


UNDERCOVER AGENT: AN ANALYSIS OF THE JURISPRUDENTIAL UNDERSTANDINGS OF THE STJ BETWEEN 2009 AND 2024

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ABSTRACT

Objective: This work aimed to understand the understandings present in the jurisprudence of the Superior Court of Justice on the practical application of the institute of infiltration of agents in Brazilian law. **Methodology:** To this end, the study was characterized as a descriptive research, with a quantitative and qualitative approach, which materialized a documentary research that enabled a legal and content analysis of 30 judgments handed down between the years 2009 and 2024, regarding the theme. **Results:** As a result, in addition to jurimetric information that allowed the glimpse of temporal aspects of the decisions and the survey of brief hypotheses about the application of the law of criminal organizations and the performance of the panels and sections of the STJ, it was found that the court consolidated understandings around: a) the practical application of the institute of infiltration of agents; b) on the jurisdictional limits of the analysis of the validity of the evidence produced by the infiltration of agents; c) regarding the validity and possibilities of use of the institute of infiltration of agents; and, d) on the use of the institute of the infiltrated agent in the face of the possibility of producing other means of evidence. **Conclusions:** The study presented a relevant compendium of understandings that contributes to the understanding of the institute and practical application by security agencies and the judicial system.

Keywords: Superior Court of Justice. Criminal Organizations Law. Agent Infiltration. Production of Evidence.

INTRODUCTION

In August 2023, the current Brazilian law on criminal organizations – Law No. 12,850/2013 (Brasil, 2013) – completed 10 years of its enactment, facing great challenges. As pointed out in recent literature (Reis Netto, 2023; Rodrigues, 2024; Santos, 2024), especially over the last decade, there has been a significant upsurge in the complexity and levels of social rootedness of the various types of criminal organizations in Brazil, whose performance has become symbiotic with various sectors of public power and private initiative, substantially impacting legal security, the economy, and even the political spheres and the democratic regime.

According to Santos (2024), combating the new manifestations of crime requires not only the proper use of the tools currently present in national legislation, but also a continuous search for innovations. These innovations, based on the norms originating from Law No. 12,850/2013 (Brasil, 2013) and the most recent amendments, such as those proposed by the anti-crime package (Law No. 13,964/2019), should allow advances that keep up with the evolution of modern crime and its growing use of advanced technologies and techniques.

Rodrigues (2024), in turn, highlighted the need for more frequent and effective use of the means of investigation provided for in Brazilian legislation, in view of the material complexity that criminal organizations assume. Based on the reality observed in the state of Pará, he demonstrated how the existing means of evidence are still underused and do little to promote the continuity of investigations.

Reis Netto (2023) highlighted the intertwining between the licit and the illicit, pointing out that many criminal organizations end up achieving success in reinvestment measures in certain regions, becoming socially desirable for certain groups or sectors. This phenomenon makes it difficult both to identify them and to effectively eliminate them. Like the other authors, Reis Netto stressed the need for greater investments in specialized security agencies and intelligence activity (Reis Netto et al., 2018).

In common, the authors highlighted the need for innovation. However, it is essential to remember that, in the context of security and criminal prosecution, innovation depends on respect for the constitutional principle of due process of law and its corollaries, the adversarial and full defense. Thus, the use of technologies and means of proof must always be based on the legality and proportionality of the measures adopted (Martins, 2023). After all, as far as fundamental rights are concerned, the ends should not justify the means.

Thus, in addition to the inspiration in the legal text, it is essential that legal professionals also observe how the courts interpret and apply the law in special cases, in a hermeneutic exercise that, in addition to what is affirmed in the objective norms, allows its extension to future phenomena not foreseen by the legislator. After all, it is in the complexity of the real world that judges will consecrate the individualized legal norm to the concrete case.

In this sense, the present work sought to contribute to the applicability of the Brazilian law on criminal organizations, specifically by demonstrating how the court in charge of interpreting infra-constitutional legislation, the Superior Court of Justice – STJ (Martins, 2023) –, has interpreted one of its provisions: the infiltration of agents.

