

Non-Trial Resolutions: The Future of Foreign Bribery Enforcement

**“This changes the dialogue
between prosecutors and the bar.”**

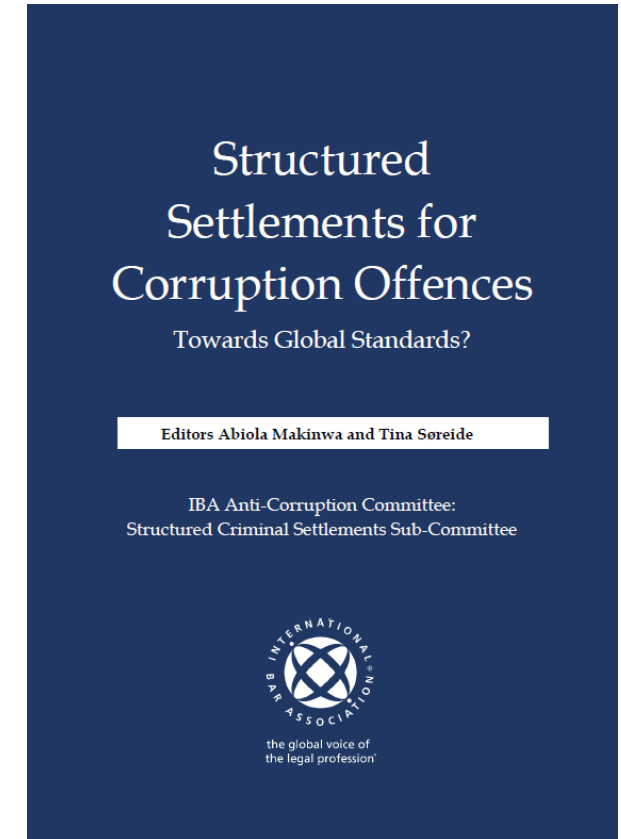
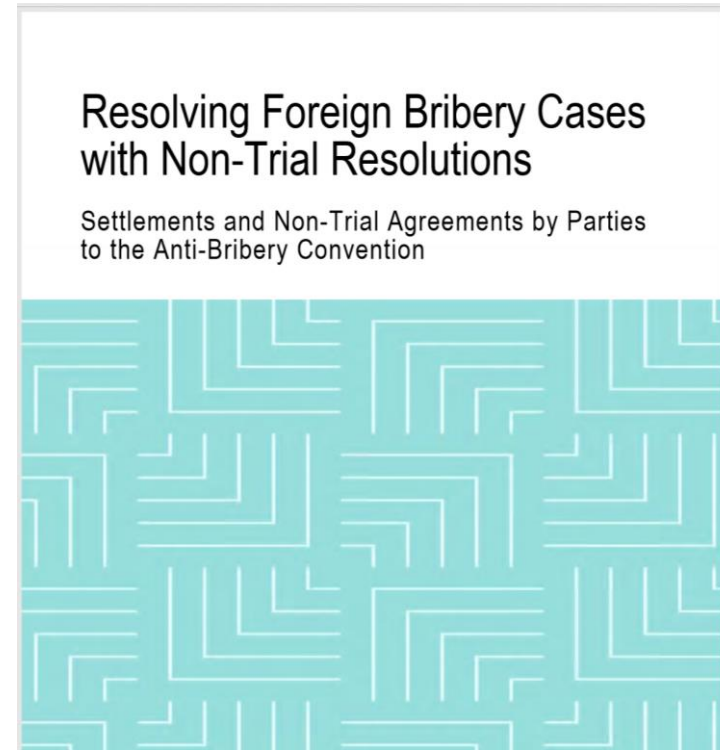
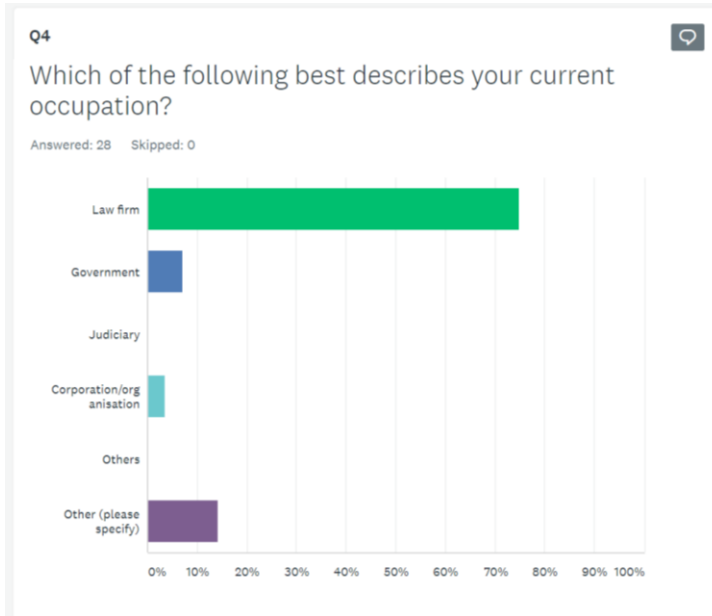
Eric Russo, Financial Crimes Prosecutor, Paris

