

# Os sentidos da igualdade de oportunidades em face do anteparo da desigualdade estrutural: uma análise de conteúdo das decisões do Supremo Tribunal Federal do Brasil\*

*The meanings of equal opportunity in the face of the structural inequality barrier: a content analysis of the decisions of Brazil's Federal Supreme Court*

*Los sentidos de la igualdad de oportunidades: un análisis de contenido de las decisiones del Supremo Tribunal Federal de Brasil*

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## Resumo

O artigo analisa a igualdade de oportunidades através de uma abordagem qualitativa dos acórdãos do Supremo Tribunal Federal (STF), no período de 2008 a 2020, a partir da indexação do próprio site do Tribunal. O procedimento metodológico de análise de conteúdo é empregado com o objetivo de identificar os sentidos atribuídos à igualdade de oportunidades nos julgamentos e, com isso, estabelecer sua correlação com a desigualdade estrutural, limitadora das capacidades de grupos vulneráveis. Os resultados apontaram para a existência de sentidos diferentes à expressão pesquisada, a depender dos contextos empregados, com pouca observância aos mecanismos sociais limitadores das oportunidades.

**Palavras-chave:** análise de conteúdo; Supremo Tribunal Federal; igualdade de oportunidades; desigualdade estrutural; grupos vulneráveis.

## Abstract


*This paper analyzes equal opportunity through a qualitative approach of the decisions of the Federal Supreme Court (STF), from 2008 to 2020, based on the indexation of the Court's website. The methodological procedure of content analysis is used with the objective of identifying the meanings attributed to equal opportunities in judgments and, therefore, establishing its correlation with structural inequality, which limits the capacities of vulnerable groups. The results pointed to the existence of different meanings to the researched expression, depending on the contexts used, with little observance of the social mechanisms that limit opportunities.*


**Keywords:** content analysis; Supreme Federal Court; equal opportunity; structural inequality; vulnerable groups.

## Resumen

*El artículo analiza la igualdad de oportunidades por medio de un enfoque cualitativo de las sentencias del Supremo Tribunal Federal (STF), en el período entre 2008 y 2020, a partir de la indexación de la propia página web del Tribunal. El procedimiento metodológico de análisis de contenido es empleado con el objetivo de identificar los sentidos*

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*atribuidos a la igualdad de oportunidades en los juicios y, con esto, establecer su correlación con la desigualdad estructural, limitadora de las capacidades de grupos vulnerables. Los resultados indicaron la existencia de sentidos diferentes para la expresión investigada, a depender de los contextos empleados, con poca observancia a los mecanismos Sociales limitadores de las oportunidades.*

**Palabras clave:** *análisis de contenido; Supremo Tribunal Federal; igualdad de oportunidades; desigualdad estructural; grupos vulnerables.*

## 1 Introduction

This study analyzes the contents of the votes cast by the Justices of the Federal Supreme Court in order to assess the dimension attributed to equality of opportunities in the judgments of the highest Court in the country. The qualitative approach covered judgments published in the period from 2008 to 2020, compiled from the indexing of the STF's own website. The semantic criterion used favors the expansion of the sample to obtain meanings consistent with the votes analyzed, not necessarily prevalent in the ruling.

Although the composition of the Supreme Court may change, the analysis of the contents of the judgments produced so far assumes relevance due to their repercussion in relation to the other branches, in addition to being used as precedents by the Court itself in future judgments, even if in a different composition from the one that originally produced them.

The delimitation of the theme to equal opportunities was due to the fact that the argument "equality of results" was not located in the research carried out. This is a fundamental issue to justify the implementation of public policies, which can take on different contours depending on the groups to which they are intended. On the other hand, the judgments of such policies can also be impacted by the variants of time, space, degree of exclusion of groups in political-social contexts, in addition to the media visibility associated with *agenda-setting*.

Hence the relevance of an approach different from the dogmatic one, usually used in the field of Law, to scrutinize a little-known, sometimes unexplored field. From this perspective, the technique of content analysis of the Supreme Court's decisions will be used in this study to solve the following problem: What are the meanings attributed to equality of opportunities in the judgments of the Supreme Court and its correlation with the structural inequality supported by vulnerable groups.

