

Jurisdiction	República Argentina
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Questionnaire

I. Law concerning protection of personal information

- i. Does your country have a general law concerning the protection of personal information in the private sector at the present or in the near future?

Yes, in Argentina personal data protection in the private sector is regulated by Law 25,326 and Regulatory Decree 1558/2001

- ii. Does your country have a general law concerning protection of personal information in the public sector at the present or in the near future?

Yes, in Argentina personal data protection in the public sector is regulated by Law 25,326 and Regulatory Decree 1558/2001. Personal data in the public sector is also regulated by Law 27,275 of Access to Public Information (*Ley de Acceso a la Información Pública*), which regulates different aspects in connection with the exercise of the right of access to public information.

- iii. Does your country have laws concerning protection of personal information which apply in individual sectors at the present or in the near future? (If yes, please describe outline.)

In Argentina there are no special data protection laws enacted which are applicable to specific/individual sectors.

Law 25,326 and Regulatory Decree 1558/2001 also applies to protection of personal data in individual sectors, ensuring that personal data from data subjects is collected and processed in compliance with the privacy principles set forth therein.

Where all of the answers to the question of I.(i), (ii) and (iii) is “no”, please skip to IV.

II. The basic information of the regulation concerning protection of personal information.

- i. Please fill in the blanks below about the law concerning personal information mentioned at I..

The title of the law : Law 25,326 and Regulatory Decree 1558/2001

① The definition of “Personal Information”	Law 25,326 defines personal information as “any information relating to an identified or identifiable natural or legal person”
② The scope in which the law applies	Law 25,326 applies to the protection of personal data, whether private or public, contained in registries or databases.
③ The territorial scope	Article 44 of Law 25,326 states that its provisions shall be applicable in the territory of Argentina. However, article 44 also provides that federal jurisdiction may apply to personal data records interconnected with networks of federal or international reach.

The title of the law : Law 27,275 of Access to Public Information

① The definition of “Personal Information”	<i>A definition of Personal Information is provided in Argentine Data Protection Law 25,326</i>
② The scope in which the law applies	<i>Public information held by public authorities</i>
③ The territorial scope	<i>Argentina</i>

Law 27,275 is a law which regulates the procedures by means of which citizens in Argentina can exercise their right to access to public information according to the requests for such information made to public authorities (for example, Congress, judicial authorities, branches of the executive power, etc). It is important to clarify that Law 27,275 does not aim strictly to regulate data protection matters but, instead, aims to guarantee that the State complies with its obligation of making effective Argentine citizens' right to access to public information

- ii. If there are any special instructions about the laws, please describe them.
There are no specific instructions about the referred laws.

III. OECD Privacy Principles

- i. If there are any provision of law which embody each OECD Privacy Principle in your country, please describe the outlines.

<https://www.oecd.org/sti/ieconomy/oecdguidelinesonthe protectionofprivacyandtr>

[ansborderflowsofpersonaldata.htm](https://www.ansborderflowsofpersonaldata.htm)

(a) Collection Limitation Principle

The Collection Limitation Principle is embodied in the Argentine Data Protection Law in the following provisions:

(i) Article 4 subsection 1 of Law 25,326 states that personal data should be collected only to the extent necessary to comply with the processing purposes informed to data subjects.

(ii) Article 4 subsection 2 of Law 25,326 expressly prohibits the collection of personal data from data subjects by unfair, fraudulent means or by any kind of means which are in breach of the provisions of Law 25,326.

(iii) Article 5 of Law 25,326 provides as general rule that personal data shall only be collected and processed with data subject's express consent.

(b) Data Quality Principle

The Data Quality Principle is embodied in the Argentine Data Protection Law through Article 4, subsection 5 which provides that personal data collected from data subjects must be accurate at all times. Personal data which is inaccurate or incomplete should be erased, corrected or updated as necessary. Furthermore, this principle is also embodied in Article 6 of Law 25,326 which provides that data controllers, when collecting personal data from data subjects, shall previously inform the purposes for the collection and processing of their data.

(c) Purpose Specification Principle

The Purpose Specification Principle is embodied in Article 4, subsection 1 of Law 25,326 which states that personal data shall be collected only to the extent necessary to comply with the processing purposes informed to data subjects. In this sense, Article 4, subsection 1 expressly provides that personal data collected from data subjects should be pertinent, adequate, and not excessive in relation to the scope and purpose for which they were obtained from data subjects.

(d) Use Limitation Principle

The Use Limitation Principle is embodied in Article 4, subsection 3 of Law 25,326 which provides that personal data cannot be processed or used for purposes other than or incompatible with those informed to data subjects.

