

The PEC of relevance in the STJ

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On July 14, 2022, Constitutional Amendment Number 125 was enacted, which requires the appellant to demonstrate, in appeals to the STJ, the relevance of infraconstitutional federal law issues.

According to the Rapporteur's vote in Congress, the "objective of the PEC (Proposal for Amendment to the Constitution) under analysis is to decongest the justice system, reducing the number of appeals with the STJ (Superior Court of Justice), by imposing a new requirement that will serve as an access filter".

That is, the amendment represents another step towards reducing the number of cases that reach the STJ (Superior Court of Justice). One more filter. A new requirement to arrive at the analysis of the merits of the appeal to the STJ.

The text, in short, added paragraphs § 2 and 3 to article 105 of the Federal Constitution.

According to article 2 of Constitutional Amendment Number 125, relevance will be required in appeals to the STJ filed after its entry into force. In these cases, even before the regulation, it is understood by the text that, from now on, a topic must be opened in the appeal motion to demonstrate the relevance.

However, recent decisions handed down by some Justices of the Court indicate that the admissibility requirement created by Constitutional Amendment Number 125 does not apply to cases in which the judgment challenged by appeal to the STJ has been published on a date prior to the publication of the amendment¹.

Also under the terms of the rule, the Court can only reject the appeal to the STJ based on the non-demonstration of relevance by the manifestation of 2/3 (two thirds) of the members of the competent body for the judgment of the appeal.

Finally, the novelty has exceptions. According to the new § 3 of article 105, it will not be required to demonstrate the relevance for criminal actions, administrative improbity actions, actions whose value of the case exceeds 500 minimum wages (in this case, the amendment provides for the possibility of adjusting the value when the appeal to the STJ is filed, after the entry into force of the constitutional amendment), actions that may generate ineligibility, in cases in which the appealed decision contradicts the prevailing jurisprudence of the STJ (Superior Court of Justice) and makes room for other cases, to be provided for by law.

It can be expected in the coming months the regulation of the constitutional amendment to discipline the procedure, as well as the "competent body" for the judgment of relevance and other issues.

NOTE:

¹ As an example, we cited Appeal number 2,159,014, Justice Antonio Carlos Ferreira, Electronic diary of justice of 08.31.2022, and Appeal number 2,129,898, Justice Ricardo Villas Bôas Cueva, Electronic diary of justice of 08.31.2022.

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