

Preliminary Report: Use of personal data for political influence in Chile's Metropolitan Region

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DATA LAW IN CHILE

In Chile, **Law 19.628 on the protection of privacy dates from 1999** and was the first of its kind in Latin America, thus regulating the processing of personal data to date.

Although the **Chilean Constitution** of 1980 did not expressly recognize the right to the protection of personal data, **the jurisprudence recognized its protection from Article 19 No. 4 on privacy.**

Only in **2018, Law 21.096 amended Article 19 No. 4** of the Constitution and **expressly recognized the right to the protection of personal data as a fundamental guarantee.**

Despite the amendments to which Law No. 19,628 has been subjected, it does not contain detailed indications according to the context for the regularization of the use of personal data in political campaigns, nor regulations that promote the supervision of an adequate ethical use of personal data by institutions, companies, or public bodies.

This, in addition to the absence of a data protection authority to ensure compliance with the law, as a consequence, individuals in Chile are in an even more vulnerable position with respect to the misuse of their personal data and the possibilities to ensure their rights.

ADMINISTRATION OF PERSONAL DATA BY MUNICIPALITIES OF METROPOLITAN REGION.

The information presented in this table has been transcribed directly from the responses to the transparency requests made to 12 municipalities of Santiago, Chile, in which the administration of information and data collected for citizen security

purposes, the use they were given, and to which third parties such information was delivered.

The basis for this request was the fact that this information in certain circumstances can be used to promote candidacy programs. Thus, the mapping was done after seeing that a significant number of municipalities in the Metropolitan Region have agreements and agreements with SoSafe App and the data that this application works to consider them within their preventive safety strategies.

SECTOR	COMMUNE	DATA MANAGEMENT	USE OF DATA	DELIVERY TO THIRD PARTIES
North	Conchalí	Administrated by the Public Safety Council, through its commissions.	Preventive Strategies Purposes.	<ul style="list-style-type: none"> - In accordance with the Transparency Law in force. - Videographic data are shared exclusively with the entities in charge of criminal prosecution (Police and Public Prosecutor's Office), upon request under delivery protocols.
Northeastern	Las Condes	Municipal officials with different levels of access.	Not specified.	<ul style="list-style-type: none"> - Facial recognition data are provided to the Investigative Police due to a signed agreement between the two institutions.
Northeastern	Vitacura	Municipal officials.	Not specified.	<ul style="list-style-type: none"> - Community security data is provided to the police or prosecutors for investigations in the commune of Vitacura.
Northeastern	Ñuñoa	Municipal officials.	Preventive Strategies Purposes.	<ul style="list-style-type: none"> - Carabineros de Chile and Investigation

				Police of Chile (PDI).
Northeastern	La Reina	Municipal officials.	Support to security agencies.	- Carabineros de Chile, PDI and Public prosecutor office.
Northeastern	Providencia	Municipal officials.	Preventive strategies and improvement in the management of municipal resources associated with security.	- Carabineros de Chile, PDI and Public Prosecutor's Office upon request.
Center	Santiago	Municipal officials.	Preventive strategies purposes.	- Carabineros de Chile, PDI and Public Prosecutor's Office.
South	La Pintana	Not specified.	Preventive strategies purposes.	- Carabineros de Chile, PDI and Public Prosecutor's Office upon request.
South	San Miguel	Municipal officials.	Creation of territorial interventions through municipal programs and coordinated work with security actors.	- Videographic data is provided to Local Police Courts, PDI and Carabineros de Chile. - The rest of the security data is provided to any person and/or institution that requests it, including political parties, through a request for transparency.
South	San Ramón	Municipal officials.	Preventive strategies and targeting of territorial work.	- Any person may request them for transparency. - Carabineros de Chile, PDI and Public Prosecutor's Office upon request.

