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50:50 by 2030: A longitudinal study into gender disparity in law



THE NETHERLANDS RESULTS REPORT

International Bar Association Legal Policy & Research Unit
with the support of the LexisNexis Rule of Law Foundation



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Forewords

The International Bar Association (IBA) is committed to promoting and advancing gender equality within the legal profession. As part of this ongoing effort, the IBA has launched the ‘50:50 by 2030’ Gender Project in collaboration with the LexisNexis Rule of Law Foundation. Thus far, the IBA has produced a series of reports focusing on different jurisdictions, namely England and Wales, Uganda, Spain and Nigeria.

It is with great pleasure that I introduce this report on gender parity within the legal profession in the Netherlands. As the gender equality law representative for the Netherlands for the European Network of Legal Experts in Gender Equality and Non-Discrimination, and as a lawyer working for Bureau Clara Wichmann, a non-governmental organisation (NGO) focused on women’s rights, I am acutely aware of the challenges that persist in achieving gender parity across all sectors of society, including the legal profession.

The Dutch legal profession has made significant progress towards gender equality in recent years. Women now make up a growing proportion of legal professionals. However, as this report highlights, there is still much work to be done to ensure that women have equal opportunities for career advancement and leadership positions across the legal profession.

In the judiciary, there is parity between men and women, but even there, women still earn less than men. Furthermore, women are still underrepresented in private law firms. In this respect, attention also needs to be drawn to lawyers who provide legal assistance to those on a low income. Many such lawyers are women. However, remuneration in this area of the law is poor and many women are choosing to leave this field for better-paying alternatives. In my role as a legal expert at Bureau Clara Wichmann, I have noted that it is often difficult to find a lawyer who specialises in issues more acutely experienced by women, notably in matters of family law. Consequently, both female clients and female lawyers are in a precarious position. This situation cannot be solved by only focusing on the career of female lawyers. Action is needed both from the government and commercial law firms to ensure that lawyers who assist those in a precarious position receive fair remuneration.

It is heartening to see that the Dutch legal profession has taken steps to promote gender diversity and inclusion. However, further measures are needed in the area of equal pay, fair remuneration of lawyers working in the social domain and increase of women in leadership positions. I hope this report will contribute towards improvements in this respect in the legal profession, both in the Netherlands and other countries around the world.

Marlies Vegter

Netherlands gender equality law representative, European Network of Legal Experts in Gender Equality and Non-Discrimination and lawyer at Bureau Clara Wichmann

As a partner at Loyens & Loeff, the promotion of gender equality has been nothing less than a personal mission. This started in 2007 when participating in a Dutch Government-led social dialogue with women in leading positions, and culminated in the Talent to the Top Foundation, of which I subsequently became a board member. Inspired by this experience and with invaluable help from others dedicated to the cause, I first set up a diversity committee at Loyens & Loeff and then at the IBA after joining its management board.

When I got involved in this area some 15 years ago, the perception surrounding gender equality was notably different. I remember the first mandatory awareness training sessions at our office and how they were a rather uncomfortable affair. Back then, one would frequently hear the openly voiced opinion that when selecting candidates for leadership positions, quality should be the primary yardstick. Unintentional or not, it implicitly suggested that would mean not choosing a woman.

Happily, things have changed. Nowadays, often under the banner of diversity and inclusion, it is common to attend gender equality training and one seldom hears systemically biased arguments suggesting that quality should be the sole determinant of leadership selection. Men increasingly speak up when they see a committee underrepresented by women, and awareness of the challenges of balancing care-giving responsibilities and career has greatly improved.

These changes represent significant progress, however, they have yet to translate into substantial improvements at all levels. The findings in this report show that, in the Netherlands, despite parity or even a female majority within the lower ranks, there are significant drops in gender parity levels in senior positions across the four sectors studied.

While the report shows that we are still far from substantial and steadfast equality, it does highlight some valuable initiatives that the legal profession has put in place. Such examples are coaching/mentoring programmes, leadership training for women and flexible working arrangements. However, these initiatives alone are not enough, and they are designed to help women to fit into the existing workplace rather than reviewing the workplace structure itself.

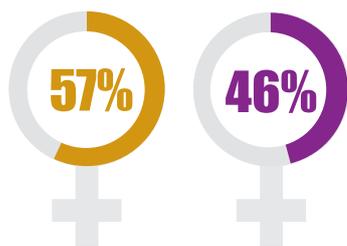
To truly attract, retain and progress gender diversity, change is needed. This requires the support of those in the most senior positions in law firms, usually male, to take ownership of and responsibility for diversity initiatives rather than delegating them to others lower down the ranks. Equally, those who do progress in law firms should go further than mentorship programmes, and develop and implement programmes that encourage sponsorship too.

Let this report serve as a call to action for all stakeholders within the legal profession.

Carola van den Bruinhorst

Chair of the Legal Practice Division and Member of the Management Board of the IBA

Main findings – the Netherlands



Overall, women make up **57 per cent** of all lawyers surveyed but only **46 per cent** of senior positions.



Coaching/mentoring programmes and leadership training for women were the joint most popular initiatives.



Leadership training has been in place for an average of 9.6 years, whereas coaching/mentoring an average of 8.2 years.

In law firms,

women make up **49 per cent** of lawyers but only

28 per cent of senior lawyers.



61 per cent of judges at the start of 2023 were female.



Quota setting was the least popular initiative.



Flexible working arrangements was the third most popular initiative, used by 69 per cent of respondents. They have been in place an average of 4.6 years and were rated 'very effective' by 56 per cent of respondents.



21 per cent of all lawyers work part-time.
29 per cent of female lawyers work part time.



In law firms, more senior female lawyers (14 per cent) than junior female lawyers (10 per cent) work part-time.



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www.ibanet.org/gender-equality-in-the-legal-profession

Introduction

The project

The Netherlands is the fifth jurisdiction to be explored as part of the International Bar Association (IBA) and LexisNexis Rule of Law Foundation (LNROLF) project titled ‘50:50 by 2030: a longitudinal study into gender disparity in law’ (the ‘Gender Project’). This ambitious, first-of-its-kind, nine-year global project aims to uncover and address the root causes of the lack of gender parity at the most senior levels of the global legal profession. The Gender Project, which will eventually explore 16 jurisdictions,¹ started with a pilot in England and Wales in 2021. The interim results report for England and Wales was published on International Women’s Day in March 2022.² Reports on Uganda and Spain were released in 2022 and Nigeria in early 2023.

Country context

The Netherlands is a constituent country of the Kingdom of the Netherlands, made up of Aruba, Curaçao, Sint Maarten and the Netherlands, with a combined population of around 17.5 million people.³ It is a ‘developed’ state, with the 18th largest economy in the world (2022, by nominal gross domestic product (GDP)).⁴ This report focuses on the legal profession within the Netherlands itself: although the constituent countries operate as equal partners as per the Charter for the Kingdom of the Netherlands,⁵ in practice, the Netherlands oversees the majority of the kingdom’s affairs, with the others retaining a degree of autonomy on their internal matters. As regards the civic assembly of the Netherlands, the country comprises 12 provinces, which are in turn divided into 344 administrative municipalities. In terms of its population, around 50.2 per cent are female.⁶

In July 2022, the Netherlands reported on its progress across all 17 United Nations Sustainable Development Goals (SDGs) via a Voluntary National Review at the UN High-Level Political Forum on Sustainable Development. Despite many positive implications, the review notes that ‘there is still a noticeable difference between the economic independence of women (63.8%) and men (81.1%), although the figure for both is rising; the male/female pay differential is still significant, but has fallen to 13.7%’.⁷

1 IBA, ‘Gender Equality at the Top: seeking parity across the board for women in the legal profession’ www.ibanet.org/gender-equality-in-the-legal-profession accessed 21 June 2023.

2 See www.ibanet.org/IBA-releases-first-report-of-global-study-on-gender-disparity-at-the-most-senior-levels-in-the-law accessed 20 July 2023.

3 World Bank, ‘Population, total - Netherlands’ (World Bank Databank, 2022) <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=NL> accessed 21 June 2023.

4 World Bank, ‘GDP (current US\$)’ (World Bank Databank, 2022) https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?most_recent_value_desc=true accessed 20 July 2023.

5 Constitution of the Kingdom of the Netherlands www.government.nl/topics/constitution/documents/reports/2019/02/28/the-constitution-of-the-kingdom-of-the-netherlands accessed 20 July 2023.

6 See n 3 above.

7 Voluntary National Review on the Sustainable Development Goals (Kingdom of the Netherlands) <https://hlpf.un.org/sites/default/files/vnrs/2022/VNR%202022%20Netherlands%20Report.pdf> accessed 20 July 2023.

A Netherlands annual government report titled ‘Monitor of Well-being & the SDGs 2022’⁸ provides a snapshot into the general status of SDG 5 (to achieve gender equality and empower all women and girls) progression using data from studies conducted in 2020 and 2021:

- 52.9 per cent of students that were in higher education were women;
- 34.3 per cent of women had obtained a higher education degree versus 34.1 per cent of men;
- 64.3 per cent of women were economically independent versus 80.2 per cent of men;
- 13.2 per cent difference in hourly wage between men and women; and
- 25.9 per cent of management positions were held by women.

