



## CONFLICT MEDIATION IN BUSINESS MANAGEMENT

### ORIGINAL ARTICLE

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### ABSTRACT

Human coexistence is marked by conflicts, of the most diverse types, since the dawn of humanity. In the business environment it is no different, because there are also conflicts. At the organizational level, managers, in addition to the challenges of leading and leading teams, directing them to obtain positive results, have to face the controversies that arise in labor relations, both internally and externally, being necessary, in most cases, to resort to judicialization of disputes. Therefore, conflict mediation presents itself as a consensual mechanism in the resolution of disputes that arise in corporate entities. For this reason, this article brought up the issue of great scope, for which it elaborated as a guiding question as the basis of this research: how to introduce the institute of mediation in the business context to

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resolve the conflicts that arise there, promoting social pacification without the need to of judicialization of part of the disputes? To answer this question, the purpose of this article is to demonstrate how to use an alternative dispute resolution mechanism other than state jurisdiction and build a more peaceful environment. In this way, encouraging the birth of a new culture no longer focused on litigation, but on dialogue and consensuality in corporatist relations. For the development of this study, bibliographic research was adopted as a methodology, including articles, doctrines, internet sites, in short, reflections from other authors with several publications on the topic addressed, but all with different views, but with similar objectives. Finally, it was concluded by briefly demonstrating the importance and advantages of mediation in the business environment, as well as its main and relevant aspects involving mediation and conflict within the business, as well as in society in general.

Keywords: Mediation, Conflicts, Management, Business.

## **1. INTRODUCTION**

Contemporaneity shows that society is guided by the ideals of competitiveness and individualism, triggering, in this way, processes of belligerence between members of the same group, whether family, business, any social entity, from associations, societies, political institutions, among many others (SPENGLER, 2016). Corollary to this, the number of litigations and lawsuits tends to grow, which requires the realization and implementation of a policy aimed at reducing the disagreements that arise not only among these groups, but in society in general, after all, conflicts are consubstantial to life in society, today it must be taken into account that interpersonal relationships are antagonistic and at the same time complementary, the world is increasingly globalized and interconnected, so conflicts become, most of the time, more complex than before (SPENGLER, 2016).

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Based on this assumption, the present article has as a premise, to inform the reader about the use of mediation and regarding its usefulness in matters involving conflict resolution in the business environment. As an objective, we intend to demonstrate the advantages of its use in companies, making brief considerations concerning the application of this institute as an alternative way of resolving disputes based in the context of business relations. The topic is of paramount importance today, especially because the Judiciary is unable to respond to society's demands quickly, due to the great explosion of processes that overload the aforementioned power.

In Brazil, the judicial process is traditionally the chosen way to resolve conflicts that encompass Brazilian society. There is, therefore, a culture of the sentence which determines that a conflict can only be resolved effectively from a sentence handed down by the competent body of the Judiciary (SILLMANN; NOGUEIRA 2019). It is a cultural issue for the Brazilian people to resort to judicial protection for the resolution of their conflicts, this is public and notorious. In this path, the mediation institute promises to fulfill a useful and necessary role in the business area. Therefore, a guiding question was raised: how to introduce the institute of mediation in the business context to resolve the conflicts that arise there, promoting social pacification without the need for judicialization of part of the disputes? Such questioning will be analyzed through the items that will compose its development.

In this way, the objective of this article is to demonstrate how to use an alternative dispute resolution mechanism different from state jurisdiction and build a more peaceful environment. In this way, encouraging the birth of a new culture no longer focused on litigation, but on dialogue and consensuality in corporatist relations.

The relevance of the present research will be verified once inserted in a globalized and capitalist society, the preservation and good progress of the companies is of

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paramount importance to the economic scenario. In conclusion, mediation is presented, bringing security and stabilization to companies, contributing to the construction, development and strengthening of business, through the use of its techniques.

Having said that and thinking about a way to resolve the constant disputes within the business environment, mediation was sought as an alternative method of dispute resolution, given that this form of conflict resolution has, among others, social pacification as its main objective, hence the reason for the justification of this small study in the business scope. In addition to this aspect, the bibliographic research method was used, during which an analysis was made based on reading doctrines, periodicals, scientific articles, websites and news published in the media in order to verify the relative positions to the theme, deepening the studies and providing the basis for the work.

