



Swedish Ministry of Justice  
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## Feedback report on gender mainstreaming in the Swedish Courts

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# 1 Introduction

In accordance with the budgetary appropriations instructions, the Swedish National Court Administration is to submit an interim report on the gender mainstreaming assignment on behalf of the Swedish Courts by no later than 22 February 2018. The report will describe and analyse the results of the work carried out between 2015 and 2017. The focus for follow-up is on the results, while the starting point is based on the objectives and activities set out in the action plan for gender mainstreaming in the Swedish Courts.

## 2 Gender mainstreaming approach adopted by the Swedish Courts

The Swedish Courts are made up of around 80 independent courts and committees, along with the Swedish National Court Administration. The task of the Swedish National Court Administration was to co-ordinate the assignment for the Swedish Courts and implement gender mainstreaming as part of the Administration's own operation.

When the Swedish National Court Administration received the assignment from the government, it was felt that it would not be reasonable for all the courts to begin implementing gender mainstreaming in their work at the same time. The Swedish National Court Administration decided instead to invite courts which were interested to take part in a pilot scheme, with the aim of presenting good examples of how this task could be carried out in a court. Göta Court of Appeal, Södertörn District Court, Helsingborg District Court, Värmland District Court, the Administrative Courts in Malmö and Karlstad were the pilot courts. They represent both types of court: courts of second and first instance, and small, medium and large courts.<sup>1</sup>

The pilot courts focused on the task of examining activities relating to gender mainstreaming. Their experiences form the basis for the work still being done on these issues throughout all Swedish Courts. The Swedish National Court Administration provided a supportive role for the courts. A gender equality strategy consultant was employed for this assignment for a two-year period. This consultant was seconded to the HR department. The pilot courts received support from the gender equality strategy consultant and a gender mainstreaming task group<sup>2</sup> was set up at the Swedish National Court Administration. A steering group was also set up at the Swedish National Court Administration for this assignment.<sup>3</sup>

The work on policy development in the Swedish Courts is being carried out with reference to the PDCA quality wheel:<sup>4</sup> Plan, Do, Check, Act. The same model is being used for gender mainstreaming activities. More specifically, the work on implementing gender mainstreaming in Swedish Courts began in 2017. Accordingly, the focus in 2017 was on activities relating to the first part of the wheel, while also making proposals and carrying out improvement measures in the other parts of the wheel. To be able to perform the "check" and "act" parts, the

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<sup>1</sup> More courts expressed an interest in being pilot courts than was thought possible to handle. The choice was made based on having a representative sample.

<sup>2</sup> The members of the task group were: Emma Ravald, gender equality strategy consultant, Helena Jönrup, activity organiser/coordinator, Dan Töllborn, district court judge/strategy consultant, Erika Lilja, communication consultant, Peter Islander, judge of appeal, and Karin Påle-Bartes, judge at Södertörn District Court.

<sup>3</sup> The members of the steering group were: Maria Isaksson, chairwoman, head of HR, Marie Eriksson, head of unit for employer matters, Annika Rojas Wiberg, head of unit for activity development, Magdalena Hägg Bergvall, principal of the Judicial Training Academy and head of department for skills development and international relations, Andreas Sundberg, head of planning unit, Lena Carlsson Tell, head of analysis and financing unit, Emma Ravald, gender equality strategy consultant

<sup>4</sup> Edwards Deming's PDCA wheel

improvement measures taken need to be in operation for a while. The remaining two parts still need to be carried out for the Swedish Courts.

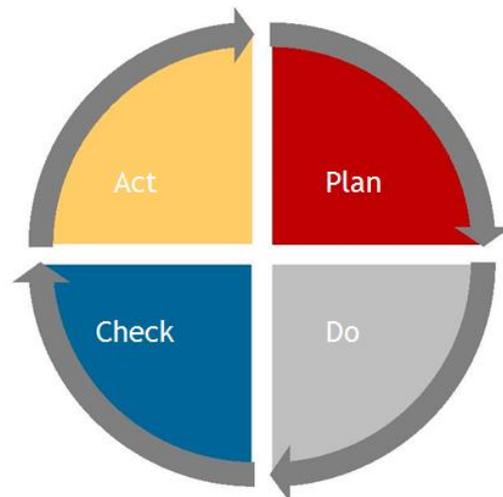


Figure 1: PDCA wheel (Plan, Do, Check, Act) by Edward Deming

Since 2010, the Swedish Courts have been working on developing policies on interaction with court users and on the drafting of judgments. The reason for this is to gain an outside perspective and continually examine whether the courts are meeting citizen's justified requirements regarding service, information and the way they are dealt with. This task will ensure that the gender equality factor is incorporated, for instance, during interviews with parties and witnesses, when meeting professionals involved in this area, and as part of the efforts to improve the drafting of judgments.

## 2.1 Definition of the problem

The Swedish National Court Administration submitted its action plan to the Department in November 2015, expressing the view that more facts and material were required in order to be able to define the nature of the problem. Accordingly, the task group drew up a profile in autumn 2016, which highlighted the relevant issues and areas for development.

The courts are independent and autonomous in relation to the Riksdag (Swedish Parliament), government and other authorities. The independence of the judiciary is protected under the constitution, with objectivity being its obvious cornerstone. However, research has shown that the courts do not always comply with the objectivity aspect. In point of fact, there is at times scope for subjective interpretations and judgments.<sup>5</sup> The belief that the courts do comply with the ideal of objectivity could constrain endeavours to improve and could cover up any shortcomings. There is also the possible risk of a gap developing between the image the Swedish Courts have of themselves and the image which others have of them.<sup>6</sup>

Being gender-neutral in their approach is regarded as an objective approach. However, objectivity can be unconsciously affected by the male norms that operate in the whole of society, which means that what is felt to be objective in the Administration itself can be promoted by a particular group.

