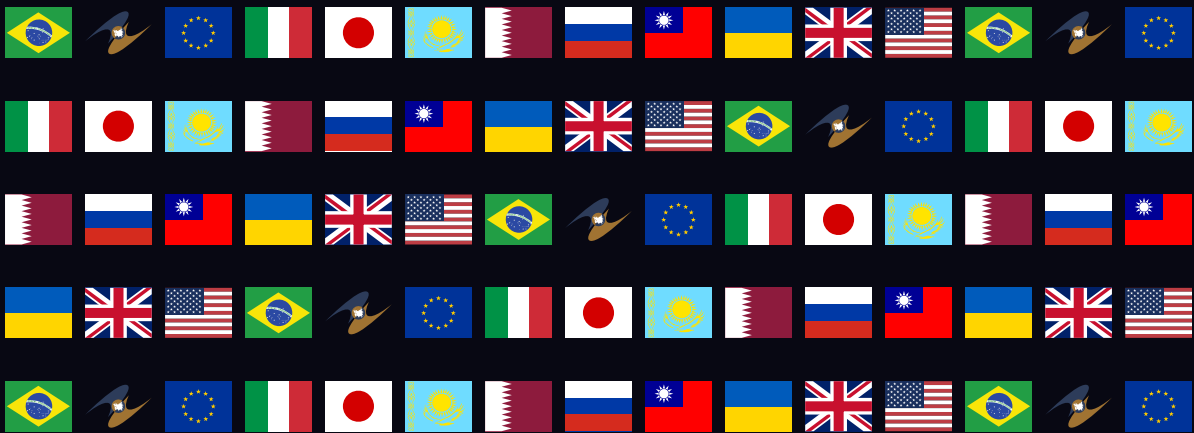


GOVERNMENT RELATIONS

Brazil



Government Relations

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights, including into applicable forms of government and opportunities to influence legislation; regulation of lobbying regulation; political finance; ethics and anti-corruption; recent cases; sanctions; and other recent trends.

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FORM OF GOVERNMENT

Constitution

What is the basic source of law? Describe the scope of, and limitations on, government power relevant to the regulation of lobbying and government relations.

Social participation in the decision-making process is based on the individual rights and guarantees described in the Constitution enacted in 1988, which include freedom of speech and assembly, and the right to petition. The latter establishes that every citizen may submit a plea to the government to advocate for their rights and stand against illegalities and abuse of power. These individual rights enable all citizens to exercise free democratic participation in the decision-making process, which is related to lobbying and government relations.

These rights are in harmony with the bases of the Brazilian Constitution, which establishes a democratic, republican and federative nation, where all power belongs to the people, who exercise it by electing representatives and their appointees.

Law stated - 03 January 2023

Legislative system

Describe the legislative system as it relates to lobbying.

Brazil adopts a presidential system of government. Elections take place every four years for the executive and legislative representatives.

The federal parliament (the National Congress) is bicameral, composed of the House of Representatives and the Senate. The main role of Congress is to legislate, but it also oversees the executive branch, and, for that purpose, it has the support of an auditing government body.

The executive branch is composed of many public agencies, which have the autonomy to regulate legislation approved by Congress. The Cabinet can also enact executive orders that enter into force as soon as they are published and are valid for 60 days (and are renewable for the same period). To become law, Congress must vote on the executive orders.

In the public sphere, there is a strong constitutional system of checks and balances in place. In addition, state and municipal legislative bodies may create legislation according to their constitutional attributions, which means that local lobbying is also relevant.

The possibility of Brazil adopting a semi-parliamentary system is currently under discussion. This system would lead congress-people to a leading position in the decision-making process and the dynamics of lobbying would certainly be impacted.

Law stated - 03 January 2023

National subdivisions

Describe the extent to which a legislative or rule-making authority relevant to lobbying practice also exists at regional, provincial or municipal level.

The government has a complex structure, with autonomous state and municipal bodies for decision-making and legislating. A long list of responsibilities is established in the Constitution regarding federal, state and municipal matters, some of which are assigned at more than one level. Municipal legislative authority includes tax, urban planning, public safety, sports, and culture and recreation, among others.

Although not regulated, lobbying and government relations take place locally owing to the constitutional bases for advocacy.

Law stated - 03 January 2023

Consultation process

Does the legislative process at national or subnational level include a formal consultation process? What opportunities or access points are typically available to influence legislation?

