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THE ROLE OF BRAZIL’S “MARCO CIVIL DA INTERNET” LAW IN THE FIELD OF INTERNET USE AND INFORMATION EXCHANGE

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Abstract

This scientific article provides a detailed analysis of Brazil's law on Internet regulation. Today, the Internet has become an integral part of social, political, economic, and cultural processes. The acceleration of information flows, the expansion of global communications, and the development of democratic values are directly linked to the Internet. At the same time, issues such as the protection of personal data, information security, and network neutrality remain highly relevant in the process of Internet usage. This article scientifically analyzes the role of Brazil's 2014 law “Marco Civil da Internet” in public life, its comparative aspects with international experiences, as well as its significance in the field of Internet use and information exchange. The study mainly focuses on the specific features of Brazil's approach to Internet regulation. In addition, the article examines the importance of the Internet in the process of information exchange, its differences from other information resources, its advantages, and its legal significance.

Keywords: Information, Internet, Brazil, “Marco Civil da Internet”, Dilma Rousseff, “Internet Constitution”, Ministry of Justice of Brazil, Edward Snowden, Tim Berners-Lee, Internet technologies, privacy, personal data.



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Introduction

In recent years, Internet technologies have deeply penetrated almost all spheres of human life and social relations. Therefore, the protection of individual rights in the digital space, ensuring data security, and guaranteeing fair use of the network have become matters of urgent importance. The Internet, as a global network, today constitutes an integral part of political, economic, legal, and social relations. Nevertheless, the issue of maintaining a balance between freedom and control on the Internet remains relevant for all states. The law “Marco Civil da Internet,” adopted in Brazil in 2014, is considered one of the most significant legal documents that established the legal foundations for addressing these issues. This article is devoted to the scientific analysis of the importance of this law in social life, its impact on the processes of Internet use and information exchange, as well as its strengths and weaknesses. The “Marco Civil da Internet,” adopted by the Brazilian state in 2014, has secured its place in history as a fundamental legal act in this field.

On April 23, 2014, Brazilian President Dilma Rousseff signed the “Marco Civil da Internet,” a law on the regulation of the Internet. This document is often referred to as Brazil’s “Internet Constitution,” as it is aimed at protecting the personal data of Internet users and ensuring the principles of network neutrality. The law also limits the scope of data collection and storage by Internet companies.

After lengthy negotiations and six years of effort, Brazil adopted Law No. 12,965/2014, entitled the Civil Rights Framework for the Internet (Marco Civil da Internet). This event became a landmark in the history of information exchange and Internet use.

In 2008, the Ministry of Justice of Brazil initiated extensive consultations to define the elements of a civil rights framework. The government of President Dilma Rousseff decided to legally mandate Internet companies to host their servers in Brazil in order to guarantee respect for the privacy of Brazilian citizens. Non-compliance with this requirement entailed fines and even a complete ban on conducting business within the country. The primary purpose of these measures, however, was largely perceived as an attempt by the Brazilian government to retaliate against large U.S. Internet corporations.



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The law was well received by the local press and society at large. Prior to the adoption of specific provisions, debates regarding network neutrality were still ongoing. Soon after, the Brazilian government initiated the process of introducing a law on data protection to Congress. As a result of the adoption and intensive work on the law, it entered into force within 60 days from April 24, 2014.

The revelations made by Edward Snowden concerning Internet surveillance programs accelerated the adoption process of the law. Following the exposure of the U.S. National Security Agency's secret monitoring programs, in September 2013 President Dilma Rousseff declared the law to be a priority for the Brazilian government and emphasized the need for its prompt adoption. Nevertheless, negotiations lasted for more than half a year. The President insisted that the law should require foreign Internet companies to store all data of Brazilian users on servers located within the country. However, after sharp criticism from representatives of the Internet industry, the government was compelled to abandon this requirement.

The law was also widely supported at the international level. In particular, Tim Berners-Lee, recognized as the "Father of the Internet," emphasized that this document could serve as a legal foundation for the international regulation of the global network.

Tim Berners-Lee noted the following:

"I hope that with the adoption of this law, Brazil will further strengthen its well-deserved reputation as a global leader in democracy and social progress, and will help to usher in a new era in which the rights of citizens in every country in the world are protected by a Bill of Digital Rights."¹

The "Marco Civil" law incorporates the following fundamental provisions:

- Protection of personal data:** Internet companies are prohibited from collecting and storing unlimited amounts of user data.
- Confidentiality:** Emails must be accessible only to the sender and the recipient.

¹ See. Electronic source: <https://runet.news/news/2809>



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- **Network neutrality:** Internet providers are not entitled to block or discriminate against traffic passing through their networks.

The Brazilian government pursued two main objectives: to transform certain aspects of Internet policy into law and to harmonize judicial decisions.

Access to the Internet is recognized under the law as a right that must be exercised through citizenship. The law also establishes the fundamental principles, guarantees, rights, and obligations of Internet use in Brazil. Its key provisions concern the protection of privacy rights, record-keeping to assist law enforcement authorities, intermediary liability for third-party content, and network neutrality.

