



Federal Ministry for
Family Affairs, Senior Citizens,
Women and Youth

 2007*DE

Information

Working Aid

Gender Impact Assessment

**“Gender Mainstreaming in the
Preparation of Legislation”**

Working Aid
conversion
Legislation

Foreword

Policy decisions shape the daily lives and life circumstances of women and men through laws, ordinances and administrative acts. Here we pave the way – for diversity, equal rights, freedom of choice and good prospects for the future.

We must thereby always ask ourselves the following questions:

What impact do our activities and actions have on women and men? Who do we have in mind with our proposals and projects? Where does the money go? Whom does it benefit? Do our measures effectively further our political objectives? Do they also help to translate into action our shared European commitment to consistently promote equal rights for women and men?

Careful thought must be given to the impact of prospective laws and ordinances on the lives of women and men. We want outcomes that will withstand the test of time, outcomes that are tailored to the task at hand and to the realization of our objectives. And above all: We want outcomes that will not discriminate against either women or men. This Working Aid is designed to help achieve such outcomes.

During its EU Presidency, Germany is resolutely working to ensure adherence to the Commission's "Roadmap for equality between women and men (2006–2010)". This is the roadmap for a focused, goal-oriented gender equality policy in the Member States that guarantees equal rights for women and men in all areas, stages and situations in life.

For Germany – precisely in the 2007 European Year of Equal Opportunities for All – this task is a special obligation. It is an obligation founded first of all on the Basic Law, the German constitution, which in Article 3 expressly calls upon the state to make every effort to ensure that equal rights are not only set out on paper but actually implemented in practice.

We must thereby free ourselves from clichés, roles and stereotypes. This is not easy. All people have internalised and been shaped by certain traditions, values and ideas. Differences of course exist – between the EU Member States and within the individual Member States themselves. Only policies that bear these differences in mind and embrace this diversity as a basis for action will prove successful.

Only if we refrain from looking at women and men as two homogeneous groups can we implement our proposals in a manner that is both gender sensitive and tailored to the given target group.



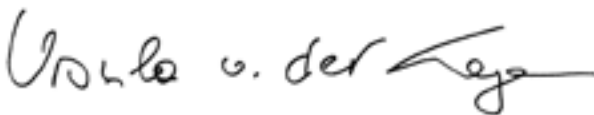
If we know what relevance our proposals have for women and men, we can also gauge their probable effects. If we can back these assessments up with figures and data, we obtain arguments that make our proposals logical and understandable. Then our policies have impacts where they are needed.

This Working Aid does not stand alone. Regulatory impact assessments and gender-sensitive budgeting are bound up together. By hosting a specialist conference on “Gender Budgeting” Germany is setting a further accent within the framework of its EU Presidency.

Working aids (in German) on gender mainstreaming in Ministry-commissioned research and public relations work, including a public relations checklist, may be found at **www.gender-mainstreaming.net**. These working aids can and should be further developed – so that progress can be made towards ensuring equal rights for women and men in all policy areas.

A gender-sensitive perspective – a perspective to which the international community committed itself at the 1995 World Conference on Women under the rubric “gender mainstreaming” – brings added value to all policy areas.

Diversity, equal rights, freedom of choice and good prospects for the future are prerequisites for the coexistence of men and women of different age groups with their respective specific perspectives, points of view and life scripts.



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Introduction

This Working Aid serves to facilitate identification of gender-specific impacts when drafting legislation in order to promote the actual implementation of equal rights for women and men and eliminate disadvantages that now exist (Article 3 para. 2, second sentence, of the Basic Law; see Annex, 4.2 Legal requirements). It can be used for other cabinet submissions (e.g. reports) *mutatis mutandis*.

By setting out the relevant questions and procedural steps, the Aid helps you present the impact of prospective legislation on men and women in the explanatory memorandum in a differentiated and transparent manner.

The Aid has four parts:

1. the (brief) gender relevance check
2. the in-depth main gender impact assessment
3. the procedural guidelines
4. the annex containing information and materials that play a role in the assessment

Information on gender aspects in your specific subject areas can be found at www.gender-mainstreaming.net and at the website of the Gender Competence Centre www.genderkompetenz.info

I.

Gender relevance check

The gender relevance check is a preliminary analysis of the impact of individual legislative proposals on equality between women and men. It can also focus on individual elements of a proposal. The important thing is to identify the gender equality risk. The gender relevance check should be integrated into the general regulatory impact assessment.

The gender relevance check is designed in particular to reveal hidden discrimination, participatory deficits and reinforcement of traditionally defined roles in apparently neutral proposals.

