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# **GENDER DIVERSITY IN THE BOARDROOM**

Volume 2: Multiple Approaches  
Beyond Quotas



# Gender Diversity in the Boardroom

Cathrine Seierstad • Patricia Gabaldon •  
Heike Mensi-Klarbach  
Editors

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Volume 2: Multiple Approaches  
Beyond Quotas

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# Foreword

The year 2017 marks not only the sixtieth anniversary of the 1957 Treaty of Rome, by which the European Communities were instated; it also marks the beginning of the European commitment to gender equality. From a modest equal pay for equal work provision in the 1957 Treaty, protecting only economic agents, grew a broad and transversal European attachment to equality, that was enshrined in the Treaties as a fundamental value of the EU (cf. Article 2, Treaty on European Union [TEU]). This makes that today the European citizen is among the most protected in the world against any form of discrimination, with among others the right to equal pay for equal work, a right to parental leave, equality of access to social security, and a right to equal treatment in the labour market.

This is a European success story to which I am honoured to have contributed as Vice-President of the European Commission in charge of Justice, Fundamental Rights and Citizenship. In this capacity I undertook to break the glass ceiling and increase the representation of women on company boards. Study after study clearly indicated the (economic) added value of gender diversity on company boards. Initially I encountered the same arguments over and over: supposedly there just were no qualified

women available to fill openings on company boards. A first step to shatter the glass ceiling was to shatter this myth. Business schools and professional women helped to build a worldwide database with “Board Ready Women”: there are thousands of highly qualified women capable of taking responsibility.

At the same time I challenged companies to pledge their commitment to more gender-balanced company boards, by the voluntary Women on the Board Pledge. Progress, however, was not forthcoming. Convinced of the necessity for Europe, beset by a financial crisis, to tap into the huge pool of talented women out there and unlock the added value for a European economy in turmoil (NB: the European Institute for Gender Equality estimates more gender diversity in the workforce will contribute to a 10% rise in gross domestic product [GDP] per capita in 2050), I tabled a legislative proposal in late 2012 setting an objective of 40% of the underrepresented sex on boards of public listed companies by 2020—to the astonishment of many. In early 2017, the time of writing, this proposal is still to become law. The European Parliament backed the proposal enthusiastically, but a blocking minority in the Council of Ministers keeps dragging its feet. Nevertheless, society has decided not to wait for politics. Since the Commission has set the issue of gender balance on company boards high on the European political agenda, we have seen considerable progress in Europe: over the period 2010–2016 the representation of women has doubled, from 11.9% to 23.9%. We are still far away from the intended 40% (so far only four Member States, namely Finland, France, Italy and Sweden, have at least 30% women on the boards of large companies), but we are going in the right direction. Moreover, there is a stark contrast between those Member States who have adopted binding measures (e.g. Belgium, Germany, France and Italy) and those who did not. In the former the representation of women rose from 9.8% to 33.7%, in the latter only from 12.7% to 20.3%. I leave it to the pages of this publication to shed more light on this remarkable discrepancy. But it is clear that an evolution on company boards is accompanied by a revolution in people’s mindsets. It is a tribute to what deliberate political impulses can achieve.

But we cannot rest on our laurels. Many old challenges persist, while new frontiers emerge. For example, 60 years since Treaty of Rome also means 60 years that the EU has failed to close the gender pay gap—notwithstanding its early commitment enshrined in the Treaties. Throughout Europe women still earn on average 16.3% less than men for every hour worked. At the current rate of change it will take another 70 years for this gap to be closed—an unacceptable perspective for girls born today. We owe it to them to be bolder for change.

At the same time, we have to push against new frontiers. The digital economy harbours huge potential, but we cannot allow the digital skills gap to translate into a new gaping gender gap. In 2013 on average merely 29 out of 1000 women held a degree in computing or related activities, and only four of them actually choose to pursue a career in information and communication technology (ICT). We cannot but realize that structural problems need to be tackled to get more women in digital careers. We cannot afford to keep wasting talent: the European digital economy is projected to lack 756,000 ICT professionals by 2020, and the added value of more women in digital careers is estimated at a €9bn/year boost to European GDP. What are we waiting for?

Unfortunately, a word of warning also has its place here. The progress we have achieved can be undone—if we take it for granted. An American President who got elected in spite of repeated misogynistic comments, a Russian law decriminalising (and thus trivializing) certain forms of domestic violence, and even within the EU we are witnessing pushbacks at the level of regressive national laws and women bashing in political speeches. They are but a few instances of progress threatened to be rolled back. We have to remain vigilant and keep condemning inequality wherever it persists—or re-emerges.

From the Commission's 2017 report on equality between men and women emerges a continent with disparities in equality. Progress differs hugely among Member States in areas such as the gender pension gap; women employment rate (ranging from 48% to 80%); politics (the share of women in parliaments ranging from 9.5% to 45.8% and of women in governments ranging from 0% to 50%); gender pay gap; and women on

boards (ranging from 41% to a mere 4.9%). I hope this study will contribute to our understanding of the underlying dynamics responsible for these discrepancies, as well as point out ways to bridge these gaps. We have the required expertise. Europe counts the world's frontrunners in equality among its Member States. We now need to find ways to unlock synergies to distribute best practices. I hope this timely publication can be instrumental in this sense.

Viviane Reding  
Member of the European Parliament  
Former Vice-President of the European Commission



# Preface

Welcome to *Gender Diversity in the Boardroom—Volume 1: The Use of Different Quota Regulations* and *Gender Diversity in the Boardroom—Volume 2: Multiple Approaches Beyond Quotas*, which are the result of an international symposium on “Women on Boards” at the Annual Meeting of the Academy of Management in 2015 in Vancouver, British Columbia, Canada. The editors participated in the symposium, which was finally awarded the Emerald Best International Symposium in 2015. From this success and from the inspiring discussions before and throughout the symposium, the idea to publish a book was born, and several of the contributors of the symposium were eager to contribute further to this edited book. In fact, the great interest among the contributors resulted in two volumes of the original suggested book. Many discussions circled around different approaches in different countries and researches, and politicians and practitioners likewise were keen on learning from each other. Hence, we realized that there was a need for a comparative collection that provided a holistic overview of national contexts and policies.

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Since finalising this book: On 23 June 2017, Portugal approved the government proposal submitted in February with gender representation regulations (quotas) for both state-owned and listed companies.

The two edited volumes in this project developed out of the research, teaching and consulting work of experts from 16 different European countries in the field of women on boards, and from one international team commenting on the case of women on boards beyond Europe. It is a collaborative effort intended to provide an overview of different legal frameworks and country approaches that aim to increase the share of women on boards. The main goal is to understand how and why different approaches and solutions regarding female underrepresentation on corporate boards in different countries came about. Europe is a perfect context to study how cultural, political and historical differences affect policies and thus the issue of women on boards. Even though the European Union intends to provide a general framework for many politically relevant issues, there is currently no binding European regulation with regard to women on boards. Thus, as can be seen from this project, different countries have developed different strategies and policies. Hence, we divide the two volumes based on countries' policy approaches intended to increase the share of women on boards. Volume 1 includes eight European countries (Norway, Spain, Iceland, France, Italy, Belgium, the Netherlands and Germany) with different types of quota regulations, while Volume 2 explores the situation and approaches in eight other European countries that do not have quota regulations to date (the UK, Portugal, Slovenia, Austria, Sweden, Denmark, Switzerland and Hungary). Furthermore, Volume 2 includes one international chapter that illustrates different types of approaches intended to increase the share of women on boards in three countries beyond Europe.

In this regard, *Gender Diversity in the Boardroom* Volumes 1 and 2 follow two distinct aims: First, we aim to provide an overview of the substantially different approaches and regulations intended to increase female representation on boards in European countries; second, we aim to discuss how these different approaches and regulations came about. We believe that these rich insights into cultural, societal, political and historical factors are relevant in understanding these respective differences. We thereby hope to offer much food for thought to enrich the ongoing

scholarly, political, media and practitioner debates on how to increase female representation on boards.

Cathrine Seierstad

Patricia Gabaldon

Heike Mensi-Klarbach

*(The editors have contributed equally to both volumes  
and both first and concluding chapters.)*

# Acknowledgements

We would like to express our appreciation to all those who helped with this project. We owe our special gratitude to all the participants of the book and the symposiums, whose contributions were essential for this book. Thanks to Audur Arna Arnardottir, Morten Huse, Ruth Sealy, Evis Sinani, Siri Terjesen, Throstur Olaf Sigurjonsson, Florence Villesèche, Gillian Warner-Søderholm, Elena Doldor, Susan Vinnicombe, Mariateresa Torchia, Bari L. Bendell, Jillian Gould, Shruti Sardeshmukh, Ruth Mateos de Cabo, Lorenzo Escot, Ricardo Gimeno, Stephan Leixnering, Deirdre Anderson, Doyin Atewologun, Aleksandra Gregorič, Jesper Lau Hansen, Anna Wahl, Charlotte Holgersson, Daniela Giménez, Alessandra Rigolini, Sara Falcão Casaca, Sonja Kruisinga, Linda Senden, Emmanuel Zenou, Isabelle Allemand, Bénédicte Brullebaut, Abigail Levrau, Anja Kirsch, Aleksandra Kanjuo Mrčela, Beáta Nagy, Henriett Primecz, Péter Munkácsi and Lauren Trombetta.

Furthermore, we would also like to acknowledge with much appreciation the essential role of the Academy of Management's anonymous reviewers and colleagues who encouraged us to bring together and edit this tremendous book.

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# Abbreviations

AFEM	Association of Women of Southern Europe
AGM	Annual General Meeting
AICD	Australian Institute of Corporate Directors
ALP	Australian Labor Party
AP2	Swedish Pension fund
Appr.	Approximately
ASX	Australian Securities Exchange
ASXCGC	Australia Stock Exchange Corporate Governance Council
BCCG	Berliner Center of Corporate Governance
BE	Bloco de Esquerda
BetrVG	Betriebsverfassungsgesetz
BoD	Board of Directors
C-Rules	Comply Rules
CCDI	Competence Center for Diversity and Inclusion
CCF	Comissão da Condição Feminina
CDS-PP	Christian-Democratic/Popular Party—Portugal
CDU	Alliance between Communist Party and Green/Ecologist Party— Portugal
CEO	Chief Executive Officer
CG	Corporate Governance
CGC	Corporate Governance Code
CGD	Caixa Geral de Depósitos

CGR	Corporate Governance Recommendations
CGTP-IN	General Confederation of Portuguese Workers
CIG	Comissão para a Cidadania e a Igualdade de Género
CIG	Commission for Citizenship and Gender Equality
CITE	Commission for Equality in Labor and Employment
CITE	Comissão para a Igualdade no Trabalho e no Emprego
CMVM	Comissão do Mercado de Valores Mobiliários
CO	Code of Obligations
COO	Chief Operation Officer
CORE	Center for Research on Gender Equality
CSR	Corporate Social Responsibility
DICG	Directive on Information on Corporate Governance
DJØF	Danish Association for Graduates and Students in Law, Business Economics, and Political Sciences
EB	Executive Board
EC	European Commission
ECB	European Central Bank
ECHR	European Court of Civil Rights
ED	Executive Directors
EDGE	The Global Business Certification Standard for Gender Equality
EDI	Equality Diversity Inclusion
EEA	European Economic Area
EES	European Employment Strategy
ERCO	Ordinance Against Excessive Remuneration
EU	European Union
EUR	Euro
EWL	European Women’s Lobby
EWMD	European Women’s Management Development International
EWSDGE	European Women Shareholders Demand Gender Equity
FRC	Financial Reporting Council
FTSE	Financial Times Stock Exchange
GDP	Gross Domestic Product
GEAP	Gender Equality Action Plans
HNAM	Hungarian National Asset Management Inc.
ICT	Information and Communication Technology
IFA	French Institute of Directors
IMF	International Monetary Fund
IPCG	Instituto Português de Corporate Governance
IPO	Initial Public Offering

ISA	Israel Securities Authority
L-Rules	Legal Requirements
LO	Employee Federation
LTD	Limited Company
MNC	Multinational Companies
NAAMAT	Naschim Owdot U'Mitnadwot
NASDAQ	Association of Securities Dealers Automated Quotations
NCR	Nationale Coöperatieve Raad
NED	Non-Executive Directors
No.	Number
NPR	National Public Radio
NV	Naamloze Vennootschap
NYSE	New York Stock Exchange
OECD	Organisation for Economic Co-operation and Development
ÖVP	Austrian People's Party
PhD	Doctor of Philosophy
PLC	Public Limited Company
POPH	Promotion of Human Potential
PP	Partido Popular
PPP	Purchasing Power Parity
PS	Socialist Party—Portugal
PSD	Social-Democratic Party—Portugal
R-Rules	Recommendations
S&P 500	Standard & Poor's 500
SCBP	Swiss Code of Best Practice
SE	Societas Europaea
SEC	Securities and Exchange Commission
SIX	Swiss Exchange
SME	Small and Medium Enterprises
SMI	Swiss Market Index
SORS	Statistical Office of the Republic of Slovenia
SOX	Sarbanes-Oxley Act
TASE	Tel Aviv Stock Exchange
TEU	Treaty on European Union
UGT	General Workers' Union
UK	United Kingdom
UN	United Nations
US	United States
WEF	World Economic Forum

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# 1

## Setting the Scene: Women on Boards: The Multiple Approaches Beyond Quotas

Heike Mensi-Klarbach, Cathrine Seierstad,  
and Patricia Gabaldon

### Introduction

The underrepresentation of women on corporate boards in Europe and across the world has received increased attention, especially over the last 15 years. Moreover, we have witnessed an amplified focus on what can be

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Since finalising this book: On 23 June 2017, Portugal approved the government proposal submitted in February with gender representation regulations (quotas) for both state-owned and listed companies.

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done to increase the share of women in senior positions during these years. Although there is an overall consensus that increasing the share of women in areas of power and influence is important for a number of reasons—which range from utility and business case arguments to justice and equality—the best manner in which to accelerate the process has been debated both between and within countries.

In terms of the use of strategies to increase the share of women on boards, Norway was the first country to propose (in 2002) and finally implement (in 2006 with a two-year grace period) gender-balance regulations (quotas) for board positions. This approach was considered radical and received skepticism both within Norway and from other European countries when proposed and when later introduced. Nevertheless, within a few years, a number of other countries (e.g., Spain, Iceland, France, Italy, Belgium, the Netherlands, and Germany) followed similar paths and introduced some forms of quota regulations. Other countries (e.g., the UK) opted for more voluntary measures via targets. Moreover, in 2012 the debate about how to increase the share of women on boards received momentum from the European Union (EU) when the then Vice-President of the European Commission, Vivian Reding, proposed a directive requiring a minimum representation of the underrepresented sex of 40 percent among non-executive directors of companies listed on stock exchanges. However, the proposed law failed to obtain sufficient support within the EU and has been put on hold. Nonetheless, today, most European countries either have some form of policies with the aim of increasing the share of women on boards already in place, or are currently having debates about this issue. Interestingly, despite the collective focus on women on boards in Europe, approaches, viewpoints and motivations vary between countries. This is due to a wide range of factors, including history, contextual aspects, culture, institutional characteristics as well as the role of individual actors.

Literature and studies within the field of women on boards and diversity on boards have flourished over the last decade. While we have observed a convergence in terms of countries choosing to put women on boards and recognizing the need for strategies to implement this agenda, we have also observed a divergence in the strategies chosen. As a response, over the last few years a wide range of studies have set out to explain the situation surrounding women on boards and the selection and implementation of strategies to increase the share of women on boards. Some studies

argue that specific institutional factors are key for explaining the selection and spread of national policies (including quotas) and the share of women on boards (e.g., Grosvold and Brammer 2011; Iannotta et al. 2016; Terjesen et al. 2014; Terjesen and Singh 2008). Indeed, these studies enrich our understanding of the importance of contextual factors and national differences; yet, while these studies demonstrate individual important contextual elements, they do not fully capture cross-country differences. Another body of literature has tried to explain the situation of women on boards and the choice of strategies by focusing on the role of individual actors and political expedience within countries (Doldor et al. 2016; Seierstad et al. 2017). Again, we recognize that this is an important dimension to acknowledge, yet it is complex, and no studies have as yet been able to provide a sufficiently comprehensive understanding of the effect of these actors, enabling or hindering forces and politicking within the different European countries.

When discussing the use of strategies, the reach of the regulations and their consequences and effects, we observe that the situations are complex and multifaceted. There are several reasons for this.

First, there are variations between the policies that are in use in different countries, including countries that are often clustered together in terms of policy. For example, while Norway, Spain and Iceland are consistently listed as countries that have quotas, the use, reach and consequences of the specific quota laws vary significantly between these countries. In particular, while Norway has quotas for the non-executive boards of public limited companies (plc) and penalties for non-compliance, the Icelandic quota system includes both publicly traded firms and private limited companies with 50 or more employees, yet has no punitive sanctions for non-compliance. Both countries fulfilled the quota targets. Spain, on the other hand, was the first of the EU countries to introduce a quota in 2007, yet they did not introduce any penalties for non-compliance and very little political support was given after its introduction; consequently, the 40 percent quota in Spain has not been met (the suggested implementation period ended in 2015). Hence, it is evident that the concept of quotas—what they entail, what they regulate and how they are enforced—varies greatly. Regarding voluntary approaches and so-called soft laws, we also witness significant differences

among countries. Some voluntary approaches contain targets for listed companies, such as those found in the Lord Davies Review (25 percent) and in the Hampton-Alexander Review (33 percent) in the UK, or in the Portuguese Corporate Governance Code (33 percent). Other countries, including Austria and Sweden, have targets for state-owned companies, while they recommend privately owned companies to consider diversity, including gender diversity, appropriately. In the case of Denmark, “underrepresentation” of one gender is defined as less than 40 percent, yet companies are asked to set their own targets. The Swiss Code of Best Practice recommends that boards of directors consist of at least 30 percent women, and that senior management should include 20 percent of each gender, yet is without any deadline or sanctions in the case of non-compliance. In Hungary, on the other hand, due to its political history and contextual factors, any type of regulation is considered to be unwarranted interference of the state in private companies.

Second, international studies and data about the situation of gender balance on boards and the effects of related policies often present rather inconsistent and sometimes confusing information. This is in part because it is rather complex and difficult to obtain data about gender balance on boards on a national level, as it is not always clear which types of companies are included in the statistical data. Furthermore, companies included in the data are not always those actually affected by the policies in place in the different countries. Often, available statistical data only refer to the largest plcs of each country, whereas the policies might apply to a different set of companies. The largest plcs are a category of their own and not necessarily representative of the whole country, and especially not of small companies; hence, the actual gender balance on boards will often vary between and within countries. Thus, the informative content of available statistics is often limited.

Consequently, considering the increased focus on women on boards and the use of substantially different strategies among countries, we argue that there is a need for a better understanding of what is happening within the European setting in relation to women on boards and the use of strategies. In response, the two edited volumes provide a structured and in-depth analysis of the women-on-boards debate and the situation in 16 European countries, and one international chapter describing the

debates in countries beyond the European setting. The different country-specific cases are written by highly experienced researchers working on the topic in their respective countries. Moreover, the country-specific cases include reflections from an actor (i.e., politician, practitioner or policy-maker) that is heavily involved in the women-on-boards debate in the different countries. Taken together, these two volumes offer the possibility of gaining a comprehensive and comparable understanding of the strategies and approaches found within European countries, and can consequently be useful for policy-makers, politicians, practitioners, academics and anyone interested in the topic of women on boards. The volumes are designed as a guide and resource for all those who are interested in understanding how different European countries deal with the issue of increasing female representation on boards. In order to provide comparability within the book and easy reading, all chapters are structured in a similar manner, except where the contributing author felt that a slight change would be better suited to their country-specific case.

## **Volume 2: Multiple Approaches Beyond Quotas**

*Gender Diversity in the Boardroom—Volume 2: Multiple Approaches Beyond Quotas* consists of eight country-specific cases, one comparative chapter and a conclusion chapter. In particular, this volume includes chapters from the UK, Portugal, Slovenia, Austria, Sweden, Denmark, Switzerland and Hungary. Furthermore, one additional chapter comments on the women-on-boards debates and the use of strategies in countries beyond Europe. This chapter includes information from the United States of America (USA), Australia and Israel and comments on international trends. The concluding chapter presents a comparative discussion of the different country-specific cases discussed in this volume.

All of the countries in the case studies presented in this volume have implemented some sort of voluntary approach to increase gender diversity on boards, apart from Hungary. While there are similarities, we also observe great differences in the type and intensity of the multiple approaches taken. According to the chapters we expect some countries

to implement a legal quota (Portugal and Slovenia); others seem firmly following the idea of a voluntarism (UK), while Hungary, as already mentioned, does not seem to address the issue at all. The comparison of these different countries embedded in their respective contexts offers rich insights into both the use of different strategies and the contextual factors influencing strategic choices.

As can be seen from Fig. 1.1, all of the countries have introduced national Corporate Governance Codes. While the UK was the first in 1992, all of the other countries later followed this path. The selection of country-specific cases in this volume reflects the overall trend of a global diffusion of Corporate Governance Codes, triggered by events such as the issuance of institutional codes, including the Organization for Economic Co-operation and Development (OECD) or the International Corporate Governance Network (ICGN) Codes, several scandals or crises, such as the dot-com bubble or the Enron and Parmalat scandals, and the debate surrounding diversity and women on boards.

All of the countries' Corporate Governance Codes include some sort of recommendation with regard to nomination processes, most of them concerning board composition. As can be seen from Fig. 1.2, the topic of gender diversity was included into the corporate governance recommendations in the respective countries at different points in time. Interestingly, the countries that tackled the issues quite recently, like Slovenia (in 2016) and Portugal (in 2014) are also the countries that seem to be closest to introducing quota laws (see Casaca, Chap. 3, and Kanjoo Mrčela, Chap. 4).

Another interesting dimension is added to this topic by observing the development of female representation on boards within the respective countries. Within the eight European countries discussed in this volume, we observe great differences in terms of the overall share of women on boards and the development of women's representation on boards, and thus to what extent the recommendations and proposed targets have resulted in the suggested changes. In fact, by utilizing data from the European Commission at four points in time (2003, 2010, 2013 and 2016) about the presence of women on the largest listed companies in each country, we observe great variation among countries, indicating the need for further in-depth discussion of the different country scenarios.

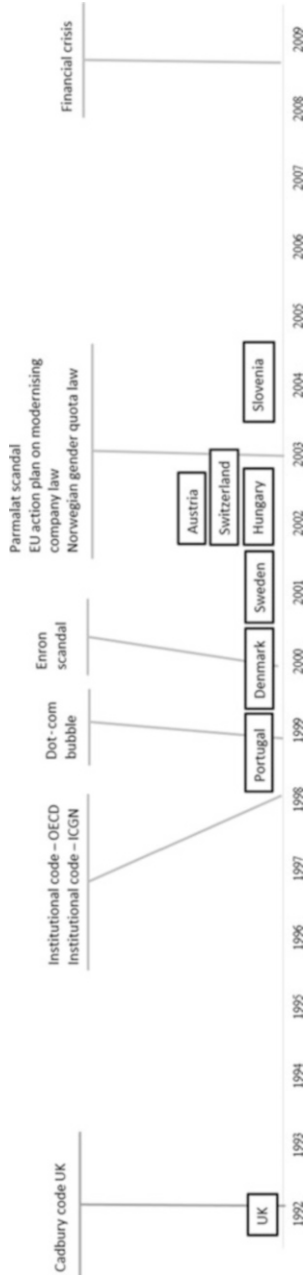


Fig. 1.1 Introduction of Corporate Governance Codes' timeline by country

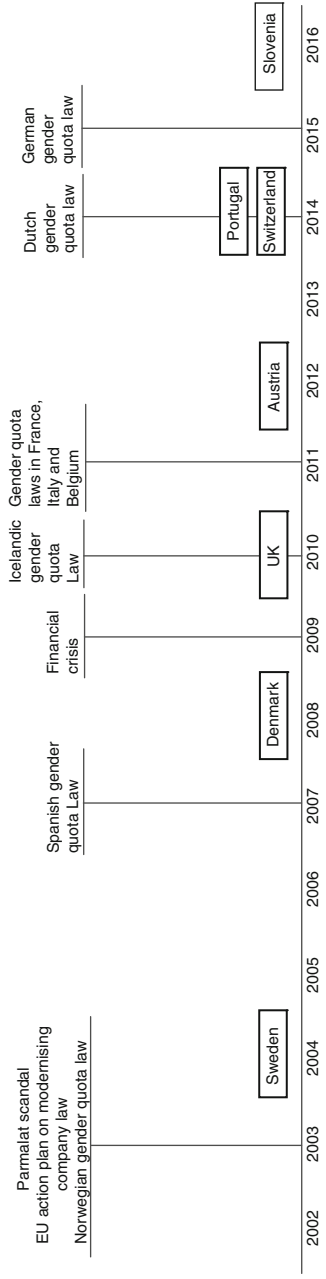
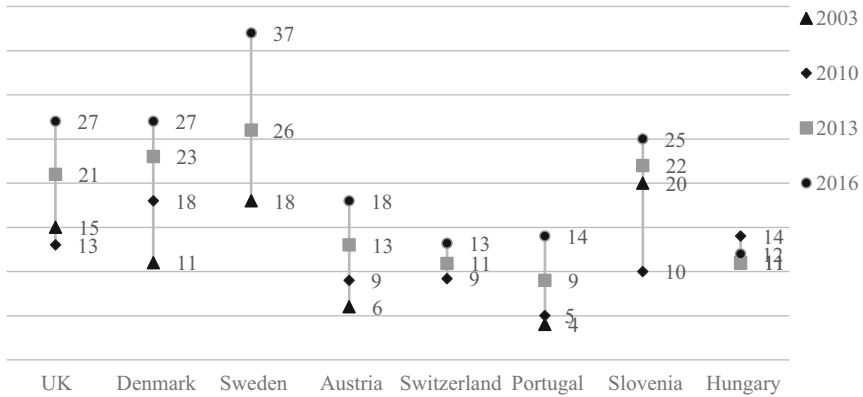


Fig. 1.2 Inclusion of gender into Corporate Governance Codes' timeline by country





**Fig. 1.3** Evolution of the presence of women on boards in the largest publicly listed companies in each country (Source: Main elaboration based on data from the European Union (2016))

One aspect apparent when comparing Figs. 1.2 and 1.3 is that the countries with the longest tradition of having Corporate Governance Codes also have the highest share of women on boards in 2016—the UK with 27 percent, Denmark with 27 percent and Sweden with 37 percent. However, this is only a very first glance at the different country cases. The different chapters presented in this edited volume will provide a more nuanced picture of the particularities of each country, indicating both differences and similarities. A comprehensive analysis of factors influencing the use of particular strategies and the presence of women on boards in each country will be provided in the concluding chapter of this book.

## The Structure and Content of the Book

*Gender Diversity in the Boardroom—Volume 2: Multiple Approaches Beyond Quotas* consists of nine chapters, and each chapter contains the following sections:

- *Introduction*, setting the scene of each chapter and framing the national context

- *General background*, highlighting particularities of each country regarding political and economic systems and in particular the governance structure
- *Discussion of national policies* intended to increase female representation
- *Enabling and hindering forces* that support or hamper female representation on corporate boards
- *A critical reflection* on the case that takes into account the whole content of the chapter
- *An Actor's reflection*, where a relevant actor from each country discusses or reflects on the national case.

The book is structured as follows. In the second chapter, “UK: The Merits and Shortcomings of a Voluntary Approach,” *Elena Doldor* discusses the case of the UK. In particular, the author highlights how the Davies Review has relatively successfully increased the share of women on boards without a quota law. Nevertheless, the author also highlights the fragility of a voluntary approach and the need to follow the case of the UK closely. In the third chapter “Portugal: The Slow Progress of the Regulatory Framework,” *Sara Falcão Casaca* discusses how the current Portuguese government is planning to introduce binding legal measures to increase women’s representation on boards, as the share of women on Portuguese boards is still low. Nevertheless, the author highlights how in Portugal, there has been little grass-root movement or business-actor involvement in the women-on-boards debate, which might consequently be part of the reason for the slow progress of policy change as well as change in terms of actual numbers. In the fourth chapter, “Gender Diversity on Boards of Directors in Slovenia: Impending Legislation to Establish Quotas,” *Aleksandra Kanjuo Mrčela* discusses how in the case of Slovenia, the introduction of a quota law is currently on the agenda and supported by a wide range of actors (i.e., politicians, academics and practitioners). In the fifth chapter “Gender Diversity in Austrian Boards—Combing Soft and Hard Law Regulations,” *Heike Mensi-Klarbach* describes how two different strategies are implemented within one country: there is a mandatory quota for state-owned companies, on the one hand, and no quota regulation for privately held corporations, on the

other. She demonstrates that the mandatory quota for state-owned companies showed a significant effect immediately, yet a spill-over effect to privately owned corporations could not be observed. Thus, the discussion around introducing gender quotas for plcs has gained momentum recently. In the sixth chapter, “Sweden: Work for Change and Political Threats,” *Charlotte Holgersson* and *Anna Wahl* observe that even though Sweden is a gender-equal country with a high representation of women in the workforce, women are underrepresented on corporate boards. Yet, they illustrate that there is a mobilization toward both voluntary and legally binding measures to increase the number of women on boards. In the seventh chapter, “Women’s Path to the Boardroom: The Case of Denmark,” *Aleksandra Gregorič* and *Jesper Lau Hansen* discuss how the persisting preferences for “traditional” types of director characteristics and a limited supply of female candidates accounts for the rather low representation of women on Danish boards. In the eighth chapter, “Gender Diversity on Boards in Switzerland,” *Florence Villesèche* and *Evis Sinani* argue that traditional views of the family and a low awareness of diversity are some of the reasons for the low representation of women on Swiss corporate boards. The chapter sheds light on the current situation and developments and speculates about possible progress to come. In the ninth chapter, “The Downturn of Gender Diversity on Boards in Hungary,” *Beata Nagy*, *Henriett Primecz* and *Péter Munkácsi* discuss the case of Hungary. The authors show how the socialist heritage of Hungary impacts the current position of women in the workforce and the lack of women in top positions. They comment on the lack of will to politically or legally intervene in this regard. Next, *Siri Terjesen* and *Lauren Trombetta* focus on the women-on-boards debates beyond the European context and discuss the case of the USA, Australia and Israel in the chapter “Gender Diversity on Boards in the United States, Australia, and Israel.” Finally, in the last chapter, *Patricia Gabaldon*, *Heike Mensi-Klarbach* and *Cathrine Seierstad* identify some of the key points and findings from the chapters presented in this volume. In particular, the final chapter “Gender Diversity in the Boardroom: The Multiple Approaches Beyond Quota Regulations” summarizes the most important issues, provides a comparison of the different voluntary approaches and relates the

findings to some of the issues discussed in Volume 1. An index of key terms can be found at the end.

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# 2

## UK: The Merits and Shortcomings of a Voluntary Approach

Elena Doldor

### Introduction

Compared to other European countries, the UK has been a pioneer of monitoring gender diversity on boards and has had a sustained focus on this issue since the late 1990s. However, while in recent years countries newer to the debate (e.g. France, Italy, Spain) have adopted a range of mandatory measures, the UK has rejected quotas and preserved its voluntary approach to tackling women on boards. Therefore, a first aim of this chapter is to outline the national context, regulatory approach, and corporate governance system in the UK that have contributed to the persistent preference for non-regulatory measures. Secondly, this chapter examines gender representation trends and national policy on women on boards over more than a decade, emphasizing how and why the voluntary approach became more effective as a result of the Davies Review (2011–2015), which led to an

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increase in the share of women on boards from 12.5 percent in 2011 to 26.1 percent in 2015. Thirdly, this chapter draws out enabling and hindering forces for change in the UK context, highlighting the critical role of institutional pressure and a multi-stakeholder approach in sustaining progress, and offering a critical reflection on the merits and shortcomings of a voluntary approach to increasing the share of women on boards.

## General Background

### Political and Economic Context

The United Kingdom is one of the largest countries in Europe, with a population of approximately 65 million people and a constitutional monarchy with a parliamentary system of governance. In 2016, the UK ranked as the world's fifth largest economy with a GDP of \$2.65 trillion (International Monetary Fund 2016) and in 2015 it was the second largest economy among the European Union (EU) member states (European Commission 2016). The UK adopts a free market economic policy and its economy is dominated by the services sector (particularly financial services) that accounts for over 75 percent of national GDP (IMF 2016). Publicly listed companies in the UK have a relatively diversified ownership with a predominance of foreign ownership (53.8 percent), followed by individuals (11.9 percent), unit trusts (9 percent), other financial institutions (6.6 percent), insurance companies (5.9 percent), pension funds (3 percent), public sector (2.9 percent), and private non-financial companies (2 percent) (Office for National Statistics 2014). The proportion of UK-domiciled companies owned by foreign investors has increased steadily since 1994, reflecting an internationalization of the London stock market. The unemployment rate in the UK is 4.8 percent and the inflation rate is 1.6 percent (Office for National Statistics 2017).

Despite this background of economic strength, the economic prospects of the UK are currently highly uncertain following the June 2016 referendum vote to leave the EU. It is unclear what trade agreements will replace the current EU single market structure and what would be the

long-term loss in terms of GDP. The UK joined the European Economic Community—the precursor of the EU—in 1973 and has historically been a leading member of this political alliance. UK’s relationship with the EU became increasingly complicated over the years, as debates intensified about how far the European integration should go. In 2002, the UK refused to adopt the single euro currency, opting to retain the pound. As ten new countries joined the enlarged EU in 2004 and another two in 2007, the economic disparities between old and new member states sparked concerns about migrant workers coming to the UK in search of better economic and job opportunities. Right-wing parties such as UK’s Independence Party exploited and amplified this anti-European sentiment in recent years, culminating with the 2016 Brexit referendum result.

## Gender Equality Trends

The Global Gender Gap Report (World Economic Forum 2016) places the UK as 20th out of 144 countries in terms of overall gender equality, based on economic participation, educational attainment, health and survival, and political empowerment. Although social attitudes toward gender equality are largely progressive in the UK (e.g. Olchawski 2016 reports that 83 percent of people want equal opportunities for men and women), certain macro-level indicators of gender inequality paint a less optimistic picture. In terms of political representation, in 2015 women held only 29.4 percent of Member of Parliament seats in the House of Commons and 31.8 percent in the Prime Minister’s Cabinet (Centre for Women and Democracy 2015). In the new government formed by Theresa May in 2016, women continue to hold about 30 percent of Cabinet roles. In terms of workplace gender equality, a study across European countries (Glassdoor 2016) ranked the UK 11th out of 18 countries, with below-average scores for several indicators of workplace gender equality, including employment rate, labor force participation, and cost of motherhood. In 2014, there was a 13 percent gender gap in employment, with 69 percent women aged 25–65 in employed, compared to 82 percent men (Azmat 2015). Childcare provisions in the UK are unaffordable particularly in the first years of life. On average, UK

families spend 33.8 percent of their income on childcare, compared to an OECD average of 15 percent (OECD 2016). This is a deterrent from employment, resulting in increased part-time working arrangements and pay penalties among mothers. Working mothers in Britain are significantly worse off than women without families—the pay difference between women with children and those without children is 14 percent (Glassdoor 2016). The pay gap between men and women’s full-time average wages endures at 13.9 percent, meaning that on average women stop earning 51 days before the end of the year, compared to men (Fawcett 2016). This gap is lower for women in their twenties (3.7 percent) and higher for women in their fifties (19.45 percent). Women remain over-represented in low-paid occupations, making up 80 percent of care and leisure workers (Fawcett 2016). On the bright side, UK workplaces fare well in terms of the proportion of female managers, ranking third after Norway and Sweden with more than 30 percent women holding management positions (Fawcett 2016). Yet overall, the division of power and labor between men and women—in work and at home—remains problematic.

Nevertheless, gender equality in the workplace has been an issue of public interest and debate in the UK, leading to decades-long legislative initiatives and HR practices meant to correct these enduring inequalities. In addition to longstanding anti-discrimination legislation at national level, most medium- and large-sized organizations have equality, diversity, and inclusion (EDI) policies that target gender as a major marker of inequality. However, the rhetorical and practical strategies used to implement diversity policies have changed over time. Oswick and Noon (2014) observe three major discursive trends in the field of diversity management over a 40-year period: an early equality discourse, a diversity discourse, and a more recent inclusion discourse—all proffering different anti-discrimination solutions. The equal opportunities approach prominent in the 1980s emphasized a history of structural discrimination for women (and other socio-demographic groups), and aimed to offer systemic solutions for correcting enduring inequalities (such as affirmative action) driven by social justice arguments. In contrast, the diversity management approach emerged in the late 1990s and 2000s and positioned itself as emphasizing responsible, market-driven self-regulation of companies,



unhindered by interventions government approaches; it offered a celebratory narrative about celebration of (gender) differences, underpinned by a business case logic (Jewson and Mason 1986; Kirton et al. 2007; Oswick and Noon 2014). As a result, the arguments for (gender) diversity used nowadays in the UK largely draw on business case and individualistic logics, often neglecting notions of group-based historical disadvantage and proposing a voluntaristic/deregulated approach to change (Ozbilgin and Tatli 2011; Oswick and Noon 2014). These broader trends in the framing and management of equality and diversity are worth noting, as they impact how the UK tackled the issue of women on boards.

## Corporate Governance

UK's corporate governance system reflects a relationship between business and government that is different to most other European countries, in that there is less appetite for interventionist solutions. The main piece of legislation regulating how corporations are organized and run in the UK is the Companies Act 2006 (thereafter referred to as 'the Act'), issued by the UK Parliament in 2006 and amended with final provisions in 2009 (Companies Act 2006). The Act represents the largest company law review in the UK for over 40 years (ACCA 2007) and is considered to be the longest piece of legislation in British history, with over 1300 sections and more than 700 pages. The governmental Department for Business, Innovation and Skills oversees its implementation. The Act's key aims are:

- to codify the main duties of directors (e.g. to promote the interests and success of the company and to consider the environment, the employees and the shareholders in doing so; to exercise independent judgment and due diligence; and to avoid conflict of interests)
- to set out general provisions such as procedures for company formation, constitutional documents, shareholders meetings and communication, and auditors' liability
- to simplify and modernize UK company law, introducing new provisions for private and public companies, and applying a single legal

framework to all companies operating within the UK (unlike previous versions of the law that had separate provisions for Great Britain and Northern Ireland).

While the Companies Act provides a general legal framework for corporations, the Financial Reporting Council (FRC)—UK’s independent corporate governance regulator, regularly issues more specific provisions stipulating how boards should operate. FRC provisions are non-statutory and consist of regular codes of conduct that state good governance principles. Publicly listed companies are expected to comply with the Corporate Governance Code and to disclose in their annual reports how they have complied with it, or why failed to do, if that is the case. This ‘comply or explain’ approach is a trademark of UK corporate governance and reflects a principles-based approach that differs from a rules-based approach, in that the intention of the Code is to provide generic best practice guidelines, rather than rigid and detailed prescriptive rules. The emphasis is thus on a flexible regulatory framework: ‘The Code is part of a framework of legislation, regulation and best practice standards which aims to deliver high quality corporate governance with in-built flexibility for companies to adapt their practices to take into account their particular circumstances’ (FRC 2014).

While there are no sanctions for non-compliance with the Code, the FRC specifies what constitutes a reasonable explanation for non-compliance. In providing explanations regarding non-compliance with a Code provision, a company should ‘illustrate how its actual practices are consistent with the principle to which the particular provision relates, contribute to good governance and promote delivery of business objectives. It should set out the background, provide a clear rationale for the action it is taking, and describe any mitigating actions taken to address any additional risk and maintain conformity with the relevant principle. Where deviation from a particular provision is intended to be limited in time, the explanation should indicate when the company expects to conform with the provision.’ (FRC 2014, p. 4). The FRC recognizes in particular that adherence to the Code principles might be more difficult or less relevant for smaller sized listed companies.<sup>1</sup>

While the UK Corporate Governance Code is widely seen as an international benchmark in good governance, the flexibility afforded by the ‘comply or explain’ principle also raises legitimate questions about degree of compliance and reinforcement mechanisms. A study into the effectiveness of the ‘comply or explain’ approach between 1998 and 2004 (Arcot et al. 2010) found increased compliance with the Combined Corporate Governance Code, but also a frequent use of standard formulaic explanations for non-compliance. These statements reflect rather perfunctory responses suggesting that many PLCs respect ‘the letter’, rather than ‘the spirit’ of the Corporate Governance Code. Arcot et al. (2010) also note that there is no formal authority to verify the veracity of corporate disclosure statements claiming compliance, or to monitor the quality of explanations provided for non-compliance. These limitations make it difficult to fully ascertain the effectiveness of the ‘comply or explain’ approach.

The Code is based on the following underlying principles of good governance: accountability, transparency, probity, and long-term sustainable success of the firm. It outlines good governance principles in five key areas of board practice: leadership, effectiveness, accountability, remuneration, and relations with shareholders. With regards to leadership in particular, the Code requires a clear division of responsibilities between the CEO—who has executive responsibility for running the operational business—and the Chairman—who runs the company’s board. The Code also states that UK PLCs should have a unitary board system composed of executive or inside directors and non-executive or outside directors (EDs and NEDs). The Chairman is responsible for setting the board agenda around the company’s strategic issues, for promoting a culture of openness and constructive debate around the boardroom table, for encouraging contributions from NEDs, and for facilitating a constructive relationship between EDs and NEDs. EDs are typically promoted from within the company, while NEDs are appointed from outside and often selected with the help of executive search firms. The key responsibilities of NEDs are to monitor management’s performance in relation to the company’s strategic goals, to scrutinize the company’s financial controls, risk management and reporting, to determine the remuneration and appointment of EDs and to oversee succession

planning more broadly. The Senior Independent Director, who provides a sounding board to the Chairman, mediates the relationship with other NEDs and leads the NEDs, plays a key role. Informally, the Senior Independent Director is considered the ‘Chairman-in-waiting’ role, as it is the most suitable replacement for retiring Chairmen.

The first version of the Code was published in 1992 by the Cadbury Committee and since then, the Code has undergone several revisions, including the Greenbury Report (1995), the Combined Code (1998), the Higgs Review and the Tyson Report (2003), the revised Combined Code (2008), the revised UK Corporate Governance Code (2010, 2012, 2016). These updates ensued after several independent committees were commissioned to look into current or pressing corporate governance issues. Such committees typically operate in a consultative manner, enabling several categories of relevant stakeholders to have input into the evidence-gathering process that informs their recommendations. Jones and Pollitt identify four broad categories of stakeholders who influence the outcome of UK corporate governance reviews: business (corporates, trade unions, shareholders, trading bodies), authorities (government officials, civil servants, regulatory bodies), public opinion (media, NGOs, major research bodies), and exogenous factors or events (high-profile scandals, macro-economic crises). As a result, in addition to outlining generic principles of good governance, UK Corporate Governance Codes started to increasingly address the need for diversity on boards as this issue became more salient for various groups of stakeholders in the late 2000s. For instance, the revised Corporate Governance Code published in 2010 included a principle emphasizing the value of diversity in the boardroom, and advising that ‘the search for [board] candidates should be conducted and appointments made on merit, against objective criteria and with due regard for the benefits of diversity on the board, including gender’ (FRC 2010, p. 13). In 2011, the FRC amended its Code in light of the Davies Review on women on boards, requiring FTSE-listed companies to report annually on their boardroom diversity policy, gender-related objectives and the progress made in achieving them, and to provide an explanation if they did not use executive search firms or publicized openings when recruiting board directors. Therefore, the strengthening of corporate governance provisions related to board

diversity was related to the specific debates and developments occurring in the field of women on boards. These will be examined in the next section.

## **National Public Policy Regarding Women on Boards**

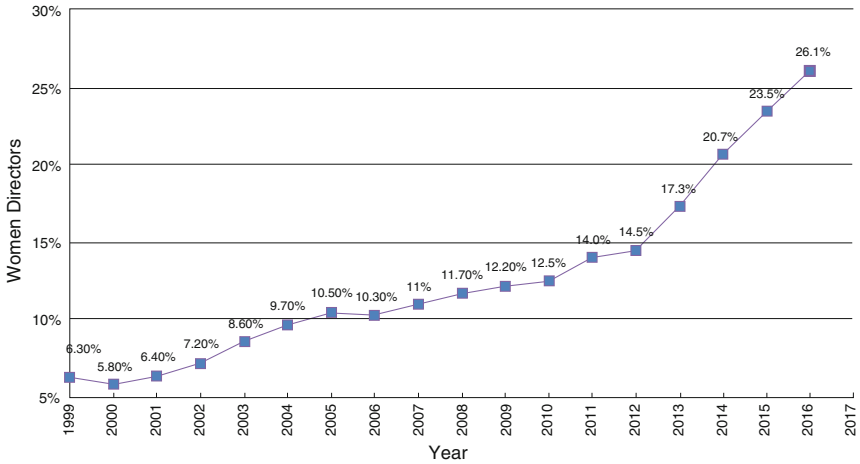
Increasing the share of women leaders and women on boards has been on the public agenda for almost two decades in the UK. National policy in this area has been shaped by a mix of policy-makers/regulators, business leaders, researchers, and women's networks, under the umbrella of a voluntary approach. This section will provide an overview of UK's voluntary policies on women on boards, highlighting the different intensity levels and varying results over time, with reference to evolving figures for women on boards.

### **The Early Years (Late 1990s–2010)**

The lack of women in management and on corporate boards became a topic of research and public debate in the late 1990s. The first official census for women on boards (the Female FTSE Board Report) was published by Cranfield University in 1999, documenting only 6.3 percent women directors on UK's top FTSE 100 boards. The census was endorsed by UK's Government's Equalities Office (GEO) whose successive heads authored the foreword to the report, thus cementing an enduring partnership between researchers and policy-makers in the field. Leading corporations also contributed to the conversation, as FTSE 100 Chairs hosted or attended launches of research reports and got involved in initiatives such as the FTSE Cross-company Mentoring Executive Programme for women.<sup>2</sup> However, at this early stage, the collective conversation was still framed around women's presumed lack of human capital, an explanation for the lack of women on boards endorsed by most business leaders at the time. This myth was gradually dispelled in the mid 2000s, as researchers provided evidence for the human capital women bring to boards, revealing that social capital and

gate-keeping by headhunters were in fact the key obstacles to more gender-balanced boards (Singh and Vinnicombe 2005; Singh et al. 2008). Thus, collective attention and action shifted from women's presumed deficiencies to non-inclusive board selection processes. Monitoring of gender balance on boards gradually expanded from the top FTSE 100 companies to FTSE 350. In addition to monitoring annual trends, the Female FTSE reports became a platform for investigating and articulating the reasons for the lack of women on boards, thus creating a renewed annual focus on this issue. In addition to researchers, policy-makers, and business leaders, journalists also played a key role in sustaining visibility and public interest in the issue. For instance, Sealy et al. (2016b) report 1301 media mentions of their research on women boards over the course of a decade.

By the end of the 2000s, the field had crystallized and broadened beyond a handful of FTSE 100 Chairs and equality regulators, now including other stakeholders such as headhunters, NGOs, women's networks. Academics and policy-makers produced steady research, and business leaders became a more receptive audience. Collectively, more nuanced explanations emerged for the lack of women on boards and some business leaders role-modeled positive action on the issue (such as the cross-FTSE mentoring scheme where a handful of FTSE 100 Chairs mentored senior women from other companies in order to create a pipeline of board-ready female talent). The relationship between government and business remained collaborative but non-interventionist (e.g. by co-sponsoring research, co-hosting 'women on boards' events at national level, or discussing and monitoring board diversity 'best practice' voluntarily adopted by corporations), and the underpinning assumption was that progress could be achieved through monitoring, public awareness, and voluntary action from publically listed companies. However, by 2010 progress was slow with only 12.5 percent women directors on FTSE 100 boards, a relatively trivial increase from 6.3 percent women directors in 1999 (see Fig. 2.1). Moreover, the figures for female EDs and NEDs revealed a persistent shortage on women in executive board positions. In 2010, there were only 5.5 percent female EDs compared to 15.2 percent female NEDs. After a decade of monitoring, public debate and some pioneering action in the field, change remained slow and a collective sense of impatience was developing.



**Fig. 2.1** Women on FTSE 100 boards (1999–2016) (Source: Sealy et al. (2016a))

## The Davies Review (2010–2015)

The issue of women's underrepresentation on boards rose to the top of policy agendas after 2010 in the UK and globally, particularly as several countries began adopting mandatory measures to create change and the EU was deliberating the option of EU-wide gender quotas on boards (Institute of Business Ethics 2011; Seierstad et al. 2015). In this context, the UK's Prime Minister at the time (Gordon Brown, head of the Labour government) held a consultation meeting in 2010 about the lack of progress of women to corporate boards in the UK. With the treat of EU quotas looming, the Prime Minister decided that positive action had to be taken and agreed to an enquiry into women on boards. Despite a change of government, the new Prime Minister (David Cameron, head of the Conservative and Liberal-Democrat coalition government) endorsed the initiative and asked Lord Davies to chair the enquiry. Lord Davies was a former banker who held roles as CEO and Chair of Standard Charter PLC (a leading FTSE 100 organization), and was also a Labor government minister until May 2010, as Minister of State for Trade, Investment and Small Business. As such, he was deemed well placed to be a change agent as he commanded respect from both business leaders and policy-makers.

## Approach and Key Achievements

The process of the Davies Committee enquiry involved consultation of several stakeholders, including senior business leaders, academic experts, search consultants, entrepreneurs, senior businesswomen, and women's networks. Lord Davies was supported by a Steering Committee of experts from business and academia. Following the consultation process, the Davies Steering Committee published its report in February 2011 (Davies 2011). The report used business case arguments for board diversity, examined evidence on key obstacles to women's progression to boards, and formulated ten recommendations to improve gender balance on FTSE 350 boards, as follows:

1. Target setting. FTSE 350 companies should set gradual voluntary aspirational targets for women on boards; all FTSE 100 companies should aim to have at least 25 percent women on boards by 2015.
2. Gender breakdown disclosure. Companies should monitor and report gender representation at all levels, including boards and executive committees.
3. FRC requirement for board diversity policy. Financial Reporting Council (FRC) to amend UK Corporate Governance Code to require listed companies to establish boardroom diversity policies.
4. Company policy, disclosure, and transparency. Companies should set policies and objectives regarding boardroom diversity, and monitor, report, and disclose progress in their annual reports.
5. Board appointment process. Companies and Nomination Committee should provide more transparency into the board appointment process and explain how it addresses the need for more diversity.
6. Investors' role. Investors should proactively encourage companies to address board diversity.
7. Advertising board positions. FTSE 350 companies should publicly advertise NED board openings.
8. Executive search firms' Voluntary Code of Conduct. Executive search firms should draw up a Voluntary Code of Conduct addressing gender diversity and best practice for board level NED appointments.



9. Developing female talent. The development of the talent pipeline should focus on executives in the private sector and women from other sectors with a view of bringing women with non-corporate backgrounds onto boards.
10. Steering Group. The Davies Committee Steering Group will meet every six months to monitor progress.

Thus, the Davies Report outlined a national strategy to ensure more women were appointed to boards, setting a target of 25 percent for FTSE 100 boards by 2015 and a change agenda for each major group of stakeholders in the field. The Davies Report (2011, p. 2) also stressed that: ‘Government must reserve the right to introduce more prescriptive alternatives if the recommended business-led approach does not achieve significant change’. The Steering Committee created accountability and enabled coordination across key players through constant monitoring and high-profile events (e.g. bi-annual reports monitoring how companies implement the report’s provisions, launched with an audience of senior FTSE 100 business leaders and top policy-makers, and benefiting from robust media coverage). At the end of the five-year period, the achievements of the Davies Review were notable, with progress especially among FTSE 100 companies that averaged 26.1 percent women on boards, compared to 19.6 percent women on FTSE 250 boards. Table 2.1 below offers a more detailed picture into the progress made during the Davies Review.

