

Answers of the Portuguese Association of Judges to the questionnaire of the 1st Study Commission - 48th Reunion

1. New public management

No integrated initiative of NPM is in action or foreseen in Portugal. The issue of benchmarking is usually connected with the program to dematerialize the process (to be finish in 2009), providing on-line access for the High Council for the Judiciary and enabling better control of workload/effectiveness.

2. Costs

2.1. Professional judges

Total of 1671 judges, including all jurisdictions¹.
Ratio of 16 judges per 100 000 inhabitants;

2.2. Budget of the judiciary

Portugal has no consolidated budget for the Judiciary. Only the Supreme Court, Appellate Courts and General Public Prosecutor's Office have financial autonomy. On first level of jurisdiction, there are budgets for the payments and minor acquisitions of each court, separate general budget for large territorial areas and different departments involved in the payment of salaries of magistrates (judges and public prosecutors) and court staff. However, some of those budgets include services that are not part of the Judiciary (public notaries and official civil and criminal records).

Therefore, I was unable to establish, until the deadline for this report, a reliable figure that indicates the part of the Judiciary, as a system, on the annual national budget.

If one takes the Ministry of Justice, as a whole (including all services, prisons system, judiciary police, etc), the part of national expenses² was:

1995	1,0%
1996	1,1%
1997	0,8%
1998	0,8%
1999	1,0%
2000	1,1%

¹ Source: GDLP (December 2003). Data from the High Council for the Judiciary and the High Council for the Administrative and Fiscal Courts concerning the year 2005 remains unavailable.

² Source: approved national account, except for the present year.

2001	1,1%
2002	1,4%
2003	1,3%
2004	1,2%
2005	1,2% (budget)

On the other hand, if we consider the figures given to CEPEJ of Council of Europe by the Portuguese Government, concerning the period 1999-2002, the part of the Judiciary on national expenses was:

1999	0,7%
2000	0,9%
2001	0,9%
2002	0,8%

There is no fixed percentage for the part of the Judiciary on national budget.

There were no specific measures to reduce cost on the Judiciary, other then increasing measures to reduce public deficit, during the period of 1995-2005.

3. *Privatisation of the judiciary*

Other than the ability to use arbitration courts by convention of the involved parties or legal imposition, and mediation, mainly in family issues, the tendency is to reduce the conflicts that demand a jurisdictional response.

Therefore, several infractions that were crimes passed to a non-criminal category of infractions, enabling administrative punishment, with appeal to the criminal courts.

However, since voluntary private arbitration is very expensive, the constitution of an arbitration court to a specific dispute is not frequent.

No initiative to constitute “private courts” or “hire a judge” was ever presented.

4. *Remuneration*

Remuneration is not at all dependant of performance.

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