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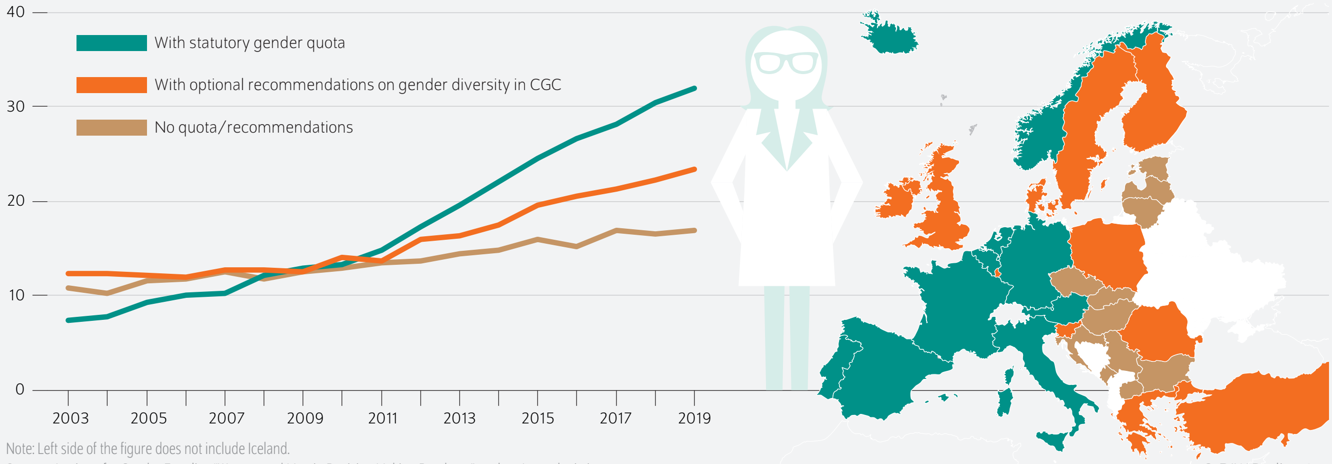
AT A GLANCE

Gender quotas in a European comparison: tough sanctions most effective

By Paula Arndt and Katharina Wrohlich

- Study compares the proportion of women in the top supervisory and decision-making bodies of large companies in selected European countries
- Countries with a gender quota and tough sanctions significantly increased the proportion of women in decision-making bodies
- Moderate sanctions like the “empty chair” in Germany are markedly less effective
- Voluntary commitments or quotas with no sanctions do very little
- Such findings should be taken into account when introducing quotas in other areas such as politics, science, and media

Proportion of women in private sector top bodies increasing significantly faster due to gender quotas; voluntary commitments are ineffective



Note: Left side of the figure does not include Iceland.
Sources: Institute for Gender Equality, "Women and Men in Decision Making Database"; authors' own depiction.

FROM THE AUTHORS

*“Many countries rely on optional recommendations to achieve a higher proportion of women in top bodies in the private sector and in other areas, such as politics, science, and the media. Our analysis shows that not much should be expected from such voluntary recommendations.” — **Katharina Wrohlich** —*

MEDIA

Audio Interview with Katharina Wrohlich (in German)
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Gender quotas in a European comparison: tough sanctions most effective

By Paula Arndt and Katharina Wrohlich

ABSTRACT

Women remain significantly underrepresented in the top decision-making bodies in the private sector. Over the past few years, increasingly more European countries have introduced statutory gender quotas to combat this underrepresentation. Other European countries have instead relied on voluntary gender diversity recommendations in the national corporate governance codes. Statutory gender quotas are significantly more effective than recommendations, as a descriptive comparison of the development of the proportion of women in the highest decision-making and supervisory bodies of the largest publicly traded companies in Europe shows. Quotas are even more effective if companies are threatened with harsh sanctions such as fines or liquidation in case of noncompliance. This suggests that voluntary commitments to recommendations or legal quotas without tough sanctions are not effective methods to increase the proportion of women in top positions significantly. This should be considered when discussing quotas for other areas such as politics, science, or the media.

