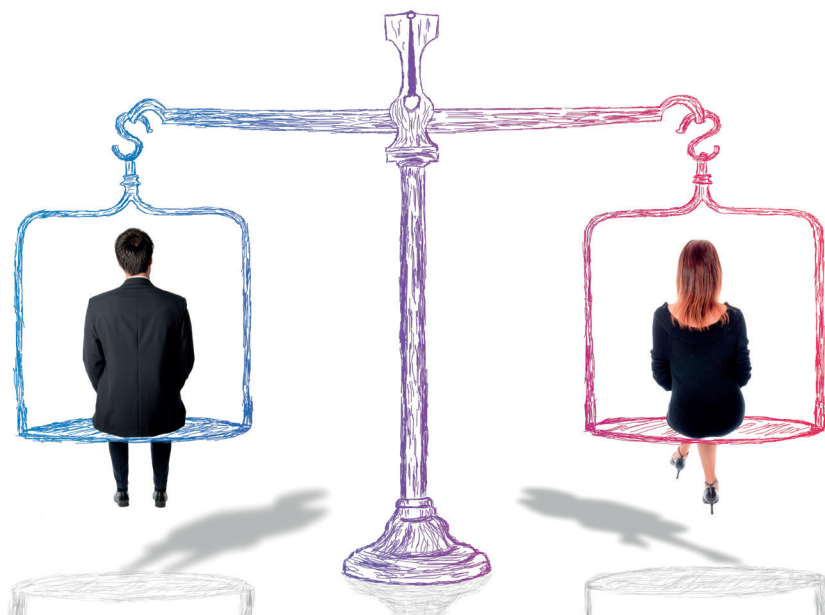


MAINSTREAMING GENDER IN PUBLIC AND PRIVATE LAW REFORM PROCESSES



PRACTICAL GUIDE

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MAINSTREAMING GENDER IN PUBLIC AND PRIVATE LAW REFORM PROCESSES

PRACTICAL GUIDE

prepared by the Mediterranean Institute of Gender
Studies (MIGS), under the supervision of the
European Committee on Legal Co-operation (CDCJ)

French edition:

*Intégration de la dimension de genre dans
les processus de réforme du droit public et
du droit privé*

Guide pratique

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1. INTRODUCTION

The Council of Europe, through the European Committee on Legal Co-operation (CDCJ), has prepared this practical guide for mainstreaming gender in public and private law reform processes to guide member states on this issue. At its 97th meeting (1-3 December 2021), the Committee took note of the examples shared by CDCJ members in this respect and agreed to prepare a brief guide, reflecting the experience and best practices of member States. This guide provides practical guidance for policy assessments of legal initiatives, in the areas of public and private law, from the gender equality perspective.

With the adoption of this guide, the CDCJ also contributes to the implementation of the Council of Europe's Gender Equality Strategy 2018-2023, specifically its 6th priority goal (achieve gender mainstreaming in all policies and measures), as well as to the overall commitment of the Organisation to ensuring that gender equality is mainstreamed as a transversal approach in all its work.

2. CONCEPTUAL FRAMEWORK FOR GENDER EQUALITY AND GENDER MAINSTREAMING

Gender equality is defined by the Council of Europe's Gender Equality Strategy 2018-2023¹ as equal rights for women and men, girls and boys, as well as the same visibility, empowerment, responsibility and participation, in all spheres of public and private life. It also implies equal access to and distribution of resources between women and men to be included in future activity proposals.

¹ Council of Europe's Gender Equality Strategy 2018-2023, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>, accessed 20 July 2023.

Patriarchy, as a system of male domination, is still pervasive in Europe, underpinning gender norms and inequalities that women and girls as well as men and boys experience. To achieve gender equality, gender needs to be understood, not only as the socially constructed characteristics of women and men and their roles in society, but as the socially constructed characteristics of the *relationship between women and men*, and the power imbalances and inequalities that this relationship sustains. Ultimately, public policies have largely been based on the needs of the dominant group in society, i.e., mostly men with the male norm reflecting the norm for society as a whole. Therefore, legislation and policies are not immune to male bias and may - often unintentionally - reinforce and reproduce gender inequalities.

Furthermore, it is often assumed that laws, policies, programmes and budgets should ensure “equal treatment” of women and men, or that they should affect everyone in the same way and thus should be ‘**gender-neutral**’². However, gender-neutral legislation may lead to **gender-blind** approaches that may limit their effectiveness and impact, affect the adequate and targeted allocation of public funds, and unintentionally result in de facto discrimination. Gender mainstreaming, on the other hand, ensures the visibility of women and men, and their distinct needs/realities/expectations, in policy documents at all target levels. For instance, when a policy/law addresses boys and girls at school (rather than students), elderly women and men (rather than the elderly), and migrant women and men (rather than migrants), it makes it possible to set gender equality objectives, and monitor gender differences in policy outcomes³.

² Johnson, H. (2022), *Gender-Sensitive Scrutiny. A Guide to More Effective Law-Making and Oversight*. International IDEA (Institute for Democracy and Electoral Assistance), Sweden.

³ The Swedish Association of Local Authorities and Regions (SALAR): Short guidelines for gender impact assessment.

In order to move beyond de jure gender equality, the CoE has emphasized the importance of embedding gender mainstreaming in all its committees and organs to achieve **de facto gender equality or “substantive equality”**. Substantive equality entails a combination of formal/ de jure gender equality (i.e., equality in law that supports the principles of non-discrimination, equal opportunity and equal treatment) with equality in outcome that recognises the unequal distribution of rights, entitlements, opportunities and access between women and men. This requires interpretation in a broad context of realities of disadvantages that women from fully enjoying their rights⁴.

Example of male bias in the law

Noise levels are considered in the labour and pension laws for construction workers, but not for kindergarten teachers. Considering that the overwhelming majority of construction workers are men, this reflects a male bias in the law. Similarly, the physical strain on kindergarten teachers, most of whom are female, can often force them into early retirement for health reasons, resulting in them getting lower pensions.

Example of gender neutrality

- Laws that increase taxation in lower income brackets significantly affect women have lower average incomes in comparison to men.
- Determining that 40 years of full-time work qualifies for a full pension discriminates against women, as they are more likely to have part-time careers or take breaks in their careers due to care responsibilities.
- Providing for a tax deduction for the higher of the two incomes in the “household” will give an indirect advantage to men⁵.

⁴ EIGE (European Institute for Gender Equality) definition of substantive equality. <https://eige.europa.eu/thesaurus/terms/1401>, accessed 20 July 2023.

⁵ Sources: (i) City of Vienna, Section for Gender Mainstreaming (2021). *Gender Mainstreaming – Made Easy. A Manual*. (ii) Institute

Gender mainstreaming is defined as: “the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy making⁶.” It aims to enhance gender equality by regarding the needs, experiences, opportunities, living conditions, access to and control over power, resources, services, human rights and institutions, as well as the intersecting identities, vulnerable situations and aggravating circumstances. Gender mainstreaming ensures that these gendered differences are strategically considered when designing, implementing and evaluating policies and laws. To achieve gender equality, gender mainstreaming adopts a dual approach: (i) promoting specific measures for the realisation of de facto gender equality and the advancement of women, including positive action; and (ii) integrating a gender perspective and gender equality components horizontally across all legislation and policy, including in both public and private law, in national public and private organisations, in central or local policies, and in services and sector-specific programmes⁷.

for the Equality of Men and Women (2007), *Manual for the application of gender mainstreaming within the Belgian federal administration*.

⁶ Council of Europe, Group of Specialists on Mainstreaming (EG-S-MS) (2004), *Gender mainstreaming: Conceptual framework, methodology and presentation of good practices – Final report of activities*: <https://rm.coe.int/1680596135>, accessed 20 July 2023.

⁷ *Ibid.*

Gender mainstreaming in a snapshot

The focus:	Relations between women and men.
The problem:	Unequal relations that prevent the full participation of women and men, unequal access and control over resources and services.
The goal:	Equal participation of women and men in society and enjoyment of all human rights, equal power structures, equal distribution of resources, wealth, work, decision-making and political power.
The solution:	Transform unequal relations and structures; empower women and disadvantaged groups.
The strategies:	Identify and address the different <i>practical and strategic</i> needs of women and men and the different impact of laws and policies according to gender (in order) to rectify gender inequality by re-organising, reforming, improving, developing and evaluating legislation ⁸ .

