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ARTICLES AND PROVISIONS RELATING TO E-GOVERNMENT OF THE LAWS 39/2015 AND 40/2015

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Articles and provisions relating to e-government of the Laws 39/2015 and 40/2015

Law 39/2015 of 1 October, on Common Administrative Procedure of Public Administrations

Law 40/2015, of 1 October, on the Legal Regime of the Public Sector

Law 39/2015 of 1 October, on Common Administrative Procedure of Public Administrations

This document is an unofficial and legally invalid translation of a set of articles and provisions relating to the electronic administration of:

Law 39/2015 of 1 October, on Common Administrative Procedure of Public Administrations

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Law 39/2015 is structured in 133 articles, distributed in seven titles, five additional provisions, five transitional provisions, one derogatory provision and seven final provisions.

Articles and provisions relating to e-government excerpted:

Article 1. Purpose of the Law

1. The purpose of this Law is to regulate the requirements for the validity and effectiveness of administrative acts, the common administrative procedure to all Public Administrations, including the sanctioning procedure and the procedure for claiming the responsibility of the Public Administrations, as well as the principles to which the exercise of the legislative initiative and regulatory power must conform.

2. Only by law, when it is effective, proportionate and necessary for the achievement of the purposes of the procedure, and in a reasoned manner, may additional or different procedures be added to those contemplated in this Law. Regulations may establish procedural specialities referring to the competent bodies, time limits specific to the particular procedure by reason of the subject matter, forms of initiation and termination, publication and reports to be obtained.

Article 2. Scope of Application

1. This Law applies to the public sector, which includes:

a) The General State Administration.

b) The Administrations of the Autonomous Communities.

c) The Entities that make up the Local Administration.

d) The institutional public sector.

2. The public institutional sector is integrated by:

a) Any public bodies and public law entities linked to or dependent on the Public Administrations.

b) Private-law entities linked to or dependent on the Public Administrations, which shall be subject to the provisions of the regulations of this Law that specifically refer thereto, and in any case, when they exercise administrative powers.

c) Public Universities, which shall be governed by their specific regulations and, in addition, by the provisions of this Law.

3. The General State Administration, the Administrations of the Autonomous Communities, the Entities that make up the Local Administration, as well as the public bodies and public law entities provided for in section 2 a) above are considered to be Public Administrations.

4. Public Law Corporations shall be governed by their specific regulations in the exercise of the public functions attributed to them by Law or delegated by a Public Administration, and in addition by this Law.

Article 5. Representation

1. Interested parties with the capacity to act may act by means of a representative, with this being understood as administrative actions, unless the interested party expressly declares itself to be against it.

2. Natural persons with the capacity to act and legal persons, if this is provided for in their statutes, may act on behalf of others before the public authorities.

3. In order to make requests, make responsible statements or communications, file appeals, withdraw actions and waive rights on behalf of another person, evidence of representation must be provided. For acts and processes that are mere formalities, such representation shall be presumed.

4. Proof of representation may be furnished by any legally valid means which provide a reliable record of its existence.

For these purposes, the representation carried out by means of a power of attorney to act before the Administration in the form of a report made by personal appearance or electronic appearance at the corresponding Electronic Office Website, or through accreditation of its registration in the electronic registry of powers of attorney to act before the Administration of the competent Public Administration, shall be understood to be accredited.

5. The body responsible for the procedure must include in the administrative file evidence of the status of the representative and the powers of attorney to act before the Administration recognised at that time. The electronic document evidencing the result of the consultation of the corresponding electronic registry of powers of attorney to act before the Administration shall have the status of accreditation for this purpose.

6. The lack or insufficiency of accreditation of representation shall not prevent the act in question from being deemed to have been carried out, provided that such accreditation is provided or the defect is remedied within the ten-day period to be granted for that purpose by the administrative body, or a longer period where the circumstances of the case so require.

7. Public administrations may generally or specifically authorise individuals or legal entities to carry out certain electronic transactions on behalf of the interested parties. Such authorisation must specify the

conditions and obligations to which those who thus acquire the status of representative commit themselves, and determine the presumption of validity of the representation unless the implementing regulations provide otherwise. The Public Administrations may require, at any time, the accreditation of such representation. However, the person concerned may always appear in the proceedings himself/herself.

Article 6. Electronic registries of powers of attorney to act before the Administration

1. The General State Administration, the Autonomous Communities and the Local Entities will have a general electronic registry of powers of attorney to act before the Administration, in which at least the general powers of attorney to act before the Administration granted by a person who is an interested party in an administrative procedure in favour of a representative must be registered, either in person or electronically, in order to act on his or her behalf before the Public Administration. It should also include the realised extent of power.

At the state level, this registry will be the Electronic Registry of Powers of attorney to act before the Administration of the General State Administration.

The general registry of powers of attorney to act before the Administration shall not prevent the existence of particular registries in each Agency where the powers of attorney to act before the Administration granted for the performance of specific procedures are registered therein. Each Agency may have its own electronic registry of powers of attorney to act before the Administration.

2. The general and specific electronic registries of powers of attorney to act before the Administration belonging to each and every one of the administrations must be fully interoperable with each other, so as to guarantee their interconnection, computer compatibility and the telematic transmission of the requests, writings and communications incorporated in them.

The general and specific electronic registries of powers of attorney to act before the Administration will make it possible to validly check the representation of those acting before the public authorities on behalf of a third party, by consulting other similar administrative registries, the commercial registry, the property registry and notarial records.

The commercial, property and notarial registries will be interoperable with the general and particular electronic registries of powers of attorney to act before the Administration.

3. Entries made in the general and specific electronic registries of powers of attorney to act before the Administration must contain at least the following information:

a) The surname and first name or the name of the company, national identity card, tax number or equivalent document of the principal.

b) The surname and first name or the name of the company, national identity card, tax number or equivalent document of the representative.

c) Date of registration.

d) The period of time for which the power of attorney to act before the Administration is granted.

e) Type of power of attorney to act before the Administration according to the powers granted.