Despite concerns that the increase in female directorships will occur because a small number of women will be holding multiple directorships, our research (Sealy et al. 2016a) demonstrates that in the UK we do not have a situation whereby some women are appointed to multiple board positions, and the pattern of multiple directorships is very similar across genders (see Table 2.2). On average, FTSE 100 female directors are two years younger than their male counterparts, and have an average tenure of 3.6 years compared to men’s average tenure of 5.4 years. This difference in length of tenure is explained by the recent increase in female directors. Although the Davies Report recommended that companies should tap pools of female talent from the public and voluntary sectors, the female directors appointed in recent years still tend to have traditional corporate backgrounds (Vinnicombe et al. 2015).

**Table 2.1** Progress during the Davies Review (2011–2015)

Key indicator	Starting point Feb 2011	End point Oct 2015
Women on FTSE 100 boards	12.5%	26.1%
Women NEDs on FTSE 100 boards	15.6%	31.4%
Women EDs on FTSE 100 boards	5.5%	9.6%
FTSE 100 companies with all-male boards	21	0
Number of FTSE 100 companies with > 25% WoB	12	55
Number of women FTSE 100 chairs	2	3
Number of women FTSE 100 CEOs	5	5
Women on FTSE 250 boards	7.8%	19.6%
Women NEDs on FTSE 250 boards	9.6%	24.8%
Women EDs on FTSE 250 boards	4.2%	5.2%
FTSE 250 companies with all-male boards	131	15
Number of FTSE 250 companies with > 25% WoB	17	82
Number of women FTSE 250 chairs	Na	10
Number of women FTSE 250 CEOs	10	11
Women on FTSE 350 boards	9.5%	21.9%
Women NEDs on FTSE 350 boards	244	628
Women EDs on FTSE 350 boards	45	54
FTSE 350 companies with all-male boards	152	15
Number of FTSE 350 companies with > 25% WoB	29	137
Number of women FTSE 350 chairs	Na	13
Number of women FTSE 350 CEOs	15	16

Source: Davies (2015); Vinnicombe et al. (2015)

**Table 2.2** Multiple directorships among FTSE 100 board members

	One seat	Two seats	Three seats	Four seats
<b>Male directors</b>	89.5%	10%	0.5%	0%
<b>Female directors</b>	87.7%	11.1%	1.2%	0%

Source: Sealy et al. (2016a)

Overall, the Davies Review was thus a precipitating jolt for institutional change, destabilizing established corporate governance and board diversity practices to a larger extent than prior FRC recommendations and board initiatives. Unlike previous voluntary initiatives in the field, the process was unique in its multi-stakeholder approach, engaging a broader range of change actors in this process including Chairmen, nomination committees, investors, executive search firms, and researchers. Additionally, Lord

Davies was an exceptionally pro-active and effective change champion in the way he framed the change, galvanized other players into action, and sustained a collective sense of purpose and responsibility. For instance, between 2011 and 2015, he gave over 300 speeches to various groups of senior business leaders.

## **Headhunters and the Board Appointment Process**

The initial Davies Report (2011) identified that an opaque board appointment process was one of the key obstacles to more gender-balanced boards. In the UK, board openings are not publically advertised and a majority of FTSE companies use executive search firms to recruit NEDs. In line with broader research on executive selection (Khurana 2002; Coverdill and Finlay 1998; Hamori 2010), the report claimed that UK headhunters draw on narrow pools of talent for board recruitments, and judge candidates not only on skills but also on subjective factors such as social ‘fit’ and ‘chemistry’, thus perpetuating male-dominated boards. The report stated that ‘the informal networks influential in board appointments, the lack of transparency around selection criteria and the way in which executive search firms operate, [...] make up a significant barrier to women reaching boards’ (Davies 2011, p. 7).

Prior to the Davies Review, executive search firms and Chairs/Nomination Committees had historically placed the blame on one another for the lack of diversity in board recruitments. The Davies Report asked companies to provide more transparency into the workings of their Nomination Committees, and recommended that executive search firms draft up a Voluntary Code of Conduct to insure more gender-inclusive board appointments. This process was championed and facilitated by a Davies Committee member. Five leading firms drafted the Code and a dozen others provided input on the draft. The Code was published in July 2011 and signed by 20 leading executive search companies; it was then revised in 2013 and by 2015 over 80 firms had signed up to it. The Code’s provisions are included in Appendix 1.

The involvement of headhunters as change actors in the ‘women on boards’ field was a novel and encouraging strategy, as headhunters

effectively ‘gate-keep’ access to boards by mediating the relationship between candidates and FTSE organizations. More subtly, they screen out candidates by circulating certain definitions of talent (Faulconbridge et al. 2009) that are often gendered (Tienari et al. 2013). Our research into the implementation of the Code and the role of headhunters as change agents for women on boards (Doldor et al. 2012, 2016) paints a complex picture of their role. First, headhunters and executive search firms stepped up to the challenge posed by the Davies Review and promulgated a Code—actions they framed as ‘voluntary’, despite justifying their actions in relation to the institutional pressures created by the Davies Review and the EU quota threat, and being very mindful of the commercial opportunities created by more demand for female candidates among clients. Second, headhunters had to redefine their role and adopt new more inclusive practices that clashed with their previous elitist male-dominated practices and assumptions, thus drawing on competing logics. Specifically, three areas of tension and redefinition were notable: the board selection criteria used, the engagement with female candidates, and the engagement with clients.

In order to challenge pre-established and male-centered notions of the ‘ideal board candidate’, the Code required that ‘search firms should work to ensure that significant weight is given to relevant skills and intrinsic personal qualities and not just proven career experience, in order to extend the pool of candidates beyond those with existing board roles or conventional corporate careers’ (2011, p. 3). However, our research revealed that headhunters assigned different and shifting meanings to the notion of ‘intrinsic qualities’, thus maintaining vague criteria despite trying to be more gender-inclusive (Doldor et al. 2012, 2016). Revised versions of the Code replaced the term ‘intrinsic qualities’ with ‘underlying competencies and personal capabilities’. Second, in terms of engaging with female candidates, headhunters had a reputation for being instrumental, transactional and short-termist, privileging easily ‘marketable’ candidates who offered opportunities for immediate placement (typically male candidates). We found evidence that some (but not all) headhunters endeavored to adopt a longer-term and more developmental approach, playing more complex roles throughout the selection process such as coaching, mentoring, and advocating for female candidates. But despite efforts to broaden the talent pool with new female-only candidate databases, some

headhunters used gendered language describing these candidates as ‘lateral suggestions’ or ‘marginal’ (Doldor et al. 2016). Finally, this new role required headhunters to explicitly discuss diversity and inclusive practice with their clients, given that clients dominate the final stages of the board selection process (e.g. interviewing shortlisted candidates and making the final choice). While headhunters were generally aware that clients’ interviewing practices are excessively informal and lack rigor, many of them were not prepared to challenge clients in this respect, shedding responsibility for the final stages of the board selection process. Thus, UK headhunters in the ‘women on boards’ field can be described as ‘accidental activists’, as they became actors who contribute to an institutional change effort without instigating the change, and who can both slow down and accelerate change depending on how they respond to the external pressures placed upon them.

It is difficult to separate the ‘push’ and ‘pull’ factors in board appointments, as both FTSE Chairs/Nomination Committees and executive search firms/headhunters shape these equally. However, it is worth noting that overall, the share of NED board seats going to women has increased to about a third during the Davies Review (see Fig. 2.2), making this one of the review’s key successes.

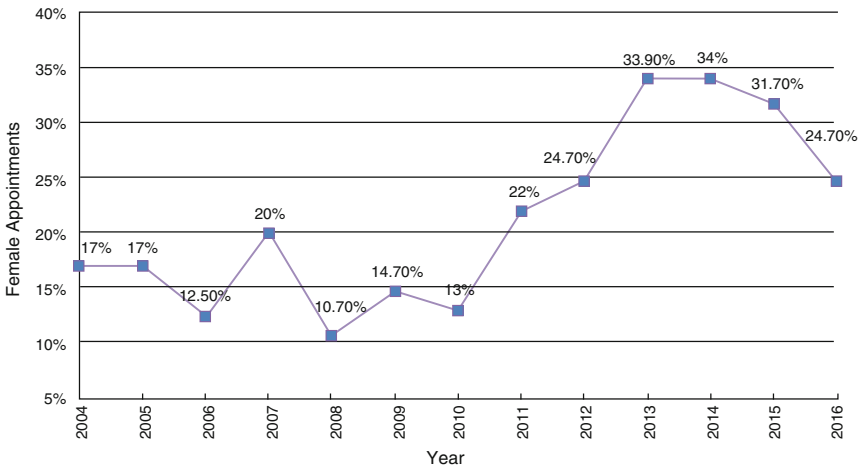


Fig. 2.2 FTSE 100 board appointments going to women (2004–2016) (Source: Doldor et al. (2016); Sealy et al. (2016a))

## The Hampton-Alexander Review (2015 Onwards)

In its closing report, the Davies Review recommended that the voluntary approach be continued for another five years and that another ‘independent steering body, made up of business and subject matter experts with a newly appointed Chair and members, is re-convened to support business in their efforts, act as a catalyst for sustained progress, monitor and report periodically upon progress’ (Davies 2015). The report also recommended increasing the voluntary target for women on FTSE 350 boards to a minimum of 33 percent by 2020 suggesting that particular attention be paid to increasing the share of women who hold roles as Chair, Senior Independent Director and Executive Director. Importantly, the closing report recommended that companies address the longstanding challenge of women’s underrepresentation in executive ranks below board level—a challenge that had not been tackled by the Davies Review.

A new independent review was formed in 2016 under the leadership of Sir Philip Hampton (Chair, GSK) and Dame Helen Alexander (Chair, UBM), with the broad remit of tackling the female executive pipeline across FTSE 350 companies. Thus, the focus of national policy expanded below board level, and for the first time our annual Female FTSE Report (Sealy et al. 2016a) examined gender balance across FTSE 100 Executive Committees, in addition to its regular focus on boards. Such data was not readily available, as FTSE companies have engaged in monitoring and reporting predominantly at board level.

Executive Committees represent the most senior management rank below board level, thus providing an important pipeline of talent for boards. These committees typically comprise the board’s Executive Directors and other senior executives of the company who report to the CEO, but exclude the NEDs and the Chairman. Executive Committee members have significant executive authority over their business areas and are in effect responsible for the daily running of the business. We found only 19.4 percent women holding Executive Committee roles across FTSE 100 companies, a shortage of senior female leaders that would in the long term make it difficult to meet the new Davies target of 33 percent women on boards by 2020. We also noticed a relative stagnation of the pace of

change since the Davies closing report, with 26 percent women on FTSE 100 boards as of March 2016, compared to 26.1 percent as of October 2015. Moreover, the share of new board appointments going to women between September 2015 and March 2016 was only 24.7 percent, the lowest since 2011. The stagnation recorded in our annual Female FTSE Report matched the collective sense we derived from interactions with stakeholders in the field, that pressure on companies had been eased off since the Davies Review concluded its activity. At that point, the new Hampton–Alexander review had not yet formulated a change agenda.

Following a consultation and evidence-gathering process similar to the Davies Review, the Hampton–Alexander report was launched in November 2016. The report noticed a degree of complacency regarding the pace of change for women on boards in the last year. It also found only 18.7 percent women in FTSE 100 Executive Committees, and 26 percent women among their direct reports, thus a combined figure of 25.1 percent for women among Executive Committees and direct reports (Hampton and Alexander 2016). The main recommendations of the Hampton–Alexander review were:

1. Voluntary targets for boards. FTSE 350 companies should aim to have 33 percent women on by 2020, and ensure that more women hold roles as Chair, Senior Independent Director, and Executive Director.
2. Voluntary targets below boards. FTSE 100 companies should aim to have 33 percent women across their Executive Committees and their direct reports by 2020. This calls for more accurate corporate reporting on the compositions of Executive Committees and senior management ranks.
3. Company reporting requirements. The FRC should require companies to disclose their Executive Committees' gender balance in annual reports and the Government should provide a clear definition of 'senior management' such that consistent metrics could be collected across companies.
4. Investors. Institutional investors should develop a clear process for evaluating disclosures on gender balance progress on boards, Executive Committees and below, among their FTSE 350 investee companies. They should also consider voting against the re-election of board

Chairs and Nomination Committee chairs if insufficient measures are put in place.

5. Executive search firms. Executive search firms should extend their voluntary Code of Conduct to help clients increase women's representation on FTSE Executive Committees and direct reports.

At the time of writing this chapter, it is premature to assess progress against the change agenda launched by the Hampton–Alexander review, as no monitoring has been conducted yet. However, the general approach and direction of change seems consistent with previous initiatives in the field, with a wider and arguably more ambitious scope of change that expands below board level. It remains to be seen whether the collective momentum and institutional pressure can be rekindled, for change to occur at the same pace we have witnessed during the Davies Review.

## **Enabling and Hindering Forces and Critical Reflection on the Case**

The historical overview of national policy on women on boards provided above points to some enduring enabling and hindering forces for change, that are to some extent unique to the UK context. Four key factors are discussed below.

First, at national level, despite generally progressive social attitudes regarding gender equality, there is a relatively weak legislative framework to correct broader gender inequalities on the labor market. In particular, provision of childcare is unaffordable (OECD 2016), forcing many working mothers out of full-time work and imposing pay penalties for them. More widely, the UK has entrenched inequalities in terms of socio-economic background, and has been described as one of the least socially mobile countries in the developed world (OECD 2010), with social mobility levels getting progressively worse (Social Mobility Commission 2016). This suggests insufficient political will and/or ineffective mechanisms from state actors to address inequality in society more broadly. The neglect of social inequality issues has also meant that arguments for gender



equality in the workplace rely on the economic and business case, while the social justice case have gradually been silenced. The debate about increasing the share of women on UK boards has failed to leverage on social justice logics, focusing narrowly on the business case (Seierstad 2016). However, interviews with key stakeholders indicate that a sign of progress since 2010, is the fact that the national conversation has focused less on *why* we need women on boards, and more on *how* to achieve gender balance (Vinnicombe et al. 2015). Given the increasing awareness and acceptance of the need for women on boards, it now appears that the main challenge is no longer to change collective attitudes toward the issue, but to create and maintain the institutional conditions that allow for sustained change.

Second, within the business environment, there is a strong anti-regulatory sentiment. The accepted orthodoxy in UK's neo-liberal political regime is that government should 'stay out of the way' of business, or at best facilitate but not dictate the priorities of businesses. Consequently, UK corporate governance relies on a 'comply or explain' approach and FTSE-listed corporations have been overwhelmingly against gender quotas for almost two decades. A positive aspect is that due to this longstanding culture of voluntary compliance, UK businesses engage in monitoring, public disclosure, and pro-active initiatives to a larger extent than business in countries where such a collective dialogue is not the norm. However, under the often-used label of a 'voluntary business-led' approach, the role of the UK government is somewhat under-played (Seierstad et al. 2015). Equality regulators such as the Government's Equalities Office and successive Equalities ministers have played a critical role over the years in funding and championing annual research on the topic, coordinating the dialogue among stakeholders in the 'women on boards' field, and nudging business to engage in change (Sealy et al. 2016b).

Additionally, while the voluntary approach led to doubling the percentage of women on boards during the five-years' Davies Review, its results have been incremental and modest over the decade leading up to the Davies era. The distinct effectiveness of the Davies Review was enabled by mounting international pressure and the threat of EU-wide gender quotas, which Lord Davies leveraged on to generate momentum for institutional change. However, the deceleration of change in the

aftermath of the Davies Review raises questions about the sustainability of such a voluntary approach. External pressure has eased off as Brexit is making European benchmarks for women on boards less relevant for UK businesses. The collective pressure and sense of purpose have also diluted, at least temporarily, during the transition between the Davies and the Hampton–Alexander reviews. With Brexit becoming a national priority and introducing significant uncertainty for business, to what extent will the FRC, government regulators, and FTSE companies prioritize action for gender equality on boards?

Third, regarding the field of women on boards in particular, a unique strength of the UK environment is the longstanding close collaboration between various categories of actors, which was enhanced during the Davies Review. While Lord Davies was a charismatic and effective change champion himself, the Davies Review provides a lesson about the value of a distributed change agency model that widens the circle of stakeholders involved in change and engages unlikely change actors such as headhunters. Other actors that proved significant in the field have been business networks such as the 30 percent Club, a group of Chairmen actively promoting more women on boards. The club started with only seven supportive Chairmen in November 2010, reaching about 60 Chairmen supporters by 2014, and providing input into various national-level ‘women on boards’ policies.

It is also interesting to reflect on our role as academics in such change processes, and how we cultivate dialogic encounter with practitioners invested in the field of women on boards. The experience of our research team in the UK over the last 15 years has taught us that research can impact organizations more effectively if we engage with a wider circle of stakeholders (e.g. policy-makers and journalists) who create the pressure for change (Sealy et al. 2016b). Longstanding engagement in the field has allowed us to shape the collective gestation of ideas and help practitioners redefine problems (e.g. shifting from explanations of insufficient female human capital to explanations focused on board selection processes). However, such close engagement also required trade-offs and political maneuverings, as we were faced with competing pressures from regulators or businesses who sponsored or got involved in our research and had particular agendas. Due to the dominant anti-regulatory sentiment in the

country, in order to maintain collaborations with non-academic actors in the field, we were unable to challenge the simplistic discourses opposing gender quotas in business circles and the hegemonic narrative that voluntary rather than mandatory measures are best suited to address women's underrepresentation on boards (Sealy et al. 2016b).

Fourth, it is important to acknowledge areas where progress has not been made or that have been so far neglected. A main limitation of the Davies Review is that it focused on and improved women's representation in NED positions mostly, with little progress for women in ED roles. The long-term challenge has always been the lack of women in the executive pipeline, and while the new Hampton–Alexander Review has made this its focus, it is too early to tell whether substantive progress can be achieved with voluntary measures in this area. Some Davies Review provisions had limited take-up, particularly the suggestion that board openings be publicly advertised and that companies consider NED candidates outside corporate world (e.g. with backgrounds in the public and voluntary sector, from academia or the professions). Additionally, the national conversation about women on boards has historically neglected issues of intersectionality (particularly ethnicity and class), implicitly focusing on British, White, middle/upper-class women. This has recently begun to change as a new independent review was set up to examine ethnic diversity on FTSE boards, leading to the launch of the Parker Review report in November 2016. However, the conversations about gender and ethnicity boards are still not joined up.

## Reflections of an Actor

Susan Vinnicombe

As the UK has had continuous engagement with the issue of women on boards for almost two decades, it was deemed useful to have the perspective of a longstanding actor in the field, which has witnessed the various stages of the national debate and policy. Professor Susan Vinnicombe has been a pioneer of research and monitoring on the topic since the late 1990s. Importantly, she has been directly involved in both the Davies and

Hampton–Alexander Reviews as a member of their Steering / Advisory Committees, thus having direct input into national policy-making in the field. Our interview focused on drivers and obstacles of change in the UK context, looking back and moving forward.

Reflecting back on the drivers of change, a key turning point identified was the set-up of the Davies Review in 2010, following a decade of very slow progress. A confluence of contextual factors led to the set-up this review, including the mounting EU and international pressure, a longstanding Labour government at the time (Labour politicians have historically been more invested in equality issues than Conservatives), as well as Lord Davies' personal knowledge of male CEOs who acted as gender equality champions in Australia. Drawing on her personal experience of working with Lord Davies and being a member of the Davies Steering Committee, the interviewee attributed to a large extent the success of the review to Lord Davies' personal qualities. People were galvanized into action by his 'energy, humour, terrific personal commitment, and willingness to have his views challenged during consultation meetings'. The teamwork of his Steering Committee was critical, as individual members or subgroups were empowered to work on specific issues or liaise with certain stakeholder groups (e.g. Denise Wilson championed the Voluntary Search Code with leading headhunters). Reaching out to numerous stakeholders and holding several rounds of consultations with women's networks, investors, Chairmen, CEOs, or headhunters, established a culture of dialogue between the Davies Committee and the field more broadly. Lord Davies also did not hesitate to personally reach out to individual business leaders when needed, engaging in vigorous debate to nudge them into action. Finally, his relentless efforts had public impact because he regularly engaged with media to keep the issue on the national agenda. This suggests that in addition to making the case for women on boards, the Davies Review created an institutional framework for collective action by utilizing public and political pressure, by empowering a set of key champions to promote the cause on behalf of his review, and by mobilizing a wider set of stakeholders to engage into action through a 'carrot and stick' approach.

The new Hampton–Alexander review is still in its early days, but Professor Vinnicombe noted some important differences in context and

remit. Expanding the scope of action below board level raises particular challenges, as there is less benchmarking data available for Executive Committees and senior management ranks (while the Davies Review benefitted from a decade of prior benchmarking and research). This makes it difficult to fully grasp the scope of the challenge tackled by the review. Thus, a key issue moving forward is to encourage FTSE-listed companies to disclose such data. It was felt that government should exert more pressure to this effect. Such data might be sensitive—the interviewee’s knowledge of the corporate sector indicates that attrition is a problem below board level, and that companies might be sensitive about publically admitting that they lose female talent.

Furthermore, the new 33 percent target for Executive Committees and direct reports is a starting point but not particularly ambitious. She argued that instead of combining levels of analysis (Executive Committees and direct reports), all senior management levels should be separately examined as the challenges might be different. The target should also take into account the type of Executive Committees roles, as our 2016 Female FTSE Report revealed a wider gender gap in operational compared to functional roles. Moving forward, the coalition of change agents also needs to expand, as female pipeline issues require the engagement of CEOs and senior HR and Talent Management professionals. Historically, these stakeholders have not been as involved in the ‘women on boards’ debate as FTSE Chairs. Structures similar to the 30 percent Club (set up for Chairmen) must be set up for FTSE CEOs.

A broader point raised during our interview was the shift of tone in global politics, where events such as Brexit and election of Donald Trump as President in the USA have injected racism and sexism in the public discourse. Will this anti-female, anti-diversity mood spill over into how workplace equality and diversity is pursued by businesses and policy-makers? The competitive comparison to other EU countries in terms of ‘women on boards’ progress has galvanized British business into action during the Davies Review. It is hoped that other action triggers will provide impetus on this next stage of the journey.

## Conclusion

This historical overview provided in this chapter demonstrates that the UK has had a longstanding engagement with the issue of women on boards. In a business environment dominated by anti-regulatory sentiment and with a ‘comply or explain’ corporate governance system, the UK has opposed mandatory gender quotas on boards. However, the country’s voluntary approach to women on boards has been quite pro-active (Doldor 2013), relying on constant research and monitoring, public scrutiny of FTSE-listed companies, and long-term commitment of key change champions (policy-makers/Government’s Equalities Office, business leaders, researchers, women’s networks).

Following slow progress up to 2010, a key turning point was the set-up of the Davies Review (2010–2015), which has been the most effective voluntary initiative in the field so far. Through a multi-stakeholder approach, voluntary gender targets, and public pressure, the review doubled the share of women on FTSE 100 boards, dramatically reduced all-male boards across the FTSE 350, and increased the share of new board appointments going to women to about one-third. However, the lack of women in executive roles has not changed much. The longer-term challenge of the female pipeline will now be addressed by the new Hampton–Alexander review, set up in 2016. Thus, the intent is to continue UK’s voluntary approach with renewed collective targets for women on boards and below, in an effort to ‘trickle down’ progress.

Despite being touted as ‘successful’ by British businesses, the voluntary approach has had mixed results over the years. The chapter argued that the voluntary approach was particularly effective during the Davies Review due to a confluence of contextual factors. The stalling of change since the closing of the Davies Review suggests that progress is fragile under this paradigm. It remains to be seen whether the same voluntary approach can deliver long-term gender balance on boards and below.

## Appendix 1

### Provisions of the Voluntary Code of Conduct for Executive Search Firms (2014 version)

1. **Succession Planning:** Search firms should support chairmen and their nomination committees in developing medium-term succession plans that identify the balance of experience and skills that they will need to recruit for over the next two to three years to maximize board effectiveness. This time frame will allow a broader view to be established by looking at the whole board, not individual hires; this should facilitate increased flexibility in candidate specifications.
2. **Diversity Goals:** When taking a specific brief, search firms should look at overall board composition and, in the context of the board's agreed aspirational goals on gender balance and diversity more broadly, explore with the chairman if recruiting women directors is a priority on this occasion.
3. **Defining Briefs:** In defining briefs, search firms should work to ensure that significant weight is given to relevant skills, underlying competencies, and personal capabilities and not just proven career experience, in order to extend the pool of candidates beyond those with existing board roles or conventional corporate careers.
4. **Longlists/Shortlists:** When presenting their longlists, search firms should try to ensure that at least 30 percent of the candidates are women—and, if not, should explicitly justify to the client why they are convinced that there are no other qualified female options, through demonstrating the scope and rigor of their research. Search firms should seek to ensure that the shortlist is appropriately reflective of the longlist, discussing with their clients each woman on the longlist and aiming to have at least one woman whom they would 'strongly recommend' that the client should meet.
5. **Candidate Support:** During the selection process, search firms should provide appropriate support, in particular to first-time candidates, to prepare them for interviews and guide them through the process.
6. **Supporting Candidate Selection:** As clients evaluate candidates, search firms should ensure that they continue to provide appropriate

weight to intrinsic competencies and capabilities, supported by thorough referencing, rather than over-valuing certain kinds of experience. Search firms should, as necessary, advise their clients on how to run their interview process to demonstrate the required rigor and professionalism and share best practices on how to avoid unconscious gender bias.

7. Induction: Search firms should provide advice to clients on best practice in induction and ‘on boarding’ processes to help new board directors settle quickly into their roles.
8. Embedding Best Practice: Search firms should ensure that best practices in supporting clients on enhancing board gender diversity are well-documented and shared internally and that adherence to the Code is effectively monitored.
9. Signaling Commitment: Search firms should signal their commitment to supporting gender diversity on boards, and their adherence to the Code, through their websites, marketing literature and client discussions. They should share data on their track record on their website as appropriate and include case studies of their success.
10. Broadening the Candidate Pool: Search firms should seek to broaden their own databases of potential candidates, leveraging as appropriate external lists produced by organizations such as Cranfield. They are encouraged to invest time into developing relationships with the pipeline of future female candidates.

## Notes

1. The code applies to all 350 companies listed in the Financial Times Stock Exchange (FTSE) ranking, typically divided between the larger FTSE 100 and the smaller FTSE 250 companies.
2. This program involves the matching of a female mentee to a mentor who is Chairman of another FTSE company, with the aim of (a) helping women mentees to manage their careers so that they can attain a Board position and (b) drawing the career challenges of senior women executives to the attention of Chairmen of top UK companies.



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# 3

## Portugal: The Slow Progress of the Regulatory Framework

Sara Falcão Casaca

### Introduction

As far as the promotion of gender balance on corporate boards is concerned, the progress of the regulatory context in Portugal has been slow, and policies have relied on a combination of awareness-raising initiatives and soft measures (policy recommendations and incentives to self-regulation). Only recently, since 2012, has it been mandatory for state-owned companies to implement Gender Equality Action Plans (hereafter referred to as GEAPs), with special emphasis being placed on achieving a gender balance on corporate boards, including a more proactive government approach designed to obtain the voluntary commitment to this initiative of the major listed companies on the stock exchange. Some progress has been noted over the last five years, but the overall

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picture is still far from a situation of gender balance and the country displays one of the lowest representations of women on boards in the European Union (EU). Among the largest listed companies, as detailed later on, in only seven out of twenty-eight EU countries is the proportion of women on boards lower than in Portugal (13 percent). The Socialist government, which is currently ruling the country with the political support of the left-wing political forces represented in parliament, is planning to introduce binding legal measures. As will be discussed further in the section *Critical Reflection on the Case*, the impetus for change has mainly been top-down and results from the commitment of just a few people rather than of the main actors in the business field and grass-root organizations. This chapter discusses the case of Portugal and illustrates how the Portuguese approach to increasing the share of women on boards has until now been characterized by the country's relative slowness in developing a regulatory framework at a time when a wide range of other European countries have opted for harder approaches, such as the introduction of binding legal measures.

After describing the *general background* of the political, economic and labor situation in the country and highlighting its singularities from a gender perspective, this chapter outlines the characteristics of the corporate governance system in Portugal and the situation of women in the highest echelons of the business sector. This is followed by an overview of the gender policy and regulatory framework in the country, as well as of the current debate on the introduction of binding measures to accelerate gender balance on corporate boards. Next, the position of the key social actors and their contribution to the debate is discussed, followed by a critical reflection both on the Portuguese case and on one of the key actors. This discussion results from the research work undertaken for this study.

## General Background

Portugal is a relatively small EU country. The population is estimated to be 10,358,076 people in 2016, 53 percent of whom are women Pordata (2016). Equality between women and men was enshrined in the 1976

Portuguese Constitution and, since then, the promotion of equality between men and women has been regarded as a fundamental duty of the State. This constitutional principle is a consequence of the democratic revolution that took place in April 1974, overthrowing the dictatorial regime that had ruled the country since 1926. In 1933, the Political Constitution of the regime known as the “New State” had declared the principle of the equality of citizens before the law “except, in the case of women, for the differences resulting from their nature and for the good of the family”. With the democratic revolution, for the first time in the country, the right to vote became universal, restrictions in terms of professional occupations were abolished (with access being granted to all posts in local government, the diplomatic service and the judiciary) and, after 1976, husbands no longer had the right to open their wives’ correspondence. At that time, women acquired the same civil rights as men, and the principle of the husband’s marital power was abolished.

In 1977, the Commission on the Status of Women (CCF—*Comissão da Condição Feminina*) was formally institutionalized under the auspices of the Presidency of the Council of Ministers, after it had already been in operation since 1975. It now has the name of the Commission for Citizenship and Gender Equality (CIG—*Comissão para a Cidadania e a Igualdade de Género*) and is the official mechanism responsible for implementing public policies designed to promote gender equality in the country. The Law on Equal Opportunities and Equal Treatment for Men and Women in Work, Employment and Vocational Training was enacted in 1979, and a specialized body was established in this field—The Commission for Equality in Work and Employment (CITE—*Comissão para a Igualdade no Trabalho e no Emprego*).

After many Portuguese families had endured extremely poor conditions under the right-wing authoritarian regime, the democratic revolution brought new material and social expectations for both women and men. A greater impulse for the country’s modernization came from its accession to the European Economic Community, in 1986. Even so, for the majority of the working population, wages have remained relatively low, and the indicators on poverty and social inequality are still well above the EU average. With the democratic regime, the welfare state was universalized, and freedom and pluralism became a reality. However, the legacy of

decades of obscurantism still persisted in society, with the State remaining too centralized, high levels of bureaucracy, a weak civil society, and strong social inequalities, including inequalities between men and women in different domains of social life Nogueira (2009, p. 72).

Since the mid-1970s, however, there has been noticeable investment in formal education, despite the gap that still exists in relation to the EU (on average). In 1970–1971, women amounted to just one-third of those with a university degree; in the 1980s, they were already 50 percent; and, according to the latest data available (2010–2011), they now represent 60 percent of all graduates, 64 percent of all master graduates and 55 percent of those holding a PhD degree (CIG 2013).

As far as welfare state provisions, gender ideologies and family characteristics are concerned, Portugal has often been grouped together with the so-called Mediterranean and Southern European countries. However, as Wall (2007) put it, while, historically, Portugal's pathway is linked to the Southern European male breadwinner model, it is also possible to conclude that the process of change has been marked by divergence. Since the late 1990s, progressive public policies relating to family matters, the expansion of service provision and parental leave have all been embedded in a gender equality model geared toward providing support for a greater involvement of fathers in parenting roles and in the dual-earner model. Moreover, Portugal has had a long tradition of participation in employment and stands out as the country with the highest female contribution to the income of dual-earner families (Torres et al. 2004; Wall 2007; Casaca 2012; Casaca and Damião 2011), as outlined in the following section.

## Political and Economic System

The global financial meltdown of 2008 severely affected the country by exacerbating the so-called sovereign debt crisis and leading to the implementation of three “Growth Programs” in 2010 and two subsequent packages, aimed at containing the deficit and the public debt. In March 2011, the Parliament failed to approve the fourth Stability and Growth Program, leading the government to recognize the need for external financial support and creating a political crisis. In May, a three-year



bailout program was therefore agreed with the Troika—the European Commission (EC), the IMF and the European Central Bank (ECB). A key condition of the bailout was compliance with the EU policy guidelines and meeting the target of a fiscal deficit of no more than 2.5 percent of GDP by 2015. As a consequence, the policy agenda has largely been dominated by the current fiscal consolidation plan, austerity measures, labor market reforms, and the country’s critical economic and employment situation (Ferreira 2014; Addabbo et al. 2015). In recent years, some convergence has been observed between men and women’s situation in the labor market as gender gaps have become narrower in employment and unemployment, as well as in part-time and temporary work. Far from there being a trend toward greater gender equality or an expression of a substantial change in gender relations, these results suggest that men have found themselves moving closer to the women’s vulnerable position in the labor market (Addabbo et al. 2015).

### **Governance Structure According to Company Law**

The first recommendations on corporate governance were enacted by the regulator—the Portuguese Securities Market Commission (CMVM—*Comissão do Mercado de Valores Mobiliários*)—and date back to 1999. In 2001, the Commission made it mandatory for listed companies to publish an annual report on their governance structures and practices and declare their level of compliance on a “comply or explain” basis. Since then, the regulation has been amended a few times, with an attempt also being made to adjust to the European Commission’s guidelines (Alves and Mendes 2009; Pereira et al. 2010). The specific recommendations include the coverage of key aspects such as: shareholders’ meetings and disclosure; board of directors; supervisory board; committee on financial matters; audit committee; and statutory audit; specialized commissions and remunerations. The latest regulation on this subject issued by the CMVM came into force in 2013.<sup>1</sup> It revised the nature of the contents to be included in the report and made it possible for listed companies to opt for an alternative Code of Governance to the one recommended by the CMVV, duly accompanied by a suitable justification.

Listed companies are currently regulated by the Company Code (*Código das Sociedades Comerciais*), the Securities Code (*Código dos Valores Imobiliários*), the Code of Corporate Governance (CMVM), other mandatory regulations and guidelines issued by the CMVM, and also by self-regulation and market control (Mota and Montez 2012). The CMVM is also the national “supervisory authority with powers to oversee the compliance of listed companies with the applicable rules, as well as to instruct the procedures for any offences committed and apply the relevant sanctions, such as administrative fines or ancillary penalties” (Mota and Montez 2012, p. 252). The Portuguese Corporate Governance Institute (IPCG—*Instituto Português de Corporate Governance*) has played a key role in setting out the Good Corporate Governance Code. This Code was approved in 2013 and serves as a general guide of good practices designed for all companies, including the listed ones. It has been seen as an alternative to the CMVM code, since—according to the latest revised regulations (2000 and 2013), it is now possible for listed companies to opt for other Corporate Governance Codes. Both bodies are currently involved in a joint proposal for a new revised code (under public consultation in May 2016).

## **Governance Structures and Practices**

According to the Company Code (*Código das Sociedades Comerciais*, art. 278. °), which came into force in 2007, any one of three governance models may currently be adopted:

- the one-tier Latin model, comprising a Board of Directors (with an odd number of members, unspecified), a Board of Auditors and a Statutory Auditor (this may be a single person). All these board members are elected by the Shareholders’ General Meeting. The articles of association may authorize the board to delegate the day-to-day management to some directors or to an Executive Board (EB). In this situation, the non-executive members have the duty to exercise general supervision of the EB, with its more detailed supervision being the responsibility of the other bodies.

- the one-tier Anglo-Saxon model comprising a Board of Directors, including an Audit Committee and a Statutory Auditor.
- the Continental (or two-tier) model, based on two fundamental boards. The Supervisory Board and the Executive Board of Directors. The Shareholders' General Meeting elects the Supervisory Board members, who are in charge of supervising and monitoring the management; they are also responsible for appointing (and dismissing) the Executive Board of Directors and the respective chair (including a committee on financial matters). A further governing body is the Statutory Auditor (Alves and Mendes 2009).

The one-tier Latin model is the one most commonly adopted among listed companies, followed by the Anglo-Saxon model (Mota and Montez 2012). According to the latest information available, in 2014, the Latin model was the model of governance used in 31 listed companies (representing 72 percent of the total number of companies), with the Anglo-Saxon model being adopted by 11 and the two-tier model by only two of the listed companies, thereby representing 26 percent and 2 percent, respectively (CMVM 2016, pp. 8–9).

### **Board of Directors**

According to the recommendations made by the CMVM, each company must ensure that its governing bodies have the necessary number of members to guarantee the separation between governance and management functions. The number of members is specified by each company, according to its respective size and specificities (shareholder's structure, for instance), and duly set out in the respective statutes. Such information must be transparent and reported on an annual basis (see above). A recommendation is made regarding the number of non-executive members, as this shall guarantee the capacity to effectively follow-up, monitor and assess managerial activities. Moreover, the number of independent members (among the non-executives) must reflect the company's size and the shareholder's structure, but can never be less than one-quarter of the total number of directors. In the one-tier model, the board is generally

made up of executive and non-executive members (individuals who participate in board meetings and are expected to appreciate and formulate opinions regarding the board's plans, to help—due to their valuable experience—in shaping the board's decisions, and to supervise the performance of executive members, but without having any managerial power). The board of directors nominates the executive board members. In the case of the Anglo-Saxon model, the audit committee must consist of at least three non-executive members. (According to the Corporate Code, this committee should also have a majority of independent members.) In these models, the directors are appointed (and dismissed) by the shareholders' general meeting. In the two-tier model, board members are elected, suspended and dismissed by the general and supervisory board (or, if stated in the articles of association, by the shareholders' meeting). Directors are elected for up to four years (Mota and Montez 2012, pp. 253–254) and must possess the appropriate technical competences, as well as having knowledge of the company's activity and sufficient availability to pursue their duties (Mota and Montez 2012, p. 257).

As for state-owned companies, the legal framework is governed by different laws and amendments. In the case of the appointment of the board of directors, the decision is made by the Council of Ministers or, in some cases, also by the Minister responsible for the respective sector. The decision is based on an appraisal report drawn up for each appointee by the Committee on Recruitment and Selection for Public Administration (a body created in 2012). The criteria for the position are established by this Committee but, in general, the appointees must possess integrity, professional merit, skills, management experience and a bachelor's degree (OECD 2013). The statutory principles regarding public managers must be followed and were defined in 2007 (Decree-Law No. 71/2007).

## **Supervisory Boards and Auditors**

Supervisory board members and audit committee members are elected by the shareholders' general meeting. These bodies must have a greater number of members than the executive board of directors. Whereas auditors are responsible for carefully examining the ledgers, accounts

and financial statements of the company and ensuring their compatibility with accounting policies and standards, the supervisory board members are in general responsible for: “supervising the corporate activity; supervising the internal audit and risk control systems; controlling the financial information and bookkeeping of the company; receiving communications of irregularities; and issuing reports regarding the supervision and opinions about the accounts submitted by the board of directors” (Mota and Montez 2012, p. 257).

### Gender-Balance Criteria

No reference is to be found to gender balance on corporate boards in any regulatory document produced by the CMVM. However, according to the Good Corporate Governance Code designed by the IPCG in 2014, a recommendation is made to the Nomination Committees to try and appoint highly qualified women to the governing bodies whenever its composition is being reconfigured. Moreover, as already mentioned, in 2016, a new code of corporate governance was drawn up in conjunction with the CMVM and is now under public consultation. This states that: “corporate companies shall set criteria and requirements for the membership of corporate bodies that are adequate in relation to the post to be filled; in addition to personal attributes (such as independence, integrity, experience and competence), criteria shall also be observed relating to diversity, in particular gender, in order to contribute to a better performance of the corporate board and to its more balanced composition” (IPCG 2016). Companies are also recommended to set specific targets to attain a balanced gender representation by 2020. Since 2013 (as outlined in the section entitled *National Public Policy Regarding Women on Boards*), the chair of the board of directors of the regulatory body (CMVM), like all the other regulatory bodies, must alternate between men and women, and the distribution of other members of the executive board must guarantee a minimum representation of 33 percent of each sex. For state-owned companies, no quantitative targets have been set so far; the new government proposal, however, states the minimum representation of 33 percent of each sex by 2018, as detailed in the Section on the Regulatory Framework.

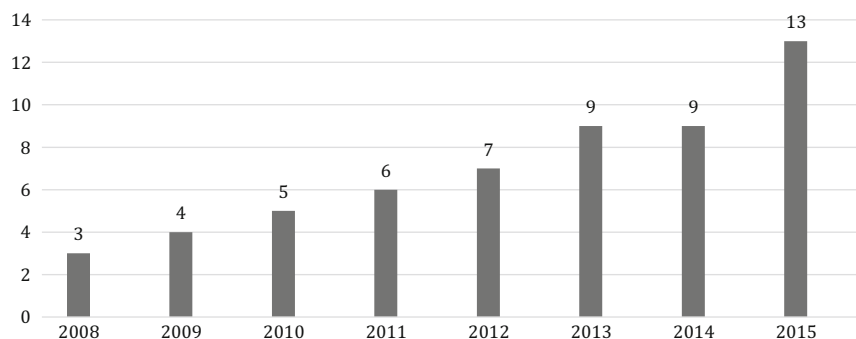
## Facts and Figures

Until the aftermath of the economic and financial crisis, the women's employment rate (aged 15–64) was above the average level for the EU. According to the latest data available (for 2015), the women's employment rate is now 61.1 percent and the EU average (EU28) is 60.4 percent. Only 12.5 percent of employed women work on a part-time basis. Moreover, Portuguese women tend not to interrupt their labor trajectories after childbirth. On the contrary, in 2015, the employment rate among women (aged 20–49) with children under 6 years of age was actually higher (78.5 percent) than among women without children (74.1 percent)—which may be seen as a singularity of the country.

There are historical, social and economic factors that may explain such relatively high levels of female labor force participation, such as the shortage of male workers due to their massive recruitment for the country's colonial wars and high emigration flows (initially a male-dominated phenomenon), both of which occurred in the 1960s; low wages and the need to bolster family incomes; the development of the public administration sector, after the democratic revolution in 1974, and, since then, women's increasing formal educational success, as well as the effects of a socialization process that has been based on the dual breadwinner model (Torres et al. 2004; Casaca and Damião 2011; Casaca 2012). However, despite their intensive labor market participation, the quality of employment is generally low and patterns of horizontal segregation are still prevalent, with women being overrepresented in precarious jobs and in those occupations offering poor career prospects, while also earning 16.7 percent less than men (basic wages) and 20 percent less when it comes to total earnings (data refer to 2014).<sup>2</sup>

Despite the important strides that have been made in terms of investment in education and labor market participation, the underrepresentation of women in Portugal both in management positions and in economic decision-making is quite noticeable. According to the Gender Equality Index (EIGE 2016), the economic power of Portuguese women is the lowest (7.2) of all the EU28 (average: 31.7—data refer to 2012 and are calculated on the basis of two indicators: the share of board members

in the largest listed companies and the share of board members at central banks). In state-owned companies—a sector targeted by the normative framework, which has been encouraged to implement GEAPs since 2007 and has even been obliged to adopt them since 2012—women account for 23.1 percent of board members and 9 percent of all CEOs (data refer to 2014).<sup>3</sup> As for the largest 500 companies, a recent report estimated that only a small percentage of women (8.3 percent) were represented on boards (Informa D&B 2016). The systematic provision of information and comparable data has only been available since 2003 and currently relates to the largest companies listed on the Lisbon Stock Exchange.<sup>4</sup> Figure 3.1 displays data from 2008—as this is the period corresponding to the first policy recommendations in the country for the adoption of GEAPs in the business sector, and the number of companies covered in the survey has since become more stabilized. Despite the increasing proportion of women in the highest decision-making bodies, rising from 3 percent in 2008 to 13 percent in 2015 (see Fig. 3.1), the figure is still well below the EU average (23 percent) and situates Portugal among the laggard countries in this area: only in 7 out of the 28 EU countries there is a lower proportion of women on boards. During this period, no woman has held the CEO position.



**Fig. 3.1** Women in the highest decision-making bodies (boards) in the largest listed companies (%) (Source: European Commission database on women and men in decision-making positions (data relate to October—19 companies between 2008 and 2011; 18 companies in 2012 and 2013; 17 companies in 2014 and 2015))

According to the latest CMVM report, among all the listed companies (43 in 2014), the proportion of women on boards was lower than among the largest ones, as women filled only 40 out of 422 managerial positions (9.5 percent) (CMVM 2016, p. 10).

## National Public Policy Regarding Women on Boards

The regulatory context in Portugal has been slow and policies have relied on a combination of awareness-raising initiatives and soft measures. The already-mentioned Commission for Equality in Labor and Employment (CITE), together with the Commission for Citizenship and Gender Equality (CIG), have given the “Equality is Quality” award to companies that distinguish themselves in the promotion of gender equality in the workplace. This award has been granted since 2000, and in a systematic manner by the two bodies since 2005. The initiative was put in place under a Socialist Government (14th Constitutional Government), within a new political institutional context: a Minister of Equality was appointed for the first time in the country. It is worth noting that, in the late 1990s, the policy context in the EU was favorable to the development of equal opportunities policies and gender mainstreaming in national employment policies (Villa 2013). The Portuguese government was in tune with the “spirit” of the time. The first phase of the European Employment Strategy (EES), after its launch in 1997, shaped the first National Employment Plan in the country, with Equal Opportunities being one of the four pillars. Various innovative policies and measures to tackle discrimination on the grounds of gender were envisaged, including the attribution of awards to exemplary companies, but also key reforms were made to the policy relating to employment leave in order to promote fathers’ parental roles and to contribute to the modernization of gender relations (Rêgo 2012). A Global Plan for Equal Opportunities was designed in 1997, also for the first time in the country, under the 13th Constitutional Government (Socialist).

One decade later, under the 17th Constitutional Government, led by the Socialist Party, a major change in the political legislation was



introduced by the Parity Law.<sup>5</sup> In the case of the business sector, some further steps were taken, but the preference was for a *soft* route. A Resolution of the Council of Ministers (approved in 2007) stated that all state-owned companies should adopt gender-equality plans, after carrying out a detailed internal diagnosis. Such a statement was explicitly in line with the Principles of Good Governance of the Public Sector. One year later, a new resolution (RCM No. 70/2008) outlined the strategic principles for public sector companies and reinforced the understanding that human resource management policies and practices should be put in place in order to promote equality between women and men and the reconciliation among professional, family and private life. This was to be accomplished through the adoption of GEAPs. The adoption of GEAPs has also been one of the measures laid down in all the national action plans since 2007 (The Third National Action Plan for Equality: Citizenship and Gender 2007–2010), the following one (2011–2013) and the current one (The Fifth National Plan for Equality—Gender, Citizenship and Non-Discrimination—2014–2017). The latter includes measures designed to strengthen the implementation of plans for equality in private companies; monitor the enforcement of the legal initiatives relating to the implementation of action plans for gender equality in state-owned companies and the promotion of women’s representation in the highest decision-making bodies; and take into account the representativeness of women on managerial boards as a decisive criterion for the selection of projects applying for funding under the Cohesion Policy. It was in this political context that financial support was made available through Priority Axis 7 of the Operational Programme for the Promotion of Human Potential (POPH), under the National Strategic Reference Framework (QREN, 2007–2013). In this context, about 85 million euros were made available to fund the public policies geared toward the promotion of gender equality. The intervention typology 7.2, for instance, was specifically aimed at the promotion of gender equality plans in companies and organizations (private, public and non-profit sectors).

In 2012, under the center-right coalition that formed the 19th Constitutional Government (2011–2015), a new resolution was adopted and the implementation of GEAPs became clearly mandatory for all state-owned companies, after the required diagnosis/gender audit had been

carried out, followed by a full monitoring process. These companies were also obliged to report the progress made to the government member responsible for gender equality (every six months). It was also stated that, in all private companies with public capital, the State must recommend to private shareholders the adoption of gender equality policies. GEAPs, as well as self-regulation measures, were also recommended to all the publicly listed companies. Decree-Law No. 133/2013 provides for the following obligations: the managerial and supervisory boards of state-owned enterprises must set the plural presence of men and women in their composition as a core objective; state-owned companies must define specific goals in terms of the promotion of equality and non-discrimination, and adopt gender equality plans in order to achieve an effective equal treatment and equal opportunities between women and men, to eliminate discrimination and to promote the reconciliation of professional, family and personal life. The regulatory bodies were also targeted: Decree-Law No. 67/2013 established that the nomination of the chairperson of the Board of Directors should alternate between men and women, and the distribution of the other members of the executive board should guarantee a minimum representation of 33 percent of each sex. In March 2015, a new government resolution established a deadline for listed companies: the target of at least 30 percent of women had to be reached on a voluntary basis by 2018; otherwise, a quota law would be enacted. In June 2015, 13 out of 43 publicly listed companies signed the respective agreement. In addition to the personal commitment shown by the Secretary of State for Parliamentary Affairs and Equality, the still pending proposal of the European Directive to increase Gender Equality in the Boardrooms of Listed Companies, suggested in 2012, as well as the European Strategy 2010–2015, which included equality in decision-making as a strategic area, may have acted as the inspirational framework for more proactive measures.

The new government, supported by left-leaning parties, which has been in power since November 2015, has announced its plans to introduce legislation comprising mandatory quotas for various segments of activity (state-owned companies; listed companies, public administration; supervisory boards; universities). According to the information provided by the Secretary of State for Citizenship and Equality, both quotas and deadlines

vary across different domains and have been set by the government (as a first proposal), as follows:

- Decision-making bodies of enterprises operating in the area of public administration—33.3 percent of the underrepresented sex by January 2017; 40 percent from 1 January 2019 onward;
- Board of Directors and supervisory boards of state-owned companies—33.3 percent of the underrepresented sex by 1 January 2018;
- Boards of Directors/nominations to administrative positions at institutions of university and polytechnic education—33.3 percent of the underrepresented sex from 1 January 2017, and 40 percent from 1 January 2019 onward;
- Decision-making bodies of enterprises operating in the local government sector (linked to local municipal councils)—33.3 percent of the underrepresented sex from 1 January 2018;
- Decision-making bodies of listed companies on the Lisbon Stock Exchange—20 percent from 1 January 2018; 33.3 percent from 1 January 2020 onward.

This proposal, whose details have not yet been made public, was presented to the social partners in May 2016, at a meeting held under the auspices of the national committee for social dialogue. It was part of a wider program called *The Agenda for Gender Equality in the Labor Market and Companies*. The Agenda is still under consultation among the social partners and the proposal for a new law will be submitted to the Portuguese parliament before the end of 2016.<sup>6</sup>

## Enabling and Hindering Forces

According to the Special Eurobarometer survey carried out in 2011 on *Women in Decision-making Positions* (European Commission 2012), roughly one out of four Portuguese citizens were in favor of the imposition of binding legal measures to achieve a gender-balanced representation on corporate boards, and one-third expressed a preference for self-regulatory initiatives. Most respondents (57 percent) were in favor of a

parity scenario, stating that, in the event of legislation, a realistic target would be 50 percent of men and 50 percent of women on the boards of publicly listed companies. Therefore, based on this extensive survey, there should be grounds for thinking that the Portuguese population shows a clear and positive attitude toward gender balance in management positions.

In order to analyze the enabling and hindering forces affecting the evolution of the normative context and the foreseen quota legislation, different key actors were identified and contacted for the scope of this study. They were asked about their position in relation to the policy framework, the main causes of the low representation of women in the highest decision-making positions and the possible solutions needed to tackle the persistent gender imbalance. Moreover, their public position and contribution to the debate (when it existed) was also observed through an analysis of the contents of the media coverage of this situation. This was the only research option possible in the case of those actors who had not replied to our invitation to collaborate in the research. Drawing on the framework developed by Krook (2007) for politics, Seierstad et al. (2015) adapted this to map the political games played among key social actors and their motivations for pushing for legislative change. Although we do not employ the same procedural approach here, the categories of actors were adjusted to the specificities of the country, aiming at capturing their position in relation to the debate and their contribution to changes in the regulatory framework. Consequently, for the purpose of this study, the information relates to three types of social actors: (1) actors from civil society (including either organizations<sup>7</sup> or individuals—feminist/women's associations, women's networks, individual academics and researchers, politicians, women as business leaders, individual journalists and emerging interest groups who have used the social media to draw attention to the lack of women's public visibility); (2) state actors (the government, in particular the Office of the Secretary of State for Citizenship and Equality, bodies from the national official machinery—CIG and CITE, political parties with seats in Parliament); and (3) business/corporate actors and social partners.

