

AI regulation in Brazil

15.09.2023 3 min read

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Just as in other countries around the world, in Brazil the regulation of artificial intelligence raises intricate questions and vital policy issues.

Related areas

Data Privacy and Cybersecurity

Since 2019, Brazil's National Congress has debated a number of bills on the subject, each reflecting distinct aims and approaches, which are now being considered by the Chamber of Deputies and the Senate.

The main proposals for legislation on artificial intelligence in Brazil are:

Topics

Artificial Intelligence Data
Privacy and Cybersecurity
Innovation Bill

Bill PL 5.051/2019

Presented in September 2019 by Senator Styvenson Valentim, Bill 5.051 focuses on establishing principles for the use of artificial intelligence in Brazil, without providing for specific obligations or sanctions for violation of its provisions. This is the most generic of the bills, drafted at a time when AI still had not gained the public attention it has now.

Bill PL 5.691/2019

Also presented by Senator Styvenson Valentim, in October 2019, this bill proposes a National Policy on Artificial Intelligence based on principles and directives similar to those under Bill PL 5.051/2019. Like the Senator's earlier proposal, it does not establish additional obligations or specific rules for governance of AI systems.

Bill PL 21/2020

Presented in February 2020 by Deputy Eduardo Bismarck, this is the only bill that has been approved by one of the Congress's houses, in September 2021.

Bill PL 21/2020 is a more robust proposal, which establishes specific definitions for AI systems and AI agents, provides for principles and foundational concepts, and creates access to information rights, duties for AI agents, and powers for government authorities.

Bill PL 872/2021

Presented in February 2021 by Senator Veneziano Vital do Rêgo, this proposal is very similar to Bill PL 5.051/2019, and simply proposes general principles for the use of artificial intelligence and guidelines for government authorities. Although it was proposed later than the preceding bills, it is very succinct, and less prescriptive than Bill PL 21/2020.

Bill PL 2.338/2023

Presented in May 2023 by Senator Rodrigo Pacheco, the President of the Federal Senate, this is the most complete proposal to date. Bill PL 2.338/2023 draws on work done by a Commission of Jurists formed by the Senate to assist it in drawing up a bill to substitute Bills PL 5.051/2019, 21/2020 and

872/2021. The Commission's final report was more than 900 pages in length.

The President of the Senate accepted the draft bill submitted by the Commission of Jurists in its entirety, and Bill PL 2.338/2023 is now moving through the legislative process together with the three bills it is intended to replace. Bill 2.338/2023 is currently with the Senate's Temporary Internal Commission on Artificial Intelligence in Brazil for review.

The bill is closely aligned with the European Union's AI Act. In its 45 pages, it establishes various rights for persons affected by artificial intelligence systems (such as the right to contest decisions and predictions) and creates risk categories, imposing bans for systems that present excessive risk and special governance measures for high risk systems. The bill imposes strict liability on suppliers and operators of both excessive risk and high risk systems.

The bill also establishes notification obligations for serious incidents and provides for the designation of a government authority to implement and monitor compliance with the legislation. Already some regulatory agencies, like the National Data Protection Authority – ANPD, have already tried to assert jurisdiction over artificial intelligence matters.

Bill PL 2.338/2023 is the only proposal to include administrative sanctions for violation of its provisions. The proposed sanctions are even more severe than those under Brazil's General Data Protection Law, with fines of up to 2% of the after-tax revenue earned by the offending company and its group or conglomerate in Brazil.

As this overview shows, there is no lack of proposed legislation to govern the use and development of artificial intelligence in Brazil. Depending on how quickly National Congress acts, Brazil may be the first country in the world to adopt comprehensive legislation at the federal level.

Still, given the importance of the issues at stake and the consequences that inadequate regulation may have, National Congress should not rush to pass legislation without ensuring ample opportunities for debate and discussion, involving all sectors of the economy.

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