



## **Law 11/2007, of 22 June, on Citizens' Electronic Access to Public Services**

Colección: Administración electrónica

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**LAW 11/2007, of 22 June, on Citizen's Electronic Access to Public Services**

JUAN CARLOS I

KING OF SPAIN

Let it be known and understood by all

THAT: The Parliament has approved and I have given Royal Assent to the following Law.

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## BACKGROUND

Certain periods in the history of mankind have been named after techniques or technologies which set them apart; today we can see that information and communication technologies are having a profound effect on the form and content of relationships between human beings and with the society of which they are a part. Today – in particular, from the final years of the 20th Century and at the beginning of the 21st Century - the revolution in electronic communications is a defining feature of the age. From this perspective, a Public Administration which is relevant to the times in which it is operating has to act and to promote the benefits of the use of electronic communications for the public. The public must be the first and main beneficiaries of this leap forward, which could not have been imagined ever a few decades ago, in the fields of information technology and electronic communications. As a result, and at the service of the public, the Public Administration is obliged to transform itself into an electronic administration governed by the principle of efficiency as proclaimed in article 103 of our Constitution.

It is within this context that the Public Administration must commit itself to the times in which it operates and provide the public with the advantages and possibilities which the information society has to offer; and further it must take responsibility for contributing to ensuring that the information society becomes a reality. Scientists and technicians have made available the instruments for this society, but to a large extent its success depends on the support, which it receives from the Public Administration: this depends on the confidence and security which it offers to the public, and also on the services which it offers.

Providing the best possible service to the public constitutes the reason for the reforms which have been taking place in Spain since our Constitution was approved to create a modern Public Administration based on the principles of effectiveness and efficiency and focussed on the needs of the public. This service also constitutes the main reason for the Law on electronic access to public services for members of the public, which also aims to bring the Public Administration into the current era.

The political decentralisation of the State was not completed with the first and most immediate aim of organising Spain politically in a way which was very different from a unitary state; rather it has been an occasion for greater closeness of the new powers of the Autonomous Regions to be reflected in greater closeness of regional Public Administration bodies to the public.

The constitutional recognition of local autonomy was also aimed at achieving this end. Nevertheless, this greater closeness of the Public Administration to the public deriving from devolution of powers to the Autonomous Regions and local authorities has not been sufficient to overcome the obstacles which continue to distance the public from all Public Administration bodies, including those at national level. These obstacles are often those of time and location: the time that needs to be dedicated to the relationship plus that required for carrying out many everyday bureaucratic processes, which often begin with the need for initial information, requiring a personal visit, followed by subsequent visits and the time that has to be devoted to further bureaucratic processes with the Public Administration for even the simplest activities. These initial barriers often result in others which affect the ability of the Public Administration to provide its services. The Public Administration cannot always fulfil its mission of attending to every request made by a member of the public individually, as this could contradict the interests of the majority of members of the public and the general interest represented by laws. In these cases – in which the general interest does not coincide with individual interests – the relationship with the member of the public must still be as clear and rapid as possible, with no time being wasted.

However, these initial barriers in relation to the Public Administration – the distance of travelling to offices and the time required – no longer have any reason to exist. Information and communication technologies make it possible to bring the Public Administration into the public's living room and the offices of companies and self-employed people. They enable relationships without queues and without waiting. And they even make it possible to receive services and information on subjects other than the bureaucratic process at hand, by providing information and services with no limits, but which, on the contrary, expand the possibilities. These conditions also enable the public to see the Public Administration as a body which is at their service, and not as a rigid bureaucracy which begins by demanding something, beginning with a sacrifice of time and travel from the person's home to the relevant office. And, in addition to this, these new information technologies facilitate access to public services for people who have difficulties in going to the relevant offices, whether because of their geographic location, a mobility handicap or some other reason; these obstacles can now be overcome through the use of new technology. As a result, a transcendent change is being made to provide full and equal access for all to public, social, work and cultural life.

Law 30/1992 of the 26<sup>th</sup>, on the Legal Regime for the Public Administration and Standardised Administrative Procedures (LRJAP-PAC), article 45 of the first version of which encouraged the use and application of electronic media by the Public Administration for the purposes of carrying out its activities and exercising its competences, and to enable the public to relate to the Public Administration whenever possible by using the "technological resources available to them".

This provision, together with that on the electronic storage of records contained in of the original version of said law and, particularly, in relation to the provisions of Law 24/2001 of 27 December, permitted the establishment of electronic registers for receiving and sending requests, certificates and communications by electronic media, and opened the way for the use of such media for purposes of communicating with the Public Administration.

At the same time, the same Law 24/2001 modified article 59, enabling notification by electronic media if the party involved had stated a preference for this means of communication or had given express consent.

In the same sense, the modifications made to the General Tax Law to also permit electronic notifications, and article 96 of the 2003 General Tax Law which expressly enabled automatic administrative actions and the use of electronic images of documents are also relevant.

Nevertheless, electronic administration has not developed sufficiently as of yet. This is due in large part to the provisions of articles 38, 45 and 59 of the Law on the Legal Regime of the Public Administration bodies and Common Administrative Procedures being voluntary. In other words, it is left to Public Administration bodies to determine whether the public will be allowed to communicate with them effectively using electronic media or not, depending on whether each body wishes to implement the necessary resources.

As a result, the new Law aims to take a step forward from "they shall be able to" to "they shall".

The advanced for the time, but nevertheless prudent, legal provisions of 1992 and 2001 are now out of step with a reality in which the penetration of computers and the number of people with broadband internet access have increased enormously, and where the possibilities from new technologies and platforms do not correspond to the merely optional services which the aforementioned laws permitted and encouraged the Public Administration to adopt.

Providing a service to the public demands that people have a right to communicate with the Public Administration by electronic means. The counterpart of this right is the obligation of

the public to provide themselves with the electronic media for this right to be exercised. This is one of the major new points of the Law: the change from a declaration of encouragement to adopt electronic media - which in practice means the simple possibility that some Public Administration bodies will permit communications by electronic media – to these bodies being obliged by Law to do so, recognises the rights of the public to establish electronic communications.

The Law establishes communications with the Public Administration by electronic media as a right for the public, and as a corresponding obligation for Public Administration bodies. The recognition of this right and the corresponding obligation is therefore the central point of this Law.

However, around this central point, there are many others which help to define the scope of this right and to make it more specific. So, for example, this right will be made effective through the imposition, in the scope of the State Public Administration at least and within the terms of the law, of an obligation to make available to the public and companies at least one general access point through which users can easily access information and services; present applications and appeals; to attend when necessary; to make payment; and to access notifications and communications sent by the Public Administration. In addition, this access point should also provide information on multi-channel services or those which are provided by more than one channel, technology or platform.

## II

The Law is built upon the competences of the State, as recognised in article 149.1.18 of the Constitution: "The basis for the legal regime of the Public Administration" on the one hand and "common administrative procedures" on the other.

Basic State regulations allow leeway for local development; however, this notwithstanding, the basic objective is to enable "in all cases", in accordance with point 18 herein, "common treatment" before the law.

From this perspective, the State regulation must cover those aspects for which it is obligatory for the statutory provisions to be common, as in the cases of interoperability, guarantees about electronic communications, the services which citizens have a right to, the storage of electronic communications and other issues covered by Law to ensure that the exercise of the right to deal with all Public Administration bodies electronically forms part of the common treatment received.

Law 30/1992 was limited to opening the possibility of electronic communication with the Public Administration, as stated above. However, we are now faced with a situation which demands other regulations which guarantee, effectively this time, common treatment for all members of the public with all Public Administration bodies: which guarantees, as a starting point and above all, the right to establish electronic relations with all parts of the Public Administration. The new reality, demands and experiences which have arisen as a result of the development of the information society, the importance of clear, precise and common regulation of the rights of the public and the change of technological and social circumstances require the content of previous Laws, such as the 1992 Law, and basic regulations to be brought into step with these new technological demands. This common regulation, today, for example, recognises the right – not just the possibility - of the public to communicate with the Public Administration by electronic media.

### III

This general recognition of the right to communicate electronically with the Public Administration has many other consequences which require their own solutions, some of which are, in summary, included herein.

In the first instance, the progressive use of electronic media raises the question of privacy of data which is provided with regard to any particular process, but which, stored electronically as a result of the way in which it was transmitted, leads to the problem of its use not just in the file for which it was sent, but also potentially for use with other Public Administration bodies and services or with regard to another case. The regulations of Organic Law 15/1999, of 13 December, on Personal Data Protection, should be sufficient, and this is not attempt to introduce any innovation in this regard, however, it does establish provisions which ensure the use of the data obtained from electronic communications for the purposes for which they were sent to the Public Administration.

In addition, the parties involved in a procedure have a right to access the procedure and view the documentation. The same should occur, as a minimum, in a case which is initiated or processed electronically. This case should enable the on-line access of interested parties to check on the status of the case, without affecting in any way the guarantees of privacy.

