

BRIEFING PAPER ON BRAZIL'S IMPLEMENTATION OF THE OECD ANTI-BRIBERY CONVENTION – PHASE 4 FOLLOW UP

March 2026

In October 2023, the Organization for Economic Cooperation and Development (OECD)'s Working Group on Bribery (WGB) adopted the Phase 4 Reportⁱ on Brazil, reviewing the country's implementation of the OECD Anti-Bribery Convention and the 2021 Anti-Bribery Recommendation. In it, the WGB identified persistent shortcomings in foreign bribery enforcement and presented recommendations for strengthening Brazil's legal and institutional framework against transnational corruption. With this briefing paper, Transparency International – Brazil, a civil society organization dedicated to combating corruption in Brazil, presents its independent assessment of Brazil's efforts to implement the OECD Anti-Bribery Convention.

1. Executive Summary

Two and a half years after the September 2023 Supreme Court ruling that annulled all evidence derived from Odebrecht/Novonor's leniency agreement, the enormous impact that was foreseen has been confirmed. Although the ruling was issued monocratically by a single justice, amid conflicts of interest and relying on claims later disproved, none of the three appeals filed against Justice Dias Toffoli's decision has been heard by the full bench. In practice, this has dismantled the largest and best documented transnational corruption case on record, driving wholesale annulments in Brazil and abroad, obstructing mutual legal assistance, and even reversing asset recovery outcomes — a configuration that may amount to the most serious and explicit breach of the Anti-Bribery Convention by a State Party. The chilling effects on AML detection and the civic space — including retaliatory measures against law enforcement personnel and

attacks on civil society — further jeopardize the detection and enforcement of foreign bribery offence. Accordingly, the WGB should authorise a High-Level Mission to Brazil to secure time-bound institutional commitments for prompt full-bench review, to stabilise MLA and asset recovery measures pending that review, and to prevent reprisals against officials and civil society actors engaged in anticorruption work.

2. Follow-up issues for the WGB

- a. **The potential consequences that the September 2023 judgment by an STF justice, concerning evidence obtained in relation to the Odebrecht leniency agreement, may have on Brazil’s leniency agreements in foreign bribery matters, in particular the extent to which it might affect their legal certainty;**

In September 2023, a ruling issued by Justice José Antonio Dias Toffoli of the Brazilian Supreme Court began undermining hundreds of investigations, legal proceedings and convictions in Brazil and across multiple jurisdictions, raising serious concerns over Brazil’s compliance with its international obligations under the OECD Anti-Bribery Convention. Mr. Toffoli barred the use of any evidence derived from the leniency agreement signed by Odebrecht in judicial or administrative proceedings, instructing courts to review and potentially annul investigations and convictions.ⁱⁱ

The Odebrecht leniency agreement was concluded by prosecutors of the Car Wash Task Force in what became the largest bribery case ever prosecuted in history, with documented ramifications in at least a dozen countries. The materials derived from the Odebrecht leniency agreement were central to coordinated investigations across multiple jurisdictions. These materials included the encrypted digital drives from Odebrecht’s so-called “bribery department,”ⁱⁱⁱ which operated through the Drousys and MyWebDay software systems^{iv}, containing detailed records of bribery payments, intermediaries, offshore structures, and bribed public officials. These materials form the backbone for prosecutions, asset recovery efforts, and mutual legal assistance requests that enabled authorities to corroborate witness statements, trace illicit

financial flows, and secure convictions in Brazil and abroad (*more on the extraterritorial effects below*).

The decision was based on the claim that international cooperation underlying the agreement was unlawful due to an alleged failure to channel requests through Brazil's central authority for MLA – an assertion contradicted by the Justice Ministry's Dept. of International Cooperation and Asset Recovery, which found evidence of such formal requests.^v The decision also disregarded internal investigations^{vi} that had found no prosecutorial misconduct.^{vii} Since the decision, appeals have been filed by the National Association of Public Prosecutors^{viii}, by the Prosecutor's Office in São Paulo, and by the Prosecutor-General, though they have not yet been considered by the full Court, even though more than two years have passed since Mr. Toffoli's monocratic ruling.^{ix}

In the meantime, the decision has produced widespread impacts in Brazil and elsewhere, leading to the annulment of more than one hundred cases in Brazil, benefiting defendants in at least a dozen foreign jurisdictions. A 2024 survey found that at least 115 Car Wash targets had relied on Mr. Toffoli's rulings to annul investigations, proceedings and convictions^x. A wide range of high-profile Car Wash cases involving senior political figures, business executives, and former SOE officials have been annulled, resulting in the reversal of convictions — including cases with confessions — and the return of seized assets to individuals previously found guilty.^{xi}

For example, in 2016, Marcelo Odebrecht, former CEO of Odebrecht, was convicted of corruption, money laundering, and criminal association in connection with the transnational bribery scheme involving the company.^{xii} As in numerous other cases, Justice Toffoli annulled the evidence against Marcelo Odebrecht in May 2024 based on the unfounded assertion that international legal cooperation efforts had not been properly routed through Brazil's central authority^{xiii}, as noted above.

