (comply or explain).	Improve quality of board governance; Improve companies' competitiveness; improve investor confidence and transparency; improve corporate social responsibility; guarantee an adequate function, duties and responsibilities division in firms.	Unitary
Germany	The Code includes Recommendations, which are to be observed on a comply or explain basis and which are indicated by use of the word "shall"; Suggestions, which are optional and which are indicated by the term "should"; and passages which do not use these terms contain descriptions of legal regulations and explanations.	Improve companies' performance, competitiveness and/or access to capital; improve quality of governance-related information available to equity markets.	Two-tier
United Kingdom	The Code includes Principles, which are mandatory; and Provisions, which are to be observed on a comply or explain basis.	Improve quality of board (supervisory) governance; improve governance-related information available to equity markets; improve investor confidence by raising standards of corporate governance.	Unitary
France	Disclosure (comply or explain).	Improve quality of board (supervisory) governance; improve quality of governance-related information available to equity markets.	Unitary

2.1 Corporate Governance Codes

Most of the recommendations in governance codes place great emphasis on formal board structures and board characteristics, such as size, number of independent directors, number of board meetings, board committees, etc. The disclosure of these structural elements enables market participants to evaluate whether boards of directors are complying with the corporate governance recommendations. However, as recent corporate failures have shown, living up to "formal" standards is not enough (Van den Berghe & Levrau, 2004).

The legal basis, objective and predominant board structure in the Governance Code in each of the countries analysed are summarised in Table 2.

Focusing on Spain, different good governance codes based on voluntary compliance have emerged since 1998: the Olivencia Code (1998), which focused on the ethics of the Board of Directors; the Aldama Code (2003), with the objective of promoting transparency and security in markets and listed companies; the Conthe or Unified Code (2006, updated 2013), which includes the sustainability concept and stakeholders in its recommendations; and the Good Governance Code, passed by the CNMV board in 2015, which focuses on 25 main general principals that include 64 recommendations.

This last Code excludes all the recommendations of the Unified Code that have been included in Spanish law (on issues such as the exclusive competence of the general meeting of shareholders or the board of directors, separate voting on agreements, split voting, etc.). The inclusion of specific recommendations on corporate social responsibility should be noted.

Europe's three main economies have also been very active in the revision of their corporate governance codes for listed firms since the crisis, with 8 revisions in Germany, 5 in the UK, and 3 in France (Table 3).

What is the record of Spanish companies' compliance with the Code's recommendations? Spanish companies largely comply with the recommendations of the Corporate Governance Codes. According to the CNMV (2015), listed Spanish companies comply, on average, with 85.43% (84% in 2013) of the 53 recommendations found in the Unified Code (partially updated version from 2013), and partially with an additional 6.3% (7% in 2013). On average, Spanish listed companies did not comply with 8.3% of the recommendations. The level of compliance increased in 2014 as compared to previous years. An increase was registered for all the categories of recommendations: statutes and general shareholders' meetings, boards of directors, directors, and compensation and commissions. Recommendations with lower percentages of compliance were those regarding the presence of independent directors on the governing bodies of the company. More specifically, recommendations stating that "the number of independent directors represent at least one third of all directors" and "the majority of members of the appointment

Table 3 Revision of Corporate Governance Codes in Germany, UK and France

Country	Governance Code	Dates of revision
Germany	German Corporate Governance Code	June 2007, June 2008 June 2009, May 2010 May 2012, May 2013 June 2014, May 2015
United Kingdom	The Combined Code on Corporate Governance The UK Corporate Governance Code	June 2008, December 2009 June 2010, September 2012 September 2014
France	Corporate Governance Code of Listed Corporations	December 2008, April 2010 June 2013

Source: ECGI

and compensation commissions should be independent directors" are not complied with by 39% and 38.2% of the companies, respectively.

Focusing on the Spanish companies belonging to the IBEX35 index, the CNMV (2013) reports that these companies comply on average with 93.7% of the Unified Code's recommendations and partially with an additional 3.3%. Therefore, companies fail to comply with only 3% of the recommendations (4.3% in 2012).

However, examples like a 4.4% increase in director compensation in 2012, while IBEX 35 companies lost 30% of their value from 2007 through 2011 (OCSR, 2012), evidence the insufficient role of governance codes and the need to legislate in some governance matters.

2.2 European Regulations on Corporate Governance

The European Commission has worked on the elaboration of regulations with the aim of improving the governance of companies in Europe since the start of the financial crisis (European Commission, 2012, 2014). These initiatives have focused on three main issues: remuneration, shareholder rights, and transparency/non-financial information disclosure.

With regards to remuneration, *Directive 2010/76/EU* requires credit institution and investment firm remuneration policies to consider present and future risks and to define categories of staff whose professional activities have a material impact on their risk profile (Ben Shlomo, Eggert, & Nguyen, 2013).

