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BUILDING A ROBUST JUDICIARY: THE MAJOR REFORMS IN PORTUGAL

CONSTRUINDO UMA JUSTIÇA ROBUSTA: AS PRINCIPAIS REFORMAS EM PORTUGAL

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Abstract: This article presents a comprehensive analysis of the ongoing challenges face in Portuguese justice system. Over the past two decades, the Portuguese justice system has witnessed a series of significant reforms, each aimed at addressing the evolving needs of society, improving efficiency, and enhancing accessibility. This article pretends to provide valuable insights into the impact of justice reforms, its challenges, and the path forward. Methodologically, in order to fulfill our objectives a mixed analysis was used. Firstly, we analyzed the reforms implemented by the Portuguese government from 2002 to 2022. Posteriorly, we used descriptive statistics to assess if those reforms had a significant and desirable impact on the court's performance indicators. The results led to the conclusion that the Portuguese reform process is marked by twists and turns caused by the lack of coherent planning. Performance indicators have evolved in a more fruitful direction; however, they have not yet reached the desirable values, and many reforms have not been able to fulfil their expectations.

Keywords: Administration of Justice. Jurisdictional Reforms. Performance of justice. Public Policies.

Resumo: Este artigo apresenta uma análise abrangente dos desafios enfrentados pelo sistema de justiça português. Nas últimas duas décadas, o sistema de justiça português passou por uma série de reformas significativas, cada uma destinada a atender às necessidades de uma sociedade cada vez mais exigente, melhorar a eficiência e aumentar a acessibilidade. Este artigo pretende fornecer insights valiosos sobre o impacto das reformas da justiça, seus desafios e o caminho a seguir. Metodologicamente, para cumprir nossos objetivos, utilizamos uma análise mista. Primeiramente, analisamos as reformas implementadas pelo governo português de 2002 a 2022. Posteriormente, usamos estatísticas descritivas para avaliar se essas reformas tiveram um impacto significativo e desejável nos indicadores de desempenho dos tribunais. Os resultados permitem concluir que o processo de reforma português é marcado por altos e baixos, causados pela falta de planejamento coerente. Os indicadores de desempenho evoluíram numa direção positiva; no entanto, ainda não atingiram os valores desejáveis, e muitas reformas não conseguiram cumprir o prometido.

Palavras-chave: Administração da Justiça. Reformas Jurisdicionais. Desempenho da Justiça. Políticas Públicas.

1. Introduction

The judiciary plays a decisive role in building a fairer and more egalitarian society, as it was conceived with the purpose of upholding social order, guaranteeing legal security, and stabilizing social and commercial relationships, therefore, it is of utmost importance for it to carry out its function competently and efficiently (Santos et al. 1996; Voigt, 2016; Kumar & Singh, 2022; Zhao & Zhang, 2022).

In the late 20th and early 21st centuries, we witnessed an explosion of legal disputes driven by societal transformations, such as urbanization, globalization, and the technological revolution (Santos et al., 1996; Correia & Moreira, 2016; Langbroek & Westenberg, 2018; Visser et al., 2019; Blank & Heezik, 2020; Sá et al., 2021). These changes brought new legal challenges, due to the growing complexity of interpersonal relationships and the higher demand for judicial protection, however the justice system was not capable of handling competently these transformations and became overwhelmed. The structural and endemic problems of justice, as a public service, resulted in significant social dissatisfaction due to the slowness in resolving legal disputes and the consequences arising from such delays, which instill in the plaintiff a sense of abandonment and injustice (Langbroek & Westenberg, 2018). The Portuguese judiciary has been a stage for numerous movements seeking to reorganize the system, driven by the need to amend deficiencies and provide a better service to the citizens (Santos, 2014; Cunha, 2016). However, despite the efforts exerted by ministerial authorities, the few studies conducted on the subject conclude that the implemented measures and their respective outcomes have proven to be inadequate (Garoupa, 2013).

Rodrigues et al. (2016, p. 3) pinpoint 2002 as the year marking the onset of the "Portuguese judicial crisis", and from that year onwards, the successive constitutional governments have employed extensive efforts towards the modernization and enhancement of efficiency and effectiveness (Catarino et al., 2020). These reforms have assumed diverse contours, focusing on altering the traditional modes of exercising jurisdictional activities to accelerate proceedings (Correia et al., 2018a). Multiple strategies have been implemented to achieve this goal, including: the elimination of overly formalistic and inflexible legislation; the integration of legal principles aimed at speeding processes; the establishment of innovative administrative practices; the adoption of computerized systems for data recording, organization, and processing; and the institutionalization of extrajudicial conflict resolution centers (Rodrigues et al., 2016; Blank & Heezik, 2020).

During our literature review we verified the absence of a study aiming to comprehensively address the reforms implemented over the years while, simultaneously, assessing their effectiveness through an analysis of the evolution of performance indicators. Thus, the present article sought to fill this gap, examining the effectiveness of the public policies implemented in the field of justice, by analyzing statistical data related to key performance indicators.

The overall objective is to analyze and explore the multiple reforms implemented by the governmental authorities in response to the Portuguese justice system crisis. To accomplish this, the following specific objectives were established: 1) Explore the reforms implemented in the justice system between 2002 and 2022; 2) Identify possible challenges posed by the implementation of these reforms; 3) Compare and contrast the performance of justice system before and after the reforms to determine the evolution of the system; and 4) Investigate whether the reforms have contributed to the reduction of delays.

In order to fulfill these objectives, the article will assume a structure divided into four parts. The first chapter will encompass a brief historical perspective, providing a broader context about the Portuguese judicial system and its origins. The second chapter aims to analyze the numerous judicial reforms implemented over the years. In the third chapter, we will explain the employed methodology and discuss the key results. The final chapter includes a series of conclusive remarks, focusing on contributions, limitations, and prospects for future research.

2. Theoretical framework, literature review and historical perspective

2.1. Historical perspective

The relationship between the courts and the government has changed over the years. In certain political regimes, the courts lacked the freedom to act independently form the government, however democratization came to reverse this scenario, in a more permanent way.

