

**MANDATORY
GENDER QUOTAS
IN PARLIAMENTARY
ELECTIONS
OF THE
EUROPEAN UNION
MEMBER STATES**



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Georgian Young Lawyers' Association

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INTRODUCTION

Nowadays, women make up about 20 percent of the members of parliaments across the globe. Given this low rate, states must take more effective actions to achieve gender balance. One of the mechanisms for ensuring the political representation of women is binding electoral quotas.¹ This measure has a decisive, long-term and long-lasting positive influence on increasing the number of female candidates and elected women.² Quotas are currently used in more than 100 countries around the world.³

Introducing quotas may put an end to the low representation of women at leading positions, and taking up managerial positions by women in political, economic and academic spheres may become a part of daily practice.⁴ This tool can only change the practice of decision-making by men and ensure that qualified women are nominated for relevant positions.⁵ It is an effective mechanism aimed at the rapid eradication of inequality.

Contrary to the above belief, the “*incremental track policy*” considers that the development is progressing, and therefore, gender equality is supposed to be established by itself through the gradual development.⁶

There are three types of quotas:⁷

Voluntary quotas (the same party quotas⁸) - where parties voluntarily include gender quotas in their lists;

¹ Freidenvall L., Dahlerup D. Johansson E., Electoral Gender Quotas and Their Implementation in Europe, European Parliament, Directorate-General for International Policies, Policy Department, Citizens` Rights and Constitutional Affairs, Gender Equality, Update 2013, p.5, available at: [https://www.europarl.europa.eu/RegData/etudes/note/join/2013/493011/IPOL-FEMM_NT\(2013\)493011_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/note/join/2013/493011/IPOL-FEMM_NT(2013)493011_EN.pdf), updated: 06.09.2019.

² Dahlerup D., Antic Gaber M., Gender Quotas in Politics in Central East Europe, The Legitimacy and Effectiveness of Gender Quotas in Politics in CE Europe, p. 315, available at: https://www.fdv.uni-lj.si/docs/default-source/tip/tip_02_2017_dahlerup_gaber.pdf?sfvrsn=2, updated: 06.09.2019.

³ Freidenvall L., Dahlerup D. Johansson E., p. 6.

⁴ Turan G., Why Quotas Work for Gender Equality. OECD, available at: http://oecdobserver.org/news/fullstory.php/aid/4891/Why_quotas_work_for_gender_equality.Html , updated: 06.09.2019.

⁵ Dahlerup D., Antic Gaber M., p.315

⁶ Ibid, p.310.

⁷ Ibid, p.310.

⁸ Ibid.

Mandatory quotas (the same legislative quotas⁹) - where the constitution or law obliges parties to maintain a gender balance when compiling electoral lists;

Reserved seat quotas - In some countries, a certain number of seats is reserved for women and cannot be disputed by men.¹⁰ This method is often utilized in Africa and Southeast Asia.¹¹

Mandatory and voluntary quotas can be applied to any of the three stages of selection of candidates: aspirants, candidates and elected representatives.

Two factors are important for improving women's representation in politics: (1) an electoral system; and (2) the willingness of political parties to change the current unfavorable situation.¹²

It is noteworthy that there are different ways of quoting. Without considering the institutional context, quotas may only have a symbolic significance and not make a real impact on women's participation.¹³ For example, quotas operate differently in different electoral systems. They easily adapt to the proportional system of vote conversion (PR).¹⁴ It is exactly this electoral system most of those countries have where women's participation is high.¹⁵ Here, the number of women's participation is about twice as high as in countries that apply the majority system.¹⁶

For electing more women and effective implementation of quotas, it is particularly important to adhere to the rules for distributing candidate seats on the electoral list. Both mandatory and partisan quota regulations

⁹ Freidenvall L., Dahlerup D. Johansson E., p. 6.

¹⁰ Ibid, p.6.

¹¹ Dahlerup D., Hilal Z., Kalandadze N., Kandawasvika-Nhundu R., Atlas of Electoral Gender Quotas, IDEA, Inter Parliamentary Union, Stockholm University, 2013, p.25-26. Available at: <https://www.idea.int/sites/default/files/publications/atlas-of-electoral-gender-quotas.pdf>, updated: 10.09.2019.

¹² Dahlerup D., Antic Gaber M., p.312.

¹³ Dahlerup D., Quotas, IDEA, available at: <https://www.idea.int/data-tools/data/gender-quotas/quotas>. Updated: 06.09.2019.

¹⁴ Ibid.

¹⁵ Freidenvall L., Dahlerup D. Johansson E., p. 9.

