

Germany

Apie

Over the years, European Union (EU) policy-making has had a marked influence on the institutionalisation of gender equality policy in Germany, while EU initiatives on gender mainstreaming have stimulated debate on relevant instruments and institutional mechanisms.

The Basic Law of the Federal Republic of Germany of 1949 (Grundgesetz, GG) – which is essentially the German constitution – guarantees the principle of gender equality (Article 3 II GG). The Basic Law applies to the reunified state since 1990 and ensures equality for all citizens. Article 3 II GG specifically refers to equality between women and men and obliges the German state to promote gender equality and to tackle existing inequalities. The mandate of gender equality under the constitution was supplemented by the following addition in 1994: ‘The state promotes the effective implementation of equal rights for women and men and works to eliminate existing disadvantages’[1].

The principle of gender mainstreaming is enshrined in law and is official policy in all ministries at federal and regional/local level. In a Cabinet Resolution of 23 June 1999, the federal government recognised the aim of gender equality as a guiding principle for its activities and adopted gender mainstreaming as the joint strategy of all federal ministries.

In the 2016 shadow report of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), civil society actors noted that the gender mainstreaming strategy is not comprehensively, completely and sustainably implemented [2] and noted issues with data collection (such as the establishment of an independent institute), gender budgeting and a concrete implementation plan.

Legislative and policy framework

German constitutional law implies a commitment by the state to an active and effective equality policy. Article 3(2) of the Basic Law not only states ‘Men and women are equal’, but expressly obliges the state to enforce equal rights for women and men and to work towards eliminating existing disadvantages (Article 3(2), second sentence, Basic Law).

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend – BMFSFJ) states that this is the basis for gender mainstreaming and for the establishment of gender equality as an integral part of political action by the federal government in all policy areas.

In addition to the Basic Law, the gender equality principle is enshrined in many other laws, such as

- the General Equal Treatment Act of 2006 (Allgemeines Gleichbehandlungsgesetz – AGG) focusing on discrimination in employment,
- the Federal Body Composition Act of 2015 ([Bundesgremienbesetzungsgesetz – BGremBG](#)),
- the Act to enforce equality between women and men in the federal administration of 2001 ([Gesetz zur Durchsetzung der Gleichstellung von Frauen und Männern in der Bundesverwaltung – DGleiG](#)) and
- the Federal Equality Law of 2015 ([Bundesgleichstellungsgesetz – BGleiG](#)).

According to the AGG, its aim is to prevent and eliminate discrimination on the ground of gender. The focus of the scope of this civil law is, therefore, on ‘mass transactions’ that affect a large number of cases, for instance in labour law and all areas of employment, as well as access to and supply of goods and services available to the public, including housing[3].

The BGleiG addresses the elimination and prevention of discrimination based on sex, as well as the promotion of equality and work-life balance as a consistent guiding principle in all areas of responsibility and decisions of the departments within its scope. An obligation to implement and comply with gender equality (notably gender mainstreaming) in federal laws, such as in child and youth welfare, is set out in Article 9(3) of the Code of Social Law III ([Sozialgesetzbuch III – SGB III](#)).

In a Cabinet Resolution in 1993, the federal government recognised the aim of gender equality as a guiding principle for its activities at federal and regional/local level and adopted gender mainstreaming as the joint strategy of all federal ministries. The country’s first (2012) and second (2017) Gender Equality Reports (Bundesministerium für Familie, Senioren, Frauen und Jugend) further underline gender mainstreaming as an important tool for gender equality.

The 2017 Gender Equality Report describes new challenges that should guide gender equality policy-making: gender equality in digital work, intimate partner violence, and the effects of the increased influx of refugees and migrants since 2015/16[4]. Both reports show progress but also imply some structural problems with the implementation of gender mainstreaming.

Gender mainstreaming as a strategy is regulated by Article 2 of the Joint Rules of Procedure of the Federal Ministries ([Gemeinsame Geschäftsordnung der Bundesministerien](#) - GGO), which states: 'Equality between men and women is a consistent guiding principle and should be promoted by all political, legislative and administrative actions of the Federal Ministries in their respective areas (gender mainstreaming)'. Gender equality should therefore be ensured, secured, and promoted in all political, agenda-setting and administrative measurements of the government (national and regional).

In practice, gender mainstreaming is not always implemented. This is especially the case where policy makers do not recognise any practical link between their policy field and questions of gender equality[5]. The 2012 Gender Equality Report noted that only strong reference persons in the ministry could push for the implementation of gender mainstreaming.

