



Analysis of the performance of the Judicial Centers for Conflict Resolution in the light of the 2030 Agenda

Júlia Garcia da Silva Duarte

Mestre em Planejamento e Análise de Políticas Públicas, UNESP, Brasil.
julia-garcia.silva@unesp.br

Marco Aurélio Gumieri Valério

Professor Doutor, USP, Brasil.
marcoareliogv@usp.br

João Paulo Pereira Duarte

Doutorando em Ciências Ambientais, UFSCar, Brasil.
joaopaulopereiraduarte@estudante.ufscar.br

SUMMARY

The National Judicial Policy for the Adequate Treatment of Conflicts of Interest (PJNTACI), developed by the National Council of Justice (CNJ), aims to disseminate the use of alternative methods of conciliation, mediation and conflict resolution, in order to make effective qualified access to justice, through the propagation of the culture of social pacification, which in turn, it is aligned with the basic principles set out by the Sustainable Development Goals (SDGs) pointed out by the UN. In this context, this paper seeks to analyze the alignment between the performance of the Judicial Centers for Conflict Resolution and Citizenship (Cejuscs) with SDG 16 which deals with "Peace, Justice and Effective Institutions" and SDG 10 which deals with "Reduction of inequalities". For this analysis, bibliographic research was carried out, with consultation of books, scientific articles, dissertations, theses and legislation. Based on the results pointed out by the analyses carried out, it is concluded that the Judicial Centers for Conflict Resolution act in accordance with the SDGs of the UN 2030 Agenda, since it provides for the resolution of legal issues between the interested parties, in a less conflictual way, in addition to exercising, free of charge, the technical services necessary for the processes of the assisted parties in question.

KEYWORDS: Cejusc. Sustainable Development Goals. Access to justice. Public Policies.

1 INTRODUCTION

The National Judicial Policy for the Adequate Treatment of Conflicts of Interest (hereinafter PJNTACI), developed by the National Council of Justice (CNJ), aims to disseminate the use of alternative methods of conciliation, mediation, and resolution of disputes, to make effective qualified access to justice, through the propagation of the culture of social pacification.

Working in this direction, the Judicial Centers for Conflict Resolution and Citizenship (Cejuscs) act as mechanisms for the operation of this public policy. Since 2020, with the advent of the Covid-19 pandemic, the pandemic scenario has impacted the social sector, especially with collective distancing measures.

In view of this scenario, it is essential that the work of the Cejuscs has solid foundations aimed at protecting people, seeking peace and justice during established conflicts. Thus, basing this research on two of the main Sustainable Development Goals, pointed out by the 2023 Agenda, signed by the UN, we sought to analyze the alignment in the performance of the Cejuscs with SDG 16 which deals with "Peace, Justice and Effective Institutions", and with SDG 10 which deals with the "Reduction of inequalities". For this, bibliographic research was carried out, with consultation of books, scientific articles, dissertations, theses, and legislation.

2 RESULTS AND DISCUSSIONS**2.1 Creation and implementation of the National Judicial Policy for Adequate Treatment****Conflicts of Interest**

Resolution No. 125 of the CNJ, of November 29, 2010, institutes the so-called National Judicial Policy for the Adequate Treatment of Conflicts of Interest (PJNTACI), within the scope of the Judiciary, to ensure that everyone has the right to resolve conflicts by means appropriate to the nature and peculiarity of each case (CNJ, 2010).

As Watanabe (2011) explains, based on the crisis of the Judiciary, conflicting, by the way, and under the pretext of providing access to a fair legal order, the PJNTACI is important to transform the "culture of sentencing", which, for the author, originates in the perception of judges who prefer to render sentences, instead of providing conciliation between the parties, through the amicable resolution of conflicts (WATANABE, 2005).

But the problem is not only to be found in the mentality of the magistrates. Law schools and the practice of law end up favoring the scenario of idealization of the sentence. What still exists, sometimes, "is a certain prejudice against these alternative means"; and the "false perception that the function of conciliating is a less noble activity, with the function of sentencing being the most important attribution of the judge" (WATANABE, 2005, p. 26).

