


**THE SEVERITY OF DISCIPLINARY PUNISHMENT AS A REFLECTION OF THE TYPE OF ETHICAL AND PROFESSIONAL INFRACTION IN ACCOUNTING****A SEVERIDADE DA PUNIÇÃO DISCIPLINAR COMO REFLEXO DO TIPO DE INFRAÇÃO ÉTICO-PROFISSIONAL NA CONTABILIDADE****LA SEVERIDAD DE LA SANCIÓN DISCIPLINARIA COMO REFLEJO DEL TIPO DE INFRACCIÓN ÉTICA Y PROFESIONAL EN MATERIA CONTABLE**

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**ABSTRACT**

The objective of the present study was to verify whether the type of infraction committed explains the severity of the punishment applied to the accountants. The Declaration of Evidence of Perception of Income (Decore), served as a reference to verify the positive relationship between the type of infraction and the fines applied. To this end, 390 cases carried over in judged in the period from 2014 to 2018 were analyzed against professional accountants with active records in the Regional Accounting Council of the State of Mato Grosso (CRCMT). Logistic regression was used as an econometric approach and power as a strategy in Foucault's perspective for data analysis. The results showed that there is a

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positive relationship between the type of infraction and the fines applied to these professionals. The Fines (disciplinary punishment) and warnings (ethical punishment) are the most imposed ethical-disciplinary punishments. The findings of this study the corporate action of the CFC / CRCs system, since these punishments tend to protect the reputation of both the class and the professional.

**Keywords:** Punishment. Ethic. Fine. Accounting.

## RESUMO

O objetivo do presente estudo foi verificar se o tipo da infração cometida explica a severidade da punição aplicada aos contabilistas. A Declaração Comprobatória de Percepção de Rendimento (Decore), serviu de referência para verificar a relação positiva entre o tipo de infração e as multas aplicadas. Para tanto, foram analisados 390 processos transitados em julgados no período de 2014 a 2018, contra profissionais contabilistas com registros ativos no Conselho Regional de Contabilidade do Estado de Mato Grosso (CRCMT). Utilizou-se da regressão logística enquanto abordagem econométrica e, o poder enquanto estratégia na perspectiva de Foucault para análise dos dados. Os resultados mostraram que, há relação positiva entre o tipo de infração e as multas aplicadas a esses profissionais. As multas (punição disciplinar) e advertências (punição ética) são as punições ético-disciplinares mais impostas. Os resultados evidenciaram a ação corporativista do sistema CFC/CRCs, uma vez que essas punições tendem a proteger a reputação tanto da classe quanto do profissional.

**Palavras-chave:** Punição. Ética. Multa. Contabilidade.

## RESUMEN

El objetivo del presente estudio fue verificar si el tipo de infracción cometida explica la severidad de la sanción aplicada a los contadores. La Declaración de Prueba de Percepción de Ingresos (Decore), sirvió como referencia para verificar la relación positiva entre el tipo de infracción y las multas aplicadas. Para ello, se analizaron 390 casos llevados a juicio en el período de 2014 a 2018 contra contadores profesionales con registro activo en el Consejo Regional de Contabilidad del Estado de Mato Grosso (CRCMT). Se utilizó la regresión logística como enfoque econométrico y el poder como estrategia en la perspectiva de Foucault para el análisis de los datos. Los resultados mostraron que existe una relación positiva entre el tipo de infracción y las multas aplicadas a estos profesionales. Las multas (castigo disciplinario) y las advertencias (castigo ético) son los castigos ético-disciplinarios más impuestos. Los resultados de este estudio la acción corporativa del sistema CFC / CRCs, ya que estos castigos tienden a proteger la reputación tanto de la clase y el profesional.