In Portugal, in 1933 António de Oliveira Salazar established an authoritarian regime. This regime concentrated all decisive power in the government through the promulgation of a new constitution, which replaced the one approved in 1911.

Through the analysis of the 1933 constitutional text, we can identify signs of some regression in terms of the power of courts, exemplified by its article 122, which was article 62 of the 1911 constitution. In the 1911 regime, the article 63 of the constitution stated that

"the judicial power, whenever […] either party questions the validity of a law or executive decrees […], shall assess their constitutional legitimacy or conformity with the constitution and its enshrined principles". Conversely, the 1933 constitution established that this assessment should be carried out "by the national assembly, either on its own initiative or at government's request, with the same assembly determining the effects of unconstitutionality" (article 122 of the 1933 Portuguese Constitution), here a clear centralizing influence and a loss of power on the part of judicial bodies are evident.

The practices of Salazarism seriously undermined the role of the courts, subordinating their functioning to its own interests, objectives, and conveniences (Magalhães, 1995). It is important to understand that the selection of the magistrates, as well as their potential progressions and depositions, fell within the purview of ministerial competencies. Consequently, judges were well aware of the benefits of displaying loyal behavior and the disadvantages of choosing the path of impudence (Magalhães, 1995). Legal norms were formulated and enforced to support the despotic ideology and ensure the maintenance of order and power (Pahnke & Milan, 2020).

During this period, the Portuguese population was intimidated by the International and State Defense Police (PIDE), which held extensive powers and arbitrary authority that enabled them to pursue and severely punish those who expressed their dissatisfaction or disagreement with the governmental ideology. There were even courts that applied verdicts based solely on evidence gathered by the PIDE, depriving the accused of any kind of proper defense (Pahnke & Milan, 2020).

The roots of the current judicial structure trace back to 1978, although there are visible influences from previous periods (Dias, 2012; Gomes, 2013; Rodrigues et al., 2016). This structure has evolved in line with the goals and projects of the successive governments since 1974 (Rodrigues et al., 2016), yet never fully detaching from the past. Hence, we find it relevant to analyze this historical aspect, in order to gain a better understanding of the present constitution, administration, and conduct of the entities that compose the Portuguese judiciary.

One of the central concerns of the government after the events of April 25th was the transformation of the justice system, which had been fully aligned with a dictatorial regime. Consequently, new legal principles were established to reform the coordination and operation of all organizations and services in alignment with the democratic regime, enabling these entities to embody new values (Dias, 2012; Rodrigues et al., 2016).

From the analysis of the program of the First Constitutional Government, we can understand that one of its primary objectives was to break away from the absolutist past, ensuring the separation of powers and consequently guaranteeing the impartiality and neutrality of the judiciary. Moreover, there was a concerted effort to explicitly state that the government should not hold itself above the law, or interfere in judicial proceedings (Government of Portugal, 1976). As a result, the subsequent years were characterized by the endorsement and enactment of the foundational legislation that forms the bedrock of the jurisdictional system, incorporating the newly established constitutional principles (Rodrigues, 2016).

Given these introductory historical notes, it is important to comprehend the legislative premises that currently guide the judiciary in Portugal.

In accordance with the article 202(1) of the Constitution of the Portuguese Republic (hereinafter CRP), "the courts are the sovereign bodies with the competence to administer justice on behalf of people", and they are also "independent and subject only to the law" (article 203 of the CRP). These principles are reiterated in the Law of the Organization of the Judicial System (Law 62/2013) in its article 2(1) and article 22. In addition to the courts, another body within the scope of the judicial system is the Public Prosecution Service, as envisaged by article 3 of Law 62/2013, which states that "the public prosecution service represents the state, defends the interests determined by law, participates in the execution of the criminal policy defined by the sovereign bodies, exercises criminal action guided by the principle of legality, and defends democratic legality".

In Portugal, the courts are divided into four areas that deal with different types of cases: first, we have the constitutional court; second, the court of auditors; third, we have the judicial courts; and finally, the administrative and fiscal courts (article 29 of Law 62/2013). However, the Portuguese constitution does not exclude the possibility of establishing mechanisms for alternative dispute resolution, therefore, the courts are not the sole "locus" for dispute resolution (cf. article 209(2) of the CRP).

According to article 40(1) of Law 62/2013, judicial courts have jurisdiction over most matters, except those legislatively assigned to other categories of courts. Hence, they are commonly known as courts of general jurisdiction. Within the category of judicial courts, it is possible to discern subcategories based on level of authority: at the highest level is the supreme court of justice; followed by the courts of appeal; and at the base are the district

courts. It is noteworthy that, according to article 81(1) of Law 62/2013, "district courts […] can have specialized competence, general competence, and proximity competence".

We should also emphasize that the state has an obligation to establish mechanisms that enable the population to report the violation of their rights at any time. This obligation is enshrined in article 20(1) of the Portuguese constitution, where it is guaranteed that "everyone is ensured access to the law and the courts to defend their rights and legally protected interests, and justice cannot be denied due to lack of economic means".

2.2. Portuguese Justice Reforms

2.2.1 XV Constitutional Government (2002 to 2004) & XVI Constitutional Government (2004 to 2005)

The XV Constitutional Government was elected in 2002, with the responsibilities of the executive branch being entrusted to José Manuel Durão Barroso (as Prime Minister) and the PPD-PSD party. We also note that the XVI Constitutional Government only lasted a year, so it didn't have time to implement relevant measures.

Upon reading the program of the XV constitutional government, we can ascertain that it acknowledges the inadequacy demonstrated by the Portuguese judiciary in meeting the service standards expected by an increasingly informed society, which is becoming harder to satisfy.

The strategy utilized by this administration to address the main problems of justice primarily revolved around resource expansion. This included the implementation of measures aimed at enhancing productivity, achieved through the establishment of new infrastructures and through the increase of human resources, investing continuously in the development of their skills (Government of Portugal, 2002). However, this "expansion" policy brought with it a concern, particularly regarding the monetary expenditures it would entail. Nevertheless, we observe that during this period, akin to what was seen in subsequent periods, the outcomes of the implemented measures did not yield the anticipated effects, partly due to lack a of necessary resources (Dias, 2012; Rodrigues et al., 2016).

