

# COUNTRY: ARGENTINA

SCORE: 56.5 | RANK: 16/24

Argentina is committed to developing a strong ICT industry and updating its laws to facilitate cloud computing. Effective laws on cybercrime, electronic signatures, and data protection are already in place, although the implementation and enforcement of data protection regulation are limited.

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. 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 non-discriminatory government procurement of ICT.

There were no major changes in Argentina's results between the 2012 and the 2013 reports.

Argentina's national broadband plan, "Argentina Conectada," aims to ensure that all Argentinians have access to high-speed Internet. One goal is for more than 10 million homes to have broadband access by 2015, and Argentina is making good progress toward that goal.

Overall, the improvements in Argentina's cybercrime laws and infrastructure statistics helped it move up one spot in the rankings to 16th.

Q ARGENTINA	RESPONSE	EXPLANATORY TEXT
<b>DATA PRIVACY</b>		
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 the 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]) oversees the privacy laws < <a href="http://www.jus.gov.ar/datos-personales.aspx">www.jus.gov.ar/datos-personales.aspx</a> >.
7. What is the nature of the privacy regulator?	Sole commissioner	
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.

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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 they 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.
<b>SECURITY</b>		
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. 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 on February 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. However, 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 impose monitoring and filtering requirements on ISPs, backed by heavy sanctions.
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 law contains some broad, generic security requirements. The data protection regulator has also issued Disposition 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 scheme.
<b>CYBERCRIME</b>		
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.
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 to do so 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, and although the law is technically still under review, it appears unlikely that this requirement will be retained.
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.
<b>INTELLECTUAL PROPERTY RIGHTS</b>		
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.

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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. As a result, Argentina continues to have high rates of copyright piracy, including online piracy.
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.
7. Are there laws governing ISP liability for content that infringes copyright?	✘	There are no specific requirements in place regarding ISP liability in Argentina.
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	
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	●	There is no specific legislation on this point. Court decisions in Argentina to date have indicated that ISPs may have to comply with formal injunctions, but these are rare.
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 place 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 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 appears to cause confusion. A lack of copyright enforcement action sends a poor message for copyright protection regarding cloud computing.
<b>SUPPORT FOR INDUSTRY-LED STANDARDS &amp; INTERNATIONAL HARMONIZATION OF RULES</b>		
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 ICT 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 in place for digital signatures — Digital Signature Law 2001 (Law 25.506) — but there is no general e-commerce law in place that would cover such issues as electronic contracting.
4. What international instruments are the e-commerce laws based on?	Not applicable	
5. Is the downloading of applications or digital data from foreign cloud service providers free from tariff or other trade barriers?	✓	There are no formal tariffs in place that are relevant to digital data. However, some international service providers have reported challenges with complying with Argentina’s complex withholding tax arrangements and exemptions.

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6. Are international standards favored over domestic standards?	●	Argentina has a neutral position on standards development, and the use of international ICT 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).
<b>PROMOTING FREE TRADE</b>		
1. Are any laws or policies in place that implement technology neutrality in government?	✗	There are no specific polices or laws in Argentina regarding technology neutrality. However, Argentina traditionally has a “hands-off” approach to the regulation of the Internet and ICT-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?	●	<p>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.</p> <p>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. An additional 7% buffer is included when bids are made by SMEs.</p> <p>Argentina is an observer, but not a full member, of the WTO plurilateral Agreement on Government Procurement.</p>
<b>ICT READINESS, BROADBAND DEPLOYMENT</b>		
1. Is there a national broadband plan?	<ul style="list-style-type: none"> <li>By 2015, more than 10 million homes with broadband access</li> <li>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</li> </ul>	<p>Argentina launched its national broadband plan — “Argentina Conectada” — on October 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.</p> <p>The Argentinian Federal Planning Ministry plans to invest ARS 8 billion (US\$2 billion) up to 2013.</p> <p>&lt;<a href="http://www.argentinaconectada.gob.ar">www.argentinaconectada.gob.ar</a>&gt;</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?	Limited regulation and limited public debate	Issues of net neutrality do not appear to be the subject of significant consideration in Argentina. There is limited regulation in place, including a licensing requirement for VoIP providers — once a license has been obtained, a provider is free to offer telecommunication services with different technologies and network architectures. There do not appear to be any other rules that either require or restrict net neutrality.
3. Base Indicators		
3.1. Population (2011)	40,764,561	<p>In 2011, the population of Argentina increased by 0.9%.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) &lt;<a href="http://www.itu.int/ITU-D/ict/publications/world/world.html">www.itu.int/ITU-D/ict/publications/world/world.html</a>&gt;]</p>