Directive 2007/36/EC aims to strength shareholder rights, in particular through the extension of rules on transparency, proxy voting rights, the possibility of participating in general meetings via electronic means, and ensuring that cross-border voting rights can be exercised.

Finally, *Directive 2014/95/EU* regards the disclosure of non-financial and diversity information. This Directive addresses the disclosure of non-financial information by companies allowing for great flexibility in actions, in order to take into account the multidimensional nature of Corporate Social Responsibility (CSR), and the diversity of the CSR policies implemented by businesses, matched by a sufficient level of comparability to meet the needs of investors and other stakeholders, as well as the need to provide consumers with easy access to information on the impact of businesses on society.

2.3 Spanish Regulations on Corporate Governance

In this European context, Spain has passed different laws in relation to corporate governance.

Some of the major legislative initiatives related to CG in Spain have been: (1) *Sustainable Economy Law 2/2011 of 4 March,* which includes financial market

reforms to increase transparency and improve corporate governance in line with international agreements. In the Law three new groups of provisions stand out: those relating to the corporate governance of listed companies, those relating to the corporate governance of public companies, and those regarding Corporate Social Responsibility. (2) *Royal Decree 771/2011*, which regulates financial entities' compensation policies. (3) *Law 31/2014, of 3 December, which modifies the Capital Societies Law to improve corporate governance*.

Table 4 summarizes corporate governance regulation in Spain.

3 Sample, Variables and Methodology

As previously mentioned, the empirical analysis carried out in this research aims to answer three questions: what are the most used corporate governance policies after the financial crisis? Are there differences in governance policies among countries? And, are there differences in governance policies before and after the financial crisis?

3.1 Sample

The empirical analysis considers a sample of 206 firms that belong to Europe's three largest economies, plus Spain (which is in fifth place, based on its GDP). The firms belong to the Stock Indexes of Spain (IBEX 35), France (DAX), Germany (CAC-40) and the United Kingdom (FTSE-100).

Table 5 presents some characteristics of the sample. It shows the average market capitalization of companies in each Index, as well as the maximum, minimum and standard deviation for market capitalization, as an indicator of firm size. Table 5 also shows the number of financial companies in each index to illustrate industry structure.

3.2 Variables

Corporate governance variables were obtained from the *Datastream* database. After the analysis of the 287 variables provided by *Datastream*, 33 governance variables were selected. They were divided in 6 main groups according to the main governance policy they represent.

Therefore, the following categories were established: (1) Board structure/Functioning, (2) Committees, (3) Compensation Policy, (4) Anti-takeover devices, (5) Shareholder rights, (6) Corporate Social Responsibility.

Annex describes all the variables used.

Table 4 Corporate Governance regulation in Spain

Regulation	Main policies
Ley 26/2003 de transparencia de las sociedades anónimas cotizadas (*Transparency of listed companies Law*). 17th of July.	Improve disclosure and transparency. Since 2004, listed companies have been required to make their corporate governance reports public on an annual basis. They are submitted to the CNMV.
Ley 27/2011 sobre actualización, adecuación y modernización del sistema de Seguridad Social (*Updating, improvement and modernization of the Social Security System Law*). 1st of August.	Company Pension funds must report whether or not they use, social, ethical, environmental and good governance criteria, with the aim to facilitate Socially Responsible Investment (SRI). No sanctions if they don't.
Ley 2/2011 de Economía Sostenible (*Sustainable Economy Law*). 4th of March.	Expands the minimum content required in the corporate governance report. Listed companies are required to present an annual directors compensation report. Public companies shall adapt their strategic plans to present an annual corporate governance report as well as a sustainability report. Corporations with more than 1000 employees are obliged to publish annual CSR reports (including governance indicators) and submit it to SCCSR (State Council on Corporate Social Responsibility, Known as CERSE in Spain).
Royal Decree 771/2011	Regulates financial entities compensation policy.
Ley 19/2013 de transparencia, acceso a la información pública y buen gobierno (*Transparency, access to public information and good governance Law*). 9th of December.	Range of laws for ethical principles and actions that must be overseen by the members of Government and reinforce the sanctions in the case of infraction.[a] Creates the Transparency and Good Governance Council, an independent office for supervision and control of the correct application of this Law.
Ley 31/2014 por la que se modifica la Ley de Sociedades de Capital para la mejora del gobierno corporativo (*Modification of the Capital Societies Law to improve corporate governance*). 3rd of December.	The General Meeting of shareholders shall be responsible for fixing board of director compensation every 3 years with respect to maximum compensation, fixed compensation and variable compensation such as separation payments. The amount of equity that a shareholder must own in order to include items on the agenda is reduced from 5% to 3%. A reduction in the required number of shares that a shareholder must own in order to participate in the General Shareholders meeting is established to not exceed 1000 (as opposed to 1 for every 1000 previously used). The duration of the director mandate shall not exceed 4 years (with possible reelection) as

(continued)

Table 4 (continued)

Regulation	Main policies
	opposed to the current 6 years. Audit and appointment and compensation committees are required for listed companies, and they must be presided over by independent directors. Establish specific criteria to differentiate categories of directors (executive or non-executive).