Women are still significantly underrepresented in the top decision-making bodies in the economy in Germany, in Europe, and worldwide. In the 200 top-earning companies in Germany, only 27 percent of supervisory board members and 9 percent of executive board members are women.[1] Women are also underrepresented in areas such as politics, science, and the media. For example, currently only 31.2 percent[2] of German *Bundestag* members are women and 23 percent of professors at the largest German universities are women.[3]

Over the past few years, this issue has gained increasingly more attention, such as in reports on the "Thomas Cycle" and "Hans Brake."[4] The debate has increased the pressure on politicians to counter inequalities between women and men in leadership positions, and many European countries have introduced statutory gender quotas for the top decision-making bodies. In 2015, Germany passed a law on equality for women and men in managerial positions, both at private companies and in the civil service (*Gesetz für die gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen in der Privatwirtschaft und im öffentlichen Dienst, FüPoG*).[5] Similar quotas are demanded for leadership positions in other areas, such as the German media,[6] science,[7] and medi-

1 Cf. 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): 19–34 (available online; accessed on September 4, 2019. This applies to all other online sources in this report unless stated otherwise).

2 Cf. Deutscher Bundestag, *Abgeordnete: Frauen und Männer* (2019) (in German; available online). For a detailed look at the proportion of women in the German *Bundestag*, *Landestagen*, and on a local level over time, see Daniela Arregui Coka, Ronny Freier, and Johanna Mollerstrom, "Gender Parity in German Politics: Further Effort Required," *DIW Weekly Report* no. 37 (2017): 365–373 (available online).

3 Cf. Stefan Schmidt, "Gender-Debatte an Hochschulen: An diesen Unis arbeiten die meisten Professorinnen," Press release from the WBS Gruppe, 2018 (in German; available online).

4 A study from the AllBright-Stiftung showed that there were more people named Thomas or Michael (49) on the executive boards of DAX companies than there were women (46) in 2017, cf. AllBright, *Ein ewiger Thomas-Kreislauf? Wie deutsche Börsenunternehmen ihre Vorstände rekrutieren* (2017) (in German; available online). Similarly, in 2018, the magazine *Die Zeit* reported that there had been more civil servant state secretaries named Hans than female state secretaries since 1949. Cf. Kai Biermann, Astrid Geisler, Karsten Polke-Majewski, and Sascha Venohr, "Die Hans-Bremse," *Zeit Online*, October 8, 2018 (in German; available online).

5 An in-depth description of the history of the *FüPoG* can be found in Norma Burow, Alexandra Fedorets, and Anna Gibert, "Frauenanteil in Aufsichtsräten steigt, weitere Instrumente für die Gleichstellung gefragt," *DIW Wochenbericht* no. 9 (2018): 150–155 (in German; available online).

6 Cf. Pro Quote, *Wir legen die Latte höher: 50 Prozent!* (2018) (available online).

7 Cf. Deutscher Bundestag, "Frauen in Wissenschaft und Forschung - Mehr Verbindlichkeit für Geschlechtergerechtigkeit," Drucksache 17/9978 (2012) (in German; available online).

DOI: https://doi.org/10.18723/diw_dwr:2019-38-1

cine.[8] Gender quotas for politicians have also been discussed for some time. In January 2019, Brandenburg became the first German *Landtag* to pass a gender parity law. This stipulates that all parties wishing to take part in the 2024 state elections must fill their candidate lists alternately with men and women.[9] A similar law was passed in Thuringia for their *Landtag* in July 2019.[10] Gender quota laws for candidate lists on a national level exist in some European countries as well (such as Belgium, France, Portugal, Spain, and Slovenia).[11]

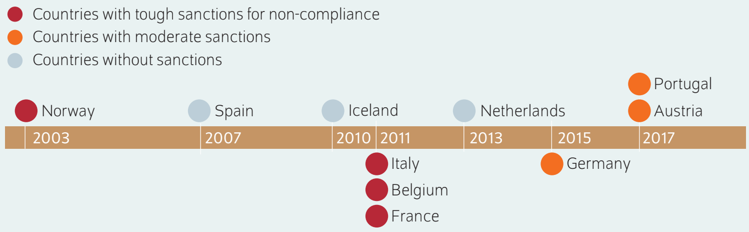
Ten European countries have introduced statutory gender quotas