To help ameliorate these issues, in 2021, the Netherlands launched the SDG 5 Fund, one of the world’s biggest gender-dedicated funds, constituting over €500m.⁹ With regard to gender equality and the Netherlands’ membership of the European Union, the Netherlands achieved third place overall on the EU’s Gender Equality Index in 2022.¹⁰

Existing equality legislation in the Netherlands

At the national level, the principle of equality and non-discrimination has been enshrined in the Constitution of the Kingdom of the Netherlands since 1983.¹¹ The country adopted the Equal Pay Act in 1975 and the Equal Treatment Act for men and women in 1980. Regarding soft law standards, the Dutch Corporate Governance Code (2009) encourages gender diversity in supervisory boards and the disclosure of gender information.

In January 2022, the Netherlands passed a new domestic law requiring Dutch listed companies to have at least one-third of their supervisory boards consisting of women and at least one-third consisting of men.¹² Prior to the new law, a soft law quota existed, but failed to produce meaningful results: a 2019 Dutch Social and Economic Council report titled ‘Diversity in the boardroom: time to accelerate’,¹³ reported that only one in 12 large companies had reached the soft law target of women occupying at least 30 per cent of board seats.

8 Monitor of Well-being & the SDGs 2022: Sustainable Development Goals (SDGs) in the Dutch context (Statistics Netherlands) <https://longreads.cbs.nl/monitor-of-well-being-and-sdgs-2022/sustainable-development-goals-sdgs-in-the-dutch-context> accessed 20 July 2023.

9 For further information, see www.government.nl/latest/news/2022/12/06/what-is-the-netherlands-doing-worldwide-to-prevent-violence-against-women accessed 8 August 2023.

10 For further information, see <https://eige.europa.eu/gender-equality-index/2022/country/NL> accessed 8 August 2023.

11 See n 5 above. Article 1 reads: ‘All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted.’

12 Balancing the Ratio of Men and Women in the Management and Supervisory Boards of Large Public and Private Companies Act. For further information, see www.government.nl/latest/news/2021/09/29/new-legislation-will-improve-gender-diversity-on-corporate-boards accessed 8 August 2023.

13 Diversity in the boardroom: Time to accelerate (Dutch Social and Economic Council, 2019) www.ser.nl/en/Publications/diversity-boardroom accessed 8 August 2023.

The 2022 law only applies to new appointments: if such a hire did not meet the requirement laid out above, it would be voided, subject to exceptional circumstances. The law also establishes a requirement for large Dutch companies to set out gender diversity targets for management and supervisory boards.¹⁴ There are no legal consequences for not meeting these targets, but the large companies in question are required to report on their progress annually. There are also exceptions to the requirement and the possibility to derogate under certain circumstances and timeframes.

A legislative proposal – the Equal Remuneration between Women and Men – is being reviewed by Parliament to amend the Equal Treatment Act, requiring companies with 250+ employees to obtain a certificate ensuring equal pay and companies with 50+ employees to disclose gender pay differences in directors' reports. Furthermore, Dutch Civil Code sections 7:646–7:649 outline employer obligations to prevent gender discrimination at work. The Netherlands Enterprise Agency, a government agency, operates a programme to support companies in implementing a gender equality approach, offering advisory consultancy.¹⁵

The Netherlands, as a member of the EU, is also bound by EU law. Article 23 of the EU Charter of Fundamental Rights enshrines equality between women and men as a fundamental right, and Article 157 of the Treaty on the Functioning of the EU (TFEU) establishes that men and women should receive equal pay for equal work. The first pillar providing for equal treatment for men and women in employment and occupation, including social security schemes, is EU Directive 2006/54.¹⁶ Furthermore, Directive 2010/41 establishes rules on equal treatment for men and women engaged in an activity in a self-employed capacity.¹⁷

The European Commission has established the Gender Equality Strategy 2020–2025. Within this framework, the Pay Transparency Directive and the Directive on gender balance in corporate boards have recently come into force. Particularly, Directive 2022/2381 on gender in company boards sets a minimum objective of a 40 per cent presence of the underrepresented sex among the non-executive directors of companies listed on stock exchanges. Member States may also extend the quota requirement to cover both executive and non-executive directors, in which case, at least 33 per cent of all directors should be composed of the underrepresented sex.¹⁸

14 The 2022 law defines a company as 'large' based on size (over 250 employees) and monetary requirements (eg, net turnover of over €40m).

15 For further information, see <https://english.rvo.nl/information/corporate-social-responsibility/gender-equality> accessed 10 August 2023.

16 On 8 December 2022, a proposal for a directive on standards for equality bodies in the field of equal treatment between women and men in matters of social security, and in the access to and supply of goods and services was presented by the European Commission. At the time of writing, the proposal is still ongoing. To track its progress, see <https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX:52022SC0386> accessed 15 August 2023.

17 Further examples include Directive 2004/113, under which men and women receive equal treatment in the access to and supply of goods and services. Directives regarding measures relating to work-life balance are Directive 97/81 on part-time work and Directive 2019/1158 on providing measures to enhance rights to leave and flexible working arrangements for parents and carers. Furthermore, Directive 92/85 protects pregnant workers, workers who have recently given birth and women who are breastfeeding.

18 Case-law from the European Court of Justice (ECJ) also constitutes a legal source binding on Member States. For a list of relevant cases concerning gender equality, see www.europarl.europa.eu/factsheets/en/sheet/59/equality-between-men-and-women accessed 8 September 2023.

Legal profession in the Netherlands

The Netherlands is a civil law system, with its laws primarily (but not exclusively) constituted within various codes such as Burgerlijk Wetboek (civil code) and Wetboek van Strafrecht (criminal code). The Netherlands' Constitution, second in stature only to the Charter for the Kingdom of the Netherlands, dates from 1814, with its updated current version in force since 1983.

The Netherlands judiciary is divided into a supreme court, four appellate courts and 11 district courts. In addition to these courts are a number of judicial bodies established in certain specialist areas of law, such as The Administrative Court for Trade and Industry, and The Central Appeals Court for Public Service and Social Security Matters.

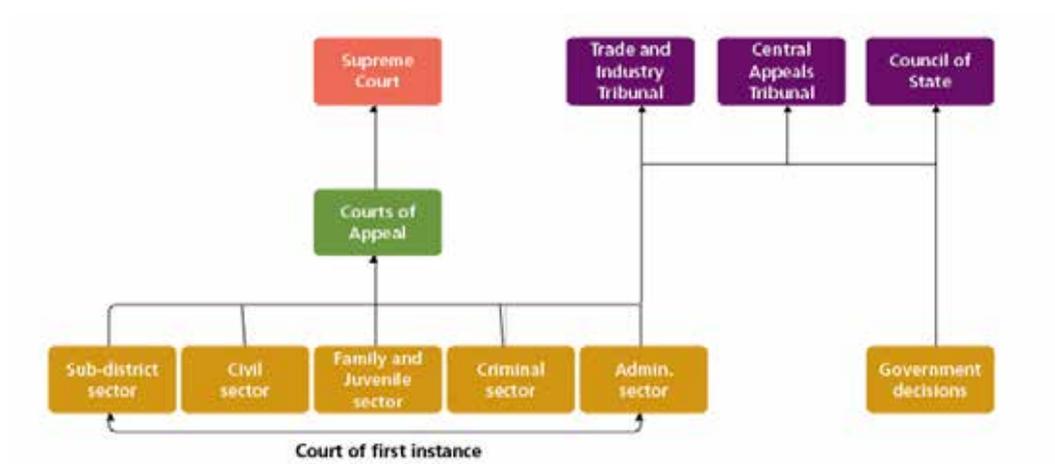


Figure 1: The court system

The Netherlands is not a bifurcated jurisdiction, so all qualified lawyers are required to register in the Nederlandse orde van advocaten's (NOVA's or Netherlands Bar Association's) National Register of Lawyers via their local district bar association.

In terms of sector distribution, lawyers can elect to work in the private (corporate) or public (government) sector. The private sector consists of law firms and in-house roles within the legal department of private companies. The public sector consists primarily of legal departments within government ministries.¹⁹ Lawyers can work in the Prosecution Service (Openbaar Ministerie or OM), with offices at district, regional and national levels, and the judiciary. Some public sector work is performed in an outsourced capacity by lawyers working in certain private sector law firms.

19 During the study, there was significant difficulty in obtaining results from the public sector. The Dutch Ministry of Justice and Security chose not to engage, and the ministries that did had limited or no gender diversity-related initiatives. Ministries do release annual reports, which usually detail numerical gender diversity figures, but these do not generally differentiate data by role. For examples, see the Council of State Annual Reports www.raadvanstate.nl/publicaties/jaarverslagen and the Ministry of Justice and Security Annual Report 2021 www.inspectie-jenv.nl/english/publicaties/jaarverslagen/2022/05/12/annual-report-inspectorate-of-justice-and-security-2021 accessed 17 August 2023.

In addition to the above sectors, many lawyers practise within the international courts situated in the Netherlands, such as the International Criminal Court (ICC) and International Court of Justice (ICJ). These courts are outside the Dutch judicial structure or remit; apply public or criminal international law rather than domestic Dutch law; and employ lawyers primarily from outside the Netherlands.

Nonetheless, the existence of lawyers in this sector is relevant because it demonstrates the facilitative role the Netherlands (and the Hague in particular) plays as host state of these and many other international justice-seeking entities.

“ There are many different ways to contribute to a more equal legal sector. One that we shouldn't overlook as law firm leaders is to involve the next generations, the millennials and Gen Z professionals at our firms, in the conversation. Make sure you listen to them: you'll get very valuable advice and new insights. Because the idea you don't have comes from the voice you haven't heard.

