

RESOLUTION Nº 23, OF DECEMBER 9, 2024

Approves the Regulatory Agenda for the 2025-2026 biennium.

The BOARD OF DIRECTORS OF THE NATIONAL DATA PROTECTION AUTHORITY – ANPD, in the use of legal attributions, considering the provisions of article 55-J, XIII, of Law Nº 13,709 of August 14, 2018, and the provisions of article 7 of Ordinance CD/ANPD Nº 16 of July 8, 2021, as well as the deliberation taken in file Nº 00261.005081/2024-49, resolves:

Art. 1º The Regulatory Agenda of the National Data Protection Authority (ANPD) for the 2025-2026 biennium is hereby approved in the form of the Annex.

Art. 2º The initiatives of the Regulatory Agenda for the 2025-2026 biennium are classified into phases, in order of priority:

I – Phase 1: items for which the regulatory processes come from the Regulatory Agenda for the 2023-2024 biennium, approved by Ordinance No. 35, of November 4, 2022, with the amendments of Resolution CD/ANPD No. 11, of December 27, 2023;

II – Phase 2 – items for which the regulatory process will begin within 1 year;

III – Phase 3 – items for which the regulatory process will begin within 1 year and 6 months; and

IV – Phase 4 – items for which the regulatory process will begin within 2 years.

Sole Paragraph. The initiatives referred to in item I of the head provision of this article shall prevail over the other items in the Regulatory Agenda.

Art. 3º ANPD shall consider the themes contained in the Regulatory Agenda for the 2025-2026 biennium as priorities when planning and executing educational actions.

Art. 4º This Resolution enters into force on the date of its publication.

WALDEMAR GONÇALVES ORTUNHO JÚNIOR

Director-President

ANNEX I

REGULATORY AGENDA – 2025-2026

Item	Initiative	Description	Prioritization
1	Data subjects' rights	LGPD establishes data subjects' rights, but several points need regulation, which shall deal with this right, including, but not limited to Articles 9, 18, 19, and 20.	Phase 1
2	Data Protection Impact Assessment	According to Article 55-J, item XIII, ANPD is responsible for issuing regulations and procedures	Phase 1

		on the protection of personal data and privacy, as well as on data protection impact assessment reports for cases where the processing represents a high risk to the guarantee of the general principles of personal data protection.	
3	Data sharing by government authorities	Chapter IV of LGPD provides regulations for the processing of personal data by government authorities. The regulatory action aims at establishing the requirements to be observed in the event of sharing of personal data by government authorities. Particularly noteworthy is the provision in Article 30 of LGPD, which assigns to ANPD competence to establish supplementary rules for activities of communication and of shared use of personal data. In addition, it is necessary to regulate Articles 26 and 27 of LGPD, which deal with data sharing between government authorities and legal entities of private law, especially regarding the procedures to be adopted and the information to be provided to ANPD, in order to comply with the provisions of the Law.	Phase 1
4	Processing of children's and adolescents' personal data	The main objective of this regulatory action is to establish procedures and guidelines to guarantee the rights and protection of personal data of children and adolescents, especially in the digital environment. As addressed in the Call for Contributions held between June and August 2024, the following topics are part of the scope of the project: (i) the principle of best interest; (ii) consent provided by parents and guardians; (iii) the collection of information by games and internet applications; (iv) the transparency of operations carried out with the personal data of children and adolescents; (v) mechanisms for measuring the age of users of games and internet applications; and (vi) the establishment of guidelines and the identification of good practices expressing a set of normative principles, technologies and design measures, which promote and ensure the privacy and effective protection of the personal data of children and adolescents in games and internet applications.	Phase 1
5	Sensitive Personal Data – Biometric Data	As discussed in the study “Biometrics and facial recognition” (Radar Tecnológico, ANPD, 2024), the processing of biometric data has expanded and become popular in recent years, especially for the purpose of verifying identity with facial recognition techniques in various contexts, such as schools, border control, football stadiums and financial transactions. If, on the one hand, the processing of such data may increase security and help prevent fraud; on the other hand, it also increases the risks to data subjects, such as negative impacts resulting from errors in the systems used and discriminatory	Phase 1

