

## **OPEN GOVERNMENT PARTNERSHIP**

### **SPAIN ACTION PLAN**

#### **I. Introduction**

There is a growing demand for governments that respond to the real needs of society, and do so in a more open and participatory manner. This is one of the greatest challenges that public leaders face today: we cannot, and should not, disregard our citizens' desire to get involved in government action.

Given this scenario, the Government of Spain understands that all of our political actions should revolve around transparency and accountability, and that austerity and efficiency are the cornerstones of good management. We are working with this approach, and with these objectives are fully committed to the principles on which this Open Government Partnership initiative is based.

#### ***Political action grounded in transparency and assuming our responsibilities***

A key element for increasing the quality of our democracy is a well-informed, discerning public opinion with a critical vision; another one is the existence of channels enabling citizens to participate in public action. Only if citizens feel that they can get involved in the policies being implemented can they perceive the government and the administration as their own, as something that belongs to all of them.

By the same token, the government of a modern, open democracy like Spain's must be held responsible, and ready to increase accountability. Under the constant scrutiny of the public, governments will be less arrogant, avoiding arbitrary use of power. Transparency and accountability go hand in hand, and we understand that this is essential in order for us to have a healthy, advanced democracy.

We are committed to placing Spain at the forefront of the policies and demands of Open Government and we assume the challenge of moving forward a new way of public action, focus on a stronger control of economic resources. With this goal, we are going to make transparency a driving principle of our Government, by strengthening the mechanisms that facilitate citizens' direct supervision of public action. And also, through higher standards of accountability and good governance on the part of those who have public responsibilities. We are already taking measures to reduce public deficit, to improve transparency in public management and more efficiency in administrative and criminal response against bad economic administration.

#### ***A public administration at the service of its citizens***

The economic crisis has made it necessary to adjust our public administrations' spending behaviour and investment patterns, but this question in no way detracts from the fact that our main goal should continue to be providing quality public services that are constantly improving.

This is why, by prioritizing efficiency in how the public administration works, and truly putting people at the centre of all its activities, we should be able to achieve real reductions in terms of costs, delays, and red tape. Our goal is to put behind us the bureaucratized, formalist, process-centred model of administration to launch a new kind of public management, one more oriented towards obtaining quality results and demanding responsibility. Here, the evaluation of public policies is a key instrument for achieving a more modern and efficient administration, able to continually improve as it adapts to new challenges.

## **II. Open Government measures adopted to date**

The 1978 Constitution, in addition to creating a new model for the Spanish State, offers different mechanisms that have made it possible to articulate the public's participation in its implementation. These include the citizens' right to participate in public affairs, whether directly or through their representatives; the recognition of the freedom to communicate or receive information; the regulation of citizens' initiatives for presenting bills, or the provisions for citizens to be heard during the process of drawing up administrative regulations that affect them, or those regarding access to archives and administrative records.

Recently, our Constitution has been amended—for the second time its history, and with strong, very broad support from Parliament—to include an essential principle for public accounts, which is that of budget stability. The inclusion of mechanisms that guarantee sound budgeting ensures our country's economic and social sustainability, and adequate control of how and where public funds are spent.

Besides these constitutional provisions, our legal system contains many other examples that confirm Spain's commitment to adopting measures aimed at strengthening our democracy through opening up new channels of communication between the people and those in charge of public affairs, providing quality public services, and monitoring the integrity of public administrators.

Transparency. In recent years, a major effort has been underway to make public administration more transparent. Besides the provisions contained in our Constitution and the regulations in our Administrative Procedures Act, approved in 1992, regarding access to archives and administrative records, Spain has an Act that guarantees access to public information regarding environmental issues, and the reuse by the private sector of information in the public administrations' hands is also regulated by law. Moreover, the pay scale for high-level officials and managers at State-owned companies was recently regulated, capping their salaries, providing transparency regarding how the funds they manage are spent.

