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Open Government: Participation, Inclusion and Impact

**Public policy councils and local governments: how municipal
environmental councils affect environmental spending in Brazil**

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Abstract

Brazil is a federalist country, where sovereignty regarding decisions and responsibilities are shared between three spheres of autonomous governments: union, states and municipalities. This allows that, in spite of the constitutional attributions, these entities establish their own agendas and priorities and they can administer themselves. These federative spheres have different Public Policy Councils, which are joint bodies between state and society, set up at the heart of the public administration in Brazil, in order to produce a more democratic environment for public management. These Councils are the main experiences of participatory democracy in Brazil, and local government is considered the administrative political unit that offers the best conditions for such a practice (Martins et al, 2008). In the environmental area, Environmental Councils were present in 4,130 municipalities of Brazil (74% of the in the total) in 2017, and they have the responsibility of supervise, deliberate and propose norms to municipal environmental management. The concept of environmental management expenditures carried out by the municipal government is a criterion of effectiveness of the popular participation in municipal environmental management. Although imperfect, this indicator establishes a way of measuring whether the existence of Municipal Environmental Councils has concrete effects, supposing that the greater participation of the environmental expenses in the budget of the municipality represents greater importance of environmental subjects in the list of policies supported by the municipality. The objective of this research is to identify how citizen participation in Brazil, through Municipal Environmental Councils, is related with environmental management expenses and contribute to the greater transfer of financial resources from the states that have legislation on Ecological ICMS (ICMS-E) for the municipalities. The ICMS-E establishes that part of state tax revenues must be transferred to municipalities according to environmental criteria. Seventeen Brazilian states introduce different environmental criteria to distribute the ICMS-E resources. Municipalities presenting better environmental performance receive more resources, considering parameters such as protected areas, Indigenous lands, sanitation and solid waste disposal. Crossing data for municipal public finances (2012-2016) with local administration (2017), it is shown that the existence of Municipal Environmental Councils is positively related to expenses with environmental management and fiscal transfer received through ICMS-E. These effects are higher where the Municipal Environmental Councils have power over financial decisions. These results confirm the hypothesis that citizen participation, via Municipal Environmental Councils, positively affect local environmental policymaking in Brazil.

Keywords

Climate change, urban policy, coordination of public policies, Brazil



Introduction

The purpose of this article is to verify how citizen participation in environmental management in Brazil, through the Municipal Environmental Councils, affects the performance of the municipality in terms of its environmental policies. In particular, the article aims to identify how the presence of the Municipal Environmental Councils is correlated with environmental management expenses, and with the capacity to receive financial transfers through the Ecological ICMS (ICMS-E), which will be explained later.

It is interesting to discuss the effectiveness of Municipal Environmental Councils in terms of their ability to influence public environmental policies at the municipal level. The definition of an indicator of environmental policy effectiveness is not a simple task, either for conceptual or empirical reasons. The present work incorporates the concept of environmental management expenditures carried out by the municipal government as a criterion of effectiveness of the popular participation in municipal environmental management.

Although imperfect, this indicator establishes a way of measuring whether the existence of Municipal Environmental Councils has concrete effects, supposing that the greater participation of the environmental expenses in the budget of the municipality represents greater importance of environmental subjects in the list of policies supported by the municipality. The hypothesis to be tested, therefore, is that the presence of the Municipal Environmental Councils increases the proportion of municipal expenditures on environmental management.

On the other hand, it is necessary to investigate whether the existence of such councils contribute to the greater transfer of financial resources from the states that have legislation on Ecological ICMS for the municipalities. It is interesting to verify if participatory management contributes to the municipalities meeting the environmental criteria stipulated by the states for the distribution of ICMS resources. It should be noted, however, that the existence of Municipal Environmental Councils is one of the parameters for defining the value of financial transfers in some States with ICMS-E legislation. But other states have different criteria, and state legislations on the subject are quite varied.



Counting on this introduction, the article is divided into six sections. The second section presents the Public Policy Councils, their origin and institutional importance, focusing on the Municipal Environmental Councils. In the third section, the Ecological ICMS is discussed as a mechanism to compensate or stimulate the environmental management of the Brazilian municipalities. In the fourth, the methods and data used in the article are exposed. In the fifth section the results of the research are analyzed, confirming the hypothesis that the existence of the Municipal Council of the Environment stimulates the expenses with the environmental management, as well as it foments the transfer of resources to the municipalities from the ICMS-E. Finally, the sixth section presents the final considerations.

