THE GENERAL DATA PROTECTION ACT

LEI GERAL DE PROTEÇÃO DE DADOS

Everything you need to know about Brazil's new law protecting private data

WHAT IS THE LGPD?

- Passed on August 14, 2018, the LGPD (Lei no. 13.709) will address general issues of online data security, extending to all legal, public, and private entities operating in Brazil.
- The LGPD lays groundwork for preventing the abuse of "personal data" by companies and organizations.
- Largely informed by the European GDPR framework, the law grants citizens a number of rights over their personal data, including: access, rectification, anonymization, portability, deletion of data, and disclosure of data sharing.

PERSONAL DATA: any information that can be used to identify a private citizen will be protected by the LGPD, meaning that it can only be processed by firms with the express consent of its subjects (the users).

CHP. 1 CROSS-CUTTING APPLICATION

ART. 1
ART. 2
ART. 3
ART. 4
ART. 5
ART. 6

The LGPD will be applied to all sectors of the Brazilian economy and society, public or private.

Much like the European GDPR, the LGPD will be applied to any foreign entity that offers services within Brazil, regardless of nationality.

Exceptions include data processing done for academic research, art, and journalism, and to safeguard national or public security.

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CHP. 2 CONSENSUAL DATA PROCESSING

ART. 7
ART. 8
ART. 9
ART. 10
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ART. 12
ART. 13
ART. 14
ART. 15
ART. 16

Data processing will only be carried out with the subject's consent, except for purposes of public administration, or for the sake of national security.

The processing of data relating to children and adolescents will only be done with the express consent of at least one guardian and with complete transparency.

Data processing will be terminated following the completion of its objective, at the behest of the subject, or when the processing has been found to be in violation of the LGPD.

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CHP. 3 DATA SUBJECT RIGHTS

ART. 17
ART. 18
ART. 19
ART. 20
ART. 21
ART. 22

All individuals are assured complete ownership over their personal data.

At any time, the data subject may request from the processor: access to their data, processing confirmation, correction of inaccuracies, data transfer, anonymization, deletion, or revocation of consent.

Processing of any data, or results therein, cannot be used to the detriment of the subject.

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CHP. 4 PUBLIC USE OF DATA PROCESSING

ART. 23
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ART. 32

Personal data will only be processed by the Brazilian government in fulfillment of its public purpose or, more generally, in the public interest.

Any exchange of data between public and private entities must be communicated to the national authority and have the consent of the data subject.

The national authority may, at any time, carry out examinations of public entities to ensure compliance with the law.

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CHP. 5 INTERNATIONAL DATA TRANSFER

ART. 33
ART. 34
ART. 35
ART. 36

The transfer of personal data will only be acceptable when the national authority deems the destination adequately protected.

Data subjects must have previously consented to their data being transferable, and all transfers are bound still by the LGDP, or given special exception by the national authority.

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CHP. 6 DATA PROCESSING AGENTS

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ART. 45

All data processing firms and agents must keep records of any personal data processing.

The national authority can, at any time, request an impact report to be prepared by the firm to examine the company's activities.

Each processing firm must designate a Data Protection Officer to act as a liaison between the company and the national authority.

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CHP. 7 SECURITY AND GOOD PRACTICE

ART. 46
ART. 47
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ART. 51

Minimum technical standards should be adopted industry-wide to protect personal data from unauthorized access, alteration, loss, or theft.

Any breaches of data security must be reported to the national authority to prevent further damage to data subject security.

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CHP. 8 ADMINISTRATIVE SANCTIONS

ART. 52
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ART. 54

Any firms found to be in violation of this Law will be levied a fine of 2 percent of annual revenues, up to a total of $12.3 million (R$ 50 million) per infraction.

Sanctions applied to the violating firm will be based on the severity of the legal infraction.

Created by Cooper Vardy, Brazil Institute, Wilson Center

Sources:
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