Mr. Toffoli has been heavily criticized^{xiv} for conflicts of interest in connection to this case, as he annulled evidence which, according to press reports, linked him, under the codename “the friend of my father's friend”^{xv}, to alleged illicit arrangements involving Odebrecht – the same evidence that had previously supported Marcelo Odebrecht's conviction. In a similarly controversial ruling, Mr. Toffoli suspended a R\$ 10.3 billion fine (approx. USD 2.01 billion)^{xvi} imposed on

the J&F Group in December 2023 - the company had also pleaded guilty to the US DOJ.^{xvii} However, concerns over conflicts of interest were particularly acute in the J&F case, as the group had not been investigated by the Car Wash Operation, and press reports indicated that the Justice’s former spouse was a lawyer working for the company.^{xviii}

Additional sources of concern for leniency agreement’s legal certainty

The 2023 ruling by Mr. Toffoli is not the only issue of concern to the legal certainty of leniency agreements. Three political parties filed a lawsuit with the Supreme Federal Court seeking to annul all leniency agreements signed before August 2020 (ADPF 1051), including the three which covered foreign bribery allegations: Nova Participação (or Engevix), Novonor (or Odebrecht) and Metha (or OAS).^{xix} Using the concept of ‘unconstitutional state of affairs’, traditionally reserved for situations of widespread human rights violations, they argue that these agreements were signed in a context of “*profound political and legal abnormality*”. The lawsuit also argues that the companies suffered coercion in signing these agreements, although the companies themselves have denied this claim.^{xx}

This lawsuit has led to the renegotiation of the leniency agreements signed by these companies, a process that has been led by the Comptroller-General's Office (CGU) and by the Attorney-General's Office, under the supervision of the Supreme Court Justice André Mendonça. During the renegotiation, the payments of the amounts owed by the companies were suspended, providing immediate relief to the companies. According to the CGU, the three companies with leniency agreements covering foreign bribery have paid only a small fraction of the total owed, despite more than six years having passed since the signing of the agreements.¹

Company	Year signed	Sanctions imposed ²	Amount paid	% paid
---------	-------------	--------------------------------	-------------	--------

¹ Data from February 2026, available at: <https://app.powerbi.com/view?r=eyJrIjoizTU2MwI0MjYtY2EzOS00NzYyLTg3MwQyWE3MmFIMmY0ODM4liwidCI6IjY2NzhkOWZILTA5MjEtNDE3ZC04NDEExLTVmMWMxOGRIZmJiYiJ9&pageName=ReportSection>

² This is the total amount owed, not the fraction that corresponds to foreign bribery because in the cases of OAS and Engevix it is not possible to break them down. For Odebrecht, the specific fraction of the sanction imposed for

Odebrecht	2018	R\$ 2.727.239.997,64	R\$ 177.594.522,90	6.51%
OAS	2019	R\$ 1.929.257.982,37	R\$ 6.250.000,00	0.32%
Engevix	2019	R\$ 516.301.313,70	R\$ 6.824.340,31	1.32%

The renegotiation process has not yet been completed, but the government and the companies have reached a provisional settlement, which will need to be validated by the Supreme Court. Press reports have shown that seven companies will benefit from the renegotiation, which will introduce discounts totaling up to R\$ 5,7 billion (approx. USD 1,1 billion).^{xxi} The discounts will reach around 50% of the total owed by each of these companies in most cases:

Company	Updated amount owed³	After discounts	% discount
Odebrecht	R\$ 3.998.323.566,38	R\$ 1.999.161.783,19	50%
OAS	R\$ 2.759.376.106,96	R\$ 1.379.688.053,48	50%
Engevix	R\$ 730.543.766,61	R\$ 365.271.383,90	50%

Discounts are based on exemptions from interest and penalties and, most significantly, on a tax credit mechanism added by Congress in June 2022 to an otherwise unrelated bill, which amended federal transaction rules to let companies use accumulated corporate income tax losses and negative bases of the social contribution on net profit to offset a large share of amounts owed. The CGU has publicly justified the renegotiations as compliance with this legal framework and with the STF supervised conciliation in ADPF 1051.

As it currently stands, even companies who are reported of continuing to pay bribes during the negotiation of its agreements would benefit from the discounts. This is the case of Andrade Gutierrez, the parent company of Zagope, a construction company registered in Portugal. In May 2025, reports came to light that Zegope had paid bribes of at least USD 86 million to high-ranking public officials in Equatorial Guinea, including Teodorin Obiang, the Vice-President, between 2014 and 2018⁴, in exchange for public contracts.^{xxii} TI Brazil, along with partner organizations in Portugal (EthosGov) and Equatorial Guinea (EG Justice), has filed a complaint with the CGU to demand these allegations be investigated and that the renegotiation of Andrade Gutierrez’s leniency agreement be

foreign bribery is R\$ 40 million (approx. USD 8 million), though it is also not possible to know if the amount paid covers this fraction or not.

³ This considers the amount owed up to May 2024.

⁴ Andrade Gutierrez’s leniency agreement was signed in Brazil in December 2018, following negotiations that stretched between November 2015 and August 2018.

suspended in the meantime.^{xxiii} This case has also been forwarded to the WGB in order to ensure Portuguese and Brazilian law enforcement officials cooperate in these investigations.

An additional issue remains to be decided by the Supreme Court: whether the discounts allowed for the seven companies that participated in the renegotiation process will also be applicable to other companies that signed leniency agreements under similar conditions – a move that would produce additional legal uncertainty around leniency agreements.^{xxiv}

The Odebrecht leniency agreement raises additional concerns. Of the total fines applied in Brazil (R\$ 2.727.239.997,64, approx. USD 532.09 million, — an amount that will still be significantly reduced, as noted above), only R\$ 40 million (approx. USD 8 million) corresponds to penalties specifically for foreign bribery, even though the company admitted to orchestrating one of the largest transnational corruption schemes in history. This means that the portion of the sanctions directly linked to the foreign bribery offenses represents only a tiny fraction of the overall fine. The agreement also obliged the company to proactively contact authorities in all countries where the bribes had been paid and to seek settlements with them.

