

THE NEW LAWS ON TRANSPARENCY, ACCESS TO PUBLIC INFORMATION, AND PROTECTION OF PERSONAL DATA IN MEXICO HAVE ENTERED INTO FORCE

MARCH 2025

Executive Summary:

- On December 20, 2024, the constitutional amendment initiative on organizational streamlining was published in the Federal Official Gazette (“DOF”). This initiative aimed to dissolve seven constitutionally autonomous entities, including the **National Institute for Transparency, Access to Information, and Protection of Personal Data (“INAI”)**. According to the motivation statement of the initiative itself, its purpose was to rationalize the use of public resources allocated to the operation and functioning of said constitutionally autonomous entities, thereby allowing greater investment in social programs and policies.
- Within the Transitional Provisions of said constitutional amendment, the Mexican Congress was granted a period of ninety calendar days from the date that the constitutional amendment entered into force, to make the necessary modifications to the relevant laws to comply with its provisions. Furthermore, it was stipulated that once the legislative changes came into force, the INAI would be considered to be dissolved.

In this regard, to comply with the constitutional mandate, on February 25 of the current year, the Executive Branch submitted an *initiative to enact the General Law on Transparency and Access to Public Information, the General Law for the Protection of Personal Data in Possession of Public Entities, and the Federal Law for the Protection of Personal Data in Possession of Private Entities, as well as to amend section XV of Article 37 of the Organic Law of the Federal Public Administration* (the “**Initiative**”).

The Initiative was approved on March 20, 2025, following the applicable legislative process within the Mexican Congress, and the three laws contained therein were published in the evening edition of the DOF. Consequently, the laws entered into force on March 21, 2025; thus, the INAI was officially dissolved.

On the following day of the publication of the three newly enacted laws, March 21, 2025, also in the evening edition of the DOF, the enactment of the Internal Regulations for “Transparency for the People” and the Internal Regulations for the Interior Agency were published, along with amendments, additions and repeals of various provisions of the Internal Regulations for the Anti-Corruption and Good Governance Agency.

The legislation abrogated by the Initiative and those enacted as their replacements are summarized below:

| ABROGATED LEGISLATION | ENACTED LEGISLATION |
|--|---|
| <ul style="list-style-type: none"> • Federal Law for the Protection of Personal Data in Possession of Private Entities, published in the DOF on July 5, 2010. • General Law for the Protection of Personal Data in Possession of Public Entities, published in the DOF on January 26, 2017. • General Law on Transparency and Access to Public Information, published in the DOF on May 4, 2015, and its subsequent amendments. • Federal Law on Transparency and Access to Public Information, published in the DOF on May 9, 2016, and its subsequent amendments. • Resolution approving the Annual Program for Verification and Institutional Support to ensure compliance with obligations regarding access to information and transparency by public entities controllers at the federal level, for fiscal year 2025, published in the DOF on January 21, 2025. | <ul style="list-style-type: none"> • Federal Law for the Protection of Personal Data in Possession of Private Entities, published in the DOF on March 20, 2025. • General Law for the Protection of Personal Data in Possession of Public Entities, published in the DOF on March 20, 2025. • General Law on Transparency and Access to Public Information, published in the DOF on March 20, 2025. • Internal Regulations for “Transparency for the People”, published in the DOF on March 21, 2025. • Internal Regulations for the Interior Agency, published in the DOF on March 21, 2025. • Amendments, additions and repeals of various provisions of the Internal Regulations for the Anti-Corruption and Good Governance Agency, published in the DOF on March 21, 2025. |

GENERAL CONTENT

The three newly enacted laws introduce specific amendments to the previously applicable legislation. However, there is one change applied to the text of all of them: the replacement of INAI and its responsibilities, with new authorities subordinated to the Executive Branch who will assume such responsibilities.

Furthermore, regarding the two laws **on protection of personal data** (*Federal Law for the Protection of Personal Data in Possession of Private Entities*, and *General Law for the Protection of Personal Data in Possession of Public Entities*), the authority that will replace the INAI is the Anti-Corruption and Good Governance Agency. On the other hand, regarding the law **on transparency and access to public information** (*General Law on Transparency and Access to Public Information*), the authority that will replace the INAI is the entity known as "Transparency for the People", which is a decentralized administrative body under the Anti-Corruption and Good Governance Agency.

