

The impact of the Quota for women on supervisory boards of German Corporations, esp. on employer representation and HRM, esp. skill development and training

Abstract:

The German government, along with many other European governments has voted to implement a quota for women in supervisory boards (30%) of large, listed companies, sided by a so-called flexible quota for women in top management positions. These measures are supposed to keep women in the pipeline and make top positions more easily accessible to them. Some of the larger corporations have installed programs to systematically identify female top management potential and to strengthen their position power.

This paper shows how the quota and its subsequent fulfillment will change both employees' and employer's representation. We are currently working closely with one of Germany's biggest corporations in training the women that have been identified as potential supervisory board members. The program is still ongoing and will allow for a detailed analysis in June 2016. By using this case study, we want to highlight and discuss the implications of these current developments and their opportunities, threats and consequences for employer's representation and training, skill development within HRM.

Our analysis will be supported by theories and research on strategic Human Resource Management and Co-Determination. It is expected to provide further insights on critical factors that contributed to the women being selected, the need for training supervisory board members and to the success attributed to such a program.

The impact of the Quota for women on supervisory boards of German Corporations, esp. on employer representation and HRM, with a focus on skill development and training

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1. The new law on equal participation of women and men in management positions and its influence on the HR practices in German Corporations

Despite significant labor market progress over the last decades, women remain heavily underrepresented in high-earnings, high-status occupations.¹ The gender pay gap in Germany has been locked in at 22% for the last five year with no change in sight.² Similarly, the access to top management or board positions is still very difficult for women: In 2015, amongst the C-level positions³ in Corporate Germany⁴ less than 5% have been held by women, with none of these being CEO. On board level⁵, women hold 22.85% of the seats of these 100 companies, with a slight upward trend. The main committees on board level, namely the nominating committee, the audit committee and the general committee have a significantly lower number of female board members, between 10% and 14%.⁶ Advancing gender equality and female representation in corporate governance has increasingly become the focus of societal and political debates in various countries.⁷

The top three countries for women on boards are Norway, Finland, and France, where the percentage of female board members ranges from 29.7 percent to 35.5 percent. Not coincidentally, these three countries also all have government-mandated quotas for women on corporate boards. At least in sheer numbers, the quota system seems to be working.⁸ The findings on the impact of these changes on the top of corporations are however equivocal: some say that a higher number of women on board level would not impact the talent pipeline within companies,⁹ some state the opposite and show that there is positive correlation between the percentage of women board directors in the past and the percentage of women corporate officers in the future.¹⁰

On January 1, 2016 the new law on equal participation of women and men in management positions has been put into effect by the German Federal Government.¹¹ One major argument for the afore-mentioned legal enforcement has been that all voluntary initiatives that had been established previously all failed to produce the results that corporate and

¹ See Bertrand and Black, S. E. & Jensen, S. (2014)

² See Graupner (2015)

³ C-level: Executive Committee, in German "Vorstand"

⁴ Corporate Germany in this context means the companies that are fully co-determined and listed on a stock exchange

⁵ Board Level: Control Organ, in German "Aufsichtsrat"

⁶ See Schulz-Strelow (2015)

⁷ See Pande and Ford (2012)

⁸ See Grose (2015)

⁹ See Bertrand and Black, S. E. & Jensen, S. (2014)

¹⁰ See Joy (2008)

¹¹ See o.V. (7.7.16)

political Germany expected.¹² Another prominent argument in favor of a quota for women or other so-called minorities is the beneficial impact of diversity on corporate success that has been discussed in a multitude of studies with ambiguous results.¹³ Some go as far as to call diversity a “double-edged sword”.¹⁴ Two recent meta-analyses by Post/ Byron (2014)¹⁵ and Pletzer et al. (2015)¹⁶ come to the conclusion that the relationship between the percentage of female directors on corporate boards and firm financial performance is consistently small and non-significant.¹⁷

Thus, the focus of this paper is not to examine the potential economic impact of an increased female participation on board level but to see if, and how, the introduction of a fixed quota on board level will affect training and skill development on top management level within HRM and how the selection and nomination process for board representatives, both employees’ and employer’s side. In order to answer this question we will use the concept of the Strategic Human Resource Management that will be introduced in the next chapter.

2. Strategic Human Resource Management and Corporate Governance

a. Strategic Human Resource Management

The (Michigan) concept of Strategic Human Resource Management was developed at the University of Michigan by Tichy, Fombrun and Devana.¹⁸ This chapter will not only present the concept of SHRM but will also show the implications for our research.

Strategic Human Resource Management can be defined as “the pattern of planned human resource deployments and activities intended to enable the firm to achieve its goals”.¹⁹ Due to technological, economic and demographic changes, organizations are forced to implement and use more effective HRM systems. Human Resource Management plays a key role in both the formulation and implementation of long-run plans. Human Resource Management is not seen as a separate function of an organization but as an integral part of corporate strategy. In doing so, Strategic Human Resource Management establishes a link between

¹²See o.V. (2014)

¹³See Pletzer, J. L., Nikolova, R., Kedzior, K. K., Voelpel, S. C. (2015)

¹⁴See Milliken and Martins (2008)

¹⁵See Post and Byron (2015)

¹⁶See Pletzer, J. L., Nikolova, R., Kedzior, K. K., Voelpel, S. C. (2015)

¹⁷See Pletzer, J. L., Nikolova, R., Kedzior, K. K., Voelpel, S. C. (2015) provide a comprehensive overview of recent studies on the influence of female directors and corporate boards and firm performance.

¹⁸See Devanna, Fombrun and Tichy (1981); Tichy, Fombrun and Devanna (1982)

¹⁹Wright and McMahan (1992), p. 298

HR and overall corporate strategy.²⁰ Figure 1 summarizes the Michigan SHRM concept and highlights relevant aspects with regard to our analysis.

