

Kienbaum evaluates new German Gender Diversity Law

Amsterdam, September 2020

Kienbaum



"Equal rights are a prerequisite and motor for sustainable development and the future viability of our society, nationally and internationally."

"Legislation works, but companies only jump as high as they have to. The Netherlands can benefit from the key recommendations and accelerate diversity."



Gender diversity - why are legal regulations necessary?

Starting position

Fact sheet

- In the private sector, the proportion of women on the **Supervisory Boards** of top 160 companies in Germany was **18,9%** (2015)
- Only **5,8%** of the members of the **Management Board** were female (2015)
- In the public sector, the proportion of women on **Federal Committees** in 2013 was only **25,7%**



Objectives of the law

- Increase the proportion of women in management positions in the private/public sector
- **Achieving equality** between women and men
- Improved compatibility of family, care and work for men and women

Objectives of the evaluation

- Evaluation of the **effectiveness of the law** four years after its entry into force
- Investigation of the compliance effort
- Formulation of proposals for **further development** and adaptation of legal regulations

Private Sector



Impact of the law on the Private Sector

What changes?

'The Act on the Equal Participation of Women and Men in Management Positions in the Private Sector and Public Service' (short in German: FÜPoG) came into force on 1 May 2015.

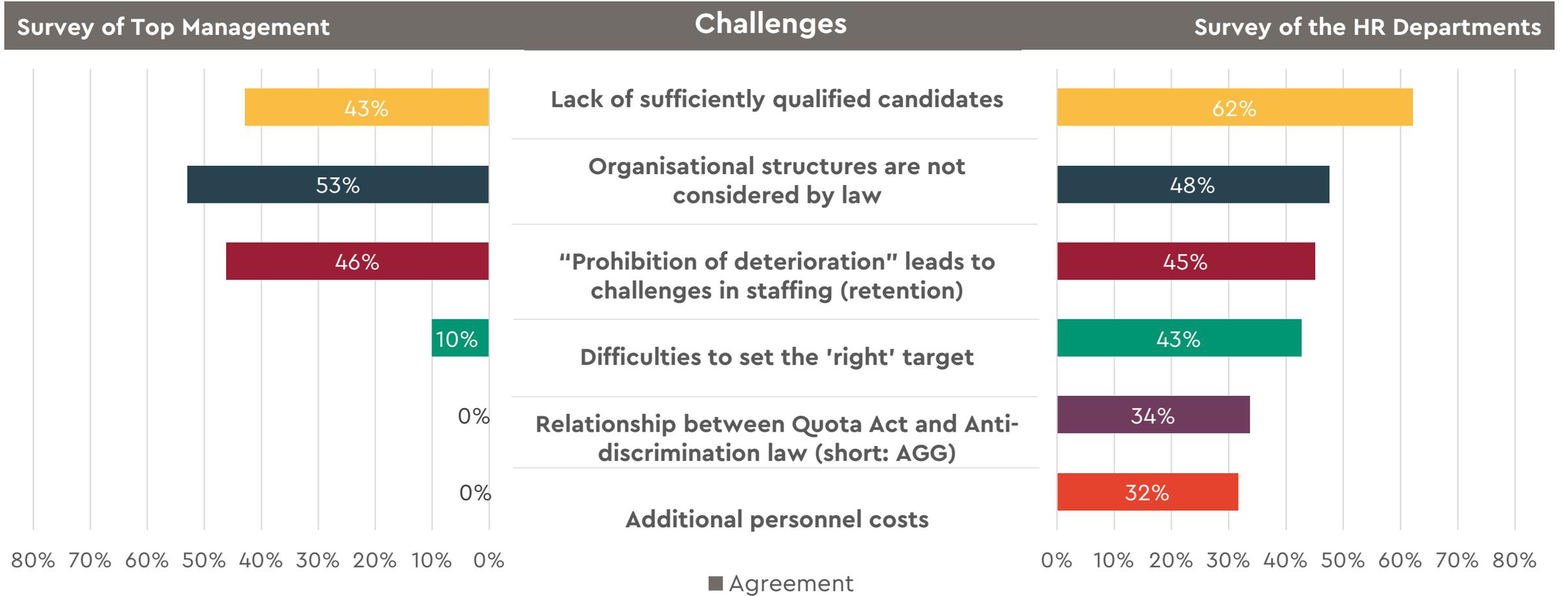
The law provides concrete regulations:

