



Formulation and implementation, convergences and deviations: facets of the Individual MicroEntrepreneur (MEI) public policy in the local plan

Formulação e implementação, convergências e desvios: facetas da política pública do MicroEmpreendedor Individual (MEI) no plano local

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Abstract: Public policies to support small enterprises have emerged in Brazil in the 2000s, having it as major milestones the Microenterprise and Small Size Business Statute, published in December 2006 via the complementary law n. 123 and its successor, the Complementary Law 128 of December 2008, which became known as the Individual Micro Entrepreneur (MEI) Law (MEI's law). This paper addresses, as an object of study, the implementation process of the latter legal instrument in a spatiality defined by the municipality of Araraquara. The methodological strategy used was a qualitative research, outlined as a single case study of exploratory character, employing as instruments for data collection: both documental research as well as interviews with structured scripts. Results have shown that the dynamic imposed by the implementation of the law can be characterized by fragile inter-organizational ties and relations based on the maximization of individual interests, to the detriment of collective interests, which ought to be pursued by public policies. It was verified, on the analysis of the direct and indirect impacts and results, that the local government was not ready for the execution of the policy designed on the federal level. The agents in local level proceed in a manner to fragment the formalization into small bits, in which each one of them acts on its own environment, without interaction or complementation; as a consequence, the formalization process is carried out following a hierarchical order, which results in a segmented and fragmented implementation.

Keywords: Entrepreneurship; Public agents; Araraquara; Microenterprise.

Resumo: As políticas públicas de apoio a empreendimentos de pequeno porte despontam no Brasil, a partir dos anos 2000, tendo como principais marcos o Estatuto Nacional da Microempresa e da Empresa de Pequeno Porte, publicado em dezembro de 2006 por meio da Lei Complementar n. 123, e a sua sucessora, Lei Complementar n. 128, de dezembro de 2008, que passou a ser conhecida como Lei do Microempreendedor Individual – Lei do MEI. Este artigo trata, como objeto de estudo, do processo de implementação desse último instrumento legal em uma espacialidade delimitada pelo município de Araraquara. A estratégia metodológica foi a de pesquisa qualitativa, delineada como estudo de caso único, de caráter exploratório, utilizando como instrumentos de coleta de dados a pesquisa documental e entrevistas com roteiros estruturados. Os resultados revelaram que a dinâmica imposta pela implementação da lei pode ser caracterizada por laços e relacionamentos interorganizacionais frágeis, pautados na maximização dos interesses individuais, em detrimento de interesses coletivos que deveriam ser perseguidos por políticas públicas. Verificou-se, na análise dos impactos e resultados diretos e indiretos proporcionados pela lei, no plano local, que o poder público não estava preparado para a execução da política projetada no plano federal. Os implementadores da política procedem de forma a fragmentar a formalização em pequenas partes, nas quais cada um atua em seu ambiente, sem interação e sem complementação; como consequência, o processo de formalização é colocado em uma ordem tal que, organizada hierarquicamente, resulta em uma implementação segmentada e fragmentada.

Palavras-chave: Empreendedorismo; Agentes públicos; Araraquara; Microempresa.

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1 Introduction

Public policy is recognized as a fundamental instrument adopted by governments, seeking the accomplishment of public welfare (Halabi & Lussier, 2014). Spink (2013) arguments that discussing public policies to foster entrepreneurship in micro and small firms in Brazil is, simultaneously, a sign of hope and a sign of alert. A sign of hope in the sense that the use of the expression “public policy” demonstrates the expectation of a continuous governmental action, technically coherent and coordinated with the mobilization of the necessary resources to produce positive impacts on the matter at hand. An alert, in the sense that the usage of the expression – accompanied by pronouncements from authorities, presentations, press articles and laws – is often the beginning of a problem and not its ending.

The sign of alert is based on the fact that every public policy is subject to reinvention and reinterpretation in accordance with the priorities and possibilities of those in charge, the need of cutbacks, and the re-arrangement of public spending, in such a manner that the implementation many times diverts far from what was foreseen. Policies to support entrepreneurship are embryonic, their complexity and their “hybrid” character are striking. It is noticeable that, unlike other fields of public policies where there is a certain stability of stakeholders, interests, positions and propositions, including the divergences, the theme of fostering entrepreneurship is very incipient; on a practical level there is little connection between actions, thus, there is even less accuracy in regards to where and what need to be discussed (Spink, 2013).

Currently, many people, public organizations, bank agencies, associations and also a great deal of the micro, small and medium entrepreneurs do not identify themselves with the expression “entrepreneurship” and, much less, consider themselves as an active part of a field. In business schools it is possible to find classes on entrepreneurship and even Study Centers, but at no point does the thematic have a constant, transversal and central presence (Spink, 2013).

There is no doubt that this difficulty is, partly, consequence of a specific economic development model and a labor concept that remain in social imagery, anchored on the principle of paid employment in large and stable organizations. Such model, which, for years, has put behind other kinds of relations, enterprises and initiatives, rendering them virtually invisible, is also a product of the very complexity of development strategies and policies (Spink, 2013).

In Brazil, the effort to structure public policies for micro and small firms and for entrepreneurship is rather recent. The few existing initiatives overlapped the performance of national and regional actors and had a sectorial focus. However, since the approval of the National Statute of the Microenterprise and Small

Business Enterprise and its successor, the law of the Individual Micro Entrepreneur, known as MEI’s law (Law 128/2008 (Brasil, 2008), some mechanisms were created for the first time in the country’s history in order to configure a specific policy aimed at micro and small business. According to this new law, the Individual Micro Entrepreneur (MEI) is the person who works for his own account and who legalizes himself as MEI. In order to become an Individual Micro Entrepreneur, it is necessary to earn as much as R\$ 60.000,00 a year and have no partisanship in any other enterprise whatsoever, be that as a partner or as a shareholder. The MEI can also have a hired employee working for the minimum wage or the category’s floor. The complementary law n° 128, of 12/19/2008 (Brasil, 2008), has created special conditions for any citizen, working for himself in conditions of informality, to become a legalized MEI.

