



LUND UNIVERSITY

Promotion of gender balance in political decision-making

Kotevska, Biljana ; Pavlou, Vera ; Julén Votinius, Jenny

2023

Document Version:

Publisher's PDF, also known as Version of record

[Link to publication](#)

Citation for published version (APA):

Kotevska, B., Pavlou, V., & Julén Votinius, J. (2023). *Promotion of gender balance in political decision-making*. Publications Office of the European Union.

Total number of authors:

3

Creative Commons License:

Unspecified

General rights

Unless other specific re-use rights are stated the following general rights apply:

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal

Read more about Creative commons licenses: <https://creativecommons.org/licenses/>

Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

LUND UNIVERSITY

PO Box 117
221 00 Lund
+46 46-222 00 00



European
Commission

European network of legal experts in
gender equality and non-discrimination



Promotion of gender balance in political decision-making

Including summaries in
English, French and German

*Justice
and Consumers*

EUROPEAN COMMISSION

Directorate-General for Justice and Consumers
Directorate D — Equality and Union citizenship
Unit D.1 Non-discrimination and Roma coordination
Unit D.2 Gender Equality

European Commission
B-1049 Brussels

Promotion of gender balance in political decision-making

Authors

Biljana Kotevska and Vera Pavlou

2023

***Europe Direct is a service to help you find answers
to your questions about the European Union.***

Freephone number (*):

00 800 6 7 8 9 10 11

(*)The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

LEGAL NOTICE

This document has been prepared for the European Commission; however, it reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

More information on the European Union is available on the Internet (<http://www.europa.eu>).

Luxembourg: Publications Office of the European Union, 2023

ISBN 978-92-68-00002-1

doi:10.2838/749712

Catalogue number DS-04-23-138-EN-N

© European Union, 2023

Contents

EXECUTIVE SUMMARY	7
RÉSUMÉ	12
ZUSAMMENFASSUNG	18
1 INTRODUCTION	24
1.1 Context and scope	24
1.2 Key concepts	25
1.3 Methodology	26
1.4 Structure of the report	27
2 INTERNATIONAL AND REGIONAL STANDARDS	28
2.1 Introduction	28
2.2 United Nations	29
2.3 Council of Europe	34
2.4 Organization for Security and Co-operation in Europe	38
2.5 European Union	39
2.6 Conclusion	42
3 ELECTIONS	44
3.1 Introduction	44
3.2 Legislation and policies mandating or encouraging gender balance in the leadership of political parties	44
3.3 Selecting candidates for national, regional and local elections: law and policies	45
3.4 Gender balance in the selection for candidates by political parties for the EU Parliament elections	47
3.5 Gender balance in the composition of electoral management bodies and observer commissions	48
3.6 Encouraging women to vote	48
3.7 The enforcement and effectiveness of legislative frameworks encouraging gender balance in elections	50
3.8 Violations of women's active and passive voting rights	53
3.9 Existence of official mechanisms/authorities tasked to monitor sexism and sexist hate speech in electoral campaigns	55
3.10 Sanctions and other consequences prescribed for sexism and sexist hate speech in electoral campaigns	56
3.11 Conclusion	56
4 THE LEGISLATURE	58
4.1 Introduction	58
4.2 Positive action for the promotion of women in decision-making positions in the legislature	58
4.3 Measures for institutional and cultural transformation	63
4.4 Measures aimed at women from minority groups	66
4.5 Obstacles	69
4.6 Other activities for the promotion of women in decision making in the legislature	71
4.7 Relevant case law	73
4.8 Internal regulation and sanctioning of harassment and sexual harassment	75
4.9 Violence against women in decision-making positions in the legislature	78
4.10 Data collection on gender balance in public decision-making positions in the legislature	82
4.11 Conclusion	86
5 EXECUTIVE	87
5.1 Introduction	87
5.2 Measures for the promotion of women in decision-making positions in the executive	87

5.2.1	Legally binding measures	87
5.2.2	State policies and other non-binding measures	91
5.3	Measures for institutional and culture transformation for the promotion of gender balance in decision-making positions in the executive	91
5.4	Mechanisms for the involvement and participation in decision making in the executive for minority women	93
5.5	Soft or hard law measures/provisions creating an obstacle for gender equality or hindering women's participation in the executive	94
5.6	Effectiveness of measures	95
5.7	Case law on quotas or other measures	96
5.8	Internal mechanisms and procedures against gender-based discrimination and harassment	98
5.9	State institutions tasked with data collection on gender balance in public decision-making positions in the executive	98
5.10	Conclusion	99
6	PUBLIC ENTERPRISES	100
6.1	Introduction	100
6.2	Positive action for promotion of gender balance in decision-making positions in public enterprises	100
6.3	Measures aimed at women from minority groups in public enterprises	105
6.4	Internal regulation and sanctioning of harassment and sexual harassment in public enterprises	106
6.5	Data collection on gender balance in public decision-making positions in public enterprises	108
6.6	Conclusion	111
7	GOOD PRACTICES	113
7.1	Introduction	113
7.2	Quotas	113
7.3	Public awareness raising	115
7.4	Shortlisting	116
7.5	Corrective mechanisms	116
7.6	Long-term, sustained efforts towards building a gender equality culture	116
7.7	Strategic approach to institutional and culture transformation: action programmes and gender audit	117
7.8	Private-work life balance measures: predictable schedules, calendars, voting adjustments, paid leave, infrastructure interventions	117
7.9	Harassment and sexual harassment complaints mechanisms	119
7.10	Equal Treatment Coordinators	119
7.11	Promoting women at special minority elections	120
7.12	Soft regulation and support: certification, good practice guide, transparency	120
8	CONCLUSIONS AND RECOMMENDATIONS	121
8.1	Conclusions	121
8.2	Ways forward	124
ANNEX: QUESTIONNAIRE ON PROMOTION OF GENDER BALANCE IN POLITICAL DECISION-MAKING		127

Members of the European network of legal experts in gender equality and non-discrimination

Management team

General coordinator	Jos Kösters	Human European Consultancy
Specialist coordinator gender equality law	Linda Senden	Utrecht University
Content coordinator gender equality law	Alexandra Timmer	Utrecht University
Specialist coordinator non-discrimination law	Isabelle Chopin	Migration Policy Group
Project manager	Magdalena Maier	Human European Consultancy
Content managers gender equality law	Franka van Hoof Birte Böök	Utrecht University
Content manager non-discrimination law	Catharina Germaine	Migration Policy Group

Senior experts

Senior expert on gender equality law	Susanne Burri
Senior expert on age	Elaine Dewhurst
Senior expert on sexual orientation/trans/intersex people	Peter Dunne
Senior expert on racial or ethnic origin	Lilla Farkas
Senior expert on EU and human rights law	Christopher McCrudden
Senior expert on social security	Frans Pennings
Senior expert on religion or belief	Isabelle Rorive
Senior expert on EU law, CJEU case law, sex, gender identity and gender expression in relation to trans and intersex people	Christa Tobler
Senior expert on disability	Lisa Waddington

National experts

	Non-discrimination	Gender
Albania	Irma Baraku	Entela Baci
Austria	Dieter Schindlauer	Marion Guerrero
Belgium	Sébastien Van Drooghenbroeck	Nathalie Wuiame
Bulgaria	Margarita S. Ilieva	Genoveva Tisheva
Croatia	Ines Bojić	Adrijana Martinović
Cyprus	Corina Demetriou	Vera Pavlou
Czechia	Jakub Tomšej	Kristina Koldinská
Denmark	Pia Justesen	Natalie Videbaek Munkholm
Estonia	Mari-Liis Sepper	Anu Laas
Finland	Rainer Hiltunen	Kevät Nousiainen
France	Sophie Latraverse	Marie Mercat-Bruns
Germany	Matthias Mahlmann	Jule Mulder
Greece	Athanasios Theodoridis	Panagiota Petroglou
Hungary	András Kádár	Lídia Hermína Balogh
Iceland	Gudrun D. Guðmundsdóttir	Herdís Thorgeirsdóttir
Ireland	Judy Walsh	Frances Meenan
Italy	Chiara Favilli	Simonetta Renga
Latvia	Anhelita Kamenska	Kristīne Dupate
Liechtenstein	Patricia Hornich	Nicole Mathé
Lithuania	Gediminas Andriukaitis and Monika Guliakaitė	Tomas Davulis
Luxembourg	Tania Hoffmann	Nicole Kerschen
Malta	Tonio Ellul	Romina Bartolo
Montenegro	Maja Kostić-Mandić	Vesna Simovic-Zvicer
Netherlands	Karin de Vries	Marlies Vegter
North Macedonia	Biljana Kotevska	Biljana Kotevska
Norway	Lene Løvdal	Marte Bauge
Poland	Łukasz Bojarski	Anna Cybulko
Portugal	Dulce Lopes and Joana Vicente	Maria do Rosário Palma Ramalho
Romania	Romanița Iordache	Iustina Ionescu
Serbia	Ivana Krstić Davinic	Ivana Krstić Davinic
Slovakia	Vanda Durbáková	Zuzana Magurová
Slovenia	Neža Kogovšek Šalamon	Tanja Koderman Sever
Spain	Fernando Camas Roda	Dolores Morondo Taramundi
Sweden	Paul Lappalainen	Jenny Julén Votinius
Türkiye	Ulaş Karan	Kadriye Bakirci
United Kingdom	Lucy Vickers	Rachel Horton

Executive summary

This thematic report is a study on the promotion of gender-balanced political decision-making in the 27 EU Member States, Iceland, Norway, Liechtenstein and the UK. **The report aims to:** (1) map and bring to light the current legal (hard and soft law) and policy frameworks on the promotion of gender balance in decision-making in political life in the countries covered by the report; (2) identify obstacles on promoting gender balance in decision-making in political life; (3) identify national promising/best practices on promoting gender balance in decision-making in political life; and (4) propose possible ways forwards for European Union and Commission action. The introductory chapter sets the scene by explaining the context, scope and aims of the report. The introduction also provides a note on how key concepts are understood and used in the report as well as a description of the methodology.

International law (Chapter 2)

The report looks at standards for the promotion of gender balance in decision-making positions from the United Nations, the Council of Europe, the Organization for Security and Co-operation in Europe, and the European Union. It affirms that these standards are not only aspirational goals but legal obligations under international human rights law for all State Parties, including all EU and EEA countries. All international human rights law provisions are applicable to all EU and EEA countries, although a limited number of countries have ratified Protocol 12 of the European Convention on Human Rights. The report looks not just at those standards that are specifically formulated as standards on the participation of women in public and political life, but at standards on such participation that would reflect ethnicity, disability and other forms of diversity among women. As a result, the chapter includes the existing standards for participation of Roma, persons with disabilities, and to (persons from) national minorities, as these also apply to Roma women, women with disabilities, and women from national minorities. In this way, the chapter aims to look at the existing standards through an intersectional lens. It must be said, however, that international law standards, as they currently stand, pertain largely to the promotion of the participation of women, and not to participation in public life for all genders, which would also include non-binary and transgender persons.

Elections (Chapter 3)

In relation to the promotion of gender balance in electoral processes, the report focuses on: the leadership of political parties; the selection of candidates for national, regional, local and EU parliamentary elections; the composition of electoral management bodies and observer commissions; campaigns encouraging women's political participation; the effectiveness of legal frameworks promoting gender balance in elections; violations of women's political rights; mechanisms monitoring sexism and sexist hate speech in electoral campaigns; and sanctions. As the findings in this chapter suggest, the last two decades have seen developments in relation to gender balance in elections in most of the countries covered in the report. We find evidence of a range of legally binding measures, policies, soft law and voluntary measures adopted by political parties to promote gender balance in this area. Although no legal steps have been taken in relation to the leadership of political parties, we find that many parties across the political spectrum have adopted internal rules and measures to promote women political leaders. The area in which there has been significant proliferation of legislative measures for gender balance is that of the selection of candidates for electoral lists. Several countries have legal gender quotas in place, which are sometimes coupled with rules on the ranking of candidates on lists. However, the enforcement mechanisms and effectiveness of these measures vary significantly from country to country. Our findings suggest that gender quotas are most effective when combined with ranking rules and strict enforcement that essentially mandates the

rejection of electoral lists that do not meet gender balance rules. Significantly, this chapter's findings stress the importance of a holistic approach to gender balance in elections and all areas covered in the report. Gender quotas, when designed and enforced appropriately, are an important and potentially very effective tool. However, their full potential can only be realised when they operate in an environment that takes women's political participation seriously by removing formal and informal obstacles, actively encouraging women's participation and by addressing the particularly acute problem of violence against women in politics. In relation to the issue of violence, the findings suggest that effective mechanisms and sanctions against sexism and sexist hate speech tailored specifically to electoral processes are lacking.

The legislature (Chapter 4)

Regarding the promotion of women in decision-making positions in the legislature, the report focuses on: positive action, measures for institutional and cultural transformation, measures for supporting women from minority groups, other promotion activities, obstacles, case law, protection from harassment and sexual harassment, violence against women, and data collection. The findings suggest that countries approach promoting women in decision-making positions in the legislature in a number of different ways, but that there seems to be an overwhelming reliance on quotas, sometimes heralded as a panacea for the promotion of women in decision-making positions. While our findings confirm that quotas undoubtedly work when they are well targeted and strong, other important aspects that affect or even condition the participation of women in decision-making positions in the legislature continue to be largely disregarded. A worryingly overwhelming majority of countries do not provide pregnancy, motherhood and parenthood rights for Members of Parliament or councillors/other elected officials at the regional or local levels, or exclude them from any protection system against harassment and sexual harassment that they might have in place. We also find that only a few of the countries have measures for promoting women from minority groups. Where such measures exist they apply to minorities in general, and do not include nested quotas for women (quotas for women within a larger quota for minorities). The approaches to data collection differ greatly across the board, with some countries still not having accorded a mandate to any institution to collect data on women in decision-making positions in the legislature.

Several key conclusions stand out in relation to legislatures. First, laws and policies pay little attention to gender balance in decision-making positions *inside* Parliaments and local or regional councils, for example presidents or vice-presidents (presiding officers or speakers), chairs and deputy chairs of parliamentary bodies, secretaries general or other key non-elected positions in the Parliament, and so on. Second, many of the countries covered in this report still have not introduced any measures intended to produce institutional and cultural transformation, such as measures adjusting procedures and the operation of the legislature, infrastructure or finances. Third, there is an absence of an intersectional perspective on the issue of the promotion of women in legislative decision-making positions. Fourth, while a number of obstacles persist, the dominant obstacle for the promotion of women in decision-making positions in the legislature remains the culture in politics and gender bias, followed by the lack of binding provisions to promote women in the legislature. Fifth, soft measures and programme activities are still preferred to binding provisions. Sixth, there is little to no case law on this matter. Seventh, legislatures rarely have internal protection mechanisms against harassment and sexual harassment. Eighth, violence against women in decision-making positions in the legislature is widespread, and has increasingly moved from the virtual to the real world. Ninth, several countries still have not given a specific mandate to any institution to collect data in this field, and those that have often lack any specific obligations to analyse and publish such data. Overall, data collection mandates and practices remain very fragmented.

The executive (Chapter 5)

In relation to the promotion of women in decision-making positions within the executive, the report focuses on: legal and other provisions for the promotion of women, measures for institutional and

cultural transformation in the executive, provisions for the participation of women belonging to minority groups, obstacles to women's participation in the executive, the effectiveness of legal measures, case law concerning gender balance measures in the executive, internal mechanisms addressing gender discrimination and harassment, data collection on gender balance in the executive.

The discussion in this chapter shows that in recent years, states have started introducing a range of legally binding and soft law measures to promote women in decision-making positions in the executive. Some examples include gender quotas for some executive bodies and institutions, tie-break clauses for female candidates in recruitment procedures and measures for work-life balance. As with the other three thematic areas in focus – elections, legislature and public enterprises – the introduction of gender quotas is the preferred option for legally binding measures on gender balance in the executive. Where sanctions are also contemplated, quotas can be highly effective tools in increasing women's numbers in decision-making positions within the executive. However, the evidence national experts provide makes clear that the obstacles facing women in this field are often not attributed to legal provisions. Rather, the general culture within institutions is a key determinant for women's opportunities for meaningful participation in the executive. Against this background, the chapter highlights national initiatives focusing on change at a structural rather than at an individual level. For instance, Equality Plans, are a popular tool aimed at structural changes in the executive in many countries covered in the report. The success of the measures is determined by their design – for instance, whether any sanctions are contemplated and how are they enforced – and by the existence of a broader inclusive environment for women. A key conclusion of this chapter is, therefore, that an institutional commitment to cultivating a supportive environment for women to access and remain in positions with decision-making powers is of outmost importance.

Public enterprises (Chapter 6)

In relation to the promotion of women in decision-making positions in public enterprises, the report focuses on positive action, measures for supporting women from minority groups, protection from harassment and sexual harassment and data collection. Encouraged by the proposal for a directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures, the EU and EEA countries have paid increasing attention to gender balance and women's representation on boards.

Several key conclusions have been made regarding this field. First, soft quotas, focused on the boards are used in preference to hard quotas and measures focused on directors or other decision-making positions. Sanctions are rarely prescribed for not observing the quotas, but monitoring and reporting obligations are. Secondly, intersectional perspectives are entirely lacking, as are measures targeting the promotion of women from minority groups in decision-making positions in public enterprises. Thirdly, in several countries public enterprises are required to have internal protection mechanisms against harassment and sexual harassment, yet the scope of protection is often limited to those with a status of an 'employee', which means that, like politicians, board members, directors and others with non-employee status are excluded from the protection. Fourthly, while most countries have given a specific mandate to one or more institution to collect data regarding this field, some still have not done so. Data collection mandates and practices remain very fragmented.

Good practices (Chapter 7)

The report identifies good practices in the four areas of focus: elections, the legislature, the executive, and public enterprises. While most national experts identified at least one good practice, several of them did not identify any. The good practices identified relate to the use of compulsory quotas (elections, the legislature, the executive, public enterprises), public awareness raising campaigns (elections), tactical voting (elections), shortlisting (elections), corrective election mechanisms (the legislature), different

measures targeting an institutional, procedural and culture change (the legislature), interventions to the infrastructure such as daycare centres, changing rooms and so on (the legislature), and independent complaints mechanisms on harassment and sexual harassment (the legislature). No good practices were identified for dealing with violence against women in decision-making positions, or with data collection, and only one good practice was identified regarding the promotion of women from minority groups to decision-making positions in the executive (albeit, this does not involve nested quotas).

Conclusions and recommendations (Chapter 8)

The report draws 10 key conclusions that apply to all four areas of focus covered by the report.

- (1) The obstacles to women's participation are mainly found in **five domains: the 'five C's' – care, cash, confidence, culture, and candidate selection**.
- (2) Although in a very limited manner, the efforts are currently slowly moving from 'just' descriptive representation to also undertaking **measures that can work towards institutional and cultural transformation**.
- (3) **Quotas are the most commonly used tool** throughout all areas considered in this report – elections, the legislature, the executive, and public enterprises. The report shows that, if well designed, supported, and given legal bite, quotas result in more balanced participation of women.
- (4) There is a **lack of an intersectional perspective on the issue in general**. There is almost a complete absence of measures tailored for, or aiming towards the promotion of participation of women from minority groups. Existing measures for the participation of people from minority groups do not reserve or in another way make room specifically for women from these minorities. There are also no nested quotas in place.
- (5) The **'elected', rather than 'employed' status of elected representatives creates obstacles** for women, and men, in particular in realising rights such as maternity and parental leave.
- (6) The **increase of online violence against women in decision-making positions in political life**, and against MPs and members of Government in particular, has not produced a state reaction of equal fortitude.
- (7) Activities undertaken towards the promotion of gender balance in decision-making in political life in the four focus areas of this report largely target women and **overlook persons in positions of power, such as party leaders**. Previous research has shown that gender bias plays a crucial role in recruitment and selection, and that therefore such measures should also target party leaders.¹ However, this is still not the case.
- (8) **States still do not impose measures on political parties**. These entities are seen as self-governing and thus there is no room for state intervention. Where states have leaned on voluntary measures, and focusing only on political parties, positive results are lacking. The potential of measures through which the state can condition the functioning of political parties in relation to gender balance has been largely limited to conditioning public funding to support political parties. Unfortunately, this often has a limited impact, and therefore fails to achieve the desired results.

¹ Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), 106.

- (9) There are almost **no mechanisms or measures in place to prevent regression**. Measures undertaken to boost gender balance in decision-making positions are usually understood as positive action and with that are temporary in nature. But their temporariness is understood as an absolute given, and promotes an unrealistic understanding of progress as being permanent once obtained.
- (10) The report clearly shows **the power of mobilisation that legislative action at EU level can have at the national level in the Member States**. Where the EU has taken legislative action, the results are visible at the national level and, even where such measures have not been put in place, discussions on the matter have started.

Considering the slow progress in the promotion of women to decision-making positions, regulatory action by the EU on this issue is desirable. Based on past experience, EU action can be expected to have a positive impact on encouraging, furthering and streamlining minimum standards on gender balance in decision-making positions in political life, and can prompt initial action in those countries where no such progress or efforts have taken place. Such action should favour mandatory measures, supported/boosted by accompanying measures and should have legal bite (such as through sanctions). Quotas seem widely accepted, but they must be well designed, sufficiently timed to achieve sustained effects, supported, and given legal bite. Other measures for institutional and cultural transformation, such as in relation to the procedures and operation of the legislature, infrastructure and funding, should not be left to the realm of policy or voluntary compliance, as they are necessary. Those measures that have proven effective in the past, such as public campaigns, should be institutionalised and supported by sufficient resources as part of the efforts, and considered as an investment in the permanence of any progress. A paradigm shift should be considered that will allow for some of these measures to be conceptualised as features of governance for ensuring the observance of the principle of public participation for all as a crucial democratic principle, integrating an intersectional perspective, rather than only as temporary and corrective measures. This should include encouragement of internal (national) dialogues on electoral system reforms and rethinking the rights attached to the status of ‘elected’ officials, particularly for MPs and Government representatives. Combating online and offline violence against women should be a priority. Measures should also be aimed at political parties to encourage them to take steps to improve gender balance in decision making both internally and in relation to candidates in elections. This should include measures to increase the visibility of women in political parties and education and capacity building measures that target (men as) political leaders. Finally, reporting and monitoring efforts should allow for evaluation and adjustments of the measures undertaken, including by monitoring retention rates and/or women’s reasons for leaving politics.

Regardless of the occasional waves of anti-gender equality sentiments, the predominant EU public view supports gender equality as a value. The European Union should observe this and move towards action that can produce steady and sustained progress in the promotion of women in decision-making positions in political life.

Résumé

Le présent rapport thématique analyse la promotion d'une représentation équilibrée entre hommes et femmes au niveau de la prise de décision politique dans les 27 États membres de l'UE, en Islande, en Norvège, au Liechtenstein et au Royaume-Uni. Il vise également (1) à établir une cartographie et à mettre en lumière les cadres juridiques (droit contraignant et non contraignant) et stratégiques de la promotion de l'équilibre hommes-femmes au niveau de la prise de décision dans la vie politique des pays couverts par le rapport; (2) à recenser les obstacles à la promotion de l'équilibre hommes-femmes au niveau de la prise de décision dans la vie politique; (3) à identifier les pratiques prometteuses/bonnes pratiques en matière de promotion de l'équilibre hommes-femmes au niveau de la prise de décision dans la vie politique; et (4) à proposer des pistes éventuelles pour l'action future de l'UE et de la Commission européenne. Le chapitre introductif s'attache à définir le contexte, la portée et les objectifs du rapport, et à préciser le sens et l'usage d'une série de concepts clés ainsi que la méthodologie qu'il applique.

Le droit international (chapitre 2)

Le rapport se penche sur les normes en matière de promotion d'une meilleure parité hommes-femmes au niveau des postes de décision qui ont été fixées par les Nations unies, le Conseil de l'Europe, l'Organisation pour la sécurité et la coopération en Europe, et l'Union européenne. Il confirme que ces normes constituent non seulement des aspirations ambitieuses mais également des obligations juridiques pour tous les États parties, y compris chacun des membres de l'UE et de l'EEE, en vertu du droit international relatif aux droits de l'homme. La totalité des dispositions de ce droit s'appliquent à tous ces pays, même si le protocole n° 12 de la Convention de sauvegarde des droits de l'homme et des libertés fondamentales n'a été ratifié que par un nombre limité d'entre eux. Le rapport ne s'intéresse pas uniquement aux normes portant spécifiquement sur la participation des femmes à la vie publique et politique: il s'intéresse également aux normes qui, axées sur cette participation, reflètent l'ethnicité, le handicap et d'autres formes de diversité parmi les femmes elles-mêmes. Ce deuxième chapitre couvre dès lors les normes en place concernant la participation des Roms, des personnes handicapées et des (personnes issues de) minorités nationales, étant donné qu'elles s'appliquent aussi aux femmes Roms, aux femmes handicapées et aux femmes appartenant à des minorités nationales. Il veut ainsi aborder les normes en vigueur sous l'angle intersectionnel. Il convient de préciser toutefois qu'en leur état actuel, les normes de droit international concernent principalement la promotion de la participation des femmes, et non la participation de tous les genres à la vie publique, ce qui inclurait également les personnes non binaires et transgenres.

Les élections (chapitre 3)

En ce qui concerne la promotion de l'équilibre hommes-femmes au niveau des processus électoraux, le rapport concentre son attention sur la direction des partis politiques; sur la sélection des candidats lors des élections nationales, régionales et locales, et des élections du Parlement européen; sur la composition des organes chargés de l'administration des élections et des commissions d'observateurs; sur les campagnes d'encouragement à la participation politique des femmes; sur l'efficacité des cadres juridiques destinés à promouvoir la parité hommes-femmes en matière électorale; sur les violations des droits politiques des femmes; sur les mécanismes de surveillance du sexisme et des propos haineux sexistes dans les campagnes électorales; et sur les sanctions. Les constatations présentées dans ce chapitre conduisent à penser que des évolutions en matière d'équilibre hommes-femmes au niveau des élections sont intervenues ces vingt dernières années dans la plupart des pays couverts par le rapport. Il apparaît en effet que toute une série de mesures juridiquement contraignantes, de politiques, de mesures non contraignantes et de mesures volontaires ont été adoptées par les partis politiques pour promouvoir

la parité hommes-femmes en matière électorale. Bien qu'aucune démarche n'ait été effectuée sur le plan juridique pour ce qui concerne la direction des partis politiques, le rapport constate que beaucoup d'entre eux, toutes allégeances confondues, ont adopté des règles et mesures internes pour promouvoir des femmes en tant que dirigeants politiques. C'est au niveau de la sélection des candidats figurant sur les listes électorales que l'on assiste à la prolifération la plus importante de mesures législatives dans ce sens. Plusieurs pays ont instauré des quotas légaux de femmes, parfois associés à des règles de classement des candidats sur les listes. Les mécanismes de mise en œuvre et l'efficacité de ces mesures varient néanmoins considérablement d'un pays à l'autre. Il ressort de notre analyse que l'efficacité des quotas hommes-femmes est la plus grande lorsqu'ils s'accompagnent de règles concernant l'ordre de classement et d'une application stricte prévoyant essentiellement le rejet des listes électorales qui ne respectent pas les exigences fixées en termes d'équilibre hommes-femmes. Concrètement, les observations faites dans ce chapitre soulignent l'importance d'une approche holistique de cet équilibre en matière électorale comme dans tous les domaines couverts par le rapport. Conçus et mis en œuvre de façon adéquate, les quotas de genre constituent un outil majeur et potentiellement très efficace. Mais ils ne réalisent pleinement leur potentiel qu'à condition de s'inscrire dans un environnement qui prenne la participation politique des femmes au sérieux en éliminant les obstacles formels et informels, en favorisant activement la participation des femmes et en s'attachant à résoudre le problème particulièrement aigu de la violence à l'égard des femmes en politique. Pour ce qui concerne ce dernier phénomène, le rapport fait état d'une absence de mécanismes efficaces et de sanctions effectives pour lutter, dans le contexte spécifique des processus électoraux, contre le sexisme et les propos haineux sexistes.

Le corps législatif (chapitre 4)

En ce qui concerne la promotion des femmes aux fonctions décisionnelles au sein du pouvoir législatif, le rapport se concentre sur l'action positive; sur les mesures de transformation institutionnelle et culturelle; sur les mesures de soutien aux femmes appartenant à des groupes minoritaires; sur d'autres activités de promotion; sur les obstacles; sur la jurisprudence; sur la protection contre le harcèlement et le harcèlement sexuel; sur la violence envers les femmes; et sur la collecte de données. Il ressort de l'analyse que si les pays étudiés ont des approches diverses de la promotion des femmes aux postes de décision au sein du corps législatif, la grande majorité d'entre eux ont opté pour des quotas, lesquels sont parfois présentés comme la panacée en la matière. Notre analyse confirme que les quotas fonctionnent incontestablement à condition d'être dûment ciblés et suffisamment solides, mais elle constate par ailleurs que d'autres aspects importants qui influencent, voire conditionnent, la participation des femmes aux postes de décision au sein du corps législatif continuent d'être largement négligés. Il est inquiétant de constater en effet qu'une écrasante majorité de pays ne confèrent pas de droits liés à la grossesse, à la maternité et à la parentalité aux membres de leurs parlements nationaux ni à leurs conseillers/autres représentants élus à l'échelon régional ou local, ou qu'ils les excluent de tout régime de protection éventuellement mis en place contre le harcèlement ou le harcèlement sexuel. Le rapport constate également que rares sont les pays qui ont adopté des mesures destinées à promouvoir des femmes issues de groupes minoritaires. Lorsque des mesures de ce type existent, elles s'appliquent aux minorités en général, et n'incluent pas de sous-quotas pour les femmes (à savoir des sous-quotas portant spécifiquement sur les femmes au sein de quotas plus importants de représentants de minorités). Les approches relatives à la collecte de données sont très différentes selon les pays – certains d'entre eux n'ayant encore mandaté à ce jour aucune institution pour collecter des informations concernant les femmes aux postes de décision au sein du corps législatif.

Plusieurs conclusions majeures émergent clairement pour ce qui concerne les corps législatifs. Premièrement, les lois et politiques accordent peu d'attention à la parité hommes-femmes au niveau des fonctions décisionnelles *au sein* des parlements nationaux et des conseils régionaux ou locaux – tels les postes de présidents et de vice-présidents d'assemblées parlementaires, de présidents et de vice-présidents de commissions parlementaires, de secrétaires généraux ou autres postes non électifs au sein du Parlement, etc. Deuxièmement, bon nombre de pays couverts par notre rapport n'ont toujours pas

introduit de mesures visant à engendrer une transformation institutionnelle et culturelle, telles que des mesures d'adaptation des procédures et du fonctionnement du corps législatif, des infrastructures ou du financement. Troisièmement, une perspective intersectionnelle fait défaut dans l'approche de la promotion des femmes aux fonctions décisionnelles au sein des corps législatifs. Quatrièmement, un certain nombre d'obstacles persistent et, parmi ceux-ci, la principale entrave à la promotion des femmes aux postes de décision dans le corps législatif demeure la culture politique et les préjugés fondés sur le genre, suivie de l'absence de dispositions contraignantes pour promouvoir les femmes à ce niveau. Cinquièmement, les mesures non contraignantes et les activités organisées dans le cadre de programmes continuent d'être préférées aux mesures contraignantes. Sixièmement, il existe très peu de jurisprudence en la matière. Septièmement, les corps législatifs se sont rarement dotés de mécanismes internes de lutte contre le harcèlement et le harcèlement sexuel. Huitièmement, la violence envers les femmes occupant des postes de décision au sein du corps législatif est largement répandue, et tend à basculer du monde virtuel vers le monde réel. Neuvièmement, plusieurs pays n'ont toujours pas mandaté d'institution spécifique pour collecter des données dans ce domaine et, parmi les pays qui ont conféré ce type de mandat, nombreux sont ceux où l'obligation d'analyser et de publier les informations ainsi recueillies fait défaut. Les mandats et pratiques en matière de collecte de données demeurent, de façon générale, très fragmentés.

Le corps exécutif (chapitre 5)

Pour ce qui concerne la promotion des femmes aux fonctions décisionnelles au sein du corps exécutif, le rapport se concentre sur les dispositions juridiques et autres en faveur de la promotion des femmes; sur les mesures de transformation institutionnelle et culturelle au sein de l'exécutif; sur les dispositions en faveur de la participation des femmes appartenant à des groupes minoritaires; sur les obstacles à la participation des femmes au pouvoir exécutif; sur l'efficacité des mesures juridiques; sur la jurisprudence relative aux mesures visant à la parité hommes-femmes au sein du corps exécutif; sur les mécanismes internes de prévention de discrimination et de harcèlement fondés sur le genre; et sur la collecte de données concernant l'équilibre hommes-femmes au niveau des exécutifs.

L'analyse réalisée dans ce chapitre montre que les États introduisent depuis quelques années un éventail de mesures – juridiquement contraignantes ou non – destinées à promouvoir les femmes aux postes de décision au sein du pouvoir exécutif. On peut citer ici à titre d'exemples les quotas hommes-femmes instaurés pour une série d'institutions et organes exécutifs, les clauses en faveur des femmes candidates (à qualification égale) prévues par certaines procédures de recrutement, et des mesures visant à un meilleur équilibre entre vie professionnelle et vie privée. Tout comme dans les trois autres domaines thématiques étudiés – les élections, le corps législatif et les entreprises publiques – l'introduction de quotas hommes-femmes est ici l'option préférée pour les mesures juridiquement contraignantes visant à une meilleure parité hommes-femmes au sein de l'exécutif. Lorsque des sanctions leur sont associées, les quotas peuvent s'avérer un moyen très efficace de faire augmenter le nombre de femmes aux postes décisionnels au sein du corps exécutif. Les informations communiquées par les experts nationaux montrent clairement néanmoins que les obstacles rencontrés par les femmes à cet égard sont rarement perçus comme liés aux dispositions de la loi. Ce serait plutôt la culture prévalant dans les institutions qui empêcherait principalement les femmes de participer de manière significative au pouvoir exécutif. Le cinquième chapitre présente, dans ce contexte, des initiatives nationales axées sur un changement au niveau structurel plutôt qu'individuel. Ainsi des plans en faveur de l'égalité apparaissent-ils comme un instrument populaire de promotion d'un changement structurel au niveau du pouvoir exécutif de nombreux pays couverts par le rapport. Le succès des mesures est largement déterminé par leur conception – des sanctions sont-elles envisagées et, dans l'affirmative, quel est leur mode d'application – et par l'existence d'un environnement général inclusif en faveur des femmes. L'une des conclusions essentielles de ce chapitre réside donc dans l'importance capitale que revêt l'engagement institutionnel de veiller à un environnement favorable aux femmes, qui leur permette d'accéder et de se maintenir à des postes dotés de pouvoirs décisionnels.

Les entreprises publiques (chapitre 6)

En ce qui concerne la promotion des femmes à des postes de décision au sein d'entreprises publiques, le rapport se concentre sur l'action positive; sur les mesures de soutien aux femmes appartenant à des groupes minoritaires; sur la protection contre le harcèlement et le harcèlement sexuel; et sur la collecte de données. Encouragés par la proposition de directive du Parlement européen et du Conseil relative à un meilleur équilibre hommes-femmes parmi les administrateurs non exécutifs des sociétés cotées en bourse et à des mesures connexes, les pays de l'UE et de l'EEE ont réservé une attention croissante à la parité hommes-femmes et à la représentation des femmes au sein des conseils de ces sociétés.

Plusieurs conclusions importantes ont été tirées à ce propos. Premièrement, des quotas non contraignants portant sur les conseils sont préférés à des quotas et mesures juridiquement contraignants portant sur les postes d'administrateurs ou autres postes décisionnels. Il est rare que des sanctions soient prescrites en cas de non-respect des quotas, mais des obligations de contrôle et de rapport sont en vigueur. Deuxièmement, les approches intersectionnelles font totalement défaut, de même que des mesures ciblant la promotion de femmes issues de groupes minoritaires à des postes de décision au sein d'entreprises publiques. Troisièmement, les entreprises publiques de plusieurs pays sont tenues d'instaurer des mécanismes internes de protection contre le harcèlement et le harcèlement sexuel, mais le champ d'application de cette protection se limite souvent aux personnes ayant le statut de «salariés» – ce qui signifie que, tout comme les politiciens, les membres des conseils, les administrateurs et d'autres personnes n'ayant pas le statut de salarié en sont exclus. Quatrièmement, si la plupart des pays ont conféré un mandat spécifique à une ou plusieurs institutions pour recueillir des données dans ce domaine, certains ne l'ont toujours pas fait. Les mandats et pratiques en matière de collecte de données demeurent très fragmentés.

Les bonnes pratiques (chapitre 7)

Le rapport recense de bonnes pratiques dans les quatre domaines thématiques analysés, à savoir les élections, le corps législatif, le corps exécutif et les entreprises publiques. Si la plupart des experts nationaux ont identifié une bonne pratique au moins, ils sont plusieurs à n'en signaler aucune. Les bonnes pratiques recensées portent sur l'usage de quotas obligatoires (élections, corps législatif, corps exécutif, entreprises publiques), sur les campagnes de sensibilisation (élections), sur le vote utile (élections), sur la présélection des candidats (élections), sur les mécanismes correcteurs en matière électorale (corps législatif), sur différentes mesures visant à un changement institutionnel, procédural et culturel (corps législatif), sur les interventions au niveau d'infrastructures telles que les centres d'accueil de jour, les vestiaires, etc. (corps législatif) et sur des mécanismes indépendants de plainte en matière de harcèlement et de harcèlement sexuel (corps législatif). Aucune bonne pratique n'a été signalée en rapport avec la problématique de la violence envers les femmes occupant des fonctions décisionnelles ni en rapport avec la collecte de données; et une seule a été recensée pour ce qui concerne la promotion de femmes issues de groupes minoritaires à des postes de décision au sein de l'exécutif (bien que les sous-quotas ne soient pas inclus).

Conclusions et recommandations (chapitre 8)

Le rapport tire dix grandes conclusions s'appliquant aux quatre domaines qu'il analyse:

1. Les obstacles à la participation des femmes se situent essentiellement dans **cinq sphères, à savoir les charges familiales, l'argent, la confiance, la culture et la sélection des candidatures** [Ndlr: en anglais, les «cinq C»: *care, cash, confidence, culture, and candidate selection*].
2. Bien qu'ils restent très limités, les efforts tendent aujourd'hui à se réorienter lentement d'une représentation «simplement» descriptive vers l'adoption de **mesures également susceptibles de favoriser une transformation institutionnelle et culturelle**.

3. **Les quotas constituent l'instrument le plus couramment utilisé** dans l'ensemble des domaines considérés dans le présent rapport – les élections, le corps législatif, le corps exécutif et les entreprises publiques. Le rapport montre qu'à condition d'être bien conçu et soutenu, et d'avoir un certain mordant juridique, le système des quotas engendre une participation plus équilibrée des femmes.
4. **Une approche intersectionnelle de la problématique fait, de façon générale, totalement défaut.** On constate l'absence quasiment absolue de mesures spécifiquement conçues ou destinées à promouvoir la participation de femmes issues de groupes minoritaires. Les mesures en place en faveur de la participation de personnes appartenant à des groupes minoritaires ne réservent ni ne prévoient aucune place spécifique – ni aucun sous-quota – à l'intention des membres féminins de ces groupes.
5. **Le statut «électif» plutôt que «salarié» des représentants élus constitue une entrave** pour les femmes et les hommes, en particulier dans l'exercice de droits tels que le congé de maternité et le congé parental.
6. **L'augmentation de la violence en ligne à l'égard des femmes occupant des postes de décision dans la vie politique,** et envers les femmes parlementaires et membres du gouvernement en particulier, ne suscite pas une réaction de même ampleur et détermination de la part de l'État.
7. Les actions entreprises en vue de promouvoir l'égalité hommes-femmes dans la prise de décision politique dans les quatre domaines analysés par le rapport sont principalement axées sur les femmes et négligent **des personnes occupant des postes de pouvoir, et notamment les dirigeants des partis politiques.** De précédentes études ont montré que l'existence de préjugés sexistes joue un rôle déterminant dans le recrutement et les procédures de sélection, et que les mesures devraient dès lors cibler également les instances dirigeantes des partis politiques.¹ Or tel n'est toujours pas le cas.
8. **Les États n'imposent toujours pas de mesures aux partis politiques.** Ces entités sont considérées comme autonomes, ce qui ne laisse aucune possibilité d'intervention étatique. Lorsque des États se sont appuyés sur des mesures volontaires et uniquement axées sur les partis politiques, les résultats positifs ont été insuffisants. Le potentiel de mesures permettant à l'État de conditionner le fonctionnement de partis politiques en termes d'équilibre hommes-femmes s'est essentiellement concrétisé par le conditionnement du financement public apporté à ces partis. L'impact est donc, hélas, le plus souvent limité et ne suffit pas à atteindre le but espéré.
9. On ne trouve pratiquement **aucun mécanisme ni aucune mesure de prévention de la régression.** Les mesures instaurées pour améliorer l'équilibre hommes-femmes aux postes décisionnels sont généralement envisagées comme des mesures d'action positive et, dès lors, comme étant de nature provisoire. Ce caractère temporaire est toutefois perçu comme un acquis absolu et conduit à une vision irréaliste selon laquelle le progrès est permanent une fois qu'il a été accompli.
10. Le rapport montre clairement **la puissance de mobilisation qu'une action législative au niveau de l'UE peut avoir au niveau des États membres.** Lorsque l'Union agit sur le plan législatif, les résultats sont visibles à l'échelon national et, même si les mesures correspondantes n'ont pas été mises en place, des débats sur la question ont été amorcés.

1 Conseil de l'Europe, *Troisième cycle de suivi de la mise en œuvre de la Recommandation Rec(2003)3 du Comité des Ministres sur la participation équilibrée des femmes et des hommes à la prise de décision politique et publique Rapport analytique – données 2016* (Conseil de l'Europe, 2016), p. 113.

Face à la lenteur des avancées concernant la promotion des femmes aux postes de prise de décision, une action réglementaire de la part de l'UE est souhaitable en la matière. L'expérience acquise permet d'escompter qu'une action de l'UE aura un impact positif en termes d'incitation, de promotion et de rationalisation de normes minimales en rapport avec l'équilibre hommes-femmes aux postes de prise de décision politique, et qu'elle impulsera une démarche initiale dans les pays où aucun progrès ni effort dans ce sens n'a encore été entrepris. Cette action européenne devrait favoriser des dispositions obligatoires soutenues/impulsées par des mesures d'accompagnement, et avoir un mordant juridique (par le biais de sanctions, par exemple). Les quotas semblent largement admis, mais ils doivent être bien conçus, programmés de manière à obtenir des effets durables, suffisamment soutenus, et associés à un mordant juridique. D'autres mesures visant à une transformation institutionnelle et culturelle, portant notamment sur les procédures et le fonctionnement du corps législatif, sur les infrastructures et sur le financement, ne devraient pas être laissées à une stratégie ou une conformité volontaire car il s'agit de mesures nécessaires. Les mesures qui se sont avérées efficaces par le passé, telles que les campagnes à l'intention du grand public, devraient être institutionalisées et bénéficier de ressources suffisantes dans le cadre des efforts déployés, et être considérées comme un investissement dans la permanence de toute avancée. Il conviendrait d'envisager un changement de paradigme permettant que certaines de ces mesures soient conceptualisées en tant qu'éléments d'une gouvernance assurant le respect du principe de la participation publique de tous en tant que principe démocratique, intégrant une perspective intersectionnelle, au lieu d'être uniquement considérées comme des mesures temporaires et correctrices. Cette approche doit comporter un encouragement aux dialogues internes (nationaux) concernant la réforme du système électoral et un réexamen des droits attachés au statut de représentant «élu», au sein du parlement et du gouvernement en particulier. La lutte contre la violence en ligne et hors ligne à l'égard des femmes doit être une priorité. Des mesures devraient également être prises à l'intention des partis politiques afin de les inciter à introduire des dispositions visant à améliorer la parité hommes-femmes au niveau de la prise de décision, tant sur le plan interne qu'en rapport avec les candidats aux élections. Il s'agirait notamment de mesures destinées à accroître la visibilité des femmes au sein des partis politiques, et de mesures de formation et de renforcement des capacités axées sur les (hommes en tant que) dirigeants politiques. Enfin, des efforts en matière de notification et de suivi devraient permettre l'évaluation et l'adaptation des mesures mises en place, y compris en surveillant les taux de rétention et/ou les motifs pour lesquels les femmes quittent la politique.

Hormis la montée occasionnelle de sentiments négatifs vis-à-vis de l'égalité entre hommes et femmes, l'opinion publique prédominante au sein de l'UE perçoit et soutient cette égalité en tant que valeur. L'Union européenne devrait respecter cette vision et agir de manière à accomplir des avancées soutenues et durables sur la voie de la promotion des femmes aux postes de prise de décision dans la vie politique.

Zusammenfassung

Der vorliegende Themenbericht ist eine Studie zur Förderung einer ausgewogenen Beteiligung von Frauen und Männern an politischen Entscheidungsprozessen in den 27 EU-Mitgliedstaaten, Island, Norwegen, Liechtenstein und dem Vereinigten Königreich. **Ziel des Berichts ist es:** (1) die aktuellen rechtlichen (zwingendes Recht und Soft Law) und politischen Rahmenbedingungen für die Förderung eines ausgewogenen Geschlechterverhältnisses in Entscheidungsprozessen des politischen Lebens in den vom Bericht erfassten Ländern zu beleuchten und darzustellen; (2) Hindernisse bei der Förderung eines ausgewogenen Geschlechterverhältnisses in Entscheidungsprozessen des politischen Lebens zu ermitteln; (3) vielversprechende/bewährte nationale Verfahren zur Förderung eines ausgewogenen Geschlechterverhältnisses in Entscheidungsprozessen des politischen Lebens zu ermitteln; und (4) Möglichkeiten für künftige Maßnahmen der Europäischen Union und der Kommission vorzuschlagen. Das einleitende Kapitel beschreibt Kontext, Reichweite und Ziele des Berichts und steckt damit den Rahmen ab. Es enthält außerdem Erläuterungen dazu, wie Schlüsselkonzepte im Bericht verstanden und verwendet werden, sowie eine Beschreibung der Methodik.

Internationales Recht (Kapitel 2)

Der Bericht untersucht Standards zur Förderung des Geschlechtergleichgewichts in Entscheidungspositionen seitens der Vereinten Nationen, des Europarats, der Organisation für Sicherheit und Zusammenarbeit in Europa und der Europäischen Union. Er unterstreicht, dass diese Standards nicht nur ambitionierte Ziele, sondern rechtliche Verpflichtungen im Rahmen der internationalen Menschenrechtsbestimmungen für alle Vertragsstaaten, einschließlich aller EU- und EWR-Länder, sind. Alle internationalen Menschenrechtsbestimmungen gelten für sämtliche EU- und EWR-Länder, wenn auch nur eine begrenzte Anzahl von Ländern das Protokoll Nr. 12 zur Europäischen Menschenrechtskonvention ratifiziert hat. Der Bericht befasst sich nicht nur mit den Standards, die speziell als Standards für die Beteiligung von Frauen am öffentlichen und politischen Leben formuliert sind, sondern auch mit Standards für eine solche Beteiligung von Frauen, die ethnische Herkunft, Behinderung und andere Formen der Vielfalt von Frauen widerspiegeln. Demzufolge bezieht das Kapitel die bestehenden Standards für die Beteiligung von Roma, Menschen mit Behinderungen und (Angehörigen von) nationalen Minderheiten mit ein, da diese auch für Roma-Frauen, Frauen mit Behinderungen und Frauen gelten, die nationalen Minderheiten angehören. Auf diese Weise will das Kapitel die bestehenden Standards aus einem intersektionalen Blickwinkel betrachten. Es muss jedoch festgestellt werden, dass die völkerrechtlichen Standards in ihrer derzeitigen Form sich überwiegend auf die Förderung der Beteiligung von Frauen beziehen, nicht jedoch auf die Beteiligung aller Geschlechter am öffentlichen Leben, was auch nicht-binäre und Transgender-Personen einschließen würde.

Wahlen (Kapitel 3)

Was die Förderung eines ausgewogenen Geschlechterverhältnisses bei Wahlen betrifft, so beschäftigt sich der Bericht vor allem mit folgenden Aspekten: Führung politischer Parteien, Auswahl von Kandidierenden für nationale, regionale, lokale und EU-Parlamentswahlen, Zusammensetzung von Wahlmanagementgremien und Wahlbeobachtungskommissionen, Kampagnen zur Förderung der politischen Beteiligung von Frauen, Wirksamkeit von Rechtsvorschriften zur Förderung eines ausgewogenen Geschlechterverhältnisses bei Wahlen, Verstöße gegen die politischen Rechte von Frauen, Mechanismen zur Überwachung von Sexismus und sexistischen Hassreden in Wahlkampagnen sowie Sanktionen. Die Ergebnisse in diesem Kapitel zeigen, dass in den letzten zwei Jahrzehnten in den meisten Ländern, die Gegenstand dieses Berichts sind, Entwicklungen im Hinblick auf ein ausgewogenes Geschlechterverhältnis bei Wahlen stattgefunden

haben. Es existieren Belege für eine Reihe von rechtsverbindlichen Maßnahmen, Politiken, nicht zwingenden Vorschriften und freiwilligen Maßnahmen, die politische Parteien beschlossen haben, um ein ausgewogenes Geschlechterverhältnis in diesem Bereich zu fördern. Was die Führung politischer Parteien betrifft, so wurden zwar keine rechtlichen Schritte unternommen, es zeigt sich jedoch, dass viele Parteien des gesamten politischen Spektrums interne Regeln und Maßnahmen beschlossen haben, um weibliche politische Führungskräfte zu fördern. Der Bereich, in dem gesetzliche Maßnahmen zur Förderung eines ausgewogenen Geschlechterverhältnisses stark zugenommen haben, ist die Auswahl von Kandidierenden für Wahllisten. Etliche Länder verfügen über gesetzliche Geschlechterquoten, manchmal in Verbindung mit Vorschriften über die Rangfolge der Kandidierenden auf den Listen. Die Durchsetzungsmechanismen und die Wirksamkeit dieser Maßnahmen sind jedoch von Land zu Land sehr unterschiedlich. Die Ergebnisse der Studie deuten darauf hin, dass Geschlechterquoten dann am wirksamsten sind, wenn sie mit Regeln für die Rangfolge und einer strikten Durchsetzung kombiniert werden, die im Wesentlichen gebietet, Wahllisten zurückzuweisen, die den Regeln für ein ausgewogenes Geschlechterverhältnis nicht entsprechen. Bezeichnenderweise unterstreichen die Ergebnisse dieses Kapitels die Bedeutung eines ganzheitlichen Ansatzes für ein ausgewogenes Geschlechterverhältnis in Wahlen und allen Bereichen, die Gegenstand dieses Berichts sind. Geschlechterquoten sind, sofern sie entsprechend konzipiert und durchgesetzt werden, ein wichtiges und potenziell sehr wirksames Instrument. Ihr volles Potenzial kann jedoch nur dann ausgeschöpft werden, wenn sie in einem Umfeld zur Anwendung kommen, das die politische Beteiligung von Frauen ernst nimmt, indem formelle und informelle Hindernisse beseitigt werden und die Beteiligung von Frauen aktiv gefördert wird und indem das besonders akute Problem der Gewalt gegen Frauen in der Politik angegangen wird. Was das Gewaltproblem betrifft, so deuten die Ergebnisse darauf hin, dass es an wirksamen Mechanismen und Sanktionen gegen Sexismus und sexistische Hassreden fehlt, die speziell auf Wahlverfahren zugeschnitten sind.

Die Legislative (Kapitel 4)

Was die Förderung von Frauen in Entscheidungspositionen innerhalb der Legislative betrifft, so konzentriert sich der Bericht auf folgende Aspekte: positive Maßnahmen, Maßnahmen für einen institutionellen und kulturellen Wandel, Maßnahmen zur Unterstützung von Frauen, die einer Minderheit angehören, sonstige Fördermaßnahmen, Hindernisse, Rechtsprechung, Schutz vor Belästigung und sexueller Belästigung, Gewalt gegen Frauen und Datenerhebung. Die Ergebnisse deuten darauf hin, dass die Länder bei der Förderung von Frauen in Entscheidungspositionen in der Legislative unterschiedliche Ansätze verfolgen, sich jedoch überwiegend auf Quoten zu verlassen scheinen, die gelegentlich als Allheilmittel für die Förderung von Frauen in Entscheidungspositionen gepriesen werden. Während die Studienergebnisse bestätigen, dass Quoten zweifelsohne funktionieren, wenn sie zielgerichtet und stark sind, werden andere wichtige Aspekte, die sich auf die Vertretung von Frauen in Entscheidungspositionen in der Legislative auswirken oder diese sogar bedingen, nach wie vor weitgehend außer Acht gelassen. Eine bedenklich große Mehrzahl von Ländern gewährt Abgeordneten oder Ratsmitgliedern/anderen gewählten Amtspersonen auf regionaler oder lokaler Ebene keinerlei Rechte im Zusammenhang mit Schwangerschaft, Mutterschaft und Elternschaft oder schließt sie von gegebenenfalls vorhandenen Systemen zum Schutz vor Belästigung und sexueller Belästigung aus. Außerdem wurde festgestellt, dass nur wenige Länder über Maßnahmen zur Förderung von Frauen verfügen, die einer Minderheit angehören. Wo solche Maßnahmen existieren, gelten sie für Minderheiten im Allgemeinen und beinhalten keine Unterquoten für Frauen (spezielle Frauenquoten innerhalb größerer Quoten für Minderheiten). Die Ansätze für die Datenerhebung sind generell sehr unterschiedlich, wobei einige Länder bislang noch keiner Institution ein Mandat für die Erhebung von Daten über Frauen in Entscheidungspositionen in der Legislative erteilt haben.

In Bezug auf die Legislative stechen einige Schlussfolgerungen besonders hervor. Erstens wird in den Gesetzen und Politiken der ausgewogenen Vertretung von Frauen und Männern in Entscheidungspositionen *innerhalb* der Parlamente und der lokalen oder regionalen Ratsgremien – Vorsitzende oder stellvertretende Vorsitzende (amtierende Vorsitzende oder Sprecher), Vorsitzende und stellvertretende Vorsitzende von parlamentarischen Gremien, Generalsekretäre oder andere nicht gewählte Schlüsselpositionen im

Parlament usw. – wenig Beachtung geschenkt. Zweitens haben viele der in dem Bericht behandelten Länder noch keinerlei Maßnahmen ergriffen, um einen institutionellen und kulturellen Wandel herbeizuführen, als da wären Maßnahmen zur Anpassung der Verfahren und der Arbeitsweise der Legislative, der Infrastruktur oder der Finanzen. Drittens fehlt es an einer intersektionalen Perspektive auf die Frage der Förderung von Frauen in legislativen Entscheidungspositionen. Viertens existiert zwar immer noch eine ganze Reihe von Hindernissen für die Förderung von Frauen in Entscheidungspositionen in der Legislative, das größte Hindernis ist aber nach wie vor die politische Kultur und die geschlechtsspezifische Voreingenommenheit, gefolgt von dem Fehlen verbindlicher Vorschriften zur Förderung von Frauen in der Legislative. Fünftens werden weiche Maßnahmen und Programmaktivitäten verbindlichen Vorschriften immer noch vorgezogen. Sechstens gibt es wenig bis gar keine Rechtsprechung zu diesem Thema. Siebtens verfügen Legislativen nur selten über interne Schutzmechanismen gegen Belästigung und sexuelle Belästigung. Achters ist Gewalt gegen Frauen in Entscheidungspositionen in der Legislative weit verbreitet und hat sich zunehmend von der virtuellen in die reale Welt verlagert. Neuntens haben etliche Länder noch keiner Institution ein spezifisches Mandat für die Erhebung von Daten in diesem Bereich erteilt und mangelt es in den Ländern, die ein solches Mandat erteilt haben, häufig an konkreten Vorgaben für die Analyse und Veröffentlichung dieser Daten. Insgesamt sind die Mandate und Verfahren zur Datenerhebung nach wie vor sehr fragmentiert.

Die Exekutive (Kapitel 5)

Was die Förderung von Frauen in Entscheidungspositionen innerhalb der Exekutive betrifft, so konzentriert sich der Bericht auf folgende Punkte: gesetzliche und andere Bestimmungen zur Förderung von Frauen, Maßnahmen für einen institutionellen und kulturellen Wandel in der Exekutive, Vorschriften über die Beteiligung von Frauen, die Minderheiten angehören, Hindernisse für die Beteiligung von Frauen in der Exekutive, Wirksamkeit gesetzlicher Maßnahmen, Rechtsprechung bezüglich Maßnahmen zur Förderung eines ausgewogenen Geschlechterverhältnisses in der Exekutive, interne Mechanismen zur Bekämpfung geschlechtsbezogener Diskriminierung und Belästigung, Datenerhebung zur Geschlechterverteilung in der Exekutive.

