

Privacy + Security Academy



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Artificial Intelligence Bill



Summary here: [Memorando-Projeto-de-lei-sobre-inteligencia-artificial-no-Brasil-EN.pdf \(camposthomaz.com\)](#)



Regulatory model



Bill #2.338

- Proposed on May 3, 2023
- Currently under public hearings and consultations
- Not likely to be approved in 2023

DPA regulatory sandbox on AI

- **Risk based approach**
- **Similar to the EU**
- **Recent discussions heavily criticized the regulatory model**

- **DPA sandbox - content to be defined**



Data Incidents



Data integrity

Availability

Confidentiality

Similar definitions of data incident under the LGPD and sectoral legislation, such as banking, insurance, health and others

Duty to report

National
Aviation Agency
- ANAC

National
Electricity
Agency - ANEEL

National
Telecommunica
tions Agency -
ANATEL

National Data
Protection
Authority -
ANPD

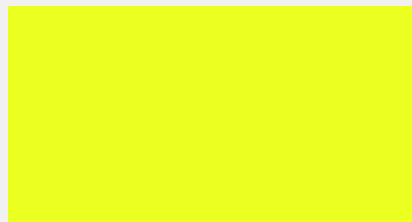
Data Subjects

Securities and
Exchange
Commission -
CVM

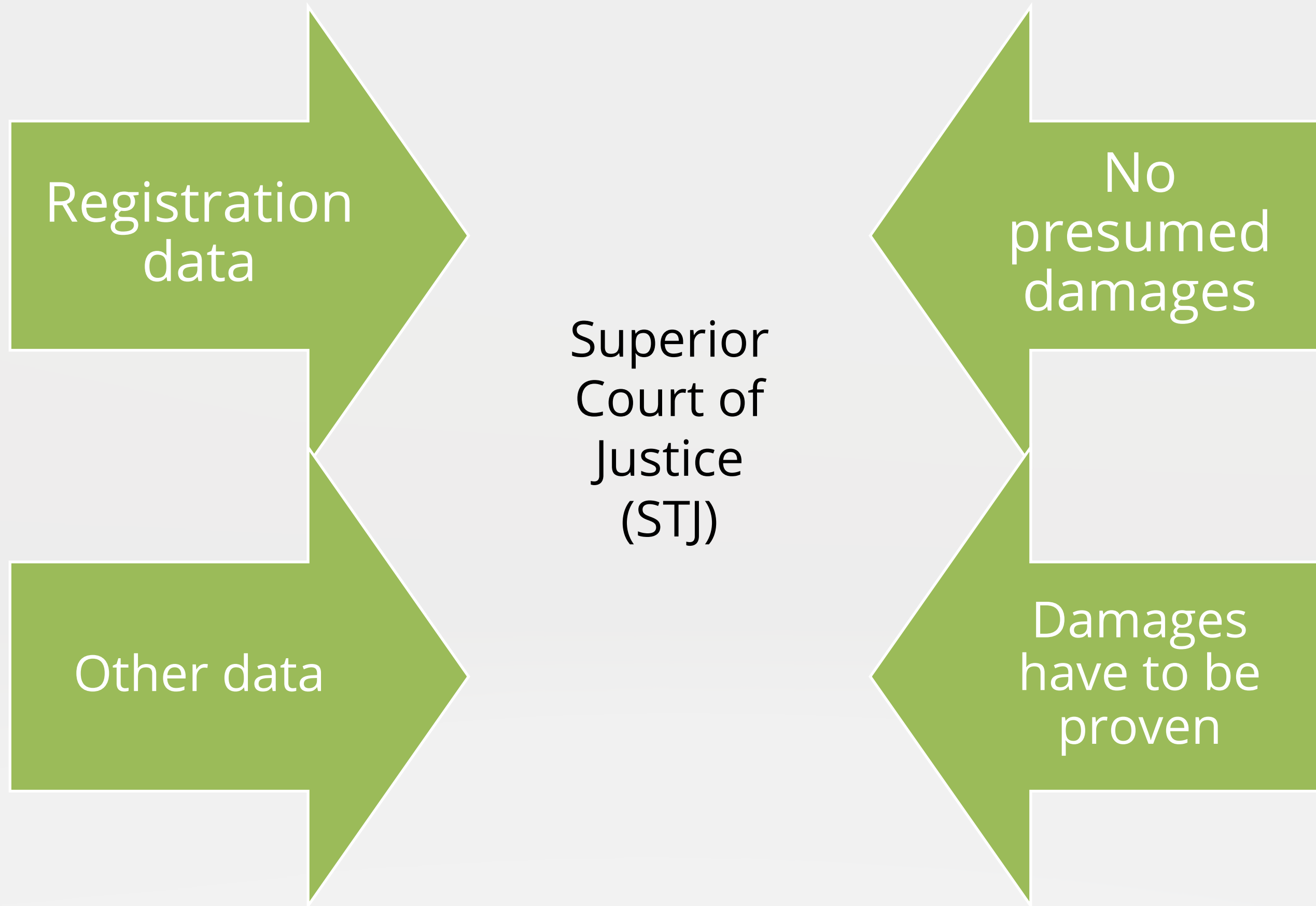
SUSEP

Central Bank of
Brazil – Bacen*

Regardless of the risk or harm
caused, if related to instant
payment system (PIX)



