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TAX LITIGATION IN PORTUGAL

LEGAL AND EMPIRICAL ASSESSMENTS

3 RESULTS ON TAX LITIGATION IN CAAD

ARBITRATION AWARDS PUBLISHED FROM 2016 TO 2021

Prof. Dr. ANA PAULA DOURADO (Coordination)

Prof. NUNO GAROUPA (Researcher)

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LIST OF ACRONYMS AND ABBREVIATIONS

AT	Tax Authority
CAAD	Center for Administrative Arbitration
IMI	Municipal Property Tax
IMT	Municipal Tax on Onerous Transfers of Real Estate
IRC	Corporate Income Tax
IRS	Personal Income Tax
IS	Stamp Tax
IUC	Single Circulation Tax
VAT	Value Added Tax
LDA	Limited Liability Companies
PDF	Portable Document Format
PGR	Attorney General
S.A.	Public Limited Company
STA	Supreme Administrative Court

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I. INTRODUCTION: PRESENTATION AND ANALYSIS

Ana Paula Dourado
Nuno Garoupa

1. OBJECT AND PURPOSE

The reports now published include the empirical results of an interdisciplinary research project – legal and empirical – for which the subject is tax litigation in Portugal. This is an independent and pioneering scientific research in Portugal and the first combining this subject and methodology.[1]

One of the purposes of this research is to measure tax judicial activity in Portugal and analyse the results obtained through the indicators selected and listed in the spreadsheet prepared for data collection. They are expressed in column graphs that serve to point out the issues that deserve a legal and public policy reflection.

Identifying the problems and constraints of tax litigation in Portugal assists the elaboration of an accurate diagnosis of the issues. From the development of this research, it will be possible to trace the boundaries of an interface between the results obtained and an econometric study that will function as support for proposals to improve the performance of tax justice in Portugal. The first results are presented in four specific reports : Results on Tax Litigation at the STA: Pub-

1 To achieve this, the authors draw on the work of: AAVV, Gouveia, Mariana França, Nuno Garoupa, Pedro Magalhães (coords.), *Economic Justice in Portugal, Facts and Figures*, II/III, Francisco Manuel dos Santos Foundation and Lisbon Commercial Association- Portuguese Chamber of Commerce and Industry, December 2012https://www.ffms.pt/FileDownload/89bc01e7-015e-42b8-9ef2-e987e8bd27c4/justica-economica-em-portugal-factos-e-numeros; we also had as reference, Gomes, Conceição (coordination), Paula Fernando (coordination and data collection and processing), Justiça e Eficiência, O Caso dos Tribunais Administrativos e Fiscais, Observatório Permanente da Justiça do Centro de Estudos Sociais da Universidade de Coimbra, February, 2017. This study deals with administrative and tax courts of first instance, combines a statistical (but not inferential) methodology with interviews and analysed the period between January 1, 2010 and December 31, 2015. In addition, "the main results of the study carried out by the Permanent Justice Observatory of the Centre for Social Studies at the University of Coimbra, at the request of the Directorate General for the Administration of Justice (DGAJ), had the central objective of characterizing the type of litigation that has most mobilized the administrative and tax courts of first instance, as well as their functional performance in responding to this mobilization. The DGAJ defined a set of specific objectives to which the work should give attention, such as the analysis of the functioning of the secretariats of the courts of first instance with a view to formulating proposals to streamline their functioning; the densification of possible areas of expertise; the identification, if justified, of measures to simplify the tax process; the evaluation of cases of opposition to the acquisition of nationality; and the identification of the possible implementation of advisory offices.

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lished Decisions from 2018 and 2019 (I); Results on Tax Litigation at the STA: Published Decisions from 2018 and 2019 (value of litigation above EUR 100,000) (II); Results on Tax Litigation at the CAAD: Published Decisions from 2016 to 2021 (value of litigation above EUR 100,000) (III); and Results on Tax Litigation at the STA: Published Decisions from 2018 and 2019 (value of litigation above EUR 100000) (IV).

Improving the functioning of the administrative and fiscal justice system is announced as one of the major priorities in the area of justice of the XXIII Government . Therefore, this study aims to contribute to the development of public policies that will assist in achieving this goal.

2. THE SAMPLES

The study begins with the analysis of the judgments published by the Supreme Administrative Court (STA) in tax matters on its website (in open access) for which the years 2018 and 2019 were selected for sample purposes. The sample aggregation and the work on it was initiated in 2020.[2] As explained below in the methodology, as a whole, the data from 1306 judgments (645 judgments from the year 2018 and 661 from 2019) rendered in trials by the Supreme Administrative Court (STA) were surveyed and analysed. The authors also obtained the total amount of case time from the first instance to the STA. The identification of the case number in the first instance was possible in two situations, i.e. through the full text or the case number contained in the judgments of the STA.

This identification occurred in 68% (893) of the STA judgments that were analysed. No identification was possible in 32% of the cases (413). The authors' goal is to extend the analysis to decisions of the Central Administrative Court South and North and those of the first instance as well as to enlarge the samples.

A sample of arbitration awards issued and published by the Center for Administrative and Fiscal Arbitration (CAAD) in the years 2016 to 2021 on its website was also chosen and analysed for cases above EUR100,000.

Decisions from the period of the TROIKA's intervention in Portugal in the context of the sovereign debt crisis were omitted.[3] In this period, many of the litigations were related to the context of the bailout and the consequent approval of tax laws and tax increases. Their inclusion in the sample would distort the analysis of the performance of the CAAD (and the courts in general).

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2 By the master's and doctoral students of the Law School of the University of Lisbon in the seminar on tax law for the academic year of 2019-2020.

3 Agreement of Understanding signed in May 2011 between the Portuguese State and the International Monetary Fund, the European Commission and the European Central Bank aimed at balancing public accounts and increasing competitiveness in Portugal as a necessary condition for the EUR 78 billion cash loan that these three entities granted to the Portuguese state.

Given the high number of CAAD decisions for the selected period, the authors selected the cases with the "request value" field equal to or greater than EUR 500,000 for corporate income tax (IRC); and equal to or greater than EUR 100,000 for the following taxes: Personal income tax (IRS); municipal property transfer tax (IMT); stamp tax; municipal property tax (IMI); and value added tax (VAT). Collectively, 1041 processes were analysed.

This sample is independent from the arbitrators (members and chairmen) since they were not the basis of it. The representativeness of the sample chosen for the CAAD is very relevant from the perspective of the value of the cases: 82.18% for 2016; 83.10% for 2017; 85.80% for 2018; 82.39% for 2019; 84.03% for 2020, and 78.84% for 2021. Above the EUR 100,000 case value, the data indicate a consistent result between the number of victories and the amount collected by the state. Thus, there are fewer AT victories than the number of taxpayer victories, and the amount in question collected by the AT is also lower than that won by the taxpayer [4]

3. DURATION AND MEANING OF THE DECISION: MEANING AND (NON)COMPARISON OF DATA AND RESULTS

The results obtained for the CAAD (2016-2021) are not comparable to the results obtained for the STA (2018-2019): The populations (i.e., the decisions) and the samples (i.e., the criteria for compiling the database) are distinct.

However, from the taxpayer's point of view, the total duration of the process in the CAAD versus the duration in the courts – from the first instance to the decision by the supreme administrative court – represents the slowness of the tax courts and the celerity of the CAAD. This is an appropriate occasion for reflection by the public authorities on the role of the tax courts in the near future. The continuation of valid performance by the tax courts depends on serious reforms eliminating constraints evidenced in this study: Procedural laws that are more efficient, scope of their competencies focused on legal issues that are more complex (material or substantive), elimination of bagatelles, continued training, and better allocation of state resources upstream of the courts.[5]

Thus, as can be read in the chapter ahead (Nuno Garoupa), there is some volatility in the total duration between 51 days and 5679 days. The average is 1770 days, and the median is 1496 days (this average and median were calculated with 30% less information compared to the total STA sample from the first instance to the STA decision in 2018 and 2019 due to the lack of information available in open access).

4 As mentioned below, the authors have 258 cases with partially upheld decisions that are not yet disaggregated with a total of EUR 311,390,010.22.

5 Previous studies have revealed the need for more and better human resources: Gomes, Conceição (coordination), Paula Fernando (coordination and data collection and processing), Justiça e Eficiência, O Caso dos Tribunais Administrativos e Fiscais...cit.

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In turn, when the authors consider the length of proceedings in the STA, there is some volatility in the length of proceedings, i.e. between 9 days and 2476 days; the mean is 367 days, and the median is 266 days. This indicates that the distribution is not normal but with an unequivocal skew (since the median is lower than the mean). It also suggests that the delays – the extensive procedural times – occur primarily in the first instance and not in the STA.

As for the CAAD, the authors also ascertained a certain volatility in the duration of cases between 0.4 and 98.2 months. The mean is 6.9 months, and the median is 5.87 months. This again indicates that the distribution is slightly skewed rather than a normal distribution. As a rule, in the sample in this study, there is no appeal from their decisions.

Another piece of data reveals in the selected sample that, in the STA (all cases published in open access for 2018 and 2019), the probability of the taxpayer having a positive outcome is 35%, the probability of the AT being successful is 46%, and other results are 19%. In rulings above EUR100,000 (2018 and 2019), the probability of the taxpayer prevailing is 41%, the probability of the AT winning is 51%, and partial relief occurs in 6% of cases.

In both cases and taking into account the extensive total duration of litigation (from the first to the last instance), there is an inefficient allocation of resources by both the taxpayer and the state. This would justify using an alternative means of dispute resolution, especially for low value cases, for determining simpler taxes and appeals regarding the application of fines.

In the CAAD, for decisions over EUR 100,000 and for 2016 to 2021, the probability of the taxpayer succeeding is 50%; the probability of the AT winning is 21%; and other results reach 29% .

The 524 upheld decisions total EUR 529,047,679.66 while those that are unfounded total EUR 245,811,334.44. There are 258 cases with partially upheld decisions that are not yet disaggregated with a total of EUR 311,390,010.22.

The relatively low probability in the selected sample of the AT winning in the CAAD does not inherently mean that there is a tendency of biased decisions favourable for the taxpayer nor does it mean that the problem lies in a bad defense by the representatives of the treasury. Considering the individual taxpayer incentives at all decision nodes, the observed percentages are consistent with the Priest-Klein model.[6] It suggests that the authors should observe percentages approximate to 50% for each party in the initial phase of the dispute and when both parties are on equal terms. The CAAD clearly does not resolve random disputes but only a selected portion biased by the incentives that the parties face (e.g. an asymmetric set of sunk costs) and by the distinct procedural positions (e.g. the appellant is always the taxpayer, and the respondent is always the AT). Thus, it might be expected that the taxpayer will have a much more significant share than the AT.

In the formal language of the Priest-Klein Model, with the probability of the taxpayer winning being p, the amount to be recovered being J, and the costs of litigating in the CAAD being c,

6 Priest and Klein, 1984, The Selection of Disputes for Litigation, Rand Journal of Economics, https://www.rand.org/content/dam/rand/pubs/reports/2006/R3032.pdf

the taxpayer will litigate if and only if pJ >c. This means, therefore, that p>c/J. The higher that the ratio c/J (net cost of litigating in the CAAD) will be, the higher the minimum probability required by the taxpayer to litigate in the CAAD will be. Consequently, the theoretical expectation is that the probability of taxpayers choosing to litigate (rather than simply withdraw) is reasonably high, which is an observation consistent with the results in this study.

However, this low probability for the TA means inefficient allocation of resources by the state, and it is necessary to understand whether the problem lies upstream or downstream.

Decision makers should assess whether disputes should have been decided at the level of claims or hierarchical appeals in favor of the taxpayer or even avoided; whether the tax authorities and the legislature are aware of the CAAD's and the courts' jurisprudence and consequently change behaviors and ambiguous legislation that give rise to disputes; the type of cases that are decided in arbitration (new legislation, cases not yet decided by STA case law, complexity of the analysed regimes); and whether there is randomness in the distribution of cases by presiding arbitrators and vowel arbitrators.

4. THE COMPETENCE OF THE CAAD AND ITS RELATIONSHIP WITH THE TAX COURTS (ADMINISTRATIVE AND TAX COURTS)

The CAAD's decision-making powers cover the most important type of action in tax matters – the declaration of illegality of tax assessment acts and other similar acts as well as the declaration of illegality of acts fixing the taxable amount when this does not give rise to the assessment of a tax (Article 2 of the Legal Framework for Arbitration in Tax Matters); these correspond to judicial review (provided for in Article 97(1)(a) and (b) of the Code of Tax Procedure and Process). Among the most relevant in terms of the difficulty of the matters and the quantity of litigation, other challenges, the appeal of acts carried out in tax enforcement, in the process itself or, in cases of immediate appeal, by attachment (Article 97, number 1, paragraph n);) and the opposition, third-party objections, and other incidents as well as the complaint against the decision on the verification and ranking of claims (Article 97, number 1, paragraph o) of the Code of Tax Procedure and Proceedings).

This scope of the CAAD's competence and the fact that it decides according to the law and not according to judgments of equity makes it a body competing with the tax courts. This fact and the relevance assumed by the CAAD in Portuguese tax justice in the last decade means that tax justice cannot be studied without examining the CAAD's jurisprudence. These circumstances have led to setting parameters that are very similar to those chosen for the tax courts (in this case, the Supreme Administrative Court) that only deviate from them in view of the CAAD's specificities.

However, as explained above, the samples are not comparable (the authors nevertheless publish two samples of raw data for 2018 and 2019 for cases over EUR 100,000 regarding the STA and the CAAD).

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The CAAD is not, strictly speaking, comparable to any of the tax courts (administrative and tax courts, in constitutional terms). It appears as an alternative to the first instance but, as there is no appeal from CAAD decisions as a rule (Article 25 of the CAAD regime), it appears as a single instance. This means that, in terms of decision time, the CAAD's decision time is comparable to the total decision time in the tax courts (from the first instance to the last instance). Additionally, it means that, in terms of a decision sense, the CAAD's jurisprudence is comparable to the jurisprudence of the last instance. These are the rules of the game in arbitration which, in a strict context, means no appeal.

In tax matters, the constitutional principle of the reserve of judge is in force – as in criminal law – as a consequence of the reserve of law. For this reason, tax arbitration is limited to the analysis of questions of fact, such as transfer pricing, throughout the world or to the analysis of the distribution of tax revenues in favour of one of two states in a dispute with the objective of eliminating international juridical double taxation.

Tax arbitration in Portugal, in relation to the challenge of possible illegalities committed by the tax authorities, is not a means of preventing litigation nor a filter to avoid recourse to the courts but is an alternative means to the courts and is therefore a concurrent one.

5. SELECTED RESULTS

From the survey and organization of the data collected, the authors decided to highlight the following.

5.1 Most Frequently Judged Taxes

The most common taxes judged by the CAAD in the years in the sample for decisions above 100 thousand euros *, are corporate income tax, the VAT, personal income tax, and stamp duty. The sample – because it concerns substantial amounts – does not allow seeing whether the CAAD also resolves trifle or less complex taxes. The efficiency of the CAAD, characterized by Nuno Garoupa as the Green Route,[7] advises against the CAAD becoming overwhelmed with these matters.

5.2 Selection of Referees

The arbitrators were drawn by lot in 86% of the decisions and designated by the parties in 14%. In the higher value cases, there is a greater percentage of designation by the parties. The results indicate that there is no variation in the direction of the decision depending on whether there is a draw or appointment by the parties. The results also signify that the taxpayer prefers

7 Nuno Garoupa, 'Policy forum: Domestic Tax Arbitration: Some Economic Considerations', (2019), 47, Intertax, Issue 8, pp. 760-765, https://kluwerlawonline.com/journalarticle/Intertax/47.8/TAXI2019074.

to risk the lottery. This attitude indicates confidence in the correctness of the decision direction and a preference for speed – legal security – regardless of the decision direction. Still, as the value of the case increases, the preference for the appointment of an arbitrator increases:

From EUR 100,000.01 – EUR 200,000.00: 7% designated by the parties; 93% lottery;

From EUR 200,000.01 – EUR 500,000.00: 6% designated by the parties; 94% lottery;

From EUR 500,000.01- EUR 1,000,000.00: 19% designated by the parties; 81% lottery;

From EUR 1,000,000.01 – EUR 5,000,000.00: 20% designated by the parties; 80% by lottery; and

Greater than EUR 5,000,000.00: 38% designated by the parties; 62% lottery.

The latter data also expresses the taxpayer's rational attitude.

In the following chapter by Nuno Garoupa, the authors find the following conclusions resulting from an inferential statistical analysis: There are 18 presidents in this study's sample of 1041 decisions. However, only a subgroup of presidents (seven) has weight. The other 11 represent only 4% which is less than D01 individually.

CHAIRMAN	N. OBSERV.	SHARE OF TOTAL
D06	262	25%
D11	173	17%
D14	147	14%
D03	138	13%
D07	134	13%
D08	80	8%
D01	68	6%
OTHERS (11 PRESIDENTS)	39	4%
TOTAL	1041	100%

The question arises of how the percentages that each presiding judge has in the sample could result from a statistically random system. A totally random system of the 18 presidents would imply that each presiding judge was so in 1/18 of the sample. An inferential analysis reveals, however, that only 5-7 presidents are relevant- D01, D03, D06, D07, D08, D11, and D14. From a purely statistical point of view, the percentages that are obtained are consistent with much smaller lists (of three or four names) in which some are significantly repeated more often than others.

The same analysis applies for the remaining referees since 34 out of 229 referees make up about 50% of the observations in the sample in this study. Although there are 229 distinct vowel

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referees in the sample, many exhibit a very small number of decisions. The authors thus considered only those who appear more than 20 times in the sample (i.e. in more than approximately 2% of the decisions). This means that 34 vowels are analysed separately, and the remaining 195 are aggregated into "others" (see below, Nuno Garoupa).

It is recommended that public decision-makers and the actors involved consider an alternative model to the currently existing one regarding the selection of arbitrators. Taking into account the statistical results of the sample and following best practices in interstate tax arbitration (under bilateral treaties and European Directives),[8] a short list of chairpersons and vowel arbitrators with an outstanding reputation that are agreed upon by taxpayer and tax authorities' representatives could be an option. The appointment on a case-by-case basis would also result from an agreement with each party being able to reject only up to three names.

5.3 Process Duration

The estimation results (see Appendix A) indicate the following results regarding the dependent variable "duration of proceedings" at the CAAD, i.e. the appointment of arbitrators by the CAAD is associated with a shorter duration, on average. Two chairpersons (D07 and D11) seem to take longer than the others, on average. As for taxes, only the IMT has an impact on the duration by typically shortening it. The citation of constant case law has a double effect, i.e. the citation of CAAD case law is associated with shorter duration, and the citation of other case law (higher courts or CJEU) is generally associated with a longer duration.

From the typology of taxes, only the IMI seems statistically relevant and contrary to the taxpayers' interests (the IMT is partially relevant and of an opposite sign, i.e. favourable to the taxpayer). The use of constant CAAD case law is more frequent in decisions that are more advantageous to the taxpayer (other constant case law is partially associated with the use in decisions favourable to the AT). Legal entities have fewer favourable rulings than individuals, on average.

President D08 is statistically associated with decisions that are more taxpayer-friendly (D06 and D11 only partially, i.e., in some but not all estimated specifications), always by statistical comparison with all other presidents and on average. The validity of the fixed effects is not explained by the remaining independent variables (e.g. tax expertise), however, the usual problem of omitted variables cannot be excluded. That is, this result may reflect some other effect that is not captured statistically by any of the present independent variables.

8 V., for European and international arbitration: Jérôme Monsenego, Katerina Perrou, Raffaele Petruzzi, Sophia Piotrowski, Ekkehart Reimer, Fernando Serrano, Lukasz Stankiewicz, Edoardo Traversa, Jasna Voje, 'Towards a Standing Committee Pursuant to Article 10 of the EU Tax Dispute Resolution Directive: A Proposal for Implementation', (2019), 47, Intertax, Issue 8, pp. 678-692, https://kluwerlawonline.com/journalarticle/Intertax/47.8/TAXI2019068; Jeffrey Owens, 'Mandatory Tax Arbitration: The Next Frontier Issue', (2018), 46, Intertax, Issue 8, pp. 610-619, https://kluwerlawonline.com/journalarticle/Intertax/46.8/TAXI2018066; John F. Avery Jones, 'Guest Editorial: Types of Arbitration Procedure', (2019), 47, Intertax, Issue 8, pp. 674-677, https://kluwerlawonline.com/journalarticle/Intertax/47.8/TAXI2019067; Hans Mooij, 'Arbitration institutes forum: Arbitration Institutes: An Issue Overlooked', (2019), 47, Intertax, Issue 8, pp. 737-744, https://kluwerlawonline.com/journalarticle/Intertax/47.8/TAXI2019072.

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5.4 AT's rebuttal

The sample also reveals that the AT contested 98% of the decisions which is a percentage that deviates significantly from the percentage of cases in which it is victorious. This discrepancy reinforces the misallocation of state resources with arbitration regardless of whether the reasons for the high percentage of lost cases lie upstream or downstream.

5.5 Types of Contributors

S.A. legal entities or equivalent represent 54% of the types of taxpayers followed by LDA legal entities or equivalent with 17% and individuals with 8%; the data is compatible with the value of the cases in the sample and takes into account the GDP of the Portuguese economy.

5.6 Application Subject Area

In 73% of the decisions, the subject area of the request involved issues concerning subject matter (law) and 27% were issues concerning procedure (formalities). In the same application, it is possible to argue both questions of law and of procedure. Even so, the percentage of procedural issues (the most common issues raised are error of factual and legal assumptions (59% of the total of procedural issues), settlement – lack of grounds (34%) and settlement formalities (10%) followed by other less relevant issues) is very high. The celerity of the CAAD combined with the solve et repete principle and the provision of guarantees indicate that procedural issues are not raised for dilatory purposes, and the high percentage therefore expresses inefficiencies of the tax authority that should be corrected.

When the subject area is matters (law), the most commonly raised issues are tax deductions (28%), exemption (24%), and the tax base (17%) followed by other less relevant issues. The fact is that the decisions in the CAAD concern the declaration of the illegality of tax assessment acts and other similar acts as well as the declaration of the illegality of acts fixing the taxable amount when this does not give rise to the assessment of a tax (Article 2 of the Legal Regime of Arbitration and Arbitration of Taxes). The fact that 73% of the cases involve substantive issues intuitively makes the exercise of arbitration powers more attractive to a lawyer than the exercise of powers in the tax courts that are overwhelmed with legal issues that can be referred to as being minor.

5.7 Complaint, Hierarchical Appeal, or Official Review

In 47% of the decisions, it was not mentioned whether there was an administrative appeal, in 45% there was an administrative complaint, 13% were an hierarchical appeal, and 8% were an ex-officio review. In less than 1%, the decision did not indicate the type of administrative appeal. There was no compensation, or it was not mentioned in 55% of the decisions. In 35% of the decisions, there was compensatory interest and, in 10%, there was compensation in the case of undue guarantee.

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These data, although the authors do not have complete information, coupled with the high percentage of cases lost by the tax authorities in the CAAD, corroborate the misallocation of state resources.

5.8 Reference to Constant Case Law

As Nuno Garoupa found, the reference to constant existing jurisprudence, whether from the CAAD, the Supreme Administrative Court, or the Constitutional Court, is reflected in the decision times and the direction of the decision. As the graphs show, there was mention of constant CAAD jurisprudence in 53% of the decisions; constant STA or other court jurisprudence in 71% of the decisions; and constant Constitutional Court jurisprudence in 14% of the decisions.

From the legal sociology perspective, the results reveal an interesting and relevant concern in consolidating the court's own jurisprudence, in seeking dialogue with higher courts (this is important for avoiding appeals against the CAAD's decisions), and in integrating the CAAD in the judicial system thereby giving it credibility. The fact that 2% of the decisions were appealed to the CJEU also integrates the CAAD into the judicial system and provides protection to the taxpayer.

5.9 Decision Time

As for the decision time, as already mentioned and detailed below, the CAAD's decisions are made very rapidly. Within these, the graphs illustrate that the requests for arbitral decisions involving the VAT followed by corporate income tax are those that take the longest to be decided which may be related to the complexity of these taxes.

5.10 Meaning of the Decision

Regarding the question of the merit of the requests per tax, "Are there a predominance of favourable or unfavourable decisions according to the tax?", only the IMT and the IMI deviate from the average in different directions while the IRS and the VAT are approximate in terms of merits:

IMI: 49% unfounded; 29% partially founded; 16% founded; 6% dismissed;

IMT: 15% unfounded; 6% partially founded; 76% founded; 3% dismissed ;

IRC: 24% unfounded; 29% partially founded; 45% founded; 2% incompetence;

IRS: 22% unfounded; 14% partially founded; 59% founded; 5% case dismissed; and

VAT: 16% unfounded; 26% partially founded; 54% founded; 3% dismissed; 1% lack of jurisdiction

Stamp: 22% unfounded; 31% partially founded; 45% founded; 1% case dismissed; 1% preliminary reference.

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The IMI and IMT cases must be analysed in order to understand the reason for this divergence, i.e. the type of cases that were judged. It is also important to understand why the VAT dismissal rate is so low after disaggregating the partial data, and it is also necessary to examine the type of cases heard by the CAAD.

The IMT and the VAT show a more unfavourable allocation of state resources than the other taxes which would even more acutely effectuate a recommendation for pre-litigious solutions than in the other cases.

Note the small number of female arbitrators (see graph 29) and, proportionally, the percentage of awards being lower than the percentage of awards when the decision is made by male arbitrators:

Female: 28% unfounded; 23% partially founded; 45% founded; 3% dismissed; 1% incompetence; and

Male: 20% unfounded; 25% partially founded; 52% founded; 2% dismissed; 1% lack of jurisdiction.

In turn, the appointment process does not interfere with the meaning of the decisions.

Non-residents and individuals have a high percentage of originations which again means a more unfavourable allocation of state resources in these cases.

The results of the inferential statistics (Nuno Garoupa) reveal variables with a positive impact and others with a negative impact with the value of the process above EUR 100,000 having no impact:

Positive impact (with 10% significance): jurisprudence in CAAD, D08 (by comparison with other presidents).

