

# EFFECTIVE MEASURES FOR ASSET RECOVERY: THE BRAZILIAN APPROACH

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## I. INTRODUCTION

Brazil still occupies a quite uncomfortable position in the International Corruption Perception Index (CPI). However, through the years there has been a remarkable advancement regarding the Brazilian anti-corruption policies. Many good practices were adopted to fight corruption, money laundering, terrorism financing and to trace and seize proceeds of crime.

The Car Wash Case (“Lava Jato”, in Portuguese), one of the largest corruption investigations in Latin-American history, and a great number of previous and current criminal probes came to demonstrate that co-ordinating civil and criminal investigations and using international co-operation requests produces excellent results, when it comes to asset recovery.

A huge corruption scheme was found within one of the most important oil companies in the world, PETROBRAS. This state-owned company has always been very close to Brazilians’ hearts. Investigations showed that the corruption scheme was dependent on the participation of many Brazilian and foreign construction companies, which signed fraudulent contracts with Petrobras. Huge amounts of public money were diverted from the company to politicians, financial market operators and lobbyists. From day one, it was clear that prosecutors and police officers would have to face a great challenge: to trace the assets in Brazil and abroad and to get them back to the government and to that state company itself.

In this essay, my aim is to verify how the Brazilian law enforcement confronted that challenge and the results so far.

## II. BEST PRACTICES OVERVIEW

One of Brazil’s most successful practices in this regard has been the co-ordinated action amongst federal and state agencies, civil society and the private sector, all integrated into the National Strategy against Corruption and Money Laundering (“Estratégia Nacional de Combate à Corrupção e à Lavagem de Ativos”, in Portuguese) or ENCCLA. This expert policymaking group was brought together by the Ministry of Justice in 2003, and its purpose was and is to improve legal provisions which regulate various segments of financial and economic activities. Many very effective laws were enacted during the last decade as a result of ENCCLA’s efforts. One of these efforts, was the reform of the Anti-Money Laundering Law, in 2012, when the National Congress passed a modification to suppress the list of predicate offenses, making it easier to investigate and prosecute this felony and the crimes associated to it, bribery included.

The Federal Prosecution Service (MPF)<sup>1</sup> has led some of the changes the Brazilian criminal justice system passed in the recent years. Since 1988, under the new Constitution, the Prosecution Service is an independent agency. This is a key feature of the prosecutorial organization. This autonomy buys some space for prosecutors both at the state and federal level to investigate and indict very powerful targets, politicians, entrepreneurs and businesspersons, without suffering any undue influence from the government.

Many offices of the MPF across Brazilian lands created special units, comprised of adequate personnel to

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<sup>1</sup> Ministerio Público Federal, in Portuguese.

investigate and prosecute criminal and non-criminal corrupt practices. Corruption (passive and active), embezzlement and other crimes against the interests and monies of the Administration are dealt with by the Criminal Code.

Nevertheless there is a key act in Brazil which empowers prosecutors to bring law suits against corrupt agents as well. Working outside of the criminal field, before civil courts, the MPF and the 26 State mirror-entities may rely on the 1992 Administrative Improbability Act. This legislation stems from article 37 of the Brazilian Constitution, and it is intended to protect public funds, promote integrity and transparency, and to prevent illicit enrichment of public officials or third-parties when involved with public procurement or with the government. This 1992 Improbability Act provides for very hard sanctions for civil liability, including but not limited to compensation, retribution, fines, debarment, disgorgement, suspension of political rights for a time period (right to vote and to run for elections).

The MPF has offices in all the 26 Brazilian States and in the Federal District, where Brasília is located. In those offices there are specialized anti-corruption units known as “Núcleos de Combate à Corrupção” (NCC). The prosecutors working there are entitled to adopt this approach when handling corruption cases. The 26 Prosecution Services of the States have their own organization charts and may establish similar, specialized units, usually known as “Promotorias de Defesa do Patrimônio Público”, loosely translated as the Office of the Prosecutor for the Protection of Public Property.

Once a public servant, a mayor, a businessman or even a corporation engages in an improper, illegal relationship and causes harm to a state-owned entity, to a city or to the federal government or their properties, the perpetrator will be investigated and can be prosecuted before a non-criminal court pursuant to the Improbability Act. If this conduct is also a crime, the same federal prosecutor, when it comes to the federal judicial systems, will be responsible for the criminal investigation and the prosecution before a criminal court. This concentrated-management for adjudicating corrupt practices saves resources and time, and it is a very effective manner of producing and handling evidence. This practice facilitates the asset search and investigation for a future recovery.