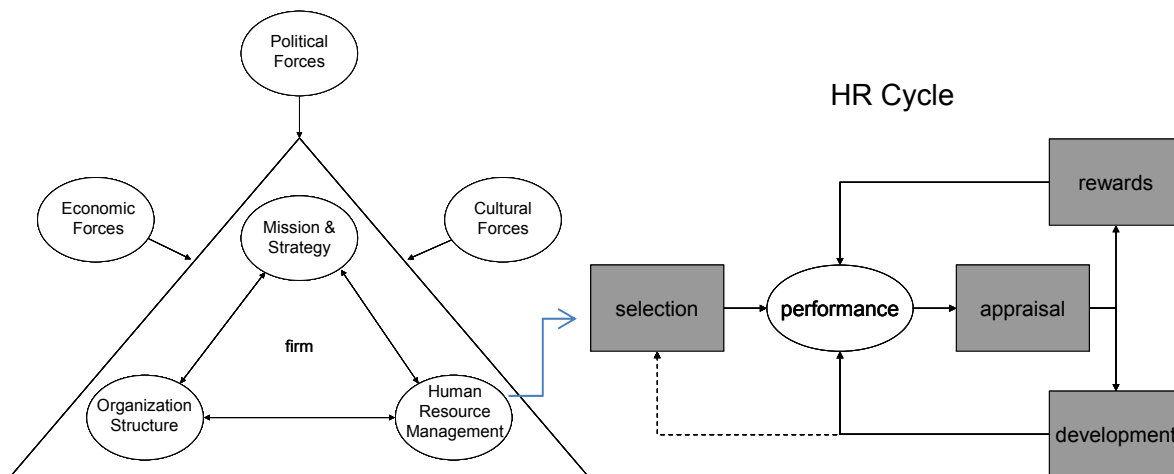


Figure 1: Strategic Human Resource Management - External Forces and HR Cycle²¹

To realize a competitive advantage, an organization needs to achieve both an internal and an external fit. An external fit means to consider external forces and adapt strategy, structure and HRM to these changing external forces. These external forces can be economic, cultural and political.²² Table 1 lists examples for external forces including the law on equal participation as a political force that needs to be considered as an impact on strategy, structure and HRM.

Economic Forces	Cultural Forces	Political Forces
<ul style="list-style-type: none"> • Level of (un)employment • Demographic change • Economic situation 	<ul style="list-style-type: none"> • Values • Believes • Traditions 	<ul style="list-style-type: none"> • Monetary and fiscal policy • New legislation (e.g. minimum wage, equal treatment, equal participation) • Changes in existing legislation

Table 1: Examples of economic, cultural and political forces as an impact on strategy, structure and HRM.

An internal fit includes a vertical and a horizontal integration. The vertical integration needs to align HR and overall strategy. HR strategy is seen as an integral part of an organization's overall strategy. Overall strategic objectives are supported by and brought into line with HR strategic planning. Moreover, HR must form a "coherent system"; the different HR functions need to work together as a system (horizontal integration). HR policies and practices need to be aligned within the HR cycle.²³

²⁰ See Tichy, Fombrun and Devanna (1982), p. 47

²¹ Tichy, Fombrun and Devanna (1982), p. 48 and 50

²² See Tichy, Fombrun and Devanna (1982), p. 48

²³ See Schuler and Jackson (2005), p. 13; Delery (1998), p. 291

The question how SHRM and especially coherent HR systems can achieve a competitive advantage is further addressed by the Resource Based View.²⁴ In order to create and maintain a competitive advantage, resources must be rare, valuable, inimitable and non-substitutable.²⁵ It might be possible for competitors to imitate single HR functions and policies. But it will be much harder to imitate a whole HR system.²⁶ Therefore, coherent HR systems can be the source of a competitive advantage.

The HR cycle is made up of four generic processes: selection, appraisal, rewards and development.²⁷ The focus of our analysis will be on development: more specifically on training and skill development on top management level and on the selection process and the subsequent nomination process for board members.

The law on equal participation should not only be considered an external force with an impact on strategy, structure and Human Resource Management (external fit). In addition, strategy, structure and HRM need to be aligned and synchronized, taking into account this new development as well. Moreover, not only single functions of the HR cycle need to be scanned for necessary changes. This would not be sufficient in the context of Strategic Human Resource Management. The HR cycle must be changed and adapted as a coherent system.

Therefore, we expect that the isolated view on HR selection to achieve a 30% quota of women in top management and board position will not be sufficient. Instead, we also include training and skill development in our analysis. We expect not only HR development but also HR selection to be the key functions to ensure that the 30% quota of women in top management and board position will be fulfilled. HR Development is a key requirement if you do not want to rely on the external labor market as a single source for HR staffing but if you want to support and promote qualified women also internally.

In general, three relevant decision levels of Human Resource Management are identified:²⁸

- Strategic level (policy formulation and overall goal setting)
- Managerial level (availability and allocation of resources to carry out the strategic plan)
- Operational level (day-to-day management of the organization)

²⁴ See Schuler and Jackson (2005), p. 24

²⁵ i.e. Wernerfelt (1984); Barney (1991)

²⁶ See Schuler and Jackson (2005), p. 24

²⁷ See Tichy, Fombrun and Devanna (1982), p. 50

²⁸ See Devanna, Fombrun and Tichy (1981), p. 53-55

We expect that all three decision levels will be relevant to deal with the fixed quota. Our analysis will deal with the question to which degree these levels are relevant and what measures need to be taken within the HR cycle to meet the fixed quota.

In order to understand the context in which German companies operate, we also need to consider the system of Corporate Governance in Germany as a further external force affecting strategy, structure and HRM. Therefore, the next chapter will present the system of Corporate Governance in Germany including the new law on equal participation of women and men in management positions.

b. Corporate Governance in Germany

Corporate Governance²⁹ (CG) has a wide variety of definitions.³⁰ Shleifer, Vishny (1997) define CG purely from a shareholder perspective: „Corporate governance deals with the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment.”³¹ Aoki (2001) on the other hand puts emphasis on the importance of stakeholder: „Corporate governance concerns the structure of rights and responsibilities among the parties with a stake in the firm.”³² Quite close to Aoki, Gillian, Starks (2003) define CG as: „...the systems of laws, rules and factors that control operations at a company. ... Set of structures, which include participants, such as managers, workers, suppliers of capital...”³³ Monks, Minow (2011)³⁴ focus on the principal agent problem und describe CG as follows: „The strength – and indeed the survival – of any corporation depend on a balance of two distinct powers: the power of those who own the firm and the power of those who run it.” For the purpose of this article, CG will be understood as a combination of both Gillian, Starks’ and Monks, Minows views on CG.