Negative impact (with 10% significance): legal entity, IMI.

-- Additional results in some specifications (so it is not robust to alternative specifications):

Positive impact, i.e. increases the probability of the taxpayer winning (with 10% significance): IMT, judge, PGR, D06 & D11 (by comparison with other presidents).

Negative impact, i.e. reduces the probability of the taxpayer winning (with 10% significance): other constant case law, year of decision, lawyer.

The remaining independent variables show no statistical significance at 10%, including the value and remaining taxes.

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II. METHODOLOGY

Ana Paula Dourado
Nuno Garoupa
Bruno Moutinho
Claudia Marchetti da Silva

The research subject of the project "Tax litigation in Portugal: analysis of CAAD's jurisprudence" focused on 1041 arbitration decisions that were published from 2016 to 2021. They were selected considering the number of decisions, the relevance of the taxes, and the value of the claim. All data were obtained through public consultation of the arbitration decisions made available on the website https://caad.org.pt/tributario/decisoes/. The VAT made up 33% of the sample, followed by the CIT with 28%, IRS with 15%, Stamp Duty with 10%, IMT with 7%, and IMI with 4%. The remaining, corresponding to 2% of the sample, is equivalent to decisions aggregating more than one tax.

Initially, all arbitration awards that occurred between the years 2016 to 2021 were obtained. To achieve this goal, a query was performed using the date of decision between 01 January 2016 and 12 December 2021 as a parameter for a total of 4305 arbitration decisions. The table below depicts the distribution of cases based on the year of the decision.

Year	Number of Arbitral Awards
2016	758
2017	726
2018	603
2019	744
2020	652
2021	822

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In a second step, an individual query was conducted for each of the 4305 arbitral awards. In each query, the following information was obtained[1]:

(1) Case Number

(2) Date of decision

(3) Order value

(4) Topic

(5) Type of Tax

(6) PDF Version

(7) Full text of the arbitration award.

Based on this information, the processes with the *request value* field equal or superior to EUR 500,000 for the IRC (Corporate Income Tax); and equal or superior to EUR 100,000 for the following taxes: IRS (Personal Income Tax); IMT (Municipal Property Transfer Tax); Stamp Tax; IMI (Municipal Property Tax); and VAT (Value Added Tax) were selected.

Cases in which the instance was waived were disregarded[2].

Of the 1,051 cases selected, it was identified that some presented the *amount of the claim* incorrectly with either a typing error in the proper field[3] or by modification of the amount in the *full text of the arbitral award*[4]. In view of this difference, the field *value of the arbitration proceeding* was created and considered as the one presented in the full *text of the arbitral award*. Due to adjustments in the *value of the arbitration proceeding*, 14 cases were excluded of which 12 were due to a typing error in the value of the *request*[5] and two due to a difference between the value *specified in the request and the value of the arbitration proceeding* defined in the decision[6].

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1 The information was filled in and formatted by the CAAD itself.

2 These proceedings can be identified by the Subject field through the keywords "Withdrawal of the instance", "Withdrawal of the claim", and "Termination of the instance". There were six arbitration proceedings meeting the parameters defined above and with a waiver of the instance: 372/2016-T; 422/2017-T; 279/2019-T; 219/2019-T: 745/2019-T and 746/2019-T.

3 For example, arbitral proceeding 393/2016-T has as the value of the claim EUR 22,352,024.00; however, the correct value presented in the text of the decision is EUR 223,520.24. In this case, it is possible to identify that there was only a typing error because the value of the claim has two extra zeros at the end.

4 For example, arbitral proceeding 666/2018-T has as the value of the claim EUR 902,658.43; however, the arbitral award analysed the value of the claim but set the value of the proceeding as EUR 252,026.87.

5 Arbitration cases disregarded due to error in filling in the claim amount: 644/2015-T; 155/2016-T; 393/2016-T; 415/2016-T; 643/2016-T; 589/2016-T; 187/2017-T; 612/2017-T; 560/2017-T; 630/2017-T; 591/2017-T, and 707/2019-T.

6 Arbitration cases disregarded for the change in claim amount: 666/2018-T and 562/2018-T.

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In some arbitration proceedings, the field *type of tax* was not filled in, but it was possible to identify it by the fields *topic or full text of the arbitral award*. In this case, four arbitration proceedings were added to the sample[7].

The corrections resulted in the following sample of 1,041 arbitration cases:

Number of decisions	Tribute	Sample Years	Value (cutoff)
340	VAT	2016 a 2021	100 mil
288	IRC	2016 a 2021	500 mil
162	IRS	2016 a 2021	100 mil
109	Stamp	2016 a 2021	100 mil
76	IMT	2016 a 2021	100 mil
43	IMI	2016 a 2021	100 mil
12	IRC + VAT	2016 a 2021	100 mil
3	IMT + Stamp	2016 a 2021	100 mil
3	IRC + IRS	2016 a 2021	100 mil
2	IMT+ Stamp + IMI	2016 a 2021	100 mil
1	IRC + IRS + TVA	2016 a 2021	100 mil
1	IRC + Stamp	2016 a 2021	100 mil
1	IRS + VAT	2016 a 2021	100 mil

The tables below detail, respectively, the representativeness of the sample by the annual number of decisions and by the value of the case.

Year	Selected Arbitration Proceedings	Number of Arbitration Proceedings	Percentage
2016	126	758	16,62%
2017	138	726	19,01%
2018	178	603	29,52%
2019	211	744	28,36%
2020	188	652	28,83%
2021	200	822	24,33%

7 Arbitration proceedings: 657/2014-T, 395/2017-T, 238/2019-T and 381/2020-T.

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Year	Sum of the selected processes	Sum of arbitration proceedings	Percentage
2016	126.538.773,00	153.984.245,40	82,18%
2017	150.063.941,30	180.582.473,50	83,10%
2018	213.608.673,20	248.955.454,80	85,80%
2019	269.496.918,90	327.108.391,20	82,39%
2020	211.387.445,80	251.574.916,40	84,03%
2021	171.477.836,80	217.507.687,50	78,84%

Once the sample was defined and its representativeness considered, each arbitral award was analysed individually, and the following fields were filled in:

- **Date of Request for Arbitral Tribunal**: [Free Field- Date]
- **Date of Establishment of the Arbitral Tribunal**: [Free Field- Date].
- **Order Acceptance Date**: [Free Field- Date].
- **Was there an Extension**: [Yes/No].
- **Process Value**: [Free Field- Currency].
- **Decision Type**: [Single/Collegiate].
- **Nomination Process**: [Drawing/Designated by the Parties].
- **Single Decision (Referee)**: [Free Text- Referee's Name].
- **Collegiate Decision (Presiding Arbitrator)**: [Free Text- Name of Arbitrator].
- **Collegiate Decision (Arbitrator Member 01)**: [Free Text- Name of referee]
- **Collegiate Decision (Arbitrator Member 02)**: [Free Text- Name of referee]
- **Author**: [Free Text]
- **Respondent**: [Autoridade Tributária]
- **There was AT response**: [Yes/No].
- **Type of Taxpayer**: [Individual or alike/ Legal Person or alike - LDA/ Legal Person or alike - SA/ Legal Person or alike/ Investment Funds/Hedge Funds/Non-Resident/Companies in Liquidation/Third Sector Entities/Insolvent Mass/Cooperative/Unidentified].
- **Economic Activity Sector**: [Free Text]

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- **Subject** Matter of **the Request (Generic)**: [Matter/Litigation Form/Procedure Form]
- **Subject Area of the Request (Specific)**: [Flag Specific Subject Area].
- **Thematic Area of the Decision (General)**: [Subject Matter/Litigation Form/Procedure Form]
- **Thematic Area of the Decision (Specific)**: [Marker Specific Issue Area]: [Marker Specific Issue Area
- **Other specifics**: [Free Text]
- **Legal regime in question**: [Free Text]
- **Arbitral Award**: [Granted/Ungranted/ Partially Granted/ Lack of Jurisdiction/ Case Revoked/Referral for a preliminary ruling].
- **Was there a Prescription**: [Yes/No].
- **Has the right of tax assessment lapsed**: [Yes/No]
- **Other cases of supervenient uselessness of the dispute**: [Yes/No].
- **Existence of administrative resources**: [Free Text].
- **There was Indemnity**: [No/Indemnity in case of Undue Guarantee (art. 171)/Indemnity Interest].
- **There is mention of CAAD case law**: [Yes/No]
- **There is constant Jurisprudence in the STA or from another Court**: [Yes/No].
- **There is constant jurisprudence in the Constitutional Court**: [Yes/No].
- **Was there a Preliminary Refund**: [Yes/No].
- **Appealed to the STA**: [Yes/No]
- **Appealed to the ATT**: [Yes/No]
- **Was there an appeal to the Constitutional Court**: [Yes/No].
- **Origin of the single arbitrator or president**: [Yes/No].
- **Date of Taxable Event**: [Year of Taxable Event].
- **Single Referee or Chairman (Gender)**: [Male/Female].
- **Constitution of the Arbitration Court after Law 7 of 2021**: [Yes/No]

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- **Extension duration (days)**: [Number of days].
- **Amount of Costs**

The graphs, both simple and cross-referenced, presented in this report were created from a generator devised for the purposes of this research.

In order to protect identity, in the charts that reference the arbitrators (presidents, vowels 1 or 2), the names were replaced by codes. The code assigned to each arbitrator is dynamic and independent of the alphabetical order, the number of cases, or the taxes analysed. The code is generated based on the order in which the arbitrators appear in the selected cases.

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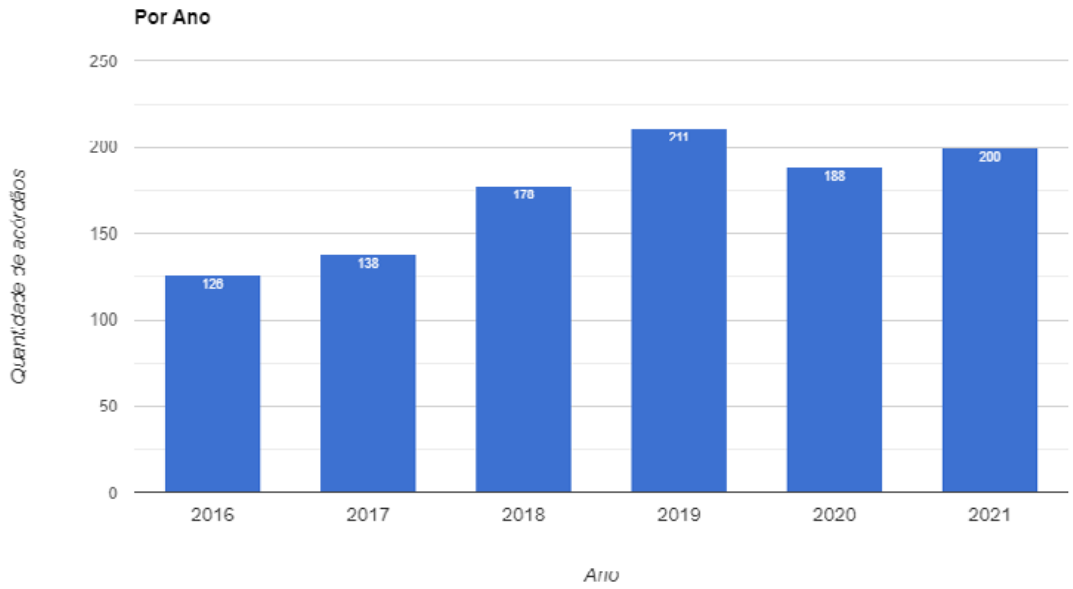
III. CAAD PARAMETERS

Bruno Moutinho
Claudia Marchetti da Silva

1. YEAR OF DECISION



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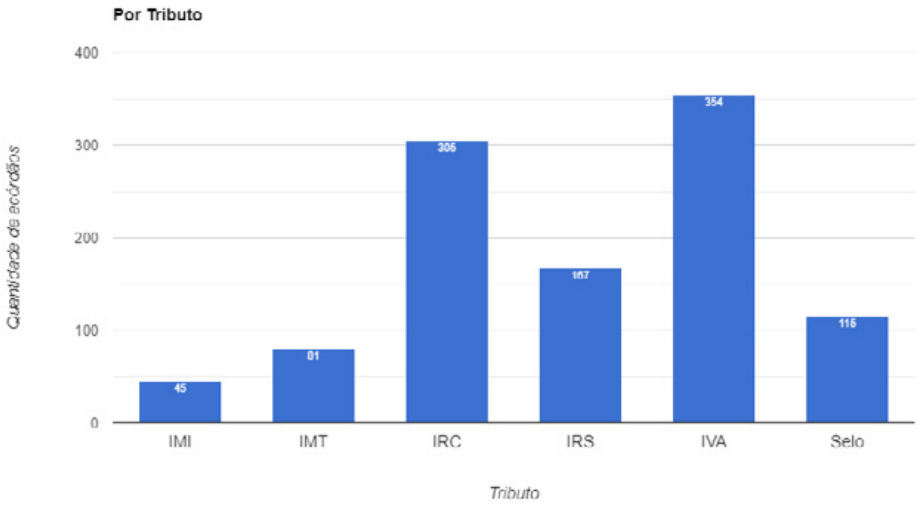
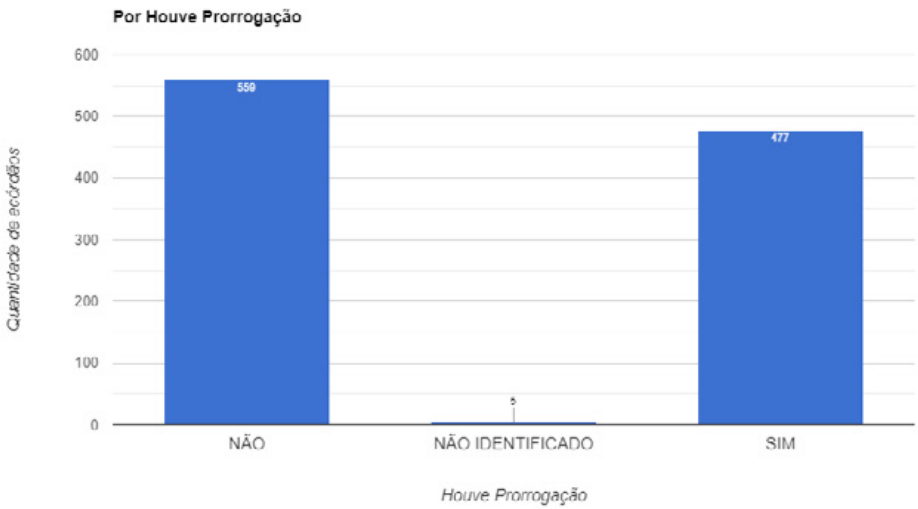
2. TAX TYPE



3. THERE WAS A EXTENSION OF THE PERIOD[8]

There was an extension in 46% of the decisions analysed. In less than 1%, it was not identified.[9]



8 Extension of the 6-month time limit for issuing the arbitration award.

9 For those decisions that did not contain information about the extension of time, the authors calculated the time using the time lapse between the date the court was constituted and the date of the decision as a reference. The designation “unidentified” was used for decisions that did not indicate the date the court was constituted.

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4. ORDER VALUE

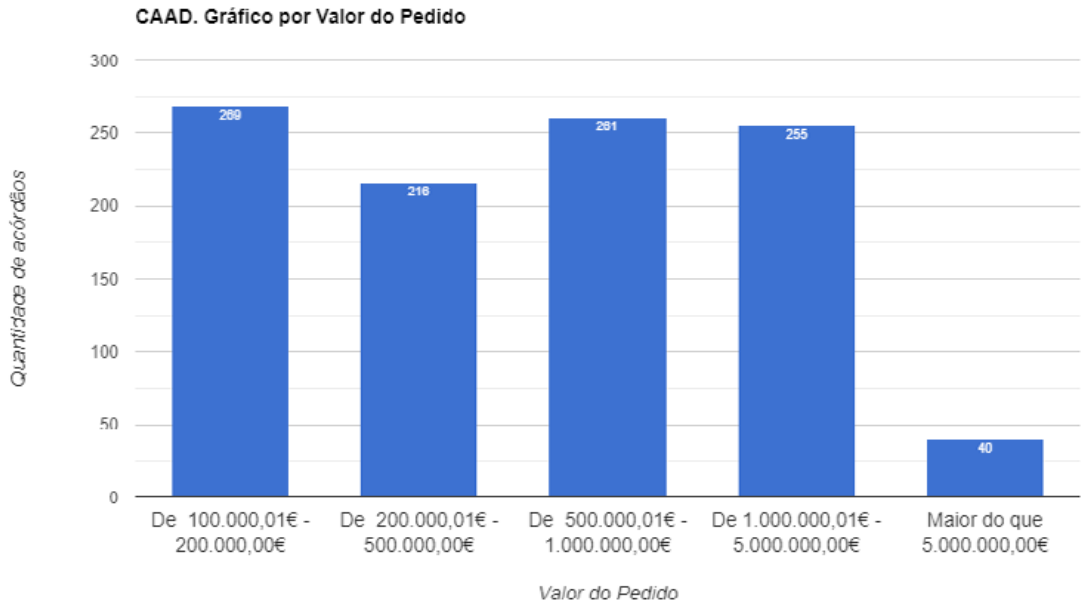
From EUR 100,000.01- EUR 200,000.00: 26%.

From EUR 200,000.01- EUR 500,000.00: 21%.

From EUR 500,000.01- EUR 1,000,000.00: 25%.

From EUR 1,000,000.01- EUR 5,000,000.00: 25%.

Greater than EUR 5,000,000.00: 4%



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5. COST VALUE

AtUp to EUR 5.000,00: 32%.

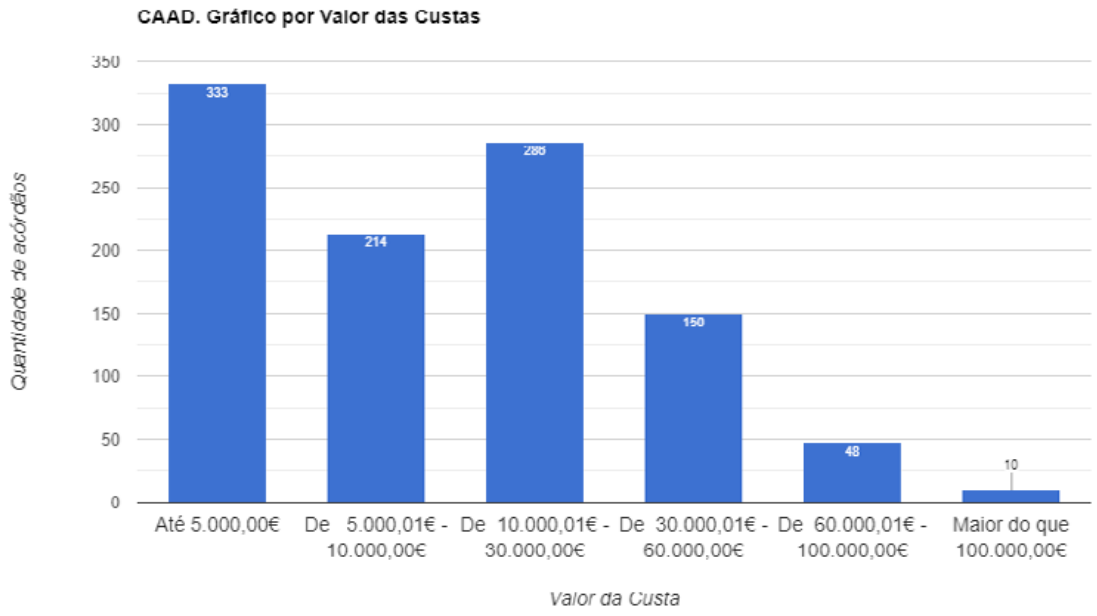
From EUR 5,000.01- EUR 10,000.00: 21%.

From EUR 10,000.01- EUR 30,000.00: 27

From EUR 30,000.01- EUR 60,000.00: 14

From EUR 60,000.01- EUR 100,000.00: 5%.

Greater than EUR100,000.00: 1%



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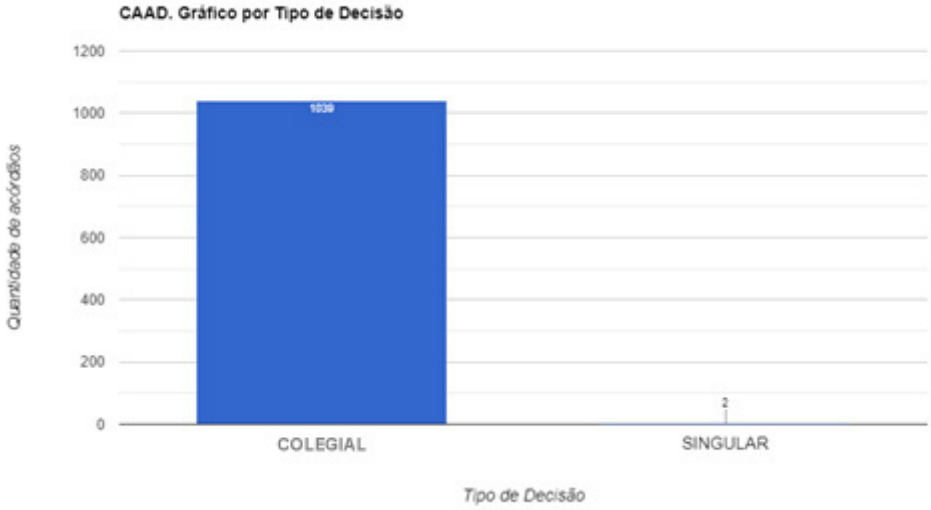
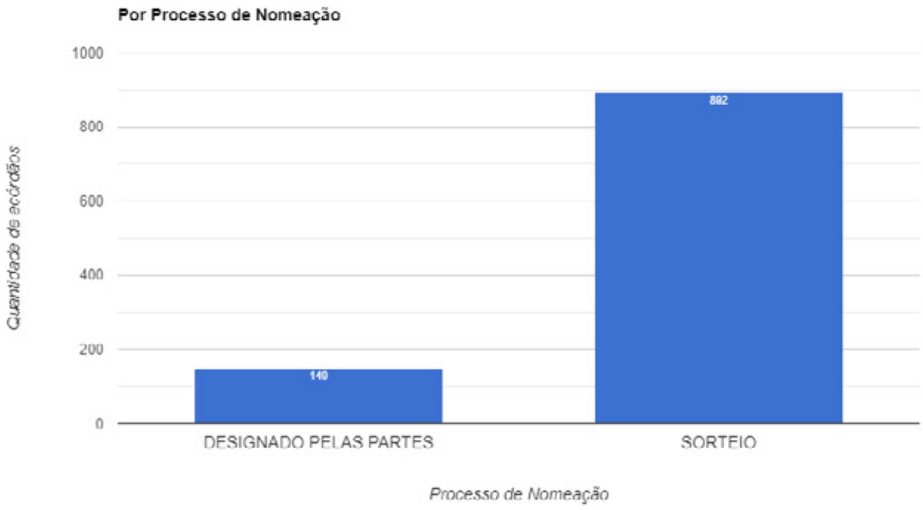
6. DECISION TYPE



Only cases 636/2017-T and 281/2018-T had decisions by a single arbitrator who ruled himself incompetent due to the value of the case.

7. APPOINTMENT PROCESS

The arbitrators were drawn by lot in 86% of the decisions and appointed by the parties in 14%.



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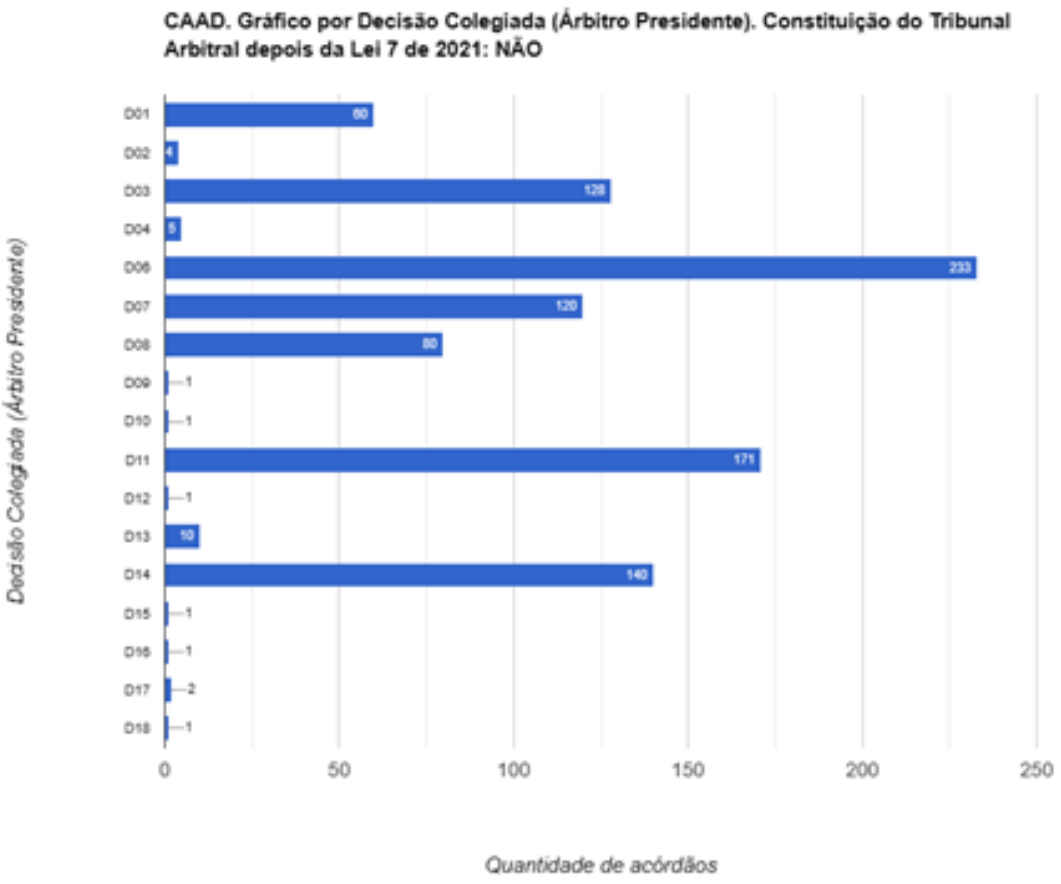
8. PRESIDING ARBITRATOR - CONSTITUTION OF THE ARBITRAL TRIBUNAL BEFORE AND AFTER LAW 7/2021[10]

BEFORE law 7/2021: The referee represented by the symbol D02 was president in 24% of the decisions followed by D05 with 18% and D03 with 15%.



