



***Permanent Mission of Brazil to the United Nations Office  
and other International Organizations in Geneva***

Nº 280 / 2021

The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights – Special Procedures Branch and, in addition to its Note Verbale N° 295, dated 7 December 2020, has the honour to transmit additional observations regarding communication AL BRA 11/2020, from the Special Rapporteur on the independence of judges and lawyers, received on 9 October 2020.

The additional observations were received from the Federal Prosecution Office (“Procuradoria Geral da República”), with inputs from the “Car Wash” Task Force of the Anti-Corruption Center of its State Public Prosecution Office in Rio de Janeiro (“Procuradoria da República no Estado do Rio de Janeiro - Núcleo de Combate à Corrupção – Força-Tarefa”).

The Permanent Mission of Brazil would appreciate it if the present Note Verbale and its attachment were brought to the attention of Special Rapporteur on the independence of judges and lawyers.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights – Special Procedures Branch the assurances of its highest consideration.



Geneva, 18<sup>th</sup> March, 2021

To the Office of the United Nations High Commissioner for Human Rights -  
Special Procedures Branch  
Mandate of the Special Rapporteur on the independence of judges and lawyers



**FEDERAL PROSECUTION OFFICE**  
STATE PUBLIC PROSECUTION OFFICE IN RIO DE JANEIRO  
Anti-Corruption Center - Task Force

**Official Letter MPF/PRR2/GAB/JASV No. 1471/2020**

Reference: Administrative Proceeding n. 19.001000.0007700/2020-26

Subject: Information requested by the United Nations due to the operation E\$quema S

Rio de Janeiro, November 27, 2020.

*To the Honorable*  
*Antônio Augusto Brandão de Aras*  
*Federal Attorney General*  
*Attorney-General of the Republic*  
*Brasília - DF*

The Honorable Attorney General,

In addition to greeting you, we take this opportunity to forward you the attached **Information** from the Car Wash Task Force in Rio de Janeiro, with 20 (twenty) documents reported throughout the text, as a result of questions that reached the National Council of the Public Prosecutor's Office (PA in reference) due to an e-mail by the Ministry of Foreign Affairs, in which it requests the sending of subsidies regarding the provisions of the AL BRA 11/2020 Letter of Allegations, sent on 10/9/2020 to Itamaraty and signed by the United Nations special rapporteur on the independence of judges and lawyers Diego García-Sayán, on reports received of alleged "legal intimidation and harassment against two Brazilian attorneys, namely Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins, allegedly in connection with the legal assistance they provide to Mr. Luiz Inácio Lula da Silva, Brazilian politician and former President of the Republic".

Respectfully,

[Redacted signature block]





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**Information due to the AL BRA 11/2020 Letter of Allegations**

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**1- Report**

Administrative Proceeding No. 19.00.1000.0007700/2020-26 was filed by the National Council of the Prosecutor's Office due to the receipt of an email by the Ministry of Foreign Affairs in which he requests the sending of subsidies, preferably until December 1<sup>st</sup>, 2020, on questions raised in the Letter of Allegations AL BRA 11/2020, sent on October 9<sup>th</sup>, 2020 to Itamaraty and signed by the United Nations special rapporteur on the independence of judges and lawyers, Diego García-Sayán, and which provides for of reports received on alleged "legal intimidation and harassment against two Brazilian lawyers, Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins,





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allegedly in connection with the legal assistance they provide to Mr. Luiz Inácio Lula da Silva, Brazilian politician and former President of the Republic".

In the aforementioned Letter, the UN Special Rapporteur expresses questions about: search and seizure warrants issued against said lawyers and their office by Judge Marcelo Bretas; the execution of these warrants by the Federal Police and the Federal Revenue Service; report by the São Paulo State Section of the Brazilian Bar Association regarding the aforementioned operations; criminal charges against Messrs. Teixeira and Zanin Martins; alleged lack of independence and impartiality of Judge Bretas; preliminary decision granted on October 3 by Justice Gilmar Mendes, rapporteur on the matter at the Supreme Court (STF), in order to suspend criminal proceedings against the two lawyers, until there is a final decision by the STF on the legality of the operations and charges.

The letter also mentions disciplinary proceedings involving the judge who authorized the measures and addresses eight questions to the Brazilian Government, including requests for additional information or comments on the aforementioned allegations, among which are questions regarding the performance of the members of the Federal Prosecutor's Office who make up the Car Wash Task Force in Rio de Janeiro.

It also calls for all necessary measures to be taken to stop the violations, prevent their recurrence and hold the culprits accountable if the investigations support or suggest that the allegations received are correct. Furthermore, it mentions that "he will be able to publicly express his concerns in the near future", as he believes that the information received would be sufficiently reliable to indicate an issue that deserves immediate attention.

It is already important to note that all premises that conclude that violations or irregularities may occur by the members of the Federal Prosecutor's Office in the reports brought to the United Nations are absolutely incorrect. This will become clear below.

## **2- The Car Wash Task Force in Rio de Janeiro: constitution, attributions, and results**





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The Brazilian justice system has federal institutions that fulfill, within the limits of their powers and possibilities, the relevant functions conferred on them by the Constitution of the Republic. In order for the United Nations Organization to learn about the work carried out by the Federal Prosecutor's Office under the Car Wash (Lava-Jato in Portuguese) Task Force in Rio de Janeiro, its context, difficulties, and results, in a country that shows the worst marks of social inequality in the world and where it is well known that widespread corruption in its power structures is one of its most cruel ailments, a brief history is required.

The Car Wash Task Force in Rio de Janeiro was created on June 9, 2016 by an act of the Attorney General of the Republic, after having received, by decision of the Federal Supreme Court, the records of the criminal action resulting from Operation Radioactivity (corruption in contracts for the construction of the Angra III Plant), until then conducted by the Car Wash Task Force in Curitiba, whose attribution remained attached to the illicit facts involving contracts of the company Petrobrás SA. In effect, he also received the terms of the plea bargain statement (collaboration) from executives of the construction company [REDACTED] who pointed out the then-former governor [REDACTED] as a recipient of bribe requested by him due to the contracts signed for the renovation of the Maracanã Stadium, construction of the Metropolitan Arch and PAC Favelas.

Therefore, the Rio de Janeiro Task Force maintained the designation “Car Wash” as a result of having been created from elements originating from the Curitiba Task Force, with different members and different objects of the investigations over the years. Former President of the Republic Luiz Inácio Lula da Silva was never investigated by the Rio de Janeiro Task Force, which is not even aware of the causes conducted by the Federal Prosecutor's Office in Curitiba, except as reported by the national media.

With the development of investigations in Rio de Janeiro, the existence of a structured criminal organization was unveiled, led from 2006 by the then governor [REDACTED], in which countless politicians, civil servants, counselors of the Court of Auditors of the State, businessmen and currency dealers took part, who worked in the most diverse areas and government departments in the Legislative Branch. Despite being difficult to measure, it is certain that the financial damage

<sup>1</sup> In April 2014, [REDACTED] resigned as governor of Rio de Janeiro.





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inflicted by the criminal organization dragged the State of Rio de Janeiro into the worst financial crisis in its history, causing serious damage to the population, which suffered and has been suffering due to inadequate and insufficient supply of public services, such as education, health, safety and transport, with major impacts including public and private investments, which caused the degradation of its economic and social indicators.

The work developed by the Rio de Janeiro Task Force, initially formed by 03 (three) attorneys, currently having only 08 (eight) members with exclusive dedication, despite its small workforce, insufficient support structure and restricted technological investment, produced results far beyond those expected, even in view of the evident high degree of complexity of the works developed, as well as its colossal volume, which has been expanding with each new line of investigation pursued.

In effect, the team of prosecutors is responsible for approximately 2,270 (two thousand, two hundred and seventy) judicial acts, including collaboration agreements, complaints, interventions by third parties, restitution of seized material, precautionary measures to lift tax, banking, telematic and telephone secrecy, among others<sup>2</sup>. The workload has experienced exponential growth over the years, so that only in 2020 about 733 (seven hundred thirty-three) judicial acts were filed before the 7<sup>th</sup> Criminal Federal Court of the State of Rio de Janeiro, until October 27, 2020<sup>3</sup>.

Despite all the difficulties, the Car Wash Task Force in Rio de Janeiro has been producing significant results since its constitution, as demonstrated to the Brazilian society in view of the main operations already started, namely:

OPERATION	MAIN OBJECT	Date
1- Calicut	Prison of [REDACTED], sentenced, until then, to more than 200 years in prison	November/2016
2- Efficiency	Arrest of [REDACTED], sentenced to 30 years in prison and repatriation of USD 101,000,000.00	January/2017
3- Peddler	Laundering of bribes received by the criminal organization through the former advisor to the Civil House of the Government of Rio de Janeiro and other financial operators of the scheme	February/2017

<sup>2</sup> According to a survey conducted in January 2020.

<sup>3</sup> With regard to extrajudicial acts, the Task Force collection consists of 199 (one hundred and ninety-nine) Criminal Investigative Procedures, 143 (one hundred and forty-three) Administrative Procedures and 14 (fourteen) Civil Investigations, updated on November 3<sup>rd</sup>, 2020.





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4- <i>Hic et Ubique</i>	Prison of currency dealers in Uruguay that commanded a mega laundering network in Brazil, being the first case of extradition of Operation Car Wash	March/2017
5- Fifth of Gold	Arrested Counselors of the Rio de Janeiro Court of Auditors and had the direct support of the Task Force, both in the course of the investigation and in the elaboration of the complaint	March/2017
6- Tolypeutes	Receipt of undue advantages in contracts for the construction of Line 4 of the Rio de Janeiro subway, with the arrest, among others, of the former Undersecretary of Transport Luiz Carlos Velloso	March/2017
7- Exposed Invoice	Health fraud, resulting in the arrest of former Health Secretary Sérgio Cortes and several executives	April/2017
8- <i>Ratatouille</i>	Food fraud	June/2017
9- End point	Transport fraud, with the arrest of businessmen and the dismantling of the corruption network that has existed for decades in the State of Rio de Janeiro	July/2017
10- Rio 40°	Corruption scheme in the City of Rio de Janeiro, with the arrest of the former Secretary of Works of the Municipality	August/2017
11- <i>Unfair Play</i>	Corruption in vote buying for the 2016 Olympics, with the arrest of [REDACTED]	October/2017
12- Old Prison	Triggered by the Regional Prosecutor's Office of the 2nd Region, which had the direct support of the FT PRRJ members in the course of investigations and revealed a corruption scheme in the Legislative Assembly of Rio de Janeiro	November/2017
13- <i>CEst Fini</i>	Arrest of financial and administrative operators of the corruption scheme, including [REDACTED] (former Secretary of the House)	November/2017
14- Hands on	Scheme of bribery and embezzlement of public resources in works contracted by the Rio de Janeiro City Works Department and use of money laundering techniques and remittance of funds abroad	January/2018
15- Jabuti	<b>Misappropriation of federal public funds from the Sesc and Senac budgets and the hiring of several "ghost" employees</b>	February/2018
16- Our Daily Bread	Deviations in contracts from the State Secretariat for Penitentiary Administration (SEAP) with an estimated data of at least BRL 23.4 million, resulting in the arrest of the former secretary of Penitentiary Administration	March/2018
17- Rhizome	Corruption in Pension Funds, resulting in the imprisonment of businessmen and political operators	April/2018





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18- Over and Out	It wiped out a network of 47 currency dealers, including the largest in the country, [REDACTED] which handled billionaire amounts in more than 50 countries through three thousand offshore	May/2018
19 - Resonance	Corruption in the health area, with a transnational scheme dismantled, including the participation of large multinationals in the sector	July/2018
20- Goliath	Payment of bribes for the hiring of [REDACTED] in the auction process of the Bank of the State of Rio de Janeiro (BERJ), causing the arrest of the former president of the Bank	August/2018
21- S.O.S	Misuse of resources in the health sector with the participation of managers from the Social Pro-Health Organization, causing a loss of BRL 52 million to public coffers	August/2018
22- Hashtag	Revealed the practice of crimes of money laundering and evasion of foreign exchange of more than BRL 90 million involving a luxury jewelry store in the South Zone of the capital of Rio de Janeiro	August/2018
23- Advalor	The practice of crimes of money laundering, evasion of foreign exchange and crime against the financial system (misappropriation) committed from the financial transactions of broker [REDACTED]	September/2018
24- Marakata	An offshoot of operation Over and Out, revealing an illegal trade scheme for emeralds and other precious and semi-precious stones involving foreign exchange evasion and money laundering, which totaled around USD 44 million	September/2018
25- Jaguar's Den	Started by the Regional Attorney's Office of the 2nd Region, which had the direct support of the members of the FT of PRRJ and investigated the participation of state deputies in Rio de Janeiro in a scheme of corruption, money laundering, allotment of public offices and outsourced labor, mainly in Detran/RJ	November/2018
26- Consigliere	An offshoot of Operation C'Est Fini that resulted in the arrest of [REDACTED] and the colonel of the Military Police, [REDACTED], who was considered the financial operator of the former Secretary of the Chief of Staff	February/2019
27- Decontamination	Irregular contracting of the Finnish company AF Consult, as well as Argeplan and Engevix for the execution of the electromechanical engineering contract 01, of the Angra 3 nuclear power plant, appropriating almost BRL 11 million from public coffers through a criminal organization commanded by the former President of the Republic [REDACTED] and his financial operator [REDACTED]	March/2019
28- Bankruptcy	Development of the "Over and Out" operation, made it	May/2019





