

Interinstitutional Action in Combating Tax Crime in Paraíba: An Analysis Legal-Forensic Department of CIRA/PB

Interinstitutional Action in the Fight against Tax Crime in Paraíba: A Legal-Forensic Analysis of CIRA/PB

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Summary

This article examines the work of the Interinstitutional Committee for Asset Recovery of Paraíba (CIRA/PB) in combating crimes against the tax system and related crimes. The model of joint action between the Public Prosecutor's Office, the Treasury Department, the Department of Security and Social Defense, and the State Attorney General's Office is analyzed, highlighting practical results, preventive measures, and asset recovery strategies. The approach is qualitative, based on institutional data, integrated operations, and extrajudicial actions, highlighting the effectiveness of interinstitutional work and its relevance for tax justice and the tax system.

Keywords: Crimes Against the Tax Order. Asset Recovery. CIRA. GAESF. Public Prosecutor's Office. Interinstitutionality.

Abstract

This article examines the performance of the Interinstitutional Committee for the Recovery of Assets of Paraíba (CIRA/PB) in the fight against crimes against the tax order and related crimes. The model of joint action between the Public Prosecutor's Office, the Department of Finance, the Secretariat of Social Security and Defense and the State Attorney General's Office is analyzed, highlighting practical results, preventative measures and asset recovery strategies. The approach is qualitative, based on institutional data, integrated operations and extrajudicial actions, evidencing the effectiveness of interinstitutional work and its relevance to tax justice and the tax order.

Keywords: Crimes Against the Tax Order. Asset Recovery. CIRA. GAESF. Public prosecutor. Interinstitutionality.

1. Introduction

1.1 Contextualization of Tax Evasion in Brazil

Tax evasion represents one of the main challenges for collecting public revenue in our country. In Brazil, it is estimated that approximately R\$600,000,000,000.00 (six hundred billion reais) is stolen from the public treasury each year through tax evasion, compromising the effectiveness of public policies and increasing social inequality.

The fiscal function of taxes, consisting of collecting revenue to finance the State, in this context, proves to be essential to maintaining the Social State of Law.

In view of this scenario and the need to curb tax crimes, the State of Paraíba established, through State Law No. 11,197/2018, the Interinstitutional Committee for Asset Recovery (CIRA/PB), aiming to coordinate the efforts of different bodies in the effective fight against tax crimes.

1.2 Study Objectives

The main objective of this article is to analyze the performance of the Interinstitutional Committee for Asset Recovery of Paraíba (CIRA/PB) in combating crimes against the tax system and related crimes. The aim is to understand the model of collaboration between the Public Prosecutor's Office, the Treasury Department, the Department of Security and Social Defense and the State Attorney General's Office, evaluating the effectiveness of this articulation in preventing and repressing tax crimes and in

asset recovery. In addition, it is intended to highlight the practical results achieved by CIRA/PB, including the judicial operations carried out and the extrajudicial tax mediation actions.

Additionally, the article aims to provide a legal-forensic analysis of the work of CIRA/PB, examining the legal and constitutional basis that supports the work of the committee and discussing the impact of its actions on tax justice and the collection of public revenues for the State of Paraíba. It also seeks to identify the best practices and challenges faced by CIRA/PB, with the aim of offering a comprehensive and critical overview of the subject and contributing to the improvement of public policies to combat tax and related crimes, such as money laundering, criminal organizations and document forgery.

2. Tax Burden and Social Perceptions in Brazil

The inter-institutional work carried out in Paraíba serves to counter the hegemonic culture of encouraging tax evasion, based on the perception that the Brazilian tax burden is excessive and that tax evasion is a legitimate strategy for defending citizens.

In fact, analyzing the global scenario, it can be seen that the Brazilian tax burden occupied, in 2022, the 28th place, among the highest¹, also occupying 9th place in the ranking of the 10 largest economies in the world in 2023 (Source: OECD). Taking the HDI as a reference, among the 193 countries, Brazil occupies 89th place among the highest tax burdens (Source: O Globo, 03/13/2024).

