

COUNTRY: MEXICO

SCORE: 56.88 | RANK: 15/24

Mexico has implemented many relevant cyberlaws, including privacy legislation, rules on data breach notification, and up-to-date cybercrime legislation.

Intellectual property laws in Mexico generally meet international standards, but enforcement action is rare and the bar is set very high for prosecution. Considerable improvement is required to gain confidence in intellectual property protection in Mexico.

Mexico is also one of the few countries in the study group that retains domestic preferences in government ICT procurement opportunities.

Internet use and broadband penetration remain very low in Mexico, and the country continues to face challenges in delivering a modern ICT infrastructure that can facilitate cloud computing.

Overall, Mexico's results did not change significantly in the 2013 Scorecard, and the country's rank slipped one spot to 15th.

Q MEXICO	RESPONSE	EXPLANATORY TEXT
DATA PRIVACY		
1. Are there laws or regulations governing the collection, use, or other processing of personal information?	✓	The Federal Law for the Protection of Personal Data in Possession of Private Persons (Personal Data Protection Law) 2010 applies to the private sector. The Federal Law for Information Access and Government Transparency 2002 applies to the public sector.
2. What is the scope and coverage of privacy law?	Comprehensive	Mexico has comprehensive privacy legislation in place, covering all sectors.
3. Is the privacy law compatible with the Privacy Principles in the EU Data Protection Directive?	ⓘ	The Personal Data Protection Law is recent, and many of the more specific requirements are expected to be set out in regulations that have not yet been developed. At this stage the Mexican law could not be considered compatible with the EU Directive as many of provisions are quite vague, and there is no restriction on the onward transfer of data.
4. Is the privacy law compatible with the Privacy Principles in the APEC Privacy Framework?	ⓘ	Parts of the Personal Data Protection Law are similar to the APEC Privacy Principles, but the law is not entirely compatible at this stage. This may be resolved when further regulations are enacted.
5. Is an independent private right of action available for breaches of data privacy?	Available	In addition to the recent Personal Data Protection Law, the Constitution and the Civil Code both contain limited privacy rights — personality rights and implied privacy rights. However, cases are rare, and the rights are limited to very specific circumstances, such as interception of communications.
6. Is there an effective agency (or regulator) tasked with the enforcement of privacy laws?	National regulator	The Federal Institute for Information Access and Data Protection (Instituto federal de acceso a la información pública [IFIA]) <www.ifai.org.mx> has been established. As a new organization, it does not yet have a track record of enforcement.
7. What is the nature of the privacy regulator?	Collegial body	The regulator consists of five commissioners, with one acting as the lead commissioner.
8. Are data controllers free from registration requirements?	✓	There are no registration requirements in Mexico's privacy law.
9. Are cross-border transfers free from registration requirements?	✓	There are no registration or other cross-border privacy requirements in the law at this stage. However, these may be developed in regulations in the future.
10. Is there a breach notification law?	✓	The Personal Data Protection Law includes a general requirement that data subjects must be notified when a data breach occurs. However, this law is new, and more detailed rules for data breach notification are expected to be developed in regulations or guidelines.

