

TAX LAW AND STATE INTERVENTION IN THE ECONOMY: UKRAINE WAR AND TAX LEGISLATIVE CHANGE TO MAINTAIN STABILITY IN BRAZIL

doi.org/10.56238/arev6n2-189

Submitted on: 24/09/2024 Publication date: 24/10/2024

Pablo Henrique Cordeiro Lessa¹, Nélida Astezia Castro Cervantes², Ana Rízzia Cunha Cordeiro Forte³, Maria Iracema Pinho de Sousa⁴, Pietra Cordeiro Lessa⁵, Sérgio Ricardo Ribeiro Alencar⁶

ABSTRACT

The scenario of instability and hyperinflation caused by the COVID-19 pandemic and the War in Ukraine has led Brazil to a situation of serious crisis, with a generalized increase in prices and the deregulation of the economic stability experienced. Thus, it was necessary, in view of the increase in fuel prices, which has a systemic effect throughout the country, to exercise a model of State intervention in the economic domain in order to minimize the impacts resulting from the unfavorable situation. In view of the possible solutions, Tax Law proved to be the best solution for the case, being a mechanism for distributing the burdens for the situation among different entities of the Federative Republic of Brazil. It is, therefore, necessary to demonstrate how Tax Law is integrated into a modality of State intervention in the Economy, correlated to classical State functions, in addition to the feasibility of intervention through tax legislation in order to reestablish a peaceful scenario and national economic stability.

Keywords: Tax Law. State Intervention. Ukraine War. Economic Stability.

E-mail: pablo.lessa@ueap.edu.br

¹ Professor of Law at the State University of Amapá (UEAP)

² Professor of Law at the Federal University of Ceará (UFC)

E-mail: nelidacervantes@hotmail.com

³ Doctor student in Pharmacology at the Federal University of Ceará (UFC)

Email: rizziacordeiro@gmail.com

⁴ Professor of Pedagogy at the Federal University of Cariri (UFCA)

E-mail: irmapin@gmail.com

⁵ Tax Auditor of the State of Amapá and Bachelor of Business Administration from the Federal University of Ceará (UFC)

E-mail: pietralessa@gmail.com

⁶ Data Analyst and Renewable Energy Engineer from the Federal University of Ceará (UFC)



INTRODUCTION

The recent crisis that initially took place in Ukraine and culminated in the war watched by billions of people daily has rekindled old fears of a military escalation in the world, which would put the very existence of humanity in check. Among the most skeptical scholars regarding the occurrence of a World War, however, there is consensus regarding the beginning of a new phase in which the military war has spilled over into an economic aspect, with the imposition of sanctions on states that have the capacity to compromise not only local economies, but also cause disastrous impacts in other parts of the world that are not directly related to the established conflict.

This is exactly what happened on March 10, a milestone in which the Petrobras company, one of the main Brazilian companies, announced the readjustment of the price of gasoline, diesel and liquefied petroleum gas (LPG) in percentages that exceeded two digits, between 16% for LPG and 24.9% for diesel, according to Portal Uol (2022). The communication took place in a short period after the announcement by the United States government to ban the import of Russian oil and gas, reported by Portal Uol (2022), one of the main producers in the world, which deregulated the world market and caused fears of a new wave of inflation in Brazil, already hit hard by the COVID-19 pandemic.

Brazilian inflation, seen as a villain by most economists, in view of the disastrous decade of hyperinflation, known as the "Lost Decade", during the 1980s, has brought to the fore old elements of state intervention in the economy, among which is the Fiscal Policy, exactly where the application of tax law is located, which defines the rules and limits within which the State can exercise its power to tax.

In the case of the rise in fuel prices, the Federal Government rushed to sanction Complementary Bill No. 11/20, which defined the change in relation to the *ad valorem* rate for *ad rem* on the liter of fuel, in order to contain the generalized increase in prices resulting from the increase in the price of basic inputs for national logistics, which would bring developments in practically all sectors, from agriculture (in view of food distribution), industry (freight of household appliances and items for personal use) and services (increase in airfares announced in March 2022).