Amongst the advantages offered by this law lies the record on the National Registry of Legal Entities (CNPJ), which makes it easier to have bank accounts opened, loans requested and invoices issued. Furthermore, MEI, with regards to the process of simplified and favored tax regimen, remains tax free, federal wise (IRPJ, Social Integration Program – PIS, Contribution to the Financing of Social Security – Cofins, Tax on Industrialized Products – IPI and Social Contribution over Liquid Profit – CSLL). MEI pays only the fixed monthly bill of R\$ 40,40 (industry or trades), R\$ 44,40 (service provision) or R\$ 45,40 (commerce and services), which is destined to the Social Security and to the Tax on the Circulation of Goods and Services – ICMS or to the Taxation on Services of any Nature – ISS. These amounts are annually updated, in accordance to the minimum wage. By paying these contribution bills, the Individual Micro Entrepreneur has access to benefits such as maternity and sick leave, retirement, amongst others.

There was the expectation that the main causes which, up until then, generated a difficulty for the formalization of MEI, such as proof of income, the lack of legal evidence of its merchandises’ acquisition, labor related complaints, the lack of Social Security benefits for the entrepreneur, amongst other obstacles that the informal workers had to face in order to ascertain the legal evidence of their activities, were removed due to the creation of the law 128/08, given that the law sped up bureaucratic formalities and facilitated the management of the newly created formal enterprises (Cordeiro, 2013). However, despite the innumerable advances, the new law still presents some complications towards the formalization. This is the context of the matter discussed in this paper, that is, the necessary conditions for the implementation of this public policy: whether, on the one hand, they are favorable to the MEI, within a systemic logic characterized by synergy and efficient energy exchange

or, on the other hand, under more individualistic conditions, each agent seeks to maximize his actions to the detriment of/unconcerned with the totalizing effects of the results.

The purpose of the paper is to analyze the implementation process of MEI law, looking at the contextual dynamic of its application and at the relations and inter-relations established by different economic and political agents directly involved in the public policy's implementation process at the local sphere, as well as the subsequent impacts and outcomes, both direct or indirect. Derived from this intent, the article aims to answer the following question, which guidelines this research: which are the main existing dissonances on MEI law implementation process in the local sphere, *vis-à-vis* the advocated goals by the federal public policy in support to entrepreneurship, as expressed in the law?

The text was structured within four sections, aside this introductory one. Section 2 discusses the role of the State on the promotion of entrepreneurship and the reduction of informality in several countries. Following that, we put forth the posture adopted by the Brazilian State, the main analysis on MEI's law and the policies to support entrepreneurship in Brazil. On the fourth section, the dynamic of implementation of MEI's policy in Araraquara municipality is addressed and, finally, the paper comes to its conclusions.

2 State, informality and entrepreneurship

An expressive number of countries have created programs to support entrepreneurship in their territories (Barba-Sánchez & Atienza-Sahuquillo, 2012; Ghani et al., 2014; Halabí & Lussier, 2014; Mayer-Haug et al., 2013; Obaji & Olugu, 2014; Pickemell et al., 2013; Poschke, 2013; Román et al., 2013; Slonimczyk & Gimpelson, 2015) in order to tackle informality (Castro et al., 2014; Centeno & Portes, 2006; Hu, 2014; Kus, 2014; Nguyen et al., 2014; Webb et al., 2014). Those are initiatives that, in most part, present the double target of, on one hand stimulate the development of new enterprises and, on the other, support the transition from informality to formality. These programs are interesting for developed countries, as well as emergent and less developed ones (Castro et al., 2014; Nguyen et al., 2014; Obaji & Olugu, 2014; Slonimczyk & Gimpelson, 2015; Webb et al., 2014).

With regards to the less developed countries, the informality is directly related to two factors: the first one results of the incapacity of the State in fulfilling its own regulatory milestones; the second one absorbs the very degree of the economy's regulation (Kus, 2014). Seeking to reduce the degree of the economy's regulation, China's a good example

for, by fighting informality and seeking to stimulate the entrepreneurship, it has reduced institutional barriers (Hu, 2014). In Turkey, within the economic deterioration years, after the oil crisis of 1974, several policies were methodically implemented in order to remove market entry barriers, make international trade feasible, make labor laws more flexible, enable the access to financing and reduce taxation. It was expected that such initiatives ought to reduce informality and increase entrepreneurship rate. However, the country didn't have the capability of controlling the supervision of its regulation mechanisms, and, as a consequence, the policies implemented were not sufficient (Kus, 2014). In Latin America, several countries followed on the same path, nonetheless, the attempt to promote a minimum normative regimen that, at first, should trigger private sector growth and promote formalization, did not achieve the expected outcomes (Centeno & Portes, 2006). The process is similar to the one that occurred in Turkey, where the incapacity to establish proper control forms blocked the fulfilling of the laws. In Latin societies, where poverty and inequality are elevated, Union powers are weak, and the State does not possess fitted controlling mechanisms, the Legislation non-compliance ends up generating more opportunities for private enterprises to benefit from informal ways (Centeno & Portes, 2006). Alongside with that, according to Kus (2014), neoliberal reforms and the transformation of the normative instruments boosted the private sector's growth without, however, preventing the obeying of legal norms. There are evidences that an impressive part of the new entrepreneurship in Anatolia (and throughout the hole Turkey) in 1980 and 1990 has remained informal. Most of the enterprises were family-based, within industries of intensive work, such as textile, clothing and food processing ones. These were enterprises of limited financial capability, offering few (or none) legal benefits of social security or health insurance to its employees, evading taxes and, many times, not being registered as legal entities (Kus, 2014).