One of the areas that has proven to be particularly challenging within the Portuguese justice system is that of the "executive actions" (Correia & Martins, 2021). According to article 10(4) and (6) of the New Code of Civil Procedure (NCPC), "executive actions are those in which the creditor requests the appropriate measures for the coercive fulfillment of a debt

owed to them, […] the purpose of the execution can involve the payment of a specific sum, the delivery of a specific object, or the performance of an action".

In the 2000s, there was a notable increase in the use of executive actions for credit recovery, however, the courts proved incapable of managing this growth effectively. In this context, the XV Constitutional Government deemed it urgent to implement changes within the scope of executive actions (Government of Portugal, 2002).

This reform was implemented through the enactment of Decree-Law 38/2003, which introduced two changes:

1) The creation of a new profession known as the "execution solicitor" (article 808 of the 1961 Civil Procedure Code, as amended by Decree-Law 38/2003).

2) The establishment of digital repositories for recording elements related to the enforcement procedure (Articles 806 and 807 of the 1961 Civil Procedure Code, as amended by Decree-Law 38/2003).

This new legislation shifted certain functions, traditionally carried out by judges, into the sphere of responsibilities of the new role of the execution solicitor (Articles 808 and 809 of the 1961 Civil Procedure Code, as amended after Decree-Law 38/2003). In the previous code of civil procedure, particularly after the revision by Decree-Law 329A/1995, specifically concerning articles like, for instance, Article 811 and 886, we can comprehend that the judges were burdened with relatively insignificant bureaucratic responsibilities such as "citation and deciding the sales modality". Under this new regime, these tasks were transferred to enforcement agents, although they were exercised under the supervision and subjected to the direction of judges, who retained a power of interference in their responsibilities (Article 808(1) of the 1961 Civil Procedure Code).

2.2.2. XVII Constitutional Government (2005 to 2009)

The XVII Portuguese Constitutional Government officially began its mandate on March 12 of 2005, with Portuguese citizens entrusting ministerial power to the Socialist party and placing their confidence in José Sócrates to serve as Prime Minister during the 2005-2009 legislature.

It was during this period that the first "Action Plan for Court Decongestion" (PADT I) emerged with the promulgation of Resolution No. 100/2005, outlining a series of measures to alleviate the judicial burden. Due to its favorable outcomes, a second version was subsequently introduced through Resolution No. 172/2007 (PADT II).

The PADT I led to the enactment of Decree-Law 107/2005, under which the jurisdiction of the injunction secretariats- an extrajudicial tool for redeeming overdue monetary payments- was expanded, with the aim of minimizing the number of enforcement actions. Another governmental initiative undertaken with the pretense of minimizing judicial backlogs involved restricting the judiciary's resting period during the summer months (Resolution no. 100/2005). However, this decision sparked a controversy regarding its true intentions, as the measure yields counterproductive effects, potentially casting negative impact on the satisfaction and performance of judicial actors (Dias, 2012).

This executive prioritized an optimized allocation of public funds and existing resources. In this way, and through analyses perpetuated by qualified technical personnel in the field of justice, an attempt was made to outline a new distribution of jurisdictional bodies that would address the new social and financial portrait of the Portuguese territory (Gomes, 2013). The new geographical arrangement, established by Law 52/2008, envisaged the conversion of the previous 50 court circles into 39 judicial districts, following a logic of resource rationalization by combining structures and expanding the jurisdictional area of each (Law 52/2008). On the administrative level, the major emphasis was placed on the "introduction of specialized jurisdictions" (Dias & Gomes, 2018, p. 176).

Multiple measures were taken regarding the digital transition, a factor which at that time had become more than unavoidable, to establish a stronger connection with the citizenry, as well as to enhance communication and elevate efficiency and convenience.

The first software that enabled electronic coordination in the courts was introduced in 1999 and was named "GPCível" (Gomes et al., 2012, p. 230). As the name suggests, this software was designed for registering cases within the scope of civil law and their respective coordination, enabling automation combined with the elimination of excessive physical documents, transitioning the data into digital format. However, digitalization couldn't stop there, as a result, a team of experts in information and communication technologies (ICT) worked on enhancing the software and extending its use to processes concerning other areas of law, culminating in the creation of a comprehensive system called "Habilus".

Amidst the ongoing digital transformation, new possibilities for the implementation of electronic means in the justice system continue to emerge. This gave rise to the CITIUS project, which aimed to enable the electronic processing of cases and the execution of most procedural actions through computer applications, utilizing electronic signatures that ensure a high level of security (Ordinance nº 593/2007). This project was introduced in 2007, with

Gomes et al. (2012, p. 233) describing CITIUS platform as "the most revolutionary application for fully dematerialized electronic procedures". This software presents distinct features and functionalities for the multiple users who resort to it (Correia & Moreira, 2016). The CITIUS platform was designed to serve as a centralized information system, capable of storing and managing documentation related to every process at a national level, thereby reducing the stacks of physical documents and minimizing the risk of losing relevant information. With CITIUS, communication and document sharing among different users becomes more efficient and straightforward, often involving just a few clicks. This new technological tool enables real-time access to cases statuses, irrespective of time or location. Nevertheless, the paths that computerization has opened for the justice system extend far beyond the establishment of centralized information systems. On the contrary, given the rapid evolution of society and the incessant technological progress, efforts have been directed towards the development of strategies based on artificial intelligence (AI) to improve performance.

Lastly, we must also address some considerations regarding the executive actions reform, implemented through Decree-Law 226/2008. This project encompassed numerous measures that intended to address the partial shortcomings of the 2003 reform process. Given the magnitude of this reform, we believe that understanding it requires the systematic presentation of its main measures, for which Table 1 was created.