This idea corroborates Santos (2007), who considers legal education one of the central reforms of the justice system. Therefore, when Watanabe (2012) talks about the policy of adequate treatment of conflicts, he understands that it is providing not only a litigation filter, but also a new culture associated with all jurisdictions.

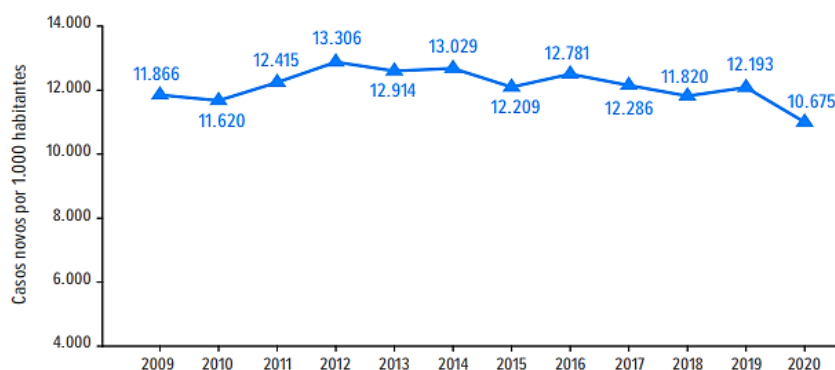
In his inaugural speech for the presidency of the Federal Supreme Court, Justice Cezar Peluso, who institutionalized the public policy under discussion here, stated that the alternative means, in addition to providing the relief of the judicial bodies and bringing greater speed to the processes, would represent a social transformation, through a change of mentality and the decisive participation of the parties in the construction of the result that interests them.

The inspirations for the creation of this public policy were several. It should be noted, for example, (i) the observance of operational efficiency, access to the justice system and the social responsibility of the Judiciary; (ii) the right of access to justice beyond its merely formal aspect, i.e., mere access to judicial bodies; (iii) the attribution of the Judiciary to establish public policies for the treatment of legal problems and conflicts of interest, not only through judicial proceedings, but also through alternative mechanisms; (iv) the need to consolidate a permanent public policy to encourage and improve consensual dispute resolution mechanisms; among others (CNJ, 2010).

The justifications for the creation of the PJNTACI are also pointed out in its main objectives, which, according to article 2 of CNJ Resolution No. 125/2010, aim at the good quality of services and the dissemination of the culture of social pacification, to the detriment of the culture of sentencing.

The research entitled "Justice in Numbers", prepared by the CNJ in 2021, demonstrates the scenario of litigation in the Brazilian Judiciary and points out that, when based on the number of new cases (new cases) per thousand enabling parties, specifically, in the base year of 2020, there are 10,675 new cases per thousand 50 enabling parties, which although expressive, still shows a decrease compared to previous years, as can be seen below.

Graph 1 – Historical series of the number of new cases per thousand inhabitants



Source: National Council of Justice, 2021.

In other words, there would be approximately ten lawsuits per inhabitant, considering how expressive the litigation rate is. In addition, the Judiciary ended the year 2020 with 75.4 million cases in progress, that is, it still does not have a definitive decision.

It is also observed that in a ranking of new cases per 100 thousand qualifiers per State Court of Justice, the state of São Paulo received the 9th position, with a total of 8,064 new cases per 100 thousand inhabitants (CNJ, 2021).

The concern with the amount of demand from the Judiciary also stems from a constitutional principle to which the public administration is subject, which is that of efficiency, as regulated by article 37 of the Federal Constitution; Hence, the reason for ensuring a better quality of the services provided.

Also dealing with the National Judicial Policy for the Adequate Treatment of Conflicts of Interest, it is important to emphasize that it is focused on the consensual methods of conflicts, called mediation and conciliation, which CNJ Resolution No. 125/2010 itself considers as effective instruments of social pacification and resolution and prevention of disputes.

In this sense, from the institution of the aforementioned PJNTAC, the judicial bodies have the duty to offer not only the adjudicated solution of conflicts, that is, the one given through a judicial decision, but also to offer other solution mechanisms, such as mediation and conciliation of confrontations, providing effective assistance and guidance to the citizen, as regulated by article 1, sole paragraph, of CNJ Resolution No. 125/2010.