IBA Anti-Corruption Annual Conference
15 June 2022

Panelists

- **Drago Kos**, Chair of the OECD Working Group on Bribery
- **Michael Currie**, South Africa
- **Robert Wyld**, Australia
- **Thomas Best**, US

- Moderator: **Kara Brockmeyer**, US

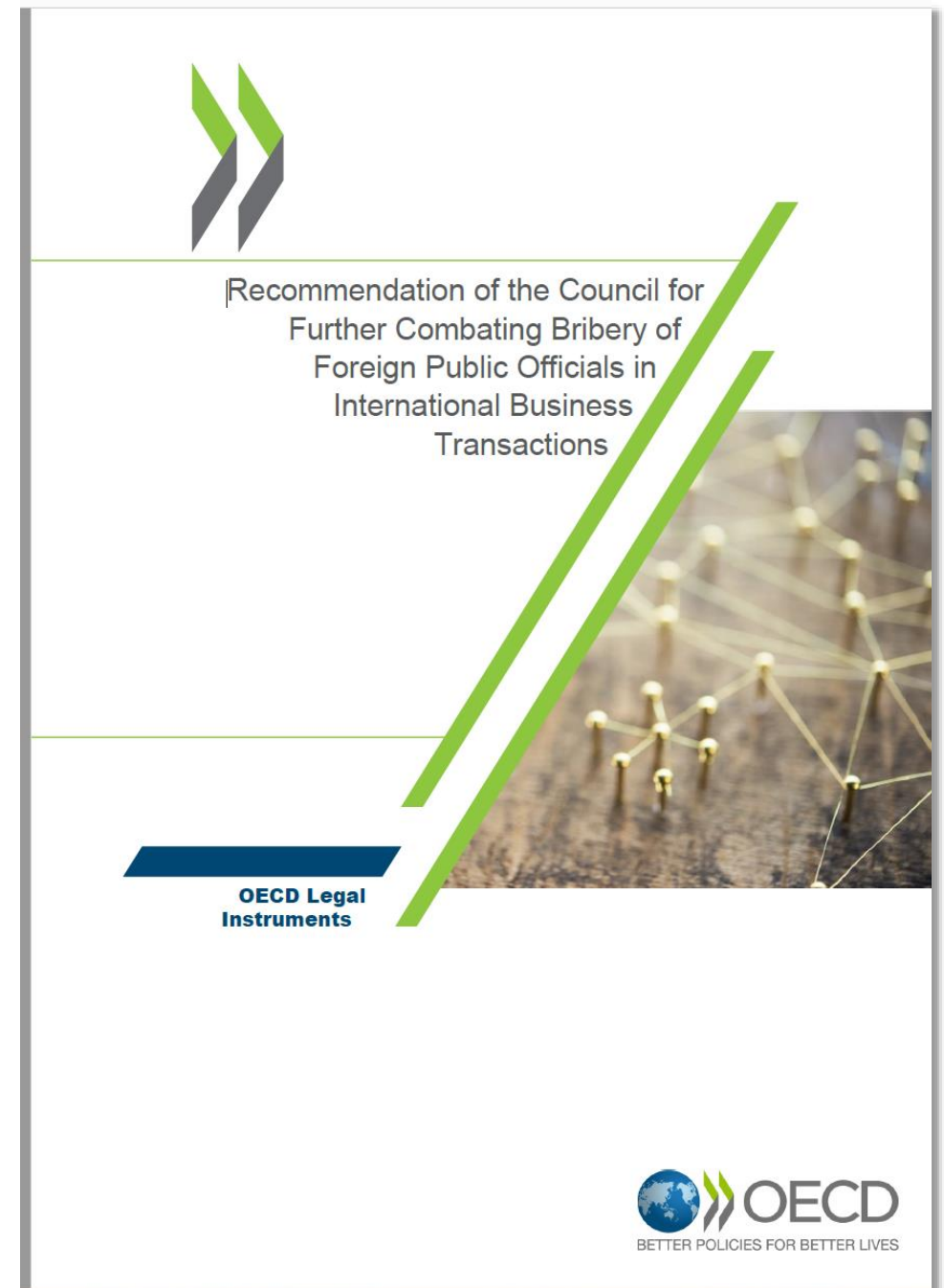


Lawyers reported bribery cases were settled before trial
in almost all countries, but often informal or ad hoc

OECD Working Group on Bribery 2021 Recommendations establish a framework

