



CHALLENGES POSED TO THE PORTUGUESE JUDICIAL SYSTEM MODERNIZATION*

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Abstract

The paper focus on perceptions that agents, workers in the Portuguese judicial system, in all their functions, have regarding the challenges that are posed to them when implementing modernization processes. Which, then, allows the authors to identify and understand the challenges and how the agents address them. The paper presents the results achieved with NVivo analysis applied to eight interviews. Those interviews were also analyzed considering their content, following Bardin's guidelines (BARDIN; RETO; PINHEIRO, 1977), with some excerpts being selected to enhance the conclusions. The interviewed agents are placed in different working positions in the judicial system (Public Prosecutors, Lawyers, Notaries, Judiciary Police Agents, among others). They are systematically confronted with the need to implement reform measures. There were several challenges mentioned. However, a common aspect among those challenges is the existent gap between the judicial system projects' definition and their degree of achievement in the field. The paper contributes to the theoretical discussion with topics such as the symbiosis of traditional and modern practices, focusing on qualitative data and considering the more significant and inevitable EU influence.

Keywords: Portuguese judicial system; Modernization; Reforms; Innovation processes; Judicial system projects; NVivo analysis; Content analysis.

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Introduction

In Public Policies, there is a standard gap between what is defined in terms of modernization processes and what is achieved, what is idealized, and then effectively accomplished (HUDSON; HUNTER; PECKHAM, 2019; ROSLI; ROSSI, 2014). Analyzing this is the work of public policy evaluation impact processes (BATISTA; DOMINGOS, 2017), which allows policy-makers to understand the path followed, its impacts, and what needs to be changed.

The main goal of the paper is to identify and understand the challenges judicial system workers face when asked to implement modernization processes. For that, the authors start by presenting a list of the main defined projects applied for the judicial system modernization. And, secondly, by analyzing the content of the interviews conducted.

As Sabatier & Mazmanian (SABATIER; MAZMANIAN, 1980) claimed,

Implementation is the carrying out of a basic policy decision, usually made in a statute (although also possible through important executive orders or court decisions). Ideally, that decision identifies the problem(s) to be addressed, stipulates the objective(s) to be pursued, and, in a variety of ways, "structures" the implementation process. (SABATIER; MAZMANIAN, 1980).

The paper is divided into four sections. The first one presents a brief theoretical framework considering what is in discussion: the challenges most mentioned by the interviewees when implementing modernization processes. This section included the search by the modernization, reforms, innovation processes, and judicial system projects keywords. Similar European realities were analyzed, and other studies were compared.

The following section is dedicated to methodology explanation, followed by section three, which lists and describes some of the main projects implemented in the Portuguese judicial system in the last 48 years, with particular emphasis on the last 20 years. This last period is justified by the rapid evolution of Information and Communication Technologies, which occurred in Portugal and enabled modernization. The pandemic also contributed to this modernization.

Section four will be dedicated to analyzing the challenges accompanying the modernization processes and the projects implemented. Those challenges are reflections and reflect the daily work demands, which provide actors a space to be creative (for example, the CITIUS platform, which will be described in detail in section one). It also offers blockages hard to overcome, which is not ideal in such a sensible area (the judicial system).

This last section will also be grounded in the interviews' excerpts, which are essential for understanding the projects' relevance for the actors responsible for making them operate in the field.

As previously mentioned, the paper results from a three-way strategy methodological research project. Furthermore, because of that, it can be perceived as one of its highlights.

1. Theoretical framework

Contrary to what Salazar (SALAZAR, 2021) defends, this article considers breaking with the past in the judicial system impossible. In fact, for several years now, the judiciary has also been going through a crisis, manifested through successive delays in dispute resolution or even in processes conclusion in any other service linked to the judicial system (GOMES, 2011). This crisis has given rise to the elaboration of efficiency plans closely related to the New Public Management applied to the Public Administration as a whole (TAVARES, 2019; TELES, 2020). This has resulted in projects that continually demand to dynamize, modernize, innovate, and make the judicial system more flexible (SALAZAR, 2021).

However, this has not implied a break with the past and the traditional. Both – traditional and modern – are combined in a symbiosis provided by the judicial system employees or practices, which are considered an asset for work development (ONGARO, 2009). Nevertheless, the need to maintain the judicial system as something controllable and protected. Above all, due to the fragility into which it can be transformed because of the introduction of new and disruptive decision-making forms.

Thus, modernization and tradition are two sides of the same system that combine to contribute to the fulfillment of democratic principles while looking for ways to make the judicial system more flexible. Analyzing ongoing projects and their management allows us to understand how they can contribute to improving the system (MENESES; OLIVEIRA; VASCONCELOS, 2016), namely in terms of efficiency and transparency.

This was, indeed, one of the objectives of this article, knowledge contribution regarding the projects under development in the Portuguese judicial system, but to complement this analysis with interviews carried out with officials of that same system. Thus, there is a deepening between what was defined at a strategic level and the

challenges employees face when they try to implement these same projects, not only focusing on quantitative data, such as Ippolitia and Tria (IPPOLITI; TRIA, 2020) do.

As will be seen, the development and application of Information and Communication Technologies (ICT) have contributed to projects' development within the Portuguese judicial system, similar to what has been happening in the Public Administration (DIAS; GOMES, 2021) and other judicial systems (REILING; CONTINI, 2022).

According to Reiling and Contini (2022), implementing platforms in judicial systems has been a reality. Something boosted by the COVID-19 pandemic (FABRI, 2021). In Portugal, "platformization" and digitalization have also taken place gradually over the last few years. Examples of this are the CITIUS and SITAF platforms, which support the procedural process in the Courts.

Introducing new tools is not without challenges for those who define them but, above all, for those who use them daily to carry out their work. One of the challenges is precisely its daily use by people who perform their tasks almost always using paper or more traditional methods, as well as the introduction of premature tools for what is still in their application base (FABRI, 2021).

Based on the strategic redefinition for the modernization of the Portuguese judicial system is European integration (in 1986) and the increasingly perceptible influence of European guidelines in daily work. This influence comes from European funding (CORREIA; VIDEIRA, 2016) or legislative changes (KAPPL, 2016), especially in the search for standardization of legal frameworks and international cooperation.

