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Council of Europe Access Info Group (AIG)

Comments submitted by Spain on the AIG's draft Baseline Evaluation Report on the implementation of the Council of Europe Convention on Access to Official Documents (CETS No. 205) in respect of Spain

Received by the Secretariat on 23/06/2025

I. Introduction

The Convention on Access to Official Documents (CETS No. 205) was submitted by the Chair of the Council of Europe's Group on Access to Official Documents.

In the accompanying draft evaluation report, Spain has been invited to provide clarifications on certain aspects prior to its publication.

In response to this request, the following clarifications are respectfully submitted.

II. Article 1 – General Provision

The meaning of public authorities

7.The Law on Transparency applies to the general State administration, the administrations of the autonomous communities and the cities of Ceuta and Melilla, the local administration (Article 2(1)(a)) and to public law entities with their own legal personality, linked to or dependent on any of the state or local administration entities (Article 2(1)(d)). It also applies to the King's Household, the Congress of Deputies, the Senate, the Constitutional Court and the General Council of the Judiciary, the Bank of Spain, the Council of State, the Ombudsman, the Court of Auditors, the Economic and Social Council and similar autonomous institutions in relation to their activities subject to administrative law (Article 2(1)(f)). The managing bodies and common services of the Spanish Social Security (Article 2(1) (b)) and public law corporations, with regard to their activities that are subject to administrative law (Article 2(1)(e)), fall under the scope of application of the Law on Transparency. These provisions are generally in line with Article 1, paragraph 2, sub-paragraph a, i, of the Convention. One aspect which is not clear from the law and would benefit from the Party's clarification is whether judicial authorities are considered as public authorities insofar as they perform administrative functions.

In response to the clarification requested—whether judicial authorities are considered public authorities under Law 19/2013 of December 9, insofar as they perform administrative functions—the General Secretariat of the General Council of the Judiciary (CGPJ) confirms that this is indeed the case.

This interpretation applies both:

- When access to information requests are submitted by citizens under Article 21.3 of Law 19/2013. By a resolution of 23 October 2024 (BOE 28/10/2024), the CGPJ delegated the authority to process and resolve such requests to its General Secretariat, in accordance with Article 2.1(f) of the Law.
- In relation to internal governance bodies of the Judiciary—such as Governing Chambers of High Courts, Court Presidents, Chief Judges, and Judges' Boards—which exercise administrative (or "gubernative") functions. The CGPJ considers these bodies subject to Law 19/2013 when acting in this capacity.

Additionally, when the CGPJ reviews administrative decisions made by these bodies, it also applies Law 19/2013, as the CGPJ holds constitutional responsibility for the governance of the Judiciary (Article 122 of the Constitution and Article 104.2 of the Organic Law of the Judiciary).

8.The Law on Transparency lists various independent entities falling under its scope of application. These include autonomous bodies, state agencies, public enterprise entities and public law entities which are entrusted with regulatory or supervisory functions in a specific sector or activity (Article 2(1)(c)), as well as public law entities with their own legal personality, linked to or dependent on any these entities, including public universities (Article 2(d)). Commercial companies owned by and associations set up by the entities listed in Article 2 of the Law on Transparency and public sector foundations also fall under its scope of application (Article 2(1) sub-paragraphs g, h and i). These provisions are generally in line with Article 1, paragraph 2, sub-paragraph a, ii, 3 of the Convention, which is an optional provision of the Convention. Since the Convention applies to all natural or legal persons insofar as they exercise administrative authority, as stipulated in Article 1 (2), a (i) 3, the Party is invited to explain whether administrative authority may be exercised by a subject that is not included in the list set out in Article 2 (1) of the Act.

As a general rule, administrative authority cannot be exercised by any subject not included in Article 1(2), a(i) 3 of the Convention. There are some residual issues that involve the exercise of administrative authority and are not covered by the Law on Transparency, mainly sports federations and clubs when they act as collaborating agents of the Administration. These scarce exceptions are being progressively included in the scope of application of the law.

Thus, certain regional transparency laws in Spain—for example, Article 5 of the Transparency and Citizen Participation Law of the Region of Murcia—explicitly include sports federations and clubs as obliged entities when performing activities subject to administrative law.

