



ACADEMIC ARTICLE

The Courts in the Face of the COVID-19 Crisis: An Analysis of the Measures Adopted by the Brazilian Judicial System

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The crisis caused by COVID-19 has triggered a series of changes at the global level, resulting in a rapid change in the way social relations are organized. The state is no exception to this complex scenario, and is responsible for making available to citizens the various administrative provisions essential to life in society, one of which is justice. In this context, the aim of the present work is to analyse the institutional response of the judiciary branch in Brazil to the pandemic period of the new coronavirus, contrasting the normative actions taken by the judiciary with the results obtained with these interventions. To that end, at first, the main regulations that have underpinned the conduct, positioning and action of the judiciary since the beginning of the crisis in Brazil, which occurred in March 2020, were collected and analysed in a total of 57 official documents issued by the Brazilian justice authorities. A posteriori, the report "Assessment of the impacts of the pandemic caused by COVID-19 on the court's work processes" was analysed, which includes analyses related to the adoption of rules relevant to issues of administrative management, procedural management and also the perceptions of impacts and difficulties due to the pandemic, as well as the other official documents published by the National Council of Justice – CNJ that provides statistics about the judicial indicators in times of pandemic. The data show a fast and comprehensive performance in the various fields in which justice operates, revealing a concern with health, social, administrative issues, among other aspects. The Judiciary has acted in an administrative unit, based on the regulations of a higher authority or of higher courts.

Keywords: COVID-19; Public Administration; Judiciary; Court Administration

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1. Introduction

In December 2019, in the province of Hubei, China, a continuous outbreak of pneumonia associated with a new coronavirus (SARS-CoV-2) was reported. Initially, the level of morbidity of the disease seemed low, but within a few weeks it spread to all continents,¹ and is now receiving worldwide attention.² It was therefore perceived that the fight against the disease would not only be a medical problem, but also, above all, a public management problem.³

In this scenario, the public system in general and its character as a traditionalist administration was affected⁴ and the courts were not immune to this context.⁵ It is believed that the crisis will have a strong impact on the courts by triggering an increase in civil litigation resulting in a “tsunami” of new claims.⁶ In addition, there is an expectation on the part of society that the judiciary will stand out among the other powers and be able to demonstrate more efficacy, efficiency and effectiveness, guaranteeing rights and ordering social relations.⁷

In this regard, considering the importance of the judiciary's action, especially in the context of a health crisis, it can be seen that studies are needed to shed light on the aspects related to the measures taken by this branch in an exceptional context.

From this standpoint, it seems reasonable to suppose that the State's own actions, embodied in the actions of frontline servants, are affected by the crisis and that the government measures adopted have a large impact on the way servants carry out their functions.⁸

As a result of its impact on the most varied fields of human activity, the COVID-19 crisis has been treated in academia under various lenses of research and analysis. The study of Polischuk and Fay⁹ analysed the actions of the State in the face of the increase in domestic violence registered during this period in Argentina. Correia et. al.¹⁰ assessed the management of public leaders and the performance of state organisations in Portugal. Specifically, with regard to the response of the judiciary to the pandemic situation, Baldwin, Eassey, and Brooke¹¹ discussed the main regulations linked to the USA judiciary and Tomlinson¹² carried out a similar study in the United Kingdom.

In view of the unprecedented situation faced by the world in the present circumstances, as well as the consequent scarcity of knowledge production about both the Brazilian and international scenarios, and the urgent need to understand how the State's response takes place

¹ Zi Yue Zu et al. (2020), 'Coronavirus Disease 2019 (COVID-19): A Perspective from China', vol. 2019, *Radiology*, p. 16.

² Yan Rong Guo et al. (2020), 'The Origin, Transmission and Clinical Therapies on Coronavirus Disease 2019 (COVID-19) Outbreak – an Update on the Status', vol. 7, n. 1, *Military Medical Research*, p. 11.

³ Carlos Ivan and Simonsen Leal (2020), 'Da Bíblia de Gutenberg à COVID-19', vol. 54, n. 4, *Revista de Administração Pública*.

⁴ Tania Sourdin and John Zeleznikow (2020), 'Courts, Mediation and COVID-19', *Australian Business Law Review*, p. 32.

⁵ Jana Hrdinova et al., 'Documenting the Challenges (and Documents) As Ohio Courts Respond to COVID-19', *SSRN Electronic Journal* (2020).

⁶ Sourdin and Zeleznikow, *supra* note 5.

⁷ Joe Tomlinson et al. (2020), 'Judicial Review in the Administrative Court during the COVID-19 Pandemic', *SSRN Electronic Journal*, p. 1.

⁸ Hrdinova et al., *supra* note 6.

⁹ Polischuk, L.; Fay, D. L. (2020). Administrative Response to Consequences of COVID-19 Emergency Responses: Observations and Implications From Gender-Based Violence in Argentina. *American Review of Public Administration*, v. 50, n. 6–7, pp. 675–684.

¹⁰ Miguel, Ribeiro, Mendes, & Patrí, (2020) The combat against COVID-19 in Portugal: How state measures and data availability reinforce some organizational values and contribute to the sustainability of the national health system. *Sustainability* (Switzerland).

¹¹ Baldwin, Eassey, & Brooke, (2020), Court Operations during the COVID-19 Pandemic. *American Journal of Criminal Justice*, n. July, pp. 743–758.

¹² Tomlinson, Hynes, Marshall, & Maxwell (2020), Judicial Review in the Administrative Court during the COVID-19 Pandemic. *SSRN Electronic Journal*, pp. 1–13.

in crisis environments with the degree of seriousness of the one we are currently witnessing, this article proposes to analyse the Brazilian judiciary's response in the present context, focusing on the institutional measures arising from the normative nature of the higher courts and high-level bodies of the Brazilian Judiciary, especially those arising from the Federal Supreme Court and the National Council of Justice (CNJ). The article also provides an analysis of the performance of such measures in different courts in Brazil, contrasting the objectives of each rule and each of action intended by the Brazilian justice system with the proven results.

To this end, the article uses a qualitative approach consisting of an analysis of the documentation officially issued by the judicial organizations in response to the challenges of the COVID-19 crisis, outlining a chronology and identifying lines of action for justice in Brazil, as well as focusing on the results obtained through the application of the different normative guidelines from the summit bodies of the Brazilian Judiciary.

2. The Brazilian judiciary branch: an overview

Based on the 1998 Federal Constitution of Brazil, the function of the judiciary is to guarantee individual, collective and social rights. It is also the judiciary's responsibility to resolve conflicts between citizens, entities and the state; in this sense, it possesses administrative and financial autonomy as a determination directly from the constitutional text.¹³

With respect to the structure of the Brazilian judiciary, article 92 of the Federal Constitution lists the entities linked to this government branch, being components of the structure of the justice system in Brazil: I – the Federal Supreme Court; I-A – the National Council of Justice; (Included by Constitutional Amendment no. 45, of 2004); II – the Superior Court of Justice; II-A – the Superior Labour Court; (Included by Constitutional Amendment no. 92, of 2016); III – the Federal Regional Courts and Federal Judges; IV – the Labour Courts and Judges; V – the Electoral Courts and Judges; VI – the Military Courts and Judges; and VII – the Courts and Judges of the States and of the Federal District and Territories.

