


EFFICIENCY IN JURISPRUDENTIAL RESEARCH: AN ANALYSIS OF THE PORTAL OF THE FEDERAL REGIONAL COURT OF THE FIRST REGION

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ABSTRACT

In contemporary times, Information and Communication Technologies (ICTs) play an essential role, highlighting the paradigm of broad access to information. In Brazil, transparency has become a duty of public entities with the enactment of Law No. 12,527 of 2011 (Access to Information Law). In this context, Brazilian courts faced the need to adapt to society's growing demand for access to judgments and administrative data. About judgments, it is crucial to examine the criteria defined for their disclosure on the courts' electronic portals. Thus, this study sought to evaluate to what extent the website of the Federal Regional Court of the First Region has tools that favor the search of jurisprudence. For this, a descriptive research was carried out, with an empirical character and a qualitative approach, analyzing the main functionalities available on the platform. The results indicated that, in addition to the summaries, the judges allow access to the vote of the rapporteur and, in cases of divergence, to the vote of the other judges. However, processes protected by secrecy of justice restrict public access only to the summaries.

Keywords: Research. Jurisprudence. Administration. Courts. Information.

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INTRODUCTION

In today's society, access to information is intrinsically linked to the use of data and Information and Communication Technologies (ICTs), which influence the contemporary paradigm of disseminating information made available by organizations through their digital resources.

ICTs play a multifaceted role in public institutions. In Brazil, electronic government (e-gov) was implemented to promote a more efficient and productive administration, facilitate access to public information, and encouraging citizen participation in government decision-making.

These technologies have allowed greater interaction between the internal and external actors of society, through political-institutional alliances, although strategic, they build a new model of justice administration (Falcão, 2007; Gelatti; Souza; Silva, 2018).

In addition, information and documentation technologies are widely used to disseminate public information through official websites or other online platforms, allowing citizens to request services, access information, and transact with the government more efficiently and conveniently. However, it is essential to note that the adaptation of public organizations to the use of ICTs is still ongoing, and the development of these structures does not occur uniformly in all institutions (Gelatti; Souza; Silva, 2018).

The Judiciary also had to adapt to this new informational context. In compliance with the Access to Information Law (Law No. 12,527/2011), the National Council of Justice sought to regulate the availability of procedural data to the public through resolutions of a binding nature for all Brazilian courts (Brasil, 2011).

This opening to the public was not restricted to the administrative sphere (such as personnel and material expenses), but also included the disclosure of decisions rendered by judges, judges and ministers. With the Internet, the dissemination of judgments has become more significant in the Brazilian legal system, taking into account the differences between the *civil law* and *common law systems* and their underlying principles, such as judicial decisions and precedents (Mendes, 2013).

Access to judgments is essential for society to exercise social control over the Judiciary, putting into effect the constitutional principle of transparency and publicity of public acts. Jurisprudential data are fundamental to foster research in Law, as greater publicity and accessibility guarantee both social control and the production of quality scientific knowledge.

The expansion of access to this data should occur, as a priority, through ICTs, allowing researchers in the legal area to conduct their investigations without significant displacements, reducing the costs of scientific research and expanding access for society.

The field of legal research has been undergoing significant transformations, driven by new information technologies and the need to overcome dogmatic approaches, transforming the investigation into a critical study based on the analysis of cause and effect of the problems faced by society. The training of the researcher in Law, however, is generally not consolidated during graduation.

"The fact is that it is not possible to do research in law by reproducing patterns and isolating oneself. On the contrary, researchers in law must be affected by other knowledge and accept the estrangements inherent to the investigation process." (Barros; Barros, 2018).

In this context, the following question arose: does the search for case law on the TRF1 website cover all the documents judged? Thus, the objective of this study was to analyze to what extent the website of the Federal Regional Court of the First Region presents tools that facilitate the search for jurisprudence.

