

# Corporate Governance Report\*

The actions of TUI AG’s management and oversight bodies are determined by the principles of good and responsible corporate governance.

The Executive Board and the Supervisory Board discussed Corporate Governance issues in financial year 2023. In this chapter, the Executive Board provides – also for the Supervisory Board – the report on Corporate Governance in the Company pursuant to Principle 23 of the German Corporate Governance Code in the version dated 28 April 2022 (GCGC) and section 289a of the German Commercial Code (HGB) as well as Disclosure and Transparency Rule (DTR) 7.2 and Listing Rule (LR) 9.8.7R.

## Declaration of Compliance pursuant to section 161 of the German Stock Corporation Act (AktG)

As a stock corporation company under German law, TUI AG’s Executive Board and Supervisory Board are obliged to submit a declaration of compliance with the GCGC pursuant to section 161 of the German Stock Corporation Act.

<https://www.dcgk.de/en/code//foreword.html>

### WORDING OF THE DECLARATION OF COMPLIANCE FOR 2023

‘In accordance with section 161 of the German Stock Corporation Act, the Executive Board and Supervisory Board hereby declare:

Since the last declaration of compliance was submitted in August 2023, the recommendations of the German Corporate Governance Code in its applicable version have been and will be fully observed.’

Place of publication:

[www.tuigroup.com/en-en/investors/corporate-governance](http://www.tuigroup.com/en-en/investors/corporate-governance)

## Declaration of Compliance pursuant to DTR 7.2 and LR 9.8.7R

As an overseas company with a premium listing on the London Stock Exchange, TUI AG’s Executive Board and Supervisory Board are obliged pursuant to No. 7.2 DTR and LR 9.8.7R to make a statement on the application of the UK Corporate Governance Code (UK CGC). Since the German Corporate Governance Code also applies to TUI AG as a stock corporation under German law, TUI AG had announced at the time of its merger with TUI Travel PLC that it would also comply with the UK CGC to the extent practicable.

[https://media.frc.org.uk/documents/UK\\_Corporate\\_Governance\\_Code\\_2018.pdf](https://media.frc.org.uk/documents/UK_Corporate_Governance_Code_2018.pdf)

In many respects, the requirements of the GCGC and the UK CGC are similar and have continued to converge in recent years. However, there are certain aspects that are not compatible, which are explained below. Therefore, some deviations from Code requirements and best practice in the UK have been necessary.

Under the German Stock Corporation Act, the legislation applicable to TUI AG, a two-tier board system is mandatory, according to which the Executive Board of the company manages the business under its own responsibility and the Supervisory Board, as independent body, supervises the management of the company (see below section ‘Functioning of the Executive and Supervisory Board’ on page 124). The two-tier board structure is different to the UK unitary board structure on which the UK CGC is based. Some of the principles of composition and operation of the boards of a German stock corporation also differ from those of a UK company (for example, the function of a Company Secretary does not exist in the GCGC). For this reason, the Executive Board and the Supervisory Board have set out below in which areas the UK CGC is not complied with and explained the reasons for the deviations. In addition, the Executive Board and the Supervisory Board have also explained those instances where they consider TUI AG not to be compliant with the UK CGC in the literal sense but where it lives up to the spirit and meaning of the respective regulation.

Sub-headings refer to sections of the UK CGC for ease of reference for investors.

\*As part of the combined Management Report

**WORDING OF THE UK CORPORATE GOVERNANCE STATEMENT 2023**  
'Executive Board and Supervisory Board declare pursuant to DTR 7.2 and LR 9.8.7R:

Throughout the reporting period, TUI AG has complied with the provisions of the UK Corporate Governance Code in the version of July 2018, including its main principles, except as set out and explained below. Further information on compliance with the UK Corporate Governance Code can be found in various parts of the Annual Report.'

Place of publication:

[→ www.tuigroup.com/en-en/investors/corporate-governance](https://www.tuigroup.com/en-en/investors/corporate-governance)

**DIALOGUE WITH SHAREHOLDERS (PROVISION 3)**

It is still not widespread practice in German companies for Supervisory Board committee chairs to make themselves available for meetings with shareholders. The German Corporate Governance Code stipulates in the Suggestion A.3 that the Chairman of the Supervisory Board should be available – within reasonable limits – to discuss Supervisory Board-related issues with investors.