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<sup>5</sup> E.g. Linnéa Bruno, 2016, Moa Bladini, 2013 and Christian and Eva Diesen, 2009.

<sup>6</sup> The confidence survey conducted by the Swedish National Court Administration in 2013 shows among its findings that there is potential for improvement in terms of equal treatment in the courts.

## Overall definition of the problem

The belief which the courts have that they operate impartially, without prejudice and are not affected by the norms, judgments and attitudes which pervade society at large can result in a failure to provide service, information, interaction with court users and justice on equal terms.

The courts exert a considerable influence on the individual in every type of case which they deal with. This means that there is an opportunity for influence in every sub-area, but the Swedish Courts exert the most influence on gender equality aspects for citizens under sub-objective 1, power and influence, and sub-objective 6, which is to bring an end to men's violence against women.

The courts deal with a large number of cases every year relating, for instance, to domestic abuse and sexual abuse.<sup>7</sup> There are expectations of and ideas about the courts in society, linked to the issue of men's violence against women, which the courts must address. This includes very high expectations that the courts will administer justice impartially, emphasising everyone's right and opportunity to physical integrity.<sup>8</sup>

## 2.2 Objectives

The action plan submitted to the government contained the following impact objectives:

1. Knowledge and level of awareness about gender, gender norms, gender mainstreaming and gender-equality policy objectives are a high priority for managers and staff.
2. The Swedish Courts operate with due regard for the gender-equality policy objectives and on the basis that justice must be equal for all, regardless of gender. Confidence in the Swedish Courts is high among both women and men.
3. The Swedish Courts offer the same service to all court users and deal with them in the same way, regardless of gender.
4. Parties, witnesses and others who come into contact with the Swedish Courts verbally, in writing or online feel that the Swedish Courts are an organisation based on gender equality.

## 2.3 Areas of development

During the course of the assignment, some priorities were reordered, resulting in adjustments to the activities in the action plan. The action plan was not entirely revised, but a target and activity plan was drawn up for 2017 to prioritise and follow up the activities.

To enable the Swedish Courts to be involved in setting gender-equality policy objectives, three areas of development were highlighted:

- expertise
- management, governance and follow-up, and
- attitudes and judgments

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<sup>7</sup> In 2014, 1 139 indictments were submitted relating to sexual abuse. There are no statistics available broken down by gender about convictions in relation to victims of crime (SOU 2015:86 p. 254f.)

<sup>8</sup> In the 2013 confidence survey, the biggest single case type about which respondents expressed dissatisfaction was rape. Based on the comments made, the outcome of these judgments has had the most adverse impact on confidence in the courts, p. 39.

### 3 Activities carried out, outcome and results

In 2016 and 2017, the focus of the Swedish Court's gender mainstreaming work was planning and carrying out activities in accordance with the quality wheel. The action plan provided the main guidance, but during the course of the assignment, priorities were set among the activities and the activities were reviewed. A description is provided below of the activities and of the results in relation to the impact objective they were expected to contribute to.

The activities and results relating to the pilot courts' work are described in a separate section.

#### 3.1 Objective 1

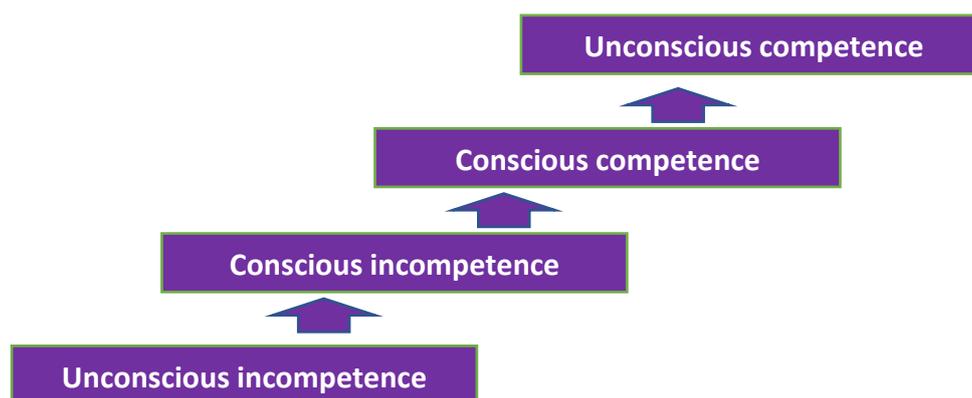
Knowledge and level of awareness about gender, gender norms, gender mainstreaming and gender-equality policy objectives are a high priority for managers and staff and are an integral part of every aspect of the Swedish Courts' work.

##### 3.1.1 Activities

In early 2015, a survey was carried out about the courts' awareness of the gender-equality policy objectives and to find out whether they had carried out or were planning to carry out any gender mainstreaming activities. Roughly half of the courts considered that they had a good knowledge of the gender-equality policy objectives and half considered that their knowledge of them was less good. The answers to the open questions indicated that few courts had started any work in this area and that many of the courts linked gender equality, on the one hand, to their work on interaction and, on the other, to HR and employer matters, such as recruitment and leadership.

During the assignment, Thomas Gordon's competence ladder has been used to describe skills development. The Swedish Courts have started at the bottom rung of the ladder, indicating that it is an organisation which unconsciously has no expertise when it comes to matters relating to gender equality, gender and gender mainstreaming. A number of activities have been completed to raise the level of expertise to the next rungs.

