

## URUGUAY

### FREEDOM OF EXPRESSION: OLD AND NEW TRENDS

#### Executive Summary

Uruguay obtained 69.81 points in this 2022-2023 edition of the Chapultepec Index, which represents a decline of 9.09 points compared to the result of the 2021-2022 barometer. This performance distances it by 14.29 points from its measurement in the index in -2020-2021, when it led the ranking with 84.10% of relatively full freedom of expression. The new measurement confirms the country's classification in the "Freedom of expression with low restriction" category. It is a country where the law guarantees freedom of expression and the press, and in actual fact a climate favorable to freedom of expression that shows certain partial restrictions that, according to the experts, are associated with the Executive's slight influence. This influence is comprised of actions of stigmatizing talk about journalists and media by senior public officials –a iterating trend from the previous survey– and the still ongoing cases of restriction on the right of access to public information that remains with respect to previous editions; both habits represent a restriction on freedom of expression and free information flow.

#### Introduction

The period of this new edition, the multi-party coalition led by National Party's representative and current president Dr. Luis Lacalle Pou is in the third year of his administration and in this October, the October 2024 general elections countdown begins.

In terms of institutional well-being and quality of democracy, 57% of Uruguayan citizens perceive that their basic human rights are secured, exhibiting the highest rate in the study for Latin America (Perry, L; 2023:3). Following this trend, only 45% of the country's population believe in the statement "The rich sometimes or always buy the results of the elections", the lowest percentage in the study on a 100% scale in which the average of the fifteen countries surveyed for the continent is 75% (Mandell, Ch; 2023:3), measurements closely linked to satisfaction with democracy and trust in the government.

On a zero-to-one-hundred scale (being zero the perception of high levels of corruption and values close and one hundred the perception of very low levels of corruption), Uruguay scored 74 points, growing one point over the previous year and ranking fourteenth where its citizens show a low level of perception of government corruption compared to the 180 countries in the classification (Transparency International, 2023).

In economic matters, for this year, the World Bank was forecasting a slowdown in growth of 1.5 for Latin America. Adjusting to the statistics, although in 2022 Uruguay showed a growth in its economy of 4.9%, this year it dealt with an unprecedented drought that affected the distribution

of drinking water to the population. This phenomenon represented a slowdown in growth that is expected to get back on to 4.3 in 2024. Currently, the percentage of households living in poverty hits 6.4% (based on the US\$6.85 per person per day international poverty line). This figure is 1.3 points higher than those levels recorded before the pandemic. These data warn that despite the economic stability and positive growth, important social and economic gaps do persist due to structural limitations that condition the closing of development gaps. (World Bank, 2023)

The employment rate in Latin America shows an upward trend. In 2022 it grew 5.6% compared to 2021, in 2023's first quarter the recovery in the number of employed people stayed and the year-on-year growth was 3.1%, a rate similar to that observed in 2022's fourth quarter, but 3.8 points lower than what had been recorded in that year's same period. The increase in inflation in 2022, especially in the first half of the year, significantly affected the purchasing power of Latin American and Caribbean households; the average informal employment rate in the region has kept rounding 48%. (ECLAC, 2023:96) Uruguay recorded an activity rate of 61.7% in the year's first month compared to 62% in December 2021 according to data from the National Institute of Statistics (Instituto Nacional de Estadística, INE, 2023).

Regarding the exercise of freedom of expression, we can rest assured that Uruguay has a democratic regime where freedom of expression is guaranteed by the legal framework and journalists carry out their exercise in a climate of freedom. Despite these favorable indicators, democracy coexists with a recent phenomenon such as the use of disinformation –mostly on the social media– against journalists and media outlets as a practice of some political leaders who thereby reinforce their meddling with public opinion. This trend is seen in those countries with a better performance of democracy in the region and that historically were well-positioned in the overall rankings of freedom of expression and today decline: Costa Rica (23rd; -15), Uruguay (52nd; -8) and Argentina (40th; -11) (Reporters Without Borders, 2023).

Based on a review of the press and the systematization of secondary sources, the report reports the increase in the Index's Realm C: Violence and Impunity, accounting for forty cases of obstruction of free information through different acts such as stigmatizing talk and restrictions on the right of access to public information by the Uruguayan State.