Public Policy Councils

In Brazil, popular participation in government decisions was institutionalized through the 1988 Constitution in the re-democratization process. The 1988 Constitution provides for a series of initiatives that strengthen direct and semi-direct democracy, capable of bringing citizens closer to public management, including the Public Policy Councils (Brasil, 1988).

Public Policy Councils are joint bodies between state and society, set up at the heart of the public administration of the three federative spheres (Union, States and Municipalities), in order to produce a more democratic environment for public management. They have attributions ranging from participation in the planning of state policies, to budget control, through the approval of public-private partnerships, until the establishment of procedures for the democratization of information and government decisions. They can be consultative, deliberative, normative, auditory, or a combination of these attributions - according to the competencies defined in the laws that instituted them. They are among the main experiences of participatory democracy in Brazil, and local government is considered the administrative political unit that offers the best conditions for such a practice (Martins et al, 2008).

Since 1990 these organs are being disseminated in Brazil. This is due to the conditionality of their existence, as a requirement for financial transfers from the federal government to states and municipalities, or because there was a strengthening of the idea of a non-state public sphere, which involved the elaboration of institutional formats that would enable social participation in



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political decisions (Paula, 2005). Thus, according to IPEA (2015), there were approximately 25 thousand Municipal Councils and 350 State Councils in 2013, responsible for discussing the most different topics: health, education, children's and adolescents' rights, public safety, among others.

Given the expansion and significance of this democratic management initiative, different authors have been studying the impacts of the Councils over time (Tatagiba, 2002; Vasconcelos et al., 2017), the profile and role of their members (Martins et al 2008; Kezh, 2016), and their ability to influence public policies (Avritzer, 2011), among other topics. It is possible to observe in these studies a series of challenges for the Councils to become effective democratic spaces, including the need to qualify the actors involved, both government representatives and society, to work together. Emphasis should be placed on the need to consolidate a democratic culture in which representatives of civil society are supported by their constituencies. Clientelism and corporatism happen even in these spaces, but it is necessary to deal with these factors so that they do not affect democracy. Therefore, these spaces should not be limited to secondary issues, and must incorporate in the democratic debate fundamental issues for public management. In addition, it is possible to mention the critique of bureaucratic insulation, and the need to disseminate technical knowledge so that popular participation is consolidated (Martins et al., 2008; Dagnino, 2002). Azevedo et al. (2016) also draw attention to the difficulty in accessing the information generated by the public power, to the choice of counselors in both the public sector and civil society, and the co-optation of counselors by the Municipal Executive.

The Councils cannot go beyond the thematic boundaries for which they were created, which means that the Environment Councils should be restricted to environmental issues. In 2017, Environmental Councils are present in 4,130 municipalities (74% of the in the total), and 3,060 of these Councils held meetings in the last 12 months before the survey, showing that they were active. This percentage is smaller than the numbers for Municipal Councils for health, social assistance, child rights and education. However, the existence of such councils are conditions for municipalities to receive state and federal funds, a requirement that does not exist in the environmental sector. The only exceptions to this rule occur in the States of Rio de Janeiro, Acre, Piauí and Goiás, which establish that the transfer of resources through the legislation of the ICMS-E requires the existence of Municipal Environmental Councils.



Aydos and Figueiredo Neto (2016) discuss the relationship between ICMS-E and environmental political-administrative structures in Brazilian municipalities. They identified a greater presence of Municipal Environmental Councils in cities allocated in States with ICMS-E legislation, regardless if the legislation requires the creation of councils for the transfers. This trend reinforced in municipalities with more than 100 thousand inhabitants.

Arruda (2017) emphasizes that the members of the Municipal Environmental Councils have a predisposition for cooperation, but that there are difficulties and resistance, related to the challenge of dealing with private interests in dispute with social demands. Therefore, it is important to have a strong social representation in the Councils. On the other hand, Nunes et al. (2012) consider that the Councils are spaces for discussion and dissemination of environmental information and education, and capable of promoting the construction of citizenship.

