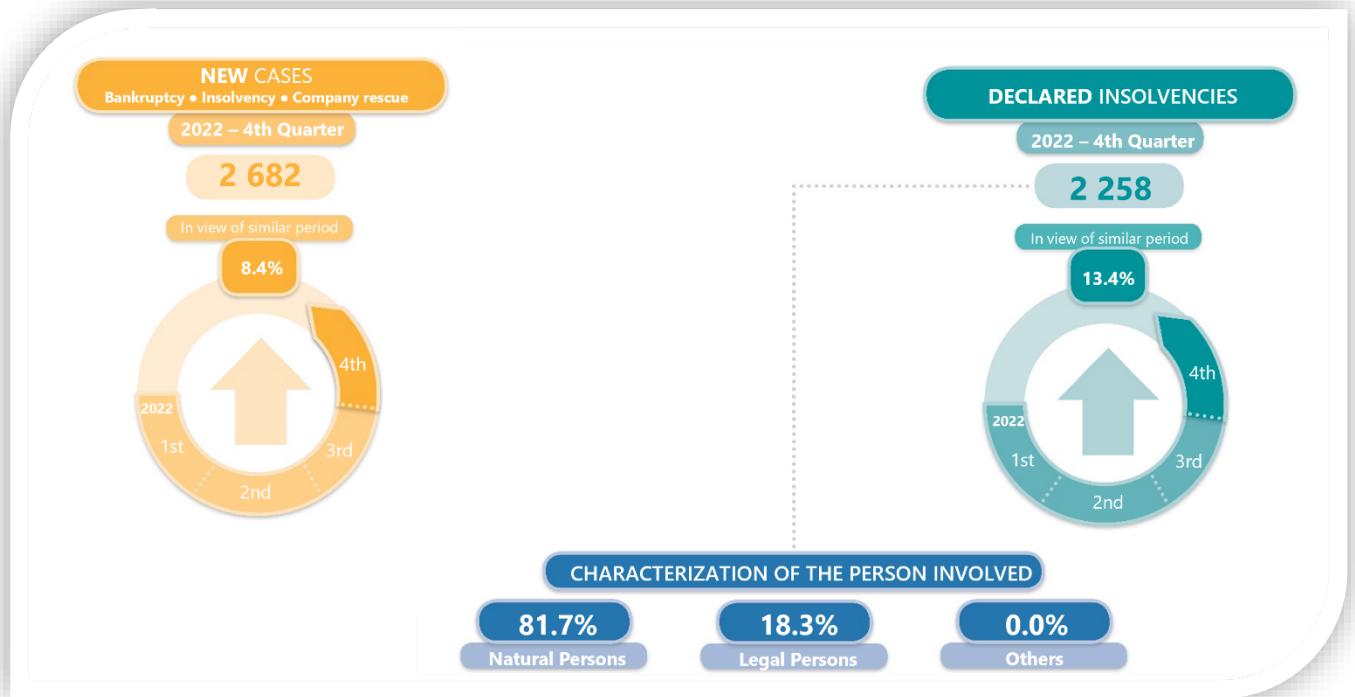


QUARTERLY STATISTICAL HIGHLIGHT | N. 111 | APRIL 2023

QUARTERLY STATISTICS ON INSOLVENCY CASES, SPECIAL REVITALIZATION PROCEDURES AND SPECIAL PROCEDURES FOR PAYMENT AGREEMENT (2007-2022)

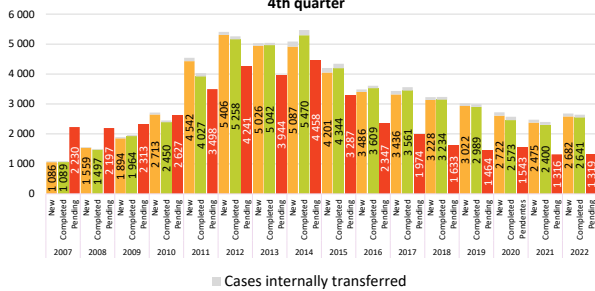


Case flow of bankruptcy, insolvency and company rescue cases, in the first instance courts, in the 4th quarter of each year

The observation of **table 1** allows to compare the third quarters of the years 2007 to 2022, where it may be observed a sharp increase in the number of new bankruptcy, insolvency and company rescue cases, in the first instance courts, from 2007 to 2012. From 2014 onwards, such trend is reversed with a decrease in the number of new cases. When similar periods related to the fourth quarter of 2007 and to the fourth quarter of 2022

are compared, there is an increase in the number of new cases. This increase is followed by an increase in the number of completed cases. In 2022, the number of pending cases at the end of the fourth quarter shows an increase of 0.2% when compared with the value recorded at the end of the fourth quarter of 2021. In view of the fourth quarter of 2007, there is already a decrease of 40.9%.

