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EDITORIAL

In this edition of the Cybernews Newsletter, we highlight the major news that permeated the digital and data protection landscape in October 2024.

At the Superior Court of Justice (STJ), recent decisions reinforce the application of the Brazilian General Data Protection Law (LGPD in Portuguese) and the companies' responsibility for protecting personal data. The higher court underscored the need for proof of damage to grant compensation for data breaches, ensured the right to human review of automated decisions, held banks accountable for failures that facilitate fraud, and ruled that social media may be required to provide user data in specific cases. These precedents strengthen data protection in Brazil and safeguard the rights of data subjects.

Meanwhile, the Federal Supreme Court (STF) has been discussing the breach of data confidentiality for unidentified suspects in investigations of serious crimes. Justice Alexandre de Moraes voted in favor of the measure, sparking debates about the balance between privacy and public security.

Additionally, in the administrative sphere, the Federal Prosecution Office (MPF in Portuguese) has made advances in fostering a culture of personal data protection, achieving 66% compliance with the General Data Protection Law (LGPD). Initiatives such as creating governance committees and developing security incident response plans are some of the actions taken.



GENERAL NEWS

Artificial Intelligence: Next Steps for ANPD and Other Authorities

On October 16, the Brazilian Data Protection Authority (ANPD in Portuguese) launched a call for contributions for the preparation of the 2025-2026 Regulatory Agenda, aiming to gather inputs on topics for ANPD regulatory activity for the next years.

After international transfers, whose regulation was published in August, one of the most anticipated topics for regulation is artificial intelligence (AI), which, in addition to being the subject of Bill No. 2,338/2023, is also part of the 2023-2024 Regulatory Agenda, according to [the 2023-2024 Regulatory Agenda Monitoring Report](#), published in September 2024.

According to this Report, ANPD's AI project started in May 2024, with the purpose of analyzing and implementing regulatory alternatives related to personal data processing in the context of the use of artificial intelligence.

This initiative aims to ensure individual rights, privacy, and data protection in the field of AI, as established by the Brazilian General Data Protection Law (LGPD), particularly focusing

on article 20, which gives data subjects the right to request the review of decisions based exclusively on automated data processing.

Thus, the project proposes drafting and adopting guidelines for processing agents to design, implement, and use artificial intelligence systems, through guidance documents, such as manuals and technical studies.

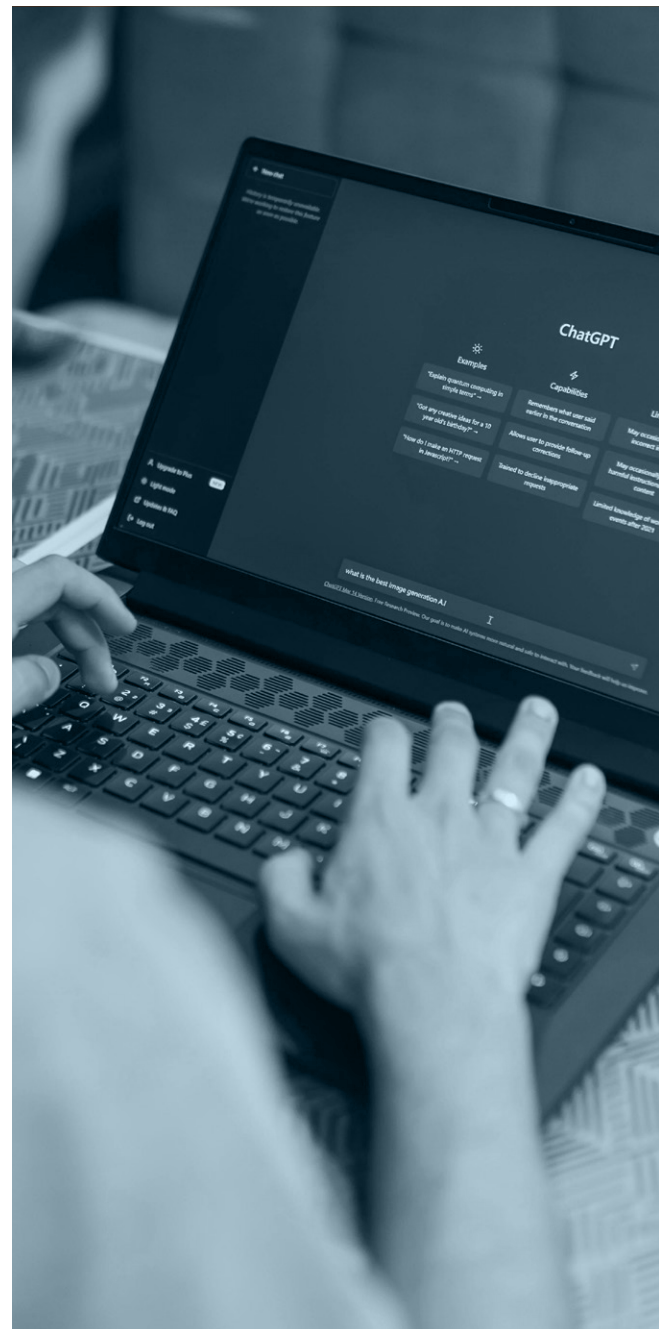
ANPD's performance regarding AI may exceed the scope of data protection, as the authority was designated, in June this year, as coordinator of the National System for Regulation and Governance of Artificial Intelligence (SIA in Portuguese), within the context of Bill No. 2,338/2023.

