JUDICIALIZATION OF POLITICS: THE USE OF DIRECT ACTIONS OF UNCONSTITUTIONALITY BY POLITICAL PARTIES (2019-2020)

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Abstract: This article aims to analyze the use of Direct Actions of Unconstitutionality by political parties to identify how a judicialization strategy of themes related to politics occurs in the Federal Supreme Court (STF), using the time frame of 2019 and 2020. We examine the increasing phenomenon of filing lawsuits before the Constitutional Court by parties, their predominant motives, success, and the theoretical debate around the losses related to the separation of powers, judicialization of politics, and the role of parties in the formation of conflicts brought before the STF. To this end, a database and qualitative-inductive analysis were used to interpret the data, allowing us to conclude that the judicialization of politics is not only a second alternative but an immediate form in some cases.

Keywords: Legislative Branch; National Congress; Federal Supreme Court; Direct Action of Unconstitutionality; Political Party.

1 Introduction

This research examines the use of the Direct Action of Unconstitutionality (ADI) by political parties during 2019 and 2020 to understand the reasons that led to the decision of provocation of the Federal Supreme Court (STF) through the aforementioned constitutional action of concentrated control. In this context, we find the relationship between the branches of the Republic, especially the Legislative and the Judiciary, represented by their highest bodies: National Congress and STF.

The Organization of the state and the functioning of the powers in a harmonious and independent form, with mechanisms of checks and balances, was consolidated from the Federal Constitution of 1988 (CF/88). Thus, it was necessary to impose limits to establish competences, which are mutually monitored in favor of strengthening the institutions, the defense of the democratic rule of law, and individual rights and guarantees. Notably, the constitutionality control emerges as a measure to ensure the defense and supremacy of constitutional norms. Therefore, the research problem revolves around the use of actions as a political strategy, e.i., the parties do not find satisfaction with their lawsuits in the legislative arena, so they resort to the Judiciary? Thus encouraging the judicialization of policy?

This study is justified by seeking to identify this strategy during the 2019-2020 biennium and understand the incentives to request the ruling of the Constitutional Court. With

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the enactment of CF/88, the list of legitimates for the presentation of control actions in defense of rights and against the disregard for the principles enshrined in the Constitution and laws was extended. Article 103 of the CF (BRASIL, 2021A) lists such instruments, among which is the ADI – Decaratory action for inconstitucionality, which is the object of study. The cited expansion of legitimate individuals and entities who can present these actions included the political parties, which are essential institutions for democracy and enable political pluralism.

Thus, the question of the invasion of constitutional competence and the hypertrophy of the Judiciary - encouraged and accepted in societies such as the American with the *judicial review*, has recently impacted the Brazilian constitutional state. Many political scientists and scholars of the legal field dedicate themselves to better understanding these aspects and propose referrals or improvements or just expose the phenomenon (LEITÃO, 2005).

The hypothesis suggested is that the use of ADIs is an important political strategy to delay, prevent, or declare nullity or unconstitutionality of normative acts or laws enacted by, or approved by, the Legislative Branch, given the recognition of the shallow effects of the use of the ordinary avenues available to the parties to challenge, alter, or avoid their approval, through existing mechanisms in the Legislative Branch, due to the insufficient support between peers or the little effective result.

The main objective is to examine the application of ADIs by political parties. Furthermore, it will be possible to identify differences between the placement of the party concerning the themes that process and are approved in the Houses and the use of the aforementioned concentrated control action, aiming to understand the strategic reasons that lead them to seek the judicial route.

The article is divided into introduction, development, where the theoretical bases on which the discussion rests were exposed, followed by the data extraction and organization to allow interpretation, and, finally, the relevant considerations on the subject.

2 Separation of Powers and Concentrated Control

2.1 Separation of Powers and Policy Judicialization

There is currently an increase in issues involving the Legislative being referred to the Judiciary. By way of example, at the beginning of 2019, the elections for the presidential office of the Federal Senate (FS) counted on the intervention of the STF. After much discussion, the FS decided, with fifty votes in favor, that the vote for the Board of Directors of the House would be open, that is, without voting secrecy. However, the parties Solidariedade and Movimento Democrático Brasileiro - MDB, reported the non-compliance with the decision formalized in the Suspension of Security nº 5,272 (BRASIL, 2019), when the president of the Court had suspended the decision from the minister that determined the open vote in the Bureau elections. The resumption of voting by ballot was marked by something unusual. Eighty-two

votes appeared in a House of 81 senators; thus, the election was repeated.

