

## Defining Brazilian legal terminology/concepts in English: a relevance-based approach

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SUMMARY: 1. *Introduction* – 2. *The contextual background* – 3. *Relevance and information processing* – 4. *The organization and the analysis of the STF's legal glossary* – 5. *Defining Brazilian legal terminology/concepts in English* – 6. *Discussion* – 7. *Final remarks* – 8. *Appendix*

If, in everyday situations, there is seldom any room for doubt and interpretation – this is not solved by the situation, the conditions and the surrounding of the utterance – then, there is, however, in legal usages of the language, more room for doubt and interpretation<sup>1</sup>.

### 1. INTRODUCTION

The awareness that law and language are strictly connected is shared by several areas of knowledge, including information and communication technologies. According to Francesconi et al.<sup>2</sup>, they are “characterized by the coexistence of two autonomous but structurally similar systems: both are endowed with rules that underlie the construction of the system itself, that guide its evolution and guarantee its consistency”. In this context, electronic media with the aid of computer technology have proved very useful to provide access to institutional discourses and specialized knowledge in legal domains to a wide range of users across countries and languages. According to Agar<sup>3</sup>, institutional frames, user frames and directives comprise the segments

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<sup>1</sup> B. WENNSTRÖM, *The lawyer and the language*, Uppsala, Iustus Förlag, 1999, p. 129.

<sup>2</sup> E. FRANCESCONI, S. MONTEMAGNI, W. PETERS, D. TISCORNIA, *Integrating a bottom-up and top-down methodology for building semantic resources for the multilingual legal domain*, in Francesconi E., Montemagni S., Peters W., Tiscornia D. (eds.), “Semantic Processing of Legal Texts. Where the Language of Law Meets the Law of Language”, Berlin, Springer, 2010, p. 96.

<sup>3</sup> M. AGAR, *Institutional discourse*, Vol. 5, 1985, n. 3, p. 148.

of institutional discourses and represent “an intermediate level between the human contact which led to the discourse and the broader characteristics of the society in which it was embedded”.

In particular, the discourse of the courts (at any level), one of the most formally and rigidly structured institutions in every society, produce a specialized language which involves “the linking of general and abstract legislative statements to their linguistic manifestation”<sup>4</sup>. In Brazil, a Portuguese-speaking country, the Supreme Federal Court’s (hereinafter STF) official website displays information about its history and operation in English (and Spanish) in an attempt to interact more effectively with foreign users under legal globalization. It also includes an on-line legal glossary in English with the translated definition of some key terminology/concepts of Brazil’s civil law system mostly extracted from legislation and court cases. Although specifically aimed at the “international reader”, the glossary may be a useful reference tool for Law students, legal linguists, translators and laypeople as well.

The aim of this article is to provide a linguistic analysis of how legal terminology/concepts are defined in the glossary in the light of the principle of relevance<sup>5</sup> and consistency. We claim that:

- a) the glossary will contain relevant information if and only if the definitions are partly assumed by earlier acts of comprehension;
- b) information provided in the definitions will be relevant if it is able to produce contextual effects and
- c) information provided requires the least effort on the part of the reader in order to be worth processing.

Otherwise, it will not fulfill the necessary and sufficient conditions for relevance in this specific institutional context. At the same time, we discuss how new trends in information/terminology processing can improve the quality of on-line specialized glossaries.

The assumption is that the making of the STF’s glossary involved the compilation of terminology/concepts extracted from a representative body of legislative and court texts in Portuguese which was further processed by terminologists/translators and legal experts. Moreover, we assume that the selective and translation methodology was both controlled and supported

<sup>4</sup> E. FRANCESCONI, S. MONTEMAGNI, W. PETERS, D. TISCORNIA, *op. cit.*, p. 96.

<sup>5</sup> D. SPERBER, D. WILSON, *Relevance. Communication and cognition*, Oxford, Basil Blackwell, 1986.

by information technology to ensure free and effective access to the glossary and dictionaries as a whole.

The article is organized as follows. First, we present the contextual background of the study followed by the analysis of the principle of relevance in the viewpoint of Sperber and Wilson<sup>6</sup> and its role in information/terminology processing. Then we analyse the organization of the STF's glossary with focus on the definition of the class concept 'appeal' and its subordinate concepts. We then discuss how new trends in information/terminology processing can improve the quality of on-line specialized glossaries and conclude with further studies on the subject matter. The Appendix displays the original entries of the concepts focused in the analysis identified by capital letters for ease of reference.

## 2. THE CONTEXTUAL BACKGROUND

As in most continental European countries, Brazil's legal system is based on the Roman-Germanic tradition wherein the civil law principles and practices prevail over the common law ones. Its legal system is mostly codified and includes other subsidiary sources of law, such as non-codified statutes, customs, jurisprudence and equity<sup>7</sup>.

The Supreme Federal Court (STF) is Brazil's higher constitutional court and its jurisdiction is mainly focused on domestic constitutional issues<sup>8</sup>. However, in order to disseminate free access to the civil law knowledge and the discourse of the Brazilian high court on international level, the STF's official webpage in English (and Spanish) presents a glossary of legal terminology/concepts in English. This is in line with the current context of legal globalization clearly influenced by the North American legal approaches and legal English as *lingua franca* in which asymmetries across legal systems and

<sup>6</sup> *Ibidem*.

<sup>7</sup> See main differences between the common law and the civil law legal systems in C. FRADE, *Generic variation across legislative writing: a contrastive analysis of the UNCITRAL model law and Brazil's arbitration law*, in "Journal of Linguistics", Vol. 32, 2004, p. 45-75; L. CAMPBELL, *Drafting styles: fuzzy or fussy?* in "E Law - Murdoch University Electronic Journal of Law", Vol. 3, 1996, n. 2; Y. MALEY, *The language of the law* in Gibbons J. (ed.), "Language and the law", London, Longman, 1994, p. 11-49; Y. MALEY, *The language of legislation*, in "Language in Society", Vol. 16, 1987, p. 25-48; V.K. BHATIA, *Analysing genre: language use in professional settings*, London, Longman, 1993.

<sup>8</sup> The powers of the STF are established in Article 102 of the Brazilian Constitution. See [www.stf.jus.br](http://www.stf.jus.br).

languages have been gradually overcome due to the intense interactions of actors acting globally<sup>9</sup>. The making of this type of glossary does not seem to be “an exclusive problem of lawyers”<sup>10</sup> anymore because, in the current information society, it has to involve at least experts on terminology processing, computer technologies, linguistics and legal translation as well.

