



Developments of the legislation to fight cybercrime and protection of the internet in Brazil

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9 July 2008 - The Brazilian Senate approved a bill of law to typify cybercrimes and to stipulate the corresponding penalties.

The bill was forwarded to the Chamber of Deputies for a review of the amendments included.



November 2012 the bill was approved;

November 2012 it became Law n° 12.735,
expanding “The Anti-Racism Act” and
creating specialized Police to fight
cybercrime,
being enforced in April 2013.



In November 2011 some of the original typifications were transferred to a new bill, approved by government and opposition parties.

Some other typifications were left to be discussed further.



November 2012 this new bill, altering the Criminal Code, was approved by the Chamber;

November 2012 It became Law n° 12.737, enforced in April 2013.



It typifies :

- the fraudulent creation of credit/debit cards;
- the invasion of electronic devices, and its resultant crimes such as diffusion of malicious code causing harm, capture of passwords, and destruction or capture of electronic data.
- It expands the provision of “Disruption of public utility services”.



Some autonomous or independent cybercrimes were left to further discussions, because consensus was not achieved, such as:

- the dissemination of malicious codes to steal passwords (**phishing**)
- attacks against the computer network (**DoS, DDoS, DNS** etc.)

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The Brazilian Federal Constitution provides that a law must exist to compel individuals to act or not act in a certain way.

It also determines that a law must be created to typify crimes and determine penalties.



Brazil has specific pieces of legislation to deal with:

- Copyright,
- proprietary software rights,
- piracy in music and videos,
- child pornography and a Agreement with Google,
- recent Laws concerning cybercrime.

So, the country has significant and appropriate legislation to address cybercrime.



Unfortunately,

the decision to send a letter of interest to the Council of Europe expressing the wish to take part in the signing of the Convention of Budapest on Cybercrime,

is still waiting for consideration.



However, there is an internal document to the Ministry of External Relations, which will support this decision.

It was produced in the last quarter of 2008, by a working group composed of additional Brazilian authorities related to Brazilian legislation on cybercrime, comparing it, article by article, to the Convention on

Cybercrime.



Nevertheless, in August 2011 Madame President sent Congress a new bill named “Civil Mark of the Internet”.

A part of the old bill about cybercrime was transferred to Civil Mark.



This part of original bill determines:

- network providers must ensure preservation of connection data as well as access data, at least for 1 year;
- permits disclosure of that information, including data for auditing purposes, provided there is express judicial authorization.



Civil Mark is going to be approved this year, if consensus is reached. The main difficulties:

1 - network neutrality and

2 - local operation of datacenters that hold Brazilian citizens' data.



Concerning neutrality,

the government says that the only parameters to be used are speed and the amount of data transferred.

No additional charges will be allowed based on content such as e-mail, videos, sound, social networks, etc.



However, the majority of the Chamber wants to leave these questions to be considered on an individual basis between consumers and providers.

With regard to local operation datacenters, the government will likely withdraw.



“Civil Mark of the Internet” was suggested at the UN by the Brazilian Government to be discussed by other nations.

The reason are the recent USA (NSA) affairs, involving the President of Brazil, the Prime Minister of Germany and the President of France, as well as many other persons, as published by the press.



I hope that this brief presentation was enough to keep you updated on the recent developments of the Brazilian legislation to fight cybercrime and protection of the internet in the country.

Thank you for your attention!

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