## **2. CONFLICT**

Morais; Spengler (2012) define the word conflict as being:

Uma tarefa árdua, composta de diversas variantes: um conflito pode ser social, político, psicanalítico, familiar, interno, externo, entre pessoas ou entre nações, pode ser um conflito étnico, religioso ou ainda um conflito de valores. A noção de conflito não é unânime. Nascido do antigo latim, a palavra conflito tem raiz etimológica a ideia de choque, ou a ação de chocar, de contrapor ideias, palavras, ideologias, valores ou armas. Por isso, para que haja conflito é preciso, em primeiro lugar, que as forças confrontantes sejam dinâmicas, contendo em si próprias o sentido da ação, reagindo umas sobre as outras.

In the same vein, Vasconcelos (2018) says that conflict is not something that should be viewed negatively. A fully consensual interpersonal relationship is impossible. Each person is endowed with a unique originality, with very personal existential experiences and circumstances. No matter how much affinity and

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affection there is in a given interpersonal relationship, some dissension, some conflict will be present.

Thus, it is inferred that conflict is present in all sectors of society in which there are people, as it is something inherent to the human being.

## **2.1 CONFLICTS IN BUSINESS RELATIONS**

Intra-organizational conflicts are those conflicting situations within the company, such as human resources, shareholders, shareholder and company issues, partner issues, situations between administrators and employees, all of which are perfectly covered by intra-company mediation, having an important mechanism for resolution of business conflicts (SCHMITT; LOPES 2017).

In the midst of conflicts in the business environment, arising from the commercial relationships in which the organization is inserted, dialogue and mediation are necessary for it to continue to exercise its social and productive purpose, in addition, of course, to support the restoration and operational reorganization. In this context, the legal culture permeates among the authors of conflicts, so mediation emerges as a self-compositional method, which aims to build the best result (AGUIAR, 2020).

Burbridge (2012) points out:

Uma organização operará sem conflito se for composta por um indivíduo que tome todas as decisões e implemente sozinho. Mas, nesse caso, não haverá organização nenhuma. Uma organização composta por “pesos mortos” também pode operar sem conflito, pois ninguém se queixa, mas também se preocupa. Os conflitos são uma parte normal do dia a dia da organização, e o gestor pode usá-los de forma legítima para a provocar mudanças que sejam necessárias, no entanto, nunca deveriam ocorrer em consequência de falta de diálogo ou de conhecimento de meios alternativos para sua resolução. (BURBRIDGE, 2012).

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In the same line of thought, Burbridge (2012), continues the author pointing out that a company is not a democratic organization. Its objective is to seek the best result, which is usually a combination of profit in the balance and growth, aiming at future profit.

Internally, conflicts can occur between employees, between departments, management and employees. Externally, as mentioned elsewhere, with suppliers, consumers or with the competition itself, which can lead to the practice of mediation.

On this subject, Oliveira (2021) points out the following:

No meio empresarial, os embates podem se dar em diferentes dimensões, tanto internas quanto externas. Sob o primeiro aspecto, estão os fatos relacionados a processos da rotina, envolvendo o relacionamento entre sócios, gestores e funcionários motivados por aspectos que passam pela limitação de recursos financeiros e humanos ou situações operacionais conflitantes. Em meio à gama de situações em um campo tão dinâmico a empresa conquistou autonomia que vai além dos aspectos negociais, passando também, já no âmbito externo, pela conservação e manutenção dos relacionamentos decorrentes de acordos realizados com terceiros, como fornecedores e clientes. Muito além do potencial prejuízo financeiro resultante de uma indenização diante de uma condenação, há também consequências para a imagem da organização no mercado altamente competitivo e volátil que também pode causar danos graves ao caixa. Soma-se a isso o desgaste humano na busca da solução mais adequada, ainda mais se é preciso aguardar uma decisão do Judiciário. Por ser um processo colaborativo com chances de proporcionar soluções eficazes e com celeridade ainda mais diante de tribunais assoberbados, a Mediação configura-se como um meio com grandes chances de utilização (OLIVEIRA, 2021).

In addition, in business conflicts, mediation can be very useful, as it guarantees the achievement of solutions that are possible to execute and, at the same time, fast. Another interesting facility for business conflicts is the effectiveness of orality, which facilitates the maintenance of business relationships, since it allows the

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elaboration of an adequate solution to both parties created by them, without the wear resulting from the judicialization of conflicts or the imposition of the solution by a third party, that is, the judge (TEIXEIRA, 2020).