Currently, the country has a tax burden of approximately 33.90% of the GDP produced, and it is an extremely complex system, with an average of 31 (thirty-one) tax regulations published per day since the CF/88 came into effect (Source: IBPT).

Furthermore, there is high taxation on consumption, with a low rate of return in relation to the amount collected, which has even led the country to a series of discussions on fiscal policy, resulting in the tax reform recently approved by EC 132/2023, pending regulation and implementation.

3. Necessary repression of tax evasion as a duty of the State

In fact, the Brazilian government has high social spending, especially on health (which, unlike other countries, such as the United States, is universal), education, social security and social assistance. To finance this model of social solidarity adopted by the Federal Constitution, tax collection requires a great effort, and the fact that a significant portion of taxpayers practice tax evasion ends up burdening the largest portion of society, which has to pay higher taxes, especially because taxation is levied on consumption and the citizen-consumer is the one who bears the burden.

In fact, the Fiscal State is the antechamber of the Social State, so that nothing can be done in infrastructure, health, education, social security, social assistance and security without citizens

¹<https://www.compareyourcountry.org/tax-revenues-global>



contribute to such activities, through the adequate and fair payment of taxes.

Therefore, the conscientious citizen, knowing that he is ultimately responsible for collecting taxes and that these resources need to reach the end, must demand that suppliers of products and services pay their contributions regularly, as well as monitor the appropriate use of public resources, in addition to being aware of the bonuses and benefits that can be obtained through government programs.

Tax evasion, far from being a mere irregularity, constitutes a criminal offense provided for in Law No. 8,137/90, which defines crimes against the tax system, in addition to producing injustices and competitive imbalance, since the tax evader ends up enriching himself illicitly at the expense of resources not collected by the public coffers and obtaining competitive advantages to the detriment of other businesspeople who regularly collect their taxes.

Tax evasion is currently one of the main targets of studies and concrete measures in the most developed countries in the world. According to the OECD, the United States estimates that it loses US\$100,000,000,000.00 (one hundred billion dollars) per year due to tax evasion. In a country like Brazil, where not paying taxes is seen as a morally acceptable attitude, this number is likely to be even higher. The National Treasury Attorney General's Office estimates that the loss caused by tax evasion reaches the level of 600 billion per year.

4. Legal and Constitutional Basis of CIRA/PB

4.1 Interinstitutional cooperation

The Interinstitutional Committee for Asset Recovery of Paraíba (CIRA/PB) is the result of the principle of administrative efficiency (art. 37, caput, CF/882), which requires that the public administration act in a way that achieves the best results, with maximum speed, quality and efficiency, imposing on the Public Administration the coordinated and rational action in the fight against crimes against the tax system. It is also based on the idea of cooperative federalism and the proactive role of the State in confronting tax crimes, articulating instruments from the administrative, civil and criminal spheres.

The idea of inter-institutional work of this nature, carried out through Inter-institutional Committees for Asset Recovery - CIRAs, was born in Minas Gerais in 2007 and today exists in practically all states of the Union, acting in a task force model to recover assets and combat structured tax fraud schemes specialized in tax evasion, with exemplary results.

Given the need for an organized and efficient State to counter the culture that tax evasion is socially acceptable behavior, interinstitutional cooperation emerges as a way to repress such behavior as a duty of the State, according to articles 1 to 3 of Law No. 8,137/90, which define crimes against the tax system, finding support in the principle of tax legality (art. 150, I, CF/883) and in the need to protect the legal asset.

2Art. 37. The direct and indirect public administration of any of the Powers of the Union, the States, the Federal District and the Municipalities shall comply with the principles of legality, impartiality, morality, publicity and efficiency, and also with the following:

(...)

3Art. 150. Without prejudice to other guarantees assured to the taxpayer, the Union, the States, the Federal District and the Municipalities are prohibited from:

I - demand or increase taxes without a law establishing it;

supervised, which is the tax order.