Over the past 16 years, ten European countries have introduced a statutory gender quota for the highest supervisory and decision-making bodies[12] of certain private sector companies (Box and Figure 1). In 2003, Norway became the first country in the world to introduce a binding gender quota for all publicly traded and state-owned companies. Spain became the first EU state to introduce a binding quota for large, publicly traded companies and was followed by Iceland, Belgium, France, Italy, and the Netherlands. Germany passed a gender quota law in 2015. Since 2016, publicly traded companies with employee representation on their supervisory boards (full codetermination) must allocate all vacant supervisory board seats to women until the 30 percent quota has been reached.[13] A very similar law was passed a year later in Austria and most recently in Portugal.

The legal provisions in these countries sometimes differ greatly, especially in regards to sanctions in the event of quota noncompliance. Iceland, Spain, and the Netherlands do not apply sanctions. Iceland introduced a gender quota in 2010 in the midst of the financial crisis, which affected the country particularly negatively. No sanctions were imposed, but the restructuring of the private sector because of the financial crisis led to major changes in corporate culture.[14]

Figure 1

Gender quotas for highest supervisory and decision-making bodies of the largest publicly listed companies in Europe
Year of introduction



Source: Authors' own illustration.

Norway was the first country to introduce a statutory gender quota in 2003, which is also associated with severe sanctions for non-compliance.

The three countries that have only recently (since 2015) introduced binding quotas (Germany, Austria, and Portugal) only impose moderate sanctions. In Germany and Austria, the concept of the "empty chair" functions as a sanction.[15] One supervisory board position must remain vacant until the quota is reached. In Portugal, noncompliance leads to a warning and the noncompliant appointment is considered provisional.[16]

In contrast, rigid sanctions in case of noncompliance were introduced alongside statutory quotas in Norway, France, Italy, and Belgium. Companies are fined for noncompliance at the very least. Some countries dole out harsher punishments: In Norway, a noncompliant body is not allowed to register if it has not met the statutory quota.[17] After repeated warnings, the company is threatened with compulsory liquidation. In France, a new board member appointment is annulled if the legal quota is not met. In addition, the attendance fee payment is suspended until the quota has been met.[18] Similar sanctions are also planned in Belgium: If the quota is not met when new members are elected, the appointments are null and void. Furthermore, companies must also expect financial losses, as attendance fees for the noncompliant body will be abolished.[19] Italy has a supervisory authority responsible for monitoring quota compliance. Companies can be penalized with sanctions of up to one million euros for noncompliance.[20]

8 Cf. Pro Quote Medizin, *Was wir wollen – Offener Brief "Pro Quote in der Medizin,"* (in German; available online).

9 Cf. Tagesspiegel, "Brandenburg beschließt Gesetz für mehr Frauen im Landtag," *Tagesspiegel Online*, January 31, 2019 (in German; available online).

10 Cf. Spiegel Online, "Thüringer Landtag beschließt Paritätsgesetz," *Spiegel Online*, July 5, 2019 (in German; available online).

11 Cf. Deutscher Bundestag, "Geschlechterparität in nationalen Parlamenten der EU-Staaten," *Wissenschaftliche Dienste, Ausarbeitung WD 1-3000 – 016/18* (2018) (in German; available online).

12 Not all European countries have a dual system as in Germany (as well as Austria and the Netherlands) where the executive and supervisory bodies are separated. Some countries have a monistic system with a single top decision-making body (executive committee), such as in Spain and Belgium. A third group of countries allow both systems and companies may choose for themselves which they would like to implement. These countries include Sweden, France, and Italy. In Belgium and Spain, the gender quota applies to the entire executive committee. In countries that allow companies to choose, the quota applies to the non-executive members of the supreme decision-making body (France) or to the entire highest decision-making body (Italy) of the companies that choose a monistic system. Cf. Elke Holst, Anne Busch, and Lea Kröger, "Führungskräfte-Monitor 2012," *DIW Politikberatung kompakt*, no. 65 (2012): 87 (in German; available online).