In this context, it is important to highlight Leite; Pereira's (2017) punctuation on the understanding of conflict within companies:

Numa organização empresarial, o entendimento do conflito abarca uma série de fatores que podem ser internos e externos, como por exemplo, a globalização que exige a compreensão de fenômenos mundiais; a própria empresa (fator externo); o rito acelerado de decisões; aumento da comunicação eletrônica o que reduz o contato direto entre as pessoas; a respeito à estrutura organizacional, que pode ser hierarquizada ou até mais igualitária; a separação de poderes e contribuições entre as diferentes áreas, que pode levar a conflitos de decisão (fatores internos). (LEITE; PEREIRA, 2017).

It can be seen, therefore, that the complexities of interrelationships essentially arise from the time factor and the coexistence between individuals. In the business environment, as mentioned elsewhere, conflicts can arise between two managers, between partners, between two partner companies, between two departments of the same company (inter-departmental) or between the company and its customers (inter-relational), in addition to conflicts between employees and consumers. In this way, mediation appears as an alternative method of conflict resolution, whose main objective is to establish a continued relationship, in addition to providing the parties themselves to reach an agreement for the solution of the problem established in the business context with the purpose of achieving social pacification of the deal brought to them.

### **3. GENERAL ASPECTS OF MEDIATION**

Luchiari (2012), precisely, conceptualizes mediation as an activity carried out by a third person, who, chosen or accepted by the interested parties, listens and guides

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them in order to allow them, in a consensual way, to prevent or resolve conflicts. It allows getting to the source of the conflict, through specific techniques.

The institute of mediation is regulated in Law 13.140 of 2015 and in the Brazilian Code of Civil Procedure (CPC), also of 2015, precisely in article 3, § 3, which provides that: "conciliation, mediation and other methods of consensual conflict resolution should be encouraged by judges, lawyers, public defenders and members of the Public Ministry, including in the course of the judicial process" (BRASIL, 2015). It is included in the aforementioned article that all professionals who are somehow involved with the promotion of justice. However, even before the entry into force of the aforementioned legislation, it is worth mentioning that in 2010, Resolution n°. 125/2010 by the Brazilian National Council of Justice - CNJ (2010), which instituted the National Judicial Policy for the Adequate Treatment of Conflicts of Interest, disciplining mediation and conciliation as alternative forms of conflict resolution.

This same Resolution highlights the need to seek the consolidation of a permanent public policy to determine the creation of Permanent Nuclei of Consensual Methods of Conflict Resolution. However, in 2020, Resolution 125/2010 was amended by Resolution 326/2020, also published by the CNJ, and among its amendments, article 6, item X, creating the Digital Mediation and Conciliation System, is technology revolutionizing the ways conflict resolution alternatives. See the provisions of the aforementioned article Art. 6th, X:

X – Criar Sistema de Mediação e Conciliação Digital ou a distância para atuação pré-processual de conflitos e, havendo adesão formal de cada Tribunal de Justiça ou Tribunal Regional Federal, para atuação em demandas em curso, nos termos do art. 334, § 7º, do Código de Processo Civil e do art. 46 da Lei nº 13.140, de 26 de junho de 2015 (lei de Mediação) (CONSELHO NACIONAL DE JUSTIÇA, 2020).

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In view of the above, it is inferred from this excerpt that the objective is precisely to promote the adequacy and continuation of mediation services, as well as conciliation with digital media, facilitating the work of the demands already in progress. It is shown, therefore, that mediation is already a reality and can very well be used in the corporate sphere to resolve disputes that arise there.

Therefore, there is currently a priority in the 2015 CPC to encourage consensual means of conflict resolution, so companies that adopt the valorization of these consensual methods of conflict resolution will win because in addition to promoting dialogue in the business environment, they will also pacify people litigious relationships that arise during the existence of the organization (BRASIL, 2015).

The mediation institute has a fundamental role in several branches of law, in the business sphere it constitutes an important instrument of conflict management that is not restricted to disputes between partners, but also in internal conflicts of the business organization and in disputes with customers and suppliers (SCHMITT; LOPES 2017).

