

# Artificial Intelligence in Brazil

Artificial Intelligence (AI) is gaining ground in the media due to its increasing use (and extensive potential new uses) in business, driven by important developments as far as generative AI is concerned. In view of virtually endless possibilities surrounded by a few uncertainties, it is relevant to reflect about the limits and guidelines for the ethical use of AI and allow it, at the same time, to be used efficiently in business activities.

In Brazil, this discussion has led to a Bill, currently under analysis at the Federal Senate. This page covers key aspects of the Bill, guidelines on the use of AI and introduces TozziniFreire's team of partners dedicated to the topic.

## 01 Legal framework for Artificial Intelligence.

Brazil does not have a specific legislation that regulates the use, application, and development of AI systems. However, a draft for a "Legal Framework for Artificial Intelligence" has already been approved by the Senate's Committee of Jurists. This draft is a substitute for Bills no. 5,051/2019, 21/2020 and 5,051/2021. This proposal was presented by the president of the Federal Senate, Rodrigo Pacheco, on May 4, 2023.

### Proposed definition of AI:

Computing systems with different levels of autonomy, including machine learning, logic, and knowledge representation models.

### Proposed definition of AI agents:

**Producer:** agent who develops the AI system.

**Operator:** agent who employs and benefits from using the system professionally.

All agents are subject to governance obligations and can be held accountable for the use of AI.

### Risk-based approach regulation:

**(i) Excessive risk: AI is prohibited** (e.g., systems that employ subliminal techniques with the aim of inducing behaviors that are harmful to health).

**(ii) High-risk: AI subject to impact assessments and specific governance rules** (e.g., professional recruitment and biometric recognition systems).

**(iii) Non-high risk: AI subject to general obligations** (AI systems that do not fall into excessive risk or high-risk categories).

### Penalties:

Warning, fine (limited to BRL 50 million or 2% of the company's revenue), publicizing the violation, exclusion from the AI sandbox regime, suspension of authorization to develop, supply or operate the AI system, prohibition of processing specific databases.

Until there is no specific law that regulates AI systems, other existing laws will be applied as appropriate (with emphasis on the Federal Constitution, the General Data Protection Law, the Consumer Protection Law, the Civil Rights Framework for the Internet, and the Intellectual Property Law, among others). Even after a specific law to regulate AI comes into force, the previously existing laws will continue to be enforced, as appropriate (case-by-case analysis).

## 02 Guidelines for using AI systems.

In the meantime, while there is no specific law on AI systems, existing guidelines for the use of AI can serve as a source of initial guidance.

- ✓ Principles for the use of AI from the Organization for Economic Co-operation and Development (OECD).
- ✓ Ethical principles for the use of AI for health, published by World Health Organization (WHO).
- ✓ European Union Ethics Guidelines for trustworthy AI.
- ✓ Resolution No. 332/20 of the Brazilian National Council of Justice.

## 03 Impacts of AI in different areas of law.

Consumer Rights  
Corporations and Human Rights  
Corporate Governance  
Cybersecurity & Data Privacy  
Financial Innovation  
Intellectual Property  
Labor Rights  
Life Sciences and Health  
Litigation  
Tax Law

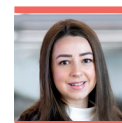
TozziniFreire, with its full-service expertise, is prepared to respond to the new challenges of artificial intelligence technologies in the most diverse areas of law.



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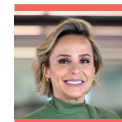
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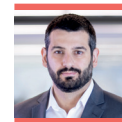
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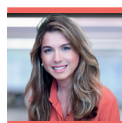
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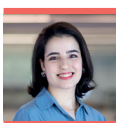
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