

COUNTRY: ARGENTINA

SCORE: 57.98 | RANK: 16/24

Argentina has effective laws in place on cybercrime, electronic signatures, and data protection. However, Argentina’s laws on intellectual property have not kept pace with modern technology. There is no direct coverage of important issues such as the unauthorized “making available” of copyright material online, and there is no notice and takedown regime in place for infringing material. Argentina also has a poor track record of enforcing copyright laws, with lengthy court delays and few prosecutions. Some gaps also exist in the important areas of standards development and technology neutral and nondiscriminatory government procurement of information technology (IT).

There were very few changes in Argentina’s results between 2013 and 2015 although Argentina’s scores for IT infrastructure (and broadband in particular) improved.

One moderate setback was the imposition (since 2014) of a series of legal and tariff barriers on e-commerce activities. These include prohibitions on the import of specific products (for example, smartphones), tax surcharges on most electronic goods of up to 40%, an annual cap on the amount consumers can purchase via online shopping from international sites, and a requirement for ordinary consumers to register with the government as “importers” if they make international purchases. These measures act as a serious barrier to cross-border e-commerce and have also resulted in a booming black market for imported goods and services. These measures are linked to broader economic and currency issues in Argentina, but their impact on the IT sector is significant.

Argentina maintains its place in the rankings at 16.

Q ARGENTINA	RESPONSE	EXPLANATORY TEXT
DATA PRIVACY (SCORE: 5/10 RANK: 20/24)		
1. Are there laws or regulations governing the collection, use, or other processing of personal information?	✓	Personal Data Protection Law 2000.
2. What is the scope and coverage of privacy law?	Comprehensive	The legislation covers both the public and private sectors.
3. Is the privacy law compatible with the Privacy Principles in the EU Data Protection Directive?	✓	The legislation is closely based on the EU Directive. The EU has made a formal declaration that Argentina’s privacy law is “adequate” for the purposes of cross-border data transfers from Europe to Argentina. In practice, resources available in Argentina to enforce the law are limited.
4. Is the privacy law compatible with the Privacy Principles in the APEC Privacy Framework?	✓	Argentina’s privacy principles are compatible with the APEC Privacy Framework, although Argentina is not an APEC member.
5. Is an independent private right of action available for breaches of data privacy?	Available	Section 33 of the Personal Data Protection Law (PDPL) includes a private right called a habeas data right (data protection right). This allows a court to consider private action by any individual seeking enforcement of their right to access, rectify, update, or suppress personal information.
6. Is there an effective agency (or regulator) tasked with the enforcement of privacy laws?	National regulator	The National Commission for the Protection of Personal Data (Dirección Nacional de Protección de Datos Personales (DNPDP) < www.jus.gov.ar/datos-personales.aspx >) oversees the privacy laws.
7. What is the nature of the privacy regulator?	Sole commissioner	The national regulator is a sole commissioner.

