

# SABER MÁS XI

THE IMPACT OF THE COVID - 19  
PANDEMIC ON THE RIGHT OF ACCESS  
TO INFORMATION IN THE REGION

SEPTEMBER 28<sup>TH</sup>  
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UNIVERSAL ACCESS TO INFORMATION

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Por la Libre Expresión e Información



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# INTRODUCTION

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During these six months of pandemic, the Alianza Regional por la Libre Expresión e Información has documented the impact of the health crisis on the right of access to information in Latin America and the Caribbean. This work of observatory carried out by the Alianza Regional was possible thanks to the active role of its members and has resulted in the publication of three reports in the recent months: two regional studies on the Right of Access to Public Information (ATI) and a final report on active transparency.

This new edition of the report Saber Más – which our public network has joined efforts with since the year 2009 - picks up the main findings of these latest reports, completes them and delves into two topics of particular relevance during the crisis: press conferences and the use and protection of personal information

This Saber Más report is made up of four sections:

- A meta-analysis of what has happened to the ATI in the region during the pandemic.
- A summary or brief by country that presents a brief chronology of the pandemic and its impact on ATI, highlighting adequate practices and challenges.
- An approach to the challenges faced in terms of ATI in the framework of the press conferences during the pandemic
- A presentation of some good practices and challenges regarding personal data protection

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<sup>1</sup> The organizations which integrate the Alianza Regional that participated in this report, contributing information on the situation in their respective countries throughout these months were: The Association for Civil Equality and Justice (ACIJ-Argentina), the Citizenship and Development Foundation (FCD - Ecuador), the Democracy without borders foundation and “C-Libre” (Honduras), the Cuban Observatory of Human Rights (Cuba), the Institute of Law and Environmental Economics (IDEA - Paraguay), Citizen Action (Guatemala), Citizen Participation (Dominican Republic), “Artigo 19” (Brazil), “CAinfo” (Uruguay), the Institute of Press and Freedom of Expression (IPLEX - Costa Rica), the Salvadoran Foundation for Economic and Social Development (FUSADES - El Salvador), Transparency for Colombia (Colombia), “Fundar” (Mexico), the “Violeta Barrios de Chamorro” Foundation (FVBCH - Nicaragua), Transparency Venezuela and Public Space (Venezuela) and the National Press Association (ANP - Bolivia). It is important to note that for the preparation of this report, Saber Más, we were not able to count with support from Citizen Participation (Dominican Republic). Our organization member in Mexico, “Fundar”, was in charge of the elaboration of the questionnaire and systematization of the present report.

This study seeks not only to constitute itself as a testimony of the challenges that occurred in the region during the pandemic, to continue to guarantee the ATI (Right of Access to Public Information), but also to begin to identify future obstacles for access to information in Latin America. Indeed, some obstacles presented during the pandemic correspond to this peculiar context, however, many of the complications encountered are related to structural problems that will have to be resolved in the coming years to strengthen the dissemination and circulation of public information in the region.

## CONTEXT

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The right of access to information in the region continues to be a diverse reality that is important to remember. The legal and institutional scaffolding for guaranteeing this right may be almost absent, as is the case in Cuba and Venezuela or, on the contrary, highly developed, as in Mexico and Brazil.

From the information provided by the Alianza report "Regional Study: Access to Information in the context of a health emergency" and from the research that was collected for this study, it is observed that, despite the advancement of regulations for the right to access public information (DAIP) in the last decade in the region, 75% of the countries which were consulted have informed that they do not have the suitable conditions in order to comply with full access to public information. Thus, 18.75% does not have a regulation for this right (Cuba, Bolivia and Venezuela), 18.75% report that the rule exists formally, but they consider that it is breached systematically (Nicaragua, Honduras and Guatemala), and 37.5% does not have an institution responsible for guaranteeing the matter at hand in terms recognized by international standards (Paraguay, Dominican Republic, Costa Rica, Brazil, Uruguay and Argentina).

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<sup>2</sup> In this new study, the case of Argentina is considered, which was not taken into account in the May 2020 report, since it was not yet part of the Regional Alliance. It should be noted that in this country there is not one, but 6 institutions that ensure compliance with the Law on Access to public Information. The law foresees the creation of organizations within the scope of the Executive Power, the Legislative Power, the Supreme Court of Justice, the Council of the Magistracy, the Public Prosecutor's Office and the Public Ministry of Defense. The way in which each sector regulated the creation of these bodies was dissimilar, as in the way their responses to the pandemic context varied in each case.

# META-ANALYSIS ON THE DAIP DURING THE PANDEMIC IN THE REGION

## THE DAIP AND THE PANDEMIC: THE TEMPTATION FOR LACK OF TRANSPARENCY

Except for Cuba and Nicaragua, all countries declared a state of emergency due to the pandemic, which had an impact on the exercise of the DAIP in the region, since activities considered non essential were suspended including the exercise of access to information, which fits into a diverse institutional and legal framework.

For example, in countries where the DAIP is not yet institutionalized, and where Governments are not prone to transparency, as is the case in Cuba and Venezuela, we have been able to document that there is lack of information, there is no accountability of the institutions regarding their actions to confront the pandemic and it is very difficult for citizens to have access to reliable information that will allow them to understand the reality and extent of the emergency.

For example, in countries where the DAIP is not yet institutionalized, and where Governments are not prone to transparency, as is the case in Cuba and Venezuela, we have been able to document that there is lack of information<sup>3</sup>, there is no accountability of the institutions regarding their actions to confront the pandemic and it is very difficult for citizens to have access to reliable information that will allow them to understand the reality and extent of the emergency.

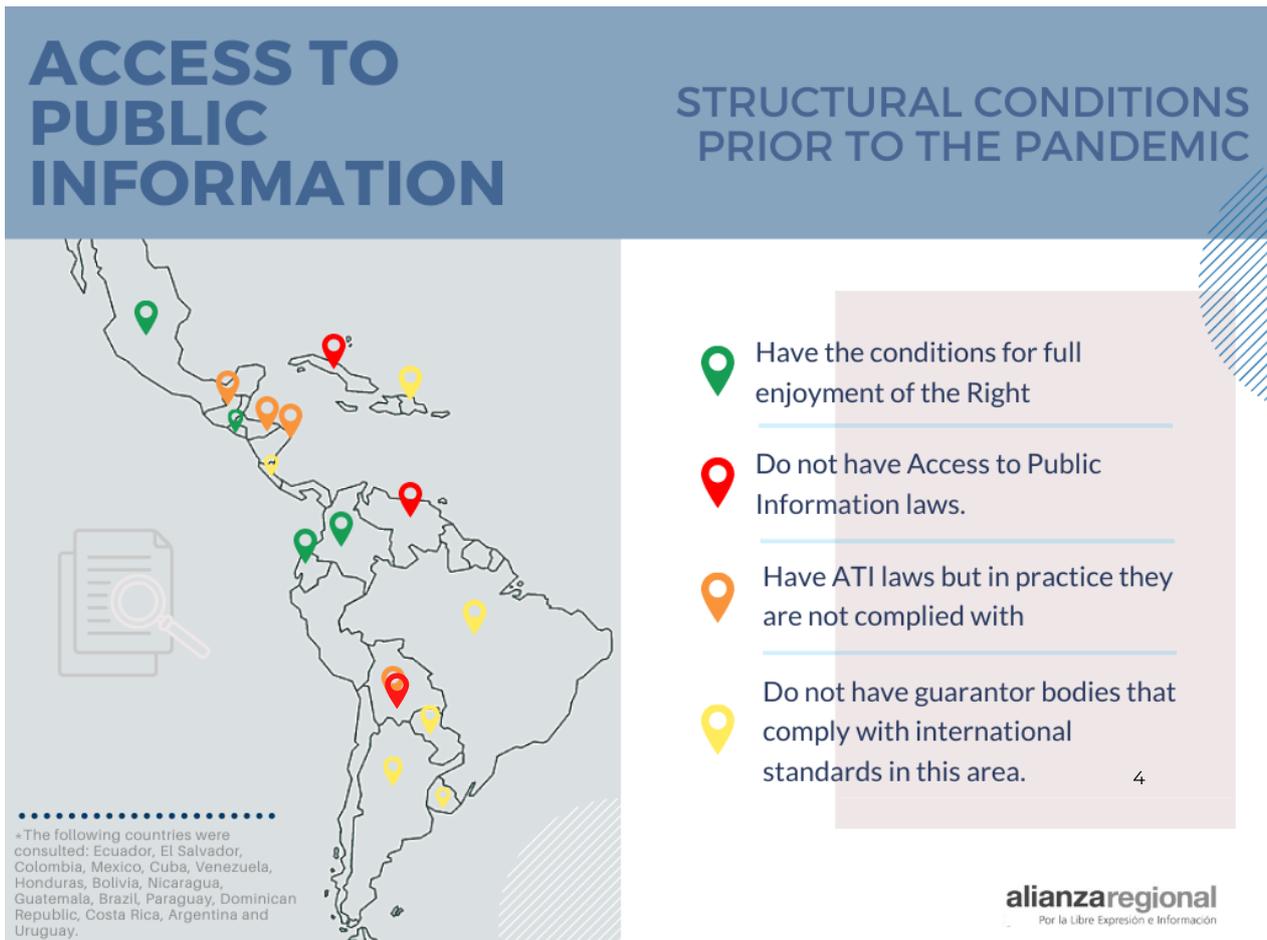
There are also countries where the institutionalization of the DAIP has advanced but their implementation has been deficient, at the same time they face an important political crisis, such as the case of Bolivia and Nicaragua. In the latter country, the Violeta Barrios de Chamorro Foundation notes that:

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<sup>3</sup> Public space. April 10, 2019. "2018 Report: Situation of the right to Freedom of Expression and information in Venezuela", Available at: <http://espaciopublico.org/informe-2018-situacion-del-derecho-a-la-libertad-de-expression-html/>



Despite the fact that the Law of Access to Information is of public order, and that the freedom of expression and the right to information are established rights in the Political Constitution and said to prevail over which ever law opposes it, the culture of secrecy still triumphs in public institutions established by the regime as an official strategy of communication. This policy has not changed with the health crisis pandemic and, on the contrary, police and political harassment has been aggravated upon institutions that usually need public information to carry out their work, such as the media, medical organizations and private companies."