In addition to participant observation (attendance of meetings; participation in seminars, conferences and debates), semi-structured interviews were undertaken, and content analysis was developed in relation to newspaper opinion articles, interviews given to the media and interventions in public debates.

## Civil Society Actors

The position of key civil society actors is observed in this section, including both organizations and individuals that made themselves visible in discussing the topic. As mentioned, the debate has been brought to light by individual politicians, political parties (e.g. as happened recently with the Socialist Party, which is now in power), a few academics and, occasionally, by some media. No significant and visible grass-root movements have taken part in the discussion of this topic.

As far as individual women (business leaders) are concerned, an analysis of their position as expressed to the media shows that most of them are opposed to quotas and tend to favor the rhetoric of meritocracy (Kelan and Wratil 2014). This is also the most common position to be found among the representatives of Employers' Associations and of the former Euronext CEO.<sup>8</sup> Some exceptions have been noted—this is the case, for instance, with the current Lisbon Euronext CEO (more details below), the CEO of L'Oréal Portugal (the only female CEO in the L'Oréal Group), and some leaders of the Portuguese Association of Women Entrepreneurs. However, despite their open public statements in media interviews, conferences and other public events, it is not possible to conclude that they have actively been pushing for a more progressive regulatory framework in Portugal.

PpDM is the Portuguese Platform for Women's Rights. It is representative for Portugal in the European Women's Lobby (EWL) and in the Association of Women of Southern Europe (AFEM). The organization is very active in Portugal and played a key-lobbying role in pushing for the previously mentioned Parity Law. Various initiatives and projects have been developed in order to foster young women's participation in public life and to strengthen their motivation for leadership roles. Full support is given to future legislation aimed at attaining the minimum parity threshold of 40 percent of the underrepresented sex in business/corporate fields. Binding initiatives are seen as the necessary mechanisms to advance equality between women and men, but, in order to be effective, these should be integrated into a set of coherent policies aimed at challenging and transforming the main causes of vertical and other forms of segregation and inequality on the grounds of gender.

Adopting a more progressive regulatory framework is seen as an issue of women's rights, social justice and full democracy. PpDM has worked intensively on the dissemination of the concept of *parity democracy*. In this debate, feminist actors have rejected the term "quota" in favor of the concept of "parity", arguing that the first is a strategy that applies to specific groups of the population, whereas women are not a specific category or a special social group—they represent half of humanity. This is why the concept of parity has embedded in it the goal of a new social organization in which men and women equally share the same rights and responsibilities, and participate equally in all domains of social life.

PWN is the Professional Women's Network—an international women's network located in Lisbon, although it has not adopted any formal public stance on the issue in question. Despite the interest that they expressed in collaborating in the research, they did not provide us with any answer in the allotted time. Analyzing their members' narratives in media interviews, conferences and other events, it seems that different (and even conflicting) views are endorsed, both in favor of and against quotas (in this latter case, the meritocratic narrative was also adopted). Most of the initiatives in place are motivated by a liberal and individualistic perspective—a "fix-the-women" approach (Ely and Meyerson 2000). Support has therefore been given to women through coaching and training schemes. Some members have also endorsed the "celebrate the differences" approach, focusing on women's distinctive ways of thinking and acting.

Interestingly, a couple of interest groups have recently emerged in the social media, either drawing systematic attention to the lack of women in public events—TV debates and other media events, academic conferences, political events—or publishing critical opinion "posts" on the lack of public visibility among women, or attempting to shed light on successful women and their inspirational careers.

## **Business Actors**

Employers' confederations have not publicly debated the issue and, at some events, their leaders have openly expressed their reluctance toward any legislative initiative targeting the private business sector. The

government presented the proposal in May 2016; according to the information provided by the Secretary of State during her interview, the social partners' comments are being received and analyzed at the moment (July 2016). There are two major trade union confederations: CGTP-IN (General Confederation of Portuguese Workers) and UGT (General Workers' Union), and both have close connections with political parties—particularly the Communist Party and the Socialist Party (respectively, in each of these two cases). The Women's Departments of both organizations were contacted under the scope of our research, but only the second one (UGT) replied and expressed its full support for the legislative initiative proposed by the new government. Regarding CGTP-IN, the same interpretation may be inferred for the Communist Party (in State Actors): the agenda is focused on the most vulnerable groups of workers and not on a small class-privileged group of managers. It is worth noting, however, that both workers' and employers' associations are characterized by gender-imbalanced management bodies, with women underrepresented in the high-profile positions.

There is no official position expressed by Euronext Lisbon, but the CEO, a woman, Maria João Carioca, who has been in charge since March 2016, is in favor of quotas as a temporary binding measure to accelerate change and achieve gender balance on boards. Her male predecessor, Luís Laginha de Sousa, was publicly opposed to this. She states, however, that the most convenient trajectory would be the one in which companies set their own objectives and then strive to attain them. And once the legislative route is being pursued, realistic quotas should be set for the specific business sectors. The Portuguese Institute of Corporate Governance (IPCG) was also asked for its opinion, and, in its answer, we were reminded of the recommendation on gender diversity in the management bodies of corporate societies that was incorporated into the Corporate Governance Code.

### **State Actors**

The former Secretary of State for Parliamentary Affairs and Gender Equality (2011–2015) showed a strong commitment to revising the normative

framework (as detailed above—see *National Public Policy Regarding Women on Boards*); moreover, intensive and extensive conversations were held with business leaders in order to persuade them to voluntarily promote gender balance on their corporate boards. (We shall return to this topic in the next section *Critical Reflection on the Case*.) Both the current Deputy Minister, who is also in charge of Gender Equality issues, and the Secretary of State for Citizenship and Equality, are strongly committed to implementing the first legal measures in the country for the highest decision-making positions in the business sector (as well as in other sectors, as detailed above). However, it is not clear whether all government members endorse a similar view, as suggested by the recent controversy surrounding the lack of women in the nominations recently made for the board of directors of the public bank (*Caixa Geral de Depósitos*, CGD).<sup>9</sup>

All the political parties represented in the national parliament were contacted and invited to participate in the research undertaken for this study. None of them had previously expressed their official stance in regard to this matter. Five political parties occupy the 230 seats of the national parliament. The *Socialist Party* (PS) (now in government) occupies 86 seats. Support was expressed in relation to the government's declared aim of coming up with legislation, arguing that all the efforts to encourage companies' self-regulatory practices have proved to be unsatisfactory. The current government was formed under a prior governance agreement with the left-leaning parties: *Bloco de Esquerda* (BE, The Left Block Party) and CDU (an alliance between the Communist Party and the Green/Ecologist Party), which occupy 19 and 17 seats, respectively. Only the first of these replied to our call and expressed its total support for future legislation designed to tackle the patriarchal legacies in Portuguese society and to contribute to gender parity in decision-making in all domains of public life. BE has been very active in bringing to the fore labor discrimination issues (sexual harassment; discrimination on the grounds of parental duties and rights; women's greater economic vulnerability; and the gender pay gap). Despite the absence of any reply by CDU, our analysis of its narrative as a political party leads us to conclude that the little importance that is given to the topics derives from the fact that the targeted segment of women is seen as a privileged class group; attention is given in particular to those issues that affect the most vulnerable groups (workers with temporary



jobs; low-wage jobs; unemployment; labor discrimination in general, current positions against discrimination on the grounds of pregnancy, breast-feeding and maternity).

The *Social-Democratic Party* (PSD) is a center-right party and has 89 seats in parliament. After they had expressed an initial interest in collaborating in our study, the interview was only scheduled to take place well after the allotted time. Relying on official positions expressed in the public arena, it is, however, possible to observe the existence of an internal division with regard to possible legal measures. In general, preference is given to incentives for self-regulation. The *Christian-Democratic/Popular Party* (CDS-PP) is a right-wing conservative political group with 18 parliamentary seats. No reply was received to our contact. Observing the party's public narrative, we can see that the objective of "attaining gender equality" is not questioned, but there is some doubt about what is seen as the "artificial" (wrong) method; the official position, since the debate on the quotas for political parties, has been openly opposed to such a measure. Arguments were raised to suggest that binding legal measures would be unconstitutional. The *Animals/Nature-Friendly Party* (PAN) was elected for the first time and has one parliamentary seat. No official position was made known in relation to the debate, but, in the context of our contact, total support was expressed with regard to future temporary legislative measure geared to the promotion of gender equality in the highest decision-making bodies.

CIG and CITE are the official mechanisms in charge of the promotion of gender equality. Together they have given the "Equality is Quality" award to companies that distinguish themselves in the promotion of gender equality in the workplace. Most companies have been given awards for their good reconciliation of professional, private and family life practices, but not so much for initiatives designed to promote women to decision-making positions. As a tripartite body composed of representatives of the government, trade unions and employers' associations, CITE was the promoter of the first intervention project in the business sector—*Social Dialogue and Equality in Companies* (2005–2008), under the EQUAL Initiative Program. The project was conducted in partnership with universities, research centers, social partners and nine private companies. The first tools were designed and disseminated to support

companies in this area: a self-assessment guide; a promotional video on good practices; and a practical solution guide (Perista et al. 2008). Awareness-raising activities were developed, aimed at companies and organizations, and gender equality was integrated as a core dimension of corporate social responsibility (Guerreiro and Pereira 2006). In 2013, at a time when the political context was actively pushing for self-regulatory initiatives, CITE established the Forum known as Companies for Gender Equality, which consisted of 21 companies committed to the promotion of gender equality (39 companies had joined the I-GEN in July 2016). The impact of these initiatives on the representation of women in the highest decision-making bodies is still to be monitored.

As already mentioned, CIG is the official body responsible for implementing public policies designed to promote gender equality in Portugal and is also in charge of coordinating the National Action Plans mentioned above. The first publication in Portugal to be concerned with the importance of gender equality at companies was produced by CIG in the mid-1990s (Romão 1995). Some activities have been undertaken in the education sector and are particularly related with the topic under study, although these are part of a long-term investment in gender equality, aimed at tackling gender stereotypes, and encouraging equal attitudes toward leadership among female and male students. Since 2014, CIG has worked as the program operator for the EEA Grants (European Economic Area Financial Mechanism), and a specific call has been launched to develop methods and tools to advance gender equality in the business sector, under the sub-program PT07: Mainstreaming Gender Equality and Promoting a Work-Life Balance. Two projects were approved: *Break Even—Promoting Gender Equality in Business*, coordinated by the author of this chapter, and specifically oriented toward the promotion of gender-balanced managerial boards in state-owned and private (listed and non-listed) companies. The other project—*Working Generation*—was developed in the north of Portugal and concentrated on the design and provision of training. The first one involved seven well-known companies and attracted interest from the media. Comprehensive gender audits were carried out and action plans were designed according to the specific challenges of each organizational setting. As support tools for self-regulatory initiatives, a documentary was produced and disseminated, as well as a Guide to Promote Gender Equality, which

includes an assessment tool to carry out a gender audit; a Guide on how to draw up an Action Plan; and a Training Guide (a training reference tool) (Casaca et al. 2016). Prior to this intermediary role played by CIG, a large amount of financial resources were channeled toward the implementation of GEAPs—a topic to be developed in the next section.

## Reflections on the Role of an Actor

### CIG at the Crossroad of Policy Innovations and the Limited Impact of Investment in Action Plans for Gender Equality

CIG is the official, government-based body responsible for the implementation of public policies designed to promote gender equality and for the coordination of the National Action Plans mentioned above. As reported earlier, under the 17th Constitutional Government, the Secretary of State of the Presidency (2005–2009) managed to achieve a significantly larger budget for the promotion of gender equality policies, for the period 2007–2013. During that period, CIG was the intermediate mechanism in charge of managing Priority Axis 7—POPH on gender equality, including the typology 7.2 aimed at supporting the implementation of GEAPs at companies and organizations, private and public institutions (central and local public administration bodies), private and state-owned companies, business associations, local agencies and organizations in general. The first open call for applications took place in February–April 2008 and the last one in September–October 2012. The beneficiaries receive funding to cover the necessary support of consultants/experts, training activities and the design of the project and of the gender equality plans, as well as to monitor and assess all of the project's activities. Training guides on gender equality are available at the CIG website. The training provision may be carried out either by members of the beneficiary entity or by national experts in the field. Guides for the design of the action plans (and the gender audit/diagnosis) are also available on the website. Some beneficiary entities have contracted external consultants/experts in the field to support their activities. The

maximum duration of each project is 24 months. A total of 184 projects were funded, representing about 254 GEAPs. This represented an investment of €9,640,000.00.

It is true that, for the first time, public funding was allocated to the promotion of gender equality plans. This was expected to have a significant impact on the dismantling of the organizational barriers (re)producing gender-based vertical segregation, which (together with the gender pay gap) is one of the most persistent features of gender inequalities. Many associations, companies, public institutions and local agencies had the opportunity to become acquainted with reference material in gender equality and the main tools available for designing, implementing and monitoring action plans, as well as to benefit from technical support. However, funding was concentrated in certain regions of the country (the so-called convergence areas, North, Centre and the Alentejo). Moreover, the impact of the projects was not monitored and most of them lacked the qualified technical support necessary for their effective implementation. The projects should have been closely monitored from a technical point of view, in order to ensure that gender equality competence was embedded throughout all of their various phases. The lack of supervision of the technical quality of the projects and the action plans carried out compromised the real capacity to change the culture of organizations. Important changes were required, such as the formal establishment of a network of experts in organizational change and in developing and assessing gender equality plans; the provision of intensive training to the main agents (players) in the process, in central gender equality issues; the availability of a larger pool of human resources to closely support all the beneficiary entities, ensure the delivery of the expected outcomes, and monitor the impact even after the conclusion of the project.

## **Concluding Notes: Critical Reflection on the Case**

As far as the promotion of gender balance on corporate boards is concerned, the progress of the regulatory context in Portugal has been slow and policies have relied on a combination of awareness-raising

initiatives and soft measures—particularly policy recommendations and incentives for self-regulation. As a matter of fact, only now, 10 years after a parity law for the composition of electoral political lists, has the current government presented the social partners with the legislative proposal to increase women’s representation (as the underrepresented sex) in the highest decision-making positions of the private and public business sector, with differentiated targets (as previously detailed). Following an institutionalist perspective and in keeping with the argument put forward by Terjesen et al. (2015), it would be possible to suggest that Portugal has the institutional conditions favorable to the adoption of a gender quota for boards of directors in the business sector: (1) a relatively high female employment rate and, despite the financial weaknesses of a semi-peripheral economy, a welfare state whose policies are steeped in the principle of gender equality; (2) a left-leaning government coalition; (3) and a legacy of path-dependent gender equality initiatives in the public policy area.

A proactive orientation was given by the former Secretary of State (2011–2015). Despite being a member of a conservative political coalition, she considered the issue of gender balance in management positions to be a political priority. She might not have had the political support to enact legally binding measures, but a clear step forward was taken in the normative framework. It should also be noted that the path followed was in line with the EU’s political approach. Some progress has been noted over the last five years (Fig. 3.1), but the picture seems to show that incentives for self-regulation will not lead the country to a gender-balance scenario in the management boards of the business sector. Even in state-owned companies, for which GEAPs were made mandatory in 2012 and where clear recommendations have been issued since 2007, the progress has been rather slow and inconsistent. This may reflect the fact that the normative and regulatory approach has been top-down, resulting from the commitment of only a few people—namely a few political leaders who lack wider political support. As mentioned before, one out of four Portuguese citizens seems to be in favor of the imposition of binding legal measures to achieve a gender-balanced representation on corporate boards; however, no grass-root movements or business actors have been actively involved in initiatives aimed at promoting a change in the

regulatory framework. The gender imbalance existing in the highest decision-making positions of the business sector is far from being a major topic on the agenda of trade unions. The employers' associations show reluctance to promote any kind of binding measures targeting the business sector. However, despite these situations of silence, indifference and some reluctance, it is to be expected that no major hindering forces will block a more progressive and legislative route. This seems to be the only path that is likely to accelerate changes in the boards of directors of the corporate/business sector. However, a more comprehensive, inter-sectoral and well-articulated approach is needed in order to effectively obtain the commitment of the key grass-root actors. Only such a strategy will ensure not only more satisfactory numbers as far as gender balance on boards is concerned, but also the development of a transformational organizational agenda capable of bringing gender equality to the workplaces and boardrooms in particular in an effective and sustainable way.

## Notes

1. <http://www.cmvm.pt/pt/Legislacao/Legislacaonacional/Regulamentos/Documents/Regulamento%20CMVM%20n%204-2013%20Governo%20das%20Sociedades.pdf> (access on 4 July 2016).
2. Source: *Quadros de Pessoal* (Employment Records), 2014. Data reflect the payment differentials (presented as percentages) between men and women on a monthly basis, considering not only the basic wage, but also the overall earnings (productivity, performance-related bonuses, as well as other payments—overtime and tenure-related payments).
3. Source: Office of the Secretary of State for Parliamentary Affairs and Equality, based on 93 percent of the overall sector (number of respondent companies, September 2014). No updated information was made available by the current government.
4. Between 2003 and 2006, data referred to the total number of listed companies (ranging between 48 and 50). Since then, information has been collected among only the largest listed companies, varying between 17 and 20 companies.

5. The Parity Law was enacted in 2006 and sets the minimum representation at 33.3 percent for both sexes in eligible positions in the electoral lists for the National Parliament, European Parliament and Municipal Councils.
6. The government proposal was submitted to the Parliament in February 2017. After a consultation process and negotiations with the parliamentary groups, the final vote took place on 23 June 2017. The proposal was approved by a majority vote, although preceded by a climate of considerable uncertainty. The law now foresees the following conditions: management and supervisory bodies of state-owned companies (under the control of central government and local municipalities): 33.3 percent of the underrepresented sex by 1 January 2018; management and supervisory bodies of listed companies—20 percent from 1 January 2018 and 33.3 percent from 1 January 2020 onward. The government proposal submitted in February provided for compulsory monetary sanctions in case of non-compliance. The negotiations in place resulted in a softer version of the sanctioning framework. The proposals mentioned in the article regarding public administration and universities have been postponed, and a detailed government proposal is due by 31 December 2017.
7. Civil Society Organizations with international/transnational ties have also been included in this category. It should be noted that key selected actors have been analyzed, but not all the actors in the field.
8. Euronext is the Lisbon Stock Exchange.
9. In 2015, in accordance with the European regulatory framework (transposition of a bank directive approved in 2014) and the national framework for state-owned financial undertakings, the Bank (CGD) had set a minimum target of 30 percent of women in the highest-decision-making bodies, to be achieved by 2018. However, in 2016, for the nomination of the new Governing Bodies, the proposal made by the Portuguese Government and presented to the European Central Bank largely failed to meet such a goal. Among other critical statements, the ECB highlighted the need to revise the gender imbalance in the proposal in order to meet the strategic commitment of CGD. The government failed to meet the target again in the revised proposal, and no women were nominated to fill any of the executive or non-executive positions on the management board. Such an objective was postponed until 2018 (August 2016).

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# 4

## Gender Diversity on Boards of Directors in Slovenia: Impending Legislation to Establish Quotas

Aleksandra Kanjuo Mrčela

### Introduction

In Slovenia legislation is being prepared that will establish gender-based quotas for corporate boards. There is already some legislative regulation for public companies as well as other “soft” measures aimed at more balanced gender representation at managerial and directorial levels of business. However, the proportion of women in top positions has remained very moderate, with only 10 percent of women among the chairs and CEOs, 24 percent among board members and 29 percent among employees’ representatives on the boards of the 20 largest publicly listed companies in 2016 (Special Eurobarometer 376: Women in decision-making positions 2012).

As a very successful country in terms of gender equality, Slovenia presents an interesting case to those studying trends of gender equality at senior levels of the economy. The high level of gender equality that

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already exists in Slovenia could be seen as a basis for further positive developments such as developing a legislative framework to increase gender equality in the sphere of economic decision-making. However, the level of gender equality already achieved has also, paradoxically, supported arguments that full gender equality could and would be achieved “naturally” without legal interference.

In spite of the country’s strong record on equality and emancipation of women, the Slovenian labor market is still gender-segregated, unpaid domestic and care work are highly feminized and decision-making positions in the workplace are still dominated by men. In Slovenia women and men are equally expected to find paid employment, but quite a traditional division of unpaid work and care is still found in the private sphere. Although full-time female employment is expected and institutionally supported, family obligations are still seen predominantly as a female responsibility, presenting an obstacle for women pursuing demanding careers as high-placed decision-makers.

As in other environments, the gender inequality present at the highest decision-making levels in the Slovenian economy is generally seen as a consequence of individual decisions rather than a structurally determined phenomenon.

This chapter will survey the relevant economic, political and labor market context, corporate governance practice and the legal framework for gender equality currently in place in Slovenia. Then it will present the overall situation respecting the representation of women in decision-making business positions in Slovenia, before moving on to a section that will discuss the factors enabling and hindering the assignment of gender quotas in boardrooms and the process of drafting the legislative proposal. A final section will offer critical reflections on the case. The chapter will conclude with thoughts from Dr Anja Kopač Mrak, the current Slovene Minister of Labour, the Family, Social Affairs and Equal Opportunities.

## General Background

### Political and Economic System

Slovenia belongs to a group of Eastern and Central European countries that has experienced complex changes in recent decades, in both the political and economic spheres, by becoming an independent state and then joining the EU. As the economically most successful republic of former Yugoslavia, Slovenia was in a relatively good position for the transitions that began in the late 1980s. Complex and profound economic and political changes, such as achieving political sovereignty, the introduction of multiparty political democracy and restoration of a market-based economic system, occurred in a society in which women for several generations had had access to state education and paid employment and had been able to participate fully in political and public social life. The socialist period in Slovenia (1945–1991) brought about some very important advances. The majority of women achieved high economic independence through secure full-time jobs, available and affordable childcare services, generous maternity and parental leave and various other services (e.g. subsidized meals) which made it easier for parents (for the most part mothers) to combine employment and family duties. During the post-socialist transition period gradual reforms were adopted concerning capital ownership, the structuring and governing of commercial companies and the regulation of labor relations. The restoration of capitalism affected the welfare system and resulted in increased uncertainty in the labor market. Some studies (e.g. Jogan 2000, 2014; Burcar et al. 2015) have indicated that further gender-specific changes were triggered in consequence, as was seen, for example, in moves toward a re-traditionalization of family life and re-domestication of women, and an increased double burden of paid and unpaid care work during the recent economic crisis. Analysis of recent austerity measures has shown that those measures had significantly more negative effects on women than on men and endangered women's economic independence; the same studies also indicate that policymakers missed or ignored the gender-specific consequences of austerity policies (Humer and Roksandič 2013). However, comparative

data shows that recent development has not caused dramatic negative changes so far as social and economic gender equality are concerned (e.g. in terms of disparity between the genders in employment and pay). The at-risk-of-poverty and social exclusion rates have not increased substantially, and in some quarters have even decreased. Existing social policies, such as well-supported schemes to help women maintain a work–family balance and instruments providing comprehensive infrastructure (most importantly paid parental leave and affordable public childcare facilities), still underpin gender equality and have amortized the effects of EU policy-driven labor market reforms.

## Facts and Figures<sup>1</sup>

The 2016 Global Gender Gap Report (“Global Gender Gap Report 2016”, 2016) measuring gender equality in 144 countries by focusing on a wide range of dimensions, ranks Slovenia highly in 8th position. Slovenia moved up from its place on the scale in previous years through improvements on the Economic Participation and Opportunity sub-index and the wage equality for similar work indicator. The World Economic Forum (WEF) concludes that with nearly 79 percent of its overall gender gap closed, Slovenia is the best-performing country in Eastern Europe and Central Asia. Since 2006, it has eliminated approximately 16 percent of its gender gap, making it one of the fastest-improving countries in the world, although its gender gaps on both the Educational Attainment and Health and Survival sub-indices are yet to be fully resolved.

Nevertheless, given the education attainment and the labor market position of women in Slovenia, their share of decision-making positions in business is low. According to the Statistical Office of the Republic of Slovenia (SORS), women are more highly educated than men (60 percent of all new college graduates are women, “International Women’s Day”, 2016). The share of women with tertiary education (aged 30–34) is much higher (56.4 percent) than the share of men reaching the same educational level (32.0 percent). In 2015, the employment rate for women in the 20–64 age group was 64.7 percent compared to 73.3 percent for men

(a gender gap of 8.6 p.p., which is lower than the 2016 EU-28 average of 11.6 p.p.). In Slovenia, most women choose to stay at home for one year, taking their full maternity and parental leave, which is fully compensated, before returning to full-time work. Since the introduction of a non-transferable right to paternity leave, the majority of fathers avail themselves of the fully paid part of that leave but do not participate equally in parental leaves (that could be shared between parents) or in childcare.

The quality of female employment is in many respects lower when compared to that of men. One of the important features of the Slovenian labor market is its segmentation. Secure permanent jobs (with open-ended contracts) are mainly occupied by older workers, while highly insecure fixed-term contracts are becoming more common among the younger, especially female working force. In 2015, 15.9 percent of women as opposed to 13.5 percent of men were employed on fixed-term contracts (figures both higher than the corresponding EU-28 averages of 12.2 percent and 10.4 percent) and the 2015 gender gap in this form of employment is  $-2.4$  p.p., which is again higher than the EU-28 average ( $-1.8$  p.p.).

Generally, the indicator of full-time equivalent employment for women (aged 20–64) in Slovenia was lower (61.4 percent) in 2015 than the employment rate (64.7 percent), but it is considerably higher than the EU-28 average (55.3 percent). This is due to the level of part-time work for women in Slovenia, which is much lower than the EU-28 average, but much higher than for men. In 2015, 12.9 percent of women as opposed to 6.3 percent of men worked part time. The women's rate is markedly lower than the EU-28 average (of 31.5 percent for women and 8.2 percent for men in 2015). Occupational segregation with respect to gender was 25 percent in 2014, slightly higher than the EU-28 average of 24.4 percent. Gender segregation in economic sectors at 18.7 percent in 2014 was slightly lower than the EU-28 average of 18.9 percent.

The unemployment rate for women for the age group 15–74 was at 10.1 percent in 2015—higher than for men in the same age group (8.1 percent) and higher than the EU-28 average (9.5 percent). The unemployment gender gap changed from the 1990s when the unemployment rate for men was higher than the rate for women.

A relevant feature of the Slovene institutional framework with respect to women's participation in the labor market is the widespread use of formal childcare highly subsidized by the state. Depending on their financial status families pay only a fraction of childcare costs themselves. In 2014 state-subsidized childcare covered more children in Slovenia than the EU-28 average in all three age groups: 37 percent of children under 3 years (compared to 28 percent in the EU-28), 90 percent of children aged 3 to compulsory school age (compared to 83 percent in the EU-28) and almost all (99 percent) children aged from compulsory school age up to 12 years (compared to 97 percent in the EU-28). In all three age groups, the majority of children are in full-time care (34 percent, 82 percent and 75 percent, respectively).

In order to understand the quality of working life for women and men in Slovenia it is very important to note that women spend considerably more time (32.3 hours per week) doing unpaid care work than men (15.4 hours per week), and also more than women on average in the EU-28 (22.3 hours per week). The gender gap regarding unpaid care in Slovenia (-16.9) is larger than in the EU-28 (-12.6). The percentage of women in Slovenia caring for elderly or disabled relatives at least several days a week is higher than that of men (28.4 percent of women aged 50–64 as opposed to 21.3 percent of men in the same age group) and also higher than women on average in the EU-28 (22.6 percent) (see Table 4.1).

The unadjusted gender pay gap stood at 2.9 percent in 2014, among the lowest in Europe (16.1 percent being the EU-28 average). The SORS shows that the average monthly gross earnings of women in 2011 were 95.4 percent those of men. The SORS points out that these are average values and that the differences are due to diverse educational, occupational

**Table 4.1** Unpaid care work of women and men in Slovenia and EU-28

Year		2015	EU-28	EU-28
			ranking	2015
Time spent in unpaid care work per week	Men	15.4	1	9.7
	Women	32.3	10	22.3
Gender gap		-16.9	24	-12.6

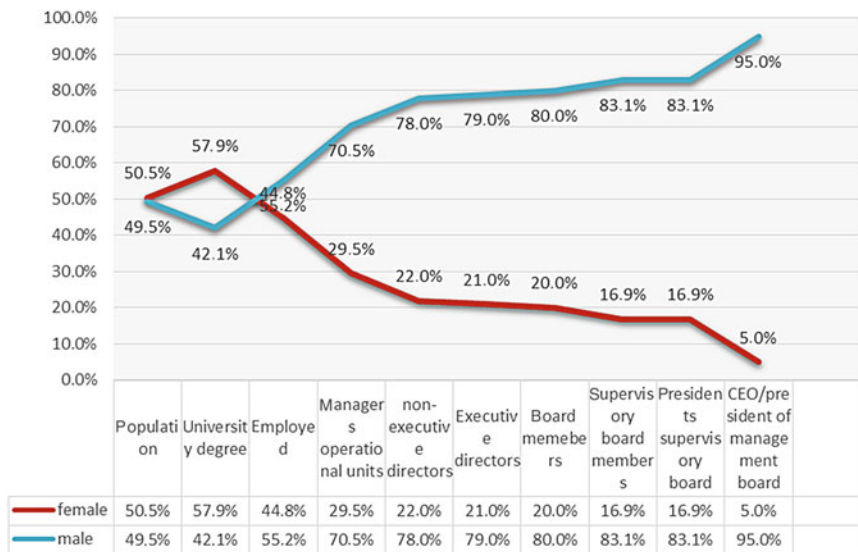
Source: Eurostat data



and age structures. However, an analysis of matched employer–employee data examining gender differences in pay over a 15-year period (1993–2007) in Slovenia (Penner 2012) found that there was a substantial increase in gender inequality over this period, and that in the period 2003–2007 men earned on average roughly 23 percent more than women, and 18 percent more than women doing the same work for the same employer. Analysis shows that women doing the same work for the same employer earn significantly less even in the public sector.

At lower levels of management in Slovene companies, the percentage of women is higher, but the higher the managerial positions, the lower the percentage of women found occupying them (see Fig. 4.1).

There are more women in decision-making positions in other institutions in Slovenia than in equivalent or similar positions in the commercial sector. Women are more present in political/public authorities: in 2016 women comprised 40 percent of senior managers of the Bank of Slovenia (the EU-28 average for similar positions was 21 percent), 39 percent of the judges of the Supreme Court of the Republic of Slovenia (the EU-28



**Fig. 4.1** Position of women and men in the Slovenian economy (Source: Kanjuro Mrčela et al. 2016; data for 2014 except 2010 for supervisory boards)

average was 40 percent), 34 percent of members of the national parliament and 44 percent of government ministers (“Board members—European Commission”, 2016).

## **National Legislative and Public Policy Framework**

### **Company and Corporate Governance Legislation**

Previous Slovenian corporate governance legislation (Slovenian Companies Act, 1993) required a two-tier governance structure with a supervisory board acting as the intermediate body between the management and the Shareholders’ Assembly of a given organization. Legislative changes in 2006, however, allowed companies to choose between a single or a two-tier governance structure. In accordance with the Law on Workers’ Co-Determination (1993) workers’ representatives occupy at least a third of all seats on the supervisory board of a company with 500 employees, and more than half of all seats if the company employs more than a thousand. In companies with a two-tier model employees have representatives on the supervisory board and in those with a single-tier model they have representatives on the board of directors (with one representative for every three directors).

The Companies Act laid down the main forms of commercial companies that may be formed in Slovenia: a partnership (general partnership, limited partnership and silent partnership), a company with share capital (a limited liability company, joint-stock company or limited partnership) as well as two types of hybrid company (a double partnership or limited partnership with share capital). The limited liability company is the prevailing legal form among companies in Slovenia. In 2011 there were 52,075 limited liability companies operating in Slovenia as opposed to only 783 joint-stock companies out of a total of 79,620 legal entities (Statistical Yearbook of the Republic of Slovenia 2011).

## Gender Equality Public Policies, Legislation and Other Initiatives

In Slovenia, equal opportunities for women and men are protected in the Slovenian constitution (Article 14), the Equal Opportunities for Women and Men Act (ZEMŽM, 2002) and the Protection Against Discrimination Act (ZVarD, 2016). Some provisions of the Employment Relationships Act (ZDR 2002, 2013) are also important for safeguarding gender equality in employment and promotion. Laws and other documents supporting equal rights for women and men in Slovenia take into account the international legal framework in the area (such as the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and European Community directives, such as Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation).

Legislation explicitly addressing the gender balance in decision-making in the economy has been in place in Slovenia for more than a decade. In 2004 the Decree on the Criteria for Adherence to the Principle of Balanced Gender Representation (Official Gazette of the Republic of Slovenia, no. 103/04) was adopted with reference to government bodies (consultancy and coordinating bodies, other working bodies and delegations established by the Government of the Republic of Slovenia), representatives of the government in public companies and other legal entities under public law appointed by the government, and professional councils established by government ministries. The “balanced representation” of women and men is taken to mean that the minority belonging to either gender should not fall below 40 percent of representatives in government bodies and professional councils, or among representatives of the government in an individual legal entity under public law. No sanctions were laid down for failure to act in accordance with the decree, however, which explains why the decree has not been effective.

A national strategy on gender equality has been instigated in Resolutions on the National Program for Equal Opportunities for Women and Men (2005–2013 and 2015–2020). The first Resolution emphasized the

importance of gender equality in decision-making positions in the socio-economic sphere. It placed progress on decision-making positions among the 20 strategic objectives of gender equality policy as a whole. Two measures were envisaged to achieve equality in this area: (1) Mechanisms should be implemented to systematically monitor and promote a balanced representation of women and men in decision-making positions in businesses, trade unions, associations and organizations, including special measures and programs; (2) EU indicators on decision-making in the socio-economic sphere should be adopted and monitored.

An evaluation of how well the Resolution was implemented (Kanjuo Mrčela et al. 2013) concluded that the equality objective was appropriately defined, but that the measures and the means of putting those measures into practice were inadequate. Monitoring EU-defined indicators, for example, might bring insight into the current situation and thus provide a basis for improvements, but is unlikely to produce an increase in the actual number of women in decision-making positions in business. It was therefore concluded that in future it would be necessary to supplement the Resolution's measures with more systemic solutions. Such solutions might include introducing quotas and instituting support for projects and programs that would promote a balance of genders in decision-making roles at an organizational level by means of more clearly defined mechanisms (Kanjuo Mrčela et al. 2013).

The second Resolution on the National Program for Equal Opportunities for Women and Men, 2015–2020, accepted and incorporated the broad verdict of this evaluation. It identified the balanced representation of women and men as one of eight priority areas. The Resolution states that the representation of women in decision-making positions in the biggest companies is too low. Its assessment was that while the measures and programs introduced in recent years, along with research carried out over a similar period, have raised awareness of the problem, these initiatives have not increased the number of women in high-ranking business positions. In order to change that, the new Resolution envisaged more binding legislative measures that would define the minimum proportion of women in decision-making positions and strengthen the mechanisms to enforce this minimum in practice.

The Resolution set out two lines of action in this area:

- Legislation to support a real balance in the numbers of women and men in the upper levels of the business sector;
- Programs (1) to stimulate and encourage women to apply for top company positions in the first place and (2) to raise awareness of the issue of gender equality in the boardroom and its broader importance.

The Resolution identified the following indicators to verify that the measures it supported have actually been carried out:

- New legislation supporting balanced representation of women and men in company boardrooms;
- The institution of the programs described above, supporting larger numbers of applications from women for high-ranking business positions and raising awareness of the equality issue in this area;
- An actual increase in the share of women in decision-making positions, mainly in executive and non-executive directorships, in bigger companies listed on the stock exchange.

The Resolution advises that the Ministry of Labor, the Family, Social affairs and Equal Opportunities and the Ministry of Industry should be made responsible for achieving these aims.

After describing the policies adopted at the state/macro-level, let us now address the organizational/mezzo-level, as there have also been relevant initiatives in private sector organizations and associations. Several documents created by different Slovenian institutions and associations aim to raise the quality of corporate governance and implicitly or explicitly approach the issue of gender equality. One of these is the Corporate Governance Code created by the Ljubljana Stock Exchange, the Slovenian Directors' Association and the Managers' Association. The code is similar to documents in other European countries based on the principle of "comply or explain". It states that the composition of company boards should ensure the presence "of all genders, age diversity and as much diversity as possible in general".

In 2011, the Managers' Association<sup>2</sup> created another document expressing support for gender equality at the decision-making level in

business: the Commitment for a Successful Future 2015–2020. This document contains recommendations aimed at increasing the competitiveness of the Slovenian economy in order to make it one of the 15 most developed countries in Europe by 2020 (Postružnik et al. 2015). One of the recommended changes is an increase in the percentage of women in senior management positions to at least 30 percent by 2015 and 40 percent by 2017.

The Managers' Association's manual "Include.All" (Postružnik et al. 2015) proposed measures supporting gender equality in education, mentoring, employment plans and procedures and performance evaluations. This manual was the result of a two-year project (2013–2015), "Include.all", in which a collaboration of the Ministry of Labor, the Family, Social affairs and Equal Opportunities, the Managers' Association and the University of Ljubljana successfully contributed new knowledge about the gender balance at senior levels of business in Slovenia and offered insights on how the barriers to progress might be overcome. The manual stimulates companies to create policies aimed at increasing the numbers of women in management that are appropriate to the company's culture, values and strategic orientations.

For several years now the Managers' Association has conferred two annual awards (the "Female Manager-Friendly Company of the Year" and "Artemida" awards) for progress in this field. The association thus emphasizes the importance of women in managerial and executive positions in Slovenian companies and thereby encourages senior female managers in the contribution they make to their companies and organizations (Postružnik et al. 2015).

In their Guidelines for the Operation of Company Boards the Slovene Association of Supervisors<sup>3</sup> defines the board in the one-tier management system as the most important corporate governance body and recommends that the composition of the board should reflect the diversity of the company's relevant stakeholders.

While the two aforementioned associations have developed measures and recommendations aimed at raising gender equality there is considerably less attention paid to gender equality in decision-making within companies or corporate organizations. Some large domestic and multinational companies in Slovenia have implemented programs to increase the

percentage of women in management. These include schemes supporting diversity in managerial positions, family-friendly programs, flexible working time and work locations (Kanjuo Mrčela et al. 2012, p. 204). However, research conducted in 2011 on a sample of one-third of the largest employers in the Slovenian economy indicated that only seven of the 253 participating organizations had adopted by-laws or measures for balanced gender representation in management and executive positions, and just six were planning to adopt such by-laws or measures (Robnik 2015, p. 9). The by-laws and measures in place to date include recommendations, a commitment by the highest decision-making body in the firm, rules, a code of business ethics and a defined goal of supporting women in the development of their careers (ibid.). The main reason for introducing such measures in the majority of the organizations is a commitment to the implementation of non-discriminatory employment and promotions, while a smaller percentage of organizations stated that they want to provide opportunities for women to realize their potential (ibid.). Representatives of the organizations consulted reported on the following planned measures: the adoption of a declaration from the European Commission on increased representation of women on the boards of European companies, the adoption of by-laws regulating this area, the adoption of measures through which organizations will be able to attract more women and thus expand the pool for middle and senior management, the introduction of mentoring programs and the introduction of mandatory quotas in employment and promotion schemes (ibid.). The majority of organizations have not yet contemplated implementing measures for balancing gender representation in decision-making positions. Some stated that they already have a balanced representation of women and men in senior management positions. Companies that do not envisage adopting such measures gave the following reasons: having already adopted a by-law on equality in general, having an above-average percentage of women in decision-making positions with respect to their sector, fewer women in general being employed in their sector, and a hiring policy based on “ability not gender”. Some mentioned the importance of individual preferences regarding a balance of professional and private life: they claimed that women could advance in their companies if they wished, but that most are not interested in doing so (ibid., 10). A

small percentage of organizations expect an initiative and instructions from the state (*ibid.*).

## Enabling and Hindering Forces

### Existing Level of Gender Equality

Probably the most important factor affecting the development of gender equality in an economy is the level of gender equality that already exists. Based on international comparative data we can say that Slovenia has a relatively high level of gender equality. We already mentioned the country's high-ranking (8th among 144 countries) in the Global Gender Gap report ("Global Gender Gap Report 2016", 2016). Other international comparative sources also credit Slovenia with relatively high gender equality. The Index of gender equality of Slovenia (57.3 percent) was above the EU-28 average (52.9 percent) in 2012. Slovenia was ranked 21st among 195 countries on the UNDP Gender Inequality Index in 2013 ("Gender Inequality Index", 2015)<sup>4</sup>.

As mentioned in the introduction, the heritage of the socialist past, ensuing turbulence during the post-socialist transition period and the accession of Slovenia to the European Union (EU) established the basis of the existing level of gender equality in Slovenia. In the 1990s Slovenia witnessed attempts at a reinforcement of patriarchal customs and re-domestication of women. However, Slovenian employment and reconciliation policies, which had taken gender equality into consideration both before and after the transition, prevented the position of women in the labor market and elsewhere from deteriorating. It therefore might be said that Slovenia's relatively high level of gender equality could be seen as a good starting point for further improvements, but at the same time improvements should not be taken for granted; a shift toward negative trends also remains possible, especially in a country facing competitive economic pressures.



## Public Opinion and Prevailing Attitudes Regarding Gender Equality

Attitudes to gender equality in Slovenia are complex. The majority of the population of both sexes in Slovenia supports the economic independence and autonomy of women (Toš 2004). However, there is also strong support for the traditional division of duties with respect to childcare and household responsibilities.

Analysis in 2011 of a representative sample of public opinion on the question of gender equality in the business sector revealed high support for the introduction of quotas in Slovenia (Special Eurobarometer 376: Women in decision-making positions 2012). The Slovenians surveyed were among those in the EU most in favor (95 percent) of gender equality in the allotment of decision-making positions in business. The majority felt that the underrepresentation of women at managerial and directorial levels is caused by the prevalence of men in the business sector who do not have enough confidence in women (79 percent) and by the fact that women have more family obligations than men (75 percent). Noticeably fewer among those surveyed believe that the reasons for the gap are to be found in any specific characteristics of women, namely in their being less willing to fight for a career (28 percent), their lacking interest in taking on positions of responsibility (28 percent) or not having the required qualities and abilities for these positions (16 percent). The people surveyed believe that women should be equally represented in senior management, because women and men have equal rights (61 percent) and because they are equally qualified to occupy such positions (58 percent). The participants of the survey would use different ways to achieve gender equality: binding legal provisions to achieve balanced gender representation on the boards of companies (32 percent), independent goal-setting in companies (29 percent) and voluntary measures, such as non-binding Corporate Governance Codes for public limited companies (21 percent). The majority of participants (80 percent) would support binding legal provisions if these took into account requirements regarding the qualifications of candidates for given positions. Most respondents (43 percent) assessed that the realistic target ratio of women to men in responsible positions

should be 50:50; a smaller percentage (23 percent) assessed that the ratio should be 40:60; and 10 percent of respondents thought that the ratio should be 30:70. They assessed the period in which the goal should be achieved variously at up to 5 years (44 percent), 5–8 years (22 percent) and more than 8 years (8 percent). The participants in the survey would use the following sanctions in the event of non-compliance with legal provisions: fines (47 percent), annulment of appointments of members of the over-represented gender (38 percent), annulment of decisions adopted by inappropriately structured decision-making bodies (31 percent), denial of applications for public funding (19 percent) and the winding up of offending companies (11 percent).

## Personal, Social and Organizational Factors

Over the last two decades, several analyses have addressed the personal, social and organizational factors behind the promotion of men and women to the highest positions in Slovenian business (Kanjuo Mrčela 1996, 2000; Petelinkar 2005; Erčulj 2011; Kanjuo Mrčela et al. 2012; Robnik 2015; Toni 2014; Kanjuo Mrčela et al. 2015). This research has revealed various problems women face on the path to decision-making positions and in their work as managers. The analyses showed that most of the “glass ceilings” found in Slovenia are fixed as a result of stereotypes about the gender-determined roles of men and women in organizations and in private life. The research paid particular attention<sup>5</sup> to problems in balancing professional and private life and to factors/topics which have been underresearched or not researched at all, for example those related to the way human resources are organized and also firms’ policies on promotion (Kanjuo Mrčela et al. 2015). The results of the analysis gave new insight into the career paths and current positions of female and male managers in Slovenia and how managers of either sex balance the demands of their private and professional lives. The research collected female managers’ opinions about women and men in senior management positions and their views about feasible measures for achieving gender equality at that level in business. The Slovenian findings of this research, and the comparative international data presented alongside it, stimulated public

discussion and has been put to use in forming the best policies developed to date in the Slovenian context.

From February 2015 to November 2016, the University of Ljubljana coordinated a project aimed at raising gender equality at decision-making levels in the Slovene economy (“Eqpowerec”, 2017). The basic objective of the project was to address and analyze specific target groups (political actors, business actors, the general public and young women), in order to acquaint them with the obstacles to gender equality in the business sector, and to empower and equip them with knowledge and information which should help them weaken or remove those obstacles. The political, economic and general public was sensitized to the issue of gender equality in the business sector in various ways (by means of public events, publications and other written materials, the media and social networks). No less important was the personal communication of project team members with a number of public opinion-makers and economic and organizational strategists and policymakers in Slovenia and Norway. All these activities allowed researchers to learn much more about the varying degrees to which different actors would welcome quota legislation in Slovenia. The following part of this chapter will focus on the project’s findings.

## **Variable Support of the Key Political and Business Actors**

There is no doubt that quota legislation enjoys considerable political and public support in Slovenia. On March 13, 2015, the Slovenian Parliamentary Commission for Petitions, Human Rights and Equal Opportunities and the Committee on Labor, the Family, Social Affairs and the Disabled adopted a decision of great significance for the prospects of full gender equality in the Republic of Slovenia. That decision required the Ministry of Labor, the Family, Social Affairs and Equal Opportunities (MLFSEQ) to make the necessary legal preparations for setting gender-based quotas in the allocation of corporate directorships. Government officials explicitly announced the creation of new legislation in 2015: “acting on strong support from parliament, commercial enterprises and

the general public, the Slovenian Government is currently preparing the legal basis for the introduction of special measures (gender quotas) to increase the presence of women on corporate boards. The draft proposal shall be prepared by the end of the year” (Vuk 2015). It is important to note that the Minister of Labor, Family, Social affairs and Equal Opportunities had already sponsored the Eqpowerrec project (2015–2016) discussed above. During the project the idea of raising gender equality at boardroom level received support from a number of politicians across the political spectrum. However, while some politicians expressed strong backing for gender quotas, others were in favor of less binding instruments. It is hard to explain the discrepancy between high public support for legally binding measures on this issue and a lack of corresponding unanimity among politicians. Conceivably, the cause might lie in a widespread conviction that a high level of gender equality already exists in the higher reaches of Slovenia’s commercial sector. In consequence, while the general public back measures that would actually guarantee true equality, political leaders are possibly reluctant to legislate on a question they believe has already been resolved. Many politicians may also be less conscious of high popular support for positive action in law than they are of arguments raised by the business community against state interference in the appointment of managers and directors.

In autumn 2016 a working group at the Ministry of Labor, Family, Social affairs and Equal Opportunities drafted a law to enforce gender quotas on corporate boards. This document would enforce a quota of no less than 40 percent of either men or women (whichever of the genders is the less represented) in the decision-making bodies (boards of directors, supervisory boards, councils, etc.) of public institutions, agencies, funds, joint-stock companies and large limited liabilities companies (i.e. those companies with over 500 employees). The precise distribution of seats according to gender would depend on the number of members in given corporate bodies. In bodies with two to three members both genders must be represented; in bodies with four to five members at least two members should be of one gender and in bodies with six to eight members at least three of them should be of one gender. The paper stipulates that these quotas should be realized by December 31, 2025, but without any decline in the gender balance during the intervening period. The document

envisages a number of control mechanisms (public information on members on websites/ annual reports and monitoring by the Labor Inspectorate) and sanctions (fines for offending organizations and the person responsible in a given organization). It is hard to estimate whether and when the bill will actually become law. The draft is currently a working document under the auspices of the Ministry of Labor, the Family, Social affairs and Equal Opportunities. The ministry working group has examined practices in other countries and pointed to issues the legislation might face in the Slovenian environment. Further discussion on these is expected.

An important and growing section of the Slovenian business community supports both the idea of gender equality at managerial and directorial levels and the introduction of binding legal instruments to support it. Nevertheless, our analysis does suggest that, as in other countries, the business sector is on the whole the most skeptical of all the groups consulted on this question. Those opposing legally enforced quotas argue from the position that the underrepresentation of women is an individual and not a social and political problem (and should thus be resolved at an individual level). Opponents of the measure on business-related grounds also defend the freedom of owners to run their companies as they please and express fear of complicated bureaucratic procedures. The recent consultation of Slovenian managers discussed above (Kanjuro Mrčela et al. 2015) revealed a pointed difference of opinion between men and women participants on the issue of equality. Most of the female managers consulted (83 percent) believed that the smaller share of women in senior decision-making positions in the Slovenian business sector is a problem that needs to be resolved. Most male managers (54 percent) took the opposite view.

The answers given by managers believing that inequality is not a relevant problem illustrated two widespread convictions regarding the position of women in decision-making: first, that the problem of obstacles to promotion for women is overstated; and second that the problem could and should be resolved by women themselves. This is illustrated in the quotes below:

if a woman wants to reach the top, she will find a way; the culture of a company should allow for the selection of the most appropriate personnel; I believe that it is skills and competence that count, not gender; I don't see it as a problem.

this is not the biggest problem; there is too much attention devoted to this topic; women use their abilities and competences to resolve this problem by themselves.

The research showed that Slovenian managers were divided equally regarding the introduction of quotas: half supported quotas, and half opposed them. More female managers than male managers believed that Slovenia should introduce quotas to ensure equal representation of men and women in decision-making positions in business. The difference was statistically significant. Quotas were more often supported by managers in senior positions (57 percent) than others (44 percent).

Male managers who expressed negative opinions on the introduction of quotas often argued, as in the quote below, that:

administrative encouragement/limitation will not yield any relevant results; (quotas) . . . would lead to forced selection, discrimination, formality and prevent the selection of the best candidates.

Often, managers were in favor of a “deregulated economy with minimum administrative obstacles”; and “consideration of the competences and other requirements of a specific job, regardless of the candidate's gender”.

Female managers who supported quotas claimed on the other hand that they were “absolutely necessary, since they would help the truly competent women reach the management positions” and were “the only way to make a change”.

if we left things be, it would take centuries; sometimes, when the general culture is not supportive of certain patterns, it is necessary to introduce legally binding regulation.

Analysis of the results of an expert workshop conducted as part of the same research project, to validate and reflect on the results of the survey just discussed, established the existence of a perception that quotas are not extremely desirable in their own right, but would be an efficient

temporary stimulus for social and organizational changes. This qualified support for quotas is illustrated in remarks such as the following:

I am also one of (those) who are against quotas but I would not mind them if they actually helped. I am in favor of this happening naturally, but if we succeed, I support short-term quotas. To get the ball rolling in the right direction (male manager).

I am not particularly in favor of quotas either but probably, it is sometimes necessary to adopt radical measures to push things forward (male manager).

I believe quotas are a desperate measure. Everything else, and waiting for things to happen naturally ... Then you see that gender works against you ... This means that no progress has been achieved (woman manager).

