



Corporate Governance Report

December 2021

The German Public Company Governance Kodex (as most recently revised in September 2020, the 'PCGK') does not by its terms apply to Blue Action Fund as a non-commercial foundation.¹ Blue Action Fund ('Blue Action') has from its inception nevertheless oriented its governance on the principles set forth in Part I of the PCGK. In 2021, we have decided to begin adhering to PCGK Part I on a voluntary basis. PCGK Part I requires publication annually of a Corporate Governance Report, and Blue Action is pleased to publish its first report in these pages.

1. Overview and Recent Governance Developments

Blue Action is governed by a two-tier (Supervisory and Management) Board structure. There are no shareholders in a foundation and accordingly there is no equivalent of a shareholders meeting. By default, the Supervisory Board (SB) therefore takes over some of the functions foreseen by the PCGK that a shareholders' meeting would have in other structures.

The SB is currently composed of three Members and one Observer. In 2021, Heike Henn (appointed by the German Federal Ministry for Economic Cooperation and Development 'BMZ') continues to serve as SB Chair until June 2023 and Stefan Opitz (appointed by KfW) as Deputy Chair until the end of 2022. The Swedish Ambassador for the Oceans, Helen Ågren, was re-elected as a Member of the SB until end of 2023. Gilles Kleitz of Agence française de développement (Afd) continues in his role as an Observer.

At the Management Board (MB) in 2021: Markus Knigge continues as Executive Director with a term extending through the end of his contract at year-end 2022. David Morrison continues to serve as Deputy Executive Director until the current end of his Mandate end of June 2022. Judith Weigand was newly appointed as the third MB Member in 2021 on a three year appointment.

2. Supervisory Board and Management Board Compensation

¹ See PCGK preamble, page 7. 'The principles also apply in a comparable way to companies with a federal participation in other legal forms of private law, e.g. in the legal form of a stock corporation. In addition, they apply in a comparable way – and in some cases partly with limitations – also to legal entities under public law and to foundations under private law that the federal government has established or on which the federal government exercises influence for other reasons, *provided that their object is a commercial or other economic one or predominantly includes such an object.*' (emphasis added)

The SB continues to serve on an honorary basis without compensation. The SB has agreed compensation packages for Markus Knigge and Judith Weigand which are consistent with practice for environmental NGOs in Europe but are considerably below comparable private sector standards, and less than public sector employees with similar responsibilities. Both are entitled to modest merit-based bonuses under their contracts amounting to up to approximately 15% of their fixed salaries. David Morrison works part time as a Volunteer.

The SB has determined not to disclose MB salaries in this report as would normally be required for PCGK compliant entities. Salary levels are fully transparent to all SB Members and to BMZ and KfW, which as the appointing institutions of Ms. Henn and Mr. Opitz are entitled to see internal Blue Action documents including the salary information. Disclosure of compensation levels is not customary in the charitable sector in Germany, the salary levels are in any case modest, and the SB believes that requiring MB Members to disclose their compensation could be disadvantageous to recruiting the best personnel.

3. Comments on Sustainable Business Practices (Section 5.5.1-5.5.3 PCKG)

Sustainability and the 2030 Sustainable Development Goals (SDGs) are built into the DNA of Blue Action. It grants pursue projects that support in particular SDG14 by conserving marine biodiversity, contributing to recovery of fish stocks and enhancing livelihood conditions and food security. Other SDGs pursued through these projects are in particular SDG 1, 2 and 13.

Blue Action is also committed to principles of equal treatment and a discrimination free culture. Our SB is currently composed of two females and one male with an additional male participating as an Observer. Three different nationalities are represented.

Our staff (including for these purposes the MB) is currently composed of five women and two men, representing three different nationalities. Several of our staff manage their hours on a flexible basis to care for their children. Covid 19 in particular has offered an opportunity to provide flexible home-working conditions which will be continued in an appropriate way when more normal health conditions prevail.

We have established a feedback mechanism, including anonymous feedback to the Executive Director. A formal whistle-blower system is provided through the grievance mechanism. We believe our salary conditions and benefits are fair and competitive.

4. Comply or Explain Disclosure

The PCGK explicitly recognises that one size does not fit all and that there may be good reasons for certain entities to adopt a different governance regime than that contemplated by more than 100 ‘soll’ (comply or explain) provisions of the PCGK. In cases where an alternative is adopted, the reporting entity is required to explain the basis for its different approach. Pursuant to these requirements, Blue Action reports the following exceptions:

1. Requirement to comply with PCGK (Section 3.1). There is no current requirement to comply with the PCGK or prepare a Corporate Governance Report. This report is being prepared voluntarily for 2021. SB and MB Bylaws will anchor a PCGK compliance requirement in 2022.
2. Responsibility and Liability (PCGK Section 34.3.1). Rather than responsibility for ordinary negligence, the Charter of Blue Action (Section 5(4)) provides that SB and MB Members are liable for intentional violations of duty and gross negligence. This is consistent with practice

for foundations and the ‘honorary’/volunteer nature of the SB’s functions and the relatively modest, charitable sector-oriented salaries of MB Members who are paid.

3. Directors and Officers Liability Insurance Requirements (PCGK Section 4.3.2): In the event the reporting organisation takes out a D&O policy, the PCGK foresees a deductible amount of 10% of the amount of the MB Member’s liability capped at 150% of his/her salary. Consistent with generally accepted practice for charitable organisations, and given the relatively modest salaries involved, the Blue Action D&O insurance policy has no deductible.
4. Requirement to Select MB Members in a Competitive Process (PCGK Section 5.2.2): Markus Knigge – Blue Action’s Executive Director – was chosen in a competitive process, and so was Judith Weigand when she was hired to an executive staff position. She was subsequently elected to the MB by the SB after careful deliberation. David Morrison was selected based on his experience and willingness to volunteer.
5. Mandatory Retirement (PCGK Section 5.2.5): MB Member David Morrison is over the mandatory retirement age. He is active only part-time and is not compensated. It is believed that his experience is of significant value to the foundation.
6. Requirements on Compensation Structure (PCGK Sections 5.3.1 and 5.3.2). The detailed provisions on compensation are complied with almost in full. However:
 - Given the modest nature of the bonuses of the MB, neither the provision requiring differentiated elements of the KPIs/objectives to be weighted separately for the bonus calculation nor the entire extent of the documentation requirement for the bonus determination is complied with in full (the minutes do document that bonuses were considered and agreed by the SB).
 - Neither the provision foreseeing a reduction in MB salaries in the event of a serious worsening of the economic situation nor the provision foreseeing a salary repayment in the event of a breach of duty are considered to be appropriate for a not-for profit non-commercial enterprise. They are also not customary in the German charitable sector.
7. Requirement to adopt SB Bylaws (PCGK Section 6.1.2). So far it has not been judged necessary to have specific SB Bylaws given the detailed provisions on governance in the charter and Blue Action’s Bylaws; however, certain matters that have been viewed as a matter of practice will be enshrined in new SB Bylaws in 2022.
8. Requirement for SB to have legal, compliance and corporate governance competence (PCGK Section 6.2.1). The SB does not have direct competence in these areas but assures oversight through support personnel at KfW and BMZ and independent advisors as necessary.
9. Disclosure of MB Compensation (PCGK Section 7.2.1). See the discussion under ‘Compensation’ above.

Issued in December 2021, on the authority of:

**The Supervisory Board
The Management Board**