

# **6**

## **GENDER-SENSITIVE PRACTICES IN THE JUDICIARY**

Gender balance and a gender equitable work environment in the judiciary is beneficial and important for improving fairness, legitimacy and quality of the judiciary, reducing barriers in women’s access to justice, and bringing women’s voice and perspective to the bench. Noting gender gaps at the higher echelons of judgeship positions that still persist partly due to unfavourable and non-transparent nomination and promotion systems, heavy workloads with a lack of family-friendly schemes, lack of political will, and persistent stereotypes and taboos, this chapter focuses on various measures to enhance gender-sensitivity of judiciaries. This includes developing a comprehensive framework for gender equality in judicial decision making; adopting measures to recruit, retain and promote women and men from diverse backgrounds in judicial careers; and monitoring the impact of gender equality initiatives in the judiciary.

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This chapter must be read together with Chapter 5 on gender-sensitive public employment systems which provides further general guidance on the role of leadership in advancing gender equality as well as work-life balance policies and initiatives.

## 6.1. A COMPREHENSIVE FRAMEWORK FOR GENDER EQUALITY IN JUDICIAL DECISION MAKING

### Key Provision of the *OECD Recommendation on Gender Equality in Public Life*

Achieve gender-balanced representation in decision-making positions in public life by encouraging greater participation of women at all levels in government, parliaments, judiciaries and other public institutions, through:

Embedding a political commitment at the highest level to promote gender equality in public life, as appropriate, by developing a comprehensive framework to encourage balanced representation of women and men in public decision-making positions.

#### 6.1.1. Priority checklist for a comprehensive framework for gender equality in judicial decision making

- A. Justice sector has made a clear assessment of where it stands vis-à-vis its goals for gender equality and which interventions are necessary to achieve its vision
- B. Justice sector has developed a strategic course of action for gender equality

#### 6.1.2. Self-assessment tool

*A. Justice sector has made a clear assessment of where it stands vis-à-vis its goals for gender equality and which interventions are necessary to achieve its vision*

##### Self-assessment questions

- Have you identified gender equality needs in the justice sector and determined priorities and measures of progress – tackling the broadest number of aspects such as employment and human resources management, judicial services, institutional culture and consolidated professional behaviours, etc.?
- Do you rely on a wide range of sources of information – surveys, qualitative data, desk research, stakeholder engagement, focus groups etc. – to ensure a comprehensive and reliable assessment of gender equality needs within the justice sector?

##### Why is it important?

To achieve gender equality in the justice sector – both as an employer and provider of justice services – the judiciary needs to function and serve the public in a way that takes into account the different needs and circumstances of men and women. The judiciary should regularly conduct a thorough analysis of its own composition and operation, making sure that the data and information collected to this end address gender dimensions and implications. All judicial policies and measures should be scrutinised for how well (or badly) they prevent gender discrimination and promote gender equality.

Barriers to gender-sensitive judiciaries include formal rules as well as informal and culturally-sensitive aspects of the judicial organisation. The needs assessment should also identify implicit forms of gender discrimination, for example in the way language is used within the judiciary and in the courtroom. The assessment should result in well-defined gender equality objectives linked

to priority actions and clear timelines. These are necessary for defining a comprehensive, strategic course of action (see also Section 2.1 for a priority checklist for a “whole-of-government” strategic plan for gender equality).

#### What are the key actions to consider?

Establish a baseline situation by having a clear picture of differences and gaps in the following key issues, as a minimum:

- The percentage of men and women across the judiciary, at different occupational levels and levels of jurisdiction;
- Availability and uptake of parental leave and flexible work arrangements by men and women;
- Assessment of career development paths for male and female judicial staff, and specific challenges related to the different paths;
- Gender wage gap;
- Gender bias expressed in behaviours and attitudes embodied by judicial staff and authorities as part of the judiciary’s workplace culture;
- Potential and/or assessed impact of judicial policies, services, programmes and practices on men and women beneficiaries;
- Internal and external factors affecting gender equality performance;
- Identify and engage different actors involved in the process of advancing gender equality (e.g. justice institutions, bar associations, women’s organisations, law students, etc.);
- Prioritise identified gender gaps and set measurable objectives and targets to close these gaps (see Section below);
- At the court level, assess the institution’s history and achievements in gender equality; and identify enabling factors and promising initiatives to implement gender equality in the judiciary.

