

Working Document No. 3: Access to Public Information in Latin America

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Latin America has made significant progress in legally recognizing the right to access public information compared to other regions. Most countries in the region have established transparency and public information access laws. In October 2024, Costa Rica's Assembly passed a framework law, while Bolivia's Congress advanced a similar initiative with Senate approval of a bill that was later shelved.

However, the region has also faced setbacks, particularly with the elimination of Mexico's Institute for Public Information Access. Since 2020, the following trends have been observed:

- **The independence of agencies responsible for public information access and data protection has been reduced.** This has happened through their absorption into executive ministries or secretariats, the appointment of government-aligned officials, judicial rulings, or direct attacks questioning their relevance, competence, or independence.
- **The scope of exceptions has been expanded or applied in ways that limit transparency.** In Colombia, civil society organizations have raised concerns about the inadequate application of the "harm test" in Article 28 of the public information access law. The law requires the entity holding the information to prove that disclosure would cause foreseeable harm. However, some interpretations now suggest that only a judge can apply this test.
- **Information of public interest has been classified under national security or other justifications.** In Honduras, for example, negotiations with the UN regarding the CICICH were classified as confidential.
- **The obligations of state entities have been suspended in times of emergency or constitutional exception.** In such cases, other rights—such as freedom of assembly, association, and home inviolability—are also frequently restricted. Additionally, direct government procurement and contracting processes increase.
- **Access to public interest data has been restricted by categorizing it as "private."** In Argentina, a 2024 decree regulating Law 27.257 on public information access limited the definition of public information by excluding data deemed "private" or lacking a clearly defined "public interest." In Colombia, civil society organizations have warned that habeas data protections have been extended to legal entities, making it easier to deny access to information.
- **Access to working or preparatory documents has been obstructed.** In Ecuador, a Ministerial Agreement from the Ministry of Economy in May 2024 declared that "communications at the national and international level on topics related to proposals, policies, and legislative projects" could be classified as restricted. In Argentina, a 2024 decree stated that preparatory deliberations, working papers, and preliminary assessments are not considered public documents.

Key Cases in 2024

México

On December 20, 2024, a constitutional reform took effect, dissolving the National Institute for Public Information Access and Personal Data Protection (INAI) along with other autonomous bodies. Former President Andrés Manuel López Obrador argued that "these constitutional autonomous bodies lacked democratic legitimacy" and "had favored private interests." With this change, oversight of public information access and data protection was transferred to the Secretariat for Anti-Corruption and Good Governance, led by Raquel Buenrostro. Several working groups will manage the transition, including the administration of the National Transparency Platform, which hosts around 14 million records, appeal mechanisms, and general oversight. Internal audit bodies within the judiciary and Congress will assume similar functions in their respective domains. In October, Buenrostro announced that the Secretariat was working on a General Transparency Law.

Argentina

In August 2024, the Executive Branch revised Law 27.275 on Public Information Access (2016) through a new regulatory decree. The decree redefines public information and public documents more restrictively. It excludes data classified as "private," those without a "compelling interest," preparatory deliberations, working papers, and preliminary assessments. Additionally, it introduces the vague principle of "good faith" for information requesters. Persistent requests could be classified as "abuse of rights," a legal offense under the Civil and Commercial Code. If the requested information is available online, agencies can simply refer to the website, even if the data is outdated.

Costa Rica

On October 4, 2024, Costa Rica's Assembly passed a Framework Law on Public Information Access, which took effect on November 1. While the law was positively received by journalists and civil society, it does not establish an independent oversight body to ensure compliance and address complaints. A previous attempt to regulate public information access failed two and a half years earlier.

Cuba

In July 2024, Cuba's National Assembly of People's Power approved the Transparency and Public Information Access Law, which applies to the executive branch, the National Assembly, the Council, and judicial bodies. Civil society organizations have criticized the law, arguing that it limits rather than expands public access to information. Concerns include a narrow definition of "public information" and a restricted list of obligated entities. The law also introduces a "harm test," allowing authorities to evaluate the risks of disclosure before granting access, which increases discretion over what information remains restricted.

Bolivia

In October, the Senate gave preliminary approval to a public information access bill promoted by opposition Senator Silvia Salame, developed in collaboration with civil society and government representatives. The bill aimed to ensure citizens' right to information through mandatory periodic publication of key data and established response deadlines for requests. It also proposed the creation of an Information Access Commission (CAIDP) under the Public Defender's Office. As of January 29, the bill was shelved.

Access to Public Information Laws and Regulations

- **Argentina** – Law 27.275 (2016), regulated by Decrees 206/2017 and 780/2024.
- **Bolivia** – Supreme Decree 28.168 on Access to Information (2005).
- **Brazil** – Law 12.527 (2011) on access to information, regulated by Decree 7,724 (2012).
- **Chile** – Law 20.285 (2008), with regulations in Decrees 13/2009 and 20/2009.
- **Colombia** – Law 1.712 (2014) and amendments, regulated by Decree 103 (2015).
- **Costa Rica** – Framework Law on Access to Public Information (Legislative Decree 10.554, 2024).
- **Cuba** – Law on Transparency and Access to Public Information.
- **Ecuador** – Organic Law on Transparency and Access to Public Information (2023, latest reform), with general regulations and additional resolutions.
- **Guatemala** – Law on Access to Public Information (Decree 57, 2008), in effect since April 21, 2009.
- **Honduras** – Law on Transparency and Access to Public Information (Legislative Decree 170, 2006), amended by Decree 6 (2022) and regulated by a 2014 decree.
- **Mexico** – Federal Law on Transparency and Access to Public Information (2016, latest reform in 2024).
- **Panama** – Law 6 (2002) on transparency in public administration, habeas data actions, and other provisions; Law 33 (2013) establishing the National Authority for Transparency and Access to Information.
- **Peru** – Law 27.806 on Transparency and Access to Public Information (2002, Consolidated Text 2019), regulated by Supreme Decree 007-2024-JUS.
- **Dominican Republic** – General Law 200-04 on Free Access to Public Information.
- **Uruguay** – Law 13.381 on Access to Public Information (2008), regulated by Decree 232 (2010).
- **Venezuela** – Law on Transparency and Access to Public Information (2021).

Civic Space Guardian: Legislative Radar on Civic Rights in Latin America

The observatory's mission is to monitor and analyze parliamentary debates that could affect the exercise of freedom of expression, the right to assembly and association, access to public information, and citizen participation in public affairs.

Every month, it tracks legislative developments in 18 Latin American countries, highlighting potential progress or setbacks in these fundamental rights.