
GLOBAL PRIVACY ENFORCEMENT REPORT 2015



DATAGUIDANCE

DataGuidance is the leading global privacy compliance service, designed to make it easier, faster, and more cost effective to maintain control of your worldwide privacy programme.



FOREWORD AND METHODOLOGY

GLOBAL ENFORCEMENT

Welcome to this year's Enforcement Report, prepared by DataGuidance's team of Privacy Analysts in collaboration with their network of legal experts. DataGuidance understands the value in staying abreast of enforcement action taken by national Data Protection Authorities (DPAs) and the potential risks associated in operating in particular jurisdictions as a result of the same. Building on our previous two Reports, DataGuidance has expanded its coverage to include a truly global breakdown of the enforcement action taken by national regulators during 2014 in Europe, Asia Pacific, Latin America, North America and the Commonwealth of Independent States (CIS).

As each jurisdiction is unique in terms of legislation and the powers that are afforded to the regulator responsible for privacy compliance, this year's Report includes detailed insight from leading privacy lawyers, selected for their specialised knowledge of the enforcement regimes in place. In addition, it provides analysis into significant DPA decisions and case law, in an effort to unearth the practical reality of privacy risk at a local level.

The Report highlights that 2014 was yet another busy year for the regulators in terms of both penalties issued and the changing nature of their powers. In France, Google received a \$181,650 fine for changes to its privacy policy implemented in March 2012, whilst in Australia and the Netherlands, amendments to legislation provide greater powers to the Office of the Australian Information Commissioner and Dutch Data Protection Authority to impose monetary penalties against organisations for breach of data protection laws.

Whilst the Report highlights a point in time, DataGuidance continually monitors enforcement as part of its Daily Updates service, in order to keep you and your privacy team at the forefront of the latest developments throughout the year. DataGuidance also plans to incorporate the data collected in this Report to form an interactive tool available on its platform.

METHODOLOGY

To compile the information in this Report, DataGuidance's Privacy Analysts made extensive use of the Annual Reports issued by DPAs, as well as liaising with their network of Contributors. DataGuidance posed questions to both regulators and Contributors, requesting breakdowns of action taken in respect of penalties issued, as well as notable decisions and judgments from each jurisdiction listed. DataGuidance also requested information relating to the maximum potential penalties and custodial sentences that can be imposed for breaches of data protection legislation. DataGuidance focused on enforcement action brought by national DPAs, however, in certain jurisdictions where no DPA is present, DataGuidance sought information from its Contributors in relation to the wider privacy enforcement landscape.

All amounts have been converted to Dollars at the exchange rate set on 31 December 2014.

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LATIN AMERICA



Argentina

No. of penalties
18



Notable case:

“ On 26 March 2014, the Argentine Supreme Court provided its ruling on the protection of personal data and access to information in *CIPPEC v. Social Development Ministry*, Decree 1172/03. The Center for the Implementation of Public Policies Promoting Equity and Growth (CIPPEC) wanted information on how the Social Development Ministry allocated the public budget assigned by the Congress for specific social plans. The Social Development Ministry denied such information to the CIPPEC, stating that it could be understood as sensitive data (Section 16, paragraph I of the Appendix VII of Decree N° 1172/03 and Section 2, Personal Data Protection Act N° 25.326, 2000). The Ministry also stated that it was information that could lead to discrimination and could bring social injustice (according to the National Institute against Discrimination, Xenophobia and Racism).

Section 11 of the Act provides the general principle by which the communication of personal data is prohibited without the consent of the data holder, and provides some exceptions to this prohibition. As one of the exceptions, it foresees the possibility to assign personal data without the data holder’s consent when public interest is involved.

The Argentine Supreme Court stated that the prohibition to communicate personal data cannot apply when the public interest is at stake, by denying access to public information, since doing so obstructs the right to maximum disclosure of public information. Moreover, the Supreme Court stated that the fact that the information of the public registries involves third party data is not reason enough to impede its access. So, as long as the required information is not sensitive data (racial origin, political opinion, religious, philosophical or moral beliefs, union participation or information on sexual preferences or health), then the intimacy and honor of the involved persons is not affected by the disclosure of information relating to their social plans. Finally, the Supreme Court affirmed the need that the National Congress enact an Access to Information Act that clearly regulated the matter ”

Florencia Rosati and Manuela Adrogué, Senior Associate and Associate at Estudio Beccar Varela



Bolivia

“ To date, the right to privacy is not effectively enforced in Bolivia. The high financial cost of bringing a complaint, together with backlog and delay in the judiciary, generally discourage individuals from bringing suits to enforce this right. Although there have been several high-profile cases of alleged violations of the right to privacy over the course of the past year, no case resulted in a finding of a violation of the right to privacy ”

Lindsay Sykes and Gonzalo Iturry, Partner and Associate at Ferrere