- With regard to the private sector, **Supervisory Boards** of companies that are both listed on the stock exchange and subject to equal co-determination* **must achieve** a fixed **minimum proportion of women and men of 30%** each for all new appointments as of 1 January 2016.
- In addition, companies that are listed on the stock exchange or subject to co-determination in any form **must set target values** for the composition of the executive body, the Supervisory Board and the two highest levels of management below the executive body, as well as deadlines for achieving them.



Challenges in implementing the new law

Top challenges

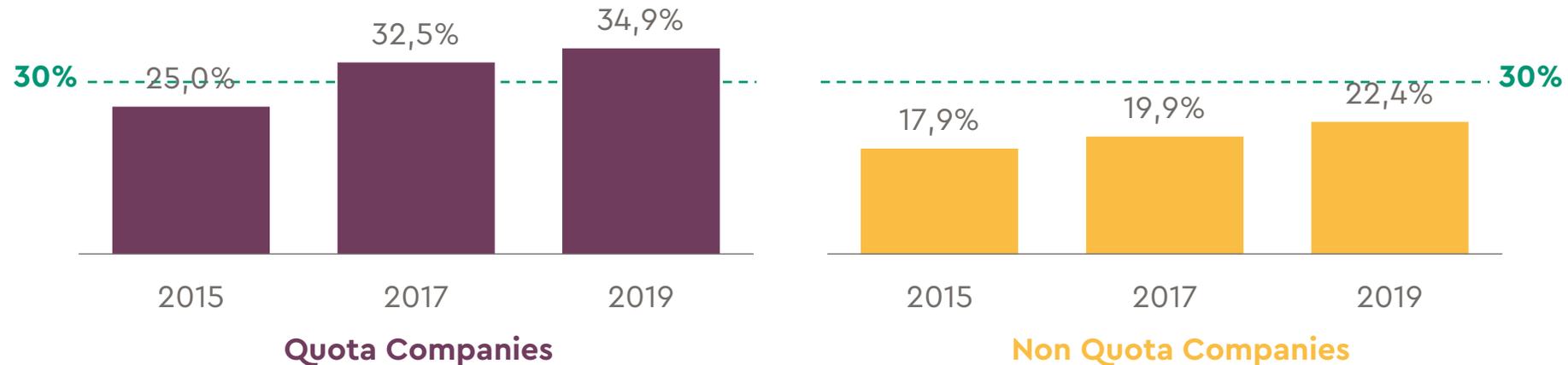


Fixed quota has impact and accelerates development of gender diversity (1)

Effects of the law for Supervisory Boards

The law has an effect where it makes a fixed gender quota of 30% on the Supervisory Board mandatory for a manageable number of companies that are listed on the stock exchange and subject to equal co-determination. However, amongst companies that are either listed on the stock exchange or subject to co-determination that are "only" obliged to set target values, progress remains very slow.

