

Executive summary

Countries worldwide are seeking to transform their justice systems. Indeed, good governance, sound policy design and effective service delivery in justice institutions can contribute to a country's strong economic performance.

Like many OECD countries, Portugal is facing rising citizen expectations in terms of public sector performance, while experiencing low levels of public trust and confidence. These trends also affect the justice system, with people demanding greater efficiency and transparency, faster and more streamlined proceedings, and user-centred and responsive services. Meeting these demands requires new thinking and innovative practices that place the needs of people and businesses at the heart of justice institutions, policies and services.

In response to these pressures, Portugal has developed an ambitious agenda to guide the transformation towards a citizen-centred justice sector. Multiple reforms over the past two decades have sought to make the judiciary more transparent, accessible and effective. With its most recent reforms, “*Justiça + Próxima*” and “*Simplex +*”, Portugal has adopted an integrated approach to administrative simplification, service improvement and digital strategies.

Under the *Justiça + Próxima* programme, Portugal aims to increase transparency and trust in justice institutions by simplifying and digitizing procedures, promoting justice innovation, and bringing the institutions closer to citizens. It has put in place over 170 constantly evolving and updated measures, which were designed through an innovative, collaborative and bottom-up process carried out with various justice stakeholders and citizens.

Portugal has also invested in the development of alternative dispute resolution mechanisms (i.e. arbitration, mediation and justices of the peace), which are becoming increasingly popular among citizens. The forthcoming common management platform for justices of the peace in consumer disputes, arbitration centres and public mediation systems (ADR+) will provide a strong basis for developing a holistic justice ecosystem, in line with the OECD criteria on people-centred justice services.

As part of the *Justiça + Próxima* programme, the *Tribunal +* project - including its pilot the Court of Sintra - promotes a greater use of technology in the courts as well as the rationalisation of internal and user processes. The project is generally appreciated by court staff, lawyers and court users, although citizens still need to come to court in person to obtain most information.

More broadly, Portugal continues its efforts to optimise the delivery of justice. For example, it has recently introduced a new model of court management to improve resource management and good governance. In addition, further to the multiple judicial map reforms carried out in recent years, a series of measures are planned to improve access to justice, including re-evaluating the judicial map, reopening several small courts and strengthening court infrastructure and capacities for video conferencing. Effective implementation of these measures will be critical to alleviate concerns about the growing concentration and centralisation of courts.

Overall, the current reforms of the justice system in Portugal, specifically the *Justiça + Próxima* programme (including the *Tribunal +* project), have a strong potential to transform the way in which the justice sector

works. Recent data suggest that the Portuguese courts have made substantial efficiency gains, with the duration of court proceedings dropping from 417 days in 2010 to 289 days in 2016 on average. Trust in justice systems has also increased from 35% in 2014 to 44% in 2018 (CEPEJ data). Yet, as highlighted in the *2019 OECD Economic Survey of Portugal*, trials are still long compared to other OECD countries, with more than one-third of cases taking over a year to resolve. Moreover, trust in the system remains generally low. There is also a limited understanding of the extent to which current services can meet the needs of different groups of people and businesses.

In order to reap the full benefits and ensure the sustainability of the court modernisation reforms, it is important to further institutionalize them in policies, internal regulations, budgets and other dimensions of the justice system. There is also scope to enhance the involvement of the judiciary and individual judges in court transformation, process simplification and strengthening of human resources (i.e. legal clerks and assistant judges). Targeted judicial training could help improve the effectiveness of the 2013 judicial specialisation reforms. In addition, Portugal may also consider granting greater autonomy to court presidents, to improve efficiency in court management and support the achievement of the objectives for which they are accountable, and strengthening the powers of the Judicial Councils in the management of the judicial branch.

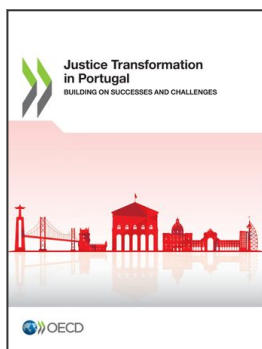
Providing stronger incentives for the use of alternative dispute resolution (ADR) processes (e.g. through greater court intervention), expanding them to other areas (e.g. commercial mediation), and improving the resolution of enforcement cases (including contract enforcement and insolvency proceedings) could further enhance the timeliness and efficiency of court processes.

Looking ahead, Portugal may consider developing a long-term and comprehensive justice strategy that brings together different branches of power and integrates different reform elements. Such a strategy should be based on a solid governance framework and could provide a platform for strengthening the overall justice infrastructure, and, ultimately, create a people-centred, seamless justice ecosystem. The strategy should be underpinned by a clear and evidence-based understanding of who needs justice the most, their legal problems and the impediments that they face in resolving these problems.

