



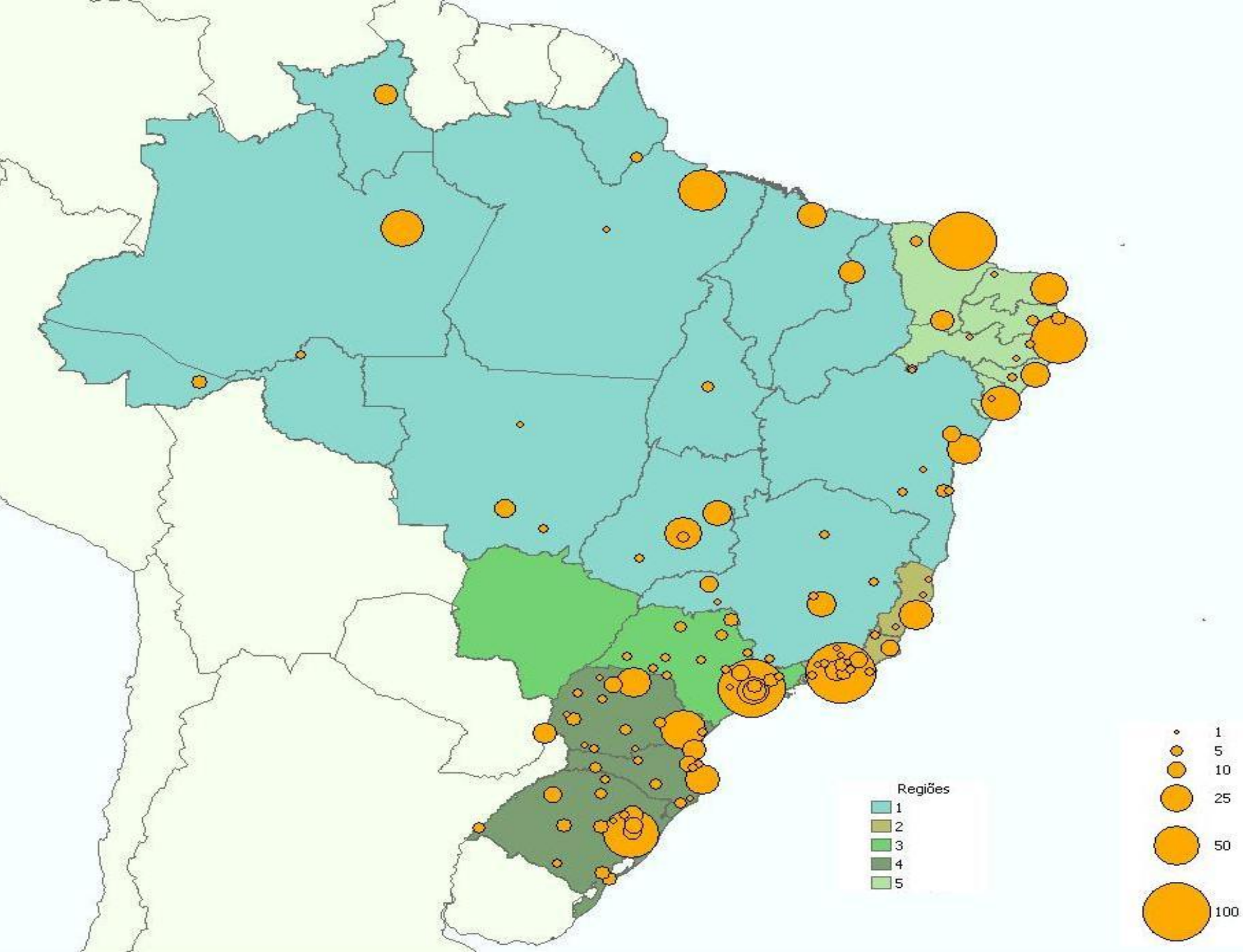
Time and Cost in Brazilian Federal Courts:

tax foreclosure judicial proceedings

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General information

- Develop a methodology to calculate the time and cost of judicial proceedings
- Calculate the time and cost of the tax foreclose judicial proceeding
- Interviews and docket records analysis
- Sponsored by the National Judicial Council (CNJ)