All bills of law must be assessed by the House of Representatives and the Senate. In both houses, bills are submitted to thematic committees and assessed by an appointed rapporteur who must issue a report for approval, rejection or adjustment of the bill, which is confirmed by the Committee. The plenary of the houses may also assess the bill depending on the type, and the priorities and themes to be voted on.

Rule-making power is also granted to the President (Chief of the Executive Office), who is responsible for sanctioning (or vetoing) and enacting most bills. Additionally, the executive branch may submit bills of law to be voted on by Congress. The Supreme Court also plays a role in rule-making because of the erga omnes effect of most of its decisions and to increase judicial activism.

In general, the Brazilian legislative process includes phases of public participation, such as public consultations, public hearings and mechanisms for presenting legal suggestions. The participation takes place mainly in the legislative houses and via official websites. The Constitution also allows for citizens to propose bills, as long as the proposal comes from at least 1 per cent of voters in various areas of the country (which amounts to approximately 1.5 million signatures).

Law stated - 03 January 2023

Judiciary

Is the judiciary deemed independent and co-equal? Are judges elected or appointed? If judges are elected, are campaigns financed through public appropriation or candidate fundraising?

The judiciary in Brazil is independent and coequal. It is composed of trial courts, appellate courts and the higher courts (the Superior Court of Justice and the Supreme Court). These courts rule on civil and criminal law matters. In addition, Brazil has three specialised judicial systems for ruling on labour, electoral and military cases.

Trial judges are not elected but recruited as a result of their performance in specific high-level career exams.

A different system applies to the higher courts, where members are appointed by the President according to a list of eligible professionals selected by the appellate court. These lists are mainly composed of trial judges, but a quota is reserved for career prosecutors and lawyers.

All judges of the Superior Court of Justice are appointed by the President from a list of judges, lawyers and public prosecutors.

Regarding the Supreme Court, the President may appoint anyone aged between 35 and 65 with exceptional legal knowledge and an immaculate reputation.

There is one legislative proposal intending to change this rule: Constitutional Amendment Bill 159/2019 seeks to change back the age of the justices' mandatory retirement from 75 to 70 years old. In addition, Constitutional Amendment Bill 32/2021, which aimed to increase the maximum age of appointees from 65 to 70, was voted on in February 2022, and became Constitutional Amendment 122/2022.

REGULATION OF LOBBYING

General

Is lobbying self-regulated by the industry, or is it regulated by the government, legislature or an independent regulator? What are the regulator's powers? Who may issue guidance on lobbying? What powers of investigation does the regulator have? What are the regulators' or other officials' powers to penalise violators?

Lobbying is undergoing regulation in Brazil. The activity is currently performed mainly on the grounds of article 5, XXXIV, sub-paragraph (a) of the Constitution, which establishes the right to petition by granting everyone the right to represent their interests and to advocate against illegalities and abuse of power. The Constitutional right of petition ensures that every citizen and sector has their demands and pleas assessed by the government, which indirectly confers on everyone the right to lobby. As such, although no legislation in Brazil regulates lobbying itself, several rules seek to set the parameters for public-private sector interaction. These rules, combined with the right to petition the government, are understood as the framework for lobbying in Brazil.

Due to cases of corruption and lack of transparency in interactions between private individuals and public agents, the aim to regulate lobbying came back to the spotlight more recently, after remaining on the agenda for Congress for over 20 years, when the first bill to regulate the activity was submitted to the Senate.

In July 2022, Law No. 14,365/22 altered the Brazilian BAR Association Act to establish that the lawyer may contribute to the legislative process, and to the drafting of norms for the executive, judiciary and legislative powers. This was a significant step because the norm explicitly authorised lawyers to perform the lobbying activity.

Just recently, in November 2022, another major development occurred when the House of Representatives approved Bill No. 1,202/07. The text as approved by the House reinforces, among other elements, the legitimacy of the activity, establishes general rules of conduct with a focus on transparency, and lists punishable misconduct. Now, this text must be analysed, discussed, and voted by the Federal Senate. If there are alterations to the content, it must be voted on once again in the House of Representatives, as the Brazilian legislative process demands.