Petra Zjip

Partner, NautaDutilh

As of January 2023, data produced by the NOvA shows that 18,218 lawyers were registered with the Netherlands Bar, with a split of 9,822 men and 8,396 women (approximately 53.9 per cent and 46.1 per cent, respectively).²⁰ Parity in the ratio between men and women has steadily increased over the last ten years, with women making up the majority of newly sworn-in advocates in 2022 (approximately 59.9 per cent).²¹

“ Diversity is known to improve an organisation's performance, and gender balance plays a huge role. It's critical to address gender balance and equality across businesses, and I am proud to work for an organisation like Wolters Kluwer that supports this mission and has been recognised in a recent report as #1 in the Netherlands for gender equality. It's an honour to not only work alongside inspirational women in high positions, but also individuals, including men, at Wolters Kluwer who guide and support women's success in leadership roles. I hope to continue seeing this trend and success across businesses. I will support this change with all available means.

Ewa Cairns-Szkatula

Associate director of technology product management, Wolters Kluwer Legal & Regulatory US

²⁰ Annual Report (NOvA, 2022) www.advocatenorde.nl accessed 8 August 2023.

²¹ *Ibid.*

Netherlands legal profession-based gender initiatives and studies

Many organisations and initiatives within the Netherlands aim to increase gender diversity and support women in the law. This section provides a brief overview of some prominent examples.

TALENT TO THE TOP

Talent naar de Top (Talent to the Top) is a Dutch foundation that promotes diversity and inclusion within the senior management of companies.²² Among other initiatives, the foundation created a charter containing principles and agreements to foster diversity and inclusion within companies. A key part of its work includes monitoring and reporting on diversity numbers, as well as contributing factors. This monitoring is not limited to gender diversity; data surveys include cultural diversity.

While Talent to the Top's work is not limited to the legal profession, many Netherlands-based law firms are members and signatories to the charter.

“ Cultivating gender parity is not the responsibility of one gender. It is a collective journey that necessitates men and women working together as allies, addressing systemic barriers, and fostering an inclusive society where everyone has equal opportunities to thrive. This requires sustained effort and attention: set goals, measure progress, don't shy away from challenging discussions and celebrate successes to keep the momentum going.

Talent naar de Top

NOvA INITIATIVES

In 2018, NOvA launched a diversity and inclusion statement, which contained a variety of intentions and recommendations designed to foster diversity and inclusion. This statement led to NOvA launching a diversity and inclusion platform in 2021.²³ This platform, designed to assist in the implementation of the 2018 statement, is made up of a community of lawyers that form working groups on specific diversity and inclusion initiatives, including proposals for the promotion and awareness of diversity and inclusion within the legal profession. NOvA releases an annual report, which (among other items) contains diversity data and initiatives.²⁴

22 For further information, see www.talentnaardetop.nl accessed 8 August 2023.

23 For the statement and further information, see www.advocatenorde.nl/platform-inclusie-en-diversiteit accessed 8 August 2023.

24 NOvA annual reports www.advocatenorde.nl/over-de-nova/publicaties accessed 8 August 2023.

STUDIES

Studies have been conducted into gender parity within the Netherlands legal profession, but these have often surveyed individuals (as opposed to law firms, corporations, public sector ministries and the judiciary)²⁵ or are legal sector specific.²⁶

The above NOvA diversity and inclusion platform undertook a survey of the Dutch legal profession in 2021²⁷ that included questions on gender, as well as wider diversity and inclusion areas. Out of the survey respondents, women expressed a greater understanding of the value that diversity can bring to an organisation compared with their male colleagues. The survey data also indicated that more women believe that their firm/organisation puts less effort into retaining interns from diverse backgrounds compared with men.

Another study with relevance to women working in the Dutch legal profession is a 2023 report published by the Government of the Netherlands on gender pay disparity between men and women working as judges or prosecutors at the trainee stage, and whether this difference remained after appointment. The report ultimately found that there was a pay difference of 3.5 per cent in favour of men at the trainee stage, but this did not remain in place after appointment.²⁸

25 See NOvA, Diversity and Inclusion Survey Results (2021) www.advocatenorde.nl/document/resultaten-enquete-diversiteit-en-inclusie-nova accessed 22 June 2023.

26 See Juve Patent, Waar zijn alle vrouwen? (Eng: Where are all the women?) Addressing the gender imbalance in Dutch patent firms (2022) www.juve-patent.com/people-and-business/waar-zijn-alle-vrouwen-addressing-the-gender-imbalance-in-dutch-patent-firms accessed 22 June 2023.

27 See n 25 above.

28 Research on Pay Differences (Ministerie van Justitie en Veiligheid, 2023) <https://open.overheid.nl/documenten/ronl-9f8cc799e731ceb9e6ff460a1bb98fd3e00bb8/pdf> accessed 8 August 2023.

The Netherlands study and methodology

The report for the Netherlands is the fifth to be published in the IBA and LNROLF Gender Project series. The study commenced in late 2022 and concluded in July 2023. As with previous ‘50:50 by 2030’ reports, unique links to a short survey were sent to participants (see Appendix 2). The survey included multiple-choice questions on gender balance monitoring and initiative effectiveness, with open questions allowing respondents to describe specific gender initiatives within their organisations. In addition, desk-based research was undertaken, and multiple conversations were held with legal practitioners and organisations. The data collected was analysed and is presented in this report (see Appendix 1 to read some of the raw data collected). A more detailed explanation of the methodology and aims of the project can be found in the England and Wales Results Report.²⁹

Seniority in this context is defined in each of the four sectors as follows:

- law firms: partnership level and above;
- corporate sector (in-house legal teams): senior management level, general counsel and board members;
- public sector: senior civil servants at the level of deputy directorship and above (or equivalent); and
- judiciary: judges and senior judges.³⁰

The following groups were approached to participate in the survey:

- law firms were originally selected from a list of the top 25 firms by size and, further, via open calls for participation through the networks of NOvA, Wolters Kluwer and Talent to the Top; and
- corporate sector entities were selected from the Dutch Stock exchange, Nederlands Genootschap van Bedrijfsjuristen (NGB³¹ or in-house lawyers network).

²⁹ See n 1 above.

³⁰ For information on the classification of judges, see the Judicial Organization Act https://wetten.overheid.nl/BWBR0001830/2022-05-01/#Hoofdstuk1_Artikel1 accessed 1 August 2023.

³¹ See www.ngb.nl accessed 8 September 2023.

Gender representation across the legal profession: 2023 status

Overall picture: all lawyers

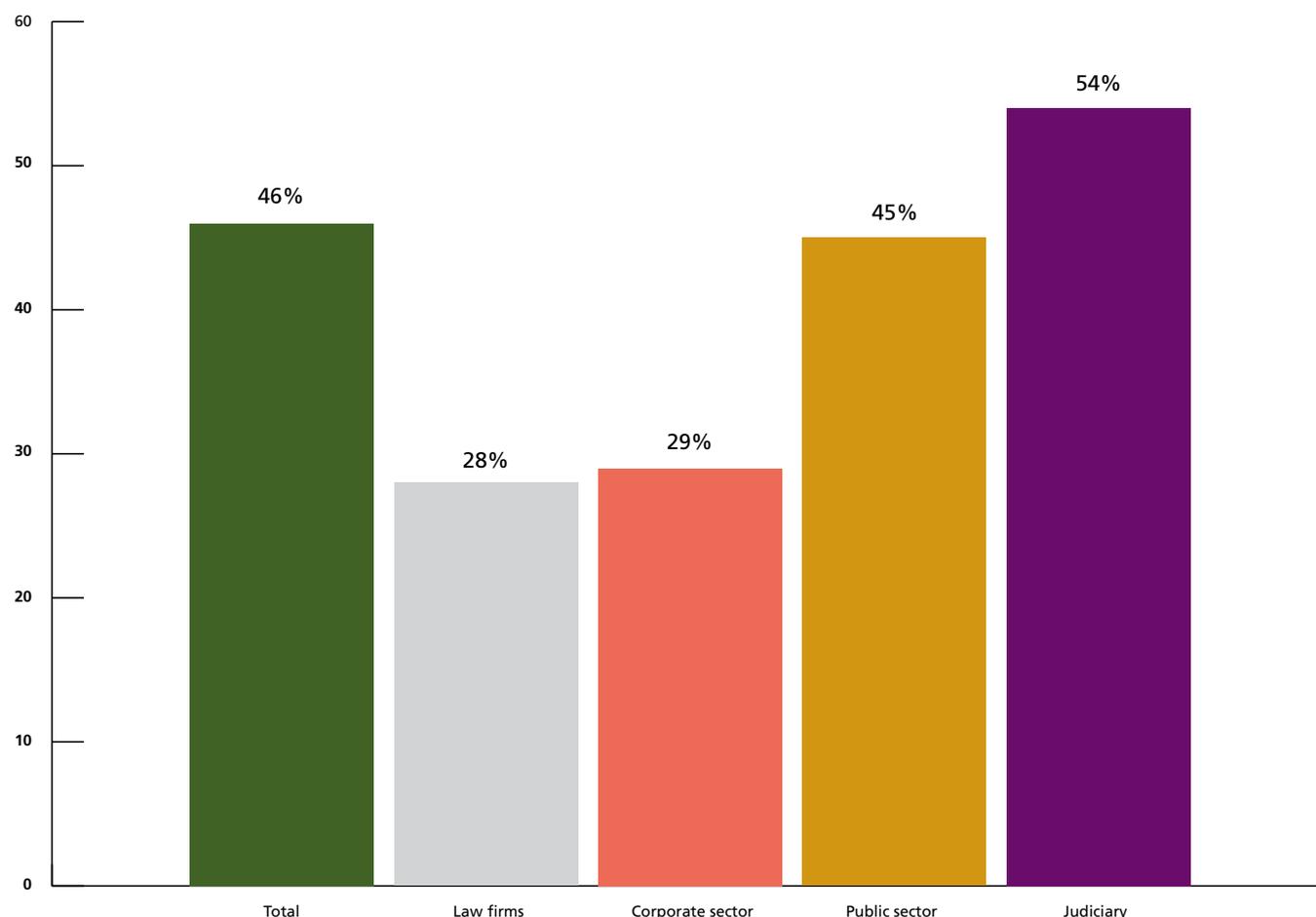


Figure 2: Senior female lawyers by sector

From data received as part of our study, women make up 57 per cent of lawyers working across the Dutch legal profession. The public sector has the highest proportion of women working within it (63 per cent), followed by the judiciary (61 per cent). Overall, the sector with the lowest percentage of female employees is private practice, where women make up 49 per cent of the legal workforce.