The progressively increasing use of electronic communications, deriving from the recognition of the right to communicate electronically with the Public Administration, raises questions not just of the adaptation of human and material resources to a new way of dealing with the public, but also of how to adapt the way cases are processed and in general how to adapt procedures to the new situation arising from the use of new technology.

The fact of recognising the right of the public to communicate electronically with the Public Administration results, in the first instance, in the need to define clearly the "electronic office" for administrative purposes with which the relationship is being established, promoting a regime of identification, authentication, minimum content, legal protection, accessibility, availability and responsibility. It also requires careful definition for the purposes of the Law of a series of terms and concepts which are habitually used in the context of electronic communications. This occurs for example with electronic case and electronic document; electronic registries and electronic notifications and the scope and time stamping systems.

The establishment of this right for the public to communicate electronically with the Public Administration also raises the question of how to use and store such communications. And this is relevant both for what could be considered the formation of the file or case in the office – the link to the processing of the cases – and with regard to storing of cases already processed.

With regard to the internal operations of the Public Administration, new technology provides opportunities for improvements (efficiency and cost reductions) which make it impossible to avoid considering the forms of electronic administration, both for the electronic processing of cases and for any other internal Public Administration action, and these will be expanded gradually with an objective of 2009.

It is true that the use of electronic media can not result in any way in the undermining of any of the rights of an interested party in the case to access it in the traditional way, and neither can it result in a brake or a delay internally for the Public Administration to adopt the most suitable mechanisms, in this case electronic media, to enable it to improve processes and reduce costs to the public purse. It is possible to meet both requirements due to the policy of promoting the development of the Information Society which has been



implemented in recent years. To this end, the Public Administration should incorporate new technology into its internal functions and, at the same time, should also guarantee that those members of the public who for whatever reason (lack of availability of access to new technology or lack of training) can not access the Public Administration electronically, have the appropriate resources to continue to communicate with the Public Administration with the same rights and guarantees. The solution to this double objective lies in the training of Public Administration service personnel who deal directly with the public so that electronic communication with the administration is possible for these people, and that there are public electronic access points in Public Administration buildings. Furthermore, of course, they should establish the general provisions required to guarantee the rights of the members of the public and equal treatment by the Public Administration in all such cases.

In the second place, it is necessary to regulate the validity of the documents, and copies thereof, and the way in which electronic documents function with full validity in conventional mode and, as appropriate, the way in which conventional documents are transformed into electronic documents.

A further question which is dealt with is the platforms that members of the public and the Public Administration itself can use to establish electronic communications. Computers and the internet may be one way, but they are not, of course, the only way; SMS communications, for example might be another form of communication, and some Public Administration bodies are already using this. Digital Terrestrial Television, for example, also opens up possibilities which should be taken into account. The Law can not limit itself to regulating the use of electronic channels which are currently available, as the rapid pace of development in information technologies means that it is possible for new electronic devices to appear which could be applied to electronic administration in a very short space of time, and the regulations must therefore be generalised to cover such potential channels.

The starting point for the Law must be the principle of the freedom of the public to decide on the way or channel which they wish to use to communicate with the Public Administration, although each technology might be appropriate for a particular function based on its characteristics and the reliability and security of its communications.

IV

It should also be remembered that the momentum behind electronic administration is also a response to community commitments, and the European initiatives launched since the European Council in Lisbon and Santa Maria da Feira, as continued by successive actions until the current Commission communication "i2010: A European information society for growth and employment".

The Community momentum behind the eEurope initiative gives the greatest importance to the development of electronic administration, aiming to take advantage of all the possibilities of new technology as a determining factor for the future of the European economy.

Whilst the eEurope initiative has been in force, the scope of application of electronic administration has grown considerably in successive reviews, until November 2005 when, following the publication of a communication relating to i2010, a ministerial resolution was approved at the Manchester Summit, with specific objectives for the development of electronic administration in the European Union. Following the agreement of this resolution, the i2010 Action Plan for electronic administration was agreed, which signalled that the successes of electronic administration are already clearly visible in several EU countries, with estimated annual savings of 50,000 million euros forecast to result from the generalised implementation of the system.

On 12 December 2006, and with the objective of facilitating the objectives set by the European Council in Lisbon, Directive 2006/123/EC on services on the internal market was approved.

This Directive establishes, among other obligations for the Member States, an obligation to provide electronic means of access to administrative processes related to service activities and information of interest, both for the providers and the recipients of services.

For this, and given the similarity of this objective to the objective of this Law, an express reference was made to the information and administrative processes related to the service activities, so that articles 6, 7 and 8 of the Directive can be considered to be replaced by this Law.

In addition, in the international context, other bodies are also interested in electronic administration as a way of improving the economy and governance of countries; for example, the OECD published a study in 2004 with a self-descriptive title: "The E-Government. Imperative" which highlights the savings which electronic administration could generate by enabling increases in efficiency.

The Council of Europe is also analysing electronic administration as a motor for growth from a social perspective. In December 2004 the Committee of Ministers adopted a recommendation which signalled that electronic administration is not just a technical issue, but rather one related to democratic governance.

**V**

In this context, a Law enabling electronic access to the Public Administration for the public is justified by the creation of a legal framework which facilitates the extension and utilisation of these technologies. The main challenge posed by the implementation of Information and communication technologies (ICT) in society in general and in the Public Administration in particular is the generation of sufficient confidence to eliminate or minimise the risks associated with its use. The distrust arises from the perception, which is often unfounded, of greater fragility of information in electronic format, possible risks of loss of privacy and the lack of transparency of these technologies.

On the other hand, the legislation should proclaim and be founded on a basis principle which is the conservation of constitutional and legal guarantees of the rights of the public and in general of people in relation to the Public Administration, the requirement for which arises from article 18.4 EC, by charging the Law to limit the use of information technology in order to preserve the exercise of constitutional rights. This conservation requires affirmation of the continued validity of the fundamental rights not only as a limit, but also as a vector which guides this legislative reform in accordance with the promotional purpose established in article 9.2 of our fundamental text, and to bring together the particular issues required for the secure application of these technologies. These rights should be complemented by others which are demanded by the new electronic format of relations, among which should be the right to the effective use of these media for the development of relationships between the public and the Public Administration. The aforementioned considerations are brought together in a Statute for the public related to electronic administration which includes an unlimited range of positions for the public in their relationships with the Public Administration, together with specific guarantees of effectiveness.

To this end, the Law creates the position of the User Ombudsman, who will consider complaints and make relevant suggestions and proposals for improving the relationship of the public and their treatment by the Public Administration when using electronic means.

In addition, the leading role of our companies in the development of a real information society and, as a result, of an electronically accessible Public Administration, should also



be highlighted. The integration of Information and communication technologies (ICTs) into the everyday operations of the company, which is necessary given the demands of the open and highly competitive environment in which they operate, continues to be a lever for the development and increasing incorporation of these technologies into administrative processes. At the same time, this also represents an essential aid for encouraging the expansion of the "electronic culture" between workers and the public.

Companies may, in this sense, play a key contributory role in the achievement of the objectives established by the Law. The reasons listed here suggest a specific treatment for those processes and procedures which have a more intense effect on the development of business activity.

The approval of this Law on electronic access to public services for members of the public is based on the arguments listed above. The Law includes the following issues with the structure detailed in the following sections.

## **VI**

The Law is structured into four titles, six additional provisions, one transitory provision, one repeal provision and eight final provisions.

Title One defines the objectives and purpose of the Law and the general principles upon which it is based, together with its scope of application. The basic nature of the Law as established in the first final provision must be highlighted, as the articles referred to in the final provision are therefore applicable to the whole Public Administration.

The Law establishes, among others, the principle of equality, by which the use of electronic communications with Public Administration bodies does not imply any discrimination in favour of or against members of the public who deal with Public Administration bodies by non-electronic means.

Title One contains the rights of the public with regard to relationships with the Public Administration by electronic media. To ensure the full exercise of these rights, an obligation is established on the Public Administration to provide various channels or media for the provision of electronic services.

In addition, it establishes an obligation for each Public Administration body to provide other Public Administration bodies with relevant data which is requested from them and which they have in their possession, providing that the interested party has provided express consent, which can be issued and collected by electronic media, so that the public does not need to present information and data which is already in the possession of Public Administration bodies more than once.

In order to oversee the effectiveness of the rights of the public, it is planned that there will be, in the scope of the State Public Administration, actions by the General Audit Offices of Ministerial Departments and the User Ombudsman.

Title Two regulates the legal regime for electronic administration. Chapter One is dedicated to the electronic office, as an electronic management and administration department which is the responsibility of a Public Administration body with full responsibility for the integrity, truthfulness and up-dating of the information and the services which can be accessed through it. In the regulations for implementing the Law, each Public Administration body shall determine its own instruments for the creation of electronic headquarters.