#### What are the pitfalls to avoid?

- Focusing only on hard data and quantitative gender indicators and not using more qualitative approaches of data collection. Qualitative indicators can provide information on experiences, opinions and attitudes and therefore are useful in explaining gender bias;
- Focusing only on policies, documents, programmes that specifically deal with gender issues instead of those which are more general and cross-cutting. The latter may be more instructive in shedding light on implicit gender bias;
- Not involving gender experts. A well-executed gender assessment is not a routine assignment. By omitting to hire specialised gender expertise, relevant gender issues that should be identified in the assessment could easily be overlooked.

### Box 6.1. Good practice example(s): Chile's judicial power policy for gender equality

In 2018 the Technical Secretary for Gender Equality and Non-discrimination of the judiciary branch of Chile developed the first Judicial Power Policy for Gender Equality. This policy encouraged the development of the first diagnosis of gender equality in the entire Chilean judiciary branch. The policy considers the inclusion of the gender mainstreaming approach and the principle of non-discrimination in all the related topics of the judiciary institution, including the judiciary branch's recruitment, selection, access, and promotion processes. Moreover, the Policy for Gender Equality encourages the implementation of special measures in the recruitment and selection process to overcome the biases and gender gaps detected by the policy itself.

Among its priority dimensions, the policy promotes the incorporation and institutionalisation of the gender perspective in the organisational culture of the judiciary. It aims at achieving conciliation between the work obligations of all members of the court and the development of an individual, family, and social life. Finally, it seeks to establish a gender perspective and non-discrimination in all selection processes in the judiciary.

Source: Secretaría técnica Igualdad de Género y no Discriminación (2018<sup>[1]</sup>), *Política de Género y no Discriminación*, <http://secretariadegenero.pjud.cl/index.php/politica-genero-pjud>

#### *B. Justice sector has developed a strategic course of action for gender equality*

##### Self-assessment questions

- Have you identified gender equality and mainstreaming objectives across the justice sector to address identified gender gaps?
- Have you defined and communicated roles and responsibilities across the justice sector for implementing, monitoring and overseeing gender equality and mainstreaming objectives (e.g. in workforce composition at all levels, human resource management (HRM) policies, organisational culture, and delivery of justice services) in the justice sector?
- Have you involved a broad range of stakeholders within the justice and legal sector and at the community level in the elaboration of a strategic plan for gender equality?

##### Why is it important?

The success of gender equality and mainstreaming initiatives across the justice sector will depend on whether they are supported by clear objectives, targets, timelines, capacities and resources. Court management can play an important role by providing leadership and accountability for the implementation of this strategic course of action. Top management within the judicial organisation (e.g. court presidents, court managers) can be powerful actors of change by stressing the importance of gender equality and voicing their support for gender mainstreaming to the rest of the organisation. In order to raise awareness and involve the rest of the organisation, the strategic action plan should be supplemented with a clear, concise and inspiring communication plan.

### What are the key actions to consider?

- Ensure that gender equality objectives are supported by actionable guidance and reflected in relevant bylaws;
- Ensure that gender equality plan and priorities encompass all phases of a judicial career (from application to promotion at the most senior level), and not only judicial appointments;
- Confirm that those involved in setting the objectives for gender mainstreaming have enough expertise on gender issues and provide them with additional training if necessary;
- Identify leaders across the judiciary to guide, steer and widely disseminate gender equality objectives;
- Build incentives to increase staff and managers' compliance with gender equality objectives;
- Ensure that resources (financial and working time of staff) are made available to address gender gaps and promote gender equality;
- Make gender expertise available to the judiciary to support the implementation of gender equality objectives;
- Foresee mechanisms to hold court management accountable for achieving gender equality goals;
- Set up a platform for gender innovation where court staff can present ideas aimed at promoting gender equality.

