RCC
Revista Contemporânea de Contabilidade

Consequences of (poor) financial management of court-ordered payments in Brazilian municipalities

Consequências da (má) gestão financeira dos precatórios em municípios brasileiros

Consecuencias de la (mala) gestión financiera de las órdenes judiciales de pago en los municipios brasileños

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Abstract
The study analyzes the consequences of the accumulation of *precatórios* (or court-ordered payments) on public investments in Brazilian municipalities. The analysis was developed using a panel regression, with secondary data from 2016 to 2023 from local governments. The results indicate that court-ordered payments, one of the main liabilities of public administration, have shown great persistence in municipalities – i.e., their balances did not decrease – even after six constitutional amendments regulating such payments. Analyses indicate that court-ordered payments lead to reduced investments at the local level, compromising public policies. The research provides evidence on the impacts of court-ordered payments on municipal finances. It offers practical insights for managers and policymakers, highlighting critical areas for interventions that can improve municipalities' fiscal health and investment capacity.
Keywords: court-ordered payment; local governments; accounting liabilities; investments

Resumo
A pesquisa teve como objetivo analisar as consequências geradas pelo acúmulo de precatórios nos investimentos públicos nos municípios brasileiros. As análises foram desenvolvidas por meio de uma regressão em painel, utilizando dados secundários de Prefeituras Municipais do período de 2016 a 2023. Os resultados indicam que os precatórios, um dos principais passivos da Administração Pública, têm apresentado grande persistência nos municípios, mesmo após seis emendas constitucionais regulamentando seu pagamento, ou seja, seus saldos não diminuem. As análises indicam ainda que os precatórios levam a uma diminuição dos investimentos das Prefeituras, comprometendo políticas públicas. A pesquisa contribui fornecendo evidências sobre os impactos dos precatórios nas finanças municipais, e oferece *insights* práticos para gestores e formuladores de políticas, destacando áreas críticas para intervenções que podem melhorar a saúde fiscal e a capacidade de investimento dos municípios.
Palavras-chave: Precatórios judiciais; governos locais; passivos contábeis; investimentos

Resumen
La investigación analiza las consecuencias generadas por la acumulación de órdenes judiciales de pago sobre las inversiones públicas en municipios brasileños. Los análisis se desarrollaron mediante una regresión de panel, con datos secundarios de 2016 a 2023 de Gobiernos Municipales. Los resultados indican que las órdenes judiciales de pago, uno de los principales pasivos de la Administración Pública, han mostrado gran persistencia en los municipios, incluso después de seis enmiendas constitucionales que regulan su pago; es decir, sus saldos no disminuyen. Los análisis indican que las órdenes judiciales de pago conllevan una reducción de las inversiones de los Ayuntamientos, comprometiendo las políticas públicas. La investigación contribuye aportando evidencia sobre los impactos de las órdenes judiciales de pago en las finanzas municipales. Ofrece ideas prácticas para administradores y formuladores de políticas, destacando áreas críticas para intervenciones que pueden mejorar la salud fiscal y la capacidad de inversión de los municipios.
Palabras clave: Órdenes judiciales de pago; gobiernos locales; pasivos contables; investimentos

1 Introduction

The level of debt influences local governments' financial conditions and their ability to respond to demands for public goods and services (Batista et al., 2024). *Precatórios* (court-ordered payments) represent a significant liability for public entities, contributing to public sector debt. These obligations have long been regarded as a historical burden on Brazil's public accounts (Moreira et al., 2017), owing to both their relative size and their persistence over time (Conti, 2016). Whether due to limited payment capacity or a lack of governmental commitment to managing these liabilities, the volume of court-ordered payments has reached what some describe as "frightening levels" (Kanayama et al., 2019, p. 476); by the end of 2024, overdue payments accounted for 10.6% (BRL 151.6 billion) of the total debt held by states and municipalities (Secretaria do Tesouro Nacional [STN], 2024).

Unlike other public debts considered "prudent" and typically aimed at generating future benefits, such as investments in public infrastructure, court-ordered payments are often viewed as "reckless" liabilities. They do not necessarily produce benefits and are frequently the result of compensations or court rulings stemming from unlawful acts or administrative inefficiencies (Kanayama et al., 2019). Other public debts in Brazil typically arise from contractual arrangements entered into by governments, often associated with credit operations that are preceded by project planning and prior approval by the National Treasury Secretariat (for domestic debt) or the Federal Senate (for foreign debt), in accordance with prevailing legislation (Fiscal Responsibility Law, Art. 32; Federal Senate Resolution 43/2001). The classification of court-ordered payments as "special operations" (Ministry of Budget and Management, Ordinance No. 42/1999) emphasizes that such liabilities do not result in outputs or contribute to public policy implementation.

Despite the significance of court-ordered payments, they have been repeatedly postponed over recent decades. This strategy becomes especially prominent during times of fiscal crisis and public resource scarcity, both of which are common in Brazil (Kanayama et al., 2019). Several deferrals have been enacted through constitutional amendments – for example, constitutional amendment EC 109/2021 postponed the deadline for debt settlements under the special payment regime to 2029. This measure was driven not only by the inability of many public entities to comply with these obligations but also by a desire to create fiscal space for future public spending, which is a recurring practice in the country, as discussed by Conti (2016).

Moreira et al. (2017) emphasize that the history of Brazil's court-ordered payment system is marked by distortions of constitutional norms and institutional ruptures, often leveraged to delay debt settlement amid the sluggishness of judicial proceedings. These factors collectively expose the inefficiency of many public agencies in managing judicial liabilities and preventing future payments of this nature (Conti, 2016). Given that the causes of such legal claims are limited in number, the events that trigger them tend to be recurrent (Cid, 2015).

Notably, the volume of these payments has not declined in recent decades (Santanna & Alves, 2016), presenting a timely opportunity for research on the consequences of this enduring issue. Most existing studies have approached court-ordered payments from a legal standpoint (e.g., Conti, 2016), while empirical research, particularly in accounting, remains scarce or outdated. Although empirical works by Afonso and Barros (2013), Bugarin and Meneguin (2012), Ferreira and Lima (2012), and Madaime (2014) have addressed the issue, these studies are now more than a decade old. New research is therefore needed to revitalize the debate.

Thus, this study examines the consequences of accumulating outstanding court-ordered payments on public investments in Brazilian municipalities. The financial condition of local governments has been a central theme in literature, particularly during fiscal and economic crises. For example, Araújo et al. (2023) show that, despite having access to financial data, many local managers lack an accurate understanding of their municipalities' fiscal conditions, potentially undermining decision-making and administrative efficiency. Similarly, Batista et al. (2024) illustrate how the COVID-19 pandemic further exposed municipalities' fiscal vulnerabilities, intensifying difficulties in executing essential public investments and affecting local fiscal management. While these studies shed light on municipal financial health, they do not specifically address the impact of court-ordered payments. In particular, there remains a gap in understanding how the accumulation of such liabilities constrains public investment. This study addresses this gap by investigating the consequences of increasing debt related to these payments on the allocation of municipal resources, emphasizing the constraints imposed on public investment.