Figure 2: Thomas Gordon's competence ladder



##### *Online training*

With the aim of achieving the goal of increasing their expertise in this area, a comprehensive online training programme was launched on gender mainstreaming in the Swedish Courts in November 2017. It is targeted at all employees in the Swedish Courts, with the aim being to increase their knowledge about what guides the work on gender equality in the Swedish Courts, how structures and norms affect what they do, and give examples of how the Swedish Courts can continue their work to promote gender equality. The training also includes a section about

working abroad.

#### *Further training in the Swedish National Court Administration and Judicial Training Academy*

The Swedish National Court Administration and Judicial Training Academy are developing training courses tailored to the courts' current needs. During the task of implementing gender mainstreaming in the pilot courts, certain training needs have arisen in the area, which will be addressed.

The gender-equality perspective has been incorporated into the basic training for new employees. This aspect has also been incorporated into revised courses on criminal law for ordinary judges, with the focus on matters relating to dealing with court users. This aspect is also being integrated into the courses for ordinary judges on the judge's role.

The gender-equality aspect has also been taken into consideration when running courses, so that distribution in terms of the number of men and women attending the courses is taken into account, along with seating arrangements in the classroom. This aspect is also included in the training given to internal course instructors.

#### *Internal communication*

In order to make Swedish court employees realise how important it is to implement gender mainstreaming and to strive to achieve the gender-equality policy objectives, internal communication is vital. One key aspect of internal communication has been to pass on the working method used in the pilot courts and their experiences to other courts.

Throughout the pilot phase, the task group published information on progress with gender equality via the Swedish Courts' intranet. The information published on these pages includes details of the assignment, the current status of what is happening in the pilot courts and information guides offering tips and tools.

To increase awareness of what is taking place, 15 news items about gender-equality matters have been published for all Swedish court employees. The news items published include:

- Examples of the gender-equality work being carried out by the pilot courts, such as a staff development day with a talk on gender equality and arranging a "Guy Talk" lunch to discuss the workplace culture for court staff
- Results of the survey conducted by the Swedish National Council for Crime Prevention: "Döms lika fall lika?" [Are same cases judged the same?]
- Information on online gender mainstreaming training courses for all staff in Swedish courts
- Interviews with Director-General Martin Holmgren about the #metoo and #medvilkenrätt [#by what right] campaigns, followed by several heads of authorities issuing a joint statement condemning sexual harassment and assaults

Information has also been provided about the gender mainstreaming assignment in various forums where people occupying different key functions in Swedish Courts get together. This includes senior administrators and HR experts being informed via webinars and court managers being informed via the Chefsnytt news channel in joint meetings attended by court managers.

The Swedish National Court Administration's staff received information during meetings held for all members of staff.

### 3.1.1.1 Outcome and results

Around 2,400 employees have completed the online training so far. According to the participants' assessments, 67% felt that it had provided them with what they needed to achieve their aim to a large or very large extent. The following comments were made about the benefit of the online training:<sup>9</sup>

"It's easy to believe that when working for an authority, you are treated on equal terms compared to the external agencies, but things are often not as equal as you first think."

"The courts don't treat people as equally as you think and I need to think more actively about gender-equality issues."

"Previously, I was not even conscious that there was an awareness of these issues in the Swedish Courts. What is great is that I don't need to feel like an outsider who wants to raise these issues in the future."

"Realising the importance of integrating gender equality as part of everyday work. Looking out for shortcomings in terms of gender equality. I think that these skills are of considerable benefit."

In spring 2018, the 2015 survey will be followed up by a similar survey. It is hoped that this survey will be able to reveal an increase in knowledge and give an insight showing that gender mainstreaming is influencing core activities. Increasing knowledge is not an objective in itself. The aim is to ensure that the newly acquired knowledge is used and required in the courts' activities.

Greater awareness can be noticed among employees who have been involved in the work on implementing gender mainstreaming at the Swedish National Court Administration and pilot courts. This is reflected in the fact that matters relating to gender equality are raised for discussion, more staff are reacting to gender-based stereotypes and jargon, and that they are introducing activities on their own initiative.

## 3.2 Objective 2

The Swedish Courts operate with due regard for the gender-equality policy objectives and on the basis that justice must be equal for all, regardless of gender. Confidence in the Swedish Courts is high among both women and men.

### 3.2.1 Activities

To ensure equal treatment of women and men, activities must be systematically examined, analysed and revised from a gender-equality perspective, using both quantitative and qualitative methods.

#### *Governance*

During 2017 the Swedish National Court Administration reviewed the policy paper based on the document issued by the Swedish Secretariat for Gender Research, "Så gör du jämställda styrdokument" [How to produce a gender-equality policy paper] and looked into whether and where definitions of gender equality were currently available. The definitions are currently rather broad and need to be more specific, e.g. as part of the company's working regulations. There are some policy papers which do not even contain definitions of gender equality. Accordingly, the Swedish National Court Administration used the annual wheel to plan for when changes aimed at highlighting gender equality in policy papers can be carried out. Based on the changes being planned, the aim is to make it clearer as to what the gender-equality expectations are in the organisation.

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<sup>9</sup> More than 1,000 employees responded to the training survey, which is considerably more than is usually the case.

HR-related documents at the Swedish National Court Administration have been quality-assured from a gender-equality perspective.

#### *Follow-up*

As part of the budget and activity dialogue featuring in the budget process for the Swedish Courts, the Swedish National Court Administration is following up on and providing information about the efforts to implement gender mainstreaming in the public authorities. In autumn 2017, as part of the budget dialogue, the courts received information about forthcoming gender mainstreaming workshops.

The Swedish National Court Administration has co-operated with the Swedish National Council for Crime Prevention (Brå) to produce evidence of how well gender equality is established as a practice in the courts. The Council conducted a brief analysis, indicating the large disparities there are between men and women in terms of custodial sentences. Men are twice as likely to be given a custodial sentence. A specific analysis has been carried out on drink-driving and severe drink-driving. In the case of severe drink-driving, a man is 1.6 times more likely to be given a custodial sentence than a woman.

