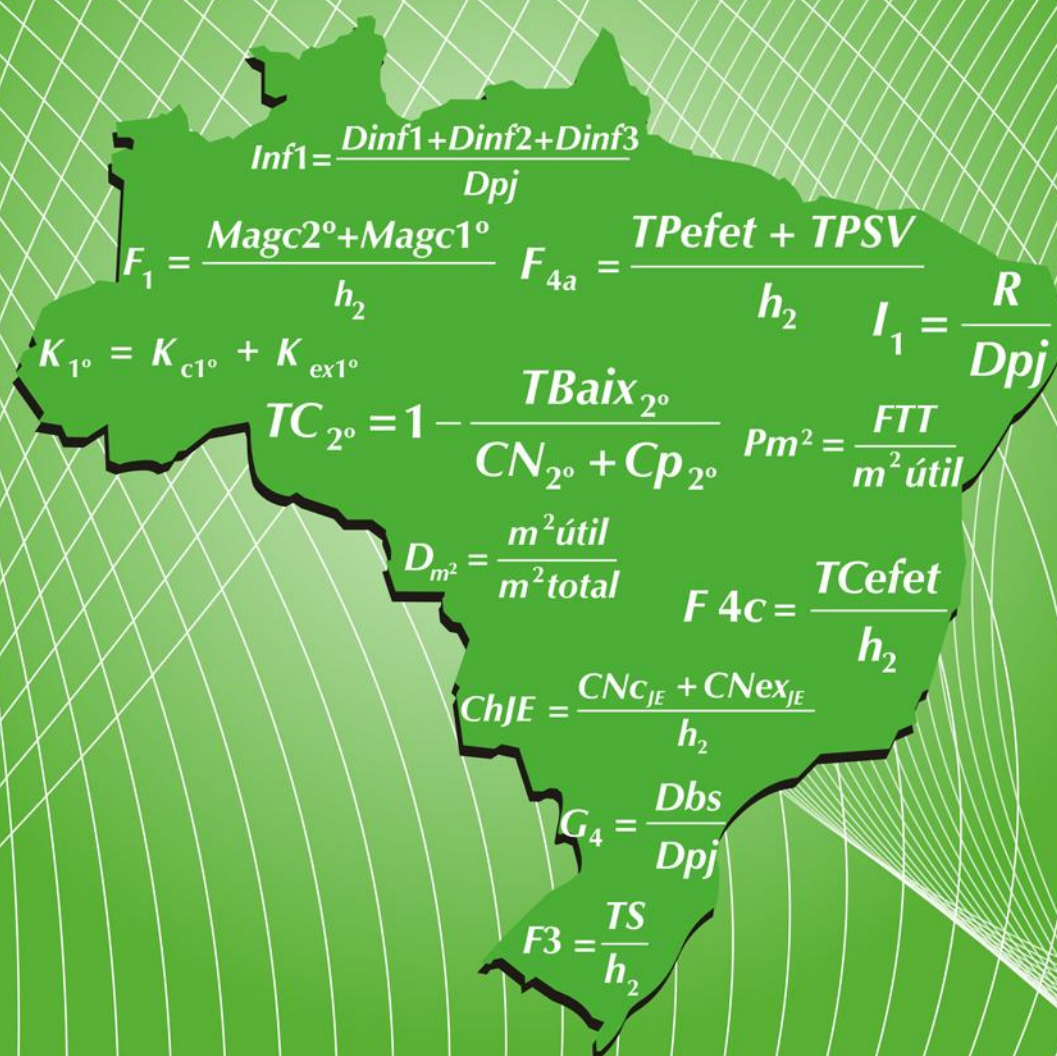


# Justice in Numbers 2009

## Indicators of the Judiciary Power

### OVERVIEW OF THE BRAZILIAN JUDICIARY POWER EXECUTIVE SUMMARY



Brasília, September 2010

# National Council of Justice

---

## ***President, National Council of Justice***

Chief Justice of Brazil Cezar Peluso

## ***Inspector General***

Justice Eliana Calmon

## ***Councillors***

Ives Gandra

Milton Nobre

Leomar Barros

Nelson Braga

Paulo Tamburini

Walter Nunes

Morgana Richa

José Adonis

Felipe Locke

Jefferson Kravchychyn

Jorge Hélio

Marcelo Nobre

Marcelo Neves

## ***Secretary General of the National Council of Justice***

Fernando Florido Marcondes

## ***Deputy Secretary General of the National Council of Justice***

José Guilherme Vasi Werner

## ***Judicial Research Department***

### ***Executive Director***

Lêda Bandeira

### ***Project Director***

Pedro Florêncio

### ***Technical Director***

Fábio Mirto

### ***Researchers***

Ana Carolina Prata

Fernanda Paixão Araújo Pinto

Guilherme Viana

Jeovan Assis da Silva

### ***Statisticians***

Igor Stemler

Gabriela Azevedo

### ***Research Support:***

Ganem Neto

Mari Lúcia

Marília de Mello

Pedro Amorim

Rejane Canuto

Ricardo Marques

Thaís Nascimento

### ***Secretaries:***

Camila Baltazar

Josane Ribeiro

Patrícia de Almeida

### ***Interns:***

Davidson Pereira

Polliana Cristina

## 1. Background

---

This **Executive Summary** provides a summary<sup>1</sup> of the main findings illustrated in the *Justice in Numbers 2009* Report, focusing on presenting the overall figures for the Brazilian judiciary. *Justice in Numbers* - elaborated by the CNJ's Research Department - is the flagship product of the National Judiciary Statistics System (SIESPJ)<sup>2</sup>. The collection<sup>3</sup> and processing of data within the SIESPJ are designed to allow the understanding and discussion, on solid foundations, of budgetary, administrative and litigation issues in the Brazilian Courts in three of its levels: State, Federal and Labor<sup>4</sup>.

