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**THE NECESSARY
MEASURES TO BE
TAKEN BY COMPANIES
AS A STRATEGIC AND
ORGANIZATIONAL
MANAGEMENT MODEL
IN RELATION TO
THE PROVISIONS OF
THE GENERAL DATA
PROTECTION LAW**

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Abstract: This study aimed to analyze which urgent measures must be taken by companies as a strategic and organizational management model, complying with the requirements brought by the General Personal Data Protection Law - Law nº 13,709/2018. The appointment of such measures is necessary given the lack of implementation or the need for constant implementation can generate problems for companies, justifying their analysis. The methodology used was deductive, through the bibliographic method, with the use of references capable of supporting the research, including databases such as, for example, Scielo. The results obtained remained favorable to indicate the necessary measures to avoid the increase of the liabilities of the companies, being urgent a constant planning and with pre-established deadlines, expanding researches and the debates on the subject, without exhausting it. **Keywords:** LGPD, urgent measures, strategic and organizational management.

INTRODUCTION

The enactment of the General Law for the Protection of Personal Data - Law nº 13.709/2018 has brought widespread concern on the part of Private Law Legal Entities and Small and Medium-Sized Companies, regarding the impacts that will be borne with its entry into force and the respective consequences if urgent measures are not taken to implement them and, if they exist, to keep them active and updated.

Taking into account such aspects, the development of the research aimed to analyze the urgent and maintenance measures to be taken by companies as a strategic and organizational management model, complying with the requirements brought by the General Personal Data Protection Law - Law Number: 13,709 /2018.

A survey of the history of the legislative

process that led to the final elaboration of the legal text, now in force, was carried out, because, through this context, it was possible to identify the reasons why the legislation was structured and the legislator's intention in relation to companies.

After this analysis, there was the appointment of such measures since the lack of their implementation, it can be said will bring serious problems to companies, a fact that ends up pointing out the relevance of the research, justifying its realization.

The methodology chosen was deductive, using the bibliographic method with the use of references able to support the research, including doctrinal references, scientific articles, legal documents, among others, obtained by systematic research in databases such as, for example, to *Scielo*.

The results obtained remained favorable to indicate the necessary measures to avoid the increase of the liabilities of the companies, as an urgency that comes against a strategic and organizational management. As a result of the professional responsibility of those involved in conducting the treatment, storage and protection of personal data belonging to human beings with whom it maintains a business relationship, who, before anything else, are programmed and set goals to be periodically achieved by companies.

It must also be noted that although there is a law and public policies aimed at its implementation, the requirements required by the General Law for the Protection of Personal Data for companies, are far from generally complying with the requirements present in the law as necessary for companies.

Therefore, the actions aimed at their effective satisfaction must be part of the company's culture, providing feedback, which must be carried out through periodic reassessments, indicating the measures to be taken to ensure its sustainability.

Finally, it must be emphasized that the research was not limited to pointing out, in order to exhaust them, all the developments on the subject or even the aspects that involve the General Law for the Protection of Personal Data.

On the contrary, through research, it became feasible to expand spaces for discussion for society about the importance of being implemented and in those that already exist, that the measures brought by the legislation are maintained, incorporating them through the continuous adoption of these to the organizational culture of the company, as a true model of strategic management.

By maintaining the constant social dialogue established between companies and society, all the requirements proposed by the law can be achieved and maintained, ideally guaranteeing the general protection of the personal data of those involved in the business acts carried out by the companies.

Having a responsible attitude regarding the use of personal data by companies, they will avoid wear and tear, processes for repairing the damage caused and also, they will maintain an image of credibility and security for the consumer, generating, as a consequence, the development of the company.

But the main thing is to contribute through strategic business management to sustainable local, regional development, which will reflect globally.

THE PROCESS OF IMPLEMENTING AND MAINTAINING THE LGPD IN COMPANIES

As it is a theme that makes up the scenario of companies, since the legislation is mandatory, the state of the art within this context is in demand in the survey of which urgent measures need to be taken by start-up companies, in order to minimize the negative impacts, resulting from the

non-effective treatment of personal data and which measures need to be maintained, modified or reinforced in order to have a strategic management.

In view of the reality presented with the development of the research, it was possible to establish and point out what measures could be taken so that the company would suffer less or no consequence as to the sanctions provided for in the legislation, arising from the current state of knowledge, which may the adoption of such measures demonstrates that the company is acting from a management that presents itself as a strategic and organizational model.

Also, a feedback and implementation of necessary measures is established for adjustments and readjustments to the systems, mainly technological, that will lead companies to maintain the legal requirements imposed, contributing to internal growth and to social and global development.

