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EMENDAS PARLAMENTARES E PROCESSO ORÇAMENTÁRIO NO PRESIDENCIALISMO DE COALIZÃO

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Emendas parlamentares e processo orçamentário no presidencialismo de coalizão

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1. Processo orçamentário – Brasil

Agradeço a minha mãe, Isaura,
pelo amor e incentivo permanentes.
A toda a minha família, que me permitiu
realizar este sonho. À minha esposa, Mari,
pelo amor, alegria e paciência.
Às pequenas Aurora e Beatriz, fontes eternas
de inspiração. A Deus, por mais esta jornada.
A meu pai, Celso Faria, *in memoriam*.

PREFÁCIO

Há praticamente 30 anos tenho me dedicado a aprofundar os estudos na área do Direito Financeiro, ramo da ciência jurídica que, não obstante sua enorme importância na vida de cada um de nós e do nosso País, somente nas últimas duas décadas começou a se tornar efetivamente objeto da atenção dos acadêmicos, estudiosos e operadores do Direito.

Tenho o privilégio de poder aprofundar esses estudos contando com a participação, o interesse, o auxílio e a colaboração dos professores e alunos da Faculdade de Direito da Universidade de São Paulo, na qual ministro os cursos na área de Direito Financeiro na graduação e na pós-graduação, e de outras universidades que têm se unido para explorar o tema. Esse intercâmbio de informações que a convivência acadêmica proporciona é extremamente enriquecedor, pois permite desenvolver e aperfeiçoar o conhecimento nessa área do Direito tão fascinante e instigante, até mesmo em função de ser ainda pouco explorada.

Mais do que o crescimento intelectual, a docência nos traz a especial satisfação de conhecer e identificar jovens promissores dotados de um potencial enorme, cabendo-nos dar oportunidade e ver que, de fato, está-se diante de um talento acadêmico que trará grandes contribuições.

É o caso de Rodrigo Oliveira de Faria, que conheci ao integrá-lo no grupo de orientandos do curso de Pós-graduação na Faculdade de Direito da USP. É um vocacionado para o Direito Financeiro, área onde tem ainda o privilégio de aliar os

seus sólidos conhecimentos teóricos com a atividade profissional, tanto como analista do Tribunal de Contas do Município de São Paulo, onde iniciou sua carreira, como nos Ministérios do Planejamento, Orçamento e Gestão e da Justiça e, atualmente, na Presidência da República.

Interessado e estudioso, tem a habilidade que se espera de todo cientista social, que procura conhecer a realidade e contribuir para sua compreensão, organizando e sistematizando o conhecimento e colaborando para seu aprimoramento.

Sua dissertação de mestrado, defendida em 2009, é até hoje uma obra de referência sobre a natureza jurídica da lei orçamentária, tema instigante e que abordou com profundidade teórica que poucos podem atingir (*Natureza jurídica do orçamento e flexibilidade orçamentária*, Faculdade de Direito da USP, 2009).

É o que se pode ver na obra que ora se apresenta, em que relevantes questões teóricas são esmiuçadas à luz da realidade subjacente.

Resultado de sua tese de doutorado em Direito Financeiro na Faculdade de Direito da USP, aprovada com louvor, seu talento acadêmico se confirma e se solidifica ao nos apresentar este trabalho, versando sobre as emendas parlamentares e o processo orçamentário no presidencialismo de coalizão. Nele, traz valiosa contribuição para a ampliação do entendimento do processo orçamentário brasileiro, a partir da análise do impacto do amplo redesenho de regras orçamentárias para a dinâmica do nosso presidencialismo multipartidário. Minuciosamente descrito, identifica com precisão a origem das alterações normativas e suas correlações, sem perder de vista o panorama mais amplo e a moldura que caracterizam o funcionamento do regime político brasileiro. Permite que se conheça em detalhes o arcabouço jurídico e político que transformou as relações entre os poderes Executivo e Legislativo em matéria orçamentária nos últimos anos.

