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Article

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More women on supervisory boards: increasing indications that the effect of the gender quota extends to executive boards

By Anja Kirsch and Katharina Wrohlich

ABSTRACT

The statutory gender quota for supervisory boards is effective: the proportion of women on supervisory boards has increased over the past years, especially in the companies subject to the quota. But is the quota creating trickle-down effects for executive boards? As the second part of the DIW Berlin Women Executives Barometer, this report analyzes whether a relationship between the growth of the proportion of women on supervisory boards and on executive boards exists. The key result is that a relationship is discernible and there are good indications that the gender quota for supervisory boards positively influences the presence of women on executive boards. However, a cause and effect relationship has yet to be demonstrated. Answers from interviews with 60 supervisory board members of both genders show they have a wide range of opportunities to influence how executive board positions are filled and thus to work towards more women in upper management. In many places, however, these possibilities have not yet been fully exhausted. Further political and social pressure and new forms of work organization could help to increase the proportion of women in management positions in a sustainable way.

The Equal Participation of Women and Men in Leadership Positions in the Private and Public Sectors Act (*Gesetz für die gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen*, FÜPoG) has been in effect since May 2015. The law mandates that publicly listed companies that also have equal representation of shareholders and employees on their supervisory board (full co-determination) fulfil a gender quota of 30 percent on their supervisory boards. Currently, this law applies to 105 companies in Germany.¹ Since January 1, 2016, the affected companies must comply with the quota when they fill positions on their supervisory board. In the event of non-compliance, relevant appointments are void and the seats reserved for the underrepresented gender must legally remain unoccupied (“empty seat”).²

Companies that are either publicly listed or have fully co-determined boards must set their own targets for increasing the proportion of women on their supervisory board; this currently applies to 1,643 companies.³ Although the FÜPoG mandates a gender quota only for the supervisory boards of fully co-determined, listed companies, the law’s goal is to increase the overall share of women in management positions—above and beyond just supervisory boards—to ensure equal participation of women and men in working life.⁴

Therefore, this report analyzes the development of the gender ratio on the executive boards of large companies and the extent to which the mandatory 30 percent gender quota for supervisory boards is related to this development.

¹ According to FidAR, the Oldenburgische Landesbank is no longer publicly listed, and the Deutsche Börse AG and the INDUS Holding AG now have fully co-determined supervisory boards. See FidAR, *Women-on-Board-Index 185* (in German; available online. Accessed on January 9, 2020. This applies to all other online sources in this report unless stated otherwise).

² An empty seat occurred on the supervisory board of Villeroy & Boch AG in January 2018 when the employees only voted in one female employee representative. In April 2018, the Saarbrücken Local Court appointed a second female employee representative. See Villeroy & Boch AG, “Neue Mitglieder im Aufsichtsrats der Villeroy & Boch AG,” press release, March 26, 2018, (in German; available online); as well as Villeroy & Boch AG, *Geschäftsbericht 2018* (2019): 10 (in German; available online).

³ See Deutscher Bundestag, “Bericht der Bundesregierung über den Frauen- und Männeranteil an Führungsebenen und in Gremien der Privatwirtschaft und des öffentlichen Dienstes,” *Drucksache* no. 18/13333 (2017): 24 (in German; available online). This figure was calculated using declarations made by companies in 2015.

⁴ See Deutscher Bundestag, *Bericht der Bundesregierung*, 11.

Women on executive boards: companies set unambitious targets

The FöPoG stipulates that the supervisory board must determine a target for the representation of women on the executive board.⁵ If the proportion of women on the executive board is below 30 percent when the target is set, the target value may not be below the status quo. The first targets had to be determined by September 2015 and achieved by June 30, 2017 at the latest. All subsequent time limits may not be longer than five years; targets set in 2017 must be achieved by June 30, 2022 at the latest.

Since companies must publish their target for the proportion of women on their executive board in their annual report, the targets the companies set themselves in 2017 have gradually become public knowledge. It turns out that most supervisory boards have set the lowest possible target value—the proportion of women they had already achieved. The AllBright Foundation has calculated that of the 160 companies listed in the various DAX groups, only 37 formulated a goal that went beyond their status quo.⁶ The majority of the companies set “goals” that they had already achieved—thus, the willingness of these companies to work towards creating gender parity on executive boards is not discernible.

