

**STATEMENT**

31 August, 2010

1 (6)

**European Commission  
Directorate General Internal Market and Services**

**CONSULTATION ON GREEN PAPER ON CORPORATE GOVERNANCE IN FINANCIAL INSTITUTIONS  
AND REMUNERATION POLICIES**

The European Commission has launched a public consultation on the Green paper on Corporate governance in financial institutions and remuneration policies. The European Women Lawyers Association (EWLA) submits the following statement.

EWLA welcomes the Commission's consultation especially because it includes the issue of women on the boards of companies. EWLA has promoted the issue of more gender equality in corporate boards for many years and its General Assembly has passed several resolutions urging the European Parliament and European Commission to promote a balanced participation of women and men on corporate boards.<sup>1</sup> In these efforts EWLA cooperates with and is fully supported by the national women lawyers' associations that are EWLA members, as well as associations that are promoting women in top positions, like 'Frauen in die Aufsichtsräte' – FidAR e.V. ['Women on Corporate Boards' Association in Germany].

The consultation document contains the following question.

***1.4. Do you agree that including more women and individuals with different backgrounds in the board of directors could improve the functioning and efficiency of boards of directors?***

EWLA would like to stress that equality between men and women is no less a social and political requirement than an economic condition to accelerate progress towards the Lisbon goals and the EU 2020 strategy. Numerous studies show that companies

---

<sup>1</sup> See EWLA Resolutions of 20 May 2006, 5 March 2007, 5 July 2008, 4 July 2009, attached.

with more women in top positions are more profitable than companies with less than average amount of women in top positions.

In Fortune 500 companies it has been found that the profits are 35 per cent higher in companies with more than the average number of women directors compared to companies with less than average women directors.<sup>2</sup> According to a study by the international consultancy McKinsey companies where women are most strongly represented at board or top-management level are also the companies that perform best.<sup>3</sup> A Finnish survey of top 500 Finnish companies shows similar results.<sup>4</sup> A Swedish study shows that the difference in profitability is up to 93 per cent higher in listed companies with the most women on board compared to companies with no women on board. This study compared 24 listed companies with the most women on board compared to 24 companies with no women on board in 2005, 2004 and 2002.<sup>5</sup>

The largest study in the world covered 14.020 Finnish companies and according to the results, a company with a gender-balanced board is on average about 10 per cent more profitable than a similar firm with an all-male board.<sup>6</sup>

According to a study among CAC40 (France), the more women there are in a company's management, the less the share price fell in 2008 and shares of companies with mainly male management decreased more than the CAC 40.<sup>7</sup>

Furthermore, there is new scientific evidence that women's representation in company boards and audit committees as well as women CFO's and auditors have a positive impact on financial reporting, auditing and organisation of internal control.<sup>8</sup> The studied companies include 800 listed companies from Denmark, Finland and Sweden as well as the S&P500 companies. The results of this major study project are now starting to be published. According to the results of the study project, a woman CFO enhances the quality of financial reporting as women CFOs are more conservative in their reporting than male CFOs and women CFOs do not attempt to enhance the reported financial outcome of the company to appear better through deferrals. Results show also that women's representation in audit committees decreases the amount of external auditors' fees and may enhance the reliability of a

---

<sup>2</sup> Catalyst, [www.catalyst.org](http://www.catalyst.org)

<sup>3</sup> Women Matter, 2007, study by McKinsey

<sup>4</sup> Suomen Asiakastieto 2005

<sup>5</sup> Lönnqvist/Niska/Mäkinen-Salmi, Fler kvinnor i styrelsen skapar större vinster, Study for Uppsala University, Sweden, 12.1.2007.

<sup>6</sup> Female Leadership and Firm Profitability, 2007, study by Finnish Business and Policy Forum EVA, [www.eva.fi](http://www.eva.fi)

<sup>7</sup> Why women managers shine in a downturn, a study by Michel Ferrary, Professor of management at Ceram Business School, France (2009).