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SECURITY		
1. Is there a law or regulation that gives electronic signatures clear legal weight?	✓	Mexico amended its Civil Code and other statutes in 2003 to include basic provisions recognizing electronic signatures. Further recognition of advanced digital signatures was implemented by the government in 2011.
2. Are ISPs and content service providers free from mandatory filtering or censoring?	✓	There is little Internet censorship in Mexico. During elections, the electoral regulator has threatened to remove some material that might breach electoral rules, but in practice this has not occurred.
3. Are there laws or enforceable codes containing general security requirements for digital data hosting and cloud service providers?	Limited coverage in legislation	Security measures must be taken through administrative, physical, and technical means (Personal Data Protection Law 2010). Future regulations will establish more specific security measures.
4. Are there laws or enforceable codes containing specific security audit requirements for digital data hosting and cloud service providers?	None	There are no enforceable security audit requirements in Mexico. This issue may be addressed in future regulations that are anticipated under the privacy law.
5. Are there security laws and regulations requiring specific certifications for technology products?	No requirements	Mexico does not participate in Common Criteria arrangements, and product certifications are not used at this stage.
CYBERCRIME		
1. Are cybercrime laws in place?	✓	The Mexican Federal Criminal Code (FCC) contains comprehensive cybercrime provisions.
2. Are cybercrime laws consistent with the Budapest Convention on Cybercrime?	✓	The FCC includes provisions that closely match the Cybercrime Convention, and Mexico is considering a formal invitation to accede to the Convention.
3. What access do law enforcement authorities have to encrypted data held or transmitted by data hosting providers, carriers, or other service providers?	Not stated	There are no specific laws or regulations regarding encryption in Mexico. General access to data requires a warrant.
4. How does the law deal with extraterritorial offenses?	Limited coverage	Mexico's Federal Code of Criminal Procedure 2010 contains some limited guidance on jurisdiction. The exact extent of extraterritoriality is undecided. Mexico's planned accession to the Cybercrime Convention may lead to greater certainty.
INTELLECTUAL PROPERTY RIGHTS		
1. Is the country a member of the TRIPS Agreement?	✓	Mexico became a member of the TRIPS Agreement in 1995.
2. Have IP laws been enacted to implement TRIPS?	✓	In Mexico, international treaties are self-executing and do not need to be implemented by law. The Mexican Copyright Act 1984 (heavily amended in 1991 and 2003) and the Industrial Property Act 1991 cover most copyright and trademark issues. They need to be read together with Mexico's international treaty obligations. Some critics argue that the absence of any rights to an injunction for copyright breaches in Mexico represents a breach of the TRIPS Agreement. However, TRIPS does allow some flexibility in implementation and this breach appears minor.
3. Is the country party to the WIPO Copyright Treaty?	✓	Mexico signed the WIPO Copyright Treaty in 1997 and ratified it in 2000. It entered into force in Mexico in March 2002.
4. Have laws implementing the WIPO Copyright Treaty been enacted?	ⓘ	The 2003 amendments to copyright legislation in Mexico attempted to implement the main provisions of the WIPO Copyright Treaty. The legislation has been the subject of significant criticism as it sets a very high bar for criminal prosecutions and it does not include specific guidance on ISP liability.
5. Are civil sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	ⓘ	It is assumed that civil sanctions are available. However, there is little enforcement action or case law on Internet copyright issues.
6. Are criminal sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	ⓘ	Criminal sanctions are available, but intellectual property rights in Mexico tend to be dealt with by the two administrative agencies, the PGR (Prosecutors Office at the Attorney General's Office) and IMPI (the Industrial Property Office). Court action is rare. Criminal action is very rare and requires a direct complaint from the copyright holder.