¹⁶ Ibid.

must envisage the rules on the placement of candidates on the electoral list (“winnable places”) so that female candidates are not placed at the bottom of a list. A quota system that does not ensure this may not at all eliminate the problem of women’s representation.¹⁷

Another important issue is legal sanctions for non-compliance with mandatory quotas.¹⁸ Studies show that the most effective sanction is if election commissions have the authority to reject voter lists unless the list does not meet the quota requirement stipulated by law.¹⁹

Ten out of 28 EU member countries²⁰ use mandatory quota systems to compose their highest legislative bodies: Belgium, Spain, Slovenia, Poland, Croatia, Greece, Ireland, France, Italy and Portugal.²¹

The first six also use the List Proportional Representation System (List PR).

The party quotas are applied in the following 13 EU member states: the United Kingdom, Sweden, Slovakia, Romania, the Netherlands, Malta, Lithuania, Germany, the Czech Republic, Austria, Luxembourg, Cyprus, Hungary.²² As far as party quotas are not mandatory, the effect should be studied by focusing on individual parties.²³

There are no quotas in five EU member states: Estonia, Denmark, Finland, Latvia, and Bulgaria.²⁴ Their data regarding women’s representation are as follows: Finland 42.5% (2011 elections), Denmark 39.1% (2011), Latvia 23.0% (2011), Bulgaria 22.9% (2009), and Estonia 20.8% (2011).²⁵ In Denmark and Finland, even without quotas, women’s representation in poli-

¹⁷ Ibid. p.14

¹⁸ Dahlerup D.

¹⁹ Dahlerup D. Antic Gaber M., p.311.

²⁰ The EU member states are: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Rumania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

²¹ Freidenvall L., Dahlerup D. Johansson E., p. 15. Table 4.

²² Ibid.

²³ Ibid. p.13

²⁴ Ibid.

²⁵ Ibid. p.7

tics is historically high.²⁶ However, in the new democracies (Latvia, Bulgaria and Estonia), the situation in this respect is essentially problematic.

This paper focuses on those EU member states that use mandatory quotas to form the legislative body at a national level.²⁷

IRELAND

The lowest house of the Parliament of Ireland, the Irish House of Commons, has been subject to a 30 percent mandatory quota since 2012.²⁸

The introduction of the gender quotas in the 2016 parliamentary elections significantly improved women's participation, in particular, 163 out of 551 candidates were women (29.6%). This was the highest rate in the country's history. Compared to 2011, the number of female candidates running in the elections has increased by 90 %.²⁹ This year, they received almost 25% of the first preference votes, compared to only 16% in the previous elections.³⁰

Sanctions: Qualified political parties will lose 50% of state funding unless at least 30 per cent of their candidates are women and 30 per cent are men.³¹

Rank order/Placement of candidates on a party list: The rule for placement of candidates in the electoral list is not provided.

Election system: STV (Single Transferable Vote).³²

²⁶ Ibid. p.11

²⁷ The present document discusses the procedure for electing a lower house in the presence of a bicameral parliament in a country.

²⁸ Freidenvall L., Dahlerup D. Johansson E., p. 15.

²⁹ Buckley F., The 2016 Irish Election demonstrated how gender quotas can shift the balance on female representation, The London School of Economics and Political Science, available at: <https://blogs.lse.ac.uk/europpblog/2016/03/16/the-2016-irish-election-demonstrated-how-gender-quotas-can-shift-the-balance-on-female-representation/> , updated: 27.09.2019

³⁰ Ibid.

³¹ Ibid. p.15.

³² IDEA, COUNTRY DATA EXPLORE QUOTA DATA, Ireland (Ireland), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/143/35> , updated: 03.12. 2019.

POLAND

Poland has practiced 35% mandatory quotas since 2011.³³

This rule applies to the lower house (Sejm) and local elections. In the case of the lower house: “The number of women candidates cannot be less than 35 per cent of all candidates on the list. Furthermore, the number of male candidates cannot be Less than 35 per cent of all candidates on the list.”³⁴

Sanctions: If the list does not meet the quota requirement, the Election Commission shall request the authorized person to remove the defect from the list within three days. If a party fails to submit a properly structured list, the Commission will refuse to register the list.³⁵

Rank order/Placement of candidates on a party list: At least one in every three candidates must be a woman.³⁶

Polish Electoral System: Party-list proportional representation (List PR).³⁷

BELGIUM

Belgium has had a 50% quota system since 2002.

