

April 2020

INAI plenary issues resolution to guarantee data protection and access to information under the emergency by COVID-19

The National Institute of Transparency, Access to Information, and Protection of Personal Data ("INAI") published on Friday, March 27th, the Resolution whereby measures were approved to guarantee the rights of protection of personal data and access to information, in the face of the contingency situation generated by the novel COVID-19 virus (the "Resolution").

The Resolution suspends between March 23rd and April 17th of the current year the terms before said Institute in accordance with the **(a)** General Law of Transparency and Access to Public Information; **(b)** General Law of Protection of Personal Data in Possession of Obligatory Subjects; **(c)** Federal Law on Transparency and Access to Public Information, and **(d)** Federal Law on Protection of Personal Data Held by Private Parties, as well as regulations emanating from them.

The suspension covers the procedures for requests for access to information; exercise of "ARCO rights"; remedies; procedures of investigation and verification, the imposition of sanctions; as well as complaints for non-compliance with transparency obligations and violation procedures and those related to the power to attract cases.

The Institute's face-to-face advisory for Federal Obligated Subjects for the financial year 2020 was also suspended, opting for remote means.

The Secretariats of Access to Information and Protection of Personal Data have been instructed to carry out working groups with the health sector to identify information of interest to the society and vital to combat the current pandemic, as well as to guarantee the protection of the personal data of all those who may be affected by it. In particular, the Secretariat for the Protection of Personal Data will establish communication with the obliged subjects of the health sector to guarantee the due processing of the personal data of those affected by the COVID-19 virus.

Given the publication on March 31st of the Resolution establishing extraordinary actions to address the health emergency caused by the SARS-CoV2 virus, which ordered the suspension of non-essential activities in the public, social, and private sectors from March

30th to April 30th, and since INAI's own are not listed among the activities listed as essential, the provisions of Article 1 of the publication of INAI itself apply, by providing that such suspension may be extended if the causes that motivate it persist, pursuant to its Third Article, which provides for the possibility of greater restrictions to the extent determined by the federal authorities.

What the above translates into is that for 24 business days, the INAI will not be in a position to respond to requests for protection of rights in the area of personal data, nor to substantiate procedures for infringement of the laws which compliance is responsible for enforcing. Notwithstanding the foregoing, and subject to the conditions prevailing on Monday, May 4, 2020, said autonomous constitutional body could resume or initiate the hearing of infractions to the law or violations of rights that were made known to it through the existing digital channels while the suspension of non-essential activities remained in force.

The original source of the Resolution, in Spanish, can be viewed [here](#).

In case you require additional information, please contact the partner responsible of your account or any of the following attorneys:

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