

TRANSPARENCY, ADMINISTRATION AND INTERNAL AFFAIRS IN THE BRAZILIAN COURTS

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Introduction

After the collapse of the South American dictatorships of the 60's and 70's, the process of reconstruction and strengthening of the democratic republican institutions in the Executive, Legislative and Judicial Branches began. This process, still in course, implies the restoration of constitutional guarantees, their improvement regarding the criteria of quality and promptness, and the publicity of their mechanisms and of their operational and administrative methods and strategies.

In the Brazilian civil service, joining modernity meant to abandon the bureaucratic model adopted since the first days of the

Republic, at the end of the 19th century, which, on its turn, represented a step forward in relation to the patrimonial administration of the monarchic period. The bureaucratic model already conceived the existence of a professional hierarchy of impersonal character, created to curb the blatant and overspread nepotism, which prevented the majority of citizens from benefiting from the common good.

However, the bureaucratic model was not sufficient to assert the sovereignty of the people, as theorized by Jean-Jacques Rousseau in his *Social Contract*. As a consequence, not only nepotism, but also other vices like corruption, still exists.

Without forsaking the hierarchical-bureaucratic aspect, organizations in the administrative modernity have laid claim to another management criterion: the functional, essential for the construction of Nation States and for industrial development. By adopting this model, in a constantly changing society with complex relations, public companies have incorporated rationalization and the adoption of norms and practices compatible with technical efficiency and impersonality.

In 1995, began in Brazil the Public Administration Reform, which represented a step forward. It was carried out by the Ministry of Federal Administration and State Reform, with the promulgation of the Plan of State Reform and the submission of the Public Administration Amendment to the National Congress, which in 1998 would become the 19th Constitutional Amendment. At the same time, the states and municipalities also initiated their own reforms.

As exposed by Minister Luiz Carlos Bresser-Pereira, who promoted the reform, its main goal was: "To contribute to the creation of a solid and efficient state apparatus in Brazil. It covers three aspects: a) an institutional-legal aspect, aiming at the decentralization of the organizational structure of the state apparatus by creating new organizational formats, such as executive and regulatory agencies, and social organizations; b) an administrative aspect, characterized by a greater autonomy and the introduction of three new forms of administrative liability – the result-oriented management, the

excellence-oriented competition, and the social control – partially replacing rigid regulations, such as supervising and auditing, which characterize the bureaucratic administration; and c) a cultural aspect of mentality change, aiming at moving from a widespread mistrust, which is the feature of a bureaucratic administration, to a greater confidence, albeit limited, characteristic of a managerial administration”¹.

Brazil was the first developing country to take this initiative, less than ten years after England, Australia and New Zealand initiated their reforms. Since then, the Public Administration Reform of 1995 has been progressing, mainly at state and municipal level, seeking to render the Brazilian State a managerial one.

The ideal of public management, at the time of the adoption of the managerial model, is based on the following assumptions: a) focus on the citizen as the target of governmental action; b) development of a managerial culture in public organizations; c) continuous improvement in the provision of public services; and d) change of course for the mechanisms of state control, with focus on results.

Prior to the description of these assumptions, new directives for the public administration, corresponding to the managerial model, had already been established by the Brazilian Federal Constitution of 1988, in its Article 37: “The governmental entities and entities owned by the Government in any of the powers of the Union, the states, the Federal District and the Municipalities shall obey the principles of lawfulness, impersonality, morality, publicity, and efficiency (...)”.

Thus, the discussion over the role of the State in providing prompt responses for the demands of the people and the promotion of social welfare expanded.

¹ Available in Portuguese at: < www.bresserpereira.org.br>.

1. The transparency in the public administration after the “Citizen Constitution”

The major innovation in Brazil’s political and legal scenarios was the promulgation of the Federal Constitution of 1988. Dubbed the “Citizen Constitution”, the current Constitution, in the sole paragraph of its Article 1, establishes that:

Art. 1...

