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ARTICLE

Looking at the other side: working conditions in Portuguese courts

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Abstract
QUALIS is a research project that studies 'the other side of courts' by looking at the working conditions of judicial professions in Portugal and their impacts on the profession, health, family and personal life. The objective of this article is to provide an overview of the results obtained, based mainly on the interviews and the online questionnaire administered to the Portuguese judicial professions (judges, public prosecutors and court clerks). The questionnaire was sent to all professionals (more than 10,000) working in the courts and had a good response rate; the interviews were conducted among the three judicial professions. The article focuses on three main dimensions of working conditions, namely physical environment, working time and work intensity, and work/social environment of professionals working at first instance courts. It will make then a further analysis of their impacts in the health and well-being and in the work-family conflict of the judicial professionals.

Keywords: judicial administration; sociology of law and justice; judicial professions; working conditions; courts

1 Introduction

The law, the legal system and the judicial system are undergoing a rapid transformation process. This process varies from one society to another, depending on their economic and social development, legal culture, political transformations and the consequent pattern of litigation, which in its turn is a function of the type of users of courts and the relationship between potential and effective dispute resolution in the judicial system (Santos *et al.*, 1996). These paths are interconnected with the transformation that has been taking place within the professions (Susskind and Susskind, 2015; Bellini and Maestripieri, 2018) in general (Becher, 2018), and in the legal and judicial professions more specifically (Dias and Pedroso, 2002; Simpson, 2016; Susskind, 2019; Sommerland *et al.*, 2022).

The process of transforming the legal and judicial professions, with particular pressure and focus on professional specialisation and the introduction of new technologies with repercussions on working methods, is interconnected with the institutional management models and the forms of work organisation implemented in recent decades in the courts (Aarli and Sanders, 2021) of various European countries (Guinchard and Granger, 2019; Piana, 2017), Portugal included (Gomes, 2015 and Conceição Gomes, 2017). This trend has led to the emergence of new professional functions and judicial and legal services adapted to the growing complexities of life in society and in response to the demands of citizens. Given the increasing hybridisation of the professional discharge of duties and organisational management, with the latter becoming more and more a part of the professions' list of skills (Noordegraaf, 2015), working conditions become

also an important dimension to be taken into consideration in the functioning of courts, the performance of judicial professions and the quality of justice delivered to citizens. However, this dimension has not been the major focus of the judicial entities and scientific institutions involved in the study of justice (Casaleiro, Relvas and Dias, 2021).

This article focuses on the working conditions of three different judicial professionals, who work daily in all Portuguese courts: judges, public prosecutors and court clerks. Judges are responsible for administering justice on behalf of the people and may not carry out any other duties, be they public or private, except for unpaid teaching or scientific research in the field of law, to ensure independence and impartiality. Portuguese public prosecutors, in turn, are responsible for representing the state, carrying out prosecutions and defending the democratic rule of law and the interests determined by the law, not only in the criminal field but also in other jurisdictional areas, such as family and minors and labor law, in the different courts. Finally, court clerks provide procedural assistance in the courts or public prosecution services. Court clerks, public prosecutors and judges, have been characterised as having poor working conditions: bad task distribution mechanisms, obsolete and/or over complex computer hardware and software resources, lack of human resources, problems with teleworking, cramped work space, inadequate furniture, poor air quality, low income among court clerks and excessive working hours (Casaleiro, Relvas and Dias, 2021; Dias, Casaleiro and Gomes, 2020; Henriques, Lima and Dias, 2021). Nevertheless, the majority of studies focus only on one of these professional categories, ignoring the diversity of professionals who work daily in the courts, the heterogeneity of working conditions and the comparison between them.

This article is based on the research developed under research project QUALIS,[1] which aimed to characterise the judicial professionals' perceptions regarding working conditions and its impacts on health, family and personal life. The article will look specifically at three main dimensions of working conditions, namely physical environment, working time and work intensity, and work/social environment of professionals in judicial district courts (first instance courts). It will make then a further analysis of their impacts on the health and well-being and in the work-family conflict, relying mainly on the results of the interviews and the online questionnaire applied to the Portuguese judicial professions (judges, public prosecutors and court clerks).

2 Justice, courts, professionals, working conditions: filling the gap

Since the 1950s and the early 1960s, law, sociology and socio-legal studies have focused on the procedural, institutional and organisational dimensions of law (Ferreira and Pedroso, 1999). In the following decades, socio-legal studies refocused on the signs of the welfare state's emerging crisis and the lack of effective implementation of citizens' rights, viewing justice as a field for the resolution of such problems (Treviño, 2017; Hammerslev and Madsen, 2014; Guibentif, 2017). However, concerns have recently arisen about access to law and justice, due process in due time and democracy and transparency. From the beginning of the 1990s onwards, a greater number of studies were published on new models of judicial management and the need to introduce changes in professional competencies (Dias, 2004; Bastard and Mouhanna, 2010; Verzelloni, 2016; Dias and Gomes, 2018), as well as the way in which these professions are practiced (Dias and Almeida, 2010), in response to a problem encountered in many countries: court delays (Mack, Wallace and Roach Anleu, 2012; Santos, Pedroso and Gomes, 2005; Santos and Gomes, 2006 and 2010; Gomes, 2011 and 2013; Reiling, 2010).

Studies on the working conditions within the legal, particularly the judicial, professions are quite scarce (Casaleiro, Relvas and Dias, 2021), as revealed in a recent state-of-the-art article (Casaleiro *et al.*, 2021). After some pioneering socio-legal and psychological research carried out

[1]For more information about the research project see https://ces.uc.pt/en/investigacao/projetos-de-investigacao/projetos-financiados/qualis.

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during the 1980s and 1990s, studies on the judicial professions focusing on working conditions have faded away, re-emerging slowly in the last decade as new models of judicial management and judicial reforms were implemented. The majority of the studies have been mainly centred on professional satisfaction (Roach Anleu and Mack, 2014; Finkelstein and Septenville, 2016) and/or issues of professional identity (Vigour, 2009). Working conditions have been a frequent object of study in other professions, such as doctors, nurses and some at-risk professions like police officers and firefighters, but mostly from a psychological or psychiatric perspective. However, studies on the legal or judicial professions focusing on working conditions and risks were completely unknown until recently in most countries, the few exceptions occurring in such countries as Australia (Roach Anleu and Mack, 2013 and 2014), Romania (Ciocoiu *et al.*, 2010a) and, to a lesser extent, Portugal, thanks to a number of master's theses (Ferreira, 2011; Guimarães *et al.*, 2017; Fonseca, 2017) and exploratory studies (Moniz *et al.*, 2022). This innovative approach is one of the main contributions of QUALIS, a multimethod and multidimensional research project focused on the working conditions of judicial professions in Portugal.