The research was descriptive, empirical in nature and qualitative approach, focusing on the analysis of the main functionalities available in the TRF1 electronic platform. The functionality of the court's judgment database was analysed and whether the public has full access to the judgments or only to the summaries that summarize the judgments.

The relevance of the theme lies in the need for a critical analysis of the TRF1 electronic portal, as well as in the possibility of applying this type of study to other Brazilian courts. In addition, it is a fundamental administrative guideline to improve the availability of judgments by the country's courts.

INFORMATION AND COMMUNICATION TECHNOLOGIES IN LAW: IMPACTS ON RESEARCH AND JUDICIAL TRANSPARENCY

New technological tools have been gaining greater prominence over the years due to the valorization of information in society.

Santos (2005) speaks of the revolution in the field of information and communication technologies about the magnitude of the transformations that are taking place. This process of revolution has projections in the economy, politics and society. This is a clear paradigm shift, in which information has become the main element.

In the face of a society that values information and the need to publicize the acts of the public power, especially the Judiciary, it is necessary to understand the importance of broad access to the results of judgments of courts of second instance and higher courts. In this sense, the courts' websites are a tool for broad access by the population to judgments.

THE JUDICIARY AND NEW INFORMATION TECHNOLOGIES

The Judiciary also uses Information and Communication Technologies in its activities. The implementation of ICTs in the Judiciary aims to modernize and streamline judicial processes, reducing the use of paper and speeding up the processing of cases, improving access to justice and promoting greater transparency, thus providing more effective means for the dissemination of information generated by the courts (Veçoso *et al.*, 2014; Gelatti; Souza; Silva, 2018).

The courts make available on their websites data on processes, judicial decisions, jurisprudence, among others. This allows citizens to have access to relevant information about the functioning of the Judiciary and to be able to follow the progress of cases of their interest, facilitating the participation of witnesses physically distant from the court, in addition to reducing costs and travel time. It facilitates communication between magistrates and civil servants, document management and the training of professionals (Gelatti; Souza; Silva, 2018).

Thus, the routine tasks of the administration and management of justice began to have greater control and efficiency. Legal professionals no longer need to leave their homes to file a petition, because everything can be done over the internet, at any time, without limitation of time or day of the week. It's as if the forum is open all the time.

Costa, Ramos, and Guimarães (2022) point out that the legal professions are undergoing a radical change, due to the paradigm shift, from an industrial society, based on the format of printed documents, to a society based on information technology. These transformations in the use of technologies are changing the practice of Law, making the professional more active and dynamic (Fragale Filho, 2009).

The change from printed to virtual has created problems for professionals who still structure their practices based on the physical process model. For example, for the law researcher, these changes are allies in the process of searching for data which will be used for his scientific research which, according to Santos (2005), information systems consider a greater circulation of information, making law and justice closer and more transparent.

The wide circulation of information produces greater transparency and is fundamental for the exercise of society's control over the acts of the Judiciary. In addition, citizens will be able to better know their rights and thus exercise them in the best way.

In a society in which information is essential, the Judiciary could not remain in a model that, to a large extent, constituted a real barrier for the population and even for researchers and other legal professionals.

For Fragale Filho (2009), the use of the internet as a mechanism for accessing information produced by the Judiciary has transformed the jurisdictional function, giving it greater transparency and accessibility.

Effectiveness and transparency are two positive consequences of the use of new information technologies in Brazilian courts, which until recently had their procedural acts difficult to access, since the existing model was the physical process and the publicity of the acts was restricted to the access of the records within the forum.

In this way, the researcher who, living outside the Federal District, intended to develop a research on some jurisprudence of the Federal Supreme Court (STF) or the Superior Court of Justice (STJ) would be harmed due to the high cost of its realization.

Currently, this same researcher can access the jurisprudence of any court in the country without having to leave his state through the incorporation of new information technologies by the courts.

According to Veçoso *et al.* (2014), the electronic databases of judgments, in which searches are carried out, constitute an important tool to give greater publicity to judicial acts. This facilitates the social control of the acts of the Judiciary.

