THE (FORMER) BILL No. 4/2025:

BRAZILIAN FEDERAL SENATE ESTABLISHES TEMPORARY COMMITTEE TO DISCUSS A NEW CIVIL CODE

A PROJECT FOR A NEW CIVIL CODE

By determination of the President of the Brazilian Federal Senate, read during the Ordinary Deliberative Session on September 23, 2025, a Temporary Committee was established to review Bill (PL) No. 4/2025. The Committee will be composed of Senators Veneziano Vital do Rêgo, Efraim Filho, Soraya Thronicke, Rodrigo Pacheco, Otto Alencar, Flávio Arns, Marcos Rogério, Carlos Portinho, Weverton, Fabiano Contarato, and Tereza Cristina. Alternates will include Senators Eduardo Braga, Sergio Moro, Zequinha Marinho, Angelo Coronel, Omar Aziz, Chico Rodrigues, Eduardo Gomes, Astronaut Marcos Pontes, Augusta Brito, Randolfe Rodrigues, and Laércio Oliveira.

It is noteworthy that the legislative procedure shall follow the rules set forth in Article 374 of the Internal Regulations of the Federal Senate, which governs 'Bills Concerning Codes.' It appears that the Senate Presidency acknowledges the criticism raised by a significant part of the legal community that Bill No. 4/2025, given the extent and severity of the proposed changes, effectively constitutes a Project for a New Civil Code.

It should be recalled that the Bill proposes inserting more than 1,200 new provisions into the Code, a significant number both because this represents more than half of the current articles, and because, if approved, it would entail a broader modification than that seen when the 2002 Code replaced the 1916 Code.

When a Bill is converted into a Code Project, the legislative process also changes, as it can no longer be subject to an urgency regime, and its final text must be considered by both Chambers of Congress. Additionally, under Article 374, item II, of the Internal Regulations, all pending or suspended legislative proposals relating to the same subject matter are to be attached to the new Code Project.

It was also announced that thematic subcommittees will be formed, mirroring the subcommittees that drafted the Preliminary Bill, in order to ensure specialization of the subject matter. Appointments are expected to be confirmed in the coming days.

A WEALTH OF CRITICISMS

The work of the Temporary Committee is expected to face numerous challenges. Beyond formal objections regarding procedure and constitutionality, the Bill has been widely criticized by the legal community and civil society.

The most recent statement came through the 'Salvador Charter,' published by the Federation of Lawyers' Institutes (FENIA), which unites all Brazilian Lawyers' Institutes, under the title 'Against the Project for a New Civil Code.' FENIA called for 'the shelving of this legislative proposal and the commitment that any discussion of potential changes to the Civil Code be preceded by a broad and effective debate, with the participation of all sectors of society and sufficient time for mature reflection. The Brazilian legal profession cannot remain silent in the face of such a serious threat to the Democratic Rule of Law and to the fundamental values of Brazilian society.'

Earlier, several entities had already voiced opposition to the Bill, including the 'Minas Gerais Charter' of July 2025, prepared by FIEMG and signed by IAMG, ACMinas, IBRADEMP, IEC, IAP, CESA/MG, CAMARB, IASP, IBDS, FECOMÉRCIO, FEDERAMINAS, LEXUM, Instituto Liberal, and CIEMG. Similarly, in April 2025, IASP released a statement signed by AATSP, CESA, CBAr, FENIA, IABA, IAC, IADF, IAG, IAMS, IAMG, IAP, IARGS, IASC, IBRADEMP, MDA, and SINSA, among others.

The reasons for criticism are multiple, as summarized below.

RISKS FOR LAW, RISKS FOR THE ECONOMY

One general criticism directed at the Project is the lack of any prior demand for a new Civil Code — both because the current one is just over 20 years old and because it has undergone several amendments since 2003, the most extensive of which was enacted through the 'Economic Freedom Act' in 2019, and the most recent in 2024, which standardized the treatment of default interest by adopting the SELIC rate as a benchmark.

The legal community has also pointed out that the Project contains deficiencies in both form (e.g., language inconsistent with legislative drafting standards, contradictions, and intra- and inter-systemic antinomies) and substance. Regarding the latter, it is argued that the Temporary Committee's original intent — to consolidate established jurisprudence without altering the foundations of the Civil Code — was not fulfilled in the final text.