After the broadened focus of statistics to be collected established in 2009 (see Topic 2), the set of data and information collected was even more extensive and accurate, enabling the carrying out of several diagnostics activities on the Brazilian Justice system.

Once the complex work of gathering and consolidating information on the Brazilian judiciary - marked by a large number of different levels of courts and jurisdictions - has been finished, the challenge is then posed to justice institutions to effectively utilize such data for judicial policy planning, carried out with a view to achieving continuous improvement of the rendering of judicial services in the country.

---

<sup>1</sup> For more complete information detailed by judiciary branch, we suggest consulting the full text of the *Justice in Numbers 2009* Report available at [www.cnj.jus.br](http://www.cnj.jus.br)

<sup>2</sup> Established by CNJ Resolution No 4/ 2005 and currently regulated by CNJ Resolution 76/2009.

<sup>3</sup> It is important to note that the data provided are the sole responsibility of the courts which participated in the survey, as per the provisions of the Article 4, Resolution 76/2009.

<sup>4</sup> The process of gathering information from the Electoral and Military Courts is under way.

## 2. Key indicators of the Judiciary in 2009 (State Courts, Federal Courts and Labor Courts)

---

*Justice in Numbers* has indicators that allow the profiling of the Judiciary as a whole, and, because of its wide range of information, provide the metrics that will allow for the evaluation of courts not only as to what regards litigation, but also in relation to financial and budgetary matters, and to relate these sets of data with the profile of each jurisdictional region, based on information about its population and economy.

Here we present the summary of the information collected from the main indicators used, under the global perspective of the Brazilian courts in three of its levels (State, Federal and Labor).

### 2.1 INPUTS, ENDOWMENTS AND DEGREES OF USE

---

#### 2.1.1 Expenditures in relation to GDP, gross and per capita spending

During 2009, the total expenditures of the Brazilian Judiciary (State, Federal and Labor) totaled the amount of R\$ 37.3 billion, equivalent to 1.19% of the national GDP, 2.04% of the expenses of the Union (the entire Federation) and R\$ 197 per year per inhabitant. Total expenditures in 2009 grew by 8.8% over the previous year (R\$ 34.3 billion), but one should note that the methodology for calculating expenditures for this year included budget items relating to "amounts to be paid" from previous years.

#### 2.1.2 Total Justice system expenditures *versus* personnel structure and procedural demands

The average spending in the three branches of Justice reached R\$ 1,500 per new case, ranging from R\$ 1,100 in State Courts to R\$ 3,000 in Labor Courts. On average, the Judiciary spent R\$ 119,400 per civil servant and R\$ 2.3 million per magistrate. We should emphasize that the budget here considered included all costs of the courts, not only those incurring from human resources.

### 2. 1. 3 Expenditure on human resources

In 2009, the Judiciary's expenditures on human resources reached a total of R\$ 33.9 billion, which represents an increase of 8.2% compared to 2008. The percentage of expenditures on human resources reached an average of 91.4% (ranging from 89.3% in the State Court to 95.1% in the Labor Court).

### 2.1.4 Revenues

Out of the amounts collected by the courts (Federal, State and Labor), the revenue is calculated from fees and other collections of fiscal and social security provisions. The total revenue for 2009 was R\$ 19.3 billion. In the calculation of the indicator "revenues in relation to the total expenditures of Justice ", the percentage of the Federal Courts reaches 209.2%, well above that of State Courts (31, 6%) and of Labor Courts (34.3 %).

### 2.1.5 Human resources

The workforce of the Judiciary (Federal, State and Labor Courts) consisted, at the end of 2009, of 329,000 employees, of which 16,108 were magistrates and 312,573 were civil servants. The total number of positions comprises employees of the house, employees allocated from other public institutions, employees requested from other institutions, assistants and employees without official affiliation to public service (outsourced). The number of judges increased by only 2.5% compared to 2008, whereas the number of civil servants has increased in the order of 6.7%. The total number of civil servants working in judiciary areas was also analyzed.<sup>5</sup> Such staff amounted to about 75.9%.

---

<sup>5</sup> The judiciary area is understood to mean the sectors that directly drive the course of judicial proceedings, such as: judicial protocol, distribution, offices, bookkeeping, writ, judicial departments, warrant issuing centrals, shorthand, stenography, notice processing systems, public auctions, forensic analysis (accounting, medicine, social work and psychology), reconciliation central, sectors of admissibility of appeals, filing, etc. As to what regards the full staff of civil servants, only those effectively hired by the courts were considered, not those who have been requested or allocated from other public institutions or those on commission.

### **2.1.6 Magistrates and work force per hundred thousand inhabitants**

The Brazilian Judiciary (in its three main spheres) counts, on average, on eight judges per group of one hundred thousand inhabitants. The highest ratio is in State Courts (6 judges per 100,000 inhabitants), and the lowest in Federal Courts (less than 1 judge per 100,000 inhabitants).