Share of women in Supervisory Boards

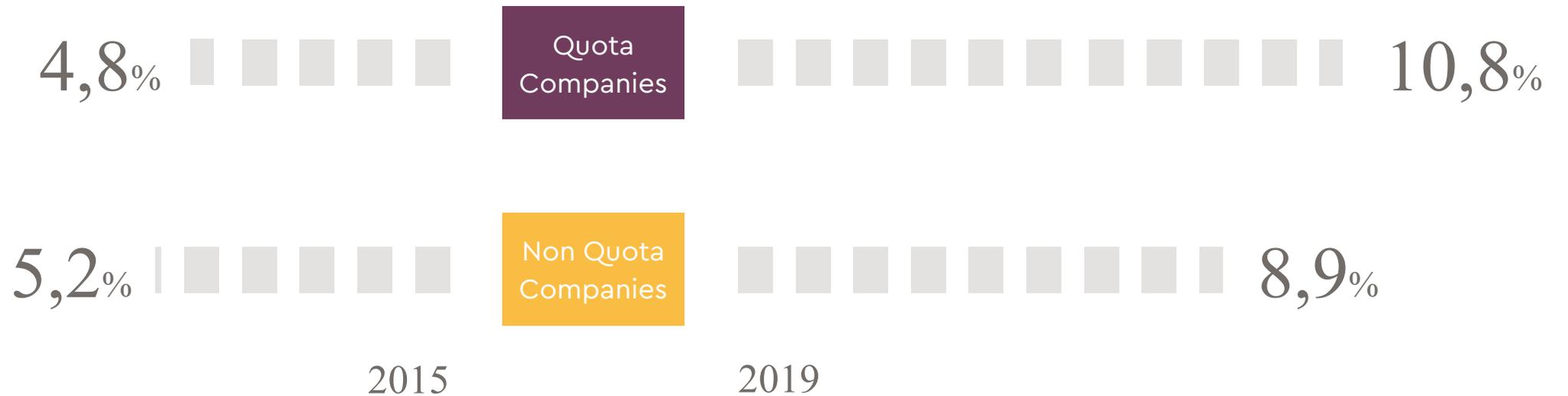


The absence of a fixed quota results in limited development (2)

Effects of the law for the Management Boards

The **proportion of women on the Management Board** - which has not yet been subject to a fixed quota - has **not developed very positively** so far. Between 2015 and 2017, the proportion of women only rose to 7,6% on average, and in 2019 the average was 10%. "Quota companies" have a slightly higher proportion of women (10,8%) than companies that are not subject to a fixed quota (8,9%).

Share of women in Management Boards

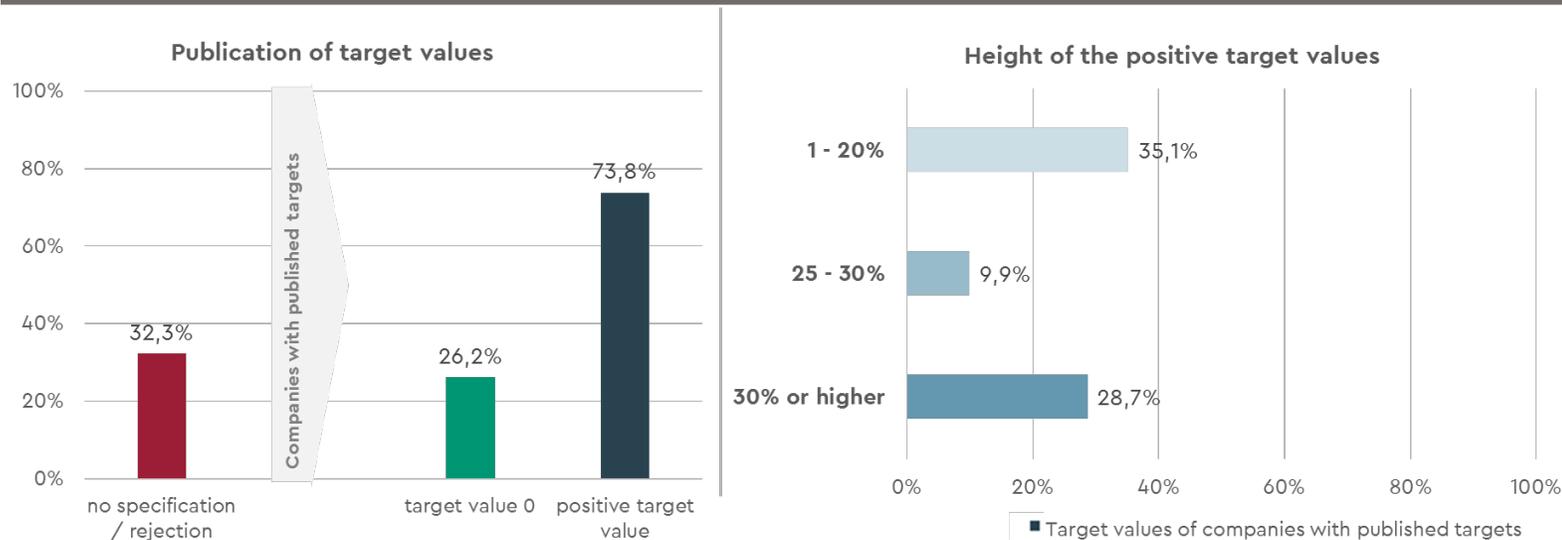


Target values are less effective

A lack of ambition for gender parity?

