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Women and Men in decision-making positions in the justice System

Mujeres y hombres en puestos de decisión en el sistema de justicia

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ABSTRACT

This article discusses the representation of women and men in key decision-making positions in the Justice System within the European Union. It examines the reasons for an under-representation of women in key power positions of the judicial system contributing to a better understanding of what is a key decision-making position in different organizational Justice instances. The aim is to provide an analysis of progress and latest trends of both sexes' representation as presidents and members of courts and prosecutors based on comparable statistics collected within a harmonized methodology across the European Union countries.

The depiction of women and men's power positions representation along recent history, its progress and current situation is solely concentrated on judges and prosecutors. Information on lawyers and other groups performing legal tasks like paralegals, legal personnel and staff have not been considered for being even more diverse with a dwarf documented evidence.

Key words: Power; Gender balance; decision-making position; Justice System within the European Union; latest trends of both sexes representation

RESUMEN

Este artículo trata de la representación de mujeres y hombres en puestos clave de toma de decisiones en el sistema de justicia de la Unión Europea. Examina las razones de la subrepresentación de las mujeres en los puestos de poder clave del sistema judicial, contribuyendo a una mejor comprensión de lo que es un puesto de decisión clave en las diferentes instancias organizativas de la Justicia. El objetivo es proporcionar un análisis de

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los progresos y las últimas tendencias de la representación de ambos sexos en calidad de presidentes y miembros de tribunales y fiscales, sobre la base de estadísticas comparables reunidas con una metodología armonizada en todos los países de la Unión Europea.

La descripción de la representación de los puestos de poder de mujeres y hombres a lo largo de la historia reciente, su progreso y situación actual se concentra únicamente en los jueces y fiscales. La información sobre los abogados y otros grupos que realizan tareas jurídicas como los asistentes y el personal de la justicia no se ha considerado por ser aún más diversa con una evidencia documentada mínima.

Palabras Clave: Poder; igualdad de género; posición de toma de decisiones; Sistema de Justicia de la Unión Europea; tendencias de representación de ambos sexos.

MOST RECENT HISTORY OF WOMEN IN THE LEGAL PROFESSIONS

The constitutions in continental European countries, passed in the course of the 19th century contained equality principles. However, such principles did not mention or include women. In the civil codes of the grand legislations’ women were systematically denied civil rights and were legally subordinate to their fathers and husbands. They had no access to higher education and to the professions as they were considered unsuitable due to perceived gender characteristics, and it was presumed that they would jeopardize status, prestige, and income level of the professions.

The need for women’s equal rights to be admitted to universities first and then to get access to the professions and public office became more visible with early women's movement which heavily criticized the status quo, exposed evident discrimination and claimed for more transparent procedures on accessing education and labor market opportunities.

In Europe, for a long time, legal professions were exclusively a working space of men. Although some countries had given women access to the legal professions at the beginning of the 20th century, access to public office, the judiciary and the prosecution, was linked to full civic rights with suffrage. In many Western European countries women got the right to vote with the new constitutions before or after World War I (ranging from Finland in 1906, to the UK in 1928), in other countries it took until after World War II (e.g. France in 1944, Hungary in 1945 and Italy in 1946) and in some countries even longer (e.g. Greece in 1952).

A milestone of paramount importance was the emergence of socialist movements, which paved the way for the new constitutions of the 20th century and gradually introduced more equality for men and women. This removed any excuse for excluding women from the legal professions without undermining the legitimacy of the state's demand for strict adherence to the law.

With the introduction of a system of formal qualifications in education and professional orders, women had the opportunity to demonstrate that they were well able of meeting the set criteria.

Until the 1950s there were celibacy clauses in some countries for women in the civil service and the judiciary which meant that they had to leave their institutions on marriage, and later on double income earner discussions denounced women in the professions. Under communism, Eastern European countries were faster in granting women access to legal professions than the Western European countries. But this did not necessarily mean that they got prestigious positions.

Apart from the historically grown professional structures, the judicial systems and certain legal regulations, also the social status of women and the prevailing family model in a particular country are particularly relevant to the situation of women in the legal professions. In some countries a male breadwinner model is still predominant with many women working part-time and some staying at home, although this model is fading out under the impact of moves towards more gender equality in Europe.

