

Access Info Challenges Spanish Government Silence On Anti-Corruption Measures before Supreme Court

Madrid, 19 January 2010 — A legal challenge against the failure of Spain's Ministry of Justice to respond to citizens' questions about measures to combat corruption today reached the Spanish Supreme Court. The NGO Access Info Europe is asking the Court to uphold the right of access to information in Spain.

Access Info described as "absurd" the need to turn to the Supreme Court to obtain a reply to a question about an important subject as the fight against corruption. This situation underscores the urgent need to adopt an access to information law in Spain.

On 14 June 2007, one of Access Info's members presented a series of questions to the Ministry of Justice about anti-corruption measures. For example, one of the questions was:

"In conformity with the UN Convention against Corruption (article 6), which body is responsible for preventing corruption committed by Spanish people and public and private bodies? What recourses (financial and personnel) have been provided to this body?"

The Ministry never replied, and rejected the administrative appeal on the grounds that there was no legal basis to appeal. The High Court ruled against the appeal, also dismissing the argument that the Spanish Constitution guarantees the right of a citizen to request and to receive information from public bodies.

The refusal by the High Court came as a surprise to Access Info given the clarity of international and comparative jurisprudence. In the appeal presented today to the Supreme Court, Access Info cites recent decisions of the European Court of Human Rights which recognise that access to information is a right necessary for exercising the right to freedom of expression and for non-governmental bodies to create forums for public debate.

Access Info is arguing that the right of access to information can be derived from Article 20 of the Spanish Constitution which protects freedom of expression, and from Article 23 which establishes the right of citizens to participate in the political life of the country.

"How can I participate in the debate about corruption if I don't have information about what the government is doing?" asked Juanjo Cordero, member of the Executive Board of Access Info and the requestor. *"How can I express my ideas and opinions, exercise my right to freedom of expression, without adequate information from the government?"* he added.

Access Info Europe is one of the founders of the NGO platform the *Coalición Pro Acceso* which is calling for an access to information law in Spain, the only European country with a population over one million which does not yet have such a law. In December 2009 the government confirmed that it is working on a draft law, fulfilling an electoral pledge made

in 2004 and repeated in 2008. The new law should enable Spain to sign and ratify the new Council of Europe Convention on Access to Official Documents.

"The absurdity of this case makes it evident that an access to information law is urgently," commented Helen Darbishire, Executive Director of Access Info. *"It's unthinkable that every citizen who wants to know something about the activities of the government and public bodies, especially when it comes to important issues like fighting corruption, has to resort to taking a case to the Supreme Court."*

A summary of the arguments used in the appeal (in Spanish) can be found at:
www.access-info.org

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