



# Exchange of good practices on gender equality

**Gender Impact  
Assessment**  
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# Gender Impact Assessment in France

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## 1. Introduction

### 1.1. A path-dependent context for gender mainstreaming

In France, first significant references to gender mainstreaming did not emerge before the early 2000s. Three main factors help to make sense of this late acclimation and slow implementation until the most recent period:

Firstly, France has long privileged a sectorial approach, initially mainly focused on equality in the workplace, later also on equal access to decision-making policies and violence against women, which has resulted in increasingly comprehensive legislative and regulatory arrangements around these issue from the early 1980s onwards.

Secondly, there are still many resistances to adopt a gender lens, which is believed either to undermine sex differences or disempowering women by adopting a perspective grounded into a broader conception of gender relations. As a consequence, although increasingly adopting a structured and well-articulated understanding of gender inequalities, French gender equality policies thus remained discursively focused on women's rights, and heavily criticised when referring to gender. This heavily constrained gender mainstreaming implementation.

Last but not least, in France, the dominant policy style undermines the ability of public administrations to adopt a transversal approach: procedures remain strongly top-down, sectorial and issue specific. Very much centred on Law-making, this policy style also pays limited attention to implementation instruments and ex-ante or ex-post evaluation procedures. While these patterns certainly do not fully apply anymore to all policy sectors, due to the continuous process of State reform since the early 2000s, they created an inappropriate environment for the implementation of gender mainstreaming and more specifically, of Gender Impact Assessment (GIA).

### 1.2. Incipient gender mainstreaming in the 2000s

In this context, the first explicit references to GM in national policy documents emerged in 2000, when the re-establishing of a State secretary for women's rights and equality in the workplace coincided both with a new spur given to GE policies at the domestic level, and the full integration of gender equality in the EU legal order. From 2001 onwards, a summary on gender equality policies was included to the Orientation act for the Finance act (Loi d'orientation de la Loi de finance, LOLF), later (2010) turned into a comprehensive Transversal policy document on gender equality.

Yet, in the absence, at that time, of a gender equality act covering a variety of issues, the attempts to implement gender mainstreaming remained relatively unknown to policy actors (Dauphin and Sénac, 2008) by the mid-2000s and

therefore, marginally implemented at the State level. It seems in particular that knowledge transfer, in the form of guidelines or other methodological resources, has been quite limited. While not providing the resources and environment for a full implementation of gender mainstreaming, policy developments in the field of Gender Equality (GE) that have taken place since the early 2000s, nonetheless paved the way for a more comprehensive and structured approach. This was not only reflected in the increasingly complex legislative frameworks as concerns GE in the workplace and violence against women, but also in the extension of the parity principle to economic decision-making (2008, 2011).

This situation, to be characterised by a strong path dependency, dramatically changed since 2012, when a major spur in favour of effective GE policies, which also provides the background for the actual implementation of gender mainstreaming, was initiated following the victory of left-wing parties during presidential and parliamentary elections.

### **1.3. Introducing Gender Impact Assessment in the 2010s**

This electoral breakthrough coincided with a paradigm shift, to be characterised by:

- An unprecedented commitment with GE, summarised in the concept of “Third generation of women’s rights”, focused on effective and positive implementation;
- The re-activation of inter-ministerial work in favour of GE objectives, materialised by the re-establishment, after more than two decades of a full-right Women’s rights ministry (a); the compulsory adoption of a GE action plan by each ministry (b) and the appointment of GE officers in each policy area, responding to the Women’s rights minister who is also the spokesperson of the government (c);
- The strengthening of the coordination capacities of GE machineries, to be enhanced through the compulsory collection of sex-disaggregated statistics by respective institutions and the compulsory adoption of regional GE action plans following the blueprint provided by the Women’s Rights and Gender Equality service (SDFE) and to be regularly monitored and evaluated (b);
- Last but not least, new steps have been taken in this context towards the implementation of a gender impact assessment for any planned legislative measure.

Until the late 2000s, impact assessment of public policies had remained unknown to French policy makers, when the first provision on ex-ante impact assessment - in general -, was passed with the Organic Act of the 15th of April, 2009. It foresaw that impact assessment studies should be produced for most of planned legislative texts, in order to better inform law-making and to improve the quality of legislative measures.

Since, this method has been receiving increased attention, and the governmental notice of the 23rd of August, 2012, regarding the inclusion of a gender perspective in the ex-ante impact assessment of bills and projected regulatory measures, specified in which conditions a gender impact assessment has to be conducted ex-ante. It was notably stated that the gender perspective should be systematically taken into account when drafting bills, with view to:

- Prevent negative effects, in terms of gender equality, of the planned measures
- Consider potential positive measures to prevent such effects, and to improve the current situation of gender (in)equality through the planned legislative initiative.

