

Argentina

	2016	2017		
Internet Freedom Status	Free	Free	Population:	43.8 million
Obstacles to Access (0-25)	6	6	Internet Penetration 2016 (ITU):	70.2 percent
Limits on Content (0-35)	9	7	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	12	14	Political/Social Content Blocked:	No
TOTAL* (0-100)	27	27	Bloggers/ICT Users Arrested:	No
			Press Freedom 2017 Status:	Partly Free

* 0=most free, 100=least free

Key Developments: June 2016 – May 2017

- Facing high inflation Argentina's main service providers raised the cost of mobile plans three times in 2016, and announced new hikes in 2017 (see "**Availability and Ease of Access**").
- Thousands of people used social media to call for concrete action to reduce violence against women, driving the related #NiUnaMenos motto into the most popular hashtag used by Argentinians on Twitter in 2016 (see "**Media, Diversity and Content Manipulation**").
- A new regulation threatened anonymity for owners of new website domain names, requiring biometric data as part of the registration process (see "**Anonymity**").
- At least three cyberattacks against digital media outlets were reported in early 2017. One of them was a Distributed Denial-of-Service attack against the news website Adelanto 24, which was taken offline in apparent retaliation for a publication on the army (see "**Technical Attacks**").

Introduction

While internet penetration and online engagement continued to make gains in Argentina, a series of technical attacks against media outlets threatened critical online reporting.

Since being sworn in as president in December 2015, Mauricio Macri has established a new telecommunications regulator and taken steps to reform the sector. A decree issued in December 2016 allowed companies to offer cable TV as well as internet and phone services, though a law to unify telecommunications and broadcast media legislation was still pending in mid-year.

The government does not regularly block or filter the internet, and issues of content removal have improved since the Argentine Supreme Court established a judicial notice and takedown system in a 2014 decision. In November 2016, a bill regulating internet intermediaries was approved by the Senate, establishing the need for a judicial order to remove online content for all cases. The bill had yet to be approved by the Chamber of Representatives. Meanwhile, controversial judicial orders were issued during the coverage period of this report to block the transportation mobile app Uber, though it remained available in Buenos Aires. This period also saw some attempts to remove content from social networks and video-sharing websites.

While Argentina does not suffer from high levels of violence against journalists, at least three cases of cyberattacks against news outlets were reported during the period of coverage. Three people were also detained on suspicion of involvement in the hacking of the minister of security's personal Twitter account to send disinformation and insults. On the other hand, a handful of users were prosecuted and charged for issuing threats against the president and other public official on social media.

Mauricio Macri came to power promising sweeping social and economic reforms following more than a decade of administrations under Néstor Kirchner (2003-2007) and Cristina Fernández de Kirchner (2007-2015). The government made further commitments to promote democracy and human rights online during the reporting period: In June 2016, Argentina joined the inter-governmental Freedom Online Coalition, which supports internet freedom and the protection of fundamental human rights.

Obstacles to Access

Access to the internet has increased consistently in Argentina over the past decade. However, a series of recent price increases have made certain mobile internet plans more expensive. Since President Mauricio Macri came into office in December 2015, a number of decrees have sought to reform the telecommunications sector with the aim of promoting convergence and boosting competition, although a promised law to unify the telecommunications and broadcast sectors was still pending in mid-2017.

Availability and Ease of Access

Argentina's internet penetration rate is among the highest in Latin America.¹ Mobile phone

¹ CEPAL, "Estado de la banda ancha en América Latina y el Caribe 2016," [State of Broadband in Latin America and the Caribbean 2016], October 2016, <http://bit.ly/2uOpy7S>

penetration also continues to grow.² The National Institute of Statistics and Census (INDEC) recorded 17.3 million residential internet access points in December 2016, up from 15.4 million in September 2015. The Buenos Aires open government website listed more than 462 public access Wi-Fi spots in the capital city in early 2017, an increase of 13 percent from 2016.³

Key Access Indicators		
Internet penetration (ITU) ^a	2016	70.2%
	2015	69.4%
	2011	51.0%
Mobile penetration (ITU) ^b	2016	151%
	2015	144%
	2011	149%
Average connection speeds (Akamai) ^c	2017(Q1)	6.3 Mbps
	2016(Q1)	5.3 Mbps

^a International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2016," <http://bit.ly/1cblxxY>.

^b International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2016," <http://bit.ly/1cblxxY>.

^c Akamai, "State of the Internet - Connectivity Report, Q1 2017," <https://goo.gl/TQH7L7>.

Prices for mobile phone and fixed-line broadband subscriptions are relatively high,⁴ and the cost of certain mobile plans spiked during the coverage period of this report amid rising prices for gas, electricity, water and transport. Service providers Movistar, Personal, Claro and Nextel raised prices for prepaid and postpaid plans three times during 2016,⁵ and announced new increases in February 2017.⁶ In January 2017, the national communications regulator ENACOM extended its more affordable prepaid mobile plan, launched by the government in 2014 in agreement with four cellphone companies,⁷ but with an average price increase of 9.5 percent.⁸

Measurements of internet speed in Argentina vary, but a range of sources show that the country lags behind global averages in broadband speed. According to Open Signal, Argentina's mobile internet speed is also below average at 6.78 Mbps, slower than eight other Latin American countries.⁹

Both government and private actors took steps to improve mobile services in the past year. In June 2016, a government decree offered incentives to mobile operators that install antennas on public

2 INDEC, "Encuesta Nacional sobre Acceso y Uso de Tecnologías de la Información y la Comunicación" [National Survey on Access and Use of Information and Communication Technologies], October 5, 2015, <http://bit.ly/1UL3hQg>

3 Buenos Aires Data, "List of Public Wi-Fi spots," accessed March 2017, <http://bit.ly/1Fp42mz>

4 Diario BAE, "Argentina y Brasil, los países más caros de la región para hablar por celular" [Argentina and Brazil, the most expensive countries in the region to talk on mobile phones], *Media Telecom*, March 4, 2015, <http://bit.ly/1Pp1Va6>; María Fernanda Viacens, "Precio, calidad y asequibilidad de la banda ancha: las disparidades entre los países de la región son muy importantes" [Price, quality and affordability of broadband: disparities between countries in the region are very important], DIRSI Policy Brief 2016, <http://bit.ly/1TAPpcm>

5 "Tercer aumento del año en celulares: suben los precios hasta 16%" [Third increase for cellphones in a year: prices increase up to 16%], *La Nación*, October 1, 2016, <http://bit.ly/2dh1a7M>

6 "Aumentan los precios de planes de telefonía móvil y fija" [Mobile and fixed telephone plans increase prices], *Revista Fibra*, February 24, 2017, <http://bit.ly/2nEpiol>

7 "Todo lo que hay que saber del Plan Prepago Nacional" [All there is to know about the National Prepaid Plan], *Télam*, August 8, 2014, <http://bit.ly/1mIM3F6>

8 ENACOM, "Continúa el Plan Prepago Nacional" [National Prepaid Plan continues], January 17, 2017, <http://bit.ly/2mfrhkh>; "Celulares: sube 9,5% el Plan Prepago Nacional" [Cellphones: National Prepaid Plan increase 9.5%], *La Nación*, January 17, 2017, <http://bit.ly/2nSYMOP>

9 Open Signal "Global State of Mobile Networks," February 2017, <http://bit.ly/2mfTPLX>

buildings.¹⁰ As of mid-2016 the Ministry of Communications also launched a popular Mobile Internet Access Plan (PAIM) offering 4G cell phones for 2,200 pesos (USD 140).¹¹ In October 2016, Telecom Argentina committed to a USD 400 million investment in 4G technology over the next four years.¹² Rival company Telefónica reported in 2016 that it had already invested USD 3 billion in 3G and 4G technology, among other areas.¹³