Meanwhile, the main binding rules for lobbyists in Brazil are:

- the Code of Conduct of the High Administration;
- the Clean Company Act (Law No. 12,846/2013);
- the Electoral Code and Campaign Funding Rules;
- the Internal Rules of the House of Representatives and the Senate;
- Law No. 8429/92 – the Administrative Misconduct Law;
- the Penal Code, in particular articles 321, 332 and 333, respectively on the defence of private interests as a lawyer, influence dealing and active corruption; and
- the Brazilian BAR Association Act, which suffered a change in July 2022 to establish that the lawyer may contribute to the legislative process and to the drafting of norms for the executive, judiciary and legislative powers.

When discussing lobbying regulation, it is important to note the role played by Operation Car Wash (a criminal investigation carried out by the Federal Police of Brazil that began as an investigation into money laundering and expanded to corruption at state-controlled oil company Petrobras and other private companies) in raising awareness about lobbying malpractice and placing discussions about transparency, legitimacy and lobbying activities on the

national agenda daily.

Although the aim to regulate lobbying has only been a focus recently, it has been on the agenda for Congress for over 20 years, when the first bill to regulate the activity was submitted to the Senate. Since then, several bills have been proposed and the one leading the legislative process with the strongest support is Bill 1202/07. It is currently on the floor to be voted by the plenary of the House. In 2019, Bill 1202/07 was docketed on the daily agenda more than 10 times but has not yet been voted on.

Another direct consequence of lobbying awareness is the increasing number of private associations created to unite lobbyists and discuss the regulation of the activity. Most of these associations have a binding internal code of conduct that may serve as an informal marker of good conduct in the market. This voluntary membership may be interpreted as tentative self-regulation.

Bill 1,202/07 encourages organisations to adopt integrity procedures to better regulate auditing, transparency, interest conflict and incentives to report misconduct.

Law stated - 03 January 2023

Definition

Is there a definition or other guidance as to what constitutes lobbying?

There is no legal definition of lobbying. However, in 2018, lobbyists were included in the Brazilian Classification of Occupations by the former Ministry of Labour under the title of Institutional and Government Relations professionals. This recognition did not aim to define or regulate the professionals; it only featured to encompass these professionals in the Ministry of Labour list of professional activities.

In Brazil, the term 'lobbying' has assumed a depreciatory meaning, related to the act of wrongdoing. Consequently, all draft and issued bills have avoided the expression. It is more common in Brazil for lobby professionals to be named as both government relations or institutional and government relations professionals.

In Congress and in the executive branch, some definitions are under discussion now that regulation is increasingly advancing. Bill 1,202/2007 is the leading one and defines lobbying as the interaction between a private individual or a legal entity, and a public agent when aiming at influencing the decision-making process within: (1) formulation, implementation and evaluation of government strategy, public policy, administrative act, regulatory determination or related activities; (2) public bids and contracts and; (3) drafting, alteration, or revoking of laws and other normative acts.

Law stated - 03 January 2023

Registration and other disclosure

Is there voluntary or mandatory registration of lobbyists? How else is lobbying disclosed?

There is no mandatory registration for lobbyists in Brazil, but there is voluntary registration in Congress for lobbyists who represent public agencies or civil entities recognised and authorised by the Senate or the House of Representatives' board of directors. This register is intended to facilitate access to Congress. It does not entail any disclosure to the entities and professionals accredited. Each federal body or civil entity is limited to two representatives per House. Only associations, trade unions and entities with national representatives have the right to register their representatives in Congress. Recently, the Senate system changed so that only government officials may register.

Bill No. 1202/07 does not require lobbyists to register, and it establishes a minimum disclosing rule for lobbyists to name who they are representing when engaging with politicians or public officials.

Activities subject to disclosure or registration

What communications must be disclosed or registered?

Decree No 4.334/2002 and Law No. 12,813/13 provide some rules regarding the matter. The Decree regulates hearings conceived to private individuals by public agents from the federal public administration, the autarchies and the federal public foundations, whereas article 11 of the abovementioned law determined that states' ministers, occupants of special nature posts, presidents, vice-presidents and directors of autarchies, public foundations, public companies, and mixed-economy partnerships, those who work in higher direction and advising posts, and those who have access to any kind of privileged information within the public administration must display their agendas daily. Although those rules assure transparency to a degree, there is no specific lobbying registration, in Brazil, and, therefore, no set rules for lobbying disclosure.