Ecological ICMS

There is an important debate as to whether economic instruments for environmental management induce the behavior of economic agents in voluntary conservation actions (Kosoy & Corbera, 2010, Wunder, 2013, Muradian et al., 2013). The Ecological ICMS (ICMS-E) is a tax-sharing system defined by the legislation of 17 Brazilian states (out of a total of 26), which establishes that tax revenue transfers to municipalities should be based on their environmental performance, measured by selected criteria (Castro et al., 2018a). Although it is not a conventional system of payments for environmental services to deal with relations between spheres of government, it is known that it is a scheme of financial incentives, through the transfer of tax revenues, so that municipal governments adopt measures in favor of the environment (Castro et al., 2018b).

In Brazil, inequalities in the tax system impel agreements and partnerships between government spheres, since it is difficult for the entities to count on sufficient funds to carry out public policies alone. On the other hand, the States, and especially the Union, play the role of leaders



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in the search for coordination between the different federal entities, mainly due to their greater collection capacity, monetary transfers and financing, which ends up subjugating other governmental units (Arretche, 2006). Leadership can also be used to foster competition among entities in order to manage their interdependent activities to achieve common goals, for example, by establishing criteria for the redistribution of money transfers, as in the ICMS-E (Castro et al., 2018a).

The ICMS (acronym for Tax on the Circulation of Goods and Services) is a state tax regulated by articles 155 and 158 of the Federal Constitution of 1988, which determines that 25% of the total amount of ICMS collected by the state must be transferred to its municipalities. Of this parcel belonging to the municipalities, three quarters must be distributed according to the economic activity generated in the territory. A fourth must be distributed according to state law, which has autonomy to define the specific criteria to transfer the resource.

Taking advantage of this possibility, some states included environmental criteria among the proper parameters for the distribution of ICMS resources. According to Loureiro (2002), this proposal came from a movement of municipalities in Paraná that sought financial compensation for having a large part of their territory characterized as areas of environmental protection, reducing the potential of other economic activities that generate dividends. Thus, Paraná was a pioneer in establishing environmental criteria as a measure for the distribution of ICMS among its municipalities. The Paraná State Complementary Law N. 59/1991 defined that the relevant environmental criteria for the state would be the existence in the municipality of water supply sources and Conservation Units (protected areas), according to parameters to be defined by the State Environmental Protection Agency (IAP-PR).

After the creation of the ICMS-E in Paraná, another 16 states drafted and passed laws with these same proposals.

The ICMS-E can be understood as a mechanism of federative coordination as it adjusts the actions of the municipalities to the interests of the states. This mechanism, depending on the characteristics of the state legislation, uses the idea of compensation or positive competition



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among municipalities for more state funds, based on meeting the criteria stipulated by the state (Castro et al. 2018a).

The states defined quite different environmental criteria for the distribution of ICMS-E quota. Among these criteria, it is possible to mention the existence of Conservation Units, sources of water supply, waste collection and recycling systems; characteristics and quality of environmental management; the existence of environmental policies for reforestation or forest fire control; as well as the creation of Municipal Environmental Councils and Funds for the Environment, among other criteria.

The percentage of the distributed ICMS-E quota, as well as the way in which the distribution of state resources is calculated, is quite diverse, with proposals to create performance rankings, accounting for quality criteria or importance of the areas to be preserved. In some cases, these calculations are difficult to understand, and the lack of transparency in the disclosure of accounting, criteria and the value of the transfers does not favor the involvement of municipalities in this policy.

The lack of awareness of the ICMS-E by municipal managers was pointed out by different works (Ribeiro et al, 2013, Uhlmann, 2010 and Moreira, 2004) and has been faced by several states that promote workshops and seminars to publicize politics (Rio de Janeiro, Mato Grosso, Goiás, among others).

As a coordination mechanism, the ICMS-E needs to be publicized because its knowledge guarantees municipal engagement. In other words, if states do not make ample communication about ecological ICMS, their parameters, calculations and transfers, there will be less incentive for municipalities to meet the environmental criteria stipulated, making this proposal innocuous.