From a legal-normative perspective, the infiltration of agents is an institute provided for in articles 10 to 14, of Section III, Chapter II, called "Investigation and means of obtaining evidence", of Law No. 12,850/2013 (Brasil, 2013). It is, in terms of legal nature, a special means of producing evidence, which can be used exceptionally for criminal prosecution against members of criminal organizations, interpreted restrictively under the terms of article 1 of the same law (Brasil, 2013).

Without delving into the controversies surrounding the history of the law and the problems inherent to the concept of criminal organizations and conflicting criminal types in Brazil (Aguiar, 2017), the infiltration of agents corresponds to what was culturally known as espionage in times past. Currently, this means of proof refers to the legal figure of a trained police officer who, under appropriate cover (i.e., with a fictitious identity and life history), acts as if he were a criminal. This allows him to get closer to a criminal organization to understand its functioning, structure, and identify the active agents involved in specific criminal activities (Nascimento; Ugalde, 2023).

It is, in any case, an institute aimed at obtaining evidence in scenarios of extreme complexity, where the high levels of stratification and invisibility of the criminal actions of certain organizations make it practically impossible to produce evidence without the infiltration of a public agent capable of understanding and describing the gears that sustain and hide the illegality (Nascimento; Ugalde, 2023).

This is, of course, an institute widely discussed in the literature, which controverts, above all, the levels of influence that infiltration could exert on the illegality of the conduct of criminal agents and their levels of culpability (Aguiar, 2017). Thus, the institute requires an

application that, in addition to being exceptional, is covered with practical care and, of course, the indispensable judicial authorization.

In view of the challenging need for material application of this institute, this work aimed to understand the understandings present in the jurisprudence of the Superior Court of Justice on the practical application of the institute of infiltration of agents in Brazilian law.

The relevance of the present work, in the first place, stems from the proposal to describe the recent judgments of the STJ on the infiltration of agents, thus consolidating a brief compendium on the subject, which can serve as a parameter and basis for consultation for academic purposes and for the professional practice of lawyers, public security agencies and the judiciary.

Secondly, the work presents itself as an academic effort to expose controversial points that, in recent years, have been submitted to the jurisdiction of the STJ, revealing important aspects about the practical application of the law of criminal organizations with regard to the infiltration of agents.

Furthermore, as the means of producing evidence under analysis represents a special technique, which, due to its potential invasiveness to fundamental rights, must preserve a proportional and exceptional use, it is clear that the work, by presenting the interpretation of the STJ regarding potential exceptions and restrictions regarding the use of the institute, represented a contribution to society, in order to guarantee full respect for the fundamental rights to an adversarial and full defense, and, in this regard, to due process of law.

In addition to this introduction, the article is structured in a theoretical section, followed by a methodological section, a section of results and discussions, and finally a section of final considerations.

METHODS AND TECHNIQUES

This study is characterized as a descriptive research (Lakatos; Marconi, 2016), as it sought to collect secondary documentary data, specifically judged that analyzed concrete cases in which the practical application of the institute of agent infiltration was problematized and discussed in criminal proceedings, evaluating its legality and applicability.

To this end, a quantitative approach (based on descriptive statistical techniques) and qualitative (focused on the content of the analyzed jurisprudence) was used, consolidating

itself as a documentary research (Lakatos; Marconi, 2016). The collection of judgments was carried out through searches in the official repository of jurisprudence of the Superior Court of Justice (STJ), through the *jurisprudential search* tool. The search took place on April 13, 2024, using the indexes "infiltrated agent" and "agent infiltration".

A total of 55 results were obtained, which were organized in a spreadsheet and submitted to a preliminary analysis. Of these, 25 judgments were eliminated: 7 for being repeated (they appeared in the searches of both indexers, generating duplication) and 18 that did not specifically address the issue of agent infiltration, due to the confusion generated by the indexers. The remaining 30 cases were classified in a double-entry table, recording the content of the summary of the judgment, the year of publication, the panel or judging section and the documentary reference.