Table 1: 2008 Executive Actions Reform

Objectives	Measures
Introduce innovations to make executions simpler and eliminate unnecessary procedural formalities	1-Reserve the judge's intervention for situations where there is indeed a conflict or where the relevance of the issue determines it (for example, to assess an opposition to the execution).
	2- The role of the enforcement agent is reinforced.
	3- Eliminating the requirement to submit reports to the court explaining the reasons for execution frustration.
	4- Allowing the execution request to be submitted and received electronically.
Promote the effectiveness of executions and the executive process	1-The creditor can freely replace the enforcement agent.
	2-Establishment of a plural composition body capable of effectively supervising the enforcement agent's actions.
	3- Introduction of the possibility of using institutionalized arbitration in the enforcement action.
Prevent unnecessary lawsuits	1-Creation of a public list containing information about unsuccessful executions due to the absence of seizable assets.

Font: Decree-Law 226/2008

2.2.3. XVIII Constitutional Government (2009 to 2011)

The XVII Constitutional Government ceased its functions in 2009, making way for a new cycle, once again led by José Sócrates and the Socialist Party.

The agenda that guided this government's mandate exhibited ambitious goals for the judicial system, encompassing a broad range of bold proposals that would, ideally, transform the effectiveness of the system. However, as the years went by, the array of initiatives and actions taken did not align with this ambition. Many of the proposed measures ultimately did not see practical implementation, perhaps due to the short period of time that this government enjoyed in the exercise of its functions and the climate of economic restraint (Dias, 2012).

On May 17, 2011, Portugal ratified the Memorandum of Understanding (MoU) with the troika team. The Memorandum of Understanding was the pact established between Portugal, the European Commission (EC), the European Central Bank (ECB), and the International Monetary Fund (IMF), which stipulated a series of obligations that Portugal had to fulfill in order to benefit from the monetary support it desperately needed from the other institutions. This project outlined various transformations that were expected to take place in the functioning of the judiciary (Santos, 2014; Correia, et al. 2018b).

By reading the MoU, we can understand that Portugal undertook the following responsibilities: (I) addressing the excessive number of pending cases within a two-year period; (II) reorganizing the territorial, operational, and managerial framework of the judiciary; (III) implementing a personnel strategy based on the reallocation of employees according to the needs of the multiple structures and that emphasizes the importance of career-long training; (IV) providing funding based on demonstrated productivity; (V) reviewing and amending civil legislation (MoU, 2011, p. 16; Government of Portugal, 2011).

2.2.4 XIX Constitutional Government (2011 to 2015) and XX Constitutional Government (2015)

Although the MoU was signed during the tenure of the XVII Constitutional Government, it was in the first government of Pedro Passos Coelho that the measures aiming to fulfill the established goals began to be implemented. It is relevant to comprehend that the implemented measures, which we will examine subsequently, were intended to fulfill the obligations imposed by the Troika's constraints.

Right from the outset, important steps were taken in the scope of Alternative Dispute Resolution, including: (I) the enactment of the Voluntary Arbitration Law, which contributed to align the Portuguese legal framework with international standards; (II) the introduction of a new regime for peace courts ("julgados de paz"), expanding their jurisdiction; (III) and the establishment of the mediation regime. These initiatives intended to project a new image for ADR, fortifying its the legal foundations and legitimizing them in the eyes of the citizens.

The implementation of the New Code of Civil Procedure (NCPC) brought about changes to execution proceedings, aiming to expedite processes and counteract delays. The execution agent, created to simplify the executions, saw its functions expanded in the 2008 reform. However, in 2013, the government chose to (re)transfer certain functions back to the jurisdiction of judges, to ensure effective judicial control. Also, the list of documents substantiating the existence of a debt (known as "executive titles") was reduced. For example, the declarations ratified solely by the debtor as a mean of acknowledging the debt was no longer considered an executive title (cf. Article 703 of the NCPC and Article 46 of the 1961 CPC). Consequently, with this type of document, the creditor could no longer resort to an executive action, though they could still avail themselves of other legal means to recover debt. Through the reduction of documents deemed as executive titles, the number of entered executive actions would simultaneously decrease. Furthermore, a new rule was introduced under Article 779(4)(b) of the NCPC, stipulating that "at the end of the opposition period, if no opposition has been filed, or if the opposition is deemed unfounded, and if no other attachable assets are identified, the execution agent […] notifies the paying entity to deliver the pending amounts directly to the creditor, thereby extinguishing the execution".

In order to reduce the growth of proceedings related to executive titles, Law 32/2014 created a new tool, called "Pre-Executive Extrajudicial Procedure". This mechanism enables creditors to use digital means to ascertain and validate the likelihood of recovering the amounts owed, by examining the enforceable assets. This procedure, ensured by an execution agent, enables the creditor to decide whether or not to proceed with an enforcement action, based on the presence or absence of attachable assets.

However, the changes introduced by the NCPC did not solely pertain to enforcement actions. The objective was to revise all the articles that had proven inadequate and had hindered timely judgments, and to incorporate new guidelines suited to modernity, which would enable the judge to handle conflicts more agilely. These initiatives included the "establishment of a new model for the preparation of the final hearing […] with parties

focusing on essential facts […] thereby discouraging unnecessary prolixity […] arising from the need to include all essential or instrumental facts and circumstances" (Presidency of the Council of Ministers, 2012a, p. 4). Furthermore, the government decided to create "rules limiting the right to appeal […] and reduced the possibility of raising post-decision incidents" and enhanced "the powers of the judges to reject unwarranted or dilator interventions" (Presidency of the Council of Ministers, 2012a, pp. 5-10).

The major reform undertaken by this political cycle within the scope of justice system was the reform of the judicial organization.