In a public corporation the shareholders will typically relinquish their tasks of managing the corporation to professional management, be it due to a lack of managerial skill, a high number of shares and the subsequent indolence of the small shareholders and the high costs of control.³⁵ Ridder-Aab (1980) explicitly discusses the high transaction costs of an

²⁹ The following train of thought is derived from Hansch (2012).

³⁰ A recent Google Search came up with 3,000,000 plus results. (July 22, 2016)

³¹ Shleifer and Vishny (1997),), p. 737

³² Aoki (2001), p. 11

³³ Gillian and Starks (2003), p. 37

³⁴ Monks and Minow (2011), p. 252

³⁵ See Berle and Means (1932), p. 9

active participation in managing and controlling a corporation.³⁶ Thus, most shareholders mostly behave in a way best described as „rationally apathetic“³⁷.

Looking at the system of corporate governance all over the countries, there are several main forms of institutional arrangements. All different forms have a common goal: they intend to solve the inherent principal-agent problem. This goes along with transaction cost, i.e. for negotiations and control that occur when principals relinquish their management power to the agents running the corporation. The two most common models that exist for Corporate Governance are the one-tier model that unites management and control within one single board of directors (mainly in the Anglo-Saxon countries), and the two-tier model that separates management (“Vorstand”, board of management) and control (“Aufsichtsrat”, supervisory board). This model can predominantly be found in Germany and many other central European and Scandinavian countries. The one-tier system is also characterized by the “Exit” option on the capital market, the two-tier model by the “Voice” of the stakeholders involved.³⁸ Figure 2 gives an overview of the European countries and their thresholds on co-determination.

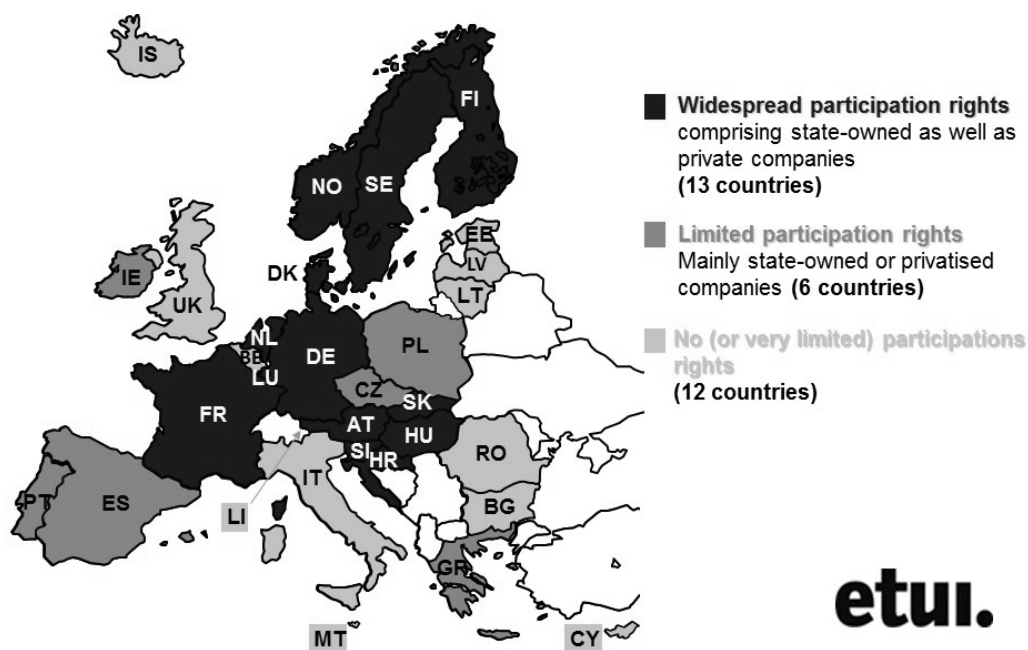


Figure 2: Board-level representation in the European Economic Area³⁹

German Corporate Governance⁴⁰ is characterized by putting a special emphasis on the employees as the main stakeholder group involved in corporate leadership and control. Co-

³⁶See Ridder-Aab (1980), p. 72

³⁷See Roessler (2001), p. 45f. Rationally Apathetic is a sort of behavior where the shareholder actively decides not to participate in managing and/or controlling the corporation

³⁸See Oechsler (2011), p. 40, 43

³⁹Conchon, Kluge and Stollt (2016)

Determination in German corporations starts at a minimum of 500 employees, but has far-reaching consequences for corporate leadership and control. The shareholders (principals) relinquish their management and control power to two different organs: to the management board's („Vorstand“) role is to operationally manage the corporation, whereas the supervisory board's main function is to control and consult with the management board on all substantial matters regarding the long-term well-being of the corporation.⁴¹ Both organs have to be strictly separated – no person can be a member of both groups.⁴² Thus, both functions are strictly separate.⁴³

German corporate governance is heavily regulated. Figure 3 gives an overview on selected legislation on German CG, with the most recent addition being the law on the equal participation of women on German supervisory boards.

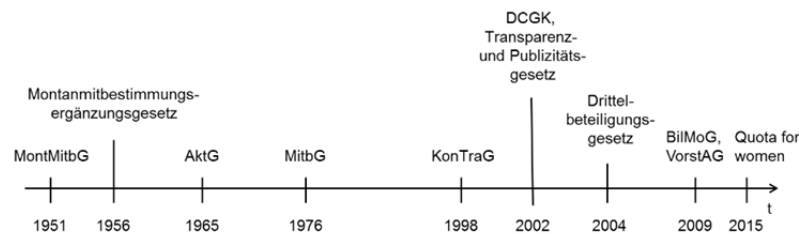


Figure 3: Overview of selected German legislation on Corporate Governance⁴⁴

These laws regulate the size and the composition of the supervisory boards, as shown in Figure 4.