According to information provided by the company to the Supreme Court and to the CGU^{xxv}, out of the 11 countries with which the company had to settle its ‘issues’, deals were reached in only six: Guatemala, Panama, Dominican Republic, Ecuador, Peru and Mozambique. In five countries – Angola, Mexico, Venezuela, Colombia and Argentina –, negotiations are still “ongoing”.⁵

A source of concern is that the original deadline for the company to reach settlements with foreign authorities (3 years) has been extended (for an additional three years) and, since, apparently, it has expired and there were no consequences for non-compliance with this obligation.^{xxvi}

⁵ Recently, the CGU and the AGU have shaped core aspects of the leniency regime, producing effects beyond the Odebrecht case and the handling of other corruption cases. In December 2025, the [Interministerial Normative Ordinance CGU/AGU No. 1/2025](#) was adopted to consolidate legal and procedural aspects of the leniency regime in Brazil. However, the Ordinance retains core shortcomings, such as the failure to adopt a victim-centered framework, the absence of explicit recognition of non-state victims, the presence of minimalist transparency and procedural safeguards, and persistent gaps in corporate governance and incentive structures (e.g., clawback mechanisms), as well as in the parametrization of discretion in sensitive areas — including the definition of “exceptional circumstances” for extended payment plans and ambiguities in international cooperation and sanction crediting.

It is alarming to note that, almost 8 years after signing the leniency agreement with Brazilian authorities, Odebrecht has failed to properly negotiate leniency or reparation agreements in several jurisdictions where it was actively involved in foreign bribery schemes, leaving serious accountability gaps, limiting asset recovery and reparations to affected states, and reinforcing the risk that the dismantling of the case in Brazil will translate into lasting impunity abroad. The information about the illicit activities covered by the agreement also remains under seal since 2018. Even in cases where it affirmed it had reached a settlement, there is conflicting information – for example, the Prosecutor-General of Mozambique^{xxvii} stated that there is no agreement in the country. In others, there are unconfirmed reports that the company is merely stalling negotiations until the statute of limitation is reached.

b. The potential consequences that this September 2023 judgment may have on Brazil’s ability to provide and to obtain mutual legal assistance in foreign bribery cases

As mentioned, many individuals (and companies) that were being investigated or prosecuted based on the evidence derived from the Odebrecht digital drives sought relief from the Supreme Court. Based on the September 2023 ruling, they argued that this evidence was illegal and, thus, that these proceedings had to be annulled.

Something similar began happening with individuals and companies under investigation and/or prosecution from abroad. They have filed petitions in Brazil’s Supreme Court to argue that the evidence used against them is unlawful and, thus, everything derived from it had to be annulled. They ask Justice Toffoli to block cooperation between Brazilian and other foreign law enforcement agents. In this case, there were often requests of legal cooperation to Brazilian authorities (e.g. to collect testimony from witnesses that could help with the investigation), but they have been barred by Mr. Toffoli's rulings. Mr. Toffoli’s decisions to most of these requests have followed similar avenues:

- Declare the inadmissibility of the evidence used in the investigation and/or proceedings against said individual or company; and/or
- Request that the Brazilian Ministry of Justice’s Dept. of International Legal Cooperation and Asset Recovery formally transmit his decision to the

government of the country where the investigation and/or proceeding is taking place; and/or

- Bar Brazilian authorities from cooperating with international mutual assistance requests made by foreign law enforcement officials.

The cases where foreign individuals and companies have sought (and obtained) these decision from the Brazilian Supreme Court are listed below. While this is a list compiled based of press reports^{xxviii} and judicial files, it is not necessarily complete, as more cases may have been decided on this matter. It includes eight countries/jurisdictions and 28 individuals/companies:

Country	Individual/Company	Role	Number of the proceeding
Argentina	Jose Ernesto Rodriguez	Businessman	Pet 12.832/DF
Colombia	Oscar Iván Zuluaga Escobar	Politician	Pet 13.198/DF
	David Zuluaga Martinez	Businessman, political campaign manager	Pet 13.198/DF
Ecuador	Jorge David Glas Espinel	Former Vice-President	Pet 11.431/DF
	Telconet SA	Telecommunications and technology company	Pet 11.431/DF
	Carlos Pólit	Former Comptroller General	Pet 12.045/DF
	Ricky Iván Miguel Federico Dávalos Oviedo	Businessman	Pet 11.431/DF
United States	Carlos Pólit	Former Equatorian Comptroller General	Pet 12.045/DF
The Netherlands	Paul Willem Van Wijlen	Businessman	Pet 13.675/DF
	Hendrik Andries Van Wijlen	Businessman	Pet 13.675/DF
Mexico	Emilio Ricardo Lozoya Austin	Former director general of SOE	Pet 12.653/DF
Panama	Aurora Muradas Fraiz	Businessman	Pet 12338/DF
	Riccardo Francolini Arosemena	Former banker	Recl 61.387/DF
	Juan Antonio Niño Pulgar	Lawyer	Recl 61.387/DF
	Demetrio Papadimitriou Bagatelas	Former Minister of the Presidency	Pet 12.598/DF
	Juan Carlos Varela Rodriguez	Former President	Pet 12.386/DF
	Ricardo Martinelli Berrocal	Former President	Pet 12.337/DF
	Juan Carlos Espinosa Jimenez	Lawyer	Pet 12.652/DF

	Jaime Jose Ford Castro	Former Minister of Public Works	Pet 13.250/DF
	Luis Enrique Martinelli Linares	Businessman, son of former President	Pet 12.427/DF
	Ricardo Alberto Martinelli Linares	Former President	Pet 12.444/DF
	Luis Carlos Varela	Businessman, brother of former President	Pet 12.386/DF
Peru	Ollanta Moisés Humala Tasso	Former President	Recl. 61387/DF
	Clemente Jaime Yoshiyama Tanaka	Former Minister of Transport and Communications, Minister of Energy and Mines, and Minister of Presidency	Pet 12.335/DF
	Gonzalo Eduardo Monteverde Bussalleu	Businessman	Pet 12.850/DF
	Susana de la Puente	Banker, Diplomat	Pet 12.336/DF
	Juan Ignacio Fraschini Silverredonda	Businessman	Pet 12.858/DF
	Alfredo Óscar Cat Rachetti	Lawyer	Pet 12.858/DF
	Nadine Heredia Alarcón	Former First Lady	Pet 14.895/DF