Sole paragraph. All power emanates from the people, who exercise it by means of elected representatives or directly, as provided by this Constitution.

As a result of this bestowal of power upon the people, the competent bodies must perform their duties in a transparent way, as well as provide reliable data of their administration, so that the people have means to check the regular exercise of their Powers. Such rule applies to the Executive, the Legislative, and the Judicial Branches.

In this sense, it was promulgated, in 2009, the Complementary Law 131, known as “Transparency Law”, which modified the Complementary Law 101 (“Fiscal Responsibility Law”, 2000) about transparency related to the fiscal management. The new law determined the publication, in real time, of detailed information about the financial and budgetary execution of the Union, States, the Federal District and Municipalities.

More recently, there was a new progress in this sense with the promulgation, in 2011, of the Law 12.527 (“Information Access Law”), which regulated the citizens’ participation in the administration of public resources, providing access to information.

With this law, the State Powers became obligated to providing information and answering consultations – inclusively producing information, when it is non-existent – in order to guarantee transparency in their activities and, consequently, a public control of them. This measure strengthened the use of citizenship, as foreseen in the Federal Constitution.

2. The Judiciary and the Federal Constitution of 1988

The Federal Constitution of 1988 emphasized the dignity of the human person, and, besides dealing with civil, political, and social rights, also created mechanisms to make them accessible to citizens. The text ensured several constitutional guarantees, aiming to render the fundamental rights more effective, allowing the assistance of the Judiciary whenever there is a violation or a threat of violation of rights.

The Constitution established the following guarantees to the Judiciary Power:

- Administrative and financial autonomy;
- Organization of its auxiliary activities;
- Elaboration of its standing order;
- Election for the directive bodies and for the court president's office.

The Judiciary was the most strengthened Branch by the Constitution of 1988, becoming even more present in the citizens' everyday life, dealing with an increasing number of cases – more than 92 million currently going on in the country, 20 million only in the State of São Paulo.

As a result, the application of the new principles of the public administration in the Judiciary must necessarily result in efficiency, promptness, reliance, and increasing transparency for the citizen.

3. Systems of government and court management

There are two major systems: the Anglo-American, or common law, based on the criteria of independence and autonomy of judicial bodies, in which the administration of courts are left to bodies of higher rank; and the continental-European system, in which the duties of selecting, appointing and supervising judges are performed by a body of the Executive Branch, generally the Ministries of Justice.

Regarding Latin America, most countries have adopted a mixed system, with both Anglo-American and European influence, establishing the so-called *Consejos de Magistratura ou de Judicatura* (Judicial Councils). With the widespread creation of court

administration bodies, responsible for ensuring judicial independence, many Latin-American countries have already introduced such bodies in their Constitutions: Argentina (1853, 1994 Reform, art. 114); Bolivia (1967, 1994 Reform, arts. 122 and 123); Colombia (1991, arts. 254-257); Ecuador (1978, 1992 Reform, arts. 99 and 100, and later, arts. 124 and 125); El Salvador (1983, 1991 Reform, art. 87); Mexico (1917, 1994 and 1996 Reforms, arts. 99 and 100); Paraguay (1992, arts. 162-264); Peru (1993, arts. 150-157); and Venezuela (1961, art. 217).

No matter how different the models adopted by each nation are, it is possible to observe a common point, allowing the description of the Judicial Council as collegial courts of plural composition, integrated in the structure of the Judiciary, and whose primary function is to administer judicial bodies, ensuring their autonomy and independence. In the Brazilian case, it was created the *Conselho Nacional de Justiça* - CNJ (National Council of Justice).

Established by the 45th Constitutional Amendment from 2004, known as “Judiciary Reform”, the National Council of Justice is an internal administrative body of the Judiciary².