In May 2016, President Macri promised to bring quality broadband to 29 million people within two years through infrastructure investments under a Federal Internet Plan.¹⁴ By January 2017, an estimated 174 locations in 19 provinces were connected under the plan, which was expected to reach almost 500 locations by mid-2017.¹⁵ A separate initiative launched in June 2016, the Digital Country Plan (Plan País Digital), seeks to provide free public Wi-Fi in more than 1,000 municipalities.¹⁶

Argentina operates two telecommunications satellites, Arsat-1 and Arsat-2, which launched in October 2014 and September 2015, respectively.¹⁷ In November 2015, Congress approved a law on the development of the satellite industry, which provides, among other things, for the national development of eight satellites in the coming years.¹⁸ Construction of the ARSAT-3 mission stalled with the change of government, though the national satellite company (ARSAT) and the Ministry of Communications pledged to continue developing national satellites.¹⁹

Under the previous government, the Connect Equality initiative launched in 2010 sought to foster basic digital education among school children across the country.²⁰ In March 2016, members of the program reported layoffs,²¹ although the incoming government defended their plan to continue

10 Decree 798/2016, June 22, 2016, <http://bit.ly/2o4b3Zn>; ENACOM, Resolution 5/2017, January 30, 2017, <http://bit.ly/2mPC81k>

11 "Luces y sombras del despliegue del 4G en el país durante 2016" [Lights and shadows of 4G deployment in the country in 2016], *La Nación*, December 28, 2016, <http://bit.ly/2nclzLM>.

12 "Telecom Argentina anunció nuevas inversiones en tecnología 4G" [Telecom Argentina announced new investments in 4G technology], *Argentina.gob.ar*, October 7, 2016, <http://bit.ly/2nECAlm>

13 "Radiografía del mercado de telcos en Argentina" [Radiography of the telecoms market in Argentina], *Infotechnology*, September 6, 2016, <http://bit.ly/2nrodQq>

14 "En qué consiste el Plan Federal de Internet que presentó hoy Mauricio Macri" [The Federal Internet Plan presented today by Mauricio Macri], *La Nación*, May 17, 2016, <http://bit.ly/1NxeQu8>

15 "174 localidades se conectaron al Plan Federal de Internet" [174 localities connected to Federal Internet Plan], *Revista Fibra*, January 23, 2017, <http://bit.ly/2j3SM>.

16 Casa Rosada, "El presidente Macri lanzó en Salta el Plan País Digital" [President Macri launched the Digital Country Plan in Salta], June 15, 2016, <http://bit.ly/2cg5rL6>; See also: País Digital Official website, Accessed March 2017, <http://bit.ly/2mUJMpn>

17 "El Arsat-1 llegó a la órbita geoestacionaria" [Arsat-1 reached the geostationary orbit], *La Nación*, October 27, 2014, <http://bit.ly/1wv256C>; "Lanzaron con éxito el Arsat-2 y ya está en órbita" [Successful launch of Arsat-2, now in orbit], *Clarín*, October 30, 2015, <http://clarin.in/1KTyt8h>

18 Law 27208, November 2015, <http://bit.ly/2nByZqm>

19 "Por falta de fondos, el Gobierno frenó la construcción de un nuevo satélite ArSat" [Government stopped construction of a new ArSat satellite due to lack of funds], *El Cronista*, March 28, 2016, <http://bit.ly/2qnNSuB>

20 Decree 459/10, <http://bit.ly/1biJ9CS>; See also: Government of Argentina, "Conectar Igualdad" [Connect Equality], <http://bit.ly/1EbZusv>

21 "Desde Conectar Igualdad denuncian más de 1000 despidos" [More than 1,000 dismissals denounced from Connect Equality], *La Nación*, March 4, 2016, <http://bit.ly/1RvN8PQ>; "Conectar igualdad: entre la inclusión pedagógica y la inclusión ciudadana" [Connect Equality: between pedagogical inclusion and citizen inclusion], *ADC Digital*, March 10, 2016, <http://bit.ly/22vSXBN>

developing the project.²² According to information published on the official website, more than 300,000 netbooks were delivered to students and teachers in 2016.²³

Restrictions on Connectivity

The Argentine government does not place limits on bandwidth, nor does it impose control over telecommunications infrastructure. There have been no reported instances of the government cutting off internet connectivity during protests or social unrest. There are currently 25 functioning Internet Exchange Points (IXPs), which help to manage internet traffic efficiently.²⁴ IXPs are strategically distributed in major cities across the country.²⁵

ICT Market

Although there are no onerous obstacles to entering the ISP market, a handful of companies dominate the sector.

There are more than 1,000 licensed providers offering internet services,²⁶ although around 90 percent of the broadband ISP market is concentrated in three companies: Telefónica, Telecom Argentina, and Cablevisión (Grupo Clarín).²⁷ The mobile sector reflects similar concentration under market leaders Movistar (Telefónica), Claro (América Móvil) and Personal (Telecom Argentina).²⁸ ENACOM approved the purchase of Nextel by Grupo Clarín subsidiary Cablevisión in March 2016, advancing in the mobile telephone market. In March 2017, ENACOM approved Nextel's refarming project to provide 4G services in the 900 Mhz and 2.5 Ghz frequencies, which it acquired in June 2016.²⁹

A company wanting to offer internet services must obtain a license from ENACOM, the national communications regulator, a process that underwent some changes in 2016.³⁰ In May 2016, Resolution 2483/2016 simplified the license registration process for ISPs.³¹ The application fee increased from ARS 5,000 (US\$333) to ARS 20,000 (US\$1,330).³² Providers can register online, according to a regulation approved in August 2016.³³

22 "El Gobierno confirmó la continuidad de "Conectar Igualdad" y negó despidos" [Government confirmed continuation of Connect Equality and denied dismissals], *Télam*, March 4, 2016, <http://bit.ly/1MIzd7U>

23 "Conectar Igualdad superó la entrega de 300.000 netbooks en 2016" [Connect Equality delivers more than 300,000 netbooks in 2016], Conectar Igualdad website, October 2016, <http://educacion.gob.ar/conectar-igualdad/noticias/66/pnbspc-conectar-igualdad-supero-la-entrega-de-300000-netbooks-en-2016p>

24 CABASE, "IXPs en funcionamiento" [IXPs in operation], accessed July 17, 2017, <http://bit.ly/2uMTc0u>

25 CABASE, Map of Network Access Points (NAPs) 2017, accessed July 17, 2017, <http://bit.ly/2ttEmMm>

26 ENACOM, "Información de los prestadores" [Information Regarding Providers], <http://bit.ly/22w0uAF>

27 Martín Becerra, *De la concentración a la convergencia*, [From concentration to convergence], Buenos Aires: Paidós, 2015, 64; See also: Leticia Pautasio, "Estadísticas: mercado de telecomunicaciones de Argentina" [Statistics: telecommunications market in Argentina], *Telesemaná*, August 4, 2015, <http://bit.ly/1T6Jf8>

28 Leticia Pautasio, "Estadísticas: mercado de telecomunicaciones de Argentina" [Statistics: telecommunications market in Argentina], *Telesemaná*, August 4, 2015, <http://bit.ly/1T6Jf8>

29 Resolution 1299-E/2017, March 6, 2017, <http://bit.ly/2nJSbTx>

30 National Communications Commission, Decree 764/2000, September 5, 1998, <http://bit.ly/1Ry8Mws>; ENACOM "Licencia Única de Servicios de Telecomunicaciones," [Licence for Telecommunications Services], <http://bit.ly/2n7sMzT>

31 "Government adopts the "multistakeholder" model for the development of Internet" *Convergencia Latina*, May 18, 2016, <http://bit.ly/20XqAYj>; "ENACOM publicó el nuevo Reglamento de Registro de Servicios TIC" [ENACOM published the new Regulation for the Registration of ICT Services], *Revista Fibra*, May 18, 2016, <http://bit.ly/1V9mrxY>.