### What are the pitfalls to avoid?

- Limited involvement of the judicial organisation as a whole in the development of gender equality objectives;
- Ignoring potential institutional resistance within courts to implementing gender equality objectives, as resistance should be seen as a starting point for discussion and awareness raising;
- Present gender-mainstreaming as a separate policy and as something "additional"; gender should be an integral aspect of all activities and initiatives at all levels of the judicial organisation;
- Define objectives that are unrealistic which set the judicial organisation up for failure – objectives should be ambitious but achievable.



### Box 6.2. Good practice example(s): Spain's Equality Plan

The purpose of the II Equality Plan adopted in 2020 is to guarantee effective equality of opportunities between women and men in access to the judicial career in any of its modalities and to guarantee an egalitarian justice in its function of judging, removing all obstacles that prevent compliance.

Additionally, the plan approved in January 2020 defines the necessary measures to facilitate the reconciliation of personal, family, and work life, promoting measures that favour co-responsibility and the equal distribution of care tasks and attention to dependent family members.

Concerning access to the judicial career, the following priority objectives have been set to be achieved:

1. Full guarantee of equality of opportunity between women and men in access to the judicial career in any of the modalities legally provided.
2. Guarantee that those who enter the judicial career have adequate training in equality, the fight against gender violence, and prosecution with a gender perspective.
3. Accordingly, the judicial branch will undertake the following actions:
4. Periodically prepare a situational diagnosis that includes at least a numerical and percentage ratio, distributed by sex, between applicants admitted to the selection process and those who passed.
5. Guarantee parity in the composition of the selection boards.
6. Submit the syllabus of all selective tests for admission to the judicial career to a gender impact report.

Source: Information provided by the Government of Spain as part of the OECD (2021), Survey on Gender Mainstreaming and Governance (unpublished).

## 6.2. MEASURES TO ATTRACT AND RECRUIT WOMEN AND MEN FROM DIVERSE BACKGROUNDS TO JUDICIAL POSTS

### Key provision of the *OECD Recommendation on Gender Equality in Public Life*

Introduce measures, as appropriate, to enable equal access to opportunities in senior public service and judicial appointments such as disclosure requirements, target setting or quotas, while ensuring a transparent and merit-based approach in judicial and senior public sector appointments through open competition, clear recruitment standards and wide vacancy advertisement.

#### 6.2.1. Priority checklist for measures to attract and recruit women and men from diverse backgrounds to judicial posts

- A. Proactive measures are in place to equally attract and support women and men to opt for a judicial career
- B. Judicial selection and appointment procedures help reduce gender gaps within judicial posts

### 6.2.2. Self-assessment tool

*A. Proactive measures are in place to equally attract and support women and men to opt for a judicial career*

#### Self-assessment questions

- Have you identified barriers – if any – and opportunities to ensure a diverse pool of applicants for judicial office?
- What measures are put in place to widen gender balance within the pool of applicants for judicial office?

#### Why is it important?

Attracting and recruiting the best mix of talent in the judicial workforce can improve the independence, impartiality and integrity of the judiciary. If the composition of the judiciary, including at the top, reflects the composition of society – and not only segments of it – it may be perceived as legitimate and more capable of both delivering equal justice for all and upholding equality before the law (International Commission of Jurists, 2013<sup>[2]</sup>). Differences in aspirations or choices of career path between female and male legal students can contribute to wider gender gaps throughout the judicial career. Differences in career choices might, however, be driven not only by gender differences in preferences but also by the perceptions and misperceptions around holding judicial office. Proactive measures are therefore necessary to reach out to a broad range of female and male talents.