Aus den Erörterungen in diesem Kapitel geht hervor, dass die Staaten in den letzten Jahren damit begonnen haben, eine Reihe von rechtlich bindenden und nicht bindenden Maßnahmen zur Förderung von Frauen in Entscheidungspositionen in der Exekutive zu etablieren. Beispiele dafür sind Geschlechterquoten für Exekutivorgane und Institutionen, „Tiebreak“-Klauseln für weibliche Bewerber in Einstellungsverfahren und Maßnahmen zur Vereinbarkeit von Beruf und Privatleben. Wie auch bei den anderen drei Schwerpunktbereichen – Wahlen, Legislative und öffentliche Unternehmen – ist die Einführung von Geschlechterquoten die bevorzugte Option für rechtlich bindende Maßnahmen zur Förderung ausgewogener Geschlechterverhältnisse in der Exekutive. Wenn gleichzeitig Sanktionen vorgesehen sind, können Quoten äußerst wirksame Instrumente sein, um den Anteil von Frauen in Entscheidungspositionen innerhalb der Exekutive zu steigern. Die Erkenntnisse der nationalen Expertinnen und Experten zeigen jedoch deutlich, dass die Hindernisse, denen sich Frauen in diesem Bereich gegenübersehen, häufig nicht auf gesetzliche Bestimmungen zurückzuführen sind. Ein entscheidender Faktor für die Chancen von Frauen auf eine maßgebliche Beteiligung an der Exekutive ist vielmehr die allgemeine, innerhalb der Institutionen bestehende Kultur. Vor diesem Hintergrund hebt das Kapitel nationale Initiativen hervor, die darauf ausgerichtet sind, Veränderungen auf struktureller anstatt auf individueller Ebene zu bewirken. In vielen der im Bericht behandelten Länder sind beispielsweise Gleichstellungspläne ein beliebtes Instrument, das auf strukturelle Veränderungen in der Exekutive abzielt. Der Erfolg der Maßnahmen hängt sowohl von ihrer Ausgestaltung ab – zum Beispiel davon, ob Sanktionen vorgesehen sind und wie diese durchgesetzt werden – als auch davon, ob ein breiteres integratives Umfeld für Frauen vorhanden ist. Eine der wichtigsten Schlussfolgerungen dieses Kapitels lautet daher, dass ein institutionelles Engagement für die Schaffung von Rahmenbedingungen, die Frauen den Zugang zu und den Verbleib in Positionen mit Entscheidungsbefugnissen ermöglichen, von größter Bedeutung ist.

Öffentliche Unternehmen (Kapitel 6)

Was die Förderung von Frauen in Entscheidungspositionen in öffentlichen Unternehmen betrifft, so konzentriert sich der Bericht auf positive Maßnahmen, Maßnahmen zur Unterstützung von Frauen, die Minderheiten angehören, Schutz vor Belästigung und sexueller Belästigung sowie Datenerhebung. Ermutigt durch den Vorschlag für eine Richtlinie des Europäischen Parlaments und des Rates zur Gewährleistung einer ausgewogenen Vertretung von Frauen und Männern unter den nicht geschäftsführenden Direktoren/Aufsichtsratsmitgliedern börsennotierter Gesellschaften und über damit zusammenhängende Maßnahmen haben die EU- und EWR-Länder einem ausgewogenen Geschlechterverhältnis und dem Frauenanteil in Leitungsorganen stärkere Aufmerksamkeit gewidmet.

In Bezug auf dieses Thema wurden mehrere wichtige Schlussfolgerungen gezogen. Erstens: Weiche Quoten, die auf die Leitungsorgane abstellen, werden gegenüber harten Quoten und Maßnahmen, die auf Direktoren/Aufsichtsratsmitglieder oder andere Entscheidungspositionen abstellen, bevorzugt. Bei Nichteinhaltung der Quoten werden nur selten Sanktionen verhängt, wohl aber Überwachungs- und Berichtspflichten. Zweitens: Intersektionale Sichtweisen fehlen gänzlich, ebenso Maßnahmen, die darauf abzielen, Frauen, die Minderheiten angehören, in Entscheidungspositionen in öffentlichen Unternehmen zu fördern. Drittens: In etlichen Ländern sind öffentliche Unternehmen verpflichtet, interne Schutzmechanismen gegen Belästigung und sexuelle Belästigung bereitzustellen; häufig ist der Schutz jedoch auf Personen beschränkt, die den Status von „Angestellten“ haben, was bedeutet, dass Politiker, Mitglieder von Leitungsorganen, Direktoren, Aufsichtsratsmitglieder und andere Personen, die keinen Angestelltenstatus haben, von dem Schutz ausgeschlossen sind. Viertens: Während die meisten Länder einer oder mehreren Institutionen ein spezielles Mandat für die Erhebung von Daten in diesem Bereich erteilt haben, haben einige dies noch nicht getan. Mandate und Verfahren zur Datenerhebung sind nach wie vor sehr fragmentiert.

Bewährte Verfahren (Kapitel 7)

Der Bericht stellt bewährte Verfahren in den vier Schwerpunktbereichen Wahlen, Legislative, Exekutive und öffentliche Unternehmen vor. Die meisten nationalen Expertinnen und Experten haben mindestens ein bewährtes Verfahren ausfindig gemacht; es gab jedoch auch etliche, die kein solches Verfahren gefunden haben. Die bewährten Verfahren, die ausfindig gemacht wurden, beziehen sich auf den Einsatz obligatorischer Quoten (Wahlen, Legislative, Exekutive, öffentliche Unternehmen), Kampagnen zur Sensibilisierung der Öffentlichkeit (Wahlen), taktische Abstimmungen (Wahlen), Vorauswahlen (Wahlen), Wahlkorrekturmechanismen (Legislative), verschiedene Maßnahmen zur Förderung eines institutionellen, verfahrenstechnischen und kulturellen Wandels (Legislative), Infrastrukturmaßnahmen wie Kindertagesstätten, Umkleieräume usw. (Legislative) und unabhängige Beschwerdemechanismen bei Belästigung und sexueller Belästigung (Legislative). Keine bewährten Verfahren wurden für den Umgang mit Gewalt gegen Frauen in Entscheidungspositionen bzw. für die Erhebung von Daten ausfindig gemacht, und nur ein bewährtes Verfahren wurde in Bezug auf den Zugang von Frauen, die Minderheiten angehören, zu Entscheidungspositionen in der Exekutive ausfindig gemacht (dieses beinhaltet jedoch keine Unterquoten).

Schlussfolgerungen und Empfehlungen (Kapitel 8)

In dem Bericht werden zehn wichtige Schlussfolgerungen gezogen, die für alle vier behandelten Schwerpunktbereiche gelten:

- (1) Die Hindernisse für die Beteiligung von Frauen sind vor allem in **fünf Bereichen – Betreuung, Geld, Vertrauen, Kultur und Kandidierendenauswahl – angesiedelt.**

- (2) Die Bemühungen verlagern sich, wenn auch in sehr begrenztem Maße, langsam von einer „nur“ deskriptiven Repräsentation auf **Maßnahmen, die einen institutionellen und kulturellen Wandel bewirken können**.
- (3) In allen untersuchten Bereichen – Wahlen, Legislative, Exekutive und öffentliche Unternehmen – **sind Quoten das am häufigsten eingesetzte Instrument**. Der Bericht zeigt, dass Quoten – sofern sie gut konzipiert sind, unterstützt werden und rechtlichen Biss haben – zu einer ausgewogeneren Beteiligung von Frauen führen.
- (4) **Generell fehlt eine intersektionale Sichtweise auf dieses Thema**. Es existieren fast keine Maßnahmen, die darauf zugeschnitten sind oder darauf abzielen, die Beteiligung von Frauen zu fördern, die Minderheiten angehören. Bereits bestehende Maßnahmen für die Beteiligung von Menschen, die Minderheiten angehören, sehen weder Raum speziell für Frauen vor, die diesen Minderheiten angehören, noch berücksichtigen sie diese Frauen auf andere Weise. Es existieren auch keine Unterquoten.
- (5) Der **Status gewählter Mandatstragender als „gewählte“ und nicht als „angestellte“ Vertreterinnen und Vertreter schafft Hindernisse** für Frauen – und für Männer –, insbesondere bei der Wahrnehmung von Rechten wie Mutterschafts- und Elternurlaub.
- (6) Die **Zunahme von Online-Gewalt gegen Frauen in politischen Entscheidungspositionen**, insbesondere gegen Abgeordnete und Regierungsmitglieder, hat nicht zu einer staatlichen Reaktion von gleicher Stärke geführt.
- (7) Maßnahmen zur Förderung eines ausgewogenen Geschlechterverhältnisses in politischen Entscheidungsprozessen in den vier Schwerpunktbereichen dieses Berichts zielen überwiegend auf Frauen ab und **übersehen Menschen in Machtpositionen wie z. B. Parteiführerinnen und Parteiführer**. Frühere Untersuchungen haben gezeigt, dass geschlechtsspezifische Voreingenommenheit in Rekrutierungs- und Auswahlprozessen eine entscheidende Rolle spielt und dass solche Maßnahmen daher auch auf die Parteispitzen abzielen sollten.¹ Dies ist jedoch nach wie vor nicht der Fall.
- (8) **Die Staaten schreiben politischen Parteien nach wie vor keine Maßnahmen vor**. Parteien gelten als Selbstverwaltungsorgane und somit besteht kein Raum für staatliche Eingriffe. Dort, wo Staaten auf freiwillige Maßnahmen gesetzt haben, die sich nur auf politische Parteien konzentrieren, bleiben positive Ergebnisse aus. Das Potenzial der Maßnahmen, mit denen der Staat die Arbeitsweise politischer Parteien im Hinblick auf ein ausgewogenes Geschlechterverhältnis beeinflussen kann, beschränkt sich weitgehend darauf, öffentliche Mittel zur Unterstützung politischer Parteien an Auflagen zu knüpfen. Leider hat dies häufig nur eine begrenzte Wirkung und führt daher nicht zu den gewünschten Ergebnissen.
- (9) Es existieren fast **keinerlei Mechanismen oder Maßnahmen, um Rückschritte zu verhindern**. Maßnahmen zur Förderung eines ausgewogenen Geschlechterverhältnisses in Entscheidungspositionen gelten in der Regel als positive Maßnahmen und sind damit zeitlich begrenzt. Ihre zeitliche Begrenztheit wird jedoch als selbstverständlich angesehen und fördert eine unrealistische Sichtweise, wonach einmal erzielte Fortschritte dauerhaft sind.
- (10) Der Bericht zeigt deutlich die **Mobilisierungskraft, die gesetzgeberische Maßnahmen auf EU-Ebene auf der nationalen Ebene in den Mitgliedstaaten haben können**. Wo die EU gesetzgeberisch tätig geworden ist, sind die Ergebnisse auf nationaler Ebene sichtbar, und selbst dort, wo keine

¹ Europarat (2016), *Third round of monitoring on the implementation of CM recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making*, Analysebericht, Daten 2016, Europarat, 106.

entsprechenden Maßnahmen getroffen wurden, sind Diskussionen zu diesem Thema in Gang gekommen.

In Anbetracht der langsamen Fortschritte bei der Förderung von Frauen in Entscheidungspositionen ist ein regulierendes Eingreifen der EU in dieser Frage wünschenswert. Nach den bisherigen Erfahrungen kann davon ausgegangen werden, dass sich EU-Maßnahmen positiv auf die Förderung, Unterstützung und Straffung von Mindeststandards für eine ausgewogene Vertretung von Frauen und Männern in politischen Entscheidungspositionen auswirken und erste Maßnahmen in den Ländern anstoßen können, in denen keine derartigen Fortschritte oder Bemühungen stattgefunden haben. Ein solches Eingreifen sollte obligatorische Maßnahmen favorisieren, die durch flankierende Maßnahmen unterstützt/verstärkt werden und rechtlichen Biss haben (z.B. durch Sanktionen). Quoten scheinen weithin auf Akzeptanz zu stoßen. Sie müssen jedoch gut konzipiert und entsprechend zeitlich bemessen sein, um eine nachhaltige Wirkung zu erzielen; außerdem müssen sie unterstützt werden und rechtlichen Biss haben. Weitere Maßnahmen für einen institutionellen und kulturellen Wandel, etwa in Bezug auf die Verfahren und Arbeitsweise der Legislative, Infrastruktur und Finanzierung, sollten nicht der Politik oder der freiwilligen Einhaltung überlassen werden, da sie notwendig sind. Diejenigen Maßnahmen, die sich in der Vergangenheit als wirksam erwiesen haben (z.B. Öffentlichkeitskampagnen), sollten als Bestandteil der Bemühungen institutionalisiert, mit ausreichenden Mitteln ausgestattet und als Investition in die Dauerhaftigkeit jeglichen Fortschritts betrachtet werden. Es sollte ein Paradigmenwechsel in Betracht gezogen werden, der es ermöglicht, einige dieser Maßnahmen als Merkmale des Regierungshandelns zu konzipieren, um die Beachtung des Grundsatzes der Öffentlichkeitsbeteiligung für alle – nicht nur als vorübergehende, korrigierende Maßnahme, sondern als wesentliches demokratisches Prinzip, unter Einbeziehung einer intersektionalen Perspektive – zu gewährleisten. Gleichzeitig sollten interne (nationale) Dialoge über Reformen des Wahlsystems gefördert und die Rechte überdacht werden, die mit dem Status „gewählter“ Amtspersonen, insbesondere Abgeordneten und Regierungsmitgliedern, einhergehen. Die Bekämpfung von Online- und Offline-Gewalt gegen Frauen sollte eine Priorität sein. Weitere Maßnahmen sollten auf die politischen Parteien abzielen, um diese dazu zu ermutigen, Schritte zur Verbesserung des Geschlechtergleichgewichts in Entscheidungsprozessen, sowohl intern als auch in Bezug auf Kandidierende für Wahlen, zu unternehmen. Dazu sollten auch Maßnahmen für eine stärkere Sichtbarkeit von Frauen in politischen Parteien sowie Bildungsmaßnahmen und Maßnahmen zum Aufbau von Kapazitäten gehören, die auf (Männer als) politische Entscheidungsträger abzielen. Schließlich sollten Berichterstattung und Monitoring eine Bewertung und Anpassung der ergriffenen Maßnahmen ermöglichen, einschließlich des Monitoring von Verbleibquoten und/oder der Gründe von Frauen, aus der Politik auszusteigen.

Ungeachtet der gelegentlichen Wellen von Anti-Gender-Ressentiments unterstützt die breite EU-Öffentlichkeit die Gleichstellung von Frauen und Männern als einen Wert. Die Europäische Union sollte dies berücksichtigen und Maßnahmen ergreifen, die in der Lage sind, bei der Förderung von Frauen in politischen Entscheidungspositionen kontinuierliche und nachhaltige Fortschritte zu bewirken.

1 Introduction

1.1 Context and scope

Across the EU, women are underrepresented in decision making in essentially all important areas of life, including in politics. According to the latest statistics of the European Institute of Gender Equality (EIGE), in the EU27, women accounted for only 32.4 % of senior ministers, 32.8 % of members of national parliaments and 35 % of regional assemblies.¹ There also exist large disparities from country to country when it comes to women's representation in the political sphere, with several countries scoring well below the EU average. Parity or gender balance in political representation exist only in a handful of states, while women outnumbering men in political decision-making positions is a very rare occurrence.

The reasons for women's underrepresentation in politics are several and multifaceted. Political scientists have long studied the position of women in politics, highlighting the many barriers they face in accessing and retaining positions with decision making powers. In Europe, legal scholarship examining the role of law in bringing about transformative change by promoting gender balance in political decision making is more limited and normally covers a handful of countries.² In recent decades, however, many European states have introduced hard and soft law seeking to increase women's representation in politics. There is therefore a need to map and comparatively examine these efforts and the results they have yielded so far. This is what this report aims to do.

The purpose of this report is to analyse the promotion of gender balance in decision making in political life in the 27 EU Member States, Iceland, Liechtenstein, Norway and the United Kingdom. The analysis focuses on the promotion of gender balance in four areas: elections, the legislative branch, the executive branch and public enterprises. The aim of the report is fourfold. First, to map, compare and analyse the current legal – including both hard and soft law – and policy frameworks for the promotion of gender balance in political decision making in the countries covered by the report. Secondly, to identify obstacles to women's equal and effective participation in political decision making. Thirdly, to identify any promising national practices with the potential to strengthen gender balance in political decision making. Finally, to identify areas where the European Union, particularly the European Commission, could act to promote gender balance in political decision making. As such, the report directly supports the implementation of the Gender Equality Strategy 2020-2025³ by collecting data on and generating an analysis of the promotion of gender balance in decision making in political life, and by facilitating the exchange of promising/best practices, which can be built on through other European Commission initiatives, such as the Mutual Learning Programme in gender equality and the Gender Equality Strategy Monitoring Portal.⁴

The focus of the report is on legal regulation and covers both hard law and soft law. While research shows beyond doubt that practices, cultures and other factors beyond the law play an important role in discouraging and encouraging the promotion of women in public decision making, this report has been written for a network of legal experts – EELN – and will therefore focus primarily on legal measures and on mechanisms and structures built to support their implementation. For the same reason, the report will provide a descriptive account of the legal measures available, supplemented by a critical analysis of their effectiveness.

The report concerns the position of women in political decision making. We focus deliberately on women as it is unquestionable that it is women who disproportionately lack representation in this area. At the same time, however, we use an intersectional prism where relevant and possible. Although the report

1 EIGE, Gender Statistics Database, 4th Quarter of 2022.

2 For a notable contribution from a legal perspective, see Lépinard, É. & Rubio-Marín, R. (Eds.) (2018), *Transforming Gender Citizenship: The Irresistible Rise of Gender Quotas in Europe* (Cambridge Studies in Law and Society), Cambridge: Cambridge University Press.

3 European Commission (2020), *A Union of Equality: Gender Equality Strategy 2020-2025* COM(2020) 152 final (Brussels, 5.03.2020).

4 <https://composite-indicators.jrc.ec.europa.eu/ges-monitor>.

recognises that many rights, such as the right to work or access to healthcare, are crucial for cultivating an environment that is conducive to gender balance in decision making, it will not investigate them specifically as this would stretch the scope of the report beyond what is doable in the timeframe foreseen for its drafting.

1.2 Key concepts

In this section we provide a note on the working definitions of key concepts used throughout this report: representation (descriptive, substantive, and symbolic) gender balance, women, decision-making positions, positive action, quotas, elections, legislature, executive, public enterprises.

Representation refers, generally, to making the voices, opinions and interests of a group – for the purposes of the report, those of women – present in the public/political sphere, public/political debates and decision-making processes. The analysis in this report is also attentive to three dimensions of representation: descriptive, substantive and symbolic.

Decision-making positions are positions:

- ‘from which it is possible to take or influence a decision:
 - within a domain: at organisational level. This restricts coverage to organisations having a major influence in the domain at the territorial level of interest, which is usually national but can also be international, European, regional or local;
 - within an organisation: at hierarchical level. This restricts coverage to positions within the hierarchy that have a major input to decision-making within the organisation.’⁵
- that grant the holder power to take, either individually or collectively, important decisions that impact others. For the purposes of this report, we focus on decision making in public life, in particular on elections, the legislature, the executive and public enterprises.

Descriptive Representation exists when the composition of decision-making bodies reflects the general characteristics and demographics of the represented population. Achieving descriptive representation for women, therefore, requires that women’s numbers in decision-making bodies reflect their share in the general population of a polity. For example, whereas women constitute 50 % of the population in a given polity, then women should constitute 50 % of members of bodies with decision-making powers. The systematic exclusion from or under inclusion of a group in decision-making processes ultimately undermines the democratic legitimacy of these processes. While descriptive representation is numerical and passive in the sense that it is met when the required number of a group’s representatives reaches positions of power, *Substantive Representation* requires actively representing the group’s voices and rights. In Hanna Pitkin’s words, ‘the representative acts in the interests of the represented, in a manner responsive to them’. Substantive representation therefore adds a requirement of responsiveness. Having the required number of women in decision-making bodies is necessary but not enough; it is further required that representatives acts in line with the interests of those they represent.

Symbolic Representation refers to representation through terms, construction and ranking by way of ‘metaphors, stereotypes, frames, and underlying norms and values in constitutions, laws, judicial decisions, treaties, administrative regulations, and public policies as well as in more traditional symbols such as national flags, images, public buildings, public spaces, and statues’.⁶

⁵ European Institute for Gender Equality, Gender Statistics Database: Women and Men in Decision Making (14 December 2022).

⁶ Childs, S. and Lovenduski, J. (2013), ‘Political Representation’ in Georgina Waylen et al (eds), *The Oxford Handbook of Gender and Politics*, OUP, 492-493, with a reference to: Meier, P. and Lombardo, E. (2010), ‘Towards a new theory on the symbolic representation of women’, Paper presented at the American Political Science Association annual meeting, Washington, DC, September, 2-5.

Strictly speaking, the notion of gender-balanced participation refers to the equal representation, or parity, of men and women in all public decision-making processes. For the purposes of this report, we follow the notion of *Gender Balance* proposed by the European Parliament which stipulates that the 'representation of either women or men in any decision-making body in public and political life should not fall below 40 %'.⁷ We also note that several countries covered in this report understand gender-balanced participation in terms of the 40 % threshold. When referring to the stricter notion of gender-balanced participation, we use the notion of parity instead.

Positive Action involves the use of measures that are taken by Government or other actors to enable or encourage members of 'protected groups' (such as women) to overcome or at least reduce current or past disadvantages (including discrimination), or to meet the needs of the protected group that differ from other groups, or to enable or encourage persons in the protected groups to participate in a particular activity where they might otherwise be under-represented.⁸

Gender Quotas are special measures that seek to increase the representation and participation of the underrepresented sex in public life by reserving a certain proportion of seats or representation in an electoral list for the underrepresented sex. For the purposes of this report, we focus on gender quotas for women as it is women who are disproportionately underrepresented in the four areas covered in the report.

Legislature refers to the legislative branch of government broadly understood to include elected positions in national and federal parliaments; for the purposes of this report, we also include local (municipal) and regional councils. The specific focus in this report is on positions with decision-making powers within the legislature. Examples of such positions include: presidents, vice-presidents, and members of parliaments, presidents, vice-presidents, and members of parliamentary bodies, presidents, vice-presidents, and members in permanent, temporary or ad-hoc delegations, mayors, presidents of councils, vice-presidents of councils, members of councils or assemblies.

Executive refers to the executive branch of government which includes state governments, federal governments, regional governments, presidents, presidential councils and the public administration. The report focuses on positions with decision-making powers within the executive, such as: presidents of countries, prime ministers, deputy-prime ministers, ministers, deputy-ministers, high political officials, counselors, secretaries, members of presidential councils and other public decision-making bodies established and/or headed by the president, high decision-making positions within central governments (the 'first tier of administration') and regulatory agencies, including agencies on financial regulation, public health and social and economic councils.

Public enterprises are business organisations wholly or partially owned by the state and managed or controlled by a public authority. The services offered via public enterprises can vary from state to state; the report focuses on decision-making positions within public enterprises relevant in each national context.

1.3 Methodology

The report draws mainly on data and information gathered from national reports provided by the national experts of the EELN. National experts answered a detailed questionnaire (see the annex to the report) containing five sets of questions on: elections, the legislature, the executive, public enterprises, good practices. The 31 national experts were asked to provide information on and assessment of hard and soft law measures on gender-balanced political decision-making, case law and studies relevant to their country, as well as to discuss any obstacles facing women in this field. The experts' answers are based

7 European Parliament, Women in decision-making (B5-0180/2000) (OJ C 346/82) (04.12.2000).

8 See, McCrudden C. (2019), *Gender-based positive action in employment in Europe. A comparative analysis of legal and policy approaches in the EU and EEA*, Luxembourg: Publications Office of the European Union.

on the information publicly available to them at the cut-off date (17th June 2022). The authors of this thematic report comparatively analysed the national experts' answers and insights, using thematic analysis and comparison as data analysis methods, and formulated follow-up questions where necessary. The findings from the analysis of national experts' answers is presented in chapters 3, 4, 5, 6 and 7. chapter 2 is based on review and critical examination of international and regional legal standards relevant to gender-balanced representation in political decision-making. chapter 8 is largely drawn up based on a comparative method.

1.4 Structure of the report

The report is divided into eight chapters. The **Introduction** sets the context and scope for the report and explains its methodology. **Chapter 2** provides an account of international and European law standards on gender balance in political decision making with a focus on United Nations, Council of Europe, Organization for Security and Co-operation in Europe and EU instruments. **Chapter 3** offers a comparative discussion of national provisions on gender balance in elections. **Chapter 4** focuses on national provisions promoting gender balance in legislatures. **Chapter 5** discusses the promotion of gender balance in Government (the executive). **Chapter 6** focuses on gender balance within public enterprises. **Chapter 7** explores some of the best national practice identified in relation to gender balance in political decision making. **Chapter 8** presents the report's 10 key conclusions and identifies potential ways to strengthen the role of women in political decision making.

2 International and regional standards

2.1 Introduction

This chapter examines the international (United Nations) and European regional (Council of Europe, Organization for Security and Co-operation in Europe, and European Union) legal framework on the participation of women in public political life. It focuses on the standards in relation to participation of women in elections and on promotion of women to decision-making positions in the legislature, the executive and public enterprises. The chapter looks at the limitations, shortcomings and possible inconsistencies of this framework with a view to enabling and supporting the promotion of women in political decision-making positions.

The chapter affirms that the standards for promotion of gender-balance in decision-making positions can be found in several international human rights instruments which impose legal obligations on all State Parties, including all EU and EEA countries. While reaching or abiding by these standards can be done via a number of law and policy options, as shown later in this report (Chapters 3-7), the standards themselves are not optional, but binding. No significant reservations or declarations have been made in respect of any of the provisions discussed in this Chapter.⁹ The hard law obligations are quite general, which is not uncommon in international human rights law. In the absence of specific guidance, individual countries have room to choose the most appropriate national approaches in order to align with the standards. However, this also leaves a lot of room for very loose interpretation as to what alignment with these standards means, and creates a need for significant further interpretation. This has been usually done through instruments which, starting from hard law provisions, put forward authoritative interpretations of the law (such as the general recommendations of the CEDAW Committee) or soft law (such as resolutions or recommendations in the Council of Europe). These instruments provide greater direction and clarity and offer a wealth of good practices that countries that are willing to take on the numerous challenges in the participation of women can follow. However, these instruments are not legally binding.

The international standards discussed in this chapter, as provided under hard law, are largely focused on the following:

- passive voting rights: the right to stand as candidate in elections;
- active voting rights: the right to vote at elections;
- adoption of temporary special measures to ensure equal participation in decision-making positions;
- gender-balanced descriptive representation of women, usually set to at least 40 % of women and of men;
- participation of women and men in public policy processes at any level or scale on an equal footing; and
- an obligation of the states to eliminate all laws, regulations and practices that prevent or restrict women's participation in the political process in a discriminatory manner.

The standards in place at present, with few exceptions,¹⁰ pertain largely to the promotion of the participation of women and, despite the mainly symmetrical approach which generally addresses 'the underrepresented sex or gender', they are not aimed at improving the participation in public life of all genders as they do not include persons who do not self-identify with the two extreme poles of the gender binary,¹¹ and do not deal specifically with the right to participation in public life for non-binary persons

9 A few restrictions on Article 7 CEDAW have been made, such as to affirming royal succession in some of the countries. But, these do not affect the issues in the main focus of this report.

10 Yogyakarta Principle 25 is a notable exception. According to it, states have the obligation to '[d]evelop and implement affirmative action programmes to promote public and political participation for persons marginalised on the basis of sexual orientation, gender identity, gender expression or sex characteristics.'

11 The situation in practice is very much similar. The world's first ever trans MP was elected only in 2005 - Georgina Beyer in New Zealand. She was also elected as the world's first trans mayor, ten years before this.

outside of the general human rights framework.¹² Having said that, the chapter does not only look at standards that focus on women specifically, but extends to any standards on participation in politics and public life that would reflect diversity among women. As a result, the chapter includes the existing standards for the participation of Roma, persons with disabilities, and (persons from) national minorities and indigenous groups, as these also apply to women from these groups. In this way, the chapter aims to look at the existing standards through an intersectional lens. This results in formulating two pillars of the principle of participation for women: a general pillar and a community pillar. The general pillar, which can also be conceptualised as an individual pillar, requires opportunities for participation of all women in all levels of government existing within a state – federal, national, regional and local. The community pillar refers to the participation of women from a specific group in their own communities and group systems, for example the participation of women in ethnic minority community affairs. Taken together, they should result in the participation of women in decision making on all decisions that pertain to them specifically.

The chapter first looks at the standards from the United Nations, followed by the standards from the Council of Europe, OSCE, and the European Union.

2.2 United Nations

According to the Universal Declaration of Human Rights (1948) (UDHR), women and men are entitled to the rights and freedoms proclaimed in the UDHR without distinction of any kind (Article 2). One such right is the right to participate in public and political life, Article 21. Article 21 (1) applies to all people ('everyone') and provides the right to contribute to the government in one's country directly or indirectly through chosen representatives ('directly or through freely chosen representatives'). On representative participation, the UDHR provides that representatives should be chosen on periodic, free, genuine elections by 'universal and equal suffrage' (Article 21 (2) and (3)).¹³

The UDHR was followed by the Convention on the Political Rights of Women (1953). This convention provided for the active right to vote (Article 1) and the passive right to vote (Article 2). It also provided for the right of women to hold public office and exercise all public functions.¹⁴ These rights were incorporated in the Convention on the Elimination of all forms of Discrimination Against Women (see below).

The International Covenant on Civil and Political Rights (ICCPR) (1966) recognises the principle of equality and non-discrimination in relation to all rights recognised in the Covenant without any distinction as to sex and other non-discrimination grounds, ending in an open-ended provision – 'or other status' (Article 2).¹⁵ Article 3 provides that the rights in the ICCPR will be enjoyed equally by women and men. This includes the right to participation in public and political life established in Article 25. In particular, it sets out the right and opportunity for 'every citizen', without unreasonable restrictions, to vote, stand in elections, participate in public affairs, and to have access to public service:

'Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) to have access, on general terms of equality, to public service in his country.' (Article 25, ICCPR).¹⁶

12 A detailed overview of the general framework is provided in: <https://www.equalitylaw.eu/document?task=document.viewdoc&id=4739>.

13 United Nations, Universal Declaration of Human Rights (1948).

14 United Nations, Convention on the Political Rights of Women (1953).

15 The same provision is included in the International Covenant on Economic, Social and Cultural Rights. Due to the focus of this report, this Covenant is not included in this chapter. Source: International Covenant on Economic, Social and Cultural Rights.

16 United Nations, International Covenant on Civil and Political Rights (1966).

General Comment No. 25 adopted by the Human Rights Committee focuses specifically on this article. This comment makes it explicit that active and passive voting rights, the right to participate in public affairs, and to have access to public service should be enjoyed without any discrimination including on the grounds of sex (paragraph 3) and that any limitations to these rights must be based on 'objective and reasonable criteria' (paragraph 4).¹⁷ It does not, however, elaborate any particular obligations pursuant to Article 25 in the context of women.

The UDHR and the ICCPR raised the issue of equal opportunities of women and men in decision-making positions to the level of a legal obligation. However, they did not establish an obligation to achieve equal results, nor an obligation to promote equal representation of women and men in decision-making positions. This was rectified during the UN decade of women's rights – 1975-1985, when the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) was adopted in 1979.

CEDAW includes several important provisions. The preamble establishes discrimination against women as an obstacle to their participation in, among other things, political life on an equal footing with men, and ties the 'maximum participation of women on equal terms with men in all fields' to 'the cause of peace'.¹⁸ Article 7 establishes the right to participation in public and political life by obliging State Parties first, to undertake 'all appropriate measures to eliminate discrimination against women in the political and public life of the country' and, secondly, to 'ensure to women, on equal terms with men' the rights to active and passive voting right,¹⁹ right to participate in public affairs,²⁰ to hold public office and perform public functions,²¹ and to participate in relevant civil society.²² The use of 'in particular' in the chapeau suggests that the task applies to all aspects of public and political life, not just those listed in paragraphs (a) to (c).²³ Article 8 establishes an obligation for the State Parties, without discrimination and on equal terms with men, to undertake 'all appropriate measures' that will ensure that women have the opportunity to 'represent their Governments at the international level and to participate in the work of international organizations' (Article 8, CEDAW). According to CEDAW, discrimination is 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.' (Article 1, CEDAW). Article 14, paragraph 2(f) establishes the right to participation of rural women, according to which rural women have the right '[t]o participate in all community activities'.

CEDAW clearly established an obligation both to promote equal representation of women and men and to achieve equality of results. Article 7 is considered to be justiciable, in particular in terms of ensuring the realisation of the right without discrimination.²⁴ The full breadth of the obligations is well elaborated in several of the general recommendations of the CEDAW Committee, and particularly in the CEDAW Committee's General Recommendation No. 23 (1997) on women in political and public life and General

17 General Comment No. 25 adopted by the Human Rights Committee.

18 United Nations, Convention on the Elimination of all forms of Discrimination Against Women (1979).

19 '[T]o vote in all elections and public referenda and to be eligible for election to all publicly elected bodies' (United Nations, Convention on the Elimination of all forms of Discrimination Against Women (1979), Article 7).

20 '[T]o participate in the formulation of government policy and the implementation thereof' (United Nations, Convention on the Elimination of all forms of Discrimination Against Women (1979), Article 7).

21 '[T]o hold public office and perform all public functions at all levels of government' (United Nations, Convention on the Elimination of all forms of Discrimination Against Women (1979), Article 7).

22 '[T]o participate in non-governmental organizations and associations concerned with the public and political life of the country' (United Nations, Convention on the Elimination of all forms of Discrimination Against Women (1979), Article 7).

23 Wittkopp, S. (2012), 'Article 7', in Freeman M. et al (eds.), *The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary*, Oxford University Press, p. 201.

24 Wittkopp, S. (2012), 'Article 7', in Freeman M. et al (eds.), *The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary*, Oxford University Press, p. 218.

Recommendation No. 25 (2004) on temporary special measures.²⁵ A number of other recommendations specify these standards in relation to specific issues²⁶ or specific groups.²⁷

The Committee's General Recommendation No. 23 (1997) on women in political and public life (GR23) requires that women and men hold, on an equal basis, active and passive voting rights, the right to participate in public policy formulation and implementation at all levels of government, and to participate in civil society organisations concerned with public and political life.²⁸ The removal of *de jure* barriers is only the first step, and at the time of drafting GR23, it was identified as still very much needed because the 'law excludes women from exercising royal powers, from serving as judges in religious or traditional tribunals vested with jurisdiction on behalf of the State' (paragraph 31), and that although women's descriptive representation is 'increasing at the lower levels and in posts usually associated with the home or the family, they [n. women] form only a tiny minority in decision-making positions concerned with economic policy or development, political affairs, defence, peacemaking missions, conflict resolution or constitutional interpretation and determination' (paragraph 30). GR23 highlights that '[w]hile removal of *de jure* barriers is necessary, it is not sufficient' and that State Parties have an 'obligation to ensure that temporary special measures are clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens' (paragraph 15). State Parties should not include any criteria for voting which may disproportionately affect women, such as level of education (paragraph 23). State Parties have an obligation to identify the barriers for women's participation in the formulation of government policy and to remove them (paragraph 27). Governments have the responsibility to nominate women for senior cabinet and administrative positions and as members of government advisory bodies, to lead initiatives, undertake action, and lead and guide public opinion and change attitudes that will result in equal participation of women with men in all levels of government (paragraphs 28 and 29). GR23 cites several factors that may serve as obstacles to the overall aim, referring both to a lack of capacities among women (such as lack of formal education and skills, lack of knowledge of political processes and opportunities) and, more importantly, a lack of capacity in the society (such as discriminatory laws, limited provision of information, and stereotyping).

General Recommendations 23 provides several clarifications on the obligations arising from Article 7. In relation to voting (Article 7 (1-a)), State Parties have the obligation to: identify, implement and monitor measures that will achieve a balance between women and men holding publicly elected positions; ensure that women understand their right to vote, the importance of this right and how to exercise it; ensure that barriers to equality are overcome, including those resulting from illiteracy, language, poverty and impediments to women's freedom of movement; and to assist women experiencing such disadvantages to exercise their right to vote and to be elected (paragraph 45). In relation to the formulation and implementation of government policy and to holding public office and performing all public functions at all levels of government (Article 7 (1-b)), State Parties have the obligation to identify, implement and monitor measures that will ensure equality of representation of women in the formulation of government policy, women's enjoyment in practice of the equal right to hold public office, and the use of recruiting processes directed at women that are open and subject to appeal (paragraph 46).

General Recommendation No. 25 (2004) on temporary special measures (GR25)²⁹ makes clear that the obligation regarding temporary measures (Article 4 (1)) includes measures that State Parties should undertake in order 'to accelerate the equal participation of women in the political, economic, social, cultural, civil or any other field' (paragraph 18). GR25 states that the term 'measures' includes a 'wide

25 Also, in: Analysis of articles 7 and 8 of the Convention: Convention on the Elimination of All Forms of Discrimination against Women, UN Doc CEDAW/C/1994/4 (30 November 1993).

26 For example, participation in decision-making in relation to gender-based violence (General Recommendation No. 35), participation in management structures in relation to education (General Recommendation No.36), disaster risk reduction in the context of climate change (General Recommendation No. 37).

27 For example, rural women (General Recommendation No. 34 and indigenous women and girls (Draft General Recommendation No. 39).

28 CEDAW Committee, General Recommendation No. 23 Political and public life.

29 CEDAW Committee, General Recommendation No. 25 (2004) on temporary special measures.

variety of legislative, executive, administrative and other regulatory instruments, policies and practices, *such as* outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems.’ (paragraph 22, emphasis added). The inclusion of ‘such as’ makes it clear that the cited measures are merely examples, and not a prescriptive and closed list. The temporary nature of these measures is emphasised, alongside a clarification that some of them might be in place for a longer period of time (paragraph 20). The duration is to be established depending on the result, which is to be obtained, and the decision to discontinue them should be based on having achieved results that have been sustained for a period of time (paragraph 20), rather than on having reached the end of a ‘predetermined passage of time’ (paragraph 20). This means that there are two conditions for discontinuing a measure – having achieved the required result and for the result to have been sustained for a period of time. Yet, when it comes to quotas, the CEDAW Committee has oscillated between listing them in temporary special measures or separately, suggesting that they should be permanent in nature.³⁰

Although CEDAW’s 14 2(f) suggests that there is only one participation pillar for rural women ([t]o participate in all community activities’), General Recommendation No. 34 on the rights of rural women (GR34) makes it clear that there are two pillars – participation in their own communities and in decision making at all levels.³¹ At the time of drafting, GR34 identified inadequate representation on all levels, and possible obstacles located in both the capacity of women (‘lack of education, language and literacy constraints’ and ‘limited knowledge of relevant legal, political and institutional procedures’) and, more importantly, of the society (‘limited mobility and transport, conflict and security concerns, discriminatory gender norms and stereotypes, the task of fetching water and other responsibilities’) (paragraph 53, GR34). This recommendation also underlines that, in order to ‘ensure the active, free, effective, meaningful and informed participation of rural women in political and public life, and at all levels of decision making, State parties should implement general recommendations Nos. 23 and 25’ (paragraph 54, GR34).

General Recommendation No. 39 on the rights of indigenous women and girls (GR39)³² underlines well the two pillars of participation in public and political life for indigenous women and girls – participation in their own communities and indigenous systems and participation at local, national, and international levels. In this general recommendation, the CEDAW Committee reiterates GR23 and GR25 and places them in the context of indigenous women and girls. GR39 also more clearly spells out the obligation to recognise and address intersectional discrimination and its compounded negative impact (paragraph 23 (a)),³³ and to ‘take steps to fully respect the right to free, prior, and informed consent, and the effective participation of indigenous women and girls in decision-making on matters affecting them’ (paragraph 23 (h)). The State Parties also have an obligation to promote meaningful, real and informed participation of indigenous women, including through temporary special measures (paragraph 46 (a)), accountability mechanisms that can prevent political parties from discriminating against indigenous women (paragraph 46 (b)), and measures for the promotion of the participation of indigenous women, such as campaigns, work with political parties, etc. (paragraph 46 (e)). The GR39 also requires that State Parties act ‘with due diligence to prevent, investigate, and punish all forms of political violence against indigenous women politicians, candidates, human rights defenders, and activists, at the national, local, and community levels’ (paragraph 46 (d)).

The UN Convention on the Rights of Persons with Disabilities (CRPD) has full and effective participation and inclusion in society, accessibility, and equality between men and women as general principles of the convention (Article 3 (3), (6) and (7)). Article 4(3) provides that the decision-making that implements

30 Wittkopp, S. (2012), ‘Article 7’, in Freeman M. et al (eds.) *The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary*, Oxford University Press, p. 215.

31 CEDAW Committee, General Recommendation No. 34 on the rights of rural women.

32 CEDAW Committee, General Recommendation No. 39 (2022) on rights of indigenous women and girls.

33 Also recognised in the: OHCHR ‘Guidelines for States on the effective implementation of the right to participate in public affairs’, pp. 7-8.

the CRPD shall be conducted by close consultation and active involvement of ‘persons with disabilities, including children with disabilities, through their representative organizations’. Article 5 provides an obligation for State Parties to take appropriate steps towards reasonable accommodation (Article 5(3)). The CRPD very clearly recognises the particular position of women with disabilities and the fact that they are subject to multiple discrimination, and obliges the State Parties to take measures that will ensure the full and equal enjoyment by them of all human rights and fundamental freedoms (Article 6 (1)) including through all appropriate measures (Article 6 (2)).³⁴ The most relevant article in the CRPD in this respect is Article 29, which establishes the obligation for the State Parties to ‘guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others’ and to ensure participation ‘directly or through freely chosen representatives’ (Article 29 (a)). Article 29 effectively places a duty regarding the ‘opportunity to enjoy’, which is a duty ‘on State Parties to guarantee, through the adoption of positive measures, that all eligible persons have the actual opportunity to exercise their political rights.’³⁵ The State Parties should enable active and passive voting rights for persons with disabilities including by making the election process, as a whole, appropriate, accessible and easy to use and understand, including by creating conditions for casting a secret ballot and if requested, appropriate and freely selected, by providing assistance in voting, and the exercise of their passive voting rights free from intimidation (i, ii in Article 29 (1-a)). Once a person is elected to office, conditions should be put in place for them to ‘effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate’ (Article 29 (a)(ii)).

Other commitments have also been made, such as the Nairobi 1985 Conference and the Nairobi Forward-looking Strategies for the Advancement of Women to the year 2000, and the Beijing Declaration and Platform for Action (1995) (BDPA). The BDPA is particularly pertinent today. BDPA included women in power and decision making as one of its 12 critical areas of concern. It stated a determination to remove ‘all the obstacles to women’s active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making’ (paragraph 1). It declared that ‘women’s empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to power, are fundamental for the achievement of equality, development and peace’ (paragraph 13). It required ‘adequate mobilization of resources at the national and international levels as well as new and additional resources to the developing countries from all available funding mechanisms, including multilateral, bilateral and private sources for the ... commitment to equal rights, equal responsibilities and equal opportunities and to the equal participation of women and men in all national, regional and international bodies and policy-making processes’ (paragraph 5). It set a ‘commitment to equal rights, equal responsibilities and equal opportunities and to the equal participation of women and men in all national, regional and international bodies and policy-making processes’ (paragraph 36).

The General Assembly resolutions 58/142 (2003) and 66/130 (2011) on women and political participation confirm these commitments and further propose possible actions for the promotion of gender balance in decision making in political life. The report by the Working Group on Discrimination against Women and Girls, ‘Thematic analysis: eliminating discrimination against women in political and public life with a focus on political transition’³⁶ focused on participation in political transition, but draws on important lessons from all UN Member States, and underlines the importance of quotas and other temporary special measures, proportional electoral systems, the dismantling of gender stereotypes and discriminatory practices, and work of and with political parties on boosting the participation of women, recalling the important impact of the Beijing Declaration and Platform for Action. The agreed conclusions of the UN Commission on the Status of Women’s 65th session on ‘Women’s full and effective participation and decision-making in

34 A detailed historical overview of the development of the UN standards regarding the human rights of women with disabilities can be found in: Mykitiuk, R. and Chadha, E. (2018), ‘Article 6 – Women with Disabilities’ in Bantekas, I. et al (eds.), *The UN Convention on the Rights of Persons with Disabilities – A Commentary*, Oxford University Press, pp. 172-177.

35 Du Plessis, I.G. and Njau, J. (2018), ‘Article 29: Participation in Political and Public Life 834’ in Bantekas, I. et al (eds.), *The UN Convention on the Rights of Persons with Disabilities – A Commentary*, Oxford University Press, p. 843.

36 Then ‘Working Group on the issue of discrimination against women in law and in practice’.

public life, as well as the elimination of violence, for achieving gender equality and the empowerment of all women and girls³⁷ shone further light the importance of the issue of elimination of violence for the promotion of participation of women including in decision-making positions in public life.

UN Security Council resolution 1325 (2000) on women, peace and security devotes its chapter 3 to political participation. The resolution emphasises the importance of the equal participation of women and men in conflict prevention and resolution, and in peace building, and the contribution towards international peace and security that can come from women and girls' full participation in peace processes.³⁸

2.3 Council of Europe

The development of the state obligations under the auspices of the Council of Europe started with the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The ECHR provides for protection against discrimination, including on the grounds of sex (Article 14), and an obligation of the State Parties to 'hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature' (Article 3, Protocol 1, ECHR). Article 14 provides for protection against discrimination in relation to the enjoyment of the rights that fall within the ambit of the ECHR on an open-ended list of protected grounds, which includes sex.

Protocol 12 expands the protection from discrimination to the 'enjoyment of any right set forth by law' (Article 1, Protocol 12, ECHR). Protocol 12 is a useful instrument against the limitations of the ambit of the Convention itself. However, Protocol 12 is in force in only 10 EU countries (Croatia, Cyprus, Finland, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia, Spain, and has been signed, but not yet ratified in 11 EU Member States (Austria, Belgium, Czechia, Estonia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Slovakia), and in three EEA countries (Iceland, Liechtenstein, Norway). Protocol 12 has neither been signed nor ratified in six EU Member States (Bulgaria, Denmark, France, Lithuania, Poland, Sweden) and in one EEA country (United Kingdom).

The case law on this issue in the ECHR is not very developed. The 2012 admissibility decision in *Staatkundig Gereformeerde Partij v. the Netherlands* stands out. It pertained to the refusal of a political party – the Reformed Protestant Party (Staatkundig Gereformeerde Partij – SGP) – to allow women to stand for election. After the Dutch Supreme Court found that the state had an obligation to undertake action that would make the SGP allow women to exercise a passive voting right as candidates of the party, and that freedom of religion cannot be used as a justification for discrimination, the SGP raised a case in front of the European Court of Human Rights (ECtHR). However, the ECtHR declared the case as inadmissible in 2012. In the admissibility decision, the ECtHR noted that gender equality is a key objective of the Council of Europe, which means that only very weighty reasons can justify a difference in treatment on the grounds of sex. Regardless of being based on 'deeply-held religious conviction', the ECtHR found that 'the advancement of the equality of the sexes in the member States of the Council of Europe prevents the State from lending its support to views of the man's role as primordial and the woman's as secondary'.³⁹ The SGP has since made it formally possible for women to stand as candidates. There have been three women candidates from the SGP so far (on the case in front of the national courts, see section 3.8 of this report).

There have been several important milestones in the development of the understanding of the issue of gender-balanced representation in decision making in political life and in setting the level of its importance within the Council of Europe, including: the 1989 Strasbourg seminar on the democratic principle of

37 2021 (E/CN.6/2021/L.3) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/079/07/PDF/N2107907.pdf?OpenElement> 2021(E/CN.6/2021/L.3).

38 UN Security Council resolution 1325 (2000)3.

39 *Staatkundig Gereformeerde Partij v the Netherlands* App no 58369/10 (Third Section) (ECtHR, 10 July 2012).

representation; the first (Strasbourg, 1986), second (Vienna, 1989) and fourth (Istanbul, 1997) ministerial conferences on equality between women and men; and the Istanbul Declaration on equality between women and men as a fundamental criterion of democracy. There have also been several recommendations and resolutions of direct or indirect relevance for the promotion of gender balance in decision making in political life,⁴⁰ some pertaining to specific issues⁴¹ or specific groups,⁴² including Recommendation Rec (2003) 3 of the Committee of Ministers of the Council of Europe to Member States on balanced participation of women and men in political and public decision making.⁴³ While all of these developments are important, Recommendation Rec (2003) 3 is the key standard.

Recommendation Rec (2003) 3 understands balanced participation to mean that the 'representation of either women or men in any decision-making body in political or public life should not fall below 40 %'. The 40 % figure was established on the basis of the European Parliament 18 January 2001 resolution, which is related to the European Commission's Recommendation of 2 December 1996 on the balanced participation of women and men in the decision-making process (96/694/EC) (see section 2.5. European Union). For this reason, it is primarily focused on descriptive representation, rather than on substantive representation. The efforts of Recommendation Rec (2003) 3 are primarily geared towards building critical mass, which it considers to be crucial 'in order to be able to exert a real influence on the decisions taken'.⁴⁴ The recommendation asks Member States of the Council of Europe to focus their actions on several key interventions: promoting gender balance and publicly recognising the benefits for democracy of sharing decision-making power between women and men; upholding the civil and political rights of both women and men; ensuring voting rights; reviewing legislation and practice;⁴⁵ promoting and encouraging special measures; setting targets in an established timeframe; informing all stakeholders of the recommendation; and monitoring and evaluating progress.

40 Recommendation 1413 (1999) on equal representation in political life; Recommendation 1008 (1985) on women in politics; Recommendation 741 (1974) on the legal position of women; Resolution 606 (1975) on the political rights and position of women; Recommendation 504 (1967) on the political, social and civic position of women in Europe; Resolution 356 (1967) on political, social and civic position of women in Europe; Recommendation No. R(96)5 on reconciling work and family life, or Recommendation No. R(98)14 on gender mainstreaming, and the older – Resolution on policy and strategies for achieving equality in political life and in the decision-making process 1st (Strasbourg, 4 March 1986) and the Resolution on policies to accelerate the achievement of real equality between women and men (Vienna, 4-5 July 1989).

41 For example, the CoE has also developed standards on particular issues of relevance, such as on gender equality standards and mechanisms (Recommendation CM/Rec (2007) 17 on Gender equality standards and mechanisms), participation of women in political parties (Parliamentary Assembly Resolution 1898 (2012), Political parties and women's political representation) and at the local and regional level (Congress of Local and Regional Authorities Recommendation 390 (2016)1 Women's political participation and representation at local and regional levels and Congress of Local and Regional Authorities Resolution 404 (2016) on Women's political participation and representation at local and regional levels) and on the elimination of sexist language as an important part of the standards towards gender equality. For example, Recommendation No. R (90) 4 of the Committee of Ministers to Member States on the Elimination of Sexism from Language (Adopted by the Committee of Ministers on 21 February 1990 at the 434th meeting of the Ministers' Deputies) has been clear on the need for 'encouraging the use, as far as possible, of non-sexist language to take account of the presence, status and role of women in society, as current linguistic practice does for men.' A more recent recommendation is Recommendation CM/Rec(2019)11 (adopted by the Committee of Ministers on 27 March 2019 at the 1342nd meeting of the Ministers' Deputies).

42 For example, on Roma women, the 2010 Strasbourg Declaration includes empowerment of Roma in general and on Roma women in specific for full participation in their communities and in society, for Roma women including through effective measures to achieve this. Source: CM(2010)133-final Strasbourg Declaration on Roma adopted at the Council of Europe High Level Meeting on Roma, Strasbourg, 20 October 2010. Two subsequent action plans on Roma (2016-2019, and 2020-2025) also included activities on the participation of Roma people, including through the successful joint programmes of the EU and the Council of Europe ROMED, ROMACT and ROMACTED. Or regarding persons with disabilities and women and girls with disabilities: Recommendation CM/Rec(2012)6 of the Committee of Ministers to member States on the protection and promotion of the rights of women and girls with disabilities and its predecessor – the Recommendation CM/Rec(2011)14 of the Committee of Ministers to member states on the participation of persons with disabilities in political and public life.

43 Council of Europe, Recommendation Rec (2003) 3, <https://rm.coe.int/1680519084>.

44 Explanatory memorandum of the Recommendation Rec(2003)3 of the Committee of Ministers of the Council of Europe to member states on balanced participation of women and men in political and public decision-making, p. 16.

45 According to the explanatory memorandum, this includes legislation on the electoral system, employment, civil service, labour-related rights, elected representatives, and gender equality, and practices on working methods in political parties, vacant post advertising, and procedures for nomination and promotion. Source: Explanatory memorandum of the Recommendation Rec(2003)3 of the Committee of Ministers of the Council of Europe to member states on balanced participation of women and men in political and public decision-making, p. 19.

Recommendation Rec (2003) 3 then provides a list of practical measures in the appendix, which the Committee of Ministers ‘invites’ the Governments of Member States to consider. The proposed *legislative and administrative measures* are: (1) to consider the constitutional and legislative changes necessary to carry out positive action measures and facilitate a balanced representation in political and public decision making, (2) to reflect equal power distribution in official language, (3) to introduce electoral reforms including introducing parity thresholds and to consider the use of zipper systems, (4) to use public funding of political parties to encourage the promotion of gender equality, (5) to reform electoral systems that produce negative gender balance outcomes, (6) to deal with simultaneous holding of electoral offices, (7) to improve working conditions for elected representatives, (8) to introduce measures for the reconciliation of work and private life, (9) to observe gender balance in Government appointments to public committees, (10) to observe gender balance in posts or functions where holders are nominated by the Government or other public authorities, (11) to ensure that selection, recruitment and appointment processes are gender sensitive and transparent, (12) to make the public administration serve as an example of gender balance, (13) to ensure that national delegations to international organisations and forums are gender balanced, (14) to ensure that international mediation and negotiating committees, particularly those dealing with conflict, are gender balanced, (15) to enable persons engaged in political and public decision making to take time off from their employment without being penalised, (16) to support and strengthen the national equality machinery for making a change in gender balance in public and political life, and (17) to set up parliamentary committees or delegations on women’s rights and equal opportunities and implement gender mainstreaming in their work.

The *support measures* proposed in Recommendation Rec (2003) 3 suggest that the Member States: (1) operate programmes, measures and so on in support of women’s organisations and other organisations working on gender equality; (2) set up of a data bank of women willing to serve in political and public decision-making positions; (3) provide networking opportunities for women at local, regional, national and international level; (4) support mentoring and work shadowing programmes, and other confidence and capacity-building activities for women with an interest in political and public decision-making positions; (5) training in information and communication technology for women who are elected representatives; (6) develop school curricula so as to better prepare young people for democratic citizenship; (7) promote young women in youth organisations and organisations of young people in politics; (8) encourage the participation of women from minority groups; (9) inform political parties of possible strategies used in other countries to boost the balanced participation of women and men in decision-making positions, and encourage them to use and to promote these strategies; (10) support social partners to establish support programmes for promoting balanced participation of women and men; (11) encourage enterprises and associations to ensure balanced representation in their decision making, especially those that receive public subsidies; (12) promote various awareness-raising campaigns, including on the importance of gender balance in political and public decision making and of the sharing of responsibilities between women and men in the private sphere, and by targeting specific groups; (13) organise interactive seminars to make key people in society aware of the importance of the balanced participation of women and men in all levels of decision making; (14) support non-governmental organisations and research institutes that work on the issue; (15) support and undertake research on the distribution of votes and on obstacles to balanced representation, and gender-sensitive research on various aspects of elected representation; (16) promote balanced participation in decision making in the media, support training and awareness raising among journalism students and media professionals, and encourage media professionals to provide visibility to both women and men candidates and elected representatives.

Finally, Recommendation Rec (2003) 3 also proposes *monitoring measures*, which encourage Member States to: (1) establish independent monitoring bodies, such as a parity observatory, or entrust the national equality machinery with a sufficient mandate for this task; (2) set up and apply indicators for monitoring and evaluation; (3) report to the national Parliaments on the measures taken and progress made; (4) publish accessible statistics on candidates for political office and on elected representatives containing information on their numbers, with disaggregated data including by sex; and (5) encourage regular analysis of the visibility and portrayal of women and men, especially during election campaigns.

The reports on the implementation of this recommendation suggest that there has been some progress, although it is uneven and non-linear, and provide valuable insight into what has worked and what has not. The 2016 report confirmed that, when it comes to electoral models, proportional systems work better for gender balance, and an open ballot makes little difference.⁴⁶ The report is clear that quotas work and are effective if they are ‘well designed and strong enough’ whereby strength is understood to mean ‘the quota percentage, whether they include a stipulation on rank order of women and men, and whether or not they include sanctions, as well as the type of sanction’.⁴⁷ Party quotas can also work only if they are strong enough and if they are supported by additional measures, but elements such as public funding or equality inside the political parties, while important as signs of political commitment, do not necessarily lead towards better results if such approaches are, the report finds, ‘empty vessels’.⁴⁸ The report also shows that although training women does not lead to better outcomes, training and awareness campaigns targeted at party leadership can be effective, in particular if they address the issue of gender biases in recruitment and selection.⁴⁹ Regarding legislative power, the Council of Europe third monitoring round found that only 4 % of the lower houses reached the target of 40 % representation, none of the upper houses, and there is an average representation below 40 %.⁵⁰ Only 17 % of the parliamentary committees were chaired by women. There is no conclusive evidence that women would more easily reach positions in the lower houses or in newer institutions, but it is clear that the more centralised or top-down the road into politics, the higher the representation of women.⁵¹ The report is clear on the non-linear nature of the developments and that there have been both setbacks and regression in some of the countries.