13 The law stipulates a gender quota (not a women's quota) of 30 percent. This means that supervisory boards of the affected companies must be comprised of at least 30 percent male members and 30 percent female members. It would be unlawful for the share of men on a supervisory board to fall below 30 percent. Cf. the entry on "Geschlechterquote" in the DIW Berlin Glossary (in German; available online).

14 Cf. Audur A. Arnardottir and Throstur O. Sigurjonsson, "Gender Diversity on Boards in Iceland: Pathway to Gender Quota Law Following a Financial Crisis," in *Gender Diversity in the Boardroom*, vol. 1, ed. Catherine Seierstad, Patricia Gabaldon, and Heike Mensi-Klarbach (2017), 75–101.

15 Cf. Österreichischer Nationalrat, *Gleichstellungsgesetz von Frauen und Männern im Aufsichtsrat* (GFMA-G, 104, Bundesgesetz), as well as BMFSFJ, "Förderung von Frauen in Führungspositionen: Kabinett beschließt Gesetzenentwurf zur Quote," Press release, December 11, 2014 (in German; available online).

16 Cf. L&E Global, *Portugal: Gender quotas for director and supervisory bodies* (2017) (available online).

17 Aagoth Storvik and Mari Teigen, "Women on board. The Norwegian Experience," *International Policy Analysis* (2010).

18 Bredin Prat and Hengeler Müller, *Board-Level Gender Quotas in the UK, France and Germany* (2016).

19 Abigail Levrau, "Belgium: Male/Female United in the Boardroom," in *Gender Diversity in the Boardroom*, vol. 1, eds. Cathrine Seierstad, Patricia Gabaldon, and Heike Mensi-Klarbach (2017): 155–175.

20 Alessandra Rigolini and Morten Huse, "Women on Board in Italy: The Pressure of Public Policies," in *Gender Diversity in the Boardroom*, vol. 1, eds. Cathrine Seierstad, Patricia Gabaldon, and Heike Mensi-Klarbach (2017): 125–154.

A further eleven European countries have voluntary recommendations on gender diversity in leadership positions in their corporate governance codes (GCG, Box) instead of a statutory gender quota. These codes are issued by national commissions and provide recommendations on current national and international standards of good and sustainable corporate governance. The companies' voluntary commitment is ensured by the "comply or explain" approach, which requires the companies to comply with the CGC and to disclose reasons for failing to comply with the guidelines in their annual report. The companies may decide themselves if they want to follow the CGC or not. If a company decides to follow the CGC, then the "comply or explain" approach applies.[21]

Increase in proportion of women largest in countries with statutory quotas

Through the European Institute for Gender Equality (EIGE), the European Commission has been providing data on the proportion of women in different sectors in European countries through the Women and Men in Decision Making Database since 2003.[22] The analysis in this Weekly Report encompasses the proportion of women in the highest supervisory and decision-making bodies of the largest publicly traded companies in European countries from 2003 to 2019.[23] The countries were divided into three groups: 1) countries with statutory gender quotas, 2) countries with voluntary gender diversity recommendations in the CGC, and 3) countries without any binding quotas or voluntary recommendations. At the beginning of the observation period, countries that introduced a gender quota in 2003 or later were still well below the countries without a quota. (see Figure on page 337). Sixteen years later, the situation is reversed: In countries that introduced a gender quota in 2003 or later, the proportion of female board members is 15 percentage points higher on average than in countries without a quota. The difference between countries with quotas and countries with recommendations is nine percentage points. Over the entire period, the countries with a legal quota increased the proportion of female supervisory board members of the largest listed companies almost fivefold, while the proportion in the countries without a legal quota only rose from eleven to 17 percent. This suggests that legal quotas are significantly more effective than non-binding, voluntary recommendations.