Bill 1,202/2007 may change this scenario, given that articles 10, 11 and 12 bring several rules to the disclosing of records from the meetings with a lobbying purpose. The new procedures bind the lobbyists to provide information about participants, the subject, and the nature of the representation. The participating public agent must formalise the content of the meeting through a written document, in four working days following the hearing, as well as they must provide the public entity information about hospitality in six working days from the event, with eight working days to rectify the information, if necessary. The public entity has 10 working days from the meetings to publicise the information, which should remain available for at least five years.

Law stated - 03 January 2023

Entities and persons subject to lobbying rules

Which entities and persons are caught by the disclosure rules?

Disclosure rules are under development now that the lobbying regulation is moving forward. In the approved text of Bill No. 1,202/07, those apply to the lobbyist, the public agent, and the entity to which this agent belongs to. Therefore, if the Bill passes the Federal Senate's voting, these are the people who are going to held accountable in the case of non-compliance.

Law stated - 03 January 2023

Lobbyist details

What information must be registered or otherwise disclosed regarding lobbyists and the entities and persons they act for? Who has responsibility for registering the information?

Brazil does not regulate lobbying. As a consequence, lobbyists do not need to disclose information about their services, engagement, clients or finances. Bill 4,391/21 seeks to establish the obligation to share information mainly with regards to meetings with government officials.

Law stated - 03 January 2023

Content of reports

When must reports on lobbying activities be submitted, and what must they include?

The rules predicated in Bill 1,202/07 demand active transparency on the disclosure of data on interactions between lobbyists and public agents. If the bill is approved into law in its current form, the information provided after a hearing must include the following: (1) date of the meeting; (2) participants' identification; (3) identification of those whose interests are being represented; and (4) subject description.

The bill exempts the publicising of market and commercial information that can compromise direct investments, economic development, industrial activity and other factors essential to maintain a competitive environment. In addition, it also requires previous consent from those whose representation stands for a social cause or for the accomplishment of a goal from a non-profit organisation regarding the publicising of sensible data and strategies.

Law stated - 03 January 2023

Financing of the registration regime

How is the registration system funded?

There is no financing system for lobbying registration as there is no mandatory registration for lobbyists in Brazil. The only registration available for lobbyists are two separate systems implemented in the House of Representatives and in the Senate to simplify access to these houses, but it is free of charge.

Law stated - 03 January 2023

Public access to lobbying registers and reports

Is access to registry information and to reports available to the public?

There are no disclosure rules for lobbying in Brazil. Therefore, there is no data regarding registry information and reports on lobbying activities to be released to the public. Upon request, the House and Senate registration systems will disclose the entities registered in their files, but not the name of those representing them.

In the executive powers, it is mandatory to publicise the high authorities' agendas, so the civil society has access to the participants identification, although the content is not fully displayed.

Law stated - 03 January 2023

Code of conduct

Is there a code of conduct that applies to lobbyists and their practice?

Lobbying is not regulated in Brazil and therefore does not have a specific code of conduct. Nevertheless, several norms that regulate political agents and public officials also apply to lobbyists. When combined, all these rules result in a framework that is mandatory for lobbyists in Brazil.

For instance, the Code of Conduct of the High Administration is an indication of the limits imposed by the legislature on the private and public sectors about dispensing gifts and financing events, lunches and trips. The Clean Company Act imposes stricter sanctions on private companies for actions carried out against the government by introducing strict liability for private companies. All procedures related to the legislative process are described in the Internal Rules of each house of Congress. In addition, Law No. 8429/92 addresses the actions that are considered administrative

misdemeanours and the Penal Code prescribes crimes related to public-private interaction.

Most private associations of lobbyists have a binding code of conduct for their members. Bill 4,391/21 also encourages them to have one.

Law stated - 03 January 2023

Media

Are there restrictions in broadcast and press regulation that limit commercial interests' ability to use the media to influence public policy outcomes?

Brazil does not have specific media regulations on lobbying. There are broad limitations, and commercial interests' use of the media to influence public policy outcomes is not specifically addressed.

Brazilian consumer law establishes limits on all marketing campaigns, such as the prohibition of misleading and offensive advertising. Confusing consumers' perception of products, etc, through advertising is also prohibited.

The media is self-regulated, and the National Council for Advertising Self-Regulation (CONAR) is responsible for creating and enforcing advertising-related rules. CONAR Resolutions do not address the influence of propaganda on public policy outcomes.

Law stated - 03 January 2023

POLITICAL FINANCE

General

How are political parties and politicians funded in your jurisdiction?

