Arbeitskreis deutscher Aufsichtsrat e.V.

HENGELER MUELLER

# Supervisory Board Survey 2022

SEPTEMBER 2022

## Foreword

The after-effects from more than two years of the COVID-19 pandemic, lingering supply chain problems, and now the Russian invasion of Ukraine have all led to massive geopolitical turmoil. German companies have not been spared from having to confront the far-reaching consequences of these events.

But what impact has the current global situation had on the work and the decision-making of supervisory boards? Besides these developments, which are being felt everywhere, what other subjects are defining the agendas of these corporate bodies? What else is keeping them busy? And what role do a company's strategic direction and the further professionalisation of the work performed by its supervisory board now play after years of continuous crisis management? Together with AdAR, the *Arbeitskreis deutscher Aufsichtsrat e.V.* (German Supervisory Board Working Group), we explored these and many more questions in this year's supervisory board survey.

We hope you find this reading enlightening and inspiring.

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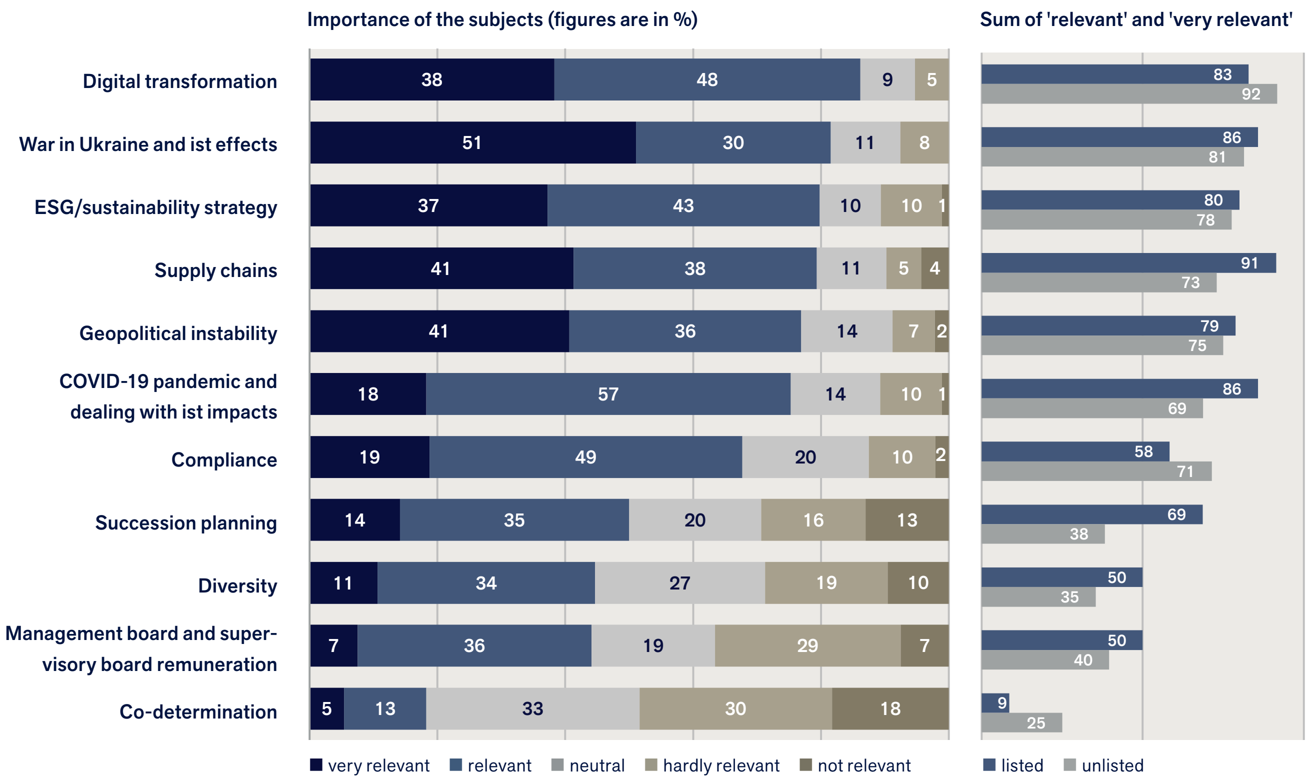
## A. Subjects and resources

### 1. The supervisory board agenda in 2022

The war in Ukraine and its ripple effects are, understandably, also contributing to what does and does not appear on supervisory boards' agendas. Eighty-one per cent of the supervisory board members surveyed consider the impact of the Russian war of aggression and its consequences either relevant or very relevant to the work they do. Given the numerous challenges and upheaval the war and its effects have entailed, this is hardly astonishing. Among the subjects that have arisen in connection with the war, there are the implications felt in the sale of goods and services as well as in the supply of finished and semi-finished goods, the question of what to do with company locations and employees in the two countries, and energy market turbulence, to give just but a few examples.

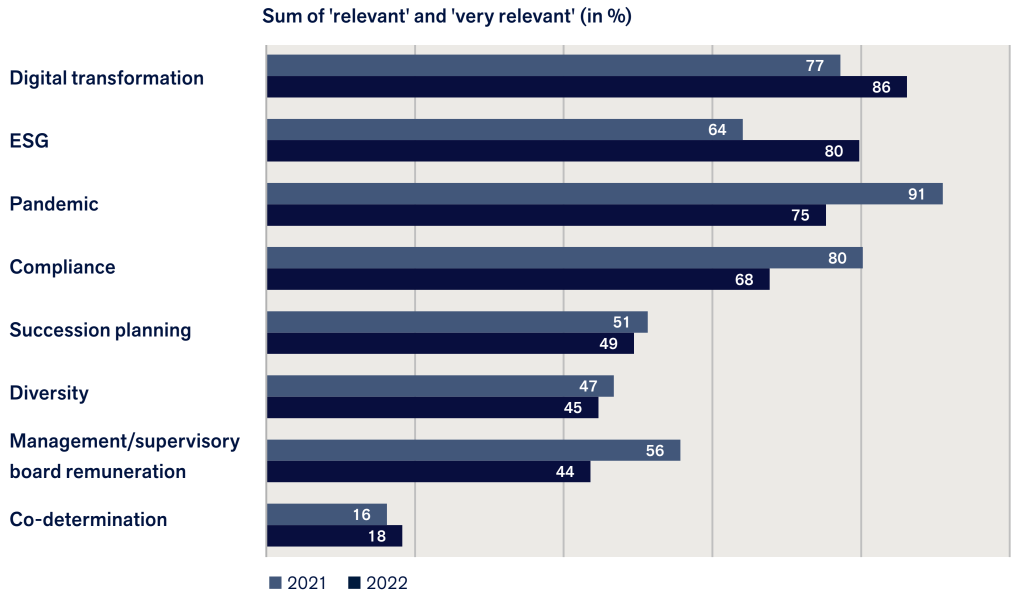
*What subjects have been on your agenda in particular in 2022?*




