The appointment process of trustees in different countries and which factors can predict the success of a company after restructuring processes

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Abstract

The purpose of this dissertation is to study and better understand which main factors might affect a company, if, after being submitted to two restructuring processes, it is, presently, still in operation or not.

To accomplish this, a sample from 2012 to the beginning of 2018, which includes all the Portuguese companies which were submitted twice to the Special Revitalization process, was used.

Interestingly, the results have shown that the greater the experience of the first trustee is, the higher the probability of the company not being in operation today is. However, none of the other variables in the regression demonstrated to be statistically significant in order to be able to explain if a company is still operating.

Moreover, the literature review section looks at the diverse ways in which a trustee is nominated and what the procedure is in different countries, namely Portugal, France, Germany, Italy, Netherlands, Spain, Sweden, United Kingdom and United States.

Resumo

O objetivo da presente tese é estudar e melhor perceber quais os fatores que podem influenciar se uma empresa está operacional hoje em dia, após ter sido submetida a dois processos de restruturação. Para alcançar o proposto, é usada uma amostra de todas as empresas Portuguesas que já estiveram duas vezes em Processo Especial De Revitalização, entre o período de 2012 e Janeiro de 2018.

Os resultados demonstram que quanto maior a experiência do primeiro administrador judicial, maior é a probabilidade de a empresa não se encontrar operacional. Contudo, nenhuma das outras variáveis demonstrou ser estatisticamente significante para poder explicar se a empresa está em atualmente em atividade.

Na secção de revisão de literatura, são discutidas as diversas formas de nomear um administrador judicial e como são os procedimentos em diferentes países, nomeadamente, Portugal, França, Alemanha, Itália, Holanda, Espanha, Suécia, Reino Unido e Estados Unidos.

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List of Abbreviations

APAJ – *Associação Portuguesa dos Administradores Judiciais* (Portuguese Association of Trustees)

CAAJ – *Comissão para o Acompanhamento dos Auxiliares de Justiça* (Commission for the monitoring of legal practitioners)

CIRE- *Código da Insolvência e da Recuperação de Empresas* (Portuguese Insolvency and Restructuring Code)

ESUG - *Gesetz zur weiteren Erleichterung der Sanierung von Unternehmen*

IA 1986 – Insolvency Act 1986

InsO - *Insolvenzordnung*

LC – *Ley Concursal*

PER – *Processo Especial de Revitalização* (Portuguese Special Revitalization Process)

USBC – United States Bankruptcy Code

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1. Introduction

With the increasing number and complexity of bankruptcy cases in the world, financial distress has become a topic with a broad literature and empirical analysis.
Financial distress can be defined as the situation when the claims of creditors are superior to the current value of the firm (Altman, Chen and Weston 1994), however, literature has been offering a wide range of definitions.

Over the past years, Portugal has become an interesting case study in the corporate financial distress topic. The country was heavily impacted by the sovereign crisis which negatively affected the companies and led to a contraction of the economy. Small companies within economic sectors such as retailing, construction, energy and the ones that were mainly dependent on internal consumption were the most negatively affected (Martins 2016).

The recession situation lived in the country, together with the political instability, motivated an intervention from the European Central Bank, the International Monetary Fund and the European Commission (henceforth referred to as Troika) which led to the signature of the Memorandum of Understanding, in 17th May 2012 (Machado 2017). One of the objectives of the Memorandum was an amendment to the *Código da Insolvência e da Recuperação de Empresas* (or CIRE, Portuguese Insolvency and Restructuring Code), by creating a restructuring mechanism for the companies facing bankruptcy. As mentioned by (Altman, et al. 1994), bankruptcy laws and reorganization procedures have allowed financially distressed companies to turn around and to once again become financially viable.

In 2008, there was a significant increase in insolvency processes (approximately 358.5 % between 2007 and 2013) mainly due to the difficulty in getting access to credit, moreover the measures imposed by Troika aggravated the problem (Cordas and Dinis 2017). Thus, the Special Revitalization Procedure came into force in May of 2012, and it is regulated under the terms of articles 17º-A and subsequent to the Portuguese Insolvency and Restructuring Code (CIRE). It consists of an alternative mechanism for insolvency, which can be compared to Chapter 11 of United States, and whose main objective is to restructure the debt of a company.

With this new procedure in Portugal, also emerges the figure of the trustee, who has the role to evaluate and elaborate a restructuring process for the distressed company. Once a petition for the PER is filled out, one such person will be appointed, either by a judge, the debtor or creditor.

From country to country, there are different rules for this appointment and it has been a topic subject to discussion, since there are arguments in favour of a random selection and arguments for an appointment by a judge/debtor/creditor. Thus, the different ways to elect a trustee for recuperation process in Portugal, Spain, France, Germany, United Kingdom and United States will be compared and discussed.

The random selection does not consider the level of qualifications of the trustee; however, it might reduce the problem of perverse incentives (Martínez 2016) which are applied in countries such as Portugal and Spain. By contrast, the appointment might lead to a large concentration of processes on a small number of trustees and this might result in a conflict of interests. As mentioned by Frieden and Wielenberg (2016), restructuring processes are a very challenging task, specially under time constraints, this being the reason why administrators must develop the necessary technical knowledge and "managerial knowhow".

Following the above section, how the experience of trustees on restructuring processes, the sector companies belong to, the year which the process initiated and the differences in the number of months between both processes, influences if a company is still active today or has already been submitted to insolvency, will be studied. The data used includes all the restructuring processes in Portugal between 12th May 2012 and 29th January 2018, from which is selected a sample of 233 companies, which underwent restructuring twice.

The topic discussed and analysed in this dissertation is particularly interesting since there is very limited literature available comparing how trustees are elected in different countries and studying how their experience, along with other factors, can influence a successful restructuring.

This dissertation is planned as follows. Section 2 offers an overview on Bankruptcy Codes of the countries already mentioned earlier, on the matter of selection of a trustee, additionally to other relevant literature on the topic. Section 3 describes the data sample used for analysis purposes, as well as, the methodology applied in the study. Next, in Section 4 of this dissertation, the main results are presented. Finally, Section 5 concludes and outlines the main limitations found and proposes ideas for future research.

2. Literature Review

In this section, firstly, a brief introduction about the functions of a trustee in the PER and Insolvency will be given, according to the Portuguese Bankruptcy Law. Following, will be discussed arguments in favour of a random selection, as well as the appointment by a judge, debtor or creditor. And lastly, how judicial administrators are appointed in different countries, namely in Portugal, Spain, France, Germany, United Kingdom, United States, Italy, Netherlands and Sweden, will be compared.

2.1. Who & Functions

The trustee is the professional responsible for the administration of the debtor's patrimony, and liquidation of the insolvency estate[1]. In a restructuring process, the role of the trustee can briefly be described as someone who assists the company in facing financial difficulties, or its creditors to elaborate a turnaround plan, and who also plays a role in supervising and reporting all the company activity and might have to take control of the firm's assets during the process.

In Portugal, for each district court, there is an official list of trustees that can be appointed and the several functions of the trustee, in the PER, which are specified in the CIRE. According to Epifânio, M. Rosário (2015), the first two responsibilities can be found in article 17º - D, nr. 2 of the CIRE, which mentions the role of receiving claims and then the elaboration of a provisional list of claims, within 5 days. This list must be disclosed in the *Citius* portal.

