

Working separately together

A quantitative study into the knowledge sharing behaviour of judges

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Afzonderlijk samenwerken

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(met een samenvatting in het Nederlands)

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1 Introduction

“It is good to rub and polish our brain against that of others.”

Michel Eyquem de Montaigne
(French philosopher 1533-1592)

1.1 Introduction

The above quote from Michel Eyquem de Montaigne is deliberately chosen. In conducting this study as a researcher from the Montaigne Centre for Judicial Administration and Conflict Resolution at Utrecht University, I have found that the French philosopher has a very close connection with this book. In Montaigne’s quote, the term ‘brain’ can easily be interpreted as the knowledge possessed by an individual, and in the context of this study, the knowledge possessed by a judge. The judge is a knowledgeable person who has been elected or appointed to act as a neutral interpreter of the law. In this role, the judge is required to use his or her knowledge to make decisions; simple decisions, but also difficult decisions filled with complex elements of uncertainty. Judges are well aware of the fact that their decisions can have far-reaching consequences for the court users that take part in the process. Therefore, the need to perform well and minimize the risks of judicial error is high. For judges, personally retained knowledge is the ultimate tool to understand and respond to the complexity of daily work tasks. However, knowledge is not a static entity (Berliant & Fujita, 2012; Brugnach & Ingram, 2012). Instead, it is a personal asset that constantly changes due to new experiences and interaction with others. In the current study, we focus on this interaction aspect, or more specifically, on the process of collegial knowledge sharing in court organizations.

1.2 Cooperation and collegial knowledge sharing among the judiciary

Judges are autonomous agents who ought not to be influenced whatsoever (Ingelse, 2010). Simultaneously, judges have the responsibility to handle and decide similar cases in a similar manner. Due to ambiguous concepts within the law, inconsistent case law and other uncertainties in the

decision-making process, different interpretations and alternative reasoning in similar cases occur. Based on the principle of legal certainty, this is highly undesirable. Judges should avoid arbitrariness in the court process as it can have a detrimental effect on the quality of judicial decisions, and in that sense on the overall confidence of the public in the judicial system (Casey, 1998). A lack of consistency in judicial decisions also leads to uncertainty which may result in more court procedures than are strictly necessary (Van Dijk, 2014). Judicial cooperation creates the opportunity to discuss pressing matters and to consider possible solutions to reduce unwarranted disparities. As a coordination mechanism, judicial cooperation is a means to create more uniform decision-making, and in that sense, to improve the quality of the administration of justice.

- 3 In order to further improve the quality of the administration of justice, judges should not restrict themselves to solitary working methods (Dijksterhuis, 2008; Rapport Visitation Gerechten, 2014). Although judges are autonomous agents, they are – to some extent – mutually dependent upon each other as well (Dijksterhuis, 2008). Dijksterhuis (2008) explains that, like other professionals, judges need each other to create uniformity in working practices. It is therefore beneficial that judges work together and benefit from each other’s knowledge, and possibly from the knowledge of other important knowledge holders in the court, such as judicial assistants. In this study, we look beyond judicial cooperation as a coordination mechanism and focus on the type of workplace behaviour that lies at the core of effective collegial cooperation in the courts: collegial knowledge sharing.
- 4 Judges are legal experts, but, of course, that does not entail that they know everything (Kwak, 2013). Ng (2014) states that “judges are a group of individuals who work and think very differently from one another” (p. 1043). Through knowledge sharing, judges can discuss complex legal matters and reflect on practical difficulties in their work. Collegial knowledge sharing is about the exchange of ideas, insights and past experiences with colleagues. In order to optimally benefit from each other’s knowledge regular collegial knowledge sharing is required (Taal, Langbroek, & Van der Velde, 2014). Up until now, little is known about the knowledge sharing behaviour of judges. But, a better understanding of the knowledge sharing behaviour of judges is crucial, because knowledge sharing is a critical workplace behaviour that allows judges to cope with the challenges of their job.
- 5 Collegial knowledge sharing provides the basis for mutual learning and coordinated actions between judges. Mutual learning is essential for

maximizing the potential of individual judges for personal improvements and long-term organizational success. Coordinating efforts between judges are essential for achieving a more coherent body of jurisprudence to prevent unjustified divergence in the treatment of similar cases. Both functions of knowledge sharing are equally important for improving the quality of the administration of justice. The two functions will be more extensively discussed in section 1.4.

The aim of this study is to increase our understanding of the knowledge sharing behaviour of judges. In order to attain this aim, the knowledge sharing behaviour of judges is studied empirically using survey data from 447 professional administrative law judges employed in Switzerland, Germany and the Netherlands. In each of these countries, scholarly discussions on improving the quality of the administration of justice are regularly held and reported (Langbroek, 2000; Lienhard, Kettiger, & Winkler, 2012; Ng, 2007; Riedel, 2014). However, a better understanding of the knowledge sharing behaviour of Swiss, German and Dutch judges is lacking. This is unfortunate, because a better understanding of this type of workplace behaviour contributes to the development of new opportunities and guidelines for further quality improvements in court organizations. In the next section, attention is given to the meaning of quality in the judicial context and to the responsibility of judges to take into account both product and service quality.

1.3 The quality approach

Quality is a complex and often ill-defined concept (Golder, Mitra, & Moorman, 2012; Ng, 2007; Saarinen, 2010). The concept is generally used “to signify the relative worth of things” (Crosby, 1979, cited in Hoyer & Hoyer, 2001, p. 54). In this study, a distinction is made between product quality and service quality. Product quality refers to the quality of the court decision (e.g. legal certainty, timeliness, motivation and reasoning). And service quality refers to the quality of the court process that leads to the final decision (e.g. the treatment of court users, communication with court users) (Albers, 2009; Rutten-van Deurzen, 2010). Although the final decision (the ‘product’) can be conceptually distinguished from the process that has led to this decision (the ‘service’), in practice the two complement each other. In order to improve the overall quality of the administration of justice, both types of quality thus need to be discussed. But first, we need to take one step

back and focus on the distinction between the philosophical, technical and user-based approach of defining quality (Schneider & White, 2004).

8 Based on a philosophical approach, quality is “unknowable and unmeasurable” (Schneider & White, 2004, p. 10). Schneider and White (2004) explain that “under this approach, people know quality when they see it, but they cannot define quality further” (p. 10). According to the philosophical approach, quality *cannot* be managed, because it is too vague to initiate any line of action. Therefore, within the context of the current study, this approach is rejected.

9 Under both the technical approach and the user-based approach, quality *can* be managed. According to the technical approach, quality is defined as an objective reality and can be measured accordingly. Here, objective measurements are used, such as appeal rates or the time it takes to dispose cases (Schneider & White, 2004; Stockmann, 2008). The user-based approach is a mix between the philosophical approach and the technical approach. Here, the quality of a service is based on the perception of the user. Here, subjective measurements are used, such as user satisfaction surveys (Schneider & White, 2004; Stockmann, 2008).

10 In recent years, the user-based approach to quality has received increased attention in the judicial sector. In a report by the European Network of Councils for the Judiciary (ENCJ) Working Group of Quality Management (2008), the following was stated:

“Expressed simply, it can be stated that quality is experienced when the perception of the delivered service equals or exceeds expectations. We must accept that subjectivity plays an important role in this perception. This can be influenced through communication. This quality evaluation not only concerns the quality of the product delivered by the organisation, but also the totality of the user’s expectations” (ENCJ, 2008, p. 6).

11 The above citation reflects the user-based approach of defining quality. In line with the above citation, Albers (2009) reminds us that during the last two decades the focus has shifted from a narrow definition of quality, focusing primarily on the content of judicial decisions, to a broader definition of quality, focusing on other aspects of the court process as well, such as the treatment of parties during court hearings. This broadened definition of quality allows for both the technical and user-based approaches to defining quality to be combined. It also puts emphasis on the responsibility of judges (and the judiciary as a whole) to deliver both product and service quality.

Today, we do not solely perceive modern judges as *mouthpieces of the law*¹ (i.e. delivering product quality), but as professional service providers as well (i.e. delivering service quality). The latter is strongly influenced by the private sector-inspired management thinking that gained ground in the judicial sector during the late 1990s (Ng, 2007). Kettiger (2005) states that “parties in the dispute – who in daily life are courted and spoiled by the commercial companies – also feel increasingly like customers vis-à-vis the courts, and they expect corresponding treatment” (pp. 1-2). In the private sector, the featured role of the customer is evident. Private sector organizations operate in a competitive environment in which quality is an important criterion to remain in business. Public sector organizations do not operate in such an environment. This may result in a lack of incentive to improve and uphold service quality as perceived by the respective customers (Ancarani & Capaldo, 2001). But, although public organizations, like the judiciary, do not operate in a similar type of competitive environment as private companies, the constant pressure for improved public services – as a consequence of political and public pressure – largely counteracts the (potential) lack of incentive to improve and uphold service quality (Friis, 2002). For individual judges, this means that they are expected to deliver both product and service quality. But, the question is: who determines whether an appropriate level of product and service quality is actually delivered by individual judges?

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In general, professionals possess “a specialized body of knowledge and skills that are acquired during a prolonged period of education and training” (Schein, 1972, p. 8). In that sense, a professional permits “only his colleagues to judge his performance” (Schein, 1972, p. 9). The same is true for judges. However, De Bruijn and Noordegraaf (2010) stipulate that the quality of professional services is no longer solely controlled by colleagues in the same professional community, but the ‘user’ also actively evaluates the product and service that is delivered. In the 1980s, Freidson (1983) already referred to this trend as “deprofessionalization” (p. 282). He states that one of the drivers of this trend is the narrowing of the so-called “competence gap” between the professionals and the clients or users (p. 282). Freidson (1983) explains that this gap is declining “due to the increased education of the lay public and the increasing accessibility of professional knowledge itself. The consequence is less willingness to accept the authority of professional expertise without close scrutiny and questioning” (p. 282). Of

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1 The notion of the judge as « la bouche de la loi » originates from Montesquieu’s famous book ‘De l’Esprit des Lois’ (1748).

course, the specialized body of knowledge and skills possessed by judges cannot be equaled by lay persons. But the general public can demand that the judiciary is more open about its activities. Voermans (2007) states in this regard that “judicial activities have accessed the centre stage of the public debate, televised mass media serve as intermediaries to inform the public, and we live in an information age where information is exchanged with lightning speed. This affects both the way courts provide information and the level of public expectation” (p. 150). In our modern society, the spotlight is on the judge – and the judiciary in general – with respect to the delivered performances by these institutions.

- 14 Returning to the notion of collegial knowledge sharing; it is important to acknowledge that the delivery of product and service quality requires different types of knowledge and skills from individual judges. The delivery of product quality primarily requires formal legal knowledge (‘knowing the law’) and practical legal knowledge (‘knowing how to apply the law to concrete cases’). The delivery of service quality primarily requires practical non-legal knowledge (‘knowing how to deal with non-legal issues when handling concrete cases’). Participation in knowledge exchanges can help judges to cope with the difficulties in their work and the different types of knowledge required for doing their job well. Collegial knowledge sharing is not only an effective way to discuss legal issues, but also to exchange professional experiences and practical know-how with colleagues. The two functions of collegial knowledge sharing – in the context of the judiciary – are more extensively discussed in the next section.

1.4 Two functions of knowledge sharing

- 15 In this study, we highlight two functions of knowledge sharing: bridging interdependencies and exchanging best practices (Christensen, 2007). Below, these two functions of knowledge sharing are further introduced.

1.4.1 Bridging interdependencies

- 16 The law is often unclear (Avendaño Canto, 2014; Marseille, 2010). This gives judges considerable discretion in their interpretation and

application of the law. As a result, divergent interpretations of the law can occur. This is problematic, because those who seek and expect justice need to be able – to a certain extent – to predict the outcome of legal proceedings. Traditionally, higher instance courts control the decisions of lower instance courts. But, this is not always a fitting solution to ensure predictable and coherent outcomes of legal proceedings (Avendaño Canto, 2014). One obvious reason is that not all cases are appealed. And even when cases are appealed, it often requires considerable time to reach a higher court decision which, in turn, can serve as a guideline for lower court judges to reach decisions (Langbroek, 2003; Marseille, 2009). In the meantime, similar cases can reach the court and await a decision. The judge is obliged to take a decision, even when the judge cannot rely on a coherent body of jurisprudence. In order to foster the uniform interpretation of legal norms, coordinated action between (first instance) judges can be desirable (Langbroek, 2003; Van Erp, 2004).

Coordination presupposes the existence of dependencies between the work-related tasks or activities of individuals (Weigand, Van der Poll, & De Moor, 2003). Situations of interdependencies occur when judges are dependent upon each other to foster the uniform application and interpretation of the law. According to Christensen (2007), knowledge sharing is a way “to bridge situations of interdependencies” (p. 42). Collegial knowledge sharing is thus not the same as coordination, but the participation of judges in knowledge exchanges can be a first step towards discussing interdependencies and their consequences for the provision of legal certainty (e.g. the different opinions or views of judges can converge through deliberate collegial interaction). In that sense, collegial knowledge sharing is a supplement to more formal ways of judicial coordination, such as the possibility to appeal to a higher court and the handling of concrete cases by multi-judge panels. Although this is not to say that voluntary participation in knowledge sharing activities automatically reduces inter-judge disparities (Scott, 2013), in the context of this study it is assumed that active engagement in collegial knowledge sharing can have a positive effect on the consistency of judging.

It should be noted that it is not claimed in this study that the uniform interpretation of legal norms should be the ultimate objective. Instead, we want to emphasize that the uniform interpretation and application of the law is part of the juridical ideology that should not be rigidly applied, e.g. risking the occurrence of a tunnel vision effect (Avendaño Canto, 2014), but should also not be neglected. Striving for a coherent body of jurisprudence

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is a long-term goal. New laws and/or new legal questions need time to mature (Langbroek, 2003). Divergent interpretations of first instance judges are therefore not per definition undesirable. However, it is important to create a balance between the provision of legal certainty in the short term (in current cases) and in the long term (in future cases) in order to create unity of jurisprudence (Langbroek, 2003).

1.4.2 Exchanging best practices

19 Learning, or as some call it, exchanging best practices (or lessons learned), is another function of knowledge sharing (Christensen, 2007). Here, knowledge sharing is less focused on the (possible) alignment of work practices, and more on using each other's intellectual capital to improve individual performances. For judges, lifelong learning (e.g. through in-house courses or other types of training) is an important method to meet the challenges of the increasingly complex environment in which they work. However, in everyday practice, learning is not only focused on gaining legal knowledge, but also on gaining relevant non-legal knowledge. Knowledge acquired from practice is at least as useful as knowledge acquired from formal types of education (Cervero, 1992; Kwak, 2013).

20 In daily working situations, judges regularly need to combine legal knowledge with practical legal and non-legal knowledge: e.g. to discover potential conflicts underlying the legal dispute, to deal with emotional outbursts in the courtroom or to reduce the use of special legal terminology to better engage first-time court users ('one-shotters') in the court process. Although judges are not social workers or psychologists, it is important that judges are able to deal with these types of situations (De Hoon & Verberk, 2014). Ludewig-Kedmi (2004) emphasizes that having the right psychosocial skills (e.g. being able to listen to people in the courtroom and, in turn, correctly respond to them) is an important part of being a good judge. Furthermore, Tyler (2007) explains that the correct application of the law is only the first concern of judges. A second concern of judges is (and should be) "to handle people's problems in ways that lead them to accept and be willing to abide by the decisions made by the courts" (Tyler, 2007, p. 26). Scholars of procedural justice stress the importance of the (perceived) fairness of procedures to accept decisions (Lind & Tyler, 1988; Tyler, 2000).

Previous research has shown that, apart from considerations about the outcome of judicial decisions, court users also care about a fair procedure (Hollander-Blumoff, 2011; Tyler, 2006). Beier, Eib, Oehmann, Fiedler and Fiedler (2014) present in their study a list of four treatment aspects contributing to the procedural justice (or fairness) perception of clients, i.e. court users: involvement in the process, the neutrality of the decision-maker, the compassion and interest of the decision-maker, and respect and dignity by the decision-maker. The behaviour of the judge, i.e. the way in which the court user is treated by the judge, is highly relevant for the procedural justice perception of the court user. In that sense, the procedural justice perception is related to the earlier discussed service quality, i.e. the quality of the court process. 21

Whereas learning for judges is partly focused on the exchange of legal knowledge, it is important to realize that the regular exchange of practical legal and non-legal knowledge is important as well. Van Rossum (2010) refers in this context to the “trained intuition [English translation by the author]” of judges (p. 2471). Van Rossum (2010) explains that this type of intuition is developed through years of experience as a result of numerous interactions with parties in the courtroom. This knowledge is valuable, but also highly personal and largely tacit. Still, during knowledge exchanges, judges can discuss their courtroom experiences (to the extent that this knowledge is consciously transferable to others) and give advice to colleagues whenever requested. This is especially relevant for less-experienced judges. Nonetheless, more experienced judges can still learn from each other as well. Mutual learning can contribute to the individual work performance of judges; improving the product and service quality delivered to court users. 22

1.5 Studying knowledge sharing behaviour

Knowledge sharing is not a new phenomenon for judges. Many judges would even state that it is an integral part of their work (Dijksterhuis, 2008; Terlouw, 2008). Case law meetings, (trans)national judicial network 23

meetings,² in-house training programmes; judges are used to having informative discussion sessions with their peers (Taal, Langbroek, & Van der Velde, 2014). In addition, judges have abundant access to sources of codified knowledge, such as previous court decisions which are usually accessed through the use of jurisprudential databases.³ Although these sources of codified knowledge provide valuable input for judges, there is more knowledge to gain in the organization. By engaging in formal knowledge sharing activities, such as case law meetings, judges can discuss work related issues in a setting that is purposely designed to facilitate collegial knowledge sharing (Taminiau, Smit, & De Lange, 2009). But, this is usually not the only type of knowledge sharing that takes place within organizations. In the case of informal knowledge sharing, “resources, services and activities [...] are used to facilitate knowledge exchange, but [these] are not necessary designed for that purpose” (Taminiau, Smit, & De Lange, 2009, p. 45). Using consultancy firms as an example, Werr and Stjernberg (2003) explain that:

“Exchange of experiences also took place in more informal arenas, such as spontaneous hallway meetings or over a cup of coffee. The experience gained by individuals in their practice was shared among colleagues as stories about concrete cases. This knowledge was [to] a large extent tacit, but transformed in part into articulate knowledge through the process of sharing” (Werr & Stjernberg, 2003, cited in Taminiau, Smit, & De Lange, 2009, p. 45).

24 In a recently published interview article, a Dutch judge confirms that work-related conversations between judges also occur in more informal settings, for instance, during social events (Van der Pijl & Verhoeven, 2015). When studying knowledge sharing behaviour, formal and informal encounters between judges are thus both relevant to consider.

25 With the words “If we only knew what we know”, the former Chairman, President and CEO of Texas Instruments Jerry R. Junkins expressed a

2 On the European level, a distinction is made between networks set up by the European legislature (e.g. the European Judicial Network) and networks set up by the judiciaries themselves (e.g. the Association of European Administrative Judges) (Claes & De Visser, 2012). Both types of networks play a functional role in knowledge exchanges between judges.

3 Such as *Porta Iuris* (the Netherlands) and *Swisslex-Weslaw* (Switzerland). Being able to retrieve information from these databases is commonly referred to as ‘access to information’.

concern shared by many managers and organizational leaders. The bulk of knowledge which is available in most organizations is often not used to its full potential. As a result, organizations miss opportunities requiring the accumulated knowledge of their organizational members. Particularly in knowledge intensive organizations, knowledge is a valuable asset that forms the basis for high quality performance (Ryu, Ho, & Han, 2003). This particularly applies to the judicial sector. Judges possess relevant professional knowledge that is only partially captured in jurisprudential databases, books, commentaries or other sources from which this knowledge can be gathered. Most knowledge is not formally captured and can only be accessed by means of knowledge sharing among organizational members. This makes participation in knowledge sharing practices an “efficient and effective way to tap expertise for a specific problem situation” (Tymon & Stumpf, 2003, p. 14).

Knowledge sharing consists of two related processes: donating knowledge and collecting knowledge (Van den Hooff & De Ridder, 2004). When studying the knowledge sharing behaviour of judges, we are equally interested in judges “communicating to others what one’s personal intellectual capital is”, i.e. donating knowledge, and in judges “consulting colleagues in order to get them to share their intellectual capital”, i.e. collecting knowledge (Van den Hooff & De Ridder, 2004, p. 118). In that sense, knowledge sharing goes further than information sharing, which is primarily focused on documents or publications made available by the organization. Information sharing is unidirectional and often unrequested (Connelly & Kelloway, 2003). By contrast, knowledge sharing is bidirectional and consciously performed (Tangaraja, Mohd Rasdi, Ismail, & Abu Samah, 2015; Van den Hooff & De Ridder, 2004). 26

Knowledge sharing is a voluntary activity (Bartol & Srivastava, 2002). It has been argued in previous studies that knowledge donating and/or knowledge collecting does not occur automatically (Bock, Zmud, Kim, & Lee, 2005; Ramayah, Yeap, & Ignatius, 2014). It requires an effort on the part of the professional to share knowledge (Kim & Lee, 2006). Due to the belief that ‘knowledge is power’, some scholars even argue that knowledge sharing is an unnatural act to perform (Davenport, 1997; Lee & Al-Hawamdeh, 2002). These scholars perceive knowledge as a critical personal asset that secures a professional’s position in an organization. From this perspective, it would seem almost irrational for professionals to donate their knowledge to others. After all, this might reduce a person’s unique value to the organization, which makes this person replaceable and 27

threatens his or her job security (Kankanhalli, Tan & Wei, 2005; Riege, 2005). Professionals may even be reluctant to donate their knowledge to colleagues working in other teams within the organization, because these organizational teams compete with each other for resources (Du Plessis, 2005; Goh, 2002). In the judicial sector, intentional knowledge hoarding is less prominent, because judges are expected to work in a cooperative rather than in a competitive fashion. But that is not to say that collegial knowledge sharing occurs automatically.

28 A report issued by the Dutch Council for the Judiciary announced that judges do not make sufficient efforts to learn from each other on a regular basis. And, under work pressure, judges give even less priority to learning activities (Rapport Visitatie Gerechten, 2014). The report also stipulates that judges tend to primarily focus – and thus spend most time on – their main job task, which is: handling and deciding court cases. As a consequence, collegial knowledge sharing – especially the type of knowledge sharing that takes place between colleagues who do not share the same daily working environment – is still relatively uncommon. The report also pays attention to the observed situation of judges having their own (subjective) quality standards to determine the quality of their respective work. It is warranted in the report that this may limit the extent to which judges acknowledge the necessity to exchange (practical legal and practical non-legal) knowledge with their colleagues (Rapport Visitatie Gerechten, 2014).

29 However, without the participation of judges in knowledge exchanges, they simply cannot benefit from the expertise and past experiences of their colleagues. Participation in knowledge exchanges (with colleagues in and outside a judge’s direct working environment) enables judges to make better informed decisions (Scott, 2013). Equally important, a lack of knowledge sharing also limits the extent to which cooperation and opportunities for coordinated action can be explored. It is thus important to improve our understanding of the conditions under which collegial knowledge sharing in court organizations prospers.

1.6 The challenge of managing the knowledge sharing behaviour of judges

30 The judicial branch is a separate authority, independent from the other two branches of government: the legislature and the executive.

Based on the classical principles of the separation of powers and checks and balances, institutional judicial independence is the cornerstone of any democratic legal state. But, not only the judiciary as a whole needs to be independent to ensure impartial adjudication to court users, individual judges should be independent as well. As *the mouthpieces of the law*, judges should be able to handle cases free from undue external and internal influences. Undue external influences involve pressures from outside the judiciary, for instance, the media⁴ or political pressure. Undue internal influences involve pressures from within the judiciary, for instance, management or peer pressure (ENCJ Report 2013-2014). Below, we focus on the latter.

Knowledge sharing presumes an interaction between a minimum of two people: the knowledge provider and the knowledge recipient (Hendriks, 1999). During knowledge exchanges people help one another to achieve a performance that they could not have attained by themselves, or is at least more difficult to achieve alone. Participating in knowledge exchanges with colleagues is always a voluntary decision. Knowledge sharing is not about telling colleague-judges what to decide in specific cases. This would be problematic, because it harms the internal independence of judges (Dakolias & Thachuk, 2000).⁵ The way in which the knowledge gained from participation in knowledge exchanges is used is completely up to the judge. Undue peer pressure is thus not an immediate concern here. We do not perceive knowledge sharing as a threat to individual judicial independence. On the contrary, in this study the regular participation of judges in knowledge exchanges is seen as a sign of team spirit and mutual support.

31

4 Kettiger (2005) highlights the increased impact of the Swiss media on courts and individual judges. He states that “court proceedings that are important for the public become media events, and the pressure of public opinion on court activity is simultaneously increasing. The behaviour of court officials is increasingly becoming the object of critical attention by journalists and others in the media. This goes so far that a Swiss magazine performs a benchmark on the quality of the courts” (Kettiger, 2005, p. 2). In the Netherlands, there is a website dedicated to the misconduct of a single judge: <http://www.rechterwestenberg.com/> (last visited 29 April 2015). These type of events can put (undue) pressure on individual judges.

5 Dakolias and Thachuk (2000) describe four types of judicial independence: substantive independence (“making judicial decisions and exercising official duties subject to no other authority but the law”) (p. 140); personal independence (“adequately secured judicial terms of office and tenure”) (p. 140); collective independence (“judicial participation in the central administration of courts”); and, internal independence (“independence from judicial superiors and colleagues”) (p. 140).

32 Apart from their role as independent adjudicators, judges are organizational members as well. An organization cannot properly function when organizational members are entitled to opt out of any form of work arrangements. In the judicial context, judges have to commit to basic work arrangements, such as schedule appointments for court hearings, but – unlike most professional organizations – the court organization is limited in exerting more extensive control over the work of individual judges. Due to the constitutionally protected independent status of judges, the organization cannot control the content of judicial work. However, the conditions under which judges have to perform their tasks can be controlled by the court organization (Emery & De Santis, 2014). For instance, when the court’s leadership (the management board of a court) wants to accomplish a greater consistency of judicial decisions, the organization cannot directly steer towards that outcome, but it can create the right conditions to stimulate collegial knowledge sharing in order to create a basis for coordinated action among judges. By facilitating and stimulating collegial knowledge sharing, the organization takes its responsibility to provide high quality services while respecting the independent status of judges.

33 Due to the independent status of judges, the extent to which knowledge sharing can be stimulated in a top-down fashion is limited. Organizational rewards, such as bonuses, promotion or higher salaries, cannot be granted in this context. These types of rewards can be granted to other professionals, such as lawyers (Olatokun & Nneamaka, 2012). In addition, it is assumed that judges are committed to their judicial career and that they have the intrinsic motivation to pursue excellence in their pursuit of justice. According to Hall (1968, p. 93), this sense of calling reflects “the dedication of the professional to his work and the feeling that he would probably want to do the work even if fewer extrinsic rewards were available”. Although extrinsic rewards have shown some promising effects in previous studies (see Wang & Noe, 2010), the situation seems to be different for judges.

34 The court organization supports judges in their work. But, the extent to which the organization can ‘manage’ judges is limited. On the one hand, it is the organization that creates tools and instruments to ‘assist’ the judge

in his or her task to apply and interpret the law,⁶ and on the other hand, it is the judge who creates his or her own strategy to deal with his or her discretionary space in order to make just decisions. This principle largely applies to other “service professionals”, such as lawyers and medical specialists (Noordegraaf, 2011, p. 1352), as well. Due to the possibility of a conflict between organizational and professional values, the relationship between the professional and the employed organization is often classified as complex (Aranya & Ferris, 1984; Hall, 1967; Noordegraaf & Steijn, 2013; Shafer, 2009). Organizational-professional conflict occurs when the organization promotes goals that are inconsistent with the norms and values of the professional (Aranya & Ferris, 1984; Shafer, Park, & Liao, 2002). In the judicial context, the potential for such organizational-professional conflict is particularly high, because judges attribute great value to the norms and values that define their unique position in the judiciary.

Against this background, Jensma (NRC, 1 November 2014) labels judges as “management proof”. He argues that judges only learn from each other if they want to. In the knowledge sharing literature, scholars generally agree that knowledge sharing cannot be enforced, but it can only be stimulated and facilitated (Bock, Zmud, Kim, & Lee, 2005; Ferguson, Huysman, & Soekijad, 2010; Taal, Langbroek, & Van der Velde, 2014). It is the task of the organization to fulfil a central role here. After all, as stated by Gross (2001), “organizations can deliver quality *only* when they recognize and support their knowledge workers” (p. 452). Naturally, this also applies to the activity of knowledge sharing. However, in order to effectively stimulate and facilitate collegial knowledge sharing in court organizations, a better understanding of the knowledge sharing behaviour of judges is required. 35

Up until now, little is known about the knowledge sharing behaviour of judges (Apistola, 2010; Casanovas, Poblet, Casellas, Contreras, Benjamins, & Blazquez, 2005; Lazega, Mounier, Snijders, & Tubaro, 2012). Empirical findings are especially scarce. This is remarkable, because judges are 36

6 Some of the initiatives that are implemented to facilitate and/or stimulate collegial knowledge sharing are the result of actions taken within the court organization. But, for instance, a good IT infrastructure, which is often referred to as a facilitator of knowledge sharing (Ismail & Yusof, 2010; Kaewchur, Anussornnitisarn, & Pastuszak, 2013), is an issue that often transcends the boundaries of the court organization. Court organizations do not operate independently, but they are embedded in a larger structure: the judicial organization (at the national, state or cantonal level). The IT infrastructure is mostly managed at this higher organizational level.

knowledge workers ‘par excellence’. Key to their professional success is the ability to use their intellectual capital to deliver high quality products and services. Knowledge sharing is thus an important workplace behaviour that deserves more scholarly attention in the judicial context.

1.7 Research question

37 The following research question is formulated:

What factors influence the knowledge sharing behaviour of professional administrative law judges in Switzerland, Germany and the Netherlands, and what is the impact of this knowledge sharing behaviour on the (self-rated) overall job performance of judges?

38 In this study, knowledge sharing behaviour refers to individual-level, intra-organizational knowledge sharing: knowledge sharing between colleagues in the court. The term ‘court’ refers to “the organization encompassing individual judges, panels and juries, their legal staff and their logistical support staff” (Reiling, 2010, p. 22). Courts are organizations embedded in a larger organizational structure commonly referred to as the judicial organization. In this study, each court is perceived as an unique organization. This implies that every court has a certain responsibility to make sure that the judges of that particular court are able to perform at their utmost level. Of course, this is not to say that all responsibility lies with the court. As court organizations are embedded in a larger organizational structure, various management tasks, such as Information Technology (IT) management are usually more centrally organized. Still, creating an atmosphere within the court that enables judges to perform at their utmost level is something that partly needs to be realized (and managed) at the ‘local’ (i.e. court) level.

39 The term ‘knowledge sharing’ refers to knowledge exchanges between colleagues working in the same working unit or between colleagues working in different working units within the same court (e.g. teams or departments). In addition, collegial knowledge sharing is about work-related interactions between judges, but can also refer to interactions between judges and other

colleagues in the court, such as judicial assistants.⁷ Holvast (2014) explains that a judicial assistant not only has to function as a subordinate of the judge, namely, “under the assumption that certain judicial tasks do not necessarily have to be executed by a judge but can be performed by an assistant and merely coordinated by a judge” (p. 45). But, alternatively, a judicial assistant can also work alongside the judge, i.e. “providing him with critical views on the merits of cases and serving as a sparring partner in decision-making” (p. 46). In the case of the latter, the judicial assistant is an important knowledge holder and exchange partner for the respective judge. Therefore, this study focuses on *collegial* knowledge sharing and not solely on knowledge sharing between judges.

The research is exclusively focused on professional judges working in the field of administrative law. Professional judges are judges who have undergone “a complete professional training as required by law, and whose primary activity is to act as judge or member of a court” (Djankov, La Porta, Lopez-de-Silanes, & Shleifer, 2003, p. 463). Professional judges can be distinguished from the more diverse group of non-professional judges. A non-professional judge is an “arbitrator, administrative officer, practicing attorney, merchant, or any other lay person who may be authorized to hear and decide the case” (Djankov, La Porta, Lopez-de-Silanes, & Shleifer, 2003, p. 463). Non-professional judges are common in the context of Swiss and German courts. Here, non-professional judges work alongside professional judges as they sit together in mixed multi-judge panels (in these panels at least one professional judge is present). These types of mixed multi-judge panels cannot be found in Dutch courts (CEPEJ, 2014). Due to the cross-national setting of this research, the focus lies exclusively on the group of professional judges which can be found in all three countries.

Administrative law judges represent a subset of professional judges. This group of judges can be referred to as the “legal controllers of the administration” (Langbroek, Buijze, & Remac, 2013, p. 6). This separates administrative law judges from other groups of professional judges in the

7 The number of non-judge staff members in courts varies per country (see CEPEJ, 2014, pp. 174-185). Also, the diversity among non-judge staff members differs per country. For example, in Germany there is a *Rechtspfleger* function. The *Rechtspfleger* is a non-judge staff member who has been given a higher status than other judicial assistants working in the court. Still, the *Rechtspfleger* is officially a non-judge staff member and not a (professional) judge. The *Rechtspfleger* function cannot be found in the other two participating countries of this study: Switzerland and the Netherlands.

courts.⁸ In their work, administrative law judges regularly come across similar cases in which they need to deal with the same administrative authorities (Terlouw, 2003). As a consequence, differences in the treatment and outcome of these cases are directly noticeable for the involved authorities. Compared to the civil law field, Terlouw (2003) states that in the administrative law field the need for “recognizable patterns in judicial decisions [English translation by the author]” is even higher (p. 23). Hence, the need for collegial knowledge sharing for this group of judges is evident; especially when knowledge sharing paves the way for more consistent judicial decision-making in future cases. By focusing on this particular group of judges, this study can serve as a building block for future studies on prosocial workplace behaviours of judges working in different legal fields.

1.8 A cross-national study

42 In earlier knowledge sharing studies, researchers have often limited their scope to a single organization or several organizations within a single country (Huang, Davison, & Gu, 2008; Lin, 2007a; Seba, Rowley, & Lambert, 2012). This is remarkable, because different cultural and/or organizational contexts may elicit diverse effects (Cabrera, Collins, & Salgado, 2006; Mueller, 2012; Yang & Farn, 2009). For instance, in the judicial context it might be the case that judges who are appointed for life (e.g. in Germany and the Netherlands) have a different outlook on knowledge sharing practices than judges who are elected for a six-year term (e.g. Switzerland). Studying the knowledge sharing behaviour of judges in more than one country is necessary to offer a more robust test of the study’s research model.

43 As yet, to the author’s best knowledge, no study has attempted to test the knowledge sharing behaviour of judges in a cross-national setting. Taking

8 In some countries, such as in Switzerland, judges from smaller courts are not solely confined to administrative cases. They are regularly involved in other types of cases as well.

Switzerland as a starting point for this study,⁹ Germany and the Netherlands have been selected as interesting cases for comparison. In chapter 3, a more thorough discussion of these three participating countries is provided.

1.9 Structure of the book

The remainder of this book consists of four chapters. In chapter 2 the concept of knowledge sharing is further defined and reflected upon. Also, the study's research model and the hypotheses are introduced in this chapter. In chapter 3 the study method is described. Also, additional information is provided on the specific courts and countries participating in this study. In chapter 4 the statistical results and the performed analyses are presented. In chapter 5 an extensive discussion of this study's research findings is provided. Also, the limitations of the study and the associated recommendations for further research are presented. In addition, the theoretical and practical implications of the study results are discussed. The final chapter ends with a summary and some concluding remarks.

44

9 This study is part of a large-scale interdisciplinary research project on court management, led by the Kompetenzzentrum für Public Management (University of Bern) in Switzerland. The Montaigne Centre for Judicial Administration and Conflict Resolution is one of the research partners in this project. For more information on this overarching project, see the official website of the research project: www.justizforschung.ch.

2 *Literature overview, research model and hypotheses*

2.1 **Introduction**

Being a good judge is more than knowing the law (Beyens & Vanhamme, 2008; Ludewig-Kedmi, 2004). Administering justice is a complex undertaking requiring a wide variety of knowledge; including legal knowledge and non-legal knowledge. Whereas only part of the knowledge which is available in the organization is stored and readily available for others to use, judges need each other – and other important knowledge holders in the court – to obtain access to non-codified and personally kept knowledge. 45

In the previous chapter, we introduced collegial knowledge sharing as an instrument for improving the quality of the administration of justice (the product *and* service quality). We also emphasized the importance of a better understanding of the factors that influence the knowledge sharing behaviour of judges in courts. One of the goals of this chapter is to reflect on some of the most relevant insights on knowledge sharing presented in the current scholarly literature. Other goals of this chapter are: presenting this study's outlook on knowledge sharing (behaviour) and introducing the research model and the associated hypotheses. 46

2.2 **Previous studies on knowledge sharing**

Previous studies on knowledge sharing have been conducted in many different contexts, focusing on different types of professionals. To give an impression, the following professionals have already been part of knowledge sharing studies: academics (Fullwood, Rowley, & Delbridge, 2013), accountants (Phang & Foong, 2010), lawyers (Wasko & Faraj, 2005), physicians (Ryu, Ho, & Han, 2003; Zappa, 2011) police officers (Luen & Al-Hawamdeh, 2001; Seba, Rowley, & Delbridge, 2012), teachers (Hew & Hara, 2007; Lin, Lin, & Huang, 2008), and many more. Of course, we can learn from these studies, but we should also be cautious in applying these study results directly to the judicial context. Due to the 47

constitutionally protected independent status of judges, judges have a rather unique relationship with their colleagues. This can potentially influence their knowledge sharing behaviour. Therefore, we should not merely copy the input of other knowledge sharing studies, but should focus specifically on the knowledge sharing behaviour of judges as well.

