

Prosecutor-General Puts Brakes on Ferrari Law Challenge

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Brazil's Renato Ferrari Law (Law no. 6729/1979) governs commercial dealership agreements between automakers and their authorized dealer networks. In December 2023, the former Prosecutor-General of the Republic (PGR – Procurador-Geral da República) filed Constitutional Challenge ADPF 1.106/DF before the Supreme Federal Court (STF – Supremo Tribunal Federal, Brazil's highest court), arguing that the Law's provisions regarding exclusivity, territorial restrictions, pricing, and direct sales are unconstitutional.

Since then, Paulo Gonet has replaced Elizeta Ramos as Prosecutor-General. Recently, Paulo Gonet filed a brief in support of the constitutionality of the Renato Ferrari Law, joining the Federal Senate, the Chamber of Deputies, the federal Attorney-General, and sector entities, which all contend that the Ferrari Law is constitutional.

The New Brief from the Prosecutor General's Office

The current Prosecutor General took a position different from that expressed in 2023 by his predecessor. His brief contends that the Renato Ferrari Law does not impose restrictive obligations and allows free negotiation between automakers and its dealerships. In a brief filed on June 12, 2025, Paulo Gonet stated that clauses on territoriality, exclusivity, and minimum purchase quotas are not inherently abusive and may even promote competition.

The brief also emphasized that the Renato Ferrari Law does not exclude or limit the jurisdiction of Brazil's antitrust authority, CADE (Conselho Administrativo de Defesa Econômica). According to the PGR, the vertical restrictions provided for under the Renato Ferrari Law result from voluntary agreements and do not create sector-wide immunity from antitrust oversight.

The Prosecutor General noted that, under Supreme Federal Court precedent – particularly Constitutional Challenge ADI. 5.794/DF¹ – the judiciary must respect the legislature's policy choices unless the unconstitutionality of a statute is clearly demonstrated.

The brief cites CADE's Technical Note 28/2022, which recognizes that the Renato Ferrari Law may have competition effects but stresses the need for a case-by-case analysis. Consequently, in the PGR's view, there is no justification for declaring the legislation unconstitutional in the abstract.

From a consumer protection perspective, the brief points out that the Renato Ferrari Law expressly guarantees mechanisms to ensure that consumers have options and freedom of choice: "The legislation allows more than one dealer from the same network to operate in the same area (article 5, §1) and gives consumers the freedom to purchase goods and services from any authorized dealer (article 5, §3)."²

Ultimately, in affirming that the Renato Ferrari Law is compatible with constitutional principles governing economic order, free enterprise, contractual freedom, and the prohibition of abuse of economic power, the Prosecutor General takes a categorical position in favor of dismissing ADPF 1.106.

The brief underscores the importance of preserving legal certainty in dealership agreements and the legislature's role in regulating the automotive sector,³ while leaving room for antitrust enforcement in specific cases where abusive practices effectively occur.

What to Expect Next

With this new brief, Paulo Gonet has rejected the arguments set out in the statement of claim filed on December 13, 2023. So far, every party that has filed submissions supports dismissal of the case, signaling broad consensus in favor of upholding the Renato Ferrari Law, which has governed dealership agreements between automakers and their dealer networks since 1979.

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NOTES

1. "Judicial self-restraint requires respect for the legislature's democratic choices, absent theoretical reasons or empirical evidence that render its option inadmissible" (Excerpt from the judgment in ADI 5.794/DF, Justice Edson Fachin reporting, published Dje April 23, 2019).

2. Brief filed on June 12, 2025, p. 12.

3. "There is, therefore, no violation of the essential core of contractual freedom, no elimination of competition, and no disproportionality between the vertical restrictions permitted by the Law and its purpose of preventing abuse of economic power. There is no direct violation of any fundamental precept." (Excerpt from the PGR brief, pp. 14–15).

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