O autor também avança nas fronteiras do conhecimento interdisciplinar, para além dos contornos estritos do Direito Financeiro e Constitucional, apresentando investigações profundamente instigantes pertinentes à administração pública e à ciência política. Outro fator de originalidade é a integração, exitosa, diga-se de passagem, da perspectiva axiológica normativa com a verificação fática e empírica, utilizada para a caracterização dos regimes de dominância orçamentária.

Embora não esgote o tema, pavimenta uma rota de futuras pesquisas no âmbito do Direito Financeiro e da ciência política, que se mostra, de antemão, necessária e bastante frutífera. Sua caracterização do regime de dominância orçamentária

do Legislativo, a partir de 2013, apresenta fundamentação sólida, com riqueza de detalhes, despontando como obra de referência, a exigir a leitura de quantos pretendam examinar o tema. Trata-se de obra de fôlego, que demanda análise meticulosa para a compreensão do conjunto enorme de modificações examinadas.

Escrever sobre esse assunto foi, portanto, uma proposta ousada, especialmente quando se pretende – e se consegue – não apenas compilar e sistematizar o que já se disse a respeito, mas também analisar com conhecimento e profundidade a evolução dos fatos e do ordenamento jurídico ao longo do tempo, além de dar uma contribuição pessoal e de grande relevância para o aprimoramento das discussões, que certamente se prolongarão para aperfeiçoar o processo orçamentário brasileiro e as relações entre os poderes

Rodrigo Oliveira de Faria é um verdadeiro acadêmico, pesquisador atento e interessado, o que se pode constatar ao ler seu trabalho, cuja elaboração acompanhei desde o início. Mostra uma desenvoltura que permite vislumbrar ser este mais um de outros que já produziu, está produzindo e seguramente continuará a fazê-lo. Não tenho dúvidas em assegurar que já é – e continuará sendo – um dos grandes colaboradores para a doutrina do Direito Financeiro.

Este livro, que enriquece em muito a já numerosa Série Direito Financeiro, é uma grande recompensa ao trabalho que se vem desenvolvendo no sentido de aprimorar e intensificar os estudos em Direito Financeiro, e que passa a contar com valiosa contribuição. Um texto claro, didático, esclarecedor e inovador, cuja leitura torna-se obrigatória para todos aqueles que pretendam conhecer o assunto.

José Mauricio Conti
Professor da Universidade de São Paulo
Doutor e Livre-docente em Direito Financeiro

NOTA DO AUTOR

Agradecendo, de antemão, à Editora Blucher e ao coordenador desta coleção, Professor José Maurício Conti, pela recepção e acolhida desta ideia, apresento a seguir, previamente aos capítulos deste livro, um resumo executivo, em inglês, com a síntese dos argumentos centrais desenvolvidos ao longo de nossas investigações a respeito das modificações normativas do arcabouço orçamentário brasileiro e do surgimento do regime de dominância orçamentária do Legislativo, a partir de 2013. Tal seção tem como objetivo principal permitir o estabelecimento de um diálogo com estudiosos e pesquisadores estrangeiros, bem como ampliar a divulgação de nossos argumentos a respeito do amplo redesenho de regras orçamentárias brasileiras e suas consequências.

EXECUTIVE SUMMARY

In this paper we argue that the initial contours of the Brazilian budget process, according to the 1988 constitutional framework, reinforced by the Fiscal Responsibility Law (LRF), have changed, so that the budget model of Executive dominance has been progressively remodeled for the establishment of Legislative preeminence, from 2013 onwards. The empirical contours of the allocation process in relation to parliamentary amendments were also altered, in the sense of giving predominance to individual amendments, which have traits of particularism and

individualism, primarily aimed at the electoral bases of parliamentarians and without greater adherence to structuring policies of the federal government. The primacy of the amounts of individual amendments over collective amendments reinforces the diffuse nature of the application of resources, as opposed to a broader partisan or collective logic.

In a similar vein, the reconfiguration of the general rapporteur amendments and the transposition of the discretionary nature of their management to the Legislative sphere, in addition to causing an exponential growth in the amounts of such amendments, implied their use according to an individualistic and atomizing logic of resource distribution, allowing the composition of a support base from the Legislative sphere. Therefore, the reduction in the Executive's previous levels of discretion and the progressive control of budget execution by the Legislative branch also changed the amount, profile and composition of the general rapporteur's amendments, in order to reinforce the diffuse and distributive logic of resources, without adherence to broader planning criteria.