48 Over the years, the benefits of knowledge sharing have been extensively discussed in the scholarly literature: competitive advantages (Goh, 2002; Argote & Ingram, 2000), innovation capability (Liao, Fei, & Chen, 2007; Lin, 2007a; Sáenz, Aramburu, & Rivera, 2009), service delivery improvements (Kim & Lee, 2004; Law & Ngai, 2008), increased efficiency (Abrams, Cross, Lesser, & Levin, 2003). In the long run, knowledge sharing can even “increase productivity, improve the work process, [...] and help the organization to achieve its performance objectives” (Yi, 2009, p. 68). Van Woerkom and Sanders (2010) show that knowledge sharing also contributes to individual performances. But, while the advantages of knowledge sharing have been formulated over and over again, Blankenship and Ruona (2009) argue that we still do not fully understand how knowledge sharing works.

49 Previous studies on knowledge sharing have resulted in various explanations as to why, how and when knowledge sharing takes place. Most studies have provided valuable new insights, but the results are also rather mixed. This is not in the last place due to the alternative operationalizations of the concept of knowledge sharing used in different studies. These alternative operationalizations are mainly caused by different understandings of what knowledge sharing behaviour exactly entails. Some researchers have focused on knowledge sharing from an unidirectional perspective, i.e. from the knowledge provider to the knowledge recipient (Kankanhalli, Tan, & Wei, 2005; Mooradian, Renzl, & Matzler, 2006; Wasko & Faraj, 2005), while other researchers have focused on knowledge sharing from a bidirectional perspective, i.e. from knowledge provider to knowledge recipient and vice versa (Foss, Minbaeva, Pedersen, & Reinholt, 2009; Van den Hooff & Huysman, 2009), some researchers have made an explicit distinction between the sharing documents (written texts) and between the sharing of other types of non-written knowledge (Hu & Randel, 2014; Reychar & Weisberg, 2010), while other researchers have not made such a distinction (Ryu, Ho, & Han, 2003; Van den Hooff & De Ridder, 2004). The knowledge sharing literature is thus rich, but also fragmented. Defining knowledge sharing is therefore one of the most important steps to take when studying the knowledge sharing behaviour of professionals.

In the forthcoming sections, the concept of knowledge sharing is further defined for the purpose of this study.

2.3 Defining knowledge sharing

There are many definitions of knowledge sharing available in the scholarly literature (Yi, 2009). In the following sections, we will elaborate on the meaning and practical use of the concept in the context of this study. 50

2.3.1 Collegial knowledge sharing versus collegial decision-making

First of all, it is important to make a strict distinction between collegial knowledge sharing and collegial decision-making in multi-judge panels. Contrary to the voluntary act of collegial knowledge sharing, decision-making in multi-judge panels requires judges to work together in order to reach mutually agreed decisions; i.e. to reach consensus. In the Netherlands, multi-judge panels solely consist of professional judges. In Germany and Switzerland, multi-judge panels usually consist of a combination of professional and non-professional judges. It is generally assumed that – in complex cases – groups of judges make better decisions (i.e. less errors) than judges who decide cases by themselves (Baas, De Groot-van Leeuwen, & Laemers, 2010; Van Dijk, Sonnemans, & Bauw, 2014). 51

Although some of the advantages of group decision-making are similar to the advantages of collegial knowledge sharing, it is important to realize that collegial knowledge sharing is always non-obligatory. In addition, the goal of collegial knowledge sharing is not to reach mutually agreed decisions in concrete cases, but to freely benefit from each other's knowledge and potentially create new knowledge together. 52

2.3.2 Knowledge sharing behaviour versus feedback behaviour

53 It is important to realize that knowledge sharing behaviour and feedback behaviour are related, but not identical. Giving and receiving feedback is about critically reflecting on each other's work, while knowledge sharing is about giving and receiving advice to and from others without being (necessarily) critical of each other. Knowledge sharing thus reflects a more neutral type of behaviour. In general, this implies that participation in knowledge sharing discussions is less threatening, intimidating or confrontational than the participation in feedback discussions. Miller and Karakowsky (2005) underline the unique characteristics of feedback-seeking behaviour. Seeking feedback typically results in positive or negative comments from close colleagues (Govaers, 2015; Miller & Karakowsky, 2005). Negative comments can be perceived as ego threatening and, in that sense, have a detrimental effect on a person's self- or public image (Miller & Karakowsky, 2005; Moss, Valenzi, & Taggart 2003).

54 Peer review is an important quality control mechanism (Lazega, 2000). In court organizations, peer review sessions give judges the opportunity to engage in feedback discussions with peers in a setting purposely designed to express critical concerns. However, developing a feedback-friendly climate in which judges feel free to engage in more informal feedback discussions is challenging to realize. In a report issued by the Dutch Council for the Judiciary, it is argued that an open and amicable atmosphere in the court does not necessarily stimulate judges to engage in feedback discussions with their peers. The report warrants that an open and amicable atmosphere in the court can even restrict the creation of a feedback-friendly culture, because judges do not want to threaten social relations or disturb the existing amicable atmosphere in which they currently work (Rapport Visitatie Gerechten, 2006). However, an open and amicable atmosphere is expected to have a positive influence on knowledge sharing behaviour (see section 2.5.1.3). In that sense, creating an environment which is conducive to knowledge sharing may involve different organizational efforts than only creating a feedback-friendly culture in the court. In this study, we therefore focus exclusively on the knowledge sharing behaviour of judges and, in that sense, on the organizational efforts fostering this type of behaviour.

2.3.3 Individual learning versus collective learning

Knowledge sharing can be studied at the individual, group and organizational level (Foss, Minbaeva, Pedersen, & Reinholt, 2009). In this study, the focus lies on individual-level knowledge sharing: knowledge sharing between judges, and between judges and other colleagues in the court, such as judicial assistants. Knowledge exchanges can take place between colleagues working within one unit (e.g. a team or department) or between colleagues working in different units. Individual-level knowledge sharing is considered to be a prerequisite for (informal) coordinated action between judges and for creating an effective learning cycle in the court. Huysman and De Wit (2004) point to “the risk of concentrating attention on local knowledge sharing without addressing the issue of how the organization as a whole can benefit from it” (p. 88). They call this the “local learning trap” (Huysman & De Wit, 2004, p. 88). They explain that individual learning processes do not necessarily benefit the organization as a whole (Huysman & De Wit, 2002; Huysman & De Wit, 2004). Only when the shared knowledge between two individuals becomes available for collective use *and* is collectively accepted, collective learning can occur (Huysman & De Wit, 2002; Huysman & De Wit, 2004). 55

In this study, the problems and organizational challenges associated with the local learning trap are acknowledged. But, the initial focus on individual learning as a necessary first step to better understand individual-level knowledge sharing in the court is the prime focus here. According to Olatokun and Nneamaka (2012), “understanding the process of knowledge sharing between individuals is one step toward a better understanding of knowledge sharing as a whole in organisations” (p. 2). 56

Up until now, little is known about the knowledge sharing behaviour of judges. Focusing on individual-level knowledge sharing, and thus on individual learning processes in the court, gives us a first impression of how individual learning can be managed (Huysman & De Wit, 2004). Also, local learning is not a problem per se (Huysman & De Wit, 2004). Not all knowledge that is shared between individuals is relevant for all other organizational members. In court organizations especially, some knowledge is only relevant for a small group of judges. For that reason, it is not always required to overcome the local learning trap in this specific context (Huysman & De Wit, 2004). 57

2.3.4 Information versus knowledge

58 Although often used interchangeably, knowledge is not the same as information. Generally, it is assumed that – on a visual ladder – knowledge is one step higher than information. Lee and Yang (2000) argue that “information is transformed into knowledge when a person reads, understands, interprets, and applies the information to a specific work function” (p. 783). This means that “one person’s knowledge can be another person’s information” (Lee & Yang, 2000, p. 783). When information transforms into knowledge, it becomes a valuable asset for the person who possesses that knowledge as well as for the organization that can benefit from the application of this knowledge.

59 Hendriks (1999) states that “in a strict sense, knowledge cannot be shared” (p. 92). According to his view, “knowledge is not like a commodity that can be passed around freely, it is tied to a knowing subject” (Hendriks, 1999, p. 92). Basically, this makes knowledge sharing an intrinsically contradictory concept. More widespread is the view that knowledge can be both stored in the heads of individuals and it can take the form of written content (Land, 2009). Based on this view, knowledge is a commodity that *can* be passed around (Land, 2009). For the purpose of this study, the latter view is adopted. This means that knowledge can be written down and passed around accordingly, but it can also be disseminated through inter-collegial dialogue.

60 By stating that parts of a person’s knowledge can take the form of written content, the view that “humans are the ultimate carriers of knowledge” (Jorna & Faber, 2012, p. 368) is not per definition contradicted. However, it must be emphasized that knowledge that has taken the form of written content (i.e. codified or documented knowledge) remains information for knowledge receivers until “it becomes embedded in people’s minds overtime and it is demonstrated through their actions and behaviours” (Al-Alawi, Al-Marzooqi, & Mohammed, 2007, p. 22). This process is called internalization (Nonaka & Takeuchi, 1995), and will be further discussed in section 2.3.6.

2.3.5 Explicit versus tacit knowledge

A discussion on the distinction between explicit and tacit knowledge is part of most studies on knowledge sharing. This is not surprising, because the distinction between explicit and tacit knowledge grasps the core of what makes knowledge sharing so difficult to define. The concept of tacit knowledge was first introduced by Michael Polanyi (1958), and later referred to by many scholars in the field of knowledge management. With the much-cited words “we can know more than we can tell” (Polanyi, 1967, p. 4), Polanyi has had a great influence on later knowledge sharing studies. The idea that what we know is intertwined with taken-for-granted personal routines, hard-to-pin-down (technical) skills and experiences – which makes it difficult or even impossible¹ to articulate this knowledge – is widely considered as a serious challenge to knowledge sharing (Hansen, Nohria, & Tierney, 1999; Nonaka, 1991). 61

As opposed to tacit knowledge, explicit knowledge is the type of knowledge that can be easily expressed, captured, codified and transferred. It is generally assumed that explicit knowledge represents only the tip of the iceberg (Uit Beijerse, 1999). This means that only a small proportion of our knowledge is relatively easy to articulate, i.e. simple to express or explain to others in clear terms. To the contrary, a bigger proportion of our knowledge is difficult or even impossible to articulate (Nonaka, 1994; Nonaka & Takeuchi, 1995), but is nevertheless no less valuable. But although explicit knowledge is easier to articulate than tacit knowledge, this does not necessarily mean that explicit knowledge is automatically shared on a regular basis (Becerra, Lunnan, & Huemer, 2008; Levin & Cross, 2004). 62

According to Nonaka and Von Krogh (2009), knowledge exists along a continuum that ranges from tacit to explicit knowledge. We should therefore not depict knowledge as purely explicit or as purely tacit. Nonaka and Von Krogh (2009) further argue that “tacit knowledge can be accessible through 63

1 Hedesstrom and Whitley (2000) refer in their article ‘What is Meant by Tacit Knowledge? Towards a Better Understanding of the Shape of Actions’ to two schools of thought on the concept of tacit knowledge: the *difficulty* school and the *de facto* school. With regard to the former, tacit knowledge is difficult to articulate and express to others, but it is (theoretically) possible to do so. With regard to the latter, tacit knowledge is more or less similar to uncoded knowledge. When knowledge is externalized (e.g. codified) it automatically becomes explicit knowledge. To that end, tacit knowledge as such cannot be formalized (Hedesstrom & Whitley, 2000).

consciousness if it leans towards the explicit side of the continuum” (p. 637). A person’s knowledge is thus a combination of explicit and tacit knowledge.

64 Considering an alternative to the tacit-explicit dichotomy, Hara (2007) (later also adopted by Hara and Hew (2007)) proposed a three-way typology of knowledge: cultural knowledge, practical knowledge and book knowledge. Hara (2007) explains that cultural knowledge is about what it is like to be a certain professional. The sharing of cultural knowledge (e.g. through observation and mentoring) can be seen as a socialization strategy, which is especially important for newcomers in the organization (see section 2.3.6). On the tacit-explicit knowledge continuum, cultural knowledge typically leans towards the tacit side of the continuum. Alternatively, book knowledge is fact-based knowledge gained from reading books and collecting information from (jurisprudential) databases. On the tacit-explicit knowledge continuum, book knowledge typically leans towards the explicit side of the continuum. Practical knowledge is Hara’s term to describe ‘knowledge in action’: i.e. “using the book knowledge in practice” (Hara, 2007, p. 84). On the tacit-explicit knowledge continuum, practical knowledge lies somewhere in between cultural knowledge and book knowledge (see Figure 2.1).

65 By combining the typology of Hara (2007) with the previously described tacit-explicit typology, a clearer picture of what types of knowledge can be shared between individuals is provided. In this study, we consider knowledge sharing as a process that combines knowledge that leans more towards the explicit side of the continuum, i.e. know-what, ‘knowledge from books’ or as we referred to in the introduction to this book ‘legal knowledge’ (i.e. knowing the law), with knowledge that leans more towards the tacit side of the continuum, but is still consciously transferable,² i.e. practical know-how, experience-based knowledge or as we referred to in the introduction to this book ‘practical legal knowledge’ (i.e. knowing how to apply the law to concrete cases) and ‘practical non-legal knowledge’ (i.e. knowing how to deal with non-legal issues when handling concrete cases).

2 Nonaka and Konno (1998) make a distinction between the technical dimension of tacit knowledge, i.e. the ‘know-how’, and the cognitive dimension of tacit knowledge, i.e. the deeply ingrained, taken-for-granted values and beliefs. We focus particularly on the first, because the latter is usually quite difficult to consciously transfer to others.

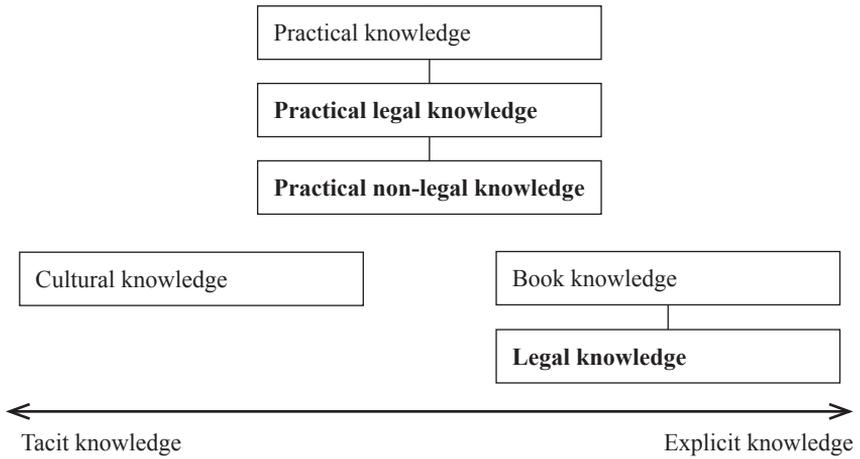


Figure 2.1. The tacit-explicit knowledge continuum. Adapted from Hara (2007) and Blankenship and Ruona (2009).

During day-to-day working practices, judges combine these types of knowledge in order to perform their work tasks. Conceptually, tacit and explicit knowledge can be clearly separated, but in practice this is almost impossible (Alavi & Leidner, 2001; Hislop, 2002).

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2.3.6 The process of knowledge conversion

Although, in practice, explicit and tacit knowledge cannot be strictly separated, it is still useful to conceptually differentiate between the two types of knowledge in order to better understand the process of knowledge conversion. Nonaka and Takeuchi (1995) discuss four forms of knowledge conversion: tacit to tacit knowledge conversion (socialization), tacit to explicit knowledge conversion (externalization), explicit to explicit knowledge conversion (combination) and explicit to tacit knowledge conversion (internalization). Figure 2.2 presents a graphical representation of the four forms of knowledge conversion on the individual level.

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Socialization refers to the process of creating tacit knowledge for the knowledge recipient on the basis of the tacit knowledge of the knowledge provider. Tacit knowledge can be shared through participation in joint activities, which obviously require physical proximity (Nonaka & Konno, 1998). Examples are: observation, on-the-job learning, direct experiences,

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mentoring and personal interactions (Nonaka & Konno, 1998; Nonaka & Toyama, 2003). In the socialization process, the knowledge recipient is able to develop tacit knowledge, even when this knowledge is not actually articulated by the knowledge provider (Nonaka, Byosiere, Borucki, & Konno, 1994). Here, learning takes place “not through language but by observation, imitation, and practice” (Nonaka, Byosiere, Borucki, & Konno, 1994, p. 340).

69 Externalization refers to the process of creating explicit knowledge for the knowledge recipient on the basis of the tacit knowledge of the knowledge provider. Here, the tacit knowledge is articulated by the knowledge provider (the articulation of knowledge is not per definition necessary for the tacit-to-tacit knowledge conversion) and in that sense is transferred to others. In practice, this requires participation in inter-collegial dialogues. A question and answer construction in which the knowledge recipient verbalizes his or her knowledge requests to the knowledge provider is an example of activating tacit to explicit knowledge conversion (Liyanaage, Elhag, Ballal, & Li, 2009).

70 Combination refers to the process of creating explicit knowledge for the knowledge recipient on the basis of the explicit knowledge of the knowledge provider. Here, the focus lies on the dissemination of explicit (often codified) knowledge. Huang, Chang and Henderson (2008) state that “through combination [...] new explicit knowledge is formed from existing codified information” (p. 625). In practice, delayed interactions (e.g. email conversations) are often used in this context. Presentations are also an effective way to transfer explicit knowledge to other members within the organization (Nonaka & Konno, 1998).

71 Internalization refers to the process of creating tacit knowledge for the knowledge recipient on the basis of the explicit knowledge of the knowledge provider. Here, the knowledge recipient is focused on making the acquired knowledge his or her ‘own’. In practice, this requires learning-by-doing, training sessions and regularly practising newly acquired skills (Nonaka & Konno, 1998; Nonaka & Toyama, 2003). Once the knowledge is internalized, it can be used to help others; for instance, by again externalizing this knowledge to others.

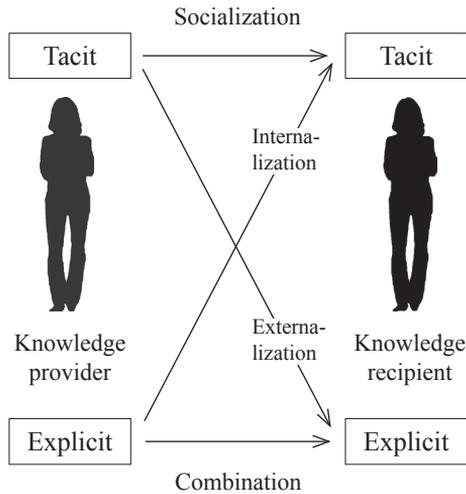


Figure 2.2. Four modes of knowledge conversion

It is important to realize that the way in which knowledge is shared can very well be linked to a particular form of knowledge conversion. In this study, we are primarily interested in two forms of knowledge conversion: explicit to tacit; the process in which the knowledge provider takes the decision to help others by articulating knowledge that lies at the tacit side of the knowledge continuum (but is still consciously transferable: e.g. practical legal and practical non-legal knowledge), and explicit to explicit: the process in which the knowledge provider takes the conscious decision to help others by articulating knowledge that lies more at the explicit side of the knowledge continuum.

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2.3.7 Knowledge provider versus knowledge recipient

Lastly, it is important to make a distinction between the unidirectional perspective on knowledge sharing and the bidirectional perspective on knowledge sharing (Tangaraja, Rasdi, Ismail, & Samah, 2015). In this study, we adopt the bidirectional perspective. According to this perspective, knowledge sharing consists of two active processes; knowledge donating and knowledge collecting (Van den Hooff & De Ridder, 2004). This means that during the knowledge sharing process, the judge can take the role of the knowledge provider or the knowledge recipient,

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and change this role if the particular situation so requires (Tangaraja, Rasdi, Ismail & Samah, 2015).

74 As opposed to the unidirectional perspective, the bidirectional perspective claims that successful knowledge exchanges depends on the active participation of both the knowledge provider and the knowledge recipient (Van den Hooff & De Ridder, 2004). As a result, knowledge sharing enriches the work of both parties involved. Some scholars use the term ‘knowledge exchange’ when they refer to the bidirectional perspective of knowledge sharing (Wang & Noe, 2010). In this study, we use the two terms interchangeably.

2.4 Different stages of knowledge management

75 Up until now, we have repeatedly referred to the concept of knowledge sharing, but we have not referred to another familiar concept in this context: knowledge management. Knowledge management is an umbrella term carrying many definitions. In this study, we use the following definition of knowledge management:

“Knowledge management is the planning, organizing, motivating, and controlling of people, processes and systems in the organization to ensure that its knowledge-related assets are improved and effectively employed. Knowledge-related assets include knowledge in the form of printed documents such as patents and manuals, knowledge stored in electronic repositories such as a “best-practices” database, employees’ knowledge about the best way to do their jobs, knowledge that is held by teams who have been working on focused problems and knowledge that is embedded in the organization’s products, processes and relationships” (King, 2009, p. 4).

76 Knowledge sharing among colleagues is an activity which contributes to the achievement of knowledge management goals:

“The goals of KM are the leveraging and improvement of the organization’s knowledge assets to effectuate better knowledge practices, improved organizational behaviours, better decisions and improved organizational performance” (King, 2009, p. 4).

Knowledge sharing and knowledge management are thus not similar. Knowledge sharing is only part – or as some argue the most important factor (Blankenship & Ruona, 2009; Chiang, Han, & Chuang, 2011; Hong, Suh, & Koo, 2011; Huysman & De Wit, 2004) – of successful knowledge management. 77

Huysman and De Wit (2004) perceive successful knowledge management “as related to the degree to which sharing knowledge has become a taken-for-granted part of the routine practices within the organization” (p. 82). Without knowledge sharing, knowledge management remains limited to the management of (already) codified knowledge (e.g. court decisions),³ which boils down to the storage (e.g. in databases) and the transfer of this knowledge. As a result, (non-codified) personal knowledge remains with the person and cannot be used for collective purposes. In other words, a lack of collegial knowledge sharing hampers the optimal use of individually held knowledge by others in the organization. 78

In the scholarly literature, a distinction is made between the so-called first wave of knowledge management and the second wave of knowledge management (Abrams, Cross, Lesser, & Levin, 2003; Huysman & De Wit, 2004). During the late eighties and early nineties, the first wave of knowledge management emerged. In this first stage of knowledge management, the process of knowledge codification and the transfer/exchange of codified knowledge was emphasized (e.g. through databases or intranets). This first wave of knowledge management is therefore often labelled as Information Technology (IT)-driven (Burstein & Linger, 2006; Troxler & Lauche, 2003). During this time, pure technological solutions were considered for the ‘problem’ of managing knowledge (Burstein & Linger, 2006). As Sinclair (2008) explained: 79

“Many organizations saw technology as being the only way to introduce KM [Knowledge Management], and consequently expected to manage and benefit from it much like any other IT product investment. Inevitably there was much disillusion and wringing of hands when KM proved to be too difficult and broad a concept to submerge under a technology wrapper” (p. 22).

3 For example, the European Case Law Identifier (ECLI) – a rather recently introduced citation system for the publication of national case law – has been implemented to facilitate access to national case law for judges working within the European Union. This system can be referred to as a knowledge management initiative facilitating access to codified knowledge.

80 As a response to this rather narrow perspective on knowledge management, a new wave of knowledge management emerged (Huysman & De Wit, 2004). In this second wave of knowledge management, more attention was given to the human factor – “the power of individuals” (Burstein & Linger, 2006; Huysman & De Wit, 2004) – to make knowledge sharing (and indirectly knowledge management) a success. Instead of focusing primarily on the activity of capturing and codifying knowledge, it became clear that not all knowledge in the organization can be (completely) captured. The scholarly focus shifted from the idea of (solely) codifying, storing and retrieving knowledge to the idea of (also) connecting people in the organization. It became clear that even when the codified and stored knowledge in an organization is extensive and up-to-date, the effective use of this knowledge may still need subsequent knowledge (from others) in order to be meaningfully applied to specific work tasks (Servin, 2005). The second wave of knowledge management provided a clear solution for this knowledge ‘gap’ in the organization.

81 An additional advantage of connecting people in the organization is that not only the ‘old’ knowledge is shared, i.e. the knowledge that is already available in the organization, but also the creation of ‘new’ knowledge is stimulated (Servin, 2005). This idea of creating new knowledge together (with colleagues) was new to the second wave of knowledge management. In the first wave of knowledge management, knowledge was provided to knowledge workers by giving them access to technological systems in which the knowledge was centrally stored. In fact, the first wave of knowledge management basically neglected “the fact that valuable knowledge has to be created” (Jorna & Faber, 2012, p. 371). Over the years, scholars have increasingly recognized that organizational members are important knowledge holders who “make or break knowledge management initiatives” (Servin, 2005, p. 51).

82 Currently, a third wave of knowledge management has entered the knowledge management field (Burstein & Linger, 2006). The third wave of knowledge management does not overrule the first and second wave of knowledge management; instead, it adds to the former two by combining “the technological and human aspects of managing knowledge” (Burstein & Linger, 2006, p. 2), also called: the socio-technical perspective. This integrated approach is not totally new; Pan and Scarbrough (1998) already used the socio-technical perspective to study the interplay between social and technical factors in a knowledge sharing context in the late nineties. However, in recent years, web 2.0 technologies (e.g. wikis and blogs) have

changed the technological landscape for many organizations, which has also given new impetus to the socio-technical perspective of knowledge management. As opposed to the traditional knowledge management systems which supported the so-called “supply-side knowledge processes” (Jorna & Faber, 2012, p. 371), web 2.0 technologies are typically perceived as collaborative knowledge management systems (Hester, 2010).⁴ Hester (2010) explains that “web 2.0 essentially involves the transition from static web pages to more dynamic and interactive web applications” (p. 158). Compared to the traditional knowledge management systems, these dynamic and interactive web applications offer new technological possibilities for knowledge management and, in turn, for collegial knowledge sharing in organizations. Following the evolution of knowledge management, a shift of focus has occurred from solely considering a-contextual explicit knowledge to also considering contextual explicit *and* tacit knowledge in organizations (Hazlett, McAdam, & Gallagher, 2005).

For a long time, it has been assumed that knowledge management was just a management hype that would soon fade away (Koenig, 2005). But, over the years, various authors have recognized that knowledge management “represents a clear trend in progress” (Tzortzaki & Mihiotis, 2014, p. 38). For future years, knowledge management – and thus the organizational challenge of fostering collegial knowledge sharing – is here to stay. For the judicial context, we can benefit from the lessons that can be drawn from the widely available knowledge management literature. It is clear that both technological and social factors need to be seriously considered in the context of knowledge sharing. But, former studies have shown that there are various other factors that should not be overlooked as well (Ipe, 2003; Wang & Noe, 2010). In this study, drawing upon previous studies and theoretical foundations, an integrated research model is proposed to examine the factors that influence knowledge sharing behaviour.

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2.5 The research model

Knowledge sharing is a complex workplace behaviour that is impacted by many factors. Various theories have contributed to our understanding of knowledge sharing behaviour. However, there is no such

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4 Wikis (e.g. Wiki Juridica in the Netherlands) create the possibility for collaborative editing. Jurisprudential databases, for instance, do not offer this possibility.

thing as a single knowledge sharing theory (Kaur, Ibrahim, & Selamat, 2014). Therefore, in this study, factors that have proven their value in earlier studies on knowledge sharing have been selected for the current study and are included in the research model. A graphical representation of the research model is shown in Figure 2.3. The objective of this research model is not to delineate all possible knowledge sharing enablers (and knowledge sharing barriers). Instead, the research model highlights key factors that are expected to explain a large portion of the variance in knowledge sharing behaviour.

85 Previous studies on knowledge sharing have focused primarily on factors enabling knowledge sharing (Cabrera, Collins, & Salgado, 2006; Van den Hooff & Huysman, 2009), factors restricting knowledge sharing (McDermott, & O'Dell, 2001; Riege, 2005), and on positive outcomes related to knowledge sharing (Van Woerkom & Sanders, 2010; Wang & Wang, 2012). In her study Lin (2007a) proposed an integrated analytical framework focusing on enablers of knowledge sharing (the enablers dimension), on knowledge sharing processes (the processes dimension) and on outcomes related to knowledge sharing (the outcomes dimension). In this study, we adopt the same structure for our research model, but we also add an extra dimension: the barriers dimension. A knowledge sharing barrier is an obstacle that prevents knowledge sharing from taking place. Including a knowledge sharing barrier in the research model enables us to check whether the effects of the proposed knowledge sharing enablers on the knowledge sharing behaviour of judges are affected by the inclusion of a knowledge sharing barrier.

86 Organizational culture is not included in the research model as a (separate) factor predicting knowledge sharing behaviour. This might raise some eyebrows, because organizational culture has repeatedly been recognized as a determining factor of knowledge sharing behaviour (De Long & Fahey, 2000; Ipe, 2003; Jones, Cline, & Ryan, 2006; Suppiah & Sandhu, 2011). The reason why organizational culture is not included as a separate predictor of knowledge sharing behaviour, is because organizational culture is already partly reflected in some of the knowledge sharing enablers that are included in the research model. After all, organizational culture is a multifaceted concept that can be broadly defined as “a set of commonly-held values, beliefs and assumptions within an organization” (Ke & Wei, 2008, p. 211). Following the approach of Al-Alawi, Al-Marzooqi and Mohammed (2007), the culture of an organization is reflected in people’s motivation, trust and communication with others, in the styles of leadership, and even in the

available technological systems in the organization. Therefore, including organizational culture as a separate knowledge sharing enabler would be quite redundant in the context of the current study.

In the forthcoming sections, the different aspects of the research model are discussed. Also, the study's hypotheses are introduced. 87

2.5.1 Enablers of knowledge sharing

In order to determine which factors potentially influence the knowledge sharing behaviour of judges, the author reviewed the current scholarly literature on knowledge sharing and identified four categories of knowledge sharing enablers: technological enablers, managerial enablers, social enablers, and motivational enablers. The first two categories reflect the idea that knowledge sharing processes can be directly managed, i.e. by providing a good IT infrastructure (ICT support) and by actively stimulating knowledge sharing behaviour in a top down fashion (management support). The last two categories reflect the idea that knowledge sharing processes cannot be directly managed, but the organization can only create conditions under which social relationships can thrive and motivational tendencies can flourish.⁵ Studying these factors in one integrated research model enables us to determine the relative importance of the proposed knowledge sharing enablers on the knowledge sharing behaviour of judges. 88

2.5.1.1 Technological enablers of knowledge sharing

During the last couple of decades, technology has taken on increased significance in the scholarly literature (Roth & Lee, 2009). A discussion on knowledge sharing often goes hand in hand with a discussion on the advantages and disadvantages of Information Technology (IT). Knowledge intensive organizations tend to invest great amounts of money 89

5 Van den Hooff and Huysman (2009) also make a distinction between two approaches to managing knowledge sharing: the engineering approach and the emergent approach. In their study, the engineering approach of managing knowledge states that knowledge sharing can be (in)directly managed. The emergent approach of managing knowledge is based on the assumption that knowledge sharing "is inherently emergent in nature" (Van den Hooff & Huysman, 2009, p. 1). To that end, it cannot be managed (or, at least, it is very difficult to do so).

in technology solutions for the codification and distribution of knowledge (Goh, 2002). The judicial sector is not an exception here (Apostola, 2010; Casanovas, Poblet, Casellas, Contreras, Benjamins, & Blazquez, 2005). During the last couple of decades, IT has opened the door to new ways of codifying and storing knowledge (e.g. in databases, intranets or wikis) and to new opportunities of connecting individuals for communication purposes (e.g. electronic mail, internal instant messenger programs, people finder systems, online forums or video conferencing). In both cases, technology serves a different purpose.

90 In case of the first, IT is mainly used to facilitate access to online programs or systems in which knowledge is codified and stored. In that way, it is easy for all members of the organization to reuse knowledge at that central location and to use it for individual purposes. Hansen, Nohria and Tierney (1999) call this the “codification strategy” (p. 1). Based on the codification strategy, collecting knowledge from others is not dependent on finding the person who possesses the knowledge. Instead, the knowledge is detached from the knowledge holder and made available to others in the organization through the use of IT systems (Hansen, Nohria, & Tierney, 1999). This makes the knowledge encapsulated in these systems highly static. Due to the codification process, the knowledge has taken on a “distinct objective dimension” (Trusson, Doherty, & Hislop, 2014, p. 349).

91 Huysman and De Wit (2004) warn against focusing too much on the codification strategy. Referring to the problem of deterioration, they state that “knowledge embedded in documents or in expert systems may quickly become outdated” (Huysman & De Wit, 2004, p. 86). To prevent this problem, organizational members are required to regularly update the knowledge that is captured in these systems. For various reasons, this is not always done (Huysman & De Wit, 2004). Furthering their discussion, Huysman and De Wit (2004) also warrant that organizations should not focus exclusively on the process of codifying knowledge as it makes these organizations overlook the value of other types of knowledge, such as practical know-how and experience-based knowledge (i.e. the parts of a person’s tacit knowledge which are still consciously transferable). This brings us to the so-called “personalization strategy” (Hansen, Nohria, & Tierney, 1999, p. 2).

92 Based on the personalization strategy, knowledge is not detached from the knowledge holder, but instead it remains anchored to the person. Here, technology only functions as a way to connect organizational members in order to enable them to communicate and share knowledge with each

other. An advantage of the personalization strategy is that it leaves room for expressing knowledge that has not (yet) been codified or is tailored to specific needs of a colleague (Hansen, Nohria, & Tierney, 1999). In that way, knowledge sharing becomes a two-way process. For instance, asking questions can trigger people to come up with ideas which they would otherwise not have thought about. Snowden (2002) states in this regard that “in understanding what people know we have to recreate the context of their knowing if we ask a meaningful question or enable knowledge use” (p. 102). To summarize, Snowden (2002) uses the following interesting sentence: “we only know what we know when we need to know it” (p. 102). Based on this perspective, IT systems are used “to facilitate conversations and the exchange of tacit knowledge” (Hansen, Nohria, & Tierney, 1999, p. 3).

Contrary to Hansen, Nohria and Tierney’s argument that organizations should pursue either a codification strategy (associated with the first wave of knowledge management) or a personalization strategy (associated with the second wave of knowledge management), we argue that the two strategies can complement each other (associated with the third wave of knowledge management) (Servin, 2005). Both strategies contribute to the creation of an effective knowledge flow in the organization. The codification strategy uses technology for a people-to-document approach and the personalization strategy uses technology for a person-to-person approach.

In this study, we analyze the effect of Information and Communication Technology (ICT) support on collegial knowledge sharing in the court. Previous studies on knowledge sharing have already shown the positive impact of technological factors on knowledge sharing (Ismail & Yusof, 2010; Kaewchur, Anussornnitisarn, & Pastuszak, 2013; Kim & Lee, 2006; Tohidinia & Mosakhani, 2010). Hendriks (1999) argues that IT can remove barriers to share knowledge, such as temporal barriers, spatial barriers and social barriers. Especially judges who are specialized in the same substantive areas share common interests or face similar difficulties, but they do not always work closely together. Especially when judges do not work in the same court building, IT makes it easier to contact each other. In line with Hendriks (1999), Du Plessis and Du Toit (2006) argue that “information technologies have made it possible for people to access, retrieve, gather and share information, unconstrained by the boundaries of space and time” (p. 362). According to Riege (2005), “there is little doubt that numerous technologies such as the Internet and Intranet, e-mail systems, or inclusive groupware software assist greatly in reducing formal communication barriers” (p. 30). More recently, Ismael and Yusof (2010) have stated that

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“the role of technology is crucial in knowledge management especially in facilitating and accelerating communications among employees” (p. 251).

95 In the scholarly literature, there have also been more negative soundings about the effectiveness of information technologies for knowledge sharing practices (Borghoff & Pareschi, 1997; McDermott, 1999). This is not surprising, because in the early days of knowledge management technological solutions were primarily focused on collecting explicit knowledge and retrieving content from online databases. Nowadays, the technological possibilities are more diverse, and in that sense, the technological landscape in many organizations has changed. Therefore, it is (still) important to assess the effect of the court organization’s ICT infrastructure on the knowledge sharing behaviour of judges.

96 ICT support, in this study, refers to the perceived support of IT facilities in the court, such as the availability of email, intranet and online network possibilities (i.e. the IT infrastructure of the court), for the processes of donating and collecting knowledge. The judge’s perception of ICT support is not just determined by whether information technologies for knowledge sharing do in fact exist, but also by how well these systems function, to what extent the judges are familiar with these systems and to what extent they experience practical difficulties with these systems (Cabrera, Collin, & Salgado, 2006). It is expected that ICT support is positively related to knowledge sharing. Consequently, the following hypothesis is proposed:

Hypothesis 1

Judges who experience higher levels of ICT support are more inclined to engage in knowledge sharing processes.

2.5.1.2 Managerial enablers of knowledge sharing

97 Judges do not have a typical manager-employee relationship (Eicher & Schedler, 2014). Due to the independent and impartial status of judges, it is not possible for managers to be the actual ‘boss’ of judges (Maan, 2009). A typical hierarchical relationship between the manager and the employee – which can be found in most other professional organizations – is thus not applicable to the judicial context. It is also important to note that managers within the court are typically judges themselves. Therefore, the relation between managers and judges can be best described as ‘first among

equals'. Due to the absence of a formal hierarchical relationship, it could be enquired to what extent judges comply with demands made by managers.

Generally, in courts, three types of managers can be distinguished: the head of a court, the head of a division (e.g. the administrative law division or the civil law division), or the head of a work unit within the court ("specialised parts within a division" (Fabri & Langbroek, 2007, p. 34), such as teams or chambers). The court president and other board members are often responsible for the development of the court's overall knowledge management strategy. The heads of a specialized part within a division of the court stand in closer contact to the judges and, in that sense, can personally encourage judges to participate in knowledge exchanges. In this study, we are solely interested in these types of 'lower managers'.