## Critical Reflection on the Case

Debates about gender equality in positions of power in the economic sphere recently received more public attention in Slovenia. As we have seen, the discussion on how to improve the gender balance in this area does figure on the agenda of different actors in politics, business, academia and civil society. It is to be noted that recent developments have also been encouraged by international actors and activities such as initiatives from the European Commission and the support of the Norwegian Financial Mechanism for a number of projects devoted to enhancing gender equality in the economy, politics and other fields of social life in Slovenia.

Analyses and research indicate the need to combine measures that regulate the individual, organizational and social aspects of gender-based discrimination in decision-making positions in the business sector. In Slovenia, where women have already overcome many personal obstacles to promotion (regarding their level and type of education, work and managerial experience, ambition, etc.), the conditions do seem to support further movement toward organizational and institutional measures to achieve full gender equality, including binding instruments such as legally enforced quotas.

The proposal to introduce quotas works from an understanding of Slovenia's business and social environment and consideration of good and bad experiences that have followed the introduction of quotas elsewhere.

It can certainly be argued that some of the preconditions that were found to be important in other countries where quotas were introduced are also present to a certain extent in Slovenia. Namely, there is support for improving the gender balance in economic decision-making (in the political and business community and among the general public). Various measures to raise gender equality (such as recommendations or even requirements in government documents and/or business codes) proved unsuccessful or too inefficient when implemented. Moreover, as is clear from the data presented above on the presence of women in lower managerial positions, there are more Slovenian businesswomen who could be promoted to (senior) management positions than are actually gaining promotion. It is also important that the critical mass of (younger) women managers appears to be ambitious for promotion and dissatisfied with the current state of affairs.

In our judgment the introduction of quotas is necessary as a temporary measure, allowing competent people to be promoted regardless of their gender. As such, quotas should be understood and presented as a mechanism that will help eliminate the invisible obstacles to gender equality—to prevent the promotion of less competent candidates solely on the basis of gender (the “glass escalator” effect) or support competent female candidates who would otherwise be blocked purely because of their gender (the “glass ceiling”).

It is also important for supporters of pro-equality legislation to fix upon the optimal line of argument in favor of quotas. In countries where quotas have already been introduced two arguments were commonly used—one that reasoned according to values of fairness and democracy and another that addressed the priorities of business. In order to tackle the fear that gender quotas could harm business (a concern always implicit in claims that competence should be placed before gender when managers are appointed) special attention should be paid to the business argument. Instead of arguing that a woman should be appointed because of her specifically “female” characteristics and the advantages she can bring to raise a company's performance, the “business” argument should be based



on estimation of the harm done to business if talented and competent women are disregarded because of their gender. In the implementation of quotas, the specifics of the business environment should be taken into consideration when the timing and scope of the change are being decided. A gradual approach is probably best, that is, one setting a period of some years for an agreed quota to be achieved, if undesired consequences are to be avoided. (Such consequences include an instrumental increase in the number of members of decision-making bodies in order to achieve the required gender balance; or the concentration of a small number of women in a larger number of senior decision-making positions.) The scope of the ratio of women to men (e.g. 40:60 or 50:50) should be set appropriately, with attention to the types and sizes of given companies and positions (executive, non-executive), taking into account the specific conditions of different parts of the Slovenian business environment.

Quotas should be accompanied with other measures and activities such as stimulating, transparent and formalized organizational practices with respect to recruitment, promotion and career development; schemes to raise awareness about stereotypes and biases regarding the roles and characteristics of genders; initiatives to develop the sponsoring, mentorship and reverse mentorship of young women as potential candidates for promotion; and efforts to enhance the existing mechanisms, policies and instruments designed to bring about a better alignment of professional and private/family life, in particular a more intensive involvement by men in care and housework obligations.

Our analysis shows that there is considerable potential for the next step that is needed to improve gender equality at decision-making levels in the Slovenian commercial sector. It remains to be seen whether this potential is strong enough to motivate political and social change.

## Reflections of an Actor

Anja Kopač

Slovene Minister of Labor, Family, Social Affairs and Equal Opportunities.

The debate on the elimination of an important democratic deficit, the underrepresentation of women in decision-making business positions, has been intensive in the last five years in the European Union. The European Commission has drafted a proposal for a directive to address the issue, but member states lacked the political will to adopt the proposed minimum standards at the EU level. Slovenia has supported the proposal and an initiative for binding measures from the very beginning of the process.

The database of the European Commission, which compiles data on the representation of women and men in the top decision-making levels of the largest corporations listed on the stock exchange, is not encouraging. Slovenia statistically performs better than the EU average, but we should not be overly proud since the situation in Slovenia is also far from displaying a balanced representation. Women in Slovenia constitute only one-tenth of CEOs of the largest corporations, and only a fifth of members of boards. In the EU overall, the share of women is even smaller.

Norway legally regulated the area a decade ago, the first country in the world to do so. However, the state of mind necessary for this regulation to become law in Norway was not achieved overnight. Moreover, we in Slovenia face precisely the same concerns which Norway encountered a decade ago. We know that the arguments for maintaining an imbalanced situation are outdated. While women of the post-war generation were less educated than men, today the situation is reversed. While motherhood used to be an obstacle to career development for women, this impediment was eliminated in Slovenia four decades ago when mothers and fathers became entitled to share parental leave equally. While leadership skills were once attributed only to men, we now know that biology has nothing to do with it. The supporting infrastructure, which makes it easier to reconcile family and professional responsibilities in Slovenia, is among the best in the EU: we have affordable and quality childcare, morning care and extended supervision for the lower grades of elementary schools; organized school transport, school meals, a variety of services for the elderly, along with paid leave for people caring for a sick family member or members, etc. Thus, employees in Slovenia (female employees for the most part, because of a still fairly traditional distribution of care and other domestic responsibilities) do not have to choose between having a career or a family, because it is possible to co-ordinate both.

Therefore, the question today is not when, but: when, if not now? At this moment at the institutional level we have everything that is necessary to establish conditions for gradually achieving a balanced representation of the genders at senior levels in business. We have positive experience in abolishing this democratic deficit in political decision-making. In the area of reconciling private and professional life, we have not only legislation, but also a number of good practices and services. We have surveys which confirm that a balanced representation of women and men in any field, including the economy brings many benefits—not only to businesses, but to society as a whole.

Experience does not support the view that so-called soft measures—e.g. awareness-raising and self-regulatory measures—bring visible changes. When we warn that the unbalanced representation of women and men in these areas raises the question of how serious we are regarding the constitutional provision of gender equality, we don't get loud applause. As a rule, we come across many justifications and excuses regarding women's insufficient training, a lack of ambition, men being better equipped to function in the business world, and so on. And precisely because of these stereotypes, the current institutional framework is not sufficient. It has been confirmed many times over that the loss of the educational and working capital of half the population—in this case women—is simply not affordable. To put it in economic language: in the global race only those who will be able to use all their available resources and abandon limiting, traditionalist approaches will be successful.

This is why commercial organizations should start to think less stereotypically. Many did so long ago and in such organizations today gender is not a criterion for career development. Unfortunately, such organizations are in the minority. We all have to identify the potential of women, a potential that in the past was often less visible than it might have been because of some of the stereotypes mentioned above. The state's task is to accelerate social development—as Norway did a decade ago, and as an increasing number of other countries have done in the interlude. Some arguments in favor of doing so stem from democratic motives, others from economic motives. It is important to achieve a broad consensus so that the proposed legislation, in accelerating a so-called “natural” movement toward full equality, will achieve its goal not only as quickly as possible, but also in such a way that it will eliminate any doubt in the qualifications,

knowledge and experience of those who will benefit from it. Naturally, all of us who take gender equality as one of the most important principles of democracy want social justice to be an important driver of development. Yet when greater social equity also contributes to greater success in the global economic game, such a result will certainly please all who advocate the purely business-based case for social change. In the case of the balanced representation of women and men at senior levels in the commercial sector both arguments support a common goal: the identification of the best talents. Those talents are distributed evenly between the sexes.

## Notes

1. All statistical data in this section is from Eurostat LFS unless otherwise stated.
2. The Managers' Association of Slovenia (MAS) is a voluntary professional association. It has around 1000 members; 27 percent are women (The Managers' Association of Slovenia).
3. The Association of Supervisors of Slovenia is a voluntary professional association with 600 individual and 16 corporate members. The association's main aim is to develop the quality of corporate governance. ("O ZNS", 2017).
4. The UNDP annual reports on the Human Development Index (HDI) and the Gender-related Development Index (GDI) take into account the Gender Empowerment Measure (GEM). The Gender-related Development Index (GDI) measures achievement in the same basic fields as the HDI, but takes note of inequality in the achievements of women and men. The GDI as such is simply the HDI adjusted (downwards) to reflect gender inequality. The Gender Empowerment Measure (GEM) is an index of agency. It evaluates progress in advancing the standing of women in political and economic forums. It examines the extent to which women and men are able to participate actively in economic and political life and take part in decision-making ("Gender Inequality Index", 2015).
5. The survey sample consisted of 151 managers (112 women and 39 men). Thirty-five percent of these were CEOs or presidents of boards, 29 percent board members and 36 percent middle managers. We conducted an expert workshop in which four female and four male experts from business and academia debated the results of the survey.

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# 5

## Gender Diversity in Austrian Boards—Combing Soft and Hard Law Regulations

Heike Mensi-Klarbach

### Introduction

Austria is one of the countries for which no gender quotas have been implemented so far. However, some soft law regulations are in place, and a vague general prescription to appropriately consider gender diversity for board nominations can be found within the Company Act. Additionally, a self-commitment for corporations with major state ownership that included target quotas was implemented in 2011. Even though the representation of women in top positions has remained quite moderate, with less than 10 percent for executive positions and less than 20 percent for non-executive positions, the political will to enact a quota law remains low,<sup>1</sup> even after Germany decided to implement quotas for large stock-listed corporations. Austria is a corporatist country with a high concentration of ownership and hence voting power. Within this chapter it will

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be shown, first, that the board nomination process is mainly driven by a relatively small number of people and parties and, second, that the majority of powerful actors are against quota regulations. Instead, these actors vote for long-term structural measures, such as family–work compatibility measures or women’s skills training. In other words, the focus of action is on women and their potential deficiencies, while board nominations as such remain untouched, at least in corporations with no major state ownership.

The chapter is structured as follows. First, a general background is provided, outlining general economic and labor-related data, as well as particularities within the economic and political system. This section includes a description of the corporate governance system in Austria. In addition, formal and informal practices of board nominations and their impact on the ongoing homosocial reproduction of Austrian corporate boards are discussed, and the overall situation of female representation in Austria is outlined. The next section, discussion of the national public policy, presents two different types of regulation for state-owned and publicly listed corporations. The following section discusses enabling and hindering forces for gender quotas, while the next offers critical reflections on the case. The chapter is concluded with reflections of an actor, which presents the thoughts of the former Minister for Women’s Affairs on the present regulations, passed during her tenure.

## General Background

Austria is one of the smallest European countries, with eight million inhabitants on 84,000 km<sup>2</sup>, situated in the very middle of Europe. Its geographic position is notable, as Austria is considered part of ‘Central Europe’ while being surrounded by ‘Eastern European’ countries. Historically, the relationship between Austria and its so-called Eastern European neighbors has always been unique and complicated. Following a very close relationship during the rule of the Habsburg Empire, the Iron Curtain separated Austria and the rest of Central Europe from the Eastern European countries after World War II. The Iron Curtain enforced Austria’s borders with the Czech Republic, Slovakia and Hungary, and remained a hermetic shielding until 1989. These old borders again gained



importance when Austria joined the European Union (EU) in 1995, thereby opening its borders for free movement between Austria and Central Europe, based on the Schengen Agreement, while the borders toward the east remained closed. The Czech Republic, Slovakia, Hungary and Slovenia followed nearly 10 years later, becoming members of the EU through the first EU enlargement. The Schengen Agreement and its removal of border controls, however, was only put into effect three years later for Austria's direct neighbors. Since then, Austria has been considered a country situated in the very center of the EU. Previously, however, the Austrian economy and thus its governance system had been closely tied to Germany for decades. The policy of hard currency, in particular, which was based on a strong connection between the Austrian Schilling and the German D-Mark (from 1973 on), led to a strong orientation of Austrian fiscal and economic policy toward Germany (Klausel 2002).

## Political and Economic System

The economic and hence governance system in post-war Austria is characterized by a very close connection and collaboration between the Austrian economic and political elite. The political system has been defined as among the most corporatist in Europe (Gourevitch and Shinn 2007). This has found expression not least in the so-called social partnership, which is 'based on close co-operation between the state, capital and labor' and thus strong labor relations (Traxler 1998, p. 239). Social partnership describes a practice of 'policy-making and solving potential social conflicts through institutionalized bargaining and compromise' (Meyer and Höllerer 2016). Social partnership and so-called Austro-Keynesianism was characterized, first, by a clear commitment to allocating a portion of productivity growth to employees through annual wage improvements and, second, by the economic system distinguished itself through expansive public spending and fiscal policy combined with a policy of hard currency (Klausel 2002).

This economic policy was mainly supported by the positive economic development of the Austrian economy after World War II. However, industrial relations and, hence, the social partnership, in particular, owe

their stability to some institutional preconditions. These include the relative weakness of private capital and hence the relative power of labor, a large sheltered sector and many small firms (Traxler 1998), a stock market characterized by major block-holders, and a dominant role of the state (Becht and Mayer 2001; World Bank 2016).

The dominant role of the state was mainly based on significant state control of the financial sector via ownership of all major banks by public bodies or social partners, and the control of nationalized industries by state ownership, or at least major state block-holdings (Barca and Becht 2001; Meyer and Höllerer 2016). Even today, the state retains block-holdings in many corporations, but individuals and families now serve as even greater block-holders, thereby controlling a majority of Austrian companies. ‘In 50 percent of all non-financial listed companies in Austria [. . .] a single block-holder (an individual investor or group of investors) controls more than 50 percent of voting rights’ (Becht and Mayer 2001, p. 18). Furthermore, the absence of second block-holders results in very powerful major shareholders who exert great control relative to other shareholders. Thus, ownership concentration in Austrian listed companies has always been and remains among the most pronounced in Europe (Barca and Becht 2001; Gugler et al. 2001; Korom 2013).

## Governance Structure According to Company Law

The governance system in Austria is a so-called dual system with two separate organs: the executive and the supervisory board. This system is the norm for all incorporated companies, including both listed and non-listed corporations. In 2001, EU regulation introduced the possibility of choosing a one-tier system by incorporating a *societas Europaea* (SE),<sup>2</sup> finally becoming effective in 2004. However, as of today, more than 10 years later, only three of the 39 Vienna Stock Exchange prime market listed corporations are SEs. The following section will therefore focus on the dominant governance system—the dual system—and describe particularities of the executive and supervisory boards, clarifying the collaboration between the two and the nomination process.

## Supervisory Boards

Supervisory board members are elected by the shareholders in the course of the general meeting for periods of no longer than four years, though they can be re-elected. A minimum of three members constitutes the supervisory board; the supervisory board members agree upon a chairperson and at least one deputy from their members. Supervisory board members may be dismissed preterm by shareholders with a qualified three-quarter majority of votes; minority investors can appeal preterm dismissal to the court if they possess 10 percent of total shares (§ 86 AktG<sup>3</sup>). In addition, the Labor Constitution Act codifies the right of works councils to post one employee representative for every two capital representatives to the supervisory board (§ 110 ArbVG<sup>4</sup>). The inner organization of the supervisory board usually consists of committees, such as the nomination committee, an audit committee or a strategic committee, and employee representatives may claim membership of all such committees. The main duties of supervisory boards are as follows (§ 75, 95 AktG):

- Monitoring and supervising the executive board.
- Convoking a general meeting, if necessary.
- Electing or dismissing the executive board and the CEO.
- Approving certain transactions.
- Approving and presenting executives' proposals for appropriation of earnings to shareholders during the general meeting.
- Setting appropriate executive compensation.

## Executive Boards

The supervisory board appoints the executive board. The executive board may consist of one person or more. Each executive board member may be appointed for a term of five years only, though re-election is possible (§ 75 AktG). Once appointed, the executive board works independently and may only be dismissed preterm by the supervisory board for a compelling reason. Hence, the executive board has been called 'a temporary dictator' (Doralt 2003). The supervisory board may determine a chief executive

officer, but does not have to. The main duty of the executive board is to lead the company on its own account (§ 70 AktG) and to report its activities to the supervisory board in several ways:

- Quarterly regarding daily business.
- Annually regarding strategic and general aspects of business.
- Exceptionally, if required.

(§ 81 AktG)

Furthermore, the executive board is responsible for an appropriately established and effected managerial accounting and financial reporting system, and internal control mechanisms with regard to financial reporting (§82 AktG).

To summarize, the Austrian dual system is characterized by a clear separation of duties between the two organs, and prevailing opinion suggests that supervisory boards should stick to their monitoring role and not intervene in executive affairs. Supervision is effected by verifying the plausibility of executives' reports, financial reports and transactions subject to approval. Proactive behavior in terms of strategy building would thus not be included among supervisory boards' duties (Doralt 2003).

## Corporate Governance Code

In addition to company law, Austria issued a Corporate Governance Code in 2002. Since 2008, corporations listed on the Vienna Stock Exchange are obliged to publish a Corporate Governance (CG) Report annually, and since 2015 the supervisory board must monitor the CG Report and present it to the shareholders at the general meeting (§96 AktG together with §222 UGB). The Corporate Governance Code represents a compendium of general guidelines for responsible governance. Its structure and content are more or less consistent with other European Corporate Governance Codes and aims at regulating, or at least influencing, corporate governance alongside the following areas of interest:

- Shareholders and general meetings
- Cooperation between supervisory boards and management boards
- Supervisory boards
- Management boards
- Transparency and auditing

(Austrian Working Group for Corporate Governance 2015)

The Corporate Governance Code has been amended eight times since it was first issued. It includes recommendations (R-Rules), comply or explain rules (C-Rules) and legal requirements (L-Rules). The main aim is to increase transparency and good governance standards, while keeping the number of legal rules low so as to avoid over-regulation. The Corporate Governance Code plays a particularly important yet controversial role in anchoring the case of female representation on corporate boards. Later in this chapter (discussion of national policy) it will be shown that the Working Group for Corporate Governance was the first to discuss the issue of female representation in 2008, with legal prescriptions following.

## **Board Nomination: A Process of Homosocial Reproduction**

As described above, the dual system clearly distinguishes between supervisory and executive boards. Accordingly, nomination of members works differently for executive and supervisory boards. Some leading lawyers would suggest that the most important duty of supervisory boards is to find, choose and nominate the ‘right’ executive board members. If the supervisory board consists of more than six members, it should build a nomination committee (C-43 ÖCGK 2015) to take charge of organizing and coordinating the nomination of executive board members, proposing candidates for the board, and releasing supervisory board positions to the shareholders. Hence, the supervisory board plays a major role in selecting both supervisory and executive board members, and its members are thus among the most powerful influencers of the composition of management in the largest Austrian companies.

Having described the legal issues of board nomination, it is important to complete the picture by discussing how nomination to board positions is usually carried out in practice. Due to the corporatist nature of the Austrian economy, the state is a major player in the corporate world. In addition, as stated earlier, single families or individuals possess a majority of shares in many listed companies, resulting in 50 percent of non-listed corporations being dominated by single block-holders, hence constituting a major concentration of voting blocs (Barca and Becht 2001). This resonates with a recent study on nomination practices in Austria, which revealed that it is mainly single persons that are ultimately responsible for nominating supervisory board members (Hanappi-Egger and Mensi-Klarbach 2014). Thus, individuals, not nomination committees, decide who will have a seat on Austrian boards. Usually it is people from the close professional environment of powerful individuals who are selected (Mensi-Klarbach 2016). The search process is often informal and usually focuses on characteristics that correspond to those already present within the boards. Furthermore, the board is rarely thought of as a unit, but merely as a set of individual members (Ladegard et al. 2013; Mensi-Klarbach 2016). In addition, requirement profiles are usually not specified or made public, and people leading the nomination process rely on an implicit idea of required characteristics, which are rather general in nature.

However, the focus within the nomination process is not only on acceptability criteria (such as formal qualifications and job experience), but also suitability criteria (such as personal characteristics and soft facts) (Holgersson 2013). The most important mentioned factors for nomination are trust resulting from joint working experience, personal acquaintance and overall similarity ('one of us') (Mensi-Klarbach 2016). This, in turn, does not necessarily lead to demographic diversity or gender diversity, given that the political and economic elite in Austria has been and remains very homogenous in terms of age, gender and socio-economic background (Korom and Dronkers 2009; Abd El Mawgoud and Wieser 2016). To summarize, the nomination process tends to be informal and unstructured. Furthermore, nomination is mainly promoted by single dominant shareholders or state representatives. This, in turn, serves to reproduce the status quo of homogenous boards in Austria (Hanappi-Egger and Mensi-Klarbach 2014; Mensi-Klarbach 2016).

## Facts and Figures

With regards to the economic situation, Austria has developed similarly to other Central European countries: after a recession in 2009, the Austrian economy recovered in 2010 and recorded a real GDP growth in 2011 of 3.1 percent. Since 2012, real GDP has been nearly stagnant, with only 0.3 percent growth in 2014 (Eurostat 2014a). The unemployment rate of 5.6 percent in 2014 was relatively low compared to the EU average (10.2 percent). Furthermore, no significant gender gap has been recorded with regards to unemployment, though men are slightly more often unemployed (5.9 percent) than women (5.4 percent) (Eurostat 2014b). Yet these statistics call for further reflection: labor force participation of women (64.7 percent) is considerably lower than that of men (77.8 percent). In addition, women work part-time far more often, at 44.7 percent compared to 7.8 percent of men. It can be shown that there is a clear causal relationship between childcare responsibilities and part-time working arrangements for women: 70.9 percent of women with children younger than 15 years of age work part-time, compared to 5 percent of men. The share of females working part-time is among the highest in EU, alongside the Netherlands, Germany and Switzerland, whereas the proportion of men working part-time is among the lowest (Baierl and Kapella 2014). As a result, women earn about 40 percent less than men (Statistik Austria 2015). According to Eurostat (2014c), the gender pay gap in Austria is 22.2 percent, which is considerably higher than the EU (27) average of 16.7 percent. Turning to the Global Gender Gap Report (2016), Austria's index of 0.727 (ranked 37 out of 145 countries) is mainly affected by its low index for economic participation and opportunities (ranked 52 out of 145) and its low ratio for political empowerment (ranked 39 out of 145). The representation of women, both in parliament and ministerial positions and managerial positions, remains low (less than one-third). The annual Austrian Women Management Report (Spitzer and Wieser 2015) shows that women accounted for 16.2 percent of seats on supervisory boards and only 5.9 percent of executive positions in Top 200 Austrian companies in 2015. Thus, the issue of increasing the

number of women in top positions and on corporate boards remains important yet unsolved.

## **National Public Policies Regarding Women on Boards**

Increasing the number of women in leadership positions has been on the agenda of corporate governance debates since 2008, yet with varying intensity at different points in time. Furthermore, it is important to distinguish between corporations with mainly private ownership and corporations predominantly owned by the state. Initiatives and prescriptions have been less demanding for publicly listed companies without major state ownership, whereas publicly owned companies (such as those that are at least 51 percent owned by the state) are subject to more thorough regulations regarding gender diversity in supervisory boards. Accordingly, national policies for all publicly listed companies will be discussed, before we turn to particular regulations for ‘publicly owned’ companies.

### **Gender Diversity in Publicly Listed Companies**

In 2008, it became legally mandatory to publish a CG Report for all publicly listed companies. A recommendation was added to the Corporate Governance Code asking nomination committees to consider issues of gender diversity when proposing supervisory board candidates to shareholders (R-42 ÖCGK 2009). In 2009, the Company Act was amended to prescribe that publicly listed companies implement and report on measures to promote women. In January 2012, the Corporate Governance Code was amended such that both the nomination committee in proposing and the general meeting in electing candidates were asked to consider diversity appropriately or otherwise explain deviating behavior (C-42 and L-52 ÖCGK 2012). In July 2012, the Federal Chancellery proposed a draft bill to amend the Public Companies Act in a number of areas. Within the scope of the act, amendment rule C-52 (ÖCGK 2012) was



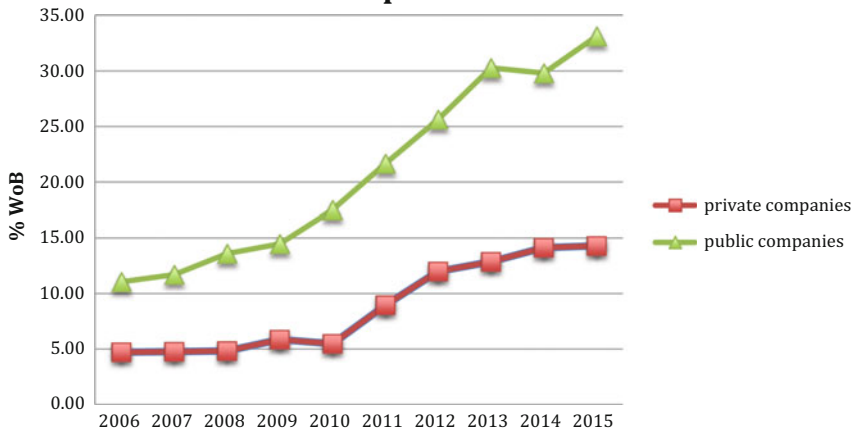
added word for word (BGBl. I Nr. 35/2012). Thus an uncertain legal term was added to the Company Act, namely to ‘consider the representation of both genders appropriately’ (§ 87 AktG) without indicating what ‘appropriately’ could mean. What is more, no legal sanctions were defined, leading the diversity law to be called a ‘toothless tiger’ (Spitzer and Wieser 2015).

Formally, the Austrian Public Company Act has contained, since 2012, a law that prescribes the consideration of diversity (regarding gender, age and international background) in supervisory boards. However, the representation of women has not considerably increased since then (women comprised 9 percent of such boards in 2008; 11.2 percent in 2012; 16.2 percent in 2015) (Spitzer and Wieser 2015). This might be due to the above-mentioned ambiguity of the legal prescription (what is appropriate?) and uncertainty of potential sanctions (who would be prosecutor and what would they request?). Contrary to this rather vague legal prescription, more specific regulations exist for publicly owned corporations, which we will now examine.

## Corporations with at Least 50 Percent State Ownership

In 2011, the Council of Ministers passed a resolution to increase the number of women on supervisory boards of corporations at least 50 percent held by the state (Federal Chancellery 2011). The resolution contained concrete quota targets to gradually increase the number of women on supervisory boards: impacted companies would have to have 25 percent female supervisory board members by December 31, 2013, and 35 percent by December 31, 2018. Furthermore, the resolution prescribed that an annual report of progress had to be delivered to the Council of Ministers. In cases where the quota will not be fulfilled by 2018, the resolution asserts that legal measures will be instigated. The resolution affects 56 corporations in total, with 399 supervisory board positions of which the state (via ministries) nominates 295. In 2011, when the resolution was passed, the share of women on those supervisory boards was 16.1 percent. By the end of 2015, the rate had more than doubled to 38 percent. Thus, it can be stated that the quota set for

### Women on Boards in public and private companies



**Fig. 5.1** Women on Austrian boards 2006–2015

publicly owned corporations led to a significant increase of women on boards, whereas the share of female supervisory board members in all other corporations increased only slightly in the same period (Fig. 5.1).

Overall, the political debate on increasing the share of women on boards was clearly prompted by international pressures and the threat of potential EU-wide legal prescriptions with regard to gender quotas. Several other measures have been put into place, all of which target the supply side—the women themselves. For instance, ‘Zukunft.Frauen’ (‘Female. Future’), a program that had been implemented in Norway before the quota law was implemented there, has been offered to ready talented women for top positions in Austria since 2010 (Zukunft.Frauen 2016). The program is designed and executed by the Austrian Economic Chamber and the Federation of Austrian Industries—both organizations that represent employers’ interests. As of now, more than 170 women have passed the program, yet their successes regarding nomination to board positions remain lackluster (Mensi-Klarbach 2016). Still, Austria seemed far from implementing gender quotas for all boards, as most of the political parties and employer representatives are against such a move. While this article was written, the two coalescing parties announced a new

working contract in February 2017. Unexpectedly, this contract foresees, among other issues, a mandatory gender quota for all public limited companies. This announcement prompted plenty negative reactions, among them from the president of the Federation of Austrian Industries, Georg Kapsch, who said he was fundamentally against gender quotas for boards. He furthermore argued that there were already enough women in leadership positions (Die Presse 2017).<sup>5</sup>

## Enabling and Hindering Forces

The case of Austria is interesting, as different regulations apply to corporations with major state ownership and privately owned corporations. Thus, regulation that aims to increase female representation is far more demanding for publicly held companies, and far more effective too. This suggests that formal quota regulations would more quickly and most probably more effectively lead to gender balance in corporate boards. We must thus explore the question of which parties would be in favor of and against a gender quota, respectively.

As outlined earlier, the Austrian corporate world is characterized by ‘social partnership’, on the one hand, and major block-holders, who are in charge of nominating a majority of supervisory board members, on the other. Accordingly, the important stakeholders in promoting women to boards would either be the social partners or the major block-holders. For the latter, the state approved a self-commitment through the 2011 resolution, so block-holders can be clearly defined as a force in favor of gender equality on boards. The individual and company block-holders, however, seem not to be too positive about the quota regulation. Not only has the increase of females on corporate boards been modest, but private owners oppose quota regulation even more, as they regard it as an unjustified curtailment of their discretion (see, for instance, WKO 2016 or IV 2016).

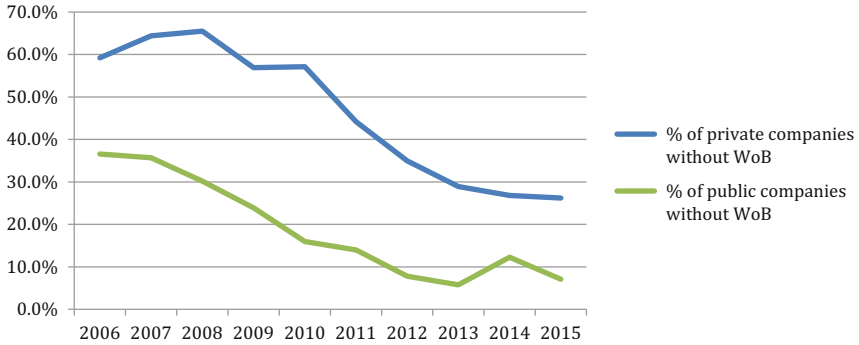
Accordingly, those ‘social partners’ representing employers are clearly against prescribed quota regulations. The Austrian Economic Chamber declares that it strives to improve framework conditions so as to develop women’s job opportunities, but takes a clear stance against legal regulation (WKO 2016). Similarly, the Federation of Austrian Industries

focuses on structural causes of vertical segregation. Among their areas of activity are compatibility of family and career, and respective measures for men and women with children. They push for more women in top positions, but believe measures must be freely chosen by organizations themselves and should not be legally prescribed (IV 2016).

‘Social partners’ representing employees include the Austrian Trade Union Federation and the Chamber of Labor. The Chamber of Labor takes an explicit stance on the issue of increasing the proportion of women in leadership positions and plays an important role in publishing a detailed report on the composition of all Top 200 Austrian companies (Frauen.Management.Report). The report can be considered one of the cornerstones of political action in this regard. It encourages political discussion every year by showing that female representation is increasing only slowly in supervisory boards, and is stagnating in executive boards (Spitzer and Wieser 2015).

The role of the Austrian Trade Union Federation remains unclear, as the topic of increasing women in top positions is not among its most prioritized issues. Even though a women’s division exists, it focuses more on equal pay and issues of women’s retirement and social protection. In 2007, a resolution was passed that aimed at increasing the number of women in top positions of the Trade Union Federation itself, yet no report about its internal progress has been produced. Even though works councils appoint one-third of all supervisory board members, there is no prescription by the Austrian Trade Union Federation obliging or even asking works councils to consider both genders equally when executing this task.

To summarize, the Chamber of Labor and the Social Democratic Party, in particular the Federal Minister of Women Affairs, are in favor of a gender quota for women on boards. In contrast, the conservative party, Austrian People’s Party (ÖVP) (including its ministers, private block-holders and their representatives within the ‘social partnership’), the Austrian Economic Chamber and the Federation of Austrian Industries are against gender quotas, and would rather support structural measures in the areas of compatibility of work and family life, and skills training for women. Even though the majority of actors remain opposed to a legal gender quota the new coalition contract contains the plan to



**Fig. 5.2** Companies without women on boards

implement a mandatory gender quota for all public limited companies. However, negotiations on a concrete bill have not yet begun. Meanwhile measures targeting structural barriers to women's progress are being implemented, though they have had negligible success so far.<sup>6</sup> At the editorial deadline of this book a plan to introduce a gender quota for publicly listed companies and companies with more than 1000 employees was elaborated by the two coalescing parties. However, the public statements of conservative parties, and social partners still don't indicate approval of a gender quota for boards (Fig. 5.2).

All in all, public debates have had some success, as the percentage of publicly listed and publicly owned companies without any women on their boards have decreased significantly. While more than 60 percent of all publicly listed companies had no women on their boards in 2006, this figure had dropped below 30 percent by 2015. With regard to publicly owned companies, in 2006, about 40 percent had no women on their boards, while in 2015, less than 10 percent remain without any female board member.

This figure shows, first, that today a much lower number of companies remain purely masculine in their supervisory boards. Yet this figure also shows that, even though there is a mandatory quota for women on supervisory boards of publicly owned companies, 7 percent of these companies had not appointed even one woman to their boards by 2015.

The impressive average of nearly 35 percent women on supervisory board is obviously attributable in part to some over-performing companies, and potentially disguises resisting companies.

## Critical Reflection on the Case

### Unsuccessful Transformation

As has been mentioned, the issue of women on boards was first broached in 2008, when a recommendation to consider women for supervisory board positions was added to the Austrian CG Report. According to the responsible actors within the Working Group for Corporate Governance, the topic was mainly considered due to international pressure and the ongoing gender debate at the EU level. In 2012, not least due to the lack of changes in the gender compositions of boards, the R-Rule was turned into a C-Rule, such that corporations had to report their deviating behavior. Within the same year, this C-Rule obliging nomination committees and general assemblies to consider gender, age and international background ‘appropriately’ for supervisory positions was brought into the Company Act and hence became legally prescribed.

Surprisingly, the Corporate Governance rule was proposed to the parliament as a Company Act amendment in March 2012 by the Federal Chancellery, and passed within the same month without any prior formal assessment (Austrian Parliament 2012). This Company Act amendment was brought into effect together with approximately 60 other acts within the same parliamentary session (BGBL. I, 35/2012). Thus, it could be argued that proponents of diversity in corporate boards took advantage of the crowded parliamentary session and succeeded in turning the Corporate Governance rule into a law silently and practically overnight. However, the disadvantages of this approach quickly became apparent. First, as there was no assessment phase, the wording of the rule was taken directly from the Corporate Governance Code, resulting in ineffective and too general phrasing, with a lack of potential legal sanctioning. The negligible success of the rule supports the notion that, even though there seems to

have been good reason for legally prescribing diversity in corporate boards, it was performed unsuccessfully.

## Impediments for Mandatory Quotas

As for boards of corporations with major state ownership, it is interesting to observe that the resolution for quotas was submitted by the Federal Ministry of Education and Women's Affairs (Social Democratic Party) and the Federal Ministry of Economy, Family and Youth (conservative Austrian People's Party). As it was proposed by the two Federal Ministries and, thus, the two coalescing political parties, the resolution had a clear political majority within the cabinet. However, even though the Federal Ministry of Education and Women's Affairs has always been in favor of a quota law for all publicly listed corporations, this endeavor has up until today lacked a political majority within the parliament. Even though the cabinet agreed on putting a mandatory gender quota back on the political agenda, its implementation is far from sure. The resolution for corporations with major state ownership can be interpreted in two ways: first, it is the minimum political consensus to take action in order to increase female representation on boards; second, the concession of the conservative party to implement quotas for corporations predominantly held by the state led to the compromise of not regulating publicly listed corporations in terms of gender quotas. However, politicians and social partners are now pointing to publicly owned corporations as best practice examples of promoting women into board positions and hoping that other corporations would follow. Additional political action is limited to measures that mainly address women's deficits (e.g., in education), structural deficits (such as those regarding childcare), leaving a lot of room for corporations' self-regulation.

Ironically, it seems that what was initially meant to strengthen female representation on boards, namely turning the C-Rule regarding consideration of both genders for supervisory board positions into a law, ultimately became a major hindrance to the current debate. Yet, the legal prescription for diversity on corporate boards as it is up to today is ineffective and thus 'a toothless tiger'.

To some extent it is surprising that the German debate, which ultimately resulted in a legal gender quota for some corporations in Germany, did not really spill over into Austria. Germany and Austria's Company Acts are definitely similar, as are their historical developments. However, the issue of gender quotas seems to be seen differently within the two countries. The introduction of the gender quota in Germany did not prompt a public debate on the gender quota in Austria and how Germany could serve as an example in this regard. However, the gender quota can be seen as the only instrument by which to considerably increase the proportion of women on boards. So let's see if the coalescing parties eventually opt for a quota in Austria, as our neighbour Germany did two years ago.

## Reflections of an Actor

Gabriele Heinisch-Hosek

Mandatory quotas—scorned and feared, but effective!—My résumé. Comment by National Council parliamentarian, Federal Minister (out of duty [a.D.]).

Today, after almost eight years of government work, I am more than ever an advocate of quotas, because they open those doors to women that unfortunately all too often still remain closed to them. In 2008, in my early days as Minister for Women, the demand for quotas for women was among my main priorities—to be precise, this was actually the theme of my first major interview, even before I was officially sworn in as a minister. It was important to indicate right from the start that I would not give up on this issue, even if opposition at the time was much stronger than it is today. That's why, in 2012, I supported the pioneering efforts of the former EU Commissioner Viviane Reding, and still regard it as a missed opportunity that her plan was never implemented. Commissioner Reding's concern was to end discrimination, and so she focused mainly on a critical analysis of skills profiles and nomination processes. Quotas are used as a lever to professionalize and make transparent the current search process for suitable candidates. In this approach, a different



political stance is reflected than mine, but we were always united in our analyses and our choice of means. For in the field of women's policies, it is perhaps more necessary than in many other topic areas to continue to collaborate across parties and between Federal States.

In March 2011, the Federal Government committed itself to implementing a quota for women on the supervisory boards of government-related companies. The aim was a quota of 35 percent by 2018, which had already been exceeded in 2015. Currently, the quota is 38 percent. At the time the resolution was passed in the Council of Ministers, the rate was 16.1 percent, so the project was very ambitious. I also wanted this schedule at an executive level, but this was not feasible.

At first glance, this is thus a success story in the public sector. However: These very good results—in comparison with the private sector—could only be achieved on average. There are still companies and departments that do not meet the requirement, a fact which I openly criticize. Nevertheless, I was able to ensure that a decisive step towards binding regulations was taken. Because until then it had only been possible to agree on voluntary measures in the Government and with the social partners. In particular, it was emphasized, especially by conservatives and in the business community, that accompanying and preparatory measures for women are required. One repeatedly hears the call to make women 'fit' for such a function and for a database of potential women supervisory board members. I make no secret of the fact that I hold both for rather cosmetic measures. The truth is, we created the tools for businesses long ago, if the will to increase the number of women is genuinely there. For example, the 'women in management' initiative,<sup>7</sup> to name but one. We have known for a long time that women are properly trained and that in certain areas, for example in qualifications in economics, have long since overtaken their male counterparts. In addition, the PROGRESS project 'Women are top'<sup>8</sup> has clearly proven that supervisory board appointments do not really work that way. No owner nor head-hunter searches for people to fill top management positions via a database. Completely different criteria are decisive here, such as trust, for example. Does that mean, conversely, that we women are less trustworthy?

So that not 'only' the voluntary commitment of the departments is set, the Corporate Governance Codex<sup>9</sup> applies for companies in the private

sector. This soft-law regulation provides that listed companies must submit a report on the measures taken to promote women. In 2012, the anchoring of a provision for diversity in terms of the representation of both sexes<sup>10</sup> in the Companies Act was also achieved.

The commitment currently comprises 112 seats in 56 companies—compared with the 1.737 women supervisory board members in the top 200 private companies, a small portion of the economy. On the introduction of self-commitment, the question had to be raised of why implementing such a requirement was to be limited only to those few businesses. The fact is that a quota for the private sector was not implementable at that time, and may well also not be today. The public sector was supposed to thus lead by example, and have a certain ‘wake effect’. This, however, did not materialize in this instance. It is important to view this critically, but it was an important sign, nevertheless. Because self-commitment also means that in Austria a quota for supervisory boards was laid down for the first time. Incidentally: there is a real quota for all operational levels right up to the management level in Austria, and indeed since 1993 with regular increases in the quota. I am talking about the public sector, where today it is of course self-evident that there has been a 50 percent quota since 2012. The idea that the public sector should lead by example therefore has a long tradition in Austria. And already in the guidelines for the employment structure we could see it: Quotas work! The proportion of women in management positions in the public sector has increased by 6.8 percentage points since 2006 alone and currently stands at 34.5 percent; the proportion of women on supervisory boards, as mentioned above, is at 38 percent. But we also see: The private sector is not following on. This is true both for the upper echelons of private enterprises (only a meagre 7.2 percent of the senior management are women) and for the control bodies. There is no ‘wake effect’; no one is modelling themselves on the example of the Federal Government. The rate in the private sector currently stands at only 17 percent, and in the last decade we have not been able to see an improvement. Is this due to the very deep-rooted and unfortunately still extant Austrian culture of male bonding?

Still, it was important, for all the justified skepticism, to accept this. Because as well as its symbolic power, the overreaching of the target is also

contributing to there being increasing pressure to introduce a quota for the private sector. There are no more excuses. Because one of the main arguments against a quota system is thus weakened: Precisely in the government-related sector there are many companies concerned with infrastructure, an area in which it is especially argued that women would not have enough professional competence.

In addition to the equal opportunities and gender equality, another interesting aspect needs to be addressed: a quota for women is not only gender-politically the order of the day, but also has tangible benefits for the company itself. After numerous studies, it has been shown that mixed management teams achieve better results. Companies where women are promoted show up to 35 percent higher profits! The study by the Boston consulting group ‘Frau Dich’ confirmed (Lorenzo et al. 2016): more equality in the labor market brings better economic results. Another reason why mandatory quotas have long ceased to be anchored in the ‘model country’ of Norway. Since 2011, the European train of bringing more women into leadership positions has begun to roll. More and more countries recognize that it is economically necessary to bring more women into top positions and that no progress is made with mere declarations of intent and discussions on the subject. Therefore, more and more European countries are opting for legislation (Germany, Italy, France, Belgium, the Netherlands, Iceland, Spain, Norway). In Norway, the 40 percent quota has even been able to be linked with penalties for non-compliance.

But the fact is that Austria still has a major backlog in this respect. Indeed, even though since 2008 there has been a certain amount of change in Austria, the top management bodies remain just as male dominated in the year 2016. Almost every third one of the 200 largest companies (28.5 percent) manages entirely without women both on the supervisory board and in management. Would ‘mankind’ feel disturbed or even threatened if there were women on the same level? It is still true that there is still a lot to be done. In addition, especially in women’s policy one should never rest on one’s laurels. At the moment we are experiencing a socio-political backlash in a wide variety of topics and in many countries, which not least is also threatening to erode the equality of women and men.

Considering the proven success of a quota system, but also the expected profit for the economy, the question actually far more arises—how come there still is no women’s quota? This chapter speaks a clear language, which coincides with political daily life: there is still a lack of will on the part of our coalition partners and the professional business body. I am still experiencing the same reactions now as I did then during negotiations. The issue of a quota continues to be as a major threat to many men. However, I have also met women in panel discussions who were in top positions and who by no means wished to be regarded as a ‘quota woman’. Almost as if the word quota belittled all their skills and called into question their achieved positions. To remove the negative image of the quota instrument, strong women’s networks are required. The bulk of companies are still against quotas. And that’s why mandatory quotas are required for the private sector and also for the boardroom. With voluntary measures to reconcile work and family, but also specific measures to promote women at the company level, the proportion of women will not be structurally increased. Women and gender equality policy is always a long haul and requires considerable staying power. Therefore I, as a woman politician for women, must continue to raise and advance the issue of the women’s quota.

## Notes

1. Fiat the editorial deadline of this book there was no final political agreement on introducing the gender quota in Austria even though it seemed more likely than months ago.
2. A *societas Europaea* (SE) is a public company registered according to EU corporate law. The regulation offers the possibility to simplify transnational business, to increase mobility within the EU internal market and a frame within which to merge personnel employed by the SE in different countries. See, for instance: [http://ec.europa.eu/internal\\_market/company/societas-europaea/index\\_de.htm](http://ec.europa.eu/internal_market/company/societas-europaea/index_de.htm)
3. AktG means Companies Act.
4. ArbVG means Labour Constitution Act.

5. <http://diepresse.com/home/wirtschaft/economist/5165242/Kapsch-grundsatzlich-gegen-Frauenquote-in-Aufsichtsraten>. Accessed February 20, 2017, 5:16 p.m.
6. On June 28, 2017, a proposal by both coalescing parties on a gender quota was passed by the parliament. According to this new law all publicly listed companies and all companies with more than 1000 employees need to have 30% supervisory board members from January 1, 2018 on. Sanctions for non-compliance are open seats similar to the German quota law.
7. <http://www.frauenfuehren.at/> (01.12.2016).
8. [https://www.bmb.gv.at/frauen/ewam/frauen\\_spitzenpositionen/top.html](https://www.bmb.gv.at/frauen/ewam/frauen_spitzenpositionen/top.html) (01.12.2016).
9. Since the changes in stock corporation law in 2010, target acc. § 243b Abs 2 Z 2 UGB, that in the Corporate Governance report is obligatorily reportable: ‘... *which measures for the promotion of women on the board, the supervisory board and in managerial positions (§ 80 Akt) are set in the company*’. 2015 the reporting obligation acc. § 243b Abs 2 Z 2 UGB in appendix 2a of the codex specifies in an amendment.
10. §87 Abs 2a AktG.

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# 6

## Sweden: Work for Change and Political Threats

Charlotte Holgersson and Anna Wahl

### Introduction

Sweden often prides itself on being one of the most gender egalitarian countries in the world. For seven years, Sweden has ranked among the top four countries in the Gender Gap Index ranking that the World Economic Forum (2015) publishes every year. However, like other Nordic countries, Sweden is characterized by the paradox of a simultaneous presence of gender equality and inequality. Although women and men are equally represented in the Swedish Parliament, and the welfare state model based on a dual-earner family enables women and men to combine paid work with having a family, women and men continue to face different opportunities in the labor market and in the workplace.

Women currently make up approximately 50 percent of the labor force in Sweden. The majority of women, 55 percent, work full-time, while

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23 percent work part-time—this can be compared to 73 percent of employed men who work full-time and 9 percent part-time (Statistics Sweden 2016a). Also, the labor market is gender segregated with distinct male- and female-dominated sectors. Several key areas in the public sector (e.g. health care and education) are female-dominated, while many industries remain clearly male-dominated. Furthermore, women are underrepresented in management positions, even in the public sector where women constitute 74 percent of all employees but only 62 percent of all managers. In the private sector, women make up 39 percent of all employees and 30 percent of all managers (Statistics Sweden 2016a).

The issue of gender equality in working life, and in top decision-making positions in the private sector in particular, has been the subject of much debate in Sweden. Despite comprehensive legislation concerning gender-discrimination, no legislated gender quotas have been implemented in order to rectify the gender imbalance on corporate boards. The Government has nevertheless “threatened” on a couple of occasions to implement quotas. These threats have sparked resistance, mainly from representatives in the private sector. However, gender equality work in organizations has increased awareness and knowledge regarding gendered power relations among both employees and managers. Today, this is seen as an important issue that cannot be dismissed with arguments that there are no competent women for board positions. This has also contributed to a mobilization within the private sector in favor of both voluntary and legislated measures to increase the number of women on corporate boards. Moreover, work for change has played an important part in the increase of women’s representation on corporate boards, from 2 percent in 1993 to 23 percent in 2013 (Statistics Sweden 2013).

In this chapter, the Swedish political and economic system as well as the corporate governance system and gender representation will be briefly presented in the section *General Background*. In the next section, *Gender Equality Efforts*, the different efforts promoting gender equality in companies, in particular those efforts targeting board levels, will be reviewed. Both actors and discourses that have promoted or resisted the issue of women on corporate boards are discussed in the section *Forces of Change and Resistance*. A couple of insights will be shared in the final section, *Critical Reflections*.

## General Background

### Political and Economic System

Sweden is a relatively small country in terms of population, with approximately 9.8 million inhabitants (Statistics Sweden 2016b). It is a parliamentary democracy under a constitutional monarchy. At the national level, the people are represented by the Swedish Parliament (Riksdag) that has legislative power. The Riksdag consists of one chamber with 349 members elected in the general elections held every four years. The Government implements the Riksdag's decisions and writes proposals for new laws or law amendments (Swedish Government 2016a). Sweden joined the EU in 1995 and, as a member, has a direct influence on and is directly affected by EU decisions (Swedish Government 2016b).

Sweden is an export-oriented market economy. Approximately 80 percent of GDP comes from private industry and 20 percent from the public sector (e.g. services within the police, military defense, health care and education). Historically, primary industry (mainly iron and steel, pulp and paper) and manufacturing industry have dominated the Swedish economy. The number of companies providing services has nevertheless increased. Today, services constitute 70 percent of GDP, while goods represent 30 percent. However, approximately 70 percent of exports are composed of goods. The most important exports during 2015 were industrial products such as machines, electronics, telecommunications and vehicles as well as pharmaceuticals and products from natural resources such as iron and steel, pulp and paper (Statistics Sweden 2016c). The most important export and import markets are found in Europe, North America and Asia.

During the twentieth century, Sweden went from being a poor agrarian country to become a wealthy industrialized country. It was after the economic crisis of the 1920s that poverty and unemployment became the first priority for the Government. During the early 1930s, the Swedish model and the idea of the classless society, the *Folkhemmet* or “people’s home”, was first developed. This model was characterized by a generous redistributive welfare system and an economic policy that aimed at price

stability, full employment, sustainable growth and an egalitarian wage policy (Czech 2015). A key condition for the Swedish model was a spirit of collaboration between labor and capital, based on the idea that private owners have considerable autonomy as long as they take responsibility for society and their employees. The Swedish model was thus characterized by a large, privately owned industrial sector, a large tax-financed public sector, a strong trade union movement and a state that played an active role in labor market policies (*ibid.*).

Sweden experienced an economic boom following the Second World War. However, the export-dependent industry was severely hit by the oil crisis and increased global competition during the 1970s. At the same time, wage costs continued to rise. This caused inflation rates to increase and economic growth to slow down. These problems were tackled with subsidies, devaluations and a number of deregulations, both of state monopolies and of the financial market. This ultimately led to a severe financial crisis in the early 1990s followed by a series of structural reforms and austerity measures that stabilized the economy by the mid-1990s. It has been suggested that it is during this period that Sweden transitioned from the Keynesian to the neoliberal-monetarist paradigm (Czech 2015). The “classic” Swedish model was transformed into a model that is still valid today. Welfare maximization continues to be important, but the State is no longer responsible for full employment. Since full employment is now almost completely dependent on economic growth and the market’s ability to create new jobs, the State tries to encourage employment in private industry through active labor market policy and by trying to provide industry with competent labor (*ibid.*).

The Swedish model, in both its present and original forms, has thus been conditioned by a strong private sector. There is a long tradition of large industrial companies that not only have dominated the stock market, but have also been important for the general economic activity in Sweden (Hogfeldt 2005). These industrial companies have for a long time been controlled by business spheres around a number of families and banks, among which the Wallenberg family and the Handelsbanken group are the most notable (Sundqvist 2015). The business spheres continue to dominate the largest listed companies although foreign and institutional ownership has increased during recent years (Sinani et al. 2008).