⁸ Source: Adapted from “Gender Analysis and Gender Planning Training Module for UNDP staff”, <https://www.iknowpolitics.org/en/2008/10/introductory-gender-analysis-gender-planning-training-module-undp-staff>”, accessed 20 July 2023.

3. THE WHAT, THE WHO AND THE WHY: MAINSTREAMING GENDER IN PUBLIC AND PRIVATE LAW REFORM PROCESSES: PRINCIPLES AND ADVANTAGES

3.1. WHAT is gender mainstreaming

Gender mainstreaming in law reform consists of a critical examination of existing laws from the gender perspective to identify any potentially disparate effects on women and men. It constitutes a strategic and transversal process that applies to all policy levels (national, regional, local), all legal frameworks (constitutional, civil, family, social, labour, criminal, and administrative) and areas governed by legislation (e.g., Employment, Social Affairs, Finance, Health, Mobility, Justice, etc.). Systematically this applies to all phases of the policy cycle including preparation, decision, implementation and evaluation. It also acts as a long-term strategy toward achieving substantive gender equality. In stressing the need to (re)organise, improve, develop and evaluate policy processes, gender mainstreaming makes it possible to challenge the male bias that characterises society and the structural character of gender inequality⁹.

Gender mainstreaming results in gender-responsive law making and paves the way for affirming the gender-equality principle and guaranteeing gender equality in practice. For it to be effective, it must include measures to secure and monitor implementation of legislation, including the allocation of adequate resources and gender-responsive budgeting¹⁰.

⁹ Council of Europe, Group of Specialists on Mainstreaming (EG-S-MS) (2004), *Gender mainstreaming: Conceptual framework, methodology and presentation of good practices practices – Final report of activities*: <https://rm.coe.int/1680596135>, accessed 20 July 2023.

¹⁰ Inter-Parliamentary Union (IPU) & UN Women (2021). *Gender-responsive law-making*, <https://www.ipu.org/file/13582/download>, accessed 20 July 2023.

There are 5 key steps in the gender mainstreaming process, including:

- ✓ Identifying whether a gender perspective is relevant.
- ✓ Understanding the situation: gender analysis and data collection.
- ✓ Gender impact assessment: asking the right questions.
- ✓ Bringing about change redesigning the legislation.
- ✓ Monitoring and evaluating the outcomes of the new legislation.

These steps are explained in more detail in section 4.

3.2. WHAT gender mainstreaming is NOT

- *An end goal in itself.* Gender mainstreaming is a method aimed at achieving gender equality but is not, in itself, a goal. It is a complementary strategy to such policies and laws which aim at achieving gender equality¹¹.
- *A substitute for gender equality policy.* The starting point for gender mainstreaming is an existing policy that will be reformed or reorganised considering a gender perspective in order to reach a gender equality goal. Gender equality policy specifically targets actions that address imbalances in the short-term whereas gender mainstreaming is a longer and more elaborate process. Gender mainstreaming and specific gender equality policy, therefore, need to work in conjunction and operate as complementary strategies that more effectively lead to sustainable change¹².

¹¹ Secretariat Directorate General of Human Rights and Rule of Law - DGI (2016), *The relevance of gender mainstreaming in law reform*. Briefing paper for the European Committee on Legal Co-operation (CDCJ).

¹² Council of Europe, Group of Specialists on Mainstreaming (EG-S-MS) (2004), *Gender mainstreaming: Conceptual framework, methodology and presentation of good practices practices – Final*

- *Only about women.* Gender mainstreaming in law reform rather focuses on the relationship between women and men and the inequalities that arise. Gender responsive laws and policies aim to ‘level the playing field’ so that both women and men benefit from equal opportunities to participation and development.
- *Only relevant for specific issues.* Gender equality is often reduced to specific areas (education, employment, violence) or traditionally linked to gender discrimination and inequality even though laws, policies, and budgets affect all people and all areas of life. On the other hand, gender mainstreaming is a process that cuts across all aspects of private and public life, such as transport, agriculture, the environment, technology etc.
- *A “one size fits all” approach.* Different realities often emerge when the lives of women and men are critically examined. For instance, women and girls are disproportionately affected by gender-based violence, experience discrimination in employment, are underrepresented in public decision-making, and continue to carry a disproportionate share of unpaid care work. Men, on the other hand, are more likely to engage in high-risk behaviours, resulting in lower life expectancy, increased street violence, alcohol abuse, and suicide rates. At the same time, women and men do not constitute homogeneous groups, and their experiences can be diverse based on a range of factors, including, but not limited to, ethnicity, minority or indigenous status, age, religion, refugee or migrant status, disability, marital status, social origin, gender identity, or sexual orientation¹³. Therefore, legislation and policy should take an intersection approach that considers the combined

report of activities: <https://rm.coe.int/1680596135>, accessed 20 July 2023.

¹³ Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism, <https://rm.coe.int/cm-rec-2019-1-on-preventing-and-combating-sexism/168094d894>, accessed 20 July 2023.

effects of systems of exclusion and disadvantage linked to various aspects.

- *Adding women into the mix.* While achieving gender balance and gender parity in public decision-making is an important goal, simply increasing the numbers of women 'present in the room' does not lead to gender responsive legislation¹⁴.
- *The mere inclusion of terms "gender" or "gender equality" in existing laws, policies or activities.* Simply stating in a policy document that a gender equality perspective will be integrated or mentioning "women and men" without addressing their gender specific needs, does not constitute gender mainstreaming and is not sufficient for achieving gender equality objectives¹⁵.

3.3. WHY mainstream gender in public and private law?

Gender mainstreaming acts as an important methodological tool to institutionalising the promotion of gender equality across all laws and policies in all areas.

The implementation of laws that conform to international human rights standards on equality and non-discrimination can help sustain efforts towards just, peaceful and inclusive societies, environmental and climate justice, equal participation in decision-making at all levels, and universal access to essential resources and public services¹⁶.

¹⁴ OSCE/ODIHR (Organization for Security and Co-operation in Europe / Office for Democratic Institutions and Human Rights) (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>, accessed 20 July 2023.

¹⁵ Adapted from the Council of Europe's website "What is gender mainstreaming?", <https://www.coe.int/en/web/genderequality/what-is-gender-mainstreamin>, accessed 20 July 2023.

¹⁶ Inter-Parliamentary Union (IPU) & UN Women (2021), *Gender-responsive law-making*, <https://www.ipu.org/file/13582/download>, accessed 20 July 2023.

The importance of gender mainstreaming has been highlighted following the COVID-19 crisis, with governments investing in institutional and structural reforms to support economic recovery. To this end, gender-sensitive legislation becomes an important mechanism toward shaping a more inclusive and sustainable recovery.

Some of the benefits of gender responsive legislation and policy include:

- Making gender equality issues visible in mainstream society: Gender mainstreaming creates more awareness about gender inequalities and highlights the impact of political initiatives on the lives of women and men, thus shifting gender equality issues to the forefront of the political agenda.
- A more human-centred approach toward the development of contemporary democratic societies: Gender mainstreaming encourages a scrutiny of laws and policy according to their impact on the situations and needs of all people in society. It replaces traditional economic with more relevant indicators, putting people at the heart of policymaking¹⁷.
- A way to strengthen good governance: Gender mainstreaming processes critically examine the distribution of resources among women and men and the impact of legislation, public policies and public spending. Ensuring a gender perspective in policymaking results in better governance because it involves a higher level of transparency and objectivity in the management of public affairs; improves the inclusiveness and quality of decision-making; incorporates comprehensive and effectively targeted solutions; safeguards against

¹⁷ Council of Europe, Group of Specialists on Mainstreaming (EG-S-MS) (2004), *Gender mainstreaming: Conceptual framework, methodology and presentation of good practices practices – Final report of activities*: <https://rm.coe.int/1680596135>, accessed 20 July 2023.

potential pitfalls and enables proper measures to be planned and prioritized, as well as an allocation of the appropriate budget to achieve the set objectives¹⁸.

- Better monitoring the achievement of policy goals: Gender mainstreaming enables the monitoring of progress toward the achievement gender equality objectives.

