



Working Paper:

**Gender-Negligence in the Occupational
Pension Law Reform in the Netherlands**

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Introduction

Ever since the Barber judgment of the European Court of Justice,² decreasing the Gender Pension Gap (GPG) in Europe seems to be the logical direction of travel. This issue has long been on the agenda of the European Commission³ and also of the European Insurance and Occupational Pensions Authority (EIOPA). However, not enough distance has been covered since then to substantially decrease this gap. The average GPG in the European Union (EU) is still 27%, whereas in the Netherlands this is no less than 40%.⁴

This case study report focuses on the GPG in the Netherlands. The Netherlands has a three pillar pension system. The first pillar concerns the basic state pension, payable to those that have been living and/or working in the Netherlands. The second pillar is the employment-related pension one can build with an employer; the occupational pension. The third pillar concerns the individual pension, e.g. through annuity. In this report, our focus is on the occupational pension and specifically on the gender implications of the pension law reform process that has taken place in recent years and that has culminated in the Future of Pensions Act that entered into force on July 1st, 2023, that is to be implemented in the coming years.

An important gendered feature is the full-time working standard that the new Law applies, mostly fulfilled by men, as opposed to the part-time standard, mostly fulfilled by women. While this Act seeks to modernize the Dutch pension system and to make it future proof, addressing the GPG was not defined as a goal during the negotiations that took place between social partners and government, leading up to its adoption. Ironically, it thus not only fails to address the problem of the GPG but the application of the full-time standard in combination with shifting the centre of gravity of pension accrual to the early career period when many Dutch women work part-time, possibly even entails a new form of indirect discrimination for this group of women workers that the legislator has knowingly and willingly accepted. We will explain this in more depth in Part 3 of this report.

We can thus observe upfront that by not seeking to address the GPG and barriers that contribute to it, the pension law reform has evidently failed to take a gender transformative equality approach.⁵ But even more so, as we will see throughout this report, one may even argue that while the pension reform started out as being gender-blind it later turned out not only to be gender-accommodating but even gender-negligent⁶ which may result in it turning

² Case C-262/88, Barber, ECLI:EU:C:1990:209.

³ See amongst others the EC Gender Equality Strategy 2020-2025.

⁴ See section 1.3 in more detail. Cf also Kali, S., Been, M., Knoef, M. and Van Marwijk Kooy, A. (2021), *Gelijke rechten, maar geen gelijke pensioenen: de gender gap in Nederlandse tweedepijlerpensioenen* (Equal rights, but no equal pensions: the gender gap in the Dutch second pillar pensions), Leiden, Netspar Design Paper 178.

⁵ See on this the RE-WIRING reports 'A Review of Concepts of Gendered Power Hierarchies and their Taxonomy' and 'The RE-WIRING Transformative Equality Approach and its Research Methodology, available on: <https://re-wiring.eu/>

⁶ This is not (yet) recognised as a category of its own in existing approaches, but we consider it relevant to distinguish such category separately as it underscores the fact that knowingly and intentionally the lawmaker/policymaker is not taking the gender dimension fully into account in a way that it is required to do so, also under the applicable legal framework. The prevention of such behaviour requires stronger monitoring and enforcement by controlling bodies, including parliaments.



out gender-exploitative in the future, to the extent of it exacerbating existing inequalities.⁷ As such, the only gender effort that was put into the law reform process at some point was geared towards determining its possible discriminatory effects, but not actively towards the promotion of gender equality. But the government's approach even reveals negligence towards the prevention of gender discrimination beyond any doubt and therewith falling short of its legal obligations, including its duty of care (see in particular sections 4.3 and 5.2). The Dutch government did not include the goal of reducing the GPG in the new Future of Pensions Act, despite the existence of such a large GPG. We like to flag upfront that another approach is possible, for instance, the Spanish government introduced a 'new gender gap supplement' in its recent pension reforms in 2021 and 2023, having added the reduction of the pension gap to the objectives of the laws (see section 3.4).

The case study is divided into five parts, therewith discussing not only gender impacts from the new Act from a substantive perspective, but also regarding the process of law reform and the broader historical, political and societal context within which it has come about. Part 1 provides a general description of the Dutch pension context and available data on the GPG. Part 2 looks into women's representation in the governance of the pension sector and roles they fulfil. Part 3 proceeds to critical analysis of the pension law reform from a gender perspective and presents main outcomes thereof. Part 4 considers what narrative there has been on the gender dimension of the law reform. In Part 5 we look at the extent to which the GPG and pension law reform process connects to other gender related crises and backlash and identify good practices and recommendations. The analysis has been conducted on the basis of a questionnaire (see Annex II) and responses rely on a broad use of relevant documentation; legal and policy documents, reports from NGOs, social partners and other relevant stakeholders and academic doctrine. Apart that, it also reflects input from a variety of stakeholders that has been gained from a stakeholder roundtable as well as from individual discussions with stakeholders.⁸

⁷ On these notions, see the Interagency Gender Working Group [IGWG]. (2017). The gender integration continuum: training session user's guide. Washington D.C.: Population Reference Bureau, United States Agency for International Development (USAID). In short, gender-blind are laws and policies that intentionally or unintentionally ignore the power dynamics between men and women/boys and girls and the different set of economic/social/political roles, rights, responsibilities, entitlements and obligations that are associated with being male/female. Gender aware are policies and programs that recognise and address such gender differences, but which may do so in negative or positive ways. So, they may be gender exploitative programs, laws and policies which intentionally or unintentionally reinforce or take advantage of gender inequalities and stereotypes or which exacerbate inequalities. But they may also concern gender accommodating approaches that recognise gender differences and inequalities but work around them and do not try to reduce them or to address the root causes that underlie them; gender transformative laws and policies seek to promote gender equality by considering those root causes and critically examining gender roles, norms and gendered power hierarchies and by introducing measures, rules etc that help transforming the underlying institutional structures that perpetuate gender inequalities. See also [Activity-0.1 Understanding-and-Appling-the-Gender-Equality-Continuum.pdf](#) and the RE-WIRING Country reports and Working Paper on root causes of gendered law- and policymaking processes and their effective tackling, available on <https://re-wiring.eu/>

⁸ See Annex 1 for a more detailed account of the stakeholder roundtable.

Part 1: General description of the case study

1.1 State of the debate

July 1st, 2023 the new Future of Pensions Act has entered into force, the implementation of which needs to be realized by January 1, 2028. The Act constitutes the legal translation of the Pension Agreement that came about in June 2019 and its implementation in 2020. The Act is the final part of a years-long process aimed at the revision of the pension system. The structure of the employment conditional pension system that prevailed was no longer considered appropriate because of economic developments, the changed labor market and the preferences of employers and employees. The Act also contains changes to the survivor's pension system.⁹

Pension funds, employers and social partners will have to collaborate on the implementation of the new Act and may agree to a transition plan towards the full implementation by 2028. Internal supervisory bodies of the pension funds, but also the Dutch Central Bank and the Authority Financial Markets have an important supervisory role to play.

In its advice on the new Act, the Council of State has flagged that the Act does not change the existing governance structure of the pension sector while trust in it has eroded over time, amongst others because of the non-indexation, suspended indexation and nominal reductions of pensions in several pension funds (see also below). It has therefore held that "the new Act should ensure not only substantive guarantees that lead to balanced outcomes but also procedural guarantees that ensure adequate decision-making and sufficient participation and consultation" (our translation).¹⁰ In our opinion, the Act as adopted does not meet this standard as we will explain throughout this report.

There are two main relevant developments that need consideration for the purpose of this case study from a gender perspective. First of all, the governance of the pension sector and women's representation and role therein. This will be the main focus of Part 2 of this report. Secondly, the substance of the new occupational pension law and how it may entail the risk of maintaining or increasing the GPG because of its potential indirectly discriminatory effect. This will be addressed in Part 3 of the report.

1.2 Policy evolution

The existing occupational pension system is based on the system of time-proportional pension accrual with an age-independent (average) pension (*doorsneesystematiek*), which entails that the same premium percentage is paid for every employee and employees receiving the same

⁹ See the IAK assessment, accessible at: <https://www.internetconsultatie.nl/wettoekomstpensioenen>

¹⁰ Council of State Advice of 16 February, 2022, published 30 March, under point 2(a). Kamerstukken II 2021/22, 36067, nr. 4, available at: <https://www.raadvanstate.nl/adviezen/@127891/w12-21-0366-iii/>



pension accrual for every euro invested, regardless of age. In that system younger participants basically subsidise older participants, because the contributions of the younger participants are invested for a longer period of time and can therefore yield a longer return. The idea behind it is that when the younger participants grow older, they will at their turn be subsidised by the younger participants. The average system has been criticised because of its untransparent redistribution between age groups. While the system worked sufficiently when employees participated in the same pension scheme their entire life and when the ratio of old to young people remained reasonably the same, these conditions are not fulfilled anymore in today's society and labour market, which can therefore lead to uneven growth in mutual subsidies.¹¹ The current labour market has become more dynamic, as people change jobs much more often but also the type of job, which has led to substantial growth of self-employed workers that are not required to pay into a personal pension plan. A particular problem of the system has been that, despite positive investment returns, several pension funds have been unable for many years to index pensions and pensions entitlements as a result of the low interest rate environment, requiring them to maintain high reserves. This has led to a decline in purchasing power of retirees of specific pension funds.¹² It has also resulted from the financial crisis of 2008 that the coverage ratio of pension funds has deteriorated to the extent that the current system is not sustainable anymore for the future.¹³ As a result, the pension people can expect upon retirement does not live up to expectations. While premiums have increased because of lower interest rates, the purchasing power of retirees in several pension funds has deteriorated further. This is one of the reasons for social partners to negotiate the fundamental change of the pension system. Besides tackling this problem, the new Act also addresses certain problems in the regulation of the survivor's pension and self-employed workers as well as the long waiting period for pension entitlements of temporary workers. Under the new Future of Pensions Act, the starting point is not an equal contribution percentage with the same accrual for every participant, but only an equal contribution percentage for all participants. As such, the paid premium is the same for older and younger employees, but not the return.

1.3 Gender and intersectional data

As mentioned in the Introduction to this report, the gender pension gap in the Netherlands concerns the differences in occupational pensions between men and women and it still amounts to some 40%. The identified factors contributing to this gap include the gender pay disparity, career interruptions and part-time work, unpaid care tasks and paid care tasks

¹¹ <https://www.werkenaanonspensioen.nl/onderwerpen/overstappen-op-een-vlakke-premie-afschaffing-doorsneesystematiek/van-doorsneesystematiek-naar-vlakke-premie>

¹² It must be noted that several pension funds have been able to index pensions and entitlements. Their problem is that due to current fiscal rules the reserves are too high and cannot be distributed to participants. The new Future of Pension Act allows these pension funds to pay out the excess reserves.

¹³ NIHR Advice 2022, p. 2. More generally, see Sylvia Walby, Gender and the Financial Crisis, 2009. http://www.lancs.ac.uk/fass/doc_library/sociology/Gender_and_financial_crisis_Sylvia_Walby.pdf; UNWomen, The Global Economic Crisis and Gender Equality, NY September 2014.



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without pension entitlements and working in sectors where pay and thus also pensions are generally lower, such as healthcare, childcare and cleaning.^[14] This system is hard to change, because it has become embedded in the Dutch labour market. Research has pointed to the need of a multilayered approach, that should be geared towards making it more attractive financially to work more hours; providing better information about the consequences of part-time work, including for the pension; and creating more and better paid leave opportunities and for flexible work arrangements that enable both men and women to combine work and care.¹⁴ However, these solutions do not provide fundamental changes to the system and can mostly be labelled as "fixing the women" approaches. In addition, recent research¹⁵ concluded that the most important contributing factor to the GPG in Germany and the Netherlands is in fact the substantial amount of unpaid care work that women perform during their career.

In the early Emancipation Monitors published by the Dutch Central Bureau of Statistics (CBS), detailed figures were presented on the gender pension gap. It also gave information about specific migrant women groups. The Monitor of 2005 thus states that the pension situation of Surinam women and women from the Dutch Antilles was similar to that of Dutch women, while women from Moroccan and Turkish descent had much lower or hardly any occupational pension.¹⁶

A study the CBS published in 2014¹⁷ revealed that while the share of women of 65 years and older with an occupational pension had significantly risen, it was still substantially lower than that of men. In 2000, 50% of women had such a pension and in 2012 this was 60% while 92% of men had an occupational pension. Only 40% of married and cohabiting women had an occupational pension. Older generations of women also had lower pension entitlements than younger generations of women.

