

Applicability of Law 11.947/2009 in Family Agriculture: A documentary Analysis

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Abstract— This article aimed to understand the applicability of the PNAE for the development of family farming in the pole municipalities of the São Francisco Valley, through the connection between the National School Meals Program - PNAE and suppliers benefited by the hiring preference established by Law 11.947/2009, which determines that at least 30% of the amount transferred by the FNDE for school meals should be used in the acquisition of products from family farming. The Program was analyzed in the municipalities of Juazeiro/BA and Petrolina/PE, in the period from 2016 to 2021, demonstrating the amount decentralized by FNDE and applied in family farming during this period. This is a qualitative, exploratory, bibliographic, and documentary research. The research findings show the application of resources in family farming by municipalities in the research period, improving the income of producers participating in the program.

I. INTRODUCTION

Since the administration of President Luiz Inácio Lula da Silva, many public policies have been implemented in Brazil, such as, for example, the creation of the Secretariat of Territorial Development (DST). The agglutination of several municipalities with similar social and economic indicators, such as the Human Development Index (HDI), allowed, in 2004, the creation of the Rural Territories Sustainable Development Program (PRONAT), and, finally, the institutionalization of the Citizenship Territories Program (PTC). With this, other public policies ended up bringing territorial development into their implementations and analyses, but on another scale of execution, such as the municipal one.

As an example of policies applied on a municipal scale is the National School Meals Program (PNAE), created in 1955, restructured in 1994 due to the decentralization process and reformulated in 2009, with the institutionalization of Law No. 11,947. The PNAE aims to ensure, on the one hand, elementary and middle

schools, Youth and Adult Education (EJA), indigenous schools, quilombolas and preschools, a healthy diet and, on the other, from the enactment of Law No. 11947 of 2009, the possibility of constituting a marketing channel for products from family farming (BRASIL, 2009).

Since Law No. 11.947/09 and Decree No. 8.473 of June 22, 2015, which restructured the program, established that at least 30% of the amount passed on to States, Municipalities, and the Federal District by the National Fund for Education Development (FNDE) for the National School Meals Program (PNAE) should be used to purchase foodstuffs directly from family farms and rural family entrepreneurs or their organizations (BRASIL, 2021).

PNAE is a decentralized policy that aims to achieve food and nutritional security and, at the same time, the participation of family farming. However, there are several challenges to the applicability of this policy ranging from its creation to its implementation on a municipal scale, due to the particularities and conflicts

present in the municipalities, such as the lack of dialogue between those involved about better prices, lack of planning, delays in calls for proposals, orders out of season and delays in payments. Thus, it is relevant to understand how the management of PNAE resources works in the municipalities of Juazeiro/BA and Petrolina/PE, and if it is possible to say that the management of PNAE contributes to income generation for family farming.

In 2021, more than 40 million basic education students in Brazilian public schools benefited from the Program. Part-time students received at least one meal, and students enrolled full-time, with seven hours or more in school, received up to five meals, being breakfast, lunch, dinner and two servings of fruit, one in the morning and one in the afternoon (BRASIL, 2021).

In this context is the Integrated Administrative Development Region (RIDE) of the Petrolina and Juazeiro Pole, created by the complementary law no. 113, of September 19, 2001, and regulated by decree no. 4 366, of September 9, 2002, which stands out as an integrated economic development region, and encompasses more than 700 thousand inhabitants in an area of about 35 thousand square kilometers.

Therefore, this article aimed to understand the applicability of the PNAE for the development of family farming in the pole municipalities of the São Francisco Valley, through the connection between the National School Meals Program - PNAE and suppliers benefited by the hiring preference established by Law 11.947/2009, being organized as follows: in the first part there is the introduction; in the second part there is the theoretical framework that underlies the research; in the third part there are the methodological foundations with the description of materials and methods used; in the fourth part there are the results with the discussions; and finally there are the final considerations and references used.

II. THEORETICAL FRAMEWORK

2.1 TERRITORIAL DEVELOPMENT, PUBLIC POLICIES AND GOVERNANCE

Development as a territorial dimension establishes the importance of analyzing the local scale as an effective place of elaboration, but not the only one of the development processes. The idea of territorial development is beyond the field of regional/local development and brings aspects that strongly differ from the development plans centralized in the State, which have always attended to an industrial policy and that most of the time ignores or disregards the local territorial

characteristics and the social organization of the region in question. According to Pecquer (2005) and Pires *et al* (2017), territorial development (local, endogenous, or bottom-up), involves the mobilization of actors, resources, and institutions with a strong spatial link, aiming to leverage the competitiveness of local economic activities and provide social and cultural well-being to the community living in this environment.