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Social exchange theory is a widely used theory to explain workplace behaviour (Cropanzano & Mitchell, 2005). Based on this theory, individuals are rational beings who pursue benefit maximization and cost minimization (Hung, Durcikova, Lai, & Lin, 2011; Liao, 2008). Social exchange theory is often contrasted with economic exchange theory (Blau, 1964). Konovsky (2000) states that "like economic exchange, social exchange generates an expectation of some future return for contributions; however, unlike economic exchange, the exact nature of that return is unspecified" (p. 493). In the management literature, social exchange theory has been used to understand why organizational members comply with their supervisor's or manager's demand to act in certain ways, even though this type of behaviour cannot be enforced and is not formally rewarded (Settoon, Bennett, & Liden, 1996). In this regard, Dawley, Andrews and Bucklew (2008) state that "when the employer provides employees with fair treatment, and values their contributions and well-being, employees perceive high levels of support and thus feel obligated to reciprocate" (p. 236). Earlier studies on knowledge sharing have shown that the support of (top) management and/or immediate supervisors is positively associated with knowledge sharing (Goh, 2002; Hsu, 2008; Kang, Kim & Chang, 2008; McDermott & O'Dell, 2001; Wang & Noe, 2010). In the judicial context, a similar effect is expected. Consequently, the following hypothesis is proposed:

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Hypothesis 2

Judges who experience higher levels of management support are more inclined to engage in knowledge sharing processes.

2.5.1.3 Social enablers of knowledge sharing

101 Most scholars agree that interpersonal relationships between organizational members play a vital role in knowledge sharing processes (Lu, Leung, & Koch, 2006; Wang & Noe, 2010). Social capital theory has provided the theoretical structure for many of these studies focusing on social enablers of knowledge sharing (Cabrera & Cabrera, 2005; Huysman & De Wit, 2004). Briefly stated, social capital is about the bonds between individuals (Huang, Chou, & Sun, 2010). Nahapiet and Ghoshal (1998) state that “social capital inheres in the relations between and among persons and is a productive asset facilitating some forms of social action while inhibiting others” (p. 245). In line with this statement, Tsai and Ghoshal (1998) argue that “social capital encompasses many aspects of a social context, such as social ties, trusting relations, and value systems that facilitate actions of individuals located within that context” (p. 465).

102 Over the years, social capital has become a popular concept in management and organizational studies. Social capital is generally seen as an important ingredient for fostering cooperative behaviour in organizations (Kramer, 2006; Van den Hooff & De Winter, 2011). For example, Aquino and Serva (2005) argue that “social capital can provide individuals with a rationale for deferring their immediate individual interests in favor of longer term group and organizational goals” (p. 21). In that sense, social capital encourages organizational members to act as team players as opposed to solitary workers.

103 An important characteristic of social capital is that it is embedded in social relationships (Adler & Kwon, 2002; Tsai & Ghoshal, 1998; Steier, 2001) and that organizations have very limited control over (expanding) the level of social capital of organizational members (Tymon & Stumpf, 2003). This is partly due to the fact that “social capital must be acquired by an individual over many years, and cannot be created or accessed on a “just-in-time” basis” (Tymon & Stumpf, 2003, p. 16). Organizations cannot just generate social capital for their members. To a large extent, a person is responsible for building and further expanding his or her own social capital. Nevertheless, the organization can *indirectly* influence the level of social capital possessed by its members by facilitating the conditions under which a person’s social capital can be (further) developed.

104 Nahapiet and Ghoshal (1998) influenced the application and interpretation of this theory by making a distinction between the structural,

relational, and cognitive dimensions of social capital. As the structural and relational dimension of social capital are more related, these will be discussed first. Both the structural and relational dimensions of social capital refer to “the connections between individuals in an organization” (Bolino, Turnley, & Bloodgood, 2002, p. 506). However, the structural dimension of social capital is focused on “whether employees are connected at all” (Bolino, Turnley, & Bloodgood, 2002, p. 506), while the relational dimension of social capital pays attention to “the quality or nature of those connections” (Bolino, Turnley, & Bloodgood, 2002, p. 506). Both dimensions are considered relevant for knowledge sharing processes (Wasko & Faraj, 2005).

Every judge has his or her own unique social network both within and outside the court. Over the years, these social networks have been formed through informal social contacts between colleagues. From a group level perspective, these social networks can also be referred to as informal communities. Yi (2009) defines a community as “an informal network of people within or across organizations who voluntarily share common practice, expertise, and interests on specific topics. It is neither an organizational unit nor a team” (p. 80). Lazega (2012) explains that judges are involved in different social networks for different purposes. In line with Yi’s (2009) definition of communities, a network for “exchanges of information and advice” is one of those networks in which judges can operate (Lazega, 2012, p. 117). Social network analysis is a widely used method to analyze social relations in organizations from a group level perspective (Wasserman & Faust, 1994). One of the goals of social network analysis is to reveal the “real networks that occur underneath the formal organizational structure” (Rossignoli, 2009, p. 63).

In this study, we are also interested in the ‘real’ network relations of judges, but not from a group level perspective (social network analysis), but from an individual perspective. We thereby focus on “the degree of contact and accessibility” of judges with other colleagues in the court (Chow & Chan, 2008, p. 464). Chow and Chan (2008) have shown in their study that higher levels of social network contribute to the willingness of organizational members to share their knowledge. Wasko and Faraj (2005) found a significant relationship between network centrality and knowledge contribution. In this study, social network is perceived as an essential knowledge sharing enabler. The following hypothesis is proposed:

Hypothesis 3

Judges who have a more extensive social network in the court are more inclined to engage in knowledge sharing processes.

107 The degree of contact and accessibility of judges with other colleagues does not encapsulate the quality of those relationships. For the purpose of this study, we therefore focus upon the relational dimension of social capital as well. Trust is often cited as a factor representing the relational dimension of social capital (Cabrera & Cabrera, 2005; Chow & Chan, 2005). Wasko and Faraj (2005) explain that “trust develops when a history of favorable past interactions leads to expectations about positive future interactions” (p. 43). In this study, we use the term ‘social trust’ which refers to “the belief that others can be relied upon and to the willingness to act on the assumption of the other’s benevolence” (Cohen, Leykin, Lahad, Goldberg, & Aharonson-Daniel, 2013, p. 1735). Abrams, Cross, Lesser and Levin (2003) explain that “people are likely to rely on the benevolence of a given colleague in determining the extent to which they are forthcoming about their lack of knowledge. Asking for information or advice can make a person vulnerable to another. Benevolence-based trust allows one to query a colleague in depth without fear of damage to self-esteem or reputation” (p. 65).

108 Competence-based trust, i.e. the belief that the other has sufficient expertise (Abrams, Cross, Lesser, & Levin, 2003), is another type of trust. This type of trust is not included in the research model, because we believe that the perceived level of competence is less determining as a knowledge sharing enabler in the judicial context. In principle, judges will only approach colleagues who are experts, or are at least familiar with the topic that they want to discuss. For improving the quality of the administration of justice it is important that judges are regularly engaged in mutually sharing unfinished work, tentative ideas, doubts and uncertainties. As this can be frightening, benevolence-based trust is expected to be a determining factor.

109 Reciprocity is one of the common elements of most definitions of (benevolence-based) trust (Welter, 2012). Welter (2012) explains that “reciprocity signals to both trustor and trustee that the trust they extend to each other will be returned. In this regard, trust is based on a perception of the probability that other agents will behave in a way that is expected and benevolent” (p. 195). In some studies, this element of trust is included as a separate knowledge sharing enabler (Cabrera & Cabrera, 2005; Chen & Hung, 2010). In this study it is captured in the concept of social trust.

Jackson (2008) argues that trust relationships between organizational members are vulnerable and should thus not be taken for granted. Trust relationships between organizational members are the foundation for interpersonal interactions (Cassell & Bickmore, 2000) and a critical factor affecting knowledge sharing (Ho, Kuo, Lin, & Lin, 2010; Mooradian, Renzl, & Matzler, 2006). McEvily, Perrone and Zaheer (2003) highlight that trust affects knowledge sharing from the point of view of the knowledge provider and the knowledge recipient. In the context of this study, it is expected that social trust is a determinant factor for the engagement of judges in knowledge sharing processes. Consequently, the following hypothesis is proposed:

110

Hypothesis 4

Judges who experience higher levels of social trust are more inclined to engage in knowledge sharing processes.

The cognitive dimension of social capital refers to “the extent to which employees [...] share a common perspective or understanding” (Bolino, Turnley, & Bloodgood, 2002, p. 506). Shared language, shared narratives and shared goals have been used as factors representing the cognitive dimension of social capital (Chow & Chan, 2008; Chua, 2002; Inkpen & Tsang, 2005; Nahapiet & Ghoshal, 1998). In this study, we use ‘shared goals’ as a potential enabler of knowledge sharing. Shared goals refers to “the degree to which one has collective goals, missions and visions with other people” (Chow & Chan, 2008). Shteynberg and Galinsky (2011) emphasize that the concept of shared goals should not be confused with the concept of group goals. For a group goal “interdependent group members work collaboratively towards the same desired end-state” (e.g. a group assignment) (Shteynberg & Galinsky, 2011, p. 1292), but “a shared goal can be pursued independently as a personally or individually held goal. What makes it shared is simply that other in-group members are also experiencing that same goal” (Shteynberg & Galinsky, 2011, p. 1292).

111

In the scholarly literature, a commitment to shared goals is linked to concepts like team cohesion (Huang, Wei, Watson, Bernard, & Tan, 2002), group identification (Milanov, Rubin, & Paolini, 2014) and team success (Gantasala, 2015). Having shared goals connects individuals within a team (or within an organization) with one another on a cognitive level. Huang, Wei, Watson, Bernard and Tan (2002) state that “when team goals are fully

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shared by team members, they are more likely to collaborate so as to achieve team goals” (p. 360). From a knowledge sharing perspective, shared goals are thus a relevant concept to consider.

- 113 As opposed to the structural and relational dimensions of social capital, the cognitive dimension of social capital is less determined by (informal) personal ties that are more determined by business ties, i.e. mutual interests and shared organizational-related goals (Marouf, 2007). Chow and Chan (2008) have shown in their study that higher levels of shared goals contribute to the willingness of organizational members to share their knowledge. In the judicial context, it is expected that judges are more inclined to engage in knowledge exchanges with colleagues who share a common perspective on organizational-related topics. Consequently, the following hypothesis is proposed:

Hypothesis 5

Judges who perceive higher levels of shared goals with their colleagues are more inclined to engage in knowledge sharing processes.

2.5.1.4 Motivational enablers of knowledge sharing

- 114 Knowledge sharing is not enforceable. It is therefore not surprising that earlier studies have shown that individual motivation is an important enabler of knowledge sharing (Lin 2007b; Foss, Minbaeva, Pedersen, & Reinholt, 2009). Motivation is about what drives people to act in a certain way (Ryan & Deci, 2000). Most authors agree that motivation should not be treated as a singular construct (Bardwell & Braaksma, 1985; Ryan & Deci, 2000).
- 115 In most knowledge sharing studies, a distinction is made between intrinsic motivation and extrinsic motivation. Intrinsic motivation “refers to the fact of doing an activity for its own sake: the activity itself is interesting, engaging, or in some way satisfying” (Lee, Cheung, & Chen, 2005, p. 1097). And extrinsic motivation “pertains to behaviours that are engaged in response to something apart from its own sake, such as reward or recognition or the dictates of other people” (Lee, Cheung, & Chen, 2005, p. 1097). In this study, we use the self-determination theory (STD) – or more specifically a sub-theory of STD called organismic integration theory (OIT) – to reconsider this seemingly clear distinction.

According to OIT, a person's motivated action can be more or less autonomous, i.e. "experienced as chosen and endorsed by one's self" (Rigby, Deci, Patrick, & Ryan, 1992, p. 167). Gagné and Deci (2005) perceive intrinsic motivation as inherently autonomous. Extrinsic motivation can be divided into four categories: autonomous motivation, moderately autonomous motivation, moderately controlled motivation and controlled motivation (Gagné & Deci, 2005). In this study, we focus on the two extremes: inherently autonomous motivation and the least autonomous form of extrinsic motivation: controlled motivation. 116

Being a professional judge is not just another job. It requires long training and an extensive selection process (or political appointment) to be in this position. We expect judges to be passionate about what they do. For judges, providing high quality performance is not something that another person has to convince them of, but they are intrinsically motivated to do so (Ash & MacLeod, 2014). Helping colleagues out of altruistic motives is therefore an interesting factor to consider in this context. 117

Minbaeva (2013) states that "when an individual is autonomously motivated, the observed behaviour is self-endorsed and congruent with that individual's interests and values. As such, the behaviour is volitional and emanates from the individual. An individual motivated in this way may even enjoy the activity itself" (p. 380). Autonomously motivated behaviour, such as enjoyment in helping others, has shown positive results in previous studies on knowledge sharing (Cabrera, Collins, & Salgado, 2006; Chang & Chuang, 2011; Foss, Minbaeva, Pedersen, & Reinholdt, 2009; Lin, 2007b; Minbaeva, 2013). In this study, it is expected that the enjoyment in helping others (by sharing one's knowledge) – an inherently autonomous motivation – has a positive effect on the participation in knowledge exchanges. Consequently, the following hypothesis is proposed: 118

Hypothesis 6

Judges who experience more enjoyment in helping others are more inclined to engage in knowledge sharing processes.

External regulation represents the regulatory style that matches the least autonomous form of extrinsic motivation: controlled motivation (Ryan & Deci, 2002). External regulation "includes the classic instance of being motivated to obtain rewards or avoid punishments" (p. 17). The meaning of 119

external regulation lies close to a typical definition of extrinsic motivation. The reason why we prefer the term external regulation is because we want to make it clear that there are other forms of extrinsic motivation as well (see: Foss, Minbaeva, Pedersen, & Reinholdt, 2009).

120 According to Ryan and Deci (2002), “external regulation is likely to occur when people feel competent enough to perform the requisite action, assuming there are salient consequences such as implicit approval from significant others” (p. 20). Wasko and Faraj (2005) showed in their study that the perception of knowledge contribution enhances one’s reputation serves as a motivator to contribute knowledge to electronic networks of practice. To a certain extent, this result contradicts the idea that ‘knowledge is power’, Based on this result, the idea of ‘knowledge is power’ transforms into ‘knowledge sharing is power’ (Andriessen, 2006).

121 On the basis of empirical data, Eicher and Schedler (2014) show that authority is something that drives judges. They state that “authority, from the point of view of the judicial logic, is not only positively associated with expertise but also with acceptance, implying that the more qualified a judge is, the higher the degree of authority he enjoys, thus increasing his status within his peer group” (Eicher & Schedler, 2014, p. 9). In simple terms one could state: judges are experts and assumingly want to be recognized as such. Ba, Stallaert and Whinston (2001) state that “a knowledge possessor wants to show off, and wants others to know that he is a knowledgeable person with valuable expertise” (p. 231). Judges consult other experts in the court for advice and, in turn, give advice to others. It is expected that judges are flattered when someone asks them for advice; possibly making them more willing to participate in knowledge exchanges. Therefore, in the current study, professional image is selected as a key motivational factor. Consequently, the following hypothesis is proposed:

Hypothesis 7

Judges who perceive that sharing knowledge contributes to a person’s professional image are more inclined to engage in knowledge sharing processes.

122 Self-efficacy beliefs refer to an individual’s perceived capabilities to perform certain actions (Bandura, 1997; Bandura, 2000). Self-efficacy beliefs are about the perception of what an individual *can* do and clearly

cannot about what an individual is *willing* to do (Bandura, 2000). In that sense, knowledge self-efficacy is about the belief that an individual is capable of dealing with work-related complexities on the basis of individually held knowledge (Lin, 2007a; Lin, 2007b). In this sense, feeling knowledgeable serves as an intrinsic motivator to share knowledge (Lin, 2007a; Lin, 2007b; Kankanhalli, Tan, & Wei, 2005).

Judges are legal experts, but the way judges perceive their own capabilities can very much differ per judge. Pajares (2003) explains that there are four sources by which a person forms his or her personal self-efficacy perceptions: 1) the interpretation of one's own performance, 2) the social comparisons with others, 3) the actual messages they receive from others, 4) the current physiological state of a person (e.g. being stressed or anxious). In several studies, a person's self-efficacy beliefs have shown to be important predictors of behavioural outcomes (Chemers, Hu, & Garcia, 2001; Sadri & Robertson, 1993). Based on previous research findings (Cabrera, Collins, & Salgado, 2006; Kankanhalli, Tan, & Wei, 2005; Lin, 2007a; Lin, 2007b), it is expected that judges who feel confident in their ability to share valuable knowledge with colleagues are more inclined to engage in knowledge sharing processes. Consequently, the following hypothesis is proposed:

123

Hypothesis 8

Judges with higher perceptions about their knowledge self-efficacy are more inclined to engage in knowledge sharing processes.

2.5.2 Barriers to knowledge sharing

In the former sections, we discussed four categories of knowledge sharing enablers: technological, managerial, social and motivational enablers. In this section, we focus on knowledge sharing barriers. In previous knowledge sharing studies, a wide variety of potential knowledge sharing barriers have been discussed: a lack of time (McDermott & O'Dell, 2001; Riege, 2005; Seba, Rowley, & Delbridge, 2012; Siemsen, Roth, & Balasubramanian, 2008), technological restraints (Ardichvili, 2008; Riege, 2005), cultural restraints (Ardichvili, 2008; McDermott & O'Dell, 2001), a lack of rewards (Gorry, 2008; Ling, Sandhu, & Jain, 2009; Pillania, 2006)

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and many more. Remarkably, although previous studies have resulted in extensive lists of factors restricting and/or enabling knowledge sharing, little is known about the extent to which knowledge sharing barriers affect the relationship between knowledge sharing enablers and knowledge sharing processes. This study will contribute to this understanding by focusing on a knowledge sharing barrier which is particularly important in the judicial context: role overload. Role overload refers to the condition in which a person has too much work to do for the time available at work (Miles & Perreault, 1976). Role overload becomes problematic when it has a negative impact on the quality of the work delivered by this person.

125 Around the world, judiciaries face the challenge of finding a balance between (cost)efficiency-driven goals (diminished budgets), productivity demands (‘justice delayed is justice denied’)⁶ and the need for accuracy to ensure high quality decisions. As a result, the pressure put on judges is high. This automatically increases the risk of overburdening judges. After all, quality requires time (Ash & MacLeod, 2014; Veenbergen, 2006). As the caseload of judges increases, this time becomes redundant. Judges can get the feeling that they have insufficient time to adequately complete all their work tasks and at the same time deliver the high quality that is expected of them (e.g. well-researched and well-reasoned decisions). In focusing on the knowledge sharing behaviour of judges, we are specifically concerned with the negative impact of role overload – a common workplace stressor – on the relationship between the previously discussed knowledge sharing enablers and the engagement of judges in knowledge sharing processes.

126 Siemsen, Roth and Balasubramanian (2008) tested in their study whether time availability affects the motivation and ability to share knowledge. Based on their empirical findings, they argued that “if workers feel that they have no time to share knowledge, it does not matter how much they want to share what they know, nor how much they are able to do so; they simply do not share” (Siemsen, Roth, & Balasubramanian, 2008, p. 438). Sandhu, Jain and Ahmad (2011) found that a lack of time is an important individual barrier to knowledge sharing. Seba, Rowley and Delbridge (2012) demonstrate the importance of time allocation as a knowledge sharing barrier. Referring to

6 The issue of timeliness is an important issue which is placed high on the agenda of many judiciaries. Diminishing delayed judgements and reducing major backlogs is vital for all judiciaries. It is expected that improvements in this area would positively affect the public’s access to justice (see <http://www.rechtspraak.nl/English/General-Assembly-ENCJ/Reports-and-activities-ENCJ-2014-2015/Paginas/Timeliness-seminar.aspx>, last visited on 28 May 2015).

their findings they state that “nearly all the interviewees mentioned that the dynamic of work and work pressure meant that time is very short for enhancing knowledge sharing in their organization” (Seba, Rowley, & Delbridge, 2012, p. 120). We expect that role overload has a similar effect on knowledge sharing. Judges who feel that they have insufficient time to complete their work tasks will be less inclined to engage in the knowledge sharing processes of donating and collecting knowledge.

However, the question is not only whether role overload directly affects the knowledge sharing behaviour of judges. The question is also whether the relationship between each of the knowledge sharing enablers and the engagement of judges in knowledge sharing processes is conditioned by (or varies with) the level of role overload as perceived by judges. As discussed above, empirical evidence from previous studies already showed that variables related to role overload (e.g. time availability) have a negative impact on the knowledge sharing behaviour of individuals. It is therefore reasonable to expect that – in the context of this study – role overload also influences the form of the relationship between each of the proposed knowledge sharing enablers and the knowledge sharing behaviour of judges. In other words, it is expected that the engagement of judges in knowledge sharing processes is determined by the joint influence of the knowledge sharing enabler (e.g. the perceived level of ICT support) and the perceived level of role overload. Consequently, the following hypotheses are proposed:

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Hypotheses 1a

The relationship between ICT support and knowledge sharing depends on the level of role overload as perceived by judges.

Hypothesis 2a

The relationship between management support and knowledge sharing depends on the level of role overload as perceived by judges.

Hypothesis 3a

The relationship between social network and knowledge sharing depends on the level of role overload as perceived by judges.

Hypothesis 4a

The relationship between social trust and knowledge sharing depends on the level of role overload as perceived by judges.

Hypothesis 5a

The relationship between shared goals and knowledge sharing depends on the level of role overload as perceived by judges.

Hypothesis 6a

The relationship between enjoyment in helping others and knowledge sharing depends on the level of role overload as perceived by judges.

Hypothesis 7a

The relationship between professional image and knowledge sharing depends on the level of role overload as perceived by judges.

Hypothesis 8a

The relationship between knowledge self-efficacy and knowledge sharing depends on the level of role overload as perceived by judges.

2.5.3 Outcomes of knowledge sharing

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Next to the performance of the judiciary as a whole, the performances of individual judges are also salient for the pursuance of quality in the judiciary. Unfortunately, empirical data on the performance of individual judges are scarce (Dimitrova-Grajzl, Grajzl, Zajc, & Sustersic, 2012). Also, within courts, measuring the performance of individual judges is still slightly controversial (Riedel, 2014; McIntyre, 2014). As already (partly) underlined in the preceding chapter, professional judges have a constitutionally protected independent status which makes judicial performance evaluation a tricky endeavour. Undue interference in the work of judges – as a result of evaluation practices – is therefore highly undesirable. Riedel (2014) stipulates in his

article that it is unacceptable to comment on the content of judicial work, i.e. the correctness of judicial decisions. However, other types of criteria which are purposely designed to evaluate the performance of individual judges are acceptable and in most situations are even desirable, because the implementation of judicial performance evaluation can contribute to the establishment of an open and accountable judiciary (McIntyre, 2014).⁷

In the context of this study, we are interested in the relationship between knowledge sharing behaviour and the individual performance of judges; or more specifically, in their self-rated overall job performance. It is expected that the strong engagement of judges in knowledge sharing processes (i.e. donating and collecting knowledge) has a positive effect on their overall job performance.

Up until now, most empirical studies on knowledge sharing have solely focused on organizational outcomes. For instance, Lin (2007a) found that knowledge donating and knowledge collecting are positively associated with the innovation capability of firms. Kamasak and Bulutlar (2010) found similar results in their study, except that they did not find a significant impact of inter-departmental knowledge donating on the organization's innovation. Hsu (2008) showed an indirect effect between knowledge sharing and organizational performances, namely, through the development of human capital. In this study, we build further on one of the few empirical studies which selected individual performance as a guiding principle. Van Woerkom and Sanders (2010) explain in their study that "when team members ask for and give each other advice, they are likely to become more competent in task execution" (p. 140). In their study, they found a direct positive relationship between asking and giving advice and individual performance. A similar result is expected in the judicial context. Consequently, the following hypothesis is proposed:

Hypothesis 9

Knowledge sharing is positively associated with (self-rated) overall job performance.

7 In countries where judges are temporary appointed for a fixed period of time, such as Switzerland, judicial performance evaluation can also be used as input for the reappointment procedure for judges (Lienhard, 2014). In Germany, where judges are appointed for life, performance criteria are alternatively used as a basis for decisions on the promotion opportunities of judges (Riedel, 2014).

2.5.4 Control variables

131 A distinction has been made between two categories of control
variables: context-related control variables and biographical control variables.

132 *Context-related control variables.* While we consider knowledge
sharing as a beneficial activity for all judges, that is not to say that knowledge
sharing ‘works’ in the same way in different contexts. Scholars often warn
their readers that the findings of their respective studies are specific to the
context in which they studied the knowledge sharing phenomenon (Cabrera,
Collins, & Salgado, 2006; Huang, Davison, & Gu, 2008). Although we
restrict our study to the judicial context, a robust test of the model is
provided by testing it in three civil law countries (Switzerland, Germany
and the Netherlands), in first and higher instance courts, and in courts which
vary according to their court size (i.e. the number of judges). In that way,
potential differences between the countries, court levels and court sizes can
be accounted for. Due to the exploratory nature of this approach, no specific
hypotheses have been formulated.

133 *Biographical control variables.* To reduce potentially confounding
effects, we selected four biographical control variables: gender, age, tenure
and job (court) position. All of these variables have been used in earlier
studies on knowledge sharing (Connelly & Kelloway, 2003; Constant,
Kiesler, & Sproull, 1994; Holste & Fields, 2010). However, there is an
additional reason for selecting court position as a control variable. It is
reasonable to suspect that the effect of management support on knowledge
sharing behaviour is influenced by the court position of judges, i.e. whether
judges have managerial responsibilities in the court or not. Therefore, we
decided to (additionally) check whether court position has an influence on
the relationship between management support and knowledge sharing.

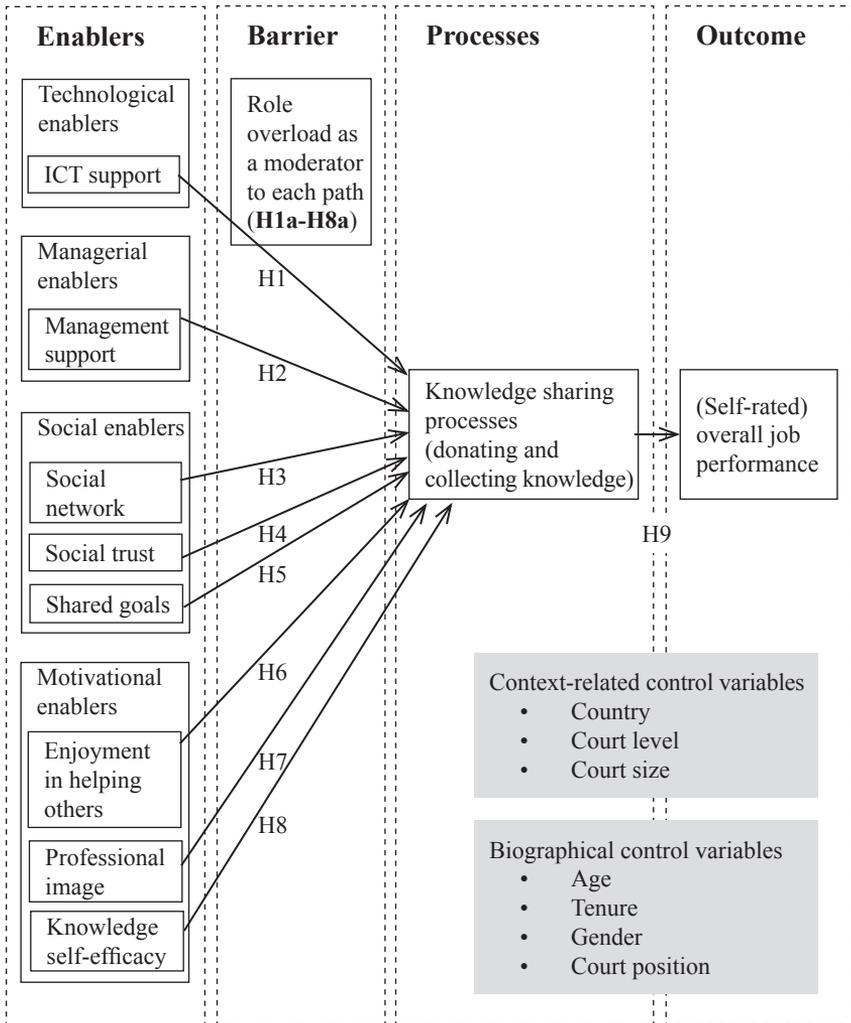


Figure 2.3. The research model

2.6 Summary

In this chapter, we further defined and demarcated the concept of knowledge sharing. First, a distinction was made between collegial knowledge sharing and collegial decision-making in multi-judge panels. The

goal of collegial decision-making in multi-judge panels is to reach mutually agreed decisions in concrete cases; whereas the goal of collegial knowledge sharing is to freely exchange knowledge in order to learn from each other, to bridge interdependencies and possibly to create new knowledge together. In this study, the focus lies on the latter. Furthermore, it was exemplified that collegial knowledge sharing is studied on the individual level, and not on the group level or on the organizational level.

135 Second, in this chapter a distinction was made between knowledge sharing behaviour and feedback behaviour. Asking and receiving feedback – whether the outcome is positive or negative – always involves a critical reflection of a person’s behaviour. This is not necessarily true for collegial knowledge sharing. Knowledge sharing is perceived as a more neutral type of behaviour, and in that sense, it is expected that knowledge sharing behaviour is influenced by different (types of) factors than feedback behaviour. By studying the knowledge sharing behaviour of judges, the bidirectional perspective – instead of the unidirectional perspective – on knowledge sharing is adopted to capture the two active processes of donating and collecting knowledge.

136 Third, in this chapter a distinction was made between the concepts ‘information’ and ‘knowledge’; and between the concepts ‘explicit knowledge’ and ‘tacit knowledge’. Firstly, it was argued that knowledge and information – although related to each other – are not identical concepts. In the context of this study, a rather broad perspective of the concept of knowledge is used; the perspective that knowledge can be both stored in the head of the judge and can also take the form of written content (Land, 2009). Secondly, it was argued that the (professional) knowledge possessed by individual judges can be divided into three categories: legal knowledge, practical legal knowledge and practical non-legal knowledge. A tacit-explicit continuum was introduced to rank these different types of knowledge according to their level of tacitness (or explicitness).

137 Fourth, it was explained in this chapter that a shift has taken place from a mere technological perspective on managing knowledge to a more balanced perspective on managing knowledge; taking into account the human factor as well. After discussing the developmental stages of knowledge management, the study’s research model was introduced and graphically presented. In total, four categories of knowledge sharing enablers are included in the research model: the category of technological enablers, the category of managerial enablers, the category of social enablers and the category of motivational enablers. In earlier studies on knowledge sharing, these four

categories of knowledge sharing enablers have proven to be of critical importance in explaining the knowledge sharing behaviour of different types of knowledge workers in a variety of contexts. Role overload – a common workplace stressor – is selected in this study as a knowledge sharing barrier. Self-rated overall job performance is included in the research model as the single outcome variable. Context-related and biographical control variables are included in the research model as control variables. In the next chapter, the research methodology will be discussed.

3 *Method*

3.1 Introduction

In the former chapter, the study's research model and the hypotheses have been introduced. In this chapter, the focus lies on the research method of this study. Firstly, the research population, the participating countries and the participating courts are introduced and reflected upon. Secondly, specific attention is given to the survey measurement instruments. Thirdly, the survey procedure is described in detail. The chapter ends with an overview of the statistical analyses carried out in this study. 138

3.2 Research population

The research population consists of professional judges working in the field of administrative law. As opposed to the more diverse group of non-professional judges, professional judges represent a rather cohesive group of judicial professionals. Their advanced level of expertise in legal administrative matters makes them comparable as knowledge workers across courts and across countries. In the 2014 evaluation report from the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ)¹ a distinction between professional and non-professional judges is made as well. However, in this report, a distinct subcategory is used for 'professional judges sitting occasionally'. In the current study, no such subcategory exists. This means that no distinction is made between judges who are employed part-time or full-time at the courts. 139

1 The European Commission for the Efficiency of Justice (CEPEJ) was established in 2002 to improve the efficiency and functioning of justice in the EU member states. For more information on the CEPEJ see: http://www.coe.int/t/dghl/cooperation/cepej/presentation/cepej_en.asp (last visited on 17 August 2015).

3.3 Participating countries

140 One of the goals of this study is to provide a robust test of the research model by testing it in a cross-national setting. For this purpose, a survey has been conducted in three Western European countries: Switzerland, Germany and the Netherlands. Swiss, German and Dutch judges are comparable to the extent that they are expected to act and perform in a similar way according to the civil law tradition. The civil law tradition affects the way in which judges deal with previous court decisions; judges are not obliged to follow previous court decisions,² but instead use these decisions to understand how the law has been interpreted in earlier cases. A judge can introduce an alternative interpretation of a legal text, but – in order to attain legal uniformity in the long run – the judge should explain why this interpretation is preferable (Van Loon, 2014). Collegial knowledge sharing is a way to freely discuss recent case law and, in that respect, the possible effects on future cases.

141 Also, in contrast to judges from the common law tradition whose role can be described as that of ‘passive arbiters’ (Mack & Anleu, 2011; Moorhead, 2007), a more proactive attitude during court proceedings is expected from civil law judges (Schultz & Shaw, 2013). This makes discussions about the role of the judge in the court-room (e.g. by exchanging court-room experiences) an important topic for judges in the civil law context.

142 However, despite the fact that Switzerland, Germany and the Netherlands share the same legal tradition, the legal system of each of these countries is unique (Orozco & Sánchez-Gijón, 2011). In this section, some country-specific characteristics – with a specific focus on those characteristics that are considered relevant in the context of collegial knowledge sharing – are listed (See Table 3.1).

143 *Switzerland.* Switzerland is a (con)federation of 26 states, called cantons. These cantons enjoy extensive freedom with regard to the structure of the cantonal justice system. As a consequence, the court system differs from canton to canton (Lienhard, Kettiger, & Winkler, 2012). Due to the (con)federation of 26 cantons (and the relatively small number

2 That is different from the common law tradition in which the doctrine of precedent applies. In the common law tradition, the inductive method of reasoning is emphasized. While in the civil law tradition, a stronger emphasis is put on the deductive method of reasoning.

Table 3.1 – Overview of the country-specific characteristics

Country	State structure		Status of appointment		Non-professional judges		Formal education	
	Unitary	Federal	Lifetime	Temporary	Yes	No	Yes	No
Switzerland		X	X		X			X
Germany		X	X		X		X	
The Netherlands	X			X		X	X	

of Swiss inhabitants), some of the cantons have a very low population number. In these smaller cantons (e.g. Appenzell-Innerrhoden, Appenzell Ausserrhoden, Zug), there are very few professional administrative law judges per court and the different courts in the canton are usually concentrated in one location. In the larger cantons (e.g. Bern, Zürich) the number of professional judges is considerably higher (Lienhard, Kettiger, & Winkler, 2012). In some cantons, there are (specialized) administrative courts, while in other cantons these courts do not exist. Where there are no (specialized) administrative courts, administrative proceedings are dealt with by the administrative law division of the cantonal court. First instance decisions on administrative law claims are often made by civil servants (not professional judges) working at administrative judicial authorities (Lienhard, Kettiger, & Winkler, 2012). Since January 2007, a Federal Administrative Court (*Bundesverwaltungsgericht/Tribunal administratif fédéral*) has been constituted at the federal level.

Depending on the court, professional administrative law judges work with a set group of judges in specialized work units (e.g. *Abteilung/Cours, Kammer/Chambre*). Professional judges are not appointed for life, but can be reappointed after a fixed period of time. Judges are elected by plebiscite or by Parliament (usually through a parliamentary judicial committee) (Kiener, 2012).³ Unlike Germany and the Netherlands, Switzerland lacks a systematic training curriculum for prospective judges. Another peculiarity is that political criteria (e.g. political affiliation) are important for the selection of professional judges (Lienhard, 2014). A final relevant point to consider is that non-professional judges play an important role in the Swiss judicial system and are largely represented in most Swiss courts (the Federal Administrative Court forms an important exception in this context). In administrative cases, non-professional judges (who sit alongside the professional judge(s)) are usually experts in a particular field.

144

3 In some cantons, first instance judges are elected by members of a higher (cantonal) court (Kiener, 2012). These courts are, however, not part of this study.

145 *Germany.* Germany has a federal state structure and resembles, in that sense, the Swiss situation more than the Dutch situation, where a unitary state structure is in place. In Germany, the administrative court system is divided into three instances: the first instance administrative courts (*Verwaltungsgerichte*), the appellate administrative courts (*Oberverwaltungsgerichte*) and the Federal Administrative Court (*Bundesverwaltungsgericht*). Germany consists of 16 States (*Länder*). Each state has at least one administrative court (Schröder, 2012). The German states and the Swiss cantons both have the quality of autonomous states (Fercot, 2008). Three of the bigger states (population-wise) are selected for the current study: Baden-Württemberg, Lower Saxony and North Rhine-Westphalia. In these states, the number of professional administrative law judges per court is considerably higher than in most administrative courts in Switzerland. In Germany, professional administrative law judges work, for at least one year, in one or more highly specialized work units (*Kammern*). Every year, a new case allocation plan (called: *Geschäftsverteilungsplan*) is made to determine the composition of the different *Kammern* in the court.

146 In contrast to the Swiss situation, professional judges are not elected (by plebiscite or by Parliament), but are appointed for life. In order to become a professional judge, two stages have to be completed: a legal education (a law degree) at one of the German universities and practical training for two years. At the end of each of the two stages a state examination needs to be successfully passed (Korioth, 2006). Only when both of these state examinations have been successfully passed, a career as a professional judge in one of the German (administrative) courts is possible. A final relevant point to consider is that non-professional judges (*die ehrenamtlichen Richterinnen und Richter*) are represented in most first instance administrative courts and appellate administrative courts.

147 *The Netherlands.* As opposed to Germany and Switzerland, the Netherlands is a centralized, unitary state. At the first instance level, there are administrative court sections (within the 11 district courts) that deal with administrative matters unless the matter lies within the competence of one of the specialized administrative courts (Seerden & Wenders, 2012). Depending on the court, these administrative court sections are further divided into more specialized work units.

