
БІЛІКТІЛІКТІ АРТТЫРУ: ОҢТАЙЛЫ НЫСАНДАРДЫ ІЗДЕУ ПОВЫШЕНИЕ КВАЛИФИКАЦИИ: ПОИСК ОПТИМАЛЬНЫХ ФОРМ PROFESSIONAL DEVELOPMENT: THE SEARCH FOR OPTIMAL FORMS

УДК 378.1

Isabelle Poinso,
Senior Judge, Head of the International department,
ENM (France)

THE ROLE OF JUDICIAL TRAINING ON THE WAY TO JUDICIAL PROFESSION: PRE-SERVICE TRAINING

I've been invited to share with you the French approach to the role of pre-service training and share our views on questions such as "What is pre-service or initial training all about?" "What scope does it cover?" "What are the teaching and learning methods in the ENM? What is the system of the appointment of judges in France"?

I will try to give you an overview of the vision on the French approach of the role of pre-service training.

The French judiciary is composed of over 8500 judges and prosecutors (this figure doesn't include administrative judges nor first instance commercial and labour judges).

Regarding recruitment and training of judges and prosecutors you may already know that the France is one of the first countries, if not the first, to have opted, over fifty-five years ago for a judicial training system based on a **unique public body**: the ENM standing for l'Ecole Nationale de la Magistrature (National school for the judiciary) which has the **monopoly of selecting and training all French judges and prosecutors**.

70 % of the members of the judiciary are recruited after graduating from university and passing an annual and very selective national competitive examination. The rest are recruited within civil servants or legal professionals (mainly barristers).

The system foresees that **every single French judge and prosecutor who successfully completes ENM's pre-service training program will be appointed as judge or prosecutor**.

By the end of his or her career, the French judge and prosecutor will have held different positions in different courts and also been allowed to switch from judge to prosecutor.

In 2013, 252 *auditors of justice* (candidates in the Turkish system) were recruited, of which the average age is 27, 5 years old and 72% are female young ladies.

Once they have completed their pre-service training, the auditors of justice may be appointed to one of the following positions:

- High instance judge
- Instance Judge
- Investigating judge
- Juvenile judge
- Sentence-implementing judge
- Junior state prosecutor

The role of initial training as a whole:

For the ENM, initial training should **"Prepare trainees to the judicial career in its different components through development of fundamental abilities"**

In 2008 and 2009 ENM went through a revision of its entire initial training curricula. Taking into account what was thought to be expected from a judge and prosecutor today, it was decided that pre service training should focus on enabling every trainee to develop **13 fundamental abilities**:

- Ability to identify and command requirements regarding personal ethics and deontological rules.
- Ability to analyze and summarize a case or file.
- Ability to identify and implement respectfully a legal framework.
- Ability to adapt.

- Ability to adopt a position of authority or human attitude according to circumstances.
- Ability to listen and interact.
- Ability to prepare and conduct a hearing or questioning in line with adversarial rules.
- Capacity to elicit agreement and conciliation.
- Capacity to take a decision, grounded on law and fact, while taking into account its context and possibilities of implementation.
- Ability to ground, formalize and explain a decision.
- Ability to bear in mind national and international environment.
- Ability to work in a team.
- Ability to organize, manage and innovate.

These fundamental competencies reflect the idea that a future judge or prosecutor should not only be trained to perform technically but also prepared to act in such a way as to be understood and trusted by all.

The contents of the initial training in order to develop these abilities

During the **31 month long pre-service** training program, different types of training activities are designed, some inside the premises of the school in Bordeaux, other through internships, mostly in court (**37 weeks**): but also in other structures as

– a **Law firm internship (22 weeks)**: (knowledge of a barrister's professional life, experience in exercising defense rights before all jurisdictions, and experience in handling and accompanying citizens through their judicial venture.)

– **Police internship (1 week)**: knowledge of police organization and different steps and techniques of a police inquiry

– **Prison internship (2 weeks)**: knowledge of daily life in prison and a prison's organization.

– **External internship (7 weeks)**: knowledge of a public institution or a private company; some auditors go abroad.

The study period in Bordeaux (25 weeks): will target fundamental professional techniques common to all judicial positions (decision making, judicial drafting, judicial orality...), but also fundamental competencies needed by the judiciary other than technical abilities, and provide environmental and background data necessary to complete most judicial tasks.

III. The teaching methods

They are based on small groups of trainees (maximum 16) in order to work on practical cases and organize mock hearings.

During the Court internship, the trainees act as true judges and prosecutors (they can preside over a hearing, they can ask for the sanction during the trial) but always under the supervision of their tutor who are real judges and prosecutors.

So, the pre service training in the ENM is built in a very practical way to learn the first positions of a judge or a prosecutor in Court.

The ENM is an “application school” and not another university.

The law is already known, what is asked to the trainee is to be able to practice the law in concrete situation.

The emphasis in the training is put on decision making, decision writing, judicial orality.

That is why the French approach has always been to consider judicial training should be designed and delivered mainly by judges and prosecutors. In 2013, 20 judges and prosecutors are seconded to ENM on a full time basis and for a period of 3 years.

IV. The assessment of the trainees

The trainees are evaluated at all steps of the training.

Once the auditors have passed the final examination, they choose their first position according to their ranking, among a list issued by the ministry of justice. They then follow specific training regarding the chosen position both in school and court.

V. About the appointment

The ministry of Justice provides a list of positions and the French “auditeurs de justice” are appointed following the publication of a decree by the President of French Republic, after the

agreement of the Superior Council for the Judiciary, which is an independent body presided over by the first president of our supreme court.

It is the same system during the whole career of a judge. He will be able to ask for a change of position after at least two years in the previous position. The ministry of Justice will select the judge or the prosecutor for the position and will propose this selection to the CSM; and after the agreement of this council, the judge or the prosecutor will be appointed.

Conclusion

Before summing up and concluding, I would like to say a word on the challenges faced in France regarding pre-service judicial training:

Over the recent years, the number of trainees that ENM has been asked to select and train has increased dramatically. This means that there is a constant need to adapt pre-service training to the number of trainees and ensure an equal level of quality.

The French approach to the role of Pre-service judicial training is not to train jurist but judges and prosecutors but, through a 31 month long process, to turn a university graduate or lawyer into a judge or prosecutor by transforming solid legal education and knowledge into effective judicial culture and practice.

Although it takes a lot of money and time, by contributing to an efficient and effective justice, relevant judicial training also, and maybe more importantly, takes part in safeguarding and strengthening trust in the judiciary and ultimately legitimacy of the judiciary and the justice system as a whole.

Of course pre-service training won't do it all: quality of ***fundamental legal education*** and fairness of ***selection procedures*** for members of the judiciary should obviously also be considered. Further down the line, and once they have been appointed, members of the judiciary should also be spared enough time and offered relevant tools for proper in-service training on a regular basis.

That is what we organize in the premises of the school in Paris. Judges and prosecutors have the right and the obligation to follow in-service training on the basis of five days training a year in order to adapt their knowledge during their whole career in the Judiciary.