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	possible to dismantle a money laundering scheme with the participation of bank managers who failed to comply with the compliance rules in order to allow the creation of “working accounts” which laundered BRL 989.6 million from currency dealers through the banking system	
29- Midas' Secret	██████████ used the company The Adviser Investments (TAI), based in Panama, to operate illegally in the national and foreign capital markets, in order to manipulate or use inside information on assets that would be impeded or did not want the market to know that they operated with a turnover of more than BRL 800 million between 2010 and 2013	August/2019
30- Armadeira	A criminal organization formed by tax auditors and tax analysts from the Federal Revenue and people close to them was dismantled, whose purpose was the practice of crimes of corruption and laundering of the financial funds obtained from these crimes.	October/2019
31- Patrón	An offshoot of Operation Over and Out focusing on the Paraguayan branch of the criminal organization led by currency dealer ██████████, which includes the former president of Paraguay and current senator ██████████, financial operators and businessmen suspected of operating with illegal exchange and hiding the resources from the authorities	November/2019
32- Expertus	An offshoot of Operation End Point that allowed the arrest of a judicial expert who received payments from the slush fund provided by the bus companies to act for the benefit of the sector both in cases in which he was appointed as a judicial expert, producing reports favorable to the companies, as well as in lawsuits when he was a technical assistant	December/2019
33- Tu quoque <sup>4</sup>	Fulfillment of preventive arrest warrant against employee who breached the plea bargain agreement and continued committing crimes after closing the deal with the authorities	January/2020
34- Puppeteer	Breakdown of Operations Our Daily Bread, Ratatouille and Unfair Play I and revealed a bribe payment scheme to directors of the Rio de Janeiro State Court of Auditors (TCE/RJ) to benefit the companies Denjud and JB Comida in contracts with the Secretary of State of Penitentiary Administration (Seap)	March/2020
35- Favorite	An offshoot of Operations Out of Control, Fifth of Gold and Old Prison, which investigated crimes involving members of the Court of Auditors and State Deputies of the Legislative Assembly of the State of Rio de Janeiro. The investigations refer to deviations in health contracts involving social	May/2020

<sup>4</sup> Despite all the restrictive measures imposed to control the COVID-19 epidemic, which required adaptations to the planning of the Task Force's activities, in the year 2020, 9 (nine) operations related to different and relevant lines of investigation were launched, starting with this one.





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	organizations. During the investigations, it was possible to gather evidence that the criminal organization persisted with criminal practices even during the worsening of the covid-19 pandemic, even taking advantage of the calamity situation that authorizes emergency contracting and without bidding to obtain illicit contracts with the government.	
36- Recurrence	An offshoot of Operation Over and Out, investigates the remittance of millions abroad by two tax auditors from the State Revenue of Rio de Janeiro, through currency dealers, in a sophisticated money laundering scheme	June/2020
37- Let There Be Light	An offshoot of operations Radioactivity, Pripyat, Brotherhood and Decontamination, which determine misappropriation of public funds in Eletronuclear contracts. Among those investigated are a former federal deputy, a former minister, businessmen and former executives of the state-owned company, as well as people who contributed to money laundering.	June/2020
38- End Point II	New phase of the Operation End Point to carry out search and seizure warrants linked to [REDACTED], former president of Detro, and businessman [REDACTED]	July/2020
39- Dardanarius	An offshoot of the Exposed Invoice and S.O.S. operations, which investigate the diversion of resources from the State of Rio de Janeiro transferred to a social organization that managed several hospitals in Rio and elsewhere in the country. Among those investigated are a former minister and former federal deputy, as well as other public officials who have received undue advantages	August/2020
40- E\$quema S	It discovers deviations, between 2012 and 2018, of about BRL 355 million from the Rio de Janeiro sections of the Social Service of Commerce (Sesc/RJ), the National Service of Commercial Learning (Senac/RJ) and the Federation of Commerce (Fecomércio/RJ) by its manager and lawyers	September/2020
41- Armadeira 2	Unfolding of an operation launched in October 2019 with the same name and whose objective was to dismantle a criminal scheme for collecting bribes in federal tax inspections in the State of Rio de Janeiro	November/2020

Such operations are just a few of the 51 (fifty-one) launched at an almost monthly pace by the Rio de Janeiro Task Force<sup>5</sup>. It is important to highlight that the team continued the partnership established since its birth with the Attorney General's Office in investigations involving authorities

<sup>5</sup> Check the timeline here: <http://www.mpf.mp.br/grandes-casos/lava-jato/linha-do-tempo>





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with jurisdiction due to its prerogative in the State of Rio de Janeiro. Between the years 2017 and 2020, the members of this Task Force provided direct assistance, drafting injunctions and indictments, in 5 (five) operations initiated before the Superior Court of Justice: i. Operation Fifth of Gold (which arrested and removed five Directors from the State Court of Auditors from office); ii. Operation Boca de Lobo (who arrested then-governor of Rio de Janeiro [REDACTED] for his involvement in the criminal organization of [REDACTED]); iii. operation Sold vote (which resulted in search and seizure and denouncement to the detriment of the Judge of the Rio de Janeiro Court of Justice); iv. Operation Placebo; and v. operation *Tris In Idem* (the last two had as their object the criminal organization headed by the current state governor [REDACTED]).

The investigations and criminal proceedings already initiated and conducted by the Rio de Janeiro Task Force, entitled, as said, “Car Wash” due to the initial sharing of evidence by the Car Wash Task Force in Curitiba that determined its constitution, have already promoted<sup>6</sup>: i. hundreds of searches and seizures, in addition to 467 (four hundred and sixty-seven) other precautionary measures, including lifting of bank, fiscal, telematic and telephone confidentiality; ii. 295 (two hundred ninety-five) prisons; iii. 100 complaints (criminal charges) against 553 (five hundred and fifty-three people <sup>7</sup>; iv. 39 (thirty-nine) appeals and 38 (thirty-eight) counter-appeals; v. 308 (three hundred and eight) judicial hearings; vi. 1,822 (one thousand eight hundred and twenty-two) meetings; vii. 78 (seventy-eight) plea bargain agreements<sup>8</sup>viii. 6 (six) leniency agreements with companies; ix. the collection of 2,129 (two thousand, one hundred and twenty-nine) statements; x. the opening of 199 (one hundred and ninety-nine) criminal investigative procedures and 14 (fourteen) public civil inquiries; 380 (three hundred and eighty) research and analysis reports.

Several defendants have already been convicted in the first and second courts (the sentences of [REDACTED] for example, already amount to 321 - three hundred and twenty-one - years in prison), being certain that, in terms of reparation of material and moral damages to society (Federal Government and State of Rio de Janeiro) more than BRL 2,200,000,000.00 (two billion

<sup>6</sup> Without including the numbers in 2a, and higher instances of the Federal Prosecutor's Office (MPF) acting in the Superior Court of Justice (STJ) and the Federal Supreme Court (STF).

<sup>7</sup> 11 (eleven) actions of Administrative Misconduct have also been offered to the disadvantage of those involved to reimburse the misappropriated public money. Of this total, in 2020, 5 (five) lawsuits related to the facts found in Operation Let There Be Light were filed.

<sup>8</sup> With 10 (ten) of these agreements signed in 2020, with emphasis on the one signed with currency dealer Dario Messer, which will allow the collection of evidence for new ongoing investigations. This collaborator resigned in favor of the Brazilian public coffers over 99.5% of his assets, estimated at around BRL 1 billion. The assets include luxury properties and cash in Brazil and abroad, in addition to works of art and property in Paraguay linked to agricultural and real estate activities.





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and two hundred million reais) have already been obtained in collaboration and leniency agreements, equivalent to approximately USD 385,000,000.00 (three hundred and eighty-five million dollars)<sup>9</sup> in addition to financial assets and assets blocked by defendants to guarantee reimbursement to the injured public entities, who reach equally billionaire levels, and whose availability to the treasury depends on definitive criminal conviction.

All public prosecutors and public servants involved in this mission are highly committed to the proposed goals and dedicate themselves to their tasks daily for several hours, far exceeding their regular working hours, often with personal losses, especially considering the importance of the work being developed and the performance expected by the Institution. And this Task Force is genuinely concerned with the production of results that go beyond the execution of prisons and celebrations of plea bargaining agreements, promoting, whenever possible and opportune, actions aimed at the primary fight against corruption, which can be recognized in less orthodox performances.

Examples of this dedication can be seen on some recent occasions, such as the technical cooperation agreement signed with the National Fund for the Development of Education - FNDE and the State of Rio de Janeiro, in order to facilitate the receipt of funds from the recovery of funds and/or fines arising from the action of the MPF in actions to fight corruption and allocate them to the recovery of the physical network of public schools in the State of Rio de Janeiro, identified through the execution of the Prosecutor's Office for Education Project (MPEduc), a term in which, among other important agreements, it was agreed with the Department of Education to implement a project aimed at the primary fight against corruption in the 1,231 schools in its education network, an initiative that even won the 2018 Faz Diferença Award from O Globo newspaper in the Society/Education category.

Other examples of this activity include the creation of an educational complement program for the provision of services to the directors of a large jewelry store, which benefited 100 (one hundred) young people from needy communities in Rio de Janeiro, with professional courses; and a basic English course taught by the owners of a language school to more than 200 (two hundred) needy youth, in addition to the complete course for the 14 (fourteen) who stood out the most. It is

<sup>9</sup> Of these amounts, BRL 1,055,000,000.00 (one billion, fifty-five million reais) have already been paid, approximately USD 185,000,000.00 (one hundred and eighty-five million dollars).





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worth highlighting the return of part of the recovered amounts (approximately BRL 250,000,000.00) to public coffers, with a specific destination for the payment of retired civil servants in the State of Rio de Janeiro, whose earnings had been in arrears for months.

Also noteworthy are the lectures given by former currency dealers and collaborators [REDACTED] [REDACTED] aiming at instructing control bodies, prosecutors and civil servants to improve their performance in the fight against money laundering crimes, in addition to assisting in the improvement of the compliance systems of financial institutions, an initiative that won the VII Republic of Valor Award from the Federal Prosecutor's Office in the Criminal category, promoted by the National Association of Public Prosecutors. The intention is even to expand this focus of work, showing society that the Federal Prosecutor's Office, in the exercise of its constitutional duties, also has a strong role in the defense of collective and social rights and that the union of these activities in these two great areas - Fighting Corruption and Defending Collective and Social Rights - offer results with high social impact<sup>10</sup>.

The processes and investigations conducted by this Task Force have as their object several serious crimes, such as bidding process fraud, active corruption, passive corruption, influence peddling, exploitation of prestige, money laundering, criminal organization, ideological falsehood, evasion of currency, crime against the economic order (cartel), embarrassment to the investigation of criminal organization (obstruction of justice), crime against the financial system, influence peddling, prevarication, embezzlement, illegal constraint with the use of firearms, contraband, document forgery, tax evasion etc.

A significant part of these crimes involve powerful people in the Brazilian and even global political and economic scenarios, such as: former president of the Republic of Brazil [REDACTED] [REDACTED] former president of the Republic of Paraguay ([REDACTED]); former governors [REDACTED] [REDACTED] and governor of the State of Rio de Janeiro [REDACTED] [REDACTED] 5 (five) members of the State Audit Court; former presidents of the Legislative

<sup>10</sup> We must also mention the recognition for the work produced by the Car Wash Task Force in Rio de Janeiro, expressed through the following awards: a) April 2019: VII Republic of Valor Award from the Federal Prosecutor's Office in the Criminal category ("Car Wash: practical aspects of money laundering") - ANPR (National Association of Attorneys); b) September 2018: Special Achievement Award - International Association of Prosecutors (IAP); c) June 2018: VI Republic Award in the Anti-Corruption category - ANPR (National Association of Attorneys); d) March 2018: COAF (Financial Activities Control Council) Merit Diploma; e) May 2017: V Republic Award in the Anti-Corruption category - ANPR (National Association of Attorneys); f) September 2017: Brazil Outstanding Award in Fighting Corruption IBDC (Brazilian Institute of Law and Criminology - Casa Roberto Lyra and Association) and ADPF/RJ (National Association of Federal Police Chiefs); g) 2017: GIR Awards - Federal Prosecution Service; h) 2017: Nomination for the Faz Diferença Award from Jornal O Globo in the Country category; and, i) July 2020: VIII Republic of Valor Award from the Federal Prosecutor's Office in the category "Fighting Corruption" for Operation Patrón





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Assembly of the State of Rio de Janeiro [REDACTED] and several parliamentarians; influential businessmen and currency dealers (as, respectively, [REDACTED] [REDACTED] the former president of the Brazilian Olympic Committee [REDACTED] [REDACTED]

Likewise, operation E\$quema S, which found illicit behavior by Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins (who subsidize the UN Letter of Allegations), accused people who would have used the practice of law for the serious crimes, such as: former president of the Superior Court of Justice [REDACTED] and his son; the son of the current president of the Superior Court of Justice; the vice president of the Brazilian Bar Association in Rio de Janeiro [REDACTED] the son of a minister at the Federal Court of Auditors; former advisor to the National Council of Justice; the son of a former president of the Rio de Janeiro Court of Justice; wife of a former president of the Federal Regional Court; a retired prosecutor etc.

Although in all these cases, the members of this Task Force have carried out thousands of procedural and extra-procedural acts, subject to constant scrutiny by the Judiciary, over these 4 (four) years and 5 (five) months of existence, none of them has ever been warned by the Internal Affairs Departments of the Federal Prosecutor's Office or the National Council of the Public Prosecutor for any failure or misconduct in office, even though the investigated and defendants are sponsored by the most renowned law firms in the country and with ample access to the evidence produced.

