
LOCAL NORMS AND THE APPLICATION OF THE RIGHT TO SPORT BY MUNICIPALITIES FROM PIAUÍ

AS NORMAS LOCAIS E A APLICAÇÃO DO DIREITO AO ESPORTE PELOS MUNICÍPIOS DO PIAUÍ

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RESUMO

Nos últimos anos, têm sido publicados importantes trabalhos no Brasil sobre a participação dos municípios no gasto na Função Desporto e Lazer, mas pouco se conhece sobre as variáveis que afetam seu resultado. Nesse sentido, o presente estudo teve como objetivo verificar a existência de norma no âmbito da lei orgânica, capaz de explicar o comportamento de gasto na FDL dos municípios do Piauí. A amostra foi composta por 44,64% (100) dos municípios do Piauí (224). A maior parte da amostra não reconhece o tema como importante dentre as competências privativas (94%) e de eficácia plena (96%). Diferentemente do comportamento dessas duas classes legislativas, dos municípios que não apresentaram normas para o trato da matéria, 1/3 realizaram gastos nos 15 anos. A lei orgânica não foi um bom preditor do comportamento de gasto na FDL por parte dos municípios do Piauí.

Palavras-chave: Federalismo. Políticas Públicas. Esporte.

ABSTRACT

In recent years, important studies on the participation of municipalities in the expenses with the Sport and Leisure Function (SLF) have been published in Brazil, but little is known regarding variables affecting its results. For that matter, the present study aimed to verify the existence of a norm, in the scope of the organic law, capable of explaining the behavior of expenses with the SLF by municipalities from Piauí. The sample was composed of 44,64% (100) of municipalities in Piauí (224). The majority of the sample does not acknowledge the subject as an important one among other private competences (94%) and with full effectiveness (96%). Unlike the behavior of these two legislative classes, out of all municipalities that have not presented norms for the dealing with the subject, 1/3 has expended for 15 years. The organic law was not a good predictor of the behavior of expenses with the SLF by municipalities from Piauí.

Keywords: Federalism. Public Policies. Sport.

Introduction

Neoinstitutionalist theories applied to analyses of public policies generally look for understanding the role of institutions in the policy result. They assess if the interests of a central agent are not enough to shape its result. Institutions may be of two types: formal ones, that establish norms and procedures to regulate agents' behavior; and informal ones, that represent restraints caused by social regulations¹⁻³.

These institutions end up working as agents and affect the distribution of resources around society. They minimize uncertainties and help to understand the limits to maximization of agents' preferences and the strategic calculation to the decision-making regarding policies, including sport and leisure ones. In international literature, concern about this analysis has been growing⁴⁻⁷.

In the field of sport public policies in Brazil, the analysis of institutions has been little explored, despite unconditional trust to what is proposed by the Federal constitution of 1988 (FC/88) in its Article 217: fostering sport is a State's obligation⁸. The Brazilian state, with the functioning structure of governmental institutions, with the executive and legislative power,

holds the federalist model as a powerful institution to grasp the behavior of agents and the net result of public policies⁹.

The Brazilian federalist engineering (the way competences and cooperation in the federation are distributed) is complex due to the existence of 3 governmental levels (federate entities) with political autonomy for agenda implementation. The existence of many municipalities with low financial autonomy (therefore, dependent on intergovernmental transfers to guarantee its functioning), especially small ones, has a negative impact on the acquired political autonomy, as shown by the literature¹⁰⁻¹². Another important factor is the ambiguity of this constitutional norm.

The ambiguity derives from the lack of clarity about the right predicted in Art. 217 of FC/88 and its application. Ambiguity is not a good predictor of behavior. The issue of ambiguity has not been explored in the literature in the field of sport and leisure public policies in Brazil. One of the main theorists in the field, Zahariadis¹³ affirms that ambiguity happens in conflictive environments (conflicting disputes about a certain theme) and its existence tends to diminish stress points. Which means, it guarantees the right, that was a relevant claim during the constituent of 1988, but it was not indicated an executive power for the implementation, since there were conflicting positions, probably, concerning the agent of service offer.