The objective of the article is to verify the votes of the Justices who are members of the Court according to the semantic meaning of the expression equal opportunities and, based on the messages underlying the themes, to analyze the meanings attributed to the expression in the face of the shield of socially constructed arrangements that place certain groups of individuals in a position of greater vulnerability.

The work is arranged in three topics, in addition to the introduction and conclusion. The first inserts equal opportunities as a corollary of the principle of equality. As it is an open concept, the interpretative hermeneutics performed by the Courts assumes a central aspect in

the achievement of equality, in line with the demands of the historical-social moment. Also on this topic, equal opportunities are explored from the inequalities imposed by the social structures in which vulnerable groups are inserted. The second topic exposes the methodology of content analysis and outlines the path followed in the quanti-qualitative analysis of the selected judgments with the enunciation of the categories of analysis and their thematic axes. The third topic presents the inferences and analyses of the results obtained. All the frames used are produced by the authors. The texts of English origin are also translated by us.

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## **2 Equal opportunities and structural inequality**

The material determination of the principle of equality, as opposed to formal equality, is difficult to achieve. In the contemporary Social State, the principle of equality is expressed, according to Bonavides (2003), as a right and as a technique. As a right, it is linked to the liberal conception, which restricts state action. From this point of view, the principle of equality prohibits differential treatment without a reasonable basis for justifying it. As a technique, it will find in interpretative hermeneutic activity a link between society and the State, due to its own elasticity. In this conception, equality will act as a regulatory principle of an open Constitution, whose material determination is subject to historical variability, adapting to the prevailing values in the community (Bonavides, 2003).

By conforming to an open legal norm, the principle of equality will assume different concretions throughout history. Despite fostering intense debate about its content, due to its abstract character, the principle is traditionally conceptualized as "a commandment of equal treatment to people and groups located in similar positions, as well as differentiation of treatment to those positioned differently" (Rios, 2008, p. 23-24).

Different periods carry different differences. Qualities, social positions and rights undergo changes from one era to another. Contextually, therefore, the search for equality will take the form of equating to the same level of position, dignity, power, ability, achievement or excellence (Scott, 2005).

The *right to be treated as equal* presupposes that differences in the concrete plan are taken into account (Rios, 2008). Assuming this perspective is not an easy task in the field of Law, which systematically, within a positivist conception of the law, has addressed individuals separated from the reality in which they are inserted. By obscuring the markers of gender, regional or national origin, racial, sexual, religious, economic, social, etc., under the false belief that individuals who experience these vulnerabilities are inserted in a universal model, the interpreter of the law ends up reproducing the context of inequality in which they are inserted.

It can be said that the extent of vulnerability is the measure that justifies the adoption of specific measures for certain groups. The vulnerability resulting from social relations is not

restricted to that associated with the "general mortality of the human condition"; it concerns "populations and groups of people: women, children, the elderly, indigenous people, blacks, non-heterosexuals, people with disabilities, people with incurable diseases, people living on the peripheries of the planet" (Holanda, 2015, p. 146).

For a comprehensive understanding of social group, we turn to Young (1990), for whom groups are an expression of social relations. Due to its relational and fluid character, the identification of a group arises from the encounter and interaction between social collectivities that experience differences in aspects in their way of life and forms of association throughout life. The sense of identity, which comes from social status, common history (which status produces), and self-identification, will define a group. In complex societies such as ours, the author warns that the identifications of groups can be multiple and transversal, assuming a heterogeneous composition according to the people who make up them (Young, 1990).

Group identities simultaneously permeate social and political life. At specific political moments, exclusions are legitimized by group differences, which are passed over for others favored by economic and social hierarchies (Scott, 2005).

Identifying inequalities based on social groups is the means by which structural inequalities can be recognized. The conception is adopted here that the causes of the innumerable inequalities of resources and opportunities come from "social institutions, their rules and relations, and from the decisions that others make within such limitations that affect the lives of the individuals compared" (Young, 2001, p. 8). The restriction of these options will subject individuals to a position of greater vulnerability (Biroli, 2012; Young, 2001).