In Brazil, there are three pieces of legislation that establish the framework for political parties, campaigning and elections:

- the Electoral Code (Law No. 4,737/1965) regulates the right to vote and election for office, how elections will take place, and the role of the electoral judicial system, and prescribes electoral crimes;
- the Political Parties Act (Law No. 9,096/1995) establishes the parameters for political parties' by-laws and practices (the parties determine their by-laws); it also determines how the parties will be funded; and
- Law No. 9,504/1997 establishes the rules for electoral campaigns, including requirements for candidates to run and to form coalitions, funding, accountability and campaign advertising.

Political parties are mainly publicly funded by the Special Fund for Financial Assistance to Political Parties (the Partisan Fund) and the Special Fund for Campaign Financing that receives money from the general budget of the Federal Administration. The distribution of these resources is made according to each party's parliamentary representation.

A different framework is applied concerning campaign contributions. In broad terms, individuals may contribute to electoral campaigns up to a limit of 10 per cent of their annual income before the election year, and legal entities are no longer authorised to make donations.

Law stated - 03 January 2023

Registration of interests

Must parties and politicians register or otherwise declare their interests? What interests, other than travel, hospitality and gifts, must be declared?

All political parties' revenue and expenses must be annually reported for judicial review. If accounts are rejected or not correctly declared, the electoral justice system may apply different levels of sanctions.

During their terms, house representatives are entitled to some allowances and reimbursement of expenses, such as transportation, accommodation, telephone expenses, postal services, maintenance costs of parliamentary offices in support of parliamentary activity, food expenses, security services and use of consultancies.

Senators also have a monthly allowance to spend during their terms or are reimbursed for those expenses. Expenses including medical and dental care, accommodation, travel tickets or leasing of aircraft are covered by the Senate if they are correctly reported by senators.

These interests must be declared to the respective house of Congress and made public to all citizens.

Law stated - 03 January 2023

Contributions to political parties and officials

Are political contributions or other disbursements to parties and political officials limited or regulated? How?

Political contributions and other disbursements are highly regulated in Brazil. The 1988 Constitution determines in article 17, section 3 that political parties will be entitled to resources from the Partisan Fund and will receive the benefit of free access to television and radio broadcasting. These rules were changed in October 2017 by Constitutional Amendment 97 establishing the minimum threshold for political parties to benefit from these resources (the barrier clause). These rules, which came into force for the first time in the 2018 general elections and will be phased in gradually until full implementation in 2030, are as follows:

- parties must have obtained at least 3 per cent of the valid votes in the previous elections, which must be spread across a minimum of one-third of the federation states and have at least 2 per cent of valid votes in each of these states; and
- parties must have elected a minimum of 15 federal house representatives spread across at least one-third of the federal states. Parties that fail to meet this threshold will still be entitled to run and elect candidates but will not benefit from the Partisan Fund and the free television and radio exposure.

Partisan Fund resources derive mainly from the federal budget but also from the collection of penalty fines applied to those who breach the Electoral Code. Additionally, individuals may also make private donations to the Partisan Fund as long as they are earmarked and traceable. The distribution of fund resources is made according to each party's parliamentary representation.

Law 9,096 of 1995 determines what expenses may be financed by Partisan Fund resources, such as administrative costs of the party headquarters, personnel and campaigns. In September 2019, Law 13,877 made a few changes to extend the list of allowed expenses, which now include legal and accountancy fees.

In addition to financial funding, political parties are entitled under the Constitution to free television and radio broadcasting. The counterpart to this indirect public funding comes from tax waivers granted to broadcasting

companies. The minutes allocated to each party are directly related to the number of congress-people with mandates. Where party coalitions are admitted (this is now limited to executive office positions), their television and radio broadcasting may be aggregated.

Law stated - 03 January 2023

Sources of funding for political campaigns

Describe how political campaigns for legislative positions and executive offices are financed.

The electoral legal framework is established in Brazil by Law No. 9,504/1997, which has been modified many times.

Until 2016, both individuals and private entities were allowed to contribute to political campaigns, with different contribution caps. There used to be a contribution limit of 2 per cent of a legal entity's income and a limit of 10 per cent of an individual's annual income for contribution.

In an effort towards more transparency and less corruption, changes were made to restrict campaign donations coming from legal entities. On 17 September 2015, the Supreme Court, having been called upon by the Brazilian Bar Association, ruled that campaign contributions coming from private legal entities were unconstitutional and would no longer be allowed. The ruling went into effect immediately. On 29 September 2015, Congress approved the ruling, and the Executive Office enacted new legislation reinforcing the prohibition of campaign donations by private legal entities.