1.1 Starting point

1.1.1 Which **aspect(s)** of life does the proposal concern?

1.1.2 What is the **purpose** of the proposal?

1.2 Measures

What measures are **precisely** intended?

To answer questions 1.1 and 1.2 you may refer to the results of the general regulatory impact assessment for your proposal and to the corresponding remarks in the explanatory memorandum to the bill.

1.3 Gender relevance

1.3.1 Are women and men each **directly** affected by one or more of the measures?

Directly affected persons are those who are the target group of the proposal.

1.3.2 Are women and men each **indirectly** affected by one or more of the measures?

Indirectly affected persons are those upon whom the proposal may have an impact or who are involved in its implementation.

When answering questions 1.3.1 and 1.3.2, please consider the impacts in all areas of life, e.g. leisure time, working life, mobility, participation, family, etc. If possible, indicate the extent to which women and men are each affected (please also cite sources: statistics or estimates; see Annex, 4.5 Data).

1.4 Results of the gender relevance check

Are there indications that women and men could be affected **differently** – directly or indirectly – by the legislative proposal? (The possibility that they could be affected differently is sufficient.)

If yes: Gender is relevant. The main gender impact assessment follows. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend, BMFSFJ) is to be involved (see Procedural guidelines, 3.1. Early involvement).

If no: Gender is not relevant. There is no need for further assessment. The basis for and results of the gender relevance check are to be presented in the explanatory memorandum to the bill (see Procedural guidelines, 3.2 Presentation of the results of the assessment in the cabinet submission).

II.

Main gender impact assessment

This in-depth assessment facilitates preparation of a draft proposal in such a way that the gender impacts of the proposal are identifiable and steps are taken to counter unintended consequences. In order to do this, it is necessary to examine prospective legislation in the light of its impacts on women and men. Gender-neutral language often obscures discrimination (see Annex, 4.3 Objectives of gender equality policy). The assessment criteria are oriented toward the requirements set out in the Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien, GGO).

2.1 Starting point

2.1.1 Which **aspect(s)** of life does the proposal precisely concern?

2.1.2 What is the **purpose** of the proposal, and what are the underlying grounds?

When answering questions 2.1.1 and 2.1.2, elaborate on the points you considered in the gender relevance check.

2.1.3 On what **data** (statistics, research findings, etc.) is the proposal based? Is the data disaggregated by sex? Is it further disaggregated by marital status, household type, age, origin, etc.? If no data is available: On what estimates is your assessment based? (see Annex, 4.5 Data)

2.2 Measure(s)

2.2.1 What **measures** (e.g. legal entitlement, incentives, conditions, prohibitions) are envisioned to achieve the objectives?

2.2.2 What specific **alternatives**, variants and flanking measures have been examined and with what results?

2.3 Impact on equality between women and men

2.3.1 Will women and men each be **directly** affected by the measures or parts thereof? Precisely which effects are intended in which areas of life? How will this **change** the situation of women and men (transparency in regard to improvements and adverse impacts). Is the impact assessment based on data or estimates?

- 2.3.2 Will women and men each be **indirectly** affected by the measure or parts thereof? Precisely which effects will the measure have in which areas of life? How will this **change** the situation of women and men (transparency in regard to improvements and adverse impacts). Is the impact assessment based on data or estimates? (see Annex, 4.4 Sample questions and 4.5 Data)
- 2.3.3 What **groups** (see Procedural guidelines) have been or are to be involved in what way and at what time in the consideration of gender aspects? Have the gender impacts been discussed in the consultation process?
- 2.3.4 How are the regulatory impacts (direct and indirect) on men and on women to be assessed in the light of the objectives of gender equality policy? (see Annex, 4.3 Objectives of gender equality policy)

2.4 Results

- 2.4.1 What are the regulatory impacts in regard to gender equality? What is their intensity (severity, duration)?
- 2.4.2 Do objectives of Ministry policy and gender equality policy conflict/converge?
- 2.4.3 Are there discernible advantages or disadvantages to the alternatives and variants that have been examined? Must flanking measures be undertaken?
- 2.4.4 In particular, must steps be taken to improve the data situation?

2.5 Written record

It is wise to record your findings on the individual steps of the assessment in suitable form; this simplifies the process of formulating the text of the bill and the explanatory memorandum (see Procedural guidelines, 3.2 Presentation of the results of the assessment in the cabinet submission).

III.