4.2 Legal basis and institutional powers

In Paraíba, State Law No. 11,197/2018 formalized the creation of CIRA, which has as members the Public Ministry, the Finance Department, the State Attorney General's Office and the Department of Security and Social Defense.

Each of these bodies acts within its constitutional and legal powers to investigate, assess, and prosecute tax and related crimes and recover assets, acting in an organized and coordinated manner, thus demonstrating the state's ability to provide a quality and efficient service to citizens.

Inter-institutional collaboration, as demonstrated by CIRA/PB, offers multiple advantages in combating tax crimes. The coordination between different agencies, such as the Public Prosecutor's Office, the Treasury Department, the Department of Security and Social Defense, and the State Attorney General's Office, results in a more comprehensive and effective approach. This synergy allows for the exchange of information, the sharing of resources, and the coordination of actions, enhancing the capacity to investigate and repress complex tax frauds.

Additionally, joint action strengthens the credibility of state actions, increases efficiency in asset recovery and promotes greater tax justice, contributing to the financing of public policies and social well-being.

5. Responsibilities of the Institutions that Make Up CIRA/PB

CIRA/PB is made up of four central institutions, each with a well-defined role within the scope of combating tax crimes and illicit activities and recovering assets, receiving operational support from other institutions that act sporadically in specific cases:

5.1. Public Prosecutor's Office of the State of Paraíba (MPPB):

The functions of the Public Prosecutor's Office, as a permanent institution, essential to the jurisdictional function of the State⁴, are defined in article 129 of the Federal Constitution⁵. These include the promotion of public criminal action, the defense of the legal order, the democratic regime and the unavailable social and individual interests, in addition to the exercise of other functions conferred upon it, as long as they are compatible with its purpose.

4Art. 127. The Public Prosecutor's Office is a permanent institution, essential to the jurisdictional function of the State, and is responsible for defending the legal order, the democratic regime and the non-negotiable social and individual interests.

5Art. 129. The institutional functions of the Public Prosecutor's Office are:

I - privately promote public criminal action, in accordance with the law;

(...)

III - promote civil investigations and public civil actions to protect public and social assets, the environment and other diffuse and collective interests;

(...)

VIII - request investigative measures and the opening of a police inquiry, indicating the legal grounds for their procedural statements;

IX - perform other functions that are conferred upon it, as long as they are compatible with its purpose, and is prohibited from providing legal representation and legal consultancy to public entities.



Within the scope of the inter-institutional committee, it performs its functions in the criminal area, both in the judicial and extrajudicial spheres, through the Public Prosecutor's Office for Crimes Against the Tax Order, developing its activities with the objectives of acting specifically in crimes of a tax nature, reducing their practice and punishing the perpetrators of these crimes and, secondarily, increasing the recovery of assets in the State of Paraíba. In the extrajudicial field, the Public Prosecutor's Office conducts mediations between the Public Treasury and taxpayers to promote installment payments or settlement of tax debts, avoiding judicialization and promoting the rapid recovery of assets. The existence of express rules to the effect that the installment payment of tax debt suspends the punitive claim and the criminal statute of limitations, provided that the request is formalized before the receipt of the criminal complaint, while the full payment of said debt extinguishes the punishability of the tax crime (Law No. 10,684/2003, art. 9, caput and §1^o6 and Law No. 12,382/2011, art. 83, §§ 2^o and 3^o7), demonstrates the need for extrajudicial action by the Public Prosecutor's Office, even in a Public Prosecutor's Office of an essentially criminal nature, acting proactively and, together with the State Treasury Department, in calling taxpayers with the objective of informing them of the benefits of the legislation, granted in cases of installment payment and full payment of the tax debt, avoiding the judicialization of the processes and the swelling of the judicial machine. In view of this scenario, the MPPB, honoring the culture of extrajudicial conflict resolution, established the Tax Mediation Chamber, within the scope of the then Public Prosecutor's Office for Combating Tax Evasion, currently called the Public Prosecutor's Office for Crimes Against the Tax Order, through the Attorney General's Act No. 079/2013⁸, dated 10/11/2013, later transformed into the Center for Action and Mediation in Tax Illegalities - NAMIT, an auxiliary body of the Public Prosecutor's Office, inserted in art. 87-A, of the Organic Law of the Public Prosecutor's Office⁹, which aims to resolve tax issues out of court