32 Resolution 2483/2016, Official Bulletin, May 16, 2016, <http://bit.ly/1X2OTFy>.

33 ENACOM "Inscripción online para proveedores de acceso a internet", August 19, 2016 <http://bit.ly/2nCgodV>.

Aiming to promote convergence and competition, the Macri government has issued a series of emergency decrees and resolutions to significantly reform the telecommunications and media sector. At the request of several civil society organizations however, a hearing was held in April 2016 at the Organization of American States to discuss the effects of Decree 267 issued in December 2015, which categorized cable TV as an ICT service, releasing cable providers from obligations in the Broadcasting Law.³⁴ Critics said this could undermine pluralism, diversity, and local content production, and accused the government of encouraging greater market concentration.³⁵

The government has in turn designated a committee to draft a law to unify digital and broadcast media legislation, but it had yet to be presented to Congress in mid-2017. The draft law is supposed to overcome the shortcomings of swift modification by decree, which substantially changed the audiovisual and telecommunications laws.

Meanwhile, Decree 1340 issued in December 2016 allowed telecommunications companies to offer cable TV as well as internet and phone services beginning in 2018.³⁶

The decree also enabled DirecTV (the only satellite TV operator) to offer satellite internet services. Although commentators have noted that these changes mainly benefited Clarín Group, Telefónica and DirecTV, they still sparked complaints among major companies with clashing interests.

Regulatory Bodies

The main telecommunications regulator, the National Authority for Communications (ENACOM), was created by presidential decree in December 2015,³⁷ later validated by Congress in April 2016.³⁸

The body's composition has raised some concerns about possible executive influence. ENACOM operates within the Ministry of Communications and has a directorate comprised of four directors chosen by the president and three proposed by Congress. ENACOM decisions can be approved by a simple majority and its members may be removed by the president.³⁹

The executive body NIC.ar regulates and registers all websites with the ".ar" top level domain name. Since 2015, registration of any domain ending in ".com.ar" requires an annual fee between ARS 110 and ARS 420 (US\$7 and US\$27).⁴⁰ While these prices are quite affordable, they could deter some users. NIC will also require users to provide a tax ID number to register domains (see "Anonymity").

34 OBSERVACOM, "Sociedad civil denuncia ante la CIDH por cambios a Ley Audiovisual. Gobierno promete "nuevo marco regulatorio acorde con el derecho internacional" [Civil society denounces changes to Audiovisual Law before IACHR. Government promises new regulatory framework in accordance with international law], April 8, 2016, <http://bit.ly/2nmsOQo>.

35 "Los especialistas opinaron sobre el decreto 267" [Expert opinions on decree 267] *Revista Fibra*, January 4, 2016, <http://bit.ly/2cdjStz>; Martín Becerra (blog), "Restauración" [Restoration], January 2016 <http://bit.ly/1RG65fw>.

36 Decree 1340/16, December 30, 2016, <http://bit.ly/2jOhcE>.

37 The decree dissolved the previous regulatory agencies, Federal Authority of Audiovisual Communication Services (AFSCA), the Federal Authority for Information Technologies and Communications (AFTIC). DNU 267/15, <http://bit.ly/1UycLzB>.

38 "El Congreso puso punto final a la ley de medios del kirchnerismo" [Congress puts final stop on Kirchner media law], Infobae, April 6, 2016, <http://bit.ly/2cLKxQA>.

39 ENACOM, "¿Qué es Enacom?" [What is Enacom?], Accessed on March, 2017 <http://bit.ly/1LHw47b>.

40 NIC Argentina, Registration Fees, accessed March 2017, <http://bit.ly/2n7Tjgk>.

Limits on Content

Several cases during this period concerned requests to remove content from social networks and video-sharing websites. Controversial judicial orders were issued to block Uber, yet the transportation app remained available in Buenos Aires. Born in Argentina, the #NiUnaMenos campaign against gender-based violence has gained momentum and exemplifies the country's increasing use of social media for political and social activism.

Blocking and Filtering

Users in Argentina have access to a wide array of online content, including international and local news outlets, as well as the websites of political parties and civil society initiatives. YouTube, Facebook, Twitter, and international blog-hosting services are freely available. There is no automatic filtering of online content. Law 25.690, however, requires ISPs to provide software that can allow users to choose to limit their own access to “specific websites.”⁴¹ Courts have the power to order website blocks, and have done so to protect copyright in the past.⁴² Another blocking case occurred in July 2015, when a judge issued an order to block access to five pages on the justpaste.it site with information exposing vulnerabilities in the electronic voting system to be used for the Buenos Aires mayoral elections.⁴³

A controversial judicial order was documented during the reporting period, although it had limited impact. In April 2016, a judge in Buenos Aires issued a preliminary injunction ordering the local government to halt the activities of the mobile app Uber, which had just launched in Buenos Aires.⁴⁴ The injunction was requested by the taxi drivers’ union. A blocking order was issued by another local judge shortly after.⁴⁵ The order said Uber was not in compliance with the legal framework for public transportation services. However, the blocking could not be implemented because ISPs said that it was technically impossible to limit the blocking to one city.⁴⁶ Due to this constraint, in April 2017, a local Court of Appeal ruled that the blocking order must be implemented nationwide.⁴⁷ However, it is not clear that it was implemented, since the app continued operating in Buenos Aires through this period of coverage.⁴⁸

Authorities have taken steps to extend content regulation, but no new measures had been introduced

41 Law 25.690, <http://bit.ly/1UqLHCO>

42 In 2014, a civil court ordered ISPs to block access to IP addresses associated with The Pirate Bay, a website that facilitates peer-to-peer (P2P) file sharing using the BitTorrent protocol, on the grounds that The Pirate Bay included links to copyright protected content. However, users in Argentina can currently access The Pirate Bay through its many mirror sites. See: “Pese al bloqueo, varios sitios permiten ingresar a the Pirate Bay en la Argentina” [Despite blocking, various sites enable access to the Pirate Bay in Argentina], *Infotechnology*, July 3, 2014, <http://bit.ly/1qTe7E2>

43 “Ordenan impedir el acceso a paginas Web con informacion sobre el sistema de voto electornico porteno” [They ordered to prevent access to Web pages with information about the Buenos Aires electronic voting system], *La Nacion*, July 6, 2016, <http://bit.ly/2zsGjs4>

44 “La justicia ordena el cese de operaciones de Uber en Buenos Aires” [Judge orders to stop Uber operations in Buenos Aires], *La Nación*, April 13, 2016, <http://bit.ly/1qpOAqF>

45 “Otro revés para Uber: la justicia ordenó bloquear la web y la app” [Another defeat for Uber: court order to block the web and the app] *Clarín*, April 22, 2016, <http://clar.in/2nGewkl>

46 “Los proveedores de Internet dicen que no se puede bloquear Uber sólo para los porteños” [ISPs say they cannot block Uber just in the city of Buenos Aires], *La Nación*, May 25, 2016 <http://bit.ly/25Iiyvt>