#### What are the key actions to consider?

- Build a pipeline for future judicial candidates through active outreach activities to law students and bar associations; especially targeting women from diverse backgrounds. Ensure long-term relations with such associations to widen the pipeline;
- Disseminate job postings widely and ensure a gender-responsive language of job descriptions; solicit applications from under-represented groups, especially among women;
- Consider workshops to support women candidates to prepare for judicial selection process, and identify female judicial role models to inspire women from diverse backgrounds to apply for judicial office;
- Provide opportunities for applications for judicial office to observe the work of judges (e.g. judicial work shadowing schemes) to familiarise candidates with the judicial roles;
- Build and communicate gender-balanced image of the judiciary, and work to eradicate negative conceptions and myths around judicial work (e.g. lack of flexible working, isolation, etc.).

#### What are the pitfalls to avoid?

- Limit job advertising to the “usual” stakeholders;
- Insufficient measures which undercut the judiciary’s aims to provide equal opportunities.

### Box 6.3. Good practice example(s): Attracting and supporting women and men equally to join the judiciary

#### United Kingdom's Judicial Work Shadowing Scheme

The Judicial Work Shadowing Scheme encourages and supports women (and other targeted groups such as lawyers from low socio-economic backgrounds) intending to apply for their first judicial appointment or those who wish to progress to higher office. It allows those who have entered the scheme to:

- observe the daily work of a judge and establish what skills and experiences are needed to support their application to judicial office;
- share issues inhibiting their application to judicial office (e.g. concerns of work-life balance, self-confidence, self-perception) and receive confidential advice, support and guidance from a mentor judge;
- learn from someone with a greater understanding of the judiciary;
- identify areas where further development and experience is required and consider how these may be acquired; and
- decide whether or not taking up judicial office is an option they want to pursue.

#### France's Efforts for Diversity in Judicial Auditors

The preparatory class structure for the first competition for access to the National School of the Judiciary (École Nationale de la Magistrature) aims to strengthen equal opportunities and diversity for judicial auditors by preparing women and men candidates from disadvantaged communities. Moreover, during the work carried out in 2017 by the Sub-Directorate of Human Resources of the Registries on professional equality between women and men in the public service, the language of 45 standard employment forms was made gender-sensitive. This new framework will be available in the jurisdictions from 2018 onwards.

Source: (Government of United Kingdom, Ministry of Justice, 2023<sup>[3]</sup>; OECD, 2018<sup>[4]</sup>).

*B. Judicial selection and appointment procedures help reduce gender gaps within judicial posts.*

#### Self-assessment questions

- Have selection and promotion procedures been scrutinised for possible gender bias?
- Have gender balance requirements been included into the composition of selection committees (or equivalents)?
- Have judicial selection committees (or equivalents) received training to mitigate potential implicit gender bias within selection and appointment procedures?

#### Why is it important?

Efforts to promote a gender-balanced judicial workforce and selection on merit are not incompatible. As OECD findings show, the way public examinations are organised in the judiciary may not always support women's judicial career progression to the top. A transparent selection process can lead to a larger influx of women into the judiciary. Appointment commissions can be helpful in responding to judicial gender inequities. While there is no hard evidence, commissions that are more diverse tend to nominate a more diverse group of candidates.



#### What are the key actions to consider?

- Ensure a gender-balanced composition of both selection panel and candidates;
- Develop gender-sensitive interviewing guidelines for the selection panel;
- Provide feedback to unsuccessful candidates, if possible including on performance;
- Ensure that committees responsible for judicial appointments work closely with gender equality support mechanisms within justice sector. These support mechanisms can provide guidance and feedback on the selection process through a gender perspective.

#### What are the pitfalls to avoid?

- Insufficient encouragement of women to apply, especially in application-based systems.

### Box 6.4. Good practice example(s): Gender-sensitive judicial selection and appointment procedures

#### Costa Rica's Gender-Sensitive Rules of Succession

The Supreme Court of Justice, in session No. 11-2017 held on May 15, 2017, Article XV, decided to modify the text on the "Rules for the succession of a vacancy in the Presidency or Vice Presidency", published by Circular No. 69-14 in the Judicial Bulletin N ° 93 of May 16, 2014, so that they guarantee "participation with gender equality based on international conventions, the Constitution and the law" (art. 11).