The author of the study presented the report at “practice” meetings involving judges from some of the pilot courts. The Swedish National Court Administration has expressed the wish for the National Council for Crime Prevention to follow up the study with a qualitative analysis of the reasons underlying the differences in the sentences handed down.

In 2017 the Swedish National Court Administration began examining the possibility of extracting statistics from the VERA case management system, broken down by gender.

#### **3.2.1.1 Outcome and results**

There is still work to be done in terms of applying gender mainstreaming to governance and follow-up. The Swedish National Court Administration’s budget dialogue, work regulations, activity planning and the strategy chart have been identified as key processes for incorporating gender mainstreaming.

A number of the Swedish National Court Administration’s policy papers have been analysed, with some of them also being revised. To ensure that this work goes further than offering a number of definitions of gender equality and actually makes an impact, resources need to be set aside for implementation and follow-up. It is only then that the whole chain of governance can be described as being influenced by gender mainstreaming.

With effect from the 2017 annual report, statistics for staff in Swedish courts will be presented broken down by gender.

The existing VERA case management system does not offer the option of extracting individual-based statistics broken down by gender.

Following the budget dialogue in autumn 2017, almost all courts registered for the workshops which the Swedish National Court Administration is arranging in order to implement the results from the pilot court activity.

### 3.3 Objective 3

The Swedish Courts offer the same service to all court users and deal with them in the same way, regardless of gender

#### 3.3.1 Activities

The Swedish Courts have been promoting confidence-building since 2010, which includes issues about the way in which court users are dealt with and the drafting of judgments.<sup>10</sup> Clarifying these issues from a gender-equality perspective has therefore been an obvious part of the Swedish Courts' work on implementing gender mainstreaming in the public authorities.

##### *Confidence Day and developing intranet sites*

A Confidence Day was arranged in October 2017 as part of the Swedish Courts' effort to highlight appropriate ways of dealing with court users, the drafting of judgments and other confidence-related issues. It was attended by court managers and staff who are particularly active in confidence-building, with 160 persons in total. The gender mainstreaming work carried out by two of the pilot courts was highlighted as good examples of confidence-building.

The intranet is a key platform for the Swedish Courts in terms of reaching out with support, information and news about work involving confidence-related issues.

A review is being carried out where gender mainstreaming tools are also being combined with confidence-building. For example, interview guides for parties and witnesses are being revised, as is a questionnaire for professionals so that they can be used to examine and analyse the situation from a gender-equality perspective.

##### *Review of the drafting of judgments*

In order to achieve an equal service and ensure court users are dealt with in an equal way, regardless of gender, the language used in verdicts and decisions must be gender-equal and be used with an awareness of how important the choice of words and mode of expression are. In the course of the year, the Swedish National Court Administration initiated co-operation with researchers at Linnaeus University, aimed at studying how judgments are drafted from a gender perspective. The types of cases focused on will be child protection, custody disputes, rape and domestic abuse.

The results of the review of the judgments will be fed back during workshops at the pilot courts which took part in the study. The authors of the report have also been tasked with providing advice which can be used to draft guidelines and recommendations for the work still being done on how to draft judgments.

#### 3.3.1.1 Outcome and results

The first steps have been taken as part of the assignment to implement gender mainstreaming based on the confidence-building work carried out in Swedish Courts. The same methods which have been used for confidence-building have been used for the work on implementing gender mainstreaming by incorporating a gender quality aspect into them.

The report on the drafting of judgments will be complete in spring 2018.

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<sup>10</sup> The task was initiated by the 2008 Confidence report

### **3.4 Objective 4**

Parties, witnesses and others who come into contact with the Swedish Courts verbally, in writing or online notice and feel that the Swedish Courts are an organisation based on gender equality.

#### **3.4.1 Activities**

In 2017 staff from the communications department received training on norm-critical communication.

Image and text analyses on the intranet and external website will be carried out, to some extent, in the course of 2018. This will take place as part of the revamping of the external website for all the courts in 2018. This will include gender equality and accessibility criteria. Checklists will be produced, which will also apply to how film is used.

The gender-equality aspect will be included when a new image database is set up in 2018 to suit the needs of the new website and other information channels.

##### **3.4.1.1 Outcome and results**

There has been an increase in awareness during the assignment for implementing gender mainstreaming about how communication can be more inclusive and gender-equal in Swedish Courts. One of the upshots of this is that gender equality has been implemented as a requirement in orders for communication actions from the contracting communications agency. When an order is now placed for a new external website and an updated design basis for employer branding, gender equality is one of the specified requirements.

A page has been published on the intranet about inclusive communication, offering tips and tools for making text and images inclusive from a gender-equality and diversity perspective.

### **3.5 Summary comment about the results and outcome**

One result is that gender mainstreaming has been partially implemented in confidence-building. One success factor has been the opportunity to add a gender-equality and gender perspective to existing knowledge and practice in the area of, for instance, confidence-building. Most of the staff with expertise in confidence-building have also been involved in the effort to implement gender mainstreaming, which has made it easy to link these issues.

The Swedish National Court Administration has been responsible for implementing the activities described above, such as those relating to training, governance and follow-up. A review has been carried out on internal management and governance at the Swedish National Court Administration, which will make it clearer how to add the gender-equality aspect during 2018.

In accordance with the objectives level in the action plan, key processes in the organisation's work will be systematically examined, analysed and revised from a gender-equality perspective. Joint processes for all the Swedish Courts, such as budgeting, activity planning and annual reports have not had gender mainstreaming fully implemented.

