



EUROPEAN COMMISSION

Brussels, 17.7.2013
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Dear President,

The Commission would like to thank the Folketing for its Reasoned Opinion on the proposal for a directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures {COM(2012) 614 final}, and apologizes for the delay in replying.

The Commission has been driving the debate on addressing the situation of gender imbalance in the composition of boards of European companies listed on stock exchanges. The analysis and impact assessment of the Commission in preparation to this proposal show an overwhelming case for pursuing a greater representation of women on boards as well as the clear benefits to businesses resulting from a more gender diverse boardroom. Therefore, the European Commission supports Denmark's current efforts to improve the situation of women in boardrooms of big companies by adopting legislative measures in this area.

The Folketing finds that the proposal does not comply with the principle of subsidiarity. In its view, these measures should be left to Member States. On this, the Commission would like to make the following comments.

In principle, Member States have the possibility to improve gender balance on boards on their own. In practice, however, a vast majority of Member States of the European Union are not making use of this possibility or their actions are so diverse that they often lead to very divergent results. Moreover, the current figures reveal that decades of self-regulation have failed. The last attempt by the Commission to encourage self-regulation was on 1 March 2011. At that time, the Commission invited publicly listed companies to sign the "Women on the boards pledge for Europe" and to make a credible commitment to raising the number of women on their boards. The results of this initiative were very disappointing as only a handful of companies signed the pledge. The current figures speak for themselves: EU-wide, 85% of non-executive board members and 91.1% of executive board members are men. Despite an intense public debate and some voluntary initiatives at national and European level, the situation has not changed significantly in recent years.

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Subsidiarity is not only about the hypothetical possibility of reaching a certain policy objective at the level of Member States, but also about Member States' ability to use the possibilities at their disposal to really and efficiently achieve that objective. After having thoroughly evaluated the present situation in the impact assessment, the European Commission has come to the conclusion that action by Member States individually will not achieve the objective of a more balanced gender representation on company boards by 2020 or at any point in the foreseeable future. Consequently, the European Commission took action at EU level as this is necessary in order to achieve the objective of significantly improving gender balance on the boards of listed companies.

Furthermore, it is important to note that the proposal contains a provision allowing Member States to follow a different national approach adopted before the entry into force of the proposed directive if it can be shown that it is of equivalent effectiveness as regards the attainment of the 40% target by 2020. This is a key feature guaranteeing compliance with the principle of subsidiarity and of great practical relevance for Member States that have adopted or are, as Denmark, in the process of adopting national policies aimed at increasing gender balance on company boards.

As regards any remaining question regarding the scope and the obligations of the proposal, it is important to clarify that the method of achieving the 40% would be binding (obligation of means) but not the 40% target itself (which is a target to attain). In any case, the Commission is convinced that these issues will be discussed in detail during the legislative procedure by the co-legislators of the European Parliament and Council of Ministers of the European Union.

The Commission hopes that these clarifications address the concerns raised in the Reasoned Opinion of the Folketing and looks forward to fruitfully working together in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*