

## Chapter 55

# From eJustice to Open Judiciary: An Analysis of the Portuguese Experience

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### ABSTRACT

*This chapter will consider the Portuguese context, with a relatively ‘traditional’ eGovernment successful development, to analyse the way eJustice and open judiciary have progressed. The aim is to provide useful insights which may be considered in other contexts (countries), including a reflection on the factors that may account for differences in eJustice and open judiciary development when compared to eGovernment and open government achievements. eGovernment, eJustice, open government and open judiciary development processes are placed in dialogue, in order to discuss the factors that have contributed to differences and similarities in both generic eGovernment and open government and specific eJustice and open judiciary development in Portugal.*

### INTRODUCTION

Over the past decades, eGovernment development in Portugal has focused essentially on infra-structure, information and online service provision, and internal process efficiency, following the general pattern described in early eGovernment maturity models (Layne & Lee, 2001). As a result of those efforts, Portugal now exhibits good general eGovernment development indicators as well as several very successful eGovernment flagship initiatives (European Commission, 2015a).

eJustice has followed a similar path, with the development of the two main applications: CITIUS and SITAF. Both applications, although with very different layouts and procedural rules, aim at a dematerialisation of proceedings by electronically treating all information provided by the professionals, thus

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reducing their physical form to a minimum. The implementation of this software made for significant change, mainly to the daily practice of all judicial actors, which can be classified as (1) automation; (2) process reshaping; and (3) redistribution of competences and intervention (Fernando, Gomes, & Fernandes, 2013). By achieving a full electronic procedure (with CITIUS, for civil proceedings) or a medium level electronic procedure (with CITIUS, for criminal proceedings, and with SITAF), Portugal ranks among the best performers in the benchmark results of CEPEJ and EU (European Commission, 2015b). However, despite the good scoring, there are doubts about the real impact of these eJustice initiatives on the overall efficiency of the justice system.

Having achieved some success in ‘traditional’ eGovernment development efforts (focused on services, processes and efficiency) over the past few years, attention has shifted to the idea of *open government*. Highly influenced by the Obama Administration Memorandum (Obama, 2009) and Directive (Orszag, 2009), open government efforts around the world embrace three main objectives: achieving *transparency*, promoting *participation*, and fostering *collaboration*.

Contrary to ‘generic’ eGovernment, there are no specific indicators yet that allow us to have a global picture of the development status of open government. But we can already identify some high impact open government initiatives in Portugal, particularly as regards the *transparency* dimension (such as the public contracts data portal), which may provide an interesting basis for comparison with existing (or not) similar initiatives in the administration of justice.

This chapter will consider the Portuguese context, with a relatively ‘traditional’ eGovernment successful development, to analyse the way eJustice and open judiciary have progressed, aiming to provide useful insights which may be considered in other contexts (countries). In particular, the analysis will look into what type (if any) of open judiciary initiatives have been launched, comparing it to other, very successful, ‘generic’ open government initiatives. The chapter will also reflect on the factors that may have contributed to differences and similarities in eJustice and open judiciary development when compared to generic eGovernment and open government achievements.

To provide an insight into these issues, this chapter is broadly divided into four main sections dedicated to eGovernment, eJustice, open government and open judiciary respectively. Each one of these sections begins by presenting a general conceptual framework of the specific domain, followed by a description and critical analysis of the Portuguese flagship initiatives and existing ICT systems, and of its international benchmark results concerning that domain. At the end of these sections, the above-mentioned questions will be discussed in the light of the Portuguese background, bearing in mind the importance of drawing on knowledge at national level to address similar problems in other contexts or at the transnational level.

## **eGOVERNMENT**

Broadly defined, eGovernment refers to “the use of ICTs, and particularly the Internet, as a tool to achieve better government” (OECD, 2003). At its core, eGovernment focuses on the online delivery of government information and services (West, 2004) and seeks to improve public service efficiency and effectiveness, while taking advantage of enhanced data quality inherent to the digital world (Andersen & Henriksen, 2006).

Early eGovernment maturity/stage models reflect these core focuses and objectives. For instance, the Layne and Lee (2001) growth model for eGovernment included four stages comprising service informa-

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