



## **PUBLIC POLICIES COSTSASSESSMENT BY THE NATIONAL CONGRESS: THE CASE OF THE INVESTMENT SUPPORT PROGRAM**

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**Abstract:** Through a case study on the *Programa de Sustentação do Investimento* – PSI (Investment Support Program), the article aims to understand in what extent and under what circumstances the National Congress assess the cost of public policies submitted to its appreciation. At first, the article presents an overview of the PSI, followed by the analysis of normative constraints to public policies costs. Then, the study critically analyzes the cost estimates presented by the Executive, as well as the Legislative stance in relation to these estimates. The research uses the institutional approach, centered on the concept of critical conjunctures, and concludes that the National Congress, as a rule, did not act rigorously in the costing of the PSI, playing a relevant role in this field only in the context of the political and economic crisis experienced on the eve of program closure.

**Keywords:** Public policies costs; *Programa de Sustentação do Investimento*; critical conjunctures; fiscal space; credit subsidies.

### **1. INTRODUCTION**

This article deals with the fiscal aspect of public policy. It seeks to know with what extent and under what conditions does the National Congress assess the cost of new policy prior to their implementation. To achieve this goal, we use a case study on the *Programa de Sustentação do Investimento* – PSI (Investment Support Program) to empirically substantiate the proposed knowledge production.

The choice of the *ex ante* temporal approach, that is, prior to the implementation of the policy, is justified by republican principle, because, in the management of public affairs, State interventions should not be approved without giving transparency, in advance, about the estimated cost to the public coffers.

Moreover, as there is no fiscal space for the unlimited aggregation of new policy, they must be judged in advance not only on their merits, in terms of expected benefits, but also on their compliance with the state's financial capacity. Without this conformation, the public sector is exposed to overload and no foresight conditions are created to prevent fiscal crises. This is, after all, the positive understanding of the *Lei de Responsabilidade Fiscal* – LRF (Fiscal Responsibility Law), which stipulates in its art. 1<sup>st</sup>, § 1<sup>st</sup>, that responsibility in fiscal management “presupposes planned and transparent action, in which risks are prevented and corrections deviations that may affect the balance of public accounts” (BRASIL, 2000).

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The *ex ante* assessment of the public policy costs, moreover, is essential as a control point for carrying out *ex post* inspections, that is, during or after policy implementation. Otherwise, there is no way to assess whether or not policy costs exceeded expectations.

In this respect, the case of the *Investment Support Program* (PSI) is revealing. The estimates of fiscal impacts initially available, because they are limited to only a portion of the expenses associated with the program, did not represent an adequate comparison basis in relation to the total cost calculated after its closure. That was not enough, it was found, in the midst of audit of the *Tribunal de Contas da União* (TCU – Court of Auditors of the Union) to the so-called "fiscal pedaling", which the federal government began to postpone the payments of expenses with the PSI (BRASIL, 2015c), which were supported by a federal financial institution, the *Banco Nacional de Desenvolvimento Econômico e Social* (BNDES – National Bank for Economic and Social Development).

In this case, the PSI was attracted to the center of the discussions that culminated in: (i) the TCU's previous opinion, issued in 2015, which opined on the rejection<sup>1</sup> of the accounts of the President of the Republic for 2014 (BRASIL, 2015d); and (ii) in the complaint for a crime of liability that led, in 2016, to impeachment of the President of the Republic (BRASIL, 2016c)<sup>2</sup>.

Regardless of the political outcomes arising from these discussions, and this is not what this study is about, the aforementioned episodes corroborate the understanding that public policies should be judged not only by their merit, but also by their compliance with the financial capacity of the State, with the Legislative Branch to guardian such conformation as the holder of the external control<sup>3</sup>.

From this perspective, this research is based on the investigation of the National Congress's way of acting in relation to the assessment of the public policy costs, through a case study. Given this scope, the article presents, at first, an overview of the PSI to retract its cost-generating logic. Continuous act, it analyzes the normative constraints to the *ex ante* assessment of the public policy costs, proceeding to the tabulation and critical analysis of the estimates presented by the executive on the costs of the PSI. In possession of these elements, the article examines how the National Congress operates in relation to the *ex ante* assessment of the program costs. Finally, considerations are made regarding the results obtained and potential identified for future studies.

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<sup>1</sup>TCU is responsible for issuing a prior opinion on the accounts of the President of the Republic. The judgment of these accounts is the responsibility of the National Congress.

<sup>2</sup>The payment postponement concerning the PSI was mentioned in the contextualization of the Senate's opinion which concluded by the origin of the complaint, but did not consist of a specific object of judgment, since the temporal cut of the *impeachment process* it was limited to the second presidential mandate, initiated in 2015. For this reason, regarding the postponement of payments, the trial at the end was limited to the operations carried out under the *Plano Safra*, together with Banco do Brasil (Bank of the Brazil), pointed out by the denunciation as extendable to 2015.

<sup>3</sup>It stands out in this sense that, in terms of art. 70, *caput*, of the Constitution of 1988, it is up to the National Congress, at the federal level, the exercise of "accounting, financial, budgetary, operational and patrimonial supervision", by external control.

Methodologically, the article is supported in documentary sources that accompanied the procedure, in the National Congress, of the legislative propositions concerning the PSI. In addition, the research uses the institutional approach to assess whether changes in the behavior pattern of the National Congress, regarding the assessment of the public policy costs, can be interpreted in the light of critical junctures underlying the historical period examined. The hypothesis is that the National Congress starts to act more rigorously in controlling the cost of public policies only in moments of crisis, especially when they imply fiscal deterioration and revitalize the notion of scarcity.

## 1. THE PSI CASE: PROGRAM OVERVIEW AND COST LOGIC

For the purposes of this study, the PSI can be defined as a set of anti-cyclical fiscal measures instituted by the Federal government to stimulate the national economy through the provision, on a temporary basis, of credit subsidized to the productive sector. The legal basis for the institution of the program was given by the Provisional Measure 465 of 29 June 2009 (MP 465/2009), edited in a context of economic crisis, as outlined in the following fragment of its explanatory memorandum:

5. The urgency and relevance of the proposed measure is justified by the need for the short-term implementation of governmental actions capable of cooling the impacts of the global crisis on the Brazilian economy, in particular avoiding damage to production and industry, with consequent reflection on jobs, as well as measures that promote conditions for resumption of economic growth (BRASIL, 2009c).

It should be clarified, however, that the MP 465/2009 has not expressly instituted the “Investment Support Program”, and there was no law or presidential decree that did it. What is important for this study, what the MP 465/2009 did most importantly was to authorize the economic subsidies that characterized the program. The set of measures that are called PSI, by the use of this title by the federal government itself, consisted in offering "cheap credit" in financing granted by BNDES for the acquisition and production of capital goods<sup>4</sup>. In these operations, for the said public bank to offer subsidized credit to the private sector, the Union would, in compensation, grant to the BNDES. And for that to be legally possible – in observance of art. 167, VIII, of the Constitution, and to art. 26 of the LRF – specific legislative authorization was required, granted precisely by the MP 465/2009 (converted into law 12,096, of 24 November 2009), in the following terms:

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<sup>4</sup>Initially to the BNDES and subsequently (under Law 12,453 of 2011), also to the Financier of Studies and Projects (Portuguese acronym: FINEP), in this case in the operations of financing destined exclusively for the modality of technological innovation.

Art. 1<sup>st</sup> Is the Union authorized to grant economic subsidy to the National Bank for Economic and Social Development - BNDES, under the modality of equalization of interest rates, in the financing operations contracted until December 31, 2009, destined to Acquisition and production of capital goods and technological innovation.

[...]

§ 1<sup>st</sup>The total amount of funding financed by the Union is limited to the amount of up to R\$44,000,000,000.00 (BRL – R\$ 44 billion reais).

§ 2<sup>nd</sup>The equalization of interest that deals the *caput* will correspond to the difference between the charge of the final borrower and the cost of the source of resources, plus the remuneration of the BNDES and the financial agents by this accredited (BRASIL, 2009d).

