

BRAZIL

DR. JAN WOISCHNIK
ALEXANDRA STEINMEYER

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Brasília under investigation

PRESIDENT MICHEL TEMER MAY HAVE TO FEAR FOR HIS MANDATE

The "Lava Jato" i.e. "Carwash" corruption investigations involving the state-run oil company Petrobras have been bringing out new corruption charges on a near daily basis. Meanwhile the corruption investigations could also pose a threat to the mandate of current president Michel Temer (PMDB).



The workplace of the president, the palace of the Presidency "Palácio do Planalto" in Brasília

Foto: flickr/Romério Cunha

On August 31. 2016, former president Dilma Rousseff (from the Workers Party - PT) was removed from presidency.¹ Consequently her Vice-president Michel Temer (from the Brazilian Democratic Movement party - PMDB) took office replacing her permanently. Temer had already promptly appointed a new cabinet right after the former president was temporarily suspended from office for the beginning of the impeachment trial; yet, as early as 10 days after the cabinet's appointment, his recently formed government had already lost 6 ministers. At that point, the resignations had been caused either by the

ministers' implications in the 'Car wash' investigations or related to their attempt to halt them.² A state crisis emerged in December when the Parliament and the Supreme Court openly diverged on the matter of the impeachment of former President of the Senate, Renan Calheiros (PMDB). The result was the courts' decision to withhold him from the presidential line of succession but allowing him to remain in office while he stands trial.³ Furthermore, many regarded with particular bitterness the plane crash, the circumstances of which are still unclear, involving the Federal Court judge Teori Zavascki, who was responsible for the 'Lava Jato' investigations - especially since former Minister of Justice and Temer's political ally, Alexandre de Moraes, has been nominated by the acting president to occupy Zavasckis chair.⁴

How did the "Lava Jato" corruption scheme involving Petrobras operate?

How could a corruption scheme have such an enormous repercussion in the country's political realm? In 2014 the district's attorney office of the southern city of Curitiba began to unveil what came to be known as the largest corruption network in the history of the country, named after one gas station used for money-laundering (thus "Lava Jato", car wash in English). Basically it op-

² See also [Konrad-Adenauer-Stiftung Brazil \(12/09/2016\): Wie viel hält Brasiliens Demokratie aus?](#)

³ Cf. [Wall Street Journal \(12/07/16\): Brazil's Supreme Court Votes Renan Calheiros Can Remain Senate President](#). See also [KAS Brazil \(12/09/2016\): Wie viel hält Brasiliens Demokratie aus?](#)

⁴ Cf. [BBC \(01/20/2017\): Petrobras: Brazil judge Teori Zavascki dies in plane crash](#).

¹ On the impeachment process of former president Dilma Rousseff see [Konrad-Adenauer-Stiftung Brazil \(03/17/16\): Massenproteste und politischer Stillstand](#).

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erated in the following way:⁵ 16 construction firms with contracts in Brazil, Odebrecht among them, created a cartel so that they would take turns in winning the bid in tenders of governmental or semigovernmental companies such as Petrobras. The winning construction company inflated the value of contracts in the case of Petrobras. Part of the extra revenue would be used by the construction companies to pay off Petrobras employees via money-laundering middlemen. Yet another part would be channelled to political parties and used to fund election campaigns and politicians. The main parties - specially the Partido Progressista (PP, Progressive Party in English) Dilma Rousseffs' Workers' Party (PT) and Temers' center party PMDB divided those illicit earnings among each other: each time, one party would cash in the contracts' extra revenues processed by one of the many departments of the company.



President Michel Temer

Foto: Valter Campanato/Agência Brasil

The public prosecutor's office has already tallied a total of 6.4 billion reais in bribes (aprox. 1.9 billion euros) in its indictments and sentenced 125 politicians and businessmen to prison terms of over 10 years on average.⁶ The magnitude of corruption in Brazil - also and in particular within the political class - is not new to the public. However, it has been openly tolerated over a long period of time as was the case, for instance, of the so called "Mensalão" scandal - a systematic vote-buying scheme of

corruption involving many Congressional deputies and operated by Dilma Rousseffs' predecessor, former president Luiz Inácio Lula da Silva (PT).⁷ In contrast to back then, Brazil is now facing one of the worst economic crises of its history. The Brazilian economy has shrunk 9% since 2014, which has substantially reduced the tolerance for corruption.⁸⁹

Another impeachment to come?