As to what regards the workforce per 100,000 inhabitants, there were on average, at the end of 2009, 165 civil servants in the Judiciary per every 100 thousand inhabitants (ranging from 120 in State Courts to 21 in the Federal Courts).

## **2.2 LITIGATION**

---

### **2.2.1 General data regarding case flow**

During 2009, 25.5 million lawsuits were filed in the three spheres of Justice (18.7 million in State Courts, 3.4 million in Federal Courts and 3.4 million in Labor Courts). At the end of 2009, there were also 61.1 million pending lawsuits. It is important to clarify that the criterion adopted was modified in the calculation of the total pending lawsuits for 2009. Besides the total number of lawsuits pending trial, lawsuits pending closure were also calculated (referral of lawsuits to other courts or other competent bodies, as well as final archiving of lawsuits). In the three spheres of Justice here comprised, around 86.6 million lawsuits have been processed somehow in 2009. This number represents the sum of new lawsuits and previously pending ones. It is worth mentioning that of the total number of lawsuits in process, more than 70.6% were already pending in early 2009.

23.2 million sentences were rendered, according to the division below: 17.2 million in State Courts (representing 74% of the total), 2.7 million in Federal Courts and 3.3 million in Labor Courts.

### 2.2.2 New lawsuits per hundred thousand inhabitants

There were, at the end of 2009, 11,865 new cases for each group of one hundred thousand inhabitants in the three spheres of the judiciary. The branch of justice most required to act was that of State Courts, with 8,859 new cases for every group of 100,000 inhabitants.

### 2.2.3 1<sup>st</sup> instance litigation

In 2009, around 21.9 million lawsuits were filed in 1<sup>st</sup> instance courts<sup>6</sup> of the Judiciary, 68.6% of which (in average) correspond to pre-trial lawsuits, and the other 31.4% are related to execution-stage lawsuits. The number of new lawsuits in the first instance increased only by 1.1% when compared to 2008 numbers (at that year, the full amount was of 21.7 million cases). 57.9 million lawsuits were pending at the end of 2008, representing an increase of 29.7%, which can be attributed, in large part, to the new methodology adopted, which now covers lawsuits pending closure.

### 2.2.4 Fiscal enforcement lawsuits

Out of the 86.6 million lawsuits being processed in Brazilian courts in 2009, 26.9 million were fiscal enforcement proceedings, constituting approximately one third of the total. It is noteworthy that 89% of these fiscal enforcement lawsuits (i.e. 23.9 million) were being processed only at State Courts, which contributed to create a bottleneck in this branch of justice. It is important to mention that out of 50.5 million lawsuits pending resolution in State Courts, approximately 20.7 million (equivalent to 41%) were fiscal enforcement executions.

Disregarding pre-trial lawsuits and considering only lawsuits which are currently at the execution stage<sup>7</sup> in the three branches here considered, the amount of fiscal enforcement execution lawsuits becomes much more representative, amounting to 67% of the total. It should be noted that in Federal Courts, also under execution stage, the percentage of fiscal enforcement procedures reached 75% of lawsuits being processed in the 2009 fiscal year.

<sup>6</sup> Includes 1<sup>st</sup> instance litigations and Special Courts (Small Claims Courts).

<sup>7</sup> Criminal enforcement executions were not considered.

### 2.2.5 New lawsuits per magistrate and civil servants per judiciary area per magistrate in 1<sup>st</sup> Instance Courts

Brazilian 1<sup>st</sup> instance courts (in the three spheres here considered) received, on average, about approximately 1,399 new cases for every active magistrate.<sup>8</sup> The ratio of civil servants acting in the judiciary area per magistrate, in turn, was of 12 for 1<sup>st</sup> instance courts, i.e. there was, in 2009, an average of approximately 12 civil servants directly aiding the magistrates. In Labor Courts this amount was of 7, while in Federal Courts it was of 10, and in State Courts of 13.

### 2.2.6 Caseload and backlog rates

Caseload is the indicator commonly utilized to measure the amount of lawsuits magistrates have to rule on, on average, every year. Each magistrate of the Brazilian Judiciary had, in 2009, 5,493 lawsuits that could be ruled on, on average. In comparison with 2008, the caseload for 1<sup>st</sup> instance courts increased 20,8% (according to the new methodology applied).

The backlog rate is the indicator used to measure, in a given year, the percentage of lawsuits being processed which have not been closed in definite.

- Backlog rate for pre-trial lawsuits

The 1<sup>st</sup> instance courts of the Brazilian Judiciary had, in 2009, a backlog rate of 59.6% for pre-trial lawsuits, that is, out of 100 lawsuits being processed in the system in that year, approximately 60 were not referred.<sup>9</sup> (or were not referred to the execution stage). The highest percentages were found in State and Federal Courts (62% and 58%, respectively).

- Backlog rate for execution stage lawsuits

The 1<sup>st</sup> instance courts of the Brazilian Judiciary had, in 2009, a backlog rate of 86.6% for execution stage lawsuits, that is, out of 100 lawsuits being processed in the system in that year,

<sup>8</sup> For this number, the lawsuits considered were those of pre-trial in 1<sup>st</sup> instance and new lawsuits of execution of extra-judicial orders in the 1<sup>st</sup> instance.

