Teleworking in the federal public administration: a documental analysis of its regulation in the Executive Branch

Teletrabalho na administração pública federal: uma análise documental de sua regulamentação no Poder Executivo

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ABSTRACT
Telework in institutions is based on the paradigm of instrumental rationality. However, the increase in productivity and well-being of the individual can raise categories related to substantive and communicative rationalities. This article will analyze how telework was developed in the Federal Executive Branch from September 2018 to January 2023, when the last Normative Instruction was issued. The methodology is qualitative, a document analysis using Atlas ti. Content analysis technique, according to Bardin. As a result, it can be inferred that the subjects of the institutions take precedence over any category that refers to the individual, signaling the predominance of instrumental rationality.

Keywords: telework, COVID-19, public administration, instrumental rationality.

RESUMO
A adoção do teletrabalho nas instituições baseia-se no paradigma da racionalidade instrumental. Entretanto, o aumento de produtividade e bem-estar do indivíduo podem suscitar categorias relacionadas às racionalidades substantiva e comunicativa. Nesse artigo, será analisada como se desenvolveu a regulamentação do teletrabalho no Poder Executivo Federal de setembro de 2018 a janeiro de 2023, quando foi expedida a última Instrução Normativa sobre o tema. A metodologia é de cunho qualitativa, na modalidade análise documental, com uso do Atlas ti. A técnica de análise de conteúdo segundo Bardin. Como resultados, pode-se inferir que os assuntos da repartição sobrelevaram qualquer categoria que se refira ao indivíduo, sinalizando indícios de predominância da racionalidade instrumental. Conclui-se pela necessidade de incorporar conceitos relacionados ao indivíduo na normatização.

1 INTRODUCTION

The work carried out at a distance from the factory takes the administration student back to the first half of the 19th century. In 1850, the craftsman left the residence to become a factory worker. The Second Industrial Revolution exacerbated the social division of labor to the point where the worker's presence at the corporation was indispensable due to the specialization of tasks.

Likewise, public services require the presence of an agent in the department, mainly to serve society in person. With the pandemic, however, telecommuting has become the only work modality possible in the public sector, except for a few sectors, such as health, which maintained face-to-face assistance. So the workman, like the ancient craftsman, returned to his abode.

This article will analyze how the regulation of teleworking was developed in the Federal Executive Branch from September 2018 to January 2023, when the last Normative Instruction on the subject was issued.

To fulfill the task, after this Introduction, a brief review of the literature is presented, both in the public sector and in the private sector, moving on to discuss telework from the point of view of Max Weber's theory of social action and the theory of Habermas's communicative action, possible new ways of approaching the subject. The methodological procedure outlined to perform the research is then described, with a qualitative analysis of the primary data collected. Soon after, a content analysis of the infralegal norms issued by the Federal Government, using the Atlas ti software, version 22, presenting the results and discussions, and, finally, the article ends with the author's final considerations on the research.

The documentary analysis undertaken in this article seeks to find the paradigm that prevails in the regulation of telework.

2 TELEWORKING IN THE FEDERAL PUBLIC SECTOR

2.1 CONTEXTUALIZATION

Homework is heavily reported in the classical sociology of work. The craftsman can be the maximum expression of the individual capacity to produce a complete manufactured product (CABRAL; ALPERSTEDT, 2021).

In addition, the craftsman owned the means of production. For Max Weber (2020), this possibility of working at home was an advantage for the entrepreneur: “Until the middle of the last century, at least in some branches of the continental textile industry,
the life of the entrepreneur who employed workers at home was quite comfortable about our current concepts” (WEBER, 2020, p. 61).

Reversing this reality, the Second Industrial Revolution promoted a potent dominance of the division of tasks, aiming to increase production, which strongly required the presence of employees in the factory.

With Taylorism and Fayolism, scientific management techniques paved the way for considerable productivity gains. The improvement of them, the measurement of time and movements by Taylor, and the analysis of administrative functions by Fayol, included mechanisms for permanent monitoring of the teams, emphasizing the importance of supervision and control, which also reinforces the permanent contact of the teams in the same workplace (FERREIRA, 2000).

The development of information and communication technologies (ICT) from the 1990s onwards made it possible for workers to go back home (CABRAL; ALPERSTEDT, 2021).

Telematics tools, the cheapness of the internet, and computers provoked something not expected by the sociology of work: a possible shock in the traditional division of it, including the problem of team control.