The main contours of this new reform were outlined in the Proposal of Law no. 114/XII. First and foremost, a new territorial matrix was established. With the new geographical arrangement, the boundaries of judicial districts ("comarcas") were altered, opting to merge some of them so that they would exercise their competences within the regions corresponding to the "administrative districts" (Presidency of the Council of Ministers, 2012b, p. 8). There are now "23 judicial districts" on the Portuguese mainland, in accordance with the administrative boarders and the specific needs of major urban centers (Presidency of the Council of Ministers, 2012b, p. 9). With this reform various first-instance courts ceased activity and others had their functions reduced to data provision and process admission, assuming additional competencies only if it was considered advantageous by the responsible administrative council (Dias & Gomes, 2018). Additionally, a new management model was instituted to improve performance. With this new model each judicial district was assigned measurable work goals (Presidency of the Council of Ministers, 2012b, p. 12). Subsequently, every 12 months, an evaluation should be conducted to assess the progress in achieving each goal and identify areas of improvement, implementing a cycle of continuous improvement. Simultaneously, each judicial district started to benefit from their own management body, composed of "three members: the presiding judge, a coordinating magistrate from the public prosecutor's office, and a judicial administrator" (Presidency of Council of Ministers, 2012b, p. 12).

However, the literature argues that this new judicial organization proved to be ineffective. The redistribution of structures attempted to solve issues related to distance and ensure that the courts were in central regions, where transit constraints were fewer, and mobility was facilitated by a strong urban transportation network. Yet, Dias and Gomes (2018, p.180) assert that this project had the opposite effect as anticipated, as "the concentration of the justice system involved grouping several municipalities and left many

communities many kilometers away from the nearest courts". Placing the courts in regions with higher population levels had a negative impact on peripheral areas (Santos, 2014; Cunha, 2016). This situation is exacerbated by the fact that public transportation in Portugal exists mainly within the interior of large cities and inadequately covers surrounding areas, making travel more difficult for those without personal vehicles. In this regard, Santos (2014) argues that the new judicial map was primarily structured to cut expenditures, which ended up overshadowing other concerns. Literature suggests that the abrupt adaptation to a new organizational model had a negative impact on court performance. The merging of courts and the reassignment of cases were not accompanied by studies to ensure that the remaining structures were equipped with the necessary resources and that the facilities were appropriate and able to handle increased inflow (Dias & Gomes, 2018). In terms of management, although each court now has pre-established objectives, through which its efficiency is assessed, the government didn't specify how this evaluation should be conducted or the standards it should meet. Moreover, there is no legislative requirement to publicly disclose the findings reached through this process. Also, Dias and Gomes (2018) report that the creation of the new management body failed to bring about the desired change, as its actions are still, to some extent, subordinated to the executive's discretion.

2.2.5. XXI Constitutional Government (2015 to 2019)

The 21st legislative term was entrusted to the Socialist Party (PS), which assumed office on November 26, 2015. At that point in time, the role of Prime Minister was taken up by António Costa.

This government began by implementing adjustments to the geographical arrangement of the courts, following the realization that the layout stipulated by the 2013 reform had led to an excessive distancing of services from users (Decree-Law no 86/2016 of Ministry of Justice). Thus, the courts whose activity had ceased with the enactment of Law 62/2013 were reinstated, now functioning as "proximity judiciaries" (Decree-Law no 86/2016 of Ministry of Justice). In another attempt to alleviate the problems caused by remoteness, "seven new family and minors courts were institutionalized, and four general jurisdiction courts were established" (Decree-Law no 86/2016 of Ministry of Justice). All these measures aimed to (re)place legal resources within the reach of any interested party, minimizing constraints created in certain regions.

It's relevant to understand that there were more turning points in the reform process. For example, once again in a backward step, the 21st constitutional government revoked the previous executive decision to grant full powers to notaries to formalize all inheritance transmission procedures (Article 3(1) and (4) of the New Legal Regime of Inventory Proceedings). On March 5, 2013, the New Legal Regime of Inventory Proceedings (NRJPI) was promulgated, establishing that notaries were responsible for directing inheritance transmission actions. However, this did not rule out judicial intervention, which was allowed when legislatively stipulated. This dejudicializing decision soon revealed its weaknesses, despite its intention of ensuring procedural speed, this objective was not achieved, and issues were raised regarding the capacity to ensure constitutionality. These findings converged in the enactment of Law 117/2019, which establishes "exclusive jurisdiction of the judicial courts for inventory proceedings", as outlined in Article 1083 of the NCPC, reserving the possibility for conflicting parties to resort to notaries if they deem it more advantageous and as long as they don't fall within any of the cases listed in the aforementioned article.

This legislative term established a modern instrument to "give a new face" to justice and reverse the dysfunctional paradigm- it's called the plan "Justice + Closer". "Justice + Closer" is a comprehensive program aimed at implementing restructuring processes based on the application of new techniques and fully leveraging on electronic means (Ministry of Justice, 2022). This project was instituted due to the recognition that many of the technological measures implemented up to that point were inadequate and outdated (Ministry of Justice, 2022). The purpose of the "Justice + Closer" plan was "more than just updating systems and enhancing the adoption of online services, in a process of digital transformation, the initial goal was to promote an agile, transparent, humane, and citizen-centered justice system, simplifying processes and procedures to achieve greater efficiency, continuously monitoring results, and responding more effectively to its users needs (Ministry of Justice, 2016, p. 4). The ultimate objectives of the plan were to achieve "efficiency, innovation, closeness, and humanization" (Ministry of Justice, 2016, p. 5). This plan was highly holistic, fostering a change capable of spanning various branches and judicial structures in a sustainable, coherent, and interconnected manner (Ministry of Justice, 2016). Additionally, this plan was not meant to be static, on the contrary, it aimed to be an adaptably evolving project, continuously adjusting to the emerging needs (Ministry of Justice, 2016). This project led to the creation of initiatives such as "Tribunal +", the "Digital Justice Platform", "BUPi",

"Electronic judicial certificate", the Justice HUB, and the measure "Justice 360º- Citizen Satisfaction Assessment" (Ministry of Justice, 2016).

2.2.6. XXII Constitutional Government (2019 to 2022) and XXIII Constitutional Government (since 2022)

The governance period of the XXII Constitutional Government was primarily marked by the outbreak and responses to the Covid-19 pandemic. Since the first infection by the SARS-CoV-2 virus in Portugal, the situation escalated, reaching concerning proportions, that led to the promulgation of legislative measures to safeguard public health in face of the mortality rate associated to this new infection. The measures taken to protect the population and prevent the virus's spread entailed radical changes in our way of life, imposing restrictions on individual freedom.