The design of the statutory quota also influences its effectiveness. Norway, Italy, Belgium, and France impose the toughest sanctions. A descriptive comparison of tough sanction countries with countries that impose moderate or no sanctions shows that the countries with the toughest sanctions

Box

Political background to gender diversity in companies, a European comparison

In Europe, there are major differences in gender parity policies for private companies. Some countries have introduced statutory, binding gender quotas for the highest decision-making and supervisory bodies of certain companies. In 2003, Norway became the first country to introduce a quota of 40 percent for supervisory boards of state-owned and publicly traded companies with harsh sanctions in the event of noncompliance. Since then, a further nine countries have adopted quotas, including Germany in 2016 (Table).

A second group of countries lacks statutory gender quotas for companies' supervisory or decision-making bodies, but rather has gender diversity recommendations in their corporate governance codes (CGC). These codes are government-issued, voluntary, country-specific guides that provide recommendations on current national and international standards for good and responsible corporate governance. A total of 21 European countries include a gender equality target in their CGCs. Ten of them are countries with a statutory gender quota and 11 only have recommendations and no further legal regulations. These countries include Sweden, Finland, Denmark, Great Britain, Ireland, Greece, and Poland.

The third group of countries have neither a binding quota nor gender diversity recommendations in the CGC. In addition to Malta and Cyprus, this group of nine countries mainly includes Eastern and Southeastern European countries.

21 Cf. Patricia Gabaldon, Heike Mensi-Klarbach, and Catherine Seierstad, "Gender Diversity in the Boardroom: The Multiple Versions of Quota Laws in Europe," in *Gender Diversity in the Boardroom, vol. 1. The Use of Different Quota Regulations*, eds. Cathrine Seierstad, Patricia Gabaldon, and Heike Mensi-Klarbach (Cham: Springer International Publishing, 2017): 233-254.

22 Cf. European Institute for Gender Equality, *Gender Statistics Database* (available online).

23 See Footnote 12.

Table

Statutory gender quotas and gender diversity recommendations in Corporate Governance Codes in Europe

Country	Law passed	Share to be achieved	Deadline	Committee	Affected companies	Management system	Sanctions
Norway	2003	40 percent	2006 for newly private limited companies 2008 for private limited companies	Board of directors	Listed	One-tier	Forced dissolution; registry rejects registration of the board
Belgium	2011	33 percent	2017 for largest listed companies 2019 for listed SMC	Board of directors	Listed	One-tier	Empty chair; after one year suspension of the payment of attendance fees
France	2011	20 percent/ 40 percent	2014/2017	Non-executive managers	More than 500 employees and more than 50 million euros turnover in the last three years	Mixed	Nullity of appointments and suspension of attendance fees
Italy	2011	20 percent/ 30 percent	2012/2015	Supervisory- and management board/ board of directors	Listed	Mixed	100,000 to 1 million euros penalty for board of directors, 20,000 to 200,000 euros for audit committee
Germany	2015	30 percent	2016	Supervisory board	Listed and co-determined	Two-tier	Empty chair
Austria	2017	30 percent	2018	Supervisory board	Listed and at least 1,000 employees	Two-tier	Empty chair
Portugal	2017	20 percent/ 33 percent	2018/2020	Supervisory board/ board of directors	Listed	Mixed	Mandate is considered temporary
Spain	2007	40 percent	2015	Board of directors	4,11 million euros assets, 22.8 million euros annual turnover or more than 250 employees	One-tier	No sanctions
Iceland	2010	40 percent	2013	Supervisory board	Listed or limited liability company with more than 50 employees	Two-Tier	No sanctions
Netherlands	2013	20 percent/ 30 percent	2020/2023	Supervisory- and management board/ board of directors	More than 250 employees, more than 20 million euros assets or more than 40 million euros net sales	Mixed	No sanctions

