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# Spain's Draft Law on Transparency and Access to Information Disappoints Civil Society NGOs

BY [LISA GOLDMAN](#) | Wednesday, August 15 2012

Spain's open government activists have been fighting since 2006 for a law that would mandate government transparency and public access to information. Until recently, the government rebuffed their requests, making Spain — as techPresident's Antonella Napolitano [points out](#) — the only large European democracy lacking such a law. But Spain's current economic crisis and the accompanying [social unrest](#), led by grassroots movements like [Indignados](#), provided an opening. With civil society accusing politicians of corruption and mismanagement, the government recognized that responding to the call for transparency would bolster their credibility. At the end of March they published the draft law and requested feedback from the public.

The Organization for Security and Cooperation in Europe (OSCE) published an [analysis](#) of the draft law which, while recognizing it as a positive step, pointed out that the draft did not "comply with principles and standards already set by the Human Rights Tribunals."

Civil society groups and legal experts submitted their comments, hoping their suggestions would be used to improve the draft law but, says [Victoria Anderica Caffarena](#) of Access Info Europe, the government ignored them — including their recommendation to recognize access to information as a fundamental right.

Perhaps unsurprisingly, the draft law that was passed last week [disappointed](#) Spain's civil society NGOs. The law does not recognize access to information as a fundamental right. It excludes the right of the public to request access to government emails, draft reports, notes and internal communications. Parliament announces the budget for various ministries, but does not explain how the money is disbursed and ignores requests for an accounting of its expenditures.

"If we cannot read a report explaining why a government body decided to do something, then we have no data to understand their decisions. This is a huge problem," says Anderica Caffarena.

Anderica Caffarena and her colleagues created a [website](#) that allowed people to register questions for government ministries. Fifty-nine percent of the questions were ignored, she said, while partial answers were given for many of the remainder. Complete responses were supplied for only 9 percent of the questions.

"In Spain," Anderica Caffarena explains, "Bureaucrats and politicians [are] used to working in secrecy. They don't really think they owe people explanation or reasons as to why they want to limit access to information. Instead, they ignore you. So when an institution does not recognize you or respond to your request, you are to understand that the answer is 'no.'"

Anderica Caffarena described the Spanish panel's Open Government Action Plan, which was presented at the [Open Government Partnership summit](#) in Brasilia this past April.

"After reading the actions plan," she said, "We realized the Spanish panel's commitments did not reflect an understanding of basic standards. Their biggest proposal was to encourage citizens to report drug trafficking via Twitter. But this has nothing to do with open government, which is about public participation in the democratic process." In response, Access Info Europe released a [detailed analysis](#) of Spain's problematic Open Government Plan, with suggestions for improvement.

Asked by techPresident whether Access Info Europe's efforts to bolster Spanish civil society had the support of leading opinion makers, Ms. Anderica said that they had received a great deal of positive media coverage and the support of academics, "which is good, because Spanish people respect academics and the government listens to them."

But Spain still has a long way to go in catching up with the democratic standards regarded as the norm in most of Western Europe.

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Spain is the only large European democracy that lacks a law mandating government transparency and the right of citizens to access information. Recently, in response to public demands and the country's deepening economic and social crisis, the government passed a Draft Law on Transparency and Access to Information. But the law does not include clauses that civil society groups regard as fundamental — such as the recognition that access to information is a citizen's fundamental right. [GO](#)



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