Thus, unlike Langbroek (LANGBROEK, 2017), the European Union has a say in court administration. Some of the most recent European reports (EUROPEAN COMMISSION, 2021; EUROPEAN UNION, 2019; OECD, 2020) reveal the measures implemented and to be implemented in need to bring the judicial systems closer, which necessarily involves labor practices.

Nevertheless, following the motto discussed in this article, the challenges posed by Portuguese judicial system modernization are various. First, it includes multiple variables – human and financial resources, EU influence. Also, it is a very complex system. Moreover, different interconnected levels of analysis must be considered. As mentioned by Langbroek (2017),

Court administration on a national scale can be challenging. It is not only that courts can do many different things. Back offices in the courts may have hundreds of different procedural routines, to date automated, including filing and hearing cases on-line. Because courts are also decision-making organizations, play a role in law enforcement and in conflict resolution, their societal

tasks are evident. Court administration and management are challenging, because they presuppose not only specialized legal knowledge at a technical level, but also other knowledge, essentially concerning the usual management issues: personnel, information dissemination, organization, finances, IT communication, security and facilities. Each of those domains has local and national management issues, and local and national management issues are interrelated. (LANGBROEK, 2017).

All dimensions indicated by the author were considered in the present study, although only a few are reflected in the results obtained through the interviews. This is the main contribution of the article, the reflection presented regarding the challenges that agents located in the daily work dynamics of the judicial system identify concerning the demands of modernization of their work.

2. Methodology

Eight semi-structured interviews were applied to individuals developing different functions in the Portuguese judicial system. The methodology applied had the primary goal of understanding the perception of Judicial system workers about the public policies' modernization, specifically the ones that interfere with their functions. The following table presents the interviewees' characterization. Their names and geographic place of work were deleted to guarantee confidentiality.

Table 1. Interviewees' characterization

Function in the judicial system	Sex	Years working in the function	Other functions occupied in the judicial system
Court Official_1	Female	5 (since 2017)	Public prosecution intern Lawyer
Lawyer	Female	26 (since 1996)	No
Court Official_2	Female	5 (since 2017)	Immigration and Border Service (SEF) Inspector
Notary	Female	4 (since 2018)	No
Notary	Male	16 (since 2006)	Lawyer
Registry Official	Female	19 (since 2003)	Lawyer
Judiciary Police Inspector / Interpol Inspector	Male	26 / 16 (since 1996 / 2006)	No
Public Prosecutor	Male	36 (since 1986)	No

Source: Own elaboration.

The primary goal was to ensure interviewees were placed at different judicial system functions. This guaranteed different experiences, whether by contacting with diverse platforms and procedures.

Secondly, it was one's goal that the interviewees were geographically placed in different parts of the Country. That is not visible in the previous table. However, it was

possible to interview workers from Lisbon, Porto, and Vila Nova de Famalicão (cities from the Center and North of Portugal), which also provide a wide range of experiences.

Finally, the goal of having as many men as women with different experience years and experiences from several professions was also achieved.

Following an interview guideline, the interviews were conducted between November and December 2021. Except for one interview, all the others were conducted in the presence. The research project's goals were explained to all the interviewees, and permission to record (with the consent form signed) was given.

The interview's analysis occurred in two phases: first, the content analysis, where main categories and subcategories were defined. Those were relevant for the NVivo analysis (second phase), providing relevant insights regarding the most relevant topics in the interviewees' opinions to what the judicial system modernization process was concerning.

In the following table, it is possible to glimpse the categories and subcategories retrieved from the interviews' content analysis. It is possible to connect those categories with the challenges the interviewees highlight in implementing modernization projects: Reforms/Changes; People; UE integration and influence; Impact evaluation; Information and Communication Technologies (ICT), and Infocommunication Competences.

Table 2. Categories for the interviews' analysis with NVivo

Categories	Subcategories
Key actors	
	<i>Impact evaluation</i>
	<i>Influence on judicial system reforms</i>
UE influence	
Reforms/Changes	
	<i>Key moments</i>
	<i>More beneficial</i>
	<i>More detrimental</i>
	<i>Enabler's elements</i>
	<i>Obstacles</i>
Information and Communication Technologies	
	<i>Infocommunication competences</i>
Tradition and Modernization	
	<i>Conciliation</i>
	<i>Tension</i>
	<i>Optimal model</i>

Source: Own elaboration.

The interviewees gave essential insights on the most relevant categories (and subcategories), and then those categories and subcategories allowed us to understand NVivo results.

The first section reflected on the significant projects developed in the Portuguese judicial system considering its modernization. And then, results retrieved from content and NVivo analysis were presented, gathering this with a specific analysis of the main challenges identified by the interviewees in this modernization process.

3. Current projects for the Portuguese judicial system modernization

This section presents the analysis performed on five official Governmental documents: 1996/1999 Justice Goals' Balance; Great Plan Options for 2000; Great Plan Options for 2020; 2016-2019 Closer Justice Program; 2020-2023 Closer Justice Program.

The paper's primary goal is to present the results of the interviews conducted with agents placed at the implementation level of the projects mentioned in those official documents. Since their work is current, the documents included in the analysis are also the most recent ones. Moreover, since the agents also mentioned some of those projects, it seemed relevant to consider when they were implemented and what were the main projects' goals and measures.

The *Plan for Modernization and Technology* (MINISTÉRIO DA JUSTIÇA, 2015), which had the slogan “*for an agile, transparent and closer Justice*”, presents the main projects in Portuguese Justice for the years between 2016 and 2019. This is the most recent and broader program to reorganize and modernize Justice. A Plan that was reprogramed for the period of 2020 and 2023.

Before that, if one analyses Governmental Programs, since 1976, Justice has been at the center of interest for all Portuguese Governments as a relevant dimension to be modernized and changed¹, to accomplish the main Governments concern: effective access to Justice, in all its aspects. For that, measures such as Courts and Judges statute; Judiciary Police; Registration and Notary services; full usage of informatic services in the judicial system; prisons and penitentiary system; tutelary minors' services; and processes' de-bureaucratization have been implemented.

