LUMEN ET VIRTUS
ISSN: 2177-2789

PERSPECTIVES OF CONSENSUALITY IN BRAZILIAN ADMINISTRATIVE LAW

https://doi.org/10.56238/levv15n41-107

Submitted on: 30/09/2024 **Publication date:** 30/10/2024

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ABSTRACT

This study aimed to analyze the implementation of consensuality in Brazilian Administrative Law, highlighting the legal instruments that enable the resolution of conflicts and the correction of conducts in a negotiated and collaborative manner. Instead of resorting exclusively to litigation, these mechanisms seek solutions that meet the interests of the public administration and individuals, promoting more efficient and transparent management. The main consensual instruments used were addressed, such as the Conduct Adjustment Term (TAC), leniency agreements, mediation and arbitration. Each of these mechanisms has specific characteristics that make them suitable for different types of situations and conflicts, offering viable alternatives for the solution of administrative issues and promoting speed and specialization in decisions.

Keywords: Consensuality. Public administration. Conduct Adjustment Term. Mediation. Conciliation and Arbitration.

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INTRODUCTION

In recent years, Brazilian Administrative Law has undergone a significant transformation, marked by the rise of consensuality as a central principle in public administration. This shift reflects an evolution from the traditional model, characterized by rigidity and unilateral imposition of norms, to a more flexible and collaborative model, where decisions are often made based on mutual agreements and considering the positions of individuals.

Consensual administration, also known as Administrative Law of consensus, is guided by compromise and the search for solutions that meet the interests and needs of the parties involved. This new paradigm promotes greater citizen participation in the decision-making process, offering a more inclusive and transparent approach. The public administration, by adopting consensual practices, can achieve several benefits: a) greater transparency and participation; Efficiency and reduction of litigation; Conflict resolution in a more balanced way; Flexibility and adaptability.

To deeply understand these benefits and the impacts of consensuality in Administrative Law, it is essential to conduct a literature review that explores academic contributions and analyses on the subject. This article will address the main works and studies that discuss the transformation to consensual administration, analyzing the theoretical foundations, practical challenges and implications for public administration. Next, the main sources and authors who contributed to the development of the theory and practice of consensuality in Administrative Law will be examined, offering a critical and comprehensive view of how this paradigm has shaped contemporary public administration and the results it has produced in practice.

FOUNDATIONS AND EVOLUTION OF CONSENSUALITY IN BRAZILIAN ADMINISTRATIVE LAW

CONCEPT AND IMPORTANCE

Consensuality has emerged as a central principle in Brazilian Administrative Law, reflecting a significant transformation in the approach to public administration. This movement towards conflict resolution and the conduct of agreements in a consensual manner seeks not only to improve the efficiency of administrative actions, but also to strengthen the legitimacy and acceptance of public decisions. The basic premise is that the use of dialogical and collaborative methods can lead to more balanced and acceptable solutions for all parties involved, contrasting with the traditional imposing and unilateral approach.

The benefits of consensuality are evident in several dimensions. First, the consensual approach tends to promote greater transparency and participation of stakeholders in the decision-making process, which facilitates the resolution of conflicts in a more democratic and inclusive manner. In addition, by allowing the parties involved to directly negotiate the terms of the agreements, consensuality can reduce the possibility of prolonged and costly litigation, promoting solutions that better meet the specific needs of all involved.

However, it is crucial to recognize that, despite the advantages, consensuality is not without challenges. One of the main problems that may arise is "abusive consensuality", in which negotiation and agreement mechanisms are used in order to mask authoritarian or imposing practices by the Government. This occurs when, despite the appearance of agreement, one of the parties, usually the state power, exerts a disproportionate influence, imposing conditions that are not really the result of a fair and balanced dialogical process.

Therefore, while consensuality represents a significant advance in the search for a more collaborative and efficient public administration, it is essential to be aware of the possible distortions and abuses that may occur. The challenge is to ensure that consensuality does not become a tool for excessive or inappropriate practices, but rather a true means of building fair and equitable agreements. Critical examination and continuous reflection on the subject are fundamental to maintain consensuality as a legitimate and effective instrument in public administration.

HISTORICAL EVOLUTION

Brazilian Administrative Law has undergone a significant transformation over the last few decades, with consensuality emerging as a fundamental principle. This shift reflects an evolution from a traditional administrative model, characterized by rigidity and the imposition of norms, to a more flexible and collaborative model. This article explores this trajectory and the factors that drove the adoption of consensual methods in public administration, based on the contributions of important authors in the field.

