



HOW TO COLLECT STATISTICS in Portugal

Cross border litigation

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ELECTRONIC CASE MANAGEMENT SYSTEM

THE ELECTRONIC CASE MANAGEMENT SYSTEM IN COURTS OF FIRST INSTANCE

In Courts of first instance, the electronic case management system is in place. It is called *citius@habillus*.

The legal basis: Article 132 of the Portuguese Code of Civil Procedure and Article 1 of Portaria 280/2013 of 26.8.2013.

The electronic case management system includes:

- procedural acts performed by authorized users (e.g. lawyers, solicitors, enforcement agents, court officials, public prosecutors, judges, insolvency practitioners) who have permission to access the system
- use of electronic signature/electronic transmission/electronic service of documents between authorized users
- electronic requests of suing
- electronic distribution
- electronic payment of judicial costs
- electronic organization of the proceedings by the court staff, including procedural acts performed otherwise by non authorized users



ELECTRONIC DISTRIBUTION

ELECTRONIC DISTRIBUTION OF PROCESSES IN COURTS OF FIRST INSTANCE

Distribution is an act regulated in the Portuguese Code of Civil Procedure (CPC) in Articles 203 to 218.

According to these legal provisions, the purpose of distribution is to divide the service with equality by judges, sections and instances.

Processes/documents subject to distribution:

- every application or request initiating a process
- documents coming from another court

Processes/documents exempt from distribution although they are registered:

- ancillary actions
- letters rogatory/warrants/requests, coming from another court insofar as they regard service of documents or posting of edits.

Distribution is electronic and automatic – Article 16 of Portaria 280/2013 of 26.8.2013.

DISTRIBUTION BY SPECIES AS PROVIDED IN NATIONAL LAW

According to national law, in Courts of first instance, distribution is made by 10 species:

1. Common proceedings
2. Special proceedings to enforce pecuniary obligations arising from contracts and eviction actions
3. Special proceedings
4. Non consensual divorce or legal separation
5. Enforcement proceedings
6. Enforcement of judicial costs or fines
7. Inventory proceedings
8. Insolvency proceedings
9. Letters rogatory, appeals from decisions taken by registry officers, notaries or other officials, complaints regarding the reform of registration books and other non classified documents
10. Judicial notification outside a process, preparatory acts, provisional/protective measures and any other urgent measures.

As a rule, cross border proceedings are distributed (or registered) according to the above legal framework as it happens with purely national cases. However, in some cases, the High Judicial Council may authorize other species in the distribution, based on the complexity of proceedings. This, to enhance efficiency of court management and ensure equal distribution of work.