The table below provides an overview of all appointments of the Executive Board with shareholders, in some of which also employees of Investor Relations participated.

Dialogue with shareholders		
Date	Meeting	Participants
December 2022	FY22 Results Presentation, London	SE, MK
	Roadshow UK, virtual	SE, MK
January 2023	Commerzbank & ODDO BHF German Investment Seminar, New York City	MK
	UniCredit/ Kepler Cheuvreux 22nd German Corporate Conference, Frankfurt	MK
February 2023	FY23 Q1 Results Presentation, virtual	SE, MK
	Annual General Meeting, virtual	SE, MK
March 2023	Capital Raise Roadshow, virtual	SE, MK
May 2023	FY23 Q2/H1 Results Presentation, London	SE, MK
	Roadshow UK, London	SE, MK
	Roadshow Frankfurt, virtual	SE, MK
	Roadshow Zurich, virtual	MK
June 2023	dbAccess German Corporate Conference, Frankfurt	MK
	Roadshow Paris, virtual	MK
August 2023	FY23 Q3/9M Results Presentation, virtual	SE, MK
	Stifel 7th Transportation, Business Services & Leisure Conference, virtual	MK
September 2023	Morgan Stanley CFO Fireside Chat, virtual	MK
	Berenberg & Goldman Sachs Twelfth German Corporate Conference, Munich	MK
	Bernstein's 20th Pan European Annual Strategic Decisions Conference, London	SE

Key: Sebastian Ebel (SE), Mathias Kiep (MK)

The Supervisory Board receives feedback from the Chairman and Executive Board members following meetings with major shareholders or investors. Additionally, a monthly Investor Relations Report and event-driven assessments of brokers are forwarded to the Executive Board and the Supervisory Board. They contain updates on the share price development, analyses of the shareholder structure as well as purchases and sales of shares and feedback and assessments from investors. The Executive Board and the Supervisory Board consider that TUI AG lives up to the spirit and meaning of the UK CGC.

**INDEPENDENCE OF SUPERVISORY BOARD MEMBERS (PROVISION 10)**

Under the UK CGC, the Board must identify in the annual report each non-executive director it considers to be ‘independent’ for the purposes of the UK CGC. Based on the responsibilities assigned to the Supervisory Board by the German Stock Corporation Act, the members of the Supervisory Board are considered to be non-executive directors for the purposes of the UK CGC. Under the UK CGC, persons are ‘independent’ if they are independent in character and judgement and if there are no relationships or circumstances which are likely to affect, or could appear to affect, their judgement. TUI AG does not, however, extend its independence disclosures to its 10 employee representatives on the Supervisory Board. Due to the number of employees, the Supervisory Board of TUI AG is subject to the German Co-Determination Act. Accordingly, the Supervisory Board of TUI AG consists of ten members who are elected by shareholders at the Annual General Meeting (the ‘Shareholder Representatives’) and ten members who represent the employees of TUI AG (the ‘Employee Representatives’). This differs from UK practice where only those board members representing major shareholders are typically referred to as ‘Shareholder Representatives’ and are not considered as independent under the UK CGC because of their link to a significant shareholder.

**ASSESSMENT OF THE INDEPENDENCE OF THE SHAREHOLDER REPRESENTATIVES**

The Supervisory Board has determined that seven of its nine shareholder representatives (the Chairman is not taken into account according to the UK CGC) are independent for the purposes of the UK CGC. The shareholder representatives considered to be independent are: Ms Ingrid-Helen Arnold, Mr Christian Baier, Prof. Dr Edgar Ernst, Ms María Garaña Corces, Ms Janina Kugel, Ms Coline McConville and Ms Helena Murano. Additionally, the Chairman, Dr Dieter Zetsche, was independent on his re-election in 2019 and is still considered independent (Dr Dieter Zetsche also was independent when he was elected to the Supervisory Board in February 2018).