Open Data. Spain has launched an open-data website ([www.datos.gob.es](http://www.datos.gob.es)), created within the framework of measures aimed at reusing public-sector information. In January of this year, it was singled out as the most user-friendly open-data website in the European Union, a prize awarded by LAPSI, a project financed by the European Commission bringing together experts on accessing and re-using public-sector information. This website's goal is to stimulate opening up access to and re-using information in the hands of our public administrations, in the conviction that these public data represent economic and social assets that should be made available to the private sector. The website centralises a Spanish database known as the Public Information Catalogue of the General State Administration, thereby facilitating the creation of products and solutions tailored to the specific needs of companies, administrators, and the public.

Accountability and Public Integrity. Since 1985, Spanish Deputies and Senators have been required to declare all activities for which they obtain income, as well as their assets and income. Recently, these declarations have been published on the websites of the Congress of Deputies and the Senate and, therefore, are accessible to any citizen. All high-ranking public officials are likewise required to make declarations regarding their assets and private-sector activities, and are under a strict code of incompatibilities, compliance with which is monitored by the Conflict of Interests Office.

Furthermore, in 2005 a Good Governance Code was approved, applicable to cabinet ministers and other high-ranking officials of the General State Administration, which detailed the ethical principles and standards of conduct expected of them.

Electronic Administration. The United Nations, in its April 2010 *Global E-government Survey*, ranked Spain number one in Europe and third in the world regarding the quality and quantity of administrative information, online procedures and email communication made available by the government. As to the level of online services, Spain ranked second in Europe and fifth worldwide.

At present, more than 2,300 procedures and services of the General State Administration may now be carried out electronically, which represents approximately 90% of the total, and 99% of overall annual procedures. Moreover, agencies such as the AEAT central tax authority, Directorate-General for Traffic, and Social Security already use electronic notification, which among other advantages has led to annual savings of 100 million euros. There is also an Electronic Administration Portal (<http://administracionelectronica.gob.es>) that unifies and centralises all information on electronic administration, and different instruments such as the app *eAdmon @dministración, todos los servicios en tu mano* for mobile devices. This brings together the two top trends in access to electronic services—mobility and interaction within social networks—making government more accessible and open.

Reducing administrative burden. Since the campaign to cut red tape was launched, 283 initiatives have been adopted, for a total savings of more 5.54 billion euros. These measures have mainly targeted promoting entrepreneurial activity, simplifying procedures, and eliminating administrative hurdles for citizens.

Evaluating public services. In 2006, the National Agency for the Evaluation of Public Policies and Quality of Services was created, with the aim of contributing to improving public services, promoting more rational public expenditure and optimization in the use of resources, and increasing accountability and democratic quality, promoting transparency and participation. An Action Plan is approved annually, including the evaluations of the programmes and public policies promulgated by the Council of Ministers.

Advertising and Institutional Communication. In 2005, the Act on institutional communication was approved in order to regulate the messages sent by the Government in exercising its executive powers with the aim of improving the knowledge citizens have on the services offered and the activities carried out by the Administration. This Act is based in four objectives: public value, professionalization, transparency and institutional loyalty. Its accomplishment is controlled by the Commission of Advertising and Institutional Communication.

### **III. Commitments**

Within the policies being carried out by the Government of Spain, we want to prioritise those aimed at strengthening institutions and increasing citizens' participation in public affairs and the control of Spanish public administrations. This is why the measures contained in this Action Plan are aimed at achieving the following objectives.

#### ***Increasing public integrity***

Transparency, Access to Public Information and Good Governance Act. The Government recently approved the Preliminary Draft of the Transparency, Access to Public Information and Good Governance Act. The Transparency Act has a three-fold purpose: expand and strengthen transparency in public activity, which is set forth as an obligation at every level of the public administration and public agencies; recognise and guarantee access to information, which is regulated as a far-reaching right; and establish the good governance obligations to be met by public officials, as well as the legal consequences of noncompliance, which become a requirement of responsibility for all those carrying out public activities. With these three aspects, Spain now closes a historic gap in this area, by establishing a set of standards comparable to those of other advanced democracies, enabling us to take our place at the international vanguard as a benchmark of transparency, information access, and good governance.