Chapter Two regulates the forms of identification and authentication, both for members of the public and for administrative bodies in the exercise of their competences; one important point is that various accreditation instruments will be prepared which will be specified in the regulations applicable to each case using proportionality criteria. The electronic National Identity Card is suitable in general for all relationships with Public Administration bodies, and as such it shall be promoted as a formula for extending the general use of electronic signatures. Furthermore, the obligations for all Public Administration bodies to accept all

electronic certificates recognised in the scope of the Electronic Signature Law is also established.

It is also interesting to highlight with regard to this question, and with the objective of avoiding creating a digital divide, the possibility that it will be civil servants who witness the will of the public, following the procedures established for their electronic relations with the Public Administration.

Chapter Three regulates electronic registers, communications and notifications. The main new development in this regard is the new regulation of electronic registers, so that they can free themselves from current rigidity and so they serve for the presentation of any written document or request to the Public Administration.

The Law regulates the electronic communications of the public with Public Administration bodies, and the relationships between Public Administration bodies, to combine the criteria of responsiveness and legal security. Chapter Four, on electronic documents and files, establishes the conditions for recognising the validity of an electronic document; it regulates the whole system of electronic copies, both those made from original hard copies and those made from documents which were already in electronic format; and further regulates the conditions for producing hard copies of originals issued by electronic media and vice versa.

Title Three deals with electronic management of procedures, develops regulations for administrative procedures using electronic media and the criteria to follow in electronic management, being to a certain extent a reflection of the regulations which can be found in Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures. It regulates the initiation, examination and termination of procedures by electronic media.

With regard to this Title, special mention should be made of the obligation established on the Public Administration to make information available to users by electronic media on the status of procedures in which they are involved, both for those managed fully by electronic media and those which are only partly so managed.

Title Four is dedicated to Cooperation between Public Administration bodies to encourage electronic administration. It establishes the cooperation body on this issue in the State Public Administration with those of the Autonomous Communities and with the Local Public Administration, and determines the principles for ensuring the interoperability of information systems, and the basis for promoting the reuse of applications and technology transfer in the Public Administration.

Finally, the Law also includes six additional provisions, one transitory provision, one repeal provision and eight final provisions; of particular relevance is the first final provision, which cites the precepts in Law which make it into basic legislation under the terms of article 149.1.18 of the Constitution.

The Third Final Provision is also of special interest as, independently of the date on which the Law comes into force, this provision states the dates on which the full right of the public to form relationships with Public Administration bodies by electronic media come into effect, establishing the prior period considered appropriate for Public Administration bodies to carry out the necessary preparatory activities.

**PRELIMINARY TITLE****Scope of application and general principles****Article 1. Object of the Law.**

1. The current Law recognises the right of the public to deal with Public Administration bodies by electronic media and regulates the basic aspects of the use of information technologies in administrative activity, in the relationships between Public Administration bodies and in the relationships of the public with Public Administration bodies with the objective of guaranteeing the rights of the public, equal treatment for all and the validity and efficiency of administrative activity in conditions of legal security.

2. The Public Administration shall use information technologies in accordance with the stipulations of this Law, ensuring availability, access, integrity, authenticity, confidentiality and protection of data, together with the information and services which it provides in the exercise of its competences.

**Article 2. Scope of application.**

1. The present Law, in the terms expressed in the first final disposition, shall be applicable:
- a) To Public Administration bodies, understanding this to mean the State Public Administration, the Public Administration bodies of the Autonomous Communities and the Bodies which constitute the Local Public Administration, together with public bodies which are linked or belong to said organisations.
  - b) To members of the public in their dealings with Public Administration bodies.
  - c) To relations between various Public Administration bodies.
2. This Law shall not be applicable to the Public Administration in activities which it carries out under private law.

**Article 3. Object of the Law.**

The objectives of this Law are:

1. To facilitate the exercise of rights and the performance of duties by electronic media.
2. To facilitate access by electronic media for the public to administrative information and procedures, with particular emphasis being placed on the barriers which limit such access.
3. To create the conditions of confidence in the use of electronic media, establishing the measures necessary for the preservation of the integrity of fundamental rights and, in particular, those related with privacy and personal data protection, by ensuring the security of systems, data, communications and electronic services.
4. To bring the Public Administration closer to the public and to promote administrative transparency, together with continuous improvement in achieving the common good.
5. To contribute to improve the internal functioning of Public Administration bodies, increasing the efficiency and effectiveness of such bodies through the use of information technologies with all due legal safeguards in carrying out their functions.
6. To simplify administrative procedures and to provide opportunities for participation and greater transparency, with all due legal safeguards.
7. To contribute to the development of the information society within the scope of the Public Administration and in society in general.

**Article 4. General principles.**

The use of information technologies shall have the limits established by the Constitution and all other legal regulations, respecting the full exercise of their rights by the public and in compliance with the following principles:

- a) Respect for the right of personal data protection in the terms established by Organic Law 15/1999, on the Protection of Personal Data, and all other specific laws which regulate the treatment of information and the regulations for its use, together with the rights to personal and family honour and intimacy.
- b) The principle of equality with the objective that under no circumstances shall the use of electronic media imply the existence of restrictions or discrimination for the public in their

relations with Public Administration bodies by non-electronic media, both in respect to access to the provision of public services and with respect to any administrative procedure or action, without prejudice to the measures aimed at promoting the use of electronic media.

c) The principle of accessibility of information and services by electronic media in the terms established by regulations in force on the issue, through systems which enable such information and services to be obtained securely and comprehensibly, ensuring in particular universal accessibility, designed for all media, channels and environments with the objective that all members of the public shall be able to exercise their rights under equal conditions, incorporating the characteristics required to ensure accessibility for those groups which require them.

d) The principle of legality with regard to the maintenance of the legal guarantees of members of the public with the Public Administration as established in Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures.

e) The principle of cooperation in the use of electronic media by Public Administration bodies with the object of ensuring interoperability of the systems and solutions implemented by each body and, as necessary, through the joint provision of services to the public. In particular, the mutual recognition of electronic documents and the means of identification and authentication shall be ensured in compliance with the terms of this Law.

f) The principle of security in the implementation and utilisation of electronic media by Public Administration bodies, as a result of which, at least the same level of safeguards and security shall be required as for the use of non-electronic media in administrative activity.

g) The principle of proportionality, by which only the safeguards and security required given the nature and circumstances of the various processes shall be required. In addition, it shall only be required of members of the public that they should provide the data which is strictly necessary for the purposes of the administrative process in which they are involved.

h) The principle of responsibility and quality in the authenticity and accuracy of the information and services offered by the Public Administration bodies by electronic media.

i) The principle of technological neutrality and adaptability to progress in electronic communication systems and technologies, guaranteeing independence in the choice of alternative technologies by members of the public and by Public Administration bodies, together with the liberty to develop and implement technological advances within the context of the free market. To these ends, Public Administration bodies shall use open standards and, as appropriate and in complement, standards which are of general use among the public.

j) The principle of administrative simplification, by which the time periods for administrative procedures shall be reduced substantially thus achieving greater efficiency and effectiveness in administrative activity.

k) The principle of transparency and publicity of the procedure, as a result of which the use of electronic media shall facilitate the maximum possible diffusion, publicity and transparency in administrative affairs.

#### **Article 5. Definitions.**

For the purposes of this Law, the terms employed herein shall be understood in accordance with the definition established in the annex.

### **TITLE ONE**

Rights of the public to communicate with Public Administration bodies by electronic media.

#### **Article 6. Rights of the public.**

1. The rights of the public to have relationships with Public Administration bodies through the use of electronic media in order to exercise their rights as established in article 35 of Law 30/1992, of 26 November, on the Legal Regime of the Public Administration and Common Administrative Procedures, and to obtain information, consult information, make allegations and requests, give consent, file appeals, make payments, carry out transactions and object to administrative decisions is hereby established.

2. In addition, with regard to the use of electronic media in administrative activity, and in the terms established in this Law, members of the public have the following rights:

- a) To choose from among the channels available at any particular time the channel that they wish to use to communicate by electronic media with Public Administration bodies.
- b) To not provide the data and documents already in the possession of Public Administration bodies, which shall use electronic media to collect such information, providing that, in the case of personal data, consent has been given by the parties involved in the terms established by Organic Law 15/1999, on Personal Data Protection, or a regulation with the force of a Law so determines, except in the case that there are restrictions in accordance with the regulations applicable to the data and documents collected. The aforementioned consent may be given and received by electronic media.
- c) To equality in electronic access to services provided by Public Administration bodies.
- d) To be able to find out by electronic media the status of any case in which they are involved, except in the case that the applicable regulations establish restrictions on access to information about such processes.
- e) To obtain electronic copies of the electronic documents which form part of the process in which the party is involved.
- f) To Public Administration bodies involved storing the electronic documents which form part of the case.
- g) To obtain the required means of electronic identification, with physical persons being able to use the electronic signature systems of the National Identity Card for any administrative process with any Public Administration body.
- h) To the use of other electronic signature systems acceptable to Public Administration bodies.
- i) To a guarantee of the security and confidentiality of the data contained in files, systems and applications belonging to Public Administration bodies.
- j) To the quality of services provided by electronic media.
- k) To choose the applications or systems to use to communicate with the Public Administration, providing that they use open standards or that they are in general use among the public.