One last thing must be noticed. Under this law, private companies and other legal entities (not only individuals) may be sued for corrupt practices; this is very important because in Brazil there is no criminal liability for legal persons, except in environmental crimes. For this reason, Brazil is considered a compliant country when its judicial system is confronted with article 26 of UNCAC:

Article 26. Liability of legal persons

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offenses established in accordance with this Convention.
2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.
3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offenses.
4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

This is now even more a reality since the Congress passed a new law in 2013 to tackle corrupt practices from private companies in public procurement and other kinds of relationship with the government. The so called Clean Compact Act (Federal Law No. 12,846 of 2013) grants powers to state and federal regulators to investigate and impose administrative sanctions to legal entities which engaged in corrupt practices describes therein.

These investigative tactics allow prosecutors to identify large corruption schemes, usually designed to pay hundreds of millions of dollars in bribes and kickbacks by means of over-priced contracts and through bid rigging. Unfortunately, schemes like that are very hazardous for any country, as they undermine the economy and paralyze construction work and infrastructure building.

The Federal Prosecution Service has also been successfully using international co-operation requests to obtain evidence abroad, to arrest fugitives, and above all things, to track down, freeze, confiscate and repatriate assets stemming from corruption.

In this context, one must also mention a new element of anti-corruption good practices that Brazil now adopts: the co-ordination between investigations carried out by the Federal Prosecution Service and those undertaken by private investigators hired by the companies involved in the corruption schemes. This new practice has become very evident, especially in relation to three cases: Petrobras, Odebrecht and Embraer. This co-ordination allowed for the return of hundreds of millions of dollars to Petrobras, as its assets had been embezzled by corruption performed by its former heads of departments. Such a positive result has been achieved for the first time in Brazilian history.

In order to promote integrity, the Office of the Prosecutor-General of the Republic, which is the head of the Brazilian Prosecution Service, has signed partnerships with the World Bank and with the Inter-American Bank for Development through memoranda of understanding so as to ensure the adequate use of public money for works and projects financed by these institutions in Brazil.

Taking into consideration its articulation with the civil society, the Federal Prosecution Service has also signed an operational agreement with Transparency International in order to house projects in common to prevent and fight corruption.

With the purpose of informing the population about dishonest practices, the MPF sponsored the campaign *Corruption No* during the Brazilian presidency of the Ibero-American Association of Prosecution Offices (which brings together 21 prosecution services). The campaign's targeted audience were teenagers and young adults, who are perceived as culture-changers across the region.

In the technology field, the MPF have developed their own investigation systems for tracking illegal financial transactions. SIMBA is an example of such technology. This software is now largely used by other control agencies in Brazil to manage and control bank data acquired in compliance with court orders.

The lessons learned in the last decade and the good practice developed by Brazilian law enforcement have been instrumental for the advancement of the investigative procedures. But there are many challenges to address. For that reason, the MPF sponsored a public campaign to get support from citizens enlisted to vote to present a bill of popular initiative. Known as the Ten Measures against Corruption, this bill was intended to implement new legislation on whistleblower protection, statutes of limitations, right to habeas corpus, and illicit enrichment of public officials. One of the proposals targeted political parties involved in corrupt practices. The parties could be held liable for this kind of conduct if they are financed with slush funds or off-the-books assets. The ninth measure would allow courts to remand or send to preventive detention a defendant trying to conceal or dissipate ill-gotten gains. According to the MPF, this would help prevent the laundering of proceeds of crime and prevent defendants from disappearing.

For the purpose of this essay, the tenth measure was the most important one. The idea was to enhance the asset recovery proceeding, by allowing the court to confiscate assets when the individual under investigation could not demonstrate their lawful origin.

### III. STRATEGIES AND TECHNIQUES: LESSONS LEARNED

The negative relationship between corruption and organized crime is remarkable. Therefore, it's very important to craft a strategy to the effectiveness of a complex investigation or prosecution, especially when it comes to investigate corruption, money laundering and white collar crimes in a transnational context and to confiscate ill-gotten assets. Long-standing Brazilian experience in this field shows how useful UNTOC and UNCAC provisions are as a legal ground for investigation and international cooperation in a huge criminal case, including for asset recovery.

