

Portugal/Conselho Superior da Magistratura Португалия/Висш съвет на магистратурата

1. To which of the three classic branches of government does the respective Council belong

Judiciary.

However, it is an organ with constitutional enshrinement, which is composed of seven members elected from among judges, seven members elected by parliament (legislative power) and two members elected by the President of the Republic (moderator power)

2. Duration of the mandate of the members of the respective Council

The High Council of Judiciary is chaired by the President of the Supreme Court and comprises the following members:

- Two designated by the President of Republic;
- Seven elected by Parliament;
- Seven judges elected by their peers, in accordance with the principle of proportional representation (a Judge of Supreme Court, which shall act as Vice-President, two Judges of Court Appeal and four Judges from Courts of First Instance).

The duration of the mandate is as follows:

— *President*: for the duration of his term (5 year non-renewable)

— *Members judges*: 3 years;

— *Members elected by the Parliament*: the period of the legislature (as a rule, 4 years)

— *Members appointed by the President*: the mandate period (5 years)

3. Powers, Functions, Services, Mission of the respective Council

The High Council of Judiciary of Portugal has two deliberative collegiate bodies (Plenary Council and Permanent Council), coordination of collegial bodies (Chamber of monitoring and connection to the law courts and Monitoring Section of training and recruitment) and Management Bodies (President, Vice-President and Judge Secretary).

a) Plenary Council

It comprises the President and all members of the Council, and have the following competences, among others:

- Appoint, assign, transfer, promote, discharge, consider professional merit, take disciplinary action and, in general, perform all the acts of a similar nature relating to all judicial magistrates (judges);
- Fix the number and composition of the chambers of those Courts, as well as determine other matters relating thereto;
- To consider and decide complaints against acts of the Permanent Council, the President, the Vice-President or the members;
- To advise on laws on the judiciary and the Statute of Judges and, in general, study and propose to the Minister of Justice legislative measures aimed at improving the efficiency and the judiciary.

The Board meetings are held normally once a month and extraordinarily whenever called by the President.

b) Permanent Council

It comprises the President, the Vice-President, by a member Judge from Court of Appeal, two members Judges from Courts of First Instance, one of the members elected by the President of Republic, two members from among those elected by Parliament, and have the following competences, among others:

- Appoint, assign, transfer, promote, discharge, consider professional merit, take disciplinary action and, in general, perform all the acts of a similar nature in respect of judges serving in Courts of First Instance;
- Prepare the annual plan of inspections, as well as ordering inspections, investigations and inquiries into the legal services and change the allocation of cases to court over a stick or court order to ensure the equality and operational services.

The Permanent Council normally meets once a month and extraordinarily whenever called by the President.

c) Administrative Board

It comprises the President, the Vice-President, the Judge Secretary, three members elected annually by the Plenary, and the director of administrative and financial services. Shall meet regularly once a month and extraordinarily whenever called by the President on his own initiative or at the request of three of its members.

Has the following competence:

- Advising on plans and annual activity reports on their implementation;
- To issue an opinion on the draft annual budget and its amendments, and submit them for approval by the High Council of Judiciary;
- Authorize the expenditure not to be authorized by the President;
- Authorize the payment of fees regardless of the entity which granted the authorization;

- Approve the management accounts and promote its transmission to the Government (Presidency of the Council of Ministers and the Ministry of Finance), as well as making the announcement of the annual management account to the Minister of Justice.

Competences of President, Vice-President and Judge-Secretary

a) President:

- Perform administrative and financial powers identical to those belonging to the Government Ministerial powers, and represent the Council in and out of Courts;
- Authorize the opening of tenders for hiring of staff for management, celebrate, extend, renew, and terminate staff contracts, allow postings, requests, transfers, exchanges, and service fees under the general law in force;
- Lead and coordinate the inspection services.

b) Vice-President:

The Vice-President replaces the President in his absence or incapacity, and performs the competences delegated to him.

c) Judge Secretary

Judge-Secretary of the High Council for Judiciary has the powers of the General Director on the management of facilities, equipment and personnel.

It is also responsible:

- To guide and direct the services of the secretariat, under the supervision of the President;
- Preparing the budget proposal of the Council;
- Develop proposals for judicial movement;
- Request for Courts or any other public and private information necessary for the proper operation of services.