Although the current national Transparency Law (Law 19/2013) does not explicitly mention these entities, under Article 30 of the Sports Law (Law 10/1990), they may exercise public administrative functions by delegation, such as organizing competitions, enforcing disciplinary measures, or managing subsidies.

A new national transparency law is currently being drafted to incorporate these entities explicitly within its scope (Article 2.1) when performing such delegated administrative functions.

9.Article 5 of Law 30/1992 of 26 November 1992 on the Legal System for Public Administrations and Common Administrative Procedure lists a number of cooperation bodies. These are included within the scope of Title I of the Law on Transparency (Article 2(i)). The Party is invited to clarify which bodies fall within the scope of the application of the Law on Transparency under its Article 2(i), notably by providing examples, and which bodies do not.

Article 2.1(i) of Law 19/2013 includes cooperation bodies as defined in Article 145 et seq. of Law 40/2015 on the Legal Regime of the Public Sector. These bodies must be registered in the State Registry of Cooperation Bodies and Instruments to be validly constituted. Once constituted, they fall within the scope of the Transparency Law.

Examples—provided they meet the registration requirement—include sectoral conferences, bilateral cooperation commissions, and territorial coordination commissions. Their activities, including decision-making, document generation, and public policy coordination, are subject to transparency obligations.

The meaning of official documents

10.Article 13 of the Law on Transparency defines the public information to which it is applicable as "the contents or documents, whatever their format or medium, which are held by any of the subjects included in the scope of application of [title I "Transparency of the Public Activity] of the law and which have been drawn up or acquired in the exercise of their functions". The AIG recalls that according to Article 1, paragraph 2, sub-paragraph b, of the Convention, "official documents" means all information recorded in any form, drawn-up or received and held by public authorities. This provision of the Convention does not contain a condition according to which information must relate to the exercise of their functions of the public authorities. The Party is invited to clarify the aim of the phrase "in the exercise of their functions", and what information held by public authorities is considered as not being held in the exercise of their functions.

The phrase *"in the exercise of their functions"* in Article 13 of Law 19/2013 limits the right of access to information that is directly related to the institutional functions of the obligated subject. It excludes activities carried out in a private capacity. This interpretation is supported by Resolution R/0350/2021 and Spanish Supreme Court Judgment 1030/2007, which broadly define public functions as those carried out by public entities under public law to serve the public interest.

In line with the Tromsø Convention, transparency obligations apply to documents that are registered by public authorities in the course of their official duties.

11.According to Article 18 (1) of the Law on Transparency, requests for information shall be denied if they refer: (a) to information that is being drafted or that it is for general publication; (b) to auxiliary or supporting information, such as the content of notes, drafts, opinion papers, summaries, internal communications and reports or exchanges between administrative bodies or entities; (c) or to information which would require a previous action of redrafting in order to be disclosed. The Party has noted in its report that these categories of information refer to the concept of public information in Article 1, paragraph 2, sub-paragraph b, of the Convention.[2] It is not clear whether denials of access on the basis of Article 18(1), sub-paragraphs a-c, would be justified on the ground that the information covered by them is not considered as public information under the Law on Transparency or whether they would be justified as absolute statutory exemptions to the right of access. Therefore, the AIG invites the Party to clarify whether information covered by Article 18(1), sub-paragraphs a-c, is considered as public information under the Law on Transparency. In addition, it is invited to clarify what is information which would require a previous action of redrafting in order to be disclosed, as well as information that is for general publication.

The information referred to in Article 18.1 (a), (b), and (c) of Law 19/2013 qualifies as public information under Article 13. However, Spanish law establishes procedural grounds for inadmissibility that may justify denying access without applying a harm or public interest test. These are not substantive limits but procedural filters.

According to Supreme Court Judgment of 16 October 2017 (ECLI:ES:TS:2017:3530), the inadmissibility grounds must be interpreted narrowly, avoiding unjustified or disproportionate restrictions on the right of access.

Regarding "information undergoing general publication" (Art. 18.1.a), this refers to information subject to proactive disclosure that is still being prepared for publication. As clarified in

Decision R/0324/2018, the inadmissibility applies if the information is not yet finalized or is about to be published in a reasonable timeframe.