In relation to the executive branch of government, the report found high resistance to change. Only 11 % of the countries met the 40 % target and, overall, women head states or executives in only 20 % of the countries, hold on average 22 % of the ministerial positions (with the number of ministerial seats throughout the Council of Europe countries growing) and only 13.4 % of the mayoral positions. According to the report, this shows that strategies for boosting women’s participation work better when they are in the hands of few, which is usually at the national level, rather than many, which is usually at the local level.⁵² On the basis of these findings, the report suggests that it is time for a new general recommendation, as well as making a number of specific recommendations. It is suggested that gender quota laws should be made more strict by increasing the quota percentage, imposing rank order rules, and introducing or strengthening sanctions.⁵³ Countries with majoritarian electoral models should opt for proportional representation. Public funding of political parties should be used more strategically, rather than symbolically, to boost gender balance. Training should be organised for the leadership of political

46 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), pp. 104-105.

47 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 106.

48 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 112.

49 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 106.

50 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 101.

51 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), pp. 101-102.

52 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 103.

53 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 112.

parties and should focus directly on gender biases and stereotypes in recruitment and selection.⁵⁴ The report also emphasises that gender balance in political and public life cannot be reached without gender equality in all areas of life.⁵⁵ Overall, the findings dispel some commonly argued positions and make useful recommendations.

2.4 Organization for Security and Co-operation in Europe

The Organization for Security and Co-operation in Europe (OSCE) has increasingly engaged with the issue of gender equality, through the specific lens of the security and cooperation mandate of this international organisation. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) – the branch of OSCE dealing with the human dimension of security – has conducted a number of capacity building activities and publishes useful resources on gender balance in general and on participation in decision making in particular.⁵⁶ This section will reflect on four key OSCE documents⁵⁷ that propose important standards of relevance for this report.

First, Ministerial Council Decision No. 14/04, 'OSCE Action Plan for the Promotion of Gender Equality' has two priorities of direct relevance for this report. Under the first priority 'Ensuring equal opportunity for participation of women in political and public life' the ODIHR⁵⁸ will provide assistance to the participating States in promoting women's political participation, developing effective measures and, through the exchange of good practice, capacity building on gender issues, including through its observation of elections. The High Commissioner on National Minorities (HCNM) will support the participating States regarding the participation of women from national minorities in public life and countering the 'double discrimination' that women belonging to national minorities face. The second priority, 'Encouraging women's participation in conflict prevention, crisis management and post-conflict reconstruction', includes the promotion of UN Security Council Resolution 1325 (2000) and support for women's participation in the promotion of peace and security.

Secondly, the 2003 Action Plan on Improving the Situation of Roma and Sinti in the OSCE area emphasises the need for measures to support the participation of Roma and Sinti women. This action plan states that the situation of Roma and Sinti women should inform 'the design and implementation of all policies and programmes' and that Roma and Sinti women 'should be able to participate on an equal basis with men. Roma women's issues should be systematically mainstreamed in all relevant policies designed for the population as a whole.'⁵⁹ The 2003 action plan asks for measures that will guarantee equal voting rights for Roma women including by prohibiting 'family voting'.⁶⁰ Finally, Roma women's participation in public and political life should be promoted: 'Roma women should be able to participate on an equal basis with men in consultative and other mechanisms designed to increase access to all areas of public and political life.'⁶¹ According to the 2003 action plan, the ODIHR should undertake specific activities for 'increasing access by Roma women to all areas of public and political life.'⁶²

Thirdly, Ministerial Council Decision No. 7/09, 'Women's Participation in Political and Public Life' calls on the participating States to: consider possible legislative measures and to introduce special measures for achieving gender balance in all branches of power, especially in decision-making positions; work

54 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 112.

55 Council of Europe, *Third round of monitoring on the implementation of CM Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data* (Council of Europe, 2016), p. 113.

56 These resources can be accessed at: <https://www.osce.org/odihr/gender-equality>.

57 The Ministerial Council Decisions Nos. 14/05 on women in conflict prevention (Ljubljana) are relevant for the participation of women in conflict prevention.

58 There is also the task for the OSCE Representative on Freedom of the Media to alert towards incitement of gender discrimination and intolerance towards women in the media in the OSCE participating States.

59 2003 Action Plan on Improving the Situation of Roma and Sinti in the OSCE area, para. 3.

60 2003 Action Plan on Improving the Situation of Roma and Sinti in the OSCE area, para. 94.

61 2003 Action Plan on Improving the Situation of Roma and Sinti in the OSCE area, para. 98.

62 2003 Action Plan on Improving the Situation of Roma and Sinti in the OSCE area, para. 106.

towards equal participation of women and men in political parties by encouraging all political actors to promote this aim, especially for decision-making positions for elected public officials; put in place open and participatory decision-making processes for developing legislation, programmes and policies; develop effective national mechanisms for measuring women's equal participation and representation; support research and awareness raising on specific challenges in women's participation in political and public life; and encourage shared care giving and work-life balance for women and men.

Fourthly, the Lund Recommendations on the Effective Participation of National Minorities in Public Life are focused on the effective participation of national minorities. One of the general principles established in the Lund recommendations is respect for the principle of equality ('equal rights', paragraph 2) and 'respect the human rights of all those affected' (paragraph 3). As stated in the Explanatory Note, this is interpreted to mean that the Lund recommendations also refer to 'minorities within the minorities': 'This would also include respect for the human rights of women, including freedom from discrimination in relation to 'the political and public life of the country' as stipulated at Article 7 of the 1979 Convention on the Elimination of All Forms of Discrimination against Women.'⁶³ Thus, regardless of the absence of discussion on women specifically in the text of the recommendations themselves, the standards provided in the Lund recommendations for national minorities in general should cover and reach women from the national minorities as well.

2.5 European Union

Participation of women rests on several of the founding values of the Union, as established in the Treaty on European Union (TEU), most directly on democracy, equality, and respect for human rights and the rights of persons belonging to minority groups (Article 2). TEU foresees that the Union 'shall combat social exclusion and discrimination, and shall promote ... equality between women and men'.⁶⁴ The functioning of the Union is envisaged as being founded on a representative democracy (paragraph 1), and thus the equal representation of women in political life is an important element, in terms of citizens' representation in the European Parliament (paragraph 2), representation among the Heads of State or Government (paragraph 3), political parties (paragraph 5), and participation in the overall democratic life of the Union (paragraph 4) (Article 10, TEU). The EU can adopt legislative or other measures for the application of the principle of equal treatment of women and men in matters of employment and occupation under Article 157(3) of the Treaty on the Functioning of the EU (TFEU). Under 157(4) of the TFEU, the EU enables Member States to maintain or adopt measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

The Charter of Fundamental Rights of the European Union contains provisions relevant to the participation of women in political life in Title III on equality (more specifically Articles 21 and 23), as well as in Articles 39 and 40 in Title V on citizens' rights. Article 21 states that any discrimination based on an open-ended list of grounds ('any ground such as...') is prohibited. The grounds that are explicitly listed are: sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Article 23 is clear that equality between women and men *must* be ensured in all areas and lists a few areas illustratively. It reaffirms that the 'maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex' will not be considered as contrary to the principle of equality. Title V on citizens' rights includes passive and active voting rights for the European Parliament (Article 39) and at municipal elections in the Member States for residents who are citizens of the EU on an equal basis with nationals (Article 40). However, the principle of participation or a general right to participation is not mentioned in the Charter as such. The Charter mentions participation only in the context of disability and

⁶³ Explanatory Note, Lund Recommendations on the Effective Participation of National Minorities in Public Life, para. 3.

⁶⁴ Treaty on European Union, Article 3(3).

only as a community pillar. Article 26 states that the EU ‘recognises and respects the right of persons with disabilities to ... participation in the life of the community.’⁶⁵

An important milestone at EU level was reached with the 1996 Council Recommendation on the balanced participation of women and men in the decision-making process (96/694/EC).⁶⁶ This recommendation proposed that, in order to pursue gender balance in decision-making processes, the Member States and European Union institutions should formulate an integrated strategy and promote gender balance at all levels of governmental bodies and committees, conduct awareness-raising activities, collect data, and exchange good practice.

The European Commission’s 2000 report on the recommendation’s implementation showed augmented efforts in the pursuit of gender balance in decision making following the adoption of the recommendation, but uneven and unsatisfactory progress.⁶⁷ Further, the Commission made it clear in this report that

‘What is needed to promote gender balance is a policy mix including – as the most important factor – long term political commitment, sound statistics, regular monitoring, appropriate structures – depending on the culture of the Member States – anchored in legislation and the provision of financial resources.’⁶⁸

Yet, there is still no legally binding coherent instrument prescribing minimum standards at EU level when it comes to women’s participation in decision-making positions in political life. The main legislative effort regarding gender balance in decision making was the proposal⁶⁹ for a directive on improving the gender balance among directors of companies listed on stock exchanges and related measures, which has now been adopted as Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures (Gender Balance on Company Boards Directive).⁷⁰ The Gender Balance on Company Boards Directive sets out that at least 40 % and at a maximum of 49 % of non-executive director positions in listed companies will have to be held by the underrepresented sex by 30 June 2026, or 33 % if the directive applies to all director positions. This should be done by ‘comparative analysis of the qualifications of each candidate, by applying pre-established, clear, neutrally formulated and unambiguous criteria’ (Article 4(1)). The candidate from the underrepresented sex should be given priority based on criteria that have already been established under the EU law, meaning that the candidate is equally qualified ‘in terms of suitability, competence and professional performance, unless an objective assessment taking account of all criteria specific to the individual candidates tilts the balance in favour of the candidate of the other sex’ (Article 4(3)). The listed companies that cannot achieve the set objectives will need to adopt

65 Charter of Fundamental Rights of the European Union, Article 26.

66 Council Recommendation of 2 December 1996 on the balanced participation of women and men in the decisionmaking process (96/694/EC).

67 Report from the Commission to the Council, the European Parliament and the Economic and Social Committee on the implementation of Council Recommendation 96/694 of 2nd December 1996 on the balanced participation of women and men in the decision-making process, Brussels, 07.03.2000 COM(2000) 120 final.

68 Report from the Commission to the Council, the European Parliament and the Economic and Social Committee on the implementation of Council Recommendation 96/694 of 2nd December 1996 on the balanced participation of women and men in the decision-making process, Brussels, 07.03.2000 COM(2000) 120 final.

69 The proposal for this directive has been the subject of a thematic report by the EELN, as have been other positive action measures in relation to gender in the field of employment. Sources: Senden, L. and Krusinga, S. (2018), *Gender-balanced company boards in Europe: A comparative analysis of the regulatory, policy and enforcement approaches in the EU and EEA Member States*, European Commission; McCrudden, C. (2019), *Gender-based positive action in employment in Europe: A comparative analysis of legal and policy approaches in the EU and EEA*, European Commission.

70 The proposal for this directive has been the subject of a thematic report by the EELN, as have been other positive action measures in relation to gender in the field of employment. Sources: Senden, L. and Krusinga, S. (2018), *Gender-balanced company boards in Europe: A comparative analysis of the regulatory, policy and enforcement approaches in the EU and EEA Member States*, European Commission; McCrudden, C. (2019), *Gender-based positive action in employment in Europe: A comparative analysis of legal and policy approaches in the EU and EEA*, European Commission; Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.315.01.0044.01.ENG&toc=OJ%3AL%3A2022%3A315%3ATOC.

additional measures in order to rectify this. In transposing the directive, the Member States will need to establish rules for prescribing effective, proportionate and dissuasive sanctions for cases of infringement and make sure they are applied, for example by setting administrative fines or prescribing judicial nullity or annulment of the appointment or of the election of non-executive directors made contrary to the national provisions adopted as part of the transposition of the directive (Article 6).

In addition to the Gender Balance on Company Boards Directive, insofar as the women are in a decision-making position where the holder can be considered a worker, the 2006 Recast Directive⁷¹ and the Work-life Balance Directive⁷² will be relevant. The former provides protection against discrimination on grounds of gender in employment, and the latter introduces a right to flexible working arrangements for both parents and carers, and prescribes minimum standards for parental leave, paternity leave, and carer leave, alongside protection and guarantees against unfair dismissal. Member States have had an obligation to bring their laws, regulations and administrative provisions into line with the Recast Directive since 15 August 2008, and with the Work-life Balance Directive since 2 August 2022.

In November 2021, in consideration of the approaching European Parliament elections, the European Commission proposed a regulation on the statute and funding of European political parties and European political foundations. Drawing on Article 23 of the Charter, it asks European political parties to include internal rules on gender equality in their statutes, and to include information on 'the gender representation among the candidates at the last elections to the European Parliament and on the evolution of gender representation among their Members of the European Parliament'.⁷³

The commitments of the EU to gender balance in decision making was repeatedly made in the Union's policies, most recently in the Gender Equality Strategy 2020-2025. This strategy clearly states that 'Companies, communities and countries should be led by both women and men, in all their diversity'.⁷⁴ The strategy underlines the centrality of participation 'for representative democracy at all levels – European, national, regional and local' and the intent of the Commission to 'promote the participation of women as voters and candidates in the 2024 European Parliament elections ... including through funding and promoting good practices' expressly stating that 'European political parties asking for EU funding are encouraged to be transparent about the gender balance of their political party members'.⁷⁵ Further, the Commission calls on the European Parliament and the Council to 'adopt measures to improve gender balance at all levels of their management and in leadership positions' and on the Member States to 'develop and implement strategies to increase the number of women in decision-making positions in politics and policy-making'.⁷⁶ The need for data collection and analysis, and the exchange of more effective strategies for increasing the number of women in decision-making positions is also reiterated, as is the Commission's intent to 'support Member States in developing and implementing more effective strategies to increase the number of women in decision-making positions'.⁷⁷

71 Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

72 Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU. See also the recently adopted European Care Strategy: European Commission, A European Care Strategy for caregivers and care receivers (September, 2022).

73 Proposal for a Regulation of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations (recast), COM (2021) 734 of 25 November 2021.

74 European Commission (2020), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - *A Union of Equality: Gender Equality Strategy 2020-2025*, COM(2020) 152 final, 13.

75 European Commission (2020), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - *A Union of Equality: Gender Equality Strategy 2020-2025*, COM(2020) 152 final, 14.

76 European Commission (2020), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - *A Union of Equality: Gender Equality Strategy 2020-2025*, COM(2020) 152 final, 15.

77 European Commission (2020), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - *A Union of Equality: Gender Equality Strategy 2020-2025*, COM(2020) 152 final, 14.

In addition, the European Parliament has adopted a string of resolutions on various aspects of the participation of women in decision making from the 1980s until the present day.⁷⁸ Its 2000 resolution has proven influential when it comes to shaping the understanding of what constitutes gender balance by forwarding the notion of at least 40 % representation of both women and men.⁷⁹ The 2012 European Parliament resolution on women in political decision-making – quality and equality, confirmed the EU's commitment to the recommendations made by the 1996 Council Recommendation and the 2003 Council of Europe recommendation (see section 2.3 Council of Europe). It called on 'the Member States to promote positive action measures, including binding legislative measures, with a view to ensuring parity in all governing bodies and public appointments and to develop tools for gender monitoring of nominations and elections'.⁸⁰ It did not, however, propose legislative action to the European Commission.

The European Institute for Gender Equality (EIGE) has been monitoring developments in women's participation in decision-making positions in the EU. It collects regular and comparative data⁸¹ for the EU Member States and beyond, thus remaining a strong reference point.

2.6 Conclusion

The chapter affirmed that the standards for promotion of gender-balance in decision-making positions can be found in several international human rights instruments at the international level (United Nations) and European regional level (Council of Europe, Organization for Security and Co-operation in Europe, and European Union), and that they are legal obligations on all State Parties, including all EU and EEA countries. The general, hard law, obligations have been clarified by a significant body of soft law and authoritative interpretations of the law. Particularly detailed and useful guidance can be found in: the United Nation's CEDAW Article 7 and CRPD Articles 6 and 29, and the authoritative interpretations of these articles, as well as the Beijing Declaration and Platform for Action (1995); the Council of Europe's Recommendation Rec (2003) 3 of the Committee of Ministers of the Council of Europe to Member States on balanced participation of women and men in political and public decision making; and the European Union's 1996 Council Recommendation on the balanced participation of women and men in the decision-making process (96/694/EC).

Due to the focus of this report on participation of women in elections and on promotion of women to decision-making positions in the legislature, the executive and public enterprises of women *in all their diversity*, the chapter also looked at standards for the participation of Roma, persons with disabilities, and (persons from) minority groups and indigenous groups, as these also apply to women from these groups. As a result, two pillars of the principle of participation for women were formulated: a general pillar (opportunities for participation of all women in all levels of government existing within a state – federal, national, regional and local) and a community pillar (participation of women from a specific group in their own communities and group systems, for example the participation of women in minority community affairs). Both are important for fully observing the principle of public participation in the case of women.

78 European Parliament resolution of 13 March 2012 on women in political decision-making – quality and equality (2011/2295(INI)) (2013/C 251 E/02) (31.08.2013); European Parliament, Women in decision-making (B50180/2000) (OJ C 346/82) (04.12.2000); European Parliament, European Parliament Resolution of 11 February 1994 on women in decision-making bodies (OJ No C 61) (28. 2. 1994); European Parliament, European Parliament Resolution Women in decision-making centres adopted on 16.09.1988 (Doc. A2-169/88) (OJ No C 262/187) (10.10.1988). Also, more recently, the European Parliament included a section on 'Women and the economy, women and power and decision-making' in: European Parliament, European Parliament resolution of 11 February 2021 on challenges ahead for women's rights in Europe: more than 25 years after the Beijing Declaration and Platform for Action (2021/2509(RSP)).

79 See section 2.3. Council of Europe about the impact of the European Parliament Women in decision-making Resolution on the Recommendation Rec(2003)3 of the Committee of Ministers of the Council of Europe to member states on balanced participation of women and men in political and public decision-making.

80 European Parliament resolution of 13 March 2012 on women in political decision-making – quality and equality (2011/2295(INI)) (2013/C 251 E/02) (31.08.2013).

81 For statistics from EIGE, see: EIGE, Gender Statistics Database - Women in Power and Decision-Making (G), https://eige.europa.eu/gender-statistics/dgs/browse/bpfa/bpfa_g.

The chapter affirms that international standards setting regarding this matter has encouraged national standards setting. It can be expected that further legislative action at the international and European regional level will have a similar effect at the national level, and should thus be encouraged.

3 Elections

3.1 Introduction

Elections are one of the main ways through which women access political decision-making positions. The legal and policy tools available for electoral processes have an important role in either facilitating or hindering women's sustained participation in those processes that would give them access to elected office and eventually amplify their voice within decision-making structures. Women can be reluctant to run for office for a range of reasons, including out of fear for becoming targets of sexist speech and violence. The availability of effective tools to prevent and address intimidation against women is therefore important in encouraging participation in politics.

This chapter provides a comparative account of the laws and policies available in the 31 states covered in this report concerning gender balance in elections at the local, regional, national and EU Parliament levels. We also look at the role of political parties as key actors in this area. The findings of this chapter show that in recent years there has been a proliferation of hard and soft law measures that seek to increase the numbers of women participating in elections as candidates. The extent to which legal measures are effective in getting women elected depends largely on how such measures are designed and enforced in practice. Legal measures promoting gender-balanced participation in elections are only part of the picture; equally important in supporting women's participation in political decision making via elections are measures that seek to create an electoral environment free of sexism and intimidation. This chapter, therefore, includes discussion of the challenges facing women who participate in politics, including incidents of sexist speech and violence, as well as the tools available to combat them.

National experts were asked to provide information in relation to the following areas: policies concerning gender balance in the leadership of political parties, law and policy on candidates' selection to run for office, gender balance in the composition of electoral management bodies, campaigns run to encourage women's participation in politics, assessment of the legislation's effectiveness, incidents of violation of women's political rights, as well as discussion of any available measures and mechanisms to combat sexism and sexist hate speech in electoral campaigns.

3.2 Legislation and policies mandating or encouraging gender balance in the leadership of political parties

Political parties are important actors in facilitating or impeding women's access to political decision making. Gender balance in the leadership of political parties can be symbolic, but it can also have an effect on the party's internal policies and general stance towards gender equality issues.

Political parties are normally seen as self-governing entities in the internal affairs of which the State does not interfere. It therefore comes as no surprise that in none of countries covered in this report is there any laws or state policies mandating gender balance in the leadership of political parties. In several states, however, political parties have adopted rules concerning gender balance in their leadership on a voluntary, self-regulatory basis. This is the case in **Austria, Belgium, Croatia, Finland, Greece, Germany, Hungary, Italy, Luxembourg, Malta, Norway, Poland, Slovakia** and the **UK**. Importantly, we find that in many of these countries, measures have been adopted by parties across the political spectrum. This finding evidences a shift in mentality whereby gender balance as an important aspect of political life is normalised, prompting more parties to take a stance in promoting women's participation in their internal affairs. In contrast, in **Greece, Poland** and **Slovakia** while some measures have been adopted, these initiatives are led by a minority of political parties, mostly on the left. The **Greek** expert reports that in April 2022 the main opposition political party Syriza adopted a gender parity quota for its governing bodies. The quota was then applied at the elections of the party's 300-member central committee and at the elections of the 40-member political secretariat, ensuring gender parity in both

instances. Given that a female member was elected as the new Political Secretary, the deputy Political Secretary is a male, as required by the party's new internal rules on gender balance. In **Poland** two parties have internal regulations relating to gender balance. These are the opposition left-wing parties that entered Parliament as the Left Together coalition: Left Together Party (Partia Lewica Razem) and New Left Party (Partia Nowa Lewica). In the Left Together Party, the principle of parity applies. According to Article 19 of the Party's Statute, Left Together 'seeks to ensure diverse representation in its bodies on the basis of gender, age, place of residence, social background and other factors'. There is gender parity in all elected party bodies, with a one-seat majority of women over men or men over women allowed. It was emphasised that for the purposes of parity the gender considered is the one declared by the candidate. The New Left Party adopted a quota solution. By virtue of Article 5(3) of the Statute of the New Left Party, in the National Executive, the National Council, the voivodship boards and the voivodship councils, each gender must be represented in a number not less than 35 % of the number of elected members of these authorities. In **Slovakia**, only the extra-parliamentary coalition Progressive Slovakia/Spolu has recently introduced a 40 % gender quota for vice-presidential positions and for members of its presidency.

3.3 Selecting candidates for national, regional and local elections: law and policies

In this section we examine binding legislation as well as voluntary measures and other policies concerning gender balance in the selection of candidates for elections at the national, regional and local level. In the past two decades there have been several developments in most countries covered in this report with the introduction of either state-mandated gender quotas and binding rules on the ranking of candidates on electoral lists or voluntary measures adopted by political parties.

Table 1: Hard law measures by country

Measure	Country
Quotas	Belgium, Croatia, France, Greece, Ireland, Italy, Luxembourg, Poland, Portugal, Slovenia, Spain
Gender-based rules on candidates' order	Belgium, Portugal, Slovenia

As seen in the table, 11 countries have legislated, hard law measures; this is the case in **Belgium, Croatia, France, Greece, Ireland, Italy, Luxembourg, Poland, Portugal, Slovenia** and **Spain**. The measures available are gender quotas, gender-based rules on candidates' order in the list, including requirements to alternate between candidates of different sexes (the zipper system), and combinations of these measures.

In **Belgium**, the Constitution provides that the federal and federate governments must be composed of persons of both sexes.⁸² The electoral legislation implementing the constitutional provision requires political parties to include more women on electoral lists by imposing that the difference between the number of female and male candidates may not be greater than one. In addition, the first two candidates on an electoral list must be of different sexes. In **Croatia**, legislation mandates gender-balanced electoral lists for all elections; gender-balanced lists means that there is at least 40 % representation of candidates of each sex.⁸³ Political parties can voluntarily adopt more generous measures. For instance, the Social Democratic Party of Croatia (SDP) expressly mandates alternating candidates of different sexes (the zipper system).⁸⁴ **France** has a legislated gender parity quota, which means that parties' electoral lists

⁸² Article 11bis, Constitution of Belgium.

⁸³ Act on Election of Members of the Croatian Parliament (Article 21.a (1) and (2); the Act on Election of Members of European Parliament from the Republic of Croatia (Article 14(4); the Act on Local Elections (Article 9(3).

⁸⁴ Article 21(2) of the Statute of Socijaldemokratska partija Hrvatske (SDP).

must be composed of 50 % male and 50 % female candidates.⁸⁵ This parity rule first applied to all elections except for municipal elections for towns of over 3 500 residents than progressively down to 1 000 residents, but there is a bill pending to include smaller towns in the scope of the law.⁸⁶ In **Greece**, a 33 % gender quota for regional and municipal elections was established for the first time in 2001, and in 2008 for national elections. These quotas were later increased to 40 % for all elections.⁸⁷ The main opposition party, Syriza has recently adopted a 50 % quota that will apply to its electoral lists for national parliamentary elections, whereas local and regional schemes, supported by the same political party, will be encouraged to adopt this quota in municipal and regional elections as well. **Ireland** has enacted legislation mandating at least 40 % representation of each sex as candidates in general elections.⁸⁸ The legislation provides for a reduction in the state funding of a registered political party if it does not comply with the quotas.⁸⁹ Since 2012, there have been two general elections, in 2016 and in 2020. The next general election is due in February 2025 when there will be a statutory obligation that political parties must have 40 % male or female candidates; otherwise, there will be a deduction in state funding after the election. State funding in Ireland is dependent on the number of members of the lower house (the Dail). The quota provisions do not apply to local, European and Senate (Seanad – upper house) elections.

In **Italy** on electoral lists for both the Parliament and the Senate, candidates must be placed according to an alternating order of sex; at the same time, neither sex can be represented by more than 60 % on each list. There are also legally mandated gender balance measures for electoral lists at regional level.⁹⁰ In **Luxembourg**, national legislation on funding for political parties requires a 40 % quota for the underrepresented sex on all electoral lists.⁹¹ In **Poland**, electoral legislation establishes a 35 % quota on electoral lists for the national elections for the parliamentary⁹² and local elections for community councils.⁹³ Since 2011, the 35 % quota no longer applies to the elections of the Senate as single-member constituencies were introduced. Since 2014, the quota no longer applies to the community council elections for the communities with fewer than 20000 inhabitants either, for the same reasons. In 2006 **Portugal** introduced for the first time a gender quota of 33 % for party electoral lists for national, local and EU elections. The national legal framework was reinforced by subsequent amendments in 2017 and 2019 that raised the quota to 40 % and strengthened its legally binding nature. In addition, legislation prescribes alternating candidates of different sexes (the zipper system). According to the current legislation, if a list does not comply with the 40 % quota and zipper system, the party is officially notified to correct it, otherwise the list is rejected.⁹⁴ Legislation in **Slovenia** mandates 40 % women quotas on candidate lists for local elections and 35 % women quotas on candidate lists for parliamentary elections. In addition, there is a requirement that every second candidate in the first half of the candidate list has to be a woman.⁹⁵ When it comes to candidate lists for the European Parliament, legislation in **Slovenia** stipulates a 40 % quota, while also requiring that in the first half of the candidate list both genders

85 The first parity law, Law n°2000-493 of 6 June 2000, amended the Electoral Code to favour the equal access of women and men to electoral mandates. It requires all political parties to present an equal number of men and women on electoral lists in the regional, municipal (initially cities of more than 35000 residents), senatorial and European elections. It also limits the financial support for parties that do not respect this principle of 50 % representation for legislative elections. Law n°2000-493 of 6 June 2000 was later amended to include municipal elections in towns of more than 1000 residents.

86 Bill n° 4587 of 4 Feb. 2022, to extend parity to municipal elections and elective positions for municipalities under 1000 residents, still pending.

87 Article 52(1) Act 4604/2019, OJ A 50/26.3.2019 (municipal elections); Article 16(5) Act 4555/2018, Article 52(2) Act 4604/2019 (elections in small communities with more than 300 habitants); Article 71(1) Act 4604/2019 (regional elections); Article 34(6) Presidential Decree 26/2012 (national elections). The gender quota does not apply to candidates for 'State MPs' ('βουλευτές Επικρατείας') under the condition that the total number of candidates of each sex in the whole of the country (with the exception of 'State MPs') corresponds at least to 33 % of the total number of the party's candidates.

88 The Electoral (Amendment) (Political Funding) Act 2012 <https://www.irishstatutebook.ie/eli/2012/act/36/enacted/en/html>.

89 Part 6 of the Electoral (Amendment) (Political Funding) Act 2012.

90 Act No. 215/2012.

91 Article 2, Law of 21 December 2007 on the financing of the political parties.

92 Article 211 (3) of the Electoral Code.

93 Article 425 (3) of the Electoral Code.

94 Lei Orgânica No. 3/2006, of 21 August 2006, Articles 2 (1) and (2), 3 and 4.

95 Local Elections Act, Official Gazette of the Republic of Slovenia, Nos 94/07, 45/08, 83/12, 68/17 in 93/20; General Assembly Elections Act, Official Gazette of the Republic of Slovenia, No. 54/07.

must be represented by at least one candidate.⁹⁶ In **Spain**, Law 3/2007 on Effective Equality reformed the Organic Law of the General Electoral Regime, introducing Article 44*bis*, which mandates a balanced composition of women and men in the candidatures to national, regional and local elections, imposing a minimum representation of 40 % for each of the sexes for the whole list of candidates and in each group of five candidates. Electoral lists that do not meet this requirement will not be validated by the electoral boards (*Juntas electorales*). These rules also apply to substitute lists. Law 3/2007 allows the Regulations of the Parliaments of Autonomous Communities to establish a higher gender quota; most Autonomous Communities have their own equality laws, which in some cases prescribe a 50 % quota.⁹⁷

In a number of states without legislation concerning gender balance on electoral lists, political parties have introduced measures on a voluntary basis; this is the case in **Austria, Cyprus, Estonia, Germany, Hungary, Iceland, Lithuania, the Netherlands, Norway, Romania, Sweden** and the **UK**. Measures include rules on the order of candidates, such as the zipper system, quotas or a combination of the two. Voluntary party quotas in the countries included in this report vary from 30 % to 50 %. The number of parties applying voluntary measures also varies from country to country. In **Austria, Germany, Iceland, Norway** and **Sweden** several parties across the political spectrum apply quotas in the range of 40 % to 50 %. In **Estonia, Hungary, Lithuania** and **Romania** there is only one political party applying voluntary quotas on electoral lists; quotas range from 20 % to 40 %. In **Cyprus** three out of seven political parties apply 20 % to 30 % gender quotas to their electoral lists. In the **Netherlands**, one political party applies quotas, while a second party applies the zipper system; similarly, two parties in the **UK** apply quotas.

While there are no binding or voluntary gender balance measures in **Czechia** and **Denmark**, state institutions explicitly encourage political parties to strive for gender balance in candidate selection. In **Czechia**, the Governmental Committee on Gender Balance in Politics and Decision-making Positions issued a Resolution in April 2022 in the run-up to local and regional elections. The Resolution recommends that: political parties and movements take into account the principle of gender balance when drawing up their lists of candidates for elections and when subsequently filling political positions; political parties and movements take into account the balanced representation of women and men in nominations to the Senate; political parties and movements promote diversity and take into account the balanced representation of women and men with minority characteristics, such as ethnic minority background or disability, when drawing up lists of candidates.⁹⁸ In a similar vein, in **Denmark**, the Institute of Human Rights recommends that political parties develop an equality and diversity policy, that promotes a more equal gender balance and improved representation of candidates for parliamentary elections.

In six countries – **Bulgaria, Finland, Malta, Latvia, Liechtenstein** and **Slovakia** – no legally binding or voluntary measures nor policies promoting gender balance on electoral lists have been identified.

3.4 Gender balance in the selection for candidates by political parties for the EU Parliament elections

In relation to electoral lists for the EU Parliament elections, we find that in countries where there are legislated quotas or rules on how candidates should be listed on the basis of sex,⁹⁹ these consequently apply to the lists for candidates to EU elections as well. However, there are two exceptions. **Italy** has a legislated parity quota (50 %) for EU elections instead of the 40 % quota applied in national elections,

96 Act on the Election of Deputies from the Republic of Slovenia to the European Parliament, Official Gazette of the Republic of Slovenia, No. 40/04.

97 Law 3/2007 on Effective Equality between Women and Men (Ley Orgánica 3/2007 para la igualdad efectiva de mujeres y hombres), 22 March 2007; Law 5/1985 on the General Electoral Regime (Ley Orgánica 5/1985, del Régimen Electoral General), 19 June 1985.

98 Available at <https://www.vlada.cz/cz/ppov/rovne-prilezitosti-zen-a-muzu/aktuality/vybor-diskutoval-o-sestavovani-kandidatnich-listin-do-podzimnich-voleb-195757/>.

99 This is the case in the following countries: **Belgium, France, Croatia, Greece, Ireland, Italy, Luxembourg, Poland, Portugal, Slovenia** and **Spain**.

while the first and second candidates on a list must be of a different sex.¹⁰⁰ **Ireland**, on the other hand, does not extend the 40 % quota to the selection of candidates for the EU elections.

3.5 Gender balance in the composition of electoral management bodies and observer commissions

The majority of countries covered in the report have introduced no measures to ensure gender balance in the composition of electoral management bodies and observer commissions. In some countries, national legislation on equality and non-discrimination includes rules that mandate or encourage gender balance in official committees or other public authority bodies that can influence the composition of electoral bodies. In **Estonia**, Article 9(4) of the Gender Equality Act stipulates that the membership of committees, councils and other collegial bodies formed by state and local government authorities should, if possible, include both sexes. In **Finland**, gender equality legislation stipulates that a range of public bodies should have a minimum of 40 percent of both women and men, unless there are specific reasons against it and that nominating authorities will, whenever possible, propose both a woman and a man for every position; electoral management bodies would fall under this provision.¹⁰¹ Similarly in **Norway**, equality legislation requires gender balance on official committees.¹⁰² In **Spain**, members of the electoral boards are drawn from the judiciary or designated among university professors of law, political sciences or sociology, while electoral observers are normally nominated by political parties or representatives of the candidature; there are no gender balance requirements for these two bodies. However, gender equality legislation stipulates a general mandate for all bodies exercising public power to observe the principle of balancing women and men in the appointments and designations of the positions of responsibility that correspond to them.¹⁰³ In **Italy**, beyond Article 51 of the Constitution stipulating equal access of men and women to public office positions, at the local level, Act No. 215/2012 requires municipalities and provinces to ensure the representation of both sexes in governmental bodies and in other non-elected committees exercising public powers. In the **Netherlands**, legislation on advisory bodies encourages gender balance in their composition;¹⁰⁴ this legislation is also applicable to the national electoral management body.

Although there is no relevant legislation in **Luxembourg**, some political parties have voluntarily adopted rules concerning gender balance in electoral management bodies.

3.6 Encouraging women to vote

Encouraging women to exercise their political rights, including the right to vote, is important in terms of fostering a more welcoming political environment, getting more women actively involved in politics and amplifying women's voices. Law can play an important role in facilitating women's political engagement as illustrated in the case of **France** where recently passed legislation seeks to address one of the most important structural obstacles to women's participation –: disproportionate responsibility for unpaid care work – by creating leave from work for the purpose of running for office.. However, for the most part, rather than legal measures, national experts report campaigns and other similar initiatives taking place in their countries in recent years. Most of these initiatives have been organised by civil society organisations including political parties; less often, state institutions have also engaged in campaigns encouraging women to vote. It is important to note that the campaigns have been organised even when women's vote turnout is comparable to or even higher than that of men. In other words, the campaigns identified in national reports focus on raising awareness about women's role in politics and the importance of participation and not on closing any (gendered) voting turnout gaps. The focus on awareness – a concept that is rather elusive – helps explain the lack of data or studies assessing the success of such campaigns.

100 Act 65/2014.

101 Section 4 a of the Act on Equality between Women and Men (609/1986).

102 Equality and Anti-Discrimination Act (GEADA) Section 28.

103 Article 16 of the Organic Law 3/2007 of Effective Equality.

104 Framework Act on Advisory Bodies, Article 12 Section 3.

In **France**, there abovementioned recent legislation encouraging political engagement at the local level.¹⁰⁵ According to the French expert, this law encourages citizens to engage in public life by improving work-life balance. The law functions as a sort of ‘indirect’ positive action because, while the provisions are gender-neutral, they favour women who are more often caretakers. The new law first improves work-political engagement balance by extending the 10-day leave from work for candidates to engage in a political campaign for all municipal elections regardless of the size of the town, including cities with fewer than 1 000 inhabitants.¹⁰⁶ To improve political-family life balance for elected officials at the municipal level, the law provides a right to obtain reimbursement for childcare, elder care and care for children with disabilities or in need of home care so that officials can participate in municipal meetings.¹⁰⁷

In **Croatia**, a feminist civil society organisation often organises pre-election campaigns focused primarily on advocating for greater participation by women in decision-making processes, as well as advocating for specific gender equality policies; female voters, political parties and the general public are the main target of such campaigns. In **Denmark**, the National Integration Council runs projects, such as ‘It is your choice 2022’, to increase voting among ethnic minority groups.¹⁰⁸ The National Integration Council has also coordinated an initiative run by local municipalities with the purpose of getting more migrant women to vote.¹⁰⁹ In **Germany**, several political parties are actively campaigning in favour of introducing parity legislation; according to the **German** expert, the Green Party is especially active in this respect. In the run-up to elections, women’s civil society organisations often run campaigns encouraging women to exercise their right to vote. In **Luxembourg**, the Ministry for Gender Equality (MEGA) launched an awareness campaign entitled ‘50/50 – Vote for parity’ in the run-up to the EU Parliament elections in 2019.¹¹⁰ The campaign sought to influence citizens to vote in view of having a more inclusive and equitable representation at the EU Parliament; the importance of parity for democratic participation was the key message of this campaign. As an equal number of men and women were elected, the campaign was deemed successful. At the local level, MEGA previously ran an awareness campaign under the banner ‘Vote for equality’ with the aim of mobilising potential candidates for local elections.¹¹¹ However, as the Luxembourgish expert reports, the results of the local elections in 2017 were disappointing as women politicians were significantly underrepresented in all elected positions. In **Estonia**, in 2019-2020, the Praxis Centre, a research institute and think tank, carried out awareness-raising project ‘Women in Politics’. The aim of the project was to improve women’s opportunities to take part in Estonia’s decision-making processes at the highest political level and to increase awareness in the media, political parties and society in general about the importance of gender equality in policy-making processes. The goal was to advance gender equality in the Parliament and Government of Estonia.¹¹² In 2019 the Praxis Centre also ran the ‘Nudging Women to Power’ project to raise awareness of the importance of gender equality and of the opportunities that women have to take part in politics.¹¹³ As the Estonian expert notes, women in Estonia have gradually increased their active role in politics and there is now more appetite among women to run for political office. In **Cyprus**, the Mediterranean Institute of Gender Studies (MIGS), a feminist think tank and research institute, occasionally organises campaigns advocating for policies encouraging women’s active involvement in politics. In the past, MIGS ran a project in collaboration with partners in other EU Member States making the case for gender parity.¹¹⁴ Most of MIGS’s projects are funded through EU funds. Although the research produced, as well as the campaigns, are of a very high quality there does not seem to have been a direct influence on policy making.

105 LOI n° 2019-1461 du 27 décembre 2019 relative à l’engagement dans la vie locale et à la proximité de l’action publique.

106 Law of 2019, Art. 85.

107 Law of 2019, Art. 91 (see article L. 2123-1 of General code of local government) and for municipalities with less than 3500 residents, the national budget of the government covers the cost.

108 <https://rem.dk/news/valgpijce-udgives-af-det-nationale-integrationsrad>.

109 <https://navisen.dk/blog/bydelsmoedre-skal-faa-flere-indvandrerkvinder-til-at-stemme-til-kommunalvalget/>.

110 <https://mega.public.lu/fr/societe/votez-parite.html>.

111 <https://mega.public.lu/fr/societe/votez-parite/votez-egalite.html>.

112 <https://www.praxis.ee/tood/nudging-women-to-power/>.

113 <https://www.praxis.ee/en/tood/14338/>.

114 <https://medinstgenderstudies.org/what/projects/#parity>.

3.7 The enforcement and effectiveness of legislative frameworks encouraging gender balance in elections

How effective are the different measures identified in the countries covered in this report in achieving gender balance in elections? What is the relationship between the way measures are enforced and their effectiveness? In this section, we discuss the comparative effectiveness of national legal provisions on gender balance in elections in light of their enforcement mechanisms to identify elements that guarantee or compromise their potential for success. Given that information, such as statistics or other studies, is publicly available mainly in relation to hard law measures, this section starts by assessing hard law measures in countries that have adopted them, i.e. addresses only those countries that have enacted relevant legislation: **Belgium, Croatia, France, Ireland, Italy, Luxembourg, Portugal, Slovenia and Spain**. We then briefly discuss findings from countries where only voluntary measures apply. Our discussion, therefore, focuses mainly on assessing hard law measures and on the information that was available to experts. Exceptionally, in the case of **Spain**, the national expert was able to provide information showing the relationship between parties' voluntary measures on gender balance and legally mandated measures.

The **Belgian** national expert reports that the binding measures for gender balance, which combine requirements for parity and ranking rules and apply to electoral lists for all elections in the country, have been highly effective in getting more women elected. For instance, at the local level, the percentage of elected women rose steadily from 20 % in 1994 to 38.7 % in 2018. At the regional level, the percentage of women elected was 41 % in 2019 in Wallonia, 43.8 % in Brussels Capital Region and 46.8 % in Flanders. When looking at all the lists for the House of Parliament, the percentage of female candidates for eligible seats increased from 38.7 % in 2014 to 44.7 % in 2019.

The **Croatian** national expert reports mixed results from the introduction of legislated measures in **Croatia**. Although the number of female candidates on election lists has steadily progressed over the years, the data shows that the share of women at all levels of political decision making is still below 40 %. Data provided by the State Election Committee shows a 41.67 % share of women in the total number of candidates in local elections in May 2017, which is a significant improvement compared to the local elections held in 2013, when the share of women candidates was 28.24 %.¹¹⁵ The share of women candidates at local elections in 2021 was similar to that recorded in 2017, with the biggest increase (9.7 %) in the share of women candidates for deputy mayors.¹¹⁶ However, the increase of the share of women on electoral lists still has not translated into an increased share of women who are actually elected in local/regional representative or executive bodies.¹¹⁷ At national level, the share of women in the Croatian Parliament has been oscillating for years, reaching a peak of 32 % at the 2020 elections. Despite the introduction of gender quotas, the share of women across all local and regional bodies remains well under 30 %.¹¹⁸ Gender quotas on election lists seem to have limited effects on increasing gender-balanced representation, probably because the position of women on those lists is inferior, or women rarely head the lists. Part of the problem, according to the **Croatian** expert, is the lack enforcement of the measures seeking to achieve gender balance. When an electoral list does not meet

115 Državno izborno povjerenstvo (State Election Committee), Local elections 2017, available at: https://ravnopravnost.gov.hr/UserDocImages/arhiva/preuzimanje/izbori-2017/statistika_kandidature_2017.pdf. See also Ombudsperson for Gender Equality (2013), *Istraživanje: Lokalni izbori u Republici Hrvatskoj 2013. godine u odnosu na promicanje načela ravnopravnosti spolova* (Analysis: 2013 Local elections in the Republic of Croatia in view of the principle of gender equality), p. 7, available at: <https://www.prs.hr/attachments/article/997/Izvj%C5%A1%C4%87e%20za%202013%20%20Istra%C5%BEivanje%20-%20Lokalni%20izbori%202013.pdf>.

116 Office for Gender Equality (2021), *Rodno razlučeni pokazatelji lokalnih izbora 2021*. (Gender segregated indicators of local elections 2021) available at: [https://ravnopravnost.gov.hr/UserDocImages/dokumenti/Rod.%20razlučeni%20pod.%20lokal.izbora%202021%20\(1\).pdf](https://ravnopravnost.gov.hr/UserDocImages/dokumenti/Rod.%20razlučeni%20pod.%20lokal.izbora%202021%20(1).pdf).

117 Državno izborno povjerenstvo (State Election Committee), Gender statistic of elected candidates 2021, available at: https://www.izbori.hr/site/UserDocImages/2021/Lokalni%20izbori%202021/Rodna_statistika.pdf.

118 The biggest increase concerns the share of women elected as county prefects (heads of regional units of self-government): whereas in 2017 there were no women elected, in 2021 the share of women was 9.5 %. See Office for Gender Equality (2021), *Rodno razlučeni pokazatelji lokalnih izbora 2021* (Gender segregated indicators of local elections 2021), available at: [https://ravnopravnost.gov.hr/UserDocImages/dokumenti/Rod.%20razlučeni%20pod.%20lokal.izbora%202021%20\(1\).pdf](https://ravnopravnost.gov.hr/UserDocImages/dokumenti/Rod.%20razlučeni%20pod.%20lokal.izbora%202021%20(1).pdf).

the gender quota requirements, a monetary fine (instead of annulment) for a misdemeanour (a minor offence) of up to EUR 6 730 (HRK 50 000) is provided.¹¹⁹ However, the application of this sanction depends on the readiness of the State Attorney's Office to prosecute political parties. The evidence provided by the Croatian expert reveals several instances where electoral lists did not respect the gender quota but the political parties responsible were nonetheless not sanctioned. For instance, according to reports of the Croatian Equality Body, in 2021 the gender quota was not respected in 13 % of the election lists, which shows that the sanctioning mechanism had not produced a significant impact.¹²⁰

In **France** the parity rule has been effective to some extent. Parties with electoral lists that do not meet the parity rules receive less state funding. As the French expert reports, in practice, some parties prefer receiving less funding than changing their lists to comply with parity.¹²¹ Financial sanctions were increased in 2007 and in 2014 with limited success for several reasons. First, certain political parties still prefer to lose state funding.¹²² Secondly, municipal elections for towns of less than 1 000 residents are exempted from parity legislation. That is why the High Council on Equality between Women and Men highly recommends extending parity legislation to municipal elections in towns of less than 1 000 residents.¹²³ The High Council further observes that women are not necessarily placed in electoral constituencies that are likely to win and identifies persistent systemic sexism in the political sphere as an obstacle to parity. Similar to **France**, in **Ireland** and **Luxembourg** where the sanction for non-compliance with gender quotas is a reduction in state funding, women's representation in elected positions has seen limited improvement, according to the national experts. The evidence provided by these experts reveals that when the main sanction available for non-compliance is a reduction in funding or financial penalties, then the potential of quotas to achieve transformative change is compromised.

The potential of electoral quotas to effectively increase women being actually elected depends on whether any rules on candidates' ranking are tied to the quotas. Evidence provided by the **Greek** expert shows a rather limited impact of the 40 % legislated gender quota on electoral lists. While the quota increased the number of female candidates included on the lists, it has not led to a significant increase in women being actually elected. This can be attributed partly to the lack of any legal rules on candidates' placement order on the lists; as a recent survey shows, women are often placed low in the ranking, which makes their election success difficult if not impossible.¹²⁴

In **Italy** from 2006 to date there has been a significant increase in the percentage of female candidates, both for the House of Deputies and the Senate. As regards the electoral results, the percentage of women elected to the House of Deputies is 35.7 % (225 out of 630), an increase of 4.3 % compared to the previous legislature, which, in turn, was increased by about 10 % compared to the one before that. In the Senate, the overall percentage of women today is 34.7 % (109 out of 314), an increase of 5.5 % compared to the previous legislature, which had already registered a significant increase of 11.1 % compared to the one before. The increase in female candidates was therefore followed by an increase in the number of women. As regards the presence of women in the European Parliament, in the first five

119 Article 35, Gender Equality Act.

120 Ombudsperson for Gender Equality (2022), *Annual Report for 2021*, p. 155, available at: https://www.prs.hr/application/images/uploads/Godišnje_izvješće_2021_FINAL.pdf. See also Žene i mediji, 10 May 2021, <https://www.zeneimediji.hr/lokalni-izbori-2021-kvote-o-zastupljenosti-spolova-korist-ili-problem/>. See also Ombudsperson for Gender Equality (2021), *Rodna analiza lokalnih izbora 2021* (Gender analysis of local elections 2021), available at: [https://prs.hr/application/images/uploads/Rodna_analiza_lokalnih_izbora_20.20\(prs\).pdf](https://prs.hr/application/images/uploads/Rodna_analiza_lokalnih_izbora_20.20(prs).pdf).

121 In 2022, the conservative party Les Républicains lost 31 % of the financial support to the party for lack of respect of parity rule and a party to the far left La France Insoumise lost 252 400 euros (6 % of the public subsidy to parties), <https://www.publicsenat.fr/article/politique/legislatives-2022-l-enjeu-de-la-parite-dans-les-candidatures-211072>.

122 <https://www.publicsenat.fr/article/politique/legislatives-2022-l-enjeu-de-la-parite-dans-les-candidatures-211072>; it was denounced in 2019 by the Minister of Equality https://www.francetvinfo.fr/politique/la-france-insoumise/parite-femmes-hommes-ces-partis-qui-preferent-payer-des-amendes-plutot-que-de-respecter-la-loi_3593085.html.

123 Report on parity 2022, <https://www.haut-conseil-egalite.gouv.fr/parite/actualites/article/comment-obtenir-la-parite-aussein-des-communes-et-des-intercommunalites-freins>.

124 Verbole, A., Sioula-Georgoule, I. (2021), 'Participation of Women in Political Life at the Local Level in Greece Study and Policy Advice', Council of Europe, Centre of Expertise for Good Governance, Strasbourg, CEGGPAD(2021)5, <https://rm.coe.int/final-study-and-policy-advice-participation-of-women-in-political-life/1680a29e07>.

legislatures, the percentage of Italian women elected was always less than 15 %. With the introduction of list quotas in the electoral system in the 2004 elections, the number of Italian women elected to the European Parliament increased by half, growing from 10 women in the 5th legislature (1999-2004) to 15 in the 6th (2004-2009). The percentage of women went from 11.5 % to 19.2 % in the 6th legislature and increased further in the 7th legislature (2009-2014), where 16 out of the 72 European Parliament seats due to Italy were occupied by women (22.2 %). Starting from the 2014 elections, when Act No. 65/2014 was enacted, the number of Italian women elected to the European Parliament almost doubled, rising to 29 out of 73 seats Italian seats, equal to 39.7 %. The figure has further improved with the results of the 2019 elections, in which 30 Italian women were elected, which amounts to 41.1 % of the seats due to Italy (above the average of women in the European Parliament, which is 40.6 %).

In **Slovenia** women continue to be underrepresented in political decision making especially at the local level, as shown in statistics cited in the national report.¹²⁵ According to the Slovenian expert, gender quotas alone have been proved insufficient in getting more women elected as there are not enough incentives for women to run for office.

In **Portugal** the legislated gender quota on electoral lists combined with rules on candidates' positions on lists have been effective in increasing women's presence in elected bodies, leading to more gender-balanced political decision making. According to the Portuguese expert, there is a strong correlation between the way in which measures are enforced and their success. Essentially, electoral lists that do not comply with the gender balance measures will be rejected unless corrected to meet the legislation's requirements.¹²⁶

In **Spain** the impact of the 40 % gender quota is not clear cut in all elected positions. According to the national expert, the quota has had a positive impact on the participation of women in the Senate, in which 38.46 % of seats are held by women currently, and women have occupied around 40 % of the seats of the Senate since 2015. Immediately after the entry into force of the quota, the percentage of women increased from 25 % to 32 % in 2008 and then to 35 % in 2011.¹²⁷ However, according to the Spanish expert, the impact on the numbers of women in the Lower Chamber (*Congreso de los Diputados*) is somewhat debatable. Numbers show that women's participation in the Parliament did not come close to the 40 % target until 2014 and that during the years after the introduction of the quota in 2007, the percentage of women in the Parliament continued to be very similar to what it had been since 2004 when the percentage of women increased from 28 % to 35 %.¹²⁸ By mid2000, most Spanish political parties were applying quotas or targets on a voluntary basis, starting with 30 % quotas in the 1990s and reaching 50 % quotas around 2015.¹²⁹ Parties' voluntary quotas helped to boost and stabilise women's presence in the Parliament before the introduction of the state-mandated 40 % quota. The percentage of women in regional Parliaments has been steadily growing from about 30 % in 2000 to 47 % in 2021. Currently, all the Parliaments in the Autonomous Communities have percentages of women above 42 %. It must be noted that some Autonomous Communities have laws requiring a 50 % quota on parties' electoral lists which goes beyond the 40 % quota at the national level. As the Spanish expert notes, the introduction of legally mandated gender quotas did not alter women's level or representation, which continued to grow at its own pace. The example of **Spain** highlights the importance of parties' voluntary equality mechanisms in giving women an active role and voice in politics. The existence of effective voluntary measures can increase women's representation even in the absence of state rules so that when state rules are introduced, these seem to have a more complementary role.

125 https://volitve.gov.si/lv2018/volitve_v_stevilkah.html.

126 Articles 3 and 4, Lei Orgânica No. 3/2006, of 21 August 2006.

127 Institute for Women. Mujeres en cifras: Poder y Toma de decisiones. Poder Legislativo (Women in figures: Legislative Power), <https://www.inmujeres.gob.es/MujerCifras/PoderDecisiones/PoderLegislativo.htm>.

128 Institute for Women. Mujeres en cifras: Poder y Toma de decisiones. Poder Legislativo (Women in figures: Legislative Power), <https://www.inmujeres.gob.es/MujerCifras/PoderDecisiones/PoderLegislativo.htm>.

129 Only the Partido Popular and Ciudadanos have resisted party quotas on ideological grounds. On the Spanish quota system, see Tània Verge and Nina Wiesehomeier, 'Parties, Candidates, and Gendered Political Recruitment in Closed-List Proportional Representation Systems: The case of Spain', *Political Research Quarterly* 72(4), 2019, pp. 805-820.

The discussion in this section shows that legislated measures are most effective when representation quotas are combined with rules on the ranking of candidates and importantly, with effective sanctions for non-compliance. The evidence gathered from the national experts demonstrates that the most effective way to enforce gender quotas on electoral lists is to annul those lists that do not comply with the requirements instead of imposing a fine or reducing funding.

Turning now to countries where there are only voluntary measures applied by political parties, we observe disparities between those countries where several parties apply quotas and those where only few parties have measures in place.¹³⁰ For instance, in **Iceland**, **Norway** and **Sweden** where parties across the political spectrum have been applying gender quotas on their electoral lists for several decades, we see consistently gender balanced national Parliaments with women's representation normally not falling below 40 % and often going beyond that, such as in Iceland where women's share is currently at 48 %. In **Austria** and **Germany** where several parties have quotas, we see a steady but slow increase in women's representation in national Parliaments from less than 30 % in the 1990's to around 40 % today. On the other hand, the statistics are clearly telling us that when there is only one political party with gender balance measures in place, the impact on women's representation is minimal. In **Hungary** for instance where only one party has a 20 % quota, women's representation in recent decades increased from around 10 % to about 15 %. In **Romania** where a party applies a 30 % voluntary quota, women's representation increased significantly since the late 1990's; however, it remains at around 20 % today which falls short of gender balanced representation. Similarly in **Lithuania**, where one party has a 40 % quota, women's representation has increased somewhat but remains below 30 %. It is also important to reiterate that quotas alone cannot explain whether change takes place or not. This is reflected in the case of **Cyprus** where even though three out of seven political parties have been applying voluntary quotas for several decades, women's representation in the national Parliament has never gone beyond 20 %. Voluntary quotas can therefore be important tools in promoting gender balance in political representation, but their potential is severely compromised if they are not widely used across the political spectrum and if they are not accompanied by a supportive institutional framework.

3.8 Violations of women's active and passive voting rights

Women routinely experience violations of their political rights that range from legal and informal obstacles to running for office, to arbitrary exemptions from gender-balance legislation and of course, sexism and hate speech. Women politicians are also more likely than men to experience intimidation and other behaviour that amounts to violence. As the evidence we present in this section shows, violence against female politicians is rife across Europe. Such experiences are not only detrimental to the victims but can have chilling effects on other women thinking about pursuing a political career or even just participating more actively in politics.

Cases reported to relevant authorities are, however, generally rare. The **French** expert reports cases cited in a political science study where women candidates were placed on electoral lists for past EU elections in order to meet quota requirements but were then encouraged to resign once elected to be replaced by male candidates lower on the list, thus resulting in a lower number of French women as MPs in the European Parliament.¹³¹ In 2005 in the **Netherlands**, the orthodox protestant political party SGP was brought to court by a collective of civil society and women's rights organisations in an administrative procedure for barring women from standing on their lists. This claim was rejected. In a separate civil procedure, the Dutch State was challenged for violating Article 7 of the Convention on the Elimination of Discrimination against Women (CEDAW) for not taking any measures against the SGP. In the appeal procedure, the SGP joined as a third party. The Dutch State argued that freedom of religion justified not

130 Data and statistics for countries with no legislated measures are drawn from EIGE's Gender Statistics Database, available at <https://eige.europa.eu/gender-statistics/dgs>.