With recommendations	Corporate Governance Code	First initiative	Current version	Affected companies	Sanctions
Sweden	The Swedish Corporate Governance Code	2005	2010	Listed	Comply-or-explain
Finland	Finnish Corporate Governance Code	2008	2015	Listed	Comply-or-explain
Luxembourg	The X Principles of Corporate Governance of the Luxembourg Stock Exchange	2009	2017	Listed	Comply-or-explain
Slovenia	Slovene Corporate Governance Code	2009	2016 (Updated 2018)	Listed	Comply-or-explain
Denmark	Recommendations on Corporate Governance	2010	2014	Listed	Comply-or-explain
United Kingdom	UK Corporate Governance Code	2010	2016	Listed	Comply-or-explain
Greece	Hellenic Corporate Governance Code	2013	2013	Listed	Comply-or-explain
Turkey	Principles of Corporate Governance	2014	2014	Listed and companies with limited liability	Comply-or-explain
Poland	Code of Best Practice for WSE Listed Companies	2015	2015	Listed	Comply-or-explain
Romania	Bucharest Stock Exchange Corpo-rate Governance Code, A corporate governance rule for all BSE-listed companies	2015	2015	Listed	Comply-or-explain
Ireland	The UK Corporate Governance Corporate Code (2012) Irish Corporate Governance Annex (2010)	2012, 2010	2010, 2012	Listed	Comply-or-explain

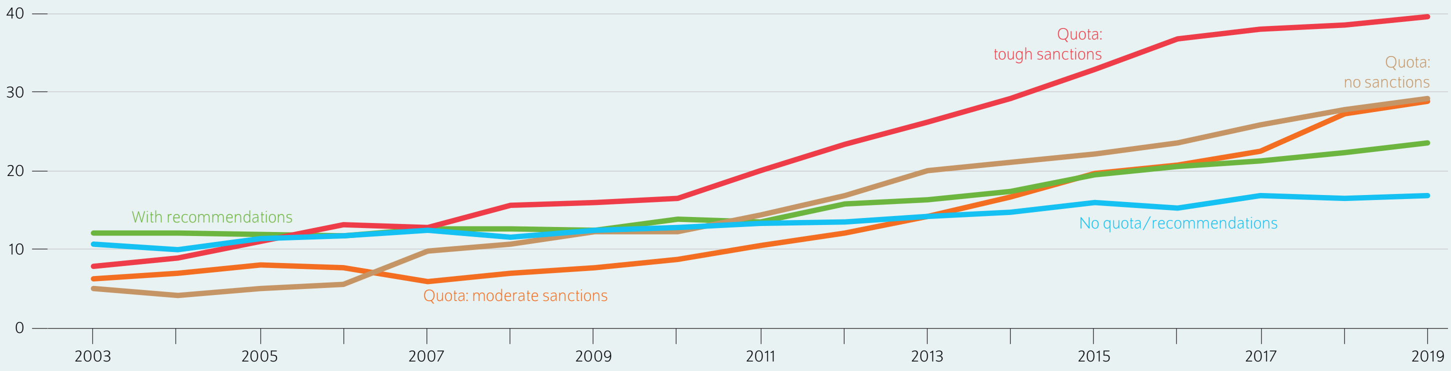
No quota or recommendations
Bulgaria
Czech Republik
Estonia
Croatia
Cyprus
Lithuania
Malta
Slovakia
Latvia

Source: OECD; Cathrine Seierstad, Patricia Gabaldon und Mensi-Klarbach (2017): Gender Diversity in the Boardroom; Deloitte; authors' own research based on the national Corporate Governance Codes of all countries included in the analysis.

Figure 2

Share of women in highest supervisory and decision-making bodies of the largest companies in Europe1 by strength of sanctions in countries with gender quota