Trying to understand the failure of policies to encourage formalization in emerging countries, Orsi et al. (2014) argue that the transition dynamics from an informal economy to a formal one, sustains itself on the tripod of three different fiscal policies: general taxes cutbacks; increase on the monitoring effort; a combination of these two practices. Something that, for the authors, remains distant from the reality of less developed countries.

In the United Kingdom, the policy to stimulate entrepreneurship is based on direct governmental counseling and its allowances for the access to the existing methods of formal support (such as private consultants or business professionals). With regards to the offered advising categories via the government,

the subsequent areas are identified: business strategy; administrative organization; marketing; market research; publicity; public relations; product or service design; new technologies; information technology services; personnel and recruitment; taxation; and finances (Pickernell et al., 2013).

In India, entrepreneurship is treated as a public policy and the variables considered influential to the entrepreneurial rate are: basic demographic data, local work force education, quality of local infrastructure, access or time travel to the major Indian cities, the severity of applied labor laws and banking conditions. Throughout the years, the main policies implemented have sought the formation of district gatherings, similar to those of Local Productive Arrangements (APLs) and technological parks in Brazil (Ghani et al., 2014).

In Nigeria, different administrations, on several occasions, mobilized efforts in order to develop the population's entrepreneur spirit; diverse developmental and economic assistance instruments were employed. Such initiatives, however, were unsuccessful due to the excess of bureaucratic procedures, corruption, infrastructure insufficiency, local political derangement and the lack of governmental will to operate the proposed mechanisms (Obaji & Olugu, 2014).

Vietnam is an interesting example of the importance of the role of the State in support to entrepreneurship. In order to foster the transition of entrepreneurs to a formal economy, the Vietnamese Government introduced several programs in support to entrepreneurs, such as the Entrepreneurial Law, which addresses the entry process of new formal enterprises and provides fiscal credits and tax exemption for these companies during a certain period of time; another example is the Credit Guarantee Fund, which circumscribes the loan releasing for small and medium sized companies (Nguyen et al., 2014).

Credit incentives and its guarantees are pointed out by numerous authors as being essential to the success of a entrepreneurial policy. Credit guarantee by cooperatives or specialized banks have often been used in various European countries since the 70's, as in the case of Italy, in the context of the Mezzogiorno's region development (Bacattini, 1994; Casarotto & Pires, 2001; Vázquez Barquero, 1995).

With regards to low-income countries, according to Grimm & Paffhausen (2014), public policies to stimulate entrepreneurship must be supported on five axes: (i) access to financing, (ii) entrepreneurial qualification, (iii) entrepreneurial development services, (iv) wage subsidies, and (v) improvement of the business environment (e.g., registration procedures). However, historical examples and the very authors mentioned above have shown that such incentives do not always prove to be sufficient. For these authors, it is necessary to arouse the internal motivation of each individual. One cannot deny that the financial

support through grants or loans is fundamental for the process of creating a company, and that the absence of initial capital represents one of the main obstacles pointed out by entrepreneurs. However, in the majority of cases, financial support is insufficient, if it is not accompanied by an adequate support for the training that incites other motivations, besides self-employment (Barba-Sánchez & Atienza-Sahuquillo, 2012).

In this context, education has a role of great importance in the development of entrepreneur spirit amongst individuals (Barba-Sánchez & Atienza-Sahuquillo, 2012; Ghani et al., 2014; Mayer-Haug et al., 2013). It is necessary to include entrepreneurship training early on the initial levels of education (Barba-Sánchez & Atienza-Sahuquillo, 2012). Mayer-Haug et al. (2013) suggest the synchronicity between infantile education (formal) and entrepreneurial education as a condition to the acquisition of the necessary skills to adult entrepreneurs.

By having such premises in mind, new enterprises should be created not only by those who can do so, that is, by the people who are capable, but also by those who have the necessary motivation to do so. Thus, different organs and entities interested in supporting entrepreneurship should incorporate the pertinent devices to measure the commitment of potential entrepreneurs to new ideas (Barba-Sánchez & Atienza-Sahuquillo, 2012).

It is also observed, in the most recent studies on the conditions of effectiveness of entrepreneurship policies, that an articulating entity of the proposed course of action must always prevail and, in this scope, it is highlighted the role of the State as a front of action. Amongst the most effective policies in fighting informality and promoting entrepreneurship are: providing venture capital; access to financing, education and public hiring; development of entrepreneurial formation; connection between the universities and entrepreneurs; incubators; technological parks and chambers of commerce. All of these initiatives must rely on some sort of governmental support (Halabí & Lussier, 2014; Mayer-Haug et al., 2013; Pickernell et al., 2013).

3 Brazilian State facing entrepreneurship and informality

The effort to establish public policies for small enterprises in Brazil is recent. Neglect towards this matter has been present throughout history, from the beginning of industrialization to the import substitution industrialization stage, between the 1950's and the 1970's, going through the 1980's economic recession up until the economic neoliberalism on the first half of the 1990's (Sarfati, 2013). Only in a more recent period, enterprises of this size have received more attention (Naretto et al., 2014; Sarfati, 2013).