The empirical literature on the working conditions of judicial professionals from different disciplinary areas points to a general dissatisfaction with working conditions, particularly court facilities and work intensity. The few studies that looked specifically at court facilities reported grand old buildings unsuitable for modern life and facilities that were inadequate for court users; new buildings constructed without consulting the judiciary and the use of outdated IT hardware and software (Darbyshire, 2011; Thomas, 2017). The perception, on the part of judges and public prosecutors, of the work overload and of the increasingly demanding pace of work, reflects the chronic and widely-reported heavy caseload, backlog, time constraints and overbooking. (Ferreira *et al.*, 2014; Na *et al.*, 2018). This perception may be further intensified by the highly demanding nature of management initiatives and court performance evaluation programs, setting productivity standards for judicial professionals and courts. In what concerns the work/social environment, studies showed a general dissatisfaction with the support both from peers and clerical staff. For example, nearly all participants in the UK Judicial Attitudes Survey said that time to discuss work with colleagues was important, but only 20 percent said the opportunities for this were good or excellent (Thomas, 2017). This is a disturbing assessment, since the work of judicial professionals relies heavily on the activities and inputs of others; it is not solely a product of their own individual behaviour (Roach Anleu and Mack, 2014).

The long working hours and work stress affect judicial professionals' personal/family life (Ferreira *et al.*, 2014; Ludewig and Lallave, 2013; Thomas, 2017) and that 'job-home interaction' is a source of stress (Rogers *et al.*, 1991; Lipp and Tanganelli, 2002), but also that stress and burnout in judicial professionals are higher than in other professionals, such as prison wardens or physicians in busy hospitals – which serves as further confirmation of the stressful and psychologically demanding working environment of judicial systems (Lipp and Tanganelli, 2002). Still other studies underline a variety of signs and effects related to stress, such as tiredness, sleeplessness, back pains, and headaches (Ciocoiu *et al.*, 2010b; Lipp and Tanganelli, 2002). Although judicial professionals experienced high workload and occupational stress, studies point out that they also have high levels of job satisfaction (Hagen and Bogaerts, 2014). Nonetheless, Na *et al.* (2018) concluded, it is very unlikely that judicial professionals, who are stressed out and dissatisfied with their working conditions, can offer quality services and provide justice with quality and fairness. Further studies are needed to estimate the long-term health effects and possible social and judicial impacts of high psychological stress and burnout among judges, public prosecutors and court clerks.

A survey of Portuguese magistrates (judges and public prosecutors), previously developed by members of the QUALIS team, provided data supporting the possible existence of occupational health hazards for these professionals and calling for further investigation (Ferreira *et al.*, 2014) and for the need to extend the survey to court clerks, who as a profession are crucial to the functioning of courts. In 2013, a major judicial reform, aimed at improving the efficiency and

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quality of justice, through a concentration of court management and the increasing of specialisation, took place in Portugal. It was a timely opportunity to make a thorough evaluation of the working conditions and occupational health of judicial professions. This is all the more urgent because of the high levels of pressure felt by these professionals as a result of the workload of the courts and the constant demand for justice (Dias and Gomes, 2018).

3 Methodological strategy: a mixed-methods approach

QUALIS developed a multi-method and multidimensional analysis. It adopted a comprehensive definition of working conditions that covers physical working conditions, the management and work organisation models and the working environment and health and well-being impacts on judicial workers. It also included the legal review of relevant national legislation and regulations, the completion of a questionnaire, and the conducting of interviews, among others. More concretely, QUALIS focus on two broad categories: organisational factors, which includes courts' physical environment, work intensity and social environment; and the individual/personal impacts, which includes work-family conflict and the impacts on health and well-being.

This article presents the results of the interviews and the online questionnaire administered to the judicial professions (judges, public prosecutors and court clerks)[2] in Portugal, identifying their perceptions regarding working conditions in courts and their impacts on health, family and personal life. Portugal is divided into two legal jurisdictions: judicial courts and administrative and tax courts[3] (Dias and Gomes, 2018; Branco, 2019). QUALIS studied the judicial professions working in both jurisdictions.

The general questionnaire was sent to all professionals working in the courts (10,978 on 31 December 2020). It was disseminated with the collaboration of the governing and management bodies of the judiciary (high councils) and the professional associations and unions. The questionnaire was available online between 1 October and 15 November 2020. The COVID-19 pandemic was underway and may have had an impact on the answers given by the professionals. In fact, a specific section of the questionnaire was devoted to its impacts on courts and the regular work of the judicial professions, in order to separate the answers from the other sections, in which professionals were asked to respond in the framework of a 'normal' working context (i.e. one without COVID-19).

The questionnaire had four main sections: sociographic and professional characterisations (e.g. judicial profession (judge, public prosecutor, or court clerk), sex and year of birth); organisational working conditions (e.g. management and maintenance of the court building and working spaces, and pace of work); COVID-19 impacts; health and well-being impacts (e.g. Work-Family Conflict Scale (WFCS; Carlson *et al.*, 2000; Vieira *et al.*, 2014) and Oldenburg Burnout Inventory (OLBI; Sinval *et al.*, 2019)). There was an effort to select instruments for measuring individual characteristics such as health and well-being that had acceptable psychometric robustness among the Portuguese population, as previously demonstrated in validation studies. In other words, scales that are valid and reliable in quantifying the theoretical concept they purposed to measure in participants with certain characteristics. For the questionnaire not to be overly long, an effort

[2]As far as rights and duties are concerned, judges and public prosecutors are two separate but parallel judicial professions in Portugal, where both are considered as part of 'the magistracy'. Thus, the word 'magistrates' is commonly used in Portugal in relation both to judges and public prosecutors. The Public Prosecution Service is also, according to the Constitution and the law, part of the judicial system and the courts, and is therefore also viewed as part of what is known as 'judicial power'.

[3]The judicial jurisdiction divided the national territory into twenty-three District Courts (lower courts), plus five courts of second instance (appeal courts) and the Supreme Judicial Court. Each of the District Courts comprises a Central Section – with specialised sections for different areas (civil, criminal, criminal investigation, family and juvenile, labor, commerce and enforcement of sentences) – Local Sections – which include general sections (civil, criminal and minor crimes) – and Proximity Sections. The administrative and tax jurisdiction, in its turn, comprises seventeen courts of first instance (lower courts), two courts of second instance (appeal courts) and the Supreme Administrative Court.

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Table 1. Responses by judicial profession (judicial district courts)

Judicial Profession	Universe[4]	Sample	% Responses
Judges	1 268	223	17.6%
Public Prosecutors	1 256	227	18.1%
Court Clerks	6 810	977	14.3%
Total	9 334	1 427	15.3%

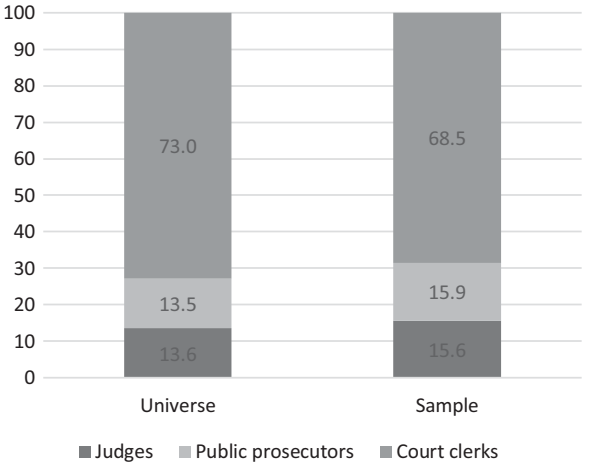

Figure 1. Distribution by judicial professions in the universe and sample (%).

was made to use measurement scales with abbreviated versions, and/or that allowed the independent measure of concept domains.