4. The powers of attorney to act before the Administration to be recorded in the general and specific electronic registries of powers of attorney to act before the Administration must correspond to one of the following typologies:

a) A general power of attorney to act before the Administration so that the representative can act on behalf of the principal in any administrative procedure and before any Administration.

b) A power of attorney to act before the Administration to enable the representative to act on behalf of the principal in any administrative action before a particular administration or body.

c) A power of attorney to act before the Administration to enable the representative to act on behalf of the principal only for the performance of certain formalities specified in the power of attorney.

Each Autonomous Community shall approve the models of powers of attorney to act before the Administration that can be registered in the registry when it is limited to actions before its respective Administration.

5. The power of attorney to act before the Administration "apud acta" shall be granted by electronic appearance at the corresponding Electronic Office Website using the electronic signature systems provided for in this Law, or by personal appearance at the registry assistance offices.

6. Powers of attorney to act before the Administration entered in the registry shall be valid for a maximum of five years from the date of registration. In any case, at any time before the end of this period, the principal may revoke or extend the power of attorney. Extensions granted by the principal to the registration shall be valid for a specified period of not more than five years from the date of registration.

7. Requests for registration of the power of attorney to act before the Administration, revocation, extension or denunciation thereof may be addressed to any registry, and this circumstance must be recorded in the registry of the Administration or Body before which the power of attorney to act before the Administration takes effect, and shall take effect from the date on which such registration is made.

Article 9. Systems for identifying those interested in the procedure

1. Public Administrations are obliged to verify the identity of the interested parties in the administrative procedure, by checking their name and surname(s) or name(s) or company name(s), as appropriate, as stated on the National Identity Document or equivalent identification document.

2. Interested parties may identify themselves electronically to the Public Administration through the following systems:

a) Systems based on qualified electronic signature certificates issued by providers included in the ''Trusted List of Certification Service Providers''.

b) Systems based on qualified electronic seal certificates issued by providers included in the ''Trusted List of Certification Service Providers''.

c) Password authenticated key (PAK) systems and any other system, which the Administrations consider valid under the terms and conditions to be established, provided that they have a prior registration as a user which guarantees their identity, after authorisation by the Secretariat-General for Digital Administration of the Ministry of Territorial Policy and Public Function, which may only be denied for reasons of public security,

following a binding report by the Secretariat of State for Security of the Ministry of the Interior. The authorisation must be issued within three months at the latest. Without prejudice to the obligation of the General State Administration to resolve the request for authorisation within the time limit, failure to resolve the request for authorisation will be understood to have negative effects.

Public administrations shall ensure that the use of one of the systems established in points (a) and (b) is possible for all procedures, even if one of the systems provided for in point (c) is allowed for the same procedure.

3. With regard to the identification systems provided for in point c) of the previous section, it is mandatory that the technical resources necessary for the collection, storage, processing and management of these systems are located in European Union territory, and in the case of special categories of data referred to in Article 9 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC, in Spanish territory. In any case, the data will be available for access by the competent judicial and administrative authorities.

The data referred to in the previous paragraph may not be transferred to a third country or international organisation, except for those that have been the subject of a decision of adequacy by the European Commission or when required for the fulfilment of international obligations assumed by the Kingdom of Spain.

4. In any case, the acceptance of any of these systems by the General State Administration will serve to accredit before all Public Administrations, unless there is proof to the contrary, the electronic identification of the interested parties in the administrative procedure.

Article 10. Signature systems admitted by the Public Administrations

1. The interested parties may sign by any means that allows them to prove the authenticity of the expression of their will and consent, as well as the integrity and immutability of the document.

2. In the event that the interested parties choose to interact with the Public Administrations through electronic means, the following will be considered valid for the purposes of signature:

a) Qualified and advanced electronic signature schemes based on qualified electronic signature certificates issued by providers included in the "Trusted List of Certification Service Providers".

b) Qualified electronic seal and advanced electronic seal systems based on qualified electronic seal certificates issued by providers included in the ''Trusted List of Certification Service Providers''.

c) Any other system that the Public Administrations consider valid in the terms and conditions that are established, provided that they have a previous registration as a user that allows them to guarantee their identity, after authorisation by the General Secretariat for Digital Administration of the Ministry of Territorial Policy and Public Function, which can only be denied for reasons of public security, after a binding report from the Secretariat of State for Security of the Ministry of the Interior. The authorisation must be issued within three months at the latest. Without prejudice to the obligation of the General State Administration to resolve the request for authorisation within the time limit, failure to resolve the request for authorisation will be understood to have negative effects.

Public administrations shall ensure that the use of one of the systems provided for in points (a) and (b) is possible for all procedures in all their stages, even if one of the systems provided for in point (c) is also permitted.

3. With regard to the signature systems provided for in paragraph c) of the previous section, it is obligatory that the technical resources necessary for the collection, storage, processing and management of these systems be located in the territory of the European Union, and in the case of special categories of data referred to in Article 9 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, in Spanish territory. In any case, the data will be available for access by the competent judicial and administrative authorities.

The data referred to in the previous paragraph may not be transferred to a third country or international organisation, except for those that have been the subject of a decision of adequacy by the European Commission or when required for the fulfilment of international obligations assumed by the Kingdom of Spain.

4. When expressly provided for in the applicable regulations, the Public Administrations may admit the identification systems contemplated in this Law as a signature system when they allow the authenticity of the expression of the will and consent of the interested parties to be accredited.

5. Where the people concerned use a system of signature as provided for in this article, their identity shall be deemed to be established by the act of signature itself.

Article 11. Use of means of identification and signature in the administrative procedure

1. In general, to carry out any action foreseen in the administrative procedure, it will be sufficient for the interested parties to previously accredit their identity through any of the means of identification foreseen in this Law.