Procedural guidelines

3.1 Early involvement of Federal Ministries, Länder and associations pursuant to the Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien, GGO)

Please involve the BMFSFJ pursuant to § 45 (1) in conjunction with Annex 8 No. 9 a GGO. Please request the other parties involved in the legislative process pursuant to §§ 45 ff. GGO (Federal Ministries, Länder, associations) to take gender aspects into account in their opinions. Please involve associations and groups with knowledge of gender aspects. Also involve associations with specific knowledge of gender aspects.

3.2 Presentation of the results of the assessment in the cabinet submission

Incorporate the results of the gender relevance check and/or the main gender impact assessment into the cabinet submission as follows in accordance with the specifications set out in the GGO:

Covering letter (see § 22 GGO)

Please indicate in the covering letter that the BMFSFJ was one of the parties involved (§ 22 (1) No. 3 in conjunction with § 51 in conjunction with § 45 (1) and Annex 8 No. 9 a GGO).

Cover sheet (see § 42 (1) and Annex 5 GGO)

I Under A. Problem and objective (see the structural specifications set out in Annex 5 GGO): A summary of the main gender impact assessment must only be given here if the regulatory proposal is already gender relevant by virtue of its primary objective, i.e. if the promotion of gender equality is the specific policy objective originally associated with the proposal.

I Under E. Other costs (see the structural specifications set out in Annex 5 GGO):

Please indicate any intended effects and unintended side effects pursuant to § 44 (1) GGO. Insofar as any of these concern the equality of men and women, a corresponding reference should be made on this part of the cover sheet.

Text of the bill (see § 42 (2) and Annex 6 GGO)

When formulating the text of the bill, please take care to ensure that

- no roles are defined,
- account is expressly taken of the different life circumstances of women and men,
- the rules on language reflecting the equality of women and men are observed (§ 1 (2) of the Federal Gender Equality Act (BGleIG) and § 42 (5) GGO).

Explanatory memorandum (see § 43 GGO)

The explanations necessary in the given case may be presented in the general part of the explanatory memorandum and in the explanatory notes on individual provisions. The remarks must be precise and explicit in regard to the impacts on gender equality. Compliance with the principle of gender mainstreaming (§ 2 GGO) should be clearly indicated in the explanatory memorandum to the bill. The consideration given to this issue should be logical and understandable. General language is not sufficient.

The explanations to be set out in writing in the explanatory memorandum to the bill pursuant to § 43 and § 44 GGO concerning the

- purpose, starting point, necessity (§ 43 (1) No. 1 GGO),
- matters of fact and findings (§ 43 (1) No. 2 GGO),
- alternatives, consequences and regulatory impacts (§ 43 (1) No. 5 GGO in conjunction with § 44 (1) GGO) and
- holding of a review regulatory impact assessment (§ 44 (7) GGO)

must be made **on the basis of your consideration of these points within the framework of the main gender impact assessment.**

Please present and explain the conclusions you have drawn from the main gender impact assessment in a gender-specific manner in the **general part of the explanatory memorandum and, if applicable, in the explanatory notes on individual provisions.** The written record should be precise and explicit and should appear under the sub-heading “Gender impact assessment”. General language is not sufficient. You may refer to remarks concerning the general regulatory impact assessment or to specific statements in the explanatory notes on individual provisions.

If the results of the gender relevance check were negative, please present your results in a logical and understandable manner under the heading “Regulatory impacts” (in regard to gender equality policy).

IV. Annex

- 4.1 Scope of the Aid
- 4.2 Legal requirements
- 4.3 Objectives of gender equality policy
- 4.4 Sample questions to determine impacts on gender equality
- 4.5 Data
- 4.6 Legal texts

4.1 Scope of the Aid

- | Pursuant to § 2 GGO, promoting equality of the sexes is a consistent guiding principle for the work of each Federal Ministry in its respective areas. This Aid supports this in the preparation of legislation. It may be applied analogously to the compilation of reports, to replies to major interpellations and to decisions taken by bodies.
- | The Aid is directed towards the unit of the lead Federal Ministry responsible for the given proposal. In addition, all other units in the Federal Ministries which are involved in the proposal are called upon to take gender aspects into account when examining and assessing the proposal and suggesting possible changes.
- | Working aids are likewise available for other areas of activity (Ministry-commissioned research, public relations work, etc.).
- | **Each** legislative proposal must be examined to determine whether – and if so, how – equality of the sexes can be promoted. Since legal requirements (see No. 4.2 below) are being implemented, this assessment must be made independently of the given framework conditions (time frame, budget situation, etc.).
- | Gender mainstreaming means bearing “gender” in mind from the very beginning. Before a decision is taken on proposed legislative measures, it is necessary to examine and take into account the (life) situations of men and women at the outset.
- | In the case of legislation, gender mainstreaming also means ascertaining the different effects of regulations on the life circumstances of women and men. This Aid hence also supports the process of regulatory impact assessment in regard to gender equality. The impacts of the proposal on men and women are to be presented and assessed in the draft of the bill.
- | The Aid makes it possible to take more differentiated action. In individual cases gender-specific measures are permissible in order to offset actual disadvantages.