10 The cut-off date used was 27 February 2021, as the law was published on the 26th, and the effective date was the day after its publication.

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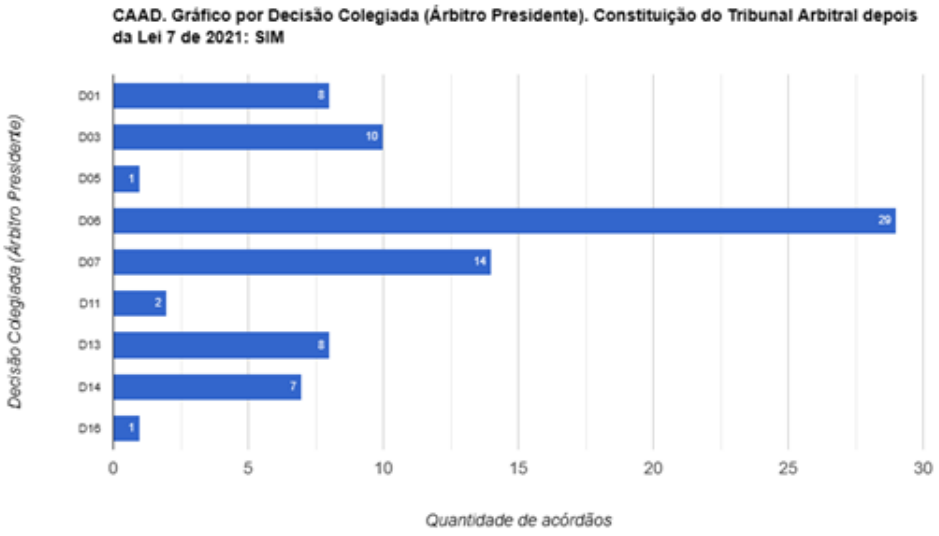
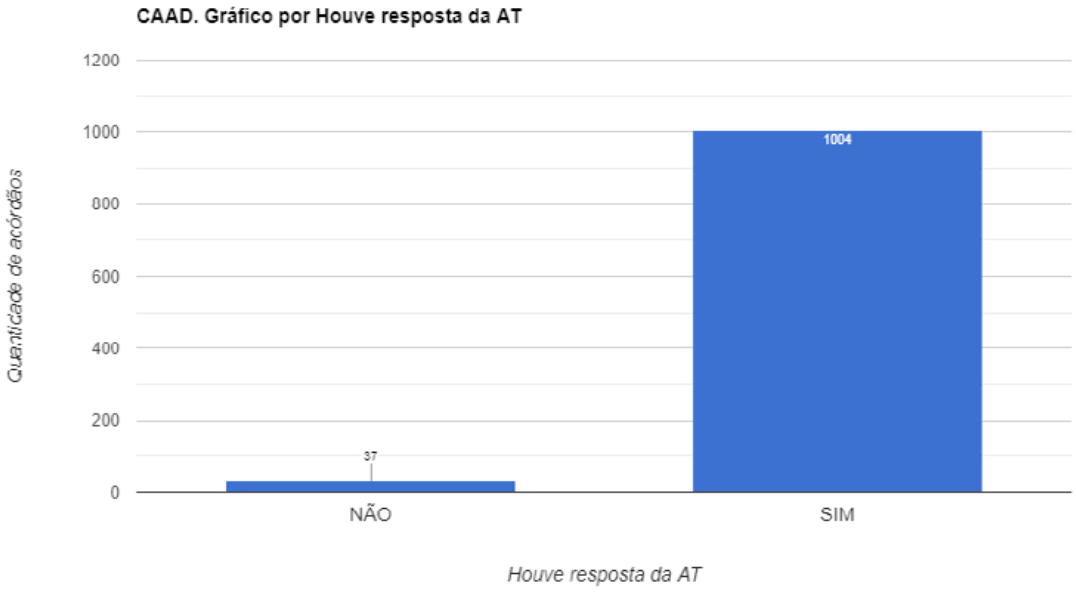
AFTER 7/2021: The referee represented by the symbol D02 was president in 36% of the decisions followed by D04 with 18% and D015 with 13%.



9. THERE WAS A RESPONSE FROM THE

In 98% of the decisions, there was a response from the tax authority.



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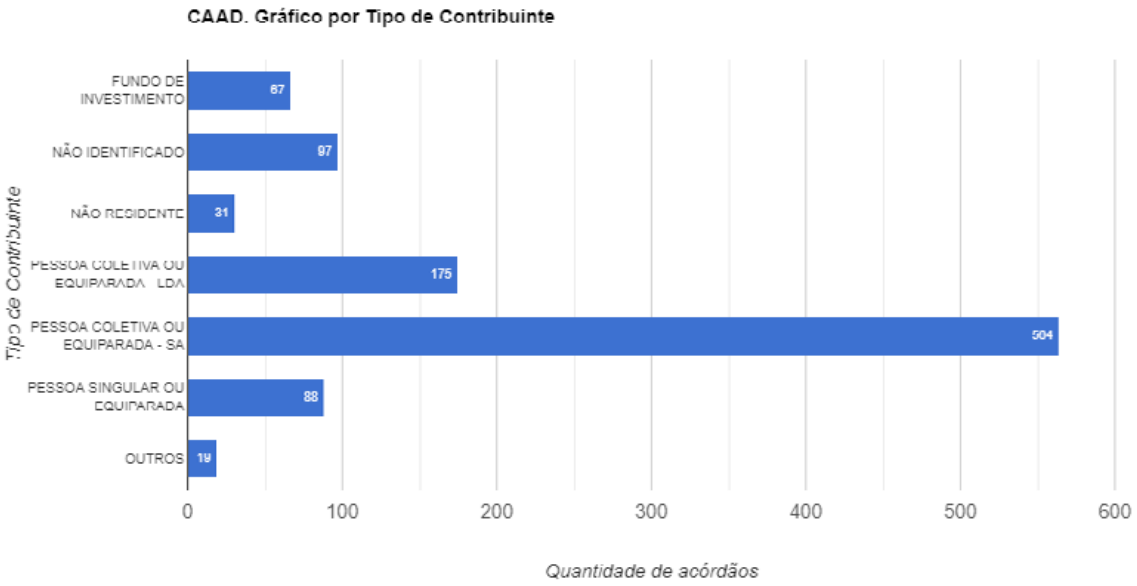
10. TYPE OF CONTRIBUTOR

S.A. legal entities represent 54% of the types of taxpayers followed by LDA legal entities with 17% and individuals with 8%.



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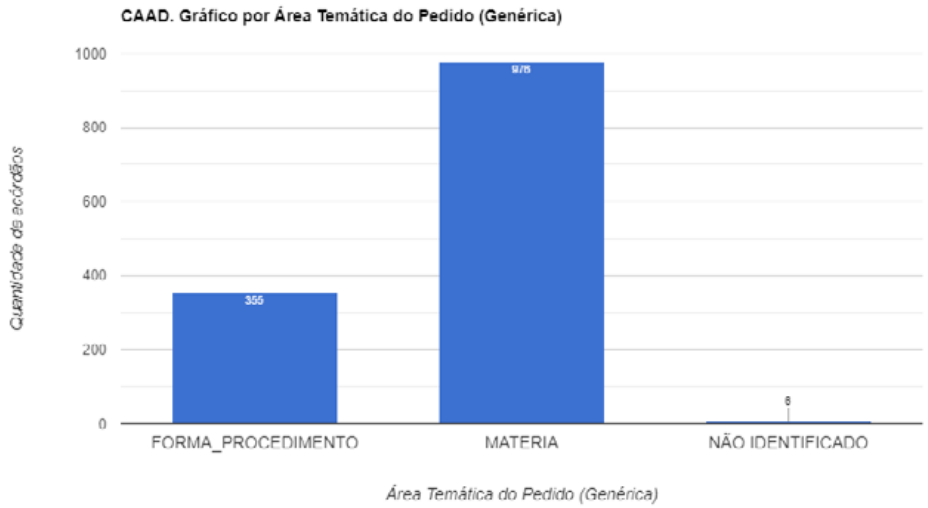
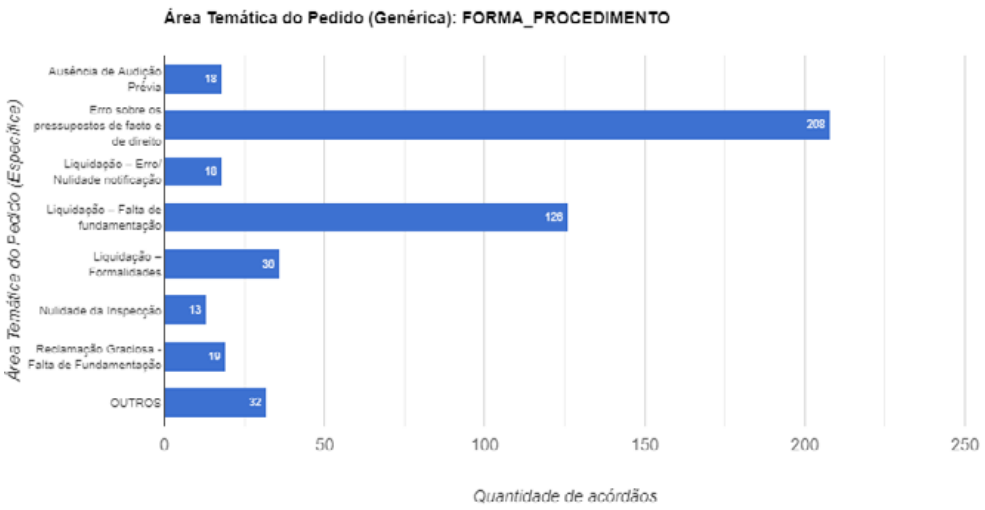
11. SUBJECT AREA OF REQUEST[11]

In 73% of the decisions, the *subject area of the request* involved issues concerning subject matter (law), and 27% had issues concerning procedure (formalities). In the same application, it is possible to argue both questions of law and procedure.



12. AREA OF APPLICATION (SPECIFIC)-PROCEDURE[12]

When the *subject area* is procedure (formalities), the most common issues raised are error of factual and legal assumptions (59%), liquidation-lack of grounds (34%), and liquidation formalities (10%) followed by other less relevant issues.



11 The information contained in the fields referring to “thematic areas” depended on the legal-tax interpretations of the decision analysts.

12 The “thematic areas” with 10 (ten) or less incidences were grouped under “others”.

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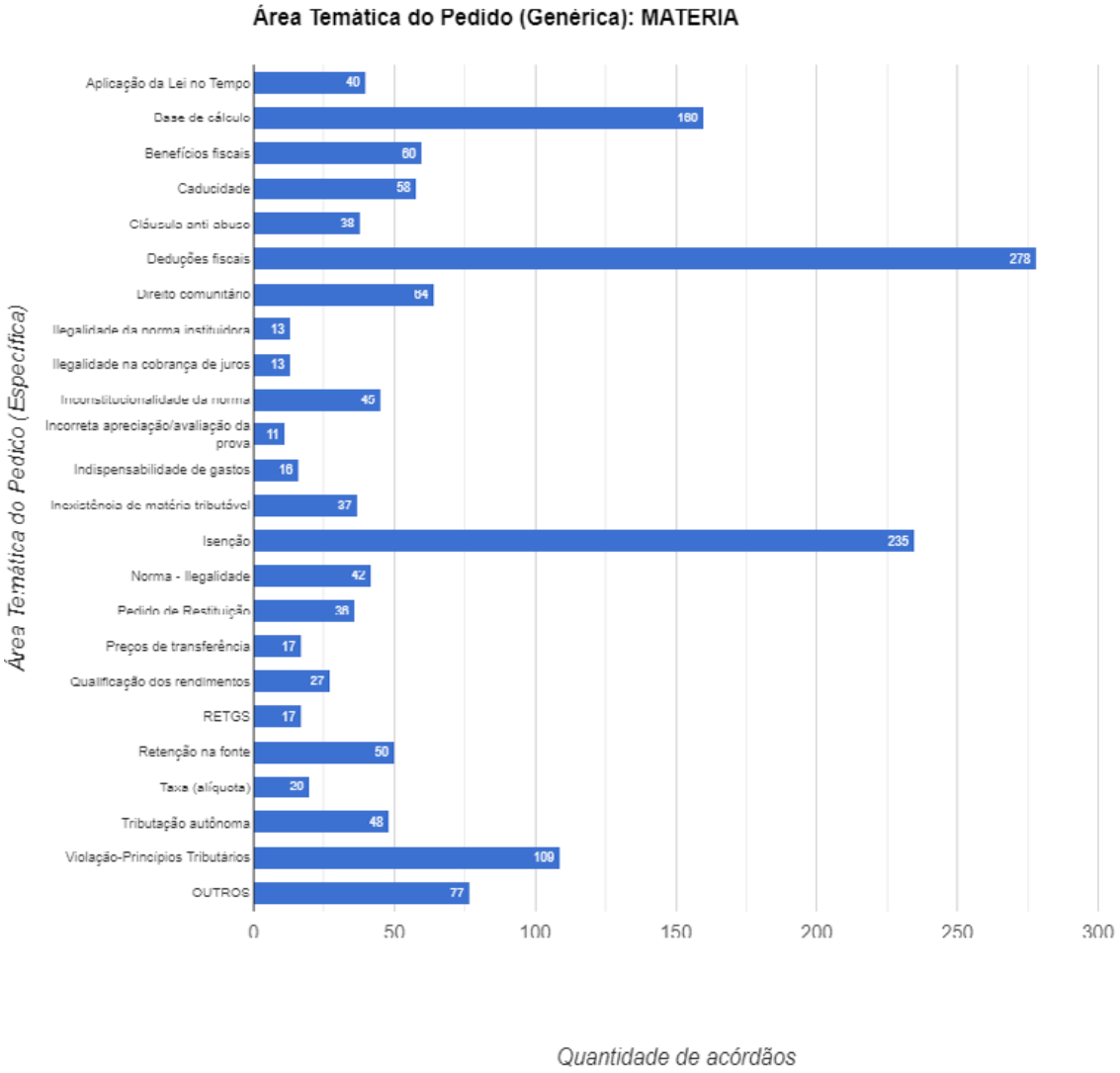
13. AREA OF APPLICATION (SPECIFIC)[13]- SUBJECT MATTER[14]

When the subject area is subject matter (law or substantive issues), the most raised issues are tax deductions (28%), exemption (24%), tax base (17%), and followed by other less relevant issues.



13 The data collected allows a breakdown by tax.

14 The "thematic areas" with 10 (ten) or less incidences were grouped under "others".

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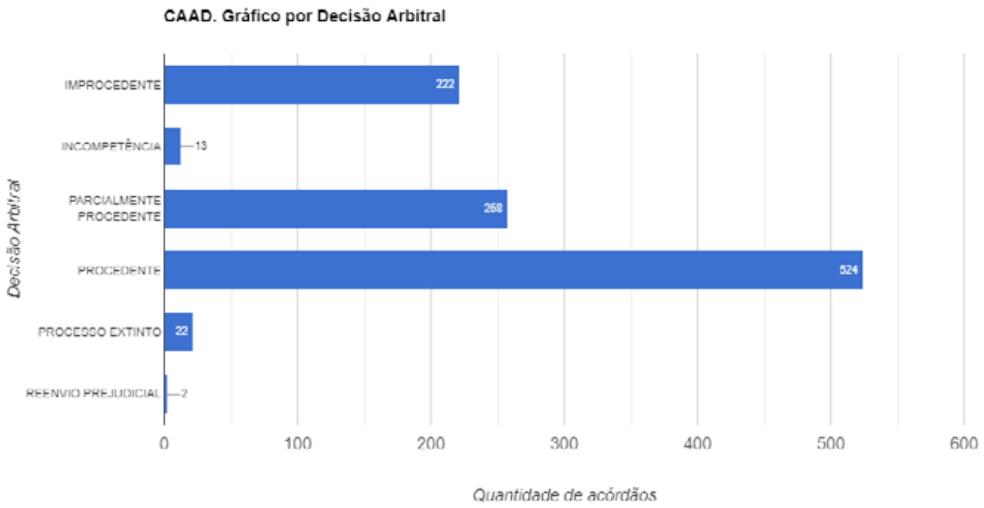
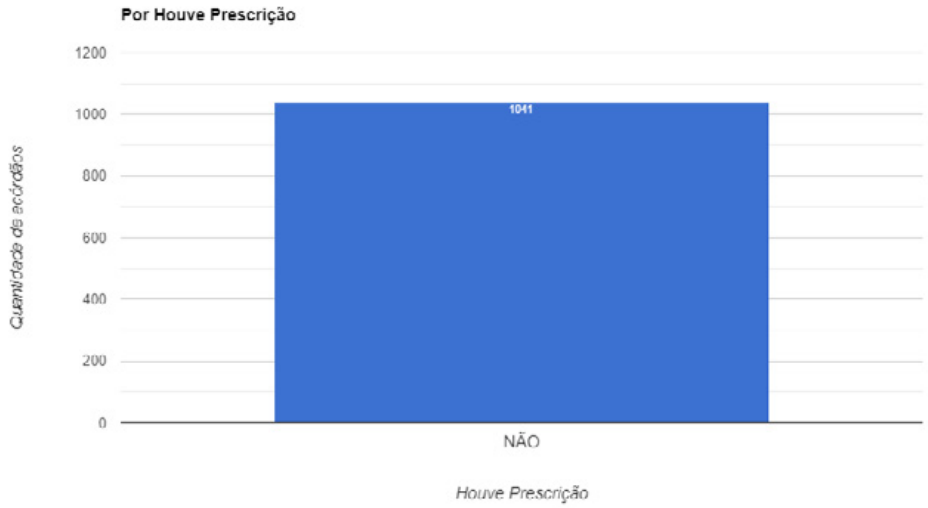
14. ARBITRATION AWARD

The decisions were unfounded in 21% of the cases, partially founded in 25%, and founded in 50%. Lack of jurisdiction was declared in 1% of the cases, dismissal of the claim in 2%, and request for a preliminary reference in less than 1%.



15. THERE WAS A STATUTE OF LIMITATIONS



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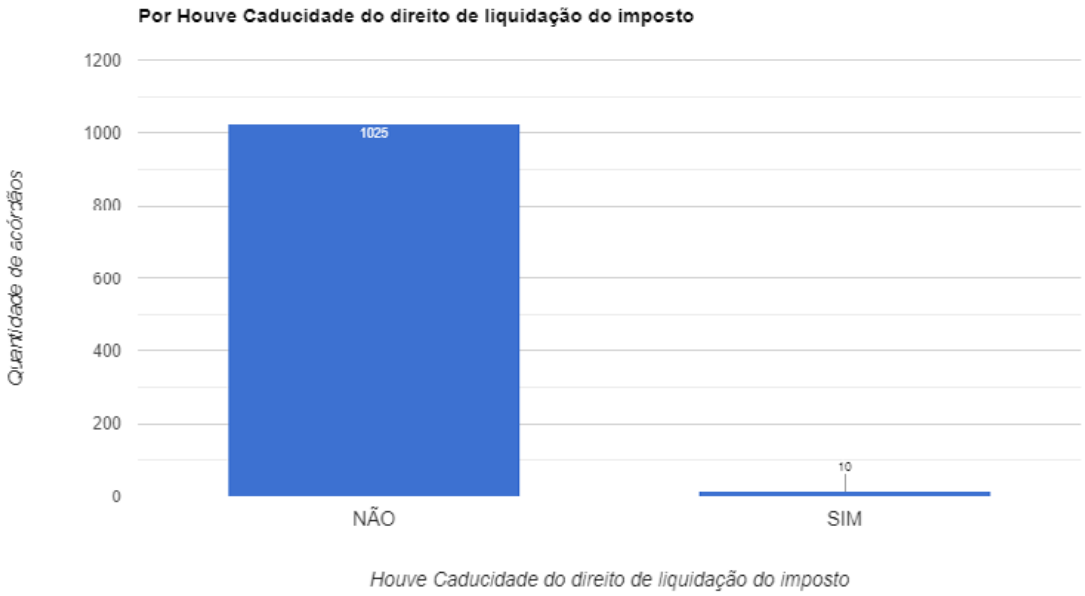
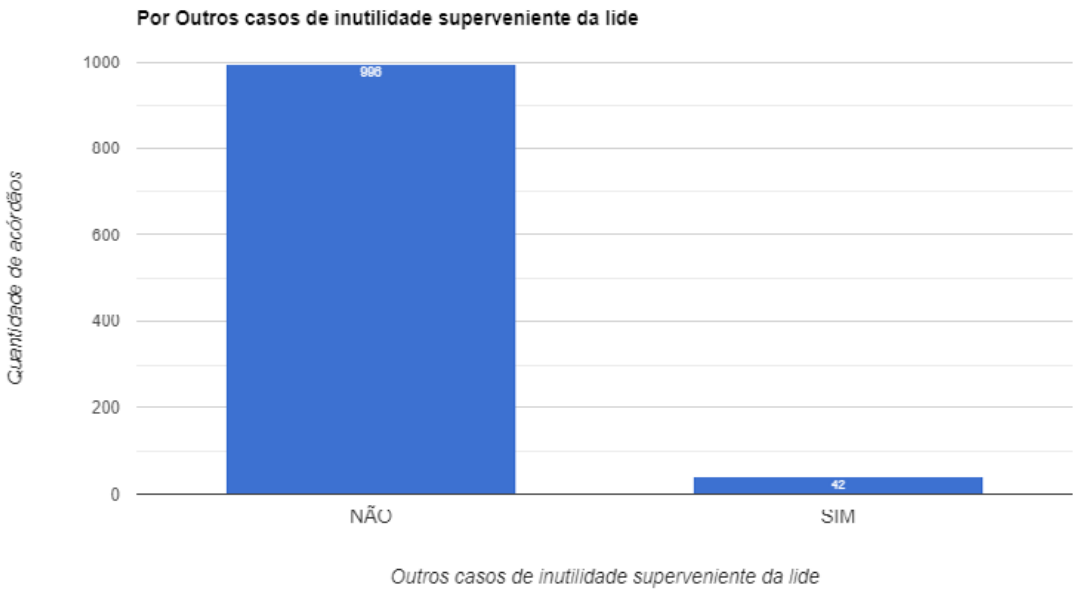
16. EXPIRATION OF THE RIGHT TO TAX ASSESSMENT



17. OTHER CASES OF SUPERVENING INUTILITY OF THE LITIGATION



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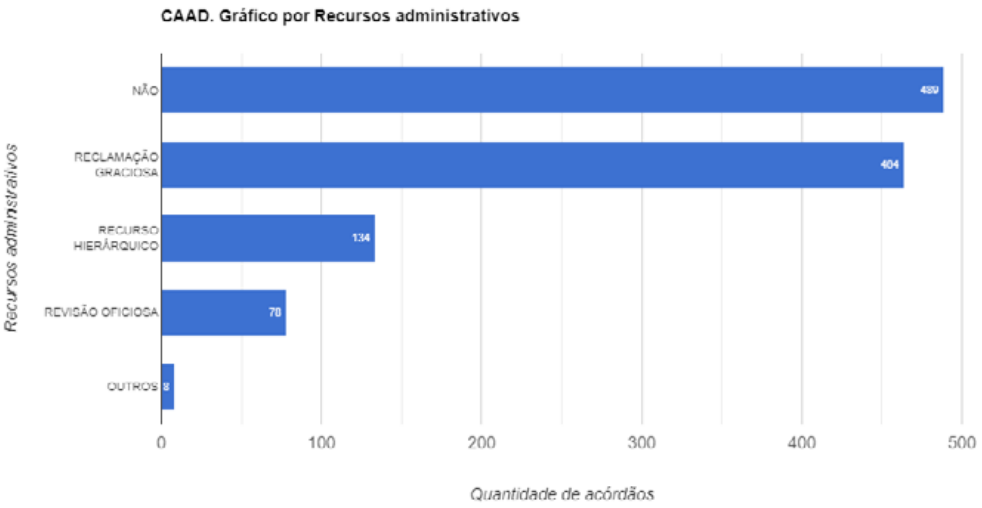
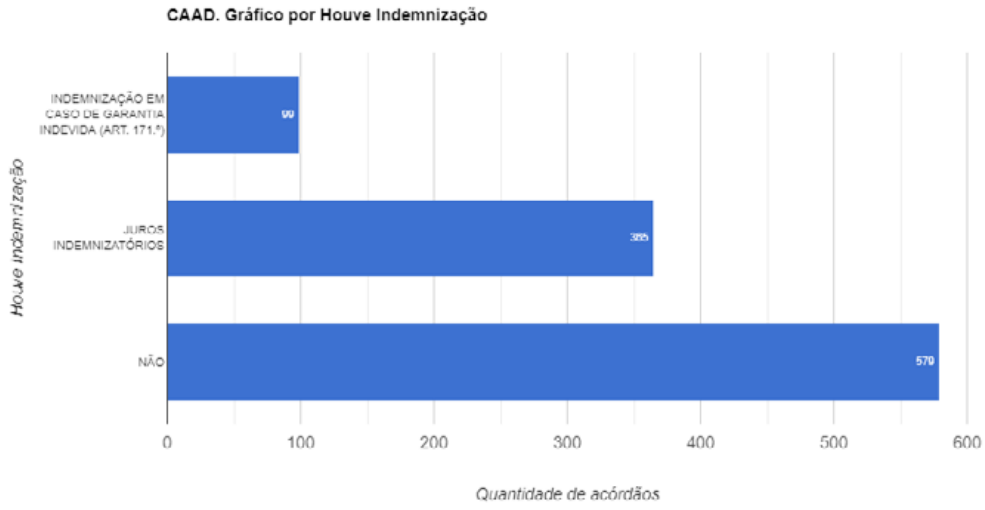
18. ADMINISTRATIVE APPEAL[15]

In 47% of the decisions, it was not mentioned whether there was an administrative appeal, there was an administrative complaint in 45%, a hierarchical appeal in 13%, and an ex-officio review in 8%. In less than 1%, the decision did not indicate the type of administrative appeal.