Starting in March 2014, Switzerland and Brazil have been investigating criminal offenses in connection with the activities of PETROBRAS, a state-owned Brazilian company, and several construction companies. It is true that an investigation like that entails hard enquiries having links with the other country, requiring

coordinated, concerted action and a particularly close cooperation between the involved law enforcement and prosecutorial authorities.

In the Car Wash case (or *Petrobribe*), the MPF prosecuted hundreds of individuals, including senators, representatives (deputies), members of the cabinet, public officials and businesspersons. Politicians and political parties used to take bribes from contractors to facilitate their business with the public sector. Several individuals were indicted for different crimes, as large-scale corruption, financial crimes, cartels, money laundering and racketeering.

The strategy adopted by the federal prosecutors in charge of this investigation was very adequate for this kind of probe. The Car Wash strategy relies on five pillars: training, collaboration, coordination, transparency and international cooperation, enforcing a new legal framework provided by punctual legislative reforms and the implementation of at least three UN and OECD conventions.

As commented before, one of the most important pillars of the MPF strategy is to handle criminal and civil cases at the same time using criminal laws and civil statutes, for example, the Improbability Act (Administrative Malfeasance Act) of 1992. Since 2014, the prosecutors in that task force have been conducting criminal and civil probes on the same facts and have brought complaints against several persons and legal entities.

Additionally, there three separate but coordinated teams of prosecutors and police officers, that work together in different Brazilian cities (Brasilia, Curitiba and Rio) to tackle the scheme known as the Lava Jato case. Since 2014 more than 40 sub-operations (called phases) were carried out to arrest politicians, former lawmakers, contractors, CEOs, public servants and hawala operators. A great number of search warrants and detention orders were executed.

The task forces also work in close relationship with the federal government, regarding the administrative investigations performed by the Ministry of Transparency and of the Comptroller General of the Union (CGU), the Federal Revenue Service and the Federal Court of Accounts (TCU).

Its of paramount importance the coordination between the Federal Prosecution Service, the Federal Police and the Brazilian federal government to investigate this huge corruption scheme.

Technology and technical tools are very useful as well. In the technology field, the MPF has developed its own investigation systems for checking illegal financial transactions. As stated before the software known as SIMBA is now largely used by many law enforcement agencies in Brazil to manage bank data acquired in compliance with court orders, so as expert reports can be released. Another computational system changed the landscape of the financial crimes investigations in Brazil. In 2003 the National Database of Clients of the Brazilian National Financial System (CCS) was established. It allows prosecutors, police officers and judges to have direct access, pursuant a court order, to bank accounts of any individual living in Brazil. CCS and SIMBA play a very important role in asset recovery.

Relying on experts' networks is also a good practice. The GAFILAT Asset Recovery Network (RRAG) is one fruitful way to trace assets abroad. Each country has two or three points of contact on the network. Those officials connect investigators across the region facilitating the tracking of legal or illegal assets.

Now we come to another important pillar of the FPS strategy: the intensive use of the special investigation techniques provided by the Brazilian law on criminal organizations, of 2013. Many of these legal tools were useful in the Car Wash case and other probes, especially the use of cooperating defendants. The defendant is entitled to many different legal benefits when he or she decides to plead guilty and become a cooperating witness.

The requirements to craft a deal like that are described by the Brazilian law. The assistance provided must be substantial. The defendant should express his/her consent prior to the execution of the deal. On the other hand, by offering a plea agreement the prosecutors' aim is to identify co-conspirators, clarify the timeline, places and conduct related to a set of criminal acts; prevent new crimes; save or protect the victims' lives or health and, finally, recovery assets and proceeds of crime.

Prosecutors may combine plea agreements with natural persons and leniency commitments – a kind of non-prosecution agreement (NPA) – with legal entities they work for. The possibility of achieving settlements in the criminal and non-criminal jurisdiction makes a difference, because this combined approach potentialize the workload of evidence delivered in exchange of the agreement, and the amount of assets returned.

The use of cooperating witnesses in connection with MLA tools in the Car Wash case was also of great importance. Currently (as of October 2017) the Lava Jato task forces signed more than 180 plea agreements with different defendants or suspects. Another 300 defendants await their trials. There are almost a dozen NPAs entered with corporations. Several defendants were convicted by lower courts, and the amount of assets frozen or confiscated is really impressive.