Uruguay's score for the Chapultepec Index 2023 study is 69.81 of a total of one hundred points. This represents 9.1 points lower than 2022 and a new decline from third to fifth place in the overall ranking, maintaining in the category of country with "Freedom with low restrictions".

Within the same category and with similar total results are: Canada (4th) scoring 75.30; Jamaica (3rd) with 76.78 and Chile (2nd) with 78.85 points. For this year, the Dominican Republic, which hit 81.08, leads the ranking and is the only country present in the highest category "Country with full freedom of expression".

According to the experts' rating, the most explanatory realm in the country's Index result is C. Violence and impunity, scoring of twenty-five out of a maximum of 42. This realm incorporates actions of the State aimed at the protection of journalists, the prevention of attacks and assaults on newsmen and media outlets, the aggravation of penalties and legislation aimed at avoiding impunity for crimes against journalists.

In the legislative, judicial and executive environments analysis, these are rated as a "mild" influence in situations unfavorable to freedom of expression, since in none of the cases the score assigned in the realms surveyed by the experts exceeds 2.50 (ranking's maximum score). Despite this, in Realm C: Violence and Impunity the legislative environment is rated with 1.67 and the executive in the same category with 1.80, recording the highest values. This represents an additional point compared to the previous survey.

As to the analyzed realms, according to the experts we went to, the environment influencing the most on restrictions is the Executive, contrary from the previous 2022 survey, in which the Legislative was assigned.

Realm C, Violence and impunity, presents the greatest weight and importance in the index since it can reach a maximum of 42 points and is comprised of three subrealms: a. Persecution (the experts answer whether the State favors persecution of journalists and media outlets willingly or not, intimidation, harassment, hate speech); b. Protection (experts are consulted on whether the State considers a protection mechanism for journalists and media outlets, as well as the protection of both in cases of threats), c. Impunity (the experts answer about the existence of legislation to aggravate penalties in cases of aggravated homicides against journalists, attacks and threats or if there are sentences or judicial acts that include aggravation of penalties in cases of crimes against these actors).

In Uruguay, there is no record of such serious threats as homicides, kidnappings, or forced disappearance of journalists while exercising their profession. However, based on a systematization of secondary sources and a review of the press as a data collection technique, in 2022, during the August 1, 2022 to August 1, 2023 period, forty cases of restrictions on freedom of expression were recorded within the “mild threats” category. It should be noted that the review press took in nationwide mainstream media and digital media.

Of the total of forty cases, 77.5% (31 cases) represent attacks or threats from the State; many of the cases that will be developed in greater depth focus on figures of speech of intimidation or stigmatization against journalists. It seems important to point out a difference with respect to the results of the previous survey. In 2022, the highest percentage of restrictions on freedom of expression had matched this new edition due to the responsibility of the Uruguayan State, but as a result of another type of action such as non-compliance with active or passive transparency, partial, incomplete or failed delivery. Out of the nine remaining cases, five involve attacks or threats by third parties, one by an unknown person and three by judicial authorities.

The second environment with the highest influence on levels of restriction on freedom of expression, according to experts, is the Legislative and again in the aforementioned realm C. As we have anticipated in the previous report, in April 2020 at the inauguration of the new coalition government, the Executive introduced an Audiovisual Content Dissemination Service draft bill that would modify the current act 19,307 on media, modifications that were seen by some sectors as restrictive to freedom of expression. After a deliberation of over a year and a half, the coalition did not secure support from any of its parties and kept the law in force while modifying article 56. In the budget accountability vote, the coalition again submitted to the vote the reformulation of article 56 of the Audiovisual Content Dissemination Service draft bill, which authorizes cable companies to offer Internet services, and resumed the discussion between the ruling and opposition parties that had begun in March 2020, aimed at repealing the current act on media and the creation of a new act that to date does not have the coalition’s internal support to be carried out.