¹⁴ McKinsey Global Institute (2018), 'The power of parity. Het potentieel pakken: de waarde van meer gelijkheid tussen mannen en vrouwen op de Nederlandse arbeidsmarkt' (Take the potential: the value of more equality between men and women on the Dutch labour market), September 2018. Available at <https://wp-hetpotentieelpakken.s3.eu-central-1.amazonaws.com/2021/01/MGI-Power-of-Parity-NederlandSeptember-2018-Final-min.pdf>.

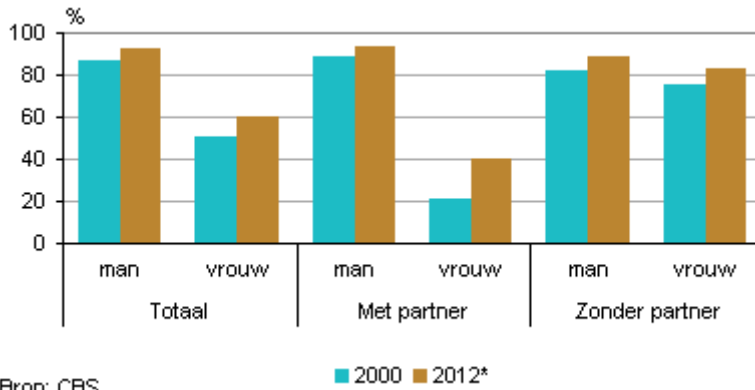
¹⁵ Rowold, C. (2023). An accumulation of gender inequalities in old age? Exploring life course- and gender-sensitive approaches for analysing Gender Pension Gaps [PhD thesis]. University of Oxford.

¹⁶ <https://www.cbs.nl/nl-nl/publicatie/2009/08/emancipatiemonitor-2008>, pp. 177-180.

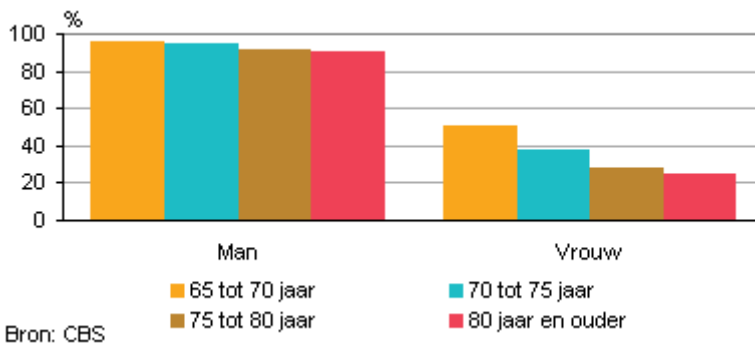
¹⁷ <https://www.cbs.nl/nl-nl/nieuws/2014/22/pensioenloof-tussen-mannen-en-vrouwen-nog-steeds-groot>



65-plus people with occupation pension (2012) ¹⁸



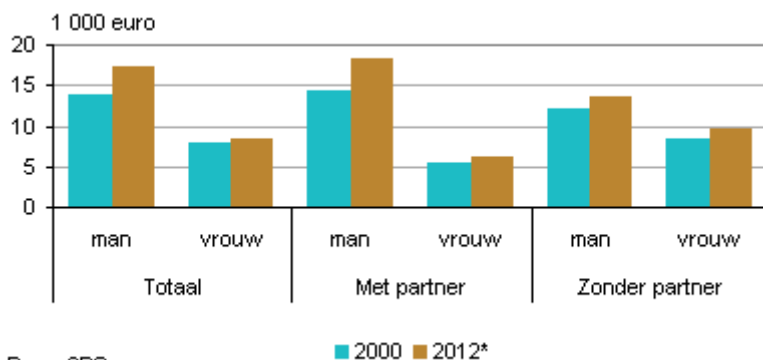
Occupational pension 65-plus with partner depending on age (2012)



The amount of occupational pension was on average only half of the occupational pension of men (8 400 against 17 300 euro gross in 2012). The gap was biggest in the age group of 65 plus with partner. Importantly, in this group the gender gap even became bigger; women had 38% of the men's amount of pension in 2000 and in 2012 this had decreased to 34%.

¹⁸ <https://www.cbs.nl/nl-nl/nieuws/2014/22/pensioenkloof-tussen-mannen-en-vrouwen-nog-steeds-groot>. Wim Bos, Personen van 65 jaar en ouder met aanvullend pensioen (maatwerk).

Average occupational pension for 65-plus, gross annually

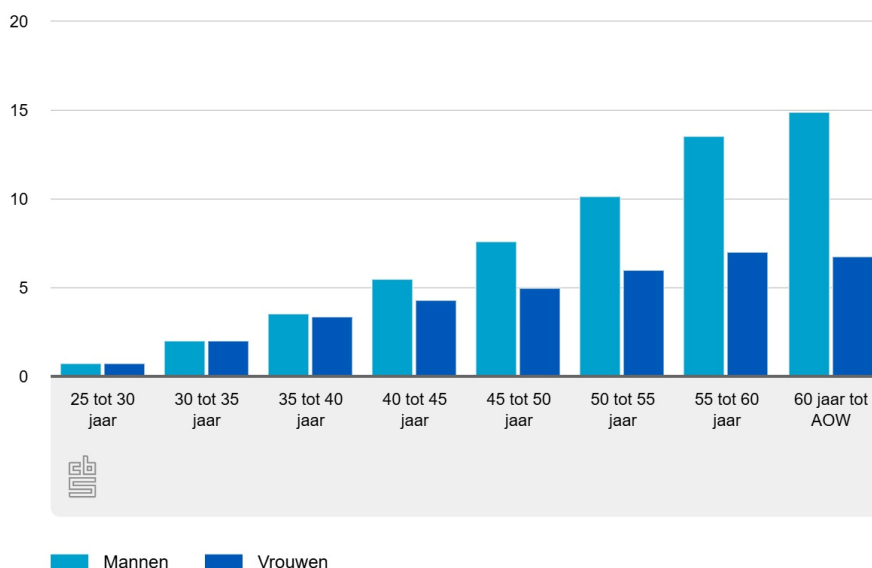


In 2017, the share of women receiving occupational pension had grown to 65% and for those with a partner to 48%, but the pension was still less than half of that of men, the gap being highest for the older age groups.¹⁹

Average occupational pension, gross annually (CBS, 2019)

Gemiddeld opgebouwd pensioen, bruto per jaar

x 1 000 euro



¹⁹ <https://www.cbs.nl/nl-nl/nieuws/2019/27/vrouwen-hebben-steeds-vaker-aanvullend-pensioen> Zie ook CBS, Welvaart in Nederland, 2019.



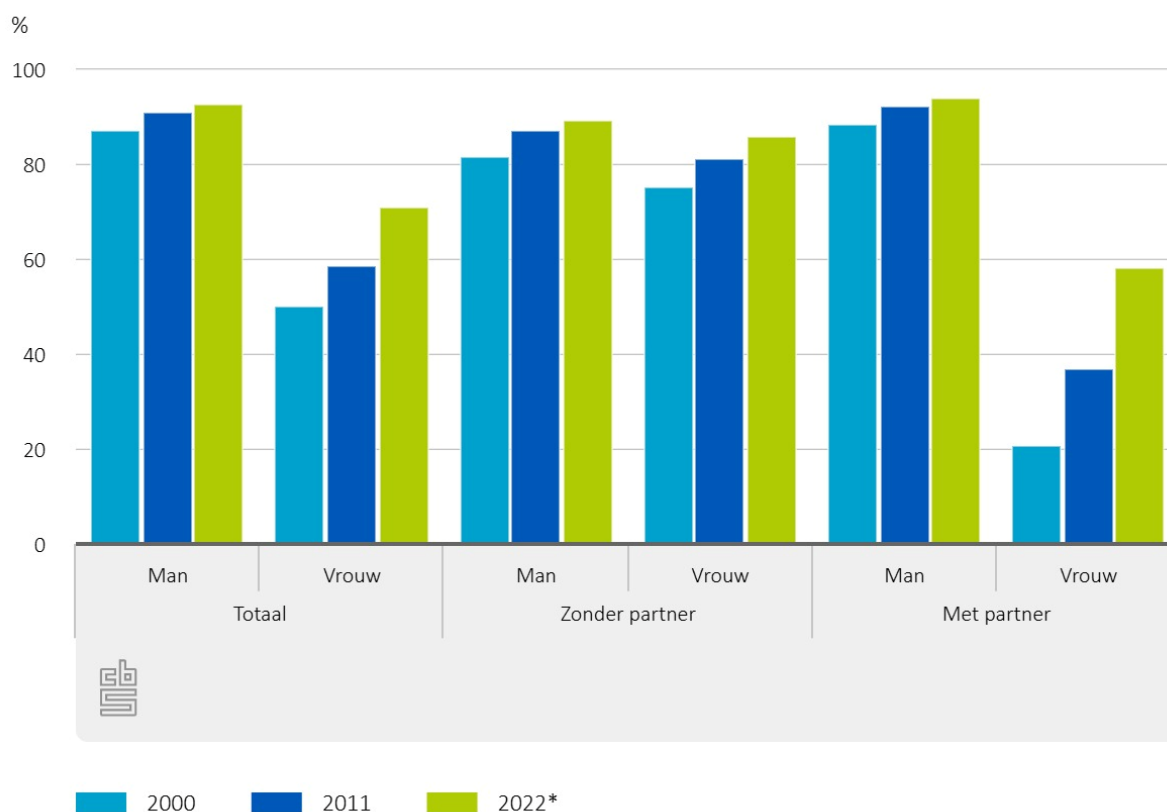
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In 2022, the share of women entitled to an occupational pension had grown to more than 70% and 59% of women with a partner have also built some occupational pension entitlement, be it still a considerably lower amount than that of women without a partner. The average entitlement of occupational pensions of women (6400 euro gross annually) is still less than half of men's entitlements. Also men's entitlements over time have grown harder than those of women (between 2000 and 2011, 24% for men, 14% for women; between 2011-2022, 14% for men, 10% for women).

State pensioners with an occupational pension (CBS, 2024)²⁰

3.1.4 AOW'ers met aanvullend pensioen



²⁰ <https://longreads.cbs.nl/materiele-welvaart-in-nederland-2024/inkomen-van-personen/#:~:text=Vrouw%20heeft%20minder%20aanvullend%20pensioen%20dan%20man&text=In%202022%20hadden%20ze%20met,niet%20alleen%20vaker%20werkzaam%20geweest>

While there are thus statistical data available, it is noteworthy that the Emancipation Monitors of recent years do not provide any detailed information anymore on the gender pension gap, despite its persisting magnitude and relevance. There is also a clear lack of intersectional data.

The Dutch Central Bank has also recently performed a study to get a more complete picture of the pensions of specific groups, including (single) men and women, different age groups, workers and self-employed as well as migrants, but these data lack an intersectional approach as well.²¹

Part 2: Leadership and crisis management

2.1 Numerical presence

A. On boards of pension funds ²²

2.1.1 Women's general under-representation and underlying reasons

There is a lack of aggregated data on women's representation on decision-making bodies in pension funds in the public domain. The Dutch Social and Economic Council concluded in 2009²³ that boards of pension funds were dominated by men of 55 years of age and were not adhering to the 'Principles for good pension governance' that were signed by stakeholders in 2005²⁴ and that came into force with the Pension Law in 2007. Subsequently, in 2010 a Covenant Increasing Diversity in Pension Fund Boards²⁵ was signed, aimed at increasing diversity in terms of age, gender and ethnic background to better represent²⁶ the participants. Swinkels et.al.²⁷ concluded in 2012 that the boards predominantly consisted of males between the age of 50 and 65 years with 6 years' tenure, that they showed a similar lack of diversity as corporate boards showed and that they could therefore benefit from the experiences in

²¹ Cindy Biesenbeek (DNB), Jim Been, Koen Caminada en Kees Goudswaard (Universiteit Leiden), en Marike Knoef (Tilburg Universiteit), De toereikendheid van pensioenen: naar een completer beeld van pensioeninkomen van de Nederlandse bevolking, 2024 De Nederlandsche Bank n.v.