4. Criteria for nomination and appointment of the members of the respective Council

President:

High Council of Judiciary is chaired by the President of the Supreme Court

Judges: Seven judges elected by their peers, in accordance with the principle of proportional representation (a Judge of Supreme Court, which shall act as Vice-President, two Judges of Court Appeal and four Judges from Courts of First Instance).

Non-judges Members:

- Two designated by the President of Republic;
- Seven elected by Parliament.

There are no criteria for the appointment or election of the non-judges. As a rule, are university professors, lawyers or jurists of recognized merit. But whether the President of Republic or the Parliament, can appoint or elect any citizen.

5. Composition of the respective Council:

- **How many magistrates and non-magistrates**
Magistrates: 8 (including the President)
Non-Magistrates: 9.
- **How many judges, prosecutors, etc.**
 - Judges: 8
 - Prosecutors: 0 (unless designated by the President of Republic) or elected by the Parliament
 - Officials: 0

6. Staff:

- **Number**
 - Judges: 31 (including inspectors)
 - Officials: 55
- **Qualification**

Depends on the function.
The judge-secretary is a judge of first instance
Inspectors and Chief of Staff are judges of the Court of Appeal.
Two members of the Support Office are judges and other two are technical experts (one of them, a jurist).
The leaders of the departments are technical graduates.
There are 34 officials still in service, 20 of them as secretaries of inspectors.

7. Structure

See: <http://www.csm.org.pt/csm/estrutura/organograma>

8. What different commissions do you have as part of the respective Council

Section of Monitoring and Liaison of the Courts
Monitoring Section of the training and recruitment
Services of Inspection (supervision and discipline of judges)
Support Office of the Vice-President and Members
Office of Communication, Institutional Relations, Research and Planning

9. Important historical events: creation of the respective Council, further changes in its structure, functions, etc.

The composition of the High Council of Judiciary has, since the Constitution of 1976 and to date, a rapid evolution to know three different formulas.

The independence of the courts - or the judiciary - is proclaimed in the Portuguese Constitution - article 203 - as follows: "*The courts are independent and subject only to the law.*" This means that the courts, as organs of sovereignty

entrusted to administer justice on behalf of the people, are independent of the other organs of sovereignty in the name of the principle of separation of powers.

With Law No. 38/87 of 23 December, the expression "self-government of the judiciary" has ceased to exist, having been eliminated from the art. 3, paragraph 2 which reads states: *"The independence of the courts is guaranteed by the existence of a board of management and discipline of the judiciary ..."*. This body of management and discipline is the High Council of Judiciary

In 1977, Law No. 85/77 of 13 December, which approved the first Statute of Judicial Magistrates, after the 1976 Constitution, the composition of the Supreme Judicial Council, including even a majority of judges, has to have a blended approach: judges and the judiciary strangers (President, Ombudsman's and four persons appointed by the Parliament) - article 140 of the Statute of Judicial Magistrates (Judges)

In the constitutional revision of 1989, article 220.^o provided that the CSM is chaired by the President of the Supreme Court and is composed of: Two members appointed by the President of the Republic, one of Judicial Magistrate; Seven members elected by the Parliament; Seven judges elected by their peers, in accordance with the principle of proportional representation.

Established the current constitutional text (review of 1997) that the CSM is chaired by the President of the Supreme Court and is composed of: Two members appointed by the President of the Republic; Seven members elected by the Parliament; Seven judges elected by their peers.

10. Present and future important projects and events of the respective Council

- Increase monitoring, supervision and discipline of judges of the Courts
- Monitoring of the software applications installed in the Courts
- Advice and interventions on draft legislation related to judicial, procedural laws and other statutes in effect on the activity of the Courts

11. How is the independence of the respective Council guaranteed

By its composition (see above).

In financial terms, the High Council of Judiciary receives an allocation of funds from the State Budget

12. Budget of the judiciary:

- What is the amount of the budget for 2011

About € 6,000,000

- How is it divided for the different allocations

Salaries (including taxes and fees)

Running Costs (rental property, equipment, communications, travel, training, events, institutional representation)

- **Who manages the budget**
Director of Administrative and Financial Services (under the supervision of the Judge-Secretary)

13. Present composition of the Council:

- **Start/end of the mandate**

Members Judges:

Start: April 2009

End: March 2012

Members non-Judges appointed by the President of Republic

Start: June 2011

End: 2016

Members non-Judges elected by Parliament

Start: 2011

End: 2015