*Please note: The values used in this study report are rounded figures. Furthermore, 'prefer not to say' responses have been left out for better comprehensibility. Therefore, in individual cases, total sums might not come out to 100 (per cent). Moreover, not all respondents answered all of the questions, meaning that there may be different survey sample sizes for individual questions.*

Dealing with the impacts of the COVID-19 pandemic, however, has dropped in priority somewhat, although it still continues to reverberate in supply chains. After clearly defining supervisory board agendas last year (91 per cent of respondents agreeing), the pandemic currently ranks just sixth in respondents' order of priority with just 75 per cent of respondents agreeing.

*What subjects have been on your agenda in particular in 2022 (versus in 2021)?*




The two major crises, the Ukraine war and COVID-19, have affected how relevant supply chains are (79 per cent of respondents agreeing), and they have obviously brought home to companies all the more (aspects of) the geopolitical instability that there has been since even before these crises began (77 per cent of respondents agreeing).

While supervisory board members of both listed and unlisted companies deem the war in Ukraine and the persistently heightened political uncertainty to be highly relevant to their activities, managing the effects of the pandemic has kept listed companies somewhat busier (86 per cent of respondents agreeing versus 69 per cent). The difference is even more distinct when it comes to supply chains. The disruption of global trade has been dominating the agenda of listed companies' supervisory boards to a far greater degree (91 per cent of respondents agreeing) than it has for their counterparts at unlisted companies (73 per cent of respondents agreeing).

However, supervisory board members are apparently still attaching the greatest relevance to positioning their companies for the future, despite or perhaps precisely because of the persisting crisis situations. Eighty-six per cent of respondents consider adapting their companies for the digital age to be the central topic on their agenda. ESG topics and the transformation of their companies towards becoming more sustainable are equally conspicuous on the agenda, with 80 per cent of respondents attributing these subjects relevance.

These were followed by compliance (68 per cent), succession planning (49 per cent), diversity (45 per cent), management board and supervisory board remuneration (43 per cent) and co-determination (18 per cent), some of which trail the one before it by a considerable margin.

In this regard as well, the order of the priorities is different at listed and unlisted companies. While nearly the same importance is attached to the sustainability transformation, the digital transformation is given somewhat higher priority by supervisory board members of unlisted companies (with 92 per cent of respondents agreeing) than by their counterparts at publicly traded companies (83 per cent).

Compliance also has higher priority at unlisted companies (71 per cent of respondents agreeing) than it does with the supervisory board members of listed companies (58 per cent). The latter have possibly come to regard compliance as more a part of an institutionalised routine in light of regulatory requirements, and because of that the subject appears with less and less emphasis on supervisory board agendas.

The difference between listed and unlisted companies is even greater with regard to diversity. With 50 per cent of respondents from listed companies agreeing, diversity is a far more established topic there than on the supervisory boards of unlisted companies (35 per cent). These figures clearly show the impact of the statutory requirements that are aimed at listed companies to a far greater extent than at unlisted companies.

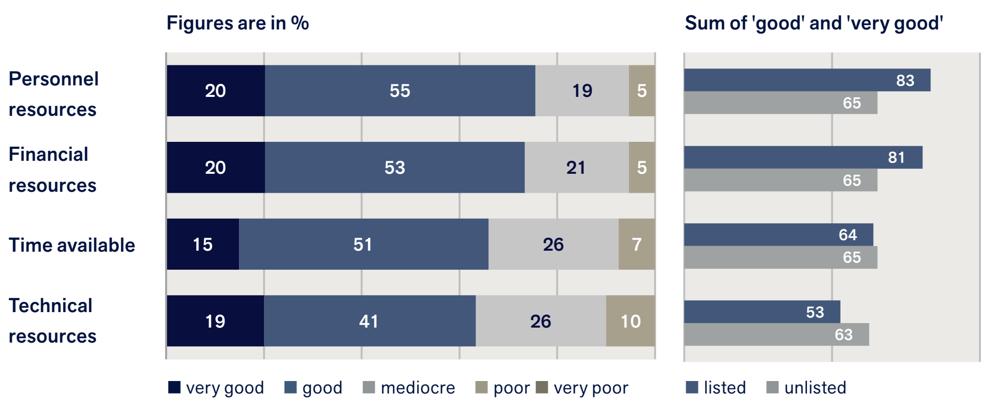
Clear differences between respondent groups are also apparent in opinions regarding succession planning, i.e. whether or not it is viewed as a key topic for the supervisory board. Sixty-nine per cent of the surveyed officers of listed companies reported having this subject on their agendas, whereas only 38 per cent of respondents from unlisted companies said the same. The effects of the increasing requirements being placed on the office of supervisory board member, primarily at listed companies, are also evident when it comes to succession planning. In addition, recent examples have also shown that personnel decisions relating to management boards are criticised (publicly) by institutional investors and other stakeholders of listed companies.

A few respondents to the survey also identified energy and future financing as agenda items – two areas that have recently gained considerable momentum. Assuming that the current situation continues, these areas may resonate far greater in our next survey.