At the senior level, however, the proportion of women drops from 57 to 46 per cent within the legal profession overall. The judiciary has the highest proportion of female lawyers at senior level (54 per cent), followed by the public sector (45 per cent), while law firms have the lowest (28 per cent).

Overall picture: working part-time

Overall, part-time working in the Netherlands is commonplace. Out of all Organisation for Economic Co-operation and Development (OECD) countries, the Netherlands has the most part-time workers as a percentage of total employment, with 35.1 per cent.³² A higher proportion of women than men work part-time in the Netherlands, with OECD data from 2021 highlighting that 55 per cent of women and 19.3 per cent of men were working part-time.³³

In the legal sector, part-time working is generally less common in comparison with overall workplace employment percentages. The exception to this lower level of part-time working is the judiciary, which aligns more closely with the general rate of part-time working in the Netherlands (see Figure 3).

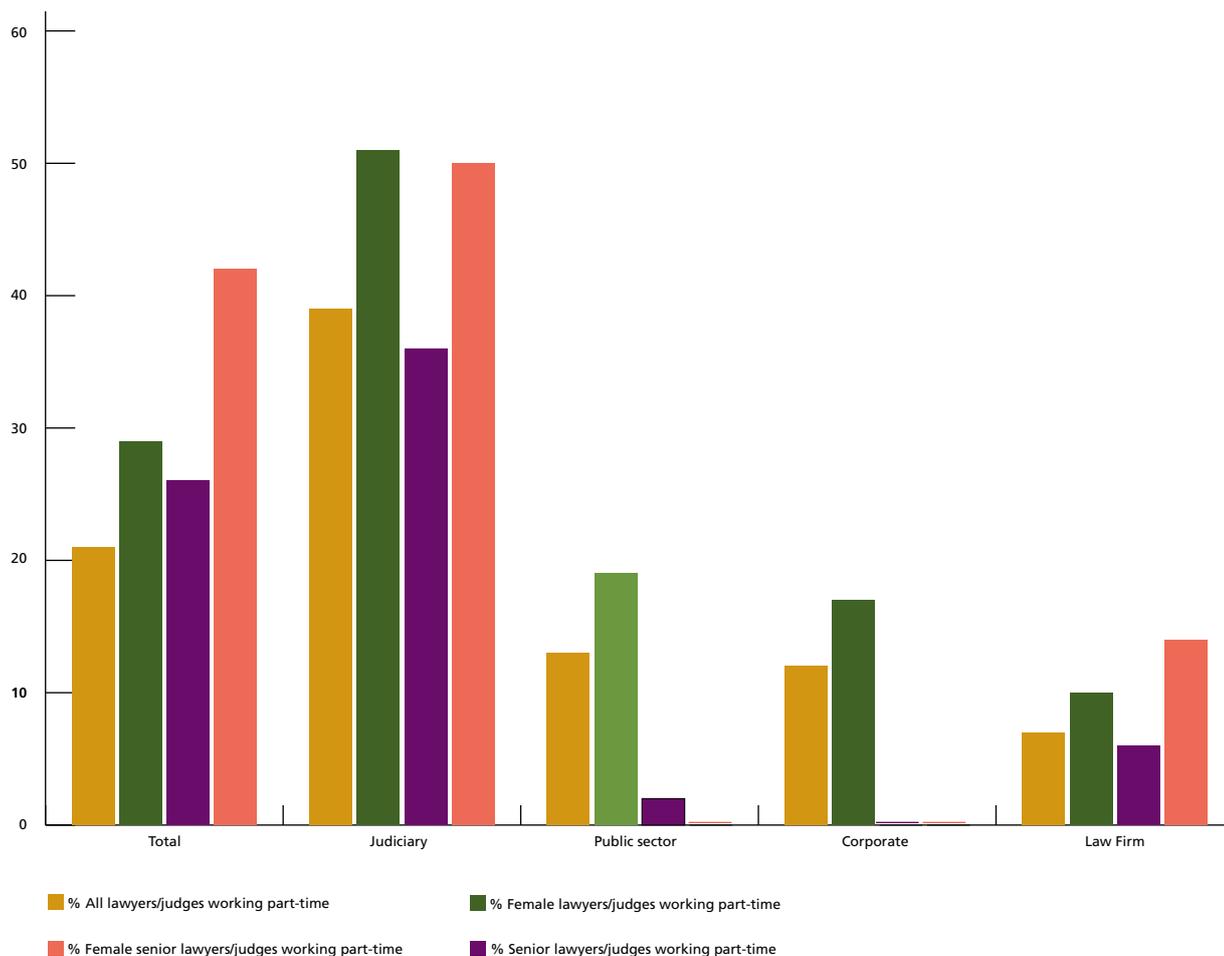


Figure 3: Part-time employment by organisation

32 OECD, Part-time employment rate (2022) <https://data.oecd.org/emp/part-time-employment-rate.htm> accessed 8 August 2023.

33 OECD, Share of employed in part-time employment, by sex and age group (2021) <https://stats.oecd.org/index.aspx?queryid=54746> accessed 8 August 2023.

Gender representation initiatives across the legal profession

The survey asked whether legal workplaces monitor gender balance overall and at a senior level. All respondents (100 per cent) responded that they monitor overall gender representation in their workplaces, and 92 per cent answered that they monitor gender balance both overall and at a senior level. Almost all respondents have measures in place aimed at increasing the number of women in senior positions.

“ Promoting Diversion and Inclusion is one of Pels Rijcken’s strategic objectives. We are convinced that a diverse workplace leads to more innovation within our firm, a multidisciplinary perspective when solving legal problems and more synergy with society. By taking the step from ‘thinking to doing’, we are working together towards a more diverse Pels Rijcken.

Sandra van Heukelom
Managing partner, Pels Rijcken

Examples of ‘other’ initiatives

Within the survey (see Appendix 2, question 11), we asked respondents to describe any additional initiatives that did not come under one of the above categories. See below for examples given in private practice and the public sector.

LAW FIRMS

Van Doorne: ‘Stand still period’ – in place for ten years:

‘Stand still in career for a limited number of years, extra time before partnership election, extra time for business case.’

Anonymous: Fly on the wall principle – in place for four years:

‘A “fly on the wall” is a third party that sits in on meetings to observe and evaluate the process. The “fly” gives feedback and challenges the participants on the biases they have observed during the meeting. Over the past year “flies” were present during the annual performance review process for associates but also in talent review meetings.’

PUBLIC SECTOR

Women Network – in place for one year:

‘This is an initiative from within the organisation to ensure a diverse and inclusive (public sector) is also inclusive for women.’