4 The Law of Access to Public Information in Argentina creates the organization of the National Executive Power and provides for the creation of bodies with functional autonomy and identical competencies and functions in the Legislative Power, in the Supreme Court of Justice of the Nation, in the Council of the Magistrature of the Nation, in the Public Prosecutor's Office and in the Public Ministry of Defense. The regulations that regulated each of them vary in each case, as does their effective integration an operation, which leads to dissimilar compliance with international standards. In particular, the regulations of the agencies of the Council of the Magistracy, of the Public Ministry Attorney and Defense do not adequately protect their autonomy since they do not contain guarantees against arbitrary removal of its authorities. The agencies of the Legislative Power, in addition to having Similar problems of autonomy were never established. The Supreme Court agency was not created, but it was arranged that its functions be exercised by its highest authority, which is far from any optimal standard in the matter. Finally, the Agency created within the framework of the Executive Power was designed respecting international standards -although in 2017 the Executive Power reduced its faculty to design its organic structure.

In addition to these cases where there is concern about the almost absence of access to information, the other countries analyzed in this report have laws, but in reality, the guarantee of the DAIP has varied.

Thus, the May 2020 Alianza Regional report highlights that:

“ The information collected between the organizations that integrate the Alianza presents a troublesome panorama in relation to the exercise of this right: structural limitations prior to the emergency (both normative and practical) leave most of the countries analyzed without a real possibility of access to information. But even in those countries where there are regulations and a certain exercise of the AIP, the right is limited by various practices: such as the extended time it takes for response and added on to that the breach of these rights all together; In addition, the governing bodies do not regularly process the appeals that are made when there are breaches in the delivery of information.”<sup>5</sup>

Brazil has been one of the most worrisome cases. Although it is one of the more advanced countries in terms of legislation on the matter, during the pandemic the DAIP`s exercise was put to the test. The Artigo 19 organization talks about "Temptation of lack of transparency". Indeed, at the beginning of the pandemic, the government sought to change and limit the processes of access to information by decree, but the mobilization of civil society and a judgment of the Federal Superior Court put a stop to this.

This was not the only temptation. Another more recent attempt to limit access to information has been the data blackout; Artigo 19 points out that: “At the beginning of June, the Bolsonaro government changed the format for disclosing data related to the advance of the Covid-19 pandemic in Brazilian territory, just after they removed the platform that collects all data about the disease from the website of the Ministry of Health. After many hours off air and under the criticism from various civil society organizations and other branches of government, the judiciary and legislature, the portal returned, but without including the total number of deaths from the disease, showing only the number of deaths that occurred in the last 24 hours, and also omitting the total number of people infected with the virus.”

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<sup>5</sup> Alianza Regional por la Libre Expresión e Información, May 18, 2020. “Regional study: Access to Information in the context of a health emergency”. Available at: [http://www.alianzaregional.net/wp-content/uploads/2020/05/Estudio-regional\\_-AIP-en-contexto-de-emergencia-sanitaria-final-.pdf](http://www.alianzaregional.net/wp-content/uploads/2020/05/Estudio-regional_-AIP-en-contexto-de-emergencia-sanitaria-final-.pdf)

# THE ATI AND THE PANDEMIC MAIN CHALLENGES

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In addition to these worrisome cases, here are four very important challenges that most countries have faced throughout these six months under DAIP's observation.

## I. THE SUSPENSION OF DEADLINES FOR REQUESTS OF INFORMATION

In a third of the countries analyzed, there was a suspension of deadlines for requests of information (Mexico, El Salvador, Honduras, Nicaragua and Argentina).

In Argentina and Mexico, the entities of the DAIP reacted to this suspension of terms in order to limit the effects on the DAI. In Argentina, the Access to Public Information Agency set precedents in the region by being one of the first entities to lift the suspension of deadlines regarding the Law on Access to Public Information (27,275) and has resumed activity related to the right of Access to public information since April 15, 2020.

In Colombia, although there was no suspension of terms, there was an extension. Transparency Colombia emphasizes that in general the establishments obliged complied in a timely manner with the delivery of the information.

In another third of the countries, there was no legal change in terms of delivery of the information (Guatemala, Ecuador, Uruguay, Paraguay, and Costa Rica). However, in most of these countries, this measure was not met in the reality: the information was not delivered on time, or the data delivered was not considered of quality. For example, in Ecuador, the Citizenship and Development Foundation states that:

“ Although the right of access to public information has not been suspended officially in the framework of the emergency - the deadlines were not modified to respond to requests and the entities responsible continued to work with normality – the reality has been affected in execution: Requests for information have been presented virtually and have been answered both at municipal and national levels, but the time taken to respond has been greater than that established by law.”

## ATI UNDER COVID-19

### SUSPENSION OF DEADLINES FOR REQUESTS FOR INFORMATION



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## Different situations were recorded in the countries of the region:

### Initial suspension of deadlines

Mexico  
El Salvador  
Honduras

Argentina  
Nicaragua

### Extension of deadlines

Colombia

### No formal changes

Guatemala  
Ecuador  
Uruguay

Costa Rica  
Paraguay



However, in practice, the majority reported that the information was not delivered on time or the data was not of good quality.

\*The countries that responded to this consultation were: Mexico, El Salvador, Honduras, Nicaragua, Argentina, Colombia, Guatemala, Ecuador, Uruguay, Costa Rica and Paraguay.

## II . THE IMPORTANCE OF PROACTIVE TRANSPARENCY

As the Regional Alliance pointed out in the report published in July of 2020, "The informal provision of information acquires a special relevance in the current context of high uncertainty and absolute absence - worldwide - of record of a similar situation. It is necessary, then, that citizens learn about government policies and decisions that strongly impact their daily chores."<sup>6</sup>

Indeed, the pandemic has demonstrated the importance of proactive information. The vast majority of countries developed sites where citizens can find relevant data regarding the Covid-19 infection.

According to the report mentioned before, in general, the best practices in the field of proactive information on how the disease is progressing seem to register in Paraguay and Costa Rica, where our members report that published data is complete, disaggregated, up-to-date and easily accessible.

<sup>6</sup> According to the report mentioned before, in general, the best practices in the field of proactive information on how the disease is progressing seem to register in Paraguay and Costa Rica, where our members report that published data is complete, disaggregated, up-to-date and easily accessible.

### III. QUALITY OF INFORMATION

In general, in most countries, our members questioned the quality of information shared by governments through requests or proactively. The Regional Alliance highlighted that:

“ When evaluating the quality of this information, the results are troubling: 40% consider that the information is not correctly up-to-date; 47% believe that the published information is incomplete; 59% of countries are published in closed formats that prevent their reuse and analysis.”<sup>7</sup>

### IV. ROLE OF CIVIL SOCIETY

In many countries, faced with the absence or deficiency of public information, civil society has played an active role in demanding and making information transparent. In the case of Nicaragua, on suspicion that the government was hiding data on the number of infections, the society conducted educational campaigns based on reliable international information from PAHO and WHO. The Covid-19 Citizen Observatory was created as well, which is useful for media, international health organizations and citizens in general, in a way that is systematic and free of cost, it compares official numbers with unofficial numbers and obtains information that is generated anonymously from the public hospitals and medical centers. This has made it possible to contrast the public data with unofficial data.

In certain cases, this citizen participation has been encouraged by the government itself. For example, the Colombian government launched the Control Tool Covid-19 citizen of Colombia Efficient Purchase (governing body whose objective is to develop and promote public policies and tools, aimed at organization and articulation of public procurement and contracting processes, in the country). This tool shows the pre-contractual processes and contractual agreements made by public entities during the pandemic.

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<sup>7</sup> Regional Alliance for Free Expression and Information. July 7, 2020. “Second regional study: access to the information on context from emergency sanitary”. Available on: <http://www.alianzaregional.net/wp-content/uploads/2020/07/II-Estudio-Regional-AIP-en-contexto-de-health-emergency.pdf>

# CONCLUSION

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During the pandemic, the challenges for the exercise of right to access information have been very diverse: from the temptation to close information such as the case of Brazil; to the encouragement of citizen participation to support the government in providing data and to enable efficient accountability, as in Colombia.

The pandemic shows how the guarantee of the right of access to information continues being fragile in the region, despite legal and institutional advances; it has been seen that the role of civil society is decisive to protect the achievements obtained and raise the level of demand. It has also revealed the importance of strengthening the capacity of public institutions for the development of portals of information with active transparency and reliable up-to-date data. For this, it is necessary to count on archives, as well as thinking about combating the digital divide so that each and every citizen is able to access public information through these channels.

# GOOD PRACTICES AND CHALLENGES OF ATI IN EACH COUNTRY MEMBER

## ARGENTINA

### CHRONOLOGY

On March 3, 2020, the first case of Covid-19 was confirmed in Argentina. Due to the evolution of the pandemic, a state of emergency was declared on the 12th by presidential decree, which modified the Social Solidarity Law and Productive Reactivation in the Framework of the Public Emergency, promulgated in December 2019.

Among the main measures that the government took to address the health emergency are: preventive social and mandatory isolation, which consisted of mandatory quarantine for the entire population of the country; the suspension of all activities except those considered as essential (health personnel, security forces, production and trade food, basic services, social assistance, among others); and the suspension of administrative deadlines of all kinds, including procedures related to the access to information. Until August 14th, which was the last update of the information that makes up this section, these measures were still in place.

### IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

Access to information in Argentina continued throughout the entire context of the pandemic, formally at least, in first place, because during the health emergency there was no suspension of the obligations of active transparency established in the Law on Access to Public Information (27,275), which requires obliged establishments to publish complete information, updated, by digital means and in open formats. In particular, in the DNU 260/2020 on March 12th, some obligations of active transparency were incorporated for the Ministry of Health on how to provide information to the population on a daily basis on the “affected areas” and the epidemiological situation, regarding the spread, containment, and mitigation of this disease; And it was urged to keep And it was

urged to keep confidentiality about the identity of the people affected.