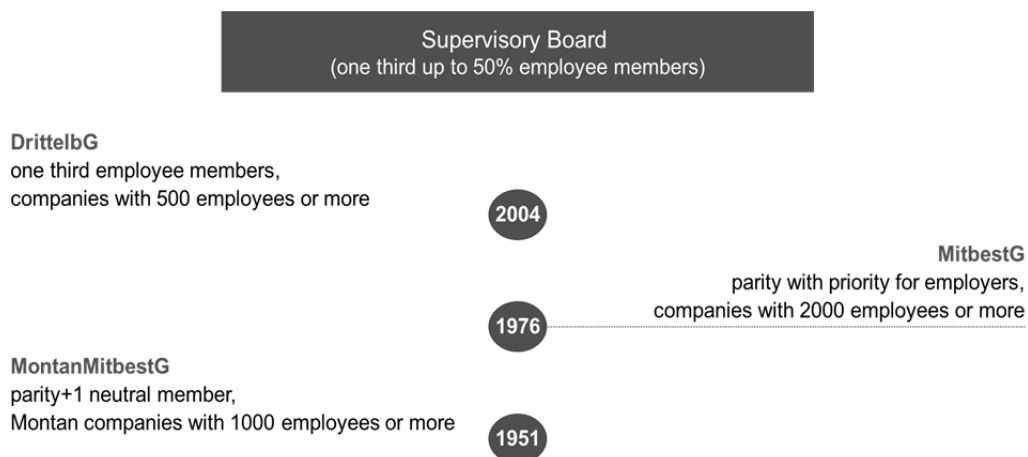


Figure 4: German Supervisory Board legislation⁴⁵

⁴⁰ For the next passage please refer to Hansch (2012)

⁴¹ See Perlitz, M., Seger, F. (2003), p. 8

⁴² See Oechsler (2003), p. 308

⁴³ See Gerum (2007), p. 115 or Schewe (2005), p. 78

⁴⁴ See Hansch (2012), updated 2016

⁴⁵ See Oechsler and Hansch (spring semester 2011)

This newest addition, the so-called quota for women, is valid only for companies that are fully co-determined and listed on a stock exchange. Thus, for our purposes we will only concentrate on the companies that are regulated by MitbestG 1976.⁴⁶ This law, dating back 40 years, regulates in great detail the composition of the supervisory board. Figure 5 depicts the typical composition of such a supervisory board.

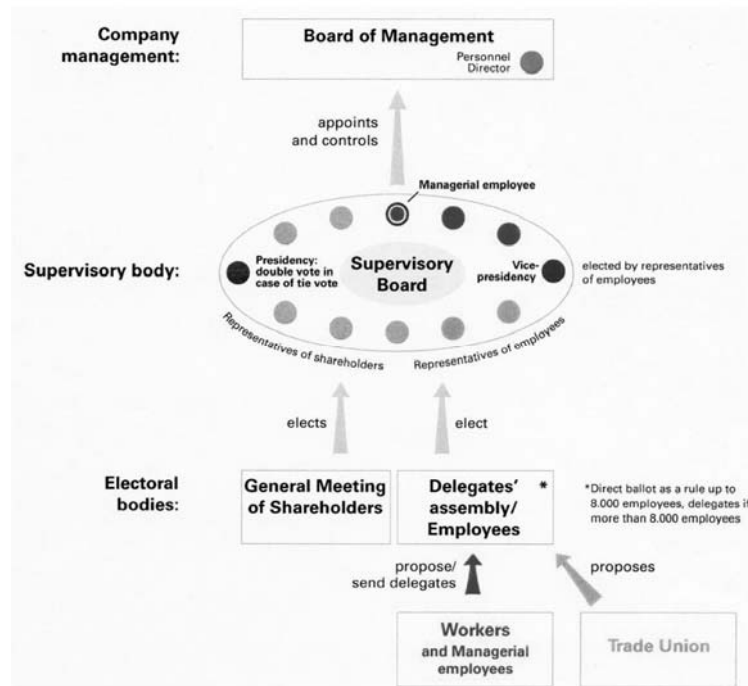


Figure 5: The Composition of the supervisory board according to the 1976 law on co-determination⁴⁷

The fact that the "quota" only regulates companies that are regulated by such a parity and, in addition, have to be listed on a stock exchange, limits the number of affected companies down to approximately 108.⁴⁸

This law is in congruence with the European legislation in a number of different European countries, with Norway leading the way.

⁴⁶ The other law relevant for the quota is the MontanMitbestG (see Figure 4). However, the number of companies affected by that law is significantly lower than for the MitbestG. Additionally, the main difference between the laws for our purposes is the one neutral member within MontanMitbestG – and that one neutral member does not count for the quota. Thus, the arguments will be very similar for both groups of companies.

⁴⁷ Page (2011), p. 26

⁴⁸ Vogel (2015)

Country	2012 Percentage	Quota	Target date
Belgium	13%	30%	1)
France	22%	40%	2017
Italy	8%	30%	2015
Netherlands	20%	30%	2016
Norway	38%	40%	2008
Spain	13%	40%	2015

Figure 6: National quotas for female directors⁴⁹

This legislation will change corporate Europe, and in this case, corporate Germany quite significantly.⁵⁰

According to the Women on Board Index (WOB) 2015, an index established each year by FidAR, a German interest group promoting female board participation, German supervisory boards (“Aufsichtsräte”) of the companies that are fully co-determined and listed, thus legally bound by the quota, are being quite hesitant on female directorships:

All	22,85%
DAX	26,65%
MDAX	20,35%
SDAX	21,71%
TecDAX	25,00%
Reg. Markt	20,71%

Figure 7: Overview on female board participation in German listed & fully co-determined corporations⁵¹

In order to delve deeper into the workings within German corporations, esp. into HRM and talent development, we have conducted a survey amongst HR managers, supervisory board members and experts such as lawyers and members of organizations close to the unions also staffing supervisory boards.

⁴⁹ o.V. (2016)

⁵⁰ See Schmitt (2015)

⁵¹ Schulz-Strelow (2015), p. 16

3. Design of the Study

a. Expert interviews as a method of gaining information

As soon as a subject to be analyzed is up to date, complex and not that easy to measure, quantitative research methods might not be the most adequate solution to getting the answers the researcher is looking for. (Yin, 2014) proclaims that as soon as the questions predominantly ask for the “how” and “why”, case studies or interviews should be the method of choice. Following that argument, as our goal is to get further insights into recent developments in Corporate Germany; we have decided to use expert interviews. These expert interviews⁵² will be based on a predetermined set of questions, and from the answers we will tailor additional questions to gauge their individual expertise.