There are no national action plans for gender mainstreaming. The 2016 CEDAW shadow report states that the 'Federal Government hardly meets its obligations stemming from the principle of gender mainstreaming, nor has it presented an implementation plan or concrete implementation steps'[6].

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Structures

Government responsibilities

The main responsibility for the development of strategies, laws and federal programmes rests with the [BMFSFJ](#). However, ministerial responsibility for gender equality is not established by law.

The BMFSFJ comprises one minister (member of the government cabinet), three state secretaries and five sectoral departments. It does not have a federal gender equality commission officer. One department is dedicated to equality, with the others dedicated to: democracy and civic engagement; family; demographic changes, older persons, and welfare; and children and youth. There is also a [central department](#). The equality department has specific units on: women and work; boys and men; violence and protection of women; international gender equality politics; and equality and participation.

As the equality division is one of six departments, the BMFSFJ is responsible for a variety of tasks and challenges. While that gives it an intersectional perspective on political issues, gender equality is not the only priority. Annex 6 to § 45 (1), § 74 (5) of the Joint Rules of Procedure of the Federal Ministries states that the Ministry's responsibility regarding equality is 'a) In examining whether the proposed legislation can be expected to affect [matters of gender equity policy](#)'.

However, its other responsibilities may interact with this task, as they refer to assessing 'b) If the proposed legislation affects family and senior citizens policy matters; c) If the proposed legislation affects matters of children and youth policy, especially if it is advisable to consider whether the proposed legal norms are compatible with children's welfare.' The BMFSFJ is heavily engaged in family-related policies, reconciliation of family and working life, and anti-discrimination, including drafting laws, developing national strategies, advising, researching and publishing relevant reports. It is also responsible for demographic change, family affairs in general, democracy and diversity, engagement policy, digital engagement, and participation and media.

The most relevant infrastructure for gender mainstreaming is the federal operational programme for the implementation of the [European Social Fund \(ESF\) in the funding period 2014–2020](#). The programme has three horizontal objectives: promotion of equality between women and men; promotion of equal opportunities and non-discrimination; and promotion of sustainable development. In 2015, the Agency for Horizontal Objectives within the ESF (Agentur für Querschnittsaufgaben im ESF – [Gleichstellung von Frauen und Männern, Antidiskriminierung und Ökologische Nachhaltigkeit](#)) was established to monitor, advise and support the stakeholders implementing the federal operational programme to integrate these horizontal objectives into their initiatives.

The Agency promotes gender mainstreaming (alongside other specific actions) as its strategy for gender equality. It emphasises the obligation to implement gender mainstreaming at all levels and in all phases of analysis, objectives, planning, implementation, monitoring and evaluation. Gender budgeting is promoted within the framework of the ESF but is only partly implemented in some counties/cities (such as Freiburg, Hamburg, Berlin, Munich) and not at national level.

Independent gender equality body

The Federal Anti-Discrimination Agency ([Antidiskriminierungsstelle des Bundes](#) – FADA) is Germany's independent gender equality body. Part 6, Section 25 of the AGG states that 'the Federal Anti-Discrimination Agency shall be provided with the personnel and materials required to fulfil its tasks. It shall be identified as a separate chapter in the federal Ministry for Family Affairs, Senior Citizens, Women and Youth's individual plan'. Section 26 states that the 'agency shall be independent in the execution of its duties and only subject to the law'.

The FADA is an independent body, focused on various forms of discrimination, including on the grounds of age, gender, religion, sexual orientation, ethnic origin and multiple discrimination. It can provide information on legal claims, outline possibilities of taking legal action within the scope of legal provisions for the protection against discrimination, provide referrals for counselling by other agencies and seek amicable settlements between parties. Anti-discrimination agencies and networks or designated NGOs have been established in most of the *Länder* as well.

Parliamentary bodies

In the Bundestag (the lower house of Germany's federal parliament), the Committee on Family Affairs, Senior Citizens, Women and Youth ([Ausschuss für Familie, Senioren, Frauen und Jugend](#)) is one of the 23 standing committees established in January 2018 following the last election. It focuses on family policies, children and youth, family and work, and the promotion of gender equality.

In the Bundesrat (upper house), legislative proposals of the Ministry must be submitted to the Committee on Women and Youth ([Ausschuss für Frauen und Jugend des Bundesrates](#)). The Committee deals with draft act/law (bills) in the areas of equality, children and youth, and civil service. This includes:

- general equality policy,
- general child and youth policy,
- gender mainstreaming,
- equality at work,
- child and youth services,
- child and youth protection,
- pregnancy counselling,
- sex education and civil service affairs.