Thus, there are two basic concepts for understanding territorial development, which are, territory and (territorial) governance. According to Llorens (2001) and Pires *et al* (2017), territory is the result of a historically and spatially determined social construction, being permeated by the existence of identity, specific political, economic, and social contours, being an unstable and changeable product. It is a dimension of the geographic space in which the material content and the immaterial-institutional are articulated. Thus, understanding it as a socially organized space, territory can be seen and accepted as an actor of development.

On the other hand, governance, as a management tool, results in a process that implies the development of multiple forms of integration and participation, the construction of less hierarchical and bureaucratic structures and activities, and the recognition of rules and norms capable of regulating collective action, in order to create learning and adaptability mechanisms that allow the adequate resolution of common problems.

According to Pires (2017), territorial development should be inferred as a process of social change of endogenous character, capable of producing solidarity and citizenship (social and democratic participation). Moreover, it should lead in an integrated and permanent way to qualitative change and improvement in the well-being of the population of a locality or a region. In the competitive strategies of globalization, territorial development is driven by the expectations of economic agents on locational advantages, in which territory is the main actor in regional economic development, and policies, organizations, and governance are specific resources, either available or to be created; when available, it would be a matter of their diffusion in the territory, when absent, of their creation/construction.

It follows that territorial development strategies have an indeterminate character and are supported by not only economic, but also social, cultural, and territorial factors.

2.2 PNAE AS A PUBLIC POLICY, SCHOOL MEALS, AND THE RIGHT TO FOOD

PNAE is the largest and oldest public policy in Brazil. Initially called the National School Meals

Campaign, it emerged with a welfare character and aimed to reduce malnutrition by offering food supplementation focused on the poorest areas of the country (PEIXINHO, 2013).

The 1988 Federal Constitution, by spreading the right to school meals as a guarantee to be ensured by the three levels of government, ended up contributing to the transformation of PNAE into a State public policy. With this, other laws emerged, and the program showed significant evolution as an example, the financial decentralization of PNAE in 1994 and the creation of the School Feeding Councils (CAE) through Law 8.913/94. According to Bauermann (2013), the CAEs play a fundamental role in the implementation of the program and are characterized as a deliberative collegiate body, at the municipal and state levels, with the role of carrying out the social control of PNAE.

In 2009, Law 11947 and Resolution 38 of July 2009 were published. The Law 11947/09 determines that at least 30% of the total resources transferred by the National Fund for Education Development (FNDE) for the purchase of foodstuffs preferably organic are acquired by family farming (local, regional, or national) through a public call and waiver of bidding. Resolution 38 requires that the school menu be prepared by a nutritionist and duly registered with PNAE's Nutritionist Registration System (SINUTRI).

This support to small and medium-sized rural and urban producers for local food production is considered very important for sustainability, when considering the fulfillment of social (occupation and income of farmers), ecological (diversity and quality food supply), economic (lower transportation costs), and cultural (product reliability, preservation of regional habits, and artisanal production) dimensions, promoting a connection between rural and urban (BRASIL, 2022).

PNAE provides school meals and food and nutrition education to students at all stages of public basic education. It is passed on by the federal government to states, municipalities and federal schools, financial amounts of a supplementary nature made in 10 monthly installments (from February to November) to cover 200 school days, according to the number of enrolled students in each school network. The resources are monitored and inspected directly by society, through the School Meals Councils (CAE), by the National Fund for Education Development (FNDE), by the Federal Audit Court (TCU), by the State and Municipal Audit Courts (TCE/TCM), by the Federal Comptroller General (CGU) and by the Public Ministry. The PNAE budget benefits millions of Brazilian students, as provided for in Article

208, items IV and VII of the Federal Constitution (FNDE, 2021).

According to Peixinho (2013), the PNAE is no longer conceived by federal managers as a program simply of a food supplement or welfare nature, an argument like that of Siqueira (2014) analyzing the incorporation of the right to food security in conjunction with the PNAE guidelines. For the authors, it was in the context of the construction of the National Food Security System that the PNAE began to replace in fact the vision of a policy of a welfarist and resource transfer character, for a conception of the benefit as a right and in which social control should be exercised, as explained in Law No. 11.947/09 (BRASIL, 2009).