We have interviewed 10 experts within 15 days in June 2016, all via extensive telephone interviews. Figure 8 gives an overview of the experts we interviewed. The interviews could not take place face-to-face due to the geographic distance between the different interviewees. All have received the interview guidelines one week in advance. We have used the same guidelines and the same interviewer in all interviews in order to control for interviewer bias.⁵³

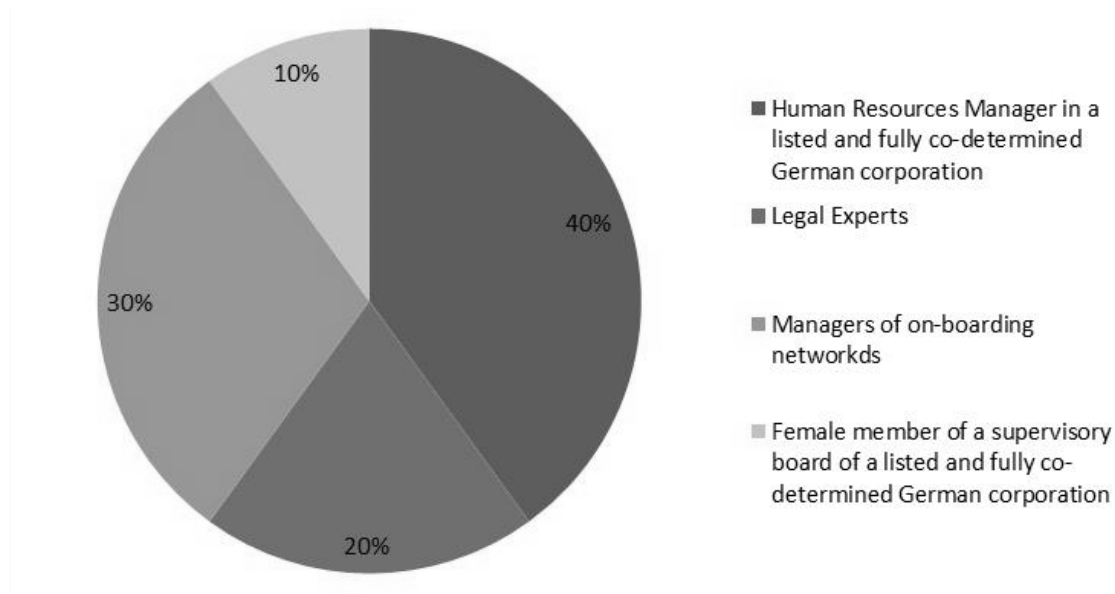


Figure 8: Overview of the interviews conducted

⁵²For more on methods of empirical research, please refer to Atteslander (2010) or Yin (2014)

⁵³ The interviewer bias has been kept to a minimum by (a) not using manipulating question, (b) reflecting the specific situation and perspective of the interviewer, (c) considering all potential meanings of a statement and (d) observing the depth of statements and reflecting on the personal and/or professional relationship to the interviewee. (for more on interviewer bias' please refer to Merton and Kendall (1979)

Most of the HR managers in question⁵⁴ have been responsible for implementing the new legislation on the quota in their respective corporations. Some had for example already started to establish an on-boarding network within their corporation, complete with training and nominating female top managers.⁵⁵

b. Structure of the study

Following our intention of finding out how the new legislation affects HRM in German Corporations, we have structured our interviews according to the SHRM, with a special focus on the HR cycle and its most relevant parts, selection and skill development & training.

Figure 9 shows the design of the study in detail.

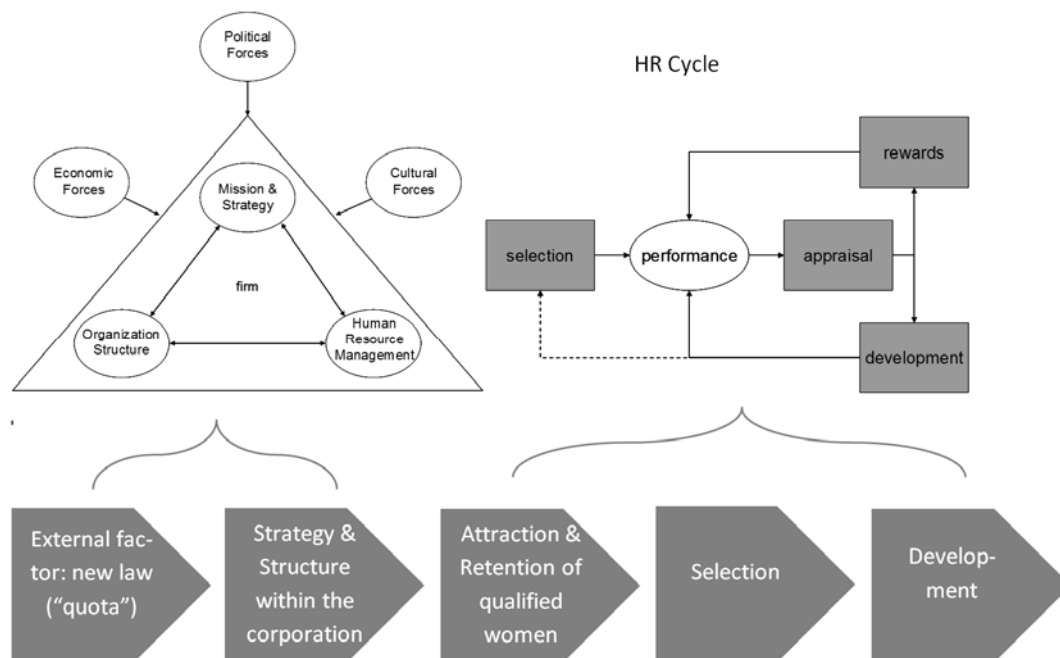


Figure 9: Design and structure of the interviews

The interviews we have conducted will be evaluated according to the SHRM model. The left-hand side of Figure 9 will be discussed in 4.a, the right-hand side in 4.b.

