

Enhancing gender balance in company boardrooms

ETUC Resolution Adopted at the Executive Committee Meeting of 23 September 2020

Setting the scene

Women represent most of the frontline against Covid-19 and will be especially affected by the social and economic consequences that follow. Recognition that women's rights and gender equality should be part of the COVID-19 recovery strategy should be straight forward, however this does not seem to be the case. One hindering factor is the absence of women in decision making. Research shows that when women have less decision making power either in households, the boardroom or in governments then women's needs are less likely to be understood or met. As we respond to the crisis, we must include measures that put women into decision making roles, part of that strategy must be to advance the Women on Boards Directive. Men and women need to be in the boardroom and importantly we need measures to ensure that women from a diverse range of backgrounds and occupations and work experiences are appointed. This Directive is an important part of a wider strategy to put women's leadership and contribution to decision making at the heart of European plans for resilience and recovery in the next generation EU.

Although women's employment rate has increased in the past years (women now represent 45% of the European workforce and the majority of university graduates), women continue to be seriously underrepresented in economic decision-making positions, especially in senior management functions and in corporate boardrooms, in both private and public-owned companies. A broad range of human capital, talents and skills that could contribute to better decision-making and sustainable growth strategy are wasted.

Gender equality is a founding principle of the European Union, a fundamental right¹, a key principle of the European Pillar of Social Rights² and a crucial stepstone among the Sustainable Development Goals³. "A union of Equality, where everyone, women and men, are *free* to pursue their chosen path in life, where they have equal opportunities to *thrive*, and where they can equally participate in and *lead* our European society⁴" cannot prescind from these principles and ensure they are substantially implemented.

Equality between women and men is a long-standing commitment of the ETUC. "A balanced participation by women and men in society's major political and economic

¹ Articles 2 and 3(3) TEU, Articles 8, 10, 19 and 157 TFEU and Articles 21 and 23 of the EU Charter of Fundamental Rights.

² Principle 2, https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf

³ SDG 5, Achieve gender equality and empower all women and girls

⁴ A Union of Equality: Gender Equality Strategy 2020-2025, COM(2020) 152 final,

https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en

decisions is a key element to developing real democracy and it has also proved to be an essential factor contributing to economic growth”⁵.

The principle of gender equality should not be confused with that of diversity: women are neither a group nor a minority, but more than half of the world’s population not to mention 45% of the European workforce. The balanced participation of women and men in decision making bodies is an essential imperative of the fundamental principles of democracy, representativeness and human rights.

Gender equality and diversity in the boardroom of companies is a key democratic principle with positive economic side-effects. Women, as well as men, need to help plan our economy and run our businesses. It cannot be right that women continue to be side-lined in Europe. Gender inequalities and imbalances in company boardrooms is against democracy at work and unrepresentative, but it makes poor business sense too.

The urgency of binding European measures

In general, women are underrepresented in senior positions in almost all economic sectors, making up 36% of managers in the EU. Management is more gender-balanced in the public sector, although men dominate here too. Among ETUC members, only 24% of leadership positions are held by women.

Women on the boards of the largest listed companies in EU account for 28.8%, but the rate of increase has slowed since 2015. Although the share of women on the boards of large companies across the EU has more than doubled since October 2010, *progress has been concentrated in just a few countries where governments have taken legislative action*⁶: In France at least 40% of each gender is present in the boards of the companies covered by the legislation⁷; women account for 1/3 of board members in Sweden, Italy, Belgium, Germany, the Netherlands⁸ and Finland; still less than 1/5 in 10 Member States. In Malta, Greece and Estonia, women account for fewer than 1/10 non-executive directors. Less than three in ten (29.2%) of the largest companies in EU Member States have at least 40% of each gender amongst non-executive members, but still one in six (17.4%) have no women non-executives at all. Moreover, 54.3% of the companies with at least 40% women non-executives are concentrated in just four countries: France, the United Kingdom, Italy and Sweden.

Women at the very top are even rarer, the top positions are still largely occupied by men. The increased level of women’s representation in boardrooms is still not feeding

⁵ ETUC Resolution “Recommendations for improving gender balance in trade unions” adopted by the Executive Committee on 9 March 2011, <https://www.etuc.org/en/document/etuc-resolution-recommendations-improving-gender-balance-trade-unions>

⁶ EIGE 2020;

⁷ a consequence of a 2011 law requiring to all large companies (more than 500 employees or turnover of over €50 million) to have at least 40% of each gender on boards by January 2017 (EIGE 2020)

⁸ in the NL, this is valid only for non-executive boards. Example: FNV worked on a report to the Dutch government on Diversity in company boards. One of the recommendations was, beside quota off course, to oblige companies to set targets for senior management positions. <https://www.ser.nl/-/media/ser/downloads/engels/2019/diversity-boardroom.pdf>

through quickly enough to the executive hierarchy⁹. Although women's presence in company boards has more than doubled since 2012, only 7.5% of board chairs and 7.7% of chief executives are female.