The budget execution phase has become the preferred target of legislative intervention, as it is exactly the moment when there is a greater concentration of power by the Executive and in which priorities are concretely defined. Therefore, there is a permanent search for the expansion of control over this phase, seeking to extend the tax regime of individual amendments to other types of parliamentary amendments, in order to guarantee progressive interference in the execution of expenditure – including and mainly – through the indication of beneficiaries. Moreover, the budgetary dominance of the Legislative Branch would imply undue advance in prerogatives of execution of public expenditure conferred to the Executive Branch. Alternatively, and concomitantly, an effort was also made to create mechanisms for direct transfer of funds from amendments to federated entities, of which special transfers are a notorious example, dispensing with the traditional execution of expenses by the Executive.

The existence of a dispute over the primacy of the allocative definition, as well as the actual prevalence, legitimately attributed by the budgetary order, does not necessarily taint the due budgetary process. The existence of a certain predominance is possible, i.e. the primacy of allocative definitions – under the aegis of the fundamental principle of separation of powers. However, the sanctity of the due budgetary process is disturbed when one of the central Powers of the allocative

regime (Executive and Legislative) usurps functions legitimately attributed by the order to another Power.

There are relevant consequences of the predominance attributed to the Executive or the Legislative in the allocative contours. The prevalence of the Executive Branch provides – but does not guarantee – a properly structured allocation with a national and sectoral bias, while the allocative dominance of the Legislative Branch tends towards a dispersed, fragmented, and regional allocation. Both, therefore, are determined – to a large extent – by the very different incentives to which the President of the Republic and the Brazilian Congressmen are subject.

The undue invasion of the Legislature in the prerogatives of budget execution constitutionally assigned to the Executive tarnishes the health of the allocative process and the balance provided by the alternation of the four phases of the budget process (*quatre temps alternés*), deforming it by introducing a deviation of budgetary prerogatives. This deviation operates simultaneously by weakening the role of Congress in its primary activity of overseeing the implementation of the budget and shifting its role to the establishment of a progressive control over the implementation of expenditure.

The budget is the complex amalgam of the possible political agreement, embodied in a fiscal policy instrument and in the government administration plan, consolidated in the most important law below the Constitution of the Republic. Being a special law of instrumental character and determined content, with normative density, it has been characterized, since the inauguration of the new democratic period, unduly, as a piece of fiction.

Although its various aspects are commonly highlighted, the extent and implications that derive from this recognition are not analyzed with due care. The budget law, a normative amalgam, could not be evaluated comparatively to other laws that do not have the complexity that is inherent to it. Added to this is the little importance that, since the constituent clashes, has been given to the budget and, more specifically, to the engine room of Brazilian budget management. Therefore, we embark on institutional reengineering trials without any factual or empirical basis, without mature reflections, and then wake up with uncomfortable unanticipated results (or deliberately intended by some) whose consequences we want to get rid of quickly.

To take an initial example, it is worth recalling the purposes of the constituent debates of 1987/1988, when we erected a hailed constitutional budget framework, with three normatively linked budget laws, which proved to be as imposing as it was difficult to implement. The constituent debates were concerned with avoiding the impasses that led to the constitutional rupture of 1964, preserving conditions of governability for political institutions, and ensuring a responsible participation of the National Congress in the budgetary process.

As a central instrument for the purposes of greater participation of the Brazilian parliament in the budget area, it was intended to use the legislative innovation of the budget guidelines for Congress to carry out "macro-allocations" and use the prerogatives recovered through a global allocation by areas, by sectors, ensuring the desired responsible participation in the allocative activity. Such an ideal would never be realized in the 35 (thirty-five) years that the Citizen Constitution has been in force, as the Legislature works regionally and not sectorally, like the executive branch. Moreover, parliamentarians are subject to incentives quite different from those to which the President of the Republic is in national plebiscitary elections. Congressmen are exposed to pressures and obligations arising from their insertion in political networks and interdependent relationships (BEZERRA, 1999), with particularistic and individualistic incentives derived from the electoral arena, although blocked by the action of other institutions (rules of the game).