In possession of this information, it is inferred that the basic cost structure of the PSI gravity around the need to "equalize interest rates", under the following logic: (i) on the one hand, the BNDES is an official financial institution, and its basic cost of funding corresponded (BRASIL, 2018c) to the Long-Term Interest Rate (Portuguese acronym: TJLP); (ii) on the other hand, as the PSI operator, the BNDES was subject, by virtue of public policies, to granting financing to the productive sector under conditions determined by the National Monetary Council and by the Ministry of Finance, at rates lower than their funding cost; and (iii) BNDES has, on the other hand, received federal resources for equalizing interest rates, which is why the Union's annual budgetary laws have foreseen specific budgetary action<sup>5</sup> for that purpose.

In this case, because such expenditure is included in the annual budgets and implies disbursements by the Union, such subsidies are called "explicit" or "financial". It occurs that, in addition to these explicit subsidies, there is still another portion of the program's costs, related to the so-called "credit" subsidies, also referred to as "implicit" subsidies. This is because, to enable the volume of financing granted under the PSI, the Union has started issuing public debt securities to capitalize on the BNDES. Such expedient was made feasible, for example, by Provisional Measure 453, from January 22, 2009, converted into the Law 11.948/2009, which authorized the Union to grant credit to BNDES in the amount of up to R \$ 100.0 billion (BRASIL, 2009b). In this type of situation, the Union incurred the costs of market capture, *roughly* the Selic rate<sup>6</sup>, and was remunerated by the BNDES, *roughly*, based on the TJLP. The coverage of such "*negative spread*" was in the public coffers and, contrary to the financial subsidies, there is no explicit budget heading for this purpose<sup>7</sup>. The costs, after all, are only implicitly determined, according to detailed exposure presented by Júnior and Bijos (2017).

The following example helps to illustrate, in a simplified way, the total cost logic of the PSI, under the following hypothetical assumptions: (i) the Union captured resources on the market

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<sup>5</sup>000K Action – “Economic Subsidy in Financing Operations Under the Investment Support Program and the Emergency Program for Reconstruction of Municipalities Affected by Natural Disasters (Laws No. 12,096/2009 and No. 12,409/2011)” (BRASIL, 2015b).

<sup>6</sup>Referential Rate of the Special System for Settlement and Custody (Selic).

<sup>7</sup>Although on one side of the equation – expenditure – the budget provides for the payment expenses with interest.

at a rate of 14% per year (Selic rate) and made resources available to BNDES at a rate of 7% per year (TJLP); (ii) BNDES, in turn, granted financing at a rate of 3% per year (PSI rate); and (iii) the volume of resources captured and funding granted was R \$ 44.0 billion. In this situation, annual expenses with explicit subsidies would correspond to R \$ 1.7 billion  $[(7\%-3\%) \times R \$ 44.0 \text{ billion}]$ . The annual implicit subsidies in addition would be R \$ 3.1 billion  $[(14\%-7\%) \times R \$ 44.0 \text{ billion}]$ . The annual cost of the program, therefore, would be R \$ 4.8 billion.

Demonstrated the logic of the PSI fiscal costs, the analysis of the normative constraints to the *ex ante* assessment of the public policies costs, applicable to the time of institution and duration of the program.

## 2. REGULATORY CONSTRAINTS FOR *EX ANTE* ASSESSMENT OF THE PUBLIC POLICY COSTS

Considering that the PSI was instituted through a provisional measure edited by the President of the Republic, it should be noted, firstly, that this legislative species must comply with the Complementary Law 95, of 1998, which is the national standard responsible by disciplining the drafting of the laws, in compliance with the provisions of art. 59, single paragraph, of the Constitution. During the period between the institution, extension and closure of the PSI (2009-2015), the aforementioned law was regulated, under the Federal Executive Branch, by Decree 4,176, of 2002. With regard to the scope of this study, it is appropriate to reproduce the following provisions contained in:

DECREE No. 4,176, OF MARCH 28, 2002

Establishes norms and guidelines for the elaboration, drafting, alteration, consolidation and referral to the President of the Republic of projects of normative acts of competence of the organs of the Federal Executive Branch and provides other measures.

[...]

ANNEX I

ISSUES THAT SHOULD BE ANALYSED IN THE DRAFTING OF NORMATIVE ACTS IN THE CONTEXT OF THE EXECUTIVE BRANCH

[...]

2.3. Which instruments of action seem appropriate, considering the following aspects: [...]

- costs and expenses for the public budget;

[...]

12. Is there a balanced relationship between costs and benefits?

[...]

12.3. Do the intended measures impose additional expenditure on the budget of the Union, states and municipalities? What are the existing possibilities to face these additional costs?

12.4. Was the cost-benefit analysis performed? What conclusion has been reached? (BRASIL, 2002a).

Where it contains explicit reference to the need for cost analysis and public policies benefits<sup>8</sup>, the norm under examination did not mention the methodology to be adopted for this purpose. A recent approach developed by the Federal Government suggests that an analysis of this nature involves the following aspects:

### 3 COST-BENEFIT ANALYSIS

A usual workflow in cost-benefit analysis (CBA) comprises: i) definition of relevant costs and benefits; ii) selection of alternative programs; iii) cataloging and quantitative prediction of the impacts; iv) monetization of costs and benefits; v) discount and calculation of the net present value of the program; and vi) sensitivity analysis. After these steps, the manager should be able to decide between one of the alternatives analyzed (BRASIL, 2018e, p. 173).

It is essential to emphasize, however, that in function of the essentially fiscal scope of this article, this research does not deal with the identification of the broader public policy costs<sup>9</sup>, typical of cost-benefit analyses, such as those presented by the Meneguim and Silva (2017). What is intended to be examined is only the sizing of the gross costs of the PSI for public finances. In the present case, as seen, the fiscal cost of the program corresponds to the sum of the expenses with explicit and implicit subsidies.

Commenting on the provisions contained in Decree 4,176/ 2002, which focused during the validity of the PSI, it should be noted that the regulatory norm of the matter currently in force, is the decree 9.191/2017, which repeats the discipline already examined and adds two new predictions: (i) requires a demonstration of the compatibility of the proposal with the spending ceilings imposed by the "new fiscal regime" (item 16.7); and (ii) requires the presentation of the budget-financial impact estimate of the proposition, in the exercise in which the standard enters into force and in the following two (BRASIL, 2017a). This latter requirement is pertinent to the present study because it considers the determination imposed by Fiscal Responsibility Law (Portuguese acronym: LRF), from 2000, already applicable in the period of validity of the PSI. This is the demand for estimation demanded by the arts. 16 and 17 of the LRF, *verbis*:

Art. 16. The creation, expansion or improvement of governmental action that entails increased expenditure will be accompanied by:

I - estimate of the budgetary-financial impact in the year in which it should enter into force and in the following two; [...]

§ 2<sup>nd</sup>The estimation of the *caput's* item I will be accompanied by the assumptions and calculation methodology used. [...]

Art. 17. The current expenditure derived from law, provisional measure or normative administrative act that establish for the entity the legal of its execution for a period exceeding two financial years shall be deemed compulsory.

§ 1<sup>st</sup>The acts that create or increase the expense of the *caput* shall be instructed with the estimate provided for in item I of art. 16 and demonstrate the origin of resources for their costing (BRASIL, 2000).

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<sup>8</sup>It is worth noting that, more recently, the Decree 9,203, of 2017, which includes – as a guideline of federal public governance – the measurement, whenever possible, of the "costs and benefits" of proposals for the creation, expansion or improvement of public policy (art. 4<sup>th</sup>, VII).

<sup>9</sup>Such as the costs incurred on the portion of the private initiative reached by public policy.

This is, by the way, the main normative command that focuses on the performance of the National Congress regarding the assessment of the fiscal repercussion of public policies, in particular under the Finance and Taxation Committee Portuguese acronym: CFT) of the Chamber of Deputies<sup>10</sup>. The Federal Senate, although it does not count on an instance endowed with similar attribution, still participates in this type of analysis in the specific case of provisional measures, since the Constitution of 1988 provides, in its art. 62, § 9, which is for the "Joint Committee of Deputies and Senators to examine the provisional measures and on them to issue an opinion, before being appreciated, in a separate session, by the plenary of each of the Houses of the National Congress" (BRASIL, 1988).

