Translation by Ana Luiza Araujo - researcher at <u>InternetLab</u>, law and technology research center - São Paulo, Brazil.

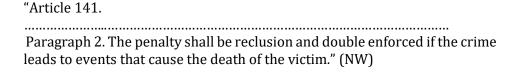
COMMISSION OF CONSTITUTION AND JUSTICE AND CITIZENSHIP SUBSTITUTE ADOPTED BY THE CCJC TO THE DRAFT BILLS No. 215, 1,547 AND 1,589 OF 2015

Establishes causes for the increase of penalty in connection with crimes against one's honor committed with the usage of equipment, machine, device or other necessary means for enabling telecommunications, or by Internet application, regardless of means used, and sets forth other rules.

The National Congress declares:

Article 1. This law establishes causes for the increase of penalty in connection with crimes against one's honor committed with the usage of equipment, machinery, device or other necessary means for enabling telecommunications, or by Internet application, regardless of means used.

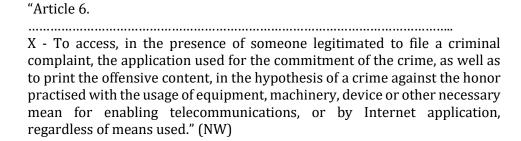
Article 2. Article 141 of Decree-law no. 2,848, of December 7th 1940, from now on is enforced with the added paragraph 2, renumbering the current sole paragraph to paragraph 1:



Article 3. Article 145 of Decree-law no. 2,848, of December 7th 1940, from now on is enforced with the following wording:

Article 145. Proceedings regarding the crimes mentioned in this chapter ar	e:
only taken upon complaint, except pursuant to article 141, paragraph 2 or i	if
oursuant to article 140, paragraph 2, bodily injury arises.	
,	"
NW)	

Article 4. Article 6 of Decree-law no. 3,689, of October 3rd 1941, from now on is enforced with the added item X:



Article 5. Article 323 of Decree-law no. 3,689, of October 3rd 1941, from now on is enforced with the added item IV:

VI - Crime against the honor that leads to events that cause the death o victim."	f the
Article 6. Item IV of article 387 of Decree-law no. 3,689, of October 3rd 1941, now on is enforced with the following wording:	from
"Article 387.	
IV - the minimum amount for the compensation of moral and mat damages caused by the violation will be established considering the losuffered by the offended;	sses
(NW)	••••
Article 7. Paragraph 3 of article 10 of Law no. 12,965, of April 23rd 2014, from on is enforced with the following wording:	now
"Article 10.	
Paragraph 3. The rule established in the main section of this article does prevent the access to registration data, such as personal qualificate parentage, complete address, telephone, tax payer's number, e-mail access in accordance with the law, by authorities with legal competence for requisition. The internet service providers are compelled to adopt meas regarding the collection, obtaining, organization and availability of aforementioned registration data as means to comply to what is establishere, if and when requested by the authorities.	tion, ount, r its ures the shed
(NW)	"
Article 8. Paragraph 5 of article 13, of Law 12,965, of April 23rd of 2 from now on is enforced with the following wording:	014,
"Article 13.	
Paragraph 5. With exception of the rule set forth in article 23-A, providing of the records mentioned in this article to the applicant requipidicial authorization.	iires
(NW)"	
Article 9. Paragraph 3 of article 15, of Law 12,965, of April 23rd of 2 from now is enforced with the following wording:	014,
"Article 15.	
Paragraph 3. With exception of the rule set forth in article 23-A, providing of the records mentioned in this article to the applicant requipolical authorization.	
(NW)"	

"Article 323.

Article 10. Article 19, of Law 12,965, of April 23rd of 2014, from now is enforced with the added paragraphs 3-A and 4 with the following wording:

"Article 19.

.....

Paragraph 3-A. The interested party or her\his legal representative may judicially request, at any moment, the removal of content that links her\his name or image to crimes from which she\he was definitely acquitted, or to libelous, defamatory or offensive facts.

Paragraph 4. The judge, including during the proceedings mentioned in paragraphs 3 and 3-A, may anticipate, totally or partially, the effects of the requested injunction on the initial request, in case there is unequivocal evidence regarding the fact and considering the public interest in accessing the content on the Internet, provided that the likelihood of the claim of the plaintiff is well-grounded and there is a well-founded fear of irreparable or hard-to-repair damage" (NW)

Article 11. Law no. 12,965, of April 23rd 2014, from now is enforced with the added article 21-A:

"Article 21-A. The Internet application providers, including the ones with content generated by third parties, that do not take the measures to remove content referred to in article 19 will be subjected to fine. The amount of such fine will be established considering the nature and the gravity of infraction, the damage which resulted from it in connection with the service and the users, the advantage obtained by the infractor, the aggravating circumstances, the precedents of the infractor and recidivism, without prejudice of the other civil or eventually appropriate criminal sanctions.

Sole Paragraph. Recidivism may be understood as the repetition of a breach of law of the same nature after the delivery of a previous judicial decision.

Article 12. Section IV, of Chapter III, "Providing Connection and Internet Applications" of Law no. 12,965, of April 23rd 2014, is now named "Records Requiring".

Article 13. Law no. 12,965, of April 23rd 2014, from now is enforced with the following added articles 23-A and 23-B:

"Article 23-A. The police authority or the Public Attorney's Office, pursuant to this article, may request, to the one responsible for keeping it, registration data, restricted to the investigation, in order to conduct an enquiry or investigative procedure initiated to ascertain the practice of crimes against the honor committed with the usage of equipment, machinery, device or other necessary means for enabling telecommunications, or by Internet application, regardless of means used, if the aforementioned request is based on information published or made available to the general public by the individual accused or under investigation, or by any other user.

Paragraph 1. The request will be presented only if grounded on evidence of the occurrence of the crime and when the proof cannot be collected through other available means, under penalty of invalidity of such proof.

Paragraph 2. The police enquiry mentioned in the main section of this article will be concluded within thirty days, if the accused is under arrest, and ninety days, when she\he is free.

Paragraph 3. It is incumbent to the requesting authority to take the necessary measures to guarantee the seal of received information and to preserve the intimacy, private life, honor and image of the user.

Article 23-B. To request or provide connection records or records regarding the access to Internet applications outside of the hypothesis authorized by law constitutes crime.

Penalty: reclusion, of two to four years, and fine."

Article 14. This law is valid from the time of its publication.

Commission Room, October 6th 2015.

Congressman ARTHUR LIRA
President