Initiative popularity and perceived effectiveness

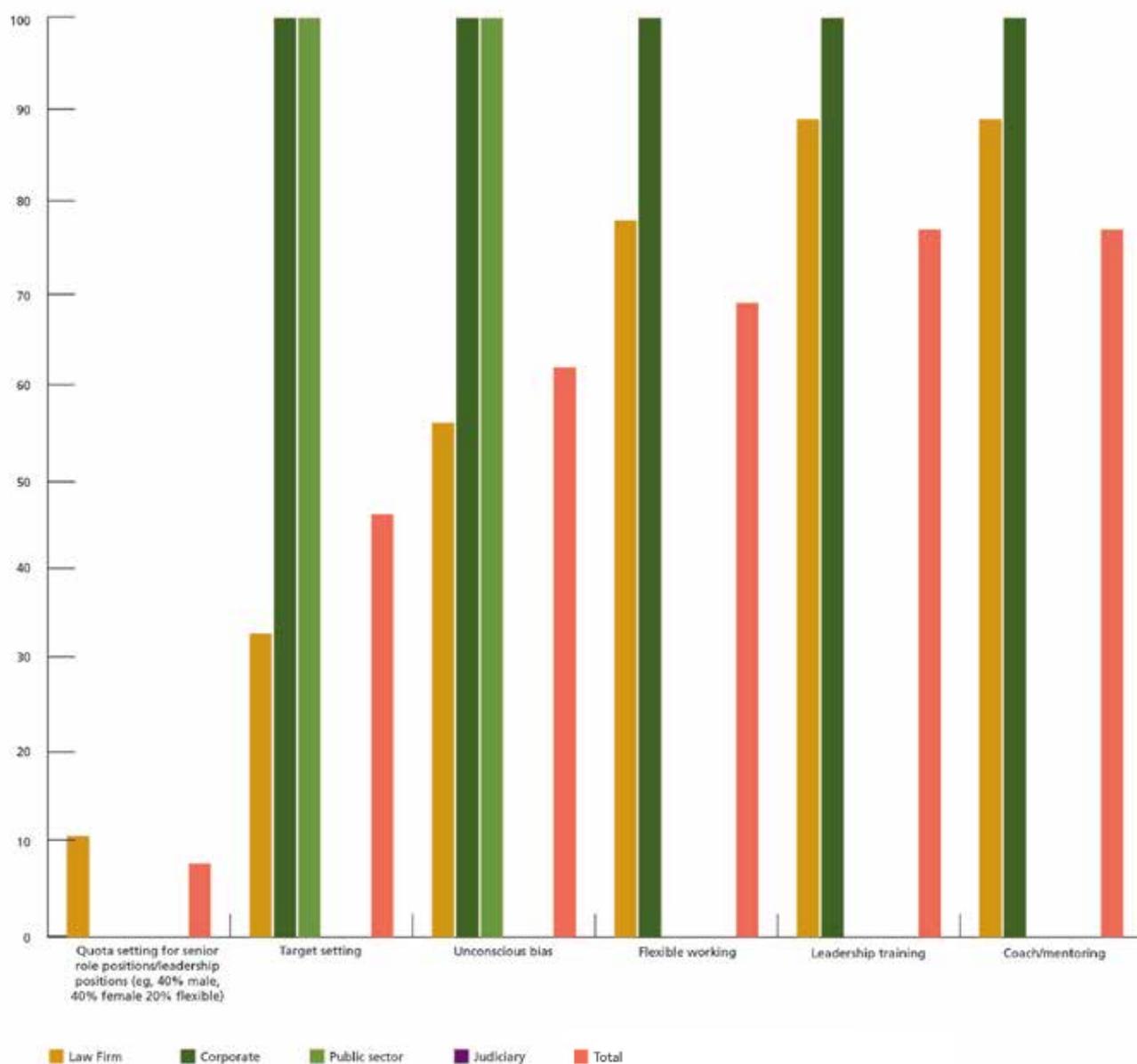


Figure 4: Popularity of initiatives

The most popular gender representation initiatives across all sectors are leadership training and coaching/mentoring, with 77 per cent of respondents having them in place. These are also the longest standing initiatives, having been implemented for an average of 9.6 and 8.4 years respectively.

The next most popular initiative is flexible working, with 69 per cent of respondents providing this option. Flexible working has been in place for an average of 4.6 years.

Quota setting for senior positions was the least popular initiative by a significant margin, with just eight per cent of respondents using quota setting.

Leadership training, the joint-most popular initiative, is regarded as the most effective (see Figure 5), with 60 per cent of respondents rating it as 'very effective'. Coaching and mentoring, however, were rated 'very effective' by just 40 per cent of those implementing it.

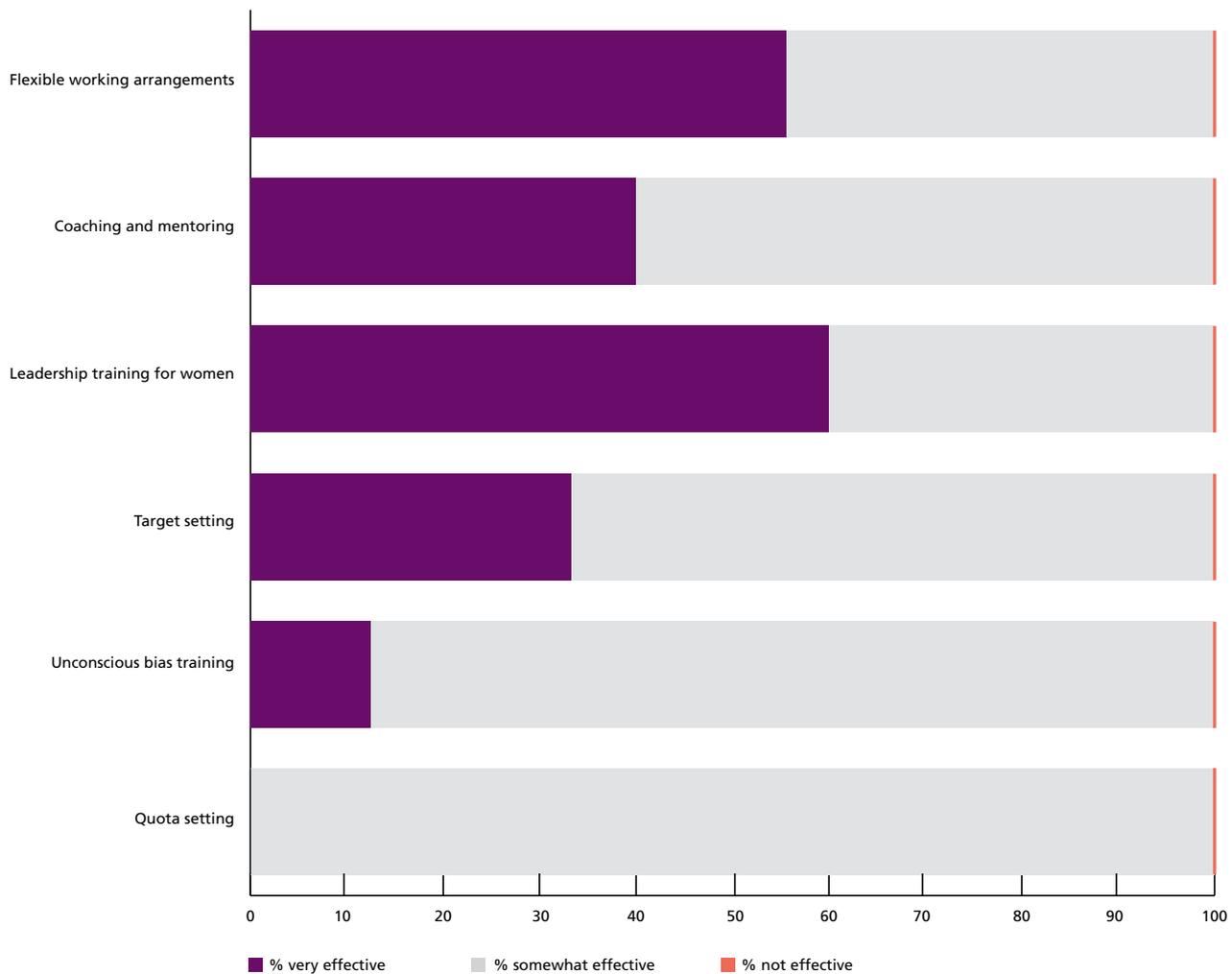


Figure 5: Effectiveness of initiatives

“ When I started out as [a] capital markets lawyer 28 years ago, I often was the only woman at the negotiating table. It didn’t discourage me, but it wasn’t always easy. Having inspiring mentors – both male and female – really made a difference at the time. Those years made me acutely aware of a key barrier for women leaders in law: you can’t be what you can’t see. So in my current position, one of the ways in which I can and want to contribute is by consciously choosing to be visible and speak up. Role models are more important than ever, having a diverse group of people in leadership positions is something we need to stimulate. I hope to encourage the next generation on their leadership journey.

Petra Zijp
Partner, NautaDutilh

Gender initiatives: sector breakdown

Law firms

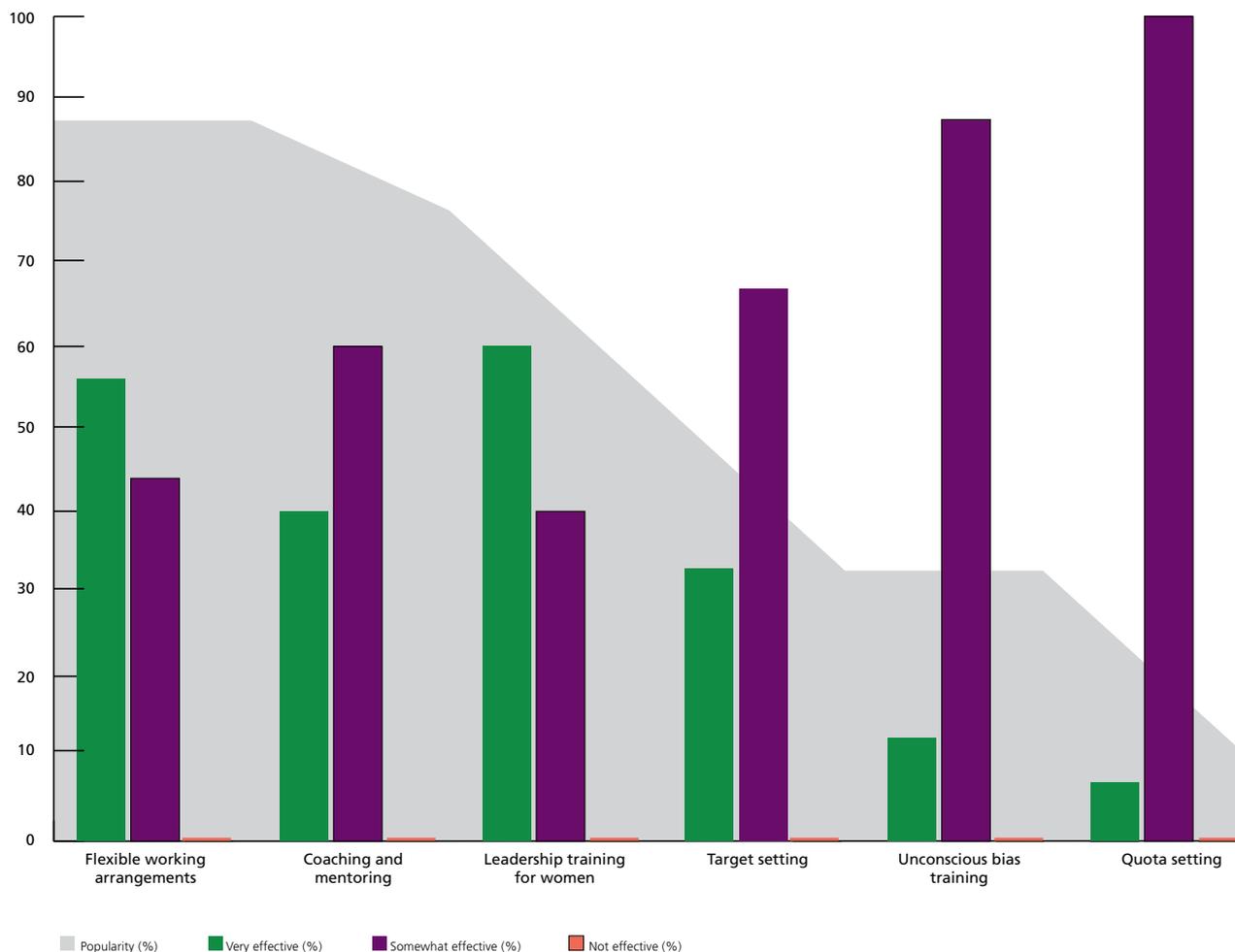


Figure 6: Popularity and effectiveness of initiatives to improve gender representation: law firms