3.4. WHO is involved in gender mainstreaming in law reform processes? The different stakeholders

Gender mainstreaming concerns all actors implicated in the formulation, implementation, monitoring and evaluation of laws and policies. Experience from around the world suggests that reforms are most successful when parliamentarians work together across the political spectrum to this end¹⁹. Responsibilities for gender mainstreaming are allocated in different ways across national parliaments. In some countries, the parliamentary committees consider gender equality issues within their respective fields of work and conduct gender impact analyses, whereas others dedicate the scope of work to the Gender Equality Committees within parliament, women parliamentary caucuses or other government-run Gender Equality Institutions.

The process of amending, revising, redesigning, reforming laws involves many different stakeholders. A multi-stakeholder approach to law reform implies building

¹⁸ EIGE, *Gender impact assessment*, Gender Mainstreaming Toolkit (2017), https://eige.europa.eu/sites/default/files/documents/eige_gender_impact_assessment_gender_mainstreaming_toolkit.pdf, accessed 20 July 2023.

¹⁹ Institute for the Equality of Men and Women (2007), *Manual for the application of gender mainstreaming within the Belgian federal administration*, https://igym-iefh.belgium.be/sites/default/files/downloads/32%20-%20Gender%20Mainstreaming_ENG.pdf, accessed 20 July 2023.

cooperation and support at all levels - at the executive level (politicians, government, administration) as well as the community and civil society level, in order to ensure more representative legislative processes that result in actual changes in the lived experience of women and men, girls and boys²⁰. This inclusive and participatory process is essential in collecting data and feedback on the gendered impact of a law from diverse perspectives, helping lawmakers have a more comprehensive picture of a given policy area.

Some of the actors that can be involved in the gender mainstreaming process include:

- Male and female policy makers (ministers, ministry-officials, experts within ministries etc.)
- Civil servants in public services and government departments responsible for the implementation of policy
- Public officers responsible for administrative support (internal communication, training, preparation and analysis of statistics, human resources management, internal assessment groups, purchasing policy, budget monitoring, etc.)
- Local authorities and municipalities
- The leader of the house, parliamentary gender equality committees, women's parliamentary caucuses, dedicated parliamentary groups, multi-portfolio committees.
- Male and female MPs
- Independent state affiliated bodies that focus on gender equality issues (gender equality commissioner, law reform commissioner, Ombudsman, or other bodies)
- NGOs, women's rights organisations, civil society
- Academics, university teams, research and consulting departments
- Trade unions, labour organisations
- Private companies and institutions

²⁰ Inter-Parliamentary Union (IPU) & UN Women (2021), *Gender-responsive law-making*, <https://www.ipu.org/file/13582/download>, accessed 20 July 2023.

- The media and the general public.

3.5. What happens without gender mainstreaming in legal reform processes?

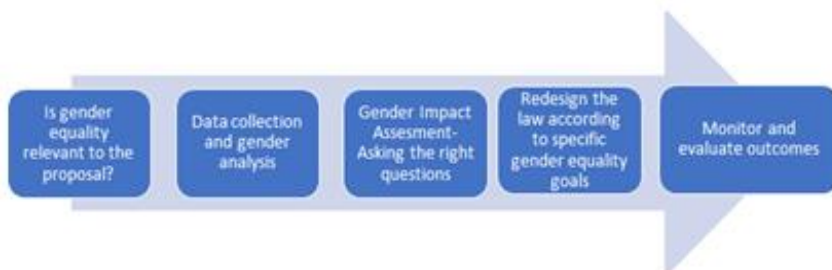
Without a gendered approach to law-making, the distinct needs, experiences, expectations and capacities of both genders tend to be overlooked. This has a direct negative effect on the efficiency and impact of laws and policies and may reinforce or exacerbate existing inequalities between women and men. Persistent differences and disparities between women and men can mean that women gain fewer benefits than men from legislative reform²¹. The absence of gender mainstreaming in the legislative process also affects society as a whole, as having no reliable evidence available on whether and how legislation contributes to such inequalities and discrimination, makes it more difficult to mitigate them.

4. THE 5 STEPS OF GENDER-RESPONSIVE LAW REFORMS

Policy evaluation is a fundamental step in determining the extent to which the stated objectives have been reached, and whether a given policy or law has had a positive effect on achieving gender equality. Gender mainstreaming is an integral part of this process because it allows parliamentarians and other policy makers to use their oversight and legislative scrutiny to highlight gender discrimination that is embedded in laws and to reorganise, reform, amend and develop laws that safeguard de facto gender equality. Figure 1 provides a simple summary of the key steps involved in gender-responsive law reforms.

²¹ OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>, accessed 20 July 2023.

Figure 1: The 5 steps of gender-responsive law reforms²²



Step 1: Is gender equality relevant?

Determine whether it is relevant to apply a gender perspective to the work on the proposal by asking the question: “Does the proposal have a direct or indirect impact on individuals?” If yes, a gender perspective is relevant.

Most proposals or most legislation appear to be gender neutral at first sight. It is therefore always relevant to ask the question whether a proposal has an *impact on individuals*, rather than whether it has impact on men or women. If the answer is yes and the proposal is likely to have an impact on individuals, it is necessary to apply a gender perspective.

Step 2: Data Collection and Gender Analysis

An analysis of the status quo from a gender perspective and an in-depth understanding of the differing needs, expectations, opportunities and priorities of women and men in relation to the law under consideration. This analysis draws on varied evidence-based data in order to reveal/uncover gender inequalities.

²² Inter-Parliamentary Union (IPU) & UN Women (2021), *Gender-responsive law-making*, <https://www.ipu.org/file/13582/download>, accessed 20 July 2023.

Disaggregated data and statistics

Gender analysis can only take place based on robust **disaggregated data**²³ to assess progress on key gender inequality indicators, to those most affected, as well to assess how such gender inequalities intersect with other forms of discrimination.

While sex disaggregation is necessary to provide a general picture of the respective situation of women and men, “gender statistics” are necessary to attain a more comprehensive understanding and interpretation of the situation from the gender perspective. “*Gender statistics*” are sex disaggregated data *whose presentation and analysis adequately reflects differences and inequalities in the situation of women and men* in a specific policy area that allows identifying patterns and tracking changes over time, allowing for a more systematic evaluation of inequalities between women and men.

In summary

Gender analysis = disaggregated data + analysis of data + gender perspective ²⁴

²³ Similar to the sex, age, and disability disaggregated data (SADDD), used by the United Nations to measure social and economic differences between women and men, which is data which is broken down into these different categories. This can be one or all the categories, namely sex, age, and disability.

²⁴ Secretariat Directorate General of Human Rights and Rule of Law - DGI (2016), *The relevance of gender mainstreaming in law reform*. Briefing paper for the European Committee on Legal Co-operation (CDCJ).

Disaggregated data need to be both quantitative and qualitative:

- *Quantitative data* refer to numerical data, percentages, statistics and any other information that can be quantified, counted or measured. Quantitative data answer questions such as "how many," "how much," or "how often." Quantitative data normally come from sources such as international/national/regional/local statistical databases and reports, censuses, labour-force surveys, demographic and health surveys, administrative records or sociological surveys.
- *Qualitative data* is data that explores and measures people's attitudes, perceptions, feelings, opinions and experiences on a given subject. Qualitative data tends to answer the "why?" or "how?" questions and provide a more comprehensive in-depth understanding of a certain situation. Qualitative data also provides substantial guidance toward the interpretation of statistics/numerical data and the reasons behind them. Qualitative data can be drawn from focus group discussions, interviews, ethnographic studies, attitude surveys, structured dialogue processes with affected groups and public consultations.

Disaggregated data can be gathered in several ways:

- through international, national, regional and local statistics data bases;
- through consultations and/or reports prepared by gender experts, academics, university research departments, women's organisations and civil society organisations with gender expertise;
- by asking parliament's research department or impartial experts to conduct research on gender in the subject area in the event that the required evidence is not available;
- by conducting qualitative research (focus groups, interviews, attitude surveys, observations etc.) with groups of women and men to better understand their

experiences, expectations, difficulties, barriers and own perceptions/attitudes;

- through public consultations aimed at identifying the individual experiences of women and men.

Questions to consider:

- Are disaggregated data available and accessible at national and sub-national level?
- Does the government regularly activate public consultation processes on gender to collect missing information?
- Is training available to statisticians and representatives of line ministries on gender issues?