The trustee can approve the extension of the negotiations, since there is a previous deal between the debtor and the creditors, for one more month (art. 17º-D, nr. 5) and decide the terms of negotiation (art. 17º-D, nr. 8). In this context, can also be included the participation of the trustee in the ongoing negotiations to guide and supervise the negotiation, in addition to guaranteeing that it does not adopt any detrimental behaviour (art. 17º-D, nr. 9). The role includes, as well as, authorizes actions of special relevance, which are defined in the article 161º (such as the sale of the company, divestiture of key assets and acquisition of real estate) (art. 17º-E, nr. 2), reception of the creditors' votes and, along with the debtor, opening of the letters to elaborate a document that discloses the voting results (art. 17º-F, nr. 4).

Finally, the two last responsibilities of a trustee in a process of revitalization are the communication of the fact that negotiations are closed and, if possible, publication in *Citius*

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[1] Article nr.2, nr.1 of Law nr.22/2013, from 26th February.

(art. 17º-G, nr.1), in addition to giving a legal opinion on whether the company is in an insolvency situation or not (art. 17º-G, nr. 4)[2].

In the insolvency process, the trustee initiates the exercise of functions, as soon as, the appointment is notified (art. 54º). The trustee has numerous functions during the process which are mentioned below.

The first responsibility is stated in the article 55º, number 1 a), and refers that the trustee must prepare the payment of debts with the money from the insolvency estate, which includes the trustee's compensation from alienations. The rights of the insolvent may be preserved by the trustee, and when there is a case of keeping the company functioning, then the deterioration of its economic situation must be avoided (art. 55º, nr. 1 b)). The duties mentioned are subject to the supervision of the creditor's committee (art. 55º nr. 1) and the judge. The latter can request, at any time, a report on the activities developed and what the situation is regarding the administration and liquidation of the company, until that moment (art. 58º) (M. d. Epifânio 2015).

According to the article 55º, nr.2, the trustee must personally carry out the role, without delegating his powers to someone else, except in the cases when the law requires legal assistance[3]. Technical knowledge can be required due to the nature of functions that the trustee has to perform, so in those cases there is the possibility to be assisted by auxiliaries or specialists, who can or not be paid (art. 55º, nr. 3). The debtor can furthermore act as an auxiliary, if the creditors' committee or the judge allows it.

Moreover, the trustee can hire more workers, on a fixed-term or uncertain term contract, so he thinks it will be necessary for the insolvency process or to keep the exploration of the company (art. 55º, nr. 4). Luís A. Carvalho Fernandes and João Labareda observe that even though it is not directly stated in the law, the trustee must act with greater diligence, in an organized and careful way.[4]

2.2. Random Process versus Appointment process

L. Miguel Pestana de Vasconcelos notes the importance of the process of appointment of a trustee in the PER. The author refers the existence of two important effects which protect the

[2] Epifânio, M. Rosário (2016) "Processo Especial de Revitalização", 2016, Almedina, page 29.

[3] The article 55º, nr. 2, was amended by the Portuguese Law Nr.16/2012, from 20th April, allowing trustees to delegate powers to other people on the official list (M. d. Epifânio 2015).

[4] Fernandes, Luís A. Carvalho and Labareda, João (2011) "Colectânea de Estudos sobre a Insolvência", Quid Juris Sociedade Editora, page 153.

debtor and one that safeguards the interests of creditors. The first mentioned is the suspension of all debt collection while the negotiations last (art. 17º-E, nr. 1 CIRE), so it can be possible for the company to recover. Additionally, in case there was an initial requirement for an insolvency process, in which a judgment has not been made, that process is suspended. Unlike Insolvency, where the insolvent loses its administration powers (art. 81º, nr. 1 CIRE), in case of the PER the same does not happen. Nevertheless, according to article 17º -C, nr. 2, al. a) CIRE, after the trustee is appointed, the debtor is prohibited from taking actions of special relevance, which are stated in article 161º CIRE, without the consent from the trustee.

The procedure of appointment of a trustee presents some complexity since there is the possibility for the judge, the debtor or the creditors electing him/her, and it does not obey to the same conditions (Fernandes and Labareda 2011).
The opinions related to the process of appointment are divided: some people support the random choice while others favour the appointment by one of the previously mentioned parties.

- Random process

In Portugal, as in some other countries, the court selects the trustee in a random way according to article 52º, nr.1 CIRE[5]. Judicial bias is avoided in the process; however, it is important to note that the level of qualification and experience desired may not be reached since the background experience of the appointed trustee is irrelevant. This "lottery" process is also a way to try to reduce the problem of perverse incentives (Martínez 2016). Nevertheless, one should take into consideration that this "lottery" appointment can discourage the incentives, for some trustees, to enhance their training as bankruptcy administrators.

According to Inácio Peres[6], president of APAJ, this is the best mechanism, so the processes can be distributed to a bigger number of trustees. This way, the concentration of many processes for just one person, who may not have the necessary availability, is avoided. Additionally, it is a more transparent process since there is no appointment by the debtor or creditor, which could cause suspicious of bias.

[5] The same article also states that the judge can consider an appointment proposal made by the petitioner, in case there is the need of special knowledge and experience.

[6] Source: Jornal Público 2014 available at https://www.publico.pt/2014/10/01/economia/noticia/gestores-de-insolvencias-passam-a-ser-nomeados-aleatoriamente-1671415

Appointment

- by judge

First, it will be discussed cases in which there is the appointment of a judge who has the power of decision.

Assuming the court will act in an independent and fair way, this process is efficient. The appointed trustee must have the proper knowledge and qualifications, from the first moment. Moreover, according to a proposal from the European Commission (2016)[7], when judges appoint a trustee, it should be ensured by the Member States, that the person has the required training and supervision, so the process is managed efficiently and with integrity. As the decision does not involve the debtor or the creditors, this option can be considered as an effective and "unbiased" way of selection (The World Bank 2011). Nevertheless, it must be clear how the court elected the administrator.

On the other hand, it may lead to a concentration of the cases in a small number of trustees, which is not recommended in countries with low level of judicial integrity (The World Bank 2011).

-by the debtor

Another alternative would be the appointment by the debtor. Nevertheless, this alternative can be considered risky as the debtor is an interested intervenient and so, his/her interests can be in conflict with other parties, namely the creditors.

-by the creditor

Lastly, there is the scenario where creditors are responsible for designating the trustee. However, this can raise conflicts between secure and unsecure creditors, since their interest will most probably not be the same.

These two last appointment options leave the parties more comfortable with the designation, since they have probably already had contact or worked with the judicial administrator, who is someone they trust or has experience in similar processes (Calvete 2016).

[7] "Proposal for a Directive of the European Parliament and of the council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/20/EU"

2.3. Appointment in different countries

2.3.1. Portugal

The general principle is for the trustee to be appointed by the judge, through an electronic system, so it guarantees a random selection within the official list, and an equal allocation of processes to all trustees (art. 52º, nr.1 of the CIRE and art. 13º of the Portuguese Law Nr. 22/2013, 26th of February). According to Leitão, Luís M. Teles de Menezes (2015), the election of an insolvency trustee is required due to the distrust in the company's management abilities. Nonetheless, when there is no possibility for the mentioned above to happen, the judge chooses a person from the official list.