⁵⁴ All working in companies affected by the MitbestG 1976.

⁵⁵ Reports on different internal programs to promote women can be found in the German press, i.e., Wisdorff (03.12.14), Lang (2014) or o.V. (2015)

4. Results of the Study

a. Results relating to the external factor ("quota") and the strategy & structure within the corporation

The new law on the equal participation of women on German supervisory boards changes the perception of the impact of diversity on the corporation. Most experts⁵⁶ agree on the failure of the so-called voluntary commitment of the corporations and agree on the fixed quota being the only instrument that is going to fundamentally change Corporate Germany and thus the top management and supervisory level of corporations. However, they also said that company specifications will have to be taken into account and all agreed on qualification being the predominant success factor to a supervisory board or top management member, and not gender. Thus, diversity will be promoted with the law, but not at the expense of quality.

The corporations, more specifically the HRM, strategy & structure, in question will most likely be affected both positively and negatively. Examples for such influences could be

(negative):

- Bureaucracy in corporations is expected to increase.
- The law lacks incentives to fill up the management talent pipeline internally, as the fixed quota only concerns the supervisory board level.
- Some fear that the fixed quota will lead to a negative view on women who made it into supervisory boards. The typical argument here is that they will be seen as a woman who has been given a post just to fulfill the quota system requirements, thus devaluing the women in question and their merits.
- Some say the law is not extensive enough: proponents of the quota would have wanted the 30% to be valid for both sides (shareholders' and employees' side) within German supervisory boards separately. The legislator has, according to their point of view, created loopholes for corporations prone to elect more women on the employees's side to neglect further changes on the employers' side.
- One HR manager specifically criticized the scope of the law:
 - o It is only to be applied to the corporation as such, not to the subsidiaries.Many corporation however prepare for the scope of the law to be extended to

⁵⁶ All interviews have been transcribed. The following is based on these transcripts.

these subsidiaries and most probably to partly co-determined (starting at a headcount of 500 FTE) companies as well.

- The law could have included other types of diversity such as nationality or age brackets, not just gender.
- Most experts heavily criticize the so-called flexi-quota, enabling corporations – under certain conditions - to set and retain a quota of 0 percent women within the top management levels.
- If a corporation affected by the law does not adhere to the quota, the “empty chair policy”⁵⁷ will keep this supervisory board position vacant. In the fully co-determined corporations that are affected by the quota, the supervisory board is characterized by a parity between shareholder and employee representatives. This policy will significantly impact the balance of power within the supervisory board, shifting the power towards the group that has managed to fulfill the requirements, mostly the employees.
- One expert is concerned with the implications of the quota on the General Act on Equal Treatment of 14 August 2006. This legislation aims at promoting equality in the workplace, one factor being the equality of men and women. The expert raises the question of men being discriminated against when supervisory boards are being filled with only the gender as the differentiating factor.
- Many corporations have brought the supervisory board elections forward into 2015 in order to gain time until the first seat will vacated by a male supervisory board member will have to be filled by a female one.
- Some caution against ignoring male board and/or management talent.

(positive):

- Most experts see the positive consequences of the law on a broader basis, arguing that
 - the quote would bring along an intensified debate about women and their place, or rather standing, within German society;
 - female participation on supervisory board or top management levels remains in the focus of the public disussion.

⁵⁷ This “empty chair policy” prescribes that if no woman is elected into the supervisory board with a quota of less than 30% and a vacancy, this vacancy is to remain empty until it can be filled according to the law.

- Some have stated that the new legislation has launched a debate both within companies and within the society as a whole on the question of what makes a good supervisory board member.
- The staffing of supervisory boards becomes a task for top management. This should however already be on the agenda of the corporations' executives boards.
- Most agree on the law bringing along fundamental changes in the corporate cultures in Germany, embracing diversity as something essential for the company's long-term survival.

Many an argument is being directed towards the direct consequences of that law towards co-determination and its implementation in Germany. The experts argue that the legislation will also bring changes to the co-determination on plant level. Co-Determination in Germany is distinctly split up in two different sets of laws: one set regulates corporate governance (see Corporate Governance in Germany), the other regulates co-determination on plant level, including, amongst others, the rules and regulations concerning the works council⁵⁸. These two levels interact, however, when it comes to staffing the employees' seats on the supervisory boards. Works councils and trade unions both have a certain number of seats (depending on the corporations' headcount) and will thus be inclined to increase the number of women in higher positions within these gremiums. One interview partner sees reason for concern in the practice that as soon as works councils fail to nominate a sufficient number of female board members, the court will nominate a woman by court injunction. This person, however, then would most probably lack the backing of the employees, as she – in this instance – apparently did not have enough votes to be nominated internally against another male counterpart.

The fully co-determined companies have parity (please refer to Figure 5), and once a seat on the shareholders' will not be filled, the other party will have majority when it comes to voting. This can have significant influences on the corporations' long-term well-being.

Both sides within the supervisory board will have to decide whether to implement the quota for both sides separately or jointly (see Figure 10). In companies with 20 seats the result will be the same (6 women necessary). In companies with less than 20 seats however the minimum number of women will differ with the implementation method. The experts all favor the separate fulfillment, even though a joint fulfillment could also be seen as a sign of a well-working cooperation between the parties.

⁵⁸ The German "Betriebsrat" constitutes the main organ of co-determination on plant level in Germany and can be established by the employees under certain conditions (i.e. a minimum of 5 employees, at least 3 employees being in favor of the establishment of such a body, etc.). Please refer to Oechsler (2011) for more details.