An important representative of these large companies, but also of smaller companies, is the Confederation of Swedish Enterprise. It is the Confederation of Swedish Enterprise that is the main representative of the employers in the private sector in the negotiations around collective agreements. The Confederation was created in 2001 as a result of the merger between the Swedish Employers' Confederation, founded in 1902 as a counterpart to the Swedish Trade Union Confederation, and the Swedish Confederation of Industries, founded in 1910 (Svenskt Näringsliv 2016).

The Swedish State is also an important owner in the private sector, managing 50 companies, of which 41 are wholly owned and 9 partly owned, of which two are listed. Together, these companies employ approximately 163,000 persons (Swedish Government 2016e). The Government's overall objectives are "for the companies to generate value and, where applicable, to ensure that specially commissioned public policy assignments are well performed". These companies are within primary industry such as energy and mining, services, telecommunication, finance, infrastructure and transports (ibid.).

## Swedish Corporate Governance

In many ways, Swedish corporate governance resembles that of most industrialized Western countries. There are, however, some differences compared to, for example, the Anglo-Saxon governance practices, in particular related to the regulatory framework and ownership structure (Lekvall 2009). The regulatory framework for Swedish corporate governance is composed of legal requirements, primarily the Swedish Companies Act, and self-regulation requirements such as the Swedish Corporate Governance Code.

### The Companies Act

The Swedish Companies Act has been reviewed several times. The latest Act came into effect on January 1, 2006, and has incorporated EU directives and focused on shareholders' rights and corporate governance

issues. Lekvall (2009) argues that many aspects that in other jurisdictions are regulated through Corporate Governance Codes are today incorporated into the Swedish Companies Act. Such aspects include issues of board composition, division between the positions of CEO and chairman, approval of principles for the remuneration of management by the shareholders' meeting and transparency toward the shareholders and the general public.

The Swedish corporate governance model offers an alternative to the so-called one-tier or unitary model, prevalent in Anglo-Saxon countries, and the two-tier model used in Germany and several other continental European countries. The Swedish Companies Act (ABL 2005:551) stipulates that a company must have three decision-making bodies in a hierarchical relationship: the shareholders' meeting, the board of directors and the CEO. There must also be a controlling body, the auditor, appointed by the shareholders' meeting. This Swedish model attributes the shareholders' meeting far-reaching power to decide on any company matter (Lekvall 2009). According to the Swedish Companies Act (ABL 2005:551), the main task of the board is to take responsibility for the organization and administration of the affairs of the company. The board is nevertheless entirely or predominantly non-executive and delegates the day-to-day tasks to the management team. The task of appointing the CEO and continuously following up on the financial situation of the company cannot, however, be delegated. The board may at any time dismiss the CEO without stated cause (Ds 2006:11).

The board is appointed by the shareholders' meeting. This follows from the principle that it is the shareholders who decide on the direction and administration of the company. Board members are commonly selected among large shareholders. This can, for example, be a person with specific experience of managing companies, often within the same industry, or a person with competence within a specific area (Ds 2006:11). The board is often composed of persons who are employed elsewhere outside the company. A CEO of one company can be board member for another company. However, the chairman is not allowed to be CEO of the company (*ibid.*).

In companies that have employed at least 25 employees during the past 6 years, employees are entitled to appoint two representatives (and two

substitutes) on the board according to the Swedish Board Representation of Private Sector Employees Act (SFS 1987:1245). If a company has activities in different fields and has employed an average of 1000 employees in Sweden, three representatives (and three substitutes) shall be appointed. The number of representatives can, nevertheless, not exceed the number of other representatives on the board. These representatives are not appointed by the shareholders' meeting but by the local trade union that the company has signed a collective agreement with. According to Statistics Sweden (2013), Swedish boards are on average composed of six persons.

### **The Code of Corporate Governance**

The Swedish Code of Corporate Governance was first presented in 2004 as a result of a government commission (Förtroendekommissionen) that was assigned to analyze the need for measures to ensure the public's trust in Swedish business life, in particular large companies (SOU 2004:47 and SOU 2004:130), following a series of corporate scandals, both in Sweden and elsewhere, involving fraudulent accounting activities and exaggerated executive compensation. In its final report, the commission, which included representatives from the business sector, presented Corporate Governance Codes at national level. Since then, the Code has been revised and has become mandatory for all Swedish companies listed on a Swedish regulated market (approx. 300 companies). The Code is administered by the Swedish Corporate Governance Board, an independent body within the Swedish self-regulatory system. The Code has, however, no provision for sanctions against those that breach the code (Freidenvall 2015).

According to the Code of Corporate Governance, listed companies must have a nomination committee (Ds 2006:11). This committee should have at least three members and the majority of these should not be members of the board. Nor should the CEO or any other member of the management team be members of the board. Also, the chairman of the board and the chairman of the committee should not be the same person. The nomination committee in Sweden has a different role compared to most other countries, where the nomination committee is a subcommittee

of the board; Swedish nomination committees are appointed by the shareholders and made up predominantly of major shareholders or their representatives. This follows on from the idea that the board should not nominate its own members, but that nominations should be made by a body representing the shareholders (Lekvall 2009).

The Code stipulates that the work of the nomination committee should be carried out in a specific way, for example, the nomination committee has to evaluate to what extent the present board fulfills the requirements that will be imposed on the board in the future and has to decide on the profiles of new members. Moreover, the Code requires the recruitment of new members to follow a systematic process (*ibid.*). At the shareholders' meeting, the nomination committee gives an account of how its work was conducted and explains its proposals. These proposals have been previously presented in the notice to the shareholders' meeting and on the company's website.

## Gender Equality in Sweden

The issue of gender equality has for a long time been a distinct feature of Swedish policy-making. Since the 1970s, the Swedish State and Governments in particular have been influenced by women's movements (Bergqvist et al. 2007). This is reflected in the rhetoric of governmental policy documents. For example, since 2015, Sweden has had a left-wing Government that presents itself as the "first feminist government in the world", which means that "a gender equality perspective is brought into policy-making on a broad front, both nationally and internationally" (Swedish Government 2016b).

### Government Policies

The policies on gender equality for both the previous and present Government focus on the division of power and influence, economic equality, equal distribution of unpaid housework and provision of care, as well as men's violence against women. The objective of gender equality policy is



that “women and men must have the same power to shape society and their own lives. Ultimately it is a question of human rights, democracy and justice. Gender equality is also a part of the solution to the challenges facing society. Gender equality is a matter of course in a modern welfare society—for social justice and economic development” (Swedish Government 2016b).

The focus on societal power structures and means of influencing these structures is a distinctive feature of the Swedish approach to gender equality. This focus can be linked to the influence of the Swedish women’s movement on government policies. The State has both enabled women’s activism and been an arena for this activism (Bergqvist et al. 2007). It is nevertheless mainly the activism of women belonging to the native majority that has been given the highest priority, neglecting the unequal conditions that immigrant women face (de los Reyes et al. 2003). Gender politics have traditionally been consensus-oriented, where the guiding principle is that women and men should collaborate and neither should be given preferential treatment (Eduards 2002). It is emphasized that both women and men gain from gender equality.

## Gender Representation in Politics

Compared to many countries, women are well represented in Swedish politics (World Economic Forum 2015). Universal and equal suffrage was introduced in 1921, and since then the proportion of women in Swedish Parliament has increased to 44 percent after the elections in 2014 (Statistics Sweden 2016d). The number of women in the Parliament has increased through an incremental process involving the adoption of party regulations. The political parties have gradually introduced these regulations, ranging from voluntary targets and recommendations (soft quotas) in the 1970s to binding party quotas in the 1980s, usually focusing first on internal party boards and committees and then on electoral lists (Freidenvall 2015). Although different parties have adopted different stances regarding party quotas, most parties today nominate an equal number of women and men, that is, within the 40–60 percent range, on the electoral lists. Freidenvall et al. (2006) argue that competition

between the parties together with the debates regarding gender equality generated by these measures have forced both left- and right-wing parties to take an active stance on issues of representation.

## Gender Equality in Working Life

Women have been participating in Swedish working life for a long time. Several important legislative changes took place during the twentieth century, enabling the participation of both sexes in the labor market. For example, parental benefit allowing both parents to share parental leave was introduced in 1974. In the present system, each parent is entitled to parental benefit for 240 days, of which 60 days are reserved for each parent separately. There has been an ongoing political debate since the turn of the century on increasing the compulsory quotas for parental leave for men (Statistics Sweden 2015). The Swedish Gender Equality Act was passed in 1977, and a comprehensive Swedish Discrimination Act was passed in 2009 aiming “to combat discrimination and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age” (Swedish Government 2016d). This legislation also requires employers to “conduct goal-oriented work to actively promote equal rights and opportunities in working life regardless of sex, ethnicity, religion or other belief” (DO 2016).

Swedish work life is, however, gender segregated. It is debatable whether the Swedish labor market is more or less gender segregated compared to other European labor markets, and the comparison will be different depending on the measure used (SOU 2014:81). Nevertheless, only 14 percent of employed women and 5 percent of employed men have occupations where there is an even distribution of women and men today (Statistics Sweden 2015). Out of the 30 largest occupations, only three, *Chefs and cooks*, *Doctors* and *University/higher education teachers*, have an even gender distribution, that is, between 40–60 percent of each gender. The other occupations are dominated to varying degrees by either men or women (Statistics Sweden 2015).

There are also considerable differences in pay between women and men. Taking the entire labor market into account, women receive 86 percent of men's pay (Statistics Sweden 2015). If women's and men's different ages, education, working hours, different sectors and occupational groups are taken into account, women's pay is 93 percent of men's pay. This figure has been about the same since the mid-1990s. The greatest differences are in the private sector, and the smallest in municipalities. The most important explanation for the differences in pay is that women and men have different occupations and that, in general, female-dominated occupations have lower wages compared to male-dominated occupations (Statistics Sweden 2015).

## Gender Representation in the Private Sector

Furthermore, the representation of women in top positions in the Swedish private sector is low compared to the situation in politics. In the latest survey of the entire private sector from 2012, there were 77 percent men and 23 percent women on the boards of privately owned companies (Statistics Sweden 2013). This is an increase from 86 percent men and 14 percent women in 2002. If trade union representatives are excluded, the percentage of women drops to 20 percent. Among privately owned companies, 80 percent have male-dominated boards and 35 percent are composed of men only.

Men represent 73 percent and women 27 percent of management teams in privately owned companies, and 14 percent of privately owned companies have all-male management teams (Statistics Sweden 2013). This is an improvement since 2002, when 34 percent of all management teams were all male. The most common area of responsibility for women in management teams was HR, followed by division/line manager and finance. The most common areas of responsibility among men were finance, division/line manager, and technology and production (ibid.).

There are considerable differences between industries. The number of women among employees is highest within *Care and welfare* (83 percent) and lowest within *Construction* (10 percent). This gender distribution is mirrored in board and management positions. The share of women on

boards was 37.6 percent and 60.7 percent on management teams within *Care and welfare*, while in *Construction* it was only 18.4 percent on boards and 9.3 percent on management teams. However, the share of women among employees far exceeds the share of women on boards and in management teams within the industries of *Retail and commerce*, *Hotels and restaurants*, and *Other services* (Statistics Sweden 2013).

According to the AP2 Female Representation Index, based on an annual survey among the 286 companies listed on the Nasdaq Stockholm exchange (AP2 2016), the percentage of women on boards was 30.7 percent in 2016 compared to 27.9 percent the previous year. The percentage of women in management teams was 20.9 percent in 2016 compared to 19.4 percent in 2015. The highest percentage of women on boards is to be found among Large Cap companies, that is, companies that have a share value that exceeds EUR 1 billion. In terms of industries, the highest percentage of women is found in *Financials* and *Consumer goods*, and the lowest within *Basic materials*. The increase in percentage units between women in boards and on management teams has increased from 8.5 percent in 2015 to 9.8 percent in 2016. This is the highest rate of increase measured since 2002. However, with the rate of increase measured over the past 12 years, the boards of publicly listed companies will have an even gender distribution in 25 years (AP2 2016).

The nomination committees are also male-dominated. Of the 277 seats in the 59 nomination committees of the Large Cap companies listed on the Nasdaq Stockholm exchange, that is, the companies with a share value over EUR 1 billion, men occupied 166 seats. Thus, 88 percent of the nomination committee members were men and only 12 percent were women. Men also dominated the post of chairman of these committees. Interestingly, at 33 of the 59 companies, the chairman of the board was also a member of the nomination committee, giving the chairman considerable influence over the nomination process (Women in Progress 2015).

The gender distribution is quite different on the boards of companies where the State is a majority owner. In 2016, the boards of these companies were composed of 48 percent women and 52 percent men. For companies wholly owned by the State, the boards were composed of 49 percent women and 51 percent men. A gender-balanced board was

achieved at 32 of the 48 companies with state ownership. At companies wholly owned by the State, 46 percent of the chairmen are women, compared to 6 percent among publicly listed companies.

## Gender Equality Efforts

The lack of women in decision-making positions in private companies was long considered a matter for the private sector itself and was not subject to public debate (Freidenvall and Hallonsten 2013). It was not until the early 1990s, when women's political representation was high on the political agenda that the overwhelming male dominance in the private sector began to attract attention in public debate. Since then, both left- and right-wing governments have commissioned inquiries that have contributed to putting the issue on the public agenda. In the following section, an overview of the different efforts to address the gender imbalance in top positions in the Swedish private sector will be presented.

## Gender Equality Practices

The impact of gender equality practices in organizations, that is, all the efforts targeting the promotion of gender equality, on the issue of women on corporate boards should not be overlooked. These efforts have contributed to raising the general level of awareness and knowledge about gendered power relations in work life and to the increase in women in management positions.

An important driver behind gender equality practices within organizations has been the Gender Equality Act, and in later years the Discrimination Act (2008:567). This legislation not only forbids discrimination but also requires employers to adopt active measures to promote equal rights and opportunities in working life regardless of gender, ethnicity, religion or other belief. Every three years, employers must draw up a plan for their work to promote equal rights and opportunities. The plan should include an overview of the measures that need to be taken in the work place and an account of which of these measures the employer intends to

begin or implement during the coming years. The plan should also include a summary account of the action plan for equal pay that the employer is required to draw up. An account of how the planned measures have been implemented should be included in the next plan (DO 2016).

Today, a majority of companies carry out some kind of organized work to promote gender equality. According to a government-commissioned inquiry (SOU 2014:80), 83 percent of privately owned companies carry out work for gender equality. This was an increase from 75 percent in 2002. This work includes implementing a plan for active measures promoting gender equality and targeting issues such as recruitment, equal pay and work hours. A majority of Swedish companies have some kind of management development program, and 31 percent of the participants in these programs are women. There is no official declaration about wanting to increase the number of women in management positions at 7 out of 10 companies. In these companies, the gender distribution among employees is relatively balanced. However, the companies that have such an official declaration are male-dominated. Official declaration or not, boards and management teams are still dominated by men (SOU 2014:80).

## **Government-Commissioned Inquiries, Threats and Initiatives**

The issue of legislated quotas has been debated since the early 1990s, and on a number of occasions the Government has “threatened” to impose legislated quotas on corporate boards if the number of women on these boards does not increase. When the right-wing Government appointed a commission of inquiry in 1993 to study the gender distribution of women and men in management teams and on boards in the Swedish private sector, the directives of the inquiry clearly stated that the issue of quotas was *not* to be discussed. The inquiry revealed that 72 percent of the boards of privately owned companies consisted only of men and that 56 percent of the companies had management teams consisting exclusively of men (SOU 1994:3; Wahl 1995).

However, when Margareta Winberg was appointed Minister of Gender Equality in 1999, she demanded that companies increase the number of women on their boards and “threatened” to implement quotas if improvements had not been made within five years. This “threat” was repeated and specified in 2002, when Margareta Winberg was appointed Deputy Prime Minister. It was around this time that the Norwegian Government presented a legal proposal on gender quotas on corporate boards. This probably contributed to the effectiveness of the Government’s “threat”. By 2004, listed companies had increased the proportion of women on their boards from 6.1 percent in 2002 and 11.3 percent in 2003 to 14 percent. Only a fifth of listed companies had a minimum of 25 percent women on their boards (Ekberg Fredell 2005).

Nevertheless, resistance to this “threat” of quotas was strong. Right-wing Members of Parliament asked the Government not to go ahead with a legal proposal, arguing that quotas would threaten the shareholders’ fundamental rights to appoint their board members. Their solution was to debate gender equality in the private sector and to organize training for female managers (Bohman et al. 2012). The Confederation of Swedish Enterprise argued that it was important to honor the principle of self-regulation and claimed that the proportion of women on boards would increase once the number of women had ascended the managerial ladder in the private sector since managerial experience was key to becoming eligible for board positions (ibid.). The inclusion of a requirement for gender-balanced boards in the Swedish Code of Corporate Governance can also be regarded as part of the mobilization in business life against legislated gender quotas for boards.

By 2005, the proportion of female board members at listed companies had reached approximately 16 percent and after some hesitation, the Government commissioned a new inquiry with the aim of preparing the introduction of legislated quotas for corporate boards (Ekberg Fredell 2005). The final report (Ds 2006:11) proposed that the members of the boards of limited companies should consist of at least 40 percent of each gender and that this requirement would take effect in 2008 for listed companies and in 2010 for unlisted limited companies. A company that failed to comply would have to pay a fine of EUR 15,000 to the Swedish Companies Registration Office. Furthermore, the report concluded the

proposed rules on the gender distribution of corporate boards were not in violation of Swedish legislation or of EU regulations (ECHR and EC law).

Legislated quotas were, however, not proposed since a right-center coalition formed a new Government (the Alliance Government) in 2006. This Government declared that corporate quotas were not a suitable method since the composition of boards is an issue for the shareholders of a company and that merit and competence should be the guiding principles in candidate selection (Freidenvall 2015). Instead, the Government proposed a series of initiatives to promote women leaders such as a national board program for women and a large-scale program to support female entrepreneurs (Freidenvall and Hallonsten 2013; Freidenvall 2015). Despite the Government's generally negative approach toward legislated gender quotas, the Minister of Finance, Anders Borg, also threatened the private sector with legislated quotas, but no concrete proposals were presented.

Thus, the "threat" of quotas continued to linger on during the early 2010s, and high-profile projects aimed at promoting diversified company boards were launched, presenting concrete examples of how to increase the number of women in decision-making positions (Freidenvall 2015). Left-wing Members of Parliament continued to present motions in favor of corporate gender quotas. These were all rejected with the argument that it is the shareholders' responsibility to ensure diversity on the boards of their companies and that the competence of both women and men is used (*ibid.*). A similar line of reasoning was used when rejecting the proposal by the European Commission for a new directive on a minimum representation of 40 percent of each gender on company boards by 2020. The same arguments were also echoed by the Confederation of Swedish Enterprise in their communication with the European Commission (*ibid.*).

The stance of the Government on legislated quotas changed once again in 2014, when the new Swedish Government, made up of the Social Democratic Party and the Green Party, declared itself a feminist government. The Government has promised to proceed with a law on gender quotas for corporate boards if the proportion of women board members has not increased to 40 percent by 2016. As noted above, the percentage of women on the boards of companies listed on Nasdaq Stockholm was



30.7 percent in 2016. The Ministry of Justice will be presenting a proposal in 2017. In an interview, the Minister of Gender Equality, Åsa Regnér, explained that she and the Government would prefer the companies themselves appoint 40 percent women board members and that legislated quotas is not a goal in itself (*Dagens Nyheter* 2016). It nevertheless remains to be seen if the Government will carry out its “threat”, or “promise” as Åsa Regnér refers to it.

## Soft Regulations

As noted earlier, there are no regulations regarding the appointment of the board in the Companies Act, but there are soft regulations regarding the appointment of the board inscribed in the Code of Corporate Governance. The Code recommends a diverse composition of board members in terms of competence and experience, and a balanced gender distribution. The Code also includes requirements concerning the gender composition of the nomination committee and provides a specific explanation of its proposals with respect to the requirement to strive for gender balance (Swedish Corporate Governance Board 2015:15). It is possible, however, to deviate from the Code and in itself, the Code does not stipulate any sanctions.

The Government has also applied soft regulations in relation to the companies that are wholly owned by the State (Swedish Government 2016f). The requirements have been sharpened gradually, and today the target is that the boards of these companies should have at least 40 percent of each gender on each board. The corporate governance model applied by the Government to state-owned companies includes the Code of Corporate Governance but has also added an even stronger focus on the process of nominating board members, for example, requiring that the board should be able to work strategically with issues of sustainability, demanding equal representation of women and men and that diversity in terms of ethnicity and cultural background should be taken into account.

## Forces of Change and Resistance

Many of the opportunities for change lie in the identification and understanding of the problem, and this in turn affects which solutions appear rational and legitimate (Freidenvall and Hallonsten 2013). It is often argued that Swedish society is characterized by a gender equality ideology, meaning that the vast majority think that gender equality is desirable. However, there are different perceptions among key actors in business life regarding the existence of gender inequalities, which of these inequalities are a problem and what should be done about them.

The inquiry SOU 1994:3 (Wahl 1995) identified the lack of awareness among men in top positions in business life as a major hindering force. Interviews with male CEOs revealed that they did not see the lack of women in management and boards as a problem, at least not for companies. If identified as a problem, it was a problem for women. Similar arguments were also voiced by members of corporate boards in other studies (see e.g. Holgersson 2000; Sjöstrand and Karlberg Petrelius 2002). In the most recent inquiry (SOU 2014:80), change agents who work professionally with gender equality and diversity issues claim that there are still many influential persons in business who are ignorant about gender equality issues. These persons do not see the lack of women in top positions as a problem, and even less so as a problem for the company.

Since the early 2000s, the most common approach is nevertheless that the lack of women on corporate boards is a problem (Statistics Sweden 2013; SOU 2014:80; Freidenvall 2015), but the suggested solutions imply that it is women who are regarded as deficient and not the gendered power relations in organizations. For example, in the early 2000s, the Alliance Government initiated several projects of the “fix the women” type, which sent the message that women were deficient and also put the entire responsibility for solving the problem on women themselves (Freidenvall and Hallonsten 2013).

While many still adhere to the discourse of the deficient woman, work for change in work places, and in different women’s networks and management development programs, has had an impact on the framing of the issue of women in management. Since the 1990s, gender equality

work and diversity management has become more professionalized and based on scientific knowledge that has shifted the focus from the deficient women toward a more structural understanding of the problem (SOU 2014:80). The shift toward a more structural understanding has taken place both within the private sector and in politics. This has, for example, resulted in change agents focusing on raising awareness not only among women but also among male managers (SOU 2014:80). Other initiatives such as the three government-commissioned inquiries into the gender distribution in top positions in the private sector and other large-scale initiatives during the past two decades, such as the research and development programs supported by the EU and the Swedish Innovation Agency (VINNOVA 2016), have probably also contributed to this shift in how the problem is framed. In fact, the government-commissioned inquiry report from 2014 finds that theoretical concepts and models are now used when gender equality in management is discussed and that research seems to have provided managers with a language to describe their experiences. More managers, both female and male, understand the lack of women in top positions as a result of gendered power relations (SOU 2014:80). In addition, the media has contributed to raising awareness and disseminating knowledge by reporting on work for change, asking for the opinion of researchers and monitoring developments within the private sector. For example, every year, the weekly business magazine *Veckans Affärer* lists the 100 most powerful women in Swedish business, and this list is often commented on by researchers in the field of gender and organization.

Nevertheless, there has been a struggle in terms of what knowledge should be considered as legitimate. When change agents within the private sector and politics started to draw on academic research and adopting a more structural understanding of the problem when arguing for more radical measures, forces of resistance within the private sector started producing reports and books that aimed to convey the message that the problem lies elsewhere, for example the Swedish tax system that supposedly prevents women from getting access to affordable household services (e.g. Henrekson 2004), or that gender research is not a legitimate science (e.g. Popova 2004, 2005).

Moreover, the diffusion of the business case for diversity has also made it more legitimate in the corporate world to discuss women on corporate

boards as a problem that should be addressed (cf. SOU 2014:80). The arguments that heterogeneous groups are more creative than homogeneous groups and that the entire pool of competence is not being utilized if women are excluded are now common. These are arguments that large institutional owners use in their initiatives to raise awareness and monitor the private sector, such as the Gender Equality Index published by the insurance company Folksam (2016) and the AP2 Female Representation List published annually by AP2, the Second Swedish National Pension Fund (AP2 2016). These arguments are also used by civil society organizations whose mission is to raise awareness. For example, the AllBright Foundation delivers reports on the lack of women in top positions in business in order “to influence decision-makers in the business sector to work consciously and purposefully to increase the proportion of women in senior positions” (AllBright 2016), and Equalisters aims to correct “imbalances of representation in media, culture, business and other contexts” by generating lists of people through social media (Equalisters/Rättviseförmedlingen 2016). Both these organizations receive much media attention and their representatives are frequently solicited as speakers at different kinds of events.

Many of these initiatives can be understood as the private sector’s attempts to promote change in order to avoid legislated quotas, but we cannot exclude the possibility that they are also a result of a genuine commitment to change. Interestingly, there has been a shift in which solutions have come to be regarded as legitimate among decision-makers in the private sector. For example, interviews with male CEOs reveal that many are skeptical toward quotas, but in view of the slow change they find quotas to be the only solution (SOU 2014:80). Similar opinions in favor of gender quotas on boards were also expressed by influential women and men from both business and academia in an opinion piece in the largest morning paper in Sweden (*Dagens Nyheter*, 2013).

Freidenvall (2015) argues that there has been a lack of a strong women’s movement on the issue of women on corporate boards compared to the movement pressing for change in connection with political parties. Women’s representation on company boards has not been identified as a key issue for the women’s movement. However, it can be argued that all the work for change carried out by, for example,

consultants in gender equality, HR professionals, managers and gender researchers on the issue of women in management is indeed a form of movement, albeit not always organized in the same way as the movement in connection with women's political representation was. Also, the increased mobilization among actors such as AP2 and the AllBright Foundation mentioned above, and the media attention, which put pressure on owners and managers to appoint more women to boards and management teams and argue in favor of gender quotas, could be interpreted as signs of the growing strength of the movement for change.

Finally, the fear of legislated gender quotas for corporate boards among private sector representatives, including the Confederation of Swedish Enterprise, and representatives of the liberal/conservative governments can be seen as a strong force of resistance. Quotas are perceived as a serious threat to the long-standing tradition of non-interference of the State and self-regulation in the private sector (Freidenvall 2015), a privilege the private sector by no means wants to lose. However, the fear of quotas has also pushed the private sector to come up with new types of solutions, such as codes of conduct, and actually appointing more women to board positions. Bohman et al. (2012) show that after the first "threat" in 2002, the proportion of women on company boards rapidly increased, and it seems as if the latest surge in women on the boards of listed companies can be linked to the "threat" presented by the current government. It remains to be seen if this surge is valid among all companies, not only listed companies, and if the threat will be carried out.

## Critical Reflection

Legislated gender quotas have not been implemented in either the political sphere or the economic sphere. Nevertheless, most political parties today have party regulations. In the political sphere, the idea of quotas became more accepted when it was reframed from a system that gave unfair advantages to a system that enabled an equal distribution of power. Moreover, there was a strong women's movement that put pressure on the political parties, and once one party started to adopt soft quotas, the others soon followed out of fear of losing votes (Freidenvall 2015). In the

economic sphere, the process has been different. The argument of equal distribution of power has not been regarded as legitimate and the mobilization within the private sector was for a long time only against legislated quotas, not for an increase in women on boards. The long-standing tradition of strong owners' rights in the private sector is indeed a powerful force of resistance. The "threats" of legislated quotas have nevertheless inspired new solutions. The framing of the issue has changed, from a non-issue or a women's issue only, to become an issue of equity, meritocracy and profitability for companies, making the idea of gender-balanced boards more palatable and legitimate. This new framing of the issue emanates from the work for change promoting gender equality in the work place, and in particular the efforts to increase the number of women in management, based on knowledge. Indeed, there exists today a mobilization for legislated quotas *and* for voluntary measures in order to increase the number of women on corporate boards.

It is also interesting to note that the Government has been very successful in increasing the number of women on the boards of state-owned companies using soft regulations. One possible explanation for this success could lie in a greater awareness of, and commitment to, achieving gender equality. For example, interviews with executive search consultants reveal that gender equality is prioritized in the recruitment assignments from state-owned companies and authorities (Tienari et al. 2013). A political will has thus been translated into the will of the State as an owner.

Academic literature shows that numbers matter. For example, a large number of empirical studies support the politics of presence theory outlined by Phillips (1995), which suggests that a high number of women elected has an effect on politics and strengthens the position of women in society (Wängnerud and Sundell 2012). Research on gender and organization shows that being in a token position is challenging, and rather than providing opportunities for change, the structural effects of tokenism serve to preserve the gender imbalance (e.g. Kanter 1993; Ely 1995). However, a balanced gender distribution does not automatically lead to an equal distribution of power and influence. Moreover, research into female-dominated organizations reveals that even though female managers in such organizations do not have to deal with the same ambiguities as female managers in male-dominated organizations, the

male-gendered norm for managers prevails (Regnö 2013). Thus, the road to increased gender equality on corporate boards involves efforts focusing on both changing the gender distribution and changing perceptions of gender. Awareness, knowledge, commitment and action are essential in order for these changes to take place.

## Reflections of an Actor

Margareta Neld

Margareta Neld runs a management consulting firm specializing in leadership, board management and diversity. Below, she shares her reflections on the situation in Sweden regarding gender diversity on corporate boards.

Since 2002, I have helped female managers, project leaders, specialists and entrepreneurs in their career development through mentoring and networks. I find that many women have difficulties picturing their careers in relation to established career norms and they need support to find their own way. They also need to meet other women in similar positions since they often work in male-dominated contexts. There are always some women who are skeptical about the all-women context at first, but they realize the value of meeting with other women after just a couple of gatherings. It is very important for them to understand the position of the token woman, and this is an issue that we discuss at length during our programs. Moreover, the networks that are established are strong and continue to thrive well after the programs have ended.

Of course, talented women also want to contribute their competence to corporate boards and have turned to me for training in corporate governance. In 2005, we launched our first certification course in corporate governance and have now certified over 500 women. From this pool, we provide approximately 15 women per year to boards of different companies, both listed and unlisted.

I find that attitudes towards the issue of women on corporate boards have changed considerably in business life since I started my business. In the beginning, when I contacted owners to inform them about my

services, there was little understanding of the issue. Some even found it provoking. Today, owners are very happy to hear from me since they all seem to want to increase the number of women on their boards and in their management teams.

There are, however, some hindering factors on different levels. Women still seem to have difficulties acknowledging their own competence and picturing themselves in the boardroom. At the same time, the nomination committees of listed companies are male-dominated and do not make the extra effort to look beyond their networks. In many companies that are not listed, the owners are involved in day-to-day activities, often also acting as CEO, and do not realize the value of having a board with members who do not work for the company or belong to the owner's closest circles. Letting someone from outside come behind the scenes can be daunting, but it might just be the new perspective that the company needs in order to grow.

I see myself as a change agent in trying to increase general awareness about corporate governance and the merits of having diverse boards. There is much to gain from having board members who can contribute different experiences. It is therefore important that owners develop their competence in selecting and nominating board members. In fact, I believe that corporate boards, nomination committees and owners need to become more professional.

Quotas have been discussed for many years as a solution to the male-dominance on corporate boards, and the attitudes towards quotas have also changed over the years. Most women seemed to be against legislated quotas, but there has been much resignation when the change rate has continued to be slow. As a result of this sense of hopelessness, many women have changed their stance in favor of legislated quotas. However, quotas are not the only solution. It is necessary to target different levels in order to achieve change. The very threat of quotas has been quite effective in increasing the number of women on the boards of publicly listed companies. The Swedish Corporate Governance Code has also had an impact, since it promotes the professionalization of the nomination committees' work in general and requires companies to take the gender composition of the board into consideration. These are softer ways of working for change, and they may be suitable in a context like Swedish



society where there is a political platform for gender equality. Nevertheless, if a law on gender quotas on corporate boards is passed, we stand ready with a large pool of women who are ready and able to take on the challenges.

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# 7

## Women's Path to the Boardroom: The Case of Denmark

Aleksandra Gregorič and Jesper Lau Hansen

### Introduction

Since the 1960s, Denmark has experienced a steady increase in female participation in the labor market (Smith et al. 2013). The general employment rate of women aged 15–64 is today 70 percent, which is about 12 percentage points higher than the EU average (Global Gender Gap Report 2016). Women constitute slightly less than half of all Danish employees and 50 percent of all non-agricultural waged employment (European Commission 2013). The share of highly educated women has also increased over the last few years. In 2012, for example, 32.9

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percent of Danish women aged 15–64 had achieved the highest level of education (European Commission 2013). This is 7 percentage points higher than the EU-27 average. Denmark also sits among the too few in the world list in terms of gender equality in education, as the gender gap in terms of access to secondary and tertiary education and literacy has been fully closed. Denmark ranks highest in terms of women's rights, such as parental authority in marriage and after divorce, the existence of legislation for domestic violence and legislation on gender-based discrimination, inheritance rights for daughters, access to financial services and secure access to land use, control and ownership (Global Gender Gap Report 2016).

The picture is less optimistic when we look at women's career opportunities. For example, in 2012 Danish women earned 16 percent less than men on average, and this percentage is no lower than the EU-27 average. The wage gap has increased by 2.7 percentage points during the first decade of the twenty-first century (European Commission 2013). Denmark scores lower than the other Nordic countries in terms of women's political and economic opportunities. In 2016, the country was number 14 on that index, while three Nordic countries (Iceland, Norway and Finland) were assigned the top three positions in the world in terms of gender equality, having closed more than 80 percent of the gender gap in terms of economic participation and opportunity, political participation, health and education. According to the report, Denmark lags behind its Nordic neighbors especially in terms of women's economic participation and opportunity<sup>1</sup> as well as political empowerment.<sup>2</sup> Denmark was awarded a score of 5.7 out of 7 in terms of women's ability to rise to the top positions of leadership, but despite the relatively high score, their representation in the top positions remains low (Global Gender Gap Report 2016). Notwithstanding the low numbers and the legislative pressures for gender diversity in the neighboring countries and at the EU level, the Danish government has thus far resisted the implementation of board gender quotas or other mandatory policies.

This chapter reviews the rules, main debates and trends regarding gender board diversity in Denmark. In section “[General Background](#)”, we outline a few country facts and the specifics of the Danish corporate governance system. Next, in section “[Gender Diversity in Danish Boards](#)”, we provide an overview of the gender composition of Danish

boards and selected characteristics of Danish male and female directors. We also introduce the current legislative efforts with regard to gender diversity on Danish boards. We provide a critical reflection on the situation in section “[Critical Reflections on the Situation \(with the Reflections of a Local Actor\)](#)” and conclude in section “[Conclusion](#)”.

## General Background

### Facts on Denmark and the Danish Labor Market<sup>3</sup>

Denmark has about 5.6 million inhabitants, spread over a territory of 42,916 sq. km in the geographic region of Scandinavia (northern Europe). Its population is relatively homogeneous, as immigrants and their descendants constitute only about 10 percent of the Danish population. Denmark is one of the world's oldest monarchies. Its political system is based on the Danish Constitution of 1849, and has been characterized generally by consensus politics, i.e. the winning party holding a minority in the parliament and governing in concert with other parties. Since the end of November 2016, the Danish government has consisted of the Liberal Party (Venstre), the Liberal Alliance and the Conservative Party.

Denmark is among the most developed European countries, with a GDP per capita (as of 2014) equal to 322,000 Danish kroner (about 43,000 euros). Like the other Scandinavian countries, Denmark is well known for its economic equality and equal access to social security, including free healthcare and education (i.e. the Scandinavian welfare model). More than 50 percent of Danes enter higher education. Danish institutions for higher education are world renowned for their academic excellence, innovative research, teaching and strong links to business. The Danish labor market is defined by the so-called flexicurity model. The model builds on three main pillars: (i) flexible rules for hiring and firing, (ii) unemployment security in the form of a guarantee of relatively high unemployment benefits (largely based on membership and associated individual contributions to insurance funds during periods of employment), and (iii) an active labor market system that offers guidance to the unemployed in their job search.



In Denmark, maintaining a healthy work-life balance is high on the political agenda, and high quality of life is a core value in the Danish society. Accordingly, the Danish system offers high flexibility in terms of working hours and provides good social support in terms of maternity leave and childcare facilities. In 2013, for example, Denmark dedicated 4 percent of its GDP to social protection benefits for children and families, which is among the highest percentages in Europe. Denmark also offers one of the most generous parental leaves in Europe. Mothers are entitled to 4 weeks of maternity leave before the expected date of birth and 14 weeks of maternity leave after the birth. Fathers are entitled to 2 weeks of paternity leave within the first 14 weeks after the birth. Furthermore, each parent is entitled to 32 weeks of parental leave. Although they can opt for longer parental leaves, parents (who meet the employment criteria) can receive a maximum of 52 weeks of maternity leave benefits from the state. The Danish family policies promote the dual-earner family model, meaning that men and women are expected to share their family obligations equally (EC 2013). In fact, Danish men rank among the highest in the world in terms of minutes per day spent on unpaid (domestic) work. Yet, women still seem to carry the main burden of family work as they are substantially more likely to hold part-time jobs, both in comparison to men (35 percent of Danish women in comparison to 15 percent of men in 2012) and in comparison to the EU-27 female average (32 percent; European Commission 2013).

## Corporate Governance System

The Danish corporate governance system is almost identical to the systems found in the four other Nordic countries of Finland, Iceland, Norway and Sweden. This is no coincidence, as the five Nordic countries have a pronounced tradition of cooperation within company law legislation, dating back to the end of the nineteenth century. What is today the common corporate governance system of the five Nordic countries was in fact first introduced in the 1930 Danish Companies Act and then in the other Nordic countries in the following decades, and although the countries' systems display minor differences, the basic features are almost

identical. This closeness of the Nordic systems was explored in the recent Lekvall Report (Lekvall 2014), which concluded that the system constituted an independent corporate governance system different from other European systems.

At first glance, the Danish corporate governance system resembles the German two-tier system, because management is divided between two separate company organs. However, upon closer analysis, the system's main features can actually be seen to be closer to the one-tier system that is mostly associated with the United Kingdom. In the Danish system, management is divided between a board of directors (*bestyrelse*) comprising three or more directors and a board of managers (*direktion*) comprised of one or more executives.<sup>4</sup> This may look like the division found in German public companies between a supervisory board (*Aufsichtsrat*) and a management board (*Vorstand*), but it is in fact very different. To understand the main characteristics of the Danish system, and thereby of the other Nordic systems, it is useful to know about its conception. The system emerged from a one-tier system, in which a company limited by shares would have a board of directors as its only administrative company organ. However, in the deliberations that led to the 1930 Companies Act it was successfully argued that, in major companies, such as listed and other large public companies, management was in fact divided between the board of directors and a set of high-ranking executives, and it was contended that this executive level ought to be regulated by the Companies Act as was already the case for the board of directors. Consequently, the 1930 Companies Act made it obligatory for large companies to have not just a board of directors but also a board of management comprising executives in charge of daily management.<sup>5</sup>

It is important to note that the inclusion in the act of this extra company organ comprising executives did not intrude on the role of the board of directors, which continued to be the main governance body of the company. The two company organs are in a hierarchical position vis-à-vis each other, with the board of directors as the central governance body and having seniority over the board of managers. This seniority is emphasized in various ways in the statutory provisions of what is now the 2008 Companies Act,<sup>6</sup> but which are essentially unchanged from the 1930 Act. The powers of the board of managers are limited to the daily

management of the company, whereas the board of directors is in charge of long-term strategy. The board of managers must follow the instructions of the board of directors and if issues arise that are extraordinary or fall outside the remit of daily affairs, the board of managers must bring them before the board of directors.<sup>7</sup> In practice, the most important feature ensuring the board of directors' position as the upper level of governance concerns appointment. Whereas directors are appointed by the shareholders in annual general meetings (AGMs), usually for a year, managers are hired and may be fired at will by the board of directors.<sup>8</sup> This more than anything ensures the executives' subservience to the directors.

Contrary to the German system, in which all executive powers are vested with the management board and the supervisory board has supervisory powers only, in the Danish system the actual governance of the company is divided between the board of directors and the board of management, and both directors and executives have executive powers, for example, to sign contracts.<sup>9</sup> For this reason, the system is often referred to as *the dual-executive system*, emphasizing that both the upper-level board of directors and the lower-level board of management enjoy executive powers and participate actively in governing the company. Another difference is that double mandates, whereby a person may serve as both an executive and a director, are possible in the Danish but not the German system. As the board of directors serves two functions, to be the upper governance body in charge of long-term strategy and to monitor the daily business of the board of management, there is a statutory limitation that less than half of the directors may also serve as executives and that the chair of the board of directors cannot also serve as an executive, which ensures that the board of directors is capable of monitoring the management.<sup>10</sup> As executives have a statutory right to participate in the meetings of the board of directors, unless the board decides otherwise *ad hoc*, it has become unusual for executives to also serve as directors. In Sweden, on the other hand, double mandates are still widely employed.

The Danish dual-executive system dating back to the 1930s resembles the corporate governance system found in the UK that has been shaped by the 1992 Cadbury Report (Cadbury Report 1992). The UK 2006 Companies Act does not itself mandate a particular governance system, but listed companies are obliged to observe the UK Corporate Governance

Code on a comply-or-explain basis. The UK system's division of the board of directors, into non-executive and executive directors, is very similar to the Danish division into directors and executives. The fact that in Danish terminology they each occupy a separate company organ simply denotes a distribution of powers and different functions. That is, in the Danish system the distribution of powers is based on statutory regulation and not soft-law recommendations as in the UK, which gives the directors a stronger position vis-à-vis the executives than that found between non-executives and executives in the UK system.<sup>11</sup>

In the international corporate governance discourse, the concepts of the Anglo-American one-tier system and the German two-tier system have dominated to such an extent that they are often applied to systems of other jurisdictions as well. However, the dichotomy is not apt, and causes considerable confusion, in the debate over whether the Danish (and thereby Nordic) system should be labeled two tier because it consists of two company organs or one tier because there is effectively only one administrative organ, even though it is functionally divided into an upper and a lower level.<sup>12</sup> Diplomatic attempts to label the system "one-and-a-half" tier are not helpful either. It is better to see the system as a Nordic corporate governance system *sui generis*.

## The Role of Shareholders

Another characteristic of the Danish corporate governance system that is highly important—although it is not governed by statute as is the constitution of the board of directors and board of managers—is the role played by the shareholders. In German law, the role of shareholders in public companies is limited compared to that of the management board, which is vested with almost all the power to govern the company. In UK law, the role of shareholders is equally removed from governance, not by statutory regulation as in Germany, but due to the fact that shareholding is dispersed, granting the management a position "independent" of the shareholders. This is also underlined by the provisions in the UK Corporate Governance Code requiring the board of directors to be composed of a predominance of directors who are independent of the major

shareholders, and by the mandatory bid rule found in the Takeover Code, which effectively prevents shareholders from assuming control over the board unless they are ready to launch a bid for all outstanding shares. The Danish, and Nordic, systems are very different.

The first thing to notice is the ubiquity of major shareholders, even in listed companies. The Lekvall Report (Lekvall 2014) found that almost two in three Nordic listed companies had a shareholder with a 20 percent stake or more, effectively controlling the company, and that one in five had a shareholder with a 50 percent stake. The respective numbers for Danish listed companies were 57 percent and 28 percent. What is equally important to understanding the Danish corporate governance system is that shareholders, in general meetings, are guaranteed the right to appoint the majority of the board of directors,<sup>13</sup> if not the full board,<sup>14</sup> and have the right to remove a director at any time without cause,<sup>15</sup> thereby ensuring their effective and continuous control over the governance of the company.

This prevalence of dominating shareholders is probably the reason why the perception of shareholder engagement in Denmark is notably different from many other jurisdictions, especially the UK. In Danish corporate governance, emphasis is not on directors' independence from the shareholders, but on their accountability to the shareholders. Although Danish directors would no doubt describe themselves as independent of the shareholders, they would by this most likely be referring to "integrity", that is, having the capacity to stand up to any shareholder and preserve an independence of mind. However, it is unlikely that they would contest that the major shareholders ultimately had the right to decide the business direction of the company and that the outcome of a stand-off between a dominating shareholder and a director would normally result in the resignation of the latter.

Generally, it is customary for the dominant shareholders to engage with the board continuously and to receive important information confidentially, including inside information.<sup>16</sup> Such engagement by shareholders is called "*aktivt ejerskab*" (active ownership) and is considered beneficial for the governance of the company. The reason why Danish law takes this benign view of control by dominant shareholders is probably due to the extensive protection of minority shareholders granted in the 2008

Companies Act and the prevailing view that only dominant shareholders have the resources to monitor, and if necessary discipline, management effectively.

### **The Functioning of the Board of Directors**

As mentioned above, the board of directors in the Danish corporate governance system is vested with powers to govern the company, including executive powers to sign contracts and represent the company.<sup>17</sup> The board is the central administrative body, which means that it enjoys all residual powers that have not been vested elsewhere with either the shareholders or the board of management. The members of the board of directors, although they are non-executives, are vested with the power to make overall and strategic decisions. The board of directors in the Danish system is thus a body primarily engaged with governance and making business decisions, whereas the supervisory function of directors, vis-à-vis the executives serving on the board of managers, is minor and comparable to that found in the relationship between non-executives and executives in the UK system. Consequently, all directors are charged with running the company and must be able to decide on important business issues such as overall strategy. Furthermore, as business decisions are often made through a mutual process involving both directors and executives in joint meetings, it is also deemed important that directors have the necessary business experience and knowledge to engage with the executives and the ability to provide them with the necessary interaction. This requirement to have business acumen also applies to directors appointed by the employees, and Danish unions spend considerable resources on business training for employee representatives, who are often unionized. In recent years, private commercial initiatives offering professional training for directors have proliferated, which probably also reflects the perceived need to ensure a high degree of professionalism and business experience among directors on Danish boards.

Compared to large German boards, for example, Danish boards are traditionally very small, probably reflecting their greater engagement in active management.<sup>18</sup> The need to ensure that directors have the

necessary experience means that directors are most often drafted from the ranks of executives and, especially on the boards of publicly listed companies, directors typically have considerable business experience gained from serving as high-ranking executives, often on the boards of management of other companies.

## Gender Diversity in Danish Boards

### Facts and Trends

We start the discussion of the gender diversity in Danish boards by presenting some information on their composition and that of the top executive teams over the years. The information is gathered from the Danish Business Authority's register of board members and executives. The identification of board members and executives is based on the unique social security number (anonymized),<sup>19</sup> based on which the information from the Danish Business Authority's register can be combined with data from the national bureau of statistics (Statistics Denmark), thereby adding information on directors' gender, age, highest level and duration of education and detailed family information. We consequently have access to longitudinal director data for all public and private limited companies with a board of directors in the time period from 2000 to 2012, both inclusive. For analysis purposes, we select larger companies, namely firms employing at least 100 individuals in a specific year.

Table 7.1, section (b), displays the descriptive statistics for female representation among all board members, shareholder-elected and employee-elected board members and top executives. Ours is not a balanced sample of firms, in that the changes in the percentages and numbers reported in Table 7.1, for example, capture both changes in the composition of company boards and also some (relatively minor) changes in the composition of the sample, namely certain companies entering and other companies exiting the sample in various years. Our sample includes around 1300 companies, although the number of firms varies across years. While (unfortunately) we cannot clearly differentiate between private and publicly listed firms, the majority of these firms are

**Table 7.1** Female representation on Danish boards (companies with 100-plus employees)

<b>(a) Number of seats held by Danish residents</b>				
	<b>2001</b>	<b>2004</b>	<b>2008</b>	<b>2012</b>
(1) All board positions	4403	3908	4288	4654
(2) All executive positions	1775	1583	1765	1945
<b>(b) Percentage of board seats held by female Danish residents</b>				
	<b>2001</b>	<b>2004</b>	<b>2008</b>	<b>2012</b>
(3) Executives	3.10	3.73	4.87	6.38
(4) Shareholder-elected members	8.68	9.39	10.03	10.61
(5) Employee-elected members	19.72	19.46	20.41	24.36
(6) Shareholder-elected newly appointed	4.82	6.53	9.89	9.00
(7) Employee-elected newly appointed	25.6	19.48	22.13	31.00

*Source:* Own calculations based on information from the Danish Business Authority and Statistics Denmark

private limited companies. We have information about roughly 1780 executive positions in these firms and 4300 non-executive (board of directors) positions. We should note that we only count the positions held by Danish residents, as the Business Authority does not register the gender or other information for foreigners sitting on Danish boards, who constitute about 7 percent of board seats on average (Gregorič et al. 2014).

We first inspect the female representation at the top executive level (row (3) in Table 7.1). The numbers in the table display a positive trend, as the share of women among the executives doubled during 2001–2012. In the year 2001, only about 3 percent of all executive positions were held by women, while women held nearly 7 percent of all executive positions in 2012. Despite the positive trend, the representation of women among the executives remains low. We next look at the incidence of women among the non-executive directors (i.e. members of the board of directors). In reporting the statistics for the percentage of female directors, we distinguish between shareholder-elected and employee-elected directors. As noted above, the employees of Danish companies have the possibility to elect a minority of the members of the board of directors. The workers have exercised this right in about 25 percent of all the companies that are



subject to codetermination law, and in about half of the non-financial companies listed on the stock exchange (Gregorič and Poulsen 2016; Gregorič et al. 2016). Employee representatives are elected from among the firm's employees. Since the average share of women in the Danish workforce is high, making the gender diversity of the pool from which employee representatives are elected higher, we could expect the percentage of women among employee directors to be higher than among shareholder-elected directors. This is indeed what we observe. Women hold about 20 percent of all seats assigned to employee-elected members. This percentage remained relatively stable until 2008, and then increased to 24.4 percent for the period 2008–2012. An increase in female representation among the employee-elected members can also be observed among the newly appointed members (see row (7), Table 7.1). In 2012, nearly every third board seat assigned to a newly elected employee representative was filled by a woman.

The share of women among the shareholder-elected members is substantially lower, and has increased only slightly during the first decade of the twenty-first century. Women held 8.68 percent of shareholder-elected board seats held by Danish residents in the companies employing at least 100 employees in 2001. As of 2012, this percentage had increased only slightly, i.e. by approximately 2 percentage points. A more pronounced change is observed when looking only at the newly appointed directors (see row (6) in Table 7.1). In 2001, less than 5 percent of newly elected shareholder positions were assigned to women. By 2009, this percentage had doubled, although it remained low. A relatively modest increase in female representation is also detectable in terms of the number of companies with at least one shareholder-elected female director on their board (not reported in the table). For example, in 2001, 75 percent of companies with 100-plus employees had no shareholder-elected female director on their board. By 2012, this percentage had only fallen to 67 percent. The share of companies with more than one female director on their board was only about 4 percentage points higher in 2012 than in 2001.

The increase in female representation is presumably more pronounced in larger firms, and in the most recent years. According to a report by DJØF, the Danish association for graduates and students in law, business economics and political science (DJØF), the overall percentage of

positions held by women on the boards of Danish firms employing at least 200 people rose from 9.6 percent in 2009 to 17 percent in 2015. The increase has been larger in publicly listed corporations. For example, in 2015, women held about 23 percent of the board seats in publicly listed firms in Denmark.

While the change in female representation reported in Table 7.1 might be considered small, more significant changes are observable in terms of the characteristics of the women elected to boards. Selected indicators of these characteristics are presented in Table 7.2. As shown in Table 7.2, section (a), in 2001 about 44 percent of the shareholder-elected female directors had a close family relationship to another board member (i.e. they were the spouse, daughter or mother of another director). This percentage is greater than that for male directors (only about 6.22 percent of all male shareholder-elected members in 2001 were related by a family tie to another director). However, by the year 2012, that percentage for women had fallen to a much smaller figure, below 30 percent. Therefore, it looks like the odds that a woman is a member of a board because of her relationship to other board members (and probably the owner(s) of the firm) have been decreasing over the last few years, perhaps indicating a trend of greater professionalization of the female boardroom.