2. The Public Administrations will only require the interested parties to use a mandatory signature to:

a) Formulate requests.

b) Submit responsible statements or communications.

c) Lodge an appeal.

d) Withdraw actions.

e) Waive rights.

Article 12. Assistance for interested parties in the use of electronic media

1. Public Administrations should guarantee that interested parties can relate to the Administration through electronic means, for which purpose they will make available the necessary access channels as well as the systems and applications determined in each case.

2. Public administrations shall assist interested parties not covered by Article 14(2) and (3) who so request in the use of electronic means, in particular as regards identification and electronic signature, submission of requests through the general electronic registry and obtaining certified copies.

Likewise, if any of these interested parties does not have the necessary electronic means, their identification or electronic signature in the administrative procedure may be validly carried out by a public official by using the electronic signature system he or she is equipped with for this purpose. In this case, it will be necessary for the interested party who lacks the necessary electronic means to identify himself/herself before the official and give his/her express consent for this action, which must be recorded for cases of discrepancy or dispute.

3. The General State Administration, the Autonomous Communities and the Local Entities shall keep an updated registry, or other equivalent system, where the officials authorised to identify or sign as regulated in this article shall be recorded. These registries or systems shall be fully interoperable and interconnected with those of the other public administrations for the purpose of checking the validity of these authorisations.

This registry or at least the equivalent system shall include the staff members serving in the registration assistance offices.

Article 13. People's rights in their relations with the Public Administrations

Those who, in accordance with Article 3, have the capacity to act before the Public Administrations are holders, in their relations with them, of the following rights:

a) To communicate with Public Administrations through an electronic General Access Point of the Administration.

b) To be assisted in the use of electronic means in their relations with the Public Administrations.

c) To use the official languages in the territory of their Autonomous Community, in accordance with the provisions of this Law and the rest of the legal system.

d) To access public information, archives and records, in accordance with the provisions of Act No. 19/2013 of 9 December on transparency, access to public information and good governance and the rest of the legal system.

e) To be treated with respect and deference by public authorities and employees, who shall facilitate the exercise of their rights and the fulfilment of their obligations.

f) To demand the responsibilities of the Public Administrations and authorities, when this is legally required.

g) To obtain and use the means of identification and electronic signature provided for in this Law.

h) To the protection of personal data, and in particular to the security and confidentiality of the data contained in the files, systems and applications of the Public Administrations.

i) Any others recognised by the Constitution and laws.

These rights are without prejudice to the rights of the persons concerned in the administrative procedure under Article 53.

Article 14. Right and obligation to relate electronically with the Public Administrations

1. Individuals may choose at any time whether or not to communicate with the public authorities in order to exercise their rights and obligations by electronic means, unless they are obliged to interact with the public

authorities by electronic means. The means chosen by the person to communicate with the Public Administration may be modified by the person at any time.

2. In any case, at least the following subjects shall be obliged to have electronic relations with the Public Administrations in order to carry out any administrative procedure:

a) Legal persons.

b) Entities without legal personality.

c) Those who carry out a professional activity for which membership of a collegiate body is compulsory, for the procedures and actions they carry out with the Public Administrations in the exercise of said professional activity. In any case, this group includes notaries and property and commercial registrars.

d) Those who represent an interested party who is obliged to interact electronically with the Administration.

e) The employees of Public Administrations for the procedures and actions they carry out with them by reason of their status as public employees, in the manner determined by the regulations of each Administration.

3. Administrations may, by regulation, establish the obligation to interact with them through electronic means for certain procedures and for certain groups of individuals who, due to their economic or technical capacity, professional dedication or other reasons, are accredited as having access to and to whom such necessary electronic means are available.

Article 16. Registries

1. Each Administration will have a General Electronic Registry, in which the corresponding entry will be made of all documents presented or received by any administrative body, public organism or entity linked to or dependent on them. The output of official documents addressed to other bodies or individuals may also be noted therein.

The public bodies linked to or dependent on each Administration may have their own electronic registry that is fully interoperable and interconnected with the General Electronic Registry of the Administration to which it depends.

The General Electronic Registry of each Administration will function as a portal to facilitate access to the electronic records of each Agency. Both the General Electronic Registry of each Administration and the electronic registries of each Body will comply with the guarantees and security measures provided for in the legislation on personal data protection.

The provisions for the establishment of the electronic registries shall be published in the relevant official journal and the full text shall be available for consultation at the electronic site of access to the registry. In any case, the provisions for the establishment of electronic registries shall specify the body or unit responsible for managing them, as well as the official date and time and the days declared as non-working days.

An updated list of procedures that can be initiated in each registry will be available at the electronic site of access to each registry.

2. The entries shall be made in the order in which the documents are received or issued, and shall indicate the date of the day on which they occur. Once the registration process has been completed, the documents

will be sent without delay to their addressees and to the corresponding administrative units from the registry in which they were received.

3. The electronic registry of each Administration or Body shall ensure that each entry made contains a number, a heading expressing its nature, the date and time of its submission, identification of the interested party, the sending administrative body, if appropriate, and the person or administrative body to whom it is sent, and, where appropriate, reference to the content of the document being registered. To this end, a receipt shall be issued automatically, consisting of an authenticated copy of the document in question, including the date and time of submission and the registration entry number, as well as a receipt for any other accompanying documents, guaranteeing their integrity and non-repudiation.

4. The documents that interested parties send to the public administration bodies may be submitted:

a) In the electronic registry of the administration or body to which they are addressed, as well as in the other electronic registries of any of the subjects referred to in Article 2(1).

b) At the Post Office, in the form established by regulation.

c) In the diplomatic representations or consular offices of Spain abroad.

d) At the registration assistance offices.

e) In any other body laid down by the provisions in force.

The electronic registries of each and every one of the administrations shall be fully interoperable, so as to ensure computer compatibility and interconnection, as well as the telematic transmission of registry entries and documents submitted to any of the registries.