The intervention, in an attempt to reduce the influence of external factors on fuel prices practiced in Brazil, translates, in the current conjuncture, into a clear attempt to



control the Brazilian economic environment, bringing a typical element of tax law - the definition of the tax rate - to the heart of the solution of an installed crisis.

If the war in Ukraine continues for a long period, the situation will tend to worsen even more, with even deeper impacts on Brazilian society, as can be seen from the prediction of *the Food and Agriculture of the United Nations* (FAO), reported by the Reuteus Agency (2022), that food prices may increase by up to 20% (twenty percent) in the world, which will certainly require new interventions in Fiscal Policy to try to mitigate the impacts of the high prices in the lives of Brazilian citizens.

It so happens that the development of the International Community was moving in a diametrically opposite direction, of reducing tariff and non-tariff barriers and implementing an increasingly free world trade, following the precepts of globalization and capitalism. And, behind it, with the return of an important economic protection since the emergence of the Modern State, from the Great Crusades.

On the subject, Elias (1993) argues that, after the development of peoples and their approximation, external attack was always imminent, in addition to the scarcity arising from population growth and, consequently, the demand for goods and services, generating a situation of stress for the States. The doctrinaire's statement remains contemporary: the materialization of the conflict took place through Russian intervention in Ukrainian territory, installing a military conflict in Europe not experienced for almost eight decades; and the increase in shortages resulted from the imposition of harsh sanctions on one of the world's leading economies and the inability to access inputs produced in the Russian Federation.

The conjuncture puts at risk the entire system built to provide stability to people, and the State, which has as its pillars the protection of private property and free enterprise, was required to rebalance the economic context, exercising its role as regulator and maintainer of the conditions of its population.

Therefore, the present work proposes to point out how Tax Law is integrated into a modality of State intervention in the economy, correlating it to classical state functions, being an instrument for the maintenance of economic stability and order. To this end, it will cover the formation of the State, its functions and types, the way in which state intervention in the economy took place and takes place in Brazil, what it aims to protect, correlating Tax Law as an instrument of this intervention, which may become the solution found to increase the State's guiding role.



THE STATE

To understand the intervention of the State in the economy, it is essential to understand what the State translates into, its formation and the limits of its historically developed action. Initially, he was born with an unlimited character and based on the figure of the monarch, as evidenced by Elias (1993), who was seen as coming from the divine order, holding unlimited powers to govern. Because he was confused with the State itself, the monarch directly exercised the State's intervention in the economy without limitations, and the State figure was adjectivated as absolutist.

Over the years, the situation proved to be unstable and the exploited populations revolted numerous times against the absolutist State. However, only with the rise of the bourgeois class to power through commercial exchanges, it began to demand that the State behave in such a way as to allow it to occupy its space.

Thus, the State was born as it is conceived. This period represents the reach of modernity, considering that the new international order was based on distinct and autonomous territorial entities, with the State having two intrinsic characteristics: internal superiority and external insubmission.

There are several classifications of the State, but the one that confronts the Social State and the Liberal State is the most relevant for understanding the theme. Under this paradigm, Bonfim (2011 *apud* VITA; ANDREOTTI, 2014, p. 27) defends the evolution of the State in two moments, the first would be the Liberal State, until the Social State was reached.

The Liberal State involves equality in the application of the law associated with private autonomy to improve the quality of life of citizens. In this context, individual freedom, private property, legal certainty and civic education were essential in the construction of the state's will, according to Lancheros-Gámez (2009).

In turn, the Social State is the one that focuses its attention on instruments that allow sustaining the material equality of its citizens, that is, a State that plays an active role in the fight against poverty and economic inequality. Such attitudes are based on their functions, which support intervention in the economic domain in order to enable improvements to the population, approaching the intervention model carried out in an attempt to control inflation in 2022 in Brazil.



In relation to state functions, Altvater (1972) points out that the state cannot be seen only as a political instrument or social institution established by capital, but rather as a guarantor of the fulfillment of capital's social existence throughout and beyond competition. As a mediator of conflicts of interest, the State must act in order to coordinate and assist people in relation to their decisions and projects in order to not only benefit them, but the entire community.