Castro et al. (2018a) have observed growth over time in the number of states that have implemented the ICMS-E, which suggests that this is a successful policy since states, without increasing their spending, are able to coordinate actions improvement of environmental quality. This result was corroborated by a linear regression analysis that statistically demonstrated that the existence of ICMS-E legislation induces the creation of protected areas under municipal



management. However, it should be emphasized that some states have contradictory criteria, such as the conditional transfer to the preservation and the quality of the environment, as well as stimulating agricultural and mining activities, adverse effects on the intended environmental conservation objectives.

Data collection and methodology

In the present research, it should be verified how citizen participation in environmental management, through the existence of a Municipal Environmental Council, affects municipal environmental management spending in Brazil, and if this participation favors the transfer of resources from the States to the municipalities through the ICMS-E. Thus, for the empirical analysis, a database was constructed from three primary sources:

(i) The ICMS-E database constructed by Castro et al. (2018a), where the absolute values of ICMS-E collected, total revenues, environmental management expenditure and total budget expenditures are presented - all variables at municipal and annual levels (2012-2016), with values corrected at 2016 prices.

(ii) The database on municipal expenditures with environmental management, prepared by Castro et al. (2018b) based on data from all Brazilian municipalities, from 2012 to 2016, present in the Brazilian Public Sector Accounting and Tax Information System (SICONFI), also in Brazilian Reais (R\$) at 2016 prices.

(iii) Information on the presence of the Municipal Environmental Council and Municipal Environment Funds, according to the Municipal Basic Information Survey - MUNIC for the year 2017 (IBGE, 2018). The MUNIC database also informs the Council's year of creation, its character and whether the Council has the financial resources to promote its actions or whether they are responsible for managing the environmental funds.

The Ecological ICMS (ICMS-E) data were obtained by Castro et al. (2018a) with the State Secretariats of Environment and Finance, in their electronic sites, as well as through telephone



calls and electronic messages. It is important to emphasize that there was a certain difficulty in obtaining these data, and precisely their lack limited the study period. The mentioned data were obtained by municipality and later aggregated for the accomplishment of the analyzes by state. All values were inflated for the year 2016 based on the implicit GDP deflator (IBGE).

The information on municipal budget revenues and expenses with the Environmental Management Function were extracted by Castro et al. (2018b) of the SICONFI database, whose methodological description is available in the Technical Budget Manual (Brazil, 2017). Expenditures on the "Environmental Management Function" include all programs and actions carried out for the area, from common to compulsory expenses, including salaries and social contributions of public servants, and include the following subfunctions: environmental preservation and conservation; environmental control; recovery of degraded areas; water resources; and meteorology.

Total municipal tax revenue was adopted, since most municipalities in Brazil have low collection capacity and depend heavily on federal and state transfers (Gomes and MacDowell, 2000). According to FIRJAN (2017), 81.7% of Brazilian cities were not able to generate even 20% of their revenues in 2016. In addition, from the point of view of expenditure allocation, the most important element for environmental expenditure of the municipality is its ability to pay, regardless of whether resources come from own collection or transfers.

The MUNIC information (IBGE, 2018) was extracted and added to the other databases in Excel spreadsheets, and structured by the IBGE municipal code.

Results

Using the data base, it was possible to estimate the average expenditures on environmental management carried out by Brazilian municipalities, as well as the volume of transfers received through ICMS-E. Table 1 presents this information, relative to the averages of all municipalities, and discriminated by the existence or not of Municipal Councils of the Environment. The amounts are presented in Reais (R\$, in 2016 constant prices) and were

organized in two ways: expenditures with the "Environmental Management Function" (environmental expenditures) as a proportion of total budget expenditures and resources received through ICMS-E as a proportion of total municipalities revenues. Also, municipalities that have Municipal Council were separated; if these Councils administer Municipal Funds of the Environment; and whether they have resources available to promote their actions. Finally, the municipalities were separated by the time of existence of the Council.

Table 1. Relative and absolute means of expenditure on environmental management and ICMS-E collected according to the existence of Municipal Environmental Council.