131 Beauvallet, W. and Michon, S. (2008), 'L'impact du mode de scrutin européen sur l'élection des femmes au parlement européen en France : une dynamique associant règles juridiques et stratégies politiques', *Politique européenne*, vol. 1, n° 24, pp. 123-143.

taking any action against the party. In 2010, the highest civil court in the Netherlands, the Supreme Court, held that freedom of religion could not justify discrimination against women and, drawing on CEDAW obligations, held that the Dutch State should take measures that would force the SGP to stop excluding women from its election lists.¹³² As the Dutch expert notes, the follow-up to the Supreme Court judgment was disappointing as the Dutch State failed to take adequate measures and in essence, did not effectively implement the judgment. In the end, it was the SGP that changed its stance and started to formally allow women to run for office on its lists. More recently, legislation concerning rules on the election of local authorities in **Italy** was challenged at the Italian Constitutional Court.¹³³ The case concerned legislation that exempted electoral lists for small municipalities of less than 5 000 inhabitants from the application of gender quotas.¹³⁴ The Constitutional Court held that exempting small municipalities from gender quota requirements was against the principle of gender equality and therefore electoral lists not complying with quotas on gender representation should be excluded. On 21 October 2022, the Dublin Circuit Criminal Court in **Ireland** ordered a suspended 12-month sentence against a person accused of sending sexually explicit videos to a female politician who was a candidate during the 2020 general election. The suspended sentence was on terms whereby the convicted person must not contact the victim directly or indirectly, at her home, her constituency office or at the Parliament.¹³⁵

Despite the limited number of reported cases, experts in several countries provide evidence that sexism and harassment against female politicians is far from being a limited phenomenon. For instance, incidents amounting to sexist speech or other intimidating behaviour have been reported by experts in **Croatia, Cyprus, Denmark, Germany, Greece, Ireland, Italy, the Netherlands** and the **UK**. As the **German** expert notes, sexist speech intensifies during electoral campaigns and becomes particularly overt on social media. According to a recent study of the Institute Allensbach (2021) in **Germany**, harassment and sexism is a common experience of female politicians: 40 percent of the politicians surveyed – across the party spectrum – stated that they had experienced sexual harassment and 3 % experienced it ‘more often’. Age seems to be a relevant factor as among younger politicians (under 45-year-olds) 60 % indicated experience of sexual harassment.¹³⁶ Calls for order in the Parliament also involved some sexist speech.¹³⁷ Similarly, in the **Netherlands** hate speech against women politicians is on the rise with worrying incidents multiplying especially around elections; according to a survey conducted in 2021, 10 % of tweets directed to women politicians contain hate or aggression, while the female Minister of Finance is routinely the target of aggression to the extent that she needs permanent police protection.¹³⁸ In 2017 in the **UK** and in the wake of the murder of the MP Jo Cox in the run-up to the Brexit referendum, the Committee for Standards in Public Life ran an inquiry into intimidation in Public Life.¹³⁹ It noted that a significant number of candidates in the 2017 general election had experienced intimidation, including threats of sexual violence, and that there was evidence that intimidating behaviour had put off potential candidates from standing for election. Women, BAME and LGBT candidates were disproportionately targeted and experienced more severe intimidation. In **Cyprus** a female MP was repeatedly the target of harassment and sexist behaviour by a male MP, while in **Greece** a female MP was violently attacked by a male MP during a political discussion on TV. While these incidents were widely condemned by most politicians and political parties, they can intimidate and inhibit other women from actively participating in politics and

132 The SGP complaint to the ECtHR against the Supreme Court decision; its application was, however, dismissed from the Strasbourg Court on grounds of inadmissibility in 2012. See, *Staatkundig Gereformeerde Partij v the Netherlands App* No. 58369/10 (Third Section) (ECtHR, 10 July 2012).

133 Constitutional Court, decision No. 62/2022.

134 The exemption was stipulated in Act No. 215/2012.

135 <https://www.irishtimes.com/crime-law/courts/2022/10/21/man-43-given-suspended-sentence-for-sending-sexually-explicit-videos-to-td-jennifer-carroll-macneill/>.

136 ARD (2021), ‘Four out of ten female politicians with experience of sexism’ (Vier von zehn Politikerinnen mit Sexismus-Erfahrungen) www.tagesschau.de/inland/innenpolitik/sexismus-politik-studie-101.html www.tagesschau.de/inland/innenpolitik/sexismus-politik-studie-101.html.

137 RP online (2022), Sexism in the Bundestag (Sexismus im Bundestag) www.rp-online.de/politik/deutschland/sexismus-im-bundestag-das-muessen-sich-politikerinnen-in-berlin-anhoeren_aid-66132481.

138 Saris, K. and van de Ven, C., ‘Misogyny as a political weapon’ (Misogynie als politiek wapen), *De Groene Amsterdammer*, 3 March 2021: <https://www.groene.nl/artikel/misogynie-als-politiek-wapen>.

139 Committee on Standards in Public Life *Intimidation in Public Life* (December 2017) (Cm 9543) available at: [Intimidation in Public Life - A Review by the Committee on Standards in Public Life](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/681111/Intimidation_in_Public_Life_-_A_Review_by_the_Committee_on_Standards_in_Public_Life.pdf) (publishing.service.gov.uk).

seeking to access elected positions. In **Denmark**, in the wake of the MeToo movement, many current and former female politicians voiced their personal experiences of sexual harassment. As the **Danish** expert notes, these revelations exposed a sexist culture in parties across the political spectrum. As a result, the political parties concerned dismissed those responsible, including high profile MPs and political leaders. At the same time however, these incidents revealed the lack of preventive measures, including effective processes for the handling of complaints against harassment. Since early 2021, most political parties have voluntarily started to create internal policies for what constitutes acceptable behaviour in the party, as well as establishing internal and external complaints mechanisms.

Overall, even though national reports reveal numerous alarming incidents directed against female politicians, there are no indications that states react adequately or that any preventive measures have been taken. Therefore, it seems that the reluctance to act supports a climate of impunity and continued pressure on and intimidation of women politicians.

3.9 Existence of official mechanisms/authorities tasked to monitor sexism and sexist hate speech in electoral campaigns

Official mechanisms or authorities with powers to monitor sexism and sexist hate speech in electoral campaigns exist in a limited number of states: **Austria, Belgium, Cyprus, France, Greece, Romania** and **Sweden**. **Romania** has an official authority tasked with monitoring sexism and sexist hate speech specifically in the context of electoral campaigns, the National Audiovisual Council. The authority can impose administrative fines on individuals and/or parties in the range of EUR 1 000 (RON 5 000) to EUR 10 000 (RON 50 000).

In other countries, an authority that monitors sexist speech in media or advertising in general has jurisdiction in the context of electoral campaigns as well. This is the case in: **Austria, Croatia, Cyprus, France, Greece** and the **Netherlands**. In **Belgium, Portugal** and **Sweden**, it is the equality bodies monitoring sexism and sexist speech in general that can also examine cases in the context of electoral campaigns. In **Austria**, the Advertising Board (Werberat) is tasked with monitoring sexist ad campaigns, including political advertisements. However, its decisions are non-binding. In the **Netherlands**, the Advertisement Commission (Reclame Code Commissie) does not cover campaigns as such but only certain campaign materials such as flyers and advertisements. If, following a complaint, an advertisement is found to breach the advertisement code, media organisations will no longer be allowed to disseminate it. However, if the advertisement contains opinions, the Advertisement Commission can only give non-binding advice. Thus, while an opinion can be issued concerning political campaigns, it is unlikely that the opinion will have any concrete effects. In **Croatia**, the Electronic Media Agency is an independent regulatory authority that is authorised to supervise media content and programmes available in electronic media, which includes programmes transmitted during political campaigns. It can issue warnings, mandates and admonitions, as well as instigate misdemeanour proceedings in the event of violations of provisions prohibiting the publishing of audiovisual commercial communications that promote discrimination. In **Cyprus**, the Radio and Television Authority has powers to monitor sexism and sexist hate speech in broadcasting, but without any specific focus on electoral campaigns and politics; it can review complaints and issue non-binding decisions. The Authority has issued an Equality Code of Conduct for media which seeks to promote sexist-free speech, equal representation of men and women in media and gender-balanced participation in politics and the economy.¹⁴⁰ Similarly, in **Greece**, sexism and sexist hate speech in broadcasting in general is monitored by the National Council for Radio and Television.

The **Swedish** Gender Equality Agency is responsible for contributing to the effective implementation of Swedish gender equality policy. The authority provides monitoring, analysis, coordination and necessary support in relation to the Swedish gender equality policy, in which political decision making constitutes

140 Available at: <https://crta.org.cy/%CE%BA%CF%8E%CE%B4%CE%B9%CE%BA%CE%B1%CF%82-%CE%B9%CF%83%CF%8C%CF%84%CE%B7%CF%84%CE%B1%CF%82.html> (25 September 2022).

one of six key areas. Although the Swedish Gender Equality Agency is not explicitly tasked with monitoring sexism and sexist hate speech in election campaigns, these matters fall within the monitoring responsibility of the authority.

3.10 Sanctions and other consequences prescribed for sexism and sexist hate speech in electoral campaigns

Many countries covered by this report prescribe no sanctions or other consequences for sexism and sexist hate speech in electoral campaigns, for instance: **Bulgaria, Czechia, Estonia, Finland, Latvia, Liechtenstein, Lithuania, the Netherlands, Poland, Slovakia, Slovenia and Spain**. As the national experts note, in some countries the application of general rules and sanctions that apply against hate speech could also be triggered in the context of sexist speech in electoral campaigns, such as, in **Austria, Cyprus, Denmark, France, Hungary and Belgium**. In **Greece**, the relevant media authority can impose administrative fines. In a number of countries, the only sanctions available are those prescribed in criminal/penal legislation where the threshold of what could amount to a punishable behaviour tends to be higher. This is the case in **Denmark, France, Ireland, Luxembourg, Malta and Sweden**, while legislation is currently pending in **Italy**.

In **Germany**, the Network Enforcement Act (*Netzwerkdurchsetzungsgesetzes*, NetzDG) requires online platforms, such as Facebook, to delete obviously illegal comments. It also requires that information about IP addresses and drafters of these comments are passed on to the Federal Office of Criminal investigation. Fines up to EUR 5 million can be imposed for failure to comply. Significant constitutional concerns have been raised because of these provisions. Complaints because of a breach of EU Law (Directive 2000/31/EC) were partly successful, but constitutional concerns have not been upheld.¹⁴¹ In any case, this possibility primarily concerns acts that threaten the security of the state or the security or integrity of life and personal self-determination; the scope is therefore limited.

3.11 Conclusion

This section has focused on measures to increase gender balance in electoral processes. In recent years, legally binding and voluntary measures have been introduced in the majority of the 31 countries covered in this report. Gender quotas – introduced either through legislation or voluntarily by political parties – aimed at increasing the numbers of women running for office are predominantly the most preferred intervention in favour of gender balance in elections. In respect of **candidate quotas**, our comparative analysis highlights the following conclusions:

- Quotas are most effective in increasing women's representation when they are **legally binding** and coupled with **ranking rules** that place women candidates at electable positions;
- To maximise their effectiveness, quotas must be **strictly enforced**;
- **Enforcement mechanisms** vary from state to state. **Annulling electoral lists** that do not meet gender balance requirements is more effective than issuing fines or reducing state subsidies;
- **Voluntary party quotas** can be useful tools especially when they complement existing legislation and importantly, when they are **generous** (at least 40 %) and applied by parties **across the political spectrum**.
- **Candidate quotas** – when properly designed and enforced – are important **but not enough** in achieving gender balance in electoral processes and in increasing women's representation. Our analysis shows that:
- **Sexism and violence against women candidates is a widespread phenomenon**. Such hostile environment compromises the potential of legal and other measures for transformative change;

141 Administrative Court Cologne, judgment of 01. March 2022, 6 L 1277/21.

- **Criminal/penal law sanctions against violence are not always suitable** in tackling and especially **preventing** the intimidation of women politicians during elections;
- A **holistic approach** to women's participation in elections is urgently needed. Such approach must go beyond electoral quotas and seek to create an **inclusive political environment for all women**, including women from minorities.

4 The legislature

4.1 Introduction

In this chapter, we take a detailed look at the legislative, policy and institutional frameworks and approaches in place for promoting women in decision-making positions in the legislature. We focus on several topics: positive action, measures for institutional and cultural transformation, measures for supporting women from minority groups, other promotion activities, obstacles, case law, protection from harassment and sexual harassment, violence against women, and data collection. When looking at the legislative branch, the following decision-making positions in national and federal Parliaments were considered: presidents (presiding officers or speakers), vice-presidents, and Members of Parliaments, parliamentary bodies, and in permanent, temporary or ad-hoc delegations, as well as in other decision-making positions in the Parliament relevant in their national context (such as general secretaries). Local (municipal) and regional councils are included in this section as well, thus also the decision-making positions of mayors, presidents (or leaders) of councils, vice-presidents of councils, members of councils/assemblies.

Countries approach promoting women in decision-making positions in the legislature in several different ways, but there seems to be an overwhelming reliance on quotas in elections (discussed in Chapter 3) as a panacea for the promotion of women. While our findings confirm that quotas undoubtedly work when they are well targeted and strong, other important aspects that affect or even condition the participation of women in decision-making positions in the legislature remain largely disregarded. A worryingly overwhelming majority of countries do not provide pregnancy, motherhood and parenthood rights for Members of Parliament or councillors/other elected officials at the regional or local levels, and they exclude elected officials from any protection system against harassment and sexual harassment which they might have in place. We also found that very few of the countries have measures for promoting women from minority groups. The approaches to data collection differ greatly, with some countries still not having mandated any institution to collect data on women in decision-making positions in the legislature.

4.2 Positive action for the promotion of women in decision-making positions in the legislature

A number of measures exist that can be introduced as positive action for the promotion of women in decision-making positions in the legislature, including quotas, tie-break policies, preferential treatment, indirectly inclusive measures, and modification or redefining of 'merit'.¹⁴² Out of these, the most discussed positive action measures pertaining to the legislature in the literature are quotas.¹⁴³ Quotas are dominantly seen as positive action, although, as discussed in Chapter 2, the CEDAW Committee has oscillated between treating quotas as temporary and as permanent measures (section 2.2 United Nations). The key benefit from such a shift in understanding is moving beyond the temporary aspect and thus preventing reversibility of any progress obtained, while clearly signalling that it is the system that needs to be corrected and not women. The most direct outcome of quotas, albeit not the only one, is increasing the numerical representation of women in the legislature i.e. descriptive representation. While discussions in the literature have moved on from only descriptive representation and generating

142 McCrudden, C. (2011), 'A Comparative Taxonomy of 'Positive Action' and 'Affirmative Action' Policies' in Schulze, R. (ed), *Non-Discrimination in European Private Law*, Mohr Siebeck.

143 In an EU context, see particularly: Lépinard, E. and Rubio-Marín, R. (eds) (2018), *Transforming Gender Citizenship: The Irresistible Rise of Gender Quotas in Europe*, Cambridge University Press; McCrudden, C. (2019), *Gender-based positive action in employment in Europe A comparative analysis of legal and policy approaches in the EU and EEA*, European Commission; Lépinard, E. and Rubio-Marín, R. (2013), *Gender Quotas: Towards Parity Governance?*, Policy Brief, Issue 2013/08, European University Institute; Quota Project, Global Database of Quotas for Women, International Institute for Democracy and Electoral Assistance, Stockholm University and Inter-Parliamentary Union, <http://www.quotaproject.org/aboutQuotas.cfm>.

critical mass¹⁴⁴ to substantive representation¹⁴⁵ and critical actors,¹⁴⁶ this report¹⁴⁷ shows that, as far as the regulation of the legislature is concerned, the focus remains on the former. While causality between descriptive and substantive representation¹⁴⁸ has been disputed,¹⁴⁹ the value of each remains, including the benefits of ‘politics of presence’.¹⁵⁰

As this section shows, in practice, a more limited array of measures has been used. A majority of these measures focus on gender balance in the membership of the Parliament, i.e. equal gender representation among MPs, and less so on other decision-making positions in the legislature, such as presidents, vice-presidents, membership of parliamentary bodies, and in permanent, temporary, ad-hoc or other parliamentary delegations. They are largely intended to boost the descriptive representation of women, aiming for gender-balanced representation, which is largely defined in symmetrical terms and understood to mean a minimum representation of 40 % for the ‘underrepresented sex’. Quotas are generally understood as positive action, and not as a feature of governance.¹⁵¹

Provisions prescribing mandatory parity in gender representation in the legislature exist in some countries. This is done with either the constitution or with a statute. **Belgium** is an example of the former. Article 11*bis* of the Constitution provides that ‘[l]aws or [legislative acts of federate authorities] ... guarantee that women and men may equally exercise their rights and freedoms, and in particular promote their equal access to elective and public mandates.’ The remainder of Article 11*bis* then provides that the federal and federate Governments must be composed of persons of both sexes, and that the legislative instruments of the respective authorities must impose the same rule upon the composition of all public executive bodies at subordinate levels of administration, such as the board of the mayor and aldermen of a local council.¹⁵² Another example is **Malta**, where a provision was recently introduced to the Constitution, which is activated as a corrective mechanism should elections fail to produce a gender balanced composition. Under the mechanism the number of MPs will increase by up to 12 if the number of elected MPs of the underrepresented sex is less than 40 % of all elected MPs. The additional 12 MPs are apportioned from the underrepresented sex ‘equally between the absolute majority party or the relative majority party and the minority party’. The mechanism applies for the national elections only, not for those for the European Parliament. Introduced on 20 April 2021, the corrective mechanism will remain in force for 20 years ‘unless revoked or re-enacted with or without modification by means of an Act of Parliament according to the provisions of the Constitution’.¹⁵³

Croatia is an example of a country that prescribed such measures with a statute. Its Gender Equality Act states that political parties and independent candidates in elections for the European Parliament, the Croatian Parliament, as well as local and regional elections are obliged to establish gender-balanced election lists where candidates of one sex are underrepresented. According to this act, underrepresentation

144 Dahlerup, D. (1988), ‘From a Small to a Large Minority: Women in Scandinavian Politics’, *Scandinavian Political Studies*, Vol. 11 No. 4, pp. 275-298.

145 On the concept of representation as descriptive, substantive and symbolic, see: Fenichel Pitkin, H. (1967), *The concept of representation*, University of California Press. While Pitkin discusses representation in general terms, as a democratic concept, her work is foundational in gender and politics research for developing a feminist understanding of representation. Most recently, Karen Celis and Sarah Childs add to this also the ‘affective representation’. See: Celis, K. and Childs, S. (2020), *Feminist Democratic Representation*, Oxford University Press.

146 ‘Dialogue: New Critical Actors: Gender-Focused Parliamentary Bodies’, *Politics, Groups and Identities*, Vol. 9 (2021); Childs, S. and Krook, M.L. (2006), ‘Should Feminists Give Up on Critical Mass? A Contingent Yes’, *Politics & Gender*, Vol. 2 Issue 4, 522–30; Childs, S. and Krook, M.L. (2009), ‘Analysing Women’s Substantive Representation: From Critical Mass to Critical Actors’, *Government and Opposition*, Vol. 44, No. 2, pp. 125-145.

147 As shown in Chapter 2, this is also the case with international law. Measures moving towards substantive representation are discussed in the next sections of this chapter (sections 4.3., 4.6., and 4.8.).

148 Mansbridge, J. (2005), ‘Quota Problems: Combating the Dangers of Essentialism’, *Politics & Gender* Vol. 1 Issue 4, pp. 622-638.

149 Critical Perspectives on Gender and Politics (2006), ‘Do Women Represent Women? Rethinking the ‘Critical Mass’ Debate’, *Politics & Gender* Vol. 2 Issue 4, pp. 491-530.

150 Phillips, A (1995), *The Politics of Presence*, Oxford University Press.

151 Lépinard, E. and Rubio-Marín, R. (2013), *Gender Quotas: Towards Parity Governance?*, Policy Brief, Issue 2013/08, European University Institute.

152 Belgium, National Report (questionnaire responses).

153 <https://legislation.mt/eli/const/eng>.

is defined as less than 40 % of candidates.¹⁵⁴ The same obligation is provided in the Act on Election of Members of the Croatian Parliament (Article 21(a))¹⁵⁵ and provisions that are differently worded but identical in aim in the Act on Election of Members of European Parliament (Article 14(4)) and the Act on Local Elections (Article 9(3)) provide similar obligations. Another example is **Finland**, where Section 4a of the Act on Equality provides a quota for bodies composed via nomination, such as state committees, commissions, and other similar bodies, according to which women and men should be represented with a minimum of 40 % each. This quota was originally introduced in 1986 and in time has gathered much societal support, ultimately spilling over to other fields to which it does not even apply. In some countries, such as **France**, **Ireland**, the **Netherlands**, **Poland**, **Spain**, and **United Kingdom**,¹⁵⁶ these measures are strictly those tied to elections and are regulated with the elections laws, which are discussed in detail in Chapter 3 on Elections.

The effectiveness of such provisions depends on whether they are tied to any sanctions (such as fines, lowering of allocated public finances, ineligibility of electoral lists) but also on whether they can be undermined by clauses that allow entities to avoid the obligation or to postpone complying with it. For example, in **Croatia**, monetary fines for violating the obligation to propose gender-balanced election lists can result in a misdemeanour fine (a minor offence) of up to EUR 6 730 (HRK 50 000) (Article 35, Gender Equality Act). This provides good ground for enforceability, but the effectiveness depends on whether the State Attorney's Office decides to prosecute political parties for this offence. In **France**, not observing the rules will result in a body receiving less public funding,¹⁵⁷ but not in the ineligibility of the lists.¹⁵⁸ However, electoral outcomes suggest that the electoral rules in place have produced results and that the only elections where there is weak gender balance are those where there are no such rules in place i.e. in municipalities with less than 1 000 residents. A lack of strict rules for gender balance at the National Assembly has also resulted in oscillating numbers of women representatives throughout the years, including a decrease of 2 % in 2022 at the most recent elections. In **Spain**, electoral lists that do not meet the minimum 40 % representation of each sex are not validated by the electoral boards (*Juntas electorales*). In **Belgium**, the Council of Ministers can grant a derogation from this obligation for a period of time. The Council for Equality of Women and Men can be consulted to provide its opinion in such cases. In **Finland** the rule for observing a quota of 40 % is not tied to a sanction. Although the quota has gathered public support and worked towards creating a societal atmosphere in which it is largely expected that all nominated bodies would be gender balanced, some strongholds of power resisting such a change remain. For example, the composition of the committees in the Parliament does not reflect the gender parity rule. A 2018 study found that committee composition reflects the preferences and strengths of inter and intra-parliamentary groups, which results in men being overrepresented in committees that are perceived to be most desirable (such as the Foreign Affairs Committee and the Finance Committee). According to this study 'overrepresentation of male MPs in standing committees also deters women MPs career development, as positions in committees gives higher status.'¹⁵⁹

A smaller number of countries have included in their legislation measures that target important decision-making positions in the legislature, such as presidents, vice-presidents, membership of parliamentary bodies, and in permanent, temporary, ad-hoc or other parliamentary delegations. In **Croatia**, the Gender

154 Croatia, Act on Gender Equality, Article 15(1) and (2).

155 Croatia, Act on Election of Members of the Croatian Parliament, Article 21.a.

156 Please note, however, that in the UK this is left to the political parties. Under section 104 of the 2010 Equality Act, registered political parties may make arrangements in relation to the selection of election candidates in order to address the underrepresentation of those with protected characteristics as long as the arrangements are proportionate.

157 'Since a law in 2014, if the disparity between the number of candidates of each gender is over 2 % of the total number of candidates, the amount of public support to the party is reduced of 150 % of that disparity. So for example, if a political party selects 200 candidates, 130 men and 70 women, its financial support will be reduced by 45 %.' Source: France, National Report (questionnaire responses), citing Law of 2014 on real equality which increases the deduction on parties' financial support, Loi n° 2014-873 du 4 août 2014 pour l'égalité réelle entre les femmes et les hommes.

158 The French expert underlined that there have been occasional mentions of ineligibility as an option in legislative debates, for example at the senate for the local elections: <https://www.senat.fr/rap/r09-552/r09-5529.html>.

159 Finland questionnaire, citing: Björk, A., Paavola, J.-M., Vainio, A. (2018), Sukupuolten tasa-arvon toteutuminen eduskuntatyössä (Gender Equality in the work of the parliament), Kysely- ja haastattelututkimus 2018. Eduskunnan kanslian julkaisu 1/2018.

Equality Act sets out an obligation for balanced representation of both sexes ‘when making appointments to state bodies and bodies of local/regional self-governing units and other legal persons vested with public authorities’¹⁶⁰ and ‘when making appointments to diplomatic offices, members of the boards, commissions and delegations representing the Republic of Croatia at international level’.¹⁶¹ However, there are no sanctions attached to this provision, meaning it lacks legal bite. The Rulebook of the Croatian Parliament also provides a general obligation for adequate gender representation in the working bodies of the Parliament.¹⁶² However, in practice this provision is not fully implemented. For example, in the Gender Equality Committee of the Croatian Parliament, one of the working bodies with a president, vice-president, 11 members who are MPs, and 3 external members (representatives of CSOs and academic and professional institutions active in the promotion of gender equality and human rights), there is currently only one man who is a member.¹⁶³ In addition, encouraging equal gender representation in the working bodies of the Parliament is part of the mandate of the Gender Equality Committee.¹⁶⁴ The rulebook also sets out an obligation for the President of the Parliament to bear in mind gender representation when appointing MPs to delegations or on formal visits.¹⁶⁵ However, in most countries, no particular rules exist regarding gender equality in electing the president (or speaker) and vice-presidents. For example, in **Finland** the president is elected from the largest parliamentary group, and the two vice-presidents from the next-biggest groups. There is also no such rule in **France**, although it is worth noting that the current head of the French Assembly is a woman and that four women act as presidents of political party groups at the Assembly.¹⁶⁶ The result is that many Parliaments have either never had a woman speaker or elected their first women speakers relatively late, such as in **Finland** where the first woman speaker was elected in 1995.

Several countries have tied the selection of women or of a representative of the less represented sex to a financial incentive for the political parties or for the independent representatives. For example, in **Austria**, if more than 40 % of a party’s assigned National Assembly/Regional Assembly seats go to women, the party will receive 3 % more of the subsidy for carrying out functions as a parliamentary mandatory called ‘Klubförderung’.¹⁶⁷ In **Croatia**, a political party or an independent representative can be paid a ‘compensation for underrepresented sex’ for each representative from the less represented sex amounting to 10 % of the usual amount paid for each representative.¹⁶⁸ The ‘usual amount of funding’ is 0.075 % of tax income into the state budget from the previous period distributed per number of elected representatives,¹⁶⁹ and there is a similar formula for the funding at the local level as prescribed by law.¹⁷⁰ In **Denmark**, persons elected to the local municipal councils receive a fee for participating in meetings, which is increased for those with children under the age of 10 and a fee for costs connected with caring for close relatives who are sick.¹⁷¹ Some of the national experts have expressed doubts as to the effectiveness of these types of measures either due to a lack of data confirm their effectiveness (**Croatia**) or due to the percentage awarded being too small to be efficient (**Belgium**).

160 Gender Equality Act, Article 12(4).

161 Gender Equality Act, Article 12(5).

162 Rulebook of the Croatian Parliament (Poslovnik Hrvatskoga Sabora), Article 46.

163 See Croatian Parliament, Gender Equality Committee, available at: <https://www.sabor.hr/hr/radna-tijela/odbor-za-ravnopravnost-spolova-10-saziv-hrvatskoga-sabora>.

164 Rulebook of the Croatian Parliament (Poslovnik Hrvatskoga Sabora), Article 112 (1, line 5).

165 Rulebook of the Croatian Parliament (Poslovnik Hrvatskoga Sabora), Article 33. However, the current composition of the members of the eight permanent delegations in the Croatian Parliament and their substitutes casts doubts as to the implementation of this provision. In the eight permanent delegations there is a bit of everything - some which are all male or all female delegations, and one delegation with full parity. Source: Hrvatski sabor, Delegations (*Izaslanstva*), <https://www.sabor.hr/hr/medunarodna-suradnja/izaslanstva>.

166 <https://presidence.assemblee-nationale.fr/>; <https://www.tf1info.fr/politique/yael-braun-pivet-elue-presidente-de-l-assemblee-nationale-une-femme-au-perchoir-ce-symbole-qui-s-est-fait-attendre-2224604.html>.

167 Klubfinanzierungsgesetz, BGBl. Nr. 156/1985, para. 4a.

168 Act on Financing Political Activities, Election Campaigns and Referendum (*Zakon o financiranju političkih aktivnosti, izborne promidžbe i referendumu*), NN Nos. 29/2019, 98/2019, and 126/2021, Article 9.

169 Act on Financing Political Activities, Election Campaigns and Referendum (*Zakon o financiranju političkih aktivnosti, izborne promidžbe i referendumu*), NN Nos. 29/2019, 98/2019, and 126/2021, Article 5(1).

170 Act on Financing Political Activities, Election Campaigns and Referendum (*Zakon o financiranju političkih aktivnosti, izborne promidžbe i referendumu*), NN Nos. 29/2019, 98/2019, and 126/2021, Article 5(2).

171 Statutory Act on Local Municipality Government, section 15(1) and (2), 16(10) litra c.

Nevertheless, most countries in the EU have still not introduced any such measures; this is the case in: **Bulgaria, Czechia, Cyprus, Denmark, Estonia, Germany, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Norway, Portugal, Romania, Slovakia, and Slovenia.** In these countries it is mainly considered that it is up to the political parties themselves to decide whether they will introduce such measures. For example, the Social Democratic Party of **Lithuania** drafts candidate lists for municipal and parliamentary elections on which there can be up to 60 % from one gender; no other party has introduced such a measure. In **Germany**, following the failed Brandenburg State Parliament and Thuringia State Parliament gender parity laws, such measures are mainly left to the discretion of political parties who seem to exercise this in practice.¹⁷² This makes women's representation in the legislative bodies very much dependant on internal party policies. Research in **Norway** has shown that parties that have such internal measures tend to have a better 'gender balance in the parties' parliamentary groups and among those elected to municipal councils ... than in parties that do not practice this'.¹⁷³ In lieu of prescription of such measures under the law, government departments (ministries or governmental bodies) as well as national human rights institutions have called upon parties to adopt measures that will boost gender balanced representation in the legislature. The **Lithuanian** Ombudsperson for Equal Opportunities proposed gender quotas on electoral lists back in 2005, but the proposal has been ignored.¹⁷⁴ In **Denmark**, the Minister of Equality¹⁷⁵ and the Danish Institute of Human Rights¹⁷⁶ have encouraged the use of such measures, including quotas, whereas some influential MPs¹⁷⁷ have publicly called for introducing quotas for the legislature and the executive. In **Czechia**, the Governmental Committee on Gender Balance in Politics and Decision-Making Positions proposed to the Chamber of Deputies of the Parliament to adopt measures to rectify the long-standing imbalance in the gender representation among MPs. The Committee adopted a resolution for the upcoming elections recommending that political parties and movements ensure balanced representation of women and men on electoral lists. In **Poland**, the Commissioner for Human Rights has specifically used the possibilities offered by their mandate to call for increasing women's participation and more gender balance in decision making in general, including in the legislature.¹⁷⁸

Finally, there are a few countries where such measures have not formally been introduced, but are also not needed since gender balance is observed, namely **Iceland** and **Sweden**. So, for example, regardless of the lack of quotas or other measures, in **Iceland** women constitute 47.6 % of the MPs, and women chair five of the eight parliamentary committees. In **Sweden**, three of the four vice-speakers are women. Women chair 53 % of the committees, and men 47 %. The representation of one sex on parliamentary committees drops to 30 % at its lowest.

172 For example, the Bündnis90/Die Grünen (the green party) since 1986 mandates that all odd places be occupied by women, Die Linke (the left party) has a 50 % quota.

173 Norway, National Report (questionnaire responses); NOU:2012:15 Politikk for likestilling (politics for equality) of 25 September 2012.

174 Lithuanian Parliament (Seimas). Press release 4 May 2004, The controller suggests that the Seimas Human Rights Committee initiate a meeting of heads of parliamentary political parties in order to consider the need to draw up party election lists in such a way as to determine the minimum mandatory number of candidates of the same sex. Available (in Lithuanian) at: https://www.lrs.lt/pls/inter/w5_show?p_r=807&p_d=33483&p_k=1.

175 Equality Minister publication August 2021: <https://bm.dk/media/18425/saadan-faar-vi-flere-kvindelige-politikere-og-diversitet-i-politik.pdf>.

176 <https://menneskeret.dk/koen-ligestilling>.

177 <https://fvm.dk/ligestilling/debatindlaeg/det-er-partiernes-ansvar-at-skabe-ligestilling-i-politik/>.

178 See, inter alia, the Commissioner's speech to the Government Plenipotentiary for Equal Treatment on women's passive electoral rights of 8 March 2019, available at: <https://bip.brpo.gov.pl/sites/default/files/Wyst%C4%85pienie%20do%20Pe%C5%82nomocnika%20Rz%C4%85du%20do%20Spraw%20R%C3%B3wnego%20Traktowania%20w%20sprawie%20R%C3%B3wno%C5%9Bci%20p%C5%82ci%20w%20prawie%20wyborczym.pdf>. Commissioner's speech to the Government Plenipotentiary for Equal Treatment of 7 August 2014, available at: <https://bip.brpo.gov.pl/sites/default/files/Wyst%C4%85pienie%20RPO%20do%20Pe%C5%82nomocniczki%20Rz%C4%85du%20ds.%20R%C3%B3wnego%20Traktowania%20z%20dnia%207%20sierpnia%202014%20r.pdf> and the Commissioner's speech to the Government Plenipotentiary for Equal Treatment of 17 January 2014, available at: <https://bip.brpo.gov.pl/sites/default/files/Wyst%C4%85pienie%20RPO%20do%20Pe%C5%82nomocniczki%20Rz%C4%85du%20ds.%20R%C3%B3wnego%20Traktowania%20z%20dnia%2017%20stycznia%202014%20r.pdf>.

4.3 Measures for institutional and cultural transformation

A number of measures can be introduced as a way to **cultivate an environment** conducive to the promotion of gender balance in decision-making positions in the legislature, and retention of women in decision-making positions, through an **institutional and culture transformation**. For the purposes of the report, the literature on gender and Parliaments, and gender-sensitive Parliaments in particular,¹⁷⁹ was surveyed in order to develop a list of measures that can be put in place to support such a transformation. As a result, the national experts were asked if any measures had been put in place in their countries, such as:

- measures relating to the procedures and operation of the legislature, such as adjustments geared towards private life-work life balance (foreseeable schedules and calendars, overlap of Parliament/council sessions with school seasons, flexible working conditions and meeting/session schedules), monitoring speaking time of elected representatives per gender, monitoring composition of working bodies per mandate in terms of traditionally masculinised mandates (defence, finances) vs the feminised ones (social policy, education), provision of maternity leave, paternity leave, family and parental leave, sickness leave, and access to pension schemes for officials in decision-making positions who do not have an ‘employee’ status; including gender equality module(s) in training programmes for elected representatives and for other persons in decision-making positions; institutional gender equality strategic planning and/or audit (for example, adopted gender equality plan; conducted a gender audit);
- infrastructure measures, such as adjustments to the architectural surroundings as part of the efforts to encourage participation of women, such as, lighting, building or adjustment of space for daycare facilities, accessibility adjustments; and
- funding measures, such as observance of gender-responsive budgeting, and earmarking funds to support measures for gender balance in decision making.

This section shows that not many countries have put such measures into practice. While some countries, like **Denmark**, have introduced several of these measures,¹⁸⁰ some countries – **Austria, Belgium, Bulgaria, Croatia, Czechia, Cyprus, Estonia, Greece, Ireland,**¹⁸¹ **Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta,**¹⁸² **Poland,**¹⁸³ **Romania, Slovakia** and **Slovenia** – have not introduced any at all.

179 Commonwealth Parliamentary Association, *Gender Sensitising Commonwealth Parliaments* (CPA, 2001); various contributions in Krook, M.L. and Mackay, F. (eds.) (2011), *Gender, Politics and Institutions*, Palgrave Macmillan; Inter-Parliamentary Union (2011), *Gender-Sensitive Parliaments: A Global Review of Good Practice* (IPU); Inter-Parliamentary Union (2016), *Evaluating the gender sensitivity of parliaments: A self-assessment toolkit* (IPU); Childs, S. (2020), *Gender Sensitising Parliaments Guidelines: Standards and a Checklist for Parliamentary Change*, Commonwealth Parliamentary Association; and particularly the recent toolkit by Sonja Palmieri for ODIHR: Palmieri, S. (2021), *Realizing Gender Equality in Parliament*, ODIHR. ODIHR's assessment of the Law on the Parliament and the Rulebook of the Parliament of North Macedonia also served as inspiration. See: ODIHR, Comments on the Law of North Macedonia on the Assembly and the Rules of Procedure of the Assembly from a Gender and Diversity Perspective, GEN-MKD/357/2019, (09.11.2020).

180 Statutory Act no 47 of 15 January 2019 on Local Municipality Government, <https://www.retsinformation.dk/eli/Ita/2019/47#idcf09b5dd-673e-4bbf-97d0-6de02fa2dd83><https://www.retsinformation.dk/eli/Ita/2019/47#idcf09b5dd-673e-4bbf-97d0-6de02fa2dd83>.

181 There has been a recent initiative in Ireland whereby the Minister of State with Responsibility for Local Government and Planning at the Department of Housing, Local Government and Heritage proposed introducing a scheme according to which women councillors will in practice be in a position to use maternity leave. At present, although through their self-employment payments they can use this leave, they cannot be absent for more than six months since if they do, they will be considered to have resigned.

182 Please note, however, that a childcare center is currently being built in Malta.

183 A recent initiative of joint signing of the European Charter of Equality between Women and Men is noteworthy, with 16 major Polish cities signing a pledge to, inter alia, participation of women and men in decision-making, elimination of gender stereotypes, women to run for public office, vote and exercise their individual electoral rights, and so on. The Charter was signed on 11 October 2021 by Bydgoszcz, Chelmno, Jaslo, Krosno, Lublin, Ostrów Wielkopolski, Plońsk, Poznań, Pruszków, Puck, Skarżysko Kamienną, Sopot, Świdnice, Wałbrzych, Wołomin, and Warsaw. Others have joined them since, such as Kraków. Also, as a result of the Horizon Europe application conditions, which as of this year include having a Gender Equality Plan, some local governments have engaged in developing such plans (such as Krakow and Warsaw), expected to be adopted by the end of 2022.

Few Parliaments have approached this issue strategically, as a more long-term one, by either developing their own gender equality plan, programmes, or conducting (gender) audits. This is the case with **Spain**,¹⁸⁴ where the plans include measures for advancing gender equality among staff that are both civil servants and staff working under other labour contracts, but does not apply to the Parliament as a whole. These plans do not apply to the MPs at all, which means that no adjustment of procedures and operation of the legislature that could benefit the MPs, or measures on infrastructure and the architectural surroundings, can come from these plans. The **Swedish** Parliament has an action programme for gender equality for each parliamentary term that is prepared by the Board of the Parliament. The aim of this programme is to work towards a 'gender-conscious parliament' understood to include 'gender balance in different bodies and contexts', 'gender mainstreaming ... integrated into the activities and processes' and 'an internal culture where both women and men are respected and where resources are equal' as well as an intention that 'the balance between mission and family responsibilities is facilitated' and for both women and men to 'participate in gender equality processes'.¹⁸⁵ On the basis of interviews with MPs, this programme also includes plans: 'to conduct seminars on communication strategies to promote a good climate for debate, proposing ways of increasing the security of the role of MP, examine ways of supporting victims of abuse and sexual harassment in Parliament', and reviewing 'information for MEPs on how to access occupational health services for support'.¹⁸⁶ In the **United Kingdom**, the 2018 'Gender Sensitive Parliament Audit'¹⁸⁷ identified a number of barriers, including: 'the culture of Parliament as highlighted in recent reports of bullying and harassment, and sexual harassment; the challenges that working in Parliament poses for family life, including the unpredictability of business and potential long hours; the financial impact of standing for Parliament; and online threats and threats to physical security, in particular gender-based intimidation, harassment and violence against female Parliamentarians and female candidates'.¹⁸⁸ On the basis of these findings, a number of measures were introduced (discussed below in section 7.3.4).

The national experts identify several measures on procedures and the operation of the legislature that have been required under law and have already been implemented. In **Denmark**, there are adjustments geared towards improving work-life balance, such as predictable schedules and calendars, and parental, sickness and family leave. Ordinary meetings and annual seminars are planned one year in advance, and only extraordinary meetings can be planned ad hoc by the mayor or one third of the council.¹⁸⁹ MPs are entitled to paid childbirth and adoption leave, and a paid leave for caring for a seriously ill child.¹⁹⁰ In **Norway** under the Local Government Act (Chapter 8), local representatives in counties and city councils have many of the same rights as employees in Article 12-1 to 12-10 of the Working Environment Act, which includes right to prenatal examinations, pregnancy leave for up to 12 weeks during pregnancy, leave of absence to take care of a child including 2 weeks for the father or for adoptive parents and foster parents, maternity leave of 6 weeks for the mother after birth, parental leave of a total of 12 months for both parents, time off for nursing mothers, and a leave of absence for sick child, and care and nursing of close relatives.¹⁹¹ When it comes to MPs, during pregnancy, care and maternity leave, and leave in case of illness of children and childminders, they have the right to keep the remuneration according to similar rules applicable to employees in the state, as per the Working Environment Act (Chapter 12), the National Insurance Act¹⁹² (Chapter 14), and the rules in the Main Tariff Agreement in the state. This also applies to deputy representatives for the period they are summoned to serve. Breastfeeding in the Parliament is still

184 https://www.congreso.es/cem/plan_de_igualdad.

185 Sweden, National Report (questionnaire responses).

186 Sweden, National Report (questionnaire responses).

187 UK Parliament *UK Gender-Sensitive Parliament Audit 2018* (26 November 2018) available at: <https://www.parliament.uk/globalassets/documents/lords-information-office/uk-parliament-gender-sensitive-parliament-audit-report-digital.pdf>.

188 United Kingdom, National Report (questionnaire responses).

189 Statutory Act on Local Municipality Government, section 8, 9a.

190 Standing Order of the Danish Parliament Section 41(3) and (4), Parliamentary Elections Act Sections 109 (10) and (11).

191 Act relating to working environment, working hours and employment protection, etc. (Working Environment Act) of 17.06.2005 No. 62, Section 12-1 to 12-10.

192 Act relating to National Insurance of 28.02.1997 No.19.

a grey zone under the law, but is allowed in practice.¹⁹³ In **Sweden**, the Elections Act provides that each MP should have up to three replacements¹⁹⁴ who can step in in case of a leave of an MP longer than one month, which includes when they use a parental leave during which they receive a parental benefit and a top-up equivalent to 90 % of their salary.¹⁹⁵ In **France** all municipal councillors attending a meeting can obtain a subsidy for expenses for caring responsibilities of a child, persons with a disability or an elderly person in the household. In **Finland**, breastfeeding in the Parliament has been practiced since 1995. In 2020, a group of Finish MPs joined forces to create a working group for the promotion of an infant-friendly culture, including pregnancy and infant services.¹⁹⁶ In **Germany** there is a pregnancy and maternity leave with full compensation for federal MPs, but no parental leave,¹⁹⁷ and there are limited forms of maternal leave throughout the State Parliaments. The Thüringen State Parliament MPs can bring their children to sessions if they are up to one year old and do not disturb the session, or older if the President of the Parliament allows for this. An incident where an MP was not allowed to bring her child to a session spurred a public debate in this Parliament and pushed for a clarification of the rules.¹⁹⁸ It is also worth noting that federal MPs need to travel a lot and have two places of residence (in Berlin and in their constituency), which might deter women from taking up such posts. In **Ireland** traveling to Dublin has also been reported to cause challenges for family life, although the Parliament usually aims to pack work into three days, leaving the remaining four days of the week free.

Arrangements around scheduling of sessions, and working hours overall are a challenge in most places. In **Denmark**, while a predictable, advance annual schedule helps, the starting times and the duration of the meetings are still unpredictable, which can pose a challenge for private life-work life balance. Working hours can be a challenge for women MPs in **Malta** as well, since the national Parliament meets only during the evenings. A 'culture of long working hours'¹⁹⁹ is an issue in **Portugal** as well, in addition to measures to balance private and work life not being applicable to MPs due to their particular status as elected officials. Interviews with MPs in **Sweden**, conducted as part of the preparation of the 2018-2022 action programme on the work for equality in the Parliament, showed that young women MPs in particular faced challenges in reconciling private life and work life. As a result, the Parliament plans to conduct a review of time and scheduling, in particular of voting times and the manner of scheduling of meetings. Since September 2020, after piloting it, the **United Kingdom** Parliament introduced a proxy voting option for mothers, fathers and adoptive parents whereby they can use proxy voting for seven months, taken continuously, and fathers or partners for two weeks. An MP parental leave cover fund was established to enable MPs to cover additional staffing costs (for example, for staff hired to cover constituency duties).

Some measures on infrastructure have been identified, such as adjustments to the architectural surroundings. In the **Danish** Parliament, there is a room with TV broadcast of the session right next to the Chamber of Parliament, the purpose of which is to enable MPs with young babies or children to follow the sessions, although it does not accommodate speaking and voting. An MP wanting to do this would still need to physically enter the Chamber. There is an internal rule of order prohibiting bringing babies in the Chamber. However, prior practice has shown that it is essentially at the discretion of the President of the Parliament whether s/he will enforce this rule. So, although there have been occasions before when mothers attended sessions with their babies and were allowed to do so, the current President of Parliament does not allow anyone that is not an elected MP in the Chamber.²⁰⁰ This has been the situation

193 See article from Nrk 28. October 2021 'Skal avgjøre regelverk for amming i stortingssalen' (Shall determine the rules on breastfeeding inside the parliamentary hall), <https://www.nrk.no/sorlandet/skal-avgjore-regelverk-for-ammig-i-stortingssalen-1.15707980>.

194 Elections Act (2005:837), Ch 14 Sec 14.

195 The Riksdag Act (2014:801) Ch 5 Secs 3-4.

196 The working group was established in 2020. It has stressed the need of ensuring such services even during the pandemic, see: Odotus- ja vauva-ajan palveluiden saatavuus on turvattava korona-aikana ja pandemian hoidossa, https://www.terveydenhoitajaliitto.fi/files/903/Odotus- ja vauva-ajan palveluiden saatavuus on turvattava korona-aikana seka pandemian jalkihoidossa_9.4.2021.pdf.

197 Absatz 1 Satz 5 Abgeordnetengesetz, para 14.

198 Anton Hofreiter: Kinder im Bundestag sind auch keine Lösung | ZEITmagazin.

199 Portugal, National Report (questionnaire responses).

200 <https://www.berlingske.dk/samfund/endnu-en-baby-i-folketingssalen-berlingske-skipper-har-oensket-opmaerksomhed>.

since 2019, when the current President asked an MP to leave the Chamber with her five-month-old baby.²⁰¹ In **Finland**, building infrastructure related to day care/pre-school education for children of MPs was done as a way to promote and support the rights of both parents. A subjective right to day-care has been part of the national legislation in Finland for several decades now. Since 1990, there is a right to day care after parental leave for children under the age of three, and since 1997 a right to day care for children from the ages of three to school age (seven years of age). The **German** Parliament has a play, breastfeed, and baby changing room and the nursery can accept up to 10 children from Parliamentarians.²⁰² However, a 2007 constitutional judgment stated that there is no parental leave for MPs due to their elected status which, according to the Constitutional Court, cannot be a position viable for replacement. This can be a deterrent for women, since absences are recorded as such. But the situation is improving among the State Parliaments, where, starting with the Baden-Württemberg in 2014, they started to pass parental leave provisions for their Parliamentarians. It is not a traditional parental leave but allows new parents more flexibility over their work scheduling. In **Malta**, a childcare centre is currently in the making and should be available by the end of 2022.²⁰³ In **Sweden**, MPs can use temporary childcare for children between the ages of 1 to 12 in the Parliament's premises and, if necessary, until 11 pm.²⁰⁴ In the **United Kingdom** Parliament there has been an on-site nursery since 2010. The Women and Equalities Committee have called for more spaces for changing and breastfeeding.²⁰⁵

Finally, there is a small group of countries where such measures have not been formally introduced, but are also considered as not needed since there is already an environment conducive to the promotion of gender balance in decision-making positions in the legislature, such as in **Iceland**.

4.4 Measures aimed at women from minority groups

The report also considered the measures aimed at women from minority groups. The scholarly body of work on intersectionality, beginning with Kimberlé Crenshaw's work²⁰⁶ and black feminist thought,²⁰⁷ has made it impossible for the literature to continue to ignore the particular ways in which women from racial and ethnic minorities are being excluded and discriminated against and has turned the conversation towards uncovering the power relations that work to sustain the status quo in societies and to prevent the demarginalising of women from minority groups. Crenshaw's work highlighted the multidimensional experience of intersectionality for Black women as structural, representational and political intersectionality. She demonstrated clearly through political intersectionality how location pushed women of colour out of political struggles for gender equality and racial equality.²⁰⁸ Gender and politics research has been exploring the potential of intersectionality to critically revisit or to refine previous

201 <https://www.dr.dk/nyheder/politik/pia-kjaersgaard-det-er-helt-uhørt-hun-tog-babyen-med-i-salen>.

202 Scientific Service of the Federal Parliament (2022), Family friendly regulations for parliamentarians (Familienfreundliche Regelungen für Abgeordnete) www.bundestag.de/resource/blob/893022/3402cae6f825fee117572826c06cdcbc/WD-9-012-22-pdf-data.pdf#:~:text=Einen%20Anspruch%20auf%20Elternzeit%20bzw.%20Elterngeld%20haben%20Abgeordnete,fünf%20Jahren%20ein%20Spiel-%2C%20Still-%20und%20Wickelzim-%20mer.

203 <https://timesofmalta.com/articles/view/childcare-centre-for-parliament-by-years-end.961385>.

204 The Act (2016:1108) on remuneration for Members of Parliament, Chapter 8, available (in Swedish) at <https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20161108-om-ersattning-till-riksdagens-sfs-2016-1108>.

205 House of Commons, Women and Equalities Committee Equality in the heart of democracy: A gender sensitive House of Commons (Fifth Report of Session 2021-22) (23 February 2022) (HC131) at para. 15, available at: <https://d.docs.live.net/ba546dda00851987/EELN%20gender%20power/gender%20sensitive%20parliament.pdf>.

206 Crenshaw's 1989 foundational article and the subsequent 1991 article which is important for defining 'political intersectionality': Crenshaw, K. (1989), 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine', *University of Chicago Legal Forum*, p. 139; Crenshaw, K. (1991), 'Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color', *Stanford Law Review* 43, p. 1241.

207 The Combahee River Collective is often referred to as the first expression of intersectional critique, but, as Ange-Marie Hancock's work shows, Black feminists were thinking and talking about intersectionality much earlier, including in the XVIII and XIX century. Source: Hancock, A. (2016), *Intersectionality: An Intellectual History*, Oxford University Press. A detailed critical reading of Crenshaw's work can be found in: Carastathis, A. (2016), *Intersectionality: Origins, Contestations, Horizons*, University of Nebraska Press.

208 Crenshaw, K. (1991), 'Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color', *Stanford Law Review* 43, p. 1241.

research findings, including on women in the legislature²⁰⁹ and has dispelled one of the more frequent arguments put forward, referred to by Sarah Childs and Melanie Hughes as the ‘zero-sum antiquota argument’²¹⁰ (i.e. gender quotas benefiting high-class women at the expense of men from minorities and ‘lower class men’).²¹¹

Progress has been made in academic thought,²¹² although it can still rightfully be criticised when assessed against the original conceptualisation and political project of intersectionality.²¹³ However, when it comes to the promotion of women from minority groups to decision-making positions in the legislature, national legal systems are slower in reforming,²¹⁴ which clearly demonstrates continued resistance by those very same power relations which academics criticise. International law has to some extent perceived women as a non-homogenous group. With this in mind, the participation of women from minority groups has been conceptualised as having two pillars – the general, or individual, pillar, and the community pillar, as discussed in Chapter 2. This enables women from minority groups to both be included in the mainstream, general, political life, and in the political and public life in their ethnic communities. Thus, measures to promote women from minority groups should be devised to work towards participation on both pillars. Seen through the lens of intersectionality, it is clear that this result cannot be achieved either through measures aimed solely at women, or through measures aimed solely at minority groups. Neither approach is likely to work for women from minority groups,²¹⁵ since their particular realities have not been taken into consideration when designing and implementing such measures. Yet, as this section will show, that is exactly how the countries considered in this report have approached the promotion of women from minority groups to decision-making positions in the legislature thus far.

The findings of the report show that no country has introduced measures to promote women in decision-making positions in the legislature that are specifically targeted at women from minority groups. There are also no cases of nested quotas (i.e. gender quotas within ethnic quotas). In fact, the majority of the countries have not introduced any measures from which women belonging to minorities can at least, possibly, indirectly benefit, nor have any such proposals been initiated. This is the case in: **Austria**,

209 Childs, S. and Hughes, M. (2018), “Which Men?” How an Intersectional Perspective on Men and Masculinities Helps Explain Women’s Political Underrepresentation, *Politics & Gender* Vol. 14, Issue 2, pp. 282-287; Celis, K. et al (2014), ‘Quotas and intersectionality: Ethnicity and gender in candidate selection’, *International Political Science Review* Vol. 35(1), pp. 41-54; Paxton, P. and Hughes, M. (2014), *Women, Politics, and Power*, Rowman & Littlefield, pp. 223-238; Htun, M. (2004), ‘Is Gender Like Ethnicity? The Political Representation of Identity Groups’, *Perspectives on Politics* 2 (3), pp. 439-58.

210 Childs and Hughes discuss this on the cases of India and the UK, and term the argument through the lens of caste. Source: Childs, S. and Hughes, M. (2018), “Which Men?” How an Intersectional Perspective on Men and Masculinities Helps Explain Women’s Political Underrepresentation, *Politics & Gender* Vol. 14, Issue 2, p. 284.

211 Childs and Hughes discuss this on the cases of India and the UK, and term the argument through the lens of caste. Source: Childs, S. and Hughes, M. (2018), “Which Men?” How an Intersectional Perspective on Men and Masculinities Helps Explain Women’s Political Underrepresentation, *Politics & Gender* Vol. 14, Issue 2, p. 284.

212 Being suggested to have grown to a buzzword (McCall, L. (2005), ‘The Complexity of Intersectionality’ 30 *Signs: Journal of Women in Culture and Society* 1771) and into a whole field of study (Cho, S., Crenshaw, K. and McCall, L. (2013), ‘Toward a Field of Intersectionality Studies: Theory, Applications, and Praxis’, 38 *Signs* 785).

213 Critiques of whitening, which has been equalised with undoing the intersectional project, being the most prominent ones. See for example: Hill Collins, P. (1990), *Black Feminist Thought*; Bilge, S. (2013), ‘Intersectionality Undone: Saving Intersectionality from Feminist Intersectionality Studies’, 10 *Du Bois Review* 405; Hancock, A. (2016), *Intersectionality: An Intellectual History*, Oxford University Press.

214 This has been noted in three reports by the European Commission, two of which produced by the EELN (and its predecessor): European Commission, ‘Tackling Multiple Discrimination: Practices, Policies and Laws’ (European Commission 2007); Burri, S. and Schiek, D. (2009), ‘Multiple Discrimination in EU Law Opportunities for Legal Responses to Intersectional Gender Discrimination?’, European Commission; Fredman, S. (2016), ‘Intersectional Discrimination in EU Gender Equality and Non-Discrimination Law’, European Commission.

215 In fact, research has suggested that very different measures with different aims are being put in place to support participation on grounds of ethnicity (reserved seats) compared to gender (quotas). Source: Htun, M. (2004), ‘Is Gender Like Ethnicity? The Political Representation of Identity Groups’, *Perspectives on Politics* 2 (3), pp. 439-58.

Belgium, Bulgaria,²¹⁶ Czechia, Denmark, Estonia, Finland, France, Germany,²¹⁷ Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta,²¹⁸ Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and United Kingdom. In some countries, the fact that there are bans on collecting statistics regarding race and ethnicity, except in very particular situations (such as trials, or specially authorised research), can make the planning and introduction of such measures even more difficult, for example in **France**. In other countries, legislation currently in place might not allow for such measures, for example in the **United Kingdom** due to the 2010 Equality Act which allows for such measures only on grounds of sex.²¹⁹

In the few countries where such measures exist, they are not aimed at women from minority groups in particular, but are prescribed in a general manner, to apply to all minorities. As discussed above, such measures cannot be expected to guaranteed to reach women from minority groups, thus they cannot be considered to be effective for ensuring participation on the general and the community pillar. Yet, since these are measures that also pertain to women, they are considered here, and have been identified in **Croatia, Hungary** and **Sweden**, and for religious minorities in **Cyprus**. These rules are all fashioned in a gender neutral (or rather, gender-blind) manner. Such prescription is usually done in the legislation regulating minority rights, or more rarely, as part of the general equality and non-discrimination legislation. **Croatia** has set out measures for the election of people from minorities in the Constitutional Act on the Rights of National Minorities. According to this act, political parties registered in the Republic of Croatia, voters and associations of national minorities can propose candidates for the representatives of national minorities and their deputies, and are guaranteed appropriate representation in representative bodies at national and local levels, and administrative and judicial bodies, as well as participation in public life and affairs through special councils of national minorities.²²⁰ A minority group that is larger than 1.5 % of the total population is guaranteed at least one and at the most three parliamentary seats, whereas all other groups comprising less than 1.5 % are guaranteed up to four MPs,²²¹ which brings the total number to a maximum of seven guaranteed seats. **Hungary** has a particular system of minority self-governance (i.e. non-territorial or territorial arrangements for governance by the minority groups of certain local or internal affairs²²²), but it is mainly focused on cultural and identity preservation and on the creation of specific councils through which the minority can cooperate with the mainstream political institutions, and not on actual integration and participation in these institutions, unlike in **Croatia**. Despite the lack of a legal obligation, several political parties have put forward minority candidates on winning places for elections for the national Parliament and for European Union Parliament elections, and in particular Roma candidates (Roma are the largest ethnic minority group in Hungary, comprising 8-9 % of the total population). Sometimes these candidates are women, for example MEP Livia Járóka. In **Sweden**, the Sami Parliament is a representative body solely of people of Sami heritage; the Parliament has 13 women and 18 men, whereas its board is composed of two women and two men, but its chair and vice-chair are both men. In 2008, a bill introduced an obligation to encourage and promote the political participation of,

216 In Bulgaria, Article 38 of the Law on Protection from Discrimination states that '[t]he state and public bodies and the bodies of local self-government conduct a policy for encouraging balanced participation of women and men, as well as representative participation of persons belonging to ethnic, religious and linguistic minorities in the management and the decision-making process'. However, according to the Bulgarian expert, this provision was never used in practice and it hardly creates an enabling environment for balanced participation of women and men. In addition, there is no guarantee that this provision will be read as a ground particularly for women from minority groups.