Example: Disaggregated data in the area of employment

- Gender distribution in the workforce, gender distribution in part-time work.
- Economic sectors where women/men tend to concentrate.
- Distribution of income, pay gap, pension gap between women and men.
- Weekly working hours for women and men, time allocated to unpaid care work.
- Percentage of women and men who have experienced career interruption due to care responsibilities and average duration of the career interruption, in total and by sex.
- Proportion of persons who have taken a break from a full-time career and who have resumed their previous work following the end of the interruption, in total and by sex.
- Data on barriers preventing women to remain in the workforce or advance in their careers.
- Attitude surveys on gender stereotypes preventing women and men to pursue careers in certain economic sectors or certain positions (leadership positions for women).
- Gender distribution in business structures, in the public and private sector, among leaders, and in educational programmes.

Gender Analysis

Gender analysis can be described as a systematic analysis of the differences between women and men, girls and boys (and intersectional groups within) in terms of their relative position in society and the distribution of resources, opportunities, constraints and power in a given context²⁵. It draws on current, relevant and accurate evidence-base data, information and statistics to facilitate decision-making based on evidence. Gender analysis allows policy makers to apply a 'gender lens' in order to counteract the pitfalls of gender neutrality (or 'gender blindness') and provides substantial feedback and information needed to integrate a gender perspective into policies, programmes and projects.

²⁵ EIGE definition: <https://eige.europa.eu/gender-mainstreaming/methods-tools/gender-analysis>, accessed 20 July 2023.

Gender analysis answers the following questions:

- What is the problem we want to address in this law reform process?
- What gender differences exist in the area we want to address?
- Are there any hidden or underlying gender inequalities that may be contributing to the problem we want to address?
- What are the gender-blind spots? Where is evidence lacking?

When evidence-based data and statistics are gathered for the gender analysis, it is important that they focus in the following areas:

- Safeguarding human rights and substantive equality: How are the rights of women and men safeguarded? Are there any rights violations that do not need to be considered?
- Participation (for instance in the workforce, in public decision making)
- Access to and control over resources, services and institutions (for instance in terms of time, information, money, political and economic power, qualifications, transport, use of public services, access to justice etc.)
- Social norms and gender stereotypes: What social and cultural norms may be preventing women and men from fully enjoying their rights? How are social norms and gender stereotypes affecting de facto equality?

Conducting a gender analysis at different levels

Case Study: Facilitating access to financial services by women and men²⁶

A legislative bill that seeks to facilitate access to credit for female entrepreneurs should take into account the following considerations:

- Individual level – Women and men have different credit needs for income generation and other expansion schemes. Whereas men typically control income for larger items and own land and other fixed capital, women tend to oversee small, household ones. In consequence, women may not be informed of their rights when applying for loans nor acquainted with financial language and institutions.
- Institutional level – The structure of the formal credit system is typically hierarchical and is not always user-friendly. In some regions, it may be mainly men who are employed in the formal credit system, and it may be considered inappropriate for women to deal with banks. Informal sources of credit are often through moneylenders, who may prefer to deal with male heads-of-households. Small-scale women entrepreneurs often face prejudice as they are not considered “reliable” by financial institutions.
- Policy level – State regulation prevents financial institutions from lending to individuals who do not possess fixed capital, for example women farmers. Even though governments may seek to promote entrepreneurship, complexities seem to keep government institutions from offering loans.

²⁶ OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>, accessed 20 July 2023.

Step 3: Gender impact assessment: Asking the right questions

If there are differences between the situation of women, men, boys and girls, in the area concerned, the document/proposal is to include a gender impact assessment. A gender impact assessment is an analysis of the potential impact of the law on its target groups, scrutinizing whether the law addresses the needs and priorities, as identified in the initial gender analysis.

- Asking the right questions
 - A. Identifying the direct and indirect beneficiaries.
 - B. Measuring impact

Following the initial gender analysis, this step of gender mainstreaming moves from the sector level to the gender implications of a specific law or policy on women and men. Even though a law is targeting “individuals” (citizens, children, elderly, employees, entrepreneurs, etc.), it may affect women and men, girls and boys differently, and thus its impact should be disaggregated and assessed by gender²⁷. This impact analysis can be achieved through a process referred to as ‘**gender impact assessment (GIA)**’. GIA constitutes an ex-ante evaluation of a law, policy or programme identifying the likelihood of a given policy decision’s negative consequences on gender equality¹. In this respect, adaptations, revision and reforms of policies and laws are undergone to ensure that discriminatory effects are either removed or mitigated. Additionally, GIA serves as a proactive tool in defining objectives and formulating a law or policy to promote gender equality.

²⁷ Inter-Parliamentary Union (IPU) & UN Women (2021), *Gender-responsive law-making*, <https://www.ipu.org/file/13582/download>, accessed 20 July 2023.

Asking the right questions

The key to a successful GIA is asking questions from a gender perspective and examining the assumptions on which decisions are based.

Example: Moving from gender neutral to gender responsive questions when evaluating the impact of a policy on a grant scheme	
Gender Neutral Question	Gender Responsive Question
How many people do you anticipate will be able to access the grant?’	Have you assessed how many women and men will be able to access the grant, and what might the barriers to access be?’
Is the policy being implemented effectively and what needs to change?	<ul style="list-style-type: none"> • Is the policy affecting women and men in different ways? • Are there gender differences in terms of rights, responsibilities, representation, opportunities, outcomes and participation?
How will the impact of the law be monitored? What data will be collected to evaluate its success?	How will the impact of the law on men and women be monitored? What disaggregated data will be collected?

GIAAs primarily focus on the following two areas²⁸:

- A. Identifying direct and indirect beneficiaries
 - Who are the intended beneficiaries of the law?
 - Does the policy/law impact women and men (and subgroups of women and men) disproportionately? How many women and men will benefit from the law (e.g., from the services offered, infrastructure built, cash transfers paid, etc.) and how?
 - Will either women or men face negative implications due to the law, and why?

- B. Measuring impact
 - What are the short-, medium- and long-term objectives of the legislation, and what are its intended impacts on various subgroups of women and men?
 - Is the law likely to perpetuate or diminish any existing inequalities and, if so, how?

Sample general questions to ask to assess the distinctive impact of legislation on women and men²⁹

- Who are and what are the assumption made about the direct and indirect beneficiaries of the law? Is this information available disaggregated by gender? What gaps are there in the data?
- Is it more likely that men or women will benefit from the law, policy, programme or budget, or will they benefit equally?

²⁸ OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>, accessed 20 July 2023.

²⁹ Adapted from: OSCE (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*.

- Will diverse groups of women and men be differently affected because of their age, ethnic origin, disability, gender identity, sexual orientation, religion, socio-economic status or geographic location?
- Does the law affect the long-term perspective for the realization of gender equality? How?
- What is the foreseen impact of the policy/legislation on the equal participation of women and men, their rights and their access and control of resources? How does the policy/legislation contribute to *de facto* gender equality?
- Has the law considered the practical and strategic interests, needs and priorities of women and men and intersectional groups of women and men in this policy area? Have the differing experiences of women and men as well as their opportunities, interests, living conditions, specific circumstances, access to and control over power, resources, services, human rights and institutions been adequately identified?
- What gaps exist and what barriers may be identified in preventing the fulfilment of the needs and priorities for each sub-group? Are there existing inequalities between women and men in this area, and are they increasing or decreasing? What are the root causes of these inequalities? Can these root causes be addressed in the law?
- What are the gaps in evidence?
- Are purposeful measures needed, directed at either women or men in order to ensure *de facto* equality?

Step 4: Bringing about change: (Re)design the legislation

Based on the findings of the previous steps, gender mainstreaming the law reform process proposes the integration of gender-focused perspectives, interventions, or considerations into the law in question which often result in redesigning and reforming the law.

- *Refer the proposal and impact assessment to specific gender equality goals.*

The gender analysis and the gender impact assessment described in Steps 2 and 3, enable policy makers to generate a broader and holistic understanding of gender gaps and imbalances that may exist within a law or because of a law, thus encouraging a significant shift from gender neutrality to gender awareness.