In the United States, there are investments in database subscriptions (widely used in universities) that favor and boost empirical research in the area of Law, which immediately differs from the Brazilian reality, characterized by few and limited investments, presenting search tools that do not bring an intuitive operationalization, not being easy to handle, in addition to the fact that not all electronic databases of the courts make available the decisions or make available without the full text of its content.

To regulate and provide greater transparency to the Judiciary, Resolution No. 79 was issued by the National Council of Justice (CNJ). Currently, this matter is regulated by Resolution No. 215, of 2015.

These resolutions arose due to the need for Brazilian courts to adapt to Law No. 12,527, of 2011 (Access to Information Law). It was necessary to ensure that the use of

new information and communication technologies by the courts would produce greater transparency of judicial acts, thus facilitating social control.

COURT *WEBSITES* AS A MECHANISM FOR THE DEVELOPMENT OF RESEARCH IN LAW

Research in Law has expanded its investigations beyond dogmatism and doctrine, gaining prominence through jurisprudential studies with the electronic pages of the courts, since they are important research tools available to researchers in Law and other areas.

Veçoso *et al.* (2014) cite the growing number of dissertations and theses in Law that use jurisprudence research as the main method. This is due to the ease of access to the database of the courts, especially the Federal Supreme Court and the Superior Court of Justice.

It is important to emphasize the need for standardization among the courts' *websites* to facilitate the research process, since each court may have a different policy for structuring the databases.

In this sense, Resolution No. 121, of 2010, was issued by the National Council of Justice, to regulate the procedural data being disclosed on the internet. According to this resolution, the courts must provide basic data of the case, such as: number, class and subject of the case, name of the parties and their lawyers, procedural movement and entire content of decisions, sentences, votes and judgments.

The regulation by the National Council of Justice confers, to a certain extent, a minimum standardization to the entire Brazilian Judiciary, both federal and state.

Despite this, Veçoso *et al.* (2014) emphasize the importance of forming a comprehensive database for the extraction of secure and representative information on the activity of the courts. This prevents the use of dubious criteria in the formation of this collection, in addition to giving greater freedom to the researcher, who will be able to choose which processes to use, following the method of his research.

The completeness of the database is fundamental for research in Law, especially quantitative research, in which the selected sample needs to be representative, under penalty of misleading the researcher. The completeness of the database is also related to the availability of decisions in full and not just part of it, as happens when the courts make available only the summary with the result of the judgment.

The completeness of the courts' databases and the availability of access to them gives greater transparency to the acts of the Judiciary, thus instrumentalizing the researcher, because placing obstacles to access to the data of the process and the entirety of the decisions is to create barriers to broad scientific research.

Since the 1988 Constitution, there have been implications in all areas of knowledge in jurisprudential research. In this way, the results of the judgments must be released to all citizens, without the need for prior registration or any other mechanism that constitutes an obstacle, also disclosing the entire content of the judgment, in addition to the search system analyzing the decisions.

Thus, the judge can be a researcher in its entirety through keywords used in the documents themselves and not only in the summary of the judgment or by indexing. In case of an error in the indexing process, the search is compromised.

There is also a need to access the complete process for conducting qualitative research, in which the researcher's concern is more focused on the way the magistrates developed their argumentative reasoning than with the result (Veçoso *et al.*, 2014).

In recent years, in the field of Law, there has been a growing number of studies that use content analysis or discourse analysis as a research technique, in which access to the complete file with all the manifestations of the judges is extremely relevant.

To illustrate the need for full access to decisions, the system of the Code of Civil Procedure listed the obligation to insert unsuccessful votes in judgments that were previously discarded.

However, today's unsuccessful vote may become the winning vote in the future, so in many cases it is necessary to see how each magistrate manifested himself, even to clarify points that were not well defined in the judgments.