217 Although, there are some voluntary commitments by individual parties.

218 In Malta, the representation of persons with disabilities in the Parliament has recently been debated in the public. This can also raise to more prominence the issue of representation of women with disabilities. Source: <https://timesofmalta.com/articles/view/we-need-more-people-with-disability-in-parliament-ex-commissioner.913641>.

219 A challenge to this might be coming from one political party which wants to press for a possibility to also have shortlists for ethnic minorities. Source: *Labour: Groups press for more ethnic minority candidates - BBC News*.

220 Constitutional Act on the Rights of National Minorities (*Ustavni zakon o pravima nacionalnih manjina*) NN Nos. 155/2002, 47/2010, 80/2010, and 93/2011, Article 7(8) and (9).

221 Constitutional Act on the Rights of National Minorities (*Ustavni zakon o pravima nacionalnih manjina*) NN Nos. 155/2002, 47/2010, 80/2010, and 93/2011, Article 19 (3) and (4).

222 For more on 'minority self-governance' see: *OSCE, Lund Recommendations on the Effective Participation of National Minorities in Public Life* (1999).

inter alia, minority women,²²³ but there are no particular measures in place that would encourage greater involvement and participation in decision making in the legislature by minority women specifically. **Cyprus** has rules for guaranteeing the representation in Parliament of three religious minorities – Maronites, Armenians and Roman Catholics. Again, these are fashioned in a gender-neutral form, meaning that women can only indirectly benefit from them. In conclusion, there are no nested quotas or other similar measures tailored specifically for women from minority groups in any of the countries.

Non-legislative and/or informal measures or initiatives have been noted in some of the countries. In **Iceland** in 2022, the Directorate of Equality and the Prime Minister launched an initiative to increase diversity on electoral lists, since all representatives in the national assembly, men and women, are white, ethnic Icelandic people.²²⁴ In the **Netherlands**, such initiatives are recent, such as the ‘vote for a woman’ initiative, but they have focused on women. In **Norway**, progress has been attempted through soft measures, such as networking and lobbying events,²²⁵ which are focused on minorities in general, although women are not side-lined.

The countries where there are measures on grounds of both gender and ethnicity, such as **Croatia** and **Sweden**, exemplify the different treatment of the two grounds, namely that gender gets (often voluntary) quotas, whereas ethnicity gets reserved representation (as seats or a special body). Academic literature explains this difference as resulting from the tendency of political and ethnic identities to overlap, as opposed to the cross-cutting nature of gender.²²⁶ However, it does not explain the general lack of any measures to encourage greater involvement and participation in decision making in the legislature for women from minority groups. The theory of intersectionality²²⁷ explains this as the overlooking of women from minority groups, who often fall through the holes of any net to protect women or to protect minority groups. They are not seen to either fit neatly into or to be considered specifically as part of these groups, but they are expected to blend in with both groups to the point of non-recognition and at the cost of the integrity of their identity, part of which is the intersection of gender and ethnicity and the resulting synergistic effect of this intersection. As a result, no specific measures are in place that would address the particular position of women from minority groups arising as a result of that synergistic effect.

4.5 Obstacles

Previous research has identified different obstacles to the participation of women in the legislature, including in decision-making positions, from political party traditions, and electoral systems to everyday obstacles that have a multiplying effect, such as money and time,²²⁸ which are relevant for the European context.²²⁹ These are colloquially summarised as the ‘five Cs’: care, cash, confidence, culture, and candidate selection. They also emerge from the findings of this report, and while some originate from legal provisions and others from the lack thereof, all seem to be compounded by what the national experts perceive as ‘culture’.²³⁰

223 Government Bill Prop. 2008/09:158 From recognition to empowerment (Från erkännande till egenmakt), p. 46 available (in Swedish) at: <https://www.regeringen.se/49bafd/contentassets/cb45420dc4fb44c1bb7214d3b065c5d1/prop-200809158-fran-erkannande-till-egenmakt--regeringens-strategi-for-de-nationella-minoriteterna>.

224 <https://www.jafnretti.is/is/samfelag-og-vinnumarkadur/sveitastjornarmal/jatak>.

225 Predelli L. (2010), ‘Uformelle veier til makt. Om minoritetskvinner politiske innflytelse’ (Unformal ways to gain power. Minority women political influence).

226 Htun M. (2004), ‘Is Gender Like Ethnicity? The Political Representation of Identity Groups’, *Perspectives on Politics*, vol. 2, number 3, pp. 439-58.

227 Crenshaw, K. (1989), ‘Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine’, *UCLF*: pp. 139-167.

228 For example, see: Paxton, P. and Hughes, M.M. (2014), *Women, Politics, and Power*, Rowman & Littlefield, in particular pages 100-183; Childs, S. and Lovenduski, J. (2013), ‘Political Representation’ in Waylen, G., Celis, K, Kantola J and Weldon, S.(eds), *The Oxford Handbook of Gender and Politics*, pp. 9-10.

229 EIGE, *Gender Equality Index 2022: The COVID-19 pandemic and care* (2022), pp. 38-42. Available at: <https://eige.europa.eu/publications/gender-equality-index-2022-covid-19-pandemic-and-care>.

230 It is beyond the scope of this report to enter into an analysis of the culture and cultural practices in each of the countries and to devise possible strategies for overcoming these. Mapping this cultural space and practices, and devising such strategies can be the subject of further research.

There are some provisions that create such obstacles. In **Denmark**, an internal rule of Parliament prohibits bringing babies in the Chamber where MPs are required to be physically present should they wish to speak or vote.

Some national experts noted that the lack of binding provisions that would mandate measures, such as quotas, mentoring and so on, is the actual obstacle, for example in **Austria, Croatia, Czechia** and **Poland**. The national expert for **France** cites the lack of election rules for municipalities that are less than 1 000 residents and the provisions on gender balance in the General Assembly, which lack legal bite, as obstacles. Lack of prohibition of hate crime in **Estonia**, which persists despite the infringement proceedings initiated by the European Commission, is another example of such an obstacle. The lack of such measures can work to deter women more than men, for example lack of maternity or paternity leave of the national standard (such as in **Ireland**,²³¹ and **Luxembourg**),²³² no support around the arrangements which arise due to travel for parliamentary sessions to the capital for MPs with constituencies outside of it (such as in **Germany** and **Ireland**), working hours extending into the evenings or solely evening working hours (such as in **Malta**), or an overly heavy workload that exceeds what the formal position requires (such as in the **Netherlands** at the local level, where representatives cannot fit all working obligations into the part-time hours that they are expected to work).

In some countries the obstacles are not only that there are no such provisions under law, but that there are also no policies that can work in this direction (**Bulgaria**).

Some national experts highlighted the culture in politics, rather than any soft or hard law as an obstacle (**Belgium, Cyprus, Estonia, Portugal** and **Spain**). The **Danish** national expert underlined that '[b]arriers for increased participation of women in politics are identified as unconscious bias, doing what we normally do, large workloads, and a hard tone of communication internally in the parties and on social media, where female politicians are treated especially harsh'.²³³ The **Estonian** national expert considers that the '[p]olitical parties' electoral programs and procedures do not support gender equality'.²³⁴ The **Spanish** national expert emphasised the role of gender stereotypes regarding the place and roles of women in the public sphere and in politics. Similarly, in **Cyprus**, women considering a career in politics are confronted with an environment dominated by men and masculinity that is often hostile to them. In the Parliament in particular, where women MPs are historically underrepresented, which is also due to the lack of binding measures guaranteeing their election (see Chapter 3 on Elections), the image of a 'men's club' is particularly acute. The Swedish national expert considers the outcome in **Sweden** to be the result of 'policies and constant work based on action plans, evaluations and goal setting... [T]he pursuit for gender balance in decision-making does not have a natural end. On the contrary, the policies applied in Sweden require that gender equality issues are pursued continuously and in a determined manner'.²³⁵

Lack of regulation of the media results in a vast unrestrained space where media discourse can work to preserve patriarchal notions of what a woman and a man in politics should be like, thus sustaining social

231 Recently, the case of the Minister of Justice expecting a baby, and the first minister expecting a baby while in office, brought to light the fact that Ministers do not enjoy the regular maternity leave, but need to take a sick leave. This arises because of the fact that MPs, as office-holders, pay a social insurance with which they receive no benefits (i.e. Pay-Related Social Insurance (PRSI) at the K1 rate of 4 %). Paternity leave is also not an option for MPs under the Paternity Leave and Benefits Act 2016, the Adoptive Leave Acts 1995 and 2005, the Parental Leave Acts 1998 and 2006 and the Parents' Leave and Benefit Act 2019. Lack of maternity leave, or rather the related challenges in going on any leave longer than six months, for municipal councillors, has been identified by the Minister for Local Government to be a deterrent for women to participate in local self-government, where women participate the least, and as a matter which should be resolved as a matter of urgency.

232 Recently a young MP in Luxembourg spoke about the lack of maternity leave for MPs. Following this, the President (spokesperson) stated the following: 'the mandate of an MP is not considered as a professional activity, which means that labour law does not apply'. Furthermore, MPs cannot be temporarily replaced. He [the spokesperson] added that 'no changes are expected, but the Chamber of deputies is studying the possibility to open a day-care centre (a crèche)'. Source: Luxembourg, National Report (questionnaire responses).

233 Denmark, National Report (questionnaire responses).

234 Estonia, National Report (questionnaire responses).

235 Sweden, National Report (questionnaire responses).

stereotypes that can work to the detriment of women, and to everyone who attempts to bring about a change in society (**Belgium**).

In some countries national experts do not consider that there are any obstacles arising from soft or hard law measures or provisions (**Finland, Greece, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Norway**,²³⁶ **Romania, Slovakia, Slovenia**, and **Sweden**) whereas in others the experts note general election issues (**Hungary**).

4.6 Other activities for the promotion of women in decision making in the legislature

Aside from quotas and the other measures discussed so far, other activities can be undertaken that can work to promote women in decision making in the legislature. In the past, such activities tended to focus on women, insisting on training or other forms of capacity building and empowerment of women. This paints a picture in which women themselves are the reason for their exclusion from decision-making positions in the legislature and ignores the systemic obstacles that women face to reach, perform unimpededly to the maximum of their abilities, and remain in decision-making positions in the legislature. Moreover, they treat women as a homogenous category, and are rarely adjusted to target and include women from minority groups, women with disabilities, or lesbian, bisexual or trans (LBT) women. Recently, these sorts of activities are becoming more tailored to target and include men and political/party leaders, which signals a possible shift in perception and more readiness to deal with systemic challenges.

We list some of the other activities undertaken to promote women in decision making in the legislature in Table 2 below. Yet, most of the national experts note that this is mainly left to the political parties and it depends on them. The fact that these measures are not always planned in the party internal documents, such as statutes, suggests that this is largely flexible and depends on the will of the current composition of the party. Thus, the sustainability of these efforts is uncertain.

Table 2: Other activities for the promotion of women in decision making in the legislature by country

Activity	Country
Speaking rules during meetings	Austria ²³⁷
Women's groups/clubs/sections inside Parliaments and/or parties	Austria, Ireland, Finland ²³⁸
MPs parent groups/clubs	Germany ²³⁹
Conferences or other discussion forums	Malta ²⁴⁰
Workshops and other awareness-raising activities	Austria, Czechia ²⁴¹

236 See section on 'Elections' regarding challenges for election at the local level.

237 Features a zipper system, meaning alternating between women and men speakers.

238 Naisverkosto is a network of female MPs across party lines established in 1991 which arranges seminars and meetings, sends representatives to international meetings related to women's rights, and gathers together to discuss political issues relevant to women.

239 The 'Parents in Politics' (Eltern in der Politik) federal inter-party group has been advocating for more family friendly working arrangements since 2015. They encourage politicians on all levels to sign up to five commitments include a political free Sunday, family friendly political events during the weekend, effective sessions that respect committed timeframes, flexible working time, and fair competition – meaning that absence because of family commitment/maternity should not be exploited by political adversaries. Source: Eltern in der Politik (eltern-in-der-politik.de) Source: Eltern in der Politik (eltern-in-der-politik.de).

240 'In 2014, a conference on the theme of Advancing gender equality in elected office in Malta was organised, bringing together representatives from political parties, Members of Parliament, policy-makers and academics as well as representatives from civil society and the media. This Conference was organised by the OSCE Office for Democratic Institutions and Human Rights, in partnership with the House of Representatives, the Commission for the Promotion of Equality and the National Council of Women. The Conference Women's Political Participation in Malta was held on 3rd November 2014 at the House of Representatives.' Source: Malta, National Report (questionnaire responses).

241 Planned with the Strategy for equality of men and women 2021-2030, yet to be implemented. The measures aim at raising awareness among decision-makers.

Activity	Country
Awards	Czechia ²⁴²
Mentoring	Czechia, Hungary, ²⁴³ the Netherlands ²⁴⁴
Alliance building	Denmark ²⁴⁵
Leadership programme for women	Hungary ²⁴⁶
Training and education	Germany, ²⁴⁷ Liechtenstein, ²⁴⁸ the Netherlands, ²⁴⁹ United Kingdom ²⁵⁰
Public campaigns	Germany, ²⁵¹ Luxembourg, ²⁵² the Netherlands, ²⁵³ Norway ²⁵⁴

- 242 The Office on the Road to Equality competition has been supporting the introduction of gender equality policy and the principle of gender mainstreaming into the work of public administration offices internally (in the office) and externally (in the local community covered by the office) since 2007 (it is a continuation of the 'Half and Half' Office of the Year competition). Source: <https://www.mvcz.cz/clanek/urad-na-cestech-k-rovnosti.aspx>.
- 243 Hungary, Governmental Resolution 1685/2020 on the adoption of the Action Plan, prepared for the European Union, 'The Empowerment of Women in the Family and in Society' (2021-2030), and on the detailed plan of its implementation in 2021-2022 (1685/2020. (X. 22.) Korm. határozat az Európai Unió számára készített, 'A nők szerepének erősítése a családban és a társadalomban' (2021-2030) akcióterv elfogadásáról, valamint a végrehajtásának a 2021-2022. évekre szóló Intézkedési Tervéről), 22 October 2020, Point 2.a).
- 244 Kamerstuk II, 'brief van de Minister van binnenlandse zaken en koninkrijksrelaties', 2018-2019 30420 nr 328 retrieved from: <https://zoek.officielebekendmakingen.nl/kst-30420-328.html>.
- 245 The Minister for Equality started the Alliance against sexual harassment in June 2022 with the aim to focus on preventing and handling sexual harassment incidences in society, including in education, at work, in culture and leisure time activities, <https://seksuelchikane.dk/>.
- 246 Since 2018, the government-funded Mathias Corvinus Collegium runs the 'Women Public Leadership Programme' for women 18-36 years of age (supported by the National Talent Program and the Human Capacities Grant Management Office).
- 247 For example, training on harassment and sexual harassment in the workplace in Bremen.
- 248 'A project above party lines called 'Diversity in Politics' (Vielfalt in der Politik) is running for eight years from 2018 to 2025. The main aim of the project is to improve the participation of women in all political parties and on all levels to achieve gender balance at all elections. The amelioration of the election procedure and structural conditions, the empowerment of women for politics and general political education are further goals of the project. It is organised by the association Frauennetz and is financed by the state and its municipalities as well as by other stakeholders of the civil society'. Source: Liechtenstein, National Report (questionnaire responses).
- 249 Kamerstuk II, 'brief van de Minister van binnenlandse zaken en koninkrijksrelaties', 2018-2019 30420 nr 328 retrieved from: <https://zoek.officielebekendmakingen.nl/kst-30420-328.html>.
- 250 'All Members of Parliament and their staff have been invited to undergo inclusion training, called Valuing Everyone. As at June 2021 92 % of MPs and 97 % of other parliamentary staff had participated'. Source: United Kingdom, National Report (questionnaire responses); Independent Complaints and Grievance Scheme, Annual Report July 2020 - June 2021, October 2021 available at: [icgs-annual-report---july-2020--june-2021.pdf](https://www.icgs-annual-report---july-2020--june-2021.pdf) ([parliament.uk](https://www.parliament.uk)).
- 251 Part of the Council of Europe 'not in my parliament' campaign, <https://pace.coe.int/en/pages/not-in-my-parliament>.
- 252 Although focused on elections, rather than on the legislative, it is important here to note that at the 2017 local elections and in the 2019 EU Parliament elections, the Ministry for Gender Equality of Luxembourg ran an awareness raising campaigns under the banner 'Vote for equality' and '50/50 – Vote for parity' respectively. The campaign website – <http://www.50-50.lu> – is no longer available. Source: Chronicle, *Vote for Equality Campaign Launched in Luxembourg* (13.03.2019), <https://chronicle.lu/category/politics/29174-vote-for-equality-campaign-launched-in-luxembourg>.
- 253 Such as 'vote for women'. Source: Stem op een Vrouw, (n.d.) 'MENTORNETWERK' retrieved from: <https://stemopeenvrouw.com/mentornetwerk/>.
- 254 There is a long tradition of campaigning for women in elections in Norway (since the 1960s). Some recent examples include: the Equality Ombudsperson's 'Campaign for more women in politics', the Ministry of Local Government and Regional Development's 'Showcase for women in local politics', and local campaigns for more women on local election (Halsaa B. 2019), 'Kampanjer for kvinner i kommunepolitikken (campaigns for women in local elections) in *Tidsskrift for kjønnsforskning*, Gender Research, Årgang 43 No. 3.

In some countries, such activities are also undertaken by NGOs (for example, **Estonia**,²⁵⁵ **France**,²⁵⁶ and **Ireland**²⁵⁷), or individual political parties (for example, **Luxembourg**²⁵⁸) whereas in some there are no such activities reported at all (**Belgium, Bulgaria, Croatia, Cyprus, Denmark, Germany, Greece, Iceland**,²⁵⁹ **Italy**,²⁶⁰ **Latvia, Lithuania, Portugal, Romania, Slovakia, Slovenia, Spain**, and **Sweden**²⁶¹).

4.7 Relevant case law

In most countries (**Austria, Belgium, Bulgaria, Czechia, Cyprus, Denmark, Estonia, Hungary, Greece, Iceland, Italy, Liechtenstein, Luxembourg**, the **Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden**, and **United Kingdom**) there is no relevant case law on gender quotas, another positive action measure or other measures aimed at greater involvement and participation in decision-making in the legislature for all women, or regarding any obstacles that women have faced in their participation in decision making in the legislature.

Some challenges to positive action in general, and in the field of legislature, have been brought in before constitutional courts. In 2020, in **Croatia**, the Constitutional Court dismissed a case which, in essence, challenged the constitutionality of positive action in general. Specifically, the case filed by an applicant (a natural person) challenged the constitutionality of Articles 12, 15 and 35 of the Gender Equality Act, concerning the gender quotas for electoral lists and measures to be introduced when significant underrepresentation of members of one sex exists in legislative, executive and judicial bodies, including public services.²⁶² The Constitutional Court held that, on the basis of Articles 2(4), 3 and 5 of the Constitution, the legislature is entitled to regulate economic, legal and political relations in the Republic of Croatia, to uphold the rule of law, and to adopt rules for promoting equal opportunities between men and women as a way to realise one of the constitutional values of the Croatian constitutional order i.e. gender equality. In **Germany** two state constitutional courts decided that gender-balance provisions (parity provisions) were unconstitutional as they were found to 'limit the freedom of elections, as it predetermined a significant part of the voters' choice, and the parties right to act and appoint their most suitable/qualified candidates'.²⁶³ There is at present a case pending in front of the Constitutional Court of **Malta** from an independent candidate who opposed the correctional mechanism.²⁶⁴ In **Spain**, the Constitutional Court has considered the constitutionality of the electoral quotas on two occasions, in

255 The Estonian Debating Society, the Praxis Centre for Policy Studies Foundation and the Estonian National Youth Council undertake jointly a civic education project 'Local issues to the center of local elections', supporting people to make informed decisions during elections. Sources: <https://argument.ee/elections-2021>; <https://www.praxis.ee/tood/kohalikud-teemad-kohalike-valimiste-keskmesse/>.

256 Support of women at local level through trainings, tools, etc: <https://www.elueslocales.fr/soutenir-et-valoriser-les-femmes-en-politique/>; Promotion of and advocacy for gender balance at national legislative level: <https://www.ellesaussi.org/>; Workshops on good practice for gender balance in political life: <https://m.centre-hubertine-auclert.fr/article/evenement-6eme-journee-du-reseau-TFE>; Campaigns for youth, research grants: <https://www.centre-hubertine-auclert.fr/>.

257 Women for Election provides support (trainings, mentoring, and such) for women considering to run for elections: <https://www.womenforelection.ie/>.

258 There are several party specific activities that stand out. The Green Party operates a parallel speaking list for women and men, and gives right to speak in alternation: 'In meetings, two lists of speech are kept in parallel for women and men. Voice is given alternatively to women and men' (Source: Article 9, Statute of the Green Party). The Christian-Social Party CSV (Article 43 of the Statute) and the Socialist Party LSAP (Article 40 of the Statute) have specific women's sections. The Green Party has a Council for Gender Equality (Article 18 of the Statute). Its aim is to elaborate the strategic orientations of the gender equality policy of the party. Its mission is to promote equal participation of women and men in politics, economy and society and to fight all sorts of discrimination grounded on sex.

259 The Iceland expert considers that these are not needed since 'women are no longer a minority in the legislature or the political class'.

260 Although, professional trainings, networking and other activities have been planned, there is no firm record on them being implemented.

261 Please note, however, that such activities might be undertaken as part of the four year plan of the Swedish Parliament.

262 Constitutional Court of the Republic of Croatia, Case No. U-I-5339/2012 and U-I-3938/2015, Decision of 7 July 2020.

263 Germany, National Report (questionnaire responses); State Constitutional Court (Verfassungsgerichtshofs) Brandenburg, judgment of 23 October 2020, VfGBg 9/19; State Constitutional Court (Verfassungsgerichtshofs) Thüringen, judgment of 15 July 2020, Az. 9/2020, VerfGH 2/20, constitutional complaint was rejected by the Federal Constitutional Court (BVerfG) judgment of 6 December 2021, 2 BvR 1470/20, ECLI:DE:BVerfG:2021:rk20211206.2bvr147020.

264 https://www.maltatoday.com.mt/news/court_and_police/115456/constitutional_court_finds_for_cassola_orders_gender_quota_case_to_continue#.Yqx7_nZBzrc.

2008²⁶⁵ and in 2009,²⁶⁶ finding on both occasions that they were constitutional, and that they 'did not violate the principle of equality, the right to participation in public life, the freedom of political parties to set their candidatures, freedom of ideology or political pluralism'.²⁶⁷

In some countries, the quotas have been challenged in front of the administrative courts. In **Finland**, the quota provision in the Act on Equality has been challenged several times in front of the Supreme Administrative Court. According to a decision from 2002, the scope of the quota includes not only the municipal bodies expressly named in the Act on Municipalities, but possibly even other bodies, such as working groups.²⁶⁸ In **France**, on several occasions the Administrative Supreme Court has confirmed that the gender balance rules in municipal elections should remain in place and be enforced.²⁶⁹

In **Ireland**, a man challenged the election quotas,²⁷⁰ established under Electoral (Amendment) (Political Funding) Act 2012,²⁷¹ which the Supreme Court remitted back to the High Court for a full hearing, stating that quotas are 'the product of extensive debate and consideration of relevant materials, both national and international. Furthermore, it pursues an evidently important social goal. However, it seeks to achieve that object by a form of positive discrimination on gender grounds, and through a mechanism of controlling public funding for political parties, both of which are areas of constitutional sensitivity.'

National human rights institutions have also dealt with some cases regarding the quotas. For example, in **Finland** the Equality Ombudsperson has issued 10 opinions on the quota rule.²⁷² In **France**, although the Defender of Rights does not have a mandate in this field, they 'did mention the principle of parity in a decision in employment on the refusal to recruit a male dentist administrative assistant'.²⁷³

Challenges to the measures for private life-work life balance have also been raised. In **Germany**, the Thuringia Constitutional Court was considering a case regarding an MP's entitlement to take their children into the Parliament chamber. However, the parties decided to settle on children up to one year being allowed in the chamber as long as they did not disrupt the proceedings, whereas for older children this is at the discretion of the president.²⁷⁴

In **Ireland**, a man was charged with harassment of a woman MP, who was at the time standing for election.²⁷⁵ Using a number of fake Facebook profiles, he sent unsolicited audio-video sexual content and messages to the MP.²⁷⁶ The man caused grave concerns for the safety and dignity of the MP, who stated herself in the victim impact statement that she did not feel safe and that she felt sexualised in a manner she did not choose or want.²⁷⁷ He was given a suspended one year prison sentence. He was also ordered to stay away from the Irish Parliament. The judge considered his expression of remorse and donation

265 [Judgement of the Constitutional Court 12/2008, of 29 January 2008, ECLI:ES:TC:2008:12.](#)

266 [Judgement of the Constitutional Court 13/2009, of 19 January 2009, ECLI:ES:TC:2009:13.](#)

267 Spain, National Report (questionnaire responses).

268 Finland, Supreme Administrative Court, Decision KHO 2002:38.

269 Council of State 11 June 2021, Conseil d'État N° 448537 ECLI:FR:CECHR:2021:448537.20210611, <https://www.conseil-etat.fr/arianeweb/#/view-document/?storage=true>.

270 *Mohan v Ireland and the Attorney General* [2019] IESC, https://www.courts.ie/acc/alfresco/e99bc5f8-b582-42bf-94a3-e8a1cb0f1dcc/2019_IESC_18_1.pdf/pdf#view=fitH. It should be noted that there was no evidence that the case was further considered in the High Court.

271 <http://www.irishstatutebook.ie/eli/2012/act/36/enacted/en/html>, which amended s.17(4)(b) of the Electoral Act 1997.

272 See <https://tasa-arvo.fi/kiintiot-ja-tasapuolisuussaanoto>.

273 Case available at: https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=20363.

274 Verfassungsgesichtshof Thüringen: Babys im Landtag (lto.de).

275 <https://www.independent.ie/irish-news/courts/in-full-jennifer-carroll-macneills-victim-impact-statement-over-harassment-from-internet-troll-41640250.html>.

276 'On one occasion he sent her a screenshot of a photo of her in a bathing suit on Christmas Day with the message 'You look so sexy Jen. What a great body, you have'. The accused admitted to having downloaded the videos from a porn site.' Source: Ireland, National Report (questionnaire responses).

277 <https://www.newstalk.com/news/jennifer-carroll-macneill-online-harassment-left-me-in-fear-for-first-time-1340958>, <https://www.independent.ie/irish-news/courts/in-full-jennifer-carroll-macneills-victim-impact-statement-over-harassment-from-internet-troll-41640250.html>, <https://www.irishtimes.com/news/crime-and-law/courts/circuit-court/harassment-left-fine-gael-td-with-cold-sense-of-dread-1.4875688>.

to a charity nominated by the MP as extenuating circumstances.²⁷⁸ In **Latvia**, the Parliamentary Ethics Committee has reviewed cases of sexist speech, where women MPs were verbally attacked on the grounds of their gender.²⁷⁹ In **Malta**, there has been an instance of hate speech on TikTok against an opposition MP,²⁸⁰ one MP won a libel case following online hate speech,²⁸¹ and other incidents of death threats²⁸² prompted public reactions.²⁸³ The Maltese national expert reports that some changes were undertaken as a result of these threats, including a 2018 change to the national police system 'to facilitate the capture and reporting of hate crime when such incidents are reported' and the introduction of an 'in service training on hate crime to police recruits and officers through the Academy for Disciplined Forces following the delivery of the Training Against Hate Crimes for Law Enforcement (TAHCLE) Programme of the OSCE'.²⁸⁴

4.8 Internal regulation and sanctioning of harassment and sexual harassment

All countries covered in the report prohibit harassment and sexual harassment, and provide compensation or reparation options, as per their obligations under EU law²⁸⁵ discussed in previous reports of the EELN.²⁸⁶ However, as this section shows, this does not automatically translate into protection for persons on decision-making positions in the legislative.

The national experts were asked if there is specific internal regulation and sanctioning of harassment and sexual harassment in the legislative branch or at the local level. In a number of countries there is no internal regulation and sanctioning of harassment and sexual harassment in the legislative branch or at the local level (**Austria, Belgium, Bulgaria, Cyprus, Germany, Liechtenstein, Lithuania, Luxembourg, Malta, Poland, Romania, Slovakia and Slovenia**).

In some of the countries, the Parliament and local government staff are covered by the protection offered against harassment and sexual harassment in the general equality and non-discrimination legislation. For example, in **Belgium**, sexual harassment is outlawed with the 2007 Gender Act, which is applicable to employment, access and supply of goods and services, statutory social security schemes, 'social advantages', and 'access to and participation in any economic, social, cultural or political activity open to the public'. The situation is similar in **Croatia**, where both the Gender Equality Act (Article 8) and the Anti-Discrimination Act (Article 3), which apply in all spheres of public life, prohibit harassment and sexual

278 Limerick Post, *Suspended sentence for Limerick man who sent sexually explicit videos to TD* (21.10.2022), <https://www.limerickpost.ie/2022/10/21/suspended-sentence-for-limerick-man-who-sent-sexually-explicit-videos-to-td/>.

279 Kalnozols receives oral warning for his statements addressed to the member of the Parliament Čigāne (Kalnozols par deputātei Čigānei veltītajiem izteikumiem saņem mutisku brīdinājumu) <https://ir.lv/2016/08/03/kalnozols-par-deputatei-ciganei-veltitajiem-izteikumiem-sanem-mutisku-bridinajumu/>.

280 <https://www.independent.com.mt/articles/2021-03-19/local-news/PN-condemns-hate-speech-against-MP-Maria-Deguarra-6736231923>.

281 'Rosianne Cutajar Wins Libel Cases After Being Called A 'Whore' Online', <https://lovinmalta.com/news/rosianne-cutajar-wins-libel-cases-after-being-called-a-whore-online/>.

282 <https://www.independent.com.mt/articles/2016-02-16/local-news/Roberta-Metsola-receives-death-threat-after-speech-on-migrants-in-EP-6736153387>.

283 In a press statement by the Equality Commission (https://ncpe.gov.mt/en/Documents/News_and_Events/Press_Releases/2021/Press_Statement%20EN_15_March_2021.pdf) and by an opposition party (<https://timesofmalta.com/articles/view/pn-condemns-abuse-of-mp-maria-deguarra-on-tiktok.859129>).

284 Malta, National Report (questionnaire responses - follow up).

285 Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services, 13 December 2004; Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast); Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, 7 July 2010; as well as Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, OJ L 183, 29.6.1989, p. 18.

286 For example: Numhauser-Henning, A. and Laulom, S. (2011), *Harassment related to Sex and Sexual Harassment Law in 33 European Countries - Discrimination versus Dignity*, European Commission; De Vido, S. and Sosa L. (2021), *Criminalisation of gender-based violence against women in European States, including ICT-facilitated violence*, European Commission; Caracciolo di Torella, E. (2021), *Directive 2004/113/EC on Gender Equality in Goods and Services – In search of the potential of a forgotten Directive*, European Commission, pp. 74-75.

harassment, as forms of discrimination. Specifically for civil servants, i.e. for staff in the Parliament or in the local self-government units, the Ethical Code for Civil Servants also prohibits harassment and sexual harassment.²⁸⁷ However, there are no specific protocols aimed at protecting appointed or elected officials in the legislative branch. In **Czechia** this is covered by the Anti-discrimination Act.²⁸⁸ In **Finland** the Act on Equality, which prohibits sexual harassment and harassment on the ground of gender in Section 7, applies to state, regional and municipal administrations, but not to MPs in their parliamentary role, which has been established to mean 'parliamentary activity in the context of a member of parliament's work as a representative of the people' (Section 2(2)). The national expert considers this to be problematic since it can be interpreted as excluding cases of harassment of, for example, the MP's personal parliamentary assistant. Section 7 is not tied to sanctions, although compensation to the victims exists for some fields, such as working life, education, etc. In **Germany** this is left to the General Equal Treatment Act and up to the political parties, but there is no single point of contact in the federal Parliament to take cases of harassment and sexual harassment. However, recent initiatives seem to be underway that might change this.²⁸⁹ Harassment and sexual harassment are regulated differently in each of the state Parliaments, without any identifiable pattern,²⁹⁰ although most of them rely on the General Equal Treatment Act and provide training. In **Iceland**, the Gender Equality Act²⁹¹ prohibits harassment and sexual harassment for all institutions and organisations in society. Under this Act, all legal entities with 25 or more employees should have annual gender equality plans 'or mainstream gender equality perspectives into their personnel policy',²⁹² including that they undertake special measures to 'protect their employees, students and clients from gender-based violence, gender-based harassment or sexual harassment in the workplace or institution, social activities or schools'²⁹³ including excluding the alleged perpetrator from any decision-making regarding the 'working conditions of the plaintiff during the examination of the case, and the next superior shall take such decisions'.²⁹⁴ In **Italy**, such protection can be claimed by public servants under Directive 2/2019 of the Minister of Public Administration. In **Norway**, the Act on Gender Equality and Anti-Discrimination applies to politics and includes within the scope of protection the staff and the elected and appointed officials, including for sexual harassment (Section 13).

In other countries, the regulation of the protection and sanctioning of harassment and sexual harassment is done in the legislation regulating the civil service or the labour legislation in general. In **Estonia**, this is done by the Equal Treatment Act and the Gender Equality Act together with the Civil Service Act (Article 13 protects public service applicants and public servants).²⁹⁵ In **Greece**, under the Civil Servants Code, the following is punishable: 'the violation of the principle of equality, of equal opportunities and equal treatment of men and women in matters of employment and occupation, according to Act 3896/2010 and the use of language introducing gendered discrimination' and 'any act against sexual freedom and especially the offence of sexual dignity of another person or any act of financial exploitation of sexual life, within or outside the service'.²⁹⁶ Prosecution for these acts results in immediate suspension.²⁹⁷ Back in 2016, a proposal to amend the Parliament's internal regulations in order to ban sexist speech and to attach sanctions to the ban were presented to the Special Permanent Commission on Equality of the

287 Ethical Codex for Civil Servants (*Etički kodeks državnih službenika*), NN Nos. 40/2011 and 13/2012, Article 6.

288 Czechia, Act No. 198/2009 Coll.

289 See e.g. Tagesspiegel (2019), 'Members of parliament want to take action against sexual harassment in the Bundestag' ('Abgeordnete wollen gegen sexuelle Belästigung im Bundestag vorgehen') www.tagesspiegel.de/politik/nicht-in-meinem-parlament-abgeordnete-wollen-gegen-sexuelle-belaestigung-im-bundestag-vorgehen/25229804.html; Sueddeutsche (2021), 'SPD member of parliament complains of sexual harassment in the Bundestag' ('SPD-Abgeordnete beklagt sexuelle Belästigung im Bundestag') www.sueddeutsche.de/politik/bundestag-spd-abgeordnete-beklagt-sexuelle-belaestigung-im-bundestag-dpa.urn-newsml-dpa-com-20090101-210825-99-961758.

290 Wissenschaftliche Dienste 'Umgang mit Missständen aus Über- und Unterordnungsverhältnissen im parlamentarischen Raum – Ergänzung zu WD 6 – 3000-099/21' WD 6 – 3000 – 018/22 (www.bundestag.de/resource/blob/890770/7c66ee3d0acbe757dd042fe0ed4eb31e/WD-6-018-22-pdf-data.pdf, not available anymore).

291 Gender Equality Act, No. 150/2020.

292 Iceland, National Report (questionnaire responses).

293 Gender Equality Act, No. 150/2020, Article 14.

294 Gender Equality Act, No. 150/2020, Article 14.

295 <https://www.riigiteataja.ee/en/eli/521032022001/consolide>.

296 Civil Servants Code, Article 107.

297 Article 39(1) Act 4795/2021.

Greek Parliament by the ex-General Secretary for Gender Equality, Fotini Kouvela. However, they were never adopted, presumably due to lack of political will.²⁹⁸

In some countries there is a two-pronged approach – special protection via internal regulation and sanctioning of harassment and sexual harassment and protection via the general non-discrimination framework. For example, in the **Netherlands** the Working Conditions Act²⁹⁹ and the Act on the Equal Treatment of men and women³⁰⁰ both cover the public service, thus also the staff of the legislative branch.³⁰¹ In **Hungary**, harassment and sexual harassment claims can be heard by the equal treatment directorate of the Office of the Commissioner for Fundamental Rights. However, internal mechanisms, procedures, protocols aimed at combating discrimination and harassment can also be included as part of equal opportunity plans – an obligation for all budgetary bodies with 50 employees – which contain soft provisions, although supervision of the implementation of the plans is also lacking.³⁰² In **Portugal** the protection against harassment and sexual harassment of the public administration staff and officials is covered by the Labour Code,³⁰³ but this protection does not extend to elected members of Parliament as they are not considered to hold an employment status. This effectively leaves the protection of political office holders or elected persons out of the general employment legislation and civil service legislation. This is the case in the **Netherlands**, which does not extend to political office holders or elected persons and leaves the responsibility for the order and safety of MPs in the hands of the chairs of the respective legislative bodies. This does not apply to the employees working in support of elected officials, in which case the political party that is employing them is responsible and liable for the safety of their personnel.

In **Sweden**, too, while staff are covered by the Discrimination Act, which prohibits harassment and sexual harassment, and the Work Environment Act, which provides protection against victimisation, MPs are not included within the scope of protection.³⁰⁴ In **Ireland** the Employment Equality Acts 1998 to 2021 apply to those with the status of employees, while everyone else, meaning office-holders, such as MPs, would not fall within the scope of the legislation. In **Greece**, the abovementioned laws do not cover persons elected in municipal and regional councils. The adoption by the City of Athens of a policy of zero tolerance for sexual harassment was followed by several other municipalities.³⁰⁵

In **Spain**, the Parliament used its autonomous position under the Constitution to adopt an equality plan, in the context of which a protocol on intervening in cases of sexual harassment and harassment on grounds of sex was adopted in 2021.³⁰⁶ Like the equality plan, the protocol covers employees, but not MPs. Also, since parliamentary groups have complete autonomy with regards to their internal organisation, the way in which they have organised themselves is not publicly known. The autonomy of political parties as ‘non-profit associations made up of and governed by their members’³⁰⁷ was also emphasised by the **Swedish** national expert, which leads to different internal policies for achieving gender equality. In the **United Kingdom**, in July 2018 the House of Commons adopted a new Behaviour Code as part of the Code of Conduct for Members of Parliament,³⁰⁸ which applies to working in and to visiting the Parliament, and includes harassment and sexual harassment. A new independent complaints and grievance scheme was introduced in order to provide a ‘more robust complaints procedure for those who are victims of inappropriate behaviour including harassment and sexual harassment. Different processes and sanctions

298 <https://vouliwatch.gr/news/article/apaitetai-periorismos-toy-sexistikoy-logoy-stin-voyli-ton-ellinon>.

299 *Arbeidsomstandighedenwet*, Act of 18 March 1999, Stb. 1999, 184 last modified by Act of 3 March 2021, Stb. 2021, 135.

300 *Wet gelijke behandeling van mannen en vrouwen*, Act of 1 March 1980, Stb. 1980, 86 last modified by Act of 14 June 2014, Stb. 2014, 216.

301 Article 1b AETMW.

302 Hungary, Act CXXV of 2003 on Equal Treatment and the Promotion of the Equality of Opportunities (2003. évi CXXV. törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról), 28 December 2003, Article 63(4).

303 Law No. 35/2014 of 20 June 2014, and subsidiarily by the Labour Code (LC), approved by Law no. 7/2009, of 12 February 2009.

304 Discrimination Act (2008:567); Work Environment Act (1977:1160), and the adjoining Swedish Work Environment Authority Provisions on Organisational and Social Work Environment (AFS 2015:4).

305 EELN flash report (Greece) of 13 April 2021, ‘The City of Athens’ action programme on sexual harassment’, <https://www.equalitylaw.eu/downloads/5387-greece-the-city-of-athens-action-programme-on-sexual-harassment-114-kb>.

306 https://www.congreso.es/backoffice_doc/prensa/notas_prensa/85036_1632495389198.pdf.

307 Sweden, National Report (questionnaire responses).

308 House of Commons, *Code of Conduct*, (1 August 2018) HC 1474 available at: [Code of Conduct \(parliament.uk\)](https://www.parliament.uk/code-of-conduct).

apply, depending on the nature of the role of the respondent.³⁰⁹ The sanctions for those MPs against whom complaints are upheld are to be decided by an independent expert panel, which was established in 2020. The proposed sanctions cannot be amended or rejected by the Parliament without a debate. The Women and Equalities Committee conducted a recent inquiry concluding that overall, the scheme was a significant move forward in ‘tackling the House of Commons’ damaging culture of bullying, harassment and sexual misconduct.’ However, the Committee identified a number of ongoing issues, in particular the question of whether MPs under investigation for sexual misconduct should be suspended, in the same way as employees would be, given their representative role.³¹⁰

The mechanisms for protection of whistleblowers in some countries also include the potential to report harassment and sexual harassment. In **Denmark**, this is the case with the 2020 Act on Whistleblowing, which includes the possibility for reporting breaches of the equal treatment legislation, thus also of EU law.³¹¹ Furthermore, pressed by the second wave of the Danish #MeToo movement, which brought to light a number of sexual harassment cases in the political parties, in November 2020 the Parliament adopted a new workplace regulation for protection against sexual harassment, which covers the Parliament as an employer for the administrative staff.³¹² In addition, a new tripartite agreement on sexual harassment and the promotion of a healthy work culture was adopted in March 2022,³¹³ the agreement has been developed into a proposal for an amendment to an act and is undergoing public consultation.³¹⁴ This legislative work was paused due to the national election in autumn 2022.

In some countries, ethics procedures have been used to report and protect against harassment and sexual harassment. In **France**, an internal review of the National Assembly was carried out and an ethics report was published exposing illegal practices and behaviour, including sexual harassment. As a result, there is an ongoing process in the institution to introduce ‘stronger disciplinary sanctions in case of sexual harassment or mobbing of MPs or other employees of Parliament against staff, other MPs working in the institution’.³¹⁵ While the ethical rules of the Parliament in **Latvia** do not mention harassment and sexual harassment specifically, sexist speech cases have been processed under the rules. Thus it is possible that the rules are being interpreted in such a way that cases of harassment and sexual harassment can be considered as breaches of ethics, without naming them as harassment explicitly. The sanctions in such cases would be ‘oral warning, written warning, written warning published in the Official Gazette, no right to speak at a Parliamentary sitting, and no right to participate in 1 to 6 Parliamentary sittings’.³¹⁶

4.9 Violence against women in decision-making positions in the legislature

Many national experts report that the topic of online harassment and hate speech against women MPs and in the legislature in general is becoming more and more evident in the public discourse at the national level (**Austria, Croatia, Cyprus, Denmark, France, Germany, Greece, the Netherlands and the United Kingdom**). In the **United Kingdom**, following the murder of Jo Cox – a woman MP murdered in 2017 – the Committee for Standards in Public Life carried out an inquiry into intimidation in public life. Their findings included many accounts by female MPs of threats and intimidation, in person and online.³¹⁷ It found that ‘no female MP who was active on Twitter has been free from online intimidation ... [B]lack and Asian women MPs – despite representing only 11 % of all women in Westminster – received 35 %

309 United Kingdom, National Report (questionnaire responses).

310 United Kingdom, National Report (questionnaire responses).

311 Statutory act on protection of whistleblowers section 1(1) litras a) and b) (01.11.2020).

312 <https://www.ft.dk/da/aktuelt/nyheder/2020/10/seksuel-chikane>.

313 <https://bm.dk/nyheder-presse/pressemeddelelser/2022/03/trepartsaftale-om-seksuel-chikane-skal-fremme-en-sund-kultur-paa-arbejdspladser/>.

314 <https://hoeringsportalen.dk/Hearing/Details/66573>.

315 France, National Report (questionnaire responses): https://www.huffingtonpost.fr/politique/article/face-au-harcelement-l-assemblee-nationale-durcit-ses-sanctions_193336.html.

316 Latvia, National Report (questionnaire responses - follow up).

317 Committee (December 2017) on Standards in Public Life *Intimidation in Public Life*, (Cm 9543) available at: [Intimidation in Public Life - A Review by the Committee on Standards in Public Life](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684443/Intimidation_in_Public_Life_-_A_Review_by_the_Committee_on_Standards_in_Public_Life.pdf) (publishing.service.gov.uk).

more abusive tweets that white women MPs. ... racist, sexist, homophobic, transphobic and anti-Semitic abuse has put off candidates from standing for public office.³¹⁸ One year earlier, in 2016, Anna Lo – an ethnic minority member of Stormont, the Northern Ireland Assembly³¹⁹ – withdrew from politics due to online and racial harassment.³²⁰

The #MeToo movement has worked as a powerful catalyst for pressure in some countries, creating social pressure for political parties to undertake investigations among their own ranks. **Denmark** is a good example of this, as a wave of internal party investigations ensued after public pressure mounted,³²¹ and most political parties now have, on a voluntary basis, adopted policies for behavioural ethics, including complaints mechanisms. Taken together these results, according to the Danish national expert, are a 'very strong witness to a heavy sexist culture in the parties, starting in the youth-groups of the parties, carried all the way to the members of parliament.'³²²

Backlash against those who speak out against the sexist culture in politics or who speak up to refute the continuation of stereotypical portrayal or standards for women in politics has been noted by the national experts from several countries (**Belgium, Finland and France**). Furthermore, in some countries, such as **Poland**, the topic of violence against women in politics, and in the legislature in particular, is absent from the public discourse.

There are some initiatives at the national level that can help to address hate speech on the internet, but these do not target women in the legislature specifically. For example, in **Austria** such initiatives have made it easier to demand the deletion of a post, or the prosecution of hate speech on the internet.³²³

Many of the national experts reported that at least some studies exist that discuss violence against women MPs and in decision-making positions in the legislature. In **Austria**, interview-based research showed that 3 out of 4 women MPs in the National Assembly have received hate messages online.³²⁴ In **Belgium**, research on the frequency of sexist behaviour in parliamentary chambers as experienced by elected women reveals interesting findings:

'more than 77 % of the respondents said they had heard such jokes at least once (54 %) or often (23 %). Sexist humour maintains a social climate of discrimination against women. It reinforces the cohesion of the dominant group, through a feeling of belonging to a male community, sharing laughter together. The vast majority of respondents (72 %) felt that they had been the victim of rude or misogynistic comments about their physical appearance or clothing. The same result applies to remarks about the social role supposedly expected of a woman and falling within the

318 Committee (December 2017) on Standards in Public Life *Intimidation in Public Life*, (Cm 9543) available at: [Intimidation in Public Life - A Review by the Committee on Standards in Public Life](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674441/Intimidation_in_Public_Life_-_A_Review_by_the_Committee_on_Standards_in_Public_Life.pdf) (publishing.service.gov.uk) at p. 29.

319 There have been no members of this parliament of ethnic minority background since then, i.e. during the 201722 Assembly.

320 House of Commons (Northern Ireland Affairs Committee), *The experiences of minority ethnic and migrant people in Northern Ireland - Second Report of Session 2021-22*, <https://committees.parliament.uk/publications/9166/documents/159683/default>, p. 5.

321 The Danish expert listed a number of examples: - external investigation by KVINFO of the Radikale Venstre, a centerparty, showed highly sexist culture, following allegations against the head of the party (<https://www.radikale.dk/media/dabp3uru/kvinforapport03032021.pdf>); - the Social Democratic Party, started with allegations against the mayor of Copenhagen (who left; <https://www.dr.dk/nyheder/politik/advokatundersogelse-af-frank-jensen-faerdig-afdaekker-12-episoder-med-beskyldninger>) external investigation by their own law firm concluded in February 2021, revealed a highly sexist culture with lack of accountability (<https://nyheder.tv2.dk/politik/2021-02-24-53-socialdemokrater-har-oplevet-uoensket-seksuel-opmaerksomhed-det-seneste-aar>); - external investigation by KVINFO of the Unity List, left-wing party, which revealed that 1 in 6 women had experience sexual harassment (<https://nyheder.tv2.dk/politik/2022-03-19-hver-sjette-kvinde-i-enhedslisten-har-oplevet-chikane>); - the Conservatives, a right wing party, a review concluded in June 2021 revealed, that 7 % experiences unwanted sexual attention, and also some serious sexual violations (<https://piopio.dk/sexisme-hos-de-konservative-tre- alvorlige-kraenkelsessager>); - the Liberal Alliance, right wing party, has investigated serious sexual violations as early as in 2019 against leaders in their youth group, as well as investigations in 2020-21 (<https://nyheder.tv2.dk/politik/2019-02-22-politiet-efterforsker-seksuelle-overgreb-i-liberal-alliances-ungdom>); - external investigation by KVINFO of the Socialist Peoples Party, a left wing party, revealed, that 10-13 % of men and women had experienced sexual harassment (http://sf.dk/wp-content/uploads/2021/04/endelig_rapport_sf_kvinfo_150421.pdf).

322 Denmark, National Report (questionnaire responses).

323 Austrian expert to provide reference.

324 Momentum Institut, <https://www.momentum-institut.at/news/politikerinnen-oft-von-hassnachrichten-betroffen>.

gender stereotypes, namely the roles of mother or wife. The majority of respondents were also confronted with derogatory comments about their marital status, private life or sexual morality (63 %).³²⁵

This same research shows that women experience greater harassment before or after they take office (34 %), compared to during their mandate (18 %), 'but almost one woman in five declares having been sexually harassed at least once as an elected representative. Furthermore, the questionnaire reveals a worrying rate of physical threats (death threats, rape and beatings): the proportion of respondents who say that this has happened to them at least once or often totals 30 %.'³²⁶

In **Denmark**, the findings of a 2021 survey of the youth chapters of the political parties conducted by the independent associations Sex & Samfund (Sex and Society) and Børns Vilkår (Children's Aid) suggest that sexism and problems rooted in sexist culture are factors that discourage women from participating in public life in the legislature.³²⁷ '46 % of women have been subject to unwanted and harassing sexist behaviour, and 24 % of men report the same.'³²⁸ The Danish national expert underlined that the results from this survey show that 'there is a culture of not reporting incidences to the leadership as the handling of cases does not work well in reality, and as the internal power hierarchies, jargon and relations in the youth chapters are too influential.'³²⁹ In **Finland**, a 2008 survey of the Parliament personnel showed that 15 out of 100 women had been harassed, and that in half of those cases the harassment came from an MP. Although some changes to the Parliament harassment policy³³⁰ resulted in a slight decrease in the incidence of harassment (a reduction to 6 out of 100 women), a 2018 study³³¹ shows that harassment in the Parliament is still present. Another study showed that participating in public discussions and in particular on specific issues such as feminism, immigration, gender equality, and religion, makes women twice as vulnerable compared to men.³³² In **Germany**, Institute Allensbach (2021) found that 40 % percent of politicians had experienced sexual harassment (among MPs younger than 45 years old this went up to 60 %), and 3 % experienced it 'more often' (7 % among MPs below 45 years of age).³³³ In **Greece**, a recent survey found that sexism is one of the key obstacles to free, secure and full participation of women in political life.³³⁴ In **Lithuania**, a qualitative research project documented the opinions of the political elite towards gender quotas, finding that men from all sides opposed quotas, and all measures that could support women's political participation in general, or considered such measures to be unnecessary, whereas among women the position depended on the political party: Lithuanian conservatives criticised the idea of gender quotas, while social democrats evaluated gender quotas more positively than members of other parties. The hostility of men MPs to gender quotas grew even stronger as time passed and as women MPs started to demonstrate feminist awareness. Thus, although the idea of gender equality is gaining more and more momentum in Lithuanian politics, opposition to it is also

325 Montay, J. (2018), *Quelles sont les principales manifestations du sexisme en politique belge? Le cas des assemblées électorales*, Faculté de philosophie, arts et lettres, Université catholique de Louvain, Main findings available in French at: <https://www.ares-ac.be/fr/actualites/88-articles/636-sexisme-en-politique-belge>.

326 Montay, J. (2018), *Quelles sont les principales manifestations du sexisme en politique belge? Le cas des assemblées électorales*, Faculté de philosophie, arts et lettres, Université catholique de Louvain, Main findings available in French at: <https://www.ares-ac.be/fr/actualites/88-articles/636-sexisme-en-politique-belge>.

327 Report from the associations Sex & Samfund (sex and society) and Børns Vilkår (the Danish national childrens civil rights organisation), <https://bornsvilkar.dk/wp-content/uploads/2022/06/Samvaer-og-kultur-i-ungdomspolitiske-faellesskaber.pdf>.

328 Børns Vilkår report pp. 37-47, <https://bornsvilkar.dk/wp-content/uploads/2022/06/Samvaer-og-kultur-i-ungdomspolitiske-faellesskaber.pdf>.

329 Denmark, National Report (questionnaire responses).

330 The national expert reports that the Parliament Office Commission adopted Guidelines for interfering in cases of 'inappropriate behaviour'.

331 Björk, A., Paavola, J.-M., Vainio, A. (2018), *Sukupuolten tasa-arvon toteutumisen eduskuntatyössä: Kysely- ja haastattelututkimus* (Gender equality in the work of the Parliament: Survey and interview-based study), Parliamentary Office.

332 Bladini, M. (2017), *Hat och hot på nätet. En kartläggning av den rättsliga regleringen i Norden från ett jämställdhetsperspektiv* (Hatred and threats in the internet. A study of the legal regulation in Norden from a gender perspective), NIKK; Nordiska ministerrådet, Göteborg.

333 ARD (2021), 'Four out of ten female politicians with experience of sexism' (Vier von zehn Politikerinnen mit Sexismus-Erfahrungen), www.tagesschau.de/inland/innenpolitik/sexismus-politik-studie-101.html www.tagesschau.de/inland/innenpolitik/sexismus-politik-studie-101.html.