On the other hand, although it is true that initially the suspension agreement on deadlines affected the right of access to information, the Agency for Access to the Public Information of the Executive Branch set a precedent in the region, since It was one of the first entities to lift the suspension of deadlines regarding the Law on Access to Public Information (27,275), so that the activity related to the right of access to public information was resumed on April 14 this year.



## ADEQUATE PRACTICE

The Access to Information Agency of the Executive Power quickly resumed the deadlines for all procedures relating to the right of access to public information. How it has been mentioned before, it was one of the first entities in the region. Some countries like Mexico resumed this adequate practice, although not with the same scope since the Transparency Institute resumed the terms only for the procedures for accessing information related to the pandemic.

## CHALLENGE

With the exception of the body of the Executive Power, all Others formally kept the deadlines for processing orders, although in some cases it was recorded that authorities continued to respond (as in the cases of the Council of the Magistracy and both institutions of the Public Ministry). The Supreme Court of Justice of the Nation and the lower court did not dispose of the means to submit claims and orders electronically.

In turn, both the law enforcement bodies and the law enforcement authorities of the respective institutions did not have specific guidelines or protocols, at least to public knowledge, to address the situation of access to information during the context of quarantine and social isolation.

## CHRONOLOGY

On March 21, 2020, the president of Bolivia established a total quarantine at national level, as a preventive measure against the spread of Covid-19, through the Supreme Decree 4199. Two weeks before, he had already restricted movement of the population with a 3:00 p.m. curfew. Later on, the Telecommunications and Transportation Regulation and Supervision Authority (ATT) ordered the suspension of commercial flights and passenger transport and cargo between cities, with the exception of emergency transport, starting on March 22th, 2020. On April 29th, the government declared the expansion of the national health emergency and established a conditional and dynamic quarantine.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

In Bolivia, the advocate of the people - also the entity that guarantees the right to information - did not issue a suspension, limit or modify the access to public information, nor were there any such measures.

The government information generated by the health department services regarding the pandemic was made public from the beginning of the quarantine. In addition, the Ministry of Health and municipal governments were in charge of providing information on new registered cases, deaths, their distribution by cities, etc., through broadcast press conferences on the state television channel and retransmitted by the private channels.

### **MARCH 21, 2020**

A total quarantine was declared throughout the territory.

### **MARCH 22, 2020**

ATT suspended flights commercial, passenger transport and freight between cities.

### **APRIL 29, 2020**

The government expanded the health emergency and established a conditioned and dynamic quarantine.

## ADEQUATE PRACTICE

It is considered an adequate practice to present daily epidemiological information at national level, through the state channel. In addition, data is translated into infographics that are presented to the public in a segmented way and by region.

## CHALLENGE

A challenge to access the information is the attack on journalists that cover acts of protest and public riots because of violations to the right of information of citizens.

## **CHRONOLOGY**

On February 6, 2020, the state of health emergency was decreed through the Law 13.979 / 2020. Subsequently, on March 20th, the National Congress decreed the state of public calamity, which exempted the government from the obligation to comply with the budget execution objectives and limit the commitment of resources until December 31.

Thus began a short period of confinement and suspension of activities in some cities, but some essential public services were maintained such as water supply and sewerage. Some public procurement processes were not met, in order to accelerate the contracting of goods and professional health services.

## **IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY**

A provisional measure (928/2020) was enacted in Law 13,979 / 2020, which altered significantly the Law on Access to Public Information (Law 12.527 / 2011), which established:

- the non-prioritization of requests for information that were not related to the pandemic;
- the suspension of deadlines for requests of information that required physical access of responsible officials to respond or the physical presence of citizens to carry them out;
- the inability to appeal denied information requests and,
- the need for citizens to request public information again after the emergency period.

The organism responsible for guarantying transparency in Brazil, the Office of the Comptroller General of the Union, issued recommendations so that the Provisional Measure 928/2020 would not to be so restrictive. However, there were delays in responding to the requests for information and refusals justified by teleworking and lockdown.

It is considered that the public information that the State made available was insufficient to inform the population about the situation of the pandemic or the construction of public policies. Many state health ministries provided little information to the public, while data such as the number of cases and the rate of infection or mortality, were not reliable or they were incomplete. In addition, the production of information on other public services, such as women`s shelter for victims of sexual violence, legal abortion care, etc. was affected as well.

**FEBRUARY 6, 2020**

A state of health emergency was decreed through Law 13.979 / 2020.

**MARCH 20, 2020**

The National Congress decreed a state of public calamity until December 31st.

**MARCH 24, 2020**

A provisional measure was enacted (928/2020) in the Law 13,979 / 2020 that altered significantly the Law of Access to public information (Law 12.527 / 2011).

**ADEQUATE PRACTICE**

Reestablishment of deadlines for guaranteeing access to the information in the pandemic: although, through a provisional measure deadlines were suspended to respond to the requests for information, the Secretary of State for Control and Transparency of the Holy Spirit assumed to reestablish and comply with the response deadlines established in the Law on Access to Public information, except for cases that require access to physical materials.

## CHALLENGE

Elimination of data and public information on the situation of pandemic: In early June 2020, the government eliminated the platform of the Ministry of Health that contained information on the advance of the pandemic in Brazilian territory. However, after criticism from social organizations civil and other branches of government, the portal was re-established. However, the format of disclosure changed, as it is no longer included important data such as the total number of deaths nor the total number of infected people. It also did not reestablished statistics showing the evolution of the disease. This change is seen as an attempt to reduce the population`s perception regarding the severity and actual scope of the pandemic.

## CHRONOLOGY

On March 17, 2020, through a Presidential Decree, the State declared an Economic, Social and Ecological Emergency at national level. The first established measures were the suspension of events of more than 500 people and international maritime berthing, while it was requested to maximize the teleworking modality. Likewise, public institutions were ordered to activate contingency plans to contain the health emergency. On a communicational level, all sound broadcasting stations, television programmers and other mass media were ordered to disseminate free information on the health situation and measures of protection for the population, in accordance with the information provided by the Ministry of Health and Social Protection.

Subsequently, circulation was further restricted until the mobility of citizens throughout the national territory was completely restricted, with the exception of the health personnel, public force personnel, domiciliary, workers of pharmacies and stores where products from the family basket were sold, and caregivers of older adults. Domestic and International flights were also restricted.

Nine weeks after the health emergency began in the country, these measures were gradually relaxed: in first place, construction workers were allowed to return to work and in the following weeks other sectors of nonessential commerce joined.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

The Ministry of Justice and Law, decreed the extension for deadlines for response by public entities to requests for access to information for a period of 15 to 30 days; and established the guidelines so that the right of access to public information is not affected. Also, the Superior Council of the Judicial branch established guidelines for the attention of guardianship during the pandemic.

The Office of the Attorney General of the Nation - together with the public advocate Office and its municipal and district authorities are part of the Public Ministry, an organ that guarantees the Law of Access to Information - ordered through a resolution that these entities suspend face-to-face care. However, there were no suspended functions and virtual channels were enabled for reception of requests. In reality, it has been found that the level of response from of state entity is satisfactory. Regarding active transparency, there is data constantly being published on public procurement to combat the pandemic in virtual channels of citizen access.

For its part, the National Government made microsites available on official web pages where citizens are informed about the measures adopted for the pandemic care.



## ADEQUATE PRACTICE

Proactive publication of information on the evolution of the emergency. The National Institute of Health quickly developed a system of information, updated every day, that collects the reports of the health administration on a national level, and presents relevant information on the evolution of the pandemic, such as the number of infections and the level of occupation of intensive care units.

## CHALLENGE

In this context, the lack of protection of personal data is a challenge since some local governments developed web applications that require, by obligation, the entry of personal data for the granting of permissions for circulation. The Attorney General of the Nation warned that this violates privacy rights, personal data protection and habeas data.

### CHRONOLOGY

Costa Rica detected the first positive case of Covid-19 in its territory on March 6th 2020. On March 8th, the health authorities decided to change the health alert to yellow to allow the mobilization of resources from institutions and convene the Emergency Operations Center in order to develop guidelines to cope with the pandemic. March 16th the government declared a state of National Emergency by decree executive DECREE N ° 42227 - MP-S.

Among the measures that the government ordered to face the pandemic were find: the establishment of telework in the public sector, in addition to the recommendation to the private sector to replicate said scheme; suspension of educational activities in schools, continuity of monetary transfers of social programs. The closure of maritime, air and land borders was also determined; the suspension of massive activities and the closure of bars and discotheques.

### IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

It is important to note that Costa Rica does not have a Law on Access to Public information. However, the Costa Rican Political Constitution in Article 30 recognizes the guarantee of free access to the departments administration for information purposes on matters of public interest, with the exception of state secrets. In the light of this article it has been possible to develop through the Constitutional Chamber of the Supreme Court of Justice the jurisprudence that allows the safeguarding of the right.

In Costa Rica there was no suspension of the work of the body of government responsible for guarantying access to information, in this case, the Constitutional Chamber of the Supreme Court of Justice. However, since there is not a law on access to public information it was not possible to generate modifications in the response time of State institutions when faced with a request for information. Furthermore, there is no evidence that guidelines have been developed to encourage compliance with the prompt response in the information framework related to Covid-19.

The judicial instruments known as protection remedies are the mechanism for filing complaints about the process of access to public information. By the end of July 2020, 128 appeals had been interposed for protection related to access to public information; among them, only ten referred to information about Covid-19.

On the other hand, in order to provide information about the pandemic, an active online channel which is transparent was developed and run by the Ministry of Health. In addition, both the information related to allocations in purchase and the new health guidelines and other bills and executive decrees for the attention of the pandemic have been published on the corresponding institutional portals



## ADEQUATE PRACTICE

In the course of the pandemic, the spread of fake news has led to the obstruction of government action to attend to the health crisis, since it forces officials to deal with the generated uncertainty and mitigate it. Therefore, the central government and the rectories of the health area have used official public channels (public broadcast television) and social networks to deny the false information detected and avoid manipulation of public opinion and its possible effects on compliance with the health measures by the population exposed to said information.