The open concept of equality, dissociated from mechanisms that identify the conditions of the exercise of self-determination by members of vulnerable groups, will lead to the risk recommended by Phillips (1999) for the present times: the principle of equality will be used as a leveling vector in the inability (or unwillingness) to conduct arguments in favor of inequality.

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### **3 Methodology of content analysis: from the organization of the analysis to the definition of categories and thematic axes**

From a critical and dynamic conception of language, content analysis allows us to overcome the formalism normally associated with legal operators. The language used in the trials is thus taken in the sense of human existence interacting in different historical moments (Franco, 2008).

Richardson (2017) clarifies that the field of application of content analysis is vast. It depends solely on the imagination of the researcher who works with these materials, since "all communication that implies the transfer of meanings from a sender to a receiver can be the object of content analysis." (Richardson, 2017, p. 255).

The sample was guided by the attributes of exhaustiveness, representativeness and homogenization. In fact, the documents gathered did not present singularities that would prevent the formulation of criteria and the definition of objectives (homogeneity rule); all the elements of the *corpus* were considered (exhaustiveness rule) and the selected universe has an appropriate dimension for the analysis (representativeness rule) (Franco, 2008). Once all possible contents were covered, the category "other" became residual.

To categorize the elements of this set, the criterion of differentiation was used, followed by regrouping, built manually, that is, without the use of *data mining* techniques (automated).

Regarding systematization, Richardson (2017, p. 253-254) points out that "the researcher must analyze all the available material, both that which supports his hypotheses and those that do not". For this reason, the analysis of the rulings that addressed only affirmative actions was extrapolated. This posture favored an integrated approach to the semantic meaning inserted in the context of the object of the judgment and the grouping by thematic categories.

The research was carried out directly on the *website* of the Federal Supreme Court, in the field called "Jurisprudence Section – Judgments". Using the research argument "equal opportunities", 31 judgments were located, published between 2008 and 2020.

Among the 31 rulings, it was observed that not all of them brought "equality of opportunities", but synonymous expressions such as "equality of chances", "equality of access" and "equality of conditions". The location of such rulings was possible from the indexing of the STF website, which, in these cases, presented the expression "equal opportunities". Since the purpose of the work is to capture the extension of the content, it was considered relevant to include synonymous expressions in order to apprehend the completeness of the messages. Only two rulings were disregarded: the first of them because it contained in its core "Aristotelian equality", which, due to its amplitude, did not make it possible to establish a degree of similarity with the chosen term, and the second, because "equality of opportunities" was not contained in any vote, but appeared merely as the title of a cited work.

According to the nature of the actions, the following table of the 29 judgments analyzed was elaborated:

**Chart 1 (continued)**

<b>Decisions</b>	<b>Processes</b>
Direct Action of Unconstitutionality	4.868; 2.649; 4.578; 5.487; 5.488; 5.423; 5.491; 5.577; 4.650; 5.617; 5.394; 5.163; 2.566;

**Table 1 (conclusion)**

<b>Decisions</b>	<b>Processes</b>
Declaratory Action of Constitutionality	41; 30; 29;
Ag. Reg. in the Appeal Ord. in Writ of Mandamus	32.732;
Ag. Reg. in Writ of Mandamus	31.128;
Referendum on the Precautionary Measure in the Direct Action of Unconstitutionality	5.357;
Extraordinary Appeal	633.703; 597.854;
Precautionary Measure in Direct Action of Unconstitutionality	5.394;
Pk. Decree in the Extraordinary Appeal with Interlocutory Appeal	1.220.515;
Ag. Reg. in the Extraordinary Appeal with Interlocutory Appeal	929.233;
Writ of Mandamus	29.557; 26.860; 32.033;
Ag. Reg. in Complaint	34.413
Appeal Ord. in Writ of Mandamus	34.203
TOTAL	29 judged

Source: prepared by the authors (2023).