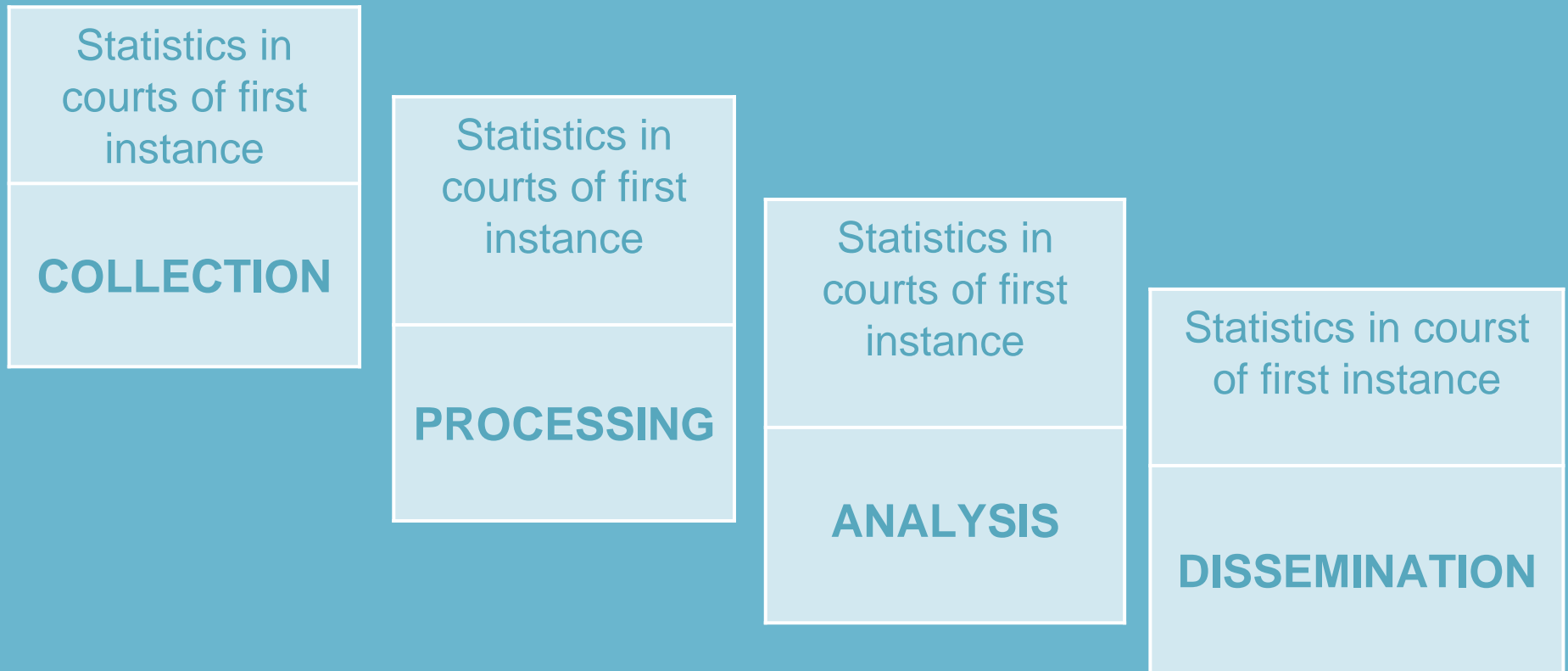


HERMES PROJECT

COLLECTING STATISTICAL DATA IN THE COURTS OF FIRST INSTANCE: the Hermes Project

Taking advantage of both the electronic distribution and electronic case management system in courts of first instance, the Ministry of Justice launched the Hermes Project to collect justice statistics.

In this regard, **the attributions of DGPJ** (Directorate General of Justice Policy of the Ministry of Justice) are the following:



COLLECTING STATISTICS IN COURTS OF FIRST INSTANCE

Electronic court case management system Citius/H@bilus

Acts performed by authorized users with access to the court's case management system Citius/H@bilus:

- ✓ Lawyers
- ✓ Prosecutors
- ✓ Solicitors
- ✓ Enforcement agents
- ✓ Court Officials
- ✓ Insolvency practitioners
- ✓ Judges



Automatic Interface

Direct transfer of files

Collection

Processing

Analysis

Dissemination

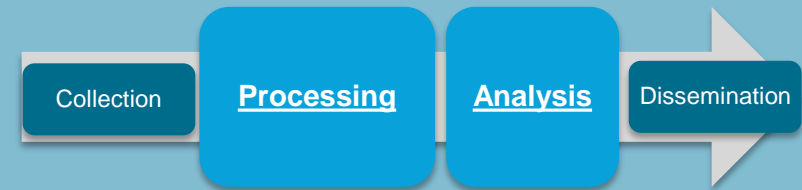
1. Automatic quality control of the most frequent errors
2. Less work for court staff
3. Statistical information available after one week
4. Less costs in printing and mail



To the SIEJ data base

**System of Information of
Justice Statistics of DGPJ**

PROCESSING and ANALYSIS by DGPJ



The system of information of justice statistics – SIEJ data base

- ❑ Single data repository
- ❑ Detailed analysis
- ❑ Use of advanced tools for statistical analysis
- ❑ Adapting the reports to the service needs
- ❑ Friendly interfaces



DISSEMINATION

<http://www.dgpj.mj.pt/sections/estatisticas-da-justica>

Collection

Processing

Analysis

Dissemination

On-line dissemination
of statistical information:

- ❑ Different degrees of access
- ❑ Updated data
- ❑ Immediately available
- ❑ Georeferenced data
- ❑ Intuitive, friendly, appealing presentation





CURRENT STATE OF PLAY

THE CURRENT STATE OF PLAY OF DATA GATHERING IN CROSS BORDER LITIGATION

Regulation 805/2004 – European Enforcement Order
Articles 20 and 21

Regulation 1896/2006 – European Order for Payment
Articles 7, 12, 18

Regulation 861/2007 – European Small Claims Procedure
Article 4(1) and (4)



- Species other than those provided by national law
- Electronic case management and distribution
- SIEJ database

Directive 2008/52/EC – Mediation
Articles 2 and 6
(cross border cases are not differentiated; only Public Mediation System).

Regulation 2201/2003 – Brussels IIa
Articles 11, 41, 55 and 56

Regulation 4/2009 – Maintenance
Articles 53, 56(1)(a), (b), (c), (d), (e) (f), 52(2) (b) and (c), 58 (3) (4) (9)

Regulation 650/2012 – Successions
Articles 65 and 67

Directive 2002/8/EC – Legal Aid
Article 13(1)(a) and (4) and Article 15

Regulation 1206/2009 – Taking of evidence
Article 17



Data collected by central authorities and other administrative authorities

CONCLUSIONS

As a rule, cross border cases can be distributed according to the species mentioned in national procedural law.

This does not allow to differentiate them for statistical purposes.

Under the current national legal framework the High Judicial Council may authorize some species in electronic distribution, based on the complexity of proceedings, as far as it facilitates equal distribution of work and efficient court management.

This has been the case for some of the proceedings provided for by EU Regulations.

The Hermes project of DGPJ represents a step forward in statistics gathering, taking advantage of electronic case management and distribution.

However, it has some limits:

- only proceedings dealt with by the courts of first instance are covered
- proceedings in Central Authorities or other authorities are not covered
- many intermediate procedural acts as well as the content of various decisions provided for by the EU law (e.g. regarding applicable law or international jurisdiction) are not covered, still demanding a case by case collection of data by staff with appropriate expertise.



Thank you
so much!



Paula Pott
Portuguese Contact Point of EJP Civil
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With the valuable contribution of DGPJ – Ministry of Justice – which I thank.

High Council for Judiciary – Portugal
www.redcivil.mj.pt
<https://e-justice.europa.eu>