All companies that do not already have to meet the fixed quota of 30% on the Supervisory Board, must set target values for a minimum proportion of women and men for the Supervisory Board, Management Board and management levels below.

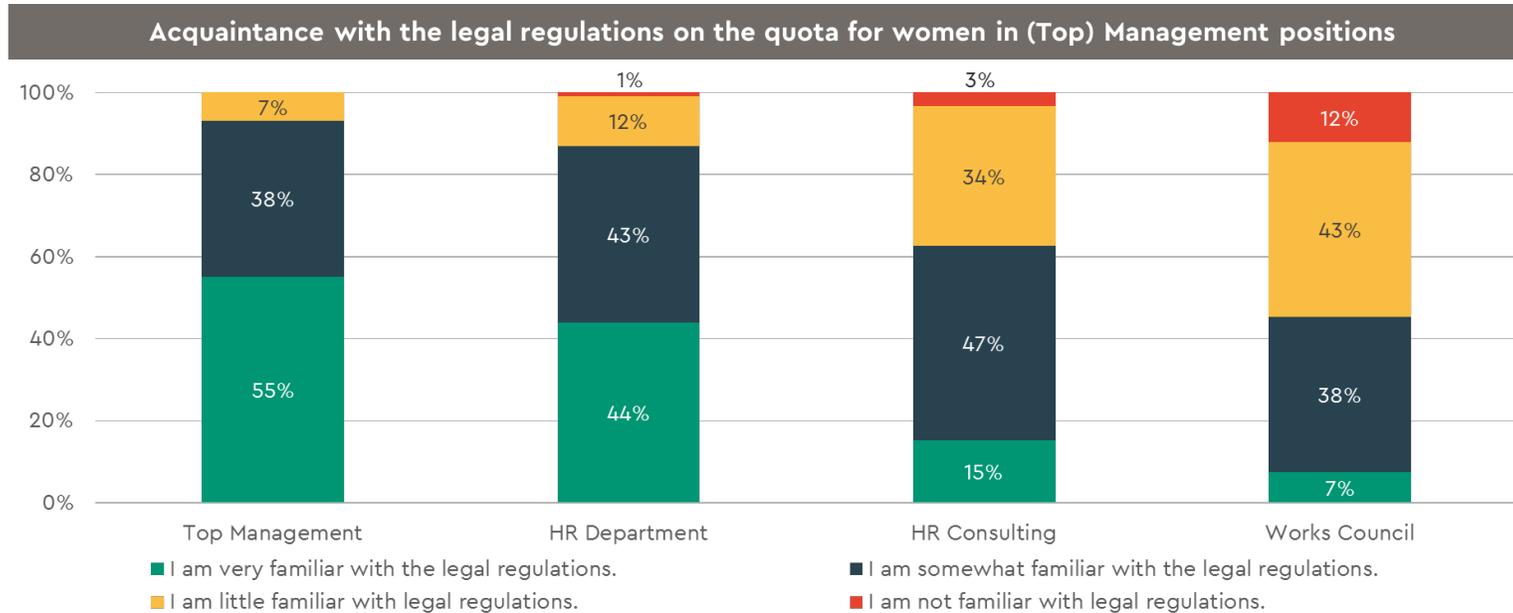
Definition of target values for the Supervisory Board



- 32,3% of the companies did not provide any information on target figures.
- 26,2% that set a concrete target value opted for the target value zero
- Target values of over 30% are rarely specified

Awareness of the law needs to spread more throughout an organization

Effects of the law – some key results



Kienbaum survey 2019, N = {29, 84, 59, 948}

- 74% of employees stated that they learned about the legal regulations primarily through media, provided the law was known at all. Only 11% learned about the law through internal channels and 15% informed themselves independently about the law.