One hundred per cent of law firm respondents monitor gender balance overall and 100 per cent also monitor gender balance at a senior level. Mirroring the overall results, coaching/mentoring programmes and leadership training for women were the most popular initiatives, which are implemented by 89 per cent of law firm respondents. The least popular initiative was quota setting (11 per cent). Nearly a third (33 per cent) of respondents implemented initiatives that did not come under the categories surveyed and provided very limited or no further details.

Regarding efficacy ratings, leadership training for women was deemed the most effective, with 50 per cent of respondents deeming the initiative 'very effective'. Leadership training is the longest-standing initiative, with an average implementation period of 10.3 years. Three quarters of respondents rated coaching and mentoring initiatives as somewhat effective. The joint least effective initiatives were quota setting and unconscious bias training, with 100 per cent of law firm respondents deeming them 'somewhat effective'. No initiatives were rated as 'not effective'.

“ When I started my career as a lawyer only a few women had made it as a partner and in most cases, they were the only female partner. Luckily, there have been significant and positive changes, but we still have a way to go to achieve true gender diversity and inclusion at senior leadership positions in law firms. Leadership training, coaching and mentoring programs are helpful to achieve these goals.

Based on my own experience, it is equally important that women speak up, preferably right from the beginning of their career, about their ambition to become a partner and keep seeking support throughout within the law firm. This will help to exclude unconscious bias, especially when women become pregnant, as one may assume they have given up their ambition for full-time motherhood.

Part-time and flexible working are also key drivers and are nowadays easier to achieve due to the Covid-19 pandemic and the arrival of the next generation. The millennials and GenZ tend to focus on a healthy work-life balance and law firms will have to adapt to keep this generation on board and preserve the future of the law firm.

Mariette Lafarre
Owner, Lafarre Law Firm

Corporate sector

The response rate from the Dutch corporate sector was limited. To mitigate this factor, we also received data from NGB, an organisation for Dutch in-house legal counsel. NGB data indicates that 54 per cent of members who are in-house lawyers are female, with 49 per cent in senior positions.³⁴

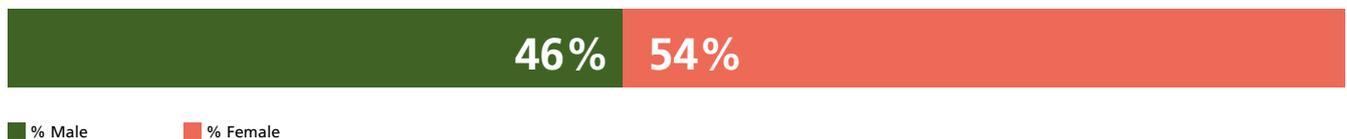


Figure 7: Gender proportions

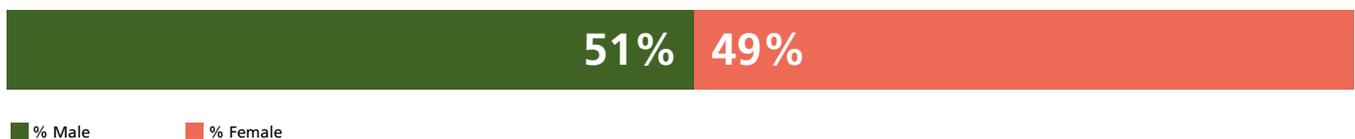


Figure 8: Senior proportions

34 Seniority is defined by the title of the respective in-house counsel member, including: ‘head, head of legal regulation, senior company lawyer, Vice President LA and legal manager’.

INITIATIVES

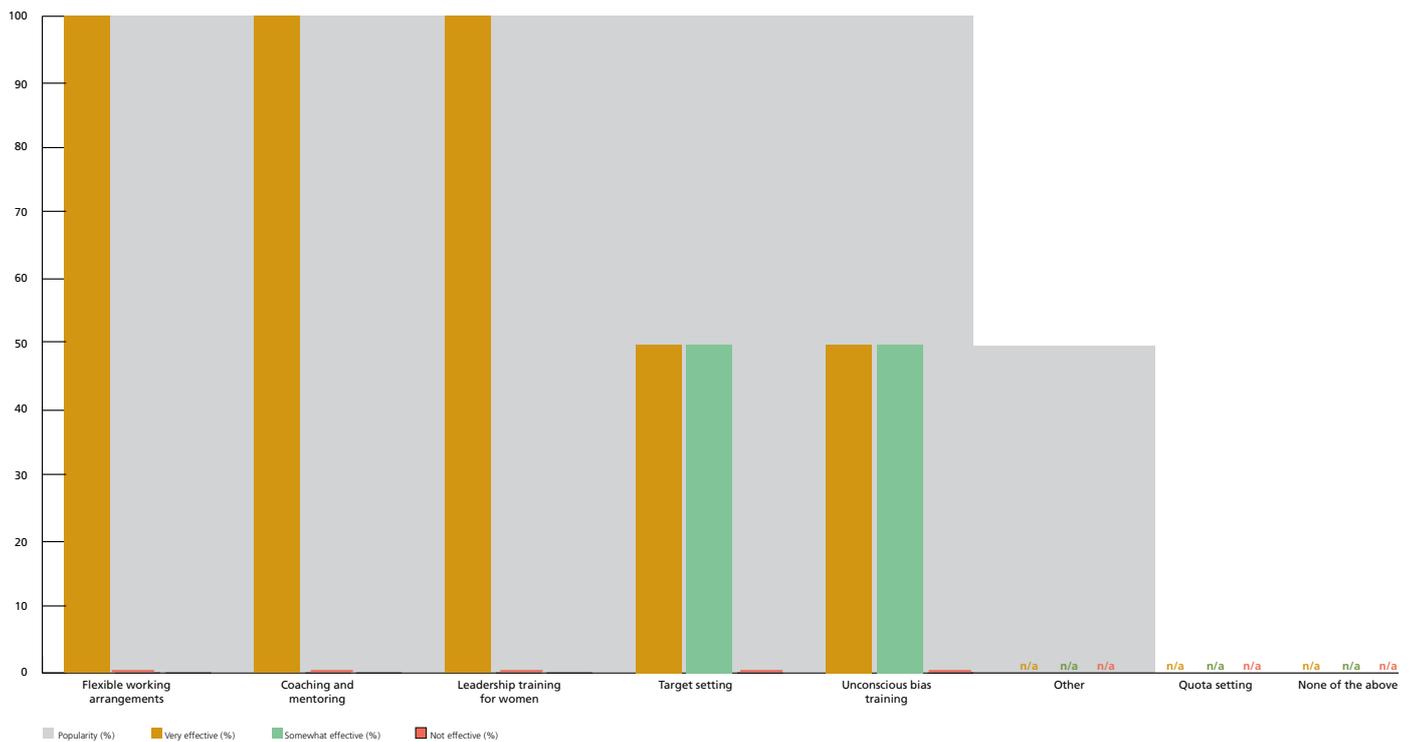


Figure 9: Popularity and effectiveness of initiatives: the corporate sector

One hundred per cent of corporate sector respondents monitor gender balance overall, but only 50 per cent monitor gender balance at a senior level.

The least popular initiative was quota setting, implemented by zero per cent of respondents.

Regarding efficacy ratings, leadership training for women, coaching/mentoring and flexible working arrangements were deemed the most effective, with 100 per cent of respondents deeming the initiative very effective. Coaching/mentoring and leadership training were the joint longest standing initiative, with an average implementation period of seven years. Fifty per cent of respondents rated target setting and unconscious bias training as very effective, with the remaining 50 per cent rating them as somewhat effective.

Public sector

One hundred per cent of public sector respondents monitor gender balance overall and 100 per cent also monitor gender balance at a senior level.

Target setting for senior role positions and unconscious bias training were the most popular initiatives, implemented by 50 per cent of respondents. Both initiatives were rated somewhat effective by all respondents.

Judiciary

The Netherlands Judiciary monitors its gender balance overall and also monitors gender balance at a senior level. The Council of the Judiciary releases an annual report,³⁵ which details gender diversity figures. Gender diversity figures on seniority are publicly reported in aggregate.