3. In particular, in cases relating to the establishment of service activities, members of the public have a right to obtain the following information by electronic media:

- a) The procedures and administrative process required to access service activities and to exercise them.
- b) Data on the competent authorities related to service activities, together with the professional associations and organisations related to such services.
- c) The means and conditions of access to public records and databases relating to the providers of service activities, and the appeal channels in the event of dispute involving any competent authority, whether providing or receiving the service.

#### **Article 7. Defence of the rights of the public.**

1. Within the State Public Administration the post of User Ombudsman for electronic administration has been created. This post will supervise the guarantee of rights granted to the public in this Law, without prejudice to the competences attributed in this sense to other public bodies or entities. The Ombudsman shall be named by the Council of Ministers on the recommendation of the Public Administration Minister chosen from persons with recognised expertise in this field. The Ombudsman shall be part of the Public Administration Ministry and shall carry out the functions of the post impartially and independently.

2. The User Ombudsman for electronic administration shall prepare a report which shall be sent to the Council of Ministers and then forwarded to the Congress on an annual basis. This report shall contain an analysis of the complaints and suggestions received, together with proposals for action and measures to adopt in relation to section 1 of this article.

3. In order to exercise the functions of the post, the User Ombudsman for electronic administration shall have available the resources of the State Public Administration and the assistance provided for such purposes by the General Inspectorates of ministerial



departments and the General Inspectorate of Services for the Public Administration. In particular, the Inspectorates of Services shall assist in the preparation of the report referred to in the previous section, and will continuously inform the Ombudsman of the complaints and suggestions received in relation to the provision of public services by electronic media. For these purposes, the Coordinating Commission of the General Audit Offices of ministerial departments shall perform the functions of coordination which are legally allotted to them.

4. The statutes governing the User Ombudsman for electronic administration, and the regulations of relationships between the Ombudsman and the bodies referred to in the previous section of this article, shall be established by regulations.

**Article 8. Guarantee of the provision of services and availability of electronic media and instruments.**

1. Public Administration bodies shall make available various channels or media for the provision of electronic services, ensuring in all cases access to such resources for all members of the public, independently of their personal circumstances, resources or knowledge, in the form that they deem to be appropriate.

2. The State Public Administration shall guarantee access to electronic services provided by it to all members of the public through a system of channels which shall include, as a minimum, the following resources:

a) The public service offices deemed necessary, which shall make available the media and instruments required to exercise the rights contained in article 6 of this Law to the public free of charge, and shall provide such assistance and guidance on the use of said resources, whether through the staff employed in the offices or through systems incorporated into the resources themselves.

b) Electronic access points, consisting of electronic headquarters created and managed by the public bodies and departments and available to the public through communication networks. In particular, a general access point shall be created through which the public shall be able to access all the information and services made available in their relations with the State Public Administration and other Public Bodies. This general access point shall contain a list of services which are available to the public and links to them, and should be coordinated, at least, with electronic access points belonging to other State Public Administration and Public Bodies.

c) Telephone helpline services which, to the extent permitted by security criteria and technical possibilities, will facilitate access to the electronic information and services referred to in preceding sections for all members of the public.

**Article 9. Data transmission within the Public Administration.**

1. To ensure the effective exercise of the right recognised in section 6.2.b), each Public Administration body shall facilitate access to data relating to parties involved which they hold in electronic format to all other Public Administration bodies; the conditions, protocols and functional and technical criteria involved in accessing such data with maximum security, integrity and availability shall be specified in accordance with the provisions of Organic Law 15/1999, of 13 December, on Personal Data Protection and its implementing regulations.

2. The availability of such data shall be strictly limited to that which is required from members of the public by the other Public Administration bodies for the processing and administration of issues which fall within their competence in accordance with the regulations which govern them. Access to data of a personal nature shall furthermore be conditional on compliance with the conditions established in article 6.2.b) of this Law.

**TITLE TWO**

**The legal framework for electronic administration.**

**CHAPTER I**

**The electronic office**



**Article 10. The electronic office.**

1. The electronic office is that electronic address which is available to the public through communication networks the ownership, management and administration of which is the responsibility of a Public Administration body in the exercise of its competences.
2. The establishment of an electronic office carries with it the responsibility of the owner to ensure the integrity, accuracy of the information and services provided through this medium, and to ensure that they are always up-to-date.
3. Each Public Administration body shall determine the conditions and instruments for the creation of the electronic headquarters, subject to the principles of official publicity, responsibility, quality, security, availability, accessibility, neutrality and interoperability. It shall guarantee the identification of the owner of the electronic office, together with the media available for making complaints and suggestions.
4. The electronic headquarters shall include systems which enable the establishment of secure communications whenever such is required.
5. The publication on electronic headquarters of information, services and transactions shall respect the principles of accessibility and usability in accordance with the regulations established on this issue, open standards and, as relevant, any others which are in general use among the public.

**Article 11. Electronic publication of Official Gazettes.**

1. The publication of official gazettes in the electronic office of Public Administration, relevant Body or Organization shall have, with the conditions and guarantees established by each Public Administration body, the same effects as the printed edition.
2. The publication of the Official State Gazette on the electronic headquarter of the competent body shall be official and authentic and shall have the same safeguards as established by regulations, and such publication shall have the effects stated in the preliminary title of the Civil Code and all other applicable regulations.

**Article 12. Electronic publication on the notice board and notices.**

The publication of communications which, for legal or regulatory reasons, must be published on a notice board or as notices may be substituted or complemented by publication in the electronic office of the corresponding body.

**CHAPTER II.****Identification and authentication.****Section 1. Common dispositions.****Article 13. Forms of identification and authentication.**

1. Public Administration bodies shall accept electronic signature systems which are in accordance with the provisions of Law 59/2003, of 19 December, on electronic signatures, and which are sufficient to ensure the identification of participants and, as necessary, the authenticity and integrity of the electronic documents, in their relations by electronic means.
2. Members of the public may use the following electronic signature systems in their relations with Public Administration bodies, in accordance with whatever is determined by each Public Administration body:
  - a) In all cases, the electronic signature systems incorporated into the National Identity Card for physical persons.
  - b) Advanced electronic signature systems, including those based on recognised electronic certificates accepted by Public Administration bodies.
  - c) Other electronic signature systems, such as the use of passwords previously established in a register of users, the provision of information known by both parties and other non-encrypted systems under the terms and conditions established for each case.
3. Public Administration bodies shall be able to use the following systems for their electronic identification and for the identification of the electronic documents which they produce:
  - a) Electronic signature systems based on the use of certificates of secure devices or similar media which enable the identification of the electronic office and the establishment of secure communications through such means.
  - b) Electronic signature systems for automated administration.
  - c) Electronic signatures of personnel employed by the Public Administration bodies.

d) The electronic exchange of data in closed communication environments, in accordance with the specific agreement between the parties.

## **Section 2. Identification of members of the public and their actions.**

### **Article 14. Use of the National Identity Card**

Physical persons may, in all cases, use the electronic signature systems built into the National Identity Card in their electronic relations with Public Administration bodies. The regime for the use and effectiveness of this document shall be governed by relevant regulations.

### **Article 15. Use of advanced electronic signature systems.**

1. In addition to the electronic signature systems built into the National Identity Card, as referred to in article 14, members of the public may use advanced electronic signature systems to identify and authenticate their documents.

2. A list of the advanced electronic signature systems accepted, in general, in the scope of the Public Administration must be published and accessible by electronic media. This list shall include, at least, information on the identification elements used and, as relevant, the characteristics of the electronic certificates accepted, the providers which issue them and the specifications of the electronic signature that can be made with such certificates.

3. The electronic certificates issued to bodies without a legal personality, as provided for in Law 59/2003, of 19 December, on electronic signatures, may be accepted by Public Administration bodies in the terms which they establish.

### **Article 16. Use of advanced electronic signature systems.**

1. Public Administration bodies shall be able to determine, taking into account the data and interests affected, and always in a form which is justified, the situations and conditions for use by the public of other electronic signature systems, such as passwords agreed by prior registration, the provision of information known by both parties or other non-encrypted systems.

2. In those cases in which such systems are used to confirm information, proposals or drafts sent or exhibited by a Public Administration body, this must guarantee the integrity and the non-repudiation of the electronic documents by both parties.

3. When necessary, Public Administration bodies shall certify the existence and content of the actions of members of the public when forms of identification and authentication referred to in this article have been used.