In its assessment, the Supervisory Board considered in particular the aspects set out below:

Prof. Dr Ernst has been a member of the Supervisory Board of TUI AG since 9 February 2011. According to the UK CGC, it is an indication of a lack of independence if a member has been on the Supervisory Board for more than nine years. According to the GCGC, it is an indication of a lack of independence from the Executive Board and the Company if a member has been on the Supervisory Board for more than twelve years. In view of this, the shareholder representatives on the Supervisory Board have taken a close look at how they assess Prof. Dr Ernst’s independence. In particular in view of Prof. Dr Ernst’s professional career, the shareholder representatives have come to the conclusion that Prof. Dr Ernst – also taking into account his membership on the Supervisory Board of TUI AG of over twelve years – provides as before the necessary critical distance from the Executive Board and the Company and therefore consider him to be independent. In addition, due to the personnel changes on TUI AG’s Executive Board, particularly on the position of the CFO, in recent years, Prof. Dr Ernst’s independence from the Executive Board is strengthened. Prof. Dr Ernst also ensures continuity in the proper performance of the tasks of the Audit Committee, which has also seen personnel changes in recent years. Prof. Dr Ernst has continually exhibited his critical distance from the Executive Board and the Company in the past, especially in his position as Chairman of the Audit Committee. Against this background, the Annual General Meeting 2021 has re-elected Prof. Dr Ernst with a large majority.

As of the balance sheet date, according to the UK CGC (and also the GCGC), Dr Jutta Dönges is qualified as non-independent. However, Dr Dönges will be assessed as independent by the Supervisory Board from 1 November 2023.

On 31 October 2022, Dr Jutta Dönges ceased her position as Managing Director of the Finance Agency of the Federal Republic of Germany (Finanzagentur GmbH der Bundesrepublik Deutschland). On 4 January 2021, TUI AG entered into a Framework Agreement with the Economic Stabilisation Fund (WSF) represented by Finance Agency GmbH regarding a silent participation of the WSF and further measures under the stabilisation package. Dr Dönges was nominated by the WSF for membership of the Supervisory Board of TUI AG and elected to the Supervisory Board by the shareholders with effect from the Annual General Meeting (AGM) 2021. On 27 April 2023, TUI AG repaid the WSF financial aid in full. In view of the above information, the Supervisory Board has come to the conclusion that the factors previously indicating the dependence of Dr Dönges no longer apply. However, as the Supervisory Board has decided to apply a one-year cooling-off period according to recommendation C.7 (paragraph 2, indent 2) of the GCGC in this case, Dr Dönges will only be assessed as independent from the Company and its Executive Board from 1 November 2023, i.e. after one year from the termination of her position as Managing Director of the Finance Agency of the Federal Republic of Germany. The Supervisory Board considers the shorter cooling-off period compared to the UK CGC (1 year according to the GCGC, 3 years according to the UK CGC to be appropriate.

At TUI AG, Mr Joan Trían Riu (Riu Hotels S.A., approx. 1.1 % of the voting rights as of 30 September 2023) is linked to a major shareholder. In this context, he is considered a non-independent under the UK CGC.

**ASSESSMENT OF THE INDEPENDENCE OF EMPLOYEE REPRESENTATIVES**

Seven of the ten employee representatives of the Supervisory Board are elected by the employees of TUI Group entitled to vote. Three employee representatives are nominated by a German trade union.

Under the UK CGC, directors who are or have been employees of the Group in the last five years or who participate in the Group’s pension arrangements would generally not be considered independent. In the UK, directors with an employment relationship are normally current or former executives. By contrast, under German law, employee representatives of the Supervisory Board must be employees of the Group, and must be elected by the employees without any involvement of the Executive or Supervisory Boards. Furthermore, the employment contract of employee representatives may only be terminated in exceptional cases.

The employee representatives may also participate in Group pension schemes as is normal for employees and in their capacity as employees.

Trade union representatives are nominated and employed by the trade union but are still classified as employee representatives. They can only be removed from the Supervisory Board by their respective union and neither the Executive nor the Supervisory Board has any role in their appointment or removal.

**HALF THE BOARD SHOULD BE INDEPENDENT NON-EXECUTIVE DIRECTORS (PROVISION 11)**

As mentioned above, TUI AG's Supervisory Board consists of ten employee and ten shareholder representatives. As the employee representatives are not considered independent under the UK CGC, TUI AG's Supervisory Board comprises seven (excluding the Chairman of the Supervisory Board) independent shareholder representatives.

