

Brazilian Civil Rights Framework for the Internet

DECREE NO. 12,975,
OF MAY 20, 2026

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Amends Decree No. 8,771, of May 11, 2016,
which regulates Law No. 12,965, of April 23,
2014.

THE PRESIDENT OF THE REPUBLIC, in the exercise of the powers conferred upon him by Article 84, *caput*, items IV and VI, subitem “a”, of the Constitution, and in view of the provisions of Law No. 12,965, of April 23, 2014,

DECREES:

Article 1. Decree No. 8,771, of May 11, 2016, shall enter into force with the following amendments:

"Article 1. This Decree regulates Law No. 12,965, of April 23, 2014, to provide for the duties of internet service providers and application providers, and encompasses the following aspects:

I - admissible cases of data packet discrimination on the internet and traffic degradation;

II - duties and procedures for the retention and protection of data by internet connection providers and internet applications providers, and others relating to third-party generated content and the protection of internet users' rights;

III - transparency measures:

a) regarding requests for registration data by the public administration; and

b) regarding the fulfillment of the duty of care by internet application providers within the scope of their services; and

IV - parameters for the enforcement and investigation of violations provided for in Law No. 12,965, of April 23, 2014." (NR)

"CHAPTER III PROTECTION OF RECORDS, PERSONAL DATA, PRIVATE COMMUNICATIONS, AND OTHER USER RIGHTS

Section II

Security and confidentiality standards for records, personal data, and private communications

Article 15-A. The duty of internet connection providers and internet application providers to retain IP address records, as provided for in Article 13 and Article 15 of Law No. 12,965, of April 23, 2014, shall encompass the associated source port whenever necessary for the unambiguous identification of the source terminal or the next network hop.

Paragraph 1. The obligation to retain the source port shall not be contingent upon any prior request and shall fall autonomously on each provider.

Paragraph 2. The provision of the source logical port and the data linked thereto shall comply with the provisions of Article 10 and Article 22 of Law No. 12,965, of April 23, 2014." (NR)

"CHAPTER III-A LIABILITY OF INTERNET APPLICATION PROVIDERS

Section I

General duties of internet application providers

Article 16-A. The following are duties of internet application providers:

I - to establish and maintain a registered office and a legal representative in the Country, with powers to:

- a) answer before the administrative and judicial spheres;
- b) provide the competent authorities with information regarding:
 - 1. the operation of the provider;
 - 2. the rules and procedures used for content moderation and for managing complaints through internal systems;
 - 3. transparency reports, monitoring, and systemic risk management; and
 - 4. the rules for user profiling, the display of advertising, and paid promotion of content;
- c) comply with judicial orders; and
- d) answer for and comply with any penalties, fines, and financial sanctions incurred by the represented party;

II - to provide a permanent and easily accessible reporting channel for receiving and handling notifications that expressly includes the possibility of reporting criminal or unlawful content;

III - to adopt measures to prevent the operation of artificial networks for the distribution of unlawful content; and

IV - to adopt the necessary means to ensure the security and transparency of services.

Sole Paragraph. The legal representative referred to in item I of the *caput* shall be established as a legal entity, and their contact information shall be easily accessible on the website of the represented party." (NR)

"Section II

Duty of care regarding criminal content

Article 16-B. Internet application providers that carry out the intermediation for content generated by third parties shall be held liable in the event of a systemic failure to immediately remove content that constitutes:

I - crimes of terrorism or preparatory acts of terrorism as defined in Law No. 13,260, of March 16, 2016;

II - crimes of inducing, instigating, or aiding suicide or self-harm, pursuant to the provisions of Article 122 of Decree-Law No. 2,848, of December 7, 1940 - Penal Code;

III - incitement to discrimination on the basis of race, color, ethnicity, religion, national origin, sexuality, or gender identity, including homophobic and transphobic conduct, punishable under Article 20, Article 20-A, Article 20-B, and Article 20-C of Law No. 7,716, of January 5, 1989;

IV - crimes committed against women on the basis of their gender, including content that propagates hatred or aversion toward women, pursuant to the provisions of Law No. 10,446, of May 8, 2002, Law No. 11,340, of August 7, 2006, Law No. 14,192, of August 4, 2021, and Article 141, paragraph 3, Article 146-A, Article 147, paragraph 1, Article 147-A, and Article 147-B of Decree-Law No. 2,848, of December 7, 1940 - Penal Code;

V - sexual crimes against vulnerable persons, sexual exploitation of children and adolescents, and serious crimes against children and adolescents, pursuant to the provisions of Article 217-A, Article 218, Article 218-A, Article 218-B, and Article 218-C of Decree-Law No. 2,848, of December 7, 1940 - Penal Code, and Article 240, Article 241-A, Article 241-C, and Article 241-D of Law No. 8,069, of July 13, 1990;

VI - human trafficking, pursuant to the provisions of Article 149-A of Decree-Law No. 2,848, of December 7, 1940 - Penal Code; and

VII - conducts and acts classified in Article 286, sole paragraph, Article 359-L, Article 359-M, Article 359-N, Article 359-P, and Article 359-R of Decree-Law No. 2,848, of December 7, 1940 - Penal Code.