Chart 2 presents the expressions found in the selected judgments, inserted in the categories of analysis:

**Chart 2 (more)**

<b>Affirmative action</b>
ADI 4,868 (Equal opportunities);
ADC 41 (Equal opportunities);
RMS 32,732 (Equal opportunities);
ADI 5.357 MC-Ref (Equal opportunities);
ADI 2,649 (Equal opportunities);
ADI 5,617 (Equal opportunities);
<b>Elections</b>
RE 633.703 (Equal opportunities);
ADI 4,578; ADC 30 and ADC 29 (joint judgment) (Equal opportunities) (Equal opportunities or opportunities);
ADI 5,487 and ADI 5,488 (joint judgment) (Equal opportunities);
ADI 5,423 (Equal opportunities);
ADI 5,491 (Equal opportunities);
ADI 5,577 (Equal opportunities);
ADI 4,650 (Equal opportunities);
ADI 5,394 MC (Equality of chances);
ADI 5,394 (Equality of chances);
MS 32.033 (Equality of chances);
<b>Filling of public and political positions</b>
ARE 1,220,515 ED (Equal opportunities);
ARE 929.233 AgR (Equal Access);

MS 29.557 (Equality of conditions);
MS 31.128 AgR (Equality of conditions);
ADI 5,163 (Equal opportunities);
MS 26.860 (Equal conditions and Equal access);
Rcl 34.413 AgR (Equal opportunities);
<b>Other</b>
RMS 34.203 – bidding (Equal opportunities);
ADI 2.566 – freedom of expression (Equality of conditions and Equality of chances);

**Table 2 (conclusion)**

<b>Other</b>
RE 597.854 – collection of tuition in a specialization course by a public educational institution (Equality of conditions).
<b>Total</b> – 29 judged

Source: prepared by the authors (2023).

Once the analytical units were defined, the analysis and the definition of the categories were organized: "The raw results are treated in such a way as to be meaningful (speaking) and valid" (Bardin, 1977, p. 101). The "floating" reading of the above documents, carried out in the pre-analysis phase, gave rise to the expansion of the "equality of opportunities" approach to the synonyms "equality of chances" and "equality of conditions", raised in the research from the indexing of the *website* itself. These expressions brought a meaning similar to the one originally taken, although used in different contexts, as will be discussed below.

For the purpose of grouping, the following categories of analysis were established: 1) affirmative action; 2) elections; 3) filling public and political positions and 4) others. Within these categories, the thematic axes exposed in chart 3, below, were identified:

**Table 3**

<b>ANALYSIS CATEGORIES</b>	<b>THEMATIC AXES</b>
Affirmative action	1 – Unrestricted territorial origin of the candidate for the reservation of vacancies in universities;
	2 – Race factor as a selection criterion in public tenders;
	3 - Differential treatment for people with disabilities (as a mechanism compensatory in access to public positions through competitive examinations);
	4 – Inclusive measures for people with disabilities;
	5 – Receipt of resources according to the quotas of female candidacies;
Elections	1 – Eligibility;
	2 – Competitiveness in the electoral dispute;
	3 – Financing of electoral campaigns;
	4 – Democratic competition between political parties;
Filling of public and political positions	1 – Filling of public positions by competition;
	2 – Appointment to political positions;
Other	1 – Bidding;
	2 – Freedom of expression;
	3 – Charging of monthly fees in a specialization course by a public educational institution.

Source: prepared by the authors (2023).

#### **4 Inferences and theoretical analysis of the results**

Within the "affirmative action" analysis category, equal opportunities were used in the votes

handed down in the judgments to support issues related to:

1.1 Territorial origin of the candidates, so that the reservation of vacancies of 40% would not be limited to students from elementary and high schools in the Federal District for admission to public universities and colleges in the Federal District (ADI 4.868);

1.2 Race factor as a selection criterion (in public tenders within the scope of the direct and indirect federal administration). The Supreme Court declared constitutional the questioned law, which reserved 20% of the vacancies offered in public exams to black people (ADC 41).

1.3 Differential treatment for people with disabilities as a compensatory mechanism in the

access to public positions through competitive examinations through reservation of percentage of positions (RMS 32.732 AgR).

1.4 Inclusive measures for people with disabilities. The Court highlights the commitment of private educational institutions to adapt to accommodate people with disabilities (ADI 5.357). A second judgment on this topic attributes to transport companies the obligation to grant the free pass to people with disabilities for the "humanization of social

relations" (ADI 2.649).