[a]Removal from posts of public responsibility occupied by the offender; the offender may not be nominated to occupy certain public positions during a period of 5–10 years; may not receive compensation payments and is obliged to return any amounts unduly received

Table 5 Market capitalization and financial companies in each index

Index		2008 (million €)	2013 (million €)	Number of financial companies
Ibex 35	Average	21,267.75	15,103.04	9
	Maximum	89,865.31	64,946.18	
	Minimum	2432.28	729.93	
	Sd.	25,200.35	18,554.42	
DAX 30	Average	26,080.91	28,057.74	5
	Maximum	84,502.19	77,559.19	
	Minimum	1074.29	3288.41	
	Sd.	21,290.50	21,823.78	
CAC 40	Average	27,984.43	25,750.10	5
	Maximum	128,109.40	112,717.10	
	Minimum	2063.95	2196.16	
	Sd.	26,046.21	24,259.99	
FTSE 100	Average	13,654.03	15,233.20	25
	Maximum	110,071.00	115,647.03	
	Minimum	342.94	1057.77	
	Sd.	20,488.43	19,987.57	

3.3 Methodology

Different tests were performed to gauge differences between countries and different periods of time (pre- and post-crisis). Based on Aizenman, Jinjarak, Lee, and Park (2016) and Taylor and Williams (2009) we define the beginning of the global crisis in mid-2007. Therefore, 2007 will be considered the pre-crisis year, and 2013 the post-crisis period.

The ANOVA test is appropriate when the dependent variables are continuous and normally distributed and there is a homogeneity of variances (gauged by Levene's test). The Kolmogorov-Smirnov test and Shapiro-Wilk test (appropriate for small sample sizes: Spain, France and Germany are $n < 50$) were conducted to

test normality. In those variables where one of the groups is not normally distributed, the Kruskal-Wallis test, instead of a one-way ANOVA, was conducted to test whether the variables present statistical differences by country. When the dependent variable was dichotomous (categorical), a chi-square test was used to assess the relationship between the variable and its belonging to a given country.

In addition, a dependent t-test was conducted to compare the means between two related groups on the same continuous variable. In this case the same variable in two different periods of time, pre- and post-financial crisis. In those cases where the dependent variable was dichotomous, the McNemar test was conducted. Thus, the McNemar test determines whether the proportion of companies regarding a variable increased or decreased after the financial crisis.

4 Corporate Governance Policies in Europe: A Comparison Between Spain, Germany, France and UK

4.1 Board Structure/Functioning

The relationship between CG and firm performance has been broadly studied. However, the role and effectiveness of the board of directors continue to be at the centre of CG research because, in most countries, boards serve as the representatives of shareholders and bear fiduciary responsibility for monitoring management, protecting wealth (agency theory) and improving performance creating wealth (resource dependence theory). Board composition and structure remain at the centre of policy debates as different countries attempt to develop legal and institutional frameworks to improve board performance and diversity (Kumar and Zattoni 2014).

4.1.1 Board Size

To guarantee optimal board performance, its size should be adequate to meet business requirements, but not so large as to be unwieldy. Board size has not changed after the crisis. However, there are country-based differences (Table 6, panel A). The UK has the smallest boards, with a mean value of 11 directors in 2013, and Germany has the biggest ones, with a mean value of 16 directors. In Spain and France the size of the board is around 14. Only the Spanish Code makes a specific recommendation about board size: between 5 and 15 members. The other codes only indicate that the number of members should be adequate to enable the board to carry out its mission in the best possible manner.

Table 6 Corporate governance policies in Europe: a comparison between Spain, Germany, France and UK

