



## THE QUESTION REMAINS: WHEN IS LGPD COMING INTO EFFECT?

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On August 14, 2018 Brazil passed the Law No. 13,709/18 (General Personal Data Protection Law - LGPD) which should have come into effect this month, however it did not.

Due to the Pandemic, during the last months there has been some legislative initiatives aiming at a new extension of the term for the LGPD to come into effect (the LGPD initially foresaw a 18-month adaptation period, which was extended to 24 months by means of the Law n° 13853/19, through which the National Data Protection Authority - ANPD was also created).

Although the formal creation of the ANPD in 2019 was celebrated, the truth is that up to now the ANPD does not exist, which brought several uncertainties that have been reinforced by the current pandemic situation. This scenario strengthened the speech about the need to postpone the effectiveness of the LGPD.

As a result, the enforceability of administrative sanctions provided for in articles 52, 53 and 54 of the LGPD has been postponed to August 1, 2021, pursuant to Law No. 14.010, enacted on June 10, 2020.

As to the other provisions of LGPD, there is still uncertainty on when they will actually come into effect.

Currently, pursuant to *Medida Provisória*<sup>1</sup> 959/2020, the LGPD will come into effect on May 3, 2021.

However, MP 959/2020, which was scheduled to be voted in the Parliament on August 18, 2020, was removed from the agenda. If the MP is not converted into law within the

legal term and, consequently, becomes ineffective, the LGPD shall come into effect later this month, except for the administrative sanctions (already postponed under Law No. 14.010 / 20).

There is clearly a lack of definition as to the effective entry into force of the LGPD. In any case, we have been recommending our clients to start their data protection implementation projects or to keep those that have already been started, as this is a process that can be quite complex depending on the company's size, structure and industry.

It is also important to highlight that the protection of personal data and conformity to the LGPD rules should not be seen only as a way to reduce regulatory risks and avoiding sanctions, but it should be considered as a competitive advantage, benefiting the image and reputation of companies, since it is already possible to notice the awareness of consumers and stakeholders in relation to data protection issues.

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<sup>1</sup> *Medidas Provisórias (MP)* are rules issued by the President in situations considered relevant and urgent. Despite producing immediate legal effects (as they are compared to laws), the MP must be submitted for approval by the two Houses of Brazilian Congress (Parliament and Senate) to become an ordinary law. The initial effectiveness term is 60 days and is automatically extended for an equal period if its voting has not been completed at the two Houses of Congress.