The author pointed out that PNAE began to incorporate in its technical-operational strategies of implementation with the states and municipalities (executing entities of the program) the following principles for the management and implementation of school feeding: equity, social participation, Universality, sustainability/continuity, sharing of responsibilities, human right to adequate food and respect for regional habits and traditions (PEIXINHO, 2013). In this sense, the human right to satisfactory food is contemplated in Art. 25 of the Universal Declaration of Human Rights of 1948. Its definition has been expanded in other

provisions of international law, such as Article 11 of the Covenant on Economic, Social and Cultural Rights and UN General Comment No. 12. In Brazil, because of a broad process of social mobilization, in 2010 Constitutional Amendment nº 64 was approved, which includes food in Art. 6 of the Federal Constitution.

Thus, it is understood that school meals are a right, protected by law, and it is up to the executive branch and the school feeding council to ensure that food produced by family farming is purchased and distributed in schools. As a public policy, PNAE has the duty to support all students, not ignoring any special needs that may be related to food, without embarrassment or discrimination.

III. METHODOLOGY

3.1 GEOGRAPHICAL CONTEXT OF THE RESEARCH

The São Francisco Valley is bathed by the São Francisco River and its tributaries, covering the states of Minas Gerais, Bahia, Pernambuco, Sergipe, and Alagoas. It is a fertile region that has received several investments in irrigation since the 1970s by public agencies such as the Superintendence for the Development of the Northeast (SUDENE) and the Development Company for

the São Francisco and Parnaíba Valley (CODEVASF).

The cities of Juazeiro (Bahia) and Petrolina (Pernambuco) as shown in figure 1, are located in the sub-

Middle São Francisco and represent the largest urban agglomeration in the Northeastern semi-arid region, being an important fruit and vegetable producer.

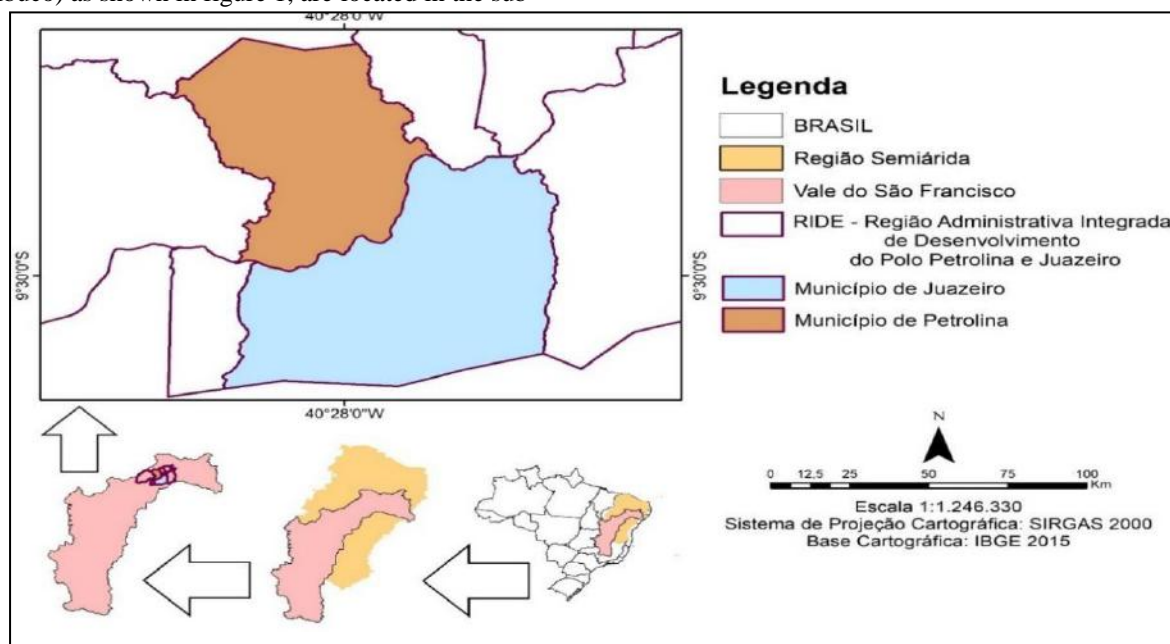


Fig.1 - City map of Juazeiro/BA and Petrolina/PE

Source: Santos (2021)

In this Agroindustrial Hub are found the largest producers of mango and grapes in the country, some of them having already reached foreign markets. The area planted with table grapes grew in the period 1991/1995 by 71.8%, expanding its area from 2,620 hectares to about 4,500 hectares, while production grew in the same period by about 344%, corresponding to the amount of 32 thousand tons (EMBRAPA, 2022).