334 Vougiouka, A., Papagiannopoulou, P. (2019), op.cit.

growing.³³⁵ In **Malta**, the Technical Committee for the Strengthening of Democracy prepared the 'Gender Balance in Parliament Reform' (in 2019), and the National Commission for the Promotion of Equality produced a study on gender quotas and other measures.³³⁶ In the **Netherlands**, a 2021 study found that about 10 % of all tweets addressed to women politicians (from the executive and the legislature) were hateful and/or threatening, and women were addressed by their first name and in an infantilised manner.³³⁷ In **Norway**, a 2021 Police Academy report found an increase of harassment and threats towards politicians compared to 2013, and that a majority of it is happening online, on social media. According to the report, women politicians are not more harassed than men politicians, but they are more sexually harassed, and experience more fear than men. Politicians overall considered leaving politics more in 2021 (14 %) compared to 2013 (6 %), but women politicians were more likely to consider it than men politicians. Furthermore, a larger proportion of women experience fear (approximately 68 %) than do men (approximately 59 %). The research concludes that 'this can affect the recruitment to elected positions and that the democracy can miss out on politicians with important life experiences who should have a voice in politics – people who may have experienced abuse, violence and trauma that make them vulnerable and less resistant to incitement and threats.'³³⁸ In **Spain**, two studies have documented the 'verbal abuse of women politicians by media and/or other politicians ... and the lack of response policies in Spain (other than regular criminal proceedings for libel or defamation).'³³⁹ In **Sweden**, the Swedish National Council for Crime Prevention found that 25 % of elected representatives at all levels were subjected to some form of threat or harassment in 2020,³⁴⁰ and as of 2018 the prevalence is higher among women compared to men, with the most frequent form of abuse being harassment via social media. Research on municipal level found that the exposure to harassment or violence increases among persons in higher positions, and that 'self-rated visibility in media is more highly correlated with violence for female politicians than for male'.³⁴¹

The national human rights institutions in some countries are active in publishing monitoring findings or informing the public regarding sexism or violence towards women politicians. For example, in **Croatia** the Ombudsperson for Gender Equality often includes information on sexism and gender stereotyping in the media concerning women politicians in its reports.³⁴² In **Poland**, the Commissioner for Human Rights

-
- 335 Matonyte I., Mejere O. (2011), *Politinio atstovavimo galimybių plėtra? Lietuvos parlamentarų požiūrio į moterų kvotas analizė* (Expanding opportunities for political representation? Analysis of Lithuanian parliamentarians' attitude towards women's quotas), Parlamento studijos, No. 10, pp. 99-127, Available (in Lithuanian) at: <https://www.lituanistika.lt/content/35584>. See also Mejere O. (2012), 'Does gender matter in governance? Gender quotas as a good policy tool: practice and failures in Lithuania', *Socialiniai tyrimai*, Nr. 2 (27), pp. 46-61.
- 336 https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/Gender_Balance_in_Decision_Making/Gender_Quotas_and_other_Measures.pdf.
- 337 De Groene Amsterdammer (2021), 'Mysogynie als politiek wapen', retrieved from: <https://www.groene.nl/artikel/misogynie-als-politiek-wapen>.
- 338 Norway, National Report (questionnaire responses); Bjørge, T., Thommassen, G., Strype, J. (2021), Trakassering og trusler mot politikere. En spørreundersøkelse blant medlemmer av Stortinget, regjeringen og sentralstyrene i partiene og ungdomspartiene. (Harassment and threats towards politicians at the Parliament, in the government, and in the political parties) <https://phs.brage.unit.no/phs-xmlui/bitstream/item/f40667e9-4f86-4486-9419-e1a1c72e3e79/trakassering%20og%20trusler%202021-1.pdf?sequence=1&isAllowed=y>.
- 339 Spain, National Report (questionnaire responses); Soriano Moreno, S. (2019), Violencia y acoso en el ámbito político como forma específica de violencia contra las mujeres (Violence and Harassment in Politics as a Specific Way of Violence against Women), *Femeris* 4 (3), pp. 134-157; Román Marugán, P. (2020), España: La violencia contra las mujeres en política (Spain: violence against women in politics), in *Dhayana*, Fernández-Matos, C. and González-Martínez, M., (eds), Violencia Política contra las Mujeres, Universidad Simón Bolívar.
- 340 Swedish National Council for Crime Prevention (Brottsförebyggande rådet, BRÅ), The Politician's Safety Survey 2021 (Politikernas trygghetsundersökning 2021), Förtroendevaldas utsatthet och oro för trakasserier, hot och våld under 2020), available in Swedish at: <https://bra.se/publikationer/arkiv/publikationer/2021-10-28-politikernas-trygghetsundersokning-2021.html?lang=sv>. A summary in English is available at: https://bra.se/download/18.79079f9d17cc01fce50ff/1635403005797/2021_13_The_Politicians_Safety_Survey_2021.pdf.
- 341 Sweden, National Report (questionnaire responses); Håkansson, S. (2021), 'Do Women Pay a Higher Price for Power? Gender Bias in Political Violence in Sweden' in *The Journal of Politics*, Vol. 83, No. 2. <https://doi.org/10.1086/709838>. Each year around 20 % of representatives, 30 % of committee chairmen and 60 % of municipal council chairmen are victims of violence in the sense of actions intentionally designed to cause physical or psychological harm.
- 342 See, e.g. Ombudsperson for Gender Equality (2022), *Annual Report for 2021*, pp. 139-143, available at: https://www.prs.hr/application/images/uploads/Godišnje_izvješće_2021_FINAL.pdf.

has published research, including on women's passive electoral rights (2018),³⁴³ women in public life (2019),³⁴⁴ and on strengthening women's political participation in Poland (2020).³⁴⁵

In some countries, no such research or data exists (**Bulgaria, Czechia, Estonia,**³⁴⁶ **Hungary, Italy, Latvia, Liechtenstein, Luxembourg, Portugal, Romania, Slovakia and Slovenia**).

Some national experts note that more research and data is needed in order to map the full scope of the issue (**Bulgaria and Croatia**).

4.10 Data collection on gender balance in public decision-making positions in the legislature

There are varying approaches to data collection on gender balance in public decision-making positions in the legislature throughout the EU and EEA countries. An overview of the mandates is provided in Table 3, below. This is a great impediment for comparability of the data across the EU and between Member States, which makes the data collection work by the EIGE and the FRA even more important. The collected data is also not in line with the findable, accessible, interoperable and reusable standard, thus prevent wide (re)use including for monitoring purposes by non-state parties.

Table 3: Institutions holding a mandate for data collection on gender balance in public decision-making positions in the legislature, by type of mandated institution, country, and name of mandated institution

Type of mandated institution	Country	Name of mandated institution
Central gender equality authority	Belgium	Gender Institute
	Luxembourg	Equality Observatory
	Malta	National Commission for the Promotion of Equality
	Spain	Institute of Women and for Equal Opportunities
	Poland	Commissioner for Human Rights and the Government Plenipotentiary for Equal Treatment
Central statistics agency	Croatia	Bureau of Statistics
	Czechia	Statistical Office
	Germany	Federal Statistical Office
	Iceland	Statistics Iceland
	Latvia	Central Statistical Office
	Poland	Central Statistical Office
	Slovakia	Statistical Office
	Sweden	Statistics Sweden

343 Research report on women's passive electoral rights (2018), 'Raport z badania biernie prawa wyborcze kobiet: "Kobiety w wyborach a mechanizmy antydyskryminacyjne – stan aktualny i prognozy na przyszłość"' [Women voters and anti-discrimination mechanisms - current status and future projections], by Agnieszka Kwiatkowska, SWPS, available at: <https://bip.brpo.gov.pl/sites/default/files/Raport%20o%20biernych%20prawach%20wyborczych%20kobiet%2C%202018.pdf>.

344 Kobiety w życiu publicznym. Raport Kantar Polska dla Biura Rzecznika Praw Obywatelskich [Women in public life. Report by Kantar Polska for the Office of the Commissioner for Human Rights], Warszawa 2019 available at: https://bip.brpo.gov.pl/sites/default/files/Kobiety_w_zyciu_publicznym_Raport_Kantar_Polska.pdf.

345 Kwoty i co dalej? Udział kobiet w życiu politycznym w Polsce. Analiza i zalecenia (Quotas and what next? Women's political participation in Poland. Analysis and recommendations), in: Biuletyn rzecznika praw obywatelskich (the Commissioner's for Human Rights Bulletin) 2020, No. 6 Zasada Równego Traktowania. Prawo i praktyka, No. 31, Bodnar, A.(ed.); authors: Szypulska, A., Szczerba, A., Kwiatkowska, A., Warszawa, available at: https://bip.brpo.gov.pl/sites/default/files/Kobiety_w_zyciu_politycznym.pdf.

346 Although the Estonian expert did report a research article from 2003 on this topic: 'The rhetoric [in the Parliament] could be analysed from the stenographs/shorthand reports or from video recordings; Laas, A. (2003), 'Stenogramm kui uurimisallikas (The Riigikogu Shorthand Report as a Source for Data). Eesti Sotsiaalteaduste IV Aastakonverents (The Fourth Annual Estonian Social Science Conference), Tallinn, 21-22 November 2003' Source: Estonia, National Report (questionnaire responses).

Type of mandated institution	Country	Name of mandated institution
More than one mandate holder	Denmark	Statistics Denmark Institute of Human Rights
	Finland	Statistics Finland Centre for Gender Equality Information
Government	Austria	Office of the Chancellor of Austria
	France	High Council on Equality between Women and Men
	Greece	Observatory of the General Secretariat for Demographic and Family Policy and Gender Equality
	The Netherlands	Ministry of Education, Culture and Science
Legislature	Ireland	Houses of the Oireachtas
	Italy	The parliamentary houses
Electoral body	Estonia	State Electoral Office
No mandated institution	Bulgaria, Cyprus, Hungary, Liechtenstein, Lithuania, Portugal, Slovenia, the United Kingdom	
Only other (non-state) actors collecting data at regular intervals	Belgium	Centre for Socio-Political Research and Information
	Czechia	Forum 50 %
	Romania	CSO Expert Forum
	United Kingdom	Political parties

While most countries have given a mandate to collect data on gender balance either to the central statistical office or the national gender equality or human rights institution, or to both, in some countries there is still no institution with the responsibility to collect such data (**Bulgaria, Cyprus, Hungary, Liechtenstein, Lithuania, Portugal, Slovenia** and the **United Kingdom**). The mandates usually do not prescribe a more specific breakdown of the obligation for data collection, and they do not prescribe any specific analysis and publication obligations. In some countries, while no such particular mandate is specified, the legislative houses or the Governments collect and publish such data.

Many of the central gender equality bodies, often referred to as the gender equality machinery, are tasked with systematically collecting data on the participation of women and men in decision making. In **Belgium**, the Gender Institute does this following election cycles. In **Luxembourg**, in 2019 the Equality Observatory was set up as part of the Ministry of Gender Equality to centralise data collection on gender equality and to make the data widely available.³⁴⁷ Inspired by the EIGE Gender Equality Index, the most recent (2020) data collection covered four areas including decision making.³⁴⁸ In **Malta**, the National Commission for the Promotion of Equality includes data on gender balance in public decision-making positions in its annual reports.³⁴⁹ In **Spain**, the Institute of Women and for Equal Opportunities publishes the summary reports 'Women in Figures'.³⁵⁰ National human rights institutions in general can play a similar role, although a wider interpretation of their mandate might be needed and possible in order for this to happen, as for example, in **Poland**, where the Commissioner for Human Rights and the Government Plenipotentiary for Equal Treatment collect data.

Central statistics agencies in some countries are the main focus point for such data. For example, since 2006, the **Croatian** Bureau of Statistics has published an annual publication 'Men and Women in Croatia'

347 <https://observatoire-egalite.lu/>.

348 <https://observatoire-egalite.lu/prise-de-decision/>.

349 [https://ncpe.gov.mt/en/Documents/Our_Publications_and_Resources/Annual_Reports/NCPE%20Annual%20Report%202020%20\(online\).pdf](https://ncpe.gov.mt/en/Documents/Our_Publications_and_Resources/Annual_Reports/NCPE%20Annual%20Report%202020%20(online).pdf).

350 Survey 'Mujeres en Cifras', statistical series and summary reports, section Poder and decision-making, <https://www.inmujeres.gob.es/MujerCifras/PoderDecisiones/PoderTomaDecisiones.htm>.

presenting gender segregated data in different fields, including the administration of justice and political power.³⁵¹ The **Czech** Statistical Office collects data on gender balance in the public sector, including in the legislature.³⁵² In **Germany**, the Federal Statistical Office regularly publishes statistics on representation in all areas of life, including representation in Parliament (including gender representation per Parliament and per party), and on voter behaviour.³⁵³ In **Iceland**, data is collected by Statistics Iceland together with the Prime Minister's Office and the Directorate of Equality.³⁵⁴ In **Latvia** the central statistical office collects data on gender composition in the legislature (MPs). In **Norway**, Statistics Norway collects data on gender balance in politics including regarding elections and the legislature.³⁵⁵ In **Poland**, the Central Statistical Office holds a very broad mandate,³⁵⁶ which can be interpreted as having room to enable it to collect data on gender balance in public decision-making positions in the legislature, although it does this only occasionally. In **Slovakia**, the Statistical Office of the Slovak Republic has operated a gender equality section on its website since 2010 (in 2021 this was renamed 'Indicator of equality between women and men')³⁵⁷ and has issued the annual publication 'Gender Equality' (now called 'Women and Men in Slovakia'),³⁵⁸ which covers gender representation in public life and decision making. In **Sweden**, since 1911, Swedish Statistics has monitored indicators related to representative democracy,³⁵⁹ and is under a general legal obligation to disaggregate the data by sex.³⁶⁰

In some countries, the task is conducted by both the state statistical office and the national human rights institution. In **Denmark**, Statistics Denmark collects, publishes and analyses data on gender balance in decision-making positions in the legislature,³⁶¹ while the Institute of Human Rights comments on and monitors the participation rates.³⁶² In **Finland**, while it is the Centre for Gender Equality Information, operating under the Finnish Institute for Health and Welfare, that publishes information on gender balance in the legislature, this data mainly comes from Statistics Finland.

Some Governments publish an annual overview which also includes data on gender balance in public decision making. Since 2020, the Office of the Chancellor of **Austria** has published an annual report 'Women in political decision-making positions in Austria' focusing on the representation of women in legislature and executive bodies.³⁶³ In **France**, the High Council on Equality between Women and Men has been very active in monitoring the gender balance in relation to elections, including in the legislature.³⁶⁴ The French Minister on Equality also publishes such data.³⁶⁵ In **Greece**, the Observatory of the General

351 Croatian Bureau of Statistics, Women and Men in Croatia (2021), available at: https://podaci.dzs.hr/media/zoyp1kuq/men_and_women_2021.pdf.

352 Data available at https://www.czso.cz/csu/gender/4-gender_rozhodovani.

353 Statistisches Bundesamt, 'Bundestag election 2021: Younger voters went to the polls more often' ('Bundestagswahl 2021: Jüngere Wählerinnen und Wähler gingen häufiger zur Wahl') https://www.destatis.de/DE/Presse/Pressemitteilungen/2022/01/PD22_036_14.html; Schorn, K., Gisart, B. (2010), 'Wahlverhalten bei der Bundestagswahl 2009 nach Geschlecht und Alter' https://www.destatis.de/DE/Methoden/WISTA-Wirtschaft-und-Statistik/2010/03/wahlverhalten-2009-032010.pdf?__blob=publicationFile, Statistisches Bundesamt.

354 <https://www.government.is/topics/human-rights-and-equality/equality/gender-statistics/>.

355 See Statistisk sentralbyrås (Statistics Norway's) website <https://www.ssb.no/en/omssb/ssbs-virksomhet>.

356 Law on Public Statistics, Article 4.

357 Available in Slovak and English at: https://slovak.statistics.sk/wps/portal/ext/themes/living/gender/publications/lut/p/z0/04_Sj9CPykssy0xPLMnMz0vMAfIjo8ziw3wCLJycDB0NLDx8DQ083XwCwgJcQwzNnQ31g1Pz9AuyHRUBiIXjKA!!/.

358 After the elections a new Minister of Labour, Social Affairs and Family from conservative party We are Family was appointed. The term of gender equality was stopped to be used on the Ministry and other institutions and was replaced by the term equality between men and women. Former Department for Gender Equality and Equality of Opportunities was renamed to Department for Equality of Women and Men and Equality of Opportunities.

359 A description in English of statistics related to gender <https://www.scb.se/en/finding-statistics/statistics-by-subject-area/living-conditions/gender-statistics/gender-statistics/>. As regards the topic of this report, see: <https://www.scb.se/contentassets/3e8d501c699849b2adb265821aa9729d/deltagande-i-beslutsfattande.xls>.

360 The Ordinance on the Official Statistics, Section 14.

361 <https://www.dst.dk/da/Statistik/nyheder-analyser-publ/bagtal/2022/2022-10-04-folketingets-sammensætning>.

362 <https://menneskeret.dk/nyheder/trods-flere-kvinder-paa-stemmesedlen-sakker-danmark-bagud-paa-ligestilling-toppen-politik>; <https://menneskeret.dk/koen-etnicitet-folketing>.

363 <https://www.bundeskanzleramt.gv.at/agenda/frauen-und-gleichstellung/gleichstellung-am-arbeitsmarkt/frauen-in-fuehrungs-und-entscheidungspositionen/frauen-als-entscheidungstragende-in-der-politik.html>.

364 <https://haut-conseil-egalite.gouv.fr/parite/actualites/article/renouvellement-politique-la-parite-reelle-est-loin-d-etre-atteinte>.

365 <https://www.egalite-femmes-hommes.gouv.fr/publication-de-ledition-2021-des-chiffres-cles-vers-legalite-reelle-entre-les-femmes-et-les-hommes/>.

Secretariat for Demographic and Family Policy and Gender Equality (formerly known as General Secretariat for Gender Equality)³⁶⁶ collects sex-disaggregated data from all legal persons governed by public law and those governed by private law who come under the General Government. In the **Netherlands**, the Ministry of Education, Culture and Science monitors the gender ratio in elected bodies, public and semi-public organisations, and publishes it annually in the ‘quickscan Genderdiversiteit’.³⁶⁷

In some countries, the legislative houses collect only the basic data pertaining to MPs, but nothing more. For example, in Houses of the Oireachtas does so for **Ireland**, and the different houses do for **Italy**.³⁶⁸ Also, the key electoral bodies often manage the statistics regarding elections and the outcome of elections. However, in some countries, such as **Estonia**,³⁶⁹ this is the only data being collected by a state body on gender balance in the legislature.

Social science research from throughout Europe has produced interesting findings. For example, in **Belgium**, a study looked at the participation of women in higher posts and speech time in the regional assembly (plenary and committees) of Wallonia. It argued that representation matters more in terms of level (which position a woman holds) rather than in terms of numbers (how many women there are). This research revealed that 82.4 % of the speaking time was occupied by male speakers. The author argues that this is mainly because ‘the most strategic functions are occupied almost exclusively by men, while they represent only a little more than 63 % of the possible speakers, whether they are MPs (47 out of 75) or ministers (5 out of 8). Within the ten most talkative personalities in the Walloon parliament, the only woman, in fifth place, is the Minister of Employment and Health who found herself in the first line with the health crisis. ... this is where the problem lies: elected women lose out in the distribution of important roles.’³⁷⁰

Private research organisations, think tanks and NGOs also carry out such data collection. For example, in **Belgium**, the Centre for Socio-Political Research and Information³⁷¹ provides ‘systematic analysis of the representation of women and men as candidates, percentage of women and men elected and in executive positions.’³⁷² In **Czechia**, the CSO Forum 50 % regularly collects and updates data on the participation of women in politics, including in the legislature.³⁷³ In **Romania**, the CSO Expert Forum generated data on MPs and candidates in general elections, and recommended the adoption of measures to promote gender representation in decision-making positions in the legislature.³⁷⁴ In the **United Kingdom**, Section 106 of the 2010 Equality Act, which would require political parties to collect and publish diversity data related to parliamentary candidates, is still not in force, despite the Women and Equalities Committee recommendation and over 10 years having passed since the adoption of the act. The position of the Government is that it should ‘continue the process of engaging with the parties to

366 The General Secretariat for Demographic and Family Policy and Gender Equality is the governmental agency responsible to plan, implement, and monitor policies on equality between women and men in all sectors. It was founded in 1985 as an independent public service and today it belongs to the Ministry of Labour and Social Affairs. See also EELN flash report (Greece) of 12 March 2021, ‘Further degradation of the General Secretariat for Gender Equality’, <https://www.equalitylaw.eu/downloads/5367-greece-further-degradation-of-the-general-secretariat-for-gender-equality-95-kb>; EELN flash report (Greece) of 22 July 2019, ‘Transfer of the General Secretariat for Gender Equality to the Ministry of Labour’, <https://www.equalitylaw.eu/downloads/5367-greece-further-degradation-of-the-general-secretariat-for-gender-equality-95-kb>.

367 <https://www.rijksoverheid.nl/documenten/rapporten/2021/10/15/quickscan-genderdiversiteit>.

368 Camera dei deputati-Servizio Studi, XVIII legislatura, *La partecipazione delle donne alla vita politica e istituzionale*, Dossier No. 104 - Schede di lettura 7 March 2022, in: <https://documenti.camera.it/Leg18/Dossier/Pdf/AC0340.Pdf>; Camera dei deputati-Servizio Studi, XVIII legislatura, *Legislazione e politiche di genere*, No. 62, quarta edizione, 2 March 2022, in: http://documenti.camera.it/leg18/dossier/pdf/ID0007.pdf?_1653066415319; Senato della Repubblica, *Parità vo cercando. 1948-2018. Le donne italiane in settanta anni di elezioni*, Documento di analisi No. 13, in: <https://www.senato.it/application/xmanager/projects/leg18/attachments/documento/files/000/028/758/DossierParità.pdf>. Documento di analisi No. 13, in: <https://www.senato.it/application/xmanager/projects/leg18/attachments/documento/files/000/028/758/DossierParità.pdf>.

369 <https://www.valimised.ee/en/electoral-organizers/state-electoral-office/state-electoral-office-estonia>.

370 Belgium, National Report (questionnaire responses).

371 Centre de Recherche et d’information socio-économique (CRISP).

372 Belgium, National Report (questionnaire responses).

373 <https://padesatprocent.cz/cz/statistiky/zastoupeni-zen-a-muzu-v-politice>.

374 See Expert Forum NGO, Women’s participation in general elections in 2020, available at: <https://expertforum.ro/participarea-femeilor-parlamentare/>. See also Expert Forum NGO, Women’s representation in Romanian Politics, 2021, available at: <https://www.freiheit.org/sites/default/files/2021-10/de-postat.pdf>.

ensure greater transparency on selected parliamentary candidates ahead of the next General Election, rather than imposing legislative requirements through section 106 of the Equality Act.³⁷⁵

4.11 Conclusion

There is a clear absence of a systemic approach to the promotion of women in decision-making positions in the legislature, as evident from the following key points.

- With the majority of efforts being directed towards quotas in elections, as an entry point to the legislature, little attention is being paid to other important aspects such as decision-making positions inside Parliaments and local or regional councils, for example Presidents or Vice-Presidents (speakers of the house), chairs and deputy chairs of parliamentary bodies, secretary general or another key non-elected positions in the Parliament, and so on (section 4.2).
- Measures for institutional and cultural transformation, such as measures adjusting procedures and the operation of the legislature, or the infrastructure, or finances, are slowly being put in place, but a significant number of countries have still not introduced any such measures (section 4.3).
- There is a notable absence of an intersectional perspective on the issue of the promotion of women in legislative decision-making positions, as seen from the fact that there are no countries with measures that directly address the promotion of women from minority groups, and few that have such measures in place for minorities from which women can also benefit (section 4.4).
- From the national reports it is clear that the obstacles to the promotion of women in decision-making positions in the legislature are diverse but, according to most, the main obstacles are a negative culture in politics and gender bias, which acts to deter women, and the lack of binding provisions to promote the women in the legislature (section 4.5).
- Although some soft measures and programme activities have been undertaken (section 4.6), putting forward binding provisions remains a challenge.
- The lack of legal bite of any provisions is well reflected in the general lack of case law on this matter (section 4.7).
- While all countries have legislation protecting against harassment and sexual harassment, legislative houses and regional or local councils themselves rarely have such internal protection mechanisms. The scope of protection often leaves elected officials without such protection due to their status as ‘elected’ rather than ‘employed’, which can deter women (section 4.8).
- Violence against women in decision-making positions in the legislature is becoming a more prominent topic, largely thanks to the MeToo movement. Yet, it is currently facing a backlash and, in most countries, an outpouring of online violence and hate speech, which recently has been moving from the virtual to the real world (section 4.9).
- Countries generally mandate either the central statistical office, or the gender equality or human rights institution to collect data on women in decision-making positions in the legislature. However, this mandate often lack any specific analysis and publication obligations. In addition, comparability across the EU is hindered by the varying approaches throughout the Member States (section 4.10).

375 House of Commons, Women and Equalities Committee, (17 June 2022), *Equality in the heart of democracy: A gender sensitive House of Commons: responses to the Committee's fifth report of session 2021-22* (HC417), available at: <https://committees.parliament.uk/publications/22678/documents/166671/default/>.

5 Executive

5.1 Introduction

The executive branch of government is another area where important political decisions are taken that can have significant influence on many areas of life. While it is widely known that women are often overrepresented in the civil service in many countries, this is not the case for senior positions. In those positions that come with the power to shape policy, to take decisions with long-lasting influence and that combine a demanding portfolio with high rates of pay and prospects for career progression, women tend to be underrepresented. How can this reality be reversed? How can law and policy shape a more gender-balanced executive? How can women be encouraged not only to access but also remain in positions with decision-making powers within the executive? What obstacles do they face and how can these be addressed?

In this chapter we map legislation and policy available in the countries covered in this report that seek to increase women's presence in senior positions within the executive. By executive, we refer to different governmental levels – state, federal, regional – presidents, presidential councils, regulatory agencies and the public administration. National experts were asked to provide information on high political and public officials in positions with decision-making powers that are relevant in their national context. The chapter includes discussion on legally binding and other measures available for the promotion of women in decision-making positions and any case law generated, formal and informal obstacles for women to access and retain such positions, the existence of policy or other measures fostering institutional and cultural transformation, and any internal mechanisms and processes to tackle gender-based discrimination. We also include information on measures for minority women where available.

5.2 Measures for the promotion of women in decision-making positions in the executive

The countries included in this report have adopted a range of measures aimed at increasing women's presence, retention and more active role in decision-making positions within the executive. Legally binding measures include representation quotas within executive bodies and institutions, different positive action measures and work-life balance provisions. In some countries, even though no legal obligations exist, Governments have declared a commitment to increasing gender balance in the executive and have taken measures in that direction. At the level of public administration, there are example of more inclusive recruitment and promotion processes that seek, at least on paper, to increase gender balance.

Table 4: Measures by country

Measure	Country
Quotas in some executive bodies	Belgium, Germany, ³⁷⁶ France, Greece, Portugal, Slovenia, Croatia ³⁷⁷
Other types of positive action	Germany, Austria

5.2.1 Legally binding measures

As table 4 shows, binding legislation stipulating measures for gender balance in the executive exist in several countries, such as **Belgium, Croatia, France, Germany, Greece, Ireland, Portugal** and **Slovenia**.

³⁷⁶ In some federal states.

³⁷⁷ National legislation allows the possibility to adopt such measures.

In **Belgium**, some federate entities have adopted legislation providing that each sex should be represented in at least one third of positions within executive bodies; this is the case in Wallonia and the Brussels Capital Region.³⁷⁸ In addition, Belgium has legislation concerning gender balance in bodies with advisory competences at federal and federate levels. At federal level, the Act of 20 July 1990 stipulates measures for gender-balanced representation in bodies with advisory competence.³⁷⁹ In the Walloon Region, legislation sets a minimum of 35 % representation for each sex in bodies with advisory competences.³⁸⁰ However, as the Belgian national expert notes, the law allows for derogations which may weaken the measures' potential.

In **Croatia**, there are no upfront positive measures such as quotas or tie-break policies in the executive, but the legislation allows for their adoption if deemed necessary. According to the Gender Equality Act, equal participation of men and women in *inter alia* the executive including the public service, will be promoted by applying special (positive) measures to gradually increase the share of the underrepresented sex to match the level of its share in total population.³⁸¹ Such special measures should be introduced by law and other regulations when there is a substantial unbalance of one sex, i.e. the share of one sex is under 40 %.³⁸² However, there are no sanctions for failure to introduce positive measures, which makes the provision rather weak. Additionally, gender equality legislation prescribes the obligation to take into account gender-balanced representation when making appointments to state bodies and bodies of local/regional self-governing units and other legal persons vested with public authorities, as well as diplomatic offices and members of the boards, commissions and delegations representing the Republic of Croatia at international level.³⁸³ However, there are again no sanctions for not meeting gender balance obligations for these appointments.

In **Germany**, the Act for the equality of women and men in the federal administration and in the federal courts, which was significantly reformed in 2021, aims to achieve parity by 2025 in the entities falling within its scope of application.³⁸⁴ Legislation at federal and federate levels contains obligations to further gender equality, including through affirmative action and positive measures such as gender quotas, as well as equal opportunity officers and measures for the reconciliation of working and family life. Most of these pieces of legislation oblige public institutions to enact equality plans to increase women's representation at all levels of employment, and to hire or promote women instead of equally qualified men, unless there are exceptional reasons to decide in favour of the male candidate. In recent years, some states have started to amend their equality laws and civil service acts by introducing gender quotas with the requirement of *substantially* equal qualification for the civil service.³⁸⁵ Substantially equal qualification exists if the current official assessment of the applicant and the competitor showed an equivalent overall assessment. The approach allows for more flexible assessments of an applicant's qualifications. For instance, a difference of 0.1 points in marks and assessment may not lead to the conclusion that one is more qualified than the other. Thus, equal qualification is still required but is applied in a less formalistic way.³⁸⁶

378 Walloon decree of 7/9/2017 amending the code of local democracy and decentralisation in order to guarantee a balanced presence of women and men in the municipal and provincial colleges of Wallonia. Brussels Ordinance of 1 March 2018 amending the new communal act in order to ensure a balanced presence of women and men in communal colleges.

379 In the French-speaking Community, the decree of 3 April 2014 on the balanced representation of women and men in consultative bodies to meet the two-thirds obligation for functional reasons or reasons related to the specific nature of the consultative body.

380 Decree of 3 April 2014 on the balanced participation of men and women in the advisory bodies of the Wallonia-Brussels Federation.

381 Article 12(1), Gender Equality Act.

382 Article 12(3), Gender Equality Act.

383 Article 12(4) and (5) of the Gender Equality Act.

384 The Act applies exclusively to the federal administration and to federal companies and courts and includes highest federal authorities (Federal courts, authorities and administrative bodies of the direct federal administration, including those in the field of the armed forces, and corporations, institutions and foundations under federal public law).

385 E.g. North Rhine-Westphalia, Mecklenburg Pomerania and Lower Saxony.

386 Further discussed in *Deutscher Juristinnenbund e.V.: "Frauenquote" im nordrhein-westfälischen Beamtenrecht - die vorsichtige Weiterentwicklung in NRW sollte nicht in Frage gestellt werden (djb.de)*.

In **France**, there have been significant efforts in the last two decades to increase gender balance in decision making within the executive with a range of legislative measures introduced across several governance levels. Legislation prescribes gender parity in regional governments and in the municipal governments of towns of more than 3 500 residents.³⁸⁷ Another piece of legislation introduced in 2012, the Sauvadet Law,³⁸⁸ sought to improve gender balance in high level positions in the French public administration by introducing a 40 % quota for women as high level executives and executive managers in the civil service. In addition, a 40 % gender quota is prescribed for the executive boards of public institutions, in recruitment panels, selection committees and organisations in charge of promoting social dialogue. These quotas are enforced with fines that range from EUR 50 000 to 90 000. The executive branch of departments at the local level must also respect gender balance (50 %).³⁸⁹ Gender balance measures exist also in the field of research and education where the lists for appointments in different educational institutions must alternate women and men candidates.³⁹⁰ The Law of February 2014 bans any doubling/accumulation of executive local appointments with an elective mandate as a legislative representative (Senate or General Assembly) or and executive local appointment with being a member of the European Parliament, in order to renew gender diversity in politics and to give the opportunity for parties to promote gender balance with more vacant executive local positions.³⁹¹ The Law on real equality of 2014 extends gender balance to executive positions of sports federations, public organisations with a for-profit activity (EPIC), chambers of commerce, and chambers of agriculture.³⁹² The Law on equality and citizenship of 2017 imposes gender balance on high school student representatives in youth councils in all local executive bodies (municipal, department, regional), in national and academic commissions for high schools, and in the national council on real estate. It also provides for parity in the High Council on Equality and in all cultural commissions of public institutions under the supervision of the Ministry of Culture (40 % gender balance for nominations after Jan 1 2018).³⁹³ The Law on the transformation of the public service of August 2019³⁹⁴ reinforces gender balance in appointments in local administrations and public bodies for inter-municipal cooperation (EPCI) in municipalities of more than 40 000 residents, evaluating over the whole term of appointments (to avoid replacements in the course of the term). The gender balance obligation is also extended to the National Centre for Territorial Public Service, and the political appointment of heads of public institutions decided during the Prime Minister's cabinet meetings. The Law of 27 December 2019 on local political engagement and public action modifies the Electoral Code to reinforce gender balance in executive bodies of public establishments in charge of inter-municipal governance (EPCI). The law amends the pact of governance between EPCI and municipalities to set objectives of parity in the presiding bodies and commissions.³⁹⁵ The law on accelerating economic and professional equality of 2021 imposes parity in the public institutions (BPI) in charge of awarding investments to companies.³⁹⁶

In **Greece**, legislation provides that at least one third of the appointed members of service councils must belong to each sex; the law further stipulates that, if the composition of the service council does not

387 Loi n°2007-128 du 31 janvier 2007 tendant à promouvoir l'égal accès des femmes et des hommes aux mandats électoraux et fonctions électives.

388 Loi Sauvadet, Loi n° 2012-347 du 12 mars 2012 relative à l'accès à l'emploi titulaire et à l'amélioration des conditions d'emploi des agents contractuels dans la fonction publique, à la lutte contre les discriminations et portant diverses dispositions relatives à la fonction publique.

389 Loi n° 2013-403 du 17 mai 2013 relative à l'élection des conseillers départementaux, des conseillers municipaux et des conseillers communautaires, et modifiant le calendrier électoral.

390 Law of 22 July 2013 (Law Fioraso).

391 Loi organique du 14 février 2014 interdisant le cumul de fonctions exécutives locales avec le mandat de député ou de sénateur et loi du 14 février 2014 interdisant le cumul de fonctions exécutives locales avec le mandat de représentant au Parlement européen.

392 Loi n° 2014-873 du 4 août 2014 pour l'égalité réelle entre les femmes et les hommes.

393 Loi n° 2017-86 du 27 janvier 2017 relative à l'égalité et à la citoyenneté.

394 LOI n° 2019-828 du 6 août 2019 de transformation de la fonction publique.

395 LOI n° 2019-1461 du 27 décembre 2019 relative à l'engagement dans la vie locale et à la proximité de l'action publique.

396 LOI n° 2021-1774 du 24 décembre 2021 visant à accélérer l'égalité économique et professionnelle.

fulfil the requirements, it is unlawful.³⁹⁷ In addition, at least one third of board members of legal persons governed by public law, appointed by the state or local authorities, must belong to each sex.³⁹⁸

As the Irish national expert reports, in **Ireland** the prime minister politically balances gender and geography in his or her cabinet. In recent years, various pieces of legislation setting up state boards and committees have contained provisions requiring appointments to have either a set minimum number of male and female members or to have, as far as reasonably practicable, an equitable balance between women and men.³⁹⁹ Appointments to state boards are managed by the Public Appointments Service.⁴⁰⁰ There are statistics on the numbers applying for advertised positions and the resultant outcome; all statistics are broken down by gender and are reported on per calendar quarter.⁴⁰¹ These are detailed statistics showing the position, the numbers of both males and females who applied for the position and then the numbers of males and females so appointed.⁴⁰² It must be emphasised that such boards are mainly statutory bodies, for example, the Residential Tenancies Board, which has a regulatory remit and a quasi-judicial role in relation to tenancies, or the Road Safety Authority. A few such bodies (e.g. commercial semi-state companies) are incorporated as companies.⁴⁰³ However, they are not listed companies. In the case of state/semi-state companies set up by statute, directors are appointed by the relevant minister (or the Government of Ireland, as provided in the relevant statute). The relevant statute more usually provides that there should be a gender balance on the board. The relevant Minister⁴⁰⁴ appoints the members of the board of a commercial semi-state company and ensures that there is a gender balance on the board. The Programme for Partnership Government of May 2016 provides that there should be at least 40 % female representation on state boards.⁴⁰⁵

In **Portugal**, while political appointments are not subject to any measures for gender balanced representation, measures exist for regulatory agencies and staff in an employment relationship in the ministries and Government cabinets. According to the law, the members of boards of independent regulatory agencies must include at least 33 % of each sex while the presidency of the board must be occupied by persons from both sexes alternately.⁴⁰⁶ When it comes to the heads of divisions in ministries, since they perform their activity under a public employment contract, they are covered by general employment law for the public service. These highly qualified administrative officials (known as '*pessoal dirigente da Administração Pública*'), also benefit from specific legislation that imposes the principle of balanced representation of women and men in managerial positions in the public administration and in the boards of public entities, including public foundations, public institutes, public associations and public universities.⁴⁰⁷ Under this legislation, each sex must be represented by at least 40 %.⁴⁰⁸ Therefore, when

397 Service councils are administrative authorities whose task is laid down by Article 103(4) of the Constitution: 'Civil servants may not be transferred without an opinion or lowered in rank or dismissed without a decision of a service council consisting of at least two thirds of permanent civil servants. The decisions of these councils are subject to recourse before the Council of State'.

398 Article 6(1)(b) of Act 2839/2000.

399 Such legislation includes for example Section 12 of the Inland Fisheries Act 2010; Section 98 of the Adoption Act 2010; Schedule 1 Article 4 of the Charities Act 2009; Section 8 of the Broadcasting Act 2009; Section 19 of the National Asset Management Agency Act 2009.

400 <https://www.stateboards.ie/en/info-and-resource-hub/list-of-vacancies>.

401 <https://www.stateboards.ie/en/info-and-resource-hub>.

402 For example in quarter 3 of 2022, the numbers appointed are males 49 % and females 51 % notwithstanding that the applications were 60 % male and 39 % female. Taking this snapshot, there appears to be gender balance. In this quarter, appointments were made to the National Gallery of Ireland, Fáilte Ireland (national tourist board), Eiría (a national utility company), Transport Infrastructure Ireland and many other national bodies. <https://www.stateboards.ie/documents/activity/State%20Boards%20Activity%20Q3%202022.pdf>.

403 For example, Dublin Bus, Irish Rail and *Bus Éireann* (all designated activity companies). The holding body, *Córas Iompair Éireann*, is a statutory corporation. The Government of Ireland is the sole shareholder. There has been a policy of appointing both men and women to the boards of these companies and bodies. Such companies are not listed on the stock exchange.

404 In some cases, the appointment is by the Government of Ireland.

405 https://merriestreet.ie/Merriestreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf (see Sections 11.11 and 11.13) of the 'Programme for a Partnership Government May 2016'.

406 Article 17 (8), Law No. 67/2013, of 28 August 2013 ('General Features of Administrative Independent Agencies for the Monitoring of Economic Activity in the Private and in the Public Sector' – 'Lei-Quadro das Entidades Reguladoras').

407 Gender balance in public companies is governed by a different piece of legislation.

408 Article 4, Law No. 26/2019, of 28 March 2019.

nominating someone for a highly qualified and to a certain extent, political task in the public administration, ministers are bound to comply with these provisions. In **Slovenia**, gender equality legislation requires at least 40 % representation of each sex in the composition of consultative and coordinating bodies, working bodies and delegations established by the law governing the Government of the Republic of Slovenia and the Rules of Procedure.⁴⁰⁹

5.2.2 State policies and other non-binding measures

State policies and other non-legally binding measures aimed at increasing gender balance in the executive, especially in positions with decision-making powers, have been identified in a number of countries covered in this report, such as in **Austria, Croatia, Iceland** and the **Netherlands**.

In **Austria**, advertisements for public service jobs often contain tie-break clauses, stating that if candidates are equally qualified, the female candidate will be given preference, after an objective evaluation. However, as the **Austrian** expert notes, in practice, the question of what constitutes 'equal qualification' is not straightforward. This is probably why tie-break clauses have given rise to a number of discrimination cases initiated both by male and female candidates. In the **Netherlands**, the Government announced in 2021 that ministries and their executive agencies will strive for a gender balance in the range of 45-55 % by 2026. In addition, the Government strives towards appointing equal numbers of women and men in advisory bodies and independent executive bodies. Gender balance was taken into account when forming the most recent cabinet in 2021; it is the first cabinet to feature 50 % female ministers and 44 % female state secretaries. Importantly, the cabinet also featured the first ever female minister of finance, which is considered the second most important position, after the prime minister. In **Iceland**, there is a generally positive environment towards gender balance – and supported by Article 28 of the Gender Equality Act No. 150/2020 stipulating that care shall be taken to ensure as equal a representation of men and women as possible, and not lower than 40 % when there are more than three representatives in a body in government and municipal committees, councils and boards. When nominations are made to national and local government committees, councils and boards, both a man and a woman must be nominated. However, the nominating party may deviate from that condition when, in consequence of objective circumstances, this is not possible. In such cases, the nominating party must explain the reasons for this.

5.3 Measures for institutional and culture transformation for the promotion of gender balance in decision-making positions in the executive

As many national reports highlight, the obstacles facing women pursuing high profile careers within the executive are often not attributed to legal provisions. Some of the most significant obstacles are structural and related to the culture within institutions, such as working cultures more attuned to men's lives rather than women's, deep-seated biases that work against female candidates or networking opportunities that are inaccessible to women. Due to their nature, such obstacles are difficult, if not impossible, to challenge by using anti-discrimination legislation. What is urgently needed is therefore broader institutional and cultural change to make decision making within the executive more inclusive of women.

In this section, we map initiatives and measures that seek to cultivate a more gender-balanced environment in the executive. These exist in a number of countries covered in this report such as in **Austria, Croatia, Czechia, France, Germany, Italy**, the **Netherlands, Spain** and the **UK**. We have identified a range of promising initiatives such as the adoption of equality plans, networking and mentoring opportunities for women or work-life balance measures – e.g. maternity leave – for women holding political office when they would normally be excluded from generally applicable legislation in the area of work-life balance. The adoption of equality plans in public administration is an initiative promoted, and often legally

409 Article 14 of the Equal Opportunities for Women and Men Act.

required, in several countries. The extent to which these plans deliver on their transformative potential is, however, not clear.

In **Austria**, many public institutions have adopted equality plans for the promotion of women in their service. Such plans normally contain an explicit commitment to raise the number of female employees, rules on non-discriminatory job advertisements, gender-neutral formulation of job requirements, tie-break clauses for recruitment, as well as a commitment to raise awareness regarding gender equality, and the introduction of an equal treatment representative and mentoring programmes. However, as the Austrian national expert notes, equality plans tend to have limited impact as they fail to penetrate and transform company/institutional culture and practices that impede women's advancement, such as late-day meetings, overlap of work schedules with school/kindergarten, and the prevention of 'old boys' clubs. In **Croatia**, public administration bodies and legal persons that are majority-owned by the state are required to analyse the position of women and men within their institution and adopt action plans every four years to promote and establish gender equality, which may include positive action measures if necessary.⁴¹⁰ The Office for Gender Equality has to approve the action plan before it is implemented. Examples of positive measures that can be introduced include tie-break policies concerning employment and appointment to specific commissions or working bodies, making sure that family commitments do not affect equal opportunities in promotion and training, and making sure that gender equality legislation and protection mechanisms are made known to staff. Failure to adopt the action plan may lead to financial sanctions for a misdemeanour offence for responsible persons in public administration bodies in the amount of EUR 400 to EUR 1 330 (HRK 3 000 to HRK 10 000) (Article 34(1), Gender Equality Act), or for legal persons that are majority-owned by the state, EUR 3 990 (HRK 30 000) (Article 34(1), Gender Equality Act). Additionally, the Croatian Association of Counties established a platform for networking and the exchange of experiences of women in decision-making positions at local level, with the aim of promoting the participation of women.⁴¹¹

In **France**, a collective agreement was transposed into legislation, the 2019 Law on the transformation of public service, which promotes equality between men and women in the public administration by requiring the enactment of a three-year gender equality plan. The plan includes measures such as evaluating, preventing and correcting gender pay gaps, guaranteeing equal access to positions in the public service, work-life balance, procedures against discrimination, mobbing and sexism. In **Germany**, the Act for the equality of women and men in the federal administration and in the federal courts⁴¹² imposes requirements for job advertisements to motivate women applicants. The duties entail shortlisting female candidates, as well as, hiring or promoting women instead of equally qualified men, unless 'legally protected interests of a competitor prevail'.⁴¹³ The Act also contains provisions on work-life balance – including part-time and telework where possible – and requires the development of equality plans. The Equal Opportunities Officer can object and potentially apply to court if the plans are not developed according to the stated requirements. The Act also considers the assessment of qualifications and merit in some detail. In **Italy**, public employers are required to design three-year equality plans; in case of non-compliance, recruitment procedures may stop and the entity can be excluded from access to public funds.⁴¹⁴ Equality plans may contain positive action measures for gender balance in jobs and at levels where women are underrepresented.⁴¹⁵ Moreover, in hiring and promotion procedures, where between equally qualified male and female applicants, the male one is chosen, the public administration must justify the decision. Additionally, the law requires that at least one third of the members of the commission for public competitions (i.e. for hiring procedures) must be women, except if there is a justified reason for it being impossible.

410 Article 11(1) and (2), Gender Equality Act.

411 See Project 'Women in politics' ('Žene u politici'), Croatian Association of Counties (*Hrvatska zajednica županija*), available at: <https://hrvzz.hr/projekti/zene-u-politici>.

412 Bundesgleichstellungsgesetz- BGleG.

413 The possibility to treat men preferentially if they are structurally disadvantaged, has been abolished, as the legislature did not see such structural disadvantage to exist.

414 Act No. 198/2006.

415 Underrepresentation is defined in the law as less than one third of the total.

Gender equality legislation in **Spain** creates an obligation for the Government to approve, at the beginning of each mandate, a plan for equality between women and men in the general state administration and in the public bodies linked to or dependent on it.⁴¹⁶ Equality plans apply to staff of the administration but not to members of the government. Article 64 of Law 3/2007 is specifically dedicated to the equality plan between women and men in the State General Administration. Equality plans must contain objectives in relation to equal treatment and equal opportunity, as well as the strategies and measure to achieve those objectives. The plan must be negotiated with the legal representatives of the employees within the organisation and it must be monitored annually. The latest adopted plan ('III Plan for gender equality in the State General Administration') contains 6 horizontal axes with 68 measures regarding: transformation of organisation, awareness and training, work conditions and promotion, work-life balance, violence against women and intersectionality. There is no report on how effectively it has been implemented, although, according to the Spanish expert, most of the measures are considered to have been implemented. No sanctions are provisioned, nor do the objectives proposed have any indicators as to what constitutes effective implementation.

In the **Netherlands**, the Government, as part of its broader commitment to inclusion in political decision making, provides training, orientation programmes and networking events, as well as establishing centres of expertise aimed at including more women in decision-making positions and processes. Moreover, the Government intends to monitor the reasons motivating politicians to step down from their positions or to abandon politics altogether. In **Czechia**, a competition, 'Office on the Road to Equality', has supported the introduction of gender equality policies and gender mainstreaming into the work of public administration offices since 2007. Every public administration body should incorporate the Government's priorities for the promotion of gender equality into its work in at least two ways: internally, (towards its own employees), as well as externally (towards the population living in the local authority). The governmental Strategy for equality of men and women 2021-2030 sets gender balance in decision-making positions as one of its priorities. One of its strategic objectives is increasing the representation of women in decision-making positions, broadly understood as covering public authorities, state and local government. In relation to public administration leadership, the focus is on promoting mentoring and addressing women's low representation in senior positions. The strategy also considers gender balance in the membership of advisory bodies.⁴¹⁷

In the **UK**, legislation equips the Prime Minister with the power to grant Government ministers with six months of maternity leave on full ministerial pay. It also enables some senior members of the official Opposition to take six months of paid maternity leave.⁴¹⁸ This power was first utilised in 2021 when Suella Braverman (then Attorney General) took six months of maternity leave during which she was designated 'Minister on Leave' and temporary cover for her was provided by the promotion of another minister.

5.4 Mechanisms for the involvement and participation in decision making in the executive for minority women

There seems to be a significant gap when it comes to measures encouraging the participation of women from minority groups in decision making. Out of all the countries covered in this report, only **Croatia** and the **UK** have a relevant law and/or policy framework in place. In **Croatia**, national minorities are entitled to appropriate representation in representative bodies of local and regional self-governing units, which includes representation in executive bodies.⁴¹⁹ This entitlement implies that in such local communities, a deputy mayor or prefect must be a member of a minority, which has to be regulated in the statute of the local/regional unit. If this right is not exercised, additional elections are held, until

416 Article 64 of the Law 3/2007 on Effective Equality.

417 Fulltext of the Strategy available at: https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/Strategie_rovnosti_zen_a_muzu.pdf.

418 The Ministerial and Other Maternity Allowances Act 2021.

419 Article 21(1) Constitutional Act on the Rights of National Minorities (*Ustavni zakon o pravima nacionalnih manjina*), Nos. 155/2002, 47/2010, 80/2010, and 93/2011.

a member of the executive from the minority group is elected. Neither of these obligations is designed specifically to increase participation of women from minority groups, but they may have a positive impact on participation of women from minority groups in executive bodies at local level.

In the **UK**, the civil service has a diversity and inclusion strategy,⁴²⁰ it has also appointed champions across a range of protected characteristics including race, and runs a range of mentoring and training schemes.

Even in states where there is a robust legal and policy framework in place to support women's advancement and retention in leadership positions within the executive, such as in **France**, there has been little to no consideration of the unique challenges facing women from minority groups in this area. The underlying assumption, therefore, seems to be that any measures put in place will equally benefit all women in accessing and progressing in decision-making positions within the executive. The **French** expert further reports that lack of statistics on ethnicity and race raises challenges in terms of visibility and social policy or positive action for women from ethnic minority groups.

In **Finland**, there has been public debate on the disproportionately low number of people with an immigrant background among decision-makers, and some political parties are trying to develop relevant initiatives. However, there is no indication that legal or state policy measures are contemplated.

5.5 Soft or hard law measures/provisions creating an obstacle for gender equality or hindering women's participation in the executive

The responses of national experts show that it is rarely the existence of legal provisions that hinders women's access to and participation in decision-making positions and processes in the executive. Many national experts (such as in **Austria, Bulgaria, Cyprus, Lithuania, Poland** and **Slovakia**) highlight the lack of any measures to promote women in decision-making positions within the executive as one of the main obstacles for advancing equality in this area. Cultural barriers have been cited in a number of countries such as in **Austria, Cyprus, Germany**, and the **Netherlands**. Cultural barriers include stereotypical views on women's aptness for leadership, women's traditional caring roles, deep-seated biases interfering in hiring and promotion processes, as well as the way in which work is organised and performed, with long working hours and frequent travel required in high executive positions. For instance, the **German** expert notes issues such as working part time and extended periods of parental leave that are typical of women's working patterns in the executive – and of course elsewhere – disadvantage them in terms of career progression. She also notes the difficulty of gathering evidence to expose discriminatory practices regarding the assessment of candidates. The **Bulgarian** national expert reports a lack of political will and the low priority assigned to gender equality by the Bulgarian Government in recent years. She notes that since 2016 there has been a significant backlash concerning gender equality and women's rights, which poses important obstacles for progress in this area.

There are, however, some exceptions where national experts identify a more direct effect of the law in hindering women's retention and advancement in the executive. The legal barriers identified are mainly in relation to work-life balance provisions and the exclusion of high-level executives from the personal scope of application. In **Hungary**,⁴²¹ employees in executive positions are not protected against dismissal during parental leave, which is a leave of up to three years, most often taken by women. In **Luxembourg**, ministers are not covered by labour law legislation, including work-life balance measures and protection against discrimination, which has caused difficulties for women in such high-level positions. In **Austria**, according to the national expert, parental leave is still structured in a way that makes it unattractive for men to take more than a few weeks, if any. Fathers have the right to stay with their newborn child for up to a month within the period of eight weeks after birth. However, paternity leave shortens the length of

420 Civil Service Diversity and Inclusion Strategy: 2022 to 2025 - GOV.UK (www.gov.uk).

421 Those excluded from dismissal protection during parental leave will normally be employees overseeing the work of other at the highest executive level and their deputies. See Article 208(1) Hungarian Labour Code.

parental leave – in this sense, it is not an independent form of leave per se, but rather, a special form of parental leave for fathers who want to stay with their newborn after birth. The situation is different for mothers. During this time, fathers can also claim part of their childcare benefits (*Kinderbetreuungsgeld*), which includes statutory health benefits in kind. However, the benefits for this month are quite low (a fixed rate of EUR 22.60 per day in 2021).⁴²² In comparison, mothers are entitled to maternity benefits mirroring their previous income. Moreover, in order to receive these benefits, the fathers have to show, among other things, that they live in the same household as the child and the mother. As a result, this requirement makes it impossible for separated fathers or non-traditional fathers/parents that do not cohabit with the mother to take the leave. During parental leave, the benefits tend to be quite low, which also makes it unattractive for fathers.

5.6 Effectiveness of measures

In this section we discuss the effectiveness of the measures adopted to promote gender balance in decision-making positions within the executive in light of the information available to the national experts. The discussion focuses on the countries with legally binding measures in place (**Belgium, Croatia, France, Germany, Greece, Ireland, Portugal and Slovenia**). We also include some discussion on **Iceland** which, despite the lack of legal measures in this area, was highlighted by the national expert as a good example of a country that has achieved gender parity in key decision-making areas within the executive mainly through a long-standing commitment to gender equality in all areas of life. In relation to countries that have adopted only limited measures, which often have no legally binding effects, experts were not in a position to evaluate their effectiveness due to lack of available data or because the measures in question are limited in scope and thus unable to deliver overarching change. This is illustrated for instance in the case of **Greece**. As the Greek expert reports, while quotas for the participation of the underrepresented sex on service councils were established in 2000, to date, there has been no assessment of their effectiveness in increasing women's numbers in these positions within the executive.

In **Belgium**, according to the national expert, the legislation has had a positive impact in increasing women's participation in decision-making positions in the executive. However, the positive impact is limited to certain lower level positions while most high-level positions within governmental cabinets – where no positive measures exist – are still male-dominated. While most recent Governments have placed an emphasis on achieving parity within political executive bodies, which has increased the number of women leading ministries, women are still underrepresented. One of the reasons for this, as the national expert notes, is that the culture is still not seen as inclusive, which is illustrated by recent cases of women exiting politics and high-level decision-making roles. While the provisions introduced in **Germany** have, according to the national expert, potential for meaningful impact on the representation of women, progress has been very slow. However, the annual equality index for 2021 identified some increase in women's representation and female leadership within the highest federal administrative bodies that had not been noted in previous years.⁴²³ The key question remains that of enforcement. The Equal Opportunities Officer's ability to seek legal recourse to administrative courts has recently been expanded. However, it is questionable whether the enforcement rights of the Equal Opportunities Officer, i.e. challenging actions in court, are effective, given the officer's status of dependency within the institution.

In **France**, the legislative framework seeking to ensure gender balanced representation in decision making within the executive is wide and robust. As the French expert notes, there have been more efforts for gender balance in the executive rather than the legislative branch, because of the very centralised structure of the French state, the barriers linked to the election to the General Assembly and political parties' reluctance to apply gender balance measures. Gender balance efforts in the executive branch

422 See Paragraph 3 Family Time Bonus Act (*Familienzeitbonusgesetz*), BGBl. I Nr. 53/2016.

423 Federal Statistical Office (2022), *Gleichstellungsindex 2021. Gleichstellung von Frauen und Männern in den obersten Bundesbehörden* (Equality Index 2021. Equality between men and women in the highest federal administrative bodies), https://www.destatis.de/DE/Themen/Staat/Oeffentlicher-Dienst/Publikationen/Downloads-Oeffentlicher-Dienst/gleichstellungsindex-5799901217004.pdf?__blob=publicationFile.

have not only targeted appointment procedures but take a broader approach of focusing on the working environment within administrations by, for instance, implementing a gender equality action plan. The numerous pieces of legislation that have been introduced concern all levels of administration, while, according to a pending bill, even small towns of less than 1 000 residents will have binding legislation in this area. Monitoring and enforcement have been key elements of success; the High Council on Equality is empowered to impose fines on public administrations that do not respect gender balance rules and nudges administrations to self-enforce and rigorously implement them.

The two positive action measures available in **Portugal** have been successful in increasing the number of women in some decision-making positions in the executive. According to the Portuguese expert, the gender quotas for the boards of regulatory agencies have been very effective in making it possible for women to ascend and lead such bodies in a regular manner. When it comes to highly qualified officials within ministries and other public institutions, the gender quota in place is also deemed a successful measure. As the national expert reports, many heads of division in ministries and other highly-ranked administrative officials in managing positions in Portugal are now women.

The national expert reports that measures in **Slovenia** have not been effective and that women continue to be underrepresented in executive decision making.

In **Ireland**, the Top-Level Appointments Committee appoints persons to senior roles in the civil service at secretary and assistant secretary level in Government departments. In its most recent report of May 2022, the Committee notes that in 2021, 17 general roles and 3 specialist roles were advertised. The report noted that it was Government policy to encourage gender diversity in the civil service. In 2021, 54 % of those appointed to the top roles were women with 46 % being men; in 2020, 59 % of appointees were female with 41 % being men, and in 2019, it was 62 % men and 38 % women. The report also noted that the number of women making it through to final interview has increased while the number of men has decreased. It was also noted that in 2018, more women than men had been appointed to the top two grades in the civil service.⁴²⁴

The **Croatian** expert reports that legal measures on the representation of minorities seems to have had a positive impact on minority women.⁴²⁵ Currently, the share of women among deputy mayors belonging to minority groups stands at 38.9 %. While there are no studies to corroborate this conclusion, it is an educated guess that the guaranteed rights of participation for minorities have a positive impact on encouraging women from minority groups, especially in smaller communities, to engage in politics.

In **Iceland**, despite the lack of legally binding measures, almost 50 % of high decision-making positions at the level of central Government – the first tier of administration – are held by women.⁴²⁶ This result is achieved, according to the national expert, thanks to a long-standing attitude of cultivating a supportive environment for women to access, remain and progress in decision-making positions in the executive. Currently, women make up around 45 % of ministerial positions within the cabinet; in addition to a female Prime Minister, women lead several ministries, such as foreign affairs, culture and business affairs, food, fisheries and agriculture among others.

5.7 Case law on quotas or other measures

There is limited case law concerning gender quotas and other measures discussed in this chapter. Rulings have been reported only in **Austria**, **Croatia** and **France**.

424 <https://www.eolasmagazine.ie/secretaries-general-in-profile/> (List of secretary-generals of the various government departments – September 2022).

425 The Constitutional Act on the Rights of Minorities.

426 <https://www.government.is/topics/human-rights-and-equality/equality/gender-statistics/>.