In March 2020, with the enactment of the lockdown due to the COVID-19 pandemic, both private sector workers and public servants began to perform their duties at home (BATTISTI et al., 2022). This reality has become known as the “new normal” (BRAESEMANN et al., 2022).

Public administration went through the same problem. Normative Instructions were quickly issued determining telework for the vast majority of servers to mitigate the effects of the health crisis (MENDES et al., 2020).

The incipient remote work culture in the public sector, overnight, had to prove capable of being extended to all departments. Before analyzing how this phenomenon was regulated, it is essential to discuss the problems of the concept of this type of work.

2.2 DIFFICULTIES IN CONCEPTUALIZING TELEWORK

Teleworking is an evolving concept and a complex modality of work in which traditional situations of space and time are made more flexible to the point of being difficult to define precisely. Rosenfield and Alves (2011) address this issue in their studies:
However, telecommuting is a difficult category to define. Too many variables and their combinations widen the range of possible definitions. The lack of a precise conceptualization of what telework is and how many teleworkers there are making the concept more of an ideological construction of reality or, at most, an attempt to describe the different types or modalities of existing telework. (ROSENFIELD; ALVES, p. 215).

In the COVID-19 pandemic, its potential has multiplied, given that telecommuting is a flexible way of designing production processes for the worker. Therefore, it remains difficult to establish its concept, especially after March 2020.

Telework, telecommuting, flexible work, and home office, among others, are the most common terms to describe work outside the company or public service.

The expression telecommuting was coined by Nilles (1975), who, in pioneering research, predicted the usefulness of working away from the organization, facilitating the decentralization of tasks, and allowing flexibility, essential even for environmental reasons.

The dominant concept of telework, that is, that performed outside the organization's premises, where it was traditionally exercised in person, may change as the phenomenon evolves.

With the conflicting concept in evidence, the study moves on to theoretical approaches to this disruptive work modality.

2.3 APPROACHES TO TELEWORK IN THE LITERATURE

Approaches to telework predominantly fit a paradigm of instrumental rationality within the concept of strategic action focused on results.

Some studies criticize the telecommuting circumstances in the continuity of capital's dominion over the worker, fragmenting and weakening labor relations. Approaches based on criticism of the social division of labor range from Marxist approaches to pessimistic theories, which point to mechanisms of worker domination as the weakest link in the labor equation. However, they do not constitute the majority of works on the subject.

Works that discuss the advantages and disadvantages of telework from the point of view of the institution and the individual are predominant in the literature.

These approaches bring relevant results collected in empirical research, concerning competitiveness and productivity, with problems regarding control and
communication (ROSENFIELD; ALVES, 2011; ROCHA; AMADOR, 2018; OLIVEIRA; PANTOJA, 2018; FILARDI et al., 2020; VILARINHO et al., 2021).

Regarding the individual's perspective, the quality of life due to the flexibility of the journey and economy with displacement, as well as aspects of isolation and stress, are being researched in depth (LEITE; LEMOS, 2020; CABRAL; ALPERSTEDT, 2021; PEREIRA et al., 2021).

During the pandemic, the interaction between individuals to carry out tasks to produce and strategic action aimed at achieving ends began to be carried out at a distance using ICT tools and devices. As a result, work relationships, which previously predominantly took place within teams from a perspective of face-to-face social interaction, began to take place remotely or virtually.

Communication in work operations needs observation. The importance of language was not addressed as the center of Weber's theory of action. However, a critical theory that comments on Weber's theory of social action have centrally addressed the issue of language.

The discussion about the limitations of instrumental rationality and even of substantive rationality (action focused on values) would lead to inferences that these rationalities would not be able to satisfactorily promote the dialogue between theory and practice, which could mediate work relations towards the emancipation of the social actors involved in the production of goods or services (TENÓRIO, 1990, p. 7).

Thus, Habermas starts from the assumption that the practice of rationality presupposes “a person who behaves with a positive disposition in the face of understanding and, in the face of communication problems, reacts in a way that reflects on the rules of language” (HABERMAS, 2019, p.55).