From this organization, an analysis was carried out to isolate the individualized legal norms in each case, allowing the extraction of the understanding of the Colendo STJ on the practical application of the institute. The cases were distributed among two teams of researchers for in-depth analysis, in which details were verified and later discussed among the subgroups. Then, the cases were analyzed together, identifying similarities and differences that, in the end, made it possible to prepare the text of the work, with an exposition of the statements of each judgment.

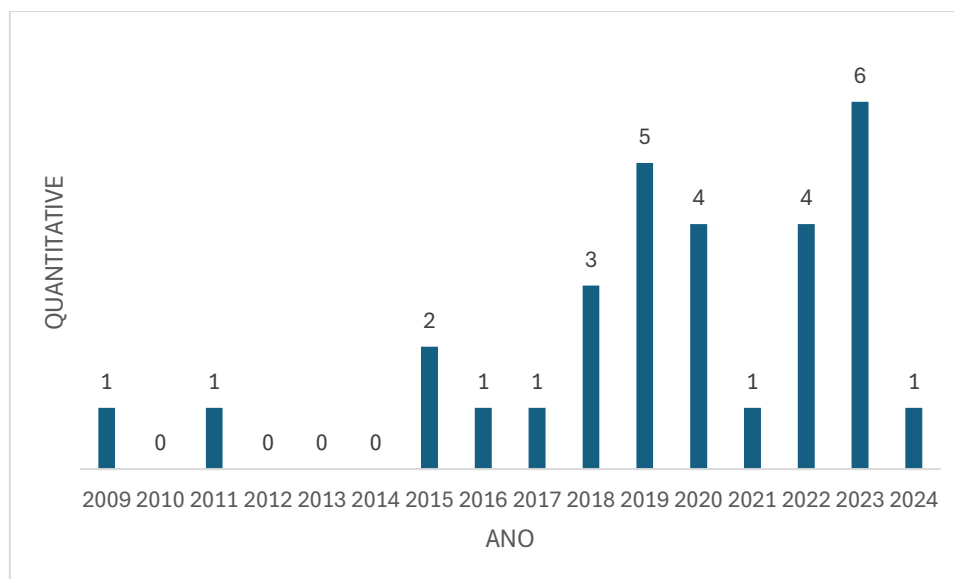
This methodology allowed a brief jurimetric analysis of the temporal and quantitative aspects of the judgments (Menezes; Lage, 2020), as well as the isolation and classification of each understanding exposed. The statements – units of analysis that expressed an understanding of the application of the institute under study (Bardin, 2011) – were isolated, classified and analyzed according to the topics in the results section below.

RESULTS AND DISCUSSIONS

QUANTITATIVE ASPECTS OF JUDGMENTS

First, the following graph presents the temporal distribution of the judgments found during the research. It should be noted that the highest number of judgments on the subject was handed down in 2023 (6 judgments), followed by 2019 (5 judgments). In sequence, with the same number, the years 2020 and 2022 stand out (4 judged each). At the time of data collection (April 2024), only one judgment on the topic was recorded for the year 2024.

Graph 1 – Annual distribution of judgments found after the application of the methodological procedures described.



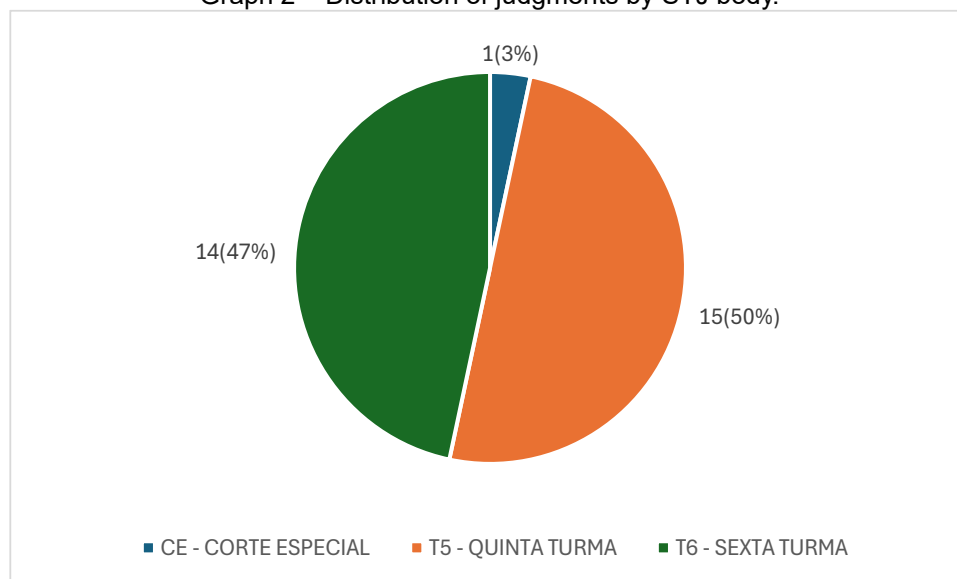
Source: Elaboration based on research data.

