

Brazil

Western Hemisphere / **South America**

CAPITAL	TERRITORY	POPULATION (2020)	GDP TOTAL (2020)	GDP PER CAPITA (2020)	INCOME GROUP
Brasília	8,358,140 km ²	212,559,409.00	\$1.445T USD	\$6,796.84 USD	Upper middle income

Convention Implementation



In progress

6th of 31 western hemisphere
5th of 12 South American countries

Prevention



In progress

Criminalization and law enforcement

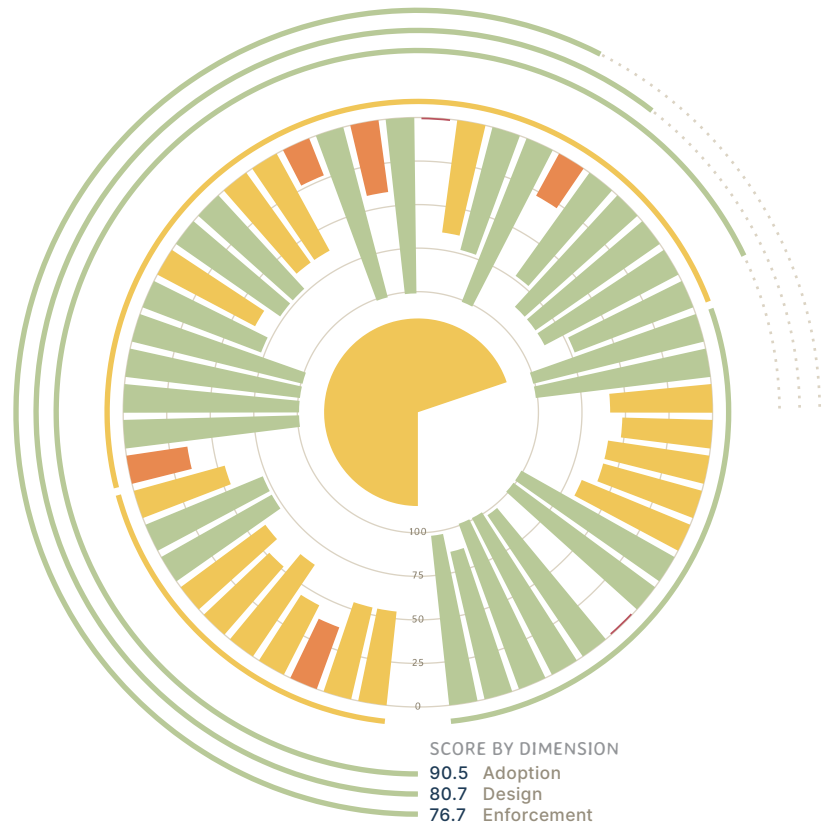


In progress

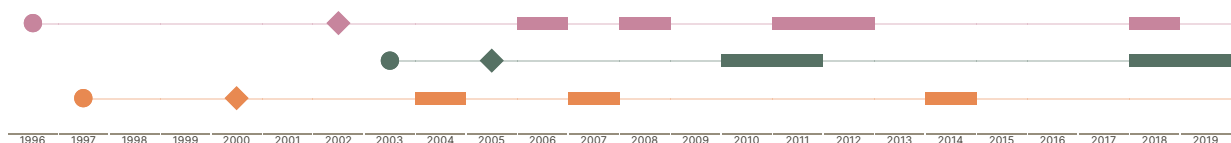
International cooperation



Implemented



Anti-corruption conventions timeline



CONVENTIONS

- IACAC - Inter-American Convention Against Corruption
- UNCAC - United Nations Convention against Corruption
- OECD Anti-Bribery Convention

KEY EVENTS

- Signed
- Ratified/ acceded
- Review rounds

Prevention

In progress

55.6

✓ Adoption 97.5 ✎ Design 73.3 ⌚ Enforcement 65.0

Standards of Conduct In progress 53.1 ✓ 100.0 ✎ 66.7 ⌚ 66.7	Enforcement of Standards of Conduct In progress 53.1 ✓ 100.0 ✎ 66.7 ⌚ 66.7	Training of Public Officials Core-deficient 36.7 ✓ 100.0 ✎ 50.0 ⌚ 50.0	Asset and Conflicts of Interests Declarations Core-deficient 43.8 ✓ 100.0 ✎ 66.7 ⌚ 50.0	Transparency in Government Contracting In progress 62.5 ✓ 100.0 ✎ 66.7 ⌚ 83.3
Elimination of Favorable Tax Treatment In progress 50.8 ✓ 100.0 ✎ 83.3 ⌚ 50.0	Oversight Bodies In progress 59.4 ✓ 75.0 ✎ 66.7 ⌚ 83.3	Measures to Deter Domestic and Foreign Bribery In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7	Encouraging Participation by Civil Society In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7	Study of Other Preventive Measures In progress 53.1 ✓ 100.0 ✎ 66.7 ⌚ 66.7