In disciplining the matter, the Resolution No. 1 of the National Congress of 2002 (resolution 1/2002-CN), provides that the joint committee responsible for issuing an opinion on provisional measure should examine its compatibility and respective budgetary and financial adequacy (BRASIL, 2002b). This standard applies directly to the present study, since the PSI was instituted based on the MP 465/2009, and that the changes in the program, throughout its validity, were also implemented by provisional measures.

Therefore, the standard for assessing the fiscal impact of these measures requires the National Congress to consider medium-term projections for the current year and the two subsequent years (logic "1 + 2"), as defined by the Fiscal Responsibility Law. This system, while useful for capturing the most immediate fiscal impact of public policies innovations, may prove insufficient as a means of gauging the overall fiscal cost of new policies, especially for policies with long-term fiscal effects.

### 3. THEORETICAL APPROACH

With the normative constraints regarding the assessment of the public policy costs, the following topics critically analyze the cost estimates presented by the Executive, as well as the Legislative's performance in relation to these estimates.

As a background, the analysis undertaken honors the role of the Legislative Branch as a republican instrument of checks and balances. Therefore, the assumption is made that the level of rigor applied by the legislature in assessing the public policy costs submitted for its consideration also reflects the propensity of the Legislative to oppose the Executive.

This propensity in Brazil is influenced by the logic of coalition presidential system. As stressed by Bittencourt (2012), the Brazilian Executive has an effective "toolbox" to manage coalitions in favor of governability, which includes, among other instruments<sup>11</sup>, The possibility

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<sup>10</sup>According to art. 32, item X, subparagraph "h", and art. 54, item II, of resolution 17 from 1989, approving the Internal Rules of Procedure of the Chamber of Deputies, the CFT is responsible for issuing an opinion, on a terminative basis, on the financial or budgetary adequacy of proposed legislative propositions which import an increase or decrease in revenue or public expenditure (BRASIL, 1989).

<sup>11</sup>Parliamentary amendments to the budget are also traditionally pointed out as important tools for the management of coalition presidentialism (BITTENCOURT, 2012). Considering, however, that the constitutional amendment 86/2015,

of allocating political leadership positions to representatives who support the government. According to the same author, this logic of interaction between Legislative and Executive strongly conditions the action of political agents.

The understanding of this political framework is especially useful in clarifying the propensity of the Legislative in overseeing demonstrated little expressive in practice, except in moments of crisis. In fact, although they fit the Legislative, in theory and in the legal order, the functions of legislating and inspecting, what has been observed is the hypertrophy of the first attribution to the detriment of the second. In the budget cycle, for example, while the National Congress has fulfilled its duty as a spending authorizer each year (when assessing and voting the annual budgetary law), little attention has been devoted to the judging of the annual accounts provided by the President of the Republic. Evidence of this is that since 2002 there are no presidential accounts judged (BRASIL, 2018a), in which it weighs the requirement recorded in art. 49, paragraph IX, of the Constitution of 1988.

In crisis contexts, when the Legislative becomes opposed to the Executive, the supervisory action of the parliament tends to be triggered with greater evidence. Just note the atypical effort of the National Congress, employed in the midst of the impeachment process, with the aim of appreciating the accounts of the President of the Republic: In 2016, the Joint Committee for Plans, Public Budgets and Surveillance (Portuguese acronym: CMO) approved five outstanding opinions on the presidential accounts, relating to the years 2009 to 2013 (BRASIL, 2018a). A critical conjuncture, in short, provoked tension between the Branches to the point of motivating the change in the pattern of behavior of the Legislative that would be expected in moments of stability in coalition presidential system.

The notion of critical conjuncture, therefore, contributes to the purpose of this study to know the way in which the National Congress operates in assessing the public policy costs submitted to its appreciation, to the extent that it encompasses contextual variables that influence the standards of behavior of the Legislative<sup>12</sup>.

Without any pretension to exhaust the meaning of "critical conjuncture", in this study, the concept is particularized, in line with the fiscal approach of Benz and Sonnicksen (2016), as a window for institutional changes, opened by crises. In the specific case, in addition, the critical conjuncture considered stems from the economic-fiscal and political crisis experienced in 2015. In view of this clipping, no broader aspects are analyzed by the aforementioned concept, as observed in the *analytical narrative* approaches (BATES *et al*, 2000; PRAÇA, 2009), that combine, with greater depth and methodological rigor, elements of historical institutionalism with

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made mandatory the implementation of these amendments, will be future studies demonstrating that such instruments are still relevant for this purpose.

<sup>12</sup>Although this interpretation could also be associated with the "fire alarm" legislative oversight approach, theorized by McCubbins and Schwartz (1984), this article adopts the premise that it is up to the Legislative to exert a less reactive posture in the assessment of the public policies costing.



analyses centered on individual rationality, inherent to the institutionalism of rational choice.

Nevertheless, the concept of critical conjuncture, in this article, dialogues with the models of *path dependency* and punctuated equilibrium that derive from the historical institutionalism. In the first case, the association is justified because the trajectory dependence model<sup>13</sup>, according to Procopiuck (2012, p. 128), while dedicating attention to the narrative of historical sequencing, to understand trajectories of later events, also "maintains the focus on contingencies and randomness to explain the causal dynamics of critical conjunctures that give rise to those evolving trajectories". The punctuated equilibrium model, in turn, is pointed out by the same author as a conception of discontinuity of political time in which periods of moderated institutional changes are "interrupted by rapid and intense periods of transformation", so whereas, during these periods, "there is a tendency to frustrations growth with the paradigms in which governments and their decision-making standards are sustained, and the awakening as to the need for alternatives" (PROCOPIUCK, 2012, p. 131-132).

Two essential factors, therefore, compete for the theoretical analysis centered on critical conjunctures supported by the approach of historical institutionalism: (i) recognition of trajectories of relatively stable political-decision-making patterns; and (ii) the identification of the discontinuity of these institutional standards, motivated by crises. The following topics are devoted precisely to identifying whether the empirical elements detected in the microcosm of the examined situation allow concluding by the occurrence of such events.

#### **4. RESULTS AND DISCUSSION**

The empirical analysis of the concrete case under study, developed below, part of the survey of the provisional measures that inaugurated and altered the *Investment Support Program*, with the critical mapping of the cost estimates informed by the Executive, followed by the assessment of the form of legislative action in relation to this information.

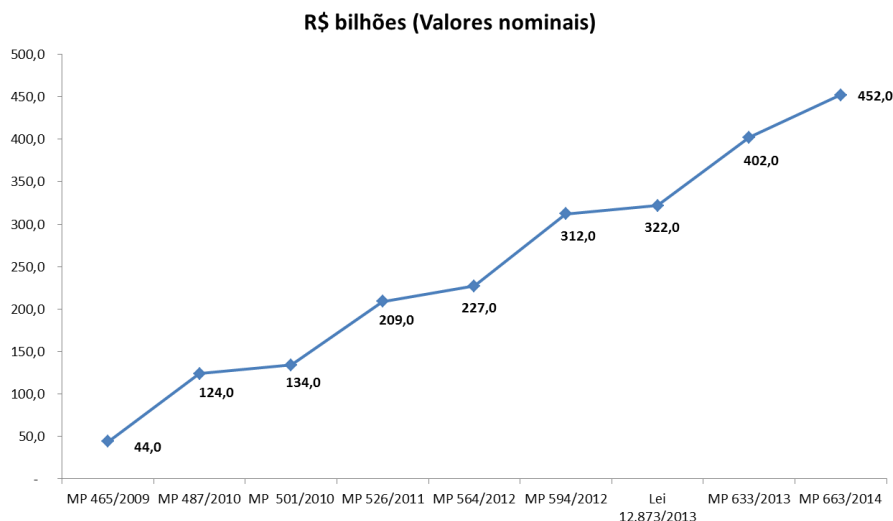
##### **4.1. Executive estimates of the PSI costs**

The institution of the PSI occurred through the MP 465/2009 and was followed by successive prolongations and scale enlargements of the program. Thus, the term of the PSI, initially limited to December 31, 2009, at the end of December 31, 2015, and the volume of subsidized financing, originally limited to R \$ 44.0 billion, finally reached R \$ 452.0 billion. For this to be possible, several provisional measures were edited, as illustrated in the following chart.