However, developing more gender awareness is not sufficient to bring about change. Change happens when we move beyond gender awareness, toward gender sensitivity. Gender sensitivity entails translating our understanding of the historical and structural gender inequalities and their long-term impacts into concrete action in the design and implementation of policies, programmes and budgets.

Bringing about change = Moving from gender neutrality (or gender blindness) → gender awareness → gender sensitivity

Step 4 of the gender mainstreaming process pertains to the revising, redesigning and reforming the legislation, with specific objectives and provisions that aim to rectify the existing situation and tackle existing gender gaps and imbalances. In the step of analysing and possibly redesigning the law, it is important to assess the impact of the proposal on the implementation of the gender equality. In order to facilitate

this analysis, it is crucial to refer gender equality to specific policy goals.

Example: Gender equality policy in Sweden

In Sweden, there is a long tradition of working with gender equality. Ever since the 1970s, issues of gender equality have been important in the social debate. The overarching goal is that women and men should have the same power to shape society and their own lives. The goal was adopted with broad political consensus in 2006. In 2016, the Riksdag (the Swedish parliament) and the government decided to add six sub-goals under the overall goal-of the gender equality policy. The sub-goals are the following:

1. Equal division of power and influence. Women and men must have the same rights and opportunities to be active citizens to shape the conditions for decision-making.
2. Economic equality. Women and men must have the same opportunities and conditions regarding paid work, which gives economic independence throughout life.
3. Equal education. Women and men, girls and boys must have the same opportunities and conditions with regard to education, study options and personal development.
4. Equal distribution of unpaid housework and provision of care. Women and men must have the same responsibility for housework and have the opportunity to give and receive care on equal terms.
5. Equal health. Women and men, girls and boys must have the same conditions for a good health and be offered care on equal terms.
6. Men's violence against women must stop. Women and men, girls and boys, must have the same right to and opportunity for physical integrity.

To this end, it acts as an important conduit to instigating change: reforming the law from a gender sensitive perspective paves the way to achieve the goal of gender equality, enabling society to move toward de facto equality and social justice.

When reforming a law or policy, policy makers and parliaments may decide to:

- propose revisions and amendments to existing policies, budgets or programmes
- propose and draft a new law and introduce it to parliament
- engage a multi-actor debate on the aspects requiring reform through use of the media and networks of different stakeholders
- apply political pressure to amend laws, policies or programmes
- make recommendations about how the law should be implemented and monitored.

When engaging in the reform of the law/policy, the main question policy makers need to be concerned with is: *'how can the law contribute to the elimination of existing inequalities and promote equality between women and men – in participation rates, in the distribution of resources, benefits, tasks and responsibilities in private and public life, and in the perception of gender roles, behaviour and priorities³⁰?* It is essential to determine the purpose of a proposed legislative reform from the outset. For instance, a proposed reform bill could focus one or several reforms at once, by proposing amendments to multiple laws. A reform bill could also be drafted to establish an entirely new law to promote gender equality.

³⁰ OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>, accessed 20 July 2023.

Ideally, the law reform process needs to be broadly inclusive and participatory, engaging governmental and non-governmental stakeholders to discuss the proposals and contribute their expertise.

Example: Revising the government's grant for business owners³¹

Issue identified: A need to review the government's grant for business owners as indirect and unintentional discrimination against women became evident after a gender impact analysis.

Gender inequalities revealed by a gender impact analysis: Eligibility to apply for the grant is based on the amount the business earned in the previous year. Both female and male business owners are invited to apply and at first glance the grant does not appear discriminating. A gender impact assessment revealed an issue that arose from this analysis concerns female business owners who took maternity leave in the past year and consequently would receive a smaller grant than male business owners. In the context of pay inequality between women and men, and the small proportion of businesses owned by women, MPs scrutinizing this scheme might decide that this is unfair and an opportunity to increase equality.

Recommendation:

As a result of this gender-sensitive scrutiny, MPs could recommend that the government introduce an exemption for maternity leave ensure women are not disadvantaged for having children, or that eligibility for the grant be calculated in a different way, such as a business's average turnover over the past five years.

MPs might also ask the government to provide statistics on the number of male and female business owners who have received the grant after 12 months, and monitor the distribution of funds in practice.

³¹ Johnson, H. (2022), *Gender-Sensitive Scrutiny. A Guide to More Effective Law-Making and Oversight*, International IDEA, Sweden.

Step 5: Monitor and evaluate the outcomes

Gender sensitive indicators are developed to track progress toward the stated gender objectives and the outcomes of the amended law are evaluated and monitored.

Because gender mainstreaming entails a process of change, it requires systematic and continuous monitoring and evaluation. Experience shows that even when gender-responsive law reforms are enacted, they may still not be sufficient. Thus, it is important that policy makers monitor their implementation to ensure that their impacts are in line with the stated objectives and that progress on gender equality is achieved in practice³².

Monitoring and evaluation of laws and policies

When conducting monitoring and evaluation of gender mainstreaming in law reform, the following questions can provide guidance through the process:

- What is the impact of the reformed law, policy or programme on women and men: did it increase equality, change behaviour or choices, provide additional rights or responsibilities, and increase/decrease access to resources, power or representation?
- Has the law effectively contributed to creating favourable conditions for gender equality by meeting the everyday, practical and strategic needs of women and men?

³² Inter-Parliamentary Union (IPU) & UN Women (2021), *Gender-responsive law-making*, <https://www.ipu.org/file/13582/download>, accessed 20 July 2023.

- Is the implementation of the law contributing to a narrowing of gender gaps between men and women in different sectors?
- Does the narrowing of gender gaps contribute to sustainable change toward equality?
- Were there any unintended or unexpected effects of the law on men or women?
- Did the law affect women and men in a disproportionate manner, with women or men enjoying more benefits or rights because of the law?
- Were economic resources distributed equitably between women and men?
- Have the outcomes for women and men been achieved at a reasonable cost, and are the costs and benefits shared fairly?
- Is the (re)allocation of budgets and expenditure contributing to a narrowing of gender gaps between men and women?
- Are government departments working toward increasing awareness and capacity on gender equality and gender mainstreaming?
- Is the monitoring and evaluation process inclusive of all relevant stakeholders? Is there gender-balance in the representation of women and men in these processes?

The monitoring and evaluation process is conducted based on **gender-responsive indicators** that are developed with the aim to facilitate the measurement and evaluation of gender-related changes over time. Changes are evaluated in terms of the following aspects: (i) relevance of the law toward achieving gender equality, (ii) its effectiveness and efficiency, (iii) its impact on the strategic and practical needs of women and men, (iv) the sustainability of the impact, and (v) the degree to which it brings about institutional change.

Gender responsive indicators usually refer to quantitative indicators based on disaggregated statistical data, but they can also be qualitative in nature (such as for instance measuring changes in attitudes around violence against women and the reduction in victim blaming attitudes).

Examples of Gender-Responsive Indicators for the Education Sector³³	
Objective	Gender responsive Indicators
Reduce gender gaps in enrolment, completion and learning outcomes in primary and secondary education	<ul style="list-style-type: none"> • Number of additional girls and boys enrolling, attending and completing primary and secondary education compared to previous year(s). • Repetition and dropout rates for primary and secondary schooling by gender, ethnicity and location. • Number and type of targeted activities to monitor and assist girls and boys at risk of dropping out, by level of education. • Change in attitudes about the importance of school and dropping out.

³³ OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>, accessed 20 July 2023.

<p>Reduce gender gaps in technical and vocational, as well as tertiary education</p>	<ul style="list-style-type: none"> • Number and type of incentive and support activities enabling women and men to enrol in training institutions (e.g., affirmative action policies, review of entry qualifications or selection procedures).
<p>Reduce gender disparities in employment in the education sector</p>	<ul style="list-style-type: none"> • Number and percentage of qualified women and men teachers. • Number and percentage of women and men teachers trained, by content area (e.g., planning, management and teaching methods). • Percentage of women and men holding primary, secondary and tertiary teaching positions (public and private schools) • Percentage of women and men in senior teaching, management and curriculum review positions (e.g., supervisors, principals, vice-principals and heads of departments). • Number and type of incentive and support programmes for recruitment, training and career advancement, including those aimed at increasing the number of qualified women and men teaching staff in rural areas. • Percentage of women and men who receive in-service or overseas training, compared with the total percentage of eligible women and men (teachers and school officials).

