Revista Jurídica unicuritiba

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

RIGHT TO EXPLANATION: HISTORICAL ANALYSIS OF ART. 20 OF THE LGPD

DIREITO À EXPLICAÇÃO: ANÁLISE HISTÓRICA DO ART. 20 DA LGPD

MARIA CLARA GIASSETTI MEDEIROS CORRADINI LOPES
mariagiassetti@gmail.com

LUCAS CATIB DE LAURENTIIS
lucas.laurentiis@gmail.com

LUCAS DAMAS GARLIPP PROVENZANO
lucasgarlipp@hotmail.com

YURI NATH DA COSTA LANNES
yurinathalannes@gmail.com

ABSTRACT:
This paper analyzes the right to explanation in the context of the General Data Protection Law (LGPD), focusing on Article 20, and its correlation with the European Union's General Data Protection Regulation (GDPR). The increasing digitalization and the adoption of artificial intelligence (AI) systems in automated decision-making highlight the need for greater transparency and accountability in the processing of personal data. The LGPD, enacted in 2018 and in force since 2020, incorporated provisions on the right to explanation and review of automated decisions, although it did not establish clear criteria for its implementation.

Keywords: LGPD; Right to explanation; Automated decision-making; Transparency; Artificial intelligence.

RESUMO:
Este artigo analisa o direito à explicação no contexto da Lei Geral de Proteção de Dados (LGPD), com foco no artigo 20, e sua correlação com o Regulamento Geral de Proteção de Dados (GDPR) da União Europeia. A crescente digitalização e a adoção de sistemas de inteligência artificial (IA) na tomada de decisão automatizada destacam a necessidade de maior transparência e responsabilidade no processamento de dados pessoais. A LGPD, sancionada em 2018 e em vigor desde 2020, incorporou disposições sobre o direito à explicação e revisão de decisões automatizadas, embora não tenha estabelecido critérios claros para sua implementação.

Palavras-chave: *LGPD; Direito à explicação; Decisão automatizada; Transparência;*

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

Inteligência artificial.

1 INTRODUCTION

This paper is based on the observation of how personal data is collected, processed and used, combined with the increasing digitalization of society and the proliferation of artificial intelligence technologies, especially for automated decision-making. In this context, the protection of privacy and individual rights of data subjects has become a central concern for legislators, regulators and organizations around the world, giving rise to the regulation of the processing of such data by automated systems, as recently demonstrated by the debates arising from the implementation of "Deepseek", which, in addition to highlighting the apparent instability regarding the centrality of the US in leading innovations related to AI, also illustrated the possibility of diverse uses of telemetry, but still based on the guidelines of the LGPD. Directed towards the protection of human and fundamental rights that may be affected by automated data processes and originated from a constitutional standard that indicates the fundamental right to the protection of personal data, the General Data Protection Law (LGPD) establishes guidelines for the processing of personal data, including specific provisions related to the right to explanation and review of automated decisions, as provided for its article 20.

This study has the general objective of analyzing the concept of algorithmic explainability based on the dispositions - albeit indirect, given the absence of express mention - of the LGPD, in light of the General Data Protection Regulation (GDPR), exploring the concept of algorithmic explainability, in addition to the implications of the right to explanation and review of automated decisions for the protection of individuals personal data. This comparison is relevant not only because the Brazilian legislator was based on the European legislation to create a regulatory framework for the protection of personal data - seeking to adapt international guidelines to a specific national reality, recognizing that the uncritical importation of foreign models might not be appropriate to the Brazilian legal and social context -, but also because international court rulings and decisions by national authorities have influenced interpretation. However, we do not propose a direct and uncritical importation of the European model for regulating automated decisions (MARANHÃO, ALMADA, 2023), or even we consider that the Brazilian reality, with its own characteristics, with cultural and political

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

specificities, is the right place for the implementation of rules and models of interpreting rights brought from the tradition of continental Europe (SILVA, 2023; LAURENTIIS, 2017). Therefore, the objective of this article is much more oriented towards drawing attention to the Brazilian legislation and the dangers of importing European parameters for regulating artificial intelligence indiscriminately, without due redimensioning according to the reality of the country.