For the consultations of cases already judged, the databases need to be easy to handle, so that it allows access to the largest number of interested people, ensuring more publicity to the judgments carried out by the courts. Thus, an ideal database model is formed by the totality of a court's decisions, except in cases of procedural secrecy, made available in their entirety (Veçoso *et al.*, 2014).

Thus, ICT came to facilitate the work of the professional in law and the researcher, as well as reducing the challenges of empirical research that are (Loreto; Venâncio; Nogueira, 2022):

- a) structural and historical deficiencies in law research, which has traditionally relied on dogmatic approaches, making it difficult to adopt other methodologies;
- b) lack of training and familiarity with empirical methods by researchers, which can hinder the application of these methodologies in their studies;
- c) resistance and distrust about empirical research, which is still viewed with suspicion by some law researchers;
- d) difficulty in collecting empirical data: this may require searching for alternative sources of data or conducting case studies;
- e) complexity in the analysis and interpretation of data, which sometimes requires statistical and interpretative skills;
- f) ethical and legal limitations in empirical research, especially when it involves the collection of data from sensitive individuals or institutions. Researchers should be aware of these limitations and ensure compliance with ethical and legal standards;
- g) resistance from the legal community that may not fully value or recognize the contribution of empirical research to the field of law.

Addressing these challenges requires continued efforts to train, educate and raise awareness of the importance and usefulness of empirical legal research. In addition, it is necessary to promote interdisciplinary collaboration and dialogue between legal institutions and researchers, as well as experts in empirical methods from other areas.

TOOLS AND CHALLENGES OF JURISPRUDENTIAL RESEARCH ON THE PORTAL OF THE FEDERAL REGIONAL COURT OF THE FIRST REGION

The theoretical concept of public reason, developed mainly in the works of Rawls (2009) and of access to justice by Cappelletti and Garth (1988) are elements that guide public deliberation and provide a path to be followed by the dialogical relationship between public institutions.

The premises for social justice in the legal system are given by the Rawls deliberative theory, which, in many aspects, complement each other to form an institutional ideal of access to justice developed by Cappelletti and Garth (1988).

For Rawls (2009), the law is conceived rationally, to be accepted and recognized by society. This rational construction of the right takes place, at first, through the communication and participation of the citizen, to guarantee him self-determination.

The parameter of social justice constructed by the theory of Cappelletti and Garth (1988) contributes significantly to the thesis of social justice as a guarantee of access to justice for all. The theoretical structure of the authors is based on two complementary dimensions.

The first of them specifies formal and material equality in favor of a greater realization of rights for all. The second dimension, in turn, specifies that social justice must "produce results that are individually and socially just (Cappelletti, Garth, 1988, p. 8).

The combination of these two dimensions of access to justice allows Cappelletti and Garth (1988) to draw a line through which people can claim rights or resolve disputes through the State, accessible to all, based on a fair decision.

By drawing on Rawls' (2009) theory of justice and Cappelletti and Garth's (1988) theory of access to justice, the idea of the basic structure of social justice consists of how the public power provides the necessary means to apply the inherent prerogatives. These are basic theories in which the State confers basic rights and duties on individuals.

It so happens that these classical theories find it difficult to apply in the practical reality of justice systems in contemporary times. Brazil is one of the countries with the highest rates of procedural congestion in the world. Although the average productivity of Brazilian magistrates is relatively high, such progress does not converge with the growth of procedural demands (CNJ, 2021)

It is perceived, then, that the traditional jurisdictional methods would no longer be sufficient to face the serious administrative problems of justice, mainly caused by the procedural slowness.

In the search for understanding this new reality of access to justice, Katsh (1989) is cited, who advocates a new global scenario of access to justice, which translates into the use of artificial intelligence to shape the scope of conflict resolution from two dimensions. The first would be by changing the physical space to the virtual space and the second would be by automating the decision-making process.

Certainly, cataloguing the challenges to be faced by the Judiciary in the twenty-first century is not a simple task, since important variables such as the digital revolution, the demands of productivity, problem-solving capacity and efficiency, cause important changes in its structure.