Historically, Brazilian Administrative Law has been marked by a more rigid and imposing governance model. Administrative decisions were predominantly unilateral, with the government exercising its authority without the need for consensus or participation by the affected parties. André Cyrino points out that the public administration, in this context, acted with a centralizing and formalistic vision, which often resulted in a relationship of conflict with the administered (Cyrino, 2017).

From the 1990s onwards, Brazil began to adopt a more dialogical and cooperative approach to Administrative Law. This movement was influenced by a growing appreciation of citizens' rights and a search for more transparent and participatory administrative processes. Floriano Peixoto argues that the introduction of consensual mechanisms represents a response to the need to modernize the administrative apparatus and the desire for greater citizen engagement in the decision-making process (Peixoto, 2019).

The concept of consensuality gained prominence with the enactment of norms and the creation of instruments that favor negotiation and mediation. The Law of Introduction to the Rules of Brazilian Law (LINDB) of 2016, with its article 26, is an important example that establishes the principle of proportionality in administrative agreements. Rafael Oliveira notes that this legislation marks a significant inflection point, as it promotes the idea that agreements and solutions should be fair and balanced, reflecting the change in administrative approach (Oliveira, 2021).

The adoption of consensual practices has brought several benefits, including greater efficiency and transparency in administrative processes, and the possibility of agreements that better meet the needs of the parties involved. However, the transition to a more flexible model also presents challenges, such as the need to ensure that agreements are truly balanced and do not result in abuses of power. The critical analysis of Cyrino, Peixoto, and Oliveira points to the importance of continuous monitoring and a robust regulatory framework to ensure the effectiveness of consensual principles (Cyrino, 2017; Peixoto, 2019; Oliveira, 2021).

Next, we will analyze the main principles that guide administrative decisions.

RELATED PRINCIPLES

Consensuality in public administration is not sustained in isolation; It is intrinsically linked to several fundamental principles that guide administrative action. Among these, efficiency, good faith, reasonableness and proportionality stand out.

The principle of efficiency, as defined by the Federal Constitution of 1988 and analyzed by Marçal Justen Filho, is central to public administration and is directly associated with consensus. Efficiency implies obtaining the best results at the lowest possible cost. In his work *Curso de Direito Administrativo*, Justen Filho (2020) points out that the search for efficiency demands that the public administration adopt practices that maximize the use of resources and minimize waste. In this context, consensuality contributes to efficiency by allowing solutions that directly involve stakeholders, which can

reduce the need for litigation and speed up the implementation of agreements (Justen Filho, 2020).

The principle of good faith is fundamental to ensure trust in the relations between the public administration and the administered. According to Justen Filho, good faith requires that the parties act with sincerity and honesty in their interactions. Consensuality is deeply rooted in this principle, since the success of any consensual agreement depends on mutual trust and the willingness to negotiate in good faith (Justen Filho, 2020). Good faith prevents deceptive practices and ensures that the parties involved in the negotiation process are committed to achieving a fair and transparent agreement.

Reasonableness is a principle that requires administrative decisions to be logical and fair, considering the circumstances and interests of the parties. According to José dos Santos Carvalho Filho, in *Manual de Direito Administrativo* (2019), reasonableness implies the need for administrative actions to be proportional to the desired ends and appropriate to the circumstances. Consensuality incorporates the principle of reasonableness by allowing the parties involved to discuss and adjust the conditions of the agreement in a way that considers the needs and interests of each one, resulting in fairer and more appropriate solutions to specific situations.

The principle of proportionality, on the other hand, is crucial to ensure that the measures adopted by the public administration are not excessive in relation to the objectives to be achieved. According to Alexandre Santos de Aragão, in *Administrative Law* (2018), proportionality requires that administrative actions be balanced and that restrictions on the rights of the administered be minimized. Consensuality is aligned with proportionality by allowing the parties to adjust the terms of the agreement in a way that balances the interests involved, avoiding excessive impositions and ensuring that solutions are proportional to the needs and expectations of all involved.

APPLICATION OF CONSENSUALITY IN PUBLIC ADMINISTRATION

Consensuality in Brazilian Administrative Law emerges as a response to contemporary demands for a more efficient, transparent and problem-solving public administration. Traditionally, the relationship between the State and private individuals was marked by a hierarchical dynamic, where the unilateral authority of administrative decisions prevailed. However, the growth of a more complex and interdependent society, combined with the need to promote agile and less litigious solutions, has led to the adoption of consensual practices as essential instruments for public management.