47 “La justicia porteña bloqueó la app de Uber a nivel nacional” [City of Buenos Aires Court blocked Uber nationwide], *Telam*, April 11, 2017, <http://bit.ly/2rNuU4X>. The ruling can be accessed here: <http://bit.ly/2smP0A6>

48 “Pese a la orden judicial de bloqueo, Uber continuaba funcionando” [Despite judicial blocking order Uber continued to work], *Telam*, April 11, 2017, <http://bit.ly/2ue3RhE>

in mid-2017. In December 2016, a bill proposed to create an “Ombudsman on Social Networks” with the power to order the temporary suspension of websites and user profile in case of acts, expressions or facts that affect users’ constitutional rights.⁴⁹ While still at the early stages of the legislative process, the bill has raised concerns for its vague wording, as well as the ombudsman’s power to order the blocking of a website without a judicial order.⁵⁰

A municipal internet blocking bill presented in Buenos Aires in August 2016 would have enabled municipal prosecutors to block applications or domain names with the purpose of preventing “unlawful conduct.”⁵¹ Widely criticized for its broad language and for undermining national jurisdiction rules,⁵² it was withdrawn before it was debated by the Buenos Aires City Legislature.⁵³

Content Removal

Pressure on companies to remove content increased slightly during the period of coverage, as individual judges ordered some content to be removed from social networks and video-sharing websites. Legislation requiring a court order to support all takedown requests made progress but had yet to pass.

Judges ordered social networks and video-sharing websites to remove content based on the right to honor and privacy – which is guaranteed under Civil Code (art. 52) and allows Argentinian citizens to prevent or repair any damage to their reputation – in at least two cases:

- In February 2017, a preliminary injunction issued by a judge in the province of Salta ordered Google-owned YouTube to temporarily remove a video by Mathieu Orcel called “Salta: the murder of two French women.”⁵⁴ The film cast doubt on a judicial investigation into the murder of two tourists in 2011, and a local deputy felt that it implicated and damaged him and his family’s reputation. While the film can still be accessed in Vimeo and other websites,⁵⁵ the producers removed the video from YouTube to avoid “distorting the meaning of the documentary.”⁵⁶
- In December 2016, a preliminary injunction ordered Twitter to delete aggressive comments and photo montages made on its platform against Argentinian celebrity Victoria Vanucci, which called her insults such as “killer,” “dog,” “cockroach,” or that expressed hatred, in

49 Bill 8542-D-2016, <http://bit.ly/2rDEGGC>

50 Roko, Paula “Proponen crear un Defensor Publico en Redes Sociales” [They propose to create a public Defender on Social Networks], *Perfil*, January 4, 2017, http://www.perfil.com/actualidad/p_ponen-crear-un-defensor-publico-en-redes-sociales.phtml

51 “Polémica en Argentina por un proyecto de ley que habilita el bloqueo de Internet en Buenos Aires” [Controversy in Argentina over internet blocking bill], *Telesemana.com*, August 31, 2016, <http://bit.ly/2ciMBOt>

52 ADC Digital, “Un proyecto de ley que pone en riesgo la libertad de expresión en Internet” [A bill that could jeopardize freedom of expression on the Internet], August 29, 2016, <http://bit.ly/2cQZxfL>; Access Now, “Sociedad civil y organizaciones académicas preocupadas por proyecto de ley para bloquear sitios web y aplicaciones en Argentina,” [Civil society and academic organizations concerned about internet blocking bill in Argentina], August 29, 2016, <http://bit.ly/2bPGYLX>

53 “Frenan el proyecto de ley para bloquear sitios web” [Internet-blocking bill was stopped], *Minutouno.com* September 1, 2016, <http://bit.ly/2cDwqNL>

54 “Ordenan a Google y YouTube suspender temporariamente la difusión de un documental” [Google and YouTube are ordered to suspend the dissemination of a documentary], *eltribuno.info*, February 21, 2017 <http://bit.ly/2mLG9nK>. The preliminary injunction can be consulted here: <http://bit.ly/2rUjOnq>

55 “Este es el documental sobre el crimen de las turistas francesas que no quieren que veas” [This is the documentary on the murder of the french tourists that they don’t want you to watch it] *infobae.com* February 22, 2017, <http://bit.ly/2kMuDMQ>

56 “Levantaron el documental que planteaba dudas sobre la investigación de las turistas francesas” [Documentary that cast doubt on the investigation of the French tourists was removed], *clarin.com*, February 21, 2017, <http://clarin.com/2mp3Era>

reaction to photos published of her posing alongside hunted animals during a Safari in Africa.⁵⁷ The ruling stated that the use of her name and photos without authorization was a violation of her right to honor. The Working Group on Internet Services, a public agency under the national Ministry of Communications, published a statement raising concerns about the injunction and its potential repercussions for freedom of expression online.⁵⁸ There was no confirmation that Twitter complied with the request.

Recent court decisions have established takedown criteria to avoid potential abuse of generic injunctions to restrict freedom of expression. A landmark ruling by the Argentine Supreme Court in 2014 confirmed that intermediaries should not be liable for third-party content if they did not have knowledge of alleged third-party violations.⁵⁹ It established that intermediaries must remove unlawful content only if they are notified by a judicial order, thus favoring a judicial takedown regime over a “notice-and-takedown” system. On the other hand however, the court stated that if the content involves “manifest illegality,” a private notification to the intermediary is sufficient. A recent court ruling by the Supreme Court in September 2017 reaffirmed these standards in the “Gimbutas” case.⁶⁰

In another case in June 2015, a federal appeals tribunal in Buenos Aires determined that precautionary measures must not be dictated in general terms and infringing sites have to be identified via the URL in order to be removed.⁶¹ A subsequent ruling from the same court supported the need for removal orders to list specific webpages.⁶²

While these rulings improved the legal framework for content removal, another judgement in May 2017 suggested that search engines must obtain the consent of the subject before publishing thumbnail images in search results, contradicting the 2014 Supreme Court judgement which established that the right to access information extends to pictures. The ruling was issued by the Argentine Federal Court of Appeals on Civil Matter in a case that held Google and Yahoo liable for publishing results on their respective search engines that linked the name of an ex-model to porn websites.⁶³ The Court condemned Google and Yahoo to pay Norbis ARG \$1,400,000 (USD 80,000) but the ruling was appealed to the Supreme Court. Google’s lawyers had also asked the plaintiff to identify the URL for a specific page to be delisted, arguing that doing so with a simple term or an entire domain would constitute censorship.