¹ This subject was exhaustively scrutinized in a paper submitted to a Journal and awaits an editorial decision.

In all these changes, the year 1986 can be considered a mark. Indeed, the Portuguese integration into the European Union influenced the major Governmental decisions. If keywords such as modernization and innovation were already in the vocabulary of the Governmental programs, they gained a new meaning or, instead, a new relevance, considering the EU demands.

Moreover, since the '90s, regarding modernization and innovation, the introduction of informatic platforms and the relevance given to ICT were clear. The following table presents a balance of the development and effectiveness of the Great Plan Options between 1996-1999 for Justice.

Table 3. 1996/1999 Justice Goals' Balance²

Mission	Goals
Deepening of the Rule of Law and the approximation and adequacy of Justice to the demands of citizens and the increasingly demanding and pressing social dynamics.	New organizational model and functioning of judicial courts
	Court infrastructures recovered and enriched
	Development of judicial computerization programs (courts local networks and the national judicial network)
	Reform of Civil Procedure , court fees, simplification of procedures for debt collection and the reform of labor process and bankruptcy and corporate recovery codes
	Reform of child and youth protection laws at risk and educational tutelage
	Reinforcement of the capacities and operations of the Judiciary Police , the Penal and Criminal Procedure Codes were amended
	Reform of the medico-legal system , amendment of the drug law
	Innovation in the regime of non-provisional checks, witness protection, victim defense, community work, electronic surveillance of individuals awaiting trial and obliged to remain in housing, international judicial cooperation, and criminal identification
	Implementation of the Action Program for the Prison System , aiming to reduce overcrowding prison and improve the conditions of incarceration, in terms of housing, health, education, professional training, sport and occupation
	At the registries and the notary , civil identification law was published and initiated the reform of the land register, along with the modernization of facilities and equipment and the computerization

Source: Own elaboration.

In a brief analysis of the measures implemented between 1996 and 1999, one may conclude that the significant areas of Justice are represented, namely, Courts' reform, Codes' revision (Penal and Civil), prison system adjustments, protection of children and youth, definition of new financial crimes, and the Registries and Notary.

² <https://www.dgo.gov.pt/politicaorcamental/Paginas/GOP.aspx>, visited on February 27th, 2022.

However, the most significant differences can be found in the comparative analysis of the goals presented between 2000 and 2020. Thus, in 2000, the guideline was approximately the same as that defined for 1996-1999. This is verified by the mission in each table (tables 1 and 2). The goals also remained the same, strengthening the approximation of Justice to the citizens.

This approximation has been reinforced since 2015 and becomes visible in the goals presented for 2020 in table 3. Therefore, attention must be taken to tables 2 and 3.

Table 4. Great Plan Options for 2000³

Mission	2000 Goals
A faster and more efficient Justice, closer and accessible to citizens, with modern and flexible structures, better suited to the needs of companies	Improving access to justice and the law , with respect for the principle of equality
	Extended use of forms of conciliation and extrajudicial conflict resolution
	Strengthening the fight against crime , in national, European and international frameworks
	Solving the problem of overcrowding in the prison system , dignifying the conditions of incarceration, and promoting effective social reinsertion of youth and adult
	Access of all citizens to the services of the registers and the notary , creation of integrated systems of commercial, land and property registers based on the communications network of the Justice ministry

Source: Own elaboration.

Table 5. Great Plan Options for 2020⁴

Mission	2020 Goals
An efficient justice, at the service of rights and social-economic development	Making Justice closer to citizens, more efficient, modern, and accessible
	Increase transparency in the administration of justice
	Create conditions for improving the quality and effectiveness of judicial decisions

Source: Own elaboration.

The previous tables show the differences between the two years of setting goals for Portuguese Justice. If, in 2000, the objectives were extensive, well demonstrative of what was intended to be achieved. In 2020, these same objectives were broad, then materialized in specific measures for each area. In fact, for goal 1 of the year 2020, 19 measures were defined; for goal 2, 7 measures were defined, and for goal 3, 10 measures were defined.

³ <https://www.dgo.gov.pt/politicaorcamental/Paginas/GOP.aspx>, visited on February 27th, 2022.

⁴ <https://www.dgo.gov.pt/politicaorcamental/Paginas/GOP.aspx>, visited on February 27th, 2022.

Additionally, the area of Justice and the concrete measures defined as of 2016 had repercussions in the most varied Governmental areas: Social Security, Health, and National Defense, among others.

It is now essential to reflect upon the main Program of Portuguese Justice reform and modernization of 2016-2023. That Program is the Closer Justice (*Justiça + Próxima*⁵), and this is the one that is going to be analyzed, considering its main projects, its up-to-dateness, and the importance for Portuguese Justice.

In 2006, the Portuguese Government launched the Simplex Program⁶. Among other Public Administration areas, it included Justice and several measures to simplify legal modernization and apply electronic administration to different judicial services. The 2016 Simplex Program included 32 measures to simplify Justice administration and promote proximity to citizens and companies. The 2017 Simplex Program included 21 measures for the same purpose. Furthermore, the 2018 Simplex Program had 35 measures. Moreover, in 2022, the Simplex Program, in addition to the previously mentioned measures, counted 21 more.

However, legally it was essential to create funding to guarantee the maintenance of Justice Modernization. So, in 2011, aware of the financial and economic need to implement Justice Modernization, the Decree-Law nr. 14/2011, January 25th⁷ creates a specific fund for that purpose. The fund covered the following strands:

- a) Introduction of new technologies;
- b) Introduction of new processes or modification of existing processes to increase services efficiency or effectiveness;
- c) Updating and modernizing the judiciary and other infrastructures of the Justice system;
- d) Carrying out dissemination and training actions in the field of judicial modernization;
- e) Scientific research.

Moreover, all those strands were predicted in the Closer Justice 2016-2019 Program, divided into four pillars: efficiency, innovation, proximity, and humanization.

