



Pix amendment: legal overview in the state of Amazonas

Pix amendment: legal panorama in the state of Amazonas

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ABSTRACT

In 2019, through Constitutional Amendment No. 105, a new form of transfer to municipalities by federal deputies and senators was established, called "Special Transfer" or Pix Amendment, also mandatory, which became a routine transfer instrument, and the volume of resources transferred by the Union to municipalities through this system has been increasing year after year, despite the serious gaps in planning and transparency, which are essential in the handling of public resources. However, it is necessary to recognize that this understanding has resulted in a lack of transparency, but it is also necessary to emphasize that the amendments in their entirety and the special ones, such as PIX, have been strengthening as an important public policy instrument, strongly focused on meeting municipal demands, especially in the state of Amazonas, which faces several public order problems in its capital and interior.

Keywords: Amendments, PIX amendments, special transfer.

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In 2019, through Constitutional Amendment No. 105, a new method of transfer to municipalities by federal representatives and senators was established, called the "Special Transfer" or Pix Amendment, also mandatory, which became a common transfer instrument, and the volume of resources transferred by the Union to municipalities through this system has been increasing year after year, despite the serious gaps in terms of planning and transparency, which are essential in the handling of public resources. However, it is necessary to recognize that this understanding has resulted in a lack of transparency, but it is also necessary to emphasize that the amendments in their entirety and the special ones, such as PIX, have been strengthening as an important public policy instrument, strongly focused on meeting municipal demands, especially in the state of Amazonas, which faces several public order problems in its capital and interior.

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INTRODUCTION

The "Pix amendments" represent a serious attack on the constitutional principles of transparency and accountability in the management of public resources. The model, which allows direct transfer of money from the Union to states and municipalities without requiring projects specific or justifications, opens the doors to electoral clientelism and favoritism politicians. Created through Constitutional Amendment 105 of 2019, individual amendments, later dubbed "Pix amendments", have been an instrument for politicians to consolidate their power in detriment of technical and democratic principles. These transfers, free from control and supervision, are carried out according to the interests of parliamentarians, directly benefiting their allies

and electoral bases. The result of this is evident in the political scene: mayors and candidates sponsored by federal deputies have their chances of reelection drastically increased.

The STF has already determined that Congress and the government establish more transparency in the use of these resources. However, the Legislature's resistance to accepting control measures demonstrates the how this practice has become consolidated as a political bargaining chip. The center-right parliamentary majority right, which dominates Congress, has positioned itself aggressively against any attempt of regulation, showing that the defense of these amendments is, ultimately, a defense of their own electoral interests.

Transparency International points out in a report that Amazonas is one of the eighteen states which hides the destination and value of the resources from parliamentary amendments of the Legislative Assembly of the Amazonas transferred by special transfers, which became known as 'pix amendments'.

This research addresses the legal foundations, criticisms regarding transparency and control, as well as examining specific cases in Amazonas, highlighting the challenges and proposals to improve management of these resources.

DEVELOPMENT

Constitutional Amendment No. 105/2019 introduced a new form of transfer of federal resources: the so-called "Pix Amendments". These special transfers allow parliamentarians allocate funds directly to states and municipalities, without the need for agreements or prior specification of the use of resources. In the State of Amazonas, this practice has generated debates on its effectiveness, transparency and compliance with constitutional principles.

Voluntary transfers to municipalities through parliamentary amendments are important instruments for the achievement of public policies, since own resources are scarce in the face of the immense demand for services by society, and this is a reality mainly in the cities of the interior of the state of Amazonas. Popularly known as "PIX Amendments", special transfers give parliamentarians the prerogative to transfer financial resources directly to federated entities, regardless of the signing of an agreement or similar instrument, with few restrictions and regulations regarding the use of these funds by beneficiaries, usually municipalities, as well as the mandatory provision of accounts to society about the destination of these amendments.

Defenders of this type of resource transfer claim that the system is advantageous, given the reduction of bureaucracy in the process, as there is no need to prepare project, work plan or signing of an agreement, facilitating the transfer of resources to municipalities, which are endowed with total autonomy to use these revenues.

Despite the intention to decentralize and streamline the application of resources, the Pix Amendments have been the target of criticism. The Attorney General's Office (PGR) filed a Direct Action of Unconstitutionality (ADI 7695) in the Federal Supreme Court (STF), arguing that these transfers compromise the transparency and oversight of public resources, violating constitutional principles such as the separation of powers and administrative morality. The minister of the STF, Flávio Dino, in a preliminary decision, determined that the Pix Amendments must comply with the transparency and traceability criteria, being monitored by the Federal Court of Auditors (TCU) and the Comptroller General of the Union (CGU).

Based on the consolidated results and taking into account the increase in scale of representativeness of this type of transfer, the importance of a refined monitoring of such movements by the Court of Auditors, either from the correct registration and control of your tickets, whether in tracking and identifying destinations.

Undeniably, the direct transfer of resources reduces potential harm from excessive procedural bureaucracy, as well as providing greater autonomy in the use of these resources by municipalities, which could be an interesting opportunity for local managers solve the most pressing problems of the community. However, it is essential that the entire process is supported by a satisfactory level of planning, as well as ensuring the due transparency of expenditure, in order to demonstrate the results obtained, in addition to allowing a effective social control.

In Amazonas, Pix Amendments have been used to finance several initiatives in municipalities in the interior, which are often difficult to access. The agility provided by this mechanism is seen as positive by some local managers. However, the lack of prior detail on the allocation of resources and the lack of effective accountability have raised concerns regarding the appropriate use of these funds. A survey by Transparência Brasil indicates that, in recent four years, R\$13 billion were transferred through Pix Amendments throughout the country, without effective monitoring, with 85% of this amount being reserved in the Budget Law without indicating the final destination of the resources. The State of Amazonas allocated R\$578,002,458.00 in amendments parliamentarians via special transfers, known as PIX Amendments, only in 2023.

The data published in this by the National Confederation of Municipalities (CNM), which counted the transfer of R\$89.3 million throughout this year, with a shortage of R\$67.6 million. The survey of CNM verified a total of 77 special amendments indicated to the 62 municipalities of Amazonas in 2024. Of these, 36 were paid and another 41 are ready for transfer to city halls.

The main challenges related to the Pix Amendments include the lack of transparency, the absence of effective control mechanisms and the possibility of political use of resources. To mitigate these problems, it is proposed:

1. Detailed regulation: Establish clear standards that require prior specification of the allocation of resources and the obligation to provide accounts.
2. Strengthening control bodies: Expand the role of the TCU and CGU in oversight of special transfers.
3. Active transparency: Implement digital platforms that allow monitoring in real time application of resources by local populations.

The Pix Amendments represent an innovation in the way public resources are transferred, with the potential to speed up investments in priority areas. However, the lack of mechanisms adequate levels of transparency and control may compromise the effectiveness and legitimacy of this instrument. In the context of Amazonas, it is essential to balance the agility in the application of resources with the need to ensure their correct use, respecting the principles constitutional and promoting the sustainable development of the region.

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