Variables	Spain		France		Germany		United Kingdom		Country differences	Country differences
Panel A										
Board structure/Functioning	2007	2013	2007	2013	2007	2013	2007	2013	2007	2013
Board size (1)	14.57	14.24	13.72	14.70**	17.37	16.40	11.17	11.05	*** (4)	*** (4)
Non executive Directors (1)	80.09	82.65	89.40	91.12	99.63	100.00	66.42	71.82***	*** (4)	*** (4)
CEO Duality (2)	53.57%	54.55%	41.03%	64.1%**	0.00%	0.00%	2.13%	2.00%	*** (5)	*** (5)
Chairman Experience (2)	57.14%	60.61%	58.97%	74.36%	26.67%	20.00%	10.64%	5.00%	*** (5)	*** (5)
Director Tenure (1)	6.07	7.99***	6.26	7.17*	5.59	6.92	5.43	5.46	N.S. (4)	*** (4)
Meetings per year (1)	11.54	10.97	8.13	8.44	5.66	5.75	8.98	8.70	*** (3)	*** (4)
Meetings attendance (1)	95.00	96.96	88.11	91.56***	67.25	86.80	93.53	96.65***	*** (4)	*** (4)
Panel B										
Comitees	2007	2013	2007	2013	2007	2013	2007	2013	2007	2013
Corporate Governance Committee (2)	28.57%	36.36%	41.03%	66.67% ***	30.00%	26.67%	15.05%	25.25% ***	** (5)	*** (5)
Audit Committee (2)	46.43%	78.78% ***	74.36%	89.74%*	53.33%	70.00%	90.32%	96.97%	*** (5)	*** (5)
Compensation Committee (2)	96.43%	100.00%	100.00%	100.00%	90.00%	86.67%	98.94%	100.00%	** (5)	*** (5)
Panel C										
Compensation Policy	2007	2013	2007	2013	2007	2013	2007	2013	2007	2013
CEO Equity-based pay (2)	10.71%	21.21%	15.38%	20.51%	20.00%	30.00%	89.36%	86.00%	*** (5)	*** (5)
Performance-based compensation policy (2)	60.71%	90.91% ***	74.36%	94.87% ***	93.33%	100.00%	100.00%	100.00%	*** (5)	** (5)
ESG related compensation policy (2)	7.14%	18.18%	5.13%	41.02% ***	0.00%	40%***	26.60%	70%***	*** (5)	*** (5)
Compensation Policy attract/ retain executives (2)	17.86%	36.36%*	25.64%	43.59% **	6.67%	16.67%	95.74%	97.00%	*** (5)	*** (5)

(continued)

Table 6 (continued)

Variables	Spain		France		Germany		United Kingdom		Country differences	Country differences
Say on pay (executive compensation) (2)	28.57%	66.67% ***	2.56%	7.69%	3.33%	63.33% ***	19.15%	92%***	*** (5)	*** (5)
Say on pay (stock based compensation) (2)	28.57%	63.64% ***	15.38%	53.85% ***	6.67%	26.67% **	1.06%	60%***	*** (5)	*** (5)
Panel D										
Anti-takeover devices	2007	2013	2007	2013	2007	2013	2007	2013	2007	2013
Policy limiting anti-takeover devices (2)	14.29%	12.12%	2.56%	12.82%	3.33%	3.33%	5.32%	6.00%	N.S. (5)	N.S. (5)
Golden parachutes (2)	52.38%	35.71%	24.14%	50.00%	48.28%	62.07%	36.47%	38.64%	N.S. (5)	N.S. (5)
Staggered Board (2)	40.74%	86.37% ***	76.32%	97.44% ***	41.38%	17.4%*	90.43%	6%***	*** (5)	*** (5)
Supermajority vote requirement (2)	41.18%	84%*	38.46%	94.44%	58.33%	64.29%	20.83%	98.95% ***	*** (5)	*** (5)
Veto power (2)	20.00%	24.24%	14.81%	13.51%	8.33%	13.79%	0.00%	5.05%	** (5)	** (5)
Panel E										
Shareholders rights	2007	2013	2007	2013	2007	2013	2007	2013	2007	2013
Limited rights to call special meetings (2)	90.48%	18.75% ***	23.08%	76.92%	20.00%	80.00%	14.06%	59.65% ***	*** (5)	*** (5)
Majority vote for board members election (2)	32.14%	84.85% ***	23.08%	76.92% ***	50.00%	90%***	24.47%	93%***	** (5)	* (5)
Minimum shares to vote (2)	3.57%	6.06%	0.00%	0.00%	0.00%	0.00%	0.00%	1.00%	N.S. (5)	N.S. (5)
Director liability limitation (2)	30.00%	90.00%	27.59%	100%**	20.00%	100% ***	23.08%	99%***	N.S. (5)	** (5)
Shares with different rights (2)	0.00%	6.06%	0.00%	5.13%	6.67%	16.67%	6.38%	13.00%	N.S. (5)	N.S. (5)
Shareholder engagement/activism (2)	67.86%	93.94% ***	15.38%	56.41% ***	50.00%	70%*	45.74%	88%***	*** (5)	*** (5)

Panel F										
CSR	2007	2013	2007	2013	2007	2013	2007	2013	2007	2013
CSR Committee (2)	28.57%	87.88% ***	41.03%	97.44% ***	33.33%	90%***	67.02%	96%***	*** (5)	N.S. (5)
Sustainability Report (2)	89.29%	100.00%	87.18%	100%*	76.67%	100%**	75.53%	100% ***	N.S. (5)	N.C. (Constant)
External auditor for sustainability report (2)	95.45%	96.55%	67.74%	100% ***	32.00%	88%***	63.16%	91.30% **	*** (5)	N.S. (5)
Sustainability index (2)	75.00%	81.82%*	79.49%	89.74%	76.67%	80.00%	68.09%	75.00%	N.S. (5)	N.S. (5)
GRI. Guidelines (2)	91.30%	100.00%	95.45%	100.00%	90.91%	100.00%	83.33%	94.64%	N.S. (5)	N.S. (5)
UN Global Compact (2)	85.71%	81.82%	82.05%	89.74%	66.67%	80.00%	25.53%	38%***	*** (5)	*** (5)
Stakeholder engagement (2)	64.29%	81.82%*	56.41%	74.36% **	70.00%	80.00%	60.64%	73%***	N.S. (5)	N.S. (5)