1.5 Receipt of public resources in accordance with the quotas allocated to female candidates for the Legislative Branch. The decision handed down equated the level of female candidacies to that of receiving resources from the Party Fund (ADI 5.617).

In topics 1.1 and 1.2, above, equality of opportunities presents the meaning of *reservation of vacancies*. In the first case, the social marker under analysis is social class, while in the second it is race. In the second trial, equal opportunities gain relevance when compared with structural racism. It also brings the distributive purpose of social goods and recognition and the concern that "other dimensions of the functional life" of quota holders be considered.

Topics 1.3 and 1.4 relate to people with disabilities. In the first, equal opportunities, which is part of the summary of the ruling, brings the sense of *reserving vacancies* in public competition, but reveals the purpose of compensating for the difficulties that affect the individuals who make up this vulnerable group. In the second, two rulings were considered in the category "inclusive measures". In ADI 5,357 and ADI 2,649, equal opportunities assume the meaning of *social responsibility in the implementation of inclusive measures* by extend to the private sector and, therefore, to society, the obligation to provide adequate environments and resources to overcome barriers.

In topic 1.5, equal opportunities are equated with "transformative equality" to recognize that ensuring equal access to the starting position is insufficient in the face of structural gender inequality. Equal opportunities is understood as a *process* to achieve representative parity and the receipt of equitable resources, an instrument that contributes to this end.

In the second category, "elections", the expressions equality of opportunities and equality of opportunities were observed in the votes cast on the themes:

#### 2.1 Eligibility

Through the appellate jurisdiction, the STF recognized the inapplicability of the Clean Record Law to the general elections scheduled for the same year of its enactment (2010), based on the principle of electoral anteriority (article 16 of the Federal Constitution). In doing so, it considered it an undue limitation of equality of opportunity (or equality of chance) in electoral competition (RE 633.703). In the following year, the understanding is reversed by the Full Court (joint judgment of declaratory actions of constitutionality and direct action of unconstitutionality). Equality of opportunity was again recalled, this time to affirm that its non-observance would not have been proven. (ADI 4,578 and ADC 29 and ADC 30).

#### 2.2 Competitiveness in the electoral dispute

In this thematic axis, the STF deliberated several issues associated with the time and conditions of participation in free electoral advertising and debates on TV stations to ensure competitiveness between candidates representing different political currents (ADI

5,487 and ADI 5,488 partially upheld and ADI 5,423, ADI 5,491 and ADI 5,577 dismissed).

The meaning given to equal opportunities in the aforementioned judgments is closer to the idea of *political pluralism* and *electoral competitiveness*, respectively. Although it does not have a direct correlation with vulnerable groups, it is possible to infer that equality of opportunity (or equality of chances) does not differ *in extent* from the meaning verified in the "affirmative action" criterion, items 1.1 and 1.3. In fact, in both criteria, the principle configures, in its extension, a basic guarantee or a minimum level.

### 2.3 Campaign finance

In this judgment, the STF limited the donation of private individuals and the use of own resources by candidates, in addition to preventing the donation of legal entities to the electoral campaign or political parties in order not to compromise equal opportunities between candidates in the elections (ADI 4.650). It is inferred that equality of opportunities, as in the topic above, is taken as a *floor*, that is, it does not act to provide parity of resources between the parties, but acts as *an instrument of containment of economic power*.

Still on the subject of financing, but this time highlighting the transparency in the identification of campaign donors in accountability, the Justices recognized the need to identify the individuals responsible for the donation to the parties (ADI 5.394 MC and ADI 5.394). The sense of *containment of economic power* to ensure equal opportunities remains here.

In the semantic analysis of this category (elections), the expression equality of chance is used, which comes from the aforementioned German doctrine (*Chancengleichheit*). Among the Justices who used it, only Justice Gilmar Mendes brings the explanatory reference to the origin of the term, in addition to making explicit the synonymy for the use of "or".

### 2.4 Democratic competition between political parties

Although the equality of opportunities or opportunities among the Justices was debated, the preliminary ruling that recognized the impossibility of preventive judicial control of the material constitutionality of a bill was accepted.