On the other hand, the creditors and the debtor may also appeal to the judge to nominate a specific person for the role, if some justification is provided (art. 52º, nr.2 of the CIRE).

According to data from the APAJ (2017), between 1st December 2015 and 31th January 2018, there were around 351 trustees on the Official List and 2237 appointments took place. From this one can observe an average election of 6,37 for each administrator nonetheless, 78 achieved a higher number of appointments while 273 stayed below average. In 2017, the CAAJ published the statistics related to trustees and it showed that the appointment was prevailing in the PER over random selection, which seems to still be the case, according to what was mentioned before.

2.3.2. The United States of America

Chapter 11 "Reorganization", of the US Bankruptcy Code, is the principal inspiration for the insolvency and reorganization laws that are in place in several European countries (Machado, José M. Gonçalves 2017). Contrarily to the PER, the election of a trustee is not very common in the United States.

In Chapter 11, usually the debtor can still operate the business as usual, to which is given the name "debtor in possession". The reason behind this, is the fact that the debtor in possession understands the business better than any outsider does (Robleto 2012). However, when there is suspicion of fraud or dishonesty, incompetence or gross mismanagement of the current management of the debtor, either before or after filing for Chapter 11 (§ 1104, (a) (1) USBC), the court can understand it is necessary to appoint a trustee to operate the business. Additionally, the code mentions that there is such appointment in case it meets the interests of "the creditors, any equity security holders, and other interests of the estate" (§ 1104, (a) (2) USBC).

When there is a case that the court requires the election of a trustee, the United States Trustee is in charge to appoint one. Nevertheless, within 30 days after the court orders the appointment, an interested party can request the election of a trustee. In such cases, the U.S. Trustee shall convene a meeting of creditors with the objective to elect a disinterested trustee (§ 1104, (b) (1) USBC). At the meeting, the election of a candidate for the role of trustee is only accomplished if creditors holding at least 20% of the number of claims request it (§ 702, (b) USBC). It is important to notice that, according to USBC, section 702, (a), only creditors, who hold an unsecured, liquidated, undisputed and fixed claim, who do not have any interest materially adverse to creditors, and who are not insiders, are eligible to vote for a candidate. The trustee will only be elected if at least 20% of the creditors specified before, vote and if the candidate obtains the majority of the number of claims (§ 702, (c) USBC). When the 20% requirement is not met, or the creditors cannot agree on a candidate, it is the U.S. Trustee's responsibility to select a trustee for the case.

When no request is made by the court to appoint a trustee, any interested party or the U.S. trustee can ask for the appointment of an examiner, before the plan is approved. The examiner has the role to investigate the debtor in order to understand if there is any suspicion of fraud, dishonesty or mismanagement (§ 1104, (c) USBC). The interested party is only allowed to do it if such appointment satisfies the interests of creditors, equity security holders and interests of estate or if the debtor has unsecured, liquidated and fixed debts, which do not include the debts for services, goods, taxes or the debts which are owed to an inside person, exceeding $5,000,000 (§ 1104, (c), (1) and (2) USBC).

Concerning Chapter 7 "Liquidation", once a bankruptcy petition is filed, the U.S. Trustee shall appoint a trustee (Interim trustee), who has to be an impartial person and must belong to the Trustee Panel (§ 701, (a) USBC). Nevertheless, if the creditors are not pleased with the appointment, they have the possibility to elect a new trustee. Thus, creditors holding at least 20% of the number of claims will have to solicit a new election (§ 702, (b) USBC). Once again, the creditors allowed to vote for a new trustee have to satisfy the same requisites mentioned above, related to Chapter 11 (§ 702, (a) USBC). If no trustee is elected, due to the same reasons specified earlier, the interim trustee shall continue on the case.

2.3.3. United Kingdom

Administration, Company Voluntary Arrangements (CVAs), Liquidation and the Scheme of Arrangements are the four insolvency proceedings applied in the United Kingdom. These procedures are regulated by the Insolvency Act.

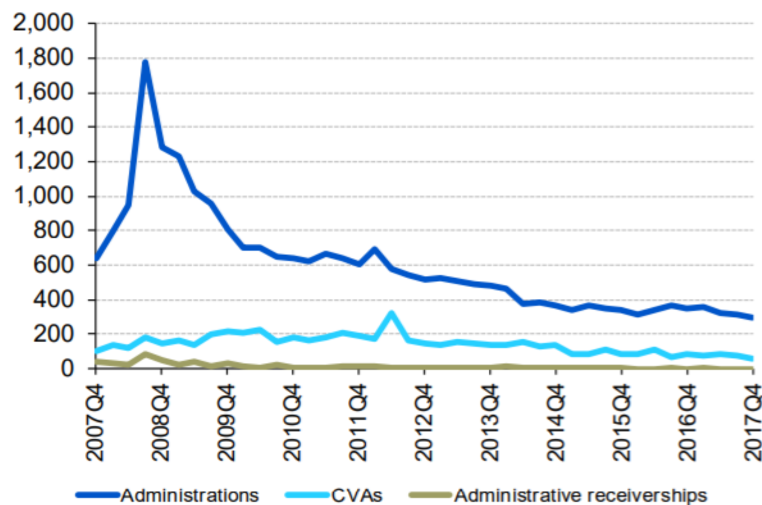

Figure I:: Comparison of the number of restructuring procedures in England and Wales between the fourth quarter of 2007 and the fourth quarter of 2017. This data has been seasonally adjusted for Administration but not for the CVA's and Administrative receiverships since it did not exhibit regular patterns. Source: Companies House

The Administration was introduced in the United Kingdom, through the Insolvency Act 1986 (IA 1986), with the objective to give an opportunity and time to companies to reorganize, instead of facing liquidation immediately (Machado 2017). As can be observed in figure I, this was the mechanism that companies submitted the most during the fourth quarter of 2007 and 2017.

This process can be initiated out of court, when creditors or the company request it, or by legal proceedings. Nevertheless, the company has to be struggling to pay its debts.

In both cases, an administrator is appointed under Schedule B1 of the Act, who must be an insolvency practitioner (Schedule B1, §6, IA 1986). The best interest of creditors must always be taken into consideration during the entire process.

Out of court appointment gives the right to the company, its directors or creditors who hold a floating charge[8] to immediately appoint a trustee of their own choice (Schedule B1, §14-§39,

[8] (Schedule B1, §14 (2), IA 1986)

IA 1986). This appointment takes immediate effect after all documentation is filled out and submitted to the court.

The in-court process can be requested by the creditors who do not hold a floating charge (Machado 2017), and not only the company, creditors or directors. Nevertheless, these unsecured creditors must submit a document, from the intended trustee, mentioning that there is a high probability for the company to recover.

Under paragraph 100 of Schedule B1, there is the possibility to have joint and concurrent administrators, however it is necessary to inform the court about the functions of each administrator.

When a company is under Administration, the trustee will be the person responsible for its management.