Currently, this topic deserves attention, since not only are transparency and *accountability* in data processing essential to guarantee the trust of data subjects in the digital environment, but also the disparity of power between data subjects and processing agents (digital vulnerability) requires the adoption of strict protocols to prevent biased or discriminatory decisions against minority groups (ZARKY, 2011). Besides, Brazilian data protection legislation has not made sufficient progress in expressly or clearly defining the right to explanation, which indicates that the analysis of normative instruments that implicitly support this right may contribute to understanding the obligation of transparency increasingly imposed on artificial intelligence.

The problem linked to the lack of a definition of the right to explanation lies in the difficulty of establishing clear guidelines to ensure that data subjects can understand how and why automated decisions are made (BURREL, 2016). This compromises the transparency needed to ensure both the trust of users of these technologies based on artificial intelligence and compliance with ethical and legal principles in the automated processing of personal data.

By examining what Article 20 of the LGPD states and its ramifications, we seek to understand in greater depth its normative foundation, considering that its origin is linked to the GDPR, a European legislative framework that served as the main inspiration for the elaboration of the General Data Protection Law in Brazil, although there is no direct or express correspondence to specific articles of the first in the second. Throughout this study, we will address the origin and importance of the right to explanation, its transposition from the European legal system to the Brazilian legal system, the gaps and challenges in the practical implementation of this right, as well as the broader implications of transparency and algorithmic explainability for the protection of individual rights and the promotion of ethical innovation in the digital scenario.

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

To achieve these objectives, some parameters were established to delimitate the theoretical framework. To select the bibliography, objective search criteria were applied to the CAPES Journal Portal website - CAFE, which contains the main scientific repositories (Scielo, Web of Science and Scopus). The material found was filtered from the year 2018, the year in which the GDPR was enacted. In parallel, theoretical references were used that address the meaning and limits of the right to explicability in continental European law. As a result, we intend to present an in-depth and critical analysis of the limits and characteristics of the right to explication, as provided for in Brazilian and European legislation.

2 BRAZILIAN REGULATORY FRAMEWORK

Although Law 13.709/2018 - the General Data Protection Law (LGPD) - was enacted in 2018, it is only recently in force: it came into force in 2020. In its 65 articles, the LGPD regulates the processing of personal data, including in digital media, by a natural person or by a legal entity under public or private law[1]. It is remarkable that it addressed the automated processing of data in only one provision (article 20), which justifies the criticism regarding the much-proclaimed timeliness and relevance of the Brazilian data protection law: two years after this law came into force, the best-known generative artificial intelligence system (ChatGPT) entered into use, causing the data protection parameters and instruments adopted by the mentioned normative act lost their practical effectiveness (LAURENTIIS, FERREIRA & BAPTISTA, 2021). After two years of existence, the LGPD has been overtaken by time and technology. Regarding article 20, which, with its two paragraphs, is the only national norm that regulates, in a partial and fragmentary manner, the automated processing of personal data in Brazil, it sets forth for two rights: the right to review fully automated decisions and, by derivation from this, the right to explanation. Its wording reads:

> Art. 20. The data subject has the right to request a review of decisions taken solely on the basis of automated processing of personal data that affect his or her interests, including decisions intended to define his or her personal, professional, consumer and credit profile or aspects of his or her personality.

[1] Art. 1 This Law provides for the processing of personal data, including in digital media, by a natural person or by a legal entity under public or private law, with the aim of protecting the fundamental rights of freedom and privacy and the free development of the natural person's personality.