Altvater (1972) also highlighted the areas in which the State operates, which are four:

Creation of the general material conditions of production ("infrastructure"); (...) determination and safeguarding of the legal system (...); regulation of the conflict between wages and capital (...); guarantee and expansion of total national capital and the world capitalist market" (ALTVATER, 1972, pp.99-100).

In turn, Vita and Andreotti (2014) argue that the State acts with a double function when it relates to the economy: to overcome market failures and to implement public policies in order to enable the construction of the Social State. Thus, it can be seen that state intervention in the economy is presented as the exercise of state functions, and can take place in different ways.

STATE INTERVENTION IN THE ECONOMIC DOMAIN

State interventionism in the economy was explicitly presented after the 1929 crisis, when the State acted as a regulatory agent of the Economy, contradicting economic liberalism, the dominant thought at the time. After a firmer intervention in the United States, through the *New Deal program*, it became evident that at other times its practice would also be necessary to guarantee an environment of stability for nations.

Pereira (1989) argues that the control of the economy by the State is a cyclical process, because at different times there is expansion and contraction of intervention. It is not possible to conceive of an inert State, which exercises the same type of control in any situation, without considering the economic and social conjuncture in which it is inserted in a given period.



The current situation is atypical from a historical point of view, since the last pandemic of the proportions of COVID-19 occurred more than a century ago, not counting the period of relative international peace, which lasted for almost 80 (eighty) years. Thus, the two periods of relative stability were broken in an interval of 02 (two) years, leading to a disorganization of production, the workforce, logistics and the division of international power incapable of being managed in such a short period of time and with the degree of complexity currently experienced due to the increase in international relations and globalization.

In this sense, according to Pereira (1989), classical economists understand the radical separation between the market and the State as impossible, and the differentiation between conservatives and progressives or liberals is related to the degree of intervention, and not to its existence. The intervention is certain, and should be measured and practiced to different degrees, based on the influence of the dominant economic thought among that group of economists.

In other words, conservative economists are opposed, in principle, to state intervention due to the fear of socialism, which for many years was seen as the nationalization of large corporations and greater state control over the economy. Pereira (1989) argues that this interpretation no longer prospers, since the two greatest socialist examples, the extinct Soviet Union and China, are not essentially socialist countries, but statist social formations, far from idealized anarchist or Marxist societies, and which, in fact, are led by a new dominant class called techno-bureaucracy.

The technobureaucrats, in this sense, use the socialist flag to distort the cycle and manage to consolidate themselves as an industrializing elite parallel to the capitalist entrepreneurs, using socialism as a flag, but not as a de facto purpose.

Pereira (1989) argues that statism presents itself as an enemy for both socialists and capitalists, as it leaves vacant space for statists to be able to stand out and consolidate their worldview. Pereira (1989) says that statism differs from socialism based on the fact that, in the former, the techno-bureaucracy is the dominant class, as it holds the state organization, being centrally controlled; while in the second, classlessness, self-management and democracy prevail, being decentralized. Currently, in the conflict between Russia and Ukraine, the situations have been reversed.



Russian President Vladimir Putin rose from anonymity to establish himself as a leader by using the state apparatus in the interests of his group, with the support of former President Boris Yeltsin, but without the opposition of the capitalists. In fact, since he established himself in power, he offered an ideal of Russian strength that convinced the capitalist elite, called the oligarchy, to sustain and finance his regime, guaranteeing the president free access to the policies he defended and, indirectly, to the preparation for war.

With the sanctions imposed by Western countries not only on the country, but on specific individuals, oligarchs who support the Russian regime, with the unavailability/blocking of assets and confiscation of private property abroad, the intention is to install the antagonism defended by Pereira (1989) between technobureaucrats and oligarchs. The objective is to make the imposed system and the threat to world peace that has been installed bad, since the country has the largest nuclear warhead in the world, according to BBC Brasil (2022). The consequences of this attempt will only be known in the future, but the fact is that the alleged antagonism of the oligarchs to the technobureaucrats is not yet visible to the International Community, given the maintenance of the conflict as it has taken place, without retreat.