Briefly referring to the other two procedures. Company Voluntary Arrangements is a voluntary mechanism which allows the debtor to repay creditors over a stipulated period. Nonetheless, to enter into this arrangement, there is the need of at least 75% of the creditors, who vote, to approve it. If this criterion is not met, the company could face a voluntary liquidation. In the Scheme of Arrangements, the 75% rule is also applied, nonetheless the creditors meeting might be requested by the court and the plan must be approved by the same.

2.3.4. Spain

Ley Concursal (LC) is the law that regulates the Insolvency and restructuring process in Spain. *Preconcurso* and *Acuerdos de refinanciación* are the two main restructuring procedures existing in the country. The first proceeding starts when the debtor company, who must be in imminent or actual insolvency (LC Article 2, nr. 2 and 3)[9] , files the necessary documentation and submits it to the court. Once submitted, the company will start a three-month negotiation period with its creditors and will also, be protected under LC article 5 bis, which will grant a defence against any judicial executions. This period can be used to obtain a restructuring agreement or an insolvency plan with the creditors, however the debtor might also use it to look for potential third-party investors interested in acquiring the firm (Baker McKenzie 2016).

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[9] According to LC article 2, paragraph 2, a company is in actual insolvency when it is no longer able to pay its debts, on a daily basis. The same article, paragraph number 3, defines the state of imminent insolvency when the debtor predicts that it will not be able to pay its obligations.

Now referring to *Acuerdos de refinanciación* (Homologation of refinancing agreements), this mechanism also allows firms to restructure their debt, as said before, and it is an alternative to the procedure mentioned before. According to the *Real Decreto-Ley* from 7th March, this procedure is one of the most suitable for the companies that aim to obtain a new payment calendar (ILP Abogados 2017). The conditions to access this restructuring mechanism are provided under article 71 bis of *Ley Concursal*. To be homologated by the court, the debtor's refinancing plan must be accepted by at least 51% of the creditors.

Article 27º of *Ley Concursal*, stipulates the way trustees are appointed. First, all the persons must be registered at the *Registro Público Concursal* (Public Bankruptcy Registry) to be able to be appointed. The judge is responsible for the appointment of the professional, nonetheless the first election will be random. In processes of medium and large companies, if the judge considers that the trustee does not have the necessary skills and experience, he must appoint another administrator and explain his decision. Moreover, the debtor and creditors shall not influence the judge's decision on who to appoint.

When the complexity of the case is high, a second trustee might be appointed by the court.

2.3.5. Germany

The law that allows an easier process of companies' restructuring is called the *Gesetz zur weiteren Erleichterung der Sanierung von Unternehmen (ESUG).* This law was implemented on the 7th of December 2011 and introduced the *Vorbereitung einer Sanierung (§270b of InsO)* (meaning "preparation of a restructuring") (Machado 2017)**.**

Contrary to the Portuguese law, the German Insolvency Law does not provide for a "difficult economic situation" (de Vasconcelos 2017). In the terms of the §270b (1) InsO, the law covers the cases of imminent insolvency (*drohender Zahlungsunfähigkeit*) or when there is over indebtedness (*Überschuldung*). The German law's main objective is to protect all creditors' interests and if possible, in an equal manner since there is no recognition of different classes (Baker McKenzie 2016).

If the debtor decides to proceed to restructure, a certified document from a tax consultant or other person experienced in bankruptcy, stating that there is possibility for a reorganization of the company, must be submitted to the court. Once it is approved, the court shall appoint a provisional trustee (*vorläufigen Sachwalter*). This figure has as a main function avoiding any action considered to have a detrimental effect for the creditors and for the value of the firm.

Under the section 270 (a) (1), the provisional administrator will be appointed, however the trustee has to be a person other than the one that issued the certified document. The debtor can

propose to the court a trustee, who will then be accepted or rejected on condition the person is considered to have the required knowledge and experience (§270b (2) InsO). In the cases when no relevant experience is confirmed, the court can disregard the debtor's choice and appoint another person.

Not every administrator has the same power when it refers to the control and management of the company. When they are given a more limited power, the debtor keeps running the business. However, there are some actions to which the debtor might have to ask for authorization to the trustee. By contrast, when the administrator gets all the power, that person is in charge of managing the company and not the debtor.

In the Insolvency Procedure, there is also the appointment of an insolvency administrator, who in many cases is the one appointed as judicial administrator before.

2.3.6. France

In France, the law governing the pre-insolvency and the insolvency mechanism is the French Commercial Code (articles L. 610-1 to L.680-7). In 2005, the French insolvency law was amended so companies could feel safer when entering a reorganization or insolvency proceeding.

Mandat ad hoc and *Conciliation* are two pre-insolvency proceedings which are voluntary and, as stated by Machado, José (2017), there is only an indirect intervention from the court in the renegotiation process.

Helping companies to turnaround and prevent insolvency is the objective of the *Mandat ad hoc Procédure*. Similarly, the Conciliation procedure also aims to assist companies in a difficult financial situation. Usually, one of the main functions of a trustee, in this procedure, is to come to an agreement between the creditors and the debtor on a payment plan. Any control power or management responsibilities will be allocated to this judicial administrator.

Procédure de Sauvegarde is also a proceeding with the objective to rescuing a company, however, this is regulated by the court. Similarly, to the PER, a company, to access it, must be having difficulties to repay its debts or predict it will not be able to do so in the future. However, in order for the *Procédure de Sauvegarde* to be approved by the court, it cannot have as an objective the sale of the entire business. It might only include restructuring of the debt, debt-for-equity swap, a recapitalization plan or the sale of some assets or some business units (Cordas and Dinis 2017).

In all the scenarios mentioned above, there is the appointment of an administrator (*administrateur*). In the first two mentioned, the debtor can suggest a trustee to the court, however the latter has to approve it. Nevertheless, the most common practice is for the trustee to be selected from the official list of judicial administrators. Additionally, the administrator will not be in control of the company.

Moreover, regarding the *Procédure de Sauvagarde*, the court has the role of appointing the trustee, and also an agent, called *mandataire judiciaire* (article L.621-4, §3 Code de Commerce France), who will defend the creditors' interests. It is not common practice for the creditors to appoint a different administrator from the one selected, nonetheless, in the case of pre-insolvency procedures, they can make a suggestion.

2.3.7. Italy

The Italian Insolvency Law was firstly regulated under *Regio Decreto*, 16 Mach 1942, n. 267 (Royal Decree no. 267 of 16th March 1942). Nevertheless, this law has undergone several alterations during the last decade (Baker McKenzie 2016). Under the Italian law, the restructuring process can take place either out of the court or in court.

The debt restructuring agreement (*Accordi di ristrutturazione dei debiti*) is one of the court supervised mechanisms to which companies can submit when facing difficulty and it is regulated by Article 182 bis of the Italian Insolvency Law. In order to have an approval of the repayment plan, the debtor needs that creditors holding at least 60% of the amount of the debt agree with it.

Another mechanism which requires the court's intervention is the *Concordato Preventivo*. Like the previous restructure proceeding, the aim is to assist companies unable to fulfil their payment obligations, to elaborate a repayment plan to creditors. To initiate the process, the debtor must submit a plan to the court, along with other documents outlined in the Italian Bankruptcy Law, article 161, such as a list with all the assets the companies own and its value. Additionally, it is also necessary to deliver a statement from a qualified professional confirming all the previous data and expressing his opinion about the viability of the restructuration process. In order to protect unsecured creditors, the restructure plan should also cover at least 20% of their claims (Art. 186-bis of Italian Bankruptcy Code).