In parallel, there has been a continuous shift towards more gender equality in the legal professions. This is true for member states of the European Union, even though the situation varies considerably between countries. Along hierarchies of legal professions, considerable gender imbalances still persist with women often facing barriers such as the glass ceiling[1] and sticky floor[2].

[1] The concept of glass ceiling has been identified in 1987 by Ann Morrison as the invisible barrier that has kept and continues to keep, women and minorities out of the top management jobs in large commercial organizations. Slower career advancement is caused primarily by women's inability to gain the support of mentors. The glass ceiling is a barrier that applies to women as a group who are kept from advancing as quickly or as high in the organization as their male counterparts because they are women. This barrier refers to invisible obstacles to career advancement, yet ones that are systematic or perceived in organizational practices (e.g. tradition, compatibility with those in senior positions, and stereotypes). Even women who successfully break through the glass ceiling can encounter glass walls that continue to separate them from the executive top level.

[2] The term "sticky floor" is used to describe a discriminatory employment pattern that keeps a certain group of people at the bottom of the job scale. Most of the workers who experience the "sticky floor" are "pink collar workers," such as secretaries, nurses, or waitresses. Close to half of working women, compared to one-sixth of working men, hold clerical or service jobs which are often associated with the "sticky floor." By comparison, the term "glass ceiling" is used to describe an artificial discriminatory barrier which blocks the advancement of women or people of color who already hold fairly good jobs, usually in middle management. Although women who run into the glass ceilings are more educated and privileged than those who experience the sticky floor, women in both situations have some similarities. Both have low mobility and find themselves unable to better their situation. Also, most of these women are expected to work a "double day," where they are expected to do household work in addition to their wage labor.

History of women in the legal professions in Europe is, therefore, quite diverse. Anti-discrimination policies and legislation of the European Union have ultimately created a common legal framework, but the social reality in the Member States still shows deficiencies in access to higher positions and income.

Currently and on average in the European Union, the representation of both women and men in professional judge positions shows a distribution of a balanced shape. Though, by examining the descriptive representation in this domain show that women are consistently in a slight majority. This hides however some considerable variations what refers to substantial representation, since a consistent majority (over 60%) of men occupy professional judge posts in Common Law Countries. The most obvious trend in the judicial professions is the decrease in the representation of women as the level of court and seniority of post increases. Thus, while there is an average majority of women among judges and prosecutors at first instance courts, this is reversed at higher court levels and at supreme courts the average gender distribution is consistently two-thirds of men and one-third of women, which is further analyzed in this article.

FROM DESCRIPTIVE TOWARDS SUBSTANTIAL REPRESENTATION OF WOMEN IN JUDICIARY

Measuring women's representation along the different power positions within institutions and organizations is a good test for democracy in a country. While the continued underrepresentation of women might not always be labeled as undemocratic, male dominance clearly indicates a democratic failure.

In particular, the overall under representation of women in power positions of Judicial offices is an acknowledged situation which derives a range of rationales for their increased participation.

For many, the presence of more women in justice is a reflection of democratic legitimacy and a challenge to gender stereotypes, thus seeking to achieve a judiciary that reflects the differences in society.

This debate urges for a more complex elaboration what refers to the key concept of a gender category as an axis of discrimination and the identity homogeneity of the concept "women". As Judith Butler argues, "Instead of a stable signifier that leads to the consent of those whom it purports to describe and represent, the concept of women, even in the plural, has become a problematic term, a place of competition, a motive of anxiety "(1990, p. 3)

The power relations between women and men, especially struggles over the control of women's bodies, have been a key focus of the feminist analysis (Kate Millet's Sexual Politics). Concepts like Patriarchy imply some relatively stable sex/gender system in which men possesses power which they hold over women and subordinate men and children. On the other hand, Foucault's theorization of power has forced feminists to consider whether

this way of conceptualizing power best captures the kinds of relations they want to highlight. In consequence, the concept has received the most systematic attention feminist appropriations and critiques of Foucault's definition. Foucault rejects what he approaches as the juridic-discursive model of power, which sees power as a possession held by individuals or classes; emanating from a single site or central source, or imposed from top to bottom (for example based in ownership of the means of production) and primarily repressive in its exercise (usually based on sanctions).

In this sense, power is produced at every moment and at every point, often and even primarily productive rather than repressive or negative. Power is, therefore, a concern of everyday life as with the power of the state. The power relations in which women are involved in a range of sites cannot be pinned down to any one institutional based nor reduced to any single factor. It is not limited to one which operates within structures and the relationship between power, knowledge and discourse.