The Committee is responsible for proposals submitted by the federal government to the federal council under the auspices of the BMFSFJ, and for submissions by the state (regional/*Länder*) governments, drawn up by the respective *Länder* ministries. In addition to national regulatory proposals for legislation and regulations, the Committee deals with a large number of EU projects, within the framework of community competence for these issues.

Regional structures

Ministers for gender equality and women's affairs exist in every federal state (*Land*) and each have different tasks, which can be subject to change after elections. Similar to the budget of the federal ministry, most states' budget for gender equality are not always clearly separated from tasks such as integration of migrants or family matters.

The Conference of Ministers for Gender Equality and Women's Affairs - Senators of the *Länder* ([Konferenz der Gleichstellungs- und Frauenministerinnen und -minister, -senatorinnen und -senatoren der Länder](#) – GFMK) ensures interaction and coordination between the federal states. Its main task is to define basic lines for common gender equality policy for women at regional (*Länderebene*) and national level. It adopts measures for equal opportunity policy/strategy for women and men in all areas of life and accompanies the legislative processes at the federal level.

The GFMK comprises the following taskforces and expert groups:

- Labour market and women taskforce (AG Arbeitsmarkt und Frauen);
- Women in family law and family policy taskforce (AG Frauen in Familienrecht und Familienpolitik);
- Promotion of women in the field of science taskforce (AG Frauenförderung im Bereich der Wissenschaft);
- More equal opportunities through gender-sensitive education and training taskforce (AG Mehr Chancengleichheit durch geschlechtersensible Erziehung, Bildung und Ausbildung);
- Social security for women taskforce (AG Soziale Sicherung von Frauen);
- Equality atlas taskforce (AG Gleichstellungsatlas);
- Official assessment in administration taskforce (ad hoc AG Dienstliche Beurteilung in der Verwaltung).

The 16 state equality opportunity acts (Landesgleichstellungsgesetze) and the relevant equality regulations in the higher education laws of the *Länder* were mostly enacted in the 1990s. The equality laws primarily regulate the equal treatment of women and men in the public service.

In addition to these institutional bodies, equality officers of the highest authorities of both the federation and the *Länder* meet regularly. Germany has official and volunteer commissioners in the municipalities who are tasked with meeting the equality requirements of the Basic Law (Article 3, paragraph 2), highlighting the discriminatory structural barriers for women inside and outside the administration and developing proposals to reduce those barriers. These volunteers advise both the administrative and political bodies of all projects on measures that affect women differently or to a greater extent than men.

In accordance with the provisions of the equal rights laws and the equality laws of the federal states, equality commissioners, women's representatives or equal opportunities officers are appointed or elected either full-time, part-time or as honorary representatives. They are usually responsible for promoting women's affairs and women's participation in equal opportunities measures, as well as monitoring and initiating work-life balance proposals.

At local level, the Federal Association of Municipal Women's Offices and Equality Bodies (Bundesarbeitsgemeinschaft der kommunalen Frauenbüros und Gleichstellungsstellen – BAG) is composed of 1900 municipal women's and equal opportunities commissioners, most of whom are linked to municipal administrations. It can be viewed as a civic society organisation, as it is volunteer-based. The BAG's main tasks are networking, lobbying and creating an open alliance of women in political decision-making, with the goal of extending women's influence in national politics. The BAG has expertise in women's and equality policy and regional initiatives.

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Methods and tools

Note: the methods and tools listed under this section were the focus of EIGE's 2018-2019 assessment. If certain methods and tools are not mentioned in this section, this does not necessarily mean that they are not used at all by Germany.

Information relevant to gender mainstreaming is provided on the website of the BMFSFJ. The website of the [Gender Competence Centre](#) (GenderKompetenzZentrum) is also important, as it contains basic information about implementation, tools and strategies for gender mainstreaming. It was financed between 2003 and 2010 by the Ministry but is no longer updated.

The Agency for Gender Equality within the ESF (Agentur für Querschnittsziele im ESF, 2007–2013) also provided a useful platform in this regard (funded by the Federal Ministry for Labour and Social Affairs), including recommendations for the implementation of [initiatives under the ESF+ for 2021–2027](#) (Agentur für Querschnittsziele im ESF 2018) but this, too, has been abandoned. Nevertheless, gender mainstreaming is expected to continue to be promoted, particularly within the framework of the ESF.