In this intersubjective interaction, discourses in communicative rationality need to be in a context of validity. Regarding the assumptions of the existence of communicative rationality, Habermas' theory lists some postulates:

– the claim that the statement made is true (or that the existential assumptions of a propositional content mentioned are fulfilled);
– the pretense that the speech action is correct concerning a current normative context (or that the normative context it must comply with is legitimate); It is
– the claim that the speakers' expressed intention corresponds to what they think. (HABERMAS, 2019, p. 192)

Once these requirements are met, communicative rationality discusses the importance of language for its theory of social action:
One can take the pure types of interaction mediated by language to approximate them step by step to the complexity of natural situations without losing the theoretical points of view for action coordination. The task is to make reversible, in a controlled manner, the idealizations to which the concept of communicative action owes itself:
- in addition to the fundamental modi, the multiplicity of illocutionary forces molded in a concrete way that forms the network of interpersonal relationships linked to a specific culture and standardized within the scope of a particular language will also be admitted;
- in addition to the standardized form of speech actions, other forms of linguistic realization of speech acts will also be admitted;
- in addition to explicit speech actions, implicit utterances, elliptically abbreviated and non-verbally complemented, will also be admitted, in which the listener's understanding depends on the knowledge of casual, non-standard conditions of the context;
- In addition to direct speech actions, indirect, translated, and ambiguous enunciations will also be admitted, the meaning of which must be discovered from the context (HABERMAS, 2019, p. 567-568).

Although Weber did not know telework, his theoretical foundations can help to advance studies in this area.

Telecommuting comprises social interaction. Even when electronic process systems admit a social division of labor in the delivery of sequential parts of a given work, the fact of working remotely in the physical space of the residence, the scenario of how the work is carried out changes. In this phenomenon, the distance between workers brings up the issue of communication, which is fundamental, even in the supervision of teams. Communication takes place daily through language. How is this dealt with in the regulations?

In the public sector, few works research the question of communication in a virtual environment. Some studies, however, already indicate the main occurrences in telework performance. As a rule, research shows that the implementation of telework provides flexibility for public organizations and a significant increase in productivity (OLIVEIRA; PANTOJA, 2018; FILARDI et al., 2020; VILARINHO et al., 2021; LEITE et al., 2019).

At the same time, it reduces operating costs with real estate, building maintenance, and other administrative expenses necessary to maintain the office. Therefore, efficiency would justify the adoption of telework in public administration. However, team communication and supervision may deserve special attention from the regulation (SANTOS; REIS, 2021; SOUZA et al., 2021; PEREIRA et al., 2021).

However, to maintain this efficiency, the management approach cannot lose sight of the individual's situation.

Telecommuting is reported in the literature as a means of well-being for workers, which, with greater autonomy and flexibility of schedules, can provide their fulfillment
as family members and citizens (LEITE et al., 2019). Quantitative empirical research found a correlation between the quality of life in telework and personal realization and positive affection for the profession (PASCHOAL et al., 2022).

These characteristics: autonomy, quality of life, and individual flexibility are abundantly reported in research on telework (ADERALDO et al., 2017; BARROS; SILVA, 2010; FILARDI et al., 2020; VILARINHO et al., 2021; LEITE; LEMOS, 2021).

It turns out that telework, with all these autonomic characteristics, has challenges to face. One of them is that before the pandemic, telecommuting workers were highly disciplined with the health crisis and the lockdown, and everyone began to work from home.

2.4 THE REGULATION OF TELEWORK IN THE FEDERAL EXECUTIVE BRANCH

From the issue of Presidential Decree No. 1,590 (BRASIL, 1995), the federal public administration began to provide for the possibility of taking control of working hours more flexibly, in addition to signing the point at the distribution.

In the present research, whose initial time frame is in 2018, the Federal Executive Branch issues Normative Instruction No. 1 (BRASIL, 2018) as an essential milestone in telework in the federal public sector (LUCAS; SANTOS, 2021). This hour more flexible was dealt with by the federal government under the mantle of the management and performance program (PGD), which includes total telecommuting, partial telecommuting, and work at the office without the need for a time signature, but through the formalization of a work plan, in which the server undertakes to meet performance goals.

In March 2020, the COVID-19 pandemic closed the doors of almost all federal offices. The Executive Branch edited Normative Instruction No. 19 (BRASIL, 2020a), which allows public servants who work at home to be exempted from time off, but the Normative Instruction nº 19 did not come to regulate telework, but only to dispense with the point. During the pandemic, to replace Normative Instruction No. 1 (BRASIL, 2018), Normative Instruction No. 65 (BRASIL, 2020b) regulates telework for federal agencies of a management and performance plan.