Ambiguity allows different interpretations and it leaves open the process of policy construction^{13,14}. The absence of clear rules generates contradictory expectations^{9,15}. Art. 217 has guaranteed the right, but articles that deal with executive competences (private or common) have not addressed the executive power of either one of the 3 federate entities the obligation of such action. The right may point to a generic commitment of the State and competences may interdict this manifestation by the executive power, as it is the case of the right to sport (Art. 217 of FC/88)¹⁶.

The solution found to equate this problem was addressing to legislative the guarantee to right (Art. 24 of FC/88)¹⁶. However, the indication of competence to the legislative has not resulted in the solution of the problem. The sports issue appears as a result of legislative competitive activity. Therefore, everybody may anticipate the action and produce norms to the effectiveness of right or adjust their position towards inaction in the anticipation of another federate entity acting. In this case, a decisive paralysis is created, since legislative powers are not constrained to the production of the norm.

Some studies have been produced in Brazil focusing specifically on the capacity of municipal funding for the Sport and Leisure Function (SLF)¹⁷⁻¹⁹, demonstrating that municipalities have been quite responsive to this agenda, that is, there is no paralysis in the implementation of sport and leisure public policies on a local level. SLF is a function of expenses from the Brazilian public segment created to dimension the behavior of governments regarding sport and leisure policies. Since 2017, it is composed of 5 subfunctions: Community Sport, Performance Sport, Leisure, Other leisure and sport functions and General Administration. For the analyzed period, only the last subfunction was not considered. Its regulation was established by Decree #42 from the Ministry of Management and Budget²⁰.

In the state of Piauí, two studies portray such reality: Santos, Starepravo and Canan²¹ have brought to the debate surface the evolution of expenses throughout time and Santos and Starepravo²² have aimed to understand the effect that the existence or non-existence of government first-rank structure has on municipal adhesion to SLF. The study ended up revealing that government structure has no impact on the funding capacity, giving space to the identification of other independent variables, as the existence of local norms imposing (or not) a certain behavior to the executive power. In this respect, this study fits the neoinstitutionalist perspective and seeks to comprehend the weight of legislative power in the definition of allocative behavior.

There is little discussion in the field of sport public policies regarding the role of legislative, especially the municipal one, in the assurance of the sport and leisure agenda. In a national scope, two studies stand out. Both of them concern the federal legislative process. One of them analyzing sport²³ and the other one, leisure¹². This criticism had also been explored by Amaral and Pereira²⁴ when highlighting that few studies were concerned with norms and legislation. The Federal Constitution of 1988 (FC/88) places the legislative power as the main state agent concerning sport policies. By placing it as a theme of legislative competences (Item 9 in Art. 24 of FC/88), and not private, in the municipal executive sphere (Art. 30 of FC/88), federalist engineering overstated the role of municipal legislative power in guaranteeing this right. And it created, as a consequence, an incentive to the non-implementation of sport and leisure policies on the part of the executive power, that should move, theoretically, as the legislative power says.

Just as the constitution is the reference that regulates the functioning of the Brazilian state, the organic law is the main legal tool that regulates municipal behavior (municipal constitution). The Federal Constitution of 1988 has not ascribed limitations to municipal legislative power regarding the establishment of private competences on this issue nor the definition of expenditure percentages in policies, for example.

To guarantee an effective application of the norm, the text cannot be only indicative, it needs to present precisely the kind of commitment the municipal government will have with this agenda in terms of full effectiveness. Effectiveness of norm can be of three kinds: full, restraint or limited^{25,26}. Differently from restraint or limited effectiveness, full effectiveness highlights precisely the kind of behavior the local government should have towards a certain agenda that demands a specific action, as indicating expenses percentage, or only abstention on the part of the government, as guaranteeing autonomy for sport entities (Item 1 from Art. 217 in the FC/88, that emphasizes questions the government should not involve with). Full effectiveness presents applicability and immediate effectiveness, without the need of a specific norm to guarantee the effect.