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<sup>13</sup>The concept of trajectory dependence is linked to the notion that institutions "tend to incorporate routines and conventions and, therefore, are difficult to change" (PROCOPIUCK, 2012, p. 128).

**Chart 1 – Limit of financing<sup>14</sup> subsidized by PSI**



Caption: R \$ billions (Nominal values)

**Sources:** MP 465/2009, Law 12.096/2009 and amendments. SILEG/CD. Own development.

In their explanatory statements, these provisional measures brought information on estimated costs of explicit subsidies with emphasis on the logic "1 + 2", that is, considering the exercise in which each norm entered into force and the following two, as required by LRF. It is transcribed below, as an example, an excerpt from the explanatory memorandum to the MP 465/2009, which inaugurates the program:

6. [...] Compliance with articles 16 and 17 of the Fiscal Responsibility Law, We have that the expenses of the National Treasury with the payment of the equalization of interest in the scope of the financing were calculated in the value of R \$ 1,365,000,000.00, to be paid at 2010 and R \$ 1,277,000,000.00, in 2011. Please note that for the present year there will be no expenditure on the payment of equalization (BRASIL, 2009c).

This was, in summary, the information made available by the Executive about the costs of the PSI, in the edition of the MP 465/2009 and, of the nine standards listed in graph 1, the only one that ceased to present this type of information was the law 12.827/2013<sup>15</sup>. Given this caveat, the aggregation of the information available in the explanatory statements is consolidated in Table 1 below.

<sup>14</sup>Even if it was calculated in real values, updated until December 2014 (date of issue of the last provisional measure in analysis – MP 663/2014), the expansion of program boundaries would also prove expressive. The initial value of R \$ 44.0 billion, for example, corresponds to R \$ 60.2 billion when updated by the Broad Consumer Price index (Portuguese acronym: IPCA) from June 2009 to December 2014. Under this perspective, the final limit of the PSI would still be 7.5 times higher than the initial value.

<sup>15</sup>This law resulted from the conversion of provisional measure 619/2013, which, however, did not contain an increase in the limits of subsidized financing under the PSI. The forecast of expansion of the limit to R \$ 322.0 billion, promoted by the law 12.873/2013, actually emerged in the bill of conversion of the matter. There was no identification, however, of the specific proposition that originated this expansion of limit, nor of the corresponding estimate of budgetary and financial impact.

**Table 1 – Initial estimates of the executive on explicit subsidy costs**

Standard	Annual additional costs (Logic "1+2")							I. Total "1+2"	II. Future additional costs	R\$ billions
	2009	2010	2011	2012	2013	2014	2015			III. Total (I+II)
MP 465/2009	0,0	1,4	1,3	-	-	-	-	2,6	N/D	2,6
MP 487/2010	-	0,0	4,7	3,1	-	-	-	7,8	N/D	7,8
MP 501/2010	-	0,0	3,7	4,1	-	-	-	7,8	N/D	7,8
MP 526/2011	-	-	0,0	1,3	0,7	-	-	2,0	2,1	4,1
MP 564/2012	-	-	-	0,0	0,0	1,0	-	1,0	5,8	6,8
MP 594/2012	-	-	-	-	0,0	0,0	0,0	0,0	30,5	30,5
Lei 12.873/2013	-	-	-	-	N/D	N/D	N/D	N/D	N/D	N/D
MP 633/2013	-	-	-	-	0,0	0,0	0,0	0,0	12,3	12,3
MP 663/2014	-	-	-	-	-	0,0	0,0	0,0	N/D	0,0
<b>Sum</b>	<b>0,0</b>	<b>1,4</b>	<b>9,7</b>	<b>8,5</b>	<b>0,7</b>	<b>1,0</b>	<b>0,0</b>	<b>21,2</b>	<b>50,7</b>	<b>71,9</b>

**Sources:** own elaboration based on explanatory statements (BRASIL, 2009c, 2010a, 2010c, 2011a, 2012a, 2012d, 2013f, 2014c) of the legislation listed in the table (BRASIL, 2009d, 2010b, 2010d, 2011b, 2012b, 2012e, 2013c, 2013g, 2014d). N/D = Not Available.

From the analysis of the table, we highlight the fact that the portions of annual additional costs, totaling R \$ 21.2 billion from 2009 to 2015 (column I. Total "1 + 2"), were only computed during the first five provisional measures. The "zeroed" values, observed from the MP 564/2012 and below, according to the respective explanatory statements, were due to the "methodology adopted for the payment of equalization"<sup>16</sup> (BRASIL, 2012a, 2012d, 2013f, 2014c). It is, in summary, the systematic payment established by Ordinance 122, of April 10, 2012, of the Ministry of Finance<sup>17</sup>, as follows:

Art. 5<sup>th</sup> [...]

§4<sup>th</sup> The payments of equalizations relating to the daily average balances of applications in financing operations of this Ordinance, contracted from April 16, 2012 will be due after 24 months of the end of each semester of calculation, and updated, from the last day of the semester of calculation to the date of the effective payment by the National Treasury (BRASIL, 2012c).

It appears immediately that estimates of expenses with equalization of interest rates were not governed by the regime of competence, because, if so, the values would have been informed independently of the systematic payment. This more particular accounting aspect,

<sup>16</sup>The MP 564/2012 also presented this effect in the first two exercises.

<sup>17</sup>Edited to discipline the equalization payments, by the National Treasury, to BNDES and the Financier of the Studies and Projects (FINEP).

however, does not constitute the object of the present study, which, in this regard, is limited to the caveat that the fact indicated may represent an element of precariousness regarding the disclosure of the public policy costs, deserving of specific studies.

In the same context, it deserves mention the fact that the postponement of payments for the period of 24 months, as already anticipated, was in the genesis of the discussions related to the so-called "fiscal pedaling" pointed by the TCU in the relationship between the Union and the BNDES. According to the agreement of the Union Court of Auditors (BRASIL, 2015c, 2015d), such a systematic would have set up credit transaction sealed by the LRF<sup>18</sup>, to the extent that, for the period of 24 months, the BNDES would finance the union by supporting the costs of its liability, with the equalization of interest.

It is reiterated, however, that the present study is not addressed to this type of analysis, already thoroughly performed by the TCU. What matters to question, in the face of the data raised, is whether the postponement of payments implied the under-sizing of the calculations of the fiscal impact of the program. After all, the 24-month "bypass", applied to the estimate of costs by the logic "1 + 2" of the LRF, could at least have been compensated by the disclosure of the costs shifted to the future, mitigating the fragilities typical of the regime of cash. This approach, in fact, had already been adopted by the Executive in 2011, when the TCU, in the context of another supervisory process (BRASIL, 2012g), has now demanded projections of expenses with subsidies correlated to the PSI to the Executive.

In the explanatory memorandum that accompanied the MP 526/2011, the estimates of future costs were informed considering the entire period of financing, highlighting the plots distributed among the first three exercises, as shown in the following excerpt:

8. [...] Regarding the compliance with articles 16 and 17 of the Fiscal Responsibility Law, we have to pay the additional cost with the payment of the equalization of interest in the scope of the financing, in addition to those already calculated when the Law n ° 12,096 is published, of 2009, and Provisional Measure n ° 501, of 2010, is estimated at R \$ 4.1 billion by the end of the financing period, being R \$ 1.3 billion in 2012 and R \$ 748 million in 2013. Note that for the present year there will be no additional equalization expense, within the current systematic payment established for the case (BRASIL, 2011a).