Next, Pereira (1989) highlights Political Economy, which studies production and distribution in markets that obey value, but which are regulated and guaranteed by the State. Thus, state intervention based on equality and economic efficiency should be supported.

The reflection of this discussion in Brazil has been taking place, for a long time, from the establishment of the Right X Left Manichaeism. Pereira (1989) alludes that the first line defends absolute non-intervention, while the second supports nationalizations. However, the scenario experienced by the country, associated with the approach of the elections, as a reflection of the ultra-right movement that has been established, has led to the overcoming of the historical dichotomy, with the alignment of former adversaries who placed themselves at opposite poles of politics and who now have a common antagonist – typically electoral populism. The international context corroborates the new political organization, which will promote reflections on the model of economic intervention practiced in Brazil in the short term.



THE NEED FOR ECONOMIC INTERVENTION IN BRAZIL IN THE POST-PANDEMIC SCENARIO AND ECONOMIC WAR

The scenario experienced by Brazil is not favorable, due to market failures and the destructive potential of inflation and external influences on the investment grades and purchasing power of Brazilian citizens. Schapiro (2009) argues that these failures give rise to state intervention, so that the problems in exchanges between private parties are solved. In this way, it promotes rearrangements that can promote or harm certain groups or, in general, the country in question.

In relation to developing countries, such as Brazil, economic intervention took place after World War II to collaborate with the private accumulation of capital. Thus, a more competitive environment was made possible and concerned with ensuring good market indicators, resulting in a worse income distribution.

However, the country has not been able to catalyze the favorable scenario of this expansion of the private sector to establish itself as one of the main international actors in the economic sphere, being, so far, an extra in the making of the main decisions and the recipient of their consequences, lacking its own protagonism. This role was wide open in the country's lack of formal position in relation to the conflict in Ukraine, which denotes the absence of an objective State policy, being activated punctually to try to minimize the tide of negative consequences so quickly felt in the country's economy.

And, while it remains in the background at the international level, it is not able to directly disentangle itself from the cyclical character of interventionist policies highlighted by Pereira (1989):

"For a certain period, state intervention increases, the state assumes an increasing role in the coordination of the economic system, in the micro-allocation of resources, in the macro-definition of the level of savings and investment (...) and in the micro-macro-determination of income distribution among social classes and between sectors of the economy. But as state intervention increases (...) it starts to become dysfunctional. Excessive regulation, which delays rather than stimulates and guides economic activity, and huge public deficits instead of obtaining forced savings, are the two basic symptoms that indicate that the expansion of the State has exceeded" (PEREIRA, 1989, p.121).



In crisis scenarios, which further aggravate existing inequalities, the need for the interventionist model is even more evident due to the insufficiency of the market to guarantee capitalist accumulation and distribute income in a socially acceptable way, and it is necessary for the State to intervene to guarantee the dignified life of its citizens.

It so happens that, as Vita and Andreotti (2014) indicate, there is no point in punctual intervention without reaching the second phase of the model, in which the corrections of failures in the market should occur. If it does so, the cyclical character tends to be perpetual and economic growth tends to be circular, with periods of growth accompanied by periods of stagnation, exactly what has been experienced in Brazil in the last decade.

In this sense, the State emerges as an implementer of public policies that strengthen the modernization, integration and legitimation of the capitalist system, associating it with the country's constitutional objectives and precepts. To achieve this phase, the Federal Constitution of 1988 tried to outline how state functions would be performed in Brazil, contemplating the second stage of state intervention.

Vita and Andreotti (2014) argue that the 1988 Constitution determined a liberal-social State model, since it associated liberal elements in the economy and in the conduct of legal affairs associated with the idea of social responsibility, so important in the real characterization of national development.

In agreement, Bonavides (2010) highlights that the Federal Constitution was based on the duality of equality and freedom, guaranteeing and protecting fundamental human rights for the construction of a free, fair and solidary society. Therefore, the Brazilian Constitution brings economic precepts based on humanistic capitalism, in which market issues are resolved associated with the social impacts of possible economic rebalancing measures.