## 2. The resources allocated to supervisory boards

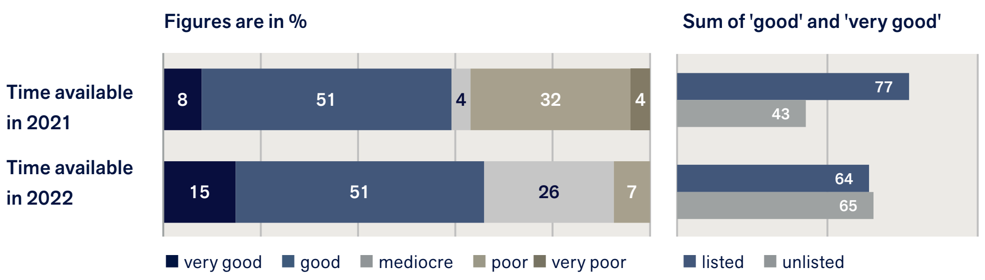
To handle both acute and strategic challenges, supervisory boards must of course also have the appropriate tools, personnel and resources available. Just last year, survey respondents described the adequacy of the resources allocated to the corporate body they serve on as the biggest challenge they face. This appears – at least to an extent – to have changed for the better.

*How do you rate the resources allocated to your supervisory board?*




When asked about how satisfied they are with their allocated resources, supervisory board members gave personnel resources their greatest approval (75 per cent), followed by finances (73 per cent) and the time available for board activities (66 per cent). Last year, only 59 per cent of respondents agreed that they had ample time to fulfil their role as a supervisory board member. This aspect has therefore improved somewhat.

*Time available in 2022 versus 2021*




The surveyed supervisory board members see the greatest room for improvement in the technical resources allocated to them. More than one in four supervisory board members surveyed (26 per cent) rated these resources as mediocre. One in ten (10 per cent) even considered them poor.

In taking a closer look at the two respondent groups, however, almost tangible differences become apparent this year again as well. For example, the level of satisfaction among supervisory board members at listed companies with regard to their financial resources and personnel is significantly higher than at unlisted companies. These assets were rated as good or very good by 81 per cent and 83 per cent of the respondents, respectively, at listed companies. By contrast, only 65 per cent of supervisory board members at unlisted companies said the same for both finances and personnel.

Moreover, only 53 per cent of supervisory board members at listed companies view their technical resources as very good or good, while this figure is 63 per cent at unlisted companies. The reason for this may also be the different requirements for listed and unlisted companies. Significantly more supervisory board members of listed companies deem their technical resources to be only mediocre or even poor (33 and 11 per cent, respectively).



## B. The makeup of a supervisory board

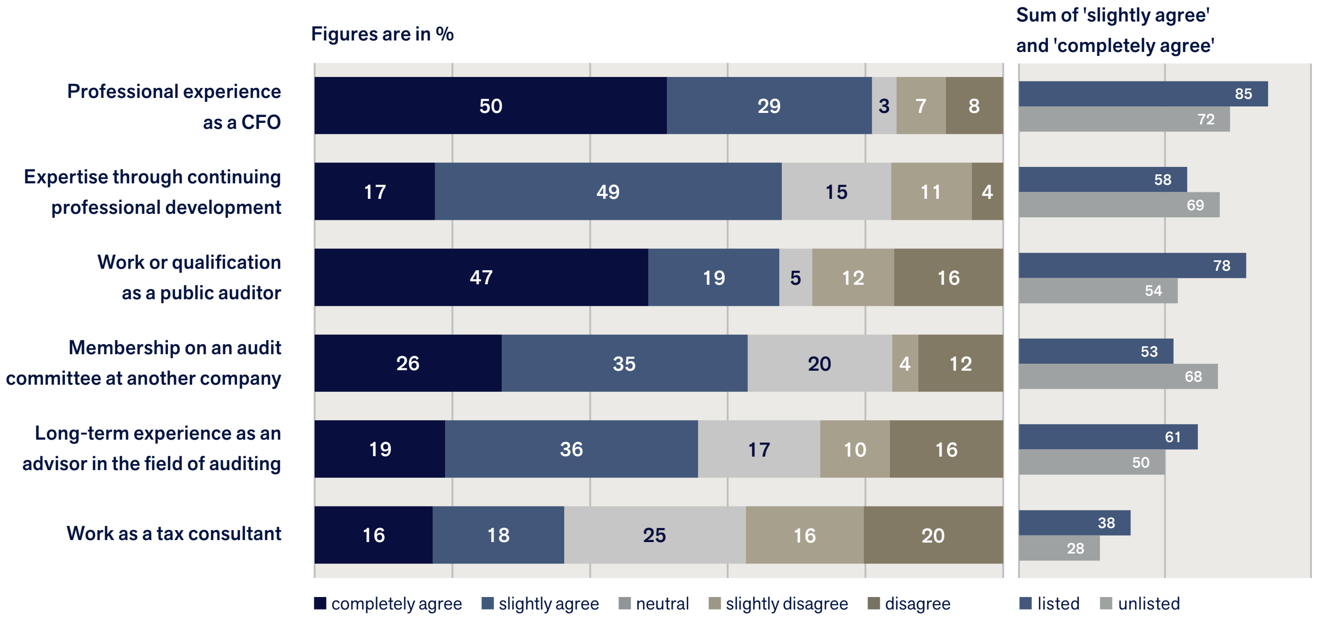
When it comes to the composition of a supervisory board, a broad mix of experience and professional expertise is gaining in importance. Driving this development, besides regulation, are the imperatives of business – whether it be the digital transformation, the need for financial expertise or the creation of greater sustainability.

### 1. Financial expertise on supervisory boards

For instance, under Germany's Act to Strengthen Financial Market Integrity (FISG), at least two finance experts must be sitting on each supervisory board. One of them needs to have expertise in accounting, and the other should be familiar with statutory audits. The German Corporate Governance Code goes even further with its guidelines. When asked about the criteria they apply for verifying a candidate's expertise, most of the supervisory board members surveyed said they relied on the candidate's experience as a CFO (79 per cent either agreeing or strongly agreeing). A lot of weight is also given to expertise acquired through continuing professional development (66 per cent) and to obtaining the public auditor qualification or working as one (66 per cent) or to membership on the audit committee of other companies (61 per cent). Working as a tax consultant or any other long-term experience as an advisor in the field of auditing was rated rather low as proof of expertise.