We next look at the number of board positions that women and men held in a specific year, on average [Table 7.2, section (b)]. This characteristic is important since the small increase in female representation reported in Table 7.1 might be considered even less encouraging if it were mainly capturing an increase in the number of positions held by the same (small pool) of women. As shown in Table 7.2 below, the average female director in 2012 held four board positions, one position more than in 2001, on average. However, this increase in the average number of positions held was likely driven by an increase in the number of positions held by a few highly sought-after female directors. The median number of positions held by female directors has, in fact, remained the same during 2001–2012. The number of board seats held by male directors has also increased over the same period, by two board seats on average.

**Table 7.2** Director characteristics (companies with 100-plus employees)

<b>(a) Percentage of females or males with a family relationship to another board member</b>				
	<b>2001</b>	<b>2004</b>	<b>2008</b>	<b>2012</b>
(1) Family related among shareholder-elected female directors	43.72	41.69	37.91	28.34
(2) Family related among shareholder-elected male directors	6.22	7.51	7.67	5.55
<b>(b) Average (median) number of board positions held</b>				
	<b>2001</b>	<b>2004</b>	<b>2008</b>	<b>2012</b>
(3) Shareholder-elected female directors	2.92 (2)	3.14 (2)	3.47 (3)	4.07 (2)
(4) Shareholder-elected male directors	6.97 (4)	7.40 (4)	8.37 (5)	9.36 (6)
<b>(c) Average education (in months)</b>				
	<b>2001</b>	<b>2004</b>	<b>2008</b>	<b>2012</b>
(5) Shareholder-elected female directors	160	165	170	189
(6) Shareholder-elected male directors	174	175	177	192
(7) Newly appointed shareholder-elected female directors	186	180	180	205
(8) Newly appointed shareholder-elected male directors	177	167	180	193
<b>(d) Average age</b>				
	<b>2001</b>	<b>2004</b>	<b>2008</b>	<b>2012</b>
(9) Shareholder-elected female directors	48.80	47.62	49.02	50.02
(10) Shareholder-elected male directors	51.36	52.17	52.00	53.62
(11) Newly appointed shareholder-elected female directors	41.5	43.36	46.06	47.25
(12) Newly appointed shareholder-elected male directors	47.7	49.23	48.38	49.88

Source: Own calculations based on information from the Danish Business Authority and Statistics Denmark

The average education levels for male and female directors (measured in months, and separately for those who are newly elected) are shown in rows (5)–(8) of Table 7.2. We first see that, on average, shareholder-elected females on boards in 2012 had a significantly higher duration of studies than those holding board seats in 2001. The length of their education had increased from 160 months to 189 months, on average. We also observe an increase in the average education of male directors, from 174 to 192 on average, although the change for women was significantly larger.

Consequently, women and men on Danish boards were equally well educated as of 2012 (i.e. the differences between the means reported in rows (5) and (6) are not statistically significant). A similar trend is found when looking at the newly elected directors. Both male and female newly elected directors had, on average, a longer period of education than those already present on the board, and this holds for nearly all years during 2001–2012. During the entire period, newly appointed women were at least as highly educated as newly appointed male shareholder representatives. In 2012, the newly appointed female directors (shareholder-elected) had 205 months of education, which is about one year more than newly appointed male directors, on average.

Danish directors became slightly older, on average, during 2001–2012 [Table 7.2, section (d)]. The age difference between the shareholder-elected female and shareholder-elected male directors increased slightly during the period, from two to three years on average. However, the age difference between newly hired male and female directors fell. In 2001, a newly appointed female director was six years younger than a newly appointed male director, on average, while in 2012 that difference had fallen to just two years [see rows (11) and (12) of Table 7.2 above].

## Rules and Public Debate

Gender board diversity has been the subject of considerable debate in Denmark, as the low female participation in the top corporate layers is seen as being at odds with a society enjoying equality between men and women, especially in the workforce and business life. However, the initiatives to introduce quotas for gender representation, as in Norway, have so far not received popular support in business or politics. The Danish Corporate Governance Committee responded to this debate in 2008 by making a recommendation for diversity to be enhanced, rejecting the call for it to make a more specific recommendation on gender.<sup>20</sup> Recommendation No. 2.1.6 consequently calls for a company to “discuss the company’s activities to ensure relevant diversity at management levels, including setting specific goals and accounting for its objectives and progress made in achieving the objectives . . .”. In the commentary to

the recommendation, diversity is defined as “e.g. age, international experience and gender”. The view appears to be that it is beneficial for a company to have a diversified board in order to ensure that the directors cover the many different aspects of its business and engagement with society, but gender is not singled out as a necessary element within this diversity.

In 2013, for the first time, legislation was introduced to address the question of gender representation on Danish boards. The initiative covers listed and other large companies<sup>21</sup> as well as companies in which the state is a majority owner (cf. Section 139a of the 2008 Companies Act), and it can be seen as two pronged. One part concerns the disclosure of the level of gender representation, while the other concerns the company’s policy on recruitment and career planning. Both measures are voluntary in nature but are also subject to public reporting in the annual accounts of the company,<sup>22</sup> which ensures public scrutiny and is expected to motivate companies to strive for a more equal gender representation.

According to Section 139a(1)(1), if a gender is presently “underrepresented” on a board, where underrepresentation is set at below 40 percent, then the company must present its intended target ratio (*måltal*) for the underrepresented gender. For example, if none or maybe one-third of a company’s directors are women, then the company has to set a target ratio for female directors, for example, 40 percent, and estimate the time it will take to achieve this result. The company is not obliged to set the target ratio at any specific level. It may restate its *status quo* or set a target ratio below the 40 percent level. However, it is obliged to disclose its results and explain any failure to achieve its target ratio. Note that the 40 percent limit for underrepresentation refers only to directors appointed by the shareholders and not to any of those appointed by the employees, which is an unusual diversion from the general rule that all directors are considered equal irrespective of who appointed them.

Furthermore, according to Section 139a(1)(2), a company with an underrepresented gender on its board must present its policy for increasing the representation of that gender within other management levels.<sup>23</sup> This obligation reflects the common practice in Denmark, where most of the directors are recruited from the ranks of the high-level executives. The low presence of women among the lower executive levels is one

explanation, among others, for the scarcity of female directors, and is sometimes euphemistically referred to as the “pipe-line problem”. This provision therefore aims to solve the problem by obliging companies to focus on internal recruitment and career-planning policies to ensure a higher representation of women in the senior executive levels, who would then be eligible for recruitment as directors. As is the case with the target ratio, a company is free to establish its own policies in this respect but is obliged to report its efforts in its annual accounts and explain how the policies have worked.

## **Critical Reflections on the Situation (with the Reflections of a Local Actor)**

As outlined in the previous sections, the incidence of women among corporate directors in Denmark remains low. However, despite the increasing pressure for gender diversity on boards in the neighboring countries and at the EU level, the Danish government has thus far resisted implementing quotas. Instead, with the purpose of ensuring greater flexibility, and trusting that companies will discover the benefits of gender diversity on their own, the 2013 amendment to the law left the 1100 largest companies the freedom to set their own targets with regard to gender diversity, albeit with an obligation to report their progress toward achieving those targets. It is still to be seen whether this will lead to the desired results. According to a recent article in a Danish newspaper *Politiken* (Skærbæk and Heinskou, 2016), the percentage of female directorships in a subsample of the firms subject to the 2013 legislation has thus far increased only slightly, from 12.8 percent in August 2013 to 14.2 percent in January 2015.

### **Peter Horn**

Peter Horn, who in 2015 started a private initiative promoting board gender diversity, Executive Women's Net (*Kvinder i Bestyrelser*), agrees that the Danish laws regarding gender diversity are probably too soft to have a significant impact. Yet, some of the large Danish companies have

started to set their own targets, providing some hope for improvements in the future. For example, the Carlsberg group has decided to follow the example of Norway and has set a target to include at least 40 percent of the underrepresented gender on its board of directors elected at the AGM by no later than 2017. Moreover, private initiatives such as the Executive Women's Net are oriented toward facilitating women's progress to the top organizational layers in Denmark and thereby supporting an organic increase in the representation of women in place of legally enforced quotas. Peter Horn describes the Executive Women's Net as an initiative that promotes board gender diversity primarily by helping women reach board positions in small and medium-sized companies. The hands-on experience gained in these (smaller) companies are, according to Peter Horn, an important step on the career ladder since it improves the women's leadership skills, which are a requirement of non-executive directors, particularly in larger firms. The Executive Women's Net also promotes all-female boards, i.e. boards that are composed exclusively of women. The aim here is, according to Peter Horn, both to show that women are, indeed, capable of governing a company and to provide a "mirror" to the all-men type of board.

As Peter Horn remarks, ensuring that women develop the required skills seems to be the main hurdle facing the board gender diversity efforts in Denmark. He thinks that, overall, most of the male directors would gladly welcome qualified women at the non-executive director level. Those women are just very hard to find. Peter Horn referred to a survey published by the Danish newspaper Monday Morning (*Mandag Morgen*), according to which there are currently only 1200 qualified C-level (i.e. chief officers in the firm) female leaders compared 100,000 male ones in the non-executive directors' pool. Although women now comprise around 40 percent of the highly educated people in Denmark, a very small percentage of these women reach middle management positions, and far less when it comes to top two levels of the firms. The major problem in this regard is, according to Peter Horn, women's progress to CEO or country manager positions in the largest companies. Peter Horn remarks that only a few of those positions are currently filled by women (e.g. KMD, DR, TV2, TDC, Zealand Pharma, Lundbeck Foundation); women only constitute about 7 percent of the CEOs in the 1500 largest

Danish companies (across all kinds of ownership). Peter Horn further notes that women's progress to these positions might also be limited by the perceived inconsistency between leadership and gender roles, i.e. differences between the expected behavior of leaders and the way women behave. Women, according to Peter Horn, are also lagging behind in terms of business politics, personal branding, career planning and career mapping.

Moreover, we reason, one problem might relate to the tax regime in Denmark. The progressive tax rate (including the "top tax") probably does not encourage women to work longer hours and assume extra responsibilities, since a large part of the financial gain from the extra effort is lost to taxation. Finally, some obstacles persist on the demand side. The scholarly research on Danish data shows that women's education or career preferences, family obligations or other unobserved time-invariant characteristics that influence the supply of women to the top positions are not the only things to blame for the observed gender gap in executive positions (Smith et al. 2013). Despite decades of family-friendly policies and women's educational progress, a glass ceiling still exists in the Danish labor market (Smith et al. 2013), and the incumbents' preference for maintaining a "traditional type of board" still somewhat hinders female appointments in Denmark (Gregorič et al. 2017).

## Conclusion

Despite the low representation of women among the corporate directorships in Denmark, the quotas for gender representation have thus far received little support in business and politics. Yet, board gender diversity has been the subject of considerable debate in Denmark, as the low female participation in the top corporate layers is seen as being at odds with a society enjoying equality between men and women. Building on these debates, the specifics of the Danish corporate governance system and the related scholarly research, we conclude that the low incidence of women among the corporate directors in Denmark is to some extent due to the limited supply of female candidates, i.e. shortage of women with leadership skills and previous experience as executive directors. The high



demand for such skills in part relates to the specifics of Danish corporate governance system, i.e. a greater non-executive directors' engagement in active management. Women seem to be also lagging behind in terms of business politics, personal branding, career planning and mapping. Moreover, some hurdles remain on the demand side, presumably due to persisting incumbents' preferences for the traditional type of directors, e.g. male candidates with rich executive experience. Therefore, we argue, further efforts in Denmark need to be directed toward increasing the female pipeline, i.e. motivating women to opt for an executive career and, consequently, gain the experience that is still largely demanded in the boardroom. In addition, some efforts should be directed toward changing the existing preferences for the traditional type of director. This can be achieved both through mechanisms that promote competent women and facilitate the matching of the supply of qualified female candidates to the firms' demand for talent, and by increasing firms' recognition of the benefits of more gender-diversified boards.

## Notes

1. Economic participation and opportunity contains the participation gap, the remuneration gap and the advancement gap. The participation gap measures the difference between women's and men's labor force participation rates. The remuneration gap is based on the ratio of estimated female-to-male earned income, and a qualitative indicator on wage equality for similar work drawn from the World Economic Forum's Executive Opinion Survey. The gap between the advancement of women and men is measured through the ratio of women to men among legislators, senior officials and managers, and the ratio of women to men among technical and professional workers (Global Gender Gap Report 2016).
2. Political empowerment measures the gap between men and women at the highest level of political decision-making through the ratio of women to men in ministerial-level positions, in parliamentary positions, and in terms of years in executive office (prime minister or president) for the last 50 years (Global Gender Gap Report 2016).

3. This subsection is largely based on the official websites of Denmark (<http://denmark.dk/en>) and the EU ([http://europa.eu/epic/countries/denmark/index\\_en.htm](http://europa.eu/epic/countries/denmark/index_en.htm)).
4. When Sweden, as the first Nordic country to do so, was inspired by the governance system of the Danish 1930 Companies Act in its own 1944 Companies Act, the new system differed from the Danish one in that the board of management comprised just one person, the chief executive officer (CEO). Other than that, the distribution of powers between the board of directors and the board of managers was the same. The Swedish version was later applied in the Finnish and Norwegian Companies Acts, while the Danish version was applied in the Icelandic Companies Act.
5. Cf. Act No. 123 of 15 April 1930 § 48, which required limited liability companies with a subscribed capital of more than 100,000 Danish kroner to have a *direktion* (daily management organ) besides the board of directors. The same provision made it optional for all other companies covered by the Act.
6. Danish Act on Public and Private Limited Companies (the 2008 Companies Act).
7. The powers of the board of directors are listed in Section 115 and those of the board of managers in Sections 117–118 of the 2008 Companies Act.
8. Cf. Section 111(1)(1) of the 2008 Companies Act; This reflects that the introduction of the board of managers in the 1930 Companies Act was not intended in any way to change the position of executives as hired personnel.
9. Cf. Section 135 of the 2008 Companies Act.
10. Cf. Section 111(1)(1) of the 2008 Companies Act.
11. The different use of “executive” to mean either powers (executive powers) or a position (an executive) should not cause confusion. In English terminology “executive” is employed to signify a person who is in charge of daily management, which in Danish terminology translates into the function carried out by members of the management board. Consequently, by statutory definition, all Danish directors serving on the board of directors are “non-executives” in the English sense of the term.
12. One could actually question whether the UK corporate governance system is really a one-tier system, considering the distinction made between non-executives and executives.
13. Cf. Section 120(1) of the 2008 Companies Act.

14. Danish companies with at least 35 employees on average in the last three years are subject to codetermination. In these companies, the employees have a right (but no obligation) to elect one-third of the total number of directors, in the form of employee representatives. Such representatives must be appointed from among the company's workforce. These employee-appointed directors are considered directors in every respect, including their personal liability. If a company does not have employee representation and no one is entitled by the articles of the company to appoint directors, which is highly unusual, then the AGM will appoint all directors to the board.
15. Cf. Section 121(1) of the 2008 Companies Act.
16. That it may be legal for a member of the board to disclose inside information to certain outside parties, e.g. a dominant shareholder, depending on the character of the national corporate governance system, was upheld by the European Court of Justice in its decision of 22 November 2005 in case C-384/02, *Grøndgaard & Bang*, leading to acquittal in this case before the Danish Supreme Court as reported in the Danish legal periodical *Ugeskrift for Retsvæsen* (UfR) 2009.2142. The Supreme Court had already confirmed this right in respect of disclosure made by the whole board in the Vase case, reported in UfR 2006.3359. Naturally, if a dominant shareholder receives inside information, they cannot trade on it, as doing so would violate the ban on insider dealing. See Art 8 of the Market Abuse Regulation (596/2014).
17. Cf. Section 135 of the 2008 Companies Act.
18. The average number of directors appointed by the general meeting of shareholders to the boards of directors of Danish listed companies is only around 5.3 members (Lekvall 2014).
19. In addition to a number of other privacy protection measures, the actual social security numbers are made anonymous by Business Authority/ Statistics Denmark before data are made available for research purposes.
20. The Danish Corporate Governance Recommendations are inspired by the UK Corporate Governance Code and are a similarly soft-law instrument based on the comply-or-explain principle. Publicly listed companies are required to observe the code as part of the listing agreement.
21. A large company is defined as a company that, for two consecutive years, sits above two of the following three thresholds: (i) a balance of 156 million Danish kroner; (ii) a net turnover of 313 million Danish kroner;

- (iii) an average of 250 full-time employees (Lov om ændring af selskabsloven, årsregnskabsloven og forskellige andre love, 2012–2013).
22. Reporting is mandated by Section 99b of the Danish Accounting Act.
23. This does not apply to companies that have had fewer than 50 employees in the last year, cf. Section 139a(7).

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# 8

## Gender Diversity on Boards in Switzerland

Florence Villesèche and Evis Sinani

### Introduction

Switzerland is known by most for its banks, watches, mountains, and chocolates. However, the small Alpine country is also infamous for having given women the right to vote only in 1971. It is also a country where the traditional view of the family is still prevalent and emphasizes the role of the husband as the breadwinner (Nentwich et al. 2010), and where diversity is not generally acknowledged as a business-related issue (Filler et al. 2006). With respect to corporate boards, Switzerland reported the second smallest increase in the number of women on boards between 2004 and 2012, second only to Austria (Egon Zehnder International 2012). In addition, Switzerland has had a relatively constant female representation on Swiss boards, at about 10 percent, over the two last decades (PwC 2016).

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Although gender diversity is increasing only slowly at higher hierarchical levels in Switzerland, there are signs of change, nevertheless. For instance, in December 2015, a draft for non-binding quotas was adopted for both boards of directors (BoDs) and top-management teams, with a recommended minority gender representation of 30 percent and 20 percent respectively (Swissinfo.ch 2015). However, those guidelines have yet to be drafted as legislation, and repeated attempts to introduce binding quotas have all failed. This chapter will give the reader an in-depth insight into the situation in Switzerland to shed light on how the current circumstances came about and the developments that may unfold over the coming years and decades.

The chapter is structured as follows: first, section “[General Background: The Swiss Economy and Women in the Workplace](#)” presents an overview of the Swiss economy as well as insights into gender (in)equality in the job market. Section “[Swiss Corporate Governance](#)” then turns to details of the corporate governance system in Switzerland and its more recent evolution, and section “[Women on Swiss Corporate Boards](#)” specifically addresses the question of women on boards in Switzerland by outlining historical developments and pointing to key players in this ongoing debate. In section “[Critical Reflection on the Swiss Case](#)”, we offer a comment on the Swiss case. Finally, the chapter concludes with insights from an individual who is involved in practice in securing more positions for women on boards in Switzerland (“Reflections from Practice”), as well as a short overview of the chapter’s main points (“Concluding Points”).

## **General Background: The Swiss Economy and Women in the Workplace**

Switzerland is one of the leading modern market economies, characterized by a low unemployment rate, a highly skilled labor force, and a top-tier per capita GDP (Forbes 2015). It has a long tradition of openness, but also firmly protects its independence—in particular, from the European Union (EU)—as well as its political neutrality (Church 2007). According to Transparency International’s Corruption Perception Index, the

government is considered free of corruption (Transparency International 2016). The rule of law prevails throughout the economy, the protection of property rights is respected and enforced, and commercial and bankruptcy laws are applied consistently and effectively. Switzerland's stable economic and political landscape, the transparency of its legal system, its low rate of taxation, its excellent infrastructure, and its efficient financial markets make it one of the most competitive economies in the world (Transparency International 2016).

The mainstay of the Swiss economy is the service sector (72 percent of GDP in 2015)—in particular, banks and other financial services—and the manufacturing sector, which is specialized in knowledge-intensive and high-tech products such as pharmaceuticals, chemicals, and electronics (26.7 percent of GDP in 2015); in addition, 99 percent of firms are small and medium enterprises (SMEs) with fewer than 250 employees (FDFA 2015). Despite Switzerland's continued reluctance to join the EU, member countries are its main commercial partners, accounting for 56 percent of exports and 75 percent of imports (FDFA 2015).

Switzerland has one of the highest earnings and lowest unemployment levels in Europe. However, this picture masks the persistent gender gap in the workforce. Kelso et al. (2012) note that although rate of female labor force participation in Switzerland is one of the highest of all Western countries, women contribute far less to family income than men (32 percent vs. 67 percent) (OFS 2016a). This is attributed in large part to the fact that 57 percent of women (and 80 percent of mothers) only work part-time, compared to about 13 percent of men (and 11 percent of fathers); this creates a wage gap between men and women, as part-time positions are generally subject to lower remuneration (Kelso et al. 2012; OFS 2016b).

Moreover, when they become mothers, many women tend to stop work due to the high cost of professional nursery care but also due to the traditional view of the family that prevails (Nentwich et al. 2010), especially in the German-speaking part of Switzerland, where women who put their children into daycare in order to work are referred to as *Rabenmütter* (raven mothers, that is to say bad ones). The consequence of this is that only 3 percent of three-year-olds were enrolled in early

childhood education in 2014, compared to an OECD average of 71 percent (OECD 2016). A national report points out that the time that these women spend off the job market may amount to 10 years or more and, according to national statistics, more than 80 percent of married women with children work either part-time or not at all (OFS 2016a). As a result, women's careers are compromised (CCDI 2016).

The wage gap between men and women can be explained by both horizontal and vertical segregation in the labor market. In terms of the former, the majority of women are employed in sectors such as healthcare, education, and domestic work, which are characterized by low wages and part-time work (Kelso et al. 2012). Another explanation for the wage gap is the fact that few women occupy senior positions in companies. Whilst this may be partly because there is a difference between the number of men and women with tertiary education in the active population—10 percent for the year 2015 (OFS 2016c)—this clearly does not fully explain the gender gap on boards of directors. Thus, as in other countries in the world, women face a “glass ceiling” in their careers in Switzerland.

In 2013, Switzerland accepted the UN Human Rights Council recommendation to make significant efforts to better integrate women in the economy (Kägi-Diener 2014). In response to that call, in October 2016, the government began a consultation about the possibility of increasing the tax deductibility of childcare expenses in order to encourage more mothers to return to the labor market, following the recommendation of the business federation *economiesuisse* (*Economiesuisse* 2016a). In addition, several Swiss initiatives have been developed to test the premise of equality of pay in employment in order to close the wage gap. For instance, in 2006, the Swiss Federal Office for Gender Equality developed the Logib program, based on Yves Flückiger's methodology,<sup>1</sup> as a self-assessment tool to assist Swiss companies in determining whether a workplace has an equal pay policy.<sup>2</sup> This program is made available online for both profit and non-profit companies. Furthermore, EDGE,<sup>3</sup> a foundation working with the World Economic Forum, has developed a certification that assesses five areas related to gender equality in organizations: equal pay for equal work, recruitment and promotion, training and mentoring, work–life balance, and company culture.



## Swiss Corporate Governance

This section focuses on the legal provisions currently in place. In formal terms, Switzerland has a one-tier board system, though the BoD may delegate the management of the company to an individual or a top-management team (usually called an “executive committee”) (ICLG 2010; Olgiati 2008). However, banks and insurance companies are legally obligated to clearly separate operational management and supervision (ICLG 2010; Olgiati 2008). Outside the financial sector, in top Swiss firms and in particular listed companies, it is also common for day-to-day management to be transferred to the CEO and/or a senior management team, resulting in a *de facto* two-tier board structure reminiscent of corporate governance in Germany (ICLG 2010). However, although the BoD is granted considerable organizational discretion in delegating tasks, it is still legally bound to retain responsibility for a number of critical oversight tasks, such as the appointment and removal of members of management, the supervision of management, and determining the internal control and reporting system (ICLG 2010) (see section “[The BoD in Switzerland](#)” for more details).

The 2008 financial crisis highlighted the global need for more efficient corporate boards and an increasing demand for transparency and visibility for the actions of boards and their chairpersons (Mehran et al. 2011). On a related note, there have also been international calls for boards to be more independent and for greater scrutiny of their monitoring of CEOs and executive committees’ implementation of board decisions (Ringe 2013). In line with this call, in March 2013, the so-called Minder Initiative<sup>4</sup> was approved in Switzerland. This introduced significant changes to rules on corporate governance in Swiss companies listed on the Swiss or a foreign stock exchange. This initiative then became the Ordinance Against Excessive Remuneration (ERCO) (Swiss Confederation 2013). The initiative features a mandatory and binding annual vote on the total remuneration for the board and executive management at the general meeting of the shareholders, prohibits severance, advances, or transaction-related pay for members of the board or executive management, and requires that chairpersons and board members be individually

elected by the shareholders on an annual basis. Violation of the new rules is subject to sanctions ranging from fines to a maximum of three years in prison; however, it is too early to comment on their application. However, the ERCO makes no reference to (gender) diversity.

## The BoD in Switzerland

The expanded Swiss Market Index<sup>5</sup> is characterized by boards that consist on average of 9.4 members; the average age of board members is 59 years; average length of service is 6.4 years; 70 percent of chairpersons are previous members of the executive management; and 86 percent of board members are defined by the company as being independent (Deloitte 2012). According to the Swiss Code of Obligations (CO) (CO 2016), independent directors are non-executive directors who have not been members of the executive board in the preceding three years. These individuals should have no or only minor personal and professional business links to the company.

The role of the BoDs of Swiss companies is clearly stated in the CO. According to the CO, the BoD's primary task is to safeguard the interests of shareholders and stakeholders in line with CO Article 717. In addition, in accordance with CO Article 716a, the BoD has the following non-transferable and indisputable duties:

- Managing the company, including strategy and giving necessary directives
- Establishing the organizational framework
- Structuring the accounting system, financial control, and financial planning for the company's management
- Appointing, removing, and supervising the most senior management
- Preparing business reports and the report of the Annual General Meeting and implementing the recommendations in them
- Notifying the judiciary in the case of overindebtedness
- Preparing motions to the Annual General meeting regarding the remuneration of the BoD and compiling the compensation report

As of 2008, a new non-transferable and indisputable duty falling to the BoDs of both listed and non-listed firms is that they carry out a formal risk assessment, which must be audited and published in the annual financial statement.

## The Board Nomination Process

In Switzerland, directors are appointed or removed by the shareholders whenever a shareholders' meeting is held, and its agenda provides for this. Therefore, although shareholders have no direct rights regarding the operation and management of the company, they may indirectly influence the courses of action taken by the board by suggesting removal actions. For example, a shareholder owning more than 10 percent of shares can force a call for an extraordinary general meeting during which directorships can be revoked (BRH Partners 2016). In addition, since January 2014, the ERCO has been gradually enforced; this allows major and minor shareholders to actively exercise their voting rights. Such shareholder involvement is also encouraged by the Ethos Foundation,<sup>6</sup> which specializes in shareholder activism and socially responsible investment and aims to increase the possibilities for shareholders to exercise their rights.

The ERCO also states that the chair as well as all of the board members can be individually re-elected every year during the general annual meeting. However, these new legal provisions do not cap the number of times an administrator can be re-elected, although companies can make specific provisions on this in their articles of association. This explains the average tenure of 6.4 years, which is significantly higher than the European average of 5.7 (Deloitte 2012). Nevertheless, it will be interesting to monitor how the ERCO, and in particular the provision on annual re-election, influences term duration.

## Corporate Governance Codes

In 2001, in light of a number of international corporate scandals and after a period of intense debate on corporate governance issues, SIX Swiss Exchange (formerly SWX, Switzerland's main stock exchange) and

economiesuisse initiated a new wave of thinking about corporate governance. As a result, in addition to its laws on corporate governance, Switzerland now has two Corporate Governance Codes, both issued in 2002:

(i) The non-binding SCBP

The SCBP, issued by economiesuisse (2016a), contains recommendations on good corporate governance for Swiss public limited companies with respect to risk management and internal controls. Recommendations on internal controls are geared toward size, complexity, risk profile, and, depending on the nature of the company, sometimes also the management of financial and operational risk. These recommendations are not legally binding, but rather self-regulatory guidelines that encourage each company to apply its own ideas on structuring and organization. However, since the members of economiesuisse follow its membership rules, by default the whole of Swiss industry in fact supports the SCBP and considers its rules as quasi-binding.

(ii) The binding Directive on Information on Corporate Governance (DICG) released by SIX

The purpose of the DICG (SIX 2016) is to have issuers disclose information relating to corporate governance and make it available to investors in an appropriate form. The directive applies to all companies listed on the SIX, whose registered office is in Switzerland. The information provided must be published in a separate chapter of the company's annual report. It is mandatory for companies to disclose separate information on board and management remuneration and benefits, shareholding, and loans in aggregated form. The board member with the largest total compensation package must disclose his/her remuneration and benefits, shareholdings, and loans separately without revealing his/her identity. For other categories, such as capital structure, shareholder participation rights, BoDs, and auditors, information is based on the comply-or-explain principle of the directive: if the company decides not to disclose this kind of information, it must explain why.

## Women on Swiss Corporate Boards

### Current Situation

Changes introduced in the 2014 and 2016 versions of the Swiss Code of Best Practice for Corporate Governance (Economiesuisse 2016b), demand that the BoD guarantees appropriate diversity among its members. Furthermore, it suggests that “the Board of Directors should be comprised of male and female members. They should have the necessary abilities to ensure an independent decision-making process in a critical exchange of ideas with the Executive Board” and that “the Board of Directors should guarantee that there is an appropriate diversity among its members.” (Economiesuisse 2016b, p. 10).

Current evidence shows that women are underrepresented on Swiss corporate boards. The Schilling reports, published annually, provide a very comprehensive view of the structure and characteristics of Swiss boards of the largest companies in Switzerland year on year. The Schilling Report (2016) shares results separately for the board itself and for the executive committee that is customary in large or publicly listed firms. The 90 boards surveyed in 2016 include a record number of 135 women (16 percent) compared to the 10 percent share that had prevailed since the 2000s. On the other hand, the 119 executive committees surveyed exhibit a stable but low proportion of 6 percent women. Overall, these figures reveal that women are still largely underrepresented in decision-making roles, and that progress is fragile, even though 2016 seems to have been promising in the case of boards. Thus, as observed in the introduction, we cannot yet argue that there has been a significant change in the number of women on boards in Switzerland.

### The “Quota Debate” in Switzerland

Despite numerous attempts to establish them, there are currently no binding corporate gender quotas at the national level in Switzerland. The Swiss political system is characterized by the prevalence of direct democracy, which means that, in addition to decision-making by the

parliament and government, elected individuals as well as any other citizen can launch petitions or initiatives asking the government to subject a specific issue to popular vote. This can be done at the three political levels: the commune (municipality), the canton (state), and the federal (national) level.

In a few cantons, such initiatives have led fairly recently to the adoption of quota laws for the boards of public-sector firms. The canton of Basel-Stadt, for example, adopted a draft stipulating a quota of one-third in 2014 (SRF 2014). This decision was challenged through a referendum triggered by the youth circles of right-wing parties in 2014, but, rather surprisingly, the quota was warmly accepted by the voters. As of February 2016, the objective of 33 percent women has already nearly been fulfilled, one year before the law is to be enforced. At the city level, a similar decision has been taken by Bern and Zurich, where a quota of 35 percent women for managerial positions in the public administration is now being implemented (Tagesanzeiger 2013).

At the national level, the idea of equal representation in the federal authorities was roundly rejected (82 percent) in 2000. Regarding private and publicly traded firms, initiatives have also been focused on the national level. The first attempts came about in 2003, when two parliamentary initiatives for a 40 percent quota in publicly listed companies and a later one for a 30 percent quota in partly government-owned companies were dismissed as being too restrictive for the autonomy of these companies (Nationalrat 2003). In 2008, another initiative was launched to introduce a 30 percent quota for women or men on the boards of listed companies and partly state-owned companies, but this initiative also failed (Nationalrat 2008). Another attempt was made in 2009, with an initiative recommending a 40 percent quota for men or women on the boards of companies with more than 200 employees. These initiatives mostly failed on the basis of the argument that the election of board members should be at the discretion of the general assembly as well as the fact that the quota represents a restriction that does not combine well with liberal Swiss company law (Swiss Parliament 2009). More recently, in 2014, the Minister of Justice put forward a proposal for companies listed on the stock exchange to have at least 30 percent women on their boards after a ten-year transition period. Similar guidelines have been introduced to

29 Swiss public-sector companies, such as the Swiss Post and the Swiss Broadcasting Corporation.

As of December 2015, after a new round of consultations, the government adopted the idea of non-binding gender quotas for both boards of directors (30 percent) and senior-management teams (20 percent). This means that the quotas are suggested targets, and are likely to be governed by the informal “report-or-explain rule.” This appears to be a compromise between, on the one hand, the political will of the Federal Council (the government) and left-wing parties that are in favor of quotas and, on the other hand, economic players as well as center and right-wing parties that are against them. In this polarized context, it is encouraging to observe that in April 2015 the Union of Swiss Employers issued a list of 400 women considered to be good choices as directors (Schweizerischer Arbeitgeberverband/Union Patronale Suisse 2015). Two hundred of these already sit on the board of publicly listed or other large Swiss firms, and 200 further women are considered to offer similar qualities. Although the method of selection is not disclosed, the list was established with the collaboration of executive search firms as well as not-for-profit stakeholders. However, it must be acknowledged that selection is rather national-centric, in the sense that even the foreign candidates on it have relevant experience in Switzerland.

## Critical Reflection on the Swiss Case

Despite all these endeavors to increase the number of women on boards, while positive changes have been observed, they remain marginal. There are many critical points that can be discussed in relations to this status quo; here, we shall focus on the following ones in the Swiss context: binding versus non-binding quotas, the “pipeline” issue, and the link between diversity and improved governance. We see this exercise as a reflexive rather than a normative one, and it is complemented by a concluding section featuring a practitioner’s perspective. Together, these two sections should provide food for thought for all readers, while outlining the case for future analysis and debate.

## Binding Versus Non-binding Quotas in the Swiss Context

As in many other countries, Switzerland has seen and continues to see a certain amount of debate about women's representation in high-level positions. Regarding quotas in particular, as we have described above, this tension between binding quotas at one end of the spectrum and fierce opposition to this at the other has led to a somewhat typically Swiss consensual decision to (try to) implement non-binding quotas on boards of directors. Beyond taking note of this situation, however, there is a need to critically assess it. In particular, we might draw on the experience of other European countries to try and understand what the consequences of the Swiss choice could be. First, we can look to Germany, just across the border (see Chapter on Germany (Chap. 9, Volume 1) for an overview). Overall, the German experience suggests that progress with numbers was brought about chiefly by efforts to bolster compliance before binding quotas were enforced and that efforts were concentrated on the supervisory board only. Second, the example that is most widely referred to with regard to quotas for boards of directors is Norway (see Chapter on Norway (Chap. 2, Volume 1) for an overview). From this case, it seems that making quota laws is not sufficient to change mind-sets, nor to change corporate governance and gender equality in a lasting manner.

Together, these two cases suggest that quotas tend to work only when they are binding, but also that they have a limited effect overall and are thus only part of the solution. This constitutes a challenge for the Swiss case, since, as we have pointed out, despite ongoing discussions and initiatives, the prospects of enforced, binding quotas in Switzerland is still quite unrealistic, and non-binding quotas remain uncertain. In order to further understand what is at stake in Switzerland regarding women on boards, we thus turn to address the broader issue of the talent pipeline, as well as the improvement of governance practices and the professionalization of the role of director in Switzerland.



## The “Pipeline”: Looking for and Developing Female Talent

One of the recurrent arguments against any form of quota is that there are not enough competent women for the role of corporate directors, an argument that is also recurrent in other countries. In Switzerland, this argument is backed with the fact that to date only about 6 percent of company executive committee members (i.e. top management) are women (Guido Schilling 2016). Opponents of quotas and targets tout this as conclusive evidence, as traditionally directors have current or previous experience on other boards and/or have been members of top-management teams (Withers et al. 2012). This suggests that the focus should not only be on the matter of quotas but also on that of the pipeline.

The issue may be examined from a number of different angles in Switzerland. First, the assumption that board competence comes only from experience in the private sector limits the female talent pool. Looking for talent in the public sector or on the board of non-profits, where there are more women than in the private sector (Dunn 2012), is one strong option. In addition, it can be argued that competent women generally lack visibility. As noted by Büsser and Rigassi (2014), few companies rely on search firms to identify potential candidates, using their networks instead. To mitigate this “network effect,” in Switzerland a number of private firms help companies diversify their boards, such as GetDiversity<sup>7</sup> and Board2Win.<sup>8</sup> There are also associations that aim to make women directors and candidates more visible, such as the Cercle Suisse des Administratrices<sup>9</sup> and the Female Board Pool.<sup>10</sup> In addition to the publication of a list of 400 qualified female candidates by the Union of Swiss Employers (see section “The ‘quota debate’ in Switzerland”), it will be interesting to monitor to what extent these stakeholders will achieve their goal of bringing more women to boards, as well as to monitor the possible spillover effect on top management.

This network effect is in part corroborated by the fact that the gender gap in tertiary-level education is diminishing every year, a trend that is clearly not mirrored in the higher hierarchical ranks of corporations

(Kägi-Diener 2014). However, as we pointed out earlier, part-time work (mainly a female phenomenon) is significantly hampering women's access to higher-level positions. In addition, a recent report claims it is actually a normative expectation to work up to 50 percent over contract hours (CCDI 2016), which means that even in full-time positions, mothers are disadvantaged in Switzerland. We concur with the CCDI report's suggestion that fostering changes in corporate culture is thus a major means of improving women's likelihood of being considered for top positions in Switzerland.

## **Together We Can Do Better: Changing Boards, Changing Governance**

This last point links to the wider issue of the scope of change: who and what has to change and why? In addition to issues related to gender diversity *per se* (see section “[Introduction](#)”), it is important to nurture the idea that a directorship is a very demanding position, and that even experienced businesspeople can benefit from learning and sharing opportunities. For instance, in Switzerland, the Swiss Board Institute<sup>11</sup> and the Swiss Board School<sup>12</sup> aim to fulfill such goals by offering seminars and training programs targeted at current directors and/or aspiring candidates. The Swiss Board Institute operates mainly in the French-speaking part of Switzerland in partnership with the University of Geneva (Geneva School of Economics and Management) and the IMD. The Swiss Board School offers development opportunities in both French and German, though its work is centered on the German-speaking part of Switzerland and organized by the University of St. Gallen. This focus on the professionalization of the role of director suggests that both men and women, as well as individuals and institutions, should be engaged in improving governance, and that the focus should be on how the question of women on boards fits in with broader issues about processes and social structures.

## Reflections from Practice

Diane Reinhard

In order to include some reflections from the practitioner's point of view, we interviewed Diane Reinhard, the owner of a consulting firm specializing in headhunting female directors for SMEs in Switzerland. Here, we introduce her recent professional venture and report on our conversation about her experience of showcasing female talent. This section thus provides the reader with hands-on insights into the current state of affairs regarding gender diversity on Swiss boards.

Diane Reinhard is a finance professional who, through her work and academic commitments, has developed an interest in women in top management and on boards. In 2014, she founded Board2Win, a consultancy firm specializing in headhunting female directors for SMEs. Board2Win manages a database of current and potential female directors who are either Swiss or foreign nationals with established careers in Switzerland. Board2Win focuses mainly on the French-speaking part of Switzerland, although it is occasionally contacted by firms in the German-speaking part of Switzerland who are looking for “culturally diverse” bilingual directors.

SMEs are generally not covered nor targeted by quota laws or similar policies, and tend to have less formalized recruitment processes than larger multinational corporations or firms in the SMI index. Board2Win thus not only aims to offer them a “shortlist” of female candidates but also provides client firms with a board profile analysis in order to find the best candidate that would bring not only gender diversity but also competence diversity. This combined focus on gender and competence is very important, as SME boards tend to be even more homogeneous than those of larger firms. In addition, this gives Board2Win the opportunity to present profiles of younger candidates from diverse industries. Indeed, Diane Reinhard notes that although the Union of Swiss Employers released a list of 400 board-worthy women last year (see section “[The ‘quota debate’ in Switzerland](#)”), the list features only women who either

have worked at or are already sitting on the board of a large Swiss or international firm.

Moreover, for Diane, this focus on women is in line with her lifelong feminist engagement. She reports that she often loses bids to headhunters who are willing to suggest shortlists including both men and women, but she has seen from the national register of representation changes that most of the time the firms end up choosing a man. She thus believes that merely including women on the lists is not sufficient. In addition to this, she has created an association for female directors in Switzerland (Cercle Suisse des Administratrices or Schweizer Gemeinschaft der Verwaltungsrätinnen) thanks to which (aspiring) women directors can network, get exposure, and be informed about board education possibilities. This association contributes to meeting the need to develop women's networks and visibility in the local economic landscape, as professional expertise and networking skills are necessary to secure board seats.

In broader terms, Diane Reinhard stresses that Switzerland is a country in which business freedom is paramount, and that any attempt to impose legislation therefore meets with great resistance. In addition, things tend to change slowly there; she thus does not expect any major transformations to take place in the coming years. However, she notes that the most difficult thing is for women to secure their first directorship; once they are "in," they tend to secure subsequent seats much more easily. Diane Reinhard considers this to be encouraging, as it means that it is increasingly possible for women to pursue careers as independent directors. Further, she suggests that this is a very interesting prospect in the Swiss context as it may allow women with family responsibilities to work part-time in high-level positions that correspond to their competencies. She also sees this as being positive for the firms that hire the women, as mothers will focus on a limited number of directorships rather than collecting as many board seats at possible. She adds that this may help avoid a situation in which only a small group of women hold the majority of directorships.

## Concluding Points

In conclusion, our own insight into the Swiss situation in this chapter, combined with Diane Reinhard's reflections, suggest that it will take more than "standard" headhunting to increase the number of women on boards. In particular, developing networking and visibility is key, as is convincing not only large or publicly listed firms but also SMEs of the importance of diversity on boards. In addition, in socially conservative countries such as Switzerland, where female careers all too often end or stagnate after pregnancy, it is also important for women to be aware of these new possibilities, and for those who are already trying to become independent directors to be supported in their efforts. However, it has yet to be demonstrated beyond doubt that cultural change can be of sufficient magnitude in practice, and we have yet to ascertain to what extent it is desired by the different parties involved. For example, to return to one of Diane Reinhard's suggestions, seeing a directorship as a part-time career compatible with motherhood still seems quite remote from the current mind-set, where overtime is rife (CCDI 2016) and a directorship is seen as an additional function rather than a career. Further, this suggestion, though pragmatic, does not challenge the idea that the mother rather than the father will take care of the children. As the state is slow to react, and as long as there are insufficient legal provisions to enforce gender equality in Swiss firms, this push will have to come from women—and men—themselves, as well as from local entrepreneurs such as Diane Reinhard.

## Notes

1. University of Geneva Observatory for Employment (OUE).
2. <http://www.ebg.admin.ch/dienstleistungen/00017/?lang=en>
3. <http://www.edge-cert.org>
4. In Switzerland, a federal popular initiative is a legal proposal brought forward by a minimum of 100,000 citizens with voting rights; this one was initiated by State Counselor Thomas Minder, and was originally called the "popular initiative against fat-cat salaries."

5. SMI Expanded: combination of the SMI index (the 20 largest equities in the Swiss Performance Index) and SMI MID index (the 30 largest midcap stocks in the Swiss equity market that are not in the SMI). The SMI Expanded Index represents about 95 percent of capitalisation; [https://www.six-swiss-exchange.com/indices/data\\_centre/shares/smi\\_expanded\\_en.html](https://www.six-swiss-exchange.com/indices/data_centre/shares/smi_expanded_en.html)
6. [www.ethosfund.ch](http://www.ethosfund.ch)
7. <http://www.getdiversity.ch>
8. <http://www.board2win.ch>
9. Non-profit organization started in 2011 by three individuals in the French-speaking part of Switzerland; <http://www.cstda.ch>
10. Network managed by the University of St. Gallen and cooperating with other Female Board Pool organizations in Germany, Luxembourg, and Belgium, as well as with the Cercle Suisse des Administratrices; <http://www.female-board-pool.org/fr/>
11. <http://www.icfcg.org/en/board-education/swiss-board-school>
12. <http://www.swissboardinstitute.ch/home>

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# 9

## The Downturn of Gender Diversity on Boards in Hungary

Beáta Nagy, Henriett Primecz, and Péter Munkácsi

### Introduction

There are three different legal guidelines in the European Union (EU) to regulate women's participation on corporate boards: obligatory quota regulation, application of the 'comply or explain' principle and the

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non-regulation of gender representation. Hungary, together with other post-socialist countries, belongs to the latter group. This paper gives an overview of the potential historical roots of aversion to state intervention, the effects of the post-socialist legacy on present-day legal conditions and, crucially, of how this environment influences women's position on company boards. We argue that the forced emancipation experience of the state socialist era had a controversial impact. On the one hand, socialist party politics prioritised women's participation in top managerial positions, while, on the other hand, it delegitimised the issues connected to gender equality in political life and policy fields, in which the potential for greater equality has decreased due to women's high participation in the past. These phenomena caused the stagnation of women's presence in top managerial positions in Hungary. The chapter first describes the general social, economic and legal context of Hungary, and then discusses the main characteristics of policies on the topic of women on boards. The next part summarises the main components supporting and hindering women's leadership positions in present-day Hungary, including some critical remarks concerning this situation, followed by the reflections of a high-ranked government official.

## General Background

Hungary is located in the very centre of central Europe and is surrounded by no less than seven countries. This rather high number is the result of recent historical changes: namely, the disintegration of socialist states in the early 1990s. A careful look at the list of present neighbouring countries clearly highlights the importance of continuous remembrance of past processes, since only two countries, Romania, in the east, and Austria, in the west, have been constant neighbours over the last 30 years. The remaining five countries are 'new' or have been newly re-established after the collapse of the socialist regime: Slovakia (previously belonging to Czechoslovakia) at the northern border, Ukraine (earlier being part of the Soviet Union) in the north-east, and Serbia, Croatia and Slovenia (re-established after the war on the 'ruins' of Yugoslavia) in the south

remind us of the fragility of these state formations and the sensitivity of ethnicity-related issues across this region.

The territory of Hungary is 93,000 sq. km and the population number, which is gradually decreasing, is slightly below 10 million inhabitants. As mentioned in Chap. 5, Austria and Hungary formed the Austro-Hungarian empire before the First World War. Shortly after World War II, Hungary was under the power and influence of the Soviet Union, which determined the country's political circumstances in general and women's emancipation in particular for 40 years. It occurred in western Hungary in August 1989 that the Austrian-Hungarian border was opened for East Germans to let them escape from the socialist block, which was a historic event symbolising the collapse of the socialist regime.

Hungary joined the European Union in 2004 at the same time as seven other former Eastern Bloc countries. The process of negotiation and the resulting access were important steps to be a fully entitled member of European countries again. Shortly afterwards, in 2007, the country joined the Schengen Agreement, which made the free mobility and movement of goods, services and people within the EU considerably easier. Despite the substantial removal of physical barriers from international exchanges, Austria and Germany remained the main export and import trade partners for Hungary. Thus, these historical linkages have had a long-lasting effect on the country's economy. Although there have been several plans concerning joining the Euro zone as well, the idea has been postponed several times, so that now Hungary does not have a precise plan when the currency union might occur.

## **Political and Economic System**

The Hungarian political and economic system can only be analysed in its historical context. The socialist regime could be characterised by the aggressive dominance of the state, the exclusive power of the communist party, the collectivisation of agrarian activities, and by the phenomenon that all private industrial undertakings were nationalised. The communist party intended to rule all economic activities and limit ideologies that differed from the communist orthodoxy.

The communist powers set the targets to change the political status quo and demolish class differences and gender inequalities (Fodor 2004). This meant that previous decision-makers and property owners were removed from their positions and were replaced by working class people. According to the party decrees, women were also put into influential political and economic decision-making positions in order to institute women's emancipation. It is highly debated, whether this emancipation was really successful (Gal and Kligman 2000), but women had equal or even better career opportunities than women in many Western countries (Fodor 2004). Not least because it was a forced top-down process dictated by the communist party, it led to a backlash towards women's issues later on and contributed to the de-legitimisation of gender issues as well (Gal and Kligman 2000).

Still, we cannot consider socialism as a homogeneous period. Whereas the socialist regime allowed only limited access to social and economic freedom and opportunities for people in the beginning, as a consequence of the 1956 'Hungarian Uprising', the socialist party gave space for social and economic consolidation. The consolidation offered more income opportunities (second economy came into existence), individual movement (travelling opportunities abroad) and social rights (introduction of parental leave scheme in 1967). Due to these changes, the preconditions of a market-oriented society developed slowly, and they were supplemented by legal and institutional changes, e.g. the introduction of the two-tier banking system in 1987. This meant that after 40 years, and under the supremacy of the Hungarian National Bank, commercial banks received the opportunity to (re)establish their financial activity in the country.

After having demolished the socialist regime, which existed for more than 40 years between 1948 and 1989, social and economic transformation accelerated. Although there was a considerable change in the political elite, the persistence of the business elite was the dominant trajectory. Thus, economic decision-makers were able to preserve their influence both in their organisations and in macro-level decisions. This early period of transformation was labelled as managerialism emphasising that people owning managerial positions had more power than those possessing private property (Szelényi 1995). However, privatisation changed this

situation considerably, and Hungary became an embedded neoliberal type of capitalism, which can be characterised by the application of ‘socially and politically inclusive strategy’ (Bohle and Greskovits 2012, p. 22). As the authors emphasise, this refers to the mobilisation of considerable financial resources for the aim of socialist companies’ economic transformation, and to the maintenance of generous welfare measures as well. Taking into account that transformation caused serious damages both on organisations’ and employees’ sides, significant economic and welfare means offered by the state were necessary to support the actors and compensate their losses (Bohle and Greskovits 2012).

A large literature has considered the problems of privatisation (both of banks and of non-financial corporations), bank consolidation (an issue that emerged in practically every transition country and had important relationship with corporate control) and the restructuring of enterprises (Czajlik and Vincze 2004).

## Governance Structure According to Company Law

Not least because it is based on the German traditions, the development of Hungarian company law is inseparable from cultural, social, political and historical factors. As far as the general regulatory framework is concerned, the first company legislation was the Act no. VI. of 1988, which determines the structure of company law even today. At that time, the primary aim of legislation was to pave the way for entrepreneurship and the founding of private companies by residents and non-residents alike. At present, there is no separate company law in Hungary, as the basics of the regulation are included in the Act V of 2013, the current Hungarian Civil Code. The following section focuses on these recent rules at the national level without mentioning other provisions concerning business organizations, which were laid down in many of acts.<sup>1</sup>

It is worth mentioning that the European Company Statute (‘SE Regulation’ after its Latin name *Societas Europaea*) was adopted on 8 October 2001, which offered the possibility to create a new legal form called a European Company. The main idea behind the SE Regulation was to make it easier for companies and groups with a ‘European’

dimension to combine, plan and carry out the reorganisation of their business on an EU-wide scale. According to the European Commission report from 2010, there were 595 SEs registered in the EU/EEA member-states, out of which only three corporations are located in Hungary.<sup>2</sup>

## **General Management Rules Relating to the Legal Persons**

In the Hungarian system, a legal person has a management (executive board) and a representative (non-executive board) body. The Hungarian Civil Code provides persons the freedom of establishment of a legal person by means of a contract, charter document or articles of association ('instrument of constitution'), and to decide themselves on the legal person's organizational structure and operational arrangements (i.e. on nomination process).

Chapter XV of the Hungarian Civil Code laid down the general rules of the business associations. According to the legislation, business associations are legal persons established for the pursuit of business operations with financial contribution provided by its members, where each member has a right to a share of the profit and an obligation to participate in covering the losses.<sup>3</sup> A business association may operate in the form of a general partnership, limited partnership, private limited-liability company or limited company.<sup>4</sup>

## **Executive Officers (Members of the Executive Board)**

Members and founders exercise their decision-making powers under the Civil Code or the instrument of constitution in a body comprised of members selected from among all members or of delegates selected by the members from among themselves ('college of delegates'), or in a body consisting of persons exercising the founders' rights.