19. INDEMNIFICATION

There was no compensation or it was not mentioned in 55% of the decisions. In 35% of the decisions, there was compensatory interest and compensation in the case of undue guarantee in 10%.



15 More than one administrative appeal is possible.

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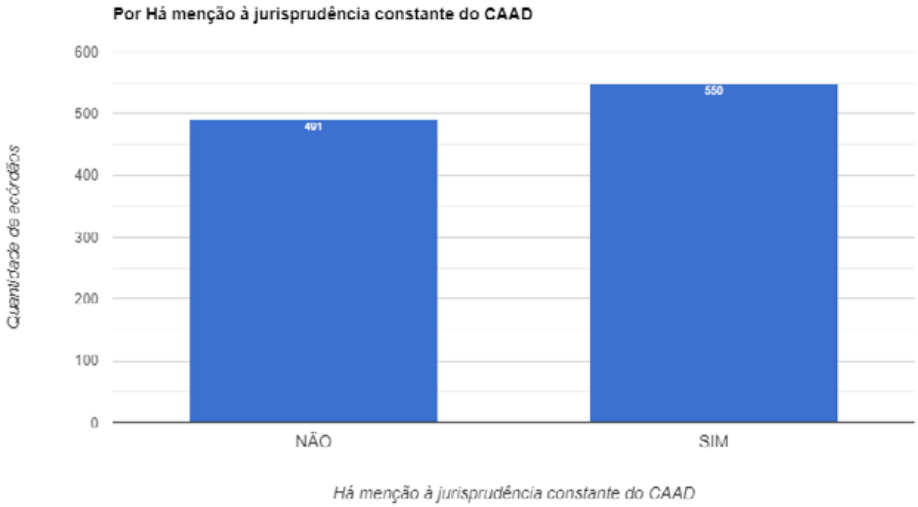
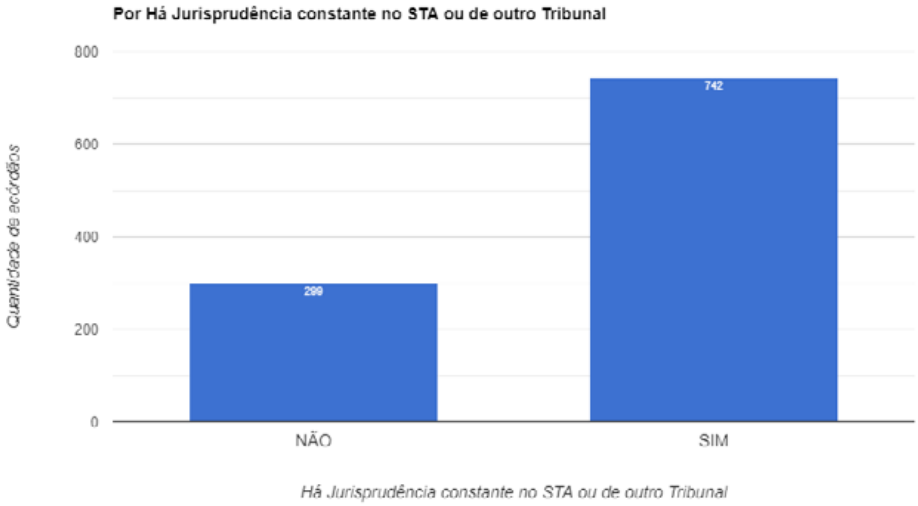
20. CONSTANT JURISPRUDENCE OF CAAD

There was mention of the CAAD case law in 53% of the decisions.



21. JURISPRUDENCE FROM STA OR OTHER COURT

There was mention of case law from the Supreme Administrative Court or another court in 71% of the decisions.



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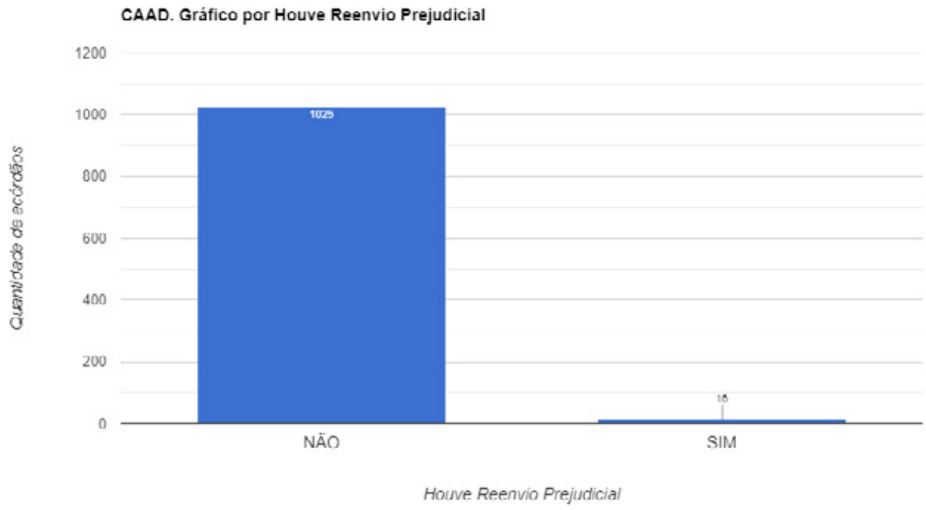
22. CONSTANT JURISPRUDENCE OF THE CONSTITUTIONAL COURT

There was mention of the constant jurisprudence of the Constitutional Court in 14% of the decisions.

23. PRELIMINARY REFERENCE

There was no preliminary reference in 98% of the decisions.



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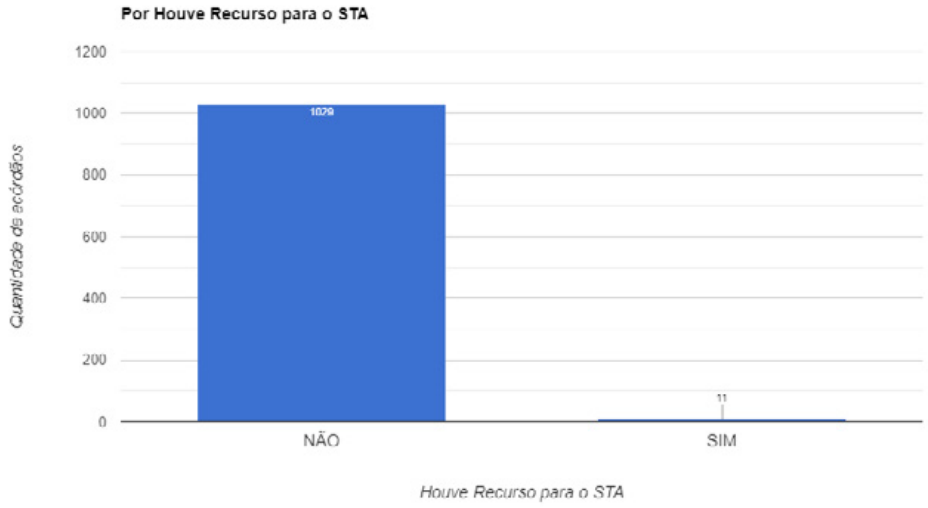
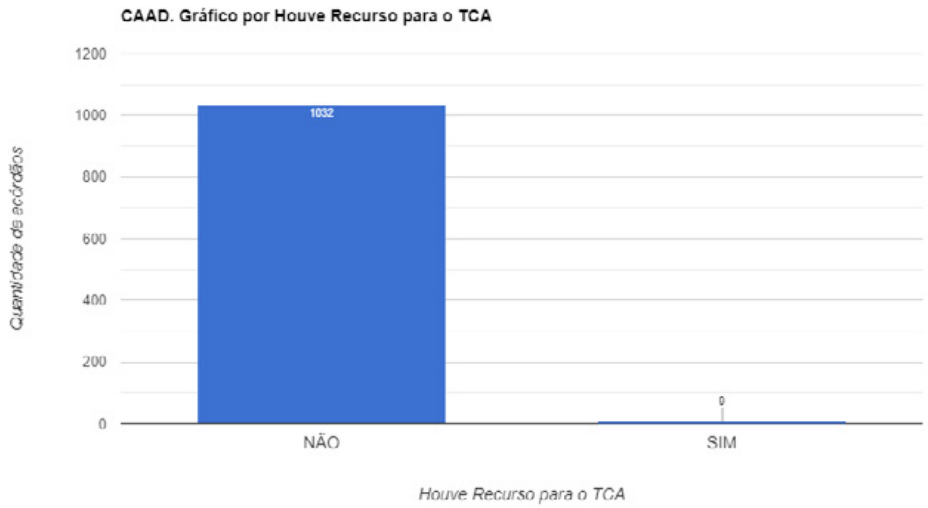
24. APPEAL TO THE STA

In 98% of the decisions, there was no appeal to the STA, or it was not mentioned in the text of the decision. .



25. APPEAL TO THE CCA

In 99% of the decisions, there was no appeal to the ATT, or it was not mentioned in the text of the decision.



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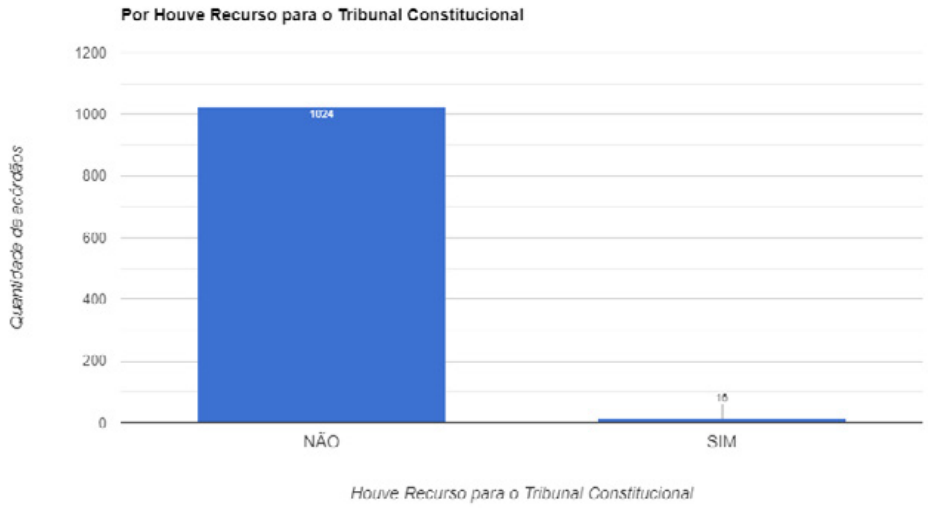
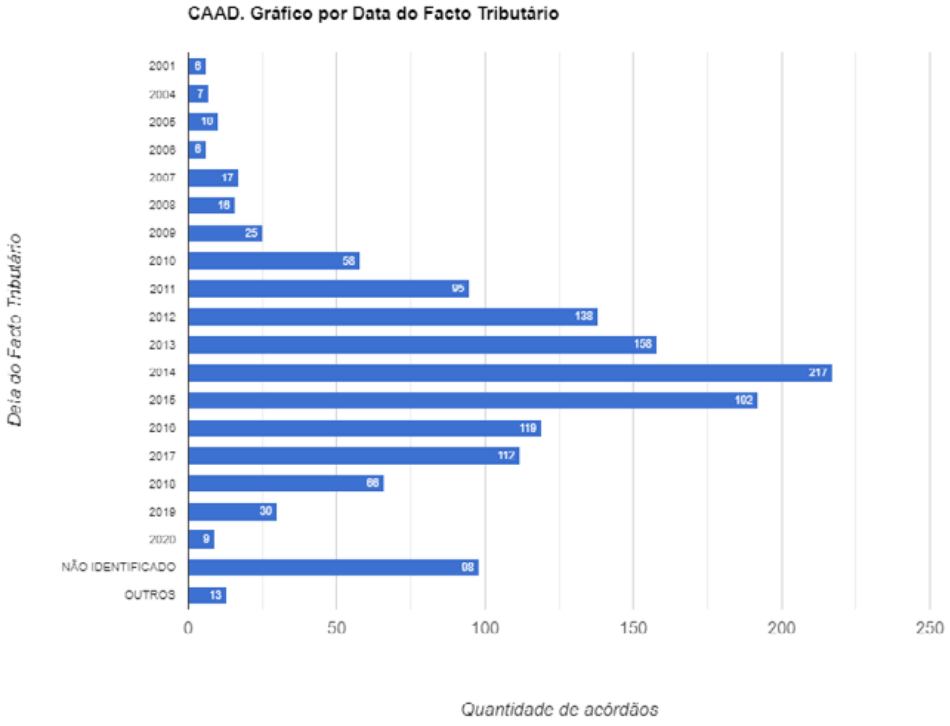
26. APPEAL TO THE CONSTITUTIONAL COURT

In 99% of the decisions, there was no appeal to the ATT, or it was not mentioned in the text of the decision.



27. YEAR OF THE TAXABLE EVENT



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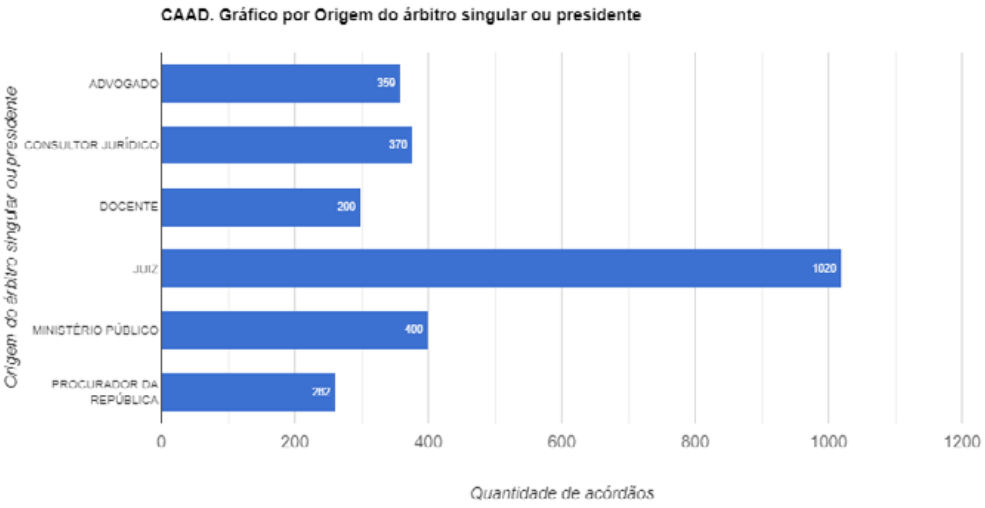
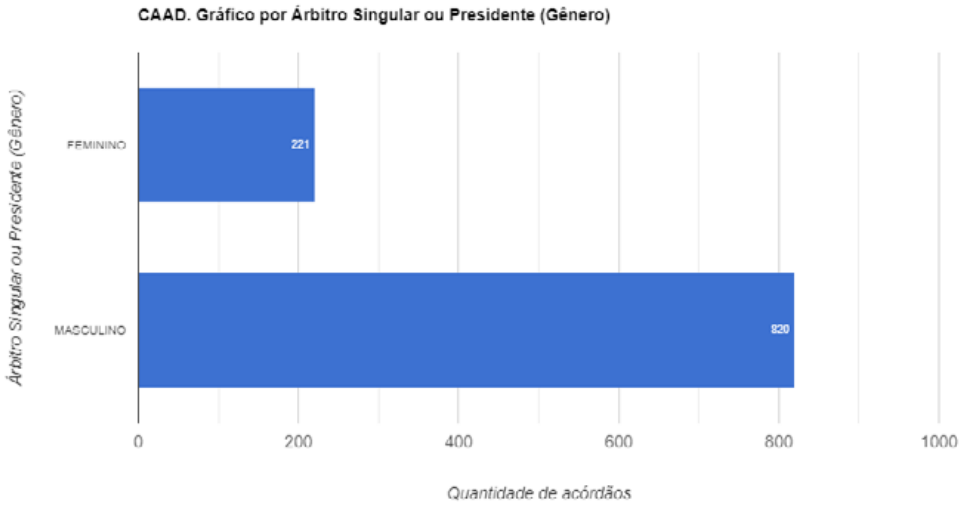
28. ORIGIN OF THE SOLE ARBITRATOR OR PRESIDENT

In 98% of the decisions, the presiding arbitrators (collective judgment) or sole arbitrators (singular judgment) had a career in the judiciary, 38% in the public ministry, 36% as consultants, 34% in the legal profession, and 29% as teachers. There are arbitrators who have more than one career, for example, as a judge and as a teacher.



29. SINGULAR OR CHAIRMAN (GENDER)

In 79% of the decisions, the presiding arbitrators were male, and 21% were female.



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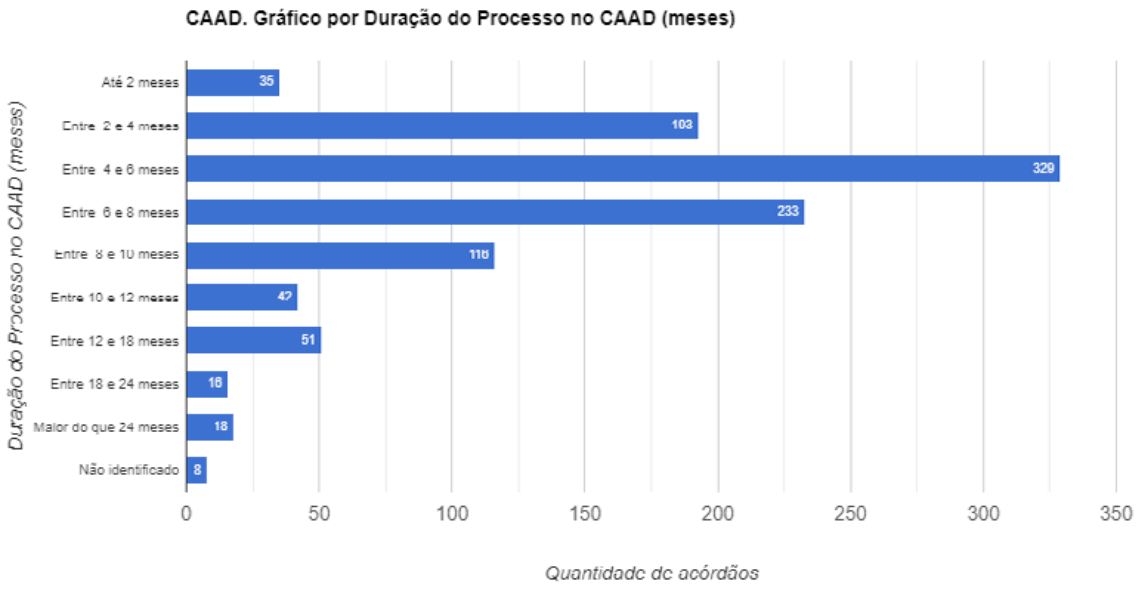
IV. DURATION OF THE PROCESS

Bruno Moutinho
Claudia Marchetti da Silva

1. DURATION OF THE PROCESS IN CAAD

Of the decisions analysed, 53% were issued within the legal timeframe of six months.



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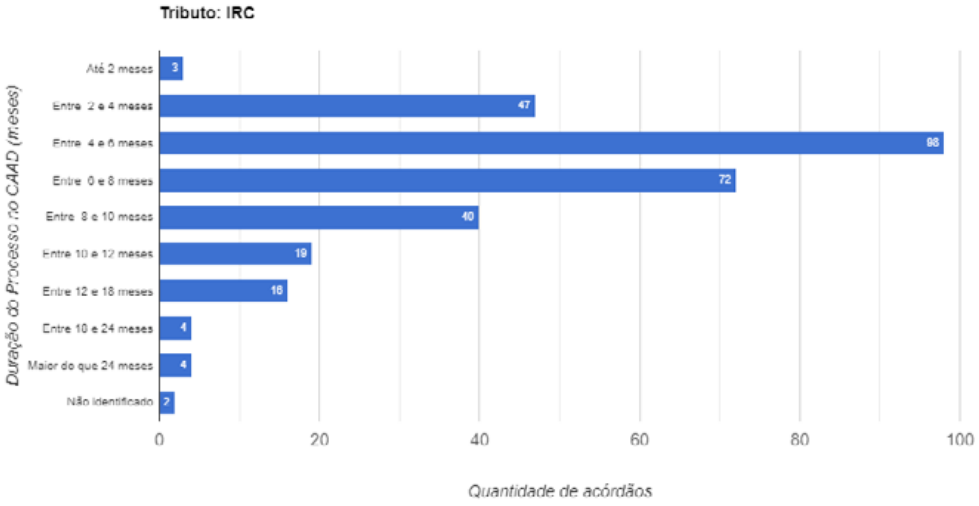
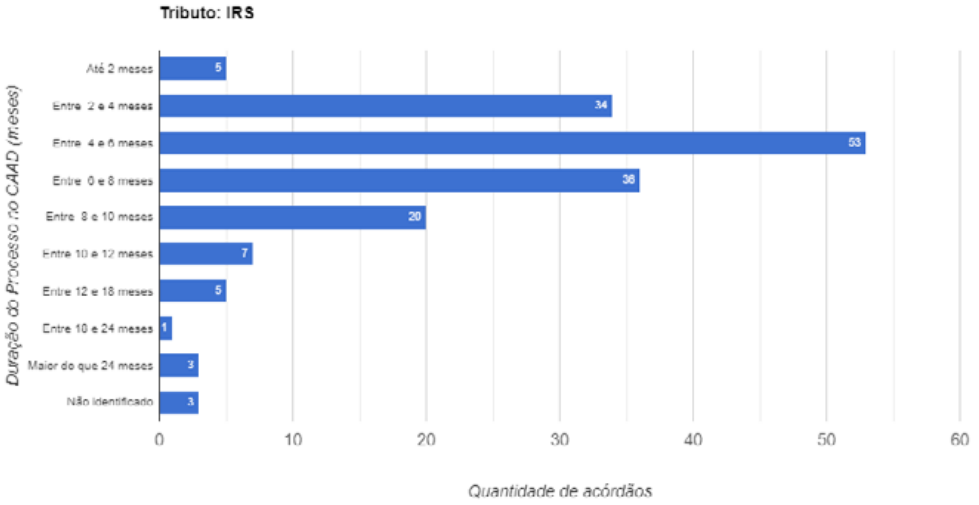
2. DURATION OF THE PROCESS IN CAAD BY TYPE OF TAX

2.1 IRC



2.2 IRS



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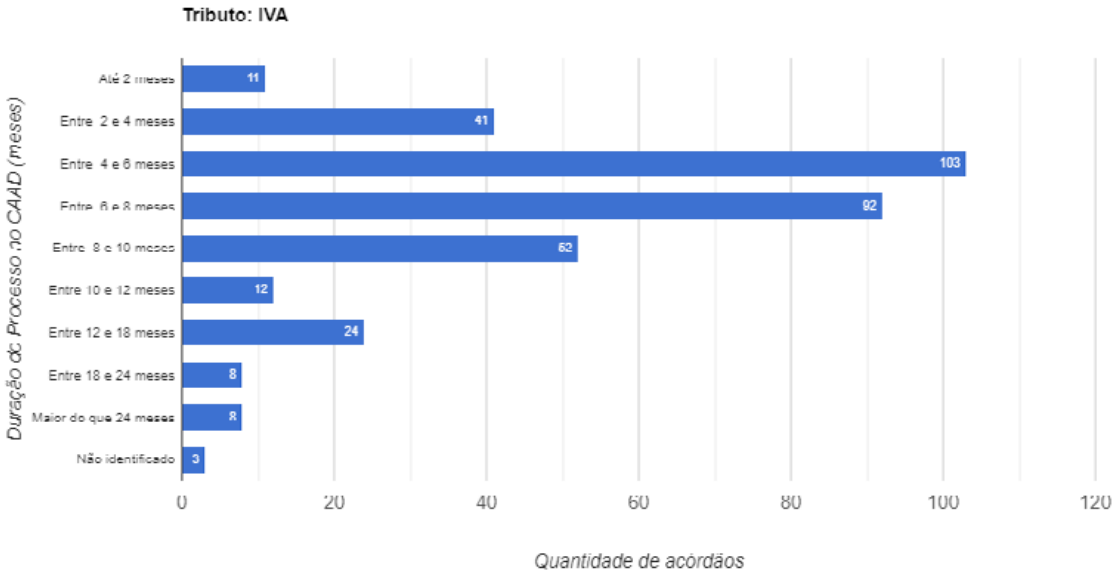
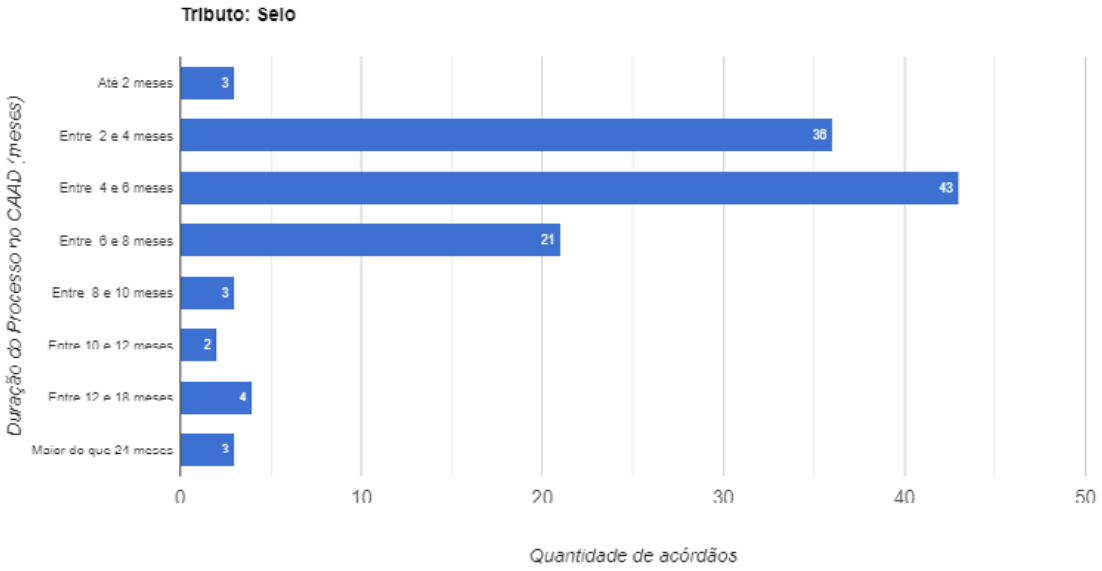
2.3 VAT