**Palabras Clave:** Castigo. Ética. Multa. Contabilidad.

## INTRODUCTION

The fine is one of the types of disciplinary sanctions applied to accountants as a result of infractions committed in the exercise of accounting practices. The result of non-compliance with the disciplinary and morally pre-established rules and regulations may result in exclusion, going through various types of confinement to a system of fines or minor restrictions. Thus, the fine as an instrument of disciplinary punishment has been used by the systems that regulate and supervise the professions. The use of this instrument can be seen through class councils in various areas, including accounting and legal sciences (Hansen & White, 2012; Krom, 2016; Mescall et al., 2017; Pereira, 2022).

According to Oliveira (2024), among the 24,808 administrative proceedings opened in the CFC/CRCs System between 2018 and 2022, the most recurrent sanctions were warning and censure, corresponding to more than 60% of the cases analyzed. For Gonçalves (2024), the fine has been the penalty most applied by the Regional Council of Medicine of Minas Gerais in cases involving ethical-professional non-compliance without serious repercussions on public health. According to the study by Oliveira (2024), the fine was classified as medium-high among the disciplinary punishments.

Decree-Law No. 9,295/46, amended by Law No. 12,249/10, determines that due to disciplinary infractions, the fine must be applied as a pecuniary punishment. In this sense, according to the rules, in the violation of pre-established regulations, a fine must be imposed, in cases where it applies, as reparation for the action committed.

According to the Federal Accounting Council (CFC, 2020), the issuance of Decore without a suitable documentary basis constitutes a serious ethical and disciplinary infraction, subject to censure, suspension, and even revocation of the accountant's professional registration. The Brazilian Penal Code (CPB) in articles 297 and 299, for this type of infraction, that is, attesting to a false statement, provides for the punishment of even the incarceration of the offender (BRASIL, 2021). DL 9.295/46 establishes that accounting professionals who are responsible for any falsity of documents they sign, for bookkeeping irregularities practiced in order to defraud public revenues, are subject to a disciplinary penalty of suspension from the exercise of the profession, for a period of up to 2 (two) years.

Thus, according to what is established by the legislation and established rules, the preparation of an irregular Decore is an infraction of a serious nature, since the disciplinary punishments provided for are the most severe. However, from the reviewed studies, including Stohr et al. (2016) and Krummenauer and Locatelli, (2020), there is a tendency to punish professionals with less severe penalties, that is, with a fine and a reserved warning.

Other studies, namely, Alves (2005) in Brazil; Ferreira (2013) in Portugal; Krom (2016) in the United States and Bélanger et al. (2016) in Canada, corroborate this argument.

Punishment can be an important factor in the disciplinary process of individuals. In this sense, when professionals are punished for infractions committed, they may be more likely to prepare better quality financial reports (Cahan et al., 2016). Punishments from the retributive perspective are deontological, that is, the punishment is justified because the offender deserves it by virtue of the type of infraction committed.

In view of this, the objective of this study was to verify whether the type of infraction committed explains the severity of the punishment applied to accountants. The study is based on the assumption of the power that can be used as a strategy by accountants in the network of relationships between their peers. In Foucault's perspective (1987, p.30), these strategies "pass through them and through them; they rely on them, just as they do, in their struggle against this power or to possess it, they rely in turn on the points where it reaches them." Thus, by using the various strategies, including the size of the organizations and politics, professionals will be able to mitigate the severity of the punishments.

The study is relevant when it proposes to discuss whether the types of infractions committed by accountants can explain the severity of the punishment applied. In this way, it can contribute to the accounting literature, as it enables a greater understanding of the infractions and punishments applied as a result of the inappropriate ethical-disciplinary behavior of accountants. This study is structured in five sections – introduction, theoretical foundation, methodology, data analysis and final considerations – and has as its theoretical contribution the analysis of power from the perspective of Michel Foucault.

## THEORETICAL FOUNDATION

### POWER AND PUNISHMENT

In Foucault's (1979) conception, power is a social practice, and, as such, it is constituted in historical relations. These relationships are conceived within a game in which the rules are of those who take over them, use them in their favor and against those who had imposed them. In this sense, those who hold them also have power (Foucault, 1979). Thus, where there is power, it will inevitably be exercised through sometimes complex strategies within a given society (Foucault, 1976], 2012). Therefore, power, according to Foucault (1979), manifests itself through relationships and is exercised at different levels of the social network.