Legal translation has been considered a highly sensitive area mainly due to the “profound differences in categories and concepts between legal systems”<sup>11</sup>. Although traditional translation theory still aims at “preserving the letter of the original as much as possible”, more recent approaches have assumed more communicative and pragmatic factors placing it “as a communicative and intercultural action”<sup>12</sup>. The translation of domestic legal terms and concepts aimed at multilegal and multilingual jurisdictions has become quite common in the current global context with possible situations which also include the translation between related and unrelated languages<sup>13</sup>. There are two types of translating domestic legal terms and concepts: the first one is used for normative purposes in multilingual jurisdictions where two or more languages are the official languages, as in the European Union, Canada and Switzerland; and the second one, generally in English, is used for informative purposes only in monolingual jurisdictions, as in Brazil.

Legal concepts have achieved the status of semi-technical words and their meanings have been “interactionally established over time, in the history of practices”<sup>14</sup>. They may be readily understood though not readily applied and are open to accommodation in new contexts in the future. As to terminology, civil law operators also “continue to reach for familiar words or phrases

<sup>9</sup> It is worth pointing out that other countries have also been adapting their legal principles and practices to the common law principles and practices and legal English under the current globalized context. See mainly and S. ŠARČEVIĆ (ed.), *Legal language in action: translation, terminology, drafting and procedural issues*, Zagreb, Nakladni zavod Globus, 2009 and V.K. BHATIA, C.N. CANDLIN, J. ENGBERG, A. TROSBORG, *Multilingual and multicultural contexts of legislation*, Frankfurt am Main, Peter Lang, 2003.

<sup>10</sup> V. ZENO-ZENCOVICH, *Legal information as an essential aspect of citizenship*, in Ragona M., Peruginelli G. (eds.), “Law Via the Internet. Free Access, Quality of Information, Effectiveness of Rights”, Florence, European Press Academic Publishing, 2009, p. 40.

<sup>11</sup> G. GARZONE, *Legal translation and functionalist approaches: a contradiction in terms?*, at [www.tradulex.org/Actes2000/Garzone.pdf](http://www.tradulex.org/Actes2000/Garzone.pdf), 2000, p. 4.

<sup>12</sup> *Ivi*, p. 1-5

<sup>13</sup> D. CAO, *Translating law*, Clevedon, Multilingual Matters Ltd., 2007; A. KOCBEK, *A targeted approach to legal translation*, in Šarčević S. (ed.), “op. cit.”, p. 43-62.

<sup>14</sup> P. LINELL, *Approaching dialogue. Talk, interaction and contexts in dialogical perspectives*, Amsterdam/Philadelphia, John Benjamins, 1998, p. 121.

out of habit”<sup>15</sup>, including terms of art, non-colloquial or archaic Portuguese and Latin terms and phrases. As in common law, civil law terminology has its share of “system-bound words”<sup>16</sup>: words associated with the legal profession (*advogado, juiz, ministro, Procurador-Geral* etc.); words associated with courts (*apelação, jurisprudência, súmula vinculante, acórdão* etc.) and words associated with areas of law and institutions (*Lei da Consolidação de Trabalho, Lei Orgânica dos Municípios, Medida Provisória, Ordem de Serviço, Ministério Público* etc.)<sup>17</sup>. Due to the “fixed background of the civil code”<sup>18</sup>, terms and phrases in civil law are more concise and need no comprehensive definitions since their meanings are to be found in the codes.

Under this scenario, computer-based technologies have had a considerable contribution to the dissemination of legal concepts and practices across legal systems and languages. For example, the making of on-line mono-, bi- or multilingual legal dictionaries and glossaries is facilitated by the:

- a) reutilization and compilation of terminology and concepts extracted from various sources, such as printed lexical material available in dictionaries, legislation and case law,
- b) storage in terminological data bank or term bank, and
- c) retrieval, allowing the input and output modes to be managed by various suppliers to “supply data for a number of users of terminological information”<sup>19</sup>.

Not only can semantic information be provided in the definitions to show the relationships the legal concepts establish among themselves, but also hyperlinked remissions may enhance new information in each entry to prevent redundancy and duplicity of information<sup>20</sup>.

Due to the lack of tradition in the lexicographic, terminological and translation specialized-domain fields, the publication of print bilingual dictionaries and, in particular, bi- or multilingual legal dictionaries, is rather limited in Brazil. The few print legal dictionaries available take into account “the caprices of legal terminology” and do not analyse terms “corresponding to

<sup>15</sup> P.M. TIERSMA, *Legal language*, Chicago, Chicago University Press, 1999, p. 59.

<sup>16</sup> D. CAO, *op. cit.*, p. 60-67.

<sup>17</sup> See C. FRADE, *op. cit.*, for more Brazilian legal terminology.

<sup>18</sup> F.A. ORBAN III, *Legal globalization: the challenges for in-house Counsel*, ACCA Docket 19/2, 2001, p. 55.

<sup>19</sup> J.C. SAGER, *A practical course in terminology processing*, Amsterdam/Philadelphia, John Benjamins, 1990, p. 189.

<sup>20</sup> M. CORREIA, P. GUERREIRO, *Base de dados lexicais*, in Mateus M.H., Branco A.H. (orgs.), “Engenharia da linguagem”, Lisboa, Editora Colibri, 1995, p. 49.

the system of concepts that form the focus of interest”<sup>21</sup>. For example, the lack of consistence and uniformity displayed in both macro- and microstructure of three print Portuguese-English legal dictionaries is approached in Carvalho<sup>22</sup>. The author claims that the basic tools of Corpus Linguistics could improve our dictionaries and could also be used by translators not to understand legal terms but rather “to search elements that allow them [translators] to produce a text”<sup>23</sup>. As far as electronic glossaries are concerned, if one tries the customized search “*glossário jurídico português-inglês*” on Google, for example, it will provide several types of bilingual legal glossaries from different sources, including the STF’s. Nevertheless, almost all of them lack consistency and essential information regarding reference sources, authorship and methodology used for terminology processing.

To conclude, legal translation should be neither a matter of the translator’s personal choices as to lexical and grammatical structures without any compliance with principles of consistency and conventions nor the mere compilation of translation equivalents extracted from source texts in the target language. An interdisciplinary approach must be considered so as to minimize socio-cultural variants and to promote the pragmatic conditions for the harmonized and ‘common sense’ English as *lingua franca*, without excluding potential reciprocal influences of or resistance to one hegemonic legal system upon others. As we will see next, the theoretical framework of Sperber and Wilson’s principle of relevance<sup>24</sup> may serve as a sound theoretical frame for achieving consistency and quality of data in information processing.

### 3. RELEVANCE AND INFORMATION PROCESSING

There are many ways of defining “relevance” apart from its default meanings appropriateness, suitability and pertinence<sup>25</sup>. For example, Clark<sup>26</sup> dis-

<sup>21</sup> E.S.H. MATTILA, C. GODDARD, *Comparative legal linguistics: language of law, latin and modern lingua Francas*, London, Ashgate, 2013, p. 21. See M.C. DE MELLO, *Dicionário jurídico. Law dictionary*, Lisboa, Dinalivro, 2008; D. DE N. GOYOS JR., *Dicionário jurídico: inglês-português/português-inglês*, 3a edição, São Paulo, Editora Observador Legal, 1998; F. DE CASTRO, *Compacto dicionário jurídico: inglês-português*, Rio de Janeiro, Editora Aide, 1994.