4.2 Legal requirements

The Aid is based on:

- Article 3 para. 2 of the **Basic Law (GG)**, which states: “Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist.”
- Article 2 and Article 3 para. 2 of the **Treaty of Amsterdam** in conjunction with Article 13 of the Treaty Establishing the European Community, which make promotion of equal rights for women and men part of the legal order of the European Union;
- Article 23 para. 1 of the **Charter of fundamental rights of the European Union**, which likewise provides that equality between men and women must be ensured in all areas;
- § 2 of the **Federal Gender Equality Act (BGleiG)**, which obligates all employees of the Federal Administration to promote equality between women and men and to observe this obligation as a consistent guiding principle in all areas of the service;
- § 1 (2) of the **Federal Gender Equality Act (BGleiG)**, which obligates the Federal Administration to also use language that reflects the equality of women and men;
- § 2 and Chapter 6 of the **Joint Rules of Procedure of the Federal Ministries (GGO)** (Legislation):
 - § 2 GGO states that the promotion of equality between women and men shall be the consistent guiding principle for all political, legislative and administrative actions;
 - § 45 (1) in conjunction with Annex 8 No. 9 a GGO stipulates that the BMFSFJ shall be involved in examining whether the proposed legislation or ordinance (see § 62 (2) GGO) can be expected to affect matters of gender equity policy;
 - pursuant to § 43 No. 5 GGO the explanatory memorandum must explain the regulatory impacts (§ 44 (1) GGO). These intended or unintended effects of a regulation – also in regard to their significance for gender equality policy – must be analysed and presented in the explanatory memorandum;
 - § 42 (5) GGO imposes the obligation to use language that reflects the equality of men and women;
- the **Federal Act on Appointment to Bodies (BGremBG)**, which obligates the Federation to take steps to ensure equal participation of women and men in bodies for which rights of appointment or secondment lie with the Federation.

4.3 Objectives of gender equality policy

Art. 3 para. 2 of the Basic Law obligates the state to promote gender equality.

Gender equality means

- enabling women and men to pursue equally self-determined lives. Gender equality policy does not prescribe how people should live;
- that no one may be forced to conform to stereotypes for “men” and “women”. No advantages or disadvantages may be linked to sex and to gender roles as a matter of principle. Distribution of roles leading to greater burdens or other disadvantages for one sex may not be reinforced by state measures. Actual disadvantages that typically affect one sex may be offset by regulations favouring that sex.

The objectives of gender equality policy are therefore:

- | elimination of disadvantages (discrimination),
- | equal participation and
- | freedom of both sexes to lead self-determined lives free of traditionally defined roles (true freedom of choice).

Equality between women and men is to be expressed through gender-sensitive language.

4.4 Sample questions to determine impacts on gender equality

- | Does the measure afford access to **money and social security**? Does it influence this access differently for women and men? Examples: consideration of the different biographical patterns of women and men under the pension insurance scheme, access to business start-up loans, suretyship by wives, etc.
- | Does the measure influence the opportunities of women and men to participate in **decision-making processes**?
- | Does the measure take into account differences between men and women in access to and use of **infrastructure** and areas? Example: attention to the different needs of women and men – or of girls and boys – in terms of security, use and time where mobility or the dimensions of public and private areas or infrastructure are concerned.
- | Does the measure influence the freedom of women and men to dispose of their **time**? In the case of men, for example, free time often also means freedom from family obligations, whereas women's free time is often filled with family obligations.
- | Does the measure influence the **choice and exercise of an occupation** by women and men? For example, attention must be given to the gender-specific training market and labour market when making entitlements conditional on vocational qualifications.
- | Does the measure take into consideration the **social differences** between the sexes? In terms of income, social security or division of labour, for example.
- | Does the measure influence **access to information and education** for women and men? Here attention must be given to differences in the daily lives of women and men as well as to differences in their receptiveness, learning behaviour and mobility patterns, for instance.
- | Does the measure influence the **mobility** of women and men? Women and men exhibit different mobility patterns which are associated among other things with their everyday tasks but also with the availability of the resource automobile or with the fear of attacks in public areas.
- | Does the measure influence men and women differently in terms of protection from **environmental hazards**?
- | Does the measure influence the **health** of women or men through **ways of life**? Are there biological differences?