The traditional legal basis for recovery in Brazil is the confiscation of proceeds of crime after a conviction. Here, if the decision is not final it is not possible to confiscate the illegal assets of the defendant. In general, it takes too long for a decision to become final, because there are too many appeals available for the defense in the four levels of the Brazilian court system.

The Brazilian criminal justice system is full of examples of conviction rulings waiting for more than a decade to be confirmed by the Brazilian superior courts.

The difference with the Car Wash case was the use of the plea agreements – or collaboration agreements – to make the recovery faster. The defendant waives his/her right to appeal and agrees to return the assets to Brazil. A mutual legal assistance request is filed through the central authority. Then the foreign prosecutor and the local central authority can handle the request, check the waiver and send the assets back more rapidly. This proceeding is also valid and applicable domestically, not demanding an MLA request, of course.

Some of the suspects used to maintain their funds hidden abroad. As a result of two dozen MLA requests received from Brazil and due to their own probes, Swiss authorities have frozen millions in assets tied to the PETROBRAS and ODEBRECHT<sup>2</sup> corruption scandals, and have discovered hundreds of accounts at Switzerland's banks used to funnel bribes as part of the wrongdoing at Brazil's state oil company and other Brazilian entities. According to its 2016 activities report released in March 2017, the *Ministère Publique de la Confédération* (MPC), the Swiss federal prosecution authority, the findings and results so far are quite impactful.

### 3.7 Petrobras / Odebrecht proceedings

In connection with the corruption scandal relating to the semi-state-owned Brazilian company Petrobras, the OAG has been conducting investigations since April 2014 in relation to money laundering and acts of bribery in particular. In 2016 some 20 fresh criminal investigations were instigated in these proceedings, as a rule following corresponding reports of suspicion from the MROS. This increased the total number of criminal investigations conducted by the OAG in this context to more than 60. The investigations in Switzerland are being conducted, above all, into Brazilian officials on the suspicion that they had bribes paid to them in accounts in Switzerland in return for awarding public procurement contracts in Brazil, but also into Brazilian construction and supplier companies on the suspicion that they paid bribes via these account structures in Switzerland and unjustly enriched themselves in numerous cases.

In this process, the OAG seized and has largely examined banking documents relating to far more than 1,000 accounts. To date, assets in the total amount of CHF 1 billion, converted, have been confiscated, of which some CHF 200 million has already been returned to the Brazilian law enforcement authorities on request and with the consent of the account holders concerned. A special focus of the OAG's investigations was on the proceedings being conducted since summer 2015 into the Odebrecht conglomerate based in Brazil, which is active, among other things, in construction, petrochemicals, energy, engineering, infrastructure and property management. In the criminal investigations into Odebrecht, other companies and numerous private individuals, a key employee of Odebrecht was arrested and interrogated in Switzerland in February 2016. In March 2016 the OAG managed to seize

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<sup>2</sup> ODEBRECHT is one of the major construction companies in Brazil. The company is also a holding doing business in many sector of the Latin American and African markets.

a server system featuring key evidence with the support of the FCP in Geneva and analyzed at least part of the data. The investigations into Odebrecht in Brazil also progressed, and at the start of the year initial judgments were handed down against executives of Odebrecht, sentencing them to several years of imprisonment for corruption, among other things. Odebrecht subsequently decided to co-operate with the law-enforcement agencies, and the investigations conducted against it in Brazil, the US and Switzerland were brought to a conclusion.

Odebrecht was found guilty in Switzerland by penalty order under Article 102 Swiss Criminal Code and fined CHF 4.5 million. By sequestration and determination of a corresponding compensation claim, Odebrecht was obligated in Switzerland to refund proceeds from crimes in the amount of CHF 200 million. Another USD 1.8 billion in total is to be repaid on the basis of corresponding agreements with or rulings of the competent authorities in Brazil and the US. The co-ordinated conclusions of the proceedings in Switzerland, Brazil and the US are a success for the international combating of corruption and the result of close co-operation and co-ordination of the law-enforcement authorities in charge.<sup>3</sup>

From March 2014 until now, the prosecution task force has issued or received more than three hundred incoming and outgoing MLA requests addressed to 40 different countries and territories spread throughout the world, in the Americas, Africa, Europe and Asia, in order to gather or provide evidence, arrest fugitives and get assets frozen and repatriated. This is for sure the major transnational probe in the Brazilian history.