The Swedish Courts have attracted positive attention for their work with the pilot courts. They were nominated for Sweden's 2017 gender-equality prize. The minister for gender equality visited one of the pilot courts, the Administrative Court in Karlstad, to gain an insight into the courts' gender-equality work. Professionals who work at the courts, e.g. female lawyers, also positively rated the work done on gender equality at the courts.

## 3.6 Pilot courts

### 3.6.1 Introduction

Göta Court of Appeal, Södertörn District Court, Helsingborg District Court, Värmland District Court, the Administrative Courts in Malmö and Karlstad were the pilot courts in 2017. A kick-off meeting was held early 2017 to set out the framework for the assignment. The action plan, background and a description of the problem were distributed prior to the kick-off meeting. The courts performed SWOT analyses, presented ideas for activities and identified the support they required to carry out the assignment. The next step involved the courts themselves selecting methods for taking on the assignment. All the courts arranged training and information briefings with staff so that they could begin work on this task. As it had been confirmed that there was insufficient material and knowledge about gender equality in the courts, the focus of the pilot courts' work was on taking stock and obtaining knowledge. This activity was planned out using various methods. The Swedish National Court Administration was given a budget in order to be able to offer the pilot courts support, with external consultancy being one option.

### 3.6.2 Skills development

All the pilot courts stressed the importance of knowledge and of getting staff involved in the development work. One way in which this was done was by inviting external speakers, consultants, voluntary organisations and experts from the Swedish National Court Administration.

One group which was key in terms of increasing knowledge about gender equality was the lay judges. At a couple of the pilot courts, gender mainstreaming was included as a topic in the training for lay judges.

Several of the courts felt that it was important to explain the internal jargon, based on the assumption that the internal jargon is reflected in the external jargon. This exercise took place at Helsingborg District Court by all employees taking part in group discussions where they were made to vote on how they reacted to different words and terms, followed by open discussions. The result of the vote highlighted the fact that employees' tolerance level in terms of what it was acceptable to say in an everyday situation varied hugely, especially in relation to matters of ethnicity. It also emerged that employees thought that the court's hierarchical structure was a factor which made it difficult for an individual to react when they heard colleagues say something inappropriate.

In connection with the Swedish female lawyers' #medvilkenrätt campaign against sexual abuse, Södertörn District Court invited all notaries to a meeting to discuss how they perceived the way the court dealt with court users based on gender. A perception was expressed that the expectations are different in terms of how notaries should perform, based on gender, and that some lay judges treated female notaries in a derogatory manner.

#### 3.6.2.1 Outcome and results

There has been an increase in awareness about gender playing a role in the pilot courts' activities. Discussions have raised awareness about issues regarding who has priority in relation to the interpretation of terms and about whether a choice of words is derogatory or not.

As a result of the discussion with the group of notaries at Södertörn District Court, all the court's staff will attend a course on how master suppression techniques can be counteracted. In addition, managers will receive training on how they should act in their role. Lay assessors will be given training on gender equality and on the district court's work with gender mainstreaming.

The courts themselves reckon that they have moved up from the first rung to the second rung on the competence ladder.

### 3.6.3 Survey

Some courts have carried out a survey on their staff's experience of gender equality internally and externally. One of the findings is that there is a perception that women and men are judged differently within the organisation and that gender-stereotype jargon is used internally.

#### 3.6.3.1 Outcome and results

The survey results were discussed during workplace meetings. Measures to improve gender equality internally and externally by, for instance, giving gender equality a clearer place in the policy on dealing with court users were included in the Göta Court of Appeal's 2018 activity plan. A dedicated group for this purpose was set up at the same court, with one of its tasks being in 2018 to carry out a number of activities in support of gender mainstreaming work in the court of appeal. One specific change made was that the courts raise the subject of gender-equality activities during induction meetings and exit interviews.

### 3.6.4 Student dissertations

A couple of the pilot courts have co-operated with universities to obtain assistance in explaining what they are doing. Students from the Sociology of Law Department at Lund University in Sweden reviewed judgments issued in migration cases by the Administrative Court in Malmö.<sup>11</sup> The basis for this was provided by reports from the Swedish Migration Agency and their work on implementing gender mainstreaming in the public authorities. The review produced the following findings:

1. Cases at the administrative court involving several complainants always basically appear as “[the man's name] et al.” in the list of cases.
2. The man's protection requirements are often described in detail both in the Swedish Migration Agency's decision and in the judgments, whereas it is sometimes difficult to read about how the protection requirements for the woman and children have been assessed.
3. The Swedish Migration Agency and the migration court sometimes refer to the complainants as “[the man's name] and his family”, which is likely to make the woman invisible in the process.

Students from the same department observed a number of criminal proceedings at the Helsingborg District Court from a gender-equality perspective. They also interviewed judges on their views concerning interaction with court users and gender-equality issues. The dissertation confirmed that there were great variations in judges' knowledge about gender-equality issues.<sup>12</sup>

#### 3.6.4.1 Outcome and results

The results from the student dissertations will provide a basis for continuing internal discussions and analyses in the courts.

The practice at the Administrative Court in Malmö is that, in cases involving several

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<sup>11</sup> Jämställdhet i domskrivning; En kritisk diskursanalys av hur asylsökande skildras i domar [Gender equality in the drafting of judgments: A critical discourse analysis of how asylum seekers are described in judgments], Amanda Lindgren & Ellen Ejderbring Tengvall, Sociology of Law Department, Lund University, Degree dissertation, spring term 2017

<sup>12</sup> Kön, men inte bara kön - En kvalitativ studie om domares externa bemötande med fokus på jämställdhet [Gender, and nothing but gender – A qualitative study on judges' external interactions, focusing on equality], Erica Svensson & Sofia Pettersson, Sociology of Law Department, Lund University, Degree dissertation, spring term 2017

complainants, they should be listed in age order, with the oldest complainant first. This was discussed in connection with the student dissertations. Specifying the parties involved in age order can still often result in a man's name being specified in the list of cases and first in the judgment heading, but this is a result of age, not gender.