- Does the measure take into account the different **risk behaviour** of women and men? Differences between women and men in behaviour and attitudes towards prevention, for instance, or in leisure activities, in high or low-risk behaviour in sports and traffic, or in physiological susceptibility to environmental hazards.
- Does the measure take into account the **differences in the daily** lives of men and women? When providing forms of assistance (training opportunities, integration assistance, etc.), for example, attention must be given to time and mobility constraints faced by men and women due to fulfilment of family obligations.
- Does the measure have an impact on the **gender-specific division of labour**? For example, consideration of the different daily patterns of men and women may not be allowed to lead to reinforcement of gender roles.
- Does the measure afford **access to protection against violence, exploitation and sexual harassment** for girls/women and boys/men? In the case of regulations affecting the victims or perpetrators of violence, for instance, gender specificity must be examined and taken into account.
- Does the measure take into account the different **behaviour patterns and needs** of men and women? In the case of solutions involving rights of the individual, for instance, it must be borne in mind that women and men avail themselves of such solutions to a differing degree; when providing counselling services, for example, attention must be given to the fact that such offers of assistance reach women and men to a differing degree.
- Does the measure influence the ability of women or men to **freely choose their way of life**? For example, are one-sided gender roles reinforced or dismantled?
- Does the measure reinforce or dispel the **traditional image** of women and men? Does it reinforce or dismantle gender-specific disadvantages?
- Does the measure have an impact on the **social standing** of men and women as a whole? Lower pay for typical “women’s occupations” in the housekeeping and caregiving sector, for example.

4.5 Data

In order to conduct a gender impact assessment you need data and statistics that are disaggregated by sex and, if at all possible, further disaggregated within these two categories by additional features (age, religion, education level, etc.).

In many cases no new data must be collected, as large quantities of very well-processed and well-disaggregated data are already available. These have not, however, always been published in generally accessible form. Requests concerning the data you need – which should please be formulated as precisely as possible – may be directed to the Federal Statistical Office:

Tel.: (+49 611)-24 05
www.destatis.de

Informative data or references to source material on specific issues may also be obtained through the various gender institutes such as the Gender Competence Centre (www.genderkompetenz.info) or the Saxony-Anhalt Gender Institute (www.g-i-s-a.de).

Each year the EU publishes the Eurostat yearbook “Europe in figures”, which contains a comprehensive selection of basic social statistics. The yearbook may be ordered as a print publication or downloaded free of charge at the Eurostat website: <http://epp.eurostat.ec.europa.eu>. While the content of the yearbook remains static until the next edition, the online databases and pre-defined tables are continually updated.

If you are unable to find data for your proposal, the assessment must be conducted on the basis of estimates, assumptions and conclusions drawn from general experience. Please make this fact clear in the explanatory memorandum and clarify whether the data gaps can be closed in the future by initiating Ministry research.

4.6 Legal texts

1. Basic Law for the Federal Republic of Germany (Grundgesetz für die Bundesrepublik Deutschland, GGO)

Article 3

- (1) All persons shall be equal before the law.
- (2) Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist.
- (3) No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavoured because of disability.

2. Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien, GGO)

§ 1 Scope

- (1) The Joint Rules of Procedure shall apply to the Federal Ministries.
- (2) The Joint Rules of Procedure shall govern the principles for the organisation of the Federal Ministries, the cooperation between the Federal Ministries and with Federal constitutional bodies as well as for external course of business. They shall govern the participation in legislation.

§ 2 Equality of the sexes

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).

§ 22 Cabinet submissions

- (1) Decisions by the Federal Government are prepared for by way of written cabinet submissions. Without prejudice to the provisions of § 51, covering letters must contain:
 1. a brief outline of the matter and a statement of reasons for the decision proposal;
 2. a reference to the form in which the decision should be taken (§ 20 of the Federal Government Rules of Procedure), and in particular whether an oral debate at cabinet level is considered necessary, and whether a decision needs to be taken particularly urgently;
 3. details of which Federal Ministries were involved and with what results;
 4. the results of any associations involved, and in particular presenting the main suggestions which should not be followed;
 5. details of which Land Governments were involved, the results of that involvement and any problems expected, especially if a Bundesrat procedure has to be conducted;
 6. the opinions of the Federal Government Commissioners and Federal Commissioners involved under § 21;
 7. the foreseeable costs and budgetary effects of implementing the decision proposal under § 44 (2) to (4).
- (2) The covering letter must contain enclosed the decision proposal and the speaking notes for the Federal Government spokesperson. If any further documents are required, they should be included as additional enclosures.
- (3) With regard to cross-sectional tasks, the consent of the competent Federal Ministries should be obtained. With regard to proposed appointments for positions in a body, it should be stated whether efforts were taken to create or maintain equal opportunities for participation of women and men in these bodies.
- (4) If a personal attempt at achieving agreement under § 17 of the Federal Government Rules of Procedure is made to no avail, the cabinet submission must state this. The material points at issue must be stated, together with proposals for solutions. The Federal Ministry striving for a dissenting solution must send the lead Federal Ministry a contribution which must be included in the cabinet submission.

