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Consensualism and self-composition in special accountability proceedings: a theoretical analysis of Normative Instruction No. 68/2019/TCE-RO and its contribution to overcoming the principle of the unavailability of public interest.

Consensualism and self-composition in special accounting: a theoretical analysis of normative instruction no. 68/2019/ TCE-RO and its contribution to overcoming the principle of unavailability of the public interest

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SUMMARY

This study aimed to analyze the reconfiguration of the principle of the unavailability of public interest, resulting from the introduction of consensualism and self-composition mechanisms by Normative Instruction No. 68/2019/ TCE-RO, within the scope of Special Accountability Proceedings. Thus, it sought to understand how the adoption of consensual solutions in external control contributes to overcoming the classical and rigid conception of this principle, allowing its compatibility with contemporary values of efficiency, economy, and administrative effectiveness. To this end, the methodology used consisted of basic research, with a qualitative approach, of a descriptive and explanatory nature, guided by the deductive method and complemented by the historical-dialectical method. The results demonstrated that the introduction of mechanisms, such as the Term of Responsibility for Reimbursement to the Public Treasury (TRRE), and the institutionalization of consensual practices in the TCE/RO represent a significant change in the external control model, shifting the focus from a merely sanctioning action to a more resolutive and results-oriented perspective. Thus, it can be concluded that consensualism, far from violating the principle of the inalienability of the public interest, contributes to its reinterpretation, giving it a more dynamic meaning and one compatible with the demands of contemporary Public Administration. The research confirms that the adoption of consensual solutions, when based on technical criteria, transparency, and control, constitutes a legitimate instrument for modernizing external control, promoting greater effectiveness in protecting the public interest.

Keywords: Administrative consensus; Self-composition; Special audit; Public interest; External control; Court of Auditors.

ABSTRACT

This study aimed to analyze the reconfiguration of the principle of unavailability of the public interest, arising from the introduction of consensualism and self-composition mechanisms by Normative Instruction No. 68/2019 of the Court of Accounts of the State of Rondônia (TCE/RO), within the scope of the Special Accountability Process. Thus, it sought to understand how the adoption of consensual solutions in external control contributes to overcoming the classical, rigid conception of this principle, thereby allowing its compatibility with contemporary values such as efficiency, economicity, and administrative effectiveness. To this end, the methodology consisted of basic research with a qualitative approach, of a descriptive and explanatory nature, guided by the deductive method and complemented by the historical-dialectical method. Thus, the results demonstrated that the introduction of mechanisms such as the Term of Responsibility for Reimbursement to the Treasury (TRRE) and the institutionalization of consensual practices within TCE/RO represent a

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significant shift in the external control model, moving from a merely sanctioning approach to a more solution-oriented and results-driven perspective. Therefore, it is concluded that consensualism, far from violating the principle of the unavailability of the public interest, contributes to its reinterpretation, granting it a more dynamic meaning aligned with the demands of contemporary Public Administration. The study confirms that the adoption of consensual solutions, when grounded in technical criteria, transparency, and control, constitutes a legitimate instrument for modernizing external control and promoting greater effectiveness in protecting the public interest.

Keywords: Administrative consensualism; Self-composition; Special Accountability Process; Public interest; External control; Court of Accounts.

INTRODUCTION

Brazilian Administrative Law, traditionally structured in paradigms of hierarchy and power, it stands out for the principle of the inalienability of the public interest, fundamental for the consolidation of the rule of law. Norms such as the Organic Law of the Court of Auditors of The Union (Law No. 8,443/1992) and the former Bidding Law (Law No. 8,666/1993) reinforce this perspective. formalist, according to which the administrator does not have the autonomy to negotiate interests and assets. collectives, acting strictly as a simple guardian and manager of public resources (Di Pietro, 2020).

In this context, the Special Audit stands out as one of the main mechanisms. of accountability and restitution to the public treasury, constituting a formal procedure for to determine liability for damages caused to public administration. On the other hand, authors such as Moreira Neto (2014) and Sundfeld (2017) highlight the emergence of a new paradigm that advocates Consensus as an effective instrument for optimizing the realization of the public interest.