## CHALLENGE

Faced with escalating questions by governments local authorities on the lack of publication of the criteria used by health authorities at the end of July 2020 for the confinement of the population, the Ministry of Health and the National Emergency Commission (CNE) indicated in different spaces that the criteria is based on variables such as the amount of active cases, week-by-week growth and other epidemiological and statistical criteria. However, the Ministry of health reported in a press conference that these criteria were not to be published because their high technical complexity was difficult to understand. However, this argument is not considered valid for lacking to publish information generated by administrative departments of Costa Rica.

## **CHRONOLOGY**

On March 11, the first three cases were reported by the Cuban government. confirmed Covid-19, however, despite the spread of the virus in the country, and the recommendations issued by the World Health Organization, the government did not declare a state of emergency, but measures were taken for this situation. On March 24, 40 the measures to face the pandemic were announced.

These refer mainly to the restrictions of the mobility of their inhabitants, vehicles and tourism; labor and disciplinary measures such as fines to those who fail to comply with the sanitary restrictions. In addition crimes of social indiscipline were established (not wearing a mask, or not wearing it correctly, staying in public areas, parks, and pathways outside the established hours, exercise, games or staying on public roads; as well as the presence of minors, older adults or disabled on public roads, unauthorized opening of gastronomic facilities, outside the hours authorized by the government, celebration of parties or public events, Intake and consumption of alcoholic beverages in public spaces and any other action that violates the restrictions of the health authorities of the council or province).

## **IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY**

Among the countries that make up the Regional Alliance, Cuba is one of the most behind regarding transparency and access to information: there is no legislation on the matter and, therefore, neither a body of government or an entity that establishes minimum criteria or guidelines in this regard. Therefore, the government has decided to offer information strictly related to the evolution of Covid-19, and the only information that is published is on the sanitary measures to be taken. Since no specific measures have been established regarding the guarantee of the access to information, the perception of the Cuban Observatory of Human Rights is that there is no transparency about the actions of the public institutions. According to experts from the Center of Knowledge in Public Health and Disasters, the declaration of a health emergency is important, not only because it must contemplate the urgent actions to be carried out, but because this would establish the obligation to provide information regarding the scale of the emergency, its evolution, the measures and actions, as well as the procedures for its deactivation and return to normality.

**MARCH 11, 2020**

The first positive cases by COVID -19 were reported by the government Cuban

**MARCH 24, 2020**

Initial 40 measures announced to face the pandemic by Covid-19

**ADEQUATE PRACTICE**

There were no adequate practices identified regarding the right to access to information.

**CHALLENGE**

In Cuba there are no laws on transparency or access to public information, nor a specific mechanism for obtaining information in times of emergency, a situation that in itself limits this right, even more so if the government has not issued guidelines to public bodies on what information should be published proactively in the context of a health emergency.

## CHRONOLOGY

On March 11th, 2020, the Ministry of Public Health published the Ministerial Agreement by which the state of health emergency was declared on a national level after the appearance of the first case of Covid-19 in the country. On March 16th, through an Executive Decree signed by President Lenín Moreno, a state of exception was declared throughout the country, with an initial extension of 60 days. On May 15th, it was extended for 30 more days through a new decree and, once this period had elapsed, the state of exception was renewed through a new Executive Decree for an additional 60 days.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

Although the right of access to public information was not suspended officially in the framework of the emergency - the deadlines for attending requests and the organization continued working normally – however, in reality, it was affected. Requests for information have been virtually present and have been answered both at the council level and at national level, but the response time has been longer than that established by law.

Some mechanisms were developed to guarantee this right, such as the creation of the portal [www.coronavirusecuador.com](http://www.coronavirusecuador.com) that contains information and statistics on the progress of the pandemic in the country, with direct links to the COE-N information uploaded on the website of the National Risk and Emergency Management (SNGRE).

Although no general guidelines for access to information were published, the public advocate`s Office – which is in charge of guaranteeing this right – issued opinions to the National Service for Risk and Emergency Management and to the Ministry of Health urging them to comply with their legal obligations for active transparency and information delivery. The agency also published a statement in which it exhorts the Ecuadorian State to guarantee access to truthful, verified, timely and contextualized information on the pandemic; and then a second statement focused on guaranteeing the right to access to information for people with disabilities.

**MARCH 11, 2020**

The Ministry of Public Health declared the state of health emergency on a national level.

**MARCH 23, 2020**

The public Office issued a statement urging the State to access to truthful, verified, timely information and contextualized on the pandemic.

**MARCH 10, 2020**

The Public Office issued a opinion to the Ministry of Health urging that the public information on your website was to be made transparent under penalty of dismissal.

**JUNE 4, 2020**

The Public Office issued a statement urging the State and the National COE to guarantee the accessibility of people's AIP with disabilities.

**MARCH 16, 2020**

The Executive declared the state of exception nationwide for a term 60 days.

**MAY 7, 2020**

The Public Office issued a opinion to the National Service of Risks and Emergencies establishing that the national COE corrected public information about Covid-19 within 8 days, under penalty of removal of its owner.

**MAY 15, 2020**

The state of exception was extended by 30 days.

**JUNE 15, 2020**

The state of exception was renewed through a new Executive Decree for 60 days.

## ADEQUATE PRACTICE

Developing a unified website: The portal [www.coronavirusecuador.com](http://www.coronavirusecuador.com) has allowed the information regarding the pandemic to be centrally located, which favors easy access to data. There is information and statistics on the progress of the pandemic, and there are direct links to the information provided by the COE-N. This information, uploaded to the website of the National Risk and Emergency Management Service (SNGRE) contains: Infographic and Situation Report, Resolutions of the COE-N, Protocols and Manuals, Participants of the sessions of the COE-N, Open Data, and the Traffic Light Map.

## CHALLENGE

One problem is that the record of the Meetings of the National Emergency Operations Committee (COE-N) have not been published. This lack of proactive publishing has directly affected the knowledge of citizens about the health emergency situation. Considering that the COE-N is the entity that, almost daily, meets to know the situation of the emergency and make decisions that affect the activities of the population, transparency is key to knowing about the fundamentals and the decision-making process.

## CHRONOLOGY

On March 14th, 2020, a state of national emergency was declared in El Salvador through legislative decree No. 5931, initially for a term of 30 days, later it was updated as time passed, even though the government confirmed the first case of Covid-19 on March 18th, 2020. Among the initial measures that were issued through legislative decrees to face the health emergency are: the declaration of the exception regime, as well as mandatory confinement, suspension of all non-essential activities, and suspension of the terms, deadlines legal hearings in administrative and judicial proceedings.

Due to the disproportionate scope of the measures that were available to cope with the health emergency, several people promoted various actions of unconstitutionality regarding a large part of the legislative and executive decrees issued in the framework of the Covid-19 pandemic, which was finally declared unconstitutional by the Constitutional Chamber.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

During the national emergency and exception regime, the processing of all the procedures of the Institute for Access to Public Information (IAIP) are suspended, as well as the procedures for requests for information from the units of access to public information. The requests were received, but in most cases they were not processed. However, due to the importance of the population being properly informed and protected regarding their rights, even in a situation of national emergency or state of exception, the IAIP published two important documents:

- The Guidelines for compliance with transparency obligations and protection of personal data during the health emergency, published on March 24th, 2020. This document establishes various aspects that the obliged entities must consider and guarantee about the compliance with obligations of transparency, document management and files; and the protection of personal data.

- The Guidelines on Accountability during the National Emergency by the Covid-19 Pandemic, published on April 22.

Finally, the IAIP resumed all activities as of June 11, by virtue of that the Constitutional Chamber declared the unconstitutionality of several decrees that were issued after the declaration of the state of emergency and the exception regime. It set a precedent by establishing that the situation of emergency does not imply the failure of the authorities to comply with the effectiveness of access to public information, therefore, in addition to being a fundamental right, it becomes more imperative to protect in the current context.



## ADEQUATE PRACTICE

Publication of guidelines to guarantee the right of access to information, personal data protection and surrender of accounts: The Institute for Access to Public Information (IAIP) established the guidelines to guarantee access to public information, protection of personal data and adequate accountability, in emergency situations.

False information was detected to avoid manipulation of public opinion and its possible effects on compliance with the health measures by the population exposed to said information.

## **CHALLENGE**

The suspension of terms in all IAIP procedures, and of requests for access to information was a challenge. Therefore, by suspending all the processes before the IAIP, as well as the information request procedures, the right of the people to know information about the health risks that they faced, or measures to protect their health and life was limited. It also makes it difficult to know the decisions made by governments to face the health emergency in economic, social, resource use, social programs, among others. It is necessary to continue strengthening these transparency policies during a health emergency.

## CHRONOLOGY

On March 5, 2020, the Government of Guatemala published a decree in which it declared the State of Public Calamity throughout the national territory, which remains in force as it has been extended five times to date. Between the measures adopted; a curfew was established whose schedule changed on different occasions, and which included total confinement during the week. To date, entry or exit from the national territory is restricted, and mobility between departments on a national level was also limited, a measure which was later established only for those with an increase in rate of infections.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

Through a legislative decree, Congress ordered all obliged entities of the Law on Access to Public Information to continue with compliance with their obligations regarding access to public information, and also to continue with the computations of constitutional deadlines. Although no ad hoc mechanisms were created for the DAIP guarantee, the guarantees of this right were protected regulated in current legislation: decrees issued during the pandemic included specific articles that clarify the validity of the deadlines, mechanisms and controls regarding Access to Public Information.

However, in reality deficiencies were observed: many of the obliged entities - especially those with pandemic care functions - did not comply with processes and deadlines established by law.