## 2. Policy debate on GIA in France

### 2.1. A first balance of GIA implementation

#### 2.1.1. Limited implementation after 1 year in force (September, 2013)

The aim of this governmental notice, was to enrich ex-ante impact assessment studies with elements concerning the gender impact of foreseen measures. Issued before the decree redefining the scope of the Inter-ministerial committee for women's rights and gender equality (held in September, 2012), and the effective appointment of senior GE policy officers in each ministry, it has thus preceded other steps towards the implementation of GM.

Nevertheless, one year later, only a handful of 'true' GIAs had been carried out by competent ministries, as GIA usually consist in a few paragraphs (if any) added to general impact assessments. It has also been the case for pieces of legislation relevant to gender equality, as the Act on the consolidation of career paths. To date, the ex-ante impact assessment carried out preliminary to the adoption of the new Act on Research and Higher Education, adopted by the National Assembly on the 28th of May, 2013, still features as an exception. Indeed, this document paid more thorough attention to the potential gender impact of the future piece of legislation with regards to core aspects such as recruitment, promotion, academic curricula and research.

#### 2.1.2. Supporting GIA implementation with guideline documents

Nevertheless, as stated in the governmental notice of August, 2012, guidelines were to be developed in order to support civil servant in charge of performing GIAs with relevant criteria and indicators. In October 2013, two documents have been released by the Ministry of Women's Rights (currently: Ministry of Women's Rights, Urban areas, Youth and Sports):

- A memento for the inclusion of a gender perspective in law-making<sup>1</sup>, aimed at *“formalizing and mainstreaming good practices established since August, 2013 (...), and to facilitate the work of all relevant actors, including the General secretariat of the government, central administrations planning new legislative measures and the Ministry of Women's rights”* (2013: 12).

This document summarises a three-step approach: 1) assessing the gender component of the social groups to be affected by the new regulation and identifying potential gender differences; 2) Evaluating (ex-ante) the direct impact of planned measures from a gender perspective and 3) Assessing their indirect impact and proposing measures to prevent negative gender effects and enhance gender equality.

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<sup>1</sup> [http://femmes.gouv.fr/wp-content/uploads/2013/10/Memento\\_Prise-en-compte-EgaliteFH-SGG\\_21-10-2013.pdf](http://femmes.gouv.fr/wp-content/uploads/2013/10/Memento_Prise-en-compte-EgaliteFH-SGG_21-10-2013.pdf)

- A thorough methodological guide<sup>2</sup>, in form of a 89 pages-long document, detailing the above-mentioned three-step approach, and supporting the analysis with an introduction to gender stereotypes, an extensive review of specific gender differences and inequalities in the areas of work, health and gender-based violence, as well as relevant references to EU and international regulations on gender equality.

### 2.1.3. Building capacities for effective GIA implementation and monitoring

In the meantime, the absence of comprehensive GIAs, and the fact that no GIA was submitted for some bills relevant to gender equality, had already pointed out the scarce gender expertise available in each ministry, and the limited resources of the Women's Rights and Gender Equality Service (SDFE), a 25-staffed institution, to effectively monitor GIA at the inter-ministerial level. From this point of view, it is still unsure whether the SDFE will be in capacity to assist respective ministries in implementing the above-mentioned memento and guidelines and to report about low or misled implementation.

This first balance also shed light upon the role to be played by the newly established High Gender Equality Council. According to its founding decree of January, 2013, this institution will be notably in charge of the evaluation of GIAs to be performed by respective ministries. It is yet still unclear at which stage of the policy/legislative cycle it should intervene. To date, it seems that this evaluation and quality check should be carried out before the submission of the bill to the National Assembly, thus providing an opportunity for corrections and improvements.

This could provide central administrations with relevant criteria and recommendations to perform qualitative GIAs, as the High Gender Equality Council is granted with relevant internal expertise on gender policy evaluation. However, its predominantly voluntary membership, limited financial resources and packed agenda, did not provide this institution with the opportunity to endorse this role so far.

## 2.2. Current or planned policy initiatives on GIA

### 2.2.1. The Act on equality between men and women: a spur for mainstreaming?

As the French legislative and policy framework on gender equality had developed rather *sui generis* (see: introduction), cumulating increasingly complex measures in the areas of reproductive rights, work, social protection, pension, violence against women, access to decision-making and fighting gender-based discrimination, no comprehensive act on gender equality had been adopted so far. Yet, in July, 2013, an unprecedented Act on equality between men and women was first presented before the Senate, and eventually returned by mi-April, 2014 before this assembly after being adopted by the National Assembly in January.