<sup>9</sup> The concept of referral here refers to the change from the pre-trial to the execution stages for lawsuits.



approximately 86 were not closed in definite. The highest percentage values were again to be found in the State and Federal Courts (90% and 81%, respectively).

### **2.2.7 Sentences per magistrate and referred cases per new case (1<sup>st</sup> instance)**

The number of lawsuit-terminating decisions by magistrates in 1<sup>st</sup> instance courts is considered an indicator of that magistrate's productivity, that is, how many sentences were rendered in a given period.

In 1<sup>st</sup> instance courts each Brazilian magistrate rendered sentences for, on average, 1,444 lawsuits, an increase of 6.3% in relation to 2008.

The indicator of lawsuits referred per new lawsuit in the 1<sup>st</sup> instance has the goal of demonstrating, in percentage terms, the amount of lawsuits that were referred in relation to the number of lawsuits that were filed in a given year. In other words, if the indicator is more than 1 (or 100%), we understand the result to be positive, for it will mean that more lawsuits, numerically, were referred to the next stage that were filed in that year, and as a consequence the number of pending lawsuits will decrease, with positive effects in the backlog rate.

Federal and Labor Courts, in their 1<sup>st</sup> instance courts, obtained a positive balance (more than 100%) as to what regards the indicator of lawsuits referred per new lawsuit: 105.8% and 100.4%, respectively.

### **2.2.8 2<sup>nd</sup> Instance Litigation**

In 2009, around 2.8 million lawsuits were filed in second instance courts. In the same year, 2.5 million lawsuits were found to be pending resolution. Overall, there were 5.2 million lawsuits being processed in second instance courts in 2009.

### **2.2.9 New lawsuits per magistrate and civil servants per "judiciary area" per magistrate (2<sup>nd</sup> Instance)**

Accordingly, in 2009 2.8 million new lawsuits were filed in 2<sup>nd</sup> instance courts (State, Federal and Labor). Thus, there was an average of 1,196 new lawsuits filed per magistrate acting in the 2<sup>nd</sup> instance courts in the Judiciary Power. When we relate the demand for judiciary services to the

amount of active magistrates, we can refine the analysis by adding another element: the number of civil servants of the judiciary area per magistrate. The ratio of civil servants acting in the judiciary area, per magistrate in 2<sup>nd</sup> instance courts was of 13, i.e. there was an average of approximately 13 civil servants directly aiding the magistrates at the end of 2009.

#### **2.2.10 Caseload and backlog rates in 2<sup>nd</sup> instance courts**

Workload is the indicator commonly utilized to measure the amount of lawsuits magistrates have to rule on, on average, every year. Each magistrate of the Brazilian Judiciary in second instance courts had, in 2009, 2,623 lawsuits to rule on, on average. The indicator varies from 1,175 lawsuits in the Labor Courts up to 11,247 lawsuits in Federal Courts, which denotes the very high caseload of the latter in the second instance of the Judiciary Power.

The Backlog Rate is the indicator used to measure, in a given year, the percentage of lawsuits being processed which have been closed in definite (the index is calculated by dividing the number of lawsuits not referred by the sum of new lawsuits and lawsuits pending referral). On average, the backlog rate for lawsuits in the second instance courts was of 51.7% (which means that 51.7% of the lawsuits that were filed accumulated to the next year). The caseload and backlog rates in 2<sup>nd</sup> instance courts per branch of Justice are: 50.5% (State Courts), 67.1% (Federal Courts) and 28.2% (Labor Courts). In 2008, when the old methodology was still used (which did not comprise lawsuits pending referral), the percentages were 42.5% (State Courts), 59.8% (Federal Courts) and 25.2% (Labor Courts). The increases in percentage points were 8% (for State Courts), 7.3% (Federal Courts) and 3% (Labor Courts).

#### **2.2.11 Sentences per magistrate and referred cases per new case**

The number of lawsuit-terminating decisions by magistrates in 2<sup>nd</sup> instance courts is considered an indicator of that magistrate's productivity, that is, how many sentences were rendered in a given period. In 2<sup>nd</sup> instance courts, each Brazilian magistrate rendered, on average, 1,171 sentences in 2009 (the average was 1,025 for State Courts, 3,240 for Federal Courts and 1,116 for Labor Courts).

The indicator “lawsuits referred per new lawsuit in 2<sup>nd</sup> instance courts” is a way of demonstrating, in percentage terms, the amount of lawsuits that were referred in relation to the number of lawsuits that were filed in 2<sup>nd</sup> instance courts, a given year. In other words, if the indicator is more than 1 (or 100%), we understand the result to be positive, for it will mean that more lawsuits, numerically, were referred to the next stage than lawsuits were filed in that year, and as a consequence the number of pending lawsuits will decrease, with positive effects in the backlog rate. It is heartening to note that the Federal and Labor Second Instance Courts have already achieved surpluses, presenting percentages above 100% (101.2% and 102.4%, respectively). State Courts seem to have more trouble handling its stock of lawsuits, their percentage having found to be around 85.8%.