## **Environment Analysis**

### **Executive environment**

The executive environment shows a “slight” influence on all realms. The highest level reached is 1.08 on a scale of 0.1 to 2.50, the maximum value for the category “mild influence” at

Realm C: Violence and Impunity. The main cause of obstruction to freedom of expression in the country, in volume –as we have anticipated– held the Uruguayan State responsible and the largest number of cases is made up of stigmatizing discourse against journalists by the authorities. This is a novelty in this period since in the previous one the obstruction was related to non-compliance with the right of access to public information.

This phenomenon has also been warned by the 2023 Reporters Without Borders report when in the chapter on the Americas it maintains that even in the most stable countries in political and economic terms, the use of disinformation and propaganda, almost always linked to violence in the networks against journalists and media, it is becoming normalized. This use has been established as a strategy of political leaders that reinforce control over political discourse. Among the countries where this phenomenon is seen and which explains the decrease in the index, the following stand out: Costa Rica (23rd; -15), Argentina (40th; -11), Canada (15th; +4), Guyana (60th; -26), Uruguay is also ranked (52nd; -8) (Reporters without borders, 2023).

## **Legislative environment**

The legislative environment shows a “slight” influence on all realms. The highest level reached is 1.67 on a 0.1 to 2.50 scale, being the maximum value at Realm C: Violence and Impunity.

From the time the new government took office in March 2020, the discussion on the current Act on Media has been in the public spotlight. A first milestone was its discussion in session to completely repeal it, but the necessary support for such was not reached. Two years later, through the vote on the Executive Branch Accountability project, they voted in favor of keeping the act on media in force only modifying article 56 that authorizes cable operators from the countryside to offer Internet services. This was a proposal by Cabildo Abierto (party that makes up the government coalition) and was finally passed. During the voting period, some workers from Union of Workers of the National Telecommunications Administration (Sindicato de Trabajadores de la Administración Nacional de Telecomunicaciones [National Telecommunications Administration /Administración Nacional de Telecomunicaciones, Antel/], Sutel) rallied against.

## **Judicial environment**

The judicial environment shows a “slight” influence in all dimensions. The highest level achieved is 0.60 in Realm A: Citizens Free to Express Themselves on a 0.1 to 2.40 scale as the maximum value to be scored in the “mild” category.

Within the period surveyed by this report, there is record of three lawsuits against journalists, all of which are still ongoing. These lawsuits are mainly for slander and defamation. This number represents six fewer complaints than in the previous period.

## **Realm A. Citizens Free to Express Themselves**

The experts' assessment for this realm was 15.40 points (twenty-three points is the maximum theoretical level). The subrealms that make it up: Information Flow was rated 8.20, 1.9 lower than 2022 (10.1) and the second subrealm, Free Speech, had 7.20, 4.2 lower than the previous one (11.4). Despite this, it is the realm with second worst expert assessment, which

means a change regarding the previous survey, where it turned out to be the main problem of restriction of freedom of expression. Currently that problem is the Violence and Impunity realm.

This change in weight in this realm matches some improvements observable in the country linked to the effectiveness of the right of access to information. For this index report period, according to the report as of March 2022 from the Unit for Access to Public Information (Unidad de Acceso a la Información Pública, UAIP), 8 thousand information requests were received -2,770 more than in the previous 2022's survey- of which 7,500 were replied; 102 were not replied due to expiration; 398 rejected due to a confidentiality or reservation label. To highlight, in 2022 there had been a very significant increase in online applications as a result of the pandemic, which had limited this type of proceeding as the only channel for communication with the State. This new increase in the level of requests with a State already open to pre-specialty, could be announcing a change in culture on the part of citizens when interacting with the State. It would be a line of research to follow.

A second novelty for the period is the launch of the National Transparency and Access to Information Index (Índice Nacional de Transparencia y Acceso a la Información, Intai) developed as regulatory body UAIP's monitoring instrument. It can be broken down into three analysis realms: a. The institutional realm that evaluates the instruments and internal procedures that the organization has to preserve, produce, publish and disseminate public information: b. The passive transparency realm evaluates the agency's ability to process requests for access to information in a timely manner; c. The realm of active transparency evaluates levels of compliance of the organizations with their established obligations.

The Intai methodology provides for implementation, sending a survey form to each organization. Completing it is not mandatory.