Other rulings during the coverage period were more positive. In November 2016, the Supreme Court of the Province of Tucumán ruled that news websites cannot be held responsible for comments published by third parties on their platforms. The court rejected a claim filed by a judge who said

57 Federal Judge on Civil and Commercial Matters, “Vanucci, María Victoria c/ Twitter Inc. s/ Acción Preventiva de Daños,” December 2016, <http://bit.ly/2oHvVWD>

58 “El fallo Vanucci contra Twitter dejó mucha tela para cortar” [Ruling against Twitter in Vanucci case leave plenty of room for discussion], *Diario Judicial*, January 5, 2017, <http://bit.ly/2nELYoZ>

59 Supreme Court of Justice, “Rodríguez, María Belén c/ Google Inc. s/ daños y perjuicios,” October 28, 2014, <http://bit.ly/1UGGjrD>

60 Supreme Court of Justice “Gimbutas, Carolina Valeria c/Google Inc. s/daños y perjuicios” September 12, 2017 <http://bit.ly/2ffnzmW>

61 Argentine Federal Court of Appeals on Civil and Commercial Matters, II, “Giovanetti, Laura c.Yahoo Argentina y otro,” June 2, 2015, <http://bit.ly/2bXF72p>

62 Argentine Federal Court of Appeals on Civil and Commercial Matters, II, “Albertario, Claudia c. Yahoo Argentina y otro s/ daños y perjuicios,” June 2, 2015 (link not available)

63 Argentine Federal Court of Appeals on Civil Matter “Norbis, María Luisa y otro c/ Yahoo y otro” May 3, 2017 <http://bit.ly/2hFSLfs>

comments published on a news website had harmed his reputation.⁶⁴ A month later, the same court revoked a preliminary injunction issued by another judge, which prevented search engines from linking to news reports about the death of a housemaid who used to work for the judge's family.⁶⁵

Bills pending approval during this period of coverage have also sought to address issues related to intermediary liability and content removal:

- In November 2016, the Senate approved a bill on intermediaries that rejects private or administrative notice-and-takedown systems, and establishes that in all cases a judicial order is necessary to remove online content.⁶⁶ In mid-2017, the bill was pending approval by the Chamber of Representatives before becoming law.
- A separate bill submitted to the Chamber of Representatives would permit notice-and-takedown systems for cases of "manifest illegality," such as content that facilitates crime; endangers human life; advocates national or racial hate; and child pornography.⁶⁷
- Two bills criminalize the dissemination of non-consensual intimate images – also known as "revenge porn" – and state that the content must be removed by judicial order.⁶⁸ One of the bills has already been approved by the Senate in December 2016.⁶⁹
- The national data protection authority presented a new data protection bill in 2017 (see "Surveillance, Privacy, and Anonymity").⁷⁰ The bill establishes an individual's right to erase personal data when it is no longer necessary for its original purpose, or when there is no public purpose. The draft, which included some exceptions to protect freedom of expression, was pending submission to Congress in mid-2017.

Media, Diversity, and Content Manipulation

Argentina has a relatively open and diverse online media environment, as well as high rates of social media use. According to a map developed by the National Data Protection Authority, there are seven social networks with more than a million users in the country.⁷¹ Self-censorship among bloggers and internet users is not widespread in Argentina, although some isolated instances of harassment may elicit self-censorship in particular cases.

During the coverage period, the government took steps to correct the discriminatory allocation of official advertising, which has played a major role in shaping media content both at the federal and local levels. In June 2016, the Public Communication Secretary issued an administrative resolution regulating the allocation of official advertising according to objective criteria, such as media

64 Supreme Court of Justice of Tucumán "Zottoli Alfonso Arsenio vs. La Gaceta S.A. s/ Daños y perjuicios" November 22, 2016 <http://bit.ly/2nadOmp>

65 Supreme Court of Justice of Tucumán "Paz de Centurión Marta c/ Ruiz, Julio César y otra s/incidente de medida cautelar" December 29, 2016, <http://bit.ly/2njl5st>

66 Bill 942/16, <http://bit.ly/2mqp4Ej>

67 Bill 5771/16, <http://bit.ly/2i8QFZz>

68 Bill 5893/16, <http://bit.ly/2mpNU7t> and Bill 2119/16, <http://bit.ly/2narntW>

69 Bill 2119/16

70 Draft bill on data protection <http://bit.ly/2o27R0j>

71 National Directorate for the Protection of Personal Data, "Primer mapa argentino de las redes sociales," [First Argentine map of social networks], August 2015, <http://bit.ly/1Y0fekF>

reach, relevance of the message, geographic zone and plurality of voices.⁷² In November 2016, the Senate approved a bill stating that official advertising will be allocated according to principles of transparency, pluralism, federalism, and non-discrimination. The bill had yet to be approved by the Chamber of Representatives in mid-2017.⁷³ The new government also reduced its advertising expenditure,⁷⁴ despite an official strategy to increase investment in digital advertising.⁷⁵

Research published during the coverage period was suggestive of organized digital campaigning being conducted with a political motive. In December 2016, a study analyzed behaviors on social networks during a dispute between the national government and scientists due to budget cuts in funding for scientific research.⁷⁶ The study observed extensive use of anonymous or fake accounts acting in a coordinated way to support the government's position. A similar pattern was seen during a labor dispute with school teachers in February 2017, raising suspicions about the existence of an alleged "army of trolls" dedicated to defend the government on social networks.⁷⁷

Digital Activism

Argentines continued to use social media as a tool for political mobilization in 2016 and 2017. Digital activism has played a crucial role in rallying protests to advocate for concrete action to reduce violence against women,⁷⁸ since the hashtag #NiUnaMenos (Not One Less) went viral on social media in June 2015 during a march.⁷⁹ A second #NiUnaMenos march took place in June 2016, once again rallying thousands of people around the country and encouraging significant social media engagement.⁸⁰ In October 2016, Argentines marched again after the murder of a young girl in the city of Mar del Plata.⁸¹ As a result, #NiUnaMenos was the most tweeted hashtag by Argentine users in 2016.⁸² Specific demands have called for the government to focus on prevention, by implementing the existing law against gender violence and giving it a budget, training police, prosecutors and judges who have to deal with these cases, and offering official statistics and comprehensive sex education in schools.

In January 2017, social media also helped to raise awareness about acts of violence and stigmatization against the indigenous Mapuche people in the southern province of Chubut, in the

72 Resolution 247-E/2016, <http://bit.ly/2d6Ge4Z>

73 Bill 1643/16, <http://bit.ly/2nyjJdV>

74 "El reparto de la publicidad oficial ya se diferencia de la era kirchnerista" [The allocation of the official advertising differs from the Kirchner Era], *La Nación*, January 2017, <http://bit.ly/2ixYiDa>

75 "Cuáles son los 25 grupos de medios más beneficiados por la publicidad del gobierno nacional" [What media outlets most benefit from official advertising], Infobae, January 16, 2017, <http://bit.ly/2jhy0aw>

76 "Jugada preparada" [Planned move] *El gato y la caja*, December 2016, <http://bit.ly/2iDLFem>

77 "Escándalo; denuncian que la campaña de los voluntarios contra los docentes la armó el call center PRO" [Scandal; Allegations that the campaign against school teachers was organized by PRO call center], *Diario Uno de Entre Ríos*, February 2017, <http://bit.ly/2nEmZIM>

78 "Argentine marches condemn domestic violence," BBC, June, 2015, <http://bbc.in/1SXuUoa>; "Histórica marcha contra la violencia machista" [Historic march against gender violence], *Clarín*, June, 2015, <http://clarin.com/1KB2azu>

79 "Del mundo online a la marcha: el mapa con las repercusiones de #NiUnaMenos en Twitter" [From the online world to the march: the map with the impact of #NiUnaMenos on Twitter], *La Nación*, June 2015, <http://bit.ly/1Jayd8P>

80 "Una multitud en otro grito contra la violencia machista" [A crowd in another cry against male violence], *Clarín*, June 4, 2016, <http://clarin.com/2ufutAm>.