Table 1 - Bankruptcy, insolvency and company rescue cases in the first instance courts, 4th quarter



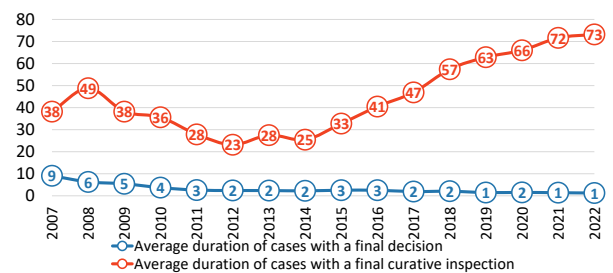
Average duration of bankruptcy, insolvency and company rescue cases, in the 4th quarter of each year

Regarding the average duration of completed cases in the fourth quarter of each year and considering the time elapsed between their entry and the final decision, that is, the declaration of insolvency or others alike, there was a sharp decrease in the observed trend between 2007 and 2022 (table 2). In fact, the average duration of these cases that was of 9 months in the fourth quarter of 2007 presented, in the third quarter of 2022, one ninth of said value (1 month). This decrease follows the effects of the procedural amendments introduced by Decree-Law 53/2004, of 18 March, which approved the Insolvency and Company Rescue Code. When compared to the fourth quarter of 2021, the average duration of completed cases in the fourth quarter of 2022 has remained stable.

Considering all the subsequent phases of the case until the final curative inspection¹ the average

duration of these cases was of 38 months in the fourth quarter of 2007 and of 73 months in the fourth quarter of 2022 (corresponding to an increase of 35 months). When compared with the fourth quarter of 2021, the average duration, in the fourth quarter of 2022, has decreased 1 month, going from 72 to 73.

Table 2 - Average duration (in months) of completed bankruptcy, insolvency and company rescue cases in the first instance courts, 4th quarter

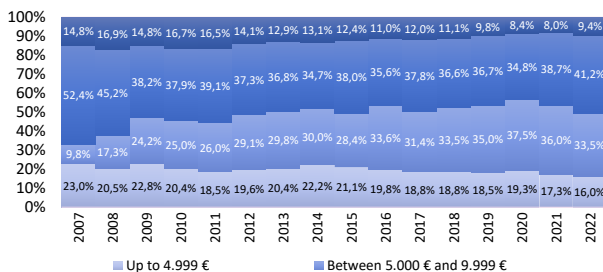


Characterization of completed bankruptcy, insolvency and company rescue cases, in 4th quarter of each year

Taking into account the ranking value (table 3) of the completed bankruptcy, insolvency and company rescue cases in similar periods corresponding to the f quarter of each year under analysis, it is possible to observe an increasing trend in the number of cases whose value is between €5,000 and €9,999, an increase of around 23.6 percentage points between 2007 and 2022. On its turn, the group ranging between €10,000 and €49,999 has had a decrease of around 11.2 percentage points. The groups up to €4.999 and €50,000 or more have maintained their weight in the overall total of cases, with a variation of less

than 10 percentage points (less 7.0% and less 5.4%, respectively, between the fourth quarter of 2007 and the fourth quarter of 2022). The intermediate group levels are the most represented and together they present already a ratio higher than 74.7% in the overall total of cases. When compared to the fourth quarter of 2021, there were no significant changes in the ranking of values in the fourth quarter of 2022 (all the changes are equal or under 2.5 percentage points: 1.3% less in the group up to €4,999, less 2.5% in the group between €5,000 and €9,999, more 2.5% in the group between €10,000 and €49,999 and 1.4% more in the group of €50,000 or more).