Establishing and enhancing accountability for gender mainstreaming

Promising practices from across Europe suggest that gender mainstreaming is most successful when it is part of a dedicated legal framework that specifies the function, responsibilities and mandate of all relevant institutions responsible for the process of gender mainstreaming with the appropriate budgetary allocations. Moreover, oversight institutions and advisory bodies are mandated to monitor implementation of government-wide gender equality and mainstreaming policy³⁴. To this end, the establishment of independent institutions (such as Independent Commissions, Supreme Audit Institutions, Ombudsman Offices), and advisory bodies (e.g., Government councils) has also proven to be an effective mechanism toward: (i) monitoring the implementation of gender equality strategies, (ii) integrating gender issues in policy-making, (iii) facilitating regular reporting, gender impact assessments and measurements and (iv) establishing effective, independent and impartial complaint and appeal mechanisms to protect rights for gender equality³⁵.

Gender mainstreaming is also a question of the efficiency and quality of public services that play a fundamental role in promoting and attaining de facto gender equality. In order to be successful in this role, administrations need to establish and enhance their capacity in implementing gender mainstreaming by building gender competence. This entails (i) enhancing their commitment to gender equality objectives and taking responsibility for the implementation of gender

³⁴ *Ibid.*

³⁵ OECD (2018), *Toolkit for Mainstreaming and Implementing Gender Equality - Implementing the 2015 OECD Recommendation on Gender Equality in Public Life*, <https://www.oecd.org/gov/toolkit-for-mainstreaming-and-implementing-gender-equality.pdf>, accessed 20 July 2023.

mainstreaming within the department's own area of operations (ii) developing methodological expertise (i.e., skills to implement gender mainstreaming using the appropriate methods and tools) and gaining specialist knowledge (i.e., theoretical understanding of gender, ability to classify and interpret gender-disaggregated data)³⁶.

Gender competence can be considered acquired when the following parameters are in place:

- Legal and policy documents that govern public institutions state concrete objectives for integrating gender perspectives in policies and services.
- Administrations have developed action plans at the institution level to implement the government-wide gender equality policy and monitor organisational performance
- There is internal capacity in gender awareness, gender sensitivity and their expertise in implementing all steps of the gender mainstreaming process is enhanced through systematic training and guidance from gender equality experts.
- Adequate support (e.g., gender advisors, gender focal points, gender units) is in place across the entire gender mainstreaming processes.
- Senior management and staff members are held accountable for integrating gender equality perspectives in their daily policy and programme related activities.
- Gender equality objectives are incorporated in the individual staff performance assessment objectives.
- Specific guidelines are in place to ensure equal treatment and provision of equal services to women and men.
- Targeted actions are taken to understand the needs of women and men so that public services can better respond to these specific needs.

³⁶ EIGE, Institutional Transformation, <https://eige.europa.eu/gender-mainstreaming/toolkits/gender-institutional-transformation/step-9-developing-gender-equality-competence>, accessed 20 July 2023.

- Disaggregated statistics and data are collected on the impact of policies and programmes on gender equality.
- Public consultations are frequently conducted to provide feedback about the real effect of public policy on the ground.

Case study: The Public Sector Equality Duty UK³⁷

The Public Sector Equality Duty (the equality duty) was created under the Equality Act 2010. The Equality Duty consists of a general equality duty which is supported by specific duties that are imposed by secondary legislation. The broad purpose of the equality duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities. The general equality duty requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

For example, this law ensures that public authorities think about how they can make things better for people from different groups by:

- Taking steps to understand what people from diverse groups need and ensuring that they effectively respond to these needs.
- Engaging in public consultations with people from diverse groups to receive their feedback and perspective.
- Disseminating information that is easily accessible to all groups.

³⁷ The Equality and Human Rights Commission (2012), *A law about making things better for people from different groups: Guide to the public sector equality duty*.

5. CONCLUDING REMARKS

Gender mainstreaming is a pro-active, targeted and tailor-made response to gender inequalities and their consequences. It contributes to making our society a more egalitarian space for all, by challenging dominant structures and building on a recognition of difference.

As outlined above, gender mainstreaming is a fundamental process towards:

- *critically examining the existing situation from a gender perspective and understanding* the differing needs, opportunities, participation, representation, power and constraints of women and men in different contexts (**Gender Analysis**);
- *analysing the different impact* of the law/policy on the unique situations of women and men and *identifying gaps, shortcomings* and any covert (often unintentional) gender inequalities which may be embedded in the law (**Gender impact Assessment**);
- *designing a positive response* to address the identified gaps and inequalities by revising, redesigning and reforming the legislation, with specific objectives and provisions that aim to rectify the existing situation (**Reforming the law to safeguard de facto equality**);
- constant **monitoring and evaluation of progress** to ensure the *successful implementation* of the policy/law vis a vis the set gender objectives.

Effectively, for gender mainstreaming to bring transformative and sustainable change, different considerations are important, including:

- *Political commitment* to ensure institutional support and the *necessary allocation of resources*³⁸ (budgets, funds, human resources, gender expertise, time-allocation).
- *A participatory process* that involves insight, scrutiny, expertise and recommendations from a wide range of governmental and non-governmental stakeholders.
- *Gender competence* and capacity building of the government departments that will implement and oversee the gender mainstreaming process. Gender expertise can also be employed from outside the government,
- *Clear mandates, functions*, roles and responsibilities of the departments to be involved in the gender mainstreaming process. Accountability to be further enhanced through a top-down approach.
- *Institutional change*. A gender mainstreaming strategy requires institutions to transform themselves, starting from their institutional culture and core values and beliefs to the rules and regulations that contribute to outcomes that are more practical.

³⁸ EIGE, *Gender impact assessment*, Gender Mainstreaming Toolkit (2017), https://eige.europa.eu/sites/default/files/documents/eige_gender_impact_assessment_gender_mainstreaming_toolkit.pdf, accessed 20 July 2023.

Appendix: Reference tools, best practices and case study examples

The following case studies and examples are based on the information provided by the member States, as well as resources already by other international organisations. These offer promising steps towards systematic gender mainstreaming at the institutional level, aimed at forming more coherent practices of the strategies described. Moreover, these studies and examples illustrate the specific approaches and recommendations proposed by the gender mainstreaming guide.

How to define needs for gender mainstreaming

Examples of practical vs. strategic needs³⁹

When designing laws and policies, it is important to consider practical needs and address existing inequalities, within a long-term strategic perspective aimed at tackling their root causes. While responding to practical needs can improve quality of life, it does not challenge gender divisions or societal positions. Strategic gender interests concern the position of women and men in relation to each other in a given society and tackles the root causes of inequalities. Strategic interests usually pertain to equal participation, decision-making power, access and control over resources and services. For example:

³⁹ Adapted from OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*.

In employment, a practical need could be to enable and facilitate access to employment for women in any sector of the economy to meet their income needs. A strategic need, however, would be to adopt and implement measures that promote the equal redistribution of unpaid care work and work-life balance for women and men so as to alleviate the burden of care responsibilities.

In youth and sport, a practical need could be to allocate additional funds to promoting girls' sports, while a strategic need would be the wider engagement of girls in all sports.

Who to involve in gender mainstreaming reform process?

Key questions to consider when deciding which stakeholders need to be involved⁴⁰

- Which individuals or groups within the parliament, can MPs work with to progress gender-responsive law reform (for instance the leader of the house, committees, women's parliamentary caucuses, parliamentary groups etc.)?
- Which ministers, ministry officials, government officers or ministry departments need to be involved, formally or informally, in the gender-responsive law reform process?

⁴⁰ Adapted from Inter-Parliamentary Union (IPU) & UN Women (2021), adapted from the manual: *Gender responsive law making*.

- Are there any independent bodies that could provide useful advice on key gender-responsive law reform issues (gender equality commissioner, law commissioner, Ombudsman, commissioner of administration or other body)?
- Where can gender expertise be drawn from? Could NGOs, women's rights organisations, academics, think tanks, private sector bodies etc. provide such expertise?
- How can the media function as partners in the process?
- How can public engagement be achieved? (for instance, through face to face or online public consultations).