By mainstreaming the concept of democratic legitimacy into social systems, it is important that social systems such as the judiciary also reflects the social fabric in which they administer justice.

Judiciary is expected to operate in a diverse society and must itself be diverse in order to better understand and respond to diverse social and individual contexts and experiences. It is not only important that justice is done but also that justice can be seen to be done. If the judiciary is not reflective of society, justice will not be seen to be done and the process and the result will both lack legitimacy.

However, stating the need for this heterogeneity within the judiciary professional body challenges confidence what refers to its universality. In other words, the liberal values of neutrality and impartiality clash against the demand of reflecting the diversity of experiences, understandings, and perspectives, which a very high degree fundamentally depend on what a particular person is. Inadvertently, the insistence that a more representative judiciary is essential has the potential to destabilize conventional liberal understandings of law.

Moreover, the reasons for why a more representative judicial system is essential disturbs liberal understandings of equality and indeed of justice. If our particularity counts, it counts in a way that destabilizes traditional justice vocabularies. That is, if what we are, as women and men, from different racial and ethnic backgrounds, with different religious traditions, from different social and economic backgrounds, matters, the conventional understandings of neutrality and impartiality are definitely inadequate.

The need for diversity in the judiciary has led to calls for a greater representation of women based in the argument that they offer a different voice and perspective from that of men. In addition, the need for a wider female representation is also justified by equality of opportunity for women and men and representativeness of both sexes striving for a better gender balance.

Such arguments are enshrined in the legitimacy of a democratic system. The Judiciary should instead be reflective of society accounting for significant differences between women and men based, on sexual orientation, class, caste or even ethnicity.
Consequently, lack of diversity in the judiciary undermines the public trust and confidence in the system.

Equal access to independent, impartial and non-discriminatory justice is a human right and also key to the realization of all other human rights, including the rights to non-discrimination and gender equality.

By elucidating how laws and rulings can be based on gender stereotypes, or how they might have a different impact on women and men, a gender perspective enhances the fairness of adjudication, which ultimately benefits both men and women. All judges should strive to bring a gender perspective to adjudication.

Different theoretical underpinnings argued that women will improve justice by judging different from men.

Historically, the judge has been male. The image of the white male judge is reproduced and reaffirmed through a variety of cultural channels such as media, film and portraiture. The persistent association of the judge with men is deeply embedded in working practices and presentation.

The general criteria for appointment of the judicial office highlight attributes such as intellectual and analytical ability, sound judgement, decisiveness and authority. These confirm the masculinist approach and subjective judgement where sex bias can easily occur. On the other hand, the status of women was built on otherness, in a world in which the male was (and still is) the model and reference of all things. Paraphrasing Simone de Beauvoir: “Women live scattered among men, linked by habitat, work, economic interests, social status, to certain fathers or husbands more intimately than to other women. Bourgeois women are sympathetic to bourgeois men and not to proletarian women; white women to white men and not to black women.”

The rise of women in careers related to justice administration resulted in a narrowing of gender differences in these professions, including contributing to raising the social status that society often denies to women.

Although women are more likely than men to begin law school with a motivation to serve others or bring about social justice and are more likely to plan to work in a government or public interest setting rather than a private firm, their interest in public sector or public-interest work appears to decline more sharply than does men’s during law school education.

Additionally, shortcomings could be observed what refers to descriptive representation of women and men in power positions in the Judicial system while analyzing the statistical trends as shown by the attempt below.

POWER POSITIONS OF WOMEN AND MEN IN THE JUDICIAL SYSTEMS: WHAT SAYS THE DATA?

The numbers of women and men in key decision-making positions across different life domains are collected by the European Institute for Gender Equality. These are the official statistics that can be used to monitor the current situation and trends through time within the 28 European Union Member States. The data collection is also extended to the seven instrument of pre-ascension beneficiary countries (including five European Union candidates: Montenegro, North Macedonia, Albania, Serbia and Turkey, and two potential candidates: Bosnia and Herzegovina and Kosovo) and the remaining three European Economic Area countries (Iceland, Liechtenstein and Norway).

This statistical activity has been established since 2003 focusing on the measurement of key decision-making positions within several domains, including: politics; public administration; judiciary; business and finance; social partners and non-governmental organizations; environment and climate change; media; science and research; and sports.