<sup>22</sup> L. CARVALHO, *Os dicionários jurídicos bilíngues e o tradutor. Dois em direito contratual*, TradTerm 12, 2006, p. 309-347.

<sup>23</sup> *Ibidem*, p. 309.

<sup>24</sup> D. SPERBER, D. WILSON, *op. cit.*

<sup>25</sup> J. STEIN (ed.), *Random House Webster’s unabridged dictionary*, 2<sup>nd</sup> Edition, New York, Random House, 2001, p. 1628.

<sup>26</sup> B. CLARK, *The relevance theory*, Cambridge, Cambridge University Press, 2013, p. 106-107.

cusses relevance in terms of positive cognitive effects and processing effort insofar as “the more effects a stimulus have the more relevant it is [and] the more processing efforts deriving from this effects, the less relevant it is”. On the other hand, Bruce claims that “in Google’s world, relevance is a function of popularity”<sup>27</sup> and Smith and Wilson<sup>28</sup> refine the concept within a pragmatic viewpoint as follows<sup>29</sup>:

A remark P is relevant to another remark Q if P and Q, together with background knowledge, yield new information not derivable from either P or Q, together with background, alone.

Under a cognitive perspective, Sperber and Wilson<sup>30</sup> approach relevance in terms of the dichotomy old-new information, effort and contextual effects. Old information means information which is “already present in the individual’s representation of the world”<sup>31</sup>. The authors claim that it may be the case that some old information is easier to access and therefore “is not worth processing at all”; on the other hand, if some new information is “unconnected with anything in the individual’s representation of the world” and implies in too much processing cost “for too little benefit”, it is still not worth processing either. Moreover, if the addition of new information does not modify old information but merely duplicates it, then it will not improve the contexts and will be rendered irrelevant.

Information processing involves efforts to draw someone’s attention to information which seems “relevant enough to him to be worth his attention”<sup>32</sup>. The degree of relevance is often associated with the processing effort insofar as “other things being equal, the greater the processing effort, the lower the relevance”<sup>33</sup>. One of the necessary conditions for relevance

<sup>27</sup> T.R. BRUCE, *Foundlings on the cathedral steps*, in Peruginelli G., Ragona M. (eds.), “op. cit.”, p. 414.

<sup>28</sup> N. SMITH, D. WILSON, *Modern linguistic: the results of Chomsky’s revolution*, Bloomington, Indiana University Press, 1979, p. 177.

<sup>29</sup> The authors’ interpretation of relevance lies in H.P. GRICE, *Logic and conversation*, in Cole P., Morgan J.L. (eds.), “Syntax and semantics: speech acts”, Vol. 3, New York, Academic Press, 1975, p. 41-58. See also E.F. PRINCE, *Toward a taxonomy of given-new information* in Cole P. (ed.), “Radical Pragmatics”, New York, Academic Press, 1981, p. 223-255.

<sup>30</sup> D. SPERBER, D. WILSON, *op. cit.*, p. 48.

<sup>31</sup> *Ibidem*.

<sup>32</sup> *Ivi*, p. 49.

<sup>33</sup> *Ivi*, p. 124.

is that new information is contextualized in old information, modifying or improving it, and giving rise to “contextual effects”<sup>34</sup>. Therefore,

these interconnected new and old items of information are used together as premises in an inference process, further new information can be derived: information which could not have been inferred without this combinations of old and new premises. When the processing of new information gives rise to such a multiplication effect, we call it relevant. The greater the multiplication effect, the greater the relevance<sup>35</sup>.

“Intuitions of relevance” complement the necessary conditions as people can “consistently distinguish relevant from irrelevant information or, in some cases, more relevant from less relevant information”<sup>36</sup>. The authors then refine the definition by adopting “an extent-conditions format”<sup>37</sup>:

*Relevance*

*Extent condition 1* an assumption is relevant in a context to the extent that its contextual effects in this context are large.

*Extent condition 2* an assumption is relevant in a context to the extent the effort required to process it in this context is small.

Legal concepts are legal system-bound and context-free as they have the same intension or reference on the assumption that “the same types of meanings and their use is on the whole controlled by the clearly defined areas of usages (levels)”<sup>38</sup>. The purpose of defining legal concepts in reference works gives rise to a type of definition to fix “the ‘intensional’ definition /.../ used by the subject specialists for determining the precise reference of the term”<sup>39</sup>. A definition must give the essential, or relevant, characteristics of a concept and also the “features which distinguish or differentiate a concept from its immediate hyperonym and co-hyponyms”, also according to Sager<sup>40</sup>. On the linguistic and conceptual levels, the terminologist may need to create new words, introduce new meanings or use borrowing to define concepts. Various methods of defining concepts may be applied assuming:

<sup>34</sup> *Ivi*, p. 108.

<sup>35</sup> *Ivi*, p. 48.

<sup>36</sup> *Ivi*, p. 119.

<sup>37</sup> *Ivi*, p. 125.

<sup>38</sup> J.C. SAGER, *op. cit.*, p. 41.

<sup>39</sup> *Ivi*, p. 48.

<sup>40</sup> *Ivi*, p. 44.

- a) the specialists' minimum familiarity with the subject field and the terms used in the definition (old information), and
- b) the sources of difficulties to be expected in the comprehension of the concepts in this given context (new information).

In this study, we assume that "all aspects of terminology [and concept] compilation, storage and retrieval are being assisted by or directly carried out by a computer"<sup>41</sup> in the making of an on-line legal glossary<sup>42</sup>. Consider the compilation of terms and concepts wherein the terminologist/translator can make use of the storage of the legal texts on computers for terminological analysis. These texts can be analysed and compared with a machine-readable legal texts to produce a list of common items contained in them to:

- a) eliminate the "spurious items" which are of no interest to the user,
- b) add a significant number of new terms to the list, and
- c) identify terms which lack equivalents in English<sup>43</sup>.

Tab. 1 illustrates the correlation between relevance and consistency and some aspects of terminology/concept compilation pertinent to the STF's legal glossary.

Apart from more traditional methods of compiling terminology/concepts from print dictionaries, running text or discourse, new trends in compilation include other computer techniques to extract legal unstructured knowledge in the Web and to identify specific features from legal texts<sup>45</sup>. Such techniques enable terminologists/translators, for example, to select and "declare relevant"<sup>46</sup> legal terms and concepts and their relationships for the purpose of organizing and ordering an on-line legal glossary.

<sup>41</sup> *Ivi*, p. 129.