5. Documents presented in person to the Public Administrations must be digitised, in accordance with the provisions of Article 27 and other applicable regulations, by the assistance office in matters of registries in which they have been presented for their incorporation into the electronic administrative file, returning the originals to the interested party, without prejudice to those cases in which the regulation determines the custody by the Administration of the documents presented or where it is obligatory that objects or documents be presented in a specific support not susceptible to digitisation.

Administrations may, by regulation, establish the obligation to present certain documents by electronic means for certain procedures and groups of individuals who, by reason of their economic or technical capacity, professional dedication or other reasons, can prove that they have access to the necessary electronic means and that such means are available to them.

6. Any sums payable at the time of submission of documents to the public authorities may be paid by transfer to the relevant public office, without prejudice to the possibility of payment by other means.

7. Public Administrations must make public and keep updated a list of the offices where assistance will be provided for the electronic submission of documents.

8. Those documents and information whose special regime establishes another form of presentation will not be considered to be presented in the registry.

Article 17. Archive of documents

1. Each Administration must maintain a single electronic archive of the electronic documents that correspond to completed procedures, under the terms established in the applicable regulations.

2. Electronic documents must be kept in a format that makes it possible to guarantee the authenticity, integrity and preservation of the document, as well as the consultation thereof regardless of the time that has elapsed since it was issued. The possibility of transferring the data to other formats and media that guarantee access from different applications shall be ensured in all cases. The disposal of such documents must be authorised in accordance with the provisions of the applicable regulations.

3. The media or supports in which documents are stored must have security measures, in accordance with the provisions of the National Security Framework, that guarantee the integrity, authenticity, confidentiality, quality, protection and preservation of the stored documents. In particular, they shall ensure the identification of users and access control, as well as compliance with the guarantees provided for in data protection legislation.

Article 19. Appearance of individuals

1. The appearance of individuals before public offices, whether in person or by electronic means, shall be mandatory only when provided for by a regulation having the force of law.

2. In cases where appearance is appropriate, the corresponding summons shall expressly state the place, date, time, means available and purpose of the appearance, as well as the effects of not attending.

3. The Public Administrations will provide the interested party with a certificate of attendance when requested.

Article 21. Obligation to resolve

1. The administration is obliged to give an express decision and to notify thereof in all procedures, whatever the form of initiation.

In cases of limitation, waiver of rights, lapse of proceedings or withdrawal of the application, as well as the supervening disappearance of the subject matter of the proceedings, the decision shall consist of a statement of the circumstances of each case, with an indication of the facts which occurred and the rules which apply.

Exceptions to the obligation referred to in the first paragraph are cases of termination of the procedure by agreement or convention, as well as procedures relating to the exercise of rights subject only to the duty of responsible declaration or communication to the Administration.

2. The maximum period in which the express resolution must be notified will be that established by the regulatory norm of the corresponding procedure.

This period may not exceed six months unless a rule of law establishes a longer period or is provided for in European Union law.

3. Where the rules governing the procedures do not lay down a maximum period, it shall be three months. This period and those provided for in the previous section will be counted:

a) In proceedings initiated ex officio, from the date of the agreement to initiate them.

b) For those initiated at the request of the person concerned, from the date on which the application was entered in the electronic registry of the administration or body responsible for processing it.

4. The Public Administrations must publish and keep updated on the web portal, for information purposes, the list of procedures within their competence, indicating the maximum duration thereof, as well as the effects produced by administrative silence.

In any case, the Public Administrations will inform the interested parties of the maximum period established for the resolution of the procedures and for the notification of the acts that terminate them, as well as the effects that administrative silence may produce. Such mention shall be included in the notification or publication of the agreement to initiate the procedure ex officio, or in the communication to be addressed to the interested party for that purpose within ten days following receipt of the application initiating the procedure in the electronic registry of the administration or body competent to process it. In the latter case, the communication shall also indicate the date on which the application was received by the competent body.

5. When the number of requests made or the persons affected could mean a failure to comply with the maximum time limit for resolution, the body competent to resolve, on a reasoned proposal from the investigating body, or the hierarchical superior of the body competent to resolve, on a proposal from the latter, may enable the personal and material means to comply with the appropriate dispatch and within the time limit.

6. The personnel in the service of the Public Administrations in charge of handling the cases, as well as the heads of the administrative bodies competent to instruct and resolve them are directly responsible, within the scope of their competencies, for compliance with the legal obligation to issue an express resolution on time.

Failure to comply with this obligation shall give rise to disciplinary liability, without prejudice to any liability under the applicable regulations.

Article 26. Issue of documents by the Public Administrations

1. Public administrative documents are understood to be those lawfully issued by bodies of the Public Administrations. Public Administrations shall issue administrative documents in writing, through electronic means, unless their nature requires another more appropriate form of expression and record.

2. To be considered valid, electronic administrative documents must:

a) Contain information of any nature stored in an electronic medium according to a specific format that can be identified and treated in a differentiated fashion.

b) Have the identification data that allow their individualisation, without prejudice to their possible incorporation into an electronic file.

c) Incorporate a time reference for the time they were issued.

d) Incorporate the minimum required metadata.

e) Incorporate the corresponding electronic signatures in accordance with the provisions of the applicable regulations.

Electronic documents will be considered valid if, meeting these requirements, they are transferred to a third party through electronic means.

3. Electronic documents issued by public administrations that are published for information purposes only, as well as those that are not part of an administrative file, do not require an electronic signature. In any case, it will be necessary to identify the origin of these documents.

Article 27. Validity and effectiveness of the copies made by the Public Administrations

1. Each public administration shall determine the bodies responsible for issuing authentic copies of public administrative or private documents.

Authentic copies of private documents are for administrative purposes only. Authentic copies made by a public administration shall be valid in all other administrations.

For this purpose, the General State Administration, the Autonomous Communities and the Local Entities may make authentic copies by means of an authorised civil servant or by means of automated administrative action.