In this context, it is perceived that administrative agreements are more present in the examination of the discretion of the public manager. In terms of *legal culture,* consensuality has asserted itself as a technique for the development of administrative activities that is sometimes preferable among the traditional ways[4].

In the past, the idea prevailed that state affairs could not be resolved through consensus, on the grounds that the principle of legality restricted public administration to unilateral and inflexible decisions. However, this view has evolved significantly. Today, the Public Administration not only has the possibility, but also the responsibility to seek consensual solutions to its controversies. This new paradigm recognizes that the principle of legality can coexist with more flexible and collaborative practices, where dialogue and mutual understanding become valuable instruments for more efficient, fair, and less conflictual public management. Thus, consensuality emerges as a central element in the modernization of administrative practices, promoting an approach that prioritizes the peaceful and negotiated resolution of conflicts, in line with democratic values and effectiveness in the application of legal norms.[5]

Brazilian administrative law was built from an eminently French matrix, characterized by a legal regime based on the supremacy of the public interest, on the vertical relationship between Public Administration and the private sector, and on the State's action through unilateral, imperative and self-executing administrative acts. This authoritarian conception of public law was directly reflected in the idea that the interests involving the Administration would be unavailable. According to this traditional view, the public interest, which should prevail a priori over private interests, would be unavailable, and anyone would be forbidden to dispose of it or compromise on it. Thus, the idea of the procedural and material *non-transactability* of the interests of the Public Administration was consolidated among us.[6]

The application of consensuality in public administration takes place through different legal and administrative instruments, which allow the resolution of conflicts and the formalization of commitments between the public power and those administered in a more collaborative way. Among these instruments, the Conduct Adjustment Agreement (TAC),

4 Sérgio Guerra and Juliana Bonacorsi de Palma. New legal regime for negotiation with the Public Administration Rev. Direito Adm., Rio de Janeiro, Special Edition: Public Law in the Law of Introduction to the Rules of Brazilian Law – LINDB (Law No. 13,655/2018), p. 135-169, nov. 2018. Pag. 138

5 Public Administration and consensual means of conflict resolution or "facing the Leviathan in the new seas of consensuality" Bruno Lopes Megna https://revistas.pge.sp.gov.br/index.php/revistapegesp/article/view/538/481 Accessed on 15 Aug 2024 pg. 04

6 BINENBOJM, Gustavo. Administrative consensuality as a legally adequate technique for the efficient management of social interests. Electronic Journal of the Attorney General's Office of the State of Rio de Janeiro - PGE-RJ, Rio de Janeiro, v. 3 n. 3, Sep./Dec.2020. Accessed on 17 Aug. 2024.

leniency agreements, mediation, and arbitration stand out, which have proven effective in promoting a more participatory and dialogue-oriented public administration.

Regarding the application of consensuality within the scope of the public power, it is also important to highlight that the Code of Civil Procedure of 2015 and the Mediation Law, in line with this trend, aim to expand the incentive to use consensual mechanisms within the Public Administration. Previously, these methods had limited progress with the performance of the Special Courts of the Public Treasury, which have the attribution of "processing, conciliating and judging" civil cases of lesser complexity involving the State as a defendant (article 3 of Law 10,259/2001 and article 2 of Law 12,153/2009). Today, therefore, we observe a growing incentive for consensuality in public administration, reflecting a search for more collaborative solutions, which aim not only at administrative efficiency, but also at the reduction of unnecessary conflicts and litigation.

The appreciation of alternative forms of conflict resolution is already demonstrated in article 3 of the Code of Civil Procedure. Under the terms of § 2, the State shall promote, whenever possible, the consensual resolution of conflicts, while § 3 provides that conciliation, mediation and other methods of consensual resolution of conflicts shall be encouraged by judges, lawyers, public defenders and members of the Public Prosecutor's Office.[7]

For contextualization purposes, in order to demonstrate the paradigm shift on the subject under examination, it is worth bringing another important legislative change, that is, the enactment of Law No. 13,655, of April 25, 2018, which amended Decree-Law No. 4,657, of September 4, 1942, known as the Law of Introduction to the Rules of Brazilian Law (LINDB), to incorporate provisions that allow the public manager to establish negotiations with private individuals. These adjustments and commitments, which seek to solve irregularities, reduce legal uncertainties and prevent conflicts, directly reflect the principle of consensuality in public administration. This normative change reinforces the importance of a more cooperative and effective approach to public management, promoting consensual resolution as a preferable alternative to traditional unilateral measures.