Criminalization and law enforcement

In progress

70.6

✓ Adoption 90.0 ✎ Design 78.0 ⌚ Enforcement 80.0

Protection of Those who Report Acts of Corruption Core-deficient 34.4 ✓ 100.0 ✎ 33.3 ⌚ 66.7	Scope Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0	Jurisdiction: Offense-in-Territory Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0	Jurisdiction: Offense-by-National Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0	Jurisdiction: Offender-in-Territory Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0
Passive Public Bribery In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7	Active Public Bribery In progress 62.5 ✓ 100.0 ✎ 83.3 ⌚ 66.7	Abuse of Functions In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7	Money Laundering In progress 71.9 ✓ 100.0 ✎ 100.0 ⌚ 66.7	Participation and Attempt In progress 62.5 ✓ 100.0 ✎ 83.3 ⌚ 66.7
Active Foreign Bribery In progress 62.5 ✓ 100.0 ✎ 83.3 ⌚ 66.7	Illicit Enrichment Core-deficient 21.9 ✓ 50.0 ✎ 33.3 ⌚ 50.0	Use of State Property Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0	Illicit Acquisition of a Benefit Core-deficient 40.6 ✓ 75.0 ✎ 66.7 ⌚ 50.0	Public Embezzlement Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0
Passive Foreign Bribery No implementation 0.0 ✓ 0.0 ✎ 0.0 ⌚ 0.0	Private Bribery In progress 64.1 ✓ 50.0 ✎ 66.7 ⌚ 100.0	Private Embezzlement In progress 71.9 ✓ 100.0 ✎ 66.7 ⌚ 100.0	Obstruction of Justice Implemented 100.0 ✓ 100.0 ✎ 100.0 ⌚ 100.0	Liability of Legal Persons Core-deficient 26.6 ✓ 75.0 ✎ 33.3 ⌚ 50.0
Statute of Limitations In progress 71.9 ✓ 100.0 ✎ 66.7 ⌚ 100.0	Prosecution, Adjudication and Sanctions Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0	Consequences and Compensation Implemented 85.9 ✓ 100.0 ✎ 100.0 ⌚ 83.3	Cooperation With Law Enforcement Implemented 85.9 ✓ 100.0 ✎ 83.3 ⌚ 100.0	Asset Recovery In progress 71.9 ✓ 100.0 ✎ 66.7 ⌚ 100.0