In this context, strategies will always be present as essential elements on the battlefield. Therefore, power relations will be constituted in intertwined ways, with other

practices considered essential in the field of corporatist interests (Foucault, 1995). These interests can be adopted from a perspective of power in the field of public or private relations (Parker, 1994). Thus, strategies are being developed, according to the needs of individuals to mitigate or even annul the possible punishments that may or will be imposed on them.

When in this context the socialization processes fail, it seems necessary that other mechanisms within this social network be adopted in order to correct the deviations of conduct of individuals. (Walker, 2016). In view of this, regulating the behavior of professionals in order to adjust it to what determines the social order can be the primary objective of the councils that regulate their practices. Thus, monitoring and correcting them, adapting them to the established purposes, may include, among other mechanisms, punishment. (Foucault, 1987; Walker, 2016).

Punishment is a conventional device to express attitudes of resentment and indignation, of judgments of disapproval and disapproval, either on the part of the punishing authority itself or of those on whose behalf the punishment is attributed. It may be the expression of some kind of condemnation of society in relation to criminal action (Feinberg, 1965). Among the punishments applied to accountants, the fine is configured as a pecuniary punishment (Brasil, 1946). This punishment, according to Foucault (1987), cannot be identified as only the reparation of the damage, but also as the reparation for the consequences caused to the punisher.

Regarding the application of ethical penalties, NBC PG 01/19 emphasizes that the punishment must be applied considering the seriousness of the infraction. DL 9.295/46 emphasizes the importance that must be observed for the nature of the seriousness of the infraction in the application of disciplinary punishments. Testing false information is considered a serious infraction if you consider what is set out in the current legislation (DL 9.295/46; CPB; 2017) and rules established by class councils (NBC PG 01/19; Res. CFC 1.603/20). In view of this, the irregular Decore presents itself as an infraction of a serious nature, considering that the professional attests to a set of information that does not represent the veracity of the facts.

## MEMORIZE AND ELABORATION OF THE STUDY HYPOTHESIS

According to CFC Resolution No. 1,592/20 in article 1, the electronic Decore is the accounting document intended to prove information on the perception of income in favor of individuals. This document must be issued by the accountant who must upload it for its issuance, as provided for in the resolution itself. Decore will be valid for 90 (ninety) days

from the date of its issuance and must evidence the income earned by the beneficiary and be related to the period to which it refers.

The issuance of Decore is subject to the prior upload, carried out electronically, of all legal documentation that served as its basis, and it is necessary to observe the nature and activity, and that it is related to the income to be proven. Some studies prior to CFC Resolution No. 1,592/20 showed the practice of preparing Decore without observing the requirements established by CFC Resolution No. 1,403/2012 in force in the analyzed period (André & Di Domenico, 2015; Stohr *et al.*, 2016; Berni & Bolognesi, 2018; Krummenauer & Locatelli, 2020).

On the other hand, although DL 9.295/46 suggests more severe punishments for this type of infraction, the practice does not seem to be adopted by the regulatory and inspection bodies. In the case of disciplinary punishments, the suspension and revocation of professional practice are among the most severe punishments, however, according to the studies already mentioned, less applied.

However, studies show the ethical punishment reserved warning and the disciplinary fine as the most imposed on accounting professionals due to non-compliance with pre-established regulations. Therefore, it is hypothesized that:

**H1.** Accountants fined for preparing irregular decore are more likely to be punished with fines.

In view of this, it is expected that the result of the regression will present a positive coefficient, since the studies show a tendency of the Class Councils of accountants to punish their peers for disciplinary infractions with fines.