If the opening of the Legislature was tumultuous, the end of the first biennium and the preparations for new elections of the tables of legislative houses were also under the analysis of the STF since the Partido Trabalhista Brasileiro – PTB filed ADI 6524 (BRASIL, 2020), in which it asked the STF to apply the constitutional seal of the re-election of the CD and FS Bureaus to elections that take place in the same or different legislatures. The practiced understanding allows elections to the same office of the Bureau, provided it is in different legislatures. In turn, the election within the same legislature cannot occur for identical positions. The presidents of the FS and CD could only try to occupy the office of president once again with the endorsement of the Supreme Court, which rejected such a possibility by six votes against and five in favor (BRASIL, 2020).

The separation of powers results from historical, political, and social evolution marked by several years, movements, revolutions, and important thinkers. Extrapolating the contours drawn to the powers leads to the use of checks and balances, a system instituted to prevent the predominance of one function over another. The relationship between the branches provides for typical and atypical functions. The Legislative has two typical functions: that of legislating and supervising. The Executive, to administer and implement public policies. The Judiciary must resolve conflicts that may arise in society by applying the law to the specific case (jurisdictional function).

In the words of Zauli, it evolves from complete isolation to a complex and interdependent system with typical and atypical functions.

> However, it should be noted that the evolution of the doctrine on the separation of powers from the State produced a result significantly different from that proposed by Montesquieu. The result was a complex interaction between the organs of each of the three branches in which each of the powers is called to perform typical and atypical functions, faced with the need to create and maintain a certain balance between the three branches instead of a natural balance resulting from a rigid and exclusionary separation of powers. Thus, the three powers intersect instead of a complete separation of exclusionary functions between the different branches of the State (ZAULI, 2010, p. 198, our translation).

The principle of separation of powers is always under discussion and put to the test, but it does not lose its application, according to Lenhard:

> On the other hand, it is possible to see the separation of powers as a principle of legal organization, where the exercise of one of the fundamental activities of the State prevails in each organ. This ensures a minimum specification and distinction of functions, so that the rigid and dogmatically interpreted principle has lost its functionality, but is not overcome since it remains present as a technique of power organization (LENHARD, 2006, p. 55, our translation).

Thus, the policy judicialization phenomenon must be understood to enter the data

obtained and undertake the analysis in the sequence. We note the prominent and increasingly participatory position of civil society, from political minorities to social organizations, and even from simple citizens, in the sense of seeking the Judiciary because they do not accept certain legal commands and actions or omissions of the administration, regardless of whether the competence lies with the Executive or Legislative. Thus, the maturation of this process and the diffusion of available mechanisms allow us to point out the judicialization of politics (VIANNA, 2003).

In the constitutional architecture, the attributions of powers must be preserved by bringing matters of competence of the Legislative to the Judiciary, when the judicialization occurs. It is understood that judicialization can develop differently. The Judiciary exacerbated and strengthened incorporates the performance of other powers or internalized practices and modus operandi typical of the Judiciary.

In this sense, Vallinder explains and divides judicialization into two types, including examples:

> The expression "judicialization of politics" or" politicization of justice" began to compose the scenario of the legal and social sciences in several countries worldwide and "indicate the effects of the expansion of the Judiciary in the decision-making process of contemporary democracies. Judicializing the policy is to use typical methods of the judicial decision in the resolution of disputes and demands in the political arenas in two contexts: a) expansion of the action areas of the courts through the power to review legislative and executive actions and b) introduction or expansion of judicial staff or judicial procedures in the Executive (such as in tax disputes) and in the Legislative (such as is the case of Inquiry Parliamentary Commissions) (TATE and VALLINDER, apud LEITÃO, 2005, p. 1).