Competence, from a federalist engineering point of view, in the case of municipalities, may be expressed in two ways: (a) competence to the implementation of sport and leisure public policies guaranteed in the section dealing with municipal competences; or, (b) indication of determination expressed in the section dealing with sport policies, investment percentage, or the need of creating specific programs to guarantee the right.

For that matter, the present study aimed to analyze the relationship between the municipal organic law and the expenditure in sport and leisure public policies in the state of Piauí. For this purpose, the study starts with three hypotheses.

H1. Considering the ambiguity of federalist engineering, municipal legislative power receive no incentive to indicate, among their private competences, the implementation of sport and leisure policies in the Municipal Organic Law;

H2. Municipal legislative power receive no incentives to establish full effectiveness norms regarding the percentage of expenditure in sport and leisure public policies in the Municipal Organic Law.

H3. Considering H1 and H2, municipalities present different kinds of behavior that vary in time, in terms of fix percentages from the Current Revenue in expenses with the Sport and Leisure Function (SLF).

Methodology

This descriptive and exploratory study aimed to analyze the role of organic laws in the implementation of sport and leisure public policies in the state of Piauí. Two independent variables in the sphere of organic laws have been monitored: competences from the municipal

executive power and the section that deals with sport and leisure policies. As a dependent variable, there is expenditure with the Sport and Leisure Function.

Information about the investment capacity in sport and leisure public policies is part of a database created by the Development Center of Sport and Leisure Public Policies in the state of Piauí to measure expenses with the SLF, as presented in the studies of Santos and Starepravo¹⁴ and Santos, Starepravo and Canan¹³.

To identify organic laws, three strategies have been used here. First, we used the internal search system of the major halls' website, searching for the expression 'organic law'. Secondly, in case it could not be found on the executive power websites, the same procedure would be employed in the legislative power website, the City Council. At last, the search was done right in the State Audit Office website (the department responsible for the control of municipalities). The sample comprised 44,64% (100) of municipalities from Piauí (224). This information was collected between October and November 2018.

Such information allowed us to establish classes of legislative competence (CCL), distributed as it follows: CCL 1, private competences (existence of commitments with the sports agenda due to the title of private competences); CCL 2, competence of the department dealing with sport (existence of a full effectiveness norm that handles sport and demands the implementation of sport and leisure policies); CCL 3, organic laws that do not present private competences for sport nor full effectiveness norm in the sport department. The reading of the organic laws was done with a focus on only two items: private competences and sports department. An Excel worksheet has been produced containing the name of municipalities, their situation [found (44,2%; n = 99), not found (46,9%: n = 105) and not available on City Council website (8,93: n = 20)], and the classes of legislative competences.

After that, these data were transferred to another worksheet, in which there were data regarding municipal expenses in Piauí with the SLF, used by the Development Center of Sport And Leisure Public Policies in the state of Piauí. It was added to the database already used by Santos, Starepravo and Canan¹³ and Santos and Starepravo¹⁴ expenditure with the SLF from 2002, first year of publication of the series by the government, to 2016²⁷.

The researchers decided to organize the adhesion data (expenditure/date) to the SLF agenda, **intuitively**, in five levels: (A) 15 adhesions; (B) between 12 and 14 adhesions; (C) between 8 and 11 adhesions; (D) between 1 and 7 adhesions; (E) 0 adhesion (inaction). The distribution of municipalities from the state ended up as it is shown in table 1.