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8. Are data controllers free from registration requirements?	✘	In theory, all public and private sector databases must be registered with the National Commission for the Protection of Personal Data. Registration is available online and fees apply. In practice, the registration requirements do not appear to be widely implemented or enforced.
9. Are cross-border transfers free from registration requirements?	🟡	The requirements for cross-border transfers in Argentina are complex. Data can be transferred only if it will be protected in the target country, although numerous exceptions apply (including consent, contractual clauses, and binding corporate rules). Although there is no strict requirement to register foreign transfers, a voluntary registration system is in place. This voluntary system offers some protection against legal claims, and so acts as a de facto registration requirement.
10. Is there a breach notification law?	✘	There are no data breach notification requirements in Argentina, however Directive 11/2006 of the National Commission for the Protection of Personal Data (DNPDP) < www.jus.gov.ar/datos-personales.aspx > requires the recording of security incidents.
SECURITY (SCORE: 6/10 RANK: 12/24)		
1. Is there a law or regulation that gives electronic signatures clear legal weight?	✔	The Digital Signature Law 2001, also known as Law 25.506, is in place. The Argentinean law gives the same legal effect to digital signatures as handwritten signatures, with some exceptions (e.g., where the signature is used for purposes other than those for which the digital certificate was issued or for a transaction whose value exceeds any limit stated in the certificate). Administrative Decision 6, issued Feb. 7, 2007, by the "Jefatura de Gabinete de Ministros" (Office of the Cabinet Chief), specifies additional rules for digital signatures applicable to the granting and revoking of licenses to certifiers upon their request.
2. Are ISPs and content service providers free from mandatory filtering or censoring?	✔	Presidential decree 1279/97 recognizes that the constitutional protection of free speech also applies to Internet communications. Mandatory filtering and censorship is not in place in Argentina. In 2012, the Senate began debate on a bill to protect and promote the rights of children and adolescents on the Internet, which if implemented would have imposed monitoring and filtering requirements on Internet service provider (ISPs), backed by heavy sanctions. However, as at September 2015, the bill appears to have expired.
3. Are there laws or enforceable codes containing general security requirements for digital data hosting and cloud service providers?	Limited coverage in legislation	The data protection legislation contains some broad, generic security requirements. The data protection regulator has also issued Disposition No. 11/2006, which contains specific, mandatory security requirements for certain categories of data. One of the key requirements in Argentina is that databases of sensitive information (e.g., health information) must be encrypted.
4. Are there laws or enforceable codes containing specific security audit requirements for digital data hosting and cloud service providers?	Limited coverage in legislation	The Personal Data Protection Law (PDPL) includes a requirement for "periodic security audits." Limited information is available about this requirement.
5. Are there security laws and regulations requiring specific certifications for technology products?	No requirements	Argentina has no formal security certification requirements in place. Argentina is not a participant in the Common Criteria Recognition Agreement (CCRA) < www.commoncriteriaportal.org >.
CYBERCRIME (SCORE: 8.8/10 RANK: 10/24)		
1. Are cybercrime laws in place?	✔	Law 26388 2008 updated Argentina's Criminal Code to include computer and information technology crimes. The law covers all of the main cybercrime categories, including the distribution and possession with the intent to distribute child pornography, illegal access to information systems and distribution of viruses.
2. Are cybercrime laws consistent with the Budapest Convention on Cybercrime?	✔	There are some minor concerns about procedural matters and the low level of criminal penalties in the criminal code. However, overall, the laws appear to be consistent with the Convention on Cybercrime. In 2012, Argentina was formally invited to accede to the Convention by the Council of Europe, however there has been no further progress toward signing.
3. What access do law enforcement authorities have to encrypted data held or transmitted by data hosting providers, carriers or other service providers?	Access with a warrant	Decree 1563/2004 implements the Data Retention Law. It requires that companies intercept and forward intercepted communications to the authorities when required by a court order. It also requires ISPs to decrypt customers' encrypted communications if they have offered encryption tools to their customers. However, this part of the law was suspended in 2005 after a Supreme Court ruling. A subsequent 2009 Supreme Court ruling confirmed that the law was unconstitutional.
4. How does the law deal with extraterritorial offenses?	Limited coverage	Argentina has extraterritorial powers for only a few specified crimes, mostly serious offenses such as genocide. These provisions are unlikely to be relevant for digital economy or cloud computing activities.