Zauli (2010, p. 1, our translation) follows the same direction. Judicialization refers "to the interference of judicial decisions and the introduction of judicial procedures in various political arenas." Verbicaro (2008) shows several conditions conducive to this phenomenon, among which we highlight the CF/88 itself, with its programmatic norms and indeterminate clauses, the tripartite structure of the organization of State powers, the expansion of the competencies of the STF, and the list of legitimate individuals and entities to propose ADI. The author defines the judicialization of politics as an expansion of the participation of the Judiciary, "judicialization of politics arises in a context of greater quantitative and qualitative insertion of the Judiciary Branch in the political arena" (VERBICARO, 2008, p. 391, our translation).

Finally, conflicts concerning the interpretation and application of rules remain unresolved within the framework of Parliament and are taken to the judicial sphere. A series of relevant issues arise from this process, such as the prominent judicialization of politics and its causes and very interesting developments in the National Congress, including institutional changes (SILVA, 2020, p. 62).

Therefore, understanding the relationship between the powers and the concept of

judicialization makes it possible to move forward into the dynamics of triggering the legislative process in constitutional control and the legitimate individuals and entities able to use the actions.

2.2 Legislative Process and the judicial appeal in the STF by the political parties employing the ADI

The instrumentality that conditions or enables the exercise of parliamentary activities and legislative power is settled in the set of instruments and procedures to which we attribute the name of Legislative Process. This apparel, initially and contained in the Federal Constitution of 1988, is formed in a complex set of norms edited and ordered, internally and regulated by the National Congress through its internal Regiments and Resolutions, with the force of primary law, realizing the legislative function of the State (BENETON, 2020).

The author also indicates that the proximity between the legislative process and the political parties is like the meeting of the waters between the phases, some with majority participation, others minority, since the intensity is defined according to the associations, blocs, and leaderships, and among other factors. This participation, whether in Commissions, Plenary, or deliberations in general, makes up and intertwine in the various phases that compose it, such as initiative, debates, or discussions in commissions, public hearings, votes, and approvals (BENETON, 2020).

The implications regarding effective or ineffective participation by elected representatives reverberate in this procedural path. Interparty and intraparty agreements privilege and assume characteristics that mitigate the prerogatives of certain minority support standards and weaken the existing instruments available for their opposition, also imposing internal decision-making obstacles to voting and proposing amendments when processed in an emergency regime, in addition to opportunizing the emergence of difficulties in obtaining favorable votes in matters sensitive to their interests (CASTRO, 2017).

As a way of reversing the losses in the political arena, it is natural to attempt to preclude or mitigate any potential legal force or effectiveness of the devices contained in the challenged norm since judicial control is a form of constitutional modulation or adaptation, given the inability of the instruments and process in the field of the internal discussions, and, as a last resort, in the case of a defeat in Court, the gain lies in the extension of the discussions at the national level by means of the subsequent mediatization of the topic being discussed in Court (ARAÚJO, 2021).

The legislative process presents itself as the main activity of the Legislative Branch. The members of Parliament, chosen by vote, must seek to resolve the conflicts within society. In Brazil, the construction of a law undergoes the constitutional and regimental rules, which establish the role of parties and their members and the functioning of the Legislative House. In

many situations, the votes do not find consensus and the majority is victorious. Therefore, those who have not been served in their lawsuits have another option.

Notably, it is essential to choose the form of confrontation most adequate to declare unconstitutionality, whether of law or normative act, so that the appeal of these parties to the Judiciary is effective. According to the majority doctrine, there are two possible forms: diffuse control and concentrated control.

Moraes (2018, our translation) explains as follows:

> **Diffuse control** is characterized, mainly, by being exercisable only before a concrete case to be decided by the Judiciary [...]. **Concentrated control** or abstract of constitutionality [...] through this control, is sought to obtain the declaration of unconstitutionality of the law or normative act, regardless of the existence of a concrete case, aiming to obtain the invalidation of the law (MORAES, 2018, p. 776-790, highlighted).

The ADIs have the purpose of purging law or normative act that proves incompatible with the current constitutional order from the legal system. They are filed by the active and legitimized subjects, among which are the political parties with representation in Congress, the core of our study, and constitute an instrument belonging to the concentrated control, appropriate form for questioning. Constitutional issues are the competence and exclusive forum of the STF, assuming the function of negative legislator. They are driven to the most varied issues by political parties, under diverse interests, with the ADI as the main elected route.