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

> § 1º The controller must provide, whenever requested, clear and adequate information regarding the criteria and procedures used for automated decision-making, taking into account commercial and industrial secrets.
> § 2º In the event of failure to provide information as referred to in § 1º of this article based on compliance with commercial and industrial secrecy, the national authority may carry out an audit to verify discriminatory aspects in the automated processing of personal data.

This is a highly controversial text that underwent changes even before it came into force. The original version of the article was changed by Provisional Measure 869/2018 (converted into Law 13.853/2019), which stipulated, in its §3º, that "the review referred to in the caput of this article must be carried out by a natural person", a wording that contributes little to the interpretation and/or effectiveness of the article as a whole, since the limits of the right to review provided for in the *caput remained unclear. However, there was a presidential veto of this precept and there was not enough quorum* in the National Congress to overturn the measure (SILVA, MEDEIROS, 2019). Furthermore, the reasons for the veto seem, at the very least, questionable. The President's statement was:

> The legislative proposal, by providing that any and all decisions based solely on automated processing are subject to human review, is contrary to the public interest, given that such a requirement will make the current business plan models of many companies, notably startups, unfeasible, as well as impacting the analysis of credit risk and new business models of financial institutions, generating a negative effect on the supply of credit to consumers, both with regard to the quality of guarantees, the volume of credit contracted and the composition of prices, with repercussions, also, on inflation rates and the conduct of monetary policy.

First, there is a conceptual error: the interests of companies or credit institutions (*startups*, for example) are in no way to be confused with primary or secondary public interest. For this reason, in isolation, the veto is tainted to be considered invalid and unconstitutional by the Supreme Federal Court, given the absence of constitutional requirements for the refusal to sanction the text (CLÉVE, 2020). Second, there is no factual evidence whatsoever for the reason for the veto, and if the parameter observed on European legislation were adopted, the conclusion would be diametrically opposite: in the aforementioned context, there is a right to human review of automated decisions and there is no evidence of direct harm to anyone's interest. Thirdly, the final assumption of the text seems meaningless: banks and credit assessment have always existed and base their decisions on credit analysis, which involves searching for personal information about the customer's payment history, and in the literature

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

regarding the limits of this activity there are strong criticisms regarding the discriminatory criteria for granting bank financing (CITRON & PASQUALE, 2014), which justifies, contrary to what the veto text says, the control of automated decisions made in this environment.

This would be enough to show that Article 20 is not treated by the Brazilian authorities as a device for defending human rights, but rather as a mechanism for maintaining the privileges of dominant economic groups. More than five years after the ill-fated veto, the new government has done nothing about it. But the situation is even more serious, because, in fact, the veto is not only absurd, but ineffective. This conclusion derives from the provision in the *caput*: "The data subject has the right to request a review of decisions taken solely on the basis of automated processing of personal data". Maranhão and Almada (2023, p. 329) reflected on this:

> The right to review therefore allows the change of the outcome of a decision-making process that is entirely machine-driven. When this decision is entirely informational, that is, it results in a decision that does not produce direct impacts on a physical environment—for example, a decision that determines whether or not a person is entitled to receive a social benefit—this right is similar to the right to correction of personal data established by the LGPD in Article 18, III, since in both cases, the data subject has the right to request the agent processing his/her personal data to change information that concerns him/her and that, in his/her opinion, is erroneous. Given the existence of such a right, the review of the facts associated with an automated decision, or produced by one, is independent of a right to review.
>
> It cannot be concluded, however, that the right to review lacks clear legal definition. In many cases, automation does not aim solely at producing a behavioral profile or other form of extracting information about the data subject, but rather at *producing* an outcome in the real world, without the direct participation of a human. For example, a resume screening system processes personal data, and to do so, it performs an assessment of the data subject. The decision itself, in this case, is not the prediction of the individual's behavior, but an action—whether or not to allow the candidate to continue in the selection process—to be assessed in light of the legal system.