Another legislative change that demonstrates this paradigm shift, and deserves to be highlighted due to its importance in the day-to-day life of public administration, is Law No. 14,133, of April 1, 2021, which governs bids and administrative contracts, which further reinforces this trend by expressly incorporating consensual mechanisms for the resolution of disputes. This law introduces important innovations that expand the use of alternative

7 NEVES, D.A.A. (2016). Manual de direito procedual civil.São Paulo: Método. Pag. 64.

methods of conflict resolution in the context of public administration, strengthening consensus as an essential pillar for efficiency and administrative justice.

In spite of all the approaches, in this work we will deal with the instruments that stand out the most, namely, the Conduct Adjustment Term (TAC), leniency agreements, mediation, and arbitration, since they have proven to be effective in promoting a more participatory and dialogue-oriented public administration.

In the following sub-items, the main instruments of consensuality applied in public administration will be explored, with practical examples and an analysis of their implementation and effectiveness in resolving conflicts and promoting administrative integrity.

CONSENSUAL INSTRUMENTS

The implementation of consensuality in Brazilian Administrative Law takes place through legal instruments that allow the resolution of conflicts and the correction of conducts in a negotiated and collaborative manner. These instruments, instead of resorting exclusively to litigation, seek solutions that meet the interests of the public administration and private individuals, promoting a more efficient and transparent management. Among the main consensual mechanisms used in public administration, as we have already mentioned, the Conduct Adjustment Agreement (TAC), leniency agreements, mediation and arbitration stand out.

Each of these instruments has specific characteristics that make them suitable for different types of situations and conflicts. The TAC, for example, is widely used to adjust the conduct of private individuals that contravene administrative rules, thus avoiding the need for prolonged legal proceedings. Leniency agreements, on the other hand, have proven to be effective tools in the fight against corruption, allowing companies involved in illicit practices to cooperate with the authorities in exchange for benefits, such as the reduction of penalties. In addition, mediation and arbitration emerge as viable alternatives for the resolution of administrative conflicts, offering speed and specialization in decisions.

Below, we will explore in detail how these instruments work in practice, what are their main advantages and challenges, and how they have contributed to the promotion of consensuality in the Brazilian public administration.

Conduct Adjustment Term (TAC)

The Conduct Adjustment Term (TAC) is one of the most important and widely used instruments in the implementation of consensuality in Brazilian Administrative Law. Provided

for in Law No. 7,347/1985, known as the Public Civil Action Law, the TAC allows the Public Prosecutor's Office or other legitimate entities to enter into agreements with private parties to adjust conduct considered illegal or inappropriate to legal norms, without the need to initiate or prolong a judicial proceeding.

For Hugo Nigro Mazzilli, the adjustment commitment is only a legal instrument intended to collect, from the person who caused the damage, an extrajudicial executive title of obligation to do, through which the promisor assumes the duty to adapt his conduct to the requirements of the law, under penalty of sanctions set in the term itself.[8]

Edis Milaré, Joana Setzer and Renata Castanho state that it is "a mechanism for the peaceful resolution of conflicts, with the legal nature of a transaction, consisting of the establishment of certain rules of conduct to be observed by the interested party, including the adoption of measures aimed at safeguarding the diffuse interest affected" [9]

The primary objective of the TAC is to correct irregularities and promote compliance with the law quickly and effectively, avoiding the wear and tear and costs of prolonged litigation. The TAC has the legal nature of an administrative contract, being a commitment signed between the offender and the public agency, in which the offender undertakes to cease the illegal practice or to adopt compensatory or reparative measures. In exchange, the public agency can grant benefits, such as the suspension of sanctions or the reduction of fines.

One of the great advantages of TAC is its flexibility, allowing parties to find customized solutions for each specific case. For example, in environmental cases, the offender may commit to carrying out environmental recovery actions or investing in preservation projects, thus avoiding a high fine or a public civil action. In addition, the TAC can be a faster mechanism than a judicial process, allowing problems to be resolved more quickly and with less economic and social impact.

Another significant advantage is the possibility of monitoring and inspecting compliance with the obligations assumed in the TAC. The term itself can provide for monitoring mechanisms, ensuring that the agreed actions are effectively implemented and that the intended objectives are achieved.