The statistical data collection activity defines the concept of a decision-making position as a position from which it is possible to take or influence a decision. Within a domain and at organizational level, this restricts coverage to organizations 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. On the other hand, within an organization the hierarchical level is observed, which restricts coverage to positions within the hierarchy that have a major input to decision-making within the organization.

Data on decision-making in the judiciary include statistics on women and men amongst judges and presidents of highest national and European courts.

Collected statistics on European courts cover the presidents and members (judges) of the Civil Service Tribunal, the Court of Justice of the European Union, the General Court, and the European Court of Human Rights.

The Court of Justice of the European Union was established in 1952 and is the supreme court of the European Union in matters of European Union law. As the highest court in the European Union, it ensures that the European Union legislation is interpreted and applied in the same way in each Member State. It is divided into two courts:

- The Court of Justice which has competence, among other things, to rule on applications for annulment or actions for failure to act brought by a Member State or an institution, actions against Member States for failure to fulfil obligations,

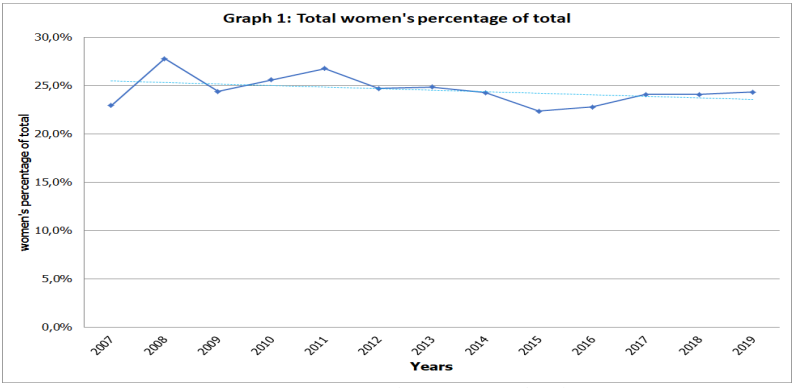
references for a preliminary ruling and appeals against decisions of the General Court.

– The General Court (formerly known as the European Court of First Instance): attached to the Court of Justice, the General Court has jurisdiction to hear and determine at first instance all direct actions brought by individuals and the Member States, with the exception of those to be assigned to a 'judicial panel' and those reserved for the Court of Justice. Since September 2016, the General Court also has jurisdiction to rule on civil service actions following the termination of the Civil Service Tribunal (established in 2005).

Another prominent court considered at the European level is the European Court of Human Rights, established in 1959 on the basis of Article 19 of the European Convention on Human Rights. It has 47 European countries as member states, and monitors compliance with the Convention. Its mission is to hear cases of possible human rights violations brought by individuals, organizations and states against the countries bound by the Convention.

At the national level the organizations covered by the data collection for this analysis are the Supreme, Administrative and Constitutional courts as well as the Public prosecutor.

Supreme courts are the highest juridical body in the domain of civil and penal jurisdiction. In some cases, the supreme court also takes responsibility for administrative and/or constitutional jurisdiction. In some European countries like Malta, there is no Supreme court. In such case, the judges in the Constitutional Court, the Court of Appeal and the Court of Criminal Appeal are counted instead. Administrative courts are the jurisdiction empowered to adjudicate, in the last instance, disputes arising from the actions of public administrations at national level. Constitutional courts, instead, are the legal body responsible for ensuring the compatibility of legislation with the provisions and principles of the constitution in each country, in particular, to protect constitutionally established rights and freedoms. Finally, the Public prosecutor or prosecutor general is the most senior government official(s) responsible for the prosecution of criminal actions on behalf of the state.



Source: EIGE's gender statistics database

Table 1 in annex shows that in the last 20 years, the proportion of women judges across the 28 European Union member states fluctuated between 15,8 % in 2003 and 24 % in 2019. The break of the threshold of 30 % is observed within years 2008 - 2013. The European court of human rights consistently presents a higher percentage of women rather than the Civil Service Tribunal, the General court, the Court of Justice of the European Union and the European Court of Justice.