Paragraph 1. An internet application provider shall be deemed to have committed a systemic failure if it fails to demonstrate the adoption of adequate measures to prevent or remove the unlawful content referred to in the *caput* that:

I - provide, in accordance with the state of the art, the highest levels of security for the type of service they offer; and

II - inhibit the widespread circulation of the content referred to in items I to VII of the *caput*.

Paragraph 2. The assessment of the occurrence of a systemic failure shall be carried out by the competent authority based on mechanisms of oversight and periodic analysis.

Paragraph 3. The existence of the unlawful content referred to in the *caput* in isolation does not, in and of itself, constitute a systemic failure; in such cases, the provisions of Article 16-G shall apply.

Paragraph 4. The providers of internet application referred to in the *caput* shall make available to the competent authorities the information and data necessary to verify the adoption and implementation of the measures referred to in paragraph 1.

Paragraph 5. Regarding the crimes referred to in item V of the *caput*, the provisions of Law No. 15,211, of September 17, 2025, shall apply, as applicable." (NR)

"Article 16-C. Internet application providers shall, without prejudice to their duty of care, diligently monitor, identify, assess, and manage, the systemic risks created or heightened by their activities or by the circulation of the content referred to in Article 16-B." (NR)

"Section III Notification of criminal or unlawful content

"Article 16-D. The notification regarding criminal or unlawful content submitted through the channel referred to in Article 16-A, *caput*, item II, shall contain, under penalty of nullity:

I - elements that allow the identification of the possible criminal or unlawful conduct, or, in the cases referred to in Article 16-J, sole paragraph, an indication of the respective judicial decision;

II - information that allows the specific identification of the criminal or unlawful content to be made unavailable; and

III - identification of the notifying party and, where applicable, an indication of the grounds for their legal standing.

Sole Paragraph. The competent authority may regulate:

I - the form of notification and response;

II - the timeframe for content removal and for the response to the notifying party;

III - the parties with standing to notify;

IV - the timeframe for the responsible for the content to respond; and

V - any other necessary procedures." (NR)

"Article 16-E. Upon receipt of a notification of a crime or unlawful act, the internet application provider shall:

I - confirm receipt of the notification to the notifying party; and

II - evaluate the content of the notification and take the appropriate measures, observing the following:

a) in the event of removal, the internet application provider shall communicate the decision to the notifying party and to the user who published the content and shall inform them of the specific grounds for the removal and the means to challenge it;

b) in the event of non-removal of the content subject to notification, the internet application provider shall communicate the decision to the notifying party and shall inform them of the specific grounds for maintaining the content and the means to challenge it; and

c) in the event of reconsideration following a challenge, the internet application provider shall communicate the decision to the user who published the content and to the notifying party, providing the respective grounds." (NR)

"Article 16-F. Internet application providers shall adopt measures to curb the unlawful or abusive use of notification instruments, particularly those that infringe upon the right to freedom of expression." (NR)

"Section IV Unavailability of criminal content

Article 16-G. Without prejudice to the obligations provided for in Article 16-A, Article 16-B, and Article 16-C, internet application providers shall make unavailable, in response to the notifications referred to in Article 16-D and Article 16-E, third-party generated content that constitutes a crime under national legislation, except for offenses against honor.

Paragraph 1. The internet application provider may keep the content available if, following a diligent and reasoned analysis, it concludes that there is reasonable doubt regarding the criminal nature of the content, taking into account the proportionality between the doubt and the severity of the crime; in such cases, the provider shall communicate to the notifying party the reasons for not removing the content.

Paragraph 2. In order to ensure freedom of expression, the application of the measures provided for in this Article shall consider the context of the publications, freedom of religion and belief, and any potential informational, educational, or critical, satirical, or parodic purpose." (NR)

"Article 16-H. Internet application providers, upon identifying or concluding that content relates to criminal conduct, shall forward the content and the information

necessary to identify the authorship and the materiality of the crimes to the Public Authorities.

Sole Paragraph. An act of the Minister of State for Justice and Public Security shall regulate the manner of compliance with this Article, including the possibility of forwarding the information referred to in the caput to the central body responsible for receiving, processing, and making it available to the competent authorities, without prejudice to the constitutional and legal powers of the federated entities." (NR)

"Article 16-I. In determining the administrative liability of the internet application provider for non-compliance with the provisions of Article 16-G, the competent authority shall evaluate the provider's diligent, proportionate, and prompt handling of the notifications received; liability based exclusively on the maintenance or isolated removal of content subject to notification is prohibited.