²² There are no publicly reported aggregated data available on the gender composition of boards of the Dutch pension industry. Therefore, we rely on information from various stakeholders and literature.

²³ Rapport van de SER Pensioencommissie, Inventarisatie Principes voor goed pensioenfondsbestuur, 19 maart 2009

²⁴ <https://www.dnb.nl/media/y1ygvw32/principes-voor-goed-pensioenfonds-bestuur.pdf>

²⁵ Pensioenfederatie (2011), Aanbevelingen deskundig en competent pensioenfondsbestuur, 23 mei 2011.

²⁶ It should be noted that all board members are required by law to act in the best interest of the whole fund, regardless which group they represent or are elected by.

²⁷ Laurens Swinkels and Vinzenz Ziesemer, Diversity of Dutch pension fund boards, April 2012, in Pensions: An International Journal, <https://link.springer.com/article/10.1057/pm.2012.15>



increasing diversity in the corporate world. Research²⁸ that was conducted three years after the introduction of this self-regulation approach indicated that there was a marginal improvement on gender diversity; however, more than 35 percent of boards were still all-male boards in 2014.

Reasons for the severe underrepresentation of women on pension fund boards are multiple and complex. Leadership changes are on average less frequent than in the corporate world, which structurally slows down the potential pace of change.²⁹ Members of pension fund boards tend to serve for extended periods, which creates a comfortable environment where they accumulate significant experience and are less inclined to leave. And even when vacancies arise and funds do not yet comply with the norm, the Monitoring Committee in 2022 noted that many are still missing the opportunity to appoint a woman to the board.³⁰ Another factor is the sector's image as conservative, traditional and symbolized by its white, predominantly male boards. This does not attract many newcomers, which also report having to struggle to get into the closed networks in the sector.³¹ In addition, the complex system of representation of certain groups (like social partners, employers, unions, pensioners, employees, former employees (called 'sleepers') on boards does not lead to one large pool of candidates (like for corporations) but to rather smaller pools per group. Also the difference between corporate and industry-wide pension funds plays a role. Corporate pension funds are governed by representatives of the employer and employees, and sometimes also retirees. Industry-wide pension funds execute a pension scheme for all companies within an economic sector (like for civil servants, workers in transport or textile companies). These industry-wide pension funds are governed by representatives of employers' organizations and trade unions.

2.1.2 The applicable rules

The Dutch Central Bank plays an important role in the appointment of board members of pension funds by interviewing and ultimately approving the candidates. Eligibility for board membership is regulated by law (*Beleidsregel geschiktheid 2012*).³² Depending on the governance model of the pension fund, board candidates are proposed by various stakeholders, such as employers' and employees' organizations, trade unions. The Dutch Central Bank considers gender diversity in its board member approval process, and the minister emphasized this requirement in the accompanying letter introducing the reviewed Pension Code, for implementation per January 1, 2024.³³ As the *Beleidsregel* provides an

²⁸ Van der Lecq, S. G., Swinkels, L. A. P., & Shi, L. (2017). Board Diversity and Self-Regulation in Dutch Pension Funds. *Equality, Diversity and Inclusion: An International Journal*, 36(2), 111-127. <https://doi.org/10.1108/EDI-05-2016-0043>

²⁹ The 2024 Code limits the number of term renewals to two, which should lead to higher frequency of vacancies (opportunities to appoint a member in line with diversity policy) and lower average tenure of board members.

³⁰ <https://mcpf.nl/wp-content/uploads/2024/01/bijlage-2-overzicht-ontwikkeling-diversiteit-in-besturen-van-pensioenfondsen-over-2022.pdf>

³¹ <https://www.pensioenfederatie.nl/actueel/nieuws/2024/3.-maart/taskforce-diversiteit-gelijkwaardigheid-en-inclusie-van-start>

³² <https://zoek.officielebekendmakingen.nl/stcrt-2023-9141.html>

³³ <https://open.overheid.nl/documenten/669ece20-4294-4b7b-a2bc-7382ca9ffab9/file>



individual assessment framework regarding the qualifications a board member needs to have, it does not contain a general reference to diversity.

In 2014 the Labour Foundation (Stichting van de Arbeid)³⁴ and the Dutch Federation of Pension Funds (Pensioenfederatie)³⁵ developed the Dutch Pension Fund Code.³⁶ It prescribes standards for 'good pension fund governance' and defines pension funds as 'financial institutions with a social purpose'. The Code and amendments require ministerial approval. Stakeholders are the employees, employers, and the members (employees, former employees, other beneficiaries and pensioners) of pension funds.

The 2018 version of the Dutch Pension Fund Code (see also section 1.2) prescribed that every board had to include at least one woman and one man:

"In both the board and in the accountability or stakeholder body, there is at least one woman and one man. There are individuals both above and below the age of 40. The board develops an action plan to promote diversity within the board." (norm 33)

In 2022 the Monitoring Committee on the Code for Pension Funds reported³⁷ that 81% of the pension funds had at least one woman on their boards, so the number of all-male boards dropped to 19% from 35 percent in 2014. In addition, less than half of the funds, 82, had 2 or more women on their boards. To put the numbers into context, in 2024 there were 166 pension funds. Boards of smaller funds may consist of 3-5 members, whereas boards of larger funds may have 7-9 members. Deriving from these numbers it can be stated that women are still seriously underrepresented in leadership positions.

While the First Chamber of Parliament commented on the lack of progress already in 2018,³⁸ and also other parliamentarians since then³⁹ it is still left to the pension funds themselves to bring about change. The revised Code 2024⁴⁰ reinforces the importance of diversity in 4 norms. They require funds to adopt a written policy aimed at increasing and maintaining diversity in the fund bodies⁴¹ and to set appropriate goals concerning the level of diversity in all socially relevant aspects for the fund, including at least gender or gender identity, age, and social-cultural background (norm 34).

³⁴ National consultation body for the central organisations of both employers and employees, founded in 1945

³⁵ <https://www.pensioenfederatie.nl/home>; The Federation's membership covers approx. 85% of employees that participate in pension funds in the 2nd pillar.

³⁶ <https://www.stvda.nl/-/media/stvda/downloads/engels/2023/Code-Pensioenfondsen-2024-ENG.pdf>

³⁷ <https://mcpf.nl/wp-content/uploads/2024/01/bijlage-2-overzicht-ontwikkeling-diversiteit-in-besturen-van-pensioenfondsen-over-2022.pdf>

³⁸ Eerste Kamer, Vergaderjaar 2017-2018, 33 182. In 2023, the responsible Minister reported on it: <https://www.rijksoverheid.nl/documenten/kamerstukken/2023/04/24/kamerbrief-diversiteit-pensioenfondsenbesturen>

³⁹ Most recently in 2024, see <https://zoek.officielebekendmakingen.nl/ah-tk-20232024-1034.html>

⁴⁰ <https://www.pensioenfederatie.nl/website/publicaties/servicedocumenten/code-pensioenfondsen-2024>

⁴¹ This includes boards (executive and non-executive or supervisory), Verantwoordingsorgaan and Belanghebbendenorgaan.



Regarding leadership positions norm 35 now reads:

*“Regarding gender diversity, the minimum is that there is **variation in gender or gender identity** in the said bodies.” (our emphasis)*

By broadening the scope in this way to gender identity in all pension fund bodies and using the word 'or' and not 'and',⁴² there is de facto no specific minimum requirement anymore for women's representation on boards, like in the previous Code. In the ministerial regulation approving the new Code,⁴³ no explanation is given for this rather fundamental change of the previous policy. Remarkably also, the accompanying letter of the Minister to the Dutch parliament is almost entirely dedicated to the topic of diversity and inclusion but omits specifically women's board representation.⁴⁴

2.1.3 Monitoring/enforcement mechanisms

There is a Monitoring Committee on the Code for Pension Funds.⁴⁵ There are, however, no sanctions in the Code provided for non-compliance with norms 34 and 35. The Dutch Central Bank may invite boards that do not apply any of the norms to have “a conversation”. It is not clear if this has ever happened in case of non-compliance with norms on diversity of gender specifically.

Article 107⁴⁶ of the previous Pension Act required pension funds to report in their annual report on the gender and age composition of the pension fund bodies, including the board, and on the actions they have taken to improve diversity. Article 176 provided the possibility of administrative fines in case of non-compliance with article 107. The new Future of Pensions Act does not include any reference to diversity, gender or women's representation on boards, since addressing this topic is not a goal of the Act. The aforementioned norm 34 of the revised Pension Codeⁱ of 2024, prescribes that pension funds need to report on their diversity policy, including their targets, and the results in the management report in the annual report.

It is interesting to note that on the EU level, pension funds have not been addressed where this could have been done. This regards first of all the EU Directive on reporting on non-financial information and diversity (now the CSRD).⁴⁷ This Directive only applies to large and

⁴² This includes boards (executive and non-executive or supervisory), Verantwoordingsorgaan and Belanghebbendenorgaan.

⁴³ <https://zoek.officielebekendmakingen.nl/stcrt-2023-31689.html>

⁴⁴ <https://open.overheid.nl/documenten/669ecec20-4294-4b7b-a2bc-7382ca9ffab9/file>

⁴⁵ <http://mcpf.nl/monitoringcommissie-presenteert-nalevingsrapport-over-20162017/>

⁴⁶ <https://wetten.overheid.nl/BWBR0020809/2024-01-01#Hoofdstuk5>

⁴⁷ Directive (EU) 2022/2464 of the European parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, OJ 2022, L322/15. Its amended Article 20(1) g now prescribes: “a description of the diversity policy applied in relation to the undertaking's administrative, management and supervisory bodies with regard to gender and other aspects such as, age, disabilities or educational and professional background, the objectives of that diversity policy, how it has been implemented and the results in



listed financial entities, and not generally to pension funds.⁴⁸ The Gender Balanced Boards Directive, which had to be transposed by 31 December 2024, also sets rules and reporting obligations on diversity but only for listed companies.⁴⁹ The EU Pay Transparency and Better Enforcement Directive⁵⁰, though, can be said to imply obligations also for pension funds, its Article 3 referring to all salary components, including complementary or variable components, other than basic pay. Consideration 21 refers to occupational pensions as an example of such complementary or variable components, and more broadly to 'all elements of remuneration under law and collective agreements'. Pension premiums therefore should be understood to be part of the reporting requirement. However, there is no indication if they need to be reported on separately or as a lump sum (all salary components together). Notably, the Ministry of Foreign Affairs does not mention the pension gap.⁵¹ Under the new rules companies are required to report information on salaries and to act if their gender pay gap exceeds 5 percent. The European Council explicitly links the gender pay gap to the persisting pension gap and women's risk of exposure to poverty.⁵² The Directive needs to be implemented in national legislation in 2026 and is applicable to companies with more than 250 employees. Organisations with less than 100 employees are exempt from reporting, whereas companies with 100 – 250 employees are required to report every three years. Since a lot of pension funds are small in terms of number of employees because of outsourcing administration and investments, not all will be required to adhere to this law unless all pension funds are specifically included in the law. Another important feature of this Directive is that intersectional discrimination (such as the combination of gender and ethnicity or sexuality) is included.

B. On crisis-response level bodies

(i) Taskforce Diversity, Equality and Inclusion

Pressure from the Dutch parliament led to the installation of a special Taskforce Diversity, Equality and Inclusion in 2024 as part of the new Code Pension Funds 2024 by the Labour Foundation and the Dutch Federation of Pension Funds. The taskforce consists of ten members, of which 6 women, including the female chair. Its assignment is to improve the

the reporting period. If no such policy is applied, the statement shall contain an explanation as to why that is the case."

⁴⁸ According to Article 19a of [Directive 2014/95/EU of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups](#), it are large undertakings which are public-interest entities (and exceeding on their balance sheet dates the criterion of the average number of 500 employees) that shall include in the management report a non-financial statement containing information to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity, relating to, among other aspects, environmental matters and respect for human rights. Its Article 29a concerns the consolidated non-financial statement to be included by public-interest entities which are parent undertakings of a large group.

