

Brazilian regulation on AI

CNJ

- Resolution no. 332/2020: provides for ethics, transparency, and governance in the development and use of Artificial Intelligence in the Judiciary and other provisions.

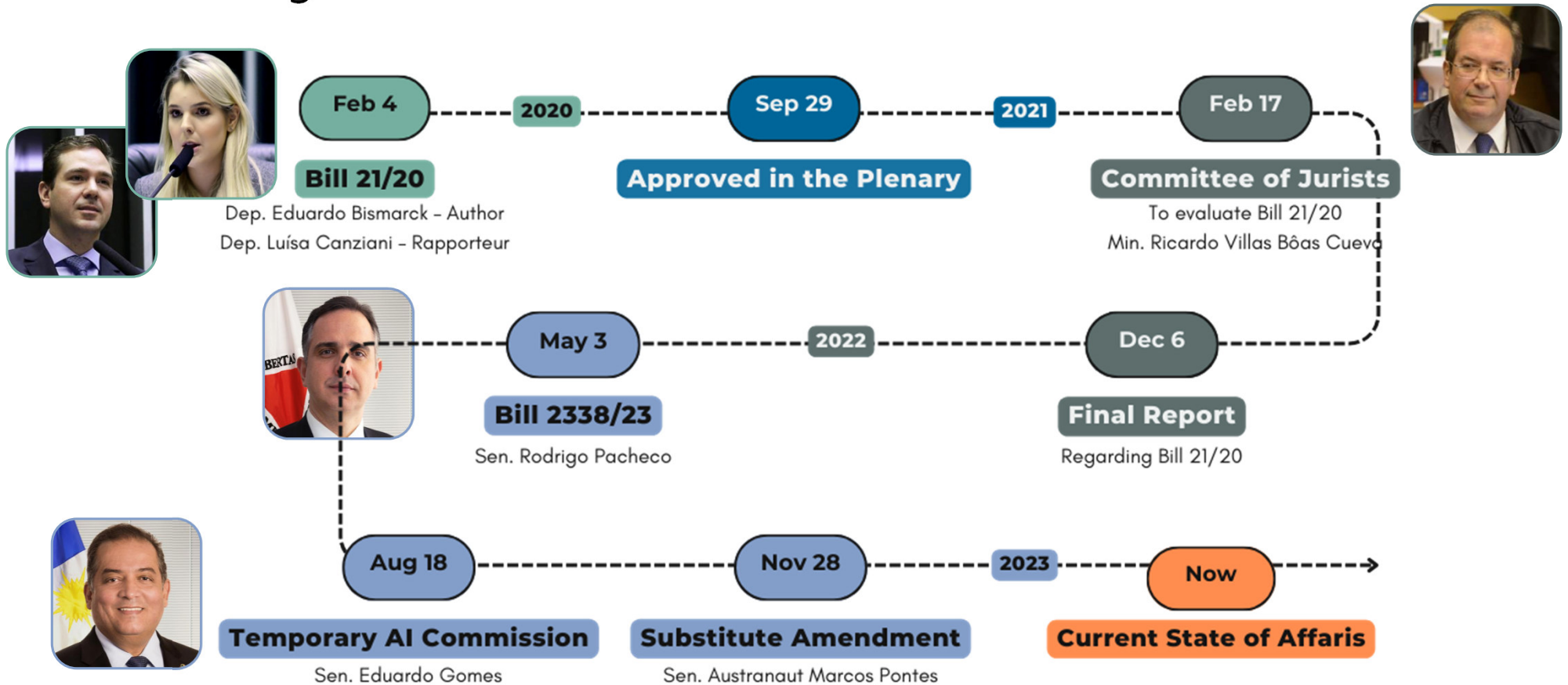
Bacen

- Circular no. 3648/2013: establishes the minimum requirements for calculating the portion related to credit risk exposures subject to the calculation of capital requirements through internal credit risk rating systems

Anvisa



- Board of Directors' Resolution no. 657/2022: provides for the regulation of Software as a Medical Device (SaMD).

Brazil's Legislative Debate






How to commit AI Agents (Developers & Operators) to the best practices of risk management?