As for “information requiring prior reformulation” (Art. 18.1.b), interpretative Criterion CI/007/2015 of the Transparency Council states that this applies when the requested information:
a) Must be expressly compiled from various sources to respond; or
b) The public body lacks the technical means to extract or process the specific information.

These conditions distinguish true reformulation from other cases that should not lead to inadmissibility.

III. Article 2 – Right of access to official documents

12.Article 12 of the Law on Transparency guarantees the right of access to public information for all persons in accordance with Article 105.b) of the Constitution as developed by this Law. According to the Party, the referenced provision of the Constitution states that the law shall regulate citizens' access to archives and administrative records, except in matters affecting the security and defence of the State, the investigation of crimes and the privacy of individuals. In light of the Party’s explanation regarding this provision of the Constitution, the AIG assumes that the right of access applies to everyone regardless of citizenship.

It is confirmed that the right of access recognized in Article 12 of Law 19/2013 is universal (in nature) and applies to all individuals, regardless of nationality, residence, or administrative status. This interpretation is consistent with the constitutional principle (set out) established in Article 105(b) of the Spanish Constitution and has been (affirmed) confirmed by administrative practice and the doctrine of the Transparency Council. (Consequently) Therefore,, the exercise of the right of access does not require Spanish citizenship.

IV. Article 3 – Possible limitations to access to official documents

14.Article 14(1) (j) provides for the limitation of the right of access to information for the purpose of protecting professional secrecy. This is not as such listed as a protected interest under Article 3, paragraph 1, of the Convention, but may be covered by one of the items listed, depending on the circumstances. The AIG invites the Party to provide further information about the meaning of professional secrecy according to the Spanish legislation and how Article 14(1) (j) of the Law on Transparency complies with the Convention.

The Spanish Constitution recognizes professional secrecy as a legitimate limitation to the fundamental right to receive or impart truthful information. Article 20.1(d) states that the law shall regulate the right to professional secrecy and the clause of conscience in the exercise of these freedoms. In line with this, Article 14.1(j) of Law 19/2013 establishes the protection of professional secrecy as a limit to the right of access to public information. It refers to the legal obligation of confidentiality imposed on certain professionals by virtue of their roles, in order to preserve trust and autonomy in their functions. For instance, Royal Decree 1012/2022 (Art. 42.m) imposes strict confidentiality duties on State Attorneys regarding any matters they handle.

While professional secrecy is not explicitly mentioned in Article 3.1 of the Tromsø Convention, it is considered to fall under exceptions listed in points (b), (f), or (g), depending on the context, as explained in §37 of the Explanatory Report. Its application is subject to the harm and public interest test in Article 3.2, unless national legislation establishes absolute confidentiality following a prior harm assessment.

In this context, it is also relevant to highlight the **Statistical Secrecy Law**, established by **Law 12/1989, of May 9, on the Public Statistical Function**, which guarantees the confidentiality of personal data collected for statistical purposes. This law prohibits the disclosure or use of such data for any non-statistical aim, thereby constituting another legitimate limitation on the right of access under Spanish law.

15.The AIG notes that according to Article 18 (1) of the Law on Transparency, requests for information shall be denied if they refer to: information that is being drafted or that is for general publication; auxiliary or supporting information, such as the content of notes, drafts, opinion papers, summaries, internal communications and reports or exchanges between administrative bodies or entities; or information which would require a previous action of redrafting in order to be disclosed. The AIG invites the Party to clarify to what extent these grounds for denial of requests are different from that provided in Article 14(1) (k) of the Law on Transparency, according to which the right of access may be limited when access to the requested information may compromise the safeguarding of confidentiality or secrecy required in decision-making processes.

Article 18.1 of Law 19/2013 sets out formal grounds for inadmissibility, which may prevent the processing of an access request at a specific time due to operational or functional reasons. These grounds are procedural in nature and do not require a harm or public interest test. In contrast, **Article 14.1(k)** establishes a substantive limitation, applicable when access to information could compromise the confidentiality needed for public decision-making. This limitation requires a balancing test of potential harm and overriding public interest, in line with **Article 3.2 of the Tromsø Convention**. Therefore, both provisions serve distinct legal purposes and do not overlap.