⁴⁹ See Article 2 of Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures, OJ 2022, L315/44.

⁵⁰ <https://eur-lex.europa.eu/legal-content/NL/ALL/?uri=celex:32023L0970>

⁵¹ <https://ecer.minbuza.nl/-/nieuwe-eu-regels-over-loontransparantie>

⁵² <https://www.consilium.europa.eu/en/policies/pay-transparency/>



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representation of women and young people on boards. Founding parties will evaluate the results in three years, so in 2027 for the first time. Chair of the Taskforce Inge Bleijenbergh commented that “she was taken back by the lack of ambition of the industry compared to the ambition in the academic community and the corporate world”.⁵³

(ii) Dutch Federation of Pension Funds

The Dutch Federation of Pension Funds (Pensioenfederatie) is the umbrella organization representing the interests of almost all Dutch pension funds. It promotes the further development of the 2nd pillar pension system. The Board, including chair, consists of 13 board members, of which 4 women (31%).⁵⁴ Chair of the Federation Board is a man.

(iii) Dutch Central Bank

The President of the Dutch Central Bank is a man, like in all EU-countries.⁵⁵ The Executive Board consists of 3 men (including the president) and 2 women (40 percent). The Supervisory Board consists of 7 members, of which 4 (including chair) are men (43% women).

(iv) Government Commissioner Transition

The special commissioner appointed by government to ensure a smooth transition process to the new law (Regeringscommissaris transitie pensioenen)⁵⁶ is a woman, prof. Fieke van der Lecq. The tasks include evaluation and promoting the transition to the new pension system. The commissioner identifies any potential obstacles and advises the Minister upon request and on their own initiative on possible measures to address any obstacles in the transition. The focus seems to be on the smooth transition of the enormous complex administrative processes and not on the outcomes of the implementation of the new system for any groups, such as women. The commissioner’s tasks are described in the context of the main objective (art. 1): “Transition to the new pension system: the modification of pension agreements with the aim of complying with the new framework as introduced by and in accordance with the requirements under the Future of Pensions Act.” From the Commissioner’s first Report⁵⁷ it can be inferred that the commissioner does not oversee the content of the pension schemes and products, but that the transition is monitored as a process, with the new pension law as a given.

(v) Social and Economic Council (SER)

In 2005, the Stichting van de Arbeid (StvdA) established the Principles for Good Pension Fund Governance, which mandated a comprehensive review of implementation efforts in 2008. The evaluation was subsequently assigned to the SER (Pension Committee)⁵⁸ and encompassed

⁵³ <https://www.pensioenfederatie.nl/actueel/nieuws/2024/3.-maart/taskforce-diversiteit-gelijkwaardigheid-en-inclusie-van-start>

⁵⁴ <https://www.pensioenfederatie.nl/over-ons/bestuur>

⁵⁵ <https://eige.europa.eu/publications-resources/publications/gender-balance-business-and-finance>

⁵⁶ Besluit van de Minister voor Armoedebeleid, Participatie en Pensioenen van 7 december 2023, nr. 2023-0000579722, houdende de instelling van de regeringscommissaris transitie pensioenen (instellingsbesluit regeringscommissaris transitie pensioenen), *Staatscourant*, 15 december 2023, nr. 34492.

⁵⁷ Eerste rapportage Regeringscommissaris transitie pensioenen, 17-6 -2024

⁵⁸ Rapport SER Pensioencommissie, Inventarisatie Principes voor goed pensioenfondsbestuur, 19 maart 2009.



data on 344 pension funds, provided by the Dutch Central Bank. Gender representation within the SER Pension Committee reflected a serious lack of female members. Specifically, the Committee was composed of 18 members, including advisory and ministerial representatives but excluding secretarial staff, none of whom were women. The Evaluation Working Group for Pension Fund Governance (EPFG) comprised 3 women and 13 men, with some overlap in membership with the Pension Committee. The term "diversity" is notably absent from the report.

In the survey for this evaluation, questions were included about the age distribution of representatives within the fund bodies, dividing them into 5 age cohorts. The survey also inquired about the number of women holding positions in these bodies. However, data on the intersection of age and gender within these bodies was not available. The evaluation revealed low female representation across the 4 governance bodies (executive board, supervisory council (VO), internal oversight body and participants' council). Specifically, women constituted 10 percent in each. The SER commented that the 10 percent was *"disproportionally low compared to women's representation among participants (47 percent) and pension beneficiaries (25 percent)."*⁵⁹ In addition, the SER concluded that more than half of the seats were occupied by individuals over 55 years old.

As an explanation of women's underrepresentation in fund governance, the SER cited findings from their study conducted the previous year, suggesting that *"women are less interested in pension matters than men"*.⁶⁰ This study revealed that women tend to be less concerned about pensions, while men more actively keep themselves informed of pension-related developments. Notably, this report lacked quantitative data to substantiate the extent of gender-based differences in pension interest.

(vi) PFZW (Pension fund for the Care and Welfare Sectors)

Around 80 percent of employees in the care and welfare sectors are women.⁶¹ This segregation in the labour market is reflected in the gender composition of the participants in the pension fund PFZW, i.e. 86 percent. PFZW is one of the largest pension funds, with 2.9 million participants and Euro 238 billion in assets (2023). The Executive Board consists of 11 members, of which the independent Chair and 5 other members are women (55 percent). The supervisory board is led by a man and is gender balanced (50/50)⁶².

2.2 Intersectionality

Which groups of women/interests are (un)represented? Intersectionality and variation in gender identity were not addressed in the 2014 and 2018 versions of the Code. While the

⁵⁹ Ibid., p. 32.

⁶⁰ Ibid.

⁶¹ <https://www.cbs.nl/nl-nl/nieuws/2024/35/zorg-en-welzijn-bedrijfstak-met-grootste-aandeel-vrouwen>

⁶² <https://www.pfzw.nl/over-pfzw/wij-zijn-pfzw/organisatie/bestuur.html>



revised Pension Fund Code 2024 now explicitly includes "variations in gender or gender identity," it does not take an intersectional perspective.

The 2024 Code does contain a specific section on 'Complying with and promoting suitability, diversity and inclusion policies', which stipulates:

"33. The composition of fund bodies in terms of suitability, complementarity, diversity and inclusion, stakeholder reflection and continuity is recorded in policy.

34. The pension fund has adopted a written policy to increase or maintain diversity and inclusion in its fund bodies. This policy sets *appropriate targets* regarding the level of diversity in all social aspects relevant to the pension fund, *including at least gender or gender identity, age and socio-cultural background*. Based on this policy, the pension fund has a planned approach aimed at achieving these goals. The board periodically *reassesses this policy and annually reports* on the results of this policy in the annual report.

35. With regard to *age diversity*, the minimum is that at least one person who is younger than 40 sits on the board and the accountability body or the stakeholder body. *Regarding gender diversity, the minimum is that there is variation in gender or gender identity in the said bodies*.

36. The board, internal supervision, accountability body and stakeholder body take into account the diversity and inclusion policy when drawing up the requirements to be met by new members of the body." [our emphasis]

This section therewith hints at least at the relevance of several grounds of discrimination to be taken into consideration in the stipulation of diversity policy, yet not from an intersectional perspective.

Notably the Code itself does not prescribe specific targets for the variation of gender or gender identities in bodies but requires pension funds to develop a diversity policy and set appropriate targets themselves. The question that is therewith also left open is what would constitute an 'appropriate' target.

In its Workplan 2024 the Taskforce Diversity, Equality and Inclusion of the Federation of Pension Funds⁶³ refers to the UN guidelines for diversity management and the International Labor Organisation for its definitions, but does not address either the definitions nor targets for "variation in gender or gender identities".

2.3 Roles

Another question concerns the roles/positions in which are women acting. The Association of Women in Institutional Pensions (Viip)⁶⁴ regularly organizes events to improve diversity in the sector but has not published on the topic of the Future of Pensions Act.

⁶³ <https://www.pensioenfederatie.nl/actueel/nieuws/2024/5.-mei/taskforce-dgi-presenteert-ambitieuw-werkplan>

⁶⁴ <https://www.viip.nl/info-2/over-viip>



The FNV Vrouwen Netwerk (a large trade union women's network) has emphasised attention for solving the gender pension gap and organized a meeting in April 2024. Suggestions for closing the GPG that were discussed included compensation for unpaid care workers for missed pension accruals and the possibility for continued pension accrual during parental leave.⁶⁵ Regarding the impact of the new Future of Pensions Act, it was noted that the emphasis is shifting more toward pension accumulation in the first years of a career and that raising awareness of the financial consequences of part time work among women were even more necessary.

See further hereafter and under the previous sections, in particular 2.1. in which the role of women in different pension-related organisations and boards has been detailed.

2.4 Space of representation (formal/informal)

The lengthy legislative process (starting from 2008) of the new Future of Pensions Act included various round tables with different stakeholders, position papers and rapporteurs.⁶⁶ But women's organisations were not visibly part of the process, nor was the possible impact of the Act on women a topic in any of the position papers at the round tables with stakeholders regarding the Reform of the pension system on 22 April 2022.⁶⁷ Out of 17 speakers there were 6 women. Also, organizations of pensioners have not addressed the topic systematically.⁶⁸

Women's organisations such as Women Inc.⁶⁹ raise awareness of the pension pay gap in relation to the gender pay gap and economic independence of women. Yet, we have been unable to retrieve any information about whether and how such women's organisations have actually immersed themselves in the debate on the pension law reform and its gender impacts.

The lack of adequate representation of women in the decision-making process (e.g. in pension committee of the SER at the time of the negotiations for the Future of Pensions Act), the technicality and complexity involved in the pension system, the expertise and interest this requires in understanding its – gender – impacts, combined with limited resources of grassroots and women's organisations are all reasons why their voices in the law reform and public debate are weak. Another reason is that no gender impact assessment test has been performed on the Future of Pensions Act, which would normally be paired with a consultation process (see further under section 3.1).

⁶⁵ <https://www.fnv.nl/netwerken/netwerk-vrouwen/snel-naar/pensioenloofevenement-1>

⁶⁶ <https://www.tweedekamer.nl/kamerleden-en-commissies/commissies/sociale-zaken-en-werkgelegenheid/een-nieuw-pensioenstelsel>

⁶⁷ https://www.tweedekamer.nl/debat_en_vergadering/commissievergaderingen/details?id=2022A02124

⁶⁸ <https://www.koepelgepensioneerden.nl/over-ons/missie-visie-en-strategie/>

⁶⁹ <https://www.womeninc.nl/financien/>



2.5 Consulting mechanisms

There is no specific consultation mechanism put into place to ensure a gender perspective is taken into account in the crisis response (with inputs from CSOs), but there are several consultation mechanisms that can be used to also bring a gender perspective to the fore. Most directly, this can be done by the Dutch Human Rights Institute, both voluntarily or upon the request of the government or the parliament.⁷⁰ Then there is also the obligation of a general internet consultation on new legislation and policies. This is an important part of the legislative process and enables citizens, NGO's and all other stakeholders to influence the process. Yet the government may exclude this for certain laws and policies.⁷¹ Apart that, there is also the advice that the Council of State has to give on the quality of proposed legislation. This also includes checking whether the Guidelines for legislation have been complied with. As these Guidelines prescribe the carrying out of a gender impact assessment test (see further section 3.1.), the Council of State would also be in the position to check whether new laws and policies duly take the gender perspective into account. We will see in section 3 how these different consultation mechanisms were put to use in the context of the new Future of Pensions Act.

Part 3: Policy response and impact

3.1 Sectors/gender mainstreaming

The new Future of Pensions Act is of a transversal nature, so applicable across sectors. Its main objectives are: providing an earlier perspective on a purchasing-power-protected pension, making pensions more transparent and individualized and achieving better alignment with societal and labor market developments.⁷² There is no reference whatsoever to closure or tackling of the GPG in the context of this law reform.

Monitoring the implementation of the three main objectives of the new Future of Pensions Act is the responsibility of the Ministry of Social Affairs and Labour (SZW). Parliament⁷³ has formulated nine conditions for the implementation of the new law, neither of which includes applying a specific gender lens to the outcomes of the pension reform. Indirectly, however, gender might be considered through the application of three of the nine conditions, i.e. that the reform should not result in a reduction of benefits, that the transition should be balanced for all stakeholders and generations and that any disadvantages resulting from the transition should be adequately compensated.

