

## February/2021

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### **1 – Introduction**

This is the Monthly Outlook Report of the federal government's signals relevant to climate and environmental policies detected in FEBRUARY, 2021 by our Government Actions Tracker. We analyze *Federal Official Gazette* publications daily and classify relevant content using an actions typology we have developed which allows us to understand trends in the government's agenda. This current edition brings an outlook on the number of relevant actions, their types and a sector by sector analysis, followed by an assessment of the current political state in Brazil, and a discussion of the main trends for the coming month.

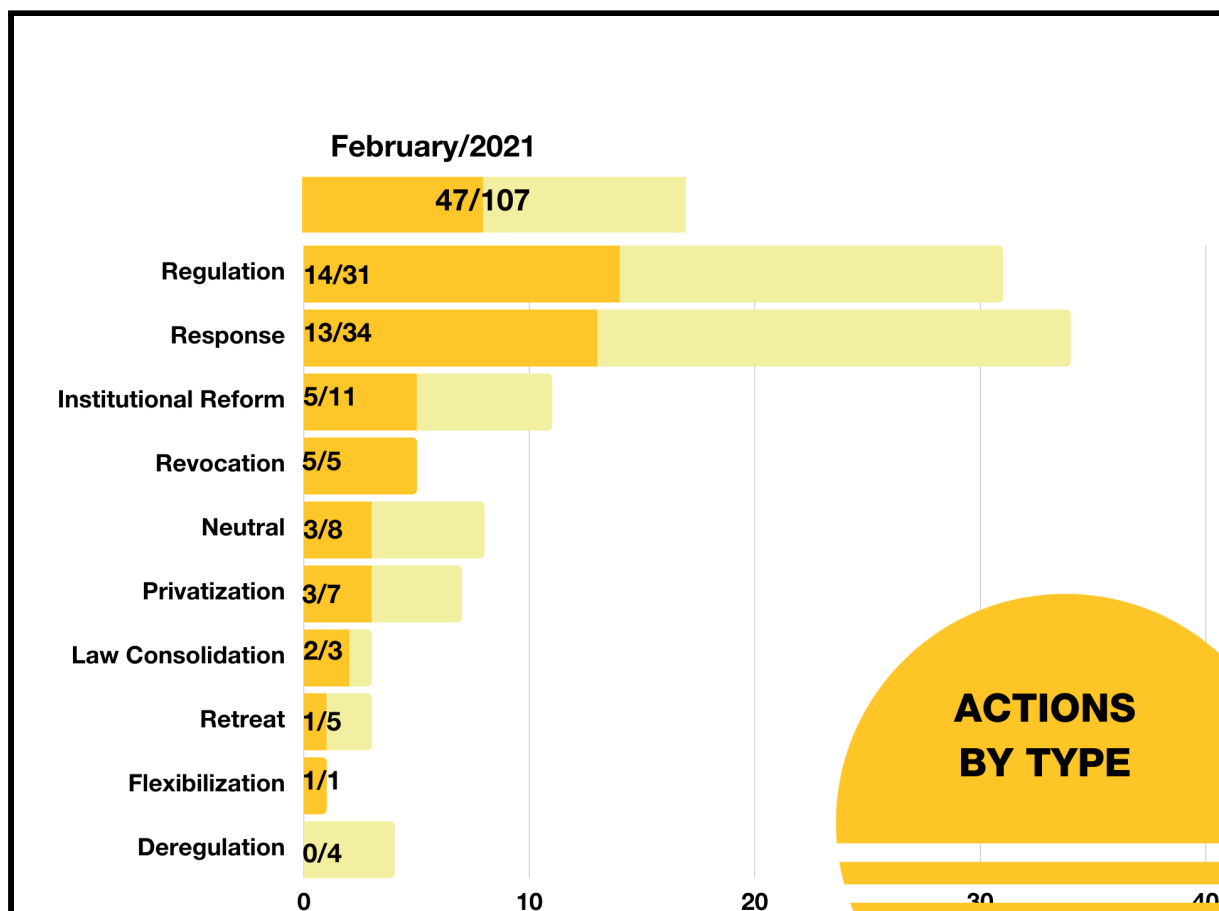
### **2 – Number of actions**

In February, our Government Actions Tracker identified **47 actions** relevant to environmental policy and climate change from the Federal Executive Branch published in the *Federal Official Gazette*. The monitoring of actions from the Congress identified **26** proposals, including Bills of Law (PL) and Legislative Decree Projects (PDL). The Legislative branch's recess ended on February 1<sup>st</sup>, with elections for the Presidents of the Chamber of Deputies and the Senate. The candidates supported by the current administration, namely Arthur Lira (PP-AL) and Rodrigo Pacheco (DEM-MG), won the elections.

#### **2.1 – Classification of Executive branch actions**

Regarding classification, the most common type among the **47** actions identified in February was regulation, totaling 14 norms. One of the main trends in regulation was municipalization, as seen both for mining and for land tenure regularization issues. Response actions were the second most common actions, adding up to 13 actions this month, most of which related to the acknowledgment of emergency declarations and environmental disasters. Both institutional reform and revocation actions added up to 5 norms each. There were 3 privatization measures, the main of which being the Petrobras privatization Provisional Measure. 3 actions were listed as neutral. We

identified 2 law consolidation actions this month, at ICMBio (Chico Mendes Institute for Biodiversity Conservation) and at Palmares Cultural Foundation. Finally, the single retreat action identified was regarding Ibama (Brazilian Institute for the Environment and Renewable Natural Resources) on joint action with the Ministry of Mines and Energy (MME) for environmental assessments of sedimentary basins. There was 1 flexibilization action, from the National Water Resources Council (CNRH), on deadlines related to Dam Safety Reports.



