

LAW IN TIMES OF PANDEMICS: A FORCED INSERTION INTO THE ONLINE WORLD AND ITS CONSEQUENCES

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ABSTRACT

The emergence and rapid spread, around the globe, of the new coronavirus imposed suddenly the need to adopt adaptive changes to the new reality. In the legal sphere, the adaptations caused an impact of even greater proportions than in other areas, given that, until now, the resistance of this branch to innovate was notorious. However, the COVID-19 pandemic has made it imperative to reduce bureaucratization of legal institutions, which is why the present work is aimed at the useful and necessary understanding of the online immersion of Law as well as the possible repercussions of that in the post-pandemic world.

KEY-WORDS

Coronavirus. Law. Debureaucratization. Innovation. Internet.

INTRODUCTION

In the midst of the various areas of knowledge that are in constant search for modernization and innovation, it is noticeable that the Law is timid when it comes to major changes. The legal world seems, in many ways, to have stopped in time.

Big data, internet of things and artificial intelligence have been slowly introduced into the daily lives of legal professionals. Even though some exceptions were noticed, this was not the rule of pre-pandemic Law.

Nevertheless, the increasing proliferation of COVID-19 worldwide and the need to try to prevent its spread has led to changes in the configuration of social, commercial, and, inevitably, legal relations.

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Considering the guaranteeing role of the Judiciary and related entities, which consists in protecting individual and collective rights, paralyzing its activities until the resumption of normalcy was not an option. It was necessary, then, that the Law, previously hardened, despite all resistance, became more flexible and reinvented itself under the new conditions and limitations imposed.

Allying itself with the resources provided by technology, Law has been taking unprecedented forms and the amplification of its immersion in the online world is inevitable. And in this new scenario, issues related to data protection and security, which are even more relevant than before, will determine the success of the new ways of exercising legal techniques, since it will no longer be possible, nor desired, to go back.

DEVELOPMENT

In April 2020, Brazil was surprised by the adoption of an innovative and unprecedented measure: for the first time in history, the Federal Supreme Court held trial sessions via video conference. The sessions were broadcasted in real time through the Superior Court channel on Youtube. Besides that, the Court allowed pleadings by attorneys, prosecutors and defenders active in the cases being tried, during the video conference³. The objective was to prevent the jurisdictional assistance from being interrupted during the COVID-19 pandemic.

At almost the same time, in May 2020, in Singapore, for the first time in the country's history, a man was sentenced to death after being put on trial via videoconference, through the Zoom platform.⁴ The measure was also adopted to ensure the safety of those involved in the process, amid the lockdown enacted in Singapore due to the rapid spread of the new coronavirus.

Despite the enormous physical and cultural distance between Brazil and Singapore, the COVID-19 pandemic seems to have created a point of convergence between the two countries, which tends to expand also to other territories: the replacement of

³ STF realiza primeiras sessões de julgamento por videoconferência nesta semana. Notícias STF, 2020. Available in: <<http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=441274>> Access in: May 21, 2020.

⁴ JONES, Anna. Man sentenced to death in Singapore via Zoom. BBC News, Singapore. May 20, 2020. Available in: <<https://www.bbc.com/news/technology-52739676>> Access in: May 21, 2020.

orthodox legal procedures with technological tools that allow the practice of jurisdictional assistance.

Regardless of the legal system adopted and the laws that make up the order of each country, there is a tendency to simplify and reduce bureaucracy in the exercise of Law, through the abandonment of traditions and conventions that, far from proving to be useful or necessary in order to achieve any purpose, only create obstacles to legal practice in situations that threaten the maintenance of normality and generate a distance from the jurisdictional exercise of those who are watching astounded the performance of civil servants and public authorities.

The realization of videoconferencing sessions allowed not only compliance with the recommendations of social isolation coming from the World Health Organization without the need to interrupt the provision of jurisdictional assistance, but also revealed the benefits that distance trials can provide even outside the context of exceptionality.

Among these, it is worth mentioning the enhancement of access to justice, the reduction of displacements, the reduction of the frequency of people in the courts and law firms, and, consequently, a significant cost reduction, which is especially welcome in the post-pandemic world, which, according to what is already speculated, will go through a severe economic recession, which will cause a serious fiscal crisis in the public funds.

These unprecedented benefits generated by the forced insertion of the Judiciary in the online world, in which the rules are speed, access and transparency, however, come with enormous challenges concerning the protection of information, not only of the judicial process itself, but of the parts involved.

The reason for it is the internet usage providing the scalability of data collection, making the information collected assets with high added value, and also high strategic importance, giving rise to the need to develop a culture of protection of privacy and protection of personal data.

Thus, stands out the European Union's General Data Protection Regulation (GDPR), which came into force on May 25, 2018, and is based on justice and legality, purpose limitation, data minimization, accuracy, storage limitation and integrity and

confidentiality⁵. The determinations concerning access and control of data use, which came with the objective of balancing the relations between organizations and individuals, can be transposed into legal relations, in order to ensure the protection of data contained in the legal proceedings under the same principles set out in the GDPR.

Likewise, Brazil, also in 2018, enacted the General Data Protection Law (Law No. 13.709 of 2018) that regulated the use, protection and transfer of personal data, both in the private and public spheres, establishing the subjects involved, their duties, responsibilities and penalties.

It is important to highlight that, even before the enactment of the new law, Brazilian law already had several norms that protected legal relations related to the protection of personal data. However, the new law creates a systematic legal framework and endowed with clear principles related to informational security. The law aims, therefore, to create a culture of data protection and public and corporate compliance.

In fact, the existence and application of rules that regulate this subject is more than fundamental to overcoming the crisis that further deepens the insertion of all sectors and instances in the online world, protecting rights that were previously neglected in the offline world.

Thereby, that is why the postponement of the implementation of the law that Brazil is facing generates a serie of issues regarding the adaptation of companies to the new law, especially considering that there is no National Data Protection Authority, which causes several juridical insecurities.

In this scenario, there are concerns related to the uncertainties in which legal relations will occur, but in any case, one thing is certain: anyone who does not update will be left behind.

CONCLUSION

The pandemic of the new coronavirus and the consequent need to adapt to the new imposed reality forced the abrupt insertion of activities and legal relationships in the

⁵ GODDARD, Michelle. The EU General Data Protection Regulation (GDPR): European regulation that has a global impact. *International Journal of Market Research*, v. 59, n. 6, p. 703-705, 2017.

online world. There is no doubt that the new model, by enabling the most dynamic and modernized exercise of Law, provides numerous benefits. Nevertheless, the enjoyment of these benefits depends directly on the effective protection of the personal data of those involved in the legal proceedings, to ensure the due security of legal relations. In this scenario, the regulation of the use and protection of data and the effectiveness of the current regulatory provisions must be a priority in the pandemic and post-pandemic world.

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