### 3. Main results - a preliminary analysis

---

- Adopting in this edition an even broader examination than that of earlier versions, the *Justice in Numbers* report once more reveals valuable information about the reality of justice in our country to the operators of Law and to society as a whole.
- Examining the extent of all courts and the complexity of the Brazilian Judiciary, large disparities were observed in relation to the levels of inputs, funding and litigation, as well as in relation to new aspects that were investigated for the first time in this edition of 2009 (for example, the recent deployment of electronic lawsuits). Also as an unprecedented initiative, data was collected that revealed new information about the backlog rate in courts and on criminal and fiscal enforcement executions.
- In 2009, as can be seen in Table 4. 1 (next page), total expenditures of the Judiciary (Federal, State and Labor Courts) totaled the amount of R\$ 37.3 billion. As to what regards this amount, State Courts answered for 56% of that amount, Labor Courts for 27% and Federal Courts for 16%. It must be noted that these ratios should be correlated with figures regarding the volume of demand and the procedure for handling lawsuits for each branch of Justice. State Courts are certainly the most often demanded ones, having totaled approximately 18 million new lawsuits in 2009 (the Federal Court and Labor had, in

comparison, a total number of 3 million new lawsuits during the same period). In 2009, it was verified that total expenditures grew in comparison to 2008, rising from R\$ 34.3 billion to R\$ 37.3 billion (current updated values)<sup>10</sup>, reaching a growth average similar to the one observed between 2004 and 2008, which was 9%.

Table 3.1 - Costs and litigation variable, per justice branch - 2009

VARIABLE	Justice Branch		
	State	Federal	Labor
<b>Expenditures</b>			
<b>Total Justice System Expenditures</b>	R\$ 21,043,014,473	R\$ 6,129,836,730	R\$ 10,158,536,903
<b>Expenditure on Human Resources</b>	R\$ 18,780,945,004	R\$ 5,703,302,909	R\$ 9,409,013,675
<b>Litigation</b>			
<b>Total New lawsuits</b>	18,716,125	3,374,214	3,419,124
Total New Lawsuits in 2 <sup>nd</sup> Instance Courts	1,786,222	452,052	538,559
Total New Lawsuits in 1 <sup>st</sup> Instance Courts	12,577,193	948,901	2,880,565
Total New Lawsuits in Special Courts*	3,984,155	1,548,730	na
<b>Total Pending Lawsuits</b>	50,529,385	7,352,908	3,238,595
Total Pending Lawsuits in 2 <sup>nd</sup> Instance Courts	1,308,335	936,622	228,244
Total Pending Lawsuits in 1 <sup>st</sup> Instance Courts	44,741,063	4,133,084	3,010,351
Total Pending Lawsuits in Special Courts*	4,316,015	1,756,571	na
<b>Total Referred Lawsuits</b>	18,362,218	3,369,395	3,403,181
Total Referred Lawsuits in 2 <sup>nd</sup> Instance Courts	1,532,980	457,548	542,225
Total Referred Lawsuits in 1 <sup>st</sup> Instance Courts	12,178,457	1,263,297	2,860,956
Total Referred Lawsuits in Special Courts*	4,332,849	1,378,446	na
<b>Total number of Sentences</b>	17,175,561	2,754,453	3,251,544

Source: Justice in Numbers 2009 Edition

na: not applicable

\* Small Claims Courts

- The figures show that expenditures with the Judiciary Power in Brazil are significant, amounting to 1.2% of the national GDP, but probably are, to some extent, consistent with the increasing demand imposed on such Power, which has been increasingly called upon by Brazilian society since the enactment of the Federal Constitution of 1988. Similarly to what happens with public expenditures in the other spheres of government, it is necessary to perform a themed study of costs of the Judiciary, which are proven to be perfectly legitimate when used with a view to providing better access to justice and lend higher levels of quality and efficiency to the legal services provided to Brazilian citizens.

<sup>10</sup> However, it is important to emphasize that such variation was largely the result of a methodological change determined by CNJ Resolution 76, which mandated that the item “payable remainders” were included under the heading of expenses, which did not happen before.

- While the Brazilian Judiciary involves a great deal of expenditures, it should be noted that it also provides significant revenue to the State. R\$ 19.3 billion were collected in 2009 in revenues from executions of lawsuits, out of which R\$ 9.3 billion came from Federal Courts (48%), R\$ 6.6 billion from State Courts (34%) and R\$ 3.4 billion from Labor Courts (18%). It is worth mentioning that, on average, 54.6% of the resources spent by the Justice System are returned to the State through the collections performed.
- In the end of 2009, the three branches of Justice mobilized 16,108 magistrates and 312,573 civil servants. There were, on average (for the three branches of Justice), eight magistrates per group of 100,000 inhabitants. State Courts have the highest gross numbers: 6 magistrates per group of 100,000 inhabitants, with 70.5% of the judges and 72.8% of the civil servants acting in this branch of the system. In comparison with other countries, the number of magistrates per group of 100,000 inhabitants in Brazil can be considered to be slightly above average. For comparison purposes, Spain had, at the same period, 10.1 magistrates per group of 100,000 inhabitants. Italy has 11, France had 11.9 and Portugal had 17.4 magistrates per group of 100,000 inhabitants in the same period<sup>11</sup>.
- On average, 64% of the professionals composing the work teams in the Judiciary are in-house civil servants, and Labor Courts are those which prioritize the hiring of such workers the most (75%), followed by State Courts and Federal Courts (62% and 56% of in-house civil servants, respectively). As to what regards the historic background of hiring, the number of magistrates has risen 3% and the number of civil servants 7% from 2008 to 2009. Such data poses challenges for the judiciary sector policies which aim to manage the size, composition, distribution and growth of the number of magistrates and civil servants in a strategic and efficient fashion in the Judiciary.
- Magistrates and civil servants dealt, in 2009, with the filing of 25.5 million lawsuits in their courts. Still, the “new lawsuits” variable presented an increase of only 0.5% compared to 2008. Around 73% of the new lawsuits (18.7 million) were filed in State Courts. In Federal Courts and Labor Courts this percentage is less expressive, representing around 13% in both spheres. As to what regards the indicator “new lawsuits per group of 100,000 inhabitants”, it could be observed that, on average, the demand for Justice in Brazil was of 11,865