⁵ <https://justicamaisproxima.justica.gov.pt/>, visited on February 27th, 2022.

⁶ <https://www.simplex.gov.pt/>, visited on February 27th, 2022.

⁷ https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1396&tabela=leis&so_miolo=S, visited on February 27th, 2022.

Therefore, this Program is included in the broader Simplex Program, with all its measures being some of those included in Simplex.

At the same time, in 2016 was also launched the National Reforms Plan⁸, defined as a set of structural reforms that promote the relaunch of investment and contribute to the sustainability of public finances, meeting the priorities identified by the European Commission.

In this specific context of recognizing the urgent need to reform Justice and respond to the EU demands, Closer Justice Program defines the specific needs, goals, and achievements. The main principles of this Program were “interoperability, reuse of information, resources’ sharing and new tools’ introduction, fostering a logic of collaboration between and within institutions, and promoting the change in the sector’s organizational culture” (MINISTÉRIO DA JUSTIÇA, 2019).

In this Program, the most relevant projects, whether by their dimension or their impact on citizens’ lives were the following:

Table 6. Major projects included in the 2016-2019 Closer Justice Program

Project	Measures
Court + (<i>Tribunal</i> +)	- A centralized service desk supporting citizen (Desk + (<i>Balcão</i> +)) - Videoconferencing and automatic transcription of proceedings - Application of management tools such as the Service-Desk: “My Court” (“O Meu Tribunal”) or the management of the hearings - Improving of CITIUS (existing since 2014, it is the electronic platform where lawyers, magistrates and judicial offices contact with the law process) and SITAF (the same electronic platform as CITIUS, but for tax and administrative Courts)
Justiça.gov.pt – Justice Digital Platform	- Aggregate content and services - Simplify language - Offer a single point of access to information from the various areas of Justice: - Consultation of the nationality process status - Central Register of Effective Beneficiary - Brand search - Online Citizen Card schedule and renewal - Permanent certificate of business registration consultation - Brand register - Schedule passport request - Request or consult criminal records - Access to judicial processes
Electronic Judicial Certificate	- Obtain a dematerialized certificate from the judicial process - Access to a code, which can be transmitted to several individuals and/or companies, for consultation
Courts pending processes’ consultation	- Online consultation of the procedural acts and documents that are part of the process the individual is involved in

⁸ <https://www.portugal.gov.pt/pt/gc21/governo/programa/programa-nacional-de-reformas.aspx>, visited on February 27th, 2022.

Online Criminal Record	- Request and consult a dematerialized citizen's Criminal Record Certificate (CRC) - Access to a CRC code, which can be transmitted to several individuals and/or companies, for consultation
Language simplification of judicial notifications	- Use of easily understandable language and an information organization that responds more quickly to the understanding needs and actions to be taken in a particular service or communication
Justice Finishing	- Courts' printing, enveloping, and mailing tasks automation
Judges and Prosecutors interface	- Develop of <i>Magistratus</i> (electronic platform for processes' management having judges as target) and MP-Codex (electronic platform for processes' management having as prosecutors as target)
BUPI – Digital Land Registry	- Physical and virtual desks that gathers all registration and georeferenced information related to lands and buildings
Space Death (<i>Espaço Óbito</i>)	- Allows citizen to handle all matters related to the death of a family member or someone nearby, in person
Justice HUB	- Experimentation space, outside the traditional environment of Public Administration, which welcomes great projects of Justice transformation, with multidisciplinary teams

Source: Own elaboration.

As one may conclude, at least since 2016, several different judicial areas have been experiencing reform processes. The same goal has been claimed in all the documents analyzed: to promote Justice, closeness to citizens, transparency, and efficiency. This is also stated in the Closer Justice Program 2020-2023 redefinition and the following are some of the significant projects that combine those principles⁹:

Table 7. Major projects included in the 2020-2023 Closer Justice Program

Project	Measures
Access to legal opinions on INPI Portal	- Availability of legal orders relating to industrial property rights administrative processes on the National Industrial Property Institute Web Portal
Assets + (<i>Ativos +</i>)	- Development of a system that allows, in a fast and efficient way, the identification and recovery of assets from criminal activity.
Justice Online Library	- Online library that gathers bibliographic information and all the scattered legislation and jurisprudence
Communication dematerialization between Courts and banks, insurance companies and other entities	- Communications' dematerialization regarding information requests between Courts and different entities
Drafter +	- Study the necessary requirements for the creation of a tool that helps the normative production, preferably with artificial intelligence mechanisms
Online Company in Europe	- Extend access to "Online Company" to all foreign citizens who have an electronic identification card, allowing the company creation
Inventories: interoperability between Notaries and Courts	- Automatic integration of information coming from the Notaries' inventory platform into CITIUS and vice versa

⁹ The projects that have a continuity from the 2016-2019 Program will not be repeated in this table.

Online Justices of the Peace	- Develop a pilot of a “Virtual Justice of Peace Court” that gives citizens an agile way of accessing the justice system
Modernization of Audio and Video Management in Courts	- Modernization of the audio and video collection and reproduction equipment available in the Courts
Electronic Platform to Support Nationality	- Develop a nationality platform that allows for a faster and more technologically advanced response to the citizenship requests
Online Birth Registration Application	- Provide the birth registration request service through the Digital Justice Platform through authentication with the Digital Mobile Key or Citizen Card
Project “Inmate Citizen +”	- Develop digital access for the prison population, in a secure way, of a defined set of websites with essential information and services which facilitate the social reintegration process after incarceration period
Court + 360°	- Develop the proof of concept of “Court of the Future” under the paradigm «Digital Only»

Source: Own elaboration.

Both Programs (2016-2019 and 2020-2023) conduct more significant changes in Justice, mainly by applying, in a more systematic way, Information and Communication Technologies to processes. Some of the projects already consider the use of Artificial Intelligence.