On top of that, the annual surveys in the DIW Berlin Women Executives Barometer show that the long-term trend whereby the annual increase in the proportion of women on executive boards is significantly lower than the annual increase in the proportion of women on supervisory boards continued after the FöPoG was passed. For example, the proportion of women on the executive boards of the 200 largest companies increased by 0.8 percentage points between 2016 and 2018, while the proportion of women on the supervisory boards increased by 4.3 percentage points. The development was similar in the 160 DAX companies: There, the share of female executive board members increased by 1.5 percentage points between 2016 and 2018, but the share of female supervisory board members rose by 4.4 percentage points.⁷

Therefore, there is every reason to believe that the law has initiated changes towards gender parity on supervisory boards, but traditional structures and practices prevail when executive board positions are filled. Gender parity on executive boards is still a long way away.

2019: legislative initiative and slight increase in the proportion of women on executive boards

As there are no signs that companies are willing to change and as the proportion of women on executive boards is increasing only sluggishly, lawmakers have been threatening to tighten the law since 2017. A binding gender quota for executive boards is frequently under discussion.⁸ In November 2019, it was revealed that the Federal Ministry of Justice and the Federal Ministry for Family Affairs, Senior Citizens, Women, and Youth were preparing a joint draft law on this issue. Minister of Justice Christine Lambrecht (SPD) and Minister for Family Affairs, Senior Citizens, Women, and Youth Franziska Giffey (SPD) have put a possible binding quota for executive boards back on the agenda.⁹ There is both support and opposition in response from the CDU.¹⁰

The current DIW Berlin Women Executives Barometer shows that after the sluggish development of previous years, more women were appointed to executive boards in 2019.¹¹ In contrast to the long-term trend, the increase was even slightly larger on executive boards than on supervisory boards, especially at banks and insurance companies. However, the increases on executive boards are from a significantly lower baseline compared to supervisory boards, and it remains to be seen whether the trend is actually reversing or whether the past year was more of an outlier.

No consensus on trickle-down effect in other countries

In light of this development, the question arises if there is a “trickle-down effect” in gender equality policy: Does reducing inequality between women and men on a company’s supervisory board “seep through” to the executive board, eventually contributing to more egalitarian conditions?

Empirical studies from other countries have come to different conclusions. Some studies claim there is a relationship between the proportion of women on the highest-decision making bodies¹² of a company and the proportion of women

⁵ See Section 111, point 5 of the Stock Corporation Act (AktG).

⁶ See AllBright Stiftung, *Die Macht der Monokultur: Erst wenigen Börsenunternehmen gelingt Vielfalt in der Führung* (2018) (in German; available online).

⁷ See Figure 1 and Table 1 of the first article in this issue of the DIW Weekly Report: Katharina Wrohlich and Anja Kirsch, “Proportion of women on top-decision making bodies of large companies increasing, except on supervisory boards in the financial sector,” *DIW Weekly Report*, no. 4 (2020): 32–42.

⁸ See, for example, Sabine Menkens, “Schwesig droht mit Ausweitung der Frauenquote,” *Die Welt*, March 2, 2017 (in German; available online); as well as the *Frankfurter Allgemeine Zeitung*, “Kommt eine Frauenquote für Vorstände?” August 17, 2017, 16 (in German).

⁹ See for example Helena Ott, “Ministerinnen wollen mehr,” *Süddeutsche Zeitung*, November 25, 2019 (in German; available online).

¹⁰ See for example *Frankfurter Allgemeine Zeitung*, “CDU-Wirtschaftsrat gegen Vorstandsquote,” November 26, 2019, 1 (in German); as well as the *Frankfurter Allgemeine Zeitung*, “Unterstützung aus CDU für Frauenquote,” November 27, 2019, 4 (in German).

¹¹ See Wrohlich and Kirsch, “Proportion of women on top-decision making bodies”

¹² Internationally, there are monistic and dualistic models of corporate governance. The monistic system with a board of directors exists, for example, in the United Kingdom and the United States. The dualistic system, which separates management (via the executive board) and control (via the supervisory board), exists in Germany, Austria, and the Netherlands. Both systems exist in France. See Elmar Gerum, “Corporate Governance, internationaler Vergleich,” in *Handwörterbuch Unternehmensführung und Organisation*, 4th edition. Georg Schreyögg and Axel v. Werder (eds) (2004), 171–178 (in German).

in lower levels of management.¹³ Other studies have not been able to demonstrate such a relationship.¹⁴

For Germany, it must first be established how the presence of women on the supervisory board could have an impact on the presence of women on the executive board. Supervisory boards are not only responsible for monitoring management; they also select members of the executive board and draft the contracts of executive board members. The supervisory board appoints executive board members for periods of up to five years.¹⁵ If committees have been set up in the supervisory board, appointments are handled by the Personnel Committee or the Presidential Committee.