One of the main concerns of the judiciary is its speed and efficiency. Although it is clear that the necessary measures must be taken to comply with these requirements, the Federal Constitution of 1988 provides in its Article 5, subsection LXXVII that “everyone is assured that judicial and administrative proceedings will end within a reasonable time and the means to guarantee that they will be handled speedily”, giving concrete expression to the concept implicit in the very idea of access to justice.¹⁴

From this perspective, the legislator's concern about the aspects concerning the efficiency of the judiciary is evident, affirming the reasonable duration of the process in a constitutional text and conferring the status of a fundamental rule to the aforementioned principle. In relation to the concern with the management of the Brazilian judiciary, the creation of the CNJ was paramount.

Through Constitutional Amendment 45 of December 8, 2004, the CNJ was created as a control body of the judiciary, composed of representatives of the judiciary, the public ministry, lawyers and civil society and responsible for supervising the administrative and financial performance of the courts. Is a judicial administrative unit, whose acts, in the judicial sphere, are subject only to examination by the Federal Supreme Court (Constitution, art. 92, I-A and 102, I, “r”), and has the purpose of ensuring the autonomy of the judiciary and exercising its strategic governance in line with the principles of public administration, listed in art. 37 of the Federal Constitution.

¹³ Brasil (1988), *Constituição Da República Federativa Do Brasil*.

¹⁴ GILMAR MENDES (2005), ‘Organização Do Poder Judiciário Brasileiro’, (2005), p. 13. “a todos, no âmbito judicial e administrativo, são assegurados a razoável duração do processo e os meios que garantam a celeridade de sua tramitação”.

The CNJ is also responsible for meeting the challenges of modernisation and the shortcomings caused by the fragmented views and practices of the judiciary. Its activity is considered key to the improvement of the Brazilian judicial system and to the achievement of the ideal of fast and efficient justice, a necessary assumption for the accomplishment of the principle of legal security.¹⁵

In the context of the current health and political crisis, many challenges become obstacles in judicial decision-making, mainly because the judiciary is a government branch that guarantees rights in the exercise of its judicial function, whereas, even in an adverse situation, it must seek to fulfil its constitutional tasks through public judicial policies, respecting the principle of solidarity and guaranteeing citizens' rights.¹⁶

Thus, considering its internal organization, it can be observed that in the peculiar context such as the COVID crisis, the normatization of activities and the operationalization of the courts tend to occur in a homogeneous manner at the national level, under the guidance of the provisions issued by the CNJ.

3. Public administration and the COVID-19 disease crisis

Since it became a pandemic crisis, COVID-19 has presented unprecedented challenges around the world,¹⁷ and, as a result of the seriousness of the scenario, the World Health Organization declared on 30 January 2020 an International Public Health Emergency, with social distancing becoming the priority orientation in fighting the pandemic and reducing the impact on the population and on health systems.¹⁸

Although the global directions point in the same direction about general aspects, there is no standardized manual that can define exactly what action the State should take, and what procedures and practices should be adopted when facing such an atypical situation with devastating effects on different dimensions of human existence, as has been the public health emergency caused by COVID-19.¹⁹

This context has broadened the transformations of the state and governments around the world, and some technological transformations that were already underway have been intensified. It can also be seen that, as a State presence in key areas is demanded, governments will have to face very unstable conditions, such as economic adjustments and the rapid reformulation of working methods, paying attention to a highly complex or hypercomplex environment. Add to these circumstances, the measures and decisions regarding restrictions on constitutional freedoms, such as confinement of the population, movement restriction, massive surveillance and control using the possibilities offered by big data analysis, and coercive measures, among others.²⁰

It should be noted that such changes and transformations in economic, political, administrative and control aspects do not arise only in this exceptional situation, but have already been taking place for some years.²¹

¹⁵ *Ibid.*

¹⁶ Richard Pae Kim (2020), 'A Gestão Estratégica No Poder Judiciário e Seus Avanços Nos 15 Anos Do Conselho Nacional de Justiça', p. 207.

¹⁷ Rafael Alcadipani et al. (2020), 'Street-Level Bureaucrats under COVID-19: Police Officers ' Responses in Constrained Settings', vol. 0, n. 0, *Administrative Theory & Praxis*, p. 1.

¹⁸ Laura Di Domenico et al. (2020), *Expected Impact of School Closure and Telework to Mitigate COVID-19 Epidemic in France*.

¹⁹ IPEA (2020), *Boletim de Análise Político-Institucional*.

²⁰ JOSEP PONT VIDAL (2020), 'The COVID-19 Pandemic and the State: Is It Emerging a New Configuration of Public Administration', 18 *Cadernos EBAPE.BR*, p. 924.

²¹ *Ibid.*

In this respect, it is also possible to observe that in the Brazilian context the global consequences add up to a peculiar complication that requires quick responses from political leaders and public managers, since from the beginning of the crisis there has been a strong dispute between technical and political arguments to guide the state's action.²²

Another issue raised as an obstacle to the proper performance of the State in relation to the context of the crisis is related to the way in which the public administration in Brazil is organized. This is the so-called effect of territorial politics, a phenomenon that occurs, in addition to Brazil, in countries such as the United States, Italy, Spain, Germany, India and Mexico. In these countries it is observed that "conflict and cooperation relations between the national sphere and subnational governments have shaped recent public health policies against the COVID-19 to a good extent".²³

In Brazil, the response to the COVID-19 crisis was essentially based on the actions of subnational governments, generating decentralization of policies to combat the new coronavirus. Thus, it should be emphasized that the governors took on these functions by regulating the policies of social distancing, as well as establishing the rules that guide and coordinate the actions of the Brazilian municipalities.²⁴

Regarding the Brazilian justice system, it should be noted that the judicial authorities of the government, including the three spheres, face a particular challenge, since much of the administration of justice traditionally takes place in person and the consequences of operating these activities remotely are not yet clear.²⁵

As part of this scenario, the courts were faced with the need to adapt to the new guidelines and, to this end, adopted teleworking as an alternative tool in the maintenance of activities and the consequent provision of the social service inherent to the Judiciary.²⁶

Lawyers, judges, servants and the other members of the judiciary have therefore begun to rethink how to operationalize justice in an abruptly changed environment that requires, in this new phase, the use of technological tools that are generally not created to serve those who work in the justice sector.²⁷

From this same perspective, it can also be remarked that the information and communication technologies previously developed and adopted, but still encountering resistance and inertia on the part of these users, have come to occupy a fundamental space in the daily life of the judiciary, and it is up to them to support the justice system to continue its production and allow for a recovery and an exponential increase in its production capacity.²⁸

In this context of pandemic crisis and political instability, the Brazilian judiciary started to issue rules to regulate its operations, in order to adopt measures that aim to reconcile the need for social distance and the maintenance of judicial services. These measures will be analysed on the following pages.