6Art. 9. The State's punitive claim is suspended, referring to the crimes provided for in articles 1 and 2 of Law 8,137 , of December 27, 1990, and in articles 168A and 337A of Decree-Law 2,848 , of December 7, 1940 – Penal Code, during the period in which the legal entity related to the agent of the aforementioned crimes is included in the installment payment regime.

§ 1. The criminal statute of limitations does not run during the period of suspension of the punitive claim.

§ 2.-The punishability of the crimes referred to in this article is extinguished when the legal entity related to the agent makes full payment of the debts arising from taxes and social contributions, including accessories.

7Art. 83. The tax representation for criminal purposes related to crimes against the tax system provided for in articles 1 and 2 of Law No. 8,137 of December 27, 1990, and crimes against Social Security, provided for in articles 168-A and 337-A of Decree-Law No. 2,848 of December 7, 1940 (Penal Code), shall be forwarded to the Public Prosecutor's Office after the final decision has been issued, at the administrative level, on the tax demand for the corresponding tax credit. (As amended by Law No. 12,350 of 2010)

(...)

§ 2. The State's punitive claim regarding the crimes provided for in the caput is suspended during the period in which the natural person or legal entity related to the perpetrator of the aforementioned crimes is included in the installment plan, provided that the request for installment plan was formalized before the receipt of the criminal complaint. (Included by Law No. 12,382, of 2011).

§ 3. The criminal statute of limitations does not run during the period of suspension of the punitive claim. (Included by Law No. 12,382, of 2011).

§ 4. The punishability of the crimes referred to in the caput is extinguished when the natural person or legal entity related to the agent makes full payment of the debts arising from taxes, including accessories, which have been the subject of a payment installment plan. (Included by Law No. 12,382, of 2011).

8Institutes the Mediation Chamber, within the scope of the Public Prosecutor's Office for Combating Tax Evasion, created by Law State nº 9.717/2012.

9Art. 87-A. The Center for Action and Mediation in Tax Offenses, an auxiliary body of the Public Prosecutor's Office, is responsible for coordinating the institutional policy of prevention, conciliation, mediation and repression in matters of tax offences, being

of the taxpayers charged, through conflict mediation methods, in order to avoid filing a complaint and which, in its performance, has achieved significant results by allowing the resolution of tax debts in a consensual manner.

In the judicial sphere, the MPPB is responsible for the criminal prosecution of crimes against the tax system and related crimes, promoting investigations, requests for precautionary measures and offering complaints, with monitoring of the respective criminal action until the final judgment, where it acts with support in information and technical guidance coming from the State Tax Auditors and State Attorneys, who monitor and subsidize the activity of the Public Prosecutor.

5.2. State Treasury Department (SEFAZ/PB):

The State Treasury Department is the collection agency by nature, its main function is to manage public finances, including the collection, inspection and control of taxes and revenues, in addition to managing the public budget and, as a mission, to make the State's actions financially viable, contributing to its economic and social development, with fiscal justice.

Within CIRA/PB, SEFAZ is responsible for planning, executing and controlling tax inspection actions.

It operates through the Executive Management for Combating Tax Fraud (GECOF) and the Technical Advisory for Tax Intelligence (ATIF).

GECOF is the specialized inspection unit of the State of Paraíba Treasury Department focused on directly combating structured tax fraud. Composed of highly qualified tax auditors, it carries out detailed inspections of companies, economic sectors and commercial chains suspected of tax evasion. It works on preparing infraction reports, analyzing documents, verifying unsuitable invoices and assessing tax liabilities. Since 2022, it has been formally part of GAESF, reinforcing synergy with other agencies in the fight against macro-tax crime. GECOF also contributes technically to the instruction of judicial and administrative proceedings, being one of the evidentiary bases for criminal and civil actions against structured tax evaders.