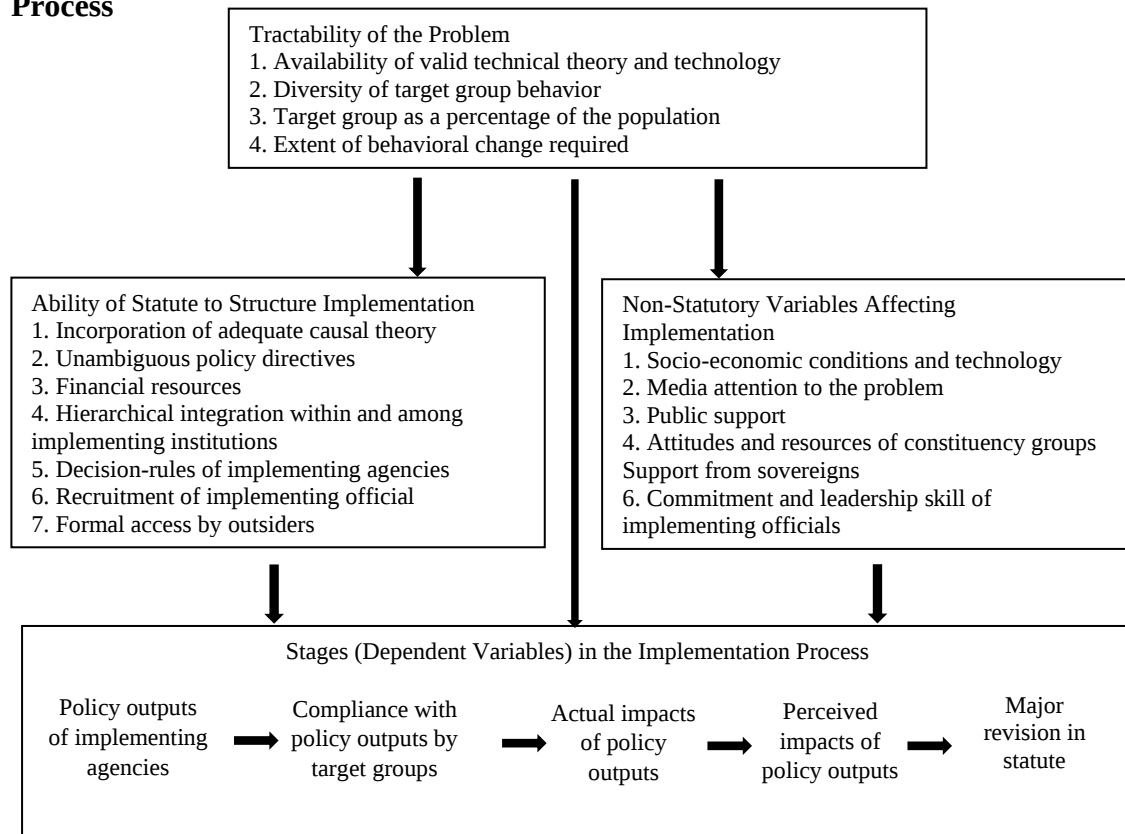
However, in an external evaluation performed by OCDE (OCDE, 2020), some recommendations should be considered in order to collect all the benefits the modernization processes provide:

- Institutionalize the modernization processes and projects in policies, internal regulations, budgets, and other dimensions of the justice system.
- Enhance the involvement of the judiciary and individual judges in court transformation, process simplification, and strengthening of human resources.
- Make judicial specialization reforms effective.
- Grant greater autonomy to court presidents and strengthen the powers of the Judicial Councils.
- Provide more substantial incentives for using alternative dispute resolution (ADR) processes, expanding them to other areas, and improving the resolution of enforcement cases.
- Develop a long-term and comprehensive justice strategy that combines different branches of power and integrates different reform elements by creating a people-centered, seamless justice ecosystem (OCDE, 2020).

Moreover, these OCDE recommendations almost imply the variables involved in the implementation process defined by Sabatier and Mazmanian (SABATIER; MAZMANIAN, 1980) regarding the Justice modernization process. The authors identified what they called

a skeletal flow diagram, having three main areas: “(1) the tractability of the problem(s) being addressed by the statute; (2) the ability of the statute to favorably structure the implementation process; and (3) the net effect of a variety of “political” variables on the balance of support for statutory objectives.” (SABATIER; MAZMANIAN, 1980) and it is presented as follows.

Figure 1. Skeletal Flow Diagram of the Variables Involved in the Implementation Process



Source: Sabatier & Mazmanian (SABATIER; MAZMANIAN, 1980)

The three previously mentioned components identified by the authors were (and still are) relevant for the judicial system modernization processes specifically for the projects’ definition, whether the target groups and how they will respond to changes, the financial and infrastructural resources, socio-economic conditions, and media attention to the subject, among others. In the implementation stage, all those variables arise at some point, being previously considered or not.

From a broader perspective, Tavares (TAVARES, 2019) and Teles (TELES, 2020) provide more significant insights on some of the reforms implemented in Portuguese Public Administration over the last 20 years (with brief references to the change for a

democratic regime). Together with the analysis conducted previously, the one that will be conducted in the next section, those insights allow the reader to understand and integrate the variables identified by Sabatier and Mazmanian and apply them to the implementation of judicial system modernization processes.

4. Challenges posed to the Portuguese judicial system modernization

Significant changes and reforms frequently imply enormous challenges. Those challenges can be posed to the actors involved in the reforms' definition, but they also arise to those at the reforms' implementation level. These will be in discussion in this section.

As O'Toole (O'TOOLE, 2000) states, "Policy implementation is what develops between the establishment of an apparent intention on the part of government to do something, or to stop doing something, and the ultimate impact in the world of action." (O'TOOLE, 2000). In the worst case scenario (but the one that Jann & Wegrich (2006) believe it's the most common), between what it is defined and what it is implemented, usually policies are "changed or even distorted; its execution delayed or even blocked altogether." (JANN; WEGRICH, 2006).

The need and urge to change and implement measures to transform the judicial system is frequently stated, making it more efficient and transparent (the proximity to the citizen was the next step). Indeed, from the official documents' analysis, namely the Portuguese Governmental Programs between 1976 and 2021, what is highlighted is the continuity of measures. Mostly, until 2014, there have not been many disruptive projects. Nevertheless, one may say that 2014, with the implementation of electronic platforms (CITIUS), provided a starting point for significant reforms.