<sup>42</sup> It is beyond the scope of this article to engage in a comprehensive discussion about retrieval and usage of terminology/concept in the STF's glossary. These issues will surely be approached in further studies.

<sup>43</sup> J.C. SAGER, *op. cit.*, p. 131. See also K. PALA, P. RYCHLÝ, P. ŠMERK, *Automatic identification of legal terms in Czech law texts*, in Francesconi E., Montemagni S., Peters W., Tiscornia D. (eds.), "op. cit.", p. 83-94 and P. QUARESMA, T. GONÇALVES, *Using linguistic information and machine learning techniques to identify entities from juridical documents*, in Francesconi E., Montemagni S., Peters W., Tiscornia D. (eds.), "op. cit.", p. 44-59.

<sup>45</sup> See various research on this issue in E. FRANCESCONI, S. MONTEMAGNI, W. PETERS, D. TISCORNIA, *op. cit.*, and G. PERUGINELLI, M. RAGONA (eds.), *op. cit.*

<sup>46</sup> J.C. SAGER, *op. cit.*, p. 29.

Terminology/concept compilation	Relevance effects
Prefer user-oriented compilation: select terms/concepts mostly extracted from a representative body of texts of the legislative and judiciary areas.	Pre-empt the user's requests. Avoid unconnected information with other specialized areas. Avoid too much processing cost and little benefit.
Avoid the co-occurrence of terms/concepts extracted from the <i>corpora</i> and terms/concepts of no interest to the user.	Avoid the repetition of old information contextualized in new information.
Link the concepts to another subject which "have been postulated theoretically but have not been textually identified so far" (J.C. SAGER, <i>op. cit.</i> , p. 131.)	Link new information contextualized in old information. Build the user's intuition of relevance.
Revise the actuality of terms/concepts to provide reliable data. Maintain the correctness of previous entries.	Avoid repeating old information. Fail to improve or modify new information. Reveal changes in meanings.
Provide the regularization of usage.	Build consistency. Provide less effort insofar as it helps to achieve "effective communication among specialists by speeding up the process of communication" <sup>44</sup> .
Provide full bibliographic references to sources.	Build contextual effect.

Tab. 1 – Terminology/concept compilation and relevance effects

#### 4. THE ORGANIZATION AND THE ANALYSIS OF THE STF'S LEGAL GLOSSARY

In the introduction, the STF's legal glossary is presented as "a project designed for the international reader", stating that

the entries do not only come from legislation, but also from the STF case law. From simplified definitions, the vocabulary is connected by hyperlinks that intend to make the understanding of the searched term easier, through a common semantic field.

On the macrostructure level, the 108 entries of the glossary are comprised of simple, compound or complex terms and are presented in alphabetical order under the 'top-down' approach, whereby knowledge is divided "at the smallest number of items which can be grouped under a common descriptive label"<sup>47</sup>. The choice of the entries is questionable and does not seem to

<sup>47</sup> *Ivi*, p. 37

have a strict scientific support as there are concepts related to other subject fields (domains). For example, there seems to be no reasonable explanation why terms like “joint capital company”, “amnesty” and “stem cells” have been classified as belonging to the domain “legislative and court”<sup>48</sup>. Moreover, several entries of Latin terms and expressions presented in the glossary are overlapping as they stand for identical references in other legal systems meaning that “the coincidence of their co-usage is clearly due to the lack of a systematic approach to the structure of the term base”<sup>49</sup>.

The translated equivalents in English are simply converted into entries which, in many cases, do not refer to “an authentic concept in the [legal] culture of the target language”<sup>50</sup>. The entries are immediately followed by the original term in Portuguese between inverted commas, in brackets and highlighted in bold.

Most of the entries display mixed definitions, ranging from single descriptions to the listing of characteristics and description of “legal consequences”, in line with Sager<sup>51</sup> who claims that “with definitions constructed for term banks, [it is] difficult to satisfy both layman and the specialist with a single definition”. In some entries (but not all), the source references – denoted as “legal basis” – are presented at the end of the definition and include abbreviations, legislation and internal rules of the court which, according to Sager<sup>52</sup>, “can be of great value because the origin of a term may be its best indication of quality and usage”.

Although not displayed consistently, the basic data categories of the STJ’s glossary entries are comprised of:

- the equivalent entry term(s) in English;
- the original term(s) in Portuguese;
- mixed definitions;
- an indication of the usage, i.e., the context (procedure, legal consequences);
- indication of the source references (legal basis).

The analysis focused on the definition of the class concept “appeal” and its subordinates. The generic relationship between the class concept and the

<sup>48</sup> M. BRATANIĆ, V. ILIJEVSKI, A.O. ANIĆ, *Croatian Euroterm. The case for national and EU harmonization in the field of law*, in Šarčević S. (ed.), “op. cit.”, p. 252.

<sup>49</sup> *Ibidem*.

<sup>50</sup> J.C. SAGER, *op. cit.*, p. 139.

<sup>51</sup> *Ivi*, p. 46.

<sup>52</sup> *Ivi*, p. 152.

subordinates (X) is to be understood by the formula “X is a type of appeal”. All the concepts are schematically depicted in Fig. 1 entailing both a horizontal and vertical relationship. The Appendix displays the original entries of the class concept ‘appeal’ and its subordinates on the STF’s glossary. For ease of reference, the entries are classified in capital letters, except the definition of the class concept, as follows: the concepts [A] to [E] correspond to different subordinate concepts from the class concept ‘appeal’ and the concepts [F1] to [F2] correspond to variations of the same subordinate concept ‘ordinary appeal’ (F), which is not defined in the glossary.

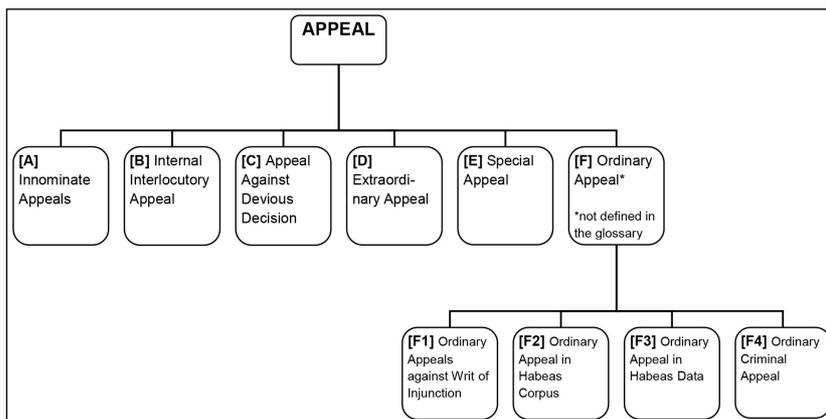


Fig. 1 – The class concept ‘appeal’ and its subordinate concepts

## 5. DEFINING BRAZILIAN LEGAL TERMINOLOGY/CONCEPTS IN ENGLISH

Different from words which can be defined by synonyms, concepts are defined “by all concepts surrounding it in the special field of reference in which it occurs”<sup>53</sup>. This is the case of the class concept ‘appeal’ and its subordinate concepts in the STF’s legal glossary, as depicted in Fig. 1.