The similarity between mediation and conflict conciliation is that both deal with forms of conflict resolution, relying on the performance of a third intermediary to help the parties involved to reach self-settlement; that is, both the mediator and the conciliator play a role of catalyst for the resolution of the conflict (DIDIER JÚNIOR, 2016).

With attention focused on the implementation of the PJNTACI, CNJ Resolution No. 125/2010, in its article 2, lists three main issues to be observed in this phase of public policy: (i) centralization of judicial structures; (ii) adequate education and training of civil servants, conciliators and mediators; and (iii) specific statistical follow-up.

Such issues justified the creation by the country's Courts of the so-called Permanent Nuclei of Consensual Methods of Conflict Resolution (Nuclei), which, coordinated by magistrates, had the attributions of:

I – Develop the Judicial Policy for the appropriate treatment of conflicts of interest, established in this Resolution; II – plan, implement, maintain and improve actions aimed at complying with the policy and its goals; III – act in dialogue with other Courts and with the bodies that are part of the network mentioned in arts. 5th and 6th; IV – install Judicial Centers for Conflict Resolution and Citizenship that will concentrate the holding of conciliation and mediation sessions that are in charge of conciliators and mediators of the bodies covered by them; V – promote qualification, training and permanent updating of magistrates, civil servants, conciliators and mediators in consensual methods of conflict resolution; VI – in the case of conciliators and mediators who work in their services, create and maintain a register, in order to regulate the registration and dismissal process; VII – regulate, if applicable, the remuneration of conciliators and mediators, under the terms of the specific legislation; VIII – encourage courses and seminars on mediation and conciliation and other consensual methods of conflict resolution; IX – to sign, when necessary, agreements and partnerships with public and private entities to meet the purposes of this Resolution (CNJ, 2016).

Among the attributions mentioned, the installation of the CEJUSC stands out because it is an instrument for the development of this policy to achieve its purposes. Its importance is reinforced by the obligation of its creation by the Courts, whose bodies are "responsible for carrying out or managing conciliation and mediation sessions and hearings that are in charge of conciliators and mediators, as well as for providing assistance and guidance to citizens" (CNJ, 2016).

2.2 The role of the Judicial Centres for Conflict Resolution (CEJUSCS) in the light of the 2030 Agenda

To better understand the role of the CEJUSCS and their work based on the 2030 Agenda, it is necessary to understand their structure and functioning. The CEJUSC, as already emphasized, is a unit of the Judiciary responsible for serving and guiding citizens to carry out and manage conciliation and conflict mediation hearings.

The CEJUSC has at least three primary functions: (i) to hold pre-procedural hearings for conciliation and mediation of conflicts, which are those held before a judicial process actually exists; (ii) conciliation and mediation hearings, i.e., those hearings held during the course of the judicial proceeding (in this case, the proceeding already exists); and, (iii) provide citizen service and guidance (TJBA, 2019).