The meaning of equality of opportunities (or chances), extracted from the vote of Justice Gilmar Mendes, is to *ensure democratic competition*. The questioned bill established that the time of the right to broadcast and receive resources from the Party Fund should obey the result of the last elections for the Chamber of Deputies, which would dissuade the creation of new parties for the next election (MS 32.033).

### 3.1 Filling of public positions and jobs by competition

All judgments placed in this category have grounds that are similar and are even subsumed under the provisions of Binding Precedent 431, which is why they will be analyzed en bloc (ARE 1.220.515 ED; ARE 929,233; MS 29,557; MS 31,128; ADI 5,163; MS 26.860). It is under this category that equality of opportunities - also called equal access and equal conditions by the Justices - gains a more restrictive feature, since it is linked to the merit of the candidate

for access and filling of public positions and jobs.

Equality of access and conditions are used in order to ensure *impersonality* so that individuals can compete according to their merit.

### 3.2 Appointment to political office

In the judgment that considered valid the criterion of appointment carried out without public competition for the political positions of the first level of the Executive Branch, applied by symmetry to the state and municipal secretaries, the unsuccessful vote of Justice Marco Aurélio used equality of opportunities in the same sense mentioned in the previous thematic axis, that is, that of *impersonality* to those equally qualified (Rcl 34.413 AgR).

### 4 Other

Not supported by other categories, judgments that deal with three distinct themes were allocated to this topic. The first takes care of bidding and brings equality of opportunities to ensure the non-direction of the event and prevent its automatic extension in the administrative contract. It thus gains the connotation of *administrative impersonality* (RMS 34.203).

Equality of conditions and equality of opportunity is employed in votes against and in favor of the suppression of the term "proselytizing speech" in community broadcasting service, which would restrict religious freedom to express oneself in the public space. The prevailing thesis was the last one, which attributed the meaning of *access to the free expression of thought* to equality of conditions (ADI 2.566).

The third deals with the collection of tuition in a specialization course by public educational universities. For the Justices, the equality of conditions for access and permanence in school would not prevent the collection of tuition. In a dissenting opinion, Justice Marco Aurélio attributes the meaning of *financial capacity* to equality of conditions by arguing that this education could not be paid for by the poor and that the university could not be both public and private (RE 597.854).

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## 5 Conclusion

As it is an open principle, equality of opportunity can be expanded or retracted according to the socio-historical context of judicial decision-making. As a result, public policies that aim to overcome asymmetric power relations, built over time, will reflect the inclement weather of this oscillation, which may cause harm to vulnerable groups.

After submitting the 29 selected rulings, in the research carried out on the STF website, to content analysis, three categories of analysis were established, in addition to the residual category ("others"), namely, affirmative action, elections, filling public positions and jobs, and political positions. An integrated approach to the semantic meaning inserted in the context of the judgment led to the compilation of judgments that brought synonymous expressions to the one

initially researched: equality of chances, equality of access and equality of conditions. The subdivision of the categories into thematic axes also favored extracting closer meanings from the concrete cases judged by the Court. From the category "affirmative actions", the following meanings were obtained for equal opportunities: "reservation of vacancies", "inclusive measures" "transformative process". In the "elections" category, the meanings were: "electoral competitiveness", "political pluralism", "instrument of containment of economic power" and "mechanism to ensure democratic competition". For "filling of public positions and jobs and political positions", the meaning extracted in all judgments was "impersonality". Finally, in "others" three judgments were inserted, which assumed the meaning of "administrative impersonality"; "Access to the free expression of thought" and "financial capacity".

The themes analyzed brought a wide variety of meanings to the expressions researched. The results showed that:

- equality of opportunity, taken to its extent, is understood – even in different contexts;
- - as a "floor" leveling opportunities;
- society is called to accountability, through private persons, with the purpose of implementing inclusive measures for people with disabilities;
- merit is associated with equal opportunities in filling public and political positions, when dissociated from the factors of race and gender and Structural inequality is only recognized in the two judgments that involved gender and race issues.

In the last two cases, there is a concern with substantial equality, which supersedes the meaning of establishing a quota for certain groups. There is no mention, however, of the way in which this idea can be implemented, nor of the existing restrictions.