Many of these MLA requests were prepared after informal, direct contact between Brazilian prosecutors, police attachés and the competent authorities of the requested countries. On this ongoing investigation, many MLA requests have been issued pursuant to UNCAC provisions, including the ones relevant to asset recovery.

In addition to this, for the first time in Brazil, the MPF has signed two memoranda of understanding to refund US\$ 80 million to Petrobras, the main victim of this graft scheme. This was the greatest compensation to a state-owned company in a criminal case in Brazilian history.

But there are still other challenges. Considering that the targets of this investigation are politicians and powerful businessman, pushback may come. Some backlashes already happened. Currently there are bills to prevent prosecutors from cutting deals with arrested defendants and to remove some powers of prosecuting authorities. Another bill makes it a crime broadly defined as abuse of function specifically tailored to target prosecutors and judges.

Commenting on the joint settlement among Brazil, Switzerland and the United States, prosecutor Deltan Dallagnol, coordinator of the MPF task force in Curitiba stated:

These leniency agreements expand the boundaries of the Car Wash investigation and the prosecutors' ability of obtaining evidence on more crimes. This kind of settlement also provides a way for companies who commit malpractice to assist the authorities, to conduct their business under the law and to invest, which contributes to the maintenance of jobs and to the economy itself".<sup>4</sup>

His colleague Paulo Galvão, also a member on the Lava Jato task force with headquarters in the southern city of Curitiba, stresses the relevance of this kind of settlement:

Moreover, the commitments undertaken before the Brazilian Federal Prosecution Service foster a new business culture in the construction sector, establishing a new relationship between the public and the private sectors, thus hedging the companies against the influence of cartels and corruption. Under that light, the companies who enter leniency agreements are regarded as catalysts of the renewal of practices and the increase of competitiveness in the market. With the strengthening of the market, efficient companies find better conditions to develop and therefore compete in the global market.<sup>5</sup>

<sup>3</sup> MPC 2016 Activities Report, <[www.ministerepublique.ch](http://www.ministerepublique.ch)> accessed 3 Nov. 2017.

<sup>4</sup> MPF press release, <[www.mpf.mp.br](http://www.mpf.mp.br)> accessed 10 Nov. 2017.

<sup>5</sup> Idem.

#### **IV. ASSET RECOVERY BY MEANS OF LENIENCY PROGRAMS AND COLLABORATION AGREEMENTS**

When it comes to evidentiary international cooperation and asset recovery the Brazilian legal framework comprises provisions on the use of civil and administrative proceedings against corruption along with provisions pertinent to criminal matters.

Brazilian legislation provides for two different sorts of settlements. The 2013 Anti-Bribery Act – also known as Clean Company Act – permits leniency agreements for companies, as a non-criminal tool to fight corruption, dealing with civil and administrative liability.

The 2013 Brazilian Organized Crime Law allows cooperation agreements to be signed with witnesses or defendants in criminal proceedings.

Both instruments are effective, and its results are visible, mainly in recent years, asset recovery activities included. Before the Car Wash case, Brazil had recovered no more than US\$15 million, because of statutes of limitations and flaws in the appellate system, which makes it too long to solve a case. In the Car Wash case alone, until 2017 federal prosecutors recovered over US\$250 million and an estimated US\$600 million in frozen assets are abroad, which represents a significant example of the effectiveness of mutual legal assistance.

A leniency agreement must be understood as an investigative tool and not as a primary instrument to resolve financial problems. It is also a way to impose fines for the wrongdoings, recover damages, make the legal entity comply with the legislation, conduct internal investigations to unveil other malpractice, and implement compliance and integrity programs for their boards and employees. Another key obligation is the establishment of corporate anti-bribery and anti-corruption (ABAC) monitoring, which can be kept for two or three years, under the scrutiny of the prosecution service. The independent monitor is hired by the company which entered into the agreement.

To obtain the legal benefits stemming from a leniency program a corporation must fully cooperate with the authorities and regulators, admit and cease its involvement in the wrongdoings, and provide full restitution for the damages it caused. The benefits of different natures include, but are not limited to, reduction of fines and the prevention of debarment. The leniency also is intended to avert the company from going bankrupt.