Lawsuits - Individual and class suits



International Data Transfer Modalities

ANPD adequacy decision

International
Cooperation Agreement

When the controller offers and proves guarantees of compliance with the principles and the rights of the data subject and the regime of data protection provided in the LGPD:

- Specific contractual clauses for a given transfer (*will potentially be defined as “subsidiary modality”*);
- Standard contractual clauses* (*template under discussion*);
- Binding corporate rules;
- Regularly issued stamps, certificates and codes of conduct;

Additionally:

- Necessary to protect the life or physical safety of the data subject or of a third party;
- National authority authorizes the transfer;
- Transfer results in a commitment undertaken through international cooperation;
- Transfer is necessary for the execution of a public policy or legal attribution of public service, which shall be publicized;
- When the data subject has given her/his specific and highlighted **consent for the transfer**, with prior information about the international nature of the operation, with this being clearly distinct from other purposes;
- or when it is necessary to satisfy the situations provided in law (e.g. legal obligation, lawsuits)

Regulation of International Transfer of Personal Data

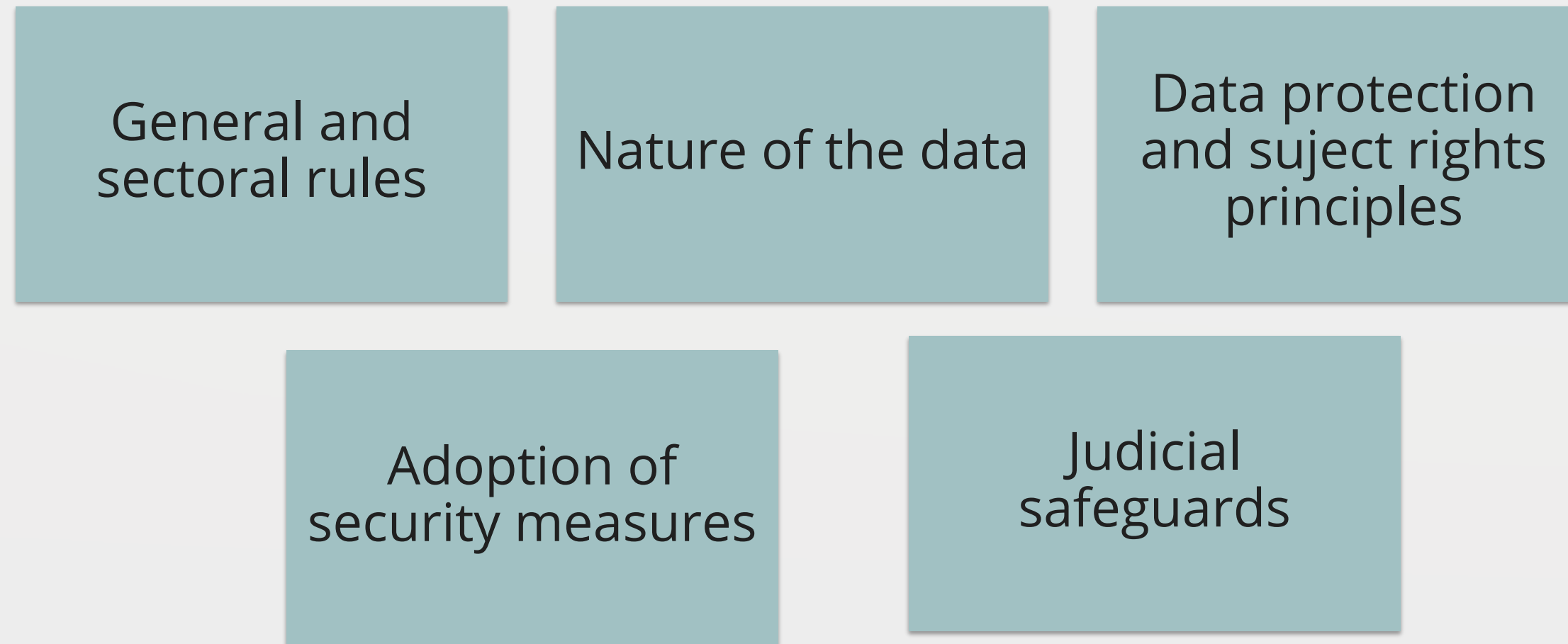
Public consultation deadline:
October 14, 2023

Possibility of acknowledging other SCCs compatible with LGPD and therefore, no need to update the IDT mechanism

