

Status of the proposed directive on Women on Boards

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To address the considerable imbalance between women and men in economic decision-making at the highest level, the European Commission submitted a proposal for a directive on gender balance among non-executive directors of companies listed on stock exchange in November 2012.

The proposal set the aim of a minimum of 40% of non-executive members of the under-represented sex on company boards, to be achieved by 2020 in the private sector and by 2018 in public-sector companies. Companies would have to make appointments on the basis of pre-established, clear and neutral criteria.

The current European Commission is claiming to be strongly committed to the proposed directive. It underlined in its work programme for 2016 that the directive should be adopted as a priority in 2016. This did not happen. Commissioner Jourová said in a hearing with the FEMM-committee in spring 2017 that she is interested in it moving forward. She has already retired one directive (the maternity leave directive), and politically it is questionable if she can do it again.

The European Parliament adopted its position, by a substantial majority, at first reading on 20 November 2013. Rapporteurs: Rodi Kratsa-Tsagaropoulou (EPP, Greece) for the FEMM Committee and Evelyn Regner (S&D, Austria) for the Committee on Legal Affairs.

The proposal is since then blocked in the Council. Some Member States take the view that the proposal does not comply with the principle of subsidiarity. The national parliaments of **Denmark, the Netherlands, Poland, Sweden, the United Kingdom**, and one of the two chambers of the Parliament of the **Czech Republic** (Chamber of Deputies) submitted opinions, alleging that it did not comply with the principle of subsidiarity.

The **Luxembourg** Presidency (later half 2015) put considerable effort into breaking the deadlock on the directive. It drafted a compromise text proposing a flexibility clause (Article 4b) that would allow Member States to pursue the aims of the directive by means of their own choice and to opt out of the provisions, on condition that they had already taken equally effective measures or come close to attaining the quantitative objectives set out in the directive. The proposal also further extended the target date to 31 December 2022. However, the Luxembourg Presidency was not successful. **Germany** in particular strongly opposed the text (even though a German domestic law, which came into effect in 2016, envisages a 30 % female quota for posts on supervisory boards of publicly listed companies).

In terms of the upcoming Council chairmanships - who are able to put the issue on the agenda of the Council and to drive the issue - **Estonia** (later half 2017) are not in favor of the proposal, and will not put the Directive back on the Council agenda since they see no prospects of a change of position in the blocking Members States. They say reopening the discussion on the basis of the same text will be counterproductive. **Bulgaria** (first half 2018) has been in favor of the proposal, and could possibly put it on the agenda. **Austria** (second half 2018) could also be a strong ally on the issue. **Malta** (first half 2017) did put it on the agenda, but did not carry out sufficient bilateral lobbying to make the proposal pass.

Sources:

- <http://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-gender-balance-on-boards>
- <http://www.consilium.europa.eu/en/council-eu/voting-system/qualified-majority/>
- Conversations with Commission officials