The presumptions of legality and legitimacy in the conduct of the actions made by the Federal Prosecutor's Office, undoubtedly, stand out in this factual reality. Even the members of this Car Wash Task Force in Rio de Janeiro have never expressed an opinion under any political-party bias about defendants, persons investigated or facts in any sphere, much less on social networks.

It is worth mentioning that, in the investigative context of the operation E\$quema S, in addition to Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins are, by mere chance, former President Luiz Inácio Lula da Silva's attorneys <sup>11</sup>, [REDACTED] a lawyer considered by the Brazilian media as an advisor and frequenter of the current President of the Republic Jair Messias

<sup>11</sup> But they are accused of committing crimes that began in 2012, long before this sponsorship





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Bolsonaro<sup>12</sup>, he also underwent search and seizure measures in the same operation, and was similarly charged with crimes of embezzlement and money laundering (as will be seen below). It is not necessary to highlight, due to its international notoriety, that the current government is among the parties of strong opposition to PT (Workers Party), which has former president Lula as its main historical leader.

There is not, and there never was, ideological or partisan nuance in the work of this Task Force, which investigates and prosecutes illicit facts that go back to structured and ingrained corruption in the State of Rio de Janeiro, with national repercussions. It should also be noted that the criminal organizations attributed by this Task Force to [REDACTED] and the resulting investigative developments, are, in the political field, indirectly related to his activities as representatives of high public positions and national leaders of the MDB (Brazilian Democratic Movement) party, which has historically opposed PT (Workers Party).

These elements alone are enough to attest to how unlikely the unfortunate conjecture constructed by Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins in the sense that this Task Force would impose “intimidation and judicial harassment” against the two, “in connection with the legal assistance they provide to Mr. Luiz Inácio Lula da Silva”, who is not and has never been the target of any investigation carried out by the Car Wash Task Force in Rio de Janeiro.

### **3 - The context of investigations and charges in Operation E\$quema S**

On September 9, 2020, the Federal Prosecutor's Office, the Federal Police and the Federal Revenue Service triggered one of the phases of Operation Car Wash in Rio de Janeiro, called E\$quema S, when 50 (fifty)<sup>13</sup> search and seizure warrants were served at addresses of people, law firms and companies investigated for the possible misappropriation, between 2012 and 2018, of BRL 355,000,000.00 (three hundred and fifty-five million reais, approximately USD 63,000,000.00 (sixty-three million dollars), from the Rio de Janeiro sections of the Social Service of Commerce

<sup>12</sup> Ex: <https://g1.globo.com/politica/noticia/2020/06/18/quem-e-o-advogado-fredeiick-wassef.ghml>

<sup>13</sup> Searches were initially granted to 79 targets, but due to logistical difficulties of the Federal Police the number was reduced to 50,





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(Sesc RJ), the National Service of Commercial Learning (Senac RJ) and the Federation of Commerce (Fecomércio/RJ)<sup>14</sup> in a criminal scheme that involved lawyers and law firms.

The inviolability of the lawyer is provided for in article 133 of the Constitution of the Republic and in article 7 of Law 8.906/94 (Statute of the Brazilian Bar Association). The guarantee is intricately linked to professional practice, insofar as its function is indispensable to the administration of Justice. But Brazilian doctrine and jurisprudence clarify that this inviolability is relative and cannot be taken as an unrestricted privilege for the class of lawyers. If relief falls primarily on the role of the law, the guarantee is not applicable in the investigation of criminal offenses committed by the victim, even if he/she tries to shield him/herself in his/her professional practice to conceal crimes.

In fact, in such cases, in spite of the formalized professional attorney-client relationship, we are faced with co-authorship of crimes, and not the provision of legal services. Indeed, the purpose of the law is to protect the legitimate practice of law, and not to make it more costly to investigate crimes committed by lawyers. In this sense, in cases where there is suspicion of the practice of criminal offenses by lawyers, whether or not they have a direct relationship with professional practice, the Superior Court of Justice and the Federal Supreme Court do not find it difficult to remove the guarantee of the inviolability of a law firm to allow for invasive precautionary measures, such as searches and seizures.

As occurred in all 51 (fifty-one) phases of operation Car Wash in Rio de Janeiro, in which lawyers and law firms were included among the targets, the Federal Prosecutor's Office, to preserve all guarantees provided for in the constitution and the law, took the precaution of asking the 7th Federal Criminal Court, at the request of search and seizure, that, in compliance with the measures, it safeguarded the privileges of the Statute of the Bar Association of Brazil, while emphasizing that "In relation to law firms, the search must be concentrated in the room used by the investigated and documents related to the facts found here" (██████████)

Precaution, care for those investigated, collaborators, health of investigations and processes, always with respect to the laws and the Constitution of the Republic, are characteristics of the work

<sup>14</sup> The resources of Sesc and Senac come from public sources, which the Revenue Service passes on contributions on payrolls of commercial companies for the Services to invest in the training and well-being of commerce employees. The Car Wash Task Force in Rio de Janeiro found that those parastatal entities in Rio devoted more than 50% of their annual budget to contracts with law firms.





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carried out by this Task Force, even recognized by all the actors directly or indirectly interested or affected by their actions, including lawyers for investigated persons, defendants and employees, who recognize the excellence and technical rigor of the work. In particular, in the context of Operation E\$quema S, these characteristics were accentuated by the sensitivity of the investigated persons, due to their notorious political and economic power before the Judiciary, among which: a former president of the Superior Court of Justice and his son; the son of a Justice of the Superior Court of Justice; the vice president of the Brazilian Bar Association in Rio de Janeiro; the son of a minister at the Federal Court of Auditors; a former adviser to the National Council of Justice; the son of a former president of the Rio de Janeiro Court of Justice; the wife of a former president of the Federal Regional Court; a retired prosecutor; and lawyers for former President of the Republic Luiz Inácio Lula da Silva and President of the Republic Jair Messias Bolsonaro.

The search decision by Judge Marcelo Bretas, of the 7th Federal Criminal Court of Rio de Janeiro, adopted the care required by the Federal Prosecutor's Office [REDACTED] and compliance with the measures by the Federal Police, ensured in all the workplaces of lawyers targeted by search measures, the presence of at least one representative of the Brazilian Bar Association's Prerogative Commission, as recorded in Official Letter 341/2020/DELECOR/DRCOR/SR/PF/RJ, of Dr [REDACTED] head of Corruption and Financial Crimes Police Force of the Superintendent of the Federal Police in Rio de Janeiro, responsible for the operation of the searches [REDACTED]

At the time of the searches, as the investigation had started as An offshoot of the 2018 operation Jabuti, [and already gathered: i. evidence obtained in searches and seizures under operation Jabuti; ii. shared data from the Federal Revenue Service, the Federal Audit Court and the Federal Prosecutor's Office in the Federal District (Operation Zelotes); iii. breaches of telephone, telematic, tax and banking secrets; iv. audit of Fecomércio's current management on legal services and contracts; v. information and testimonials from 3 (three) employees, including [REDACTED] [REDACTED] former manager of the injured parastatal entities], there was already sufficient evidence of the diversion of public funds from Sesc and Senac Rio, as well as from Fecomércio/RJ, of the total of at least BRL 151,000,000.00 (one hundred and fifty-one million reais). Therefore, without prejudice to the need to collect any evidence of other deviations (hence the need for searches)<sup>15</sup> initially 26

<sup>15</sup> In other words, the facts that justified the searches and seizures refer to other legal contracts of Fecomércio/RJ - some with some of the defendants, some with other offices - paid with public funds from Sesc RJ and Senac RJ. Also pending investigation is the return in kind to Orlando Diniz, by some defendants and other targets of Operation E\$quema S, of part of the amounts diverted from those entities in Rio de Janeiro.





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(twenty-six) persons were charged, 43 (forty-three) sets of criminal facts, among them association with criminal organization, fraud, corruption (active and passive), embezzlement, influence peddling and exploitation of prestige (process No. 5053463-93.2020.4.02.5101).

The 511 (five hundred and eleven) page-long charge (DOC 4), reveals that the criminal scheme was led by Roberto Teixeira, Cristiano Zanin Martins, [REDACTED], [REDACTED], and made use of false contracts with law firms, where the legal services stated in them were not actually rendered, but compensated under supposed fees that, in fact, portrayed deviations and appropriation of public funds.

Diniz was persuaded by the members of the criminal organization, mainly by Roberto Teixeira and Cristiano Zanin Martins, in the sense that new contracts (and fees) were necessary to have facilities in proceedings underway at the Sesc Nacional fiscal council, at the Federal Court of Accounts and in the Superior Court of Justice. As the contracts were illegally made, with Fecomércio/RJ being the contractor for the services, this being a private entity, its content and payments were not audited by the fiscal councils of Sesc and Senac Nacional, by the Federal Court of Accounts by the Comptroller General of the Union<sup>16</sup>, which made it difficult for the crimes to be discovered.

After the operation started, the Social Communication Office of the Federal Prosecutor's Office provided a summary of the facts and charges, with access to the complaint already proposed and accepted in court<sup>17</sup>, a disclosure dynamics that occurred in all operations in all 51 (fifty-one) phases of Car Wash in Rio de Janeiro, and occurs in all complex operations and public interest in the country, translating an act of social control of the initiatives of the Public Prosecutor's Office certified by the Judiciary, as well as transparency and public scrutiny about criminally processed facts that are of interest to the entire Brazilian society. The absolute secrecy of facts like this, which goes against the interests of people with political and/or economic power, is waived when democracy did not prevail or faltered in Brazil. Today, fortunately, the divulging restriction rule is

Employee Orlando Diniz points out legal contracts under which he affirms that Mr. Roberto Teixeira and Mr. Cristiano Zanin promised, but did not fulfill, the return of BRL 10,000,000.00.

<sup>16</sup> These bodies are the ones that control the adequacy of the management acts of the parastatal entities with their institutional purpose, which is the quality of life, learning and professional improvement of commerce workers in the State of Rio de Janeiro.

<sup>17</sup> Source: <http://www.mpf.mp.br/rj/sala-de-imprensa/noticias-rj/lava-jato-ij-operacao-e-quema-s-constata-desvio-de-mais-de-r-150-mi-do-sesc-e-senac-ij>





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an exception in the Constitution of the Brazilian Republic<sup>18</sup>, with transparency being a constitutional imperative in the performance of public bodies.

In a new development of Operation E\$quema S, on September 25, 2020, this Task Force charged<sup>19</sup> 5 (five) more people for embezzlement and money laundering, for the deviation of BRL 4,600,000.00 (four million and six hundred thousand reais) from the Rio de Janeiro sections of the Social Service of Commerce (Sesc), of the National Service of Commercial Learning ( Senac) and the Trade Federation (Fecomércio), among them [REDACTED] former lawyer of Jair Messias Bolsonaro, current president of the Republic (DOC 5). This lawyer was also the target of searches determined by Judge Marcelo Bretas, carried out on the same day, September 9, 2020, which shows how senseless the conclusions drawn to the UN on possible “political interests” to the detriment of people for counseling former President Luiz Inácio Lula da Silva.

#### **4 - The false narrative brought to the UN by attorneys Roberto Teixeira and Cristiano Zanin Martins**

##### **4.1- Requests for search and seizure in the case file 5051965-59.2020.4.02.5101**

In his Letter of Allegations AL BRA 11/2020, the United Nations special rapporteur on the independence of judges and lawyers, Diego García-Sayán, portrays several absolutely unreal narratives based on the allegations of Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins. The first of these narratives distorts the object of the investigation and the indictment, insinuating that the legal services provided and the measurement of the amounts that would be due as a result of the searches and charges:

“On September 9, 2020, the lower court judge of the Federal Justice of Rio de Janeiro, Mr. Marcelo Bretas, issued 75 search warrants against several lawyers and law firms involved in the so-called 'Car Wash' operations. In the case of Teixeira Martins & Advogados, the warrants requested the search of Mr. Teixeira and Mr. Zanin Martins, on the premises of the law firm, as well as the search for their personal residences.

<sup>18</sup> Federal Constitution, article 93, IX: “All judgments of the Judiciary bodies will be public, and all decisions will be based on evidence, under penalty of nullity, and the law may limit the presence, in certain acts, to the parties themselves and their lawyers, or only to them, in cases in which the preservation of the right to privacy of the interested party in secrecy does not harm the public interest to information”.

<sup>19</sup> Criminal Action No. 5066922-65.2020.4.02.5101





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The purpose of the warrants was to verify the type of services provided by the law firm to the Trade Federation of Rio de Janeiro (Fecomércio-RJ), a private entity that incorporates the interests of more than 320,000 commercial establishments in the State of Rio de Janeiro. The judge considered the fees paid by the Trade Federation to its representatives excessive but did not indicate why they were considered too high.”

In a footnote (2), there is a quote that the claimants' office, Teixeira, Martins & Advogados, has provided legal services to the Trade Federation of Rio de Janeiro since 2014, by 77 different professionals, providing about 12,000 hours of work and more than 1,400 legal documents (petitions and other legal documents), and that this control would have been subject to an independent audit to certify its integrity.