²² Ana Karine Pereira, Marília Silva Oliveira and Thiago da Silva Sampaio (2020), 'Heterogeneidades Das Políticas Estaduais de Distanciamento Social Diante Da COVID-19: Aspectos Políticos e Técnico-Administrativos', vol. 54, n. 4, *Revista de Administração Pública* (2020), p. 678.

²³ Abrucio, Grin, Franzese, Segatto, & Couto (2020), *Combate à COVID-19 sob o federalismo bolsonarista: um caso de descoordenação intergovernamental*, vol. 54, n. 4, *Revista de Administração Pública*, p. 691. "relações de conflito e cooperação entre a esfera nacional e os governos subnacionais moldaram em boa medida políticas recentes de Saúde pública contra a COVID-19".

²⁴ Pereira, Oliveira and Sampaio, *supra* note 22.

²⁵ Hrdinova et al., *supra* note 6.

²⁶ Raquel Gonçalves, Caldeira Brant and Helena Cardoso Mourão (2020), 'Desafios Do Teletrabalho Na Pandemia COVID-19: Quando o Home Vira Office', vol. 28 *Caderno de Administração* (2020), p. 71.

²⁷ Sourdin and Zeleznikow, *supra* note 5.

²⁸ *Ibid.*

4. Method

Considering the objective of this study, which is to comprehend how judicial organizations, through the recommendations issued by the Brazilian judiciary's high-level bodies, responded to the challenges imposed by the COVID-19 crisis, outline a chronology and identify priority actions for the justice system in Brazil, the appropriate technique would be documental analysis. The research has a qualitative approach.

The search can still be classified as descriptive. Descriptive research presents an image of the specific details of a situation, social environment or relationship. A descriptive research study starts with a well-defined question or issue and tries to describe it accurately. The result of the study is a detailed picture of the problem or answer to the research question.²⁹

A descriptive study presents an image of types of people or social activities and focuses on "how" and "who" questions.³⁰ Exploring new problems or explaining why something happens is less worrying than describing how things are. Much of social research is descriptive.³¹

It is difficult to clearly define qualitative research as a field of discussion or discourse, as it does not have a clearly inherent theory or paradigm. In contrast, qualitative research has multiple theoretical paradigms and a multiplicity of techniques and methods.³² Despite this finding, it should be noted that documental analysis is a valuable technique for addressing qualitative data and can be used for a better understanding of a given phenomenon by the researcher.³³

The research was developed in two stages. The first involved collecting the regulations on the website of the CNJ. The second stage was the analysis of the documentation officially issued by the judicial organizations (regulations, guidelines and reports) in response to the challenges of the COVID-19 crisis.

All the documentation available on the CNJ website that was directly or indirectly related to the measures taken by the justice system as a measure to confront COVID-19 was collected, a total of 57 published documents, including, 22 ordinances, 13 recommendations, 10 provisions, 1 technical note and 1 guidance, with the most varied themes and measures.

All the normative acts published on the website organized by the CNJ to compile documents on the handling of the COVID-19 crisis were collected and analysed. These normative acts were downloaded and analysed, by means of the technique described to capture the foundations and objectives of such an act.

The normative function of the CNJ is provided for in Art. 102 of the CNJ's Internal Rules, as follows:

Art. 102. The Plenary Assembly may, by absolute majority, issue normative acts, through administrative resolutions, instructions or statements and, further, recommendations.³⁴

Such regulations have their particularities of form and content,³⁵ their definitions and main characteristics (according to the CNJ) expressed by:

²⁹ W. Lawrence Neuman (2013), *Social Research Methods: Qualitative and Quantitative Approaches*, Teaching Sociology, p. 15.

³⁰ *Ibid.*

³¹ *Ibid.*

³² Norman K. Denzin and Yvonna S. Lincoln (2016), 'A Disciplina e a Prática Da Pesquisa Qualitativa', *Handbook of Qualitative Research*, p. 15.

³³ Arilda Schmidt Godoy (1995), 'A Pesquisa Qualitativa e Sua Utilização Em Administração de Empresas', 35 *Revista de Administração de Empresas*, p. 65.

³⁴ "Art. 102 O Plenário poderá, por maioria absoluta, editar atos normativos, mediante Resoluções, Instruções ou Enunciados Administrativos e, ainda, Recomendações".

³⁵ Aline Marques et al. (2020), 'Judicialização Da Saúde e Medicalização: Uma Análise Das Orientações Do Conselho Nacional de Justiça', 33 *Estudos Avançados*. p. 215.

Resolutions: are the regulatory instruments used by the CNJ, in compliance with the law, to exercise its management acts and facts.

Administrative Statements: are normative acts that explain the consolidated understanding of the Council's Board of Directors on certain matters. Their objective is to make the judgment of cases faster and more efficient. Once issued and published in the Electronic Court Bulletin, these acts are mandatory, i.e. they must be followed by the courts.

Normative Instructions of the Presidency: decisions taken by the President of the Board on issues that depend on resolution. They are acts that determine the behaviour required to comply with a certain execution. Their function is to expedite the internal workings of the CNJ, clarifying understanding, specifying an act or order of a higher hierarchy, for example, a resolution.

Recommendations: these are acts which recommend to courts and judges the adoption of measures to meet a certain objective.

To measure the impact of the measures adopted by the Brazilian judiciary in the context of the COVID-19 crisis, documents related to the results, indicators and statistics issued by the courts on implementing the measures were also evaluated. Such indicators are published on the website of the National Council of Justice (Coronavirus – CNJ Portal), specially created for the purpose of centralizing the distribution of normative measures, news, statistics and other information related to the New Coronavirus pandemic.

As an aid to the interpretation of the data, hermeneutics was used, a technique associated with the problem of understanding and/or interpreting the meanings of different kinds of social, artistic, historical, and other, manifestations, such as texts, signs, symbols, social practices, historical actions and art forms. Hermeneutics is a technique with increasing applicability to the humanities,³⁶ and it aims to translate into a more accessible form language that, at first, is not understandable.³⁷

We observe that the classic doctrine that deals with the understanding of legal texts is hermeneutics. In this sense, the analysis undertaken here is based on a hermeneutical conception of interpretation of normative documents. That is, it starts from the notion that the completeness of the normative provisions occurs through the judgment and the evaluation of these normative conceptions. The main example of this conception is in the concept of jurisprudence, in which the legal performance is based on the legal interpretation that, in turn, promotes the concreteness of law.³⁸

It should be noted that hermeneutics offers both a philosophical reflection and a methodological tool for understanding social situations,³⁹ being appropriate, in this case, for the investigation of the meanings of the normative text and its applicability to the social context in which it is inserted.