Table 1. Distribution of the level of participation in the expenditure in the FDL from 2002 to 2016

Level	Nº accession	% accession
A	67	29,91
B	108	48,21
C	28	12,5
D	20	8,93
E	1	0,45

Source: Authors

Despite the fact that the study does not have a quantitative nature, that is, the use of sophisticated methods to identify parameters to determine SLF in relation to current revenue, some procedures were used. One of the problems for statistical inference are the disorders of existent values in the information sets. These disorders may be considered higher ou lower values than three standard deviations (SD). The standard variation measures the total of distances of values in relation to the average square. This statistical procedure captures deviations in relation to the average.

With the aid of scatterplots, only with the intention of enhancing the analysis, it was possible to identify, visually, that some values were moving away from the average line (outliers). In order to avoid distortion, we eliminate these, as described in table 2.

Once values observed in the SLF were weighed by the current revenue, it would be a manner of instrumentalization so the distortion could be softened. Considering the existence of a singular distribution, that is, with a tendency to a value between 0 and 5% of the current revenue, and any superior value indicates an informational disorder. In face of the severe budget restriction for Brazilian municipalities, it is possible to determine that the weight in the SLF budget is inside the determined limit, for the constitutional lines as well as the scale of allocative prioritization, first-order agendas in the public management.

According to Bramati and Croux²⁸, the outliers may produce highly biased estimators. These authors' techniques reinforce the understanding that it would be wise to eliminate observations that are potential outliers. This procedure is efficient for the application of data distributed on a panel, which is, different individuals with information for different time units. In an application of a regression method, outliers would produce contamination of the error term, according to the authors. Because of this, it is possible to verify that to a lesser extent, but still with a significant effect, the outliers were removed from the sample. In the present study, we used descriptive statistics, namely frequency, percentage, average, standard deviation and minimum and maximum values.

Table 2. Outliers per year and classes of legislative competences

Year	Class 1	Class 2	Class 3
N	6	4	14
2002	2	1	23
2003	1	1	19
2004	2	2	24
2005	2	0	21
2006	2	0	10
2007	1	0	10
2008	1	0	13
2009	1	0	7
2010	1	0	10
2011	1	0	13
2012	1	2	19
2013	2	1	9
2014	1	1	8
2015	3	0	7
2016	2	2	13

Source: Research Data. Class 1: private competences; Class 2: full effectiveness norm; Class 3: municipalities without competences or norms of full efficacy.

Results analysis

In the first level of analysis, we aimed to identify those municipalities that indicate in their organic laws sport and leisure as a private competence. Which means, they acknowledge autonomously, in the sphere of their organic laws, that they apply what is stated in Art. 217 of the FC/88. They confirm, in a certain manner, the device elected by the constituents to its application, the participation of legislative power in the regulation of the behavior of the municipal executive power concerning sports.

Only 6 municipalities (6,1% of the sample) established in their organic laws the private commitment to sport and leisure policies. They are: Acauã, Santa Luz, Pajeú do Piauí, Alegrete

do Piauí, Belém do Piauí and São Pedro do Piauí. To the vast majority of municipal legislative powers, these agendas should not be an exclusive responsibility of municipalities.

The texts varied as follows: promoting culture, recreation and sport; "promoting culture, sports and recreation and regulating matches, concerts and public entertainment"; "creating community sports and leisure centers in urban and rural areas"; "implementing programs to support the practice of sport". All the texts express the need for pro-activity on the part of the municipal executive power.

The non-indication of competence among the private competences of municipalities does not mean that the norm could not establish in another section a more effective commitment to the offering of the right. In the section that deals with sports, we find four municipalities (4%) that indicated the norm of full effectiveness, which implies the mandatory provision of public policies on sports and leisure. They are: Campo Maior, Santo Antônio de Lisboa, Capitão de Campos and Currálinhos.

None of the municipalities that indicated full effectiveness established the theme of sport and leisure as part of the private competencies of the municipalities, showing, unfortunately, that there is no connection between these two themes. This data reveals the contradiction of the elements that regulate federalist engineering. Federalist engineering should be understood here as the relationship that federated entities establish among themselves to ensure autonomy and cooperation in the terms set forth by FC/88.