For the present article, we take into consideration only the results of the questionnaire administered to professionals of the judicial district courts, leaving out higher judicial courts and the administrative and tax courts. The judicial district courts are the judicial lower courts that comprise 85 percent of the 10,978 professionals working in courts. Table 1 show a response rate of 15.3 percent out of a total of 9,334 professionals working at the judicial district courts. The respondents to the questionnaire are more or less evenly distributed among the three judicial professions (Table 1), with public prosecutors (18.1 percent) reaching the highest rate, closely followed by judges (17.6 percent), and with court clerks having the lowest rate of participation (14.3 percent).

The group of participants shows an approximately proportional distribution of the universe of court clerks, judges and public prosecutors (Figure 1). The gender balance is also in line with reality (Figure 2), with a majority of women respondents (62.6 percent). The overrepresentation of women is a little higher in the case of public prosecutors than in the total population being surveyed. Respondents are aged between twenty and sixty-nine years (Figure 3), the average age being approximately forty-eight years ($M = 48.43$; $SD = 9.61$).[5]

In addition to the questionnaire, seventy-three interviews were conducted between April and July 2021 with judicial professionals (judges, public prosecutors and court clerks) working in the various buildings of the Central Lisbon and Coimbra district courts (first instance), the two case

[4]Based on the statistical data available on 31 December 2020 (https://estatisticas.justica.gov.pt).

[5]For further statistical analysis of the human resources at courts see the website of Estatísticas da Justiça at: https://estatisticas.justica.gov.pt/sites/siej/pt-pt/Paginas/Tribunais_PessoalServico_Tribunal.aspx.

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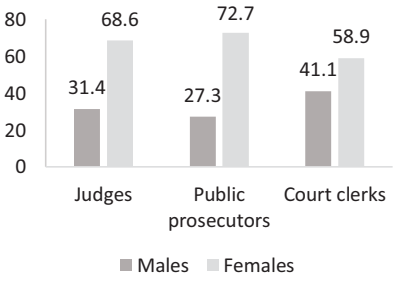

Figure 2. Distribution by sex and profession (%).

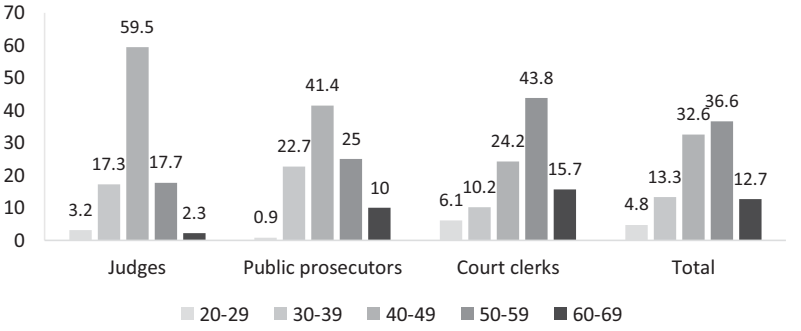

Figure 3. Distribution by age groups and professions (%).

studies selected for this project. These are courts of first instance of the judicial branch. The Central Lisbon district comprises nine locations and eleven buildings, throughout which multiple services are distributed. The buildings are located on both banks of the Tagus river (the Lisbon metropolitan area), their territorial jurisdiction spanning seven municipalities. The Coimbra district comprises twenty buildings spread over a large territorial area that includes seventeen different municipalities. In spite of the diverse size of the buildings involved and the diverse nature of the services operating in each of them, we made sure that there was at least one interview per building. Given the size of the buildings, two or three interviews were conducted in most of them. In the latter case, it was decided that the interviewees had to be from different professions.

Of all the interviews, sixty-eight were conducted digitally, via Zoom, and five in person: In all, twenty-two judges, twenty-three public prosecutors and twenty-eight court clerks were interviewed. On average, the interviews were seventy minutes long. All participants signed an informed consent form agreeing to the recording of the interview. All interviews were transcribed and anonymised. To protect anonymity of the interviewees, the selected quotations only identify the profession and district court.[6] This form of anonymisation is shown in the interview quotations analysed in the sections that follow. The script of the interviews, including a section relating to the impacts of COVID-19, was built in close articulation with the structure of the questionnaire.

4 Grasping the realities of the working conditions of Portuguese courts

In the following subsections, three main dimensions of working conditions will be analysed, each of them including several items: courts' physical environment, working time and work intensity and social environment. This provides a broad picture of the reality lived in courts by the judicial professionals, namely judges, public prosecutors and court clerks.

[6]The interviews are also numbered in chronological order.

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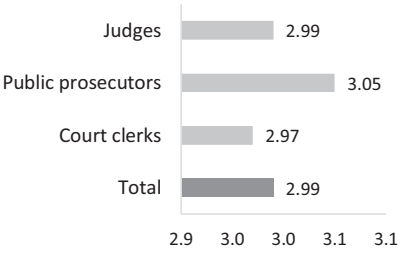

Figure 4. Workplace assessment (index mean) by profession.

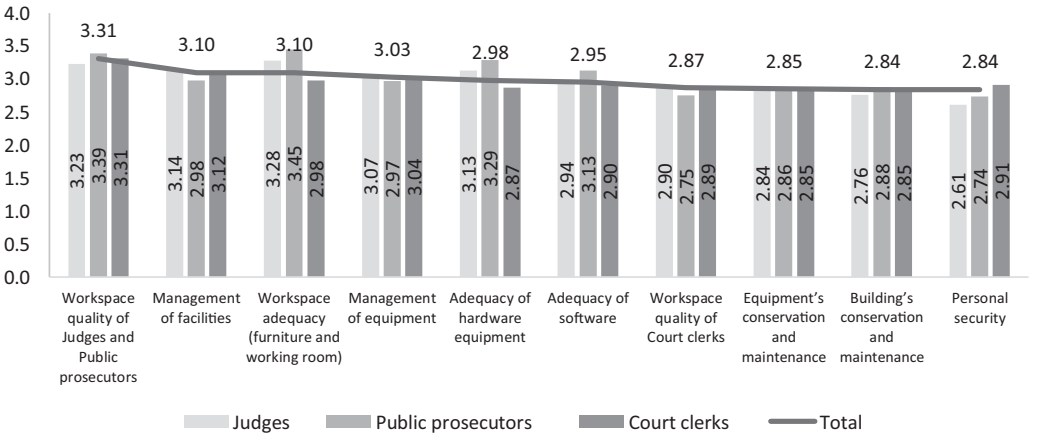

Figure 5. Workplace assessment by profession.

4.1 Living in a court building: not so bad

The global score for satisfaction with the physical working conditions shows a consensus position, with a global average of 3 on a scale of 1 (Very Bad) to 5 (Very Good) (Figure 4). This global score is a mean obtained from ten items, namely: workspace quality of judges and public prosecutors, workspace quality of court clerks, workspace adequacy (furniture and working room), facilities management, equipment management, hardware adequacy, software adequacy, building conservation and maintenance, equipment conservation and maintenance, and personal security (Figure 5).