## **Section 3. Electronic identification of the Public Administration bodies and authentication of the exercise of their competences.**

### **Article 17. Identification of electronic headquarters.**

In order to identify themselves and to guarantee secure communications, the electronic offices shall use electronic signature systems based on certificates of secure devices or similar means.

### **Article 18. Electronic signature systems for automated administration.**

1. Each Public Administration body shall be able to determine the situations of use for the following electronic signature systems for identification and authentication in the exercise of their competences for the purposes of automated administration:

a) A Public Administration body electronic stamp, based on an electronic certificate which meets the requirements established by legislation relating to electronic signatures.

b) A secure verification code linked to the Public Administration body and, as applicable, the person signing the document, enabling in all cases the verification of the integrity of the document through access to the corresponding electronic office.

2. The electronic certificates referred to in section 1.a) shall include the tax identification number and the corresponding name, and may also contain the identity of the person who holds the stamps in the case of electronic stamps for administrative bodies.

3. The list of electronic stamps used by each Public Administration body, including the characteristics of the electronic certificates and the issuers thereof, shall be published and

accessible by electronic means. In addition, each Public Administration body shall adopt the appropriate measures to facilitate the verification of its electronic stamps.

**Article 19. Electronic signatures of personnel employed by the Public Administration bodies.**

1. Without prejudice to the provisions of articles 17 and 18, the identification and authentication of the exercise of competence by the Public Administration when using electronic means shall be carried out through the electronic signature of the personnel in its employ, in accordance with the stipulations of the following sections.
2. Each Public Administration body shall be able to provide its personnel with electronic signature systems, which shall be able to identify the holder of the stamp, the post or position and the Public Administration body in which that person provides their services.
3. It shall be possible to use the electronic signature based on the National Identity Card for the purposes of this article.

**Article 20. Electronic exchange of data in closed communication environments.**

1. The electronic documents transmitted in closed communication environments established between Public Administration bodies and other public bodies shall be considered valid for the purposes of authentication and identification of the issuers and recipients under the conditions established in this article.
2. When the participants in the communications belong to the same Public Administration body, this body shall be responsible for determining the conditions and guarantees by which they shall be governed which shall, as a minimum, consist of the list of authorised issuers and recipients and the nature of the data to be exchanged.
3. When the participants belong to different Public Administration bodies, the conditions and guarantees established in the preceding section shall be established by agreement.
4. In all cases, these should guarantee the security of the closed communication environment and the protection of the data to be transmitted.

Section 4. On interoperability and the accreditation and representation of members of the public.

**Article 21. Interoperability of the authentication and identification by means electronic certificates.**

1. The recognised electronic certificates issued by providers of certification services shall be accepted by Public Administration bodies as valid for relations with them providing that the provider of the certification service makes available to the Public Administration bodies the information which might be required in conditions which are technologically viable and providing that no costs are incurred as a result.
2. The electronic signature systems used or accepted by a Public Administration body other than those based on certificates as referred to in the previous section may also be accepted by other Public Administration bodies, in accordance with the principles of mutual recognition and reciprocity.
3. The State Public Administration shall have available, as a minimum, a verification platform of the status of revocation of all the certificates issued in the scope of the Public Administration bodies which shall be of free access for all Departments and Public Administration bodies. Each Public Administration body shall be able to employ the mechanisms required for the verification of the status of revocation and the signature of the electronic certificates issued in their areas of competence.

**Article 22. Authentication and identification of members of the public by civil servants.**

1. In situations in which, in order to carry out an operation by electronic means, identification or authentication of a member of the public is required by use of an instrument as detailed in article 13 which is not available to the body, such identification and authentication shall be able to be made by civil servants through the use of the electronic signature system which they have at their disposal.

2. For the efficient execution of the stipulations of the previous section, the member of the public shall have to identify themselves and provide their consent, and a record of this shall be required in the event of any dispute or litigation.

3. Each Public Administration body shall keep an up-to-date register of the civil servants empowered for the purposes of identification and authentication contained in this article.

**Article 23. Forms of Representation.**

Without prejudice to the provisions of article 13.2, Public Administration bodies shall be able to empower, generally or specifically, physical and legal persons to carry out certain electronic transactions on behalf of the interested parties. These powers shall specify the conditions and obligations which those acquiring such representation rights are committed to, and shall determine the presumption of validity of the representation, unless applicable regulations provide otherwise. Public Administration bodies shall be able to demand, at any time, the evidence of such representation.

**CHAPTER III.**

**On electronic registers, communications and notifications**

**Section 1. Registers.**

**Article 24. Electronic registers.**

1. Public Administration bodies shall create electronic registers for the receipt and forwarding of requests, applications and communications.

2. The electronic registers shall be able to accept:

a) Standardised electronic documents corresponding to the services, procedures or administrative processes specified in accordance with the regulations governing the creation of the register, completed in accordance with pre-established formats.

b) Any request, application or communication other than those mentioned in the previous section sent to any body or entity which is the responsibility of the Public Administration body responsible for the register.

3. Each Public Administration body shall have, at least, an electronic register system which shall be sufficient to receive all types of requests, applications and communications sent to that Public Administration body. Through cooperation agreements, Public Administration bodies shall be able to prepare their respective registers for the receipt of requests, applications and communications which are the responsibility of another Public Administration body, in accordance with the terms of the cooperation agreement.

4. Within the State Public Administration, the offices for physical registers referred to in article 38 of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures shall be automated in order to ensure the interconnection of all the offices and to make possible access by electronic media to register entries and to electronic copies of the documents presented.

**Article 25. Creation and operations.**

1. The dispositions for the creation of electronic registers shall be published in the corresponding Official Gazette and the full text shall be made available for consultation in the electronic office where the access to the register is located. In whatever case, the dispositions for the creation of electronic registers shall specify the body or unit responsible for its management, together with the date and official time, and the days declared not to be business days for the purposes detailed in the following article.

2. In the electronic office with access to the register, there shall be an up-to-date list of the requests, applications and communications as referred to in section 2.a) of the preceding article that can be presented to the register by this means together with, as applicable, the possibility of presenting requests, applications and communications referred to in section 2.b) of the preceding article.

3. The electronic registers shall automatically issue a receipt consisting of a copy of the request, application or communication involved, including the time and date of presentation and the registration number in the register.

4. It shall be possible to submit accompanying documents with the request, application or communication, providing that they comply with the standards, formats and requirements for security which are determined in the National Interoperability and Security Schemas. The electronic registers shall generate receipts for the submission of these documents which guarantee that the documents were received and not rejected.

**Article 26. Computation of time periods.**

1. The electronic registers shall be governed for the purposes of calculating the time periods involved both for interested parties and for Public Administration bodies by the official time and date of the electronic office, which must be provided with the required security measures to ensure its integrity and maintain its visibility.

2. The electronic registers shall permit the presentation of requests, applications and communications twenty four hours a day, every day of the year.

3. For the purposes of calculating the time period set in calendar or business days, and of complying with the time periods set for interested parties, any submission on a non-business day shall be understood to have been made at the beginning of the first subsequent business day, unless a regulation expressly permits receipt of said communication on a non-business day.

4. The start time for the computation of time periods to be met by administrative bodies and other public organisations shall be determined by the date and time of the presentation with the register or, in the case described in section 2.b of article 24, at the time and date of entry into the destination register. In all cases, the effective date for initiating the calculation of time periods shall be communicated to the party which submitted the request, application or communication.

5. Each electronic office which features an electronic register shall determine, taking into account the territorial area covered by the competences of its owner, the days to be considered as non-business days for the purposes of the preceding sections. In all cases, the provisions of article 48.5 of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures shall not apply to electronic records.

**Section 2. Electronic communications and notifications.**

**Article 27. Electronic registers.**

1. Members of the public may choose at all times the means of communicating with Public Administration bodies, whether by electronic media or not, except in those cases in which a regulation with the weight of Law establishes or implies the use of non-electronic media. The option of communicating using one or other media is not binding on the member of the public, who may, at any time opt to use a medium other than that originally chosen.

2. Public Administration bodies shall use electronic media in their communications with members of the public wherever this has been requested or expressly consented to. It shall be possible to issue and collect the request and the consent by electronic media.

3. Communications by electronic media shall be valid providing that there is a record of them being sent and received, the date on which this happened and the content of the communications, and that the sender and recipient were clearly and correctly identified.

4. Public Administration bodies shall publish details of those electronic media that the public can use in each case to exercise their rights to communicate with the public authorities in the appropriate Official Gazette and in the electronic office.

5. The requirements for security and integrity of communications shall be established in each case in an appropriate way given the character of the data involved, in accordance with the criteria of proportionality, and in accordance with the dispositions of legislation in force relating to Personal Data Protection.

6. By regulation, Public Administration bodies shall be able to establish the obligatory nature of communicating with them using only electronic media whenever the interested parties are physical persons or groups thereof which, for reasons of economic or technical capacity, professional dedication or other justified reason, have guaranteed access and availability of the required technological resources.