Part of this agro-industrial pole are the small and medium production, also identified as family farming, "settlers" who, according to Benko and Pecquer (2001) began to share not only the hydro-agricultural infrastructure with the entrepreneurs installed in the public irrigation perimeters, but also the new technical basis of production. Thus, Family Farming (FA) became one of the various social actors that began to play a specific role in the new local socio-economic dynamics.

1.1 RESEARCH TYPOLOGY

This research is classified as quali-quantitative, exploratory, bibliographical, and documental. On the use of qualitative and quantitative approaches in the same research, Minayo and Sanches (1993, p.247) indicate that they can and should be used in such circumstances as complementary, since, according to the authors, there is no contradiction between them, since the first "works with values, beliefs, representations, habits, attitudes and

opinions", and the

second "has as its field of practice and objectives to bring to light data, indicators and observable trends".

Corroborating this thought, Goldenberg (2004, p.62) explains that, by joining approaches, "the researcher is able to produce a complete knowledge of reality, because different research approaches can shed light on different issues.

Thus, regarding the procedures, the research is classified as bibliographic based on already published materials, and documentary. The bibliographical research, according to Gil (2019), generally has the advantage of allowing the researcher to cover a range of facts from the chosen sources, which must be rigorous in their choice, aiming at a better approach and discussion of the problem and the listed theme, seeking to discover possible inconsistencies or contradictions. Documentary research, on the other hand, according to the same author, consists of an intense and broad examination of several materials that have not been used for any analysis work, or that can be re-examined, seeking other interpretations or complementary information, called documents.

Complementing the data from the bibliographical research, in the period from January to May 2022, a documentary research was conducted in public domain

websites in order to seek the amount transferred as a financial transfer from the National Fund for Education Development (FNDE) for the National School Meals Program (PNAE), the amount realized and reported by the Municipal Governments of Petrolina/PE and Juazeiro/BA to the Control Bodies TCE/PE and TCM/BA, in order to know, describe, characterize, analyze and produce syntheses about the object of research. Marconi and Lakatos (2014) state that the survey of data through various sources is essential in any research, whether of documentary nature or not, corresponding to the phase in which prior information about the field of interest is collected. It would be the first step of the research, both in documentary research and in bibliographic research.

The document analysis through content analysis, according to Bardin (2011), may consist of the following steps: **a)** Pre-analysis: organization of the material - choice and selection of documents (*corpus of analysis*); the formulation of hypotheses and/or objectives; and develop indicators to support the final interpretation; **b)** Exploration of the material: in-depth study guided by the hypotheses and theoretical referential; elaboration of indicators that will guide the interpretation of the results: choice of counting units (coding), selection of counting rules (classification) and the choice of categories (categorization); and **c)** Treatment of results: referential interpretation, reflection and intuition based on the documents establish relationships. It aims to uncover the

latent content that the documents possess.

IV. RESULTS AND DISCUSSIONS

4.1 FIELD RESEARCH RESULT

4.1.1 - FINANCIAL TRANSFERS FROM PNAE - PETROLINA/PE AND JUAZEIRO/BA HUBS

The financial resources of PNAE are released according to differentiated *per capita* to meet the ethnic diversities and nutritional needs by age group and social vulnerability condition. Currently, the amount transferred by the Union to states and municipalities per school day for each student is defined according to the stage and type of education: Day care centers: R\$ 1.07; pre-school: R\$ 0.53; indigenous and Quilombola schools: R\$ 0.64; elementary and high school: R\$ 0.36; Youth and Adult Education: R\$ 0.32; Full-Time Education: R\$ 1.07; Program for Fostering Full-Time High Schools: R\$ 2.00; Students the after-school period: R\$ 0.53.

The transfers are made directly to the states and municipalities, based on the School Census of the year prior to the year of service. The program is monitored and inspected directly by society through the School Feeding Councils (CAE), by the FNDE, by the Federal Audit Court (TCU), by the Office of the Comptroller General (CGU) and by the Public Ministry. Table 1 below shows the PNAE transfer data for Petrolina/PE.