<sup>8</sup> The study project is lead by professor Sami Vähämaa, Vaasa University, Helsinki. Partners of the study include professors from the University of Central Florida, Auburn University and University of Eastern Finland. The study project is financed by NASDAQ OMX Nordic Foundation since 2009.

company's financial reporting and the efficiency of internal control. Also, according to the study, women board members of the S&P500 companies have fewer absences from meetings than their male counterparts.

Women are a small minority in the boards of listed companies in all member states. In Europe's top 300 companies, women occupy 9.7 % of corporate boardroom seats. Among these companies the figures for France, Germany and the United Kingdom are 7.6 %, 7.8 % and 11.5 % respectively<sup>9</sup>. The figures for Italy, Belgium, Spain and Portugal are 2.1 %, 7 %, 6.6 % and 0.8 % respectively. The figures are considerably higher in countries with proactive strategies and policies: Norway 44.2 %, Sweden 26.9 %, Finland 25.7 % and Denmark 18.1 %.<sup>10</sup>

Countries with proactive strategies to promote women's participation in company boards have made progress. Countries with no positive measures are lagging behind and have very few women board members. It is evident that measures need to be taken in order to ameliorate the situation. Otherwise many European countries will not fully benefit from women's contribution in decision-making positions.

The most effective, but also most intrusive, strategy to achieve a balanced representation of women in boards is quota legislation. This strategy has been successfully implemented in Norway. The French, Dutch and Spanish legislators have also taken steps towards statutory quotas. EWLA would like to point out that quota legislation may be effective, and may be ultimately necessary to achieve the goal of balanced representation in some countries, but that there are other strategies with proven impact which may be successful at least in certain countries and which do not require the legal rigidity of quota legislation.

One such strategy is the implementation of recommendations concerning the proportion of men and women in national Corporate Governance Codes. This is the case in several Member States.

The Finnish Corporate Governance Code (2008) states that "Both genders shall be represented on the board" (Recommendation 9). The Swedish Code of Corporate Governance (2008) states that "The company is to strive for equal gender distribution on the board" (4.1). Additionally, The Spanish Corporate Governance Code of 2006 addresses the issue. The Belgian Code of Corporate Governance of 2009 states that "The board's composition should ensure that decisions are made in the corporate

---

<sup>9</sup> These numbers do not take into account the different corporate governance systems and legal issues in the EU Member States. For instance, Germany's position in the middle range results from mandatory employee representation in corporate boards in Germany, as the percentage of women among employee representatives is significantly higher than the percentage among shareholder-elected board members (only approx. 3.5%).

<sup>10</sup> EPWN European BoardWomen Monitor 2008

interest. It should be determined on the basis of gender diversity and diversity in general, as well as complementary skills, experience and knowledge” (Section 2.1). The German Corporate Governance Code has included a general recommendation to pay attention to diversity in board nominations since May 2009. In its latest revision it requires supervisory boards of listed companies to specify concrete objectives regarding its composition, “which shall, in particular, stipulate an appropriate degree of female representation.”<sup>11</sup>

Another measure that has been taken by Member States is to provide that state-owned companies or companies in which a public entity is a majority shareholder have to achieve a balanced participation of women and men on their boards. This target has been set and reached in Denmark, Finland, Norway and Sweden. It has been achieved in some cases through legislation, in others through government policy.

Furthermore, legislation regarding accounting and reporting obligations can be used as a tool to promote transparency of the gender representation in companies. This includes a duty for listed companies to state the gender distribution in management in the annual report of listed companies. This positive measure can contribute to a better distribution of women and men in leading positions without noteworthy costs to companies. This duty entered into force in Sweden in 2004.<sup>12</sup> Austria has enacted similar legislation and in Germany the new recommendation in the Corporate Governance Code concerning the composition of supervisory boards in conjunction with a new provision in accounting laws which makes the Corporate Governance Report a mandatory part of the annual report of listed companies<sup>13</sup> should indirectly have the same result.

