

# NeoData RIPD News Bulletin

Year 1, No. 02 • 7 May 2010 • Biannual bulletin



## Argentina

### News

#### Out of control databases containing personal information on Argentinean citizens

A food manufacturer recently launched an advertising campaign offering clients the chance to win household appliances to refurbish their kitchens. According to the advertisement, clients have to visit a web page and enter the batch number of the product they have purchased. However, once in the web page the first thing visitors are requested to provide is not the batch number but other, more sensitive, information: their DNI (national identification number). After this, more information is requested: name and surname, bank account number, telephone, town/city and province. Once all this information has been supplied, visitors can enter their batch number. A growing number of companies are using this kind of strategy, which is legal in Argentina, to create databases with information about their clients.

By law, any company, bank, association, foundation or professional in possession of a database must register it with the National Personal Data Protection Directorate of the Ministry of Justice. However, while some estimates believe around 60,000 databases are registered with this Argentinean office, others claim that this is far less than the total number of databases currently being kept. As a comparison, the Spanish data protection authorities have 1,600,000 registered databases.

Source: *Clarín*, 16-Mar-2010

#### Government denies public information claiming it is personal data

The Civil Association for Equality and Justice (ACIJ) has condemned the head of the Administration for refusing it access to public information on the awarding of national subsidies, claiming that it was "sensitive information".

The answer was that "the information requested contains personal data protected under law 25.326 on personal data protection, and access to it can only be granted for purposes directly related to the legitimate interests of the assignor and assignee, with prior consent of the holder of the data".

Source: *La Nación*, 24-Apr-2010



## Spain

### News

#### 14th Jan 2010, 10th anniversary of the enactment of the Data Protection Act

Ten years have passed since the Organic Law on Personal Data Protection (LOPD) was enacted - a law that was passed to protect people against the risks involved in the gathering, processing and use of personal data, and to protect and guarantee citizens' rights.

The current [Organic Law 15/1999 of 13 December on personal data protection](#) adapted the provisions of Directive 95/46/CE of the European Parliament, and of the Council of 24 October 1995, on the protection of individuals with regard to the processing of personal data and on the free movement of such data, which in turn repealed Organic Law 5/1992 of 29 October on the regulation of the automated processing of personal data (LORTAD).

Source: Spanish Data Protection Agency (AEPD), 13-Jan-2010

### **AEPD calls on public authorities, social networks and parents to increase vigilance against risks to minors on the Internet**

To celebrate "Internet Safety Day", the AEPD has highlighted the need for educational authorities to commit themselves to including in their syllabuses basic education about the risks associated with the use of new technologies.

The Agency also highlighted the fact that age verification mechanisms have yet to be implemented on most social networks, whose members include thousands of under-14s.

The AEPD has placed a [link on its web page](#) containing useful information about minors, such as guidelines, recommendations, studies, videos and other interesting documents and websites.

Source: Spanish Data Protection Agency, 09-Feb-2010

### **FBI admits that it used the facial features of a Spanish member of parliament for its terrorist 'facial fit picture' through human error.**

The FBI has admitted that its facial fit picture of Osama Bin Laden is based on the facial features of the former leader of *Izquierda Unida*, currently a member of the Spanish parliament.

Before being removed, the facial fit picture was posted for several hours on the official website of the 'Rewards for Justice' programme, an initiative created in 1984 by the Bureau of Diplomatic Security of the US State Department to obtain clues that could lead to the capture of terrorists.

Source: *El Mundo*, 16-Jan-2010

### **The Association of Registrars criticised for providing third parties with personal data**

The Association for the Defence of Users of Public Registries has lodged a complaint with the Spanish Data Protection Agency against the Association of Property and Mercantile Registrars on the grounds that it provided third parties with personal data over the Internet.

The Association accuses the Registrars of issuing memorandums containing personal data of citizens (including their Spanish Identity Card number, address, marital status, marital financial status, personal wealth, mortgages and even debt) with no justified legitimate interest, without the consent of the holders of the data and for purposes not included in any regulations, and in violation of such fundamental rights as personal privacy and information self-determination.