The Council is provided by the Constitution in Article 92, section I-A, as a part of the Judiciary Branch dealing with the management of national courts, performing planning, coordination, and improvement duties for the public service in delivering justice. Its main functions are:

- To watch over the autonomy of the Judiciary and the observance of the Judiciary Members Statute, being allowed to perform regulatory acts within its jurisdiction, or issue advices regarding measures to be taken;
- To watch over the observance of Article 37 of the Constitution and examine, *ex-officio* or upon request, the legitimacy of administrative acts performed by members or bodies of the Judiciary, being able to annul or review them or to set a deadline, so that the necessary measures for the

² Gilmar Ferreira Mendes, *Curso de Direito Constitucional*. 7. ed. São Paulo, Saraiva, 2012.

strict enforcement of the law can be taken, without prejudice to the jurisdiction of the Union's Audit Court;

- To receive and examine complaints against members or bodies of the Judiciary, including against providers of auxiliary services, personnel, and providers of notary and registry services acting, either independently or on behalf of the Public Administration, without prejudice to the disciplinary and correction jurisdiction of the courts, being able to call up cases dealing with ongoing disciplinary proceedings and determine the relocation, discharge or normal retirement, as well as impose other administrative sanctions, with observance to the due process;
- To lodge a claim before the Public Prosecution Department (known in Brazil as Public Ministry), in case of crimes against the Public Administration or abuse of power;
- To review, *ex-officio* or upon request, disciplinary proceedings of judges and court members decided less than one year;
- To draft a semiannual statistical report on proceedings and decisions passed, by each state, in the different bodies of the Judiciary;
- To draft an annual report, proposing measures which are deemed necessary, about the situation of the Judiciary in the country and the activities of the Council, which must be contained in the chief justice's message to be submitted to the National Congress, on occasion of the opening of the legislature.

4. The organization of the Judiciary in Brazil

Concerning its organization, the Brazilian Judiciary is divided into Federal Justice and State Justice. There are also special courts, which judge special matters, determined by the Federal Constitution. These matters concern military, electoral and labor issues.

In that way, the Brazilian court system has as its bodies the Superior Courts (the Supreme Federal Court, the highest court in Brazil, and the Superior Court of Justice), the Federal Regional Courts, the State Courts and the State judges, and the bodies related to the specialized Justice: the courts and judges of labor, military and electoral matters.

The Supreme Federal Court and the Superior Court of Justice have the power over the Federal, the State Justice. In constitutional matters, it is possible to appeal to the Supreme Federal Court.

The Judiciary in Brazil has also an administrative body, the aforementioned National Council of Justice.

4.1. State Justice

The State Justice has as its function to suit and judge any case that is not under the Federal Justice and the specialized Justice. It is composed by Judges and Justices and covers also Small Claims Courts.

As established by the Federal Constitution, each State and the Federal District have authority to organize their own courts. In the ruling bodies of the State Justice, there are the president, the vice-president, the Chair of the Judicial Council, the Dean, the presidents of the sections of Criminal Law, Public Law, and Private Law, which integrate the Superior Council of Judges.

There is also the Special Body. The Judiciary Reform included in the Federal Constitution a rule related to this subject. According to this norm, every court composed by more than 25 justices, can constitute a special body to exercise administrative and jurisdictional activities by the entire court. This special body has to be composed, at least, by 11 justices and have a maximum of 20. Half of them must be elected by the entire court and half of them will take this office by age.

The biggest Court of Justice in Brazil and one of the biggest in the world is the São Paulo State Court of Justice, which is composed by 2400 judges and more than 43 thousands civil servants.

4.2. The Judge

The Brazilian judge starts his/her carrier by means of a civil servant examination. As stated in the Federal Constitution, he/she has several guarantees, such as the right of serving for life, irrevocability, the maintenance of their wages. These guarantees assure them absolute independence.

In Brazil, different from other countries, the judge is the manager of his judicial unit. Because of this, he needs to develop several administrative activities. By this reason, Courts have invested in the development of the culture of the manager judge, since the beginning of carrier. Courts have promoted congresses and symposiums about this subject, such as the "Formation in Judiciary Policies and Management", regularly offered by the São Paulo School of Judges, the academic body of the São Paulo State Court of Justice.

