

4

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

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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 Figures¹

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

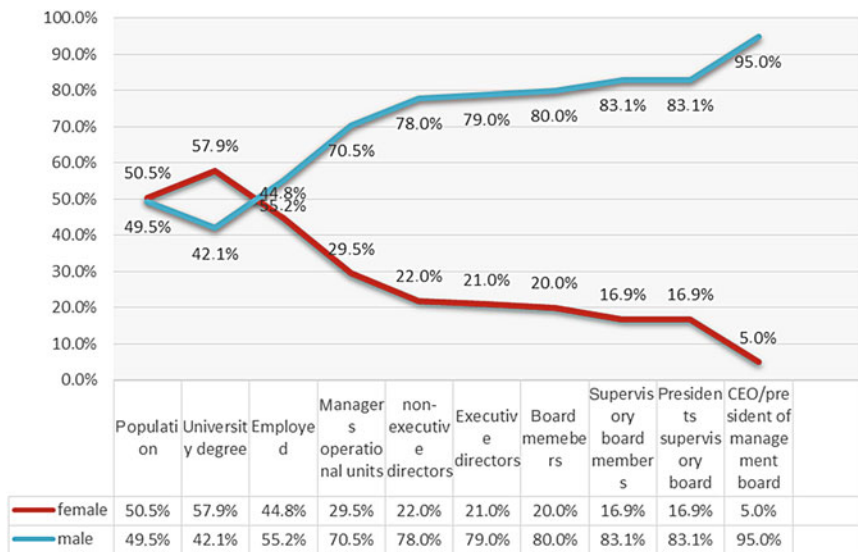


Fig. 4.1 Position of women and men in the Slovenian economy (Source: Kanjuro Mrčela et al. 2016; data for 2014 except 2010 for supervisory boards)

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' Association² 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 Supervisors³ 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 (Kanjou 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)⁴.

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 attention⁵ 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

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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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