A registry, or other equivalent system, shall be kept up to date, showing the officials authorised to issue certified copies, which shall be fully interoperable and interconnected with those of the other public administrations, for the purpose of checking the validity of such authorisation. This registry or equivalent system shall include at least the officials serving in the registration assistance offices.

2. Any document made by the competent bodies of the public administration, whatever its medium, on which the identity of the body that made the copy and its content is guaranteed, shall be considered a true copy of a public administrative or private document.

The authentic copies shall have the same validity and effectiveness as the original documents.

3. In order to guarantee the identity and content of the electronic or paper copies, and therefore their status as authentic copies, the Public Administrations must comply with the provisions of the National Interoperability Framework, the National Security Framework and their technical implementing rules, as well as with the following rules:

a) Electronic copies of an original electronic document or an authentic electronic copy, with or without a change in format, shall include the metadata that attest to their status and that are displayed when the document is consulted.

b) Electronic copies of documents on paper or on other non-electronic media that can be digitised shall require that the document has been digitised and shall include the metadata that attest to its status as a copy and that are displayed when the document is consulted.

Digitisation is the technological process of converting a document on paper or on another non-electronic medium into an electronic file containing the coded, true and complete image of the document.

c) Paper copies of electronic documents shall require the condition of a copy and shall contain an electronically generated code or other verification system, which shall enable the authenticity of the copy to be checked through access to the electronic archives of the issuing public body or agency.

d) Paper copies of original documents issued on paper shall be provided by means of a certified paper copy of the electronic document held by the Administration or by means of an electronic manifest containing a certified copy of the original document.

For this purpose, the administrations shall make public, through the corresponding Electronic Office Website, the secure verification codes or other verification system used.

4. Interested parties may request, at any time, the issuance of authentic copies of public administrative documents that have been validly issued by the Public Administrations. The request shall be addressed to the body that issued the original document, and must be issued, with the exception of those exceptions resulting from the application of Law 19/2013 of 9 December, within fifteen days of receipt of the request in the electronic registry of the Administration or competent body.

Public administrations shall also be obliged to issue authentic electronic copies of any paper document submitted by the interested parties and to be included in an administrative file.

5. When public administrations issue authentic electronic copies, this must be expressly indicated in the copy document.

6. The issuance of authentic copies of public notarial, registration and judicial documents and official journals shall be governed by their specific legislation.

Article 28. Documents provided by interested parties to the administrative procedure

1. The interested parties must provide the administrative procedure with the data and documents required by the Public Administrations in accordance with the provisions of the applicable regulations. Interested parties may also provide any other documents they deem appropriate.

2. The interested parties have the right not to provide documents that are already in the possession of the acting administration or have been drawn up by any other administration. The acting administration may consult or collect such documents unless the concerned person objects. No objection may be made where the document is required in the exercise of powers of sanction or inspection.

Public administrations should collect documents electronically through their corporate networks or by consulting the data intermediation platforms or other electronic systems enabled for this purpose.

In the case of mandatory reports already drawn up by an administrative body other than the one handling the procedure, these must be sent within ten days of their request. Once this period has expired, the interested party will be informed that he/she can provide this report or wait for it to be sent by the competent body.

3. The Administrations shall not require the submission of original documents from the interested parties, unless, exceptionally, the applicable regulatory standards establish otherwise.

Likewise, the Public Administrations will not require the interested parties to provide data or documents that are not required by the applicable regulations or that have been previously provided by the interested party to any Administration. To this end, the interested party must indicate at what time and before which administrative body he/she submitted the aforementioned documents, and the Public Administrations must collect them electronically through their corporate networks or by consulting the data intermediation

platforms or other electronic systems enabled for this purpose, unless the express opposition of the interested party or the special applicable law requires his/her express consent. Exceptionally, if the Public Administrations are unable to obtain the aforementioned documents, they may ask the interested party to provide them again.

4. When, exceptionally, and in accordance with the provisions of this Law, the administration requests the interested party to submit an original document and this is in paper format, the interested party must obtain a certified copy, in accordance with the requirements established in article 27, prior to its electronic submission. The resulting electronic copy will expressly reflect this circumstance.

5. Exceptionally, when the relevance of the document in the procedure so requires or when there are doubts arising from the quality of the copy, the Administrations may request a reasoned comparison of the copies provided by the interested party, for which they may require the exhibition of the document or the original information.

6. The copies provided by the interested parties to the administrative procedure will be effective, exclusively within the scope of the activity of the Public Administrations.

7. The interested parties will be responsible for the veracity of the documents they submit.

Article 30. Calculation of deadlines

1. Unless otherwise stipulated by law or European Union law, where time limits are indicated in hours, it is understood that these are working hours. Working hours are all the hours of the day that are part of a working day.

Periods expressed in hours shall be counted from hour to hour and from minute to minute from the time when the act in question is notified or published and may not exceed 24 hours, in which case they shall be expressed in days.

2. Provided that no other calculation is expressed by law or in European Union law, when periods are indicated in days, it is understood that these are working days, excluding Saturdays, Sundays and those declared as public holidays.

When time limits have been indicated in calendar days because they have been declared so by a law or by the law of the European Union, this circumstance shall be stated in the corresponding notifications.

3. The periods expressed in days will be counted from the day following that on which the notification or publication of the act in question takes place, or from the day following that on which the estimation or rejection by administrative silence occurs.

4. If the period is set in months or years, these shall be calculated from the day following that on which the notification or publication of the act in question takes place, or from the day following that on which the estimation or rejection by administrative silence occurs.

The period shall end on the same day as the notification, publication or administrative silence in the month or year of expiry. If in the month of expiry there is no day equivalent to that on which the calculation begins, the period shall be deemed to expire on the last day of the month.

5. Where the last day of the period is a non-working day, it shall be extended to the first working day thereafter.

6. When a day is a working day in the municipality or Autonomous Community where the interested party resides, and not a working day where the headquarters of the administrative body is, or vice versa, it will be considered to be a non-working day.