An assertive that can be made based on the data of almost two decades of studies on these actions is that they are inserted in the scenario of modern Brazilian democracy, affirming their institutional presence year after year in successive and different governments. At the beginning of this chapter, we mentioned two topics brought to the STF. One was addressed within the framework of ADI. They consist of an outflow of conflicts between society and the State, of which those born within and outside the Government itself have become indispensable for the functioning of the political and judicial systems (VIANNA; BURGOS, SALLES, 2007).

Political parties have an expressive and acting role in front of the processes in progress or awaiting the outcome in the STF in the case of the challenge of law or normative act approved or originated from the National Congress. To a large extent, judicialization results from exhaustive losses in the internal debate. Their active and universal legitimacy in the face of control actions, such as the ADIs, opens up an unprecedented range of judicial action before the Court since they do not need to prove thematic relevance to adjudicate said actions, which allows them to resort to abstract revision, even if it has only one representative in the National Congress (MELO; LIMA; NETO; 2020).

This phenomenon must be more accurately and observed from a more critical perspective and based on complete data from these two intense years of ADI use, as presented after explaining the methodology used in the research.

3 Methodology

The methodology consisted of two phases: 1st) database planning and construction; 2nd) database feeding and interpretation. In the first phase, the bibliographic survey, the outlining of the scope, and the definition of the necessary fields to structure the data were carried out. In phase two, quantitative techniques were used to extract the data from the STF website (BRASIL, 2021b), primary source, and insert the fields into an excel spreadsheet containing, among others, the thematic class, the authors, the legal device questioned, the preliminary decision, and the judgment. In this case, a qualitative technique was applied when individually analyzing each of the actions to classify them or find useful data. Also, in Phase Two, filters were created to construct the tables, which helped inductively support or not the formulations and interpret the data.

The scope is based on the space of two years, being 2019 the first year of the 56th Legislature, formed by 243 rookie deputies and thirty parties with representation in the National Congress (CÂMARA, 2019). The largest global health crisis marked 2020 due to the coronavirus. A database was built, containing 595 ADIs filed by several legitimized individuals and entities, of which 143 are actions filed by political parties. The choice of ADI occurred because it was the most used and had established its institutional relevance (VIANNA; BURGOS, SALLES, 2007).

4 ADIs filed in 2019 and 2020: Results and Discussion

At first, an overview of the concentrated control actions is presented to later focus on the ADIs. Thus, the site provides information of concentrated control processes obtained from 2000, adding an impressive 5,490, divided into ADI (4,567), ADPF – Claims of non-compliance with a fundamental precept (794), ADC – Declaratory action for constitucionality (68), and ADC (61). The data processed in the sequence are found when considering 2019 and 2020.

Table 1 contains the cases sent to the Supreme Court in the two years chosen to delimit this research. ADI preference is evident since it accounts for more than 70% of the concentrated control actions, followed by ADPF, with 25%. One of the reasons for focusing the analysis of this procedural type was its predominance in concentrated control actions, as previously explained.

Table 1 – Concentrated Control Actions in the period 2019-2020 processed cases

Year	ADI	ADPF	ADO	ADC	Total
2019	241	82	7	4	334
2020	354	135	8	6	503
Total	595	217	15	10	837

Source: The author, based on data from the STF website (2021b).

According to Table 2, the cases closed in the period reached 1,305 and were processed during the previous years. There was a decrease in the stock during this period because more actions were closed than those registered. ADI 2,238, filed on July 4th, 2000, by the Partido Comunista do Brasil - PCdoB and Partido dos Trabalhadores - PT is included in this count. More than two decades ago, other actions were attached to it and, on September 23rd, 2020, its trial was completed. In short, the actions questioned commands provided in Complementary Law nº 101, of 2000, well known by the acronym LRF, the Fiscal Responsibility Law (BRASIL, 2000).

Table 2 – Concentrated Control Actions in the period 2019-2020 closed cases

Year	ADI	ADPF	ADO	ADC	Total
2019	425	73	5	4	507
2020	650	129	10	9	798
Total	1075	202	15	13	1,305

Source: The author, based on data from the STF website (2021b).