ATIF plays an essential role in detecting and analyzing structured tax fraud.

Integrated into the structure of the State Treasury Department, ATIF works on screening, cross-referencing and technically analyzing tax, accounting and operational data. Its work consists of identifying inconsistencies that point to qualified tax evasion practices, providing strategic information to other CIRA departments. Based on complaints, administrative records and cooperation with institutional partners, ATIF conducts in-depth studies that support tax audits and operational launches. Its work is technical and preventive, essential for initiating more complex investigations within the scope of GAESF.

5.3. Attorney General's Office of the State of Paraíba (PGE/PB):

It is the civil and tax arm operating in CIRA/PB, whose actions represent the interests of

the specificities of its activities regulated by an act of the Attorney General. (Included by LC No. 128/2015, published in the DOE of 31.03.2015)

State in the civil and tax sphere.

The Attorney General's Office of the State of Paraíba (PGE/PB) plays a fundamental role in the structure of the Interinstitutional Committee for Asset Recovery (CIRA/PB), acting based on its legal expertise to ensure the effectiveness of the recovery of tax credits and the protection of the public treasury. Its activities include both defending the legality of tax assessments and adopting proactive and innovative measures aimed at the civil prosecution of debtors and the recovery of the State's assets.

Among the instruments used by the PGE/PB, the proposal of Incidents of Disregard of Legal Personality (IDPJ) stands out, with the interposition of precautionary measures, with the obtaining of the freezing of values and assets. Its importance in the prevention of fraud is also evident, through preventive action, resulting in savings of large amounts to the public coffers of Paraíba.

The work of PGE/PB also involves the qualification of tax credits in executions proposed by third parties, and its effective participation in supporting the legality of SEFAZ/PB's acts stands out.

From a strategic point of view, the PGE/PB adopts four pillars of action: detailed legal analysis, procedural innovation, inter-institutional cooperation and focus on results. This approach has contributed decisively to the fight against tax evasion and impunity, reinforcing the State's commitment to citizenship and the tax system.

The results obtained demonstrate the importance of its presence in CIRA/PB as an indispensable body for the recovery of public assets and the consolidation of a culture of responsibility and fiscal integrity.

5.4. State Secretariat for Security and Social Defense (SESDS):

It is represented in CIRA/PB by the Specialized Police Station for Crimes Against the Tax Order. DECCOT, linked to the Civil Police of Paraíba, is responsible for the criminal investigation of crimes against the tax order and related crimes. Its activities include the initiation and conduct of preliminary investigations and police inquiries, execution of arrest warrants, search and seizure, in addition to precautionary measures such as the breaking of banking, tax and telematic secrecy and the seizure of assets, with the aim of promoting the criminal repression of criminal organizations focused on the practice of structured tax fraud, involving crimes against the tax order, money laundering, and ideological and documentary forgery.

The DECCOT team, made up of delegates, investigators and experts, carries out technical due diligence, document analysis, identification of hidden assets and production of investigative reports.

The police station is one of the pillars of the qualified repression promoted by CIRA, especially in operations against criminal organizations specialized in tax fraud with a million-dollar impact on the public treasury.

This inter-institutional arrangement enables coordinated, effective and comprehensive action, which integrates administrative, civil and criminal powers in tackling tax evasion in Paraíba.

6. Special Operational Group for Combating Tax Evasion - GAESF:

criminal repression of structured tax fraud

In contrast to cases handled using extrajudicial methods of conflict resolution, structured tax frauds, perpetrated, in the vast majority of cases, by criminal organizations specially set up for this purpose, using shell companies, also known as “noteiras” and intermediaries, to commit tax crimes combined with money laundering and document and ideological falsification, deserve repressive treatment capable of demonstrating the state's intolerance towards macro-tax criminal practices.