In Brazil, the Executive Branch is the center of gravity of the political system (AMORIM NETO, 2007) due to the broad legitimacy and visibility granted by the national election, as well as the extensive constitutional prerogatives assured by the new democratic regime. It is in a position to internalize the costs and benefits of national policies and macroeconomic issues and is considered the best interpreter of the national interest. These budgetary prerogatives were expanded in 1988 compared to the democratic regime of 1946. The concentration of budgetary prerogatives would make it possible to block the atomizing incentives derived from the electoral arena in favor of nationally established priorities of the Executive.

Thus, with a highly centralized budget process and due to a necessary discretion to achieve macroeconomic purposes, the Executive Branch would be strengthened by the Brazilian Constituent Assembly. In turn, the Legislative

Branch would have its budgetary prerogatives restored through parliamentary amendments and its powers to oversee the budget pieces expanded. By this we mean that the 1988 constitutional budget framework, later reinforced by the Fiscal Responsibility Law, would ensure that the Executive Branch would dominate budget matters or, in other words, that the Executive Branch would prevail in its allocative decisions.

That does not mean, in any way, that the Executive could apply resources for purposes other than those provided for in the budget, or that it would be allowed, in a valid way, to unnecessarily restrict the limits of budgetary or financial execution. It only implies the recognition that the ordinance would provide a space for subjective assessment as to the need to establish a certain budget restriction, given the existing macroeconomic scenario; and that, consequently, another subjective assessment would also be necessary for selection, in the specific case, the execution priorities, in the absence of its establishment in the budget guidelines law.

In such a scenario, not a few legal studies and analyses would place negative emphasis in particular on the budget execution phase, which would guarantee, for absolutely necessary reasons, a space for subjective evaluation about the definition of execution priorities in a given scenario of budget constraint. Logically, the concentration of power arising from such faculties needs to be monitored on a daily basis and, to this end, the Federal Constitution would strengthen both the Judiciary and the Public Prosecutor's Office and guarantee broad budget oversight prerogatives to the Federal Court of Auditors.

But Brazil's democratic construction would also have to face another set of challenges. The choice of the presidential system in a multiparty environment, with open-list proportional elections, would initially lead to a negative view of the Brazilian regime, highlighting its propensity for instability and high risk. The Brazilian case would present a "difficult combination" of institutional variables. The rigidity of the fixed presidential mandate and the separate origin and survival (SHUGART; MAINWARING, 1997) would accentuate the independence of parliamentarians and a lower concern with the survival of the government. The initial pessimism would give way to ample evidence of a revisionist line that would indicate the possibility of party coalitions under presidentialism, with the President of the Republic acting in the manner of a

European Prime Minister (FIGUEIREDO; LIMONGI, 2001). There would be elements capable of blocking the atomizing incentives derived from the electoral arena, such as control of the agenda, access to patronage, the centralization of the CMO (Mixed Commission for Plans, Public Budgets and Inspection), and the importance of political parties, allowing the president to govern in concert with them.

The budget process would be an essential element to guarantee the governability of Brazilian coalition presidentialism. The Executive's discretion in budgetary matters would allow it to seal party agreements and cement a condominium of legislative support in the National Congress for the approval of the government's agenda. The concern of parliamentarians with their political survival and with seeking re-election (MAYHEW, 1974) would transform amendments into a low-cost political currency (PEREIRA; MUELLER, 2002) that could be exchanged for legislative support. The governance cost of Brazilian presidentialism would be relatively low given the initial contours of the budget process.

Such initial outlines allow us to identify, in the new Brazilian democratic period, a centralizing and concentrating logic, structured sectorally, ensuring the prevalence of allocative definitions to the Executive. The risks of this centralized process, as highlighted, would be mitigated through institutions that could counterbalance (checks and balances) the attribution of broad prerogatives to the Executive Branch. To this end, the 1988 Constituent Assembly granted broad powers to the Judiciary, the Public Prosecutor's Office, and the Federal Court of Auditors.