In table 1, these deferred costs, reported in the explanatory statements, totaled R \$ 50.7 billion (column "II. Future additional costs"). The consistency of this information, however, is questionable, starting with its discontinuity, illustrated by the lack of fiscal impact estimation of the MP 663/2014, which expanded the limit of subsidized financing to R \$ 452.0 billion. Such extension of the limit, in the terms informed by the Executive, would not bring any cost to the

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<sup>18</sup>According to art. 36 of the LRF, it is "prohibited the credit transaction between a state financial institution and the Federation entity that control, as beneficiary of the loan" (BRASIL, 2000).

Union, neither present nor future, since the explanatory memorandum to the MP 663/2014 was limited to the following justification:

7. [...] As to the fulfillment of articles 16 and 17 of the Fiscal Responsibility Law, we must, through this proposal, for the present year, as well as for the following two, there will be no budgetary-financial impact, due to the current systematic of equalization payment (BRASIL, 2014c).

Another point to be emphasized is that, in cases where future costs were reported, there was no clarification about the calculation methodology adopted. Therefore, no transparency was given to the temporal extension of future fiscal impacts, nor to the form of cost aggregation, so that it was not clarified whether there were calculations at present value or if only the sum of the estimated nominal values were reported<sup>19</sup>.

In summary, it is verified that the normative guidelines for the *ex ante* assessment of costs and benefits of public policies, mapped in this study, have not been met, and good techniques for measuring costs have not been adopted to present value. It is therefore corroborated the diagnosis that the prescriptions convened by the regulatory decrees of the Complementary Law 95/1998, traditionally, have not been welcomed by the Public Administration (SALINAS, 2008, *apud* MENEGUIN; SILVA, 2017).

Moreover, it is observed that none of the edited norms was complemented by estimates of costs with implicit subsidies of the PSI, since the exposures of the reasons examined expressly referred to the costs of "the payment of the equalization of interest", which relate to the explicit subsidies of the program. In addition, by no other means the expenses with implicit subsidies of the operations between the Union and the BNDES were disclosed by the Executive, except for the purposes of accountability to the TCU, pursuant to the requirement of this Court of Auditors, commented later.

As part of this framework, there is a need to punctuate the existence of structural fragmentation underlying the PSI cost analysis. This is because, in addition to the provisional measures listed in table 1, which essentially deal with the granting of "economic subsidy" to the BNDES, there is also a group of provisional measures authorizing the Union to "grant credit" to the said bank, as example of the MP 453/2009. The first group deals with explicit subsidies associated with the "area-end" of the PSI; the second, of implicit subsidies arising from the forms of financing, or "area-half", of the program.

However, this is not a completely tight classification, as there are situations of intersection between these sets. This is in the case of MP 526/2011, which authorizes the Union to "grant economic subsidy" (art. 1<sup>st</sup>) and simultaneously to "grant credit" (art. 2<sup>nd</sup>) to BNDES.

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<sup>19</sup>The absence of assumptions and methodology for calculating the estimates presented, for certain, does not comply with the provisions of art. 16, § 2, of the LRF.

Even in this case, however, the respective explanatory memorandum (BRASIL, 2011a), when presenting the estimate of the fiscal impact of the measure, is limited to informing costs with equalization of interest rates, remaining silent on the impact of implicit subsidies arising from the granting of credit to the BNDES.

By informing their estimates of the costs of the PSI, the Executive could not only contemplate the expenditure on the "economic subsidy", but also the expenses related to the implicit subsidies of the program. Proceeding in the opposite direction, after all, is equivalent to disregarding the fiscal consequences of sources of public policies financing. In this context, we highlight the fact that credit concessions to the BNDES were authorized on a generic basis, without specifying the extent to which the resources would be destined for the PSI, which is why it was not possible to accurately inventory which provisional measures related to the implied subsidies concerned the PSI itself. Despite this restriction, the following provisional measures were associated with the generation of implicit subsidies correlated with the financing of the PSI: 414/2008, 439/2008, 453/2009, 472/2009, 526/2011, 618/2013, 628/2013 and 661/2014. (BRASIL, 2008a, 2008c, 2009b, 2009g, 2011b, 2013b, 2013e, 2014b).

In all such cases, the exposures of the respective reasons (BRASIL, 2007, 2008b, 2009a, 2009f, 2011a, 2013a, 2013d, 2014a), only those who accompanied the MPs 414/2008 and 439/2008, which in reality preceded the PSI, made mention of fiscal impact, and still considering it neutral, without any consideration of the implied costs in these operations<sup>20</sup>. In the other provisional measures, the Executive Branch simply failed to comment on the fiscal impact of credit concessions on the BNDES, even if the Union increased its indebtedness to this end. This is a serious fact that demands a profound reflection about the way that has been generated public spending in recent years.

The precariousness of information regarding credit subsidies, as anticipated, had already been verified by auditing the Union Court of Auditors<sup>21</sup> (BRASIL, 2012g). Particularly in relation to the estimation of expenses with implicit subsidies, the report produced by the audit team had a worthy reflection of record, pertinent to this study:

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<sup>20</sup>Whether in function: (i) the cost of opportunity to use the financial *surplus* of the Union (as the MP414/2008); or (ii) the cost of issuing securities (as the MP 439/2008).

<sup>21</sup>The audit was carried out under the TCU 022.684/2010-7 process. As stated in the authorship report, this work "did not aim to assess the opportunity and convenience of granting economic grants and implicit subsidies [...] The purpose of this work is to increase transparency on the issues analyzed and to contribute to qualifying the production of information on the financial and credits benefits" (item 244).

110. When official estimates were not made and disclosed, the transparency in public actions remained impaired in the case under review. As well as studies on the potential benefits were disclosed by the Ministry of Finance and by the BNDES, also the costs of operations should be evidenced, because only in this way will it be possible to know the relationship between the benefits generated and the costs incurred with the loans granted. In other words, although there are numerous advantages to society from a government policy, program or project, it will never be possible to dissociate the results of the resources consumed to achieve them (BRASIL, 2012g).

Portrayed the panorama of the executive's performance in relation to the cost demonstration of the PSI, summarily weighed by the action of the Union Court of Auditors, it goes on to the analysis of the performance of the National Congress regarding the assessment of the program's costs, when the provisional measures listed in this study are being processed.

#### **4.2. *Ex ante* assessment, conducted by the National Congress, about the costs of the PSI**

In the plan, the following is the pronouncement of the joint committee designated to assess the MP 465/2009 (the first of the nine provisional measures listed in table 1), specifically regarding the financial and budgetary adequacy of the economic subsidies to the BNDES, affecting the PSI:

[...] The subsidy here dealt does not impact the budgetary and financial execution in this exercise, which means that it will not pressure the fiscal targets this year. In compliance with the provisions of the articles 16 and 17 of the Fiscal Responsibility Law, there will be sufficient time for the costs of equalizing interest to be conveniently sheltered in the budget schedule of the next two years: part of the charges, in the estimated amount of R \$ 1.365 billion, will be paid in 2010 and the remainder, in the amount of R \$ 1.277 billion, will be paid in 2011. Such charges can be more easily assimilated by the National Treasury in the coming years, especially in the view of the steady recovery of the Union' revenue, favored by the expectation of growth of the product above 4.5%, already from 2010 (BRASIL, 2009h, p. 10).

In the context of this initial position, the Joint Committee to assess the MP 487/2010 (second provisional measure) also adopted an opinion with the following conclusion on the financial and budgetary adequacy of the matter:

[...] In compliance with the provisions of arts. 16 and 17 of the Fiscal Responsibility Law, there will be sufficient time for interest equalization expenses to be adequately covered in the budget programming of the next two years: part of the charges, estimated at R \$ 4.7 billion, will be paid in 2011 and the remainder, in the amount of R \$ 3.1 billion, will be paid in 2012. Such charges may be more easily assimilated by the National Treasury in the coming years, especially in view of the steady recovery of the Union's revenue, favored by the expectation of growth of the product above 7% in 2010 and 4.5% for subsequent years (BRASIL, 2010e, p. 18).