§ 42 Federal Government bills

- (1) Bills consist of the draft text of the law (bill), the explanatory memorandum to the bill (explanatory memorandum) and an introductory summary (cover sheet) as defined in Annex 5. If the Judicial Review (Regulatory Impact) Council comments on the bill (§ 45 (2)), its comments shall be attached to the bill; the same applies to comments by the Federal Government.
- (2) Generally, the text of the law consists of a title, an introductory caption and the individual provisions contained in paragraphs or articles (Annex 6). Bills should provide for amendments required to other legislation and the repeal of obsolete legislation in order to clear up the law.
- (3) The preparation of draft legislation is subject to the provisions of the Guidelines for Drafting Legal Provisions and Administrative Regulations issued by the Federal Ministry of the Interior.
- (4) The structuring of draft legislation is subject to the provisions of the Manual on Legal Drafting issued by the Federal Ministry of Justice and recommendations of the Federal Ministry of Justice in individual cases.

- (5) The language used in bills must be correct and understandable to everyone as far as possible. It should reflect the equality of men and women. Generally, bills should be submitted to the editorial office of the German Language Society at the German Bundestag to review the correctness and comprehensibility of the language used.

§ 43 Explanatory memorandum

- (1) The explanatory memorandum must explain:
1. the purpose and necessity of the bill and its individual provisions;
 2. the matters of fact underlying the bill, and the findings on which it is based;
 3. whether there are other possible solutions, and whether the task can be performed by private parties, and what considerations led to their being rejected, as the case may be (Annex 7);
 4. whether duties of disclosure, other administrative obligations or reservations on the granting of permission are being introduced or extended together with corresponding government monitoring and permission procedures, and what grounds argue against replacing them by a self-obligation of the addressee of the legal norm;
 5. the regulatory impacts (§ 44);
 6. whether the law can be limited as to time;
 7. whether the bill proposes to simplify the law and administrative procedures, and in particular whether it simplifies or supersedes current regulations;
 8. whether the bill is compatible with the law of the European Union;
 9. changes to the current legal position.
- (2) Where bills fall within the scope of concurrent legislation and federal framework legislation (Article 72 para. 2, Article 75 para. 1 of the Basic Law), an account must be given as to why the bill and its principal individual provisions require to be enshrined in federal law. If draft framework legislation contains detailed or directly applicable provisions, their exceptional nature must be justified specifically (Article 75 para. 2 of the Basic Law).

§ 44 Regulatory impacts

- (1) Regulatory impacts means the main impacts of a law: This covers its intended effects and unintended side-effects. The account of the foreseeable regulatory impacts must be drawn up in consultation with the respective competent Federal Ministries, and with regard to the financial implications it must be indicated what the calculations or assumptions are based on. The Federal Ministry of the Interior can issue recommendations for regulatory impact analysis.
- (2) The impacts on the public budgetary income and expenditure (gross) must be presented, including the foreseeable impacts resulting from implementation of the law. The Federal Ministry of Finance may issue general instructions on this subject in consultation with the Federal Ministry of the Interior. The income and expenditure accrued to the federal budget must be broken down for the period of the Federation's multiyear financial planning stating whether and if so, to what extent, the additional expenditure or reduced revenues are taken into account in the multiyear financial planning, and how they can be compensated for. It may become necessary to calculate, or even estimate, the sums in consultation with the Federal Ministry of Finance. If there are no foreseeable financial impacts, this must be stated in the explanatory memorandum.

- (3) Any impacts on the budgets of the Länder and local authorities must be stated separately. The lead Federal Ministry responsible for the bill must obtain details of expenditure from the Länder and national associations of local authorities in good time.
- (4) Details must be given, in consultation with the Federal Ministry of Economics and Technology, of:
 - 1. the costs to industry, and to small and medium-sized enterprises in particular, and
 - 2. the impacts of the law on unit prices, price levels in general and its effects on the consumer.