**IDENTIFICATION OF SENIOR INDEPENDENT DIRECTOR (PROVISION 12)**

Under German law and the GCGC, there is no concept of a 'Senior Independent Director'. Instead, shareholders may raise any issues at the AGM. In this forum, the Executive Board and the Chairman of the Supervisory Board are available to address any issues and are legally obliged to provide adequate responses.

Outside the AGM, shareholders may approach the Executive Board, in particular the CEO or the CFO, or, for topics relating to Supervisory Board matters, the Chairman of the Supervisory Board or his Deputy. Mr Frank Jakobi, as employee representative, is Deputy Chairman of the Supervisory Board in accordance with the German Co-Determination Act.

**DIVISION OF RESPONSIBILITIES – CHAIRMAN & CHIEF EXECUTIVE (PROVISION 14)**

The separation of the roles of the Chairman of the Supervisory Board (Dr Dieter Zetsche) and the CEO (Mr Sebastian Ebel) is clearly defined under German law as part of the two-tier board structure. Therefore, no further division of their responsibilities as well as responsibilities of the Executive Board and the Supervisory Board is required or even possible. In addition, the division of responsibilities within the Executive Board and the Supervisory Board as well as its committees also results directly from legislation and the respective terms of reference. Therefore, the Executive Board and the Supervisory Board consider that TUI AG lives up to the spirit and meaning of the UK CGC.

**ADVICE AND SERVICE OF THE COMPANY SECRETARY (PROVISION 16)**

There is no specific role of Company Secretary in German companies. However, Executive and Supervisory Board members have access to the Board Office of TUI AG if they need any advice on all governance matters or other services. The Board Office acts as an interface in corporate matters for the Executive and Supervisory Board members and is responsible for ensuring that the requisite processes and procedures are in place governing all Executive and Supervisory Board meetings (i.e. preparation of agendas, minuting of meetings and ensuring compliance with German and UK law, as appropriate, and with recommendations for corporate governance). The Board Office also supports the Chairman of the Supervisory Board, the CEO, the CFO and the Chairmen of the Audit and the Strategy Committees. Executive and Supervisory Board members also have access to legal advice via the Group Director Legal, Compliance & Board Office and via the Board Office. The Supervisory Board can also approach the Executive Board directly for specific advice on any matters. Accordingly, the Executive Board and the Supervisory Board consider that TUI AG lives up to the spirit and meaning of the UK CGC.

**NOMINATION COMMITTEE – COMPOSITION AND RESPONSIBILITIES (PROVISION 17)**

The role of the Nomination Committee in a typical UK company is fulfilled in TUI AG by two Committees of the Supervisory Board:

Under the Terms of Reference for the Supervisory Board and its Committees (which are equivalent to the Terms of Reference of a British corporation) the Nomination Committee considers and proposes suitable candidates as shareholder representatives to the Supervisory Board for its election proposals to the AGM. The Presiding Committee determines the requirements and remuneration for any new appointments to the Executive Board and recommends suitable candidates to the Supervisory Board. On that basis, the Supervisory Board appoints Executive Board members. This approach is different from the UK where all director appointments are approved by shareholders at the AGM. Succession planning for management levels below Executive Board is carried out by the Executive Board.

However, as is common practice in Germany, at each AGM shareholders are asked to decide whether they approve the actions of the Executive Board and Supervisory Board members during the past financial year. Since the AGM 2015, in the light of UK practice, TUI AG has changed its procedure to allow a separate vote on each individual Executive Board and Supervisory Board member, as it is customary in the UK.

TUI AG intends to continue this practice. Accordingly, the Supervisory Board considers that TUI AG lives up to the spirit and meaning of the UK CGC to the extent practicable.

In addition to Prof. Dr Ernst, the Nomination Committee also consists of Dr Zetsche as Committee Chairman and Dr Dönges, who is considered non-independent until 30 October 2023. In this context, the majority of the members of the Nomination Committee are assessed by the Supervisory Board to be independent.

**ANNUAL RE-ELECTION BY SHAREHOLDERS AT THE AGM (PROVISION 18)**

None of the Executive or Supervisory Board members is re-elected annually. However, as noted above, in light of the UK CGC and UK best practice, TUI AG voluntarily puts individual resolutions approving the actions of each Executive and Supervisory Board member to the AGM resolving on the annual financial statements for the previous year. TUI AG intends to continue this practice.

The end of appointment periods for Supervisory Board members are disclosed in the table from page 115.