At the end of this analysis, it is assumed that only a right to an anti-discriminatory gaze can pave the way for the implementation of positive measures that recognize the differences that have emerged (or imposed) throughout the process of (re)construction of humanity. This path passes through the Courts, which will be called upon to develop analyses of equality and discrimination. Official law may or may not consider collective identities as effects of political and social processes and, consequently, be the protagonist or not of emancipation and social justice.

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BRAZIL. Federal Supreme Court. **Writ of Mandamus No. 32.033/DF – Federal District**. Constitutional. Writ of mandamus. Preventive Control of Material Constitutionality of a Bill. Unfeasibility. Rapporteur: Justice Gilmar Mendes, judged on June 20, 2013, published on February 18, 2014. Available at: <http://portal.stf.jus.br/jurisprudencia/>. Accessed on: 18 Apr. 2023.

**BRAZIL. Federal Supreme Court. Regimental Appeal in Ordinary Appeal in Writ of Mandamus No. 32,732/DF – Federal District.** Public Tender – Disabled Person – percentage reserve of public positions and jobs (cf, art. 37, VIII) – occurrence, in kind, of the necessary requirements for the recognition of the right vindicated by the person with a disability – compliance, in this case, with the requirement of compatibility between the state of disability and the occupational or functional content of the disputed public office, regardless of whether the disability produces difficulty for the exercise of the functional activity – Inadmissibility of the additional requirement that the situation of disability also produce "difficulties for the performance of the functions of the position" – Favorable opinion of the Attorney General's Office – Appeal dismissed. Rapporteur: Justice Celso de Mello, judged on June 3, 2014, published on August 1, 2014. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur270619/false>. Accessed on: 18 Apr. 2023.

**BRAZIL. Federal Supreme Court. Writ of Mandamus No. 26,860/DF – Federal District.** Writ of Mandamus. Extrajudicial service. Ticket. Substitute effective as a holder of service after the promulgation of the constitution of the republic. Impossibility. Acquired right. Nonexistence. Public Tender. Demand. Article 236, § 3, of the CRFB/88. Self-applicable Standard. Decay provided for in article 54 of Law 9,784/1999. Irrelevance. Principle of trust protection. Principle of good faith. Direct offense to the Magna Carta. Security denied. Rapporteur: Justice Luiz Fux, judged on April 2, 2014, published on September 23, 2014. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur277413/false>. Accessed on: 18 Apr. 2023.

**BRAZIL. Federal Supreme Court. Direct Action of Unconstitutionality No. 4,650/DF – Federal District.** Constitutional and electoral law. Current normative model for the financing of electoral campaigns. Elections Law, arts. 23, §1, items I and II, 24 and 81, caput and § 1. Organic Law of Political Parties, arts. 31, 38, item III, and 39, caput and paragraph 5. Criteria for donations to legal entities and individuals and for the use of own resources by candidates. Foreplay. Rapporteur: Justice Luiz Fux, judged on September 17, 2015, published on February 24, 2016. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur339864/false>. Accessed on: 18 Apr. 2023.

**BRAZIL. Federal Supreme Court. Direct Action of Unconstitutionality No. 5,163/GO – Goiás.** Law No. 17,882/2012 of the state of Goiás. Voluntary military interest service (simve). Non-observance of the constitutional rule imposing the public tender. Violation of articles 37, II, and 144, § 5, of the Constitution of the Republic. Generic and comprehensive provision for temporary hiring: offense to arts. 37, II, IX, and 144, caput, of the CRFB/88. Formal unconstitutionality. State law that contradicts general rules issued by the union. Judged action Founded. Rapporteur: Justice Luiz Fux, judged on April 8, 2015, published on May 18, 2015. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur304799/false>. Accessed on: 18 Apr. 2023.

**BRAZIL. Federal Supreme Court. Writ of Mandamus No. 29,557/DF – Federal District.** Constitutional and administrative. Writ of mandamus. National Council of Justice. Extrajudicial service. Provision, upon removal, without public tender. Illegitimacy. Article 236, and paragraphs, of the Federal Constitution: self-applicable rules, with immediate effect, even before Law 9,835/1994. Inapplicability of the statute of limitations provided for in article 54 of Law 9,784/1999. Precedents of the plenary. Order denied. Rapporteur: Justice Teori Zavascki, judged on December 15, 2015, published on May 13, 2016. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur348054/false>. Accessed on: 18 Apr. 2023.