The case of Peru is probably the most egregious in terms of demonstrating the impact of the 2023 ruling on Brazil’s ability to provide MLA in foreign bribery cases. In May 2025, the Ministry of Justice of Brazil decided to temporarily suspend cooperation with Peruvian law enforcement officials in cases related to Odebrecht, arguing that Peruvian officials were disregarding Justice Toffoli’s decision to consider all evidence from the leniency agreement invalid.^{xxix} Around the same time, the Prosecutor-General's Office decided to suspend cooperation with Peru because it agreed with the arguments from executives of the OAS company (also investigated for foreign bribery) that Peruvian officials were not complying with agreements reached with defendants who had signed plea bargains.^{xxx} In September 2025, the Brazilian government officially announced to the Peruvian government that it would definitely suspend all legal cooperation in matters related to the corruption scheme set up by Odebrecht.^{xxxi}

Brazilian nationals investigated and prosecuted in foreign jurisdictions have also sought (and obtained) similar relief based on Justice Toffoli's rulings. For example, former Odebrecht senior executives Jorge Barata and Luiz Mameri were

being investigated in Peru for bribes allegedly paid to Peruvian high-ranking officials. After arguing that Peruvian authorities were still using the evidence based on the Odebrecht leniency agreement, they petitioned the Supreme Court and were granted an extension of the effects of the September 2023 ruling, whereby Justice Toffoli declared the evidence inadmissible, requested the decision be sent to the Peruvian government and forbade the conduct of any investigative or cooperation measures based on this evidence.⁶ A Brazilian lawyer, Rodrigo Tecla Duran, being investigated in Spain received similar relief from the Supreme Court.⁷ In June 2024, Justice Toffoli also granted Odebrecht's request to nullify a Federal Prosecutor's Office (MPF) information request issued in an administrative proceeding that sought data on the company's accounts in Andorra. The Justice concluded that the request relied on evidence deemed unusable by the Supreme Federal Court.^{xxxii}

Annulments have also significantly jeopardized asset recovery efforts in Brazil, to the point that courts have been required to return previously recovered funds to individuals who had already been convicted of corruption. For example, former Petrobras executive Roberto Gonçalves had previously been convicted of receiving bribes from Odebrecht and other major construction companies in exchange for acts related to his managerial functions at the state-owned oil company. Even so, the court ultimately had to return R\$ 26.5 million (approx. USD 5.17 million) to him that had been repatriated from Switzerland through international cooperation and judicially frozen since 2020, effectively giving back the very funds that had been recovered as proceeds of corruption.^{xxxiii}

c. Whether laws relating to freedom of the press are fully applied in practice to enable allegations of foreign bribery to be reported without fear of reprisals;

While constitutional provisions ensure the freedom of the press in Brazil, often press reports on corruption involving high-level authorities and businesspeople lead to censure, threats and additional reprisals. In a case mentioned above, when the press reported on the information that Supreme Court Justice Toffoli

⁶ Rcl 69.994/DF, decision available at:

<https://portal.stf.jus.br/processos/downloadPeca.asp?id=15369390012&ext=.pdf>

⁷ Pet 12.334/DF, available at: <https://portal.stf.jus.br/processos/downloadPeca.asp?id=15372904040&ext=.pdf>

had been mentioned in connection to the bribery scheme set up by Odebrecht, another fellow Justice, in highly unusual procedural move, ordered media outlets to remove the content from their websites.^{xxxiv} The decision was later revoked after confirming that the document mentioning Justice Toffoli under the codename “the friend of my father’s friend” did in fact exist in the case files.^{xxxv}

Aggregated data also notes the high risks that journalists face when reporting corruption, environmental crimes and human rights violations. UNESCO's Observatory of Killed Journalists has recorded at least 55 journalists murdered in Brazil since 1993.^{xxxvi} The Brazilian Investigative Journalism Association has found a rising number of abusive judicial proceedings against journalists in recent years: a total of 784 proceedings were identified between 2008 and 2025.^{xxxvii}

Additional risks to civic space

On February 5th, 2023, Brazil's Supreme Court Justice Dias Toffoli ordered an investigation^{xxxviii} of Transparency International – Brazil based on unfounded^{xxxix} allegations. A few days earlier, on January 30th Transparency International had released its annual Corruption Perception Index^{xl} (CPI) with poor results for Brazil. At the same date, Transparency International – Brazil published a report^{xli} that highlighted the negative impacts of the decisions taken individually by Justice Toffoli, mentioned above.

This investigation has its origins in a petition^{xlii} filed, in 2021, by a congressman and former chairman of the Workers Party in the Superior Court of Justice, asking the court to investigate alleged wrongdoing by Transparency International – Brazil in connection with federal prosecutors who had led anti-corruption investigations. Following a request by an aide to former Prosecutor-General, Augusto Aras^{xliii}, also criticized in past Transparency International – Brazil’s reports, the petition was sent to the Supreme Court – directly to Mr. Toffoli, not having been submitted to the standard electronic random distribution of proceedings. It is noteworthy that the arguments made by the interim Prosecutor-General, Elizeta Ramos in the sense that the Supreme Court did not have jurisdiction over this case were ignored^{xliv}. Beyond the procedural heterodoxies, the original petition and all following decisions in the case omit key documents^{xlv}, that clearly express the nature of TI’s work on transparency and good governance

of compensation funds in Brazil and, also importantly, the categorical impediments for any transfer of funds to TI.