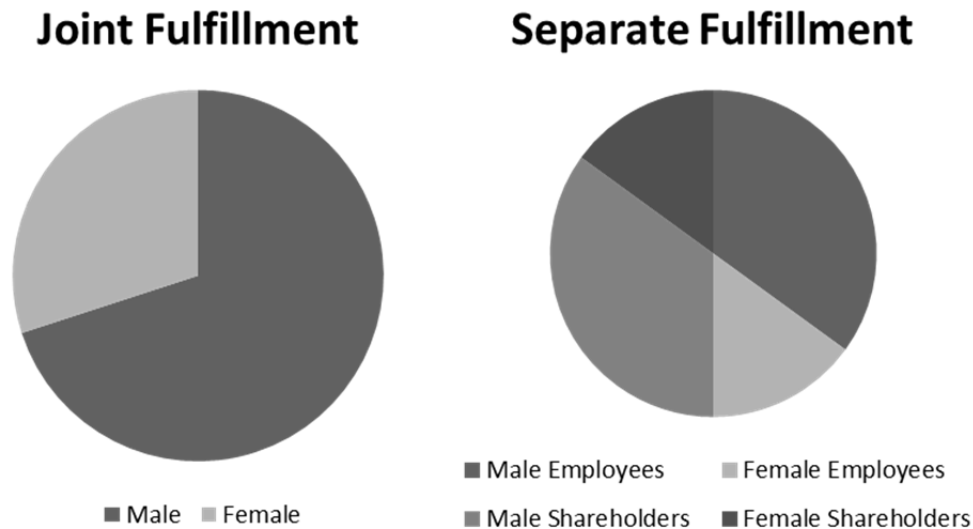


Figure 10: Joint vs. Separate Fulfillment of the quota within German fully co-determined and listed corporations⁵⁹

For the supervisory board seats to be filled, a sufficient number of women will need to be found. According to a recent study by (Weckes, 2015), 174 seats will have to be filled by women when there is joint fulfillment across the boards; with separate fulfillment, however, corporations will have to find and nominate 206 female board members. Thus, experts predict an increased demand for female top management talent both from the corporation itself and from external sources, the need for skill development across all board members and, subsequently, a need for training specific capabilities needed for supervisory board tasks.

b. Focus on the HR Cycle: Selection, Skill Development & Training

The second part of our interviews focuses on the consequences for the HR cycle, especially for selection, skill development and training of highly qualified women.

Before we discuss the specific points, we will however shed light on the organizational effects for the HR management within the affected corporations. All experts interviewed agree on the quota bringing along significant changes within organizational culture and talent management. A critical success factor for a sustainable implementation is top management commitment. The experts agree that - esp. the fixed quota - contributes to the development of female talent being systematically identified and developed. This external factor will lead to a change process within German corporations that will – if being implemented well – pave the way for a more diversified workforce and a more equal distribution of career opportunities up to the top management positions for both genders.

⁵⁹ Diagram by authors

The responsibility of implementing the quota within organizations lies with the executive board. This body will see to its implementation by either delegating responsibility to one senior HR manager or by integrating the quota into the objectives of its top managers. Most, however, will delegate responsibility for the quota to HR, more specifically to HR as a service provider or business partner, thus effectively integrating HR into the implementation of corporate strategy.

Attraction & Selection

The fact that companies systematically promote the advancement of women can be seen as an instrument for attracting and retaining highly qualified women. When looking for female management talent, companies are now searching primarily on the internal job market. This translates into more and more companies establishing systematic processes to locate (female) management talent along the pipeline.

Experts warn against setting up specific work-life-balance programs for women. Instead, they propose to change the corporate culture from a presence to a performance culture and to actively use such cultural changes to attract women for top management positions.

In order to increase the number of women applying for vacancies on top management level or signaling interest in posts on supervisory board level, companies start to change the layout and wording of the job postings. Many such postings have in the past been dominated by characteristics closely related to traits typically associated with men rather than women. Plus, the images used within corporations are getting more attention: one expert admits to positions higher up in the hierarchy are often depicted with male individuals, positions lower in the hierarchy, such as secretaries or administrators are often shown as being female. This, together with the wording within job postings, should change and attract more female talent. One expert argues that a woman will only be likely to apply for a job when she sees an almost perfect fit between her profile and the profile in the job posting. Thus, in one company HR is actively seeking out women and nominating them for jobs, thus building up a pool of “supervisory board ready women”. Another company is implementing a “female app”: women from a certain hierarchy level are receiving job postings for top management or even supervisory board positions on their mobile phones.

All experts agree on there being enough qualified women for the German supervisory boards in question, both internally (pre-dominantly for the employees’ side) and externally (only for the shareholders’ side, and the union members on the employees’ side). They lack visibility, which is something HR is working on. Once a pool (see above) has been established, HR and the executive board can establish processes where i.e. no decision about filling a

vacancy can be taken without at least having considered a certain number of women from that pool.

One major point in selection is the techniques used to choose from the number of applicants. When asked about changes following the legal obligation of the quota, the experts agreed on the importance of implement a genderblind selection process.⁶⁰ When asked to clarify, they put special emphasis on the composition of the selection committees: a selection or nominating committees should be composed of representatives of both genders with heterogeneous backgrounds to control for unconscious and judgement biases. Plus, all applicants should be go through the same procedure (down to the interview questions) to make them comparable and to increase transparency during the selection process. Some argue the in light of the so-called “STEM-problem⁶¹”, companies should focus more on personal competencies such as analytical thinking, decision-making capabilities, goal-orientation and open-mindedness than on product or technology know-how. This, however, will differ from company to company.

Many experts mentioned “networking” as a key success factor for long-term female management careers within their organizations. The views on HRs potential role in that context however differ. Some see it as a vital task to implement a network between highly qualified women within the corporation, some see it not as an HR task but as something detached from HR. In many cases, supervisory board mandates tend to be filled via networks, and not via transparent, performance-related processes. HR in many cases tries to break with that tradition in – along with the executive board – implementing quotas for each and every vacancy on at least the top three levels below the supervisory board.

If a company however decides in establishing a network of supervisory board ready managers, it would be advisable to not exclude the male gender but to include both genders in order to not only foster cooperation but to profit from the benefits of diversity in highly qualified teams.

⁶⁰ These results are reinforced by a study supported by the German Federal Anti-Discrimination Agency which analyzes the importance of anonymized application documents in order to avoid discrimination in the HR selection process. The study tested the impact of anonymized application documents on the likelihood of getting an invitation for a job interview. One result of the study is that anonymous application documents increase the likelihood for women to get an invitation to a job interview; especially if the job addresses people with job experiences. For more information: http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/AnonymBewerbung/Kurzfassung-Abschlussbericht-anonymisierte-Bewerbungsverfahren-20120417.pdf?__blob=publicationFile&v=1

⁶¹STEM (science, technology, engineering and mathematics). More men than women decide to start a career in STEM disciplines, thus further limiting the number of qualified women.