As for the appointment of a trustee, or *comissario giudiziale*, this will be the court's responsibility. The debtor is allowed to remain in control; nonetheless he is not authorized to take detrimental action. For these reasons, the debtor will be under supervision of the trustee.

2.3.8. Netherlands

Bankruptcies are regulated by the *Faillissementswer*, created in 1893. The mechanisms available for Dutch companies are a voluntary debt restructuring, "*Surseance van betaling*" (suspension of payment) and *Faillissement* (Insolvency Procedure), although the first procedure is not regulated by the court. Moreover, since it is a very informal proceeding, there are disadvantages which include the lack of creditors who wish to participate, decreasing the probability of success of the deal, and the fact that there is no possibility for the court to impose the plan to creditors, regardless of some objections.

Thus, the voluntary restructuring process permits the company to negotiate a composition[10] with its creditors. This can be a very advantageous arrangement when successful. For example, this allows the company to avoid unfavourable publicity and the feeling of uncertainty (Baker McKenzie 2016).

The suspension of the payment mechanism is regulated by the court, as mentioned earlier, and offers a company, who predicts to not be able to meet its financial obligations in the near future, a moratorium for payment obligations. This time will allow the company to have some time to restructure its business.

2.3.9. Sweden

The Swedish restructuring and insolvency legislation is regulated by the *Företagsrekonstruktion* (Company Restructuring Act), created in 1996, and by the Konkurslagen (Bankruptcy Act), since 1987.

To apply for a reorganization procedure, the debtor or creditors need to file the application and submit it to the local court. In order for the application to be accepted by the court, there are two conditions that need to be fulfilled. Firstly, the company must be in a situation where it is not able to continue paying its overdue debts or it is very likely that this will happen in the near future. Secondly, the goal of the restructure plan needs to be feasible. Once the court approves the application, an independent "*reconstructor*" ("*rekonsturktör*") will be appointed by the court and will have as main duties to evaluate the financial situation of the firm and elaborate a reorganization plan, along with the creditors.

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[10] In legal terms, a composition is defined as an arrangement made between the insolvent company and its creditors (two or more) in which creditors accept to "forgive" part of the claims additionally to a repayment plan. Only creditors who accept to enter in the deal are affected.

In Sweden, the trustee does not take control of the business[11], since this is a debt-in-possession procedure. However, the trustee must supervise the activities of the management and directors of the company.
As mentioned by Hager, et al. (2017), the restructure plan should not last more than three months, nevertheless it is possible to obtain an extension of up to nine months in certain cases. Nevertheless, it should not run for more than one year.
Insolvency proceedings can be initiated by either the debtor or their creditors and once the court has declared the bankruptcy of the company, a trustee is appointed. Contrary to the restructure, the administrator takes control of the business with the goal of repaying the debts (Baker McKenzie 2016).

Finally, it is important to mentioned how important the proper functioning of insolvency and restructuring procedures are, as it gives another chance of preserving the business, or at least, part of it. According to the European Commission (2016), there should be an incresing concern on uniformity of procedures in the European Union in order to improve investors confidence. Moreover, many investors are reluctant to expand their ativities, or initiate new business relationships outside their country, due to uncertainty about insovency procedures in other countries and how to assess the associated credit risk (European Commission 2016).

[11] According to (Baker McKenzie 2016), trustees usually do not take control of the management of the company, since it is very likely they do not hold the necessary knowledge and experience about the industry.

3. Methodology and Data Collection

To analyze which factors can potentially affect if companies are still operational today, a database provided by Infotrust Company was used. This data provides all the companies under PER processes in Portugal, between 12th May 2012 and 29th January 2018, as well as the trustee responsible, the court that the process took place in and the dates of the processes.

The original database consists in 4348 companies which underwent restructuring, nevertheless, the analysis has only been conducted on a subsample of 233 companies. This subsample was chosen taking into consideration the companies which faced PER twice during that period, which could indicate a poor performance of the trustee on the first process. Companies under the PER more than 2 times were also excluded from the sample.

To complement the information, the Citius'[12] website was accessed to understand which of these 233 companies were still operating. Moreover, the economic sector of the companies was also added.

Recalling, the objective of the present analysis is to attempt to understand how the fact that companies are still operational today can be influenced by different factors, which include the experience of trustees, if they were appointed for both restructuring processes, the economic sectors the companies are inserted in, the year which the process initiated and finally, the difference in the number of months between both processes.

The statistical analysis used to identify the significant predictors for the activity of the companies today, was the logistic regression, also known as logit model. According to Lo, Andrew (1986), this is considered a more robust method than discriminant analysis, since it can be applied to non-normal distribution.

When the company is still operational, it is categorized with the number one, contrary to when it is no longer in activity, which is coded with number 0, and this is the dependent variable for study.

The qualitative independent variable CAE was reduced to one digit from 0 to 9, and it was transformed into dummy variables in order to assign an economic sector to each company in the sample.

[12] Available at https://www.citius.mj.pt/portal/consultas/consultascire.aspx

Additionally, as independent variables, the experience of both trustees was also considered (ExpTrustee1 and ExpTrustee2), if it was the same trustee who conducted the processes (Same_Trustee), the year in which the process was initiated and the difference of months between the two processes.

The experience of the trustees is calculated as the sum of their processes in the sample. Finally, the year variable (year_Proc1) refers to the year which the process started and is included in the model due to economic cycles and its impact on the performance of companies. Looking at the difference in the number of months (Dif_Months), this was calculated using the date of the first and the second process.

Thus, the function for the model studied is given by:

$$Operat_today = \alpha + B_1\, ExpTrustee1 + B_2\, ExpTrustee2 + B_x\, CAE_x + B_{10} Same_Trustee +$$

$$+ B_{11}\, year_Proc1 + B_{12}\, Same_Trustee + \xi$$

Where:

Operat_today – dependent variable

α – constant

B – coefficients of the regression

ExpTrustee1 – independent variable (Experience of the trustee in the first restructuring process)

ExpTrustee2 - independent variable (Experience of the trustee in the second restructuring process)

CAE_x – Dummy variable, where $0 \leq x \leq 9$ (Represents the economic sector with1 digit)

year_Proc1 – Independent Variable (Year of the first restructuring process)

Same_Trustee – Dummy variable (if = 0 trustees in both processes are different; if = 1 trustees in both processes are the same)

ξ - Error

At the end of next section, a robustness analysis will also be presented, by dividing the sample according to two different time periods.

4. Results Analysis

As mentioned earlier, this analysis focuses on a subsample of 233 Portuguese companies. From these, over half (57.1%) are still operating and by looking at table I below, it is possible to observe that the more representative the CAE are the 4 (48.1%), 1 (14,6%) and 2 (10.3%). Additionally, the year with more companies being submitted to PER for the first time is 2013, representing nearly 39% of the total of the sample.