Efficiency is related to the improvement in the use of resources to achieve an objective and constitutes one of the principles of public administration, according to article

37 of the Federal Constitution. Efficiency can also be classified as technical and economic, and in public institutions the interest in the best use of resources to meet the public interest, the needs of citizens, prevails (Farrell, 1957; Alfonso, 1995; Alcântara, 2009; Schwengber, 2015).

However, the procedural slowness and the institutionalized crisis are factors that cause damage to the image of the authorities of the Courts of Justice, hence the confrontation to change this fact.

The Federal Regional Court of the 1st Region (TRF1),⁵ established with the promulgation of the 1988 Constitution, is one of the five Federal Regional Courts of Brazil, responsible for a specific region of the national territory. The TRF1 covers an area that represents more than half of the Brazilian territory, encompassing states in the Legal Amazon, the Northeast and the Midwest, with significant diversity in socioeconomic, cultural and environmental terms.

Due to the geographical vastness and density of its jurisdiction, it faces particular challenges such as the high number of cases, many of which are complex. Some of these lawsuits involve litigation related to indigenous lands, environmental issues, and major infrastructure works. In addition, providing access to justice in remote and hard-to-reach areas is a constant challenge.

Even in the face of these adversities, the main objective of the TRF1 is to ensure that federal laws are interpreted and applied uniformly in its vast region. To overcome the challenges, the court has invested in modernizing its procedures, such as the digitization of processes and the promotion of alternative conflict resolutions, seeking to speed up decisions and make justice more accessible.

THE AVAILABILITY OF THE JUDGMENT DATABASE ON THE COURTS' WEBSITES

When it comes to making judgments available on court websites, it is important to note that in addition to the recommendations of the National Council of Justice (CNJ), there are studies that analyzed court websites.

⁵ In the case under study, the Federal Regional Court of the 1st Region - created in 1988 and headquartered in Brasília (DF), is the Court of Justice with one of the largest numbers of cases in its collection and the largest in terms of territorial extension, having under its jurisdiction 12 states (Acre, Amazonas, Amapá, Bahia, Goiás, Maranhão, Mato Grosso, Pará, Piauí, Rondônia, Roraima, Tocantins) and the Federal District. Thus, the research focuses on the Federal Regional Court of the 1st Region for two factors: 1) the collection of the federal court and 2) because it maintains under its jurisdiction 12 states of the federation and the Federal District.

Veçoso *et al.* (2014) analyzed the websites of the Federal Supreme Court and the Superior Court of Justice to find out how these courts were forming their databases and making this information available to the public.

In turn, Costa, Ramos, and Guimarães (2022) carried out a brief study on the availability of judgments by the Court of Justice of the State of Maranhão.

In the case of the analysis of the STF and STJ websites, a method was developed that sought to answer some basic questions⁶ regarding the completeness of the database of these courts and how their search systems are functional on their respective electronic pages (Veçoso *et al.*, 2014).

In the research carried out by Costa, Ramos, and Guimarães (2022), the objective was to analyze the main features of the website of the Court of Justice of the State of Maranhão that can help researchers develop their research. Trying to understand whether the TJ/MA website provides complete information or is limited to providing the summaries or judgments of the courts.

In the present analysis, the object of study will be the *website* of the Federal Regional Court of the 1st Region and its functionalities available to the external user, whether a researcher in the area of law, a lawyer or any citizen, who wishes to research the jurisprudence of this court on a given subject.