16.All limitations provided for by Article 14 are subject to a harm test laid down in its second paragraph. Their "application shall be justified by and proportional to the level of protection required and shall take into account the circumstances of each specific case, especially the confluence of a higher public or private interest justifying access" (Article 14(2)). Thus, an overriding public interest test is carried out on a case-by-case basis. These provisions are in line with article 3, paragraph 2, of the Convention. However, the Act does not provide for a similar harm and balancing test in respect of inadmissibility under Article 18, paragraph 1, sub-paragraphs a-c, of the Act.

As mentioned above, **Article 18.1 of Law 19/2013** sets out formal grounds for inadmissibility based on functional or operational reasons at a given time (e.g. information in the process of being prepared, auxiliary documents, or requests requiring complex reformulation). These are not considered substantive limits to the right of access and therefore do not require the application of a harm or public interest test.

21.The AIG considers that the limitations of access provided for by Article 15(1) are concerned with sensitive personal information identified in a precise and clear manner. Therefore, they

can be accepted as being kept to a minimum in the sense of the Convention's Explanatory Report.

Spain welcomes AIG's positive assessment of the limitations under Article 15.1 of Law 19/2013. These limitations apply exclusively to special categories of personal data—such as health, religion, or political beliefs—as defined in Article 9 of the General Data Protection Regulation (GDPR). We confirm that these absolute legal exceptions have been reduced to the minimum necessary to ensure effective protection of fundamental rights, in line with the principles of necessity and proportionality established under the Tromsø Convention.

22.Both sub-paragraphs (2) and (3) of Article 15 incorporate a presumption in favour of disclosure of the requested information and a balancing of interests between the right of the data subject and the public interest in accessing the requested information. These provisions are in line with Article 3, paragraph 2, of the Convention.

Spain appreciates the positive assessment of the legal framework set out in Articles 15.2 and 15.3 of Law 19/2013 in relation to the principles of Article 3.2 of the Tromsø Convention. Spanish legislation establishes a presumption in favor of access and provides balancing mechanisms between the public interest and the rights of affected individuals, ensuring a fair and proportionate equilibrium between transparency and privacy, fully aligned with Council of Europe standards and the General Data Protection Regulation.

24.Spain has made the following reservation contained in a Note Verbale from the Permanent Representation of Spain, dated 10 November 2021, deposited at the time of signature of the instrument on 23 November 2021 and confirmed in the instrument of ratification deposited on 27 September 2023:

> *"Pursuant to Article 3.1 of the Convention, the Kingdom of Spain reserves the right to limit access to public documents, with the aim of protecting statistical confidentiality under the terms set forth in national and European Union legislations on statistical matters.*
>
> *Pursuant to Article 3.1 of the Convention, for the purpose of protecting, in particular, those interests mentioned under c), e), and f), we specify that public documents containing sensitive information of a tax nature, obtained by the Spanish tax authorities in the exercise of their duties, are confidential and shall not be ceded to third parties, except in the circumstances specified in law, in accordance with the provisions of Articles 34.1.i) and 95 of the Spanish Law 58/2003 of 17 December 2003 (general tax law)."*

25.The AIG notes that the Tromsø Convention does not contain a provision on reservations. In accordance with the general principles of international law codified in Article 19 of the Vienna Convention on the Law of Treaties (1969), a reservation to the Tromsø Convention is permissible when it does not infringe its object and purpose.

26.As regards the reservation on statistical confidentiality, the AIG invites the Party to explain the reasons for this reservation. The Party is also invited to provide further information about its regulation under Spanish legislation, notably what information is subjected to limitations of access, which of the legitimate interests listed in Article 3, paragraph 1, of the Convention do such limitations pursue, and whether a harm test and an overriding public interest test are carried out pursuant to Article 3, paragraph 2, of the Convention.

27.As regards the reservation concerning public documents containing sensitive information of a tax nature, the AIG invites the Party to explain the reasons for this reservation. The Party is also invited to provide further information about the regulation of limitations of access to them, notably what documents are considered as public documents containing sensitive information of a tax nature, when is access to them limited and, in that case, whether a harm test and an overriding public interest test are carried out pursuant to Article 3, paragraph 2, of the Convention.