When deciding to open the investigation, Mr. Toffoli eschewed criminal procedure laws. In Brazil, investigations can be opened and conducted by police authorities and prosecutors, but not by judges who are themselves responsible for deciding on specific investigation requests and protecting the due process rights of investigated individuals. In this case, besides the lack of randomized selection of presiding judges, other procedural issues should be noted. The Brazilian Constitution details the jurisdiction of the Supreme Court for criminal matters, and this is restricted to investigations over specific individuals who hold high public office. It does not have jurisdiction over NGOs or their staff. Nonetheless, in opening the investigation, Mr. Toffoli states that its focus is the “undue appropriation of public funds by TI”.

The investigative measures that followed during 2024 included the requesting of information from different sources, especially the MPF regarding the leniency agreement and cooperation with Transparency International – Brazil. Mr. Toffoli also submitted different documents and pieces of information to a host of other public bodies, namely the Prosecutor-General, the CGU, the Attorney-General’s Office (AGU), the Ministry of Justice and the Federal Police, the National Court of Accounts (TCU) and both houses of Congress, with the apparent intent to provoke them to investigate Transparency International – Brazil.

In October 2024, the Prosecutor-General requested the dismissal of the investigation^{xlvi} into Transparency International, citing lack of evidence and the absence of concrete facts indicating any criminal conduct. However, Mr. Toffoli ignored this petition. In December 2024, the Prosecutor-General again asked for the dismissal request to be considered by Mr. Toffoli, who has, so far, continued to ignore^{xlvii} this request. Notably, this case has been cited on two occasions by the Inter-American Commission on Human Rights (IACHR) – i.e., the Third Report on the Situation of Human Rights Defenders in the Americas^{xlviii} and in the Special Rapporteurship for Freedom of Expression’s report^{xlix} on Brazil – as an attempt to criminalize Transparency International – Brazil.

I. Whether sufficient measures are in place to prevent political interference in the Federal Police and other investigative agencies;

Also included in Justice Toffoli 2023 ruling was an order for inquiries to be opened into the potential civil, administrative, and criminal liability of law enforcement officials involved in the negotiations of the Odebrecht leniency agreements and accompanied the ruling with ^l against Car Wash prosecutors, despite the absence of evidentiary support.

More recently, Justice Toffoli has authorized police searches and investigative measures^{li} targeting the 13th Federal Criminal Court of Curitiba – the institutional core of the Car Wash Operation – including efforts to locate alleged illegal recordings^{lii} made by prosecutors.

Mr. Toffoli’s actions—including the extraordinary search-and-seizure operation against the 13th Federal Criminal Court— may constitute an improper expansion of judicial power, carried out without prosecutorial request and under unresolved conflicts of interest. These measures have been described as intimidatory and irregular, while creating chilling effects across law enforcement. Even if wrongdoing were eventually identified, it is striking that the alleged misconduct concerns events that date back more than twenty years and would, in principle, already be time-barred.

3. Updates on additional issues mentioned in the Phase 4 Report

A.3. Detecting and Reporting Foreign Bribery through Tax Authorities

In para. 37, the report mentions a Supreme Court provisional injunction from 2019 which halted non-tax related enquiries held by the Federal Revenue Services (RFB). Justice Alexandre de Moraes issued this single-judge injunction suspending RFB’s auditing of 133 politically exposed persons and temporarily removed two tax auditors from duty.^{liii} The order was adopted without a prior request from prosecutors or police, prompting concerns about due process and impartiality, since some PEPs included Supreme Court Justices’ Dias Toffoli and Gilmar Mendes’ wives.

More recently (January–February 2026), Justice Moraes again opened an investigation without a prior request from prosecutors or police to examine an

alleged leak of confidential tax data of Supreme Court justices and their relatives via the RFB and the FIU (COAF).^{liv} This move followed press reporting about potential conflicts of interest linked to the Banco Master case, including (i) business transactions connecting Justice Dias Toffoli and his relatives^{lv} to the Banco Master’s main controller and defendant Daniel Vorcaro and (ii) disclosure of a R\$ 129 million (approx. USD 25 million) contract between Banco Master and the law firm of Viviane Barci de Moraes, Justice Moraes’s spouse.^{lvi}

This configuration placed Justice Moraes simultaneously as an alleged victim, investigator and adjudicator, while the inquiry extends Supreme Court control over ordinary civil servants who are not under the court’s jurisdiction.

The scope is exceptionally broad. The RFB has stated that, at the Court’s request, it is auditing all accesses to tax records of justices, relatives and other authorities over the past three years; press reports indicate review of over 100 individuals linked to the Court.^{lvii}

The RFB has publicly confirmed “accesses without functional justification” allegedly by four public servants.^{lviii} Despite the preliminary stage and the fact that the internal audit is ongoing, Justice Moraes imposed far-reaching precautionary measures on these civil servants: searches and seizures; bank, tax and telematic secrecy breaches; suspension from duty; electronic ankle monitors and night-time home confinement; travel bans and passport confiscation; and public disclosure of their names.^{lix} These steps have been widely described as disproportionate, especially given the Supreme Court’s unusual jurisdiction over ordinary public servants.^{lx}

A significant chilling effect has been reported within the tax administration, while auditors described shock and fear.^{lxi} Reinforcing this perception, the president of the National Union of Tax Auditors, Kléber Cabral, said publicly that “it is less risky to investigate the PCC [the largest transnational organized crime group in Brazil] than to investigate high authorities of the Republic.”^{lxii} The following day, after his criticism, Mr. Cabral himself was summoned and included as an investigated party in the same Supreme Court inquiry.^{lxiii}