If the constitutional text itself determines that the economic order guarantees everyone a dignified existence in accordance with social justice, it gives legal leeway and establishes competence for the State to intervene in favor of the collectivity, including through Tax Law, increasing or decreasing taxes in order to stimulate or not the movement of the economy related to a certain good or economic sector.

Not even the domestic market is seen as an element dissociated from the State, since article 219 of the Federal Constitution determines that it be encouraged, including by



the public sector, in order to achieve other objectives, among which cultural and socioeconomic development and the well-being of the population stand out.

By recognizing the possibility of abuse by the State when it intervened, the Federal Constitution was also concerned with pointing out limits, as can be seen:

Article 174. As a normative and regulatory agent of economic activity, the State will exercise, in accordance with the law, the functions of inspection, incentive and planning, which is decisive for the public sector and indicative for the private sector.

Paragraph 1 - The law shall establish the guidelines and bases for the planning of balanced national development, which shall incorporate and make compatible the national and regional development plans.

Paragraph 2 - The law shall support and encourage cooperativism and other forms of associativism.

Therefore, as it is a matter that can lead to the non-compliance with fundamental rights, such as property, freedom and free enterprise, the Brazilian Constitution tried to place national security and collective interests in accordance with the supremacy of the public interest over the private interest as limits to possible irresponsible and unjustified actions by the State.

It is important to highlight that, in times of crisis such as the one we are currently experiencing, the role of the State as a promoter of national stability cannot be put in check, since it goes far beyond the government that is exercised at that time. On the subject, Grau (2002, p. 257) teaches:

Our jurists lack the discernment that State and society constitute two moments of a single unity (...) That is why (...) there is no room for individual liberty except within the state, except as long as individuals remain attached to the state as to its essence, as the end and product of their individual activity.

Thus, the confusion between the State and the government should not culminate in unfounded criticism of State intervention, as it is necessary to safeguard the stability and order of the country, regardless of the government and its acceptance at the time. If this



position prevails, the State will not be able to perform its functions and the difficulty will tend to perpetuate itself over time, consuming a longer period for the crisis to be solved. Thus, society as a whole will be harmed and state development will decline.

THE MODES OF STATE INTERVENTION PRACTICED IN BRAZIL AND THE ROLE OF TAX LAW

The modes of state intervention are dynamic and adapt to the needs perceived in each period. Pereira (1989) raises the argument that, in each cycle, new forms of state intervention are introduced. In the current conjuncture, the mode of state intervention in Brazil has not been standardized and established according to a fiscal economic policy designed by a government plan.

Initially, it was sought to hold the States of the Federation responsible for the situation, which generated political unease and a possible situation of loss of revenue that would further limit the role of these entities, in favor of a broader action of the Union. In October 2021, in view of the pressure exerted by the Federal Government, it was decided, within the scope of the National Council for Finance Policy (CONFAZ), to freeze the amount of ICMS charged on fuels for 90 (ninety) days.

However, as it is a temporary and one-off measure, the decision did not have the expected effect, having, in fact, worsened as a result of the escalation of tension in the conflict in Ukraine, which culminated in the invasion of its territory and the sanctions imposed on Russia, which increased the price of several products, including oil.

As a second solution, the Federal Government, the majority shareholder of the company, whose policy is market-driven, was attempted to revert Petrobras' pricing policy to a model of state control, which could or could not be related to price subsidies. It turns out that this solution had already been implemented a few years ago and did not prove to be sustainable in the medium and long term, bringing serious consequences that culminated in the political scenario that led to the *impeachment* of President Dilma Rousseff, further leveraging the crisis experienced in the period in question.

Finally, a legislative change was promoted, with the presidential sanction of Complementary Bill No. 11/20, presented by Federal Deputy Emanuel Pinheiro Neto (PTB/MT), to change the ICMS rate charged so that it is *ad rem* on the liter of fuel, also



ISSN: 2358-2472

called specific rate, which does not vary as the price of the product increases. The adoption of these rates, as defended by Nasrallah (2012), prevents *dumping* and under-invoicing in imports, in addition to tax evasion, as evidenced by Maciel (2007).