There would therefore be, in the view of these authors, two categories of decisions, both dealt with in article 20. The first is the "decision" of the machine, which would have been implicitly authorized by the device, given that, if the right to review exists, logically, there is the prior factual assumption of this right: the processing of personal data carried out by the machine that produces the automated decision that has no effects outside of the computer science. The second decision would be the one made subsequently, which generates real practical effects and is based on this first "decision" of the machine, a decision that, unlike the first, would not be true or false,

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

but “correct or incorrect, good or bad, lawful or unlawful, adequate or inadequate for a given purpose” (MARANHÃO & ALMADA, 2023, p. 329). This reasoning has a series of technical and logical problems.

First, the legislator does not speak of two decisions in the provision, but of only one. When the legislator does not create a category, it is not up to the interpreter to innovate in its place. It is curious that the answer to this question is presented by the authors themselves, who indicate that incorrect information (personal data) identified in a processing process must be corrected not based on article 20, but on article 18 of the LGPD, which provides for the right to correction of “incomplete, inaccurate or outdated data”. This would leave the second category of decisions for article 20 (decisions with practical effects), which the authors consider to be equally automated decisions, but that is not what the provision says, which provides for the right to review decisions made “based” on “automated data processing”. Therefore, the decision is one thing, the automated data processing is another, and there is no indication in the article that the decision, in this case, is the decision made by the machine. And everything leads us to believe that it is not.

This is because automated processing systems (algorithms) are mere highly elaborate logical procedures that, based on a huge database (big data), generate classifications and indicate patterns of behavior that can probably be repeated in the future. They do not deal with causal relationships, much less with imputations of an ethical-normative nature (MITTELSTADT, RUSSELL & WACHTER, 2019). Since a decision, be it the granting of credit, a travel visa or life insurance, involves not only data and pure information, but also ethical considerations, there is no automated system decision that directly affects this area without the intermediation of human action (RADEMACHER, 2017). Strangely, this same conclusion is confirmed by the interpretation of Maranhão and Almada, because if it is a fact that practical decisions are neither right nor wrong, but rather good or bad, this indicates that this type of decision cannot be entirely made by the machine, contrary to what the text of these authors assumes. All of this leads to two conclusions.

First, the president's veto was not only wrong, but it also did not achieve its objective, since the *caput* still requires the presence of human action (“decision”) in processes involving the automated collection of information. Second, when it comes to the duty of transparency correlated to the right of review, what is assumed is precisely the explanation of the ethical and normative arguments that support the practical

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

decision that affects the interests of the holders of human and fundamental rights (BYGRAVE, 2019). The other "decision", the one that occurs during the process and has purely computer-related effects, must be resolved by the legal statement in article 18. Third and most importantly, there is no purely automated right of review, since the decision about the review is also a decision with practical effects.

Another question that arises from the analysis of the legal text concerns the concept of *automated decision-making*. Despite the LGPD's effort to define technical terminology in its text, there is no indication of what an automated decision would be for its purposes. Concerned that this gap could compromise the protection intended by the article, given that there are several ways to make automated decisions ("*Some are easily understandable, such as those based on predefined rules or algorithms. Others, more sophisticated and generally less explicit, apply machine learning or artificial intelligence techniques*"), Bill 4.496/2019, authored by Senator Styvenson Valentim (PODEMOS/RN), intends to add item XX to article 5 of the LGPD, defining an automated decision as "a process of choosing, classifying, approving or rejecting, assigning a grade, measure, score or score, calculating risk or probability, or similar, carried out by processing personal data using rules, calculations, instructions, algorithms, statistical analyses, artificial intelligence, machine learning, or other computational technique". The project is still in progress and was approved in December 2024 by the Federal Senate. There is no expectation that the Chamber of Deputies will reach a decision on the matter.