7. The General State Administration and the Administrations of the Autonomous Communities, subject to the official calendar of working days, will set, in their respective areas, the calendar of non-working days for the purposes of calculating time limits. The calendar approved by the Autonomous Communities will include the non-working days of the Local Entities corresponding to their territorial area, which will be applicable to such Entities.

This calendar shall be published before the beginning of each year in the relevant official journal and in other media that ensure general awareness.

8. The declaration of a day as a working day or a non-working day for the purposes of calculating time limits does not in itself determine the operation of Public Administration work centres, the organisation of working time or the working day and timetables thereof.

Article 36. Method

1. Administrative acts shall be performed in writing by electronic means, unless their nature requires another, more appropriate form of expression and record.

2. In cases where administrative bodies exercise their competence orally, the written record of the act, where necessary, shall be made and signed by the head of the lower body or official who receives it orally, expressing in the communication the authority from which it originates. In the case of decisions, the holder of the jurisdiction must authorise a list of those given verbally, with an expression of their content.

3. Where a series of administrative acts of the same kind, such as appointments, concessions or licences, are to be issued, they may be combined in a single act, agreed by the competent body, which shall specify the persons or other circumstances that individualise the effects of the act on each person concerned.

Article 41. General conditions for carrying out notifications

1. Notifications shall be made preferably by electronic means and in any event where the interested party is obliged to receive them by this means.

Notwithstanding the above, the Administrations may carry out the notifications by non-electronic means in the following cases:

a) Where notification is made on the occasion of the spontaneous appearance of the person concerned or his/her representative at the registration assistance offices and he/she requests personal communication or notification at that time.

b) When it is necessary to carry out notification by direct delivery by a public employee of the notifying administration in order to ensure the effectiveness of the administrative action.

Irrespective of the means used, notifications shall be valid provided that they enable a record to be kept of their dispatch or of the fact that they have been made available, of their receipt or access by the person

concerned or his/her representative, of the dates, times and full content the notification, and of the true identity of the sender and recipient thereof. Proof of the notification made shall be included in the file.

Interested parties who are not obliged to receive electronic notifications may decide at any time and inform the public administration, using the standard forms established for that purpose, that successive notifications will be or will no longer be made by electronic means.

Administrations may, by regulation, establish the obligation to make notifications electronically for certain procedures and for certain groups of natural persons who, by reason of their economic or technical capacity, professional dedication or other reasons, can prove that they have access to and that the necessary electronic means is available.

Additionally, the interested party may identify an electronic device and/or an e-mail address that will be used to send the notices regulated in this article, but not for carrying out notifications.

2. In no case shall the following notifications be made by electronic means:

a) Those in which the act to be notified is accompanied by elements that cannot be converted into an electronic format.

b) Those containing means of payment in favour of those persons concerned, such as cheques.

3. In proceedings initiated at the request of the person concerned, notification shall be made by the means indicated by that person. Such notification will be electronic in cases where there is an obligation to relate to the Administration in this way.

Where notification is not possible in accordance with the request, it shall be made in any place suitable for that purpose, and by any means which provides evidence of receipt by the person concerned or his/her representative, and of the date, identity and content of the notified act.

4. In procedures initiated ex officio, for the sole purpose of initiation, the Public Administrations may collect, by consulting the databases of the National Statistics Institute, the data on the address of the interested party collected in the Municipal Registry, sent by the Local Entities in application of what is provided for in Law 7/1985, of 2 April, regulating the Bases of the Local Regime.

5. When the interested party or his/her representative refuses the notification of an administrative action, it shall be recorded in the file, specifying the circumstances of the attempted notification and the means, and the procedure shall be deemed to have been carried out and followed.

6. Irrespective of whether the notification is made on paper or by electronic means, the public administrations shall send a notice to the electronic device and/or the e-mail address of the interested party which the latter has communicated, informing him/her that a notification has been made available at the Electronic Office Website of the corresponding administration or body or at the single qualified e-mail address. Failure to carry out this notice will not prevent the notification from being considered fully valid.

7. Where the person concerned is notified through different channels, the date of notification shall be taken as that of the first notification.

Article 42. Carrying out paper-based notifications

1. All notifications that are made on paper must be made available to the interested party at the Electronic Office Website of the Administration or Agency acting for them so their content can be accessed on a voluntary basis.

2. Where notification is made at the address of the person concerned, if that person is not present when the notification is given, it may be taken by any person over fourteen years of age who is at the address and whose identity is known. If no one took care of the notification, this circumstance will be noted in the file, along with the day and time when notification was attempted, which will be repeated once and at a different time within the following three days. If the first attempt at notification is made before three o'clock in the afternoon, the second attempt must be made after three o'clock in the afternoon and vice versa, leaving in any case at least a three hour difference between the two attempts at notification. If the second attempt is also unsuccessful, the procedure shall be as provided for in Article 44.

3. When the interested party accesses the content of the notification on an Electronic Office Website, he/she will be offered the possibility of carrying out the rest of the notifications through electronic means.

Article 43. Carrying out notifications through electronic means

1. Notifications by electronic means shall be made by means of an appearance at the Electronic Office Website of the Administration or Agency involved, through the General Point for Notifications or through both systems, as provided by each Administration or Agency.

For the purposes of this article, appearance at the electronic site means access by the interested party or his/her duly identified representative to the content of the notification.

2. Notifications by electronic means shall be deemed to have been made at the time when access to their content occurs.

When notification by electronic means is by nature obligatory, or has been expressly chosen by the interested party, it will be understood as rejected when ten calendar days have passed since the notification was made available without its content being accessed.

3. The obligation referred to in Article 40(4) shall be deemed to have been fulfilled when the notification is made available at the Electronic Office Website of the acting Administration or Agency or at the General Point for Notifications.

4. Interested parties will be able to access the notifications from the Administration's electronic General Access Point, which will function as a gateway.

