

# BRAZILIAN LEGISLATION on CYBERCRIME

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The Brazilian Senate



## Introduction

- Copyright, proprietary software rights and rules to fight piracy in music and videos, as well as child pornography are already dealt with in specific pieces of legislation.
- The Brazilian Senate is discussing a substitute bill of law to typify cybercrimes and to stipulate the corresponding penalties.
- This bill brings together three other bills of law, one of which is from 1996.



## Present status

- The bill was first approved by the Senate Committee on Education (CE) in May 2005. Next, it was approved by the Senate Committee on Science and Technology (CCT) in December 2007.
- At present, the bill is awaiting a review by the Senate Committee on Economic Issues (CAE), after which it will be sent to the Committee on Constitution and Justice (CCJ).
- The bill will then be forwarded to the House of Representatives for a review of the amendments included.





## **The bill of law**

- **The Brazilian Federal Constitution provides that a law be created to typify crimes and determine penalties.**
- **It also determines that a law must exist to compel individuals to act or not act in a certain way.**
- **Hence the need for the present bill of law, which both typifies cybercrimes and determines that network providers ensure preservation of connection data.**
- **Providers will only be allowed to disclose information, including data for auditing purposes, provided there is express judicial authorization.**



## **Eight Codes and Acts altered**

- **The bill of law modifies and expands the following eight pieces of Brazilian legislation:**
  - *The Criminal Code;*
  - *The Criminal Procedural Code;*
  - *The Military Criminal Code;*
  - *The Consumer Protection and Defense Code;*
  - *The Federal Police Act on Uniform Repression;*
  - *The Telephone Interception Act;*
  - *The anti-Racism Act;*
  - *The Statute of the Child and Adolescent.*
- **The anti-Racism Act and the Statute of the Child and Adolescent were included in the last review.**



## **Thirteen new crimes to be typified (1)**

- *The dissemination of malicious codes to steal passwords (phishing);*
- *Credit card fraud;*
- *Cell phone cloning;*
- *Increased penalties for offenses of libel, slander, and defamation;*
- *Creation, insertion and dissemination of malicious codes to cause harm (viruses, Trojans, worms etc.);*
- *Unauthorized access to a computer network, if authorization is required;*
- *Unauthorized access to information, unauthorized possession, transportation or provision of such information, if authorization is required;*



## **Thirteen new crimes to be typified (2)**

- ***Unauthorized disclosure of a databank, if authorization is required;***
- ***Compound larceny with the use of computer systems;***
- ***Disruption of public utility services;***
- ***Attacks against the computer network (DoS, DDoS, DNS etc.);***
- ***Racism on the internet;***
- ***Keeping digital files with pedophile content as a crime.***
- ***“Racism” and “Keeping digital files with pedophilia” were included in the last review.***





## Other alterations

- *In the Criminal Procedural Code, we are including preventive detention to apply to cybercrimes.*
- *The Act on Uniform Repression by the Federal Police is also going to cover interstate and international offenses using IT.*
- *The Telephone Interception Act will comprise cybercrimes.*
- *The Consumer Protection and Defense Code will incorporate a security alert for the ordinary consumer.*





## **Other activities about the Convention**

- *In the near future the Brazilian Ministry of External Relations will send a letter of interest to the Council of Europe expressing its wish to participate in the work of the Convention after consultation with other Brazilian authorities.*
- *The contents of the Budapest Convention have been presented to the Mercosur Parliament.*
- *Last year, Mr. Alexander Serge, from CoE, presented the contents of the Convention to the members of the Brazilian Internet Steering Committee (CGI.br).*



## **Anti-SPAM bill approved**

- ***The Senate recently approved an anti-SPAM bill of law to prohibit spamming***
- ***A system will be created which is a cross between the opt-in and opt-out methods:***
  - ***it will accept emails only if previous contact existed between sender and recipient;***
  - ***if not, the email will be classified as a spam.***
  - ***Spammers will have to pay a fine;***
  - ***if proven that false names or addresses were used, spammers will be charged with misrepresentation.***



# Pedophilia and cybercrime

***More recently, the Senate approved the creation of a Special Investigation Committee (CPI) to inquire into pedophilia and cybercrime and its link to the organized crime.***



The Brazilian Senate

# Thank you very much!

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