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7. Are there laws governing ISP liability for content that infringes copyright?	🟡	There is no specific legislation on ISP liability. It is assumed that ISPs are subject to the general liability principles in the copyright legislation, but there has been no enforcement or cases against ISPs. Provisions in the Telecommunications Law prohibit ISPs from disclosing personal information on customers to rights holders seeking civil recourse for copyright infringement.
8. Is there a basis for ISPs to be held liable for content that infringes copyright found on their sites or systems?	🟡	There is no specific law on this issue, but it is assumed that liability may flow from the general principles in the copyright legislation in situations where the ISP was made aware of the infringing material.
9. What sanctions are available for ISP liability for copyright infringing content found on their site or system?	Civil and criminal	Both civil and criminal sanctions are available, but in practice enforcement is very rare.
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	✖	There is no take-down regime in place in Mexico.
11. Are ISPs required to inform subscribers upon receiving a notification that the subscriber is using the ISP's service to distribute content that infringes copyright?	✖	There is no specific notice requirement in place in Mexico.
12. Is there clear legal protection against misappropriation of cloud computing services, including effective enforcement?	Limited protection (criminal activity only)	Mexico has cybercrime laws and privacy laws in place. However, Mexican copyright law contains gaps in key areas and is poorly enforced. This may represent a risk for the protection of cloud computing services in Mexico.
SUPPORT FOR INDUSTRY-LED STANDARDS & INTERNATIONAL HARMONIZATION OF RULES		
1. Are there laws, regulations or policies that establish a standards-setting framework for interoperability and portability of data?	✔	Federal Law on Metrology and Standardization.
2. Is there a regulatory body responsible for standards development for the country?	✔	Mexico has implemented the National Standardization, Metrology and Conformity Assessment System, which is coordinated by the Dirección General de Normas (DGN), part of the Ministry of Economy < www.economia.gob.mx >.
3. Are e-commerce laws in place?	✔	The E-Commerce Act 2000 was implemented in Mexico in 2001.
4. What international instruments are the e-commerce laws based on?	UNCITRAL Model Law on E-Commerce	The E-Commerce Act amended the Mexican Civil Code, Code of Commerce and other statutes to implement the key provisions of the UNCITRAL Model Law on E-Commerce. Further amendments were made in 2003 to implement the UNCITRAL Model Law on E-Signatures.
5. Is the downloading of applications or digital data from foreign cloud service providers free from tariff or other trade barriers?	✔	There are no relevant tariffs or other trade barriers in place in Mexico.
6. Are international standards favored over domestic standards?	✔	Mexico has a strong focus on international standards in the ICT sector.
7. Does the government participate in international standards-setting process?	✔	Mexico is a member of the ISO and an active participant in international standards development processes.
PROMOTING FREE TRADE		
1. Are any laws or policies in place that implement technology neutrality in government?	✖	Mexico does not have any specific law or policy on technology neutrality, although there have been some positive statements by government leaders, especially regarding the telecommunications sector.
2. Are cloud computing services able to operate free from laws or policies that mandate the use of certain products (including, but not limited to, types of software), services, standards, or technologies?	✔	Legislation to mandate open source software (in 2001 and again in 2009) was unsuccessful.

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3. Are cloud computing services able to operate free from laws or policies that establish preferences for certain products (including, but not limited to, types of software), services, standards, or technologies?	✓	Legislation to mandate open source software (in 2001 and again in 2009) was unsuccessful.
4. Are cloud computing services able to operate free from laws that discriminate based on the nationality of the vendor, developer, or service provider?	✗	The Law on Procurement, Leases, and Services by the Public Sector (LAASSP) allows agencies to include a 10% preference for local suppliers in most cases. Mexico is not a member of the WTO plurilateral Agreement on Government Procurement.
ICT READINESS, BROADBAND DEPLOYMENT		
1. Is there a national broadband plan?	• By 2012, 22% broadband penetration	The e-Mexico Digital Agenda (2010-2015) strategy has a goal of delivering 22% broadband penetration by 2012 <e-mexico.gob.mx/web/agenda-digital/metas>. Mexico appears to be making good progress toward this target, although no formal evaluation has been published at this stage.
2. Are there laws or policies that regulate the establishment of different service levels for data transmission based on the nature of data transmitted?	No regulation and limited public debate	Issues of net neutrality have not yet been the subject of significant consideration in Mexico.
3. Base Indicators		
3.1. Population (2011)	114,793,341	In 2011, the population of Mexico increased by 1.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.2. Urban Population (%) (2011)	78%	[United Nations, Department of Economic and Social Affairs, Population Division (2012). World Urbanization Prospects: The 2011 Revision, <esa.un.org/unup/CD-ROM/Urban-Rural-Population.htm>]
3.3. Number of Households (2011)	26,476,000	In 2011, the number of households in Mexico increased by 3.4%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.4. Population Density (people per square km) (2010)	58	[World Bank, Data Catalog, Indicators, Population Density (2012) <data.worldbank.org/indicator/EN.POP.DNST>]
3.5. Per Capita GDP (US\$ 2011)	\$10,064	In 2011, the per capita GDP for Mexico increased by 3.9% to US\$10,064. [World Bank, Data Catalog, Indicators: GDP per capita, current US\$ (2012) <data.worldbank.org/indicator/NY.GDP.PCAP.CD> and GDP growth, annual % (2012) <data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>]
3.6. Public Cloud Services Market Value (2011) (Billions of US\$)	0.55	Gartner has calculated the value of the public cloud services market in Mexico in 2011 to be US\$0.55 billion. This is a 15% increase from 2010 and ranks Mexico 15 (out of 20 countries) in the forecast. Gartner has projected the five-year compound annual growth rate (CAGR) to 2016 to be 26%, and this ranks Mexico 7 (out of 20 countries) for growth in the value of the market for public cloud services to 2016. [Gartner, Forecast Overview: Public Cloud Services, Worldwide, 2011-2016 (August 2012 Update) <www.gartner.com/id=2126916>]
3.7. Personal Computers (% of households) (2011)	32%	In 2011, 31.9% of households in Mexico had personal computers. This is a 6.9% increase since 2010 and ranks Mexico 87 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 9.1%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may update this indicator for prior years.