The jurisdictional domain couldn't be exempt from the legislative actions aimed at containing the SARS-CoV-2 virus (Ministry of Justice, 2022). Thus, the main judicial challenge was to ensure that the constitutional right enshrined in Article 20 of the Constitution would not be compromised, ensuring that no one would be denied the possibility of resorting to legal instances for protection (Ministry of Justice, 2022). Therefore, unlike several other public and private services, dispute resolution services never "closed their doors", but instead embraced regular sanitization procedures and other measures deemed necessary by the Directorate-General of Health (DGS). To mitigate infection transmission and minimize personal interactions within the facilities, computational methodologies and remote work techniques were also employed (Ministry of Justice, 2022). These measures were taken to ensure the safety and well-being of all those who needed access to these services (Ministry of Justice, 2022).

The 2nd edition of the "Justice + Closer" program emerged in 2020, in a period, as we have seen, marked by turmoil, however, efforts towards innovation were not completely immobilized. This new project inevitably arises as an extension of its predecessor, expanding and enhancing the proposals and measures previously outlined and implemented (Correia, 2023).

3. Research design and methods

The methodology employed consisted of analyzing the trajectory and development of the court's performance indicators over the years. The performance of the Portuguese

justice system is reflected in statistical evidence continuously disclosed on a public webpage, ensuring transparency of the results, and enabling stakeholders to scrutinize the system's functioning. Thus, there is an unimpeded opportunity to access the necessary information and subsequent accountability of the judiciary.

With this work we aimed at understanding if the policies implemented over the years in the judiciary were effective. To do so, we analyzed the data made available to the public by the Ministry of Justice.

The Ministry of Justice has a website that allows us to comprehend the evolution of indicators such as congestion rate, number of cases opened, closed, and pending, efficiency and effectiveness rates among others. To achieve our ultimate objective, we analyzed how the reforms implemented over the years affected those indicators.

Therefore, these data were analyzed using descriptive statistics. Descriptive statistics is a branch of statistics that focuses on the organization, summarization, and interpretation of the data. Its primary goal is to provide a clear and concise description of data sets, highlighting their main patterns and characteristics.

Before presenting and discussing the results, it is necessary to clarify which metrics (performance indicators) we used in this study, which are disclosed on Table 2.

Table 2. Performance Indicators

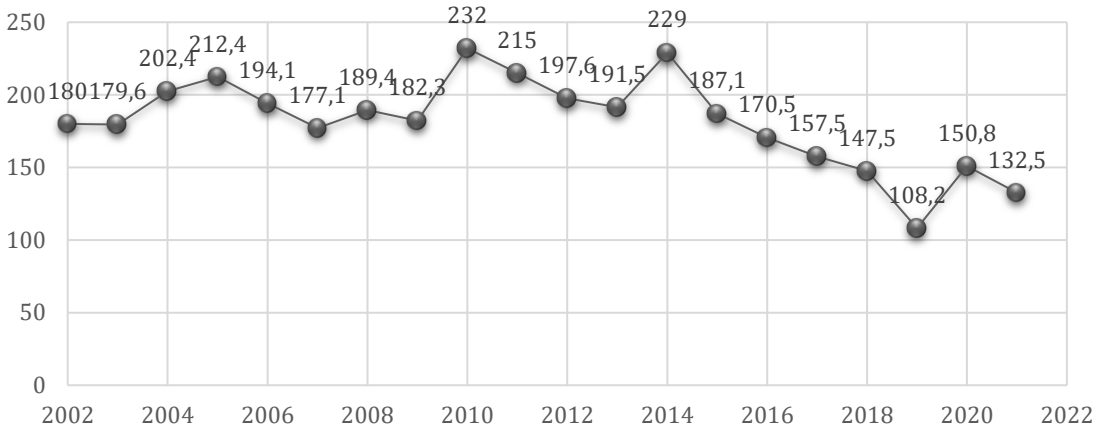
Indicator	Definition	Font
Congestion Rate (%)	It is the proportion of pending cases compared to the cases resolved by the courts.	PORDATA
Resolution Rate (%)	It is the proportion of cases resolved by the courts compared to the new cases that arise.	PORDATA
Average Duration of Cases	It is the time, in month, that elapses between the date of case filing and the date of the final decision (judgement, sentence, or order) in the respective instance, regardless of any appeals.	DGPJ
Disposition Time	It is an indicator aimed at measuring, in days, the time it takes to resolve pending cases based on the observed work pace during a specific period.	DGPJ
Supply	In the current research, supply is measured in terms of the number of completed cases.	
Demand	In the current research, demand is measured in terms of incoming cases.	

Font: Elaborated by the authors

4. Results

Let's begin with an analysis of the evolution of congestion rates in the judicial courts. Graph 1 shows a relative stability of the index between 2002-2009, followed by a significant decline from 2014 to 2019, and it's in 2019 that we register the lowest value of the decade.