Article 44. Unsuccessful notification

Where the parties to the proceedings are unknown, the place of notification is not known or, if notification has been attempted and cannot be carried out, notification shall be made by means of a notice published in the "Official State Gazette".

In addition, prior to this and on an optional basis, the Administrations may publish an announcement in the official gazette of the Autonomous Community or Province, on the notice board of the Town Hall of the last address of the interested party or of the Consulate or Consular Section of the corresponding Embassy.

The Public Administrations may establish other forms of complementary notification through such other media, which will not exclude the obligation to publish the corresponding announcement in the "Official State Gazette".

Article 53. Rights of the interested party in the administrative procedure

1. In addition to the other rights provided for in this Law, the interested parties in an administrative procedure have the following rights:

a) To know, at any time, the status of the procedures in which they have the status of interested parties; the meaning of the corresponding administrative silence, in the event that the Administration does not issue or notify an express resolution in time; the competent body for its instruction, if any, and resolution; and the acts of procedure issued. They shall also have the right to access and obtain copies of the documents contained in the above-mentioned proceedings.

Those who deal with the Public Administrations through electronic means will have the right to consult the information referred to in the previous paragraph at the Administration's electronic General Access Point, which will function as an access portal. The Administration's obligation to provide copies of the documents contained in the procedures will be understood to have been fulfilled by making them available at the competent Administration's electronic General Access Point or at the corresponding electronic sites.

b) To identify the authorities and personnel in the service of the public administrations under whose responsibility the procedures are processed.

c) Not to submit original documents unless, exceptionally, the applicable regulatory standards provide otherwise. If, exceptionally, they are required to submit an original document, they shall be entitled to obtain a certified copy thereof.

d) Not to submit data and documents not required by the rules applicable to the procedure in question, which are already in the possession of the public authorities or have been drawn up by them.

e) To make representations, to use such means of defence admitted by the legal system, and to submit documents at any stage of the proceedings prior to the hearing, which must be taken into account by the competent body when drawing up the proposed resolution.

f) To obtain information and guidance on legal or technical requirements that existing provisions impose on proposed projects, actions or applications the carrying out of which is proposed.

g) To act and be supported by an advisor when they consider it appropriate to defend their interests.

h) To comply with payment obligations through the electronic means provided for in Article 98(2).

i) Any others recognised by the Constitution and laws.

2. In addition to the rights provided for in the previous section, in the case of administrative proceedings of a punitive nature, the alleged perpetrators shall have the following rights:

a) To be notified of the facts with which they are charged, the offences which may constitute them and the penalties which may be imposed on them, and of the identity of the investigator, the authority competent to impose the penalty and the rule conferring such competence.

b) To the presumption of the non-existence of administrative liability until proven otherwise.

Article 66. Initiation requests

1. Such requests made must contain:

a) The name of the person concerned and, where appropriate, of the person representing him/her.

b) Identification of the electronic means, or failing that, the physical location, in which it is desired that the notification be made. In addition, interested parties may provide their e-mail address and/or the address of the electronic device so that the Public Administrations can notify them of the sending thereof, or that such notification has been made available.

c) The facts, reasons and petition on which the request is based shall be clearly stated.

d) Place and date.

e) Signature of the applicant or proof of the authenticity of his/her will expressed by any means.

f) Body, centre or administrative unit to which it is addressed and its corresponding identification code.

The registration assistance offices shall be obliged to provide the identification code to the individuals concerned if they do not know it. Likewise, the Public Administrations must maintain and update at the corresponding electronic site a list with the current identification codes.

2. Where the claims of a number of individuals are identical or substantially similar in content and substance, they may be formulated in a single request, unless the rules governing the specific procedures provide otherwise.

3. Regarding such requests, communications and writings presented by the interested parties electronically or in the Administration's registry assistance offices, the latter may require the corresponding receipt proving the date and time of presentation.

4. Public administrations should establish models and systems of mass presentation that allow interested parties to present several requests simultaneously. These forms, for voluntary use, will be available at the corresponding electronic sites and at the Public Administration's registry assistance offices.

Applicants may attach any information they consider necessary to clarify or complete the data form, which must be accepted and taken into account by the body to which they apply.

5. The standard application systems may include automatic checks of information provided in respect of data stored in own systems or those belonging to other administrations. As well as to offer the completed form, in full or in part, for the purpose of verification of such information by the person concerned and, where appropriate, for its modification and completion by such person.

6. When the administration in a specific procedure expressly establishes specific forms for the presentation of requests, these will be of obligatory use by the interested parties.

Article 70. Administrative file

1. The administrative file is understood to be the ordered set of documents and actions that serve as a precedent and basis for the administrative resolution, as well as the proceedings aimed at executing it.

2. The files shall be in electronic format and shall be formed by the orderly aggregation of any documents, evidence, opinions, reports, agreements, notices and other proceedings to be included in them, as well as a numbered index of all the documents they contain when submitted. A certified electronic copy of the decision must also be included in the file.

3. Where a standard requires the electronic file to be sent, it shall be sent in accordance with the provisions of the National Interoperability Framework and the corresponding Technical Standards for Interoperability, and shall be sent complete, paged, authenticated and accompanied by an index, also authenticated, of the documents it contains. The authentication of the index will guarantee the integrity and immutability of the electronic file generated from the moment of its signature and will allow its retrieval whenever necessary, it being admissible that the same document be part of different electronic files.

4. Information of an auxiliary or supporting nature, such as that contained in computer applications, files and databases, notes, drafts, opinions, summaries, communications and reports, whether internal or between administrative bodies or entities, as well as value judgements issued by the Public Administrations, shall not form part of the administrative file, except in the case of reports, both mandatory and optional, requested prior to the administrative decision that terminates the procedure.

Article 98. Enforceability

1. The acts of the Public Administrations subject to Administrative Law shall be immediately enforceable, unless:

a) The execution of the act is suspended.

b) It is a decision in disciplinary proceedings against which an administrative appeal can be made, including the possibility of reinstatement.

c) A provision to the contrary.

d) Higher-level approval or authorisation is required.

