

## Draft Bill of Data Protection Law gains momentum

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As reported in our newsletter #4 (March 2015), Brazilian Ministry of Justice published a Draft Bill of Law concerning Data Protection. Following a public debate held online from its publication in January until late July, the Draft Bill received more than 2,000 suggestions, duly studied by the Ministry of Justice. After a short period of adjustments, an enhanced version of the Draft Bill was presented on October 20, 2015.

Formally, there was a reordering of the sections, which turned the text more clear and coherent from a systematic perspective, as well as a thorough reanalysis of the terminology. On its essence, the new text partially softens polemic issues of the original version, without losing its coercive strength.

Please find below some of the important changes verified in the new version of the Draft Bill:

- An article stating the legal foundations of data protection in Brazil was included, stressing the Draft Bill's principle-infused nature ;
- The exclusion of the scope of the Draft Bill of the cases of data treatment for literary, artistic and academic purposes;
- The inclusion of three new rights for data owners: data portability, data exclusion and subsidiary application of consumer protection laws;
- The harmonization of the Draft Bill sections with the Brazilian Law on Access to Information (Law 12,527, of 2011);
- The inclusion of articles regulating the anonymization proceeding and the treatment of anonymized data;
- The elimination of the most drastic sanction set forth by the previous draft (prohibition of treatment of a database);
- The inclusion of a list of the attributions of the data protection authority; and
- The creation, composition and attributions of the National Council for Data Protection and Privacy, a consulting body composed by members of the government and of the civil society.

According to Ms. Juliana Pereira (National Secretary for Consumer Protection), the new Draft Bill will be sent to the Civil Cabinet of the Brazilian Government, with a formal request of submission to the National Congress for urgent consideration. The measure is seconded by several congressional representatives, including Senator Anoyisio Nunes Ferreira, an eminent oppositionist who sponsors a Bill of Law with similar content, currently under analysis of the Senate Commissions. In view of this support, it is possible that the Draft Bill will be soon submitted to the Congress with support of sectors of the government and of the oppositionist parties.

Our firm has closely monitored the discussions about this subject and has been providing legal advice to clients willing to take preventive measures before the enactment of the Brazilian Data Protection Law. We remain at your service should you need any additional information or legal advice in this regard. Please refer to your usual person of contact or e-mail us at [claudio.barbosa@kasznarleonardos.com](mailto:claudio.barbosa@kasznarleonardos.com) and/or [pedro.vilhena@kasznarleonardos.com](mailto:pedro.vilhena@kasznarleonardos.com).