3 PROBLEM OF EXPLANATION

The main problem currently lies in the discussion on the right to explanation, mainly concerning the parameters for its implementation, that is, what information should be made available to the requesting user, as well as how this explanation should be made. This is because, considering that it is an explanation of algorithmic code, most commonly related to *machine learning* and, specifically, *deep learning*, this information is generally not accessible to the understanding of people who are not experts in the computer science field. As seen in the previous item, to date, there is no regulation specifically on the topic in Brazil, and there is not even a position from the

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

National Data Protection Authority (ANPD), whose role is provided for in articles 55-A and 55-L (included by Law 13.853/2019) to give effect to the right to explanation.

The lack of explanation about an algorithm consequently generates opacity in the code. This means that its internal functioning is not visible, known or understandable - for some reason it is mysterious. In this regard, BURRELL[2] described three forms of opacity, for example: (i) corporate or international state secrecy, (ii) technical illiteracy and (iii) the complexity of the internal operations of AI systems. However, as mentioned previously, transparency is highly associated with the reliability of the artificial intelligence model, so that its absence, whatever the reason, in addition to presenting possible risks to society and democracy, also generates distrust.

Since the Brazilian data protection standard was heavily inspired by the European regulatory framework - the General Data Protection Regulation (GDPR), the interpretation of the LGPD can be made in light of European parameters. Article 20 of the LGPD is a hybrid. Its wording mixes Article 12 of the GDPR (referring to transparency of information), ideas from Articles 13 and 14 (right to notification), which is provided for in Article 15 (on access to data), and finally, Article 22 (right not to be subject to automated decisions). Complete chaos!

The chaos worsens when we consider that the right to explanation is not explicitly provided for in the text of the GDPR. It is in the recitals, especially in recital 71 (“In any case, such processing should be subject to suitable safeguards, which should include specific information to the data subject and the right to obtain human intervention, to express his or her point of view, to obtain an explanation of the decision reached after such assessment and to challenge the decision”). There are two quite obvious problems with the uncritical import of this provision. First, considered, explanatory memoranda and legislative opinions are indicative of the legislator’s intention, but they do not have binding or mandatory force. There is even a precedent from the Federal Supreme Court that, faced with the problem of the mention of “God” in the preamble of the 1988 Constitution, emphatically stated that “Preamble of the Constitution: does not constitute a central norm” (ADI 2.076). There is no reason to think that the opposite would occur with the interpretation of the GDPR preamble. More than that and in a simpler way, the LGPD has no preamble or considerations, which distances us from any European discussion on this subject.

[2]BURRELL, Jenna. How the machine 'thinks': Understanding opacity in machine learning algorithms. Big Data & Society, [sl], Jan.–Jun., 2016. p. 4-5.

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

Second, even if one considers that the preamble and recitals have an interpretative function, this guidance can only be applied when the legislator's intention is clear and unequivocal (LAURENTIIS, 2012). Otherwise, what will happen is that the legislator's will is replaced by the will of the interpreter of the norm. This is not what we find in the GDPR, because even though the right to explanation is included in recital 71, its non-inclusion in the regulatory body of the Regulation says much more about the European legislator's lack of intention to create this right than the opposite. Anyone who examines the long process of processing the GDPR, which involved lengthy negotiations between the Parliament, the Commission and the Council of Europe ("Trilogue"), will notice that the inclusion of a right to explanation was presented a few times, one of which was in the amendment suggested by the Parliament, which suggested the inclusion of the following text in art. 22:

> Profiling that leads to measures which produce legal effects concerning the data subject or which significantly affect the interests, rights or freedoms of the data subject concerned shall not be based exclusively or predominantly on automated processing and shall include a human evaluation, including an explanation of the decision taken following such evaluation. The appropriate measures to safeguard the legitimate interests of the data subject referred to in paragraph 2 shall include the right to obtain a human evaluation and *an explanation* of the decision taken following such evaluation (emphasis added).

As this provision was not included in the final text of the standard, its absence can be interpreted as a manifestation of the legislator's intention not to recognize this right, which dismisses the argument of the interpretative force of recital 71.