Source: *Agencia Europa Press*, 22-Mar-2010

### **Over 50 data protection authorities and international experts gather at Granada University to analyse the impact of new technologies on privacy**

The event, held between 15 and 16 April and organised by the AEPD, was attended by data protection authorities from various countries and institutions, including the OECD, the European Data Protection Supervisor, the US Federal Trade Commission (FTC), Korea's Information Security Agency and the European Commission.

The aim of the meeting was to examine the impact of various modern technologies on the protection of personal data and privacy in order to standardise criteria used by authorities and experts.

Source: Spanish Data Protection Agency, 14-Apr-2010

### **Data protection authorities submit a complaint to Google**

The heads of ten data protection agencies have sent a letter to the head of Google calling on the company to

respect privacy rules when launching new products. In the letter they express their "deep concern" over the "problems arising from the recent launch" of its social network Google Buzz, "which lacks sufficient privacy guarantees".

The letter was signed by several data protection authorities, including Jennifer Stoddart (Canada), Alex Türk (France), Peter Schaar (Germany), Jacob Kohnstamm (Holland), Billy Hawkes (Ireland), Yoram Hacohen (Israel), Francesco Pizzetti (Italy), Marie Shroff (New Zealand), Artemi Rallo Lombarte (Spain) and Christopher Graham (UK).

Source: *El País*, 20-Apr-2010

## Mexico

### Regulatory and legal developments

#### Mexican Congress approves the Federal Law on the protection of personal data held by private individuals and reforms made to the LFTAIPG

After passing successfully through the lower house in April 2010, the Senate issued [a ruling](#) on 27-Apr-2010 approving the Federal Law on the protection of personal data held by private individuals. The law aims to regulate how personal data held by private individuals can be processed in order to ensure that this is done in a legitimate, supervised and transparent way which guarantees privacy and people's right to determine their own information. The Law appoints the IFAI as the body in charge of guaranteeing personal data protection in the private sector.

The most important reforms made to the Federal Law on transparency and access to public government information include extending the powers of the IFAI and changing its name to the Federal Institute of Access to Information and Personal Data, as well as defining personal data as: "any information concerning an identifiable or identified physical person". The ruling was approved unanimously and will be published by the Federal Executive.

Source: Federal Institute of Access to Public Information, 28-Apr-2010

### News

#### Lawmakers and experts consider the IFAI to be the ideal body to protect personal data

During the celebrations to mark International Personal Data Protection Day, the Governmental Commission of Mexico's Lower House, the Federal Institute of Access to Public Information (IFAI) and the Mexican Autonomous Institute of Technology (ITAM) organised the seminar "Challenges and legal perspectives of data protection".

During the event, experts, academics and lawmakers reached an -albeit qualified- agreement that the IFAI has all the characteristics, experience and prestige needed to be the body responsible for guaranteeing the protection of personal data in the hands of private individuals, highlighting that the public and private sector agreement on this issue is essential.

Source: Federal Institute of Access to Public Information, 28-Jan-2010

#### The IFAI calls for measures to encourage safe surfing for children on Internet social networks

The IFAI has called for the adoption and implementation of measures and actions aimed at reducing the potential damage to which young internet users are exposed, such as those listed in the Montevideo Memorandum. In the presence of representatives from Mexican civic organisations and specialists from Argentina, Costa Rica, Peru, Venezuela and Sweden, the IFAI reiterated its commitment to make rapid progress towards securing approval of a law to protect personal data in the hands of both the public

administration and private citizens.

Source: Federal Institute of Access to Public Information, 09-Feb-2010

### OECD: Foreign investment hesitant due to the lack of data protection laws

The IFAI, as the body in charge of protecting personal data in Mexico, took part in the meeting of the Organisation for Economic Cooperation and Development (OECD), held from 8 to 11 March, putting forward a number of suggestions and raising some issues to enhance the draft law drawn up by the commissions appointed by the Lower House.