Summary analysis

MAIN FINDINGS	KEY RECOMMENDATIONS
Long term justice strategy	
Justice strategy – Need for a strategic reflection on the broader justice improvement needs, including with the involvement of the full range of stakeholders across the branches of power.	<ul style="list-style-type: none"> Develop a longer-term inclusive and comprehensive justice strategy that brings together different branches of power respond to the legal needs of users across the country.
Legal needs – Need to deepen the understanding of diverse legal needs of citizens and business and how/whether the current services are able to fully respond to them.	<ul style="list-style-type: none"> Strengthen the use of evidence-based and quantitative research methodologies as a basis for legal reform, including through better mapping and using legal needs surveys and public data.
User centred services – While improving, legal assistance, legal aid and various mechanisms for resolving disputes, including courts and ADR mechanisms, remain largely disconnected from each other and from other service delivery portals.	<ul style="list-style-type: none"> Strengthen a user-centred and integrated approach as part of a continuum of dispute resolution services, in line with the <i>OECD criteria for people-centred legal and justice services</i> (including legal assistance, private bar, referrals, ADR and ODRs).
Use of technology – Building on the current reforms, there is a need for continued developing an integrated case management system for courts and different types of ADRs.	<ul style="list-style-type: none"> Pursue the development of a common case management platform for ADR mechanisms and courts. Consider evolving this platform into a single legal and dispute resolution service delivery window for business and people.
Data strategy for the justice sector – The granularity of court-level data remains limited and limited data collection efforts for private ADR mechanisms remain.	<ul style="list-style-type: none"> Develop a holistic data strategy for the justice sector, encompassing the entire legal and justice chain, as well as maximise the use of data needed from other sectors. Develop common data management protocols and strengthen its availability in different public and private systems for ADR.
Procedural simplification – Building on the current efforts, a need to continue streamlining complex laws and regulations, frequent changes in the legislation and non-legislative measures remains.	<ul style="list-style-type: none"> Consider establishing inter-institutional working groups to review existing procedural laws and ensure their full alignment, including with ADR and people-centric approaches. They could also evaluate non-legislative measures (e.g. resource allocation and technological improvements).
Sustainability of reforms	
Monitoring and evaluation – Need for assessment of effects of measures in the Justiça + Próxima plan beyond organisational boundaries of the courts, such as user satisfaction, trust in justice institutions and citizens' broader access to justice.	<ul style="list-style-type: none"> Design a robust analytical framework for the monitoring and evaluation of Justiça +Próxima and Tribunal+, which would be based on a detailed theory of change and enhanced data collection processes.
Tribunal + - Complexity of interactions among different agencies and differential capacities, resources and infrastructure in courts across the country, which can hamper the effectiveness of the roll out efforts if remain unaddressed.	<ul style="list-style-type: none"> Enhance cooperation and streamline interactions across agencies in the justice chain, including judiciaries, prosecutors and others such as public and judicial ADR mechanisms. Roll out Tribunal + project across the country, with the due attention to the court capacities and capabilities.
Judicial performance	
Judicial Capacity and performance - Judges in Portugal tend to be responsible for both the adjudication and auxiliary tasks, which is likely to contribute to procedural delays.	<ul style="list-style-type: none"> Strengthen human resources in court support functions (e.g., paralegals, assistant judges) who can assist magistrates on substantive matters and by making the interface with the clerks.
Judicial processes and decision making – Limited autonomy of court presidents to make decisions on resource allocation.	<ul style="list-style-type: none"> Review decision-making scope and resource allocation autonomy of court presidents to ensure sound court management and performance.
Judicial specialisation - While specialisation was in many instances achieved through specialised “local sections or branches”, there is a need for greater specialised training and capacity building in specific areas of law for greater impact of specialisation efforts.	<ul style="list-style-type: none"> Strengthen judicial specialisation, including through developing a comprehensive strategy in this area, updating the training needs of judges and staff, and enhancing focus on specialisation in commercial and economic matters, including international investment law.
Judicial map and court capacities – perception of growing concentration and centralisation of courts, in view of distance between courts and some population living in remote areas. Differentiated capacities of Courts across Portugal.	<ul style="list-style-type: none"> Continue reviewing the judicial map taking into account access to justice by the most vulnerable citizens. Continue efforts to strengthen managerial efficiency and the capacities of courts (e.g. infrastructure, IT, human and financial).

MAIN FINDINGS	KEY RECOMMENDATIONS
Enforcement and insolvency cases still account for much of the backlog in the Portuguese court system.	<ul style="list-style-type: none"> • Continue efforts to improve the resolution of insolvency and enforcement cases, including contract enforcement by controlling indicators such as trial length.
Alternative Dispute resolution	
Need to deepen the coherence, integration and responsiveness of different ADR mechanisms to users' needs.	<ul style="list-style-type: none"> • Develop an integrated strategy for ADR, through mediation, conciliation, justices of peace, ombudschemes, arbitration and other mechanisms. • Expand mediation to other areas, while strengthening the capacity of service providers and raising awareness among different stakeholders. • Strengthen the efficiency of peace courts through greater clarity of jurisdiction and meritocracy of decision-making.



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