

Spain's future Transparency Law begins legislative process in secret

Madrid, 16 August 2010 - Spanish Daily *El País* today announced that this Friday (20 August 2010) the Spanish Council of Ministers will consider for approval the draft "Transparency and Access of Citizens to Information Law", thereby initiating the legislative process with leaked information.

Access Info Europe condemns the leaking of the draft law to the media rather than a formal public release of the text, and has renewed its call for full debate and structured public consultation around the draft law.

"To date, the only information that we have about this law has come from leaks in the media. This is precisely the culture that must change to allow citizens to hold their governments accountable and participate in the decision-making processes which met the standards of a modern democracy," commented Helen Darbshire from Access Info Europe.

Spain is the only country in Europe with a population of more than a million which does not guarantee the right of access to information. According to the information disclosed by *El País*, even with the new law, Spain will remain behind other countries in many respects. For example, the time frame for public institutions to respond to requests will be 30 days, with the option to extend it to 60 days, while the European average is just 14.5 days.

"As Spanish citizens, residents, and taxpayers, when we receive letters from the government, we tend to have 10 days to respond. It seems reasonable to expect the same in return," added Darbshire.

After various attempts by the *Coalición Pro Acceso* to encourage the publication of the draft law or to obtain a statement from the government on this subject, the only information which civil society has about the future law is the analysis of *El País*, who have had access to the draft.

According to Access Info's analysis of the scant information published yesterday, we can conclude that the future access to information law will not meet all the basic principles of the right of access to information, which in turn will make it difficult for Spain to ratify the Council of Europe's Convention on Access to Official Documents. The Convention is the world's first treaty on access to information and marks the minimum standards that ensure that the right of access to information is respected. The ratification of this convention is one of the objectives of the Spanish government in the development of the law (see below in the press release document a table with analysis of the future law). One of the obstacles will be that the law does not cover all administrative bodies.

Access Info Europe welcomes the decision to choose the Spanish Data Protection Agency as the law's oversight body, following the model of countries such as Germany, Slovenia, Hungary and the UK, which have integrated the oversight of both rights under the same roof. The agency will now be called the Agencia Española de Protección de Datos y de Acceso a la Información (Spanish Agency of Data Protection and Access to Information).

This model, which has been effective in other countries, poses questions in Spain due to the non-fundamental nature of the right of access to information in this country and the limited scope of the future law. Access Info Europe is concerned that if the future law does not apply to all public bodies -unlike the current data protection law- it will from the outset impede the public's right of access to information.

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