---

<sup>11</sup> See Report *European Judicial Systems* (2008), p. 110, edited by the *Commission for the Efficiency of Justice* – CEPEJ.

lawsuits per group of 100,000 inhabitants. Comparing the three branches of Justice, one can confirm that State Courts are the most frequently sought source of redress by the population, with 8,859 lawsuits per group of 100,000 inhabitants. Federal Courts and Labor Courts present much lower values, albeit similar, of 1,598 and 1,409 lawsuits per group of 100,000 inhabitants, respectively.

- In consolidating data from new lawsuits, it was positive to verify that, in comparison with 2008, there was a decrease of 12.75% in the amount of “new lawsuits per magistrate”, made possible due to the increase verified in the number of magistrates (3%), compared to the small increase in the number of lawsuits (0.5%) from 2008 to 2009. This variation went in the opposite direction to that of the historical trend observed in the period 2004-2008, which indicated an average growth of 1.9% per year. This could perhaps signal the beginning of a reversal in the increase of new cases in Brazil, possibly converging towards stabilization. If such trend is confirmed for the next year, it would be valid to better investigate the causes of such phenomenon.
- In the three spheres of Justice here comprised, around 86.6 million lawsuits have been somehow processed in 2009. This number represents the sum of new lawsuits and previously pending ones. It is worth mentioning that of the total number of lawsuits in process, more than 70% were filed before 2009 (i.e. were already pending in early 2009). According to new criteria established under CNJ Resolution 76 - and adopted in this version of *Justice in Numbers* - lawsuits pending referral started being considered in the numbers, which meant that the number of lawsuits being processed increased 19.5% from 2008 to 2009. A new methodology prioritized the analysis of the input and output lawsuit flow in the judiciary from the perspective of the citizen who awaits the complete resolution of their dispute, detracting from focusing only on productivity of the magistrate (by the number sentences rendered). For comparison purposes, according to the previous methodology<sup>12</sup> a total number of 76.2 million lawsuits being processed would have been informed for 2009, which would generate an increase of only 5% in relation to 2008.
- The backlog rate, traditionally calculated in previous editions of *Justice in Number*, seeks to measure if the Judiciary can swiftly decide on society’s demands, that is, if the new claims

---

<sup>12</sup> Lawsuit in processing estimate = New Lawsuits 2009 + Lawsuits Pending Sentencing estimate, where: lawsuit pending sentences estimate = New Lawsuits 2008 + Pending Lawsuits 2008 - Sentences 2008.

and pending lawsuits from previous periods are concluded throughout the year<sup>13</sup>. In 2009, the overall backlog rate of the Brazilian Judiciary was 71%, a percentage that has remained stable since 2004. State courts had a backlog rate of 73%, and are largely responsible for the very pronounced overall rate, since other branches of justice were below the measured average. Labor Courts, which presented a backlog rate of 49%, are worth of highlight, being the branch of the Judiciary which most promptly meets the plaintiffs' claims<sup>14</sup>.

- Analyzing data by level of jurisdiction, one can verify that, in all spheres of Justice, the main bottleneck is the total number of lawsuits not finalized in first instance courts. Out of 100 lawsuits being processed, only 24 were finalized before the end of the year. Highlight is here given to State Courts, which presented backlog rates of almost 80% in 2009.
- In an innovative initiative in comparison with previous editions, this edition of *Justice in Numbers* brought the differentiated calculation of backlog rates for pre-trial and execution stage lawsuits. By means of this distinction, it was possible to verify that the backlog rate for pre-trial lawsuits in State Courts (1<sup>st</sup> instance) totaled 62.1% in 2009,<sup>15</sup> a number that is close to that of 1<sup>st</sup> instance Federal Courts (58%). Regarding the backlog rate in execution stage lawsuits, we observe that congestion is far superior to that of pre-trial lawsuits, and on average, the indicator reached, in Federal and State Courts (1<sup>st</sup> instance), the values of 81% and 90%, respectively.
- Although the challenge of minimizing the percentage of backlog rates in the judiciary remains, as it is still quite high, data from 2009 showed that the Brazilian Justice system is closer to achieving the goal of referring more lawsuits than those are filed in the same year at the judiciary - this figure reached 99% in 2009.
- Also within the indicators of *Justice in Numbers*, "lawsuit-terminating decisions by magistrates" reflects the ability of magistrates to rule and decide on lawsuits during a given year. On average, each magistrate ruled on 1,439 lawsuits on 2009, which represented an increase of 3.6% in relation to 2008 data. Globally, analyzing the history of

<sup>13</sup> The index is calculated by dividing the number of lawsuits not referred by the sum of new lawsuits and lawsuits pending referral). To be considered referred, the lawsuit must be: a) sent to other competent judicial institutions, if those are related to other Courts; b) sent for superior or inferior instances; c) closed definitely. Lawsuits which are sent for the fulfillment of affidavits and sent for loading/analysis are not considered to be referred.