7. Public Administration bodies shall prioritise use of electronic media in their communications with other Public Administration bodies. The conditions which regulate these communications shall be determined by the participating Public Administration bodies.

**Article 28. Notification by electronic media.**

1. In order for notifications to be sent using an electronic medium, it shall be required that the interested party has stated a preference for said media or has consented to its use, without prejudice to the contents of article 27.6. Both the indication of preference for the use of electronic media and the aforementioned consent may be issued and received by electronic media.

2. The notification system shall enable the demonstration of the time and date at which the notification was made to the interested party, together with when its content was accessed, which for all legal purposes shall be understood to be the moment at which the notification was made.

3. When there is a record of the notification having been sent but its content has not been accessed following a period of ten calendar days, it shall be understood that the notification has been rejected with the effects described in article 59.4 of Law 30/1992 on the Judicial Regime and Common Administrative Procedures and related regulations, unless it be shown by either party that it was technically or materially impossible to access the notification.

4. During the processing of the notification, the interested party shall be able to require the competent body not to send subsequent notifications by electronic means, using the other media accepted in article 59 of Law 30/1992, on the Judicial Regime and Common Administrative Procedures, except in the cases covered by article 27.6 of this Law.

5. Electronic access by the interested party to the content of the administrative action shall produce the same effects as the notification of appearance, provided that there is a record of such access.

**Chapter IV.**

**Electronic documents and files.**

**Article 29. Electronic administrative documents.**

1. Public Administration bodies may validly issue by electronic media the administrative documents referred to in article 46 of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures, providing that they contain one or more electronic signatures in accordance with the stipulations of Section 3 of Chapter II of this Law.

2. The administrative documents shall include time references, which shall be guaranteed by electronic media when the nature of the document so requires.

3. The State Public Administration, in its list of providers of electronic certification services shall specify which are in general accepted for providing time stamping services.

**Article 30. Electronic copies.**

1. Copies made by electronic media of electronic documents issued by the interested party or by Public Administration bodies, whether in the original format or not, shall immediately be considered to be authentic copies with the effects described in article 46 of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures, providing that the original electronic document is in the possession of the



Public Administration and that the information in the electronic signature and, if applicable, the time stamp, enables confirmation that it is an accurate copy of the original document.

2. Copies made by Public Administration bodies using electronic media of documents originally issued by Public Administration bodies on paper shall be considered as authentic copies, providing they meet the requirements and actions described in article 46 of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures.

3. Public Administration bodies shall be able to obtain electronic images of the private documents provided by members of the public, retaining their validity and effectiveness, through digitalisation processes which guarantee the authenticity, integrity and conservation of the document image of which they provide proof. This may be obtained automatically, through the corresponding electronic stamp.

4. In the cases of documents issued originally on paper of which electronic copies have been made in accordance with the terms of this article, the originals may be destroyed in the terms and under the conditions that each Public Administration body establishes.

5. The copies made on paper of public administrative documents issued by electronic media and signed electronically shall be considered as authentic copies, providing that they include the impression of an electronically generated code or other system of verification which enables a comparison of its authenticity through access to the electronic archives of the Public Administration or public sector body which issued it.

#### **Article 31. Electronic storage of documents.**

1. All documents sued in administrative processes may be stored by electronic media.

2. Electronic documents which contain administrative acts which affect the rights or interests of private persons shall be stored in this way, whether in the original format of the document or in any other which ensures the identity and integrity of the information required to reproduce the document. The possibility of transferring the data to other formats and media shall be ensured in order to guarantee that the information can be accessed from different applications.

3. The media or format in which the documents are stored must contain the security measures which will guarantee the integrity, authenticity, confidentiality, quality, protection and conservation of the documents stored. In particular, they shall ensure the identification of the user and shall control access thereto, and shall also comply with the guarantees contained in legislation relating to the protection of personal data.

#### **Article 32. Electronic cases.**

1. The electronic case is the set of electronic documents corresponding to an administrative procedure, whatever the type of information contained therein.

2. The recording of the electronic case shall be carried out through an electronic index, signed by the Public Administration body. This index shall guarantee the integrity of the electronic case and shall enable it to be located whenever this is necessary, and it shall be possible for a single document to form part of more than one electronic case.

3. It shall be possible to substitute the forwarding of the cases for all legal purposes by making available the electronic case, and the interested party shall have the right to obtain a copy of this.

**TITLE THREE****Electronic management of procedures.****CHAPTER I****Common dispositions****Article 33. Use of electronic media.**

1. Electronic management of administrative activity shall respect the ownership and exercise of competency by the responsible Public Administration body and shall meet all formal and material requirements established in the regulations governing the corresponding activity. To these ends, and in accordance with the criteria of promoting administrative simplification, the application of electronic media to work processes and management of proceedings and administrative activity shall be encouraged.
2. In the application of electronic means to administrative activity the adequate provision of material media and resources to the personnel which will use them, together with the necessary training on their use, shall be considered.

**Article 34. Criteria for electronic management.**

The application of electronic media to the management of procedures, processes and services shall always be preceded by an analysis of the functional redesign and simplification of procedures, processes and services, in which the following aspects in particular shall be taken into account:

- a) The suppression or reduction of the documentation required from members of the public, through substitution by data, the transmission of data or certificates, or the balancing of contributions at the end of the process.
- b) The possible media, instruments of participation, transparency and information planned.
- c) The reduction in time periods and waiting times for answers.
- d) The rationalisation of the distribution of work loads and internal communications.

**CHAPTER II****Use of electronic media in administrative processes.****Article 35. Initiation of proceedings by electronic media.**

1. The initiation of administrative proceedings by electronic means at the request of the interested party shall require the appropriate electronic systems and forms for making applications to be made available on the electronic headquarters. These should be accessible, with no other technological restrictions than those strictly deriving from the use of standards in the terms established in section i) of article 4, and applicable communication and security criteria in accordance with national and international regulations and protocols.
2. Interested parties shall be able to submit digital copies of documents to the case; the fidelity of such documents to the original shall be guaranteed through the use of an advanced electronic signature. The Public Administration shall be able to request a comparison of the contents of the copy provided with the original copy in the archive in which it is held. Should it not be possible to make such a comparison, and exceptionally, it shall be possible to require the party to produce the original document or information. The provision of such copies implies authorisation for the Public Administration to have access to and to process the personal information contained in such documents.
3. With the objective of promoting and facilitating their use, the standardised systems of use shall be able to include automatic checking of the information supplied against data stored in the body's own systems, or in systems belonging to any other Public Administration body; it shall also be possible to present the form completed either in full or in part to the member of the public in order to ask them to verify the information and, as necessary, to modify it and complete it.

**Article 36. Instruction of proceedings using electronic media.**

1. The information applications and systems used for instruction by electronic media of proceedings shall guarantee control of the time periods involved, the identification of the

bodies responsible for the proceedings, together with the organised processing of the cases, and shall facilitate the simplification and publication of the proceedings.

2. The communication systems used in electronic management of proceedings for communications between bodies and units involved in the issue and receipt of reports or other actions shall meet the requirements established in this Law.

3. When electronic means are used for the participation of interested parties in the instruction of proceedings for the purpose of the exercise of their rights to present allegations at any time prior to the proposal or resolution, or during the hearing process when applicable, the communication and notification media stipulated in articles 27 and 28 of this Law shall be used.

**Article 37. Access for interested parties to information about the status of the case.**

1. In administrative procedures managed electronically in full, the body which processes the proceedings shall make available to the interested party a restricted access electronic service, where the interested party shall be able, following identification, to consult, at least, information on the state of the process, except in the case that applicable regulations establish restrictions on this information. Information on the status of the processing of the case shall consist of the list of minutes of activities carried out, with an indication of their content and the date on which they were made.

2. In all other proceedings, electronic information services on the status of the process shall be enabled, and this shall include, as a minimum, the stage that the process is at and the body or unit responsible for it.

**Article 38. Termination of proceedings by electronic media.**

1. The resolution of proceedings using electronic media shall guarantee the identity of the competent body through the use of one of the instruments provided for in articles 18 and 19 of this Law.

2. It shall be possible to adopt and notify resolutions automatically in those proceedings in which this is permitted.

**Article 39. Automatic administration.**

In the case of automatic administration, the competent body or bodies, as appropriate, shall be established in advance to define the specifications, programming, maintenance, supervision and quality control, and, if applicable, auditing of the information system and its source code. In addition, the body which should be considered responsible in the event of challenge should be indicated.

**TITLE FOUR**

**Cooperation among administrative bodies to enable electronic administration.**

**CHAPTER I**

**Institutional framework for cooperation on electronic administration**

**Article 40. Sectoral Committee for electronic administration.**

1. The Sectoral Committee for electronic administration, which reports to the Sectoral Conference of the Public Administration, is the technical organ for cooperation for the State Public Administration, Public Administration bodies belonging to the Autonomous Communities and bodies which make up the Local Public Administration on the issue of electronic administration.