International cooperation

Implemented

78.0

✓ Adoption 86.7 ✎ Design 90.0 ⌛ Enforcement 78.9

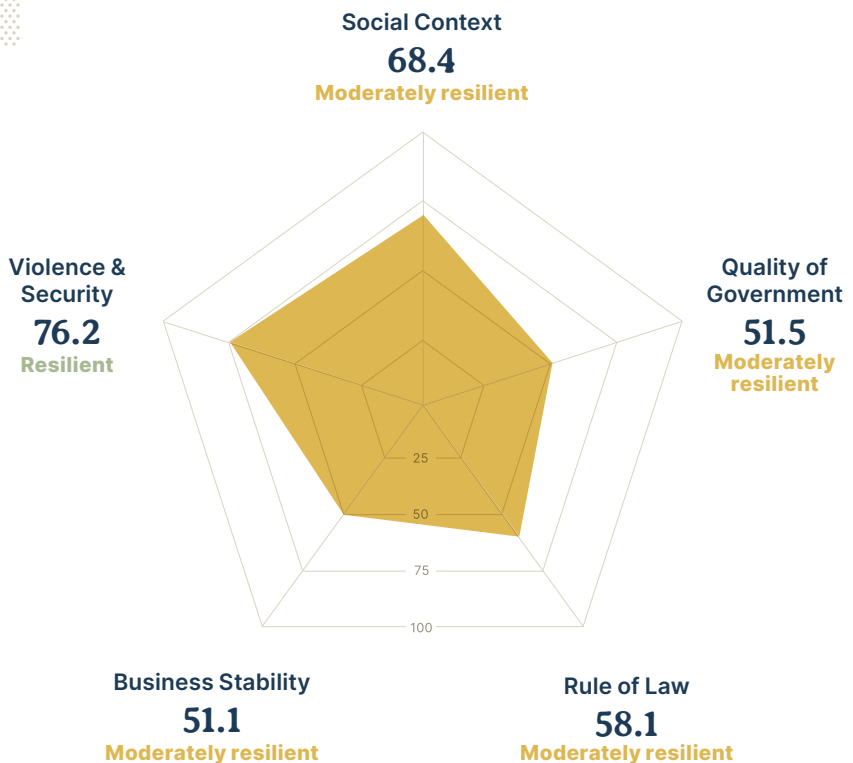


Corruption Resilience

61.1

Moderately resilient

11th of 31 western hemisphere
3rd of 12 South American countries



Analysis

Convention Implementation

Brazil signed the Inter-American Convention Against Corruption (IACAC) on March 29, 1996, and ratified it on July 10, 2002. It is a State Party to the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC) since August 9, 2002. The country also signed the United Nations Convention Against Corruption (UNCAC) on December 9, 2003, and subsequently ratified it on June 15, 2005. Brazil is also party to the OECD Anti-Bribery Convention (OECD-ABC), having signed it on December 17, 1997, and deposited the instrument of ratification on August 24, 2000. Accordingly, Brazil has undergone five rounds of review under MESICIC, one round of review under the UNCAC review mechanism, and three phases of evaluation by the OECD Working Group on Bribery.

Brazil's record in implementing its commitments to IACAC, UNCAC and OECD-ABC exhibits a large number of successes and very few failures. With an overall score of 69.8, the measures adopted place the country at the upper middle point of compliance with international norms, surrounded by Antigua and Barbuda (69.5), Mexico (69.7), Chile (70.5), and Peru (72.3). Despite achieving higher success in regard to criminalization and international cooperation (as is the case throughout the region) the large majority of preventive measures are found to be in progress or implemented while a number of measures in the former sections—particularly within criminalization and law enforcement—receive failing scores. Consequently, a degree of progress is found in all three sections.

The prevention of corruption is undergoing, classified as “in progress” by its average score and with all but two measures given a score above 50—the training of public officials (36.7) and the adoption and enforcement of systems for registering asset and conflict of interests' declarations (43.8). Reflecting the generally equitable distribution of efforts, these two measures represent only a quarter of all measures for which Brazil received a failing score. Indeed, the large majority of preventive measures are considered to be in progress, including the initiatives to encourage the participation of civil society and actions to deter domestic and foreign bribery related to accounting regulations, which received very promising scores. The state of oversight bodies in Brazil is also in progress—while MESICIC points out a few issues, the UNCAC review mechanism highlights “[t]he National Strategy against Corruption and Money Laundering (ENCCLA) as a group integrated by public institutions and bodies as well as some corporate

entities that discusses initiatives to combat corruption and money laundering regarding the implementation of public policies.”

In terms of criminalization and law enforcement, Brazil shows strong results. The country is found to have fully implemented over one third of its commitments. Furthermore, all measures that are evaluated as remaining in progress received very promising scores and are mostly penalized by the lack of sufficient information to allow for a comprehensive assessment. The measures thus affected include key commitments such those pertaining to passive bribery in the public sector, the abuse of functions, money laundering, and embezzlement in the private sector. On the other hand, important measures remain unimplemented—i.e., the criminalization of passive bribery of foreign officials—or deficient at core, including the explicit criminalization of illicit enrichment (21.9), the liability of legal persons (26.6), and the protection of those who report acts of corruption (i.e., whistleblower protection) (34.4).

Finally, Brazil is found fully compliant in its commitments to establish jurisdiction over the offenses covered by the conventions, including those that have been committed inside its territory, committed by a national, or when the offender is present in its territory, among other required forms. The country's mild implementation of its commitments regarding international cooperation is reflected in over half of all measures within this section receiving an “implemented” score of various degrees—with only one measure found unimplemented due to the risk to extradition (raised by a lack of regulations on the concept of political offense).