5. Transparency as a new paradigm for legal judgment

The hermetic character, frequently associated with the judicial activity, has become incompatible with the principles of the Federal Constitution of 1988. Once asserted the judge's role as an agent of social peace and promoter of the welfare of individuals in society, his function began to be ruled by its effects in community.

If the jurisdiction no longer applies exclusively to the private sphere, since its effects span to society as a whole, it is up to judge to observe the social purpose of his work. As Political Science Prof. Maria Tereza Sadek states: "If a person needs to take an imported medicine and takes legal action to compel the State to pay for it, the decision concerns not only that specific individual. The Government's appeals are limited, and if the judge decided that the State must pay for it, then this cost will be deduced from the budget. This means that it will affect public policies, like or not, for good or for evil"³.

The new paradigm of legal judgment consists, according to the current president of the São Paulo State Court of Justice, Justice José

³ In interview for the newspaper *O Judiciário Paulista*, of the São Paulo State Court of Justice, ed. 11, August, 2007, p. 15.

Renato Nalini, in “looking to the individual subject to the jurisdiction as a client who must be well waited on, who must be satisfied”. And more: “Our struggle is to be efficient, delivering justice in a quick way”⁴.

This paradigm is in line with modern society, which demands from the public service not only the publicity of their administrative acts, but also, and mainly, efficiency, transparency and administrative morality – reflected in the ethics of the public service.

In this line of thought, the idea of transparency in legal judgment consists in enabling the citizen to perform the role of inspector of what is being done on his behalf, which is a basic premise of the Rule of Law and an essential factor for the constant improvement of the public service.

5.1. Applied transparency to the delivery of legal judgment

Since the creation of the National Council of Justice and its basic guidelines to rationalize resources and standardize administrative proceedings, the institutional policy of delivering legal judgment has privileged the technological upgrade, the adoption of new management methods and administrative tools, and the gradual opening of institutional frameworks in Courts across the country.

Among the strategic activities that seek the recognition of the Judicial Branch by society as an “effective instrument for Justice, equity and social peace”⁵, are the rationalization of resources, the standardization of proceedings, and most importantly, transparency, which is the only thing that makes accountability, a concept derived from the constitutional of publicity, possible.

The strategy of a quick and simple Justice, adopted by Brazilian Small Claims Courts, Mobile Courts and Judicial Centers for Dispute Resolution and Citizenship (*Centros Judiciários de Solução de Conflitos e*

⁴ In interview for the *Diálogos & Debates Review*, of the São Paulo School of Judges, ed. 46, June, 2012, p. 11.

⁵ View of the Brazilian Judiciary, according to the National Council of Justice. Available at: <<http://www.cnj.jus.br/gestao-e-planejamento/gestao-e-planejamento-do-judiciario>>.

Cidadania – Cejuscs) does not operate in a way that goes against the people subject to its jurisdiction, picking conflicts when they appear in order to solve them, contributing to decrease the number of claims in the so-called “Common Justice”. It has also a clearly didactical purpose, conveying ethical notions to the common citizen in order to disseminate and consolidate a legal culture of the Rule of Law. The space where the practical application of the law occurs is characterized by a lack of formality; the Judge close to the common people.

The modern judicial administration embraces the democratic ideal of the common citizen, no longer as a simple recipient of the public service, but as a partner, an interlocutor and beneficiary of those services, for that is the reason of its existence. The preventive nature of the new management model is well demonstrated by the activities conducted at the *Cejuscs* and at the Mobile Courts. The latter, consisting in the mobile delivery of legal judgment, in accordance with social demands, shifts the public services from the court-house to the outskirts of the cities, resulting in a simpler and quicker way to solve disputes and unburden the Judiciary.

