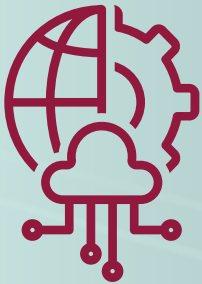


DIGITAL LAW

DIGITAL NEWSLETTER



8th EDITION

*Check out the latest
news in this edition*



ALMEIDA
ADVOGADOS

This is the newsletter created by our Digital Law team, aiming to gather the most relevant news and discussions in December. Enjoy your reading!



STF RESUMES JUDGMENT ON ARTICLE 19 OF THE BRAZILIAN CIVIL RIGHTS FRAMEWORK FOR THE INTERNET

On December 18th, 2024 during a session at the Federal Supreme Court (STF), Justice Luís Roberto Barroso argued that digital platforms should be held liable for third-party content if they fail to take measures to remove posts with criminal content. Barroso argued that article 19 of the Brazilian Civil Rights Framework for the Internet (Law 12.965/2014) does not offer sufficient protection for fundamental rights, such as human dignity and democratic values. He also pointed out that when platforms are notified of content that constitutes obvious crimes, such as fake profiles, they must act without the need for a court order. However, in cases of crimes against honor, removal should only occur after a court decision, to avoid undue censorship. Barroso also suggested that companies adopt a “duty of care” to reduce systemic risks on their platforms. After his statement, the judgment was suspended due to a request for a review by Justice André Mendonça.

STJ HOLDS COMPANY LIABLE FOR BREACHING CUSTOMERS' PERSONAL DATA

On December 3rd, 2024, the 3rd Panel of the Superior Court of Justice (STJ) unanimously ruled that companies are liable for the breach of customers' personal data, even when resulting from hacker attacks. The rapporteur, Justice Ricardo Villas Bôas Cueva, pointed out that, according to the General Data Protection Law (LGPD), companies have a legal duty to adopt all the necessary security measures to protect personal information. The company's data processing was considered irregular, as it did not provide the level of security that the data subject could legitimately expect, considering the circumstances of the case.

ARTIFICIAL INTELLIGENCE BILL PASSES SENATE WITH CHANGES TO ORIGINAL TEXT

On December 10th, 2024, the Senate approved a substitute for Bill 2.338/2023, which regulates the use of artificial intelligence (AI) in Brazil, making several changes to the original text. The text alters the classification of AI systems by risk levels and establishes specific obligations for agents developing, supplying and using the technology; it maintains the protection of the rights of creators of content and artistic works, and provides for other sectoral bodies to supervise AI systems according to their areas of competence, promoting integrated and collaborative regulation with specific guidelines for the use of AI in critical sectors, such as health and safety. The text now goes to the Chamber of Deputies.

EUROPEAN UNION ADOPTS DIRECTIVE PROMISING TO MODERNIZE COMPANY LAW

On December 16th, 2024, the Council of the European Union adopted a new directive to modernize European company law, focusing on the digital age. The directive aims to facilitate access to company data and strengthen transparency and trust in companies by adapting corporate governance rules to digital technologies. Among the main points is the introduction of digital processes for the constitution and registration of companies, which simplifies bureaucracy and facilitates cross-border trade. The directive also includes measures to ensure greater accessibility to financial and governance information, as well as strengthening the protection of the rights of shareholders and partners. This modernization aims to promote a more efficient and competitive business environment in the European Union's single market. Implementation of the directive will be gradual, with deadlines to be set by member states.

CARF PLANS TO LAUNCH ARTIFICIAL INTELLIGENCE SYSTEM FOR ADMINISTRATIVE APPEALS

The implementation of the IARA artificial intelligence system is being discussed by the Administrative Council for Tax Appeals (CARF), with the aim of optimizing the judgment of administrative appeals. AI will help classify cases, interpret reports, and suggest decisions, increasing efficiency and reducing judgment time. The initiative also raises questions about the limits of using algorithms in deciding complex cases, especially in relation to fundamental rights and the responsibility of programmers. The changes that are going to come with the system's implementation are expected to occur gradually, with tests and adjustments before its full adoption. The expectation is that AI will begin to be used in simpler processes and, over time, be expanded to more complex cases. Full adoption will depend on continuous evaluation of its effectiveness and impact on the decision-making process.

SENATE MOVES FORWARD ON BILL TO COMBAT HACKING OF SOCIAL MEDIA PROFILES

On December 10th, 2024, the Federal Senate moved forward with the analysis of a bill that aims to punish the hacking and misappropriation of profiles on social networks. The bill establishes stricter penalties for those who carry out this type of crime, which includes using other people's credentials without authorization for fraudulent purposes. The proposal aims to protect users' privacy and security, reflecting the growing concern about digital protection in the context of social networks. The bill now goes to the Chamber of Deputies for further debate and possible adjustments.