After observing the number of cases received by the STF (Table 1), it is worth turning attention to the other end of the process: who are the authors. In this case, we used the 595 ADIs divided by the main responsible for the processes, according to Table 3.

Table 3 – Distribution by authors of ADIs in the period 2019-2020

Year	2019	2020	Total
Associations	85	85	170
PGR	40	104	144
Parties	48	95	143
Confederations	33	38	71
Governors	20	22	42
OAB	10	5	15
President	0	4	4
Union	2	1	3
Legislative Bureau	2	0	2
Others	1	0	1
Total	241	354	595

Source: The author, based on data from the STF website (2021b).
Note: [1] Until September 17th, 2019, the PGR – Federal Attorney General was occupied by Raquel Dodge. From 26th of 2019 onwards by Augusto Aras.

Previously, it was found that 2019 presented an average of ADI similar to the years of the Lula government, with a peak of 306 actions in 2003. In 2020, it reached the level of 354, not seen in the studies of Vianna, Burgos, and Salles (2007), and Zuccolotto (2016). Another perceived difference compared to previous studies, which placed the parties as the fourth candidate in quantity and with a greater margin compared to the others, is that political parties occupy the third place with 143 ADAs, practically tied with the PGR, in second place. Organized civil society confirms its prominent role with associations in the first place, a situation still strengthened if dozens of other authors are added: confederations, unions, and the Brazilian Bar Association - OAB, which would represent about 40% of the actions.

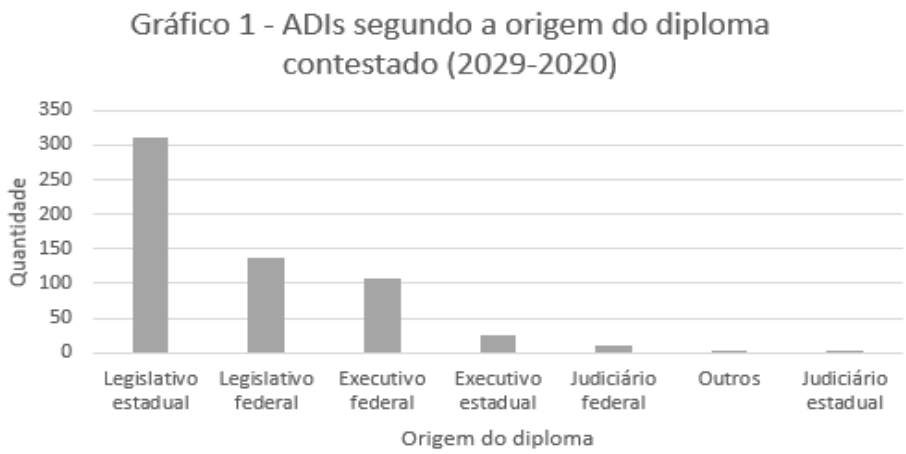
Parties, as said, must have representation in Congress and registration in Electoral Justice. From 2019 to 2020, the associations almost doubled the number of actions and the PGR are responsible for the increase of more than one hundred actions from 2019 to 2020. As for the Prosecutor's Office, it is worth highlighting the change in its command, which may have motivated a different direction and, therefore, the increasing amount of actions. We noticed a series of standardized ADIs from the PGR facing common themes that affected the states. By way of example ADI 6,158 discusses the payment of fees to public attorneys in the state of Pará (similarly, there are another nineteen directed to other states[3]) and ADI 6,619, whose content involves the list of authorities that may be convened by parliaments, maintaining full similarity to another sixteen actions, each of a subnational entity[4].

Graph 1 shows the origin of the normative diploma object of the challenge of the ADI. The applicants listed in Table 3 challenged the most diverse norms, and those issued by the state Legislative Branch are the first with more than 50%, followed by the Federal Legislative Branch, with 23%, and, still at the federal level, the Executive Branch, with 18%. This order coincides with the findings of Vianna, Burgos, and Salles (2007), including proximity to the relative quantities indicated by him.

However, it is possible to observe the classification of the origin of the norm. Although the Legislative Branch is responsible for drafting laws, much of what is approved has the endorsement of the Chief Executive in the context of coalition presidentialism. Later, it will be verified if the opposition parties prevail in number over the others, proving the hypothesis of the extension of the legislative arena to the Judiciary, that is, the judicialization of politics.