81 "Ni una menos: masiva convocatoria en contra de los femicidios" [Ni una menos: massive protest against femicide], *La Nación*, October 16, 2016, <http://bit.ly/2doDZKJ>

82 "#NiUnaMenos fue lo más comentado por los argentinos en Twitter durante 2016" [#NiUnamenos was the most commented by Argentines in Twitter during 2016] *Telam*, December 2016, <http://bit.ly/2nH5OmQ>

context of a land claim.⁸³ Netizens also used social networks to coordinate a protest against the government's decision not to promote national wage negotiations for teachers, through the hashtag #Marchafederal (Federal March).⁸⁴ Government supporters also used social networks to promote a national mobilization in support of the government through the hashtag #1A.⁸⁵

Violations of User Rights

Argentina does not suffer from high levels of violence against journalists, but during the period of coverage three cases of cyberattacks against news outlets were reported. Several users were prosecuted and charged for issuing threats against the president and other public officials on social media. Argentina has relatively strong privacy protections and authorities must obtain a judicial warrant before conducting surveillance. A new regulation requires users to register their biometric data with the Federal Administration of Public Revenues in order to register, transfer, or cancel a domain.

Legal Environment

Freedom of expression is guaranteed by the National Constitution.⁸⁶ Argentina explicitly established online freedom of expression protections through a presidential decree issued in 1997,⁸⁷ which were expanded by the Congress in 2005 to include "the search, reception and dissemination of ideas and information of all kinds via internet services."⁸⁸ Defamatory statements regarding matters of public interest were decriminalized in 2009,⁸⁹ following the Inter-American Court of Human Rights' ruling in "Kimel vs. Argentina."⁹⁰

The government has further committed to promoting the values of democracy and human rights online. In June 2016, Argentina joined the inter-governmental Freedom Online Coalition, which supports internet freedom and the protection of fundamental human rights.⁹¹ Argentina is the third Latin American country, and the first from South America, to join the coalition.

Some laws impose criminal and civil liability for online activities. Law 11.723 holds liable those who reproduce content that violates intellectual property by any means, and establishes sanctions ranging from fine to six years in prison. In November 2013, Congress approved a law amending the penal code and establishing penalties of up to four years imprisonment for online contact with a minor carried out "with the purpose of committing a crime against [the minor's] sexual integrity."⁹²

83 "Chubut; represión y dos heridos graves en la comunidad mapuche [Chubut: repression and two seriously wounded in the Mapuche community] *Perfil*, January 12, 2017, <http://bit.ly/2nl4myO>

84 "Masiva marcha docente reclamó al gobierno por la paritaria nacional" [Massive march of teachers claimed government for nationwide wage negotiations] *Ambito*, March 22, 2017, <http://bit.ly/2oqajiq>

85 "La marcha a favor del gobierno colmó la Plaza de Mayo y se sintió en el país" [March in support of the government filled May Square and impacted in all the country], *Clarín*, April 1, 2017, <http://clar.in/2qUALDY>

86 National Constitution, Article 14, <http://bit.ly/1K2Ldgl>. The constitution was amended in 1994, and Article 75 (22) now recognizes numerous international human rights treaties with constitutional status and precedence over national laws.

87 Decree 1279/97, December 1, 1997, <http://bit.ly/1JC3dP>

88 Law 26032, <http://bit.ly/1EzDJA5>

89 Law 26551, <http://bit.ly/1ZH7UvP>

90 "Kimel vs Argentina," Inter-American Court of Human Rights, 2008, <http://bit.ly/1SrPsUN>

91 Freedom Online Coalition, "Freedom Online Coalition welcomes Argentina as its 30th member," June 2016, <http://bit.ly/29skEVI>

92 Law 26904, <http://bit.ly/1JCto4j>

The law generated concern among academics and civil society organizations because of its vague wording.⁹³

In 2008, the government passed a law on cybercrime,⁹⁴ which amended the Argentine Criminal Code to prohibit distribution and possession of child pornography, interception of communications and informatics systems, hacking, and electronic fraud. Some of the terms used in the legislation have been criticized as too ambiguous, which could lead to overly broad interpretation. Proposed amendments to another law, the Code of Criminal Procedure, could legalize surveillance powers that critics said were intrusive (see “Surveillance, Privacy, and Anonymity”).

Other bills are still pending approval that could be used to punish certain forms of online speech. In October 2016, the Commission of Human Rights and the Commission of General Legislation of the Chamber of Representatives approved a new bill against discriminatory acts based on various bills already submitted.⁹⁵ The bill does not make any explicit reference to internet, but its broad and ambiguous language to define “discriminatory acts” may affect freedom of expression, including in the online sphere.

Another bill intends to criminalize cyberbullying, stating that anyone who by any means harasses, bullies or mistreats another may be fined.⁹⁶ A separate bill seeks to criminalize digital identity theft.⁹⁷ While it exempts parody accounts, the provision refers to parody accounts that are “clearly identifiable with that purpose.” Both bills were pending review in mid-2017.

Prosecutions and Detentions for Online Activities

Internet users do not generally face prosecution for online speech, though a handful of people were prosecuted and charged for threatening public officials on social media during the coverage period:

- On July 30, 2016, two men were detained and charged with public intimidation under Article 211 of the criminal code, after using fake Twitter accounts to pose as terrorists and post threats against the president and several public buildings.⁹⁸ Security Minister Patricia Bullrich stated in a press conference that threatening acts are no joke, and that Twitter should not be used for intimidation, threats, or generating panic.⁹⁹ In a separate case in May 2016, a woman who threatened the president and his family on Twitter was charged for posting anonymous threats, as well as encouraging hatred for political views, under Article 149bis of the penal code and Article 3 of Law 32.592 on anti-discrimination, respectively.¹⁰⁰
- A public employee also faced trial for threatening the president and several other officials

93 “Nuevas críticas a la ley de grooming reavivan debates irresueltos” [New criticism on grooming law revives unresolved debates], *Infotechnology*, March 22, 2014, <http://bit.ly/PYofy8>

94 Law 26388, <http://bit.ly/U6ZyAE>

95 Bill 1450/16, <http://bit.ly/2y0yuv9>

96 Bill 5894/16, <http://bit.ly/2rYXext>

97 Bill 6751/16, <http://bit.ly/2nauvWR>

98 “Falso terrorista de Twitter: detuvieron a dos jóvenes por amenazar con poner una bomba en la Casa Rosada” [False Twitter terrorist: two young people arrested for threatening to put a bomb in the Casa Rosada], *La Nación*, July 30, 2016, <http://bit.ly/2aEjd9s>

99 “Detuvieron a dos tuiteros por amenazas contra Macri” [Two tweeters detained for threats against Macri], *Ámbito*, July 30, 2016, <http://bit.ly/2nelOqb>

100 “Procesaron a la mujer que amenazó a Macri y a su hija Antonia a través de Twitter” [Woman prosecuted who threatened Macri and her daughter Antonia on Twitter], *Clarín*, May 23, 2016, <http://clarin.com/2016/05/23/2n6KwNq>

on Twitter and Facebook. He was charged in December 2016 for posting anonymous threats, public intimidation, and propaganda based on racial or religious discrimination, under articles 45, 55, 149 bis, and 211 of the criminal code, and article 3 of Law 23.592.¹⁰¹

- On February 16, 2017, two people were detained for allegedly hacking into email accounts operated by the Ministry of Security, in addition to the minister's personal Twitter account.¹⁰² The minister announced immediately that police had arrested those responsible.¹⁰³ Critics said the statement jeopardized the suspects' right to a fair trial by inferring that they were guilty, and the case was further complicated when another hacker claimed responsibility for the incident a few days later.¹⁰⁴ Police detained a third person on suspicion of involvement in the Twitter hack in April.¹⁰⁵

Surveillance, Privacy, and Anonymity

The Argentine government does not impose restrictions on anonymity or encryption for internet users, though new registration requirements for purchasing domain names were implemented during the coverage period. Bloggers and internet users are not required to register with the government and can post anonymous comments freely in online forums. In 2016, policymakers made several attempts to amend the law against discriminatory acts,¹⁰⁶ and advocacy organizations representing disadvantaged groups positioned themselves against anonymous speech during Congressional hearings.¹⁰⁷