Such documents have been downloaded and read to identify their content, focusing on the relations disciplined by the normative, the scope of incidence, the positive provisions thereof, and the framing of the document in some sphere of action. A table was produced containing the norms evaluated in the period, which appears in the appendix. The following sections analyse the content and the results obtained.

³⁶ Jovanka Baracuey Cavalcanti Scocuglia (2002), 'A Hermenêutica de Wilhelm Dilthey e a Reflexão Epistemológica Nas Ciências Humanas Contemporâneas', vol. 17, núm. 2, *Sociedade e Estado*, p. 249.

³⁷ Lenio Luiz Streck (2007), 'Bases Para a Compreensão Da Hermenêutica Jurídica Em Tempos de Superação Do Esquema Sujeito-Objeto', 28 *Seqüência: Estudos Jurídicos e Políticos*. p. 29.

³⁸ Hans-georg Gadamer (1997), *Verdade e Método: Traços Fundamentais de Uma Hermenêutica Filosófica*.

³⁹ Marília Veríssimo Veronese and Pedrinho Arcides Guareschi (2006), 'Hermenêutica de Profundidade na Pesquisa Social', 42 *Ciências Sociais Unisinos*, p. 85.

5. Results

This section highlights the main conclusions and observations obtained through the analysis of the regulations contained in the table in the appendix. It is clear that the concerns of the Brazilian Court's governing bodies have focused on some specific areas in the pandemic period as a result of COVID-19, as described below.

5.1. *The role of the courts in the COVID-19 crisis*

When the COVID-19 crisis erupted, a profusion of government measures was observed in the three spheres of government and in all the branches of the Republic in an attempt to coordinate efforts to tackle it. To a greater or lesser extent, the agenda for discussions and action by the branches of government was geared to tackle this epidemic emergency.

The Brazilian judiciary has been facing a so-called "crisis of the judiciary" for a long time. However, while for a long time the "crisis of the judiciary" had been pointed out as a justification for reform, the COVID-19 crisis culminated in a reinforcement of the search for new solutions that result in an effective speed and effectiveness to the judicial services provided by the courts.

One of the first regulations adopted nationally to address the health crisis occurred on 6 February 2020. On that date, Law No. 13,979/2020 was sanctioned, which provides measures to address the public health emergency of international COVID-19. Article 2 of the law provides, in general terms, for isolation and quarantine measures, defining them and suggesting their effective adoption.

Soon after the first confirmation of infection by COVID-19 in Brazil, States such as Rio de Janeiro and São Paulo, followed by many others, decreed a state of public calamity; see decrees no. 46,984/2020 and 64,879/2020.

With respect to the courts, it was no different, so the justice system mobilized to adopt strategies – whether normative, administrative or practical – to mitigate the effects of the pandemic on internal and external audiences.⁴⁰

An example of this is Resolution No. 663, of March 12, 2020, of the Federal Supreme Court, which grants its employees the right to work remotely, provided that they are over 60 years old and/or have a chronic disease. On April 29, 2020, the same organization published Resolution no. 677/2020 extending, until January 31, 2021, the permanence of telework and regulating how this new logistics would work, including, among other aspects, the principles to be observed and the list of duties of the managers, which includes planning the activities, distributing the tasks and controlling the performance of the employees, but exempts the control of working hours. This was followed by dozens of regulations issued by the Brazilian judiciary, with relevant themes including the structuring of the justice system, organization of its services, measures to prevent contagion, protocols regarding measures in institutions of public hospitalization, and guidelines that affected the criminal process.

The most relevant regulations for the analysis of the response of the judiciary come from the CNJ.⁴¹ In a detailed analysis of the texts of the regulations covered in this study, it is possible to highlight the following guidelines as essential to the understanding of this research. On March 17, 2020, the CNJ issued Ordinance No. 63, which "Provides for complementary measures and establishes general guidelines to prevent the internal spread of the COVID-19 virus",⁴²

⁴⁰ Marcelo Pereira de Almeida and Adriano Moura da Fonseca Pinto (2020), 'Os Impactos Da Pandemia de COVID 19 No Sistema de Justiça – Algumas Reflexões e Hipóteses', 23 *Revista Juris Poiesis*, p. 1.

⁴¹ RIBEIRO, L. A (2008), Emenda Constitucional 45 e a questão do acesso à Justiça, vol. 4, n. 2, *Revista Direito GV*, pp. 465–492.

⁴² "Dispõe sobre medidas complementares e estabelece orientações gerais para se evitar a propagação interna do vírus COVID-19"

The aforementioned Ordinance is one of the first normative mechanisms used by the Courts in an attempt to mitigate the effects of the pandemic within the judicial branch. Its purpose is to issue guidelines to court managers, stating that they “should organise the work under their responsibility, reducing the risks of contamination among counsellors, magistrates, servants and collaborators”.⁴³

Besides, Ordinance no. 53/2020 inaugurates in the judiciary the possibility of remote work by servers, collaborators and trainees during the period of the pandemic, providing for “the carrying out of remote work within the CNJ, in an exceptional and transitory manner, due to the declaration of emergency in public health caused by the New Coronavirus (COVID-19)”. Such ordinance is complemented by Ordinance No. 63 of 17 March 2020, which provides for “rotation of working shifts of civil servants, employees and trainees, for activities that cannot be performed at a distance without prejudice to their continuity”, reduction of the circulation of people in court buildings, and the reduction of travel on duty to what is strictly necessary for the performance of duties.

In another area of legislation, there is also concern about the justice system with regard to the provision of judicial services made available to the courts. Along this line, Resolution CNJ No. 313, of March 19, 2020, “establishes, within the Judiciary, a regime of Extraordinary Shift, to standardize the operation of judicial services, with the aim of preventing contagion by the new Coronavirus – COVID-19, and ensuring access to justice in this emergency period.”⁴⁴ Thus, the aforementioned Resolution establishes in its second paragraph, first article:

Article 2 The Extraordinary Helpdesk, which shall operate at the same time as the regular forensic hours, established by the respective Court, shall be imported in suspension of the face-to-face work of magistrates, servants, trainees and collaborators in the judicial units, ensuring the maintenance of essential services in each Court.

§ The courts shall define the essential activities to be performed, ensuring, to a minimum:

- I – the distribution of judicial and administrative proceedings, with priority to emergency procedures;
- II – the maintenance of services for the expedition and publication of judicial and administrative acts;
- III – the assistance to lawyers, prosecutors, public defenders, members of the Public Prosecutor's Office and of the judicial police, in a remote and, exceptionally, face-to-face manner as a priority;
- IV – the maintenance of payment services, institutional security, communication, information technology and health.⁴⁵

⁴³ “deverão organizar os trabalhos sob sua responsabilidade, reduzindo os riscos de contaminação entre conselheiros, magistrados, servidores e colaboradores”.