Statistically significant at 1% (***), 5% (**) and 10% (*). *NS* not significant, *NC* not conducted
(1) Paired t-test. Differences between different periods of time (pre and post crisis). Continuous variable
(2) McNemar Test. Differences between different periods of time (pre and post crisis). Dichotomous variable
(3) One-way ANOVA. Differences among countries (2007 and 2013). Normal continuous variable
(4) Kruskal-Wallis Test. Differences among countries (2007 and 2013). No normal continuous variable
(5) Chi-square test. Differences among countries (2007 and 2013). Dichotomous variable

4.1.2 Outside Directors

Outside directors are considered an independent governance mechanism whose efficacy is determined by directors' incentives and ability to engage in two primary functions: monitoring management and providing resources/counselling to it (Adams & Ferreira, 2007). Agency theorists contend that the independence of outside directors fosters greater transparency, efficiency, and accountability to managerial monitoring (Fama & Jensen, 1983). Resource dependence theorists view outside directors as critical resource providers who use their human and social capital to provide advice and counselling, connections to other organizations, access to external resources, and legitimacy to the firm (Pfeffer & Salancik, 1978). Theoretically, the presence of outside directors should lead to better firm performance, but the empirical findings on the performance implications of these directors are mixed (Yoshikawa, Zhu, & Wang, 2014).

Governance Codes recommend the presence of a significant proportion of independent directors in order to improve the quality of the Board of Directors. In Spain, France and UK it is recommended that at least half the board be comprised of non-executive directors. In companies with controlling shareholders, independent directors should account for at least one third in Spain and France. The two-tier board structure in Germany distinguishes between the Management Board, where by definition all members are executives, and the Supervisory Board, where employees represent one-third or one-half in companies with more than 500 or 2000 employees, respectively.

The mean value of non-executive directors in the sample varies from 71.82%, for the UK, to 100% for Germany (Table 6, panel A), without finding any significant differences in the pre- and post-crisis analysis.

4.1.3 Separation of Chairman and CEO

Governance Codes recommend a division of responsibilities at the head of the company between the running of the board and the executive responsibility for the administration of the company's business. Therefore, the roles of chairman and chief executive should not be held by the same individual.

The Spanish Code does not make any recommendation about this separation between Chairman and CEO. The UK Code recommends that a chief executive should not go on to be chairman of the same company. If, in exceptional cases, a board decides that a chief executive should become chairman, the board should consult major shareholders in advance, and should set out its reasons to shareholders at the time of the appointment and in the next annual report. French law offers an option between a unitary formula (Board of Directors) and a two-tier formula (Supervisory Board and Management Board) for all corporations. In addition, corporations with Boards of Directors have an option between the separation of the offices of Chairman and Chief Executive Officer and the maintenance

of the aggregation of such duties. The law does not favour either formula, and allows the Board of Directors to choose between the two forms of executive management (Millstein, 2014). The two-tier board envisioned by the German Code has a chairman of the Supervisory Board separate from the chairman of the Management Board (CEO), and no managers are allowed to sit on the Supervisory Board (Larcker & Tayan, 2011).

The results about CEO duality[2] show significant country-based differences. While this value is 0% for Germany, and very low (2%) for UK, it is over 54% for Spain and 64% for France (Table 6, panel A).

4.1.4 Chairman Experience, Director Tenure, Number of Board Meetings and Meetings Attendance

There are also significant country-based differences in other variables related to board structure and functioning. First, the Chairman/CEO experience at companies is very low for the UK (5%) and Germany (20%),[3] while this value increases to 60.6% and 74.3% for Spain and France, respectively, in 2013. Second, the average number of years each board member has been on the board (director tenure) is between 5.46 for UK and 7.99 for Spain. Third, the mean number of board meetings during the year ranges from 5.75, for Germany, and 11 for Spain. The Spanish code recommends having at least 8 board meetings, but the other codes only suggest meeting often enough to discharge board duties effectively. Fourth, the average overall attendance percentage of board meetings is between 86.8%, for Germany, and 96.6%, for the UK.

Board structure and functioning has not suffered significant changes when compared from 2007 to 2013, except for the case of France, where boards became bigger, CEO duality increased, director tenure increased, and meeting attendance was also up.