Table 1 - PNAE transfers to Petrolina-PE (2016-2021)

Programs/ Years	2016	2017	2018	2019	2020	2021
PNACN - Daycare PNAPN - Pre- school	2.085.600,00	2.519.094,00	2.598.616,00	1.835.692,00	3.047.578,60	2.829.734,00
PNAFN - Elementary Education	1.843.980,00	2.271.696,00	3.387.208,00	2.467.772,00	3.212.200,20	2.724.360,00
PNAEE	56.700,00	63.070,00	77.380,00	92.750,00	114.734,40	115.434,00
PNAEN - EJA	253.300,00	143.872,00	103.616,00	83.072,00	105.036,80	89.472,00
PN + FN - More Education	968.400,00	797.699,20	11.360,00	318.307,20		
TOTAL	5.207.980,00	5.795.431,20	6.178.180,00	5.732.513,20	6.479.550,00	5.759.000,00

Source: FNDE (2022) - Elaborated by the author (2022)

Note: PNACN - Daycare PNAPN - Pre-school PNAFN - Elementary School

PNAEN - EJA

PN +FN - More Education

According to table 1, Petrolina received in the period 2016-2021 approximate amounts of financial transfers intended for PNAE, with most of it going to elementary school followed by pre-school.

Table 2 - PNAE's transfer to Juazeiro/BA (2016-2021)

Programs/Years	2016	2017	2018	2019	2020	2021
PNACN - Daycare						
PNAPN - Pre-school	1.033.500,00	1.194.002,00	1.264.618,00	1.371.826,00	1.594.769,00	1.690.970,60
PNAFN - Elementary Education	1.584.500,00	1.680.616,00	3.061.360,00	2.476.960,00	2.696.949,20	2.029.759,60
PNAEE	41.600,00	37.524,00	47.594,00	58.724,00	69.493,60	73.807,80
PNAEN - EJA	185.500,00	157.044,00	142.912,00	165.398,00	154.811,80	148.684,80
PN + FN - More Education	1.269.000,00	1.096.012,80	95.424,00	421.456,00		
PNAE-QUILOMBOLA					17.371,20	15.450,60
TOTAL	4.114.100,00	4.165.198,80	4.611.908,00	4.494.364,00	4.533.394,80	3.958.673,40

Source: FNDE (2022) - Elaborated by the author (2022) Note: PNACN - Daycare PNAPN - Pre-school PNAFN - Elementary School

PNAEN - EJA

PN +FN - More Education

According to Table 2, Juazeiro as well as the city of Petrolina also received from 2016-2021 approximate values of financial transfers intended for the PNAE, and most of it was intended for Primary Education followed by Pre-school. The city of Petrolina received a greater contribution of funds from PNAE in the period from 2016 to 2021, according to graph 1, below:

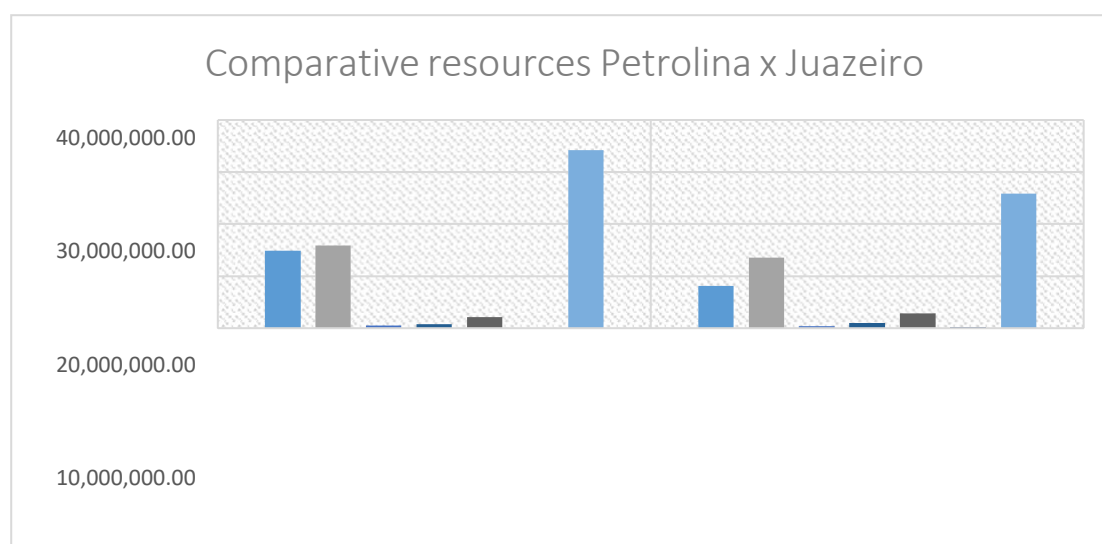


Chart 1 - Comparison of Petrolina versus Juazeiro resources - 2016 to 2021

Source: FNDE (BRAZIL) Author's elaboration (2022)

According to graph 1, there is a *deficit* in the receipt of resources for the Municipality of Juazeiro compared to the Municipality of Petrolina of almost 24%. The largest share is in the transfers with PNACN - Daycare PNAPN - Pre-school. This shows that the Municipality of Petrolina over the past six years has received more funds from FNDE/PNAE, and consequently a greater volume of resources for application in the acquisition of foodstuffs from family farms.