Sarfati (2013), having studied the entrepreneurial supporting policies in Brazil, points out the existence of two groups: regulatory policies and stimulating policies. The regulatory policies that affect micro and small enterprises – MPE and entrepreneurship use to rely on the business's entry and exit regulations, social and labor rules, intellectual propriety rules, tax rules, intellectual property rules, bankruptcy rules and those which affect the capital's liquidity and availability – including interests rates and access to financing (Sarfati, 2013).

Such policies (regulatory ones) gained force in the 60's with the promulgation of the Decree-Law no 486/1969, that proposed a differentiated treatment for small retailers, exempting them from the mandatory bookkeeping (Brasil, 1969). Such policy was broadened on the 1988's Constituent. In the article 170 there is an explicit indication "to favor the small sized Brazilian enterprises of national capital" (Brasil, 1988). The democratization of formalization advanced more alongside with the 9.317/96 Law (Brasil, 1996), that established the Integrated Duties and Contributions Payment System – (*SIMPLES Law*). This law sought to stimulate and reduce the number of taxes, rationalizing its charging and dismissing the bookkeeping for tax purposes, aiming at legalizing the micro and small enterprises (Brasil, 1996).

The impacts produced by Law 9.317/96 were felt, also, on the review of the Civil Code, given that with the promulgation of the Law n° 10.406/2002 (a new Civil Code) a reformulation on the concept of entrepreneur occurred, and thus, this actor began to be considered a person who: "exerts professional economic activity organized for the production or circulation of goods and services" (Brasil, 2002). Up until then, only were recognized as entrepreneurs the ones who practiced the commerce (Oliveira, 2012). Also, the new Civil Code ascertained a favored treatment, different and simplified to the rural entrepreneur and to the small entrepreneur who wished to make the inscription as a legal entity. It can be observed, in that particular period, that the entrepreneur image suffered changes. Further on, in 2003, the constitutional amendment n° 42/2003 (Brasil, 2003) discharged the legalization process of small enterprises, by both altering the National Taxation System and offering a different and favorable treatment for the micro and small enterprises.

New changes were introduced in 2006, when the *SIMPLES Law* was revoked in its totality. In its place it was established the Complementary Law n°123, on 14th of December 2006, named the General Law for the Micro and Small Enterprises, that instituted the National Micro and Small Businesses General Law (*SIMPLES NACIONAL*), promoting a simplification on the tax collection, mainly for Microenterprises (ME) and Small Sized Companies (EPP), apart from

individualizing the small and micro enterprises by the measurement of their annual gross revenue. This law represented a first official position from the Government in order to reduce uncertainty and to fight the country's informality (Brasil, 2006). Such attitude was perfected ("maximized") along with the edition of the Law 128/2008, in force since 1st July, 2009, which altered the General Law for Micro and Small Companies, in order to institute, as a legal act, the Individual Micro Entrepreneur – MEI (Brasil, 2008). Further ahead, the Law n° 139, of November 10st, 2011 (Brasil, 2011), reduced MEI's tax burden, in a way that the aliquot for the social welfare went from 11% to 5% (Brasil, 2011). Other contributions from the same law (Brasil, 2011), reduced MEI's tax burden and amplified in 50% the expected billing threshold, allowing that more entrepreneurs took part in the regimen that simplifies the understanding and shrinks the taxation.

In the analysis of supporting policies to entrepreneurship activities, contained on the Brazilian legislation, Lastres & Lemos (2003) identify four sets of actions. The first one refers to the instruments for promoting entrepreneurship activities, which include dissemination, demonstration and awarding programs – such as the establishing of festive dates, execution of fairs and entrepreneurship tournaments – and also the availability of infrastructure, logistics, basic services, etc. In this realm, the emphasis has been delegated to the constitution of incubators, junior enterprises, technological parks and local productive arrangements (APL). The second one refers to support services, including information, qualification and consultancy programs. This set of policies has sought to support the entrepreneurs, by strengthening their capabilities and central competences in a continuous manner, within a long term perspective. Great focus is given to this policy decentralization tendency, via third sector organizations, as well as the establishment of institutions that act as entry doorways to the solution of the most varied problems found in companies. The main reference as a decentralized support center is the "Brazilian Service of Support to Micro and Small Enterprises", known as "*Sebrae*".

The third one refers to ways of financing the creation and development of Micro and Small Enterprises (MPE), varying since direct financing (with non-repayable fund or with a fund return), fiscal incentives and venture capital systems, up to specific destinations of public budget installments and governmental acquisitions. These policies have pursued to perfect the existing mechanisms and to diminish the traditional impediments for the obtaining of funding. In this scenario, the emphasis has been on the amplification of financing lines from the National Bank for Economic and Social Development – *BNDES* (a.k.a.: Brazilian Development Bank), the Funding

Authority for Studies and Projects – *Finep*, the counties' public foundations to research support – *FAPs*, the National Council for Scientific and Technological Development – *CNPq*, the Federal Program for Income Generation – *Proger* and the National Program for the Orientation of the Productive Microcredit – *PNPO*. In this set of policies, the following positive aspects can be outlined: a) cost reduction and dilution of the risks associated with the financing of individual enterprises, specially the small sized ones; b) overcoming of the traditional barriers related to the supplying of guarantees and to medium and long term financing; c) the strengthening of the relation between actors in the arrangements and systems seeking the increase of collective synergies as well as the development of interactive ways of learning.