- Equivalence of personal data protection of a foreign country (adequacy decision)
- Standard contractual clauses (SCCs)
- Customized contractual clauses for each data transfer (*SUBSIDIARY MODALITY*)
- Binding global corporate rules

Adequacy Decision

The analysis of the level of equivalence considers:

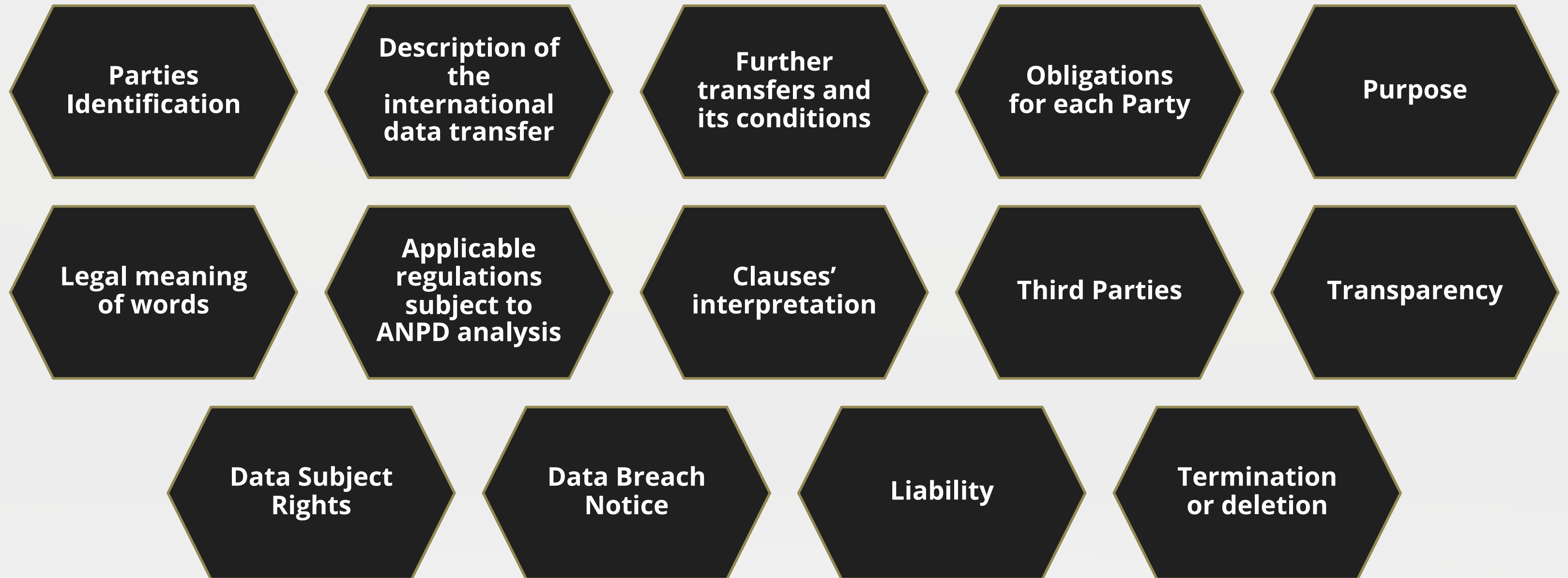


The ANPD has not issued any decisions on the matter

Likely follow the same line as the EU's approach

There has been reported discussions with the UK on the topic

Standard Contractual Clauses (SCCs)



Compliance with the Brazilian regulation on international data transfer

Record of Processing Activities (ROPA)

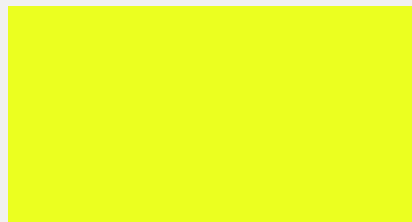
Risk Assessment, considering International Data Transfers

Manage the agreements with third parties regarding international data transfer

Prepare a communication channel for data subjects requests (DSR)

Security incidents policy

Corporate rules



Third-party management (processors)

Identify the parties involved

Identify the data being transferred
(national and international) and the purpose

Analyze the agreement between the parties

Applicable regulations

Verify the risks

Implement mitigating measures



ANPD regulations



Regulations on auditing procedures and the application of administrative sanctions

Regulations on the Measurement and Application of Administrative Sanctions

Legal hypotheses for processing the personal data of children and adolescents



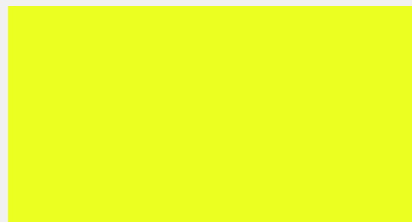
Data Subject Rights

RIPD
(Data Protection Impact Assessment)

DPO

International Personal Data Transfer

REGULATORY SANDBOX ON AI



— **Thank you for your attention!**

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