Referring to the comments 24, 25, 26, 27 and 29, we would like to clarify that Spain introduced a reservation upon ratifying the Tromsø Convention to safeguard statistical secrecy, as permitted under Article 3.1. This reservation is based on national and EU legislation, including Law 12/1989 on the Public Statistical Function and Regulation (EC) No. 223/2009. Additional protection stems from Article 25 of the Organic Law 3/2018 on Personal Data Protection and Article 13 et seq. of Law 12/1989, which ensure the confidentiality of statistical data and limit access accordingly.

A second reservation was introduced regarding access to tax-related statistical information, based on Article 95 of Spain's General Tax Law (Law 58/2003), which guarantees the confidentiality of taxpayer data and restricts disclosure to protect personal and economic interests. This reservation aligns with the Convention, particularly Article 3.1 (points c, e, f, g, and h) and the Explanatory Report (§27, §29), which explicitly recognize tax inspections and fiscal data as legitimate grounds for access restrictions.

The purpose of this reservation is to balance transparency with the legitimate need to protect privacy, ensure taxpayer cooperation, and uphold the integrity of fiscal policy. It does not constitute a blanket refusal of access to tax information but applies only to personally identifiable data. Anonymized or aggregated data remain accessible, subject to the harm test under Article 3.2 of the Convention.

V. Article 4 - Requests for access to official documents

28.A request for access to information must be sent to the head of the public authority which possesses the information or, in the case of physical or legal persons providing public services or exercising administrative authority, to the administration/body/entity to which they report (Article 17(1)). Central state administration authorities must, under Article 21(2) of the Law on Transparency, put in place special units which are responsible for, inter alia, receiving and processing requests for access to information. Other entities included within the scope of application of the Law on Transparency shall clearly identify the competent body responsible for addressing requests for access (Article 21(3)). The Party is invited to clarify whether in practice requests for access to information can be sent by applicants directly to the special units or the competent bodies instead of to the head of the public authority.

In practice, access to public information requests within Spain's General State Administration (AGE) are not addressed to the head of the authority. Instead, they are submitted through a centralized entry point on the Transparency Portal and processed by the designated Transparency and Information Units (UITs) within each ministry, as well as in the Royal Household, the Spanish Data Protection Agency, and the Social Security system. This centralized mechanism avoids the need for applicants to identify the specific authority holding the information, simplifying access across the complex administrative structure.

According to Article 21.3 of Law 19/2013, other public entities (outside the AGE) must clearly indicate the competent body for handling access requests on their respective portals. Since Law 19/2013 has basic legal status, it has been developed by Autonomous Communities to reflect their institutional specificities. These administrations, along with other non-AGE entities, regulate their own procedures for access to information. For example, the Spanish Parliament allows requests regarding administrative activities through its own platform (link), while the Autonomous Community of Madrid provides a centralized access point on its transparency portal

https://www.comunidad.madrid/transparencia/derecho-acceso-informacion-publica

30.According to Article 4, paragraph 1, of the Convention, an applicant for an official document shall not be obliged to give reasons for having access to the official document. According to Article 17(3) of the Law on Transparency, "applicants are not required to provide grounds for the request to access information. Nevertheless, they may explain their motives for requesting the information, which may be taken into account when the decision is made. However, the absence of grounds may not be the sole reason for rejecting a request." The AIG notes that it appears that a request for information may be rejected on a combination of grounds, including the reasons for requesting information. The Party is invited to provide further information, preferably examples, of when this is the case, and to explain how such grounds may be considered relevant when determining whether an exemption from disclosure applies.

Spain confirms that, in accordance with Article 17.3 of Law 19/2013 and Article 4.1 of the Tromsø Convention, applicants are not required to justify or state reasons for their requests for access to public information. Lack of motivation cannot, by itself, be grounds for denial.