A notable example of the application of a TAC occurred in the area of environmental protection. In the case of the environmental disaster in Mariana, Minas Gerais, in 2015, the mining company Samarco, together with its parent companies Vale and BHP Billiton,

8 MAZZILLI, Hugo Nigro. Commitment to conduct adjustment: evolution and weaknesses: performance of the Public Prosecutor's Office. Law and Liberty Journal, Mossoró, 1, 2005. p. 191.
9 MILARÉ, Edis; SETZER, Joana; CASTANHO, Renata. The commitment to conduct adjustment and the fund for the defense of diffuse rights: relationship between the alternative instruments of environmental defense of Law 7.347/1985. Journal of Environmental Law, São Paulo, 39, 2005. p. 12.

entered into a TAC with the Federal Public Prosecutor's Office (MPF), the Public Prosecutor's Office of Minas Gerais, and other public agencies. This agreement aimed to ensure the repair of the damage caused by the collapse of the Fundão dam, which resulted in an environmental tragedy of great proportions.[10]

Through the TAC, the companies committed to adopt various environmental, social, and economic compensation measures, including the recovery of the affected areas, the resettlement of the affected communities, and compensation for the damage caused. The agreement allowed for a more agile and coordinated response to mitigate the impacts of the disaster, avoiding a long and uncertain judicialization of the case. While full compliance with the TAC is still ongoing, the agreement is an example of how consensuality can be applied to effectively promote corporate responsibility and environmental protection.

Despite its advantages, TAC also faces challenges and criticism. One of the criticisms is regarding the transparency and fairness of the agreements, especially when it comes to large companies or actors with greater negotiating power. Another challenge is to ensure the effectiveness of the fulfillment of the obligations assumed. Although the TAC provides for sanctions in case of non-compliance, such as judicial enforcement of the term, inspection is essential to ensure that the agreements are satisfactorily complied with.

Mediation, conciliation and arbitration

Mediation and arbitration are alternative instruments of conflict resolution that have gained prominence in Brazilian Administrative Law as ways to implement consensuality in the relations between the public administration and private individuals. These tools offer efficient and less adversarial means to resolve disputes, avoiding judicialization and promoting faster, more specialized solutions that are appropriate to the interests of the parties involved.

We move on to the concepts in order to better clarify the methods in question.

Mediation is a conflict resolution process in which an impartial third party, the mediator, assists the parties in reaching an agreement. In the context of Administrative Law, mediation is used to resolve disputes involving administrative contracts and other situations where there is public interest at stake.

The mediator does not impose a solution, he facilitates dialogue between the parties, helping them to identify their real interests and find a consensual solution that meets both.

10 MILANEZ, Bruno. PINTO, Raquel Giffoni. Considerations on the Transaction and Conduct Adjustment Agreement signed between the Federal Government, the Government of the State of Minas Gerais, the Government of the State of Espírito Santo, Samarco Mineração S.A., Vale S.A. and BHP Billiton Brasil LTDA. Available at https://www.epsjv.fiocruz.br/sites/default/files/documentos/noticias/documentos_-_poemas_2016_-_comentarios_acordo_samarco.pdf Accessed on 17 Aug. 2024

Mediation is especially useful in situations where maintaining a collaborative relationship is desirable, such as in long-term contracts. For example, in a dispute over the performance of a concession contract, mediation can allow the parties to adjust the contract in a consensual manner, avoiding the termination or judicialization of the conflict.

In relation to mediation and conciliation, the difference between the instruments is quite tenuous. While in mediation, the mediator, neutral and impartial, assists the parties in the settlement of the conflict, in conciliation, the conciliator, also maintaining neutrality and impartiality, can play a more active role in conducting the dialogue, presenting suggestions and seeking an agreement.[11]

From Moreira Neto's teachings, the following explanation can be extracted: In conciliation, the parties must make efforts to promote an agreement that puts an end to the conflict, focusing on the figure of a conciliator who would have the task of leading the parties in the negotiation and offering them alternatives. In mediation, the conduct of negotiations by a mediator will take place in such a way as to reduce the identified divergences and expand convergences, raising the inconveniences of prolonging the conflict, so that a satisfactory solution is found for the parties. In arbitration, the parties will accept the solution of the dispute decided by arbitrators.[12]

Arbitration, on the other hand, is a method in which the parties submit their dispute to one or more arbitrators, who have the power to decide the conflict, issuing a final and binding decision, called an arbitral award. Unlike mediation, arbitration results in a decision imposed by the parties, but which, unlike a judicial decision, is rendered by arbitrators chosen by the parties themselves, with specialized knowledge of the subject in dispute.

