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Idec and MPF of SP file a lawsuit of R\$ 1.7 billion against WhatsApp and ANPD

Largest lawsuit in the history of Brazil in the protection of personal data is based on the changes applied in 2021 by the application in the Privacy Policy

 INTERNET, TELEPHONY AND TV

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The Idec (Institute of Consumer Defense) and the MPF (Federal Public Ministry) of São Paulo filed, on the 16th, with the largest lawsuit in the history of the country in the protection of personal data, with a request for compensation against WhatsApp that can reach R\$ 1.7 billion. If the cause is won, the amount paid as collective moral damage is destined to the Diffuse Rights Fund, linked to the Ministry of Justice. The action also blames ANPD for not having acted against WhatsApp.

The lawsuit against WhatsApp and ANPD is due to the changes made to the company's Privacy Policy in 2021 and which is in force to this day.

According to data from the research company [Statista](#), Brazil has about 150 million users in the messaging application, which means approximately 95% of internet users in the country. The relevance of this application for the millions of Brazilians makes this process the largest in Brazilian history on the subject.

For the Institute, the way the change was made infringes the LGPD (General Law for the Protection of Personal Data) and the CDC (Consumer Protection Code). "WhatsApp, at the height of the pandemic, forced people to accept this policy, otherwise they would lose access to the application. An evident violation of Brazilian laws, because the company inhibits the possibility of free, express and informed consent of consumers," explains Idec's lawyer, Lucas Marcon.

The purpose of the action is to make WhatsApp respect Brazilian laws and offer the person the option to choose whether or not to provide their data that is not necessary for the messaging service, in a simple and direct way. "The way it has been since 2021, for a person to have the right to oppose this treatment, he needs to go through a series of complex steps and is still induced to accept the Privacy Policy every time he opens the application," adds the coordinator of the Telecommunications and Digital Rights Program of Idec, Camila Leite Contri.

Brazilian is not a second-class citizen

WhatsApp began to take and process the personal data of Brazilians without even warning the population about what it would do. Very different from the company's attitude in Europe, for example, in which they not only warned but also went back, when the authorities opposed the changes. "Meta treats Brazilians and Brazilians as second-class citizens. The company is much more cautious when dealing with the rules of European countries, while in Brazil and other nations of the global south, its biggest concern is profit, whatever the cost - including our rights. This action came to show that this 'everything goes' will no longer be accepted," says Flora Rebello Arduini, senior consultant for Technology & Human Rights at Ekō. The global organization has been together with Idec in confronting this policy since 2021.

The lawsuit is also the result of the petition sent by Ekō to the MPF in April 2021 which, from it, opened the civil inquiry.

The consequences for consumers

With the privacy policy that is in force, WhatsApp can use different consumer information to offer the most diverse products, services and advertisements. These data are collected in the most different ways.

WhatsApp knows, for example, if someone broke up a relationship by stopping talking to a certain person who had frequent contact. With this, they can start to show self-help advertising, travel packages to do alone and even alcoholic beverages, for example. "Every day WhatsApp captures user data such as battery level, location, status posts, name and group photos and many others. It is a huge invasion of privacy that can turn into invasive and also dangerous advertising. Not to mention the possibility of leakage, as occurred in the case of Cambridge Analytica, which can turn into a full plate for scammers and criminals, in addition to the possibility of affecting even children and adolescents," says the also coordinator of the Telecommunications and Digital Rights Program of Idec, Luã Cruz.

Request for injunction until the trial

Idec and the MPF also asked for a preliminary measure for WhatsApp to adapt its privacy policy to the standard used in Europe until Justice makes a final decision. The goal is to prevent consumer data from continuing to be captured and shared daily by the application with the Facebook and Instagram platforms without the guarantee of respect for the rights of Brazilians and Brazilians.



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