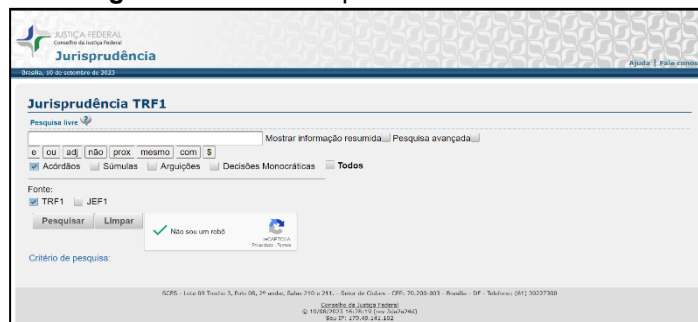
RESULTS AND DISCUSSION

The jurisprudential search of this article was carried out on the *website* of the Federal Regional Court (TRF) of the 1st Region (<https://portal.trf1.jus.br/portaltrf1/pagina-inicial.htm>) in its specific search area that provides the options: "Full Content", "Jurisprudence" and "Administrative Jurisprudence".

In the search field of full content, the external user has access to the full content of judgments, decisions and orders (Figure 1).

⁶"Do the electronic databases of the STF and STJ make all decisions available in order to allow a complete jurisprudential search? Are these decisions presented in their entirety? Do search engines allow easy access to decisions?" (VEÇOSO *et al.*, 2014, p. 112).

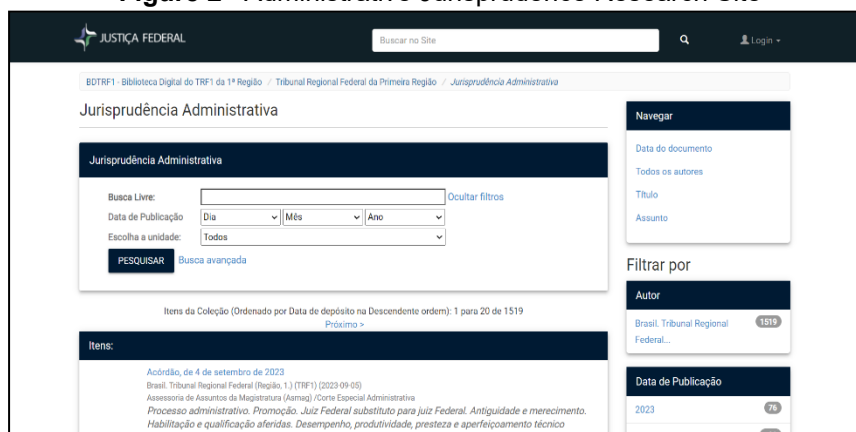
Figure 1 - TRF1 Jurisprudential Research Site



Source: TRF1 (2023)

In the field of jurisprudence research, the external user has access to judgments, precedents, arguments, and monocratic decisions (Figure 2).

Figure 2 - Administrative Jurisprudence Research Site



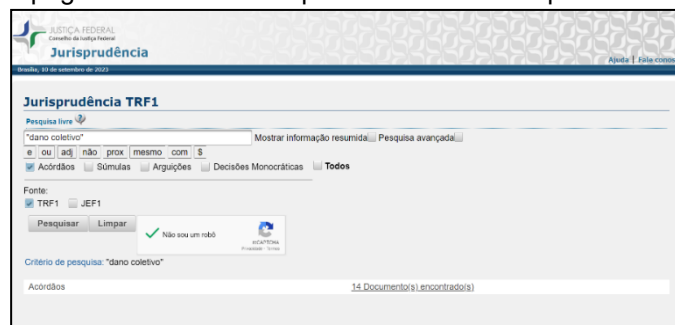
Source: TRF1 (2023)

In the case law search field, the external user can perform a free search, by date of publication and by administrative body. In addition, there is the advanced search option. The present jurisprudential research used the terms: "collective damage" and "aesthetic damage". It is observed that the TRF1 research site differentiates the inflection of words in singular and plural and ignores graphic accents.

Next, it was identified whether the availability of the judgments was restricted to the summary or the entire content of the judgments. No research was carried out in the area of full content or administrative jurisprudence because they were outside the scope of the present investigation.

With the results obtained by the TRF1 case law research page with the expression "collective damage" (14 documents), it was identified which data is made available to the user (Figure 3).