- Knowledge of the legal regulations is an essential prerequisite for the successful implementation of a law.
- The greater the distance from the top management levels, the less familiar and the more controversial the law becomes. Human resources departments, works council members and lower management levels often have little or no knowledge of the strategic approach to setting values for their own company.

Success factors for promoting equal gender participation in management positions

Developments in the design of personnel processes

Even though only just <50% of the HR departments confirm that since the introduction of the law, the board of management has instructed the HR department to take more measures to promote women, the survey results also show that numerous companies have implemented measures to promote equality.

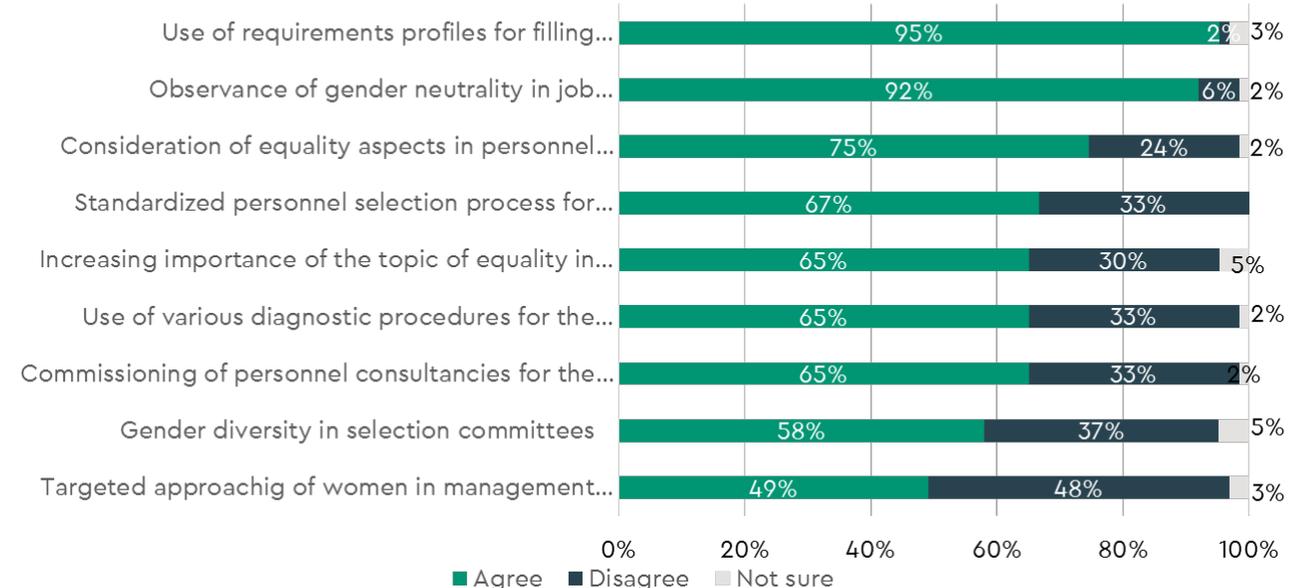
Common measures

- Job advertisements are formulated in a gender-neutral manner
- The performance and potential assessment of managers is carried out according to clearly defined criteria
- Specific requirement profiles are applied in corporate practice for the filling of management positions

Less common measures

- Targeted addressing of women when filling management positions
- Career programs for women
- Quota of women in succession planning

Which of the following measures are used in your company for personnel selection and staffing processes?