It turns out that, carefully reading the request for searches by the Federal Prosecutor's Office (DOC 1) and the criminal complaint attached (DOC 4), it clearly demonstrates that the referred lawyers were neither investigated nor accused by the practice of law that they effectively rendered in reason of real legal contracts, but rather because they have, in summary:

I - Roberto Teixeira and Cristiano Zanin Martins conceived and signed three falsely signed legal contracts in the years 2012 and 2013 and because they received about BRL 12 million (of which BRL 1 million in money “off the books” delivered by a currency “dealer” in São Paulo), for the promise to the contractor (Mr. Orlando Santos Diniz, then manager of Fecomércio, Sesc and Senac in Rio de Janeiro) to bribe in his favor a federal civil servant (president of the fiscal council of Sesc Nacional);

II- Roberto Teixeira and Cristiano Zanin Martins, it was determined, intermediated and supervised the hiring, between 2013 and 2014, by Mr. Orlando Santos Diniz, then manager of Fecomércio, Sesc and Senac in Rio de Janeiro, of lawyer Vladimir Spíndola, with the simulation of a contract for the provision of legal services for the total amount of BRL 6,000,000.00, which paid the bribe to auditor of the Federal Audit Court Cristiano Albuquerque Rondon;

III- Cristiano Zanin Martins determined, in February 2014, the hiring of lawyer Ana Basílio from Orlando Santos Diniz, then manager of Fecomércio, Sesc and Senac in Rio de Janeiro, which despite having provided legal services, signed contracts with false initials that took BRL 7 million from these entities;

IV- Cristiano Zanin Martins determined, intermediated and supervised the hiring, by [REDACTED] then manager of Fecomércio, Sesc and Senac in Rio de Janeiro, of lawyer [REDACTED], son of then Justice and current president of the Superior Court of Justice, to influence in this court decisions in favor of Diniz, by signing false proposals for legal services. Without providing legal service [REDACTED] received, directly or through third





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parties (lawyers [REDACTED] in the month of February 2014 and between December 2015 and May 2016, BRL 82 million, having transferred a portion of it to [REDACTED] and former Justice of the STJ, and his son [REDACTED]

V - Cristiano Zanin Martins determined, together with lawyer [REDACTED], in May 2014, the hiring of her ex-husband, lawyer [REDACTED] by [REDACTED], then manager of Fecomércio, Sesc and Senac in Rio de Janeiro, which received BRL 1.6 million diverted from the coffers of the entities, through a falsely signed service provision contract;

VI- Cristiano Zanin Martins having consented in November 2014 to the hiring of lawyer [REDACTED], then manager of Fecomércio, Sesc and Senac in Rio de Janeiro, who diverted from the coffers of entities about BRL 1 million, through a falsely signed legal contract, under the pretext of exercising unlawful influence in the Federal Court of Accounts;

VII- As leaders of a criminal organization that started to deviate funds from Fecomércio, Sesc and Senac in Rio de Janeiro, and commanders of the “legal strategy” of the processes involving [REDACTED], by his delegation, created the conditions, determined or authorized, in addition to the deviations referred to above: 7.1) the diversion of BRL 16 million to lawyer [REDACTED], with the intermediation of Sérgio Cabral Filho, the amounts being paid from falsely signed legal contracts and under the pretext of influencing decisions at the Federal Court of Accounts [REDACTED] is the son of Justice of the Federal Court of Accounts [REDACTED] 7.2) the diversion of BRL 5.5 million in April 2015 to lawyer [REDACTED], at the request of lawyer Ana Basilio, based on a falsely signed legal contract; 7.3) the deviation of BRL 11 million between December 2015 to June 2016 in favor of lawyer [REDACTED], for agreeing to his hiring at the request of [REDACTED] through a falsely signed legal contract, with transfer of part of the amounts to lawyer [REDACTED], former justice of the STJ; 7.4) the deviation of BRL 5 million between January and April 2016 in favor of the lawyer [REDACTED] for the consent to his hiring through a falsely signed legal contract; 7.5) the deviation of BRL 8 million between August and December 2016 in favor of lawyer [REDACTED], by agreeing to his hiring at the request of [REDACTED], through a falsely signed legal contract.

The accusation, based on solid evidence of authorship and materiality, shows that Roberto Teixeira, Cristiano Zanin Martins and [REDACTED] (now a collaborator of Justice), in addition to other lawyers and the former governor of Rio de Janeiro [REDACTED] between 7/27/2012<sup>20</sup> and 2/23/2018<sup>21</sup>, consciously, voluntarily, steadily and in communion of wills,

<sup>20</sup> Day when Orlando Diniz, Roberto Teixeira, Cristiano Zanin and Fernando Hargreaves closed the “partnership” for the practice of influence peddling with the fiscal council of Sesc Nacional.

<sup>21</sup> Day when Orlando Diniz was arrested in Operation Jabuti.





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personally promoted, constituted and integrated a criminal organization whose purpose was the practice of crimes of fraud, embezzlement, influence peddling, exploitation of prestige, active corruption, passive corruption and money laundering, having been responsible for the deviation of at least BRL 151,000,000.00 (one hundred and fifty-one million reais), the majority referring to the monthly amounts transferred by the Federal Revenue to the coffers of the National Learning Service (SENAC) and the Social Service of Commerce (SESC), as a result of the compulsory social contribution levied on the payroll of businessmen in commerce, without prejudice to other alleged deviations, in the order of BRL 200,000,000.00 (two hundred million reais), object of ongoing investigations.

One of the facts investigated, not yet imputed, but which also justified the searches, was the statement by employee [REDACTED] that Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins promised to return, in favor of [REDACTED], the amount of BRL 10 million, due to the millionaire legal contracts that followed in favor of the Teixeira, Martins & Advogados law firm from 2012 to 2017, which is why it was simulated a falsely signed contracting instrument, which was pointed out by the employee as proof of corroboration.

It is important to indicate, below, among dozens of volumes of documentation produced with the investigations that began in 2018, the index of the book of the main evidential elements that supported the narrative of the Federal Prosecutor's Office and supported the searches in the offices and lawyers involved with the criminal organization:

- DOC 01: Tax Complaint for Criminal Purposes for Money Laundering (Fecomércio);
- DOC 02: Technical Cooperation Agreement between the entities of the S System;
- DOC 03: Orlando Diniz's testimony on Annex 1;
- DOC 04: Orlando Diniz's testimony on Annex 26;
- DOC 05: "Avocation Ordinances" and "Notices", thumb drive belonging to [REDACTED] in the search and seizure 0502324-04.2018.4.02.5101 - RJ 3 - Item 08 - AA 72.12 and AA72.18 - Media;
- DOC 06: E-mail attachment dated 12.21.2015, extracted from the telematic lifting in case nº 050336977.2017.4.02.5101, [REDACTED] forwards the result of the consultation, in a file that followed in the attachment "Parecer\_SESCRJ\_assinado.pdf";
- DOC 07: Information of Research and Investigation - IPEI RJ No. 2010028 of May 09, 2017 - RFB/Copei/Espei in 7<sup>th</sup> Tax Region;
- DOC 08: Letters of apportionment of funds signed by [REDACTED] (search and seizure (RJ 07-Item 09);
- DOC 09: "Minutes of the 1st Extraordinary Meeting of SESC RJ Regional Council in the State





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of Rio de Janeiro, held on December 17, 2015", whose file was found on a thumb drive belonging to

(RJ 03 - Media - Opinion - 897.18);

DOC 10: Statement by [REDACTED] to the Federal Police (PF) during Operation Jabuti;

DOC 11: Complaint for Criminal Purposes of Operation Zelotes;

DOC 12: Testimony by [REDACTED];

DOC 13: Testimony by [REDACTED];

DOC 14: Testimony by [REDACTED] in Annex 34;

DOC 15: Research and Investigation Information - IPEI RJ20200006;

DOC 16: Research and Investigation Information - IPEI RJ20200007;

DOC 17: Research and Investigation Information - IPEI RJ20200013;

DOC 18: Research and Investigation Information - IPEI RJ20200023;

DOC 19: Research and Investigation Information - IPEI RJ20200027;

DOC 20: Research and Investigation Information - IPEI RJ20200010;

DOC 21: Research and Investigation Information - IPEI RJ20200022;

DOC 22: Research and Investigation Information - IPEI RJ20200012;

DOC 23: Research and Investigation Information - IPEI RJ20200011;

DOC 24: Final report of the fiscal council of SESC Nacional in 2009 and in 2011;

DOC 25: List of stays at the Copacabana Palace;

DOC 26: Testimony by [REDACTED] Annex 10;

DOC 27: Testimony of the employee [REDACTED];

DOC 28: Claim and respective power of attorney granted by [REDACTED] and Cristiano Zanin before the first contract by Fecomércio on 09.2012, inserted in the full copy of Aresp 493.706, found on the thumb drive belonging to Marcelo Almeida RJ03, Item 01, AA 72.18);

DOC 29: copies of two actions (inserted in Aresp 493826 and 498808) filed by Teixeira, Martins on behalf of [REDACTED] before the first contract by Fecomércio on 09.2012, found on a *thumb drive belonging to* Marcelo Almeida RJ03, Item 01, AA 72.18);

DOC 30: 1st legal contract signed between Fecomércio and Teixeira, Martins & Advogados on September 4, 2012;

DOC 31: Invoice related to the legal contract signed between Fecomércio and Teixeira, Martins & Advogados on 9.4.2012;

DOC 32: 1st legal contract signed between Fecomércio and Hargreaves Advogados Associados on 9.4.2012;

DOC 33: List of payments seized at Fecomércio - RJ07 - Item 4

DOC 34: 2nd legal contract signed between Fecomércio and Teixeira, Martins & Advogados on 12.10.2012 and the respective invoice;

DOC 35: 3rd legal contract signed between Fecomércio and Teixeira, Martins & Advogados on 1.27.2012 and respective invoices

DOC 36: Invoices for payments from Fecomércio to Hargreaves Advogados (RJ07, Item 9)

DOC 37: List of contracts and payments made by Fecomércio (RJ07 - Item 4): Hargreaves with payments of BRL 11,700,007.00 "*Without a formal contract*";

DOC 38: Testimony by Júlio [REDACTED];

DOC 39: Testimony by [REDACTED];

DOC 40: Report of alleged services presented by Teixeira, Martins & Advogados to Fecomércio after removal of [REDACTED];





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DOC 41: List of “Call Ordinances” and “Notices”, seized - RJ 3 - Item 08 - AA 72.12 and AA72.18;

DOC 42: 1st contract signed between Fecomércio, [REDACTED] on 3.30.2013 (RJ7 - Items 07 and 09);

DOC 43: 2<sup>nd</sup> contract signed between Fecomércio and [REDACTED] on 1.10.2014, with amendment on 06/13/2014 (RJ7 - Items 07 and 09);

DOC 44: 3rd contract signed between Fecomércio and [REDACTED] on 02/24/2014, with amendment on 03/05/2014 (RJ7 - Items 07 and 09);

DOC 45: [REDACTED] testimony regarding Attachment 30;

DOC 46: [REDACTED] testimony regarding Attachment 25;

DOC 47: Tax Complaint and shared telematic data of precautionary measure no. 2804288.2014.4.01.3400 (Operation Zelotes);

DOC 48: Petition by lawyer [REDACTED] at TC 019.431/2011 requiring oral arguments in the trial to be held at TCU on 12.10.2013;

DOC 49: Motion for clarification filed by [REDACTED] in TC 019.431/2011;

DOC 50: Petition for the creation of a Working Group to study the topic of variable remuneration and surcharge of TC 019.431/2011, included in the full copy of the fact (SP1 - Item 5 CD);

DOC 51: *“Summary of parts of process 019.431/2011-2, automatically generated on 04/20/2017 at 04:51:36 p.m. by the External Control Secretariat unit in the State of Rio de Janeiro exclusively for consultation purposes”*

DOC 52: Judgment in TC 019.431/2011, inserted in the full copy of the fact (SP1 - Item 5 CD), listed in the TC Summary as Event 128;

DOC 53: Motions for clarification filed on 11.24.2014 signed by [REDACTED] on TC 019.431/2011, inserted in the full copy of the fact (SP1 - Item 5 CD), listed in the TC Summary as Event 131;

DOC 54: [REDACTED] waives the powers granted to it by Fecomércio in the TCU's Account Statements on August 14, 2015 - Event 216

DOC 55: Summary of parts of TC 019.431/2011 (SP1 - Item 5 CD);

DOC 56: Response by [REDACTED] to the request for evidence of services provided under the new management of Fecomércio;

DOC 57: Contract between Fecomércio and [REDACTED] on 11/03/2014;

DOC 58: Summary of parts of TC 004.577/2012-4 (SP1 - Item 5 CD);

DOC 59: Financial Intelligence Report - COAF/UIF RIF 44362;

DOC 60: [REDACTED] testimony in relation to Annex 5

DOC 61: Contract BA-H 201/2014, dated 2.10.2014, between Fecomércio/RJ and [REDACTED];

DOC 62: [REDACTED] response to the external audit carried out by Fecomércio/RJ;

DOC 63: Contract H 286/14 between Fecomércio/RJ and [REDACTED];

DOC 64: Dispute signed by [REDACTED] in the records 00911217-96.2014.8.19.0001;

DOC 65: Copy of the object of the case file 0108747-51.2014.8.19.0001;

DOC 66: Renegotiation of Contract BA-H 201/2014 for payment of success;

DOC 67: Proposal by lawyer [REDACTED] to act in the ordinary appeal filed in the Records 0010442-83.2014.5.01.0033;