2.4 Stamp Tax



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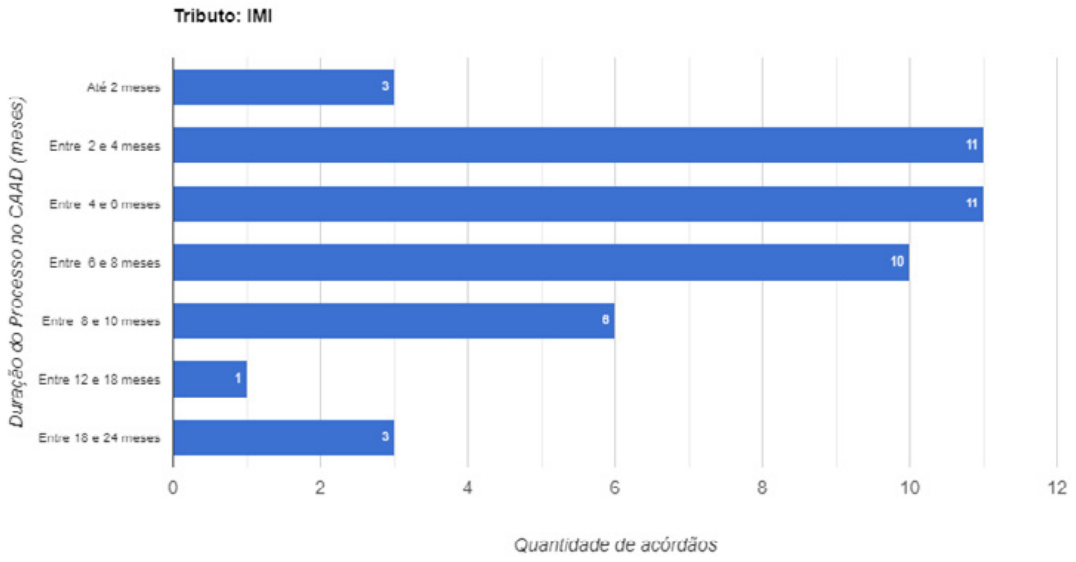
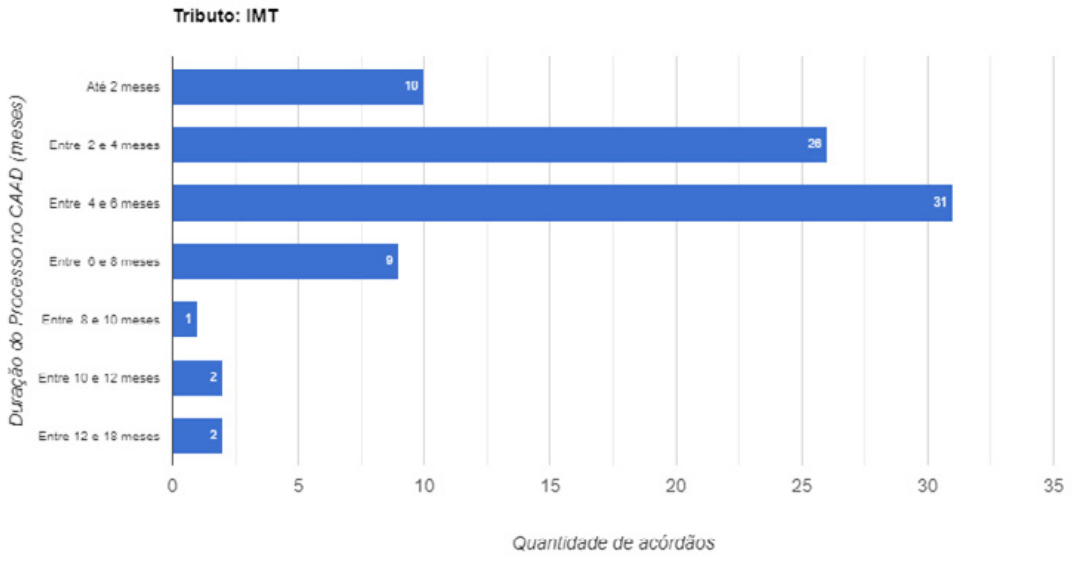
2.5 IMI



2.6 IMT



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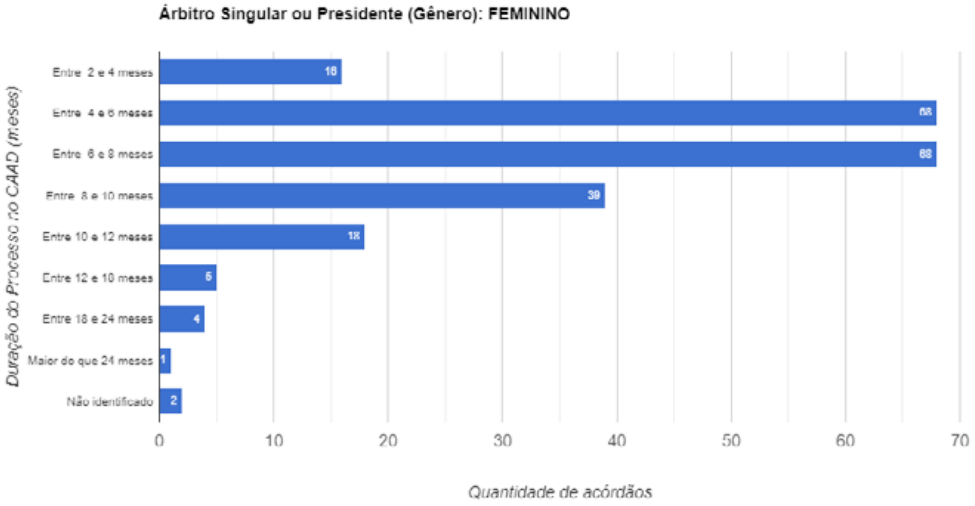
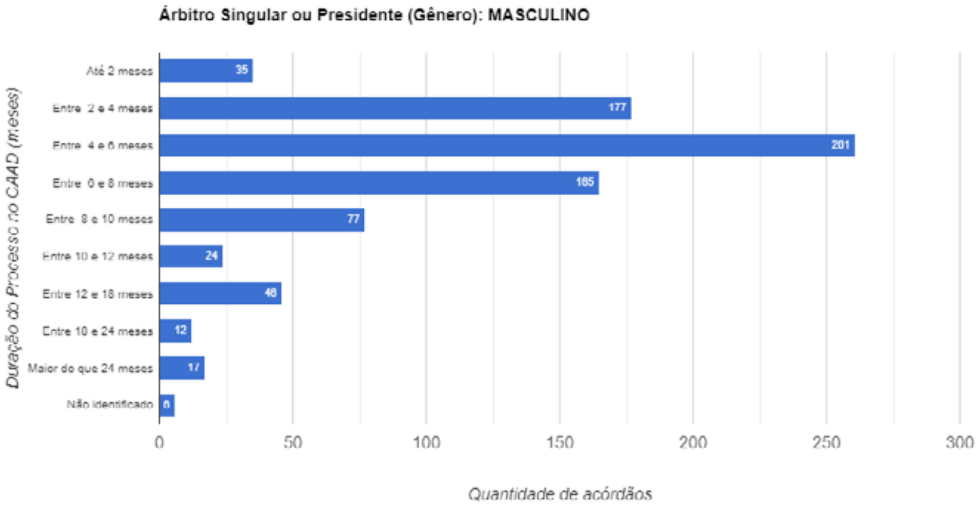
3. DURATION OF THE PROCESS IN CAAD BY GENDER OF THE RAPPORTEUR

3.1 Female



3.2 Male



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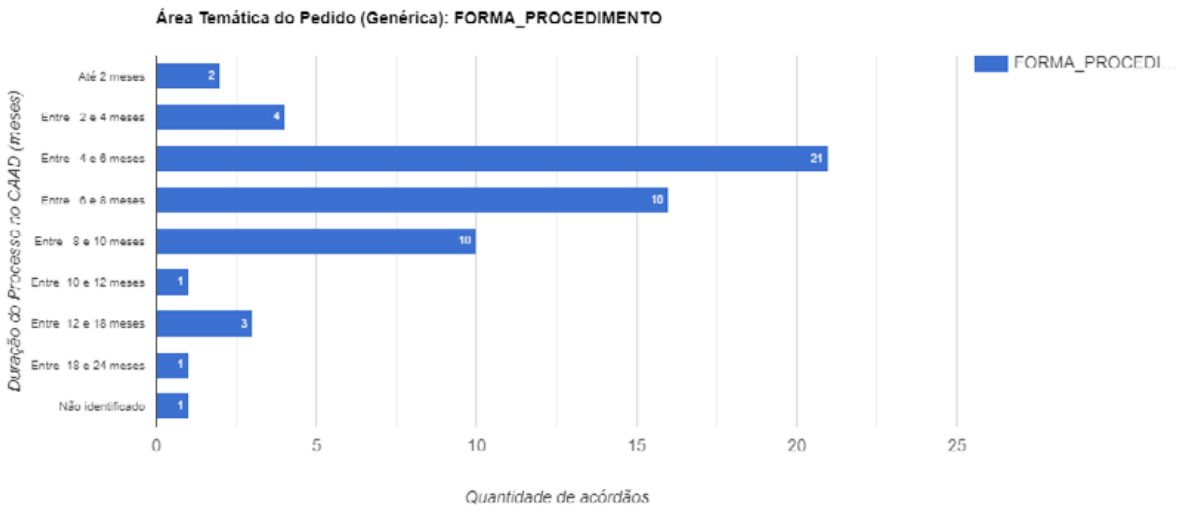
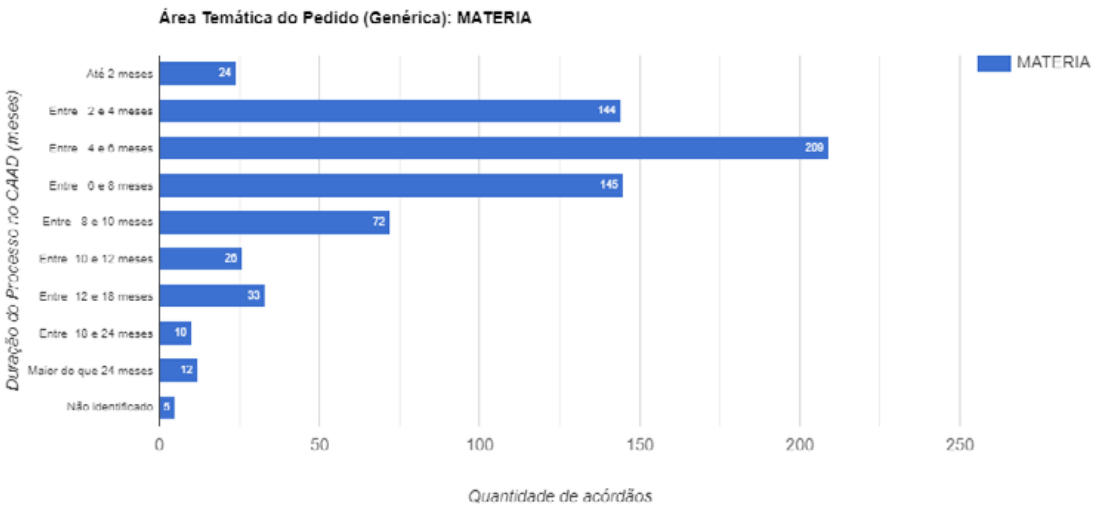
4. DURATION OF THE PROCESS IN CAAD BY THEMATIC AREA OF THE APPEAL (GENERIC)

4. 1 Procedure (formalities of the tax authority)



4. 2 Subject matter (questions of law)



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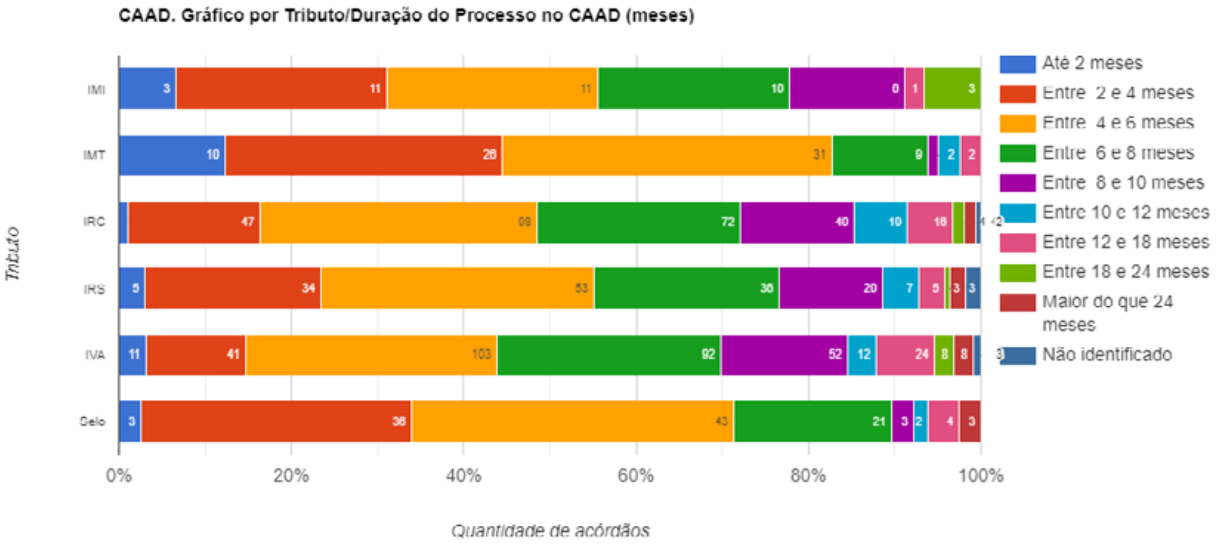
V. QUESTIONS - CAAD

Bruno Moutinho
Claudia Marchetti da Silva

1. WHICH TAXES TAKE LONGER TO BE JUDGED IN CAAD?

The graphs show that requests for arbitration awards involving the VAT followed by the CIT take the longest to be judged.



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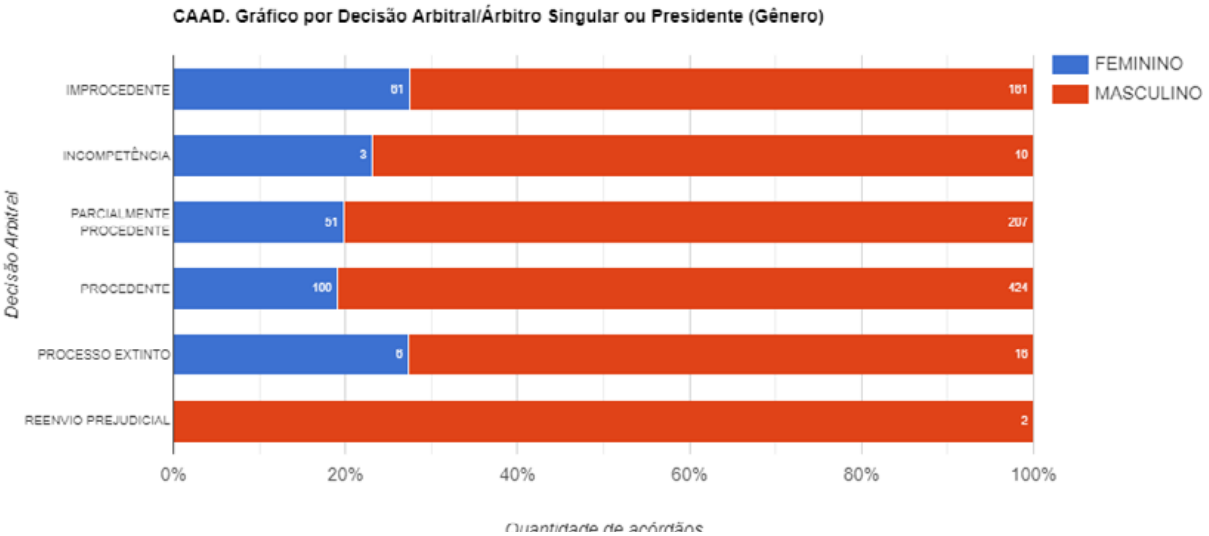
2. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS ACCORDING TO THE GENDER OF THE REPORTER?

Female: 28% unfounded; 23% partially founded; 45% founded; 3% dismissed; 1% incompetence

Male: 20% unfounded; 25% partially founded; 52% founded; 2% dismissed; 1% lack of jurisdiction



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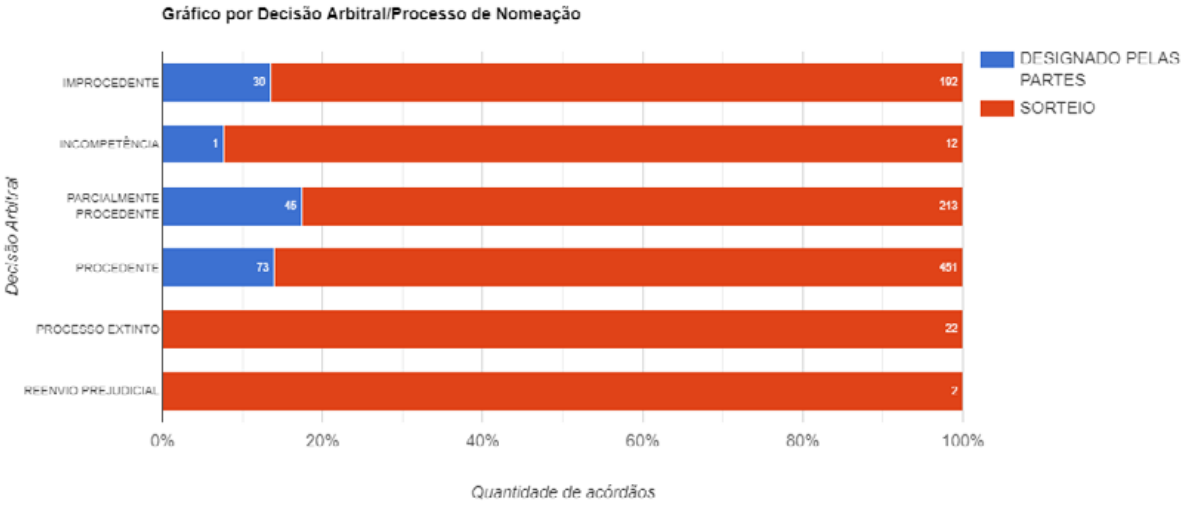
3. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS ACCORDING TO THE APPOINTMENT PROCESS?

Assigned: 20% unfounded; 30% partially founded; 49% founded; 1% incompetence

Drawing: 21% unfounded; 24% partially founded; 51% founded; 3% case dismissed, 1% incompetence.



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4. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS ACCORDING TO THE TAX?

IMI: 49% unfounded; 29% partially founded; 16% founded; 6% dismissed

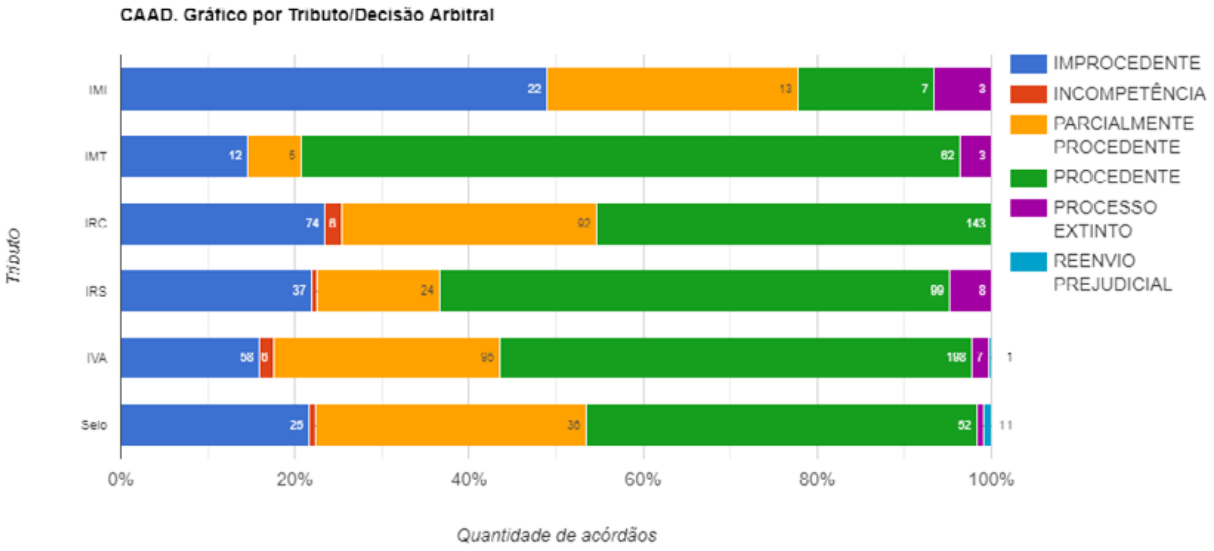
IMT: 15% unfounded; 6% partially founded; 76% founded; 3% dismissed

IRC: 24% unfounded; 29% partially founded; 45% founded; 2% incompetence

IRS: 22% unfounded; 14% partially founded; 59% founded; 5% case dismissed

VAT: 16% unfounded; 26% partially founded; 54% founded; 3% dismissed; 1% lack of jurisdiction

Stamp: 22% unfounded; 31% partially founded; 45% founded; 1% case dismissed; 1% reference for a preliminary ruling



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5. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS ACCORDING TO THE TYPE OF TAXPAYER?

Investment Fund: 18% unfounded; 19% partially founded; 61% founded; 2% dismissed

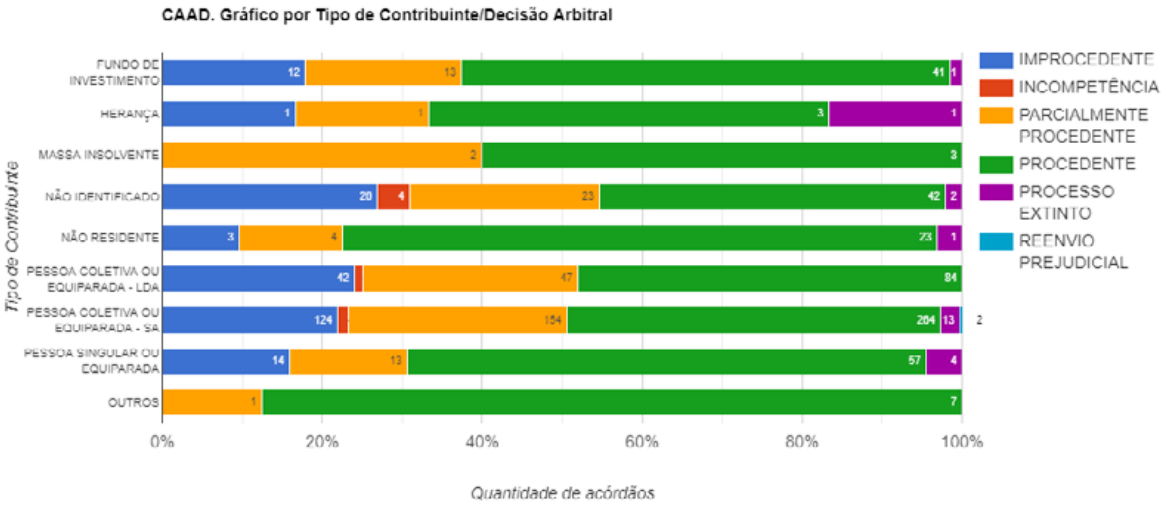
Legal entity LDA: 24% unfounded; 27% partially founded; 48% founded; 1% case dismissed

Collective Person S.A: 22% dismissed; 27% partially upheld; 47% upheld; 3% case dismissed; 1% reference for a preliminary ruling

Individual: 16% unfounded; 15% partially founded; 65% founded; 4% dismissed

Inheritance: 17% unfounded; 17% partially founded; 50% founded; 17% case dismissed

Non-resident: 10% unfounded; 13% partially founded; 74% founded; 3% case dismissed



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6. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS ACCORDING TO THE VALUE OF THE CLAIM?