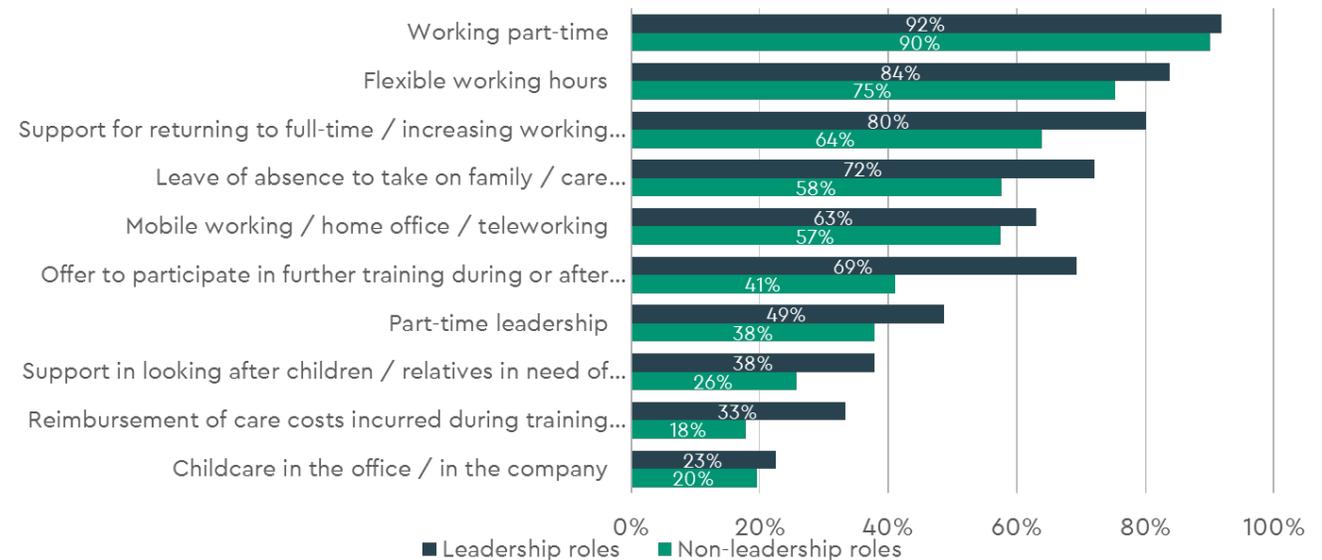
Success factors: Working conditions and compatibility measures

Personnel retention also plays a decisive role in keeping female managers

In general, the topic of "women in leadership" should not automatically be linked to compatibility measures in order to avoid thinking patterns in which women could only lead part-time or have a career.

- The general conditions and **expectations** associated with **management positions** give the impression that they are **not compatible with family** planning or private care responsibilities.
- **Rejection** of management positions by women seems to be mostly **family-related**.
- The companies mostly have "common" offers of compatibility of family, care and work, the offer of newer measures such as **alternative management models or to make work more flexible** is rare.

Which of the following measures to improve the compatibility of family, care and work are offered in your company?



It gets - a little - better, but it is still far from good

Summary of results – conclusion and observations



- A fixed quota has an impact: the **proportion of women on Supervisory Boards** has **increased significantly** and has even exceeded the legal requirement of 30% on average.
- The **binding quota has a stronger effect** and companies do not accept the target figure obligation to the same extent.
- The legal regulations have a rather limited effect on personnel processes in companies. Instead, the law can be ascribed to an indirect and accelerating **catalytic role**.
- Gender-fair formulation of job advertisements and requirement profiles can increase the amount of female applicants strongly. Established **processes, structured succession planning and the development of a pipeline** with a minimum proportion of women seem to be particularly effective in increasing the proportion of women in management positions.
- Unfortunately, a direct **link between the topic of equality and human resources processes is rarely made**, which could evoke an urgency for companies to adapt their processes.

Public Sector



Impact of the law on the Public Sector

What changes?

'The Act on the Equal Participation of Women and Men in Management Positions in the Private Sector and Public Service' also amends regulations for the public sector and for executive positions in federal bodies.

- Regulations to promote the **compatibility of employment with family obligations**, which should now also increasingly appeal to men.
- New requirements for the equal opportunities plan to be drawn up every four years and to **strengthen the position** of an Equal Opportunities Officer.
- Since 2018, a **fixed gender quota of 50%** applies to **supervisory bodies** for which the Federal Government can appoint at least three members.