***EWLA urges the European Commission to promote a balanced participation of women and men on the boards of listed companies by issuing a specific Recommendation on this matter including:***

- a. The adoption by the Member States of proactive policies to increase the number of women on the boards of listed companies, including the introduction of legislation to this effect.**
  
- b. The taking of the necessary measures by the Member States to ensure that state-owned companies and companies in which a public entity is a majority**

---

<sup>11</sup> See German Corporate Governance Codex as amended on May 26, 2010, no. 5.4.1; [www.corporate-governance-code.de](http://www.corporate-governance-code.de)

<sup>12</sup> Amendment of Annual Accounts Act (Årsredovisningslagen Kap. 5 § 18b)

<sup>13</sup> See § 289a subpara. (2) no. 1 of the German Commercial Code (Handelsgesetzbuch)

shareholder achieve a balanced participation of women and men on company boards.

- c. **The inclusion of recommendations in national Corporate Governance Codes regarding the balanced participation of women and men on the boards of listed companies as well as the setting and publication of clear targets for female board representation by listed companies.**
- d. **The introduction of a duty for listed companies to state the gender distribution in senior corporate positions in their annual report. This should include board members, managing directors and other members of a company's senior management.**
- e. **The introduction of a duty for listed companies to show distinctively using a graphic format the ratio of men and women on the board in addition to numerical information in their annual reports in order to highlight the ratio of women and men participating in board work.**

***Furthermore, EWLA urges the European Commission***

- a. **to set a clear target of balanced participation of women and men in the European Corporate Governance Forum and the European Advisory Group on Corporate Governance.**
- b. **to closely monitor the situation regarding the representation of women and men in the boards of listed companies in the Member States and the progress made in achieving a more balanced representation of women and men in such boards and to set up a data-base with the relevant information accessible to the public;**
- c. **if and where a balanced representation of women and men on the boards of listed companies is not achieved by other means, such as national Corporate Governance Codes and reporting obligations, within the next five years to take the necessary steps, in particular through issuing recommendations to the Member States, to promote and take more stringent action, including the introduction of statutory quotas.**

*EWLA is registered in Belgium as an international non governmental non profit association (Association internationale sans but lucratif). It is a federation of national women lawyers associations from amongst the European Union countries and those of EFTA countries. Members of EWLA are also individual women lawyers and academics from these countries. EWLA pursues the co-operation of European women lawyers, in order to combine their specific expertise in monitoring law and politics seen from the angle of fundamental rights, and in particular gender equality.*

## EWLA

**Association internationale sans but lucratif (AISBL)**

**Ave. Louise 522, Bte.11, B-1050 Bruxelles, Belgium**

**phone.: + 32 (0) 2 648 98 50, fax: + 32 (0) 2 648 36 43**

**email: [info@ewla.org](mailto:info@ewla.org); website: [www.ewla.org](http://www.ewla.org)**

|  |  |
|--|--|
| <p><b><i>Members of the Board:</i></b><br/> Herdís Thorgeirsdóttir (Iceland) President<br/> Beate Rudolf (Germany) Vice-President<br/> Katalin Daszkalovics (Hungary) Vice-President<br/> Regula Kägi-Diener (Switzerland), Vice-President<br/> Myriam van Varenbergh (Belgium) Treasurer<br/> Jackie Jones (United Kingdom) Secretary General<br/> Martina Thomasberger (Austria)<br/> Svetlana Ganeva (Bulgaria)<br/> Iva Jermanová (Czech Republic)</p> | <p>Nina Grunow (Denmark)<br/> Tytti Peltonen (Finland)<br/> Caroline Bommart-Forster (France)<br/> Eithne O'Doherty (Ireland)<br/> Panayota Petroglou (Greece)<br/> Antonia Verna (Italy)<br/> Dace Liga Lutere-Thümmel (Latvia)<br/> Eugenija Sutkiene (Lithuania)<br/> Roselyn Knight (Malta)<br/> María del Rosario García Mariscal (Spain)</p> |
|--|--|