4.2.2 RESULT OF THE IMPLEMENTATION OF PNAE IN THE POLES PETROLINA/PE AND JUAZEIRO/BA REGARDING COMPLIANCE WITH LAW 11947/2009

In consultation with the open data on the website

Chart 1 - Purchase of AF products with PNAE resources - Petrolina/PE

Year	Transfered Value PNAE	30% to be used to purchase family farming	Value of family farming acquisitions	Percentage
2016	5.207.980,00	1.562.394,00	1.406.566,56	90%
2017	5.795.431,20	1.738.629,36	635.100,98	37%
2018	6.178.180,00	1.853.454,00	1.894.714,77	102%
2019	5.732.513,20	1.719.753,96	2.302.725,44	135%
2020	6.479.550,00	1.943.865,00	2.021.624,95	104%
2021	5.759.000,00	1.727.700,00	2.133.128,88	123%

Source: FNDE (BRASIL, 2022); TCE/PE (Prepared by the author 2022)

Among the Cooperatives participating in the institutional market, the following are highlighted in graph 2:

The Association of Rural Producers of Nucleus VI with the highest number of sales, followed by the Association of Farmers of the Settlement Senador Mansueto de Lavor and soon after the Association of Beekeepers of the Municipality of Petrolina - ASCAMP and the Association of Farmers of the Settlement Mandacaru

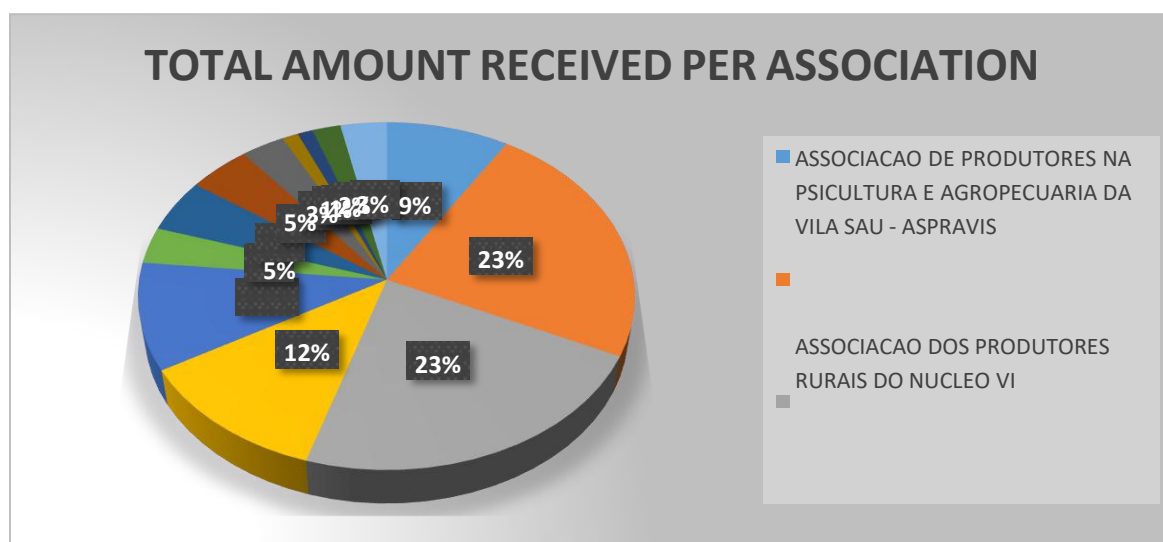


Chart 2 - Amounts received by Association in Petrolina/PE

Source: TCE/PE - Prepared by the author (2022)

In consultation with the open data on the website of TCM-BA, the table below shows that, for the period 2016-2021, the municipality of Juazeiro in relation to compliance with the requirement of 30% of resources transferred by the FNDE under the PNAE for direct purchase from family farming shows variation in the application of the percentage required by law. If we