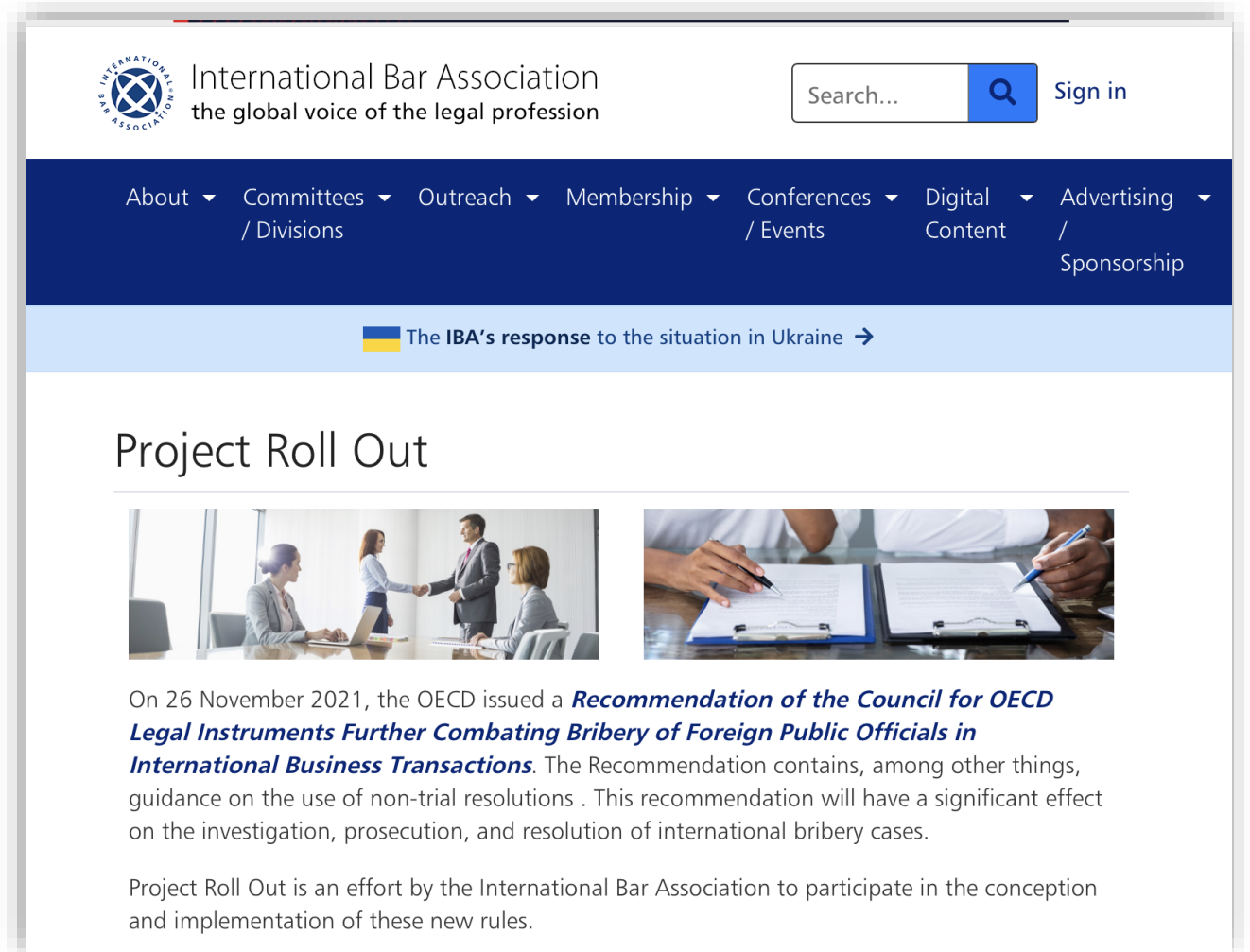
XVII. RECOMMENDS that member countries consider using a variety of forms of resolutions when resolving criminal, administrative, and civil cases with both legal and natural persons, including non-trial resolutions. **Non-trial resolutions refer to mechanisms developed and used to resolve matters without a full court or administrative proceeding, based on a negotiated agreement with a natural or legal person and a prosecuting or other authority.**