In 2016 the Brazilian Federal Prosecution Service (MPF) entered into huge global leniency agreements with ODEBRECHT and BRASKEM. The companies admitted to having committed wrongdoing to obtain illicit gain to companies belonging to their economic group.

According to the statement of facts accepted by the aforementioned corporations, one of the victims of this scheme was Petrobras. The representatives of the legal entities reported crimes committed by politicians from Brazilian federal, state, and local governments, also from foreign governments. Odebrecht former CEO and former directors established a Department of Structured Operations, as a division of the Odebrecht group, in order to manage the bribes and kickbacks to be paid to politicians and other corrupt official across the region.

According to the MPF, these are the largest settlements ever signed in a corruption case.

Both agreements are part of a broader covenant undersigned by the corporations themselves with Brazilian, Swiss and American authorities. Although the main reason why these leniency agreements are signed in the first place is for obtaining information and documents regarding malpractices (to which end company co-operation makes all the difference), the companies have also committed to paying damages and compensation for victims and to the Brazilian public coffers. BRASKEM agreed to pay as much as BRL 3,131,434,851.37 due to its leniency agreement. Of this amount, approximately BRL 2.3 billion will be due to Brazil for the payment of damages to victims. As for ODEBRECHT, it has agreed to pay BRL 3,828,000,000.00, of which approximately BRL 3 billion will be also allocated to Brazil so as to compensate victims. The values shall be paid when due, as stipulated on the agreement signed. At the time of payment, monetary adjustment may increment the amounts to be paid to Brazilian authorities. For example, the sum of the installments concerning the agreement signed by

ODEBRECHT (after applying the correction rate called SELIC) results in the final payment of BRL 8, 512,000,000.00, which corresponds to approximately USD 2.5 billion. If considered together, the amounts paid due to the leniency agreements signed with both ODEBRECHT and BRASKEM constitute the largest leniency agreement ever paid in connection with a corruption and bribery case in the world.<sup>6</sup>

This kind of leniency agreement – which is very similar to a non-prosecution agreement – is usually combined with cooperating agreements entered with individuals related to the company. Also known as “acordos de colaboração premiada”, those agreements must be approved in court. The Federal Law 12,850 of 2013 (Organized Crime Act) provides that a cooperating defendant has the right not to be prosecuted (immunity), or to a reduced sentence.

## V. OTHER USEFUL MEASURES TO RECOVER ASSETS

In some jurisdictions, like the United States, there are administrative injunctive measures or cease and desist orders to prevent illegal conduct of companies and individuals. Regulators may also impose the disgorgement of illegal gains (or of the losses avoided), civil monetary penalties, claw-back suspensions, and debarment of a lawyer or an accountant or a director from appearing or practicing before the agency.

The disgorgement targets the illegal profits from legal violators. The idea behind this kind of remedy is to take all the profit out of violations. A disgorgement looks at the gains of the violators, not to the losses of shareholders. The violators must be deprived from the profits of their misconduct. In some jurisdictions the law may also provide for orders requiring the defendant or the respondent to lay ill-gotten gains or unjust enrichment, so as the crimes do not pay<sup>7</sup>.

A civil monetary penalty is a pecuniary sanction imposed on a company or a natural person who has committed a violation. This kind of remedy is not intended to compensate a victim or the state. It has the purpose of deterrence, but the funds derived from it may be sent to the government or to a victim.

## VI. CONCLUSION

The impacts of corrupt practices in organized crime are very clear. There is a direct effect between them and a symbiotic relationship. Criminal organizations make money. Those proceeds of crime are laundered and used to bribe public officials, and they, in their turn, have to launder it again. So there is a never ending vicious cycle which ties organized crime to corruption.

Corruption undermines enforcement strategies established by the government to prevent criminal organizations from maintaining their illegal businesses and thus can be identified as one of the underlying factors that affects the rule of law and the fight against organized crime.

On one hand, criminal organizations profit from crime. Corrupt politicians and public officials take bribes. Then criminal organizations make more money. And when organized crime gets stronger, the rule of law is endangered.

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<sup>6</sup> Ibidem.

<sup>7</sup> See for example the StatOil case, a company from Norway, <<https://www.sec.gov/litigation/admin/2006/34-54599.pdf>> accessed 27 Sept. 2017.