## 2.2 – Themes

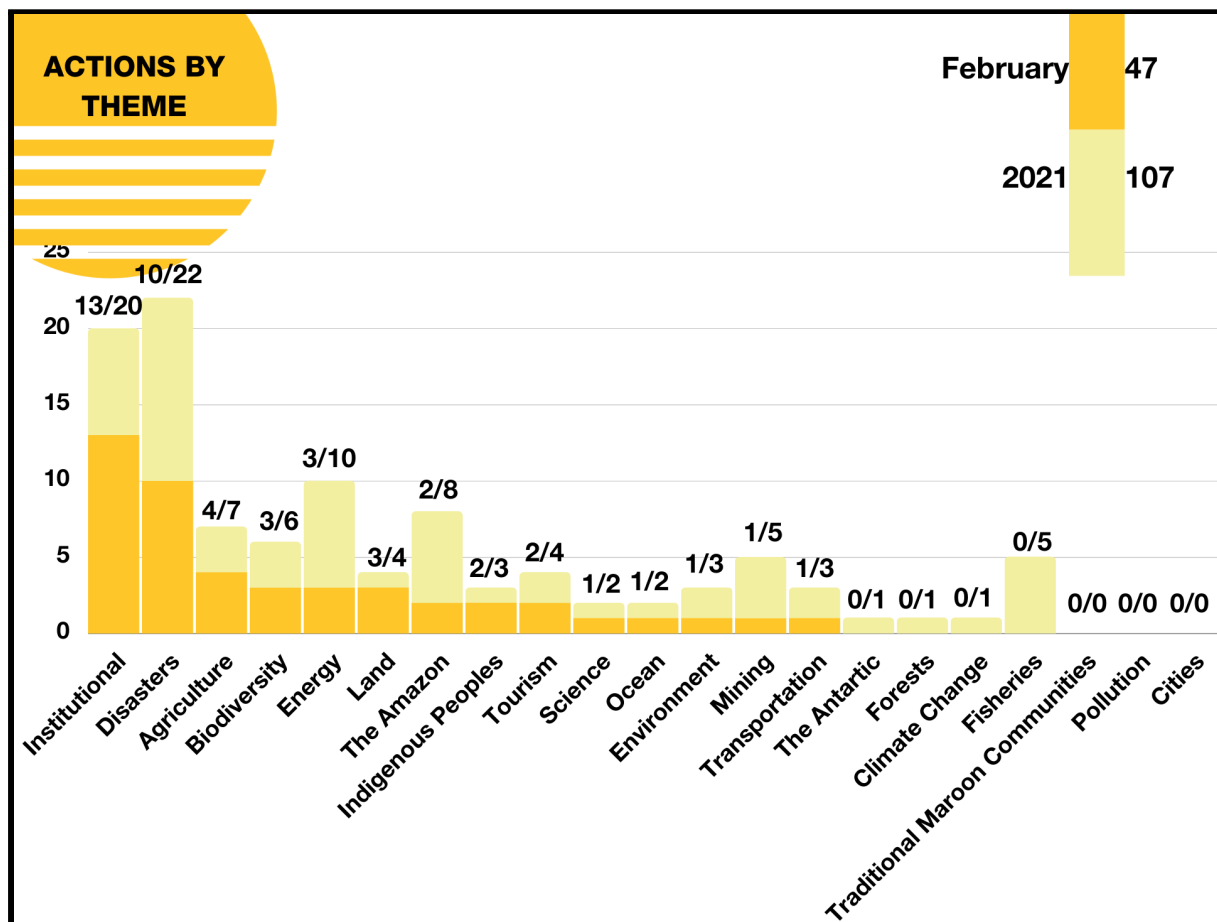
The theme with the highest number of measures this month was Institutional (13), most referring to batch revocation conducted by different ministries and regulatory agencies. Moreover, the National Indian Foundation’s Governance System was established and changes were made to article 3 of Ordinance No. 411, of 13 MAY, 2020, addressing the new code of ethics of ICMBio. Disasters (10) placed second, with most actions related to the acknowledgment of emergency situation declarations by states and municipalities.

Four actions were listed under Agriculture. Among these, we highlight the creation of the Working Group for the development of the *Strategic Agenda for Sustainable Agriculture*. We identified 3 actions on Biodiversity, including the approval of *Adopt a Park* and *Park+ Programs*.

This month we identified 3 actions on Land, 2 of which related to the necessary procedures for the implementation of Municipal Nuclei for Land Tenure Regularization (NMRF) and the execution of *Programa Titula Brasil* (Brazil Land Title Program), besides one measure adjusting the normatization of land tenure regularization according to the legislation in force and the establishment of *Titula Brasil Program*. There were also 3 actions on Energy, one of which was the Eletrobras privatization Provisional Measure (MP).

We identified 2 norms on Indigenous peoples in February. One of them was the extension of the National Public Security Force’s (FNSP) support to the National Indian Foundation (Funai), at Apyterewa indigenous land in the State of Pará. The other measure addresses procedures to be observed during the environmental licensing process of developments or activities taking place or conducted inside Indigenous Lands.

We also identified 2 actions on Tourism, as well as on The Amazon. The remaining topics only accounted for one action each: Science, Transportation, Environment, Ocean and Mining. On Science we highlight *Brazil-Biotec Initiative*, aiming at structuring the actions that contribute to the National Research, Development and Innovation Policy (R, D & I). On The Amazon, one more Publication of Geographical Coordinates of areas embargoed due to deforestation was issued. On Mining we highlight the norm establishing that the inspection of mining activities may be conducted by means of the Technical Cooperation Agreement between States and Municipalities.



No actions were identified for: Traditional Maroon Communities, Fisheries, Antarctica, Forests, Climate Change, Pollution, Cities and Water.

All actions, their classification and implications may be checked on [our website](#), as well as the [methodology](#) developed by POLÍTICA POR INTEIRO.

### 3 – Analyses by type and by theme

#### Disasters

Once again, in February, many declarations of emergency situations were acknowledged at different States in Brazil. Rio Grande do Norte (RN) was the State with the highest count of emergency declarations, accounting for 20% of all, and lack of rain accounted for 32% of all declarations, being the most common cause this month. It is important to mention that not all emergency situation acknowledgments refer to events that took place in February, since a few of the requests published last month refer to 2020 situations.

#### Agriculture

[Ordinance MAPA 26/2021](#) (Ministry of Agriculture, Livestock and Food Supply) established the Working Group (GT) for consultation for setting the Strategic Agenda for Sustainable Agriculture, aiming at proposing measures and coordinating actions for the development of necessary initiatives for the Federal Government's actions, via MAPA, promoting agriculture and livestock sector sustainability, such as: definition of governmental joint action criteria to raise the current sustainability standards of agricultural, livestock and fisheries sectors in Brazil; proposing medium and long term scenarios conducive to reaching 2030 goals; and innovation perspectives for the sectors for 2050. POLÍTICA POR INTEIRO's team listed this norm as "regulation".