In addition to individuals' contribution limit of 10 per cent of their incomes, to avoid multimillionaire candidates from having an unlimited advantage over others, changes to the Electoral Code carried out by Law 13,878 of October 2019 established that contributions from candidates to their campaigns must have an additional limit of 10 per cent of the total campaign expenditure.

In 2017, other changes in campaign funding were approved by Congress to promote amendments to the Constitution (Amendment 97 of 2017) and Law No. 9,504/1997. Among these changes, Law No. 13,487/2017 created the Special Fund for Campaign Financing (the Campaign Fund). Unlike the Partisan Fund, which finances the activities of established political parties, the new Campaign Fund finances electoral campaigns. It is also subsidised by the federal budget and distributed among parties. It was created to fill the gap of private entities' campaign contributions.

In summary, the current legal framework:

- allows individuals to contribute to electoral campaigns up to a limit of 10 per cent of their income;
- allows candidates to contribute to their electoral campaigns up to a limit of 10 per cent of the total campaign expenditure;
- allows foreigners (individuals) to contribute to electoral campaigns as long as the funds are originated in Brazil;
- prohibits legal entities from contributing to political campaigns; and
- establishes the Campaign Fund to help finance electoral campaigns.

Although it is possible to argue that private-sector interference in the results of the election may have diminished – at least officially – there is no clear evidence that more transparency or less corruption came out of the new legislation. Allegations of undue interference by private companies in social media campaigning put at stake the fair use of political tools. Another consequence of changes to campaign funding legislation is the unbalance caused by multibillionaire donors. As in Brazil individual campaign contribution is not a tradition, as soon as private entity donations were outlawed a few individual donors stood out and created an imbalance in interests being represented in Congress.

Law stated - 03 January 2023

Lobbyist participation in fundraising and electioneering

Describe whether registration as a lobbyist triggers any special restrictions or disclosure requirements with respect to candidate fundraising.

Although admitted as a practice under the constitutional right to petition, lobbying is not yet regulated in Brazil and registration is not mandatory (or even a voluntary common practice). Therefore, there are no specific rules as to how lobbyists must observe fundraising and electioneering limits. The rules applicable to lobbyists will be the same as those applicable to citizens in general.

Law stated - 03 January 2023

Independent expenditure and coordination

How is parallel political campaigning independent of a candidate or party regulated?

According to article 14, paragraph 3, item V of the Constitution, among other requirements, political candidates must be affiliated with a political party to run for election.

However, the matter of independently running for a political position is pending a judicial decision by the Supreme Court. The above-mentioned constitutional rule is being questioned in the face of the American Convention on Human Rights (the Pact of San José), which limits the requirements for candidates to run for political elections and does not include in the list the condition of political affiliation. According to the arguments brought to the Supreme Court, the Pact of San José should prevail over the Constitution if it is more beneficial to citizens.

Concerning parallel campaigning to support or oppose a candidate or political party, the practice would not only be unusual in Brazil but is also likely to be considered as indirect campaigning by the Superior Electoral Court, which may fall into the category of forbidden benefits.

Electoral campaigns made via the internet, which includes all types of social networks, such as websites, blogs, WhatsApp and email, were authorised for the 2018 elections. All individuals may campaign using the internet, as long as its content is not supported by payment. This restriction does not apply to official campaigns, in which a Brazilian internet supplier can be paid to boost campaign contents to promote a candidate or party, but never to undermine other candidates. Fines will be applied in cases of non-compliance.

Law stated - 03 January 2023

ETHICS AND ANTI-CORRUPTION

Gifts, travel and hospitality

Describe any prohibitions, limitations or disclosure requirements on gifts, travel or hospitality that legislative or executive officials may accept from the public.

Brazilian legislation has many applicable provisions on this topic. Most legislation forbids public officials from receiving gifts, transportation, accommodation, compensation or any other favours, and accepting an invitation for luncheons, dinners, parties and other social events of a specific value. Public officials may take part in workshops, conferences, or similar events, as long as the organisers do not have a particular interest in decisions to be taken by them, and that the amount of payment and travel expenses are made public. The two general exceptions to this are: if the giver is a family member or personal friend; or when offered by a foreign authority, in protocol cases where there is reciprocity or diplomatic circumstances.