The Federal Ministry responsible for the bill must obtain details of the experts and associations involved, and small and medium-sized enterprises in particular. The Federal Ministry of Economics and Technology must be involved at an early stage.
- (5) The Federal Ministries must determine and set out administrative costs as defined in § 2 (1) of the Act on the establishment of the Judicial Review (Regulatory Impact) Council.
- (6) Upon request of an interested party under § 45 (1) to (3) details must be given of any further impacts which this party expects.
- (7) In the explanatory memorandum to the bill, the lead Federal Ministry must state whether and, if so, after what period of time, a review is to be held to verify whether the intended effects have been achieved, whether the costs incurred are reasonably proportionate to the results, and what side-effects have arisen.

§ 45 Involvement within the Federal Government

- (1) Before a draft bill is submitted to the Federal Government for adoption, the lead Federal Ministry must involve the Federal Ministries affected by the bill and the Judicial Review (Regulatory Impact) Council within the framework of its legal competence at an early stage for any preliminary work and the drafting of the bill. ‘Affected’ Federal Ministries are all those whose remits are affected (Annex 8). The Federal Ministries of the Interior and of Justice must be involved in examining all legal norms for compatibility with the Basic Law and in all other cases where doubts arise as to the application of the Basic Law.
- (2) If the Judicial Review (Regulatory Impact) Council gives an opinion on the bill, the lead Federal Ministry shall verify whether the Federal Government has been requested to comment on this opinion.
- (3) Where responsibilities of Federal Government Commissioners and Federal Commissioners are affected, they must be involved from an early stage (Annex 3). Generally, the Federal Commissioner for Efficiency in Public Administration must be involved.
- (4) When transmitting the Ministry draft, steps must be taken to ensure that those involved have sufficient time to examine and debate questions falling within their competence. The lead Federal Ministry is responsible for involving all parties in good time.
- (5) If there are differences of opinion between the main Federal Ministries involved, extensive or expensive preparations should not be started or instigated before the cabinet has taken a decision. This is without prejudice to the responsibility of the Federal Minister for urgent matters within his or her remit.

§ 62 Ordinances

- (1) The term ‘ordinance’ is reserved for provisions designated as statutory instruments under Article 80 para. 1 of the Basic Law.

- (2) Draft ordinances are subject to the provisions on preparing and drafting bills (§§ 42, 43 (1) nos. 5 to 9, §§ 44 to 50 and 61) mutatis mutandis. The provisions of § 44 shall not apply mutatis mutandis, if impacts arise for the purposes of that provision which were already presented in the explanatory memorandum to the Enabling Act. In that case, the explanatory memorandum to the draft ordinance will refer to the account already given.
- (3) The rules on cabinet submissions (§§ 22, 23 and 51) apply mutatis mutandis
1. if the ordinances are issued by the Federal Government,
 2. if they are of general political importance, or
 3. if there are differences of opinion between the Federal Ministries involved.

Annex 5 to § 42 (1) of the Joint Rules of Procedure

Cover sheet

A summary of the bill must appear on the cover sheet, structured as follows.

- A. Problem and objective
- B. Solution
- C. Alternatives
- D. Financial implications on the public purse, broken down by Federation, Länder and local authorities, divided into
 1. budgetary expenditure excluding implementation costs
 2. implementation costs
- E. Other costs (e.g. costs to the economy, costs to social security systems, effects on the price level, particularly on retail prices.)
- F. Administrative costs

Reporting obligations are

- a) introduced/facilitated/repealed for enterprises.

Number:

Affected enterprises:

Frequency:

Expected additional expense:

Expected cost reduction:

- b) introduced/facilitated/repealed for citizens.

Number:

Affected districts:

Frequency:

Expected additional expense:

Expected cost reduction:

- c) introduced/facilitated/repealed for the Public Administration.

Number:

Affected districts:

Frequency:

Expected additional expense:

Expected cost reduction:

The cover sheet should not extend to more than one printed page, if possible.

Annex 6 to § 42 (2) of the Joint Rules of Procedure

Structure of legal texts

1. Heading

The heading always contains the title of the law. It may also include a short title and acronym. The title is also the citation title; if the law has a short title, the short title is the citation title.

2. Introductory formula

Each law must have an introductory formula, stating who adopted the law, whether the law requires a specific majority and the consent of the Bundesrat. The introductory formula comes after the heading and the line reserved for the date of issuance.

3. Individual provisions

Each law must be divided into individual provisions. Each individual provision is given a type and numerical designation. The type designation is normally '§'. The type designation 'Article' must be used in ratifying legislation under Article 59 para. 2, first sentence, of the Basic Law as well as in introductory laws and amending acts. The numerical designation following the type designation must use Arabic numerals.