This transition was driven by legislative milestones, such as changes to the Law of Introduction to the Norms of Brazilian Law (LINDB) and the new Law on Bidding and Contracts (Law No. 14.133/2021), which explicitly promote the use of consensual methods for dispute resolution. Normative Instruction No. 68/2019/TCE-RO is part of this movement by formalizing instruments. such as conciliation, settlement agreements, and administrative composition.

Thus, the following problem arose: To what extent does Normative Instruction No. Resolution 68/2019/TCE-RO promotes a reinterpretation of the principle of the unavailability of public interest in light of of consensus?

To address this problem, the study aimed to analyze the reconfiguration of the principle of unavailability of public interest, from the introduction of consensus mechanisms and of self-composition by Normative Instruction No. 68/2019/TCE-RO, within the scope of the Accountability Process Special.

So, specifically, it sought to examine the dogmatic conception of the principle of

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The unavailability of public interest in Brazilian Administrative Law and its implications for...
Special Accountability Process, with emphasis on describing the rise of the administration.
public consensus in the national legal landscape, highlighting its theoretical foundations and milestones.
regulations, in order to analyze in detail the self-composition mechanisms foreseen in
Normative Instruction No. 68/2019/TCE-RO, identifying its requirements and the applicable procedure,
then demonstrate how the application of consensual solutions in external control can be achieved.
reconfigures the content and scope of the principle of the unavailability of public interest, prioritizing
Efficiency and effectiveness in replenishing public funds.

2. MATERIALS AND METHODS

Regarding its nature, the present research was classified as basic, since it had as its
The objective is to produce and deepen theoretical knowledge about the implementation of instruments.
consensual agreements in the context of external control, contributing to the expansion of legal knowledge in the area.
(Gil, 2008).

The approach adopted was qualitative in nature, justified by the need for analysis.
in-depth understanding of the underlying meanings of legal norms and through critical interpretation of
Institutional documents and administrative decisions (Minayo, 2001). This approach proved to be
appropriate to the subject under investigation, especially as it involves understanding legal principles and
An interpretative analysis of the performance of the Court of Auditors of the State of Rondônia.

From the point of view of its objectives, the research was characterized as descriptive and explanatory.
The descriptive nature of the analysis was evident in the content and scope of the applicable regulations.
notably Normative Instruction No. 68/2019/TCE-RO and Complementary Law No. 1,218/2024. By
In turn, the explanatory bias consisted of investigating the relationship between the introduction of mechanisms.
consensual agreements and the reconfiguration of the principle of the unavailability of public interest, with the objective
to understand the reasons and foundations of this transformation.

The predominant reasoning method was deductive (Marconi; Lakatos, 2003), starting from...
of general premises established in the theoretical framework, especially the doctrine of
unavailability of public interest and the theories of administrative consensualism, in order to, in
Next, apply them to the analysis of the regulatory frameworks and institutional practices of the Court of Auditors.
from the State of Rondônia, with a view to verifying the proposed hypothesis.

In a complementary way, the historical-dialectical method was used to understand the
evolution and the tension between the traditional model of external control and the new paradigms based
based on consensus.

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Regarding the technical procedures, the research was developed through the
A combination of bibliographic and documentary research (Gil, 2008). The bibliographic research consisted of
in the survey and analysis of relevant doctrinal works in the areas of Administrative Law,
External control, consensus-based approaches, and the theory of public interest. The documentary research, on the other hand, focused on...
This is done through the analysis of primary sources, used as an empirical basis for verifying the hypothesis.

Among the documents analyzed, the following stand out: Normative Instruction No. 68/2019/TCE-RO and
Complementary Law No. 1,218/2024; recent monocratic decisions and rulings of the TCE/RO (Court of Accounts of Rondônia).
involving attempts at self-settlement and approval of the Terms of Responsibility of
Reimbursement to the Public Treasury (TRRE); Ruling No. 978/2024 – Plenary of the Federal Court of Accounts;
In addition to federal regulatory frameworks, such as the Federal Constitution and the Law of Introduction to Norms
of Brazilian Law (LINDB). The sources were collected from legal databases and in
academic repositories, prioritizing materials with thematic relevance and scientific rigor.