The experience with CITIUS differs from most of the judicial system implemented projects. Its development happened from a bottom-up strategy. Court Officials felt the need to process judicial cases faster, having the documents digitally available, with the option of having the deadlines reminded. The ones more comfortable with programming presented the first version to their superiors (named *Habilus* then). Furthermore, from that and the perception of its utility to its widespread implementation, it was a quick jump.

So, as one of the interviewees explained, at the beginning (2014/2015), the Informatics was the Court Officials, and they developed the tools needed and improved them to suit their demands:

When I joined the Court, in 2017, we had a colleague... Because the IT professionals are all Court Official. But later, because they are able to work in this area, they end up dedicating themselves only to IT [...]. Court Official, since 2018.

So, from the judicial system modernization process analysis, one may agree with Jann & Wegrich (JANN; WEGRICH, 2006) on the frequently delayed execution. Furthermore, that is highlighted in most of the interviewees' discourses, which can lead to understanding that as a challenge.

Furthermore, the NVivo analysis already allowed us to conclude which challenges the involved actors face in the judicial system face. The following table shows the main results.

Table 8. Interviews' analysis with NVivo

Categories	Subcategories	Sources	References
Key actors		7	9
	<i>Impact evaluation</i>	5	9
	<i>Influence on judicial system reforms</i>	6	8
UE influence		7	11
Reforms/Changes		7	17
	<i>Key moments</i>	7	20
	<i>Beneficial</i>	7	9
	<i>Detrimental</i>	2	2
	<i>Enabler's elements</i>	7	14
	<i>Obstacles</i>	8	22
Information and Communication Technologies		7	13
	<i>Infocommunication competences</i>	8	10
Tradition and Modernization		4	5
	<i>Conciliation</i>	3	4
	<i>Tension</i>	6	7
	<i>Optimal model</i>	5	11

Source: Own elaboration.

The actors mostly perceive all the reforms and changes applied to the daily processes as obstacles. Not contributing to the procedures' efficiency, but instead to its slowness. That dimension was referenced by the interviewees 22 times.

"[...] we still have different speeds. Firstly, this has to do with hardware, because people have different computers and, therefore, the speed with which any citizen goes to a police station, the fact that they have a computer with an operative system from 15 years ago, it takes 20 minutes to write a complaint, [...] and the citizen thinks that the service is crap. Notary, since 2006.

Interviewees identified several key moments regarding the judicial system modernization, mainly reporting to the last 10/15 years. The second most-mentioned

dimension was the key moments of reforms and changes (20 references). Nevertheless, mostly, they referred to 2014, and the development of CITIUS/*Habilus*.

[...] everything has changed in the last 10, 15 years, from an informatics point of view. Moreover, it is going to change more now. Possibly, the next step is the distance acts. Notary, since 2006.

I think 2004/2005 were the turning years. Even accounting was all done by hand; there were books for everything. Now it's all computerized, it's all much easier, recording, maps, it's all more intuitive, isn't it?! Moreover, even the fact, for example, birth certificates, marriage registers, any certificate, I can have information from Algarve, the islands, even from the consulates, which have the same application. This makes it a lot faster because everything is computerized. I think that was the big change.. Registry Official, since 2003.

When I started, including my internship, the difference between emerging platforms like CITIUS and SITAF, is brutal. It was a bunch of papers that were sent to the courts, and it was highly bureaucratic. We had to sign sheets and sheets and sheets and sheets. Lawyer, since 1996.

All those mentioned above imply that the number of excerpts reflects the reforms and changes applied (17 references). There were many examples (apart from the ones already stated previously) of how things change, such as procedures, workflow, access to documents, and contact with the different actors involved in the judicial system.

Considering this, it is now essential to understand the most mentioned challenges by the interviewees, explicitly referring to the judicial system modernization process. Furthermore, in some cases, connections exist and are identified between working areas.

A) Reforms/Changes

The first challenge in the judicial system modernization process is related to the changes and reforms implemented. If those changes aim to improve working models in most cases, it is not always the result achieved. Instead, they promote inefficiencies and controversies.

Reforms and changes have a double influence: they contribute to the dematerialization process, efficiency, transparency, interoperability, and so on (or, at least, it is the intention of its implementation). Moreover, at the same time, it contributes to processes' delay, confusing working functions, different accesses to material resources help to create different speeds (as seen previously), and many other obstacles that weren't predicted when reforms were thought.

[...] one key moment was the publication of the Simplex legislation, based on the Simplex diplomas of 2007, 2008, 2009, and subsequent ones. They changed the paradigm. It was not positive for us

[Notaries] because [...] we stopped having the monopoly of the acts, which were only done in a Notary. It began to be possible for Lawyers, Solicitors, Registries, and Chambers of Commerce also offer those services. [...]

On the other hand, [...] the validity control is no longer dependent on the legal professional, whomever he/she may be. For example, the company shares' transfer was placed in the company itself, which became the guarantor of legality. [...] what the law advocates is, effectively, that the company is the one to verify if the shares' transfers are done legally [...]. Notary, since 2006.

It's [everything] much faster because it's... Not wasting time with the post office, not wasting time even with communications. Everything is much faster, and everything is more straightforward, I think so. If everything works... The problem is that the core is human and IT resources... Registry Official, since 2003.

Imagine that we suspected that you were a terrible drug dealer or a terrible terrorist. We put cameras on the electricity poles next to your house and see everything happening. If you are going to enter or if you are going to leave. I'm at home, quiet, and I have my computer on duty, and I do surveillance. And, in the old days, I had to be there in the car, I had to be hidden there, I had to be careful that the neighbors didn't see me. And therefore, things have also evolved a lot in that direction. However, like everything else, it is a two-pronged stick, it works very well for us, but it also works well for others. Judiciary Police Inspector / Interpol Inspector, since 1996 / 2006.