In the meantime, Decree No. 11,072 (BRASIL, 2022a) regulates telework in the Federal Executive, even admitting telework abroad, provided the requirements established therein are met and duly authorized by the competent body.
At the end of 2022, when the vaccination of the Brazilian population has already advanced, and the outbreak of the Covid-19 pandemic has cooled down, at the end of the Bolsonaro government, Normative Instruction No. 89 (BRASIL, 2022b) is edited, which created obstacles to the adoption of telework. This Normative Instruction No. 89 (BRASIL, 2022b) was revoked by Normative Instruction No. 2 of January 2023, which allowed the permanence of telework in a management program along the lines previously granted by Normative Instruction No. 65 (BRASIL, 2020b). Normative Instruction No. 2 (BRASIL, 2023) mentions that a new regulation will be issued by April 2023.

It concludes the theoretical framework of this article and describes the method used to analyze the regulation of telework in the sphere of the Union, more specifically in the Executive Branch.

3 METHODOLOGY
3.1 THE GENERAL APPROACH TO THE METHOD

This research opted for the qualitative modality of document analysis. The author’s understanding of the choice of a qualitative methodology is justified by the tool's flexibility, which tends to adapt to the phenomenon interpreted in its social context.

3.2 DATA COLLECTION

Initially, we searched for the norms that regulate telework in the federal public service. Once the three main Normative Instructions were found in the period studied (2018 to 2023), in their epigraph, the respective Presidential Decrees that supported them were sought.

Files downloaded from websites, primarily from planalto.gov.br, were converted from PDF to Word and inserted into Atlas ti in a specific project for content analysis.

3.3 DATA ANALYSIS

We opted for the content analysis technique, according to Bardin (2022). After organizing the research corpus, 6 (six) documents, 2 (two) Decrees, and 4 (four) Normative Instructions, the initial codification was carried out. Thematic coding generated 16 different and mutually exclusive codes.

The themes with the highest occurrences in the content analysis were the servant’s duties (4). In the second, requirements to be admitted (3). These 16 themes are categorized
into both organizational and individual aspects. So, the results will be presented in these two main categorizations.

3.4 RESEARCH LIMITATIONS

Limitations of the present research are an analysis of teleworking norms from other bodies, such as the Federal Court of Auditors and the General Advocacy of the Union, as well as from Courts that already have teleworking regulated.

Another limitation is that no works were found in the literature that addressed the issue from the point of view of Max Weber's theory of social action and Habermas's communicative action.

4 RESULTS AND DISCUSSIONS

From the analysis of the primary data exposed in Atlas ti, infralegal devices that seek economy, greater productivity, and flexibility for public administration emerge. However, issues related to the micro aspect of the individual are very sparse..

Atlas ti generated the word cloud below, with the following main occurrences: unity (217); management (211); participant (199); program (176); work (147); execution (113); duty (115); public (133); organ (124); term (53) and institution (29 times).

Only nouns, adjectives, verbs, and adverbs were used in the word cloud generation.

Figure 1 : Cloud of words from the Normative Instructions and Decrees analyzed.

Source: Own elaborated\(^1\) (2023).

From the cloud, it can be inferred that department affairs take precedence over any category that refers to the individual.

Data analysis will be guided, however, by qualitative principles.

Concerning management, Decree No. 11,072 (BRASIL, 2022a) conditions the granting of telework in the absence of damage to management. Normative Instruction No. 89 (BRASIL, 2022b) expressly mentions one of the purposes of adopting teleworking is to reduce expenses. The same norm says that telework aims to contribute to the dimensioning of the workforce and talent retention. Normative Instruction No. 89 (BRASIL, 2022b) also mentions environmental sustainability based on teleworking.

As an objective of the management program, Normative Instruction No. 89 (BRASIL, 2022b) expressly establishes: "art. 3rd The objective of the PGD is to promote results-oriented management, based on evidence, on improving the performance of Federal Public Administration bodies and entities" (BRASIL, 2022b).

Regarding the duties of civil servants, both Normative Instruction No. 89 (BRASIL, 2022b) and Normative Instruction No. 65 (BRASIL, 2020b) abound in devices that assign obligations to public agents, such as responsibility for the structure of ICT, and security information; permanent connection obligation during working hours; to open the camera during meetings; accountability through reporting; to attend meetings when called, among other determinations.

Another frequent occurrence in the documents is the right of the Administration to revoke telework at any time, leaving the public servant the right to return to work in person within a maximum of 30 days.

Some requirements are required to be granted telework, such as not being on a probationary stage and not holding positions in commissions at levels 15 to 18, the highest positions in the hierarchy of the federal bureaucracy. This requirement is an advance of Normative Instruction No. 1 (BRASIL, 2018), which was more restrictive concerning occupants of commissioned positions.