A fourth set relates to the simplification of bureaucracy. The main efforts seek to decrease proceedings and deadlines in order to enhance the creation of new enterprises, its acting and funding. An example of such initiatives is the Fast Track Company Licensing Module of the State of São Paulo. It is an initiative that integrates both the systems Web Registration and Licensing Integrated System (SIL), in order to collect data for the entrepreneurial record, for previous consultation of the location feasibility only for the covenant municipality, and the licensing for the practice of economic activities, involving São Paulo counties (covenant or not) and the state organs responsible for the licensing: Sanitary Surveillance (represented by the Sanitary Surveillance Center – CVS), Natural Environment (represented by the Environment Company of the State of São Paulo – Cetesb) and the Fire Department.

Besides these set of procedures, it is possible to point out that, in all the incentive policies to entrepreneurship it can be observed the presence of vertical dimensions, focused in specific sectors (such as biotechnology) and in groups of individuals – Blacks, Women, Youths (Sarfaty, 2013)

In synthesis, the studies on this theme have agreed that, from the legal point of view, the establishing of the Micro and Small Enterprises Statute and the creation of MEI's Law represented mechanisms that, for the first time in the country's history, would set a broad support policy for the Micro and Small Enterprises – MPE and to entrepreneurship. For the MPE, by encompassing forms of support through institution building, legal milestones and specific tax rules, besides the mobilization of mechanisms in the realm of public institutions of support to the productive system – official banks, development agencies, universities and research institutes (Naretto et al., 2014). For MEI, the expectation was that the impediments faced by informal workers to legalize their business, as income comprovação, legal acquisition of inputs, labor related complaints,

lack of welfare benefits, amongst others, would be removed with the advent of the law 128/08, which would, supposedly, haste bureaucratic impediments and facilitate the administration of the recent formed enterprises (Cordeiro, 2013).

The results achieved all over the country, however, didn't match the expectation. Despite the legally created instruments, difficulties can still be observed, as it will be exposed on the following sections.

4 The implementation dynamics of the MEI policy

In this section are reported the first results of this research, performed in Araraquara, county of São Paulo.

4.1 Methodology for the formalization of the MPEs and data collection sources for the research: a first conflict

In order to reach the purpose of this paper, a research was initially done along with institutions and organizations that support MEI's formalization, such as Sebrae, Araraquara City Hall, accounting offices and the entrepreneur's portal. This initial procedure aimed at two purposes: firstly the identification of quantity and quality of the available information on the consulted institutions; secondly, the collection and ascertainment of the available data, which led to the creation of an own database, filled with qualitative and quantitative data that were used on the definition of the sample group for the research. Asymmetries were identified among the consulted sources. As an example, the City Hall of Araraquara does not hold a MEI's complete and updated database. This is mainly due to the fact that the city hall only updates the registration data as the MEI is formalized by an accountant and/or seeks the documents for the issuance of a permanent operating license.

On the other hand, those who registered themselves in the entrepreneur's portal, in a direct and independent manner via the website, remain on the margins of the municipal inspection. As an example it is important to mention that Araraquara City Hall information database is composed of 3.589 MEI, while in the Entrepreneur's Portal such number reaches up to 6.882 recorded unities (both data are from 2015). This information disparity, much likely, is repeated in all the extent of the National territory, leading to an understanding that many Individual Micro Entrepreneurs find themselves only partially formalized.

In such scenario, it is viable to question the formalization methodology adopted by the law: the Entrepreneur's Portal (website that enables the formalization), at the same time that has diminished bureaucracy of the formalization system, has also

created an institutional gap that prevents the exchange of information, a problem that could have been easily resolved by interconnecting the system with the other regulatory bodies.

4.2 MEI implementation stages

This paper target policy, the MEI law, is recognized as a distributive policy that leaves aside budget constraints in order to favor a particular social group (individual entrepreneurs in particular economic activities), offering subjective and objective advantages (mainly tax exemption and social security law) with the objective of, supposedly, promote socio-economic inclusion of the target group. Within the entrepreneurship public policies typology (stimulus or regulatory policies, as those pointed out by Sarfati, 2013), the MEI law can be considered as a regulatory one. Within the law, there can be found rules both for entry and exit of business, labor and social rules, tax rules, as well as rules that affect liquidity and capital availability (including interest rates and access to financing).

For Sabatier & Mazmanian (1980), the implementation is the realization of a decision over a policy, in which the problem (or problems) to be addressed is identified, the pursued objectives are stipulated and, in many other forms, the implementation process is structured. The authors indicate that the process is developed in various stages, beginning with the approval of the law, followed by the results (decisions) of the implementing agencies, by the observance of the policy’s target groups and their response towards these agencies decisions, by the impacts (desired and undesired) of such results, by the agencies decisions perceived impacts and, finally, by the legislation revisions. On the local level, MEI law implementation

represents part of these stages, being excluded the approval stages and the legislation revision.

Regarding operational aspects, MEI formalization can be done through two different paths. The first option is characterized by a registration done, directly and independently, by accessing the Entrepreneur’s Portal. In this manner, the entrepreneur fills out a series of forms and obtains the Condition of Individual Micro Entrepreneur Certificate. The second option goes through an accounting office which helps the entrepreneur. In this option, the entrepreneur acts as a passive agent and all of the operational procedures are performed by the accountant. By any of the options the MEI’s formalization is gratuitous. Figure 1 presents the six stages to formalization.

A fundamental step to the formalization process of the MEI is the knowledge of the City Hall norms for the functioning of the business about to be formalized: the entrepreneur must know or become aware of the municipal impositions, mainly the related to the requisites to perform on the intended address, and of other possible licenses. In order to perform the inscription in the portal, the entrepreneur should inform the number of the last Annual Declaration of Individual Income – *DIRPF* or of the electoral card in case of not being obliged to the *DIRPF* (exemption of income declaration). No signatures or documents are needed, everything is done electronically.