Nonetheless, the dispute between the Executive and Legislative branches over control of the budget process is an undeniable reality and far from being exclusive to Brazil. There is, at the heart of the budget process, a power struggle between the two central actors for allocative prevalence, so much so that their respective powers and attributions differ significantly from country to country, and are influenced by various factors, notably historical, constitutional, and legal contexts (POSNER; PARK, 2007).

Indeed, the budget is inextricably intertwined with the political system. Therefore, no significant change can be made to the budget process without affecting the political system (WILDAVSKY, 2001). And this has been widely done in the Brazilian case, particularly in the last decade, establishing a counterpoint

to the regime of Executive dominance that had prevailed until then. We have witnessed a progressive infiltration of atomizing elements that have led to the emergence of budgetary dominance of the Legislature, based on a dispersive, diffuse, and individualistic logic, structured regionally.

These particularistic and individualistic elements were blocked by the great concentration of power in the Executive Branch. These were existing incentives derived from the electoral arena that did not find favorable soil for flourishing. However, a broad and thorough reconfiguration of the budgetary order made it possible to restrict the discretion of the Executive Branch as much as possible and to progressively invest in the control of budget execution, a crucial phase for the purposes of defining allocative priorities.

The dispersive and individualistic logic does not imply a change in the centralized contours of the appreciation of the budget within the Legislative Branch; in fact, such concentration is used for a diffuse distribution carried out within the scope of the National Congress by actors of this Branch. It takes advantage of the progressive weakening of the "housekeeping brakes" previously available to the Executive, intending, as much as possible, to take over the mechanisms previously used by the Executive and transplant them to the Legislative Branch.

The budgetary dominance of the Legislative Branch represents an insurgency against the primacy of the Executive and has the permanent intention of establishing rules that give priority to congressional allocative definitions. To this end, the instruments related to the control of budget execution are particularly important, notably the creation of expenditure markers (primary result identifiers), the prohibition of changes to budget credits derived from amendments without the consent of parliamentarians and the indication of beneficiaries of the discretionary programs. Legislative budgetary ascendancy represents, in short, primacy over allocations made through parliamentary amendments and the possible narrowing of the Executive's discretion over other discretionary expenditure.

The period of legislative budget dominance can be summarized in a powerful image used by Brazilian congressmen themselves in celebrating the approval of the mandatory budget in 2015: the "liberation of the Legislature". If there was a central element in the entire period of budgetary dominance of the Executive branch, it would undoubtedly be discretion. Now, if such discretion was the

cornerstone of the previous regime, and if such an element was responsible for the numerous ills of the Brazilian budget process, so cursed in legal circles, nothing more correct than simply eliminating it – or reducing it, if the first option did not become viable – so that, once such dysfunctionality was removed, the budget system regained the necessary balance between Executive and Legislative and finally produced better results.

The dissatisfaction of Brazilian congressmen with the predominance of the Executive in budgetary matters was not without real and concrete reasons and was not based on illusory elements. The political use of amendments, the Executive's choice of priorities, the concentration of commitments at the end of the financial year, the constant pilgrimage to ministries to release parliamentary amendments are some of the elements that fueled the interest in strengthening the Legislative Branch in the relationship of forces with the Executive Branch. The aim was to introduce rules that would establish equal treatment among members of Congress in relation to their parliamentary amendments and to ensure that such amendments were not limited by the government's discretion, to the detriment of the electoral and budgetary responsiveness of parliamentarians to their electoral bases and political constituencies.

The combination of three major streams of normative changes (regimental, infra-constitutional and constitutional) would produce a broad redesign of the budgetary institutions of the 1988 constitutional order and would have clear implications for the Brazilian political order. The legal contours of the budget allocation process would be intensively modified, with non-trivial consequences for the relationship between the Executive and Legislative Branches in the context of Brazilian coalition presidentialism.

The first flow of redesign of budgetary rules would come from the internal regulations of the National Congress that govern the amendment and the allocation process during the discussion of the annual budget. The second normative flow would stem from the combination of rules inserted in the budget guidelines laws and the annual budget laws. The last, but not least, flow would be represented by the transplantation of such norms into the constitutional framework, enshrining them with greater stability.