Supervisory board members of listed companies attach significantly greater importance to professional experience as a CFO when gauging proof of financial expertise (85 per cent) than their peers at unlisted companies do (72 per cent). The same goes for a candidate's work or qualification as a public auditor (78 versus 54 per cent). By contrast, acquiring expertise through continued education is considered more relevant at unlisted companies with regard to proof of financial expertise (69 per cent at unlisted companies versus 58 per cent at listed companies), the same as with membership on an audit committee at another company (68 per cent at unlisted companies versus 53 per cent at listed companies).

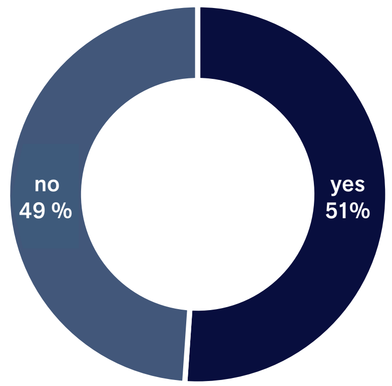
*From where do the relevant members on your supervisory board have the necessary expertise on accounting and statutory audits?*




## 2. Sustainability expertise on supervisory boards

Particular expertise is also being increasingly demanded of supervisory boards when it comes to sustainability. The German Corporate Governance Code, for instance, stipulates that supervisory boards also need to have sustainability expertise. A narrow majority (51 per cent) of surveyed supervisory board members believe that their companies already meet this criterion. At listed companies, this figure is even 62 per cent.

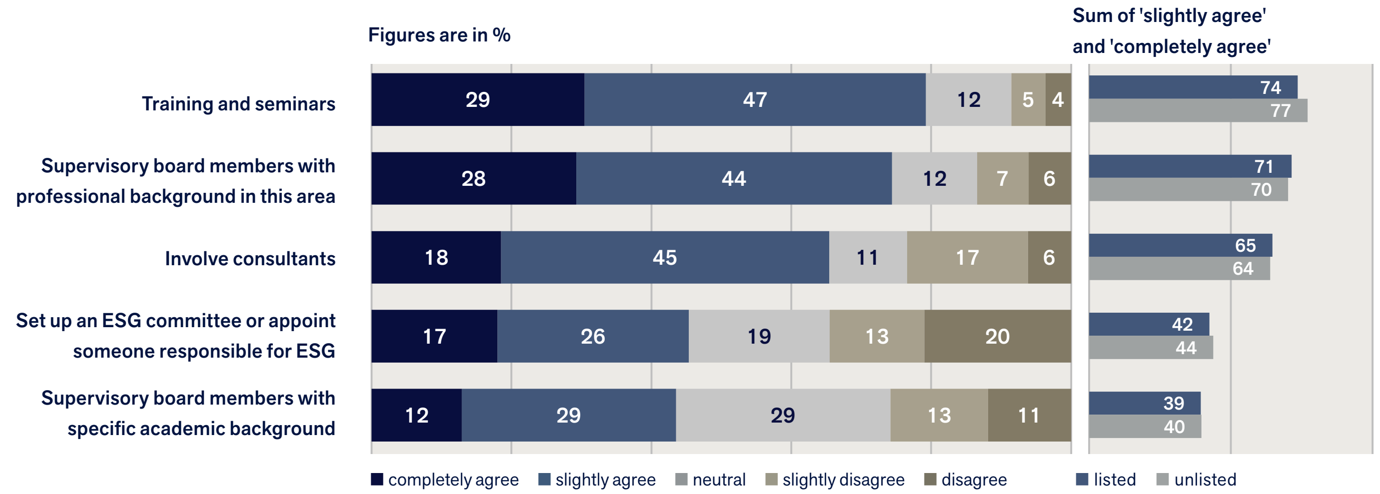
*According to the guidelines of the German Corporate Governance Code, supervisory boards should have expertise on sustainability. Does your company already meet this requirement?*



## 3. Meeting the sustainability expertise requirements

There are entirely different ways in which supervisory boards can meet sustainability expertise requirements, as our study has also shown. Most supervisory board members surveyed (76 per cent) currently view training and seminars as the means of choice to fulfil the requirement for this particular ESG expertise. Seventy-two per cent look to board members with a professional background in this area, while 63 per cent would involve consultants. An academic background is given rather minor importance, however, when it comes to choosing a supervisory board member with expertise on sustainability, the same as setting up an ESG committee or appointing an individual to oversee ESG matters.

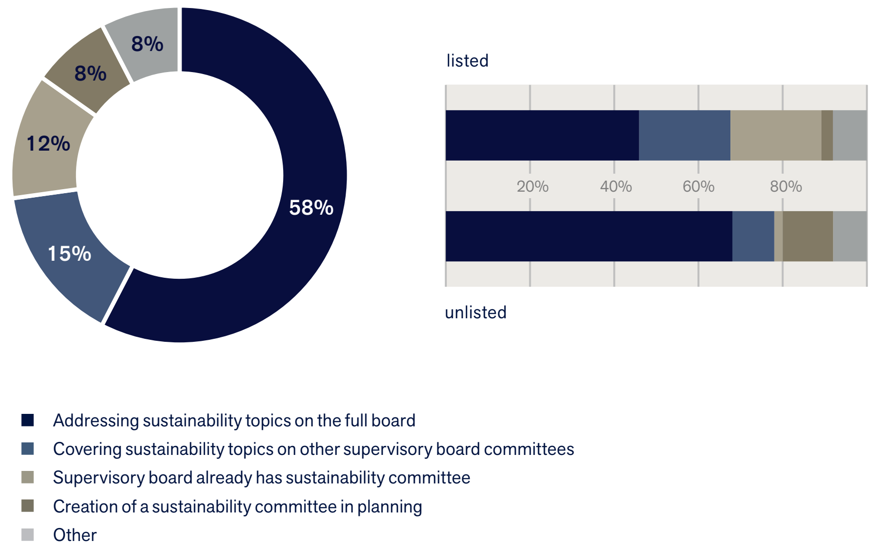
*How does your supervisory board intend to address fulfilling the sustainability expertise requirements in the future, or how does your supervisory board meet the requirements already?*




## 4. The role of a committee dedicated solely to sustainability

The finding presented above is consistent with respondents' attitudes towards setting up a committee dealing specifically with sustainability issues. According to our survey, a clear majority of supervisory board members (58 per cent) are in favour of having the full supervisory board address sustainability topics. Another 15 per cent of respondents stated that such topics are dealt with in other supervisory board committees. Some supervisory boards, for instance, have expanded the purview of their strategy or innovation committee to include sustainability issues. In some cases, this has even entailed a considerable increase in the number of members of that committee. Only 12 per cent of survey participants said that there already was a sustainability committee at their respective companies; another 8 per cent said that establishing such a committee was being planned.