The second procedure, the “Emission of Certificate of the Condition of Individual Micro Entrepreneur”, is the phase in which the formalization is done via internet, allowing that the General Taxpayers’ Registry – *CNPJ*, the inscription at the Commercial Board and at the National Institute of Social Security – *INSS*, as well as the Provisional Business Permit may be immediately obtained, generating a single document, which is

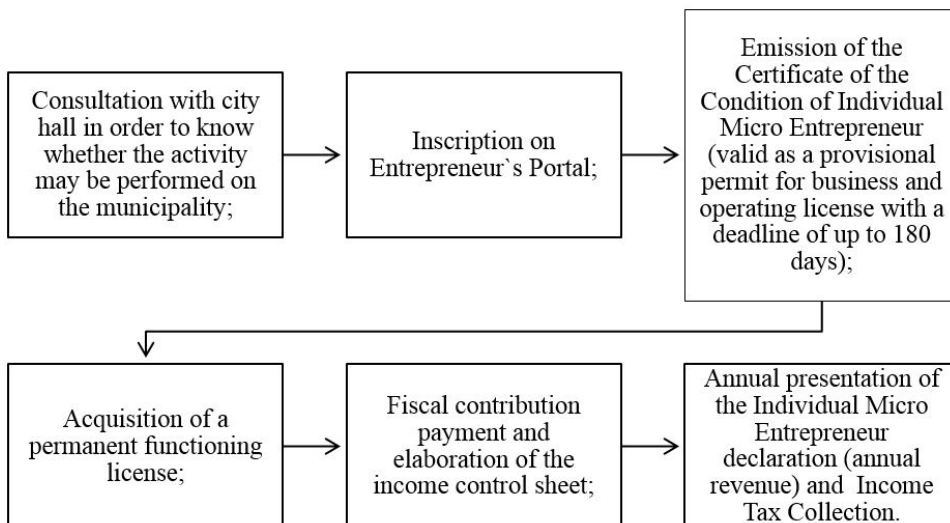


Figure 1. Formalization Process Flow. Source: Self elaboration.

the Condition of Individual Micro Entrepreneur Certificate – *CCMEI*. Once concluded the formalization at the Entrepreneur’s Portal, MEI must provide the State’s and/or the Municipal inscription and ought to seek the authorization for the issuing of Invoices and/or the Electronic Invoice. Additionally, after 180 days MEI must provide the Definitive Business Permit/License. For that, in some cases, he will have to request Sanitary and Environmental Licenses, accordingly to the demands for the particular activity. In most of the municipalities of the State of São Paulo (as in the case of Araraquara) all the MEI that seek the Definitive Business Permit must register on the Fast Track Company Licensing Module of the State of São Paulo. This is a program that integrates the system Cadastro Web and the Integrated System of Licensing (SIL) for data collection for business registries for prior consultation of the location and feasibility (only for the contracted municipalities of the State), ad for licenses to the exercise of economic activities, involving the Sao Paulo municipalities (contracted or not) and the state agencies responsible for licensing: sanitary surveillance (represented by the Sanitary Surveillance Center – CVS), environment (represented by Environmental Company of the State of Sao Paulo – CETESB) and Fire Department.

4.3 Public Agents on MEI Law Implementation: actors in dissent

Six different economic and political agents were identified by the research as involved in the MEI implementation process on the local sphere (Figure 2). The analysis of their roles and inter-relations evinces part of the opportunities and limitations for the law implementation.

Secchi (2013, p. 55) highlights the role of the actors involved on the public policies implementation and on the practical execution of the governmental decisions by demonstrating that “[...] on the implementation, rules, routines and social processes are converted from

intentions into actions”. In the implementation phase intense negotiations arise, buoyed by consensus and conflicts, which may be considered a “game” in which a central authority seeks to induce the implementing agents to put into practice the objectives and strategies of a policy (Viana & Baptista, 2008).

On the case focused by the research, it was possible to identify the intense “game” established on MEI policy implementation, by verifying and delimiting the different positions adopted by the parts involved and interested on the formalization process. On the interviewed public agents’ statements it became evident that the actors’ positions are different and that there is no unique and common understanding on what this public policy actually means. For example, the City Hall Auditor, responsible for identifying tax jurisdictions and starting the permit issuance procedure, so being able to provide tax exemption, revealed a higher level of tolerance as to the methodological rigor in the inspection. Such tolerance was not institutionalized, it is something particular to the organizational culture derived from the awareness that MEIs, in a great majority, are presented as humble entrepreneurs in pursuit of financial independency.

This same attitude was verified on other interviews, mainly on referring to the environmental inspection. As MEI are, preponderantly, modest individuals, unaware of the law, in many cases the public agents act as consultants due to the fact that some of the entrepreneurs cannot possibly fill out the necessary forms to the licenses issuance. Statements collected during the research show that the auditors act with milder posture in regards to the legal demands for the issuing of licenses, thus strengthening a culture in which everyone acts as if partaking in a “gentlemen’s agreement”, what causes a prevalence of a relative tolerance to adequacy deadlines, time for clarifications and matters of the same order.

Such mild attitude was not observed on the statements of other interviewed agents who belong to *Cetesb*, Fire Department and Sanitary Surveillance.