If approved, Bill No. 2,338/2023 will provide ANPD with important roles, including the ability to represent Brazil internationally, sign regulatory agreements with SIA members, issue guidance on certification and accreditation, and supervise and apply sanctions in cases of non-compliance with artificial intelligence legislation.

Like ANPD, the Brazilian Telecommunications Agency (Anatel) has increasingly taken a leading role in addressing AI issues, promoting and participating in several artificial intelligence actions.

One of Anatel's initiatives is forming the "IA. lab" research group, aimed at developing good practices related to the responsible use of artificial intelligence. The group will develop proposals on specific guidelines for the use of AI in the telecommunications sector, as well as produce technical literature and research reports and create the "AI Ethics Sandbox" for testing and validating ethical approaches in artificial intelligence.

In this context, new guidelines on the use of artificial intelligence are expected to be published in the coming months, especially by sectoral authorities such as ANPD and Anatel. Meanwhile, general standards and principles, such as those provided for under the data protection and telecommunications legislation, should guide the use of artificial intelligence in Brazil, to ensure the security of data subjects and telecommunications users.



JUDICIARY BRANCH

Precedents of the Superior Court of Justice in Four Years of LGPD

Within the four years since LGPD has come into force, the Superior Court of Justice (STJ) has set important precedents, shaping the responsibility of companies and digital platforms for data protection. There have been five (5) main topics covered over these years.

In cases of data leaks, the STJ has ruled that proof of damage is necessary to authorize compensation. In the case of Eletropaulo, the court denied a customer's claim for damages for the leak of common data, such as name and address, arguing that such information is not confidential to the point of justifying financial compensation.

In the field of automated decisions, the STJ ensured that service providers, such as app drivers, have the right to request a human review of decisions made on the basis of automated profiles, as in the case of a driver disqualified in 2024. The court recognized that data used to form behavioral profiles is also protected by the LGPD.

As for holding financial institutions liable, the STJ ruled that banks are responsible for failures in data processing that facilitate fraud. In a case involving the "fake boleto (bank-issued invoice) scam," informal communication between the client and the

bank allowed criminals to access personal information, which was interpreted as a flaw in the service provided, justifying the bank's liability under the LGPD and the Consumer Protection Code.

With regard to data protection on investment platforms, in the case of B3, the stock exchange was held liable for correcting data improperly inserted into investor accounts after unauthorized access. The STJ ruled that, when storing personal data, B3 must guarantee its security and respond to requests for deletion or correction, as provided for in LGPD.

Regarding the identification of users on social media, the court ruled that connection providers must, by court order, provide data such as name, address and CPF (Individual Taxpayer ID Number) of those responsible for offensive posts. The decision aims to protect the honor and memory of individuals, showing that data protection can be compatible with the defense of civil rights.

These precedents strengthen the enforcement of LGPD and reinforce the importance of proper data processing in order to avoid risks to data subjects.

Supreme Court Justice Moraes votes in favor of breaking confidentiality for unidentified suspects

Justice Alexandre de Moraes, of the Federal Supreme Court (STF), voted in favor of breaking the confidentiality of data from unidentified people, as long as they can be “identified” based on prior evidence obtained in investigations.

The decision, according to Moraes, should apply to cases of extremely serious crimes, such as pedophilia, terrorism and attacks on schools. His position was followed by Justice Cristiano Zanin, while André Mendonça took the record under advisement, interrupting the trial.

Moraes emphasized that the measure would not be broad or generic but directed at individuals potentially involved in the crime discussed in the case records.

On the other hand, retired Justice Rosa Weber criticized this approach, saying that court orders to obtain personal data with no direct correlation to the crime violate privacy and the rights provided for in the Brazilian Civil Rights Framework for the Internet

Justice Zanin also suggested a change to the Brazilian Civil Rights Framework, proposing that breach of confidentiality should only occur when there are clear and well-founded suspicions against “identifiable” individuals. The proposal seeks to balance the fight against serious crimes with the protection of fundamental rights, such as privacy and data security.



PROSECUTION OFFICE

Federal Prosecution Office (MPF) advances in fostering personal data protection culture

The Federal Prosecution Office (MPF) has adopted a strategic approach to promoting the protection of personal data within the institution, achieving 66% compliance with CNMP (Prosecution Office Nacional Council) Resolution No. 281/2023. The measure establishes the National Data Protection Policy in the Public Prosecutor's Office, guiding administrative and functional actions to align LGPD.

The initiatives include creating the Personal Data Protection Strategic Committee (Cepdap) and the Data Protection Unit, as well as drafting privacy notices and developing a Security Incident Response Plan.

The MPF also offers a channel for data subjects to consult information about their data. The revision of the Privacy Governance Program, the validation of data processing operations and amendments to contracts to ensure compliance with legislation are still in progress.

According to Leonardo Macedo, who is in charge of data protection, the MPF must set an example in complying with LGPD, demanding collaboration from all sectors of the institution.





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