When discussing this alternative method of conflict resolution, Silva (2019) teaches:

A mediação empresarial pode ser aplicada na solução de conflitos tanto dentro e quanto fora da empresa. Dentro da empresa, a mediação é utilizada a fim de apelar os conflitos entre os sócios, entre funcionários ou entre departamentos. É a comunicação, promovida pelo mediador, que irá fortalecer as interações pessoais, os comportamentos cooperativos, envolvendo todos os atores internos na busca dos objetivos organizacionais. Fora da empresa, a mediação é utilizada para lidar com conflitos envolvendo a empresa e seus clientes, ou entre ela e outras empresas com as quais mantenha relações comerciais.

Yres (2016) maintains that:

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A mediação parte de um princípio que busca devolver aos envolvidos o poder de gestão, resolução ou transformação do conflito, no sentido de que são elas as mais capacitadas e interessadas para resolver suas questões. Cada pessoa sabe o que é melhor para si, porém enfrentam dificuldades no momento em administrar de modo pacífico por força da confusão que o conflito proporciona. A mediação propicia um diálogo verdadeiro entre as partes, cada qual confiando suas razões aos mediadores, com maior autenticidade e abertura para negociação de propostas e contrapropostas. Trata-se de um método consensual de resolução de conflito, que visa, por meio de técnicas específicas usadas pelo mediador, uma mudança comportamental que ajude os interessados a perceber, entender e reagir ao problema de maneira efetiva. Busca-se com a mediação a abordagem adequada com o fito de alterar a percepção sobre o conflito e conseguir alcançar o comum acordo.

Mediation deals with people who have their own view of the object of the dispute. Thus, entrepreneurs, when defending their positions, expose aspects that arise in the conflict they are facing, creating a personal, partial, limiting and without limitations in any way. It is extremely important to delimit all subjective issues, not in the sense of separating them from the negotiation to facilitate the agreement, but rather to encourage the identification of the conflict between the parties, offering a new way to resolve this disagreement (LOPES, 2016)

Any legal transaction that does not involve criminal sanctions and that does not violate morals and good customs will be the object of mediation. The field of application can cover commercial, business, civil, family, labor and international disputes. It comprises a very large area of application, which makes it extremely versatile. It is often used in conflicts with individuals only, however, with its success, it became more popular in the business and then labor areas, being established in the North American judicial system (MINGHINI; LIGERO, 2010).

Finally, mediation is a conflict resolution mechanism, in which an impartial third party with adequate training facilitates communication between the parties, without proposing or suggesting on the merits, enabling participatory, effective and

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peaceful dialogue, allowing the construction of a satisfactory solution by the parties themselves. This method of conflict resolution makes it possible, through its own techniques, used by the mediator, to identify the real conflict experienced, its possible solutions. In this way, it can be said that among the alternative forms of conflict resolution, mediation can be considered the most endowed with humanity and rationality, given that it is based on dialogue between those involved and on various principles such as good faith (SALES; CHAVES, 2014).

#### **4. BUSINESS MEDIATION**

The mediation institute has a fundamental role in several branches of law, in the business sphere it constitutes an important instrument of conflict management that is not restricted to disputes between partners, but also in internal conflicts of the business organization and in disputes with customers and Providers. Mediation deals with people who have their own view of the object of the dispute. Thus, entrepreneurs, when defending their positions, expose aspects that arise in the conflict they are facing, creating a personal, partial, limiting and without limitations in any way (LOPES, COITINHO 2016).

The diffusion of mediation in the business environment necessarily involves the perception of the entrepreneur or administrator that the conflict can cause incalculable losses and that the use of mediation tends to make the company more productive. (LEITE; PEREIRA, 2017).

For these authors, the great advantage of mediation in the business environment is that it (mediation) can develop a strategy to make the company more efficient and competitive in the market, in addition to improving personal motivation and increasing the productivity of work teams, improving quality communication with internal and external interlocutors and the relationship with customers, suppliers, employees and the media. Making people committed to the organization's results,

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based on the development of a sense of belonging and creating sustainable values for the company, management and shareholders or partners. Business mediation can be used as a tool in the coordination of productive dialogues, helping to discriminate the affective relationship from the business relationship (LEITE; PEREIRA, 2017).

Business mediation, in the face of the competitive scenario faced by companies, proves to be a satisfactory option to the length and wear resulting from lawsuits, which almost always put business objectives, such as profit, at risk. Often, conflict in the business environment is caused by issues that could be resolved with mere conversation. Hence, the benefit of business mediation, which brings the parties together, promoting dialogue, making them themselves seek solutions to their dilemmas (SILVA, 2019).