148 In the Netherlands, there are several highest courts in the field of administrative law. The Administrative Jurisdiction Division of the Council of State (*Afdeling Bestuursrechtspraak van de Raad van State*), the Central Appeals Tribunal (*Centrale Raad van Beroep*) (for the public service and

for social security matters) and the Trade and Industry Appeals Tribunal (*College van Beroep voor het Bedrijfsleven*) are the three special courts dealing with administrative law. Tax law cases are dealt with at one of the four Courts of Appeal (*Gerechtshoven*) or at the Supreme Court Tax Chamber (*Hoge Raad*).

Generally, the number of professional administrative law judges per court is higher than in the Swiss administrative courts. In the Netherlands, judges are appointed for life. As in Germany, there are strict educational requirements for lawyers who want to become a professional (administrative law) judge. In order to become a professional judge, two stages have to be completed: a legal education (a law degree) at one of the Dutch universities and an internal education programme offered by the judiciary which can be followed after a candidate has successfully passed the selection procedure for the judiciary. As opposed to the Swiss and German legal systems, non-professional judges do not play a role in the collegial decision-making process in multi-judge panels. 149

In summary, professional administrative law judges employed in Switzerland, Germany and the Netherlands are similar to the extent that they work in a Western European context, are educated in the same legal tradition, have a constitutionally protected independent status, and face the same type of cases (i.e. administrative cases). However, each country also brings some unique features to the table, which automatically has an impact on the working conditions of the judges. To that end, a judge's country background (i.e. the country in which he or she is currently employed) may affect a judge's knowledge sharing behaviour and his or her perception on the factors that possibly influence this type of behaviour. Testing the research model in a cross-national setting creates the opportunity to account for potential differences between Swiss, German and Dutch judges. 150

3.4 Participating courts

A selection of administrative courts and/or administrative court sections was made for each of the three countries. Table 3.2, Table 3.3 and Table 3.4 provide an overview of the participating courts per country. 151

Table 3.2 – *Participating courts in Switzerland*

Canton	First instance courts	Higher instance courts
Aargau		Verwaltungsgericht
Appenzell Ausserrhoden		Obergericht
Basel-Stadt	Sozialversicherungsgericht (<i>Social security</i>)	
Bern		Verwaltungsgericht
Fribourg		Kantonsgericht
Geneva		Cour de droit public de la Cour de Justice
Glarus		Verwaltungsgericht
Graubünden		Verwaltungsgericht
Jura		Tribunal Cantonal
Luzern	Kantonsgericht ¹	
Neuchâtel		Tribunal Cantonal
Solothurn		Obergericht
St. Gallen		Verwaltungsgericht
Thurgau		Verwaltungsgericht
Vaud		Tribunal Cantonal
Zug		Verwaltungsgericht
Zurich	Steuerrekursgericht (<i>Tax</i>)	Sozialversicherungsgericht (<i>Social security</i>) Verwaltungsgericht
Confederation	Bundesverwaltungsgericht ²	

1 The Kantonsgericht Luzern *primarily* deals with administrative cases in first instance. In the questionnaire, judges could themselves indicate whether they work in a first or higher instance courts.

2 The Bundesverwaltungsgericht reviews administrative decisions of the federal authorities. In those cases, the Bundesverwaltungsgericht is a first instance court. When the Bundesverwaltungsgericht deals with decisions from the cantonal high courts, it is a higher instance court. In the questionnaire, judges could themselves indicate whether they work in a first or higher instance courts.

152 *Switzerland.* In Switzerland, there are no official federal documents available that provide an overview of all Swiss courts, including the number of professional (and non-professional) judges working at these courts. Bieri (2014) has partially filled this information gap by producing a table listing all of the Swiss courts. With the help of this list and extensive web searches, a selection of courts dealing with administrative matters (including social security and tax matters, which are sometimes dealt with in specialized courts) was made. Due to the language barrier, the *Tribunale cantonale amministrativo* in the Italian-speaking canton of Ticino was not part of this study. In total, 33 courts were selected (see Appendix A). From these 33 courts, 20 courts actually participated in the study (see section 3.6 for a detailed discussion on the survey procedure).

Table 3.3 – *Participating courts in Germany*

State	First instance courts	Higher instance courts
Baden-Württemberg	Verwaltungsgericht Freiburg Verwaltungsgericht Karlsruhe Verwaltungsgericht Sigmaringen Verwaltungsgericht Stuttgart	Verwaltungsgerichtshof Baden-Württemberg
Lower Saxony	Verwaltungsgericht Braunschweig Verwaltungsgericht Göttingen Verwaltungsgericht Hannover Verwaltungsgericht Lüneburg Verwaltungsgericht Oldenburg Verwaltungsgericht Osnabrück Verwaltungsgericht Stade	Niedersächsisches Oberverwaltungsgericht
North Rhine-Westphalia	Verwaltungsgericht Aachen Verwaltungsgericht Arnsberg Verwaltungsgericht Düsseldorf Verwaltungsgericht Gelsenkirchen Verwaltungsgericht Köln Verwaltungsgericht Minden Verwaltungsgericht Münster	Oberverwaltungsgericht für das Land Nordrhein-Westfalen

Table 3.4 – *Participating courts in the Netherlands*

First instance courts	Higher instance courts
Rechtbank Amsterdam	Afdeling Bestuursrechtspraak van de Raad van State
Rechtbank Den Haag	Centrale Raad van Beroep
Rechtbank Gelderland	College van Beroep voor het Bedrijfsleven
Rechtbank Limburg	
Rechtbank Midden-Nederland	Gerechtshof Amsterdam
Rechtbank Noord-Holland	Gerechtshof Arnhem-Leeuwarden
Rechtbank Noord-Nederland	Gerechtshof Den Haag
Rechtbank Oost-Brabant	Gerechtshof 's-Hertogenbosch
Rechtbank Overijssel	
Rechtbank Rotterdam	
Rechtbank Zeeland-West-Brabant	

Germany. In Germany, the study is limited to the administrative court branch in Baden-Württemberg, Lower Saxony and North Rhine-Westphalia. The finance, labour and social courts form a separate tier and are not included in this research. 153

The Netherlands. In the Netherlands, the survey was carried out in the 11 district courts, the Central Appeals Tribunal, the Trade and Industry Appeals Tribunal, the four Courts of Appeal and the Administrative Jurisdiction Division of the Council of State (Table 3.4). The Supreme Court 154

Table 3.5 – Characteristics of survey respondents (N = 447)

Characteristics	Category	Frequency	Percent
Age (yrs.)	20-30	7	1.6
	31-40	52	11.6
	41-50	128	28.6
	51-60	178	39.8
	>60	79	17.7
	Missing	3	0.7
Gender	Male	275	61.5
	Female	172	38.5
Tenure (yrs.)	0-5	73	16.3
	6-10	52	11.6
	11-15	66	14.8
	16-20	68	15.2
	>20	168	37.6
	Missing	20	4.5
Court position	<i>Managerial responsibilities</i>	167	37.4
	<i>No managerial responsibilities</i>	280	62.6

Tax Chamber has a rather isolated position in the field of administrative law, and is therefore not part of this study.

155 Table 3.5 provides an overview of the respondents' characteristics. Appendix B shows the characteristics of survey respondents per country (Switzerland, Germany and the Netherlands) and per court level (first instance courts and higher instance courts).

3.5 Survey measurement instruments

156 In this study, existing scales that had been proven reliable in prior studies were used to measure the constructs included in the research model. The items were only modified to the extent that they would (better) fit the judicial context (e.g. the term 'organization' was replaced by 'court', and the term 'organizational members' was replaced by 'colleagues') and some minor grammatical errors in the original items were corrected. Appendix C provides a full list of these items and their translations.

157 The source language for the questions and items in the survey was English. The target languages were Dutch, French and German. An Ask-the-Same-Question (ASQ) approach was chosen to collect comparable data across the three countries (Harkness, 2008). Basically, this entails that the source questionnaire (in English) was first developed and finalized

before it was translated into the three target languages. As opposed to the Ask-Different-Questions (ADQ) approach, country non-specific questions were used to measure the specific constructs which are part of the research model (Harkness, 2008). Professional translators translated the questionnaire from English to German and from English to French. The English to Dutch translation was provided by the author. In order to ensure relevant and understandable survey items in the different contexts, judges were consulted prior to the finalization of the English source questionnaire, as well as after the translation of the questionnaires into the three target languages. Dutch, German and French native-speaking judges were involved in this process.

Cross-national survey research is still a novelty for the judicial sector. This is not surprising when one takes into consideration that every country has its own legal system. This makes it challenging to design a questionnaire that can be filled in by judges from different legal systems. Judges are accustomed to the terminology used in their particular country, court organization and/or legal field. However, in cross-national studies, these terms cannot always be used. Some legal terms are simply not translatable, because an equivalent term does not exist in another legal system (Orozco & Sánchez-Gijón, 2011). In this study, strict legal terms were not used. Instead, generic descriptions – sometimes complemented with more specific descriptions - were used to collect the data necessary to test the concepts included in the research model.

Due to the abstract and country non-specific formulations of the questions and items in the source questionnaire, a method of close translation was chosen. Close translation ensures a literal copy of the source questionnaire in the target language. However, a close translation also runs the risk of failing to achieve functional equivalence between the different versions of the survey questions and survey items (Peschar, 1982; Harkness, 2008; Pan & Fond, 2012). The main concern in this regard was the use of some abstract terms (e.g. IT facilities, work unit) which may elicit alternative interpretations in different contexts. However, due to differences between the countries regarding their national judicial organization, country-specific terms could not be used. In order to diminish the risk of alternative interpretations, high risk questions or groups of statements were preceded by a short introduction to provide the respondents with additional information about how to interpret these terms (Appendix C). In order to

diminish the risk of routinized responses, most items were shuffled and placed in a random order throughout the questionnaire.⁴

160 *ICT support.* A scale developed by Van den Hooff and Huysman (2009) was used to measure ICT support. In their study, they used a slightly adapted version of the scale used by Gold, Malhotra and Segars (2001). The scale consists of 7 items and was measured on a 5-point Likert scale (from 'strongly disagree' to 'strongly agree'). Example items are: 'The IT facilities within this court positively contribute to my productivity and effectiveness' and 'The IT facilities make it easier to cooperate with others within the court'. The Cronbach's alpha is 0.87.

161 *Management support.* Management support was measured using a scale developed by Kang, Kim and Chang (2008). The scale consists of 3 items and was measured on a 5-point Likert scale. Depending on the answer given by the respondent to the question referring to the number of work units in which the respondent was currently active, the respondent received a singular or plural version of this group of items. Example items of the singular version are: 'The chairperson of my work unit emphasizes the importance of knowledge sharing between work units' and 'The chairperson of my work unit makes consistent efforts to foster a culture of knowledge sharing'. Example items of the plural version are: 'The chairpersons of my work units emphasize the importance of knowledge sharing between work units' and 'The chairpersons of my work units make consistent efforts to foster a culture of knowledge sharing'. The Cronbach's alpha for the total scale is 0.92.

162 *Social network.* The social network was measured using a 5-point Likert scale developed by Chow and Chan (2008). This scale consists of 3 items. Example items are: 'In general, I have a very good relationship with my colleagues' and 'In general, I am very close to my colleagues'. The social network scale has a reliability (Cronbach's alpha) of 0.59. The value of 0.59 is well below the usual threshold of 0.70 (Kline, 1993), which means that the degree of internal consistency of the three items is too low.

4 The items associated with ICT support were not shuffled, because the items required some additional information about how to interpret some of the terms included in the items. The items associated with management support were not shuffled, because a pre-selecting question had to be answered in order to know whether to present the singular or the multiple version of the items to the respondent. The items associated with role overload were not shuffled, because the items were preceded by a short introduction.

In order to determine why the social network scale does not perform as expected, the item-total statistics and the distribution of responses per items were more closely looked at. The item-total statistics indicated that none of the items, if deleted, would increase the reliability of the social network scale. The skewed distribution of responses for item 1 ('In general, I have a very good relationship with my colleagues') indicated a low variance of responses (more than 97 percent of the respondents gave a score of 4 or 5). This item was therefore deleted for further analyses. The two remaining items would then have a Cronbach's alpha of 0.57. This value is still well below the threshold of 0.70. Item 3 ('I always hold a lengthy discussion with my colleagues') is also deleted for further analyses, because (as a single item) it does not capture the meaning of a social network (i.e. having strong social ties). For future analyses, item 2 'collegial closeness' will be used as a single item. From now on, 'collegial closeness' instead of 'social network' will be used for this particular variable in the research model.

Social trust. Chow and Chan (2008) also developed a scale to measure social trust. This scale consists of 3 items and was measured on a 5-point Likert scale. Example items are: 'I know my colleagues will always try and help me out if I get into difficulties' and 'I can always rely on my colleagues to make my job easier'. The social trust scale has a reliability (Cronbach's alpha) of 0.82. 163

Shared goals. Chow and Chan (2008) developed a 5-point Likert scale for measuring shared goals. This scale consists of 3 items. Example items are: 'My colleagues and I always agree on what is important at work' and 'My colleagues and I always share the same ambitions and vision'. The shared goals scale has a reliability (Cronbach's alpha) of 0.72. 164

Enjoyment in helping others. Enjoyment in helping others was measured using a scale developed by Lin (2007a). The scale consists of 4 items and was measured on a 7-point Likert scale (from 'strongly disagree' to 'strongly agree'). Example items are: 'I enjoy helping colleagues by sharing my knowledge' and 'Sharing my knowledge with colleagues is pleasurable'. The enjoyment in helping others scale has a reliability (Cronbach's alpha) of 0.85. 165

Professional image. The scale for measuring professional image has been adopted from a study by Gottschalk (2007). This scale consists of 4 items and was measured on a 7-point Likert scale. Example items are: 'Sharing my knowledge improves others' recognition of me' and 'People in 166

the court who share their knowledge have more prestige'. The professional image scale has a reliability (Cronbach's alpha) of 0.87.

167 *Knowledge self-efficacy.* Lin (2007a) also developed a scale to measure knowledge self-efficacy. She used an adapted version of a measure developed by Spreitzer (1995). The knowledge self-efficacy scale consists of 4 items and was measured on a 7-point Likert scale. Example items are: 'I am confident in my ability to provide knowledge that others in my court consider valuable' and 'I have the expertise required to provide valuable knowledge for my court'. The knowledge self-efficacy scale has a reliability (Cronbach's alpha) of 0.59. The value of 0.59 is well below the usual threshold of 0.70 (Kline, 1999), which means that the degree of internal consistency of the four items is too low to use for further analyses. After focusing on the item-total statistics, it became clear that the two reverse phrased items of the four-item scale caused the low reliability score. Therefore, these two items had to be removed from the original four-item scale. After the removal of the two reverse phrased items, the new Cronbach's alpha for the two-item scale is 0.77.

168 *Role overload.* The scale for measuring role overload has been adopted from a study by Bolino and Turnley (2005). This scale consists of 3 items and was measured on a 5-point Likert scale. Example items are: 'The amount of work I am expected to do is too great' and 'I never seem to have enough time to get everything done at work'. The Cronbach's alpha is 0.91.

169 *Knowledge sharing processes.* The scale for measuring knowledge sharing has been adopted from a study by Van den Hooff and Huysman (2009). The scale consists of 8 items and was measured on a 5-point Likert scale. Example items are: 'I consider it important that that my colleagues are aware of what I am working on' and 'I like to be kept fully informed of what my colleagues know'. Van den Hooff and Huysman (2009) derived the knowledge sharing scale from a study by De Vries, Van den Hooff and De Ridder (2006). The scales used in both studies differ on two grounds: (1) the division or integration of the knowledge donating items and the knowledge collecting items and (2) the exact wording of the items. In their study De Vries, Van den Hooff and De Ridder (2006) made a strict distinction between two knowledge sharing behaviours: knowledge donating and knowledge collecting. In order to check whether the two constructs could be separated, they performed a principal component analysis with varimax rotation and found a two-factor solution. Van den Hooff and Huysman (2009), integrated the four knowledge donating and four knowledge collecting items, and used a merged scale. In their study, no evidence for a two-factor solution

is reported. In the current study, the merged scale of Van den Hooff and Huysman (2009) is used to measure the knowledge sharing behaviour of judges, because the wording of these items better fit the judicial context. An exploratory factor analysis (a principal component analysis with varimax rotation) showed no support for dividing the knowledge sharing scale into the two subscales ‘knowledge donating’ and ‘knowledge collecting’. The knowledge sharing scale has a reliability (Cronbach’s alpha) of 0.79.

Overall job performance. Overall job performance was measured using a single-item measure developed by Goh and Mealiea (1984). On the basis of this single-item measure, judges were able to self-assess their overall performance on a 10-point scale. Judges were asked the following question: ‘In comparison to other colleagues working in the same job as you, how would you rate yourself on your overall job performance?’.

Gender. Gender was dummy-coded. Male judges were coded 0 and female judge were coded 1.

Tenure. Tenure was measured as a continuous variable. Respondents were asked to answer the following question: ‘Overall, how many years have you worked as a judge?’.

Age. Age was measured as a continuous variable. Respondents were asked to answer the following question: ‘What is your age?’

Court position. In order to measure the court position of the respondents, they were asked to answer the following question: ‘Do you have (additional) managerial responsibilities within your court?’. The answer options were ‘yes’ (coded 1) and ‘no’ (coded 0).

Country. Based on the coding of the questionnaires, this information could be later added to the dataset. The options were: Switzerland, Germany and the Netherlands.

Court level. Respondents could indicate whether they currently work at a first instance court (coded 0) or a higher instance court (coded 1).

Court size. In order to determine the size of the court, respondents were asked to answer the following question: ‘How many administrative judges* are active in your court? *Not including: substitute judges, lay/honorary judges’. Prior to the finalization of the questionnaire, some judges mentioned (in the consultation phase) that they would prefer a list of categories (instead of an open question) as it would be difficult to recall the exact number of professional administrative law judges working at their court. It was also

suggested to include a ‘I do not know’ category, in order to avoid random guessing when respondents did not know the answer. The categories were: ‘1-2’, ‘3-5’, ‘6-10’, ‘11-20’, ‘21-30’, ‘31-40’, ‘41-50’, ‘more than 50’, ‘I do not know’. For future analyses, these categories are recoded into 1-10 (small courts), 11-40 (medium-sized courts) and > 40 (large courts).

3.6 Survey procedure

178 During the first six months of 2014, a web-based self-administered survey was conducted to collect the necessary data. The survey started in February 2014 in the Netherlands and ended in June 2014 in Switzerland. It was obligatory to answer most questions in the questionnaire. Due to some previously expressed anonymity concerns, two questions about the respondent’s professional tenure were not obligatory. Also, the last question in which the judge could offer additional comments was optional. The layout of the questionnaire was consistent in all three countries.

179 *Switzerland.* Each participating court received a letter (in French or German) in which cooperation was requested. Some courts had to be omitted from the initial sample, because only non-professional judges were employed at this court. From the 33 selected courts (or administrative law divisions within the cantonal court) 20 courts gave permission to send the survey to their judges (Table 3.2). All professional judges working in the field of administrative law at one of these courts were asked to participate in the survey. Depending on the preferred method of the participating courts, the judges received an email which was personally addressed to them or they received a group email in which they were not personally addressed. This group email was sent by a contact person working at the specific court. The emails contained an URL-link redirecting the judges to the French or German version of the questionnaire. Two weeks after the judges received their first email, they received a reminder by email.⁵ In total, 92⁶ out of the 234 judges completed the survey (a response rate of 39 percent).

5 Judges working at the Verwaltungsgericht Thurgau only received the first invitation, because no permission was granted to send a reminder by email.

6 Due to some technological difficulties, judges from the Verwaltungsgericht Graubünden could not open the URL-link to the questionnaire. Instead, they filled in the questionnaire on paper. One of the judges missed one survey item, but because he filled in the rest of the questionnaire, he was still added to the dataset.

Germany. The three appellate administrative courts situated in Mannheim, Lüneberg and Münster received a letter or email in which cooperation was requested. Permission was granted from the three appellate administrative courts to conduct the survey in all administrative courts in that particular state (Table 3.3). No permission was granted from the Federal Administrative Court to distribute the survey among its judges. All professional judges from the 21 administrative courts were asked to participate in the survey.⁷ An invitation email was written to formally introduce the survey to the judges. This email contained an URL-link which redirected the respondent to the survey. A contact person from each of the three appellate courts sent the invitation as a group mail directed to all the professional administrative judges in that particular state (the appellate administrative court and the first instance courts). Two weeks after the judges received their first invitation, they received a reminder by email. In Baden-Württemberg 37 out of 151 judges completed the survey (a response rate of 25 percent). In Lower Saxony 47 out of 180 judges completed the survey (a response rate of 26 percent). And in North Rhine-Westphalia 151 out of 450 judges completed the survey (a response rate of 34 percent). In total, 235 out of the 781 judges completed the survey (a response rate of 30 percent).

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The Netherlands. Permission had to be granted by the Council for the Judiciary to conduct the survey in the Dutch courts. The Council for the Judiciary provided a list of 495 administrative law judges from which a random sample was selected. The random sample consisted of 268 administrative law judges. The Administrative Jurisdiction Division of the Council of State does not fall within the remit of the administration of the Council for the Judiciary and was therefore not part of this random sample. All judges from this court were, therefore, separately approached. An invitation e-mail was written to formally introduce the survey to the judges. The judges who were part of the random sample provided by the Council for the Judiciary could be personally addressed. Two weeks after they received the invitation email, they received a reminder by email. The judges from the Administrative Jurisdiction Division of the Council of State could not be personally addressed. They received a group invitation email from a contact person working at the Administrative Jurisdiction Division of the Council of State.

181

7 With the exception of some judges who were on temporary leave.

182 Due to an administrative error on the part of the Council for the Judiciary, court auditors (*gerechtsauditeurs*) working at the Trade and Industry Appeals Tribunal were also part of the sample. Because it was assumed that all the respondents who received the questionnaire were professional administrative law judges, no question had been included in the questionnaire that could separate the judges from the court auditors. Therefore, it was not possible to exclude these court auditors after the responses had been collected. However, it is expected that the inclusion of court auditors will not severely affect the outcome of the survey. Firstly, court auditors at the Trade and Industry Appeals Tribunal often have to deal with similar legal complexities as their colleague-judges, which makes knowledge sharing a valuable activity for this group of professionals as well. Secondly, they have an independent status which is identical to those of judges, including appointment by the Crown, except that they may be appointed for a fixed term. Thirdly, the number of court auditors that could have been included is quite small compared to the overall sample.

183 Based on the random sample, 89 out of the 268 judges completed the survey (a response rate of 33 percent). In the Administrative Jurisdiction Division of the Council of State, 31 out of the 56 judges completed the survey (a response rate of 55 percent). In total, 120 out of the 324 judges completed the survey (a response rate of 37 percent).⁸

3.7 Data analyses

184 The research model was analyzed using descriptive statistics, collinearity statistics, correlation analysis, post-hoc analysis, one-way analysis of variance, independent samples t-test and regression analysis. The SPSS 20 software package was used for all statistical analyses. The descriptive statistics were first examined to check for the means, ranges and standard deviations of the main variables in the research model. Collinearity statistics were calculated to rule out multicollinearity among the eight predictor variables, i.e. the knowledge sharing enablers. In addition, a check for linearity revealed that no strong evidence was found of any curvilinear relationships in the model. Correlations were calculated using the Pearson

8 Note: the total response rates of the three participating countries are more or less the same.

correlation coefficient, the Pearson point-biserial correlation coefficient and the Phi-coefficient.

Multiple group comparisons were carried out using a regular one-way analysis of variance (ANOVA) or a Welch's ANOVA. The Welch's ANOVA was used when the sample sizes as well as the variances between the groups were unequal. Depending on Levene's test for the homogeneity of variances, the ANOVA was followed by a Hochberg post-hoc analysis (when the assumption of the homogeneity of variance was accepted) or a Games–Howell post-hoc analysis (when the assumption of the homogeneity of variance was violated). An independent samples t-test was performed to compare the means between two groups (first and higher instance courts). Cohen's d formula ($d = M_{\text{group1}} - M_{\text{group2}} / SD_{\text{pooled}}$; Cohen, 1988) was used to calculate effect sizes.

In order to test the hypotheses, partial correlations were used as a means of controlling for other variables in the research model. In addition, a hierarchical regression analysis of the total sample was performed.⁹ Also, additional analyses were performed to test for some peculiar results found in the previously performed analyses. The results of the statistical analyses are presented in the next chapter.

9 As an additional check, regression analyses were independently performed for Swiss, German and Dutch judges, and for judges working at first or higher instance courts (see Appendix D).

4 Results

4.1 Introduction

In this chapter, the study results are presented. First, we present the overall descriptive statistics and the correlation matrix of all study variables. Then, the chapter zooms in on the three contextual control variables: *country*, *court level* and *court size*. Firstly, it is analyzed whether Swiss, German and Dutch judges, and judges working in first or higher instance courts score significantly different on the study variables. Secondly, it is analyzed whether *court size* has any impact on the study variables. After that, the chapter continues with the hypotheses testing results. The results of the additional regression analyses are presented as well. The chapter ends with a summary of the results.

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4.2 Descriptive statistics and correlations

The means, standard deviations and intercorrelations are presented in Table 4.1. As can be seen from this table, the respondents score relatively highly on the knowledge sharing scale ($M = 3.83$, $Sd = .49$). This result suggests that, on average, judges perceive themselves as relatively active knowledge sharers. All other mean scores are also above the scale mid-point. The variable *enjoyment in helping others* – a purely intrinsic motivator – has one of the highest mean scores ($M = 5.96$, $Sd = .77$). Judges also rate their *overall job performance* well above the scale midpoint ($M = 7.22$, $Sd = 1.23$). This means that, on average, judges are fairly satisfied with their own work performances. The standard deviations indicate a considerable variation, which means that the scores are not solely centred around the mean and can thus be used for further statistical analyses.

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Social trust shows the strongest correlation with knowledge sharing ($r = .49$, $p < .001$), which means that a higher level of *social trust* corresponds to a higher level of *knowledge sharing*. *ICT support* shows a fairly weak correlation with *knowledge sharing* ($r = .12$, $p < .01$). *Overall job performance*, *role overload*, *tenure* and *court position* are also not significantly correlated with *knowledge sharing*. Due to the rather strong

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Table 4.1 – Means, standard deviations and zero-order correlations of study variables

Variable	M	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
ICT support	3.87 (0.63)	-	.25***	.13**	.07	.04	.14**	.19***	.17***	.12**	.12**	-.06	.09	.13**	-.08	-.13**
Management support	3.47 (0.88)		-	.31***	.33***	.31***	.22***	.27***	.22***	.33***	.11*	-.04	.05	.09	-.04	-.20***
Collegial closeness	3.17 (0.91)			-	.43***	.44***	.21***	.21***	.16**	.46***	.07	.07	.01	.18***	.03	-.12*
Shared goals	2.70 (0.69)				-	.53***	.29***	.31***	.28***	.47***	.13**	.04	.01	-.02	.02	-.01
Social trust	3.74 (0.73)					-	.27***	.22***	.24***	.49***	.02	-.05	-.07	.02	-.01	.02
Enjoyment in helping others	5.96 (0.77)						-	.52***	.49***	.39***	.11*	.02	-.13**	-.11*	.11*	.07
Knowledge self-efficacy	5.55 (0.94)							-	.51***	.36***	.36***	-.00	.03	-.04	-.09	-.15**
Professional image	4.77 (1.00)								-	.28***	.14**	-.02	-.11*	-.12*	-.01	.11*
Knowledge sharing	3.83 (0.49)									-	.07	-.05	-.11*	.02	.11*	-.02
Overall job performance	7.22 (1.23)										-	-.04	.11*	.12*	-.07	-.21***
Role overload	2.75 (0.95)											-	.06	-.03	.09	-.07
Age ¹	51.7 (9.13)												-	.66***	-.26***	-.31***
Tenure ²	17.4 (9.94)													-	-.21***	-.27***
Gender	-														-	.22***
Court position	-															-

N = 447; * p < .05; ** p < .01; *** p < .001; ¹ N = 444; ² N = 427; ^a Phi-coefficient.

correlation between the control variables of *age* and *tenure* ($r = .66, p < .001$) only *tenure* will be included as a control variable in the partial correlation and regression analyses. *Tenure* is selected as a control variable, because we consider *tenure* as a more determinant factor for the engagement of judges in knowledge sharing processes than *age*. Previous studies support this decision (Irmer, Bordia, & Abusah, 2002; Wasko & Faraj, 2005).

The strongest correlation between the eight knowledge sharing predictors is found between *shared goals* and *social trust* ($r = .53, p < .001$). Another strong correlation is found between *enjoyment in helping* others and *knowledge self-efficacy* ($r = .52, p < .001$). While these Pearson product moment correlation coefficients indicate no immediate concern for a problem with multicollinearity, we also checked the variance inflation factors and found that these are well below the usual threshold of 10 (Myers, 1990). This leads to the conclusion that no multicollinearity exists among any of the predictor variables. Therefore, these variables can be used in a hierarchical regression analysis performed in a later part of this chapter.

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4.3 Differences between countries

In this study, three countries are studied: Switzerland, Germany and the Netherlands. By comparing these countries, we can observe whether the respondents' scores on the study variables are affected by their country background, i.e. by the country context in which they currently work. A One-Way Analysis of Variance (ANOVA) is performed to determine whether there are any significant differences between Swiss, German and Dutch judges with regard to the variables included in the research model. The results are presented in Table 4.2.

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It can be seen from the data in Table 4.2 that there is a significant difference between Swiss, German and Dutch judges regarding their knowledge sharing behaviour ($F(2, 444) = 6.24, p < .01$). Post-hoc analyses reveal that significant differences exist between German and Swiss judges ($p < .05$), and between German and Dutch judges ($p < .05$). However, the differences between the mean scores are fairly small. The eta-squared statistic indicates that only 3 percent of the variance in *knowledge sharing* is accounted for by the country in which the judge currently works.

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Table 4.2 – One-Way Analysis of Variance (ANOVA) in differences between countries

Variable	Switzerland	Germany	The Netherlands	F
	(N = 92)	(N = 235)	(N = 120)	
	M (Sd)	M (Sd)	M (Sd)	
ICT support	3.78 (0.62)	3.94 (0.65)	3.80 (0.56)	3.07*
Management support	3.32 (0.92)	3.57 (0.86)	3.41 (0.88)	3.15*
Collegial closeness	3.01(0.96)	3.42 (0.88)	2.82 (0.78)	23.21*** ^a
Shared goals	2.58 (0.71)	2.65 (0.68)	2.90 (0.64)	7.46**
Social trust	3.45 (0.83)	3.81 (0.75)	3.81 (0.55)	7.58*** ^a
Enjoyment in helping others	5.85 (0.74)	5.91 (0.77)	6.13 (0.77)	4.42*
Knowledge self-efficacy	5.79 (0.86)	5.42 (0.97)	5.60 (0.93)	5.41**
Professional image	4.60 (1.04)	4.69 (0.95)	5.05 (1.00)	6.99**
Knowledge sharing	3.73 (0.48)	3.90 (0.49)	3.75 (0.49)	6.24**
Overall job performance	6.96 (1.44)	7.26 (1.26)	7.36 (0.97)	2.66 ^a
Role overload	2.89 (1.00)	2.62 (0.95)	2.91 (0.89)	5.04**
Age	53.04 (8.01) ¹	50.43 (9.46) ³	53.17 (8.95) ⁵	4.87**
Tenure	13.09 (7.79) ²	21.65 (9.37) ⁴	12.57 (8.79) ⁶	52.79***

*p < .05; **p < .01; *** p < .001.

¹ N = 90; ² N = 86; ³ N = 234; ⁴ N = 222; ⁵ N = 120; ⁶ N = 119.

^a Welch's F ratio.

193 Regarding the variable *ICT support*, we find that German judges have the highest mean score ($M = 3.94$). But, although the ANOVA shows a significant result ($F(2, 444) = 3.07$, $p < .05$), a Hochberg post-hoc analysis reveals that no significant differences are found for any pairwise comparison between national contexts. A similar effect can be found with regard to the variable *management support*. Here, the ANOVA shows a slight significant effect ($F(2, 444) = 3.15$, $p < .05$), but a Hochberg post-hoc analysis reveals no significant differences for any pair of countries. We can thus state that there are no significant pairwise mean differences between the three groups of judges concerning *ICT support* and *management support*.

194 Furthermore, the ANOVA shows significant results for the remaining study variables (except for *overall job performance*). Note that the Welch's F ratio has been reported for the variables *collegial closeness*, *social trust* and *overall job performance*. In these cases, Levene's test for equality of variances indicated that there was unequal variance between the groups. Subsequently, a Games-Howell post-hoc analysis (instead of a Hochberg post-hoc analysis) was employed to check for any significant pairwise mean differences. The post-hoc analyses show some significant pairwise mean differences between the countries for the variables *collegial closeness*, *shared goals*, *social trust*, *enjoyment in helping others*, *knowledge self-efficacy*,

professional image and *role overload*. The absolute differences between the mean scores are generally fairly small. The effect sizes vary from $\eta^2 = .01$ to $\eta^2 = .04$. Only *collegial closeness* shows a more moderate effect size of $\eta^2 = .09$. There are no significant differences between Swiss, German and Dutch judges with regard to their self-rated *overall job performance*.

Focusing on the control variables *age* and *tenure*, we find that there are significant differences between the three groups of judges. The mean of *tenure* is remarkably higher for German judges than for Swiss and Dutch judges. Post-hoc analyses reveal significant pairwise differences between German and Swiss judges ($p < .001$), and between German and Dutch judges ($p < .001$). 195

To sum up, while there are differences between judges working in Switzerland, Germany or the Netherlands, the effect sizes are mostly fairly small. This would suggest that judges employed in these three countries are likely to be more similar than different from each other (with the exception of the *tenure* of the respondents). Based on the ANOVA results (Table 4.2), the three groups will be grouped into one sample for subsequent analyses. 196

4.4 Differences between first and higher instance courts

In this study, two types of courts are studied: first instance courts and higher instance courts. An independent-samples t test is performed to determine if the judges working at first or higher instance courts score significantly different on the study variables. We also checked for differences with regard to the respondents' *age* and *tenure*. The results are presented in Table 4.3. 197

It can be seen from the results in Table 4.3 that significant group differences are found with respect to the following variables: *collegial closeness*, *social trust*, *knowledge self-efficacy* and *role overload*. Using Cohen's *d* formula ($d = M_{\text{group1}} - M_{\text{group2}} / SD_{\text{pooled}}$; Cohen, 1988), a standardized effect size is calculated for these four variables. On average, judges working at first instance courts experience a higher level of *collegial closeness* ($M = 3.29$) than judges working at higher instance courts ($M = 3.02$). The effect is significant, but the effect size is fairly small ($d = 0.30$). The same is true for *social trust*; judges working at first instance courts score higher ($M = 3.79$) than judges working at higher instance 198

Table 4.3 – Differences between judges working at first instance courts and higher instance courts in Switzerland, Germany and the Netherlands

Variable	First instance courts	Higher instance courts	<i>t</i>
	(<i>N</i> = 263)	(<i>N</i> = 184)	
	M (Sd)	M (Sd)	
ICT support	3.90 (0.62)	3.82 (0.63)	1.20
Management support	3.48 (0.89)	3.47 (0.87)	0.12
Collegial closeness	3.29 (0.89)	3.02 (0.91)	3.12**
Shared goals	2.68 (0.66)	2.73 (0.73)	-0.68 ^a
Social trust	3.79 (0.73)	3.65 (0.73)	1.99*
Enjoyment in helping others	5.96 (0.77)	5.95 (0.77)	0.25
Knowledge self-efficacy	5.45 (0.97)	5.68 (0.90)	-2.52*
Professional image	4.73 (0.98)	4.83 (1.02)	-1.03
Knowledge sharing	3.86 (0.48)	3.78 (0.51)	1.53
Overall job performance	7.29 (1.21)	7.12 (1.27)	1.46
Role overload	2.67 (0.95)	2.88 (0.95)	-2.30*
Age	50.41 (9.77) ¹	53.55 (7.78) ³	-3.77*** ^a
Tenure	18.56 (10.26) ²	15.79 (9.26) ⁴	2.86**

p* < .05; *p* < .01; ****p* < .001.

¹ *N* = 262; ² *N* = 248; ³ *N* = 182; ⁴ *N* = 179.

^a Unequal variances.

courts (*M* = 3.65), but the effect size is rather small (*d* = 0.19). In the case of *knowledge self-efficacy* and *role overload* it is the other way around; judges working at higher instance court score higher than judges working at first instance court, but the effect sizes are still fairly small (*knowledge self-efficacy*: *d* = 0.24; *role overload*: *d* = 0.22).

199 Focusing on the control variables *age* and *tenure*, we find that there are significant differences between the two court levels. However, if we consider the absolute differences between the means and the standard deviations that accompany the means, the differences between the court levels are still rather small.

200 In sum, we can state that although some of the group differences are significant, the effect sizes are fairly small. This would suggest that first instance judges and higher instance judges are likely to be more similar than different from each other with respect to these study variables. At this point, there is no strong statistical evidence to support a plea for a further empirical examination of the differences between the separate groups of professional administrative law judges in the context of this study.