 *Current curricula vitae of all Executive and Supervisory Board members are published at [www.tuigroup.com/en-en/investors/corporate-governance](http://www.tuigroup.com/en-en/investors/corporate-governance).*

**BOARD PERFORMANCE EVALUATION (PRINCIPLE L AND PROVISION 21)**

The performance of each individual Executive Board member is evaluated annually by the Supervisory Board for the annual performance-based remuneration. In this context, the Supervisory Board also reviews the individual member’s overall performance as part of the Executive Board. However, no external performance evaluation is done for the Executive Board.

The efficiency of the Supervisory Board is reviewed regularly, but not annually. Each Supervisory Board member can give feedback to the Chairman, the Deputy Chairman or the Supervisory Board as a whole as and when appropriate or required.

The last self-assessment was conducted internally at the end of September 2020. For this purpose, a questionnaire was distributed to all members, in which they could give their assessment of the effectiveness of the working methods of the Supervisory Board and its committees. The Presiding Committee and the Supervisory Board have subsequently dealt with the results and derived measures from them. These primarily concerned the work of the Supervisory Board, the organisation of the meetings and the main topics that the Supervisory Board dealt with in more detail. The next self-assessment is planned for the beginning of 2024 and is accompanied externally by the consulting company ECBE (European Center for Board Effectiveness GmbH) since September 2023. The Company is not aware of any other relationships between ECBE and the Company or its directors.

**NOMINATION COMMITTEE – SECTION IN THE ANNUAL REPORT (PROVISION 23)**

For the activities of the Nomination Committee, see page 16 which is part of the Supervisory Board Chairman’s letter to shareholders. The succession planning approach is outlined on page 131. The policy on diversity and inclusion can be found on page 132. For evaluation of the performance of the Board, see above.

**COMPOSITION OF THE AUDIT COMMITTEE (PROVISION 24)**

Neither German law nor the German Corporate Governance Code stipulates that the Chairman of the Supervisory Board should not be a member of the Audit Committee and that the Audit Committee may only consist of independent members. The Audit Committee consists of Dr Zetsche as Chairman of the Supervisory Board and Dr Dönges, who is not considered to be independent until 30 October 2023. TUI AG therefore does not fully meet the requirements of the UK CGC, but is of the opinion that the current composition of the Audit Committee ensures reliable work based on experience.

**FAIR, BALANCED AND UNDERSTANDABLE ANNUAL REPORT & ACCOUNTS (PROVISION 27)**

In a German stock corporation the Executive Board is responsible for drafting the Annual Report & Accounts (ARA). According to section 243 (2) of the German Commercial Act (HGB) the ARA must be clearly arranged and should present a realistic picture of the Company’s economic situation. This is equivalent to the UK Code requirement for the ARA to be fair, balanced and understandable. Although this assessment has not been delegated to the Audit Committee, the Executive Board is convinced that this ARA satisfies both requirements.

**ESTABLISHED AND OPERATION OF REMUNERATION COMMITTEE (PROVISION 32, 34 AND 41)**

In the German governance structure there is no separate Remuneration Committee. The remuneration of the Executive Board is under involvement of the employee representatives monitored and agreed by the Supervisory Board based on recommendations from the Presiding Committee, which is governed by the Supervisory Board Terms of Reference.

The remuneration of the members of the Supervisory Board and the members of the Supervisory Board Committees is governed by the Articles of Association as resolved on by the shareholders at the AGM.

See the Directors’ Remuneration Report from page 157 for full details on Executive and Supervisory Board member’s remuneration.

**POLICY FOR POST-EMPLOYMENT SHAREHOLDING REQUIREMENTS (PROVISION 36)**

Neither German law nor the German Corporate Governance Code requires the company to implement a policy for post-employment shareholding requirements. According to the remuneration system approved by the Annual General Meeting in 2021, no policy is provided for post-employment shareholding requirements.

**NOTICE PERIODS FOR EXECUTIVE DIRECTORS (PROVISION 39)**

In accordance with the customary practice in Germany members of the Executive Board are generally appointed for a term of three to five years. This is not yet fully in line with the UK CGC recommendation that notice periods or contract terms should be set at one year or less. However, the contracts include maximum limits on the amounts payable on termination.

 [See Remuneration Report from page 157.](#)