Because it is considered a faster method than the judicial process, has a great possibility of success and is added to the CPC as an alternative for resolving the dispute, mediation has been increasingly studied and applied in all scenarios of legal relations, thus, has also been used in the business scenario (MIGUEL, 2019).

Brandão (2019) ads:

A mediação empresarial extrajudicial é considerada ferramenta útil na abreviação e eficácia para o fim da contenda, pois suas técnicas apresentam maneiras cooperativas que, usando de um processo de diálogo, pode conduzir a solução da desavença de forma que todos fiquem satisfeitos, o que contribui para que o cumprimento do acordado se transforme numa decorrência evidente. As organizações empresariais necessitam de propostas rápidas e eficazes em seus cenários, em especial no que tange aos seus problemas e conflitos. A empresa não comporta ficar à mercê do tradicional binômio decisão/não decisão, esperando por meses ou anos sentença judicial sobre seu caso, uma vez que impacta diretamente em seus lucros. Diante de uma realidade empresarial que demanda uma gestão e resolução de seus conflitos de forma mais harmoniosa e dentro de um tempo razoável, a mediação empresarial extrajudicial se apresenta num

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modelo flexível à disposição dos empresários para a aplicação em seus mais variados conflitos (BRANDÃO, 2019).

Business mediation has the objective and purpose of allowing the fight against delays, difficulty in accessing justice, enabling society to be aware of the benefits of extrajudicial composition, which will favor both the Judiciary, with the reduction of costs per process, and the individual, which will have a more consensual, swift, effective service provision and enabling harmony between the parties (LOPES, 2016).

Mediation in the business sphere has advanced a lot in recent years in Brazil, from the resolution 125/2010 of the CNPJ, CPC (Law nº 13.105/2015) and the Mediation Law (Law nº 13,140/2015), all recent in the Brazilian scenario (BRASIL, 2015). Proof of the interest in mediation in Business Law are the various agreements signed between state bodies and organizations, such as the CNJ and Fiesp and the Court of Justice of Rio de Janeiro and concessionaires, whether carrying out joint efforts or judicial mediations (GONÇALVES, 2019).

Mediation is a voluntary self-composition process, where the parties work together and in a cooperative way, to find for themselves the solution, which best meets their interests in the conflict, favoring the Principle of empowerment in both, and enabling them to act in a way that can in the future solve their problems without having to resort to the help of third parties. It is considered a process, as it follows acts performed with rules and principles, which emphasizes the voluntariness of the parties, cannot be done under duress, and can be carried out both in the judicial and in the private sphere by centers or chambers (extrajudicial) (LOURENÇO; SILVA, 2018).

Unlike legal proceedings, which require greater formality in their conduct, business mediation is based on the objectivity of structured dialogue as a working mechanism. In this method, conversation allows each of those involved to put his

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or her point of view, understand the other's point of view, and carefully consider all existing alternatives. As the mediator is monitoring the process all the time, he is able to manage the dialogue, so that the conversation is constructive.

Mediation as a means of adequate conflict resolution can add value, as it seeks the company's commitment to development, as well as a profit-generating institution, which equally values the quality of human relationships that both support work and support the existence and maintenance of the business organization. The mediation institute can be used as a tool in the coordination of productive dialogues, helping to discriminate the affective relationship from the business relationship. In addition to seeking to stimulate the reunion and appreciation of bonds, bringing mutual respect, aided by an impartial third party (LEITE; PEREIRA 2017).

In Germany, mediation is increasingly used to resolve disputes at the corporate level. Mediation, in these cases, can help to preserve, or even strengthen, the relations between the parties to the dispute, which normally does not happen when judicial disputes occur (XAVIER, 2014).

To finish this topic, it is interesting to bring a reflection on business mediation, found on the website Advocacia (2021), but the author is unknown, the title is, *mediação empresarial: entenda o que é e qual a sua importância*. This reflection suggests that:

A mediação empresarial é importante para proporcionar um ambiente de trabalho mais agradável e harmonioso para todos os envolvidos. A satisfação aumenta a produtividade e a motivação dos colaboradores. Assim, mediar conflitos é uma medida que impacta, ainda que indiretamente, nos resultados da empresa. Além disso, se considerarmos processos judiciais, a solução chega de maneira mais rápida e efetiva. Na mediação não existe uma parte que “sai perdendo”. Todos ganham com a proposta de uma nova realidade, mais humana e empática. É o melhor caminho para a solução dos conflitos.