4.5 The effect of court size on study variables

The question is whether *court size*, i.e. the number of professional judges working in the field of administrative law, is significantly related to one of the study variables. Due to the categorical nature of the *court size* data, we use the Spearman rank-order correlation. 201

In the correlation analysis, the following significant correlations were found: *ICT support* ($rs = .13, p < .01$), *management support* ($rs = .10, p < .05$), *social trust* ($rs = .14, p < .01$), *knowledge sharing* ($rs = .10, p < .05$), *role overload* ($rs = -.12, p < .05$) and *tenure* ($rs = .16, p < .01$). It seems that *court size* hardly has any effect on the respondents' scores on the study variables. The weak correlations suggest that *court size* may not be directly associated with the study variables. It appears that *court size*, like the other two context variables, has no effect on the perception of judges regarding the study variables. 202

4.6 Hypotheses testing results

Partial correlations and a hierarchical regression analysis were used to determine the relationships between the variables. For both analyses, the listwise deletion of missing data is used. 203

Table 4.4 reports the results of a hierarchical regression analysis with *knowledge sharing* as the dependent variable. The control variables (*gender*, *tenure* and *court position*) were entered in a first step, the knowledge sharing predictors in a second step, the variable *role overload* in a third step, and the eight interaction terms between the knowledge sharing predictors and *role overload* in a fourth step. All interaction terms were calculated after both variables had been mean centred (Aiken & West, 1991; Cohen, Cohen, West, & Aiken, 2003). 204

Table 4.5 shows the results of a hierarchical regression analysis with *overall job performance* as the dependent variable. The control variables (*gender*, *tenure* and *court position*) were entered in a first step, and *knowledge sharing* was entered as a second step. Below, the findings and the outcome of the different hypotheses are discussed. 205

4.6.1 The effect of ICT support on knowledge sharing

206 The first hypothesis was stated as follows: judges who experience higher levels of ICT support are more inclined to engage in knowledge sharing processes. First, we performed a partial correlation analysis to explore the relationship between *ICT support* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *ICT support* and *knowledge sharing* ($r = .14$, $p < .01$). Second, we performed a partial correlation analysis to explore the relationship between *ICT support* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *management support*, *collegial closeness*, *shared goals*, *social trust*, *enjoyment in helping others*, *knowledge self-efficacy* and *professional image*. We did not find a significant partial correlation between *ICT support* and *knowledge sharing* ($r = .03$, ns). This result indicates that controlling for *gender*, *tenure*, *court position* and the seven knowledge sharing predictors has a large effect on the strength of the relationship between *ICT support* and *knowledge sharing*.

207 Results of the regression analysis in Table 4.4 convincingly show that there is no statistically significant association between *ICT support* and *knowledge sharing*. The results indicate that the impact of *ICT support* on *knowledge sharing* decreases when other factors are controlled for. This suggests that other factors in the research model have a more determining effect on *knowledge sharing* than *ICT support* in this particular context. In sum, we can conclude that hypothesis 1 is not supported.

208 Additionally, we checked whether *role overload* affects the relationship between *ICT support* and *knowledge sharing* (hypothesis 1a: the relationship between ICT support and knowledge sharing depends on the level of role overload as perceived by judges). As can be seen from Table 4.4, no significant interaction effect was found. This means that the relationship between *ICT support* and *knowledge sharing* does not change due to an interaction effect between *ICT support* and *role overload*. We can thus conclude that hypothesis 1a is not supported.

Table 4.4 – Results of a hierarchical regression analysis with knowledge sharing as the dependent variable and role overload as the moderator

Variables	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10	Model 11
Gender	.12*	.11**	.11**	.11**	.11**	.11**	.11**	.11**	.11**	.11**	.12**
Tenure	.04	.02	.02	.02	.02	.02	.02	.02	.02	.02	.02
Court position	-.05	.01	.01	.01	.01	.01	.01	.01	.00	.01	.01
ICT support (IS)		.03	.02	.02	.02	.02	.02	.02	.02	.02	.02
Management support (MS)		.07	.07	.07	.07	.07	.07	.07	.07	.07	.07
Collegial closeness (CC)		.20***	.21***	.21***	.21***	.21***	.21***	.21***	.21***	.21***	.22***
Social trust (ST)		.23***	.23***	.23***	.23***	.23***	.23***	.22***	.23***	.23***	.23***
Shared goals (SG)		.13**	.13**	.13**	.13**	.13**	.13**	.13**	.13**	.13**	.13**
Enjoyment in helping others (EO)		.16**	.16**	.16**	.16**	.17**	.16**	.16**	.16**	.17**	.16**
Professional image (PI)		-.02	-.02	-.02	-.02	-.02	-.02	-.02	-.02	-.02	-.02
Knowledge self-efficacy (KSE)		.17**	.16**	.16**	.16**	.16**	.17**	.16**	.17**	.16**	.17**
Role overload (RO)			-.06	-.06	-.06	-.06	-.07	-.07	-.06	-.06	-.06
IS x RO				.01							
MS x RO					-.01						
CC x RO						-.01					
ST x RO							-.04				
SG x RO								-.06			
EO x RO											
PI x RO										.01	-.08*
KSE x RO											
R ²	.01	.43	.44	.44	.44	.44	.44	.44	.44	.44	.44
ΔR ²		.42	.00	.00	.00	.00	.00	.00	.00	.00	.01
F	2.07	28.67***	26.63***	24.53***	24.53***	24.54***	24.66***	24.88***	24.82***	24.53***	25.08***
ΔF		38.10***	2.81	.04	.10	.11	1.05	2.63	2.20	.03	4.10*

N = 427; *p < .05; **p < .01; ***p < .001.

4.6.2 The effect of management support on knowledge sharing

209 The second hypothesis was stated as follows: judges who experience higher levels of management support are more inclined to engage in knowledge sharing processes. First, we performed a partial correlation analysis to explore the relationship between *management support* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *management support* and *knowledge sharing* ($r = .33, p < .001$). Second, we performed a partial correlation analysis to explore the relationship between *management support* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *ICT support*, *collegial closeness*, *shared goals*, *social trust*, *enjoyment in helping others*, *knowledge self-efficacy* and *professional image*. We did not find a significant partial correlation between *management support* and *knowledge sharing* ($r = .09, ns$). This result indicates that controlling for *gender*, *tenure*, *court position* and the seven knowledge sharing predictors has a very large effect on the strength of the relationship between *management support* and *knowledge sharing*.

210 The results of the regression analyses in Table 4.4 show that there is no statistically significant association between *management support* and *knowledge sharing*. The results indicate that the impact of *management support* on *knowledge sharing* decreases when other factors are controlled for. This suggests that other factors in the research model have a more determining effect on *knowledge sharing* than *management support* in this particular context. This means that a direct link between *management support* and *knowledge sharing* cannot be drawn on the basis of the present research findings. In sum, we can thus conclude that hypothesis 2 is not supported.

211 It has also been tested whether *role overload* affects the relationship between *management support* and *knowledge sharing* (hypothesis 2a: the relationship between management support and knowledge sharing depends on the level of role overload as perceived by judges). As reported in Table 4.4, no significant interaction effect was found. We can thus conclude that hypothesis 2a is not supported.

4.6.3 The effect of collegial closeness on knowledge sharing

The third hypothesis was stated as follows: judges who have a more extensive social network in the court are more inclined to engage in knowledge sharing processes. For reliability reasons, two items had to be dropped from the original three-item social network scale. The item referring to the degree of closeness between colleagues in the court was selected as a single item for future analyses (see chapter 2). The term *collegial closeness* instead of *social network* is therefore used in the context of subsequent analyses. 212

First, we performed a partial correlation analysis to explore the relationship between *collegial closeness* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *collegial closeness* and *knowledge sharing* ($r = .46$, $p < .001$). Second, we performed a partial correlation analysis to explore the relationship between *collegial closeness* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *ICT support*, *management support*, *shared goals*, *social trust*, *enjoyment in helping others*, *knowledge self-efficacy* and *professional image*. We found a significant partial correlation between *collegial closeness* and *knowledge sharing* ($r = .22$, $p < .001$). This result indicates that controlling for *gender*, *tenure*, *court position* and the seven knowledge sharing predictors diminishes the strength of the relationship between *collegial closeness* and *knowledge sharing*, but the correlation is still statistically significant. 213

The results reported in Table 4.4 indicate that *collegial closeness* is an important factor in explaining the knowledge sharing behaviour of judges. The results indicate that the impact of *collegial closeness* on knowledge sharing is still largely intact when other factors are controlled for. This suggest that collegial closeness is an important knowledge sharing enabler in the judicial context. In sum, we can conclude that hypothesis 3 is supported. 214

Additionally, we tested whether *role overload* moderates the relationship between *collegial closeness* and *knowledge sharing* (hypothesis 3a: the relationship between social network and knowledge sharing depends on the level of role overload as perceived by judges). As can be noticed from Table 4.4, no significant interaction effect was found. This means that the relationship between *collegial closeness* and *knowledge sharing* does not 215

change due to an interaction effect between *collegial closeness* and *role overload*. We can thus conclude that hypothesis 3a is not supported.

4.6.4 The effect of social trust on knowledge sharing

216 The fourth hypothesis was stated as follows: judges who experience higher levels of social trust are more inclined to engage in knowledge sharing processes. First, we performed a partial correlation analysis to explore the relationship between *social trust* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *social trust* and *knowledge sharing* ($r = .50, p < .001$). Second, we performed a partial correlation analysis to explore the relationship between *social trust* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *ICT support*, *management support*, *shared goals*, *collegial closeness*, *enjoyment in helping others*, *knowledge self-efficacy* and *professional image*. We found a significant partial correlation between *social trust* and *knowledge sharing* ($r = .24, p < .001$). The relationship between *social trust* and *knowledge sharing* is diminished, but the correlation is still statistically significant.

217 The results of the regression analyses in Table 4.4 show that there is a statistically significant association between *social trust* and *knowledge sharing*. The results indicate that the impact of *social trust* on knowledge sharing is still largely intact when other factors are controlled for. This means that a direct link between *social trust* and *knowledge sharing* can be drawn on the basis of the present research findings. In sum, we can thus conclude that hypothesis 4 is convincingly supported.

218 We also checked whether the relationship between *social trust* and *knowledge sharing* changes due to an interaction effect between *social trust* and *role overload* (hypothesis 4a: the relationship between social trust and knowledge sharing depends on the level of role overload as perceived by judges). As can be seen from Table 4.4, no significant two-way interaction effect was found. This means that the relationship between *social trust* and *knowledge sharing* does not change due to an interaction effect between *social trust* and *role overload*. We can thus conclude that hypothesis 4a is not supported.

4.6.5 The effect of shared goals on knowledge sharing

The fifth hypothesis was stated as follows: judges who perceive higher levels of shared goals with their colleagues are more inclined to engage in knowledge sharing processes. First, we performed a partial correlation analysis to explore the relationship between *shared goals* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *shared goals* and *knowledge sharing* ($r = .46, p < .001$). Second, we performed a partial correlation analysis to explore the relationship between *shared goals* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *ICT support*, *management support*, *collegial closeness*, *social trust*, *enjoyment in helping others*, *knowledge self-efficacy* and *professional image*. We found a significant partial correlation between *shared goals* and *knowledge sharing* ($r = .13, p < .01$). The relationship between *shared goals* and *knowledge sharing* is diminished, but the correlation is still statistically significant. 219

The results of the regression analyses in Table 4.4 show that there is a statistically significant association between *shared goals* and *knowledge sharing*. The results suggest that *shared goals*, next to the other social enablers of knowledge sharing *collegial closeness* and *social trust*, is an important factor to take into account when studying the knowledge sharing behaviour of judges. In sum, we can conclude that hypothesis 5 is supported. 220

We also tested whether *role overload* affects the relationship between *shared goals* and *knowledge sharing* (hypothesis 5a: the relationship between shared goals and knowledge sharing depends on the level of role overload as perceived by judges). As can be seen from Table 4.4, no significant interaction effect was found. This means that the relationship between *shared goals* and *knowledge sharing* does not change due to an interaction effect between *shared goals* and *role overload*. We can thus conclude that hypothesis 5a is not supported. 221

4.6.6 The effect of enjoyment in helping others on knowledge sharing

222 The sixth hypothesis was stated as follows: judges who experience more enjoyment in helping others are more inclined to engage in knowledge sharing processes. First, we performed a partial correlation analysis to explore the relationship between *enjoyment in helping others* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *enjoyment in helping others* and *knowledge sharing* ($r = .42, p < .001$). Second, we performed a partial correlation analysis to explore the relationship between *enjoyment in helping others* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *ICT support*, *management support*, *collegial closeness*, *social trust*, *shared goals*, *knowledge self-efficacy* and *professional image*. We found a significant partial correlation between *enjoyment in helping others* and *knowledge sharing* ($r = .16, p < .01$). The relationship between *enjoyment in helping others* and *knowledge sharing* is diminished, but the correlation is still statistically significant.

223 The results of the regression analyses in Table 4.4 show that there is a statistically significant association between *enjoyment in helping others* and *knowledge sharing*. The results suggest that *enjoyment in helping others* – conceptualized as an indicator of intrinsic motivation – is an important knowledge sharing enabler in the context of this study. In sum, we can conclude that hypothesis 6 is supported.

224 We also checked whether the relationship between *enjoyment in helping others* and *knowledge sharing* changes due to an interaction effect between *enjoyment in helping others* and *role overload* (hypothesis 6a: the relationship between enjoyment in helping others and knowledge sharing depends on the level of role overload as perceived by judges). As can be noticed from Table 4.4, no significant interaction effect was found. We can thus conclude that hypothesis 6a is not supported.

4.6.7 The effect of professional image on knowledge sharing

The seventh hypothesis was stated as follows: judges who perceive that sharing knowledge contributes to a person's professional image are more inclined to engage in knowledge sharing processes. First, we performed a partial correlation analysis to explore the relationship between *professional image* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *professional image* and *knowledge sharing* ($r = .30$, $p < .001$). Second, we performed a partial correlation analysis to explore the relationship between *professional image* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *ICT support*, *management support*, *collegial closeness*, *social trust*, *shared goals*, *enjoyment in helping others* and *knowledge self-efficacy*. We did not find a significant partial correlation between *professional image* and *knowledge sharing* ($r = -.02$, $p < .01$). This result indicates that controlling for *gender*, *tenure*, *court position* and the other seven study variables has a large effect on the strength of the relationship between *professional image* and *knowledge sharing*. 225

The results of the regression analyses in Table 4.4 convincingly show that there is no statistically significant association between *professional image* and *knowledge sharing*. The results indicate that the impact of *professional image* on *knowledge sharing* decreases when other factors are controlled for. This suggests that other factors in the research model have a more determining effect on *knowledge sharing* than *professional image* in this particular context. In sum, we can conclude that hypothesis 7 is not supported. 226

Additionally, we checked whether *role overload* moderates the relationship between *professional image* and *knowledge sharing* (hypothesis 7a: the relationship between professional image and knowledge sharing depends on the level of role overload as perceived by judges). As can be seen from Table 4.4, no significant interaction effect was found. This means that the relationship between *professional image* and *knowledge sharing* does not change due to an interaction effect between *professional image* and *role overload*. We can thus conclude that hypothesis 7a is not supported. 227

4.6.8 The effect of knowledge self-efficacy on knowledge sharing

228 The eighth hypothesis was as follows: judges who experience higher levels of knowledge self-efficacy are more inclined to engage in knowledge sharing processes. First, we performed a partial correlation analysis to explore the relationship between *knowledge self-efficacy* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position*. We found a positive partial correlation between *knowledge self-efficacy* and *knowledge sharing* ($r = .41, p < .001$). Second, we performed a partial correlation analysis to explore the relationship between *knowledge self-efficacy* and *knowledge sharing*, while controlling for *gender*, *tenure* and *court position* and the knowledge sharing predictors: *ICT support*, *management support*, *collegial closeness*, *social trust*, *shared goals*, *enjoyment in helping others* and *professional image*. We found a significant partial correlation between *professional image* and *knowledge sharing* ($r = .16, p < .01$). The relationship between *knowledge self-efficacy* and *knowledge sharing* is diminished, but the correlation is still statistically significant.

229 The results of the regression analyses in Table 4.4 show that there is a statistically significant association between *knowledge self-efficacy* and *knowledge sharing*. The results indicate that the impact of *knowledge self-efficacy* on *knowledge sharing* is still largely intact when other factors are controlled for. In sum, we can conclude that hypothesis 8 is supported.

230 Additionally, we tested whether the relationship between *knowledge self-efficacy* and *knowledge sharing* changes due to an interaction effect between *knowledge self-efficacy* and *role overload* (hypothesis 8a: the relationship between knowledge self-efficacy and knowledge sharing depends on the level of role overload as perceived by judges). As can be seen from Table 4.4, a (weak) significant interaction effect was found ($r = -.08, p < .05$). The inclusion of the interaction term increased the model's fit to the data significantly ($\Delta F = 4.10, p < .05$). We can thus conclude that hypothesis 8a is supported.

Table 4.5 – Results of a hierarchical regression analysis with overall job performance as the dependent variable

Variables	Model 1	Model 2
Gender	.00	-.01
Tenure	.07	.06
Court position	-.20***	-.19***
Knowledge sharing		.09
R ²	.05	.06
ΔR ²		.01
F	6.97***	6.10***
ΔF		3.39

N = 427.

****p* < .001.

4.6.9 The effect of knowledge sharing on overall job performance

The ninth hypothesis is stated as follows: knowledge sharing is positively associated with (self-rated) overall job performance. Partial correlation was used to explore the relationship between *knowledge sharing* and *overall job performance*, while controlling for *gender*, *tenure* and *court position*. There was no partial correlation between *knowledge sharing* and *overall job performance* ($r = .09$, ns). The results of the regression analyses in Table 4.5 demonstrate that there is no statistically significant association between *knowledge sharing* and *overall job performance*. We can thus conclude that hypothesis 9 is not supported.

However, as can be seen from Table 4.5, a significant association is found between *court position* (control variable) and *overall job performance*. This result indicates that there is a significant difference between the *overall job performance* of two groups of judges, i.e. judges with managerial responsibilities in the court and judges without managerial responsibilities in the court. On average, judges with managerial responsibilities in the court rate their *overall job performance* higher than judges without managerial responsibilities in the court.

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4.7 Additional analyses

233 In chapter 3, it was suggested to check whether *court position* moderates the hypothesized relationship between *management support* and *knowledge sharing*. Here, the question is whether the position of a judge in the court (i.e. having managerial responsibilities in the court or not) affects the hypothesized relationship between *management support* and *knowledge sharing*. A hierarchical regression was conducted to assess a possible increase in variation explained by the addition of an interaction term between *management support* and *court position* (i.e. having managerial responsibilities in the court or not). The control variables (*gender*, *tenure* and *court position*) and the variable *management support* were entered in a first step, the interaction term between *management support* and *court position* was entered in a second step. The continuous variable (*management support*) was standardized before creating the interaction term (Aiken & West, 1991). The addition of the interaction term did not significantly improve the prediction of *knowledge sharing* ($\Delta F(1, 421) = 1.84$, ns). This finding suggests that hypothesis 2 (i.e. judges who experience higher levels of management support are more inclined to engage in knowledge sharing processes) is equally true for judges with and without managerial responsibilities in the court.

234 The results of Table 4.4 show that *gender* is significantly related to *knowledge sharing*. The results indicate that women are, on average, more inclined to engage in knowledge sharing than men. Due to this interesting finding, an additional test has been conducted in order to check whether *gender* could act as a moderator, especially with regard to the two strongest predictors of knowledge sharing: *collegial closeness* and *social trust*. Two hierarchical regressions were independently conducted to assess a possible increase in variation explained by the addition of any of these interaction terms. The control variables (*gender*, *tenure* and *court position*) and the predictor variable (*collegial closeness* or *social trust*) were entered in a first step, the interaction terms were entered in a second step. The addition of neither of these interaction terms did significantly improve the prediction of knowledge sharing (*Collegial closeness*: $\Delta F(1, 421) = .31$, ns; *Social trust*: $\Delta F(1, 421) = .01$, ns). The lack of significant interaction effects is an interesting result, because it means that the relationship between *collegial closeness* and *knowledge sharing* and between *social trust* and *knowledge sharing* is similar for both male and female judges.

Additionally, it has been checked whether the relationship between *knowledge self-efficacy* and *knowledge sharing* differs between male and female judges. This additional test has been conducted because in daily life women are usually more anxious than men when it comes to how others perceive them (Haferkamp, Eimler, Papadakis, & Kruck, 2012). In the context of this study, this may have an effect on the relationship between *knowledge self-efficacy* and *knowledge sharing*. A hierarchical regression was conducted to assess a possible increase in variation explained by the addition of the interaction term. The control variables (*gender*, *tenure* and *court position*) and the predictor variable (*knowledge self-efficacy*) were entered as a first step, the interaction term was entered as a second step. The addition of the interaction term did not significantly improve the prediction of knowledge sharing ($\Delta F(1, 421) = 2.22$, ns). This means that the relationship between *knowledge self-efficacy* and *knowledge sharing* does not significantly differ between male and female judges. *Knowledge self-efficacy* is just as important for male judges as it is for female judges when it comes to engagement in knowledge sharing processes.

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As a test of robustness, we performed the hierarchical regression analyses of Table 4.4 and Table 4.5 independently for judges from Switzerland, Germany and the Netherlands, and for first and higher instance judges (Appendix D). It should be noted here that we ran these analyses for exploratory purposes. Due to the unequal sample sizes the results must be interpreted with care. The results indicated that for each group of judges, *ICT support* and *professional image* were not significantly associated with *knowledge sharing*. *Management support* and *role overload* are not significantly associated with *knowledge sharing* in all but one group (higher instance judges). *Social trust* is a significant predictor of *knowledge sharing* for all groups of judges.¹ The hypothesized interaction effects were not significant or only weakly significant at best. Remarkably, *role overload* is significantly associated with *knowledge sharing* in higher instance courts. The results further indicated that *knowledge sharing* is not significantly associated with *overall job performance*.

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Despite some differences between the groups, the overall picture appears to be similar. Most interestingly, the relationship between *social trust* and *knowledge sharing* is again convincingly confirmed.

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1 Only in model 9 for Switzerland is *social trust* not a significant predictor of knowledge sharing.

4.8 Summary of the results

238 This study has shown that professional administrative law judges, irrespective of their national context (i.e. the county in which they are currently employed) or the level of court in which they work (first or higher instance courts), perceive themselves as relatively active knowledge sharers. This is an interesting finding, because while, on the one hand, knowledge sharing is an integral part of the work of judges (e.g. judges are used to participating in case law meetings), on the other hand, judges are granted a high degree of professional autonomy as well, which potentially leads to solitary working practices. However, based on the results of the current study, professional administrative law judges do not seem to be at all isolated in their work.

239 Another interesting finding is that social and motivational predictor variables accounted for the largest share of variance in the knowledge sharing behaviour of judges. This result indicates that a judge's personal social capital combined with his or her personal motivations are most important for engagement in knowledge sharing processes (i.e. donating and collecting knowledge). Among the predictor variables, *social trust* and *collegial closeness* were the most salient variables. *ICT support*, *management support* and *professional image* lost their predictive power when other variables were included in the analysis.

240 Another major finding of this study is the lack of two-way interaction effects between the variable *role overload* and most of the predictor variables. In most cases, role overload does not moderate the relationship between the predictor variable and *knowledge sharing*. The perceived role overload of judges therefore does not have an impact on the relationship between the predictor variables and the engagement of judges in knowledge sharing processes.

241 The study results further indicate that knowledge sharing is not positively associated with overall job performance. Court position, however, is strongly associated with overall job performance. This means that judges who have managerial responsibilities in the court rate their overall job performance higher than judges who do not have those responsibilities. This might be explained by the fact that judges with managerial responsibilities have a higher position in the court than judges without managerial responsibilities. Judges with managerial responsibilities might regard this as some kind of

‘proof’ that they have performed well (and possibly better than others). This self-confidence is reflected in their responses.

Interestingly, the study results show that *gender* is significantly related to *knowledge sharing*. Although no hypothesis has been formulated on possible differences between the knowledge sharing behaviour of male and female judges, the results show that female judges do tend to be more engaged in knowledge sharing processes than male judges. Considering the growing population of female judges in many Western countries (Coontz, 2000; CEPEJ, 2014), this finding is extremely interesting and, from a knowledge management perspective, highly relevant as well.

Table 4.6 contains a summary of the hypotheses testing results. In the next chapter, the research findings will be discussed and reflected upon within the context of the current study. The empirical results will also be translated into practical recommendations which are relevant for court organizations in Switzerland, Germany and the Netherlands.

Table 4.6 – Summary of hypotheses

H1	ICT support affects knowledge sharing behaviour.	Not supported
H2	Management support affects knowledge sharing behaviour.	Not supported
H3	Collegial closeness affect knowledge sharing behaviour.	Supported
H4	Social trust affects knowledge sharing behaviour.	Supported
H5	Shared goals affects knowledge sharing behaviour.	Supported
H6	Enjoyment in helping others affects knowledge sharing behaviour.	Supported
H7	Professional image affects knowledge sharing behaviour.	Not supported
H8	Knowledge self-efficacy affects knowledge sharing behaviour.	Supported
H1a	The relationship between ICT support and knowledge sharing depends on the level of role overload as perceived by judges.	Not supported
H2a	The relationship between management support and knowledge sharing depends on the level of role overload as perceived by judges.	Not supported
H3a	The relationship between collegial closeness and knowledge sharing depends on the level of role overload as perceived by judges.	Not supported
H4a	The relationship between social trust and knowledge sharing depends on the level of role overload as perceived by judges.	Not supported
H5a	The relationship between shared goals and knowledge sharing depends on the level of role overload as perceived by judges.	Not supported
H6a	The relationship between enjoyment in helping others and knowledge sharing depends on the level of role overload as perceived by judges.	Not supported
H6a	The relationship between professional image and knowledge sharing depends on the level of role overload as perceived by judges.	Not supported
H8a	The relationship between knowledge self-efficacy and knowledge sharing depends on the level of role overload as perceived by judges.	Supported
H9	Knowledge sharing affects (self-rated) overall job performance.	Not supported

5 *Discussion and conclusion*

5.1 **Introduction**

The goal of this study is to better understand the knowledge sharing behaviour of professional administrative law judges. We argued that knowledge sharing is a complex workplace behaviour that goes beyond the mere transfer of documents, and involves the mutual exchange of theoretical and practical-based knowledge between judges and other important knowledge holders in the court. We further argued that knowledge sharing is not only a complex, but also an important workplace behaviour that provides the basis for coordinated action and mutual learning between judges. It is argued that engagement in knowledge sharing processes is of crucial importance for optimizing the performance (i.e. delivering product and service quality) of individual judges. 244

Empirical results from other knowledge sharing studies are useful, but due to the unique features of the judicial profession we should be careful in applying these findings directly to the judicial context. The most important features of the judicial profession can be listed as follows: 1) judges are strictly bound by the law; 2) the complexity of judicial work tasks is high (requiring a combination of using legal, practical legal and practical non-legal knowledge); 3) judges are granted a high degree of professional autonomy which is guaranteed through the principle of judicial independence. That is why, in this study, judges are referred to as an unique group of knowledge workers (and should thus be separately studied). In order to improve our understanding of the knowledge sharing behaviour of judges, the following research question has been formulated: 245

What factors influence the knowledge sharing behaviour of professional administrative law judges in Switzerland, Germany and the Netherlands, and what is the impact of this knowledge sharing behaviour on the (self-rated) overall job performance of judges?

The goal of this chapter is to discuss the research findings, to elaborate on the limitations of the current research, to make recommendations for further research, to discuss the theoretical implications of the research 246

findings and, finally, to present practical recommendations that follow from the empirical findings of this study. The chapter ends with a summary and some concluding remarks.

5.2 Discussion of the findings

247 We formulated three expectations in this study: 1) technological, managerial, social and motivational factors positively influence the knowledge sharing behaviour of judges; 2) role overload – a common workplace stressor – moderates the relationships between the knowledge sharing enablers and knowledge sharing behaviour; 3) knowledge sharing behaviour has a positive impact on the (self-rated) overall job performance of judges. Our results indicate several interesting findings which are to be discussed in the coming sections.

5.2.1 The influence of ICT support on knowledge sharing

248 The first remarkable finding of this study is that ICT support is not significantly associated with knowledge sharing behaviour, i.e. the interactive processes of donating and collecting knowledge. Although previous studies on knowledge sharing have emphasized the facilitating role of information and communication technologies (Ismail & Yusof, 2010; Kaewchur, Anussornnitisarn, & Pastuszak, 2013; Kim & Lee, 2006; Tohidinia & Mosakhani, 2010), the current study shows that judges who experience higher levels of ICT support are not more inclined to engage in knowledge sharing processes than judges who experience lower levels of ICT support. This result may indicate that ICT support still *facilitates* knowledge sharing behaviour, but that it does not actually *stimulate* such behaviour. Based on this result, it appears very likely that the implementation of sophisticated information technology facilities is not enough to stimulate collegial knowledge sharing in the courts. This statement is supported by a study by Issa and Haddad (2008), who found that IT facilities can support knowledge sharing activities, but IT facilities cannot motivate people to participate in knowledge sharing activities.

249 As a reaction to the first wave of knowledge management, various scholars warned that we should not put too much faith in technology

(Davenport & Prusak, 1998; Dixon, 2000; Huysman & De Wit, 2004; Hislop, 2002; McDermott, 1999). However, as stated in chapter 2, the technological landscape of many organizations, including court organizations, has changed. Web 2.0 technologies have presented new ways of (a)synchronous distant collaboration between organizational members. The question is whether this new technological landscape would also change the impact of technology on knowledge sharing behaviour. Based on the results of this study, this does not seem to be the case. McDermott's (1999) statement: "if a group of people don't already share knowledge, don't already have plenty of contact, don't already understand what insights and information will be useful to each other, information technology is not likely to create it" (p. 104), still seems to be valid today.

McDermott's statement can be brought into line with the structural model of technology introduced by Orlikowsky (1992). Based on Orlikowsky's model, technology cannot be decoupled from its organizational context and from the role and influence of human agents (Orlikowski & Robey, 1991; Orlikowski, 1992). According to Orlikowski (1992), "technology is created and changed by human action, yet it is also used by humans to accomplish some action" (p. 405). Without people actually using technology, technology does not have any impact. Huysman and De Wit (2004) give another interesting example in this regard:

"Unilever learned its lesson over the past years from falling into the ICT trap. They started out by putting their faith in technology and the opportunities to map expert knowledge in databases. Soon they discovered that creating a network of experts and facilitating physical encounters opens a large potential for knowledge sharing. The ICT is then introduced after the network had become established" (Huysman & De Wit, 2004, p. 86).

They stipulate that the implementation of sophisticated information technology facilities is not per definition a bad thing, but that we should be aware of social factors playing a determining role as well (Huysman & De Wit, 2004). Introducing modern technologies without taking into account other factors that possibly influence the success and usefulness of these systems is something that organizations thus need to avoid. Intranets, Wikis and the so-called network technologies used in courts can facilitate collaboration among judges, but the success of these systems still depends on the so-called end users of the systems, i.e. the judges themselves (Reiling, 2010).

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252 On the European level, some judicial networks already combine information technology facilities with regular face-to-face meetings between judges (Claes & De Visser, 2012). In court organizations, physical encounters between judges (obviously) occur more naturally, but the awareness of the importance of these physical encounters for the encouragement of knowledge sharing behaviour should not be underestimated. Dixon (2000) emphasizes that the idea that “technology can replace face-to-face” is one of the big myths of knowledge sharing (p. 3).

253 Taking the above considerations into account, it seems viable that technology is not a solution in itself. According to Borghoff and Pareschi (1997), technology is “just a part of the story” (p. 835). Goh (2002) supports this view by claiming that technological solutions for knowledge sharing can only be effective under the right conditions. Based on the results of this study, we should thus not dismiss technological solutions altogether, but concentrate on the conditions under which technology-based systems can play a meaningful role in stimulating regular knowledge exchanges between judges and other important knowledge holders in the court.

254 In the current study, we focused on the direct link between ICT support and knowledge sharing. An alternative explanation is that ICT support is not directly associated with knowledge sharing, but that ICT support only contributes to the engagement of judges in knowledge sharing processes given that other conditions are satisfied (Goh, 2002; Huysman & De Wit, 2004). On the basis of the current study results, it can be argued that both social and motivational factors play a pivotal role in creating an environment which is conducive to knowledge sharing.

255 Also, in the current study we did not consider the use of particular IT facilities by judges or, for that matter, the type of facilities being used. Therefore, we cannot make concrete statements about the effectiveness of specific IT facilities in the court, such as intranets, wiki’s, or online forums. It is possible that some of these facilities are suitable to facilitate (and potentially even stimulate) knowledge sharing behaviour, while other facilities may not increase engagement in knowledge sharing processes at all. However, in general, it is safe to say that the mere existence of information technology systems is not enough to encourage judges to participate in knowledge sharing activities. Again, it should be emphasized that this does not mean that technology-based knowledge sharing initiatives, such as online blogs and discussion forums, should not be aimed for at all. But, the right conditions under which technological solutions can contribute to knowledge sharing processes need to be created first.

5.2.2 The influence of management support on knowledge sharing

The current study does not show a significant relationship between management support and the knowledge sharing behaviour of judges. This means that judges who experience higher levels of management support are not more inclined to engage in knowledge sharing processes than judges who experience lower levels of management support. Our results are not in line with the results of most other empirical studies on knowledge sharing: e.g. Kang, Kim and Chang (2008) observed that management support positively affects knowledge sharing behaviour. Based on these and similar study results (Wang & Noe, 2010), it was argued in this study that management support, i.e. managers who explicitly encourage organizational members to participate in knowledge sharing activities, is a crucial factor for stimulating participation in knowledge exchanges between members of an organization. In hierarchical professional organizations, this seems to be a very plausible outcome because organizational members need to comply (to a large extent) with the commands of their superiors. In court organizations this type of argumentation does not seem to hold up. However, the results are also not consistent with this study's expectations based on the social exchange theory. Based on this theory, it was expected that judges would comply with the demands made by managers, even though knowledge sharing behaviour cannot be enforced or formally rewarded (Settoon, Bennett, & Liden, 1996).

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In this study, the focus lies particularly on the perceived support of lower managers for the engagement of judges in knowledge sharing practices in the court. However, as this study takes a cross-national perspective, it is important to take into account the differences between the role and position of lower managers in the three participating countries. In the Netherlands, team managers ('*teamvoorzitters*') take a seat in the management team of the court, which is usually part of the middle management of the court. The team manager is often a judge him- or herself, but this is not an obligatory requirement to fulfil this function. If the team manager is in fact a judge, this person has – next to purely managerial tasks – judicial tasks as well. In Germany, the role of the head of a specialized part within a division is rather different. Here, the work units within an division ('*Kammern*') are highly specialized. Also, judges can be assigned to more than one work unit in the court (Fabri & Langbroek, 2007). In these specialized work units, the chairperson ('*Vorsitzende*') is always a judge and in that sense is involved in concrete cases. The role of these chairpersons is more judicial

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and less managerial than the role of lower managers in the Netherlands (Taal, Langbroek, Van der Velde, 2014). In Switzerland, the role and responsibilities of the heads of work units within courts vary from canton to canton. The empirical results of this study indicate that, despite the differences between the countries, management support is not significantly associated with knowledge sharing behaviour in any of the countries. This is an interesting finding, because it tells us that the effectiveness of this type of support does not depend on the specific role and function of these lower managers.

258 Although lower managers do not have the formal authority to control the content of the work of judges, managing professionals always involves some type of control relationship between the manager and the professional.¹ Classic service professionals, such as lawyers, physicians and judges, are generally reluctant to adhere to managerial control (Noordegraaf, 2011). This might explain why management support is not an effective method to stimulate collegial knowledge sharing in the court. Eicher and Schedler (2014) opt for an interesting twist here. In their study, they discuss the “participative-cooperative leadership style”, which they apply to managerial leaders in court organizations (p. 10). Their argumentation is similar to the argumentation expressed by Haynie (1992) who found that the individual leadership style of chief justices in U.S. courts plays a determining role “in maintaining and ultimately transforming the expectations of judicial behavior” (p. 1158). By zooming in on the arguments of Eicher and Schedler (2014), it is clear that they are in favour of stimulating the early engagement of judges in change processes in the court. The two scholars state that the participative-cooperative leadership style “increases the legitimacy for both the management and its decisions and therefore diminishes the potential for conflicts” (Eicher & Schedler, 2014, p. 10). Open communication lines between the judges and the managers are however of crucial importance to make this work (Almanaseer & Matarneh, 2015)

259 For the purpose of this study, it is important to realize that lower managers form the nexus between the strategic level of the organization, i.e. the court’s board, and the large operating core of the organization, i.e. the judges. For lower managers, it is important to explain the necessity of creating a knowledge sharing environment and to involve judges in every

1 Managers can also be referred to as professionals, but, like Noordegraaf (2011), we make a distinction between classic service professionals (the judges) and managerial professionals (the (non-)judges with managerial responsibilities).

step of this process (Eicher & Schedler, 2014). However, when knowledge management initiatives or technological solutions for knowledge sharing are implemented without prior consultation of the judges or the lower managers (a top down implementation strategy), it is probably more difficult for lower managers to fulfil their role as knowledge sharing ‘promoters’.

Based on the empirical results of this study, it can be stated that management support does not have a direct impact on the knowledge sharing behaviour of judges. However, completely dismissing management support as a knowledge sharing enabler is also not advisable. Due to the unique position of judges in their organization, the link between management support and the knowledge sharing behaviour of judges is complex and needs to be further explored.

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5.2.3 The influence of collegial closeness on knowledge sharing

The results of this study indicate that judges who have a closer relationship with their colleagues are more inclined to engage in knowledge sharing processes. In this study, collegial closeness does not refer to the physical distance between colleagues, but to the emotional connection between them. The results of this study are consistent with related studies on knowledge sharing in which the positive impact of structural social capital factors (e.g. social ties and social interaction) on knowledge sharing behaviour is presented (Cabrera & Cabrera, 2005; Tsai, 2002; Van den Hooff & Huysman, 2009).

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Generally, in court organizations, judges work closely together with other colleagues who are part of the same work unit(s).² It thus stands to reason that close (informal) relationships between colleagues occur within work unit(s). However, due to the regular rotation of judges between work units (e.g. in Germany a ‘*Geschäftsverteilungsplan*’ is made every year to determine the composition of ‘*Kammern*’ in the court for that specific year), these relationships can also transcend the boundaries of the work unit(s) in which the judge is currently active. Although, in this study, it was decided not to make a distinction between collegial knowledge sharing within work

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2 Some judges are part of more than one work unit within their court. In Germany, for instance, judges can be part of more than one ‘*Kammer*’.

units and collegial knowledge sharing between work units, it is safe to say that collegial closeness is an important factor to consider when intra-unit or inter-unit knowledge sharing between judges needs to be fostered. The latter is especially important when coordinated action among judges from different work units is desirable. After all, in order for courts to develop a clear and consistent line of jurisprudence, judicial cooperation across work units is highly recommendable. This is also true for judicial cooperation across courts.