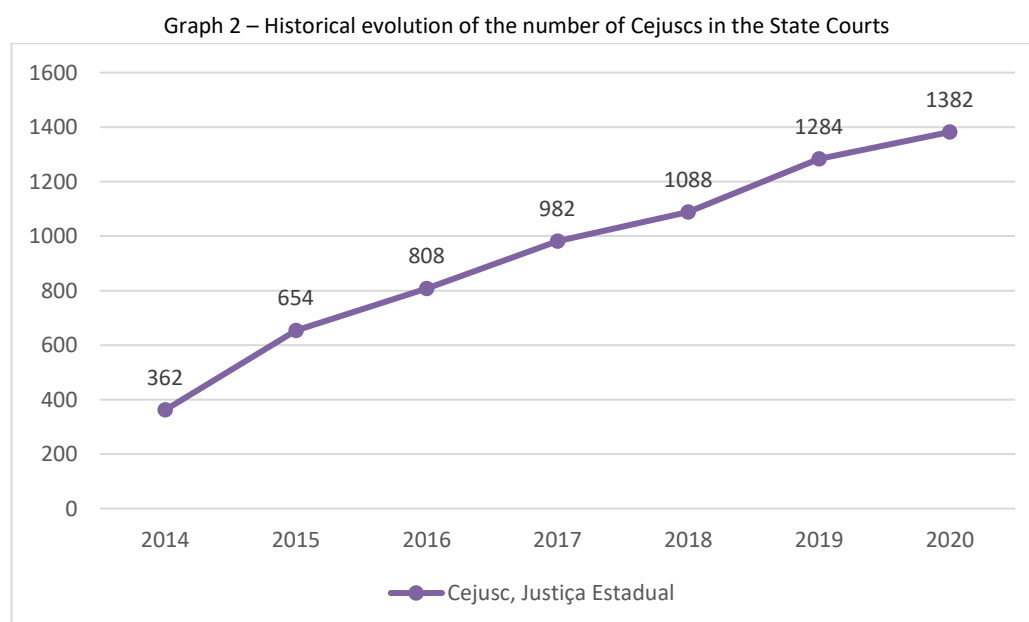
Therefore, it can be said that the operation of Cejusc takes place through three main sectors: pre-procedural, procedural and citizenship, according to article 10 of CNJ Resolution No. 125/2010, as amended by CNJ Resolution No. 326/2020. The CEJUSC units function as cells (instruments) for the operation of the public policy for the adequate treatment of conflicts, in which mediators and conciliators act, as well as the employees of the Judiciary, responsible for screening cases and providing the necessary information and guidance, always aiming to guarantee access to a fair legal order (CNJ, 2017).

The organization of these units is carried out by a coordinating judge, who may also have an assistant, who is responsible for (i) administering the Center; (ii) ratify the agreements entered; and (iii) supervise the service of conciliators and mediators. These units must have at least one employee with exclusive dedication, who must be trained in consensual methods of

conflict resolution, for the proper triage and referral of cases, in accordance with the terms of article 9 of CNJ Resolution No. 125/2010, as amended by CNJ Resolution No. 326/2020.

In addition, the parameters used for the creation of the CEJUSCS are not only the management of the cases, but also those proposed by the Multi-Door Forum or Multi-Door Court of North American law. In the Brazilian experience, the Cejuscs originated mainly from the Small Claims Courts Law (Law No. 7,244/84) and the Special Courts Law (Law No. 9,099/95), which, in addition to bringing mediation to the process, allowed the use of conciliation, in a phase prior to the filing of the lawsuit (pre-procedural phase), to avoid the judicialization of conflicts.

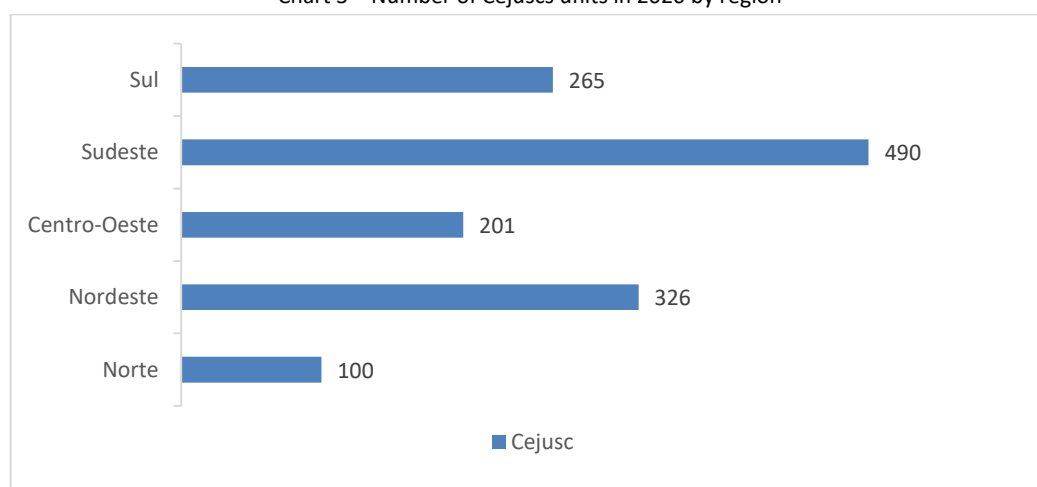
The matters that can be dealt with within the scope of Cejuscs are related to civil, treasury, social security, family or Special Civil, Criminal and Treasury Courts. Currently, there are 1,382 active Cejusc units in the country. The graph below illustrates the evolution over the years of the number of Cejuscs in the State Courts:



Source: Prepared by the authors, 2021.