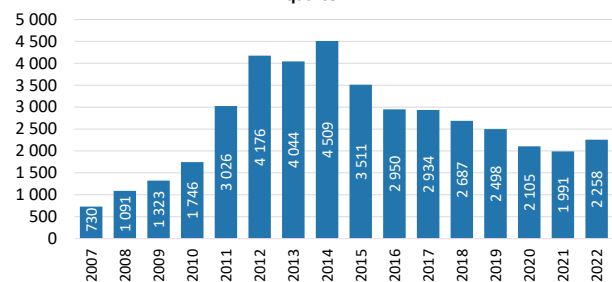
Table 3 - Group value of completed bankruptcy, insolvency and company rescue cases in the first instance courts, 4th quarter



As regards the **number of declared insolvencies in the 1st instance courts (table 4)**, in the similar periods corresponding to the fourth quarter of each year, it is possible to note a marked tendency for growth until 2014, the value recorded in the fourth quarter of 2014 corresponding to over six times more than the value recorded in the fourth quarter of 2007. The growth trend is quite evident in the increase of 73.3% observed between the

fourth quarter of 2010 and the similar period of 2011. In the fourth quarter of 2022 and in view of the similar period of 2021, there was an increase of 13.4% in the number of declared insolvencies. When compared with the maximum value recorded in the fourth quarter of 2013, such value has shown a decrease of 49.9%.

Table 4 - Number of declared insolvencies in the 1st instance courts, 4th quarter



As concerns the **type of person involved in declared insolvencies (table 5)** there is an increase, when comparing the fourth quarter of 2007 with the fourth quarter of 2022, in the weight of natural persons in the overall total of the cases (going from 17.1% to 81.7%, that is, almost five times the weight), followed by a comparable decrease of legal persons of private law (going from 82.1% to 18.3% and recording a decrease of 63.8 percentage points). In the fourth quarter of 2022 and in view of the fourth quarter of 2021, there was an increase of about 3.9 percentage points in the proportion of natural persons declared insolvent. Regarding the legal persons of private law, there was a decrease in their relative weight (less 3.9 percentage points).

Table 5 - Type of person involved in declared insolvencies in the first instance courts, 4th quarter

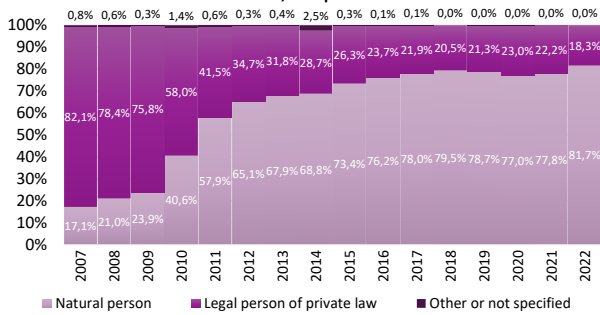
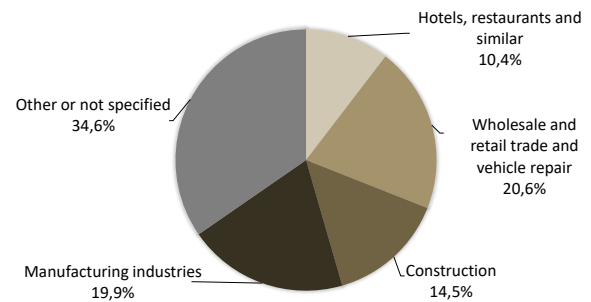


Table 6 - Cases with declared insolvency in the 4th quarter of 2022, in relation to the section of the Portuguese Classification of Economic Activities (CAE), where a legal person of private law is involved



As to the **costs of bankruptcy, insolvency and company rescue cases**, it was approximately calculated the average value² of 2.544,27€, bearing in mind the cases with a final curative inspection in the fourth quarter of 2022, in which there were amounts given out for payment by the Institute for Financial Management and Infrastructures of Justice I.P. (5.673 cases).

