

EWLA

Statement

on

Women in Economic Decision-making Positions

5 March 2007

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EWLA welcomes the Commission's active approach in promoting women in decision-making positions and takes note of the following.

1. Article 2 (TEC) defines equality between women and men as a task of the Community. Article 3§2 TEC requires the Community to eliminate inequalities, and to promote gender equality in all its activities. This positive obligation to "*actively promote gender equality*" is imposed on all EC/EU institutions and organs when they exercise their respective powers¹, including the power to propose and enact legislation in any field, irrespective of the particular legal basis of this legislation (see Art. 7 TEC), as well as Member States.
2. Thus, *the TEC requires a pro-active, substantive - not a merely anti-discrimination - gender equality approach.*
3. Equality between men and women is no less a social and political requirement than an economic condition to accelerate progress towards the Lisbon goals.
4. Gender equality is a core value of the EU and a common constitutional tradition and hence *imposes positive obligations on the EC/EU and the Member States* to eliminate inequalities in securing fundamental rights.
5. By its Recommendation 96/694/EC, the Council called on both Member States and EC institutions to achieve a balanced participation of women and men in the decision-making process in all fields and at all levels². This has not yet been achieved in the membership composition of both the European Corporate Governance Forum and the European Advisory Group on Corporate Governance.
6. The Commission is active in Corporate Governance issues of listed companies, especially concerning board membership. This results *inter alia* from the Commission's recommendations on remuneration and independence of directors of listed companies³; but the Commission has not included balanced participation of women and men in its recommendations on directors, although women are a small minority in the boards of listed companies in all Member States. In Europe's top 200 companies, women occupy 8 % of corporate board seats. The figures for France, Germany and the United Kingdom are 6 %, 10 % and 10 % respectively. The figures for Italy, Belgium, Spain and Denmark are 2 %, 3 %, 3 % and 4 % respectively⁴.
7. The corporate governance codes of two Member States recommend a proportion of both sexes⁵. Some Member States set a target of balanced participation of women and men in state-owned companies' boards⁶.

Based on the above mentioned facts and binding EC/EU principles, EWLA

1. **Urges the Commission to promote a balanced participation of women and men on the boards of listed companies and other executive positions by issuing a specific *Recommendation on this matter*⁷ including:**
 - o national programs which include concrete actions, such as leadership training programs for women, promoting women directors' networking, transparent recruitment policies, flexible working conditions, statistics disaggregated by sex, research on the glass-ceiling phenomenon, and follow-up procedures.
 - o a duty for companies to give information on gender distribution in management in the annual accounts of companies with more than 50 employees. This information should include board members, managing director and other members of a company's management. This positive measure would contribute to a better distribution of women and men in leading positions without noteworthy costs to companies.⁸
 - o annual reports on action and results.
 - o creation of a high-level government and private sector forum to discuss regularly actions for promoting women in decision-making positions.

The Commission should assess the effectiveness of its Recommendation after a period of no more than five years with a view to recommending further measures if it finds that it has not been implemented.

2. **Suggests that the Commission launches an *annual prize* for employers who take innovative action in promoting women's advancement.** Candidates should have more than the average number of women in managerial and highest executive positions, including board membership. The best practices should be published and promoted as models for other employers.

¹ AG *Christine Stix-Hackl* in Case C-186/01 Dory [2003] ECJ I-2479, paras. 102-105.

² Official journal No. L 319 , 10/12/1996 P. 0011 – 0015.

³ 2004/913/EC and 2005/162/EC

⁴ EPWN European Board Women Monitor 2004

⁵ The Finnish Corporate Governance Recommendation for Listed Companies (December 2003) states that The age mix and the proportion of both sexes can also be taken into account in the composition of the board (Recommendation 15); the Swedish Corporate Governance Code for Listed Companies (2004) requires an equal gender distribution on the board to be an aim (3.2.1). The Norwegian law requires public companies to have at least 33% to 50% of each gender depending on the size of the board.

⁶ These targets were set and successfully reached in Finland and Sweden where 40% of State nominated board members are today women. The Danish legislation has since 2000 required when possible a balanced participation of men and women on the boards of public companies with the State as majority owner.

⁷ See also the Resolution of the General Assembly of EWLA of May 2006 http://www.ewla.org/wf_content/539.html

⁸ This duty entered into force in Sweden in 2004 through the amendment of Annual Accounts Act (Årsredovisningslagen Kap. 5 § 18b).