In percent



1 Excluding Iceland.

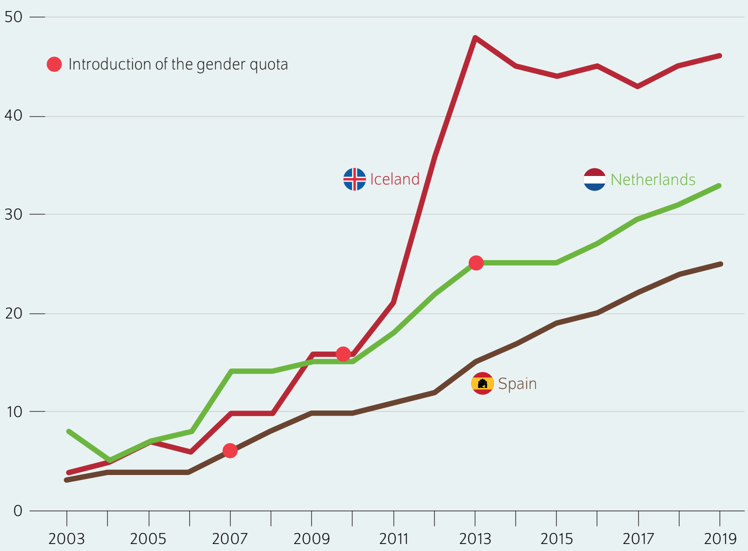
Source: Institute for Gender Equality (EIGE), *Women and Men in Decision Making Database*.

Gender quotas combined with tough sanctions such as fines or liquidation are by far the most effective.

Figure 3

Share of women in highest supervisory and decision-making bodies in countries with statutory gender quotas without sanctions

In percent



Source: Institute for Gender Equality (EIGE), *Women and Men in Decision Making Database*.

The development in Iceland stands out, but it is a special case because of fundamental upheavals following the financial and economic crisis.

were able to increase the proportion of women the most (Figure 2). When comparing countries with quotas and moderate sanctions with countries with quotas and no sanctions, the increase in the proportion of women on the highest supervisory or decision-making bodies of the largest publicly traded companies was very similar; at the beginning of the observation period, both were roughly the same. From 2007 to 2017, the proportion of women in the countries without sanctions was even higher than in countries with moderate sanctions. The latter group has been able to catch up with quota countries without sanctions since 2018. In this comparison, however, it should be noted that in the group of countries with moderate sanctions (Germany, Austria, and Portugal), the quota was only introduced after 2015, while in Spain and the Netherlands the quota was introduced in 2007 and 2013, respectively.

Looking more closely at the development of the proportion of women in individual countries with a binding gender quota, Iceland stands out in the group of countries without sanctions (Figure 3). In the three years following the introduction of the quota, the proportion of women in Iceland tripled from 16 to 48 percent. No other country experienced such a sharp increase, even those with tough sanctions. The situation in Iceland is probably related to its unique experience during and following the global financial crisis of 2008. The country was hit very hard by the crisis in 2008. The Icelandic *króna* fell by more than 50 percent at times, and in 2008 and 2010, inflation rates were over 30 percent. As a result, there was a major loss of confidence in the management levels of the private sector, particularly in the financial sector. This led to both a major upheaval in private sector management and a change in corporate culture. These factors probably explain this especially large increase in the proportion of women in

Iceland after 2010 to a significant degree.[24] The increase in the proportion of women in top bodies after the introduction of the quota was much less dynamic in the two other quota countries without sanctions (Spain and the Netherlands). In the four countries with statutory quotas and tough sanctions (France, Italy, Belgium, and Norway, Figure 4), the proportion of women on the corresponding bodies significantly increased after the quota was introduced. In countries with moderate sanctions, including Germany, this is only the case to a lesser extent (Figure 5).

Conclusion: Voluntary recommendations and quotas without sanctions are not effective

Statutory gender quotas are more effective than voluntary recommendations for increasing the proportion of female board members. This is suggested by the descriptive comparison in this Weekly Report, for which the development of the proportion of women in the highest supervisory and decision-making bodies of the largest listed companies in European countries was examined. Countries that had introduced a gender quota for the private sector since 2003 recorded a significantly higher increase in the proportion of women than the countries with voluntary recommendations. Countries with voluntary recommendations only improved the situation slightly more than countries with no recommendations or quotas at all.