Bill No. 1,202/07 defines limitations for presents, gifts and hospitality granted by the private individual to the public agent. The text defines what these items are and establishes sanctions in the case of non-compliance with the rules.

Law stated - 03 January 2023

Anti-bribery laws

What anti-bribery laws apply in your jurisdiction that restrict payments or otherwise control the activities of lobbyists or holders of government contracts?

The Clean Company Act establishes civil and administrative liability to companies that carry out any action against the government, for example promising, offering or giving an undue advantage to a public official; manipulating the competitive nature of a public bidding procedure; removing or seeking to remove a bidder by fraud or offering an advantage of any kind; or manipulating the economic and financial balance of the contracts with the government.

Brazil does not have legislation on lobbying. In cases of violation during interaction with the public sector, criminal law sanctions are applied and lobbyists may be convicted of crimes such as corruption and influence peddling.

Law stated - 03 January 2023

Revolving door

Are there any controls on public officials entering the private sector after service or becoming lobbyists, or on private-sector professionals being seconded to public bodies?

The Code of Conduct of the High Administration establishes rules limiting public officials' professional activities after their term has been served.

The Code of Conduct of the High Administration determines four months before public officials can be employed elsewhere. It also provides that, after leaving office, a public official cannot:

- advocate on behalf of someone in any matter or business in which he or she took part as a public official; or
- be an adviser on cases based on non-disclosure information about public policies.

Finally, a public official must wait at least four months before:

- accepting proposals to manage or advise companies he or she had engaged with; or
- act on behalf of companies or individuals in any administrative body that he or she had engaged with.

Law stated - 03 January 2023

Prohibitions on lobbying

Is it possible to be barred from lobbying or engaging lobbying services? How?

No. Brazil does not have legislation on lobbying services, which means that it is not possible to bar professionals from lobbying. There are ethics and compliance rules that must be observed while contracting and engaging with the public sector. Any violation of these rules during this engagement may be punished by criminal law. For example, there are penalties for influence peddling and corruption.

RECENT CASES AND SANCTIONS

Recent cases

Analyse any recent high-profile judicial or administrative decisions dealing with the intersection of government relations, lobbying registration and political finance?

First, it is important to explain that there are four types of parliamentary amendments, but there is one that has seen more dissidence in Congress: the rapporteur amendments. These allow the rapporteur to the Annual Budget Law Bill to change or include expenses, and it is not mandatory. The main issue about it is that there is no defined criterion about how the money is going to be used, or which congressperson used the fund, factors that hinder effective monitoring. Hence it gained the denomination of 'secret budget'.

The Supreme Court suspended the granting of the budget last year, but the decision was later reiterated. Nonetheless, ministers should judge four actions that question the legality of this type of amendment very soon, making whichever decision permanent.

Law stated - 03 January 2023

Remedies and sanctions

In cases of non-compliance or failure to register or report, what remedies or sanctions have been imposed?

Reporting is not mandatory in Brazil.

While engaging with public officials, government-relations professionals must observe other applicable laws, such as criminal, anti-corruption, ethics and compliance. However, regarding the registering or reporting of activities, there are no remedies or sanctions to be applied.

Law stated - 03 January 2023

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics in government relations, lobbying or related law and regulation? Have changes occurred recently or are changes expected in the near future (through either legislation or court decisions) that will have an impact on the practice of government relations or lobbying disclosure?

In the past year, there was a change in the Brazilian Bar Association Act by the issuing of Law 14,365/2022, to include the lawyer's right to contribute to the rulemaking process in the executive, judiciary and legislative powers. In addition, Bill 1,202/07 recently passed in the House of Representatives and should be voted on soon in the Federal Senate. This is the main Bill regarding lobbying regulation and, once it turns into a law, it should operate significant changes in the lobbying practice.

Both developments were huge steps in the regulatory process, and we expect that the issuing of the subsequent law brings many changes throughout 2023.

Jurisdictions

	Brazil	MJ Alves & Burle Advogados e Consultores
	Eurasian Economic Union	Kesarev
	European Union	Loyens & Loeff
	Italy	Gianni & Origoni
	Japan	Miura & Partners
	Kazakhstan	Aretera Public Affairs
	Qatar	SHE Institute
	Russia	Kesarev
	Taiwan	Formosa Transnational Attorneys at Law
	Ukraine	Aretera Public Affairs
	United Kingdom	Bates Wells
	USA	Squire Patton Boggs