South-west	Estación Central	Municipal officials.	Preventive strategies purposes.	- Carabineros de Chile, PDI or Public Prosecutor's Office through the North Central Prosecutor's Office, in compliance with an internal municipal protocol.
South-west	Maipú	Dirección de Prevención y Seguridad de Maipú	Preventive strategies purposes.	- Data is provided only to the police by order of the Public Prosecutor's Office.

SOSAFE APP AND PREDICTABLE MEDIA (EX INSTAGIS)

SoSafe App is a neighborhood safety mobile application that has agreements with most of the municipalities of the Metropolitan Region, along with the PDI and Carabineros de Chile.

This application was investigated in 2019 by the digital media Interferencia due to its link with InstaGis -today Predictable Media-, a firm participating in right-wing political campaigns in Chile. This link was investigated since SoSafe in its Terms and Conditions indicate that when accepted by individuals they can "use the information of its users collected for the generation of statistical reports [...], which may be shared or marketed with third parties, always respecting the anonymous nature of each user".¹

During this investigation, we contacted workers and former workers of the company to learn about their testimony regarding the company's treatment of personal data. None of those consulted agreed to an interview, but the company responded to email inquiries.

Regarding data management, they indicated that (1) data management is not given to third parties (2) compliance of the Terms and Conditions subscribed (3) privacy policies are governed under the European regulations of the GPDR.

Following the indicated, we conducted the review of the terms and conditions as well as their privacy policy, finding that:

- On their website they state: "We have decided to adhere to the strictest privacy

¹ <https://interferencia.cl/articulos/instagis-el-nexo-de-la-empresa-de-big-data-favorita-de-la-derecha-con-hopin>.

regulations in the world, complying with the provisions of the European General Data Protection Regulation (hereinafter "GDPR"); therefore you have the right to review the personal data we record about you and to ask us to delete it or permanently delete your account. Our software does not perform any passive tracking or obtain any information from your device that is unrelated to your use of the application."

- Users' personal data are not sold to third parties and how these can exercise the rights granted to them by the same company.

Regarding the Startup Predictable Media formerly called InstaGis², renamed in 2018, which is recorded in the Registry of Commerce of the Santiago Conservatory. During 2018 and 2019 several media analyzed its participation and contribution in political campaigns. According to an investigation by CIPER³, the media indicated that the platform performs a profiling of citizens according to:

- Gender, age, socioeconomic level, religious beliefs, educational background, marital status, and political preferences.
- Through public databases such as the Census, the CASEN, the Social Registry of Households and the SERVEL census.
- Territorial software capable of adding the name, RUT, and address of individuals to these profiles.
- Public data collected through Facebook, Twitter and Instagram obtaining people's characteristics and preferences.

It is worth mentioning that the same report indicates that Predictable media collected 274 million pesos (US\$373,959) exclusively for services rendered to the right-wing political party Chile Vamos.

EXPENDITURES OF POLITICAL PARTIES, POLITICIANS AND CIVIL ORGANIZATIONS ON FACEBOOK.

This observation was carried out during August 8 and October 10, 2020, using the Facebook ad library as a source.

To date there are more parties, politicians and organizations that have incurred expenses, but this report only considers expenses that exceed US\$600 and does not consider municipal councilors.

The criteria for presenting the information are based on the date of creation of the Facebook page.

² <https://www.instagis.com/es/>

³ <https://www.ciperchile.cl/2019/09/11/alguien-te-mira-asi-funciona-el-gigante-de-las-campanas-politicas-que-controla-sosafe/>