Positive developments in the Public Sector

Top Management levels & Federal Committees

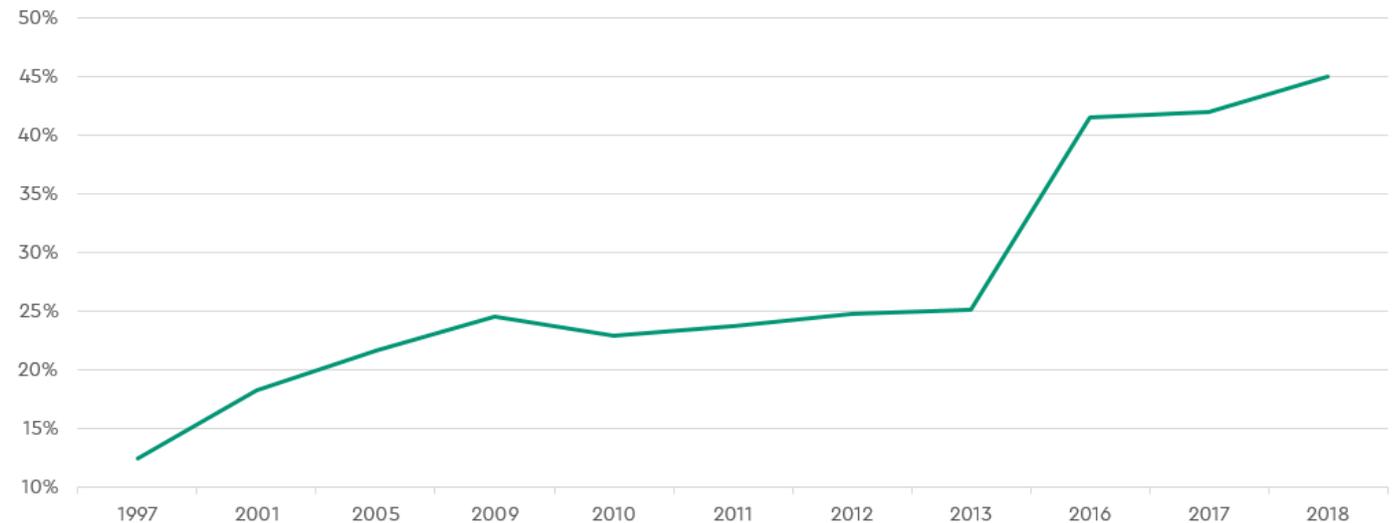
Positive developments in terms of promoting gender equality can be observed in the federal departments:

- greater representation of women at management levels and in committees
- expansion of offers that make it easier to combine work and private life

In principle, a **steady increase in the proportion of women** among the committee members appointed by the Federal Government has been observed since 1997, averaging just under 1,6% annually. At present, women account for 45% of all board members appointed by the Federal Government in Germany.

The development curve shows that the amendment of the implementation of the law was accompanied by a **significant increase in the proportion of women on the committees**. Whereas in 2013 around 25% of all federal members on committees were women, in 2016, i.e., in the first year after the law came into force, this proportion rose to around 42%. A similar increase and trend can be observed for women at management levels.

Share of women in all committee members to be defined by the federal government, 1997 to 2018



Federal Committee Statistics 2016, 2017, 2018; Second, Third, Fourth and Fifth Report of the Federal Government on the Federal Committee Appointment Act, Data Report on the Implementation of the Federal Committee Appointment Act 2014

Popular measures to increase gender parity in the Public Sector

Observed effects

Measures:

- Promote the compatibility of family, care and work
- Encourage women to apply (in areas in which they are underrepresented)
- Promote an assessment of employees that promotes gender equality (e.g. gender-appropriate assessment criteria or explicit reference to the prohibition of discrimination)
- Counteract and investigate cases of sexual harassment
- Promote gender quality at all levels
- Encourage men to apply (in areas where they are underrepresented)



Recommendations

"Ultimately, a law can only be effective if it is supported by the corresponding framework conditions."