#### Canada's Reforms for Diverse Selection of Federal Judges

Beginning in 2016, the Government of Canada revised its approach to selecting judges for Canada's federally appointed courts. While first initiated in 2016, the reforms have substantially impacted the appointment of judges during the review period of May 2017 to May 2021. These reforms were intended to foster greater independence and transparency in the judicial appointments process, and to achieve a bench that more fully reflects the diversity of Canadian society – including the equal representation of women. The nature of federal authority over appointments to Canada's superior courts (both statutory and courts of inherent jurisdiction) is such that these reforms could be implemented without legislative amendments.

Source: Information provided by Governments of Costa Rica and Canada as part of the OECD (2021), Survey on Gender Mainstreaming and Governance (unpublished).

## 6.3. FOSTERING AN ENABLING ENVIRONMENT TO RETAIN AND PROMOTE WOMEN AND MEN FROM DIVERSE BACKGROUNDS IN JUDICIAL CAREERS

### Key Provision of the *OECD Recommendation on Gender Equality in Public Life*

Mainstreaming work-life balance and family-friendly work practices at the top level in public institutions and promoting gender-sensitive working conditions, for example, by: reviewing internal procedures of public institutions; reconsidering traditional working hours; developing schemes to support the reconciliation of family and professional obligations; providing incentives to men to take available care leave and flexible work entitlements; facilitating capacity and leadership development opportunities, mentoring, networking and other training programmes in public institutions; promoting female role models in public life; and encouraging active engagement of men in promoting gender equality.

#### 6.3.1. Priority checklist for fostering and enabling environment to retain and promote women and men from diverse backgrounds in judicial careers

- A. Equitable career advancement policies are in place to close gender gaps at the top levels of judicial careers
- B. Work-life balance systems are available and widely used across the justice sector, including at the top
- C. Measures are in place to foster a gender-sensitive working culture within the judiciary

#### 6.3.2. Self-assessment tool

*A. Equitable career advancement policies are in place to close gender gaps at the top levels of judicial careers*

##### Self-assessment questions

- Have existing career advancement policies and procedures been scrutinised for possible gender bias and evaluated for gender balance?
- Are capacity and leadership development opportunities for women in the judiciary available and facilitated by court management from the entry level to the most senior appointment?
- Are judicial composition statistics regularly collected, disclosed and discussed by judicial leadership? (see Section 6.4. Monitoring the impact of gender equality initiatives in the judiciary)

##### Why is it important?

Despite differences between civil law and common law systems, in most OECD countries women tend to be well represented in entry-level judicial posts. Gender parity among professional judges has been reached and surpassed in many OECD countries, with women representing on average 56% of all judges. However, women's participation critically drops at higher levels, and gender gaps widen toward the top levels of the judiciary. Women occupy on average 59% of offices in first instance courts but only 34% of judgeships in supreme courts. It is not uncommon that a female judge may begin working part-time following the birth of a child, yet this may limit her access to the professional development opportunities necessary for climbing the judicial ladder, and therefore undermine her success as a judge (OECD, 2014<sup>[5]</sup>).

Leadership programmes designed specifically for women can help talented women judges advance in their organisation create. It is also important that male colleagues, especially in management and leadership positions, speak out in favour of such leadership trajectories. For such efforts to be effective, it is equally crucial to address policies and practices that may reinforce subtle or second-generation gender bias (e.g. patterns of behaviour associated with men such as the expectation of being assertive).

This section must be read together with Section 5.3 of the Toolkit that focuses on gender-sensitive public employment systems, and provides further more general guidance on the role of leadership in advancing gender equality within public sector workforce.