The development of the new Act has thus failed to take a proper gender mainstreaming approach and to carry out a gender impact assessment test, which the government is obliged

⁷⁰ <https://www.mensenrechten.nl/english> See for its specific advice on the new Future of Pensions Act, section 3.

⁷¹ <https://www.rijksoverheid.nl/onderwerpen/wetgeving/internetconsultatie-nieuwe-wet--en-regelgeving> and <https://www.internetconsultatie.nl/veelgestelde vragen>

⁷² See the IAK assessment, accessible at: <https://www.internetconsultatie.nl/wettoekomstpensioenen>

⁷³ Motie leden Palland en Ceder (36 067, nr. 148) :

https://www.eerstekamer.nl/behandeling/20221215/motie_van_de_leden_palland_en/document3/f=vlywhslxvez6.pdf



to on the basis of its national guidelines for legislative quality. Its Instruction 2.3 on Preliminary Research stipulates that:

“Before deciding on the establishment of regulation, the following steps are taken:

- a) Knowledge is acquired about the relevant facts and circumstances relating to the subject in question;
- b) The goals to be achieved are determined as concretely and accurately as possible; [...]” (our translation)

The explanation of this Instruction emphasises that regulation choices as regards its substance need to be based on a thorough analysis of all relevant factors that have been identified. There must also be accountability ensured as to the choices made in the explanatory memorandum of the regulation, so that other involved actors in the process (such as advisory bodies, the parliament and the public) are able to form their own opinion on the (proposed) regulation. To support the considerations and accountability process in the formulation of new laws and policies, the tool of the [Beleidskompas](#)⁷⁴ has been developed. The government has decided in 2022 that this Beleidskompas has to be applied in the preparation and justification of laws and policies.⁷⁵ This Beleidskompas prescribes a gender impact assessment (GIA).⁷⁶ While this Beleidskompas was not yet in force when the pension law reform came about, the predecessor tool – the Integraal Afwegings Kader (IAK) – applied and imposed a similar requirement. Yet, the IAK that was performed did not take in any way the gender dimension on board.⁷⁷ The Dutch government only started considering the possible gender impact once the proposal for the new Act was ready and sent it then to the Dutch Human Rights Institute for advice in 2022 (see further section 3.7).

The pension law reform process has thus been very negligent in considering and analysing at a timely moment the gender dimension and this in contravention of Dutch obligatory regulatory instructions. But this process is also not compliant with EU law, more specifically Article 29 of EU-Directive 2006/54.⁷⁸ This provision stipulates that:

“Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in this Directive.”

The Directive seeks to ensure the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, which explicitly

⁷⁴ [Policy Compass \(English Beleidskompas\) | Kenniscentrum voor beleid en regelgeving](#)

⁷⁵ Kamerstukken II 2022/23, 36200 VI, nr. 10.

⁷⁶ <https://www.kcbr.nl/beleid-en-regelgeving-ontwikkelen/beleidskompas/verplichte-kwaliteitseisen/effecten-op-gendergelijkheid>

⁷⁷ It represents overall a very shallow assessment. See <https://www.internetconsultatie.nl/wettoekomstpensioenen>

⁷⁸ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), OJ 2006, L204/23.



covers occupational social security schemes in its Article 1. By not having taken the gender equality perspective "actively into account" at the moment of formulation of the law, the Dutch government has fallen short of this legal obligation under EU law. Even if under the Dutch legal system the social partners are very much part of the law- and policymaking process in the occupational pensions field, the Dutch government is responsible for a correct implementation of and compliance with this EU law obligation. In now implementing the Future of Pensions Act, compliance with Article 29 needs to be ensured.

3.2 Target of measures

The identified target groups are "employees with a pension arrangement, their employers, participants with an occupational pension scheme, those entitled to a pension, partners and self-employed."⁷⁹ (our translation). The new Future of Pensions Act does not target any specific social groups.

3.3 Scope of measures

While there is a recognition that the early career part-time working group – in practice mostly women – will lose out on building a high(er) pension and that this may constitute indirect discrimination against women, no measures have been taken to compensate this group of workers. See in more detail under section 3.7.

3.4 Problematization (policy discourse)

The gendered nature of the pension law reform is largely ignored and not seriously debated. There is a lack of problematization of the gender dimension of the pension law reform, which entails (at least) three different directions and strategies.

The first one concerns the (re)consideration and discussion of the gendered nature of key standards that are applied to have access to pensions in the new Act. This concerns in particular the standard of the full-time worker (and breadwinner), which is in essence a male-dominated norm because many more men than women work full-time in the Netherlands.⁸⁰ But most people still consider this norm to be natural or logical. Yet, it must be noted that the shift to part-time work and the loss of income women suffer from is considerable after the birth of their first child; six years after the birth, this loss amounts to 35% when compared to their income before the birth. Men do not suffer from such "baby penalty", as their income has grown with 1% over that same period of time.⁸¹ While from this perspective the impact, rightfulness and legality of following the full-time standard can be questioned, part-time working women are foremost called upon to engage in full-time paid work. Nor are any factors provided to

⁷⁹ <https://www.internetconsultatie.nl/wettoekomstpensioenen>

⁸⁰ 18% of men work part-time versus 65% of women; see <https://longreads.cbs.nl/emancipatiemonitor-2024/>

⁸¹ <https://longreads.cbs.nl/emancipatiemonitor-2024/>



correct the differences between full-time workers and part-time workers. The performance of unpaid care work could constitute such a correction factor, which could incite the recognition of a fictitious pension accrual.⁸² While in the absence of an employer this falls outside of the scope of collective labour agreements and pension funds' action, the government could provide for a pension supplement to 'top up' the state pension in such cases. This approach has been taken in Spain.⁸³ A pension supplement has been provided for there as part of the public pension system, to parents which have suffered negative consequences to their careers after the birth of a child. Eligible pensioners can receive benefits amounting to 425.60 euro a year per child, up to a maximum of four children. The gender gap supplement is a temporary measure until the GPG is reduced significantly.⁸⁴ Apart that, in case there is an employment relationship, one could also think of the employer continuing the payment of pension premiums during an unpaid care leave, as an employment condition.

Secondly, there are other ways to facilitate building up pensions for persons working less or not in the early years of their career, so that can have a mitigating effect on the possible detrimental impacts of the new pension Act. Such possible measures would require much more systematic attention from a gender equality perspective than they receive now. See further section 5.3 and 5.4 in this regard and on good practices that could be adopted.

The third direction entails a focus on influencing the labour market.⁸⁵ Current government policy lacks sufficient stimulus for women to move more to full-time work, given the lack of institutional infrastructure such as affordable (or free) childcare services and care facilities for the elderly and people with disabilities. Furthermore, there are important limitations in the taxation system, as a result of which it does not always pay to work more hours or which obstruct repairing an early-career pension gap in later years. In addition, more hours or full-time jobs are not always available. A rather one-sided approach focusing on women to engage more in full-time work will not pay off without tackling such issues and how to organize better and more affordable care, especially so in the context of an ageing society which will only increase the care burden in the near future.

⁸² Rowold, C. (2023). An accumulation of gender inequalities in old age? Exploring life course- and gender-sensitive approaches for analysing Gender Pension Gaps [PhD thesis]. University of Oxford.

⁸³ Note that such additional benefit will also then have to be paid to fathers who are in a comparable situation; see Case C-415/18, INSS, ECLI:EU:C:

⁸⁴ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, *The 2024 pension adequacy report – Current and future income adequacy in old age in the EU. Volume II*, Publications Office of the European Union, 2024, pp. 291-292 <https://data.europa.eu/doi/10.2767/550848>

⁸⁵ See also Anna Hammerschmid & Carla Rowold, 2019. "[Gender Pension Gaps in Europe Are More Explicitly Associated with Labor Markets than with Pension Systems](#)," *DIW Weekly Report*, DIW Berlin, German Institute for Economic Research, vol. 9(25), pages 203-211.



3.5 Intersectionality

The policy response has not (explicitly) acknowledged and addressed the intersectional impact of the crisis. (see already sections 1.3 and 2.2).

3.6 Decolonial approach

An example of a decolonial and intersectional perspective is the position of the group of lower educated migrants from Turkish and Moroccan ethnic origin, primarily men, that have a lower life expectancy than average but are required to pay the same level of premiums for a pension they will not equally benefit from.⁸⁶ Four out of ten non-Western migrants fall below the poverty line, compared to just two percent of retirees with a Dutch background⁸⁷, and this group is expected to double by 2030. Research⁸⁸ is being conducted to find ways to improve their position.

Another element of potential indirect discrimination of migrants can be found in the entitlement to the state pension in the first pillar (AOW). For a full state pension you must have lived in the Netherlands for 50 years. This requirement, which is substantially higher than in countries with similar systems like the Scandinavian countries and Canada, leads to significant state pension gaps, especially among non-European migrants.⁸⁹

⁸⁶ CBS and UWV figures, not yet published.

⁸⁷ https://nidi.nl/en/nieuws_events/netspar-grant-for-nidi-research-on-migrants-and-their-pension/

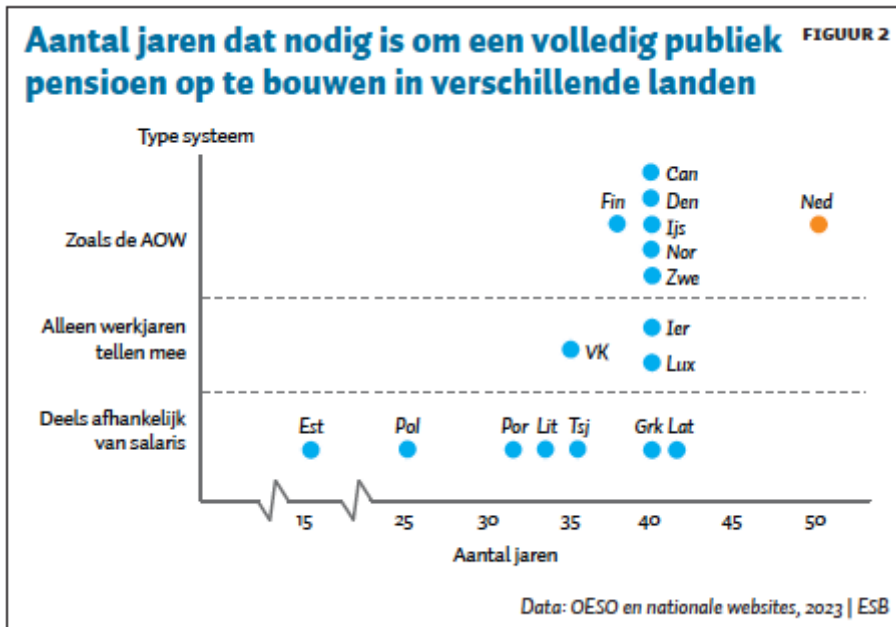
⁸⁸ <https://www.netspar.nl/en/research/pensioenvoorbereiding-van-migranten-risicofactoren-oorzaken-oplossingen/>

⁸⁹ "Pensioenarmoede onder migranten door langzame AOW-opbouw", Jelle Lossbroek, Economisch Statistische Berichten (ESB), 109(4834), 20 juni 2024



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3.7 Gender perspective and impacts

In this section we consider what the impact is of policy responses to crisis, how the gender perspective has been taken into account and specifically whether policy responses exacerbate or mitigate existing gender inequalities.

