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# Initial training of judges and prosecutors in the European Union

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Portugal

## General description

Initial training for judges (judicial courts and administrative and tax courts) and public prosecutors (PP's) is provided by a national institution, the CEJ (Centre for Judicial Studies). It is the only institution with this mission. Among other competencies, CEJ is also responsible for promoting legal and judicial training aimed at lawyers, solicitors and agents from other professional justice sectors.

For initial training there are two categories of trainees: trainees to become judges or prosecutors from ordinary courts and tribunals, and trainees to become judges from administrative and tax courts. The recruitment to these two categories is different on substance and on procedure, but in general the competitions run at the same time.

Trainees are called *auditores de justiça*.

Initial training is mandatory.

The mandatory nature of this training is provided for in the both the rules stated in the statutes for judges (see Article 40 d) of the *Estatuto dos Magistrados Judiciais* (EMJ – Judiciary Statute)) and for public prosecutors (see Article 146 d) of the *Estatuto do Ministério Público* (EMP – Public Prosecution Statute)). In both legal texts it states that the successful attendance of training courses or internships a requirement to enter the judiciary or the Public Prosecution Service.

Since its creation in 1979, the CEJ already trained 4891 judges and prosecutors. Currently, 135 trainees (40 judges and 65 PP's for ordinary courts, and 30 judges for administrative and tax courts) are busy with the initial stage (first year) of the training course that lasts for almost three years. A similar number are now at the second stage.

Currently there are two competitions for the admission of approximately 130 trainees to the CEJ (*auditores de justiça*). The competitions are for judges and PPs of ordinary courts and judges of administrative and tax courts.

## Access to the initial training

Entry into the training of judges and public prosecutors is done through public tender, published in the *Diário da República* (DR) and involves various selection methods.

The public tender is announced by the Director of CEJ. It aims to fill vacancies in judicial courts (judges and public prosecutors) or to fill vacancies for judges in administrative and tax courts (TAF).

Those who are interested can apply in two ways:

*Academic qualification* – the applicant shall hold a degree in Law for five years or less, provided that it is

complemented, in this case, by a Masters or PhD in the field of Law obtained at a Portuguese university, or by equivalent academic degrees recognized in Portugal (article 5(b) of Law n.º 2/2008, of 14 January, in conjunction with article 40(c) of the *Estatuto dos Magistrados Judiciais* (EMJ – Judiciary Statute) and article 146(c) of the *Estatuto do Ministério Público* (EMP – Public Prosecution Statute));

*Professional experience* – the applicant shall meet the requirement for the academic path, plus have professional experience, in the forensic area or in other related areas, relevant to the exercise of the functions of a magistrate, with an effective duration of not less than five years.

In addition, to be admitted to the contest, the applicant must:

- be a Portuguese citizen or a citizen of Portuguese-speaking States with permanent residence in Portugal, with a recognised right to exercise the functions of a magistrate under the terms of the law and under conditions of reciprocity;
- meet the other general requirements for the provision of public functions.

In competitions to fill vacancies in the judicial courts, for each magistracy (judicial and the Public Prosecutor's Office), an admission quota of 25% is reserved for each of the two admission routes.

In the competition to fill vacancies for TAF judges, an admission quota of 25% is reserved for each of the two admission routes.

Candidates are selected by the following methods, all of which are eliminatory:

- written phase
- oral phase
- a Selection psychological exam.

## Format and content of the initial training

The initial training of magistrates (judges and public prosecutors) for all courts comprises a theoretical-practical training course, organized in two successive cycles, and an internship (*estágio*).

The 1st cycle of the theoretical-practical training course takes place at CEJ headquarters, without prejudice to short-term interim internships in the courts. This cycle begins on the 15th of September following the entrance exam and ends on the 15th of July of the following year.