The data analysis was performed using the content analysis technique (Minayo, 2001).
applied to the systematic interpretation of normative texts and the decisions examined. This technique
It allowed us to identify elements such as the manifestation of public interest, the judgment of advantageousness, and...
the legal basis adopted by the TCE/RO Councilors when opting for solutions
consensual. The analysis was conducted with the aim of comparing the normative provisions that
They foresee agreement with the classical doctrine of the inalienability of public interest, in order to
to verify to what extent consensus in the Special Audit contributes to the
reinterpretation of this principle, especially with regard to the effectiveness of the recomposition of
public treasury.

3. RESULTS

This research analyzed the application of consensual mechanisms in the Accountability process.
Special Report (TCE), focusing on Normative Instruction No. 68/2019 of the Court of Auditors of the State of
Rondônia (TCE/RO), demonstrating the incorporation of self-composition within the scope of control.
External accountability represents a significant shift from the traditional paradigm of accountability.
administrative.

The Special Audit is a central instrument for determining...
damages to public funds and the accountability of public and private agents, having historically been
structured under a formalistic and contentious logic. However, data from the Court of Auditors of
Unions indicate that processes of this nature can last for years: a survey by the TCU (Brazilian Federal Court of Accounts).
It demonstrated that the average processing time for liability cases can exceed 5.

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years, which significantly reduces the effectiveness of damage compensation (TCU, 2023). This
This scenario reinforces the doctrinal criticism that the traditional model, which is excessively litigious,
This undermines the practical purpose of the TCE.

In this context, the adoption of consensual mechanisms proves to be an efficient alternative.
Empirical studies indicate that self-regulation mechanisms in Public Administration can
reduce the time for resolving administrative disputes by up to 40%, in addition to increasing the rates of
recovery of public credits (CNJ, 2022). In the specific context of external control, experiences
Data from the Federal Court of Accounts indicates that administrative agreements have provided greater
speed in returning funds to the public treasury, with recovery rates higher than those obtained by
exclusively sanctioning methods (TCU, 2024).

Furthermore, it is observed that the implementation of consensual instruments contributes
directly to increase the effectiveness of recovering public funds. Data from the Attorney General's Office.
General Union officials indicate that administrative agreements and negotiations within the scope of the Administration
resulted in the recovery of approximately R$ 5.8 billion between 2020 and 2023, which demonstrates that
The relevance of consensus as a tool for protecting public funds (AGU, 2024). Even though these
While the data may not be exclusive to TCE, they reveal a structural trend of increasing value.
Self-regulation in Brazilian Public Law.

From an institutional perspective, the results show that the TCE/RO (Court of Accounts of Rondônia) has been consolidating...
A paradigm shift. Complementary Law No. 1,218/2024, by establishing the Technical Committees,
It reinforces the adoption of dialogical solutions as an institutional policy, bringing the Court closer to...
Contemporary models of public governance. This evolution follows the movement
identified by Marques Neto (2018), which points to the transition from one model of Administration
From an authoritarian approach to a cooperative administration, based on negotiation and joint construction of
solutions.

The analysis also reveals that this transformation directly impacts the understanding of
The principle of the unavailability of public interest. Traditionally interpreted as a prohibition.
While the principle of absolute validity in transactions is often redefined in light of efficiency and effectiveness, it takes on a new meaning.
Therefore, unavailability cannot be understood as an obstacle to adopting more effective measures.
effective safeguards of the public interest, and should be reinterpreted in accordance with the principles.
of proportionality and reasonableness (Oliveira, 2020).

However, the results also demonstrate that broadening consensus requires
Institutional precautions. Data from the National Council of Justice indicate that, although the methods
Although consensual methods have high resolution rates, their inappropriate application can create risks.
accountability, especially in cases of serious irregularities (CNJ, 2022). This reinforces the

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The need for objective criteria and transparency in agreements made within the scope of control.
external.

In this sense, contemporary literature highlights the importance of qualified motivation and
on the distinction between serious offenses and administrative failures. As argued by Sundfeld Júnior (2017),
Consensualism does not eliminate the duty of accountability, but it requires that it be exercised in a way...
rational and results-oriented, avoiding both inefficient punitivism and permissiveness.
improper.