Within the parameters set by the new Act, social partners (trade unions and employers/employee organizations) of a pension fund (or collectively for sectorial funds) decide to either move to the new pension system (so-called “invaren”) or stay in the current one (the FTK, Financieel Toetsingskader); it is expected that most funds will transition to the new system.⁹⁰ Social partners negotiate and decide on the details of the new pension contracts, the distribution of free assets, if any, over the groups of participants, and the compensation amounts for specific age groups and groups of participants, as instructed by the new law. This follows from the fact that pensions (contract, premiums) are part of employment conditions, which is the responsibility of social partners. The result is laid down in a transition plan, that is published (see PFZW’s⁹¹) and forms the basis of the implementation plan⁹² that the pension fund develops and puts forward for approval to the supervisor, the Dutch Central Bank. Pension funds are not obliged to accept the request of social partners to transition to the new system

⁹⁰ <https://www.dnb.nl/media/phjpsbcu/2024-05-30-terugkoppeling-wtp-vragenlijst-q2-2024-v5-sector-en-risicobeelden.pdf>

⁹¹ <https://www.pfzw.nl/content/dam/pfzw/web/over-ons/nieuwe-regels-voor-pensioen/Transitieplan-sector-zorg-en-welzijn.pdf>

⁹² article 150i of the Pensioenwet: <https://wetten.overheid.nl/BWBR0020809/2025-03-01#Hoofdstuk6b>



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but have limited scope to refuse such request, i.e. in case the transition leads to an unbalanced disadvantage to certain participants, is unlawful or is impracticable⁹³

Already in 2021 Netspar (a collaboration between the pension sector and academic experts)⁹⁴ investigated the underlying mechanisms of the gender pension gap and concluded that "simple legislative measures" were not available to close the gap. Main causes cited were the lower labour market participation of women combined with overrepresentation of women in lower paying sectors. Key recommendations to the sector were to "better educate women" and to improve the pension schemes in the sectors most women work in. More structural changes to the system were deemed unattainable. In Netspar's 2024 report⁹⁵ to parliament on the design of a monitoring mechanism on the implementation of the Future of Pensions Act in line with its goals, only a footnote deals with gender; it simply states that redistribution between men and women and between income groups remain the same in the new Act and that eliminating them were not, or barely, part of the goals of the new Act.⁹⁶

Yet, in 2022 the Dutch government asked the advice of the Dutch Human Rights Institute (DHRI; College voor de Rechten van de Mens) on the legislative proposal and the DHRI has warned that the proposed new pension system can have indirectly discriminatory effects both on the basis of age and gender. Experts⁹⁷ and the DHRI⁹⁸ have warned specifically that the new pension system has negative consequences for women due to the *fundamental change* in method of accrual of pension premiums. In essence, in the former system all individuals contributed a uniform percentage of their salary as pension premium and received a correspondingly equal accrual. In the new system, the premium percentage remains constant (flat premium), but the accrual varies. Younger contributors receive a larger pension return for every Euro of premium than older ones, as their premiums may generate returns for a longer period (compounded interest). In the new system therefore, the initial years of one's career become more important for pension accrual as the contributions in early years hold relatively greater value. Since these years coincide with the period in which women more often than men reduce their working hours temporarily due to care responsibilities their pension accrual is less valuable. Even if they return to full-time work later, they will never catch up with full-time workers.

⁹³ Article 150l, sub 4 of the Pensioenwet: <https://wetten.overheid.nl/BWBR0020809/2025-03-01#Hoofdstuk6b>

⁹⁴ <https://www.netspar.nl/kennisplein/gelijke-rechten-maar-geen-gelijke-pensioenen-de-genderkloof-in-nederlandse-tweedepijlerpensioenen/>
<https://www.netspar.nl/kennisplein/gelijke-rechten-maar-geen-gelijke-pensioenen-de-genderkloof-in-nederlandse-tweedepijlerpensioenen/>

⁹⁵ <https://www.tweedekamer.nl/kamerstukken/detail?did=2024D12460&id=2024D12460>

⁹⁶ Ibid, on its p. 10.

⁹⁷ Suzanne Kali, in <https://www.nn.nl/Beter-met-geld/groot-verschil-pensioenopbouw-mannen-vrouwen.htm>; Werken aan ons Pensioen: <https://www.werkenaanonspensioen.nl/onderwerpen/eeerbiedigende-werking-en-compensatie-vz-kant/eeerbiedigende-werking-wat-houdt-het-in#:~:text=Ook%20als%20u%20geen%20gebruik%20maakt%20van,worden%20benadeeld%20door%20de%20vlakke%20premie enz.>

⁹⁸ <https://publicaties.mensenrechten.nl/publicatie/2c672884-7310-45f6-9a70-58307d051be0>



On the special transition website Werken aan ons Pensioen⁹⁹ a warning about potential indirect disadvantages for women has been issued.¹⁰⁰ For men, whose salaries in general increase more sharply than women's towards the end of their careers, some effect might also be noted since early-career earnings carry more weight. However, the effect of wage progression differences is likely less impactful than the effect of part-time employment.

During the negotiations for the new Future of Pension Act social partners considered that the previous premium system, combining the average premium structure ("doorsneepremiesystematiek") with a degressive pension accrual, could be replaced by a system with a progressive premium and average accrual, which would yield better outcomes for groups characterized by part-time employment, career breaks and late entry to the labour- and pension market, mostly women. However, this would result in higher premiums for older workers, making it more expensive for employers to retain them and having a negative effect on their labour market participation rate at a time where they are very much needed (labour shortage).

Upon request of the Ministry, Netspar published an Analysis on Monitoring¹⁰¹ in February 2024. Although said Analysis does not include a specific gender paragraph as seen, the situation of part time workers is addressed, for instance when it comes to the required calculations per group of participants with similar characteristics, the so-called "maatmensen". Pension funds are obliged to carry out calculations that show the effect of the new Act on the pensions of all groups, including part-time workers as a group. However, not specified by gender. Again, indirectly this might give an indication of potential gender impact if the outcomes of the reform in a specific pension fund for specific groups of part time workers shows that some of the conditions above are not met for this group. If it is established that the group of part-time workers primarily consists of women, it follows from the case law of the CJEU¹⁰² and EU legislation that this constitutes indirect discrimination. As ensues from its definition, this can only be justified by a legitimate aim and when the chosen means is both appropriate and necessary (i.e. meets the proportionality principle).¹⁰³

⁹⁹ Informationplatform of all relevant parties, VNO-NCW, MKB-Nederland, LTO-Nederland, FNV, CNV, VCP, Stichting van de Arbeid, Pensioenfederatie, Verbond van Verzekeraars, Adfiz en het Ministerie van Sociale Zaken en Werkgelegenheid.

¹⁰⁰ [https://www.werkenaanonspensioen.nl/onderwerpen/eeerbiedigende-werking-en-compensatie-vz-kant/eeerbiedigende-werking-wat-houdt-het-in-:-:~:text=Ook als u geen gebruik maakt van,worden benadeeld door de vlakke premie](https://www.werkenaanonspensioen.nl/onderwerpen/eeerbiedigende-werking-en-compensatie-vz-kant/eeerbiedigende-werking-wat-houdt-het-in-:-:~:text=Ook%20als%20u%20geen%20gebruik%20maakt%20van,%20worden%20benadeeld%20door%20de%20vlakke%20premie)

¹⁰¹ Analyse monitoring Wet toekomst pensioenen, februari 2024, Netspar.

¹⁰² See already Case 170/84 Bilka, ECLI:EU:C:1986:204.

¹⁰³ Cf also the indirect discrimination definition as contained in Article 2(1)b of the Recast Directive 2006/54: "indirect discrimination": "where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary."



- Other aspects of the new Future of Pension Act with potential direct or indirect impact on women are: Only risk-based survivor pensions are allowed:¹⁰⁴ in the previous system a variety of methods were applied to cater for survivor pensions, including but not only risk insurance based. Many pension funds provided a survivor's pension with a similar premium structure as the retirement pension. Risk-based survivor pensions carry additional risks. Because women in general more often depend on these pensions extra care needs to be taken by pension funds to protect their interests.
- Life cycle investment policy: In the new pension system investment outcomes play a more prominent role in the pension benefits than in the previous system. The risk has shifted from the pension fund to the individual participant. Life cycle investments are based on age groups (5-year cohorts) without explicitly taking gender into account. Pension funds are required to conduct surveys among participants about their risk tolerance and risk-bearing capacity (financial leeway) to inform their investment policy. Since women tend to take fewer risks, are generally more risk-averse, and often have less financial leeway when it comes to investments for their pensions, not taking gender into account may lead to negative effects on women. This is particularly the case for participants in the individualized flexible pension products (flexibele premieregeling) than in the so-called solidary pension product (solidaire premieregeling). In the Leidraad Risicopreferentieonderzoek¹⁰⁵ of the Authority for the Financial Markets (AFM), which offers advice on how to structure the surveys, it is specifically mentioned that women might be less inclined to participate in the survey, leading to insufficient representation of their perspective. However, there is no mention about the possible gender difference in risk averseness and, more importantly, risk-bearing capacity. It is unknown if AFM will take this factor into account in their evaluation of the plans.
- In the accompanying text on the public internet consultation on the Future of Pensions Act on 16 December 2020¹⁰⁶ the potential impact on women was not mentioned. The documentation consisted of merely the draft law, the draft Memorie van Toelichting and the Integraal AfwegingsKader (IAK).¹⁰⁷ The internet consultation was opened on December 16, 2020 and closed on February 12, 2021.¹⁰⁸ Only afterwards, on 13 July 2021, the Minister asked for the advice of the Human Rights Institute on possible fundamental rights/discriminatory implications. This advice was received on 20 October 2021 and sent to parliament on 30 March 2022.¹⁰⁹ The obligatory advice of the Council of State was received on 16 February 2022 and 25 March 2022.¹¹⁰ Both documents provided important information on the gender aspects of the new Act but since they

¹⁰⁴ <https://www.werkenaanonspensioen.nl/onderwerpen/nabestaandenpensioen-pf-kant/gevolgen-voor-verschillende-soorten-nabestaandenpensioen>

¹⁰⁵ <https://www.afm.nl/en/sector/actueel/2023/februari/tb-leidraad-risicopreferentieonderzoek>

¹⁰⁶ <https://www.internetconsultatie.nl/wettoekomstpensioenen>

¹⁰⁷ See on these section 3.1.

¹⁰⁸ <https://www.internetconsultatie.nl/wettoekomstpensioenen> One may also note the short time frame left for the consultation, certainly in view of end of year holidays.

¹⁰⁹ <https://open.overheid.nl/documenten/ronl-4d75dc7b23186fcd755a04bbc10938c35e94d03a/pdf>

¹¹⁰ <https://www.raadvanstate.nl/adviezen/@127891/w12-21-0366-iii/>



post-dated the internet consultation, they were not shared with the public, at least not in a timely manner. This has limited the possibilities for stakeholders to address the gender pension gap in a fully informed way.

In the Explanatory Memorandum of the new Act,¹¹¹ the government has then explained its position as to the possible indirect discrimination of women part-time workers. It considered that while the Act does not entail any direct discrimination, it may indeed entail indirect discrimination for this group of female workers. Yet, it considers this justified because of the primary aim to protect in the chosen system the position of older employees and their employability because of lower pension premiums to be paid at older age.¹¹² It also considers that the chosen means meets the proportionality requirement, which implies an appropriateness and necessity test. The impact on gender equality is also elaborated on in a separate section.¹¹³ In particular the elaboration of the necessity test represents weaknesses and one can hold serious doubts as to its legal tenability. This concerns especially the element of whether least burdensome measures could have been taken, also when it comes to mitigating the possible negative impacts on this group of women's pensions. The reason the government gives for not taking any compensatory measures lies in the difficulty to establish and delineate the affected group that would qualify for such compensation. Yet, at the same time the government uses a rather dated report (2016) of the CPB¹¹⁴ based on data from 1999-2005 to underpin the impact on gender and to consider this to be limited. Noteworthy is also the statement that "to improve the structural situation of in particular women, the government will remain committed to increasing the labour participation of women and the strengthening of their labour market position in order to reduce their GPG (...). Apart that, the government sees the new pension system as a window of opportunity to create more awareness on pensions, as a result of which people may make more deliberate choices about the division of work and care and the impact it has for building pensions." (our translation).¹¹⁵ This statement is (again) illustrative of the strong emphasis on a 'fixing the women' approach rather than taking a 'fixing the institutions' approach.

Subsequently, the Council of State has also looked into the gender impact but held that one "cannot plainly conclude" that the new Act is indirectly discriminatory in nature. Insofar the government recognizes the existence of indirect discrimination, the Council of State held that it agrees with the government that it is justified by a legitimate aim and meeting the proportionality principle. However, it does not go into the details of this but simply agreed with the government's explanation in this regard.¹¹⁶

In addition to what has been stated already hereabove, there is another development in relation to which it is unclear whether and how the Government will take gender aspects into account.

