



**Contribution of the Brazilian Government to the report regarding principles, standards and best practices in the promotion and protection of human privacy in the digital age, including responsibility of the undertakings, in accordance with Resolution 34/7 on the right to privacy in the digital age**

The Secretariat of Information Technology of the Ministry of Science, Technology, Innovations and Communications was charged by Decree No. 8.877 (October 18th 2016) to formulate the Brazilian digital strategy. This strategy was consolidated through an initiative named “E-Digital” (promulgated by Decree n. 9.319, of March 21, 2018), which seeks to coordinate governmental actions into a sole, synergistic and coherent perspective, in order to support the digitalization of productive processes and training for the digital environment.

E-Digital provides for strategic actions related to the issues of protection of rights and privacy, security and data-based economy.

Regarding the **protection of rights and privacy**, E-Digital seeks to:

- Promote the adoption of a specific law concerning protection of personal data;
- Foster mechanisms of cooperation and partnership between public institutions and market agents in order to protect human rights in the Internet, with special attention to children and adolescents, aiming at ensuring the principles set out in the Brazilian Civil Rights Framework for the Internet (“Marco Civil da Internet”) as well as in the Brazilian Federal Constitution;
- Strengthen mechanisms of international cooperation between government authorities and providers of access and content operating in several countries, in order to ensure the application of the law in the digital environment;
- Create or designate a national level authority with powers related to the protection of personal data and the international flow of data, which will be able to standardize best practices and provide legal certainty;

- Promote the definition and adoption of standards of "privacy by design and default" and "security by design and default";
- Evaluate the potential social and economic impacts that disruptive digital technologies - such as Artificial Intelligence and "Big Data"- and propose policies to mitigate their negative impacts at maximize its positive effects.

It is important to note that Brazil has legislation already in force regarding the right to privacy in the digital age. The Brazilian Civil Rights Framework for the Internet (“Marco Civil da Internet”) sets out principles, guarantees, rights and obligations related to use of the Internet in the country. It establishes principles for network-related topics, such as personal data protection, e-commerce, cybercrime, copyright, internet governance and digital citizenship. It also ensures the protection of privacy and personal data in the digital environment, in addition to the inviolability of intimacy, privacy and confidentiality of the flow of communications and the prohibition of the provision to third parties - except by consent or other exceptions provided by law.

Brazilian law (Law No. 8.078/1990) enshrines the right to information and rectification and equates credit protection services with public entities, as a means of enforcing the right of access to information through the filing of a habeas data . The Positive Registration Law (Lei do Cadastro Positivo), of June 9, 2011, safeguards personal data in the context of credit analysis and database formation within this framework. The Law on Access to Information (November 18th, 2011), establishes rules to the collection and processing of personal data by public authorities. Decree No. 8.771 (May 11th, 2016) provides standards for security and confidentiality of personal data, such as strict access control, double-factor authentication, detailed accesses to inventory and encryption of databases.

With regards to **data security**, E-Digital seeks to:

- Elaborate a national cyber security policy, including the definition of a national body responsible for the articulation of a national cybersecurity system, involving public and private sectors;
- Consolidate a legal framework for cybersecurity, harmonizing the existing Brazilian criminal and procedural laws and consider new investigative instruments for the digital world;

- Develop national and subnational prevention plans, incident response and cyber threat mitigation, including with regards to critical infrastructure;
- Establish mechanisms for cooperation between government entities, federal units and private sector aiming at the adoption of best practices, information exchange, adoption of adequate security measures standards, coordination of response to incidents and protection of critical infrastructure;
- Train public agents in security and cyber threat mitigation, as well as to develop partnerships to train private sector's human resources;
- Carry out comprehensive educational campaigns to expand awareness of the population on the issue of security of information;
- Train specialized human resources and invest in research and development in the field of defense and cybersecurity, with a view to promote national technological autonomy in terms of skills and products;
- Strengthen mechanisms of cooperation between authorities and between providers of access and content in different countries, in order to ensure the application of law in the digital environment, especially in cases where the transnational nature of crimes and cyber threats involves more than one jurisdiction.

In this respect, it should be noted that the interception of communications systems and telematics systems is ruled by Law No. 9296 (July 24th, 1996), which foresees that such activities are only allowed in the course of criminal investigations and investigative criminal proceedings, subject to a judicial order and under legal confidentiality. In addition, the conditions of use of end-to-end cryptography by instant messaging applications and the limits and possibilities of cooperation of the providers of such applications with criminal investigation bodies are topics currently under debate in the Federal Supreme Court (cases: ADIN 5527 and ADPF 403).

It is crucial to advance in the field of international cooperation regarding criminal investigation and the protection of human rights, by establishing faster and more effective procedures to obtain judicial protection, upholding, in all cases, individual liberties and the due process of law.

In the area of **data-based economy**, E-Digital seeks to:

- Promote the adoption of the policy measures regarding incentives and attraction of data centers to establish in the country;
- Improve the National Policy on Open Government Data and encourage the use of tools, systems and data-based processes;
- Promote cooperation between relevant authorities and the harmonization of data regulatory frameworks, in order to facilitate the participation of Brazilian companies, including small and medium enterprises in global markets;
- Foster cooperation between Government, university and company representatives in order to facilitate the exchange of knowledge and technologies which are relevant to the data market.