The municipality of Santo Antônio de Lisboa indicated, in the second paragraph of Article 200, that: "It is the City Hall's obligation to conserve all the municipality's sports locations"²⁹. The text presents very clearly the type of behavior the municipal executive power must have, the obligation to preserve the areas intended for sports activity.

The other municipalities went in the direction of establishing spending limits in the sports and leisure agendas. The municipality of Campo Maior established in its organic law the commitment of the executive power to provide 1% of revenue for amateur sport (Paragraph 3 of Art. 111)³⁰. The municipality of Capitão de Campos established that "The municipality will never apply annually less than 2% of the revenue resulting from taxes and transfers as a way to encourage the practice of sports and leisure". (Paragraph 4 of Art. 159)³¹. Currálinhos indicated in Art. 259 that "The municipality will spend at least 3% of its revenue on amateur sport and recreation"³².

The three municipalities presented different behaviors regarding adhesion to spending in the SLF. Campo Maior guaranteed spending in 93.33% (n = 14) of the period; Capitão Campos, 80% (n = 12); Currálinhos, 66.66% (n = 10). This means that, although the higher norm of municipalities establishes the mandatory nature of spending, the municipalities do not comply. On the other hand, 29.91% (n = 67) that did not present devices regarding the mandatory nature of the expenditure did so throughout the period.

Only 2.9% of the municipalities in the sample indicated full effectiveness norms that impact on the implementation of Article 217 of the Constitution of 1988. However, none of the municipalities adhered to spending on the SLF throughout the period. For 89.9% of the sample, there is no restraint in the scope of organic laws forcing an active role in the implementation of sport and leisure public policies. And, when there is, they are not effective. On the other hand, these municipalities have not been inactive in relation to this agenda, as it can be seen in Table 3.

As we can see, the existence of a private competence in the field of sports and/or defined percentage of spending does not imply the maintenance of adhesion to the agenda of expenditure with the SLF in the course of time. On the other hand, it is not insignificant that, in municipalities where there is no regulatory restraint, 33.71% of the sample managed to invest every year (table 3).

Table 3. Degree of adherence in the FDL of the municipalities of the state of Piauí

Organic laws PI		Levels of accession				
		A	B	C	D	E
Private Competence (PC)	N	-	4	1	1	-
	%	-	66,7	16,7	16,7	-
% of spending	N	1	2	1	-	-
	%	25	50	25	-	-
Non-indication PC and % of spending	N	30	43	13	3	-
	%	33,71	48,31	14,61	3,37	-
Total	N	31	49	15	4	-
	%	31,31	49,49	15,15	4,04	-

Source: Authors

Table 3 also allows us to observe that in none of the scenarios there was inaction for the entire period among the sample members. This means that, despite the lack of norms guiding the behavior of the actors, the municipalities do not prefer inaction.

The guarantee of permanence of the policy along time (State policy) is linked to the existence of legal resources that limit the discretionality of the local executive power. In this sense, the search to establish percentages of the budget is an important attempt to ensure the implementation of Article 217 of the Constitution of 1988. This question was also explored in the National Sports Conferences, especially the last two.

Two municipalities established percentages of revenue without indicating which revenue: The revenue from municipal taxes? Total revenue? Or any specific bind? Capitão de Campos, on the other hand, established as revenue that which comes from taxes and transfers. In other words, it greatly expanded the calculation basis. Considering that many transfers are conditioned to the application of certain political agendas, this measure is not feasible, since it expands the calculation basis without the availability of the use of part of this resource.

As it can be seen in Table 4, the variation of the average over time (vertically) in all scenarios (horizontally) indicates that municipalities present different allocative behaviors in terms of the funding of sport and leisure public policies. The existence of a private competence or a full effectiveness rule in the sports chapter is not suggestive of an increase in the average when compared to those municipalities that do not have these normative instruments (CCL 3).