For 2022, of 250 organizations to be evaluated, 169 completed the form, achieving a response level of 68%. Of these organizations that responded, active transparency is the realm best evaluated, from 35% that it represents in the Intai it reached 26% and the least evaluated realm is the institutional one, which describes that the greatest difficulty for the organizations to The time to comply with transparency is to not have established procedures and processes for the publication of information.

From civic society, the results of the Active Online Transparency Index (ITAeL) 2022 report indicate that 61.85% of the organizations surveyed (270) fail to publish more than 40% of the information mandated by law. This figure represents a decline compared to the previous year (56%) fifteen years after the law was approved.

From a regulatory point of view, we have described how since the assumption of the new coalition government presided by Luis Lacalle Pou, the deliberation on the Act on Media is at the forefront of the public and government agenda. The first attempts were focused on completely repealing the law, and during the second year of government a type of reform was appealed with the change of some articles. Disagreements within the same government coalition and the mobilization of civic society have allowed the current act on media to remain in force since 2014 with changes in some articles that, although not minor, do not represent the bulk of the legislation.

Currently, the discussion around regulation has focused on the difficulties that comptroller agencies seem to have in applying it, especially in aspects as important for freedom of expression as media concentration. Civic society organizations and scholars point out that the act is not enforced in terms of placing restrictions on concentration for both national and foreign media. As an example, a new national radio monopoly (*Grupo Magnolio*) has recently emerged and approved an agreement for the retransmission of an Argentine radio station from 9 to 18 hours

every day, which breaks the law in two fronts: in obtaining permission and in extending the hours allowed for broadcasting. To the date, these issues have not been commented on by the competent organizations.

## **Realm B: Exercise of journalism**

The assessment of the experts consulted for this realm gave Uruguay 8.40 (very similar to the previous score of 9.1 points) out of ten, remaining the best-rated realm for the period.

In the Uruguayan reality, there are not many self-regulation mechanisms for the journalism profession or the media. It is worth highlighting the existence of the National Council of Advertising Self-regulation (Consejo Nacional de Autorregulación Publicitaria, Conarp), a non-profit entity aimed at ensuring free and responsible commercial broadcasting. Within the Uruguayan Advertising Association (Audap), it is to remark the code of ethics of Uruguayan advertising. Regarding the professional practice of journalism, the existence of a Code of Journalistic Ethics stands out, the recommendations of which aim at strengthening quality journalism as a voluntary self-regulation mechanism, as well as association with the union.

This code is the product of a consensus in the Uruguayan Press Association (Asociación de Prensa Uruguaya, APU) that involves employees linked to the sector such as journalists, cameramen, photographers, producers, presenters, hosts, announcers, media employees and civic society organizations linked to the sector since the year 2012. The complex composition of this association makes it unique on the continent since it houses all the ecosystem workers. Membership in both Audap and APU is completely free and not mandatory.

At a regulatory level, Act 19,307 on the regulation of audiovisual media recognizes in its article 42 “Conscientious Objection”, a resource to which the journalist can resort in case of abuse of the outlet on him, as a subject of law. In turn, the act acknowledges the articles of the former Press Law of the Constitution of the Republic of 1989, Act 16,099, which ensures the non-disclosure of the journalist's sources and the freedom of expression enshrined in the Human Rights Declaration and the Convention, as well as Act 18,515, in which the support of journalistic activity is recognized as being of general interest. However, intellectual property measures are not incorporated into the act to protect journalistic content from plagiarism and improper use, although it is established in article 18, Journalist's Code of Ethics, that:

Journalists must respect intellectual property. Copying or reproducing parts of existing works without quoting them constitutes plagiarism and is a serious offense. It is also important not to indicate that a piece of news was discovered by another journalist and to report the event as if it were one's own discovery.