Although it is worth recognizing the effort of the Ministry of Public Finance to publish in a clear, accessible, updated and timely manner the information on Budget Execution; It should be noted that the quality of the information published proactively was very poor, especially about the public health system and local governments. In the first two weeks of April, when some mayors called press conferences to inform on the epidemiological situation of his municipalities, President Alejandro Giammattei called on the council authorities to refrain from disseminating this type of information, arguing that it was his duty and that of the Ministry of Health.

Later, as the number of cases multiplied, the president indicated that the council authorities could make announcements within their territories. Finally, it was again indicated that only the authorities of the Ministry of Public Health and the president could publish data on infections.

### **MARCH 5, 2020**

The Government of Guatemala declared the State of Public Calamity throughout the national territory.

### **MARCH 25, 2020**

Congress ordered all subjects required by the Law on Access to Public Information to continue with fulfillment of their obligations regarding the DAIP and the computation of constitutional deadlines.

## **ADEQUATE PRACTICES**

Guaranteeing the functioning of access to the system of information: There were no measures that limited access to public information, nor were there exceptions generated regarding the compliance with the AIP Law, which maintained active all the mechanisms to access this right and has allowed journalists, citizens and civil society organizations to carry out social auditing practices, publish anomalies and acts of corruption in public procurement and contracting, evaluate public spending, file lawsuits against government authorities for retainment of information, etc.

## **CHALLENGES**

The stigmatization and censorship of work is a journalistic challenge: the presidency, the deputies and municipal authorities stigmatized and criminalized journalistic work.

In the month of April, more than 100 journalists, communicators and organizations defending human rights, reported the Government for intimidation, harassment and censorship. On municipal level, there have been complaints from journalists threatened or intimidated by the authorities when they covered events related to the pandemic.

## CHALLENGE

On February 10, 2020, a state of health emergency was declared in Honduras, in order to prevent, control and guarantee care for people before a possible contagion. On March 16th, after the confirmation of six cases of Covid-19, constitutional guarantees were restricted through an Executive Decree. work was suspended in the public and private sectors, the operation of public transport and business and the closure was ordered of all borders, with the exception of the activities necessary for the acquisition of food and pharmaceutical products and basic necessities, among others.

On June 8th, 20% of the personnel of public or private entities returned to economic activities, but due to the increase in infections, the reopening returned to phase 0, maintaining the measures indicated in the Executive Order.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

As of March 16th, the activities of the Institute for Access to Public Information (IAIP) were suspended, to reduce contagion levels. It was established that through the Electronic System of Honduras (SIEHLO) they would receive requests for information, but it would be processed once the the restrictions were removed.

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However, on April 19, the IAIP urged the institutions that make up the National Risk Management System (SINAGER) to be processed accordingly to the requests submitted by citizens that correspond to the Covid-19 emergency. According to SIELHO statistics, between April 1st and June 30th, 1105 requests for information were made, of which 600 (54.3%) were delivered in a timely manner.

A Single Portal of Transparency was created, Emergency COVID-19, in order to provide information on the planning and accountability of the programs, projects, temporary contracts, tenders, purchases, expenses, and budget, among others, to face the pandemic.

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<sup>8</sup> <https://www.facebook.com/iaiphonduras/photos/a.780235738716805/3781548848585464>

**FEBRUARY 10, 2020**

A state of health emergency was decreed in Honduras due to the situation with dengue contagion and as prevention against Covid-19.

**MARCH 25, 2020**

The Portal of Transparency: COVID-19 Emergency was created.

**MARCH 16, 2020**

An Executive Decree was issued that restricted guarantees on constitutional laws against confirmation of Covid-19 cases.

**APRIL 19, 2020**

The IAIP instructed the processing of the requests for access to information related to the emergency.

## ADEQUATE PRACTICE

Restore access to information related to the pandemic: It is considered an adequate practice to enable and prioritize to the processing of requests for access to related information on the health emergency, as well as the creation of a microsite to report on the stocks and funds used to face the emergency.

## CHALLENGE

The untimely delivery and publication of information is a challenge: institutions fail to meet delivery terms of the information requested by citizens and do not publish ex officio information in a timely manner on the portals of transparency.

## **CHRONOLOGY**

The first case of Covid-19 in the country was presented on February 28, 2020. Both the authorities and the population in general were gradually sizing up the consequences of the pandemic. Some institutions of precaution established the suspension of face-to-face activities, including before the state of national emergency was decreed.

On March 30, the General Health Council published the agreement by which the health emergency was declared due to greater force, valid until the 30th of April. The next day, March 31st, the Ministry of Health published the Agreement by which extraordinary actions are established to attend the health emergency generated by the Covid-19 pandemic, and ordered the immediate suspension – between March 30th and April 30th - of non-essential activities in order to mitigate the spread and transmission of the virus in the community.

## **IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY**

On March 20, the plenary session of the Institute for Transparency, Access to Information and Protection of Personal Data (INAI) unanimously approved the agreement to suspend until April 17th “the attention to requests for information and protection of personal data, review appeals, non-conformity appeals, attraction of resources, complaints and sanctions”, that is, most of the substantive activities that make it possible to guarantee the right of access to information in the country.

On the other hand, INAI's actions were gradually changing. One of the causes had been pressure from civil society organizations that sent a communication to the Institute with specific recommendations to reduce the impact of the suspension of activities. This led to the fact that, in the agreement of suspension of April 30th, the INAI established an exception and ended with the suspension of deadlines for requests for access to information, and of resources of revision in the essential branches. Therefore, the obliged subjects who continued with their functions in a normal way would have to answer the requests for information from citizens.

The INAI agreements establish suspension and extensions to attend substantive activities in the period from March 20th to August 11th.

In these agreements they mention that the Institute will continue to carry out essential activities and that their staff will carry out their work remotely. Also obligated entities were urged to proactively make their actions transparent during the health emergency, particularly those that are related to the Covid-19 pandemic. In addition, an extension was made to the body obliged to upload information from the first quarter in the Portal of Obligations for transparency for 60 days, counted from May 1th to June 30th.

**MARCH 20, 2020**

The INAI approved to lay off their substantive activities until April 17th.

**APRIL 26, 2020**

The Public Office issued a statement urging the State to access truthful, verified, timely and contextualized information on the pandemic.

**MAY 29, 2020**

The Ministry of Health created Specific proactive transparency microsite, that had more recurrent information related to the virus epidemic SARS-CoV-2 requested by the population

**APRIL 15, 2020**

Civil society organizations perform recommendations in order to lessen the impact of the suspension of activities around DAIP.

**MAY 1, 2020**

INAI lifts suspension of deadlines for institutions with essential activities.

**JUNE 30, 2020**

The INAI establishes July 31 as deadline for uploading Obligations for Transparency of the first trimester.

## ADEQUATE PRACTICE

The procedures for access to information for information related to the pandemic were not suspended: Although the federal organ in charge of guarantying access to information had initially suspended the deadlines for all kinds of requests, this was modified and the suspension of requests for access to information ended. This modification was the result of the active participation of Mexican civil society organizations that shared their concerns about the impact on the suspension and / or postponement of application deadlines information, review resources and obligations of transparency, and provided recommendations regarding the role that could have the INAI in the context of Covid-19 in Mexico.

## CHALLENGE

The suspension of the publication of proactive information is a challenge because beyond the review and analysis of the real capacities of the institutions both to respond requests for information such as to resolve resources of review, postponements were made that may result disproportionate, which constitutes an excessive limitation of the right of access to information that directly affects in the scrutiny of the citizenry to the activity of the government and, Consequently, it can affect trust between citizens and governments. Such is the case of transparency obligation since the extension of the term for its fulfillment until the end June has meant that citizens have stayed for almost seven months without relevant information such as: salaries, travel expenses and representation expenses of all public servers; curricular information and job profile of public servants and especially contracts made in this health emergency.

## CHRONOLOGY

On March 18, 2020, the first case of Covid-19 was officially reported in Nicaragua. However, since this announcement, the government never decreed formally a declaration of emergency and, on the contrary, the population held protests and participated in collective rally activities of commercial, cultural, sporting, religious and political nature.

This behavior, contrary to the recommendations of the World Health Organization and the Pan American Health Organization, has been maintained as a permanent official policy, although, through discreet administrative resolutions, some control measures have been taken for immigration and social distancing.

Nicaragua is the only Latin American country that did not announce official measures and formalities to address the pandemic. Rosario Murillo, vice president of the country and Government spokeswoman, called on Nicaraguans to remain calm, enjoy tourist and recreational activities and continue working. It established that the educational authorities encourage regular attendance at schools and only provided mild voluntary quarantine measures for visitors from abroad.

The president, on the other hand, criticized those who have promoted physical distancing, fired doctors who protested the lack of confinement measures, taxed medical supplies of basic needs and did not dictate measures for the health contingency.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

Nicaragua has the Law on Access to Public Information, Law 621, approved by the National Assembly since 2007. However, despite that there is a regulation on transparency, in reality the government has not created the conditions for an effective implementation of said regulation, but has hampered the policies of access to information of its citizens.

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<sup>9</sup> <https://www.laprensa.com.ni/2020/06/19/nacionales/2687457-rosario-murillo-sigue-convocando-a-actividades-masivas-esto-anuncio-para-leon-este-fin-de-semana>

In addition, practices of repression against the media and the independent journalists have been identified. Regarding public information on the pandemic, the government organized in the first stage of contagion, a daily brief communication from Health officials exclusively to government media and others classified as related, with a duration of no more than three minutes of reading.

The data in general was inconsistent and scarce, without any clear information about the number of infections, active infected persons, recovered, hospitalized and the number of deaths. This reading of daily release was held irregularly during the months of March and April; but from May to August only one reading of weekly reports has been given with scarce information. The data on the pandemic, beyond the data shared in the weekly reports, is not available to the press, the citizens or public officials of other agencies.

On the other hand, there are few Offices for Access to Public Information (OAIP) that continue to be active in some Nicaraguan ministries; what's more, they are dysfunctional and their activities are completely different from what is mandated by law. It should be noted that in Nicaragua there are no independent organisms to guarantee the access to information: the law speaks of bodies of enforcement, but they have not yet been created.



