

## PORTUGAL

### Questionnaire to prepare the Study Session

<b>I. Highlighting of dysfunctions within a court<sup>1</sup></b>
<p>1. Is there an organised system allowing to detect dysfunctions within a court?</p> <p>Yes.</p>
<p>a. If yes,</p> <p>i. what are the alert mechanisms ?</p> <p>There are frequent internal audits and the normal supervision of the High Councils (High Council of Justice, High Council of Administrative Courts, the High Council of Public Attorneys, the Council of Bailiffs) and the Ministry of Justice (Inspection Services); besides, the public can also denounce dysfunctions to the appropriate bodies.</p> <p>ii. who has the initiative of alert ?</p> <p>There are several possibilities: the High Councils, the public servants, the judges, the internal services of the Ministry of Justice and the public in general can have the initiative of alerting the authorities to dysfunctions; there is also an academic institute which has a protocol with the Ministry of Justice to permanently monitor the judicial system and detect any dysfunctions (Permanent Observatory of Justice).</p> <p>iii. who is the addressee of the alert ?</p> <p>The High Councils, the internal services of the Ministry of Justice (specially the Inspection Services), the Council of Bailiffs or the General Attorney, depending on the cases.</p>
<p>b. If not, how are the dysfunctions within a court brought to the attention of the competent judicial and administrative authorities ?</p>

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<sup>1</sup>The questionnaire does not intend to address disciplinary matters

<b>II. Methods of investigation and analysis of dysfunctions</b>
<p>2. Which are the methods used to check these dysfunctions ? (audit, evaluation, on location visit, etc.).</p> <p>Audits, on location visits, annual evaluations and enquiries.</p>
<p>3. Once a dysfunction has been detected, what methods of analysis are used?</p> <p>Legal, statistics and quantitative (merit) methods.</p>
<b>III. The structure in charge of investigating and analysing the Dysfunction</b>
<p>4. Is this structure centralised or decentralised (in this case, is it internal or external to the court)?</p> <p>The structure in charge of investigation depends on the subject of the investigations. It is an entity exterior to the Court but which may belong to the Ministry of Justice.</p>
<p>5. Under what authority is it placed?</p> <p>The High Councils are independent, the Council of Bailiffs is an entity integrated in the Ministry of Justice and presided by the Director-General of Justice Administration.</p>
<p>6. How is this structure set up? Who appoints its members?</p> <p>The High Councils are independent and permanent structures, with their own budget and bureaucratic services. The High Councils are designated according to a formula constitutionally defined, including Judges and members from the civil society elected by the Parliament. Law establishes the composition of the Council</p>

of Bailiffs and its members are elected by their pairs and appointed by the General Attorney, the High Council of Justice and the General Direction of Justice Administration.

7. What is its jurisdiction?

The High Council of Justice have jurisdiction over the judicial courts; the High Council of Administrative Courts over these Courts, The High Council of the Public Attorneys over all the services of the General Public Attorney and the Council of Bailiffs over all Bailiffs, regardless the territorial jurisdiction of the country where they are.

#### **IV. Follow up given to the analysis in order to remedy the dysfunction**

8. What form will be adopted for the conclusions of the structure of investigation and analysis?

Inspection reports, annual report and, sometimes, direct contacts with the Courts.

9. Who is the addressee of the conclusions of the structure of investigation and analysis?

The High Councils, the Ministry of Justice and, on a annual basis, the Parliament.

10. What means are available for the structure in order to find a remedy to the dysfunction?

It may alter the standards of collocation of the judges and bailiffs, promote or transfer them, exercise disciplinary powers, alter the distribution of processes, establish priorities in solving cases, define the organization and structure of the courts and accelerate processes (both in civil and criminal matters).

11. If the investigation structure does not monitor the implementation of the recommendations, which structure is entrusted with their implementation?

The investigation structure monitors the implementation of the recommendations.

<b>V. Efficiency of mechanisms</b>	
11. Is the functioning of this structure evaluated?	<p>The High Councils are self-evaluated and evaluated by the Parliament on a one-year basis (annual report). The Minister or the Secretaries of State evaluate the Inspection Services of the Ministry of Justice.</p>
12. What improvements could be made?	<p>Better communication between the several investigation bodies; better statistical data (there is a project in progress with that precise aim).</p>