⁴⁴ “estabelece, no âmbito do Poder Judiciário, regime de Plantão Extraordinário, para uniformizar o funcionamento dos serviços judiciários, com o objetivo de prevenir o contágio pelo novo Coronavírus – COVID-19, e garantir o acesso à justiça neste período emergencial”

⁴⁵ Art. 2o O Plantão Extraordinário, que funcionará em idêntico horário ao do expediente forense regular, estabelecido pelo respectivo Tribunal, importa em suspensão do trabalho presencial de magistrados, servidores, estagiários e colaboradores nas unidades judiciárias, assegurada a manutenção dos serviços essenciais em cada Tribunal.

§ 1o Os tribunais definirão as atividades essenciais a serem prestadas, garantindo-se, minimamente:

- I – a distribuição de processos judiciais e administrativos, com prioridade aos procedimentos de urgência;
- II – a manutenção de serviços destinados à expedição e publicação de atos judiciais e administrativos;
- III – o atendimento aos advogados, procuradores, defensores públicos, membros do Ministério Público e da polícia judiciária, de forma prioritariamente remota e, excepcionalmente, de forma presencial;

One of these subjects concerns the protection of prisoners and detainees. Recommendation No. 62 of 17 March 2020 addresses this issue and, in the following terms, “Recommends to Courts and Magistrates the adoption of preventive measures to spread the infection by the new coronavirus – COVID-19 within the criminal justice and socio-educational systems.”⁴⁶. The abovementioned normative states in its first article:

Art. 1 To recommend to the Courts and magistrates the adoption of preventive measures for the spread of infection by the new coronavirus – COVID-19 in the context of the establishments of the prison system and the socio-educational system.

Sole paragraph. The recommendations have as specific purposes:

I – the protection of life and health of persons deprived of liberty, magistrates, and all public servants and agents who integrate the criminal, prison and socio-educational justice system, especially those who are part of the risk group, such as the elderly, pregnant women and persons with chronic diseases, immunosuppressive, respiratory and other pre-existing comorbidities which may lead to a worsening of the general state of health from the contagion, with special attention to diabetes, tuberculosis, kidney diseases, HIV and co-infections.⁴⁷

In this respect, the concern of the judiciary system to provide the minimum social protection to assure the constitutionally guaranteed right to health is noted,⁴⁸ even in prisons. Such a measure is in line with the Fundamental Precept Dispute (ADPF) 347,⁴⁹ and such a judgment is exemplary in that it recognizes a precarious and inhumane in prison detention facilities, created by COVID-19, is “unconstitutional state of affairs”.

According to the abovementioned judgment: the technique of declaring the “unconstitutional state of affairs” allows the constitutional judge to impose on the public powers the duty to take urgent and necessary actions to remedy massive violations of fundamental rights, and to supervise the effective implementation of those actions.

Another thematic area covered by the recommendations made by the judicial authorities concerns the adjudication of claims directly related to the period and which concern the most pressing rights in a crisis situation. In this sense, we observe a profusion of norms related to health (Recommendation 66/2020 – “Recommends to the Judges with competence to judge the actions that deal with the right to health the adoption of measures to guarantee the best results to society during the exceptional period of the COVID-19”),⁵⁰ to social

IV – a manutenção dos serviços de pagamento, segurança institucional, comunicação, tecnologia da informação e saúde; e.

⁴⁶ “Recomenda aos Tribunais e magistrados a adoção de medidas preventivas à propagação da infecção pelo novo coronavírus – COVID-19 no âmbito dos sistemas de justiça penal e socioeducativo.”

⁴⁷ Art. 1o Recomendar aos Tribunais e magistrados a adoção de medidas preventivas à propagação da infecção pelo novo coronavírus – COVID-19 no âmbito dos estabelecimentos do sistema prisional e do sistema socioeducativo. Parágrafo único. As recomendações têm como finalidades específicas:

I – a proteção da vida e da saúde das pessoas privadas de liberdade, dos magistrados, e de todos os servidores e agentes públicos que integram o sistema de justiça penal, prisional e socioeducativo, sobretudo daqueles que integram o grupo de risco, tais como idosos, gestantes e pessoas com doenças crônicas, imunossupressoras, respiratórias e outras comorbidades preexistentes que possam conduzir a um agravamento do estado geral de saúde a partir do contágio, com especial atenção para diabetes, tuberculose, doenças renais, HIV e coinfeções.

⁴⁸ Constituição da República Federativa do Brasil de 1988: Art. 196. A saúde é direito de todos e dever do Estado, garantido mediante políticas sociais e econômicas que visem à redução do risco de doença e de outros agravos e ao acesso universal e igualitário às ações e serviços para sua promoção, proteção e recuperação.

⁴⁹ ADPF 347, STF, Pleno, Rel. Min. Marco Aurélio Melo, julgado em 09 de setembro de 2015.

⁵⁰ “Recomendação 66/2020 – Recomenda aos Juízos com competência para o julgamento das ações que versem sobre o direito à saúde a adoção de medidas para garantir os melhores resultados à sociedade durante o período

security (Resolution 317/2020 – “Provides on the carrying out of expertise in electronic or virtual means in actions in which social security benefits for disability or assistance are discussed, as long as the effects of the crisis caused by the COVID-1 lasts”),⁵¹ as well as the victims of domestic violence (Ordinance 70/2020 – “Set up a Working Group to prepare studies to indicate solutions to the CNJ focused on the priority of care for victims of domestic and family violence that occurred during the social isolation resulting from the new coronavirus pandemic”).⁵²

A fourth aspect of normative recommendations brings elements of normatization/operatization of information and communication technology tools within the context of judicial procedures (Ordinance 58/2020 – “Establishes a working group to prepare an opinion on the holding of videoconferences within the framework of criminal justice and present a proposal for a normative act and technical protocols aimed at regulating the subject”;⁵³ Ordinance 61/2020⁵⁴ “Establishes an emergency videoconference platform for holding hearings and trial sessions in the organs of the judiciary, during the period of social isolation resulting from the COVID-19”; and others).

Recommendation 71/2020 should also be highlighted, which, even though it is not one of the areas of this research, because it does not have a repetition of norms associated with the subject, and therefore it is not possible to speak about the constitution of a dimension related to the subject, is an important mechanism for alternative conflict resolution. The abovementioned legislation provides for “the creation of the Judicial Centre for Conflict and Citizenship Resolution” – “*Cejusc Empresarial*” and encourages the use of appropriate methods for dealing with conflicts of a business nature.

According to the aforementioned normative, considering “the mission of the National Council of Justice to develop judicial policies that promote effectiveness and unity to the Judiciary, oriented towards the values of justice and social peace”,⁵⁵ as well as “the need to create efficient mechanisms to deal with business conflicts aggravated by the COVID-19 pandemic”,⁵⁶ Recommendation 71/2020 in its first article provides: “Recommend to the Brazilian courts the implementation of Judicial Centres for Conflict Resolution and Corporate Citizenship, for the adequate treatment of conflicts involving corporate matters of any nature and value, including those arising from the COVID-19 pandemic crisis, in the pre-procedural phase or in claims already filed”.⁵⁷

In this way, we see the concern of the judiciary to promote and broaden the scope of alternative dispute resolution mechanisms, enabling negotiation, conciliation, mediation, in individual or collective modalities, even in the context of a pandemic.

excepcional de pandemia da COVID-1”.

