

QUESTIONNAIRE

HOW CAN THE APPOINTMENT AND ASSESSMENT (QUALITATIVE AND QUANTITATIVE) OF JUDGES BE MADE CONSISTENT WITH THE PRINCIPLE OF JUDICIAL INDEPENDENCE

Country: Portugal

1. In Portugal there are no assessments on the occasion of the appointment to another position or function. Promotion or appointment to other courts is based on the merit (result of the regular assessments) and the time of service.
2. Usually, there are assessments every four years while on courts of first instance. On appeal courts the assessments are made when asked by judges that can apply for the Supreme Court or by initiative of the High Judicial Council.
3. The High Judicial Council is in charge of the assessment of judges.
4. The inspector nominated by the High Judicial Council evaluates the judge's work by consulting the processes on his charge. The inspection takes place in the court-place.
5. In Portugal there is not ruling which set up how many cases should be solved by each judge in one year, even though the assessment has a quantitative character. According to the law, it shall be considered, among other quantitative items, the number of cases undertaken by the judge, the number of files completed, if the judge respects time limits in delivering decisions, number of trials per day, number of appeals, the time of service and the number (and results) of previous assessments.
6. The assessment has also a qualitative character. According to the law, it shall be considered, among other items, the nature and the difficulties of the cases undertaken by the judge, the ability to simplify the proceedings, the work conditions, the technical preparation, the management of the agenda and global service, the individual capacity, publications on legal matters and civic integrity.
7. Only the number of cases plays an important role in the assessment, and not the outcome of the cases.
8. The duration of a case dealt with by a judge is an item which is considered in the assessment, when the judge does not finish the case in a reasonable time.

9. Judges are not directly assessed while sitting in court. Beyond the assessment based on the analysis of the processes dealt with by the judge (see answer to previous questions), the only way judges can be assessed, while sitting in court, is by hearing the records of the trial, when available.
10. The progression on the judge's career depends on the results of the assessments (the time of service is also considered). A judge with a favourable assessment may be promoted to a more senior post or a higher court in preference to a judge with longer service. A judge whose assessment in "unsatisfactory" is suspended from his functions while an inquiry on his aptitude is made.
11. No.
12. No. The High Judicial Council of Judges is an independent organism from political and other authorities.
13. The judge's appointment to superior courts.