*What is your supervisory board's stance on establishing a committee devoted specifically to subjects of sustainability?*



On this subject, the supervisory boards of listed companies are tending somewhat more towards institutionalisation: one in five (22 per cent) from that respondent group stated that their company already had a sustainability committee, and a further 3 per cent said they were planning one. By comparison, only 2 per cent of supervisory board members from the unlisted camp responded that they had a sustainability committee, but 12 per cent were planning theirs. In addition, 22 per cent of supervisory board members at listed companies stated that sustainability was covered on other committees of the supervisory board (compared to 10 per cent at unlisted companies). At 46 per cent, the supervisory boards of listed companies are going with the full board as the place to address sustainability far less than the supervisory boards of unlisted companies (68 per cent).

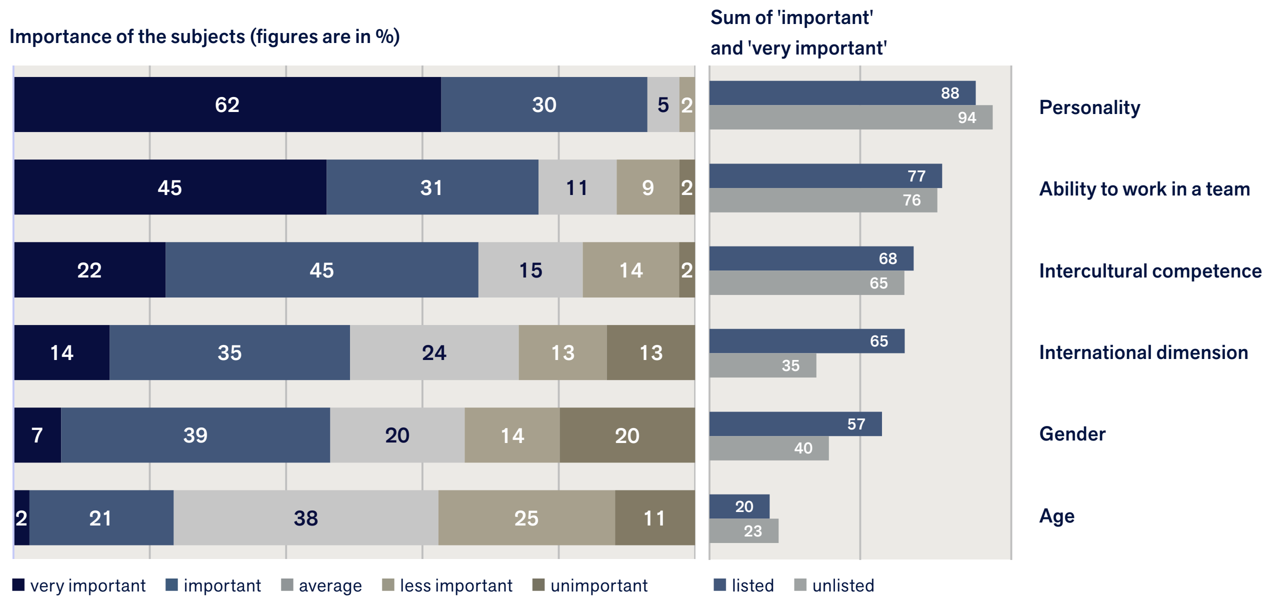
There is certainly no panacea for having sustainability matters handled by the supervisory board. The variety of possible approaches is as large as Germany's corporate landscape itself. Sustainability should of course be internalised as a cross-cutting issue by all relevant players within a company. However, someone has to accompany this institutionalisation process, which is why putting a new – or one or more already existing – committee in charge of this topic specifically might be sensible in a first step. To be sure, the effort required for this approach needs to correlate to the size of the supervisory board. It also bears considering that listed companies must and also want to comply with the requirements of the capital market and the expectations of their institutional investors much more than unlisted companies do.

This concept has also received a boost from recent developments at no less than the largest listed companies in Germany. Within the DAX 40, there has been a considerable increase in the number of committees dedicated solely to sustainability since 2021. This trend is likely to continue over the next few months at listed companies at any rate.

## 5. Criteria when selecting new supervisory board members

In addition to the competence in finances and sustainability outlined above, further important criteria are taken into account when companies look for candidates to nominate to their supervisory boards. An overwhelming majority of the supervisory board members we surveyed are looking most of all for personality in the individuals who will serve with them (92 per cent of respondents agreeing). An explanation for this might be found in the type of subjects supervisory boards deal with: many of them are cross-cutting issues that require leaders who others believe are capable of finding the right approach in times of crisis. But other skills and factors are also sought after: teamwork skills (76 per cent) and intercultural competence (67 per cent), as well as an international background (49 per cent) and gender parity on the supervisory board (46 per cent). In a way, one might infer that the women's quota works if it no longer plays a major role when positions on supervisory boards are filled.