## ADEQUATE PRACTICE

Good practices in relation to DAIP did not arise from of the State but at the impulse of civil society. Educational campaigns have been created based on international information trust of PAHO and WHO, and the Observatory COVID-19 citizen, who has served both the media and international health organizations as well as citizens in general, free of charge and systematically, to compare the official figures with unofficial figures and obtain information generated anonymously from hospitals and public medical centers and thus promote prevention actions.

## CHALLENGE

Civil society identifies that the challenges continue to be the same since the approval of the AIP Law, 13 years ago, since it has not been applied: there is a lack of reliable public information, there is a centralization of communications, stigmatization of the media, journalists and citizens who demand information, dismissals and retaliation against Officials who broadcast information outside of official channels, preference for government-related media and general hostility against anyone who seeks, demands or shares information outside the means established by the regime.

## CHRONOLOGY

On March 26, 2020, a state of emergency was declared throughout the territory Through Law No. 6524, which aims to authorize the Executive Power to implement “exceptional measures of a budgetary, fiscal and administrative, employment protection and economic and financial policy”, in order to reduce or mitigate the negative effects of the Covid-19 pandemic.

Subsequently, the executive branch decreed the restriction of the circulation of people and preventive isolation in phases, which implied the suspension of numerous activities of agglomeration of people.

Measures were decreed to guarantee working conditions, such as salaries for the public and private sector, state subsidies, paid vacations; tax measures for the importation of medical supplies, and resolutions to accelerate the acquisition of supplies and medicines, among others.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

The Ministry of Justice urged the State institutions to continue guaranteeing the right of access to public information considering that “it is not possible to invoke the health emergency in order to not respond to requests for access [...]”.

However, some state institutions suspended administrative deadlines, which affected compliance with transparency obligations. Others argued that it was impossible to search for the information due to mobility restrictions.

According to statistical data from the Unified Public Information Portal, from the date that measures were taken against the coronavirus, until August 6 2020, 3,592 requests for information were registered, of which 312 were not answered, 230 were answered after the deadline, while 2,283 were responded on time. However, the statistics do not assess the quality or satisfaction of the response.

The law that declared the state of emergency provided for measures of transparency and accountability regarding budget execution during the emergency period, as well as for the contracting of services and public construction.

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<sup>10</sup><https://www.ministeriodejusticia.gov.py/noticias/destacan-en-la-oea-compromiso-del-estado-con-la-transparencia-en-tiempo-de-pandemia>

Various portals were created such as <https://rindiendocuentas.gov.py/>; the "Open Data Portal of Surrender of Emergency Fund Accounts" (<https://datos.contraloria.gov.py/>); the portal "Citizen Comptroller Tools", among others. It is considered that information is easy to identify and up-to-date.

### **MARCH 26, 2020**

Law No. 6524 was approved, which declares state of emergency throughout the territory of the Republic of Paraguay, valid until December 2020.

### **APRIL 21, 2020**

Through the Final Judgment N ° 5 the criminal court of Guarantees N ° 4 makes room for constitutional protection presented by IDEA and orders the Comptroller General publish all affidavits of assets, assets and income of the authorities and officials who are mentioned in Art. 3 of Law 6524/20, as well as providers that are direct or indirectly involved in public procurement processes that will be developed in the framework of the validity of the aforementioned law.

### **March 26, 2020**

Resolution No. 1,260, integrates the Bicameral Commission of Congress, of a transitory nature, to control the resources provided in Emergency Law No. 6524/20.

## **ADEQUATE PRACTICE**

Daily report of verified data: The Ministry of Health reports daily, through social networks, all the information verified on the statistics of the pandemic situation.

## CHALLENGE

There are institutions that do not guarantee access to information: Despite the request of the Ministry of Justice to guarantee the right to information, a high number of national institutions and premises do not respond to requests for access to public information, or they do so poorly and / or incompletely.

## CHRONOLOGY

On March 13, 2020, the Executive Branch chaired by Luis Lacalle Pou decreed the state of national health emergency, at the time the first cases of Covid-19 were confirmed. Unlike other countries in the region, the government of Uruguay did not establish mandatory confinement, but suggested precautionary and hygienic measures.

As of June, the government began to enable the gradual return to workplaces, educational centers, gymnasiums, and theaters; while the second week of July the tourist centers began to reopen, following a sanitary protocol.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

There were no regulatory or operational changes to the entity in charge of access to public information in the context of the health emergency.

The Access to Public Information Unit (UAIP) – the body in charge of guarantying this- did not establish guidelines or special mechanisms to avoid restrictions on this right. It did have digital means available to answer queries within the framework of the pandemic.

In addition, in several official sites special links were established - Highlighted places - with information related to the emergency, such as ecommendations to prevent the spread of the virus, and measures to assist the population and companies.

### MARCH 13, 2020

A state of emergency of national health was decreed..

### JUNE / JULY 2020

Gradual return to some activities.

## ADEQUATE PRACTICE

Guarantying the functioning of the access system to the information: The entity in charge encouraged consultation by virtual means.

## CHALLENGE

No challenges were identified regarding the exercise of the right to AIP.

## CHRONOLOGY

According to the Extraordinary Official Gazette No. 6,519, of March 13, 2020, the President Nicolás Maduro decreed a state of alarm over the presence of Covid-19 in V days later. This state of alarm was extended on April 12, by the same term. In reality, the status of alarm was decreed on three occasions giving a legal basis to the establishment of quarantine in the country for a longer period. The approval of the extensions of exceptions of state correspond to the National Assembly. However, these decrees were never under his control.

Subsequently, a process of easing the quarantine began with a 7x7 scheme (seven days of easing and seven days of quarantine), the reasons were not explained in detail to the public. There is no clear criteria for flexibility measures or “radical quarantine” that varies between the different states of the country, despite where cases increase. In this context, there have been arrests that include cruel treatment and degrading people who allegedly violated the quarantine, officially qualified as “voluntary”.

## IMPACT ON ACCESS TO INFORMATION IN THE COUNTRY

Currently Venezuela does not have a law that regulates access to information. But according to Article 337 of the Constitution, the state of alarm cannot suspend rights, including the right to information.

However, in the respective decrees and in relation to the assumptions that will not be subject to suspension of guarantees, no activity is contemplated related to the right to information or the right of access to information public.

The lack of transparency in the measures taken by the Executive generates uncertainty regarding its duration, what specific measures are being taking and about the situation of people infected with Covid-19. After more than four months, the scope and impact of the quarantine is still unknown to citizens.

The work schemes of the different State agencies are not clear and the citizens are unaware of the appropriate mechanisms to access information which is in the hands of the state.

This makes it difficult to demand in a way efficient accountability regarding the functioning of the State and a proper use of public resources; even in this context of Covid-19.

The ministries, autonomous institutions, superintendencies and other organizations of the State operate behind closed doors. For citizens, physical access to organisms is impossible; except in specific cases, such as the criminal courts who work under guard mode and do not make their manner public to operate. Taking into account the measures established by quarantine and decreased access to agencies, citizens use online contact as an alternative to exercise the right of access to public information.

Regarding the deadlines to respond to requests for information, they are the same, either in person or online. In the absence of a law of transparency, article 5 of the Organic Law of Administrative Processes (LOPA), establishes that the deadline for responding to a request is 20 business days. The problem occurs when searching for public information online. The web pages are out of date and there are no phone numbers or updated operational emails, so citizens cannot communicate with these agencies.

The exclusive existence of the online mechanism implies greater obstacles to the delivery of requests for information. In the case of government entities such as the Presidential Office, Vice Presidency of the Republic, Ministry of the Interior, Justice and Peace or the Ministry for the Communication and Information, its web pages are outdated and the means for contacting them are not available or are inactive.

Furthermore, the government has not issued any kind of guideline to make effective or limit the right of access to public information during the emergency. Citizens were the ones who looked for alternatives to request for information, such as making requests online, without knowing if they would be effective.

## ADEQUATE PRACTICE

No adequate practices were identified regarding the right to access to information.

## CHALLENGE

The absence of alternative or even virtual mechanisms for making requests for information in the context of the pandemic, and for answers is a problem: there are web pages of outdated public institutions, absence of emails, or disabled web addresses. There is a lack of responses to requests for information, in most requests. In the few cases where there are answers, these are often inappropriate; did not comply with deadlines, with demands or other requirements that are not legally necessary, or deny directly the information.

# PRESS CONFERENCES: AN INFORMATION PRACTICE DURING THE PANDEMIC

Faced with the restrictions on access to information and the need for the population to know about the progress and containment measures of the pandemic generated by the SARS-CoV-2 virus, one of the most common pathways that appealed to the governments of the countries that make up the Regional Alliance for Free Expression and Information were the press conferences and / or the broadcast messages on national television. This practice have played a fundamental role as an official source of information for the population, especially from the policies of the various governments to suspend activities and / or prioritize virtual or remote work.

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The conferences have varied in formats, periodicity and levels of information. In many of them, various actors not only addressed epidemiological studies, but have delved into other issues of public interest such as violence against women, mental health, shopping, allocations, sanitary measures and international credits.

However, limitations in the quality of the information are also identified since some data provided by the authorities is inconsistent, it is not the information as documented or is not verifiable somewhere for reference later. In addition, there have been restrictions on freedom of expression, not allowing journalists access to conferences, in many countries for format issues, and in others to avoid criticism by the media in the face of the inconsistencies in the figures and the divergence of opinions among the scientific and academic community.

Recently, the Inter-American Commission on Human Rights stated, in the Resolution 1/2020 “Pandemic and Human Rights in the Americas”, its concern about restrictions on the work of the press and arbitrary arrests of journalists and human rights defenders in the framework of coverage of the pandemic and recognized that the critical role of the press generates tensions between authorities and the media. In that framework, Recommendation 29 stands out, which establishes that:

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<sup>11</sup> It is important to clarify that not all countries held press conferences, understanding these as meetings with journalists to make declarations of public interest. In some countries messages from the region were only transmitted through the national chain.