METHOD

For the development of the research, there was the adoption of the deductive methodological path, carrying out research on doctrinal texts, scientific articles and legal documents and in the survey of other theoretical references, including interdisciplinary ones, able to support the arguments referred to in the work.

After having pointed out the theoretical framework, based on articles obtained by systematic research in databases such as, for example, *Scielo*, doctrines related to the subject and the analysis of the text of the General Data Protection Act now in force, as well as other relevant legislation.

After having carried out a survey of the theoretical references able to guide the research, they were registered, followed by the reading and interpretation of the related laws and the formulation of the final text of interest,

seeking through the resources indicated to bring subsidies to the arguments exposed.

RESULTS AND DISCUSSION

RESULTS

The results obtained from carrying out the research were successful, since they were favorable, as it was possible to indicate the necessary measures to avoid the increase in companies' liabilities, as a need that meets strategic and organizational management.

Result of the professional responsibility of those involved in this management of compliance with the legislation with regard to the effective protection of personal data, which before anything else was due to the need for programming and setting goals to be achieved and maintained periodically by companies.

The need, since the entry into force of the General Law for the Protection of Personal Data, of the need for strategic management focused on an innovative culture, based on effective, continuous and efficient actions of procedures to be carried out, remained proven.

Such actions are based on imposed legal premises and are necessary every time the company is dealing with personal data, therefore not being a project to be carried out only once, but presenting itself with a start date and an established date. as a final term, enabling compliance with legislation on an ongoing basis.

Therefore, it must be recognized that there is a need for the company to adopt a strategic management, considering this as the one that can be avoided, trying to implement a continuous program and organizational model that takes into account the obligation to maintain a program of consolidation of the terms of the LGPD, because, if it would have proven success, substantiated in the fact that it would generate an internal culture

that would have the possibility of continuous feedback.

Over time, having generated and incorporated this care with personal data, it would become the company's culture, evidenced by the serious action demonstrated through previous examples, considered to be incorporated in the conduct of all those involved in the business acts carried out with the company, that it is reliable, as it is able to protect such data, and can be used as a model by other organizations.

The adoption of a personal data protection program in companies, meeting legal criteria, transformed into a corporate culture, fed back by research and internal reassessments, for necessary readjustments to the strategic and organizational model, indicates that it is the way to corporate sustainability and the processing, maintenance and protection of personal data.

The adoption of the terms of the General Data Protection Law, in a conscious and responsible way, leads to internal development and sustainability and also promotes the well-being of consumers, promotes their growth, generating employability.

RESEARCH DEVELOPMENT

General aspects

The idealization on the researched topic took place from the moment the authors became aware through a report (BEHNKE, 2020) about a research carried out by *Akamai Technologies*, which is an American company of services and global traffic performance on the *Internet*.

A survey carried out by *Akamai Technologies* in more than 400 (four hundred) organizations in the segments of retail, technology, entertainment, health, finance, logistics and communication and marketing, showed that about 64% (sixty-four percent) of companies in Brazil were not adequate to

the terms set forth in the General Law for the Protection of Personal Data - LGPD.

In the research it was evidenced that 64% (sixty-four percent) of these companies need to promote changes so that they can comply with the legislation, discriminated that 24% (twenty-four percent) of them are trying to adapt to the legislation; 16% (sixteen percent) of them, although they are aware of such a need, have not started to implement their changes, and, finally, the other 24% (twenty-four percent) are unaware of the legislation and its implications.

However, in addition to the legal aspect that requires companies to adhere to the terms of the General Law for the Protection of Personal Data, it is necessary to recognize the existence of an organizational environment with increasingly fierce competition, experienced in a complex and global way, which currently it is under the influence of constant and unpredictable innovation regarding the limits of creation.

This reality demands the adoption of legal and ethical behavioral standards within companies, in order to guarantee freedom of business relationships and also free competition, which leads to thinking about strategies that make such actions viable.

The scale and breadth of the current technological revolution will unfold in economic, social and cultural changes of such phenomenal proportions that it is almost impossible to predict them, as he points out, which leads organizations to have to rethink their management model. recurring way, as they will have to constantly adapt to changes (Schwab, 2018, p.35).

The adoption of general protection of personal data demonstrates the seriousness of organizations with the business relationship, transparent and responsible, generating reliability and respect, bringing positive reflexes to the economic sector, which needs

stability for the social good.

General protection of personal data as a business survival necessity

The research was not limited to pointing out all the developments on the subject or even the aspects that involve the General Law for the Protection of Personal Data, but it observed the process of formation of the law, the justifications that supported its requirements, in order to identify through their context, the objectives intended by the legislation in relation to organizations and the negative impacts that would bring them if they do not adapt to its terms (KOCH, 2022).