¹¹¹ <https://open.overheid.nl/documenten/ronl-fb0d2779caa826f26736a6a7b5754a1300fb6912/pdf>

¹¹² Ibid, p. 143-146.

¹¹³ Ibid, its section 14.1.2.

¹¹⁴ https://www.cpb.nl/sites/default/files/omnidownload/CPB-Notitie-20mei2016-Pensioenresultaat-bij-degressieve-opbouw-en-progressieve-premie_5.pdf

¹¹⁵ Ibid, p. 146.

¹¹⁶ <https://www.raadvanstate.nl/adviezen/@127891/w12-21-0366-iii/>



This regards the position of self-employed persons with no employees (solo self-employed). This group has grown substantially over the past years, but the problem is that they do not pay social security contributions. This situation is not only detrimental to the social system as such, but also entails that people are insufficiently protected against disability and old age risks. Women are particularly affected by that as 38 % of self-employed persons with no employees are women,¹¹⁷ who generally earn less than men and which are more often not economically independent.¹¹⁸ The government is now considering the introduction of a basic insurance for this group of self-employed workers, but there is a risk that when women in this group will be forced to take out insurance while not having sufficient income to pay it, that will negatively affect their financial position.

Part 4: Discourse or 'crisis narrative' in media and public opinion

4.1 Decolonial dimension

There is no indication whatsoever in the law- and policymaking debate that hints at a recognition of (de-)colonial impact, of taking steps to consider knowledges and solutions from a non-Dutch/European perspective and from 'the periphery.'

4.2 Binary constructions

Research and data collection that has been conducted on the gender pay (and pension) gap generally take the binary construction of men and women as their focal point and also considers these two groups as rather homogenous groups. The distinctions that are being made relate mostly to age and to marital/partner/single status, but not to race or ethnic background.¹¹⁹ One must note that because of Dutch privacy protection law, it is also difficult to obtain data relating to ethnicity.

4.3 Stereotypes

The gender pension gap has been reported on quite a bit in the press in the past few years, including also on the possible gender impact of the new Future of Pensions Act.¹²⁰ Yet, overall there is a very low awareness about the GPG and the impact of the new Act, as recent research has revealed that more than half of the Dutch population thinks that women will have pension entitlement that are at least equal to that of men.¹²¹ Women have also been found to be

¹¹⁷ [Wie zijn de zzp'ers? | CBS](#)

¹¹⁸ [Hoeveel verdienen zzp'ers en hoeveel vermogen hebben ze? | CBS](#)

¹¹⁹ E.g. Netspar 2021, op.cit.

¹²⁰ In all major country-wide newspapers, such as the Dutch Financial Times, Trouw, Volkskrant, AD, NRC, etc., but also in specific pensions newspapers such as Pension Pro.

¹²¹ <https://www.abp.nl/nieuws-en-pers/nieuws/2024/november/groot-verschil-pensioeninkomen-mannen-vrouwen>



generally less interested in finding out what their actual pension will be, when compared to men.¹²²

Quite some of these media contributions point to the pension risk involved in part-time work and call upon 'women to take action' to remedy in time their pension gap, amongst others by engaging in more paid – full-time - work. The government also calls upon women to do that.¹²³

Besides such calls putting the burden primarily on women to fix the structural inequality problem entailed in the GPG, they ignore the part-time trap¹²⁴ many women find themselves in. Historically, Dutch society has moved from the male breadwinner model to a one-and-a-half earners model in which the father is still predominantly the full-time worker and the mother the part-time earner. This is not simply a matter of own free choice, as not only in the past but also still today there is a strong father and mother ideology underlying it; fathers are still expected to work at least 4 to 5 days a week, while young mothers are expected to work three days or less in order to take care of their children.¹²⁵ Importantly, this ideology has become engrained in the system of leave, childcare, school and - part-time – work arrangements and taxation. These are organized in such a way that they keep each other very much in place, making it very difficult or unaffordable to reconcile full-time work and care tasks.¹²⁶

Societal and governmental expectations thus catch women in a double bind by expecting them to be at the same time 'a good mother' as the primary - unpaid – caretaker and to be a 'real' full-time – paid - worker and not a 'part-time princess'.¹²⁷ While women are thus called upon to meet both these expectations, the government does not in the same way call upon men to take up more care tasks. As such, the full-time breadwinner father ideology is also being maintained.

The new Future of Pensions Act ignores the still persisting father-mother ideologies underlying the female-dominated parttime and male dominated fulltime system that characterizes the Dutch employment market as well as the care gap between mothers and fathers. This is underscored by the government's call on women to engage more in full-time work, seemingly reducing it to this being a 'free' choice which in practice it is clearly often not. As Carla Rowold has phrased it, "pension systems reward men's traditional life course experiences, mainly

¹²² Ibid.

¹²³ <https://www.bnr.nl/nieuws/arbeidsmarkt/10508005/vrouwen-moeten-meer-aan-het-werk-lange-traditie-van-deeltijdwerken>

¹²⁴ A term coined by Plantenga, Janneke (2010). Domweg gelukkig met een deeltijdbaan? In: Andries van den Broek en Mariëlle Cloïn (red.), Komt tijd, komt raad? Essays over mogelijkheden voor een nieuwe tijdsorde (p. 53-65). Den Haag: Sociaal en Cultureel Planbureau.

¹²⁵ Emancipatiemonitor 2024; <https://longreads.cbs.nl/emancipatiemonitor-2024/>

¹²⁶ Janneke Plantenga, Domweg gelukkig met een deeltijdbaan?' in: Komt tijd, komt raad? Essays over mogelijkheden voor een nieuwe tijdsorde, SCP (2010), p. 62. Dirk Waterval, Deeltijdprinses of gevangen in het systeem: waarom werkt de Nederlandse vrouw zo vaak parttime? Trouw, 11 oktober 2024. Lynn Berger, Hoe Nederland kampioen deeltijdwerken werd, de Correspondent, 23.2.2023.

¹²⁷ See Sander Schimmelpennick, Onze deeltijddecadentie is het ultieme Nederlandse taboe, Volkskrant, 24.11.2019. On the origin of the part-time princess term: see <https://www.ensie.nl/woordenboek-van-populair-taalgebruik/deeltijdprinses-1>



continuous paid full-time work, much more than women's traditional life course experiences of large shares of unpaid care work."¹²⁸

Some pension funds have a more nuanced opinion on this and emphasize the role all involved bodies have in tackling the GPG, such as PFZW.¹²⁹

Part 5. Gender backlash and opportunities

5.1 Overlap with other crises

The gender pension gap is clearly linked with the equal pay crises and the general underestimation and lack of financial appreciation of women's work in female-dominated and lower paid sectors of work – healthcare, culture/leisure/services and education – and of female-dominated jobs. It is also connected to the state of the employment market and the vulnerable positions women may hold more than men, e.g. when it comes to domestic work and the platform economy. The aging society constitutes a particular risk for women in the Netherlands, especially for keeping them in the parttime trap because of the increasing share of unpaid care work for the elderly and disabled people. It also links with the poverty trap women can find themselves in more easily than men, the lower possibilities they have in building own capital, income and property, thus impacting on their financial independence. In 2022 the gender gap on economic independence was still 13,9 percent in favor of men.¹³⁰

5.2 Gender backlash

There is no explicit gender backlash to flag in the context of the adoption of the new Future of Pensions Act. Yet, we consider that such backlash is more subtly implied in the overall pension law reform process. For despite there being the long-standing problem and recognition of the GPG in the Netherlands as underscored by statistical data (see section 1.3) and there being a national and EU legal obligation to take gender implications into account in law- and policymaking processes (see section 3.1), gender implications were left out of the pension law reform process and not made part of its objectives (see section 1.1). As such, the initial stage of the reform process was gender-blind.

Only after the new law was drafted, advice was asked from the Dutch HRI on the possible discriminatory effects, this reflecting some gender-awareness. While the outcome of this consultation and that of the Council of State as well as that of the public consultation left considerable doubt on the possible indirectly discriminatory effects of the new law for early career part-time workers which are mostly women, the government's subsequent approach can be seen as generally downplaying this problem. This is so because it has not shown any

¹²⁸ <https://www.netspar.nl/en/news/researcher-carla-rowold-unpaid-care-work-is-a-main-reason-for-the-gender-pension-gap/>

¹²⁹ <https://www.pfzw.nl/over-pfzw/nieuws/kellermanns-kijk/kellermanns-kijk-23.html>

¹³⁰ <https://www.cbs.nl/nl-nl/nieuws/2024/22/van-20-naar-70-procent-economisch-zelfstandige-vrouwen-in-45-jaar>



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preparedness to further investigate this problem and to collect more data to establish the actual scope and possible impact of the current approach on this group of workers,¹³¹ nor does it provide for any compensatory arrangements that could reduce the detrimental impact of the new Act on this group of workers. As such, this approach at least falls short on the government's legal obligations that come with the proportionality test that should be complied with in the case of indirectly discriminatory measures (see section 3.7). Apart that, the Dutch government's approach can also be questioned from the perspective of its constitutional duty of care.¹³² Both the proportionality principle and the duty of care would induce an approach to pro-actively limit any detrimental impacts on a specific group as much as possible. Leaving it now up to individual claimants to turn to the DHRI or to the court to contest this aspect of the new Act goes against these legal obligations and one could as such qualify the Dutch governmental approach as one of gender-negligence.

This approach may actually result in being gender-exploitative, because potentially reinforcing already existing gender inequities when it comes to the treatment of part-time versus full-time workers and therewith the GPG. Furthermore, while it is recognized that the government needs to facilitate the equal balancing of care tasks by putting into place a better leave system that also enables fathers to take more leave, it does not explicitly call upon men to engage more in care work while it repeatedly makes explicit calls on women to engage more in paid work.¹³³ As such, it still perpetuates stereotypical images of specifically men's roles by not actively calling upon them to taking up more care duties.

The narrative in the Explanatory Memorandum can as such also be typified very much as a 'fixing the women' approach and not a 'fixing the institutions' one. As such, it does not go into a consideration of what could be done about the factors that are recognized as also contributing to women's low pay and pensions, such as that the sectors in which women work are more conducive to part-time work (so making it even difficult for women that may want to work more hours) and often have less generous pension funds arrangements.¹³⁴ More generally, the pension law reforms lacks an approach that actively looks into what could be done to alleviate the detrimental impact of the new system on women and how building a higher pension by the group affected can still be stimulated by other means (further on this section 5.4). To the extent that it contains a fixing the institutions approach, it is geared towards enhancing leave systems in such a way that women will be stimulated to work more hours, but it fails to put to question that when taking into account unpaid care work women are generally working more hours already than men do. A fixing the institutions approach would consider and put to discussion how such unpaid care work could still lead to pension entitlements.

¹³¹ The explanatory memorandum of the Pension Act builds upon CBS figures dating back to 2016; see its p. 189-194.

¹³² Article 20 of the Dutch Constitution reads 1. De bestaanszekerheid der bevolking en spreiding van welvaart zijn voorwerp van zorg der overheid (The livelihood security of the population and division of welfare are object of the government's care) 2. De wet stelt regels omtrent de aanspraken op sociale zekerheid (The law sets rules regarding social security entitlements. [...]; our translation).

¹³³ See the Explanatory Memorandum (Memorie van Toelichting) of the Pension Act, p. 189-194, at [pdf](#)

¹³⁴ Ibid, p. 190.



5.3 Opportunity for changing gender roles

As seen in section 3.1, the parliament has identified as key conditions for the implementation of the new Act that it should be balanced for all stakeholders and generations and that any disadvantages resulting from the transition should be adequately compensated. In developing the implementation system of the Future of Pensions Act further, government, parliament, trade unions, employers and pension funds should thus jointly take responsibility and discuss what compensatory measures can be taken for the affected group of part-time workers, e.g. in terms of tax exemptions, third pillar own capital built up, etc. Such a duty of care can be said to result not only from the parliament's stance on this but actually also from Article 20 of the Dutch Constitution, the gender mainstreaming duty contained in Directive 2006/54 and the proportionality principle that forces to keep the impact on the affected group as limited as possible.