Brazil does not have a specific, comprehensive statute regulating data privacy. Instead, privacy and personal data are protected under the Federal Constitution, the Civil Code, the Consumer Protection Code, and other federal laws applicable to certain enterprises.

The law further stipulates that whenever records, personal data, or communications are collected, stored, or processed in Brazil, matters relating to privacy, data protection, and the secrecy of communications must be governed in accordance with Brazilian law. This applies both to companies operating within Brazil and to those based abroad. Failure to comply with any of these obligations subjects companies, individually or collectively, to the following sanctions:

- a warning and the obligation to remedy the violation within a specified period;
- a fine of up to 10% of the economic group's revenue in Brazil during the previous year (if the violation is committed by a foreign company, its Brazilian branch or representative office is jointly liable for payment of the fine);
- temporary suspension of activities related to the storage, management, and dissemination of data;
- prohibition of any such activities.

Notably, the law does not impose an obligation to store data within the country or restrictions on international data transfers.

With regard to logging obligations, Internet access providers must retain connection logs in a secure environment for a period of one year (unless a longer period is requested by police or administrative authorities). This responsibility



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cannot be delegated to third parties. The stored logs of Internet access providers cannot be accessed by applications.

Law enforcement authorities may order the retention of application access logs for a longer period, and the judiciary may require providers that do not meet the above conditions to retain logs, provided that such logs are related to specific facts and within a defined timeframe. Internet application providers are prohibited from storing access logs to other Internet applications (except where the user has previously given consent) or from collecting personal data deemed excessive in relation to the purposes authorized by the user.

Returning to the Marco Civil², its preamble states:

“This Law establishes the principles, guarantees, rights, and obligations for the use of the Internet in Brazil and provides guidelines for the actions of the Union, the states, the Federal District, and the municipalities in this regard.”

The discipline of Internet use in Brazil is organized on the basis of respect for freedom of expression, as well as:

- recognition of the global nature of the network;
- protection of human rights, personal development, and the exercise of citizenship in the digital media environment;
- openness and cooperation;
- free enterprise, free competition, and consumer protection;
- the social purpose of the network.

The discipline of Internet use in Brazil is based on the following principles:

- guarantee of freedom of speech, communication, and expression, in accordance with the Federal Constitution;
- protection of privacy;
- protection of personal data, in accordance with the law;
- preservation and assurance of network neutrality;
- maintenance of network stability, security, and functionality, by adopting technical measures in line with international standards and best practices;
- liability of agents according to their activities, in accordance with the law;

² See. Electronic source: <https://pircenter.org/editions/avtorskij-perevod-zakona-ob-internete-federativnoj-respublikij-brazilija-law-no-12-965-marco-civil-da-internet/>



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- preservation of the inviolability of participants in the network;
- freedom of business models promoted on the Internet, provided they are not contrary to the other principles established in this Law.

The discipline of Internet use in Brazil is aimed at promoting:

- universal access to the Internet;
- access to information, knowledge, and participation in cultural life and public affairs;
- innovation and widespread dissemination of new technologies, uses, and access models;
- adoption of open technological standards that enable communication, interoperability, and accessibility among applications and databases.

Access to the Internet for Brazilian citizens is of particular importance, and users are guaranteed the following rights:

- compensation for material or moral damages resulting from violations of Internet users' rights and protection of the inviolability of private life, except in cases provided for by judicial decisions under the law;
- prohibition of Internet disconnection, except in cases of debt directly arising from the use of services.

Any operation of collecting, storing, or processing personal data or communication records by communication providers and Internet application providers must, if at least one of these acts occurs within the national territory, necessarily comply with Brazilian legislation. This includes the protection of privacy, personal data, and the confidentiality of private messages and logs.

Violations of the above provisions by non-citizens are subject to the following sanctions:

- a fine of up to 10% of the gross revenue earned in Brazil by the economic group in the last fiscal year, taking into account the infringer's financial situation, the severity of the violation, and the principle of proportionality between the infraction and the penalty imposed;
- temporary suspension of the activities that led to the infractions provided for by the law;
- foreign companies are subject to the same penalties.



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Thus, the “Marco Civil da Internet” law served not only as a national legal safeguard for protecting the rights of Internet users in Brazil, but also as an advanced model in the field of Internet law at the international level. This initiative by Brazil has reduced the risk of transforming the Internet into closed national systems and, on the contrary, has promoted the principles of neutrality, openness, and privacy of personal data on a global scale.

In conclusion, the “Marco Civil da Internet” law provides a crucial legal foundation for Brazilian society in strengthening civil society, protecting individual rights, developing Internet infrastructure, and supporting democratic values. This experience also serves as a model for other countries and can be an essential source in shaping the legal framework of global Internet governance and the information society. The law plays a vital role in consolidating digital rights and ensuring Internet freedom at the global level.

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