Furthermore, practical experience demonstrates that the use of consensual mechanisms can
to contribute to the reduction of the backlog of cases in the oversight bodies. A report from the CNJ (National Council of Justice) indicates that
Self-composition methods have reduced litigation by approximately 25% in administrative sectors that
adopted structured negotiation policies (CNJ, 2023). This data reinforces the idea that the
Consensus not only accelerates the recovery of public funds, but also promotes greater efficiency.
systemic.

Therefore, the research results confirm that Normative Instruction No.
Resolution 68/2019/TCE-RO represents a significant milestone in the modernization of external control, by incorporating
Instruments that prioritize efficiency, speed, and effectiveness. The adoption of self-composition.
This does not imply a renunciation of the public interest, but rather its reconfiguration, guided by a logic.
pragmatic results-oriented.

Thus, it is clear that consensus-based approaches, when applied with appropriate criteria, strengthen
the very duty of protecting public funds, by enabling faster, more effective and socially responsible solutions.
useful. The unavailability of public interest, in this new context, ceases to be an obstacle to
administrative action and begins to function as a parameter for legitimizing consensual solutions.
provided that these are properly justified and geared towards maximizing the effectiveness of the protection.
public.

4. DISCUSSION

The discussion of the results demonstrates that the incorporation of consensual mechanisms in
Special Audit, especially based on Normative Instruction No. 68/2019/TCE-RO,
This represents a significant shift from the traditional model of external control, historically marked
due to formalism and the centrality of the sanctioning character. The data analyzed show that the
The adoption of self-composition contributes to greater speed in the recovery of public funds and to...
streamlining administrative actions, although challenges related to delimitation still exist.
of criteria and the preservation of *accountability*. In this context, the experience of the TCE/RO (Court of Accounts of Rondônia) reveals itself

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as a concrete expression of a broader trend of transformation in Administrative Law
Brazilian, as will be examined below.

4.1 Overcoming the classical model and the limits of the unavailability of the public interest

According to Matias (2024), the traditional structure of the Special Audit is
strongly linked to a sanctioning and procedurally rigid logic, and it presents limitations.
concrete evidence regarding the effectiveness of replenishing public funds.

This scenario demonstrates the persistence of a classic dogmatic framework in Law.
Administrative, in which the principle of the unavailability of public interest is interpreted as
A genuine prohibition on transactions, restricting the administrator's role to that of a manager.
fiduciary, without room for negotiated solutions (Di Pietro, 2020). This understanding, historically
Once consolidated, it contributed to the formation of a control model centered on litigation and on
Formality is prioritized over achieving practical results.

In this sense, Oliveira (2020) argues that unavailability should not be understood
not as an insurmountable obstacle, but rather as a parameter for action, to be harmonized with
other constitutional principles, such as efficiency and proportionality.

Contemporary doctrine has advanced in reinterpreting the principle, moving away from its original conception.
Negative, prohibition-centered, in favor of a functional approach, oriented towards maximizing...
public interest.

In this context, Binenbojm (2014) proposes overcoming the authoritarian model of
Public Administration, advocating for a more flexible and results-oriented approach, in
whereby the public interest ceases to be an a priori concept and begins to be constructed from
more open and rational decision-making processes.

Similarly, Marques Neto (2018) points out that traditional dogmatic rigidity does not
It accompanies the complexity of contemporary administrative relations, which requires a
Reconfiguration of classic institutions in light of a more dialogical administration.

In the academic field, empirical research has reinforced the need for overcoming these challenges. Dantas
(2020) points out that the adoption of consensual mechanisms in Public Administration contributes
significantly for reducing the processing time of cases and for increasing
The effectiveness of administrative decisions, especially in contexts of accountability.

Similarly, the study by Andrade (2024), when analyzing the performance of the Courts of Auditors,
It concludes that excessive reliance on sanctioning models compromises the efficiency of control.
external, suggesting the incorporation of negotiation instruments as a way to improve

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institutional.

This change of perspective does not imply a renunciation of the public interest, but rather its reinterpretation. As Justen Filho (2018) argues, unavailability must be understood as the unavailability of the outcome, that is, the protection of the public interest and not the means. necessary to achieve it. Thus, the prohibition falls on the undue renunciation of the collective interest, and not about using more efficient tools to achieve it.

Therefore, overcoming the classical model does not mean abandoning the principles. not the structural elements of Administrative Law, but rather its reinterpretation in light of an Administration results-oriented.