4.2 Committees

Three main committees have been considered in this section: the audit committee, the compensation committee, and the corporate governance committee. The results show significant differences between countries. An audit committee was found in 96.97% of companies in the UK in 2013, while only 70% of German companies had

[2]The CEO simultaneously being the Chairman of the Board.

[3]The German Code establishes that Management Board members may not become members of the Supervisory Board of the company within 2 years after the end of their appointment unless they are appointed upon a motion presented by shareholders holding more than 25% of the voting rights in the company.

one. A compensation committee was found in 100% of Spanish,[4] French and UK companies, but only in 86.6% of German ones. Corporate Governance committees were less frequent in European firms, and their presence varied, from 25%, in UK firms, to 66.6% in French ones (Table 6, panel B).

4.3 Compensation Policy

Even though executives receive relatively lower compensation in Europe than in the US, there has been an increase in convergence in terms of the structure of compensation, with a greater emphasis on stock-based compensation, such as stock options and long-term incentive payments (De Cesari & Ozkan, 2015).

According to Adams (2012) to align the incentives of CEOs and directors with those of shareholders, CEOs and directors should receive a certain amount of performance-based pay in the form of equity. However, equity incentives may induce managers to take excessive risks. Therefore, it is not always clear whether a given compensation contract is effective or not.

The crisis has increased performance-based pay in the four European countries analysed (Table 6, panel C). Also, the results indicate statistically significant differences in compensation policies among the countries considered.

Even though most companies in Europe feature performance-oriented compensation policies, there are major differences between the countries with reference to CEO compensation linked to total shareholder return before and after the crisis. While in the UK 86% of companies in 2013 had equity-based pay, in other countries this percentage was lower than 30%. Also, in the UK the percentage of firms with a compensation policy related to ESG (Economic Social Governance principals) was higher (70%), than in Spain (18%), Germany (40%) or France (41%).

The top country in terms of a compensation policy to attract and retain executives was the UK, with 97% of companies having such a policy. This percentage lowers to 16.67% for Germany, 36.36% for Spain, and 43.59% for France.

Shareholder voting on executive pay, commonly known as Say-on-Pay, provides an additional tool for shareholder governance via the "voice" channel. The purpose of this mechanism is to promote transparency by providing a new means of expression of shareholder voice, and hence to improve corporate governance efficiency (Stathopoulos & Voulgaris, 2015).

Say-on-Pay was initially introduced in the UK in 2002, and mandates an advisory shareholder vote on executive remuneration proposed by the board of directors. A number of countries have followed the UK's lead, with the introduction of similar legislation (Germany in 2010, Spain in 2011 and France in 2014). Several

[4] Audit and Compensation committees are compulsory by law in Spain since the passing of Law 31/2014.

studies have examined the market reaction to the introduction of Say-on-Pay across different countries. Stathopoulos and Voulgaris (2015) find evidence that the direction and degree of this reaction varies under different settings, a result which raises doubts about shareholders' perceptions regarding the effectiveness of Say-on-Pay.

In 2013 92% of companies from the UK required shareholder approval of executives' compensation (Say-on-Pay). This percentage dropped to 63% and 66% for German and Spanish[5] firms, respectively. All the countries experienced an increase in Say-on-pay when comparing 2007 with 2013, although France had the lowest percentage (7.69%) in 2013 because of its later implementation of the regulation. However, the requirement of shareholder approval prior to the adoption of any stock-based compensation plan is frequently used in France (53.85%) as well as in Spain (63.64%) and the UK (60%), but less common in Germany (26.67%).

4.4 Anti-takeover Devices

Previous research has studied how the value of publicly traded firms is affected by arrangements that protect management from removal, and in most cases entrenched boards have been associated with a reduction in firm value (Bebchuck & Cohen, 2005). Also, restrictions on takeover activity due to legislative actions have induced negative share price reactions (Black & Khanna, 2007).

Governance Codes include recommendations to avoid board entrenchment (Millstein, 2014) and establish director re-election on a regular basis. In the UK all directors must be submitted for re-election at regular intervals, subject to continued satisfactory performance. All directors of FTSE 350 companies are to be subject to annual election by shareholders. All other directors should be subject to election by shareholders at the first annual general meeting after their appointment, and to re-election thereafter, at intervals of no more than three years. Non-executive directors who have served longer than nine years should be subject to annual re-election. Under French law, the duration of directors' terms of office is set by by-laws, and may not exceed six years. However, their Governance Code establishes that it should not exceed a maximum of four years so that the shareholders are called to express themselves through elections with sufficient frequency.

The German Code is the only one that makes recommendations in the event of a takeover offer. In these cases the Management Board and Supervisory Board of the target company must submit a statement of their reasoned position so that the shareholders can make an informed decision regarding the offer, and the Management Board is to convene an extraordinary General Meeting at which shareholders

[5] Since the 31/2014 Law the General Meeting of Shareholders is responsible for setting board of director compensation every 3 years in Spain.

discuss the takeover offer and may decide on corporate actions. After the announcement of a takeover offer the Management Board may not take any actions until the publication of the result that could prevent the offer's success, unless such actions are permitted under legal regulations.