Graph 1. Congestion Rates of Judicial Courts

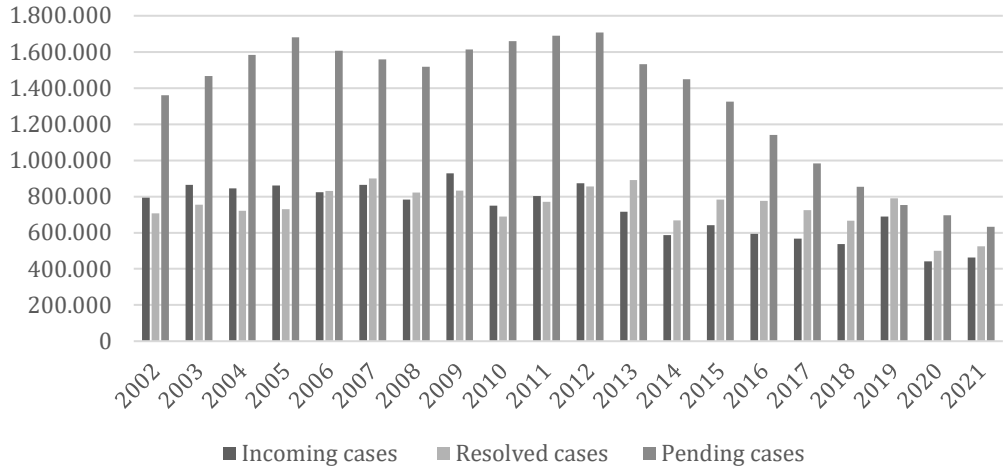


Font: PORDATA

The abrupt changes in government during the period from 2002 to 2005 made it impossible to implement consistent and productive measures that would positively impact (de)congestion. It's worth noting that during the mandate between 2005 and 2009, there was a short-lived but positive reduction in the rate, indicating that, even temporarily, the measures implemented under PADT I and II did influence efficiency (Garoupa, 2013). Furthermore, the increase in the rate recorded between 2013 and 2014 could be the result of the need to hasty adaptation to new reformist premises (Dias & Gomes, 2018). The increase in the congestion index observed in 2020 can be easily justified in the light of the Covid-19 pandemic. It's clear that the novelty and uncertainty surrounding the pandemic context brought with it some difficulties, as rapid adjustments were required in a completely unknown context, which inevitably affected the productivity of the courts. Tasks were being carried out in an entirely new, atypical way, through remote work and the use of computer programs. This came with difficulties, such as connectivity issues and hardware and software failures, which hindered task execution. Additionally, adapting to new guidelines, which were issued almost daily, contributed to a state of disorder that clearly hindered the performance and productivity of human resources.

Looking at the year 2021, it's worth noting that we still aren't in an ideal scenario, where the number of pending cases is lower than the number of resolved cases. Therefore, despite the improvements, we are still confronted with issues of inefficiency (cf. Graph 2).

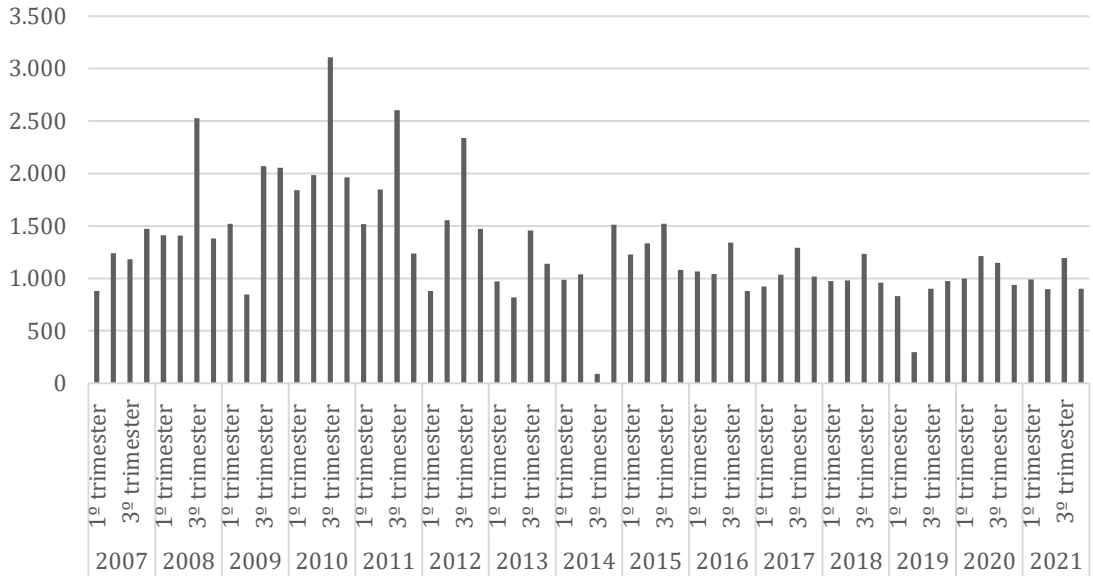
Graph 2. Evolution of the Number of Cases in Judicial Courts



Font: PORDATA

Graph 3 reveals that between 2022 and 2012, the trend was unfavorable in the sense that the number of incoming cases tended to exceed the number of cases concluded. This ultimately resulted in disappointing resolution rates, highlighting the (relative) unproductiveness of the instituted reforms.

Graph 3. Civil executive actions disposition time



Font: DGPJ

However, after 2013, the number of resolved cases consistently surpassed incoming cases, resulting in resolution rates exceeding 100%. This more positive scenario emerged as a testament to the success of measures implemented under the Troika reform. By analyzing Graph 2, and in line with the studies previously conducted by Correia and Videira (2015), Correia et al. (2018b), and Correia et al. (2019), we can understand that the beneficial effects of the 2013 initiatives became more evident at a time when Portugal was no longer bound

by international support (Correia et al., 2019). In 2020, there was a significant decrease in the total number of initiated actions; however, this year was also marked by an increase in congestion rates and a reduction in efficiency rates. Dias et al. (2021b) justify the phenomenon of increased congestion rates, despite reduced demand, based on the constraints brought to the exercise of services by the Covid-19 pandemic. The entire population felt the weight of restrictions, isolation, and the need to stay at home, resulting in a suspension of life as we knew it. Consequently, with life on hold and the obligation and responsibility to remain indoors, the reason for disputes diminished, as these disputes stemmed from stagnant relationships.

5. Discussion

Despite being now separated, we cannot help but note that judicial power is affected by government choices, since it is responsible for the rules governing the functioning of justice and for controlling the budget allocations to it. Magalhães and Garoupa (2020) even point to a series of studies that previously demonstrated that the credibility that legal structures hold in the eyes of the public is influenced by their opinion about the performance of the political system.

The literature also emphasizes that the duration of government mandates in Portugal is not sufficiently extensive to promote coherent structural changes that are able to reshape the root of the judicial paradigm (Melro & Oliveira, 2022). This relatively short interval does not appear sufficient to properly organize and structure measures and carry out experiments to assess their viability (Melro & Oliveira, 2022).