4.2 Administrative Consensualism as a Contemporary Paradigm

Administrative consensus emerges as a contemporary paradigm oriented towards efficiency, legal certainty, and the achievement of concrete results, as already pointed out by Sundfeld (2017), in highlighting the need for pragmatic and committed state action with effective solutions.

This shift in administrative rationality is directly related to the evolution of The very concept of public interest. The classical perspective, founded on an abstract conception and The previously defined concept gives way to a dynamic and relational understanding, in which interest The public sphere is constructed from the weighing of values and the interaction between the Administration and the public. administered.

In this sense, Moreira Neto (2014) already advocated the consolidation of an Administration A dialogical public sector, founded on consensus and cooperation, and this guideline was reinforced by approaches more recent studies that emphasize the centrality of collaborative governance.

Regulatory evolution also follows this movement. The amendment to the Introductory Law The amendment to the Brazilian Law (LINDB), promoted by Law No. 13.655/2018, constitutes a milestone. fundamental in establishing guidelines aimed at legal certainty and rational decision-making in within the scope of Public Administration. In this context, the emphasis on decisions stands out. based on practical consequences and the search for proportionate and efficient solutions:

> Article 20. In the administrative, controlling, and judicial spheres, decisions shall not be made based on abstract legal values without considering the practical consequences of the decision. Article 26. To eliminate irregularity, legal uncertainty, or a contentious situation in the application of public law, including in the case of issuing a license, authorization, or permit, the administrative authority may enter into a compromise with the interested parties (Brazil, 2018).

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The explicit provision for the possibility of entering into administrative agreements.
This represents a significant step forward in legitimizing consensus, moving away from the idea of
incompatibility with the legal-administrative regime. As highlighted by Moreira (2019), in a
In the most recent approach, consensus should be understood as a legitimate instrument of
realization of the public interest, provided it is guided by criteria of transparency, motivation and
control.

Furthermore, authors such as Moreira Neto, in contemporary reinterpretations of his work, and
Binenbojm (2014) argue that contemporary Public Administration must abandon rigidity.
hierarchical structures are being replaced by more open models, in which negotiation and participation take on a more central role.
central role.

In a complementary way, Santos de Aragão (2020) points out that consensualism contributes to
to reduce litigation and increase regulatory efficiency, especially in contexts of
high technical complexity.

In the empirical field, recent studies reinforce this trend. Research developed by
Carvalho (2022), at the doctoral level, demonstrates that the adoption of consensual instruments in
Brazilian Public Administration has generated positive impacts in conflict resolution and in
Reducing administrative costs, consolidating consensus as a guideline for modernization.
state-owned.

Thus, the results obtained in this research confirm that the experience of
The TCE/RO (Court of Accounts of Rondônia) not only reflects this transformation, but also embodies it in the area of control.
externally, highlighting the transition from an authoritarian model to a cooperative management model.
public, in which consensus is presented as a legitimate instrument for achieving the interest.
public.

4.3 Self-composition in the Special Audit in Rondônia (TCE/RO) and the search for efficiency

The incorporation of self-composition mechanisms into the Special Audit process, within the scope of
from the Court of Auditors of the State of Rondônia, represents a significant step forward in the pursuit of greater
Efficiency and effectiveness in recovering public funds. Normative Instruction No. 68/2019/TCE-RO, to
to foresee instruments such as the Term of Responsibility for Reimbursement to the Public Treasury (TRRE),
It materializes the concrete application of consensus-based approaches in external control, shifting the focus from one...
A shift from purely punitive action to a more solution-oriented approach.

The normative basis for this transformation finds support in both national and national legislation.

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in specific regulations of the Court itself. Internally, the following stands out: "Article 1 The Taking
The purpose of the Special Accounts Court is to determine responsibility for any damage to public funds and
to promote the respective reimbursement" (TCE/RO, Normative Instruction No. 68/2019).

This guideline reinforces that the primary purpose of the Court of Auditors is not punishment itself, but...
restoration of damage caused to public property. This understanding is in full agreement.
with the understanding of Fernandes (2017), who criticizes the excessive formalism of the processes of
control, arguing that the disproportionate emphasis on sanctions compromises the effectiveness of
recovery of public funds.