At the practical level, this year, the National Institution of Human Rights and Ombudsman's Office (Institución Nacional de Derechos Humanos y Defensoría del Pueblo, INDDHH) opened an ex officio investigation into complaints of pressure on the municipal TV station Ciudad. The situation was first exposed in the Center for Archives and Access to Public Information's (Centro de Archivo y Acceso a la Información Pública, Cainfo) 2021 report, establishing three different cases of leverage to influence the station's content in favor of Montevideo's current mayor Carolina Cosse. Cainfo maintains that the denounced actions not only violate journalists' freedom of expression, but also the free information flow as established in international conventions. For the next edition, the case remains pending.

## Realm C: Violence and Impunity

In Realm C: Violence and Impunity, Uruguay scored 25.1 out of a maximum of 42 (maintaining the value of the previous edition), as it showed the lowest figures with respect to the other dimensions. The subrealms that most add to this rating are “Protection” 1.2 points out of a total of five and “Impunity” scoring of 1.8 out of 8.5 maximum points.

It is important to note that there is no record of such serious threats as homicides, kidnappings, forced disappearance or torture of journalists while exercising their profession. The total level of threats suffered by journalists can be described as mild. In this section, some of the forty cases of minor threats recorded on the period covered by this report are described in greater depth, by responsible actor and type.

As previously noted, the qualitative change for this year is not the state responsibility for the greatest number of acts that restrict freedom of expression but the type of act, going from being the restriction of the right of access to public information in 2022, to attacks and threats to journalists in 2023 (31 cases).

As an example of this statement, and without the intention of being exhaustive, only some of them are mentioned below: On August 3 of this year, a message arrived at the editorial office of Subrayado (Uruguayan news broadcast on Channel 10) signed by Sebastian Maset where he warned that if they continued making journalistic articles about him, there would be consequences. We inform that the signer is an alleged Uruguayan drug trafficker. On August 19, 2022, journalist Alfonso Lessa reported having been followed by a vehicle that approached him dangerously, performing high-speed, threatening maneuvers. The complaint matches the soon-coming posting by the journalist about a case of a citizen who had been found with an arsenal in his house a few years ago and whose case has not been brought to an end in the country as of yet.

As an example of stigmatizing discourse, on August 22, 2022 National Party’s senator Graciela Bianchi attacks journalists during an intervention in the Senate, during the questioning of the Minister of the Domestic Affairs and Foreign Affairs. She mentioned the Municipality of Montevideo’s *Tv Ciudad* station and its head of press Eduardo Preve. “I took care of him during the pandemic,” said the legislator, regarding the journalist who was fired from the private station (*Channel 10*) where he worked. In the same case, the senator also said certain journalists are “tools” and questioned those about whom “you can see what they vote for” because “they are not independent”.

On September 9, 2022, the Secretary of the President’s Office, Álvaro Delgado, reacted to a question from TV Ciudad’s journalist Macarena Vico about the administration’s changes to the tobacco control policy, and to a meeting that a president’s office advisor held with a tobacco company. “They send you, eh!”, he told her at the end of a round of questions with several journalists at the *Exposición Rural del Prado*.

On December 21, National Party’s senator Graciela Bianchi hold her stance that the journalistic disclosures about the activities of the former head of the President’s Office Custody, Alejandro Astesiano, were versions handled by “tool journalists” at the service of the political opposition and the union movement, in order to “destabilize the government”.

Another type of mild threat that is registered in the country is the restrictions on the right of access to information. Some examples for this measurement period: On September 19, 2022, the Ministry of Economy and Finance denied a request for access from *Busqueda*’s journalist Ismael Grau, who requested a copy of the study prepared by that State Secretariat on the effects of a possible free trade agreement with China. The ministry argued that it could not provide the

information because it was “classified.” On October 20, 2022, the Administrative Secretariat Division of the President’s Office required journalist Tomer Urwicz to provide proof of voting in the Referendum of March 27, 2022 to respond to a request for access to public information, which is not contemplated in Law No. 18,381 on Access to Public Information. After a consultation carried out by Cainfo, the Unit for Access to Public Information stated that it is not appropriate to require proof of voting to process an access request. On November 28, 2022, the president’s office denied a request for access to information made by the journalist from the newspaper El Observador, Tomer Urwicz, who requested data on the price per unit of each of the vaccines against COVID-19 purchased by Uruguay. The government claimed that this information was confidential.

