

ANPD publishes regulation on the appointment and duties of the Data Protection Officer (DPO)

Important: applicable to all organizations

On July 17, 2024, the National Data Protection Authority (ANPD) published the regulation on the appointment and duties of the Data Protection Officer (DPO).

Below is a summary of the most important points of the regulation:

A. How do I appoint a DPO?

- The DPO can be a natural or legal person, internal or external - find out more about DPO as a Service [here](#);
- Their appointment may (there is no legal obligation) presuppose certification or specific professional training, to be defined by the processing agent (controller and/or operator), and must be made in a written document, dated and signed by the agent;
- The document must be available for presentation to the ANPD on request and must demonstrate the agent's clear intention to appoint the DPO, as well as indicating the forms of action and activities to be carried out;
- The appointment of a DPO is mandatory for controllers and optional for operators and small processing agents (i.e. MEI, ME, EPP, Startups and condominiums). The exception does not apply to small agents who process sensitive data or carry out high-risk data processing operations;

B. What are my duties (agent)?

- Agents must publicly disclose, on the organization's website and in a prominent and easily accessible place, the identity and contact information of the DPO, including full name (if an individual) or company name (if a company), and contact e-mail address;

• Agents must also:

- (1) provide the necessary means to carry out the DPO's duties,
- (2) request assistance and guidance from the DPO for activities and strategic decisions on the processing of personal data,
- (3) guarantee the DPO's technical autonomy in decision-making, and
- (4) ensure that the DPO has access to the most senior people in the organization;

C. What the DPO's duties will be?

- The DPO's duties include those set out in the LGPD (art. 41), such as **(1)** receiving complaints and communications from data subjects and the ANPD, providing clarification and taking appropriate action, **(2)** advising employees and contractors of the processing agent on the practices to be taken in relation to the protection of personal data,
- The DPO will also be responsible for taking the necessary steps to record, implement and review measures relating to: **(3)** advising on security incidents, **(4)** record of operations (ROPAs) and impact reports, **(5)** risk management mechanisms, **(6)** information security measures, **(7)** internal policies, rules of good practice and governance relating to the protection of personal data, **(8)** reviewing contracts and advising on international transfers, **(9)** privacy by design measures, and **(10)** advising on strategic data protection issues.

D. Call to Action: what are the main to-dos for your organization?

- (1) Define training and certification requirements for the DPO position in the organization;
- (2) Hire an external DPO or appoint a DPO, natural or legal person;
- (3) Disclose DPO's identity and contact details on the website;
- (4) Review possible conflicts of interest;
- (5) Implement or revisit the DPO appointment document;
- (6) Implement or revisit the DPO responsibility matrix;
- (7) Review processes in which the DPO will be involved, particularly in strategic decisions, communications and ANPD, incidents and security requirements, and other relevant LGPD requirements;

You can find the Resolution in this link: <https://lnkd.in/dJ7GhVJm>.

We recommend that all clients evaluate and review the appointments, duties and governance practices related to the performance of their Data Protection Officers (DPO).

Campos Thomaz Advogados specializes in the technology sector. Please contact our partners with any questions you may have by [clicking here](#).