



## LITIGATION

SEPTEMBER 2014

# CHANGES INTRODUCED BY THE NEW JUDICIAL MAP

**Decree-Law 49/2014 of 27 March came into force on 1 September 2014.** This new law lays down the regulations for the Law of Organisation of the Judicial System (Law 62/2013 of 26 August) and establishes the rules on the organisation and functioning of the judicial courts.

The new Judicial Map is part of an extensive reorganisation of the Portuguese judicial system aimed at achieving three primary objectives: (i) **to broaden the territorial base of the judicial districts**, which as a rule should now coincide with Portugal's main towns and cities, (ii) **to set up specialised courts on a national level** and (iii) **to implement a new management model for the court districts**.

### MOST SIGNIFICANT CHANGES

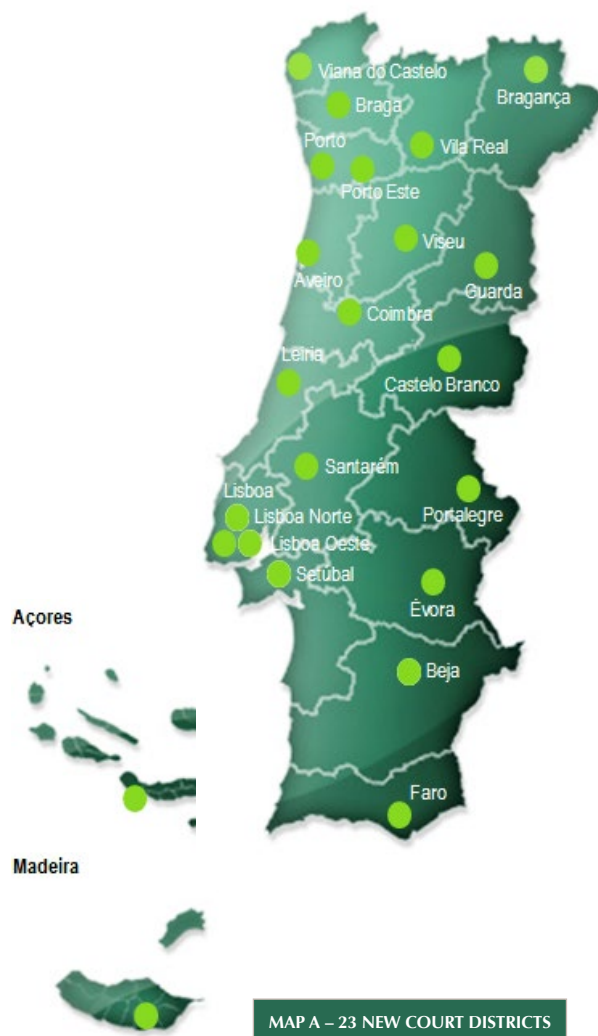
**The new Judicial Map establishes 23 new court districts**, each with a main judicial court **based in the capitals of the existing administrative districts**. Lisbon and Oporto are the exceptions in that they are divided into three and two court districts respectively.

Each of the 23 new court districts is divided into **central and local court departments**.

In summary, the **central court departments** have jurisdiction for the whole geographic area corresponding to the court district and are divided into (i) civil sections (which, as a rule, process and judge cases with a value in excess of €50 000), (ii) criminal sections (to prepare and judge criminal cases to be heard by a collegiate court or before a jury) and (iii) sections with specialised jurisdiction including commercial, enforcement, family and minors, criminal and employment sections.

The **local court departments** process and judge cases not allocated to the central court departments and have general jurisdiction sections that can be divided into civil, criminal, petty crime and proximity sections.

The **general jurisdiction sections** process and judge cases not allocated to another section of the central court and have jurisdiction to judge ordinary procedure civil declaratory actions with a value not exceeding €50 000.



The local court departments have **proximity sections**, which result from the conversion of 27 previously existing courts and provide a significant range of services. These include the possibility to deal with certain procedural matters and giving of evidence by videoconference as well as a range of other acts as determined by the management bodies, including support for holding trial hearings.

Of the 27 proximity sections, 9 of these – Vimioso, Miranda do Douro, Mondim de Basto, São João da Pesqueira, Sabugal, Pampilhosa da Serra, Ansião, Mértola and Nordeste – are subject to a **special regime** under which they will be the preferred locations to hold trial hearings in order to reduce the number of trips to the court made by those involved in the cases (including witnesses and experts).

The local court departments have courts with jurisdiction over one or more court districts or over areas specifically referred to in the law. These courts - known as **courts with broadened territorial jurisdiction** – are the Sentence Enforcement Courts, the Maritime Court, the Intellectual Property Court, the Competition, Regulation and Supervision Court, and the Central Criminal Court. These are courts with specialised jurisdiction and hear certain matters regardless of the applicable procedural form.

The law also provides for the creation of **support offices for judicial magistrates and public prosecutors. These offices will be staffed by specialists with academic training in a range of areas**, including economics, finance and management, among others.

Besides this focus on specialisation, another aspect of this reform is also worthy of note: the attribution of the task of managing the courts to a **Management Council, with a tripartite structure** – a presiding judge, a coordinating public prosecutor and a judicial director. This model represents a development and extension of the one that had already been agreed with the approval of the pilot court district system by Law 52/2008 of 28 August.

**The new law also closes 20 courts.** This decision was based in the main on the reduced number of cases (fewer than 250 cases a year), as well as a poor road/transport conditions.

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MAP B - 27 PROXIMITY SECTIONS

**SOME IMMEDIATE CONSEQUENCES**

The recently announced changes will naturally have an impact on cases that are already underway. This is not only because of the need to redistribute these cases to the courts that now have jurisdiction but also because of the uncertainties caused by their implementation.

In this respect, even before the entry into force of the new Judicial Map, we have already seen a delay in setting trial dates and other procedural steps, as, upon the recommendation of the Superior Council of the Judiciary, no cases have been set down for trial on dates after 1 September.

Furthermore, the CITIUS platform has been deactivated since 26 August in order to make the changes made necessary by the introduction of the new Judicial Map. These changes were supposed to be made by 31 August but, on 1 September, a communication was released stating that "Given the magnitude of the work to be done on the Citius system in order to accommodate the new Law of Organisation of the Judicial System, the essential final quality control steps are still being carried out. It is anticipated that the system will be available for use in courts at some time this morning, with subsequent access to the Citius site". The reason behind this is that, as the office of the Minister of Justice had already made clear, the complexity of the process made it necessary, in the month of August, to "migrate more than 120 million documents and around 10 billion pleadings, corresponding to 97% of the total number of pleadings to be transferred".

As is clear, despite the court summer holiday period – which ended on 1 September – and as any currently applicable deadlines in urgent cases are not suspended, the deactivation of Citius has caused difficulties in complying with the said deadlines. This is because documents have had to be filed by post or in person at the court office, going against the requirements imposed by the reformed Civil Procedure Code in respect of sending data electronically. According to the notice that appeared on the Citius site on 1 September, the deactivation was expected to continue beyond the planned date, creating difficulties at the beginning of the judicial year.



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