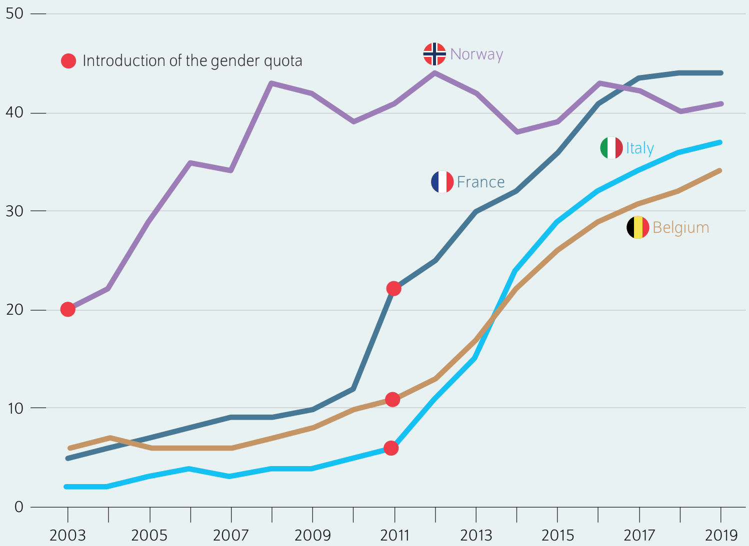
Moreover, a comparative analysis suggests that quotas associated with severe sanctions for noncompliance are more effective than quotas without any or with only moderate sanctions. In the countries that combine gender quotas with harsh sanctions, such as financial penalties or even liquidation, the proportion of women in the top bodies of the largest listed companies rose significantly more than in countries with moderate sanctions (such as the “empty chair” in Germany) or without sanctions.

In addition to the private sector, quotas are being discussed for other areas increasingly, such as politics, science, and the media. The present findings indicate that voluntary commitments to gender diversity in sectors beyond the private sector would not be particularly effective. Binding quotas with sanctions in the case of noncompliance seem to be the most effective means of ensuring that men and women are represented more equally on supervisory and decision-making bodies in the future.

Figure 4

Share of women in highest supervisory and decision-making bodies in countries with statutory gender quotas combined with tough sanctions

In percent



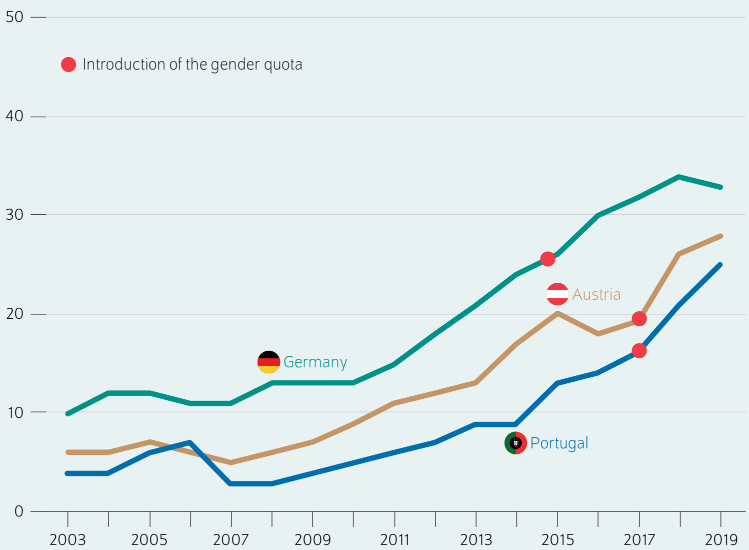
Source: Institute for Gender Equality (EIGE), *Women and Men in Decision Making Database.*

If countries that apply tough sanctions in case of noncompliance to the gender quota, companies increase their share of women much faster.

Figure 5

Share of women in highest supervisory and decision-making bodies in countries with statutory gender quotas combined with moderate sanctions

In percent



Source: Institute for Gender Equality (EIGE), *Women and Men in Decision Making Database.*

In countries that apply moderate sanctions in case of noncompliance to the gender quota, the share of women increases to a lesser extent than in countries where tough sanctions are applied.

24 Cf. Arnardottir and Sigurjonsson, “Gender Diversity on Boards in Iceland.”

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