The introduction of the TRRE and other consensual mechanisms demonstrates a rationalization.
procedural, which allows for faster and more economically advantageous solutions. In this sense, the
Self-composition acts as an instrument of administrative efficiency, by reducing processing time.
of the processes and increase the chances of effectively recovering the amounts owed.

This logic is also supported by Law No. 13.105/2015 (Code of Civil Procedure), which
It enshrined the importance of consensual methods in the Brazilian legal system.

> Article 3, § 3. Conciliation, mediation, and other methods of consensual conflict resolution should be encouraged by judges, lawyers, public defenders, and members of the Public Prosecutor's Office, including during the course of judicial proceedings (Brazil, 2015).

Although focused on the judicial process, the provision reveals a systemic guideline of
the emphasis on consensus, which extends to Administrative Law and, consequently,
for external control.

Contemporary authors reinforce this interpretation. According to Miragem (2021), the
Consensus in Public Law should be understood as an instrument of governance.
efficient, capable of aligning interests and producing solutions that are better suited to the complexity of
administrative relations.

Similarly, Heinen (2020) highlights that the use of negotiation mechanisms in
Public administration contributes to the reduction of institutional costs and to the increase of
Effectiveness of administrative decisions.

Within the Courts of Auditors, this transformation reveals a change in identity.
institutional. As Pascoal (2020) observes, external control is taking on a more institutional role.
decisive, aimed not only at suppressing irregularities, but also at promoting good practices.
governance and administrative regularization. The experience of the TCE/RO, especially with the
The subsequent institutionalization of the Technical Committees by Complementary Law No. 1,218/2024 confirms
this evolution.

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Thus, the self-composition process in the Special Audit, in the context of Rondônia, demonstrates... that efficiency and protection of public funds are not antagonistic objectives, but complementary ones. The adoption The ability of consensual mechanisms, when properly structured and controlled, enhances the capacity The state government aims to recover public funds more quickly, reaffirming the centrality of results. in contemporary administrative practice.

4.4 Practical application of self-composition in the TCE/RO and other Courts of Accounts: effectiveness, speed and risk management

The consolidation of consensus within the scope of external control is not limited to the forecast. normative; its concrete application can be identified in paradigmatic decisions and initiatives. recent institutional practices.

In the Federal Court of Accounts (TCU), for example, it was already recognized, since Ruling No. 2121/2017 Plenary, the viability of consensual solutions as a more efficient alternative to logic. purely punitive. On that occasion, when analyzing the Conduct Adjustment Agreement signed by The National Telecommunications Agency, in a case involving the company Telefônica Brasil SA, the Court understood that... The agreement would be more effective than applying fines, given the low effectiveness of its [legal measures]. revenue collection, and concluded that the public interest would be better served through a consensual solution. (Brazil, 2017).

This guideline has been further developed in more recent decisions, such as in the case involving the Reserve Energy Contracts (CER), in which the TCU approved a consensual solution aimed at Contractual readjustment in the face of an energy crisis. The results demonstrated gains. Significant results: approximately 60% reduction in fuel costs and about 19% in... total contract costs, plus estimated benefits of nearly R$ 580 million for the sector. (Brazil, 2023).

These data demonstrate that self-composition, when well-structured, can generate impacts. concrete and measurable economic benefits, reinforcing its legitimacy as an instrument for protecting the public interest.

At the state level, the Court of Auditors of the State of Rondônia presents experiences. relevant evidence confirming the practical applicability of the model. In recent monocratic decisions (DM 0125/2023-GCESS and DM 0132/2023-GCESS), the Court admitted and approved solutions consensual agreements in special accountability proceedings involving administrative contracts. recognizing self-composition as the most reasonable measure to ensure the effective solution of conflict and the restoration of public funds (Colares, Silva and Piana, 2024).

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In such cases, there was not only an attempt at conciliation, but also a show of flexibility.
procedural, with suspension of deadlines and readjustment of obligations, without waiving the duty to
Observance of the public interest and compliance with the agreed conditions.

This movement is also manifested in broader institutional initiatives, such as...
recent implementation, by the TCE/RO (Court of Accounts of Rondônia), of an innovative solution aimed at the consensual resolution of
conflicts, reinforcing the transition to a more efficient and results-oriented control model.
(TCE/RO, 2024).