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DOC 68: Regulatory appeal filed in the records 0010417-72.2014.5.01.0000;  
DOC 69: Research and Investigation Information - IPEI RJ20200018;  
DOC 70: 1<sup>st</sup> Fecomércio/RJ contract with [REDACTED] dated 4.15.2014;  
DOC 71: 2<sup>nd</sup> Fecomércio/RJ contract with [REDACTED] dated 8.20. 2014;  
DOC 72: Amendment to the contract between [REDACTED] and Fecomércio, dated 4.8.2015;  
DOC 73: 3<sup>rd</sup> contract of Fecomércio/RJ with [REDACTED] dated 03.25.2015  
DOC 74: Contract BA-H 508/2015, between Fecomércio/RJ and [REDACTED] on 5/15/2015;  
DOC 75: Amendment to the BA-H 508/2015 Agreement, on 7.17.2015;  
DOC 76: Procedure 13031.128614/2020-91 of the Federal Revenue Service;  
DOC 77: Contracts and additives brokered by [REDACTED] with [REDACTED]  
DOC 78: Response from [REDACTED] and offices intermediated by him to the external audit of Fecomércio/RJ on services rendered;  
DOC 79: Fiscal Intelligence Report RJ50035;  
DOC 80: [REDACTED] fee proposal to Fecomércio;  
DOC 81: Testimony by [REDACTED] regarding Annex 33;  
DOC 82: [REDACTED] collaboration term;  
DOC 83: Research and Investigation Information - IPEI RJ 20160013  
DOC 84: Fecomércio/RJ contract with [REDACTED];  
DOC 85: Invoice issued by [REDACTED];  
DOC 86: Extension of the contract with [REDACTED];  
DOC 87: Report on services provided by [REDACTED] to Fecomércio;  
DOC 88: Notes in a notebook apprehended with [REDACTED] (RJ3);  
DOC 89: [REDACTED] contract with Fecomércio/RJ;  
DOC 90: [REDACTED] response on services provided to the new management of Fecomércio/RJ;  
DOC 91: Full content of some procedures covered by the Cedraz Advogados contract;  
DOC 92: Fee proposal from [REDACTED];  
DOC 93: Proposal of fees from [REDACTED] to Fecomércio effectively forwarded;  
DOC 94: [REDACTED] contract with Fecomércio/RJ;  
DOC 95: File of the fee proposal document found on a Western Digital hard disk, serial number WMAYW3672103, seized at the [REDACTED] office;  
DOC 96: 1st. [REDACTED] 'response to the new management of Fecomércio/RJ on the services provided;  
DOC 97: 2nd. [REDACTED] 'response to the new management of Fecomércio/RJ on the services provided;  
DOC 98: Research and Investigation Information - IPEI RJ20200017;  
DOC 100: Financial Intelligence Report n. 49754.  
DOC 101: [REDACTED] testimony regarding Attachment 8;  
DOC 102: Notice of SESC Rio in 2017 for hiring an event company;  
DOC 103: [REDACTED];  
DOC 104: [REDACTED] testimony regarding Attachment 38;





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DOC 105: Registration of entries at SESC/SENAC/FECOMÉRCIO delivered by employee [REDACTED];  
DOC 106: Fecomércio's contract with [REDACTED];  
DOC 107: [REDACTED] response on services provided to the new management of Fecomércio;  
DOC 108: Research and Investigation Information - IPEI RJ 20200019  
DOC 109: Financial Intelligence Report -RIF 49517  
DOC 110: Financial Intelligence Report - RIF 49964  
DOC 111: Research and Investigation Information - IPEI 20200021  
DOC 112: 1st [REDACTED] contract with Fecomércio/RJ;  
DOC 113: 2nd [REDACTED] contract with Fecomércio/RJ;  
DOC 114: 3rd contract between [REDACTED] and Fecomércio/RJ;  
DOC 115: Procedures monitored by [REDACTED] in MPF;  
DOC 116: Notitia Criminis MPF 2017.00563654, transformed into the Civil Inquiry 1.30.001.003227/2017-69;  
DOC 117: Dismissing of ICP 1.30.001.003227/2017-69;  
DOC 118: [REDACTED] response on services provided to Fecomércio's new management;  
DOC 119: The contract of [REDACTED] with Fecomércio/RJ;  
DOC 120: Response from [REDACTED] on services provided to the new management of Fecomércio.

Mr. Roberto Teixeira was then charged for the following sets of crimes in the complaint: Set 1: Art. 2, §4, II and IV, of Law 12.850/2013 with article 327, §1, of the Penal Code; set 2: Arts. 332, caput and sole paragraph, c/c 327, § 1, of the Penal Code; set 3: 171, caput, of the Penal Code (four times, in the form of art. 71, caput, of the Penal Code); set 4: Art. 1, § 4, of Law 9,613/98 (four times, in the form of art. 71, caput, of the Penal Code); set 5: Art. 332 of the Penal Code; set 6: Art. 332 of the Penal Code; set 7: 333, caput and sole paragraph, of the Penal Code (67 times, in the form of art. 71, caput, of the Penal Code); set 9: 171, caput, of the Penal Code (thirty-nine times, in the form of art. 71, caput, of the Penal Code); set 10: 171, caput, of the Penal Code; set 11: Art. 1, § 4, of Law 9,613/98 (thirty-eight times, in the form of art. 71, caput, of the Penal Code). In turn, Mr. Cristiano Zanin Martins was charged with the following sets of crimes in the complaint: Set 1: Art. 2, §4, II and IV, of Law 12.850/2013 with article 327, §1, of the Penal Code; set 2: Arts. 332, caput and sole paragraph, c/c 327, § 1, of the Penal Code; set 3: 171, caput, of the Penal Code (four times, in the form of art. 71, caput, of the Penal Code); set 4: Art. 1, § 4, of Law 9,613/98 (four times, in the form of art. 71, caput, of the Penal Code); set 5: Art. 332 of the Penal Code; set 6: Art. 332 of the Penal Code; set 7: 333, caput and sole paragraph, of the Penal Code (67 times, in the form of art. 71, caput, of the Penal Code); set 9: 171, caput, of the Penal Code (thirty-nine times, in the form of art. 71, caput, of the Penal Code); set 10: 171, caput, of the Penal Code; set 11: Art. 1, §





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4, of Law 9,613/98 (thirty-eight times, in the form of art. 71, caput, of the Penal Code); set 13: 171, caput, of the Penal Code (four times, in the form of art. 71, caput, of the Penal Code); set 14: 312, caput, of the Penal Code; set 15: Art. 1, § 4, of Law 9,613/98 (six times, in the form of art. 71, caput, of the Penal Code); set 16: 171, caput, of the Penal Code; set 17: Art. 1, § 4, of Law 9,613/98 (twice, in the form of art. 71, caput, of the Penal Code); set 19: 171, caput, of the Penal Code (twice, in the form of art. 71, caput, of the Penal Code); set 20: Art. 1, § 4, of Law 9,613/98 (four times, in the form of art. 71, caput, of the Penal Code); set 21: 312, caput, of the Penal Code (four times, in the form of art. 71, caput, of the Penal Code); set 22: Art. 1, § 4, of Law 9,613/98 (six times, in the form of art. 71, caput, of the Penal Code); set 23: 357, caput, of the Penal Code; set 24: 171, caput, of the Penal Code; set 25: 171, caput, of the Penal Code; set 26: Art. 1, § 4, of Law 9,613/98 (four times, in the form of art. 71, caput, of the Penal Code); set 28: 357, caput, of the Penal Code; set 29: Art. 312, caput, of the Penal Code (fifteen times, in the form of art. 71, caput, of the Penal Code); set 30: Art. 312, caput, of the Penal Code (twenty-three times, in the form of art. 71, caput, of the Penal Code); set 31: Art. 1, § 4, of Law 9,613/98 (seventeen times, in the form of art. 71, caput, of the Penal Code); and set 32: Art. 1, § 4, of Law 9,613/98 (twenty-eight times, in the form of art. 71, caput, of the Penal Code) [REDACTED]

The narrative inserted in the Letter of Allegations continues, now more specifically in relation to alleged irregularities in the searches and seizures carried out in the outbreak of the operation E\$quema S, on September 9, 2020:

“It is alleged that the excessively generic nature of the search and seizure warrants issued by the judge was indicative of an intention to harass and intimidate Mr. Teixeira and Mr. Zanin Martins for the professional support they provide to Mr. Lula. The judge's open support for the current president of Brazil raises concerns about whether Mr. Bretas has the necessary independence and impartiality to judge this case.

All search and seizure warrants issued by Judge Bretas against the various law firms and lawyers were carried out simultaneously on September 9, 2020. The search at Teixeira Zanin Martins & Advogados' premises started around 6:00 am and lasted until approximately 12:00 pm. The operations at the homes of Messrs. Teixeira and Zanin Martins started around 7 am and lasted about 3 hours. The search and seizure warrants were executed by agents of the Federal Police and agents of the Federal Revenue Service. A federal prosecutor was also present during the search of the law firm's premises.





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Members of the Prerogatives Commission of the São Paulo Bar Association (OAB/SP) were present during the search for the law firm but did not participate in the search for Mr. Zanin Martins. During the search at Mr. Zanin Martins', the police said they were looking for a gun. However, the search for a weapon was completely outside the formal purpose of the "search and seizure" warrant. According to the complainant, this circumstance reinforces the allegation that the warrant was issued in an excessively general manner with the aim of determining a valid reason to sue former President Lula's attorney.

During the search on the premises of the law firm by the Federal Police and Federal Revenue, several documents were seized (including about 50 notebooks with work material that were found next door to Mr. Zanin Martins' office).

At the residence of Mr. Zanin Martins, the agents seized an external hard drive (containing confidential material on the case of former President Lula), cell phones, among other documents."

As already mentioned, contrary to what Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins allege, the court decision search was absolutely technical and specific, limited to the object of the investigation, the Judge of the 7<sup>th</sup> Federal Criminal Court of Rio de Janeiro adopted the care required by the Federal Prosecutor's Office [REDACTED] Search and seizure warrants at the Teixeira, Martins & Advogados office and at the plaintiffs' homes expressly stated that only "documents related to the illicit acts narrated in the MPF manifestation" should be apprehended, in addition to listing the names of all individuals and legal entities investigated and warn that "the prerogatives provided for in the Statute of the Bar Association should be safeguarded, concentrating the measure on the room (s) used by the investigated parties and documents that relate to the facts found herein" ([REDACTED]).

In the respective fulfillment of the search warrants, the Federal Police provided, in all the workplaces of the lawyers targeted by the search measures, the presence of at least one representative of the Prerogatives Commission of the Brazilian Bar Association, as registered in the Official Letter 341/2020/DELECOR/DRCOR/SR/PF/RJ, from [REDACTED], head of the Police Department for the Corruption and Financial Crimes Police Force of the Superintendent of the Federal Police in Rio de Janeiro, responsible for the search operation ([REDACTED])

"I would like to clarify that there was an action by a representative of the Bar Association (OAB) in all the workplaces of the investigated lawyers, and the diligences were carefully





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monitored by the professionals present. There were no complications registered in the records made in the search places, it should be noted that these records were duly signed by everyone (and not just by the police team).

It should also be noted that although the lawyers investigated have a business address that does not coincide with the residential address, those responsible for the searches took the precaution of observing whether there was evidence of a change in the headquarters of the office to one of the rooms of the property where the targets resided, in order to preserve it, if there were such a finding, to activate the OAB prerogative commission.

This circumstance actually occurred with the DF-15 team, which was targeting [REDACTED] [REDACTED] In this case, as described, we waited for the arrival of the OAB representative to check the documents in the room used for professional purposes.

It is also important to highlight that the targets could, at any time, call their own lawyers, so that they could follow the steps. It happened in the homes where the SP-01 teams were located (target: ROBERTO TEIXEIRA), SP-03 (CRISTIANO ZANIN MARTINS) and CE-01 [REDACTED])”

In the case of the plaintiffs, it is clear from the aforementioned letter from the Federal Police that the police authority informed that no less than the chairman of the prerogatives commission of the Brazilian Bar Association in São Paulo participated in the proceedings at the Teixeira, Martins & Advogados law firm, Dr. [REDACTED], and 2 (two) representatives of the commission: [REDACTED], in addition to the lawyers of the firm, [REDACTED].

All signed the search and seizure records without registering any complications, which was ratified by the Federal Police Chief who conducted the searches, [REDACTED] [REDACTED] who, in addition to adding the presence of two tax auditors from the Revenue Service, stated: “Let it be known that all the lawyers carried out a rigorous eye inspection of the work of the Federal Police on the site, including when extracting digital data from the HDs submitted to expert exploration, and had the opportunity to express themselves and register, in the corresponding Notice of Seizure, any irregularities that they had witnessed, notably as to how to comply with the due diligence, as regards the material collected, and as to the observance of the preservation of the prerogatives of the law, especially respect for attorney-client confidentiality, but they did not do so. Rather, as advocates of the law prerogatives, legitimized the transparency and fairness of the





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performance of search and seizure warrant issued by the Judge of the 7th Federal Criminal Court of Rio de Janeiro." ( [REDACTED] )

The aforementioned letter from [REDACTED], responsible for conducting searches in the Federal Police, also ensured that in homes where there was eventually a room used as a law firm, the determination was to summon and wait for the arrival of an OAB representative, and in Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins' homes, in spite of not having seen this condition, lawyers personally appointed by them monitored the searches, namely [REDACTED] and [REDACTED].

Attached, the respective Notices of Seizure with the signatures of all participants in the act in the office and in the homes without any annotation or record of irregularities ( [REDACTED] and [REDACTED] ).

It is interesting to note that, in the case of Mr. Cristiano Zanin Martins, Federal Attorney [REDACTED] also accompanied the due diligence of the search, who certified that the lawyer appointed by this accused, "during the due diligence, maintained telephone contact with the target (Cristiano Zanin Martins) and with his wife, reporting the progress of the searches and informing what was being apprehended. At no time was any objection regarding the seizure of any item, be it a physical document or electronic devices - which, it should be noted, did not contain notes or an apparent link with specific cases outside the scope of the investigation. So much so that, in the apprehension term, which detailed each item collected, the lawyer did not consign observation or opposition to the due diligence, being, on the contrary, cooperative and aware of the work that was being done". ( [REDACTED] )

Therefore, if there had in fact been the alleged seizure of any electronic device with data from Mr. Luiz Inácio Lula da Silva, former President of the Republic, who is not even the target of any of the ongoing investigations in the Car Wash Task Force in Rio de Janeiro, immediately the lawyer present at the act would have protested or reported the irregularity in the Notice of Seizure or at least would not have signed it. Another relevant circumstance is that until now neither Mr. Cristiano Zanin Martins or any other lawyer he appointed did not even request in the records of the





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precautionary search process the return of the allegedly improperly apprehended device, or any other material whose search he considered irregular.