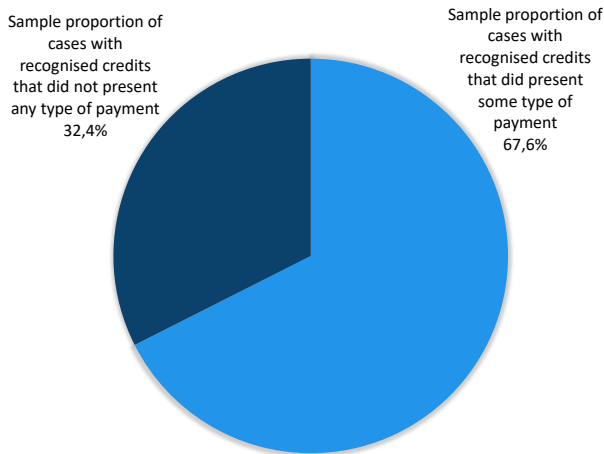
Considering the **section of the Portuguese Classification of Economic Activities (CAE)** regarding the legal persons of private law involved in declared insolvency cases in the fourth quarter of 2022, it is possible to state that 20.6% corresponded to the category of wholesale and retail trade and vehicle repair and 19.9% to the category of manufacturing industries, these being the categories with the most relevant weight (**table 6**).

Sample data³ on the rate of credit recovery in bankruptcy, insolvency and company rescue cases with a final curative inspection, in the 4th quarter of 2022

The sample data collected on **bankruptcy, insolvency and company rescue cases, with a final curative inspection, in the third quarter of 2022**, provide a better understanding on this type of cases.

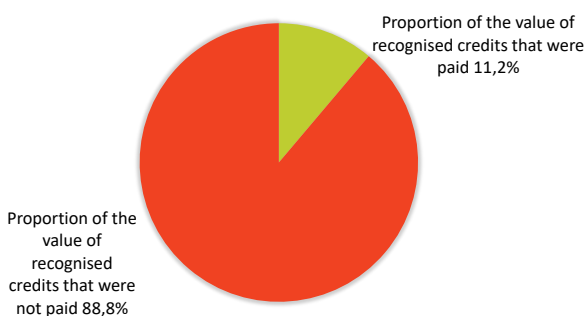
Restricting the analysis to the cases that presented recognised claims (**table 7**), it is possible to observe that the proportion of cases that present some type of credit payment is of 67.6%, when compared to the 32.4% that do not present any type of payment.

Table 7 - Cases in the 4th quarter of 2022 with recognised credits that presented some type of payment



The **rate of credit recovery**, that is, the ratio of the amount of claims paid over the amount of recognised claims, is of 11.2% (table 8). The remaining 88.8% of the amount of claims recognised by the courts do not correspond to their effective payment.

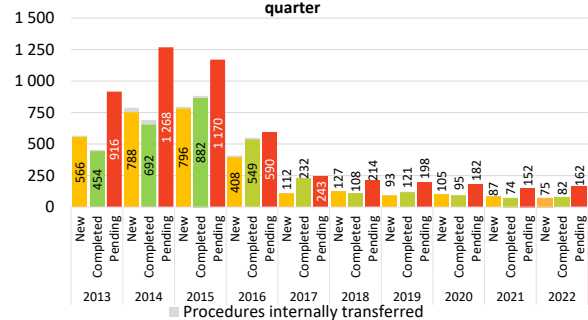
Table 8 - Credit recovery rate in the 4th quarter of 2022 (sample data)



Case flow of special revitalization procedures, in the 1st instance courts, in the 4th quarter of each year

These procedures exist since 20 May 2012. The observation of table 9 shows that, from 2015 onwards, there is a sharp decrease in the number of special revitalization procedures, a phenomenon accentuated with the creation of the especial procedure for payment agreement. At the end of the fourth quarter of 2022, 172 of these procedures were pending (around 82,3% less than in the fourth quarter of 2013).

Table 9 - Special revitalization procedures in the first instance courts, 4th quarter



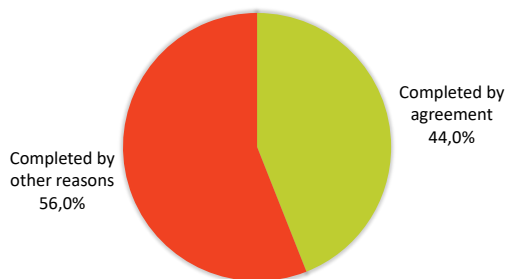
Average duration of the special revitalization procedures in the 4th quarter of 2022⁴

On its turn, the **average duration of the special revitalization procedures completed** between October and December 2022 was of 193 days, corresponding to about 6 months and 13 days.

