

European Commission
DG Justice / D1
LX 46 - 1/101
'Consultation gender balance'
B-1049 Brussels
BELGIUM

Via email: JUST-GENDERBALANCE-CONSULTATION@ec.europa.eu

**Consultation on
“Gender imbalance in corporate boards in the
EU”**

Response of:

**European Trade Union Confederation
Boulevard du Roi Albert II, 5
1210 Brussels
Registered no.
06698681039-26**



European Commission public consultation on Gender imbalance in corporate boards in the EU

(Published: 05/03/2012, Deadline to answer: 28/05/2012)

Response from the European Trade Union Confederation (ETUC)

Introduction

The European Trade Union Confederation (ETUC) welcomes the opportunity to participate in the consultation on Gender imbalance in corporate boards in the EU.

The ETUC speaks on behalf of 84 national trade union organisations from 36 European countries, as well as 12 European trade union federations, making a total of 60 million members, plus observer organisations in Macedonia, Serbia, and Bosnia and Herzegovina (www.etuc.org).

In order to prepare its response, the ETUC has consulted its member organisations, and they in turn have consulted their own members.

General remarks

At the last Athens Congress the ETUC committed itself to place the gender dimension high on its agenda, by pursuing the objectives set in the Gender Mainstreaming Charter adopted at the Congress in Seville and by adopting adequate measures to tackle remaining gender inequalities in the labour market.

ETUC's fight to stand against women underrepresentation and discrimination in the labour market and in society has a long history. ETUC adopted several positions to enhance women's participation in decision-making structures and processes and an exhaustive summary of these is contained in the ETUC Resolution "Recommendations for improving gender balance in trade unions" adopted by the Executive Committee on 9 March 2011.

The resolution reaffirms that "*Equality between women and men is a founding principle of the European Union and a long standing commitment of the ETUC. A balanced participation by women and men in society's major political and economic decisions is a key element to developing real democracy and it has also proved to be an essential factor contributing to economic growth*"¹.

¹ <http://www.etuc.org/a/8485>

In 2005, the ETUC negotiated a framework of actions on gender equality in the context of the European Social Dialogue. In this instrument, we recognized, together with the employers, that the lack of women in decision-making positions was one of the four priorities² that the social partners had to tackle in order to advance gender equality at the work place.

In the final evaluation report of the Framework of Actions adopted in November 2009, we jointly affirmed that *“achieving an increase in the proportion of women in decision-making positions is an objective shared by social partners, who regard the promotion of women into senior and managerial positions as an investment for a more productive and stimulating working environment and for a better economic performance”*. In the same document is also stated that *“the underrepresentation of women in decision-making positions in economic and political domains was addressed as a concern by several of the contributions reported by the national social partners”*.

The ETUC has also put in place different actions and recommendations to strengthen gender balance in collective bargaining teams. ETUC is strongly convinced that the involvement of women and men at all levels of collective bargaining as well as in workers' representation structures is a basic value of the trade union movement and it enables new perspectives to be integrated into the bargaining agenda, by drawing on female trade unionists' experiences, opinions, knowledge and skills.

In ETUC's response to the consultation on the Green Paper on an EU Framework for Corporate Governance we affirmed that *“voluntary approaches have not proven to be very successful in the past. Therefore, introducing binding measures should be considered if companies do not improve the gender balance on boards”*.

The issue of enhancing gender equality in company boards should therefore be considered in the light of mainstreaming ETUC policies with regard to gender and non-discrimination.

1. How effective is self-regulation by businesses to address the issue of gender imbalance in corporate boards in the EU?

To date countless voluntary-based initiatives have been taken to create awareness and increase pressure on companies to improve women's access to the decision-making power in the corporate world. However, progress has been extremely slow as the most recent figures published by the European Commission and the Parliament illustrate. More action and binding measures are needed to reach gender balance in economic decision-making positions.

EU latest initiatives in this regard, have led to some European countries to start discussion or to adopt binding measures to ensure gender equality in company boards. Nevertheless, in order to ensure a consistent approach and the same level of women's representation throughout the member states the ETUC believes that a EU level instrument is needed.

In ETUC's view one of the most effective ways to ensure a better gender balance on boards is the introduction of binding measures, with clear targets, deadlines and sanctions. These measures provide a strong incentive to the corporate world to introduce targeted actions, not only in order to meet legal requirements, but

² The other three priorities are: addressing gender stereotypes, the gender pay gap and reconciliation of work, family and private life

furthermore to ensure the efficiency and sustainability of their decision-making structures.

2. What additional action (self-regulatory/regulatory) should be taken to address the issue of gender imbalance in corporate boards in the EU?

In ETUC's view the issue of women's underrepresentation in economic decision-making should be addressed within the wider framework of tackling discriminations between women and men in the labour market and society.

The low rate of representation of women on boards can be explained by persistent unequal access to economic, social and cultural resources between women and men, by inequalities in the share of paid and unpaid work, by the persistent undervaluation of women's work.

Such factors are major reasons for women's attainment of fewer high posts than men despite representing the majority of university graduates. In this perspective, in addition to strategies and legislation concerning gender equality in employment, care leave measures and services need to be improved for women and men.

The ETUC therefore calls upon the EU to promote policy initiatives in order to fight effectively against a number of other discriminations that women still experience in the labour market.