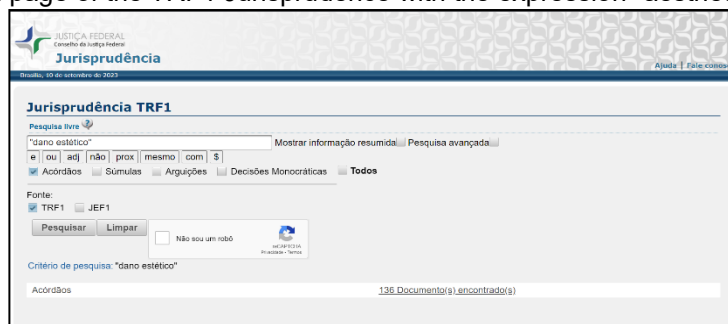
Figure 3 - Search page of the TRF1 Jurisprudence with the expression "collective damage"



Source: TRF1 (2023)

To search for the expression "aesthetic damage", 136 documents were found (Figure 4).

Figure 4 - Search page of the TRF1 Jurisprudence with the expression "aesthetic damage"



Source: TRF1 (2023)

The jurisprudence search system of the Federal Regional Court of the 1st Region provides the researcher with both the summary and the entire content of the judgments. However, it should be noted that there are processes with secrecy of justice that have not made the entire content available, and their access is restricted with public availability, only, of the menu of the same.

Reflecting on the availability of judgments in justice institutions, it is observed that "Organizations use information in three strategic ways: to give meaning to the environment, to create new knowledge and to make decisions. The creation of meaning produces a structure of common meanings and purposes [...]" generating identity and value to the organization (Choo, 2006, p. 345-346).

It was also observed that almost all of the judgments with full content analyzed from the keywords are limited to the vote of the rapporteur and the summary of the judgment because the panel voted unanimously. In cases of majority voting, the winning vote and the vote of the rapporteur are made available, in addition to the summary of the judgment.

The result found for the TRF1 website was very different from that obtained by Costa, Ramos and Guimarães (2022) in which they found limitations on the TJ/MA website related to the jurisprudential research tools of their court that only made available the summary of the judgment with the winning vote, which is usually the vote of the reporting judge of the case.

A fact that may have contributed to this wider availability of TRF1 judgments is related to the use of the Electronic Judicial Process (PJe) in all procedural classes and the digitization of all physical processes still in progress within the scope of the researched court.

FINAL CONSIDERATIONS

With the advancement of technology, Brazilian courts have had to create their electronic portals to meet the demand for information and transparency, thus, the electronic portals of the courts do not only fulfill an informative role, but have become true research tools on the way the court has been deciding on a certain issue, on the expenses with assets and personnel made by the court, favoring social control.

The present research analyzed to what extent the website of the Federal Regional Court of the First Region offers the law researcher and other external users mechanisms of access and completeness about their judgments.

The main issue was to understand which functionalities were available on the TRF1 electronic portal to the researcher, in case he needed to carry out a study on how the court has been deciding on a certain subject.

Thus, it was found that the court provides access to its jurisprudence in judicial proceedings through the "Jurisprudence" option and to its administrative judgments in the "Administrative Jurisprudence" tab. In addition, there is an option called "Integer Content" in which the researcher can analyze a specific process. In case of error or impossibility of access, he can request this same information by email, in this way, there is efficiency in making the information available to the public.

The research focused on the "Jurisprudence" tab due to its breadth about the "Full Content" field and because administrative jurisprudence was not the object of study in this research.

Keywords were used in the case law search field on the TRF1 website. The results obtained indicate that the availability of the judgments is not limited to the menu and that the user can access the vote of the rapporteur and, in case of divergence, the vote of the other judges. However, when the process analyzed is protected by the secrecy of justice, the user's access is limited to the summary of the judgment.

It is concluded that access to the jurisprudence of the Federal Regional Court of the First Region is free to any citizen, considering that there is no need to register on the website. This is important because the imposition of prior registration could imply difficulty in accessing the external user.

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