The dispersion of the results (measured by the standard deviation) varies greatly, both vertically and horizontally. This result indicates that there are important differences in allocation behaviors among municipalities over time and between CCLs. There is a variation in the allocation of resources in the SLF in relation to the current revenue that responds appropriately to the model of decentralization of this agenda (considering, here, the incentives for low accountability of municipalities in this matter).

Also noteworthy is the variation in the minimum and maximum values and the important increase in the latter among municipalities that do not present normative constraints to the sports agenda in their organic laws. In the Legislative CCL 3 there is greater variation.

Table 4. Distribution of the percentages of the FDL in the RC between the municipalities of Piauí by Legislative class

Year	Class 1				Class 2				Class 3			
	M	DP	Min.	Max.	M	DP	Min.	Max.	M	DP	Min.	Max.
2002	.36	.42	.02	.94	.68	.93	.02	1.7	.69	.70	.01	2.9
2003	.15	.12	.02	.36	.17	.15	.04	.34	.74	.93	.00	4.0
2004	.15	.18	.04	.42	1.2	1.7	.03	2.4	.47	.57	.01	2.8
2005	.29	.21	.08	.59	1.3	1.1	.29	2.7	.47	.52	.00	3.2
2006	.27	.03	.24	.32	.48	.23	.25	.73	.68	.84	.00	4.7
2007	.14	.10	.01	.26	.38	.40	.04	.92	.84	.87	.01	3.9
2008	.31	.41	.05	.10	.35	.35	.03	.72	.97	1.0	.00	4.8
2009	.19	.09	.08	.31	.45	.44	.00	.86	.65	.71	.00	4.3
2010	.32	.19	.16	.65	.48	.62	.00	1.4	.58	.56	.01	2.8
2011	.24	.18	.06	.49	.54	.31	.35	1.0	.54	.50	.01	2.4
2012	.28	.22	.06	.61	.58	.02	.57	.60	.57	.74	.00	4.0
2013	.19	.14	.01	.33	1.2	.29	1.0	1.6	.60	.65	.00	3.6
2014	.15	.17	.00	.34	1.7	1.7	.58	3.7	.90	.87	.00	3.4
2015	.24	.08	.15	.32	.72	.80	.09	1.8	.65	.68	.00	3.7
2016	.53	.79	.02	.17	.32	.33	.09	.56	.52	.58	.00	3.3

Source: Author

The municipalities of CCL 1 obtained similar results to those of CCL 2 in what concerns the permanence time (investment/year) of the spending agenda with the SLF throughout the period. Alegre do Piauí guaranteed expenses throughout the period; São Pedro do Piauí, 93.33% (14 years); Belém do Piauí, 86.67% (13 years); Acauã, 80% (12 years); Pajeú do Piauí, 60% (9 years); Santa Luz, 26.67% (4 years). In other words, the existence of private competences does not lead to a greater commitment to this agenda, as it can be observed mainly in the municipality of Santa Luz³³.

There is no indication from most of the organic laws that the municipal government should implement sports and leisure policies. Considering the lack of indication for 93.9% of the sample, H1 is accepted, the ambiguity of competence in this matter induces municipalities not to indicate private competences. Most municipalities have no incentive to indicate among their private competences those associated with sport and leisure.

This result requires a more in-depth discussion about the variables that effectively interfere in the spending behavior of municipalities, since, as it can be seen in table 4, especially the municipalities of CCL 3 spend with the SLF. The idea of creating a national sports system that establishes clear competencies for the local government will require a position to be taken on this issue. The alternative found by Art. 24 of the Constitution of 1988 to the implementation of the right proved to be ineffective for the cases explored here.