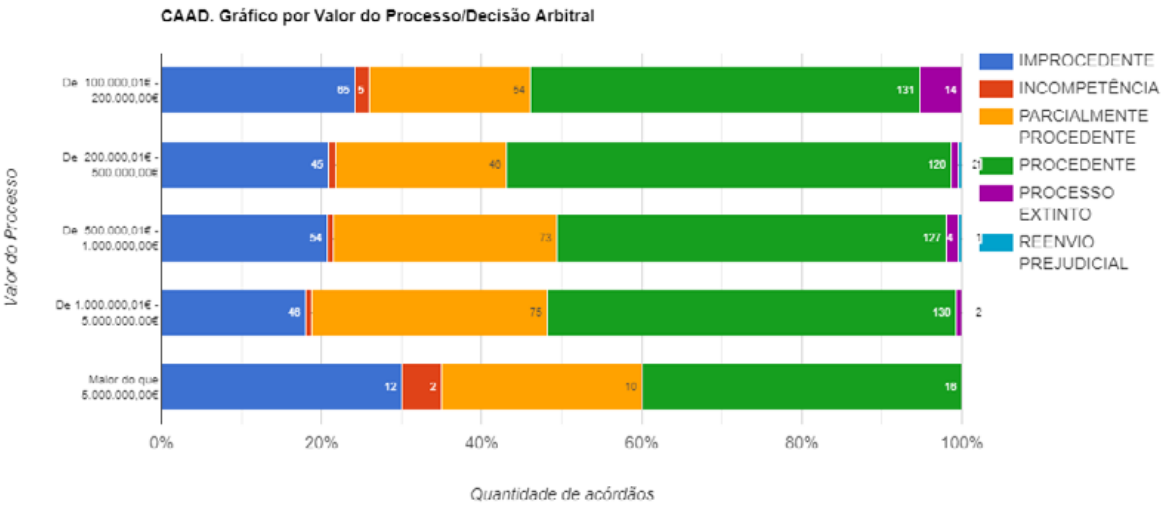
From EUR 100.000,01- EUR 200.000,00: 24% unfounded; 20% partially founded; 49% founded; 5% dismissed; 2% lack of jurisdiction

From EUR 200,000.01- EUR 500,000.00: 21% unfounded; 21% partially founded; 56% founded; 1% dismissed; 1% lack of jurisdiction

From EUR 500,000.01 - EUR 1,000,000.00: 21% unfounded; 28% partially founded; 49% founded; 1% dismissed; 1% lack of jurisdiction

From EUR 1,000,000.01 - EUR 5,000,000.00: 18% unfounded; 29% partially founded; 51% founded; 1% dismissed; 1% lack of jurisdiction

Greater than EUR 5,000,000.00: 30% unfounded; 25% partially founded; 40% founded; 5% incompetence



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7. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS ACCORDING TO THE PRESIDING ARBITRATOR?

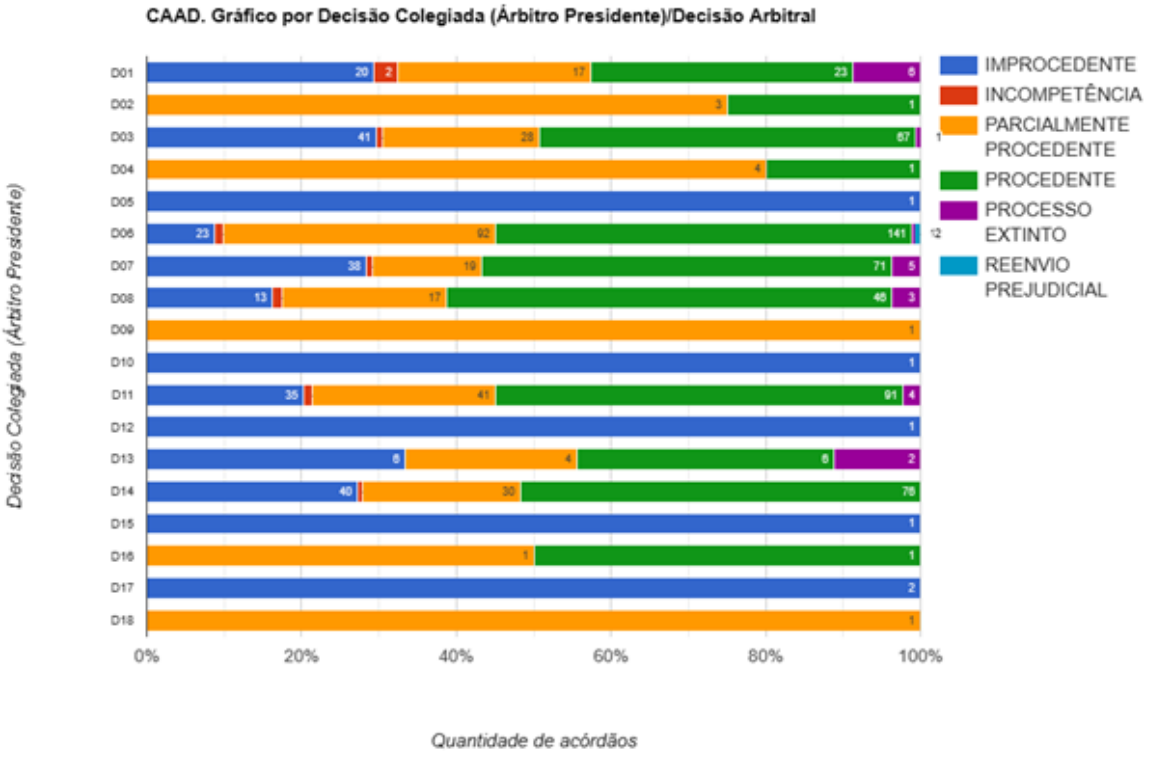
Considering the presiding arbitrators with the most trials, there are:

D02: 9% unfounded; 35% partially founded; 54% founded; 1% lack of jurisdiction; 1% case dismissed

D05: 20% unfounded; 24% partially founded; 53% founded; 2% dismissed; 1% lack of jurisdiction

D03: 27% unfounded; 20% partially founded; 52% founded; 1% incompetent

D15: 30% unfounded; 20% partially founded; 49% founded; 1% incompetence



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8. WHAT IS THE RELATIONSHIP BETWEEN THE NOMINATION PROCESS AND THE VALUE OF THE APPLICATION?

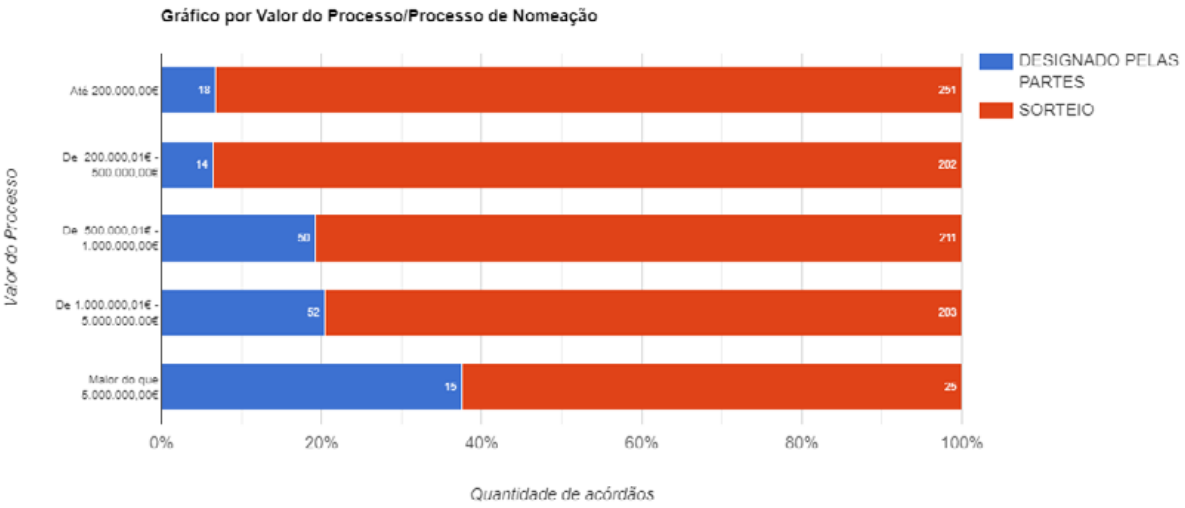
From EUR 100,000.01- EUR 200,000.00: 7% designated by the parties; 93% lottery

From EUR 200,000.01 – EUR500,000.00: 6% designated by the parties; 94% lottery

From EUR 500,000.01- EUR 1,000,000.00: 19% designated by the parties; 81% lottery

From EUR 1,000,000.01 – EUR 5,000,000.00: 20% designated by the parties; 80% by lot

Greater than EUR5,000,000.00: 38% designated by the parties; 62% lottery



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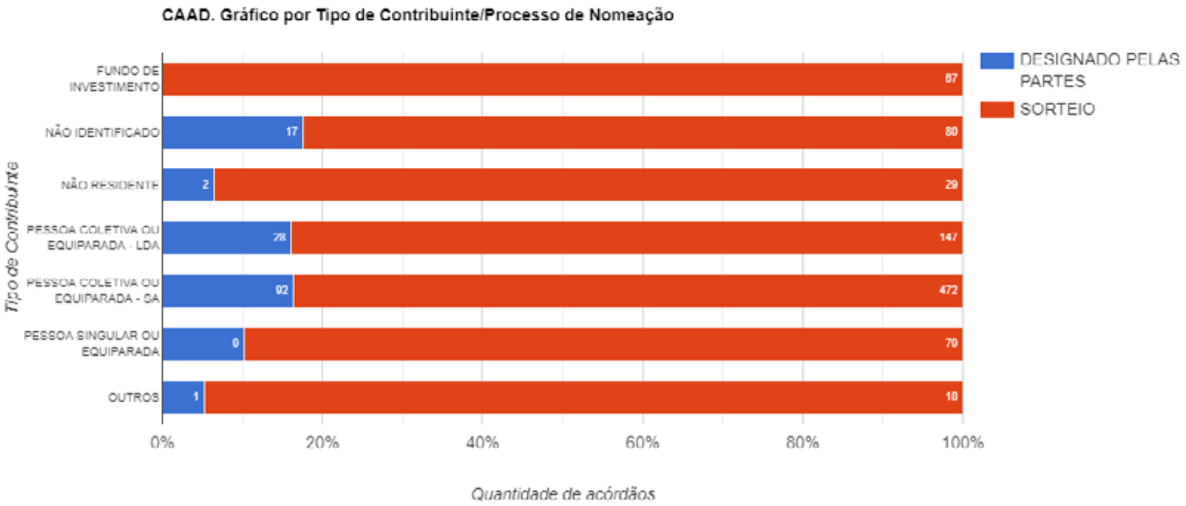
9. WHAT IS THE RELATIONSHIP BETWEEN THE NOMINATION PROCESS AND THE TYPE OF CONTRIBUTOR?

Legal entity S.A: 16% designated; 84% draw

Legal entity LDA: 16% designated; 84% draw

Individual: 10% designated; 90% raffle



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10. HOW MANY DECISIONS (PERCENTAGE OF THE ANNUAL TOTAL) WERE RENDERED BY EACH PRESIDING ARBITRATOR ANNUALLY?

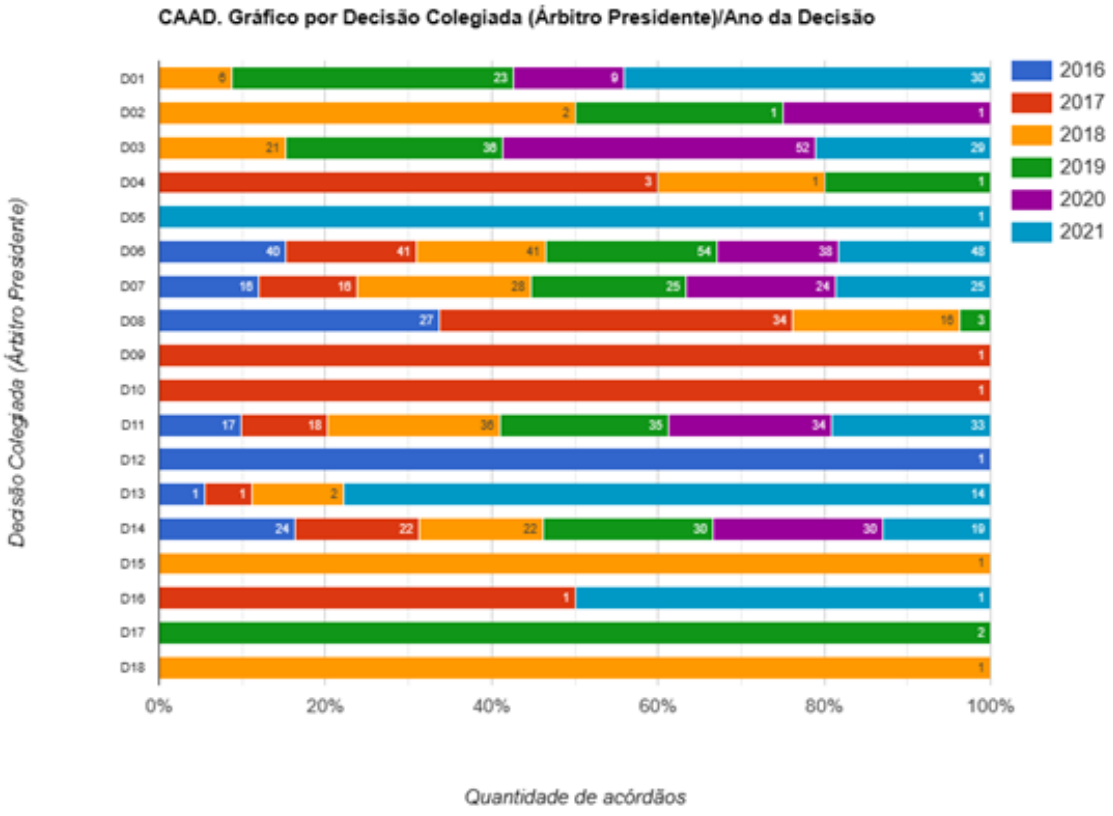
Considering the presiding arbitrators with the most trials and the number of decisions in the sample per year,[16] there are:

D02: 32% (2016); 30% (2017); 23% (2018); 26% (2019); 20% (2020); 24% (2021)

D05: 13% (2016); 13% (2017); 20% (2018); 16% (2019); 18% (2020); 17% (2021)

D03: 19% (2016); 16% (2017); 12% (2018); 14% (2019); 16% (2020); 9% (2021)

D15: 12% (2018); 17% (2019); 28% (2020); 15% (2021)



16 See the "By Year" chart in this report.

11. HOW MANY DECISIONS (PERCENTAGE OF THE ANNUAL TOTAL) WERE RENDERED BY EACH ARBITRATOR (VOWEL 1) ANNUALLY[17]?

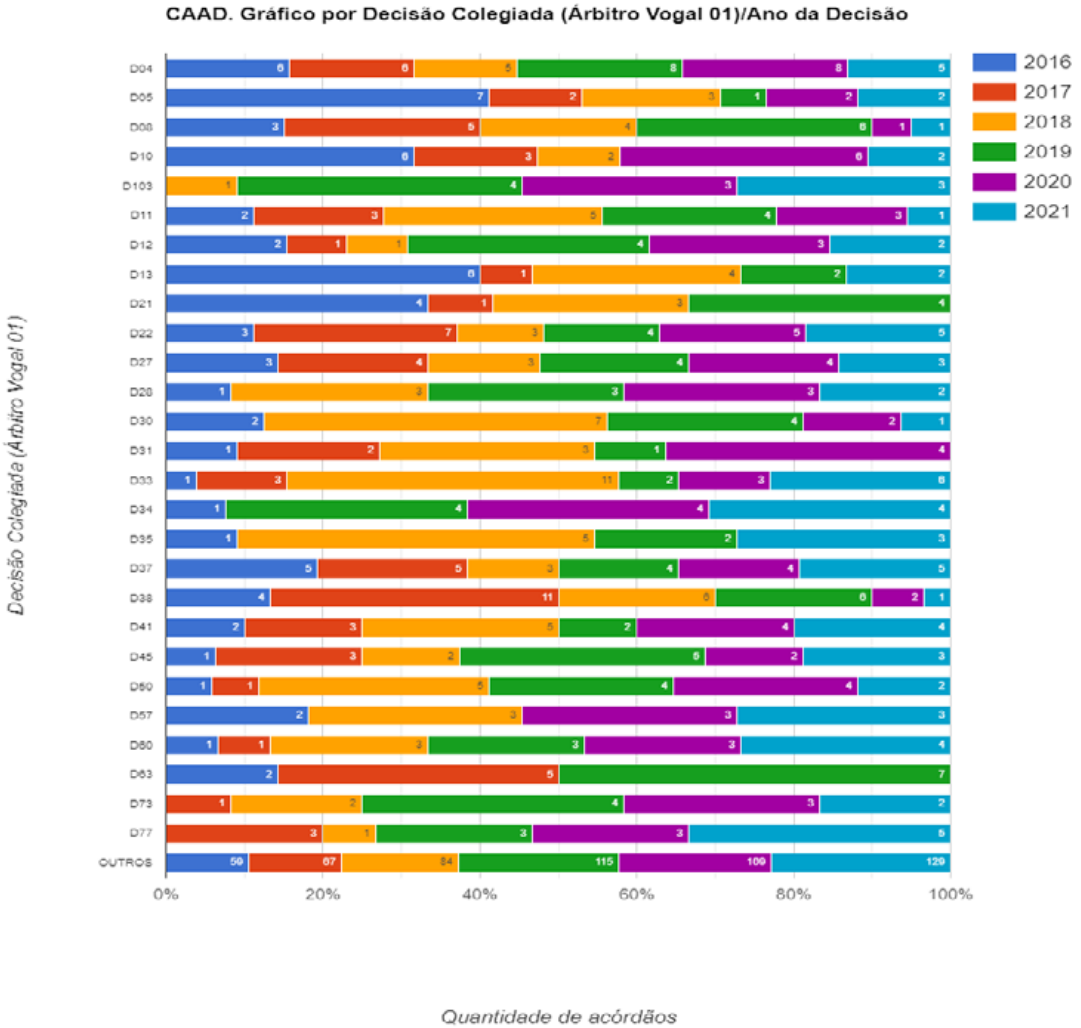
Considering the arbitrators (vowel 1) with the most trials and the number of decisions in the sample per year, there rare:

D04: 4% (2016); 4% (2017); 3% (2018); 4% (2019); 4% (2020); 3% (2021)

D38: 3% (2016); 8% (2017); 4% (2018); 3% (2019); 1% (2020); less than 1% (2021)

D22: 2% (2016); 5% (2017); 2% (2018); 2% (2019); 3% (2020); 3% (2021)

D33: less than 1% (2016); 2% (2017); 6% (2018); less than 1% (2019); 2% (2020); 3% (2021)



17 The referees who participated in a number less than 10 (ten) decisions were grouped under "others".

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12. WHICH ARBITRATORS (VOGAL 1)[18] ARE MOST APPOINTED BY THE TAXPAYERS[19]?

Considering the arbitrators with more assignments, there are: arbitrator D33, assigned in 13% of the decisions; D04 in 9%; D08 in 8%, and D38 in 7%.

13. WHO ARE THE ARBITRATORS (VOWEL 2)[20] MOST ASSIGNED BY THE AT?

Considering the arbitrators with the most assignments, there are: arbitrator D42, assigned in 12% of the decisions; D29 in 8%; D08 and D66 in 7%.

18 The arbitrators appointed in a number less than 3 (three) decisions were grouped in “others”.

19 See the “Nomination Process” chart.

20 The arbitrators appointed in a number less than 3 (three) decisions were grouped in “others”.

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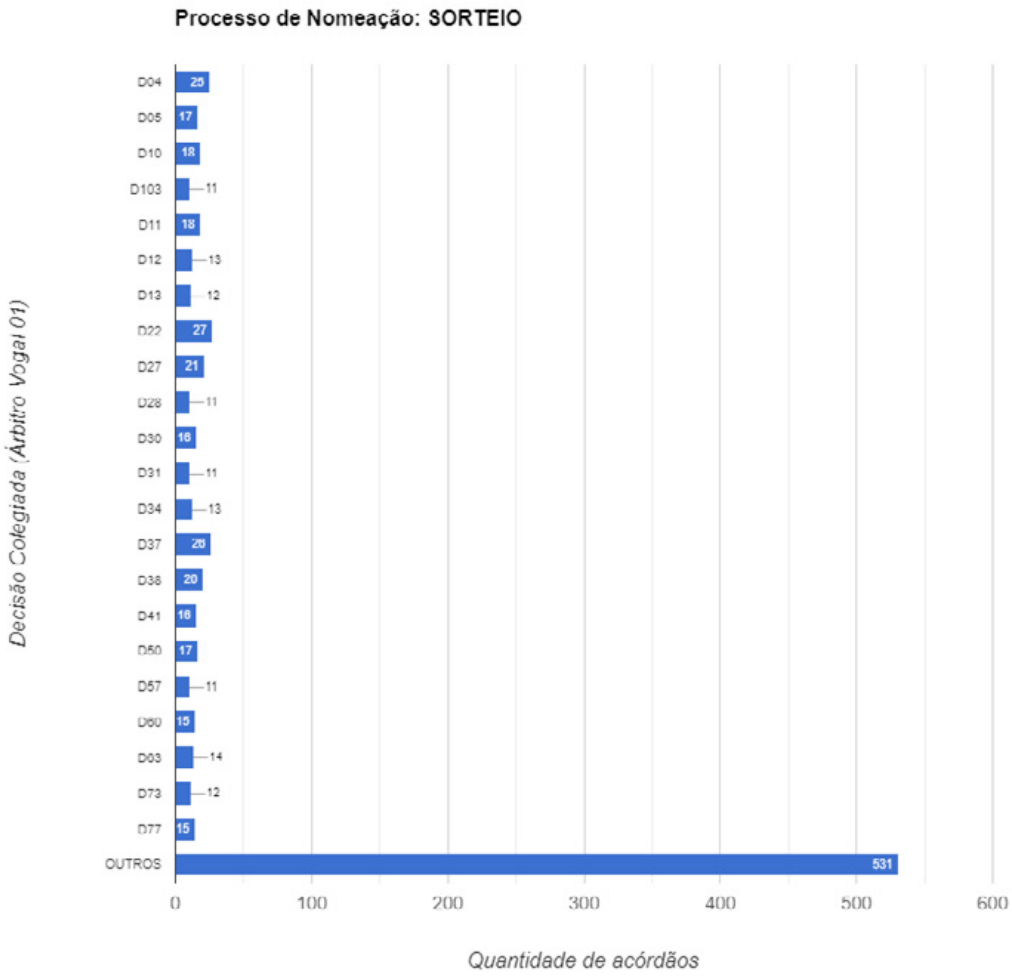
14. WHICH ARBITRATORS (VOGAL 1)[21] WERE MOST DRAWN BY THE CAAD[22]?

Considering the most drawn referees, there are: referees D22, D37, and D04 drawn in 3% of the decisions and D27 in 2%.



21 The referees drawn in a number less than 10 (ten) decisions were grouped in “others”..

22 See the “Nomination Process” chart.

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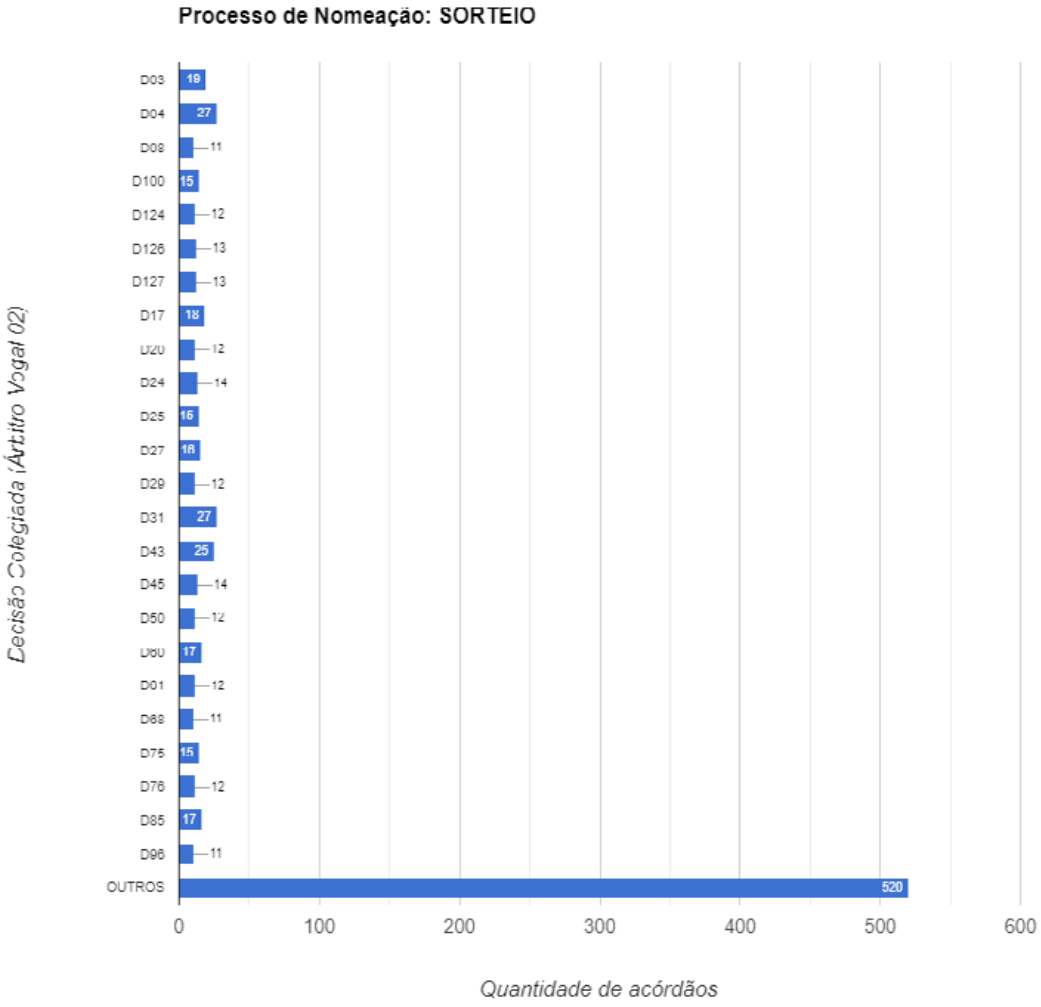
15. WHICH ARE THE ARBITRATORS (VOWEL 2)[23] MOST DRAWN BY CAAD?

Considering the most drawn referees, there are: referees D31, D43, and D04 drawn in 3% of the decisions, and D17 in 2%.



23 The referees drawn in a number less than 10 (ten) decisions were grouped in "others".

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16. WHAT IS THE RELATIONSHIP BETWEEN THE DECISIONS OF THE PRESIDING ARBITRATORS AND THE SPECIALTY OF THE TAX?