**BRAZIL. Federal Supreme Court. Precautionary Measure in Direct Action of Unconstitutionality No. 5,394/DF – Federal District.** Constitutional and electoral. Article 28, § 12, of Federal Law 9.504/97 (Elections Law). Accountability. Party donations to candidates. Exemption from the identification of the individuals responsible for the donation

to the party. Measure antagonistic to the public policy of transparency. Apparent affront to the bloc of principles of support of the democratic system of popular representation. Injunction granted. Rapporteur: Justice Teori Zavascki, judged on November 12, 2015, published on November 10, 2016. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur359596/false>. Accessed on: 18 Apr. 2023.

BRAZIL. Federal Supreme Court. **Direct Action of Unconstitutionality No. 5,423/DF – Federal District**. Direct action of unconstitutionality. Articles 46, caput, expression "greater than nine deputies", and 47, paragraph 2, of Law No. 9,504/97 (Elections Law), as amended by Law No. 13,165/15. Electoral debates on radio and television. Participation guaranteed to candidates of political parties with representation of more than nine deputies. Reasonable criterion for gauging the representativeness of the party. Distribution of free electoral advertising time. Understanding of the principle of equality in its material aspect. Rapporteur: Justice Dias Toffoli, judged on August 25, 2016, published on December 19, 2017. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur379175/false>. Accessed on: 18 Apr. 2023.

BRAZIL. Federal Supreme Court. **Direct Action of Unconstitutionality No. 5,487/DF – Federal District**. Electoral law. Direct actions of unconstitutionality. Changes promoted by Law No. 13,165/2015 in the rules for the division of free electoral advertising time on radio and television and in the requirements for participation in debates. Interpretation in accordance with the constitution of paragraph 5 of article 46 of Law No. 9,504/1997. Rapporteur: Justice Rosa Weber, judged on August 25, 2016, published on December 19, 2017. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur379176/false>. Accessed on: 18 Apr. 2023.

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BRAZIL. Federal Supreme Court. **Direct Action of Unconstitutionality No. 5,491/DF – Federal District**. Article 47, paragraph 2, of Law No. 9,504/97 (Elections Law), as amended by Law No. 13,165/15. Distribution of free electoral advertising time. Understanding of the principle of equality in its material aspect. Popular legitimation of party associations. Dismissal of the request. 1. Items I and II of paragraph 2 of article 47 of the Law No. 9,504/97, in line with the democratic clause and the proportional system, establish a rule of equity, safeguarding the right of access to electoral propaganda of party minorities and placing in a situation of non-odious benefit those associations that are more based on popular legitimacy. Rapporteur: Justice Dias Toffoli, judged on August 25, 2016, published on September 6, 2017. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur372851/false>. Accessed on: 18 Apr. 2023.

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BRAZIL. Federal Supreme Court. **Interlocutory Appeal in the Extraordinary Appeal with Interlocutory Appeal No. 929.233/RJ – Rio de Janeiro.** Regimental interlocutory appeal in the extraordinary appeal with aggravation. Administrative. Public servant. Hiring prior to the Federal Constitution of 1988. Recognition of stability without prior public examination. Framing. Impossibility. Previous. Rapporteur: Justice Dias Toffoli, judged on February 24, 2017, March 16, 2017. Available at: <http://portal.stf.jus.br/jurisprudencia/>. Accessed on: 18 Apr. 2023.

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BRAZIL. Federal Supreme Court. **Direct Action of Unconstitutionality No. 5,394/DF – Federal District.** Constitutional and electoral. Absolute respect for the principles of support of the democratic system of popular representation is indispensable. Article 28, § 12, of Federal Law 9,504/1997 (Elections Law). Accountability of donations from parties to candidates. Need to identify the individuals responsible for the donation to the party. Republican demand for transparency. Rapporteur: Justice Alexandre de Moraes, judged on March 22, 2018, published on February 18, 2019. Available at: <https://jurisprudencia.stf.jus.br/pages/search/sjur398459/false>. Accessed on: 18 Apr. 2023.

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