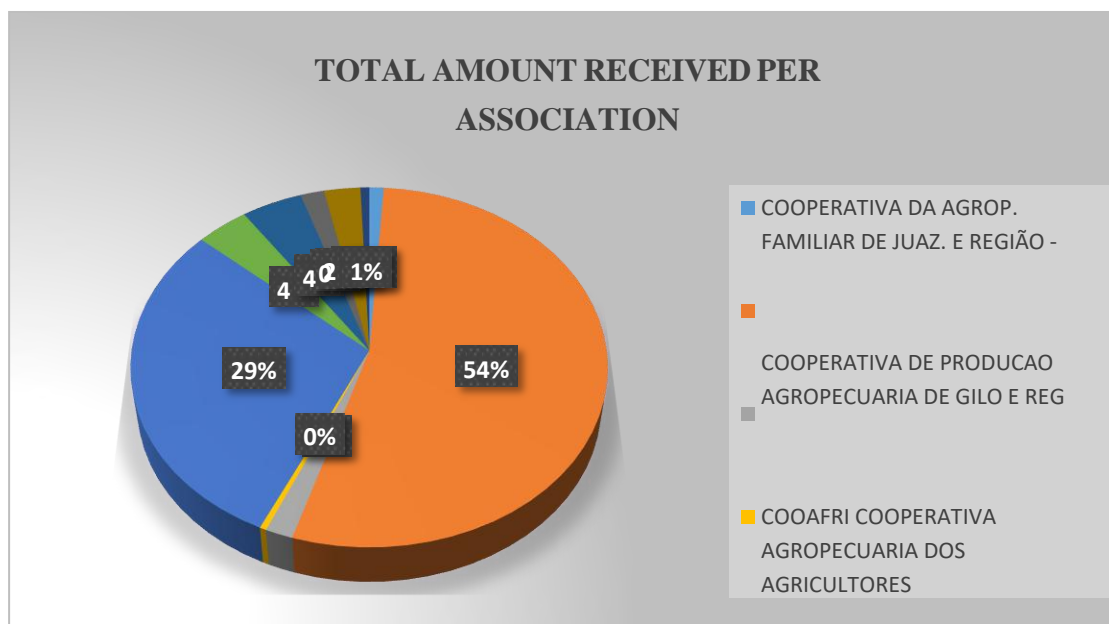
analyze separately the period that covers the studies of this work (2018 to 2021), it is possible to verify that the municipality had a drop in the application of resources in the purchase of family farming supplies according to information sent by the municipality to the Court of Accounts of Municipalities - TCM-BA, according to Table 2:

Chart 2 - Purchase of family farming products with PNAE resources - Juazeiro/BA

YEAR	Transferred Value PNAE	30% to be used to purchase family farming	Value of family farming acquisitions	Percentage
2016	4.114.100,00	1.234.230,00	1.440.785,90	117%
2017	4.165.198,80	1.249.559,64	1.442.731,86	115%
2018	4.611.908,00	1.383.572,40	1.321.820,06	96%
2019	4.494.364,00	1.348.309,20	905.964,37	67%
2020	4.533.394,80	1.360.018,44	0,00	0%
2021	3.958.673,40	1.187.602,02	656.530,52	55%

Source: FNDE (BRASIL, 2022); Source: TCM/BA - Prepared by the author (2022)

Graph 3 - Amount received by Association in Juazeiro/BA



Source: TCM/BA - Elaborated by the author (2022)

The Cooperative of Agricultural Production of Giló and Region was the cooperative with the highest number of sales to the Municipality of Juazeiro/Ba followed by the Association of Family Farmers of Manicoba.

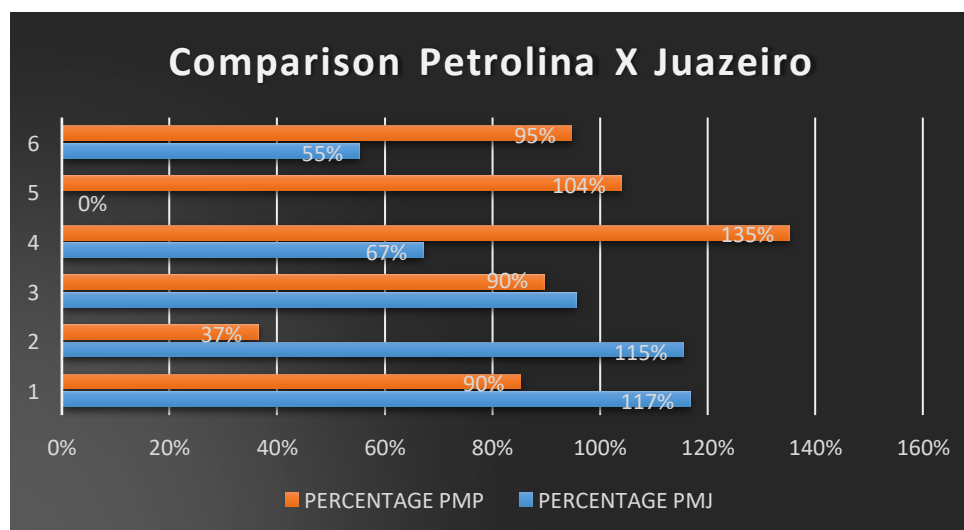
4.2.3 - COMPARATIVE APPLICATION OF RESOURCES WITH PA IN THE MUNICIPALITIES OF JUAZEIRO/BA AND PETROLINA/PE