> 'For an office building it would be fine, but not for a courthouse. The building does not have adequate electrical and network infrastructures. As employees increase and the technological demands increase, they make patches to spaces … It does not have the dignity of a courthouse. You can enter wherever you want because there is no door that can close off access to the rest of the building.' Court Clerk 04, Coimbra

When the global level of satisfaction with physical working conditions is disaggregated by place of work, we observe territorial differences among the twenty-three judicial district courts (Figure 6). On a scale of 1 to 5, the scores go from 2.77 in Lisboa Norte to 3.26 in the island of Madeira. There is a higher level of satisfaction in the courts of the interior and in the islands (Madeira, Bragança and Portalegre) and a lower level of satisfaction in one of Lisbon's three courts (Lisboa Norte), an average level in in a court located in the central coastal region (Leiria) and in a court in the interior North region (Vila Real). Bragança and Portalegre are small cities with a population of less than 50,000 inhabitants and low economic activities. Furthermore, there is a clear difference between the quality of the workspace of judges and public prosecutors on the one hand, and court clerks on

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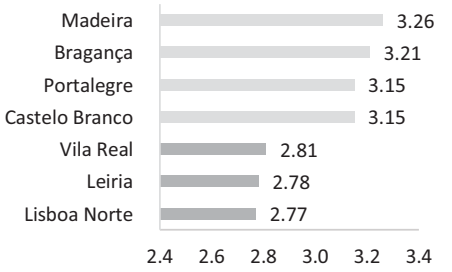

Figure 6. Workplace assessment (index mean) by judicial district court (best and worst results).

the other, which is in line with the initial observations and the results of the interviews. While the former judges and public prosecutors tend to have individual offices, court clerks normally share the same working space with several colleagues. The general perception of the quality of courts as a working place is that 'living' in a courthouse is not as bad as one might imagine from public discourse or the news. The diversity of working conditions is wide, not based on the comparative results of the twenty-three judicial district courts, but more on the specific cases within each judicial court, sustained on the information collected by the interviews, where professionals from every buildings of the two case studies were reached. And in some buildings, as stated by some interviewed professionals, the working conditions are not adequate to provide justice.

4.2 Time and intensity: working 'like an ant'

The evaluation of working conditions is better achieved with the analysis of the working time and work intensity of judicial professions. The discussion on the working time and work intensity dimensions follows the approach proposed by the European Foundation for the Improvement of Living and Working Conditions[7] (EUROFOUND, 2016; 2021), although adapted to the working context of courts. The working time dimension covers duration, atypical working time, working time arrangements and flexibility. The work intensity dimension has to do with aspects like quantitative demands, pace determinants and interdependency, and emotional demands. In our research, another sub-dimension, centred on the specific context of judicial professions in courts, has been included in the work intensity dimension, with the purpose of measuring judicial determinants. In this article, we measured working time and work intensity by using aggregated values of multi-item responses from a broad pool of statements[8] in which judicial professionals positioned themselves using either a frequency Likert-type scale (from 1-'never' to 5-'always') or an agreement Likert-type scale (from 1-'strongly disagree' to 5-' strongly agree').

The analysis of the means of working time and work intensity by profession (Figure 7) shows statistically significant differences. Working time is higher than work intensity among judges, the only group where such balance is to be found. Public prosecutors present an equal balance between the two scales. Only among court clerks is work intensity higher than working time. The major differences concern the functions of each profession. Judges need time to work on the court judgements and feel pressure from above because of the time required to write them. Public prosecutors feel pressure to draw up indictments, co-ordinate investigations and collect evidence, and thus find it difficult to strike a balance between 'numbers' and 'time to write'.

[7]EUROFOUND is a tripartite European Union Agency, whose role is to provide knowledge to assist in the development of better social, employment and work-related policies.

[8]For example, the working time questionnaire included statements such as 'You have to work extra hours to meet the required deadlines' and 'You have to work on the weekend to meet the required deadlines' and for work intensity 'You have enough time to finish your work', 'In general your work pace depends on the annual numerical performance targets' and 'In general your work pace depends on the characteristics of the procedure you are working on'.

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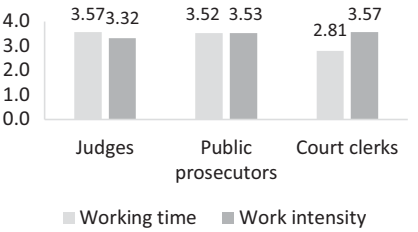

Figure 7. Working time and work intensity (index mean) by profession.

> 'I think I could count the number of weekends I didn't have to work in the last ten years. It is rare for me not to work weekends. I work eighty out of every hundred weekend days.' Judge 02, Lisbon.

> 'The pace of work is demanding. I don't have more time to give. I am always busy. Besides, if I don't spend part of the night working, I can't keep up with the workload.' Public Prosecutor 01, Coimbra

> 'In terms of workload, I think it's acceptable … It is impossible for me to have every weekend for myself, just as it is impossible to leave work every day at a decent hour. For example, just yesterday, a public holiday, I came to the courthouse and it was packed with my co-workers because it is impossible, in this kind of job, not to work overtime from time to time.' Judge 04, Lisbon

Court clerks feel the weight of the numbers in particularly acute fashion as a result of the clerical support duties they perform during business hours, hence the significant difference between working time (lower mean) and work intensity (higher mean). In sum, the results of the survey combined with the interviews shows that the workload has a major impact on work intensity in court clerks and on working time in judges and public prosecutors. Just as the statements of the interviews are illustrative of the reality experienced by judges and public prosecutors regarding working time and work intensity, the following response is illustrative of the reality felt by some of the court clerks we interviewed:

> 'You know those ants in television documentaries, where you see the ant carrying three or four times their own body weight and size? That's how a court clerk feels these days.' Court Clerk 04, Coimbra

As regards working time and work intensity, the results of the survey also show several differences throughout the twenty-three judicial district courts (Figures 8 and 9). The analysis shows specific courts occupying the best and worst positions, but it does not convey existing variations within each court, with its multiple buildings spread over different locations. Nevertheless, as shown by previous findings (Ferreira *et al.*, 2014), different results have multiple causes, which are not easy to elucidate without an in-depth analysis of each separate judicial district court.

> 'Here I have always had a very high work rate. We have a lack of court clerks, which also causes excessive work for them. And it possibly leads to more mistakes being made and less availability to filter what reaches the magistrates. We have a very intense work volume.' Public Prosecutor 12, Lisbon

The results obtained concerning working time and work intensity across other dimensions – years in the profession and specific area of work – do not provide statistically relevant information. The

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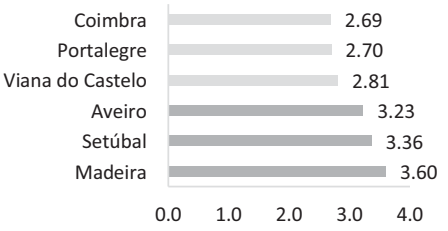

Figure 8. Working time (index mean) by judicial district court (best and worst results).