The OECD put forward a strong case: the absence of a law protecting information undermines the confidence of foreign investors and therefore has a negative impact on a country's competitiveness. Twenty eight of the thirty OECD member states have specific legislation for data protection, with Turkey and Mexico being the only countries where these laws have not yet been implemented.

Source: Federal Institute of Access to Public Information, 08-Mar-2010

### Personal data of Mexican nationals sold to the highest bidder

For 12,000 dollars (approximately 153,000 pesos) any individual can go to the *Tepito* neighbourhood and purchase information ranging from the electoral roll of the whole of Mexico, the licence plates of all vehicles (commercial, luxury, public transport and vintage), the names of all prison inmates, and a register of all members of the police force together with their photograph, badge number and station where they are based.

This newspaper has been able to confirm that the information on sale is updated as far as 2009. The data is contained on three external hard drives, each with 160 GB (gigabyte) storage capacity, and is sold indiscriminately to criminal organisations and police officers who use it to carry out their job, as their organisations have no access to such data.

Source: *El Universal*, 19-Apr-2010

### Senate approves various LFTAIPG reforms, including a change of name

On 28-Apr-2010, the Senate [ruled](#) in favour of changing the name of the Federal Law on Transparency and Access to Public Governmental Information (LFTAIPG) to the Federal Law on Access to Information and Protection of Personal Data. Under the proposed reforms the right to access information and the right to protection of personal data will be clearly defined, and the powers of the Institute have been extended on both issues. The ruling has still to be approved by the Lower House, where it will be passed in September 2010.

Source: Federal Institute of Access to Public Information, 29-Apr-2010



#### Regulatory and legal developments

#### Parliament approves proposal on the use of electronic bracelets during prison sentences

Peru's parliament has approved the use of electronic bracelets to reduce overcrowding in prisons. Nevertheless, issues such as privacy and data protection associated with the supervision of these prisoners have yet to be resolved. The electronic supervision system will be applied to convicted criminals serving sentences of six years or less.

Source: *Iriarte & Asociados*, 06-Jan-2010

### Personal electronic surveillance approved in Peru

On 19-Jan-2010 Law 29299 was published in Peru's official gazette establishing personal electronic surveillance by means of a new device for controlling and monitoring the movements of alleged and convicted criminals, who can choose their home or any other location as the point of reference for their radius of action and movement.

Source: *Iriarte & Asociados*, 07-Feb-2010

### Information on employees sent to SERVIR

The Resolution of the President of the Government No. 23-2010-SERVIR rules that the heads of human resources offices, or those carrying out these functions, shall be responsible for sending and updating the information required from people that provide services to the State, irrespective of their labour status, to the National Civil Service Authority (SERVIR). The electronic format in which the information should be sent to SERVIR by e-mail has also been approved.

Article 8 of the resolution establishes that the information sent should only be used for purposes inherent to SERVIR. Any citizen may have access to this information, provided that any personal data does not violate the privacy of the holder of the information (number 5, article 17, T.U.O. of the Transparency Act).

Source: *Iriarte & Asociados*, 15-Apr-2010

## News

### Government presents a draft law on credit status or asset solvency data

The bill, presented on 18-Oct-2009, compels holders of credit information files to provide holders of the information with written notification of any entries made to their credit history. Furthermore, it establishes the right of the holder of the information to receive, free of charge, a written report on his/her credit history.

Source: *Centro de Estudios de la Sociedad y Tecnologías de la Información*, 09-Mar-2010

### Parliamentary group presents draft law 3580/2009-CR on health data: clinical history

The bill includes the obligation to provide patients with copies of their clinical history and also includes provisions applicable to companies providing health insurance. However, it does not establish limitations on the submission of health data to insurance companies, which is a violation of a patient's right to privacy with regard to medical certificates and clinical histories, unless a legal provision recognises this right. The bill was presented on 21-Oct-2009.

Source: *Centro de Estudios de la Sociedad y Tecnologías de la Información*, 09-Mar-2010

## CREDITS

Graphic flags. Courtesy of [www.3DFlags.com](http://www.3DFlags.com)