However, while motivation is optional and never mandatory, it may be taken into account when applying the balancing tests established in Articles 14.2 and 15.3 of Law 19/2013 and Article 3.2 of the Convention. For instance, requests submitted by journalists, researchers, or civil society organizations may demonstrate a higher public interest in transparency. This approach has been confirmed in various decisions by the Spanish Council for Transparency and Good Governance (e.g., 350/2021, 403/2022), ensuring that access limitations are applied fairly and proportionally.

https://www.consejodetransparencia.es/ct_Home/Actividad/Resoluciones/resoluciones-AGE.html

VI. Article 5 – Processing of requests for access to official documents

31.The Law on Transparency does not require the public authority receiving an access request to help the applicant, to identify the requested official documents. According to Article 19(1), when the request does not sufficiently identify the information sought, the applicant shall be asked to specify this within ten days, stating that, if this is not done, the request shall be considered withdrawn, and the period for providing a decision shall be suspended. The Party is invited to clarify whether the legal duty to help the applicant is provided in other legislation applicable to requests for information in Spain.

Although Law 19/2013 does not explicitly establish a general duty to assist applicants, this principle is recognized in Spanish law under Law 39/2015 on Common Administrative Procedure. Articles 12, 13, and 53 of this law enshrine the right of individuals to receive guidance

and support in their interactions with public administrations, including assistance with electronic means and legal or technical requirements.

In practice, the Information and Transparency Units (UITs), as established by Law 19/2013, provide active support to applicants. Article 19.1 of the law requires UITs to request clarification when applications are imprecise, rather than rejecting them outright. Furthermore, the Transparency Portal offers user-friendly tools to guide applicants through the request process.

32.It is not clear from the provisions of the Law on Transparency how a public authority receiving a request for access to an official document deals with the request when it does not hold the requested document. According to Article 18(1), sub-paragraph d, such requests shall be denied, based on a substantiated decision, if they were sent to a body which does not possess the information, when the competent body is not known. The denial decision should indicate the authority which, in the opinion of the public authority denying the request, has the authority to process the request (Article 18(2)). However, according to Article 19(1) of the Law on Transparency, if a request refers to information not in the possession of the body to which it is addressed, the said body shall send it on to the competent body, if known, and inform the applicant of this situation. The Party is invited to clarify how Article 18(2) and Article 19(1) of the law are interpreted and how they interrelate. In particular, it should be clarified when a rejection decision is issued and when an access request is transferred from the receiving authority to the authority that is considered as competent for processing the request.

Articles 18.1(d), 18.2, and 19.1 of Law 19/2013 must be read together to ensure that applicants are not burdened with identifying the competent authority. If a request is submitted to an authority that does not hold the requested information:

- The authority must forward the request to the competent body, if known, and inform the applicant (Art. 19.1).
- If the competent body is unknown, the request may be formally rejected (Art. 18.1(d)), but the authority must suggest where the request could be redirected (Art. 18.2).

This interpretation aligns with Article 5 of the Tromsø Convention, which requires public authorities to assist applicants in identifying the correct authority or document.

The Spanish Supreme Court (Judgment 810/2020) has confirmed that these provisions are designed to prevent the applicant from having to search for the competent body, placing the duty of guidance or redirection on the receiving authority.

33.According to Article 19(4) of the Law on Transparency, when the requested information is in the possession of the body receiving the request and has been drafted or generated mainly or in its entirety by a third party, the request shall be sent to said third party for a decision on access. The Party is invited to clarify who is considered as a third party under this provision, what the rationale is for this provision and whether and how the third party makes a decision in accordance with the Law on Transparency.

Under Article 19.4 of Law 19/2013, a “third party” is understood to be any entity that has not created or substantially contributed to the requested information. This provision aims to protect third-party legitimate interests, particularly where the limits set out in Articles 14 and 15 may apply.

If the requested authority does not hold or has not produced the information, the request must be redirected to the body that does. This ensures the response comes from the appropriate source, improving efficiency and safeguarding the rights of involved parties.

34.The Party is invited to provide information about how the principle of Article 5, paragraph 3, of the Convention according to which requests for access to official documents shall be dealt with on an equal basis is implemented. Notably, it should be clarified whether, in the processing of requests, distinctions are made on the basis of the nature of the request or the status of the applicant.

Spain confirms that the system for access to public information under Law 19/2013 applies equally to all individuals, regardless of identity, nationality, profession, or motivation. Article 12 grants this right universally, without requiring the requester to justify a legitimate interest. The procedure is uniform for all applicants.