*Transparency:* The Transparency Act stresses the establishment of far-reaching transparency obligations, under which citizens will have access to a wide range of public information, without the need for a prior request. We understand that transparency is a key instrument for our democracy so this Act will set the grounds for a stronger control of public action, together with new mechanisms to establish accountability.

The scope of available information is exceptionally broad, both from the viewpoint of specific requirements for making it public and from that of those compelled to do so, which includes all public administrations as well as those individuals who provide public services or exercise administrative power. To carry out these obligations to proactively make information public, we cannot talk about transparency without providing the adequate means for providing access to the information which has been made public. For this reason, the Transparency Act includes the creation of a Transparency Portal, because in an era of new technologies, it is essential to have a website which, by ensuring full accessibility, makes all of the information readily available.

*Access to Public Information:* Furthermore, the Act fully implements the right to access to information held by public authorities; all individuals hold this right, and it may be exercised without the need to justify requests. This right shall only be limited when necessary, due to the nature of the information—under the provisions of the Spanish Constitution—or when it comes into conflict with other protected interests. In any case, the stipulated limits shall be applied proportionately. Moreover, and given that access to information may directly affect the protection of personal data, the Transparency Act clarifies the relation between these two rights by means of clear checks and balances. In order to facilitate the exercise of this right, a streamlined procedure, with short deadlines for response and a grievance mechanism that includes lodging complaints before the National Agency for Transparency, Evaluation of Public Policies and Quality of Services, as well as judicial appeals.

*Good Governance:* As regards rules for good governance, the Transparency Act constitutes an extraordinarily significant step forward. Non-legally binding programme principles are incorporated into legislation, and underpin an entire system of sanctions applicable to all public authorities in the broadest sense. Good governance provisions shall be applicable to all those whose conduct, regardless of which public administration they serve, and precisely due to the functions they perform, must be exemplary. In addition, a series of infringements are specified, resulting from noncompliance with the following: legislation regarding conflict of interests; obligations regarding management of public funds; and the disciplinary regime which, it is understood, must be applicable to high-ranking officials. Moreover, new infringements are defined, arising from noncompliance with budget stability regulations. Committing such infringements shall lead to sanctions such as removal from public office, loss of compensatory benefits, obligation to return the amounts unduly received, obligation to pay compensation to the Public Treasury, or disqualification from holding public office.

The procedure for passing the Transparency Act has incorporated innovations that are unprecedented in Spain and that reinforce our commitment with the opening of new via of democratic participation in governmental action. The Government has opened a public e-consultation process whereby any individual may make observations regarding the proposed text of the Act, and provide any suggestions considered appropriate. We understand that these contributions will help to ensure that the final version of our Transparency Act responds to the issues that are of most concern to our citizens.

The public e-consultation has lasted fifteen days, finishing on 10 April. Contributions that receive majority support shall be analysed with a view to incorporating them into the text. Moreover, the Government shall make available to Parliament all the suggestions made, in order to support the passing of the Act.

The definitive approval of the text is expected before the end of 2012.

Transparency and Accountability of Official Development Assistance. The Spanish Government considers that the transparency and accountability of international development assistance must become one of the pillars of Spain's cooperation policy. Therefore, we are committed to establishing a system that fully ensures transparency in Spanish Cooperation's funding and actions. The system shall be implemented gradually, designing targets whose scope and quality may be broadened over time. To this end, progress will continue on Spain's Official Development Assistance information system (info@OD), incorporating, over the course of 2012, a tool for information access and analysis, accessible to any institution or citizen. Likewise, work shall be done to publish, through info@OD, regular information updates on Spanish Cooperation, and to shorten the deadlines for making available to the public data on the Annual International Cooperation Plan and its monitoring.

In addition, Spain shall work to continue fulfilling the commitments undertaken within the framework of the International Aid Transparency Initiative, publishing information in accordance with its standards and increasing the frequency of updates.

