Brazil: General Data Protection Law is enacted

The Brazilian General Data Protection Law (GDPL) was enacted on August 14, 2018. The law will enter into force 18 months after published.

The GDPL provides for the processing of personal data, including digital media, by a natural or legal person, in order to protect fundamental rights of freedom and privacy. The GDPL also amends some provisions of the Internet Act (Law 12.965/ 2014), harmonizing and consolidating Brazilian legislation on the use of personal data.

The main points of the GDPL are:

- Companies should collect only the data necessary for the services provided;
- Personal data should be excluded after the relationship between the client and the company ends;
- Data from children should be treated with parental or legal guardian consent;
- Companies should take security measures to protect unauthorized access to data and from accidental or unlawful situations of destruction, loss, alteration, communication or any form of inappropriate or illicit treatment;
- The data controller should report cases of security incidents that may cause risk or damage to the holder of the information;
- Possibility of fine of 2% of the billing of companies that do not comply with the law, limited to a maximum of BRL 50 million per infraction.

The law does not apply for data used by individuals for exclusively private and non-economic purposes, for journalistic or artistic purposes, academic purposes, public security, national defense, state security or investigations and repression of crimes.

Among the excerpts vetoed by the President of the Republic and previously approved in the Congress and Senate, is the creation of the National Data Protection Authority (NDPA), which would be responsible for elaborating guidelines for a National Policy on Personal Data Protection and Privacy and apply sanctions in case of violation of the GDPL. There is still no specific definition on the future creation of the NDPA, only an informal manifestation of a possible new standard for such purpose.