From the numbers, it is assumed that there is an upward trend in the annual average number of cases judged (currently, 1.87 cases per year), given the more qualified fight against criminal organizations in recent years, as well as the improvement of the study and practical application of the institute by public security agencies in the country.

In addition, an explanatory hypothesis for the absence of judgments between 2012 and 2014 probably stems from the difficulties and technical deficiencies associated with previous legislation aimed at combating criminal organizations in Brazil (Aguiar, 2017), which possibly prevented the regular application of the institute of infiltration of agents in that period.

As for the distribution of judgments by internal body of the STJ, the following graph shows the concentration of judgments in the Fifth and Sixth Panels of the court. The Fifth Panel presented 15 cases (50%) and the Sixth Panel, 14 cases on the subject (48%). Only one case (3%) was judged by the Special Court, dealing with an issue of an international nature (Brasil, 2015a), which will be discussed below.

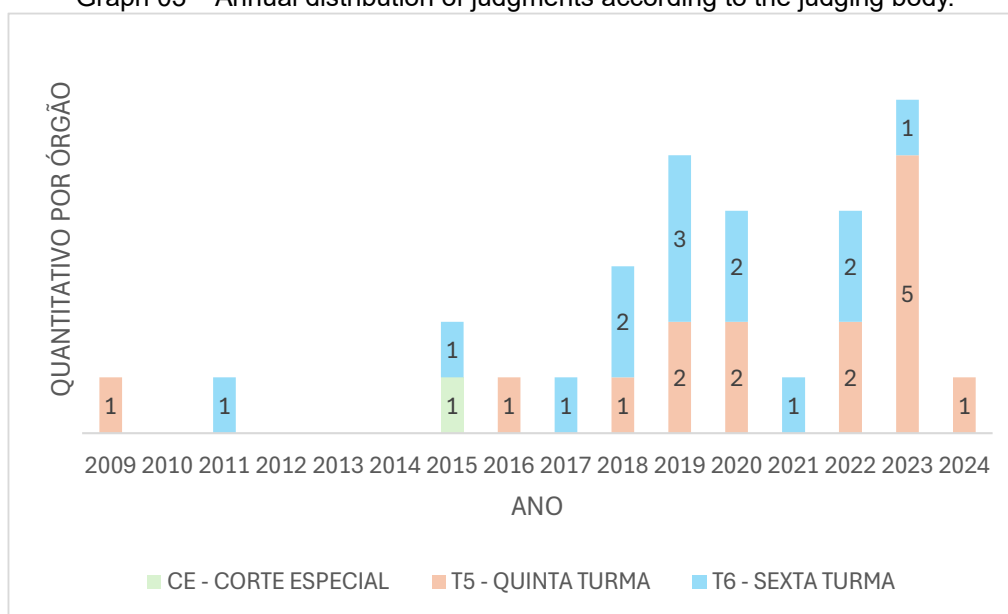
Graph 2 – Distribution of judgments by STJ body.



Source: Elaboration based on research data.

Although there is a relative balance, it is observed that the most recent understandings on the subject come from judgments of the Fifth Panel, which may be relevant for studies that focus on the last three years, for example.

Graph 03 – Annual distribution of judgments according to the judging body.



Source: Elaboration based on research data.