TYPE	ORGANIZATION	DATE OF CREATION	EXPENSES	FUNDING
POLITICAL PARTY	Renovación Nacional (National Renovation)	March 24, 2008	\$2.149.573 (US\$2,933)	Financing without intermediaries. Dissemination of advertising spots already shared in the plebiscite strip, however, none of them pronounces on whether it approves or rejects the new constitution for Chile.
POLITICAL PARTY	Unión Demócrata Independiente (Independent Democratic Union)	January 29, 2009	\$2.460.972 (US\$3,358)	Financing without intermediaries. Dissemination of advertisements referring to the plebiscite calling to vote Rejection.
POLITICAL PARTY	Partido Socialista de Chile (Socialist Party of Chile)	August 16, 2011	\$7.215.087 (US\$9,847)	Financing without intermediaries, with advertisements linked to the plebiscite, having a political position in favor of a new constitution, with a constitutional convention.
POLITICAL PARTY	Partido Republicano (Republican party)	June 4, 2019	\$3.601.256 (US\$4,915)	Financing without intermediaries. Dissemination of advertisements referring to the party's affiliation, with the purpose of attracting adherents. Some advertisements implicitly refer to the party's political position on the plebiscite, questioning its legitimacy and implementation.
POLITICAL PARTY	Partido Progresista de Chile (Progressive Party of Chile)	December 30, 2019	\$1.387.395 (US\$1,893)	Financing without intermediaries. Some announcements related to vote Approve and others related to party proposals.
CIVIL ORGANIZATION	Unidos por el Rechazo (United for Rejection)	September 16, 2020	\$29.914.951 (US\$40,828)	Funded by Acción Republicana and Fuerza del Sentido Común in amounts of approximately 12 and 16 million pesos. (US\$16,000 and US\$22,000)
CIVIL ORGANIZATION	Reforma la Reforma (Reform the Reform)	May 30, 2014	\$12.810.828 (US\$17,484)	Funded by Fundación Ciudadanos en Acción. There are no investments linked to the plebiscite.
CIVIL ORGANIZATION	Gazmuri, Independencia por el cambio (Gazmuri, Independence for change)	February 20, 2020	\$703.866 (US\$960)	Financing without intermediaries. Advertisements with political content of various kinds.

CIVIL ORGANIZATION	Piénsala dos veces (Think twice)	March 8, 2020	\$1.760.899 (US\$2,403)	Financing without intermediaries. Dissemination of advertisements calling for a vote to reject.
CIVIL ORGANIZATION	El 90 también es Mío (90 is also Mine)	July 29, 2020	\$891.464 (US\$1,216)	It has incurred expenses through "LA COORDINADORA" by making advertisements with political content questioning the possibility of a new constitution.
FOUNDATION	Fundación Nueva Mente (New Mind Foundation)	September 15, 2018	\$618.436 (US\$844)	Financing without intermediaries. Advertisements with political content of various kinds and another of a mocking nature against the mayor of Recoleta, Daniel Jadue (Communist Party).
FOUNDATION	Fundación Ciudadanos en Acción (Citizens in Action Foundation)	December 11, 2019	\$4.976.802 (US\$6,792)	Financing without intermediaries and dissemination of advertisements independent of the plebiscite, but linked to public policies related to the Chilean pension system.
STUDY CENTER	Horizontal (Center of Studies of Evópoli, a right-wing political party)	January 12, 2012	\$650.493 (US\$887)	Financing without intermediaries. Advertisements with political content of various kinds.
COMMUNICATION MEDIA	La izquierda diario de Chile (The left-wing, daily newspaper of Chile)	February 28, 2015	\$910.989 (US\$1,243)	Financing without intermediaries. Political advertisements related to the plebiscite.
POLITICAL POSITION	NAME	DATE OF CREATION	EXPENSES	FOUNDING
SENATOR PARTY FOR DEMOCRACY PARTY (PPD)	Guido Girardi	May 28, 2012	\$805.688 (US\$1,099)	Financing without intermediaries. Advertisements with political content of various kinds.
INDEPENDENT SENATOR. FORMER MEMBER OF THE INDEPENDENT REGIONALIST PARTY	Senator Pedro Araya	March 11, 2013	\$784.629 (US\$1,070)	Financing without intermediaries. Advertisements with political content of various kinds.