*What are the important criteria, in addition to competence, when selecting the next supervisory board member?*



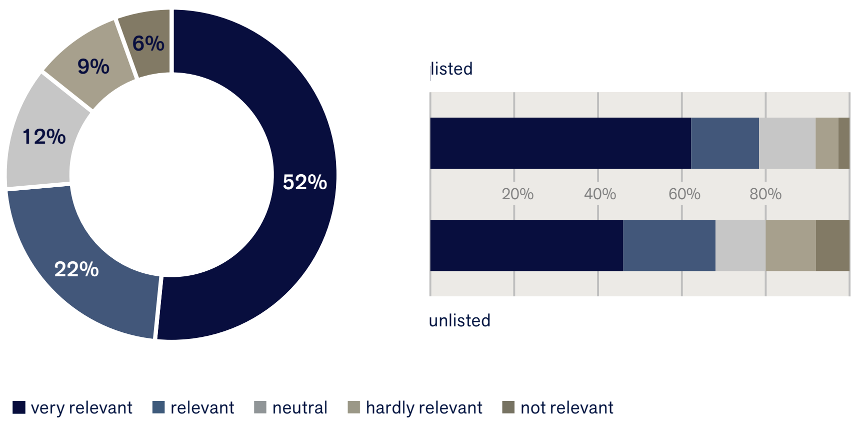
# C. Succession planning

## 1. The significance of management board succession to the supervisory board

In light of rising investor expectations for more diversity, the subject of succession planning has become noticeably more important for companies in the last few years. This trend is also reflected in our survey: 74 per cent of surveyed supervisory board members consider succession planning to be relevant or very relevant. At listed companies, this figure is even slightly higher at 78 per cent.

Another explanation for this is likely also the increasingly critical response from investors and other stakeholders to a number of prominent succession decisions. Especially in times when companies are facing transformations and expanding global challenges, personnel decisions relating to the management board are perceived as a fundamental cornerstone of future development. To lay that foundation, these groups are demanding new perspectives and ideas, in addition to previous experience, from managers more and more. Simple 'in-house appointments' without considering any alternatives are therefore coming across as far less acceptable.

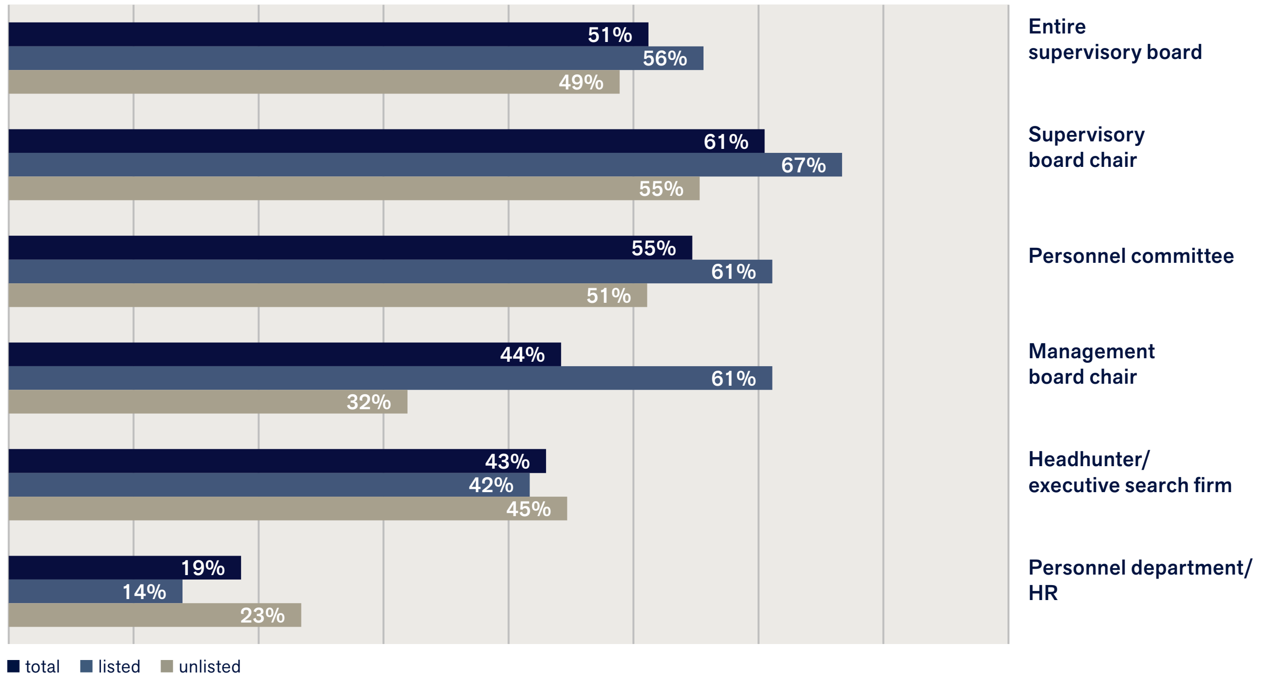
*How relevant is it to you that matters of succession relating to the management board be handled by the supervisory board?*




## 2. Central players in management board succession

At most companies, it is primarily the supervisory board chair (61 per cent), the personnel committee or a similar committee (55 per cent) or the entire supervisory board (51 per cent) that are involved in planning the succession of management board members. But, in the opinion of the supervisory board members surveyed, the management board chair (44 per cent) and executive search firms (43 per cent) are also important.