<sup>14</sup> Labor Courts had congestion rates of 46.35 in 2004, 48.1% in 2005, 49% in 2006, 46.7% in 2007 and 44.6% in 2008.

<sup>15</sup> That is, 32.8% of the lawsuits processed during 2009 were referred.

the numbers collected from 2004 to 2008, this percentage has remained stable, in the 4% level, due, overall, to State Courts, which have been the main responsible factor for the increase in average productivity of magistrates. Data from Labor Courts and Federal Courts point out to decreases of 16.9% and 1.4% in the average number of decisions per magistrate, respectively.

- This edition also brings new data regarding criminal cases, which had never been subjected to collection of data specifically to that end before. For the first time the amount of new criminal lawsuits in first and second instance courts, as well as in execution lawsuits, were unveiled. In 2009, the State and Federal Courts received 3 million new criminal claims in first instance courts, which represented 16.2% of the total number of new lawsuits in those branches of Justice. Also, 239,000 new criminal lawsuit executions were initiated in State Courts and more than 5,000 others in Federal Courts, adding to a total of 244,000 new criminal lawsuit executions.
- The 2009 edition of *Justice in Numbers* also innovated by bringing, for the first time, data on the rate of electronic lawsuit filing, with a view to investigating the level of computer technology adherence of the Brazilian Justice System and the adoption of new technologies into lawsuit processing methodologies. The indicator is obtained from division of new electronic lawsuits by the number of new lawsuits in instances of Justice (2nd Instance, 1<sup>st</sup> Instance, Appellate Courts and Special Courts). It has been possible to observe that Federal Courts have been working in a balanced way in the implementation of virtual lawsuits in their courts, with lawsuit virtualization indices ranging from 52.4% (Federal Court of the 3rd Region) to 69.1% (Federal Court of the 5th Region). It should be emphasized in particular that the Regional Federal Court of the 1<sup>st</sup> Region reached the reached a 97.4% virtualization rate for new lawsuits in the 1<sup>st</sup> instance courts. Also worth mentioning is the low response rate for this indicator in the Labor Courts, which may signal for a slow initial adoption of electronic labor lawsuits.
- Also within the range of new initiatives in this edition of *Justice in Numbers*, we must mention the unprecedented scenario here depicted for fiscal enforcement executions in Brazil, which revealed relevant information to help understand the Brazilian judicial delays. Out of the 86.6 million lawsuits being processed before the Brazilian courts in 2009, 26.9 million were fiscal enforcement proceedings, constituting approximately one third of the



total. It is noteworthy that 89% of these fiscal enforcement lawsuits (i.e. 23.9 million) were being processed only at State Courts, which contributed to create a bottleneck in this branch of justice. It is important to mention that out of 50.5 million lawsuits pending resolution in State Courts, approximately 20.7 million (equivalent to 41%) were fiscal enforcement executions.

- Disregarding pre-trial lawsuits and considering only lawsuits which are currently at the execution stage<sup>16</sup> in the three branches of law, the amount of fiscal enforcement execution lawsuits becomes much more representative, representing 67% of the total. It should be noted that in Federal Courts, and also for lawsuits in execution stage, the percentage of fiscal enforcement procedures reached 75% of lawsuits being processed in the 2009 fiscal year.
- From data relating to fiscal enforcement execution lawsuits, it is observed that the struggle against delays in the Brazilian Justice system must necessarily involve a specific debate on the subject of fiscal enforcement procedures, as the confrontation of such issue has the potential to solve one of the main bottlenecks found in Brazilian courts.
- The remarks above reflect only a first glimpse into the vast storehouse of data brought forward by *Justice in Numbers 2009*. Second to providing a framework of the current scenario of the Judiciary in Brazil, the main goal of *Justice in Numbers* seems to be motivating society in general and the legal community in particular to look into this rich set of information, aiming to promote the debate of new directions and efforts for the improvement and modernization of Brazilian courts.

---

<sup>16</sup> Criminal enforcement executions were not considered.

Table 3.2 - Indicators used in the *Justice in Numbers Summarized Report*, per branch of Justice and in Total