	Distribution	***%***
Operat_today		
No	100	42,9
Yes	133	57,1
CAE		
0	3	1,3
1	34	14,6
2	24	10,3
3	9	3,9
4	112	48,1
5	12	5,2
6	15	6,4
7	9	3,9
8	12	5,2
9	3	1,3
year_Proc1		
2012	42	18,03
2013	90	38,63
2014	49	21,03
2015	35	15,02
2016	17	7,3
2017	0	0
2018	0	0

Table I: Distribution and percentage of total nr. of the companies who keep operating today and the more representative CAE. Additionally, is also represented the distribution for the variable year_Proc1 in the subsample.

Descriptive Statistics			
	Mean	Std. Deviation	N
ExpTrust1	12,27	12,577	233
ExpTrust2	12,90	13,245	233
Dif_Months	28,06	12,978	233

Table II: Descriptive Statistics for independent variables ExpTrust1, ExpTrus2, Dif_Months and Year_Proc1, namely the average and the standard deviation.

As can be noticed in the above table II, the experience of trustees shows a large discrepancy. The reason behind it is there were 125 trustees for 466 restructuring processes to which 10% of the cases were allocated to just one trustee, during the period studied. Moreover, approximately 35% of the processes were distributed to another 10 trustees, who have ten or more processes but less than the trustee mentioned who had 45. (Figure II)[13].

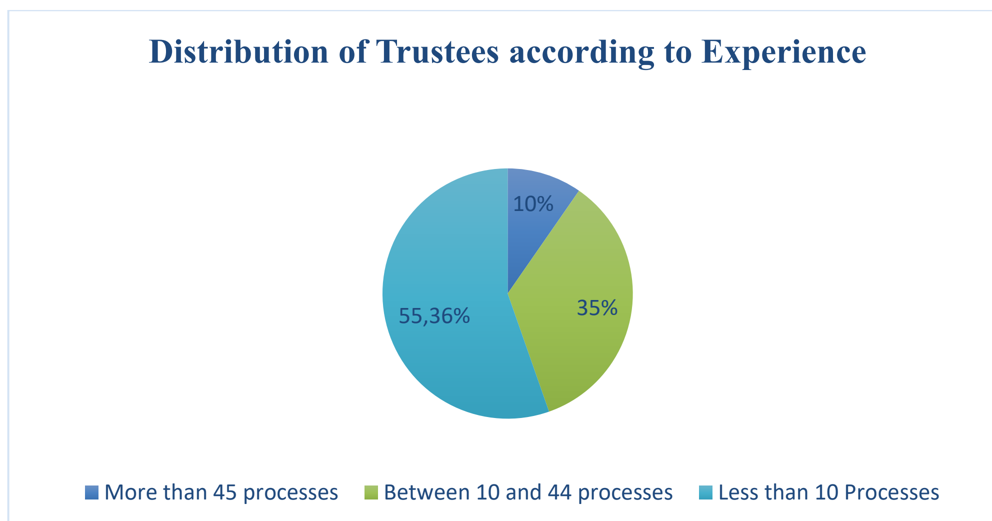

Figure II: Distribution of PER processes to trustees, only considering the sample of 466 processes.

Table III below, shows that the final model can correctly predict 66,1% of the cases.

Observed		**Predicted**		
		Operat_today		Percentage Correct
		0	1	
Operat_today	0	44	56	44,0
	1	23	110	82,7
Overall Percentage				66,1

a. The cut value is ,500

Table III: Prediction of the percentage of cases which are predicted by the model. (SPSS Predictability Table)

[13] In Appendix I, there is the distribution of processes to each trustee individually, in the subsample.

Looking at table IV, it is possible to observe that the logistic regression revealed that only the experience of the first trustee (B = -0.034; $\chi^2_{\text{Wald}} = 4.791$; p =.029) is statistically significant over the logit of the probability of the company being operational today or not, when considering a significance level of 0.05. As the coefficient of the regression is negative, it indicates that the higher the number of experience of the first trustee, the lower is the probability for the company to be active. According to Dr. Reinaldo da Costa, one of the most experienced trustees in this sample[14], this result can be explained by the fact that these judicial administrators, who have a more experience, understand better if the companies are able to be restructured or not. Although the first restructuring process keeps the company alive, some start to plan a second plan rapidly. Usually, these second processes will be planned in advance and, in many cases, they can include the sale of the business to other companies. As stated by Hitt and Lei (1995), leverage buy-outs, mergers and acquisitions are the most known types of restructuring to allow companies to be equity financed and replace the high value of debt contracted.

Despite economic sectors, such as construction or commerce, were one finds some of the most negatively affected by the economic crises (Martins 2016), the sectors to which companies belong to, does not seem to be relevant to explain if they are still operational, according to the results obtained. The year, which companies entered restructuring process, are also not statistically significant.

The variable Dif_months is not statistically significant either to explain the dependent variable, contrarily to what might be thought. Although there is the feeling that some trustees try to conclude the processes quickly in order to move to a new one, it does not appear to be the true according to the model.

[14] For the purpose of this dissertation an interview was conducted with one of the most experienced professionals in the area, Dr. Reinaldo da Costa.

	B	*S.E.*	*Wald*	*Sig.*	*Exp(B)*
ExpTrustee1	-,034**	,015	4,791	,029	,967
ExpTrustee2	,011	,014	,655	,419	1,012
Dif_Months	,022	,015	2,286	,131	1,022
same_Trustee	-,259	,301	,738	,390	,772
year_Proc1	,252	,155	2,623	,105	1,286
CAE1	-,767	1,294	,352	,553	,464
CAE2	-,747	1,316	,322	,571	,474
CAE3	1,094	1,640	,445	,505	2,985
CAE4	-,847	1,262	,451	,502	,428
CAE5	-,245	1,401	,030	,861	,783
CAE6	,118	1,384	,007	,932	1,125
CAE7	-1,058	1,430	,547	,460	,347
CAE8	,254	1,438	,031	,860	1,290
CAE9	-,015	1,748	,000	,993	,985
Constant	-505,870	312,933	2,613	,106	,000

Table IV: Reported are the regression results to predict if a company is still operational. ExpTrustee1 is the experience of the trustee on the first PER process, and it is calculated was the amount of processes of that trustee in the sample. ExpTrustee2 is the experience of the trustee on the second restructuration process, so it is calculated the same way. CAE are dummy variables to assign each firm the respective sector.

4.1. Adjustment tests

To assess the quality of the model, the Hosmer and Lemeshow Godness-of-Fit test was performed (Table V). The test showed an adequate adjustment of the model to the data (χ^2 = 6.477, p = 0.594), since the null hypothesis is not rejected. Thus, the model seems to be able to predict if companies are in activity today.

Chi-square	*df*	*Sig.*
6,477	8	,594

Table V: Hosmer and Lemeshow Test

4.2. Robustness Test

Lastly, a robustness test was executed. The data from the subsample was divided in two time periods: 2012 – 2014 and 2015 - 2017.

The first one corresponds to a period when Troika was in Portugal[15] and the country was still recovering from the effects of the financial crisis. As stated by Dinis, David Sequeira et al. (2017), the Portuguese economy, as well as the restructuring and insolvency measures of the country, had apparently had a turning point in 2014. By contrast, the second period represents a period of growth. In 2017, the PIB of Portugal increased by 2.7%, when compared to the previous year, according to data disclosed by the Portuguese National Statistics Institute.