<p>1-City Hall Auditor:</p> <p>Responsible for Identifying the tax jurisdictions and starting the permit issuance procedure.</p>	<p>2-Auditor of the São Paulo State Environment Company – CETESB:</p> <p>Responsible for the issuance of licenses for enterprises with environmental impacts</p>	<p>3-Sanitary Surveillance Auditor:</p> <p>Responsible for issuing licenses for enterprises with health connected activities.</p>
<p>4-Environment Auditor:</p> <p>Responsible for the issuance of licenses for enterprises with environmental impact who are free of CETESB’s (São Paulo State Environment Company) inspection.</p>	<p>5-Fire Department:</p> <p>Responsible for issuing the inspection report.</p>	<p>6-Accountants:</p> <p>Responsible for advising the entrepreneurs.</p>

Figure 2. Particular roles of the local agents. Source: Self elaboration (2016).

An extreme case was that of the Sanitary Surveillance. It was noticed, on the interview, the inexistence of a different treatment for MEI, the processes are oriented by the date of entry, through “fast track” or street inspection. According to their statutory norm, a tax exemption is granted during the first year, only to be suspended on the following years, a practice that goes against the law. In a thorough analyses of the normative device, it was noticed that MEI is exempt of any and all taxation by the public sector, be that on the admission act or on the renovation act. The taxation, therefore, is unjustified and shows a lack of preparation of these public agents for the implementation of the law. At the same time it demonstrates that the entrepreneurs are unaware of their legal rights, otherwise, they wouldn’t accept such onus.

This different position reflects what Secchi (2013) had already pointed out, that the implementation must be faced not as a mere technical problem, but as a complex set of political elements that condition and affect the implementation process, being able to direct it on a contrary direction of that projected on the moment of planning and formulating the policy. What was observed was that the public agents operate without having in account the real needs of MEI, as a rule oriented by the policies and guidelines of the institutions and departments to which they are linked.

Another important aspect of the implementation is the understanding of public policy by the local implementation agents. What was detected on the interviews is that each public agent has specific views over the public policy’s purpose. On the examined case three points of view over the meaning of MEI public policy were highlighted: the first one understands that the law aims at amplifying the tributary collecting, having as a minor function the formalization and contribution to the success of the enterprise; the second perspective understands that the law helped many entrepreneurs to become formalized, as an example there are car cleaning companies, such as “car wash”, that began following the legislation with regards to water disposal; and the third one attributes to the law the task of offering tax exemptions to certain kinds of ventures. As it can be observed all of those perspectives are quite limited and even mistaken as to the actual reach of the public policy.

Pressman & Wildavsky (1984) emphasize that the beginning of the implementation process is the moment of transformation of a policy into a program, that is, when by action of some governmental authority the initial conditions for the execution of a policy are created. From this perspective, on the local sphere, one can identify that the creation of these initial conditions were not taken into effect. This was evident on the discourses of the auditors responsible for identifying the tax jurisdictions. The policy was

planned without the due recognition of all the needed formal procedures and so the municipality showed to be lacking of physical and personnel infrastructure, in order to the dispatch of all the processes that have gotten accumulated. The research also ascertained that suddenly the number of enterprises that should be inspected increased, while the City Hall remained with a staff of only two auditors responsible for all the procedures.

The implementation also implicates management processes. On the interviews, it became evident that the local agencies and departments do not have appropriate structures, norms, administrative procedures or information systems that enable them to act as MEI implementers. Such frailty can be exemplified by the fact that the municipality only becomes aware of the existence of a new MEI when he seeks an accounting office in order to obtain a permanent operation’s license. In situations in which the entrepreneur obtains a *CNPJ* directly via Entrepreneur’s Portal, the local agents do not become aware of his existence.

Beyond the public agents, the accounting offices have become “an actor” that stand out on the private sphere. Their contribution is vital for the understanding of the law’s implementation dynamics. As evidenced on the next section, several actions executed by the accountants have altered what had been proposed by MEI law.

4.4 Accounting offices as agents of MEI implementation: benefits and disinterests

Accountants are important actors on MEI implementation because they are obliged to offer gratuitous service to the MEI for a year. Such demand isn’t accomplished spontaneously, being done merely as a counterpart to the tax benefits given by the law to the offices that integrate the network of accounting offices providing services to MEI. On an accountant’s own words, the dissatisfaction becomes evident: “[...] *we provide service for free, for the whole first year; whenever we send a bill to the entrepreneur he never returns [...].*”

In many cases, the provided services, legally foreseen to be gratuitous, are relevant to the micro entrepreneur. The most important are: general orientation on MEI law; inscription on the Entrepreneur’s Portal; support for obtaining the licenses for the activities’ operation; training for invoices issuing; training for the execution of the minimum financial control; issuance of tributary collection guides; issuance of the first Annual Income Tax Declaration.

This free cost service, however, ends up being recurrently broken due to the frequency that the offices generate extra bills, as a form of indirect charging for the provided services. The delivery’s billing can

be cited as an example, monthly charged when the tributary collection forms are sent to the entrepreneur.

Another fact that attracted attention during the research was related to the process of Inscription on the Entrepreneur’s Portal. The interviewees (representatives of accountant offices) stated that many individuals aim to classify themselves as MEI only to obtain social security benefits. Such action is clarified in one statement:

[...] many come here and state that they wish to start a company, we begin to explain the existing procedures and types of formalization and so they say ‘no, no, I only want to start that small simpler company’.

Besides the social security benefits, in some cases, the entrepreneurs seek the formalization in order to obtain bank loans. Such evidence comes from the following statement:

I observe situations in which the entrepreneurs have already obtained credit as a private individual/ physical person and use MEI in order to gather loans as a legal entity as well!