2. The Sectoral Committee for electronic administration shall monitor the achievement of the objectives and principles established in this Law and, in particular, shall carry out the following functions:

- a) To ensure the compatibility and interoperability of the systems and applications used by Public Administration bodies.
- b) To prepare joint action plans and programmes to promote the development of electronic administration in Spain.

3. When, due to the nature of the material to be covered, it is considered that it would be useful, it will be able to invite the organisations, corporations and social agents which it believes will be appropriate in each case to participate in the deliberations of the Sectoral Committee.

## **CHAPTER II**

### **Cooperation among administrative bodies to enable electronic administration.**

#### **Article 41. Interoperability of Information Systems.**

Public Administration bodies shall make use of information technologies in their relations with other Public Administration bodies and with the public, applying information technology, technological, organisational and security measures in order to ensure an adequate level of technical, semantic and organisational interoperability, and to avoid discrimination against any member of the public based on their technological choices.

#### **Article 42. National Interoperability Plan and National Security Plan.**

1. The National Interoperability Plan shall contain the set of criteria and recommendations relating to security and the storage and standardisation of information, and on the formats and applications which shall be taken into account by Public Administration bodies when taking technological decisions which guarantee interoperability.

2. The objective of the National Security Plan is to establish the security policy for the use of electronic media within the scope of this Law, and consists of the basic principles and minimum requirements to enable adequate data protection.

3. Both Plans shall be prepared with the participation of all Public Administration bodies and shall be approved by a Royal Decree from the Government based on a proposal from the Sectoral Conference of the Public Administration and following a report from the National Commission of Local Public Administration bodies, and they should be kept permanently up-to-date.

4. The recommendations of the European Union, the technological situation in different branches of the Public Administration and existing electronic services shall all be taken into account during the preparation of both plans. To these ends, it shall use open standards and, as appropriate and in complement, standards which are of general use among the public.

#### **Article 43. The Spanish Public Administration communication network.**

The State Public Administration, Public Administration bodies in the Autonomous Communities and bodies making up the Public Administration at local level, together with the consortiums and other cooperation bodies constituted for such purposes by these bodies, shall adopt the measures required, and shall incorporate into their respective areas of competence, the technology required to make possible the interconnection of networks so as to create a communications network which brings together all Spanish Public Administration information systems, and so enables the exchange of information and services among such bodies, together with interconnections with the networks of European Union institutions and those of other Member States.

#### **Article 44. Integrated Public Service Network.**

1. Public Administration bodies shall be able to enter into cooperation agreements with the objective of producing cooperation measures and instruments for the coordinated and standardised implementation of a network of common spaces and one-stop shops.

2. In particular, and in accordance with the dispositions in the previous section, they shall implement common spaces and one-stop shops in order to obtain the information contained in article 6.3 of this Law and to carry out the administration and procedures referred to in section a) of that article.

**CHAPTER III.****Reutilisation of applications and technology transfer.****Article 45. Reutilisation of systems and applications belonging to the Public Administration.**

1. Public Administration bodies which own intellectual property rights over applications developed for their services, or which were developed under contract, may be made available to any Public Administration body, without any requirement for compensation of any type and without the need for an agreement.
2. The applications referred to in the preceding section may be declared to be open source when this results in greater transparency in the operations of the Public Administration or when it encourages members of the public to join the Information Society.

**Article 46. Technology Transfer within the Public Administration.**

1. Public Administration bodies shall keep up-to-date directories of applications for free reuse, particularly in those fields which are of special interest for the development of the electronic administration and in accordance with the stipulations established in the National Interoperability Plan.
2. The State Public Administration, through a technology transfer centre, shall keep a general directory of applications for reutilisation, and shall provide technical assistance for the free reutilisation of applications and shall promote the development of common applications, formats and standards which are of particular interest for the development of electronic administration in the framework of the national interoperability and security plans.

**First additional disposition. Electronic meetings of Constituent Bodies.**

1. Constituent bodies shall be able to constitute meetings and enter into agreements using electronic media with respect to the essential procedures established in articles 26 and 27.1 of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures.
2. The stipulations of the previous section shall be applied in the State Public Administration with the following conditions:
  - a) It shall guarantee the effective realisation of the principles established by the legislation with regard to the constitution of meetings, access to information and communication of the agenda, which shall specify the times for the debates, the formulation and announcement of proposals and the adoption of agreements.
  - b) The regime for constitution of the meeting and adoption of agreements shall guarantee the participation of members in accordance with the dispositions of the bodies involved.
  - c) The minutes of the meeting shall guarantee the accuracy of the communications produced and access for the members to the content of the agreements reached.

**Second additional provision. Training of public sector employees.**

The State Public Administration shall promote the training of personnel in the use of electronic media in carrying out their roles.

In particular, public employees in the State Public Administration shall receive specific training which shall ensure that they have up-to-date knowledge relating to the secure use of electronic media in administrative activity, and for the Protection of Personal Data, respect for intellectual and industrial property rights and information management.

**Third additional provision. Resources Plan for the State Public Administration.**

Within a period of six months from the publication of this Law, the Public Administration Ministry, in collaboration with the Economy and Tax and the Industry, Tourism and Commerce Ministries shall present a plan to the Council of Ministers for the implementation of the resources required in the scope of the State Public Administration. This Plan shall include estimates of the economic, technical and human resources which are considered to be necessary for the adequate implementation on the dispositions of this Law within the time frame established in section 2 of the third final disposition, together with audit and control mechanisms to monitor application.



**Fourth additional provision. Special procedures.**

The application of the dispositions contained in Title Three of this Law to procedures related to taxation, social security and unemployment and the legal regime for foreign nationals resident in Spain shall be carried out in accordance with the fifth, sixth, seventh and nineteenth additional dispositions of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures. In addition, specific issues relating to public sector contracting shall be taken into consideration in the application of this Law, in accordance with the seventh additional disposition of the Amended Text of the Public Sector Contracts Law approved by Legislative Royal Decree 2/2000, of 16 June.

**Fifth additional provision. Statistical Functions.**

The dispositions contained in articles 6.2.b) and 9 of this Law shall not be applicable to the collection of data provided for in Chapter II of Law 12/1989, of 9 May, on the Public Statistical Function.

**Sixth additional provision. Use of Official Languages.**

1. The use of the official languages of the State shall be guaranteed in all relations by electronic media between the public and Public Administration bodies, in the terms established in Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures and in all applicable regulations.
2. For these purposes, the bodies responsible for electronic headquarters belonging to territories where there is more than one official language shall ensure access to the content and services is available in all applicable languages.
3. The systems and applications used in the electronic management of the procedures shall be adapted to dispositions on the use of joint-official languages in article 36 of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures.
4. Each Public Administration body affected shall determine the timetable for progressive compliance of the contents of this disposition, and shall ensure full compliance within the time periods established in the third final disposition.

**Single transitional provision. Transitional regime.**

1. The procedures and actions begun by members of the public and Public Administration bodies using electronic media prior to this Law coming into force shall continue to be governed by the earlier regulations until such time as they have been completed.
2. The electronic registers in existence at the time that this Law comes into effect shall be considered to be electronic registers under the terms of this Law and shall be governed by articles 24, 25 and 26 of this Law.

**Single repeal provision.**

1. The following provisions of Law 30/1992, on the Legal Regime of the Public Administration and Common Administrative Procedures are hereby repealed: section 9 of article 38, sections 2, 3 and 4 of article 45, section 3 of article 59 and the eighteenth additional disposition.
2. In addition, all regulations of equal or lesser authority which are opposed to or contradict the dispositions of this Law are hereby repealed.

**First final provision. Basic character of the Law.**

1. Articles 1, 2, 3, 4, 5, 6, 8.1, 9, 10, 11.1, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21.1, 21.2, 22, 23, 24.1, 24.2, 24.3, 25, 26, 27, 28, 29.1, 29.2, 30, 32, 35, 37.1, 38, 42, of section 1 of the first additional disposition, the fourth additional disposition, the single transitional provision and the third final disposition are written within the limits of the dispositions of article 149.1.18. of the Constitution, which attributes competence over the basis of the legal regime for Public Administration bodies and common administrative procedures to the State.



2. With the exception of article 42, Title IV of this Law shall be applicable to all Public Administration bodies to the extent that they take part in or are members of the cooperation bodies or instruments included therein.

**Second final provision. Electronic publication of the Official State Gazette.**

The electronic publication of the Official State Gazette shall have the nature and effects established in article 11.2 of this Law from 1 January 2009.

**Third final provision. Adaptation of the Public Administration for the exercise of rights.**

1. From the date on which this Law comes into force, it shall be possible to exercise the rights recognised in article 6 of this Law in relation to procedures and activities which are adapted to the dispositions herein, without prejudice to the dispositions of the following sections. For these purposes, each Public Administration body shall make public, and keep up-to-date, a list of these procedures and activities.