The absence of restraints in relation to private competence suggests the non-implementation of a full effectiveness norm in relation to sport and leisure public policies. The fact that we do not find private competences in sports matters in those municipalities where it was possible to observe full effectiveness norms in the section dealing with sport is a strong indication that there is no relationship between the two legislative competences.

It should be noted that, among these CCL 2 municipalities, the norms of full effectiveness, when it comes to spending with the SLF, require greater precision to remove the problems caused by ambiguity, which is a factor of immobility. We must point out that there are financial difficulties to be faced by the federalist engineering, in a preliminary way, to equate this issue. Many municipalities, especially those below 50 thousand inhabitants, do not have sufficient financial resources to implement their political agenda^{9,14,34}.

These are municipalities that are dependent on constitutional transfers and those negotiated, which reduce their allocative autonomy.

The debate around the percentage of revenue (full effectiveness norm) is not clear (ambiguous) in the norm of municipalities. Highlighting in the text "the revenue" is not enough, because there may be at least three interpretations that lead to different percentages. Campo Maior and Curalinhos state in their texts the municipal revenue. This can be either the revenue itself, coming from the fiscal policy of the municipality, or the current revenue. Even Capitão do Campo, who sought to be more precise in the text, was not successful. It ensures a certain accuracy when it says the revenue resulting from tax, which are basically 3 (IPTU, ITBI and ISSQN), but it was imprecise in the complement, the revenue resulting from transfers. Transfers can be constitutional (Municipal Participation Fund - MPF) or negotiated (as a result of top-down decentralization). However, the negotiated transfers are conditioned to the commitments signed between the municipal entity and state or federal entities for the implementation of certain policies, and the resources cannot be manipulated in such a way as to alter the purpose. Therefore, they are not available resources.

Ambiguity serves here to hinder the progress of the agenda, since imprecision is a stimulus to immobility. Thus, as Zahariadis¹³ points out, the construction of the policy remains open, under the humor of decision-makers. This type of behavior makes them more sensitive to the pressure of stakeholders (everyone interested in the policy)³⁵, which can vary during time.

The basic assumption for allocative freedom is the fiscal autonomy of the municipality. Municipalities with higher tax collection capacity have more possibilities to implement their agenda of public policies³⁶.

All the cities that established spending limits ended the series with less than 50 thousand inhabitants. The literature on fiscal federalism recognizes that these cities have low capacity to collect municipal taxes³⁴. It is not uncommon to apply loose fiscal policy, which makes them dependent on constitutional transfers, especially the MPF and the share of ICMS³⁷. Low revenue pressures for more constitutional transfers and makes the municipality more dependent on negotiated transfers (resources established for certain policies).

The SLF, at a municipal level, does not hold the expenses incurred with educational sports. The nonexistence of expenses related to physical education, especially the payment of teachers, compromises a broader analysis of the theme. These are permanent expenditures that do not disappear over time, which indicates that it is not in this budgetary function that this expenditure is recorded.

On the other hand, considering the existence of a full effectiveness norm indicating percentages of spending, society needs to demand its implementation. Whether through the legislative power, enforcing compliance with the rule, or through inspection bodies such as the Public Ministry and the Audit Office (horizontal accountability). Or the demand will have to come from the population itself at the time of election (vertical accountability).

Not less important is the verification that, regardless of the percentage of expenditures that other municipalities may have, there are those that do not present the imperative need to apply the Art. 217 of the FC/99 among their private competences and do not indicate percentages of expenditures, but actively participate in the funding of the SLF (CCL 3). For 75.42% of the municipalities that spent the same or more than 12 years, and do not belong to the two groups, they spent continuously on the SLF without pressure from its organic laws.

As we can see, the municipalities do not have incentives to establish norms of full effectiveness with regard to the percentage of spending on public policies for sports and leisure in the Municipal Organic Law. The results presented here confirm the H2.