This would be the context that would see the explosion of the RP-9 general rapporteur amendments, also referred to as the "secret budget", which was made

feasible through a particular combination of some budgetary rules and the practical annulment of the fundamental rule about the hypotheses of the appropriateness of such amendments. In addition, they made use of technical solutions available and previously used for budget earmarking of priority programming within the Executive Branch for intensive monitoring of such programming.

When we talk about *the control of budget execution by the National Congress*, we mean the continuous and progressive action of the Brazilian Parliament to extend the tax regime of individual amendments to other types of parliamentary amendments, to ensure its interference in the execution of expenditure – including and especially – through the indication of beneficiaries. Therefore, the budgetary dominance of the Legislative Branch implied the undue advance in prerogatives of execution of public expenditure conferred to the Executive Branch.

The broad redesign of the Brazilian budgetary framework in 1988 would have very relevant impacts on the functioning of Brazilian multiparty presidentialism. Three of them seem to be the most significant: i. the increase in the difficulties of forming governing majorities; ii. the increase in the costs of governability of coalition presidentialism; iii. the potential expansion of the allotment of positions within the Executive, agencies and state-owned companies. All of these stem from the dismantling of the Executive Branch's budgetary toolbox and the reduction of its central element: discretion.

Initially, the rules of imposition of individual and bench amendments were established, and, in a second moment, the rule of the duty to execute discretionary programs was constitutionalized. The mandatory execution of individual and bench amendments would significantly reduce the discretionary nature of budget management since it would imply the execution of mandatory constitutional amounts. Therefore, the famous budget bargaining chips would be devalued with the equal execution of their spending programs.

In turn, the constitutionalization of the duty to execute discretionary programming would not imply the elimination of government discretion, since fiscal rules would remain in force, conditioning the execution of budget programming. Nor would it prevent additional credits, explicitly recognizing the granting of a certain degree of subjective assessment for the discretionary selection of the programming to be cancelled for the corresponding supplementation. However, it would require the necessary justifications for the non-execution of the

programs, subjecting the exercise of the discretion of public managers to broader public scrutiny. Finally, the duty of execution would not mean the obligation to execute expenditure in the event of technical impediment.

Thus, the normative parameters were changed for the mandatory execution of discretionary programs, individual and bench amendments, and for the rule of proportional limitation of discretionary expenses and parliamentary amendments. In addition, parliamentarians began to monitor the reallocations of their amendments and the mandatory execution through the primary result identifiers created (RP-6, RP-7, RP-8 and RP-9) and the execution of expenditure in favor of the indicated beneficiaries. The control of the budget by the National Congress was significantly expanded.

Once the new legal parameters of the Brazilian budgetary order were established, with the reduction of the discretion of the Executive Branch and the imposition of individual and caucus amendments, there was a reinforcement of the incentives for independence and individualism of congressmen. Now, because individual and bench amendments no longer depend on party leadership negotiations and party participation in government, there has been a relative loss of power of party leadership. This does not, of course, imply a deconcentration of party functioning. However, the changes have increased the difficulties of forming governing majorities to the exact extent that additional instruments are needed to seal government agreements. Once a kind of parliamentary quota is created, it becomes an equal treatment floor for parliamentarians and, therefore, for party agreements to allow the constitution of a government support base in Congress, additional resources (exchange currencies) become necessary for parties to participate in the coalition.

With the change in budget rules, we understand that there is a potential increase in the governance costs of Brazilian multiparty presidentialism. Additional resources become necessary for the formation of the base and the support of the government. As parties continue to solve problems of coordination of parliamentarians (FIGUEIREDO; LIMONGI, 2001), around parties and in search of additional resources to remain in government, other clientelistic resources will be needed to cement the composition of the government's parliamentary base.

In short, the attribution of egalitarian criteria to amendments has brought incentives to increase the cost of governability of Brazilian coalition presidentialism,

as well as the allotment of positions, which produce – by inverse route and in place of amendments – significant allocative distortions. Contradictorily, they were – and still are – considered as republican, isonomic and impersonal rules of the game. We understand that the rules do not exist only on the evaluative level: they have concrete repercussions on the functioning of the political system by creating incentives for the behavior of agents. And, therefore, in our understanding, the egalitarian and equitable criteria attributed to parliamentary amendments, contradictorily, would generate the resurgence of the "secret budget".