SENATE APPROVES PEC ON CYBER DEFENSE AND SECURITY IN FIRST ROUND

The proposal, approved on December 3rd in the first round of discussion in the Plenary, aims to strengthen protection against cyber-attacks in Brazil, creating a more robust system for the defense of critical infrastructures and data security at a national level. The PEC also establishes the creation of a specific body to coordinate digital security actions and authorizes the federal government to create public policies aimed at tackling cybercrime. The current text establishes federal competence to legislate on the subject, but it will still go through more legislative stages before it is finalized.

CENTRAL BANK JOINS GLOBAL OPEN FINANCE INITIATIVE

On December 24th, 2024, the Central Bank of Brazil (BCB) announced its participation in the project led by the Bank for International Settlements (BIS) to connect open finance infrastructures between different countries. The aim of the project is to enable the secure sharing of customer financial data between jurisdictions, promoting greater efficiency in financial services and expanding global financial inclusion. The first scenario that will be prioritized is the sharing of consumer financial data to facilitate the offer of transnational products and services, with a focus on consumers who have banking connections in more than one country. The project highlights the potential of international collaboration to strengthen digital economies and meet global demands in an integrated way.

ESET REPORT POINTS TO INCREASE IN CYBER ATTACKS

On December 24th, 2024, Eset published its “Threat Report” in the second half of 2024, highlighting the increase in attacks on cryptocurrency portfolios. Infostealers, malware designed to steal information, were identified as a growing threat, with a particular focus on portfolios credentials. On macOS, there was a 127% increase in threats against cryptocurrency portfolios. The report also warned of new attack vectors, such as the use of Progressive Web Apps (PWA) and WebAPK, which allow malicious apps to be installed without explicit permissions, targeting Android and iOS users. In addition, phishing (1) continues to be on the rise, exploiting emerging technologies to distribute malware. Users of some platforms have also been the target of scams involving fraudulent payment pages created with tools such as Telekopye (2).

REGULATORY RADAR

ANPD RELEASES AGENDA FOR 2025-2026

Through Resolution No. 23, dated December 9th, 2024, the planning for the next two years was made public, showing what will be a priority for the agency in regulatory terms. In addition to continuing the themes of the previous agenda, the National Data Protection Authority is to include new items, such as personal data aggregators, health data and the legal hypotheses of consent and credit protection. Among the old items that will be regulated in the next two years, the resolution mentions the impact report on the protection of personal data, the sharing of data by public authorities, the processing of personal data of children and adolescents, biometric data and artificial intelligence.

ANPD PUBLISHES GUIDE ON THE ROLE OF THE PERSON IN CHARGE OF PROCESSING PERSONAL DATA

In line with the Brazilian General Data Protection Law (LGPD), the Brazilian National Data Protection Authority (ANPD) has released a guide to clarify how the Data Protection Officer (DPO) should act. The document provides guidance on the functions, responsibilities and role of the DPO in organizations, such as monitoring compliance with the law, responding to requests from data subjects and contacting the ANPD. The initiative aims to provide clarity for companies, helping them to implement good personal data governance practices.

[1] A cyber-attack technique used to trick people into sharing confidential information such as passwords, credit card numbers, bank details or personal information.

[2] A tool used by hackers to facilitate online scams on platforms such as e-commerce.

LEGISLATIVE RADAR

PL 4658/2024

Amends Decree-Law 2.848, of 1940 - Penal Code. To establish increased penal treatment for crimes committed by digital means.

PL 4623/2024

Establishes the National Technological Monitoring Program for Public Security and makes other provisions.

PL 4691/2024

Provides for the fundamental right and guarantee to the free expression of thought on the internet, the terms of the prohibition of anonymity on the internet, the free exercise of economic activity on the internet, the organization and operation of digital platforms, services and markets on the internet and makes other provisions.

PL 4690/2024

Provides for a prohibition on the suspension of social media profiles of candidates during the electoral period.

PL 4672/2024

Establishes the "Rural Internet for All" Program.

PL 4960/2024

Provides for the creation of the National Digital Training Program for the Elderly.

PL 4976/2024

Provides for the liability of digital platforms for the misuse of personal data for abusive consumer practices, establishes the right to remuneration for the economic use of personal data, guarantees reparation for individual and collective damage caused to consumers, adopts measures for protection and transparency in the use of personal data.

AA on social media

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