Decisions that are related to the governance of a legal person (e.g. a company), and are beyond the competence of the members or founders, are adopted by one or more executive officers or by an entire executive board. Executive officers perform their management functions by representing the legal person's, e.g. the company's, interests. The first

executive officer(s) of the executive board is (are) delegated in the instrument of constitution. Executive officers are selected, appointed and dismissed by the members and funders of the legal person (e.g. owner).

### **Non-executive Body: The Supervisory Board**

As a rule, setting up a supervisory board is not mandatory; members or founders of a legal person may nominate the (three-member) supervisory board in the instrument of constitution. Nevertheless, there are the cases where a supervisory board must be established: (i) if the annual average number of full-time employees employed by the business association exceeds 200, and (ii) the works council did not relinquish employee participation in the supervisory board.<sup>5</sup>

Supervisory board members are independent from the executive board and are not bound by any instructions in performing their duties. The members of the first supervisory board are designated in the instrument of constitution, after which members are appointed by the decision-making body (e.g. the owner, the representatives or the general assembly). Details of the appointment process are set in the instrument of constitution.

The supervisory board assesses all motions brought before the decision-making body of members or founders and presents its opinion at the meeting of the decision-making body. It adopts its decisions by a simple majority of the votes of the members present. The Hungarian Civil Code determines the power and the membership provisions when the establishment of the supervisory board is mandatory. Supervisory board members are typically elected for a term of five years. The supervisory board consists of three members, and they elect a chairperson from among its members. The supervisory board functions as a body and may entrust any of its members to fulfil certain supervisory tasks, or may divide supervisory duties among its members.



## **Nomination, Election and Participation of the Employee Representatives**

In case of the business associations, employees may not hold a seat on the supervisory board, except where membership is based on employee participation. If the number of full-time employees exceeds 200, one-third of the supervisory board should be made up of employee representatives. Employee representatives have the same rights and same obligations as all other members of the supervisory board. Employee representatives shall inform the company's employees about the activities of the supervisory board. There is a specific rule related to the public limited companies (PLC). If the public limited company has a board of directors, the procedures for exercising the rights stemming from employee participation are laid down in an agreement between the board of directors and the workers' council.<sup>6</sup>

## **Corporate Governance Recommendations**

Corporate governance principles aim to support the transparency and efficiency of the market and the rule of law. In particular, they are concerned with the definition and enforcement of shareholder rights and the role of owners, further harmonising the interests of the company with those of its investors' and its environment. In Hungary, it became important around 1990, when the former governance structures were still connected to central planning. Old styles of corporate control quickly became unviable, but their vestiges may have survived (Angyal 2001).

In mid-2002, the Budapest Stock Exchange began working out its Corporate Governance Recommendations (CGR) for listed companies. The recent version of the CGR is considered to be an addition to the relevant Hungarian Civil Code—primarily for listed, public limited companies registered in Hungary.<sup>7</sup> The CGR contains recommendations, suggestions and related explanations. Relevant provisions of law must also be considered when evaluating the corporate governance policy of listed companies.

According to the CGR, the responsibilities of the managing body cover areas such as the participation in defining strategic guidelines and developing the relevant strategy, supervision of business and financial plans, the execution of major capital expenditure, acquisitions and divestitures, defining principles of remuneration for executives, monitoring executive performance, initiating corrective measures if necessary, defining the mechanism regarding the nomination of the members of the managing body, recommending the remuneration of members and determining the basic principles and rules of succession.

As far as the role and responsibilities of the supervisory board of listed companies is concerned, the CGR made recommendations about applicable practices such as the rules of procedure and the work schedule of the supervisory board lists the board's operation and responsibilities, as well as those procedures and processes that the supervisory board will follow. The rules of procedure determine the mandate of the supervisory board and the procedures by which the executive management and the management board supply information. Alignment and compliance with the recommendations is not mandatory for companies listed on the stock exchange.

The nomination and appointment of the members of the managing body and the supervisory board, mainly regulated by the CGR, should take place in a transparent manner, which ensures that information regarding the person and professional competence of the nominees is available. It is suggested that, upon the announcement of the nominees, shareholders are informed about the professional competence of the nominees, and what relevant knowledge makes them competent and independent to become a member of the given board. According to the CGR's suggestions, the number of the members of the managing body and the supervisory board is determined in such a manner that the boards are able to perform their corporate governance and control function in the most efficient way possible. When determining the size and structure of the managing body and the supervisory board, an adequate level of professional experience, the right proportion of independent members and the optimization of costs shall be targeted. The Hungarian legislation, as well as the relevant bylaw does not mention gender or other kinds of diversity; consequently, Hungarian company legislation is gender blind. There is a separate law to regulate equal opportunities and treatment (Act

CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities), which provides appropriate provisions when a person suffers from discrimination. Although the Basic Law of Hungary (Constitution) and the Hungarian Civil Code laid down certain provisions regarding equal opportunities and treatment, the specific law was adopted as a requirement for Hungary's accession to the European Union in 2004.

## Facts and Figures

Hungary has had an even, albeit relatively limited, growth over the last three years. Despite the stable economic performance, the country is lagging behind the regional competitors, i.e. the Visegrád countries (Slovakia, Czech Republic and Poland). Its real GDP growth reached the peak before the economic crisis. According to the latest data, the GDP growth was 3.7 percent in 2014 and 2.7 percent in 2015. The positive results were boosted by the increase experienced both in private consumption and export activities in recent years (European Commission 2016a), whereas last year's decrease in GDP growth can be connected to the poorer performance of the automotive sector, which is one of the country's main economic activities, and to the decrease in available EU funding (Hungary's Economic Outlook 2016).

The employment level has risen slowly and continuously over the last few years, but it was still below the EU average in 2015. The Hungarian employment rate for those aged 20–64 was 68.9 percent, whereas the EU average was 70.1 percent (Eurostat 2016). This was an important increase, compared to earlier decades, as previously the Hungarian employment rate, especially for men, was among the lowest in Europe (e.g. 61.2 percent in 2000). The last five years' considerable increase in employment can be partly connected to the public works scheme introduced in 2011, which typically offers low-wage jobs for unemployed people. Consequently, the unemployment rate is shrinking continuously (5.5 percent), and is below the European average, which was 8.6 percent in April 2016 (Eurostat 2016).

Looking at the employment rates by gender, we witness a significant gender gap: differences between male and female employment rates. In

2014, the Hungarian female employment rate was 60.2 percent, whereas the male employment rate 73.5 percent for those aged 20–64. The EU-28 employment rates were somewhat higher, i.e. 63.4 percent female employment rate, 75 percent male employment rate, and the gender gap was slightly smaller than the Hungarian data. At this point, it is important to note that part-time work opportunities are rarely available in the Hungarian labour market, so those who are in the labour market typically work full-time. It is reflected in the data presenting full-time equivalents: Hungarian employment rates differ only slightly from the above described employment figures, so full-time equivalents were 58.3 percent (for women) and 72.6 percent (for men) in 2014 (European Commission 2016b).

As women typically work full-time, it is not surprising that gender wage gap is relatively low in international comparison (14.3 percent in Hungary and 18.2 percent in EU-28) (European Commission 2016b). In fact, the gender wage gap can be explained by the strong gender segregation of the labour market, and the unequal share of household duties, particularly childcare responsibilities. Hungary is among the few countries, where the long parental leave scheme (three-year long universal and paid parental leave) and the traditional gendered expectations (i.e. re-familisation) decrease mothers' labour market participation dramatically (European Commission 2016b). In order to compensate the impact of long parental leave scheme on women's employment, the government introduced some new initiatives in the framework of labour market and family policies. A well-known scheme is the so-called 'GYED extra' allowance. As of January 2014, it makes possible for parents to take the parental allowance and work full-time simultaneously after the child turns six months old. Another important support is the regional extension of affordable nurseries maintained by local municipalities for children below three years. The 2016 amendment of the Labour Code focussed on pregnancy protection as well, whereas the Workplace Protecting Action Plan supports, among others, the employment of parents with young children and parents having at least three children through active labour market policies, e.g. employers' tax reduction.

It means that previously introduced, widely available, and state-supported institutional solutions (e.g. daycare) are often replaced by

family solutions (e.g. mothers and in many cases grandmothers as caregivers). This became a typical and dominant part of the gender regimes in most post-socialist countries, where familialism was already important in the late 1960s. It is crucial to note that the socialist system, despite the declaration that women's paid work was of social importance, also faced a declining fertility rate and growing labour surplus, which reinforced women's positions as mothers (Nagy et al. 2016). A similar trend can be observed across all Visegrád countries, where the parallel emphasis on both motherhood and women's employment in socialism finally concluded in a familialistic gender regime after 1990.

The Global Gender Gap Report 2016 published by the World Economic Forum (WEF 2016) recently, offers a comprehensive picture on gender relations internationally. Between 2015 and 2016, Hungary's ranking has worsened, and with a score 0.669 (out of maximum 1.00), it is ranked 101 out of 144 countries. Relatively small gender gaps can be detected in health (rank: 40), economy (67) and education (67), whereas politics indicates the widest gender gap (138) (WEF 2016, p. 195). This unfavourable position can be explained mainly, but not exclusively by the fact that Hungarian political life is missing women politicians and points at a highly masculine political culture. There have not been female members of government over the last ten years; women are permanently missing from party leaderships; and they form a mere 10 percent among the members of the Hungarian parliament (European Commission 2016b, p. 25).

To understand the political context better, it is important to note that, whereas approximately half of the countries in the world have some sort of quota systems in place to increase women's political participation, only two political parties operate with some sort of gender quota in Hungary (20 percent for the Hungarian Socialist Party and 33 percent for the LMP, the Hungarian Green Party) (<http://www.quotaproject.org/country/hungary>). This might be an indication that Hungarian society has a quota aversion, which can be also connected to the total rejection of the socialist legacy: namely, the state's emancipation project. Obviously, there is a clear backlash against the socialist past and any kind of positive discrimination or affirmative action. It helps us also to understand the lack of regulation in relation to the situation of women on company boards.

Quotas are so unpopular among Hungarian people that two proposals and an initiative for referendum to introduce gender quotas failed due to lack of support from the wider public (Magyar's 2010 work is referred by Ilonszki 2014, p. 56).

An investigation of board members at companies registered at the Hungarian stock exchange also suggested that women were underrepresented. Women counted for only 9.5 percent of board positions in 2009 in general and, typically, were present in smaller companies (Nagy 2012, p. 238). In the meantime, the European figures, which were initially higher anyway, are increasing. This male-faced political decision-making might significantly contribute to the ignorance of gender issues at all levels of political life and public policy.

Women's participation in top managerial positions is more favourable. A recent and unique investigation of the TOP200 companies in Hungary showed that 9 percent of CEO positions are occupied by women; they hold 15 percent of executive board positions, and 18 percent of supervisory board positions are occupied by women (HBLF 2014). Alongside the decision-making levels, a clear pyramid structure can be detected: women's proportion is 28 percent in middle management and 38 percent at the entry managerial level. At the same time, 40 percent of all employees are women in the investigated companies.

## **National Public Policy Regarding Women on Boards**

### **Gender Diversity in Publicly Listed Companies**

Women in management and women on boards is an issue mainly within foreign-owned multinational companies' operations in Hungary. Publicly listed companies show great variety on their boards in terms of gender composition. A considerable number of Hungarian publicly listed companies (in EWSDGE<sup>8</sup> project five out of eleven companies) do not have any women on their boards at all, and those companies which have more

than two female members on their board are subsidiaries of Western multinational companies.

EWSDGE project office initiated public discussion about the presence and absence of female members of companies' boards, and they identified two distinct reactions. While company representatives who did not have a single female board member emphasised their support to the legal expectations, as there is no legal requirement on gender composition of the board members, they explained that the decision about board membership is purely based on merit, i.e. educational background (degree), professional experience and suitability (EWSDGE 2016, p. 10).

Gender-related issues were not among the priorities of these companies. At the same time, companies that had relatively high number of female board members were more eager to share their approach to gender equity within corporate boards. Representatives of those companies, where there was a significant number of female board members, welcomed the gender questions and revealed that they had made conscious steps to increase the number of female members in their decision-making bodies.

Several European countries have legislative measures: (1) binding quotas with sanctions (Norway, Iceland, France, Italy, and Belgium), (2) quotas without sanctions (the Netherlands and Spain), (3) rules concerning state-owned companies (Denmark, Finland, Greece, Austria and Slovenia), while the UK decided to set voluntary targets. Besides that, several European countries have introduced Corporate Governance Codes (Austria, Belgium, Denmark, Finland, France, Germany, Luxembourg, the Netherlands, Poland, Spain, and the UK) or have chosen to introduce charters that companies might sign (e.g. in the Netherlands and in Denmark). Finland encourages state-owned companies to outline objectives and principles for encouraging gender balance in business leadership.

Hungary, among some other post-socialist member-states, did not introduce any initiative for solving gender issues at senior management level (European Commission 2012). Consequently, Hungary does not have any kind of regulation regarding gender representation on boards: neither compulsory nor voluntary, and companies do not even have an obligation to reveal their present statistics on gender proportion at different levels of their decision-making bodies: boards, executive boards, CEO, C-level jobs.

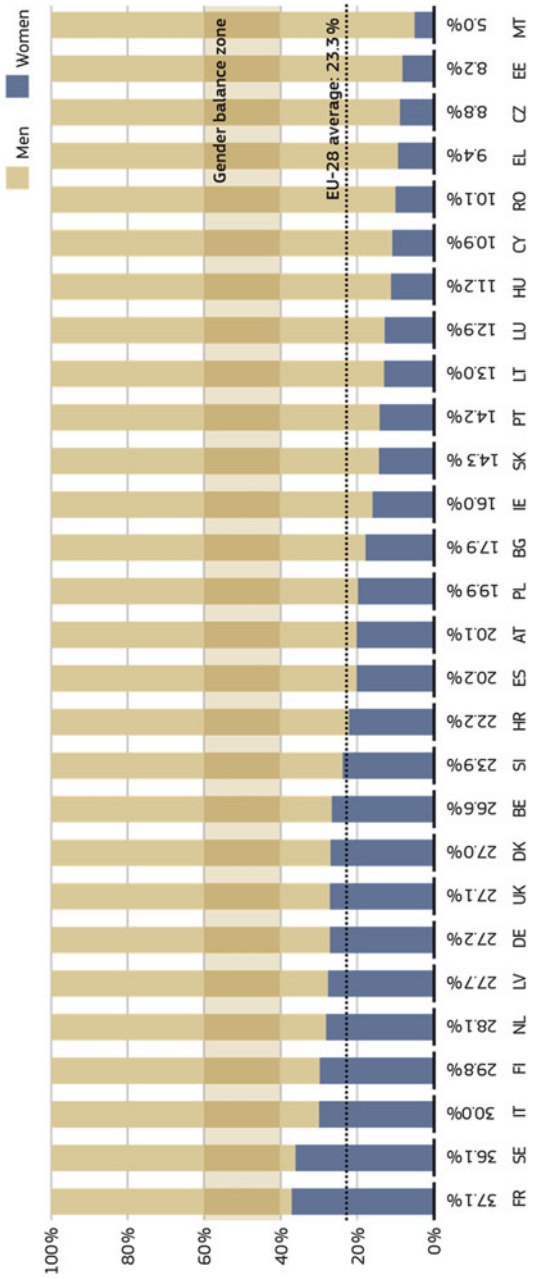


Fig. 9.1 Representation of women and men on the boards of large listed companies in the EU, April 2016 (Source: European Commission 2016d, p. 1)



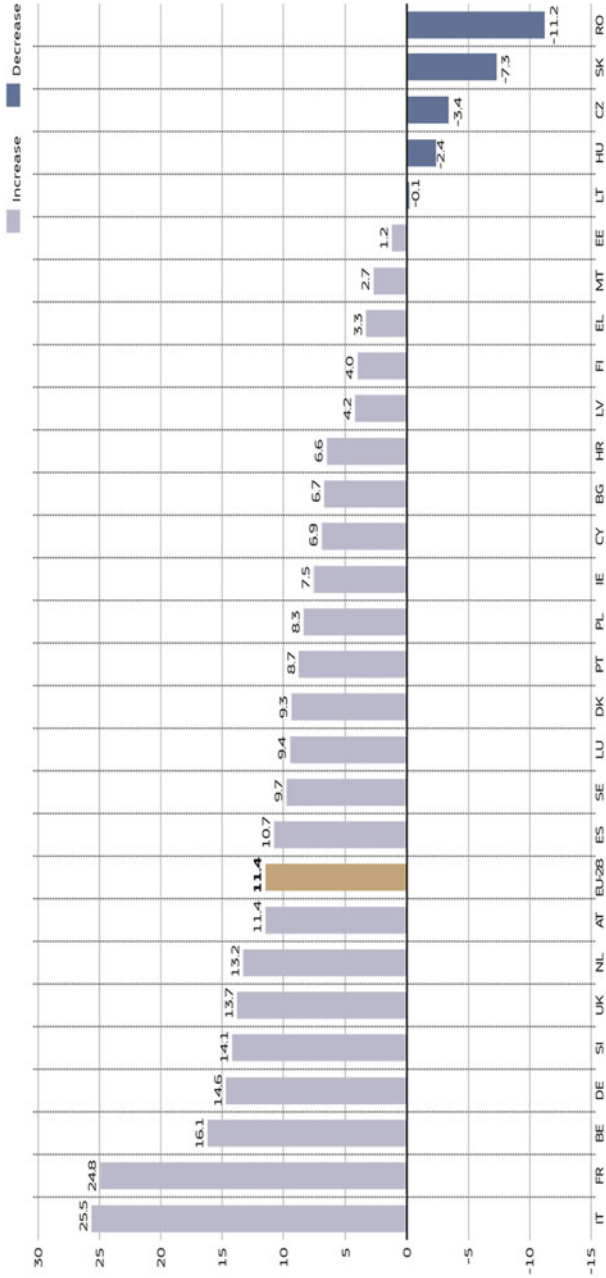


Fig. 9.2 Change in the share of women on boards of largest listed companies, EU-28, October 2010–April 2016 in percentage points (pp) (Source: European Commission 2016d, p. 3)

As we can clearly see in Fig. 9.1, Hungary with its 11.2 percent of female board members, together with other post-socialist countries and Cyprus and Malta, is among the countries with the lowest female representation. This proportion is around half of the EU average, and it is significantly far from the target gender balance zone (40–60 percent). If we further investigate recent progress concerning female board members (Fig. 9.2), we can detect that Hungary is among the few countries, where the proportion of female board members is decreasing, which is just the opposite trend in the majority of European countries. The latter can be attributed also to the various kinds of national and/or corporate initiatives or quotas. Hungary, among the post-socialist EU member-states, is not succeeding with increasing the number of women in key positions.

Private companies in Hungary are not obliged to work on gender issues and, in practice, most companies do not deal with the topic at all. The information about the number of women in management positions is public. In some companies, the proportion of female employees is also published—in some cases in their annual report, but it is not compulsory. It is interesting to note that there are some sectors where female participation is over 50 percent, e.g. pharmaceutical and banking sectors in Hungary (EWSDGE 2016).

## Corporations with at Least 51 Percent State Ownership

In general, state-owned companies are managed mainly by the Hungarian National Asset Management Inc. (HNAM Inc.), which is a public company. This is actually a high proportion of Hungarian economy because over 50 percent of the Hungarian GDP is covered by these state-owned companies. These companies are expected to elaborate an equal opportunity plan, and it is usually required by EU applications as well. In reality, this equal opportunity plan is rather a status report than a real plan in most of the cases. But since the Act CXXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities is devoted to avoiding any kind of discrimination based on gender, race, religion, age, ethnicity, language, disability etc., the proportion of female and male employees are often part of these equal opportunities plans; however, there are rarely

real action plans avoiding or treating potential inequalities. Ethical codes are also present in most large companies but they rarely deal with gender proportions at managerial or board level.

## Enabling and Hindering Forces

As in most cases, there are enabling and hindering forces in gaining gender balance on corporate boards. The socialist legacy, EU membership and embeddedness in the globalised economy are the three main determining factors that support and hinder women's career path and, consequently, influence the possibility to reach gender balance. All three factors have advantages and disadvantages, which we detail in the following section starting with the enabling forces.

There is a relatively high proportion of female participation in leadership roles, due to the socialist legacy. Generations have grown up, whose mothers worked full-time, and female managers have been part of the company culture for the last 50 or 60 years in Hungary. It also means that role models have been present for young women (Fodor 2004).

Daycare facilities for children under three years used to be also part of the socialist institutional support for working mothers and, until mid-1960s, the proportion of children attending daycare was relatively high, compared to Western countries. But after the introduction of maternity leave scheme in 1967, mothers were encouraged to stay at home with their children until the child turned three, so daycare became less popular. After the change of regime, the discourse about mothers' traditional roles intensified; moreover, the sudden increase of unemployment could be hidden by long maternity leave. Thus daycare received less state financial support and lost its popularity among parents, and a high proportion of the facilities were closed down. In 2011, only 8 percent of children under the age of three had daycare possibilities as opposed to the Barcelona target (33 percent) (European Commission 2013, p. 28).

However, there have been relatively good-quality, full-time childcare institutions for children above the age of three, i.e. kindergartens and schools, which make it possible for parents to work full-time. The availability of childcare institutions for children between three to six

years was 75 percent in 2011, i.e. below the Barcelona target (90 percent for children over three years of age) (European Commission 2013, p. 30), and displays significant regional differences. The previous socialist emancipation project supported women working full-time by providing these facilities. It is also worth mentioning that company-sponsored kindergartens were also available for parents between the 1960s and late 1980s. With a few exceptions, they were closed down during the privatisation process.

The growing level of educational attainment also contributes to women's better career chances. Women's education level is similar to the typical pattern of most Western societies: there is a stable majority of women in tertiary education and female graduates outnumber male graduates in almost all main subject areas, e.g. social sciences, business and law, while female graduates' representation is significantly lower in computing and engineering (European Commission 2016c, p. 28). On the whole, female candidates for managerial and board positions are widely available in the talent pool.

As mentioned above, EU membership is one of the supporting factors behind gender equality. This thesis can be supported by describing the legal and policy work connected to social inclusion and gender equality issues in the last 15 years in Hungary. As discussed earlier, the establishment of equal opportunity legislation and machinery (Equal Treatment Authority) was a precondition to the EU accession process. Besides these, the directives and public consultations on gender-related initiatives and gender strategies are catalysts for political and professional discussion, even if they gain only limited media and public attention. A good example for this implicit influence is the proposal of the European Commission about the objective of 40 percent women on board of PLCs,<sup>9</sup> which did not cause considerable changes on political level, still set off several informal meetings with businesspeople (as discussed later).

Finally, probably the strongest force supporting the issue of gender and management is the presence of multinational companies (MNC) and the interconnection with the globalised economy. The headquarters of many Western MNCs initiate organizational policies and practices supporting gender equality, which they often introduce at the level of their subsidiaries as well, even when the legal framework does not force them to do

so. Due to the privatisation process in the early 1990s, a significant number of employees work for MNCs in Hungary, so it is hard to underestimate the role of these corporate examples.

Despite the growing relevance of supporting factors, there are many aspects limiting women's career opportunities. Traditional Hungarian culture is one of the strongest hindering forces, which contains, for example, the general conservative attitude towards inflexible and constraining gender roles. While there are obvious and strong signs of traditional gender roles in most countries, e.g. male breadwinner and female caretaker division, in Hungarian society this is the dominant attitude. In a survey, researchers found that more than 50 percent of women and men agreed with the statement that 'Men should earn money and women should take care of the family' in 2009. Hungary had the highest percentage of agreement with this proposition, which was almost twice as high as in Germany or Austria (Pongrácz and Molnár 2011, p. 200).

Despite the growing activity of young fathers, primary caring roles are attached to mothers in the first 3 years of children and in practice, often until children become relatively independent, at the age of 10–12. Hungarian families rarely rely on paid help in childcare and household duties; rather, they benefit from family help—mainly from grandmothers' support. Families have different coping mechanisms to arrange childcare duties, and more often than not mothers slow down their career to satisfy all demands regarding children's needs. In this social context, female managers from the elite pool very often stand back from top managerial roles following gendered cultural expectations or, on the contrary, people who are responsible for nominating new candidates easily drop young mothers or 'potential mothers'. Motherhood penalty is a highly relevant phenomenon in Hungarian business life (Glass and Fodor 2011).

It is not only the gatekeepers but also organisational gender culture that follows traditional masculine values which hinders talented female professionals to compete for promotions or even for gaining respect. Nagy and Vicsek (2014) found in their qualitative research that even though the majority of employees in local government are women, female employees were less valued than male employees, and female leaders were strongly openly criticised, both by men and women. In their investigation on a

telecommunications company, they found that women were highly criticised for climbing to top managerial position and for returning to work shortly (i.e. after six months) after childbirth. In this kind of organisational climate, there is a low chance that talented female managers would take initiatives and voluntarily search for managerial positions.

Tóth (2005) pointed out in her empirical research that even if multinational companies wanted to introduce work–life balance initiatives helping women and men alike, men took advantage of these to spend more time on sport and leisure time activities, whereas women would rather spend their time with their families. Their explanations for the choices naturalised the traditional gender order, instead of questioning it. It is interesting to note that Neményi and Takács (2016) studied heterosexual couples, where women took the breadwinner position, so followed non-traditional gender roles. The authors found that couples most often referred to the traditional gender order as a point of reference, even if they consciously reversed it. Their attitude underlines the contradictions and ambivalences concerning changing gender relations in Hungary.

The legacy of socialist state emancipation also supports traditional gender roles because gender egalitarian arguments are often connected with the bad memories of communism (Gal and Kligman 2000). There is a clear backlash: while it was possible to take any type and level of jobs in socialist times—including tractor driver and head of companies independently of gender—it is now often considered as unnatural, and to be avoided, which reinforces the ambiguous assessment of changing gender relations in present-day society.

While Hungarian culture hardly welcomes explicit initiatives that would close gender gap, Hungarian politics is especially reluctant to step towards a more egalitarian society. There is a lack of will and a lack of understanding at a political level that society would benefit from moving away from rigid gender relations. Even if the EU launched a legislative initiative at national or company level to ensure more gender-egalitarian societal practice, the political power—following the current Hungarian societal culture—would not pay much attention to the issue and implementation of the legal obligation and might not reach its aim, not least due to its conservative and traditional gender ideology.

While Hungarian politics will hardly take a meaningful action on this issue, as we will see from an expert interview later, public discourse criticises politically correct language use as a cultural force from the West. An attempt when gender equality practices were planned to be introduced shortly before the parliamentary elections as part of National Gender Strategy (2010), e.g. changing the gender stereotypes in kindergarten teaching, was immediately harshly criticised as unnatural and strange and was stopped right after the elections. Consequently, the strategy has not been implemented. These experiences all discourage women from taking positions which are seen as gender non-conformist or stereotypically masculine by the members of their environment (Kovács 2007).

The hindering forces limiting women's access to board positions are further increased by the lack of strong civil society in Hungary. Civil initiatives in general and women's movements or NGOs in particular do not have a solid economic and social basis; thus they are in a difficult position to facilitate gender equality in the country. Without having stable and broad civic support, it is more difficult to argue for the importance of legal regulations.

All in all, we can state that there is a low level of gender awareness in society, and practices of changing gender oppression, gender mainstreaming or just highlighting overt sexism are either considered to be unnatural from West or unnatural from the communist past.

## Critical Reflection on the Case

Although the lack of women on boards is high on the agenda in a wide range of other European countries, this debate has not sparked as much interest in Hungary. The Hungarian case offers evidence for the contradictory legacy of forced socialist emancipation. Although it put more women in the limelight, attitudes towards gender equality in general and women's advancement into top leadership or even board position have been traditional. Consequently, neither political or governmental actors, nor company representatives or social partners put this issue on their agenda. The requirement of equal opportunity plan does not have a

serious impact on company initiatives. The only issue connected partly to gender equality is the family-friendly workplace initiative and award set up in 2001.

Based on the EWSDGE project, it seems possible that the subsidiaries of MNCs might be a catalyst in women's ascent due to their responsibility to follow the company headquarters' regulation and expectation. These companies incorporate gender equality into their company culture, and show an important example for other companies in Hungary, even though this is not dictated by the national legal framework or the national gender culture. At least, these companies do not reject the principle of gender equality immediately. Paradoxically, while these companies are very demanding and favour those representing the 'ideal' or unencumbered employee free from family obligations, they became the advocates of women's empowerment. These two targets might be extremely conflicting in societies where the national gender culture is traditional.

## Reflections of an Actor

As there has been no significant public discussion or public policy on women's representation on corporate boards in Hungary, it seemed reasonable to ask the opinion of a politician who is very close to the decision-making process. A minister answered the questions regarding the above-described issue in November 2016. She proved to be a highly competent person because of her previous knowledge about the topic and also because she had consultations with CEOs of publicly listed companies on their policies following the news on the 40 percent quota regulation, suggested by the European Commission. The interviewee's intention was not to speak solely about the boards, but to widen the analysis to women in management in general, as the number of listed companies is rather small. Concentrating only on these companies cannot bring real change according to her view, even if she thinks it is important to deal with this issue as well.

Despite accumulating a rather wide knowledge in the topic, the respondent expressed her doubts about compulsory regulations. It became clear from the responses that the present government does not intend to



make any direct intervention in the ongoing business processes. The respondent emphasised that she believes more in the effect of bottom-up changes than in top-down processes, and she clearly kept the two approaches separate throughout the interview.

The bottom-up developments were connected mainly to women's growing attainment in higher education, to the facilitation of women's early career progress through flexible working arrangements, labour market reintegration after childbirth (during or after the long maternity leave) or the widespread use of family-friendly policies. She argued that these changes and measures might accelerate women's career progress in an organic way even if they take a long time. The interviewee had the view that it can happen parallel with the generational change.

The other hindrance in women's way to managerial positions can be strongly connected to the traditional gender culture. She drew the conclusion that people's traditional mentality regarding gender roles has to be changed, as they seriously limit women's career aspirations. The importance of leadership training for women was also mentioned during the interview. The tools and measures in this process were not discussed deeply during the interview, as it was far from the main focus. The role and responsibility of state as an employer was also mentioned in the interview.

As a third hindering factor, men's role was mentioned as well. Men's responsibility in sharing housework and childcare duties needs transformation, in order to give equal space for women's career aspirations. As the interviewee admitted, the listed and required changes can only be realised in the long run.

She gave a rather complex overview depicting various parts of the problem. Although the interviewee suggested crucial and progressive ideas to demolish the unfavourable conditions for balanced leadership, in her vision she referred more to indirect, policy-related initiatives than direct, mandatory legal regulations.

## Conclusion

The trends discussed prove that women's positions on corporate boards and the national regulation of the issue have remained unchanged in the years following the system change. The experience of this unaltered environment is particularly striking in a competitive economic and social environment, where the leading principle is the best utilisation of human knowledge and capacities. It is obviously a waste of women's talents to be mere housewives or remaining in lower-level positions, when the state has invested significant amounts of money in their education and women outnumber men in several university programmes, which are required for top-level positions. Still, the gender aspect continued to be disregarded in Hungary, despite the changing international policy initiatives and supporting corporate programmes.

Regarding the development of a legal framework, it is remarkable that Hungary historically 'followed' Germany in terms of company law. Still, it is highly significant that Hungary is not following Germany in terms of women on boards—it has not introduced quotas or other national initiatives in order to facilitate women's career progression. As it was emphasised by the interviewed expert, there is no governmental intention to change the regulations. Despite the lack of formal commitment to this issue, it was on the agenda of informal consultations with CEOs.

This kind of resistance to gender equality can be explained by both the contradictory legacy of socialist emancipation of women and by the traditional national gender culture, which is neither gender egalitarian, nor supportive towards women. The traditional gender culture can be both the reason and the consequence of this gender-blind approach characterising the present institutional framework. The traditional mentality as an obstacle in the way to women's economic decision-making was emphasised also by the respondent from the state administration.

Neither the top-down, nor the bottom-up processes are influential in this field. Here, we have to note that the interviewed politician referred to the bottom-up processes, comprising mostly policy initiatives in education (training for women) and in the labour market (flexible working time regime, which is not widely available in Hungary at present). The limited

records of gender-sensitive initiatives are hidden behind familialistic (variations in parental leave schemes) or family-centric (family-friendly workplace, supporting particularly families with at least three children) ideologies. Gender equality and the idea of women's empowerment remain unreflected; they stay individual issues, instead of treating them as social problems requiring political and legal steps.

## Notes

1. Act XLV of 2004 on European Company Limited by Shares, Act XLIX of 2003 on European Economic Interest Grouping, Act X of 2006 on Cooperatives, Act LXIX of 2006 on European Cooperative Societies, Act CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign Registered Companies.
2. Report from The Commission to the European Parliament and Council. The application of Council Regulation 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) (Text with EEA relevance) SEC (2010) 1391 [COM(2010) 676 final]
3. Section 3:88 para 1 of the Hungarian Civil Code.
4. Section 3:89 para 1 of the Hungarian Civil Code.
5. Section 3:119 of the Hungarian Civil Code.
6. Section 3:288 para 1 of the Hungarian Civil Code.
7. <http://bse.hu/topmenu/issuers/corporategovernance/cgr.html?pagenum=1>
8. The EWSDGE (European Women Shareholders Demand Gender Equity) project was designed to research and influence women's participation on boards in European publicly listed companies, so this action research enabled researchers to ask questions about absence or presence of female board members in the public hearings of the listed companies. The findings of this report are important, because these female shareholders contacted all possible publicly listed companies in Hungary, and their results can be considered as full representation of publicly listed companies (<http://www.ewsdge.eu>).
9. [http://ec.europa.eu/justice/newsroom/gender-equality/news/121114\\_en.htm](http://ec.europa.eu/justice/newsroom/gender-equality/news/121114_en.htm)

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# 10

## Gender Diversity on Boards in the United States, Australia, and Israel

Siri Terjesen and Lauren Trombetta

### Introduction

This chapter examines gender diversity on boards in the United States, Australia, and Israel. These three highly developed countries have three quite distinct administrative heritages, public policy approaches, and Corporate Governance Codes. The goal of the chapter is to juxtapose these three comparative country cases in order to better understand how national context and institutions are reflected in public policy and outcomes of women on boards.

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The chapter begins with a general introduction to the economic and political systems in the United States, Australia, and Israel, including the particularities of the corporate governance framework and the historical representation of women on boards in these countries. The next section, “National Public Policy Regarding Women on Boards,” outlines trends over the last decade, comparing and contrasting the three distinct national approaches. The next section, “[Enabling and Hindering Forces](#),” discusses some of the key actors in the countries and discusses a country case. The subsequent section, “Presentation of Female Role Models,” provides reflections of actors in the three different countries. We conclude with a critical discussion of the three country cases.

## General Background

The United States shares its borders with Mexico and Canada and has the world’s fourth largest population with over 320 million inhabitants. It developed into a world superpower after victories in both World Wars and the conclusion of the Cold War. As a powerful nation-state, the United States has participated heavily in international organizations including North Atlantic Treaty Organization, the United Nations, and the World Trade Organization.

Australia is the world’s smallest continent but has the sixth largest population with nearly 23 million inhabitants. The Commonwealth of Australia declared independence from Britain in 1901 and grew its economy during both World Wars to support the Allied effort. In the past century, Australia has developed its market economy to become an important player on the international stage.

Situated in the Middle East along the Mediterranean Sea, Israel has a population of over eight million inhabitants. The nation of Israel was created in 1948 by a UN-backed treaty following the conclusion of the Second World War. Since its creation, conflict has enveloped the country. Disputes originated from religious differences and plural claims to land between Israel and other Arab states.



## Political System

The United States is a federal republic, where national and state governments share sovereignty. Its Constitution outlines three components: a bicameral Congress of 535 voting members (legislative power), a president (executive power), and a federal court system (judicial power). The Congress has two houses: the Senate (where each state has two delegates) and the House of Representatives (where state population determines representation). The president is the head of state and the military's commander-in-chief. The Supreme Court, which has the responsibility of interpreting the Constitution and federal laws, heads the judicial system. The power of the executive has grown relative to the courts and the legislature resulting in a powerful modern president. Citizens over the age of 18 can vote in national, state, and local elections. Two political parties, the Republicans (right-of-center) and Democrats (left-of-center), dominate most elections.

Australia operates as a federal parliamentary constitutional monarchy, with Queen Elizabeth II as Queen of Australia, and represented by a federal-level governor-general and state-level governors. In practice, Australia's governor-general is a figurehead, and the real power lies with the prime minister and the Federal Executive Council. Australia's federal government consists of three branches: legislature (bicameral Parliament of Senate and House of Representatives), executive (Federal Executive Council which implements the Prime Minister and cabinet's actions), and judiciary (High Court of Australia and other federal courts). Australia's Senate includes 76 senators (12 from each state, and 2 from the mainland territories of the Australian Capital Territory and Northern Territory), while the House of Representatives comprises 150 members in all with members from each state in proportion to its population. Voting is compulsory for all Australian citizens over the age of 18. Australia's two major political groups are the Australian Labor Party (center-left) and Coalition (center-right), the latter of which comprises the Liberal Party and the National Party.

Israel operates as a parliamentary democracy with a largely ceremonial president acting as the head of state, an executive cabinet headed by the

prime minister acting as the head of government, a legislative body called the Knesset, and a judicial system headed by a Supreme Court. The Prime Minister crafts foreign and domestic policy which the cabinet ministers vote to approve. The Knesset is a unicameral legislative body of 120 members each holding four-year terms. The body can enact and repeal laws with a simple majority, even one that may conflict with the Basic Laws of Israel (the country's constitutional laws). In addition to the judicial court, religious courts of each major religion in Israel (Judaism, Christianity, and Islam) have jurisdiction over various issues of family law. Citizens over the age of 18 can vote for party lists; a party attains one seat for every 120 votes. Such an electoral system yields party coalitions as over 25 parties compete for seats. The three major parties holding seats in the Knesset as of the 2015 elections include: Likud (right-wing), Zionist Union (center-left), and Joint List (center-left), which is a coalition comprising Arab parties.

## Economic System

The United States' economy remains the world's largest in terms of nominal gross domestic product (GDP) as US firms are at the forefront of most technological advances across most sectors; however, in 2014 China took over the top spot of highest GDP relative to purchasing power parity (PPP). The US dollar remains the global currency which is used in most global reserves and financial transactions as the New York Stock Exchange (NYSE) and the NASDAQ are the world's two largest stock exchanges. The US has the largest internal market for goods and is the world's second largest manufacturer behind China. In terms of economic policy, since the 1970s, the US federal government has generally embraced neoliberalism by deregulating industries and promoting free enterprise, although more recent interpretations limited some neoconservative policies concerning the military, family values, and multiculturalism. The result is that the US policies tend to focus on "targeted goals" rather than a specific quota in order to address past discrimination in a particular domain.

Australia is an incredibly wealthy country, ranked second in the world after Switzerland for GDP per capita. Australia has the world's 12th largest economy and is frequently ranked second in the world for human development and prosperity. The Australian dollar is the nation's currency, and also used by Kiribati, Nauru, Tuvalu, Christmas Islands, Cocos (Keeling) Islands, and Norfolk Island. The Australian Securities Exchange (ASX) is the ninth largest stock exchange in the world. Australia's economy is driven by manufacturing, finance, ship-building, information and technology, agricultural, mining, insurance, aviation, and telecommunications industries. Similar to the United States, Australia's government has embraced neoliberal policies since the early 1980s, with both the Labor and the Liberal parties supporting policies that privatized many government services and promoted free trade. With respect to affirmative action in the labor market, Australia has instituted some policies to address inequities, particularly concerning ethnicity and to a lesser extent, gender. These policies generally mirror efforts in the United States.

Ranked 18th in the world on the UN's Human Development Index, Israel's economy is the highest positioned in the Middle East. Israel's economy thrives, despite a heavy reliance on raw materials, due to its thriving technology-intensive manufacturing sector, highly educated workforce, and strong venture capital industry. Additionally, Israel joined the Organization for Economic Cooperation and Development (OECD) in 2010 and has free trade agreements with the EU, United States, and others. These and other policies indicate that Israel's government generally embraces free enterprise. The evolution of these policies began in the 1980s when the state-owned Bank of Israel took a central role in initiating these neoliberal policies (Maman and Rosenhek 2009).

## Corporate Governance Structure

The United States is often held up as the model for a shareholder-oriented approach to corporate governance; however, it is more of a "moving target" for international countries to emulate due to its continuous evolution with the economic and political atmosphere of the time

(Jackson 2010). The NYSE Corporate Governance entity, overseen by the US Securities and Exchange Commission (SEC), is the principal body which determines rules and disciplinary actions among publicly traded companies. The most recent set of NYSE governance “best” practices for corporate boards identifies three “hot button” issues currently facing boards (compensation, diversity, social awareness, and risk) and offers the following guidance: “(1) Establish the appropriate ‘tone at the top’ to actively cultivate a corporate culture that gives high priority to ethical standards, principles of fair dealing, professionalism, integrity, full compliance with legal requirements, and ethically sound strategic goals. (2) Develop an understanding of shareholder perspectives on the company and foster long-term relationships with shareholders, as well as deal with the requests of shareholders for meetings to discuss governance and the business portfolio and operating strategy. (3) Determine executive compensation to achieve the delicate balance of enabling the company to recruit, retain, and incentivize the most talented executives, while also avoiding media and populist criticism of ‘excessive’ compensation and taking into account the implications of the “say-on-pay” vote. (4) See to the implementation by management of state-of-the-art standards for compliance with legal and regulatory requirements, monitor compliance, and respond appropriately to ‘red flags.’ (5) Set high standards of social responsibility for the company, including human rights, and monitor performance and compliance with those standards. (6) Oversee relations with government, community, and other constituents. (7) Determine the company’s reasonable risk appetite (financial, safety, cyber, political, reputation, etc.), see to the implementation by management of state-of-the-art standards for managing risk, monitor the management of those risks within the parameters of the company’s risk appetite, and oversee that necessary steps are taken to foster a culture of risk aware and risk-adjusted decision making throughout the organization. (8) Plan for and deal with crises, especially crises where the tenure of the CEO is in question, where there has been a major disaster or a risk management crisis, or where hard-earned reputation is threatened by a product failure or a sociopolitical issue. Many crises are handled less than optimally because management and the board have not been proactive in planning

to deal with crises, and because the board cedes control to outside counsel and consultants” (NYSE 2014, pp. iii–iv).

After the Enron accounting scandal in 2001, which exposed the improperly functioning components of the US corporate governance system (Jackson 2010), Congress passed the Sarbanes-Oxley Act (SOX) in 2002 to improve financial disclosures from firms and to protect investors from fraudulent activity. Since its passage, SOX has increased disclosure but caused firms to undertake real earnings management through abnormal changes in cash (Jackson 2010). The NASDAQ and NYSE also altered listing requirements in response to SOX to avoid further legislation, for example, a new requirement that firms must have a majority of independent (defined by federal law) directors on boards and auditing committees. The 2008 financial crisis led to Congress passing the Dodd-Frank Wall Street Reform and Consumer Protection Act, which concerns disclosure requirements for various actors in the firm, such as Section 951 outlining new rules on executive compensation and Section 952 requiring increased financial disclosures of firms’ consultants (SEC 2015).

Among public companies in Australia, the chief body is the Australia Stock Exchange Corporate Governance Council (ASXCGC) as all ASX-listed entities are required to benchmark their corporate governance practices to ASXCGC recommendations. When a firm’s practices do not comply with the recommendations, the firm is required to disclose this fact and describe the reasons for noncompliance. ASXCGC has 29 specific recommendations which conform to the following eight principles: “(1) Lay solid foundations for management and oversight: A listed entity should establish and disclose the respective roles and responsibilities of its board and management and how their performance is monitored and evaluated. (2) Structure the board to add value: A listed entity should have a board of an appropriate size, composition, skills and commitment to enable it to discharge its duties effectively. (3) Act ethically and responsibly: A listed entity should act ethically and responsibly. (4) Safeguard integrity in corporate reporting: A listed entity should have formal and rigorous processes that independently verify and safeguard the integrity of its corporate reporting. (5) Make timely and balanced disclosure: A listed entity should make timely and balanced disclosure of all matters

concerning it that a reasonable person would expect to have a material effect on the price or value of its securities. (6) Respect the rights of security holders: A listed entity should respect the rights of its security holders by providing them with appropriate information and facilities to allow them to exercise those rights effectively. (7) Recognize and manage risk: A listed entity should establish a sound risk management framework and periodically review the effectiveness of that framework. (8) Remunerate fairly and responsibly: A listed entity should pay director remuneration sufficient to attract and retain high quality directors and design its executive remuneration to attract, retain and motivate high quality senior executives and to align their interests with the creation of value for security holders” (ASXCGC 2014, p. 3). Other sources of information for corporate governance in Australia include the Australian Institute of Company Directors, Governance Institute of Australia, Financial Services Council, and Australian Council of Superannuation Investors.

In Australia, the ownership structure of publicly listed firms typically includes a few substantial minority shareholders (mostly institutional investors such as life and pension funds and banks) and dispersed, small shareholders, a structure which emerged from the “family capitalism” era in the early twentieth century of director and management positions held by a close-knit business group (Fleming 2003). Australian firms tend to utilize “best practice” guidelines for corporate governance, and research indicates that Australian firms’ board size is positively correlated to firm value and that the proportion of inside directors is related to firm performance (Kiel and Nicholson 2003).

The Israeli corporate governance system is characterized by high ownership concentration and family control of most listed companies. In 2011, three-quarters of all Israeli listed companies were controlled by family or individual interests (OECD 2011). Israel’s corporate governance is influenced by the Companies Law (1999) and the Securities Law (1968). The Companies Law applies to all Israeli companies and some foreign companies, and adopts methods similar to US standards (OECD 2011). The scope of the Securities Law is also quite large as it defines Israel’s Securities Authority (ISA), Tel Aviv Stock Exchange (TASE), and other regulations for publicly traded firms. The ISA has broad powers to suspend and revoke licenses of noncompliant firms. The following five

core features define Israel's corporate governance structure: "[1] Ensuring a consistent regulatory framework that provides for the existence and effective enforcement of shareholder rights and the equitable treatment of shareholders, including minority and foreign shareholders; [2] Requiring timely and reliable disclosure of corporate information in accordance with internationally recognized standards of accounting, auditing and nonfinancial reporting; [3] Establishing effective separation of the government's role as an owner of state-owned companies and the government's role as regulator, particularly with regard to market regulation; [4] Ensuring a level playing field in markets where state-owned enterprises and private sector companies compete in order to avoid market distortions; and [5] Recognizing stakeholder rights as established by law or through mutual agreements, and the duties, rights and responsibilities of corporate boards of directors" (OECD 2011, p. 10).

Other regulations on Israel's corporate governance system result from membership requirements of the OECD and legislation codified by the Ministry of Finance, the Ministry of Justice, and the ISA. The ISA requires numerous ownership disclosures including any acquisition of more than 5% ownership, subsequent changes in principal shareholdings, and corporate governance and ownership policies, in line with OECD guidelines (ISA 2006). Among TASE-listed firms in the mid-1990s, the majority of firms were owned by individuals (almost equally split among family firms or partnerships of individuals), with only 15% professional (nonowner) CEOs (Lauterbach and Vaninsky 1999). The ownership structure has subsequently changed to include more institutional investors, and now many Israeli companies dual list on other exchanges such as London, New York, and Nasdaq, with some no longer listing on TASE (Lifkin 2013). As an illustration of Israeli firms' global presence on other exchanges, more than 250 Israeli firms have held IPOs on Nasdaq over the last three decades.

The three countries' corporate governance structures can be compared using the Doing Business protecting investors indices on disclosure, director liability, shareholder suits, and investor protection for the most recent four years as well as a historical comparison from 2006.<sup>1</sup> As shown in Table 10.1, Australia trails the United States and Israel in investor protection, ease of shareholders' suits, and director liability index.

**Table 10.1** Doing Business indices on corporate governance

Year	Country name	Disclosure index	Director liability index	Shareholder suits index	Investor protection index
2006	US	7	9	9	8.3
2006	Australia	8	2	7	5.7
2006	Israel	7	9	9	8.3
2012	US	7	9	9	8.3
2012	Australia	8	2	7	5.7
2012	Israel	7	9	9	8.3
2013	US	7	9	9	8.3
2013	Australia	8	2	7	5.7
2013	Israel	7	9	9	8.3
2014	US	7	9	9	8.3
2014	Australia	8	2	7	5.7
2014	Israel	7	9	9	8.3
2015	US	7.4	8.6	9	6.5
2015	Australia	8	2	8	5.7
2015	Israel	7	9	9	7.3

## Women's Roles in Political and Economic Life

More than half of the world's countries have political quotas (Dahlerup 2017). While there are no political quotas in the United States, there are quotas in Australia and Israel. Australia has political party quotas for the lower house (40%) but none for the upper house or at subnational level. Israel has political party quotas for the lower house (10–40%) but none for the upper house or at subnational level. In 1994, Australia's Labor Party (ALP) introduced a 35% quota for party positions, union delegations, and preselection for public office and positions at a state and federal level, and upped this to 40% in 2002, and also established that no less than 40% of each sex can be represented on party electoral lists (Dahlerup 2017). Israel's five parties each have quotas for women.<sup>2</sup> In terms of parliamentary seats held by women in 2016, 19%, 29%, and 27% of seats are held by women in the United States, Australia, and Israel, respectively (World Bank 2017a).

In the United States, in 1920, the ratification of the Constitution's 19th amendment provided suffrage for women. Women in Israel were granted voting rights when the State of Israel was created in 1948. In



Australia, non-Indigenous women gained voting rights during the period 1895–1908, depending on the province of residence; however, Indigenous women only gained the right to vote in federal elections in 1962.

In terms of economic life from 1990 to 2014, Australia and Israel have seen an overall increase in labor market participation by women over the age of 15, while the United States has remained stagnant. In the United States, 56% of adult women participated in the workforce in both 1990 and in 2014; with the lack of growth potentially attributable to rather high rates back in 1990 as well as more women undertaking higher levels of education in the subsequent years. Australia's share of women in the workforce has risen from 52% in 1990 to 59% in 2014. Israel's female participation in the labor force has seen the largest growth, up from 41% in 1990 to 58% in 2014 (World Bank 2017b). Table 10.2 depicts several political and economic measures between the three countries. Notably, the United States has never elected a female head of state, indicating the difficulty for women in reaching the upper echelons of US politics. Australia, too, follows this trend, with only one female head of state: Julia Gillard served as Prime Minister from June 2010 to June 2013.

**Table 10.2** Women's role in political and economic life (2015)

	United States	Australia	Israel
<b>Political system</b>			
Women in parliament (%)	24	36	32
Women in ministerial positions (%)	35	21	22
Years with female head of state (%)		0.06	12
Years of female suffrage	97	122–155 <sup>a</sup>	69
<b>Economic system</b>			
Male: Female labor force participation	77:67	83:71	76:67
Male: Female estimated earned income (PPP US\$)	40,000:40,000	40,000:33,748	40,000:24,098
Male: Female professional and technical workers	43:57	46:54	44:56
Male: Female legislators, senior officials, and managers	57:43	64:36	67:33

Source: World Economic Forum 2015

<sup>a</sup>Suffrage year differs across provinces and ethnicities

Israel's Golda Meir served as Prime Minister from March 1969 to June 1974.

## Women's Representation on Corporate Boards

Israel was the first country, in 1999, to institute a quota for publicly traded companies to have at least one female director (ISA 1999). The Israeli Companies Law Part VI, Chapter 1, Article E(d) stated that if a board comprises only directors from one gender, then any new appointment must include a member of the other gender. A 2007 government resolution states that state-owned firms must have equal (50%) representation of both genders within two years. The Israeli law followed up a 1993 edict to "give appropriate expression of both sexes" for state-owned enterprises—an early comply-or-explain code. The United States and Australia established comply-or-explain codes in 2010 and 2014 respectively. Australia instituted a target of 50% women on government boards in 2016 (Australian Government 2016).