The mandatory quotas apply to both chambers of the Parliament and local national elections.³⁸ In the last 15 years, Belgium has implemented ambitious reforms in this regard. In 1999, the introduction of the Tobback- Smet Act resulted in an increase in the proportion of female members of Parliament from 16% previously to 25% in the Chamber of Representatives. Under this act, political parties were required to fill at least a third of their electoral lists with female members.³⁹ In 2007, after the implementation

³³ Freidenvall L., Dahlerup D. Johansson E., p. 15, Table 4.

³⁴ IDEA, COUNTRY DATA, Poland (Republic of Poland), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/242/35>, updated: 03.12.2019.

³⁵ Freidenvall L., Dahlerup D. Johansson E., p. 15, Table 4.

³⁶ Ibid.

³⁷ Ibid.

³⁸ IDEA, COUNTRY DATA, Belgium (Kingdom of Belgium), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/60/35> , updated: 03.12.2019.

³⁹ Turan G.

of stricter gender quota legislation, women's participation in the lower house reached 38%. The new rule stipulates that the representation of women and men candidates in the total list in the Chamber of Representatives (lower house) should be 50-50% respectively - the two candidates cannot be of the same gender.⁴⁰

Rank order/Placement of candidates on a party list: Belgium practices a "double quota" concept, i.e. the quota system that not only requires a specific per cent of female candidates on the electoral list but also ensures that female candidates are not thrown to the bottom in the list.⁴¹ According to the new legislation, the difference between the numbers of candidates from each gender on every electoral list should not exceed one. Moreover, the first two candidates on the list must be of the opposite sex. Consequently, the changes have paid off.⁴²

Sanctions: If a party fails to comply with the gender composition requirements, the election administration may refuse to register the list.⁴³

Election system: Party-list proportional representation (List PR).⁴⁴

FRANCE

The lower house of the French National Assembly has had a 50% quota system since 2000.

France was the first country in the world to introduce the mandatory 50% gender quota rule.⁴⁵ The first significant result of the measure could have been already observed in 2007 when the number of women in the parliament increased to 18.5 per cent.⁴⁶

Deputies are elected in 577 single-member constituencies according to a

⁴⁰ Freidenvall L., Dahlerup D. Johansson E., p. 15, Table 4.

⁴¹ Dahlerup D.

⁴² Turan G.

⁴³ Freidenvall L., Dahlerup D. Johansson E., p. 15, Table 4.

⁴⁴ Ibid.

⁴⁵ IDEA, COUNTRY DATA, France (French Republic), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/86/35>, updated: 03.12.2019.

⁴⁶ Ibid.

two-round majoritarian system.⁴⁷ The difference between the candidates of each sex nominated by parties in the single-member constituencies cannot be more than 2%.⁴⁸

Sanctions: The state funding provided to the parties (which they receive according to the votes obtained in the first round) will be decreased by a certain percentage in case of non-fulfillment of the requirements. This percentage is 3/4 of the difference between the total number of candidates of each gender.⁴⁹ For example, if women are only 40% on the list and men are 60%, the difference between the number of male and female candidates is 20%. Accordingly, public funding will be reduced by 3/4 of 20%, i.e. 15 per cent.⁵⁰

Election system: two-round majoritarian system in single-seat constituencies (TRS-Two Round System).⁵¹

GREECE

Greece has had a 33% quota system since 2012.⁵²

According to the Constitution, “taking positive measures for promoting equality between women and men does not constitute discrimination on the basis of sex. The state shall take measures for the elimination of inequalities actually existing, particularly to the detriment of women.”⁵³

In both lists of candidates of political parties (at the national and constituency level), at least 1/3 should be allocated to a member of the opposite sex. For example, in a constituency where ten members of the parliament are elected, at least three MPs must be women or men ($10/3 = 3.33$).⁵⁴

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Freidenvall L., Dahlerup D. Johansson E., p. 15, Table 4.

⁵⁰ IDEA, COUNTRY DATA, France (French Republic).

⁵¹ Ibid.

⁵² Freidenvall L., Dahlerup D. Johansson E., p. 15, Table 4.

⁵³ IDEA, COUNTRY DATA, Greece (Hellenic Republic), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/139/35>, updated: 03.12.2019.

⁵⁴ Ibid.

Rank order/Placement of candidates on a party list: not provided.

Sanctions: not provided.

Greek Election System: Party-list proportional representation (List PR).⁵⁵

PORTUGAL

The 33% quota system has been implemented in Portugal since 2006.