### **3.6.5 Interviewing professionals and others working in this area**

To obtain a picture of how the courts' work is perceived in terms of gender equality, several pilot courts have held meetings to discuss the matter with lawyers, junior lawyers and public prosecutors. The meeting held by the Södertörn District Court revealed that the professionals involved felt that gender plays the most important role in sexual offences, offences involving violence against family members and in custody and access cases. It was also felt that defence lawyers who are men are allowed to occupy more space in the court room than lawyers for the complainants, who are women, and that master suppression techniques and expressions of macho culture sometimes occur in the court room. A request was made for the presiding judge to take action when such situations arose.

A survey of the same target group, along with lay judges and professional judges was carried out by Helsingborg District Court. The survey responses indicated that both professional and lay judges considered to a lesser degree than public prosecutors and lawyers that gender played a role in the court's interaction with defendants and litigants and in the sentences handed down. With regard to the latter, the overriding perception was that women were treated positively, which means that they received lighter sentences. The survey highlighted that there was a risk of both parties and legal professionals being treated differently by the court according to their gender or gender identity.

The Södertörn District Court also held a meeting with a women's shelter. The views which arose concerned how to ensure that vulnerable women could feel safer on the court's premises.

#### **3.6.5.1 Outcome and results**

The perception which emerged from the discussions with the professionals was that the courts' dealings with court users was good. The findings had already been dealt with in the standard quality control work, for instance, by existing workgroups set up within different specialist areas. There is an ongoing dialogue with target groups and gender-equality issues can be followed up at these meetings.

There was a great variety of interest in taking part in the discussions. When the Göta Court of Appeal invited professionals, they received not a single application to attend, whereas there were around 30 lawyers, junior lawyers and public prosecutors who registered when the Södertörn District Court invited them to a meeting.

### **3.6.6 "Gender walk" in the users' footsteps**

The Administrative Court in Karlstad and Södertörn District Court carried out a "gender walk" to look into how inclusive and safe the physical environment was where the courts were located, irrespective of gender. The basic principle was that if the premises were safe for those who needed most protection, they would be safe for everyone and that safe environments made it easier for anyone who felt vulnerable to say what was required to ensure that a judgment would be materially correct. Some of the issues which emerged during the walks were the importance of feeling safe in the court's immediate surroundings, of having the chance to wait in a separate room before the proceedings, having access to witness support and of guards being able to patrol the premises. One observation was that the portraits of previous chief judges, all men, hanging in the communal areas, could give rise to a feeling of exclusion and might even give a frightening impression.

### **3.6.6.1 Outcome and results**

A separate room will be set up at the Södertörn District Court for parties in a dispute and witnesses. The district court has increased the presence of guards patrolling all the floors to which the public have access. The existing witness support scheme has undertaken to accompany users to the suburban train station. Contact has also been made with Stockholm Public Transport (SL) and the municipal council to provide suggestions as to how the surrounding environment can be made safer for people attending the court.

One upshot of the “gender walk” for the Administrative Court in Karlstad is that, in one of the waiting rooms which has portraits hanging of circuit court judges, chief judges and judges, who are all men, a notice has been put up stating that the portraits are a historical document and, historically, these positions have been occupied by men. But things are different now in 2018. Just as many women as men are judges and more women than men are training to be judges. There is also mention of the active gender-equality work carried out in Swedish Courts, both for the court as an employer and in the judiciary.

### **3.6.7 Risk assessment**

The Administrative Court in Karlstad is planning to devise a tool for carrying out a structured risk assessment of the vulnerability to violence faced by women and young people in child protection cases. Material and lessons will need to be obtained from other authorities, such as the police (SARA) and Swedish Prison and Probation Service (IDAP). The risk assessment should be used to systematically evaluate risks in cases focusing on confidentiality, the drafting of judgments and measures during proceedings, such as appearing via video link, having security guards and where the parties are placed in the courtroom. The aim is to ensure that the way in which cases are handled in the administrative court does not increase the feeling of insecurity for those who may be or actually are vulnerable to violence.

#### **3.6.7.1 Outcome and results**

The risk assessment method is to be devised and tested during 2018. This is why there are no results or outcome to be reported yet. One expected result is an increase in safety for vulnerable individuals.

### **3.6.8 Summary comments about the pilot court activity**

The pilot courts have been tasked with highlighting and describing problems or development areas for contributing to the gender-equality policy objectives. The pilot courts have been able to indicate, based on their activities, investigations and mapping surveys that parties and witnesses, professionals and staff feel that there are structures, norms and types of behaviour in the courts which run counter to everyone being treated the same, regardless of gender. Some examples are given below to illustrate this:

- There is a lack of awareness in the courts about the fact that gender plays a role in what they do and how this manifests itself.
- The man is the norm in the asylum process, which is evident from the courts’ handling of asylum cases.
- The layout of the court’s premises and of the adjacent surroundings affects victims, e.g. the feeling of security or lack of security which women vulnerable to violence experience.
- Master suppression techniques and subtle threats are used between parties and their

representatives during proceedings. This affects the feeling of safety experienced and the opportunity for all those involved to be heard under the same conditions.