#### What are the key actions to consider?

- Ensure that selection processes for opportunities for career advancement are open and transparent, while also ensuring that under-represented groups are proactively supported;
- Establishing clear accountability lines at the top levels of the judiciary for promoting and respecting gender balance and diversity in career advancement processes;
- Widely disseminate information on various judicial career paths so that both women and men are aware of the range of opportunities available within the judiciary and consider how they can develop their skills;
- Continue supporting and encouraging women's talents after their entry and throughout the judicial career, including at most senior levels;
- Implement and foster a system of mentoring and sponsorship; and leadership and capacity development programmes for women and men;
- Consider holding a series of interviews of influential female and male leaders within the judiciary recording stories of how their career path has been shaped by female role models. Publish among all members of the judiciary;
- Consider creating a shadowing programme where female and male judges are partnered with a role model to follow their activities for a week;
- Consider collecting evidence of the impact of capacity development schemes on women's participation in the judiciary.

#### What are the pitfalls to avoid?

- Take reluctance of women to participate in leadership development programmes at face value. Because women in comparison to men tend to underestimate their capabilities, they might need more persuasion than men to engage in such trajectories.

### Box 6.5. Good practice example(s): Equitable career advancement in the judiciary

#### The Netherlands' Independent Advisory Group for Gender Diversity in the Public Sector

Based on the government's decision that measures to achieve more gender equality taken in the private sector, will be supplemented by measures in the public and the semi-public sector, among which the judiciary. Given the considerable diversity of the organisations belonging to the (semi-)public sector, a one-size-fits-all regulation, is, however, deemed inopportune. In order to develop an integral approach mindful of the differences between organisations in the (semi-)public sector, an independent advisory group has been asked to develop an effective approach to realise gender diversity in the top echelons of the semi-public sector. The advisory group, consisting of independent scholars, have presented their research report and recommendations in December 2020. Integral elements of the advisory group's recommendations include target figures (with a view to introducing binding quotas if the target figures are not met), the development of an adequate infrastructure for monitoring, the use and (further) development of governance codes and the gathering of support within the relevant sectors.

#### Spain's Equality Plan of the Judicial Career

The II Equality Plan of the Judicial Career adopted in 2020 guarantees the continuous training of the members of the Judicial Career in gender equality knowledge. It also promotes the equal participation of all members of the Judicial Career, women and men, in training activities. Moreover, it establishes gender mainstreaming and the application of the gender perspective in all training activities of the Consejo General del Poder Judicial (CGPJ). Finally, the plan also encourages the use of non-sexist language at the administrative level, in all types of documents of the CGPJ and other governing bodies of the judiciary, at the judicial level, and in all kinds of resolutions issued by judicial bodies.

Source: Information provided by Governments of the Netherlands and Spain as part of the OECD (2021), Survey on Gender Mainstreaming and Governance (unpublished).



*B. Work-life balance systems are available and widely used across the justice sector, including at the top*

### Self-assessment questions

- Do existing policies in the judiciary support work-life balance, including at most senior levels and across different occupational groups and jurisdictions?
- Do family-friendly policies and practices encourage equality between men and women by including incentives for men to take available care leave and flexible work entitlements? (see Section C. Work-life balance and family-friendly policies and practices are available and equally used by men and women, including at the top).

### Why is it important?

Difficulties with balancing work and private life can impede women from filling more senior positions within the judiciary. The judiciary places high demands on the hours that judges work, and office hours can be inflexible due to lengthy court sessions. While this can pose a serious barrier for judges with family responsibilities, women are more likely than men to resort to part-time work. It is important to include men in the discussion of a health work-life balance. Research shows that “a holistic approach is more likely to mobilise workplace support and effect wider organisational change than policies aimed solely at women or those with childcare responsibilities” (Gregory and Milner, 2009<sup>[6]</sup>).

### What are the key actions to consider?

The need for balancing work and private life has led most judiciaries to implement leave policies, measures related to work time and organisation and care services. If not yet established, they need to be implemented:

- Leave policies promoting a work-life balance: maternity, paternity, parental leave; leave for health risks during pregnancy or breastfeeding; adoption leave; and long-care leave;
- Measures related to work time and organisation: flexible hours and/or teleworking; ability to reduce hours temporarily; career breaks; time off for pre- and post- natal care; and paid breastfeeding breaks.