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INTELLECTUAL PROPERTY RIGHTS (SCORE: 12.4/20 RANK: 18/24)		
1. Is the country a member of the TRIPS Agreement?	✓	Argentina became a member of the TRIPS Agreement in 1995.
2. Have IP laws been enacted to implement TRIPS?	✓	Argentina had fully implemented the TRIPS Agreement by 2000.
3. Is the country party to the WIPO Copyright Treaty?	✓	Argentina signed the WIPO Copyright Treaty in 1997 and ratified it in 1999. It entered into force in Argentina in March 2002.
4. Have laws implementing the WIPO Copyright Treaty been enacted?	●	By signing the WIPO Copyright Treaty, Argentina has implemented the provisions in local law through a “self-executing” process — that is, the treaty provisions take precedence over any inconsistent local laws. However, the majority of the treaty provisions have not been specifically implemented in local law, and this may lead to confusion. In practice, there is little enforcement of copyright law in Argentina. Court processes are slow and complex, and penalties for copyright infringement are very small. Argentina has very high rates of copyright piracy, including online piracy, and this issue has become worse in recent years.
5. Are civil sanctions available for unauthorized making available (posting) of copyright holders’ works on the Internet?	●	There is no specific prohibition for “making available” other than Argentina’s commitment to the WIPO Copyright Treaty. In practice, these provisions are not always enforced.
6. Are criminal sanctions available for unauthorized making available (posting) of copyright holders’ works on the Internet?	●	Criminal sanctions are technically available, but they are rarely used in Argentina. The relevant sanction can be as minor as one month’s imprisonment, which is unlikely to act as an effective deterrent.
7. Are there laws governing ISP liability for content that infringes copyright?	✗	There are no specific requirements regarding ISP liability in Argentina. Several legislative proposals have been initiated on ISP liability, but none has progressed beyond the early stages of debate.
8. Is there a basis for ISPs to be held liable for content that infringes copyright found on their sites or systems?	✗	There is no specific legislation on this issue. The courts have found in recent cases that ISPs will be liable only if they have acted with “malice or negligence.”
9. What sanctions are available for ISP liability for copyright infringing content found on their site or system?	Not applicable	There is no specific legislation on this issue.
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	●	There is no specific legislation on this issue. Court decisions in Argentina have indicated that ISPs may have to comply with formal injunctions, but these are rare. A requirement for an ISP to be jointly liable for the alleged copyright infringement is a significant barrier to the effective use of takedown notices.
11. Are ISPs required to inform subscribers upon receiving a notification that the subscriber is using the ISP’s service to distribute content that infringes copyright?	✗	There are no general notice requirements in Argentina. Rights holders must approach the court for a formal injunction.
12. Is there clear legal protection against misappropriation of cloud computing services, including effective enforcement?	Limited protection (criminal activity only)	Argentina has implemented cybercrime laws that are relevant for cloud computing, and Argentina is considering joining the Council of Europe Cybercrime Convention. Argentina’s copyright law regime is very unusual. Argentina has signed the WIPO Copyright Treaty, and this has the technical effect of bringing all of those provisions into local law automatically. In practice, copyright law does not appear to be enforced, and the lack of specific local legislation or guidance covering online copyright and ISP liability is a barrier to effective cooperation and enforcement. A lack of copyright enforcement and insufficient sanctions both send a poor message for copyright protection regarding cloud computing.

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SUPPORT FOR INDUSTRY LED STANDARDS & INTERNATIONAL HARMONIZATION OF RULES (SCORE: 4.2/10 RANK: 23/24)		
1. Are there laws, regulations or policies that establish a standards setting framework for interoperability and portability of data?	✘	Presidential Decree 1474/94, approved in August 1994, establishes the National System for Standards, Quality and Certification. The system consists of a National Council, the Argentine Accreditation Body (OAA) <www.oaa.org.ar> and the Argentine Standardization Body (IRAM) <www.iram.org.ar>. However, work on IT standards in Argentina is limited, and there are no relevant standards relating to the interoperability and portability of data.
2. Is there a regulatory body responsible for standards development for the country?	✔	The Instituto Argentino de Normalización y Certificación (IRAM) <www.iram.org.ar>.
3. Are e-commerce laws in place?	🕒	Argentina is unusual in that it has specific legislation for digital signatures — Digital Signature Law 2001 (Law 25.506) — but there is no general e-commerce law that would cover such issues as electronic contracting.
4. What international instruments are the e-commerce laws based on?	Not applicable	There is no general e-commerce law to cover such issues as electronic contracting.
5. Is the downloading of applications or digital data from foreign cloud service providers free from tariff or other trade barriers?	✘	There are no specific tariffs in place that are relevant to digital data. However, since early 2014, Argentina has imposed a series of significant legal and tariff barriers on many e-commerce activities. These include prohibitions on the import of specific products (for example, smartphones), tax surcharges on most electronic goods of up to 40%, an annual cap on the amount consumers can purchase via online shopping from international sites, and a requirement for ordinary consumers to register with the government as “importers” if they make international purchases. These measures act as a serious barrier to cross-border e-commerce and have also resulted in a booming black market for imported goods and services. These measures are linked to broader economic and currency issues in Argentina, but their impact on the IT sector is significant.
6. Are international standards favored over domestic standards?	🕒	Argentina has a neutral position on standards development, and the use of international IT standards is heavily promoted.
7. Does the government participate in international standards setting process?	✔	Argentina is an active member of the International Standards Organization (ISO) and is a participant in the top-level ICT Standards Committee (JTC-1).
PROMOTING FREE TRADE (SCORE: 5.8/10 RANK: 14/24)		
1. Are there any laws or policies in place that implement technology neutrality in government?	✘	There are no specific policies or laws in Argentina regarding technology neutrality. However, Argentina traditionally has a hands-off approach to the regulation of the Internet and IT-related goods and services.
2. Are cloud computing services able to operate free from laws or policies that mandate the use of certain products (including, but not limited to types of software), services, standards or technologies?	✔	There are no mandatory product selection requirements in Argentina.
3. Are cloud computing services able to operate free from laws or policies that establish preferences for certain products (including, but not limited to types of software), services, standards or technologies?	✔	Argentina has proposed legislation giving a preference to open-source software on three occasions (2001, 2003 and 2004). However, the legislation has never been passed. There are no current preferences for any products or services.
4. Are cloud computing services able to operate free from laws that discriminate based on the nationality of the vendor, developer or service provider?	🕒	It is unclear whether Argentina’s existing procurement policies will apply to all aspects of cloud computing. If they do, they have the potential to act as a barrier to foreign services. For public procurement at the central government level, preference is given to goods of domestic origin when, under identical or similar supply conditions, their price is equal to or below that of bids involving foreign goods. A 5% buffer is given to the prices offered by local companies. This rises to 7% when bids are made by small and medium-size enterprises (SMEs) or exporters. Argentina is an observer, not a full member, of the World Trade Organization (WTO) plurilateral Agreement on Government Procurement.