[3] ADIs 6,159 to 6,171; 6,176 to 6,178; 6,181 to 6,183.
[4] ADIs 6,637 to 6,648; 6,651 to 6,653.

Graph 1 – ADIs according to the origin of the contested diploma (2019-2020)



Source: The author, based on data from the STF website (2021b).

The high rate of litigation targeting the norms of the state legislatures may characterize the even greater difficulty of building a base around the local coalition. Additionally, the PGR directed, in the above examples, thirty-six ADIs discussing very similar topics in an effort to standardize rules issued by state legislatures, inflating the numbers of the contested diplomas with this origin. This type of litigation focused essentially on the defense of the rational-legal order enshrined in the Constitution, and, as such, has a bottleneck in the STF, having no other solution here because the Federal Legislative Branch is not competent to regulate matters of state jurisdiction, thus, the STF is called to act in the condition of harmonizing the federation or the last council of State.

Rosa (2020) conducted an in-depth study whose scope covers actions against the content of constitutional amendments in the period from 1988 to 2017, among other important points, and concluded that the strategy of judicializing constitutional innovations is unattractive for most parties. Approximately 40% of parties presented actions in the STF. In this survey, ten parties obtained ADIs to challenge the terms of constitutional amendments, in line with the percentage found for the three decades surveyed.

The same typology employed by Vianna, Burgos, and Salles (2007) was used to analyze the thematic field of the 143 actions, with the addition of the theme "Coronavirus" to compare with other periods. The use of ADIs is evident in public administration when adding 2019 and 2020, resulting in 38%, lower than the proportion indicated by the study mentioned above of 60%. Nor is there a coincidence in the second place, where the tax policy (12.6%) was included, with norms linked to the "coronavirus" found in both years. The third place is with Civil Society Regulation (12%).

Table 4 – Themes[1] object of ADI for the period 2019-2020

Year	2019	2020	Total	
Coronavirus	0	43	43	30%
Government	21	34	55	38%
Social Policy	3	3	6	4%
Economic Regulation	2	1	3	2%
Tax Policy	3	0	3	2%
Civil Society Regulation	11	6	17	12%
Political Competition	5	7	12	8%
Labor Relations	3	1	4	3%
Others	0	0	0	0%
Total	48	95	143	

Source: The author, based on data from the STF website (2021b).
Note: [1]Typology based on Vianna, Burgos, and Salles (2007), with insertion of the type "coronavirus".

As was expected when looking for the theme created especially for this research: coronavirus, we came across a significant amount of data in 2020 and, of course, no action in 2019 since there was still no such illness in the country. In 2020, 43 actions (45%) were added. In addition to the coronavirus theme, there are obvious actions that brought rules linked to the government, tax policy, etc. However, it does not detract from the relevance of the majority concern brought to Court by the parties, from the dominant issue in the country.

We highlight the parties' positioning and their initiatives, especially because we have identified, based on the data, that opposition parties and those considered as minorities in the Houses, tend to obtain favorable decisions and broad political-legal discussion with the disclosure and judgment of the Direct Actions. The Partido Democrático Trabalhista - PDT has established itself as the champion of actions, corresponding to 23 actions (12.6%), followed by the Partido Socialista Brasileiro - PSB (12%), Rede Sustentabilidade (10.9%) Partido dos Trabalhadores - PT (10.4%), and the Partido SOcialismo e Liberdade - PSOL (8.7%), which together correspond to about 54.6% of registered ADIs.

Concerning the preliminary judgment, attention is drawn to the fact that it is worth addressing the actions to the STF from the partisan perspective, being an immediate choice, not just a second path. Table 5 shows the success rate of the actions, considering the decisions "Approved" and "Partially Approved" in both years, reaching about 25%. Those submitted to the rite (articles.10 and 12 of Law 9,868/99) and, therefore, taken to the plenary, add up to more than sixty actions. Thus, going to the Judiciary guarantees the assessment of the position registered in the actions. Additionally, the judgments must be evaluated, i.e., ADIs with a final judgment.