After reading, analyzing and categorizing the decision-making chapters, according to the methodology adopted on the 30 cases, 34 content statements were isolated, which consolidated understandings about the institute. These statements were organized and exposed in specific subsections, according to their content.

STATEMENTS REGARDING THE PRACTICAL APPLICATION OF THE INSTITUTE OF INFILTRATION OF AGENTS

First, due to the specificities outlined by the current Criminal Organizations Law (Brasil, 2013) on the institute, it is observed that the STJ sought to make a detailed practical differentiation between the infiltration of agents and other types of measures provided for in the same law or in other regulations, as explained below.

It was found that four statements were clear in mentioning that the infiltration of agents does not correspond to or be confused with the institute of plea bargaining (Brasil, 2018c, 2019c, 2019e, 2020c). One of these statements (Brasil, 2020c) reinforced this distinction, even in cases where the whistleblower uses his own means to record dialogues and produce evidence in order to constitute elements that can be used in his plea bargain.

Plea bargaining – provided for in article 3-A of the Criminal Organizations Law (Brasil, 2013) under the term *plea bargaining* – is a legal agreement between the accused and the Public Prosecutor's Office (or competent police authority), in which the accused provides information and evidence that enables the criminal prosecution of other agents of the same organization. This agreement may result in a judicial pardon, a reduction of up to two thirds of the applicable custodial sentence or the replacement of the sentence with a sentence that restricts rights (Article 4 of Law 12.850/13) (Brasil, 2013).

In this sense, the agent who, on his own initiative, collects evidence against his own criminal organization with the objective of entering into a plea bargain agreement is not to be confused with the undercover agent, since the latter is a state public agent (police) specially designated for the function, by means of a specific court order.

In an even more distant sphere, the private agent (for example, a victim) who makes recordings or collects evidence of the actions of a criminal organization is also not to be confused with the undercover agent. This distinction is made for the same reasons of voluntariness of their actions, previously discussed in the context of plea bargaining (Brasil, 2023c).

However, the statement of the judgment of the AgRg in RHC No. 150.343/GO (Brasil, 2023c, n.p.) brought an important differentiating factor between the two institutes: if the Public Prosecutor's Office (also extended to the judicial police bodies) actively participates in the production of evidence by the informant/collaborator, providing him with means and instruments for recording dialogues or collecting evidence, Such participation mischaracterizes the initial condition of voluntariness and "[...] it brings the private agent

closer to a collaborating agent or an infiltrated agent and, consequently, to its restrictions". Thus, in order to ensure due process of law, it is essential to fully comply with the specific rules of plea bargaining or the infiltration of agents, according to the level of participation of the agent and the form of obtaining evidence in each case, especially the existence of a prior authorizing decision.

In addition, the STJ stated that the mere mention of the term *infiltration* in an investigation, made in a mistaken manner by the authority in the report or in documents of the procedure, does not constitute the existence of the institute if *there has not been a concrete infiltration of an agent*, according to the law. In these cases, it is only the practice of ordinary investigative acts (Brasil, 2018c).

The STJ also concluded in the face of the knowledge by the police authority that a criminal would be engaged in an illicit activity (in the case of the precedent, in possession of drugs for the purpose of trafficking), through messages sent by the same to another member of the organization (assuming, obviously, respect for the confidentiality of communication). There is no infiltration of agents in the face of the *voluntariness of production of evidence by one accused to the detriment of another* (Brasil, 2019a).

Additionally, the STJ clarified that the controlled action, defined as the postponement of the "police or administrative intervention related to the action practiced by a criminal organization or linked to it [...]", kept under constant observation and monitoring so that the intervention occurs in "[...] most effective moment for the formation of evidence and obtaining information" (Art. 8 of the Criminal Organizations Law) (Brasil, 2013, n.p.), is not to be confused with the infiltration of agents.

While the former depends on mere communication to the authority, the latter requires "detailed, motivated and confidential judicial authorization" (Art. 10 of Law 12.850/2013) (Brasil, 2013, n.p.), which gives the latter a significantly higher level of complexity, while the former requires only the opportunity envisioned by the police authority, followed by communication to the competent authority.