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IT READINESS, BROADBAND DEPLOYMENT (SCORE: 15.8/30 RANK: 15/24)		
1. Is there a national broadband plan?	<ul style="list-style-type: none"> By 2015, more than 10 million homes with broadband access By 2015, 97% of the population accessing an optical fiber network at 10 Mbps and the remaining 3% of the population covered by satellite connections 	<p>Argentina launched its national broadband plan, named Argentina Conectada <www.argentinaconectada.gob.ar>, on Oct. 18, 2010.</p> <p>The aim of Argentina Conectada is to promote digital inclusion and ensure that all Argentines have access to high-speed Internet. The government aims to make broadband available nationally, and it has set a goal that by 2015 more than 10 million homes would have broadband access. As at July 2015, the bulk of the planned fiber-optic network is in place or under construction, and the first municipality has been connected to the network.</p>
2. Are there laws or policies that regulate the establishment of different service levels for data transmission based on the nature of data transmitted?	Multiple regulations and limited public debate	Articles 56 and 57 of Argentina's Digital Law (Law 27.078) 2014 guarantee a user's right to "access, use, send receive or offer any content, application, service or protocol through the Internet" without any restrictions or discrimination < www.infoleg.gob.ar/infolegInternet/anexos/240000-244999/242859/norma.htm >.
3. Base Indicators		
3.1. Population (millions) (2014)	41	In 2014, the population of Argentina increased by 0.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >]
3.2. Urban Population (%) (2014)	92%	[World Bank, Data Catalog, Indicators, Urban Population (2015) < data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS >]
3.3. Number of Households (millions) (2014)	11	In 2014, the number of households in Argentina increased by 0.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >]
3.4. Population Density (people per square km) (2014)	16	[World Bank, Data Catalog, Indicators, Population Density (2015) < data.worldbank.org/indicator/EN.POP.DNST >]
3.5. Per Capita GDP (US\$ 2014)	\$12,569	In 2014, the per capita GDP for Argentina increased by 0.5% to US \$12,569. [World Bank, Data Catalog, Indicators: GDP per capita, current US\$ (2015) < data.worldbank.org/indicator/NY.GDP.PCAP.CD > and GDP growth, annual % (2015) < data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG >]
3.6. IT Service Exports (2014) (billions of US\$)	5.77	In 2014, the value of IT service exports for Argentina decreased by -15.8% to US \$5.77 billion. The five-year compound annual growth rate (CAGR) from 2009-2014 was 4.9%. [World Bank, Data Catalog, Indicators: ICT Service Exports US\$ (Dec 2015) < data.worldbank.org/indicator/BX.GSR.CCIS.CD >]
3.7. Personal Computers (2014) (% of households)	62%	In 2014, 62.1% of households in Argentina had personal computers. This is an increase of 4.9% since 2013 and ranks Argentina 67 out of 183 countries surveyed. The growth from 2013 is below the five-year CAGR from 2009 to 2014 of 9.8%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/en/ITU-D/Statistics/Pages/publications/wtid.aspx >]