- The courts' handling of legal proceedings for cases involving violence, such as child protection, could be clearer and more consistent to ensure that the aims of the applicable laws on violent crime and protection against exposure to violence are achieved.
- Men and women are valued differently within the organisation. This is reflected, for instance, in the different ways work is allocated between women and men. Male judges are assigned, to a greater extent, to cases which can be settled out of court, while female judges are more frequently assigned to family cases. In addition, men seem to receive better appraisals, women are expected to take more responsibility for well-being and social matters in the workplace, and men get more opportunity to speak than women.

It was emphasised as part of the pilot court assignment that this project was part of an ongoing development. Several of the courts have previously been actively involved in confidence-building and/or quality-related activities, which has proven to be a success factor for this task. Employees with expertise in this area have been able to get involved in gender mainstreaming activities, with the possibility of putting into practice these systems and methods during the examination phase.

Some of the courts were sceptical about using only gender as grounds for discrimination. During this work the courts have found benefits from using this approach. On the one hand, inequalities have been discovered through just focusing on gender, while on the other, the courts have seen how they can use the same methods to identify unequal conditions relating to other grounds for discrimination.

The pilot courts' experiences also show that the commitment of the management is crucial to being able to successfully promote the gender mainstreaming action.

Another lesson learnt from this task is that it is not possible to skip the stages involving obtaining knowledge and establishing awareness. The organisation's staff must be given opportunities to obtain new insights through discussion, reflection and training.

With regard to jargon and attitude, the pilot courts chose as their starting point the fact that external interaction and internal interaction are closely linked. If rude, coarse, discriminatory or sexist language is used in the workplace, this will carry over to the interaction with the parties involved, witnesses and anyone else coming into contact with the court.

### **3.7 Implementation in other courts and organisations**

To spread the work involved more widely to all courts and parts of the organisation, a number of different initiatives are required. One initiative involves the Swedish National Court Administration arranging six regional workshops for courts about to initiate the task of implementing gender mainstreaming. The meetings will take place between 18 January and 9 March. One pilot court will attend each event to report on its experiences. The purpose of the regional workshops is to get the pilot courts to share experiences and to acquire the appropriate tools for launching and continuing the task of gender mainstreaming. The experiences, methods and results obtained by the pilot courts will be presented, such as surveys, interview guides and results from participatory observation and the drafting of judgments. It is hoped that all the courts/authorities will attend the meetings.

## 4 Resources

The Swedish National Court Administration received a budget of SEK 500 000 for this assignment during 2017. It paid for tasks carried out in the pilot courts, such as co-operation with university researchers, speakers, meetings and trips.

A task group was set up at the Swedish National Court Administration. The task was co-ordinated by the gender-equality strategy consultant (100%).<sup>13</sup> Other persons included in the assignment were the co-ordinator for confidence-building issues (20%), a lawyer and strategy consultant (20%), a communications consultant (20%) and a judge at one of the pilot courts (20%).

The pilot courts have had one or two co-ordinators together with working groups comprising 5-20 people. Some of the co-ordinators have had time assigned for the task of implementing gender mainstreaming. Others have been co-ordinating quality-related tasks as part of their ordinary work and some have carried out the assignment as part of their normal duties without any time set aside separately for it.

## 5 Follow-up

As mentioned earlier, none of the activities carried out has been followed up in terms of their results and impact. The pilot courts will be able to start during the spring to carry out assessments and follow up on the activities carried out, using the quality wheel model. The courts which start working on this task systematically in spring 2018 will be able to follow up and assess their work at the end of 2018. The tools which are available can be used to compare the progress made.

The Swedish National Court Administration is planning to follow up in the spring the work carried out by the pilot courts to see how they have fared in implementing the results produced during the pilot period.

In autumn 2018, the Swedish National Court Administration intends during the budget dialogue to follow up the outcome of the workshops. In other words, it will see whether the courts have begun any work on gender mainstreaming.

From 2018, the confidence rating from the Swedish Crime Survey (SCS), conducted every year by the National Council for Crime Prevention, will be a key indicator closely monitored by the Swedish National Court Administration.

## 6 Impact achieved and expected

As mentioned earlier, the action plan has not been revised, but the objectives are still valid. The impact objectives which have been set can be split into three result objectives and two impact objectives.

The result objectives describe the expected result of the activities carried out during the assignment:

1. The Swedish Courts operate with due regard for the gender-equality policy objectives.
2. The Swedish Courts offer the same service to all court users and deal with them in the same way, regardless of gender.
3. Swedish Courts are perceived as a gender-equal organisation in every form of

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<sup>13</sup> Fixed-term contract worker for a two-year period.

communication. We need to have conscious communication to achieve this.

The impact objectives provide the answer to the question of what long-term changes the development actions are expected to contribute to for the benefit of gender equality in society:

1. Equal justice irrespective of gender.
2. Confidence in the Swedish Courts is high among both women and men.

When devising a new action plan for 2019 and beyond, the Swedish Courts need to review the result and impact objectives.

The expanded confidence-related requirements which are now set for how the courts handle cases and related matters are usually summarised by the term “procedural justice”. It is absolutely clear from the research that the way in which the courts handle cases is of vital relevance to how those involved assess their experiences of the courts.

People experience procedural justice when they:

- have the opportunity to be heard
- perceive the court as being neutral
- feel that the court respects people and their rights
- feel that the court’s representatives are sincerely committed and want to do the right thing by everyone

One expected upshot of implementing gender mainstreaming as a strategy is that it gives a greater feeling of justice in action.

According to the 2017 SCS, 47% of respondents had great or very great confidence in the courts. The Swedish Courts’ aim is to boost confidence in the courts.