#### Biodiversity

On Biodiversity, [Ordinance MMA 42/2021](#) (Ministry for the Environment) approved the *Park+ Program*. A [Document](#) on the Ministry for the Environment's website communicated the program guidelines. The Program will be managed by MMA's Protected Areas Secretariat and consists of 4 pillars or lines of action: (i) Pillar 1 – Promoting and fostering the interconnection of ecosystems and the management of landscapes in Brazil, encouraging recreation, conservation, and the creation of jobs and income through the National Long Distance Trails and Connectivity Network (RedeTrilhas); (ii) Pillar 2 – Promoting accessibility at ecotourism destinations (Accessibility); (iii) Pillar 3 – Promoting the availability of free internet access (wi-fi) for visitors of Conservation Units (Connect Parks Project); and (iv) Pillar 4 – Promoting and fostering structural projects at Conservation Units, the development of sustainable economic activities at UCs (Conservation Units) and their surroundings, and setting guidelines to support tourist visitation at these locations (Ecotourism in Brazil). Regarding the program's funds, the document mentions they will "come from partnerships with the third sector and private initiative, as well as through MMA budgetary resources, federal parliamentary amendments, and partnerships with states and/or municipalities." Finally, there is a 2021-2023 Action Plan setting objectives, goals, indicators, expected outcomes and cost/budgetary

expectations. However, the planning of all measures with clear delimitation and details is still incipient. Still on the website, there is a link to an initiative called RedeTrilhas (created by an Ordinance in October/2018 and regulated by a September/2020 Ordinance), that constitutes Pillar 1 of the program. This norm was listed as “regulation”.

Eight months after the communication of the initial promotional material, the Adopt a Park Program was officially launched at Palácio do Planalto (the President’s workplace). The program announces Carrefour as the first company to adopt a Conservation Unit. Federal Decree 10,623/2021, then signed, was published on the following day. It determines the Program’s goals: (i) consolidating and implementing management plans for Federal Conservation Units; (ii) the monitoring of Federal Conservation Units; (iii) environmental recovery of degraded areas; (iv) supporting the prevention of, and fighting forest fires; (v) supporting the prevention of, and fighting illegal deforestation; and (vi) promoting improvements, investments, infrastructure and maintenance of Federal Conservation Units. The program’s objective goal is to receive the donation of assets and services that meet its goals, with or without costs or charges, as established in a working plan to be agreed upon, under the coordination of the MMA (Ministry for the Environment), via ICMBio (Chico Mendes Institute for Biodiversity Conservation). The MMA is responsible for the selection of Federal Conservation Units to be included in the program. The minimum reference value for the adoption will be calculated based on the total area of each Federal Conservation Unit and will be defined by an action of the MMA (*which took place on March 1<sup>st</sup>*), and the adoption will be made through public call for bids. Actions will be supervised by ICMBio. If proposals present the same values and objects, the choice will be made by means of a draw conducted at a public session. Adoption will be formalized by the Term of Adoption, accompanied by the working plan, to be signed by ICMBio and the adopting party. ICMBio is in charge of publicly communicating procedures, adoption proposals and signed terms of adoption via their website. On our website we published an analysis considering the issues about the *Adopt a Park Program* that have remained unanswered even after the publication of the decree. We have requested, via LAI (Access to Information Act), explanations and access to documentation related to Carrefour’s “adoption”. However, until the publication date of the current Monthly Outlook Report, MMA has not replied. POLÍTICA POR INTEIRO’s team listed this norm as “regulation”.

## Land

Normative Instruction 105/2021, sets forth guidelines and procedures for the partnership process between Municipal Nuclei for Land Tenure Regularization (NMRF) and municipalities, determining that the participation of municipalities is by voluntary adherence, and that the call for participation will be made via INCRA’s (National Institute of Colonization and Agrarian Reform) digital media and the *Federal Official Gazette*. To adhere to the program, the municipality shall have INCRA projects of agrarian reform or federal public land that may be subject to land title regularization in their territory. The municipality is responsible for the NMRF, and it shall publicize *Programa Titula Brasil* (Brazil Land Title Program), designate members and bear all labor expenses, besides making members available to INCRA for training. The norm still allows NMRF to conduct georeferencing of occupied federal and INCRA lands in rural areas and of settlement projects. Technical

Cooperation Agreements will formalize the partnerships. They don't transfer to municipalities the decision-making power for land tenure regularization processes, this power is exclusive to INCRA. Therefore, the Nuclei are in charge of managing land tenure regularization processes and land titles up to the stage before the decision-making phase. The issuance of title documents is still and exclusive attribution of INCRA. The "Titula Brasil Program" was established by joint Ordinance No. 01/2020 and is an important sign of municipalization of the land tenure issue. POLÍTICA POR INTEIRO conducted a specific analysis on this topic and listed this norm as "regulation".

Still on land tenure regularization, Normative Instruction 104/2021, establishes, within INCRA, the guidelines and the stages of administrative and technical procedures applicable to land tenure regularization of occupations at: I – rural areas in Federal lands located within the area of the Legal Amazon and on lands of the National Institute of Colonization and Agrarian Reform (INCRA); II – land occupation outside the Legal Amazon in rural areas in INCRA and Federal lands under the management of INCRA; and III – remaining areas of projects with characteristics of colonization created by INCRA located within or outside the Legal Amazon, prior to 10 October, 1985. This norm revokes Normative Instruction No. 100, of 30 DECEMBER 2019.

The land tenure regularization agenda has been advancing rapidly, especially after the creation of *Programa Titula Brasil* (Brazil Land Title Program) in December 2020. With the failure of Provisional Measure 910, the "Land Grabbing Provisional Measure", acts have been published to readjust current regulations, such as INCRA's Normative Instruction No. 104 of 2 FEBRUARY 2021, and Decree No. 10,592 of 24 December 2020.

Normative Instruction No. 104 of 2 February, 2021 changed the date of proof of the exercise of "direct, meek and peaceful occupation and exploitation, by oneself or one's predecessors". According to the previous norm that was revoked (NORMATIVE INSTRUCTION NO. 100, of 30 DECEMBER 2019), the date was 5 May, 2014. Now the date is once again 22 July, 2008, in line with the amnesty date set forth by the 2012 Forestry Code and stated in a norm prior to MP910.

The new IN (Normative Instruction) also establishes that rural properties located within sustainable use Conservation Units (APAs – Environmental Protection Areas, and ARIEs – Areas of Relevant Ecological Interest) may be exceptionally regularized according to the IN and after consulting the Technical Chamber of Destination and Regularization of Public Rural Federal Lands, with the waiver of the mandatory observance of the area's Management Plan. The norm was listed as "institutional reform".

## Indigenous peoples

In spite of the few norms published in February, the “Indigenous” agenda was apparently strategically addressed.

First, ORDINANCE No. 74, of 11 FEBRUARY 2021 from the Ministry of Justice and Public Security, authorizes the extension, for 180 more days, of the FNSP’s (National Public Security Force) support to the National Indian Foundation (Funai) in public security actions for guaranteeing public order and the safety of people and public property, at Apyterewa Indigenous Lands in the State of Pará. This period may be extended, if necessary. The Apyterewa Indigenous Land is one of the indigenous lands affected by the implementation of Belo Monte Hydroelectric Power Plane. According to Agência Brasil land tenure regularization in this area, with the removal of non-indigenous occupants, is one of the governmental conditions to the project’s environmental licensing. Rubens Valente’s UOL article reported on inspection teams’ difficulties at the location. However, the Parakanã people who traditionally occupied this territory, is currently only on 20% of their 773 thousand hectares. APIB, the Brazilian Articulation of Indigenous Peoples, emphasizes that “more than half of the Apyterewa Indigenous Land has been invaded by farmers, squatters, illegal loggers and miners”. This norm was listed as “response”. In 2020, the FNSP acted on other occasions in other indigenous lands, such as the Javari Valley Indigenous Land, Alto Rio Negro, Amazonas, and Enawenê-Nawê Indigenous Land, in Juína (MT).