263 Next to intra-organizational knowledge sharing, inter-organizational knowledge sharing is an important topic to consider. After all, guaranteeing the uniform interpretation of the law is an issue that very much transcends the boundaries of individual courts. Courts in the same jurisdiction are supposed to reach similar conclusions when applying the law to similar cases. Collegial knowledge sharing is a way to overcome ‘local’ differences by learning from each other and possibly developing a basis for future coordinated action. Although not empirically tested, it is likely that collegial closeness has an enabling effect on collegial knowledge sharing in the inter-organizational context (i.e. inter-court context) as well. However, in the case of inter-organizational knowledge sharing, it may be more difficult to foster close (informal) relationships between judges, simply because judges will often not have the opportunity to regularly meet each other and interact in a face-to-face fashion (Mallen, Day, & Green, 2003). Therefore, organizing face-to-face interactions among judges from different courts (in a national or European setting) is essential to encourage the engagement of judges in inter-organizational knowledge sharing. Still, further empirical testing is needed to support this statement.

5.2.4 The influence of social trust on knowledge sharing

264 The study results show a significant relationship between social trust and the engagement of judges in knowledge sharing processes. This outcome does not come as a real surprise considering that trust is already recognized by many scholars as an important knowledge sharing enabler (Connelly & Kelloway, 2003; Mooradian, Renzl, & Matzler, 2006; Staples & Webster, 2008). Still, this outcome is of great interest to the judicial field, because the results of this study do not only indicate that social trust is significantly associated with knowledge sharing processes; the results also indicate that social trust is the most important knowledge sharing enabler

in the judicial context. The results of this study confirm the importance of the relational dimension of social capital for knowledge sharing practices. Based on the study results, the argument that social trust lowers the barrier for judges to engage in knowledge sharing processes can be supported.

McAllister (1995) emphasizes that “trust enables people to take risks” (p. 25). Due to the exchange of personal opinions and experiences – which are often part of knowledge exchanges between colleagues – participation in knowledge sharing activities can be considered as a risky undertaking. Expressing an opinion, especially when this opinion is slightly unconventional, is easier when there is a trust relationship between the knowledge recipient and the knowledge provider (Holste & Fields, 2010). Roberts (2000) stresses the importance of trust in knowledge exchanges, and especially in knowledge exchanges in which the exchange of practice-based and experience-based (mostly tacit) knowledge prevails. However, McEvily, Perrone and Zaheer (2003) remind us not to forget about the “fragility of trust” (p. 99). In general, trust cannot be established once and for all, but instead, the level of trust placed in colleagues is regularly reconsidered by organizational members to determine “whether it is [still] appropriately placed” (McEvily, Perron, & Zaheer, 2003, p. 99). Trust is therefore an important, but also a complex enabler of knowledge sharing. The perceived level of trust in others is valid for a particular moment in time; it is not per definition unconditional.

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In this study, no empirical distinction is made between the exchange of explicit knowledge and the exchange of tacit knowledge. Although some scholars have chosen for this option (Akgün, Keskin, & Günsel, 2007; Bock, Zmud, Kim, & Lee, 2005), it is a rather risky choice to make, because an individual’s knowledge is neither completely tacit nor completely explicit (Nonaka & Von Krogh, 2009). As explained earlier, in every day practices, tacit and explicit knowledge complement each other (Alavi & Leidner, 2001; Roberts, 2000). It is often argued that trusting each other becomes more important when the knowledge that is being shared between colleagues becomes less neutral and more personal (e.g. discussing courtroom experiences instead of exchanging ‘impersonal’ documents) (Holste & Fields, 2010; Roberts, 2000). Therefore, establishing trust relationships in the court is crucial for the creation of an environment in which knowledge sharing is not only limited to the exchange of reports and documents, but also involves the exchange of more vulnerable knowledge, such as subjective insights and personal experiences.

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267 When the available body of jurisprudence lacks a clear line of reasoning, it is important that judges inform themselves of the existing views in the field. Without trust, it is less likely that valuable knowledge exchanges between judges take place. In those cases, knowledge remains with the individual, which restricts others in the organization in optimizing performances by making well-informed decisions. This is unfortunate, because the knowledge might very well be present in the organization, but it is just not readily available for others to use. On a short-term basis – especially when higher court decisions are not yet available – a lack of informative discussions between (first instance) judges can have a negative impact on the predictability of court decisions, which in the long run – as stated in the introductory chapter of this book – can harm public trust in the judiciary (Casey, 1998).

268 Also, trusting relationships between judges are important when judges need to be stimulated to express personal viewpoints on legal or practical matters. If judges do not feel sufficiently comfortable to do so, open discussions cannot take place. This limits the opportunity to create new knowledge collectively, which in turn restricts the innovative potential of the court organization. Without innovation, new perspectives on existing problems and new (more effective) ways of performing daily working tasks cannot be developed. In the end, this will have a negative impact on the product and service delivery by courts.

5.2.5 The influence of shared goals on knowledge sharing

269 Another interesting finding of this study is the significant relationship between shared goals and the engagement of judges in knowledge sharing processes. We found that judges who perceive higher levels of shared goals with their colleagues are more inclined to engage in knowledge sharing processes than judges who perceive lower levels of shared goals. This outcome corroborates the findings of Chow and Chan (2008), who found a significant association between shared goals and knowledge sharing as well. Taking a broader perspective, the results of this study also echo the results of those studies that focused on the positive influence of the cognitive dimension of social capital on the level of knowledge sharing (Chiu, Hsu, & Wang, 2006; Van den Hooff & Huysman, 2009).

In general, colleagues with similar goals are better able to interact and work together for a common purpose (Shteynberg & Galinsky, 2011). Fredendall, Hopkins and Bhonsle (2005) state that shared goals “are the rationale to develop cooperative relationships” (p. 30). In order to stimulate collegial knowledge sharing, it is thus important for colleagues to work along the same lines and to agree on some basic features on which conversation can be built. Having shared goals with colleagues thus basically implies having a similar set of priorities which makes it easier to agree with each other, i.e. to reach consensus (Gilson & Shalley, 2004).

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In the judicial context, establishing shared goals among judges can also be relevant for generating joint action aimed at general quality improvements in the courts. In the last few decades, courts are increasingly viewed as organizations that can be held accountable for “the results they achieve from an organisation perspective” (Ng, 2011, p. 106). Measures such as ‘clearance rates’ and ‘time to disposition’ are used to assess court performances (Contini & Carnevali, 2010).³ Individual judges have also become the subject of performance assessments (Langbroek, 2009; Lienhard, 2014; Riedel, 2014). However, the principle of judicial independence limits the extent to which binding performance targets for judges can be implemented (Lienhard, 2014). In order for judges to contribute to general quality improvements in the court and also to reflect on their own performances, quality circles and internal dialogues are already held in various courts to discuss questions of judicial activity (Contini & Carnevali, 2010; Hagsgård, 2008; Lienhard, 2014). Contini and Carnevali (2010) call this “the organisational learning approach to quality of justice” (p. 9). Here, judges have the opportunity to jointly decide upon concrete actions in order to improve the quality of services provided by the court (Contini & Carnevali, 2010). This clearly shows the adoption of a participatory management style in the courts (Zaffarano, 1995). By combining the organizational learning approach with a participatory management style, new opportunities arise for judges to work collaboratively towards common goals, which provides a solid basis for further cooperation and judicial coordination within courts.

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In the next three sections, the focus lies on the motivational factors included in the research model: enjoyment in helping others, professional

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3 By using these measures, it is possible to assess different courts against the same performance criteria (Ostrom & Hanson, 2007), possibly resulting in cross-country comparisons.

image and knowledge self-efficacy. Each of these factors will be separately discussed.

5.2.6 The influence of enjoyment in helping others on knowledge sharing

273 The results of this study show a significant relationship between the feeling of enjoyment in helping others and the engagement of judges in knowledge sharing processes. We found that judges who experienced more enjoyment in helping others are more inclined to engage in knowledge sharing processes than judges who experienced less enjoyment in helping others. Enjoyment in helping others is an altruistic motive to participate in certain activities, in this case: knowledge sharing processes (i.e. donating and collecting knowledge). Our results echo those of other knowledge sharing studies in which empirical evidence is found for a positive relationship between intrinsic motivators and knowledge sharing behaviour (Hsu & Lin, 2008; Lin, 2007a; Wasko & Faraj, 2005).

274 Knowledge sharing is a voluntary workplace behaviour. It is thus not very surprising that personal motivations play a determining role, but it is interesting that a purely altruistic motive is highly important in this context. When judges engage in knowledge sharing activities out of altruistic reasons, they do not expect anything in return. After all, they enjoy the activity in itself. Foss, Minbaeva, Pedersen and Reinholt (2009) state that “an intrinsically motivated individual is mainly absorbed in the process of doing an activity, whereas an externally motivated individual is concerned with the external outcome attained from doing the activity” (p. 874). To that end, enjoyment in helping others is different from the concept of social trust in which an element of reciprocity is present.

275 For judges, individual performance is not linked to salary payments or bonuses (Ash & Macleod, 2014). Judges are professionals who need to strive for high quality performance without being (directly) rewarded with monetary incentives (Schneider, 2004). As a professional, a judge is assumed “to have a strong motivation or calling as a basis for his choice of a professional career and is assumed to have a stable lifetime commitment to that career” (Schein, 1972, p. 8). Judges are thus expected to have the intrinsic motivation to perform the best they can; especially when judges are appointed for life (and therefore do not have to compete with other

candidates in an election) and the career options are limited (Ash & McLeod, 2014). The results of the current study fit the ideal picture of the intrinsically motivated judge who will do his or her best to make sure that justice is being served. By helping others, the judge is not only concerned with his or her personal performance, but also with the performance of others within the organization. This type of commitment to others, and in that sense to the organization as such, is important for the establishment of a well-functioning judiciary which delivers high quality performances to court users. However, it is important to remember that managers in court organizations need to realize that supporting conditions are necessary to keep the intrinsic motivational tendencies of their organizational members alive (Ryan & Deci, 2000). Court organizations should thus not lose sight of those conditions that strengthen the altruistic behaviour of judges.

Enjoyment in helping others is about the pleasure that one experiences when one helps a colleague by sharing his or her knowledge (De Vries, Van den Hooff, & De Ridder, 2006; He & Wei, 2009). Therefore, it is reasonable to suspect that enjoyment in helping others has an even stronger association with knowledge donating behaviour than with knowledge collecting behaviour. Lin (2007a) showed that enjoyment in helping others is indeed related to knowledge donating behaviour, but it is also significantly related to knowledge collecting behaviour. Based on the current study results and the results of a study by Lin (2007a), it can confidently be stated that enjoyment in helping others is not solely important for knowledge donating behaviour, but also for knowledge collecting behaviour. In the next section, we will see that this does not hold up for the effect of professional image on the knowledge sharing behaviour of judges.

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5.2.7 The influence of professional image on knowledge sharing

The current study has proven that professional image is not a significant knowledge sharing enabler in the judicial context. This means that judges who think that donating their knowledge to colleagues contributes to their professional image are not more inclined to engage in knowledge sharing processes. The results of this study contradict some of the earlier studies on knowledge sharing behaviour. In these studies, a significant effect

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of professional image (or reputation) on knowledge sharing behaviour was found (Hsu & Lin, 2008; Wasko & Faraj, 2005).

278 The motivation to engage in knowledge sharing processes purely out of self-concern does not seem to hold up in the current context. Apparently, the belief that knowledge sharing is beneficial for one's professional image in the court does not determine whether judges actually engage in knowledge sharing processes or not. This finding makes us question whether the statement 'knowledge sharing is power' is still valid for judges. This statement is based on the belief that participation in knowledge exchanges actually enhances a person's status and position in an organization, instead of losing one's unique value for the organization (Andriessen, 2006). It is generally argued that creating an environment in which 'knowledge sharing is power' and prevails over the idea that 'knowledge is power' reduces intentional knowledge hoarding by organizational members. Based on the results of this study, the idea that knowledge sharing is power does not seem to be fully incorporated.

279 For the purpose of this study, it is important to realize that judges "derive [their] status from their standing within the professional community" (Schneider, 2004, p. 19). This also means that "judges usually care about their standing within the professional community" (Schneider, 2004, p. 29). Schneider (2004) therefore emphasizes that poor performances – or in the context of this study: any sign of incompetence (e.g. not knowing something) – can harm the reputation of a judge within the professional community. In that sense, it could be argued that participation in knowledge sharing activities – especially when participating in the activities as a person who primarily collects knowledge – can be detrimental for the professional image of that particular judge. Consequently, the deviant results of the current study could be explained by the fact that we did not make a distinction between knowledge donating and knowledge collecting behaviour. Scholars who have found a significant association between professional image (or reputation) and knowledge sharing focused exclusively on the one-way process of knowledge sharing, i.e. knowledge donating behaviour (Hsu & Lin, 2008; Wasko & Faraj, 2005). This study's method of using the bidirectional perspective on knowledge sharing is thus different from earlier studies on knowledge sharing that included this variable. Therefore, we should be careful with completely dismissing professional image as a knowledge sharing enabler in the judicial context. That being said, it should also be pointed out that based on the results of the current study, professional image is not significantly related with knowledge sharing in

any of the selected countries or court levels. Therefore, further empirical testing in the judicial context is strongly required.

5.2.8 The influence of knowledge self-efficacy on knowledge sharing

Our findings provide strong support for the relationship between knowledge self-efficacy and the engagement of judges in knowledge sharing processes. This finding is in line with other knowledge sharing studies that found a positive association between self-efficacy beliefs and knowledge sharing behaviour (Cabrera, Collins, & Salgado, 2006; Endres, Endres, Chowdhury, & Alam, 2007; Hsu, Ju, Yen, Chang, 2007; Lin, 2007a). Previous studies have already shown the usefulness of this concept for understanding individual participation in knowledge exchanges, but the current study confirms the usefulness of this concept once more.

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Bandura (1982) already stated that “people avoid activities that they believe exceed their coping capabilities, but they undertake and perform assuredly those that they judge themselves capable of managing” (p. 123). It seems quite logical that judges are more likely to engage in activities when they feel confident about their own abilities to actually add something to the conversation. Still, it is interesting that we found this effect in the judicial context as well. After all, judges are legal experts. But, despite this recognized status, the knowledge sharing behaviour of judges is still affected by their personal beliefs. To that end, court organizations should be aware that judges who are less confident about their knowledge capabilities are also less likely to engage in knowledge sharing processes. Hsu, Ju, Yen and Chang (2007) also make this comparison in their study and state that “people who have high self-efficacy will be more likely to perform related behavior than those with low self-efficacy” (p. 155).

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Again, we may wonder whether knowledge self-efficacy is a more determining factor for knowledge donating behaviour than for knowledge collecting behaviour. Previous studies lack convincing support for this consideration (Cheng & Hung, 2010; Cabrera, Collins, & Salgado, 2006; Lin, 2007a). In the empirical studies by Cheng and Hung (2010) and by Lin (2007a) a significant relationship was found between self-efficacy beliefs and knowledge collecting behaviour; as well as between self-efficacy beliefs and knowledge donating behaviour. Cabrera, Collins and Salgado

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(2006) used a mixed scale that represented knowledge giving as well as knowledge seeking behaviour. In their study, a significant relationship was found between role breadth self-efficacy and knowledge sharing behaviour. Based on those results and the results of this study, there seems to be no reason to believe that knowledge self-efficacy is only relevant in the case of knowledge donating behaviour. However, further empirical testing is still useful.

5.2.9 The (moderator) influence of role overload on knowledge sharing

283 Surprisingly, the study results reveal that role overload does not serve as a knowledge sharing barrier in the judicial context. This is a pretty remarkable finding, because it is a generally held assumption that a lack of time (a factor related to role overload) is one of the most important knowledge sharing barriers in organizational contexts (McDermott & O'Dell, 2001; Riege, 2005). Role overload is, however, not a direct measure of the time spent at work, but it does represent a person's feeling of being overburdened (Huffman, Payne, Koehly, Culbertson, & Castro, 2014).

284 It is important to note that the results of this study indicate that role overload does not have a direct impact on the knowledge sharing behaviour of judges and neither does it negatively influences the relationship between the predictor variables and knowledge sharing behaviour. However, this does not indicate that role overload can be completely dismissed as a workplace stressor in the judicial context. Further empirical research is needed to determine whether role overload has a negative effect on other important issues in this context, such as the quality of judges' work (Ash & McLeod, 2014) or the overall well-being of judges (Boxall & Macky, 2014; Karimi, Omar, Alipour, & Karimi, 2014). Also, the long-term effects of judges experiencing high levels of role overload need to be considered in this regard.

285 Considering an alternative explanation for the findings of this study, it is possible that for some judges their engagement in knowledge sharing processes costs time; here we refer to judges who primarily donate knowledge to others. While for other judges their engagement in knowledge sharing processes actually saves time; here we refer to judges who primarily collect knowledge from others. On the basis of qualitative study results,

Mueller (2012) partly supports this statement. Mueller (2002) found that “despite a heavy workload and a lack of recognition in the official work organization, employees share knowledge between project teams because they feel the need to do this” (p. 441). Mueller (2012) further explains that “through sharing knowledge between project teams, employees experience a decrease in workload if they use their colleagues’ knowledge, and felt positive about the reciprocal behavior” (p. 441). Although the current study cannot confirm or reject Mueller’s empirical findings, we can convincingly conclude that role overload is not ‘strong’ enough to weaken the influence of collegial closeness, social trust, shared goals and enjoyment in helping others on the knowledge sharing behaviour of judges.

5.2.10 The influence of knowledge sharing on overall job performance

This study determined that knowledge sharing behaviour is not significantly associated with overall job performance. The results of this study contradict the results of a study by Van Woerkom and Sanders (2010) who found a significant relationship between the variable *asking and giving advice* (similar to our construct of knowledge sharing processes) and individual performance. There are, however, some differences between Van Woerkom and Sanders’ study and the current study that need to be pointed out. First, while the current study used a single item measure to assess the overall job performance of judges, the study by Van Woerkom and Sanders used a four-item instrument to assess individual performance.⁴ Although a multi-item measure is not per se better than a single-item measure (De Boer et. al., 2004), a multi-item measure is capable of capturing a number of different facets regarding overall job performance. Comparing a single-item measure with a multi-item measure might thus yield slightly different results. Second, whereas the current study employed a cross-national study in the judicial field, Van Woerkom and Sanders (2010) employed a cross-sectional study in which public and private sector organizations were

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4 Van Woerkom and Sanders (2010) used four items to measure *individual performance*:

1. I consider myself one of the best employees of this organization.
2. I consider myself one of the most valuable employees of this organization.
3. I am satisfied with my job performance.
4. If I compare myself to my closest colleagues, I am better in my job.

included. It is possible that the differences between the two studies partly account for the contrasting results.

287 A second point that we need to consider is that, on average, judges rated themselves relatively highly on the job performance scale. Although no direct link is found between overall job performance and knowledge sharing, this is not to say that knowledge sharing lacks any impact on the performance of judges. It is plausible to assume that knowledge sharing does not contribute to the overall job performance of judges, but it does contribute to specific aspects related to individual job performance, such as innovative thinking (Law & Ngai, 2008) or the ability to make better informed decisions (Smith, 2001). Further empirical research is required here.

5.2.11 Differences between male and female judges

288 The findings of this study indicate that the knowledge sharing behaviour of female judges significantly differs from that of male judges. Gender differences in pro-social workplace behaviour are quite common (Eagly, 1987). However, considering that there is a growing representation of female judges in Western judiciaries (Coontz, 2000; CEPEJ, 2014), a closer look at this finding has to be taken.

289 During the last couple of decades, women in Western European civil law countries have received equal opportunities in terms of training and education as men, resulting in an increase in women entering the judiciary (Schultz & Shaw, 2013). The judiciaries in these countries can therefore no longer be classified as being male-dominated. But, despite the increased number of women entering the judiciary, Schultz and Shaw (2013) remind us that higher positions in courts (e.g. court presidents or members of the highest national courts) are in most cases still occupied by men.⁵ Nonetheless, this does not diminish the fact that women are generally better represented in Western judiciaries than a couple of decades ago.

5 Generally speaking, in civil law countries women are better represented in first instance courts than in the higher courts (Schultz & Shaw, 2013). Recent statistics reveal that, in the Netherlands, there are even more female judges than male judges working at first instance courts (CEPEJ, 2014, p. 327).

Overall, the desire for gender diversity in the judiciary is very much taken for granted (Malleeson, 2003; Melville, 2014). Firstly, it is argued that gender diversity in the judiciary has an important symbolic value (Chew, 2010; Melville, 2014). Secondly, it is assumed that “women bring something different to the adjudication process”, countering a potential gender bias in this process (Malleeson, 2003, p. 1). Whether the latter is actually true or not, it is important to realize that it is a rather controversial statement to make when considering the principle of judicial impartiality. According to this principle, it should not make any difference for the outcome of legal proceedings whether judge A or judge B decides a particular case. It should thus also not make a difference for the outcome of legal proceedings whether judge A or judge B is a male or female judge (Malleeson, 2003). In the case of collegial knowledge sharing, this issue is less relevant. Still, intrigued by the differences found in this study, the determining role of gender in the judicial context needs to be further explored. 290

Gender stereotypes are basically “beliefs about the characteristics, attributes, and behaviors of members of certain groups” (Hilton & Von Hippel, 1996, p. 240). Based on traditional gender stereotypes, we expect men to be independent, competent, achievement-oriented, aggressive, self-confident, dominant and rational. In contrast, we expect women to be interdependent, concerned about others, gentle, intuitive and emotional (Dennis & Kunkel, 2004; Eagly & Steffen, 1984; Lin, 2008; Kidder, 2002; Tran, Russell, & Speece, 2015; Vinnicombe & Singh, 2002). Following this line of argumentation, it seems logical that – when male and female judges confirm the stereotypes – female judges are more prone to engage in prosocial workplace behaviour than male judges. Boigeol (2013) nicely illustrates this with a quote from a former female general prosecutor at the Cour des Comptes in France: 291

“Neither men nor women hold a monopoly on a particular behaviour, but a quality encountered perhaps more frequently with women than men is a capacity to listen. They are happy to consult with others, discuss issues with their team, and make sure that questions have been fully explored, without this impeding their ability to take a decision” (cited in Schultz & Shaw, 2013, p. 31).

Also, women are generally more concerned than men about how others perceive them (Dolgin & Minowa, 1997; Haferkamp, Eimler, Papadakis, & Kruck, 2012). They are considered as being more “communal (selfless and concerned with others) and less agentic (self-assertive and motivated 292

to master)” than men (Eagly & Steffen, 1984, p. 735). Overall, this makes women in an organization more oriented towards the needs of others (Kidder, 2002). By perceiving women as more communal and caring than men, it could also be enquired whether the impact of social trust on knowledge sharing behaviour varies according to gender. Although the study results showed that knowledge sharing behaviour significantly differs between male and female judges, the relationship between social trust and knowledge sharing is similar for both male and female judges. This is an interesting finding, because previous studies have shown that the level of trust differs between male and female same-sex relationships (Carroll, 2002; Warris & Rafique, 2009). Also, Chai, Das and Rao (2011) showed that the impact of trust on knowledge sharing behaviour varies according to gender.

293 Additionally, it has been analyzed whether knowledge self-efficacy is equally important for women and for men with respect to their engagement in knowledge sharing processes. Eagly and Crowley (1986) found in a study that “men helped more than women to the extent that male respondents believed themselves more competent and more comfortable in helping than female respondents believed themselves to be” (p. 301). In the current study, the impact of knowledge self-efficacy on the knowledge sharing behaviour of judges does not vary according to gender.

294 To conclude, the results of this study highlight the necessity to consider gender differences when studying workplace behaviours, such as the knowledge sharing behaviour of judges. For future studies, possible differences between male and female judges regarding their workplace behaviours should be accounted for.

5.2.12 Contextual differences

295 Overall, the results of this study demonstrate minor small differences between Swiss, German and Dutch judges, and between first and higher instance judges with regard to their knowledge sharing behaviour, their overall job performance and their perception of ICT support, management support, collegial closeness, social trust, shared goals, enjoyment in helping others, professional image, knowledge self-efficacy and role overload. Still, there are some differences between the groups. Two notable differences are highlighted in this section.

A first notable difference is that Dutch judges reported lower levels of collegial closeness than German judges. This result indicates that, on average, German judges feel closer to their colleagues than Dutch judges. Also, we observed that collegial closeness is an important knowledge sharing enabler for German judges, but not for Dutch judges (see Appendix D). This is a rather unexpected outcome, because there seems to be no substantial reason for this particular outcome. However, one should be careful when comparing and interpreting the regression results, because the sample sizes differ quite substantially between the two groups of judges. Therefore, we should not dismiss collegial closeness as a relevant knowledge sharing enabler in the Dutch context altogether. 296

A second notable difference is that first instance judges reported lower levels of role overload than higher instance judges. This result indicates that, on average, first instance judges experience a lower degree of time stress (feeling overburdened) in their work than higher instance judges. A possible explanation for the differences between first and higher instance judges is that at higher instances, judges feel the pressure of being the ‘last resort’ (with the exception of possible cassation proceedings). Higher instance judges have the power to support or dismiss earlier decisions. Also, their specific interpretation of the law greatly influences the development of the law, which possibly puts extra pressure on higher instance judges, resulting in a higher average degree of perceived role overload. Further empirical testing is necessary to verify this statement and to discover additional reasons for the differences between first and higher instance judges with regard to the level of role overload. 297

Also, we observed that role overload negatively affects the knowledge sharing behaviour of higher court judges (see Appendix D). This is somewhat surprising, because role overload is not a significant predictor of knowledge sharing behaviour for Dutch or German judges, and neither for first instance judges. Role overload already becomes more relevant in the Swiss context, but this might be explained by the fact that 78 out of the 92 responding Swiss judges were higher instance judges. And – as we discussed above – higher instance judges seem to be more vulnerable for time stress. Although we should be careful when comparing and interpreting the regression results of the different groups, we should also not fully neglect the differential outcomes. 298

The general question is: does context matter for the results of this study’s research model? Based on the current study results, we cannot give a definite answer to this question. But, we can conclude that social and 299

motivational factors are key to fostering the knowledge sharing behaviour of professional judges. Social trust, especially, has proven to be an important prerequisite for knowledge sharing behaviour, irrespective of the context in which the judge is working. In contrast, ICT support is irrelevant as a direct predictor of knowledge sharing behaviour; also irrespective of the context in which the judge is working. A possible explanation for these similar results is that although there are differences between Swiss, German and Dutch judges (e.g. their job position: life-tenured or not) and between first and higher instance judges (e.g. differences between the guiding significance of their decisions), based on Article 6(1) of the European Convention on Human Rights (ECHR), every judge has to take a similar set of principles into account, resulting in a similar overall framework for all judges in which they have to perform their working tasks. Article 6(1) of the ECHR reads, in part, as follows:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

300 Regardless of the country or the court level in which a judge is currently active, judges have the (collective) responsibility to provide a fair and public hearing to court users. In abstract terms, this makes the judicial profession in different European countries more similar than different. This may also have an effect on the way judges behave in a professional context. We shall not go so far as to say that we should aim for an one-size-fits-all solution to foster collegial knowledge sharing in the courts, but it is important to realize that similar effects among the different groups of judges are indeed present.

5.3 Limitations of this study and recommendations for future studies

301 This section addresses the constraints of the current research and translates these constraints directly into recommendations for further research.

5.3.1 Knowledge donating versus knowledge collecting

In this study, the knowledge sharing scale consists of four knowledge donating items and four knowledge collecting items (see Appendix C). An exploratory factor analysis did not show statistical support for dividing the knowledge donating items from the knowledge collecting items. At first glance, this seems to be a rather surprising outcome. After all, Van den Hooff and De Ridder (2004) had stated that “both processes have a different nature, and can be expected to be influenced by different factors” (p. 118). On the other hand, previous research had also shown that knowledge donating behaviour and knowledge collecting behaviour strongly correlate with each other (De Vries, Van den Hooff, & De Ridder, 2006). 302

In future research, it is advisable to critically focus on the knowledge sharing measure itself. Here, options should be explored to develop alternative measures of knowledge donating and knowledge collecting behaviour. For the judicial context, it is best to use terminology which is familiar to professional judges (e.g. making a distinction between legal, practical legal and practical non-legal knowledge). Designing (or even adapting) measurement items is a risky undertaking requiring careful thinking and rigorous pilot testing. But this effort can very well result in improved multi-item measures which can be used in future knowledge sharing studies conducted in a judicial context. 303

5.3.2 Subjective rating of overall job performance

In the current study, a subjective rating of overall job performance is used. An advantage of subjective ratings is that these can be obtained simultaneously with the collection of other survey data (Wall, Michie, Patterson, Wood, Sheehan, Clegg, & West, 2004). A disadvantage is that, in general, “people tend to overestimate their individual abilities” (Engel, 2004, p. 10). Objective and subjective measures are thus different types of measures which cannot be used interchangeably (Bommer, Johnson, Rich, Podsakoff, & Mackenzie, 1995; Wall, Michie, Patterson, Wood, Sheehan, Clegg, & West, 2004). 304

In the current study, respondents were asked to rate their overall job performance. The term ‘performance’ was not further defined for the respondents. As a result, specific indicators of individual performance, such 305

as the quantity or the quality of work, were not measured. This approach is limited, because it provides less specific information on the link between knowledge sharing behaviour and individual performance.

306 Therefore, in future research, it is recommendable to use either subjective measures of performance focusing on specific indicators of individual performance, such as measures related to the product or service quality, or to use objective measures of individual performance focusing on objective indices, such as work output or productivity numbers. Another possibility is to use so-called supervisor ratings. In the judicial context, this would mean that the manager of a work unit assesses the performance of individual judges. Yet another possibility is to use peer ratings. In order to eliminate same-source bias, different peers can rate one particular colleague (Van Scotter & Motowidlo, 1996).

5.3.3 What knowledge is shared and with whom?

307 This study uses ‘knowledge’ as an encompassing concept. An advantage of this approach is that it is possible to measure the knowledge sharing behaviour of judges in a rather abstract and general way. A disadvantage is that it is not possible to tell what knowledge is being shared between judges and other important knowledge holders in the court. It is not recommendable to use an explicit/tacit knowledge dichotomy in order to make a difference between different types of knowledge,⁶ but it is recommendable to use other (more specific) categories of knowledge (e.g. individual courtroom experiences, input from training sessions, court decisions, practical ‘how to’/‘where to find’ information). In this way, the need for a more fine-grained categorization of the concept of knowledge can be satisfied.

308 The current study is also limited to the extent that it is not specified with whom knowledge is shared; e.g. with professional judges working in the same work unit, with professional judges working in another work unit, with non-professional judges or with judicial assistants in the court. Here, it is very well possible that differences between countries occur. For instance, in some countries, such as Switzerland, a large proportion of judges can be

6 See section 2.3.5.

categorized as non-professional judges. The question is how this affects knowledge sharing processes in the courts.

Related to this point is the usage of the term ‘colleagues’⁷ to refer to knowledge sharing partners in the courts. An advantage of using this term is that it does not exclude any potential knowledge holders for judges in the courts. A disadvantage is that different judges can interpret the term ‘colleagues’ in a different way.⁸ For example, it might be the case that some judges perceived the term ‘colleagues’ as colleague-judges, while other judges perceived the term ‘colleagues’ as co-workers, including colleague-judges and judicial assistants. 309

In future research, it would be useful to develop categories of knowledge which are uniquely identified for the judicial context. In that way, it is possible to detect what knowledge is actually being shared in this specific context. It is also possible to detect whether knowledge sharing enablers, such as social trust or collegial closeness, are more relevant for particular categories of knowledge being shared. 310

In addition, it is recommendable to distinguish between different types of knowledge sharing partners in the court (e.g. between judicial assistants and colleague-judges, and between professional and non-professional judges). This makes it possible to determine the knowledge flow dynamics in court organizations. For instance, does knowledge circulate primarily within work units or also between work units? And are judicial assistants the main sparring partners of judges or is knowledge also regularly being shared between other professional judges in the court? A social network analysis would be a proper method to conduct this type of research (Lazega, Mounier, Snijders, & Tubaro, 2012). 311

5.3.4 Technological solutions for knowledge sharing

In the current study, the relationship between ICT support and knowledge sharing behaviour is described in fairly general terms. Technologies for knowledge sharing have not been explicitly specified. For example, an empirical distinction has not been made between technological solutions that allow judges to interact in a synchronous manner (e.g. chat 312

7 German: *Kollegen/Kolleginnen*; Dutch: *collega's*; French: *collègues*.

8 In the questionnaire the term ‘colleagues’ is not defined or further explained.

rooms, instant messaging or conference calls) and technological solutions that allow judges to interact in an asynchronous manner (e.g. intranets or email) (Eppler, 2007; Warkentin, Sayeed, & Hightower, 1997). Also, an empirical distinction has not been made between technological solutions that allow judges to rely on “paraverbal (tone of voice, inflection, voice volume) and nonverbal (eye movement, facial expression, hand gestures, and other body language) cues” (Warkentin, Sayeed, & Hightower, 1997, p. 978), such as video conference calls, and technological solutions that allow judges to rely on neither of these cues, such as email conversations. Although technological solutions can never fully imitate the experience of face-to-face interactions, some technological solutions are closer to face-to-face interactions – in terms of paraverbal and nonverbal communication – than other technological solutions (Gallié & Guichard, 2005; Warkentin, Sayeed, & Hightower, 1997). It is very well possible that different technological solutions have a different effect on knowledge sharing behaviour.

313 In future research, it would be interesting to focus on different types of technological facilities which have been designed to support knowledge exchanges between colleagues. In that way, a more in-depth view of the relationship between ICT support and knowledge sharing behaviour can be developed. With an outlook on future technological possibilities in court organizations, it is especially useful to gain more insight into the role of ICT in knowledge exchanges.

5.3.5 Knowledge sharing and consistent judicial decision-making

314 This study does not provide empirical evidence for the relation between knowledge sharing behaviour and the degree of consistency in judicial decisions. It has only been argued that collegial knowledge sharing provides the basis for (more) coordinated action between judges. Whether the regular participation of judges in knowledge exchanges actually leads to a more coherent body of jurisprudence is still uncertain. This is unfortunate, because reducing an unjustified divergence in similar cases (through knowledge sharing practices) still remains a point of interest for the judiciary (Avendaño Canto, 2014).

For future research, it would be interesting to focus on the link between collegial knowledge sharing and the degree of consistency in judicial decisions. In order to do so, another type of research design is required. Avendaño Canto (2014) has suggested to operationalize consistency by focusing on the use of references to relevant case law in judicial decisions. This is not a perfect measure, but it does provide a first step towards operationalizing the degree of consistency in judicial decisions. 315

Taking it one step further: it would be even more interesting to focus on the mental process of judicial decision-making (Engel, 2004; Gommer, 2007; Kudo, 2008). How does the judge build and develop his or her decision? And to what extent does engagement in knowledge sharing processes have an impact on the decision-making process of individual judges? Additionally, the focus should lie on whether the judge is willing to integrate ideas and insights from others into his or her own work when this would contribute to a more consistent interpretation of, for instance, open norms (in national or European law) among judges? 316

By conducting structured in-depth interviews with judges from different courts, future researchers will be possibly able to gain a deeper understanding of how judges deal with uncertainties in the process of applying and interpreting the law. The goal of these interviews is to mark the different moments in the decision-making process that ultimately lead to the final decision. That way, the role and added value of collegial knowledge sharing in the decision-making process can be detected. 317

5.3.6 The focus on professional administrative law judges

Another limitation of this study is that the research model was exclusively tested on professional administrative law judges working in Switzerland, Germany (Baden-Württemberg, Lower Saxony, North Rhine-Westphalia) and the Netherlands. This may reduce the generalizability of the research findings. However, considering that this study uses a random sample of professional administrative law judges, has had a decent response rate and an appropriate sample size; it is safe to say that the findings can be generalized beyond the study group. 318

It is also reasonable to expect that similar results would be found in the case of studying professional judges working in other legal fields (such as criminal law) in one of the participating countries. From a non-legal 319

perspective, i.e. perceiving administrative law judges as professionals working in knowledge intensive organizations and as professionals who can benefit from engagement in knowledge sharing processes, administrative law judges are no different from professional judges working in other legal fields. From a legal perspective, professional administrative law judges from the participating countries are also similar to the extent that they work under the civil law tradition. Still, a weakness of the current study is that a control group of professional judges from other legal fields is not included. As a consequence, the above assumptions cannot be empirically tested. Also, the extent to which possible differences occur between professional judges and non-professional judges is not empirically studied in the current research.

320 For future research, it is recommendable to test the questionnaire on non-professional judges who work alongside professional judges. This type of research would be especially relevant in Switzerland where a large proportion of judges are non-professional.⁹ It is also recommendable to test the questionnaire on professional judges working in a common law tradition (e.g. Australia or the United States of America). It would be very informative to compare the results of such a study with the results of the current study.

5.3.7 The focus on intra-organizational knowledge sharing

321 The current research has been focusing on the individual engagement of judges in intra-organizational knowledge sharing. This perspective is limited; it addresses knowledge sharing practices within work units and knowledge sharing practices across work units within courts, but not the knowledge sharing practices across courts (e.g. inter-court dialogues). Inter-organizational knowledge sharing is especially relevant when coordinated judicial action is required or when judges from different courts can strongly benefit from each other's knowledge ('sharing best practices'). It is reasonable to expect that – next to the factors that are relevant for the engagement in intra-organizational knowledge sharing – there are other factors, such as geographical proximity (Nooshinfard &

9 In 2012, in absolute numbers, there were 1271 professional judges (employed fulltime) and 2873 non-professional judges in Switzerland (CEPEJ, 2014, p. 155).

Nemati-Anaraki, 2014), that play a determining role for the engagement of judges in inter-organizational knowledge sharing.