The Dutch judiciary does not implement any diversity initiatives, yet has a high percentage of women working both generally and at senior levels: women make up 61 per cent of all judges in the Netherlands (1,288 female judges out of a total of 2,117). Women also make up the majority of senior judicial posts, holding 54 per cent of senior positions. The explanation of this natural occurrence has been considered in a study from Radboud University in Nijmegen.³⁶ The reason given for the lack of gender diversity initiatives is that gender diversity arose ‘naturally’ and thus, there has been no need to implement gender-specific policies to increase the numbers of female judges.

International legal profession within the Netherlands

The Netherlands is a host state to numerous international courts and tribunals, and a large cohort of international lawyers. This section outlines gender statistics on the international legal profession working in the Netherlands. It is important to note that the lawyers and judges may not be based permanently in the Netherlands and may only work within the jurisdiction on a limited basis, often for the duration of a specific trial or hearing.³⁷

International Criminal Court (ICC)



Figure 10: Gender data of ICC counsel

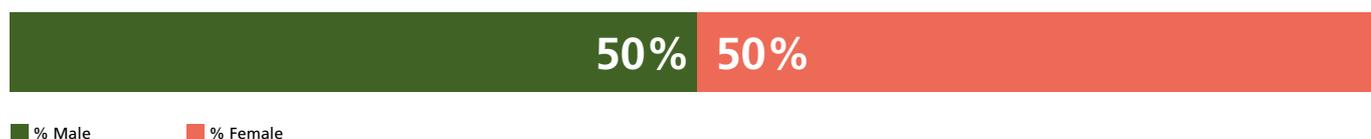


Figure 11: Gender data of ICC judges

Of the 938 counsel registered before the ICC, 245 are female (26 per cent) and 693 are male (74 per cent). Fourteen have Dutch Nationality, of which five are women (36 per cent).³⁸

35 Council of the Judiciary annual reports <https://jaarverslagrechtspraak.nl> accessed 8 August 2023.

36 Radboud University’s gender studies reports www.ru.nl/genderstudies/english accessed 22 August 2023.

37 For a list of international tribunals based in the Netherlands, see www.government.nl/topics/international-peace-and-security/international-legal-order/international-tribunals accessed 10 August 2023.

38 See www.icc-cpi.int/sites/default/files/2023-01/list-of-counsel-eng.pdf accessed 5 May 2023. For IBA materials on gender parity at the ICC, see www.ibanet.org/document?id=ASP-21st-Session-Priorities-and-Recommendations-2022 accessed 8 September 2023.

There are 18 judges at the ICC (nine male and nine female, see Figure 10), who are elected for terms of office of nine years by the Assembly of States Parties (ASP) to the Rome Statute, the founding instrument of the court. They are not eligible for re-election.

However, the ICC as a whole varies greatly in terms of gender balance. One example is the Advisory Committee on the nomination of judges of the ICC: six of the nine members are men.³⁹ In many cases, these can be traced to national processes for selection.

At the court itself, according to a *2020 Report of the Bureau on Equitable Geographical Representation and Gender Balance in the Recruitment of Staff of the ICC* (Gender and Geographical Representation Report), as of September 2020, the ICC staff was 49.2 per cent female and 50.8 per cent male. In leadership roles, men formed the majority, with the percentage of P-5 staff or above at 23.5 per cent female, whereas male staff formed 76.5 per cent.⁴⁰

There have been three ICC prosecutors since the inaugural prosecutor in 2003, of which one (Fatou Bensouda) is female. At the time of writing, the current ICC prosecutor (Karim Khan KC) is male. There are two deputy prosecutors (Mame Mandiaye Niang and Nazhat Shameem Khan), one of which is female. The application process for the ICC prosecutor is determined by state parties making the choice at the ballot box. According to the Committee on the Election of the Prosecutor's 2020 report,⁴¹ 26 out of 89 applicants were women.

Although there have been clear positive steps towards gender parity in many areas of the legal profession working at the ICC, there remains progress to be made when looking at the organisation holistically.

“ Since the elections in 2020, the ICC judges are split 50:50 in respect of gender. The present composition of the Trial Division is 4 women and 2 men. If judicial gender-parity is important in domestic courts, then it is even greater in an international court trying cases encompassing allegations of widespread or systematic crimes which constitute breaches of international humanitarian law. Such cases attract worldwide attention and (as it is believed), that a balanced Bench provides a more comprehensive perspective when dealing with witnesses and arriving at a judgment, it adds credibility to a process which in other respects may be the subject of criticism.

Joanna Korner CMG KC
ICC Trial Division Judge

International Court of Justice (ICJ)



Figure 12: Gender data of ICJ judges

39 For further information, see ICC-ASP-19-INF2-ENG-CEP.pdf (icc-cpi.int) accessed 14 August 2023.

40 Report of the Bureau on Equitable Geographical Representation and Gender Balance in the Recruitment of Staff of the ICC (2020) https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP20/ICC-ASP-20-29-ENG.pdf accessed 8 August 2023.

41 See <https://asp.icc-cpi.int/elections/prosecutor/Prosecutor2020> accessed 14 August 2023.

There are 15 members of the court at the ICJ (11 male and 4 female). These judges are elected for terms of nine years and are selected by the UN General Assembly.⁴² The current president, Joan E Donoghue, is female. She is the second female president, following Rosalyn Higgins' appointment as the first female ICJ president in 2006.⁴³ Of the Ad-Hoc Justices at the ICJ as of August 2023, three out of 16 (19 per cent) are women.⁴⁴

Permanent Court of Arbitration (PCA)

PCA LEGAL COUNSEL STAFF



Figure 13: Legal counsel

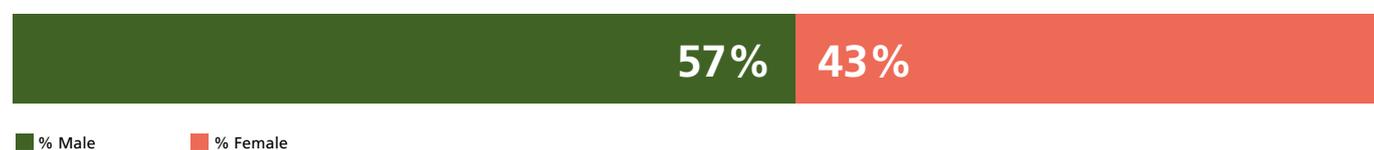


Figure 14: Senior legal counsel

The PCA has 17 permanent legal counsel and seven senior lawyers. Forty-one per cent of all lawyers and 43 per cent of senior lawyers are female.⁴⁵

The International Council for Commercial Arbitration (ICCA) produces a series of reports regarding gender diversity in arbitral appointments and proceedings.⁴⁶ The 2020 data sourced by the ICCA shows that at the PCA, of the 51 total appointments of arbitrators, 100 per cent were male. This figure represented a decrease in comparison with 2019 figures: 88 per cent male arbitrators and 12 per cent female arbitrators. This was the highest ratio of female-male arbitrators at the PCA between 2015 and 2020.⁴⁷

42 For further information on the election process at the ICJ, see www.icj-cij.org/sites/default/files/annual-reports/2021-2022-en.pdf accessed 8 August 2023.

43 For further information on judicial gender diversity at the ICJ, see <https://unric.org/en/women-in-justice-three-trailblazing-judges-send-a-powerful-message> accessed 10 August 2023.

44 For further information, see www.icj-cij.org/index.php/all-judges-ad-hoc accessed 14 August 2023.

45 See <https://pca-cpa.org/en/about/introduction/staff> accessed 8 September 2023. Data also available but not included is 'assistant legal counsel'. Such counsel are generally qualified to practice law, but this is not a requirement to undertake the role. These assistant legal counsels are also self-funded. Note that not all staff are necessarily based in the Hague (although most appear to be).

46 ICCA, Report of the Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings: 2022 Update https://cdn.arbitration-icca.org/s3fs-public/document/media_document/ICCA-Report-8u2-electronic3.pdf accessed 10 August 2023.

47 *Ibid.*

Comparison with England and Wales, Uganda, Spain and Nigeria

Of the countries surveyed thus far as part of the Gender Project – England and Wales, Uganda, Spain and Nigeria – the data received as part of the Netherlands study has the highest percentage of female lawyers, at 57 per cent. This is compared with 51 per cent in England and Wales, 49 per cent in Uganda, 54 per cent in Spain and 40 per cent in Nigeria. The Netherlands' lead in female representation is reflected in the percentage of female lawyers and judges in senior roles which, at 46 per cent, equals Nigeria and is the highest rate in the project thus far, with England and Wales at 32 per cent, Spain at 31 per cent and Uganda at 40 per cent. In this respect, the data from the Netherlands bucks the distinction between Europe and Africa that had emerged in the previous studies, where European countries had higher rates of overall female representation in the legal industry, but African countries had higher rates of senior representation.

However, it should be noted that the lower level of senior female representation in law firms remains consistent. In the Netherlands, women make up 49 per cent of lawyers in law firms – a figure that is in line with the 40–50 per cent range seen in the other countries surveyed so far. Yet, except for Nigeria at 43 per cent, female representation at senior levels remains in the 23–31 per cent range. Notwithstanding the higher levels noted in the Netherlands in other legal sectors, female lawyers constitute only 28 per cent of senior lawyers in law firms, which confirms this as the worst legal sector for female representation.

What is particularly noteworthy in the Netherlands is the high rate of female representation in the judiciary. While the Netherlands is similar to other countries surveyed thus far in having the highest rate of female representation in the public sector, the judiciary emerges as a close second, at 61 per cent to the 63 per cent in the public sector. This is in stark contrast to England and Wales, Nigeria and Uganda, which all failed to reach parity in the judiciary. At the most senior level, there is a strong rate of female representation in the Netherlands' judiciary, at 54 per cent. This compares with 26 per cent in England and Wales, 37 per cent in Spain, 33 per cent in Nigeria and 45 per cent in Uganda.