The efforts to improve the delivery of legal judgment to the citizen has motivated constant and increasing investments in capacity building of judges and civil servants of the Judiciary, resulting in a growing self-esteem of its employees.

The concern with the professional training of judges and civil servants of the Judiciary was one of the major issues of the 45th Constitutional Amendment, which emphasized the role of the Judicial Schools across the country, establishing a closer contact with the people, constantly improved by courses open to the community and various activities that provide the approach and interaction of the judge with society.

5.2. Transparency as an improvement tool of legal service

The concept of transparency applied to the modern delivery of legal judgment has a didactical nature and enlightens two human spheres: the internal – judges and civil servants – and the external –

common citizen. Concerning civil servants, transparency seeks to make evident the need to change the work routine and convey the goals and new methods to reach the desired results by the Public Administration. Concerning citizens, that concept seeks to open multiple channels to inform about management of resources, goals, programs and methods of the Judiciary.

With the objective of guaranteeing social control over courts' activities and, consequently, promoting more efficient planning and management policies, the National Council of Justice develops several initiatives in order to ensure transparency and access to information for the citizens.

Among them, it can be mentioned the "Justiça em Números" (Justice in Numbers), delivered every year and that presents an overview of the Brazilian court system. Its data are furnished by courts and concern the number of lawsuits, the number of judges and the relation between judges and population. This report also shows information about incomes and spending of each court, how many lawsuits must be judged, and the workload of each judge.

Among the national targets, established by the National Council of Justice, regarding the Judiciary, there is the implementation, by the courts, of at least one program oriented to explain to the public the functioning of the Brazilian court system.

In this sense, in 2011, the Council started a campaign to encourage citizens to follow and watch over courts in Brazil. In this sense, it was created the "Portal da Transparência" (Transparency Website), which shows financial and budgetary data concerning the Judiciary.

Among the measures taken by CNJ to efficiently regulate the actions to be adopted by the Judiciary, is the editing of Resolutions that alter and regulate the work of the Brazilian judges. Among these resolutions, it is worth mentioning the following: 79, 83, 102 and 151.

Resolution 79 deals with transparency in the disclosure of the Judiciary's activities, in addition to other regulations. This Resolution was passed focusing on publicity as one of the main principles ruling the Public Administration within the Constitutional Branches of the Republic. That principle encompasses transparency, accessibility and

integrity of information concerning administrative and financial management of public affairs.

Resolution 79 establishes the principles to which the activities of the Brazilian Judiciary must subject. The publications and other forms of communication must have, above all, informative, educational or social orientation character. They can be conveyed by any media, preferably electronic instead of printed. They must guarantee free access of any person to full, exact and reliable information related to administrative, financial and budgetary issues of Judicial Courts and Councils.

In addition to that, Resolution 79 determines that Judicial Courts' websites must have an information area named "Transparency", which will be fed with financial and budgetary data, connected with the informational system of the financial and control administration. Article 3 adds:

Art. 3: Every Judicial Court shall keep a service desk for the citizen, in order to receive suggestions, critics and complaints about its administrative and jurisdictional activities, preferably by its own internal affairs.

Resolution 83 deals with acquisition, rent and use of vehicles by the Brazilian Judiciary, in addition to other measures. On administrative transparency, another central point is found in the 5th article:

Art. 5: It is mandatory the disclosure, by Courts and Councils, until January 31 of each year, of the list of official vehicles in use, indicating the numbers in each of the categories defined on Article 2, on the Official Justice Gazette on which they will publish their activities and in a permanent space, with easy access from the website or respective web portal on the world wide web.

That article is consistent with the principle of publicity.

On its turn, Resolution 102 regulates the disclosure of information regarding budgetary and financial management, personnel from courts and councils and their respective wages, bearing in mind that the Public Administration is governed by the principles established by Article 37 of the Federal Constitution, and that the disclosure of information about budgetary and financial management of courts and councils promotes transparency, being a valuable mechanism of external social control (accountability).