Moreover, the Spanish Agency for International Development Cooperation (AECID) has taken on the commitment to create a plan covering the documents to be published on its website, the deadlines and mechanisms for requesting information, and citizen participation. In the first quarter of 2013, and for the first time, an annual report will be published, containing information on implementation of the previous year's budget, the monitoring of the planning, and a report on the actions carried out.

With regard to all the subsidies granted by the Spanish Agency for International Development Cooperation (AECID), the obligation of total transparency shall be implemented; not only regarding announcements of subsidies and decisions taken, but also the criteria for evaluation thereof. To this end, all actors receiving Spanish public funds, whether DNGOs, multilateral organizations or governments, shall be required to act following the same principles of greater openness and transparency, providing information on the financing and implementation of the projects approved.

As for evaluation, there is a commitment to improve publication of and access to all the evaluation reports on cooperation policies, strategies, programmes and projects, as well as to promote access to evaluations of funds and programmes financed by Spanish contributions and carried out by other actors.

### ***More effective management of public resources***

Organic Law on Budget Stability and Financial Sustainability. This Organic Law fulfils the mandate set forth in Article 135 of the Spanish Constitution, and is to be the legal and economic foundation of the budget policies of all Public Administrations. Thus, Spain is leading the way as one of the first countries to incorporate the European Union's budget discipline rules into a text of the highest legal rank.

The draft Organic Law—the basic aims of which are to ensure the budget sustainability of all Public Administrations and achieve greater rigor in budget information and the implementation and monitoring of the budget of the Public Administrations—is based on the European Union's regulations regarding fiscal discipline, and is currently being debated in Parliament. Its definitive approval is expected for the first half of 2012.

Amending the Subsidies Act. The procedure for granting public subsidies must respond to specific criteria set forth in an announcement governed by the principles of publicity, transparency, competitive concurrence, objectivity, equality and non-discrimination, complemented by the necessary effectiveness in meeting the goals set and efficiency in the use of public resources. The existence of nominative subsidies has led to an abusive use of such grants, aimed at sidestepping the guiding principles that should regulate them. We are committed to the rational use of public funds, and therefore during 2013 an amendment will be introduced to eliminate nominative subsidies as a general rule in legislation on subsidies, to increase transparency regarding how they are granted and in their implementation and impact evaluation, and to define standard granting criteria.

### ***Improvement of public services***

E-Justice Administration. The Government shall create an agency specifically dedicated to justice information sharing among the relevant public administrations, to facilitate interoperability through an IT system enabling immediate online access to judicial data and information contained in public registries relating to the administration of justice. The aim of this agency will be to collaborate with the new European agency for the management of IT systems in the area of freedom, security and justice, and in safeguarding the security of judicial information.

Promoting social networks to facilitate citizen participation. During 2012, IT projects shall be implemented, to enable citizen interaction through social networks, web-based technology and specific mobile phone applications. Local security councils will be revamped as a means for channelling relations between security forces and the public.

Moreover, our aim is to work on developing an initiative, launched last 26 January, by means of which citizens may use Twitter to report information related to drug trafficking. This will make it possible to provide a more immediate and approachable response to citizens' concerns in this regard.

Publishing crime statistics. As of next April, citizens will be able to access statistical data on crime, to be published at least quarterly. These data will refer to the average of the preceding 12 months for each type of offence, and for each of Spain's provinces and autonomous cities. These statistics will also include data from the police forces of the autonomous communities, which must be standardised according to the Ministry of the Interior's Criminal Statistics System.

Revising and streamlining regulations. The Transparency, Access to Public Information and Good Governance Act stipulates that all public administrations must conduct an exercise in revising, streamlining and consolidating regulations. The aim is to eliminate obsolete regulations from the legal system and to consolidate those that are dispersed. This measure strengthens legal certainty in the relations between citizens and the public administration.