Meanwhile, other Courts of Auditors, such as that of the State of Mato Grosso, have...
institutionalized instruments such as Management Adjustment Terms (TAG), Terms of
Adjustment of Conduct (TAC) and Technical Roundtables, recording the signing of effective agreements and
consolidating consensus as institutional policy (Novelli; Castilho, 2024).

Recent literature has sought to offer technical support for this evolution. The monograph
Winner of the 2024 TCU Award proposes the use of risk management as a structuring tool.
for decision-making in administrative agreements, based on the guidelines of ISO 31000 and in
application of the ABC method (Colares, Silva and Piana, 2024).

The model suggests a systematic risk analysis in seven steps, from identification to...
monitoring, allowing the decision for self-composition to be based on criteria.
The objectives of advantage, impact, and probability. This approach reinforces that consensus
This does not imply an undue relaxation of control, but rather its technical and rational improvement.

Furthermore, the adoption of consensual mechanisms finds normative support in
Brazilian legal system, especially in § 6 of article 5 of Law No. 7,347/1985, which authorizes
The signing of conduct adjustment agreements by public bodies. This basis
The legal framework legitimizes the actions of the Courts of Auditors in the signing of administrative agreements, since
observing the principles of legality, transparency and efficiency.

In this context, as Dantas (2023) points out, the Courts of Auditors have been expanding their
acting beyond the sanctioning function, assuming a more proactive and goal-oriented role.
Improving public governance. Practical analysis demonstrates that consensus-based approaches, combined with
technical instruments, such as risk management, and institutional monitoring mechanisms,
It allows not only greater speed in resolving conflicts, but also concrete gains in
economic, administrative and social terms.

The decisions analyzed demonstrate the consolidation, within the scope of the Court of Auditors of
State of Rondônia, of an action guided by consensus and collaborative solutions of
Controversies in external control. In the cases examined, the Court did not limit itself to formal verification.
of any potential irregularity, but it encouraged the signing and improvement of the Term of

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Responsibility for Reimbursement to the Public Treasury (TRRE), an instrument aimed at compensating for damages. in a swift, economical and effective manner, in accordance with Normative Instruction No. 68/2019-TCE-RO and with Atricon Recommendation No. 02/2022 (Court of Auditors of the State of Rondônia, 2023; Association of members of the Courts of Accounts of Brazil, 2022).

In the process related to Agreement No. 024/2012, which dealt with the execution of the lighting Regarding the sporting events at soccer fields in the rural area of Nova Brasilândia d'Oeste, the Court initially determined the return of the submitted document due to the lack of consent from one of the parties. responsible for the damage, a requirement considered essential to the validity of the settlement (Court of Accounts of the State of Rondônia, 2023). After correcting the inconsistency and submitting new With the participation of the designated responsible agent, the TRRE instrument was approved. acknowledging compliance with the minimum requirements set forth in Article 23 of the regulatory standard. (Court of Auditors of the State of Rondônia, 2023).

A similar situation occurred in the case of Pimenta Bueno, in which the TRRE (Term of Renewal of the Economic and Social Security Concessions) was signed between the municipality and the State Department of Roads and Transportation of Rondônia (DER-RO) was approved after verification of its formal and material regularity. In this case, the The remediation of the damage was structured through the direct execution of public works, consisting of... rehabilitation of rural roads, a solution considered compatible with the purpose of compensation. and with the public interest involved (Court of Auditors of the State of Rondônia, 2024). The decision It also reinforced that the instrument met the regulatory requirements regarding the indication of responsible, to the description of the conditions of default and to the conversion clause into a title. extrajudicial executive (Court of Auditors of the State of Rondônia, 2024).

From a legal and institutional standpoint, such decisions reveal the overcoming of a previous approach. exclusively punitive, in favor of a more dialogical and efficient model of external control. The approval of the TRRE does not represent a renunciation of control, but rather a reconfiguration of its control. This serves its purpose, as it preserves accountability, ensures the recovery of public funds, and reduces the risk. The need for judicialization of administrative disputes (Colares, Silva and Piana, 2024). Furthermore, by providing for the conversion of the term into an extrajudicial enforceable instrument in case of default, the decisions reinforce the legal certainty of the agreement and its practical effectiveness (Court of Auditors of State of Rondônia, 2023; Court of Auditors of the State of Rondônia, 2024).