In fact, instead of requesting the return of the property for the alleged undue seizure, which would be expected in situations like this, Mr. Cristiano Zanin Martins was precipitated to disseminate on social media the false information that the diligences and the material seized would have the purpose of disturbing the defense of former president Lula within the scope of the Car Wash Task Force in Curitiba (see below), which strictly it has nothing to do with the facts ascertained by the Rio de Janeiro Task Force in Operation E\$quema S, and this unusual initiative (now replicated before the UN) is nothing more than an artifice to form a smokescreen and hide his status of person of interest and accused by the Federal Prosecutor's Office for leading a criminal organization that committed dozens of crimes to the detriment of federal public funds and the hundreds of thousands of workers in the trade sector in Rio de Janeiro, who watched helplessly the diversion of millions of cash they should have had been applied to their professional development and quality of life.



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Regarding the alleged partiality of Judge Marcelo Bretas for his alleged close relationship with the current President of the Republic, Mr. Jair Messias Bolsonaro, this Task Force has so far not witnessed in any of its decisions or procedural acts any element that could indicate lack of objective or subjective exemption within the scope of the operation E\$quema S, including that a search and seizure was also decreed in the office and at the residence of [REDACTED] (and his ex-wife), reported in the media as a former lawyer and advisor to the current President of the Republic and a frequent visitor to the Palace.

In any case, there are procedural instruments in the Criminal Procedure Code available to the parties for the reasoning of impediment and/or suspicion of a judge, with no record that the plaintiffs have used them for their defenses, which again leads the conclusion that they intend only to “make noise” and not a legitimate and well-founded complaint before the United Nations.

Still, regarding the alleged questioning of the police authority, at the time of the searches, about the possible custody of a weapon at home by Mr. Cristiano Zanin Martins, although it is an initiative of the Federal Police, it can be said that it is a standard procedure in all searches to investigate the persons of interest about the possible existence of weapons stored in his residence or at the place of the searches, in order to guarantee the safety of all. In any case, the conjecture that the question of possible weapon existence would be proof that “the warrant was issued in an excessively general manner with the aim of determining a valid reason for prosecuting the former President Lula” makes no sense, since, at the time of the searches, there was already a criminal action instituted with the imputation of dozens of crimes to the disadvantage of the referred lawyer (DOC 4).

Still on the execution of search warrants, the Letter of Allegations quotes a Report from the Bar Association of São Paulo:

“On September 14, 2020, the Prerogatives Commission of the São Paulo Bar Association (OAB/SP) issued a report on the "search and seizure" operations carried out on the premises of Teixeira Zanin Martins & Advogados and at the homes of Mr. . Teixeira and Mr. Zanin Martins.

The report concluded that:





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- 1) the warrant was "quite generic", since it described "only the suspects under investigation and the authorized measures, without, however, describing the scope of the investigation";
- 2) the judicial decision that authorized the search was not made available to the members of the Commission, who would have been informed by the Federal Police Chief that the investigation was about "the contracts signed with Fecomércio/RJ and entities belonging to the S System";
- 3) at the request of the members of the Commission, a series of devices, such as thumb drives and an SSD hard disk belonging to Mr. Zanin Martins and a hard drive belonging to Mr. Roberto Teixeira's computer, ultimately, were not removed from the office, and the consultation of data contained therein was carried out by a criminal expert on the spot;
- 4) during the search operation, computers, electronic devices and files of lawyers not covered by a court order were also searched by the police and collected at their offices. While some of the documents and devices were finally returned, since they were not covered by the court order, the documents collected in the office attached to Mr. Zanin Martins were finally apprehended by the police;
- 5) members of the Commission were not present during the search operations at the residence of Mr. Zanin, despite the inspection of OAB/SP representatives being required by national legislation to carry out searches and seizures at a professional and private level".

Regarding questioning 1), as already seen, the warrant was not "quite generic", as it expressed the names of all individuals and legal entities investigated, with which it was fully possible to add documents that were related to them in order that others, strangers to the investigative context (that is, arising from other attorney-client relationships), were not inadvertently apprehended. By the way, absolutely none of the lawyers or law firms (a total of 50 targets searched) requested so far in the case of the request for search and seizure (Case No 5051965-59.2020.4.02.5101) the return of any document that has been improperly apprehended, not even Mr. Roberto Teixeira or Mr. Cristiano Zanin Martins<sup>22</sup>.

In relation to questioning 2), the search and seizure decision is a precautionary measure to substantiate ongoing investigations and which, at the time of their implementation, are confidential. Its surrender to professionals outside the cause (lawyers of the OAB's prerogative committee), may harm the collection of present and future evidence, as well as the very sphere of intimacy of the targets of the due diligence with unnecessary exposure, being sufficient of them to be merely aware, by the warrant, of the limits of searches, in order to ensure that the objects collected are related to

<sup>22</sup> Only lawyer João Cândido Ferreira Leão recently requested the return of his cell phone and notebook on the assumption that they had already been examined by the Federal Police.





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the scope of the precautionary measure and not to attorney-client relationships that are foreign to it.

In any case, it is repeated, no lawyer of the three who represented the commission of prerogatives of OAB/SP (including its chairman) and of the two who represented the Teixeira, Martins & Advogados law firm, registered in the Notice of Seizure a contestation to the procedures adopted by the police authority, the signature affixed in it being unequivocal proof that they agreed with the treatment given in terms of legal guarantees to the law (██████) and (██████). The same is true of the lawyers who followed the proceedings at Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins' homes (██████ and ██████).

Item 3) is not intelligible, it is not clear whether or not the plaintiffs protest against the access of the experts (which normally only copies media, which are eventually not removed from the site, when experts are available for all the sites of searches). However, it should be reiterated that no contestation was included in the Notice of Seizure by the chairman of the OAB/SP prerogative committee and its other members, as well as by lawyers from Teixeira, Martins & Advogados who accompanied the act.

Item 4) seems to complain about documents seized allegedly outside the scope of the search warrant (room attached to Mr. Zanin's). Here again it is reiterated that no contestations were recorded in the Notice of Seizure by the chairman of the OAB/SP prerogative committee and its other members, as well as by lawyers from Teixeira, Martins & Advogados who accompanied the act, nor any request of return was made in the records of the precautionary search and seizure process.

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Finally, on item 5), Brazilian law<sup>23</sup> and the jurisprudence of the courts determine that the presence of a representative of OAB at the place of the searches must take place at the office or place of work of the investigated lawyer, because the special protection falls on the function, not on the person of the professional. As already stated, the police authority that coordinated the searches made it clear that, “although the lawyers investigated have a business address that does not coincide with the residential address, those responsible for the searches took the precaution of observing whether there was evidence of a change of office headquarters to one of the rooms of the property in which the targets resided, in order to preserve it, if there was such a finding, to call the commission of prerogatives of OAB”(DOC 3), which occurred, in practice, only in relation to Mr. Tiago Pugsley.

With regard to Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins, in none of the respective properties the police authority found a room dedicated to work. In addition to that, both appointed lawyers who carefully monitored the searches, including, in the case of Mr. Zanin (who had not lived in the property since the beginning of the pandemic in March 2020, as stated in the Notice of Seizure), he remained in direct contact with his family. lawyer, who was aware of the procedures and documents seized (DOC 13). There was no protest registered in the Notice of Seizure.

**4.2- Disclosure of the operation by the Public Relations staff of the Federal Public Prosecutor's Office and complaints before the searches**

The Letter of Allegations criticizes the disclosure of operation E\$quema S:

“Supposedly, a large number of journalists were outside the premises of the law firm when the Federal Police and the Federal Revenue arrived to conduct the 'search and seizure'. Apparently, the State agents themselves leaked information to the press, in an attempt to discredit the two lawyers before their peers, clients and the general public. Two Federal Police helicopters flew over the law firm and the homes of the two lawyers during the execution of the warrants.

The operation was also widely publicized in the Brazilian and foreign press. As has been the case with other people involved in the "Car Wash" operation, confidential information about the two lawyers, their office and their clients would have been leaked to the press.

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<sup>23</sup> Article 7, item II, of Law 8.906/1994 (OAB Statute) establishes that it is the lawyer's right to "inviolability of his/her office or workplace.





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This contributed to reinforce the idea in the general public of the guilt of the two lawyers, in violation of the presumption of innocence.

(...)

On September 9, 2020, the same day as the 'search and seizure' warrants, the prosecutor in charge of the 'Car Wash' operation filed a criminal complaint against Mr. Teixeira and Mr. Zanin Martins, accused of leading a criminal organization 'essentially made up of lawyers' that misappropriated BRL 151 million reais (approximately USD 26,903,000) written off as attorney's fees. Mr. Zanin Martins was accused of 278 crimes, allegedly in an attempt to intimidate him and undermine his professional image.

At 7:15 am, while search and seizure warrants were being served at the offices of Teixeira Zanin Martins & Advogados, the PR staff of the Federal Public Prosecutor's Office under 'Car Wash' published a press release on its website to inform that criminal charges had been filed against Mr. Teixeira and Mr. Zanin Martins.”

Initially, these members of the Federal Prosecutor's Office are not aware of the presence of journalists at the search sites, nor of the use of helicopters by the Federal Police. And as far as this Task Force knows, there was no “leak” of classified information.

It should be clarified that on September 9, 2020, when the searches took place, and contrary to what the plaintiffs say, there was already a criminal action in progress (case 505346393.2020.4.02.5101) against 26 (twenty-six) people<sup>24</sup> almost all lawyers, who used their privileges to misappropriate at least BRL 151,000,000.00 (one hundred and fifty-one million reais) from the para-state entities Sesc and Senac Rio for the benefit of themselves and others (crimes of fraud and embezzlement) and Fecomercio/RJ, between the years 2012 and 2018, for payments without the consideration of the contracted service under the pretext of attorney's fees, in a context of influence and corruption trafficking to TCU's servants, exploitation of prestige before the Judiciary and money laundering.

The charges included in this criminal action, which is public, were released by the PR staff of the Federal Prosecutor's Office<sup>25</sup> as always occurred in all the 100 (one hundred) complaints already presented by this Task Force, which is what happened to all cases in Brazil that involve public interest. It would, however, be atypical if the case denounced in the scope of operation E\$quema S was not disclosed, since the prosecution would be severely criticized for concealing profoundly

<sup>24</sup> Therefore, the complaint had already been filed and accepted in court before 09.09.2020, precisely on 08.24.2020.

<sup>25</sup> <http://www.mpf.mp.br/rj/sala-de-imprensa/noticias-ij/lava-jato-rj-operacao-e-quema-s-constata-desvio-de-mais-de-r-150-mi-do-sesc-e-senac-rj>





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serious facts from the public knowledge that involve people with undeniable political and economic power.

All data brought to the attention of the press were already public, so there is no need to consider “leakage”, let alone “confidential information” from office clients, since the elements and facts indicated in the 511 (five hundred and eleven) pages of the complaint were indispensable to the accusatory narrative about the complex criminal organization led, among others, by Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins<sup>26</sup>.

The plaintiffs argue that the searches were already carried out with ongoing criminal proceedings, as if their objective was to “expose” or “intimidate” them. Although Brazilian law does not prevent searches and seizures from being carried out during or after the filing of complaints (formal charges), since the evidence pursued may be useful not only in the investigation phase but also in the procedural phase, it is certain that, at that moment, in addition to the charges already made against the 26 (twenty-six) defendants, the investigations continued against these and others for other alleged misappropriation of more than BRL 200,000,000.00 (two hundred million reais)<sup>27</sup>. This circumstance was explained after the complaint was filed in the case file and, therefore, was known to Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins (DOC 14).

#### **4.3- The alleged persuasion to the deposition of a collaborator**

Still with the intention of making the less attentive reader believe that the goal of this Task Force would be to discredit lawyers for having sponsored the defense of a former president of Brazil, Mr. Roberto Teixeira and Mr. Cristiano Zanin appeal to the version published in an electronic magazine website<sup>28</sup> to imply that the prosecution has persuaded a deponent to testify against them:

“The allegation that the attacks against the two lawyers are closely related to their role in the “Car Wash” operation appears to be reinforced by a report published by legal magazine Consultor Jurídico (CONJUR) on September 10, 2020. According to this article, a person accused in the context of the “Car Wash” operation was persuaded to accuse Mr. Teixeira

<sup>26</sup> It is also important to note that the names of those investigated who had not yet responded to the criminal action at the time of the searches were not disclosed in the note issued by the MPF's PR Department.

<sup>27</sup> The alleged simulation of a legal contract between Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins with Fecomércio/RJ for the misappropriation of BRL 10 million from Sesc and Senac Rio to transfer to its president and also investigated (now collaborator) Orlando Santos Diniz.

<sup>28</sup> <https://www.conjur.com.br/2020-set-15/procuradores-dirigiram-delacao-orlando-diniz-mostram-videos>





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and Mr. Zanin Martins, and his testimony was apparently used to issue the "search and seizure" against the two lawyers and to file criminal proceedings against them under the "Car Wash" operation.

The claim is yet another ignoble attempt to construct a chimerical narrative about the facts. The testimonies of [REDACTED] alluded to by the electronic magazine "Consultor Jurídico - Conjur", were taken with all the care of the law, being recorded in audio and video and made available to the judge, the accused and their defense attorneys.