Among these 1382 active units of Cejuscs, the Southeast region represents just over 35% of this total, followed by the Northeast, South, Midwest, and North regions, as can be seen in the graph below. This is justified, above all, by the population in absolute numbers of each region (GOV, 2021), following the logic that the larger the population, the more units are needed.

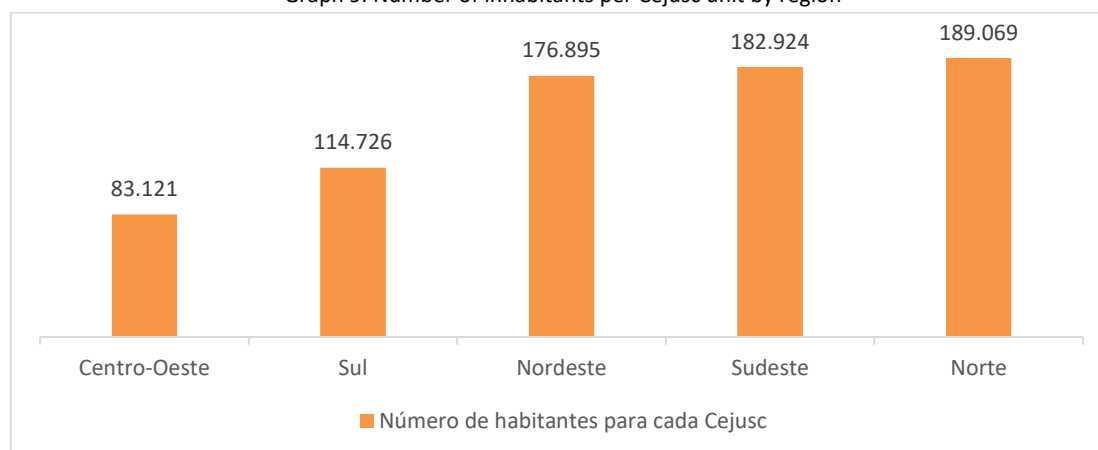
Chart 3 – Number of Cejuscs units in 2020 by region



Source: Adapted from National Council of Justice, 2021.

However, when the data regarding the number of Cejusc units per region in relation to the total population are proportionally analyzed, it is possible to verify that the Midwest, South and Northeast regions stand out in relation to the Southeast and North regions, whose units serve, respectively, about 182 thousand and 189 thousand inhabitants per Cejusc, as can be seen in the graph below.

Graph 9. Number of inhabitants per Cejusc unit by region

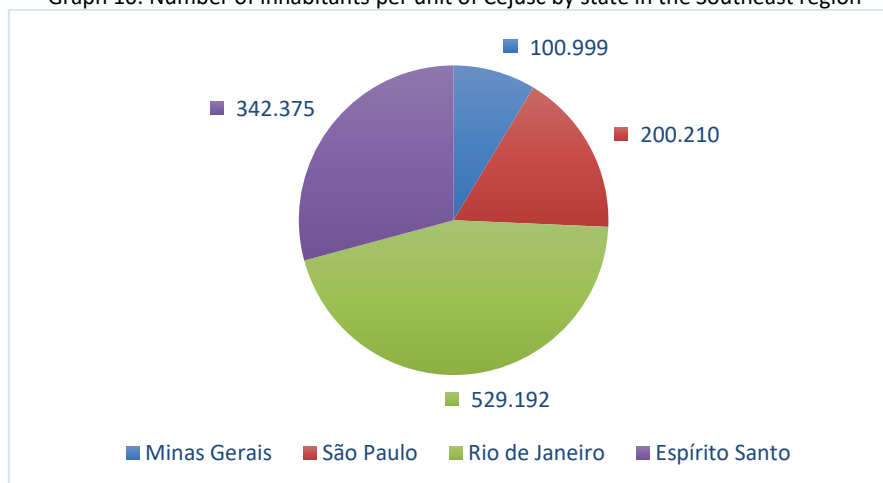


Source: Prepared by the authors, 2022.