Table 5 – Preliminary ADI Ruling in the period 2019-2020

Preliminary Ruling	2019	2020
Adopted the rite of article 12, Law 9,868/99	16	36
Approved	8	16
Partially approved	0	11
Dismissed	0	10
Moot	12	6
Adopted the rite of article 10, Law 9,868/99	9	5
Action extinguished without merit resolution	0	4
No precautionary request	1	4
Awaiting trial	1	1
Attached for joint trial	0	1
Denied follow-up	0	1
Not known	1	0
Total	48	95

Source: The author, based on data from the STF website (2021b).

Table 6 shows the situation of the 143 actions initiated by political associations and their situation regarding the final and decisive ruling.

Table 6 – ADI trial in the period 2019-2020

Ruling	2019	2020
Awaiting trial	28	54
Partially admissible	2	15
Admissible	4	8
Inadmissible	1	8
Moot	12	5
Action extinguished without merit resolution	0	3
Denied follow-up	0	2
Ruling Tried	0	0
File terminated	0	0
Not known	1	0
Total	48	95

Source: The author, based on data from the STF website (2021b).

The *status* "Awaiting trial" proves that the target of the party strategy is not in the definitive trial since we obtain 82 (57%) actions not yet judged in this interval of two (2019 and 2020). Some actions take decades to be definitively resolved, such as the ADI mentioned above 2,238, involving LRF. Also, in 2020, the "partially admissible" actions increased in the same proportion as the "inadmissible" ones, among several clashes. All this reveals us a protagonist of the political-legal clashes and, above all, the institution-path to a third form of political discussions already faced in Legislative Houses, in addition to the support of Brazilian democracy in the exercise of its constitutional powers.

5 Conclusion

In general, the present research and analysis leads us to conclude that the use of the aforementioned concentrated control action by political parties tends to reveal a majority strategy of the opposition, especially because it is used as a means whose success reaches significant potentials, either by the interests of their groups or agendas, or as an instrument of judicialization of political conflicts, whose discussion permeates the moment of construction of the contested norms since they are fully effective and in force, submission criterion of the ADI.

It is also understood that the Brazilian political system establishes summit institutions representing the powers of the Republic. Would such actions serve as remedies for unresolved problems within the Parliament? Guided by this issue, there were 595 ADIs proposed by several legitimate actors in the period. Civil society tops the list, followed by the Prosecutor's office and political parties.

The target of the ADIs was consistent with previous studies, which put the state legislature concentrating more than 50% of the 595 actions. As for the themes, restricting only to the proposals by the political parties, it is urgent to highlight the massive presence of ADIs containing some rule or matter linked to the coronavirus in 2020, with the crossing of several actions, recurring object to the moment experienced.

Thus, the judicial route to which we refer has been used as the most likely means of success by small parties or minorities, especially those who exercise strong opposition to the agendas of the majority blocs of Congress and Government, revealed by a high volume of lawsuits and a strong movement towards the STF. Moreover, purposeful litigation is perceived, with specific objectives, which guarantees a favorable arena for the political game, not only when winning the actions, but when society widely discusses them, popularizing their defended agendas.

Developed in two forms, directly or almost immediately, the judicialization of politics has occurred against infralegal acts, infra-constitutional laws, and provisional measures, driven by parties that are opposed and do not wait for the legislative process or use legislative measures. Either indirectly or mediately, the Supreme Court is assisted in reversing losses in Congress due to the Congressional functioning that does not favor the litigation of some parties.

This study is expected to contribute to the discussion on the roles and attributions of institutions, along with the use of concentrated control instruments. Society's urgent issues are brought to the STF and the body is not serving, in a first analysis, an extension of the legislative arena, but a real option in the strategy of the political parties to combat legislative action. In this line, as a continuity of the research, we can see the expansion of the scope and the use of other variables in the search for understanding this political-institutional process.

In short, the ADIs function as an important channel among the possibilities and strategies of provocation of the Court, whose reasonableness is based on strong success and

reveal parties as important protagonists of the process, either as promoters of vetoes to texts that do not conform to the Constitution, or in the equalization of the interests of all, leading, positively or negatively, the judicialization of issues affecting the life of politics and its developments to the Supreme Court.

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