In addition to the measure, Bill No. 1,472 was voted, which provides for the creation of a fund to stabilize fuel prices in Brazil and creates gasoline allowance for motorcycle couriers, app drivers and small boat drivers. The measures try, according to Portal Uol (2022), to mitigate the escalation of fuel prices that began since January 2021, with 13 (thirteen) adjustments for gasoline and 11 (eleven) for diesel oil having occurred so far.

The third solution, through Tax Law, tends to be more lasting and perennial, since its modification is more difficult, as it was carried out by an instrument that requires a qualified quorum for change and the legislative process is more difficult, not being modified, for example, with the ease of a Decree. However, it is necessary to correlate it with theory, in order to visualize its possible consequences.

Regarding state interventions in the economy, Pereira (1989) highlights the four possible forms: macroeconomic regulations, which are limited by centralized planning; normative microeconomic, and as its maximum rules for the protection of the health and safety of consumers; administrative microeconomics, which is regulated on a case-by-case basis; and nationalizations or direct production, which has as its maximum parameter the abolition of private ownership of the means of production.

According to the State's relations with companies, intervention can be limiting when it imposes limitations, such as taxation, regulation on health and the environment; support, when it promotes tax waivers and subsidies; and neutral, which considers it almost impossible.

From the proposed classification, it is clear that the solution tried, of legislative change in tax matters, is classified as administrative microeconomic, being regulated a specific case, such as fuels, and support, as it indirectly promotes tax waiver by reducing the amount collected with the change in the form of application of the rate.

At the same time, Pereira (1989) argues that, related to the intensity of regulation, there is an element that is difficult to measure, being analyzed, generally, through the participation of state expenditures in the Gross Domestic Product (GDP), which excludes the production of state-owned companies. In the specific case, in turn, because there was



no time to assess the impacts in relation to the GDP, it is imperative to consider its consequences in other sectors.

Fuels have the potential to increase the price of freight and air tickets, in addition to increasing logistics costs in general, in a country that depends mainly on highways as the main mode of transport for the distribution of products in its territory. The impacts have already been published by the airlines, which reported the readjustment of tickets in March 2022, as reported by Portal G1 (2022).

The systemic dissemination of the agenda brings a serious risk to the national order in view of the shortages it can cause, as seen in 2018, when a truck drivers' strike was triggered against the fixing of freight prices, according to Portal Exame (2018). Similar movement was seen in 2021 and 2022, but on a smaller scale. For this reason, the degree of intervention, although in specific items, has a potentially systemic effect, which is why the intervention occurs intensely.

On the subject, Schapiro (2009) points out that the State uses the Law to intervene, through regulatory measures, in the economic domain, whether through the obligation to reveal information, the control of market concentrations, the stipulation of prices or the determination of the right to property. In this regard, one could add the indication of elements of Fiscal Policy, as is currently the case.

In Brazil, unlike what occurs in other countries, the analysis of State intervention is done directly and indirectly. In the indirect intervention, Vita and Andreotti (2014) highlight that the State acts in an inspecting, encouraging and planning manner, imposing legislative control over economic activity. Tavares (2011, p. 54) lists such intervention performed through the "collection of taxes, granting of subsidies, subsidies, tax and credit benefits and, in general, the normative regulation of economic activities, to be primarily developed by private individuals".

In direct intervention, Pimenta (2001 *apud* VITA; ANDREOTTI, 2014, p.30) places the State as an economic agent of productive activity, which is outside the regime of public law. Thus, it acts as if it were a private individual, according to Tavares (2011), competing with private initiative or acquiring the monopoly of economic activity. It is in this type of intervention that the paradigm of statism comes in, as well as the use of state property to promote economic regulation and balance.



In the present situation, the intervention through Tax Law occurs indirectly, through a kind of indirect tax waiver. If the measure goes further and reaches Petrobras' pricing policy, it will establish a parallel with another modality of intervention, through state-owned companies. According to Grau (2002), state-owned companies that explore economic activity "configure State interventions in the economic domain" (MELLO, 1973, p.101).