Although the Southeast region has the largest number of Cejuscs units, it is found to be deficient when compared to the North region, for example, which has a significant difference of approximately more than 106 thousand inhabitants, characterizing a possible deficiency in the number of units available to serve the population.

Analyzing specifically the Southeast region, the state of São Paulo has the highest number of Cejuscs units (233), followed by the states of Minas Gerais (212), Rio de Janeiro (33) and Espírito Santo (12) (CNJ, 2021). The same proportional analysis was applied to analyze the variable resulting from the number of Cejusc units per state, compared to the population number of the Southeast region. The following results were noted:

Graph 10. Number of inhabitants per unit of Cejusc by state in the Southeast region



Source: Prepared by the author (2022)

Within the regional context, once again the state of São Paulo, despite having the largest number of units, stands out in the numbers. These units serve a smaller number of the population when compared, for example, to the state of Minas Gerais, in which each available unit can serve just over 100 thousand inhabitants.

This result is even well above the number of inhabitants per unit in the Southeast region. An interesting fact to be dealt with is also the knowledge of society about the functionality of such Conciliation Centers, to the extent that it is possible to verify that more than half (55%) of the interviewees in the survey about the knowledge of the justice system claimed not to know or could not say about the function of these conciliation bodies. and only 22% said they knew it well or and 23% knew it only because they listened to other people's opinions.

The level of trust in such bodies was also the subject of research. It was found that 43% of the interviewees answered that they did not trust the conciliation centers or centers, and 45% said they trusted them. What optimizes society's perception of conciliation centers is the evaluation in question, which for 68% of respondents is considered excellent, good, or regular, which is another preponderant factor to show the possible alignments with the 2030 Agenda.

Apparently, the conciliation centers are still distant from society, which causes a problem of access to justice, especially when one considers that 82% of the people who participated in the Judiciary Image Study (EIJ) survey stated that they had not had any experience with the conciliation centers or centers. It is, therefore, an important justification for aligning with SDGs 11 and 16, which need to be optimized and expanded to increase access to the most vulnerable.

Here, the defense pointed out by Watanabe (1988) is inserted, which argues that the Judiciary has the duty to promote ways of communicating effectively with its diverse public, using the most varied means. And it is not enough just to create mechanisms for communication to occur, it is necessary, first, to provide access to this communication for all.

The culture of litigation can be verified, for example, by analyzing survey data that indicate the community's perception of the adoption of measures that bring the Judiciary closer to society. In these data, it can be noted that the indicator that measures the stimulus to prior out-of-court conciliation is the last criterion pointed out in the survey, with mention of it by only 7% of the interviewees.

These analyses point to the relevance of Cejusc's role in society, making it recognized and mandatory before Brazilian courts, especially regarding ensuring access to justice for all. And it is in this scenario that these analyses and research are essential to understand how the Cejusc are implemented, how their activities are developed, and the quality of the service provided to the population.

This guarantee of access to justice provides greater equality of rights: for the owners of the means of production - who can afford better mechanisms within the legal process - the facilities; For the most vulnerable - who are at the mercy of government assistance - accessibility, institutions that ensure equal rights and guarantee effective and efficient services, contributing to the reduction of social inequality.

3 CONCLUSION

In view of the assumption, it is understood that the Judicial Centers for Conflict Resolution act in accordance with the Sustainable Development Goals of the United Nations 2030 Agenda, since it provides for the resolution of legal issues between the interested parties, in a more peaceful and less conflictual manner, in addition to exercising, free of charge, the technical services necessary for the processes of the assisted.

Promoting peace and justice is also a way to mitigate social inequalities, even more so when considering the social conditions of those who seek it. It is true that there are structural and personnel limitations in the Cejuscs, but at its core is the principle of assistance that aims, directly and indirectly, at the objectives defined by the 2030 Agenda.

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