In parallel, it should be mentioned that the subject matter contained in Article 12 of the GPDR had already been partially addressed in Directive 95/46 - Data Protection Directive, which explicitly did not address the right to explanation at any point. On the contrary, as Kuner rightly observed et. al. (2020, p. 401), article 12 of the GDPR is based on "the effective exercise of the rights of information and access, firstly for the benefit of the data subjects and, secondly, for the benefit of the data controllers", which has no relation to the right to enforcement. On the other hand, as the same author says, there are reasons to see the provision of the right to explanation in the "penumbra" of art. 22 (1) of the GDPR, after all, there is no right to request rectification if the data subject is not aware of the basis for the automated decision. In this sense, POWLES and SELBST (2017) argued that the grounds for defending the positive existence of the right to explanation are found precisely in article 22 of the GDPR, in

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

addition to Recital 71, supporting the reading of articles 13, 14 and 15 of the same diploma. However, even if this legal inference is admitted, an operation that in itself is questionable (Wachter et. al., 2017), the shadows that appear behind this shadow are even greater.

After all, since this right is an interpretative creation, it is not known what the requirements are for exercising it. Would it be necessary for the data subject to first request information to be sent to the controller or the processing agent in order to then trigger the right provided for in article 22 (1)? Is this right for individuals or can it be required generally, for all consumers? And does this information relate to decisions already made or to future decisions of the system? Finally, above all these issues is the question regarding the extent and depth of the explanation that must be provided. In this regard, if the understanding of WP29 (*Working Party 29*) is adopted, the right to explanation would be restricted to the elucidation of the general functionalities of the automated processing system ("the criteria relied on in reaching the decision without necessarily always attempting a complex explanation of the algorithms used or disclosure of the full algorithm"), the question that remains is: what next? Even if the data subject has sufficient knowledge to understand the system, which probably only programmers can do, the problem is that this same understanding does not guarantee that a decision for those affected by the automated decision will be more beneficial. Nor more harmful. All this considered, the explainability of the GDPR seems to appear, for those who defend this right, as a Pyrrhic victory, through which the data subject receives information that is not necessarily understandable and does not guarantee that the data subject's rights will be guaranteed or preserved. It is an empty right, which serves as a door to Franz Kafka's story:

Before the law stands a gatekeeper. A countryman approaches this gatekeeper and asks to enter the law. But the gatekeeper says that he cannot allow him to enter now. The countryman thinks about it and then asks if he can enter later. "It is possible," says the gatekeeper, "but not now." Since the door of the law remains open as always, and the gatekeeper stands aside, the man leans over to look inside the door. When he notices this, the gatekeeper laughs and says: "If it attracts you so much, try to enter despite my prohibition. But look here: I am powerful. And I am only the last of the gatekeepers. From room to room, however, there are gatekeepers, each one more powerful than the last. Not even I can bear the sight of the third." The countryman did

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

not expect such difficulties: the law must be accessible to everyone at any time, he thinks (...).

In other words, if explanation is always open to the holder and if he will always have a new explanation to ask for, which will be provided in an increasingly complex and inaccessible way to the common man, this door will hardly be anything more than an open door, which will never be accessed by any peasant. For this very reason, it, explicability, is the worst of shackles, because it constrains and imprisons whoever finds himself before it, even if it is always open.

4 CONCLUSION

In conclusion of this study on article 20 of the LGPD, it is clear that the right to explanation and review of automated decisions plays a crucial role in protecting personal data and guaranteeing the individual rights of data subjects. Transparency and algorithmic explainability are essential elements to promote user trust and ensure the accountability of organizations that carry out data processing.

The increasing use of algorithms and automated systems in decision-making highlights the importance of ensuring that individuals have access to clear and adequate information about the criteria and procedures used in these processes. The possibility of reviewing automated decisions and requiring explanations from data controllers are essential mechanisms to protect data subjects against possible discrimination, bias and arbitrary decisions.