Characterization of the special revitalization procedures in the 4th quarter of 2022⁴

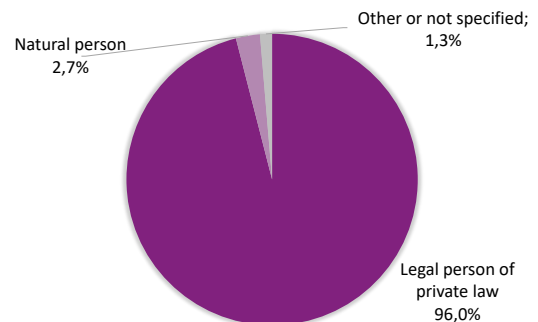
Taking into account the **final decision** of the special revitalization procedures in the fourth quarter of 2022, it is possible to observe that 44.0% of these procedures ended by agreement and that the remaining 56.0% ended by other reasons (**table 10**).

Table 10 - Final decision of the special revitalization procedures in the 4th quarter of 2022



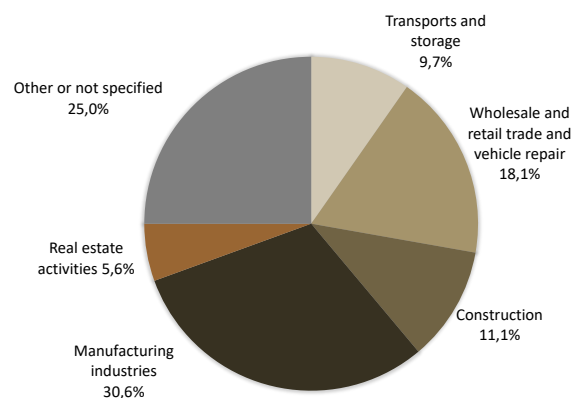
As regards the **type of person involved in the special revitalization procedures (table 11)**, in the fourth quarter of 2022, the weight of the legal persons of private law corresponded to 96.0% of the overall total of the procedures and the weight of the natural persons corresponded to 2.7% of that total.

Table 11 - Type of person involved in the special revitalization procedures in the 4th quarter of 2022



Considering the **section of the Portuguese Classification of Economic Activities (CAE)** regarding the legal persons of private law involved in special revitalization procedures in the fourth quarter of 2022, it is possible to state that 30.6% corresponded to the wholesale and retail trade and vehicle repairing category and 18.1% corresponded to the manufacturing industry category, these being the categories with the most relevant weight (**table 12**).

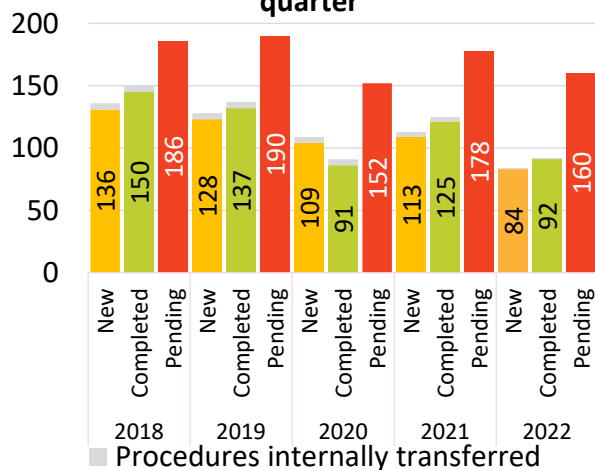
Table 12 - Special revitalization procedures in the 4th quarter of 2022, in relation to the section of the Portuguese Classification of Economic Activities (CAE), where a legal person of private law is involved



Case flow of the special procedures for payment agreement in the 1st instance courts, in the 4th quarter of each year

Considering that these procedures exist since 1 July 2017, **table 13** shows that in the fourth quarter of 2022 there were less new special procedures for payment agreement than in the similar period of the preceding year. At the end of the fourth quarter of 2022, 160 of these procedures were pending (around 10.1% less than in the fourth quarter of 2021).

Table 13 - Special procedures for payment agreement in the first instance courts, 4th quarter



Footnotes

¹ The final curative inspection is a note issued by the judge after finding that a given completed case has followed all the subsequent proceedings, has no irregularities, or that any potential irregularities were corrected.