Indicator	Justice Branch			Total
	State	Federal	Labor	
<b>Expenditures</b>				
Total Justice System Expenditures in relation to GDP	0,67%	0,20%	0,32%	1,19%
Total Justice System Expenditures per Inhabitant	R\$ 110	R\$ 32	R\$ 53	R\$ 195
Total Justice System Expenditures per New LawsUIT	R\$ 1.124	R\$ 1.817	R\$ 2.971	R\$ 1.463
Total Justice System Expenditures per Work Force	R\$ 92.475	R\$ 151.586	R\$ 227.867	R\$ 119.433
Total Justice System Expenditures per Magistrate	R\$ 1.852.215	R\$ 3.954.733	R\$ 3.177.522	R\$ 2.317.568
Total Human Resources Expenditures in Relation to Total Justice System Expenditures	89,3%	93,0%	95,1%	90,8%
<b>Revenues</b>				
Revenues in relation to Total Justice System Expenditures	31,6%	209,2%	34,3%	51,8%
<b>Human Resources</b>				
Index of Civil Servants of the Judiciary Area	78,4%	66,7%	76,3%	75,9%
Magistrates per 100,000 inhabitants	5,9	0,8	1,7	8,4
Work Force per 100,000 inhabitants	119	21	23	163
<b>General Litigation Info</b>				
New Lawsuits per 100,000 inhabitants	8.859	1.598	1.409	11.865
<b>Litigation in 2<sup>nd</sup> Instance Courts</b>				
New Lawsuits per Magistrate in 2 <sup>nd</sup> Instance Courts	1,083	3,252	1,010	1,196
Civil Servants of the Judiciary Area per Magistrate in 2 <sup>nd</sup> Instance Courts	11	25	14	13
Workload per Magistrates in 2 <sup>nd</sup> Instance Courts	2,180	11,247	1,715	2,623
Backlog Rate in 2 <sup>nd</sup> Instance Courts	50.5%	67.1%	28.2%	51.7%
Lawsuit-terminating Decisions per Magistrate in 2 <sup>nd</sup> Instance Courts	1,025	3,240	1,116	1,180
Index of Referred Lawsuits per New LawsUIT in 2 <sup>nd</sup> Instance Courts	85.8%	101.2%	102.4%	91.5%
<b>Litigation in 1<sup>st</sup> Instance Courts</b>				
New Lawsuits per Magistrate in 1 <sup>st</sup> Instance Courts	1,276	663	810	1,120
Civil Servants of the Judiciary Area per Magistrate in 1 <sup>st</sup> Instance Courts	13	10	7	12
Workload of Magistrates in 1 <sup>st</sup> Instance Courts	6,844	4,576	2,390	5,662
Backlog Rate for Pre-trial Lawsuits in 1 <sup>st</sup> Instance Courts	67.2%	57.0%	37.4%	63.4%
Backlog Rate for Execution-stage Lawsuits in 1 <sup>st</sup> Instance Courts	87.7%	82.0%	66.8%	85.7%
Sentences Rendered per Magistrate in 1 <sup>st</sup> Instance Courts	1,301	717	997	1,181
Rate of Lawsuits referred by New LawsUIT in 1 <sup>st</sup> Instance Courts	96.8%	133.1%	100.4%	99.6%

Source: Justice in Numbers 2009 Edition

Table 3.3 - Variables utilized in the *Justice in Numbers Summarized Report*, per branch of Justice and in Total

VARIABLE	Justice Branch			Total
	State	Federal	Labor	
<b>Expenditures and Revenues</b>				
<b>Total Justice System Expenditures</b>	R\$ 21,043,014,473	R\$ 6,129,836,730	R\$ 10,158,536,903	R\$ 37,331,388,106
Expenditures with Human Resources	R\$ 18,780,945,004	R\$ 5,703,302,909	R\$ 9,409,013,675	R\$ 33,893,261,588
<b>Total Revenue</b>	R\$ 6,639,734,262	R\$ 9,290,499,356	R\$ 3,392,267,944	R\$ 19,322,501,562
<b>Human Resources</b>				
<b>Total Number of Magistrates</b>	11,361	1,550	3,197	16,108
Total Number of Magistrates in 2 <sup>nd</sup> Instance Courts	1,649	139	533	2,321
Total number of Magistrates in 1 <sup>st</sup> instance and Special Courts	9,659	1,360	2,664	13,683
<b>Total Number of Civil Servants</b>	227,554	40,438	44,581	312,573
Total Number of In-House Civil Servants	142,393	23,172	33,503	199,068
Total Number of Civil Servants Allocated from other Public Institutions	1,194	558	1,239	2,991
Total Number of Civil Servants Requested from other Public Institutions	8,129	3,751	3,263	15,143
Total Outsourced Workers	11,126	164	205	11,495
<b>Total Number of Civil Servants in the Judiciary Area</b>	143,211	17,682	27,271	188,164
<b>Total Work Force</b>	238,915	41,988	47,778	328,681
<b>Litigation</b>				
<b>Total new lawsuits</b>	18,716,125	3,374,214	3,419,124	25,509,463
Total New Lawsuits in 2 <sup>nd</sup> Instance Courts	1,786,222	452,052	538,559	2,776,833
Total New Lawsuits in 1 <sup>st</sup> Instance Courts	12,577,193	948,901	2,880,565	16,406,659
Total New Lawsuits in Special Courts	3,984,155	1,548,730	na	5,532,885
<b>Total Pending Lawsuits</b>	50,529,385	7,352,908	3,238,595	61,120,888
Total Pending Lawsuits in 2 <sup>nd</sup> Instance Courts	1,308,335	936,622	228,244	2,473,201
Total Pending Lawsuits in 1 <sup>st</sup> Instance Courts	44,741,063	4,133,084	3,010,351	51,884,498
Total Pending Lawsuits in Special Courts	4,316,015	1,756,571	na	6,072,586
<b>Total Referred Lawsuits</b>	18,362,218	3,369,395	3,403,181	25,134,794
Total Referred Lawsuits in 2 <sup>nd</sup> Instance Courts	1,532,980	457,548	542,225	2,532,753
Total Referred Lawsuits in 1 <sup>st</sup> Instance Courts	12,178,457	1,263,297	2,860,956	16,302,710
Total Referred Lawsuits in Special Courts	4,332,849	1,378,446	na	5,711,295
<b>Total number of Sentences</b>	17,175,561	2,754,453	3,251,544	23,181,558

Source: Justice in Numbers 2009 Edition

na: not applicable