The 2nd cycle of the theoretical-practical training course takes place in the courts of law for within the scope of the chosen profession (judges or public prosecutors) For PPs also Prosecution Service Departments. It starts on 1 September following the end of the 1st cycle and ends on 15 July of the following year.

The internship (*estágio*) also takes place in the courts, within the scope of the chosen judiciary. It starts on 1 September following the end of the 2nd cycle and ends on 15 July of the following year.

These time-frames can be changed by law and sometimes are to respond to urgency needs.

The theoretical-practical training course has as its fundamental objectives to provide trainees with the development of qualities and the acquisition of technical skills for the exercise of the functions of a judge in judicial courts and in administrative and tax courts and as a public prosecutor.

The CEJ training activities are delivered in the 1st cycle at CEJ, by lecturers from civil, criminal, labour, family, administrative and tax jurisdictions and external trainers.

The initial training activities are developed according to a Study Plan prepared in advance by the Director and is subject to approval by the Pedagogical Council of the CEJ. This council, chaired by the director of the CEJ, comprises representatives of the Superior Councils of the Judiciary, Public Prosecution Service, lecturers of CEJ, Bar Association and Parliament. One of its main competences is to approve the study plan for theoretical-practical training courses.

During the theoretical and practical stages, training is supported by an online e-learning platform (Moodle) and

all training documentation and essays are managed via that platform.

The study plan comprises matters of:

- *general training* (Fundamental Rights and Constitutional Law; Ethics and Deontology; Judicial Organization; Methodology and Legal Language; Information and Communication Technologies; Case law of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) on fundamental rights; Organization and Methods of Case Management; Foreign Languages (legal approach, English language is the chosen);
- *specialized training* (European and International Law; Competition Law; Accounting and Management; Forensic Psychology and Forensic Sociology; Environment and Urban Law; Electoral Law; Public procurement; Non-contractual Liability of the State and for trainees of administrative and tax courts Substantive and Procedural Administrative Law; Forensic Medicine; Criminal Investigation and Inquiry Management; and
- *professional training* to ordinary courts (Civil and Commercial Law and Civil Procedure; Criminal Law and Criminal Procedure; Family and Children's Law; and Labour Law) and to administrative and tax courts (Administrative Law and Administrative Procedure; Tax Law and Tax Procedure; Civil Law and Civil Procedure).

Training classes and activities run in working groups (around 15 trainees each) according the methodology as follows:

- Case discussion;
- Case law discussion;
- Presentations by trainees;
- Mock Trials;
- Study visits (e.g., Supreme Courts, Prosecutor General's Office, prisons, police departments, foster care institutions, etc);
- Research activities;
- Conferences and workshops; and
- "Mid-term" traineeship up to four weeks (taking place in courts).

In the 2nd cycle and in the traineeship phase in the courts, training activities are delivered by regional coordinators of the judiciary, the Public Prosecutor's Office and the TAF and by magistrates who train the judiciary, the Public Prosecutor's Office and the TAF.

## Termination of the initial training and qualification process

The trainees enter the CEJ ranked with the score of the entrance exam tests.

This graduated list serves only as a tie-breaking factor in the attribution of the assessment grades in the end of the 1st and 2nd phases (Article 47, paragraph 1, 1st part, and 57, paragraph 2, of the [Law No. 2/2008, of January 14th](#) (consolidated version).

This assessment of trainees is carried out by the CEJ. This is done according to the global assessment model and take the following into account:

- the performance throughout the 1st and 2nd phases of the training period;
- all the work carried out;
- the performance of the trainees;
- the evolution of the training activities.

The final grade of the 2nd cycle is weighted, with the grade of the 1st cycle being 40% and that of the 2nd cycle 60%.

Trainees with a score of at least 10 out of 20, are appointed by the respective superior council as intern judge (*juiz estagiário*) or intern public prosecutor (*procurador da República estagiário*) They benefit from the professional status of judge or prosecutor, with the respective rights and duties, but will be assisted by a tutor during this process.

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