Finally, Resolution 151 establishes only a change in the wording of section VI, Article 3, of the Resolution 102.

This section establishes provisions about salaries, accommodation fees, compensations, deductions and any other form of remuneration granted to judges and civil servants by all means, including seasonal contributors and partners, with nominal identification of the beneficiary and of the sector where the services are offered. All must be published on the website of the Court and mandatorily submitted to the National Council of Justice.

To exemplify the enforcement of those Resolutions, anyone is entitled to check the “Transparency” area at the web site of the São Paulo State Court of Justice⁶, which makes available thorough data on contracts, budgetary and financial management, public biddings, list of official vehicles, annual budget, First Instance’s productivity, and fiscal management report.

São Paulo State Court of Justice develops various activities and programs aiming to achieve transparency while delivering legal service:

- Implementation of digital legal process, which allows online access to the parties and its lawyers to the judicial records;
- Online shopping (economy of resources and transparency of proceedings);

⁶ Available at: <<http://www.tjsp.jus.br/Institucional/CanaisComunicacao/Transparencia/Default.aspx?f=2>>.

- It carries out public consultations, research and workshops, involving judges and other judicial civil servants, in order to establish and validate targets of its strategic planning;
- Public Hearings, conducted by the Internal Affairs Division in 2005, to hear complaints, critics and suggestions about services provided by Registries and Courts of Records;
- It sets up channels of dialogue (internet or intranet), in order to listen to the opinion of its users and to detect its weaknesses and other aspects that should or can be improved. In addition to an ombudsman service, open to the public in general, there is also the “Direct channel with the president”, to which every judge, justice or judicial civil servant has access;
- Educational programs on the basic concepts of Justice and Citizenship and the work of the Judicial Branch to Primary and Secondary School students as well as to college students. The project is known as “Justice and Citizenship can be learn at school” (“Justiça e cidadania também se aprendem na escola”) and “Comptroller’s Office at school” (“Corregedoria na escola”);
- Publication of periodic management reports to the people, public presentation of the Chair of the Court of Justice and frequent debates with Judges and public civil servants across São Paulo State, which characterizes it as a “participative administration”;
- Preparation of various books directed to the community, encompassing themes like domestic violence, narcotics, settlement of the parties, amongst others, which uses cartoons and comics as didactic resources to broaden the access to the people.

5.3. Transparency of the Judiciary in the media

The increasing disclosure of information by the press about the work of the Judiciary has also been an important factor for the broadening of transparency in the last years.

Although it is difficult for the press to explain to the common citizens issues concerning the Judiciary – mainly because their lack of knowledge about specific subjects – the greater dialogue between judges and press professionals has provided an increasing dissemination of information about the role of the Judiciary in consolidating democracy.

The communication of the Courts and Judges with the citizen is one out of four points of the “Appreciation Program – Appreciated Judge, Justice fulfilled”, outlined by the CNJ, in July 2013. The program states that “the Judiciary relies upon an ethical, humanistic and technical content that must be recognized by society, seeking its constant strengthening”, as well as “the approach of the Judicial Branch to the citizen, receiver of its activities, dictated by its didactical duty that the State has on the construction of a more just and caring society”.

The “Communication” theme consists of 19 propositions aiming to a closer contact with the citizen, in order to inform him/her about the legal paths and proceedings of the Judiciary, seeking to render the communication between judges and society easier. Proposition no. 1 is “to encourage the live broadcast of trial sessions in every body of the Judiciary”, having the following reason:

The Federal Constitution of 1988 established the principle of Public Transparency as a requirement of democracy. The creation of Justice TV, in 2002, brought on the broadcast of live court trial sessions at the Supreme Federal Court (Supremo Tribunal Federal), in which constitutional issues are decided by the Judiciary. The Superior Electoral Court did the same and began to broadcast its court sessions. This policy

of showing citizens how the issues they submit to the Judiciary are decided is vital. That is why such practice has been extended to all judicial bodies.