(e) Security Safeguards Principle

The Security Safeguards Principle is embodied in Article 9 of Law 25,326 which provides that data controllers must adopt the technical and organizational measures that are necessary to guarantee the security and confidentiality of the personal data collected from data subjects in order to avoid its adulteration, loss, or unauthorized access. Additionally, the *Agencia de Acceso a la Información Pública* (public authority in charge of enforcing Law 25,326, “AAIP”) has issued Resolution 47/2018 approving guidelines and recommendations on security measures to be adopted by data controllers regarding the collection and processing of personal data.

(f) Openness Principle

The Openness Principle is not expressly embodied in a particular provision of Law 25,326. However, some provisions of Law 25,326 contain certain obligations for data controllers to ensure transparency in the collection and processing of personal data. To mention an example, Article 21 of Law 25,326 states the obligation of data controllers to register personal databases, identifying the type or nature of the data being collected, the purpose for its collection from data subject, among other information.

(g) Individual Participation Principle

The Individual Participation Principle is embodied through Articles 13 to 16 of Law 25,326. These provisions protect the following key rights of data subjects: (i) data subject’s right of information and access to its personal data, (ii) data subject’s right of rectification, update or amendment of its personal data and (iii) data subject’s right of erasure of its personal data.

(h) Accountability Principle

The Accountability Principle is not expressly embodied in a particular provision of Law 25,326. Notwithstanding this, it is tacitly inferred through the provisions of Law 25,326 that data controllers are held accountable for complying with the principles stated above.

- ii. If there are any sectors in which any laws exclude the application of each OECD Privacy Principle, please describe the outline.

(a) Collection Limitation Principle

The Collection Limitation Principle has some exceptions in connection to the obligation of data controllers to obtain data subject's express consent to process their personal data. For instance, Article 5, subsection 2 provides that previous consent from data subjects shall not be necessary in the following cases:

(i) Data is obtained from sources of unrestricted public access.

(ii) Data is collected in the context of the exercise of functions of the powers of the State or in the context the fulfillment of a legal obligation.

(iii) When data is limited to data subject's name, ID number, tax or social security identification number, occupation, date of birth and address.

(iii) Data is obtained from a contractual, scientific or professional relationship of the owner of the data, and such data is necessary for the fulfillment of the obligations under such contractual, scientific or professional relationship.

(b) Data Quality Principle

No exclusion for the application of this privacy principle is provided in the Argentine Data Protection Law

(c) Purpose Specification Principle

No exclusion for the application of this privacy principle is provided in the Argentine Data Protection Law

(d) Use Limitation Principle

No exclusion for the application of this privacy principle is provided in the Argentine Data Protection Law

(e) Security Safeguards Principle

No exclusion for the application of this privacy principle is provided in the Argentine Data Protection Law

(f) Openness Principle

No exclusion for the application of this privacy principle is provided in the Argentine Data Protection Law

(g) Individual Participation Principle

The Individual Participation Principle has some exceptions as regards to data subject's exercise of its rights of information, access, rectification or deletion or its personal data. In this sense, Article 17 of Law 25,326 provides the following exceptions:

(i) Data controllers may deny access, rectification or deletion of data subject's personal data in the event this is necessary to guarantee the defense of the Nation, reasons of public order and security, or the protection of the rights and interests of third parties.

(ii) Data controllers may deny access, rectification or deletion of data subject's personal data in event that making effective the exercise such rights would imply hindering ongoing judicial or administrative proceedings in connection with the investigation on compliance of tax or social security obligations, the development of health and environmental control functions or the investigation of criminal offenses.

(h) Accountability Principle

No exclusion for the application of this privacy principle is provided in the Argentine Data Protection Law

IV. Data Localization and Government Access

In your country, are there any systems having an impact on the rights of data subjects such as comprehensive government access to personal data or Data Localization? If yes, please describe them.

Yes, Law 25,326 refers to comprehensive government access in some of its provisions. In this sense, Article 5 subsection 2 b) provides that data subject's consent will not be necessary in those cases in which personal data is processed in the context of the exercise of functions of the powers of the State or in the context of the fulfillment of a legal obligation. In the same way, Article 11 subsection 3 provides that previous consent from data subject will not be necessary for the assignment or transfer of personal data to third parties when such data needs to be processed in the context of the exercise of functions of the powers of the State.

As regards to data localization, under the Argentine Data Protection Law data regarding the location and the movements of natural persons qualifies as personal data. Therefore, data controllers, whether private or public, are obliged to collect and process such personal data in compliance with the data privacy principles and all relevant provisions of Law 25,326. Notwithstanding the foregoing, if data regarding the location or movements of data subjects is processed in the context of the exercise of functions of the powers of the State, obtaining previous consent from data subject in such cases shall not be necessary.

V. The Data Protection Authority

If there is the data protection authority, please write down the name and address of the authority

The data protection authority in charge of enforcing Law 25,326 is the *Agencia de Acceso a la Información Pública* (“AAIP”). The legal address of the AAIP is Avenida. Presidente General Julio A. Roca 710, piso 3, Ciudad Autónoma de Buenos Aires, Argentina.