The entry of main class concept ‘appeal’, the basis for the other subordinate definitions, is defined by description and extension. The descriptive part of the definition is quite plain though it is not explicit if “person” may also refer to a legal entity. To avoid this potential ambiguity, Black’s Law

<sup>53</sup> *Ivi*, p. 41.

Dictionary<sup>54</sup> defines the concept in the passive voice omitting the subject of the action as

a proceeding undertaken to have a decision reconsidered by a higher authority; esp. the submission of a lower court's or agency's decision to a higher court for review and possible reversal.

Two courtroom terms – “first instance” and “superior instance” – are axiomatic in civil law, while in common law the equivalent terms are “higher courts” or “lower courts”. In this case, as there is not lack of equivalence between the legal concepts, the terms in English could have been appropriately applied. However, the reader may be able to infer their meaning from the more general context of court structures and appealing as a whole. On the other hand, the extensional definition is not complete as it exemplifies the case in which “the superior instance decides to judge the merit of the appeal” and its consequences but does not mention what would happen otherwise.

The reference to two new concepts in the form of a binomial expression – “devolutive or suspensive effect” – may not be familiar to the reader and thus it cannot be inferred in the immediate context as only one of them – “suspensive effect” – is defined somewhere else in the glossary. As pointed out in Frade<sup>55</sup>, binomial and multinomial structures are “typical integrative devices to make legislative writing technically accurate and all-inclusive” in common law, while in civil law they are rather sparse and do share the same rhetorical and historical value. The search of the meaning of the undefined concept in the binomial expression above would require additional effort on the reader's part out of the immediate context without its precise (and consequently not reliable) source reference or a hyperlink.

The entry of Concept A – “Innominate Appeal” – is defined by negatives and does not provide the intension of the concept which differentiates it from its co-hyponyms. In general, while positive statements are easier to process, negative are difficult “to fasten upon meaning with precision or clarity”<sup>56</sup>. Its context of application is not provided in the immediate context and should be found somewhere else by the reader, which would require more effort in the processing of the information.

<sup>54</sup> *Black's Law Dictionary*, Third Pocket Edition, St. Paul, Thomson West, 1996.

<sup>55</sup> C. FRADE, *op. cit.*, p. 59-62.

<sup>56</sup> D. MELLINKOFF, *Legal writings: sense and nonsense*, St. Paul, West Publishing Co., 1982, p. 28.

The definition of the entry of Concept B – “Internal Interlocutory Appeal” – describes the cases it applies to and, by extension, provides the source reference of the concept in court. It also provides a synonym “internal motion” which may differ from the entry term by usage and context and represents a cross-reference in the entry structure<sup>57</sup>. Again, in the description there is ‘negative’ information creating a context in which the concept does not apply to: “the elaboration of a [*sic*] instrument is unnecessary, since the process /.../”. Such a “less accessible context”<sup>58</sup> would require the reader’s greater effort to process the information in the right context, minimizing its relevance. The extended definition provides further information about the meaning of “internal” as a characteristic of the concept. If not already taken for granted by the reader, “its strength is unaffected by the newly presented information”<sup>59</sup> and it will be rendered irrelevant. The synonym “internal motion” is neither defined in the glossary nor included in a usage note despite the reference in “See also: motion and instrument motion”.

The main entry of Concept C – “Appeal against devious decision” – is the typical case of the definition cited instead of the term “Divergence Motions”. However, at the end of the paragraph, the reader is provided with new information that “Divergence Motions” is synonymous with “appeal against devious decision”, possibly as another source reference to the main concept. Inconsistency here accounts for having two terms for a single meaning in the same domain. The definition is extended by describing the cases the concept applies to and one exception to the case. However, if the terms express different concepts in other domains, “they require separate entries in order to be consulted and retrieved individually”<sup>60</sup>. The former is presented in double negative – “are not suitable” and “except in the cases” – which requires greater processing effort. The piece of information seems to be unconnected to the context as it does not define the meaning of “return effect” rendering it irrelevant. Two references are inconsistently displayed in the definition: a) the statement “the feature exists in the Labour Court, CLT” is not as specific as the one described in “Legal Basis: Law No. 8.950/94, CPC, Art. 546” and b) the abbreviations ‘CLT’ and ‘CPC’ which, without the full expression

<sup>57</sup> J.C. SAGER, *op. cit.*, p. 151.

<sup>58</sup> D. SPERBER, D. WILSON, *op. cit.*, p. 142.

<sup>59</sup> *Ivi*, p. 121.

<sup>60</sup> M. BRATANIĆ, V. ILIJEVSKI, A.O. ANIĆ, *op. cit.*, p. 246.

of their forms, may not be immediately recognized by the reader requiring greater effort to process new information.

The entry of Concept D – “Extraordinary Appeal” – starts with a descriptive definition of the concept and is followed by an extended definition listing the cases “a ruling may be appealed extraordinarily. The negative attribution “Parties to Appeal: Anyone” seems to lack the specification required in definitions. Surprisingly, the rest of the extended definition refers to “Special Appeal” and not to the concept in question rendering it irrelevant as it is unrelated to the immediate context. The definition ends with the source reference to both “Legal Consequences” and “Legal Basis” and the original term of the concept in Portuguese redundantly repeated.

Likewise, the entry of concept E – “Special Appeal” – is defined by description followed by the three cases where “a ruling may be appealed especially”, displayed in list structure which is “appropriate for giving examples”<sup>61</sup>. Again, the negative attribution “Anyone” in “Parties to the Appeal: Anyone” lacks relevance as it does not add any new information to the context. The extension includes the processing of the concept, the characteristics of the special appeal in list structure though displayed in inconsistent paralleled items. The source reference – “Legal Basis” – includes precise and reliable references.

The entries of Concept F1 – “Ordinary Appeal against Writ of Injunction” – and Concept F3 – “Ordinary Appeal in Habeas Data” – are definitions and not terms. In both cases, the definition-entries are circularly defined in their explicative contexts. In fact, the tautology renders both definitions irrelevant “in words others than those of the immediate context, without imparting additional force or clearness”<sup>62</sup>.

The entry of Concept F2 – “Ordinary Appeal in *Habeas Corpus*” – begins with a descriptive definition with an exception – “the appeal will only be heard...” – followed by the negative sentence “[it] may not be interposed against...” and another negative describing the consequences of such negative event. However, it seems to be the case that inference can be derived from the context with which “might combine to yield contextual implications”<sup>63</sup> in the understanding of the general definition of the concept. The

<sup>61</sup> B. CHILD, *Drafting legal documents: principles and practices*, St. Paul, West Group, 1992, p. 352.