*Who is involved in planning the succession of management board members?*



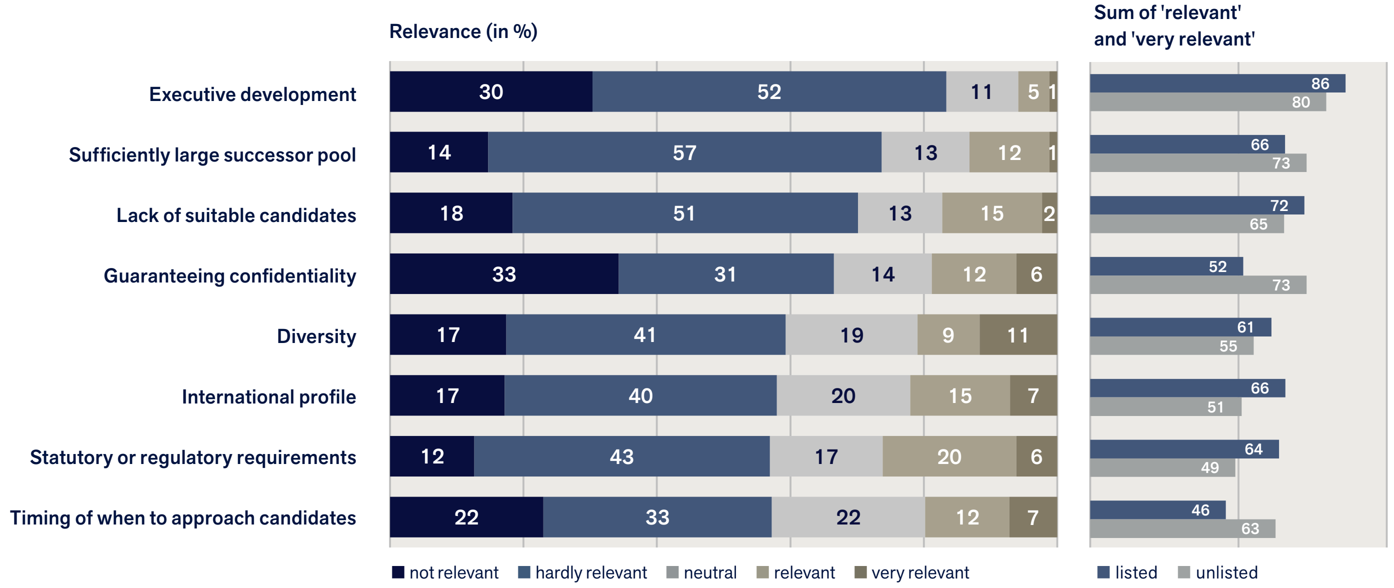

At listed companies, greater weight is given than at unlisted companies to the input of the supervisory board chair (67 per cent versus 55 per cent), the personnel or similar committee (61 per cent versus 51 per cent) and the management board chair (61 per cent versus 32 per cent) on matters of succession planning.

Our data reflects what is being practised. What is remarkable, however, is that personnel departments are little involved in succession planning when it is ultimately the human resources and talent development experts of a company that in many cases will have the arguably best awareness of the potential that there is within their own organisation. Supervisory boards should not overlook this know-how when developing young talent for the long term.

## 3. Challenges in planning the succession of management board members

The growing shortage of skilled workers in Germany has now reached the executive level as well. Seven out of ten supervisory board members surveyed (69 per cent) find there to be a lack of suitable candidates or describe the size of the successor pool (71 per cent) as the central challenge to succession planning. It is therefore hardly surprising that executive development is considered decisively important when planning who will replace members on a management board, as 82 per cent of respondents attest. According to 86 per cent of respondents from listed companies, this challenge is even slightly more significant there than at unlisted companies (80 per cent).

*What challenges do you see in the succession planning for management board members?*

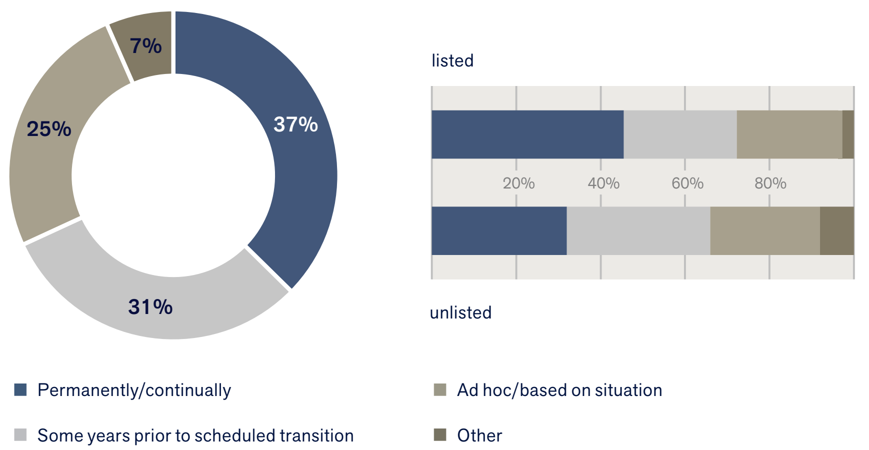



The following aspects were identified as being less relevant: guaranteeing confidentiality during the succession process (64 per cent), diversity (58 per cent), the international profile of possible candidates (57 per cent), the timing of when to approach candidates (55 per cent) and legal or regulatory considerations (55 per cent).

## 4. The supervisory board's preparations for management board succession

Succession planning is a constant process for most companies. Thirty-seven per cent of surveyed supervisory board members work continuously on evaluating potential successor candidates to the management board; another third (31 per cent) begin such work in advance of scheduled transitions. Merely a quarter of respondents act according to situational demands.

*How much in advance is the succession of management board members evaluated on the supervisory board?*




As expected, the degree of institutionalised succession planning correlates to the size of the company. The ongoing evaluation of management board successors on supervisory boards is clearly more established at listed – and thus in many cases, larger – companies at 46 per cent than it is at unlisted companies (32 per cent).

# D. Supervisory board efficiency

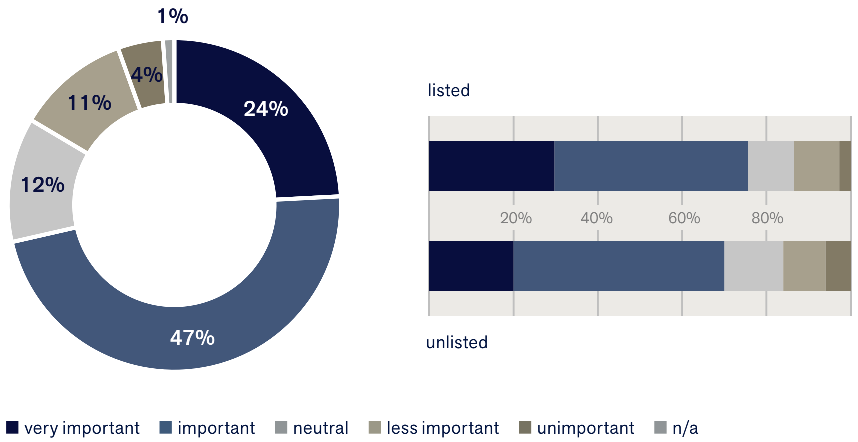
Another factor contributing to furthering the professionalisation of the supervisory board is the regular review of its operations and decision-making processes.