The dominant career pattern of top managers—despite a slight decline in recent years—is the “in-house career.”¹⁶ Executive board members are often recruited “in house” from the company’s lower hierarchical levels. If an executive board member is to be recruited from outside the company, the supervisory board may instruct executive search consultants to identify suitable candidates.

Wide range of opportunities for supervisory boards to influence the share of women on executive boards

A qualitative study as a part of a research project at the Freie Universität Berlin investigated how supervisory board members can contribute to greater gender parity on executive boards.¹⁷ Interviews were conducted with 30 women and 30 men, both shareholder representatives and employee representatives, who serve on the supervisory boards of various listed German companies.

The interviews combined open-ended questions (such as “How would you describe your role as a member of this supervisory board?”) and more specific ones (such as “Could

you tell me how the supervisory board filled a vacant position on the management board?”). This way, the interviews elicited the interviewees’ subjective knowledge as well as their subjective experiences.¹⁸

Both women and men spoke of situations in which they themselves or a fellow board member had taken action to increase the proportion of women in management positions. In some supervisory boards, respondents felt that there was no single person or group driving the issue of gender equality. They felt either there was a consensus that gender equality was an important issue or it was barely discussed, perceived as secondary. In other supervisory boards, respondents identified individuals committed to gender equality issues. Although some men saw themselves in this light, reports of female supervisory board members working towards gender parity were predominant in the narratives of respondents of both sexes. Many female supervisory board members were intent on sensitizing the supervisory board to the issue of equality, on initiating debates, and on putting gender equality issues on the agenda and pushing them forward.

The respondents primarily used the reporting system. As members of the supervisory board, they were able to demand a breakdown of the company’s personnel structure and remuneration by gender from the executive board. They were also able to request and receive reports on the measures taken by the executive board to qualify women for management positions within the company and to recruit women from the external labor market for management positions. During supervisory board meetings, they critically scrutinized these reports, demanded specific programs and goals, and made suggestions for improvement. According to their statements in the interviews, employee representatives on the supervisory board also tried to support gender equality policy issues initiated by the works council.

Many respondents spoke of the supervisory board meetings in which the targets for the representation of women on the executive board were set. In part, they reported heated discussions. In some supervisory boards, women from the shareholder side and the employee side had discussed this issue in advance and, with varying degrees of success, advocated at the meeting for a target value greater than the status quo. While the executive board is responsible for setting targets for the representation of women in management positions below the board level, the supervisory board can also exert influence by structuring the executive board’s remuneration. A supervisory board chairman reported that

13 Studies using American and Australian data have shown a connection, see David A. Matsa and Amalia R. Miller, “Chipping away at the glass ceiling: Gender spillovers in corporate leadership,” *American Economic Review* 101, no. 3 (2011): 635–639; Alison Cook and Christy Glass, “Diversity begets diversity? The effects of board composition on the appointment and success of women CEOs,” *Social Science Research* 53 (2015): 137–147; Sheryl Skaggs, Kevin Stainback, and Phyllis Duncan, “Shaking this up or business as usual? The influence of female corporate executives and board of directors on women’s managerial representation,” *Social Science Research* 41, no. 4 (2012): 936–948; and Jill A. Gould, Carol T. Kulik, and Shruiti R. Sardeshmukh, “Trickledown effect: The impact of female board members on executive gender diversity,” *Human Resource Management* 57, no. 4 (2018): 931–945.

14 Studies using Norwegian and Italian data could not present clear evidence that an increase in the proportion of women on the top decision-making body of a company is accompanied by an increase in the proportion of women in top management positions in that company. See Marianne Bertrand et al., “Breaking the Glass Ceiling? The Effect of Board Quotas on Female Labour Market Outcomes in Norway,” *Review of Economic Studies* 86, no. 1 (2018): 191–239; as well as Agata Maida and Andrea Weber, “Female leadership and gender gap within firms: Evidence from an Italian board reform,” *IZA Discussion Paper* no. 12099 (2019).

