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# **GENDER-TESTS OF EXISTING AND NEW LEGISLATION: INTRODUCING GENDER ANALYSIS INTO REGULATORY FRAMEWORKS**

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# CONTENT

- Better Regulation & Gender Mainstreaming
- Gender impact analysis: legislative framework
- Some experiences
- Conclusions



# BETTER REGULATION & GENDER MAINSTREAMING

- BR: legislative organs and public administrations have to contribute, via the regulations, to the sustainability of progress.
- This requires an appropriate drawing up of the regulations in all sectors of development of people's economic and industrial activity, as well as in the regulations that affect the social and occupational policies and all the services that constitute them.



## GENDER MAINSTREAMING

An important advance in the recognition of women's rights in order to evaluate the impact using gender relevant criteria to compare and assess the current situation and trends with the expected results of the proposed policy:

1. The explicit recognition of the principle of gender mainstreaming implies the implicit recognition of the masculinity of the legal system, which justifies a critical revision.
2. The principle of gender mainstreaming lays the foundation for a global revision of law, based on the concept of gender.



## **RIAs must assess “Impacts on existing inequalities” by comparing regional, gender and ethnic impacts of the proposed action.**

- Gender mainstreaming involves affirming that no aspect of the economic, social, cultural or political reality is foreign to women, therefore the analysis of this reality, in its entirety, has also to be considered from the perspective or lens used to know the women's situation, needs, contributions and specific knowledge.
- Mainstreaming the women's perspective obliges the carrying out of this analysis of the different effects that a regulation may produce for women and men, from the planning stage to the specific application.



## *Article 15. The cross-sectional approach to the principle of equal treatment for women and men*

- The principle of equal treatment and opportunities for women and men will cross-sectionally inform the action taken by all public authorities.
- The **central, regional and local governments** will actively mainstream the principle in the adoption and implementation of their **legislative** provisions, definition and **budgeting** in all areas of public policy and performance of all their activities as a whole.



In gender analysis we try to find answers to some key always sex-disaggregated, questions, in order to see:

- Who does what?
- Who has access to what?
- Who has control over what?
- What differences are there and why?
- What are the key factors which influence gender effects?

# CHALLENGES FOR GENDER IMPACT

- Political will and the commitment to introduce change.
- Difficulties to find some data (timely & accurate)
- Sensitisation of all juridical operators, lawyers, judges, encouraging them to use them.
- Cultural change & resistance: gender perspective (ex: eradicate sexist language)
- Human resources: training & time





# BR & RIA INSTITUTIONS AT NATIONAL LEVEL

- AEVAL (National Agency for the Evaluation of Public Policies and Quality of Services)
- Sub-Directorate General for the Improvement and Simplification of Procedural Regulation (Ministry of the Presidency)
- Equality Units in each Ministry



## 2. GENDER IMPACT ANALYSIS: LEGISLATIVE FRAMEWORK

- Act 30/2003 of 13 October, on measures to assimilate gender impact assessment in the procedure for drafting governmental regulations.
- Constitutional Act 3/2007 of 22 March, for effective equality between women and men
- Royal Decree 1083/2009 of 3th July, on the impact assessment memory



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# CONSTITUTIONAL ACT 3/2007 FOR EFFECTIVE EQUALITY BETWEEN W & M

## Article 19.- Gender impact reports

**Bills** of a general nature and **plans** with particular economic, social, cultural and artistic relevance submitted to the Council of Ministers for approval must include **a report on their gender impact.**



- The gender-impact reports established by Law are of a **preceptive, non-binding** nature, and represent a method of prospective evaluation of the norms, i.e. an ex ante study and analysis of the normative project being promoted.
- This is done in order to verify that at the moment of planning the measures contained in the rule, the effects they will have on men and women have been taken into account, advising whoever will adopt them on what the desired and undesired consequences may be and, if necessary, proposing their modification.



How to make a gender-impact report: 2005 Guide published by the Institute for Women (version on-line): “Practical guide for carrying out gender impact assessments of legal provisions developed by the Government”. **STEPS:**

- **Analysis and diagnosis of the situation** (Quantitative & Qualitative investigation)
- **Study of the expected results & qualification of them.**
- **Modification proposals** (Positive actions, measures of consciousness raising, etc.)



- Organic Act 1/2004 of 28 December, on Integrated Protection Measures against Gender Violence, eleventh additional provision. Evaluation of the Act's implementation.

The Government, in collaboration with the Autonomous Communities, shall prepare a report evaluating the effectiveness of this Organic Act in combating violence against women three years after its entry to force, which report shall be presented to the Congress of Deputies.



- Constitutional Act 3/2007 of 22 March for effective equality between women and men, Article 18.- Periodic reporting

Pursuant to the respective regulations, the Central Government will draft a periodic report on all the actions taken to further the effectiveness of the principle of equality between women and men. This report will be submitted to national Parliament.



## SOME EXPERIENCES

- Catalonia: Catalan Institute for Women
- Andalucía: Gender Unit
- Basque Country Region: Emakunde (Basque Woman's Agency)
- State level: Dependents' Law 2006; National Report on Strategies For Social Protection & Inclusion (2008-2010).





## CONCLUSIONS

- Regulatory impact assessment is seen as a useful tool in support of more efficient, effective and transparent and accountable policymaking.
- Tools (such as social, economic and environmental impact indicators) are more than just neutral instruments to choose from: they establish a regulatory culture
- Gender impact analysis as legislative gender mainstreaming.
- Importance of ex post monitoring and evaluation



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# THANKS FOR YOUR ATTENTION !

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