

1 December 2020

REPLY TO THE REVISED QUESTIONNAIRE ON THE ORGANISATIONS AND FUNCTIONS OF THE OFFICE OF THE LEGAL ADVISER OF THE MINISTRY OF FOREIGN AFFAIRS

THE NETHERLANDS

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the rank of the Head of the International Law Division within the Ministry of Foreign Affairs of the Netherlands.

2. What are the principal functions of the OLA?

The International Law Division (DJZ/IR) has four main tasks:

- to provide legal advice on international law matters within the ministry, to the embassies, consulates and permanent representations, as well as to the other ministries and to the countries in the Caribbean part of the Kingdom;
- to contribute to the development of the international legal order;
- to coordinate international law issues for the Dutch Government and to ensure unity in the development and interpretation of international obligations, and in particular unity in the preparation of treaties;
- to represent the Netherlands in proceedings before international jurisdictions and arbitrations.

3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

Staff numbers include 25 lawyers and 2 administrative staff members.

The International Law Division, at this moment, employs seventeen women and 10 men, including the Head. There are usually also two interns for four month-periods at the division. The International Law Division has no overseas staff but works closely with the legal advisers in embassies and permanent representations.

4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The Ministry of Foreign Affairs has made the promotion of diversity of background of staff members and their inclusion throughout the organisation one of five of its key priorities, in particular for the period 2018-2020. This concerns diversity and inclusion with respect to *inter alia* gender, sexual orientation, ethnic/cultural background and possible disabilities. To this end, the Ministry is implementing an “action plan diversity and inclusion” for the period 2019-2020. This action plan aims to cover all relevant areas, from recruitment of new staff members, to assessment and promotion, training and awareness raising, safe and inclusive working environment, accommodations for staff members with a disability etc. The Ministry’s aims and activities are part of a broader policy of the Dutch government to address existing imbalances within the work force, create teams that are more diverse and promote and attractive and inclusive working environment.

Concrete targets for the promotion of diversity among staff at various levels have been set, both by the ministry and by the government overall. In order to measure whether progress is being made towards meeting these targets, the composition of the work force is assessed based on a number of parameters, e.g. in terms of representation of staff members at various levels of the organization, disaggregated by gender, cultural background, disability, etc. E.g., an initial target for the inclusion of women at senior management levels was set – government wide – of 40% by 2020. The ministry striving to implement this target by having 40% of female ambassadors by the end of 2020. The government has also adopted specific targets for the inclusion of staff members with a non-western cultural background for both professional and management-level positions.

The International Law Division applies the above-mentioned policies. Training and awareness raising of managers and staff members is a matter of priority. While gender inclusiveness is not an issue – women are in fact well represented at all levels – there is less diversity in other respects.

The government monitors inclusiveness and diversity not only in respect of civil servants but also in relation to bodies, which are closely related to the work of the government. In 2018-2019, the national court of auditors assessed the inclusiveness of a broad range of (statutory) government advisory bodies, including the Advisory Committee on International Law, which advises both government and parliament upon request or *proprio motu* – on matters of international law. The court of auditors concluded that while gender inclusiveness had been achieved in the work and composition of the Advisory Committee on International Law, there was lack of representation from members with a different cultural or ethnic background.

5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA’s work?

As mentioned above, gender equality does not present any difficulties in terms of the composition of the staff of the International Law Division at all levels. Gender inclusion is part of general training of staff.

6. Briefly describe the organisation and structure of the OLA.

The International Law Division works based on a division into four clusters, which comprise the most important subareas of international law:

- international legal order and host state matters;
- peace and security;
- human rights;
- the international environment.

7. What is the OLA's place within the Ministry of Foreign Affairs?

The International Law Division is one of the four divisions within the Directorate of Legal Affairs (the other divisions are the European Law Division, the Treaties Division and the Dutch Law Division).

The Legal Affairs Directorate is positioned within the Ministry as a central directorate with legal policy and staff duties and placed hierarchically under the (deputy) Secretary-General, but with the right of the (Deputy) Legal Adviser to advise the Minister(s) directly, both at their request and upon the (Deputy) Legal Adviser's own initiative.

8. What are the main contacts of the OLA within Government?

The International Law Division provides legal advice within the Ministry of Foreign Affairs, to the diplomatic representations, as well as to the other ministries and to the countries in the Caribbean part of the Kingdom on international law matters.

The International Law Division also acts as an agent before the European Court of Human Rights in Strasbourg and in respect of other international jurisdictions.

9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

Almost all employees of the International Law Division have extensive work experience and previously gained experience at the Ministry of Foreign Affairs, in the legal profession, at other Ministries, at international organisations or in the academic world.

10. Please provide a brief bibliography on the OLA, if available.

H. Lammers, The Role of the Legal Adviser of the Ministry of Foreign Affairs: The Dutch Approach and Experience, 18 Tul. J. Int'l & Comp. L. 177 (2009-2010)