This principle aligns with Articles 13, 14, and 53 of Law 39/2015, which reinforce equality and non-discrimination in interactions with public administrations.

35.A decision to either grant or deny access to the requested document must be sent to the applicant and to the affected third parties that have so requested within a maximum of one month after the receipt of the request by the body responsible for taking a decision. This period may be extended by another month if the volume or complexity of the information requested so necessitates, and after notifying the applicant (Article 20(1)). This period can be suspended for up to 15 days if the requested information could affect the rights or interests of duly identified third parties, during which time they can present their arguments; the applicant is informed of this suspension (Article 19(3)). According to Article 22(1), when access cannot be given at the time of notification of the decision granting access, it should be provided, in all cases, within a maximum of ten days. It is not clear what this provision is concerned with, notably under which circumstances access cannot be given. This point would benefit from clarification from the Party. If no decision is made within the deadlines, a request shall be considered as denied (Article 20(4)).

According to Article 22.1 of Law 19/2013, when immediate access to the information is not feasible at the time of the granting decision, the authority has up to 10 additional days to provide effective access.

This applies in cases requiring technical preparations such as redacting confidential data, producing physical copies, or coordinating with external archives. This provision ensures feasible and timely access while maintaining procedural transparency.

36.The AIG recalls that based on Article 5, paragraph 4, of the Convention, "[a] request for access to an official document shall be dealt with promptly. The decision shall be reached, communicated and executed as soon as possible or within a reasonable time limit which has been specified beforehand." The AIG is not convinced that the period of one month meets the standard of promptness of the Convention or that it can be considered as a reasonable time for purposes of deciding on whether access to official documents should be granted, especially when no limitations of access apply. It also does not seem justifiable to extend the time limit by 15 days when third parties are involved, by 10 days when access cannot be given at the time of the notification of decision, and by another month when the request concerns voluminous or complex information, except in extreme cases.

Spain upholds the principle set out in Article 5.4 of the Tromsø Convention, which requires that access requests be handled promptly and within a reasonable time. The one-month response period in Article 20.1 of Law 19/2013 is a maximum, not a standard. In practice, many requests are resolved more quickly, especially when no balancing of interests is needed.

Extensions (up to one additional month) are allowed only in complex or high-volume cases and must be notified to the applicant. Similarly, the 15-day suspension for third-party consultation and the 10-day period to provide access after a positive decision are designed to protect fundamental rights without undermining efficiency.

Overall, the Spanish system ensures timely handling of requests, in line with Article 5.4 and the Convention's Explanatory Report, which calls for proportional and rights-based interpretation of exceptions.

37.A request may be refused if it is manifestly "reiterated" or has an abusive nature which is not justified for purposes of transparency under the law (Article 18(1), sub-paragraph e). The Party is invited to clarify which conditions a request should meet in order to be considered as repetitive under this provision.

Article 18.1(e) of Spain's Law 19/2013 allows for the inadmissibility of access requests that are manifestly repetitive or abusive, provided they are not justified by a legitimate transparency interest. This provision is applied restrictively and must be duly reasoned.

According to interpretative guideline CI/003/2016 issued by the Council for Transparency and Good Governance, repetition is only admissible as a ground for refusal when:

- The request is identical to a previous one already rejected or fulfilled, and no new factual or legal circumstances exist;
- The applicant was already informed of the outcome in a prior procedure;
- The request is submitted before the legal response time of a prior request has elapsed;
- It would be objectively impossible to answer, or would paralyze the proper functioning of the public body.

Abusive requests are defined in line with Article 7.2 of the Spanish Civil Code and relevant case law, and include those that:

- Clearly exceed the normal exercise of a right;
- Would severely disrupt public service delivery;
- Would harm third-party rights;
- Are contrary to law, custom, or good faith.

38.Decisions on denials of access, partial access or access in a form different than that requested, as well as a decision granting access to information which has been opposed by a third party must provide justification of motives (Article 20(2)). The Party is invited to clarify in which form decisions are provided, notably whether they are given in writing.