It is true that the excerpts explored by Conjur are not the testimony itself, but only the moment when the members of the Federal Prosecutor's Office read the consigned in the statement that would later be signed by the deponent and his attorneys. This reading, in face-to-face statements, is made by the interviewee and his lawyer, but as the acts took place through videoconference, due to the pandemic, the reading was left to the public authorities, and this is the appropriate time to clarify the points that have not were clear to any of those present at the act. It is not even technically the testimony, at that moment already taken and duly recorded, but a later act that aimed only to adjust with trust the terms written to the spoken terms, which are what really make up the testimony.

In the dozens of testimonies he provided, over the course of a week, collaborator [REDACTED] was assisted, throughout the time, by constituted lawyers - in fact, most of the time, simultaneously, by at least two constituted lawyers - in a total of three -, giving testimony in their office. His lawyers closely monitored not only the questions and interventions of members of the Federal Prosecutor's Office, but also the reading of the term and the adjustments made in it. The three lawyers and the collaborator, in the face of the distorted news that was released by the Conjur website about the collection of testimonies, presented the statements hereby attached, in which they reaffirm that there was no coercion or any kind of guidance [REDACTED] and [REDACTED]

It has been common in Brazil to spread the false perception in the sense that the words of a collaborator are the only ones to support this or that accusation, contrary to the law. But it is important to note that the complaints filed under Operation E\$quema S are substantiated well beyond the statements of collaborator [REDACTED], as evidence was produced from the bank, tax, telephone and telematic data requested and obtained much earlier than the collaboration





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agreement entered into, in addition to more than a hundred absolutely independent proof, such as those obtained from: i. searches in the Jabuti operation, in 2018; ii. two other plea bargain collaborations which have been approved; iii. documents and audits provided by the contracting entity itself, accused of embezzling at least BRL 151 million from Fecomércio, Sesc and Senac in Rio de Janeiro; iv. Tax Complaint for the crime of money laundering by the Federal Revenue Service; v. Accounts of the Federal Court of Auditors; vi. evidence shared by the Federal Court of the Federal District (Operation Zelotes). It is also necessary to emphasize that the Brazilian law that regulates the institute of the plea bargain collaboration foresees the need for the collaborator's statements to be accompanied by the respective corroboration evidence (Art. 3-C.<sup>29</sup> Law No. 12,850, of August 2, 2013, as amended by Law No. 13,964, of December 19, 2019).

It is also important to note that these accusations include crimes of belonging to criminal organizations, embezzlement, passive corruption, active corruption, influence peddling and exploitation of prestige that were attributed to more than two dozen lawyers belonging to nationally renowned offices, that is, of recognized prestige and technical competence, and, as far as we know, none of them, despite having wide access to the complex of investigations and evidence of the referred operation, formalized before the competent authorities any formal representation for possible irregularities practiced by the Prosecutor's Office, Federal Justice or Federal Police.

#### **4.4- The alleged absence of adversarial proceeding and disproportionate confiscation of assets and values**

The Letter of Allegations replicates a narrative in the sense that Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins were accused without first having been heard by the Federal Prosecutor's Office or the Federal Police, and that the request for confiscation of their assets was intended to discredit them and cause them to close down the activities of their offices:

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<sup>29</sup> Art. 3-C. The plea bargain collaboration proposal must be accompanied by a proxy of the interested party with specific powers to initiate the collaboration procedure and its dealings or signed personally by the party seeking the collaboration and their attorney or public defender.

§ 1 No deal about plea bargain collaboration should be carried out without the presence of a constituted lawyer or public defender.

§ 2 In the event of a possible conflict of interest, or of a low-income collaborator, the party must request the presence of another lawyer or the participation of a public defender.

§ 3 In the plea bargain collaboration agreement, the collaborator must narrate all the illegal facts for which they participated, and which have a direct relationship with the investigated facts.

§ 4 The defense is responsible for instructing the collaboration proposal and the annexes with the facts accurately described, with all their circumstances, indicating the evidence and elements of corroboration.





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“Supposedly, the two lawyers were charged without being questioned by the police or the prosecutor. Consequently, they were deprived of the possibility to clarify the nature of the legal services they provided to their clients, the legal fees they received and the taxes they regularly paid on those fees.

On September 9, the Prosecutor's Office also asked the judge in charge of the “Car Wash” operation, Judge Bretas, to confiscate BRL 302 million reais (approximately USD 53,805,000) from the two lawyers. The amount, which corresponds to twice the amount allegedly misappropriated, was to repair the moral and material damages caused by the infractions. The next day, Judge Bretas ordered the freezing of all the bank accounts of the two lawyers, as well as the accounts of their law firms. It is alleged that the freeze was part of a broader strategy aimed at discrediting the two lawyers in the press, as well as forcing them to close down their firm.”

The Brazilian criminal procedural law does not require the prior hearing of an accused by the Police or the Public Prosecutor for the formalization of an indictment. But even so, adversary proceeding was guaranteed in the scope of operation E\$quema S.

In fact, there are investigations in other bodies about the alleged millionaire misappropriation of funds from Sesc and Senac Rio by Fecomércio/RJ (about BRL 350,000,000.00), for payments in favor of some service providers under the pretext of attorney's fees, such as: i. the Taking of Accounts - TC 004.533/2017, at the Federal Court of Accounts, established from a consolidated audit in the Audit Reports 2016 and 2017 of the Fiscal Council of Sesc Nacional; ii. tax procedure 13031.128614/2020-91 of the General Supervisory Coordination of the Federal Revenue Secretariat, which culminated in Tax Complaint for Criminal Purposes for money laundering due to *“large payments to law firms for the provision of services, ... FECOMERCIO RJ was not able to provide any proof of the effective provision of the service by such providers during the course of the tax procedure”* ( [REDACTED] )

The aforementioned tax action summoned Fecomércio/RJ to present evidence of any services provided by law firms contracted between 2014 and 2016, with the new management, which took over the entity after the arrest of [REDACTED] in Operation Jabuti, in February of 2018, urged all offices to do so, adversarial testing that gave lawyers the opportunity to demonstrate the regularity of the hiring and services provided.

Teixeira, Martins & Advogados was one of the firms that submitted to Fecomércio/RJ, to support the work of the Federal Revenue, its defense and documents that it considered pertinent





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and supposedly able to demonstrate the alleged lawful exercise of legal activity. These documents were shared with this Task Force and attached to the Criminal Investigative Procedure - PIC 1.30.001.001490/2018-2, which supported (among others) the complaint and the searches in operation E\$quema S.

Therefore, the version that Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins did not have the opportunity to adversary proceeding before the prosecution or the searches was not true. As a matter of fact, in respect to the statement of Precedent 14 of the Brazilian Supreme Court<sup>30</sup> in the case file of the aforementioned Criminal Investigative Procedure, it has always been possible to accompany, view, copy or any requirement (for example, to gather documents) to those who have done so, and Teixeira, Martins & Advogados is among those who requested to view and monitor the proceedings [REDACTED] in addition to the Prerogatives Commission of the Brazilian Bar Association in Rio de Janeiro ([REDACTED]).

Regarding the request for confiscation of assets granted by the Court, it should be said that in all 51 (fifty-one) phases of the operations conducted by this Task Force, as well as in the 100 (one hundred) complaints so far resulting from them against more than 550 (five hundred and fifty) people, it the freezing of financial assets and property at twice the imputed loss was requested as a way to repair material and moral damages in favor of society. Regarding the plaintiffs, it was no different, because if, to the disadvantage of both, as leaders of the criminal organization, the deviation of BRL 151 million was imputed, the patrimonial constriction should reach BRL 302 million, in the dynamics requested to the Justice without distinction by the Federal Prosecutor's Office and for which there were no structural reparations by the higher courts that demand a change of course, on the contrary.

The Brazilian Criminal Procedure Code, in its article 387, IV, provides that *"the judge, when issuing a convicting sentence: (...) IV - shall establish a minimum amount for repairing the damages caused by the infraction, considering the damages suffered by the offended person"*; while Article 91 and its §§ 1 and § 2 of the Criminal Code legitimizes the reach of ensuring measures provided for in procedural law are imposed even on property and assets of lawful origin, equivalent to the product or profit of the crime. As is well known, the main purpose of sequestering assets is to guarantee the reparation of

<sup>30</sup> "It is a right of the defender, in the interest of the defended party, to have broad access to the probative elements already documented in an investigation procedure conducted by a body with competence for legal policing concerning the exercise of the right of defense."





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the damage caused by the crime and the loss of the product or profit obtained by the agent with the crime, thus avoiding the benefit resulting from the illegal act itself.

Regarding moral damages, although difficult to measure, their incidence is undisputed. Even the Federal Supreme Court recently started to admit the possibility of fixing, in the criminal sentence, a minimum amount for its reparation, supported by the referred article 387, IV, of the Criminal Procedure Code, as observed in the Criminal Action judgment 1,002, held on 06/09/2020<sup>31</sup>. In view of this, there is no denying that the precautionary measures on assets can and should encompass the amounts necessary to ensure minimum compensation for the significant moral damage caused to the community due to the actions of Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins, who injured hundreds of thousands of commercial workers in the State of Rio de Janeiro.

The fact that the final amount of the constraint corresponds to a value considered excessive is not due to the “persecution”, “intimidation” or “search for closing the firm” of the plaintiffs, nor does it mean that it is devoid of proportionality and legal regularity, because it only reveals the gigantic dimension of the damage caused to the parastatal entities supported with public money. The estimation of moral damage equal to material damage does not reflect arbitrariness, but rather a method formulated to assign objectivity to the calculation.

#### **4.5- The decision by Supreme Court Justice Gilmar Mendes to suspend operation E\$quema S**

To assign an air of plausibility to the narrative that would conclude, in the view of the plaintiffs, a deliberate initiative of this Task Force to intimidate the lawyers of former President Lula, they quote the decision of Justice Gilmar Mendes, of the Federal Supreme Court, who, on October 2020, suspended, in a complaint filed by the Brazilian Bar Association, the searches and seizures and the criminal action of operation E\$quema S:

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<sup>31</sup> Decision: The Panel unanimously rejected the preliminary claim. On the merits, the complaint was partially granted, pursuant to the vote of the Rapporteur (...) Regarding collective moral damages, the Panel, by majority, overdue Justices Ricardo Lewandowski and Gilmar Mendes, set the minimum amount of indemnity at BRL 6,085,075, 33 (six million, eighty-five thousand, seventy-five reais and thirty-three cents), to be paid jointly by the convicted parties in favor of the fund referred to in art. 13 of Law 7,357/1985. This sum must be monetarily restated as of the day of the announcement of the result of the collegiate judgment, incurring legal default interest as of the final judgment of this judgment. (...) 2nd Panel, 6.9.2020





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“On October 3, 2020, Justice Gilmar Mendes - judge-rapporteur in charge of the “Car Wash/Rio de Janeiro” operation at the Federal Supreme Court - accepted a petition presented by the Bar Association on behalf of the lawyers affected by the “search and seizure” operations and suspended criminal proceedings against Mr. Teixeira and Mr. Zanin Martins until the Federal Supreme Court reaches a final decision on the legality of search operations and criminal charges. According to Justice Mendes, there was a suspicion that Judge Bretas and prosecutors of Operation “Car Wash/Rio de Janeiro” carried out clandestine investigations on events that occurred outside his jurisdiction, thus usurping the jurisdiction of the Superior Courts of Brazil. Justice Mendes also ordered that the devices and files seized in the offices and private residences of the two lawyers should not be made available to the Public Prosecutor's Office before a final decision on the legality of the judicial proceeding”

In fact, on injunctive relief in the complaint 43479, Justice Gilmar Mendes suspended the prosecution 5053463-93.2020.4.02.5101 and Criminal Search and Seizure 505196559.2020.4.02.5101, both from the 7th Federal Criminal Court of Rio de Janeiro, under operation E\$quema S, until the final judgment of the matter by the Federal Supreme Court (DOC 20).

However, it is necessary to bear in mind some points ignored by the plaintiffs: i. one, that the members of this Task Force filed before the Presidency of the Federal Supreme Court the Imposition of Impediment and Suspicion of Justice Gilmar Mendes, due to the absence of objective and subjective impartiality in relation to facts and the accused under operation E\$quema S, before of the provisions of articles 252, IV, and 254, V and VI, of the Code of Criminal Procedure, the result of which, once processed and judged by the Plenary of that Superior Court, may lead to the annulment of the decision now suspending the criminal action 5053463-93.2020.4.02.5101 and the Criminal Search and Seizure 505196559.2020.4.02.5101; ii. that in his decision, Justice Gilmar Mendes did not exclude the probability of the accusations and investigations, much less in relation to Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins - on the contrary, he even considers that they could fall on authorities with prerogative of jurisdiction with the Supreme Court (Justices of the STF and TCU); iii. that even if the STF annulled the searches and seizures, such a circumstance would in no way affect the health of this first complaint, in the criminal action 5053463-93.2020.4.02.5101, which is not backed by any result of this precautionary measure, even because it was filed before that.

**4.6- The questions about the positions of Judge Marcelo Bretas**





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As for the “alleged lack of independence and impartiality by Judge Bretas”, because he would be “a great supporter of the current president of Brazil”, and “participated side by side with the President or other government officials in a series of public political events”, as well as that this would have generated disciplinary punishment against the magistrate, this Task Force has no knowledge, except by the media, about such facts. However, no elements were identified in any of his decisions or procedural acts that could indicate its lack of objective or subjective exemption within the scope of the E\$quema S operation.