In 2013 the Swedish National Court Administration conducted a survey on confidence in the Swedish Courts. The results showed that around 76% of respondents had a high level of confidence in the Swedish Courts. The way court users were received and dealt with was considered good, whereas equality in the justice system was considered to be at a lower level. In the survey women and men had an equally high level of confidence in the courts. Age had a role to play in the level of confidence the respondent had. Elderly people had a higher level of confidence than younger people<sup>14</sup>. Four out of ten persons totally disagreed or expressed doubt about whether the courts treated everyone the same when they issued their verdicts. The more critical respondents believed in particular that people with a low social status had fewer chances of getting a fair trial. The survey indicated that it was important to have knowledge about norms and power structures in confidence-building.

It can be confirmed that confidence in the courts is strongly linked to the type of cases and judgments which attract media coverage. Most of the answers given to open questions in the confidence survey justify their opinion of the courts by referring to acquittals in rape cases.

Prior to the online training which the Swedish National Court Administration organised, a number of randomly selected persons were interviewed about whether they believed that the courts were gender-equal. Most of the interviewees replied that they linked the issue to the media’s reporting of acquittal verdicts in rape cases, saying that they thought the majority of judges were middle-aged white men.<sup>15</sup>

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<sup>14</sup> The 2017 SCS, however, shows that the largest percentage of people with strong confidence in the justice system as a whole and in the relevant authority is among the youngest participants in the survey (aged 16–19).

<sup>15</sup> According to the 2016 Annual report, the gender distribution among judges is 52% women and 48% men.

The Swedish Courts will be required to carry out targeted, long-term work in order to achieve a visible impact in terms of increasing confidence in the courts among both women and men. All activities in Swedish Courts need to be explained from an external perspective.

In the shorter term, the Swedish Courts can achieve results, such as an increase in awareness among staff, making people who come into contact with the court feel that they have actually been treated in a gender-equal way, and ensuring safe premises for women and men. This in itself will contribute to achieving the sub-objectives in the gender-equality policy: an equal distribution of power and influence and bringing an end to men's violence against women.

## 6.1 Long-term picture

There is still a great deal of work to be done before gender equality is part and parcel of the courts' normal activities. In order to achieve a sustainable, long-term impact, additional expertise must be provided, governance and follow-up based on gender mainstreaming must be put in place, and the court culture needs to be developed.

There are also no gender analyses available for current activities such as identifying recurring disparities between women and men and finding out whether they reflect a difference in conditions, power and opportunities. These analyses need to be carried out so that further steps can be taken on the competence ladder, with the aim of reaching conscious competence.

As part of the work involved with the task of implementing gender mainstreaming, a discussion has arisen in most cases, both within and outside the courts, about activities relating to the sub-objective of bringing an end to men's violence against women. It has been difficult to agree on a definition of a problem relating to this sub-objective. This is regarded as a sensitive area where it is felt that the courts' independence and objectivity may be damaged and called into question. Comments from court staff, such as "Should we pass tougher sentences on rapists?" and "we can't lower the requirements for proof", have been forthcoming when this sub-objective has been presented. The courts' task is to ensure that no one will be convicted on non-objective or insufficient grounds. The purpose of gender mainstreaming is not to lower the requirements for proof, but rather to make people aware that interaction, and, for that matter, the assessment of evidence, should not be unconsciously influenced by preconceived ideas based on gender. The courts realise that they do not have any greater influence when it comes to putting a stop to men's violence against women. Rather, they point out that other stakeholders involved, such as the police and public prosecutors, can make a greater contribution to this.

It is a challenge for the courts to manage society's perception of gender equality linked to the activities of the courts. There is a large discrepancy between their own perception of the court being gender-equal and the image presented in the media and shared by sections of the public that the courts acquit far too many sexual offenders and are made up of judges who are middle-aged men.

The term "pink law" was frequently mentioned during training events and information briefings on gender mainstreaming. This term implies that there is a pink law in court presented by judges when they are due to judge women, which results in women receiving lighter sentences than men on non-objective grounds, simply due to the fact of being women. This can apply, for instance, to women convicted in assault cases or for drug crimes. There is a perception that there is a certain degree of subjectivity involved in these judgments. In other words, women's offences are viewed less harshly.

Twitter has been used to provide information on the work to implement gender mainstreaming in the public authorities. This has had a positive impact through, for instance, lawyers who use Twitter seeing that the courts are actively addressing the issue. Some of the tweets have elicited reactions. One example was when the Director-General tweeted, on International Women's Day,

that it was a positive development that the proportion of female managers was increasing in the Swedish Courts. Strong reactions were also triggered when the Södertörn District Court tweeted its understanding of feminism, which it had voiced at a lecture given to the Unizon organisation.

There is a certain lack of interest in and knowledge about the issues from the surrounding stakeholders. One example is that when the Göta Court of Appeal invited public prosecutors and lawyers to a discussion meeting on the issues, the event was cancelled as there was not a single person invited who responded to the invitation. During the discussion meetings which have been held, it was notable that there was a varying level of knowledge among those invited. The court is responsible for what goes on in the court building, which is where several professionals work, such as lawyers and public prosecutors. In order to achieve gender-equal courts, these professional groups also need to be involved in the effort.

The idea that people are neutral and objective also influences the internal workplace climate. Even though gender mainstreaming does not primarily concern the internal climate and work environment, this assignment has helped raise issues for discussion relating to the internal workplace culture. Many younger members of staff have stated that in the past there had been no discussions about gender equality. Even the hierarchy in the courts influences the work climate, as well as the organisation, assessment and distribution of tasks in the courts.

The #medvilkenrätt campaign, which was signed up to by around 6,000 women lawyers, also highlights the major hidden problems in the courts. Discussions have been initiated on how the courts should proceed once the campaign is over. The campaign has drawn attention to the work on implementing gender mainstreaming in the public authorities and boosted the motivation to work actively towards improving gender equality right across the board. The #medvilkenrätt campaign has meant that it is no longer possible to claim that there are no problems in the courts.