Training and awareness-raising

Many NGOs and private operators provide gender equality and diversity training but there is no consistent national structure or programme. At the federal and *Länder* level, gender training providers include: Gunda Werner Institute (Heinrich Böll Foundation)/(Gunda Werner Institut (Heinrich Böll Stiftung)); Fachstelle Gender & Diversity Nordrhein-Westfalen; Gender Competence Centre Saxony; (GenderKompetenzZentrum Sachsen); Dissens Institute (Dissens Institut); Genderbüro; and Netzwerk gender training network.

Gender statistics

The BMFSFJ publishes relevant studies, including the annual equality index (Gleichstellungsindex) and the gender equality report (Gleichstellungsbericht). The collection of data for the index is based on the 2015 equality statistics regulation ([Gleichstellungstatistikverordnung – GleStatV](#)). The gender equality report takes a more intersectional view and examines inequality categories including age, disability, citizenship and migration status.

The Federal Office of Statistics (Statistisches Bundesamt) uses data from the ‘microcensus’. Almost all studies/surveys and publications are gender-disaggregated. Although the data are, in principle, available and accessible, there is no intersectional analysis of different groups of women and men. Gender-related discrimination is monitored on a regular basis (e.g. gender pay gap, education, leadership).

The Federal Office of Statistics (Statistisches Bundesamt) is bound to the federal Statistics Act (Gesetz über die Statistik für Bundeszwecke (Bundesstatistikgesetz – BStatG)). While this law does not mention gender/sex, additional laws provide a legal basis for collecting data disaggregated by sex, such as:

- the Federal Equality Act (Bundesgleichstellungsgesetz)[7],
- the Microcensus law (Gesetz zur Durchführung einer Repräsentativstatistik über die Bevölkerung und die Arbeitsmarktbeteiligung sowie die Wohnsituation der Haushalte (Mikrozensusgesetz - MZG))[8],

- the Law on the statistics of population movement and the update of the population (Population Statistics Law, Gesetz über die Statistik der Bevölkerungsbewegung und die Fortschreibung des Bevölkerungsstandes (Bevölkerungstatistikgesetz - BevStatG))[9] and
- the Law to prepare a register-based census including a building and housing census 2021 (Census Preparation Act 2021, Gesetz zur Vorbereitung eines registergestützten Zensus einschließlich einer Gebäude- und Wohnungszählung 2021 (Zensusvorbereitungsgesetz 2021 - ZensVorbG 2021))[10].

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Good practices

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Endnotes

[1] Berghahn, S. (2011). [Der Ritt auf der Schnecke](#), p. 7.

[2] CEDAW-Allianz zivilgesellschaftlicher Organisationen in Deutschland (2016). Report, IX.

[3] [Deutscher Bundestag](#) (2016), p. 10.

[4] BMFSFJ (2017). Report, p. 215.

[5] BMFSFJ (2012). Report, p. 34.

[6] CEDAW-Allianz zivilgesellschaftlicher Organisationen in Deutschland (2016). Report, IX.

[7] § 3 DESTATIS requires the federal Statistical Office to prepare, on behalf of the BMFSFJ: 1) every two years, gender equality statistics for the highest federal authorities; and 2) each year, a gender equality index for the supreme federal authorities, to be published by 31 December.

[8] Sex as a statistical variable is listed in the following paragraphs: § 6 Kernprogramm der Erhebungsmerkmale/ Core programme of survey characteristics; § 10 Erhebungsmerkmale in Gemeinschaftsunterkünften/ Survey characteristics in shared accommodation and § 15 Datenübermittlung/ Data transmission.

[9] Sex as a statistical variable is listed in the following paragraphs: § 2 Statistik der natürlichen Bevölkerungsbewegung/ Statistics of the natural population movement; § 3 Statistik der rechtskräftigen Beschlüsse in Ehesachen und Statistik der rechtskräftigen Aufhebungen von Lebenspartnerschaften/ Statistics of final decisions in matrimonial matters and statistics of final annulments of civil partnerships; § 4 Wanderungsstatistik/ Migration statistics; § 5 Fortschreibung des Bevölkerungsstandes und Bevölkerungsvorausberechnungen/ Update of the population and population forecasts.

[10] Especially in § 9a Datenübermittlung, Qualitätsprüfung und Programmentwicklung/ Data transmission, quality control and programme development.