From an economic and market perspective, critics also note that the Project was not preceded by any economic impact assessment, despite its potential to significantly affect corporate operations, particularly as the Tax Reform will enter into full effect after 2026.

Examples of impacts that the Project could produce if approved include:

I. new modifications to portions of the Civil Code that were recently amended or repealed, for example:

   a. a. the matter of default interest, consolidated by Federal Law No. 14,905/2024 and by the Special Court of the Superior Court of Justice (STJ) as adopting the SELIC rate as applicable, is again modified by the Bill, which proposes to make prevail the understanding that was defeated in the judgment of the Special Court (i.e., 1% per month);

   b. b. and the regulation of the insurance contract, since, although the Bill introduces important updates to Chapter XV, which governs Insurance, this chapter has been repealed by Federal Law No. 15,040/2024, known as the Insurance Contract Law, which will enter into force as of December 10, 2025;

II. the profound modification of the rules governing civil liability, which alters both its principles (e.g., the principle of full reparation is abandoned) and its provisions, as all currently effective articles are entirely replaced by new ones, establishing, for example:

   a. authorization for compensation for indirect damages, expanding the concept of causality and making it possible to extend compensability to losses that are not directly and immediately connected to the conduct of the agent (with, e.g., contamination of entire production chains and an expansion of potential liable parties);

   b. the expansion of strict liability, making its regime applicable even in cases where no risk arises from the activity normally performed: if the adjudicator considers that, in a particular and circumstantial situation, the activity generates a "special and differentiated risk," the regime of civil liability shall dispense with proof of fault;

   c. the possibility of quadrupling the amount of compensation for non-pecuniary damages (i.e. moral damages), depending on the adjudicator's assessment of the agent's fault or the recurrence of such conduct;

   d. the setting of compensation for pecuniary damages "by estimation," when there is no proof of the actual damage;

III. the significant increase in opportunities for judicial or arbitral intervention in contracts, as a consequence of:

   a. a. the possibility of declaring, even ex officio, the nullity of a clause or of an entire contract if the adjudicator considers that there is a violation of the social function ("função social") or of a rule of public order;

   b. b. the multiplication of possibilities for revision due to supervening circumstances, no longer restricted solely to cases of excessive supervening hardship;

c. the "consumerization" of contract law, e.g. in the provision that adhesion contracts shall be interpreted as if they were consumer contracts, or that contractual lesion (i.e. manifestly disproportionate obligation due to distress or inexperience) shall be presumed in cases of weakness or vulnerability of one of the parties;

d. the intent to "disunify" the law of obligations, thus abandoning one of the fundamental guidelines of the 2002 Civil Code (i.e., the unification of civil and commercial obligations) and establishing fragmented special regimes for "symmetric contracts," "asymmetric contracts," "business contracts," and "contracts with economic disparity," concepts either unknown to or not consensual in Brazilian law, thereby demanding the case-by-case creation of applicable rules;

IV. interference in the regulation of arbitration, by introducing 13 provisions referring to it, despite the existence of a specific statute governing the matter (Federal Law No. 9,307/1996), and by inserting rules that, upon analysis, have prompted criticism (e.g., the creation of the concepts of "arbitral summons" and "protest within the arbitral records," both nonexistent in arbitral practice);

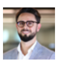
V. and the creation of a Book on Digital Civil Law, containing multiple and varied issues, ranging from the vagueness and lack of clarity of the expressions used (e.g., "informational self-determination," "mental integrity and privacy," "brain enhancement," among others), to the inadequacy of establishing provisions that overlap with and contradict other laws or bills (e.g., the Internet Civil Framework and the General Data Protection Law – LGPD – as well as the bills on digital platform regulation and the protection of children and adolescents in the online environment).

These are merely a few examples among many others that have the potential to produce a direct impact on business life in Brazil.

PRELIMINARY RECOMMENDATIONS

Given the depth of the proposed modifications, it is recommended that companies closely review both existing and future contracts. Clauses may be added to mitigate or neutralize potential effects if the Project is approved, including (i) clauses governing revision due to supervening circumstances; and (ii) limitation of liability clauses, provided that clear mutual consent is ensured and indirect damages are expressly excluded.

CONTACT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