But, has the crisis reduced anti-takeover devices in companies because of their negative influence on firm value?

According to our results, in Europe very few companies have a policy limiting the use of anti-takeover devices. Spain and France had the highest values in 2013, with around 12% of the companies having such a policy. In Germany and the UK this percentage lowered to 3.3% and 6%, respectively. However, this difference among countries is not statistically significant, and neither are the pre- and post-crisis values (Table 6, panel D).

Golden parachutes or other restrictive clauses related to changes of control are found in 35.71% of Spanish companies, similar to the percentage found in the UK, but lower than the ones for France and Germany (50% and 62%, respectively). The change in the use of golden parachutes after the crisis is not statistically significant either.

Staggered boards weaken shareholders' voices, as this board structure makes only one-third of the board eligible for re-election each year and, hence, reduces accountability for two-thirds of the board members (Aguilera, 2005). Staggered Boards are found in 86% of Spanish companies and 97% of French ones,[6] and have increased significantly after the crisis. However, only 17% of German companies and 6% of companies from the UK had staggered boards in 2013, and their presence has significantly decreased after the crisis.

Most of the companies analysed have a supermajority vote requirement or qualified amendments of charters and bylaws. The lowest level is found in Germany, with 64% of companies having it. Spain and the UK have seen a significant increase in this requirement after the crisis.

In 24% of Spanish companies the biggest owner (by voting power) holds the veto power or owns golden shares. In other countries this practice is less common. In the case of Germany, where there are no shares with multiple voting rights, preferential voting rights (golden shares) or maximum voting rights (Millstein, 2014), the percentage of firms with this veto power is 13.8%, while in the UK and France it is lower.

4.5 Shareholder Rights

European companies are making an effort to have policies to facilitate shareholder engagement because of the benefits they can have on corporate governance.

[6] The French Governance Code establishes that terms should be staggered so as to avoid the replacement of the entire board and to favour a smooth replacement of directors.

However, there are significant country-based differences. Almost 94% of Spanish companies have such a policy, as compared to 56.4% of French firms (Table 6, panel E).

Country-based differences are also found in the percentage of companies that have limited the rights of shareholders to call special meetings, which is lower in Spain (18.7%) than in other countries (59.6% in the UK, 76.9% in France, and 80% in Germany).

However, country-based differences are missing with regards to other variables. In most European firms company board members are elected by a majority vote, but very few set requirements for a minimum number of shares to vote, and very few have shares with different rights.

It is worth noting the increase in director liability limitation in companies from all countries after the crisis, with values between 90% of Spanish companies to 100% of the French and German ones.

4.6 Corporate Social Responsibility

Nowadays boards have a mayor responsibility for achieving CSR objectives and sustainability.

In fact, a recent study by Jamali, Safieddine, and Rabbath (2008) found that corporate governance is what drives managers and executives to set goals and objectives in relation to CSR, and the board is key to meeting and promoting these CSR objectives. While the results are mixed and a considerable amount of evidence exists suggesting that various board attributes can have a significant influence on CSR, there appears to be a positive relationship between governance and CSR, suggesting that CG and boards play a major role in CSR (Rao & Tilt, 2016).

The empirical evidence found in our research for this category of variables shows a statistically significant increase in most of the items related to CSR after the crisis in all the countries analysed (Table 6, panel F). Most of the companies in the sample had CSR committees in 2013; 100% of companies publish a separate sustainability report or a section in their annual reports on sustainability; more than 88% of the companies had an external auditor of their sustainability reports; and almost 100% publish the report in accordance with the GRI guidelines. More than 75% of companies report belonging to a specific sustainability index, and between 73% and 82% explain how they engage with their stakeholders.

Therefore, the crisis increased the commitment to CSR policies in all countries, but above all in the UK, where 5 out of 7 of the variables present a significant difference when comparing before and after the crisis.

Before the crisis there were country differences in three variables: CSR committees, with the highest level in the UK (67%) and the lowest in Spain (28.57%); external auditors, with the highest level in Spain (95.45%) and the lowest in

Germany (32%); and belonging to the UN Global Compact, with values between 25.5% and 85.71% for UK and Spain, respectively.

However, after the crisis there are no significant differences in CSR variables between the countries, except for belonging to the UN Global Compact. In the UK only 38% of firms belonged to the UN Global Compact in 2013, while in all the other countries this percentage exceeded 80%.