<sup>12</sup> The resolution prepared by the IACHR establishes standards and recommendations so that the measures adopted by the States in the care and containment of the pandemic have at their center the full respect for human rights.

<sup>13</sup> Inter-American Commission on Human Rights. Pandemic and Human Rights in the Americas Available at: <https://www.oas.org/es/cidh/decisiones/pdf/Resolucion-1-20-es.pdf> eleven

“ (...) States should not include communicators in the circulation restrictions and have the obligation to allow access to the official press conferences to all media, without discrimination on the basis of editorial line, except for the necessary and proportional measures to protect health. At the same time, States must respect the right to reserve its sources of information and evaluate the particular situation of risk of journalists and communicators, establish adequate bio-protection measures and provide them with priority access to assess their health.

In turn, recommendation 32 declares that States must “Ensure the right of access to public information in the context of the emergency generated by COVID-19 and not establish general limitations based on reasons of security or public order”.

## PARTICIPATION OF THE MEDIA AT THE PRESS CONFERENCES

It is important to analyze the interaction of the press with governments during informative conferences, if the questions about the actions taken by the the government are answered, if there were exercises of reply and counter-reply of the information, among others.

INFORMATION IN CONTEXT OF PANDEMIA		INTERACTION BETWEEN GOVERNMENTS AND THE PRESS
<b>In the region, there were different practices in press conferences:</b>		<b>✗ Prohibition of access to journalists</b>
		<b>✗ Selective media admission</b>
		<b>✗ Calling journalists at short notice</b>
<b>✓ Press conferences with question and answer sections</b>		<b>✗ National broadcasters without press participation</b>
<b>✓ Creation of WhatsApp groups between governments and journalists</b>		<b>✗ Conferences without space for questions and answers</b>

In countries such as Costa Rica, Mexico, Bolivia, Paraguay, Ecuador, Uruguay, they hold conferences with access to the press and sections of questions and answers to clarify and / or deepen the epidemiological information provided, as well as other topics of public interest.

On the other hand, in the other countries there are certain peculiarities either because access to the press is not allowed, or because in certain conferences the participation of the media is allowed and in others not.

In Argentina, for example, there is no access to the press at conferences that are offered from Monday to Friday by the Ministry of Health, but there are other presidential electoral conferences that are held every fifteen days where a space is opened for questions and answers.

In El Salvador the government organized conferences in which they presented data about the disease and the measures that were being implemented. However, once the government representatives provided the information, he concluded the conference without allowing questions or questioning. Subsequently, due to the dissatisfaction of the media, Questions were allowed in a very limited way, two or three questions, limiting the opportunity for other journalists to speak.

In addition, the journalists announced that they are summoned with very little time in anticipation, which sometimes makes it impossible for them to participate and therefore, there is no plurality of media.<sup>14</sup>

In Ecuador a similar situation to that of Salvador occurred, at the beginning of the pandemic conferences began to be held where the press presented their questions, but they were not answered by government authorities. However, later the dynamics improved and there was interaction between authorities and media.

In Guatemala, the conferences have evolved gradually. Initially, only presidential messages were transmitted on national television, With no spaces for questions from the press. Subsequently, the Ministry of Public Health offered conferences from Monday to Friday, with a space for doubts of the media. However, these types of conferences were only held in the month of June; in July, the weekly conferences stopped.

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<sup>14</sup>

It should be noted that the MSPAS Communication Directorate appointed personnel to attend to the journalists. It is mentioned that the mechanism has so far been the only constant and that it has been efficient. Some local authorities have given lectures with the presence of the media. But it has been reported that there is information that indicates that the Departmental Governments and Municipal Mayors received instructions not to provide information to the media.

On the other hand, it has been identified that there are WhatsApp groups managed by the Communication Directorate of the Ministry of Public Health and Social Assistance (MSPAS), where journalists from all over the country are attached, but events have been recorded in which journalists have been expelled from the official Government WhatsApp Chats. These journalists belong to the digital media, who were also threatened with criminal complaints for publishing a possible case of corruption in the Ministry of Health during the pandemic.

## PERIODICITY

Regarding the periodicity with which the conferences have been held and / or messages have been transmitted through national television, countries that held conferences daily are Costa Rica, Mexico, Bolivia and Colombia and countries where information is only provided through national television on a daily basis are Venezuela, Nicaragua, Honduras and Cuba.

In Paraguay during the first days, the press conferences were practically daily. However, as the situation assimilated, the frequency of the lectures was reduced, to only once a week, by the Ministry of Health, while the other sectors summoned the media for specific issues.

In Argentina there are conferences from Monday to Friday held by the Ministry of Health where epidemiological data and other relevant information are reported regarding the situation of the pandemic. Every fortnight there is also a presidential press conference.

In El Salvador the frequency of press conferences or national channels has not been pre-established in a systematic way, so they are carried out when the President of the Republic or some members of his cabinet consider it to be necessary. On average, the conferences offered by members of the Executive branch on health, economic or other issues, happen once or twice a week.

In Ecuador the frequency is random. At the beginning of the pandemic, up to five virtual press conferences were held in one day and citizens received information from up to three national channels. In recent months the frequency decreased. Currently, both press conferences and national channels can take place every two or three days, depending on the importance of the topic.

In Uruguay during the first four weeks of the pandemic the press conferences were held daily, in addition a report was generated that was published every day on the website of the National Emergency System with updated information about the pandemic. Then the daily lectures were interrupted and the citizens were only informed through the written report on the evolution of the pandemic in the country. In the second half of July, when the virus flared up, the government decided to resume the press conferences, however not daily.

In Guatemala, presidential messages were initially broadcasted on the national network. Since June, press conferences were held from Monday to Friday by the Minister of Health. However, since July they have been discontinued.

In Brazil there were weekly conferences from the beginning of the pandemic until May, organized by the Ministry of Health and broadcasted in the main Brazilian news networks. However, the Minister of Health was fired and the number of conferences was reduced, although the new minister in the matter organized weekly conferences. This second minister left the government less than a month after taking office.<sup>15</sup>

## **VERIFICATION AND CONSISTENCY OF INFORMATION**

One of the phenomena that has become more visible in the world from the health emergency is the inconsistency of the epidemiological figures that countries report. Possible causes are obstacles for collection and early publication of this information, in response to the needs of the population, as well as the difficulties of coordination between local and federal authorities for their registration and the absolute absence of policies on the matter. A relevant aspect so that citizens have confidence in the information that is received from the authorities and take measures for their health care, is that the information is documented so that it can be verified and consulted constantly.

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<sup>15</sup> As of August 28, 2020, Brazil still does not have a health minister. Therefore, there have not been frequent press conferences, only a few isolated and monthly ones. It is unknown if the participation of the media has been allowed.

## INFORMATION IN CONTEXT OF PANDEMIA

## Channels complementing press conferences and national broadcasters



Information replicated  
in press releases

Sending information via  
Whatsapp or social networks



Information hosted on  
official websites

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All countries have the information that is presented at the conferences of press or in national chain messages on official websites; also supplementary information is submitted, such as conference abstracts, through whatsapp or press releases. The exception is Nicaragua since it does not have a website and information is only recorded on social networks and public accounts of the official media that disseminates it.

Regarding the countries that consider that the information as useful, where there is no Mention of inconsistencies in the figures and these have scientific backing, we can mention Paraguay, Uruguay, Colombia, Costa Rica and Guatemala.<sup>16</sup>

In Cuba, Venezuela and Nicaragua, on the other hand, there is no way to verify the veracity of the information offered by the authorities at the conferences.

In Honduras there are inaccuracies in the figures that are disseminated. While Argentina has presented errors in the information that later has been remedied.

Ecuador mentions that, on more than one occasion, the media detected wrong figures and requested clarifications or corrections; it is also mentioned that information is not always based on scientific data, which has generated problems in various sectors.

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<sup>16</sup> In Guatemala it is identified that there are no problems with the epidemiological information that Has been provided by the authorities, but there are difficulties if the press wishes to engage in journalistic research that delves into issues of the situation caused by Covid-19.

In El Salvador, contradictions are detected between what is published on the official site and what the medical union and the network of public hospitals indicate in some cases. It is even mentioned that this situation has generated a loss of credibility of citizens in general, especially from academic to official figures.

In Mexico, the health authorities have been highly questioned about the veracity of the information provided during these conferences, on the number of confirmed cases, suspected, the number of deaths, because there are contradictions in the way they are doing the calculations, and there are discrepancies between the numbers reported by state governments and what is reported at conferences. This gave rise to various media notes such as the New York Times, El País or the Washington Post, which point out that the data on people who died from COVID 19 in the country does not necessarily reflect reality.

In Bolivia it is mentioned that the information presented by the authorities is completely politicized. Finally, in Brazil, which by the end of August has not yet had a health minister, state press conferences are more useful and important. In general, up until May, the lectures were based on scientific studies and data, but currently, it is identified that Official statements continue to spread fake news.

# PROTECTION OF PERSONAL DATA IN THE MARK OF THE PANDEMIC

The situation of the pandemic not only generated effects and limitations on the right to the information, it also did it with respect to the protection of personal data.

In order to protect the right to health and guarantee information on the progress and mitigation of the health situation, countries had to adopt extraordinary measures - such as the declaration of states of emergency, the exchange of institutional information to quickly provide health services, as well as face the dilemma of protecting the privacy of infected with Covid- 19, and guarantee information and accountability for the measures adopted, among others - which may put people's privacy at risk or promote the violation of their personal data, placing them at risk.

Although there are international standards to guarantee the right to privacy through the protection of personal data, recently organizations of protection of human rights have spoken to issue recommendations that join efforts to confront the situation and preserve the privacy of the people affected in their state of health by the situation of the pandemic.

The Inter-American Commission on Human Rights, in its Resolution 1/2020 "Pandemic and Human Rights in the Americas" and through warrants, has issued different recommendations to the States to protect the right to privacy and the personal data of the population, especially personal information sensitivity to patients and people undergoing tests during the pandemic. Among the most noted recommendations are:

- The obligation of States to issue precise directives, aimed at health providers to preserve privacy.
- The duty of States to protect the personal data of carriers of the coronavirus or in treatment for Covid-19, and to ensure a dignified and humanized treatment.
- The obligation of health providers, companies and other actors involved in the containment of the pandemic, to obtain consent to collect and share sensitive personal data; and only store them during the emergency.