Additionally, the language of the three pieces of legislation was modified to incorporate inclusive (neutral) language into their provisions.

SIGNIFICANT MODIFICATIONS

Federal Law for the Protection of Personal Data in Possession of Private Entities:

- Some of the requirements that privacy notices must contain changed.
- It is mandatory to make available a simplified privacy notice to the data subjects when personal data is obtained by electronic, optical, sound, visual, or other technological means by the controller/regulated entities.
- Some key terms are modified, such as:
 - *Data subject*: to whom the personal data pertains and no longer specifies that it must pertain to an individual.
 - *Data controller*: it was previously defined as

the private individual or legal entity that decided on the processing of personal data; and is now defined as Regulated Entities referred to in section XVI of Article 2.

The same section XVI of Article 2 includes the term "Regulated Entities", which are private individuals or legal entities that carry out the processing of personal data.

- *Privacy notice*: it is no longer stipulated that it must be made available to the data subjects prior to the processing of their personal data, but rather at the time of its collection.
- *Sensitive personal data*: union membership has been removed from the non-limitative list of sensitive personal data, which was included in the previous definition.
- The request to exercise ARCO rights (access, rectification, cancellation, and object) must additionally include a description of the specific ARCO right that the data subject intends to exercise, or the particular request being made by the data subject. Furthermore, to exercise the opposition right, one of two conditions for proceeding must now be met, as established in the text of the newly enacted law; these conditions were not previously included.
- Previously, the INAI was under obligation to submit an annual report of its activities to the Mexican Congress. Currently, the Anti-Corruption and Good Governance Agency is not subject to this obligation.
- The possibility of filing a nullity lawsuit before the Federal Administrative Justice Tribunal against resolutions issued by INAI has been eliminated. Now, the defense against resolutions from the Anti-Corruption and Good Governance Agency is through an amparo lawsuit before specialized District Courts and Collegiate Circuit Tribunals in matters of access to public information and protection of personal data.

General Law for the Protection of Personal Data in Possession of Public Entities

- Some key terms are modified, such as:

- *Data subject*: to whom the personal data pertains and no longer specifies that it must pertain to an individual.

- *Privacy notice*: it is no longer stipulated that it must be made available to the data subjects prior to the processing of their personal data, but rather at the time of its collection.

- *Guarantor entities*: the law previously referred to constitutionally autonomous entities specialized in matters regarding access to public information and personal data protection. Now, they are defined as Guarantor authorities which are: the Body of control and discipline of the Judicial Branch; the internal oversight bodies of the constitutionally autonomous entities; the internal comptrollers of the Mexican Congress; the National Electoral Institute, concerning the protection of personal data handled by political parties; and the entities in charge of the internal comptroller within the Executive, Legislative, and Judicial Branches, as well as constitutionally autonomous entities of the Federal States.

- The National System for Transparency, Access to Information, and Protection of Personal Data was removed from this law, along with its corresponding chapter. This includes the removal of its obligation to design, implement, and evaluate a National Program for the Protection of Personal Data that establishes public policy to achieve certain objectives at the national level in this area.

- Previously, data subjects had the right to file an appeal for review or a nonconformity appeal before INAI or the Guarantor entities. Now, they may only file an appeal for review with the Anti-Corruption and Good Governance Agency or the Guarantor authorities.

General Law on Transparency and Access to Public Information:

- The new name for the National System of Transparency, Access to Information, and Personal Data Protection will be "National System for the Access to Public Information".