Table 1: Women president and members of European Courts

Number of women	years																		
Entity	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Change 2007-2019	Avg annual Change 2007-2019
Civil Service Tribunal	0	0	0	0	1	1	2	2	2	2	2	1	1	0	0	0	0	**NA**	**NA**
European Court of Human Rights	0	0	0	0	14	17	17	17	19	17	18	18	14	16	16	17	15	**7,1%**	**0,6%**
General Court	3	9	9	9	7	11	6	6	6	6	6	6	6	9	10	10	11	**57,1%**	**4,8%**
Court of Justice of the European Union	6	13	13	14	14	15	12	13	13	12	12	12	12	14	15	15	16	**14,3%**	**1,2%**
European Court of Justice	3	4	4	5	6	3	4	5	5	4	4	5	5	5	5	5	5	**-16,7%**	**-1,4%**
Total numbers of women	**12**	**26**	**26**	**28**	**42**	**47**	**41**	**43**	**45**	**41**	**42**	**42**	**38**	**44**	**46**	**47**	**47**	**11,9%**	**1,0%**
Women's percentage of total																			
Civil Service Tribunal	0,0%	0,0%	0,0%	0,0%	14,3%	14,3%	28,6%	28,6%	28,6%	28,6%	28,6%	14,3%	14,3%	0,0%	0,0%	0,0%	0,0%	**NA**	**NA**
European Court of Human Rights	0,0%	0,0%	0,0%	0,0%	31,1%	36,2%	37,0%	37,0%	41,3%	37,0%	38,3%	38,3%	31,8%	34,0%	34,0%	36,2%	31,9%	**0,8%**	**0,1%**
General Court	20,0%	36,0%	36,0%	36,0%	25,9%	40,7%	22,2%	22,2%	22,2%	23,1%	22,2%	21,4%	21,4%	23,7%	22,7%	21,7%	23,9%	**-2,0%**	**-0,2%**
Court of Justice of the European Union	15,8%	22,4%	22,4%	24,1%	20,3%	24,6%	19,7%	21,3%	21,3%	20,0%	19,7%	19,0%	19,0%	19,2%	20,8%	20,3%	21,9%	**1,6%**	**0,1%**
European Court of Justice	13,0%	12,1%	12,1%	15,2%	17,1%	11,1%	14,8%	18,5%	18,5%	14,8%	14,8%	17,9%	17,9%	17,9%	17,9%	17,9%	18,5%	**1,4%**	**0,1%**
Total women's percentage of total	**15,8%**	**22,4%**	**22,4%**	**24,1%**	**23,0%**	**27,8%**	**24,4%**	**25,6%**	**26,8%**	**24,7%**	**24,9%**	**24,3%**	**22,4%**	**22,8%**	**24,1%**	**24,1%**	**24,4%**	**1,4%**	**0,1%**

Source: EIGE's gender statistics database

Avg annual Change = Average Annual change calculated according to the following formula: value 2019-value2007/12
NA = Not available

Along this period and for the same set of European courts, the President position has never been held by a woman in any of the institutions under analysis.

While observing the annual change rate between years 2007-2019 - Graph 1 above and table 1 shows a very low increase across all the European courts, fluctuating between 0,8 % in the case of the European court of human rights and 1,6 % for the European Court of Justice. In the case of the General court, the change rate presents a decrease of -2,0 %. At this pace, a long way - more than 300 years- could still be expected to reach the gender balance threshold of at least 40 % representation of both women and men.

What refers to Supreme national courts, table 2 and 3 presents the proportion of female judges across the 28 European Union Member States. Analyzing the situation from year 2003, the gender balance threshold of 40% has been achieved in 2017 with 42,4 % that

corresponds to the highest proportion of women judges since year 2003 when female judges barely represented 19 % for the same cluster of countries.

The leaders of women representation in the Supreme courts are Bulgaria with almost 76 %, Latvija with 69%, Greece and France with a percentage above 53 %.