With regard to those who spent on SLF, it is possible to see that there are important differences over the years and between classes. Given the absence of restraints in the field of federalist engineering and the inequality in the fiscal capacity of municipalities, the differences

presented between municipalities and throughout the period confirm the H3. The policy-makers have complete autonomy in the definition of spending in public sports and leisure policies, which varies the resources in the SLF. This variation can be produced by circumstantial pressures from local stakeholders.

The existence of municipalities that, without any norms that would constrain expenditure in the SLF, did so during the 15 years indicates that there are powerful variables affecting the policy outcome.

All the results are compatible with what the federalist literature proposes. The ambiguity of competence may produce allocation gaps¹⁴, as observed especially in Table 3. In issues where there is no central regulation, there is diversity, which may or may not be accompanied by inequality in the distribution of resources, mainly when we notice its variation within the same class of legislative competence⁹⁻¹⁵.

Final Considerations

A first observation of the research findings concerns the application of Item 9 of Article 24 of the FC/88 and its connection with Item 1 of Article 30 of the FC/88. The amount of municipalities that spend on the SLF demonstrates very clearly and distinctly that sport and leisure are matters of local interest. However, this is not enough to guarantee its manifestation in the application of Item 9 of Art. 24 of FC/88. The municipal legislatures (sample) do not recognize the municipality as an operator of Art. 217 of the Constitution of 1988. So far, no illegality, just a possible result of federalist engineering that guarantees autonomy to municipalities in their manifestation on the subject.

Conversely, the incentives of Brazilian federalist engineering towards inaction were not sufficient to guarantee this behavior. Only one municipality invested nothing in the SLF throughout the period, Colônia do Gurgueia. And for 70.01% of the sample inaction was an option in some year. In other words, the municipalities exercise the autonomy granted to them by FC/88.

This result cannot lead to the mistaken reasoning that they do not invest in sport and are hindering the application of Article 217 of FC/88. The provision of physical education classes in municipal schools, which promote sport as a syllabus component, is the responsibility of the municipalities and this expenditure does not appear in the SLF. In this sense, inaction more directly compromises Participation Sport and Performance Sport.

The Organic Law instrument also proved to be fragile to the application of Article 217 of the Constitution of 1988. Most of the sample does not recognize the theme as important among the private competences and, when they present norms of full effectiveness in terms of spending, it is not enough to guide the behavior of local decision-makers. For these municipalities, the organic law is not a good predictor of behavior regarding the provision of sport and leisure public policies through expenses in the SLF.

A sample of 42.85% of municipalities does not guarantee, by itself, fragility in the study sample. However, it is necessary to recognize that the unavailability of organic laws via the website of governments partially compromised the analysis. Nevertheless, the randomness of data indicated with great precision the fragility of municipalities to use the organic law in the application of Article 217 of the Constitution of 1988. Considering the adherence to expenditure in the SLF, we must continue to pursue a reasonable explanation for this volume of participation.

The analysis conducted by Santos, Starepravo and Canan²² indicated that there is a variety of behavior in the municipalities of from Piauí regarding FDL spending. A study of the scope of public policy analysis requires the identification of variables that can explain this behavior. In another study, Santos and Starepravo²³ found no evidence that the existence of an

administrative structure affects the behavior of the municipalities from Piauí in terms of FDL spending. In this paper, evidence was sought to indicate that organic law was a good predictor of the behavior of the municipalities, which, in fact, was not proven.

Considering the existence of spending, and that allocative behavior can be analyzed, it is necessary to advance with other working hypotheses. The specialized literature indicates as other intervening variables the politics (electoral political cycle), the fiscal policy and the cultural environment as likely to respond to this allocative behavior.

Without the understanding of how and why municipalities allocate scarce resources to sports policies, it is not possible to understand the challenges posed to the application of the right to sports (Art. 217 of CF/88). On the other hand, even in the absence of institutional triggers within the scope of organic laws to the implementation of the right to sport, the adherence of municipalities to this spending agenda shows that it has importance in the local political platform.

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