The areas of judicial organization and executive actions have received the most attention and efforts; however, this does not necessarily translate into better solutions or improved results. We have identified the issues surrounding the new judicial map, which was approved during a period of budget constraints, and the literature suggests that the changes implemented were primarily aimed at reducing expenses (Santos, 2014). The need to take measures that aligned with the demands of international financial support institutions led to the rushed approval of a restructuring without considering the difficulties it would pose. The judicial map has undergone through reforms and counter-reforms, both minor and major adjustments, and yet it still fails to meet the needs of the citizens (Dias et al., 2021a). Similarly, executive actions are subjected to constant readjustments, which could be avoided with

effective planning. Overall, we have observed slow progress in these areas, with the announcement of major measures resulting in minor advancements.

The scarcity of public participation mechanisms, essential in building a system of higher perceived quality, was equally evident. When we combine the necessity of maintaining an active communication process with citizens and the opportunities conferred by the ICT, we understand the importance of creating a public participation platform. This platform is currently being created; however, we note that its creation was already part of the government objectives in 2016, and currently, this platform only serves as a public consultation page.

However, for public participation to be fruitful, it is necessary, even imperative, to invest in education, dispel social prejudices regarding the functioning of the justice system, and increase transparency levels. To raise public awareness, it would be relevant to include innovative programs capable of capturing the attention of the younger population, such as social media campaigns, webinars, and workshops.

Additionally, it seemed to us that the government has disregarded the importance of implementing mechanisms that allow court employees to express their opinions regarding the judicial system and its issues (Sá et al., 2021). These mechanisms would be useful for innovation and service improvement, as well as for increasing engagement. Furthermore, in the context of human resources, it is relevant to note that the ongoing professional mobility model may pose risks in terms of attracting new employees and causing professional tensions. The lack of incentive mechanisms and benefits has already been a source of tensions, and these factors are essential in building an efficient and effective system (Voigt, 2016; Ferro et al., 2018; Sá et al., 2021).

Given the emphasis placed on the civil enforcement area in successive reforms, we find it relevant to analyze the evolution of one of the key efficiency indicators, namely, the disposition time (Graph 3). According to the European Commission (2019), "the "disposition time" indicator is the number of unresolved cases divided by the number of resolved cases at the end of the year, multiplied by 365 days". Thus, "it indicates the minimum estimated time a court would need to resolve a case while maintaining current working conditions" (European Commission, 2021). In short, this indicator reflets the effective productive capacity.

We can observe a positive trend regarding the disposition time during the period in question. The least favorable scenario occurred between the 3rd trimester of 2009 and the 3rd trimester of 2011, where disposition time almost always reached, and sometimes exceeded,

the threshold of 2000 days (approximately 5 and a half years). It was in the 3rd trimester of 2010 when disposition time appeared most unfavorable, reaching over 3000 days (approximately 6 years). Since the 4th trimester of 2012, disposition times have remained relatively stable and slightly below 4 years, stabilizing more decisively since the 4th trimester of 2015. Since 2016, 24 trimesters have been analyzed, of which 14 had disposition times of less than 1000 days, i.e., less than 3 years.

Despite the consequences of the pandemic, it was not possible to identify a significantly negative impact on the productive capacity of the judicial courts, at least in executive actions (Graph 3). As we can see from Graph 3, during the pandemic period (2020 and 2021), disposition times remained relatively similar to those of previous years. During the period from 2020 to 2021, the highest disposition time was recorded in the 2nd trimester of 2020, coinciding with the emergence of the first cases of Covid-19 in our country; however, this peak only reached 1212 days.

6. Conclusion

The judicial sector has experienced turbulent times brought about by societal transformations, which have resulted in an overwhelming demand for legal protection, thereby leading to the overcrowding of judicial instances. This turbulence postulated the need to consolidate reforms to enable the adaptation of the justice system to socio-economic transformation processes.

Faced with this challenging scenario, it became necessary to change the processes and practices of the courts to enhance their efficiency and effectiveness. In this way, Portuguese constitutional governments found themselves compelled to implement measures that met new expectations and were capable of improving the functioning of the justice system. These reforms encompassed various approaches, ranging from eliminating excessively formalistic and inflexible legislation to adopting computerized systems.

Regarding the analysis of the evolution of court performance indicators, this allowed us to conclude that it is undeniable that there have been improvements, notably the reduction in congestion rates, the decrease in the number of pending cases, and the improvement in resolution rates (cf. Graph 1 and Graph 3). However, we cannot assert that we are in an ideal scenario, as there is still a long way to go towards the refinement of the judiciary. In this field, the findings were entirely consistent with the literature, particularly with the studies by Garoupa (2013), Correia and Videira (2015), Correia et al. (2018b), Correia et al. (2019), and Correia and Martins (2021).

In terms of practical implications of the present research, understanding the impact of the reforms and extracting their outcomes in terms of performance enables informed decisions regarding the necessary adjustments in public policies. By allowing the identification of strengths and weaknesses in the reforms, this study can assist in pinpointing areas that require improvement or restructuring, ultimately aiming to enhance the judicial system. Regarding the theoretical implications of the research, it's worth noting that this study systematizes the Portuguese reform process, which was previously a gap in literature.

Despite the relevance of the theme and the conclusions drawn, the present research is not exempt from imperfections. Firstly, we did not investigate all the details of the Portuguese justice reform, for example, we didn't analyze the reforms in administrative and tax courts and the reforms of the criminal code. Secondly, concerning the statistical analysis

conducted on performance, it does not encompass all potential performance indicators and focuses exclusively on the functioning of the judicial courts.

There are numerous possibilities for future studies related to the topic of Portuguese justice reforms, which can address different aspects of the judicial system an its transformations. The present research chose to conduct a comprehensive assessment of the reforms over a ten-year period, analyzing the choices made, their impacts, and challenges over time. However, it would also be relevant to perpetuate a comparative analysis of Portuguese justice reforms in relation to the experiences of other countries. From another perspective, it would be of great interest to examine how reforms have impacted judicial independence, justice access, and the public perception of judicial institutions.

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