The Brazilian government, internationally forced to protect personal data in its business acts, approved the General Law for the Protection of Personal Data - LGPD, as it feared that it would no longer be able to enter into international contracts, as a result of the European economic barrier influenced by pressure from the political party “The Greens “.” (PINHEIRO, 2018, p.13), which demanded retaliation against the four countries that did not have a general law for the protection of personal data, including not only Brazil, but Haiti, Venezuela and Cuba.

According to the party, the need for countries to protect the personal data of people involved in business acts stems from the importance of respecting and rescuing the Human Rights included in the Universal Declaration of Human Rights (1948), which as a result would guarantee a dignified existence.

On May 25, 2018, the GDPR — *General Data Protection came into effect. Regulation — General Data Protection Regulation (GDPR, 2022)*, which has been pending since 2012 and was approved in 2016 by the European Parliament. The period between approval and the effective date of the law was designed for companies to adapt their systems to the new rules.

Its purpose was to provide users with control over their personal data, which is stored by companies when browsing the *Internet*. Therefore, users now have the power to accept or not this action taken by companies, on the other hand, companies need to follow strict rules when handling all information, mainly due to the international contracts that companies celebrate with each other and also the government.

Until then, Brazil did not have an LGPD that met the requirements of European Law and as it did business with European companies, the Brazilian government began to fear that such countries would create a trade barrier, which caused the Government to enact the General Law of Data Protection, which at first received that name. Subsequently, the Federal Government edited a Provisional Measure revoking and changing the content of this law and inserted a new nomenclature for the law, which then became known as the General Law for the Protection of Personal Data.

The threat for the creation of the barrier is because Brazil, together with three countries, Haiti, Cuba and Venezuela did not have a law that protected personal data and according to the party, these countries would have to redeem the Human Rights inserted in the Universal Declaration of the Rights of the Homem (1948), as can be understood through the analysis carried out by VIOLA, 2019.

Within this context, the General Law for the Protection of Personal Data has been regulated and is intended to guarantee the protection of the personal data of all those who somehow relate to legal entities, whether public or private.

Impacts and measures to be implemented by Brazilian companies

The main impact suffered by companies comes from the lack of knowledge and

structure of the new business model that today is strongly embodied in “*sharing economy*” or sharing economy, which consists of a sustainable economic ecosystem built around the sharing of human resources, services and products, including the creation, production, distribution, shared trade and consumption of goods and services by people and businesses, focused on the people, being the economy of use and not that of ownership (BRAGA, 2016).

This type of economy, intensified by the information or informational society (CASTELLS, 2000), generates the growing and continuous use of data, generating the most varied types of social problems, notoriously known.

Thus, it was found that companies must take measures to implement the General Law for the Protection of Personal Data, so that they do not need to suffer the consequences arising from the sanctions provided for therein.

In addition to knowing all the aspects that involve the LGPD, which presents itself with several aspects to be observed, as can be recognized by the analysis of the figure below, there are other measures that can be taken.

The initial measures must compose a *checklist*, which observes the urgency of taking measures to reduce the impacts resulting from their lack of ownership, which can be listed as follows:

I – Creation of a new position in the companies, aimed at meeting the requirements of the law for mapping, processing and data protection, which must be a data policy specialist, who is called DPO – *Data Protection Officer* – who is in charge of accepting communications and complaints from the holders of personal data, adopting measures and providing clarifications, in accordance with the provisions of art. 41 of the LGPD, in addition to receiving



Source: SERPRO, 2022. Available at <https://www.serpro.gov.br/lgpd/noticias/2020/lgpd-giro>

Accessed on 09.29.2022.

communications from the national data protection authority.

II – Analyze internal processes to verify solutions and correction of problems, keeping data safe so that they can be used correctly.

III – Continuously evaluate processes and reduce exposure to risks, implementing risk management, to effectively promote the protection of personal data used by the company.

IV – Adopt the standard of development or *to privacy by design*, so that there is respect for the protection and privacy of data, contained in the architecture itself or technological structures incorporated into the company's business model, translated into enabling the data holder, also called user, to be able to manage and preserve the collection and processing of your personal data.

V – Take care to meet the legal purposes in relation to subcontractors or outsourced workers, as the protection of personal data used is extended to them.

VI – Adoption of the DIK pyramid so that the value of each piece of data (data – information – knowledge) obtained can be measured, as they can all add value to the company's business.

VII – To promote periodic meetings with the sector managers of the company, seeking to pay attention to the legal details, so that they can be implemented and resolved, prior to the effective action of the National Data Protection Authority, because, from then on, if the company is not complying with the provisions of the legislation may be subject to administrative sanctions, ranging from a warning to the imposition of a fine that may vary from 2% (two percent) of the company's revenue from the previous year to the limit of BRL 50,000,000.00 (fifty million) for infringement.