Beyond the academic realm, the issue of court-ordered payments has gained increasing prominence in public discourse in recent years, particularly as these obligations, which once primarily concerned states and municipalities, have begun to affect the federal government (Senado Federal, 2023). Furthermore, failure to settle these payments has been a decisive factor in the rejection of municipal mayors' accounts (Sarquis, 2014). This issue is both pressing and emblematic of broader challenges in public finance. Therefore, research that seeks to better understand this phenomenon can help fill a significant gap in the literature and provide insights relevant to the fiscal sustainability of public administration.

This article is organized as follows: the next section presents the theoretical framework, including a historical and legislative overview of court-ordered payments in Brazil and the development of the research hypothesis. This is followed by the methodology, the presentation and discussion of results, and finally, the conclusions.

2 Theoretical framework

2.1 Context of court-ordered payments in Brazil

The court-ordered payment system was established by the 1934 Brazilian Constitution (Brasil, 1934), initially applicable only to the federal treasury, and later extended to the states in the 1946 Constitution (Brasil, 1946). Subsequent constitutions modified the payment system, culminating in the rules outlined in the 1988 Constitution (Brasil, 1988), which were later altered in response to increasing public debt and difficulties in fulfilling debt obligations (Cunha, 2017). Over time, criteria for court-ordered payments were defined, distinguishing between food-related and non-food-related payments, to promote a fair system of compliance (Moreira et al., 2017). However, recent constitutional amendments have permitted payment deferrals. This approach contrasts with practices in the private sector, where court-ordered debts must be paid within established deadlines under penalty of asset seizure. These changes have distorted public financial management by allowing instalment-based payments, which effectively serve as a form of government financing at the expense of creditors and create uncertainty regarding payment deadlines due to frequent legislative modifications (Fernandes & Sbicca, 2011).

Despite some positive developments, such as the 49.6% increase in court-ordered payments in 2009 following the enactment of constitutional amendment EC 62 (Frente Nacional de Prefeitos, 2019), constitutional reforms have generally favored the state rather than the actual beneficiaries of the debts, creating mechanisms that enable payment postponement. Table 1 summarizes the constitutional changes that have allowed public entities to delay judicial debt repayment since the enactment of the 1988 Federal Constitution.

Table 1
Constitutional amendments that regulated the postponement of court-ordered payments

Constitutional Norm	Source	Publication	Deadlines established and rationale
ADCT 33/1988	(Brasil, 1988)	05/10/1988	Payment in up to 8 years
EC 30/2000	(Brasil, 2000b)	13/09/2000	Payment in up to 10 years
EC 62/2009	(Brasil, 2009b)	09/12/2009	Payment in up to 15 years. Created a special regime with monthly deposits linked to the net current revenue.
EC 94/2016	(Brasil, 2016)	15/12/2016	by December 31, 2020 (4 years). Allowed the use of direct agreements with discounts.
EC 99/2017	(Brasil, 2017)	15/12/2017	Payments by December 31, 2024 (7 years)
EC 109/2021	(Brasil, 2021a)	16/03/2021	Payments by December 31, 2029 (8 years). It established the possibility of restructuring debt payments through installment plans in cases of fiscal difficulty.
EC 114/2021	(Brasil, 2021c)	16/12/2021	The deadline until 2029 was maintained. It created an annual payment ceiling for the federal government based on the historical average.

Note: Acronyms. EC – Constitutional amendment; ADCT – Act of transitional constitutional provisions

The first delay can be attributed to the 1988 Constitution, which allowed the payment of outstanding amounts at that time to be divided into eight equal and consecutive annual installments. This rule was established as an exceptional measure to help indebted entities and eventually became state practice (Moreira et al., 2017).

The example was followed in subsequent constitutional amendments, such as EC 30/2000, which increased the installment term from eight to ten years. Later, EC 62/2009 extended the term to fifteen years, established small-value requisitions (court-ordered payments that, subject to value limits for the entities, have a reduced payment term), and created the special payment regime, still in force (periodic deposits based on net current revenue, made by debtor entities in specific accounts in the courts of justice for the administration of payments).

Subsequently, EC 94/2016 set a deadline for entities to make this type of payment by December 2020, a limit that was later extended to December 2024 by EC 99/2017 and then extended again to December 2029 by EC 109/2021. After that, the topic returned to the legislative agenda and became even more complex, with the possibility for the creditor to use their credit for other purposes (EC 113/2021) and by the rules of EC 114/2021, which limit the annual value of the registration of court-ordered payments in the budget for each fiscal year until 2026 (Harada, 2022).

The repeated extensions of deadlines in legislation for settling judicially established debts – rights acquired by creditors after lengthy legal proceedings – along with the frequent defaults resulting from the decision not to pay, contribute to public discredit and distrust, signaling a lack of commitment by public authorities to honor court-ordered payments (Santanna & Alves, 2016).

From a budgetary perspective, court-ordered payments directly impact on government budgets, as they constitute mandatory expenditures and must be included in the annual budget laws. Their inclusion typically involves allocating specific resources to cover judicial debts, which may constrain funding for other essential areas such as health and education. From a patrimonial standpoint, court-ordered payments are recorded as liabilities on the balance sheets of public entities, reflecting a future obligation arising from judicial decisions. This liability can negatively affect the entity's financial health; when these payments accumulate, they may increase overall debt and limit the capacity to finance other projects. Finally, from a fiscal perspective, court-ordered payments directly influence fiscal management, as they are subject to the limits and rules established by the Fiscal Responsibility Law (Brasil, 2000a). Non-compliance with these obligations may result in penalties, including restrictions on obtaining new loans or issuing guarantees.

2.2 Previous literature and hypothesis development

Contracting debts with private organizations to provide public services is a characteristic function of the state. These debts may arise from various sources, such as contracting services, construction projects, asset acquisition, expropriations, or civil liability for damages. Naturally, all debts should be honored as contracted; however, defaults occur for various reasons, legitimate or otherwise. Such defaults often lead to lawsuits, and when the public treasury receives an unfavorable ruling, it is legally obligated to make the payment (Moreira et al., 2017).

The Brazilian literature indicates that most studies on court-ordered payments remain confined to the legal domain (Martins, 2022; Peixoto, 2024). Despite the topic's importance, research in accounting and public administration is still limited, primarily focused on legislation and legal procedures, with little empirical work outside the legal field. One notable exception is the study by Ferreira and Lima (2012), which, in analyzing Brazilian states, identified weaknesses in the accounting treatment of court-ordered payments under the accrual basis and deficiencies in the disclosure of related information – factors that undermine transparency.

Court-ordered payments have posed a significant challenge for public administration, especially given the numerous constitutional amendments introduced over the past two decades that have attempted to mitigate the issue. Another concern arises from the fact that public organizations fail to adopt preventive measures despite dealing with a known, limited, and repetitive set of facts that typically lead to lawsuits (Cid, 2015). The literature suggests that public spending resulting from poor management is one of the most significant problems in public administration, even surpassing the costs associated with corruption (Ferreira & Borges, 2020).

Political factors exacerbate the issue, as the decision to make court-ordered payments often relies on the discretion of the public administrator, rather than the creditor's clear and legally established right, thereby undermining the rule of law (Ferreira & Borges, 2020). Consequently, the ongoing refusal to settle ordinary debts continues to fuel the accumulation of new legal liabilities, and the failure to make court-ordered payments worsens the situation, regardless of the reasons cited.