5 Conclusions

This paper analyses CG policies in Spain and in another three European countries. It considers 33 variables that measure policies related to corporate governance, including the areas of board structure and functioning, committees, compensation policy, anti-takeover-devices, shareholder rights, and Corporate Social Responsibility. The results show country-based differences in CG in 25 variables, and pre- and post- crisis differences in 11 variables for Spain, 10 for Germany, 17 for the United Kingdom, and 18 for France. Therefore, the crisis affected corporate governance in common law countries and in civil law ones.

Differences between countries were found in board size, percentage of non-executives directors, CEO duality, chairman experience, director tenure, number of board meetings and attendance at meetings. Also, there were significant differences between the countries with regards to CEO compensation policies, although in all the countries there was an increase in performance-based compensation policies and in Say-on-Pay policies after the crisis.

Analysing different anti-takeover devices, the results showed that staggered boards are mainly present in Spanish and French companies, supermajority vote requirements are mainly present in the UK and France, and golden parachutes are more used in German companies. Thus, there are also country-based differences in these variables, but they are not explained by the legal system the countries belong to.

The increase in most of the variables related to best CSR practices after the crisis shows a greater commitment to CSR policies across all the countries analysed.

Our findings show the importance of a better understanding in each country of how businesses are handling CG, and of the differences in CG practices between countries, in order to make proposals regarding CG in the future, since CG and board structure remain at the centre of policy debates.

A future extension of this research will consider the relationship between CG policies and performance, taking into account the differences in CG between countries and along time found in this paper. The analysis of this relationship will show the efficiency of such policies as disciplinary mechanisms.

Acknowledgments This paper is part of the research project entitled “Governance, incentives, and risk management in global Banks” (APIE Num. 2/2015-2017), funded by the Santander

Financial Institute (SANFI) with the sponsorship of Banco Santander, awarded by public call of the University of Cantabria (Official Bulletin of Cantabria. BOC Number 236, 9 December 2014).

Annex: Description of the Variables

Name	Description	Type of variable
Board Structure/Functioning		
Board size	Size of board (The total number of board members at the end of the fiscal year)	C
Non executive directors (%)	Percentage of non-executive board members	C
CEO duality	Does the CEO simultaneously chair the board?	D
Chairman experience as CEO	Has the chairman of the board been the CEO of the company?	D
Director tenure	Average number of years each board member has been on the board	C
Meetings per year	The number of board meetings during the year	C
Meetings attendance	The average overall attendance percentage of board meetings as reported by the company	C
Comittees		
Corporate governance committee	Does the company have a corporate governance committee?	D
Audit Committee	Does the company have an audit committee with at least three members and at least one "financial expert" within the meaning of Sarbanes-Oxley?	D
Compensation Committee	Does the company have a compensation committee?	D
Compensation policy		
CEO equity-based pay	Is the CEO's compensation linked to total shareholder return (TSR)?	D
Performance-based compensation policy	Does the company have a performance oriented compensation policy?	D
ESG related compensation policy	Does the company have an ESG related compensation policy?	D
Compensation Policy attract/ retain executives	Does the company have a compensation policy to attract and retain executives?	D
Say on pay (executive compensation)	Do the company's shareholders have the right to vote on executive compensation?	D
Say on pay (stock based compensation)	Does the company require that shareholder approval is obtained prior to the adoption of any stock based compensation plans?	D
Anti-takeover devices		
Policy limiting anti-takeover devices	Does the company have a policy limiting the use of anti-takeover devices?	D
Golden parachutes	Does the company have a golden parachute or other restrictive clauses related to changes of control (compensation plan for accelerated pay-out)?	D

(continued)

Name	Description	Type of variable
Staggered Board	Does the company have a staggered board structure?	D
Supermajority vote requirement	Does the company have a supermajority vote requirement or qualified majority (for amendments of charters and bylaws or lock-in provisions)?	D
Veto power	Does the biggest owner (by voting power) hold the veto power or own golden shares?	D
Shareholders rights		
Limited rights to call special meetings	Has the company limited the rights of shareholders to call special meetings?	D
Majority vote for board members election	Are the company's board members elected by a majority vote?	D
Minimum shares to vote	Has the company set requirements for a minimum number of shares to vote?	D
Director liability limitation	Does the company have a limitation of director liability?	D
Shares with different rights	Does the company have shares with different rights like priority shares or transfer limitations?	D
Shareholder engagement/ activism	Does the company have a policy to facilitate share-holder engagement, resolutions or proposals?	D
CSR		
CSR committee	Does the company have a CSR committee or team?	D
Sustainability report	Does the company publish a separate sustainability report or publish a section in its annual report on sustainability?	D
External auditor for sustain-ability report	Does the company have an external auditor of its sustainability report?	D
Sustainability index	Does the company report on belonging to a specific sustainability index?	D
GRI guidelines	Is the company's sustainability report published in accordance with the GRI guidelines?	D
UN global compact	Has the company signed the UN Global Compact?	D
Stakeholder engagement	Does the company explain how it engages with its stakeholders?	D

D dichotomous, *C* continuous

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