## 1. The added value of reviewing the efficiency of the supervisory board

Seventy-one per cent of supervisory board members surveyed attest to the (highest) importance of efficiency reviews. Supervisory board members conducting a self-evaluation, in many cases with external support, constitutes a relatively simple and good way of gauging opinions on the quality and the efficiency of the work performed by supervisory boards directly.

Each company answers the question differently, however, how to approach such assessments.

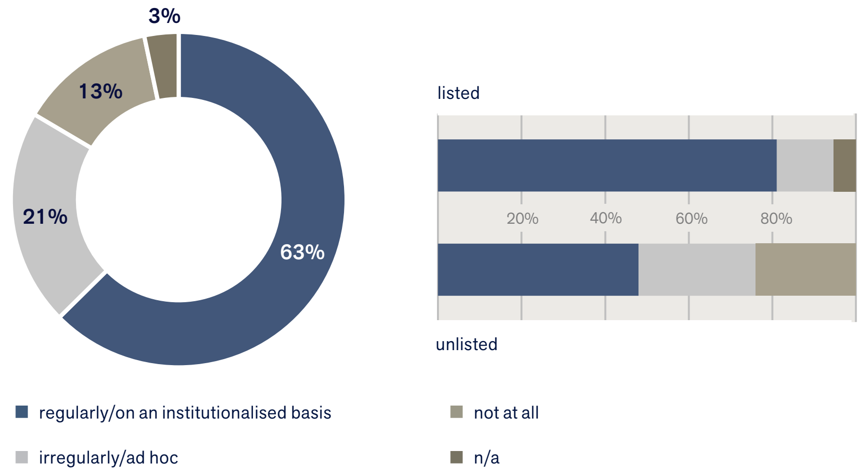
*How do you rate the added value of reviewing the efficiency of the supervisory board?*




## 2. Frequency of reviewing supervisory board operations and decision-making processes

Almost two-thirds (63 per cent) of all supervisory board members surveyed state that their corporate body is reviewed regularly on an institutionalised basis. Twenty-one per cent of supervisory board members replied that such a review occurred only irregularly or ad hoc. No such evaluation of the board occurs with 13 per cent of respondents.

*How regularly are your supervisory board's operations and decision-making processes reviewed?*




Notable differences appear between listed and unlisted companies. For example, according to the responses from the surveyed supervisory board members, assessing the work and decision-making processes of supervisory boards is institutionalised at 81 per cent of listed companies, while at unlisted companies it is only 48 per cent. Twenty-four per cent – almost twice the average – of supervisory board members of unlisted companies stated that no process evaluation took place at all on their boards. The number of irregular evaluations is also somewhat higher at unlisted companies at 28 per cent than it is with the surveyed officers of listed companies (14 per cent).

Because of their significance for the (future) development of the work supervisory boards do, and as an immediate indicator for supervisory board members, the German Corporate Governance Code stipulates regular efficiency reviews. The distinctly higher degree of institutionalisation at listed companies is therefore hardly surprising.

## E. Summary

Our study shows that the work of supervisory boards is clearly orientated towards strategy. The concurrence of permanent crisis management, establishing resilience and working on the future of their companies will engross supervisory boards in the future as well. After all, future crisis issues, such as adjusting to an increasingly recessionary economic environment and handling the supply shortages of conventional energy, have already made it into supervisory boards' day-to-day business.

In that context, professionalising the work done by supervisory boards is also coming to be regarded as more and more important. Besides the increasing statutory requirements, a higher degree of institutionalised operations and technical expertise in particular is desired to help supervisory boards contribute to an even more effective monitoring and counselling of management in the company's interest.

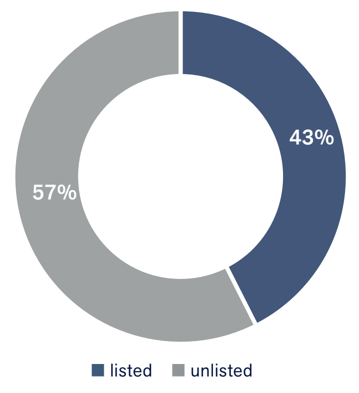
In light of the challenging and – to a degree – disruptive times that companies are facing, the supervisory board members surveyed believe that personality also plays an equally crucial role on supervisory boards. Managers equipped with the right resources are apparently trusted to find the right approach precisely in challenging environments.

## F. Methodology

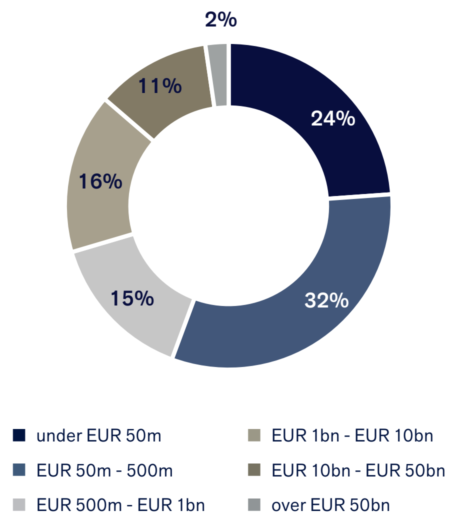
The survey was conducted from 17 May to 30 June 2022.

Over 500 supervisory board members were sent an email with the request to complete an online questionnaire. Ninety-nine supervisory board members participated in the survey.

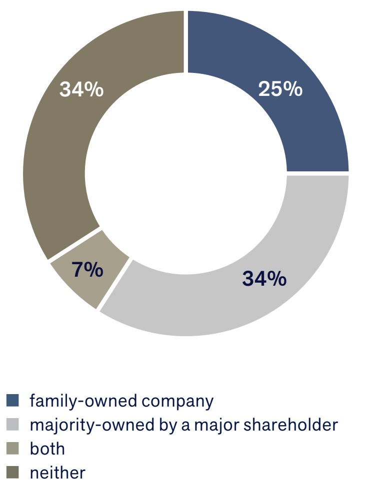
*Is the company on whose supervisory board you serve listed?*




*What is the turnover of the company on whose supervisory board you serve?*




*Is the company on whose supervisory board you serve a family-owned company or majority-owned by a major shareholder?*



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