Tolerating noncompliance under the argument that those harmed should seek judicial redress, and postponing payments to fall on future administrations, are behaviors that support the conclusion that "payment has been made difficult by a lack of commitment to law and justice" (Faim Filho, 2014, p. 254). From a management standpoint, the failure to adopt effective strategies for reducing court-ordered payments has led to increasing levels of defaults on liabilities carried over from previous years. This trend persists, as the volume of new court-ordered debts continues to outpace payments (Bugarin & Meneguin, 2012), aggravating the problem.

The literature also highlights the cultural factor as a key element in this scenario. While Brazil's public entities exhibit a degree of tolerance for noncompliance with judicial decisions, in countries such as Germany, judicial rulings are paid in full (Madaime, 2014), suggesting a social acceptance in Brazil of delayed payments. The reluctance to fulfill court-ordered obligations constitutes a form of indirect financing for the states, with the historical pattern of legislative delays and increasing debt illustrating how these practices have become institutionalized over time (Quintiliano, 2012).

Shortcomings have been identified across all three branches of government, despite the legal principles of independence and harmony that govern their relationships. The executive branch has failed to fulfill its political and administrative-financial duties in making court-ordered payments and encouraging other entities to do the same. The legislative branch has not adequately monitored or proposed policies to prevent defaults. Meanwhile, the judiciary – specifically the Supreme Federal Court (STF) – has validated legal theses that favor debtor entities to the detriment of creditors (Madaime, 2014).

The constant increase in the volume of court-ordered payments at all levels of government has several effects. One effect is the impact on the consolidated debt of states, which influences debt indicators due to the increase in credit risk for investors and the federal government (Martins, 2022). The default results in a type of government financing that relies on the funds from the winner of the lawsuit, creating uncertainty regarding the payment deadlines. The debtor entity can even, by employing legal maneuvers, delay the debt settlement, leading to a distortion of public accounts (Bugarin & Meneguin, 2012). Therefore, the postponement of debt, even if constitutional, causes legal uncertainty and harms the business environment in the country. This postponement has serious aggravating factors due to the incidence of monetary correction and interest on arrears (Kanayama et al., 2018).

In general, criticism is directed at all the country's institutions since using funds that should be allocated for court-ordered payments as cash by government entities is regarded as an undemocratic practice that should hold government officials accountable (Quintiliano, 2012). Punitive measures have been proposed, such as imposing fines and coercive actions against public officials who, under the pretext of discretionary actions, fail to enforce rights recognized in a court ruling, as seen in Germany and the United States (Madaime, 2014).

The most serious effect of failing to comply with rights acquired through the courts is the affront to democracy. The original constitutional provision permits the application of public interest when establishing rules for debt payment, particularly since states were heavily indebted when the most recent Brazilian Constitution was enacted in 1988 (Quintiliano, 2012). Innovations made to the legislation have accentuated legal uncertainty and violated fundamental rights, as there are no legal principles or values that support delaying rules that prevent the enforcement of rights acquired by creditors through the courts. This situation breeds distrust and discredit in society (Santanna & Alves, 2016).

Another consequence of the volume of pending court-ordered payments is the emergence of what Letouze et al. (2020, p. 116) refer to as a "market of *precatórios* (court-ordered payments)." This term describes the development of a secondary market in which creditors sell their rights to receive court-ordered payments at a discounted rate. Buyers – often specialized actors with expertise in navigating bureaucratic processes – profit from the delays in government disbursement. The assignment of credits, driven by the government's persistent delays in honoring these obligations, has further stimulated the development of automated tools and the use of blockchain technologies to facilitate such transactions (Schirato, 2023).

After the legal proceedings, which can take years, and when all possibilities of appeal against the court decision have been exhausted, the court order is issued and registered for payment in subsequent fiscal years, in compliance with legal rules and the existing budgetary and financial planning process for public entities (generating expectations of payment among creditors). However, legislative changes that permitted the postponement of these court-ordered payments – often referred to in Brazil as "calotes" (bad-faith defaults or deliberate nonpayments) – have incentivized delays and disrupted the regular flow of such payments (Fernandes & Sbicca, 2011; Moreira et al., 2017).

The risk of adopting the deadline as a guide for the new methodology for making these payments arises from the capacity of each level of government to meet its obligations. A possible solution involves two approaches. The first allows for the settlement of past accounts through continuous payments, according to the capacity of each entity. The second approach is the adoption of a universal rule that prevents the new accumulation of court-ordered payments, addressing the issue that generates new disputes (Afonso & Barros, 2013).

Another problem observed in the regulation of court-ordered payments stems from legislative changes that allowed the payment of debts, which aimed to ease the financial constraints of public entities but ended up discouraging public managers from honoring debts on time due to the expectation of benefiting from future installments (Bugarin & Meneguin, 2012).

Thus, the scarcity and fragmentation of information regarding the actual government debt from court-ordered payments exacerbate the challenge of finding effective solutions to the problem. Since these payments are filed individually by each court, only the debtor entity has complete knowledge of its creditors and the amounts owed. Moreover, the effects of inflation and arrears, such as monetary correction and interest, create a discrepancy between the amounts allocated in previous budgets and the actual value of the debt (Fernandes & Sbicca, 2011).

As previously noted, research on court-ordered payments in Brazilian local governments remains limited, with a notable gap concerning their financial impacts. Court orders reduce the discretionary margin of government budgets because resources must be allocated to cover both principal and interest payments. This, in turn, affects the overall financial condition of local governments, understood as their capacity to provide public services and meet financial obligations in a timely manner (Batista et al., 2024). Consequently, the shrinking discretionary margin may undermine municipalities' ability to invest. Given the close link between discretionary budget margins and investment capacity, the research hypothesis is proposed:

H1: The increase in the number of court-ordered payments negatively influences public investments.

The research focuses on the impact of these payments on public investments, given their relevance for the development of local policies. Reis and Santana (2015) found that a 1% increase in public investment can boost the total factor productivity of the Brazilian economy by between 0.24% and 0.29%, reinforcing the importance of maintaining this type of expenditure.

3 Methodology

3.1 Research design

This is a quantitative research study, in which the modeling and analysis were developed using secondary data collected from local governments for the period 2016 to 2023. The data sources were a) SICONFI: number of court-ordered payments and consolidated debt extracted from the consolidated debt report; expenditures recorded under the "judicial" expense function; expenditures on amortization, interest, and personnel from the budget balance (used to calculate the discretionary margin); investment expenditures from the budget balance; and net current revenue obtained from the fiscal management report; b) Federal Council of Administration (CFA): Municipal Management Index (IGM) indicator. The data were organized into an unbalanced panel, as not all municipalities (cross-sectional units) had the same number of observations. The starting point of 2016 was chosen due to the availability of CFA data on municipal management performance and fiscal transparency (Conselho Federal de Administração, 2023).

The analysis was conducted in two stages. The first stage involved a descriptive analysis to assess the scale of court-ordered payments in Brazilian municipalities. Municipalities were stratified by population size – under 50,000, between 50,000 and 200,000, and over 200,000 inhabitants – based on data from 2023. The aim was to examine the volume of court-ordered payments in aggregate terms and their relationship to consolidated debt. Additionally, these payments per capita and their variation to net current revenue were analyzed to identify proportionality and trends.