Case study: assigning responsibilities of GM across all parliamentary committees – Sweden

All parliamentary committees of the Swedish Parliament are responsible for considering gender equality issues within their respective fields of work. In addition, the Swedish 2014 Parliament (Riksdag) Act sets out that the Committee on the Labour Market has a special responsibility for overseeing issues relating to equality between women and men in working life. A practice has also developed whereby gender equality issues that do not belong within any other committee's area of responsibility are referred to the Committee on the Labour Market, which also prepares appropriations falling within the expenditure area on "Integration and gender equality".

Examples of dedicated gender equality committees across Europe

The **Gender Equality Committee of the Republic of Croatia** promotes the adopting of international standards on gender equality and monitors their application; participates in the drafting, implementation and analysis of the implementation of the National Gender Equality Policy; proposes packages of measures to eliminate gender-based discrimination; promotes gender-balanced representation in parliamentary working bodies and delegations; prepares draft legislation and other regulations on gender equality; and undertakes efforts to introduce gender equality principles in education, health-care, public information, social policy, free enterprise, decision- making processes, family relations, etc.⁴¹

The **Italian Chamber of Deputies' Research Service** provides a short gender impact analysis of all the bills introduced to parliament. The analysis takes account of the context of the proposed provisions and the data that characterises the regulatory intervention, using statistical indicators and the methodology tested in drawing up gender budgeting, which relates to the ex-post evaluation phase and focuses on expenditure items.⁴²

⁴¹ Inter-Parliamentary Union (2011), *Gender Sensitive Parliaments: A Global Review of Good Practice*, <https://www.ipu.org/fr/file/2086/download>, accessed 20 July 2023.

⁴² Johnson, H. (2022), *Gender-Sensitive Scrutiny. A Guide to More Effective Law-Making and Oversight*, International IDEA, Sweden.

In the **European Parliament**, the main body responsible for implementing gender mainstreaming across policy sectors is the Committee on Women's Rights and Gender Equality (FEMM) that can introduce a gender perspective into the reports of other committees. A gender mainstreaming network, chaired and coordinated by FEMM, links Members of the European Parliament and appointed staff to bring a gender dimension into the work of committees and delegations.⁴³

In **France**, the **Task Force on the Rights of Women and Equal Opportunities for Women and Men** in both the Senate and the National Assembly drafts public reports containing recommendations on bills and draft laws⁴⁴. Moreover, **the Economic, Social and Environmental Council**, which is comprised of different social representatives (employers, unions, associations), is responsible for the monitoring and follow-up of gender mainstreaming in all relevant policies in the area of employment.

In **Austria**, the **Parliamentary Committee on Gender Equality** examines legislative amendments related to gender, reports on gender budgeting, issues related to the discrimination of women and men, and equal treatment in all policy area⁴⁵.

⁴³ *Ibid.*

⁴⁴ OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>, accessed 20 July 2023.

⁴⁵ *Ibid.*

Case study: Consultation and coalitions with Gender Experts, NGOs and Academics

In **Monaco**, the Committee for Gender Equality regularly seeks the opinion of NGOs involved in women's issues⁴⁶.

The **German Bundestag**, has established formal links with the dedicated unit on gender equality at the Humboldt University of Berlin, ensuring access to quality gender analysis for parliamentarians and staff.⁴⁷

In **Greece**, the "National Council for Gender Equality" was established under Law 4604/2019 (Article 9), and acts as an advisory body to gender mainstreaming processes. The Council's main competency is to evaluate the existing gender equality policies and propose new initiatives to the competent General Secretariat for Demography, Family Policy and Gender Equality.

Case study: A participatory gender mainstreaming process in France: online public consultations

Parlement et Citoyens is an online platform in **France** bringing together Members of Parliament and citizens to discuss policy issues and collaboratively draft legislation through a multi-step, online consultation process.

On the platform, representatives can host a consultation consisting of three to five different participation opportunities. For instance, a representative poses a problem that citizens help define and for which they generate solutions, and then help evaluate the proposed solutions. Citizens may also engage in video discussions with the representative who makes a final decision on the recommendations. At the end of the process, a conclusory report explains if, when, and how citizen input was incorporated into the resulting draft law.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

Examples of best practices in gender analysis/gender impact assessments

Case Study: Finland – Impact Assessment Guidelines for Legislative Drafting, drawing on the expertise of a variety of stakeholders⁴⁸

The revised government guidelines (2022) are intended to improve the quality of impact of intersectional gender assessments and, consequently, that of the laws being prepared or amended. The guidelines draw on data, guidelines, statistics, information and online tools from a wide variety of sources and stakeholders including:

- An Equality impact assessment tool.⁴⁹
- Guidance on equality impact assessment issued by the Ministry of Interior.
- Finlex⁵⁰: a free online tool operated by the Ministry of Justice that acts as a Law Writer's Guide that includes guidelines for incorporating a gender perspective.
- Data and reports by the Equality Commissioner and by the National Non-Discrimination and Equality Tribunal of Finland.
- Statistical information on equality between women and men, issued by the Finnish Statistical Service (Statistics Finland).
- Gender equality data from the Finnish Institute for Health and Welfare Outsourcing experts for guidance and consultation (e.g., eOppiva).

⁴⁸ Finnish Government (2002), Legislative Impact Assessment.

⁴⁹ Tool for the assessment of equality, <http://yhdenvertaisuus.finlex.fi/en/yhdenvertaisuuden-arviointi/miten-arvioidaan/>, accessed 20 July 2023.

⁵⁰ Lainkirjoittajan opas: Kansallisten säädösten valmistelua koskevat ohjeet (A Law Writer's Guide: Guidelines for the preparation of national regulations), <http://lainkirjoittaja.finlex.fi>, accessed 20 July 2023.

Gender Impact Assessment tool (Austria)⁵¹

In Austria, since 1st January 2013, all new or amended laws and regulations as well as major investment or procurement contracts on federal level must include a mandatory ex-ante impact assessment on gender equality along with other assessments. The impact assessments are disclosed for consultation and parliamentary discussions. Ex-post evaluations of the impacts are to be performed by Ministries within 5 years and reported to Parliament in the Annual Report on Impact Assessment submitted in May.

Two main tools to support gender mainstreaming and GIA implementation:

- A regulatory impact assessment IT tool, which contains a guided process for carrying out a comprehensive impact assessment.
- Guidelines on regulatory impact assessment, which outlines in detail the range of impacts of regulation.

A list of questions guides the gender impact assessment process coupled with statistical data whenever possible.

Lithuania: Legislation constituting the equality-impact assessment for draft legal acts as mandatory

In 2023, a provision of the Law on Legislative Framework of the Republic of Lithuania created the obligation to carry out equality-impact assessment for all draft legal acts. These equal opportunities methodology is currently under development.

⁵¹ EIGE: *Gender impact assessment*, Gender Mainstreaming Toolkit (2017), https://eige.europa.eu/sites/default/files/documents/eige_gender_impact_assessment_gender_mainstreaming_toolkit.pdf, accessed 20 July 2023.

Redesigning policies and legislation

Case study: Revising the snow removal policy in the municipality of Karlskoga, Sweden⁵²

Issue identified: A need to review the snow removal policy in the municipality of Karlskoga in Sweden because of accidents caused in icy roads. Hospital care and lost productivity due to accidents in slippery conditions cost four times as much as winter road maintenance.

Gender inequalities revealed by a gender impact analysis: Three times more pedestrians than motorists/people driving cars are injured in single vehicle accidents caused by icy roads. The majority of these are women who cycle and use public transport to a greater extent than men who travel more by car. A gender impact analysis of the local snow removal process indicates that areas typically used by men were prioritized (first the ring roads were cleared, then the major roads and streets leading to larger male-dominated workplaces, while the last to be cleared were bus stops pedestrian walkways). Unintentionally, the snow removal process disproportionately affects women in a negative way, exposing them to a higher degree to the risk of slippery roads.



Amendment to the policy:

The municipality of Karlskoga reformulated its snow removal policy. It was decided that the pedestrian walkways and bike paths should be cleared before the streets. Nurseries were given first priority, as this where parents go first on their way to work. Larger workplaces were given second priority, but this time, female-dominated workspaces such as hospitals, schools and municipalities were also included. The reform of the policy, while resulting in no extra costs for the municipality, made the allocation of resources more gender-equal and made the city more accessible for everyone.

⁵² Sustainable gender equality: a film about gender equality in practice. Swedish Association of Local Authorities and Region (SALAR).