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4. ICT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2011) (Score is out of 10)	3.79	Mexico's ITU ICT Development Index (IDI) for 2011 is 3.79 (out of 10), resulting in a rank of 79 (out of 161 economies). The 2011 IDI for Mexico has increased by 5.3%, and the IDI ranking has declined by one place from a rank of 78 since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) < www.itu.int/ITU-D/ict/publications/idi/2012 >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
4.2. World Economic Forum Networked Readiness Index (NRI) (2012) (Score is out of 7)	4.29	Mexico has a Networked Readiness Index (NRI) score of 4.29 (out of 7), resulting in a rank of 58 (out of 142 economies) and a rank of 12 (out of 39) in the upper-middle income grouping of economies. The 2012 NRI for Mexico has increased by 16.4% and improved from a rank of 78 since 2011. [World Economic Forum, Global Information Technology Report (2012) < www.networkedreadiness.com/gitr >]
4.3. International Connectivity Score (2011) (Score is out of 10)	4.87	Mexico has a Connectivity Score of 4.87 (out of 10), resulting in a rank of 7 (out of 25) in the resource-driven grouping of countries/economies. [Nokia Siemens, Connectivity Scorecard (2011) < www.connectivityscorecard.org >]
4.4. IT Industry Competitiveness Index (2011) (Score is out of 100)	37.00	Mexico has an IT Industry Competitiveness Index Score of 37 (out of 100), resulting in a rank of 44 (out of 66 countries/economies included in the index). The 2011 index score is a 12.1% increase on the 2009 score. Mexico has moved up the ranking by four places since 2009. [Business Software Alliance (BSA) / Economist Intelligence Unit (EIU), IT Industry Competitiveness Index (2011) < globalindex11.bsa.org >]
5. Internet Users and International Bandwidth		
5.1. Internet Users (2011)	41,497,793	[calculated from 8.3.1. and 8.5.2.]
5.2. Internet Users as % of Population (2011)	36%	In 2011, 36% of the population in Mexico used the Internet, resulting in a ranking of 100 out of 199 countries surveyed. This is a 16.4% increase since 2010. The growth from 2010 is above the five-year CAGR from 2006 to 2011 of 13.1%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (December 2012) < www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx >] Note: There may be some variations as to how countries calculate this. Some countries base this upon all or part of the population, such as between 16 and 72 years of age. Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
5.3. International Internet Bandwidth (bits per second per Internet user) (2011)	8,743	Mexico's International Internet Bandwidth (per Internet user) has increased by 20% since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) < www.itu.int/ITU-D/ict/publications/idi/2012 >]
5.4. International Internet Bandwidth (2011) (total gigabits per second [Gbps] per country)	363	Mexico has increased its International Internet Bandwidth by 41% since 2010 to 363 Gbps and is ranked 34 out of 188 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 84.8%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >]
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (2011)	11,723,336	Mexico has increased the number of fixed broadband subscribers by 6% since 2010, to 11,723,336, and is ranked 12 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 31.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
6.2. Fixed Broadband Subscriptions as % of Households (2011)	44%	[calculated from 8.3.3. and 8.6.1.] Note: This may be skewed by business usage in some countries (refer to OECD comments about this).