- This system will be led by “Transparency for the People,” which will now have additional powers, including issuing the operational and functional rules for the system and resolutions that authorize “Transparency for the People” to rule over nonconformity appeals filed by individuals against resolutions issued by local Guarantor authorities.
- The National System will have Transparency Subsystems corresponding to each Federal State, which will have specific powers and their Committees will consist of representatives from the Legislative Branch, the Judicial Branch, each of the constitutionally autonomous entities, the municipalities of the respective Federal State or territorial divisions of Mexico City (as applicable), and the Executive Branch, who will preside it.
- The new name of the National Council of Transparency, Access to Information, and Personal Data Protection System will be “Council of the National System for Access to Public Information”. It will be conformed by the head of the Agency for Digital Transformation and Telecommunications, the General National Archives, the Federal Center for Labor Conciliation and Registration, the Federal Tribunal for Conciliation and Arbitration, and the National Electoral Institute, as well as the presiding members of each Committee of the Transparency Subsystems and the head of the Anti-Corruption and Good Governance Agency, who will preside it.
- The guiding principles of the Guarantor authorities are expanded to include the principles of consistency, documentation, exceptionality, and exhaustiveness. Accordingly, there must be alignment between the requests made by individuals and the responses provided by the regulated entities, who must grant access to the information they hold or are required to document. Such information may only be classified as reserved or confidential when it meets the specific conditions explicitly established by law. Furthermore, the response must expressly address each of the requested points, subject to the limitations imposed by the principle of documentation.
- The powers of the Guarantor authorities are

expanded to include the faculty to impose sanctions, while the power to file “actions of unconstitutionality” against enacted laws that infringe upon the right of access to public information and the protection of personal data is eliminated.

- Particularly, it is established that among the powers of “Transparency for the People” shall be the authority to review and rule over the nonconformity appeals filed by individuals against resolutions issued by local Guarantor authorities, if they are related to federal public funds.

TRANSITIONAL ARTICLES

- **Amendments to regulations and other applicable provisions:** As previously stated, on March 21, 2025, the Internal Regulations for “Transparency for the People” and the Internal Regulations for the Interior Agency were published, along with amendments and repeals of various provisions of the Internal Regulations of the Anti-Corruption and Good Governance Agency.

However, the Federal Executive Branch shall also enact the necessary adjustments to the regulations and other applicable provisions, including the enactment of the Regulations of the Federal Law for the Protection of Personal Data in Possession of Private Entities within ninety calendar days following the date of the Initiative’s entry into force, in order to align it with the provisions of the newly enacted laws.

- **District Courts and Collegiate Circuit Tribunals specialized in matters of access to public information and personal data protection:** The Federal Judicial Branch shall establish them within a maximum period of one hundred and twenty calendar days from the date of the Initiative’s entry into force, to which amparo lawsuits in these matters currently in process shall be referred for resolution. Furthermore, the deadlines and procedural terms for amparo lawsuits concerning access to public information and personal data protection that are in process before District Courts and Collegiate Circuit Tribunals are suspended for a period of one hundred and eighty calendar days from date of the Initiative’s entry into force.

- **Council of the National System for Access to Public Information:** It shall be established no later than sixty calendar days from the date of the Initiative's entry into force, following a call issued for this purpose by the Anti-Corruption and Good Governance Agency.
- **Proceedings commenced before INAI, previous to the Initiative's entry into force:** In matters related to the access to public information, proceedings shall be conducted before "Transparency for the People" in accordance with the applicable provisions in force at the time of their commencement. Meanwhile, in matters related to personal data or any matter other than access to public information, proceedings shall be conducted before the Anti-Corruption and Good Governance Agency, in accordance with the applicable provisions in force at the time of their commencement.
- **Legal defense before administrative, jurisdictional, and judicial authorities for administrative and legal acts issued by the INAI:** In matters related to the access to public information, the legal defense shall be conducted by "Transparency for the People." Meanwhile, in matters related to personal data or any matter other than access to public information, as well as the monitoring of ongoing cases, including criminal and labor procedures, the legal defense shall be conducted by the Anti-Corruption and Good Governance Agency.

We are at your service for any information related to the impact of the entry into force of these three laws on transparency, access to public information and protection of personal data.

LINKS TO THE PUBLICATIONS

- https://dof.gob.mx/nota_detalle.php?codigo=5752569&fecha=20/03/2025#gsc.tab=0.
- https://dof.gob.mx/nota_detalle.php?codigo=5752650&fecha=21/03/2025#gsc.tab=0.
- https://dof.gob.mx/nota_detalle.php?codigo=5752649&fecha=21/03/2025#gsc.tab=0.

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