In July 2016, the National Directorate for the Registry of Internet Domain Names launched a new regulation for the administration of domain names.¹⁰⁸ In order to register, transfer, or cancel a domain, individuals must apply for a "tax password" (Clave Fiscal) by providing the Federal Administration of Public Revenues (AFIP) with fingerprints, a facial photo, and their signature. AFIP assured local media that "it will not have information on the administration of domains and NIC Argentina will not have tax information either. The processes are independent."¹⁰⁹

A resolution signed in October 2016 established another database of personal information, requiring ENACOM to adopt measures to identify all mobile communications users in a national registry.¹¹⁰ Mobile operators must store the information in a safe and auditable manner, and supply them on request to members of the judiciary or public prosecutors. It does not state how long the

101 "Amenazó a Mauricio Macri, Gabriela Michetti y María Eugenia Vidal, y ahora enfrentará un juicio oral" [He threatened Mauricio Macri, Gabriela Michetti and María Eugenia Vidal, and will now face trial], Infobae, May 16, 2017, <http://bit.ly/2rB4Cm4>

102 "Dos detenidos por el hackeo al mail y a la cuenta de Twitter de Patricia Bullrich" [Two arrested for hacking email and Patricia Bullrich's Twitter account], *Clarín*, February 16, 2017, <http://clarin.in/2kWYbWk>

103 Minister of Security Patricia Bullrich, on Twitter, February 16, 2017, <http://bit.ly/2nGTCIL>

104 "Otra vez hackearon el espacio memoria y revelaron la contraseña de Bullrich" [They hacked again the Memory Space and revealed Bullrich's password], *InfoTechnology*, February 20, 2017, <http://bit.ly/2m2cef1>

105 "Detuvieron a otro involucrado en el hackeo a la cuenta de Twitter de Patricia Bullrich" [Another person involved in the hacking of Patricia Bullrich's Twitter account was detained], *La Nación*, April 25, 2017, <http://bit.ly/2rAQBoq>

106 See Bills: 4447-D-2016 <http://bit.ly/2nDUli5>, 1450-D-2016 <http://bit.ly/2nDWpff>, 1217-D-2016 <http://bit.ly/2nWVpz8>

107 ADC, "ADC presentation at the advisory meeting of the Human Rights Commission of the Chamber of Deputies of the Nation for the debate on a new antidiscrimination law," July 13, 2016, <http://bit.ly/2nfkDeR>

108 National Directorate for the Registry of Internet Domain Names, Resolution 110/2016, <http://bit.ly/2nlZ64D>

109 "Por qué para registrar un dominio .ar ahora será necesario tener clave fiscal" [Why is a fiscal key now needed to register a .ar domain?], *La Nación*, June 6, 2016, <http://bit.ly/1TWiJev>

110 Joint Resolution 6 – E/2016, Ministry of Security and Ministry of Communications, October 26, 2016, <http://bit.ly/2eWrnaz>

information must be stored. Law 25.891, passed in 2004, requires telecom operators to register users' identification information before selling them a mobile phone or prepaid SIM card.¹¹¹

The privacy implications surrounding databanks were debated during the coverage period. In July 2016, an administrative resolution authorized the transfer of personal information of Argentinian citizens contained in the databases of the social security authority (ANSES), such as name, ID number, telephone number, and email address, to the Public Communication Secretary.¹¹² Civil society organizations questioned the use of such data by the agency, which manages communication strategy for official activities.¹¹³ The decision was validated by the data protection authority;¹¹⁴ opposition party legislators challenged the resolution but their claim was rejected.¹¹⁵

In general, Argentina has strong privacy standards rooted in the constitution. The National Directorate for Protection of Personal Data (DNPDP) presented a draft bill to reform the Data Protection Law in March 2017,¹¹⁶ following a series of consultations.¹¹⁷ An updated version was issued in May.¹¹⁸ The bill establishes the right to suppress personal data if it does not have a public purpose, and when it is no longer necessary for the purpose it was collected. However, the bill states that the right to erase personal data would not apply when the data in question is necessary for the exercise of the right to freedom of expression. The DNPDP has issued legal requirements and privacy recommendations on a range of issues in the past, including video surveillance footage,¹¹⁹ the development of digital applications,¹²⁰ and use of unmanned aerial vehicles (UAVs) or drones.¹²¹

Government agencies do not systematically collect or access internet users' metadata directly, but may request it from service providers with a warrant.¹²² Interception of private communications requires a court order.¹²³

A 2013 resolution by the Communications Secretariat of the Ministry of Federal Planning introduced data retention obligations, requiring service providers to store user data for three years. It states that providers should guarantee the telecommunications regulator "free access" to installations, and

111 Law N° 25.891, <http://bit.ly/1ojOIMi>

112 Resolution 166/2016, <http://bit.ly/2nnnezV>

113 ADC, "El estado y los datos personales" [The state and personal data], July 2016, <http://bit.ly/2ophWWi>

114 National Direction on Personal Data Report. 5/2016, <http://bit.ly/2nHOU5K>

115 "Tras un fallo, el Gobierno ya puede usar datos de la ANSES" [After a ruling, the government can use ANSES data], *La Nación*, November 2016, <http://bit.ly/2nHROHD>.

116 National Directorate for the Protection of Personal Data, "Anteproyecto Ley de Protección de Datos Personales" [Proposed Draft Bill for the Data Protection Law], February 2, 2017, <http://bit.ly/2mpzqoa>.

117 National Directorate for the Protection of Personal Data, "Aportes sobre la necesidad de una reforma a la Ley de Protección de los Datos Personales" [Contributions on the need for a reform of the Data Protection Law], December 19, 2016, <http://bit.ly/2nOQLUC>; ADC, "Posible reforma de la ley de protección de datos personales: ADC presente en la discusión" [Possible reform of the data protection law: ADC present in the discussion], August 24, 2016, <http://bit.ly/2mR0R6t>; National Directorate for the Protection of Personal Data, "Justicia 2020 reabrió el debate de la iniciativa 'Reforma a la ley de protección de datos personales'" [Justice 2020 reopened the debate on the initiative 'Reform of the Data Protection Law'], February 2, 2017, <http://bit.ly/2n4kM2t>

118 "Anteproyecto de la Ley de Protección de los Datos Personales (Nueva versión)" [Proposed Draft Bill for the Data Protection Law (New version)], National Directorate for the Protection of Personal Data, May 17, 2017, <http://bit.ly/2qXlvpp>

119 Ministry of Justice and Human Rights, Disposition 10/2015, <http://bit.ly/25EGjll>

120 Ministry of Justice and Human Rights, Disposition 18/2015, <http://bit.ly/1RjhmQb>

121 Ministry of Justice and Human Rights, Disposition 20/2015, <http://bit.ly/1fDgl4M>

122 Halabi Ernesto v. PEN Ley 28.873 s/amparo ley 16.986", Supreme Court case

123 Law 25.520, Art. 5, <http://bit.ly/1bp2vWp>

should provide “all the information that is required in the set manner and timeframe.”¹²⁴ There has been no evidence to suggest that this provision was implemented in an unlawful or abusive way.

Amendments to the Criminal Procedure Code of Criminal Procedure drafted in late 2016 could broaden government surveillance powers.¹²⁵ The bill presented for an open consultation proposed the introduction of special methods of investigation, including remote surveillance of computer equipment, and surveillance through image capturing, localization, and monitoring. The proponents of the bill argued that the techniques are justified by the need to react appropriately and flexibly to the difficult task of combatting transnational criminal activity. Critics said the bill failed to provide a definition of hacking, merely referring to the use of “software which enables or facilitates remote access,” as well as the lack of necessary information as to the relevant authority responsible.