These developments—marked by legal uncertainty, expansive judicial reach and deterrent effects on tax auditors—pose a direct risk to Brazil’s capacity to detect

foreign bribery. The RFB and COAF are essential to identify suspicious financial patterns and cross-border bribery schemes

A.6. Detecting Foreign Bribery through Anti-Money Laundering Measures

In para. 63, the report mentions a decision issued by the then-President of the Supreme Court, Justice Dias Toffoli, in 2019, to limit the use of COAF in criminal investigations. While the conclusion of the report - *“the December 2019 Supreme Court Decision provides stable ground to the constitutionality of the sharing of information by the COAF and the Federal Revenues Agency with law enforcement authorities without previous judicial authorization”* - was based on the knowledge available at the time, it should be updated based on recent developments. Conflicting decisions by the courts, including the Supreme Court, have created legal uncertainty regarding the FIU’s powers to produce and disseminate financial intelligence.

Since 2019, there have been some contradictory decisions from the country’s courts, often invalidating investigations that relied on STRs that were not directly authorized by a judge, despite the Supreme Court’s 2019 ruling on the issue. For example, in 2025, the Superior Court of Justice, the country’s second-^{lxiv}ruled that the police and prosecutors could not request a financial intelligence report from the COAF without judicial approval.² The legal uncertainty created by this scenario led the Prosecutor-General to request a stay in all proceedings^{lxv} could later be annulled. After some initial confusion over whether this again amounted to a suspension of the FIU’s STR sharing powers, all judicial proceedings in which STRs had been annulled were halted², but ^{lxvi}conflicting decision from a different Supreme Court justice further aggravated confusion and uncertainty on this issue.² This issue remains pending several different proceedings ongoing in the Supreme Court – under the rapporteurship of different Justices – not to mention the conflicting decisions from the lower courts.

Recommendations

The Working Group on Bribery (WGB) should authorize an immediate High-Level Mission (HLM) to Brazil under its monitoring toolkit for systemic compliance risks. The WGB previously conducted a High-Level Mission to Brazil in November 2019 and placed the country under enhanced monitoring thereafter, with positive results.

Since September 2023, however, a series of judicial rulings, all of them by a single judge, have annulled all evidence derived from Odebrecht/Novonor's leniency-agreement with *erga omnes* effect, blocked mutual legal assistance and suspended or opened the renegotiation of major leniency sanctions. These decisions have triggered the dismantling of what had been the largest and most thoroughly documented transnational corruption scheme ever uncovered, leading to a cascade of case reversals that benefited dozens of defendants in Brazil and abroad. Given the magnitude, systemic breadth, and cross-border consequences of these annulments, this situation may amount to one of the most explicit and far-reaching violations by a State Party of its obligations under the Convention.

The HLM should, without expressing any view on case merits, secure formal, time-bound institutional commitments for prompt plenary (full-bench) consideration of pending appeals and institutional complaints challenging the 2023 September decision, alongside interim measures to stabilize MLA and preserve confiscation outcomes pending that review.

To protect civic space and operational independence, the HLM should also obtain assurances to cease and prevent reprisals or intimidatory measures against law-enforcement personnel and civil society organizations engaged in anti-corruption work.

In addition, we also recommend that allegations of foreign bribery committed by the Portugal-based Zagope company, owned by Brazil's Andrade Gutierrez, in Equatorial Guinea should be fully investigated, which requires international cooperation between Portuguese and Brazilian law enforcement officials.