November 2021



Project Rollout

- Support use of NTRs to resolve corruption cases
- Provide resources to help plan national and regional conferences
- Help educate private bar and corporate clients about the benefits of NTRs



The screenshot shows the International Bar Association website. The header includes the IBA logo, the text "International Bar Association the global voice of the legal profession", a search bar, and a "Sign in" button. A dark blue navigation bar contains links for "About", "Committees / Divisions", "Outreach", "Membership", "Conferences / Events", "Digital Content", and "Advertising / Sponsorship". Below this is a light blue banner with the text "The IBA's response to the situation in Ukraine" and a right-pointing arrow. The main content area features the heading "Project Roll Out" and two images: one of four business professionals in a meeting and another of hands signing documents. The text below the images reads: "On 26 November 2021, the OECD issued a **Recommendation of the Council for OECD Legal Instruments Further Combating Bribery of Foreign Public Officials in International Business Transactions**. The Recommendation contains, among other things, guidance on the use of non-trial resolutions. This recommendation will have a significant effect on the investigation, prosecution, and resolution of international bribery cases." A final paragraph states: "Project Roll Out is an effort by the International Bar Association to participate in the conception and implementation of these new rules."

Tips for Effective Conferences

- **Seek diverse speakers and viewpoints**
 - Members of the academia, government, judiciary (e.g., retired judges), private bar, and business sector representatives, preferably from the region
 - Promotes a dynamic discussion of different perspectives and considerations
- **Start with discussion of what NTRs mean**, since many countries do not use these mechanisms or use them only informally and there may be considerable misconceptions
- **Provide an overview of how NTR regime would work in practice** and cover some country-specific considerations (e.g., structural issues, political environment)
 - Discussion about challenges is critical to demonstrate that the effort is not “one size fits all”
- **Experience from other (non-US) NTR regimes** is helpful on how the concept develops over time and can apply in different legal systems