Furthermore, the effective implementation of the right to explanation not only strengthens compliance with the LGPD but also contributes to the development of a culture of respect for privacy and individual rights in the digital environment. Transparency in data processing practices not only strengthens user trust, but also promotes responsible and ethical innovation, encouraging the adoption of good data governance practices.

Therefore, it is essential that Brazilian legislation begins to weave national concepts that explicitly manifest and reinforce the guiding pillars for greater and better clarity and accessibility in the availability of information to data subjects, as well as the review of automated decisions when requested. Promoting transparency and

algorithmic explainability not only protects individual rights, but also contributes to building a more fair, inclusive and ethical digital society.

BIBLIOGRAPHICAL REFERENCES

BRAZIL. Constitution (2019). **Bill No. 4496, of 2019.** Union, Available at: https://legis.senado.leg.br/sdleg-getter/documento?dm=7990633&ts=1694709769707&disposition=inline. Accessed on: June 11, 2024.

BRAZIL. Constitution (2018). **Law No. 13709.** Brasília, DF, August 14, 2018. Available at: https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/l13709.htm. Accessed on: June 11, 2024.

EUROPE, European Union Agency For Fundamental Rights And Council Of. **Handbook on European data protection law.** 2018. Available at: https://www.dropbox.com/scl/fi/ggt12r5w4s3qst4al6fj9/Handbook-on-European-data-protection-law-GDPR-Eur opean-Union-Agency-for-Fundamental-Rights-etc.-z-lib.org.pdf?rlkey=u6eju8qzbv3jihvtqfmviv49a&e=1&dl=0. Accessed on: 11 June. 2024.

SELBST, Andrew D.; POWLES, Julia. **Meaningful Information and the Right to Explanation** . International Data Privacy Law, vol. 7(4), 233-242, 2017. Available at: https://academic.oup.com/idpl/article/7/4/233/4762325 Accessed on 07.04.2024.

MARANHÃO, Juliano Souza de Albuquerque; JUNQUILHO, Tainá Aguiar; TASSO, Fernando Antônio. Transparency on the use of Artificial Intelligence in the Judiciary: a governance model. **Suprema - Journal of Constitutional Studies,** [SL], v. 3, n. 2, p. 145-187, December 13, 2023. Supreme Federal Court. http://dx.doi.org/10.53798/suprema.2023.v3.n2.a231.

MULHOLLAND, Caitlin; FRAJHOF, Isabella Z. **Artificial intelligence and the law of personal data protection: brief notes on the right to explanation when making decisions through machine learning.** In: FRAZÃO, Ana. MOULHOLLAND, Caitlin (Coord.). Artificial intelligence and law: ethics, regulation and responsibility. São Paulo: Thomson Reuters (Revista dos Tribunais), 2019. p. 265-290.

NUNES, Dierle José Coelho; ANDRADE, Otávio Morato de. The use of explainable Artificial Intelligence as a tool to understand automated decisions: a possible way to increase the legitimacy and reliability of algorithmic models?. **Electronic Journal of the Law Course at Ufsm** , Santa Maria, v. 8, n. 1, p. 1-27, 2023. Available at: https://periodicos.ufsm.br/revistadireito/article/view/69329. Accessed on: June 11, 2024.

WACHTER, Sandra; MITTELSTADT, Brent; FLORIDI, Luciano. **Right to Explanation: historical analysis of art. 20 of the LGPD** . International Data Privacy Law, Volume 7, Issue 2, May 2017, pp. 76–99. Available at: <<https://ssrn.com/abstract=2903469>. Accessed on 30.03.2024.

Submetido em: 26/09/2024
Aprovado em: 01/10/2025
Avaliação: Double Blind Reviewe
ISSN: **2316-753X**

KUNER, Christopher (ed.). **The EU General Data Protection Regulation (GDPR):** : a commentary. Oxford: Oxford University Press, 2020.