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6.3. Fixed Broadband Subscriptions as % of Population (2011)	10%	<p>Mexico has increased its fixed broadband subscriptions (as a share of the population) by 5% since 2010, which is below the five-year CAGR from 2006 to 2011 of 29.5%. This ranks Mexico 12 out of 187 countries surveyed.</p> <p>The OECD figures below present a breakdown on the type of fixed broadband connections in Mexico in 2011.</p> <p>Mexico has continued its considerable growth of fixed broadband — with the highest growth rate in the OECD for the past three years.</p> <p>In the OECD, Mexico has slipped one place and was ranked 33 (out of 34) for fixed (wired) broadband subscribers as a percentage of population [OECD Broadband Subscribers (Dec 2011) <www.oecd.org/sti/ict/broadband>]</p> <ul style="list-style-type: none"> – DSL: 8.6% – Cable: 2.1% – Fiber/LAN: 0% – Other: 0.1% <p>Total: 10.8% (11,723,336 subscriptions). The OECD average total for 2011 was 25.6%.</p> <p>Mexico's fixed broadband growth for 2011 was 6.1% (ranked 12 out of 34 for growth), above the OECD average growth of 4.1%.</p> <p>Note: There may be minor variations in the ITU and OECD subscriber totals due to definition, timing, or population baseline differences.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (July 2011) <www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>]</p>
6.4. Fixed Broadband Subscriptions as % of Internet Users (2011)	28%	[calculated from 8.5.1 and 8.6.1]
7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (2011)	94,565,305	<p>In 2011, Mexico increased the number of mobile cellular subscriptions by 3.5% and is ranked 13 out of 195 countries surveyed. The number of subscriptions account for 82% of the population.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p> <p>Note: This figure may be inflated due to multiple subscriptions per head of population but excludes dedicated mobile broadband devices (such as 3G data cards and tablets).</p>

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7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2011)	7%	<p>Mexico has increased the number of active mobile broadband subscriptions (as a share of the population) by 161% since 2010. This ranks Mexico 91 out of 144 countries surveyed.</p> <p>The OECD figures below present a breakdown on the type of mobile broadband connections in Mexico. Mexico is distinguished by having the highest rate of growth of wireless broadband in the OECD.</p> <p>For 2011, Mexico's OECD rank has not changed and was 34 (out of 34) for mobile wireless broadband subscribers as a percentage of population [OECD Broadband Subscribers (Dec 2011) <www.oecd.org/sti/ict/broadband>]</p> <ul style="list-style-type: none"> – Satellite: 0.1% – Terrestrial fixed wireless: 0.4% – Standard mobile broadband subscription: 5% (up from 0.3% in 2010) – Dedicated mobile data subscriptions: 2.3% <p>Total: 7.7% (8,347,025 subscriptions). The OECD average total for 2011 was 54.3%.</p> <p>Mexico's wireless broadband growth for 2011 was 1,440% (ranked 1 out of 34 for growth), well above the OECD average growth of 30.5%.</p> <p>Note: The mobile broadband subscription types were first reported by OECD in 2010, and ITU data are beginning to have this granularity.</p> <p>Note: The OECD figures include mobile data subscriptions, which are not as consistently reported in the ITU indicators.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p> <p>Note: This refers to the sum of standard mobile broadband and dedicated mobile broadband subscriptions to the public Internet. It covers actual subscribers, not potential subscribers, even though the latter may have broadband-enabled handsets.</p> <p>Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.</p>
7.3. Number of Active Mobile Broadband Subscriptions (2011)	7,483,891	<p>In 2011, Mexico increased the number of active mobile broadband subscriptions by 164% and is ranked 91 out of 145 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p>