## METHODOLOGY

Data collection was based on the analysis of 390 final and unappealable lawsuits against accountants with active registration with the Regional Accounting Council of the State of Mato Grosso (CRCMT). To this end, the processes opened and finalized between the period from 2014 to 2018 were considered. It should be noted that the time frame is between the cited period, in view of the availability of final and unappealable cases for analysis. During this period, 1,422 cases were final and unappealable. According to CFC Resolution 1,603/20, in article 68, the final decision that cannot be appealed is considered final and unappealable. Therefore, only the cases that had already received the final and unappealable decision were analyzed.

To verify the probability that there is a positive relationship between the type of infraction and the fine imposed, binary logistic regression was used, since the dependent



variable is dichotomous. Therefore, 1 was considered if the event of interest is present, that is, the professional is punished with a fine and 0 otherwise, in this case, suspension or revocation of the professional registration, according to DL 9.295/46. Thus, an econometric model was developed with five (5) variables, one dependent, the other explanatory, and the others control.

Model be structured as follows:

$$Fines = \beta_0 + \beta_{1TIi} + \beta_{2NECONTi} + \beta_{3LGCONTi} + \beta_{4PISi} + \varepsilon \quad (1)$$

Whereas,  $\beta_0$ , the constant,  $\beta_1$  to  $\beta_4$  are the parameters of the equation that will be estimated by means of logistic regression, and  $i$  the processes analyzed. The variables used in the model are described in Chart 1 below.

**Chart 1** – Independent Variables of the Model

VARIABLE	DESCRIPTION/OPERATIONALIZATION
Type of Infraction (IT)	A <i>dummy variable</i> where 1 was assigned when the accountant was punished for drafting an irregular Decore and 0 otherwise. The variable sought to measure whether the type of infraction explains the response variable.
Accountant's Education Level (NECONT)	It measures whether the professional category can influence the response variable. Variable <i>dummy</i> in which 1 is assigned if the convict's professional category is accountant and 0 otherwise.
Accountant's Geographic Location (LGCONT)	Dummy variable where 1 has been assigned when the trader is located indoors and 0 otherwise. The variable seeks to capture whether geographic location can have a positive relationship with the response variable.
Individual/Individual Professional or Company (PIS)	Dummy variable, where 1 is when the accountant is an individual/individual and 0 otherwise. With this variable, we sought to verify whether the accountant's condition of being an individual/individual or being in a partnership can influence the response variable.

Source: Prepared by the authors

Considering a *cutoff* of 0.5, the correct classification of the model was 93.08% and the area under the ROC (*Receiver Operating Characteristic*) curve reached 0.700, which allows the model to be considered acceptable. (Fávero *et al.*, 2014).

## PRESENTATION AND ANALYSIS OF DATA

In view of the set of data used for the present study, the result of Spearman's coefficient was below 5%, and it is possible to reject the null hypothesis that there is no positive relationship between the variables fine and types of infractions. Therefore, the alternative hypothesis is adopted with 95% confidence that there is a positive relationship between the variables studied, i.e., response (fine) and interest (TI) variables. As a result of the logistic regression, there is evidence that the types of infractions may be a factor to explain the fines imposed on accounting professionals, since *P\_value* for the variable of interest was statistically significant.

The result of the regression showed a positive coefficient, so it is possible to infer that accountants punished for preparing irregular Decore are more likely to be punished with fines, confirming the tested hypothesis. Considering a 10% confidence interval, the PIS control variable is statistically significant, but with a negative coefficient, showing that there is less probability that accountants as individuals/individuals will be punished with fines compared to those who practice their profession in society. Table 1 below shows the results of the *Spearman test* and logistic regression for the variables under study.

**Table 1** – Logistic Regression Results.

Variables	Coefficient	Z	Q. value
THEE	1.192267	2.31	0.021
NECONT	-.594175	-1.29	0.197
LGCONT	-.3398693	-0.62	0.537
PIS	-.8318027	-1.88	0.060
_cons	3.074757	4.66	0.000

Source: Prepared by the authors

According to the statistics described in the IT variable, almost half (46.67%) of the infractions committed by accountants were related to preparing Decore for their clients without meeting the requirements set forth in CFC Resolution No. 1,403/2012 in force at the time of issuance of the statements and amended by the current CFC Resolution No. 1,592/20.