		Mean of Absolute Value		Mean of Relative Value	
		Municipal spending in environmental management (R\$)	ICMS-E (R\$)	Municipal spending in environmental management/ Total municipal budget expenditures	ICMS-E/Total municipal revenues
There is a Municipal Environmental Council	No	171,815	123,373	0.36%	0.40%
	Yes	1,102,724	380,966	0.60%	0.73%
The Council manages a Fund	No	482,859	205,461	0.44%	0.54%
	Yes	1,529,856	507,658	0.70%	0.81%
The Council has funding for actions	No	249,504	170,297	0.39%	0.49%
	Yes	1,995,647	576,997	0.80%	0.91%
Age of the Council	No Council	171,815	123,373	0.36%	0.40%
	From 0 to 5 years	738,677	329,905	0.56%	0.72%
	More than 5 years	1,282,216	406,230	0.62%	0.73%
	General average	801,265	296,516	0.52%	0.62%

Source: Own elaboration, based in Castro et al. (2018a, b) and Munic (IBGE)



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The results show that the existence of the Municipal Environmental Council affects municipal environmental management, both on the expenditure side and on the collection side of resources.

In the first case, it can be seen that the average municipal expenditure with environmental management is higher in municipalities that have a Council (0.60% of total expenditure) than in those that do not have a Council (average of 0.36%). Likewise, when the Environment Councils have the attribution of influencing the expenses, through the administration of the Municipal Funds, the average of the municipal expenses with the "Environmental Management Function" is greater. The same relation is valid for the collection of resources through ICMS Ecological: municipalities with the Environment Council obtain more fiscal transfers than municipalities that do not have these Councils. This relationship is also greater when councils manage funds or when they have their own resources for action. That is, the capacity of fund management by the Board and the existence of financial resources to promote actions planned by the Board are variables that impact on the contribution of expenditures on environmental management (whether absolute or relative) and on the collection of ICMS-E.

In absolute values (R\$, in 2016 constant prices), municipalities with Municipal Environmental Council have, on average, an environmental management expense of R\$ 1.1 million and collect ICMS-E, on average, R\$ 381 thousand, well above the average of R\$ 172 thousand with environmental expenses and R\$ 123 thousand collected from municipalities without this Council.

When the Councils of this municipality are able to mobilize financial resources for their actions, these differences are even broader: municipalities where the Council has financial resources have, on average, an expense with the "Environmental Management Function" of R\$ 2.0 Million, while they manage to raise an average of R\$ 577 thousand from ICMS-E legislation, contrasting with an average cost of R\$ 250 thousand and an average collection of R\$ 170 thousand from municipalities with no financial resources.



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Municipalities with councils that participate in the management of environmental funds spend, on average, 0.70% of the municipal budget with environmental management. When the Council has its own resources to spend, the average expenditure on environmental management rises to 0.80% of the municipal budget. These figures are higher than the average of environmental expenditures of municipalities with councils that do not have their own resources nor participate in the management of funds (0.44% and 0.39%, respectively).

The same type of relation is observed with the obtaining of resources through ICMS-E. In municipalities with Environment Councils that manage funds, the average ICMS-E collection is 0.81% of total municipal revenues, and this amount rises to 0.91% when the Boards have their own resources to spend. These figures are well above the average transfer of ICMS-E from Municipalities where the Council does not generate funds (0.54%) or do not have own resources (0.49%).

The time of existence of the Councils also affects these variables. In municipalities where the Councils are older (five years or more in existence), the average environmental expenditure is R\$ 1.3 million per year (0.62% of expenses). This average amount drops to R\$ 739 thousand (0.56% of total expenses) in municipalities where the Board has up to five years.

The conclusions described above are maintained when the results are aggregated by municipalities that belong to states with ICMS-E legislation, and those that are in states without this legislation (Table 2). The average expenditure on environmental management (in current values or in proportion to the total budget) is always higher in municipalities of states with ICMS-E legislation.

Table 2. Relative and absolute means of spending on environmental management and ICMS-E collected according to the existence of Municipal Environmental Council by municipalities with and without ICMS-E legislation.