<sup>62</sup> J. STEIN, *op. cit.*, p. 1947.

<sup>63</sup> D. SPERBER, D. WILSON, *op. cit.*, p. 120.

definition is extended with two indications of usage – “Processing of the Appeal”, “Legal Consequences”<sup>64</sup> and one reference source “Legal Basis”.

And finally, the entry of Concept F4 – “Ordinary Criminal Appeal” – is defined by description and extended to include its procedure and new information, improving the definition as a whole. The legal terms or concepts – “records of the proceedings”, “prosecutor” etc. – used in the definition are generally axiomatic in Law and should be part of the specialist user’s previous knowledge.

## 6. DISCUSSION

The analysis of the STF’s glossary has evidenced some key problems involving the making of bilingual specialized dictionaries and glossaries in Brazil as far as relevance, consistency, translation and quality of the terminology/concept processing are concerned. According to Aodha<sup>65</sup>, “Law dictionaries share many of the failings of specialist dictionaries in general”. The apparent lack of a systematic work engaging an interdisciplinary team of actors and experts fails to take advantage of the most recent and useful tools available for the task in the subject areas of linguistics, Law and information science.

To start with, it is hard to say that the terminology/concepts extracted from the corpus are representative due to the small number of entries provided (108) considering the wide scope of the subject area. It is, for instance, beyond comparison with the on-line version of the Black’s Law Legal Dictionary’s “over 15 [of] law definitions and legal terms [for] your legal business and research use”<sup>66</sup>. There is an overemphasis on nouns at the expense of other linguistic information commonly associated to the genre, such as verbs and adjectives, register, binomials, collocations and legal vagueness<sup>67</sup>. Moreover, there is no indication that the glossary has been going through “an ongoing revision and up-dating process”<sup>68</sup>, which may raise questions about the validity and relevance of the data. Nowadays, we can count on efficient

<sup>64</sup> For unknown reasons, the sentence is suddenly interrupted rendering the whole new information incomplete and thus irrelevant as it does not result in any change in the context.

<sup>65</sup> M.M. AODHA, *The bilingual legal dictionary and the translator*, in Šarčević S. (ed.), “op. cit.”, p. 263.

<sup>66</sup> See [thelawdictionary.org](http://thelawdictionary.org).

<sup>67</sup> M.M. AODHA, *op. cit.*, p. 264.

<sup>68</sup> J.C. SAGER, *op. cit.*, p. 154.

legal information retrieval approaches to structure and organize documentation “from external electronic archives using the tools of formal, linguistic and conceptual analysis” as, for example, the *Sistema Intelligente Integrato per l'Acquisizione e la Manutenzione dell'informazione giuridica in linea* – SIAM –, which development is reported in Cammelli and Fameli<sup>69</sup>.

The inconsistent translation of the terminology and the structure of the definitions in dictionaries and glossaries often results in irrelevant implications and unwanted interpretations even by the expert user. The STF's glossary includes both existing concepts with equivalents in common law, such as 'motion for clarification' (civil law) and 'motion for more definite statement' (common law), 'provisional remedy', 'legal opinion', etc., and non-equivalent ones, such as 'administrative process', 'full-bench jurisdiction', 'prevention detention for extradition', etc. However, there is a noticeable preference for “localisms over internationalisms” which may result in terminological inconsistency<sup>70</sup>. On the other hand, the lack of consistency in the methods of defining the terms/concepts can be explained by the fact that the glossary was produced by different people without previous agreement on the criteria to be used<sup>71</sup>. In the STF's glossary, it is quite easy to identify sets of similar definitions (entry of Concepts C, D, E; Concepts F1, F3 and Concepts B, F4) in contrast to others, even sets with similar technical mistakes (entry of Concepts D, F2). In general, not only are the essential attributes of many terms/concepts poorly presented in the definitions, but it is not clear how they differentiate from the other concepts either. For instance, definition by contrast is not applied to link one concept to other concepts in the system, and definitions with negative statements and tautology are quite common so new information is not connected with old information or the immediate context.

On the linguistic level, the definitions of the terminology/concepts display inconsistent and irregular syntactic constructions which may be the outcome of the lack of “collaboration of all interested parties [and] general con-

<sup>69</sup> A. CAMMELLI, E. FAMELI, *A Semantic tool for improving the legal information access and knowledge*, in Peruginelli G., Ragona M. (eds.), “op. cit.”, p. 361. See also J.C. SAGER, *op. cit.*, E. FRANCESCONI, S. MONTEMAGNI, W. PETERS, D. TISCORNIA, *op. cit.* and G. PERUGINELLI, M. RAGONA (eds.), *op. cit.*

<sup>70</sup> M. BAJČIĆ, *The search for Croatian equivalents for EU terms in competition law*, in Šarčević S. (ed.), “op. cit.”, p. 227.

<sup>71</sup> M. CORREIA, P. GUERREIRO, *op. cit.*, p. 56.

sensus”<sup>72</sup>. According to Child<sup>73</sup>, “it is a sign of trouble when a new sentence begins in the midst of a definition” which is the case of most definitions in the on-line legal glossary analysed here.

As to Sperber and Wilson<sup>74</sup>, “readers should try to resist the natural tendency to supply much richer and more appropriate contexts” and therefore consistent terminology and watertight definitions should be pursued when translating domestic legislation and court cases. This can be achieved if the terminologist/translator has legal and technical input from experts in the linguistic, information processing and legal areas to a minimum, as well pointed out in Bajčić<sup>75</sup>. Also, standardization can provide the principles and methods to avoid inconsistency in the interest of precision, economy (and thus relevance) and appropriateness<sup>76</sup>. For example, a standard output format for the STJ’s glossary on-line retrieval, which seems “to satisfy the needs of most translators”<sup>77</sup> when consulting monolingual information could be<sup>78</sup>:

SL term/concept + TL equivalent (or synonym, if available) + TL definition  
+ SL source reference

Nowadays, the terminologist/translator is able to focus on achieving high standards of compilation due to automatic processing and computer-assisted terminology/concept compilation<sup>79</sup>. Different from the compilation of terminology in conceptual systems, “conceptual structures can be built according to perceived necessity and inter-relations can be declared on the basis of fuller information after a substantial amount of data has been collected”<sup>80</sup>. On the whole, these tools would also check for the selection of inadequate and spurious entries from other subjects of knowledge, duplication and omission of data, changes and updates of meaning etc.

<sup>72</sup> J.C. SAGER, *op. cit.*, p. 119.

<sup>73</sup> B. CHILD, *op. cit.*, p. 367.

<sup>74</sup> D. SPERBER, D. WILSON, *op. cit.*, p. 125.

<sup>75</sup> M. BAJČIĆ, *op. cit.*, p. 227.