Mathematical description

$$\text{Average tax foreclosure proceeding (ATFP)} = \Delta twz(a) + \Delta twz(b) + \Delta twz(c) + \Delta twz(d) + \Delta twz(e) + \Delta twz(f) + \Delta twz(g) + \Delta twz(h) + \Delta twz(i) + \Delta twz(j) + \Delta twz(k) + \Delta twz(l) + \Delta twz(m) + \Delta twz(n) + \Delta twz(o)$$

Δt = intervalo de tempo médio medido em minutos

w = frequência média de determinada etapa

z = valor médio por minuto da remuneração dos servidores envolvidos na etapa

(a) = autuação

(b) = despacho inicial

(c) = citação pelo correio (AR)

(d) = citação por oficial de justiça

(e) = citação por edital

(f) = mandado de penhora e avaliação

(g) = leilão

(h) = vista ao exeqüente

(i) = objeção de preexecutividade

(j) = embargo do devedor ou de terceiros

(k) = agravo

(l) = apelação

(m) = recurso especial ou extraordinário

(n) = sentença

(o) = baixa definitiva

Outcomes

- Charged amount (average): US\$ 11.5 k
- Collected amount (average): US\$ 9.6 k
- Average time: 8 years, 2 months and 9 days

Fig. 5 – Frequency and weighted time (in days) of the acts of the tax foreclosure proceeding

Table 2 - Stages of tax foreclosure according to frequency and average absolute and weighted processing time

Stage	Frequency	Weighted time (days)
Tax assessment	1	183
○ <i>from complaint to tax assessment</i>	1	117
○ <i>from tax assessment to initial decision</i>	1	66
Summons	1,46	1.920
○ <i>from initial decision to summons order</i>	1,46	41
○ <i>from summons order to finding the debtor or to lawsuit prescription or lapsing</i>	1,46	1.879
Seizure	0,67	362
Auction	0,07	52
Defenses and appeals	0,087	230
○ <i>decision on pre-foreclosure objection</i>	0,05	29
○ <i>decision on each objection filed by the debtor or third party</i>	0,07	110
○ <i>decision on appeals (interlocutory appeals, requests for review and special and extraordinary appeals)</i>	0,18	91
Retirement	1	243
Total transaction time		2.989

Source: the Authors

Fig. 4 – Tax foreclosure proceeding acts and the time dedicated by the agents

Table 1 - Stages of tax foreclosure, agent in charge and quantification of labor directly employed

Stage	Agent in charge (minutes)			Δ Total time (minutes)
	Judge	Public Servant	Other	
Tax assessment	0,0	17,3	3,5	20,8
Decision	0,3	8,5	0,2	9,0
Summons by registered mail	0,0	8,6	1,5	10,0
Summons by bailiff	0,0	266,9	3,1	269,9
Summons by publication	8,3	37,9	5,5	51,6
Seizure	4,3	396,6	10,8	411,7
Auction	9,5	193,6	6,6	209,8
<i>Pre-foreclosure objection</i>	41,5	71,1	2,6	115,2
<i>Objection</i>	1,3	33,6	4,3	39,1
<i>Interlocutory appeal</i>	0,0	5,9	1,4	7,2
<i>Request for review</i>	0,0	5,9	1,4	7,2
<i>Special or extraordinary appeals</i>	0,0	5,9	1,4	7,2
Sentence	20,6	73,7	2,3	96,6
Retirement	0,0	16,1	1,1	17,2

Average total cost

US\$ 2.2 k

$$PEFM_{cmt2} = \{R\$1,58[1(117) + 1(66) + 1,46(1315) + 0,67(540) + 0,07(743) + 4,88(0) + 0,05(574) + 1(243)]\} - R\$37,69$$

Analytical conclusions

1. Bureaucratic structure to solve bureaucratic problems
2. Circular function of judicial proceedings
3. Absence of interinstitutional dialogue

Thank you!

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