

ADI 4,650

Electoral Financing Provided by Legal Persons

Country:

Brazil

Court:

Federal Supreme Court

Competent Court:

Full Court

Format of the Session:

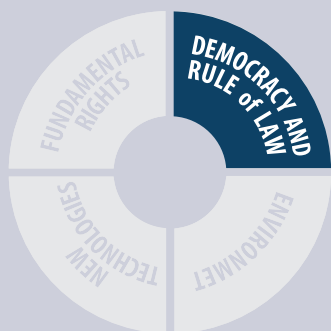
In-person

Rapporteur:

Justice Luiz Fux

Decision Date:

September 17, 2015

Matter:


CASE SUMMARY

A Direct Action of Unconstitutionality (ADI) on the constitutionality of provisions that regulate campaign and party financing by legal persons. The plaintiffs argue that these rules, as written, would subject the electoral process to economic power, jeopardizing the principles of democracy, republicanism, and equality, ultimately interfering with the outcome of the elections.

LEGAL REASONING

1. The 1988 Federal Constitution does not establish rules that impose or prohibit any given financing model for electoral campaigns. However, the governing principles of the electoral process set forth in the Federal Constitution—democracy, political pluralism, and equity—restrain lawmakers in their freedom to lay down the criteria for donations to candidates and political parties.
2. The criteria found in ordinary legislation proved ineffective at protecting the political process from economic power. The strong influence of economic power in elections gives candidates linked to large donors an advantage at the expense of others, disrupting electoral competition and equality among candidates.
3. Experience also teaches that a legal person's donation is not part of one's own freedom to express political preferences. Rather, it is a strategic behavior intended to get closer to the government, often with arrangements that lack the republican spirit.
4. Finally, the rules in effect for natural persons' donations and the use of candidates' own resources do not violate the fundamental principles of democracy, republicanism, and political equality.

DECISION OF THE COURT

The Federal Supreme Court ruled partially for the plaintiffs, deeming unconstitutional provisions of the Law of Elections (Law 9,504/1997) and Law of Political Parties (Law 9,096) that allowed legal persons' donations to electoral campaigns and political parties.

ADDITIONAL NOTES



**AMICUS
CURIAE**



**PUBLIC
Hearing**

part 1



**PUBLIC
Hearing**

part 2



**PUBLIC
Hearing**

part 3



**PUBLIC
Hearing**

part 4



**PUBLIC
Hearing**

part 5



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Hearing**

part 6



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part 7



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Hearing**

part 8



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Hearing**

part 9



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part 10



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part 11



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part 12



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part 13



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part 14



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part 15



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part 16



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part 17



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part 18



**PUBLIC
Hearing**

part 19



Trial's
VIDEO