It is worth remembering once again, although hidden by the plaintiffs, that a search and seizure was also decreed in the office and at the residence of [REDACTED] (and his ex-wife), reported by the media as a former lawyer, advisor to the current President of the Republic and a frequent visitor to the Planalto Palace, the same being later charged by this Task Force in criminal action 5066922-65.2020.4.02 .5101, for embezzlement and money laundering.

There is no news that Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins, despite affirming so strongly before the UN the partiality of Judge Marcelo Bretas, have argued the impediment or suspicion of this magistrate, as provided, in such hypotheses, in the Code of Criminal Procedure. In fact, these procedural instruments, as mentioned, were handled by these underwriters at the appropriate time and form, and without fanfare, before the Federal Supreme Court, in a transparent and legitimate institutional performance, duly supported by the Brazilian legal and constitutional system.

Let us note that international doctrine and jurisprudence requires the prior exhaustion of domestic remedies<sup>32</sup>, it being clear that the investigated, and authors of the AL BRA 11/2020 Letter of Allegations, have the possibility to make use of various judicial instruments and remedies provided for in the internal legal order (such as the claim of suspicion by the judicial authority,

<sup>32</sup> In this sense, the judge of the International Court of Justice CANÇADO TRINDADE teaches us: “Thus, the Draft of the [first] Protocol to the United Nations Economic, Social and Cultural Rights Pact places the rule of exhaustion in an appropriate perspective, by providing that the Committee on Economic, Social and Cultural Rights will only declare a petition or communication admissible after verifying that all domestic remedies have been exhausted, “unless the Committee considers that the application of this requirement would not be reasonable” (article III (3) (a)). 40 Likewise, the Draft Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides for the application of the same admissibility requirement, unless the CEDAW Committee considers that domestic remedies are ineffective or unreasonable, or are “excessively lengthy” (article 4, in its two current alternatives). 41 If, as we hope, these two Draft Protocols are adopted, containing these indications, the exhaustion rule must have a necessary flexible application under them, always bearing in mind protection needs.” (CANÇADO TRINDADE, Antônio Augusto. A regra do esgotamento dos recursos internos revisitada: desenvolvimentos jurisprudenciais recentes no âmbito da proteção internacional dos direitos humanos. In: A humanização do Direito Internacional. Belo Horizonte: Del Rey, 2006. Available at: <https://nidh.com.br/wp-content/uploads/2018/06/4.-Can%C3%A7ado-trindade-n%C3%A3o-esgotamentodos-recursos-internos.pdf>, access on 11/26/2020).





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which they failed to resort to), and that other procedural instruments provided for in the national legal system have already been handled, including access to the Supreme Court.

## **5- Responses to UN inquiries**

*“1. Please provide any additional information or comments on the allegations mentioned above”*

In chapters 2 and 3 above, the history of the creation of the Car Wash Task Force in Rio de Janeiro was clarified, its disconnection with investigations conducted by the Car Wash Task Force in Curitiba, its constitution, attributions, difficulties and results after 51 (fifty-one) phases of non-partisan operations and techniques to fight criminal organizations specialized in the diversion of public money, corruption and money laundering that have been installed in the structures of the State of Rio de Janeiro and in Brazil.

In chapters 3 and 4, these underwriters discuss the regularity of operation E\$quema S, the facts revealed and the lawful and unlawful manner in which the Federal Prosecutor's Office operates, in a context in which people of notorious political and economic power are involved, as well as reveal the absolutely fanciful and irresponsible narrative constructed by Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins to lead the UN to the forced conclusion that both were investigated and accused by this Task Force just for being lawyers for former President Luiz Inácio Lula da Silva, and not for leading a criminal organization that, between the years of 2012 and 2018, he committed dozens of crimes, including bribery, embezzlement and influence peddling, with the integration of another 24 (twenty-four) people, some related to high positions of the Brazilian Judiciary.

*“2. Please provide information on the execution of search and seizure warrants against the lawyers at Teixeira, Zanin, Martins & Advogados and explain whether the searches were conducted respecting the guarantees that national law and international standards grant for lawyers, individually considered, and the professional organizations that protect them. Please comment, in particular, on the allegations that (1) the decision that authorized the searches was not made available to the OAB/SP Prerogatives Commission, (2) the search operation at the law firm led to the seizure of electronic devices and files of lawyers not covered by the warrants and (3) OAB members were not present during the search of Mr. Zanin Martins' residence”*





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The answers to these questions are provided in Chapters 3 and 4, and in Subchapter 4.1, above.

“3. Please provide detailed information on complaints against Mr. Teixeira and Mr. Zanin, presented by the Prosecutor responsible for the "Car Wash" operation, and explain whether the two lawyers testified to the Police or the Prosecutor's Office before the complaints were filed and called the attention of the press.”

Detailed information on that matter is provided in Chapters 3 and 4, and in Subchapters 4.1 and 4.4, above.

“4. Please comment on the allegations that information regarding the search operation and the complaints filed against the two lawyers was leaked to the press as part of a major campaign against the two lawyers responsible for the defense of former President of Brazil, and explain how this would be compatible with the obligation that Brazilian authorities have to take all appropriate measures to ensure that lawyers, during the exercise of their duties, are not confused with their clients or with the issues involving their clients”

Comments on these questions are provided in Chapters 3 and 4, and in Subchapters 4.1 and 4.2, above. There were no “leaks”, no “campaign” against lawyers of former President Lula, but a criminal complaint filed by the Federal Prosecutor's Office in the exercise of its constitutional duties, duly submitted to the scrutiny of the Brazilian Judiciary, for the unlawful performance of people who deviated of their functions under the practice of law (so they did not technically act as lawyers) and partnered with their client Orlando Santos Diniz to practice crimes, which is even repeatedly confessed by the latter, as a collaborator (whistleblower) of Justice.

“5. Please provide information on the decision by Judge Bretas who ordered the freezing of all accounts belonging to the two lawyers and their firms.”

Information on this issue is provided in chapter 4, and in sub-chapter 4.4, above.

“6. Please provide information on the decision of Justice Gilmar Mendes, of October 3, 2020, in which the criminal proceedings against Mr. Teixeira and Mr. Zanin Martins were suspended until the Supreme Court issued a final decision on the legality of the search operations and on the claim by Justice Mendes that Judge Bretas may have a secret agreement with the prosecutors of operation "Car Wash/Rio de Janeiro" to investigate events for which they have no jurisdiction.”



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Information on this issue is provided in chapter 4, and in sub-chapter 4.5, above. It is noteworthy that it is even offensive to consider, and naive to believe, that a "secret agreement" may exist by public agents whose performance and results are constantly subjected to scrutiny by the largest law institutions in Brazil at all levels of the Judiciary.

"7. Please provide detailed information on the outcome of the disciplinary proceedings against Judge Bretas due to the alleged violation of rules on professional conduct. Was Judge Bretas asked to recuse himself from the case after a decision of the Special Organ of the Federal Regional Court of the 2nd Region (TRF2) of 17 September 2020? If not, what measures can be taken, under national law, to eliminate the conflict of interest between the judge's political relations and his duty to judge impartially?"

Information on these questions is provided in Chapter 4, and in Subchapter 4.6, above, as far as the Task Force is aware of the facts. Although Brazilian law provides for measures to remove partial judges, the only impediment that has been reported in connection with Operation E\$quema S was filed by the underwriters in relation to the Supreme Court Justice Gilmar Mendes.

"8. Please provide information on the measures the government has taken, or intends to take, to guarantee the independence of the judiciary branch and to allow lawyers to exercise their profession freely and without intimidation, threat, harassment or inappropriate interference."

It is demonstrated to exhaustion that lawyers Roberto Teixeira and Cristiano Zanin Martins did not suffer "intimidation, threat, harassment or improper interference". The fact that they are both lawyers for the former president of Brazil, Luiz Inácio Lula da Silva, in the investigation under operation Car Wash in Curitiba has nothing to do with facts for which they are accused and investigated by operation Car Wash in Rio de Janeiro (operation E\$quema S), except for the construction of a clumsy narrative that these defendants made before the UN in order to throw a smoke screen on profoundly serious crimes, for which they are codefendants.

**5.1. Question 8 of the UN on the independence of the judiciary branch: the guarantee also includes criminal prosecution against white collar criminals**

Edwin Sutherland, in his pioneering research carried out in the 1930s and 1940s of the 20th century - when he revealed that the frequency with which respectable people with high social *status*





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practiced harmful conduct and coining the concept of white collar crime - pointed out the difficulty in persecuting such crimes due to the social prestige of the offenders. Considering the institutional framework of the United States, he showed that “[those] who are responsible for the criminal justice system are afraid to face businessmen; among other consequences, this confrontation may result in a reduction in campaign donations for future elections”.

Artur Gueiros, in addressing the relevance of Sutherland's contribution, justified that several mechanisms still resist to guarantee criminals of high social prestige immunity from criminal justice:

“(…) even today, the original white-collar criminal does not consider him/herself a criminal. Likewise, indoctrinators, scientists and even criminal justice practitioners find it difficult to identify their actions as effectively deserving of criminal prosecution. On the contrary, delegitimizing theses or creative normative constructions thrive, more or less explicitly, to keep them out of reach of public punishment. The result, as verified below, would be an insistent maintenance, within the formal control agencies - police, justice and penitentiary -, of a preferential option for the low social strata, in a scenario not quite different from that detected by the great criminologist of the University of Indiana.<sup>33</sup>

The difficulty of the Brazilian justice system to punish wealthy and influential people for the practice of crimes, in particular corruption, is historic; a reality whose transformation has been sought by the organs of criminal prosecution not without the most diverse and virulent efforts and reactions. The stronger these reactions the greater intransigence must be given to guaranteeing the independence of the Judiciary and the Public Prosecution Service, under penalty of setbacks in fighting crimes that may end up harming the most vulnerable people, that is, those who depend for their survival and quality of life on essential public services, such as health, transport, security and education<sup>34</sup>.

This guarantee is provided for in the Constitution of the Brazilian Republic and has not gone unnoticed by the United Nations Convention against Corruption (Mérida Convention), adopted by the United Nations General Assembly on October 31, 2003 and signed by Brazil on December 9, 2003, which provided in Articles 11 and 36:

"Article 11

<sup>33</sup> SOUZA, Artur de Brito Gueiros. Da Criminologia à Política Criminal: Direito Penal Econômico e o Novo Direito Penal. In: Inovações no Direito Penal Econômico. Contribuições criminológicas, político-criminais e dogmáticas. \_\_\_\_\_. (org.). Brasília: ESMPU, 2011

<sup>34</sup> There have been attempts in the country to hinder the work of the Prosecutor's Office and the Judiciary, based on the wave of investigations that took place with the implementation of operations carried out by the Task Forces, for acts of government and changes in laws and jurisprudence.





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Measures relating to the judiciary and prosecution services

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.”

"Article 36

Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources

to carry out their tasks.”

In the specific case, the risks to the independence and credibility of the Judiciary, the prerogatives of the law and fair trials may in fact be present in the operation E\$quema S, but not under the magnifying glass pointed out by Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins, but for what it has revealed and that translates, at least, the structural exercise of "law" that sells "proximity", "prestige", "sponsorship", "influences" and "promises", even in judicial decisions favorable to those who have the economic power to acquire them (see complaint - DOC 4).

It is important for the UN to focus its attention and concern on facts in the light of regularly produced evidence and not just versions. And to act in favor of guaranteeing independence to those who may actually be threatened with seeing it unduly relegated. Special consideration must be given to the exercise of the functions and constitutional guarantees of the Judiciary and the Prosecutor's Office. Their independence must be made operational by a policy of action in favor of the efficient fight against "higher power" crimes and the consequent preservation of human rights,





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and not from a privileged group that hopes for impunity and a bold and inconsistent attack on Federal institutions that have fulfilled their critical constitutional role.

## 6- Conclusion

As can be seen from the reading of this Information and the accompanying evidence, the Special Rapporteur on the independence of judges and lawyers of the United Nations, Mr. Diego García-Sayán, started from the wrong premises when he stated that “the alleged legal intimidation and harassment against the two lawyers seems to be part of a broader strategy that aims at intimidating lawyers who are linked to opposition parties or who represent members of opposition parties”. Likewise, when expressing his “concern with the search, criminal prosecution and freezing of assets belonging to Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins, allegedly in connection with the assistance they provide to the former president of Brazil”.

The Car Wash Task Force in Rio de Janeiro, comprised of public prosecutors and attorneys aware of their responsibilities, limits and duties, has already proven to Brazilian society, by its actions massively subject to social, corrective and judicial control, that it investigates illicit facts regardless of party and/or ideological shades. Therefore, the conspiratorial version presented to the United Nations by Mr. Roberto Teixeira and Mr. Cristiano Zanin Martins, who, in spite of exercising their legitimate right of defense by using the lavish resources available in Brazilian law, seek heterodox ways to artificialize narratives and achieve victimization and shielding against the possible punishment for criminal acts for which they have been charged by the Federal Prosecutor's Office.<sup>35</sup>

Finally, these subscribers are at the disposal of the Attorney General's Office, the National Council for the Public Prosecution and the representative of the UN Human Rights Council, Mr. Diego García-Sayán, for any further clarifications.

Rio de Janeiro, November 27, 2020.

<sup>35</sup> It can be seen that they were charged with profoundly serious crimes and whose consummation began in 2012; that is, even before the pair took on the defense of former president Luiz Inácio Lula da Silva due to investigations by the Car Wash Task Force in Curitiba, which was only created in 2014.





FEDERAL PROSECUTION OFFICE  
STATE PUBLIC PROSECUTION OFFICE IN RIO DE JANEIRO  
Anti-Corruption Center - Task Force

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