These excerpts demonstrate that the Legislative Branch, in the occasions under analysis, was restricted to the formal examination of the matter, because it did not promote legislative criticism to the values informed by the Executive and considered the PSI as public intervention practically exempt from risks to the union's fiscal balance. The reference to "easily assimilated costs", in particular, suggests that, at the time, the National Congress acted with little rigor in relation to the prevention of risks capable of affecting the inter-temporal balance of public accounts, since there was no demonstration of any other robust analytical rationale for that optimistic projection.

Such behavior may have been influenced by the relatively favorable economic conjuncture at the time, as the domestic economy took off from the international crisis of 2008, with the fall of the Gross Domestic Product (GDP) of only 0.1% in 2009, and showed rapid resumption of growth, with the increase of GDP of 7.5% in 2010. At the same time, when the commented opinions were issued, that is, in 2009 and 2010, the public sector still generated primary *surplus*, of 3.33% and 1.94% of GDP, respectively (BRASIL, 2018b).

In this panorama, the history of the processing of the matter reveals a pattern of behavior according to which the National Congress did not seek to know the assumptions and methodology of calculating the estimates of costs informed by the Executive, what could have been done, for example, by means of written request for information, on the basis of art. 50, § 2, of the Constitution of 1988. In the standard identified, as a rule, no measures were taken to ensure that the National Congress would be aware of the implicit costs (credit) of the program.

Starting from the analysis of these initial cases, it was possible to assess the performance of the National Congress in relation to each of the provisional measures edited in favor of the PSI, based on the following criteria: (1) legislative position on the fiscal impact of the program, as embodied in the opinion of the Joint Committee designated to assess the matter; and (2) manifestation or critical intervention in relation (i) to the cost estimates with explicit subsidies, considering the entire period of funding, and not just the three-year horizon, (ii) to the assumptions and calculation methodology used in their estimates and (iii) to the expenditure on implicit subsidies. The consolidated results are presented in the table below, and the excerpts of the explanatory statements and the legislative opinions used in the critical analysis of the matter are listed in the Annex to this study.



**Table 2 – Performance of the National Congress in relation to provisional measures edited in favor of the PSI**

Standard	Opinion of the Joint Committee on the budgetary adequacy of the standard: Approval (+) Rejection (-)	Manifestation or Critical Intervention of the CN in relation to:			
		Future cost estimates, when not informed	Cost estimates with explicit subsidies	Assumptions and methodology for calculating estimates	Cost estimates with implicit subsidies
MP 465/2009	+	N	N	N	N
MP 487/2010	+	N	N	N	N
MP 501/2010	+	N	N	N	N
MP 526/2011	+	N/A	N	N	N
MP 564/2012	+	N/A	N	N	N
MP 594/2012	+	N/A	N	N	N
Law 12.873/2013	N/D	N/D	N/D	N/D	N/D
MP 633/2013	+	N/A	N	N	N
MP 663/2014	+	S	S	S	S

**Sources:** Own elaboration based on explanatory statements and legislative opinions (BRASIL, 2009h, 2010e, 2010f, 2011c, 2012f, 2013h, 2014e, 2015a) about the standards listed in the table. N/A = Does not apply. N/D = Not available. N = No. S = Yes.

As summarized in the Table above, it was found that: (1) in all situations the designated Joint Committee delivered a favorable opinion in terms of the compatibility and financial adequacy and budgetary of the matter; (2) in none of the first eight occurrences were requested to the Executive, when absent, the future cost estimates of the grants, considering the entire period of the financing, and not only the horizon of three years; (3) in none of the first eight situations the National Congress requested information on the assumptions and methodology of calculation that substantiated the estimates of explicit costs contained in the explanatory statements; (4) in none of the first eight cases the National Congress requested information on the value of expenses with implicit subsidies; and (5) only in the ninth occurrence, that is, in the assessment of the last provisional measure, the National Congress was critically positioned in relation to the fiscal impact of the PSI, thus requiring greater transparency in relation to the disclosure of the overall costs of the program.

In fact, in the event of the MP 663/2014, which extended to R \$ 452.0 billion the total value of the funding financed by the Union, the National Congress began to demand – by force of Parliamentary Amendment<sup>22</sup> of inclusion of text to the aforementioned MP – greater transparency on the costs of the PSI, as recorded in the following excerpt from the opinion dated

<sup>22</sup>Amendment 26, authored by Senator José Serra, presented in 2/4/2015. This is the only amendment received by the relevant Joint Committee in the universe of 48 amendments presented to the MP 663/2009 (BRASIL, 2015a).

5/5/2015, of the joint committee that appreciated the matter:

We understand that greater fiscal transparency regarding the resources obtained by the Bank [BNDES] with the Treasury is fundamental for the Brazilian society to be able to make adequate control of public policy in favor of national economic development [...].

[...]

The accepted amendment moves towards increasing the transparency of BNDES' work, which goes to a large extent off the Union's budgetary process (BRASIL, 2015a).

From a macroeconomic standpoint, this change in the behavior of the National Congress can be credited to the fact that, when the parliamentary amendment is presented in a comment, in February 2015, the country already had clear signs that the economy would be experiencing serious difficulties. Although market projections at the time had not yet been able to capture the magnitude of the approaching crisis, it was already known that GDP growth had slowed significantly, from 3.5% in 2013 to 0.5% from 2014. In addition, the median of the market projections<sup>23</sup> was indicative of economic stagnation in 2015, with a projected GDP growth of 0.03% in the year. On the fiscal side, it was also known, at that time, in 2014, for the first time since the advent of the LRF, the public sector would generate primary *deficit*, which in fact reached 0.56% of GDP that year.

This worsening of the fiscal deterioration framework can be interpreted as part of the *critical conjuncture* that induced the National Congress to demand greater transparency in relation to the costs of government subsidies associated with BNDES. The deteriorated fiscal framework, after all, coexisted with a troubled political panorama, and it was worth noting that at the time of issuing the opinion by the joint committee that appreciated the MP 663/2014, this is, in 5/5/2015, the popularity of the Chief of Executive Branch was already quite fragile<sup>24</sup>, at the same time that the discursive trajectory of the street manifestations, in March 2015, had dewatered in the appeal to *impeachment* of the President of the Republic (PINTO, 2017). Finally, both the author of the amendment and the MP 663/2014 rapporteur belonged to the opposition party to the government<sup>25</sup>.

This was, in summary, the structural context that contributed to the National Congress finding its inflection point, to the point of determining to the Ministry of Finance, through the aforementioned legislative intervention, which were published in the internet, about the fiscal impact of National Treasury operations with BNDES. This prediction, still in force, is contained in art. 1<sup>st</sup>, § 17, of Law 12,096, of 2009, *verbis*:

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<sup>23</sup>Contents of the Focus report of January 30, 2015, of the Central Bank of Brazil.

<sup>24</sup>According to *Datafolha* Research, in 10/21/2014, the assessment of the president's government as "Bad/Lousy" was 20%. In 4/10/2015, this percentage had already reached 60% (FOLHA DE SÃO PAULO, 2015).

<sup>25</sup>The Rapporteur of the MP 663/2014, in the Joint Committee, was Senator Ataídes Oliveira, and the author of the amendment Senator José Serra, both belonging to the Brazilian Social Democracy Party (Portuguese acronym: PSDB), traditionally identified as an opponent to the Workers' Party (Portuguese acronym: PT), to which the President of the Republic was affiliated with.

Art. 1<sup>st</sup> [...]

§ 17. The Ministry of Finance will publish, until the last day of the month subsequent, every two months, on the internet, the following statements: (included by Law No. 13,132, of 2015)

I - the fiscal impact of the operations of the National Treasury with BNDES, together with the calculation methodology used, considering the cost of attracting the Federal Government and the value due by the Union; (Included by Law No. 13,132 of 2015)

II - of the amounts recorded in remains payable in the interest rate equalization operations, in the last financial year and in the total accumulated. (Included by Law No. 13,132 of 2015) (BRASIL, 2009e).