Easterby-Smith, Lyles and Tsang (2008) emphasize that “transferring knowledge between organizations brings more complexity because of the multifaceted nature of the boundaries, cultures, and processes involved” (p. 677). Therefore, for future research, it is suggested to compare factors influencing the engagement in intra-organizational knowledge sharing with factors influencing the engagement in inter-organizational knowledge sharing. This will further expand our understanding of the knowledge sharing behaviour of judges.

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5.4 Theoretical implications of the study

Based on the study results, there are some theoretical implications to consider. First, the findings of this study provide strong empirical support for using the social capital theory in a knowledge sharing context. The results showed that the three factors of social capital (collegial closeness, social trust and shared goals) – representing the three dimensions of social capital – are significantly associated with knowledge sharing behaviour, even after accounting for the effects of technological, managerial and motivational factors on knowledge sharing behaviour. The results of this study confirm today’s mainstream argument that social dynamics between organizational members are important for the individual engagement of organizational members in knowledge sharing processes (Styhre, 2008; Van den Hooff & Huysman, 2009). Social trust, especially, should be given explicit recognition and further attention when studying pro-social workplace behaviours, such as knowledge sharing behaviour, in court organizations.

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Second, the results clearly indicate that ICT support and management support are not significantly associated with engagement in knowledge sharing processes. An obvious theoretical implication is that the knowledge sharing behaviour of judges cannot be directly influenced or steered by the organization. This outcome strengthens the concerns raised by authors supporting the second wave of knowledge management (Hislop, 2002; Van den Hooff & Huysman, 2009). According to Van den Hooff and Huysman (2009), knowledge sharing is an emergent behaviour that can only be indirectly managed, i.e. by creating the right conditions that contribute to

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the emergence of knowledge sharing processes. Based on the results of the current study, ICT support and management support should be dismissed as factors having a *direct* positive link to knowledge sharing behaviour.

325 Third, the results of this study show that inherently autonomous motivation is superior to controlled motivation with respect to the individual engagement of judges in knowledge sharing processes. It appears that knowledge sharing behaviour is the type of behaviour that is more closely related to altruistic motives (enjoyment in helping others) than selfish motives (enhancing one's own professional image). Inherently autonomous motivation should thus be given explicit attention in future studies on the knowledge sharing behaviour of judges.

326 Fourth, the results indicate that knowledge sharing behaviour differs between male and female judges. On average, female judges are more inclined to engage in knowledge sharing processes than male judges. Gender should thus be included as a primary variable – and not solely as a biographical control variable – in future research models on knowledge sharing behaviour.

327 Fifth, the results show that ICT support, social trust and professional image have a similar effect on knowledge sharing behaviour in the three countries: Switzerland, Germany and the Netherlands. This has important theoretical implications for our understanding of the knowledge sharing behaviour of judges in different national contexts. It appears likely that the peculiarities of different civil law legal systems do not have an impact on the hypothesized relationships regarding these variables.

328 Sixth, the results clearly indicate that the level of role overload does not play a determining role for the engagement of lower instance judges in knowledge sharing processes, but it does seem to play a role for the engagement of higher instance judges in such processes. Given this outcome, the restricting function of this factor should be more carefully considered. Further research is also needed to explore the joint effect of (other) knowledge sharing barriers and knowledge sharing enablers on knowledge sharing behaviour.

5.5 Practical recommendations of the study

Through understanding the factors that influence the engagement of judges in knowledge sharing processes, court organizations should be better able to take the necessary steps for ensuring that collegial knowledge sharing in the courts is fostered rather than stifled. In order to get an idea of the steps that can be taken, practical recommendations are made. In this section, six practical recommendations that follow from the empirical findings of the current study are discussed. Due to the absence of major differences in the empirical findings between Switzerland, Germany and the Netherlands, country-specific recommendations are not included.

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Recommendations aimed at improving the effectiveness of technological solutions for knowledge sharing. The findings of this study indicate that collegial knowledge sharing can only be indirectly managed, i.e. by creating the right conditions under which social relationships can thrive and motivational tendencies can flourish. It is thus important that managers in court organizations actively respond to the social and motivational bottlenecks that restrict collegial knowledge sharing from taking place. Only when these restrictions have been overcome can technological solutions be considered. For court organizations, it remains important to remember that it is highly unlikely that the mere existence of technological facilities has a direct positive effect on the engagement of judges in knowledge sharing processes. It is thus advisable to take complementary action in order to strengthen the social and motivational basis for knowledge sharing (see the recommendations below) and to formulate realistic expectations as to the effect of new technologies on the knowledge sharing behaviour of judges.

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Additionally, it is recommendable to give judges an active voice in the process of developing and implementing technological facilities for knowledge sharing. At an early stage, this can be done by organizing non-mandatory brainstorming sessions which are open to all interested parties in the organization. Actively involving judges in this process creates the opportunity to benefit from the broad base of knowledge available in the organization. It also gives judges the feeling that their ideas are respected (Rosener, 1990). At a later stage, additional efforts can be made to align the newly proposed technologies by the organization with the needs and wishes of the targeted group of end-users, here: the judges (Dodds, 2007; Kim & Lee, 2006). This will prevent court organizations from investing financial

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resources in technological solutions that – in the end – do not live up to the high expectations.

332 Judges are knowledge workers who need to be sure that the information and knowledge that they use is correct and up-to-date. Therefore, judges might be more hesitant to use personally attained knowledge from others when they are not completely sure that this knowledge is correct and up-to-date. For that reason, another possible solution for improving the effectiveness of technological solutions for knowledge sharing is using a more transparent and informative approach to help guide judges who are looking for online knowledge solutions. Sharing personally attained knowledge via an online platform runs the risk of increasing the likelihood that judges do not trust the accuracy of that particular knowledge. Especially when judges do not know the person who donates the knowledge, it is possible that collecting (and using) this knowledge becomes less attractive. An effective solution in this context might be to add user profiles to the online platforms. In that way, the track records of individual judges can be shown. This does not replace the advantages of face-to-face knowledge exchanges between judges (see below), but it does add some transparency to these exchanges.

333 *Recommendations aimed at facilitating social trust and collegial closeness.* This study has shown that social trust and collegial closeness are important knowledge sharing enablers. From a managerial perspective, collegial closeness and social trust cannot be commanded, but only facilitated (Griffiths-Hemans & Grover, 2006; Tymon & Stumpf, 2003). Tymon and Stumpf (2003) remind us that the controllability of social capital is low. Organizations cannot simply ‘give’ individuals more social capital. But instead, organizations can only stimulate the formation of social capital. One way to facilitate collegial closeness and social trust (as two attributes of social capital) in the court is to organize regular meetings and network activities through which judges and other knowledge holders in the court can meet each other face-to-face (Virolainen, 2011). Meeting each other in person is generally considered as a prerequisite for building close and trustworthy social relationships with one another (Gallié & Guichard, 2005; Olson & Olson, 2003). Creating moments of face-to-face interaction is especially important for colleagues who normally do not see and speak to each other on a regular basis, e.g. colleagues who work on different floors of the same building or colleagues who work on different locations of the same court (Appel-Meulenbroek, 2014; Gallié & Guichard, 2005). In a report issued by the Dutch Council for the Judiciary (Rapport Visitatie

Gerechten, 2014) it is stated that approaching judges from different work units in order to gain certain knowledge is also still rare.¹⁰ A lack of social interaction as a result of organizational boundaries or spatial distances among (groups of) judges can be resolved by simply getting to know each other (Agrawal, Cockburn, & McHale, 2006; Gallié & Guichard, 2005). By organizing face-to-face social interactions between colleagues in the court, social bottlenecks that restrict collegial knowledge sharing from taking place can possibly be reduced.

Recommendations aimed at fostering informal face-to-face interaction between colleagues in the court. Informal interactions are important for creating social bonds (friendships) and for building and sustaining collaborative social relationships (Haythornthwaite, 1999; Kreijns, Kirschner, & Jochems, 2002). That is why some organizations, such as Google, prefer informal face-to-face contact over computer-mediated interactions (e.g. email conversations) (Kastelein, 2014; Mediratta, 2007). Google is a well-known example of a company that has devoted great attention to a workplace design that supports face-to-face interaction on the work-floor (Kastelein, 2014). Google's strategy is based on the idea that informal social interaction stimulates discussions on the work floor that could lead to innovative solutions (Hemphälä & Magnusson, 2012; Paulus, 2000). For such a company, creative thinking and innovative solutions are essential ingredients for maintaining their competitive advantage over rival companies. While court organizations do not operate in a competitive environment, creative thinking and innovation solutions are highly relevant in this particular court context as well. Innovative perspectives of legal and practical complexities can very well contribute to the product and service quality delivered by judges, and to a better functioning of the court or – better said – the judiciary as a whole. Therefore, it is argued that – besides organizing regular meetings and network activities – it is advisable to create spaces in the court building which are suitable for informal collegial gatherings (Stryker, Santoro, & Farris, 2012). In this way, judges have the opportunity to meet and bond with each other outside formal collegial gatherings, such as case law meetings. A cafeteria or canteen in the court building, a communal long table, a coffee machine or a water cooler in the hallway are examples of places where judges can meet with their peers in order to discuss personal opinions and share work-related personal experiences.

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10 Judges tend to approach judges from other work units more often when the substantial overlap between the work units is high (Rapport Visitatie Gerechten, 2014).

335 *Recommendations aimed at fostering the development of shared goals among (groups of) judges.* This study has shown that the perception of shared goals has a direct positive influence on the engagement of judges in knowledge sharing processes. In the scholarly literature, having shared goals is often seen as one of the characteristics of successful teams (Al-Rawi, 2008; Wageman, Gardner, & Mortensen, 2012). Without sharing common goals, there is no clear sense of direction, which makes it harder for team members to work together and reach consensus. The same is true for the judiciary. By lacking a clear vision on what to prioritize and what to accomplish in the coming years, working towards a collective objective becomes more difficult. It is an organizational task to present clearly stated mission and vision statements for the judiciary as a whole. In the Netherlands, the 2020 Vision Report is a good example of a set of agreed upon standards which form the basis for the strategic multiannual ‘Agendas of the Judiciary’.¹¹ But this is not enough. (Lower) managers in the court need to stimulate a climate of open communication to discuss alternative perspectives on matters such as the consistency of judging. Also, by fuelling a sense of team spirit among judges working in the same (or substantively related) work units, this can potentially make it easier for judges to develop commonly agreed upon goals and effectively work towards accomplishing those goals.¹² Hagsgård (2008) explains that in some Swedish courts internal dialogues between judges and other staff in the court have appeared to be a successful method to improve the overall functioning of the court. The internal dialogues help to collectively decide what kind of measures need to be taken, which also makes it possible to evaluate the measures after they have been implemented (Hagsgård, 2008). These types of initiatives stimulate judges (and other staff in the court) to work in unison and not in their own individual spheres.

336 *Recommendations aimed at using performance appraisal interviews for fostering collegial knowledge sharing in court organizations.* Even though professional judges may not be unduly influenced by others (hereby referring to pressures from both inside and outside the judiciary), this is not to say that this group of professionals are to be exempted from performance appraisal interviews. This is true for Dutch and German

11 See <https://www.rechtspraak.nl/English/The-Council-for-the-Judiciary/Pages/Agenda-and-Vision-Report.aspx> (last visited on 14 July 2015).

12 See the Research Agenda 2015-2016 of the Dutch Council for the Judiciary for research proposals on studying the positive effects of teamwork and team spirit in the judiciary.

judges who are appointed for life, as well as for Swiss judges who are elected by plebiscite or by Parliament. Riedel (2014) reminds us that “it is unacceptable to comment on the core of judicial decision-making” (p. 974). Managers in a court may thus not comment on the content of the work of judges. However, it is safe to say that this is not the purpose of conducting performance appraisal interviews in the judicial context. Instead, two major purposes of conducting performance appraisal interviews in this context are: 1) providing feedback to judges and 2) evaluating and stimulating the professional development of judges (Cederblom, 1982; Rapport Visitation Gerechten, 2014).

Up until now, the professional evaluation of individual judges is more common in Dutch and German courts than it is in Swiss courts (Riedel, 2014).¹³ In German courts, for instance, competence profiles (called: *Anforderungsprofile*) are regularly used in the evaluation process.¹⁴ Different types of competences, such as personal competences (e.g. “sense of duty and responsibility”) and social competences (e.g. “ability to work in a team”) can be separately evaluated per judge.

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For the judicial context, the combination of conducting performance appraisal interviews with professional judges and using competence profiles to evaluate the performance of these judges is strongly recommended. First of all, competence profiles provide a clear and effective method to assess and evaluate the general cooperative efforts of judges (i.e. their social competences). Knowledge sharing, or different components related to knowledge sharing, such as ‘the ability of experienced judges to mentor less-experienced judges’, can be translated into concrete performance measures for individual judges. Whereas, in this study, collegial knowledge sharing is seen as an important ingredient for quality improvements in the court (related to product and service quality), measuring individual efforts to engage in knowledge sharing practices is considered an essential step forward. Second, providing feedback on the past knowledge sharing behaviour of judges may have a positive effect on the future knowledge sharing behaviour of judges, as the feedback that is provided during the performance appraisal interview may be an (extra) incentive for judges to (further) prioritize this type of prosocial workplace behaviour. Third, during performance appraisal interviews, the person who is conducting the

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13 See Riedel’s (2014) overview of recently collected survey data on the individual evaluation of judges in various European countries (pp. 988-989).

14 In Germany, these competence profiles are (also) used as a basis for promotional decisions (Riedel, 2014).

interview (e.g. the court president) has the opportunity to explicitly focus on the importance of collegial knowledge sharing in the court. In other words, the performance appraisal interviews can be used to raise awareness among judges regarding this important topic.

339 *Recommendations aimed at fostering the self-efficacy beliefs of judges.*
This study has shown that perceived knowledge self-efficacy has a positive influence on the engagement of judges in knowledge sharing processes. This is an interesting finding, but the next question is: how can the self-efficacy perception of judges be stimulated? Or more specifically: what type of organizational interventions are required to improve the self-efficacy perception of judges? Previous studies have shown that coaching (Malone, 2001) and the reassurance of worth (as part of social support) (Kruger, 1997) are positively associated with the self-efficacy perception. Parker (1998) argues that building a team with a high level of (role breadth) self-efficacy can be done by recruiting and selecting the right employees, i.e. employees with a “high self-esteem, with a proactive personality style, or with high levels of cognitive ability and intrinsic motivation” (p. 849). For the existing staff, Parker (1998) argues that it is important to promote high quality two-way workplace communication between managers and employees. Lin (2007b) adds in this regard that managers in organizations “can enhance the perceptions of knowledge self-efficacy among valued knowledge workers by indicating to them that their knowledge sharing makes a significant contribution to the organization” (p. 145).

340 Based on the above statements, it can be argued that during the recruitment of new judges, self-efficacy perceptions already play an important role. Psychological assessments¹⁵ and personality tests can be used as tools to select (candidate) judges with a high self-esteem, a proactive personality style, strong cognitive abilities and high levels of intrinsic motivation.¹⁶ For existing judges, the situation is somewhat different. Frequent two-way communication sessions between managers and judges (in a way that judges are informed about organizational practices, feel comfortable in speaking their minds and feel listened to by their managers) can – of

15 In the Netherlands, psychological assessments are already used in the judicial selection process (Langbroek, 2013).

16 Here, the assumption is made that a good recruitment and selection process for the judiciary is a prerequisite for selecting the ‘right’ judges, i.e. judges who are better able than others to deal with the complexities of judicial work. Selecting the ‘right’ judges is an important first step in building a strong judiciary that is committed to the provision of high quality products and services to court users.

course – be held, but it might also be wondered whether enhancing the self-efficacy perception of existing judges is really necessary and desirable. After all, judges are autonomous professionals, knowledge workers and experts in their field. Managers in the court can contribute to an atmosphere in which collegial knowledge sharing is encouraged, but reassuring the worth and self-esteem of judges might be going one step too far. Following Lin's (2007b) argumentation (see above), emphasizing the value of the knowledge held by individual judges might be enough for increasing the knowledge self-efficacy perception of individual judges.

5.6 Summary and concluding remarks

Consistently administering good quality justice is an individual as well as a collective responsibility. As a whole, the judiciary is responsible for the provision of high quality judicial services to court users. The performance and behaviour of individual judges is, however, of crucial importance here. Judges are frontline professionals who stand in direct contact with court users. Judges determine what has to be done in concrete cases. This is not always an easy task. Uncertainties, apparent contradictions in the law and unresolved dilemmas can hamper attempts to consistently administer good quality justice. In the current study, it has been argued that judges should be able to benefit from each other's knowledge – and from the knowledge of other important knowledge holders in the court – in order to accomplish the best possible results. 341

Beyond the initial training and education of judges, it is essential that judges keep their knowledge up-to-date. Lifelong learning is an undisputed necessity in the ever-changing legal context in which judges operate on a daily basis. It is however important to realize that in-house training programmes, conferences, symposia and case law meetings are not the only solution to update and sharpen the knowledge of individual judges. After all, a great deal of knowledge is already available in the organization. 342

As argued in this study, every judge has a unique combination of legal, practical legal and practical non-legal knowledge. With this knowledge – which is partially developed over the course of years of experience – judges are able to deal with the complexities of their job. But, of course, it is impossible for judges to 'know it all'. There are situations in which judges simply need some additional knowledge to do their job well (or at least to 343

do their job better). In some situations, a set solution to a shared problem is not given. In those instances, it is desirable that judges collaborate in order to create new knowledge together (and possibly to agree on a solution for a certain matter). Against this background, it becomes clear that the main organizational challenge is not to educate judges by offering them particular training opportunities (which is relatively easy to organize if the financial resources are sufficiently available), but instead, the challenge is to make optimal use of the knowledge which is already available in the organization. Whereas large parts of the knowledge available in the organization is personally kept (i.e. stored in the heads of individuals), judges need to actively collaborate with each other face-to-face or in an online environment (by using web 2.0 technologies) in order to disclose this knowledge. By doing so, this knowledge is not only of great value to the person from which the knowledge originated, but it also becomes of great value for others.

344 To ensure that judges are able to perform at their utmost level, judges need organizational as well as collegial support. In that sense, judges are not so different from other professionals or knowledge workers employed in organizations. However, judges do have a special status: they are strictly bound to the law and their independent status is constitutionally protected through the principle of judicial independence. As a result, judges have a large degree of professional autonomy. This puts some restrictions on the extent to which this group of professionals can be managed. Managing knowledge sharing is therefore a complex, but also an interesting issue to consider in the judicial context.

345 In this study, the knowledge sharing behaviour of judges has been extensively analyzed. A survey has been developed for the specific purpose of this study. Professional administrative law judges from Switzerland, Germany and the Netherlands have participated in the online survey. Various interesting points can be considered on the basis of the empirical study results. First of all, the study results indicate that collegial knowledge sharing cannot be directly steered, but only indirectly managed. It seems that judges are not susceptible to directions or suggestions given by the head of their work unit when it comes to their knowledge sharing behaviour. Also, the implementation of IT facilities seems to have a very limited impact on the knowledge sharing behaviour of judges. Based on this latter finding, it can be concluded that in order to foster the remote collaboration of judges (i.e. knowledge sharing regardless of place and time), additional organizational efforts are required. It is not enough to solely implement

technological solutions that make the remote collaboration between judges *technically* possible. Against the background of this study, it is safe to suggest that knowledge sharing should also be made *socially* possible. Social trust, especially, is indispensable for the engagement of judges in knowledge sharing processes. Interestingly, this is true for judges from all three participating countries.

As knowledge sharing cannot be directly managed, it is important for court organizations to realize that it takes considerable time to change the knowledge sharing behaviour of judges. For example, when collegial knowledge sharing does not take place between a certain group of judges on a regular basis, it is highly unlikely that the introduction of network events will immediately change the knowledge sharing behaviour of this group of judges. According to Roe (1998), it simply takes time before these types of measures affect people's behaviour. Taking this into account, it can be concluded that creating an environment which is conducive to knowledge sharing is a gradual process that cannot be rushed. Effectively managing knowledge sharing is thus a long-term project that requires patience and endurance. 346

Next to the social factors (social trust, collegial closeness and shared goals), two motivational factors (enjoyment in helping others and knowledge self-efficacy) have a direct impact on the knowledge sharing behaviour of judges as well. Again, the organization only has limited direct control over these two factors. This strengthens the argument that the knowledge sharing behaviour of judges can only be indirectly managed, i.e. it can be facilitated but not compelled. 347

Interestingly, role overload does not have a negative impact on the relationships between the above mentioned knowledge sharing enablers and the engagement of judges in knowledge sharing processes (i.e. donating and collecting knowledge). This means that these relationships do not depend on the level of role overload as perceived by judges. Another interesting result is that the overall job performance of judges is not directly affected or changed by the level of engagement in knowledge sharing processes. 348

Also, this study has shown that the differences between Swiss, German and Dutch judges, and between first and higher instance judges are rather small. After focusing on the cross-national empirical findings of this study, it can be convincingly stated that the judges of the participating countries and the two court levels are more similar than different from each other. This leads to the conclusion that the lessons learned from this study are 349

not limited to a specific court level or a national context. In addition, the comparable results provide a convincing argument for the development of a general measure to assess the performance of courts in this field. With such a performance measure, differences between court organizations regarding the efforts taken to foster the knowledge sharing behaviour of judges can be easily revealed (and possibly adjusted).

350 In conclusion, the overall goal of this study was to improve our understanding of the knowledge sharing behaviour of judges. An additional goal of this study was to inspire scholars in the field of judicial administration to conduct further research on the topic of collegial knowledge sharing in the judicial context. In this study, interesting patterns are revealed, but further research on the knowledge sharing behaviour of judges is required to get a more detailed picture of this specific type of prosocial workplace behaviour.

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Table 3.6 – *Court selection in Switzerland*

Canton	First instance courts	Higher instance courts
Aargau	Spezialverwaltungsgericht	Verwaltungsgericht
Appenzell Ausserrhoden		Obergericht
Appenzell Innerrhoden		Verwaltungsgericht
Basel-Landschaft	Steuer- und Enteignungsgericht	Kantonsgericht
Basel-Stadt	Sozialversicherungsgericht	Appellationsgericht
Bern		Verwaltungsgericht
Fribourg		Kantonsgericht
Geneva	Tribunal administratif de première instance	Cour de droit public de la Cour de Justice
Glarus		Verwaltungsgericht
Graubünden		Verwaltungsgericht
Jura	Tribunal de première instance	Tribunal Cantonal
Luzern	Kantonsgericht	
Neuchâtel		Tribunal Cantonal
Nidwalden		Verwaltungsgericht
Obwalden		Verwaltungsgericht
St. Gallen		Verwaltungsgericht
Schaffhausen		Obergericht
Schwyz		Verwaltungsgericht
Solothurn		Obergericht
Thurgau		Verwaltungsgericht
Uri		Obergericht
Vaud		Tribunal Cantonal
Wallis		Kantonsgericht
Zug		Verwaltungsgericht
Zurich	Steuerrekursgericht	Sozialversicherungsgericht Verwaltungsgericht
Confederation	Bundesverwaltungsgericht	

Table 3.7 – Characteristics of survey respondents per country

Characteristics	Category	Switzerland (N = 92)		Germany (N = 235)		The Netherlands (N = 120)	
		Frequency	Percent	Frequency	Percent	Frequency	Percent
Age (yrs.)	20-30	0	0.0	7	3.0	0	0.0
	31-40	8	8.7	31	13.2	13	10.8
	41-50	26	28.3	72	30.6	30	25.0
	51-60	40	43.5	88	37.4	50	41.7
	> 60	16	17.4	36	15.3	27	22.5
	Missing	2	2.2	1	0.4	0	0.0
Gender	Male	61	66.3	154	65.5	60	50.0
	Female	31	33.7	81	34.5	60	50.0
Tenure (yrs.)	0-5	18	19.6	17	7.2	38	31.7
	6-10	16	17.4	13	5.5	23	19.2
	11-20	38	41.3	60	25.5	36	30.0
	> 20	14	15.2	132	56.2	22	18.3
	Missing	6	6.5	13	5.5	1	0.8
Court position	Managerial responsibilities	48	52.2	93	39.6	26	21.7
	No managerial responsibilities	44	47.8	142	60.4	94	78.3

Table 3.8—*Characteristics of survey respondents per court level*

Characteristics	Category	First instance courts (N = 263)		Higher instance courts (N = 184)	
		Frequency	Percent	Frequency	Percent
Age (yrs.)	20-30	7	2.7	0	0.0
	31-40	40	15.2	12	6.5
	41-50	72	27.4	56	30.4
	51-60	101	38.4	77	41.8
	> 60	42	16.0	37	20.1
Gender	Missing	1	0.4	2	1.1
	Male	154	58.6	121	65.8
Tenure (yrs.)	Female	109	41.4	63	34.2
	0-5	43	16.4	30	16.3
	6-10	25	9.5	27	14.7
	11-20	67	25.5	67	36.4
	> 20	113	43.0	55	29.9
Court position	Missing	15	5.7	5	2.7
	Managerial responsibilities	89	33.8	78	42.4
	No managerial responsibilities	174	66.2	106	57.6

Survey items and translations

Introduction text survey:

This survey is in various languages available for administrative judges from different European countries. Subsequently, the content of the questionnaire is not solely focused on a certain court or legal system. In order to apply the various questions and statements in this survey correctly to your specific work situation, it is important to read the brief explanations under the headings 'important information' carefully. The survey is completely anonymous and takes approximately 15 minutes to complete. Thank you in advance for your cooperation.

- *German:* Diese Umfrage ist in verschiedenen Sprachen für Verwaltungsrichter und -richterrinnen aus verschiedenen europäischen Länder verfügbar. Infolge dessen ist der Inhalt der Umfrage nicht nur auf ein bestimmtes Gericht oder ein bestimmtes Rechtssystem fokussiert. Damit Sie die verschiedenen Fragen und Aussagen dieser Umfrage richtig auf Ihre spezifische Arbeitssituation anwenden können, ist es sehr wichtig, die kurzen Erläuterungen unter dem Titel ‚Wichtige Informationen‘ sorgfältig zu lesen. Die Umfrage kann anonym ausgefüllt werden. Das Ausfüllen des Formulars wird ca. 15 Minuten Ihrer Zeit beanspruchen. Wir möchten Ihnen schon im Voraus für Ihre freundliche Mitwirkung danken.
- *French:* Cette enquête est disponible en plusieurs langues pour les juges administratifs de divers pays européens. Par conséquent, le contenu du questionnaire ne se concentre pas uniquement sur un certain tribunal ou système juridique. Afin d'appliquer correctement les différentes questions et déclarations contenues dans cette enquête à votre propre situation de travail, il est important de lire attentivement les brèves explications sous < informations importantes >. L'enquête est entièrement anonyme, il vous faudra environ 15 minutes pour la remplir. Nous vous remercions d'avance de votre aimable participation.
- *Dutch:* Deze enquête is in meerdere talen beschikbaar voor bestuursrechters uit verschillende Europese landen. De inhoud van de enquête is om die reden niet toegespitst op een bepaald gerecht of rechtssysteem. Om de vragen en stellingen in de enquête op de juiste manier toe te kunnen passen op uw specifieke werksituatie, is het van belang de korte uitleg onder de kopjes 'belangrijke informatie' aandachtig te lezen. Het invullen van de enquête is anoniem en duurt ongeveer 15 minuten. Wij danken u alvast hartelijk voor uw bijdrage aan dit onderzoek.

ICT support (Van den Hooff & Huysman, 2009)

Introduction text:

In the following statements ‘IT facilities’ or ‘IT’ refer to all computer-based facilities that give you the possibility to exchange knowledge with colleagues (for instance, e-mail or an internal site for knowledge and document exchanges).

- *German:* In den folgenden Aussagen bezieht sich ‚IT-Einrichtungen‘ (bzw. ‚IT‘) auf alle computergestützten Einrichtungen, die Ihnen die Möglichkeit bieten, Kenntnisse mit Kollegen/Kolleginnen auszutauschen (beispielsweise über E-Mail oder über eine interne Seite für den Austausch von Kenntnissen und Dokumenten).
- *French:* Dans les affirmations suivantes, ‘équipement IT’ ou ‘IT’ renvoie à tous les équipements informatiques qui vous donnent la possibilité d’échanger des connaissances avec des collègues (par exemple, par e-mail, ou site interne d’échange de connaissances et de documents).
- *Dutch:* Bij de volgende stellingen hebben de termen ‘IT-faciliteiten’ of ‘IT’ betrekking op alle computervoorzieningen die u de mogelijkheid geven om kennis uit te wisselen met uw collega’s (bijv. per email of via een interne site voor kennis- en documentenuitwisseling).

Item 1

The IT facilities within this court positively contribute to my productivity and effectiveness.

- *German:* Die IT-Einrichtungen innerhalb dieses Gerichts tragen positive zu meiner Produktivität und Effektivität bei.
- *French:* Les équipements IT de cette organisation contribuent de manière positive à ma productivité et efficacité.
- *Dutch:* De IT-faciliteiten binnen dit gerecht dragen positief bij aan mijn productiviteit en effectiviteit.

Item 2

The IT facilities make it easier to cooperate with others within the court.

- *German:* Die IT-Einrichtungen erleichtern die Zusammenarbeit mit anderen Personen innerhalb des Gerichts.
- *French:* Les équipements IT facilitent la coopération avec autrui au sein du tribunal.
- *Dutch:* De IT-faciliteiten maken het makkelijker om samen te werken met anderen binnen het gerecht.

Item 3

The IT facilities make it easier to cooperate with others outside the court.

- *German:* Die IT-Einrichtungen erleichtern die Zusammenarbeit mit anderen Personen außerhalb (German)/ausserhalb (Swiss German) des Gerichts.
- *French:* Les équipements IT facilitent la coopération avec autrui en dehors du tribunal.
- *Dutch:* De IT-faciliteiten maken het makkelijker om samen te werken met anderen buiten het gerecht.

Item 4

The IT facilities within this court provide a positive contribution to the development of my knowledge.

- *German:* Die IT-Einrichtungen innerhalb dieses Gerichts tragen positiv zur Entwicklung meiner Kenntnisse bei.
- *French:* Les équipements IT au sein du tribunal apportent une contribution positive au développement de mes connaissances.
- *Dutch:* De IT-faciliteiten binnen dit gerecht dragen positief bij aan de ontwikkeling van mijn kennis.

Item 5

The IT facilities within this court provide important support for knowledge sharing.

- *German:* Die IT-Einrichtungen innerhalb dieses Gerichts bieten eine wichtige Unterstützung für den Kenntnisaustausch.
- *French:* Les équipements IT au sein du tribunal offrent un soutien important pour le partage de connaissances.
- *Dutch:* De IT-faciliteiten binnen dit gerecht bieden een belangrijke ondersteuning voor het delen van kennis.

Item 6

IT makes it easier for me to get in contact with colleagues who have knowledge that is important to me.

- *German:* Die IT erleichtert es mir, mit Kollegen/Kolleginnen in Kontakt zu kommen, die Kenntnisse besitzen, die für mich wichtig sind.
- *French:* L'IT me facilite le contact avec des collègues qui ont des connaissances qui sont importantes pour moi.
- *Dutch:* IT maakt het makkelijker voor mij om in contact te komen met collega's die kennis bezitten die voor mij belangrijk is.

Item 7

IT makes it easier for me to have relevant knowledge at my disposal.

- *German:* Die IT erleichtert mir relevantes Wissen zur Verfügung zu haben.
- *French:* L'IT me facilite l'accès aux connaissances nécessaires.
- *Dutch:* IT maakt het makkelijker voor mij om relevante kennis tot mijn beschikking te hebben.

Management support (Kang, Kim & Chang, 2008)

Introduction text:

Within the context of this questionnaire, the term 'work unit' refers to a demarcated work area based on one or more specializations within the field of administrative law; for instance, a department or a similar unit within the court.

- *German:* In Zusammenhang dieser Umfrage bezieht sich der Begriff ‚Arbeitseinheit‘ auf einen abgegrenzten Arbeitsbereich, ausgehend von einer Spezialisierung bzw. mehreren Spezialisierungen innerhalb des Verwaltungsrechts, z.B. eine Kammer (Germany)/eine Abteilung, eine Kammer (Switzerland) oder ein vergleichbarer organisatorischer Teil eines Gerichts.
- *French:* Dans le cadre de ce questionnaire le terme d' "unité de travail" se réfère à une division basée sur une ou plusieurs spécialisations dans le domaine du droit administratif, par exemple une cour, une chambre ou une unité similaire au sein du tribunal.
- *Dutch:* Een werkeenheid verwijst naar een afgebakend werkgebied, ingedeeld op basis van één of meerdere specialisaties binnen het bestuursrecht, zoals een team of een vergelijkbaar organisatieonderdeel binnen het gerecht.

Item 1 (singular)

The chairperson of my work unit emphasizes the importance of knowledge sharing between work units.

- *German:* Der/die Präsident(in)/Vorsitzende(r) meiner Arbeitseinheit betont die Bedeutung des Wissenstransfers zwischen Arbeitseinheiten im Gericht.
- *French:* Le président de mon unité de travail insiste sur l'importance du partage de connaissances entre les unités de travail du tribunal.
- *Dutch:* De voorzitter van mijn werkeenheid benadrukt het belang van kennis delen tussen werkeenheden binnen het gerecht.

Item 1 (plural)

The chairpersons of my work units emphasize the importance of knowledge sharing between work units.

- *German:* Die Präsidenten/Vorsitzenden meiner Arbeitseinheiten betonen die Bedeutung des Wissenstransfers zwischen Arbeitseinheiten im Gericht.
- *French:* Les présidents de mon unités de travail insistent sur l'importance du partage de connaissances entre les unités de travail du tribunal.
- *Dutch:* De voorzitters van mijn werkeenheden benadrukken het belang van kennis delen tussen werkeenheden binnen het gerecht.

Item 2 (singular)

The chairperson of my work unit highly encourages members of his/her work unit to share their know-how and professional knowledge.

- *German:* Der/die Präsident(in)/Vorsitzende(r) meiner Arbeitseinheit ermutigt die Mitglieder seiner/ihrer Arbeitseinheit ausdrücklich zum Austausch über ihr Know-how und ihre professionellen Kenntnisse.
- *French:* Le président de mon unité de travail encourage les membres de son unité de travail à partager leur savoir-faire et leurs connaissances professionnelles.
- *Dutch:* De voorzitter van mijn werkeenhed moedigt leden van zijn of haar werkeenhed aan om hun know-how en professionele kennis te delen.

Item 2 (plural)

The chairpersons of my work units highly encourage members of their work unit to share their know-how and professional knowledge.

- *German:* Die Präsidenten/Vorsitzenden meiner Arbeitseinheiten ermutigen die Mitglieder ihrer Arbeitseinheiten ausdrücklich zum Austausch über ihr Know-how und ihre professionellen Kenntnisse.
- *French:* Les présidents de mon unités de travail encouragent les membres de leurs unités de travail à partager leur savoir-faire et leurs connaissances professionnelles.
- *Dutch:* De voorzitters van mijn werkeenheden moedigen leden van hun werkeenheden aan om hun know-how en professionele kennis te delen.

Item 3 (singular)

The chairperson of my work unit makes consistent efforts to foster a culture of knowledge sharing.

- *German:* Der/die Präsident(in)/Vorsitzende(r) meiner Arbeitseinheit bemüht sich ständig darum, eine Kultur des Kennnisaustauschs zu fördern.
- *French:* Le président de mon unité de travail s'efforce de favoriser une culture de partage de connaissances.
- *Dutch:* De voorzitter van mijn werkeenheid spant zich consequent in om een cultuur van kennis delen te bevorderen.

Item 3 (plural)

The chairpersons of my work units make consistent efforts to foster a culture of knowledge sharing.

- *German:* Die Präsidenten/Vorsitzenden meiner Arbeitseinheiten bemühen sich ständig darum, eine Kultur des Kennnisaustauschs zu fördern.
- *French:* Les présidents de mon unités de travail s'efforcent de favoriser une culture de partage de connaissances.
- *Dutch:* De voorzitters van mijn werkeenheden spannen zich consequent in om een cultuur van kennis delen te bevorderen.

Social network (Chow & Chan, 2008)

Item 1

In general, I have a very good relationship with my colleagues.

- *German:* Im Allgemeinen habe ich ein sehr gutes Verhältnis zu meinen Kollegen/Kolleginnen.
- *French:* En général, j'ai de très bonnes relations sociales avec mes collègues.
- *Dutch:* Over het algemeen heb ik een erg goede relatie met mijn collega's.

Item 2

In general, I am very close to my colleagues.

- *German:* In Allgemeinen stehe ich meinen Kollegen/Kolleginnen sehr nahe.
- *French:* En général, je suis très proche de mes collègues.
- *Dutch:* Over het algemeen ben ik erg close met mijn collega's.

Item 3

I always hold a lengthy discussion with my colleagues.

- *German:* Ich führe immer lange Gespräche mit meinen Kollegen/Kolleginnen.
- *French:* J'ai toujours de longues discussions avec mes collègues.
- *Dutch:* Ik voer altijd lange gesprekken met mijn collega's.

Shared goals (Chow & Chan, 2008)

Item 1

My colleagues and I always agree on what is important at work.

- *German:* Meine Kollegen/Kolleginnen und ich sind immer der gleichen Meinung darüber, was bei der Arbeit wichtig ist.
- *French:* Mes collègues et moi, nous sommes toujours d'accord sur ce qui est important au travail.
- *Dutch:* Mijn collega's en ik zijn het altijd eens over wat er belangrijk is op werk.

Item 2

My colleagues and I always share the same ambitions and visions.

- *German:* Meine Kollegen/Kolleginnen und ich teilen immer dieselben Ziele und Ansichten.
- *French:* Mes collègues et moi, nous partageons toujours les mêmes ambitions et visions.
- *Dutch:* Mijn collega's en ik delen altijd dezelfde visie en ambities.

Item 3

My colleagues and I are always enthusiastic about pursuing the collective goals and missions of the whole organization.