EVÓPOLI SENATOR	Felipe Kast	February 14, 2013	\$1.218.786 (US\$1,663)	Financing without intermediaries. Advertisements with political content of various kinds.
INDEPENDENT DEPUTY. FORMER MEMBER OF THE DEMOCRATIC REVOLUTION	Deputy Renato Garín	November 23, 2015	\$827.593 (US\$1,129)	Financing without intermediaries. Announcements with political content referred to vote for the approval and constitutional convention.
-	Teacher Christopher White	February 18, 2016	\$558.138 (US\$761)	Financing without intermediaries. Announcements with political content referred to vote for the approval and constitutional convention.
NATIONAL RENOVATION (RN) MILITANT	Carlos Cruz Coke	May 30, 2016	\$660.925 (US\$902)	Financing without intermediaries. Ads with political content to run as a candidate in the primaries for the mayoralty of the municipality of Vitacura.
DEPUTY NATIONAL RENOVATION (RN)	Deputy Camilo Morán	August 16, 2016	\$1.302.312 (US\$1,777)	Financing without intermediaries. Advertisements with political content of various kinds.
DEPUTY OF THE INDEPENDENT DEMOCRATIC UNION (UDI)	Deputy Gustavo Sanhueza	November 27, 2016	\$996.496 (US\$1,360)	Financing without intermediaries. Advertisements with political content of various kinds.
DEPUTY, SOCIALIST PARTY OF CHILE (PS)	Deputy Jaime Tohá	April 4, 2020	\$720.680 (US\$983)	Financing without intermediaries. Advertisements with political content of various kinds.

OTHER INPUTS

An interview was conducted with **Ricardo Godoy** in his role as **Vice President of**

Programmatic Affairs and National Electoral Officer and collaborator of the communications area of the [Progressive Party](#)⁴ (PRO) which is part of the command "Chile Digno" movement that in the context of the plebiscite sought that its followers vote Approve + Constitutional Convention.

When asked about the use of programs that work with people's personal data for the campaigns, he indicated that he did not, nor did he count with financing from public resources.

In addition, he points out that psychometric profiles have not been carried out because the Approve campaign does not deal with party identity but rather with causes that transcend the parties. He indicates that "the division of groups is done in other types of campaigns, but it has not been necessary in this one".

Regarding the dissemination channels, the Progressive Party uses Facebook, Twitter, Instagram, and WhatsApp. He indicates that the PRO has always had direct dissemination channels with its militants and in this political instance dissemination spaces have been created with new people outside the organization, but the content spread remains the same. The data are collected either because they are provided by the people themselves or because they are added to different collective chats where the campaign is disseminated.

For its militants there is an instruction to share the social media content created by the party.

There is commitment on the part of the militants, an instruction to share the social media content uploaded by the party.

Regarding content, they broadcast activities developed in the territories and programmatic content through Facebook Live every week. The content is not segmented under any criteria, only being closer to the tune of social organizations. This is in conjunction with "door-to-door" processes, political slots, caravans, among other activities.

Another interview conducted in the context of financing and use of data by political entities in the context of the Plebiscite, was the conversation with **Manuel Gallardo, President of Juventud Democracia Cristiana⁵ and Executive Secretary of Yo Apruebo.**

He indicates that as a party they have not made use of chat bots, nor of technological tools that deliver data about the recipients of their messages in social networks.

⁴ <https://www.facebook.com/partidoprogresistadechile/>

⁵ <https://www.facebook.com/jdc.chile/>

Regarding georeferencing, he points out that within the framework of the law this can be done in the plebiscite after August 25, even if it is not held on September 23, 2020.

The digital strategy, social networks and the electoral strip of the command is worked with the AldeA Agency⁶, being this a situation of public knowledge.

For dissemination, a MailChimp account is used, where there is an internal database of its own militants who have e-mail. There is no central WhatsApp account of the party that distributes diffusion lists to the country.

⁶ http://aldeasantiago.com/#20_up