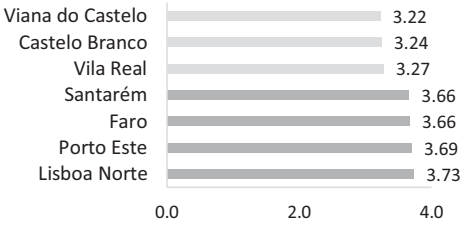

Figure 9. Work intensity (index mean) by judicial district court (best and worst results).

differences observed in the professions' specific area are also minor. Nevertheless, it is worth mentioning that the criminal area scores slightly higher with regard to working time and work intensity, while the areas of trade and commerce score lower.

> 'The life of a judge, like that of lawyers and public prosecutors, is governed by procedural deadlines. We always live within a deadline. I'm here talking to you, but the deadlines are ticking, the clock is ticking … Especially those in the criminal area, we have days to read the sentences and on that day the sentence has to be ready because it will be read publicly in the room. And it has to be deposited, and it has to be in writing and put the signature at the bottom. Our lives are driven by this.' Judge 10, Lisbon

The analysis of the means of working time and work intensity showed differences with regard to profession and judicial district court. This reinforces the argument that the competencies within each profession are a key factor for the values obtained in relation to working time and work intensity, as is the location of the workplace, namely the court where the professional is working.

4.3 The labour context: from job satisfaction to governance distance

The evaluation of the labour context provided interesting results, with some relevant differences among professions with regard to specific items (Figure 10). The lower results correspond to the participation of professionals in the strategic planning of work at courts, specifically in terms of influencing decisions that are important for the discharge of their duties, supporting the work of the management bodies, or being consulted for the setting of goals (all scoring below 3 on a 5-point frequency scale). In this last case, there is a clear difference between judges (who tend to be more involved in the definition of goals) and public prosecutors and court clerks (who are less involved). On the opposite end of the scale, we have between 3 and 4 mean points in the items relating to participation in the operational management toward improving work performance (involvement in the improvement of work organisation and methods, capacity to put ideas into practice and being treated fairly in the workplace).

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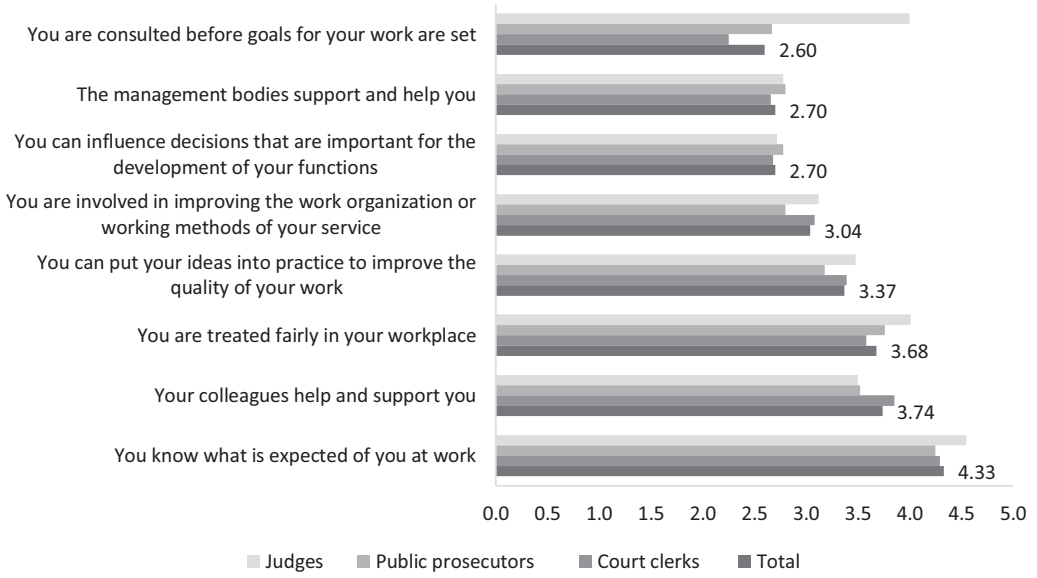

Figure 10. Evaluation of the labour context (mean) by profession.

The evaluation of the labour context indicates that professionals feel there is a significant distance from the management bodies with regard to their possible contribution to or participation in the definition of goals or measures to improve the functioning of courts. This perception is certainly also justified by the fact that Portugal's model of governance of the judicial system and management of the courts is highly dispersed and poorly co-ordinated. The management of buildings, equipment, information technology and human and financial resources is shared by the Directorate General for the Administration of Justice, the Institute for Financial and Estate Management of Judicial Services, the four High Councils (of Judges, Administrative and Tax Courts, Public Prosecution, and Court Clerks), the management board of each judicial district court (lower courts) and the management board of the appeal and supreme courts (second and third instance). All this militates against the participation of judicial professionals in the management of courts.

Finally, despite the high levels of work-related stress (3.92 on an ascending scale of 1 to 5), there is a general positive feeling of doing well in the job, which is very useful for society (Figure 11). The judicial professionals, in spite of some differences among professions, consider their job as relevant for society and not even the high level of stress influences negatively the perceptions.

5 The impacts of working conditions

The evaluation of the impacts of working conditions on personal health and on the balance between work and family life were investigated through three scales included in the questionnaire: the Portuguese adaptation of OLBI – the Oldenburg Burnout Inventory (Sinval *et al.*, 2019; Bakker *et al.*, 2004), the BaSIQS – Basic Scale on Insomnia Symptoms and Quality of Sleep (Gomes *et al.*, 2015; Gomes *et al.*, 2016), and the Portuguese adaptation (Vieira, Lopez and Matos, 2014) of the Work-Family Conflict Scale (Carlson, Kacmar and Williams, 2000). Each of the scales administered is composed of several items, which makes it possible to use the means according to predefined combinations, once the psychometric properties have been studied and validated for the Portuguese population. These three scales provide a multidimensional approach for evaluating the judicial professional's wellbeing conditions and their possible variations along different individual

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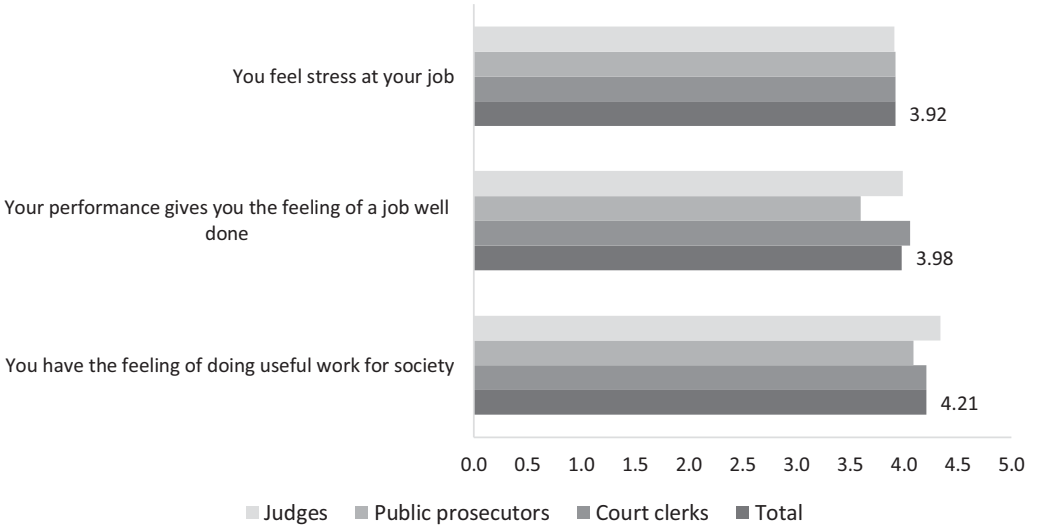

Figure 11. Work-related feelings (mean) by profession.

characteristics and working conditions. In this section we have opted to present the results that are more significant.