Training & Development

One argument several interviewees mentioned is that women tend to be well prepared and to think about accepting positions much more thoroughly than their male counterparts. This could only benefit the corporations and their management and control efficiency. HR can use this characteristic by offering tailor-made training programs for the members of a network of supervisory board ready managers, male or female alike. The experts agree that such a training program not only prepares the potential board members for their tasks, but also explains in detail what such a mandate would entail. This would in turn ensure that future supervisory board members take their task seriously. One expert suggests talking to the employee representatives – such a program could benefit the employee representatives as well.

The majority of the experts interviewed see HR as being responsible for filling the pipeline of female talent not only on top management level, but starting much earlier, on junior management level. One interview partner referred to the so-called “leaky pipeline” that can be witnessed all over Corporate Germany as well (see Figure 11).

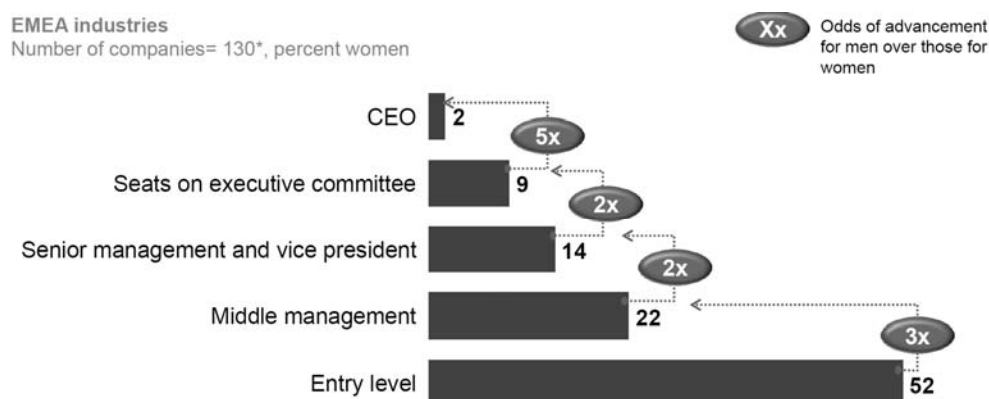


Figure 11: The leaky pipeline, according to McKinsey's Women Matter initiative⁶²

Thus, the HR manager's job starts much earlier, as they will have to plan for the long-term staffing of not only supervisory board positions, but also top management positions that today are being regulated by the flexi-quota. One interview partner suggests that this could quite well be targeted by a fixed quota in the near future as well. Thus, HR would be well advised to “fix” the leaky pipeline much earlier than on C-level.

Promising activities for HR in development and training would thus be:

- Identifying female high potentials early in their careers.
- Implementing quotas for all kinds of pools, programs and vacancy fillings.

⁶² o.V. (2013), p. 8

- Setting up networks amongst women for specific topics to foster the networking spirit.
- Work on company culture (linked to corporate imagery and wording).
- Increasing visibility of female top managers.
- Implementing trainings for both genders to deal with unconscious biases.
- Offering leadership trainings for both genders in the pipeline in order to sensitize managers for the different approaches to leadership and for the differences they might observe between the genders.
- Coaching could be offered to those on the verge of becoming executive managers of supervisory board members. For all others within the pipeline most experts suggest peer coaching, preferably across genders and backgrounds.
- Mentoring – as coaching – should be offered to both genders. Both can benefit from a sound mentoring relationship, and by offering coaching and mentoring to both, probably as a mandatory part of taking over responsibility, would send a signal that both genders could equally benefit from such a measure. Offering mentoring or coaching only to one party would send an unwanted signal of one side being in need of help.

One expert proposed an interesting approach: one corporation has invested a lot of effort by selecting, promoting and training a group of supervisory board candidates (majority female) that could now also be appointed to external supervisory boards as well, thus broadening the corporations' knowledge base and positioning its HR at the front line of fostering female board membership. This company, in its own supervisory boards, promotes not only gender diversity but also age and nationality diversity, thus making a case for its feasibility and – in the long run – its sustainability.

To conclude, most experts advise against specific training measures for women, but promote a change in corporate culture, starting with the change in selection methods, training against biases, professionalizing supervisory board preparation and focusing on filling the pipeline bottom-up.

5. Concluding remarks on the impacts of the “quota for women” on HR in German Corporations

The quota has begun to change the perception of women in top management and supervisory positions in German corporations and will subsequently, if implemented across the companies in question, change corporate culture and potentially the traditional role models omnipresent in German society.

HR's role will be to facilitate the transition and implementation within corporations, with a focus on the following HR cycle components.

	Attraction	Selection	Development & Training	Succession Planning
strategic (long-term perspective)	Implement a fitting quota on all levels, not just on supervisory board level for the foreseeable future	Find and implement strategies to minimize the influence of unconscious bias	Set up a pool of supervisory board ready (female) candidates that are able and willing to accept a mandate both internally and externally	Implement a quota in succession planning as well
managerial (medium-term perspective)	Develop strategies to attract more female talent for the corporation	Genderblind Recruitment: systematically define transparent criteria and processes for selection	Implement a tailor-made training for potential supervisory board members, open to both genders (probably with a quota for men). Communicate its benefits within the corporation.	Define career options for all tracks & time constraints
operational (short-term perspective)	Adapt images within the corporation	Use structured interviews and comparable, heterogeneous nomination committees	Supervisory Readiness Program	Discuss potential options early on with female management talent, implement "female app"

Figure 12: HR tasks by management levels in light of the legislative changes

These results are in line with our key expectations in the context of SHRM:

- Not only one single function needs to be adapted in order to achieve a 30% quota of women in top management and board positions. The HR cycle needs to be adapted as a coherent system.
- All three decision levels of HRM (strategic, managerial and operational level) are relevant to deal with the fixed quota.

Thus, the HRs focus will not solely be focused on top management levels, but HR will in many cases be tasked by filling the pipeline in order to dispose of ample management talent on all management levels.

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