The choice of population-based stratification was informed by previous literature indicating that municipality size, as measured by population density, influences various aspects of public administration (Avellaneda & Gomes, 2015; Sell et al., 2020; Speeden & Perez, 2020). The population cutoffs were also guided by Complementary Law No. 131/2009 (Brazil, 2009a), which established transparency requirements for municipalities. This law initially applied to municipalities with more than 100,000 inhabitants (326 cases) and was later extended to those with over 200,000 inhabitants (155 cases). In the second stage, two random-effects panel regression models were estimated to analyze the consequences of court-ordered payments, as presented below.

3.2 Variables and estimated models

To test the proposed hypothesis, a panel regression model was estimated, with the dependent variable being the total investment expenditure of the municipalities. The key independent variable in both models is the total outstanding balance of court-ordered payments. Since the data source (SICONFI – STN, 2023b) does not provide information on annual flows, such as payments made or new court orders issued, the analysis is based on year-end balances. All expenditure variables were expressed on a per capita basis and adjusted to present value using the Practical Guideline of the São Paulo State Court of Justice (2024), which applies the IPCA-E (inflation) index. This is the same methodology used by municipalities in São Paulo to update debts related to court-ordered payments. The econometric specification of the regression model is presented below:

$$\begin{aligned} INVEST_{it} = {} & c_o + \beta_1 precatório_{it} + \beta_2 rigidity_{it} + B_3 adm_{i_{transp}} + B_4 adm_{fiscal\ manag} + \beta_5 GDP_{it} \\ & + \beta_6 constitutionalchanges_{it} + \beta_7 judicial\_expenses_{it} + B_8\ d\_internal\_control_{it} \\ & + \beta_9 consolidated\_debt + \beta_{10} COVIDyear_{it} + e_{it} \end{aligned} \quad (1)$$

Control variables were included in the models. The variable for budget rigidity was incorporated to capture the effects of a government's financial condition, based on the share of the budget committed to rigid expenditures, which may impact its investment capacity (Batista et al., 2024). Expenditures on amortization, interest, and personnel are mandatory and must be paid regardless of managerial discretion (Herrera & Olaberria, 2020).

A dummy variable was also included to control for the effects of constitutional changes on court-ordered payments, particularly following the enactment of constitutional amendment EC 109/2021. This control captures shifts in the expenditure patterns of public entities, taking the value 0 before the amendment and 1 afterwards. Furthermore, a variable for internal control expenditures was included to account for the influence of internal oversight on municipal financial management. While prior literature has often portrayed internal control systems in local governments as largely ceremonial (Araújo et al., 2016; Cruz et al., 2016), evidence suggests that when these systems are well-structured and possess institutional authority (Lino et al., 2019), they may play a role in liability management by exerting pressure to fulfill obligations (Suzart et al., 2011).

The variables "transparency management" (adm_i_transp) and "fiscal management performance" (adm_IGM) were added to control for the quality of municipal administration. Greater transparency may create public pressure to honor financial commitments, thereby promoting better fiscal performance (Alt & Lassen, 2006; Cruz et al., 2018). Conversely, low transparency may reduce accountability and oversight, increasing the risk of financial noncompliance (Liston-Heyes & Juillet, 2020). Responsible fiscal management can generate positive externalities in resource allocation by fostering a fiscally disciplined environment, thus facilitating the fulfillment of financial obligations (Cruz & Afonso, 2018).

GDP per capita was included to control for the effects of municipal wealth, which may increase revenue availability and improve fiscal capacity (Gonçalves et al., 2017). Additionally, a variable was incorporated to control the impact of consolidated debt on budget commitments, which can affect the budgetary space available for court-ordered payments (Lima & Diniz, 2016).

Lastly, considering the significant impact of the COVID-19 pandemic on public finances (Batista et al., 2024), a dummy variable for the pandemic period was included to account for these effects. Despite the principles of statistical modeling that emphasize parsimony and the exclusion of variables that do not significantly contribute to explaining the phenomenon under study (Wooldridge, 2016), this variable was retained due to its contextual relevance.

Table 1
Variables used in regression models

Variables	Type of variable	Description	References
Total investment (INVEST)(1)	Dependent	Settled value of investment expenses (investments + financial investments) ÷ population.	Herrera & Olaberria, 2020; Batista et al., 2024
Court-ordered payments - *Precatórios* (PREC) (1)	Independent	Outstanding balance of court-ordered payments for the fiscal year ÷ population.	Elaborated by the authors
Budget rigidity (RIGIDITY)(1)	Control	Sum of expenses with amortization, interest, and personnel expenses ÷ total expenses.	Herrera & Olaberria, 2020; Batista et al., 2024
Administration – transparency management (adm_i_transp)(3)	Control	Indicator between 0 and 1, composed of four dimensions: transparency on the online platform, transparency in real-time, information about the open budget, and availability of data in an open format.	Alt & Lassen, 2006; Cruz et al., 2018; Liston-Heyes & Juillet, 2020
Administration – fiscal management index/FCA (adm_IGM) (3)	Control	A continuous variable ranging from 0 to 10, indicating the quality of fiscal management of municipalities.	Cruz & Afonso, 2018
GDP per capita (GDP)(2)	Control	GDP per municipality, per capita.	Gonçalves et al., 2017
Constitutional changes (dummy) (4)	Control	Dummy for the years of constitutional amendment EC 109/2021 that extended the payment of court-ordered debts (0 before the EC, and 1 after)	Elaborated by the authors
Legal expenses(1)	Control	Settled legal expenses ÷ population, representing the internal legal structure. Calculated by the expenses in Function 02 – Judiciary	Elaborated by the authors
Internal control expenses (IC)(1)	Control	Settled expenses with internal control ÷ population, representing the investment with this type of control. Calculated by the sum of the expenses in Subfunction 124 – Internal Control	Araújo et al., 2016; Cruz et al., 2016; Lino et al., 2019; Suzart et al., 2011
Consolidated debt per inhabitant	Control	Consolidated debt balance at the end of the year (gross value).	Lima & Diniz, 2016
COVID period (dummy)	Control	(1) for the duration of the COVID pandemic, 2020 and 2021, and (0) for the other years	Batista et al., 2024

Note: (1) SICONFI (STN, 2023b); (2) IPEADATA; (3) Federal Council of Administration (CFA) (2023)

We did not use pooled panel mode in order to avoid potential heterogeneity issues. The choice between a fixed effects within-group model and a random effects model was guided by the Hausman test, which supported the use of the random effects model. Additionally, the Chow F-test confirmed the appropriateness of using panel data techniques over a pooled model.

4 Results and Analyses

Table 3 provides a description of the variables used in the models, based on data from 2016 to 2023. It displays significant variations in public finances and administration across different locations and time periods, revealing the complexity and disparities within the data. Investment levels show considerable variation, with a mean of 318.6 and a standard deviation of 418.8, indicating substantial differences among municipalities. While the median balance of court-ordered payments is zero, the mean is 53.6, suggesting that many municipalities have no payments of this nature; however, where they do exist, the amounts tend to be high. Discretionary rigidity averages 0.5, indicating limited fiscal discretion in some municipalities, with values reaching as high as 100%. The transparency management index has a high median of 7.6, while the fiscal management index has a median of 4.9, reflecting differences in administrative performance. GDP per capita varies widely, with a mean of 27,531 and a standard deviation of 32,315, highlighting significant economic inequality.