Table 2: Women Judges of the Supreme court

Number of women	Years															
Geographical unit/ country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
European Union	289	336	342	514	531	516	530	561	577	580	622	646	658	680	711	730
Austria	8	10	12	14	14	14	14	16	16	17	18	20	19	19	23	23
Belgium	20	20	5	5	5	5	5	6	5	6	6	6	6	8	9	8
Bulgaria	5	4	1	71	69	72	72	73	73	73	78	79	76	73	78	75
Cyprus	1	1	1	1	1	1	1	1	1	2	2	4	4	5	5	5
Czech Republic	14	12	13	16	16	15	15	15	15	14	15	15	13	13	12	12
Denmark	3	5	5	4	4	4	5	5	5	5	5	5	6	6	5	5
Estonia	3	3	3	3	3	3	3	2	2	2	3	4	4	5	5	4
Finland	6	5	5	6	6	5	5	5	6	6	6	6	5	6	4	6
France	34	34	34	41	44	41	48	51	47	44	50	54	58	61	63	64
Germany	26	27	23	26	25	25	24	28	27	26	32	35	41	44	46	47
Greece	1	4	7	12	12	14	15	15	19	22	26	32	32	35	37	41
Hungary	2	47	47	49	47	49	46	46	42	45	39	40	39	40	42	41
Iceland	2	2	2	2	2	1	2	1	2	2	1	1	2	2	2	1
Italy	0	0	0	33	35	40	37	52	62	60	74	74	81	106	114	121
Latvia	13	14	25	26	27	23	24	26	28	27	27	29	31	23	23	25
Lithuania	6	7	7	6	7	8	8	8	8	9	8	11	11	9	12	12
Luxembourg	0	0	0	1	3	3	3	2	3	3	2	2	0	1	1	1
Malta	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0
Netherlands	3	6	6	5	5	5	6	6	5	5	6	7	9	10	13	12
Poland	1	1	3	23	22	19	19	21	22	19	23	24	25	20	20	26
Portugal	1	1	1	3	1	2	2	2	3	5	7	8	9	9	12	17
Romania	102	80	83	88	88	80	85	85	89	97	99	95	90	89	91	87
Slovakia	34	34	33	33	49	36	37	44	44	45	46	46	49	49	46	48
Slovenia	3	17	17	13	14	16	16	14	17	13	12	11	12	12	13	12
Spain	0	0	0	7	6	9	9	9	9	9	9	11	11	11	13	15
Sweden	0	0	7	7	7	7	7	6	7	6	6	6	5	5	5	4
United Kingdom	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2	3

Source: EIGE's gender statistics database

Table 3: Women Judges of the Supreme court (percentage of total)

Women's percentage of total — Years

Geographical unit/ country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
European Union	**30,2**	**32,7**	**32,4**	**30,8**	**32,3**	**31,7**	**32,6**	**33,3**	**34,4**	**34,9**	**37**	**38,6**	**39,5**	**42,4**	**41,5**	**42**
Austria	14	17,9	21,4	24,6	24,6	24,6	24,6	27,6	27,6	29,3	30,5	33,3	31,7	31,7	39	38,3
Belgium	46,5	43,5	10,9	16,7	16,7	17,2	17,2	20,7	17,9	20	20	21,4	20,7	25	31	25,8
Bulgaria	55,6	44,4	33,3	75,5	78,4	78,3	79,1	77,7	76	76,8	72,9	74,5	74,5	76,8	75,7	75,8
Cyprus	8,3	8,3	8,3	7,7	7,7	7,7	7,7	7,7	7,7	15,4	15,4	26,7	30,8	38,5	38,5	38,5
Czech Republic	23,7	20,7	21,3	26,2	27,1	24,2	24,2	23,8	23,4	21,2	22,7	22,7	20	19,1	17,4	16,7
Denmark	15,8	26,3	25	22,2	21,1	21,1	26,3	26,3	23,8	25	25	25	28,6	33,3	27,8	27,8
Estonia	16,7	16,7	16,7	15,8	15,8	15,8	15,8	10,5	10,5	10,5	15,8	22,2	21,1	26,3	27,8	22,2
Finland	33,3	26,3	27,8	31,6	31,6	26,3	26,3	26,3	31,6	31,6	31,6	33,3	27,8	31,6	21,1	31,6
France	32,1	33,3	33	34,7	36,1	35	38,7	36,7	34,6	34,6	41	46,6	47,2	49,6	52,1	53,8
Germany	19,5	21,1	18,4	20,5	19,7	19,4	18,9	21,7	21,1	20,2	24,8	27,6	31,1	32,4	34,1	33,6
Greece	2	6,2	10,8	17,6	17,1	19,4	20,8	20,8	26,4	30,6	36,1	44,4	45,1	49,3	48,7	53,9
Hungary	50	61	61	59,8	61	60,5	56,8	56,8	56,8	53,6	47,6	49,4	48,1	49,4	51,2	50
Iceland	25	25	25	22,2	22,2	16,7	22,2	11,1	16,7	16,7	11,1	11,1	20	20	25	12,5
Italy	0	0	0	11,5	12,3	14,4	14,5	19,2	21,9	22,4	25,9	25,9	28,1	43,1	34,1	35
Latvia	65	70	59,5	57,8	57,4	51,1	52,2	54,2	56	50,9	55,1	65,9	68,9	63,9	65,7	69,4
Lithuania	16,7	19,4	20	17,1	19,4	21,6	21,6	21,6	22,9	26,5	27,6	32,4	32,4	25,7	35,3	34,3
Luxembourg	0	0	0	20	100	100	100	66,7	75	75	50	50	0	20	20	20
Malta	0	0	0	0	0	0	0	0	0	0	9,1	9,1	9,1	9,1	0	0
Netherlands	8,3	15,8	16,2	13,2	13,2	13,2	16,7	16,2	14,3	15,2	18,2	20	25,7	28,6	35,1	35,3
Poland	8,3	8,3	25	26,4	25,6	22,9	22,9	25,3	25,9	23,5	27,1	27,6	29,1	26	29,4	31,3
Portugal	1,8	1,7	1,7	5,1	1,7	3,3	3,3	3,3	5	8,6	12,1	14	16,7	16,4	19,7	27,4
Romania	62,6	71,4	74,1	73,9	75,2	76,2	76,6	80,2	85,6	84,3	84,6	84,1	84,1	84	80,5	77,7
Slovakia	43,6	49,3	50	50	67,1	50,7	50,7	51,8	53	53,6	56,8	54,8	60,5	60,5	56,8	60,8
Slovenia	37,5	36,2	36,2	31,7	34,1	39	41	37,8	43,6	37,1	36,4	37,9	38,7	40	40,6	38,7
Spain	0	0	0	7,3	8	11,7	10,7	9,6	11,3	11,3	11,7	13,8	13,8	13,8	15,3	19
Sweden	0	0	43,8	43,8	43,8	43,8	43,8	37,5	41,2	37,5	37,5	37,5	33,3	31,3	31,3	25
United Kingdom	8,3	8,3	8,3	8,3	8,3	9,1	8,3	8,3	8,3	9,1	8,3	8,3	8,3	9,1	18,2	25