Such purposes, in clear deviation from the objectives of the law, incite a number, not at all mediocre, of people who turn to accountant firms to give entry to formalization processes without any subsequent feedback whatsoever. This kind of behavior was object of the following statement: *“I start lots of MEI, however, I do not accompany all of them, too many, surely over 20%, don’t ever return after the company is opened.”*

As a counterpoint to these negative explanations, some of the interviewed accountants offered favorable reports to working with MEI. One of the aspects was relative to the acquisition of permanent functioning licenses or permits, such as expressed on the following sentence:

[...] usually, the micro entrepreneurs, who wish to get official, manage to obtain the permanent functioning licenses in an easy way, I have been working in this business for 12 years and I know all the directions [...].!

It was also observed that the accountants end up indicating solutions to the bureaucratic constraints. As an example, it should be pointed out the fact that in Araraquara garment salesmen cannot have a home address. As a solution, one interviewed accountant advises the entrepreneurs to create websites and declare, to the tax revenue, the enterprise as pertaining to the electronic market, even if that isn’t true: *“I indicate that they open a CNPJ as an e-commerce and that they maintain a website running until the City Hall auditor has visited them.”*

Finally, it must not be discarded the declaration of an accountant that points out that part of MEIs (even though a not very significant one, less than 20%) that had become clients to the firm, ended up migrating to the Micro Enterprise (ME) category. Such data, however, cannot be extrapolated.

4.5 Synthesis of the existing dissonances on the implementation process of MEI Law

As initially presented, this paper aims to respond to the question that acted as a research guideline: which are the main existing dissonances on the implementation of MEI law on the local scope, *vis-à-vis* the purposes defended by the public policy of entrepreneurial support, inspirer of the law? Chart 1 aims to establish a parallel between the two stages of public policy, confronting the predetermined purposes by law (Brasil, 2008) and the dissonances observed on the implementation process.

To briefly summarize it (Chart 1), the analyzed case showed that the law implementation has been a process in which decisions are made and executed, but

Chart 1. Policy’s objectives and dissonances.

Objective	Observed dissonances
Allowing the regularization of micro entrepreneurs that, in another scenario, would remain in informality.	Partial regularization of the venture, without the permanent business license acquisition, in part due to the inexistence of integration between the Federal and Municipal legal regularization systems, on the other hand, due to the inefficiency of the inspection.
Allowing the ventures framed as MEIs to enjoy tax exemptions.	Elevated fiscal non-compliance, due to inspection’s frailty, implies partial formalization.
Offering of special procedure, simplified, on MEI inscription’s process, plus tax and emoluments exemption.	Such information is not of public knowledge, to the point of undue billings having been made.
Dismissing of the adoption of detailed accounting procedures.	The accountants dispense little importance to MEI that they assist.

Source: Personal elaboration, supported by the field research and in Brasil (2008).

there are inter-institutional conflicts, gaps and legal ambiguities, omission of operational norms, amongst other factors, that jeopardize the policy success. It is also perceived that it is a policy implemented via several agents (both public and private), on the scope of several organizations, without any articulation, or even dialogue, among them. It was also learnt that, being a policy on the format *Top-Down*, there is clear separation between the formulation and implementation phases: The City Hall was not prepared to execute the new activities proposed; many public employers were not equipped to understand the law in its full extent.

As a result, the implementation has been altering the planning. Such result complements and confirms the perspective of Lipsky (2010) according to which the street level bureaucrats (public agents with the responsibility of interfacing between the government and entrepreneurs) aren't just implementers, they are *policymakers*, this is because the bureaucrats make choices, and by doing so, they have the capability of altering the policy, which was possible to be ascertained on this research.

5 Final considerations

What was evidenced in these results is that the informality matter needs to be better envisaged. The accomplished study showed that the direct effect of the Law 128/2008 on the informal economy's reduction was only partial. It was also observed that MEI's policy has become a platform, with robust numbers that promote attractive impressions on the generated impact. The news that the number of entrepreneurs, with already formalized ventures, has overtaken the number of five millions has been widespread and recurrently promoted by the media. However, the real results provided by the law are masked, the data is not contested. The fact that more than half of the Individual Micro Entrepreneurs are not effectively honoring the tributary contributions, being debtors and, therefore, partially formalized, is not announced with the same proportion.

What was determined, from the accomplished research, is that new "entrepreneurs" see the formalization of their "enterprises" in terms of multiple strategic choices that develop through time and that they aren't simply excluded from formalization due to cost or to the registry's complexity. One suggestion is that the binary classification of formal companies against informal ones, in which the management literature tends to classify this decision, needs to evolve into a multidimensional continuum sensitive to the institutional differences and the cross-country variation. This is so due to the awareness of the existence of two MEI groups. One formed by ventures that seek social recognition and wish to become endowed with rights. On the search for legalization they begin to formally interact with society, registering on all necessary

institutions and starting to guide their actions on the governing law. In this group, no matter how evident the difficulties of formalization are, the benefits proportioned by the law 128/2008 (Brasil, 2008), in a rational analysis, lead them to full formalization. A second group is formed by individuals who are not actual entrepreneurs, but mere citizens that see in the law an opportunity to dodge the current labor laws and gain access to social security and bank benefits.

By analyzing the law's implementation dynamics, it was noted that it is a process in which the decisions are taken and executed by several agents (both public and private), on the scope of many organizations, but there are inter-institutional conflicts, gaps and legal ambiguities, omission of operational norms, amongst other factors, that allow the implementers to make relevant or irrelevant decisions to the policy success.

Lastly, it is never too much to remember that the research results must be treated within its limits, purely exploratory, be that due to the delimited territorial reach of the municipality of Araraquara, be that on account of the methodological approach, deterrent of any possibility for extrapolation, or because of the very precocious stage in which the knowledge of such particular object (MEI's Law) is found clearly incipient. It remains, therefore, the commitment and challenge for further advances, the deepening and expansions of new investigations.

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