Table 2
Descriptive statistics for the variables

Variables	Median	Mean	Standard Deviation	Min	Max
Investments per inhabitant	194.8	318.6	418.8	0.0	16,217.6
Balance of court-ordered payments, per inhabitant	0.0	53.6	271.3	0.0	19,136.3
Budget rigidity	0.5	0.5	0.1	0.0	1.0
Administration – transparency management	7.6	7.3	1.7	0.0	10.0
Administration – fiscal management	4.9	4.7	2.3	0.0	10.0
GDP per capita	19,337	27,531	32,315	3,191	920,834
Dummy – constitutional changes	1.0	0.8	0.4	0.0	1.0
Legal expenses	0.0	7.2	48.8	0.0	3,964.4
Internal control expenses per inhabitant	0.0	6.4	28.3	0.0	3,178.3
Consolidated debt per inhabitant	401.1	774.1	20,444.6	0.0	3,919,139
Dummy – COVID period	0.0	0.43	0.43	0	1
Cash and cash equivalents per inhabitant(2)	544.56	980.81	2,166.22	-3,364.58	140,037.2

Note. (1) The descriptive statistics provided refer to the years 2016 to 2023. (2) The information on cash and cash equivalents accepted negative values in SICONFI, indicating negative availability, which was verified in 27 cases. The data were not eliminated.

The analyses are presented in two stages. The first stage provides an overview and discusses variations in court-ordered payments across Brazilian municipalities. The second stage examines the impact of these payments on investment levels.

1.

4.1 Overview of the proportion of court-ordered payments in municipalities

This section provides an overview of court-ordered payments as components of municipal liabilities, highlighting both their relevance and variation over the past seven years. Data from the National Treasury Secretariat's Public Debt, Credit Operations, and Guarantees Analysis System (SADIPEM) (STN, 2023a) show that, by the end of 2023, approximately 44.9% of municipalities (2,500) had an outstanding balance of court-ordered payments – up from 40.7% (2,266 municipalities) in 2022. These debts totalled BRL 61 billion in 2023 (compared to BRL 50 billion in 2022), representing 27% of the total consolidated municipal debt that year.

This suggests that postponing court-ordered payments has become a significant form of indirect financing for municipalities, which retain funds meant for judicial creditors as cash resources. Although this practice is legal and does not result in managerial accountability, it is widely regarded as undemocratic (Quintiliano, 2012). Such delays, often justified under legal pretexts, contribute to legal uncertainty, distort public accounts, and negatively affect the country's business environment (Bugarin & Meneguin, 2012; Kanayama et al., 2018).

For further comparison, the total amount of court-ordered payment is 218.4 times greater than the recognized contractual debt from public-private partnerships (PPPs) in 2022. Of this total, 17.1% (BRL 8.5 billion) is legally excluded from the entities' debt limits – either because it refers to pre-Fiscal Responsibility Law court-ordered payments or because it is not classified as consolidated debt, based on the municipalities' declarations (STN, 2023b), which undermines fiscal transparency (Ferreira & Lima, 2012). In short, legislation permits a significant portion of court-ordered liabilities to fall outside official debt limits, creating additional incentives for delayed payments and reinforcing the institutionalization of this practice over time (Quintiliano, 2012).

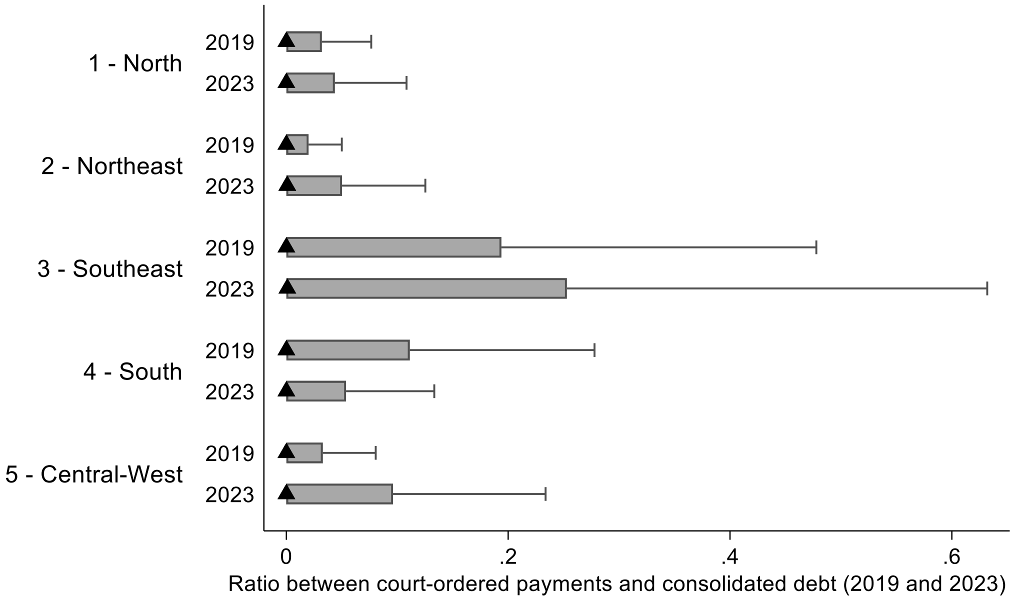
Figure 1 presents the ratio of court-ordered payments to consolidated debt in municipalities, grouped by state, and compares data from 2019 (pre-pandemic) and 2023 (STN, 2023b).

It is worth noting that 89 municipalities were excluded from Figure 1 to improve visualization, as their ratio of court-ordered payments to consolidated debt exceeded 10. The results reveal a wide dispersion in the recognition of these payments among municipalities and show that, overall, the proportion of court-ordered payments relative to consolidated debt has increased, except in the Southern region of Brazil. This finding is particularly relevant given the limited emphasis fiscal controls place on the detailed disclosure of court-ordered liabilities.

In 2022, 124 municipalities (compared to 72 in 2016) reported court-ordered payment values that exceeded their total consolidated debt. Additionally, 409 municipalities had court-ordered payments representing more than 50% of their consolidated debt, an increase from 230 in 2016. These figures indicate a growing significance of this liability over time. This upward trend is economically relevant, as it influences debt indicators by increasing credit risk for both investors and the federal government (Martins, 2022).

When analyzing municipalities grouped by state, the situation appears most critical in Sergipe, followed by those in the state of São Paulo (Figure 2). For further comparison, based on the minimum mandatory health spending established in Article 198 of the 1988 Federal Constitution, in 2023, the balance of court-ordered payments exceeded 15% of net current revenue in 141 municipalities nationwide.

Figure 1
Ratio between court-ordered payments and consolidated debt of municipalities, grouped by region of Brazil



Source: Elaborated with data from SICONFI (STN, 2023b)
Notes. (1) The symbols represent the median. (2) The graph omitted extreme cases to enhance visualization.