The first publication to fulfill this legal command was the National Treasury Grants Report to the BNDES, referring to the 6<sup>th</sup> Bimester of 2015. In this document, the methodology for calculating the costs associated with the PSI was finally detailed, considering both explicit and implicit subsidies<sup>26</sup>. According to the report in comment (BRASIL, 2016b), the explicit subsidies, with fiscal effects up to 2041, were estimated at R \$ 61.9 billion, considered the flows brought to present value<sup>27</sup>. There were no reasons for surprises, therefore, regarding the explicit subsidies of the program, because these expenses had been initially informed and, despite the weaknesses observed, there were no discrepancies of fiscal impact in worrying magnitude<sup>28</sup>.

On the other hand, it became worrying that the disclosure of the costs with implicit subsidies, estimated by the report in comment on R \$ 261.8 billion at present value, with fiscal effects up to 2060. Against this value, there was the absence of an initial estimate in the legislative propositions examined. This portion of costs, after all, had passed off the parliamentary appreciation of the provisional measures that sustained the PSI and, only costs incurred until the end of 2015, had already been computed R \$ 86.8 billion with implicit subsidies.

Aggregated expenses with explicit and implicit subsidies, it became public the official information that the total cost associated with the PSI, by approximation, could be estimated by the executive itself, at the beginning of 2016, in R \$ 323.7 billion<sup>29</sup>. The seriousness of the information, once again, focuses on the fact that, in the *ex ante* sizing of the PSI cost, the fiscal impacts resulting from the respective implicit subsidies were not assessed, as if the source of funding were foreign to public policy.

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<sup>26</sup>In relation to implicit subsidies, however, there remains the inaccuracy relative to the portion directly associated with the PSI, deduced only by approximation. According to the document, although the amounts borrowed from the BNDES are very close to the limits authorized for the application of resources within the PSI, the Union loans to the BNDES finance several bank accountabilities programs.

<sup>27</sup>Only the values incurred from 2009 to 2015, by simplification, were nominally aggregated.

<sup>28</sup>These expenditures were originally estimated at R\$71.9 billion, as recorded in table 1 of this study. The difference not addressed in the report can be explained by both estimation limitations and distinctions of criteria.

<sup>29</sup>With the caveat that, in the case of implicit subsidies, there was no specification as to the portion relative to the PSI itself. It is also worth the record that, according to the most recent publication, on the first two months of 2018 (BRASIL, 2018d), This total cost estimate was reduced to R \$ 246.8 billion. Such a fall is justified both in terms of the revision of parameters, especially the fall in interest rates, and due to the advance settlement operations by the BNDES, of loans taken from the Union.

## 5. FINAL CONSIDERATIONS

The case study showed that the institutional approach, centered on critical conjunctures, proved pertinent to the understanding of the behavior patterns of the National Congress regarding the *ex ante* assessment of the PSI cost. It was possible to recognize relatively stable political-decision-making patterns, as it was possible to identify the changes in these patterns, triggered by crises.

Since the establishment of the program, in 2009, until its closure, in 2015, the National Congress as a rule did not devote attention to the assessment of the costs of the program. Most of the time, it was restricted to the essentially formalist examination of the matter, insofar as it did not promote legislative criticism of the costs partially informed by the executive and considered the PSI as public intervention practically free of risks For the fiscal balance of the Union. It was only on the eve of the closure of the program, in the midst of a process of political and economic crisis, that the National Congress played a relevant role in relation to the increase of transparency and consistency in the dimensioning of the PSI cost.

The identification of the phenomenon of critical conjuncture, in the concrete case studied, is useful to clarify that the quality of the assessment of the public policy costs, by the National Congress, is subject to fluctuations of conjuncture and therefore demand the incorporation of strategies capable of mitigating these effects. In practical terms, it means to say that the internalization of the findings of this study can contribute to the National Congress achieving greater sustainability in its institutional capacity to actively act in the *ex ante* assessment of the public policies costs.

In this context, future studies could expand the present research with the deepening of the characterization of *critical juncture* in it, to inquire whether there was the formation of new standards of legislative behavior, for example, after the advent of the new fiscal regime instituted by the Constitutional Amendment 95, from 2016 (BRASIL, 2016a), which, by imposing spending ceilings for union, created a new fiscal environment, more restrictive for the generation of expenditure. Thus, with the more intensive use of the institutional tooling, more precisely through the identification of path dependency and of the reproduction of legates (FERNANDES, 2002), future studies could refine the diagnosis of this study, presenting more generic observations on how the National Congress operates in the assessment of the public policy costs.

## References

BATES, R H; GREIF, A; LEVI, M; ROSENTHAL, J-L; WEINGAST, B R. **The analytic narrative project**. American Political Science Review, 94(3), pp. 696-702, 2000.

BENZ, Arthur; SONNICKSEN, Jared. **Continuity despite Critical Juncture: Dynamics in Germany's Federal System during the Economic Crisis**. Prepared for the ECPR General Conference 2016. Prague, Czech Republic, 7-10 September 2016.

BITTENCOURT, Fernando. **Relações Executivo-Legislativo no presidencialismo de coalizão: um quadro de referência para estudos de orçamento e controle: Texto para Discussão nº 112 do Centro de Estudos da Consultoria Legislativa**. Brasília: Senado Federal, 2012.

BRASIL. Presidência da República. **Constituição da República Federativa do Brasil de 1988**. Diário Oficial da União (DOU), 5 out. 1988.

\_\_\_\_\_. Presidência da República Câmara dos Deputados. **Resolução nº 17, de 21 de setembro de 1989** [Regimento Interno da Câmara dos Deputados]. Diário Oficial da União (DOU), Seção 1, p. 3, 22 set. 1989.

\_\_\_\_\_. Presidência da República. **Lei Complementar nº 101, de 4 de maio de 2000** [Lei de Responsabilidade Fiscal]. Diário Oficial da União (DOU), 5 mai. 2000.

\_\_\_\_\_. Presidência da República. **Decreto nº 4.176, de 28 de março de 2002**. Diário Oficial da União (DOU), 1º abr. 2002 (2002a).

\_\_\_\_\_. Congresso Nacional. **Resolução nº 1, 2002-CN**. Datada de em 8 de maio de 2002. Diário Oficial da União (DOU), Seção 1, p. 2 (Republicação), 10 mai. 2002 (2002b).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 194/2007 - MF/MDIC, 20 de dezembro de 2007** (2007).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 414, de 4 de janeiro de 2008** [converted into law nº 11.668, 2008]. Diário Oficial da União (DOU), 7 jan. 2008 (2008a).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 00135/2008 - MF/MDIC, 18 de agosto de 2008** (2008b).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 439, de 29 de agosto de 2008**. [converted into law nº 11.805, 2008]. Diário Oficial da União (DOU), 29 ago. 2008 (2008c).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 4/2009 - MF/MDIC, 21 de janeiro de 2009** (2009a).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 453, de 22 de janeiro de 2009**. [converted into law nº 11.948, 2009]. Diário Oficial da União (DOU), 23 jan. 2009 (2009b).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial EMI nº 92/2009 - MF/MP/MDIC, 29 de junho de 2009** (2009c).

\_\_\_\_\_. Presidência da República **Medida Provisória nº 465, de 29 de junho de 2009** [convertida na Lei nº 12.096, de 2009]. Diário Oficial da União (DOU), 10 jun. 2009 (2009d).

\_\_\_\_\_. Presidência da República. **Lei nº 12.096, de 24 de novembro de 2009**. Diário Oficial da União (DOU), 25 nov. 2009 (2009e).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 00180/2009 - MF/MDIC, 11 de dezembro de 2009** (2009f).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 472, de 15 de dezembro de 2009**. [converted into law nº 12.249, 2010]. Diário Oficial da União (DOU), 16 dez. 2009 (2009g).

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 465/2009**, 1º de setembro de 2009 (2009h).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 041/2010 - MF/MDIC/MEC, 16 de abril de 2010** (2010a).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 487, de 23 de abril de 2010**. Diário Oficial da União (DOU), 26 abr. 2010 (2010b).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial E.M.I. nº 26/MEC/MF, 1º de setembro de 2010** (2010c).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 501, de 8 de setembro de 2010** [converted into law nº 12.385, 2011]. Diário Oficial da União (DOU), 8 set. 2010 (2010d).