As already observed hereabove, the government could address men more actively in taking up more care work and to share this burden in a more equal way with their partner. Pension funds and social partners can be called upon to consider and develop measures that would still compensate or alleviate the unequal pension results that part-time workers will be facing. But also the government can adopt such measures (see section 5.4 for potential measures). Besides that the government can also take measures to secure better availability and more affordable childcare infrastructure.

5.4 Good practices

Social partners could also play a more active role in negotiating higher pay and pension levels in sectors in which women are over-represented and pensions have been seen to be generally lower.

In line with the overrepresentation of women in the care and welfare sector, the participants of the already mentioned Pension fund for the Care and Welfare Sector (PFZW, in section 4.3) are primarily women (86 percent in 2023) of which the vast majority works parttime. Most women have a fulltime working partner that often builds up a fulltime pension elsewhere. Although the influence of pension fund boards on the pension contracts and premiums is limited, the fund plays an active role in:

- raising awareness and addressing the GPG in articles on the website and in the media;
- in negotiating specific elements (applicable to women and men) that implicitly address the GPG, such as lowering the amount of the AOW franchise for the first pillar thus enabling more participants to build up a pension in the second pillar. In addition, the allowance for working irregular hours, a common feature in the sector, is included in the salary for pension accrual. Also participants may continue paying premiums into the fund for a certain period after leaving employment.



Such measures constitute already an example of good practices that could also be followed by other pension funds.

From literature and the stakeholders meeting, the following effective and promising approaches and tools have been identified that would be helpful in counteracting the GPG and the potential negative impacts of the new Act and that we recommend to further explore and implement:

- gather more data about the concerned group and their possible future labour patterns;
- enable pension entitlements for doing paid and unpaid care work;
- implement the 80-90-100 scheme for caregivers and parents with young children; this scheme is part of collective labor agreements and enables employees to work temporarily 80 percent, while receiving 90 percent of their salary and continuing pension accruals on the basis of the original (100 percent) salary;
- consider adjustments of the franchise system for lower paid employees to improve pension accrual fairness;
- adjust the tax system to ensure that retroactive accrual of pension rights better fits the needs of women who work parttime during a specific period (due to child care or other care obligations);
- ensure that pension contributions during parental leave are secured;
- consider implementation of a Notional Defined Contribution arrangement that has been flagged as a possible compensatory measure towards closing the GPG in the Fichebundel IBO Pensioenopbouw;¹³⁵
- when social partners use their power to determine 'balanced implementation of the Act for all stakeholders', they should take into account what this implies from a gender equality perspective.¹³⁶

However, without a broader structural reform of the labor market and tax systems the GPG will remain. The recent report on the Swedish pension system¹³⁷ emphasizes that achieving gender-equal pensions require systemic reforms beyond the pension system, addressing wage inequalities, part time work and unpaid care responsibilities.

¹³⁵ 18 June 2024, p. 53-54.

¹³⁶ Cf for the discretion left to them the Netspar 2024 report, p. 9. Article 29 of Directive 2006/54 also induces such consideration.

¹³⁷ <https://jamstalldhetsmyndigheten.se/media/uuxg4sls/underlagsrapport-2024-5-ett-jamstallt-pensionssystem-24-04-22.pdf>



ANNEX I – Outcomes of RE-WIRING expert meeting on the gender impact of pensions, on November 20, 2024 at University of Utrecht

Discussion

After a brief introduction of all participants and an overview of the RE-WIRING project, including the role of the pensions case study within it, the discussion focused on the Dutch pension system, the new pension law, and its expected impact on women. This was considered in the context of the long-standing gender pension gap, which has been a topic of concern for decades but remains nearly 40% in the Netherlands.

Many participants expressed significant frustration that, despite widespread awareness of this gap, government action to fundamentally address the issue has been insufficient. Moreover, the new pension law is expected to increase the negative impact for certain groups of workers, particularly young part-time and variable-hours employees—most of whom are women. This is due to the increased emphasis in the new system on the value of pension accrual during the early career years, a period when significantly more women than men work part-time, often due to caregiving responsibilities. As the Netherlands Institute for Human Rights (CRvdM) highlighted in its 2021 advisory report, this constitutes indirect discrimination.

The discussion raised several key points, which can be categorized into two main areas. The first concerns the issue of indirect discrimination, while the second addresses the broader, fundamental question of social/distributive justice and solidarity as essential principles of pension legislation.

Indirect discrimination

(i) The legislator acknowledges the issue of indirect discrimination but considers it objectively justified, arguing that without this approach, older workers would become too expensive (because of the high pension premiums) and struggle to find employment, which is not in society's interest since the labor market is very tight. As a result, the balancing of interests disproportionately disadvantages younger part-time workers. The government's justification for this trade-off and its proportionality assessment raises questions about its validity, particularly the argument that part of the solution lies in encouraging women to work full-time.



- (ii) While the legislator recognizes the problem of indirect discrimination, no measures are taken to resolve or compensate for it. This raises questions about the extent of the government's duty of care (system responsibility). Where discrimination exists, the government should actively address it.
- (iii) Considering (ii), is there not an obligation to compensate this group? The law does provide compensation for other age groups than from 40-45 years onward.
- (iv) The intersectional dimension has not been sufficiently considered in the new law. The impact may be more severe for specific groups of women, as well as men from different ethnic backgrounds.
- (v) There is also a potential intersectional, cumulative effect based on both gender and age, disproportionately affecting the group of women impacted by the reform.

Social/Distributive Justice and Solidarity

- (i) Part-time work cannot always be considered a purely voluntary choice. Constraints such as the limited availability of full-time jobs, childcare responsibilities, the accessibility and affordability of childcare, caregiving duties, and societal expectations all play a role.
- (ii) Considering the objectives of the new pension law—providing a more sustainable pension, making the system more personal and transparent, and better aligning it with societal and labor market developments—the legislation should not take the full-time (white, male) standard worker as its benchmark. Instead, it should reflect the diverse realities of different employment patterns and the corresponding variety of "standard workers."
- (iii) Disparities between highly educated/high-earning individuals and practically trained/lower-paid workers:
 - o Financial capacity (or lack thereof) to make additional pension contributions.
 - o Differences in knowledge and interest regarding pension planning; for many, pension accrual in the third pillar is not a viable solution.
 - o Where people lack the means to save additionally, what role should collective solidarity play?



- (iv) Unpaid caregiving should be better recognized and compensated. For paid caregiving, pension accrual should be ensured, and the part-time penalty in pension accrual should be addressed, following models used in Scandinavian countries such as Norway.
- (v) There is a lack of accountability and ownership of the gender pension gap by those in positions of power.
- (vi) However, responsibility for solutions is shared among all stakeholders—employers, social partners, pension funds, as well as individuals and families.
- (vii) Discussion on the extent to which the new pension law should serve as an economic incentive and whether employment should be the (sole) determinant for pension entitlements.

Other findings:

- The government lacks a perspective on financial inclusion.
- Policymakers should consider the role of ICT-based pension calculation systems and the potential male bias in their design due to predominantly male developers.
- An issue is the limited availability of full-time jobs.
- There is a fiscal challenge in closing the third-pillar pension gap due to annual contribution limits and limitation on number of years you can retroactively accrue pension rights.
- Pension contributions during parental leave remain problematic.
- Differences in risk appetite between men and women in investment strategies are not considered.
- The gender pension gap should not be attributed solely to the wage gap but also to the gender gap in (un)paid caregiving responsibilities.
- The Netherlands is the only EU country with a fully funded pension system.

Proposed possible solutions (and their limitations)

- A more personalized approach (such as PEPP, Personal European Pension Plan) could offer a solution but would require a complete system overhaul, making it a long-term solution.



- The 80-90-100 scheme^[1] should also be implemented for caregivers and parents with young children.
- Franchise system adjustment to improve pension accrual fairness.
- Establishing a regulatory body or government commissioner focused on income inequality.
- Exploring improvements within existing institutional structures—where are changes possible (e.g., adjusting fiscal contribution limits)?
- Any pension system requires a tailored approach to meet diverse needs.
- What is the mandate of the government commissioner concerning the new pension law? Their role should not only be process-oriented but also focus on substantive policy issues.
- What lessons can be learned from other countries and pension systems?

^[1] The 80-90-100 scheme is an agreement commonly used in collective labor agreements (CAOs) and pension arrangements to allow older employees to reduce their working hours in the years leading up to retirement without significantly affecting their pension accrual and income. The employee works fewer hours, for example, 80% of the original working hours and receives 90% of their original salary, minimizing the loss of income. Pension accrual remains based on the original (100%) salary, ensuring that the employee does not receive a reduced pension later.

ⁱ stcrt-2023-31689.html



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Annex II: The Questionnaire

Part 1: General description of the case study

1.1 State of the debate

Describe the state of the debate, the identified challenges and reforms or solutions adopted.

1.2 Policy evolution

Describe the evolution of policy solutions: identify relevant policy shifts and discourse shifts, from the Global financial crisis of 2008 onwards

1.3 Gender and intersectional impacts and their evolution

Provide relevant data on gender impacts of the crisis. When possible, include data on intersecting inequalities (how are women from different social classes, race and age impacted). Look at the evolution of gender gaps since 2008.

Part 2: Leadership and crisis management

2.1 Numerical presence

Are women present in crisis-response bodies at political level? (e.g. task forces, expert bodies consulted by government). Were they already involved in decision making in pre-crisis situation?

2.2 Intersectionality

Which groups of women/interests are (un)represented?

2.3 Roles

In which roles/positions are women acting?

2.4 Space of representation (formal/informal)

A) To what extent are women's interests and gender issues represented in crisis-response activities in civil society spaces? (grassroot organisations, associations, NGOs) What is their role?

B) What's their ability to make their voice heard (e.g. financial ability, structure, connections-human capital)?

2.5 Consulting mechanisms

Are there any consulting mechanisms put in place to ensure a gender perspective is taken into account in the crisis response (with inputs from CSOs)? How effective it is?

Part 3: Policy response and impact (material and discursive and their interaction)

3.1 Sectors/gender mainstreaming

In which policy domains is the crisis addressed (sectorial or transversal)? Is gender mainstreaming effectively implemented?

3.2 Target of measures

Which social groups does the policy target? What specific subgroups of women are targeted (if any)?

3.3 Scope of measures

What types of measures are adopted? E.g. positive actions for specific subgroups (victims of GBV, single mothers, rural women, etc.), or transformative measures aiming at changing social structures?

3.4 Problematization (policy discourse)



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How is the crisis represented to be in the specific policies? Drawing on Bacchi's approach, look specifically at the assumptions behind policy choices and the dichotomies underlying them (e.g. women will save us from the climate crisis vs women helpless; private vs public funding; right vs commodity)

3.5 Intersectionality

Is the policy response acknowledging and addressing the intersectional impact of crisis?

3.6 Decolonial approach

What is the impact of the policy from a decolonial approach? Does it reinforce dynamics of exploitation North/South?

3.7 Gender impacts

What is the impact of policy responses to crisis? Do policy responses exacerbate or mitigate existing gender inequalities? Take into account the following domains: GBV, work and labour market, gender pay and pension gap, gender care gap, economic and social rights -housing, health, education, and vocational training?

3.8 Gender perspective

How is gender incorporated in the policy?

Part 4: Discourse or 'crisis narrative' in media and public opinion

4.1 Decolonial dimension

How does the colonial structure impact or influence the crisis? Is this impact acknowledged in the discourse? Are any steps taken to de-centre Europe and its experiences in the crisis? Are knowledges and solutions from 'the periphery' considered/included?

4.2 Binary constructions

Does the 'crisis narrative' reflect binary constructions of reality e.g. public/private; production/reproduction?

4.3 Stereotypes

Does the crisis narrative contain stereotyped assumptions about gender roles? (e.g. women are victims who need protection; women must be included into crisis response because they have 'unique' points of views/skills that are valuable)

Part 5. Gender backlash and opportunities

5.1 Overlap with other crises

Are there any dimensions in which the crisis you are analyzing overlaps with other types of crises? (e.g. climate crisis overlaps with social-health related crisis)

5.2 Gender backlash

Identify actors and factors (or any other relevant element) of backlash against gender in the crisis analyzed.

5.3 Opportunity for changing gender roles

Identify actors and factors (or any other relevant element) involved in creating a window of change during the crisis situation.

5.4 Good practices

Are there any examples of effective and promising approaches and tools to counteract gendered law-making during crises



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