Figure 2
Relationship between outstanding court-ordered payments and net current revenue (Brazilian states. Year: 2023)

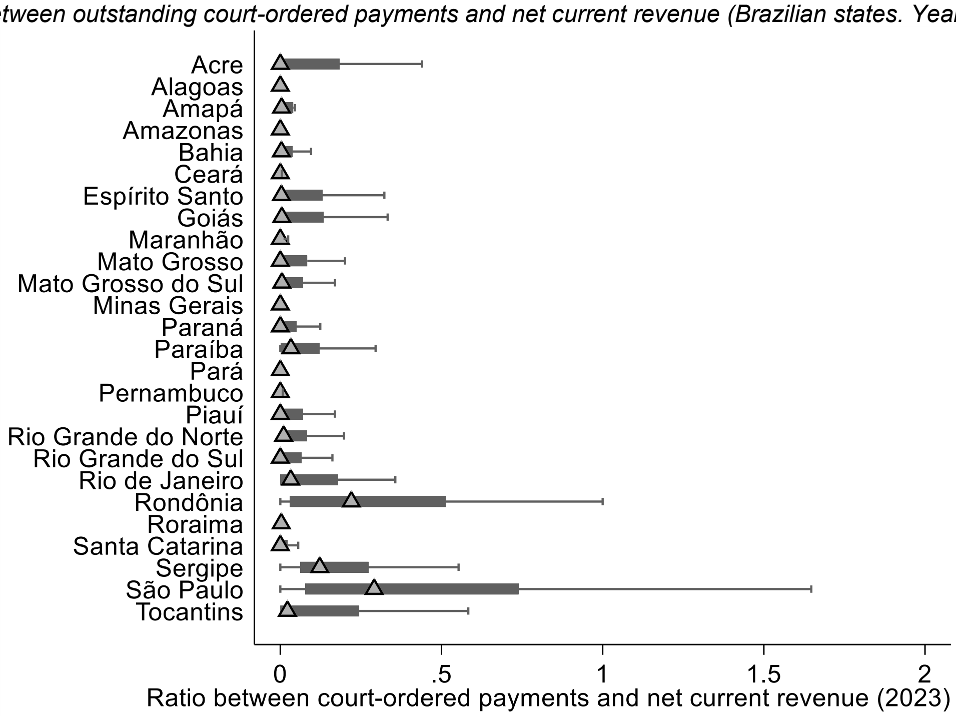


Figure 3 illustrates the variation in the balance of court-ordered payments from 2016 to 2023, with values adjusted for inflation (IPCA-E). There appears to be stagnation in the balance of court-ordered payments across the three categories of municipalities analyzed (small, medium, and large), with a slightly more pronounced increase observed in 2023. This suggests a persistent accumulation of outstanding court-ordered payments among municipalities. The graph also indicates that the proportion of municipalities with outstanding payments has steadily increased in recent years (percentages shown in parentheses).

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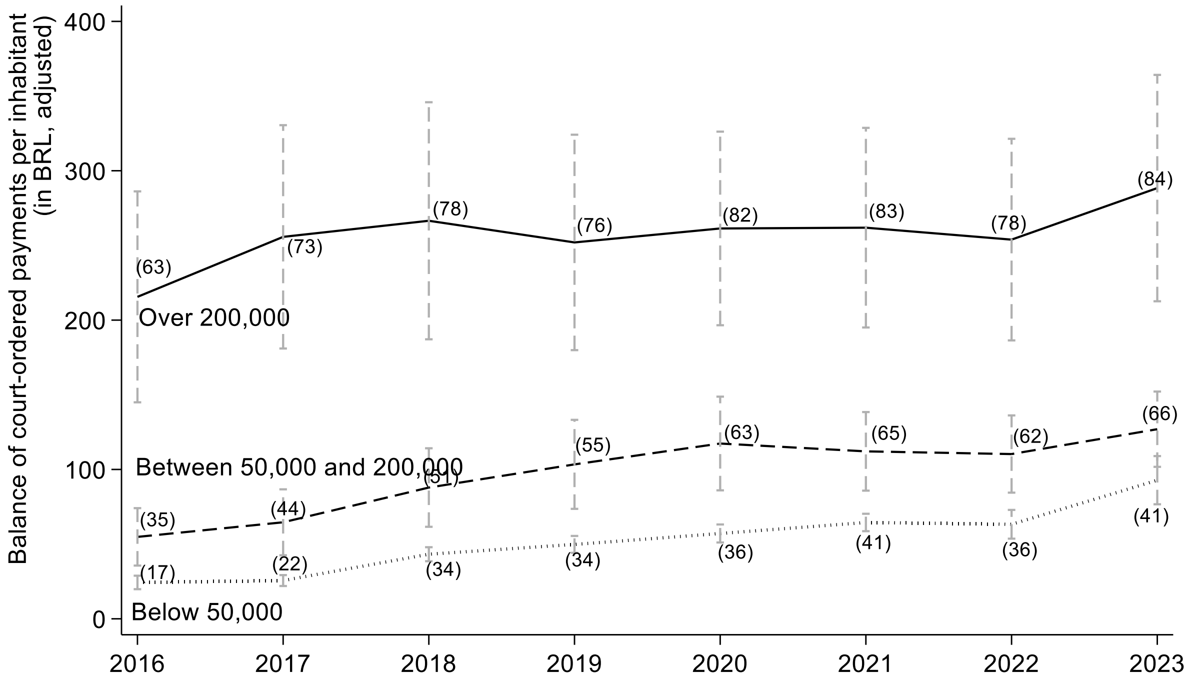
Figure 3
Municipal court-ordered payments per inhabitant, between 2016 and 2023 (updated values)



Notes. (1) Values adjusted for inflation (IPCA-E) until 2023. (2) The numbers in parentheses indicate the percentage of municipalities that had outstanding court-ordered payments at the end of the fiscal year.
Source: Elaborated with data from SICONFI (STN, 2023b)

The results regarding the augmented balances of court-ordered payments imply that the various constitutional amendments have not effectively reduced this type of liability at the municipal level. This supports the inference that the amendments failed to implement efficient solutions – particularly those tailored to the individual payment capacity of each entity – and did not establish a general rule to prevent the accumulation of new court-ordered payments (Afonso & Barros, 2013). Additionally, the graph shows that the standard deviation (represented by vertically dashed bars) is higher among larger municipalities, indicating greater variation in these balances within this group. In short, the balance of court-ordered payments has remained stable over the past eight years, with no substantial changes in the overall scenario.

