

Council of Europe Co-Operation Programme to strengthen the Rule of Law

1st meeting of the Bureau of the European Network for the Exchange of Information between Persons and Entities responsible for the Training of Judges and Public Prosecutors

(LISBON NETWORK)

(Web site of the Lisbon Network: www.coe.int/lisbon-network)

Palais de l'Europe (Room 7) Strasbourg, 16 (10h00) – 17 (13h00) December 2004

QUESTIONNAIRE "B" ON THE ROLE OF TRAINING INSTITUTIONS IN RECRUITMENT AND INITIAL TRAINING OF JUDGES AND PROSECUTORS

Questionnaire "B" on the role of training institutions in recruitment and initial training of judges and prosecutors¹

I. What are the ways of acceding (and the respective related procedures) to the functions of judge and prosecutor (examination, selection based on a file, etc..)?

After a quadrennial training the trainer has to pass a written examination in civil and criminal law (writing court-decision) and an oral examination by a committee (President of Court of Appeal, a civil judge of the Court of Appeal, a judge in criminal matters of the Court of Appeal (or prosecutor), a university law-professor and a lawyer) in civil law, criminal law and administrative law front of a committee. For the function of a judge he/she then has to apply for a vacant position. If there are more than one applicant the personnel senate (a judicial body) has to rank them. The proposal is send to the Federal Ministry of Justice. The Minister of Justice appoints the judge.

II. How, following which periodicity and by whom is the assessment of vacancies to be filled done?

In principle the assessment of vacancies for future judges is according to requirements. In the past years it was average twice to thrice per year in each of the four concerned Courts of Appeal. They are selected by the

particular President of the Court of Appeal and the Federal Ministry of Justice. The judges are selected by the personnel senate of the relevant Court and the Federal Ministry of Justice.

III. What are the bodies which proceed to the selection of the candidates to the initial training for the function of judge or prosecutor? According to the way of acceding to the function of judge or prosecutor (cf. question I. above), please specify: a) the qualification of the persons proceeding to the selection: members of these selection bodies are they: i) exclusively judges and prosecutors? ii) in majority judges and prosecutors? iii) in majority persons who are neither judge nor prosecutor? and b) the selection procedure; do members of these selection bodies benefit from a specific training, for instance in the field of assessment techniques? If so, please give details;

The selection bodies are the four presidents of the Courts of Appeal, who make their proposals, and the Federal Ministry of Justice.

a) All the members of the selection bodies are judges or prosecutors except the Minister of Justice – he/she could not be active judge or prosecutor.

b) The Presidents of the Court of Appeal are responsible for the selection of the candidates in their regions. They propose the best candidates to the Minister of Justice for the appointment as a 'future judge'. This proposal does not bind the Minister of Justice, but normally only these persons proposed are appointed.

IV. What qualifications are requested from candidates (university degrees, previous professional experience)?

- university degree in Laws
- judicial internship (for nine months)

V. In the case of a selection done by way of an examination, what are the selection modalities (multiple choice questionnaire, written and oral examinations, psychological tests, etc...)?

The Modalities are slightly different in the regions of the four Courts of Appeal. There are written and oral examinations, a psychological test, a personal interview in front of a committee and a physical examination.

VI. What is the value of passing of initial examination (access to initial training as a tool for further selection, or as a tool to begin the professional career)?

The initial examination is a tool to begin the professional career as a future judge (trainee).

What are the consequences on curricula and assessment of training?

VII. Please give information on:

a) the framework of initial training;

The four Courts of Appeal are responsible for the initial training of their future judges. The trainees get an on-the-job practical training during the quadrennial training where they can gain experience for the practical work as a judge at several courts and judicial areas (courts of first and second instance, civil courts, criminal courts, prosecution offices etc.) while being assigned to different judges. In addition the future judges have at least once a month seminars concerning specific legal matters as civil law, criminal law, commercial law, family law, procedural law, EU-law etc. The future judge obtains a regular salary during the whole time of training.

b) the duration of initial training;

four years

c) the qualification and the selection of trainers;

As already said, most of the trainers are judges or prosecutors. In some cases other legal experts act as trainers as well as lawyers and university professors. In other areas, especially in the field of professional skills, experts from the respective professions are chosen as trainers.

They are selected by the judge of the Court of Appeal, who is responsible for training matters.

d) the method used in initial training (seminars, training periods in a jurisdiction, training period in other places, period of the curriculum during which these training periods take place);

(see also VII a) During all four years the future judges get practical training (on-the-job training). Every two to three months he/she rotates to another court or to another working field. Since 1988 the future judges have to attend a training period of 5 months at a lawyer's office. At least once a month he or she has to attend a theoretical seminar. In the most cases these seminars last one or two days, in some cases they last for one week.

e) the content of the initial training programmes² and its link with university curricula;

There is no link with university curricula. The training programme offers regularly seminars concerning all relevant specific legal matters (civil law, criminal law, commercial law, family law, procedural law, EU-law, etc.)

VIII. Is there an exit examination? If so, what is the value of this exit examination? Please give details about the methods of selection, the selection bodies and their membership;

After the training the future judge has to pass a written and oral examination in civil and criminal law and an oral examination in administrative law. After passing the examination he/she can apply for a

vacant position as a judge. For the first appointment the criteria for the ranking are:

1. term of office as a future judge

and in case of equal terms

2. score of the exit examination

The members of the personnel senate are the president of the particular Court of Appeal and elected judges (see also Pt I).

IX. Are there provisions for the training and tutoring for judges and prosecutors in the first years of their career (complementary training)? If so, what are the modalities?
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Regularly, experienced senior Judges of the Court of Appeal discuss new case law and frequent errors in judgments with the newly appointed judges.