		<p>effects on vulnerable groups.</p> <p>Given the relevance of the subject, it is necessary for ANPD to intervene, either through regulations or guidelines, in order to establish parameters that ensure that biometric data is processed in a balanced manner and in compliance with personal data protection legislation.</p>	
6	Technical and administrative security measures (including minimum technical standards)	<p>Pursuant to Article 46 of the LGPD, processing agents shall adopt technical and administrative security measures able to protect the personal data from unauthorized accesses and accidental or unlawful situations of destruction, loss, alteration, communication, or any form of improper or unlawful processing. Paragraph 1 of the article establishes that the ANPD may establish minimum technical standards to make the main provision of this article applicable, taking into account the nature of the information processed, the specific characteristics of the processing, and the current state of technology, especially in the case of sensitive personal data, as well as the principles set forth in the Law.</p>	Phase 1
7	Artificial Intelligence	<p>The project will continue the discussions initiated with the Call for Contributions on the topic, released in November 2024. Special consideration will be given to the establishment of interpretative parameters for the application of art 20 of the LGPD, which provides for the right to review automated decisions.</p> <p>Furthermore, in view of the application of the LGPD in the contexts of training and use of AI systems, the following aspects will also be considered in the project: (i) data subjects' rights; (ii) LGPD principles; (iii) legal hypotheses; and (iv) best practice and governance.</p>	Phase 1
8	Processing of High-Risk Personal Data	<p>The project complies with the provisions of paragraph 3 of Article 4 of the Regulation for the application of Law 13,709/2018 – Brazilian Data Protection Law (LGPD) – for small-scale data processing agents, approved by Resolution CD/ANPD No. 2, of January 27, 2022. The main objective is to provide data processing agents, especially small-scale ones, with guidelines and parameters for the definition and identification of hypotheses for the processing of high-risk personal data.</p>	Phase 1
9	Religious Organizations	<p>The regulatory action aims at establishing guidelines for religious organizations regarding the measures necessary for their adequacy to the LGPD, considering their specificities.</p>	Phase 1
10	Anonymization and pseudonymization	<p>In compliance with Article 12, paragraph 3, of the LGPD, the regulatory action aims at establishing standards and techniques used in anonymization and pseudonymization processes, in order to</p>	Phase 1

		present guidelines and clarifications on the subject, in accordance with the provisions of LGPD.	
11	Guidelines for the National Policy for the Protection of Personal Data and Privacy	In view of the legal determination established in Article 55-J, item III of LGPD, for the elaboration of guidelines for the National Policy for the Protection of Personal Data and Privacy, the initiative is necessary to direct the actions of all the actors involved in the data protection ecosystem, including ANPD. The Policy shall consider the strategic guidelines and subsidies that must be proposed by the National Council for the Protection of Personal Data and Privacy (CNPD), as provided for in art. 58-B, I, of the LGPD.	Phase 2
12	Rules on good practices and governance	Article 50 of LGPD provides that controllers and processors, within the scope of their duties for personal data processing, individually or by associations, may formulate rules for good practices and governance that provide for organization conditions, operational arrangements, procedures, including complaints and requests from data subjects, security rules, technical standards, specific obligations for those involved in the processing, educational activities, internal mechanisms for supervision and risk mitigation, and other aspects relating to personal data processing. When establishing rules of good practices, the controller and the processor shall consider the nature, scope and purpose, regarding the processing and the data, as well as the probability and severity of the risks and benefits arising from the processing of the data subject's data. The LGPD determines that rules on good practices and governance shall be published and updated periodically and may be acknowledged and disseminated by ANPD.	Phase 2
13	Personal data brokers	As provided in the Priority Themes Map 2024-2025, the activity of personal data brokers was included among the priority topics for ANPD enforcement. Data brokers often use data scraping, a practice that raises critical questions about their compliance with LGPD principles, especially regarding purpose, good faith and the protection of data subjects' rights. Providing clear guidance on the transparency measures to be adopted, on the legal hypotheses appropriate for the processing of personal data by data brokers, and on the limits of the use of public data and data made manifestly public, among other aspects, is essential to better guide processing agents and prevent abuses.	Phase 2
14	Sensitive Personal Data – Health Data	LGPD establishes stricter rules for the processing of sensitive personal data, notably health data. One of the aspects considered by LGPD is the sharing of personal health data for economic purposes. In	Phase 2

		<p>this sense, article 11, paragraph 3, establishes that communication or shared use of sensitive personal data among controllers for the purpose of obtaining an economic advantage may be prohibited or regulated by ANPD, after hearing the sectoral Government entities, within their regulatory capacity.</p> <p>In turn, paragraph 4 of the same article prohibits communication or shared use of sensitive data relating to health among controllers for the purpose of obtaining an economic advantage, subject to the exceptions provided for in the same provision and in its sections. Other relevant aspects to be considered by the regulatory action are: (i) the concept of sensitive personal data relating to health; and (ii) the specific legal hypotheses related to the health sector, especially those provided for in Article 7, VIII and in Article 11, II, "f", of LGPD. The regulatory action must consider the specificities of the Unified Health System (SUS) and the processing agents that operate in the sector, such as supplementary health operators. Furthermore, the requirements and specificities resulting from sectoral regulation will be observed.</p>	
15	Legal Hypothesis – Consent	<p>The regulatory action aims at establishing parameters and guidelines on the requirements to be observed when using the legal hypothesis of consent.</p> <p>The validity of consent depends on elements such as freedom of choice, clarity of the information provided, the specific purpose of the processing and the possibility of revocation at any time, without any burden on the data subject.</p>	Phase 3
16	Legal Hypothesis – Credit Protection	<p>In a scenario where individuals' financial information is increasingly used for analysis and credit granting decisions, the protection of this data becomes crucial to guarantee the privacy and security of data subjects. The regulatory initiative on the legal hypothesis of credit protection, provided for in Article 7, X, of LGPD, may provide guidance to data processing agents regarding its application, allowing for a balance between data subjects' right to privacy and the need of financial institutions and other data processing agents to access information relevant to credit risk analysis.</p>	Phase 4