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In this way, alternative methods of conflict resolution come to add to the Judiciary in order to resolve conflicts, without taking from the Judiciary its main essence, which is to say the right to the concrete case.

## **5. THE ADVANTAGES OF USING MEDIATION IN BUSINESS RELATIONS**

The institute of mediation has several advantages as a method of conflict resolution in relational and personal practical terms, reducing the costs inherent to conflict resolution, reducing the average time in conflict resolution, allowing the conflict to be resolved as it is dealt with in depth and according to the criteria valued by the parties and not according to the criteria established externally, it reduces emotional distress as it enables communication between the parties, with the possibility of maintaining the commercial and business relationship (LOPES; COUTINHO, 2016).

Petersen (2020) cites five advantages in adopting business mediation to resolve conflicts, which are:

1. Mediação empresarial é mais ágil e barata;
2. Tem amplo escopo de atuação;
3. Promove a resolução no início do conflito;
4. Preserva as relações corporativas;
5. A mediação empresarial desonera o Judiciário.

Bortolli (2016) highlights the advantages obtained with the use of mediation to resolve disputes:

O sigilo é uma das mais importantes vantagens, o mediador deverá atuar sempre com muita cautela, não permitindo a nenhuma parte perceber o que foi colhido da outra, mantendo em segredo todos os fatos discutidos durante as sessões de mediação. A importância do sigilo destina-se a garantir segurança e confiabilidade. Uma segunda vantagem é o tempo, a mediação funciona semelhante a uma terapia, o número de sessões não é





pré-determinado, varia de acordo com as necessidades do caso, porém será preciso tentar estabelecer um equilíbrio na quantidade, muitas podem tornar o procedimento cansativo e poucas poderão acarretar em uma decisão precipitada, a decisão deve ser madura e representar expressamente à vontade das partes. Busca especificamente evitar o longo desgaste de um processo judicial. Outra vantagem é a especialidade, resolução do fato com o auxílio de profissionais dotados de conhecimento específico sobre a lide apresentada. A informalidade está presente, não estamos diante de normas extremamente rígidas, mas sim flexíveis, direcionadas a obter agilidade. Na mediação é possível os participantes controlarem os procedimentos do início ao fim, uma vez que a decisão de começar ou terminar a mediação está unicamente ligada à vontade dos envolvidos. (BORTOLLI, 2016)

In the same line of thought, Silva (2020, p. 52) brings as advantages of mediation: a) access to justice; b) relief from the Judiciary; c) speed and cost reduction; d) overcoming the win-lose logic; e) autonomy, empowerment and appreciation of the parties; facilitation of dialogue and restoration of communication.

Still on the advantages of mediation and in the same direction of reasoning, Bernardes (2018) accurately lists the following advantages of business mediation:

1 – O procedimento de mediação não contém recursos. Logo, o acordo produzido não está sujeito a via recursal e, conseqüentemente, tornasse imediatamente exequível, sendo que ainda remanesce para as partes a possibilidade do uso da arbitragem ou mesmo do processo judicial. 2 – Nem sempre a mediação resolve o conflito, mas restabelece o diálogo e permite a identificação dos pontos controvertidos. 3 – Por se tratar de um procedimento voluntário, não adversarial e com intensa cooperação das partes, as chances de preservação dos relacionamentos comerciais são consideravelmente aumentadas. 4 – Na mediação, cria-se ambiente para que as próprias partes retomem a gestão dos seus conflitos e, por meio de um processo construtivo cooperado, decidam por uma solução. Não há espaço para resultados inesperados, para decisões surpresas que não impliquem em resultados mútuos (artigo 165, §3º do CPC). 5 – A confidencialidade é princípio informador da mediação (CPC/2015, art. 166, §1º e Lei 13.140/2015, arts. 2º, VII; 14; 30 caput e §1º), característica que, numa relação empresarial pode ser muito significativa, vez que pode evitar, por exemplo, a exposição social de uma situação de crise e influenciar negativamente nas relações



comerciais da empresa, além de minimizar riscos à imagem. 6 – O processo cooperativo da mediação, com enfoque nas reais situações problemas, permite aos envolvidos criar soluções diversas, mais adequadas à situação problema e identificar com maior plausibilidade os riscos envolvidos. 7 – Os exemplos de sucesso da mediação internacional, que em muitos países tem sido a principal via eleita para solução de – A mediação permite a solução célere de disputas e, conseqüentemente, reduz os custos diretos e indiretos no processo de resolução de conflitos (BERNARDES, 2018).