Source: EIGE's gender statistics database

The key leading decision-making positions (president) in the Administrative and Constitutional courts are barely represented by women across the 28 European Union countries (see table 4). 2018 is the year with the highest number of female judges leading as presidents in 5 Member States in national Constitutional courts. The most significant proportion of women presidents in national Administrative courts is observed in 2019 for 6 European Union countries. This picture is still scarce, although more positive, when it comes to public prosecutors fluctuating from 2 European Union countries with women public prosecutors in 2004-2005 to 10 and 9 countries with the same gender representation respectively in years 2018-2019.

Table 4: Women presidents of national courts and public prosecuters

Number of Women	Years															
European Union	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
National courts: Supreme courts	1	1	2	3	4	5	7	7	6	5	8	8	6	6	6	6
National courts: Administrative courts	1	2	1	1	1	1	2	2	2	2	1	2	1	1	3	6
National courts: Constitutional courts	1	1	1	2	3	4	4	3	2	2	2	2	1	4	5	2
Public prosecutors	2	2	4	7	6	7	4	3	4	3	6	9	8	7	10	9

Source: EIGE's gender statistics database

CONCLUSION

Facts and figures presented and under analysis in this article only reflect the head count of women and men in key decision-making positions. It corresponds to descriptive representation of both genders. Substantive representation would reflect a more comprehensive picture while considering categories such as ethnic origin, gender identity, sexual orientation, disabilities, economic situation and/or even age. This would be also relevant to assess with other gender sensitive statistics like the gender pay gap within the positions analyzed. Unavailability of reliable and valid statistics encompassing with all these categories, hampers the feasibility of such study and analysis. The main reason lies on the fact that official statistics do not openly collect all the multiple layers where individuals are classified and could perceive themselves. Data protection clauses, individual privacy and safety are among the principals prevailing over the need for more comprehensive statistical data.

On the other hand, with the available data it is still possible to draw some reliable conclusions on women's and men's access to decision making positions at the European Union level and across its Member States. Despite gender equality being enshrined in the European Union for more than 50 years now, the statistics show that decision making positions within relevant organizations of the European judicial systems are still male dominated. Striving for a more democratic representation, barriers faced by women for accessing power positions need to be explored and tackled.

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