In addition, the following measures could be considered:

- Make the perception of work-life balance systems part of the discussion;
- Present measures to promote a healthy work-life balance as an opportunity for the judicial organisation to learn about the benefits of new ways of working;
- Develop a business case for measures that promote a positive work-life balance;
- Collect and disseminate data on how better work life arrangements increase job satisfaction and productivity;
- Make work-life arrangements part of the annual evaluation interview with judicial staff;
- Ensure that work-life balance initiatives remain relevant by regularly review the needs of staff and the courts to reflect changes in staff circumstances and adapt work-life balance measures;
- Cover a wide range of employee needs and situations, including at the most senior positions, within work-life balance policies;
- Widely disseminate information about the range of work-life balance options that make staff aware of what is available, including at the most senior judicial posts;

- Work to adapt the organisational culture to encourage take-up of available work-life balance measures within the judiciary, including at the most senior judicial posts;
- Consider setting work-life balance performance expectations for court managers;
- Provide incentives for men to make use of available work-life balance.

#### **What are the pitfalls to avoid?**

- An exclusive focus on women judges. Men judges also struggle with work-life balance and equal arrangements for men and for women “normalise” the gender discussion;
- Exclusively focus on formal policies aimed at creating a healthy work-life balance and overlooking how organisational structures or workplace culture might undermine formal policies.

#### *C. Measures are in place to foster a gender-sensitive working culture within the judiciary*

#### **Self-assessment questions**

- Does the judicial workplace provide a respectful and empowering environment for women and men?
- Are there preventive processes and sound complaint mechanisms to deal with sexual harassment cases?

#### **Why is it important?**

Changing the organisational culture and removing stereotypes in the legal profession is crucial for attracting and retaining a gender-balanced workforce within the judiciary, including at the upper management levels. Education and training initiatives for managers and employees (both male and female) are essential for changing behaviour. Culture change implies using gender-sensitive language, making efforts to remove sexist behaviour (e.g. sexist jokes), and establishing a sound process to deal with sexual harassment cases.

#### **What are the key actions to consider?**

- Establish or strengthen robust discrimination and harassment complaint mechanisms;
- Ensure that Code of Judicial Conduct includes references to gender-sensitive conduct;
- Ensure use of gender-sensitive language in courtrooms and in other public communication;
- Consider developing training materials (online and hardcopy) to promote gender-sensitive working culture within courtrooms.

#### **What are the pitfalls to avoid?**

- Insufficient support and guidance from the top of the judiciary on use of measures to advance a gender-sensitive working culture.

### Box 6.6. Good practice example(s): France's efforts towards professional equality between women and men

In France, the Ministry of Justice's policy in favour of professional equality between women and men took concrete form on January 20, 2020, with the signing of an agreement between the Minister of Justice and the majority of representative trade unions. Furthermore, in 2021, the administrative jurisdiction took a new step in favour of professional equality with the signing of an agreement on the professional equality in the administrative justice, between the vice-president of the Council of State and the representatives of the trade unions of all the staff of the administrative jurisdictions – Council of State, administrative courts of appeal, administrative tribunals and the National Court of Asylum.

Source: Information provided by the Government of France as part of the OECD (2021), Survey on Gender Mainstreaming and Governance (unpublished).

## 6.4. MONITORING THE IMPACT OF GENDER EQUALITY INITIATIVES IN THE JUDICIARY

### Key Provision of the *OECD Recommendation on Gender Equality in Public Life*

Systematically monitor gender balance in public institutions, including in leadership positions and different occupational groups, through regular data collection such as the use of employee surveys, and reassess its alignment with overall gender equality objectives and priorities, taking into account the results of evaluations.

### 6.4.1. Priority checklist for monitoring the impact of gender equality initiatives in the judiciary

- A. Gender balance across the judiciary is systematically monitored and the impact of gender equality initiatives are evaluated against set targets.