			Municipal spending in environmental management (R\$)	Municipal spending in environmental management/ Total municipal budget expenditures
Without ICMS-E	There is a Municipal Environmental Council	No	88,802	0.22%
		Yes	491,506	0.33%
	The Council manages a Fund	No	194,586	0.24%
		Yes	679,769	0.43%
	The Council has funding for actions	No	133,256	0.23%
		Yes	945,726	0.47%
Average Municipalities without ICMS-E			299,833	0,28%
With ICMS-E	There is a Municipal Environmental Council	No	292,884	0.46%
		Yes	1,379,391	0.70%
	The Council manages a Fund	No	719,728	0.56%
		Yes	1,898,989	0.81%
	The Council has funding for actions	No	355,167	0.48%
		Yes	2,406,223	0.92%
Average Municipalities with ICMS-E			1,131,548	0,65%
General average			801,265	0.52%

Source: Own elaboration, based in Castro et al. (2018a, b) and Munic (IBGE)

Another interesting result is obtained when analyzing the means of environmental expenditure or the receipt of ICMS-E as a function of the duties of the Municipal Environmental Council (table 3). It can be seen that, in this case, the differences between the relative and absolute averages of the different types of Board assignments are small, with a slight bias of greater expenditure in environmental management when the Board has a deliberative character. In the case of revenues received through ICMS-E, a pattern of difference in the analyzed variables is not perceived. However, it should be emphasized that Councils can have more than one attribution, while being deliberative and normative, for example.

Table 3. Relative and absolute averages of the expenditure on environmental management and the ICMS-E collected according to the character of the Municipal Council of Environment.

		Mean of Absolute Value		Mean of Relative Value	
		Municipal spending in environmental management (R\$)	ICMS-E (R\$)	Municipal spending in environmental management/ Total municipal budget expenditures	ICMS-E/Total municipal revenues
Advisory	No	1,208,675	369,476	0,60%	0,80%
	Yes	1,071,646	384,574	0,60%	0,71%
Deliberative	No	477,164	388,181	0,54%	0,94%
	Yes	1,232,134	379,654	0,61%	0,69%
Normative	No	1,136,775	385,028	0,59%	0,76%
	Yes	1,046,943	374,622	0,61%	0,67%
Inspection/Monitoring	No	1,313,992	409,182	0,60%	0,75%
	Yes	769,405	336,966	0,60%	0,69%
General average		1,102,724	380,966	0,60%	0,73%

Source: Own elaboration, based in Castro et al. (2018a, b) and Munic (IBGE)



In summary, the empirical results confirm the hypotheses raised at the beginning of this study: citizen participation, measured through the existence of the Municipal Environmental Councils, is correlated with a more active municipal management, measured in terms of the percentage of the budget dedicated to the management environment, and it is also correlated to a greater capacity to raise funds through ICMS-E.

An additional result is that the effect of Municipal Environmental Councils is greater when they have power over financial decisions, either through participation in the management of funds or in the availability of own resources to spend. Based on the results obtained, the possibility of directly participating in the management of financial resources is much more effective in terms of increasing expenditures on environmental management or better matching the ICMS-E criteria than the Council is advisory, deliberative, normative or inspection and monitoring.

Final considerations

The objective of this article was to verify if citizen participation in environmental management affects the performance of Brazilian municipalities in terms of their environmental policies. The empirical analysis measured the influence of social participation through a proxy, based on the existence of Municipal Environmental Councils, and their capacity to impact public policies was measured by municipal environmental expenditures and the financial transfer from states to municipalities based on ICMS-E.

The amount spent with the "Environmental Management Function" is an imperfect indicator of the effectiveness of environmental policies, but is a proxy for the importance that the environmental theme has for the municipal entity.

Public Policy Councils still have challenges to face in order to be considered spaces in which social participation occurs in its fullness. In regard to Environment Councils, we point out research that emphasized that these spaces suffer from the subjugation of private interests over social ones. However, the councils are also considered spaces of democratic experimentation,



which have an unprecedented scope in Brazil, regarding the institutionalization of the interference of society in public decisions, engendered by the state.

What this article shows is that in municipalities where Environmental Councils exist there is, on average, greater expenses with the "Environmental Management Function". At the same time, the Municipal Councils for the Environment contribute to meeting the environmental criteria established by the ICMS-E laws, obtaining greater financial transfers. This means that ICMS-E legislations encourage the creation of the Environmental Councils, as shown by the work of Aydos and Figueiredo Neto (2016), but also induce more active environmental action by municipalities. It should be noted, however, that the empirical exercises carried out in this paper identified correlations between the variables, but they do not affirm the existence of direction of causality between the ICMS-E and the Municipal Environmental Councils. These issues deserve attention in future research on this subject.

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