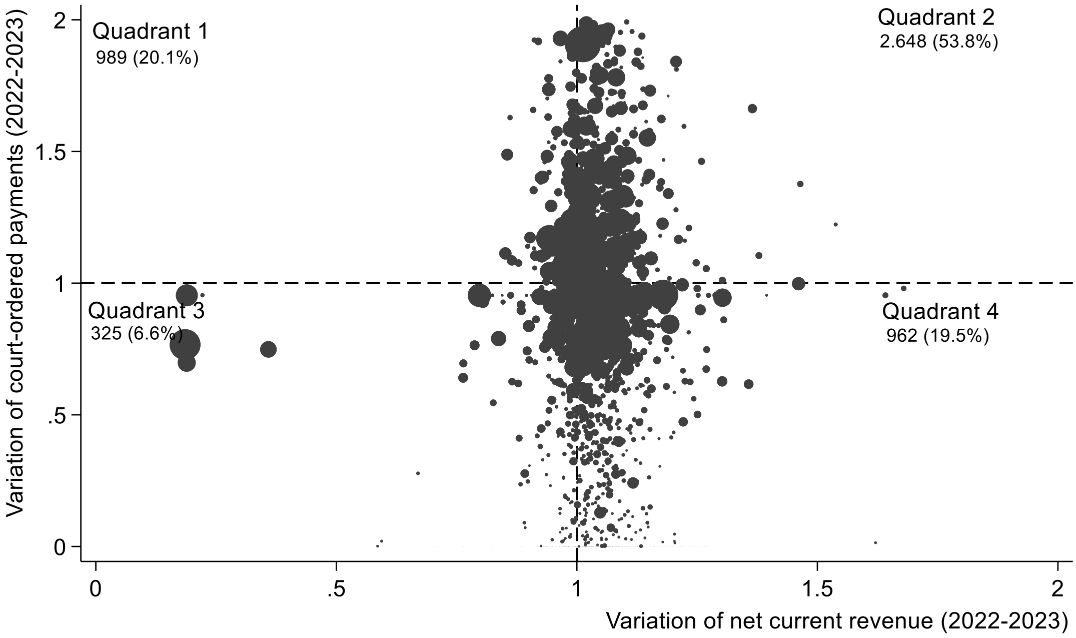
Figure 4 presents a scatter plot comparing the variation in these balances with the variation in net current revenue between 2021 and 2023. The plot is divided into four quadrants, categorizing municipalities based on these variations. In general, court-ordered payments tend to grow in proportion to municipal revenue. The municipalities in Quadrant 4 (962 municipalities, or 19.5%) represent the most favorable scenario, where court-ordered payments decreased while revenue increased, suggesting a more favorable fiscal context for payment. Conversely, the situation is more concerning in Quadrant 1 (989 municipalities, or 20.1%), where these liabilities increased faster than revenue, thereby reducing payment capacity. Although the correlation between changes in court order balances and net current revenue is not statistically significant, the analysis reveals that municipalities experiencing revenue declines face a reduced capacity to meet their judicial payment obligations.

4.2 Consequences of court-ordered payments on investments

In general, court-ordered payments are considered obligations arising from court decisions that generate liabilities for entities (Moreira et al., 2017). Consequently, entities start to assume rigid amortization and interest expenses necessary to settle these payments, which reduces the discretionary margin available in budgets for making investments. Table 4 presents the effects of court-ordered payments on investments, testing our hypothesis.

The results indicate a negative effect of these payments on investment expenses made by municipalities during the period from 2016 to 2023, confirming the hypothesis. This suggests that court-ordered payments reduce public investments, potentially impacting the development of local public policies. This result aligns with Suzart et al. (2011), who highlight how ineffective liability management can compromise the allocation of resources to priority areas.

Figure 4
Dispersion of the variation of court-ordered payments and variation of net current revenue (2021/2023)



Note. Quadrant 1: Increase in court-ordered payments and decrease in revenue – unfavorable scenario; Quadrant 2: Increase in court-ordered payments and revenue; Quadrant 3: Decrease in court-ordered payments and revenue; Quadrant 4: Increase in revenue and decrease in court-ordered payments – favorable scenario.

The effects of court-ordered payments on public investments are relevant, especially considering that the investment capacity in Brazil is low, around 2% of GDP (Bonomo et al., 2021), which has contributed to an infrastructure deficit in the country. Furthermore, research has contributed to a better understanding of the elements that impact investments, such as the research by Reis (2020), which showed that municipalities prefer to increase current expenses to the detriment of local investments, and Gerigk and Ribeiro (2018) who presented the relevance of political factors as a condition for investments in small municipalities in the country.

Table 3
Effects of court-ordered payments on municipal investments

	Investments
Balance of court-ordered payments (per inhabitant)	-0.0242 *** (-3.09)
Control – budgetary rigidity	2620.016 *** (91.6)
Administration – transparency management	8.9084 *** (7.37)
Administration – fiscal management	7.5113 *** (7.16)
GDP per capita	246.1986 *** (28.04)
Constitutional changes to court-ordered payments	5.2801 (1.46)
Legal expenses	-0.0142 (-0.46)
Internal control expenses per inhabitant	0.3724 *** (6.17)
Consolidated debt	0.0092 *** (6.18)
Dummy – COVID year	-25.1822 *** (-8.43)
Cash and cash equivalents	-0.0586 *** (34.83)
Constant	-3519.657 *** (-42.62)
Prob > chi2	0.0000
R2 Between	0.3404
R2 Within	0.4392
N	33.473

Notes. (1) Statistical technique: panel regression – random effects. (2) Analysis period: 2016 to 2023. (3) The numbers indicate the coefficient, and in parentheses the z-statistic. (4) significance: *** 1%; ** 5%, * 10%.

The high positive coefficient (2620.016***) reflects the importance of budgetary flexibility in enabling investments. Herrera and Olaberría (2020) argue that, when well-managed, budgetary rigidity can allow for a greater allocation of discretionary resources to investments and public services.

Transparency (8.9084***) and fiscal management (7.5113***) have a positive impact on municipal investments. These findings align with the literature (Alt & Lassen, 2006; Cruz et al., 2018), which connects increased accountability to more efficient fiscal performance. Moreover, greater transparency may be a mechanism of social pressure to ensure compliance with financial obligations.

The positive coefficient for municipal wealth (246.1986***) confirms that higher income levels are a key determinant of investment capacity. Studies such as Gonçalves et al. (2017) highlight how increased revenue-generating capacity, as reflected in GDP, can reduce fiscal constraints and enable the implementation of public policies. In contrast, the negative and significant effect of the pandemic (-25.1822***) highlights its adverse impact on municipal finances, as also noted by Batista et al. (2024). The revenue shortfalls experienced during the health crisis restricted investment capacity, emphasizing the need for more robust fiscal mechanisms to withstand economic shocks.

The non-significant result for the variable of constitutional changes (5.2801) suggests that EC 109/2021 may not have had an immediate impact on investment levels. This could be attributed to the gradual implementation of constitutional reforms, indicating that their effects may become clearer over time.

The lack of significance in the variable for settled expenditures in the “legal expenses” function is notable and deserves further investigation, particularly through qualitative research. This variable was included to control for the influence of spending on municipal legal departments, assuming that higher legal expenditure might reduce the incidence of new court orders by serving as a proxy for better legal organization at the local level and fewer judicial convictions.

The positive and significant coefficient for internal control highlights its role as an important mechanism for responsible fiscal management. While national literature (e.g., Araújo et al., 2016) often views internal control systems as largely ceremonial, the results here indicate that, when well-structured (Lino et al., 2019a), these systems can contribute to more efficient public resource use and reduce budgetary inefficiencies.