The sample for the first period included 181 companies which were undergoing a restructuring process for the first time. From these, 96 of them were no longer active. The second sample included only 52 companies, from which 35 were still operational. On both regression analysis mentioned, the results were similar to the original model. However, the experience of the first trustee is statistically significant for a p-value lower than 0.1 for these models (Table 7 for period 2012 - 2014)[16]. As previously, it is possible to conclude as the first administrator's experience increases, the probability for the company to be alive is smaller.

Additionally, the regression for 2012 - 2014 presented a correct prediction of 66.3% of the cases (Table 8), more 1.7% when compared to 2015 – 2017[17], and 0.2% than the original model.

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[15] Troika left Portugal on the 17th May, 2014.

[16] Appendix II - Results from regression analysis for sample 2015 – 2017.

[17] Appendix III - : Prediction of the percentage of cases which are predicted by the model, for sample 2015 – 2017.

	B	S.E.	Wald	Sig.	Exp(B)
ExpTrustee1	-,031*	,018	3,056	,080	,970
ExpTrustee2	,019	,016	1,500	,221	1,019
Dif_Months	,024	,016	2,306	,129	1,024
same_Trustee	-,373	,349	1,142	,285	,689
year_Proc1	,069	,258	,072	,788	1,072
CAE1	-,609	1,307	,217	,641	,544
CAE2	-,984	1,337	,542	,462	,374
CAE3	1,198	1,645	,530	,467	3,313
CAE4	-,832	1,267	,431	,511	,435
CAE5	-,011	1,453	,000	,994	,989
CAE6	,528	1,484	,127	,722	1,696
CAE7	-1,571	1,526	1,061	,303	,208
CAE8	1,219	1,690	,520	,471	3,383
CAE9	-,021	1,753	,000	,990	,979
Constant	-139,153	519,784	,072	,789	,000

Table VI: Results for the Regression Analysis for the sample period from 2012-2014.

Classification Table[a]

Observed		**Predicted**		
		Operat_today		Percentage Correct
		0	1	
Operat_today	0	50	32	61,0
	1	29	70	70,7
Overall Percentage				66,3

a. The cut value is ,500

Table VII: Prediction of the percentage of cases which are predicted by the model, only considering the sample from 2012 – 2014. (SPSS Predictability Table)

5. Conclusion

The analysis presented has as main objective to understand which factors could help predict if companies are still in activity today or not, after two restructuring processes. For this purpose, a logistic regression was run, using as independent variables the experience of trustees in both processes, if they were the same or not, the year of process, the economic sector of companies and finally, the difference in the number of months between processes.
The results were satisfactory, by demonstrating the importance of the experience of the first administrator since the more experience, the less likely it was for a firm to be operational nowadays. Some firms when applying for a second restructuring process already have a defined plan which might include the sale of the business, reason why this result could be expected by some.
An adjusted test was also performed to assess the quality of the model, which demonstrated a good fit of the model to the data. The model was able to correctly predict 66,1% of the cases in the sample.

5.1. Limitations

For this research there are some limitations which are important to take into consideration. Firstly, it is assumed that all trustees in the sample are appointed and not elected randomly. According to statistics published by CAAJ in 2016, trustee's appointment happened in 850 PER cases, while random selection was only applied to 324, corresponding to more than 70% of the elections (Appendix IV).

Secondly, is not known how much time the processes lasted, and it is not given the same time period after the processes finished to understand the real effects of the restructuring on the firms. According to the European Commission (2016), low recovery rates are mainly triggered by the exaggerated length of the restructuring procedure. Lastly, the information about the date that companies were submitted to insolvency as well as their size is missing.

The lack of data available, represents an obstacle to have more robust results on what affects if a company is operational today or not.

5.2. Future Research

One suggestion for future studies on this topic, would be to expand the analysis to other countries with similar restructuring processes and compare the results. Additionally, by getting the information on how the trustee was appointed, include that variable on the model.

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7. Appendix

Appendix I - Distribution of Processes to Trustees, only considering the subsample.

Row Labels	Count of Data Processes	
Grand Total	466	%Total
Jose Augusto Machado Ribeiro Gonçalves	45	9,66%
Orlando José Ferreira Apoliano Carvalho	24	5,15%
Manuel Reinaldo Mancio Costa	22	4,72%
Maria Clarisse Barros	22	4,72%
Francisco Jose Areias Duarte	19	4,08%
Pedro Miguel Cancela Pidwell Silva	16	3,43%
Antonio Dias Seabra	14	3,00%
Jorge Fialho Faustino	13	2,79%
Antonio Francisco Cocco Seixas Soares	12	2,58%
Angelo Antonio Almeida Pereira Dias	11	2,36%
Jorge Manuel Seiça Dinis Calvete	10	2,15%
Dalila Paula Vasconcelos Ferreira Lopes	9	1,93%
Fernando Silva Sousa	9	1,93%
Nuno Carlos Lamas Albuquerque	9	1,93%
Nuno Miguel Nascimento Lemos	7	1,50%
Amadeu Jose Maia Monteiro Magalhães	6	1,29%
Artur Bruno Vicente	6	1,29%
Raul Dios Gonzalez Benito	6	1,29%
Antonio Filipe Mendes Murta	5	1,07%
Elisabete Gonçalves Pereira	5	1,07%
Luis Augusto Moreira Gomes	5	1,07%
Secundino Manuel Miranda Cantinho	5	1,07%
Ademar Margarido Sampaio Rodrigues Leite	4	0,86%
Carlos Cintra Torres	4	0,86%
Elmano Relva Vaz	4	0,86%
Emanuel Freire Torres Gamelas	4	0,86%
João Jose Oliveira Cruz Barbosa Castelhano	4	0,86%
Jose Cruz Marques	4	0,86%
Luis Miguel Batista Teles Nogueira	4	0,86%
Luis Miguel Duque Carreira	4	0,86%
Napoleão Oliveira Duarte	4	0,86%
Paula Alexandra Fonseca Jorge Santos	4	0,86%
Tito Teixeira Germano	4	0,86%
Wilson Jose Gabriel Mendes	4	0,86%
Ana Maria Oliveira Silva	3	0,64%
Armando Rocha Gonçalves	3	0,64%
Carlos Manuel Santos Inacio	3	0,64%
Claudia Margarida Sousa Soares	3	0,64%