In the field of Administrative Law, arbitration is used to resolve disputes related to administrative contracts, especially in technical and complex areas, such as large infrastructure works. Arbitration is advantageous because it allows the parties to choose arbitrators with specialized technical knowledge, which can result in decisions that are more appropriate to the peculiarities of the case. In addition, arbitration is, in general, faster than the judicial process, which can be crucial in contracts that require quick solutions to avoid the interruption of essential public services.

After the part of the conceptualization of the methods, it is worth highlighting the advantages of Mediation and Arbitration. It should be noted that both methods offer several

11 On the distinction between mediation and conciliation, see: CNJ. Conciliation and mediation. Available at: https://www.cnj.jus.br/perguntas-frequentes-7/ . Accessed on: June 2, 2015.
12 MOREIRA NETO, Diogo de Figueiredo. New trends in democracy: consensus and public law at the turn of the century – the Brazilian case. Brazilian Journal of Public Law, Belo Horizonte, v. 3, Forum, 2003. Available at: https://pge.rj.gov.br/comum/code/MostrarAr-quivo.php?C=ODc3OQ%2C%2C. Accessed on: 15 Aug. 2024. Pag.155

advantages in the context of public administration. Mediation, with its collaborative approach, can preserve or even improve relations between the parties, facilitating the fulfillment of the agreements reached. It is also more flexible and less formal than the judicial or arbitration process, which can be especially useful in disputes involving multiple interconnected issues. Arbitration, in turn, offers the security of a binding decision rendered by experts on the subject, which can be fundamental in technical and highly complex issues. The speed of arbitration is also a significant advantage, particularly in disputes that, if protracted, could jeopardize the continuity of public services or result in major financial losses.

Despite their advantages, both mediation and arbitration face specific challenges within the scope of Administrative Law. One of the main challenges is the acceptance and adaptation of the public administration to these methods, since the traditional legal culture still favors the judicialization of conflicts. In addition, there is the issue of transparency and control of arbitration awards, especially when they involve the public interest. As arbitration is largely a confidential procedure, there are concerns about overseeing these decisions and ensuring that they are in the public interest.

In the case of mediation, the main limitation is that, as it is a consensual process, it will only result in an agreement if both parties are willing to negotiate in good faith. In situations where one party is not interested in dialogue or where there is a significant power imbalance, mediation may not be effective.

A practical example of successful mediation can be found in disputes concerning the execution of public service concession contracts, where mediation has been used to renegotiate contractual terms in the midst of economic crises, allowing for continuity of services and avoiding protracted litigation. Arbitration, on the other hand, has been widely used in construction and infrastructure contracts, where the specialization of arbitrators in technical issues, such as engineering and finance, is a differential that contributes to more accurate and faster decisions.

Another example of the practical application of consensuality can be observed in disputes involving public concessions. A relevant case occurred in the city of São Paulo, where the City Hall and a public transport concessionaire clashed over the readjustment of bus fares. Instead of judicializing the dispute, the parties chose to start a mediation process, with the participation of experts and independent mediators.

The mediation allowed the parties to reach an agreement on the readjustment of tariffs, taking into account both the economic viability of the concession and the need to maintain the accessibility of services for the population. The process was agile and

effective, avoiding a stoppage of services and the need for judicial intervention, which could be time-consuming and potentially harmful for both parties.

FINAL CONSIDERATIONS

The phenomenon of consensualization in Administrative Law represents a significant transformation in the Brazilian public administration, in line with the constitutional principles of popular participation and efficiency. In recent years, the incorporation of consensual methods of conflict resolution, such as mediation, conciliation, and agreements, has contributed to a more agile and effective public administration.

These mechanisms not only reduce procedural costs and speed up the processing of cases, but also promote a more resolute and economical management of public resources. The application of such methods should be extended to areas such as the conclusion and termination of administrative contracts and the administrative process, to maximize their benefits.

The transformation of the concept of public interest, now recognized as plural and diverse, underpins the adoption of consensus, allowing for a more flexible and dialogued approach to conflict resolution. This reflects an evolution of Administrative Law towards a more participatory administration that respects fundamental rights, promoting a public administration that seeks more balanced and effective solutions for the various collective interests.

Thus, consensuality emerges as an essential aspect of modern Administrative Law, contributing to a public administration that, in addition to being efficient, is also more sensitive to the needs and rights of citizens.

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