To further clarify the differences, the STJ stated that the controlled action does not constitute infiltration of agents (2020c, 2023a), in line with the understanding above. Furthermore, even when the story-coverage technique is used (concealment of the real identity of a police agent through the creation of a fictitious character to collect information) throughout a controlled action, it is not characterized as infiltration, since the agent does not interact directly with the organization or with its activity, but only accompanies the illicit

action to allow the triggering of police intervention at the most appropriate and convenient time (Brazil, 2020c).

In fact, the colenda court stressed that there is no infiltration of agents in situations in which an *intelligence agent*, when performing data collection functions to generate sensitive knowledge intended to advise a higher authority, according to Law 9.883/1999, becomes aware of certain situations and, subsequently, is summoned to testify in the process.

It is important to note, however, that the activity of intelligence in public security is not focused on the production of evidence for criminal proceedings, given the difference in competences and constitutional purposes of this activity compared to the function of judicial police, except, of course, in cases of evidence obtained from open sources, through a Technical Operational Report (RTO) (Brazil, 2015), which is currently accepted even in the scope of the military police (Medeiros et al., 2022).

As this issue was not the subject of in-depth analysis in the precedent, even due to the impossibility of factual reexamination of matters debated in the lower courts by the STJ (an issue that will be resumed later), it is presumed that the agent testified based on knowledge obtained from open sources, without violating the secrecy inherent to intelligence activity. In any case, this care must be observed in criminal proceedings, in order to prevent intelligence activity from being improperly used as a mechanism for invading private life and producing evidence in contravention of current legal determinations (Reis Netto et al., 2018).

STATEMENTS ON THE JURISDICTIONAL LIMITS OF THE ANALYSIS OF THE VALIDITY OF THE EVIDENCE PRODUCED BY THE INFILTRATION OF AGENTS BEFORE THE STJ

Therefore, the analysis of the judgments identified relevant understandings about the jurisdictional limits of the STJ's competence in the analysis and application of the institute in question.

Initially, it is verified that seven statements of the judgments state that the validity of the infiltration of agents constitutes an evidentiary matter that must be raised and discussed in the ordinary courts, and it is not up to the STJ, as a rule, to re-examine or judicially confront the issue (Brasil, 2009, 2015c, 2020a, 2020b, 2020d, 2021, 2022c). This understanding was even consolidated prior to the current law on criminal organizations, as indicated by the dates of the judgments. However, one of the statements (Brasil, 2022c)

made an important caveat: it allows the STJ to reanalyze if the issue has been omitted in the judgments of the courts of origin.

In general terms, it is verified that the matter in question does not diverge from the understanding already settled by Precedent No. 7 of the STJ, which establishes that "the claim for simple reexamination of evidence does not give rise to a special appeal" (Brasil, 1990, n.p.).

In addition, the court outlined a relevant interpretation as to the moment of assessment of this type of evidence in the courts of origin, understanding that the issue constitutes a preliminary on the merits and not a question prejudicial to the receipt of the complaint filed by the Public Prosecutor's Office (2019d). Thus, any nullity of the institute, even if argued in the response to the accusation, does not prevent the receipt of the indictment, and the discussion about the validity of the use of this means of proof must occur at a later time, on the merits.

In addition, the Special Court of the STJ consolidated an important understanding for international relations and the fight against criminal organizations: information on crime transmitted to the Brazilian authority by a foreign authority, through international cooperation and obtained through the infiltration of agents considered valid according to foreign legislation, which in Brazil gave rise to a new investigation and criminal action, does not oblige the STJ to assess the validity of the foreign decision regarding infiltration, which would constitute an inadequate oblique ratification (2015b).

In this sense, the vote cast was emphatic in stating that "the important thing to emphasize is that [...] the country of origin [...] considers such production of evidence in terms different from ours. The sending to Brazil of evidence thus obtained would not be unlawful (SIC), because it was obtained in accordance with local legislation", which is why the court declared that it would not be appropriate "[...] to the Superior Court of Justice to decide on the validity of the evidence in that country, just as the decision taken there is not binding on Brazil" (Brasil, 2015b, p. 12).