Telework cannot be granted to public servants if this implies a reduction in the service's total operating capacity.

Regarding individuals, an important mention was found in Normative Instruction No. 1 (BRASIL, 2018). This Normative Instruction stipulated that telework could not “obstruct social and work life, cooperation, integration and participation of the server, nor hinder the right to free time” (BRASIL, 2018). It was not detected in the literature why this topic was not further explored in the current regulation.
Concerning the results, Normative Instruction No. 89 (BRASIL, 2022b), there is an excerpt that mentions telework as a means of “promoting the improvement of the quality of life of the participants” (BRASIL, 2022b), without significant details regarding such an essential category.

Likewise, in the many normative instructions, an attempt was made to elect the public servant with a preference for deferring telework when he had a relative with reduced mobility, an elderly person, or a child of up to six years old, with Normative Instruction No. 89 (BRASIL, 2022b) adding this preference when the server itself had physical mobility problems.

The results indicate the instrumental rationality of strategic action aimed at ends as the keynote of telework in federal public administration. So, traces of substantive or Habermasian communicative rationality are found, confirming what Tenório (1990) teaches when addressing traditional organizational theories.

From the organizational point of view, topics such as efficiency, increased productivity, cost reduction, and labor flexibility are abundant in the findings, corroborating the literature on the subject (ADERALDO et al., 2017; BARROS; SILVA, 2010; FILARDI et al., 2020; VILARINHO et al., 2021; LEITE; LEMOS, 2021).

To improve these objectives, within the perspective of functional rationality, the Administration can use the literature since Nilles (1975) points out the importance of providing ICT resources and structures to employees, considering that the gains, in this case, outweigh the expenses.

Contrary to what is found in the literature, management programs assign this responsibility to the server. Likewise, it gives responsibility for information security to the server, a point that deserves further study.

Regarding increased production and efficiency, the literature points to the importance of social support to mitigate procrastination, improve the issue of social isolation, and improve the quality of services (WANG et al., 2021). However, nothing regarding the encouragement of group meetings for this social support was recorded in the research.

The research findings regarding organizational flexibility provided by the implementation of telework confirm what the majority doctrine attests (ROCHA; AMADOR, 2018; OLIVEIRA; PANTOJA, 2018; FILARDI et al., 2020; VILARINHO et al., 2021; LEITE et al., 2019).
From the individual's point of view, despite mentioning the improvement in quality of life, there is no detailed treatment of programs that can maintain social interaction and occupational health issues. Regarding this aspect, the regulation protects those who become ill working at home, mainly due to ergonomic issues.

Regarding communication and knowledge management, there are no details on how to proceed. In virtual meetings, except for the requirement to open the camera during the session, studies need to be carried out to parameterize various technical aspects, which can facilitate communication in virtual interactions.

Although Normative Instruction No. 89 (BRASIL, 2022b) created obstacles to telework, it appears to be the rule that brought more up-to-date elements and categories on telework, which is most likely the result of the experience of the federal administration in telework mandatory in the COVID-19 pandemic.

No traces were identified in the normative regulation on telework of principles of communicative rationality, which emphasizes the importance of language and strategic management of knowledge.

So, there is still a long way to go to reach this state of the art in the regulation of telework. Individual discussion with the detailing of their individualities and constant group support through more frequent virtual meetings must be necessary.

**5 CONCLUSIONS**

In this article, an analysis of the telework regulation in the federal public administration was carried out from 2018 to 2023, limited to the Executive Branch.

A documental analysis of the decrees and normative instructions of the federal government issued from 2018 to 2023 was performed using Bardin's content analysis technique, followed by the presentation of results and discussions.

Document analysis was limited to rules issued by the Federal Executive Branch, not entering into the analysis of regulations in other bodies of the Union, states, or municipalities.

It can be concluded from the research that the analyzed regulation is positioned in the paradigm of instrumental rationality in the period from 2018 to 2019 without exploring in depth the qualities that substantive and communicative rationalities could add to greater efficiency for administration and well-being to the server.
As a consequence for future research, it can be investigated how the federal legislation regulates telecommuting for CLT workers, how the gradual return to work is proceeding, and how States and municipalities regulate the matter.

Finally, it is concluded that it is necessary to deal with issues concerning the individual in the norms on telework, given that in almost all situations in which the individual receives social support, productivity could increase, fulfilling the constitutional principle of efficiency, with the use of more participatory rationales, such as the postulates of Jürgen Habermas' theory of communicative action.
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