Joint Normative Instruction 1/2021 followed, from Funai (National Indian Foundation) and Ibama (Brazilian Institute for the Environment and Renewable Natural Resources), addressing the procedures to be adopted during the environmental licensing process for enterprises or activities located at or developed inside Indigenous Lands, developed by indigenous organizations. The IN considers as entrepreneurs the indigenous themselves who are users through associations, organizations of mixed composition of indigenous and non-indigenous, cooperatives, or directly via the indigenous community. It’s important to mention that the definition of what may be considered as a “mixed composition organization of indigenous and non-indigenous” is very broad, and there is a lack of definition on many other points, such as the simplification of environmental licensing and on the studies and costs involved. POLÍTICA POR INTEIRO’s team listed this norm as “regulation”, since there was no prior regulation on this kind of activity.

Rubens Valente’s UOL article indicated the possibility that this norm might make room for the activity of farmers in protected territories. This Normative Instruction must be read in a broader context, one of consummated and ongoing changes in the norms about Indigenous Lands. One such example is Bill of Law 191/2020, announced as a priority in the Federal Government’s agenda. According to specialized media, the bill was drafted in 2019 by the Ministry of Justice and Public Security and the Ministry of Mines and Energy, without the participation of

indigenous representatives. It addresses the exploitation of mineral (including by prospection), water and organic resources in indigenous reserves.

Joint Normative Instruction 1/2021 caused much controversy. The Indigenist Missionary Council (CIMI) issued a public note reporting the act as a harmful attitude by the federal government against indigenous peoples in Brazil. According to CIMI, this norm is in line with previous ones, such as Normative Instruction 09 of 16 APRIL 2020, granting the certification of rural property in not yet homologated indigenous lands, and Resolution 04 of 22 JANUARY 2021, establishing new criteria for the “heteroidentification” of indigenous in Brazil. This set of normative acts from the current administration establishes legal and social insecurity in the Democratic Rule of Law, with total disregard for articles 231 and 232 of the Federal Constitution, which guarantee to indigenous peoples the right to citizenship, to live in their territories, to their culture and to the exclusive use of their lands”.

Adding to the context of indigenous policy reform, ORDINANCE No. 118 of 17 FEBRUARY 2021 establishes the Governance System for the National Indian Foundation (SG-Funai). It aims at organizing the decision-making process regarding strategic management, public policies, risk management and general internal controls. This Ordinance unifies guidelines and concepts related to the institution’s function and objectives. It revokes seven ordinances that addressed guidelines for digital governance and the creation of prior risk governance and control committees. The ordinance establishes that within SG-Funai the Internal Governance Committee - CIG is the highest deliberation level and that, at the discretion of Funai’s President, managers and technicians from Funai, from the Ministry of Justice and Public Security and from other bodies and entities of the federal, state, district and municipal public administrations, representatives of non-governmental entities and members of the National Indian Policy Council – CNPI may be invited to take part in CIG meetings without voting rights. This ordinance prioritizes Funai’s risk management policy and internal control mechanisms. It is listed as Institutional Reform.

## **Energy**

The highlight for Energy was Provisional Measure 1031/2021 addressing the privatization of Eletrobras. MP 1031/2021 has had over 400 amendments. Arthur Lira, the president of the Chamber of Deputies, is prioritizing this topic and stated that, given the opportunity, he will take the matter to voting at a Plenary session. The privatization, however, involves great complexity, and the opposition is organized. Also under Energy, Normative Ordinance 2/2021 from the Ministry of Mines and Energy approved the Energy 10-year Expansion Plan 2030 - PDE 2030. The PDE was launched on 25 February in Foz do Iguaçu/PR, during a ceremony the President attended. The planning was done by the Energy Research Office (EPE) under the guidelines and with the support of the Energy Planning and Development Secretariat (SPE) and the Oil, Natural Gas and Biofuels Secretariat (SPG) from the Ministry of Mines and Energy (MME). POLÍTICA POR INTEIRO’s team listed this norm as “regulation”.



## **Ocean**

The sole highlighted norm this month is Ordinance MMA 34/2021, from the Ministry for the Environment (MMA) that approved the updated list of municipalities covered by the land strip of the Brazilian Coastal Zone. This ordinance revoked Ordinance No. 461/2018 that contained the previous list. The new list aimed at meeting all seven criteria from Decree 5,300/2004 (the previous list, from 2018, considered only one criterion) and, according to G17 – the Group of the 17 Coastal States, it was developed jointly among MMA (Ministry for the Environment), IBGE (Brazilian Institute of Geography and Statistics) and all 17 state coastal management coordinations, based on federal and state official studies. Therefore, POLÍTICA POR INTEIRO’s team listed this norm as “regulation”. Its main goal is to provide greater security to the area under the force of coastal management instruments and to qualify public policies that affect this portion of the territory.

## **Mining**

Resolution ANM 59/2021, from the National Mining Agency, establishes that the inspection of mining activities and the collection of Financial Compensation for the Exploitation of Mineral Resources (CFEM) may be done through a Technical Cooperation Agreement with States, the Federal District and Municipalities. In order to be eligible to take part in Technical Cooperation Agreements, States, the Federal District and Municipalities must have a previously assembled technical team consisting of, at least: I – a geologist or a mines engineer; and II – two mining technicians. The Agreements shall cover actions related to research and mineral usage, mineral mining and the collection of CFEM. It revokes Service Order No. 1, of 30 SEPTEMBER 2005, that established procedures and routines to be observed for processes for entering into Technical Cooperation Agreements for the Inspection of Financial Compensation for the Exploitation of Mineral Resources - CFEM. The norm poses a risk of local pressure during mining inspection processes, mainly of a political nature and due to the lack of specialization of local inspectors on the mining theme. Even if the ANM needs to validate information collected at the location, inspections will be conducted by teams of the federal entities signing the agreements. This norm, listed as “regulation”, indicates a different understanding from ANM’s historical record of centralizing the inspection process.