Rulings with greater publicity certainly draw the people's attention for the functioning of the Judiciary, and the media coverage and broadcast of the "Mensalão" case trial⁷, at the Supreme Federal Court, was a good example of a healthy relationship between transparency of the Judiciary's activities and the media, bringing greater visibility and reliability to the Brazilian Judicial Branch.

6. The function of the Justice Comptroller's Office

In Brazil, the correctional activity (internal affairs) is linked to the delivery of Justice and it dates back to the Portuguese origin of the Brazilian court system.

The National Justice Comptroller's Office is a body of the National Council of Justice. It acts alone or in cooperation with other Comptroller's Offices and has for objective the improvement of the effectiveness in delivering justice and other judicial services, such as public registers and notarial services, always respecting the constitutional principles of legality, impersonality, morality, publicity and efficiency.

The National Justice Comptroller is chosen by, and among, the Justices of the Superior Court of Justice, approved by the Federal Senate and, finally, appointed by the president of the Republic.

He is responsible for controlling the discipline and promoting the correct justice delivery by means of instructions. It not his function to impose penalties on judges and other judicial civil servants, but only to verify the information brought to him and refers the more serious

⁷ Popularly known as "Mensalão" ("Big Monthly Allowance"), the Criminal Case 470, filed by the Public Ministry and conducted by the Federal Supreme Court, was meant for the trial of crimes of political corruption, consistent in vote buying in parliamentary National Congress of Brazil, between 2005 and 2006.

cases to National Council of Justice plenary, so that they can be examined.

The powers of the National Justice Comptroller are defined in the Constitution and regulated in the standing order of the National Council of Justice (CNJ), article 31. Among them, there are:

- Receiving complaints and denouncements concerning judges, justices and any judicial civil servant or bodies linked to the Brazilian court system;
- Carrying out inquiries, inspections and corrections;
- Suggesting to the CNJ's plenary the formulation of recommendations and regulatory acts that ensure the autonomy of the Judiciary and the respect to the Statute of Judges;
- Promoting meetings and suggesting, to the president of CNJ, the creation of mechanisms to obtain and collect data about the Judicial Council's performance;
- Establishing a permanent contact with other Comptroller's Offices in Brazil.

Among the services provided and administered by the National Justice Comptroller is the "Justiça Aberta" (Open Justice), a system that provide information about the localization of courts and other institutions related to the judicial activity.

6.1 The function of the Comptroller's Office of the States

In the State Courts, the Comptroller General's Office is a body of the state Judiciary in charge of watching over judges, judicial civil servants and extrajudicial services (such as, notarial services). The Comptroller General's Office is also responsible for watching over penitentiaries.

In the São Paulo State, the correctional function is exercised by the Comptroller General's Office and judges. The Comptroller General's powers are defined in the standing order of the São Paulo State Court of Justice, in its article 28. Among them:

- Receiving and dealing with complaints, starting, if it is the case, inquiries against judges;
- Following the performance of judges who have not yet achieved a lifelong tenure;
- Watching over, permanently and generally, the activity of judicial bodies and other services of first instance, and also of penitentiaries;
- Executing correctional measures;
- Deciding if a penitentiary must be subject to inspection;
- Regulating the services of extrajudicial staff;
- Watching over, permanently and generally, the activities of notarial services and registers.

In the last years, a change happened in the correctional function at the São Paulo State Court of Justice. The Court abandoned a punitive stance in favor of a supportive one, based on values related to the respect of the civil servants and the public in general, clear rules, respect to them, and assessment of results.

Without forsaking inspection and sanctions, the Court seeks today a preventive and pedagogical way, by means of the simplification of the work, computerization and promotion of conciliation and mediation and encouragement of the creativity among judges and officers.

The new pattern of work aims to develop good practices in the Judiciary and raise awareness about the social and political role of judges and judicial civil servants concerning the settlement of disputes, following a role model in public management.

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