15 See Section 84, point 1 of the Stock Corporation Act (AktG).

16 See Saskia Freye, “Neue Managerkarrieren im deutschen Kapitalismus? Ein akteursorientierter Beitrag zur Analyse institutionellen Wandels,” *Leviathan* 41, no. 1 (2013): 57–93; and Michael Hartmann, “Topmanager 2015. Die transnationale Klasse – Mythos oder Realität revisited,” *Soziale Welt* 66, no. 1 (2015): 37–53.

17 The research that led to these results was funded under Grant Agreement No. 303571 under the Seventh Framework Program of the European Union (FP7/2007–2013) and by the Margherita von Brentano Center of Freie Universität Berlin.

18 See Uwe Flick, “Episodic Interviewing,” in *Qualitative Researching with Text, Image and Sound*, eds. Martin W. Bauer and George Gaskell (2000), 76–92. The interviews were transcribed and thematically analyzed using NVivo software for qualitative data analysis. Data fragments were identified in which respondents described their own actions in the context of supervisory boards or those of other supervisory board members with regard to the participation of women in management positions in general and specifically on executive boards in the company. These data fragments were analyzed closely to identify themes and patterns. Such a research design is not suitable for measuring the pervasiveness of a phenomenon, such as determining how many female supervisory board members are committed to increasing the proportion of women on management boards or how often they do so. Instead, this qualitative approach can provide information on the range of options for action available to supervisory board members.

the supervisory board had made part of the labor director's bonus payment dependent on the achievement of targets regarding the proportion of women in the first and second levels of management.

Some respondents were able to report on how executive board seats were filled. If they were entrusted with filling the position, for example as a member of the Personnel Committee, they could instruct executive search consultants to search for women for this position or to present an equal number of male and female candidates for selection. Female supervisory board members in particular were unwilling to accept the argument that no women qualified to fill executive board positions exist. In the case of in-house appointments, traditional requirements for executive board candidates, which women fulfilled less often than men, were called into question. These requirements include, among other things, whether promising candidates must really have managed a plant or worked for the company abroad.

However, even if they were not directly involved in selecting executive board members, supervisory board members could remind those responsible to pay more attention to the selection of women for executive board positions during board evaluation processes. One female supervisory board member had refused to vote for a proposed male candidate for an executive board position. A second female supervisory board member reported that two internal female candidates had jointly applied for one executive board position. Together with other women on the supervisory board, she had advocated—albeit in vain—that the company try out job sharing for the board position.

Female supervisory board members said that they campaigned for women in management positions in informal situations, such as meeting breaks, company celebrations, and other social occasions, as well as during plant tours. In discussions with supervisory and executive board members, they explained why they considered the gender quota to be justified and spoke about other gender equality issues such as juggling work and family responsibilities. According to their statements, by their own example they tried to show that women in management positions are a normal part of organizational life.

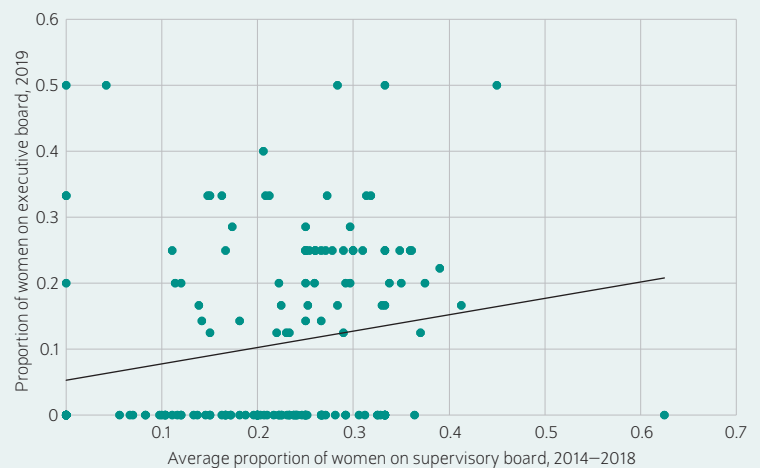
Further, some female supervisory board members had supported women in management positions outside of the supervisory board context. Some had publicly supported the introduction of the statutory gender quota. Others had given lectures to prospective female supervisory board members, were active at universities, worked as mentors for young women in leadership positions, or gave press interviews about their careers.

Overall, the findings of this qualitative study uncover a wide range of actions that supervisory board members can take in order to contribute to an increase in the representation of women on executive boards. Such action is being (partly) taken on some supervisory boards, but not on others.

Figure 1

Correlation between the proportion of women on executive boards in 2019 and the proportion of women on supervisory boards from 2014 to 2018

In percent



Note on regression lines: $R^2=0.04$, $p\text{-value} = 0.011$, $n=161$.