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4. IT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2015) (Score is out of 10 and covers 167 countries)	6.40	Argentina's ITU ICT Development Index (IDI) for 2015 is 6.4 (out of 10), resulting in a rank of 52 (out of 167 economies). The 2015 IDI for Argentina increased by 10.3%, and the IDI ranking improved by seven places from a rank of 59 since 2013. [International Telecommunication Union (ITU), Measuring the Information Society (Dec 2015) < www.itu.int/en/ITU-D/Statistics/Pages/publications/mis2015.aspx >]
4.2. World Economic Forum Networked Readiness Index (NRI) (2015) (Score is out of 7 and covers 143 countries)	3.72	Argentina has a Networked Readiness Index (NRI) score of 3.72 (out of 7), resulting in a rank of 91 (out of 143 economies) and a rank of 25 (out of 40) in the upper-middle income grouping of economies. The 2015 NRI for Argentina increased by 5.4% and improved from a rank of 100 since 2014. [World Economic Forum, Global Information Technology Report (2015) < reports.weforum.org/global-information-technology-report-2015/ >]
4.3. International Connectivity Score (2014) (Score is out of 10 and covers 52 countries)	4.50	Argentina has a Connectivity Score of 4.5 (out of 10), resulting in a rank of 13 (out of 26) in the resource-driven grouping of countries. [International Connectivity Scorecard (2013) < www.connectivityscorecard.org/ >]
5. Internet Users and International Bandwidth		
5.1. Internet Users (millions) (2014)	25	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >]
5.2. Internet Users as Percentage of Population (2014)	60%	In 2014, 60% of the population in Argentina used the Internet, resulting in a ranking of 69 out of 199 countries surveyed. This represents an increase of 7.3% since 2013. The growth from 2013 is below the five-year CAGR from 2009-2014 of 16.3%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/en/ITU-D/Statistics/Pages/publications/wtid.aspx >] Note: There may be some variations as to how countries calculate this. Some countries base this upon all or part of the population — such as between 16 and 72 years of age.
5.3. International Internet Bandwidth (2014) (bits per second per Internet user)	48,065	The International Internet Bandwidth (per Internet user) of Argentina has increased by 8% since 2013. The growth from 2013 is below the five-year CAGR from 2009-2014 of 16.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >]
5.4. International Internet Bandwidth (2014) (total gigabits per second [Gbps] per country)	1,300	Argentina has increased its International Internet Bandwidth by 18% since 2013 to 1,300 Gbps and is ranked 27 out of 215 countries surveyed. The growth from 2013 is below the five-year CAGR from 2008-2013 of 34.1%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >]
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (millions) (2014)	6	Argentina has increased the number of fixed broadband subscribers by 16% since 2013 to 6 million, and is ranked 19 out of 215 countries surveyed. The growth from 2013 is above the five-year CAGR from 2009-2014 of 13.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >]
6.2. Fixed Broadband Subscriptions as % of households (2014)	52%	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >] Note: This may be skewed by business usage in some countries.
6.3. Fixed Broadband Subscriptions as % of population (2014)	16%	Argentina has increased its fixed broadband subscriptions (as a share of the population) by 3.3% since 2013, which is below the five-year CAGR from 2009-2014 of 12.2%. This ranks Argentina 73 out of 215 countries surveyed. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) < www.itu.int/ITU-D/ict/publications/world/world.html >]
6.4. Fixed Broadband Subscriptions as % of Internet users (2014)	24%	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (June 2014) < www.itu.int/ITU-D/ict/publications/world/world.html >]

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7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (millions) (2014)	66	<p>In 2014, Argentina decreased the number of mobile cellular subscriptions by -1.5% and is ranked 22 out of 215 countries surveyed. The number of subscriptions account for 160% of the population.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p> <p>Note: This figure may be inflated due to multiple subscriptions per head of population but excludes dedicated mobile broadband devices (such as 3G data cards, tablets, etc.).</p>
7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2014)	54	<p>Argentina has increased the number of active mobile-broadband subscriptions (as a % of the population) by 67% since 2013. This ranks Argentina 60 out of 215 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p> <p>Note: This refers to the sum of standard mobile-broadband and dedicated mobile-broadband subscriptions to the public Internet. It covers actual subscribers, not potential subscribers, even though the latter may have broadband-enabled handsets.</p>
7.3. Number of Active Mobile Broadband Subscriptions (millions) (2014)	22	<p>In 2014, Argentina increased the number of active mobile-broadband subscriptions by 69% and is ranked 23 out of 215.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p>