According to Turpin (2018), PNAE stimulates the economic and sustainable development of communities and has been the largest food supplementation program in Latin America, bringing as positive points the time of performance, continuity,

universal character, the number of students served, and the number of investments made. Thus, to make a comparison of the application of resources in the

acquisition of family farming, the chart below compares the two cities.

Graph 4 - Application of AF resources Source: TCE/PE and TCM/BA - Elaborated by the author (2022)



According to the graph, one can see that in 2016 (1) and 2017 (2), the Municipality of Juazeiro/BA showed a higher percentage in the acquisition of foodstuffs, 117% and 115% compared to the Municipality of Petrolina with 90% and 37%. As of 2019, the Municipality of Juazeiro/BA had a drop in the application getting 67% in

2019 (4), 0% in 2020 (5) and 55% in 2021 (6). The Petrolina Municipality, on the contrary, showed an increase in the application, with 135% in 2019 (4), 104% in 2020 (5), and 95% in 2021 (6).

In 2018 (3), PMJ applied 96% and PMP applied 90%, as shown in table 3, below:

Table 3 - Amounts applied between 2016 and 2021 - PMJ and PMP

ANO	VL TRANS FNDE		30% DEF. LEI		VL REALIZADO/APLICADO		PERCENTUAL	
	PMJ	PMP	PMJ	PMP	PMJ	PMP	PMJ	PMP
2016	4.114.100,00	5.207.980,00	1.234.230,00	1.562.394,00	1.440.785,90	1.406.566,56	117%	90%
2017	4.165.198,80	5.795.431,20	1.249.559,64	1.738.629,36	1.442.731,86	635.100,98	115%	37%
2018	4.611.908,00	6.178.180,00	1.383.572,40	1.853.454,00	1.321.820,06	1.661.630,73	96%	90%
2019	4.494.364,00	5.732.513,20	1.348.309,20	1.719.753,96	905.964,37	2.326.054,16	67%	135%
2020	4.533.394,80	6.479.550,00	1.360.018,44	1.943.865,00	0,00	2.021.624,95	0%	104%
2021	3.958.673,40	5.759.000,00	1.187.602,02	1.727.700,00	656.530,52	1.637.630,84	55%	95%

Source: TCE/PE and TCM/BA - Elaborated by the author (2022)

Therefore, considering the application in the last 6 years, the Municipality of Petrolina has better executed the resources with family farming since the amount applied in this period is equivalent to 92% of the resources transferred. While the Municipality of Juazeiro presents 74% of the resources applied. It is important to note that in 2020 there was no acquisition of foodstuffs by the Municipality of Juazeiro.

V. CONCLUDING REMARKS

About compliance with Art. 14 of the PNAE Law, the present work demonstrates the application of resources to family farming by municipalities in the research period. The municipality of Petrolina/PE faces, with less difficulty, the problems related to the management of PNAE resources in the period covered, compared to neighboring Juazeiro/BA that began the effective application from the fiscal year

2019.

In this regard, it can be noticed that Law 11.947/2009 has provided an increase in the number of producer associations and the recognition of the benefits and advantages that associations/cooperatives bring to the strengthening of family farming. Here in the region, it was no different and the acquisitions of family farming for school meals (PNAE) by associations in the pole Petrolina/PE and Juazeiro/BA have improved the income of producers participating in the program, valuing regional foods, and boosting the territorial development of the region.

Thus, it demonstrated that, for any and every municipality, it is not enough just to grow, it is indispensable to develop, and for this, it is primordial that the population improves its quality of life and its economic, social, and environmental sustainability. Only then will it be possible to affirm that it is approaching a sustainable territorial development. And the PNAE has, over the years, reaffirmed its value for a better quality of food in schools and a greater local commercial dynamic aimed at family farmers.

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