In Israel and the United States, like in many other countries, women are still underrepresented on boards. The share of women on boards in Israel and the United States is nearly equal: 16.9% and 16.6% (Catalyst 2014). In the United States, women account for only 4.6% of CEOs in the Fortune 500 (Fairchild 2014) and 4% in the S&P 500 (Catalyst 2015), and only 3.1% of board chairs (Catalyst 2014). These numbers have not significantly changed over the last decade. Furthermore, women have historically been underrepresented on board committees (Bilimoria and Piderit 1994; Ernst and Young 2012). In Australia, after the ASX introduced recommendations in 2009, female representation on boards of the largest 200 ASX-listed firms increased from 8.7% (right before the announcement) to 20.1% in 2015 (Gould 2016). In six years, female board representation on the largest ASX-listed firms increased by nearly 57%. In 2016, the government issued a target of 50% for women on boards of Australia's vast government structure, which should improve present rates which vary from 28.3% in the employment portfolio to 55.6% in immigration and border protection (Australian Government 2016).

In Israel, women account for fewer than 3% of chairpersons and 20% of the directorates of the top 100 companies (Deshe 2013), and about 6% of TASE-traded firms (Elis 2015). The percentage of companies with at least one woman on the board is 89%, while the percentage of women serving on the boards of more than one company rose from 11% in 2012 to 16% in 2013 (Catalyst 2013). Interestingly, although the media, public, and political interest in gender inequality in Israel has increased in recent years, relevant academic research, particularly in the area of gender and corporate leadership, is scarce.<sup>3</sup> A multicountry study of women on boards in 2010 found that firms with more female directors have higher firm performance as measured by Tobin's Q and return on assets (Terjesen et al. 2016).<sup>4</sup>

## National Public Policy Regarding Women on Boards

The United States, Australia, and Israel have three very distinct approaches to gender diversity in corporations. The United States has only one “comply or explain” mechanism, which was adapted in September 2010 by the Securities and Exchange Commission (SEC). This requires firms to disclose “whether diversity is a consideration when directors are named; if so, how the diversity policy is implemented and how effectiveness is evaluated.”

Australia has a similar “comply or explain” policy with considerably more requirements. The policy from 2014 reads as follows: “A listed entity should: (a) have a diversity policy which includes requirements for the board or a relevant committee of the board to set measurable objectives for achieving gender diversity and to assess annually both the objectives and the entity's progress in achieving them; (b) disclose that policy or a summary of it; and (c) disclose as at the end of each reporting period the measurable objectives for achieving gender diversity set by the board or a relevant committee of the board in accordance with the entity's diversity policy and its progress towards achieving them, and either: (1) the respective proportions of men and women on the board, in senior

executive positions and across the whole organization (including how the entity has defined “senior executive” for these purposes); or (2) if the entity is a “relevant employer” under the Workplace Gender Equality Act, the entity’s most recent “Gender Equality Indicators,” as defined in and published under that Act.16” (ASXCGC 2014).

The ASXCGC also recommends the following steps for listed entities to comply with diversity: “In addition to addressing the matters referred to in recommendation 1.5, a listed entity’s diversity policy could: (1) Articulate the corporate benefits of diversity in a competitive labor market and the importance of being able to attract, retain and motivate employees from the widest possible pool of available talent. (2) Express the organization’s commitment to diversity at all levels. (3) Recognize that diversity not only includes gender diversity but also includes matters of age, disability, ethnicity, marital or family status, religious or cultural background, sexual orientation and gender identity. (4) Emphasize that in order to have a properly functioning diverse workplace, discrimination, harassment, vilification and victimization cannot and will not be tolerated. (5) Ensure that recruitment and selection practices at all levels (from the board downwards) are appropriately structured so that a diverse range of candidates is considered and that there are no conscious or unconscious biases that might discriminate against certain candidates. (6) Identify and implement programs that will assist in the development of a broader and more diverse pool of skilled and experienced employees and that, over time, will prepare them for senior management and board positions. (7) Recognize that employees (female and male) at all levels may have domestic responsibilities and adopt flexible work practices that will assist them to meet those responsibilities. (8) Introduce key performance indicators for senior executives to measure the achievement of diversity objectives and link part of their remuneration (either directly or as part of a “balanced scorecard” approach) to the achievement of those objectives” (ASXGCG 2014).

Israel was the first country to legislate gender quotas for state-owned enterprises, in 1993, setting a 30% goal but no deadline. The law was accompanied by an increase in female representation on state-owned company boards from 7.4% in 1993 to 37.8% in 2000 (Pande and

Ford 2011). Izraeli (2003, p. 111) describes how the gender quota was developed:

The law was in the case of affirmative action for women directors of state-owned company boards in Israel, the orchestration and strategy were supplied by the emergent professional class of women, particularly feminist lawyers and members of women's organizations (Herzog 1999; Raday 1995). Employed in government service, as well as in civil rights and women's organizations, feminist lawyers were in positions where they could exert influence on the policymaking process. The growth of new feminist organizations, such as the Israel Women's Network, and the greater feminist consciousness of large established women's organizations, such as NAAMAT (the women's Labor movement, the oldest and largest women organization in Israel), combined with the emergence of a new professional class of women, increased the political and social capital of some women and enabled them to promote their interests as a group and as individuals. These women were influenced by the ideas of American feminism and supported by international bodies like the United Nations through the Decade on Women and the treaty on the elimination of gender discrimination. Affirmative action for women directors was part of their agenda.

## Enabling and Hindering Forces

As the United States is the context for many published studies of women on boards, the reviews of factors that enable and hinder women's presence on boards are certainly relevant—e.g., theories of human capital, status characteristics, gender self-schema, social identity, social networks and social cohesion, gendered trust, ingratiation, leadership, resource dependency, institutional culture, agency, and critical management (see e.g., Terjesen et al. 2009). One important parallel trend in the United States is that although only 4% of US S&P 500 firms are led by women (Catalyst 2015), these are very large firms. While the roster changes frequently, it currently includes: Mary Barra, CEO of GM; Sheryl Sandberg, COO of Facebook, and Meg Whitman, CEO of HP. By comparison, women CEOs occupy 6% of Israel's TASE-traded firms and 15.4% of

Australian firms (Elis 2015). In the United States, a recent study concludes that structural gender equality at the top US corporations could only be achieved through a quota (Kogut et al. 2014). A recent *Fortune* article (Paquette 2015) entitled “Why American Women Hate Board Quotas” identified an overall skepticism with whether quotas are effective and also that a “fear of tokenism” in that women who would obtain these directorships would be seen as tokens promoted for their gender rather than for their ability.

Australia is a rather unique setting as the comply-or-explain guidelines are playing out. Australia is witnessing a real debate around the moral theories, for example, of justice versus utility (Terjesen and Sealy 2016). As noted by Gould (2016), the Australia Institute of Corporate Directors (AICD) has called for a 30% target for female board representation, and there are other organizations such as Male Champions of Change and the Plus One Pledge (the latter led by ANZ, one of Australia’s largest banks) which are pushing for greater gender diversity on boards. At the time of writing, Australia had been recognized for an early fast pace to change (GovernanceMetrics International 2012), but is not on track to achieve the desired 30% of women on boards, and will likely face a real quota (e.g., Khadem 2016). In Australia, there is now a push by many to pursue quotas if the targets are not successful. For example, former Sex Discrimination Commissioner Elizabeth Broderick shared,

If, in a couple of years, targets haven’t delivered the progress with the numbers of women on boards and the numbers of women at key decision making levels, we need to have a really strong conversation about what a quota will do. . . Fewer Big Australian companies are run by women than by men named Peter. . . Indeed, companies run by a Peter, a Michael, a David or an Andrew outnumber those run by women four to one. (News Corp Australia 2015, p. 1)

In Israel, regardless of the media, public, and political interest in gender inequality in recent years, relevant local academic research in the area of gender and corporate leadership is scarce. Indeed, to the best of our knowledge, since the seminal works of Izraeli in the early 2000s, there are very few serious follow-ups of academic research on women’s

participation in corporate leadership in Israel. Izraeli documents the political issues related to women on boards, criticizing the 1993 amendment to the Government Companies' Act (1975) in a number of papers (see Talmud and Izraeli 1999; Izraeli 2000, 2003). The 1993 amendment, which requires the inclusion of women directors of state-owned companies, was said to have brought about the reconstruction of a men's club culture in which professional women were considered "social males" who were pushed to mimic behavioral styles of their male counterparts. Furthermore, Izraeli (2000, 2003) contends that the 1993 amendment only served a minority of professional women, likely to be Jewish, educated, and of European origin. Talmud and Izraeli (1999) and Izraeli (2003) argue that the 1993 amendment also resulted in marginalizing gender-related issues from the agenda of boards. Thus, while Izraeli laid the foundations for research on WoBs in the Israeli context, her research concerns mainly the political aspects of this issue. Izraeli's untimely death in 2003 left a void in this scholarship. More recently, the Israel Women's Network (Wilamovski and Tamir 2012, p. 55) documents that the percent of women directors of state-owned companies rose 36.4% from 1993 to 2010, but that "the rate of women serving on publicly-owned companies is lower than that of women on state-owned corporations, which is in direct violation of the law."

## Presentation of Female Role Models

This section presents illustrative examples from leading women in each of the three countries.

Named as *Forbes* fifth most powerful woman, the United States' Sheryl Sandberg is the COO of Facebook and is the first woman named to the company's board of directors. Before joining Facebook, Sandberg worked as the Vice President of Global Online Sales and Operations at Google and served as Chief of Staff for the United States Treasury Department under the Clinton administration. In conjunction with her Facebook appointment, Sandberg serves on the board of The Walt Disney Company, Women for Women International, and the Center for Global Development and V-Day. Sandberg is a strong proponent of increasing

female representation in top leadership positions. She authored a *New York Times* bestselling book titled *Lean In: Women, Work, and the Will to Lead*, and led a TED talk where she addressed the lack women leaders in the world. In an interview with the National Public Radio (NPR) Sandberg poignantly cites:

We've ceased making progress at the top in any industry anywhere in the world. . . In the United States, women have had 14% of the top corporate jobs and 17% of the board seats for 10 years. Ten years of no progress. In those same 10 years, women are getting more and more of the graduate degrees, more and more of the undergraduate degrees, and it's translating into more women in entry-level jobs, even more women in lower-level management. But there's absolutely been no progress at the top. You can't explain away 10 years. Ten years of no progress is no progress. (NPR 2013)

*Australian Financial Review* and Westpac named Ann Sherry to the top women of influence in 2015. Sherry has served as CEO of Carnival Australia since 2007 and serves on seven boards: Sydney Airport Ltd, Infrastructure Victoria, Australian Rugby (ARU), ING Direct Australia, Australian Indigenous Education Foundation, Jawun Indigenous Corporate Partnerships, and Palladium. She previously served as the CEO for the Bank of Melbourne and for the Westpac Banking Corporation. In addition to her executive experience, Sherry served as First Assistant Secretary of the Office of the Status of Women, where she advised the Prime Minister on policies regarding women, and was Australia's representative to the United Nations forum on human and women's rights. Responding to her award, Sherry advocated that:

We change the world one person, one organization, one company at a time, and it is vital that we support each other to achieve an Australia that values contribution regardless of gender. I would like to see a focus on Constitutional recognition of Indigenous Australians, reducing violence against women and challenging corporate cultures that do not recognize the value of women at every level. (Westpac 2015)

Named as one of the top female executives in the world, Israel-born Ofra Strauss has served as Chief Executive Officer of Strauss Group Ltd



since 1996. Additional appointments include chairperson of the Strauss Elite Group, the US–Israel Chamber of Commerce, Babayit Beyachad, Ametz Lochem, and Donations Apparatus. Strauss reflected on her time as a prominent business woman recollecting:

My grandmother started the [Strauss] business, she was part of a professional women’s group. They used to meet in the living room of [their] homes and talk about the challenges of being professional women. This is still an issue today. (Mooney 2014)

In addition to her work as CEO, Strauss heads Jasmine, a non-profit concerned with the advancement of women-owned firms. She remarked that:

I head Jasmine, [a group which seeks to address] the different needs that female-owned businesses in Israel have. The unique thing about Jasmine is that it is for both Arab and Jewish women who own businesses. My career has been about big businesses. But through Jasmine I got new glasses to look at the world and saw what small and medium-sized businesses mean for the economy. I believe small and medium-sized businesses are critical for innovation, for growth. Sometimes people from the outside world—young people—look at the business world and think it sounds like somewhere for people who have specific talents, like financial skills. But in the business world, there is a place for every type of talent. It is a great place to influence the world, to grow and be yourself. (Mooney 2014)

## Conclusion

While certainly policymakers, practitioners, and scholars in the United States, Australia, and Israel are well aware of the debates and activities to promote women on boards in Europe, there is no pressure to adapt such practices. That is, the quite extensive developments in promoting women to corporate boards in Europe over the last decade concerning women on boards have not been replicated in the more distant geographies of the United States, Australia, and Israel. This chapter outlined some political and economic institutions, which explain these quite different trajectories

of comply-or-explain codes and other regulations. There are additional explanations, which could be considered. For example, in the UK, scholars undertook considerable efforts to document women on boards and work collaboratively with policymakers as well as C-suite executives (Sealy et al. 2017)—certainly these concerted efforts are not duplicated in the United States, Australia, and Israel. Moreover, it is important to realize that while the United States, Australia, and Israel’s current corporate governance guidelines suggest certain national templates, firms in these countries often deviate from such structure (Aguilera et al. 2017), for example, by appointing a high share of female directors. As a final point, it is important to note that diversity can entail other types of diversity such as ethnicity and nationality (Adams et al. 2015) which should be explored in these countries. Ethnic minorities are gaining board seats in the United States with 4.6% minority women and 12.9% minority men on boards of Fortune 500 firms (Deloitte 2016), but that more progress remains. Wilmovsky and Tamir (2012) that Arab women only hold 6.9% of all state-owned corporations, while non-Arab women’s shares reach almost 40%. We could find no information on the status of Indigenous women in Australian firms, perhaps because there is no data to report.

## Notes

1. The disclosure index runs from 0 (least disclosure) to 10 (most disclosure) and considers “review and approval requirements for related-party transactions” and “internal, immediate, and periodic disclosure for related-party transactions.” The director liability index runs from 0 (least liable) to 10 (most liable) in terms of “minority shareholders’ ability to sue and hold interested directors liable for prejudicial related-party transactions” and “available legal remedies.” The shareholder suit index ranges from 0 (least accessible) to 10 (most accessible) and considers “access to internal documents, evidence obtainable during trial” and “allocation of legal expenses.” Finally, the investor protection index ranges from 0 (least protected) to 10 (most protected) and is a “simple average of the extent

- of conflict of interest regulation and extent of shareholder governance indices.”
2. Israel’s voluntary political party quotas are as follows: “Israel Labor Party: at least 20% of the party list must be filled with women, two out of each ten names. The (minimal) reserved places on the party’s candidate list are: 5, 9, 14, 19, 24, 29 (and also 34, 36, 39, 42, 45); Mertz-Yachad: at least 40% of each sex must be represented on the party list, two out of each five names (besides the first on the list, which is the party’s chairman or chairwoman). The (minimal) reserved places for the underrepresented sex on the party’s candidates list are: 4, 6, 9, 11; Likud: the (minimal) reserved places for women on the party’s list of candidates are: 10, 20, 24, 29, and 34; The Jewish Home: the (minimal) reserved places for women on the party’s candidate list are: 4, 8; and National Democratic Assembly: at least 33% of the party list must be filled with women candidates, 1 out of each 3 names” (Dahlerup 2017).
  3. For an example of recent media coverage of gender inequality in Israel including political and societal aspects, see Sami Peretz, Chief Editor of *The Marker*, “Executive Summary,” *The Marker*, October 25, 2013, 6. (<http://www.themarker.com/markerweek/1.2148902>). Another exception is Gentry’s and Knippen (2013) research suggesting that media coverage of female CEO successions in the United States is different from male CEO successions.
  4. The study included only large listed firms, included 294 firms in Australia with an average 6.84 directors and 0.65 female directors; Israel’s three firms had 10.67 directors and 1.33 female directors, and the United States’ 1,001 firms had 10.06 directors and 1.40 female directors.

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# 11

## Gender Diversity in the Boardroom: The Multiple Approaches Beyond Quota Regulations

Patricia Gabaldon, Heike Mensi-Klarbach,  
and Cathrine Seierstad

### Introduction

In writing and editing *Gender Diversity in the Boardroom—Volume 1: The Use of Different Quota Regulations* and *Gender Diversity in the Boardroom—Volume 2: Multiple Approaches Beyond Quotas*, we aimed to

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Since finalising this book: On 23 June 2017, Portugal approved the government proposal submitted in February with gender representation regulations (quotas) for both state-owned and listed companies.

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make sense of the European women-on-boards landscape in 16 different European countries. As there is a lot of public and scholarly debate about female representation on boards and the use of specific strategies to improve representation, we believe it is time for a comparative piece in order to better understand what is going on in European countries in this regard. This is particularly important as many European countries have introduced strategies ranging from soft initiatives to quotas. Furthermore, a Europe-wide solution to the underrepresentation of women on boards in the form of a quota law<sup>1</sup> at the European Union (EU) level (see Reding's Foreword) has been debated, yet has not received sufficient support from the EU member-states (this includes Sweden, Finland, Germany and the UK, all of whom initially opposed this initiative). One reason for this resistance, among others, is that countries often refer to their own particularities and the needs of their specific national context when designing adequate political strategies. Comparative corporate governance literature has also revealed that "the historical path dependence among country- and firm-level mechanisms has produced a variety of country- and organization-specific governance systems that tend to work well within the institutional environments in which they have evolved" (Schiehll and Castro Martins 2016, p. 182). Hence, when discussing women on boards and existing strategies, it is important to understand and take into account the historical and institutional environments in which national policies and initiatives have been developed.

Thus, in order to enrich the public and scholarly debate, information about how and why different approaches emerged to increase the share of women on corporate boards in different European countries is presented in the various chapters in both the edited volumes. We aim to take a holistic approach, focusing on history, corporate governance systems and enabling and hindering forces, in addition to a description of the actual strategies in place. Comparing the different policies within the 16 countries, it is apparent that they can be grouped into two broad types of policy approaches intended to increase female representation on boards. The first approach involves the introduction of a form of quota law for corporate boards. The second approach is of a more voluntary character, in which targets and suggestions are promoted, yet compulsory measures in the form of quotas are avoided. As a result, Volume 1 and Volume 2 are

separated accordingly. Volume 1 includes countries with quota laws, and Volume 2 consists of countries with multiple approaches beyond the use of quotas.

Despite similarities within the two groups of countries, we have also observed remarkable differences within each group of countries clustered together in the two volumes (the “quota” countries and the “voluntary initiative” countries). Even though we point to two main clusters, we must acknowledge and understand the differences between these countries as well. Therefore, the aim of this concluding chapter is to discuss and make sense of similarities and differences with regard to the approaches and regulations adopted within the eight countries in this volume: the UK, Portugal, Slovenia, Austria, Sweden, Denmark, Switzerland and Hungary. To date, none of the countries have introduced quota laws; nevertheless, in some countries, including Portugal, Slovenia and Austria, proposals for quota laws seem somewhat likely following current political discussions. We observe that there are also countries (e.g., Hungary) that do not have a discussion of the problems or potential solutions pertaining to female representation on corporate boards on the agenda at all. What is evident in this volume, just as we found with respect to the countries presented in Volume 1, is that elements such as corporate governance structures, Corporate Governance Codes, traditions and histories of equality or diversity initiatives cause significant variation in the approaches to the issue. We also observe different actors and enabling or hindering forces involved in the elaboration of voluntary measures, and, of course, in the prevention of quota regulations. In all countries except Hungary, the introduction of different types of strategies, often including the use of quotas, has been discussed, yet with varying levels of intensity. In some countries, the implementation of quotas was used as a threat to encourage companies to take care of the issue “voluntarily”, with variable success. In fact, we have in some cases observed similar paths as those taken by the countries discussed in Volume 1, where merely threatening companies with quota laws did not result in the desired change and consequently, quota regulations were eventually put in place (e.g., Norway). In addition, there are examples of countries (e.g., the UK) that seem to be successfully redressing the underrepresentation of women on boards by using voluntary targets, an initiative that fits the context of the country.

Thus, this chapter will compare two of the key themes from the individual country-specific cases: the corporate governance systems and the key enabling or hindering forces. We will also discuss the different initiatives and comment on the extent to which they have resulted in the desired change. The chapter is structured as follows. First, we present the different national corporate governance structures and codes, outlining similarities and differences between them. Next, we provide a comparative analysis of the different initiatives aiming to increase the share of women on boards already in place in the different countries, including gender-related regulations, Corporate Governance Codes and further voluntary measures. We compare different rationales used to make sense of quota versus non-quota strategies. Then, we present a brief description of hindering and enabling forces in the different countries discussed in this volume. Finally, we will present the key findings and lessons learned from this edited volume and indicate important areas for further research.

## Corporate Governance Structures

Corporate governance is important in any discussion of corporate boards. Corporate governance includes knowledge about how the rights and responsibilities of stakeholders to a firm are structured and divided (Aoki 2001). The primary goal of good corporate governance is protecting, generating and distributing wealth vested in the firm, and thereby securing its long-term survival (Aguilera et al. 2008). Corporate governance is influenced and restricted by many legal prescriptions, including those governing the relationship between the principals (i.e., shareholders) and agents (i.e., managers), or the duties and discretion of executive and supervisory bodies. Legal prescriptions, and thus corporate governance, differs from country to country. Yet, there seems to exist a “universal notion of best practice, which often needs to be adapted to the local contexts of firms or translated across diverse national institutional settings” (Aguilera et al. 2008, p. 475). Thus, we believe it is indispensable to take differences and commonalities of corporate governance structures, legal prescriptions and good Corporate Governance Codes into account

when making sense of the issue of women on boards and the use of strategies across European countries.

Usually, corporate governance literature distinguishes between one- and two-tier, or monolithic and dualistic, corporate systems. One-tier systems are considered typical for the Anglo-Saxon countries, where executive and non-executive boards constitute one joint board. The dualistic board structure is typical for continental Europe (e.g., Germany). In two-tier systems, the executive and the non-executive boards are strictly separated. Looking at the different chapters within the two edited volumes, we see that there is a need for a more nuanced picture of corporate governance structure in Europe. As an example, Gregoric and Lau Hansen (Chap. 7) state that “the dichotomy is not apt, and causes considerable confusion, in the debate over whether the Danish (and thereby Nordic) system should be labeled two-tier because it consists of two company organs or one-tier because there is effectively only one administrative organ, even though it is functionally divided into an upper and a lower level”. They conclude that due to these inconsistencies with either category, the Nordic corporate governance system might be a system *sui generis*, in which the entire board is engaged in governance and business decision-making. In addition, Casaca (Chap. 3) defines the Portuguese system as a “Latin one-tier” system pointing to its particularities. Villeseche and Sinani (Chap. 8) explain that the Swiss system could be categorized as a one-tier system, yet they argue that “it is also common for day-to-day management to be transferred to the CEO and/or a senior management team, resulting in a de facto two-tier board structure ...”. However, the board still has the right to interfere more intensively with governance issues than, for instance, in the “two-tier” country of Austria. It is thus apparent that it is not that easy to distinguish between one- and two-tier systems, but one needs to take a closer look at national corporate governance in order to understand the different responsibilities, powers and duties of board directors (Table 11.1).

**Table 11.1** Corporate governance structure according to the authors Vol. 1 (white) and Vol. 2 (grey)

Country	One-tier	Two-tier	Mixed Model
<i>UK</i>	common		
<i>Portugal</i>	Latin one-tier	also possible	
<i>Slovenia</i>	also possible	common	
<i>Austria</i>	also possible	common	
<i>Sweden</i>			Nordic system
<i>Denmark</i>			Nordic system
<i>Switzerland</i>	common	de facto two-tier	
<i>Hungary</i>	common	common	
<i>Norway</i>			Nordic system
<i>Spain</i>	common		
<i>Iceland</i>		common	
<i>France</i>	common	also possible	
<i>Italy</i>		common	
<i>Belgium</i>	common		
<i>The Netherlands</i>	common	common	
<i>Germany</i>		common	

## Nomination Processes

Differences within the corporate governance systems not only concern the responsibilities and duties of executive and non-executive board members but also the election and nomination procedures. In all of the countries presented in this volume, supervisory (or non-executive) board members are elected by the shareholders at the Annual General Meeting (AGM). In some countries, the board can decide to elect an executive board to handle day-to-day business and thus delegate this duty, as in Switzerland or Portugal. In other countries, the supervisory board is obliged to elect executives, as in the UK, Sweden, Denmark and Austria. However, the power to influence nomination processes also varies greatly across countries. In Denmark, for instance, the shareholders have quite a strong and influential position. As Gregoric and Lau Hansen illustrate (Chap. 7), in Denmark, shareholders may appoint and dismiss the majority if not the

whole board of directors within the AGM, without giving reasons. This results in a situation where dominant shareholders—and Denmark has a strong ownership concentration—are very actively engaged in governing the company. As a result, a major concern, according to the authors, is not so much directors' independence from shareholders, but, conversely, responsibility to the shareholders. In the case of Sweden, we also observe far-reaching powers of the shareholders because of high ownership concentration, yet the nomination procedure for boards is a bit different from other European countries—the nomination committee consists of shareholders and externally selected shareholder representatives (see Chap. 6). The nomination process in Austria, on the other hand, is quite different. The shareholders elect the supervisory board members within the AGM, but the nomination of candidates for the election is performed by the supervisory board or an internal nomination committee consisting of board members only. In the case of the UK, executive search firms play a key role in selecting candidates for non-executive directorship positions, and the independence of non-executive directors is deemed crucial. Studies have revealed that these headhunting firms contribute to the reproduction of homogenous boards in the UK, and as a result, a code of conduct was released for executive search firms (see Chap. 2). Thus, it is evident that the degree of direct power exerted by shareholders and the nomination procedures vary from country to country, and as a result, different actors exert different forms of power on the actual nomination of board directors.

## **The Mentioning of (Gender) Diversity Within Legislation and Corporate Governance Codes**

All of the countries studied in this volume have introduced Corporate Governance Codes, and all of them include prescriptions about the board nomination processes. Corporate Governance Codes can be understood as codified best practice for corporate governance, and thus consist of recommendations to improve practices. Areas of action include not only securing transparency and accountability but also the functioning

of boards and board composition. The overall purpose of these codes is to improve the actual practice and also to restore the damaged reputation and trust in corporate governance (Cuomo et al. 2016).

In all but one country (Hungary), code recommendations for board composition, and in particular, board composition in relation to gender diversity, were included. Recommendations are mainly stipulated in general terms, such as that the presence of both genders should be ensured (Slovenia, Denmark and Switzerland), or diversity should be represented appropriately (Austria). The UK recommends that diversity, and especially gender diversity, should be considered in the search for and eventual appointment of candidates. The Portuguese Corporate Governance Code recommends that the appointment of highly qualified women should be fostered.

Some codes entail specific targets in relation to gender balance; others leave it open to the companies to decide on the desired target themselves. The UK, for instance, proposes in the Lord Davies Report the target of 25 percent of each gender on boards by 2015, and 33 percent by 2020 for the FTSE100 companies (see Chap. 2). Portugal, on the other hand, has proposed a target of 33.3 percent by 2020, and for Portuguese state-owned corporations, the gender balance of a minimum of 33.3 percent should be achieved by 2018 (see Chap. 3). The Swiss Code of Best Practice recommends 30 percent women on boards of directors, and 20 percent of each gender in senior management, yet without any deadline (see Chap. 8). In Slovenia, it is not the Corporate Governance Code, but the Managers' Association of Slovenia's Manual which provides suggestions for a gender balance of 30 percent by 2015 and 40 percent by 2017 (see Chap. 4). In Austria and Sweden, there are no targets for gender balance for private corporations, yet both countries have quotas for state-owned companies. Austria prescribes 25 percent by 2013 and 35 percent by 2018 (see Chap. 5), while Sweden recommends a minimum representation of 40 percent but without setting a deadline (see Chap. 6).

The different Corporate Governance Codes include several further interesting elements. The Swedish code, for instance, recommends diversity not only for boards of directors, but also for nomination committees. The Danish and UK codes expect companies to report on their diversity

policies, gender-related objectives and the progress they make. In Austria, Sweden and Denmark there is a legal prescription to report on gender policies and measures taken to promote gender diversity. Another interesting feature is that the Portuguese code recommends companies to set specific targets to attain gender balance by 2020. Since 2013, it has been expected that the chair of the board of directors of the regulatory body, the Comissão do Mercado de Valores Mobiliários (CMVM), should alternate between men and women, and guarantee a minimum representation of 33 percent of each sex in its executive board. The UK code furthermore includes the recommendation that companies use executive search firms for board searches and the publicizing of vacant positions. The Slovenian code contains less specific targets, but suggests that companies adopt initiatives regarding gender diversity and appropriate measures.

Most codes in the country-specific cases discussed in this volume are designed as “comply-or-explain” measures. Yet, there are no sanctions for non-compliance, and furthermore nobody is responsible for requiring and evaluating explanations for non-compliance. Thus, the efficacy of these measures has been criticized. The Austrian case study (Chap. 5), for instance, mentions critiques calling the Austrian approach a “toothless” tiger.

## **Making Sense of Regulatory Versus Voluntary Approaches**

All of the countries treated in this volume have so far opted not to introduce quota laws to increase the share of women on boards. Yet, in all countries apart from Hungary, the use of quotas has at least been discussed. It is remarkable that the five countries studied in this volume have adopted gender diversity regulations for the boards of state-owned companies, with certain levels of success: Portugal, Slovenia, Austria, Denmark and Sweden.

What is striking in the country-specific cases presented in this volume is that there have been different arguments and rationales in the debates about the use of specific strategies like quotas for private and state-owned



companies. In particular, the rationale for any intervention within the public sphere is often described in the chapters as being mainly an issue of social justice, fairness and equality, and as such legitimate only because it applies to companies where the state is the key owner. Similarly, we saw from the case of Norway, discussed in Volume 1, that the fact that the state is a major owner of public limited companies (plcs) made it easier to legitimize the implementation of a quota regulation using the rhetoric of fairness and social justice, in addition to business cases and utility logic. In contrast, the majority of the countries discussed in this volume reveal that for private companies the freedom of shareholders to elect their own board was sacrosanct, and thus state interference has often been regarded as illegitimate. Interestingly, in a lot of the countries, the state is not a major owner in listed companies, indicating that it is important to acknowledge the peculiarities of the different countries when making sense of the women-on-boards debate.

Furthermore, we also saw that different stakeholders—and particularly those representing private owners—explicitly reject any political or legal approach to dealing with the lack of women on boards. For example, male Swedish CEOs see little problem with having few women on boards (see Chap. 6), but do see problems with state interventions, as the Swedish plcs are characterized by highly concentrated family ownership. We observed similar rhetoric when the president of the Federation of Austrian Industries said in early 2017 that in his opinion, there were enough women on Austrian boards, and thus there was no need to intervene (see Chap. 5). In the UK, where there has been a little tradition of state intervention in the private sector (and a neoliberal approach), we see little to no reference to justice and fairness in the debate about strategies to increase the share of women on boards, but a wide range of rationales based in utility.

In fact, throughout most of the chapters presented in this volume, there is a rationale used to explain the scarce female representation on boards which views the system as accurate, but the women themselves as deficient (see chapters on Austria, Sweden, Denmark, Switzerland and Hungary). Specific lines of argument include the assumption that there are few women in the pipeline and that women lack the necessary skills (see chapters on Slovenia, Austria, Sweden, Denmark, Switzerland and

Hungary), and the perception that women opt out of corporate careers due to family reasons (see chapters on Slovenia and Switzerland). Another line of argument used to make sense of the lack of women on boards can be found in the chapter on Switzerland. This line of argument proposed that women are less visible than men and often lack powerful networks. Such arguments might be important factors explaining why these countries have rather opted for softer initiatives, i.e., corporate governance recommendations that companies can follow or not. The UK Financial Reporting Council (FRC), for example, points to the positive side of flexible regulations: “The Code is part of legislation, regulation and best practice standards which aims to deliver high quality corporate governance with in-built flexibility for companies to adapt their practices to take into account their particular circumstances” (FRC 2014; see also Chap. 2). The common “comply-or-explain” approach is thought to promote flexible adaptation while encouraging companies to do their best to conform to the standards.

## Measures Beyond Corporate Governance Codes

It is clear that the countries presented in this edited volume have, as a result of the multiple explanations presented to explain the low share of women on boards, introduced a wide range of different initiatives. These range from raising public awareness (as found in the UK, Portugal, Sweden and Switzerland) and compiling information about women on boards and databases of “board-ready women” (as found in Austria and Switzerland) to awards given to companies that champion women on boards (as found in Slovenia and Portugal) or management training particularly for women (as found in Austria, Denmark, Switzerland and Sweden). Other widespread initiatives are the development of women’s networks and mentoring programs for women (as found in the UK, Sweden, Denmark, Switzerland and Austria). In addition, in the case of the UK, the focus is not only on boards themselves but also on the nomination processes and the multiple actors involved in this process. As discussed by Doldor (Chap. 2), the role of headhunters in reproducing homogeneity has been challenged, resulting in a code of conduct for

executive search firms. In the other countries discussed in this volume, we find evidence of some recommendations regarding the nomination process and the adequately diverse composition of boards. Most of these recommendations are defined within Corporate Governance Codes.

However, it is evident that in several of the country-specific cases discussed in this volume, including the UK, Austria and Sweden, the authors challenge these commonly used explanations and rationales for the lack of women on boards. In fact, Doldor (Chap. 2), Mensi-Klarbach (Chap. 5) and Holgersson and Wahl (Chap. 6) demonstrate that gendered nomination practices and power structures within companies are, in fact, major hindrances to women getting board positions in the UK, Austria and Sweden.

## Enabling and Hindering Forces

Throughout this edited volume, we have discussed the role of enabling and hindering forces, considering them in relation to the different types of strategies introduced to increase the share of women on boards. While we acknowledge that this represents the subjective understanding of the different authors, and that the consideration of specific factors, events and actors is a subjective choice, we still believe we can observe interesting similarities and differences between the eight European country-specific cases presented in this edited volume. Below we present the key enabling and hindering forces from the different countries.

### UK

The topic of (the lack of) women on boards has been on the agenda in the UK since the 1990s, mostly due to academic work highlighting the topic; therefore, an enabling force is the long tradition of focusing on the issue. Nevertheless, it is also important to acknowledge that when the women-on-boards debate flourished in Europe, the discussion got more momentum in the UK as well and a wider range of actors got involved. These actors included women's networks, business leaders, academics and

politicians. Doldor (Chap. 2) argues that the multistakeholder approach, involving a wide range of actors, has been important for the UK in introducing and actually reaching the target set in the Lord Davies Report. Interestingly, in comparison with most other countries in this volume and in Volume 1, the debate about women on boards and the use of strategies in the UK has centered on setting targets, monitoring progress and introducing other initiatives, such as networking events. In fact, the use of quotas has to a certain extent been missing from debates in the UK. Doldor highlights how in the UK, in particular, Corporate Governance Codes and the approaches taken to social inequality issues are characterized by voluntarism, expectation of compliance, individualistic logic, and the business case and utility discourse, with little support for direct state involvement in businesses' life. The approach of increasing the representation of women on boards by using targets fits with this tradition.

In terms of key actors in the UK, Doldor highlights the importance of the multi-stakeholder approach, through which several politicians have actively championed and supported research and business collaborations on the topic of women on boards. Their roles as actors might have been underplayed. It is evident that organizational ideas and initiatives based around the business case have been important in the UK, and social justice logic seems to have been missing. Taken together, the approach to the problem of women on boards in the UK based on voluntarism, antiregulatory sentiment, the expectation to comply (as expressed in the Corporate Governance Codes), and business case logic is very much in line with the history and context of the country. As highlighted by Doldor, the danger of this reliance on key actors to continue with monitoring and public scrutiny, and to act as change agents without a legally binding foundation to build on, is that it remains to be seen whether or not the voluntary approach is able to maintain momentum.

## Portugal

In the case of Portugal, it is evident that there has been, and continues to be, a high level of female participation in the labor force, and a wide range

of workplace-equality strategies have been in place for decades. Nevertheless, the approaches pertaining specifically to women on boards have, to date, relied on awareness-raising initiatives and soft measures. According to Casaca (Chap. 3), the case of Portugal is characterized by relatively few actors really engaging in the debate about female representation on boards and about the use of strategies and initiatives. In particular, what is evident is that some political leaders from the previous and current government, left-leaning political parties, a few academics, and occasionally the media are among the key actors, while there has been a lack of broad support and attention both politically and socially. In fact, Casaca argues that there has been little evidence of grassroots or business initiatives pushing for the use of quotas. She argues that the discourse among the actors in Portugal indicates that social justice and equality are important. Portugal is one of the countries in which the quota debate is very much on the political agenda, and it is expected that this will result in an initiative shortly. In particular, the current government (in place since 2015) and the Secretary of State for Citizenship and Equality have drafted quota regulations for a wide range of companies (state-owned, listed companies, public administration, supervisory boards and universities). It is yet to be seen if sufficient support will be received for this. Nevertheless, Casaca argues that institutional factors, such as a left-leaning government, a relatively high female employment rate, a history of using equality initiatives and a population with positive attitudes to gender balance in management positions provide a foundation on which a quota law for board positions could be introduced, and she expects no major hindering forces to block this progressive route.

## Slovenia

The case of Slovenia illustrates how a history of being a relatively gender-egalitarian country that scores high in international equality rankings has acted as both an enabling and hindering force as it pertains to the use of strategies to increase the share of women on boards. As illustrated by Kanjuo Mrčela (Chap. 4), on the one hand, there is an expectation that the problem of gender imbalance in senior positions in the private sector

will sort itself out with time, while on the other hand, the history of comprehensive equality and welfare initiatives provides a foundation for achieving more. A quota regulation is currently being drafted in Slovenia. According to Kanjuo Mrčela, there is a wide range of actors pushing for the law, including women from the academic, political and business spheres playing a key role. International pressure and lessons learned from other countries are also very present in the Slovenian women-on-boards debate. The primary motivation among several of the key actors in Slovenia rests on the ideas of social justice, but it is evident that the subject is also presented using business case logic to gain wider support. There are some actors from the private sector, particularly the Managers' Association, that have been very important in putting the lack of women in senior positions in the private sector on the agenda, and parts of the organization are supportive of a quota law. However, from the business sector in general, there are very few actors pushing for a quota law, and the support is rather fragmented. Within the general population, the support for gender equality is mixed. While the majority of the population in Slovenia support ideas of equality and independence for women, it is also evident that there is a strong support for more traditional divisions of labor and duties in relation to childcare and family life. Nevertheless, as illustrated by Kanjuo Mrčela, over the last few years, a potential quota law has gained considerable political and public support, and Slovenia is one of the countries expected to be closest to introducing a quota law. Kanjuo Mrčela argues that there is considerable potential for this next step, and it remains to be seen whether this enabling context, with several key actors working hard for the introduction of a quota law in a country ranked high on gender equality, is enough to motivate political and social change in the Slovenian context.

## **Austria**

In the Austrian case, Mensi-Klarbach (Chap. 5) describes how major stakeholders, including conservative political parties as also employee associations like the Federation of Austrian Industries and the Austrian Economic Chamber, are clearly against gender quotas. This might in part

be due to the dominance of block holdings, and thus family or single dominant owners. In addition, Austria consists of a large but decreasing state-owned sector. There seems to be a clear separation between what is thought of as legitimate for state-owned companies and what is legitimate for privately held companies, with a clear resistance to state interference in private companies. As a result, as in the Swedish case (see Chap. 6), voluntary measures as codified in the Corporate Governance Code have been put forward. Moreover, in the case of Austria, we have seen several measures and initiatives put in place to better prepare women for board positions. However, the managerial elite do not see any problem with gender inequality on boards. In fact, Mensi-Klarbach illustrates how the majority point to gendered roles, and hence work–family conflicts, as main reasons for the low female representation on boards. The business case argument is made in several ways, but it does not yet seem to have any influence on the perception held by the current managerial elite, who nominate people to boards. Thus, the topic has little support from powerful actors, and as a result, progress is slow in privately held companies. Recently, individual people and politicians, such as the former Minister Heinisch-Hosek, have striven to keep focus on the topic. When the former Minister put the use of quotas on the agenda in 2011, she ultimately had little support even in her own party. Interestingly and quite surprisingly, the two coalescing parties agreed on a new working program in February 2017, which includes a plan for a gender quota for supervisory boards. This came as a surprise, and triggered quite intense resistance from multiple actors, including the president of the Federation of Austrian Industries. A proposal is still to be made by July 2017, and it is to be hoped that the publication of this book might help place the issue back on the political agenda in Austria.

## Sweden

Although it is ranked among the most gender-equal countries in the world and has a long history of equality initiatives, Holgersson and Wahl (Chap. 6) explain that in the case of Sweden, meritocracy and non-intervention are paramount in the private sector. There have been

quota debates since the 1990s, but the dominant discourse resists quotas and favors freedom of choice for company owners to elect their boards. Businesses in Sweden were identified to be against quotas and thus proposed a voluntary Corporate Governance Code. Furthermore, Holgersson and Wahl illustrate how top managers do not consider the lack of women on boards to be problematic. The Confederation of Swedish Enterprise opposes the use of quotas and instead supports voluntary approaches to increase gender diversity. In spite of this, there have been ongoing suggestions to consider quotas from several individual actors, including the minister Margareta Winberg and the Minister of Finance Anders Borg. Right-wing members of parliament are against quota regulations, and the proposals have not been supported. The Minister of Justice will be presenting a new proposal in this regard in 2017.

Holgersson and Wahl also highlight how the media is playing a particular role in keeping the issue in the public's awareness. Researchers have frequently gone public with their work to make their academic knowledge about women on boards publicly accessible, but their knowledge and information has been contested and so-called gender science has not been taken seriously.

It is evident that there has been some movement from the Second Swedish National Pension Fund (AP2) and the AllBright Foundation, and the media is putting pressure on privately held companies to increase the number of women in top positions. Recently, in line with the dominant rationale in Sweden, the business case has pushed the topic forward. Overall, there is a long-standing tradition of non-interference of the state and a lack of legitimacy of social justice arguments within the private sector. Thus, big differences appear between the state-owned and private sectors in the case of Sweden.

## Denmark

Gregorič and Hansen (Chap. 7) have demonstrated that in Denmark, there is little information about relevant actors promoting the topic of women on boards or actively shaping the public discourse. Denmark is overall a rather gender-equal country with respect to the workforce and



businesses. However, there seems to be a strong rejection of political intervention to deal with the lack of women on boards.

The dominant discourse in Denmark involves a strong focus on meritocracy related to boards and board selection. As board size is rather small in Denmark (around five people), it is argued that each member needs to be an expert, ideally with executive experience. The discussions tend to focus on the lack of adequate qualifications among women, especially in relation to their executive experience. Hence, the main focus is on business case logic and meritocracy, and on the deficiencies of women.

The chapter also reveals, in line with the meritocracy argument, that the dominant shareholders seem not to be convinced of the value of nominating women into board positions. As shareholders are very powerful in nominating board members, a change in board compositions does not seem likely. Policymakers likewise do not seem willing to interfere by proposing legally binding gender quotas for board positions.

The discussions and aforementioned dominant rationale resulted in two legally prescribed, but voluntary, measures. Companies are asked to disclose their gender representation and recruitment and career planning policies. They are also asked to formulate targets and policies for the underrepresented gender. As there are no sanctions for non-compliance, it remains unclear how successful these measures are for increasing the number of women in Danish boards.

## Switzerland

According to Villesèche and Sinani (Chap. 8), in Switzerland diversity is not generally acknowledged as a business-related issue. The representation of women on boards does not seem to be a pressing issue, either in the public awareness, among political actors, or within the business sphere.

Some of the hindering forces discussed in the case of Switzerland involve the lack of women with adequate qualifications, as in the other countries already presented. In addition, low visibility of eligible female candidates and a lack of powerful networks for women were mentioned. Again, these arguments focus on women's deficiencies but hardly ever critique the system. The chapter reveals that there have been several

attempts to put the topic on the political agenda though with little success. The government, mainly the left-wing party, has proposed different initiatives, all of which have been rejected. Other public institutions, such as unions and public-sector companies, have also pushed from their side. Some cantons have succeeded in implementing quotas to increase the presence of women on public-sector company boards. However, initiatives at the national level have until very recently lacked support and failed. Villesèche and Sinani argue that this is due to the fact that direct democracy is an important issue in Switzerland, and a potential quota law would need broad public support, which does not seem to be in sight. The solution of including the topic in the Swiss Code of Best Practice can be considered a compromise, and the fact that gender diversity is recommended in the non-binding part of the code reveals its minor relevance.

Overall the pressure to increase the number of women on boards seems to be low to moderate in the case of Switzerland, while the hindering forces seem to be rather stable and long-lasting. As a result, there is no sign that the number of women on boards in Switzerland will rapidly increase in the near future.

## Hungary

Hungary, as illustrated by Nagy, Primecz and Munkácsi (Chap. 9), is characterized by open resistance to any type of quota, as a rejection of anything that reflects the previous centralized regime. This resistance has come together with a revival of traditional female roles in society. Even more, the authors claim that there is a low level of gender awareness in society, as such awareness is “either considered to be unnatural from [the] West or unnatural from [the] communist past”. In this unsupportive scenario, despite some small civic initiatives and non-governmental organizations (NGOs), there is an absence of actors pushing for gender diversity on boards. Neither political and governmental actors nor companies are bringing this topic to their agendas. Multinational corporations and European Union institutions could be advocates for change, but they

are not yet strong enough to compensate for the overt social rejection of gender equality and diversity issues.

The combination of open resistance to gender equality and diversity and a traditional national gender culture has made the institutional framework gender blind. Consequently, Hungary does not have any specific regulation on gender diversity on boards, and companies do not even have obligation to disclose statistics or strategies in relation to gender balance. As there is no legal requirement for gender diversity, board members appear to be selected based on meritocratic reasons. As a result of this perception, the reduced number of women on boards is not considered a problem. Furthermore, it is considered the outcome of individual decisions that should not be interfered with.

The government perceives the potential issue of the lack of women on boards as something that will be solved over time. According to this approach, providing education, access to the labor market and making available affordable childcare will result in women having the same opportunities as men. According to Nagy, Primecz and Munkácsi, in Hungary, there is an expectation that women's representation on boards will increase as part of a generational change. However, this seems to be an illusion rather than the reality, looking at the current situation and rate of change.

## Women on Boards Beyond Europe

The use of strategies to improve representation, including quotas as well as other initiatives, is also visible globally. As described by Terjesen and Trombetta (Chap. 10), countries beyond Europe have adopted different initiatives to promote the presence of women on boards. Terjesen and Trombetta show that Israel was the first country to implement a numerical quota for women on boards (a minimum of one woman per board). Australia has followed the UK's path, and promotes the presence of women on boards by setting a clear target and openly supporting those companies increasing their gender diversity. In the USA, on the other hand, a free-market rationale (with minimum support for state interventions) is paramount, and implementing any strategy at the national level to increase the

share of women on boards seems consequently very unlikely. Nevertheless, despite the lack of hard initiatives such as quotas in the three countries presented in Chap. 10, a wide range of other countries beyond Europe have introduced some sort of quota regulations, including India, Malaysia and the UAE (see Terjesen and Sealy 2016). Hence, this illustrates the topical importance of women on boards and the use of strategies.

## Final Thoughts

In this book, we have shown that multiple countries have measures other than gender quotas in place in order to increase the number of women on corporate boards. Reading the different country-specific cases, it becomes clear that gender quotas often are thought of as the final step to be taken if all other measures fail. This is why gender quotas are often used as a threat to make companies engage voluntarily with promoting women into board positions. As can be seen in this book, some of the presented countries are about to propose quota laws because the voluntary approach did not deliver as promised. Of course, international best practice standards with successful gender quotas in place, and an international convergence in corporate governance practices, increase pressure on countries to react in one way or another. Besides the countries planning to propose quota laws in the near future, we find countries that reject quota regulations and stick to voluntary approaches. These countries are characterized by a strong business case logic and an individualistic approach, arguing that there is a lack of qualified and willing women to fill board positions. As a result, measures in these countries focus on fixing the women, and thus tackle the “infrastructure” by promoting childcare facilities, networking events for women and specific training for women.

One key question proposed in the women-on-boards debate internationally is what type of regulation is the most effective in increasing the share of women on boards. As we can see in this edited volume and in Volume 1, quotas, and in particular quotas with sanctions for non-compliance, are an effective way to reach a specific goal. However, they are not the only strategy. It becomes apparent that the efficacy of any measure, be it quota regulations or a voluntary measure, depends on how

it is formulated. Looking at the cases of the UK and Sweden, we see that initiatives beyond quotas have achieved the desired changes and results, more successfully than, for example, Spain (discussed in Volume 1). What this indicates is the importance of a nuanced understanding of the women-on-boards debate and the use of strategies intended to increase representation. In particular, this confirms our assumption that understanding specific country characteristics—including corporate governance systems, history in relation to equality legislation and other enabling and hindering forces and actors—is key for understanding both the introduction of specific policies and the chances of actually reaching the suggested changes and goals. A holistic approach including several key actors seems crucial. As is visible in the chapter on Belgium (Volume 1), there is a call for measures in addition to quotas to finally reach gender balance on boards. The example of Spain (Volume 1) also shows that gender quotas alone seem not to work, unless they come with sanctions and further measures addressing multiple stakeholders.

In the process of editing *Gender Diversity in the Boardroom—Volume 1: The Use of Different Quota Regulations* and *Gender Diversity in the Boardroom—Volume 2: Multiple Approaches Beyond Quotas*, we have identified numerous interesting areas for further research. In particular, we argue that the women-on-boards landscape in Europe and beyond is in an exciting moment in time. In Europe, we are currently witnessing increased focus from policymakers, both at the national and EU level, and several countries including Slovenia and Portugal are in the process of drafting quota regulations. Moreover, other countries with quota laws in place, such as Italy and the Netherlands, are coming to the end of the target quota period. Norway is increasingly looking at the wider effects of the quota law and to what extent the law has actually increased gender diversity beyond the plc boards affected by the quota law. However, what we witness is that in order to simplify, studies do in many cases use international statistics of the largest listed companies to compare the number of women on boards over time and internationally. We argue that this is problematic, as these are not always the companies, or indeed the only companies, affected by the specific initiative. Hence, in order to understand the effects and consequences of specific quota laws or targets,

this type of data might be misleading. Moreover, national data is usually presented as a country average, although regulations and other strategies are defined to make companies comply individually. This implies that national averages in some countries might be around the targeted figure, but this does not mean that all companies are actually complying. We believe there is a need for further and more accurate research in this area.

We have also shown that different actors are dominant in different countries, not only with respect to changing policies and pushing for quotas but also concerning the actual nomination practices. Whereas in some countries few shareholders are dominant, in others politicians or Ministers nominate most board members. Again, in certain other countries executive search companies play an important role in the nomination processes. However, as yet there are no systematic comparative studies on nomination practices and how they relate to potential strategies and their efficiency.

Taken together, we argue that there are numerous important areas for further research about women on boards, and we hope that the structured approach focusing on different countries in the European setting will fuel the ongoing debates further.

## Note

1. At both EU and the individual country levels, the terminology used about strategies to increase the share of women on boards varies. In particular, we find examples such as “gender representation regulation,” “gender balance laws,” “gender quota laws,” “gender laws,” etc. We will in this chapter refer to this as “quota laws” for consistency, but acknowledge that other terminologies are also often used.

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