⁵¹ “Dispõe sobre a realização de perícias em meios eletrônicos ou virtuais em ações em que se discutem benefícios previdenciários por incapacidade ou assistenciais, enquanto durarem os efeitos da crise ocasionada pela pandemia do novo coronavírus, e dá outras providências”.

⁵² Institui Grupo de Trabalho destinado à elaboração de estudos para a indicação de soluções ao Conselho Nacional de Justiça voltadas à prioridade de atendimento das vítimas de violência doméstica e familiar ocorrida durante o isolamento social em decorrência da pandemia do novo coronavírus – COVID-19”.

⁵³ “Institui Grupo de Trabalho destinado a elaborar parecer sobre a realização de videoconferências no âmbito da justiça criminal e apresentar proposta de ato normativo e protocolos técnicos voltados à regulamentação da temática”.

⁵⁴ “Institui a plataforma emergencial de videoconferência para realização de audiências e sessões de julgamento nos órgãos do Poder Judiciário, no período de isolamento social, decorrente da pandemia COVID-19”.

⁵⁵ “ser missão do Conselho Nacional de Justiça o desenvolvimento de políticas judiciárias que promovam efetividade e unidade ao Poder Judiciário, orientadas para os valores de justiça e paz social”.

⁵⁶ “a necessidade de criação de mecanismos eficientes para lidar com os conflitos empresariais agravados pela pandemia da COVID-19”.

⁵⁷ “Recomendar aos tribunais brasileiros a implementação de Centros Judiciários de Solução de Conflitos e Cidadania Empresariais, para o tratamento adequado de conflitos envolvendo matérias empresariais de qualquer natureza e valor, inclusive aquelas decorrentes da crise da pandemia da COVID-19, na fase pré-processual ou em demandas já ajuizadas”.

6. Discussion

The response of the Brazilian Judiciary to the health crisis occurred immediately after the notice of the first cases in Brazil. However, if initially, the measures adopted were of a sudden and provisional character, what we see, one year after the beginning of the pandemic, is the effective adaptation of the jurisdictional system headed by the CNJ, which has been responsible since then for evaluating and regulating the decisions taken in this period in a more strategic way, based on the results obtained and the responses of the judiciary and society as a whole.

The CNJ already presented an annual report providing the main information and data about the Brazilian Judiciary. During this period of crisis, the Council's website added a new tab that includes news, data and relevant information related exclusively to COVID-19. In addition, the Council prepared and published various reports dealing with the topic from different angles, so that, based on this list of information, it is possible to deduce the scope of the results of the measures adopted, indicating the successes and failures in the Brazilian context.

6.1. Normatives

Considering the extensive list of norms issued by the CNJ during the pandemic period, the council itself developed a survey of the managers of the bodies linked to the judiciary as a way to assess the support it had provided to the difficulties they faced.⁵⁸

In the released report, 61% of the courts, personified by the manager responding to the survey, believe that the norms and actions of the CNJ were sufficient to support for the actions of the courts. Included in this group were 100% of the Superior Courts, Federal Courts and Military Courts.⁵⁹

In the group of courts that responded negatively to that question, 58% were from labour courts and 37% were from state courts, so that the branch of justice that most felt the need for additional support was labour justice,⁶⁰

Questioned about the subjects that could have been more comprehensive with regard to the support of the CNJ, the results highlight the following areas: a) Regulation of electronic forms of communication with the jurisdiction and of effective performance of procedural activities; b) Improvement and compatibility of norms directed towards telework and remote work activities; c) Review of norms with which it is perceived to be unfeasible to comply with due to the pandemic; d) Information Technology; e) . Cisco Webex – Maintenance of the platform to ensure the continuity of remote work; f) Budget.⁶¹

6.2. Home office

One of the main changes in the administrative routine of the judiciary is linked to the change in the workplace of the workers who started to perform their work almost exclusively in the home office. This work modality, although well known before 2020, has gained much visibility and raised questions in several branches of science, such as health, motivation and, especially, productivity.⁶²

As a way of contextualising the process of transposing work to the virtual environment, it is necessary to stress that since 2006 Brazilian courts have been undergoing a process of

⁵⁸ CNJ, *Avaliação Dos Impactos Da Pandemia Causada Pela COVID-19 Nos Processos de Trabalho Dos Tribunais* (2020).

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

computerisation and modernisation of procedural proceedings, so that in 2019, 84% of the cases that entered the Brazilian Judiciary were filed electronically. Of the total caseload in 2019, 73% were filed electronically and the highest courts in the country no longer hold any caseload in paper format.⁶³

The data related to the procedural processing in 2020 have not been consolidated and disclosed by the CNJ, however, the numbers in 2019 already indicate that the computerization process was essential for the effective adoption of telework throughout the country.⁶⁴

According to the CNJ Report produced at the beginning of 2020, 98% of Brazilian Courts implemented norms to regulate remote work during the pandemic period, and only the Military Court of Justice of Minas Gerais was not included in this list.⁶⁵

Moreover, while before only 5% of the workers in the judiciary performed their tasks at home, after the pandemic, this percentage jumped to 84%. Of the remaining 16%, 10% performed their work in a system of rotation and 6% had their activities suspended due to incompatibility with remote work.⁶⁶

With regard to the effective operationalization of this measure, it is possible to verify, also through the official documents issued by the CNJ, that the technology tools were the public power's great allies in this period. With respect to the provision of equipment and infrastructure, the CNJ found that only three courts did not provide items of this category to teleworkers. Among those who did, 73% reported that notebooks were loaned, 65% reported the availability of an extra monitor, 65% allowed the employee to take a computer for personal use from the court to the work's home, 45% provided cameras for videoconferencing and 26% reported the loan of mobile phones.⁶⁷

Regarding system tools, the virtual private network – VPN – which enables access to the network and to the systems of the court, was the most used tool, having been adopted by 89% of the courts, followed by external access to the intranet, and the VPN for access to the machine, adopted by 85% and 82% of the courts, respectively.⁶⁸

Two other measures also recorded by the CNJ, adopted by more than 60% of the courts, were the storage of files in the cloud, which enables remote access in a practical and relatively inexpensive way, and the availability of work management tools, such as: Microsoft Teams, Slack, Asana, and Atlassian among others.⁶⁹

An important fact that contributed to the success of the resettlement of the workforce is associated with the satisfaction of public servants with the tools made available by the courts. The CNJ reports show that 88% of respondents said that access to the VPN was satisfactory, while only 7% reported instability and 5% slowness.⁷⁰