In summary, the rulings highlight the relevance of consensual instruments in the context of... Courts of accounts, especially when focused on the swift redress of damages and the rationalization of... oversight activity and maximizing the public utility of control actions. This refers to orientation consistent with the evolution of contemporary administrative law, marked by efficiency, through institutional cooperation and the pursuit of structural solutions to irregularities

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administrative (Association of Members of the Courts of Accounts of Brazil, 2022).

It is worth noting that the study by the Association of Members of the Courts of Accounts of Brazil (2022) highlights that the adoption of objective criteria in the conclusion of agreements contributes to increasing legal certainty and transparency in decisions, reducing discretion and strengthening the institutional legitimacy of the courts of accounts. This perspective engages with the understanding of authors such as Pascoal (2020), who advocates the evolution of external control towards a more decisive, and Sundfeld (2017), who argues that contemporary Public Administration should to prioritize effective solutions that deliver concrete results.

Thus, the experience of the TCE/RO, combined with the jurisprudential evolution of the TCU and With recent doctrinal and methodological advances, it is evident that self-composition is becoming consolidated. as a legitimate and effective instrument for modernizing external control, provided that it is accompanied mechanisms that ensure its implementation, oversight, and institutional credibility.

FINAL CONSIDERATIONS

The issues developed throughout this study allowed us to understand that the Consensualism and self-composition, when included within the scope of the Special Audit, They represent not only a procedural innovation, but also a true change of Paradigm in External Control Law: An analysis of Normative Instruction No. 68/2019 of the Court. The Court of Accounts of the State of Rondônia highlighted that the introduction of consensual mechanisms, such as the The Term of Responsibility for Reimbursement to the Public Treasury (TRRE) contributes significantly to the building a more efficient, faster, and results-oriented control model.

In this context, it was found that the traditional model, based on a strictly logical approach, sanctioning and in the rigid interpretation of the principle of the unavailability of public interest, shows- although, in many situations, insufficient to ensure the effective replenishment of public funds.

Based on the theoretical analysis and the empirical data presented, it was found that rigidity Dogmatic approaches, by prohibiting consensual solutions, can compromise administrative efficiency and prolong processes. litigation, diverting the Public Administration from its primary objective: the effective satisfaction of public interest.

On the other hand, the rise of administrative consensus, supported by relevant milestones normative frameworks and the evolution of contemporary doctrine demonstrate that it is possible to reconcile the unavailability of public interest with negotiated solutions, provided they are based on criteria of Advantages, transparency, and control. The practical experience observed within the Court of Accounts of the State of Rondônia, as well as in paradigmatic decisions of the Court of Auditors of

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Union reinforces the idea that self-composition can generate more efficient results, including with Measurable economic gains, greater procedural efficiency, and strengthened legal certainty.

Furthermore, it was found that the institutionalization of consensual practices, coupled with the use of Technical instruments, such as risk management, lend greater rationality and legitimacy to... administrative decisions. This scenario demonstrates that consensus does not imply a weakening of not just external control, but its improvement, allowing for a more strategic, preventative approach. and decisive.

Despite the progress identified, it is essential to recognize that the adoption of Consensual mechanisms require caution and the establishment of clear limits in order to avoid... trivializing agreements and ensuring that there is no violation of the duty of accountability. A The effectiveness of the model depends on the existence of objective criteria and adequate motivation for the... decisions and the implementation of effective mechanisms for monitoring and enforcing agreements signed.

Therefore, it can be concluded that Normative Instruction No. 68/2019/TCE-RO represents a an important instrument for modernizing external control, by enabling the incorporation of consensus-based approach to the Special Audit.

The research confirmed the hypothesis that self-composition promotes the reconfiguration of principle of the unavailability of public interest, attributing to it a more dynamic character and compatible with the demands of contemporary Public Administration. Finally, it should be noted that the Strengthening this model depends on continuous regulatory evolution and maturation. institutional framework of the Courts of Auditors and the deepening of academic debate, in order to consolidate Consensualism as a legitimate and effective tool in protecting the public interest.

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