The Netherlands' high rate of female representation at the judicial level is especially striking given that the judiciary has no initiatives in place to target female representation. This contrasts with England and Wales, and Spain, where the judiciary implements several initiatives and, as found in the Radboud study, suggests that gender representation in the judiciary is not viewed as a problem in the Netherlands.

The Netherlands and Uganda are the only countries in the Gender Project study so far that have a higher take up of initiatives within law firms and corporate in-house teams compared with the public sector and judiciary. This is of interest given that the public sector and judiciary have higher rates of female representation. This may indicate that initiatives targeting female representation in the Netherlands function as solutions to low rates rather than being the cause of high ones.

Of the initiatives taken up in the Netherlands, coaching/mentoring programmes and leadership training are the most popular – a trend consistent with the findings in England and Wales, Uganda, Spain and Nigeria.

The Netherlands is unique in the sense that, while in other countries, coaching and mentoring programmes are more common than leadership training, every single respondent surveyed in the Netherlands that provided coaching and mentoring programmes also provided leadership training.

Furthermore, as with Spain and Uganda, leadership training proved to be the most highly regarded initiative in the Netherlands, with 60 per cent finding it very effective. This is in contrast with England and Wales, and Nigeria, where the initiative was one of the least popular. The Netherlands study also confirms the trend emerging from previous reports that unconscious bias training is far less effective than other initiatives. It should be noted that the report for the Netherlands is the first to find all initiatives at least 'somewhat effective'.

A final point of note is that the Netherlands has far higher rates of part-time working than the other countries surveyed thus far, both among female lawyers/judges and within the profession more widely.

Conclusion

Data from the Netherlands presents promising trends for female lawyers and judges who outnumber their male counterparts in several sectors. It is particularly encouraging to see parity at the senior judicial level and find that this is not the result of any initiatives, but rather a natural and organic occurrence.

Nevertheless, the sectoral prevalence of gender inequality identified in previous reports is also apparent within the Netherlands. The most striking of these is the poor representation of women in law firms. As with the other jurisdictions surveyed to date, inequality at the most senior levels is prolific in private practice, especially when compared with the public sector. Law firms must take action to address this disparity. It is notable that law firms in the Netherlands gave a low efficacy rating to the initiatives they have taken, which suggests that these may require a review. While a particularly encouraging trend from the Netherlands is the popularity of part-time work, law firms in general have lower part-time working rates than their contemporaries in the corporate, public and judicial sectors. Encouraging further flexible working patterns in law firms could be one way to create a working environment that is more conducive to female employees, who may be more likely to work in part-time roles at various stages during their career.

However, one very positive finding from the Netherlands study is the high percentage of female judges. While many of the countries surveyed so far have had lower numbers of senior female judges, in the Netherlands, women make up the majority of the judiciary and also occupy a higher percentage of senior judicial posts.

Overall, the results in the Netherlands report are positive, showcasing a jurisdiction where women lawyers have achieved parity with their male counterparts in the public and judicial sectors. The lack of parity in senior positions within the private sector should be addressed and affirmative action taken to facilitate greater retention and opportunities. Overall, the Netherlands has achieved gender parity in the legal industry, so it is hoped that, in the future, this will be reflected across each individual legal sector.

We hope that this report has offered important insight into gender representation within the legal profession in the Netherlands and, in doing so, will inspire further action to advance a more equal environment across the board.

Acknowledgments

We should first acknowledge the leadership of IBA President Almudena Arpón de Mendivil, the first female IBA president in 20 years.

It is necessary to acknowledge the primary contributor to this report, IBA Project Coordinator Daniel Collins, whose tenacity and hard work has made it possible; Legal Policy & Research Unit (LPRU) Director Sara Carnegie; LPRU Project Lawyer Beatriz Martinez; and interns Fay Khales, Anna Rizzardi, Ishaan Bhardwaj and Caitlin Farrell. In addition, our thanks go to Marlies Vegter, Netherlands gender equality law representative, European Network of Legal Experts in Gender Equality and Non-Discrimination, and Carola van den Bruinhorst, IBA Officer and Legal Practice Division Chair, for their enthusiasm and support for the project, and for writing the forewords.

Thank you to the Co-Chairs of the IBA Diversity & Inclusion Council, Masako Banno and Chris Watson, for their ongoing support of the Gender Project. Thanks also to the following IBA staff who have provided ongoing support for the project: Helen Ugwu, Eric Rugundu, Penny Newton, Rebecca Sage, Joanna Budzowska-Gawlak, Simon Fuller, Zahrah Haider, Adrianna Copner and Romana St Matthew-Daniel.

Our continued thanks to the LNROLF – Nigel Roberts, Joanna Weller and Steve Carroll – for their ongoing partnership on the Gender Project. Their support and help in the survey creation and data collection has been vital in moving the project forward.

We owe a debt of gratitude to stakeholders, including NOvA; Pepijn Zaagman and Jessica Surie from The Hague Municipality; Mariëtte Turkenburg, Dirk Hamaker and Yelly Weidenaar from Talent to the Top; Kimberly Kuijper from NGB; Ewa Cairns-Szkatuła from Wolters Kluwer; Martijn Scheltama from Pels Rijcken; and Petra Zjip from NautaDutilh, for their support, insight and contributions.

To those law firms who engaged with the survey and consented to being named in the report, that is, AKD Benelux Lawyers, De Brauw Blackstone Westbroek, Pellicaan Advocaten, Pels Rijcken and Van Doorne, we thank you.

Finally, we thank all our respondents who took the time to complete the survey across each sector.

Appendix 1: data tables

Overall picture: all lawyers

	Female lawyers (%)	Female senior lawyers (%)
Law firms	49 (975/1992)	28 (112/404)
Judiciary	61 (1288/2117)	54 (531/1288)
Public sector	63 (842/1331)	45 (21/47)
Total	57 (3134/5490)	46 (666/1445)

Popularity of gender initiatives: sector breakdown

	Law firms (%)	Public sector (%)	Judiciary (%)
Leadership training for women	88.9	0	N/A
Flexible working arrangements	77.8	0	N/A
Target setting	33.3	50.0	N/A
Coaching/mentoring programmes for women	88.9	0	N/A
Unconscious bias training	55.6	50.0	N/A
Quota setting	11.1	0	N/A

Effectiveness of gender initiatives

	Very effective (%)	Somewhat effective (%)	Not effective (%)
Leadership training for women	60	40	0
Flexible working arrangements	55.6	44.4	0
Target setting	33.3	66.7	0
Coaching/mentoring programmes for women	40.0	60.0	0
Unconscious bias training	12.5	87.5	0
Quota setting	0	100	0

Appendix 2: survey questions

1. **What type of organisation do you work for?**

Corporation with in-house counsel

Public sector

Law firm

Judiciary

2. **We'd like to start by asking some general profiling questions about the lawyers/judges who are employed in your organisation.**

Total number of lawyers

Lawyers who work on a part-time basis

Lawyers employed at a partner/management/KC (or equivalent) level

Lawyers employed at a partner/management/KC (or equivalent) level who work part-time

3. **This question asks about the lawyers/judges who identify as female. Please enter approximate numbers for the following:**

Remember, you can return to the survey at any point if you need to look-up any figures.

Total number of lawyers who identify as female

Female lawyers who work on a part-time basis

Female lawyers employed at a partner/management/KC (or equivalent) level

Female lawyers employed at a partner/management/KC (or equivalent) level who work on a part-time basis

4. **How many individuals sit on your partnership council/management board/executive council (or equivalent)?**

5. **Of these three, how many identify as female?**

6. **Do you monitor the gender balance in your organisation overall?**

Yes

No

7. **Do you monitor the gender balance in your organisation for lawyers at the senior level?**

Yes

No

8. **Is this gender monitoring data shared with the leadership of the organisation?**

Yes

No

9. **Is this gender monitoring data shared with the leadership of the department or elsewhere within government?**

Yes

No

10. **Does your organisation have any of the following initiatives/policies in place addressing gender equality and/or seeking to increase the number of women reaching positions of seniority?**

Quota setting for senior role positions

Availability of greater flexible working arrangements (post Covid-19 restrictions)

Leadership training for women

Target setting for senior role positions⁴⁸

Unconscious bias training

Coaching/mentoring programmes

Other:

None of the above

11. **We have a couple of questions about your [measure].**

Can you please provide a brief description of your [measure]?

Please include how it works, how it is measured and the impact it is having.

⁴⁸ Targets v quotas: targets tend to be aspirational, quotas tend to be mandated (sometimes set externally by a body with authority to impose them on organisations). Establishing quotas usually includes setting penalties for failing to meet them.

Approximately, how long have your [measure] been in place?

Please enter the approximate number of years

12. In your view, how effective has each initiative/policy been in supporting gender equality and/or increasing the number of women reaching positions of seniority in your organisation?

Very effective

Somewhat effective

Not effective

13. Does your organisation have any other diversity related initiatives in place (race, ethnicity, sexual orientation, disability, religion, etc)?

Yes

No

14. Please describe how one of these initiatives or policies works.

Please include how it works, how long it has been in place and the impact it is having.

15. What else do you want us to know about other initiatives coming in the future?

16. Would you like to associate your organisation's name with the feedback you have provided? This will enable the IBA to highlight examples of programmes in its reporting.

If you select 'No' below, your survey data will remain confidential and only reported in aggregate.

Yes

No



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