Source: Data collection and calculation by DIW Berlin.

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There is a positive correlation between the average proportion of women on a company's supervisory board and the later proportion of women on its executive board.

Companies with more female supervisory board members tend to have female executive board members

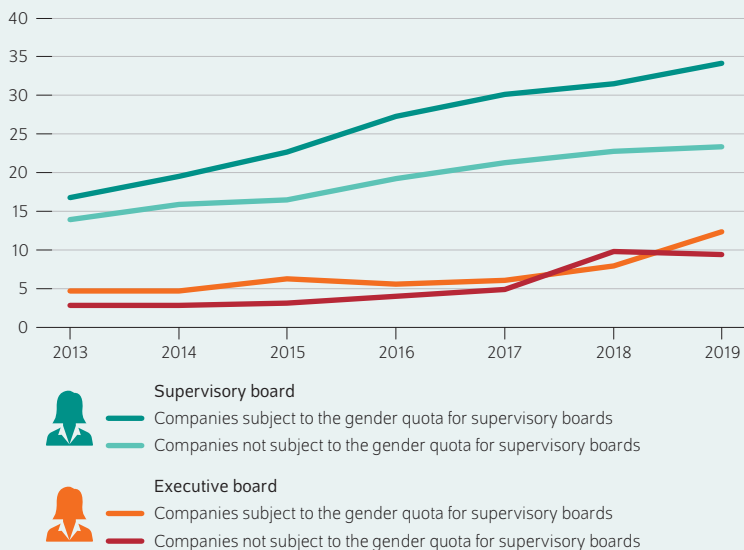
The DIW Berlin Women Executives Barometer 2017¹⁹ investigated for the first time whether a higher proportion of women on supervisory boards would lead to an increase in the proportion of women on executive boards in the medium term. A linear regression of the proportion of women on the supervisory board in 2013, 2014, and 2015 to the change in the proportion of women on the executive board from 2015 to 2016 showed a small positive and statistically significant correlation. Even though this relationship cannot be unequivocally interpreted as a causal effect of the proportion of women on the supervisory board on the proportion of women on the executive board, it indicates that the two figures correlate over a medium-term period.

The current analyses also show this relationship between the proportion of women on a company's executive board and the proportion of women on its supervisory board at an earlier point in time (Figure 1). The calculations were performed using the proportion of women on the supervisory and executive boards of the top 200 companies from 2014 to 2019. They show that the proportion of women on

¹⁹ See Elke Holst and Katharina Wrohlich, "Top decision-making bodies in large companies: gender quota shoes initial impact on supervisory boards; executive board remains a male bastion," *DIW Economic Bulletin*, no. 1+2 (2017): 3–15 (available online).

Figure 2

Proportion of women on the boards of the top 200 companies with and without a fixed gender quota for the supervisory board
In percent



Source: Data collection and calculation by DIW Berlin.

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In 2019, companies subject to the gender quota for supervisory boards also had a greater proportion of women on their executive board.

a company's executive board in 2019 is positively and statistically significantly related to the average proportion of women on its supervisory board in the years 2014 to 2018. In other words: the higher the proportion of women on the supervisory board, the higher the proportion of women on the executive board at a later point.

However, it must be noted that this correlation should not necessarily be interpreted as a causal effect of an additional woman on the supervisory board. The effect could also be caused by company-specific factors such as company size, industry, and corporate culture. Presumably, general time trends such as increasing political and public pressure also influence both the proportion of women on supervisory boards and on executive boards. Therefore, it cannot be directly deduced from this analysis that a gender quota for the supervisory board has indirect, positive effects on the proportion of women on executive boards.

Quota companies have more women on executive boards than non-quota companies of comparable size in 2019

A further descriptive analysis provides some guidance on this issue. As previous studies have demonstrated,²⁰ the proportion of women on the supervisory boards of the top 200 companies which are subject to the statutory quota has increased more strongly than in the rest of the top 200 companies (Figure 2).²¹ The companies which have been subject to the quota since the beginning of 2016 had a somewhat higher proportion of women on their supervisory board at the beginning of the observation period in 2013 than the companies to which the quota does not apply (17 and 14 percent, respectively). However, among the top 200 companies, we have seen a significantly greater increase in the proportion of women on supervisory boards since 2014 in the quota companies compared to the non-quota companies. In 2019, the difference in the proportion of women on supervisory boards between these two groups of companies was already 11 percentage points (23 vs. 34 percent). This can be interpreted as evidence of the gender quota's effectiveness.²²

Comparing the proportion of women on executive boards in these two groups of companies also shows that the quota companies had slightly higher values in 2013 (five versus three percent). However, until 2018, there were no indications that the quota companies were recruiting more women to their executive board than the non-quota companies. In 2018, the average proportion of women on the executive boards of the quota companies was almost eight percent—below the average for the non-quota companies (almost ten percent). A change has only been noticeable since 2019: the share of women on the executive boards of quota companies has increased much more markedly over the last year than in the rest of the top 200 companies. It remains to be seen if this development will turn into a long-term trend.