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 487/2010**, 3 de setembro de 2010 (2010e)

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 501/2010**, 1º de dezembro de 2010 (2010f).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial EMI nº 33/2011 – MF/MDIC, 2 de março de 2011** (2011a).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 526, de 4 de março de 2011** [converted into law nº 12.453, 2011]. Diário Oficial da União (DOU), 4 mar. 2011 (2011b).

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 526/2011**, 8 de junho de 2011 (2011c).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial EMI/00022/2012- MF/MEC/MDIC/MP/MI, 15 de março de 2012** (2012a).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 564, de 3 de abril de 2012** [converted into law nº 12.712, 2012]. Diário Oficial da União (DOU), 4 abr. 2012 (2012b).

\_\_\_\_\_. Ministério da Fazenda. **Portaria nº 122, de 10 de abril de 2012**. Diário Oficial da União (DOU), 12 abr. 2012 (2012c).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial EM nº 00247/2012 MF, 6 de dezembro de 2012** (2012d).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 594, de 6 de dezembro de 2012** [converted into law nº 12.814, 2013]. Diário Oficial da União (DOU), 7 dez. 2012 (2012e).

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 564/2012**, 3 de julho de 2012 (2012f).

\_\_\_\_\_. Tribunal de Contas da União (TCU). **Relatório de Levantamento. Acórdão 3.071/2012-TCU-Plenário, 14 de novembro de 2012**. Brasília: TCU, 2012 (2012g).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 00023/2013 MME MRE MF, 29 de maio de 2013** (2013a).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 618, de 5 de junho de 2013**. [converted into law nº 12.872, 2013]. Diário Oficial da União (DOU), 6 jun. 2013 (2013b).

\_\_\_\_\_. Presidência da República. **Lei nº 12.873, de 24 de outubro de 2013**. Diário Oficial da União (DOU), 25 out. 2013 (2013c).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 00203/2013 MF MDIC, 25 de novembro de 2013** (2013d).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 628, de 28 de novembro de 2013**. [converted into law nº 12.979, 2014]. Diário Oficial da União (DOU), 29 nov. 2013 (2013e).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial EM nº 00004/2013 MF AGU, 23 de Dezembro de 2013** (2013f).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 633, de 26 de dezembro de 2013** [converted into law nº 13.000, 2014]. Diário Oficial da União (DOU), 26 dez. 2013 (2013g).

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 594/2013**, 3 de abril de 2013 (2013h).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos Interministerial nº 00162/2014 MF MDIC, 26 de novembro de 2014** (2014a).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 661, de 2 de dezembro de 2014**. [converted into law nº 13.126, 2015]. Diário Oficial da União (DOU), 3 dez. 2014 (2014b).

\_\_\_\_\_. Presidência da República. **Exposição de Motivos EM nº 00175/2014 MF, 18 de Dezembro de 2014** (2014c).

\_\_\_\_\_. Presidência da República. **Medida Provisória nº 663, de 19 de dezembro de 2014** [convertida na Lei nº 13.132, de 2015]. Diário Oficial da União (DOU), 19 dez. 2014 (2014d).

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 633/2013**, 13 de maio de 2014(2014e).

\_\_\_\_\_. Congresso Nacional. **Parecer da Comissão Mista destinada à apreciação da MP 663/2014**, 5 de maio de 2015 (2015a).

\_\_\_\_\_. Câmara dos Deputados. **Lei Orçamentária de 2015: Volume IV**. Disponível em:<[http://www.camara.leg.br/internet/comissao/index/mista/orca/orcamento/OR2015/red\\_final/vol4/71\\_enc\\_fin\\_uniao.pdf](http://www.camara.leg.br/internet/comissao/index/mista/orca/orcamento/OR2015/red_final/vol4/71_enc_fin_uniao.pdf)>. Accessed on: 28 ago. 2018 (2015b).

\_\_\_\_\_. Tribunal de Contas da União (TCU). **Representação. Acórdão 825/2015-TCU-Plenário, 15 de abril de 2015**. Brasília: TCU, 2015 (2015c).

\_\_\_\_\_. Tribunal de Contas da União (TCU). **Contas do Presidente da República. Acórdão 2.461/2015-TCU-Plenário, 7 de outubro de 2015**. Brasília: TCU, 2015 (2015d).

\_\_\_\_\_. Congresso Nacional. **Emenda Constitucional nº 95, de 15 de dezembro de 2016**. Diário Oficial da União (DOU), 15 dez. 2016 (2016a).

\_\_\_\_\_. Secretaria do Tesouro Nacional (STN). **Relatório de Subsídios do Tesouro Nacional ao BNDES – 6º Bimestre de 2015** (2016b).

\_\_\_\_\_. Senado Federal. **Parecer aprovado na Comissão Especial do Impeachment**, 2 de agosto de 2016. Brasília: Senado, 2016 (2016c).

\_\_\_\_\_. Presidência da República. **Decreto nº 9.191, de 1º de novembro de 2017**. Diário Oficial da União (DOU), 3 nov. 2017 (2017a).

\_\_\_\_\_. Congresso Nacional. **Histórico da Tramitação das Prestações de Contas Presidenciais** (2018a).

\_\_\_\_\_. Banco Central do Brasil. **Série Histórica das Necessidades de Financiamento do Setor Público**. Disponível em: <<http://www.bcb.gov.br/htms/infecon/seriehistdivliq-p.asp>>. Accessed on: 16 mai. 2018 (2018b).

\_\_\_\_\_. Banco Nacional de Desenvolvimento Econômico e Social. **Taxa de Juros de Longo Prazo**. Disponível em: <<http://www.bndes.gov.br/wps/portal/site/home/financiamento/guia/custos-financeiros/taxa-juros-longo-prazo-tjlp>>. Accessed on: 28 ago. 2018(2018c).



\_\_\_\_\_. Secretaria do Tesouro Nacional (STN). **Relatório de Subsídios do Tesouro Nacional ao BNDES – 1º Bimestre de 2018** (2018d).

\_\_\_\_\_. Instituto de Pesquisa Econômica Aplicada (Ipea). **Avaliação de políticas públicas: guia prático de análise ex ante**. Volume 1. Brasília: Ipea, 2018 (2018e).

FERNANDES, A. S. A. *Path dependency e os estudos históricos comparados*. Revista Brasileira de Informação Bibliográfica em Ciências Sociais (BIB), Rio de Janeiro, n. 53, p. 79-102, 2002.

FOLHA DE SÃO PAULO. **Avaliação Datafolha da presidente Dilma**. São Paulo: Datafolha, 2015. Available in: <<http://www1.folha.uol.com.br/infograficos/2015/02/118652-avaliacao-datafolha-da-presidente-dilma.shtml>>. Acesso em: 22 mai. 2018.

JÚNIOR, A. C. C. d'Ávila Carvalho; BIJOS, P. R. Simão. **Novo Regime Fiscal: análise de impacto e compatibilidade de proposições legislativas**. Estudo técnico nº 11/2017. Consultoria de Orçamentos e Fiscalização Financeira da Câmara dos Deputados. Brasília, 2017.

MCCUBBINS, M; SCHWARTZ, T. **Congressional Oversight Overlooked: Police Patrols versus Fire Alarms**. American Journal of Political Science, Vol. 28, nº 1 (Feb., 1984), pp. 165-179.

MENEGUIM F.; SILVA; R. S. **Avaliação de Impacto Legislativo: cenários e perspectivas para sua aplicação**. Brasília: Senado Federal, 2017.

PINTO, Céli Regina Jardim. **A trajetória discursiva das manifestações de rua no Brasil (2013-2015)**. Lua Nova, v. 100, p. 119-153, 2017.

PRAÇA, Sérgio. **Narrativa analítica de instituições orçamentárias: prerrogativas de emendamento, 1964-2006**, Revista Liberdade e Cidadania, v. 2, n. 5, p. 1-21, 2009.

PROCOPIUCK, Mario. **Políticas Públicas e Fundamentos da Administração Pública**. São Paulo: Atlas, 2012.

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