Judicial complaints decreased compared to the previous edition; only taking into account those that reached the Judiciary, the following stand out: On October 28, 2022, Chief Commissioner Nelson Albernaz, director of Investigations of the National Police, sent a telegram instructing journalist Eduardo Preve to rectify information about the corruption case carried out by the former head of the President’s Office Custody Alejandro Astesiano in order to avoid the initiation of legal actions. The journalist reminded the police officer that four days earlier he had also published on Twitter Albernaz’s words rejecting any ties to Astesiano and that he was not under inquest by the Attorney General’s Office. Therefore, the journalist understood that there was nothing to rectify. The police officer did not pursue the complaint. On November 3, 2022, the Secretary of State Strategic Intelligence, Álvaro Garcé, filed a criminal complaint on the leak of the content of some passages of the strategy for its distribution in parliament during a secret commission. Among the witnesses, Garcé asked that journalist Eduardo Preve be summoned, to find out the identity of his sources of information, which triggered a campaign to discredit the journalist by several government spokespersons. The complaint was filed by the Justice. On February 27, 2023, attorney Gabriela Fossati filed a defamation lawsuit against the director of the magazine Caras y Caretas, Alberto Grille, for an opinion column about the official’s performance in the investigation of President Luis’s Lacalle Pou’s former head of security. On April 25, the prosecutor confirmed the complaint. The journalist had not been summoned to testify at the time this report was being drafted.

## **Realm D: Control over The Media**

The assessment for the control over the media realm, according to the experts consulted, expressed a slight influence by yielding twenty-one points out of a possible twenty-five (decreased four points since the last measurement). The subrealm that explains this difference is “Direct control” scoring of 15.40 out of nineteen possible. This realm includes closure, expropriation or sequestering of media, fiscal privileges, government positions that harm a specific group of media, allocation of official advertising with arbitrary criteria as well as concessions.

The recent and important changes at the regulatory level with respect to the Media Law were recorded in the approval of the budget in December 2020 where the Regulatory Unit for Communications Services (Unidad Reguladora de Servicios de Comunicaciones, Ursec) was enabled to block and download audiovisual content without to issue a court order to television services for subscribers through the Internet, without authorization. This law addresses all the owners of these services and not every natural or legal person on the Internet. This law remains in force.

In 2022, executive order No. 132/022, article 181 of the Accountability Act was approved, regulating the National “Do Not Call” Registry within the scope of the Ursec with the objective of protecting users and holders of telecommunications services to be contacted for advertising,



offers, sales and gifts of goods or services that were not previously requested. These may express their desire not to be contacted for such purposes in the Registry. Telecommunications service operators who fail to comply with the executive order may receive fines, confiscation, and suspensions. There is no current record of fines or sanctions executed under the Ursec resolutions.

## **Conclusions**

The general result of the Chapultepec Index for Uruguay in the August 1, 2022 to August 1, 2023 period is 69.81% in a total of one hundred points. A result that represents 9.1 percentage points less than in 2022 and a new decline from third place to fifth place in the ranking, remaining in the category of country with “Freedom with low restrictions”.

The country has a strong stable democracy, with citizens who perceive low levels of corruption in public office, their basic human rights protected, and trust in national elections as an institution, as well as a stable economy with positive growth. It presents itself as a country where freedom of expression is guaranteed by law and where journalists can practice freely.

Despite these favorable aspects, there are some trends that could represent a restriction on freedom of expression. Firstly, since the previous report, an increase in mild threats such as stigmatizing speech against journalists, especially by high-ranking public officials, has been observed; This trend represents an important phenomenon to follow in future monitoring because it is a form of restriction on freedom of expression and free circulation of quality information for citizens.

Secondly, access to official sources by public organizations continues to be violated, which represents a loss of information for citizens, and also an obstacle for investigative journalism.

Although Uruguay has established itself as a stable economy, it still has, like the rest of the Latin American countries, social and economic inequalities due to structural limitations that limit the closing of development gaps, among which informal employment stands out, employment levels that show a slowdown, and inflation that affects purchasing power. This scenario may affect the working conditions of journalists and media workers who are recovering from the crisis caused by the pandemic.

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