## **Science**

Ordinance 4,488/2021, from the Ministry of Science, Technology and Innovation, established the Brazil-Biotec Initiative, aiming at structuring the actions that contribute to the National Research, Development and Innovation Policy (R, D & I) on Biotechnology, besides creating, integrating and supporting governmental actions in the field, focusing on the promotion of science, innovation and economic and social development. The following thematic areas will be prioritized within the scope of the Brazil-Biotec Initiative: I - Biotechnology for Human Health; II – Agricultural and Livestock; III – Environmental and Marine Biotechnology; and IV – Industrial Biotechnology. It establishes that the strategic focus pillars for the Brazil-Biotec

Initiative shall be aligned with the National Strategy for Science, Technology and Innovation (C,T&I) and the related Science, Technology and Innovation Action Plans. We highlight the implementation of a Managing Committee, without the presence any other Ministry but the Ministry of Science, Technology and Innovation. Other people (scientists, representatives from other bodies or entities from society and from the government) may be invited to attend the Managing Committee's meetings without voting rights. Another issue is the possibility for the participation of international organisms: "Brazil-Biotec Initiative may seek financial and technical support from federal entities, public and private bodies and entities and international organizations.", without explaining how this will take place. POLÍTICA POR INTEIRO's team listed this norm as "regulation".

### **The Amazon**

Regarding "The Amazon", Publication 08/2021 of Ibama (Brazilian Institute for the Environment and Renewable Natural Resources) was issued with geographic coordinates of a deforested area in Apuí / AM, identified by satellite imagery and inspected during inspection actions, with formal Embargo, but without identification of the person responsible for the area of deforestation or fire. In January 2021, three other areas in Apuí were listed in a similar Publication. POLÍTICA POR INTEIRO's team listed this norm as "response".

Still, Ordinance MJSP 90/2021, from the Ministry of Justice and Public Security, authorized the extension of the use of the FNSP (National Public Security Force) to support the Amazonas State government during the 1<sup>st</sup> Edition of Operation Harpoon I (Medium Solimões River), to fight organized crime, drug traffic and environmental crimes along Negro and Solimões rivers in the State of Amazonas, in activities and services essential to the preservation of public order and the safety of people and property, in an episodic and planned nature, for the period of 45 days, from 27 February, 2021 to 12 April, 2021. In January, the use of FNSP on the 1<sup>st</sup> Edition of Operation Harpoon I (Medium Solimões River) was authorized by an ordinance. Last year, another ordinance started the Operation, gaining attention from the media: "Operation Harpoon mentions the river security base installed by the government in the region known as the 'traffic corridor' in Amazonas, near the city of Coari, in the medium Solimões region". POLÍTICA POR INTEIRO's team listed this norm as "response".

### **Institutional**

On the "Institutional" theme, especially regarding the collegiate body arrangement, Notice 2/2021 listed the result of the draw of environmentalist entities with seats at Conama (National Council for the Environment). The entities listed on Annex I should send the relevant documentation within five days for the preparation and publication at Conama's Portal of a new sequential list containing only qualified entities after documentation analysis. The dismantling of Conama was one of the current Federal Government's first measures in the environmental area. By a decree,

the number of seats was reduced, with the removal of important sectors as the scientific community. The same act established the draw system for choosing participating environmentalist entities. This system was consolidated via Conama's new rules of procedure, approved by an ordinance. Despite the 1-year duration of the environmentalist entities' term, a decree extended them until 22 March, 2021. Thus, following our own methodology, POLÍTICA POR INTEIRO's team listed this norm as "institutional reform", maintaining the same classification as Conama's restructuring norms published since 2019.

The first entity to be "drawn", AGAPAN NGO (Rio Grande do Sul Natural Environment Protection Association), rejected their seat and sent an "open letter to Brazilians" criticizing this method for choosing Conama's members. AGAPAN is one of the oldest environmentalist entities in Brazil. It was founded by environmentalist José Lutzenberger in 1971. José Lutzenberger was Special Secretary for the Environment (currently corresponding to being Minister for the Environment) during the Collor administration. Likewise, the 5 Elements Institute, also drawn, refused to participate in the Council.

An important publication was Ordinance MMA 45/2021, from the Ministry for the Environment, which extended for 120 more days the works of the Working Group (GT) established by Ordinance No. 524/2020 to analyze the synergies and efficiency gains in the case of a **merger of Ibama and ICMBio**. Initially, the deadline for the conclusion of the GT's work was the beginning of February, as mentioned in this specific material. POLÍTICA POR INTEIRO's team listed this norm as "institutional reform" since it represents a sign of change in the structure of the Federal Public Administration in matters of the environment. On 1<sup>st</sup> February the Federal Prosecution Office (MPF) held a Public Hearing on the theme. POLÍTICA POR INTEIRO participated with the right to speak, and was quoted on a news story covering the event featured on the MPF's website. Still on this theme, POLÍTICA POR INTEIRO's team gained access to the minutes of the 13 first meetings conducted by the Working Group. It was possible to verify that, in spite of the passing of the months, the lack of transparency regarding information is still the same. The so-called "minutes" are no more than mere general reports of the meetings' agendas, attendance lists and scheduling of the following meeting.

Still on the Institutional theme, Ordinance MMA 47/2021, from the Ministry for the Environment revoked Ordinance No. 275/2019, which grants the president of Ibama the competence to express jointly to the MME (Ministry of Mines and Energy) about possible environmental restrictions in cases where the areas have not yet completed multidisciplinary studies of environmental assessments of sedimentary basins (CNPE Resolution 17/2017, article 6, §). It is important to keep in mind that during the current month a Public Hearing on the 17<sup>th</sup> Round of of Bids for blocks for the exploration and production of oil and natural gas, as provided for in the Public

Consultation Notice and Public Hearing. POLÍTICA POR INTEIRO's team listed this norm as “retreat”.

ICMBio's Ordinance 22/2021 (Chico Mendes Institute for Biodiversity Conservation) changed article 3 of Ordinance No. 411, of 13 MAY 2020, which addressed the new ICMBio's code of ethics. The previous text stated that “omitted cases will be resolved by the President of ICMBio, in consultation with ICMBio's Ethics Committee and, if necessary, the Public Ethics Committee of the Presidency – CEP/PR”. It now reads as follows: “omitted cases will be resolved by ICMBio's Ethics Committee, if necessary, in consultation with the Public Ethics Committee of the Presidency – CEP/PR”. Thus, the competence of ICMBio's president was removed, and is now directly in the hands of the Ethics Committee and, if necessary, in consultation with the Public Ethics Committee of the Presidency. The decree that established the Federal Executive Branch's Ethics Management System establishes that it is the responsibility of the Ethics Committee “to resolve doubts regarding the interpretation of its rules and to deliberate on omitted cases”. Since it addresses a non-conformity of the previous rule, responding to an administrative process, POLÍTICA POR INTEIRO's team listed this norm as “response”.