Regarding the dependent variable, that is, the fine, the descriptive statistics showed that more than 93% of the professionals fined and judged guilty in the period were fined. The evidence as a result of the regression is that, if the professional issues irregular Decore, he may be punished with a fine. This result is in line with the study by Krom (2016) and Lima (2022) when it shows the fine being one of the most applied disciplinary punishments to accountants for actions of tax misconduct or for attesting to improper conduct to what is established by the rules of the profession.

Parker (1994), when analyzing the infractions and punishments applied by Australian accounting boards, verifies that fines and warnings are the most applied punishments. According to Parker (1994), this behavior may reveal a certain tendency of class councils not to apply punishments that expose the offenders. The study by Lima (2022) shows that the reserved warning and the fine in the context of the CRCMT, that is, in the Brazilian context, are also the most applied punishments. Thus, fining these professionals and also charging them for the costs of the lawsuits, in addition to warning them, may route it from public scrutiny.



In this sense, the evidence of the present study harmonizes with Parker and Lima (1994, 2022), when it reveals a significant number of fines being imposed, even though the most appropriate punishment for the infraction committed, supposedly, could be the most severe, that is, the suspension or revocation of the professional registration. These punishments would find support, under the terms of article 27 of DL 9.295/46 paragraphs "d" and "f", when it establishes the suspension or revocation of the registration of the accountant professional for producing or attesting to false information. It is also noteworthy what is established in NBC PG 01/19, in item 5, letter "p", for the current context, when it prohibits the accountant from providing false information or preparing inappropriate accounting documents.

The studies that discuss the subject are most often course completion papers, so there are few researches published in scientific journals related to Decore. Among some studies, André and Di Domenico (2015) reveal that in the period from 2007 to 2014, 43.82% of the infractions committed by accountants registered with the Regional Accounting Council of Rio Grande do Sul (CRCRS) were related to Decore prepared irregularly or lacking documentation for legal support. However, the numbers show that the most applied punishments, as shown by international studies, are fines and reserved warnings.

The study by Alves (2005), which can be considered seminal in the Brazilian context, emphasizes that the judgment and, consequently, the application of punishments are the prerogatives of the Regional Court of Ethics and Discipline (TRED), composed of counselors elected among their peers. Therefore, there is a probability that milder sanctions or even more severe ones will be applied. This, however, may depend on the content of the regulations and/or the subjectivity present in the judgment process by the reporting commissioners.

If the infraction causes notoriety, the most severe punishments may be adopted (Krom, 2016). Thus, it is possible to signal to society or even to the system itself, that the councils have control of their members.

However, the practice seems to be to punish, but not to expose it. In this context, the data of the present research reveal that 66.48% of the professionals punished were only warned, 32.42% were privately censored and only 1.1% were publicly censored. This result is consistent with Mescall *et al.*, (2017), who studied the behavior of professionals and their respective class councils in Canada, showing that in the vast majority of cases, violations of the rules led to warnings (95.8%) and fines (88.8%). Thus, it is possible to infer that private interests always seem to be in the foreground to the detriment of public interests. But, according to Mescall *et al.*, (2017), the balance between private and public interest can

happen depending on the degree of regulation and involvement of the public interested in the information generated by the profession.

Therefore, according to the evidence of the studies reviewed and of the present research, if the accountant violates the disciplinary rules, even if it is an infraction considered serious, such as false declaration, there will be a greater probability of being punished with a fine, when the most appropriate would be the suspension or revocation of the professional registration (Parker, 1994; Alves, 2005; Mescall *et al.*, 2017; Lima, 2022).