5.1 The risk of burnout: disengagement and exhaustion

Work-related stress in the judicial professions was measured by the Oldenburg Burnout Inventory (OLBI), which consists of fifteen items aggregated along two dimensions, disengagement (seven items) and exhaustion (eight items), and presented on a Likert-type agreement response scale. The scale ranges from 1 (strongly disagree) to 5 (strongly agree), where a higher score is indicative of a higher level of burnout. The disengagement dimension corresponds to personal disconnection from the work performed and negative and cynical behaviours and attitudes in relation to one's job. It includes items concerning finding 'new and interesting aspects' in work and feeling 'sickened by the work tasks'. The exhaustion dimension corresponds to feelings of emptiness, work overload, the need to rest, and also physical, cognitive and emotional exhaustion. It includes items like feeling 'tired before I arrive at work' and having 'enough energy for my leisure activities' after work. OLBI scoring is calculated through the summation of the item scores on each subscale. The disengagement and exhaustion subscales both have negatively-worded items, and positively-worded items. The positively-worded items are reverse-scored for aggregation purposes.

Figure 12 shows that exhaustion levels are higher than disengagement, which means that workload has a greater relevance to burnout. The total score of burnout may seem low, 3.02, but is much higher than the national score 2.69 (Sinval *et al.*, 2019). Furthermore, the analysis is based on the mean values achieved, which hides the cases in which the levels of burnout are very high. The need to detect the cases of burnout and similar diseases among judicial professionals working in courts is very important in order to guarantee that justice is provided fairly and with the required quality and it must be a matter of concern for the Ministry of Justice and the High Councils of Judges, Administrative Courts, Public Prosecutors and Court Clerks.

> 'The temptation is to become «workaholics», which happens often. It's a tremendous danger . . . I have colleagues with serious emotional exhaustion and living lonely lives, unable to work at all.' Judge 03, Lisbon

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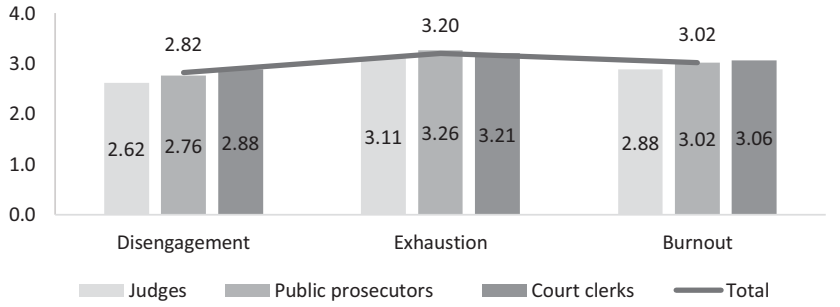

Figure 12. Burnout dimensions and burnout (mean) by profession.

> 'These days it is slavery that goes unseen because we do not show physical signs of fatigue. But slavery is here, and so is tiredness, it's just not very visible. Everyone knows this is happening. Talk all you want, but "just keep working".' Court Clerk 10, Lisbon

The results of the questionnaire indicate that there are slight differences in the level of burnout among regions and legal areas. Overall, smaller courts have lower levels of risk of burnout, and the legal areas where emotions play a larger role[9] – criminal, children, labour – face higher risks of burnout. The results also show that, as a whole, court clerks feel a higher level of burnout, although the difference in relation to public prosecutors is very small, while judges score a bit lower.

An evaluation of burnout by sex shows that disengagement levels are low and equal for men and women (Figure 13). Nevertheless, women experience higher levels of exhaustion than men, which means they are more exposed to the risk of burnout. This is in line with the fact, also already studied for Portuguese judges and public prosecutors, that women have the same court-related responsibilities but a heavier burden in what concerns family and homemaking responsibilities. (Gomes *et al.*, 2013; Ferreira *et al.*, 2014)

> 'When I came back from maternity leave, I was working around 16 hours a day. The day before my return I was called to a meeting where I was told that I was going to be posted to the labour court, because there were several statutes of limitations about to run out. Someone with experience in labour law told me that I would never be able to do in a year what I was supposed to do in a fortnight … I went weeks without seeing my daughter awake. I was leaving the courthouse at 11:00/11:30 pm without having eaten anything at all and went home, saw my daughter in her sleep, and the next day at 8 am I was leaving the house to go to work. I worked Saturdays, Sundays and holidays. It was like that for three years. The situation was totally chaotic and remained that way for a long time, to the point where it led to burnout and a divorce.' Public Prosecutor 07, Lisbon

The interviews captured several situations in which women's double burden was evident, as was its clear impact on their performance and career advancement. Additionally, the interviews confirmed the statistical results by showing a higher number of women reporting these difficulties, whereas only a negligible number of men reported similar contexts.

This context of a higher risk of burnout among women has a major impact on the regular functioning of courts. In fact, official data on absenteeism in courts clearly indicates that women

[9]The questionnaire did not consider the place and role of 'emotions' in judicial professionals, with all the drama surrounding the events that emerge in the case files that courts have to deal with on a daily basis. Nevertheless, other studies involving judicial professionals, such as those published by Roach Anleu and Mack (2013 and 2021) and Schrever, Hulbert and Sourdin (2019), call attention to the importance of the emotional dimension.

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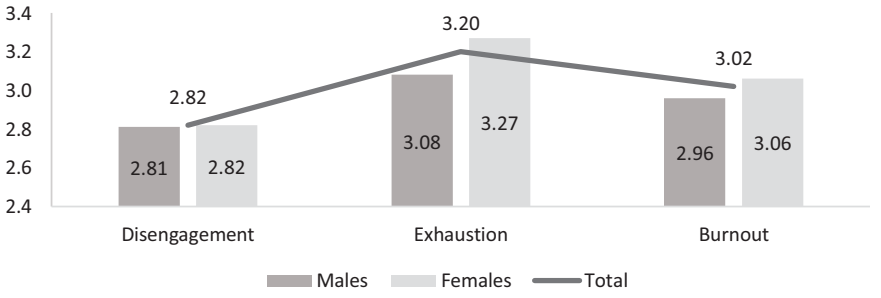

Figure 13. Burnout dimensions and burnout (mean) by sex.

account for more than 85 percent of the total number of days of absence from work[10]. This calls for special attention on the part of the management bodies of the judicial system, in order to tackle this problem with concrete measures aimed at reducing its impacts on women and on the productivity of courts.

5.2 Going to bed: when (not) sleeping becomes a problem

The assessment of the quality of sleep and insomnia of judicial professionals was carried out through the administration of BaSIQS – Basic Insomnia and Sleep Quality Scale. Consisting of seven items relating to events of the previous week (i.e. the week prior to the administration of the questionnaire), the scale has five response categories, with higher scores corresponding to poorer sleep quality.