In summary, even if the evidence is obtained based on permissives different from those provided for by Brazilian law, information received that allows the opening of a police investigation in Brazil, via an international cooperation agreement, does not oblige the STJ to carry out a prior analysis of its validity, considering that the evidence was considered legal by the foreign judiciary. This is because it is information about crime that may, or may

not, trigger investigations, indictments and, eventually, criminal proceedings in Brazil, respecting the adversarial and full defense.

It is, however, for the court to examine the full regularity of the investigation that develops on the basis of the initial information, in accordance with the provisions of national law. It is reiterated that, in the context of criminal action, the issue will be subject to the full exercise of the adversarial and full defense.

STATEMENTS REGARDING THE VALIDITY AND POSSIBILITIES OF USE OF THE INSTITUTE OF INFILTRATION OF AGENTS

First, it is noted that 4 statements present in the precedents were based on stating that, respecting strict compliance with legal requirements (Brasil, 2013), there is no need to question the validity of the use of the institute of the undercover agent for the purpose of producing evidence to support criminal prosecution (Brasil, 2011, 2019b, 2022a, 2023c), which, demonstrates an understanding prior to the current law on criminal organizations, including – in view of the year of the judgments).

However, the STJ made it clear that other requirements must be observed throughout the execution of the evidentiary production technique, so that the validity can be maintained, after birth, as explained below.

First, the STJ declared the existence of *two phases inherent to infiltration*, the difference of which is decisive for the requirement, or not, of the judicial determination authorizing the measure: a) a first, "[...] limited to activities that aim to delimit the investigation, and it is unnecessary to obtain judicial authorization at this stage, since it does not imply the immersion of the agent in the structure of the criminal organization [...]"; and, b) a second, in which "[...] it is presumed that the investigation already focuses on specific subjects, requiring the agent to develop and build a closer relationship [...]" (Brasil, 2023d, n.p.).

As noted, judicial authorization is only required from the effective infiltration of the agent. On the other hand, the creation of a cover story, as already analyzed in the previous topic in relation to the controlled action (Brasil, 2020c), does not generate the nullity of the institute, since it still uses evidence, in theory, open and liftable by other less invasive means, and, in this wake, which does not depend on the inherent judicial control and secrecy.

However, when there is an effective approximation of the agents and action in order to approach and raise the identity of people in a criminal situation, *modi operandi* of their actions, elements inherent to hierarchy and specialization, limits of conduct, etc., it will certainly be required to issue a prior judicial decision.

In fact, the STJ also declared, in another statement, that it is lawful for the undercover agent to approach members of the criminal organization, in order to gain their trust, even without judicial authorization, and, only after this, to integrate into the group's activities to obtain deeper knowledge capable of generating evidence about the materiality and authorship of criminal conduct (2023e). In this sense, the statement stated that "[...] the agent to be infiltrated would not succeed in his desideratum if he did not try to get closer to the criminal organization, in order to gain the trust of its members" and, only after this first phase, the second would begin, which would characterize "[...] the infiltration itself, already triggered with due judicial authorization" (2023e, n.p.).

In any case, the court made it clear that there is a substantial difference between the *approach* to gather evidence and the *direct influence* on the part of the undercover agent. Criminal conduct depends on the free and unimpeded will of the criminal agent, and his culpability or degrees of reprehensibility of his conduct may be excluded if, eventually, it was influenced by the infiltrated agent, as the case may be.

Although this is a relatively logical consequence of article 13 of Law 12850/2013 (Brasil, 2013, n. p.) which states that "[...] the agent who does not keep, in his performance, the due proportionality with the purpose of the investigation, will be responsible for the excesses practiced", which, to a large extent, also means an impertinent inducement of third parties to take criminal conduct that *they would not naturally take*, the STJ saw fit to declare, even if indirectly, that it would be unlawful for undercover agents to provoke and induce criminal practice (2020b).