With all the changes that have taken place, I'm optimistic. In my perspective, they are all beneficial. As always, you don't go as far as you should. However, that is already a flaw, I think, of the political, administrative, and judicial systems. There are still odd things, but this also has to do with process laws. Because, with the excuse of simplifying, sometimes the laws of the process are much more bureaucratized. Public Prosecutor, since 1986.

B) People

Individuals placed at the level of the implementation of reforms are the most crucial variable in modernization processes. One cannot exclude that the judicial system lives of and for people, whether being their workers or individuals/citizens who look for a problem solution.

Focusing on judicial system workers, they are responsible for making things work. Moreover, when some reform is implemented, it is their job to make it happen and, desirably, in a successful manner. Nevertheless, this is not how it always happens. Individuals are at the center of the decision process. Furthermore, also considering the tools they are given to find a solution for the problems they encounter, they have the power to decide whether they find solutions or even more problems.

Most of the time, individuals in the judicial system functions have a pragmatic way of dealing with problems. Mainly because if they don't have that perspective, they are also making their work heavier.

Facilitators will always be the added value to employees and everyone who works in justice, including judges and lawyers. I think there are people interested in what they are doing, who enjoy their work, and want everything to go as smoothly as possible. Court Official, since 2017.

Facilitators and obstacles are always the same, the people. Nowadays, it is a necessary condition in this process; the facilitators are the people and the biggest obstacle to reform. Notary, since 2006.

Even the few [people] here have embraced all the projects that have been launched almost stoically, it's true. [...] I think it also has a lot to do with human resources, at the same time as they are an obstacle. However, those who exist are the ones with whom we manage to take the boat. And then, we complain, but we manage to continue. Registry Official, since 2003.

C) UE integration and influence

The UE influence is evident. Since 1986 (and even before that, with all the preparation processes for Portuguese integration), all legal diplomas and judicial systems must consider UE directives and guidelines.

Because of this, judicial system workers face the challenge of knowing all European rules. The attention to all decisions and working processes must take into consideration national legislation (many of which are already adapted to European guidelines and directives) and European legislation. This doubles the challenge and the pressure.

The European Succession Regulation, of direct application. It completely changed the succession paradigm at the European level. [...] The digital signature we all use now for a thousand things is based on a previous regulation, a previous directive, and now on the current EIDA regulation, which is the regulation that serves as the basis... The very matters of matrimonial regimes, how they operate, and the impact on cross-border relations are European regulations. [...] Therefore, our life today is regulated by the rules of the European Union. Everything in our life is... I don't think there is a single area where it doesn't exist [European influence]... Notary, since 2006.

We are obliged to comply with many European regulations, which have been implemented in the last few years. Moreover, I notice now in my professional field. The European Regulation of the European Succession Certificate, a European standard, practically binds all the countries of the European Union. For example, this one that was implemented on the 1st of July a new energy certification law imposed by the European Union. A new law to combat money laundering will start to apply on January 1st, based on a European standard. Moreover, even all these laws on money laundering, which we know are European Union impositions. Notary, since 2018.

Because I also have to deal with the situation of European integration... Moreover, I only work in the municipality of [name of the municipality]. I have requests, for example, for children to return to France through international conventions. I have already had cases of forcing a child who was taken by the mother to Germany to return. I have requests from Switzerland to execute feeding pensions [...] More and more, we have situations like this, and there are parents who, for example, even have divorce proceedings in which the father resides in Germany, the mother resides in Germany, and the children are studying in Germany. And they file a divorce action here in Portugal, and if there are minor children, the consequent regulation of parental responsibilities. There's no problem. It is appreciated and decided here. Moreover, each time, in my day-to-day, I have more situations like these, that's true. Public Prosecutor, since 1986.

D) Impact evaluation

Measuring impact should be a frequent practice. This is what allows us to conclude whether a measure is achieving the desired result or not. Moreover, if not, analyze why that is happening and what can be done to change it positively.

However important and urgent this may seem, it is not an easy process. It involves several stages, at different levels, considering multiple individuals (BATISTA; DOMINGOS, 2017). Moreover, sometimes, the results are not what is expected, which makes it preferable not to evaluate.

In the Portuguese judicial system, most interviewees consider that this impact evaluation is ineffective. The NVivo results show that only nine references were made to this topic. However, the excerpts also demonstrate that if many reports and inquiries are filed to evaluate daily work, that is not much done with those reports. At least it is a general feeling.

That doesn't even happen [impact evaluation], in most cases, it doesn't happen. And the correct way to legislate is exactly that, it's through pilots, through verification of impacts on the ground, through pilots that take into account the geographic factors, the factors... Cultural perception is an essential factor. Notary, since 2006.

I think there is an attempt to do it [impact evaluation] because this pressure must also exist from above. We spend our lives having to respond to reports and fill in maps, and it's a bureaucratic work that I often ask myself, "why did I take the law course" because I'm more of a manager than a Registry Official. [...] And I must respond. [...] And we have short response times. Hierarchically, some people want to know the data. We are a little controlled by it. We are. Registry Official, since 2003.

[...] every month, every week they [the superiors] have statistics to do, all the acts that we do are controlled, every week Lisbon sends us the number of acts we did, what time did we turn on the computer, what time did we turn it off. All of that is controlled, and so the clerks have goals. Court Official, since 2017.

They invented a situation that now exists every year: the Government assesses every crime. Everyone must fill out a few papers for all the Portuguese Police forces, which is a huge joke, but they are forced to fill a few papers to understand the evolution. Of course, that is statistical data. All statistical data can be manipulated. They always take a beauty treatment. Nobody wants things to be too bad. However, of course, they demonstrate some reality. Judiciary Police Inspector / Interpol Inspector, since 1996 / 2006.

E) Information and Communication Technologies (ICT) and Infocommunication Competences

ICT was the basis of most of the reforms in the Portuguese judicial system. In some cases, those tools (hardware and software) were the ones that allowed the reforms to occur, as well as their widespread. Implementing some working principles, such as dematerialization, de-bureaucratization, and interoperability, have at its core the use of ICT.

However, this does not mean that its usage and implementation happen equally in all the judicial system services, or even that in the same service, all its workers have the same preparation, meaning the infocommunication competencies and skills. At the same

time, it is also essential to consider that the citizen and judicial system's users may not have the tools or the competencies.