² The average value is based on the amounts given out for payment by the Institute for Financial Management and Infrastructure of Justice, on account of the work carried out by the insolvency administrators in insolvency, bankruptcy and company rescue cases with a final curative inspection, from October to December 2022. This average value was calculated considering the cases in which amounts given out for payment have been identified, which correspond to 91.0% of the cases with a final curative inspection in said period.

³ Sample size equal to 362 cases; size obtained from the formula designed to calculate the sample size for proportions, for a population size equal to 6.236 cases, a significance level equal to 5% (which corresponds to a confidence range of 95%) and absolute accuracy of 5% (corresponding to the maximum difference between the values of the sample proportions presented and the true values of these proportions in the population).

⁴ In order to achieve a better representation of the reality of the phenomenon under study, the characterization data on the special revitalization procedures, in the first instance courts, do not include procedures carried over, incorporated, joined and sent to another entity.

Framework note 1. – Time scope and other considerations

From 2007, the statistical data related to the cases in the first instance courts are directly gathered from the courts' computer system. Thus the present procedural situation corresponds to the cases that are recorded in this system. Data related to the year 2007 reflect the effects of the entry into force of Decree-Law 250/2007, of 29 June, which reorganizes the courts of first instance, and where are recorded the corresponding processing of the cases. New and completed cases include those transferred between organizational units as a result of extinction and creation of new courts or sections. Exception is made in relation to transfers resulting from Law 3/99 of 13 January, which, in that year, introduced changes in the organization and functioning of the courts.

Framework note 2. – Concept of pending case

Pending cases correspond to cases that have not yet had a final decision, judgment, sentence or order, in their respective instance, regardless of *res judicata*. These are cases that are waiting for acts or due diligences to be carried out by the court, by the parties or by other entities. In certain types of cases, they may also be waiting for certain facts to occur or for a time period to run out. A suspended case is, for instance, a pending case, irrespective of the cause of suspension.

Framework note 3. – Concept of average duration of completed cases

The average duration of a completed case in court corresponds to the period of time between the day in which the case began in the court first seized and the day it was completed, even if re-distributed, that is, between the day the case began in the court where it entered and the day it was completed in that same court or in any another court to which it has been redistributed. The concept of average duration used in this statistical highlight corresponds to the so-called duration of the initial case, to which the duration in the various courts where it has run is added.

Framework note 4. – Concept of average duration of cases until the final curative inspection

The average duration of a case until the final curative inspection corresponds to the time period between the date of its beginning and the time of the final curative inspection in the court in which the latter occurs.

Technical sheet:

The Directorate-General for Justice Policy (DGPJ) of the Ministry of Justice, in accordance with Article 2 (1) of Decree-Law 163/2012 of 31 July has the mission to give technical support within the scope of legislative production and legal assessment, to monitor the policies and the strategic planning for the sector, to coordinate the external affairs and the cooperation in the justice area, being also responsible for the statistical data in the Ministry of Justice.

Law 22/2008 of 13 May defines the basic general guidelines and principles that govern the National Statistical System (SEN), particularly with regard to the delegation of powers of the National Statistical Institute (INE), in other entities.

Under the provisions of Article 24 of Law 22/2008, of 13 May, a protocol was celebrated empowering the DGPJ with the production and dissemination of the Justice official statistics.

As a delegated entity, DGPJ is subject to compliance, in its relevant part, with the Law 22/2008, of 13 May, with the Decree-Law 166/2007, of 3 May, as well as with the rules established by Community legislation, adopting the Code of Conduct for European Statistics and the Regulation for the Application of the Principle of Statistical Confidentiality of the National Statistical Institute.

The statistical indicators related to the duration, credit recovery rate and average cost of bankruptcy, insolvency and company rescue cases with a final curative inspection were produced in the framework of extraordinary statistical operations developed outside the framework of those provided for in the National Statistical System.

Directorate-General for Justice Policy

Av. D. João II, n.º 1.08.01 E,
Torre H, Pisos 2/3
1990-097 Lisboa, Portugal
Tel.: +351 217924 000
Fax: +351 217924 090
E-mail.: correio@dgpj.mj.pt
<https://dgpj.justica.gov.pt>