By infringing a norm established by the CFC/CRCs system and being disciplined the professional may be subjected to compliance with ethical punishments. Of the 390 cases analyzed in the CRCMT, it was observed that disciplinary punishment was always accompanied by ethical punishment. In this case, the inference is that, if a norm is infringed, moral conduct may have been violated, thus, regardless of the severity, at least a warning seems to be appropriate.

This behavior demanded by the councils seems to reveal a power strategy in the sense of safeguarding the moral integrity of the professional, as well as of the institution itself, confirming the tendency to protect the professional and the profession as highlighted by Parker (1994). According to Foucault (1987), the agents that make up the relationship network will cling to any strategies to mitigate the intensity of punishment.

In the case in question, the loss of the reputation of the profession due to society's discredit in the accounting practices developed by these professionals could be considered a very severe punishment, therefore, a cost that is difficult to recover from the perspective of Srour (2005). Thus, safeguarding it from society's scrutiny through corporatism seems to be the most appropriate practice. In this context, the strategy on the part of the councils is to signal to the other powers and society that they have control of their members and keep them under their control.

## FINAL CONSIDERATIONS

DL 9.295/46 determines that ethical-disciplinary penalties must be imposed on accounting professionals, as a result of the violation of the legal exercise of the profession. From this statement, punishment is a legal instrument to discipline the behavior of the accountant. The duty to guide, supervise, assess and, if necessary, punish, is the responsibility of the regional accounting councils, through the Inspection Chambers and the TRED, based on the legislation in force and the rules established by the CFC. However, the reviewed studies showed that the least severe ethical and disciplinary punishments are the most applied.

In view of this, the objective of this study sought to verify whether the type of infraction committed by the accountant explains the severity of the punishment applied. The results showed that, in addition to the type of infraction, other factors may be present in this process. The strategies that can be the most varied, including if this professional carries out his activities in the form of an individual, sole proprietorship or company. From the perspective of Foucault's theory of power, in the relationship network, individuals will use all possible strategies to mitigate the intensity of punishment. From this perspective and observing table 1, the result of the PIS control variable shows a lower probability that the professional will be punished with a fine, even if he commits an infraction considered serious. In other words, the system seeks to protect peers even if they have infringed the established rules.

When analyzing the punishments to accountants for preparing documents without due legal care, one can see the less severe ethical and disciplinary punishment being applied. Therefore, the type of infraction may not be specifically the main factor that explains the levels of punishments. Alves (2005), when analyzing the punishment imposed by the CFC on accountants for tampering with or manipulating writing or documents, found that 43.56% of the offenders were ethically punished only with a warning. It should be noted that this type of behavior when in the criminal sphere (CPB, 2021), the offender could lead to severe punishment.

Therefore, in view of the results of this research, it is possible to conclude that the type of infraction, in this case, irregular Decore, can be considered a relevant factor to explain the severity of the punishment. However, the results also point to a corporatist behavior when they reveal a greater probability to punish their peers with a fine (disciplinary punishment), supposedly, the most appropriate could be a more severe disciplinary punishment (suspension or even revocation of professional registration). Cahan et al. (2016) understand that more severe punishments, such as higher fines and suspension of registrations, are important instruments in the disciplinary process of professionals. However, little used, in view of their intensity.

The seminal study by Hagan and Parker (1985) reveals that sanctions should be proportional to the types of crimes (infractions). Therefore, from this perspective, the most appropriate thing would be for the conviction for simpler and more complex infractions to be estimated considering their magnitude. Therefore, it is possible to conclude that the type of infraction can be considered a relevant factor to explain the fines, since, in view of the data set of this research, if the professional prepares an irregular Decore and is fined, the

probability of being punished with a fine is greater compared to other disciplinary punishments.

For future studies, there is, therefore, the possibility of verifying whether the type of infraction can influence the amount of the fine imposed. Since, according to Hansen and White (2012), the amount of the penalty can affect the professional's decision to certify or not irregular documents (declaration).

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