References

- ⁱ https://www.oecd.org/en/publications/implementing-the-oecd-anti-bribery-convention-phase-4-report-brazil_fd55d063-en.html
- ⁱⁱ <https://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/RCL43007.pdf>
- ⁱⁱⁱ <https://www.icij.org/investigations/bribery-division/bribery-division-what-is-odebrecht-who-is-involved/>
- ^{iv} <https://oglobo.globo.com/politica/sistemas-paralelos-foram-criados-pela-odebrecht-para-operar-propina-21203712>
- ^v <https://oglobo.globo.com/politica/noticia/2023/09/13/ministerio-da-justica-apresenta-novo-documento-a-toffoli-em-que-diz-ter-achado-cooperacao-com-a-suica.ghtml>
- ^{vi} <https://oglobo.globo.com/blogs/malu-gaspar/post/2023/09/decisao-de-toffoli-ignorou-sindicancia-da-pgr-de-aras-que-isentou-lava-jato.ghtml>
- ^{vii} <https://www.cnnbrasil.com.br/politica/corregedoria-do-mpf-descartou-conduta-irregular-da-lava-jato-nas-provas-da-odebrecht-revela-documento/>
- ^{viii} <https://valor.globo.com/politica/noticia/2023/09/12/anpr-recorre-de-deciso-de-toffoli-que-anulou-todas-provas-do-acordo-de-leniencia-da-odebrecht-no-mbito-da-lava-jato.ghtml>
- ^{ix} <https://www.cnnbrasil.com.br/politica/stf-adia-analise-de-recursos-que-contestam-a-anulacao-das-provas-contr-odebrecht/>
- ^x <https://oglobo.globo.com/politica/noticia/2024/06/18/de-odebrecht-a-cabral-decisoes-de-toffoli-no-stf-favoreceram-115-alvos-da-lava-jato-em-um-ano.ghtml>
- ^{xi} <https://platobr.com.br/toffoli-zera-placar-e-da-sobrevida-a-paulinho-da-forca-no-caso-odebrecht>
<https://www.infomoney.com.br/politica/dias-toffoli-encerra-investigacao-da-lava-jato-contr-paulinho-da-forca/>
<https://www.em.com.br/politica/platobr/2025/04/7119152-toffoli-livra-ex-governador-do-rj-de-provas-da-odebrecht-em-acao-por-corrupcao.html>
<https://platobr.com.br/dias-toffoli-anula-todos-os-atos-da-lava-jato-contr-antonio-palocci>
<https://obastidor.com.br/justica/a-turma-do-leo-pinheiro-8374/>
<https://www.em.com.br/politica/platobr/2025/04/7112046-toffoli-volta-atras-e-anula-todos-os-atos-da-lava-jato-contr-ex-advogado-de-gleisi.html>
<https://jornaldebrasil.com.br/noticias/politica-e-poder/dias-toffoli-anula-decisoes-da-lava-jato-contr-ex-ministro-paulo-bernardo/>
<https://veja.abril.com.br/coluna/radar/a-nova-chance-de-alberto-youssef/>
<https://www.cartacapital.com.br/justica/toffoli-acolhe-pedido-de-jaques-wagner-e-suspende-acao-baseada-em-acordo-da-odebrecht/>
<https://www.em.com.br/politica/platobr/2025/02/7064705-delator-da-odebrecht-vai-a-toffoli-para-se-livrar-de-processo.html>
<https://platobr.com.br/volta-a-pauta-do-stf-pedido-de-renato-duque-ex-petrobras-para-anular-lava-jato>
- ^{xii} <https://www.estadao.com.br/blogs/blog/wp-content/uploads/sites/41/2016/03/sentencaOdebrecht.pdf>
- ^{xiii} <https://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/PET12357Assinado2.pdf>
- ^{xiv} <https://www.ft.com/content/f94f1279-b011-441d-9c9b-2841bab1714f>
- ^{xv} <https://www.youtube.com/watch?v=cTij0sKVneM&pp=ygUZYW1pZ228gZG8gYW1pZ228gZG8gbWV1IHhBhadgGLQ%3D%3D>
- ^{xvi} [https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=525940&ori=1#:~:text=O%20ministro%20Dias%20Toffoli%2C%20do,MPF\)%%20no%20%C3%A2mbito%20da%20Opera%C3%A7%C3%A3o](https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=525940&ori=1#:~:text=O%20ministro%20Dias%20Toffoli%2C%20do,MPF)%%20no%20%C3%A2mbito%20da%20Opera%C3%A7%C3%A3o)
- ^{xvii} <https://www.justice.gov/archives/opa/pr/jf-investimentos-sa-pleads-guilty-and-agrees-pay-over-256-million-resolve-criminal-foreign>
- ^{xviii} <https://piaui.folha.uol.com.br/toffoli-suspende-multa-bilionaria-do-acorde-de-leniencia-da-jf/>
- ^{xix} <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=504928&ori=1>
- ^{xx} <https://oglobo.globo.com/blogs/malu-gaspar/post/2024/02/empresas-dizem-que-nao-sofreram-coacao-para-fechar-acordos-de-leniencia-da-lava-jato.ghtml>
- ^{xxi} <https://www.gazetadopovo.com.br/republica/governo-lula-abre-mao-de-r-57-bi-em-acordos-de-leniencia-com-empreiteiras-da-lava-jato/>
- ^{xxii} <https://www.icij.org/investigations/2025/05/as-equatorial-guinea-burned-through-oil-riches-millions-were-funneled-to-a-company-owned-by-its-playboy-prince/>