STATEMENTS ON THE USE OF THE INSTITUTE OF THE INFILTRATED AGENT IN THE FACE OF THE POSSIBILITY OF PRODUCING OTHER MEANS OF EVIDENCE

First, two statements – extracted from different excerpts from the same judgment (2023a, n. p.) – highlighted the exceptionality of the production of evidence by the technique under study, stating that "[...] controlled action and infiltration, which are configured as a special investigative technique aimed at combating modern crime [...], so

that only "[...] when the evidence cannot be produced by other available means, provided that its necessity is proven [...]"

It is essential that the material conditions of each case are duly considered, so that they are "[...] combined with criteria of proportionality (utility, necessity), subsidiarity is observed, and evidence cannot be produced by other available means" (2023, n.p.).

In any case, the use of the institute must occur in the face of the difficulty or impossibility of producing other means of evidence, making it the most appropriate means to enable state persecutio criminis, without "the Judiciary ending up curtailing the investigative activities of the police and the exercise of jus accusationis by the Public Prosecutor's Office, still in the pre-procedural phase [...]", except "[...] if the presence of illegal constraint is manifestly demonstrated" (Brasil, 2022b).

Also observing the criterion of exceptionality, the court expressed the understanding that search and seizure, as a serious constrictive measure with possible irreversible consequences, can be used if there are "[...] plausible justifications for the exceptional use of search and seizure, consisting, among others, in the impossibility of infiltration by agents" (Brasil, 2016).

In any case, considering the invasiveness of both measures, the precedents can be interpreted as meaning that the characteristics of the specific case must guide the discretionary choice of the police authority (or the Public Prosecutor's Office) as to the adoption of one or the other measure, provided that the proportionality of each or even both of them is justified and proven.

Additionally, the STJ established a relevant precedent on the digital infiltration of agents. Reaffirming the legality and admissibility of the amendment introduced by the anti-crime package – Law No. 13,964/2013 (Brasil, 2019) – which added article 10-A to Law No. 12,850/2013, the court expressed the understanding that it is possible "[...] in the national legal system [...]" the use of "[...] agents infiltrated in the cyber plane, provided that the use of the controlled action in the criminal investigation is supported by judicial authorization" (Brasil, 2023a, n. p.).

He even added that this infiltration can occur "[...] via software mirroring [...]" of messages, "[...] granting functionality to virtual persecution, of inestimable value in today's world" (Brasil, 2023a).

This advance ensures the advantageous use of technology in the fight against organized crime and, without a doubt, makes the infiltration of police agents safer and less costly, substantially reducing the risks to which these agents are exposed.

FINAL CONSIDERATIONS

This work aimed to understand the understandings expressed in the jurisprudence of the Superior Court of Justice on the practical application of the institute of infiltration of agents in Brazilian law. In addition, jurimetric information was presented that allowed the analysis of temporal aspects of the decisions and the raising of hypotheses about the application of the law of criminal organizations and the performance of the panels and sections of the court.

It was also observed that the court consolidated relevant jurisprudential understandings on: a) the practical application of the institute of infiltration of agents; b) the jurisdictional limits for the analysis of the validity of evidence produced by infiltration of agents; c) the validity and possibilities of use of the institute of infiltration of agents; and d) the use of the infiltrated agent in the face of the possibility of producing other means of evidence.

Thus, the work substantiated a brief compendium of recent jurisprudence regarding the institute of infiltration of agents, which certainly represents a contribution to studies on the subject, in addition to consolidating relevant information for its practical use by public security agencies and the judicial system.

In addition, it is stated that the present study can be expanded to discussions that are covered by the state courts, which, under the terms analyzed, are responsible for carrying out an in-depth analysis of the matters of evidence involving the institute in question. Certainly, this expansion can provide an even more comprehensive scenario on the controversies surrounding the matter, as well as on the possible new understandings that will be faced by the STJ in the coming years.

In any case, it is essential to reiterate the need for greater debate and the construction of understandings and norms that increasingly enable the practical application of the institute of infiltration of agents as a special means of evidence applicable to the fight against criminal organizations. After all, while the law still maintains a contained step in relation to various social advances, according to the literature mentioned, the criminal

organizations of this early twenty-first century are not at all conservative in their search for innovations.

It is up to the law, therefore, to also innovate, always safeguarding the faithful and careful observance of the principles of legality and due process.

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