Another relevant topic in the Institutional theme refers to “law consolidation” and “revocation”, in compliance with Federal Decree 10,139/2019, that established methodology, deadlines and requirements for a “law consolidation” of the Federal Public Administration's norms in force. ICMBio's Ordinance 53/2021 listed the institution's 656 norms in force (lower in hierarchy than decrees). The publicizing of the normative acts shall be made on the gov.br electronic portal. The regulatory “cleaning” was specifically analyzed by POLÍTICA POR INTEIRO. It was determined by Federal Decree 10,139/2019, and the publicizing of the list of norms in force lower in hierarchy than decree should have been concluded by 30 November. POLÍTICA POR INTEIRO's team listed this norm as “law consolidation”.

Regarding “revocation”, Resolution CPPI 165/2021, expressly revokes 226 resolutions from the Investment Partnerships Program Council (CPPI), under the argument that their effect has been “exhausted in time”, based on Article 8 of Federal Decree 10,139/2019. Article 8, the justification for CPPI's “revocation”, establishes three situations for express revocation of norms: (i) already tacitly revoked; (ii) whose effects have been exhausted in time; and (iii) in force, whose necessity or whose meaning cannot be identified. For more detail, check our exclusive material. Thus, since batch revocation of many of the Council's norms has taken place, POLÍTICA POR INTEIRO's team listed this norm as “revocation”.

With Ordinance 46/SUROD/2021, the National Land Transport Agency (ANTT) revoked 8 other ordinances from the Highway Infrastructure Superintendence – SUINF/ANTT. Among these was Ordinance No. 256/2016, of 8 DECEMBER 2016 - SUINF/ANTT/MT – which establishes a systematic for the authorization process, and definition of the respective costs for the elaboration of Technical, Economic and

Environmental Feasibility Studies - EVTEA, of road works not provided for by contract and requested by ANTT.

Ordinance MAPA 38/2021, from the Ministry of Agriculture, Livestock and Food Supply, revoked over **570 normative acts** lower in hierarchy than decrees ruling over activities of the Special Secretariat for Land Affairs - SEAF/MAPA and of the Aquaculture and Fisheries Secretariat - SAP/MAPA. According to I - Annex I: already tacitly revoked; II - Annex II: whose effects have been exhausted in time; and III - Annex III: in force, whose necessity or whose meaning cannot be identified.

Ordinance 324/2021, from the Ministry of Regional Development, revoked normative acts of the extinct Ministry of National Integration and Ministry of Cities.

### **Themes with no highlights**

No relevant actions were identified for the following themes: Environment, Traditional Maroon Communities, Fisheries, Antarctica, Forests, Climate Change, Pollution, Cities and Water.

## **4 – Analysis**

### **Political leadership**

**Congress:** The victory of candidates supported by the Executive for the presidency of the Chamber of Deputies and the Senate sent a positive message to economic agents on the reform and economic agendas. This result strengthens the approximation between the Presidency and the Centrão parliamentary group. The new presidents of the Chamber of Deputies and the Senate, Arthur Lira (PP-AL) and Rodrigo Pacheco (DEM-MG) respectively, announced a list of priority themes for the Chamber of Deputies and the Senate, including structural reform (Emergency PEC – Constitutional Amendment Proposal, Administrative Reform, Tax Reform and the Federative Pact) and regulatory matters of great interest to business (like the Eletrobras privatization, the gas framework and others).

### **Ongoing**

**Privatization of parks and other environmental assets:** The privatization of environmental assets continues in speech and actions. Minister Ricardo Salles once again stated that expanding concessions is the way out in view of the scarce federal government's resources for preservation, and that for the national parks, it would be necessary to “privatize all you can”, in an [interview to SBT](#) (TV Network). This month's two privatization norms (public hearing on Tender Notice for Forest Concession of the Jamari National Forest, RO and CPPI's - Investment Partnerships Program Council - favorable opinion on the concession of the Aldeia dos Sentenciados, in Fernando de Noronha) show that the talk is reflected in public actions. Privatization alone cannot be seen as a negative sign for public environmental conservation policies. However, there is great risk when the main justification for it is not efficiency gains for the state with positive socioenvironmental reflexes, but simply covering for budgetary scarcity.

**Adopt a Park:** After eight months of extra-official promotion, the Adopt a Park Program, analyzed under Biodiversity, was launched aiming at attracting the participation of the private initiative in public conservation policies. In February only Carrefour publicly announced its interest in adopting Conservation Units under the federal model. In the beginning of March, Genial Investimentos signed a protocol of intentions with the Ministry for the Environment to adopt one of the 132 Conservation Units listed for the program. Other adoption systems are already in force in municipalities and states.

**Land tenure regularization and Conservation Units:** POLÍTICA POR INTEIRO received a balance of compensations in priority Conservation Unit areas. A total of 5,281.19 hectares (with the payment of R\$ 29,352,508.49 in compensations, in four Conservation Units included in the list of ICMBio's Ordinance No. 948/2020) have been purchased since 2019 or are being purchased by the Federal Government. Ordinance No. 948/2020, from October 2020, included the first half-yearly list of priority Conservation Units for compensation for land tenure regularization. ICMBio stated that results are lower than expected due to the pandemic. We published more information on the data sent via [Access to Information Act \(LAI\)](#).

**Land tenure regularization and Titula Brasil:** Titula Brasil Program (Brazil Land Title Program) now has an application that, according to Incra (National Institute of Colonization and Agrarian Reform), will only be used by technicians in order to provide easier access to georeferenced data on rural property boundaries *in situ* for validation, regularization and later availability of land title documents. Initially, 1,935 municipal governments are eligible for the formalization of Technical Cooperation Agreements with Incra.

**Land tenure regularization at Congress:** The land tenure regularization agenda is also moving forward at the Congress. Besides Bill of Law PL 2633/2020 proposed in May 2020 by Representative Zé Silva (SOLIDARIEDADE/MG), proceeding in the Chamber of Deputies now with Neri Geller (PP/MT) as rapporteur, another Bill of Law (PL 510/2021) was proposed by Senator Irajá (PSD/TO) aiming to amend Law No. 11,952/2009, along the same lines as Provisional Measure 910, "Land Grabbing Provisional Measure". The new Bill of Law was considered as priority by the Frente Parlamentar da Agropecuária (Agricultural and Livestock Parliamentary Front) and the matter was defended by the president of the Chamber of Deputies, Arthur Lira (PP-AL), and by the vice president, Marcelo Ramos (PP-AM). The new Bill of Law changes the occupation date of properties subject to regularization from 2008 to 2012, in addition to expanding the area subject to regularization to 2,500 hectares, the limit beyond which the alienation of public lands is subject to authorization by the National Congress, and provides for the exemption of prior inspection of the area to be regularized, with the possibility of being carried out through a declaration by the occupant himself, further reducing bureaucratic obstacles.