- ^{xxiii} <https://noticias.uol.com.br/politica/ultimas-noticias/2025/08/30/ong-cita-propina-na-africa-para-pedir-revisao-de-caso-da-andrade-gutierrez.htm>
- ^{xxiv} <https://www1.folha.uol.com.br/poder/2025/07/stf-avalia-estender-descontos-de-empreiteiras-da-lava-jato-a-outras-empresas-que-fizeram-leniencia.shtml>
- ^{xxv} <https://www.gov.br/cgu/pt-br/assuntos/integridade-privada/suborno-transnacional/casos-de-suborno/odebrecht-novonor>
- ^{xxvi} https://files.transparencycdn.org/images/2018_Report_ExportingCorruption_English_200402_075046.pdf
- ^{xxvii} https://docs.transparenciainternacional.org.br/aceso-a-informacao/pgr-mz-negociacoes-odebrecht_202...
- ^{xxviii} <https://www.revistaeste.com/politica/anulacao-de-provas-de-toffoli-beneficiou-28-estrangeiros-ligados-a-odebrecht/>
- ^{xxix} <https://oglobo.globo.com/politica/noticia/2025/05/16/brasil-suspende-acordos-de-cooperacao-juridica-com-o-peru-em-processos-da-lava-jato-ligados-a-odebrecht.ghtml>
- ^{xxx} <https://www1.folha.uol.com.br/colunas/painel/2025/05/pgr-atende-a-pedido-de-delatores-da-oas-e-suspende-cooperacao-peru.shtml>
- ^{xxxi} <https://www1.folha.uol.com.br/colunas/painel/2025/10/brasil-suspende-definitivamente-acordo-com-peru-apos-uso-de-provas-anuladas-da-odebrecht.shtml>
- ^{xxxii} <https://jurisprudencia.stf.jus.br/pages/search/despacho1534159/false>
- ^{xxxiii} <https://www1.folha.uol.com.br/poder/2025/12/ex-petrobras-recupera-r-265-milhoes-que-estavam-na-suica-apos-anulacao-na-lava-jato.shtml>
- ^{xxxiv} <https://g1.globo.com/politica/noticia/2019/04/15/stf-censura-sites-e-e-manda-retirar-materia-que-liga-toffoli-a-odebrecht.ghtml>
- ^{xxxv} <https://g1.globo.com/politica/noticia/2019/04/18/alexandre-de-moraes-revoga-decisao-que-censurou-reportagens-de-crusoe-e-antagonista.ghtml>
- ^{xxxvi} <https://www.unesco.org/en/safety-journalists/observatory/country-overview?country=77e5feb8-31d1-5105-915e-0cbc4155676b&hub=72609>
- ^{xxxvii} <https://assediojudicial.abraji.org.br/>
- ^{xxxviii} <https://www.ft.com/content/98c31e95-051c-4f53-a674-d1df463d6fdd>
- ^{xxxix} <https://globalanticorruptionblog.com/2024/02/08/brazilian-supreme-court-justice-orders-investigation-of-transparency-international/>
- ^{xl} <https://transparenciainternacional.org.br/ipc>
- ^{xli} <https://transparenciainternacional.org.br/publicacoes/retrospectiva-brasil-2022/>
- ^{xlii} <https://pt.slideshare.net/slideshow/petio-rui-falco-contra-transparncia-internacional/243592661>
- ^{xliiii} <https://www.cnnbrasil.com.br/politica/divergencias-na-pgr-marcaram-envio-ao-stf-de-pedido-para-investigar-transparencia-internacional/>
- ^{xliv} <https://noticias.uol.com.br/politica/ultimas-noticias/2024/02/06/decisao-de-toffoli-sobre-transparencia-internacional-ignorou-pgr-interina.htm>
- ^{xlv} <https://www.cnnbrasil.com.br/politica/toffoli-omite-em-decisao-resposta-que-poderia-inocentar-transparencia-internacional/>
- ^{xlvi} <https://comunidade.transparenciainternacional.org.br/pet-12061-manifestacao-pgr>
- ^{xlvii} <https://www1.folha.uol.com.br/poder/2024/12/toffoli-ignora-pgr-ao-partilhar-acusacoes-da-jf-contra-transparencia-internacional-diz-entidade.shtml>
- ^{xlviii} <https://www.oas.org/es/cidh/informes/pdfs/2025/Tercer-informe-personas-defensoras-DDHH.pdf>
- ^{xlix} <https://www.oas.org/es/cidh/expresion/informes/relatoriobrasilrele.pdf>
- ^l <https://www.cnnbrasil.com.br/politica/apos-decisao-de-toffoli-dino-diz-que-pedira-para-pf-investigar-acordo-de-leniencia-da-odebrecht/>
- ^{li} <https://www.estadao.com.br/politica/blog-do-fausto-macedo/toffoli-manda-pf-fazer-buscas-na-13-vara-de-curitiba-berco-da-lava-jato/>
- ^{lii} <https://g1.globo.com/pr/parana/noticia/2025/12/04/caixa-amarela-13a-vara-de-curitiba.ghtml>
- ^{liii} <https://g1.globo.com/politica/noticia/2019/08/01/moraes-suspende-apuracao-e-manda-receita-afastar-servidores-por-suspeita-de-quebra-de-sigilo-de-ministros.ghtml>
- ^{liiv} <https://agenciabrasil.ebc.com.br/justica/noticia/2026-01/moraes-abre-inquerito-sobre-vazamento-de-dados-de-ministros>
- ^{liv} <https://g1.globo.com/politica/noticia/2026/02/12/entenda-a-relacao-entre-o-banco-master-e-a-empresa-da-familia-toffoli.ghtml>
- ^{lvi} <https://www.cnnbrasil.com.br/politica/mulher-de-moraes-manteve-contrato-de-r-129-milhoes-com-master-diz-jornal/>
- ^{lvii} <https://www.bbc.com/portuguese/articles/cwy675wk3qro>

-
- ^{lviii} <https://oglobo.globo.com/economia/noticia/2026/02/17/veja-quem-sao-os-servidores-investigados-por-vazamento-de-dados-de-ministros-do-stf.ghtml>
- ^{lix} <https://agenciabrasil.ebc.com.br/radioagencia-nacional/justica/audio/2026-02/stf-manda-afastar-4-servidores-da-receita-investigados-por-vazamento>
- ^{lx} <https://oglobo.globo.com/economia/noticia/2026/02/19/presidente-da-unafisco-diz-que-decisao-de-moraes-e-desproporcional-e-intimidacao-a-receita-era-para-criar-discurso-de-que-stf-foi-atacado.ghtml>
- ^{lxi} <https://oglobo.globo.com/economia/noticia/2026/02/19/ofensiva-de-moraes-sobre-receita-deixa-servidores-assustados-e-traz-consequencias-severas-dizem-auditoes.ghtml>
- ^{lxii} <https://g1.globo.com/globonews/estudio-i/video/e-menos-arriscado-fiscalizar-pcc-do-que-altas-autoridades-da-republica-diz-presidente-da-unafisco-14358554.ghtml>
- ^{lxiii} <https://www1.folha.uol.com.br/poder/2026/02/intimacao-de-sindicalista-para-depor-e-preocupante-se-derivada-das-criticas-ao-stf-dizem-entidades.shtml>
- ^{lxiv} <https://www.stj.jus.br/sites/portalp/Paginas/Comunicacao/Noticias/2025/29052025-Policia-e-MP-nao-podem-pedir-relatorios-do-Coaf-sem-previa-autorizacao-judicial--decide-Terceira-Secao.aspx>
- ^{lxv} <https://www1.folha.uol.com.br/poder/2025/08/moraes-delimita-decisao-sobre-coaf-para-evitar-risco-em-operacoes-contras-faccoes-e-lavagem.shtml>
- ^{lxvi} <https://www1.folha.uol.com.br/colunas/monicabergamo/2025/08/gilmar-decide-que-mp-e-policia-nao-podem-ter-acesso-a-dados-do-coaf-sem-autorizacao-judicial.shtml>