2. In the scope of the State Public Administration and associated public sector bodies, or bodies dependent thereon, it shall be possible to exercise the rights recognised in article 6 of this Law in relation to all procedures and activities within their competence from 31 December 2009. To this end, the Council of Ministers shall establish and make public a timetable for the gradual adaptation of those procedures and activities which require adapting.

3. In the scope of the Autonomous Communities, it shall be possible to exercise the rights recognised in article 6 of this Law in relation to all procedures and activities from 31 December 2009, provided that this is possible within available budgets.

4. In the scope of bodies which constitute the Local Public Administration, it shall be possible to exercise the rights recognised in article 6 of this Law in relation to all procedures and activities from 31 December 2009, provided that this is possible within available budgets. For this purpose, Provincial Authorities, and Island Councils or Groupings or other regional bodies, shall be able to provide the required services to ensure effectiveness in the area of towns which do not have the technical or organisational resources to provide them.

**Fourth final provision. Amendment of Law 84/1978, of 28 December governing the fees for issuance of National Identity Cards (DNI).**

One. Section 2 of article 4 shall be amended to read as follows:

«2. Those who by law have to renew their identity card during the period of time that it is valid as a result of any change to the details contained on the identity card.»

Two. Article 6 shall be amended to read as follows:

"Article 6. Official charges.

The official charge for this shall be 6.70 euros. Any excesses resulting from the issue of the card, shall be met from the General State Budget."

**Fifth final provision. Amendment to Law 16/1979, of 2 October, on the Tariffs of the Central Traffic Control System.**

One. Section 1 of article 5, point d) shall be modified, and a new point e) shall be inserted, and these shall read as follows:

"d) Persons requesting duplicates of driving licences and MOT certificates as a result of a change of address.

e) Those persons who request the deregistration of a vehicle resulting from its delivery to an authorised establishment for destruction."

Two. Points 4 and 4 bis, first left hand column of Group IV of article 6, shall be rewritten to read as follows:

«4. Duplicates of licences and authorisations for loss, robbery, deterioration, extension of validity or any modification thereto.

4 bis. duplicates of driving licences and MOT certificates for motorbikes arising from loss, theft, deterioration, extension of validity or any modification thereto."

**Sixth final provision. Dispositions regulating tele-working in the State Public Administration.**

The Public Administration Ministry, in collaboration with the Economy and Tax, Tourism, Commerce and Trade and Work and Social Affairs Ministries, shall regulate the conditions for tele-working in the State Public Administration before 1 March 2008.

**Seventh final provision. Regulatory development of article 4 c).**

The Government shall develop by regulation the provisions of article 4.c) of this Law to ensure that all members of the public, with particular emphasis on persons with any type of handicap and the elderly, who enter into a relation with the State Public Administration can access the electronic services provided under equal conditions, irrespective of their personal circumstances, resources and knowledge.

**Eighth final provision. Development and Entry into Force of the Law.**

1. The Government and the Autonomous Communities shall be responsible, within their respective areas of competence, for enacting the dispositions required for the development and application of this Law.

2. This Law shall come into force on the day following its publication in the Official State Gazette.

And therefore

I command all Spanish citizens and authorities to observe this Law and to ensure its observance.

Madrid, 22 June 2007.

KING JUAN CARLOS

The Acting President of the Government,

MARÍA TERESA FERNÁNDEZ DE LA VEGA SANZ

**ANNEX**

**Definitions**

**For the purposes of this Law, the terms listed below shall be understood in accordance with the definitions given:**

a) **Automated administration:** Administrative actions produced by an adequately programmed information system, without the need for involvement of an operator in each particular case. This includes the production of records of decisions and resolutions of cases, together with simple communications.

b) **Application:** A program or set of programs the object of which is the resolution of a problem through the use of information technology.

c) **Open source applications:** Those programs and applications which are distributed with a licence which gives freedom to employ them, to view, modify and improve the source code and to redistribute copies to other users.

d) **Authentication:** The demonstration by electronic media of the identity of a person or body, the content of their operations, transactions and documents and the integrity and authority of such.

e) **Channels:** Any structure or means of diffusion of the contents and services, including in-person, telephone and electronic channels, together with all others which currently exist and which might exist in the future (portable devices, DTT, etc.).

f) **Electronic certificate:** In accordance with article 6 of Law 59/2003, of 19 December, on electronic signatures "A document which is signed electronically by a certification service provider which binds signature verification data to a signatory and therefore confirms their identity".

g) **Recognised electronic certificate:** In accordance with article 11 of Law 59/2003, of 19 December, on electronic signatures: "Recognised electronic certificates are those issued by a provider of certification services which comply with the requirements established in this

Law with regard to verification of the identity and other details of those involved and the reliability and guarantee of the certification services which they provide".

h) **Member of the public:** Any physical or legal person, and bodies without their own legal personality, which have, or might have, a relationship with any Public Administration body.

i) **Electronic address:** An identifier of electronic equipment or systems from which information or services are provided in a communication network.

j) **Electronic document:** Information of any type in electronic format and saved on an electronic media in accordance with a determined format and which is susceptible to identification and processing.

k) **Open standard:** Those which meet the following conditions:

- being public and the use of which is free or of such low cost that it does not constitute a barrier to access,

- use and application is not conditional on payment for use of intellectual or industrial property rights.

l) **Electronic signature:** In accordance with article 3 of Law 59/2003, of 19 December, on electronic signatures "the set of electronic data assigned to or associated with others, which can be used as a means of identifying the signatory".

m) **Advanced electronic signature:** According to article 3 of Law 59/2003, of 19 December, on electronic signatures, "an electronic signature which enables the identification of signatory and detects any subsequent change to the data which was signed, which is linked to the signatory in a unique way and to the data it refers to and which has been created by media which the signatory can keep under exclusive control".

n) **Recognised electronic signature:** According to article 3 of Law 59/2003, of 19 December, on electronic signatures, "an advanced electronic signature based on a recognised certificate and created using a secure signature creation device".

o) **Interoperability:** The capacity of information systems, and the applications and programs which they support, to share data and make possible the exchange of data and knowledge between them.

p) **Electronic media:** Any mechanism, installation, equipment or system which enables the production, storage and transmission of documents, data and information, including any open or restricted communication network, such as the Internet, fixed line and mobile telephony and others.

q) **Electronic access point:** The set of web pages grouped together on a website the objective of which is to provide easy and integrated access to a range of resources and services for the user so as to meet the specific needs of a group of people or to provide access to the information and services of a public institution.

r) **Electronic signature system:** The set of elements involved in the creation of an electronic signature. In the case of an electronic signature based on an electronic certificate, the system is composed, at least, of the electronic certificate, the media, the reader, the signature application used and the interpretation and verification system used by the recipient of the signed document.

s) **Time stamp:** Evidence from a third party of the time and date of an electronic operation or transaction carried out by electronic media.

t) **Common spaces or one-stop shops:** Channels or means (integrated offices, telephone assistance, Internet pages and others) which members of the public can use in order to access public information, procedures and services determined by agreement between various Public Administration bodies.

u) **Service activity:** Any economic activity carried out on their own behalf by the person performing the service, normally provided in exchange for remuneration.

v) **Provider of service activities:** Any physical or legal person who offers or provides a service activity.

Analysis

### EARLIER REFERENCES

REPEAL of Articles 38.9, 45.2, 45.3, 45.4, 59.3 and additional disposition 18 of Law 30/1992, of 26 November (Ref. [1992/26318](#))

MODIFICATION of

Articles 4.2 and 6 of Law 84/1978, of 28 December 1978 (Ref. [1979/867](#))

Articles 5.1 and 6 of Law 16/1979, of 2 October (Ref. [1979/23768](#))

CITING

ORGANIC LAW 15/1999, of 13 December (Ref. [1999/23750](#))

LAW 59/2003, of 19 December (Ref. [2003/23399](#))

### NOTES

Entry into force on 24 June 2007.

### SUBJECTS

INFORMATION ACCESS

ELECTRONIC ADMINISTRATION

GENERAL STATE ADMINISTRATION

LOCAL ADMINISTRATION

THE PUBLIC ADMINISTRATION

ARCHIVES

OFFICIAL STATE GAZETTE

ELECTRONIC COMMUNICATIONS

AUTONOMOUS COMMUNITIES

NATIONAL IDENTITY CARD

DOCUMENTS

PUBLIC EMPLOYEES

FILES CONTAINING PERSONAL DATA

ELECTRONIC SIGNATURE

INTERNET

CENTRAL TRAFFIC DEPARTMENT

ELECTRONIC NOTIFICATION

ORGANISATION OF THE STATE ADMINISTRATION

ADMINISTRATIVE PROCEDURES

OFFICIAL PUBLICATIONS

TELECOMMUNICATION NETWORKS

ADMINISTRATIVE REGISTERS

FEES AND CHARGES