In fact, through the RP-9 general rapporteur amendments, exactly what, in theory, was intended to be eliminated from the Brazilian financial legal system would be resumed: the differentiated treatment of parliamentarians. The redesign of budget institutions, which began with the equal execution rule, was ultimately reversed with the broad discretion granted to the Annual Budget Bill's general rapporteur, which would consolidate the apex of budget control by the National Congress, with the removal of the powers of the President of the Republic and the transfer of that discretion to the General Rapporteur of the budget. The egalitarian and equitable criteria of the amendments produced the uprising of the Legislature. The central purpose was, in effect, to transfer the existing discretion from the Executive to the Legislative branch and to expand the budgetary prerogatives of the National Congress. In short: a dispute over political power.

Nor would it change, as alleged, the contours of what is conventionally called a "piece of fiction". There has been no improvement in terms of credibility of the budget piece in relation to the estimates of revenue and expenditure; the alleged mischaracterization of the budget through additional credits has not changed; and the presumed "low normative density" of the budget would also not undergo any change, since the duty of execution would only make explicit the possible normativity contained in the budget piece. On the other hand, corruption scandals would also not differentiate the two regimes of budgetary domination, since they occurred indistinctly in both periods and, finally, clientelistic relations would not cease to exist in the recent period, as they did not during the dictatorial regimes.

The reconfiguration of the Brazilian budgetary order had massive adherence from the political class, associating indistinctly parties of the left, center and right,

as evidenced by the votes on constitutional amendments No. 86 of 2015 and No. 100 and 102 of 2019. It is difficult to argue that the effects of the set of changes could not be anticipated by experienced politicians who voted in favor of such changes. The budgetary institutions of the 1988 Charter were extensively redesigned, with significant impacts on the relational dynamics between the Executive and the Legislative.

The scenario of reducing the discretion of the Executive and dismantling the budgetary toolbox brings additional difficulties to the functioning of Brazilian political institutions. The only power with sufficient democratic legitimacy to counter the Legislative Branch would be the Executive Branch, backed by a national election with plebiscitary contours and with incentives to propose and implement a national project, unlike the incentives to which Brazilian parliamentarians are subjected. Nowadays, however, the Executive Branch cannot exercise the function of counterbalancing the budgetary balance.

We know that the Executive Branch is not immune to criticism and that the exercise of the necessary discretion entails, consequently, the challenges inherent to its exercise and control, which need, on a daily basis, to be submitted to broad public scrutiny. But the set of normative changes widely supported by the Brazilian political class favors a dispersive and particularistic logic, preventing counterpoint through the only Power that would legitimately be qualified to do so. We do not believe that our allocative dysfunctionalities can be solved through a more ostensive action of control bodies, which would replace the allocative decisions of elected representatives by a technobureaucratic allocation without popular legitimacy.

In our view, the Federal Supreme Court's decision does not represent the end of the Legislative budget dominance regime, since the central axes on which this regime is structured remain in force: imposition of parliamentary amendments, control of budget execution and reallocation through primary result classifiers and indication of beneficiaries. Moreover, the parliamentary quota scenario tends to expand in a regime of reduced discretion of the Executive, allowing the dispersive and individualistic logic of resources, inherent to the incentives to which legislators are subjected, to prevail over the previous logic of the period of Executive dominance.

Thus, the decision did not imply a return to the *status quo ante* in terms of the Executive's budgetary prerogatives, and there was no recovery of its prerogatives in budgetary matters. On the contrary, the scenario of dismantling the budget prerogatives of the Executive remains entirely valid. What was done was to prevent the continuation of the new tool for composing the governing coalition (RP-9), developed and instrumentalized from the Legislative Branch. Thus, the governance scenario is quite adverse and there are additional difficulties for the functioning of Brazilian political institutions in the context of coalition presidentialism. The story does not end here, though.

SUMÁRIO