This text, which summarises previous legislative steps and enhances the effectiveness of implementation measures in the areas of work, social inclusion, decision-making and gender-based violence, contains the first explicit reference to gender mainstreaming (*approche intégrée de l'égalité* in French) in its first article.

<sup>2</sup> [http://femmes.gouv.fr/wp-content/uploads/2013/10/DEF\\_Guide-m%C3%A9thodologique-221013.pdf](http://femmes.gouv.fr/wp-content/uploads/2013/10/DEF_Guide-m%C3%A9thodologique-221013.pdf)

Nevertheless, whereas this reference, as well as the emphasis placed on effective implementation or the production of sex-disaggregated data may constitute a new spur for gender mainstreaming, there is no mention of gender impact assessment in this new piece of legislation, prior to its final approval scheduled in June, 2014<sup>3</sup>.

### **2.2.2. Expected developments regarding GIA**

There are currently three on-going initiatives with regards to enhancing the effective implementation of gender impact assessment in France.

The first one consist in a cycle of conferences on the evaluation of gender equality policies, held in cooperation between the Ministry of Women's Rights, the parliamentary committees for gender equality in both chambers and the High Gender Equality Council. A first one was dedicated to the production sex-disaggregated data, also including a roundtable on GIA in October, 2013. The next one is scheduled in September, 2014, with a focus on GIA, and should bring into the discussion several good practices identified in the EU, through a study commissioned by EIGE in 2013. Those cases may include Austria, Catalonia, Denmark or Finland.

Another initiative is meant to strengthen the effectiveness of the guidelines for GIA implementation through their appropriation by respective administrations, for which working groups have been established and contacts regularly maintained with Ministries' cabinets.

The last one is currently at a planning stage, and would consist in extending the scope of GIA from acts (general legislative measures) to regulatory measures (règlements)<sup>4</sup>.

## **3. Transferring good practices in France**

### **3.1. Transferring good practices from Austria**

#### **3.1.1. Differing contexts with respect to policy and law-making**

From the discussion paper on Austria, and from the case-study report on GIA in Austria also consulted for the purpose of this comment paper<sup>5</sup>, it stems that gender impact assessment was brought into policy making through another path than the one used in France.

In other terms, whereas GIA was first introduced in France in 2012 as one of the measures aimed at mainstreaming gender throughout the policy cycle, in Austria, it derived from the implementation of performance and gender-sensitive budgeting. While the objectives of transparency, efficiency and accountability also apply to the French context, performance budgeting, however, has not materialised so far and does not draw the consent which apparently led to its adoption in Austria. Instead, performance-driven policy-making clashes with the conviction, still widely shared

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<sup>3</sup> <http://www.senat.fr/leg/tas13-101.pdf>

<sup>4</sup> Information regarding the last two initiatives were communicated to the author by Sophie Buffeteau, member of the Ministry cabinet, with GIA monitoring in her Portfolio (April, 2014).

<sup>5</sup> EIGE (2013) *Case Study Report About Gender Impact Assessment, Austria*, Study for the European Gender Equality Institute (unpublished material, do not quote without permission).

among French policy makers, that policies are aimed at transforming and re-modelling the society (notably by affecting power relation at play), rather than pursuing merely utilitarian objectives.

In such a context, performance budgeting would probably offer little support to implement gender-sensitive budgeting, especially as gender inequalities in terms of workforce participation are milder in France, thus providing the “business case” of gender equality with fewer arguments than in Austria.

It must be underlined, however, that in a time of crisis and budgetary constraints, there are certainly more valid arguments available to promote this approach and that in this case, under the current political circumstances, this would certainly lead to include a gender dimension, in the name of gender mainstreaming.

### **3.1.2. Hindering factors to policy transfer**

It remains, though, that several context-specific variables and weaknesses would either hinder or constrain the potential for policy transfer in this case:

- The form of the State: Austria is a federal state, and France is still a unitary state, although the competences of its local and regional assemblies are growing certainly faster, and in a more sui-generis way, than those ascribed to the Austrian Länder by the constitution. From this point of view, consensus would be certainly harder to find at the national level (where political alignments remain tightly subjected both to ideological frames and local politics), but there could be a space for policy innovation at the local/regional level.
- One of the main strength of the Austrian practice of GIA and gender-sensitive budgeting consists in its strong legal basis, grounded into the constitution. Revising the constitution requires a 2/3 majority or a referendum in France, and thus necessitates a large consent that performance budgeting would certainly not gain.
- In our perspective, it is a major weakness of the Austrian case that GIAs run in parallel to gender mainstreaming and gender equality policies, thus missing both overarching objectives, which undermine the potential of GIA to transform current situations of gender inequality, but also strong gender expertise either embedded in respective ministries carrying out GIAs, or located in a central gender equality machinery. In our understanding, performance controlling is assigned to the office for performance controlling at the Federal Chancellery, which does not indicate that any specific gender expertise is mobilised for this ex-post quality check.
- Finally, especially in the absence of such an expertise, the “materiality threshold” applying to impact assessment for adopting a gender lens leads to carrying out a GIA for only 5% of planned legislative measures. Although this situation does not much differ from the French practice, it would legitimate gender blindness.

To conclude, it is worth underlying that gender sensitive budgeting is core to the recent recommendations adopted by the French High Gender Equality Council, following a report on fighting stereotypes. In case these recommendations would result in a policy initiative, however, its adoption would be framed within gender mainstreaming implementation, rather than performance budgeting.



## 3.2. Transferring good practices from Finland

### 3.2.1. Building capacities and providing guidance

From a French perspective, the Finnish practice of GIA calls attention on different aspects, which may result relevant. As in France, there is no strong legal basis for GIA (beyond the broad scope of the Finnish 1986 act on gender equality and the governmental notice issued in 2012 in France), but Finland has nonetheless experimented GIA for over 15 years now. This seems to have been due to four main characteristics, that all have potential for informing French policy makers about future policy developments regarding GIA.

The Finnish approach for GIA was developed by a central gender equality structure, thus mobilising relevant gender expertise, and was first outlined in the GIA guidelines of the Ministry of Social Affairs and Health in 2002 (**Competence**)

This methodology was first tested upon the texts prepared by this Ministry before to be extended to the legislative work of other governmental areas (**Experimentation**)

It has been regularly legitimated through gender action plans, thus underlying the relevance of GIA as a component to gender mainstreaming strategies (**Legitimacy**).

Simultaneously, guidance has been provided to relevant policy actors, to effectively perform GIA. Supporting documents adopt a fully-fledged six-step approach and an inclusive scope which encourages policy makers to focus on potential gender impacts from the perspectives of economic status, decision-making, professional life, business, education, parenthood, public services, well-being, safety, living conditions and leisure time (**Comprehensiveness**).

This latter aspect, in particular, would certainly be relevant to enhance the guidelines issued in October, 2013 by the French Ministry of Women's Rights. Although those are comprehensive and articulate a structural approach to gender equality, they do not systematically cover the different angles from which the civil servants can scrutinise a bill through a gender perspective. As such, the risk remains that this perspective will only lead to asking general questions, with general answers (yes/no).

It appears also key in the Finnish practice, to build up capacity for GIA through appropriate training. Rising awareness on gender issues, providing civil servants with appropriate concepts and references, transferring knowledge on gender inequalities and communicating operational know-how is indeed of great relevance for effective gender mainstreaming and GIA implementation. The Finnish case also emphasises the importance of the support and expertise of the central gender equality machinery to the respective policy sectors.

### 3.2.2. Incorporating GIA into policy-making routines: a key to success?

As put in a case-study report also consulted for the purpose of this comment paper, *“in Finland, Gender Impact Assessment is seen as part of a thorough, everyday work of government officials, rather than as a separate process or instrument requiring specific expertise. The Finnish GIA model is practice-oriented, and the*

*methodology has been built on the premise that it has to be feasible for civil servants and resonate with the practical work of Government administration*<sup>6</sup>.

This pragmatic approach, which has been chosen and made available by a structure granted with sufficient gender expertise, would certainly resonate with the current French policy approach to gender equality, which largely focuses on effective implementation and inter-ministry work. It is in particular the objective of the current process of enhancement of the guidelines for conducting GIA, to take into account the policy context in which actors operate, which includes different levels of awareness and knowledge, different levels of time constraint, different scopes to be covered by the planned measures, as well as different structures of actors.

Although transferring the Finnish practice would certainly face some hindering factor – as the intensive, little implementation-oriented nature of law-making in France – it would usefully inform the reflection and practice of French policy actors involved in developing and systematising GIA.

## 4. Reference

Dauphin, S. and R. Sénac. 2008. Gender mainstreaming: de l'égalité à la diversité?, Special issue: *Les Cahiers du Genre* 44.

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<sup>6</sup> Quoted from EIGE (2013), *Case Study Report About Gender Impact Assessment, Finland*, Study for the European Gender Equality Institute by A. Elömaki (unpublished material, do not quote without permission).