Although information and communication technologies (ICTs) have been widely adopted in all spheres of the Brazilian Judiciary, 44% of the courts have not altered contracts related to technology. Even so, those that altered the contractual terms did so mostly to include new software (21%) and/or to increase the scope of the contract (15%). However, it is observed that there was no substantial increase in employees in the areas of information and communication technology (ICTs), with this increase occurring in only one of the courts surveyed.⁷¹

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

With regard to the perception of public servants in the judiciary regarding the adoption of teleworking in this period, a survey carried out by the Regional Labor Court of the 8th Region – which covers the northern states of Pará and Amapá – was published in a report together with the results of interviews conducted with technical analysts and magistrates of the court.⁷²

The results were divided into two categories: civil servants and magistrates. Both emphasized the wide use of digital tools in the development of activities, including the equipment made available by the agency, as well as private tools, such as a cell phone.⁷³

Of the interviewed employees, 58% claimed not to have difficulty with the emergency routine and 77.58% stated they had an adequate place to carry out their work activities. With regard to the magistrates' perceptions, the data are similar, 55% report not having difficulties and 57% had adequate physical space.⁷⁴

6.3. Productivity

Connected to the adoption of telework as a modality widely adopted in this period, there has been concern expressed the productivity of judicial organizations and the consequent meeting of demands, and the very social function inherent to the branch.⁷⁵

Of the 98% of the courts that adopted telework, 64% of the regulations did not establish criteria for measuring or controlling productivity. Of the 36% of the bodies that did regulate a form of measurement/control of productivity, 23% determined that it was mandatory for all judges and public servants of the court; in 10% the norm established that it applied only to public servants and in 3% the norm established that it was mandatory for judges and public servants of the judicial area.⁷⁶

The data explained above could suggest negligence by the agencies regarding the productivity and the effective execution of the services provided by the courts. However, if we analysed the regulations that deal with telework in Brazil in the period before the pandemic, we see that the productivity and performance of servers is one of the main concerns of management, so that, in the case of the 64% of courts that did not provide productivity in the regulatory text, this is likely to be the result of instantaneousness and urgency. Moreover, the very mention of these numbers in the CNJ report should in itself trigger a discussion about new regulations on the subject.⁷⁷

Although productivity was not regulated when the home office was introduced into the administrative routine of the courts, access to and control of the data that represent the functioning and operation of the public administration were dealt with in an organised manner. According to the CNJ, 95% of the courts use a dashboard-type tool to visualize data and monitor goals.⁷⁸

In addition, the study carried out by the 8th Regional Labor Court showed that although 67% of the employees of that body were not using a productivity control tool, the vast majority of professionals maintain daily contact with the head, facilitating the development and control of activities. The report itself admits that operationalization has developed in a limited way, but that, in practice, there is a concern among managers regarding productivity.⁷⁹ Although complete data related to productivity in the country are not available, some scenarios already published suggest an increase in national productivity during this period.

⁷² TRT-8 (2020), *O Teletrabalho Durante a Pandemia Do COVID-19: Uma Avaliação No Tribunal Regional Do Trabalho Da Oitava Região*.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ CNJ, *supra* note 61.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

⁷⁹ TRT-8, *supra* note 75.

According to the CNJ, the Superior Labour Court, the last instance of labour justice in the country recorded an increase of 5.1% in the number of cases in 2020, when compared to 2019. However, it increased the number of cases judged in the same period by 2.8%.⁸⁰

Another important key factor in the analysis of the performance and effectiveness of the judiciary is the so-called backlog rate, which “measures the effectiveness of the court in a period, taking into account the total number of new cases filed, the cases disposed of, and the stock pending at the end of the period prior to the base period”.⁸¹ One of the courts that stood out in this respect is the Court of Justice of Pernambuco which, during 2020, presented a reduction of almost 10 percentage points in the rate of backlog falling from 71.84% in 2019 to 62.85% in 2020, the lowest mark in the last 10 years.⁸²

6.4. Prison system

Another area of serious consideration in dealing with the crisis concerns the infection among the prison staff and convicts in the Brazilian prison system. To ensure the monitoring of contamination, the CNJ maintains a report, updated fortnightly, which, in early February 2021, recorded 59,223 confirmed cases and 236 deaths, 101 of prison staff and 135 of prisoners.⁸³

Southeast Brazil was the most affected region, accounting for 48.1% of prisoners who died. This is because the state of São Paulo is in first place in the ranking of number of cases, with a quantity greater than the sum of the states in second, third and fourth place together.⁸⁴

The number of registered cases of COVID-19, both among public servants and prisoners, is on the rise, and for the CNJ, one way to control this growth is to increase the number of tests made available to this group of the population, which already totals 268,668 units tested, including staff and prisoners.⁸⁵

7. Conclusions and final recommendations

The COVID-19 pandemic has⁸⁶ emerged as one of the most complex global crises in human history. Billions of human beings are in isolation and the socioeconomic consequences are unpredictable,⁸⁷ a context that presents consequences and challenges never faced by the public administration.⁸⁸

In view of the importance of a justice system for the development of modern States, as well as the prerogatives granted to the judiciary, i.e. to “express the law” in a definitive manner, regulating social relations on a factual level, having a monopoly on the judicial activity of the State, the importance of studying the judicial activity of any state is evident.

Considering also the so-called “crisis of the judiciary”,⁸⁹ as well as the prevailing culture of judicialisation in the Brazilian context⁹⁰ and also the excessively bureaucratic proce-

⁸⁰ TST (2020), *Relatório Movimentação Processual Do TST – Ano de 2020*.

⁸¹ CNJ, *Justiça Em Números 2019* (2019), Conselho Nacional de Justiça.

⁸² CNJ (2021), *PE: Tribunal Atinge Menor Taxa de Congestionamento Dos Últimos Dez Anos*, Conselho Nacional de Justiça, available at <https://www.cnj.jus.br/pe-tribunal-atinge-menor-taxa-de-congestionamento-dos-ultimos-dez-anos/>.

⁸³ CNJ, *COVID-19 No Sistema Prisional* (2021).

⁸⁴ *Ibid.*

⁸⁵ CNJ, *supra* note 61.

⁸⁶ CNJ, *supra* note 86.

⁸⁷ Carolina Melo and Sandro Cabral, ‘Pandemias e Comunicação: Uma Avaliação Experimental’, vol. 54, n. 4, *Revista de Administração Pública* (2020), p. 735.

⁸⁸ Morganna Werneck Capodeferro and Juliana Jerônimo Smiderle (2020), ‘A Resposta Do Setor de Saneamento No Brasil à COVID-19’, vol. 54, n. 4, *Revista de Administração Pública*, p. 1022.

⁸⁹ Maria Tereza Aina Sadek (2004), ‘Poder Judiciário: Perspectivas de Reforma’, vol. 10, n.1, *Opinião Pública*, p. 1.