The investigation of the latest corruption schemes could now represent concrete threat to the mandate of acting president Temer, whose term is supposed to end according to plan in 2018:¹⁰ he also could actually be ousted as a result of an impeachment case against him, just like his predecessor.¹¹ Requests for his impeachment have already been filed. Most probably, impeachment proceedings will be set in motion as a result of the disclosure of corruption affairs in the realm of the "Lava Jato" investigations. The public prosecutor's office is currently analyzing crown witness statements of already indicted employees of Odebrecht which incriminate, among others, president Temer himself.¹² The decision on the initiation of an impeachment process lies, however, in the hands of the lower House where president Temer still counts on a majority of supporters. In the case of an impeachment, the president of the lower House, Rodrigo Maia (from the 'Democratas' party) - who, ironically, is also being accused by the federal police of corruption and money-laundering - would take office.¹³ Should he be also considered

⁷ Cf. [FIESP \(2010\): Relatório corrupção; The Economist \(5/14/2015\): Democracy to the rescue?](#)

⁸ C.f. [Folha de São Paulo \(08.03.2017\): Pior recessão da história abate 9,1% da renda média.](#)

⁹ See, for instance, [Konrad-Adenauer-Stiftung Brazil \(2013\): Der Mensalão Prozess und seine Nachwehen.](#)

¹⁰ Since president Temer has been convicted of unlawful campaign financing in 2014, he cannot run for office until 2022 - and thus would not be able to be elected for presidency in 2018.

¹¹ See for details and consequences of an impeachment process or the annulment of the presidential elections, [Konrad-Adenauer-Stiftung Brazil \(12/09/2016\): Wie viel hält Brasiliens Demokratie aus?](#)

¹² Cf. [O Globo \(12/07/16\): Marco Aurélio cobra instauração da comissão do impeachment de Temer.](#)

¹³ Cf. [G1 \(02/08/2017\): PF conclui inquérito sobre Rodrigo Maia e vê indícios de corrupção; deputado nega.](#)

⁵ Cf. Vladimir Netto (2016): Lava Jato. O Juiz Sergio Moro e Os Bastidores da Operação Que Abalou o Brasil; [Ministério Público Federal \(2017\): Entenda o caso.](#)

⁶ Cf. [Staatsanwaltschaft von Curitiba \(status as of 02/23/2017\).](#)

unsuitable for office, judge Carmen Lucia, the chief judge of Brazil's top court, would be sworn into office. The constitution does not provide for new elections in this case.

The Supreme Electoral Court's process against Temer gathers pace

The Supreme Electoral Court has been examining since 2015 the possible annulment of the presidential elections of 2014, the one which led Rousseff and Temer successfully to victory in the polls, due to suspicions of unlawful campaign financing.¹⁴ Should the annulment take place, the Congress would have 30 days time to appoint a successor for Temer and either Rodrigo Maia or Carmen Lucia would assume presidency pro tempore during that time. This process is now gathering pace since the questionable presidential elections might have been funded by the "Lava Jato" scheme. The former chief executive of Odebrecht states that a great amount of his firms' campaign donations to Rousseff and Temer - a total of 150 million reais (aprox. 45 million euros) - were transferred illegally to their campaign coalition.¹⁵ A major bone of contention is whether the acting president was personally involved in those matters.

Conclusion: unfettered corruption poses threat to the president

The Temer administration can still be considered capable of governing since it counts on the support of the majority in Congress: because of that, the administration was able to pass a constitutional amendment establishing a 20-year public spending ceiling.¹⁶ And other reforms, such as the electoral law reform, the pension and healthcare reforms, are already in progress. However, the progress of the indictment at the Supreme Electoral Court critically

threatens the president's mandate.¹⁷ Even if the president survives the indictment unscathed, he could be facing impeachment if the political moods as well as the civil society's sentiments change for any reason. The increasing corruption exposures may not be decisive for an early removal from office, but they enhance its probability.

¹⁴ Cf. [UOL \(10/06/2015\): Em decisão inédita, TSE abre ação que pode cassar mandato de Dilma.](#)

¹⁵ Cf. O Globo (03/09/17): Depoimentos tentam esclarecer doações; Neue Zürcher Zeitung (03/03/2017): Rousseff und Temer belastet.

¹⁶ Cf. [Senado Federal \(11/30/16\): Plenário do Senado aprova PEC do Teto de Gastos em primeiro turno.](#)

¹⁷ The Economist assumes that Temer will not be able to end his mandate (cf. <http://country.eiu.com/brazil>, accessed 03/08/17).