In replying to the consultation on the follow-up strategy to the Roadmap for equality between women and men 2006-2010 the ETUC made concrete proposals to the Commission to tackle gender inequalities. The ETUC strongly believes that these recommendations are still valid and should be urgently addressed:

- A reinforced commitment to gender equality, including new legislative proposals to tackle the gender pay gap (with quantitative targets, sanctions and incentives to for the social partners to actively carry out pay audits and analysis of the pay differentials), the horizontal and vertical professional segregation of women and precarious forms of work;
- A combination of gender mainstreaming with specific actions, to begin with all measures and policies regarding the economic and financial crisis. This includes for instance measures to tackle the gender impact of the economic and financial crisis in recovery packages, training and retraining programmes for women, including investing (also) in female dominated sectors and public services;
- An EU Directive to introduce a minimum right to paternity leave and carers' leave;
- New indicators to measure progress on care services;
- Comparative research on part-time work and proposals on how to make part time work a genuine quality option for men and women.
- Full respect, recognition and support of the role and autonomy of social partners at all levels in promoting equality between men and women through social dialogue and collective bargaining;
- Measures to prevent and combat any form of harassment and violence against women;
- Obligations with guidelines to implement gender impact assessments in all legislative proposals that are put forward by all EU Institutions.

3. In your view, would an increased presence of women on company boards bring economic benefits, and which ones?

ETUC believes that gender equality and diversity in the boardroom of companies is a key democratic principle with positive economic side-effects. The principle of gender equality should be however been kept separate from that of diversity: women are neither a group nor a minority, but one of the two forms of human being and more than half of the world's population not to mention 45% of the European workforce. Therefore, the balanced participation of women and men in decision making bodies is not only merely a question of diversity, but an essential imperative of the fundamental principles of democracy and human rights, as enshrined in the EU Treaties and the Charter of Fundamental Rights.

Women's talents are currently being underutilized at decision-making levels, in particular at top level. Change is necessary in many instances, and especially in the corporate world to strengthen Europe's competitiveness, combat the current economic crisis and create a sustainable future in which all talents are used to the full and all voices are heard in decisions shaping Europe's future.

4. Which objectives (e.g. 20%, 30%, 40%, 60%) should be defined for the share of the underrepresented sex on company boards and for which timeframe? Should these objectives be binding or a recommendation? Why?

In order to be consistent with previous statements in this field, the ETUC believes that the principle stated in the ETUC Action plan adopted at the Congress in Athens should apply to gender equality in company boards. This principle indicates that "each gender should be represented between 40% and 60% in decision-making structures". This quota should apply to publicly-listed and non-listed companies.

Attention should be given to the different national legal systems differentiating between one- and two-tier bodies of companies. As board members' terms might differ from country to country a sufficient transition period should be foreseen and the target should be reached by 2020. Noncompliance with quota requirements should be accompanied by a monitoring system and by sanctions that are consistent with national company law.

Quotas should, however, not disregard formal and substantive qualifications and not lead to indirect discrimination against women.

Quotas should not also be seen as a goal in itself or a permanent instrument. The EU should therefore regularly review the implementation of any measure adopted in this regard and consider the withdrawal of the quota at a certain moment once the target has been reached and permanently established in all member states.

5. Which companies (e.g. publicly listed / from a certain size) should be covered by such an initiative?

In principle, such an initiative should apply to all companies since equal opportunities should be ensured to all working women and men. At first larger companies, both listed and non listed, should be tackled by the EU while a transitory period could be established for medium-sized enterprises that have to set up a board according to national company law.

6. Which boards/board members (executive / non-executive) should be covered by such an initiative?

Gender equality should be ensured for all professions and for all levels of workers. Both executive and non-executive board members should therefore be covered too.

7. Should there be any sanctions applied to companies which do not meet the objectives? Should there be any exception for not reaching the objectives?

The ETUC believes that effective, dissuasive and appropriate sanctions should be introduced for those companies not complying with legislation. Sanctions should comprise a multifaceted approach, starting with mild dissuasive measures (ie warnings, progressive monetary sanctions, etc.) towards harsher actions culminating in the forfeiture of the offices of elected members of the board in cases of non compliance.

Different steps could be foreseen and the Commission should take as a basis successful practices that already exist in countries where quotas and sanctions have been introduced (such as France, Belgium and Italy).

Next to sanctions, the EU initiative could also foresee incentives. For example, companies that meet the target and apply gender equality policies may be favoured in public procurement.

The ETUC is also convinced that public awareness on the social and economic advantages of an enhanced presence of women in decision making positions should continue to be promoted.

8. Further considerations on the role of social partners and monitoring system

ETUC believes that policies addressing the current obstacles for women to reach top positions, such as measures to reconcile work, family and private life for both women and men, fighting gender stereotypes in education and in the labour market, and engaging men in the debate should also continue to be promoted and adequate measures should be put in place.

Social partners have a clear responsibility to ensure that the company's overall working environment supports a more balanced participation of women and men in decision making.

A monitoring and measuring system at EU and country level should be established, involving social partners and tracking progress and signaling effective approaches for further dissemination. Regular data collection, reporting and publication of results in order to increase pressure on boards to make changes should be undertaken.