Figure 14 shows that more than a third of professionals have poor or very poor sleep quality. It is among court clerks that the highest percentage of professional with poor or very poor sleep quality is recorded (42 percent). Thirty percent of judges and public prosecutors also report having poor or very poor sleep quality, and that is also considered to be a high score and cause for concern. Only a third of the respondents reported having good or reasonable sleep quality.

BaSIQS also makes it possible to differentiate self-perceived insomniacs from the non-insomniac. The questionnaire results point to a significant percentage of self-perceived insomniacs among judicial professionals: 23.9 percent in judges; 23.7 percent in public prosecutors and 32.3 percent in court clerks. The percentage of insomniac women (30.9 percent) is slightly higher than that of men (26.1 percent), contributing to the accumulation of problems where there is a gender difference.

Lack of sleep and poor sleep quality (including insomnia) is reported in the questionnaire, and particularly in the interviews, as one of the most important symptoms and consequences of working in courts.

> 'Lately, it's been better, but there were many nights when sleeping was complicated because I didn't go to bed alone, I would go to bed with a few case files in my head, right? And sometimes we want to think: "Oh, No! I have to rest! I have to rest!" And it stays there, and it doesn't go away, the brain doesn't let it go away.' Court Clerk 09, Lisbon

> 'I often lie down and continue with the case files in my head and I have long-standing sleep disturbances. It may be a personal matter, but I have many colleagues with sleep disorders who take anxiolytics ... the case files are not just paper or stories, they are real lives, people.' Public Prosecutor 08, Lisbon

[10]See the annual reports on the management of human resources in courts (Social Balances), namely CSM (2021), PGR (2021) and DGAJ (2021).

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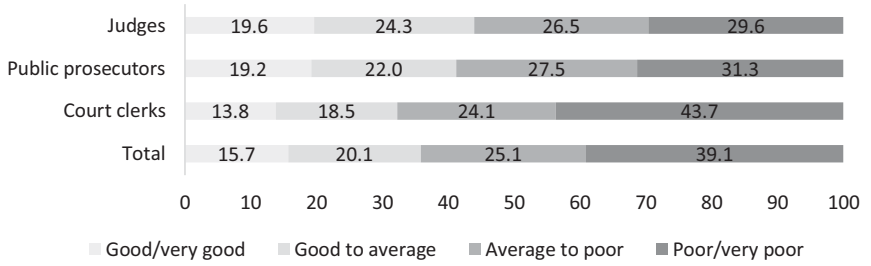

Figure 14. Sleep quality by profession (%).

> 'Not sleeping, yes. It's all about that pressure, that worry. I have been taking anxiolytics for a few years now ... And it's not just me. I talk to a lot of people who are like that too. I know a lot of people who also had to get medical help.' Court Clerk 16, Coimbra

It is a dramatic sign that something is not right and its impacts on daily work can be very serious, endangering the health of professionals and the quality of the work they produce. Not all the causes can be attributed to court-related work, but the majority of respondents establish a connection with their working conditions and for the most part make mention of the workload, the social conflicts inherent in the case files, and the pressure of 'the system' to work harder and meet the goals, even if the working contexts fail to provide the necessary human, physical or IT conditions.

5.3 Work and/or family: an unbalanced relationship

The Work-Family Conflict Scale is a multidimensional bidirectional instrument (work-family conflict and family-work conflict) that measures the conflict between work and family based on three dimensions: 1) Time – which occurs when different work and family roles compete for time, with the result that the amount of time invested in one role will necessarily limit the time left for the other role; 2) Strain – which occurs when pressure produced in one role makes it difficult to respond to another role and 3) Behaviour – which occurs when the behaviours required by one role are not valid for the other role. This eighteen-item scale makes it possible to capture six dimensions/directions of conflict, each measured by three items (measured by a Liker scale from 1-Totally disagree to 5-Totally agree), in which higher values mean more conflict. For the purposes of this article, we paid attention to conflict direction – work interference with family and family interference with work – and the total scale value – work-family conflict.

The results, based on the questionnaire (Figure 15) and interview responses, are not surprising, showing that, if we conflate the strain and behaviour dimensions, the perception of work interfering with family is higher than the opposite (family interfering with work), Comparing the total scale values for the three professions, we see that judges and public prosecutors display higher levels of work-family conflict than court clerks. This may have to do with the obligation to meet the legal deadlines and dispatch the workload that, combined with higher levels of flexibility and autonomy of judges and public prosecutors, can easily lead to the blurring the boundaries between work and family domains. Overall, court clerks tend to observe office hours more strictly, while judges and public prosecutors tend to work more after hours and on weekends.

> 'Work has always conditioned my family life in terms of the quality time I spent with my children, because I had to work even in the summer ... And I must say that in my personal experience, in my professional life, also due to the accumulation of functions, it conditioned my personal life in such a way that the result was divorce.' Public Prosecutor 04, Lisbon

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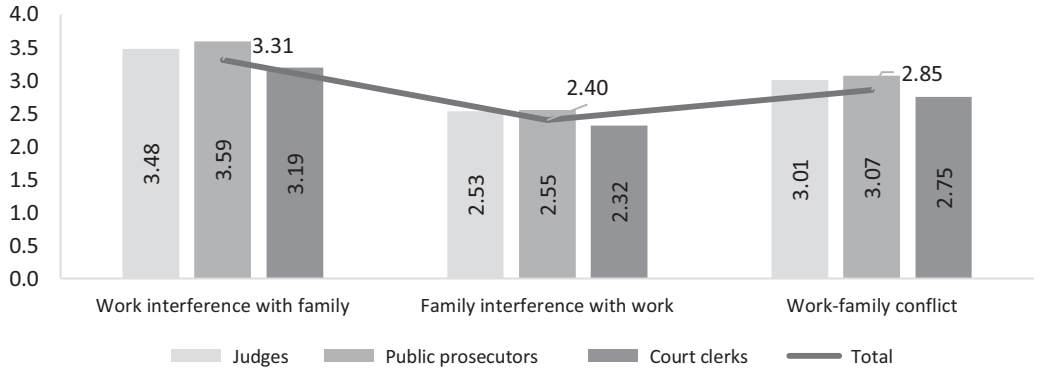

Figure 15. Work-family conflict and its directions (mean) by profession.

There is also a paradox between the results of the questionnaire survey and the interview: the survey shows the lack of statistically significant differences between men and women, while the interviews reveal the heavier burden for women, especially those with children or dependents, when it comes to balancing work and family life.