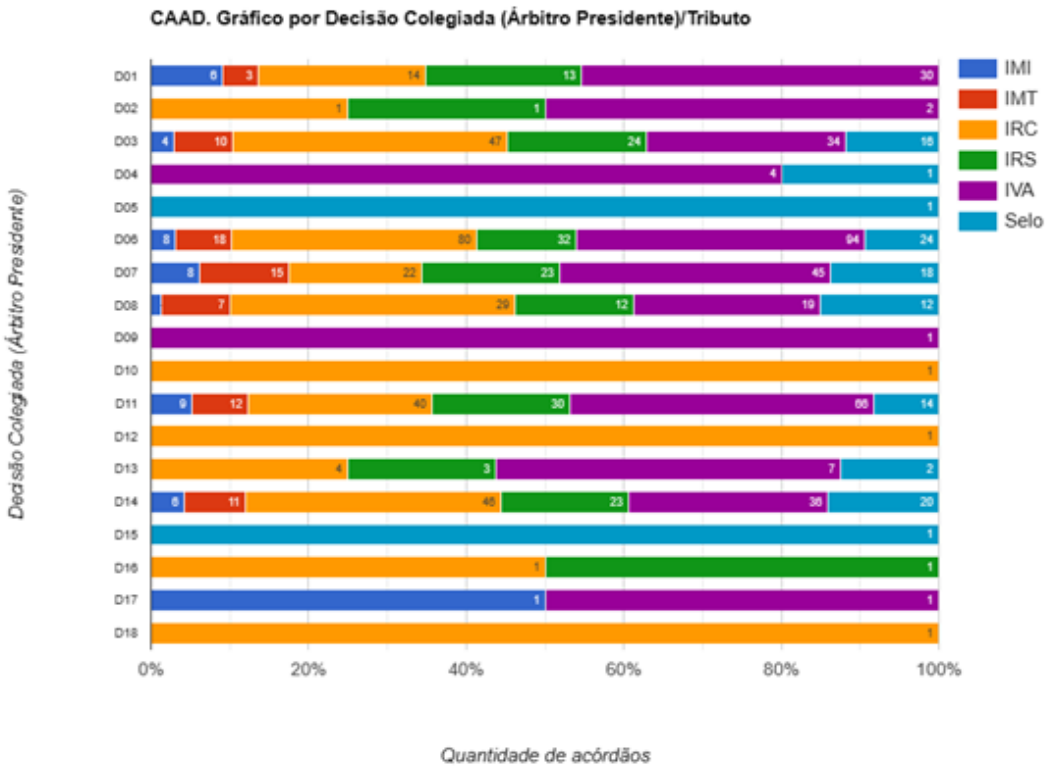
Considering the presiding arbitrators with the most trials, there are:

D02: 3% (IMI); 7% (IMT); 31% (IRC); 13% (IRS); 37% (IVA); 9% (Selo)

D05: 5% (IMI); 7% (IMT); 23% (IRC); 18% (IRS); 39% (IVA); 8% (Selo)

D03: 4% (IMI); 8% (IMT); 32% (IRC); 16% (IRS); 25% (IVA); 14% (Selo)

D15: 2% (IMI); 7% (IMT); 33% (IRC); 17% (IRS); 24% (IVA); 18% (Selo)



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17. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS WHEN THE ARBITRATOR (VOWEL 1) IS DESIGNATED BY THE PARTY (ANALYSIS BY ARBITRATOR)? [24]

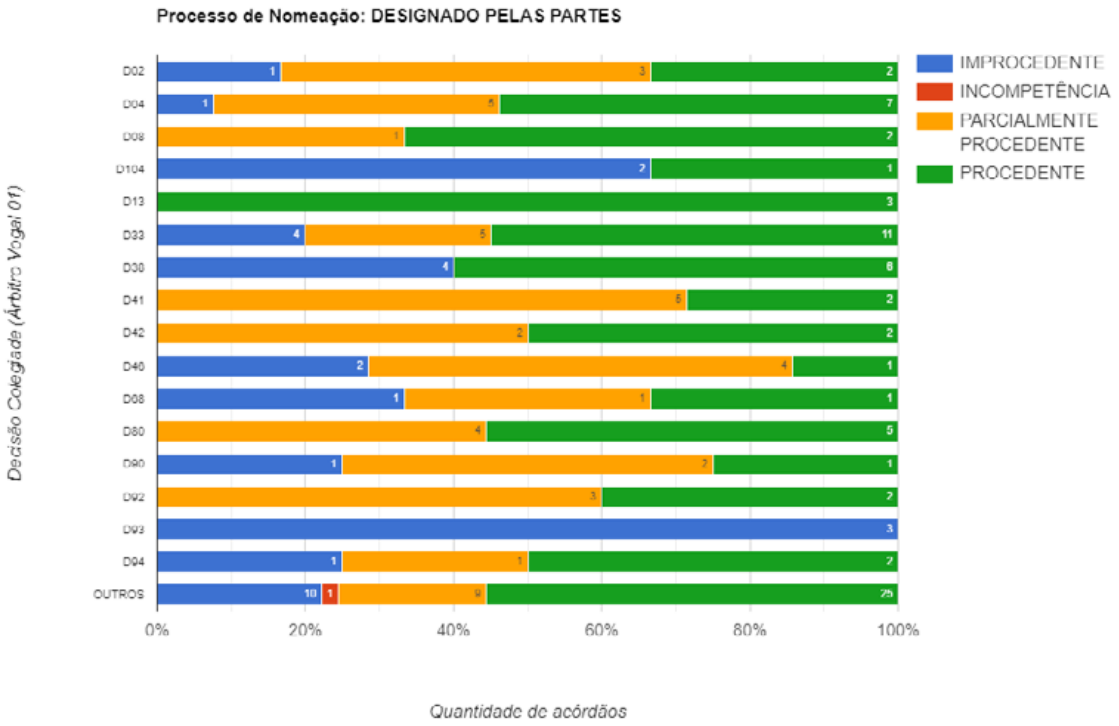
Considering the most assigned referees (vowel 1), there are:

D33: 20% unfounded; 25% partially founded; 55% founded

D04: 8% unfounded, 39% partially founded; 54% founded;

D38: 40% unfounded; 60% founded;

D80: 44% partially true; 56% true.



24 The arbitrators appointed by the parties less in of three (3) decisions were grouped under “others”.

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18. IS THERE A PREDOMINANCE OF FAVOURABLE OR UNFAVOURABLE DECISIONS WHEN THE ARBITRATOR (VOWEL 2) IS DESIGNATED BY THE PARTY (ANALYSIS BY ARBITRATOR)? [25]

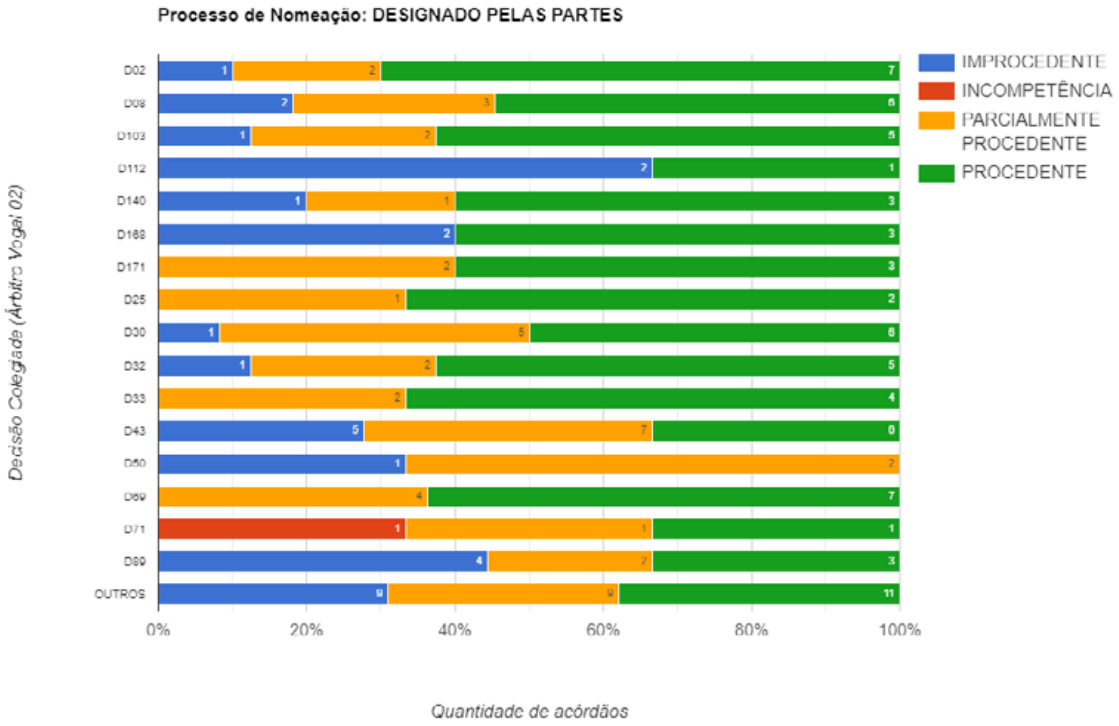
Considering the most assigned referees (vowel 2), there are:

D43: 27% unfounded; 40% partially founded; 33% founded;

D30: 8% unfounded, 42% partially founded; 50% founded;

D08: 18% unfounded; 27% partially founded; 55% founded;

D02: 10% unfounded; 20% partially founded; 70% founded.



25 The arbitrators appointed by the parties less in of three (3) decisions were grouped under "others".

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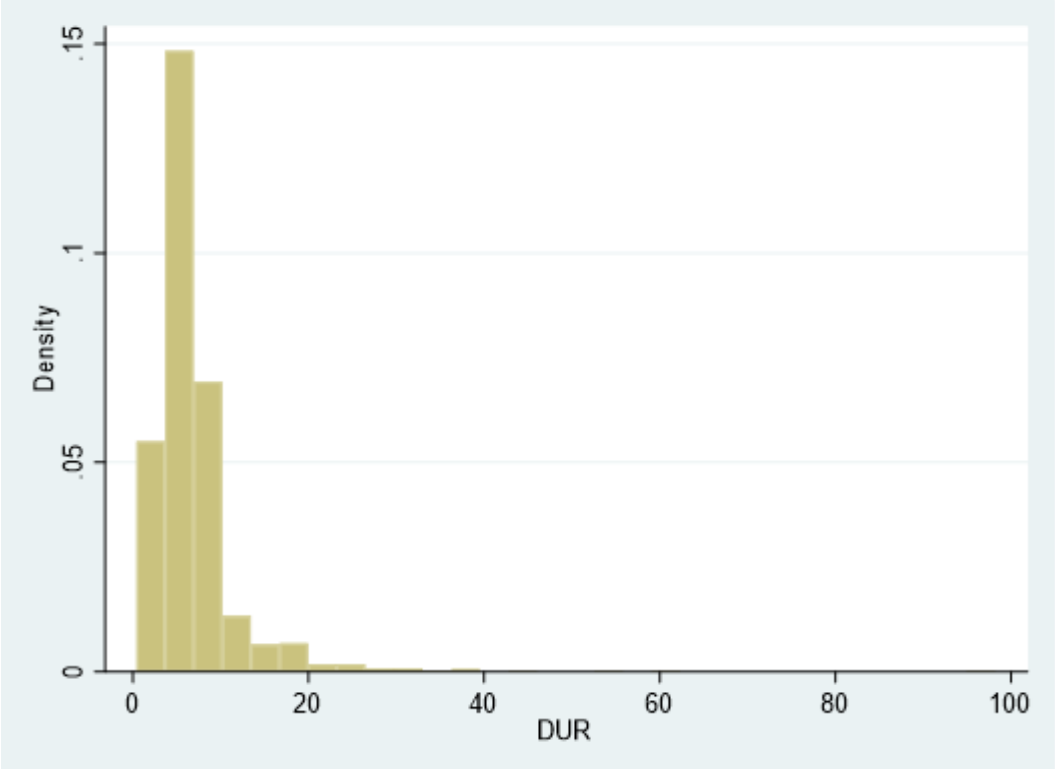
VI. SUPPORT REPORT TO THE STUDY OF THE DETERMINANTS OF CAAD'S PERFORMANCE

Nuno Garoupa

1. SUMMARY OF INFERENTIAL STATISTICS

1.1 Duration in CAAD:

There is some volatility in the duration of cases in the CAAD between 0.4 and 98.2 months. The mean is 6.9 months, and the median is 5.87 months. This indicates that the distribution is slightly skewed and not a normal distribution.



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From a public policy perspective, it is of interest to identify whether the length of cases depends on the characteristics of the tax appealed (typology), procedural characteristics (nature of the appeal), or individual attributes of the presidents (individual productivity).

Before proceeding to the statistical regression study, there is a need to consider the fixed effects per chair of the arbitration panel. There are 18 presidents in this study's sample of 1041 decisions. However, only a subset of presidents has relevant weight:

CHAIRMAN	N. OBSERV.	SHARE OF TOTAL
D06	262	25%
D11	173	17%
D14	147	14%
D03	138	13%
D07	134	13%
D08	80	8%
D01	68	6%
OTHERS (11 PRESIDENTS)	39	4%
TOTAL	1041	100%

It is also important to note that the data do not suggest a strong correlation between presidents and taxes which would indicate a specialization incompatible with the independent observations hypothesis. In this sample, the authors found no significant indication of any strong association between presidents and tax specialization (see appendix C).

In addition to the fixed effects per president, the regressions study includes the following independent variables:

- year of the decision;

- year to which the tax refers (in cases of multiple years, the most recent year was used); given the lack of information in some decisions, this variable reduces the number of observations from 1041 to 851;

- value of the process (in millions of euros);

- typology of tax: IRS, IRC, IVA, IS, IMI. and IMT;

- arbitrators appointed by the CAAD (and not by the parties);

- jurisprudence from the CAAD or other institutions (such as the constitutional court);

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- appellant is a legal (and not an individual) person; and

- profession of the presiding arbitrator: judge, lecturer, legal consultant, lawyer, MP, and PGR.

The estimation results (see Appendix A) indicate the following results with respect to the dependent variable "length of process" in the CAAD:

Positive impact, i.e. increases the "duration of proceedings" at the CAAD (with 10% significance): year of decision, value (only in the subsample of 851 observations), other constant case law, D07 and D11 (by comparison with other presidents).

Negative impact, i.e. reduces the "duration of the process" at the CAAD (with 10% significance): Year of the tax act (only in the subsample of 851 observations), IMT, CAAD-appointed arbitrators, CAAD jurisprudence.

The remaining independent variables have no statistical significance at 10%.

In conclusion, the appointment of arbitrators by the CAAD is associated with shorter duration, on average. However, two chairpersons (D07 and D11) typically seem to take longer than the others. Additionally, of the taxes, only the IMT has an impact on the duration by generally shortening it. The constant jurisprudence citation has a double effect – the CAAD is associated with a shorter and another is associated with a longer duration, on average.

1.2 CAAD results:

- Probability of the taxpayer winning: 50% (524 obsv)
- Probability of AT winning: 21% (222 obsv)
- "Other results: 29% (294 obsv)

For reasons of systematic analysis, the authors will analyse the "outcomes" in two ways. In a first stage, the authors will treat "partially favourable" decisions as integrating the taxpayer's probability of winning (so the strict probability of losing is actually measured). In a second step, "partially favourable" decisions are excluded (thus, the strict probability of winning remains). This leaves the non-binary characteristics of the possible outcomes statistically treated.

The results of the multiple estimations indicate the following results with respect to a CAAD decision being more favourable to the taxpayer and less favourable to the tax authority (see Appendix B):

-- Robust results for all multiple estimations:

Positive impact (with 10% significance): jurisprudence in the CAAD, D08 (by comparison with other presidents).

Negative impact (with 10% significance): legal entity, IMI.

-- Additional results in some specifications (so it is not robust to alternative specifications):

Positive impact, i.e. increases the probability of the taxpayer winning (with 10% significance): IMT, judge, PGR, D06 and D11 (by comparison with other presidents).

Negative impact, i.e. reduces the probability of the taxpayer winning (with 10% significance): other constant case law, year of decision, lawyer.

The remaining independent variables are not statistically significant at 10%, including the value and remaining taxes.

In conclusion, from the typology of taxes, only the IMI seems statistically relevant and contrary to the taxpayers' interests (the IMT is partially relevant and of an opposite sign, i.e. favourable to the taxpayer). The use of constant CAAD case law is more frequent in decisions favourable to the taxpayer (other constant case law is partially associated with the use in decisions favourable to the AT). Legal persons have fewer favourable rulings than individuals, on average.

President D08 is statistically associated with more taxpayer-friendly decisions (D06 and D11 only partially) always by statistical comparison with all other presidents and on average. The validity of the fixed effects is not explained by the other independent variables (e.g. tax expertise), however, the usual problem of omitted variables cannot be excluded. That is, this result may reflect some other effect that is not captured statistically by any of the present independent variables.

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2. TABLES A – Duration, CAAD

```
. regress dur year filing irs irc iva is imt imi value refcaad legalperson jconscaad jconsother judge lawyer professor jurist mp pgr m
> ale
```

Source	SS	df	MS		
Model	2892.93974	20	144.646987	Number of obs	= 851
				F(20, 830)	= 4.73
Residual	25362.8352	830	30.5576327	Prob > F	= 0.0000
				R-squared	= 0.1024
				Adj R-squared	= 0.0808
Total	28255.7749	850	33.2420881	Root MSE	= 5.5279

dur	Coefficient	Std. err.	t	P>|t|	[95% conf.	interval]
year	.655241	.1349422	4.86	0.000	.390373	.920109
filing	-.2279249	.0604199	-3.77	0.000	-.3465186	-.1093311
irs	.0284927	1.317383	0.02	0.983	-2.557302	2.614287
irc	.4745395	1.107388	0.43	0.668	-1.699071	2.64815
iva	.5666669	1.119523	0.51	0.613	-1.630763	2.764096
is	-.2092776	1.200219	-0.17	0.862	-2.5651	2.146544
imt	-1.742477	1.236066	-1.41	0.159	-4.168661	.6837067
imi	.7548774	1.343642	0.56	0.574	-1.882459	3.392214
value	.2624614	.1451834	1.81	0.071	-.0225084	.5474313
refcaad	-1.130958	.6134206	-1.84	0.066	-2.334996	.0730799
legalperson	.9684015	.8755111	1.11	0.269	-.7500747	2.686878
jconscaad	-.8088679	.4125493	-1.96	0.050	-1.61863	.0008947
jconsother	.7208622	.4733232	1.52	0.128	-.2081891	1.649914
judge	-.3272072	1.568632	-0.21	0.835	-3.406159	2.751745
lawyer	-1.938397	.6755861	-2.87	0.004	-3.264455	-.6123385
professor	2.085912	1.150604	1.81	0.070	-.1725244	4.344349
jurist	2.059765	.7693226	2.68	0.008	.549718	3.569811
mp	-2.262236	1.158679	-1.95	0.051	-4.536522	.0120492
pgr	1.510368	1.325487	1.14	0.255	-1.091331	4.112068
male	-.6992857	.9500845	-0.74	0.462	-2.564136	1.165565
_cons	-856.7517	265.3997	-3.23	0.001	-1377.685	-335.8182

```
.
```

```
. vif
```

Variable	VIF	1/VIF
pgr	9.04	0.110669
mp	8.79	0.113713
iva	7.97	0.125519
professor	7.72	0.129536
irs	7.09	0.141028
irc	6.16	0.162308
is	4.37	0.228595
male	4.09	0.244561
jurist	3.78	0.264223
imt	3.25	0.307335
lawyer	2.87	0.348487
legalperson	2.46	0.406810
imi	2.41	0.414574
judge	1.34	0.745405
year	1.34	0.745787
filing	1.27	0.787318
refcaad	1.22	0.816501
value	1.21	0.826959
jconscaad	1.18	0.846075
jconsother	1.14	0.873588
Mean VIF	3.94	

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```
.  regress dur year filing irs irc iva is imt imi value refcaad legalperson jconscaad jconsother judge lawyer professor jurist mp pgr
> male, robust

Linear regression                               Number of obs     =        851
                                                F(20, 830)        =      10.51
                                                Prob > F          =     0.0000
                                                R-squared         =     0.1024
                                                Root MSE          =     5.5279

------------------------------------------------------------------------------
             |               Robust
         dur |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
        year |    .655241   .1842356     3.56   0.000     .2936186    1.016863
      filing |  -.2279249   .1193869    -1.91   0.057    -.4622606    .0064109
         irs |   .0284927   .7700956     0.04   0.970    -1.483071    1.540057
         irc |   .4745395   .5178115     0.92   0.360    -.5418345    1.490913
         iva |   .5666669   .5966382     0.95   0.343    -.6044302    1.737764
          is |  -.2092776   .6119413    -0.34   0.732    -1.410412    .9918569
         imt |  -1.742477   .5131286    -3.40   0.001    -2.749659   -.7352946
         imi |   .7548774   .7943623     0.95   0.342    -.8043178    2.314073
       value |   .2624614   .1260177     2.08   0.038     .0151107    .5098122
     refcaad |  -1.130958    .62744    -1.80   0.072    -2.362514    .1005975
legalperson |   .9684015   .6648953     1.46   0.146    -.3366724    2.273475
   jconscaad |  -.8088679   .3792041    -2.13   0.033     -1.55318   -.0645562
  jconsother |   .7208622   .3684508     1.96   0.051    -.0023427    1.444067
       judge |  -.3272072   1.070484    -0.31   0.760    -2.428381    1.773966
      lawyer |  -1.938397   .5165083    -3.75   0.000    -2.952213   -.9245806
   professor |   2.085912   .7266922     2.87   0.004     .6595416    3.512283
      jurist |   2.059765   .5825724     3.54   0.000     .9162763    3.203253
          mp |  -2.262236   .7609452    -2.97   0.003     -3.75584   -.7686331
         pgr |   1.510368    .981514     1.54   0.124    -.4161729     3.43691
        male |  -.6992857   .5131368    -1.36   0.173    -1.706484    .3079128
       _cons |  -856.7517   206.9449    -4.14   0.000    -1262.949   -450.5548
------------------------------------------------------------------------------

.


. regress dur year filing irs irc iva is imt imi value refcaad legalperson jconscaad jconsother judge lawyer professor male  d01 d03 d
> 06 d07 d08 d11 d14, robust

Linear regression                               Number of obs     =        851
                                                F(24, 826)        =       9.21
                                                Prob > F          =     0.0000
                                                R-squared         =     0.1033
                                                Root MSE          =     5.5386

------------------------------------------------------------------------------
             |               Robust
         dur |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
        year |   .6837073    .189842     3.60   0.000     .3110778    1.056337
      filing |  -.2252485   .1194243    -1.89   0.060    -.4596594    .0091624
         irs |   .0749013   .7780179     0.10   0.923    -1.452223    1.602026
         irc |   .5290567   .5355701     0.99   0.324    -.5221818    1.580295
         iva |   .5909191   .6093337     0.97   0.332    -.6051057    1.786944
          is |  -.2149596   .6298055    -0.34   0.733    -1.451167    1.021248
         imt |  -1.731586   .5260847    -3.29   0.001    -2.764206    -.698966
         imi |   .7861267   .8043909     0.98   0.329     -.792764    2.365017
       value |    .258853   .1262323     2.05   0.041     .0110792    .5066268
     refcaad |  -1.186658   .6368546    -1.86   0.063    -2.436702    .0633859
legalperson |   .9816091   .6690902     1.47   0.143     -.331708    2.294926
   jconscaad |   -.806715   .3818715    -2.11   0.035    -1.556268   -.0571623
  jconsother |   .7366659   .3697159     1.99   0.047     .0109727    1.462359
       judge |  -2.290614    1.94879    -1.18   0.240    -6.115777    1.534548
      lawyer |  -2.372927   1.617863    -1.47   0.143    -5.548533     .802679
   professor |   .7399131   1.378592     0.54   0.592    -1.966042    3.445868
        male |  -2.038134   2.205644    -0.92   0.356    -6.367461    2.291194
         d01 |   1.985879   2.593335     0.77   0.444    -3.104423     7.07618
         d03 |   .0914002   1.733328     0.05   0.958    -3.310846    3.493646
         d06 |   .2787608   1.156706     0.24   0.810    -1.991668    2.549189
         d07 |   3.543673   1.909909     1.86   0.064    -.2051738    7.292519
         d08 |     1.2323   1.107534     1.11   0.266    -.9416121    3.406213
         d11 |   3.122894   1.111895     2.81   0.005     .9404224    5.305367
         d14 |   1.498502   3.670704     0.41   0.683    -5.706503    8.703506
       _cons |  -917.3343   220.1198    -4.17   0.000    -1349.394   -485.2744
------------------------------------------------------------------------------

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```
. . regress dur year irs irc iva is imt imi value refcaad legalperson jconscaad jconsother judge lawyer professor male  d01 d03 d06 d0
> 7 d08 d11 d14, robust

Linear regression                               Number of obs     =        939
                                                F(23, 915)        =      11.25
                                                Prob > F          =     0.0000
                                                R-squared         =     0.0886
                                                Root MSE          =     5.6778

------------------------------------------------------------------------------
             |               Robust
         dur |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
        year |   .5483905   .1126806     4.87   0.000     .3272481    .7695329
         irs |   .1819442   .7347895     0.25   0.804    -1.260124    1.624013
         irc |   .9007361   .5511535     1.63   0.103    -.1809358    1.982408
         iva |   .6055207   .5745427     1.05   0.292    -.5220539    1.733095
          is |  -.4162528   .6267678    -0.66   0.507    -1.646322    .8138166
         imt |  -1.823078   .5255881    -3.47   0.001    -2.854576   -.7915796
         imi |   .0758657   .8131116     0.09   0.926    -1.519915    1.671646
       value |   .1504493   .1091561     1.38   0.168     -.063776    .3646747
     refcaad |  -.7711836   .5872139    -1.31   0.189    -1.923626    .3812589
legalperson |   .7592823   .6662551     1.14   0.255    -.5482832    2.066848
  jconscaad |  -.9262251   .3914998    -2.37   0.018    -1.694567   -.1578833
 jconsother |   1.086219    .371806     2.92   0.004     .3565275    1.815911
      judge |  -2.698828   2.039147    -1.32   0.186    -6.700776     1.30312
     lawyer |   -2.37497   1.774306    -1.34   0.181    -5.857152    1.107212
  professor |   .7304995    1.44011     0.51   0.612    -2.095803    3.556802
       male |  -2.238348   2.302434    -0.97   0.331    -6.757012    2.280317
        d01 |   1.750894   2.677375     0.65   0.513    -3.503615    7.005404
        d03 |   .1786005   1.730549     0.10   0.918    -3.217705    3.574906
        d06 |   .4683076   1.095232     0.43   0.669    -1.681151    2.617766
        d07 |   3.518223   2.001856     1.76   0.079    -.4105389    7.446985
        d08 |   1.445358    1.04818     1.38   0.168    -.6117578    3.502474
        d11 |   3.431657   1.041866     3.29   0.001     1.386933    5.476381
        d14 |   1.427743   3.799045     0.38   0.707     -6.02811    8.883596
      _cons |  -1097.547   227.1645    -4.83   0.000    -1543.371   -651.7227
------------------------------------------------------------------------------
```

3. TABLES B - Winning Party