### **Municipalization**

The municipalization trend seen for land tenure regularization was also signaled for the inspection of mining activity, via Technical Cooperation Agreement (ACT) between states, the federal district and municipalities (see "*Mining*", in the analyses by themes section). The regulatory process is very similar to that of the NMRFs

(Municipal Nuclei for Land Tenure Regularization), where the municipality is responsible for putting together a technical team that will initiate the inspection procedure, and documentation collection. The National Mining Agency (ANM) is maintained as the still remains as the highest decision-making body for mining activities, just as Inbra (National Institute of Colonization and Agrarian Reform) remains responsible for the titles of the The withdrawal of competences hitherto exclusive to federal agencies, even if already provided for by law, is justified by the perspective of reducing bureaucracy and streamlining procedures. However, since these topics have major socioenvironmental relevance and are highly sensitive to local political pressure, they demand inspection and transparency.

### **Rehearsal**

**Massive investments in non-hydroelectric renewables by governments in the Northeast:** The Governors for the Climate Group, that gathers state leaders engaged with the climate agenda in Brazil, has presented an investment and action project for boosting electricity generation by wind and solar sources in the Northeast, aiming at transforming the region into a low carbon development pole. The plan proposes the integration of energy, water supply and income generation policies in order to benefit from synergies among these areas. One example is the situation of the São Francisco River, that has suffered a critical reduction in its flow in the last years: with electricity generation from renewable sources other than hydroelectric plants, the plants' reservoirs may be used for storing water for the use of the population. In Brasília, the Senate received a new Bill of Law on 25 February to boost investments in offshore power generation, creating the possibility of offshore wind farms in Brazil. (with information from [ClimaInfo](#)).

**Carbon market:** The National Policy on Climate Change (PNMC) paved the way in Law No. 12,187/2009 for the development of a Brazilian Emissions Reduction Market (MBRE). Twelve years later, it remains unregulated. The Ministry of Finance and its associated bodies were involved in a short study program, with support from the World Bank, aiming at understanding the conditions for the implementation of a sound environment for the matter. A thorough analysis of regulatory impact was conducted involving more than 80 top researchers. The conclusion indicated it would be desirable to adopt a carbon pricing instrument as part of Brazil's climate policy, and made recommendations of guidelines. Strangely, the technical work ended in December, 2020, without making the final report available to the public. Minister Paulo Guedes was absent from the closing event and did not make any *a posteriori* statements, raising doubts about the relevance of the agenda. In January, very discretely, the document with the results of the work appeared online. This month, a new Bill of Law, by Representative Marcelo Ramos (PL-AM), PL No. 528/2021, promises to shake the agenda. If the original text is approved, the PL will obligate the Ministry to establish the regulation of the 2009 Law within 180 days.

### **Reversals**

**Xingu's flow and Belo Monte:** as mentioned in the December and January reports, Ibama (Brazilian Institute for the Environment and Renewable Natural Resources) and the electricity sector have been arm wrestling over the use of water by the Belo Monte plant in the State of Pará. Belo Monte is the largest hydroelectric power plant installed in Brazil. Ibama's position is to guarantee less water to the turbines and more water to the river at the Volta Grande do Xingu, aiming at the

reduction of socioenvironmental damage on water life and riverside communities. Norte Energia, the operator of Belo Monte, has unsuccessfully appealed in court against the provisional hydrograph imposed by Ibama. In January, Ibama decided to enforce its technical decision and determined that Norte Energia should execute the maximum flow release to Xingu between 1 and 7 February. However, on February 8, Ibama retreated and reduced the flow by means of a term of commitment with Norte Energia, as informed by [O Eco](#) and [Estadão](#). The Federal Prosecution Office (MPF) [has requested](#) technical explanations on the matter.

### **Crises/Steps back/Controversy**

**Petrobras:** On February 1<sup>st</sup> there was an attempt by self-employed truck drivers to go on strike. There was, however, no massive adherence. The federal government even announced that it would send a complementary bill for ICMS, a state value-added tax, to be charged on fuel prices at refineries and not at pumps. PIS/Cofins tax adds R\$ 0,35 per liter to the diesel price. The Ministry of Finance informed that the decrease of each cent of Real in PIS/Cofins tax has an impact of R\$575 million in tax collection for the federal government. Then, Petrobras decided to readjust the price of diesel, raising it by 15%. This measure, taken to level prices with that of the international market, displeased president Bolsonaro, who intervened to oust the company's CEO. Petrobras' shares dropped 20%, and also ended up negatively impacting the dollar and future interest rates, which rose. It was a chain effect: the increase of these indexes also increases the government's funding cost, leaving less money for investments and for families.

**Acre:** Excessive rain caused rivers to overflow their banks and flooded whole cities in the State of Acre, like Sena Madureira. Simultaneously, there has been a steep rise on the number of covid-19 cases and the increased flow of refugees coming from Venezuela and Haiti. To make matters worse, in addition to the pandemic, the state has also a significant increase in dengue fever cases, putting more pressure on the public health system.

### **On hold**

**Nagoya Protocol - Convention on Biodiversity (CDB):** The Nagoya Protocol, ratified at the Senate in August, remains without ratification by Presidential Decree.

**Plan for the Amazon and for other biomes:** As discussed in previous issues, a "Strategic Plan 2020-2030" is being developed at the Amazon Council. Vice-presidente Hamilton Mourão told the press at the end of January that it was about to be published and implemented by the participating ministries. A month later, there has been no publication.

**Forestry Code:** The Ministry of Finance announced it would forward the proposal for a Green Rural Product Note (CPR) for approval by the National Monetary Council (CMN) in December. There was no delivery and there is no evidence of progress in preparing the measure.

**Rural credit:** While Economic Policy Secretariat of the Ministry of Finance (SPE/ME) analyses the creation of a Green CPR, the Ministry of Agriculture, Livestock and Food Supply analyses the creation of a broad Agribusiness Credit Note



(CCA), that may be issued and purchased by any member of the chain. No progress has been announced either.

### **On the radar (international agenda)**

**Biden's Foreign Policy:** The United States was officially back in the Paris Agreement on 20 February. In this context, we shall observe an intensification of preparations for their updated NDC, by 22 April, when Biden will gather world leaders at the *Major Economies Forum* (MEF) summit. It is important to follow future comparisons between countries' NDCs, including Brazil. Biden committed to improving environmental and climate indicators in order to pressure other countries to do the same on the international level. Brazil was not specifically mentioned during this month's speeches, but there has been pressure on the US government for a more rigid stance with Brazil.