Spanish law requires that all decisions on requests for access to public information, whether granted or denied, must be issued in writing, in accordance with Law 19/2013 and the Common Administrative Procedure Law 39/2015. Resolutions must be notified to the applicant

electronically or in person, depending on the submission channel, and include mandatory elements such as: identification of the issuing authority, legal grounds, form of access, and information on available appeals.

In case of full or partial denial, Article 20.2 of Law 19/2013 requires a reasoned decision. This includes identifying the applicable legal limitation, assessing the balance of interests, and explaining the rationale. This aligns with the general principle of justification in administrative law and reinforces the protection of the right of access to information.

VII. Article 6 – Forms of access to official documents

39.The Law on Transparency expresses a preference for providing access to the requested official document by electronic means, unless this is not possible, or the applicant has expressly indicated other means (Article 22(1)). This suggests that in line with Article 6, paragraph 1, of the Convention, the applicant has the right to choose whether to inspect the original or a copy, or to receive a copy of it in any available form or format of his or her choice unless the preference is unreasonable.

Pursuant to Article 22.1 of Law 19/2013, access to public information is preferably provided by electronic means, unless the applicant expressly requests another format or technical limitations prevent it. Applicants may request to consult the original document, obtain a physical or digital copy, or choose the most appropriate format, provided it is technically feasible.

VIII. Article 7 – Charges for access to official documents

42.The principle that access to official documents shall be free of charge is established in Article 22(4) of the Law on Transparency. Fees may be charged for providing copies or transferring data in a format different from the original official document. Fees are charged according to the Act 8/1989, of 13 April, on Public Fees and Prices, or, when applicable, the regulations of the Autonomous Community or Local Entity. The rules for calculating fees are published online. The Party has informed the AIG that in practice no fees are charged for access to official documents.

43.Also, as regards access to official documents held in central, intermediate and historical archives, fees are charged in accordance with the provisions of their specific regulations.

44.The AIG considers that these principles of the Law on Transparency comply with the requirements of Article 7 of the Convention. However, it requests that the Party provide more concrete information (in either English or French language) about the fees as charged in practice.

In practice, access to official documents under the right to public information is free of charge in almost all cases. Fees may only apply for material reproduction services (e.g., paper copies, certified documents, or digital formats requiring technical processing). These charges are minimal, non-discriminatory, and clearly published online.
They are governed by specific regulations applicable to historical archives under the General State Administration, such as those of the Ministries of Culture, Justice, and Defence.

IX. Article 8 – Review Procedure

47.The appeal to the Council may be lodged within one month from the date of notification of the decision on the access request and a decision must be delivered and notified to the applicant within three months from the appeal being lodged. The procedure before the Council follows the provisions of the Act on the Legal System of the Public Administrations and Common Administrative Procedure (Article 24). It is not clear what the legal effects of decisions of the Council are, and whether the Council can order the public authority which has denied access to the requested official document to disclose it to the applicant and, if so, whether the public authority can take the matter to an Administrative Court. The Party is invited to provide further information on these issues.

Article 24 of Law 19/2013 allows individuals to file a complaint with the Council for Transparency and Good Governance against any express or implied decision regarding access to public information, within one month of notification.

Once the Council issues a resolution, the administration is legally required to comply, unless it challenges the decision before the administrative courts. While the Council does not have coercive enforcement powers, its decisions are binding and judicial review ensures compliance with the law. This framework ensures the availability of effective remedies, both administratively and judicially, in line with the Tromsø Convention.

48.The Party is invited to provide information on the appeals system before administrative courts, notably the time limits and possible fees charged to the applicant.

In Spain, judicial appeals against decisions related to access to public information are handled through the administrative courts (jurisdicción contencioso-administrativa), as established by Law 29/1998. Appeals may be filed against:

- Express denials of access,
- Administrative silence (no response within the legal timeframe), and
- Decisions issued by the Transparency Council following an optional complaint.

Deadlines are two months from the relevant resolution or silence, depending on whether the complaint was previously filed.

Judicial fees are generally waived for individuals, following **Royal Decree-Law 1/2015** and the **Constitutional Court Ruling 140/2016**, which declared key judicial fees unconstitutional. Legal costs (lawyer and legal representative) may still apply depending on the complexity and type of court.

This framework ensures access to effective judicial remedies, in line with the Tromsø Convention.