

European Data Protection Day: Mutual Adequacy Decision between Brazil and the European Union as a Catalyst for a Free Trade Area

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Today, on European Data Protection Day, we highlight the formalization of the mutual recognition of the adequacy of the respective personal data protection regimes between Brazil and the European Union (EU).

An adequacy decision is an instrument that enables the international transfer and exchange of data between countries and bodies within the EU and Brazil, by ensuring a level of protection deemed adequate. Transfers of data carried out exclusively for purposes of public security, national defense, State security, or criminal investigation are excluded from its scope.

This decision constitutes a demonstrative action of the personal data protection mechanisms introduced by the General Data Protection Regulation (GDPR) as catalysts for trade and for improving people's lives, by ensuring greater predictability and trust in cross-border data flows between the two markets, while respecting fundamental rights.

Indeed, the decision will facilitate data flows for companies and citizens in both markets, not only in commercial activities but also in the fields of research and innovation, insofar as it reduces requirements that, until now, were essential for the lawful transfer of personal data—namely, the adoption of Standard Contractual Clauses (SCCs) or Binding Corporate Rules (BCRs). In doing so, it fosters the digital economy and innovation across e-commerce, health, technology, and financial services.

The decision does not result in an exemption from compliance with other applicable obligations relating to the protection of personal data under either the General Data Protection Regulation ("GDPR") or the Brazilian General Data Protection Law ("LGPD"). Entities remain bound to comply with rules concerning the rights of data subjects, the identification of a lawful basis for data processing, and the adoption of appropriate technical and organizational measures, among other obligations.

The adequacy decision on data protection between Brazil and the European Union may also be viewed within the broader context of the deepening of their relations, which is likewise marked by the provisional application of the EU–Mercosur Partnership Agreement (Argentina, Brazil, Paraguay, and Uruguay)—despite not yet having been ratified by the European Parliament. That agreement aims to accelerate economic growth across a range of sectors, with a particular focus on trade models developed in the digital economy era, where data plays a central role, extending beyond the exclusive trade in physical goods.



Thinking about tomorrow? Let's talk today.

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