**First Brazil-US conversation on climate change:** On 17 February there was a virtual meeting between Ernesto Araújo, the Minister of Foreign Affairs, Ricardo Salles, the Minister for the Environment, and John Kerry, the US government's special presidential envoy for climate. According to the joint press release issued by MRE and MMA, "cooperation and dialogue possibilities between Brazil and the US were discussed in the field of climate change and fighting deforestation". The three-sentence-long press release also states that it was agreed to deepen "bilateral dialogue in the mentioned fields, with a process based on frequent meetings looking for sustainable and long lasting solutions for common climate challenges". Kerry, in turn, tweeted the next day: "Dealing with climate crisis requires major impacts that may only be reached by means of global partnerships. Good conversation yesterday on climate cooperation, Brazil's leadership and sustainable economic growth with Ernesto Araújo, Ricardo Salles and Nestor Forster Jr (*Ambassador of Brazil to the US*)". According to the press<sup>1</sup>, the Brazilian Government's discourse on efforts against deforestation did not convince Kerry's team, that expect concrete actions and results for the progress of negotiations for funds estimated at the amount of US\$20 billion. It was an important step taken by the Brazilian government for establishing a communication channel regarding the most important topic in the current agenda between the two countries.

**COP26:** Brazil's Minister for the Environment started bilateral negotiations with the UK and the EU, in addition to the US. The agenda included negotiations on the carbon market mechanism from Article 6 of the Paris Agreement.

**Climate change at the UN Security Council:** The UN Security Council met on 23 February under the leadership of British prime-minister Boris Johnson to discuss climate threats to stability and to world peace. China, India and Russia acknowledged the topic affects security, however they wish to address the issue at other for a within the UN. Historically, Brazil has defended the same position, and has even said, contrary to IPCC, that climate change would not be a "multiplier of threats". In their assessment report, the Panel observed that the impacts caused by climate change usually act like multipliers of threats since the impacts of climate change intensify other poverty factors.

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<sup>1</sup>[Jamil Chade column, at UOL](#)

**EU trade pressure on Brazil for the end of deforestation:** An opinion poll, commissioned by Rainforest Foundation Norway and conducted by YouGov, with over 12 thousand respondents in 12 European countries on the perspectives of EU citizens regarding the approval of the trade agreement with Mercosur, indicated that the majority (75%) rejects the ratification while there is no guarantee that the agreement won't cause more deforestation in the Brazilian Amazon. Only 12% of respondents agreed with the approval of the agreement even with a potential increase in deforestation. In the meantime, the government of Argentina, which holds the rotating presidency of Mercosur this semester, demanded a basic proposal on the environmental chapter from Europe in order to advance in the approval and implementation of the trade agreement.

## 5 – Trends

March brings great expectations regarding discussions at the Legislative branch: the government presented a list of 35 priorities to the Congress. The list included important matters to the environmental area, such as: Changes to the Statute of Indigenous Peoples (PLC 119/2015); Mining in Indigenous Lands (PL 191/2020); Environmental Licensing (PL 3729/04) and BR of the Sea (Coastal fishing) (PL 4199/20).

The mere presentation of the list acted as a "social license" for yet unauthorized matters: the number of requests for gold mining in indigenous lands, for instance, reached an all-time high in anticipation to the passing of the Bill of Law.

Regarding land tenure regularization, PL 510/2021 proposed by Senator Irajá (PSD-TO) to amend Law 11,952/2009 adds to MP 910/2019 and to PL 2,633/2020 – the latter also under consideration. According to researchers, the proposal includes changes that benefit medium and large squatters and speculators of public land, encouraging the grabbing of new areas of public forest and illegal deforestation.

In response to the federal government's list, the civil society presented a letter to the Chamber of Deputies and to the Senate – requesting a "*sustainability package*".

The resumption of the parliamentary agenda seems favorable to the government. However, there are still demands from the Centrão parliamentary group for ministerial reform and for resolving the issue of emergency aid, which interferes in the degree of alignment with the government throughout the year. Thus, each voting session will demand specific articulation with the Congress, which indicates a continuation of retail-like actions from the Presidency to achieve the majority around each item to be voted.

Specifically speaking, this month it is worth following the voting for the Federal Budget for 2021, scheduled for March 24<sup>th</sup>. Many amendments were presented aiming at reformulating the budget for environmental matters. Also worth following is the (CCJ) Constitutionality and Justice Committee, that shall analyze the administrative reform, with potential impact on the merger of Ibama and ICMBio.

Bill of Law PL 264/2021 proposed the creation of the National Policy for Fostering Clean and Renewable Sources of Electric Power Generation (PFREE) and determines the transition from CIDE-Fuels (CIDE - Contribution on Intervention in the

Economic Domain) to CIDE-Carbon. The goal of the proposal is to discourage the use of fossil fuels, taxing the emission or generation of GHGs (Greenhouse Gases) at any stage or phase of the productive cycle. The revenue would be destined to public funding of renewable energy technological innovation projects and for sequestering GHGs at governmental companies of education and research, and states and municipalities where emissions were generated.

A scientific paper published in *Conservation Biology* magazine, using data from POLÍTICA POR INTEIRO, shows that during the Bolsonaro administration, 57 changes were made to legislation that weakened environmental conservation rules. From the total, more than half took place after the beginning of the covid-19 pandemic in Brazil.

The trend is for the continuation of flexibilization and deregulation by the Executive branch, resulting in more legal instability. More and more, there is a trend for the legality and constitutionality of norms published by the federal government to be questioned at the Judiciary branch by means of checks from the Legislative branch via Legislative Decree Projects (PDLs) and/or the filing of actions aiming at guaranteeing the enforcement of environmental protection.

Still related to the indigenous issue, during the last week of February two PDLs (Legislative Decree Projects) were proposed regarding the joint Funai – Ibama norm on the procedures to be adopted during the environmental licensing process for developments or activities located at or performed within Indigenous Lands. PDLs 91/2021 and 92/2021 aim to halt the effects of Normative Instruction 1/2021.

We identified **33 ongoing or concluded actions** at the Federal Supreme Court (STF), filed between 2019 and 2020, on socioenvironmental and climate issues. Considering that the Legislative intends to schedule non consensual measures for appreciation, if eventually approved, these may also be questioned Judicially, increasing the level of judicialization and instability.

On the climate change agenda, discussions are heated around Brazil's participation and positions at COP 26, as well as the announcement of more ambitious alternatives to the country's new NDC. On the other hand, the UN still has not given clear indication whether it will hold the COP in person. Given the current pandemic situation and the slow progress of vaccination, especially in developing countries, there is little chance for the discussion meetings in Glasgow.

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### Contact information

[politicaporinteiro.org](http://politicaporinteiro.org)

[contato@politicaporinteiro.org](mailto:contato@politicaporinteiro.org)



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