- The prohibition of sharing personal data for commercial purposes or other.
- Guarantee affected people and patients the right to cancel their sensitive data.
- Guarantee complaint mechanisms against possible violations of privacy or personal data protection.

In addition to these standards, some countries that are part of the Regional Alliance in their specific regulatory frameworks on the matter have guidelines to implement measures for personal data protection such as Nicaragua, Brazil, Mexico, Argentina, Uruguay, Colombia and Costa Rica.

Other countries that only contemplate the right to privacy in their constitutional framework, such as Bolivia, Cuba, Ecuador and Venezuela, or through other regulatory frameworks, such as transparency laws, regulations or punitive regulations, as is the case in El Salvador, Honduras, Paraguay and Guatemala, who had to adhere to international standards or adopt new mechanisms to guarantee the right to privacy in their countries. The most common practices adopted by these countries are listed below. To guarantee the protection of personal data in the context of the pandemic:

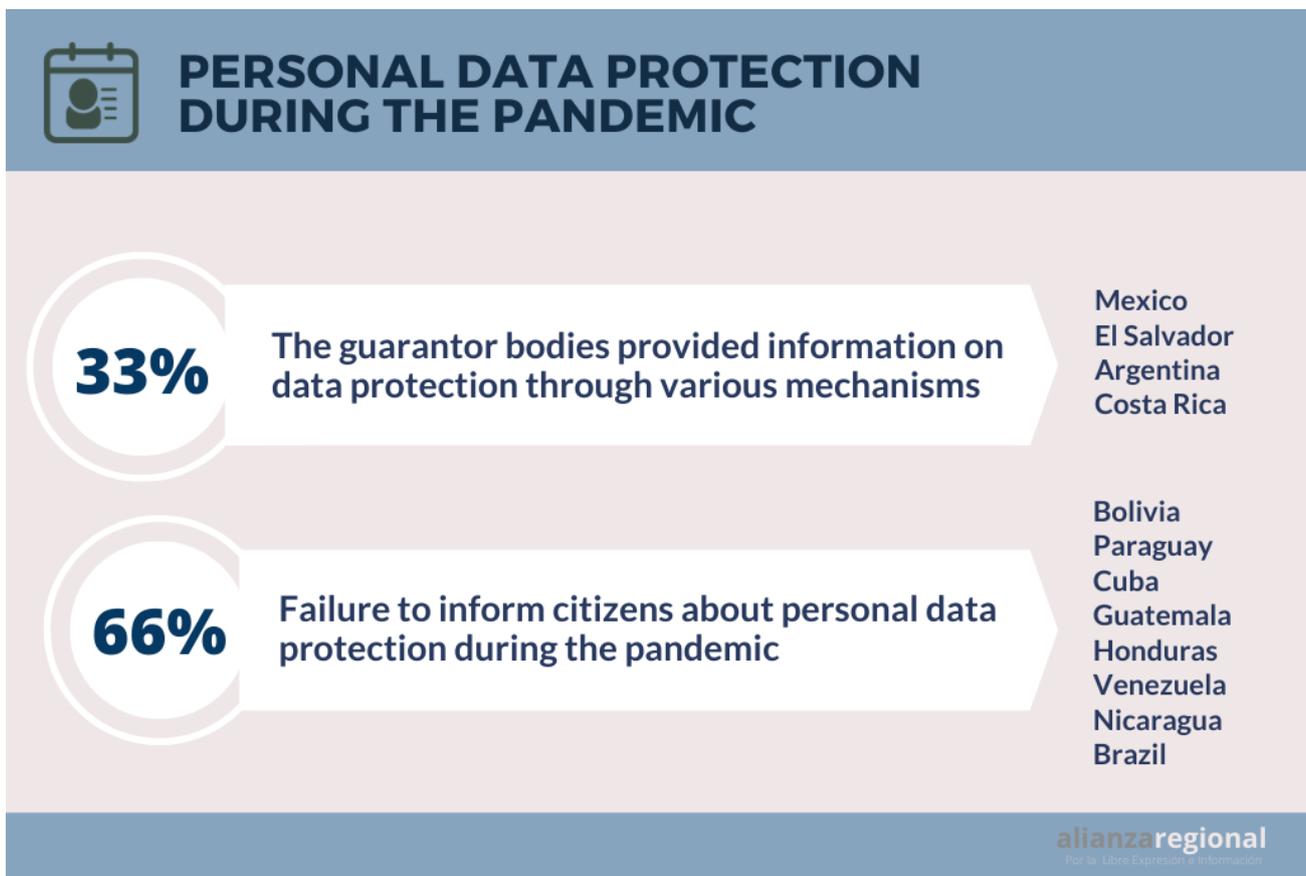
## **INFORMATION PROVIDED TO THE POPULATION ON THE PROTECTION OF THEIR PERSONAL DATA**

In countries such as Mexico, Argentina, El Salvador and Costa Rica the bodies that guarantee these rights provided relevant information to their citizens on the protection of their personal data through different mechanisms; media, microsites, websites and other institutions.

Colombia, for example, kept its population informed through its Office of Attorney General of the Nation as guarantor of the Transparency Law and access to public information, while Ecuador did so through the Constitutional Court.

Although the information provided in these countries was diverse, it focused mainly on the following categories:

- The importance of protecting personal data in health emergencies, both for obliged subjects and for the general public.
- The way in which holders can enforce their protection rights of personal data.
- The existing complaint mechanisms for the misuse of personal data.
- Recommendations to public and private entities for adequate treatment of data.



However, in countries such as Bolivia, Paraguay, Cuba, Guatemala, Honduras, Venezuela, there was no special communication to its citizens about the protection of personal data during the pandemic. Even some countries that do have an entity in charge of guarantying this right, such as Nicaragua and Brazil, there were no efforts to keep the public informed.

## USE OF PERSONAL DATA THROUGH TECHNOLOGICAL INFORMATION

In some countries, such as Mexico, Uruguay, Colombia and Ecuador, the new technologies for information have been applied through applications that collect personal and sensitive data on a voluntary basis, in order to identify symptoms, provide medical advice to citizens, perform georeferencing of cases to have a control of the contagions, reason why they spread campaigns of information on security measures to avoid any type of violation of the secrecy of personal data.

In Colombia, efforts have been added to ensure that apps comply with the Colombian regulation in the collection and processing of personal data and the principle of demonstrated responsibility has been implemented.

However, in the case of Argentina, the use of the app "Cuidar" caused controversy because it is based on the mandatory collection of personal data related to health for those who carry out essential activities and the possibility of their geolocation. As a result of strong questioning, the Center for the Study of Freedom of Expression (CELE) of the University of Palermo proposed a series of guidelines or criteria to be considered in the design of public policies that promote the use of technologies to avoid affecting the protection of personal data, such as:

- Appropriateness of the measure
- Principle of legality
- Need for measures
- Clear information about the terms and conditions
- Consent
- Proportionality
- Preservation of people's identity
- Transparent management and accountability
- Data security

## USE AND PROCESSING OF SENSITIVE PERSONAL DATA OF PATIENTS CARED FOR IN HEALTH SERVICES IN THE FRAMEWORK OF THE PANDEMIC

Regarding the use and processing of personal data in possession of public and private instances involved in the mitigation of the pandemic, in the case of Colombia, in addition to issuing recommendations, campaigns were launched for training officials and verifying the proper use of the data.

## ADEQUATE PRACTICES

In Mexico, the INAI, the entity guarantying data protection, through the microsite "Safe Personal Data COVID-19" issued a series of recommendations and principles for those responsible for processing personal data to protect people infected by Covid-19, people who perform remote work and online consumers.

In Colombia, virtual training sessions have been held for public officials by the Office of the Attorney General of the Nation as guarantor of the Law on transparency and access to public information. In addition, the proper treatment of personal data has been verified in the national and local governments. In the case of private instances, the Superintendency of Industry and Commerce (SIC) of Colombia, which has to monitor and control compliance with data-related measures, has carried out campaigns on data protection through its web channels.

Similarly, the Institute for Access to Public Information (IAIP) of El Salvador, has organized a series of webinars and informative events that promote the protection of personal data during the pandemic.

## INSUFFICIENT MEASURES

In contrast, in countries such as Argentina, Uruguay, Guatemala, Bolivia, Nicaragua, Brazil, Honduras and Venezuela, the perception of civil organizations is that no training actions were deployed in the protection of personal data to oblige subjects or those who have access to them.

## PROTECTION OF PERSONAL DATA REGARDING THE HEALTH STATUS OF PEOPLE

In general, in the countries that make up the Alliance, there is no documented evidence on the lack of protection of the personal data of the patients with Covid-19, with the exception of El Salvador, where it is considered that the lack of safeguarding the confidentiality of people's personal data affected by Covid-19 has been a problem. In Mexico, the INAI raised the need to review the backup protocols for databases containing personal data of infected patients, cared for and transferred to other hospitals, in order to have a record and control of the evolution of the pandemic, to avoid the violation of personal data.

However, there were some particular cases of disclosure of personal information. Due to leaks, which were made in the media and social networks in countries such as Nicaragua, Mexico, Colombia, Bolivia Paraguay, El Salvador, Ecuador, Guatemala, Honduras, Costa Rica and Venezuela, there were cases in which the identity of some people affected by Covid-19 were made known.

In Guatemala, for example, personal information was leaked, such as name, location and address, of more than five hundred coronavirus patients, as a result of which an investigation in the public prosecutor's office began. Only then did the government promote the protection of personal data. On the other hand, in Brazil, Argentina, Uruguay and Cuba no cases of personal data disclosure were documented.

For civil organizations in the countries of the Regional Alliance, the health emergency revealed the absence of policies on the use, treatment and protection of personal data in contingencies and the lack of institutional protocols for protection of personal data in times of pandemic.