To effectively combat such behavior, CIRA/PB acts, through its Specialized Group to Combat Tax Evasion - GAESF, established through CIRA/PB Resolution No. 001/202210, in view of the need brought about by the complexity and relevance of criminal actions committed against the tax order in the state of Paraíba and the convenience of disciplining the preventive and repressive inter-institutional activity to combat crimes against the tax and economic order at the state level.

Its activities are characterized by coordinated work between several institutions, including the Public Prosecutor's Office, the Treasury Department, the Department of Security and Social Defense, and the State Attorney General's Office. To identify and investigate fraud, GAESF uses tax information and data, implementing qualified repressive actions to combat macro-tax crime. One of GAESF's main objectives is to deal with the complexity and relevance of criminal actions against the tax system in Paraíba, seeking to regulate inter-institutional preventive and repressive activity against tax and economic crimes in the state.

The Special Operational Group for Combating Tax Evasion (GAESF) works to combat structured tax fraud, often carried out by criminal organizations that use “noteiras” shell companies and third parties to commit tax crimes. Its activities include the investigation and prosecution of crimes such as criminal organization, money laundering, and document and ideological falsification, which commonly accompany tax crimes in these situations. To this end, GAESF carries out judicial operations, executing arrest warrants, search and seizure warrants, precautionary measures to break tax and banking secrecy, break telematic and telephone secrecy, and seize assets.

These operations reflect the application of criminal tax law, especially in combating macro-tax crime, from the perspectives of general prevention and qualified repression.

7. Final Considerations

The successful experience of CIRA/PB demonstrates the importance of integration and collaboration between different public agencies to tackle complex problems and proves the effectiveness of the inter-institutional model in combating tax and related crimes. The coordination between agencies allows for a comprehensive approach, integrating prevention, repression and tax education. From a legal point of view, CIRA's actions are solidly based on principles

¹⁰Creates the Special Operational Group for Combating Tax Evasion - GAESF, within the scope of the Interinstitutional Committee for Asset Recovery of the State of Paraíba and provides other measures.



constitutional and legal, contributing to the effectiveness of tax collection and the protection of the public interest.

By combining extrajudicial and criminal mechanisms, the committee ensures greater speed, reduces judicialization and promotes tax order and fiscal justice. The model adopted in Paraíba can and should be replicated by other federative entities, serving as a paradigm of efficient and constitutionally legitimate public tax policy.

Furthermore, CIRA/PB's emphasis on tax mediation and out-of-court dispute resolution is a key point. By promoting consensual resolution of tax disputes, the committee not only expedites asset recovery but also reduces the burden on the judicial system. This proactive and preventive approach, exemplified by NAMIT, demonstrates a commitment to efficient tax justice and the reduction of bureaucracy. By offering alternatives to judicial proceedings, CIRA/PB facilitates compliance with tax obligations and promotes a culture of fiscal responsibility.

Another relevant element to be highlighted is the role of the Special Operational Group for Combating Tax Evasion (GAESF), which represents the qualified repressive aspect of CIRA's activities, specifically aimed at combating structured tax fraud, normally promoted by criminal organizations that use shell companies, intermediaries and related practices such as money laundering and document forgery.

GAESF's activities involve joint work between the Public Prosecutor's Office, SEFAZ, PGE and the Secretariat of Security and Social Defense, carrying out judicial operations that include arrests, searches and seizures, seizure of assets and breaches of banking, tax and telematic secrecy. In this way, the group reinforces institutional intolerance to practices of macro-tax criminality, combining investigative and procedural measures with the strategy of protecting the tax order and the public interest.

Finally, it is essential to recognize the social impact of CIRA/PB's work. Asset recovery and combating tax crimes are not just technical or financial issues; they have a direct impact on the state's ability to fund essential public services, such as health, education, and security. By ensuring that public funds are collected fairly and efficiently, CIRA/PB contributes to social justice and economic development in Paraíba. Therefore, the committee's work goes beyond mere law enforcement; it aligns with the broader goals of social welfare and progress.

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