The European Commission has taken a series of initiatives towards gender balance in boards, since 2010¹⁰. **However, the mere voluntary approach of companies to gender balance in company boards hasn't proved to be effective.**

Facing such evidence Commissioner Dalli proposes to restore the Commission proposal for a Directive on gender balance among non-executive directors of companies listed on stock exchanges (the so-called "Women on boards" Directive)¹¹.

The current Legislative proposal

Commissioner Dalli proposes to restore the Commission proposal for a Directive on gender balance among non-executive directors of companies listed on stock exchanges (the so-called "Women on boards" Directive). This Directive was proposed by the Commission back in 2012, it was supported by the European Parliament¹² in November 2013 but reservations from several member states, led to the proposal being blocked in the Council¹³. The proposal sought to address inequality by requiring that women should make up a minimum of 40% of company boards by 2020 in the private sector and by 2018 in the public sector.

The proposal included: a Directive introducing a binding objective of at least 40% of board members of each gender by 2020 for non-executive directors and a flexible objective for executive directors, which would be set by the companies themselves; applicability to both dual ('two-tier'), single-board ('one-tier') as well as to mixed systems in listed companies with the exclusion of small and medium enterprises; appointment to non-executive positions on the basis of a comparative analysis of the qualifications of each candidate, by applying pre-established, clear, neutrally formulated and unambiguous criteria; priority given to the candidate of the under-represented gender if equally qualified following an objective assessment taking account of all criteria; disclosure obligations on the company of all criteria and reasons for the non-selection of the woman candidate; burden of proof on the company that there has been no breach of the rule; reporting obligation of progress and procedures for companies; sanctions including administrative fines and annulment of the appointment made in breach of the rules.

⁹ Since 2012, the share of women senior executives has increased by 8.1 pp to 18.4%, whilst the proportion of women non-executives has risen by 14.1 pp to 31.4%.

¹⁰ Strategy for Equality between Women and Men 2010-2015, Green paper on the EU corporate governance framework in 2011; voluntarily initiative for all publicly listed companies in Europe "Women on the Board Pledge for Europe".

¹¹ European Commission, Proposal for a Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures, COM/2012/0614 final - 2012/0299(COD) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52012PC0614>

¹² <https://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-0488>

¹³ <https://www.consilium.europa.eu/en/policies/gender-balance-corporate-boards/>

The ETUC continues to demand binding legislative measures at European level for gender balance in company boards and a coherent comprehensive approach

Data and experience of millions of women show that progress can only be advanced at a sufficient pace if a strong binding measure adopted at the EU level can concretely improve the working paths and career advancement of women in Europe.

The ETUC rejects any calls for equality to take a back seat in the recovery, instead we support a legislative initiative as part of our demands for a fairer future promoting equality between men and women. The ETUC strongly advocates for the European Commission, the European Parliament and the German presidency to schedule the legislation on a Gender Pay Transparency Directive and on women on boards before the end of 2020.

The ETUC continues to support the proposal and calls for

- Application of the 40% quota to *both* non-executive *and* executive boards (independently considered), both in private and public-owned companies, with progressive adaptation of the national legislation;
- To set targets not only for boards, but also for senior managements positions in order to improve the advancement of women to higher positions.
- Inclusion of medium-sized companies in the scope of the directive – maybe foreseeing a transition period for SMEs to adapt the changes;
- Directors' duties must be reformed to remove the priority given to shareholder interests and to place a duty on Directors to promote gender equality within the company and the supply chain, to reduce the gender pay gap and to improve corporate citizenship by making equality throughout the companies footprint as a clear obligation;
- The need to be diversity among the Women appointed, with transparent selection procedures; it is essential that women from diverse backgrounds and life experiences are appointed – with Member States to support this diversity by providing access to training opportunities and promoting business-tailored training plans to ensure a wide panel of women are available and prepared for appointment
- Empower social partners at all levels in engaging in social dialogue to implement the Directive first to larger companies, both listed and non-listed and medium-sized companies, as well as in setting joint monitoring systems - especially in countries with no or very poor women representation in company bodies
- Ensure that the quota-based balanced representation of women also reflects a balance between women representing workers and women representing shareholders'
- To update targets and deadline for reaching them taking into account the progress already made in several member states
- to ensure that selection to be a Board member has regard to both formal and substantive qualifications and that no indirect discrimination against

women occurs on the ground of the qualification/experience/knowledge required to cover the post

A Directive on gender balance in company boards will not be effective if it is not accompanied by **a series of substantial and integrated implementation policies** aimed at tackling the current obstacles for women to reach top positions: persistent unequal access to economic, social and cultural resources between women and men, inequalities in the share of paid and unpaid work, discriminations and persistent undervaluation of women's work, lack of respect and or adequate supports for social dialogue to play its role in closing the gender pay gap and ensuring representation of women in decision making.