Domingos Lopes Miranda	3	0,64%
Fernando Cruz Dias	3	0,64%
Filipa Catarina Camalhão Neiva Soares	3	0,64%
Francisco Alberto Seco Oliveira	3	0,64%
Jose Costa Araujo	3	0,64%
Jose Luis Caetano Marques	3	0,64%
Maria Joana Machado Prata	3	0,64%
Vitor Manuel Carreira Ramos Rodrigues	3	0,64%
Jose Estevão Pinheiro Vidal	2	0,43%
Ana Cristina Mendes Casaca Almeida Vaz	2	0,43%
Antonio Coimbra Rodrigues	2	0,43%
Antonio Liszt Santos Melo	2	0,43%
Carla Daniela Gomes Macedo Fernandes Peres	2	0,43%
Carla Maria Carvalho Santos	2	0,43%
Carlos Alberto Lopes Teixeira Santos	2	0,43%
Cecilia Sousa Rocha Rua	2	0,43%
Cristina Maria Rodrigues Alfaro	2	0,43%
Esmeraldo Cunha Augusto	2	0,43%
Fernando Bordeira Costa	2	0,43%
João Carlos Cunha Cruz	2	0,43%
João Manuel Correia Chambino	2	0,43%
Jorge Ruben Fernandes Rego	2	0,43%
Jose Eugenio Gayoso Pinto Pais	2	0,43%
Miguel Augusto Rodrigues Matos Torres	2	0,43%
Miguel Filipe Sousa Antunes Cerdeira	2	0,43%
Paula Maria Ramos Peres Fernandes	2	0,43%
Paulo Alexandre Elias Sa Cardoso	2	0,43%
Pedro Manuel Gomes Ortins Bettencourt	2	0,43%
Rafael Afonso Freire Rodrigues Bragança	2	0,43%
Rui Nunes Dias Silva	2	0,43%
Sandro Oliveira Martins	2	0,43%
Nidia Maria Coimbra Sousa Lamas	1	0,21%
Adelino Ferreira Novo	1	0,21%
Adelino Lopes Aguiar	1	0,21%
Americo Vieira Fernandes Grego	1	0,21%
Ana Domingues Ferreira Alves	1	0,21%
Ana Rito	1	0,21%
Anabela Anjos Ferreira	1	0,21%
Antonio Emilio Pera Pires	1	0,21%
Antonio Joaquim Oliveira Vieira	1	0,21%
Antonio Jose Leal Carneiro	1	0,21%
Antonio Jose Vieira Azevedo Coutinho	1	0,21%
Antonio Manuel Muñoz Balha Melo	1	0,21%
Armando Jose Rodrigues Oliveira Carragoso	1	0,21%
Carolina Reis Marques Furtado Oliveira Moura	1	0,21%
David Duque	1	0,21%

Deolinda Ribas Silva Albuquerque	1	0,21%
Francisco Mateus Barreirinhas	1	0,21%
Graça Isabel Ferreira Lopes Cunha	1	0,21%
Helena Sofia Costa Marques Saraiva	1	0,21%
João Francisco Baptista Mauricio Gonçalves	1	0,21%
João Manuel Cortes Pirra Salvado Martinho	1	0,21%
Joaquim Antonio Silva Correia Ribeiro	1	0,21%
Joaquim Baltazar Roque	1	0,21%
Jose Antonio Carvalho Cecilio	1	0,21%
Jose Barros Oliveira	1	0,21%
Jose Eduardo Castro Martins	1	0,21%
Jose Estevão Pinto Oliveira	1	0,21%
Jose Fernando Ferreira Batista Pereira	1	0,21%
Jose Manuel Almeida Silva	1	0,21%
Jose Manuel Pereira Antunes	1	0,21%
Jose Pedro Pires Martins Silva	1	0,21%
Jose Ribeiro Morais	1	0,21%
Justino Gomes Almeida Pereira Alegre	1	0,21%
Leonel Calheiros Santos	1	0,21%
Lucia Maria Maçãs Sousa	1	0,21%
Luis Filipe Barão Oliveira	1	0,21%
Luis Manuel Iglesias Fortes Rodrigues	1	0,21%
Luis Manuel Ribeiro Carvalho	1	0,21%
Manuel Casimiro Duarte Bacalhau	1	0,21%
Maria Conceição Ferreira Santos	1	0,21%
Maria Evangelina Sousa Barbosa	1	0,21%
Maria Fatima Teixeira Gonçalves	1	0,21%
Maria Teresa Martins Reves	1	0,21%
Marilia Vieira Castilho	1	0,21%
Miguel Fernandes Gomes	1	0,21%
Miguel Ribas Fernandes	1	0,21%
Nelson Caetano Sa Soares Oliveira	1	0,21%
Nuno Gonçalo Oliveira Cruz Barbosa Castelhano	1	0,21%
Patricia Margarida Esteves Soares	1	0,21%
Patricia Sofia Marques Navalho	1	0,21%
Paula Maria Lopes Alves Lopes	1	0,21%
Paulo Campos Macedo	1	0,21%
Pedro Miguel Santos Mendes	1	0,21%
Rui Jorge Soares Silva Castro Lima	1	0,21%
Rui Manuel Pereira Almeida	1	0,21%
Vitor Manuel Ribeiro Moreira Almeida	1	0,21%

Appendix II- Results for the Regression Analysis for the sample period from 2012 - 2017.

	B	S.E.	Wald	Sig.	Exp(B)
ExpTrustee1	-,032	,017	3,485	,062	,969
ExpTrustee2	,000	,016	,000	,995	1,000
Dif_Months	,028	,017	2,592	,107	1,028
same_Trustee	-,398	,349	1,301	,254	,672
year_Proc1	,236	,172	1,884	,170	1,266
CAE1	,096	1,530	,004	,950	1,100
CAE2	,489	1,566	,098	,755	1,631
CAE3	1,167	1,830	,407	,524	3,213
CAE4	-,056	1,488	,001	,970	,945
CAE5	,981	1,644	,356	,551	2,666
CAE6	,979	1,589	,379	,538	2,661
CAE7	-,013	1,715	,000	,994	,987
CAE8	1,575	1,737	,823	,364	4,832
CAE9	,842	1,916	,193	,660	2,321
Constant	-474,724	345,875	1,884	,170	,000

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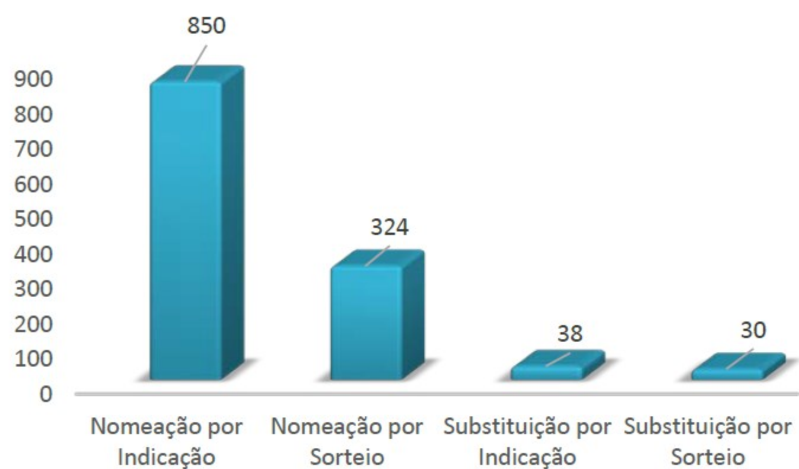
Appendix III- Prediction of the percentage of cases which are predicted by the model, only considering the sample from 2012 – 2017.

Classification Table[a]

Observed		**Predicted**		
		Operat_today		Percentage Correct
		0	1	
Operat_today	0	31	45	40,8
	1	19	86	81,9
Overall Percentage				64,6

a. The cut value is ,500

Appendix IV – Distribution of Special Revitalization Processes, in 2016.



In 850 processes there was an appointment by one of the parts, while in 324 the trustee was elected randomly. Additionally, there were 38 cases were the trustee was replaced by appointment and 30 where he was substituted by random selection.

Source: CAAJ – Folheto Estatístico Administradores Judiciais