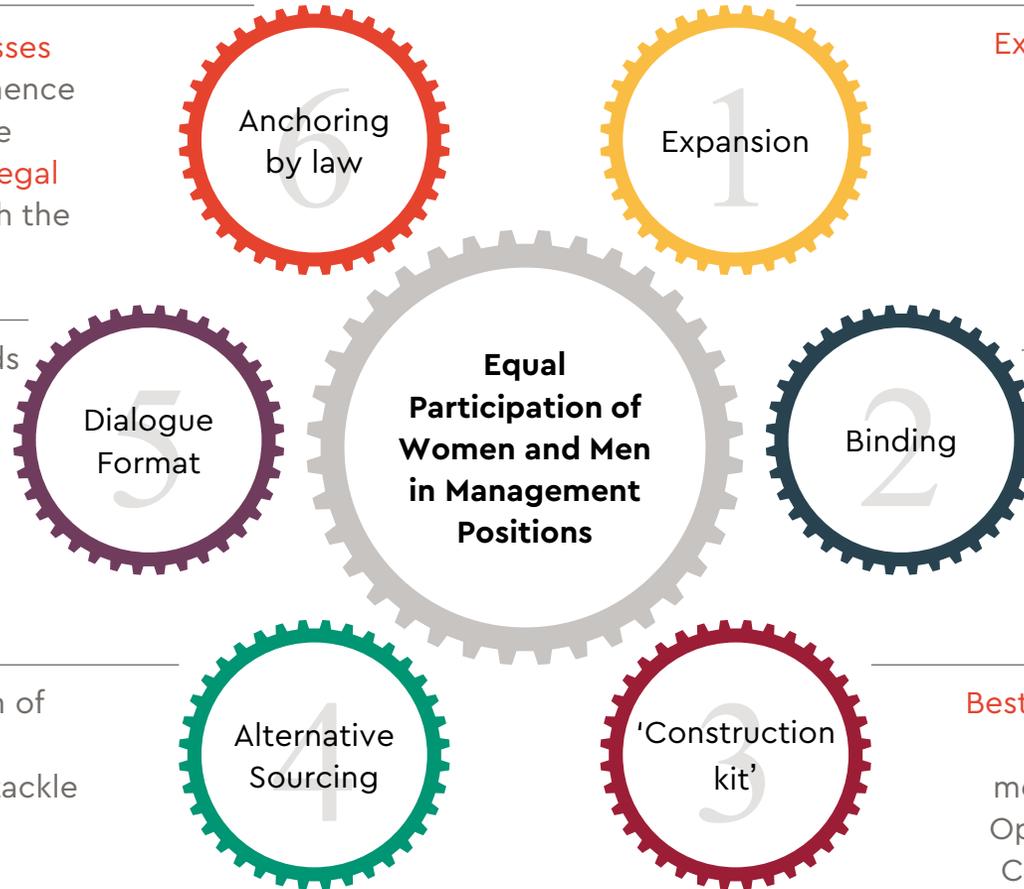
Key recommendations for action

Private sector & Public sector

Equality-oriented design of corporate processes have proven critical to the success and it is hence recommended to examine to what extent the process perspective can be integrated into legal regulations without interfering too much with the freedom of action and design of companies

The mere imposition of legal obligations leads to a perceived restriction and thus to "rejection symptoms" in companies. The intrinsic motivation of top Management is an important success factor for a successful implementation of the law

Use of alternative identification and selection of underrepresented gender. Use of alternative databases to build a sustainable pipeline to tackle the lack of seemingly unavailable qualified candidates



Expansion of the fixed quota to other companies due to observed effect

More binding regulations for the Executive Board. Binding regulations show stronger impact

Best practices for companies regarding Processes, Succession planning, alternative management models, Compatibility of family, care and career, Operationalization of equality in the form of KPIs, Creating awareness, Resolving stereotyped role models

Key recommendations for action

Private sector & Public sector

“ Legislation is necessary to bring about the necessary change. But not only, because then companies only jump as high as they have to.”

Increased clarity & consideration for international organizations and their complex structures

Re-examination of criteria for companies affected by the law for more suitable criteria



Consequences of violation of obligations in connection with target values as well as fixed quota. More than just the 'empty seat' principle in case of violation

Support programs for medium-sized businesses due to lack of resources (what companies are affected; legal consequences; reporting obligations; etc.)

Increased communication work on legal regulations and stereotyped role models; refer in particular to the reasons for the origin and the objectives of the law (relevance), the scope of application, the concrete regulations as well as the achievement and possible sanctioning of violations and consequences of the "classic" family role division regarding gainful employment

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