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3.2. Urban Population (%) (2011)	93%	[United Nations, Department of Economic and Social Affairs, Population Division (2012). World Urbanization Prospects: The 2011 Revision, <esa.un.org/unup/CD-ROM/Urban-Rural-Population.htm>]
3.3. Number of Households (2011)	11,162,000	In 2011, the number of households in Argentina increased by 2.7%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.4. Population Density (people per square km) (2010)	15	[World Bank, Data Catalog, Indicators, Population Density (2012) <data.worldbank.org/indicator/EN.POP.DNST>]
3.5. Per Capita GDP (US\$ 2011)	\$10,941	In 2011, the per capita GDP for Argentina increased by 8.9% to US\$10,941. [World Bank, Data Catalog, Indicators: GDP per capita, current US\$ (2012) <data.worldbank.org/indicator/NY.GDP.PCAP.CD> and GDP growth, annual % (2012) <data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>]
3.6. Public Cloud Services Market Value (2011) (Billions of US\$)	0.16	Gartner has calculated the value of the public cloud services market in Argentina in 2011 to be US\$0.16 billion. This is a 23% increase from 2010 and ranks Argentina 17 (out of 20 countries) in the forecast. Gartner has projected the five-year compound annual growth rate (CAGR) to 2016 to be 28.5%, and this ranks Argentina 4 (out of 20 countries) for growth in the value of the market for public cloud services to 2016. [Gartner, Forecast Overview: Public Cloud Services, Worldwide, 2011-2016 (August 2012 Update) <www.gartner.com/id=2126916>]
3.7. Personal Computers (% of households) (2011)	50%	In 2011, 50% of households in Argentina had personal computers. This is a 6.4% increase since 2010 and ranks Argentina 69 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 7.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>]  Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may update this indicator for prior years.
4. ICT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2011) (Score is out of 10)	5.00	Argentina's ITU ICT Development Index (IDI) for 2011 is 5 (out of 10), resulting in a rank of 56 (out of 161 economies). The 2011 IDI for Argentina has increased by 5.9%, and the IDI ranking has declined by one place from a rank of 55 since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) <www.itu.int/ITU-D/ict/publications/idi/2012>]  Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
4.2. World Economic Forum Networked Readiness Index (NRI) (2012) (Score is out of 7)	3.99	Argentina has a Networked Readiness Index (NRI) score of 3.99 (out of 7), resulting in a rank of 85 (out of 142 economies) and a rank of 29 (out of 39) in the upper-middle income grouping of economies. The 2012 NRI for Argentina has increased by 15.1% and improved from a rank of 96 since 2011. [World Economic Forum, Global Information Technology Report (2012) <www.networkedreadiness.com/gitr>]
4.3. International Connectivity Score (2011) (Score is out of 10)	5.46	Argentina has a Connectivity Score of 5.46 (out of 10), resulting in a rank of 5 (out of 25) in the resource-driven grouping of countries/economies. [Nokia Siemens, Connectivity Scorecard (2011) <www.connectivityscorecard.org>]
4.4. IT Industry Competitiveness Index (2011) (Score is out of 100)	36.20	Argentina has an IT Industry Competitiveness Index Score of 36.2 (out of 100), resulting in a rank of 45 (out of 66 countries/economies included in the index). The 2011 index score is a 10% decrease on the 2009 score. Argentina has moved down the ranking by four places since 2009. [Business Software Alliance (BSA) / Economist Intelligence Unit (EIU), IT Industry Competitiveness Index (2011) <globalindex11.bsa.org>]

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5. Internet Users and International Bandwidth		
5.1. Internet Users (2011)	19,446,326	[calculated from 8.3.1. and 8.5.2.]
5.2. Internet Users as % of Population (2011)	48%	In 2011, 48% of the population in Argentina used the Internet, resulting in a ranking of 78 out of 199 countries surveyed. This is a 19.3% increase since 2010. The growth from 2010 is above the five-year CAGR from 2006 to 2011 of 17.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (December 2012) < <a href="http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx">www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx</a> >] 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. Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
5.3. International Internet Bandwidth (bits per second per Internet user) (2011)	25,712	Argentina's International Internet Bandwidth (per Internet user) has increased by 4% since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) < <a href="http://www.itu.int/ITU-D/ict/publications/idi/2012">www.itu.int/ITU-D/ict/publications/idi/2012</a> >]
5.4. International Internet Bandwidth (2011) (total gigabits per second [Gbps] per country)	500	Argentina has increased its International Internet Bandwidth by 25% since 2010 to 500 Gbps and is ranked 31 out of 188 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 56.8%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < <a href="http://www.itu.int/ITU-D/ict/publications/world/world.html">www.itu.int/ITU-D/ict/publications/world/world.html</a> >]
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (2011)	4,294,000	Argentina has increased the number of fixed broadband subscribers by 11% since 2010, to 4,294,000, and is ranked 20 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 22.1%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < <a href="http://www.itu.int/ITU-D/ict/publications/world/world.html">www.itu.int/ITU-D/ict/publications/world/world.html</a> >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
6.2. Fixed Broadband Subscriptions as % of Households (2011)	38%	[calculated from 8.3.3. and 8.6.1.] Note: This may be skewed by business usage in some countries (refer to OECD comments about this).
6.3. Fixed Broadband Subscriptions as % of Population (2011)	11%	Argentina has increased its fixed broadband subscriptions (as a share of the population) by 10% since 2010, which is below the five-year CAGR from 2006 to 2011 of 21%. This ranks Argentina 20 out of 187 countries surveyed. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (July 2011) < <a href="http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx">www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx</a> >]
6.4. Fixed Broadband Subscriptions as % of Internet Users (2011)	22%	[calculated from 8.5.1 and 8.6.1]

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7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (2011)	55,000,000	<p>In 2011, Argentina increased the number of mobile cellular subscriptions by 2.4% and is ranked 24 out of 195 countries surveyed. The number of subscriptions account for 135% of the population.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) &lt;<a href="http://www.itu.int/ITU-D/ict/publications/world/world.html">www.itu.int/ITU-D/ict/publications/world/world.html</a>&gt;]</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 and tablets).</p>
7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2011)	12%	<p>Argentina has increased the number of active mobile broadband subscriptions (as a share of the population) by 134% since 2010. This ranks Argentina 79 out of 144 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) &lt;<a href="http://www.itu.int/ITU-D/ict/publications/world/world.html">www.itu.int/ITU-D/ict/publications/world/world.html</a>&gt;]</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> <p>Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.</p>
7.3. Number of Active Mobile Broadband Subscriptions (2011)	4,775,000	<p>In 2011, Argentina has increased the number of active mobile broadband subscriptions by 136% and is ranked 79 out of 145 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) &lt;<a href="http://www.itu.int/ITU-D/ict/publications/world/world.html">www.itu.int/ITU-D/ict/publications/world/world.html</a>&gt;]</p>