- *German:* Meine Kollegen/Kolleginnen und ich sind immer begeistert, wenn es darum geht, die kollektiven Ziele und die Mission der ganzen Organisation zu verfolgen.
- *French:* Mes collègues et moi, nous sommes toujours enthousiastes en ce qui concerne la poursuite des objectifs collectifs et missions de l'ensemble de l'organisation.
- *Dutch:* Mijn collega's en ik zijn altijd enthousiast over het nastreven van de collectieve doelen en missies van de gehele organisatie.

Social trust (Chow & Chan, 2008)

Item 1

I know my colleagues will always try and help me out if I get into difficulties.

- *German:* Ich weiß (German)/weiss (Swiss German), dass meine Kollegen/Kolleginnen immer versuchen werden, mir zu helfen, wenn ich in Schwierigkeiten komme.

- *French:* Je sais que mes collègues essaieront toujours de m'aider en cas de problèmes.
- *Dutch:* Ik weet dat mijn collega's mij altijd zullen proberen te helpen wanneer ik in de problemen kom.

Item 2

I can always trust my colleagues to lend me a hand if I need it.

- *German:* Ich kann mich immer darauf verlassen, dass meine Kollegen/Kolleginnen mir zu Hilfe kommen, wenn ich dies brauche.
- *French:* Je peux toujours faire confiance à mes collègues de me donner un coup de main si j'en ai besoin.
- *Dutch:* Ik kan er altijd op vertrouwen dat mijn collega's mij zullen helpen wanneer dat nodig is.

Item 3

I can always rely on my colleagues to make my job easier.

- *German:* Ich kann mich immer darauf verlassen, dass meine Kollegen/Kolleginnen mir meine Arbeit erleichtern werden.
- *French:* Je peux toujours compter sur mes collègues pour rendre mon travail plus facile.
- *Dutch:* Ik kan er altijd vanuit gaan dat mijn collega's mijn werk vergemakkelijken.

Enjoyment in helping others (Lin, 2007a)

Item 1

I enjoy sharing my knowledge with colleagues.

- *German:* Ich freue mich , wenn ich meine Kenntnisse mit Kollegen/Kolleginnen teilen kann.
- *French:* J'aime partager mes connaissances avec mes collègues.
- *Dutch:* Ik vind het prettig om mijn kennis met collega's te delen.

Item 2

I enjoy helping colleagues by sharing my knowledge.

- *German:* Ich freue mich, wenn ich meinen Kollegen/Kolleginnen helfen kann, indem ich meine Kenntnisse mit ihnen teile.
- *French:* J'aime aider mes collègues en partageant mes connaissances.

- *Dutch:* Ik vind het prettig om collega's te helpen door mijn kennis met hen te delen.

Item 3

It feels good to help someone by sharing my knowledge.

- *German:* Es ist ein gutes Gefühl, jemanden helfen zu können, indem ich meine Kenntnisse teile.
- *French:* Ça me fait du bien d'aider quelqu'un en partageant mes connaissances.
- *Dutch:* Het voelt goed om collega's te helpen door mijn kennis met hen te delen.

Item 4

Sharing my knowledge with colleagues is pleasurable.

- *German:* Es ist angenehm, meine Kenntnisse mit Kollegen/Kolleginnen teilen zu können.
- *French:* Partager mes connaissances avec mes collègues est agréable.
- *Dutch:* Het delen van mijn kennis met collega'servaar ik als plezierig.

Knowledge self-efficacy (Lin, 2007a)

Item 1

I am confident in my ability to provide knowledge that others in my court consider valuable.

- *German:* Ich bin zuversichtlich über meine Fähigkeit, Kenntnisse bereitzustellen, die für andere Personen an meinem Gericht wertvoll ist.
- *French:* J'ai confiance en ma capacité de fournir des connaissances que d'autres au sein de mon tribunal trouveront utiles.
- *Dutch:* Ik ben ervan overtuigd dat ik in staat ben om anderen in mijn gerecht te voorzien van kennis die zij als waardevol beschouwen.

Item 2

I have the expertise required to provide valuable knowledge for my court.

- *German:* Ich besitze die benötigten fachlichen Kompetenzen, um Kenntnisse bereitzustellen, die für mein Gericht wertvoll sind.
- *French:* J'ai l'expertise nécessaire pour fournir des connaissances utiles à mon tribunal.

- *Dutch:* Ik bezit de expertise die nodig is om waardevolle kennis voor mijn gerecht beschikbaar te stellen.

Item 3

It does not really make any difference whether I share my knowledge with colleagues (reverse coded).

- *German:* Es macht eigentlich keinen großen (German)/grossen (Swiss German) Unterschied, ob ich meine Kenntnisse mit Kollegen/Kolleginnen teile.
- *French:* Cela ne fera aucune différence si je partage mes connaissances avec mes collègues.
- *Dutch:* Het maakt geen verschil of ik mijn kennis met collega's deel.

Item 4

Most of my colleagues can provide more valuable knowledge than I can (reverse coded).

- *German:* Die meisten meiner Kollegen/Kolleginnen können wertvollere Kenntnisse bereitstellen als ich.
- *French:* La plupart de mes collègues pourront fournir des connaissances plus utiles que les miennes.
- *Dutch:* De meeste van mijn collega's hebben meer waardevolle kennis te bieden dan ik.

Professional image (Gottschalk, 2007)

Item 1

Sharing my knowledge improves my image within the court.

- *German:* Wenn ich meine Kenntnisse teile, verbessert dies mein Image an meinen Gericht.
- *French:* Le partage de mes connaissances améliore mon image au tribunal.
- *Dutch:* Door mijn kennis te delen, verbeter ik mijn imago in het gerecht.

Item 2

Sharing my knowledge improves others' recognition of me.

- *German:* Wenn ich meine Kenntnisse teile, gewinne ich mehr Anerkennung von anderen.
- *French:* Le partage de mes connaissances améliore l'idée que d'autres ont de moi.
- *Dutch:* Door mijn kennis te delen, krijg ik meer waardering van anderen.

Item 3

When I share my knowledge, my colleagues respect me.

- *German:* Wenn ich meine Kenntnisse teile, werde ich von Kollegen/Kolleginnen respektiert.
- *French:* Lorsque je partage mes connaissances, mes collègues me respecteront.
- *Dutch:* Wanneer ik mijn kennis deel, respecteren mijn collega's mij.

Item 4

People in the court who share their knowledge have more prestige.

- *German:* An unserem Gericht genießen (German)/geniessen (Swiss German) diejenigen, die ihre Kenntnisse teilen, ein höheres Ansehen.
- *French:* Les collaborateurs du tribunal qui partagent leurs connaissances ont davantage de prestige.
- *Dutch:* De personen in mijn gerecht die hun kennis delen, hebben meer aanzien.

Role overload (Bolino & Turnley, 2005)

Item 1

The amount of work I am expected to do is too great.

- *German:* Das Arbeitspensum, das von mir erwartet wird, ist zu groß (German)/gross (Swiss German).
- *French:* La quantité de travail que je suis censé faire est trop grande.
- *Dutch:* De hoeveelheid werk die ik verwacht word te doen, is te groot.

Item 2

I never seem to have enough time to get everything done at work.

- *German:* Ich habe das Gefühl, dass ich nie genug Zeit habe, an meinem Arbeitsplatz alles zu erledigen.
- *French:* Je n'ai jamais suffisamment de temps pour terminer tout mon travail.
- *Dutch:* Ik lijk nooit genoeg tijd te hebben om alles in mijn werk af te krijgen.

Item 3

It often seems like I have too much work for one person to do.

- *German:* Ich habe oft das Gefühl, das mein Arbeitspensum größer (German)/grosser (Swiss German) ist, als eine Person bewältigen kann.

- *French:* J'ai souvent l'impression d'avoir trop de travail pour une seule personne.
- *Dutch:* Ik heb vaak het gevoel dat mijn werklust groter is dan één persoon aankan.

Knowledge sharing (Van den Hooff & Huysman, 2009)

Item 1

When I have learned something new, I make sure my colleagues learn about it too.

- *German:* Wenn ich etwas Neues erlernt habe, Sorge ich dafür, dass meine Kollegen/Kolleginnen auch darüber informiert werden.
- *French:* Lorsque j'ai appris quelque chose de nouveau, je fais en sorte que mes collègues en prennent aussi connaissance.
- *Dutch:* Wanneer ik iets nieuws heb geleerd, dan zorg ik ervoor dat mijn collega's hier ook over geïnformeerd worden.

Item 2

I share information that I acquired, with my colleagues.

- *German:* Ich teile Informationen, die ich erworben habe, mit meinen Kollegen/Kolleginnen.
- *French:* Je partage les informations acquises avec mes collègues.
- *Dutch:* Ik deel de informatie die ik verworven heb met mijn collega's.

Item 3

I consider it important that my colleagues are aware of what I am working on.

- *German:* Ich halte es für wichtig, dass meine Kollegen/Kolleginnen darüber informiert sind, woran ich arbeite.
- *French:* J'estime qu'il est important que mes collègues sachent sur quoi je travaille.
- *Dutch:* Ik vind het belangrijk dat mijn collega's weten waar ik mee bezig ben.

Item 4

I regularly inform my colleagues of what I am working on.

- *German:* Ich teile meinen Kollegen/Kolleginnen regelmäßig (German)/regelmässig (Swiss German) mit, woran ich arbeite.
- *French:* Je raconte régulièrement à mes collègues sur quoi je travaille.

- *Dutch:* Ik vertel mijn collega's regelmatig waar ik mee bezig ben.

Item 5

When I need certain knowledge, I ask my colleagues about it.

- *German:* Wenn ich bestimmte Kenntnisse benötige, bitte ich meine Kollegen/Kolleginnen darum.
- *French:* Lorsque j'ai besoin de certaines connaissances, je me renseigne auprès de mes collègues.
- *Dutch:* Wanneer ik bepaalde kennis nodig heb, dan vraag ik mijn collega's hiernaar.

Item 6

I like to be kept fully informed of what my colleagues know.

- *German:* Ich möchte gern vollständig darüber informiert werden, was meine Kollegen/Kolleginnen wissen.
- *French:* J'aime être tenu pleinement informé de ce que savent mes collègues.
- *Dutch:* Ik word graag volledig op de hoogte gehouden van wat mijn collega's weten.

Item 7

I ask my colleagues about their skills when I want to learn particular skills.

-
- *German:* Wenn ich bestimmte Fertigkeiten lernen will, frage ich meine Kollegen/Kolleginnen nach ihren Fertigkeiten.
- *French:* Je pose des questions à mes collègues sur leurs compétences lorsque je souhaite acquérir des compétences particulières.
- *Dutch:* Wanneer ik bepaalde vaardigheden wil leren, dan vraag ik mijn collega's naar hun vaardigheden.

Item 8

When a colleague is good at something, I ask him/her to ~~teach~~ help me.

- *German:* Wenn eine Kollege/eine Kollegin eine besondere Stärke hat, frage ich ihn/sie um Hilfe.
- *French:* Quand un collègue excelle en une matière, je lui demande de m'aider.
- *Dutch:* Wanneer een college ergens goed in is, dan vraag ik hem/haar mij te helpen.

Overall job performance (Goh & Mealica, 1984)

In comparison to colleagues working at the same job as you, how would you rate yourself on your overall job performance?

- *German:* Wie würden Sie sich selbst – im Vergleich zu Kollegen, die dieselbe Arbeit erledigen wie Sie – einstufen im Hinblick auf Ihre gesamte Arbeitsleistung?
- *French:* Si vous vous comparez à vos collègues, comment vous évalueriez-vous en ce qui suit ?
- *Dutch:* In vergelijking met collega's die dezelfde functie als u uitoefenen, hoe zou u uw algemene werkprestatie beoordelen?

Gender

What is your gender? (Male, female)

- *German:* Was ist Ihr Geschlecht? (Männlich, Weiblich)
- *French:* Quel est votre sexe ? (Homme, femme)
- *Dutch:* Wat is uw geslacht? (Man, vrouw)

Tenure

Overall, how many years have you worked as a judge?

- *German:* Seit wie vielen Jahren arbeiten Sie insgesamt als Richter/Richterin?
- *French:* En tout, depuis combien d'années travaillez-vous comme juge ?
- *Dutch:* Hoeveel jaar werkt u al als rechter?

Age

What is your age? ..

- *German:* Was ist Ihr Alter? ..
- *French:* Quel âge avez-vous ? ..
- *Dutch:* Wat is uw leeftijd? ..

Court position

Do you have (additional) managerial responsibilities within your court (for instance as.. or as..)?

- *German:* Haben Sie (zusätzliche) leitende Verantwortlichkeiten im Gericht (z.B. als Kammervorsitzende(r) (Germany)/als Abteilungspräsident (Switzerland) oder als Gerichtspräsident(in))?
- *French:* Avez-vous des responsabilités de direction (supplémentaires) au sein de votre tribunal (par exemple, comme président ou comme vice-président) ?
- *Dutch:* Heeft u (extra) leidinggevende verantwoordelijkheden binnen uw gerecht (bijv. als teamvoorzitter of als gerechtsbestuurder)?

Legal field

In which of the following legal field(s) are you currently active?

(More than one answer can apply)

Tax, Asylum, Social security, Environment and planning, Other field(s).

- *German:* In welchem/welchen der folgenden Rechtsgebiete sind Sie derzeit tätig?
(Bitte wählen Sie alle zutreffenden Antworten aus)
Steuern, Asyl, Soziale Sicherheit, Umwelt- und Planungsrecht, Sonstige(s) Rechtsgebiete(e).
- *French:* Dans lequel des domaines juridiques suivants êtes-vous actif actuellement ?
(Choisissez toutes les réponses qui conviennent)
Fiscal, Asile, Sécurité sociale, Environnement et aménagement, Autres domaines.
- *Dutch:* In welke van de volgende rechtsgebieden bent u momenteel actief als rechter?
(Selecteer alles wat voldoet)
Belastingrecht, Vreemdelingenrecht, Sociaal zekerheidsrecht, Ruimtelijke ordeningsrecht, Ander(e) rechtsgebied(en).

Court level

In which type of court do you work? ('in a first instance court', 'in a higher or highest instance court')

- *German:* An was für einem Gericht arbeiten Sie? (An einem erstinstanzlichen Gericht, An einem höher- oder höchstinstanzlichen Gericht)
- *French:* Dans quel type de tribunal travaillez-vous ? ('Dans un tribunal de première instance', 'Dans un tribunal d'instance supérieure')
- *Dutch:* Bij welk type gerechtsinstantie werkt u momenteel? ('Bij een eerstelijns gerecht', 'Bij een hogere of hoogste gerechtelijke instantie')

Court size

How many administrative judges (counted in persons, not in FTE) are active in your court?

Not including: substitute judges, lay/honorary judges.

- *German:* Wie viele Verwaltungsrichter (oder Richter, die auch im Bereich des Verwaltungsrechts aktiv sind)(gerechnet in Personenzahl und nicht in VZÄ) sind bei Ihrem Gericht beschäftigt?
Nicht einberechnet: Laienrichter oder Ersatzrichter (Germany)/Laienrichter/Ehrenamtliche Richter oder Ersatzrichter (Switzerland).
- *French:* Combien de juges administratifs (ou de juges qui sont également actifs dans le domaine du droit administrative) (en nombre de personnes, et non en ETP) travaillent au sein de votre tribunal?
Non inclus : juges laïcs/juges assesseurs ou juges suppléants.
- *Dutch:* Hoeveel bestuursrechters (personen, niet FTE) zijn er werkzaam binnen uw gerecht?
Niet meegerekend: rechter-plaatsvervangers.

Table 4.7 – *The Netherlands: Results of a hierarchical regression analysis with knowledge sharing as the dependent variable and role overload as the moderator*

Variables	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10	Model 11
Gender	.18	.20**	.20**	.19**	.20**	.18*	.21**	.17*	.19**	.20**	.20**
Tenure	-.15	-.13	-.13	-.12	-.13	-.12	-.13	-.11	-.12	-.13	-.12
Court position	-.07	.04	.04	.05	.04	.04	.04	.04	.03	.04	.04
ICT support (IS)		.07	.07	.07	.07	.07	.06	.07	.07	.07	.06
Management support (MS)		.07	.07	.08	.07	.06	.06	.06	.06	.07	.07
Collegial closeness (CC)		.11	.11	.12	.11	.12	.10	.14	.12	.11	.12
Social trust (ST)		.26**	.26**	.27**	.26**	.27**	.26**	.25**	.27**	.26**	.27**
Shared goals (SG)		.12	.12	.12	.13	.12	.14	.13	.12	.12	.12
Enjoyment in helping others (EO)		.28***	.28***	.28**	.29***	.28***	.27**	.28***	.29***	.28***	.28***
Professional image (PI)		-.04	-.04	-.03	-.04	-.04	-.03	-.03	-.04	-.04	-.04
Knowledge self-efficacy (KSE)		.20*	.20*	.19*	.20*	.20*	.20*	.19*	.20*	.20*	.21*
Role overload (RO)		-.01	-.02	-.02	-.01	-.05	-.02	.01	-.00	-.01	-.01
IS x RO				-.08							
MS x RO					.02						
CC x RO						-.08					
ST x RO							.08				
SG x RO								-.11			
EO x RO									-.04		
PI x RO										-.00	
KSE x RO											-.03
R ²	.06	.58	.58	.59	.59	.59	.59	.60	.59	.58	.59
ΔR ²		.53	.00	.01	.00	.00	.01	.01	.00	.00	.00
F	2.36	13.66***	12.41***	11.65***	11.37***	11.54***	11.63	11.85***	11.41***	11.34***	11.38***
ΔF		16.92***	.01	1.64	.12	1.07	1.57	2.76	.38	.00	.20

N = 120; *p < .05; **p < .01; ***p < .001.

Table 4.8 – Germany: Results of a hierarchical regression analysis with knowledge sharing as the dependent variable and role overload as the moderator

Variables	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10	Model 11
Gender	.18*	.17**	.17**	.17**	.18**	.17**	.18**	.17**	.18**	.16**	.17**
Tenure	-.00	-.01	-.01	-.01	-.02	-.01	-.01	-.01	-.01	-.01	-.01
Court position	-.13	-.04	-.04	-.04	-.04	-.04	-.04	-.04	-.05	-.04	-.04
ICT support (IS)		.04	.04	.04	.03	.04	.04	.04	.04	.04	.04
Management support (MS)		.02	.02	.02	.01	.03	.03	.02	.02	.02	.02
Collegial closeness (CC)		.17**	.17**	.18**	.18**	.17**	.18**	.18**	.18**	.17**	.18**
Social trust (ST)		.19**	.19**	.19**	.19**	.19**	.18**	.19**	.19**	.19**	.19**
Shared goals (SG)		.25***	.25***	.25***	.24***	.25***	.25***	.24***	.25***	.25***	.24***
Enjoyment in helping others (EO)		.06	.06	.06	.06	.06	.05	.06	.04	.06	.06
Professional image (PI)		.07	.07	.07	.07	.07	.05	.07	.06	.08	.07
Knowledge self-efficacy (KSE)		.18*	.18*	.18*	.19*	.19*	.20**	.18*	.21**	.17*	.18*
Role overload (RO)		-.00	-.00	-.00	.00	.01	-.01	-.01	.00	-.00	-.01
IS x RO				-.01							
MS x RO					-.05						
CC x RO						-.04					
ST x RO							-.11*				
SG x RO								-.04			
EO x RO									-.08		
PI x RO										.03	
KSE x RO											-.05
R ²	.04	.44	.44	.44	.45	.45	.46	.45	.45	.44	.45
ΔR ²		.41	.00	.00	.00	.00	.01	.00	.01	.00	.01
F	2.83*	15.22***	13.88***	12.76***	12.87***	12.82***	13.37***	12.84***	13.05***	12.80***	12.85***
ΔF		19.16***	.00	.03	.83	.46	4.49*	.60	2.15	.36	.73

N = 235; *p < .05; **p < .01; ***p < .001.

Table 4.9 – Switzerland: Results of a hierarchical regression analysis with knowledge sharing as the dependent variable and role overload as the moderator

Variables	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10	Model 11
Gender	-.07	-.07	-.03	-.01	-.03	-.03	-.03	-.03	-.06	-.06	-.03
Tenure	-.03	.03	.02	.03	.02	.02	.02	.02	.04	.03	.00
Court position	.11	.11	.10	.11	.11	.10	.10	.10	.08	.13	.10
ICT support (IS)	-.13	-.13	-.13	-.12	-.12	-.12	-.13	-.13	-.16	-.15	-.13
Management support (MS)	.12	.13	.13	.15	.13	.12	.13	.13	.15	.13	.14
Collegial closeness (CC)	.04	.04	.04	.03	.03	.02	.04	.04	.09	.04	.06
Social trust (ST)	.34*	.37**	.37**	.38**	.38**	.40**	.37**	.38**	.26	.32*	.29*
Shared goals (SG)	.11	.10	.10	.09	.10	.09	.10	.09	.12	.12	.13
Enjoyment in helping others (EO)	.28*	.27*	.27*	.27*	.27*	.28*	.26*	.28*	.28*	.24*	.19
Professional image (PI)	-.13	-.15	-.15	-.15	-.16	-.16	-.15	-.16	-.12	-.13	-.11
Knowledge self-efficacy (KSE)	.11	.12	.12	.11	.12	.13	.12	.12	.06	.14	.14
Role overload (RO)			-.16	-.14	-.15	-.15	-.17	-.16	-.16	-.19*	-.11
IS x RO			.11								
MS x RO					.05						
CC x RO						.07					
ST x RO							-.02				
SG x RO								.03			
EO x RO											
PI x RO									-.19*		
KSE x RO										-.14	
R ²	.02	.44	.47	.48	.47	.47	.47	.47	.49	.48	.49
ΔR ²	.43	.02	.01	.00	.00	.00	.00	.00	.03	.01	.02
F	.47	5.35***	5.32***	5.04***	4.88***	4.92***	4.85***	4.86***	5.42***	5.12***	5.25***
ΔF	7.07***	3.22	1.37	1.37	.29	.54	.03	.12	4.01*	1.93	2.85

N = 92; *p < .05; **p < .01; ***p < .001.

Table 4.10 – First instance courts: Results of a hierarchical regression analysis with knowledge sharing as the dependent variable and role overload as the moderator

Variables	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10	Model 11
Gender	.17*	.19**	.19**	.18**	.19**	.18**	.19**	.19**	.19**	.19**	.19**
Tenure	.08	.09	.10	.10	.09	.10	.09	.10	.10	.09	.09
Court position	-.13	-.08	-.07	-.07	-.08	-.07	-.08	-.07	-.09	-.07	-.08
ICT support (IS)		-.01	-.01	-.01	-.01	-.01	-.01	-.02	-.02	-.01	-.01
Management support (MS)		-.02	-.02	-.02	-.02	-.02	-.01	-.02	-.02	-.02	-.02
Collegial closeness (CC)		.12	.11	.11	.12	.11	.10	.11	.11	.11	.12
Social trust (ST)		.28***	.28***	.28***	.28***	.28***	.27***	.28***	.27***	.28***	.28***
Shared goals (SG)		.15*	.15*	.15*	.15*	.15*	.16*	.15*	.15*	.15*	.15*
Enjoyment in helping others (EO)		.16**	.16*	.16*	.16*	.16*	.16*	.16*	.16*	.16*	.16*
Professional image (PI)		.05	.05	.05	.05	.05	.02	.04	.03	.05	.05
Knowledge self-efficacy (KSE)		.18**	.18**	.18**	.18**	.18**	.20**	.18**	.19**	.18**	.18**
Role overload (RO)		.02	.02	.02	.02	.03	.02	.01	.03	.02	.02
IS x RO				.02							
MS x RO					-.03						
CC x RO						-.02					
ST x RO							-.11*				
SG x RO								-.08			
EO x RO									-.09		
PI x RO										-.00	
KSE x RO											-.04
R ²	.04	.42	.42	.42	.42	.42	.43	.43	.43	.42	.42
ΔR ²	.38	.00	.00	.00	.00	.00	.01	.01	.01	.00	.01
F	3.35*	15.51***	14.18***	13.05***	13.07***	13.05***	13.64***	13.36***	13.47***	13.03***	13.11***
ΔF	19.31***	.17	.15	.25	.17	.17	4.60*	2.45	3.28	.00	.61

N = 263; *p < .05; **p < .01; ***p < .001.

Table 4.11 – Higher instance courts: Results of a hierarchical regression analysis with knowledge sharing as the dependent variable and role overload as the moderator

Variables	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8	Model 9	Model 10	Model 11
Gender	.07	.03	.05	.04	.04	.05	.05	.05	.04	.05	.06
Tenure	-.07	-.08	-.08	-.08	-.08	-.08	-.08	-.08	-.08	-.08	-.08
Court position	.04	.11	.11	.11	.11	.12	.10	.11	.11	.10	.12*
ICT support (IS)	.06	.06	.05	.05	.04	.04	.05	.04	.04	.05	.04
Management support (MS)	.21**	.21**	.18**	.18**	.18**	.19**	.18**	.18**	.19**	.18**	.19**
Collegial closeness (CC)	.27***	.27***	.28***	.28***	.28***	.29***	.27***	.28***	.29***	.27***	.30***
Social trust (ST)	.19*	.19*	.19*	.19*	.19*	.19*	.19*	.18*	.18*	.19*	.18*
Shared goals (SG)	.06	.09	.08	.08	.08	.09	.09	.09	.08	.08	.08
Enjoyment in helping others (EO)	.17*	.17*	.16*	.17*	.17*	.18*	.17*	.16*	.17*	.17*	.14*
Professional image (PI)	-.11	-.13	-.13	-.13	-.13	-.13	-.13	-.12	-.12	-.14	-.12
Knowledge self-efficacy (KSE)	.18*	.19*	.19*	.19*	.19*	.19*	.20*	.19*	.19*	.20*	.21**
Role overload (RO)			-.16**	-.16**	-.16**	-.18**	-.16**	-.16**	-.16**	-.16*	-.15**
IS x RO				-.07							
MS x RO					-.04						
CC x RO						-.09					
ST x RO							.02				
SG x RO								-.04			
EO x RO									-.06		
PI x RO										.03	
KSE x RO											-.13*
R ²	.01	.51	.53	.54	.54	.54	.53	.53	.54	.53	.55
ΔR ²	.50	.02	.00	.00	.00	.01	.00	.00	.00	.00	.02
F	.81	15.79***	15.79***	14.73***	14.59***	14.93***	14.52***	14.56***	14.71***	14.54***	15.41***
ΔF	21.14***	8.24**	1.44	.61	2.69	.16	.44	1.36	.33	5.57*	

N= 184; *p < .05; **p < .01; ***p < .001.

Table 4.12

The Netherlands: Results of a hierarchical regression analysis with overall job performance as the dependent variable

Variables	Model 1	Model 2
Gender	-.08	-.11
Tenure	.01	.03
Court position	-.04	-.03
Knowledge sharing		.14
R ²	.01	.03
ΔR ²		.02
F	.39	.82
ΔF		2.11

N = 120.

Table 4.13

Germany: Results of a hierarchical regression analysis with overall job performance as the dependent variable

Variables	Model 1	Model 2
Gender	-.01	-.03
Tenure	.06	.06
Court position	-.32***	-.30***
Knowledge sharing		.10
R ²	.12	.13
ΔR ²		.01
F	9.87***	8.08***
ΔF		2.51

N = 235; ****p* < .001.

Table 4.14

Switzerland: Results of a hierarchical regression analysis with overall job performance as the dependent variable

Variables	Model 1	Model 2
Gender	.04	.04
Tenure	-.01	-.01
Court position	-.17	-.17
Knowledge sharing		-.01
R ²	.03	.03
ΔR ²		.00
F	.79	.58
ΔF		.00

N = 92.

Appendix D

Table 4.15

First instance courts: Results of a hierarchical regression analysis with overall job performance as the dependent variable

Variables	Model 1	Model 2
Gender	-.03	-.04
Tenure	.06	.05
Court position	-.25***	-.24***
Knowledge sharing		.05
R ²	.08	.09
ΔR ²		.00
F	7.30***	5.61***
ΔF		.58

N = 263; ****p* < .001.

Table 4.16

Higher instance courts: Results of a hierarchical regression analysis with overall job performance as the dependent variable

Variables	Model 1	Model 2
Gender	.03	.03
Tenure	.01	.02
Court position	-.14	-.14
Knowledge sharing		.11
R ²	.02	.03
ΔR ²		.01
F		2.30
ΔF	1.16	1.45

N = 184.

Samenvatting

Afzonderlijk samenwerken: een kwantitatieve studie over het kennisuitwisselingsgedrag van rechters

Rechters zijn kenniswerkers bij uitstek. Zonder goede en actuele kennis kunnen rechters niet de kwaliteit leveren die van hen verlangd wordt. Echter, de kennis van individuen – en dus ook van rechters – is per definitie beperkt. Daarnaast is de kennis van elk individu uniek. Om als organisatie optimaal te kunnen profiteren van de reeds beschikbare kennis in de organisatie is het van belang dat individuen hun kennis niet voor zichzelf houden, maar onderling uitwisselen.

Er wordt door rechtszoekenden niet alleen belang gehecht aan de kwaliteit van de rechterlijke uitspraak, maar ook aan de kwaliteit van de geleverde service door rechters. Geïnspireerd door de manier van denken in de private sector waarbij de wensen van de klant centraal staan, is ook de subjectieve beleving van rechtszoekenden belangrijk geworden (user-based approach to quality). Het kunnen leveren van een kwalitatief goed product (de uitspraak) en een kwalitatief goede service (proces rondom de uitspraak) vraagt om de inzet van zeer uiteenlopende vaardigheden van rechters. Collegiale kennisuitwisseling (tussen rechters onderling en met andere collega's in het gerecht) is niet alleen een goede manier om juridisch inhoudelijke issues te bespreken, maar ook om praktische kennis en ervaringen met elkaar te delen (zie Table 2.1). In dit boek worden twee functies van collegiale kennisuitwisseling onderscheiden: het overbruggen van inhoudelijke afhankelijkheden tussen rechters (uniforme rechtstoepassing) en het uitwisselen van 'best practices'.

Kennisuitwisseling is geen nieuw fenomeen voor rechters. Toch is er nog weinig bekend over het kennisuitwisselingsgedrag van rechters. Rechters zijn in hun werk strikt gebonden aan de wet. Ook moeten rechters zonder druk van anderen een uitspraak kunnen doen. Rechters kunnen slechts in beperkte mate aangestuurd ('gemanaged') worden. De vraag is hoe in deze context collegiale kennisuitwisseling gestimuleerd kan worden.

De onderzoeksvraag is als volgt geformuleerd:

Welke factoren beïnvloeden het kennisuitwisselingsgedrag van professionele bestuursrechters in Zwitserland, Duitsland en Nederland, en wat is de impact van het kennisuitwisselingsgedrag van rechters op de (zelf-beoordeelde) algehele werkprestaties?

Omdat dit onderzoek deel uitmaakt van een Zwitsers project over court management, is Zwitserland gekozen als één van de onderzochte landen. De andere twee landen zijn gekozen, omdat zij de nodige variatie op een aantal relevante punten vertonen, maar ook goed vergelijkbaar zijn met Zwitserland door de overeenkomstige civil law traditie (zie Table 3.1). Professionele bestuursrechters vormen slechts een deel van de populatie rechters in de drie onderzochte landen. Toch kunnen de resultaten van deze studie dienen als een ‘building block’ voor toekomstige studies over het kennisuitwisselingsgedrag van rechters.

In deze studie wordt uitgegaan van wederzijdse kennisuitwisseling. Dit betekent dat kennisuitwisseling bestaat uit twee actieve processen: het doneren van kennis en het verzamelen van kennis. Tijdens het onderling uitwisselen van kennis met collega’s kan de rechter voortdurend wisselen van rol: van kennisdonateur naar kennisverzamelaar en vice versa. Kennisuitwisseling is een breed en veelgebruikt begrip. Alleen door dit begrip sterk af te bakenen is het mogelijk om op basis van kwantitatieve data betekenisvolle uitspraken over het kennisuitwisselingsgedrag van rechters te doen. De volgende zaken worden in dit boek daarom nader toegelicht: collegiale kenniswisseling versus collegiale besluitvorming (meervoudige kamer), kennis uitwisselen versus het geven en ontvangen van feedback, individueel leren versus collectief leren, informatie versus kennis, expliciete kennis versus impliciete kennis, en het verschil tussen vier vormen van kennisomzetting.

Op basis van een uitgebreid literatuuronderzoek is er een onderzoeksmodel opgesteld (zie Figure 2.3). Er zijn in totaal zeventien hypothesen geformuleerd (zie Table 4.6). De dataverzameling heeft plaatsgevonden door middel van het uitzetten van een grootschalige online enquête onder rechters. Aan het onderzoek hebben 20 Zwitserse gerechten, 21 Duitse gerechten en 18 Nederlandse gerechten meegedaan. In totaal hebben 447 rechters de enquête volledig ingevuld. Internationaal vergelijkend survey-

onderzoek is nog steeds vrij zeldzaam in deze context. Dit is niet verrassend wanneer men beseft dat elk land een eigen rechtsstelsel en eigen inrichting van de rechterlijke organisatie kent. De gebruikte terminologie verschilt daardoor sterk per land. Dit maakt het lastig om eenzelfde vragenlijst te ontwerpen voor rechters uit verschillende landen. In dit onderzoek is gekozen voor het vermijden van termen die specifiek zijn voor een bepaald land of voor een bepaalde taal. Om ervoor te zorgen dat de verschillende stellingen in de vragenlijst op eenzelfde manier geïnterpreteerd zouden worden door rechters uit de onderzochte landen, is de vertaalde vragenlijst beoordeeld door rechters uit Nederland, Duitsland en Zwitserland alvorens de vragenlijst per e-mail aan de respondenten is verspreid. De bronvragenlijst is Engelstalig. Deze is vervolgens vertaald naar het Nederlands, het Duits en het Frans (zie Appendix C).

Voor het analyseren van de kwantitatieve gegevens zijn statistische methoden gebruikt. De uitgevoerde analyses hebben een aantal interessante inzichten opgeleverd. Zo blijkt dat rechters zichzelf zien als redelijk actieve kennisdelers. Ook scoren rechters zichzelf gemiddeld vrij hoog op de schaal van algehele werkprestaties. Er zit relatief weinig verschil tussen de verschillende scores van rechters uit Zwitserland, Duitsland en Nederland en tussen de scores van rechters die werkzaam zijn in een eerstelijns gerecht of een hogere of hoogste gerechtelijke instantie (zie Table 4.2 en Table 4.3). Een hiërarchische regressieanalyse laat overtuigend zien dat vertrouwen in elkaar (*social trust*) de belangrijkste factor is voor het kennisuitwisselingsgedrag van rechters. Ook andere sociale factoren blijken een belangrijke rol te spelen (*collegial closeness* en *shared goals*). Het plezier hebben in het helpen van anderen (*enjoyment in helping others*) en de eigen overtuiging over de mate van persoonlijke kennis (*knowledge self-efficacy*) hebben ook een direct positief effect op het kennisuitwisselingsgedrag van rechters (zie Table 4.4). De variabelen *ICT support* en *management support* laten geen direct positief verband zien. Verder blijkt dat het gevoel meer werk dan beschikbare tijd te hebben (*role overload*) geen invloed te hebben op de relatie tussen de ‘enablers’ in het onderzoeksmodel en het kennisuitwisselingsgedrag van rechters. Ook blijkt de veronderstelde relatie tussen het kennisuitwisselingsgedrag van rechters en de algehele werkprestaties van rechters niet ondersteund te worden door de data (zie Table 4.5).

Additionele analyses laten verder zien dat er een significant verschil bestaat tussen het kennisuitwisselingsgedrag van mannelijke en vrouwelijke rechters. Vrouwelijke rechters scoren hierbij hoger. Geslacht blijkt echter

geen invloed te hebben op de relatie tussen *social trust* en *knowledge sharing behaviour* en de relatie tussen *collegial closeness* en *knowledge sharing behaviour*. Additionele analyses laten ook zien dat het wel of niet hebben van management-gerelateerde verantwoordelijkheden in het gerecht (*court position*) geen invloed heeft op de relatie tussen de gepercipieerde mate van *management support* en het kennisuitwisselingsgedrag van rechters.

De inzichten die de statistische analyses hebben opgeleverd, geven aanleiding tot een verdere discussie van de resultaten. In hoofdstuk 5 zijn de resultaten dan ook uitvoerig besproken. Hierbij wordt onder andere ingegaan op mogelijke verklaringen voor de onderzoeksresultaten, zoals het ontbreken van grote verschillen tussen de drie onderzochte landen. Ook wordt er aandacht besteed aan de beperkingen van het huidige onderzoek, zoals rechters die hun eigen algehele werkprestaties beoordelen. De beperkingen van het huidige onderzoek worden direct gekoppeld aan suggesties voor toekomstig onderzoek. Naast de theoretische implicaties van de onderzoeksresultaten wordt er uitvoerig ingegaan op een aantal praktische aanbevelingen. Er wordt onder andere aandacht besteed aan een effectief gebruik van ICT systemen voor kennisuitwisseling op de werkvloer en aan het creëren van een werkomgeving die creatief denken en het vinden van innovatieve oplossingen bevordert.

Curriculum Vitae

Sandra Taal was born in 1986 in The Hague, the Netherlands. She studied Public Administration at Leiden University from 2004 until 2011. As an undergraduate, Sandra took additional Political Science courses at Stockholm University in Sweden. After receiving her Bachelor's degree, she enrolled in Leiden University's Public Administration Research Master: Institutional Change and Reform. In the final year of her Master's studies she conducted an independent field study in Botswana to examine the position of ethnic minorities in that country. The title of her Master's thesis was 'Ethnic Social Movements in Botswana: Recognition versus Redistribution'. From 2012 until 2016 Sandra worked on her PhD thesis on the knowledge sharing behaviour of professional administrative law judges in Germany, Switzerland and the Netherlands. During this period she was involved as a researcher in the Swiss Sinergia research project on court management: Grundlagen guten Justizmanagements in der Schweiz. She authored and co-authored a number of articles that were published in academic journals. She taught courses on the sociology of law and the foundations of law. Sandra is currently working as an information management professional at PBLQ.