Sole Paragraph. The competent authority is prohibited from notifying internet application providers to moderate criminal or unlawful content in isolation." (NR)

"Article 16-J. The liability of an internet application provider for content generated by a third party shall depend on a specific judicial order, pursuant to the provisions of Article 19 of Law No. 12,965, of April 23, 2014, in the following cases:

I - crimes and unlawful acts against honor; and

II - the services referred to in Article 16-O.

Sole Paragraph. In the event of successive replications of the offensive fact recognized by a judicial decision, all internet application providers that act as intermediaries for content generated by third parties shall remove publications with identical content, regardless of new judicial decisions, upon judicial or extrajudicial notification." (NR)

"Section V

Advertisements, paid promotion of content, and misleading, abusive, or fraudulent advertising

Article 16-K. Internet application providers that, for a fee, make tools available for advertising or promoting content shall adopt appropriate measures to prevent the contracting of content that constitutes a crime or an unlawful act." (NR)

"Article 16-L. The liability of the internet application provider is presumed when unlawful content is conveyed in advertisements, paid promotion of content, or through artificial content distribution networks, regardless of notification.

Sole Paragraph. Internet application providers shall be exempt from liability if they prove that they acted diligently and within a reasonable time to make the content unavailable." (NR)

"Article 16-M. Internet application providers that, for a fee, make tools available for advertising or promotion of content shall retain, for a period of one year from the date the content ceases to be displayed, the information relating to each advertisement or promotion and to the respective advertisers.

Sole Paragraph. The competent authority may regulate the manner of access to the information referred to in this Article, in order to enable the enforcement of the duties of internet application providers, subject to the powers of the National Consumer Secretariat of the Ministry of Justice and Public Security." (NR)

"Article 16-N. Without prejudice to the obligations provided for in Article 16-A to Article 16-M, internet application providers shall, upon notification, remove content generated by third parties that constitutes misleading, abusive, or fraudulent advertising, pursuant to the provisions of Article 37 of Law No. 8,078, of September 11, 1990 - Consumer Defense Code.

Paragraph 1. The notification referred to in the *caput* may be issued by an authority that is part of the National Consumer Defense System or, when the misleading, abusive, or fraudulent advertising is related to public policies, by the Office of the Attorney General of the Union.

Paragraph 2. For the purposes of the provisions of this Article, content that is not clearly identifiable by the user as advertising shall be deemed misleading advertising." (NR)

"Section VI

Scope of application and differentiated criteria

Article 16-O. The obligations provided for in Article 16-B to Article 16-J do not apply to the following categories of services provided by internet application providers:

I - email services, understood as internet application services intended exclusively for solely asynchronous, point-to-point communication, consisting of the transmission, receipt, and storage of electronic messages between senders and recipients previously identified or identifiable through domain-based addressing;

II - instant messaging services, exclusively for interpersonal communications, protected by the secrecy of communications, pursuant to the provisions of Article 5, *caput*, item XII, of the Constitution, understood as internet application services that allow the sending and receipt of text, voice, image, or video messages between users or specific groups of users, synchronously or asynchronously, without public dissemination of the transmitted content or open groups; and

III - restricted group audiovisual communication services, understood as internet application services whose main functionality consists of holding meetings, videoconferences, or audio and video calls among participants previously invited or authorized, in a controlled-access environment." (NR)

"Article 16-P. The competent authority may define differentiated criteria for fulfilling of the duties provided for in Article 16-A to Article 16-J and Article 16-M, taking into account the economic size of the internet application operator, the level of interference in the circulation of third-party content, the state of the art, and the risk involved in the service, especially regarding small internet application providers." (NR)

"Article 19-A. The National Data Protection Agency - ANPD shall act in the regulation, enforcement, and investigation of violations regarding the guarantee of users' rights and fulfillment of the duties of internet application providers, particularly those provided for in Article 16-A to 16-P of this Decree, pursuant to:

I - Law No. 12,965, of April 23, 2014, particularly regarding the provisions of Article 10 to Article 12;

II - Law No. 13,709, of August 14, 2018; and

III - Law No. 15,211, of September 17, 2025." (NR)

"Article 20-A. Internet application providers shall issue terms and conditions of use and other forms of self-regulation that necessarily encompass:

I - the notification system;

II - due process; and

III - annual transparency reports regarding extrajudicial notifications, advertisements, and content promotion.

Paragraph 1. The rules referred to in the *caput* shall be published and reviewed periodically, in a manner that is transparent and accessible to the public.

Paragraph 2. Self-regulation shall be considered evidence of good faith for the investigation of violations when its purpose is to establish technical and governance standards aimed at protecting the rights of internet users provided for in Law No. 12,965, of April 23, 2014." (NR)

Article 2. This Decree shall enter into force sixty days after the date of its publication.

Brasília, May 20, 2026; 205th year of Independence and 138th year of the Republic.

Luiz Inácio Lula Da Silva

Wellington César Lima e Silva

Sidônio Cardoso Palmeira

Flavio José Roman