In general terms, business mediation presents opportunities for institutions that make use of it to internally manage and prevent their conflicts. By adhering to alternative means of conflict resolution, such as business mediation, companies can avoid major losses, given that the use of this consensual method of conflict helps guide the business organization to more productive ways.

## 6. CONCLUSION

That said, it is worth returning here at the end of this research to the guiding question that permeated this article: how to introduce the institute of mediation in the business context to resolve the conflicts that arise there, promoting social pacification without the need for judicialization of part of the disputes? It appears, therefore, that the article now exposed, aimed to analyze and demonstrate the possibility of implementing the institute of mediation in the corporate environment in order to provide the reader with a new vision of conflict treatment in the context of business relations, highlighting the main advantages of mediation: a) access to justice; b) relief from the Judiciary; c) speed and cost reduction; d) overcoming the win-lose logic; e) autonomy, empowerment and appreciation of the parties; facilitation of dialogue and restoration of communication (SILVA, 2020, p. 52).

In addition to the advantages mentioned elsewhere, Bernardes (2018) brings other considerations on the subject: 1 – The mediation procedure does not contain resources. Therefore, the agreement produced is not subject to appeal and,

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consequently, becomes immediately enforceable, and the parties still have the possibility of using arbitration or even the judicial process. 2 – Mediation does not always resolve the conflict, but it re-establishes dialogue and allows the identification of controversial points. 3 – As it is a voluntary, non-adversarial procedure and with intense cooperation of the parties, the chances of preserving commercial relationships are considerably increased. 4 – In mediation, an environment is created for the parties themselves to resume the management of their conflicts and, through a cooperative constructive process, decide on a solution. There is no room for unexpected results, for surprise decisions that do not imply mutual results (article 165, §3 of the CPC).

The same author follows by saying that: 5 - Confidentiality is the informing principle of mediation (CPC/2015, art. 166, §1 and Law 13.140/2015, arts. 2, VII; 14; 30 caputs and §1), a characteristic that, in a business relationship can be very significant, as it can avoid, for example, the social exposure of a crisis situation and negatively influence the company's commercial relations, in addition to minimizing risks to the image. 6 – The cooperative process of mediation, focusing on real problem situations, allows those involved to create different solutions, more appropriate to the problem situation and to identify the risks involved with greater plausibility. 7 – The successful examples of international mediation, which in many countries has been the main way to resolve disputes – Mediation allows for the quick resolution of disputes.

It was seen that this consensual method of conflicts, if applied in the corporate environment, can help to avoid the controversy insofar as it is dealt with in depth and according to the criteria valued by the parties and not according to the criteria established externally, reduces emotional exhaustion, as it enables communication between the parties, with the possibility of maintaining the commercial and business relationship.

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It was shown that the alternative methods of conflict resolution, in the present case, mediation, does not come to discredit state justice, but walk alongside the Judiciary to contribute together in the agility of the provision of judicial protection, since the Judiciary is overloaded with processes.

In this way, it can be deduced that mediation within the organization can provide diversification in order to make the parties aware of the importance of dialogue for the resolution of conflicts and the maintenance of the existing relationship between them.

Thus, mediation is a method of such relevance that can contribute a lot to resolve existing conflicts in business relationships, whether private or public. Therefore, when corporations begin to use measurement as a form of conflict resolution, there is no doubt that the benefits are much more advantageous than the option for judicial proceedings, since mediation resolves the conflict in essence and it pacifies the existing relations while the Judiciary resolves the dispute, but, in most cases, not the conflict itself. In addition, it was succinctly demonstrated that mediation is an agile and effective instrument for exercising rights, constituting a responsible and efficient citizenship practice.

In view of the above, it can be concluded that mediation is a consensual and non-adversarial alternative method in which an impartial third party, that is, the mediator, without decision-making power, but with the fundamental and impartial mission of facilitating the parties to build together an agreement in order to resolve the dispute brought by them. As a rule, it is used in conflicts that deal with ongoing relationships, such as family issues, available property rights, alimony, custody, divorce, Corporate Law, in short, it fits in practically all branches of law, since the main purpose is the search for social peace.

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