



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Germany
Title:	Statutory gender quota on company boards
Date:	2 October 2015
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<u>Context</u>	
Issue at stake:	German legislator introduces a statutory 30 % gender quota for supervisory boards of all private companies that are listed and subject to full co-determination
Ground of discrimination:	Sex
Source:	Legislation
Field:	Employment
Applicable law:	Law on the equal participation of women and men in leading positions of private companies and in the civil service of 6 March 2015

Content

Legislative development: The newly adopted Law on the equal participation of women and men in leading positions of private companies and in the civil service provides for a statutory 30 % gender quota for supervisory boards of all private companies that are listed and subject to full co-determination, entering into effect in 2016. In case of non-compliance, the election is void and the seat designated for a member of the under-represented gender remains vacant.

The Law covers binding published target quotas for executive and supervisory boards, as well as for the highest management level of listed or fully co-determined private companies. Each company determines its target quota, and although the Law does not specify a minimum quota; the target quota must not fall below the status quo as long as the women quota in leading positions of the company does not exceed 30 %.

The companies addressed must publish their first target quota by 30 September 2015, and reach their self-imposed goals by 30 June 2017. The subsequent time periods for realising self-imposed target quotas must not exceed five years.

The Federal Minister for Justice compared the statutory gender quota with the introduction of women's right to vote and, in accordance with the Minister for Family, Senior Citizens, Women and Youth; declared the beginning of a cultural change. In December 2014, the Ministry for Family, Senior Citizens, Women and Youth launched an expertise on women in leading positions (written in 2010). It recommended a minimum gender quota for supervisory boards, and target quotas and measures to effectively reconcile family and working life for operative management positions.

The German Women Lawyers' Association welcomed the introduction of the statutory gender quota but criticised its very narrow scope of application. The Association demands statutory gender quotas on executive boards and in higher management levels as well, and pointed out that no more than one hundred companies in Germany are listed and subject to full co-determination. Moreover, the Association suggested the introduction of effective sanctions, such as the invalidity of resolutions of the respective board and corporate tax disadvantages.

It is true that for the last fifteen years, soft law and self-regulatory instruments have not been working. Despite the chances of radical improvement in the 'super election year' 2013, in September 2014 females represented only 5.8 % of executive board members and 18.9 % of supervisory board members of the 160 listed companies. Furthermore, 31 of these companies have no female board members at all. The provisions of the law fall short of previous drafts presented by the Greens and the Social Democratic Party.

Key points of analysis: The legislator introduced a statutory 30 % gender quota for supervisory boards of the one hundred most important private companies in Germany, to be realised by 2016. Moreover, the Law covers the obligation of many important companies to publish target gender quotas for boards and the highest management level. Critics point out the narrow scope of application and doubt the effectiveness of the sanctions.

Internet link source:

(all accessed 29 April 2015)

Legislative history with all relevant documents:

<http://dipbt.bundestag.de/extrakt/ba/WP18/643/64384.html>

Critique by the German Women Lawyers Association, <http://www.djb.de/Kom/K1/st14-17/>

Women-on-Board-Index I of 30 September 2014,

http://www.fidar.de/webmedia/documents/wob-index/140930_WoB-Index_I_Internet.pdf