<sup>76</sup> See J.C. SAGER, *op. cit.*, for a comprehensive description of standardization under a communicative dimension.

<sup>77</sup> *Ivi*, p. 200-201.

<sup>78</sup> Consider Portuguese as the source language (SL) and English as the target language (TL).

<sup>79</sup> See, for example, C. DOZIER, R. KONDADADI, M. LIGHT, A. VACHHER, S. VEERAMACHANENI, R. WUDALI, *Named entity recognition and resolution in legal text*, in Francesconi E., Montemagni S., Peters W., Tiscornia D. (eds.), “*op. cit.*”, p. 27-43.

<sup>80</sup> J.C. SAGER, *op. cit.*, p. 137.

The principle of relevance is always at stake due to the lack of consistence in terms of information processing and the amateur approach used in the making of the glossary. Although presented in a reader-friendly system, it does not “attract users with different levels of subject specialisation”<sup>81</sup>. If stored in a formal, structured and more consistent manner, it should be able to meet the needs of more distinct specialist users rather than only legal experts, such as translators, students, lexicographers and language planners. Unfortunately, it is not the case here.

To conclude, the STF’s on-line legal dictionary requires a deep and careful review regarding the concept database, methods of definition and information retrieval in order to provide more accurate and relevant information to the expert reader. As to Bajčić<sup>82</sup>, “creating terminology database is essential for ensuring uniformity and consistency” as well as the translator’s sharing information with professional linguists and other subject experts.

## 7. FINAL REMARKS

The growing need for free access to specialized knowledge in the current global context has motivated a considerable amount of interdisciplinary research in the subject areas of linguistics and information processing. In particular, the making of on-line mono-, bi- or multilingual legal dictionaries and glossaries has gathered groups of different actors, including translators, linguistics, legal and computer experts. The result is a wide range of “new information and communication technologies available at relatively low cost as well as in the increasing demand of open and reliable access services to law material”<sup>83</sup>.

This article discussed the definitions of the entries in the Brazilian Supreme Federal Court’s on-line legal glossary in the light of the principle of relevance<sup>84</sup> and consistency. We also approached the terminology/concept compilation of the entries, the translated version of the definitions and discussed how they can be improved with new trends in information processing techniques and a interdisciplinary expert cooperation. The result of the analysis evidenced that much has to be done in terms of information processing and translation of legal language for international use in Brazil not

<sup>81</sup> *Ivi*, p. 196.

<sup>82</sup> M. BAJČIĆ, *op. cit.*, p. 228-229.

<sup>83</sup> G. PERUGINELLI, M. RAGONA (eds.), *op. cit.*, p. 9.

<sup>84</sup> D. SPERBER, D. WILSON, *op. cit.*

to mention the urge to build databases to provide appropriate, reliable and high standard data.

Brazil's judicial power, together with the executive and the legislative, are granted authority to formulate policies to disseminate their respective specialized language by means of compilation of terminology/concepts. The ideal to achieve a type of standardization and harmonization of legal terminology and concepts in English for international use can start by compiling, storing and retrieving open term banks, such as Euroterm<sup>85</sup>. Examples of more recent advances include tools, such as the semantic tool SIAM<sup>86</sup>, the web-oriented on-line dictionary IS-LeGi<sup>87</sup>, developed by the *Istituto di Teoria e Tecniche dell'Informazione Giuridica* (ITTIG), and methods for "name entity recognition" in the semantic processing of legal texts<sup>88</sup>, just to name a few.

Our claim is that this is not an impossible task if conducted in cooperation with interdisciplinary scholars, translators, legal experts, computer scientists, terminologists and paralegals from Brazil and foreign countries. The purpose could be two-fold: for human use, to support legal and linguistic professionals and for use in "expert-systems and knowledge-based systems"<sup>89</sup>, as part of a broader language policy initiative. As legal terminology and meanings can always be changed or expanded due to the emergence of new uses, practices and jurisprudence, so can term banks be always improved by their users.

Further investigation may include investigate some linguistic and discursive features of the definitions provided in the glossary and make an attempt to set the parameters for the standardization of key Brazilian legal terminology/concepts. The dissemination of our legal knowledge surely relies on the latest trends in information technology combined with linguistics and translation theories to provide free access to the public by means of simple, reader-friendly and accurate information processing techniques.

<sup>85</sup> See [www.eurotermbank.com](http://www.eurotermbank.com).

<sup>86</sup> A. CAMMELLI, E. FAMELI, *op. cit.*

<sup>87</sup> A. CAMMELLI, P. MARIANI, *IS-LeGI. A new on-line dictionary for a better access to the historical ITTIG archives documenting Italian legal language*, in Peruginelli G., Ragona M. (eds.), "op. cit.", p. 408.

<sup>88</sup> C. DOZIER, R. KONDADADI, M. LIGHT, A. VACHHER, S. VEERAMACHANENI, R. WUDALI, *op. cit.*, p. 27.

<sup>89</sup> J.C. SAGER, *op. cit.*, p. 228.

## 8. APPENDIX

*Appeal (“Apelação”)*

Resource available for the person whose right was violated with the sentence of first instance, in order to demand its analysis by the superior instance. If the superior instance decides to judge the merit of the appeal, it will pronounce a new decision, confirming or modifying the sentence pronounced in the inferior level of jurisdiction. The appeal, usually is received with devolutive or suspensive effect.

See also: devolutive effect, suspensive effect

*[A] Innominate appeal (“Recurso inominado”)*

An appeal that cannot be classified either by the nature of plaintiff’s claim or by the nature of the applicable procedure.

*[B] Internal Interlocutory Appeal (“Agravo regimental”)*

Appeal directed to the plenary or to a fractional entity contesting the decision of the rapporteur Minister. Appeal interposed immediately in the same process of the contested decision, so that the elaboration of a instrument is unnecessary, since the process is already in the court where the merit appeal should be decided. It is filed against a decision of the rapporteur Minister and its proceedings are based in the internal rules of the respective court, reason of its denomination. It may also be denominated as internal motion.

See also: motion, instrument motion

*[C] Appeal against devious decision (“Embargo de Divergência”)*

Divergence Motions are brought up against a decision in a Panel of the Supreme Court, that in an Extraordinary Appeal or in an Interlocutory Appeal, differ from other Panel or Plenary decision regarding the interpretation of a federal law. It may be also known as “appeal against a divergent decision”.

Appeal suitable in the cases of:

- Special appeal: against decision dissenting of the judgment of another Panel, Section or special organ of the STJ (CPC, Art. 546, I, and Internal Rules of the Supreme Court, art. 260);

- Extraordinary appeal: against decision dissenting from the judgment of the Plenary or another Panel of the Supreme Court (CPC, Art. 546, II, and the Internal Rules of the Supreme Court, art. 333, I to V).

Appeals against devious decision are not suitable when the Plenary's jurisprudence or of both Panels is closer to the decision of the sentence appealed, except in the cases of Article 103 of the Internal Rules of the STF (case law revision).