The establishment of such urgent measures does not have the power to exclude others that

may be taken over time, where relationships change, mainly, in view of the applicability of technological resources advocated by the Fourth Industrial Revolution, as SCHWAB & DAVIS emphasizes., 2018.

The fact is that the adoption of such measures will avoid losses that, if they happen, could lead to the “death” of countless companies, making the political project of development of the country unfeasible, as well as the realization of international business, bringing harmful consequences to society.

FINAL CONSIDERATIONS

The present research met the proposed objectives, which was to point out the aspects that involve the General Law for the Protection of Personal Data and the urgent measures and; a *posteriori* to its implementation, maintenance measures that must be taken by the companies, in order to contemplate a strategic and organizational management model.

It has been proven that most Brazilian companies do not have a project or program to adapt the law, in addition to many not having knowledge about the legislation in force and not even about the need to implement changes in their management practice, which, as a consequence, is liable to of foresight in the face of the possibility of administrative sanctions against them, will end up generating their end.

Since they fail to implement legal dictates effectively and efficiently, it becomes difficult to think about how to maintain them. However, the possibility of maintaining them is believed to be possible, through strategic management, which takes into account methods and planning.

The disastrous forecast cannot be ruled out in view of the fact that the use of data in relationships, especially in commercial relationships, is increasingly thriving,

Pyramid DIK

(Data, Information, knowledge
– or Data, Information,
Knowledge)

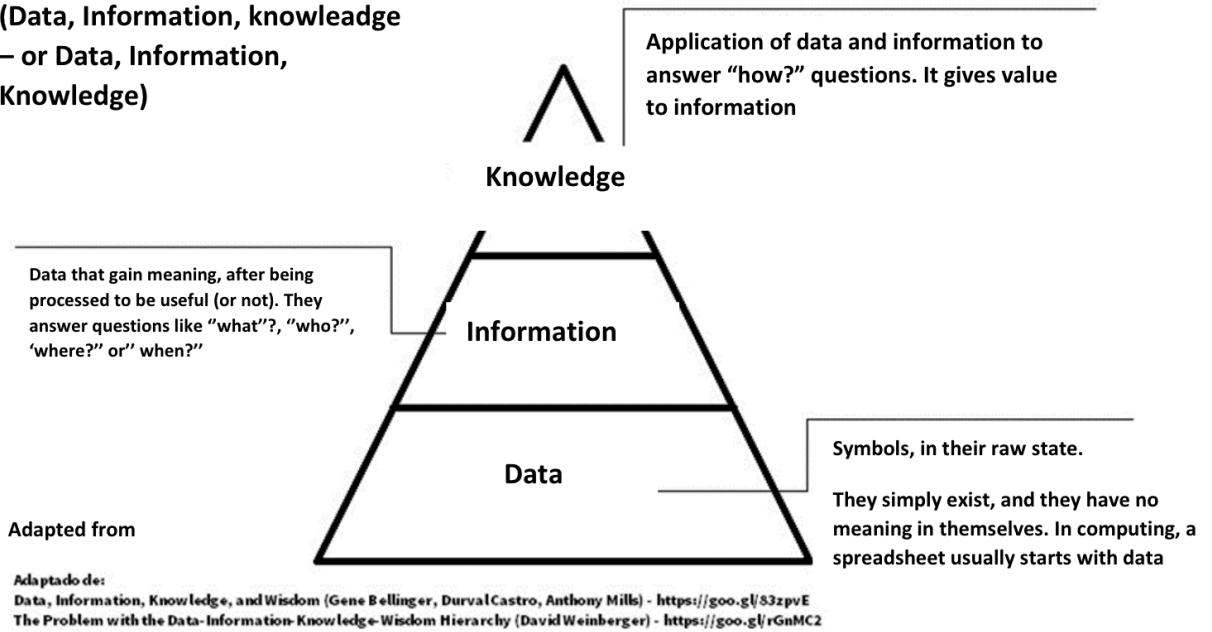


Figure 1 - DIK Pyramid.

Source: <https://sigaosnumeros.com/sumario/descomplicando-os-dados/o-que-sao-dados/>

demanding and imposing respect, care, treatment and protection of data, information and knowledge that may be generated by its use.

Finally, it must be noted that although the research result was successful, it is far from putting an end to the discussions involving the subject, including the fact that the legal aspects involving the protection of personal data have not yet been experienced by the companies, the which certainly did not make it possible to carry out experiments that lead to the modification, creation and extinction of management practices, which can only occur with time.

The expansion of the discussions is relevant, since the LGPD demands actions that range from its implementation by the companies to maintenance processes, which requires planning and continuous actions, which is expected to occur due to the existence of postures that lead to making this

type of protection a culture that makes up the business universe.

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