It cannot be directly deduced from this descriptive analysis whether the difference in the increase in the proportion of women on executive boards in companies subject to the quota for supervisory boards compared to companies not subject to it can be attributed to the quota. However, the analysis does point to such a relationship. Further research is needed to determine whether there is actually a causal link between the proportion of women on the supervisory board (and possibly the gender quota) and the proportion of women on the executive board and at lower management levels of a company.

²⁰ See Elke Holst and Katharina Wrohlich, "Increasing Number of Women on Supervisory Boards of Major Companies in Germany: Executive Boards Still Dominated by Men," *DIW Weekly Report* no. 3 (2019): 17–32 (available online).

²¹ This analysis is based on companies that belonged to the top 200 group in all years 2013–2019.

²² International comparisons also show strong evidence that statutory gender quotas are effective, especially in conjunction with sanctions for noncompliance, see Paula Arndt and Katharina Wrohlich, "Gender Quotas in a European Comparison: Tough Sanctions Most Effective," *DIW Weekly Report*, no. 38 (2019): 337–344 (available online).

Conclusion: new forms of work organization are required for a sustainable increase in women on executive boards

The gender quota for supervisory boards has effectively increased the proportion of women on supervisory boards of the companies subject to the quota. Quota companies now have, on average, around 35 percent female members on their supervisory board.²³ Empirical evidence from other countries has been inconclusive regarding the question of whether this also has positive effects on executive board members. The qualitative analysis in this report suggests that supervisory boards are increasingly concerned with gender equality on executive boards. The possibilities for supervisory board members to work towards gender equality on executive boards are manifold. The descriptive, quantitative analyses uncover a positive correlation between the presence of women on the supervisory board and the later presence of women on the executive board of a company. Additionally, quota companies this past year had more women on their executive boards than non-quota companies. It is therefore possible that there is a “trickle-down effect” of gender equality from the supervisory board to the executive board. Nevertheless, it cannot yet be unequivocally stated that the gender quota for supervisory boards is directly and causally related to developments in the proportion of women on executive boards.

It is likely that public debate regarding the target of zero that many companies have set themselves regarding the proportion of women on their executive boards and the threat of a statutory quota for executive boards have increased the

pressure on companies to appoint more women to their executive boards.²⁴ For example, after receiving criticism for filling two new executive board positions with men, Zalando SE published a new, internal target.²⁵ By the end of 2023, the company aims to achieve a balanced ratio of men and women at the six upper management levels, including the supervisory board and the executive board. The share of men and women at each level should be between 40 and 60 percent. Zalando intends to provide information on its progress in its annual diversity reports.²⁶ It remains to be seen whether the positive trend on executive boards will continue in the coming years, and whether lawmakers will support this development with new statutory requirements.

While the argument that there are not enough qualified women capable of holding executive positions is beginning to sound outdated and be refuted, the expectations held of those in senior management positions should be reconsidered. As long as management jobs are designed in such a way that they involve enormous working-time obligations, only people who have few non-work responsibilities can hold them. This means either sacrificing family life or living in a traditional single-earner household model—where most couples opt for the traditional pattern (man as main breadwinner). New forms of work organization that make it easier to reconcile managerial jobs with non-work commitments could sustainably increase the proportion of women in management positions.

²³ See Wrohlich and Kirsch, “Proportion of women on top-decision making bodies”

²⁴ See Heiner Thorborg, “Null ist zu wenig,” *Handelsblatt*, August 21, 2019, 48 (in German).

²⁵ See Georg Weishaupt, “Cristina Stenbeck: Zalando entdeckt die Frauen,” *Handelsblatt*, October 16, 2019, 46 (in German).

²⁶ See Zalando, “Zalando setzt sich neue Ziele für mehr Diversität im Management,” press release, October 15, 2019 (in German; available online).

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