The appeal against devious decision has only returning effect. The feature exists also in the Labour Court, CLT.

Legal basis: Law No. 8.950/94, CPC, Art. 546.

*[D] Extraordinary Appeal ("Recurso Extraordinário" - RE)*

Appeal to the Supreme Federal Court against decisions of other courts, whether single-instance decisions or last-instance ones, in cases where there's violation of a constitutional norm.

A ruling may be appealed extraordinarily when:

1. contrary to a constitutional provision;
2. it declares the unconstitutionality of a treaty or of a federal law;
3. considers a law or act of local government in conformity with the Constitution.

Parties to the Appeal: Anyone

Processing of the Special Appeal: in order for the appeal to be heard, the constitutional matter involved must have been previously raised. In other words, the appellate decision must have specifically addressed the constitutional provision wished to be upheld. Appellant may not refer to that violation in just a general manner. He/She must indicate precisely the constitutional provision violated by the appellate decision.

Characteristics of the Special Appeal:

1. prior exhaustion of other possible appeals;
2. it is aimed, above all, at keeping the legal order and not at assuring the individual situation of the parties. Naturally, a party may benefit from the Extraordinary Appeal decision, but the mere allegation that the appellate decision didn't favor him/her does not suffice for the Extraordinary Appeal to be heard.
3. material evidence may not be brought before the Court;

4. for an Extraordinary Appeal to be heard by the Supreme Federal Court (STF), it must be granted writ of *certiorari* by the lower Court and then be 'admitted' by STF;
5. its prerequisites are to be found in the Constitution and not in the Civil Procedure Code or in Federal Law 8038/90;
6. even if the parties appeal to the Supreme Federal Court, still the appellate decision may be immediately enforced;
7. both the Special Appeal before the Superior Court of Justice and the Extraordinary Appeal before the Supreme Federal Court of Brazil may be interposed simultaneously before each Court, as they concern different matters. Therefore, the deadlines for submitting both appeals run simultaneously (15 days).

Legal consequences: the decision in the extraordinary appeal is binding only to the parties to the proceedings, and for them the law is thus considered unconstitutional from its inception. The declaration of unconstitutionality does not nullify or repeal the law. Theoretically, it remains in effect until suspended by the Senate as the Constitution provides in article 52, section X.

Legal basis: Constitution, Article 102, Article III, 52, X. Civil Procedure Code - Articles 541 to 546. 8.038/1990 Law, Articles 26 to 29. Internal Rules of the Supreme Court, Articles 321 to 326.

In portuguese: Recurso Extraordinário

### [E] Special Appeal ("*Recurso Especial*")

Appeal to the Superior Court of Justice against decisions of other courts, whether single-instance decisions or last-instance ones, in cases where there's violation of federal law. It is also used to harmonize jurisprudence, that is, to unify divergent interpretations by different courts on the same subject.

A ruling may be appealed especially when:

1. contrary to a treaty or federal law, or denies the effectiveness thereof;
2. considers valid a law or act of local government contested under federal law;
3. a federal law is interpreted in a different manner by another Court.

Parties to the appeal: Anyone

Processing of the Special Appeal: in order for the appeal to be heard, the federal question must have been previously raised. In other words, the appellate decision must have specifically addressed the legal provision from the federal law wished to be upheld. Appellant may not refer to that violation

in just a general manner. He/She must indicate precisely the legal provision contained in the federal law violated by the appellate decision.

Characteristics of the Special Appeal:

1. prior exhaustion of other possible appeals;
2. it is aimed, above all, at keeping the legal order and not at assuring the individual situation of the parties. Naturally, a party may benefit from the Special Appeal decision, but the mere allegation that the appellate decision didn't favor him/her does not suffice for the Special Appeal to be heard;
3. material evidence may not be brought before the Court;
4. for a Special Appeal to be heard by the Superior Court of Justice (STJ), it must be granted writ of certiorari by the lower Court and then be 'admitted' by STJ;
5. its prerequisites are to be found in the Constitution and not in the Civil Procedure Code or in Federal Law 8038/90;
6. even if the parties appeal to the Supreme Court after the decision by the Superior Court of Justice in the Special Appeal, still the appellate decision may be immediately enforced;
7. both the Special Appeal before the Superior Court of Justice and the Extraordinary Appeal before the Federal Supreme Court of Brazil may be interposed simultaneously before each Court, as they concern different matters. Therefore, the deadlines for submitting both appeals run simultaneously (15 days).

Legal basis: Constitution, Article 104, section III, paragraphs a, b and c. Civil Procedure Code, articles 541 to 546. 8.038/1990 Law, Articles 26 to 29. Internal Rules of the Superior Court of Justice, Articles 255 to 257.

[F1] *Ordinary Appeal against Writ of Injunction* ("Recurso Ordinário em Mandado de Injunção")

Appeal against a writ of injunction ruling

[F2] *Ordinary Appeal in Habeas Corpus* ("Recurso Ordinário em Habeas Corpus")

The appeal will only be heard by the Supreme Federal Court when the *habeas corpus* petition to lower instances has already been denied. The Ordinary Appeal in *Habeas Corpus* may not be interposed against decisions by

lower courts where the writ of *habeas corpus* has been issued. In such cases, the party has the right to interpose a Special Appeal to the Superior Court of Justice.

Processing of the ordinary appeal in *habeas corpus* – A rapporteur is designated by the Court. He/She shall request information to the authority supposedly violating petitioner’s freedom of locomotion. The Prosecutor shall bring forward his opinion in the case.

Legal consequences: if the writ of *habeas corpus* is issued, the concerned authority will be immediately informed of that decision by the Court. In case of a pre-emptive *habeas corpus*, the respective safe-conduct will be issued if there’.

Legal basis: the Federal Constitution: Art. 5, LXVIII, Article 102, II, Art. 102, I d. Criminal Procedure Code, articles 647 to 667. Internal Rules of the Supreme Court: Articles 188 to 199 and Articles 310 to 312. articles 647 to 667. Internal Rules of the Supreme Court: Articles 188 to 199 and Articles 310 to 312.

[F3] *Ordinary appeal in Habeas Data (“Recurso Ordinário em Habeas Data”)*

Appeal against a habeas data ruling.

[F4] *Ordinary Criminal Appeal (RCR - “Recurso ordinário criminal”)*

Appeal to the Supreme Federal Court against single-instance or last-instance decisions from the Superior Military Tribunal. The deadline for submission of the Appeal is three days.

Procedure:

A minister-rapporteur is designated by distribution. The minister allows the parties to examine the records of the proceedings for five days each. Then, the Prosecutor may also examine the records of the proceedings for his opinion on the matter. The rapporteur asks the Court to assign a date for judgement, either in one of its Panels or Plenary Session (according to each case).