⁹⁰ Fabiana Luci de Oliveira and Luciana Gross Cunha (2020), ‘Os Indicadores Sobre o Judiciário Brasileiro: Limitações, Desafios e o Uso Da Tecnologia’, vol. 16, n. 1, *Revista Direito GV*, p. 1.

dures and legal resources that prevent the judiciary from acting more efficiently,⁹¹ factors that are already known in literature and in Brazilian society and that have long generated dissatisfaction with justice in Brazil, we see that the picture prior to the pandemic period was already one of a troubled environment.

In addition to this picture, a period of serious health crisis and political instability in which the judiciary may become a protagonist in disputes involving the health and well-being of the population, literally deciding on the life and death of citizens under its jurisdiction, we see there the importance of studying issues relating to the performance of the State.

The present paper aimed to map and analyse the administrative initiatives emanating from the Brazilian judiciary's governing bodies. To this end, a documental analysis was chosen with the objective of verifying how justice has organized itself to face up to the context of the pandemic crisis.

Despite criticism coming from the most varied sectors of society in Brazil regarding the actions of the courts, it cannot be said that they have remained inactive; on the contrary, the courts have shown themselves to be truly proactive and efficient in the actions taken. All the regulations and administrative measures mapped out and analysed in the present work point to an assertive, prudent, zealous and efficient performance of the Brazilian justice system.

It is observed that courts at all levels employ directors or executives, many with considerable influence on judicial administration. At the national level, professional organizations promote the role of court administration in the governance of the judiciary.⁹² In Brazil, this role falls to the CNJ, being the body in charge of "thinking the management" of the Brazilian Judiciary.⁹³

In this sense, it is important to highlight the transparency of the judiciary in facing the pandemic. The CNJ maintains a specific website, with free access to the citizens, containing a list of the regulations issued by the higher courts and the CNJ itself in relation to COVID-19, called "Coronavirus – CNJ Portal". This repository also provides information on contamination in the prison system and information on the measures taken individually within each court. There is also detailed information on the diagnosis of changes in the health of magistrates and servers (treated in an aggregated manner) with the new coronavirus and a compilation of institutional news related to the subject. In other words, this database is an important source of institutional and centralised information, open and available to all citizens, with up-to-date and reliable data, and is a very encouraging point about the work of the judiciary in this period of crisis.

Precisely because of the CNJ's commitment to providing clear and clean information on the measures adopted and the results obtained after a year of pandemic, it is possible to verify a relatively homogeneous movement on the part of the bodies towards the CNJ's guidelines and norms, since, notwithstanding the limitations and idiosyncrasies of each court, the vast majority have adopted similar administrative routines that are in line with the guidelines of both the World Health Organization and the CNJ.

The adoption of telework, for example, widely adopted throughout the judiciary, is surprisingly consolidated as a strategy that, in addition to ensuring social distance, is effective in

⁹¹ Paulo Motta (2010), 'Reveno Estrategicamente as Organizações Do Poder Judiciário: Uma Perspectiva Gerencial', in Cadernos FGV Projetos (ed.), *Cadernos FGV Projetos*, p. 24.

⁹² Ingo Keilitz (2018), 'Viewing Judicial Independence and Accountability through the "Lens" of Performance Measurement and Management', vol. 9, n. 3, *International Journal for Court Administration*, p. 23.

⁹³ Adalmir Oliveira Gomes and Maria Eduarda Mendonça de Freitas (2017), 'Correlação Entre Demanda, Quantidade de Juízes e Desempenho Judicial Em Varas Da Justiça Federal No Brasil', vol. 13, n. 2, *Revista Direito GV*, p. 567, available at http://www.scielo.br/scielo.php?script=sci_arttext&pid=S1808-24322017000200567&lng=pt&tlng=pt.

maintaining the provision of jurisdiction, and has even shown satisfactory results in terms of productivity.

It is worth mentioning that, given the suddenness of the pandemic, implementation took place without relevant points having been previously discussed and tested. An example of this is the lack of regulation concerning the productivity of civil servants and judges, as well as the transparency of the service provided, since the feeling of inefficiency can become stronger when associated with the absence or reduction of face-to-face service to the population, even though the procedural process was faster in the period.

As a positive result, we highlight organizations' proactivity in enabling the transfer of infrastructure from public buildings to the home environment. Such movement is evidenced in two aspects of the research. First the loan of items belonging to the public administration for the domain and possession of the employee, and then the implementation and adequacy of technology tools that allowed access to the virtual environment.

As a research agenda, it is suggested that studies be conducted focusing on the perception of members of the judiciary. Since judges and servants are the main actors in this process, and they are within the system and the parties that drive this system, it would be a big step to know the perception of these "wheels" that drive the way the courts "distribute Justice" to the citizens. Studies focused on the perception of these institutional actors in relation to the measures taken at this time of crisis, the feelings experienced, and the mistakes and successes they see in this process are suggested.

Furthermore, studies are suggested on the impact of ICT use on the current exceptional-ity issue caused by the health crisis. Considering that the impact of technology in courts is a topic that has been receiving attention in judicial administration, professional and academic, for almost three decades,⁹⁴ studies are also recommended on the difficulties, incentives, challenges, and barriers to the adoption of ICTs in the daily work of the servants of the courts.

Still in the technological environment, if some time ago the discussion was largely dominated by the impact of technology on the way the courts play their role, today it must be considered that there has been a noticeable change in the direction of some of the discussions and investigations on the impact of technology.⁹⁵

Topics related to court technology, such as the use of technology to create efficiency in proceedings and increase litigants' access to the courts, have been mainstream in recent years. Although these issues are still important, studies have also looked at how technology can affect the nature of the work that the legal profession and the courts will do in the future, and the changes that can result and their implications.⁹⁶ In this respect, future studies are suggested on the factors linked to the new mode of work adopted in this period of crisis, i.e. teleworking. While it is true that, to some extent, this form of work should also be increased in the post-pandemic period, studies are needed to try to understand the challenges, barriers, facilitators and incentives to adopt this new way of performing functions in the justice system.

The present study certainly does not have the prerogative of exhausting the knowledge on the subject, given that it is such a recent phenomena and so *sui generis* it certainly deserves greater attention from researchers. Since the State is the entity that, to a certain extent, regulates life in society, gives stability to the social structure and, through its three independent and harmonious branches of government,⁹⁷ provides the basic preconditions for coexistence

⁹⁴ Anne Wallace (2017), 'From the Editor: The Impact of Technology on Courts', vol. 8, n. 1, *International Journal for Court Administration*, p. 1.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ Constituição da República Federativa do Brasil de 1988: Art. 2º São Poderes da União, independentes e harmônicos entre si, o Legislativo, o Executivo e o Judiciário.

and development, studying its actions is of fundamental importance, especially for the judiciary, often the last trench in the defence of fundamental human rights.

Additional File

The additional file for this article can be found as follows:

- **Appendix.** Table 1: Regulations with measures related to the COVID-19 crisis. DOI: <https://doi.org/10.5334/ijca.388.s1>

Competing Interests

The authors have no competing interests to declare.

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