Candidate lists for the elections to the National Assembly shall be made up in a way as to facilitate the participation of at least 33% of the representatives of each sex.⁵⁶

Rank order/Placement of candidates on a party list: In multi-member constituencies, the lists cannot have more than two candidates of the same sex in a row, i.e. every third candidate in the electoral list must be of a different gender.⁵⁷

Sanctions: If an electoral list does not meet the quota requirement, this shortcoming will be made public. Furthermore, financial sanctions are also used including reduction of state funding.⁵⁸

Electoral system: Party-list proportional representation (List PR).⁵⁹

SLOVENIA

The 35% mandatory quota system has been implemented in the lower house of Slovenia, the National Assembly since 2006.⁶⁰

According to the election law, the representative of the same sex should not be less than 35% of the total number of candidates in the election list.⁶¹

⁵⁵ Ibid.

⁵⁶ IDEA, COUNTRY DATA, Portugal (Portuguese Republic), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/247/35>, updated: 03.12.2019.

⁵⁷ Ibid.

⁵⁸ Freidenvall L., Dahlerup D. Johansson E., p. 15, Table 4.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

Rank order/Placement of candidates on a party list: not provided.

Sanction: If an electoral list does not meet this requirement, the election commission may refuse to register the voter list.⁶²

Election system: Party-list proportional representation (List PR).⁶³

SPAIN

Spain has a 40% quota system.

The law first came into force in March 2008.⁶⁴ According to the quota rules, the number of candidates of the same sex in a party list for elections to Congress (lower house) shall not be less than 40% and more than 60%.⁶⁵ This principle also applies to regional and local elections.⁶⁶

Rank order/Placement of candidates on a party list: The gender quota applies to every five positions,⁶⁷ which means that at least two out of every five candidates must be a woman (Quotas are both applied to the whole party lists and to every five posts).

Sanctions: If the list does not meet the quota requirement, the political union is given a period to correct the defect. If the party fails, the election commission will not register the list.⁶⁸

Election system: Party-list proportional representation (List PR).⁶⁹

⁶² IDEA, COUNTRY DATA, Slovenia (Republic of Slovenia), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/264/35> , updated: 03.12.2019.

⁶³ Freidenvall L., Dahlerup D. Johansson E., p. 7, Table 1

⁶⁴ IDEA, COUNTRY DATA, Spain (Kingdom of Spain), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/103/35> , updated: 03.12.2019.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Freidenvall L., Dahlerup D. Johansson E., p. 15. Table 4.

⁶⁸ Ibid.

⁶⁹ Ibid. p.7

ITALY

Up to a 40% quota system has been practised in Italy's lower house of Parliament since 2017.

According to the Constitution, any citizen has the right to hold public offices and elective positions on equal terms. The country must take special measures to promote equal opportunities for women and men.⁷⁰

The election law 2017 includes several provisions that encourage women to participate in the Chamber of Deputies and the Senate. The order of candidates in the lists submitted in multi-member constituencies is determined by alternating gender. The Act stipulates that in the lists submitted to the single-member constituencies of the Chamber of Deputies (lower house), the number of members of the two genders should not exceed 60% of the total number of candidates. Furthermore, in the total lists submitted in multi-member districts at the national level, none of the two genders shall be represented as a leading candidate in percentage exceeding 60 per cent.

Political parties should spend 10% of their donations on activities that can promote women's representation in politics.⁷¹

Rank order/Placement of candidates on a party list: The order of candidates in the list is determined by alternating gender.

Sanction: not provided.

Election system: Parallel Electoral System. In the lower house, 232 members are elected in single-member districts (FPTP), and the rest (398 in total) are elected in multi-member districts under the proportional electoral system.⁷²

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

CROATIA

Croatia has had a 40% quota system since 2008.⁷³

According to the Gender Equality Act 2008, one sex shall be no less than by 40% represented in political and public decision-making bodies.⁷⁴ Political parties and other authorized bodies shall observe the principle of gender equality when submitting lists and seek a balance pursuant to this provision.

Rank order/Placement of candidates on a party list: not provided.

Sanctions: According to the Gender Equality Act, the sanction for violating the gender equality rule in the Croatian Parliament shall be punished with a fine of 50, 000.00 HRK⁷⁵ (more than 6,000 Euros). Besides, financial incentives are provided for political parties (10%) for nominating more women in their lists.⁷⁶

Croatian Electoral System: Party-list proportional representation (List PR).⁷⁷

⁷³ IDEA. COUNTRY DATA, Croatia (Republic of Croatia), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/124/35>, updated: 03.12.2019.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Freidenvall L., Dahlerup D. Johansson E., p. 20.

⁷⁷ IDEA. COUNTRY DATA, Croatia (Republic of Croatia).