### 6.4.2. Self-assessment tool

*A. Gender balance across the judiciary is systematically monitored and the impact of gender equality initiatives are evaluated against set targets*

#### Self-assessment questions

- Are judicial composition statistics regularly collected, disclosed to and discussed by judicial leadership?
- Do court managers and senior judicial staff have clear roles and responsibilities to monitor gender equality?
- Are outcomes of monitoring and evaluation being used to inform organisational policies and management responses?

### Why is it important?

Gender-sensitive monitoring is “the systematic and objective assessment of the design and planning (objectives, results pursued, activities planned) and the implementation and results of an ongoing activity, project, programme or policy from a gender perspective” (EIGE, 2023<sup>[7]</sup>). Such a monitoring system can help establish the baseline situation and track progress. It is crucial to select the right set of indicators, including:

- Context indicators retrieved from a reference group. For example, it may be interesting to compare the gender indicators (e.g. the gender gap of women in management positions) with judiciaries in other countries or with other a different line of occupation (e.g. the medical field);
- Application indicators to measure the characteristics of the target population. These indicators (e.g. years of judicial employment, previous occupation, age, etc.) need to be measured for both male and female judicial staff so that differences in population can be part of the analyses;
- Process indicators to measure management efficiency. These indicators are mainly used to understand the amount of financial and other resources that have been invested in achieving gender goals;
- Result/output indicators to measure the effect of the gender policies and initiatives. These could include the number of women judges having participated in leadership programmes, the percentage of women judges in management positions, etc.;
- Efficiency indicators to measure the relationship between resources and results.

### What are the key actions to consider?

- Assess and address data gaps in order to know what works, track progress, and identify areas that may be lagging behind;
- Ensure that data is collected on all of the categories covered by gender equality action plans for the judiciary;
- Develop specific indicators assessing the realisation of gender equality in the judiciary’s functioning, performance, composition and impact;
- Establish clear roles and responsibilities and involve senior judicial staff in monitoring gender equality within the judiciary;
- Establish a management response scheme to respond to findings of data collection efforts;
- Find innovative and inspiring ways to share data (e.g. infographics/multimedia);
- Collaborate with statistical entities during the data collection process;
- Consider ways to measure short, medium and long-term impacts of gender-sensitive interventions in the judiciary.

### What are the pitfalls to avoid?

- Various parts of the judicial sector collect different data – and duplicate data collection efforts make reconciling the figures difficult or impossible;
- Absence of usable data due to irregular data cleaning.



### Box 6.7. Good practice example(s): Monitoring of gender balance in the judiciary

#### Austria's Federal Equal Treatment Report

Austria has put in place a Plan for advancement of women of the Ministry of Justice since 2004. It also publishes data for women's representation in justice in the Federal Equal Treatment Report and on the website of the Austrian Judiciary (n.d.<sup>[8]</sup>). Moreover, the Federal Equal Treatment Report is published bi-annually and presented to the parliament. It reports about ongoing activities of the Commission. It presents all cases that were filed at the Federal Equal Treatment Commission. The report is published on the website of the Federal Chancellery.

#### France's Equality Barometer

In 2019, the French Ministry of Justice published its first equality barometer, on the access of women and men to hierarchical positions in the judiciary, within each of the French departments. It aims her to provide keys for reflection on the strategic moments when gender inequalities are revealed and concretised in women's careers. In line with the 2020 agreement on professional equality concluded with trade unions, a second equality barometer was published in 2021.

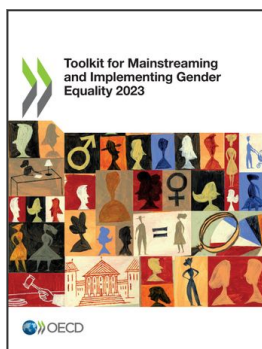
Source: Information provided by Governments of Austria and France as part of the OECD (2021), Survey on Gender Mainstreaming and Governance (unpublished).



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