A government agency with responsibility for surveillance underwent several changes in 2016.

In December 2015, Decree 256 transferred the Department for Interception and Captation of Communications (DICOM), dependent on the Public Ministry, to the Supreme Court.¹²⁶ DICOM was later replaced with the Directorate of Captation of Communications (DCC).¹²⁷ In September 2016, the directorate was transformed into an office under a new Directorate of Judicial Assistance in Complex and Organized Crimes created to assist judicial authorities in cases of illegal drug trade, human trafficking kidnapping, money laundering, terrorism financing and crimes against the environment.¹²⁸ Though still operating under the Supreme Court, digital rights groups have raised concerns about the office’s new institutional affiliation and advocated for the need for an independent body to enable more transparent oversight.¹²⁹

Covert or unlawful surveillance does not seem to be widespread, although some actors in Argentina have attempted to spy on internet users in the past. Emails leaked from the Italian spyware company Hacking Team in July 2015 contained exchanges with Argentine companies that claimed to have ties with state.¹³⁰ Political figures such as deceased prosecutor Alberto Nisman and journalist Jorge Lanata were targeted with malware that accessed their digital activity in 2014. In December 2015, the University of Toronto-based Citizen Lab documented an extensive malware, phishing, and disinformation campaign in several Latin American countries, including Argentina.¹³¹

There is no evidence that law enforcement agencies regularly monitor online platforms for signs of criminal activity. However, a technology expert accused police of collecting evidence from his public Twitter feed during the coverage period of this report. Technology blogger Javier Smaldone said on his personal website that the cybercrime division of the Federal Police had undertaken “cyber

124 Ministry of Federal Planning, Public Investment and Services, Communications Secretariat, Resolution 5/2013, <http://bit.ly/1VaT2BX>

125 “Proyecto de reforma al Código Procesal Penal Federal ingresó al Senado de la Nación” [The Amendment Bill of the Federal Criminal Procedure Code entered the Senate], Ministry of Justice and Human Rights, September 30, 2016, <http://bit.ly/2nQkyhV>

126 Decree 256/15, <http://bit.ly/1Rl8wLr>

127 Judicial Information Center, “La Corte Suprema creó la Dirección de Captación de Comunicaciones del Poder Judicial” [The Supreme Court created the Directorate of Captation of Communications of the Judiciary], February 15, 2016, <http://bit.ly/1Urvf5d>; ADC, “Reflexiones sobre la creación de la Dirección de Captación de Comunicaciones” [Initial reflection on the creation of the DCC], February 19, 2016, <http://bit.ly/2dtGQkc>

128 Supreme Court Agreement 30/2016, <http://old.csjn.gov.ar/docus/documentos/verdoc.jsp?ID=100091>

129 ADC, “El cambio que no llega” [The change that doesn’t come], April 2017, <http://bit.ly/2qzhBjl>

130 Leandro Ucciferri, “Hacking Team y sus planes para hackear en Argentina” [Hacking Team and their plans to hack in Argentina], *Tecnovortex*, July, 2015, <http://bit.ly/1PDwEgS>

131 Citizen Lab, “Packrat: Seven Years of a South American Threat Actor,” December 2015, <http://bit.ly/1U3dFkI>

patrolling” activities, including searching and collecting evidence from his own Twitter account, during the investigation into the hacking of the minister of security’s communications in January 2017 (see “Prosecutions and Detentions for Online Activities”). Smaldone had published screenshots of the attack and published the Twitter username of the alleged hacker.¹³²

Intimidation and Violence

Violence in reprisal for digital activities is rare, though journalists are subject to intimidation, including those who work online. The Argentine Forum of Journalism (FOPEA) reported 64 cases of harassment against journalists throughout the country in 2016, 29 fewer than in 2015. Incidents involving journalists from digital news outlets represented 25 percent of the total, an increase over the 12 percent documented during 2015.¹³³ Journalists and news outlets were also the targets of hackers during the coverage period of this report: In March 2017, FOPEA reported that independent journalist Natalia Aguiar had been subject to harassment since 2012, including the hacking of her computers and email accounts. According to FOPEA, the attacks increased when she started researching for a book on the President of the Supreme Court.¹³⁴

Technical Attacks

Government bodies are subject to technical attacks, including one high profile hack involving communications at the ministry of security in 2017 (see “Prosecutions and Detentions for Online Activities and Surveillance, Privacy and Anonymity”). Hackers also obstructed digital media platforms in 2017.

FOPEA reported three attacks against digital media outlets in early 2017:

- On January 25, the news website *Adelanto 24* was taken offline by a DDoS (Distributed Denial of Service) attack lasting 36 hours.¹³⁵ FOPEA said that an investigation by the portal, confirmed later by unofficial sources, would have been carried out by sectors of the army, who were annoyed by the publication of an article that revealed internal conflicts
- On March 9, digital news outlet *Edición Límite* temporarily crashed after it was targeted by a code injection attack, whereby hackers introduced malicious code causing a website to malfunction.¹³⁶
- Another news site, *El Litoral*, was targeted by a defacement attack in late March. The attacker replaced the site’s own content with a warning about the outlet’s reporting.¹³⁷ *El*

132 Javier Smaldone, “Patricia Bullrich y el ‘ciberpatrullaje’” [Patricia Bullrich and the ‘cyber patrolling’], March 9, 2017, <http://bit.ly/2mtMT9B>.

133 Informe 2016: Monitoreo de la libertad de expresión, Foro de Periodismo Argentino, <http://bit.ly/2z7qAgB>.

134 FOPEA, “Preocupación de FOPEA por las presiones recibidas por Natalia Aguiar en la investigación y publicación de su libro ‘El señor de la corte’” [Concern of FOPEA by the pressures received by Natalia Aguiar in the investigation and publication of her book “The Lord of the court”], March 3, 2017, <http://bit.ly/2nHnKMD>

135 FOPEA, “FOPEA condena ciberataque al sitio de Adelanto 24 y pide esclarecimiento” [FOPEA condemns cyberattack to Adelanto 24 site and asks for clarification] February 8, 2017, <http://bit.ly/2nE9rXu>

136 FOPEA, “FOPEA repudia y pide esclarecimiento del ataque informático a Edición Límite en Santa Fe” [FOPEA repudiates and asks for clarification of the computer attack against Edición Límite in Santa Fe], March 9, 2017, <http://bit.ly/2mVM26l>

137 FOPEA, “FOPEA repudia y pide esclarecimiento del hackeo a El Litoral” [FOPEA repudiates and asks clarification on the hacking of El Litoral], March 28, 2017, <http://bit.ly/2nnag55>

Litoral said the attack could have been linked to information about a gang of swindlers who used credit cards to make purchases.¹³⁸

Government agencies sought to strengthen their cybersecurity capacity in the past year. In January 2016, the president created the post of Undersecretary of Technology and Cyber Security under the Ministry of Modernization, in charge of developing the strategy for technological infrastructure, as well as a national cybersecurity agenda.¹³⁹ In January 2017, the City of Buenos Aires launched its first computer security incident response team, focused on advising and raising citizens' awareness on cybersecurity issues.¹⁴⁰

138 "Fue hackeada la web de El Litoral," *El Litoral*, March 27, 2017, <http://bit.ly/2AkZIKD>

139 Decree 13/2016, <http://bit.ly/1pHX4J7>

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