The positive relationship with consolidated debt (0.0092***), although with a small coefficient, suggests that debt levels do not necessarily hinder investment. This may reflect the ability of municipalities to refinance or renegotiate their liabilities to prioritize other expenditures. This interpretation aligns with findings from studies such as Lima & Diniz (2016), which suggest that active debt management can mitigate budgetary pressures. Lastly, the negative and significant coefficient for cash and cash equivalents (-0.0586***) implies that higher cash reserves may be associated with underutilized resources, possibly indicating difficulties in converting cash into actual investments.

These findings have important implications for public policy. The results indicate that the accumulation of court-ordered payments negatively affects municipal investment capacity, as these liabilities limit the allocation of resources to development projects. Factors such as the margin of budgetary flexibility, transparency, fiscal management, and GDP per capita positively influence investment capacity. Meanwhile, the adverse fiscal effects of the COVID-19 pandemic highlight the fragility of public finances during crises. On the other hand, variables such as constitutional changes and legal expenses were not statistically significant, pointing to the need for further research to clarify their roles. Overall, the findings reinforce the importance of effective fiscal management, grounded in transparency and strong internal controls, to enhance municipal performance and reduce the effects of budgetary constraints. This study contributes to the literature by offering empirical evidence on the impact of court-ordered payments on public investments, providing a foundation for the development of strategies to improve government administrative efficiency.

5 Conclusions and Implications

This research aimed to analyze the consequences of the accumulation of court-ordered payments on public investment in Brazilian municipalities. The findings indicate that these payments reduce municipal investment levels, revealing a significant and persistent impact throughout the analyzed period. These results highlight the need for more rigorous local fiscal management and the importance of policies that reduce court-ordered liabilities to free up resources for investment.

The topic is particularly relevant given the impact of court-ordered payments, which are classified as “special operations” – i.e., expenditures that do not generate a tangible product or social return. For instance, Brazilian magazine Veja reported in October 2024 that 21 municipalities, including São Paulo, allocate between 30% and 45% of their revenue to this type of payment (Revista Veja, 2024). Although this represents a small share of the municipalities nationwide, the fiscal burden on affected cities is substantial, contributing to the deterioration of public policies due to the diversion of treasury funds.

The results point to four key implications. First, the primary fiscal monitoring documents of the Federation – the National Public Sector Balance Sheet (STN, 2021) and the Subnational Entities’ Finance Bulletin (STN, 2022) – do not explicitly address court-ordered payments, grouping them with other liabilities. Given their distinct characteristics and significant volume, the findings suggest a more detailed treatment in these publications, including a dedicated section disclosing their proportion and annual variation by public entity. Such improvements would enhance the visibility of fiscal conditions and reduce distortions in resource allocation for investments.

Second, while federal data on court-ordered payments is publicly accessible via a regularly updated online dashboard (STN, 2023a), similar transparency is lacking at other levels of government. This highlights the need for nationally coordinated monitoring, such as through the proposed, though not yet implemented, Court-Ordered Payment Management System (Conselho Nacional de Justiça, 2023). Furthermore, although the Transparency Law (LC 131/2009) (Brazil, 2009a) was a significant advancement, its focus remains limited to budgetary data (revenues and expenditures). Expanding its scope to include liabilities would enhance transparency and promote better fiscal planning.

Third, despite advances in digital governance and automated monitoring through systems such as SADIPEM (STN, 2023a) and SICONFI (STN, 2023b), data on court-ordered payments remain underreported and inconsistent. Improved accountability requires more granular data, including the legal classification and originating causes of these payments. To this end, the adoption of blockchain technology, as discussed by Letouzé et al. (2020), could support the development of a robust national system for monitoring court-ordered payments.

Fourth, although there are legal provisions and strict budgetary controls to ensure compliance with court-ordered payments, the findings suggest the need for a broader discussion on establishing mechanisms to prevent the growth of these liabilities, rather than focusing solely on their payment or postponement. For instance, incorporating a specific indicator in the Fiscal Responsibility Law or implementing direct accountability measures could deter administrations from engaging in practices that lead to new court-ordered payments.

This study contributes to addressing a gap in the literature on court-ordered payments in municipal public finances by: a) presenting the current landscape of court- ordered payments in Brazilian municipalities and their impact on public investment; b) offering practical insights for public managers and policymakers by identifying critical areas for intervention that could enhance municipalities' investment capacity; and c) highlighting institutional gaps and challenges that require attention from executive, legislative, and oversight agencies.

Nevertheless, the research has limitations. The management of court-ordered payments by municipal governments is a complex process involving multiple administrative sectors – legal, accounting, and managerial – and various information flows. Currently, no data infrastructure captures the entirety of these flows. Therefore, despite the significance of the findings regarding the effects of accumulated court-ordered payments, the broader financial operations of the state may include other overlooked controls. This opens avenues for future research to expand on this study's results. Another limitation relates to the data source, which does not provide detailed information on the dynamics of these specific liabilities, such as payments, new issuances, or deferrals – data that would be valuable for deeper analysis.

Future research could focus on the fundamental elements of accountability in the management of court-ordered payments, with transparency being paramount. The only previous study on this topic dates back over a decade (Ferreira & Lima, 2012), suggesting the relevance of updated evaluations of transparency mechanisms in practice. This issue warrants further research from two perspectives. First, from the standpoint of judicial monitoring by state courts (*Tribunais de Justiça*, or TJs), where the absence of centralized coordination leads to court order oversight being carried out independently by each state TJ and federal court – creating potential inconsistencies in tracking and transparency. Second, from the perspective of public entities' accounting and transparency practices.

Moreover, due to the limited attention given to this topic in the literature and technical reports, it is not yet possible to determine the root causes of the persistence of court-ordered payments over time. Future research should explore the factors or conditions associated with the emergence, recurrence, and persistence of these liabilities. For example, it would be useful to distinguish between causes beyond the control of public entities and those stemming from recurring administrative failures – such as legal condemnations resulting from weak internal controls or the lack of organizational learning. This line of inquiry could draw on theories related to the persistence of bad practices (Lino & Aquino, 2020) or organizational learning. Finally, further studies could investigate whether entrenched power structures or other mechanisms have contributed to maintaining the status quo regarding court-ordered payments, which have remained largely unchanged over recent decades.

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NOTES

ACKNOWLEDGMENT
Does not apply.

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Review and approval: Azevedo, R. R. de; Cabello, O. G.; Romano Júnior, M. D., Teixeira, A. F.

DATASET
The entire dataset that supports the results of this study was published in the article itself.

FINANCING
Does not apply.

CONSENT TO USE IMAGE
Does not apply.

APPROVAL OF THE RESEARCH ETHICS COMMITTEE
Does not apply.

CONFLICT OF INTERESTS
Does not apply.

PUBLISHER
Federal University of Santa Catarina. Accounting Sciences Course and Postgraduate Program in Accounting. Publication on the UFSC Journal Portal. The ideas expressed in this article are the responsibility of their authors, and do not necessarily represent the opinion of the editors or the university.

EDITORS
Denize Demarche Minatti Ferreira, José Alonso Borba, Carlos Eduardo Facin Lavarda.

HISTORIC
Received on: 07/03/2024 - Peer reviewed on: 11/06/2024 - Reformulated on: 04/03/2025 - Recommended for publication on: 04/08/2025 - Published on: 09/26/2025