Monitoring and evaluating the results of the policies and legislation

Example: Assessing whether a targeted action led to increased equality⁵³

Case study: Belgium: Defining gender indicators for evaluation⁵⁴

In Belgium, the Gender Mainstreaming Act (2007) ensures, among other things, that strategic gender equality objectives are set for each new policy through the implementation of the Federal Gender Mainstreaming Plan established at the beginning of the legislature. Consequently, all members of the government make commitments to integrate the gender dimension in a series of policies within their competence. The law also requires that each new bill or proposed policy that is submitted to the Council of Ministers pass a “gender test” first. Lastly, the act includes provisions for monitoring and evaluation of these actions every six months. In this context, the Institute for the Equality of Women and Men summarizes the progress made in integrating the gender dimension in the various federal jurisdictions, as well as the difficulties encountered in implementing gender mainstreaming.

⁵³ Johnson, H. (2022), *Gender-Sensitive Scrutiny. A Guide to More Effective Law-Making and Oversight*, International IDEA, Sweden.

⁵⁴ OSCE/ODIHR (2017), *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, <https://www.osce.org/files/f/documents/a/1/327836.pdf>.

Enhancing accountability for gender mainstreaming

Case study: Gender mainstreaming by all public authorities – Spain

In order to make gender mainstreaming part of all public policies, the Spanish Equality Act 3/2007 introduced the cross-sectional dimension of the principle of equal treatment and opportunities which must inform actions taken by all public authorities and be integrated by public. To ensure effective gender mainstreaming, article 77 of the Spanish Equality Act, created equality units in all ministries to assign to a single management body duties relating to equality between women and men, particularly:

- providing gender-relevant statistical information;
- conducting surveys to foster equality in ministries' areas of activity;
- providing advice to the Ministry's competent bodies for the elaboration of the gender impact assessment report; improving employees' understanding of the scope and meaning of the principle of gender equality by proposing activities;
- overseeing compliance of this Act and the effective implementation of the principle of equality.

Spain's Instituto de la Mujer y para la Igualdad de Oportunidades (Women's Institute for Equal Opportunities) has trained staff who work in equality units which are now the focal points for monitoring the progress of gender equality and mainstreaming measures across all government departments.

Case study: Belgium: A Federal Gender Mainstreaming Plan across all government bodies

At the Belgian federal level, the Federal Gender Mainstreaming Plan holds all members of the government accountable to commit to integrate the gender dimension in a series of policies under their jurisdiction. The successful implementation of this plan is based on gender mainstreaming training for members of ministerial cabinets and administrations, as well as on regular consultations with members of the Institute for the Equality of Women and Men.

How to ensure that gender mainstreaming has been applied correctly in the law reform process

Signs that gender mainstreaming has been applied correctly	Incomplete application of gender mainstreaming
Consequent use of gender-specific language	Gender-specific language is not used consistently. Gender-neutral language often used.
<p>Gender is strategically embedded</p> <ul style="list-style-type: none"> • Concrete gender goals are linked to specific measures • Gender aspects are consistently visible in definitions, goals, measures and evaluation processes 	<p>Gender “is everywhere”</p> <ul style="list-style-type: none"> • Mentions of gender are included everywhere, but no concrete goals or measures are described • The mere involvement of women in the reform process is considered enough. While the participation of women is especially important, it is not in itself a guarantee for gender mainstreaming. The

	<p>same goes for statements such as “the reform was developed by women”</p>
<p>Gender-specific data collection and analysis</p> <ul style="list-style-type: none"> • Differentiated and gender-specific perspective on all target groups using gender desegregated data • Suitable gender indicators • If data is incomplete or missing, the attempt at differentiated analyses is shown in a comprehensible way and the problems are explained • (Compulsory) gender-specific analysis and impact assessment • Sustainability of gender mainstreaming is ensured 	<p>No gender-specific goals or analyses</p> <ul style="list-style-type: none"> • No assessment of the status quo in gender matters or gender-specific problem analysis • Equality goals are not clearly defined but are broad and vague • Target groups and their particular needs are not defined separately • Data is shown separately for women and men, but there is no gender-specific analysis or explanation that leads to a comprehensive understanding of the inequalities • The implementation does not match the equality goals, e.g., no conclusions or consequences on gender equality are drawn from an analysis
<p>Gender-sensitive view of different needs</p> <ul style="list-style-type: none"> • Different needs are not only noted but also seriously considered (e.g., there are clear 	<p>Excuses are given to explain why gender-specific taken measures are not possible or necessary</p>

<p>and specific answers for the questions who, what, how and for what purpose)</p> <ul style="list-style-type: none"> • Even needs and impacts that are not directly visible are considered (e.g., daily trips in traffic and how transport planning disproportionately affects women and men) Social and power structures are taken into account and structural inequalities are addressed 	<p>Measures and services are presented as gender-neutral even though a closer inspection shows they are not. Underlying structural conditions that have not been identified and addressed can lead to discrimination. For example, men benefit more from tax cuts a from for medium and high incomes than women as more women work part time or in low-wage sectors.</p>
<p>Gender competence of the people responsible for the law reform process</p> <ul style="list-style-type: none"> • There is clear gender competence of all stakeholders involved in the law reform process • Training, mentoring and guidance by experts delivered toward MPs, policy makers, government officials, government employees, employees in administrative departments and other stakeholders directly involved in the law reform process has taken place to enhance their understanding and skills of gender impact 	<p>Lacking gender competence of the people responsible</p> <ul style="list-style-type: none"> • No real measures to enhance gender competence of the stakeholders involved • Trainings and gender competence building activities are limited or are primarily geared toward ensuring de jour equality rather than de facto equality • Gender advisors or women's representatives are involved but do not have any real say in the process

<p>analysis and overall gender competence in conducting the law reform process</p> <ul style="list-style-type: none"> • Gender experts have been used to provide expertise and guidance and have some authority over the reform processes (e.g., in Gender analysis, gender impact analysis, monitoring and evaluation • Different government departments collect and analyse data by gender and systematically examine whether services and activities have a different impact on women and men • Different departments have defined gender equality goals and communicate them. • Women and men are equally involved in working groups, teams, meetings, etc. 	
<p>The gender mainstreaming measures and goals are considered in the budget</p> <ul style="list-style-type: none"> • The financial resources required for the successful implementation of the 	<p>The implementation of gender mainstreaming is in not connected to the budget</p> <ul style="list-style-type: none"> • Gender mainstreaming measures are mentioned but the resources required for

<p>gender mainstreaming measures are fully budgeted</p> <ul style="list-style-type: none"> • Use of gender-sensitive budgeting, ensuring that women and men benefit from investments in a balanced way 	<p>meeting them are not budgeted</p> <ul style="list-style-type: none"> • No use of gender budgeting. It is not possible to determine whether the planned measures and investments benefit women and men equally
<p>Progress is effectively monitored</p> <ul style="list-style-type: none"> • The implementation and the impact of the law are systematically monitored • There is a specific monitoring and evaluation plan being integrated into the overall gender mainstreaming process to assess the intended and unintended gender impact of the design and implementation of laws, policy, programmes or actions. • Gender responsive indicators are explicitly set to monitor the degree to which gender objectives are met. • M & procedures also extend to evaluate the extent budgeting is gender responsive • In the event that gender objectives are not 	<p>No gender-responsive monitoring</p> <ul style="list-style-type: none"> • Any monitoring of laws is gender neutral and doesn't explore the specific impact of the law on women and men • Oversight of the implementation of laws is gender neutral and there is limited to no analysis as to how the law is contributing to a narrowing of gender gaps between women and men

adequately met, there is a clear system in place to make additional revisions and amendments to the law.	
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Today's society calls for greater consideration and integration of gender equality at all levels.

This guide, drawn up by the European Committee on Legal Co-operation (CDCJ) of the Council of Europe, in collaboration with the Mediterranean Institute of Gender Studies, aims to provide guidance to ensure that the gender dimension is mainstreamed correctly and efficiently in public and private law reform processes.

This publication is intended for all actors involved in the formulation, implementation, monitoring and evaluation of laws and policies, notably public officials and other policy makers to guide them and facilitate their daily work. The guide may also be of interest to any person wishing to know more about gender mainstreaming in law reform processes.

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