In **Austria**, the Supreme Court and the Constitutional Court have ruled on tie-breaker clauses in recruitment and promotion procedures on a number of occasions. For instance, the Supreme Court (Oberster Gerichtshof, OGH) has ruled that a tie-breaker clause (if present) has to be observed during an appointment procedure for a public service post.⁴²⁷ In the same ruling, the Supreme Court has held that the violation of a requirement to promote women (such as the above-mentioned clause) does not constitute discrimination *per se* – but only if this violation can be shown to have discriminatory effects for the female candidate(s). The Supreme Court has also ruled that an ‘automatic’ preference of female over male candidates (that are equally qualified) – meaning that there is no additional evaluation to consider reasons that may also lie within the person of each candidate – amounts to discrimination against men.⁴²⁸ The Constitutional Court (Verfassungsgerichtshof, VfGH) has held that it does not amount to discrimination if women are advantaged if the female sex is a necessary requirement for obtaining the benefit in question (the case dealt with an evaluation of gynecologists who applied for a contract with a public health care provider).⁴²⁹

In **Croatia**, two Constitutional Court rulings have indirectly touched upon the issue of special measures in the field of gender equality.⁴³⁰ In Decision U-III-248/2018, out of 11 members of the State Judicial Council, a body responsible for the appointment of judges, 10 were men. According to the Constitutional Court, that fact did not violate the principle of equality. The role of the State Judicial Council is to ensure the rule of law, and this value takes precedence over gender equality. Similarly, in Decision U-I-1397/2015, the Court annulled the provision in the legislation on elections, which provided for automatic invalidity of gender imbalanced election lists, i.e. those where one sex is represented at less than 40 %. When weighing two equally important constitutional values, such as gender equality and a multiparty democratic system, the latter takes precedence. According to the Croatian expert, both rulings seem to confirm that any special measure aimed to ensure the equal representation of both sexes can be weighed against other equally important values of the Croatian constitutional order, such as the rule of law or respect for a multiparty democratic system, and that those values can outweigh gender equality under certain circumstances.

In **France**, constitutional rulings have considered the conformity of the implementation of gender balance (50 % quota) in appointments in light, for example, of the principle of strict formal equality, which concerned gender balance for the composition of the new National Social and Economic Council, which is in charge of advising the Government and is made up of union and management representatives. The Constitutional Council recalled with force in its reasoning that the parity rule of a 50 % quota is enshrined in Article 1 of the Constitution, which deserves the highest respect. Thus the application of gender balance to the National Social and Economic Council was not unconstitutional.⁴³¹ Another case concerned a law in a university setting that applied the parity rule only to appointments of a balanced representation of women and men lecturers and not to tenured professors which must compose special committees selecting public university presidents. The Constitutional Council, citing the parity rule enshrined in the Constitution, considered that the law was constitutional because the pool of candidates (lecturers and professors) for elections to the general selection committees were already abiding by the parity rule and that if any change was to affect the composition to these more specialised selection committees, an executive order could be adopted since, according to the separation of powers, the law only sets general principles that the Government implements.⁴³²

427 OGH 23. 11. 2010, 8 ObA 35/10w.

428 OGH 17. 12. 2001, 1 Ob 273/01 f; OGH 30. 1. 2001, 1 Ob 80/00 x.

429 VfGH 9. 12. 2014, V 54/2014.

430 Constitutional Court, Decision U-III-248/2018 of 22 May 2018, para. 25 and Decision U-I-1397/2015 of 24 September 2015, paras. 123-124.

431 Décision n° 2010-608 DC du 24 juin 2010 on the constitutionality of the Loi organique relative au Conseil économique, social et environnemental.

432 Décision n° 2015-465 QPC du 24 avril 2015, <https://www.conseil-constitutionnel.fr/decision/2015/2015465QPC.htm> Conférence des présidents d'université [Composition de la formation restreinte du conseil académique].

5.8 Internal mechanisms and procedures against gender-based discrimination and harassment

In **Austria**, there is the Equal Treatment Commission for the Public Sector – a Commission that issues non-binding decisions on the violation of equal treatment provisions and plans for the promotion of women in the public sector. In **France**, as the national expert reports, there have been strong efforts to monitor sexual harassment through the action plan on equality, which is adopted every three years.⁴³³ A decree issued in 2020 details the procedure of filing claims and provides guidance to civil servants who are victims/survivors.⁴³⁴ Management centres are in place to manage the mechanism, procedure and protocol to follow for territorial executive bodies and their local institutions. In **Germany** there are equal opportunity officers or women's representatives. The BGleIG requires a 'Equal Opportunities Officer, Deputy and Representative (i.e. trusted person)' for institutions that have more than 100 employees. According to Section 25, the Equal Opportunities Officer has the task of promoting and monitoring the implementation of this Act and the General Equal Treatment Act with regard to the protection of employees against discrimination on grounds of sex, in particular discrimination against women. This includes the protection of women with a disability or women at risk of disability, as well as protection against sexual harassment in the workplace.

In a number of countries, there are no specific rules in place but the general legal framework applicable to sex discrimination and harassment at work will normally apply to women in decision-making positions in the executive, provided they fall within national definitions of employee. This is the case, for instance, in **Belgium**, **Denmark**,⁴³⁵ **Croatia**, **Iceland**,⁴³⁶ **Italy**,⁴³⁷ **Finland**,⁴³⁸ the **Netherlands**,⁴³⁹ **Romania**,⁴⁴⁰ **Spain**⁴⁴¹ and the **UK**.⁴⁴²

In some countries (**Bulgaria**, **Latvia**, **Liechtenstein** and **Poland**) experts reported the lack of any mechanism.

5.9 State institutions tasked with data collection on gender balance in public decision-making positions in the executive

In the majority of countries covered in this report there is a state institution collecting data on gender balance in public decision-making positions in the executive: **Austria**, **Belgium**, **Croatia**, **Czechia**,

433 This is since 2019 when the law of transformation of the public service was introduced.

434 Décret n° 2020-256 du 13 mars 2020 relatif au dispositif de signalement des actes de violence, de discrimination, de harcèlement et d'agissements sexistes dans la fonction publique.

435 The Act on Equal Treatment of Men and Women in Employment applies to all employees, including those in decision-making positions within the executive.

436 The Gender Equality Act No. 150/2020 which applies to all institutions and organisations in society regarding the prohibition of gender-based discrimination and/or harassment and sexual harassment. The internal mechanisms dealing with harassment claims would be the human resources department within the ministries.

437 As regards staff, in public administration, Directive N. 2/2019 of the Minister of Public Administration applies; it includes guidelines for the promotion of equal opportunities in the Public Sector.

438 The Act on Equality applies to all areas of life, except religious communities and private life relations. The provisions of the Act related to sanctions are not applied to the activities of MPs and the President of the Republic when exercising these roles. Thus, the prohibition of discrimination including harassment applies to government and public administration.

439 In the Netherlands, protection against harassment and sexual harassment are provided under both labour law (Working Conditions Act) and equality and non-discrimination law (Act on the Equal Treatment of Men and Women). However, these pieces of legislation only apply to employees and exclude political office holders.

440 Law 202/2002 on equal opportunities for women and men.

441 Cases of harassment, sexual harassment and harassment on grounds of sex can be brought before the Courts. Indeed, one of the first criminal trials of sexual harassment publicly discussed in Spain concerned precisely a municipal councillor and the mayor of Ponferrada, a town in Castilla y León.

442 Equality Act 2010 will usually be relevant: - The Public Sector Equality Duty (S149) which requires public authorities to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; advance equality of opportunity between people from different groups; and foster good relations between people from different groups. - The general prohibitions on discrimination and harassment provisions in the Equality Act 2010 will be relevant to employees within the executive. These include a provision that employers will only be able to avoid liability for harassment by other employees where they have all reasonable steps to prevent it (Section 109).

Denmark, France, Germany, Greece, Iceland, Ireland, Latvia, Luxembourg, Malta, the Netherlands, Norway, Slovakia, Spain, Sweden, UK. No such institution has been identified in: **Bulgaria, Cyprus, Estonia, Hungary, Italy, Liechtenstein, Poland, Romania and Slovenia.**

5.10 Conclusion

In this chapter we have examined measures introduced to increase gender balance in decision making positions within the executive. Different measures, such as **positive action in hiring and promotion processes** and **work/life balance** provisions, have been introduced. However, **quotas** are the most popular tool when it comes to legally binding measures. As with other areas we cover in this report, quotas can be effective when coupled with effective sanctions for non-compliance; yet they are not enough in achieving transformative change. Women face a **range of obstacles** in accessing and remaining in decision making positions within the executive:

- **Gender-based discrimination and harassment** is often cited as an important obstacle. However, only a handful of countries have internal procedures to deal with such issues. Reliance on criminal/penal law provisions is often unsuitable to offer effective and preventive protection
- **Exclusion from labour/equality law** protections for some high executive officials who do not normally fall within the notion of employee, such as Ministers;
- While available to them on paper, women in high-profile positions in the executive are often unable to access work/life balance measures in practice;
- **Work culture** that does not fit women's lives, such late meetings, frequent travel and less networking opportunities
- **Lack of political will** and general **backlash** against women's rights

Some of the obstacles highlighted are attributed to law and could thus be tackled with **legal interventions**, such as extending maternity-related rights to all women within the executive. However, many obstacles are not due to legal restrictions or exemptions, and must therefore target **institutional structures**.

In several countries there are initiatives underway aiming at an **institutional and cultural transformation**:

- **Equality Plans** for the Administration are popular tools in many countries;
- However, there is **lack of empirical data as to their effectiveness**

Overall, **institutional commitment to cultivating a supportive environment** for women to access and retain decision making positions within the executive is of outmost importance.

6 Public enterprises

6.1 Introduction

In this chapter, we take a detailed look at the legislative, policy and institutional frameworks and approaches in place for promoting women in decision-making positions in public enterprises. We focus on positive action, measures for supporting women from minority groups, protection from harassment and sexual harassment, and data collection. The developments in this area have undoubtedly been encouraged by the now adopted Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures⁴⁴³ (for more on this proposed directive, see Chapter 2).

We find that the countries have been increasingly dealing with the issue of women on boards, and more so since the proposal for a directive for gender balance on executive boards started to gain momentum at EU level (see section 2.5 European Union). In this respect, this is progress compared to the findings of the 2018 report ‘Gender-balanced company boards in Europe’ by Linda Senden and Sonja Kruisinga.⁴⁴⁴ There seems to be an overwhelming reliance on quotas and no measures for women from minority groups. In a number of countries, the specific position of board members might exclude them from any protection system against harassment and sexual harassment that may be in place. The approaches to data collection are diverse, with some countries still not having mandated any institution to collect data on women in decision-making positions in the legislature.

6.2 Positive action for promotion of gender balance in decision-making positions in public enterprises

Most of the positive action undertaken for the promotion of gender balance in decision-making positions in public enterprises is in the form of quotas, and it is focused on boards, and less so on CEOs or directors (exceptions include **Sweden** and **Norway**). This overlaps with the approach put forward by the Gender Balance on Company Boards Directive, thus attesting to the link of these developments to the EU legislative action. A number of the countries under review have introduced some sort of quota either by law or policy (such as **Austria, Germany, Greece, France, Iceland, Ireland, Italy, the Netherlands, Norway, Spain** and **Sweden**). Some countries have supported the implementation of quotas with additional measures (such as **Denmark, Poland** and **Portugal**). Few countries rely on general equality duties, such as the public sector equality duty, in order to achieve gender balance in decision-making positions (**Slovenia** and the **United Kingdom**). While ways of monitoring progress are usually attached to the quotas, sanctions rarely are.

In **Iceland**, no gender can be represented among members or alternate members with less than 40 % in companies with more than 50 employees whose board is composed of more than three members – both genders must be represented on the board. All public limited companies with more than 25 employees must report the relevant statistics to the register of limited companies. According to the Act on Public Limited Companies⁴⁴⁵ and the Gender Equality Act⁴⁴⁶ ‘employers must take steps to place a particular emphasis on achieving equal representation of women and men in managerial and influential positions,

443 Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.315.01.0044.01.ENG&toc=OJ%3AL%3A2022%3A315%3ATOC.

444 Senden, L. and Kruisinga, S. (2018), *Gender-balanced company boards in Europe: A comparative analysis of the regulatory, policy and enforcement approaches in the EU and EEA Member States*, European Commission.

445 Act on Public Limited Companies (No. 2/1995 with later amendments) <https://www.government.is/lisalib/getfile.aspx?itemid=008e5636-3900-11e8-9427-005056bc4d74>.

446 Gender Equality Act, No. 10/2008, <https://www.government.is/lisalib/getfile.aspx?itemid=008e5636-3900-11e8-9427-005056bc4d74>.

the beneficiary being the under-represented sex.⁴⁴⁷ In **Spain** in 2019, after failing to produce results,⁴⁴⁸ the 2007 aspirational quota of 40 % representation of each gender on boards was replaced with a mandatory one and equality plans for all enterprises with over 50 employees will become compulsory as of 2022.⁴⁴⁹ **Austria** initially set the quota for supervisory boards of (semi)public enterprises in 2011 to 35 % of each gender by 2018, and raised it to 40 % in 2020.⁴⁵⁰ There is no prescribed quota for the management boards, which results in much lower general representation (20 % in management boards, as opposed to 46.6 % in supervisory boards). In **Sweden**, the target is to have a minimum of 40 % board representation for both women and men, but for boards of up to 10 members (directors) there is also a set minimum number of positions for each gender depending on the size of the board: a minimum of one of each gender for boards of up to three members; a minimum of two of each gender for boards of four or five persons; a minimum of three of each gender for boards of six to eight members; and a minimum of four of each gender for boards of nine members. For boards of 10 or more members, at least 40 % should be from each gender.⁴⁵¹ The Swedish State Ownership Policy states aspirations for state enterprises, including that they 'have to be exemplary in gender equality work and work actively on gender equality issues in their operations, especially in connection with appointments to senior management' including when it comes to creating and cultivating a sound and healthy work environment, and good and decent working conditions. The selection of directors is made from a 'broad recruitment base in order to make use of the expertise of both women and men, as well as individuals with various backgrounds and experience. Discrimination associated with gender, transgender identity or expression, ethnic affiliation, religion or other belief, disability, sexual orientation or age is prohibited.'⁴⁵² The measures in Sweden have proved to be effective. As of 1 May 2021, 47 % women and 53 % men act as directors of state-owned enterprises, and 49 % of CEOs of these companies are women (compared to 51 % men). Women now chair 51 % of the fully or partially public enterprises, compared to 45 % in 2017. **Norway** uses the same targets and the same scale as Sweden, except that the 40 % rule applies for boards of nine or more members.⁴⁵³ In **Italy**, a quota system stipulates time limits for fulfilment of the target of equal representation of both genders. The starting quota of one third (increased in the next elections to two fifths) was to be applied to the first three elections of directors and auditors of both listed companies and State subsidiary companies. Lack of compliance triggers gradual sanctions, which start with a warning by the Consob (the National Securities and Exchange Commission)⁴⁵⁴ after which compliance should be achieved in the next four months. If this does not happen, a second warning for compliance within three months and a fine will be issued from EUR 100 000 up to EUR 1 000 000 (in case of auditors from EUR 20 000 up to EUR 200 000). Should this again fail, the subsequent penalty is the dissolution of the company board.⁴⁵⁵ Any substitution in the board should not result in a disruption of this gender balance. The monitoring is conducted by Consob except for companies not quoted in the regulated market for whom it is conducted by the Prime Minister and the Minister for Equal Opportunities.⁴⁵⁶ The overall arrangement has great potential for effectiveness which may be undermined by the fact that compliance is required only for the first three elections. However, the first nine companies that are no longer under this obligation, having passed the first three elections, are still maintaining a good gender diversity in company boards. In **Greece**, there is a one third quota for participation in service councils in the public enterprises.⁴⁵⁷ If this is not respected, the composition appointed is considered unlawful, with

447 Iceland, National Report (questionnaire responses).

448 Lombardo, E., Verge, T. (2017), Cuotas de género en política y economía. Regulación y configuración institucional en España (Gender quotas in politics and corporate boards. Regulation and institutional configuration in Spain), *Política y Gobierno* 24(2), pp. 301-331.

449 The 2007 40 % target was to be achieved by 2015. However, by that year only 18 % women sat on boards in public enterprises.

450 <https://www.bundestkanzleramt.gv.at/agenda/frauen-und-gleichstellung/gleichstellung-am-arbeitsmarkt/frauen-in-fuehrungs-und-entscheidungspositionen/frauen-in-wirtschaftlichen-fuehrungspositionen.html>.

451 Government Offices of Sweden, 'State Ownership Policy and principles for state-owned enterprises 2020', available at: <https://www.government.se/49eb29/contentassets/aef85fbd7beb4319a70af9a30d6723a1/state-ownership-policy-2020.pdf>.

452 Sweden, National Report (questionnaire responses).

453 Section 28, GEADA.

454 <https://www.consob.it>.

455 Act No. 120/2011 modified Article 147 para 1 *ter* and Article 148 para 1 *bis* of Decree No. 58/1998.

456 Decree No. 251 of 30 November 2012.

457 Article 6(1)(b) of Act 2839/2000. There is also a 25 % quota for participation of the under-represented sex in administrative councils of listed companies: Act 4706/2020, OJ A 136/17.07.2020, Article 3(1)(b).

the exception of members of service councils who are 'partially or totally designated *ex officio* or through a ballot or if they are designated by the Ministry of National Defence and the legal persons supervised by it due to a proven lack of a sufficient number of persons of the other sex.'⁴⁵⁸

In **Poland** and **Portugal** a mix of measures is applied. In **Poland**, with the adoption of the Act of 29 July 2005 on trading in financial instruments,⁴⁵⁹ a company dealing in financial instruments, operating 'a regulated market shall establish a nomination committee where this is justified by its size, organisational structure, nature, scope and complexity of its business. The tasks of the nomination committee include, among other things: determining a target value for the representation of the under-represented gender on the company's board of directors and developing a diversity policy for the composition of the company's board of directors aimed at achieving this target value, taking into account the broad set of qualities and competences required for persons serving on the board of directors.'⁴⁶⁰ No sanctions have been attached to these provisions. In addition, the Warsaw Stock Exchange has been persistently⁴⁶¹ working on developing gender-balance recommendations since 2010 whereby all public enterprises are now required 'to adopt solutions aimed at equalising the share of women and men at the highest levels of management, highlighting the resulting benefits for the development of the company',⁴⁶² which applies on a comply-or-explain basis. In **Portugal**, there is a mixed approach of mandatory quotas for public enterprises and optional quotas for private ones. The legislative framework in Portugal has been amended several times since 2012 when a duty was established for all state-owned companies to put in place equality plans for boosting representation of the underrepresented sex to governance boards (administration boards and oversight boards). In 2013 this duty was strengthened into an obligation and in 2014 it was expanded to apply to other entities – banks and other financial institutions, attaching to it other benefits – financial support programmes for companies that complied with the obligation (in 2013 and 2014). In 2017 it reached the point where quotas for company boards became mandatory in all state owned enterprises whereby the minimum representation of persons from each gender is at least 33 % (in 2017).⁴⁶³ The last amendment included a strict time frame for compliance and attached legal provisions for infringement whereby any nomination that does not comply with the quota is considered null and void and should be rectified in 90 days or penalties will apply, which in this case is declaring the nomination of the council null and void, and moving on to an election of a new council.

In **Germany**, different rules apply to different entities at the federal and state level. In 2015, the Law for Equal Participation of women and men in management positions in the private and public sectors set a goal of increasing the proportion of women in management positions. In supervisory boards where the Federal Government is entitled to at least three seats, since 1 January 2018, the requirement is for equal gender representation on these boards. Federal essential and supervisory bodies with at least two members should have an equal representation of men and women,⁴⁶⁴ as should companies with a majority or minority stake held by the Federal Government. Listed and full co-determination companies (usually over 2 000 employees) required 30 % representation within the supervisory board, whereas

458 Greece, National Report (questionnaire responses).

459 Act of 29 July 2005 on trading in financial instruments (consolidated text: Journal of Laws 2022, item 861, as amended).

460 Poland, National Report (questionnaire responses); Regulatory Act, Article 25(11)(3).

461 Some of the key documents adopted include: Code of Best Practice for Warsaw Stock Exchange Listed Companies, adopted by Resolution No. 17/1249/2010 of the Exchange Supervisory Board of 19 May 2010, available at: <https://ecgi.global/download/file/fid/9892>; The Good Practices form an annex to the Resolution of the GPW Supervisory Board No. 26/1413/2015 of 13 October 2015. This document, which substituted the previous one, has been in force since 1 January 2016, Published: https://www.gpw.pl/pub/GPW/STATIC/files/PDF/RG/Uch_RG_DB2016.pdf; The Good Practices for Companies Listed on the Warsaw Stock Exchange 2021 adopted by Resolution No. 13/1834/2021 of the Exchange Supervisory Board of 29 March 2021, available at: https://www.gpw.pl/pub/GPW/files/PDF/dobre_praktyki/DPSN21_BROSZURA_wersja_do_druku.pdf The Stock Exchange Regulations in the wording adopted by Resolution No. 1/1110/2006 of the Stock Exchange Supervisory Board of 4 January 2006, as amended, source: https://www.gpw.pl/pub/GPW/files/PDF/regulacje/Regulamin_Gieldy.pdf.

462 Poland, National Report (questionnaire responses).

463 The following legislation was put in place over the years: Government Resolution No. 19/2012, of 8 March 2012; Decree-Law No. 133/2013, of 3 October 2013; Decree-Law No. 157/2014, of 24 October 2014; the V National Equality Plan for Equality (2014-2017), approved by Government Resolution No. 103/2013, of 31 December 2013; Decree-Law No. 159/2014, of 27 October; and Law No. 62/20127, of 1 August 2017.

464 Federal Committees Act, Bundesgremiengesetz as amended, para. 4.

listed companies subject to co-determination (usually over 500 employees) were required to identify gender quota targets that they would reach in the next five years for their supervisory boards, executive board or management and the two top management levels below the executive board or management, where setting a target of zero is also an option, as long as the situation does not get worse. This was a challenge for the effectiveness of these measures, since there was no requirement nor incentive to move beyond the status quo, and many companies opted for a zero target. As a result, companies are now required to justify a zero-quota target for the board and for the two highest leadership positions below the board (and advisory board) in an explanation of the decision that must be diligent and plausible, and be made public.⁴⁶⁵ Should such an explanation not be reported, fines can be issued, which can be potentially significant.⁴⁶⁶ According to more recent amendments, these companies should appoint at least one woman and one man, if the board includes more than three members,⁴⁶⁷ and appointments contrary to this are void. This approach has been said to be more effective for executive boards than for supervisory boards as supervisory boards can operate more easily with empty seats.⁴⁶⁸ Other bodies governed by public law, such as health insurance and pension insurance funds and the Federal Employment Agency, also include a minimum representation requirement. However, when it comes to executive directors, it is 'always only necessary to appoint one woman (or man)'.⁴⁶⁹

In **France**, there are targets that need to be reached by a specific date depending on the type of company. By 1 March 2026, enterprises with at least 100 employees will have to have at least 30 % of each gender among the top executive officers, the managers, and the members of the executive committees, and by 1 March 2029, 40 % of each gender. If the 30 % target is not reached by the stated deadline, the enterprise should adopt adequate and relevant correction measures in order to reach the target by 2029. If the target is not reached by 2029, corrective measures and a public report should be published after one year. Should no measures be undertaken after two years, the public authorities will impose a fine on the enterprise payable to the general state budget 'of a maximum of 1 % of the total amount of wages of that preceding fiscal (civil) year ... according to the economic situation of the company, its efforts to comply with the parity rule in terms of representation of women and men as well as the reasons for its non-compliance as specified in the upcoming decree.'⁴⁷⁰

In **Denmark**, several measures have been in place since 2012 under the Companies Act, the Equality Act, and other acts of the Ministry of Business.⁴⁷¹ These measures are not considered as positive action. There was a duty for the 1 100 largest companies⁴⁷² to establish targets for improving the level of the underrepresented gender in top management boards, and to adopt a policy for improving the percentage of the underrepresented gender at top management levels. This includes public enterprises if they are among the 1 100 companies. Public enterprises, regardless of size, had the obligation to establish targets for improving the number of people of the underrepresented gender in top management positions, whereas those with 50 employees or more were required to prepare a policy to increase the number of women in management positions. The same model was followed for boards and other collective decision-making bodies, under the Equality Act.⁴⁷³ Public enterprises had an obligation to report their progress to the relevant minister, who must report to the Minister of Equality, and to include it in their annual financial statements. There were penalties for failing to establish targets and to prepare policies, but not for failing to meet the targets or to follow the policy.⁴⁷⁴ However, the 2012 approach did not produce results, so, in

465 Companies Act, § 76 IV sentence 2-4.

466 § 334 I No. 3 and 3a Handelsgesetzbuch.

467 Article 7 FöPoG II introduces § 76 IIIa Aktiengesetz, Companies Act.

468 Stefan Mutter (2021), 'Das Update zum "Update Frauenquote" – das FöPoG II', 66(4), *Die Aktiengesellschaft*, p. R56.

469 Germany, National Report (questionnaire responses); Leuring, D. and Konstant, V. (2021), 'Das Zweite Führungspositionen-Gesetz - FöPoG II', *NJW-Spezial*, p. 527.

470 France, National Report (questionnaire responses).

471 Amendment act no 1383 of 23 December 2012, <https://www.retsinformation.dk/eli/lta/2012/1383>.

472 'Large capital-companies were defined as companies with a balance sheet total of approximately 20 mill. EURO, with a net turnover of approx. 40 mill. EURO, and with 250 full-time employees.' Source: Denmark, National Report (questionnaire responses - follow up).

473 Equality Act sections 11-13.

474 Preparatory works, Proposal 2012/1 LSF 17, <https://www.retsinformation.dk/eli/ft/201212L00017>, General remarks.

spite of remarkable resistance, new measures were introduced in 2022⁴⁷⁵ (in force as of 1 January 2023), which clarify and expand the duties of the public enterprises by: introducing an obligation for establishing target numbers (rate of distribution aimed for, and a timeframe) for the top decision-making body and for the other management layers at all management levels in the company and to establish new targets once the initial targets have been reached, until there is a minimum representation of 40 % from each gender (from January 2023 onwards);⁴⁷⁶ parent companies can no longer prepare policies and set targets for their subsidiaries; the targets should be both realistic and ambitious;⁴⁷⁷ reporting should be done in a digital easily searchable format⁴⁷⁸ and must include actions that the enterprise has undertaken to increase gender equality.⁴⁷⁹ In 2014 in **Luxembourg**, the Government made a commitment to take action towards boosting gender balance in decision-making bodies of public enterprises and companies in which the state is represented, and in 2019 it set a target of 40 % of each gender, including in the National Action Plan for Gender Equality 2019-2022.⁴⁸⁰ In **Ireland**, several acts provide for a minimum number of members from each gender,⁴⁸¹ whereas the Programme for Partnership Government of May 2016⁴⁸² provides that there should be at least 40 % female representation on state boards. The relevant minister or the Government of Ireland makes the appointments to the boards.

Plans for introducing quotas are underway in some of the countries. In early 2022 in the **Netherlands**, the Government announced plans to require public enterprises to establish their own plans with specifically set targets for reaching gender balance in the (sub)top level of their hierarchies, whereby the portion of women should not be lower than 33 %.⁴⁸³ However, no specific legislative proposal has reached the Parliament thus far.

In some of the countries that have quotas, the implementation of these quotas is supported by additional measures, such as training and mentoring. This is the case in the **Netherlands** and **Spain**.⁴⁸⁴ In the **Netherlands**, the ministries work to encourage entities to monitor their gender diversity in a comparable manner and make monitoring of gender diversity part of the regular monitoring cycles of (semi-)public organisations. The Spanish national expert underlined, however, that these programmes ‘tend to focus on women, as if they were lacking abilities, instead of focusing on the exclusionary environments of enterprises.’⁴⁸⁵

The general equality and non-discrimination legislation in some countries provides for a public equality duty, which would include measures aimed at promoting women in decision-making positions in public enterprises. This is the case in **Slovenia**, where the Equal Opportunities for Women and Men Act (Article 14) provides that the principle of gender-balanced representation, (representation of at least 40 % of each

475 Amendment Act no 568 of 10 May 2022 to the Companies Act, Act on Financial Statements, etc., <https://www.retsinformatie.dk/eli/lt/2022/568> coming into force on January 2023.

476 Remarks to new Section 139(1) no 2) in Proposal 2021/1 LSF 117, <https://www.retsinformatie.dk/eli/ft/202112L00117>; new Subsection 139c(5).

477 Preparatory works, Proposal 2021/1 LSF 117 section 2.2.

478 Preparatory works, Proposal 2021/1 LSF 117 section 2.3.

479 Preparatory works, Proposal 2021/1 LSF 117 section 2.3.

480 Guideline 4.9 in: <https://mega.public.lu/content/dam/mega/fr/publications/publications-ministere/2020/MEGA-plan-action-nation-egalite-WEB.pdf>.

481 Section 12 of the Inland Fisheries Act 2010; Section 98 of the Adoption Act 2010; Schedule 1 Article 4 of the Charities Act 2009; Section 8 of the Broadcasting Act 2009; Section 19 of the National Asset Management Agency Act 2009.

482 https://merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf (see Sections 11.11 and 11.13) of the ‘Programme_for_a_Partnership_Government May 2016’.

483 Minister of Education, Culture and Science, (2022), ‘Kabinetsreactie advies Adviesgroep-Vinkenburg “Sturing en beleid voor evenredige man-vrouwvertegenwoordiging in de (semi)publieke top” en QuickScan ‘Genderdiversiteit’, Retrieved from: <https://www.rijksoverheid.nl/documenten/kamerstukken/2022/02/25/tweede-kamer-kabinetsreactie-genderdiversiteit-in-de-top-van-de-semi-publieke-sector>.

484 The initiative ‘Equality in the firm’ of the Institute for Women and Equal Opportunities aims at ‘professional development and leadership of women managers, which consists of structured and comprehensive training, which includes coaching and networking, with a gender and multidisciplinary perspective, to enhance the management skills of the participants as a decisive factor for their professional projection.’ Source: Spain, National Report (questionnaire responses); Institute for Women and Equal Opportunities, Talentia 360 programme (<https://www.inmujeres.gob.es/areasTematicas/PromProfesional/Talentia360MDirectivas.htm>).

485 Spain, National Report (questionnaire responses).

gender), must be applied in the appointment or nomination of representatives of the Government to the management and supervisory bodies of persons governed by public law.⁴⁸⁶ The Equality Act 2010 in the **United Kingdom** prescribes a public sector equality duty⁴⁸⁷ including permitting, but not requiring, positive action in relation to employment and the provision of public services.⁴⁸⁸ The same act includes a permission for tie-break in relation to sex, if 'the candidates are equally qualified, there is no policy of more favourable treatment and it is proportionate to do so.'⁴⁸⁹ This applies to England, Scotland and Wales. There is a similar duty under the Northern Ireland Act 1998 (Section 75). In **Norway**, in addition to the quotas (mentioned above), under the Equality and Anti-Discrimination Act, positive differential treatment, including on the basis of sex, is permitted if it fulfils three cumulative criteria: it is suited to promoting the purpose of the Act; it is proportionate (i.e. the negative impact of the different treatment is proportionate to the intended purpose); and it is temporary (i.e. it will cease to apply when the purpose has been achieved).⁴⁹⁰ In **Finland**, gender balance is prescribed for all boards of directors or other governing bodies consisting of persons of trust in enterprises that are in majority owned by municipality, county or state, unless there are special reasons against it.⁴⁹¹ In **Croatia**, public enterprises have an obligation to carry out an analysis and adopt a plan every four years on promoting and establishing gender equality, including any necessary positive action measures. There is a sanction for not adopting an action plan – a misdemeanour offence for the responsible persons and a fine of EUR 400 to EUR 1 330 (HRK 3 000 to HRK 10 000) or for a (semi-)public enterprise as a legal person a fine of EUR 3 990 (HRK 30 000).⁴⁹² This plan is to be approved by the Office for Gender Equality. If the company is owned or partly owned by the local/regional self-government units this obligation does not apply, but local authorities that employ more than 20 employees will still have an obligation under the Gender Equality Act to include in their statutes and other general acts measures for ensuring gender equality.⁴⁹³

In some countries, no such measures have been put in place. This is the case in: **Bulgaria, Czechia,**⁴⁹⁴ **Cyprus, Estonia, Hungary, Latvia, Liechtenstein, Lithuania,**⁴⁹⁵ **Malta, Romania** and **Slovakia**.

6.3 Measures aimed at women from minority groups in public enterprises

The majority of countries have no measures specifically designed for women from minority groups in public enterprises: **Austria, Belgium, Bulgaria, Croatia, Czechia, Cyprus, Denmark,**⁴⁹⁶ **Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden** and the **United Kingdom**. There are no nested quotas or other similar measures in place that are tailored specifically for women from minority groups.

The general equality and non-discrimination legislation in some countries provides for measures that target women from minority groups in public enterprises. In the **United Kingdom**, the 2010 Equality Act permits the use of tie-break in relation to sex and to race (although does not spell out such a permission

486 Act on Equal Opportunities for Women and Men, Official Gazette of the Republic of Slovenia Nos 59/2002 and 61/2007.

487 Equality Act 2010, Section 149.

488 Equality Act 2010, Sections 158, 159.

489 United Kingdom, National Report (questionnaire responses).

490 Equality and Anti-Discrimination Act of 16.06.2017 No. 51, section 6.

491 Act on Equality, Section 4 a (2).

492 Gender Equality Act, Article 34(1).

493 Gender Equality Act, Article 11(5).

494 Please note that in January 2021 the Czech Governmental Committee on Gender Balance in Politics and Decision-Making Positions adopted a recommendation for changes to the Nomination Act (Act No. 353/2019 Coll. on the selection of persons to the management and supervisory bodies of legal persons with state participation) which should result in (semi-)public enterprises for the state to ensure a balanced representation of women and men in the selection process.

495 There has been one case in practice which is worth noting a decision of 2019 of the Senate of Vilnius university – public institution of higher education – to approve the regulation which requires including at least one person of another sex (for each group of sciences) in the election lists of the members of the Council of the University. Source: Lithuania, National Report (questionnaire responses).

496 The Danish expert underlined the difficulty of this when it comes to public employees, as collection of data on ethnicity of the employees is not explicitly allowed under law.

for taking these two together or intersecting), in cases where the candidates are equally qualified, there is no policy of more favourable treatment, and it is proportionate to do so.

In some countries, measures aimed at minorities in general or diversity can also benefit women from minority groups, although they do not specifically target them. For example, in **Sweden**, the diversity regulation in the State Ownership Policy which provides for the appointment of members (directors) from a broad recruitment base can benefit persons from minorities, which can benefit minority women. However, such general measures targeting minorities cannot guarantee the representation of women from minority groups.

6.4 Internal regulation and sanctioning of harassment and sexual harassment in public enterprises

There are three approaches to regulation and sanctioning of harassment and sexual harassment in public enterprises: (1) obligation for introducing internal regulation, (2) harassment and sexual harassment prohibition by means of general legislation (such as equality law, labour law, or criminal law), and (3) a combination of an obligation for introducing internal regulation and prohibition by means of general legislation.

Internal regulations and sanctioning of harassment and sexual harassment are required by law in some countries (**Croatia, Hungary, Iceland, Spain, Sweden**). In **Iceland**, all companies and institutions with 25 or more employees per annum should create a gender equality plan or mainstream gender equality perspectives into their personnel policy as a way to ensure the rights provided in Articles 6–14 of the Gender Equality Act,⁴⁹⁷ which includes taking special measures against harassment or sexual harassment in the workplace or institution. A person against whom a harassment or sexual harassment case has been raised and who holds a superior position must, during the examination of the case, be considered not to be competent to take decisions regarding the working conditions of the claimant and the next superior in line should take such decisions. In **Spain**, each enterprise should have a protocol for action in cases of sexual harassment and harassment based on sex.⁴⁹⁸ If a company has an equality plan, which it should have if it has over 50 employees, then this protocol will be part of that plan. In **Hungary**, public sector employers, thus also those from public enterprises, employing more than 50 employees are required to adopt an equal opportunity plan. These plans can provide for the establishment of internal mechanisms, procedures and protocols aimed at combating discrimination and harassment. However, there is no monitoring and evaluation system that would follow the implementation of this rule.⁴⁹⁹ In **Germany**, '[e]mployees have the right to complain [including regarding sexual harassment] to the competent authorities of the company, the company or the department if they feel disadvantaged by the employer, superiors, other employees or third parties in connection with their employment relationship ... The complaint must be examined, and the result communicated to the complaining employee.'⁵⁰⁰ In **Croatia**, under the Gender Equality Act, public enterprises that employ more than 20 employees are 'required to have anti-discrimination legislative provisions included in their statutes and other acts of general application, including the measures for ensuring gender equality',⁵⁰¹ whereas under the Labour Code they must 'adopt and make publicly available the working regulations governing remuneration, organisation of work, procedures and measures for protecting worker dignity, anti-discrimination measures and any other issues of importance for the workers employed with the employer, if these issues are not regulated by a collective agreement'.⁵⁰² In doing so, employers cannot change the definitions of harassment and sexual harassment established in the Gender Equality Act and in the Anti-discrimination Act. In **Cyprus**,

497 GEA No. 150/2020.

498 Law 3/2007 on Effective Equality, Article 48.

499 Hungary, Act CXXV of 2003 on Equal Treatment and the Promotion of the Equality of Opportunities (2003. évi CXXV. törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról) 28 December 2003, Article 63(4).

500 General Equal Treatment Act, Section 13.

501 Gender Equality Act, Article 11(5).

502 Labour Code, Article 26(1).

a labour law bylaw, the Code of practice for the prevention of and dealing with harassment and sexual harassment, was adopted in 2019. It applies to the public sector, which can include public companies. In **Sweden**, the employer must adopt guidelines and procedures to declare harassment, sexual harassment and reprisals are not permitted in the workplace and to set out prevention activities. The procedures that the employer must put in place should include an action plan for the employer in the event that 'someone reports harassment, sexual harassment or reprisals; instructions for employees on whom to turn to in a case of harassment, sexual harassment or reprisals; and information about who is responsible for the investigation of a claim regarding or an occurrence of harassment, sexual harassment or reprisals. The employer must follow up and evaluate these guidelines and procedures, as a part of the continuous process on active preventive measures, Chapter 2 Section 6 of the Discrimination Act.'⁵⁰³ there is also prohibition of harassment by means of general legislation. Persons employed in public enterprises, but not board members, are protected against harassment and sexual harassment by the Discrimination Act (2008:567), the Work Environment Act (1977:1160), and the Swedish Work Environment Authority Provisions on Organisational and Social Work Environment (AFS 2015:4). Like in Italy, mentioned above, board members are not considered employees, thus cannot benefit from this protection.

In a number of countries there is no legislation requiring public enterprises to introduce internal regulation and sanctioning of harassment and sexual harassment. This is the case in most countries: **Austria, Bulgaria, Czechia, Estonia, Finland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Norway, Poland, Portugal, Romania, Slovakia, Slovenia** and the **United Kingdom**. In the majority of these countries, harassment and sexual harassment are prohibited in public companies by way of either general gender equality and non-discrimination legislation, labour law, or criminal law. For example, in **Estonia** the Gender Equality Act and in **Norway**, the Equality and Anti-Discrimination Act⁵⁰⁴ protect against harassment and sexual harassment including in public enterprises. In **Denmark** there is a combination of prohibition of harassment and of sexual harassment under the Equal Treatment Act, which applies to any workplace, including public workplaces, and the public administrative law, which has equality as a general principle and stipulates 'that all public authorities must treat employees equally. This works towards eliminating harassment on any grounds.'⁵⁰⁵ In the **United Kingdom**, the prohibition of harassment in the 2010 Equality Act applies to employees in the public enterprises (Section 109), and the public sector equality duty provides that the public authorities must work to eliminate harassment and victimisation (Section 149).⁵⁰⁶ In **Malta**, policies against harassment and sexual harassment are part of the requirements of the employer certification initiated by the National Commission for the Promotion of Equality.⁵⁰⁷

The Labour Codes of **France**,⁵⁰⁸ **Ireland**,⁵⁰⁹ **Luxembourg**, **Poland**⁵¹⁰ and **Portugal**⁵¹¹ provide for protection from harassment and sexual harassment, which also applies to public enterprises. Sexual harassment has been made part of the criminal laws in some countries, such as **Spain**.⁵¹² In some countries, there is a combination of these approaches, for example in the **Netherlands** where protection against harassment and sexual harassment is provided under both the labour law (Working Conditions Act) and the equality and non-discrimination law (Act on the Equal Treatment of Men and Women).⁵¹³ In addition to this, non-

503 Sweden, National Report (questionnaire responses – follow up).

504 Equality and Anti-Discrimination Act of 16.06.2017 No. 51, Article 6 and Section 13.

505 Denmark, National Report (questionnaire responses – follow up).

506 Equality Act 2010, Section 109, 149.

507 https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/Prepare%20the%20Ground%20for%20Economic%20Independence/EM_info_document.pdf.

508 Article 11326& Labour code and 1153-1 Labour Code. In public companies with over 250 employees, a contact person can be appointed to allow for the claims to be processed internally. Source: LOI n° 2018-703 du 3 août 2018 renforçant la lutte contre les violences sexuelles et sexistes.

509 This should include also directors, pursuant to the Employment Equality Acts 1998 to 2021.

510 Act of 26 June 1974 Labour Code (consolidated text: Journal of Laws of 2020, item 1320, as amended).

511 Labour Code, approved by Law no. 7/2009, of 12 February.

512 Criminal Code, Article 184.

513 *Arbeidsomstandighedenwet*, Act of 18 March 1999, Stb. 1999, 184 last modified by Act of 3 March 2021, Stb. 2021, 135; *Wet gelijke behandeling van mannen en vrouwen*, Act of 1 March 1980, Stb. 1980, 86 last modified by Act of 14 June 2014, Stb. 2014, 216.

compulsory confidential counsellors are often appointed as part of policies against discrimination and (sexual) harassment,⁵¹⁴ and 'cases of discrimination are generally handled within institutions themselves. If this is not done satisfactorily, the discriminated party can sue the public enterprise for failing to protect them, as is required by the Working Conditions Act, or discriminating against them, as is prohibited by the Equal Treatment Act.'⁵¹⁵ In **Italy** employees (but not board members) can benefit from the protection against harassment and sexual harassment in the legislation on equality and gender equality⁵¹⁶ and on the public administration.⁵¹⁷ In **Greece**, the obligations for establishing such mechanisms apply only to private enterprises. The Minister of Interior Affairs can define the competent bodies and the necessary measures to be undertaken in the public sector but, to date, no ministerial decision has been issued.⁵¹⁸ In **Belgium**, each gender should be represented with at least one third of the board members on public enterprises boards.⁵¹⁹ 'As long as this quota is not fulfilled, a person belonging to the minority sex must be appointed to any vacant position and any appointment which does not comply with this rule is void. Moreover, the amended Company and Association Code provides a specific sanction: as long as the composition of a board does not comply with the quota, any advantage (financial or otherwise) attached to the position of director is suspended for all the members of the board.'⁵²⁰ Larger enterprises could avail themselves of an extension until 2017, whereas smaller ones could postpone compliance until 2019.

What is lacking in most countries are specific mechanisms in the public enterprises themselves for tackling harassment and sexual harassment committed against persons in decision-making positions. The issue usually arises from the fact that the members (directors) of the boards are not considered employees (same as MPs in Parliaments; see Chapter 4). This is the case in **Belgium**. Another example is **Sweden**, where the State Ownership Policy prohibits harassment and sexual harassment on grounds of gender, transgender identity or expression, ethnic affiliation, religion or other belief, disability, sexual orientation or age. However, there is no mechanism that can enforce this prohibition. In **Ireland**, on the basis of the existing labour legislation, public enterprises as employers should provide mechanisms for dealing with harassment and sexual harassment.

6.5 Data collection on gender balance in public decision-making positions in public enterprises

Most of the EU and EEA countries have given responsibility for data collection on gender balance in public decision-making positions in public enterprises to either the central statistical office or the national gender equality or human rights institution. An overview of the mandates is provided in Table 5, below.

Table 5: Institutions holding mandate for data collection on gender balance in public decision-making positions in public enterprises, by type of mandated institution, country, and name of mandated institution

Type of mandated institution	Country	Name of mandated institution
Central gender equality authority	Belgium	Gender Equality Institute
	Spain	Institute of Women and for Equal Opportunities

514 Arboportaai (n.d.), 'Vertrouwenspersoon' retrieved from: <https://www.arboportaai.nl/onderwerpen/vertrouwenspersoon>.

515 The Netherlands, National Report (questionnaire responses).

516 Article 48 of Code for equal opportunity (Act No. 198/2006).

517 Public Administration under Art. 57 of the Decree N.165 of 30 March 2001 (as amended by Art. 21 of Act N. 183 of 4 November 2010).

518 Article 22(4) Act 4808/2021.

519 Act of 28 July 2011 inserted provisions relating to gender balance on company boards in the Act of 21 March 1991 concerning the (federal) economic public bodies, the Act of 19 April 2002 concerning the National Lottery, and the Company and Association Code (concerning companies quoted on the stock exchange).

520 Belgium, National Report (questionnaire responses).

Type of mandated institution	Country	Name of mandated institution
National human rights institution	Poland	Commissioner for Human Rights Government Plenipotentiary for Equal Treatment
	Malta	National Commission for the Promotion of Equality
	Greece	General Secretariat for Equality
Central statistics agency [The '*' next to the country name marks those where the mandate of the institution can be interpreted to include this competence, but in practice they do not collect such data.]	Croatia*	Bureau of Statistics
	Czechia	Statistical Office
	Iceland	Statistics Iceland
	Hungary	Central Statistical Office
	Poland*	Central Statistical Office
More than one mandate holder [The '*' next to the mandated institution name marks those where the mandate of the institution can be interpreted to include this competence, but in practice they do not collect such data.]	Portugal	Commission for Equality and Citizenship Commission for Equality in Work and in Employment
	United Kingdom [Different regulation for Scotland, England and Wales]	Cabinet Office Public enterprises themselves
	Germany	Federal Statistical Office Ministry of Finance
	Italy	National Institute for Statistics* Prime Minister Minister of Equal Opportunities
Government	Ireland	State Board Service
	Luxembourg	Ministry of Economy
	Sweden	Ministry of Economy
	The Netherlands	Ministry of Education, Culture and Science
	France	High Council for Equality Ministry of Equality
	Finland	National Institute for Health and Welfare
Legislature	Ireland	Houses of the Oireachtas
	Italy	The parliamentary houses
No mandated institution	Austria, Bulgaria, Cyprus, Estonia, Latvia, Liechtenstein, Lithuania, Romania, Slovenia	
Other (Business regulation bodies)	Denmark	Danish Business Authority
	Italy	Consob

In some countries, no institution is responsible for collecting data on gender balance in public decision-making positions in public enterprises. This is the case in: **Austria, Bulgaria, Cyprus, Estonia,⁵²¹ Latvia, Liechtenstein,⁵²² Lithuania, Romania and Slovenia.** In some countries where an institution has been given responsibility for collecting such data, the mandate does not specify the obligations for data

521 Some competence falls on the Ministry of Finance and on the Equality Policies Department of the Ministry of Social Affairs, however not on this issue in specific.

522 One study conducted in the frame of an international and an interregional project titled 'Concern: women decide' between Vorarlberg in Austria, Graubünden in Switzerland, and Liechtenstein, looked at the representation of women in decision-making positions in 35 companies in Liechtenstein. According to the Liechtenstein expert, '[i]n these companies with line functions and supervisory boards, as well as in industrial regulatory bodies, not a single woman in a line function has been identified. Also, on the management boards and foundation boards there are rarely women. Nevertheless, 25-40 % of the members of the management boards of the National Bank, the Liechtenstein Broadcasting Company, Telecom Liechtenstein and the Public Transport Company are women'. Source: Interreg Report on Liechtenstein 2016, <http://www.llv.li/files/scg/final-Liechtenstein-v-3docx.pdf>, p. 38. For more on the project: <http://www.interreg.org/projekte/P1/SZ3/ABH017> and for the individual report on Liechtenstein see: <http://www.llv.li/files/scg/final-Liechtenstein-v-3docx.pdf>.

collection, data analysis and publishing. In some countries, while no such particular mandate is specified, the government collects and publishes such data.

The central gender equality bodies, also known as the gender machinery, are tasked with collecting data on gender balance in decision-making positions in public enterprises in some countries. For example, in **Spain** this is done by the Institute of Women and for Equal Opportunities in its annual summary reports 'Women in Numbers',⁵²³ and in **Belgium** by the Gender Equality Institute in its annual reviews. National human rights institutions in general can play such a role, although a wider interpretation of their mandate might be needed and possible in order for this to happen, for example, in **Poland** where the Commissioner for Human Rights and the Government Plenipotentiary for Equal Treatment collects some data. In **Malta**, the National Commission for the Promotion of Equality publishes such data⁵²⁴ in its annual reports on a regular basis. In **Greece** data is collected by the General Secretariat for Equality.⁵²⁵

The state statistical offices collect such data in some countries, such as in **Czechia**,⁵²⁶ **Hungary**,⁵²⁷ **Iceland**⁵²⁸ and **Slovakia**.⁵²⁹ In others, the responsibilities of the state statistical offices could be interpreted as including the collection of such data, but in practice they do not, for example in **Croatia**⁵³⁰ and in **Poland**.⁵³¹

In some countries, the competence is split between two or more institutions. For example, in **Italy**, in addition to the National Institute for Statistics,⁵³² the Prime Minister and the Minister of Equal Opportunities are responsible for monitoring the implementation of gender balance quotas in state subsidiary enterprises not quoted in the regulated market, whereas for all other enterprises this is the competence of Consob.⁵³³

In **Portugal**, the Commission for Equality and Citizenship and the Commission for Equality in Work and in Employment are both public agencies with competence in the field of gender equality that collect data. In the **United Kingdom**, the Cabinet Office collects and publishes annual data by gender on public appointments, including in public enterprises, whereas there is no institution competent to collect data specifically on gender balance among the employees. However, under the public sector equality duty, public enterprises need to publish equality objectives and other equality information, including information on the workforce. This duty is not equally regulated in Scotland, England, and Wales. In **Germany**, both the Federal Statistical Office and the Ministry of Finance collect such data,⁵³⁴ including showing the development of gender representation in decision-making positions in public enterprises over time. In

523 Survey 'Mujeres en Cifras', statistical series and summary reports, section Power and decision-making, <https://www.inmujeres.gob.es/MujerCifras/PoderDecisiones/PoderTomaDecisiones.htm>.

524 In its annual reports, the National Commission for the Promotion of Equality publishes data on salary scales disaggregated by sex (top levels would be management positions); data on take-up of family friendly measures according to gender and according to scale; data on cabinet members; judges and magistrates; University of Malta and Malta College Science and Technology academic staff according to gender; public broadcasters. The latest report can be accessed at: https://ncpe.gov.mt/en/Documents/Our_Publications_and_Resources/Annual_Reports/NCPE_Annual_Report_2021.pdf.

525 See 'Ισότητα των φύλων στα διοικητικά και υπηρεσιακά συμβούλια των δημόσιων φορέων (Gender equality in administrative and service councils of public entities), available at: <http://posostosi.isotita.gr>.

526 Data available at: https://www.czso.cz/csu/gender/4-gender_rozhodovani.

527 Central Statistical Office (Központi Statisztikai Hivatal).

528 <https://www.government.is/topics/human-rights-and-equality/equality/gender-statistics/>.

529 The publication 'Gender Equality in Slovakia' was renamed in 2021 'Women and Men in Slovakia', because 'after the elections a new Minister of Labour, Social Affairs and Family from conservative party We are Family was appointed. The term of gender equality was stopped to be used on the Ministry and other institutions and was replaced by the term equality between men and women. Former Department for Gender Equality and Equality of Opportunities was renamed to Department for Equality of Women and Men and Equality of Opportunities.' Source: Slovakia, National Report (questionnaire responses).

530 Croatian Bureau of Statistics, <https://dzs.gov.hr/en> Also, such an obligation exists under Gender Equality Act (Article 17), however in practice it does not seem to be respected.

531 Act of 29 June 1995 on public statistics (consolidated text: Journal of Laws 2022, item 459, as amended).

532 National Institute for statistic, <https://www.istat.it/it/archivio/258983>.

533 <https://www.consob.it/>.

534 Bundesministerium der Finanzen (2021), Federal participation report (Beteiligungsbericht des Bundes) https://www.bundesfinanzministerium.de/Content/DE/Downloads/Broschueren_Bestellservice/beteiligungsbericht-des-bundes-2021.pdf?__blob=publicationFile&v=5.

France, the High Council for Equality⁵³⁵ publishes annual reports with data on gender balance in decision making in public and private sector companies.⁵³⁶ Data on specific themes, for example on senior female workers in management and executives, have also been published.⁵³⁷ In addition, the Ministry of Equality publishes an annual ranking of companies that promote women in decision-making positions in public and private companies.⁵³⁸

Government sectors in some countries hold the competence for data collection. In **Ireland** the data is collected by the State Board Service, which publishes data on gender representation in various state boards, and all public appointments in general. In **Luxembourg** this is the competence of the Ministry of Economy, which monitors gender representation in decision making in 79 public enterprises. This is also the case in **Sweden**, where the Ministry of Finance monitors gender representation in decision making in public enterprises. This ministry delivers the data to Sweden Statistics, and it is included in the official statistics each year.

In the **Netherlands**, the Ministry of Education, Culture and Science monitors and updates on a yearly basis in the 'quickscan Genderdiversiteit' the gender ratio in all public and semi-public organisations, and monitors the governance codes of parts of the (semi-)public sector for policy on gender equality.⁵³⁹ In **Finland**, data on gender balance in public decision making in the executive is collected by the National Institute for Health and Welfare.

In **Denmark**, data on gender balance in decision making in public enterprises is reported to the Danish Business Authority on an annual basis. The Danish Business Authority monitors compliance with the Companies Act, and the Act on the Annual Review, including whether the reporting duties have been observed (such as the prescribed content of the reports),⁵⁴⁰ as lack of observance can lead to penalties (Section 164).⁵⁴¹

The different approaches to the collection, processing and publishing of the data have significant negative impact on the potential for comparability across the EU and between Member States. The data collected by the EIGE remains a rare source that can offer such comparability. The collected data is also not in line with the findable, accessible, interoperable and reusable standard, thus prevent wide (re)use including for monitoring purposes by non-state parties.

6.6 Conclusion

The promotion of women in decision-making positions in public enterprises has been gaining traction. Following the commencement of the legislative initiative at EU level for the adoption of a directive on gender balance on company boards, there is either debate or specific legislation in place in most of the countries. Several key points can be established.

- Most of the measures undertaken are in the form of a soft quota and they focus on the boards, less so on CEOs or directors, which speaks further for the link to these developments to the legislative

535 Previously, the data was collected by the High Council on Equality between Women and Men.

536 Annual reports, <https://www.haut-conseil-egalite.gouv.fr/egalite-professionnelle/>.

537 <https://www.egalite-femmes-hommes.gouv.fr/les-femmes-seniors-dans-lemploi-etat-des-lieux/>.

538 <https://www.egalite-femmes-hommes.gouv.fr/cp-resultats-de-la-8eme-edition-du-palmares-de-la-feminisation-des-instances-dirigeantes-des-entreprises-du-sbf120-25-10-2021/>.

539 <https://www.rijksoverheid.nl/documenten/rapporten/2021/10/15/quickscan-genderdiversiteit>.

540 Danish Business Authority, Guidelines for reporting and data collection on gender balance and gender balance policies, <https://erhvervsstyrelsen.dk/vejledning-maltal-og-politikker-den-konsmaessige-sammensaetning-af-ledelsen-og-afrapportering-herom>.

541 The DBA had a special focus on reporting of aims and policies under the first regime (2012 - now), cf, The Ministry of Business, Assessment of gender balance aims and policies, April 2018, p. 32 f, <https://em.dk/media/11580/samlet-evaluering-af-maltal-og-politikker-april-2018.pdf> Source: Denmark, National Report (questionnaire responses - follow up).

action at EU level. Sanctions are rarely prescribed for not observing the quotas, but monitoring and reporting obligations are (section 6.2).

- These measures lack an intersectional perspective and do not in any way aim to achieve representation of women from minority groups. The few measures that can be identified target minorities in general and not women (section 6.3).
- Several countries require public enterprises to have internal regulations on harassment and sexual harassment, but most do not and rely on the general framework for protection against harassment and sexual harassment to protect women in decision-making positions in the public enterprises, which is sometimes limited to the protection of employees only, thus creating the challenge of protecting persons who are not considered as employees, such as CEOs or directors, or board members (section 6.4).
- The obligation to collect data remains fragmented and disables comparability across the EU; a number of countries have not given the mandate to collect data on women on decision-making positions in public enterprises to any institution, some have given the responsibility to the Government, the central statistical office, or the gender equality or human rights institution, and some have split this competence (section 6.5).

7 Good practices

7.1 Introduction

In this chapter we present good practices from the EU, the UK, and EEA countries regarding the promotion of the participation of women in political life, focusing on the four areas covered by this report – elections, the legislature, the executive, and public enterprises. The practices come from or are rooted in specific national contexts and are usually part of larger gender equality policy efforts, and are not single or isolated actions. They are better approached as inspiration for further action or as learning opportunities,⁵⁴² rather than as prescription. Nevertheless, they all have transferability potential, and can be replicated elsewhere.

While most national experts identified at least one good practice, a number of national experts did not identify any (**Bulgaria, Cyprus, Czechia, Estonia, Hungary, Italy, Latvia, Luxembourg, Romania, Slovakia, Slovenia**). The good practices identified pertain to the use of compulsory quotas (elections, legislature, executive, public enterprises), public awareness-raising campaigns (elections), shortlisting (elections), corrective election mechanisms (legislature), different measures targeting an institutional, procedural and culture change, including long-term, sustained efforts towards building a gender equality culture, action programmes, and gender audit (legislature), private-work life balance measures (legislature, executive), independent complaints mechanisms on harassment and sexual harassment (legislature, public enterprises), equal treatment coordinators (executive), promoting woman at special minority local elections (legislative), and soft regulation and support, such as certification, transparency and good practices guide (public enterprises). No good practices were identified for dealing with violence against women in decision-making positions⁵⁴³ and in relation to data collection, and only one good practice regarding the promotion of women from minority groups to decision-making positions in political life.