> 'Usually, I don't stay in the courthouse until very late. My husband works out of town and I have two children in my care. I leave the courthouse when school departure time approaches. After we get home, and once their activities are over, there are things to do, such as making dinner, showers, organizing the backpack for next day, and organizing things at home. So, after they go to bed, I still work for a few more hours, starting around 10:30 or 11 pm and staying up until 2 am, sometimes even later, to keep up with the work and not let it accumulate or fall behind too much. It is a rare day when this doesn't happen . . . I only start working after they go to bed, so I can be really available to them during that period at home.' Public Prosecutor 10, Lisbon

> 'What I see in my female colleagues is a tremendous effort to get out of here at decent hours. Leave at around 5:30 or 6 pm, for example, run to get the kids from school, take them home and feed them, tuck them into bed and then start working. Or, if on that day the person is completely exhausted, the next day she has to get up at five in the morning and start working.' Judge 04, Lisbon

In sum, judicial work often interferes with family life and a rewarding balance between work and family is rarely achieved. In this respect, judges and public prosecutors showed higher levels of work-family conflict when compared to court clerks. The interviews display higher levels of interference of work in family life when compared with the statistical results. Furthermore, the qualitative results show that, as a rule, women are faced with a heavier workload, as their work in the courts is combined with their greater share of work in the context of family responsibilities. This amounts to saying that there is a perpetuation of gender inequality, given that, when compared with men, women have to bear a double burden of paid and unpaid work (Ferreira, 2010; Perista *et al.*, 2016).

6 Normalising work centrality: from conditions to conditionalities

Work centrality is defined as 'individual beliefs regarding the degree of importance that work plays in [people's] lives' (Walsh and Gordon, 2008, p. 46). The relation between the professional and the organisation (court) mediates the work centrality and job attitudes and has a relevant

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impact on the other dimensions of life, such as the personal and the family sphere (Matthijs and Kooij, 2011). One of the main conclusions of Roach Anleu and Mack's (2016) study of Australian magistrates is that judicial work is perceived as potentially dominating and, actually, even overwhelming other aspects of life: non-work, family, friends, leisure or other free or discretionary time. Furthermore, the dominance of judicial work is normalised and seen, or experienced, as inevitable, expected and even natural. The results of the interviews and questionnaire clearly point to a high level of work centrality among Portuguese judicial professionals, especially judges and public prosecutors.

> '[The high pace] is part of the demands of the profession. It has always been like that and it always will be. And not only that, there is a perverse outcome, which is that it is not just the judge who demands this of himself. Their peers also demand it. It seems that judges are expected to work themselves to death, and that is actually the proper thing for them to do.' Judge 03, Lisbon

The demands of work measured in terms of workload, working hours, working time and work intensity are normalised by the judicial professionals. Working in courts is considered a demanding profession, involving several limitations to one's personal life. The responses to the questionnaire and interviews make mention of a large number of 'unwritten' job requirements for professionals working in the judicial system, such as being always on call for urgent problems or working after hours, be it at night or on weekends, and invariably at a high pace.

> 'We have to know how to manage professional time well, because that's why we're here. And the family part, in my opinion, has to take second place, because we must first fulfil the role that we pursue, desire and assume.' Public Prosecutor 01, Coimbra

> 'Given that I had to relocate to the city of Coimbra, where I am living alone with a child, I end up having less time available because the rule is that everyone works overtime. I can't do that, because I have a child who is totally dependent on me, and so I have to work every weekend. I don't think I'm wrong when I say that, since I went back to work, I have worked every weekend, often at night, in the morning and in the afternoon.' Public Prosecutor 05, Coimbra

The centrality of work for judicial professionals – and judges and public prosecutors in particular – is implicitly assumed to be one of the 'job requirements' for a professional working in a courthouse. The imperative need to meet the legal deadlines, combined with the pressure to decrease the number of pending files and made even more pressing by the recent judicial reforms on the management of courts, has reinforced this narrative. The health risks and the impacts on family life caused by the workload can be major concerns in terms of the future of judicial professionals. The results of the questionnaire and interviews are clear evidence that the number and severity of the problems affecting these professionals may rise in the coming years. Therefore, the narrative of the normality of such hard work needs to be countered by different strategies and investments.

In spite of the promotion by the International Labour Organization (ILO) and the United Nations (UN), over the last decades, of a Decent Work Agenda, and the fact that it has been also adopted in Portugal, the truth is that it has not yet become a major concern in the area of justice, especially with regard to the balance between work and family. When, in conjunction with the ILO's efforts to promote decent work for all (ILO, 2007), the UN's goal No. 8 on Decent Work and Economic Growth (UN, 2015) finally reached Portugal, it led the Government to approve a national agenda that also contemplates, among other issues, measures to improve the balance between work and personal and family life (GP, 2022). Notwithstanding this global and national trend toward decent work, the management bodies of the Portuguese judicial system are still

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lagging behind with regard to these concerns. They do not have a plan to deal with the problem, and that has a major impact on the health of judicial professionals and the quality of their work.

7 Conclusions

This article has aimed to provide an overview of the research project QUALIS findings, looking at the perceptions of judicial professionals with regard to three major dimensions of working conditions, the physical environment, working time and work intensity, and work/social environment and the impacts on their health and well-being and work-family conflict. The analysis of the results of an online questionnaire and of interviews with Portuguese judges, public prosecutors and court clerks, among other data, point to four main conclusions.

The first conclusion leads to the existence of a high level of professional satisfaction and identification with the professional values, as well as an acute awareness of the work demands, which contrasts with the perception of distance *vis-à-vis* the management bodies of the judicial system. Therefore, there are risks of an organisational detachment between the professionals and the management bodies, with possible impacts in terms of professional commitment and responsibility.

The second conclusion is the increasing risk of burnout of judicial professionals, which should have the attention of the management bodies. Although the statistical results show that the mean values of the burnout measurement scale are acceptable, these figures hide the existence of professionals who are at risk of burnout, mainly women. The interviews confirmed that 'hiding' the existence of professional 'wear and tear' is a reality faced by a greater number of professionals than one might expect. The variety of labour contexts existing in the judicial system makes it difficult to tell precisely where the major risks lie, although some places with cumulative factors of work demands can be detected.

The third conclusion highlights the lack of sleep and quality of sleep (including insomnia) reported by the judicial professionals in the questionnaire (more than one third of the answers) and interviews. Sleep problems, including insomnia, may have negative consequences for the health of professionals and can lead to a decrease in quality of work, with negative consequences for the justice provided to citizens. Several personal, and mainly professional, factors (e.g. workload job-related stress, the increase in quantitative objectives) are at the basis of this occurrence, which can lead to increasing health problems that are difficult to address and solve within institutional frameworks.

The fourth conclusion points to a 'naturalisation' of the primacy of work commitments over the other aspects of life of judicial professionals, including the family sphere. The 'job requirements' demand that, whenever necessary, and in order to meet deadlines or decrease the number of pending cases, professionals work overtime and on weekends. This constant pressure, which in many cases makes professionals neglect their family and personal lives, may have consequences for their health and even their work performance.

These conclusions highlight the importance of creating and implementing measures and plans aimed at promoting the working conditions of judicial professions in courts. The QUALIS research calls attention to the lack of an evaluation of occupational health and of Occupational Health and Safety Plans adapted to the context and specificities of courts. In spite of the existence, since 2019, of legislation that applies to all public services, the implementation of services to promote safety and health at work has not yet been put into practice in the case of courts. Without the appropriate preventive and active measures to tackle this situation, the judicial system could be faced, in the coming years, with a rise in health risks among judges, public prosecutors and court clerks. There is no question that professionals with health problems will contribute to a decrease in the quality of the justice provided to citizens. The performance of courts cannot be based on productivity alone. It is important to 'look at the other side' of this reality, bearing in mind that

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judicial professionals are uniquely positioned to deliver the desired level of productivity with the quality that is required of them.

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Competing Interests. None

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