Where laws are lengthy, superordinate structures can be used (part, chapter, section, subsection), which combine a number of individual provisions under a single designation. They too must consist of a type designation followed by a numerical designation. Superordinate structural units must be provided with sub-headings in the form of a keyword content.

Every law shall specify in its concluding provisions the date on which it shall take effect. In the absence of such a provision, it shall take effect on the fourteenth day after the day on which the Federal Law Gazette containing it was published (Article 82 para. 2 of the Basic Law).

Annex 8 to § 45 (1), § 74 (5) of the Joint Rules of Procedure

The following authorities shall be involved in the legislative procedure:

1. The **Federal Foreign Office** in the case of draft ratifying legislation under Article 59 para. 2, first sentence, of the Basic Law;
2. the **Federal Ministry of the Interior**:
 - a) In examining legal norms for their compatibility with the Basic Law and in all other cases where doubts arise as to the application of the Basic Law, or if it is intended to obtain an expert opinion from constitutional law specialists;
 - b) In examining whether the proposed legal norms are compatible with the existing legal system;
 - c) If the interests of local government are affected;
 - d) If data protection interests are affected;
 - e) If public service interests are affected;
 - f) If the interests of sport are affected;
3. The **Federal Ministry of Justice**:
 - a) In examining legal norms for their compatibility with the Basic Law and in all other cases where doubts arise as to the application of the Basic Law, or if it is intended to obtain an expert opinion from constitutional law specialists;

- b) In examining whether the proposed legal norms are compatible with the existing legal system;
4. The **Federal Ministry of Finance**:
- a) In the case of provisions on taxes and other duties;
- b) If the income or expenditure of the Federation, the Länder or Local Governments are affected;
5. The **Federal Ministry of Economics and Technology**, if the proposed legislation will affect matters of economic and technological policy;
6. The **Federal Ministry of Food, Agriculture and Forestry**¹, if the proposed legislation can be expected to affect matters of food and agriculture policy;
7. The **Federal Ministry of Labour and Social Affairs**:
- a) If the proposed legislation can be expected to affect the labour market, labour law, job protection and social security;
- b) If the interests of the disabled are involved;
8. The **Federal Ministry of Defence**:
- a) If defence policy matters are affected;
- b) If the defence department will be involved in the implementation of the proposed legislation;
9. The **Federal Ministry for Family Affairs, Senior Citizens, Women and Youth**:
- a) In examining whether the proposed legislation can be expected to affect matters of gender equity policy;
- 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 advisable to consider whether the proposed legal norms are compatible with children's welfare;
10. The **Federal Ministry of Health**, if health policy matters are affected;
11. The **Federal Ministry of Transport, Building and Housing**²:
- a) If the proposed legislation can be expected to affect transport;
- b) In the case of regulations under public law which may have effects on town planning or building standards;
12. The **Federal Ministry for the Environment, Nature Conservation and Nuclear Safety** in examining whether the proposed legislation can be expected to affect the environment;
13. The **Federal Ministry of Education and Research**, if effects can be expected on education and research;
14. The **Federal Ministry for Economic Cooperation and Development** in examining whether the proposed legislation will affect development policy matters;
15. The **Federal Government Commissioner for Cultural Affairs and the Media**³, if the proposed legislation will affect matters of cultural or media policy.

1 current designation: **Federal Ministry of Food, Agriculture and Consumer Protection**

2 current designation: **Federal Ministry of Transport, Building and Urban Affairs**

3 current designation: **Federal Government Commissioner for Culture and the Media**

3. Act on the Equality of Women and Men in the Federal Administration and the Courts of the Federation (Federal Gender Equality Act – BGleiG) of 30 November 2001

§ 1 Purpose of the Act

- (1) This Act serves to promote equality between women and men and to eliminate existing and prevent future forms of gender discrimination within the scope of application set out in § 3 of this Act. Pursuant to this Act women shall be supported in order to eliminate existing disadvantages. The purpose of the Act is also to improve the reconcilability of family and gainful employment for women and men. Account is thereby taken of the special interests of disabled women and women threatened with disabilities.
- (2) The language used in statutory regulations and administrative provisions of the Federation should reflect the equality of women and men. This also applies to official correspondence.

§ 2 Obligated persons

All employees, and especially those with supervisory and managerial duties, are obligated to promote equality between women and men. This obligation is to be mainstreamed as a guiding principle in all areas of responsibility of departments and in cooperation among departments.

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