Information technologies at the service of health management: e-health. In December 2012, the first phase of the technological platform that will ensure interoperability of digital medical records will be launched. The aim is for patients to be treated with the same ease and speed, regardless of where in Spain they may need healthcare, and to eliminate red tape, while making care delivery safer and faster.

Generalising use of the RED (Electronic Data Sending) system. Generalising use of the RED system aims to streamline citizens' dealings with the Social Security bureaucracy through centralising management by means of a single system, which makes it possible to reduce the use of paper documents and to conduct formalities and submit information at any time via the Internet. The objective is to generalise the use and implementation of RED within the entire Social Security system at every level. This will take at least two years, in order to expand RED's scope to groups that have yet to be incorporated into the system.

Simplification of environmental evaluation procedures. This measure seeks to shorten the timelines for conducting evaluations of specific plans, programmes and projects that are subject to environmental evaluation, shortening resolution periods, incorporating available technological improvements, and making decision-making processes even more participatory, both for public administrations and for stakeholders. The approximate deadline for its adoption will be one year, bearing in mind that guarantees must be provided for the principles of legal certainty and the effective participation of public administrations, civil society and the main Spanish professional and environmental protection associations.

Speeding up the procedures to create new enterprises. We understand that no entrepreneurial idea can be rejected due to administrative burdens. The Government will favour the creation of companies in a short period of time, 24 hrs., by promoting the network of centres created to advise enterprising and small and medium enterprises and by reducing the administrative requirements currently requested. These measures will form part of the Act to support enterprising that will be approved during 2012 and that will favour new entrepreneurial ideas and the creation of job positions through tax advantages.

Reduction of administrative burdens for farmers and livestock breeders. The objective is to streamline the process of applying for direct aid under the Common Agricultural Policy, standardising the software of all 17 of Spain's autonomous communities for collecting and managing these applications. This will make it possible to cut red tape; processing applications will be more transparent; beneficiaries will be able to consult their files' status; and moreover, there will be a significant cost reduction for the public administrations, as since there will be no need for developing 17 different kinds of software. It is expected to be adopted within eight months.

COMPROMISE	DATE	RESPONSIBLE
<b>Transparency, Access to Public Information and Good Governance Act</b>	2012	MINISTRY OF PRESIDENCY
<b>Transparency and Accountability of Official Development Assistance</b> <ul style="list-style-type: none"> <li>• Improvement of the Information System.</li> <li>• Publication of the annual report on budget implementation.</li> <li>• Plan covering the documents to be published on the website.</li> </ul>	2012 First quarter 2013 2012	MINISTRY OF FOREIGN AFFAIRS AND COOPERATION
<b>Organic Law on Budget Stability and Financial Sustainability</b>	First quarter 2012	MINISTRY OF THE FINANCE AND PUBLIC ADMINISTRATION
<b>Amendment of the Subsidies Act</b>	2013	MINISTRY OF THE FINANCE AND PUBLIC ADMINISTRATION
<b>E-Justice Administration</b>	2012-2013	MINISTRY OF JUSTICE
<b>Social Network to facilitate citizen participation</b>	2012	MINISTRY OF HOME AFFAIRS

<b>Publishing crime statistics</b>	2012	MINISTRY OF HOME AFFAIRS
<b>Revising and streamlining regulations</b>	2012-2014	MINISTRY OF THE PRESIDENCY
<b>e-health</b>	2012	MINISTRY OF HEALTH, SOCIAL SERVICES AND EQUALITY
<b>Electronic Data Sending System</b>	2012-2013	MINISTRY OF EMPLOYMENT AND SOCIAL SECURITY
<b>Simplification of environmental evaluation procedures</b>	2012-2013	MINISTRY OF AGRICULTURE, FOOD AND ENVIRONMENT
<b>Speeding up the procedures to create new enterprises</b>	2012	MINISTRY OF INDUSTRY, ENERGY AND TOURISM
<b>Reduction of administrative burden for farmers and livestock breeders</b>	2012	MINISTRY OF AGRICULTURE, FOOD AND ENVIRONMENT