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Argentina: NDPDP evolves into "more proactive" authority

The Argentinian National Directorate for Personal Data Protection ('NDPDP') announced, on 27 and 29 April 2016, that it had launched investigations into Uber, Inc. and Club Atletico Tigre respectively, to determine whether their data processing practices comply with the Argentinian Personal Data Protection Act 2000. The NDPDP requested the companies provide information on their practices in relation to the collection and protection of data within ten days. These are the first investigations announced by the NDPDP this year.

Florencia Rosati and Ambrosio Nougues, Partner and Counsel at Estudio Beccar Varela respectively, told DataGuidance, "After the presidential elections last year, the NDPDP is going through an internal reorganisation. As a consequence of this, we understand that the NDPDP is evolving into a more proactive authority, thus, compliance with the data protection regulations will become a challenge and an important issue to be dealt with by companies."

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In particular, Uber was required to provide information on data collected when providing services in Argentina, including information on the destination, as well as on the security and confidentiality measures implemented for the protection of the data.

"The NDPDP has the right to make inspections: to acknowledge the activities of the responsible person of the database, the personal data that this person manages, and the means and forms used; to assess the degree of compliance with the law; and to make recommendations in order to improve the performance with the proper legal framework," Rosati and Nougues explained. "The NDPDP may enforce sanctions for any violations of the data protection regulations. The sanctions can include warnings, suspensions, fines and closure or cancelation of the file, register or database, without prejudice to any applicable civil or criminal liabilities."

On the other hand, Club Tigre's investigation concerned its intention to implement a radiofrequency identification (RFID) system, consisting of implanting RFID chips into their members' bodies to carry their data and allow them to access the club by approaching the security doors. The NDPDP requested information on the security and confidentiality measures that would be implemented, as well as information on whether the technology used would put users' privacy at risk, and whether they had verified if other less intrusive measures existed.

Rosati and Nougues concluded, "In the last couple of years, the NDPDP has been conducting more and more audits to local companies including internet companies, banks, hotels, etc. Such audits may lead to legal opinions issued by the NDPDP. Such legal opinions turn to be binding and as a consequence of this, data protection is turning more and more regulated."

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