Corruption Resilience

In 2020, Brazil's social context indicator declined by 1.1 points from the previous year—resulting in a score of 68.4. Despite the country's decrease in indicator score, Brazil enjoys widespread civil liberties and political rights. Its social context indicator ranks above the Western hemisphere average of 64.9 for 2020. Over the last decade, Brazil's highest social context indicator score was recorded in 2010 before dropping by 3.7 points in 2011 and continuing to fall by approximately 0.5 points each year. The organization Reporters Without Borders, which works toward safeguarding the right to freedom of information, has noted that journalists who report crime and corruption are more likely to face harassment, obstruction, and violence in Brazil. Following the 2018 elections, journalists critical of President Jair Bolsonaro have faced harsh reprisal from the government and courts.

With respect to the quality of government indicators, Brazil's score declined by 1.0 points from the previous year—resulting in a score of 51.5. The country's score fell below the Western Hemisphere average for 2020 by 0.9 points. Since 2010, the country's score has consistently declined but this became more pronounced after the 2018 elections. Brazil's score for the quality of government indicator is not optimal, and it is largely attributed to the serious problem of corruption within the country.

The country's rule of law score in 2020 was 58.1—a 0.7-point decrease from the previous year. Despite this marginal decline in its score, Brazil's score surpasses the Western Hemisphere average by 7.0 points for 2020. From 2010 to 2020, Brazil's score varied by +/- 1.91 points from year to year, where it had the lowest score of 57.7 in 2016 and the highest score of 59.6 in 2018. The country's score is primarily influenced by the independent judicial system which is safeguarded by the country's progressive constitution. Moreover, Brazil's rule of law score reflects

decades of democratic rule and the establishment of merit-based appointments within its judicial system.

While the Brazilian judicial system has continued to improve since the 1990s, it struggles to maintain efficiency due to excessive workloads and the influence of external forces, particularly in rural areas of the country. Over the last decade, Brazil's score has experienced marginal increases in the business stability indicator—improving from 48.5 in 2010 to 51.1 in 2020. Brazil's business stability indicator score increased by 2.6 points from the previous year and falls 0.6 points above the Western Hemisphere average for 2020.

With respect to the violence and security indicators, Brazil's score has steadily improved since 2010. In 2020, Brazil's score increased by 14.9 points from the previous year—resulting in its highest score (76.2) attained over the last ten years—which exceeds the Western Hemisphere average by 21.2 points and falls within the top 75th percentile for the region.

Transparency

MAIN REPORTING NGO

Amarribo Brasil

REPORT DATE	REVIEW YEAR	DOCUMENT REVIEWED	LANGUAGE
May-2012	2010-2011	Executive Summary	English

Did the government make public the contact details for the country focal point? ✘ No

Was civil society consulted in preparation for the self-assessment? ✘ No

Was civil society invited to provide information to the official reviewers? ✔ Yes

Was the self-assessment published online or provided to CSOs? ✔ Yes

Assessment of the Review Process Civil Society Parallel Reports

Source: UNCAC CIVIL SOCIETY COALITION

The Civil Society Parallel Review Report for Brazil was authored by the anticorruption NGO Amarribo. During this review, provisions within chapters III and IV of the UN Convention against Corruption were assessed, namely highlighting the implementation and enforcement of articles 15, 16, 17, 23, 26, 32, 33, and 46. The report cited that the biggest obstacle in preparing the report was the lack of readily available information. While the NGO was aided in the procurement of information by employees from the office of the Comptroller General of the Union (CGU), the data was either scattered across numerous government websites or entirely inaccessible. In terms of the legal framework, the report concluded that there were no significant discrepancies between domestic legislation and the UNCAC. However, several UNCAC requirements remained insufficiently implemented; namely the liability of corporations, the protection of victims and witnesses, the regulation of lobbying, and the improvement of rules to avoid influence peddling.

In terms of the enforcement system, delays in the prosecution of cases remain the most problematic obstacle. The number of corruption cases remains high, yet few offenders are sentenced. Unlike ordinary Brazilians, when high-ranking officials are accused of committing crimes, they are tried by higher courts that are not equipped to conduct investigations. This causes a delay in prosecution which often results in the dismissal of the case as the statute of limitations is exceeded. Beyond

impunity, deficiencies in the enforcement of the law on whistleblowers and witness protection as well as shortcomings in the confiscation of assets and property continue to cause significant obstacles in reaching UNCAC compliance.