Reforms cannot wait for everything to be prepared and equipped. However, these inequalities and digital divides must be considered when a sensible area is transformed.

[ICT] are fundamental, and the pandemic also shows that. Because before COVID, Court officials could not work from home, and there was no teleworking, which was only for judges and prosecutors. There was not even that possibility, and no one ever raised such a question. And then, with the pandemic, it was seen that we can work from home and that the processes continue to be processed. You can perfectly understand the electronic process. The process is increasingly electronic, and we already have processes that we do not even print. There is no physical process. It is just electronic. Court Official_1, since 2017.

It is logical that later, in evolutionary terms, we also see it in our careers. Suddenly we are left with a considerable number of completely unthinkable tools. Computerization has brought entirely crazy things. Today the wiretaps are by the second, we can know to the centimeter where the person is, if he/she is in the house, if he/she is on the 17th floor, if he/she is in the bathroom or if he/she is in the kitchen. The information handling system is entirely different. Today, for example, in computer terms, I can, after 5 minutes, know what is happening in Brazil. Judiciary Police Inspector / Interpol Inspector, since 1996 / 2006.

[ICT] had a huge impact, a huge impact. Whether in the ease of writing decisions or the ease... Currently, if I am on shift and I have a geographic area from [mentions municipalities from the working area], I do not need to move just for dispatch. Here in the office, I have access to these processes, and I dispatch these processes. I only must move if there is due diligence. Public Prosecutor, since 1986.

As said, competencies for ICT usage are also an important variable to have in mind when evaluating and analyzing reforms:

I had colleagues of all ages, [...] with 30 years old, who quickly mastered all the necessary tools. Even in the trials, where there were videoconferences, a whole panoply of systems had to be used. The people who had it more accessible, the younger ones, could easily do it. Of course, some older people had more difficulty keeping up with the evolution of technologies. Court Official_2, since 2017.

The fact that we can do business at a distance because it is technically possible does not mean that we should do it now because we still don't have enough digitally literate citizens to do it in a way that cuts across society. Notary, since 2006.

Effectively, all the instruments and mechanisms that have been given to us, many times, with self-learning and with just practice, I think that everyone is... Some have more difficulties than others. It has to do with personal skills, sometimes with age. However, more or less, I think that everyone can follow this evolution, yes. Registry Official, since 2003.

Conclusions

Many transformations are happening right now in the Portuguese judicial system. Since the beginning of the decade (but inevitably related to previous historical events, such as the EU integration, economic crises, and pandemic), several moments have been marked in the modernization process.

2000, with the Internet diffusion, was the starting point for interoperability and the introduction of efficiency in some services. In 2008, with the availability of specific

databases, namely, in registries. In 2014, the reorganization of the judiciary map, where some Courts were extinguished, specialization was widespread, and informatic platforms for processes' management were developed.

In 2018/2019, Portugal (and the world) felt an economic crisis, delaying some structural reforms but enhancing others, such as the interoperability and intercommunication of the informatic systems. Most recently, 2020 and 2021 were also years when challenges were posed to the national Government. However, local services management (Registries, Courts, Lawyers' offices, police forces) were the ones who felt the direct impacts on workflow and organization. Telework is being imposed on areas that never thought it was possible.

The previously mentioned are only some of the measures that impact the changes in the judicial systems' work development because the legislation is constantly changing and adapting to the new social demands, which also brings changes.

By analyzing official documents, it was possible to conclude that several projects are being developed in different judicial system areas. Those projects aim to contribute to the judicial systems' efficiency, efficacy, transparency, and proximity. The main reform program is *Justiça + Próxima* (Closer Justice), which is now in its new time frame: 2020-2023.

The projects are the cause and consequence of the challenges posed to the judicial system modernization. They are the source of the main difficulties workers face. However, the projects have also been created to respond to the primary challenges workers identified. The main challenges were:

- The reforms/changes implemented in the judicial system contribute to new practices and the transformation of working flows. Those new practices frequently come with some resistance.

- People are also a challenge, in the sense of that mentioned resistance. Considering the age of the judicial system human resources, many do not feel comfortable with new technologies and are resistant to learning new ways of doing.

- European Union integration and the more significant European influence is another challenge. In their daily practices, legislative reforms constantly confront workers, which implies learning those changes.

- Another challenge mentioned was the impact evaluation, its weight on daily, monthly, and annual work because of the monthly reports' demands and the numbers'

importance. This takes plenty of time and imposes pressure that does not combine with the work agents already must perform.

- The final identified challenge was the implementation of ICT in labor practices and the infocommunication competencies. Most of the projects identified previously have at their core the integration of ICT. However, that integration, in most cases, didn't come with learning programs, which delayed some of the implementation processes and caused some resistance from the workers' point of view.

Nevertheless, one may claim that the general evaluation of the Portuguese judicial system workers is positive. Throughout the years, many have been challenges. Some reforms make more sense than others, and some are easier to implement. Moreover, apart from the feeling that they are not heard when it comes to implementing changes (often mentioned), the main opinion is that an optimal model would provide for specialization, whether in services provided or in Law areas of practice.

The research led to the conclusion that a lot is left to be done, but also that there was a path (sometimes a troubled one) important for the beneficial changes that occurred and for the future of the Portuguese judicial system dematerialization debureaucratization, and interoperability. Moreover, these work characteristics help accomplish the judicial system goals: transparency, proximity, adequate access to Justice, and efficiency.

The study was conceived to reflect on the judicial system modernization process and how this process is combined with traditional practices. The study's main limitation is the absence of an opinion from the judicial system users: the citizen. Nevertheless, it wasn't possible to hear citizens' opinions on that matter and the impact modernization projects have on their daily lives.

As to future study, combining the latter conclusions, one may suggest that the challenges discussed are intertwined with the variable access to Justice, this concept perceived here in its wither form: economic, literacy, and infrastructure access. And including the voices of the judicial system users. This would allow understanding of the challenges that can be transformed into opportunities or are only obstacles to that access.

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