Finally, in the case presented, another element is scaled as a limitation to state intervention through Tax Law – the control of constitutionality exercised by the Judiciary. According to Portal Uol (2022), the States must appeal to the Federal Supreme Court to question the constitutionality of the legislative change and, if considered incompatible with the Brazilian constitutional order, it could make the solution presented unfeasible, making the scenario return to square one.

The principle of tax selectivity, invoked to justify the change based on the essentiality of the product, in a broad scenario, is not being placed in alignment with that of the ability to pay, since taxpayers, regardless of their income, must pay the same amount of tax. The judicial discussion should be deep and what will come as a result of it still has an uncertain scenario.

The association of extra-taxation resulting from the tax legal change, which is inserted, according to Angeiras (2016), in the context of encouraging public policies, by allowing the exacerbation of the tax burden or smoothing, depending on the intended objectives.

In agreement, Hugo de Brito Machado (2009, p. 130) states that:

The purpose of the tax has always been to carry financial resources to the State. In the modern world, however, the tax is widely used with the objective of interfering in the private economy, stimulating activities, economic sectors or regions, discouraging the consumption of certain goods and finally producing the most diverse effects on the economy. This modern function of the tax is called extrafiscal function.

In the current context, the implementation of the intervention through Tax Law is opportune and necessary. However, its consequences, the period in which it will remain and the possible consequences it will bring to society depend on other factors that go beyond the intervention itself.



CONCLUSION

The scenario currently experienced in Brazil and in the world highlights the need for intervention in the economic domain so that stability and order remain. The peculiarity of the situation is unique, given that it occurs due to the unfolding of two events – pandemic and war – that had not been faced for many decades, leading the current Brazilian system, which had already been weakened by the weak growth experienced since 2016, to a situation of urgency in decision-making and intervention to minimize the social impact resulting from the international situation.

The State's intervention in the economic domain through Tax Law related to the control of fuel prices is permanent, embedded in an administrative, supportive, indirect and intense microeconomic solution, given the possibility of systemic repercussions. However, it is subject to control of constitutionality, already discussed by the representatives of the Federative States, which may cause the solution to be annulled, if considered incompatible with the Brazilian constitutional order.

In a scenario of wear and tear of the Federal Government and the unfeasibility of two other solutions that were considered for the case, it remains uncertain what will result from the situation, especially if the conflict installed in Ukraine is perpetuated, which will cause structural changes not only in the global economy, but in power relations at the international level, and it is up to Brazil to seek protagonism to avoid being an eternal hostage to the decisions of other nations.



REFERENCES

- 1. Altvater, Elmar (1973). Notes On Some Problems Of State Intervention. In: Kapitalistate, N°. 1, 1973 (Originally Published In German, 1972).
- 2. Bbc Brasil (2022). How Big Is It What About The Destructive Power Of Russia's Nuclear Arsenal? Bbc Brasil Portal [Online]. Available At: https://www.Bbc.Com/Portuguese/Internacional-60564958>. Accessed On: 12 Mar. 2022.
- 3. Bonavides, Paulo (2010). General Theory Of The State. São Paulo (Sp): Malheiros, 2010.
- 4. Brazil (1988). Constitution Of The Federative Republic Of Brazil. Brasília (Df), Federal Senate, 1988. Available At: https://www.Planalto.Gov.Br/Ccivil_03/Constituicao/Constituicao.Htm. Accessed On: 12 Mar. 2022.
- 5. Elias, Nobert (1993). The Civilizing Process. Translation Of The English Version, Ruy Jungmann; Revision, Presentation And Notes, Renato Janine Ribeiro. Rio De Janeiro (Rj): Jorge Zahar Ed., 1993, 2v. Formation Of The State And Civilization.
- 6. Exame (2022). States Approve Icms Freeze On Fuels For 90 Days. Portal Exame [Online]. Available At: https://Exame.Com/Economia/Estados-Congelamento-Icms-Combustivel/. Accessed On: 12 Mar. 2022.
- 7. Exame (2018). Truck Drivers' Strike Causes Shortages And Harms Exports. Portal Exame [Online]. Available At: https://Exame.Com/Economia/Greve-De-Caminhoneiros-Causa-Desabastecimento-E-Prejudica-Exportações/>. Accessed On: 12 Mar. 2022.
- 8. Grau, Eros Roberto (2002). The State, Freedom And Administrative Law. Journal Of The Faculty Of Law Of The University Of São Paulo. São Paulo (Sp), Vol. 97, 2002, Pp. 255-266.
- 9. G1 (2022). Airlines Are Expected To Raise Ticket Prices After High Fuel Prices. Portal G1 [Online]. Available At: https://G1.Globo.Com/Economia/Noticia/2022/03/11/Companhias-Aereas-Devem-Subir-O-Preco-Das-Passagens-Depois-De-Alta-Dos-Combustiveis.Ghtml. Accessed On: 12 Mar. 2022.
- Lancheros-Gámez, Juan Carlos (2009). Del Estado Liberal Al Estado Constitucional. Implicaciones En La Compresión De La Dignidad Humana. Faculty Of Legal Sciences Of The Pontificia Universidad Javeriana. Dikaion, Año 23, N. 18, Pp. 247-267. Chia (Colombia), Dec. 2009.
- 11. Maciel, Everardo. (2007). Ad *Rem Rates* And Tax Evasion. Portal Of The Brazilian Institute Of Ethics In Competition [Online]. Available At:



- <Https://Www.Etco.Org.Br/Etco-Na-Midia/Aliquotas-Ad-Rem-E-A-Sonegacao-Fiscal/>. Accessed On: 11 Mar. 2022.
- 13. Pereira, Luiz Carlos Bresser (1989). The Cyclical Character Of State Intervention. Journal Of Political Economy, Vol. 09, N. 03, Jul-Set. 1989. Available At: http://www.Rep.Org.Br/Pdf/35-7.Pdf>. Accessed On: 11 Mar. 2022.
- 14. Reuters (2022). U.N. Agency Warns Ukraine War Could Trigger 20% Food Price Rise. Reuters Agency Portal [Online]. Available At: https://www.Reuters.Com/World/Un-Agency-Warns-Ukraine-War-Could-Trigger-20-Food-Price-Rise-2022-03-11/. Accessed On: 12 Mar. 2022.
- 15. Schapiro, Mario Gomes (2009). New Parameters For State Intervention In The Economy: Persistence And Dynamics In The Performance Of Bndes In A Knowledge-Based Economy. Doctoral Thesis Presented To The Department Of Economic And Financial Law Of The Law School Of The University Of São Paulo. São Paulo (Sp), 2009.
- 16. Tavares, André Ramos (2011). Economic Constitutional Law. 3. Ed. São Paulo (Sp): Método, 2011.
- 17. Uol (2022). Petrobras Announces Increase In Gasoline, Diesel And Cooking Gas Prices. Portal Uol [Online]. Available At: https://Economia.Uol.Com.Br/Noticias/Redacao/2022/03/10/Petrobras-Anuncia-Aumento-Nos-Precos-De-Gasolina-Diesel-E-Gas-De-Cozinha.Htm. Accessed On: 12 Mar. 2022.
- 18. Uol (2022). Biden Announces Ban On Buying Russian Gas And Oil. Portal Uol [Online]. Available At: https://Noticias.Uol.Com.Br/Ultimas-Noticias/Ansa/2022/03/08/Biden-Anuncia-Proibicao-De-Compra-De-Gas-E-Petroleo-Russo.Htm. Accessed On: 12 Mar. 2022.
- 19. Uol (2022). Comsefaz: States Should Go To The Supreme Court If The Fuel Project Moves Forward Without Changes. Portal Uol [Online]. Available At: https://economia.Uol.Com.Br/Noticias/Estadao-Conteudo/2022/03/10/Comsefaz-Estados-Devem-Ir-Ao-Stf-Se-Projeto-Dos-Combustiveis-Avancar-Sem-Alteracoes.Htm>. Accessed On: 12 Mar. 2022.
- 20. Vita, Jonathan Barros; Andreotti, Paulo Antonio Brizzi. Petrobras And The Price Of Fuels: The New Paradigms Of State Intervention In The Economy. Revista Scientia Juris, Londrina (Pr), V. 18, N. 2, P.25-54, Dez. 2014.