7.2 Quotas

A compulsory quota or rules of a similar nature to quotas have proven effective in directly increasing the descriptive representation of women. Quotas have been applied in all four areas – elections, the legislature, the executive, and public enterprises.

In elections, quotas as a good practice were identified in **Spain, Croatia, Portugal, and Belgium**. In **Spain**, there is a 40 % gender representation minimum requirement for each list. The Spanish national expert emphasises that to some extent the effectiveness of this quota is bolstered by other activities and commitments undertaken by the political parties themselves through internal regulations or strategic plans. **Croatia** also has a 40 % quota, supported by financial sanctions, which is working in terms of making the election lists more gender balanced. Nevertheless, the national expert expressed reservation as to its effectiveness since the percentage of representation on the lists usually does not translate into equal, but smaller, representation in the Parliament. In **Portugal**, under the Parity Law, there is a mandatory quota for women and men candidates in national, local and European Parliament elections.⁵⁴⁴ In **Belgium**, an effective tool for gender balance in legislative bodies has been the rule that does not allow

542 Those interested in learning from more good practices in this area can consult: EIGE, Advancing gender equality in political decision-making - Good Practices (2016); OSCE ODIHR, Compendium of Good Practices for Advancing Women's Political Participation in the OSCE Region (2016); European Union, The EU Mutual Learning Programme in Gender Equality Women in political decision-making Slovenia, 15-16 June 2016 Summary Report (2016).

543 It is worth noting that some institutions have been taking the issue more seriously and have kept it in the public eye. For example, in **Croatia**, the Ombudsperson for Gender Equality regularly includes information on sexism and gender stereotyping in the media concerning women politicians in its reports. See, e.g. Ombudsperson for Gender Equality (2022), *Annual Report for 2021*, pp. 139-143, available at: https://www.prs.hr/application/images/uploads/Godišnje_izvješće_2021_FINAL.pdf.

544 Lei Orgânica No. 3/2006, of 21 August 2006, and the changes introduced in this piece of legislation by Lei Orgânica No. 1/2017, of 29 March 2017, and by Lei Orgânica No. 1/2019, of 2 May 2019.

for the difference between the number of women and men, who stand as either titular and substitute candidates, to be greater than one.

In some countries, the good practice in relation to quotas has been the voluntary uptake of commitments for increasing descriptive representation of women via quotas. Regardless of the lack of mandated quotas, certain political parties decided to introduce them, resulting in an increase in the number of women standing as candidates for elections. This has been the case with Syriza in **Greece**, which, on the basis of the party's internal election rules, operates a 50-50 gender quota for all elections – national, local and European Parliament ones.⁵⁴⁵ In **Lithuania**, the Social Democratic Party introduced a quota for its own election candidate lists in 2008. Article 58 of its Statute states that there can be a maximum of 60 % of each gender on candidate lists for all party bodies and on all elections. 'After ranking the candidates, the vote counting commission in the election lists places the candidates alternately: woman, man, starting with the candidate in the first place, every fifth place can be occupied by a woman or a man.'⁵⁴⁶ This good practice is not without limitations, however. While such party-specific activities are helping to boost the visibility of women in elections and normalise women as candidates and as elected representatives, they have not succeeded in gaining a wider traction in the societies and among the other political parties, and they remain the only ones undertaking such efforts in these two countries.

In the legislature, good practices related to the use of quotas were found in **Finland** and **Ireland**. In **Finland**, under Section 4a of the Act on Equality, state committees, commissions and other similar bodies where membership is determined by way of nomination need to be composed of a minimum 40 % women and 40 % men. This rule has been in place for a long time and has been effective beyond its initial intent. The Finnish national expert notes that there has been a spillover effect from this rule into areas to which the rule does not apply. The same rule has proven effective in **Ireland**, where a minimum 40 % representation of women and men is required under the Electoral (Amendment) (Political Funding) Act 2012.

In the executive, targeting change through the use of quotas was found to be effective in **Iceland**, **Norway** and **Portugal**. In **Iceland**, as discussed above, the positive public image of gender equality worked to increase the share of women without legislating. In **Norway**, quotas for the composition of Government have resulted in several years of Governments in which the representation of women is 40 % or more. A quota is also used for the appointment of committees, boards, councils, tribunals, and delegations.⁵⁴⁷ In **Portugal**, a law that mandated a quota for women in decision-making top management positions worked towards boosting gender balance.

Last, but not least, quotas have been particularly prominently used for boosting gender balance in decision-making positions in public enterprises. Their effectiveness seems to depend on their design and compulsory nature. In **Sweden**, the targeted aim is to have a minimum of 40 % board representation for both women and men, but for boards of up to 10 members (directors) there is also a set minimum number of positions for each gender depending on the size of the board: a minimum of one of each gender for boards of up to three members; a minimum of two of each gender for boards of four or five persons; a minimum of three of each gender for boards of six to eight members; and a minimum of four of each gender for boards of nine members. For boards of 10 or more members, at least 40 % should be from each gender.⁵⁴⁸ The Swedish State Ownership Policy states aspirations for state enterprises, including that they 'have to be exemplary in gender equality work and work actively on gender equality issues in their operations, especially in connection with appointments to senior management' including when it comes to creating and cultivating a sound and healthy work environment, and good and decent working conditions. The selection of directors is made from a 'broad recruitment base in order to make

545 https://www.avgi.gr/politiki/412513_50/50-pantoy-minyma-gia-tin-isarithmi-antiprosopeysi-ton-fylon.

546 Lithuania, National Report (questionnaire responses).

547 Section 28 in GEADA.

548 Government Offices of Sweden, 'State Ownership Policy and principles for state-owned enterprises 2020', available at <https://www.government.se/49eb29/contentassets/aef85fbd7beb4319a70af9a30d6723a1/state-ownership-policy-2020.pdf>.

use of the expertise of both women and men, as well as individuals with various backgrounds and experience. Discrimination associated with gender, transgender identity or expression, ethnic affiliation, religion or other belief, disability, sexual orientation or age is prohibited.⁵⁴⁹ The measures in Sweden have proved to be effective. As on 1 May 2021, 47 % women and 53 % men act as directors of state-owned enterprises, and 49 % of the CEOs of these companies are women (compared to 51 % who are men). Women now chair 51 % of fully or partially public enterprises, compared to 45 % in 2017. **Norway** uses the same targets and the same scale as Sweden, except that the 40 % rule applies to boards of nine or more members.⁵⁵⁰ In **Italy**, a quota system setting out time limits for fulfilment of the target of equal representation of both genders was established. The 50 % quota was to be applied to the first three elections of directors and auditors of both listed companies and state subsidiary companies. Lack of compliance triggers gradual sanctions, which start with a warning by Consob (the National Securities and Exchange Commission)⁵⁵¹ after which compliance should be achieved in the next four months. If this does not happen, a second warning for compliance within three months and a fine will be issued from EUR 100 000 up to EUR 1 000 000 (in case of auditors from EUR 20 000 up to EUR 200 000). Should this again fail, the subsequent penalty is the dissolution of the company board.⁵⁵² Any substitution in the board should not result in a disruption of the gender balance. Monitoring is carried out by Consob except for companies not quoted in the regulated market, which are monitored by the Prime Minister and the Minister on Equal Opportunities.⁵⁵³ The overall arrangement has great potential for effectiveness which may be undermined by the fact that compliance is required only for the first three elections. This rule was introduced without evidence of the sustainability effect of the quotas. The first nine companies that are no longer under this obligation, having passed the first three elections, are still maintaining good gender diversity on their boards. Quotas in **Belgium** helped to quadruple the proportion of women on boards of directors between 2008 and 2020.⁵⁵⁴ A key downside to the Belgium approach is that it does not apply to management committees. As a result, the representation of women in these remains at 14.8 %, which again speaks to the effectiveness of the measure.

7.3 Public awareness raising

Public awareness raising has proven as an effective tool in the area of elections, as the examples from the **Netherlands**, **Liechtenstein** and **Norway** show. A public awareness-raising campaign encouraging tactical voting was carried out as a unique endeavour in the **Netherlands**. The campaign brought to light a strategy for effectively electing women to legislative politics, including at the local level: there is a list voting system in place according to which a list can be bypassed if a certain threshold of preferential votes has been reached. However, the Dutch national expert warns that the strategy might become the victim of its own success, since now parties know and can take strategic voting into account when establishing their electoral lists.

Public outreach was also a key component in **Liechtenstein's** successful 'Diversity in Politics' (*Vielfalt in der Politik*)⁵⁵⁵ project, which increased the number of women elected to the National Parliament. According to the Liechtenstein national expert, the key ingredient in this project was the fact that it was led by very motivated people who 'are already integrated in networks that are reliable and stable regarding the financing and the period of operation.'⁵⁵⁶

In **Norway**, two campaigns made a significant difference on elections mobilisation. The Equality Ombud collaborated with women's organisations on the 'Campaign for more women in politics' which, under the

549 Sweden, National Report (questionnaire responses).

550 Section 28, GEADA.

551 <https://www.consob.it>.

552 Act No. 120/2011 modified Article 147 para 1 *ter* and Article 148 para 1 *bis* of Decree No. 58/1998.

553 Decree No. 251 of 30 November 2012.

554 Institute for Gender Equality.

555 <https://www.vielfalt.li/>, 17 June 2022.

556 Liechtenstein, National Report (questionnaire responses).

motto 'Choose a woman! Vote diversity!', focused on both what political parties and the voters can do to 'increase the proportion of women through nominations and cumulations and deletions, respectively.' The first phase was when political parties were encouraged to nominate women, and in the second one where the Ombuds worked with voters to change the electoral roll. As a result, the proportion of women rose to 37.4 %.⁵⁵⁷ The second campaign was organised by the Ministry of Local Government and Regional Development and ran in 22 municipalities under the title 'Showcase for women in local politics'. The goal was for half of the municipal councillors to be women. The role of media has been emphasised as important to the effectiveness of both campaigns, since the media prepared and disseminated material for informing voters about the 'right to influence the municipal council's personal composition, how the voters' corrections generally work with regard to gender, and not least, how voters can concretely proceed to influence the election result in favour of women.'⁵⁵⁸

7.4 Shortlisting

Shortlists are another useful approach in elections that has been used in the **United Kingdom**. On grounds of Section 104 of the Equality Act 2010, registered political parties 'may make arrangements in relation to the selection of election candidates in order to address the underrepresentation of those with protected characteristics [such as sex] as long as the arrangements are proportionate.'⁵⁵⁹ Such lists have been used in the past by some political parties, notably the Labour Party and the Liberal Democrats and have been quite effective in boosting the number of women elected to Parliament. Contrary to the frequently mounted critique, research has shown all-women shortlists do not represent a threat to merit: 'gender quotas elsewhere, do not facilitate the entry of unqualified women, jeopardise a party's electoral fortunes or lead to the election of sub-par MPs [but they do] reduce barriers for well-prepared women to stand as candidates, have neutral or positive effects on party vote shares and produce diligent and active MPs.'⁵⁶⁰ A key contextual factor of importance according to the UK national expert is the fact that a first past the post voting system is used in both general and local elections in the United Kingdom.

7.5 Corrective mechanisms

The corrective mechanism in **Malta** is an example of shaping the membership of the Parliament, should elections fail to produce a gender balanced composition. The measure provides that the number of MPs will increase by up to 12 if the number of elected MPs of the underrepresented sex is less than 40 % of all elected MPs. The additional 12 MPs are apportioned 'equally between the absolute majority party or the relative majority party and the minority party'. The mechanism applies to national elections only, not for the European Parliament elections. Introduced on 20 April 2021, this corrective mechanism will remain in force for 20 years 'unless revoked or re-enacted with or without modification by means of an Act of Parliament according to the provisions of the Constitution'.⁵⁶¹

7.6 Long-term, sustained efforts towards building a gender equality culture

Some countries are working on changing the culture and sustaining a culture in which equal gender balance would be the norm. For example, in the political field in **Iceland**, 'the public image of gender balance has worked well – to increase the share of women in politics without legislating like in the corporate field.'⁵⁶² In **Denmark**, a tripartite agreement between social partners and Government representatives focuses on changing the culture as a way to tackle sexual harassment. This approach has ownership over the

557 Halsaa B. (2019), 'Kampanjer for kvinner i kommunepolitikken (campaigns for women in local elections) in *Tidsskrift for kjønnsforskning*, Gender Research, Årgang 43 No. 3.

558 Halsaa B. (2019), 'Kampanjer for kvinner i kommunepolitikken (campaigns for women in local elections) in *Tidsskrift for kjønnsforskning*, Gender Research, Årgang 43 No. 3.

559 United Kingdom, National Report (questionnaire responses).

560 Nugent, M.K., Krook, M.L. (2016), 'All-Women Shortlists: Myths and Realities', *Parliamentary Affairs*, Volume 69, Issue 1, p. 117.

561 <https://legislation.mt/eli/const/eng>.

562 Iceland, National Report (questionnaire responses).

process as a strong attribute that can result in a lasting change. The **Swedish** national expert points to the long-term building and sustaining of a ‘gender equality culture’ as the leading component for success. As a result, Sweden has not had a need to legislate measures such as quotas, as ‘they are a result of a very conscious gender equality policy that demand for continuous work in all levels of decision-making. Common for this work is that it is based on goal setting, action plans, evaluations and renewed goal setting. The pursuit for gender balance in decision-making (and elsewhere) is not regarded or described as a temporary struggle, but as a permanent ingredient in governance activities, just like safeguarding of financial stability or compliance with the rule of law.’⁵⁶³

7.7 Strategic approach to institutional and culture transformation: action programmes and gender audit

Some measures for institutional and culture transformation can be pointed out as good practices. The strategic approach to the issue by the **Swedish** and the **United Kingdom** Parliaments is worth considering.

The **Swedish** Parliament has an action programme for gender equality for each parliamentary term which is prepared by the Board of the Parliament. The aim of this programme is work towards a ‘gender-conscious parliament’ understood to include ‘gender balance in different bodies and contexts; gender mainstreaming should be integrated into the activities and processes; an internal culture where both women and men are respected and where resources are equal; the balance between mission and family responsibilities is facilitated; both women and men shall participate in gender equality processes.’⁵⁶⁴ On the basis of interviews with MPs, this programme also included plans ‘to conduct seminars on communication strategies to promote a good climate for debate, proposing ways of increasing the security of the role of MP, examine ways of supporting victims of abuse and sexual harassment in Parliament, review information for MEPs on how to access occupational health services for support.’⁵⁶⁵

In the **United Kingdom**, the 2018 ‘Gender Sensitive Parliament Audit’⁵⁶⁶ identified a number of barriers, including: ‘the culture of Parliament as highlighted in recent reports of bullying and harassment, and sexual harassment; the challenges that working in Parliament poses for family life, including the unpredictability of business and potential long hours; the financial impact of standing for Parliament; and online threats and threats to physical security, in particular gender-based intimidation, harassment and violence against female Parliamentarians and female candidates.’⁵⁶⁷ On the basis of these findings, the Parliament introduced a number of measures, discussed in detail in Chapter 2. ODIHR recently published a guide on Participatory Gender Audits in parliaments which drew on the experience with gender audit in the UK Parliament.⁵⁶⁸

7.8 Private-work life balance measures: predictable schedules, calendars, voting adjustments, paid leave, infrastructure interventions

Private-work life balance measures have been identified in relation to gender balance in decision making positions in the legislature and in the executive.

Out of the measures on procedures and operation of the legislature, national experts identify several measures that have been required under law and put into practice. In **Denmark**, there are adjustments geared towards private life-work life balance, such as predictable schedules and calendars, and parental,

⁵⁶³ Sweden, National Report (questionnaire responses).

⁵⁶⁴ Sweden, National Report (questionnaire responses).

⁵⁶⁵ Sweden, National Report (questionnaire responses).

⁵⁶⁶ UK Parliament *UK Gender-Sensitive Parliament Audit 2018* (26 November 2018), available at UK Parliament Gender Sensitive Parliament Audit Report, https://www.parliament.uk/globalassets/documents/lords-information-office/uk-parliament_-_gender-sensitive-parliament-audit_report_digital.pdf.

⁵⁶⁷ United Kingdom, National Report (questionnaire responses).

⁵⁶⁸ OSCE ODIHR (2022), *Participatory Gender Audits of Parliaments, a Step-by-Step Guidance Document*.

sickness and family leave. Ordinary meetings and annual seminars are planned one year in advance, and only extraordinary meetings can be planned ad hoc by the mayor or one third of the council.⁵⁶⁹ The MPs are entitled to paid childbirth and adoption leave, and paid leave for caring for a seriously ill child.⁵⁷⁰

In **Norway** too, the local representatives in counties and city councils have many of the same rights as employees,⁵⁷¹ which includes a right to prenatal examinations, pregnancy leave up to 12 weeks during pregnancy, leave of absence to take care of a child including 2 weeks for the father or for adoptive parents and foster parents, maternity leave of 6 weeks for the mother after birth, parental leave of a total of 12 months for both parents, time off for nursing mothers, and a leave of absence for sick child, and care and nursing of close relatives.⁵⁷² MPs and summoned deputy representatives during the serving period have the right to keep the remuneration according to similar rules applicable to employees in the state during pregnancy, care and maternity leave, and leave in case of illness of children and childminders.⁵⁷³ Breastfeeding is in practice allowed, although under the internal regulation it is still a grey zone.⁵⁷⁴

Since September 2020, after piloting it, the **United Kingdom** Parliament introduced a proxy voting option for mothers, fathers and adoptive parents whereby biological mothers and primary (or single) adopting parents can use proxy voting for seven months, taken continuously, and fathers or partners for two weeks. An MP parental leave cover fund was established to enable MPs to cover additional staffing costs (for example, for staff hired to cover constituency duties).

Some measures on infrastructure have been identified as potentially good practices. The **German** Parliament has a play, breastfeed, and baby changing room and the nursery can accept up to 10 children from parliamentarians.⁵⁷⁵ In **Sweden** MPs can use temporary childcare for children between the ages of 1 to 12 in the Parliament's premises and, if necessary, until 11 p.m.⁵⁷⁶ In the **United Kingdom** Parliament there has been an on-site nursery since 2010.

Some measures have been undertaken which can boost support for work-life balance in the executive. In the **United Kingdom**, legislation equips the Prime Minister with the power to grant Government ministers six months of maternity leave on full ministerial pay. It also enables some senior members of the official Opposition to take six months of paid maternity leave. In **France**, it is the wide and encompassing action consisting of several measures that is recognised as a good practice. Gender balance efforts in the executive branch have not only targeted appointment procedures but take a wide-ranging approach to focusing on the working environment within administrations by, for instance, implementing a gender equality action plan. The numerous pieces of legislation introduced concern all levels of administration, while, according to a pending bill, even small towns of less than 1 000 residents will have binding legislation in this area. Monitoring and enforcement have been key elements of success; the High Council on Equality is empowered to impose fines on public administrations that do not respect gender balance rules and nudges administrations to self-enforce and rigorously implement them.

569 Statutory Act on Local Municipality Government, Section 8, 9a.

570 Standing Order of the Danish Parliament section 41(3) and (4), Parliamentary Elections Act sections 109 (10) and (11).

571 Working Environment Act, Article 12-1 to 12-10.

572 Act relating to working environment, working hours and employment protection, etc. (Working Environment Act) of 17.06.2005 No. 62, Section 12-1 to 12-10.

573 Working Environment Act (Chapter 12), Act relating to National Insurance of 28.02.1997 No.19 (Chapter 14), and the Main Tariff Agreement in the state.

574 See article from Nrk (28 October 2021), 'Skal avgjøre regelverk for amming i stortingssalen' (Shall determine the rules on breastfeeding inside the parliamentary hall), <https://www.nrk.no/sorlandet/skal-avgjore-regelverk-for-ammig-i-stortingssalen-1.15707980>.

575 Scientific Service of the Federal Parliament (2022), Family friendly regulations for parliamentarians (Familienfreundliche Regelungen für Abgeordnete), www.bundestag.de/resource/blob/893022/3402cae6f825fee117572826c06cdcbc/WD-9-012-22-pdf-data.pdf#:~:text=Einen%20Anspruch%20auf%20Elternzeit%20bzw.%20Elterngeld%20haben%20Abgeordnete,fünf%20Jahren%20ein%20Spiel-%2C%20Still-%20und%20Wickelzim-%20mer.

576 The Act (2016:1108) on remuneration for Members of Parliament, Chapter 8, available (in Swedish) at: <https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20161108-om-ersattning-till-riksdagens-sfs-2016-1108>.

7.9 Harassment and sexual harassment complaints mechanisms

Good practices in relation to the internal mechanisms regulating and sanctioning harassment and sexual harassment were identified in the legislature and in public enterprises.

In the legislative branch or at the local level, only one practice shows enough promise to be singled out as a good practice in relation to the internal mechanisms regulating and sanctioning harassment and sexual harassment due to its institutional embeddedness, potential for effectiveness and legal bite. In the **United Kingdom**, a new Independent Complaints and Grievance Scheme was introduced in order to bring a 'more robust complaints procedure for those who are victims of inappropriate behaviour including harassment and sexual harassment. Different processes and sanctions apply, depending on the nature of the role of the respondent.'⁵⁷⁷ The sanctions for those MPs against whom complaints are upheld are to be decided by a new independent expert panel established in 2020. The proposed sanctions cannot be amended or rejected by the Parliament without a debate. The Women and Equalities Committee conducted a recent inquiry concluding that this scheme was overall a significant move forward, in 'tackling the House of Commons' damaging culture of bullying, harassment and sexual misconduct.'⁵⁷⁸

Regarding the internal regulations and sanctioning of harassment and sexual harassment in public enterprises, we identified a good practice in **Iceland**. In this country, all companies and institutions with 25 or more employees per annum should create a gender equality plan or mainstream gender equality perspectives into their personnel policy as a way to ensure the rights provided in Articles 6–14 of the Gender Equality Act,⁵⁷⁹ which includes taking special measures against harassment or sexual harassment in the workplace or institution. A person against whom a harassment or sexual harassment case has been raised and who holds a superior position, during the examination of the case, will be considered as not competent to take decisions regarding the working conditions of the claimant and the next superior in line should take such decisions. Compulsory equality plans for companies and their regulation (content-wise and obligation of registration) is also a potentially good practice from **Spain**.⁵⁸⁰

7.10 Equal Treatment Coordinators

Some potential that can be further explored towards becoming a good practice in relation to gender balance in decision making positions in the executive has been identified in **Poland**. The equal treatment coordinators, positioned in the ministries, Chancellery of the Prime Minister and the Central Statistical Office, have been recognised as potentially able to work towards gender balance on the long run, since their task is to 'promote the principle of equal treatment (including the equal treatment of women and men), provide the information on compliance with the principle of equal treatment, cooperate with the Government Plenipotentiary for Equal Treatment and with non-governmental organisations working for equal treatment and against discrimination.'⁵⁸¹ In the view of the national expert for Poland, the promise of this practice depends on it being 'implemented in an actual, not a superficial way'.⁵⁸²

⁵⁷⁷ United Kingdom, National Report (questionnaire responses).

⁵⁷⁸ United Kingdom, National Report (questionnaire responses).

⁵⁷⁹ GEA No. 150/2020.

⁵⁸⁰ Royal Decree 6/2019 on urgent measures for ensuring equal treatment and opportunities for women and men in employment and occupation (Real Decreto-ley 6/2019 de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación), 1 March 2019, <https://www.boe.es/buscar/doc.php?id=BOE-A-2019-3244>, and Royal Decree 901/2020 regulating equality plans and their registration and amending Royal Decree 713/2010, of 28 May 2010, on the registration and deposit of labour agreements and collective bargaining agreements (Real Decreto-ley 901/2020 por el que se regulan los planes de igualdad y su registro y se modifica el Real Decreto 713/2010, de 28 de mayo, sobre registro y depósito de convenios y acuerdos colectivos de trabajo), 13 October 2020, https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-12214.

⁵⁸¹ Poland, National Report (questionnaire responses).

⁵⁸² Poland, National Report (questionnaire responses - follow up).

7.11 Promoting women at special minority elections

Of the few measures implemented to support women from minority groups overall, **Croatia** has an approach that can be singled out as best practice, especially as it is in an area where women's representation is usually more challenging – local government. Through the special minority elections and appointment rules exercised in the country, which aim to have guaranteed minority representation in the different levels of government, a deputy mayor or prefect must be a member of a minority in the local communities where ethnic minorities live, and this must be included in the statute of the local or regional unit. Failure to do so results in renewed elections. While this measure does not target women directly, it has in practice had a positive impact on women from minority groups, as now women deputy mayors from minority groups stand at 38.9 % of the mayor deputy positions overall.

7.12 Soft regulation and support: certification, good practice guide, transparency

In soft regulation and other types of support, we identified two good practices. In **Malta**, an equality mark certification is awarded by the National Commission for the Promotion of Equality to employers who give true importance to gender equality. The application process involves an audit of all measures which the employers are undertaking in order to ensure that the workplace is gender balanced. One proof would be the presentation of an organigram showing whether there is a gender balance with regard to the decision-makers in the organisation.⁵⁸³ In **France**, a guide to good practice in the industrial sector has been developed which recommends: better work-life balance, no tolerance of sexism, changing the company cultures, helping develop leadership skills through mentoring, adjusting the recruitment processes to pick more women, avoiding bias algorithms used in recruitment which perpetuate former male profiles for those positions. The guide gives real examples of companies that use these practices (public and private).⁵⁸⁴ One promising practice regarding transparency comes from **Denmark**. Measures to increase transparency that will come into force in 2023 will allow interested investors, such as international investors, and the public to get easy insight into what is done and what is not done at company level to improve gender balance in leadership.

583 https://ncpe.gov.mt/en/Pages/The_Equality_Mark/The_Equality_Mark.aspx.

584 https://www.semaine-industrie.gouv.fr/files_sedi/files/IndustriElles/guide_des_bonnes_pratiques_innovantes_en_matiere_d_egalite_femmes_hommes.pdf.

8 Conclusions and recommendations

8.1 Conclusions

The report analysed the promotion of gender balance in decision making in political life in the 27 EU Member States, and in Iceland, Liechtenstein, Norway and the United Kingdom. It focused on elections, the legislative branch, the executive branch, and public enterprises. Given that the issues that we have examined have rarely been considered from a legal perspective, the purpose of the report was largely exploratory. The report aimed to:

- (1) map and bring to light the current legal (hard and soft law) framework on the promotion of gender balance in decision making in political life in the countries covered by the report;
- (2) identify obstacles to promoting gender balance in decision making in political life;
- (3) identify national promising/good practices on promoting gender balance in decision making in political life; and
- (4) propose possible ways forwards for European Union and Commission action.

The focus of the report was on legal regulation and includes both hard law and soft law. It focuses on regulations that aim to or can lead to descriptive representation of women, but also on those that aim to or can lead to substantive and symbolic representation. The primary focus in the report was on women, and an intersectional prism was used to the extent possible given the methodological limitations, and considering that the data was collected via desk research and a written questionnaire filled out by the legal experts on gender of the EELN. The data collected was analysed using a thematic analysis and a comparison.

The report stresses that the standards prescribed by international human rights law on the promotion of gender balance in decision-making positions are legal obligations, rather than policy options. In **Chapter 2** the report reviews the United Nations and the European regional level standards (Council of Europe, OSCE and EU). All relevant standards identified are applicable to all countries covered by this report, without any reservations or declarations. The hard law obligations are prescribed in a more general manner, which, as this report shows, was used as room for the countries to put in place approaches and devote means that are adequate for their national levels. Hard law standards establish the framework for active and passive voting rights, adoption of temporary special measures, participation in public policy processes, and eliminating all discriminatory laws, regulations and practices. These standards have been further detailed in soft law and in authoritative interpretations of the law (such as general comments and general recommendations), and expand to wider issues, such as a common understanding of what constitutes balanced representation, the need for electoral system reforms, and so on.

The overall conclusion is that there is significant potential that can be encouraged, furthered and streamlined by further regulation of minimal standards at EU level. In addition to this overall conclusion, we identified ten other main common themes.

- 1) The obstacles to women's participation remain the **'five Cs': care, cash, confidence,⁵⁸⁵ culture and candidate selection**. While measures to target some of these have been undertaken, more direct legal action is generally absent. Measures are mainly voluntary, or are not tied to any sanctions. Thus, they lack legal bite.
- 2) Although in a very limited manner, **efforts are currently slowly moving from 'just' descriptive representation towards undertaking measures that can work towards measures for institutional**

⁵⁸⁵ Please see conclusion 7 in this list for an additional explanation on 'confidence' as an obstacle. In addition, as discussed throughout this report, placing a focus only on the confidence of women directs the focus away from structural obstacles and from the centers of power that generate obstacles for the promotion of women to decision-making positions.

and cultural transformation. This is a crucial step, since, as this report shows, cultivating gender culture can work towards gender balance in decision making even in the absence of mandatory measures. Such a culture is also crucial for ensuring the sustained effects of any of the measures undertaken. Nevertheless, measures on procedures and the operation of the legislature, infrastructure and funding have not been fully or systematically explored at the national levels.

- 3) **Quotas are the most commonly used tool** throughout all areas considered in this report – elections, legislature, executive and public enterprises. The report shows several features of the use of quota. There is a progressive increase in threshold of representation in most of the countries, generally from 30 % to 40 %. If there is a spill over of the influence of quotas, it usually flows from the legislature and/or public enterprises to other areas; the executive is rarely shaped by quotas. Quotas continue to be treated as temporary and in some places they are at the stage of being phased out, although the element of settled practice is not always taken into consideration when phasing out quotas, which can result in terminating a quota before a more lasting impact can be ensured. The potential of quotas is usually weakened and undercut by their voluntary nature, lack of sanctions, or lack of implementation of the prescribed sanctions. Finally, measures that can boost or speed up the effect of quotas, such as the zipper system for electoral quotas, are not always used. In brief, if well designed, supported, and given legal bite, quotas produce results.⁵⁸⁶ However, there are no practices of nested quotas, i.e. quotas for women from minority groups within the quotas for women, or vice-versa as discussed in the next point.
- 4) There is a **lack of an intersectional perspective** on the issue in general. There is almost a complete absence of measures tailored for or aiming towards the promotion of participation of women from minority groups. Moreover, in some places there are legal obstacles in place that can impede the implementation of such measures, such as prohibition of data collection on grounds of ethnicity. In other places, the understanding of women or gender is still such that women are seen as a homogenous group that can be reached with the same measures, thus there is an expectation that general gender measures or general minority measures will also produce results for women from minority groups. Where such measures exist, they are largely focused on the community pillar of participation, i.e. participation in their own communities, and not on the general pillar i.e. participation in decision-making positions in political life. There is a notable absence of an intersectional perspective from the issue of participation; the measures do not accommodate for women from these groups, nor do they provide for nested quotas or other similar measures.
- 5) The **status of elected representatives as 'elected' creates obstacles** for women. As elected representatives are almost without exception not considered as employees, they lack the rights awarded to persons in decision-making positions that are employed in the legislature, executive, and public enterprises. The fact that many of the positions at local level not only do not count as being employment but do not attract a salary and offer another type of compensation makes these positions even more unattainable for women. This particular election status also means that in some countries MPs cannot benefit from harassment and sexual harassment mechanisms as these are in place only for persons with employee status.
- 6) The **spread of online violence against women in decision-making positions in political life, and MPs and members of Government in particular, has not led to an equally strong state reaction.** Measures for dealing with online violence are still introduced ex-post. Moreover, national experts

586 A similar finding has been established by Eléonore Lépinard and Ruth Rubio-Marín. They put forward the following policy proposals as to what quotas should be: based on a rationale that will not backfire; accompanied by complementary measures; expanded and applied in different fields and by different authorities; monitored by mandated bodies including via indicators for symbolic representation; include nested quotas; supported by sex-disaggregated data; media-monitored, and encouraged public debate; market-specific arguments supported; and aspired to by international actors. Source: Lépinard, E. and Rubio-Marín, R. (2013), *Gender Quotas: Towards Parity Governance?*, Policy Brief, Issue 2013/08, European University Institute; Quota Project, Global Database of Quotas for Women, International Institute for Democracy and Electoral Assistance, Stockholm University and Inter-Parliamentary Union, <http://www.quotaproject.org/aboutQuotas.cfm>.

report a trend of bringing violence from the virtual to the real world, and to the homes of women in decision-making positions in particular. This can have a further negative impact on the motivation and readiness of women to engage in public and political life.

- 7) Activities undertaken to promote gender balance in decision making in public life in the four areas covered by this report (elections, the legislature, the executive, and public enterprises) largely target women and **overlook persons in positions of power inside the decision making bodies**, such as leaders of political parties. Previous research has shown that gender bias plays a crucial role in recruitment and selection, and thus shows that such measures should target party leaders.⁵⁸⁷ This is still not the case.
- 8) **States are still not imposing measures on political parties.** These entities are seen as self-governing with no place for state intervention. Where states have voluntary measures that are left only to the political parties, positive results are lacking. The potential of measures through which the state can condition behaviour from political parties has been largely limited to conditioning of public funding, albeit sometimes without any (serious) consequence, thus also failing to produce results.
- 9) **There are varying approaches to data collection, processing and publishing** on aspects of the promotion of women in decision-making positions in all four areas in focus in this report in the EU and EEA countries. The approach to mandating an institution to collect, process and publish data is very different across the EU and between Member States. This is a great impediment for the comparability of the data, which makes the data collection work by the EIGE and the FRA even more important. The collected data is also not in line with the findable, accessible, interoperable and reusable standard, thus preventing wide (re)use including for monitoring purposes by non-state parties. Almost no data is collected regarding persons leaving politics that can help understand the reasons among women in general and women through an intersectional perspective.
- 10) There are almost **no mechanisms or measures in place to prevent regression.** Measures undertaken to boost gender balance in decision-making positions are usually understood as positive action and because of that are temporary in nature. However, their temporariness is understood as an absolute and heralds an unrealistic understanding of progress as permanent once obtained. They are not in any way treated as a feature of governance or democracy, which results in a lack of mechanisms or measures to prevent regression. Adjustments to electoral systems, for example by changing from majoritarian to proportional representation, and to democratic processes, such as by introducing proxy voting or remote work possibilities, have not been explored much at the national levels through a gender lens. The potential of gender audits has hardly been explored at all, although there are a few exceptions.
- 11) The report clearly shows **the power of mobilisation that legislative action at EU level can have at the national level in the Member States.** Where the EU has taken legislative action, the results are visible at the national level and, even where such measures have not been put in place, discussions on the matter have started. Conditions at the workplace are taking a positive turn thanks to the measures taken for upholding the principle of equality in relation to gender, and to measures undertaken towards improving work-life balance. These developments, in particular those connected to work-life balance, can be linked to the alignment with the EU directives. In addition, the approach towards quota prescription in general, and gender balance on boards in public enterprises in particular, seems to be adjusting in anticipation of the adoption of the proposal for a directive on gender balance on company boards. Also, these results directly improve the conditions for the promotion of gender balance in decision-making positions, as per the focus of this report. However, the current EU legislation is not sufficient, as it leaves a large portion of the basic minimal conditions

⁵⁸⁷ Council of Europe (2016), *Third round of monitoring on the implementation of CM Recommendation Rec (2003)3 on balanced participation of women and men in political and public decision-making Analytical report - 2016 data*, Council of Europe, p. 106.

for the promotion of women in decision making out of its scope. These are discussed further in the next section.

8.2 Ways forward

The report findings confirm that not regulating or foreseeing only voluntary approaches did not work and that a hard law approach is needed if real progress is to be achieved in the next decade. Considering the impact that EU legislative action has even when only at a proposal stage, as was demonstrated by the now adopted Directive on improving the gender balance among directors of listed companies and related measures,⁵⁸⁸ and that some measures are in place in most of the EU Member States and in all of the EEA countries, the authors consider that action by the EU on the issue is desirable. Such action can encourage, advance and streamline a European area of minimum standards on gender balance in decision-making positions in political life, and can move those countries where no such progress or efforts have taken place. Furthermore, as highlighted in a previous EELN report on positive action, the thus far favoured approach by the EU Council that the ‘pursuit of women’s equality (other than the eradication of discrimination, and very broad standard setting) is best handled at the national level’ should be abandoned and that ‘the ‘experiment’ of doing so has produced a plethora of information but patchy results, and that it is now past time for the Member States to approve a coordinated approach at the EU level’.⁵⁸⁹ The legal basis for such action at EU level, including the founding treaties and the Charter, was discussed in section 2.5 of this report.

There are several key points that can be recommended, if legislative action is considered by either the EU or by the Member States.

- (1) There is clear evidence that the use of **mandatory measures should be favoured** in any (proposal for) legislative action.
- (2) It is advisable that measures are given **legal bite**, and that they are accompanied by **supporting/boosting measures and/or by sanctions**. For example, annulment of electoral lists if they do not abide to the minimum required representation proportion.
- (3) While their wide use suggests a receptive political context, any **quotas** put in place would work best if they are well designed, sufficiently timed to achieve sustained effects, supported, and given legal bite.
- (4) **Measures for institutional and cultural transformation** are necessary and as such it is advisable that they are not left within the policy or voluntary realm. Such measures can include, for example:
 - a. **Measures relating to the procedures and operation of the legislature:** adjustments geared towards private life-work life balance (foreseeable schedules and calendars, overlap of work with school seasons, flexible working conditions and meeting/session schedules); monitoring speaking time per gender; monitoring composition of working bodies per mandate in terms of traditionally masculinised mandates (defence, finances) vs the feminised ones (social policy, education); provision of maternity leave, paternity leave, family and parental leave, sickness leave, and access to pension schemes for officials in decision-making positions who do not have an ‘employee’ status; including gender equality module(s) in training programmes for elected representatives and for other persons in decision-making positions; institutional gender equality

588 Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.315.01.0044.01.ENG&toc=OJ%3AL%3A2022%3A315%3ATOC.

589 McCrudden, C. (2019), *Gender-based positive action in employment in Europe A comparative analysis of legal and policy approaches in the EU and EEA*, European Commission, p. 210.

- strategic planning and/or audit (for example, adopting a gender equality plan; conducting a gender audit);
- b. **Infrastructure measures:** adjustments to the architectural surroundings as part of the efforts to encourage participation of women, such as, lighting, building or adjustment of space for daycare facilities, accessibility adjustments; and
- c. **Funding measures:** observance of gender-responsive budgeting, and earmarking funds to support measures for gender balance in decision making.

Further, specific examples per country, can be found in Chapter 7 Good practices.

- (5) It is advised that consideration is given as to how any measure that is introduced can be **transformed into a feature of governance** that can produce sustainable results and work as a shield against regression. Positive action measures are a good example to this end. As discussed in the previous section, these measures are often conceptualised as temporary in nature. Transforming positive action measures into features of governance will include recognising the necessity of these measures in any democratic society and with that recognising the permanent nature of the need for their application.
- (6) It is recommended that any measure introduced is formulated in a way that will integrate an **intersectional perspective**, in particular to include women from minority groups, women with disabilities and lesbian, bisexual and trans women. This presupposes that the one-dimensional approach is abandoned and that measures consider women in all their diversity. For example, this can be done through the use of nested quotas. The designing, targeting, conducting, funding, and evaluating of activities such as education, capacity building or public awareness raising, should be conducted with an intersectional perspective in mind, including of activities organised in relation to the European Parliament elections.
- (7) There is a need for debating the problem posed by the **status of 'elected' officials** in order to identify the best way to secure the needed rights and protection of elected officials, in particular MPs and Government representatives. Extending protection against online violence and online violence spilling from the virtual to the real world, and against harassment and sexual harassment to elected officials should be part of this conversation, as should obliging political parties to undertake measures on gender balance in decision making inside the political parties and as candidates for elections.
- (8) It would be beneficial if the **targeting of education and capacity building measures includes political parties and political leaders in particular**. Visibility of women in political parties can be part of these efforts. But, the core of any activities, such as awareness raising or capacity building, has to be with the key persons in positions of power inside the political parties, such as leaders of political parties. This recommendation applies to all activities, including those organised in relation to elections at all levels and the European Parliament elections.
- (9) An internal dialogue in the Member States on adjustments to electoral systems and democratic processes can be strongly encouraged and can be supported by specific methodologies, such as **gender audits**. This can also work in the direction of what is suggested by recommendation 5 included in this list.
- (10) It is recommended that **monitoring efforts** are enhanced, conducted in a manner that will enable comparability of findings across Member States, and will include issues that have thus far been largely not in the focus, such as monitoring of persons leaving politics. This can include a standard for data collecting, analysing and publishing developed in cooperation with and under the guidance of EIGE and FRA, and in line with the findable, accessible, interoperable and reusable standard in order to facilitate wider and enhanced monitoring efforts.

- (11) Serious consideration should be given to **institutionalising and providing sufficient resources to methods** that have been used throughout the years and have worked, such as **awareness raising and mentoring**. This can be considered as an investment in the permanence of the progress. This recommendation applies to any activities undertaken in relation to elections, including European Parliament elections.

Legislative action by the EU will require overcoming several challenges. Firstly, building a consensus among the Member States will be challenging, as other legislative efforts have shown. Second, some of the recommendations included herein will require a paradigm shift with regards to treating gender equality measures, including positive action, as governance features. The push needed for this shift to occur will need to come from the Member States and will require significant work, including constitutional work, which is beyond the scope of this report and the EU's reach. Until this shift occurs, all legal challenges that positive action faces at EU level, discussed in detail in the EELN's report 'Gender-based positive action in employment in Europe',⁵⁹⁰ will be challenges for any legislative action that might include proposals for positive action. Finally, engaging the Member States and moving on from the current status quo will be a very lengthy process. A more immediate step that can have some positive impact at the national level in the Member States can be adopting a new recommendation that will succeed, update, and upgrade the 96/694/EC Recommendation on the balanced participation of women and men in the decision-making process, starting from the eleven points discussed above and this report's findings.

Finally, this report reiterates the importance of observing gender equality as a value in practice, and to use the support for women's equality enjoyed at the moment⁵⁹¹ in order to propose a specific legislative action. This is crucial if any steady progress is to be achieved and sustained in relation to women in decision-making positions in political life.

590 McCrudden, C. (2019), *Gender-based positive action in employment in Europe A comparative analysis of legal and policy approaches in the EU and EEA*, European Commission.

591 McCrudden, C. (2019), *Gender-based positive action in employment in Europe A comparative analysis of legal and policy approaches in the EU and EEA*, European Commission, p. 215.

Annex: Questionnaire on promotion of gender balance in political decision-making

1 Elections

- 1.1 Is there any legislation or policy which encourages or mandates gender balance in the **leadership and membership of political parties**?
- 1.2 Is there any legislation or policy which encourages or mandates gender balance in the **selection of candidates** by **political parties** for **national, regional, and local elections**?
- 1.3 Is there any legislation or policy which encourages or mandates gender balance in selecting candidates by **political parties** for the **EU Parliament elections**?
- 1.4 Have any measures been introduced to encourage gender balance in the composition of **electoral management bodies and observer commissions** at any level in your country?
- 1.5 Please briefly describe any **measures or activities** (such as campaigns) conducted in your country to **encourage women to vote** in the national, regional, local and EU Parliament elections.

Please also include any measures or activities that have been or are conducted or are planned in relation to the upcoming EU Parliament elections.

- 1.6 How would you assess the **effectiveness** of the legislative, policy or other measures you identified under questions 1.1-1.5. in terms of promoting gender balance in elections?

Please include references to any studies or reports on monitoring and evaluation of these measures that you are aware of.

- 1.7 Have there been any instances or **cases** reported to the competent institutions of violation of the **passive or active voting rights of women (i.e. women as voters or women as candidates)** in your country?

Please mention relevant case law if there is any. If there are any aspects of the legal framework which are in your view problematic in such cases, please mention these. If there is any published research on this issue which you think may be useful, please share.

- 1.8 Is there an official mechanism or **(media) authority** tasked to monitor sexism and sexist hate speech in campaigns? If yes, what are its competences and how would you assess its work?
- 1.9 Are any sanctions or other consequences prescribed for sexism or sexist hate speech in campaigns?

2 The legislative branch

When thinking about the legislative branch and answering the questions in this section of the questionnaire, please consider the following decision-making positions in national and federal parliaments:

- Presidents, vice-presidents, and members of parliaments
- Presidents, vice-presidents, and members of parliamentary bodies
- Presidents, vice-presidents, and members in permanent, temporary or ad-hoc delegations
- Other decision-making positions in the parliament relevant in your national context (for example, general secretaries)

Although not part of the legislative branch, due to its elected nature, we kindly ask you in this section of the questionnaire to also reflect on the **local (municipal) and regional councils**. In particular, when thinking about the local and regional government(s) in your country, please consider the following decision-making positions:

- Mayors, presidents of councils, vice-presidents of councils, members of councils/assemblies
- 2.1 Have any **positive action measures (including quota)**¹ been introduced in your country for the promotion of women in decision-making positions in the legislature? If yes, could you briefly describe what the measures entail, how they are enforced, are they tied to any sanctions, are funds allocated for their implementation, and how are they monitored?
- Please include a clear reference to the legal ground for the measure, where there is one, or to another document where the measure is established. Please state explicitly if a measure applies specifically or also to elections for the EU Parliament.
- 2.2 Have any measures been undertaken in your country to support **cultivating an environment** conducive to the promotion of gender balance in decision-making positions in the legislature through an **institutional and culture transformation**, including for the purposes of retention of women in decision-making position in the legislature?²
- 2.3 Have measures to encourage greater involvement and participation in decision-making in the legislature for all **women from minorities** been introduced or any proposals for such measures initiated? Are there any such measures for people from minorities in general and marginalised communities that women from these groups can benefit from? Are you aware of any obstacles which impede or might impede the implementation of these measures?
- 2.4 Are there any soft or hard law measures or provisions you could identify in your country that would create an **obstacle** for achieving gender equality or would hinder participation of women in legislature?
- 2.5 Please briefly describe any **other activities**³ that have been conducted in your country for the promotion of women in decision-making positions in the legislature.
- 2.6 How would you assess the **effectiveness** of the measures you identified under 2.1., 2.2. and 2.3. in terms of promoting gender balance in political decision-making?

1 Such measures include quotas, tie-break policies, preferential treatment, indirectly inclusive measures, modification or redefining of 'merit', or other.

2 Some examples of such measures include:

Measures on procedures and operation of the legislature such as adjustments geared at private life-work life balance (foreseeable schedules and calendars, overlap of Parliament/council sessions with school seasons, flexible working conditions and meeting/session schedules), monitoring speaking time of elected representatives per gender, monitoring composition of working bodies per mandate in terms of traditionally masculinised mandates (defence, finances) vs the feminised ones (social policy, education), provision of maternal leave, paternal leave, family and parental leave, sickness leaves, and access to pension schemes for officials in decision-making positions who do not have an 'employee' status; training programs for elected representatives and for other persons in decision-making positions includes gender equality module(s); institutional gender equality strategic planning and/or audit (for example, adopted gender equality plan; conducted a gender audit);

Measures on infrastructure, such as adjustments to the architectural surroundings made as part of the efforts to encourage participation of women, such as, lightning, building or adjustment of space for day care facilities, accessibility adjustments;

Funding measures, such as: observance of gender responsive budgeting; earmarking of funds for support of measures for gender balance in decision-making.

3 Such as campaigns, mentorship programmes, etc.

Please include references to any studies or reports on monitoring and evaluation of these measures that you are aware of.

- 2.7 Has there been any **case law** regarding gender quotas, other positive action measure or another measure aimed at greater involvement and participation in decision-making in the legislature for all women? Has there been any case law regarding hindering of women's participation in decision-making?

Please prioritise (in your view) ground-breaking cases and final judgments. Please provide information about cases argued before the national equality body/ies on gender quotas or other positive action measure aimed at greater involvement and participation in decision-making in the legislature for all women. Please briefly provide information about cases seeking gender quotas within ethnic quotas (so called 'nesting quotas'), if any.

- 2.8 Is there a legislation mandating or recommending the establishment of an **internal mechanism(s), procedure(s) and/or protocol(s)** inside the state governments, federal governments, regional governments, presidents and presidential councils, and the public administration that would **deal with gender-based discrimination and/or harassment and sexual harassment** of the staff, and the appointed and elected officials in the legislative branch?

If yes, please briefly describe the legislation and how its implementation is progressing? If no, please state how are cases of gender-based discrimination and/or harassment and sexual harassment registered and dealt with.

- 2.9 Can you briefly describe any cases or studies on preventing/addressing **violence against women in decision-making positions in the legislature (including cyberviolence and online hate speech)** in your country which might shed light on whether and/or to what extent such violence is present and/or has deterred women from engaging in such positions?

If you consider any aspects of the legal framework to be problematic in such cases, please mention them.

- 2.10 Is there/are there state institution/s tasked with **data collection** on gender balance in public decision-making positions in the legislature, if any?

Please mention briefly what kind of data they collect, on which intervals, and include link to a databases/to publications from these institutions.

3 The executive branch

When thinking about the executive branch and answering the questions in this section of the questionnaire, please consider decision-making positions in the state governments, federal governments, regional governments, presidents and presidential councils, and the public administration. In particular, please think about the following decision-making positions:

- Presidents of countries, prime ministers, deputy-prime ministers, ministers, deputy-ministers
- High political officials, counselors, secretaries
- Members of presidential councils and other public decision-making bodies established and/or headed by the President
- Ministries: please focus on the high decision-making positions in the central government level (the 'first tier of administration').

- Regulatory agencies: please focus on the high decision-making positions in those agencies which you consider as relevant in your national context. Some examples of regulatory agencies include financial regulation agency; public health agency; social and economic council.
- Other decision-making positions in the public administration (for example, heads of divisions in ministries) which are relevant in your national context across the whole executive, meaning in governments, in the president as an institution, and in the public administration.

- 3.1 Have any **positive action measures**⁴ been introduced in your country for the promotion of women in decision-making positions in the executive? If yes, could you briefly describe what the measures entail, how they are enforced, are they tied to any sanctions, are funds allocated for their implementation, and how are they monitored?

Please include a clear reference to the legal ground for the measure, where there is one, or to another document where the measure is established.

- 3.2 Have any measures been undertaken in your country to support the **cultivating of an environment** conducive to the promotion of gender balance in decision-making positions in the executive through an **institutional and culture transformation**, including for the purposes of retention of women in decision-making position in the executive?⁵
- 3.3 Have measures to encourage greater involvement and participation in decision-making in the executive for all **women from minorities** been introduced or any proposals for such measures initiated? Are there any such measures for people from minorities in general and marginalised communities that women from these groups can benefit from? Are you aware of any obstacles which impede or might impede the implementation of these measures?
- 3.4 Are there any soft or hard law measures or provisions you could identify in your country that would create an **obstacle** for achieving gender equality or would hinder participation of women in the executive?
- 3.5 Please briefly describe any **other activities**⁶ that have been conducted in your country for the promotion of women in decision-making positions in the executive.
- 3.6 How would you assess the **effectiveness** of the measures you identified under 3.1., 3.2. and 3.3. in terms of promoting gender balance in decision-making?

Please include references to any studies or reports on monitoring and evaluation of these measures that you are aware of.

- 3.7 Has there been any **case law** regarding gender quotas, other positive action measure or another measure which you discussed under 3.1., 3.2. and 3.3. aimed at greater involvement and participation

4 Measures such as quotas, tie-break policies, preferential treatment, indirectly inclusive measures, modification or redefining of 'merit', or other.

5 Some examples of such measures include:

Procedures and operation of the legislative such as adjustments geared at private life-work life balance (foreseeable schedules and calendars, overlap of working sessions with school seasons, set hours for sessions), monitoring composition of ministries and leadership in them per mandate in terms of traditionally masculinised mandates (defence, finances) vs the feminised ones (social policy, education), provision of maternal leave, paternal leave, family and parental leave, sickness leaves, and access to pension schemes for officials in decision-making positions who do not have an 'employee' status; training programs for persons in decision-making positions includes gender equality module(s); institutional gender equality strategic planning and/or audit (for example, adopted gender equality plan; conducted a gender audit); **Infrastructure**, such as adjustments to the architectural surroundings made as part of the efforts to encourage participation of women, such as, lightning, building or adjustment of space for day care facilities, accessibility adjustments; **Funding**, such as: observance of gender responsive budgeting; earmarking of funds for support of measures for gender balance in decision-making.

6 Such as campaigns, mentorship programmes, etc.

in decision-making in the executive for all women? Has there been any case law regarding hindering of women's participation in decision-making in the executive?

Please prioritise (in your view) ground-breaking cases and final judgments. Please provide information about cases argued before the national equality body/-ies on gender quotas or other positive action measure aimed at greater involvement and participation in decision-making in the executive for all women. Please briefly provide information about cases seeking gender quotas within ethnic quotas (so called 'nesting quotas'), if any.

- 3.8 Is there a legislation mandating or recommending the establishment of an **internal mechanism(s), procedure(s) and/or protocol(s)** inside the state governments, federal governments, regional governments, presidents and presidential councils, and the public administration that would **deal with gender-based discrimination and/or harassment and sexual harassment** of the staff, and the appointed and elected officials in the executive branch?

If yes, please briefly describe the legislation and how its implementation is progressing? If no, please state how cases of gender-based discrimination and/or harassment and sexual harassment are registered and dealt with.

- 3.9 Can you briefly describe any **cases or studies on preventing/addressing violence against women in decision-making positions in the executive (including cyberviolence and online hate speech)** in your country which might shed light on whether and/or to what extent such violence is present and/or has deterred women from engaging in such positions?

If you consider any aspects of the legal framework to be problematic in such cases, please mention them.

- 3.10 Is there/are there state institution/s tasked with **data collection** on gender balance in public decision-making positions in the executive, if any?

Please mention briefly what kind of data they collect, on which intervals, and include link to a databases/to publications from these institutions.

4 Public enterprises

- 4.1 Have any **positive action measures**⁷ been introduced in your country for the promotion of women in decision-making positions in public enterprises? If yes, could you briefly describe what the measures entail, how they are enforced, are they tied to any sanctions, are funds allocated for their implementation, and how are they monitored? Please mention any case law related to the measure(s) which you described which you consider as particular relevant, if any.

Please include a clear reference to the legal ground for the measure, where there is one, or to another document where the measure is established.

- 4.2 Have measures to encourage greater involvement and participation in decision-making in public enterprises for all **women from minorities** been introduced or any proposals for such measures initiated? Are there any such measures for people from minorities in general and marginalised communities that women from these groups can benefit from? Are you aware of any obstacles which impede or might impede the implementation of these measures? Please mention any case law related to the measure(s) which you described which you consider as particular relevant, if any.

7 Measures such as quotas, tie-break policies, preferential treatment, indirectly inclusive measures, modification or redefining of 'merit', or other.

- 4.3 How would you assess the **effectiveness** of the measures you identified under 4.1. and 4.2. in terms of promoting gender balance in decision-making?

Please include references to any studies or reports on monitoring and evaluation of these measures that you are aware of.

- 4.4 Is there a legislation mandating or recommending that public enterprises establish **internal mechanism(s), procedure(s) and/or protocol(s)** that would **deal with gender-based discrimination and/or harassment and sexual harassment**? If yes, can you share any examples of public enterprises that have done so? If no, how are cases of gender-based discrimination and/or harassment and sexual harassment registered and dealt with?

- 4.5 Is there/are there state institution/s tasked with **data collection** on gender balance in public decision-making positions in public enterprises, if any?

Please mention briefly what kind of data they collect, on which intervals, and include link to a databases/to publications from these institutions.

5 Good/promising practices

- 5.1 Out of the measures for promotion of gender balance in public decision-making positions which you discussed in your answers, above, which would you point out as **good or promising practices** which could serve as an example for other countries and why? Which contextual factors which in your view those considering introducing this good practice to another national context should have in mind? Feel free to share more than one good or promising practice.

6 Wrap up questions

- 6.1 Is there anything in relation to the promotion of gender balance in public decision-making positions which has not been addressed by this questionnaire and which you would like to share?

GETTING IN TOUCH WITH THE EU

In person

All over the European Union there are hundreds of Europe Direct information centres. You can find the address of the centre nearest you at:

https://europa.eu/european-union/contact_en

On the phone or by email

Europe Direct is a service that answers your questions about the European Union. You can contact this service: – by freephone: 00 800 6 7 8 9 10 11 (certain operators may charge for these calls), – at the following standard number: +32 22999696, or – by email via:

https://europa.eu/european-union/contact_en

FINDING INFORMATION ABOUT THE EU

Online

Information about the European Union in all the official languages of the EU is available on the Europa website at: https://europa.eu/european-union/index_en

EU publications

You can download or order free and priced EU publications from:

<https://publications.europa.eu/en/publications>. Multiple copies of free publications may be obtained by contacting Europe Direct or your local information centre (see https://europa.eu/european-union/contact_en).

EU law and related documents

For access to legal information from the EU, including all EU law since 1951 in all the official language versions, go to EUR-Lex at: <http://eur-lex.europa.eu>

Open data from the EU

The EU Open Data Portal (<http://data.europa.eu/euodp/en>) provides access to datasets from the EU. Data can be downloaded and reused for free, for both commercial and non-commercial purposes.

