

New review of the LGPD: Brazilian Congress rejects the presidential vetoes and reestablish sanctions

By Claudio Barbosa and Larissa Martins

After the enactment of Law n.13,853/2019 by the President, implementing partial vetoes to Law n.13,709/2018 (Brazilian General Data Protection Law – “LGPD”), the Brazilian Congress rejected some of the vetoes with a direct impact on the application of the LGPD. The analysis of the vetoes started on September 24, 2019 and was finished on October 2nd, 2019, in the following terms:

Maintained veto

It was kept the possibility of an automated individual decision-making solely based on automatic processes. In other words, the revision by a natural person is not mandatory. (Section 20, §3^o of LGPD).

Rejected vetoes

The following administrative sanctions were reestablished under the hypothesis of the Section 52 of LGPD:

- partial suspension of the database operation related to the data protection infringement up to a 6 months term. The suspension may be renewed by an equal period, until the correction the data processing activity;
- suspension of the personal data processing activity related to the infringement for a maximum period of 6 months, extendable for an equal period;
- partial or total prohibition of the personal data treatment activity;
- private and public entities may either be subject of legal sanctions.

The reestablishment of the sanctions increases the security of data subjects. However, the continuous changes in the statute is a cause of uncertainty. In our opinion, only with the effective establishment and operation of the Brazilian National Authority a clearer vision of proceedings and sanctions will be achieved.

We will monitor the new developments of this matter, and our Digital Law Team is ready to assist your company. If you want to obtain a copy of the text or receive additional information of the matter, please contact us at digital@kasznarleonardos.com.