```
. probit atwins year value refcaad legalperson jconscaad jconsother judge lawyer professor jurist mp pgr male irs irc iva is imt imi

Iteration 0:   log likelihood = -650.76501
Iteration 1:   log likelihood = -608.17806
Iteration 2:   log likelihood =  -608.0479
Iteration 3:   log likelihood = -608.04789

Probit regression                                 Number of obs =    944
                                                  LR chi2(19)   =  85.43
                                                  Prob > chi2   = 0.0000
Log likelihood = -608.04789                       Pseudo R2     = 0.0656

------------------------------------------------------------------------------
      atwins |      Coef.   Std. Err.      z    P>|z|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
        year |  -.0000892   .0281893    -0.00   0.997    -.0553393    .0551608
       value |  -.0011565   .0244187    -0.05   0.962    -.0490163    .0467033
     refcaad |  -.0423828   .1303086    -0.33   0.745     -.297783    .2130174
legalperson |   .4836745   .2016681     2.40   0.016     .0884122    .8789368
  jconscaad |  -.1873903   .0917842    -2.04   0.041     -.367284   -.0074966
 jconsother |   .3525824   .1066609     3.31   0.001     .1435308    .5616339
      judge |  -.9416549   .3850257    -2.45   0.014    -1.696291   -.1870184
     lawyer |  -.0576052   .1522613    -0.38   0.705    -.3560318    .2408214
  professor |   .0139272   .2565149     0.05   0.957    -.4888327    .5166871
     jurist |   .1153176    .173646     0.66   0.507    -.2250223    .4556575
         mp |   .2457762   .2555873     0.96   0.336    -.2551656     .746718
        pgr |  -.2144885   .2949889    -0.73   0.467    -.7926561    .3636791
       male |  -.1950291   .2071418    -0.94   0.346    -.6010196    .2109614
        irs |   .1694279   .2890807     0.59   0.558    -.3971599    .7360156
        irc |   .3324503   .2420291     1.37   0.170    -.1419181    .8068187
        iva |  -.0291993   .2429331    -0.12   0.904    -.5053394    .4469408
         is |   .3658203   .2599515     1.41   0.159    -.1436753    .8753158
        imt |  -.5423968   .2724628    -1.99   0.047    -1.076414   -.0083795
        imi |   .9938175   .3030615     3.28   0.001     .3998278    1.587807
      _cons |   .3575927   56.91068     0.01   0.995    -111.1853    111.9005
------------------------------------------------------------------------------

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Probit regression                                     Number of obs =    944
                                                      LR chi2(19)   =  89.14
                                                      Prob > chi2   = 0.0000
Log likelihood = -476.15554                           Pseudo R2     = 0.0856
```

tpwins	Coefficient	Std. err.	z	P>|z|	[95% conf.	interval]
year	-.0861552	.0320636	-2.69	0.007	-.1489988	-.0233117
value	-.0277262	.025886	-1.07	0.284	-.0784617	.0230094
refcaad	-.1204389	.1508312	-0.80	0.425	-.4160626	.1751848
legalperson	-.5045995	.2159703	-2.34	0.019	-.9278935	-.0813055
jconscaad	.2674634	.1022442	2.62	0.009	.0670685	.4678584
jconsother	.0416614	.1151587	0.36	0.718	-.1840455	.2673683
judge	.4142673	.3680126	1.13	0.260	-.307024	1.135559
lawyer	-.2978783	.1613851	-1.85	0.065	-.6141872	.0184307
professor	.3920805	.2659171	1.47	0.140	-.1291075	.9132685
jurist	.1820799	.1894413	0.96	0.336	-.1892182	.553378
mp	-.3477133	.2633174	-1.32	0.187	-.8638059	.1683793
pgr	1.049326	.3127904	3.35	0.001	.4362682	1.662384
male	.0379468	.2102304	0.18	0.857	-.3740973	.4499909
irs	-.3648209	.3159006	-1.15	0.248	-.9839746	.2543328
irc	-.1637578	.2675666	-0.61	0.541	-.6881787	.3606631
iva	.1732985	.269478	0.64	0.520	-.3548687	.7014657
is	-.1792168	.285646	-0.63	0.530	-.7390727	.3806391
imt	.0886661	.2954124	0.30	0.764	-.4903315	.6676638
imi	-1.031794	.311923	-3.31	0.001	-1.643152	-.4204366
_cons	174.5664	64.73513	2.70	0.007	47.68784	301.4449

.

```
. probit tpwins d01 d03 d06 d07 d08 d11 d14

Iteration 0:   log likelihood = -584.01361
Iteration 1:   log likelihood = -557.46424
Iteration 2:   log likelihood = -557.19377
Iteration 3:   log likelihood = -557.19362
Iteration 4:   log likelihood = -557.19362

Probit regression                                     Number of obs =  1,041
                                                      LR chi2(7)    =  53.64
                                                      Prob > chi2   = 0.0000
Log likelihood = -557.19362                           Pseudo R2     = 0.0459
```

tpwins	Coefficient	Std. err.	z	P>|z|	[95% conf.	interval]
d01	-.0038776	.2540868	-0.02	0.988	-.5018787	.4941234
d03	.2644511	.2312389	1.14	0.253	-.1887688	.7176711
d06	.9959971	.2270901	4.39	0.000	.5509087	1.441086
d07	.2175657	.2315983	0.94	0.348	-.2363586	.67149
d08	.5708914	.2566626	2.22	0.026	.0678419	1.073941
d11	.4891193	.2280445	2.14	0.032	.0421602	.9360783
d14	.3591925	.2305604	1.56	0.119	-.0926975	.8110825
_cons	.2268854	.2025793	1.12	0.263	-.1701626	.6239335

.

```
. probit atwins d01 d03 d06 d07 d08 d11 d14

Iteration 0:   log likelihood = -718.25386
Iteration 1:   log likelihood = -711.81532
Iteration 2:   log likelihood = -711.81144
Iteration 3:   log likelihood = -711.81144

Probit regression                                     Number of obs =  1,041
                                                      LR chi2(7)    =  12.88
                                                      Prob > chi2   = 0.0750
Log likelihood = -711.81144                           Pseudo R2     = 0.0090
```

atwins	Coefficient	Std. err.	z	P>|z|	[95% conf.	interval]
d01	-.356936	.2573821	-1.39	0.166	-.8613957	.1475236
d03	-.4307273	.2334147	-1.85	0.065	-.8882117	.0267571
d06	-.5844066	.2216911	-2.64	0.008	-1.018913	-.1499
d07	-.6188936	.2344656	-2.64	0.008	-1.078438	-.1593494
d08	-.7493667	.2519419	-2.97	0.003	-1.243164	-.2555695
d11	-.5834554	.2285977	-2.55	0.011	-1.031499	-.135412
d14	-.4904444	.231947	-2.11	0.034	-.9450521	-.0358367
_cons	.4307273	.207605	2.07	0.038	.023829	.8376256

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```
Probit regression                                 Number of obs =    944
                                                  LR chi2(23)   = 100.46
                                                  Prob > chi2   = 0.0000
Log likelihood = -470.49811                       Pseudo R2     = 0.0965
```

tpwins	Coefficient	Std. err.	z	P>|z|	[95% conf.	interval]
d01	-3.949452	117.0866	-0.03	0.973	-233.435	225.5361
d03	-8.716685	195.6711	-0.04	0.964	-392.225	374.7916
d06	1.301913	.3593398	3.62	0.000	.5976196	2.006206
d07	-.1216254	.9297206	-0.13	0.896	-1.943844	1.700594
d08	.8262638	.3952439	2.09	0.037	.0516	1.600928
d11	.7748903	.3584412	2.16	0.031	.0723585	1.477422
d14	-13.07801	281.805	-0.05	0.963	-565.4056	539.2496
year	-.063086	.0333763	-1.89	0.059	-.1285024	.0023304
irs	-.3211057	.3161149	-1.02	0.310	-.9406794	.2984681
irc	-.1267896	.2683258	-0.47	0.637	-.6526985	.3991193
iva	.194496	.27019	0.72	0.472	-.3350666	.7240586
is	-.1512731	.2866701	-0.53	0.598	-.7131361	.41059
imt	.1079085	.2959695	0.36	0.715	-.4721812	.6879981
imi	-1.007149	.3127644	-3.22	0.001	-1.620156	-.3941421
value	-.030686	.0260759	-1.18	0.239	-.0817938	.0204218
refcaad	-.142342	.1534172	-0.93	0.354	-.4430343	.1583502
legalperson	-.4793301	.2154601	-2.22	0.026	-.9016241	-.0570362
jconscaad	.2915378	.1034373	2.82	0.005	.0888045	.4942712
jconsother	.0498447	.1160422	0.43	0.668	-.177594	.2772833
judge	9.202112	195.6717	0.05	0.962	-374.3074	392.7116
lawyer	.5970631	.8610887	0.69	0.488	-1.09064	2.284766
professor	9.338551	195.6708	0.05	0.962	-374.1691	392.8462
male	-3.773476	117.0871	-0.03	0.974	-233.2599	225.7129
_cons	122.3729	170.6504	0.72	0.473	-212.0957	456.8415

```
Note: 1 failure and 0 successes completely determined.

.
```

```
. probit atwins d01 d03 d06 d07 d08 d11 d14  year irs irc iva is imt imi value refcaad legalperson jconscaad jconsother  judge lawyer
> professor male

Iteration 0:   log likelihood = -650.76501
Iteration 1:   log likelihood = -605.75076
Iteration 2:   log likelihood = -605.56388
Iteration 3:   log likelihood = -605.56376
Iteration 4:   log likelihood = -605.56376

Probit regression                                 Number of obs =    944
                                                  LR chi2(23)   =  90.40
                                                  Prob > chi2   = 0.0000
Log likelihood = -605.56376                       Pseudo R2     = 0.0695
```

atwins	Coefficient	Std. err.	z	P>|z|	[95% conf.	interval]
d01	-.4507791	.9971284	-0.45	0.651	-2.405115	1.503557
d03	-1.183918	1.189232	-1.00	0.319	-3.51477	1.146935
d06	-.5599488	.3614697	-1.55	0.121	-1.268416	.1485187
d07	.1833865	.9626989	0.19	0.849	-1.703469	2.070242
d08	-.7065421	.3919761	-1.80	0.071	-1.474801	.061717
d11	-.4899466	.3646176	-1.34	0.179	-1.204584	.2246907
d14	-1.460848	1.659368	-0.88	0.379	-4.71315	1.791455
year	-.0131086	.0292303	-0.45	0.654	-.0703989	.0441818
irs	.1420106	.2892555	0.49	0.623	-.4249198	.708941
irc	.3210449	.2417493	1.33	0.184	-.152775	.7948648
iva	-.0539959	.2425947	-0.22	0.824	-.5294727	.4214809
is	.3500927	.2597814	1.35	0.178	-.1590696	.859255
imt	-.5542855	.2721948	-2.04	0.042	-1.087778	-.0207934
imi	.9802796	.3033305	3.23	0.001	.3857628	1.574796
value	-.0002109	.0244509	-0.01	0.993	-.0481338	.047712
refcaad	-.0052341	.13172	-0.04	0.968	-.2634007	.2529324
legalperson	.4702122	.2022015	2.33	0.020	.0739047	.8665198
jconscaad	-.1953989	.0921009	-2.12	0.034	-.3759134	-.0148844
jconsother	.344654	.10674	3.23	0.001	.1354475	.5538606
judge	.1517646	1.335281	0.11	0.910	-2.465337	2.768866
lawyer	-.6969872	.8907414	-0.78	0.434	-2.442808	1.048834
professor	.8637673	1.130384	0.76	0.445	-1.351744	3.079278
male	-.8421663	.8829501	-0.95	0.340	-2.572717	.8883841
_cons	26.79118	59.02283	0.45	0.650	-88.89144	142.4738

```
.
```

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```
. probit tpwins d01 d03 d06 d07 d08 d11 d14  year irs irc iva is imt imi value refcaad legalperson jconscaad jconsother  judge lawyer
> professor male if tpwins==1|atwins==1

Iteration 0:   log likelihood = -407.70233
Iteration 1:   log likelihood = -356.84241
Iteration 2:   log likelihood = -356.43209
Iteration 3:   log likelihood = -356.40067
Iteration 4:   log likelihood = -356.39598
Iteration 5:   log likelihood = -356.39531
Iteration 6:   log likelihood = -356.39521
Iteration 7:   log likelihood =  -356.3952

Probit regression                                 Number of obs =    678
                                                  LR chi2(23)   = 102.61
                                                  Prob > chi2   = 0.0000
Log likelihood = -356.3952                        Pseudo R2     = 0.1258
```

tpwins	Coefficient	Std. err.	z	P>|z|	[95% conf.	interval]
d01	-4.107481	167.1233	-0.02	0.980	-331.6632	323.4482
d03	-7.820812	213.219	-0.04	0.971	-425.7224	410.0807
d06	1.440354	.4323333	3.33	0.001	.5929964	2.287712
d07	-.1925149	1.272088	-0.15	0.880	-2.685761	2.300731
d08	1.111165	.4713393	2.36	0.018	.1873565	2.034973
d11	.9432675	.431043	2.19	0.029	.0984388	1.788096
d14	-12.34974	359.5152	-0.03	0.973	-716.9866	692.2871
year	-.037346	.0389528	-0.96	0.338	-.1136921	.0390001
irs	-.2354419	.3573992	-0.66	0.510	-.9359314	.4650477
irc	-.071561	.3073225	-0.23	0.816	-.673902	.53078
iva	.462976	.3105868	1.49	0.136	-.1457631	1.071715
is	-.0612331	.3236738	-0.19	0.850	-.6956221	.5731559
imt	.5036491	.3291062	1.53	0.126	-.1413871	1.148685
imi	-1.261287	.365432	-3.45	0.001	-1.977521	-.5450538
value	-.0153952	.0364389	-0.42	0.673	-.0868141	.0560237
refcaad	-.0699068	.1716007	-0.41	0.684	-.4062381	.2664244
legalperson	-.7988258	.2484683	-3.22	0.001	-1.285815	-.3118368
jconscaad	.3518805	.1191498	2.95	0.003	.1183513	.5854098
jconsother	-.1901339	.1360124	-1.40	0.162	-.4567132	.0764454
judge	8.864751	213.2202	0.04	0.967	-409.0392	426.7687
lawyer	.897291	1.199822	0.75	0.455	-1.454316	3.248898
professor	8.462271	213.2186	0.04	0.968	-409.4384	426.363
male	-3.714938	167.1237	-0.02	0.982	-331.2714	323.8415
_cons	70.6135	154.0425	0.46	0.647	-231.3043	372.5313

.

4. TABLES C - Presidents

```
. summarize d01 d02 d03 d04 d05 d06 d07 d08 d09 d10 d11 d12 d13 d14 d15 d16 d17 d18
```

Variable	Obs	Mean	Std. dev.	Min	Max
d01	1,041	.0653218	.2472116	0	1
d02	1,041	.0038425	.0618981	0	1
d03	1,041	.1325648	.3392668	0	1
d04	1,041	.0048031	.0691708	0	1
d05	1,041	.0009606	.0309938	0	1
d06	1,041	.2516811	.4341875	0	1
d07	1,041	.1287224	.3350534	0	1
d08	1,041	.0768492	.26648	0	1
d09	1,041	.0009606	.0309938	0	1
d10	1,041	.0009606	.0309938	0	1
d11	1,041	.1661864	.3724268	0	1
d12	1,041	.0009606	.0309938	0	1
d13	1,041	.0172911	.1304163	0	1
d14	1,041	.1412104	.3484058	0	1
d15	1,041	.0009606	.0309938	0	1
d16	1,041	.0019212	.0438108	0	1
d17	1,041	.0019212	.0438108	0	1
d18	1,041	.0009606	.0309938	0	1

Only 5 to 7 presidents are relevant- D01, D03, D06, D07, D08, D11 & D14

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TABLE C1 - ABSOLUT VALUES								
CHAIRMAN	NUMBER OF DECISIONS	IRS	IRC	VAT	IS	IMI	IMT	TOTAL TAXES
D01	68	13	16	32	0	6	3	70
D03	138	25	50	36	16	4	10	141
D06	262	34	85	98	25	8	19	269
D07	134	24	23	47	19	8	16	137
D08	80	12	29	19	12	1	7	80
D11	173	30	40	66	16	10	14	176
D14	147	23	50	40	21	7	12	153
OTHERS	39	6	12	16	6	1	0	41
TOTAL		167	305	354	115	45	81	1067

TABLE C2 - PERCENTAGE OF PRESIDENCY DISTRIBUTION							
CHAIRMAN	**NUMBER OF DECISIONS**	IRS	IRC	VAT	IS	IMI	IMT
D01	**7%**	8%	5%	9%	0%	13%	4%
D03	**13%**	15%	16%	10%	14%	9%	12%
D06	**25%**	20%	28%	28%	22%	18%	23%
D07	**13%**	14%	8%	13%	17%	18%	20%
D08	**8%**	7%	10%	5%	10%	2%	9%
D11	**17%**	18%	13%	19%	14%	22%	17%
D14	**14%**	14%	16%	11%	18%	16%	15%
OTHERS	**4%**	4%	4%	5%	5%	2%	0%
TOTAL	**100%**	100%	100%	100%	100%	100%	100%

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TABLE C3 - AS A PERCENTAGE OF TAX DISTRIBUTION						
CHAIRMAN	IRS	IRC	VAT	IS	IMI	IMT
D01	19%	23%	46%	0%	9%	4%
D03	18%	35%	26%	11%	3%	7%
D06	13%	32%	36%	9%	3%	7%
D07	18%	17%	34%	14%	6%	12%
D08	15%	36%	24%	15%	1%	9%
D11	17%	23%	38%	9%	6%	8%
D14	15%	33%	26%	14%	5%	8%
OTHERS	15%	29%	39%	15%	2%	0%
TOTAL	**16%**	**29%**	**33%**	**11%**	**4%**	**8%**

5. TABLES D - Referees

There are 229 distinct vowel arbitrators in this study's sample; many have a small number of decisions. The authors thus considered only those who appear more than 20 times in the sample (i.e. in more than approximately 2% of the decisions). This means that 34 vowel arbitrators were separately examined and the remaining 195 were aggregated into "others".

The results point to a high level of specialization at two levels:

-- many vowels only do a very low number of arbitrations, presumably in the areas in which they are most specialized; and

-- as for the group of vowels with the most expressiveness, the following cases of specialization were found:

a) IRC: A202 (full specialization), A158, A168, A178/D18

b) VAT: A215/D4, A27 (full specialization), A11, A171, A175, A62

c) IMT: A155

Interestingly there is little statistical evidence of specialization in the IRS, IS, or IMI (among vowels with expressivity).

Of the 11 most specialized vowels, two are also presidents (D4 and D18), but both were grouped in the "other" presidents.

In particular, note that, of the three chairpersons D6, D8, and D11, only two are vowel referees (A76/D8 and A78/D11) but without much representation in this context (they are part of the "other vowels").

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Thus, the specialization of the vowels is statistically consistent with the previous results concerning the non-specialization of the presidents.

TABLE D1 - ABSOLUT VALUES								
ARBITER	NUMBER OF DECISIONS	IRS	IRC	VAT	IS	IMI	IMT	TOTAL TAXES
A179	20	3	2	7	4	3	2	21
A197	24	3	5	9	4	2	3	26
A202	22		22					22
A207	48	8	10	17	8	1	6	50
A158	36	5	22	4	3	1	1	36
A215/D4	55	3	3	50				56
A112	52	6	18	15	6	1	8	54
A27	32			32				32
A181	29	5	13	1	7	1	2	29
A11	27	1	1	25				27
A163	26	3	6	13	2	1	1	26
A166	25	1	14	7	1	1	1	25
A113	44	3	20	16	3	2	4	48
A105	24	7	8	2	4	1	3	25
A114	48	10	16	11	5	3	4	49
A98	22	5	3	6	4	1	3	22
A184	32	6	5	11	5	4	2	33
A116	22	2	4	11	3		3	23
A106/D12	30	4	9	8	6	1	4	32
A168	28	5	16	2	3	1	1	28
A154	34	3	7	16	3	2	3	34
A170	24	2	6	11	3	1	1	24
A171	25	4	2	16	1	2	1	26
A187	41	6	14	12	6	1	2	41
A188	20	3	5	7	2	2	2	21
A155	21	3	4		3	3	9	22
A175	28	4	3	19	1		1	28
A103	24	1	6	10	5	1	2	25
A209	36	2	9	16	3	2	4	36
A62	22	3	1	13	1	1	3	22
A52/D16	28	7	15	7				29
A109	21	3	4	3	6	2	3	21
A178/D18	20	3	15	1			1	20
A121	29	5	10	1	7	3	6	32
OTHERS	1059	205	310	327	121	46	76	1085
TOTAL		334	608	706	230	90	162	2130

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TABLE D2 - IN PERCENTAGE OF DECISION DISTRIB							
ARBITER	**NÚMERO DECISÕES**	IRS	IRC	IVA	IS	IMI	IMT
A179	**1%**	1%	0%	1%	2%	3%	1%
A197	**1%**	1%	1%	1%	2%	2%	2%
A202	**1%**	0%	4%	0%	0%	0%	0%
A207	**2%**	2%	2%	2%	3%	1%	4%
A158	**2%**	1%	4%	1%	1%	1%	1%
A215/D4	**3%**	1%	0%	7%	0%	0%	0%
A112	**3%**	2%	3%	2%	3%	1%	5%
A27	**2%**	0%	0%	5%	0%	0%	0%
A181	**1%**	1%	2%	0%	3%	1%	1%
A11	**1%**	0%	0%	4%	0%	0%	0%
A163	**1%**	1%	1%	2%	1%	1%	1%
A166	**1%**	0%	2%	1%	0%	1%	1%
A113	**2%**	1%	3%	2%	1%	2%	2%
A105	**1%**	2%	1%	0%	2%	1%	2%
A114	**2%**	3%	3%	2%	2%	3%	2%
A98	**1%**	1%	0%	1%	2%	1%	2%
A184	**2%**	2%	1%	2%	2%	4%	1%
A116	**1%**	1%	1%	2%	1%	0%	2%
A106/D12	**1%**	1%	1%	1%	3%	1%	2%
A168	**1%**	1%	3%	0%	1%	1%	1%
A154	**2%**	1%	1%	2%	1%	2%	2%
A170	**1%**	1%	1%	2%	1%	1%	1%
A171	**1%**	1%	0%	2%	0%	2%	1%
A187	**2%**	2%	2%	2%	3%	1%	1%
A188	**1%**	1%	1%	1%	1%	2%	1%
A155	**1%**	1%	1%	0%	1%	3%	6%
A175	**1%**	1%	0%	3%	0%	0%	1%
A103	**1%**	0%	1%	1%	2%	1%	1%
A209	**2%**	1%	1%	2%	1%	2%	2%
A62	**1%**	1%	0%	2%	0%	1%	2%
A52/D16	**1%**	2%	2%	1%	0%	0%	0%
A109	**1%**	1%	1%	0%	3%	2%	2%
A178/D8	**1%**	1%	2%	0%	0%	0%	1%
A121	**1%**	1%	2%	0%	3%	3%	4%
OTHERS	**51%**	61%	51%	46%	53%	51%	47%
TOTAL	**100%**	100%	100%	100%	100%	100%	100%

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TABLE D3 - AS A PERCENTAGE OF TAX DISTRIBUTION						
ARBITER	IRS	IRC	TVA	IS	IMI	IMT
A179	14%	10%	33%	19%	14%	10%
A197	12%	19%	35%	15%	8%	12%
A202	0%	100%	0%	0%	0%	0%
A207	16%	20%	34%	16%	2%	12%
A158	14%	61%	11%	8%	3%	3%
A215/D4	5%	5%	89%	0%	0%	0%
A112	11%	33%	28%	11%	2%	15%
A27	0%	0%	100%	0%	0%	0%
A181	17%	45%	3%	24%	3%	7%
A11	4%	4%	93%	0%	0%	0%
A163	12%	23%	50%	8%	4%	4%
A166	4%	56%	28%	4%	4%	4%
A113	6%	42%	33%	6%	4%	8%
A105	28%	32%	8%	16%	4%	12%
A114	20%	33%	22%	10%	6%	8%
A98	23%	14%	27%	18%	5%	14%
A184	18%	15%	33%	15%	12%	6%
A116	9%	17%	48%	13%	0%	13%
A106/D12	13%	28%	25%	19%	3%	13%
A168	18%	57%	7%	11%	4%	4%
A154	9%	21%	47%	9%	6%	9%
A170	8%	25%	46%	13%	4%	4%
A171	15%	8%	62%	4%	8%	4%
A187	15%	34%	29%	15%	2%	5%
A188	14%	24%	33%	10%	10%	10%
A155	14%	18%	0%	14%	14%	41%
A175	14%	11%	68%	4%	0%	4%
A103	4%	24%	40%	20%	4%	8%
A209	6%	25%	44%	8%	6%	11%
A62	14%	5%	59%	5%	5%	14%
A52/D16	24%	52%	24%	0%	0%	0%
A109	14%	19%	14%	29%	10%	14%
A178/D8	15%	75%	5%	0%	0%	5%
A121	16%	31%	3%	22%	9%	19%
OTHERS	19%	29%	30%	11%	4%	7%
TOTAL	**16%**	**29%**	**33%**	**11%**	**4%**	**8%**

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RESUMÉS

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