- risk assessment
- documentation (responsibility)
- data management (privacy, fairness)
- monitoring
- Security (cyber)
- Safety (reliability)

Regulation	Transversal	Sectorial
External		
Internal		

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Regulation	Transversal	Sectorial
External	 Bill Senate	 Bill C.Deputy
Internal	 Bill Trans	

Brazilian Original Bill: European core

- Basic concern: Protection of fundamental rights (individual harms)
- Commitment to transversal governance procedures: risk management
- Risk based approach
- Classification of risk: types of applications
- External Central Authority: ruling & enforcement

Brazilian Original Bill: Rights approach

- **Chapter listing rights to those affected by AI systems (independently of risk)**
 - ✓ Transparency about use
 - ✓ Transparency about criteria (explanation)
 - ✓ Transparency about data
 - ✓ Data protection
 - ✓ Non-discrimination
 - ✓ Human revision
 - ✓ Challenge the automated decision (prediction or recommendation)
- **Enforcement by Law Courts**

Brazilian Original Bill: Liability

- **Special model for liability**
 - ✓ Strict liability for high risk
 - ✓ Rebuttable presumption for not-high risk

EU AI ACT: changes

- Inclusion as fundamental rights: democracy and the rule of law, environmental protection
- Governance rules for general purpose (Gen AI):
 - ✓ New category of systemic risk (based on size)
 - ✓ Transparency by developer and risk management for deployer
- Investments on AI development: Sandbox and support to startups

Brazilian Metamorphosis: Brazilian AI ACT

- Revision of the chapter on rights
- Enforcement systems
- Governance rules for general purpose (Gen AI)
- Rules for promoting investment
- Rules on environmental sustainability
- Rules on impact on employment

Present Brazilian Bill: Rights approach

- **Rights to those affected by NOT high-risk AI systems**
 - ✓ Transparency about use
 - ✓ Data Protection
 - ✓ Non-discrimination
 - ✓ Human supervision

- **Rights to those affected by high-risk AI systems**
 - ✓ Explanation about criteria for decision, prediction and recommendation
 - ✓ Challenge the decision, prediction or recommendation
 - ✓ Human revision

- **Enforcement by Law Courts**

National System for AI Regulation and Governance (SIA)

Central Authority

- ANPD
- General regulation and enforcement
- SIA coordination
- Certification framework and accrediting

Sectorial Authorities

- Regulatory Agencies, Bacen, MEC, CNJ, Anvisa, etc...
- Sectorial regulation and enforcement
- Promote sectoral best practices and code of conducts

Permanent Council for AI Regulatory Cooperation (CRIA)

- Support sectorial authorities and civil society
- Suggest actions to be carried out by the SIA
- AI Advocacy

Committee of AI Experts and Scientists (CECIA)

- Experts
- Technical and scientific guidance and supervision for responsible AI

SIA: revision of risk classification

Present Brazilian Bill: Self-regulation

- **Codes of Conduct:** best practices (validated by Authority)
- **Regulated self regulation:** acknowledgment by authority of self-regulatory entities (sectorial)- best practices, technical standards, sharing experiences on risk management
- **Accreditation of certification programmes**

Present Brazilian Bill: General Purpose Gen(AI)

- **Specific governance for risk management (focused on results not procedures)**
- **Same for developers and operators of Gen AI Systems**
- **No category of “systemic risks” based on size**

Present Brazilian Bill: liability

- **General Civil Code:**
 - **Strict liability for high risk activity (discretion by courts)**
 - **Consumer protection: strict liability and inversion of burden of proof**

Present Brazilian Bill: Investments

- **Promotion of regulatory sandbox (privileging startups and small companies)**
- **Support to startups**
- **State-investment (hiring and public-private partnerships)**
- **Investment on research privileging technological autonomy and Brazilian problems and competitiveness**
- **Financing structure resources to research centers and small companies**
- **Infrastructure and computational power based on renewable energy**

Present Brazilian Bill: Environmental Sustainability

- **Public investments on computational infrastructure based on clean energy**
- **Priority to the use of AI systems enhancing energetic efficiency (Green AI)**
- **Funding research on Green AI**
- **Certification programs for sustainable infrastructure and AI systems**

Present Brazilian Bill: Impact on employment

- **CRIA and Ministry of Work&Employment: directives and public policies**
- ✓ **Mitigate negative impacts:** forbid massive “firing”, promote training and capacitation, create new job opportunities
- ✓ **Promote positive impacts:** applications for professional development, health protection and better work conditions

Present Brazilian Bill: Copyright

- **Developers must disclose use of protected work**
- **Remuneration for use of copyright protected work in the development of AI systems**
- **Right to authors to forbid use**
- **Retaliations (discrimination) by developers against authors who forbid content use are anticompetitive conducts**
- **Minimality principle: use of protected data should be necessary for the goal of the application and should not prejudice economic interests of authors or compete with the distribution of original work**