2. When an administrative decision, or any other form of termination of the administrative procedure provided for in this law, gives rise to an obligation to pay resulting from a financial penalty, fine or any other right to be paid to the Treasury, this shall be done preferably, unless the impossibility of doing so is justified, using one of the following electronic means:

a) Credit and debit card.

b) Bank transfer.

c) Direct debit.

d) Any others authorised by the competent body in matters of public finance.

Second additional provision. Adherence of Autonomous Communities and Local Entities to the platforms and registries of the General State Administration

In order to comply with the provisions on the electronic registry of powers of attorney to act before the Administration, electronic registry, single electronic file, data intermediation platform and general electronic access point of the Administration, the Autonomous Communities and Local Entities may voluntarily join, by

electronic means, the platforms and registries established for this purpose by the General State Administration. Their non-adherence must be justified in terms of efficiency in accordance with Article 7 of Organic Law 2/2012 of 27 April on Budgetary Stability and Financial Sustainability.

In the event that an Autonomous Community or a Local Entity justifies to the Ministry of Finance and Public Administration that it can provide the service more efficiently, in accordance with the criteria set out in the previous paragraph, and chooses to maintain its own registry or platform, the aforementioned Administrations must guarantee that such service complies with the requirements of the National Interoperability Framework, the National Security Framework, and their technical development standards, so as to ensure their computer compatibility and interconnection, as well as the telematic transmission of requests, writings and communications made in their corresponding registries and platforms.

Please note that the second paragraph is declared not to be unconstitutional as interpreted in the terms of legal basis 11 f) by Constitution Court Ruling 55/2018 of 24 May. Ref. (Official Gazette) BOE-A-2018-8574

Law 40/2015, of 1 October, on the Legal Regime of the Public Sector

This document is an unofficial and legally invalid translation of a set of articles and provisions relating to the electronic administration of:

- Law 40/2015, of 1 October, on the Legal Regime of the Public Sector.
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- Permalink ELI: https://www.boe.es/eli/es/l/2015/10/01/40/con

Law 40/2015 is structured in 158 articles, distributed in three titles, twenty-two additional provisions, four transitional provisions, one derogatory provision and eighteen final provisions.

Articles and provisions relating to e-government excerpted in this translation:

Article 1. Objective

This Law establishes and regulates the bases of the legal regime of the Public Administrations, the principles of the system of responsibility of the Public Administrations and the power to impose sanctions, as well as the organisation and functioning of the General State Administration and its public institutional sector for the development of its activities.

Article 2. Subjective Scope

1. This Law applies to the public sector which comprises:

a) The General State Administration.

b) The Administrations of the Autonomous Communities.

c) The Entities that make up the Local Administration.

d) The institutional public sector.

2. The public institutional sector is integrated by:

a) Any public bodies and public law entities linked to or dependent on the Public Administrations.

b) The private law entities linked to or dependent on the Public Administrations, which will be subject to the provisions of the rules of this Law that specifically refer to them, in particular the principles set out in Article 3, and in any case, when they exercise administrative powers.

c) Public Universities, which shall be governed by their own specific regulations and, in addition, by the provisions of this Law.

3. The General State Administration, the Administrations of the Autonomous Communities, the Entities that make up the Local Administration, as well as the public bodies and public law entities provided for in section 2 a) are considered to be Public Administrations.

Article 3. General principles

1. Public Administrations serve the general interest objectively and act in accordance with the principles of efficiency, hierarchy, decentralisation, deconcentration and coordination, in full compliance with the Constitution, Statutes and the Law.

They must respect the following principles in their actions and relationships:

a) Effective service to citizens.

b) Simplicity, clarity and proximity to citizens.

c) Participation, objectivity and transparency of administrative action.

d) Streamlining and expediting administrative procedures and material management activities.

e) Good faith, legitimate trust and institutional loyalty.

f) Accountability for public management.

g) Planning and direction by objectives and management control and evaluation of public policy results.

h) Effectiveness in meeting the objectives set.

i) Economy, sufficiency and strict adequacy of means for institutional purposes.

j) Efficiency in the allocation and use of public resources.

k) Cooperation, collaboration and coordination between public administrations.

2. The Public Administrations shall interact among themselves and with their bodies, public agencies and related or dependent entities by electronic means, ensuring the interoperability and security of the systems and solutions adopted by each of them, guaranteeing the protection of personal data, and preferably facilitating the joint provision of services to data subjects.

3. Under the direction of the Government of the Nation, the governing bodies of the Autonomous Communities and the corresponding bodies of the Local Entities, the actions of the respective Public Administration are carried out to achieve the objectives established by law and the rest of the legal system.

4. Each of the Public Administrations in Article 2 acts for the fulfilment of its purposes with a single legal personality.

Article 17. Calls and sessions

1. All the collegiate bodies may be constituted, convened, hold their sessions, adopt agreements and send minutes both face-to-face and from a distance, unless their internal regulations expressly and exceptionally state otherwise.

At meetings held by the collegiate bodies at a distance, their members may meet in different places provided it is ensured by electronic means, including telephone and audio-visual means, that the identity of the members or persons replacing them, the content of their statements, the time at which they take place, as well as the interactivity and intercommunication between them in real time and the availability of the means during the meeting are guaranteed. Among other things, e-mail, audio and video conferences shall be considered to be included among the valid electronic media.

2. For the valid constitution of the body, for the purposes of holding sessions, deliberations and the adoption of agreements, the attendance, either in person or from a distance, of the Chairman and Secretary or, where appropriate, of those who replace them, and that of at least half of its members, will be required.

In the case of the collegiate bodies referred to in Article 15.2, the Chairman may consider the body to be validly constituted for the purpose of holding a session if the representatives of the Public Administrations and of the organisations representing social interests that are members of the body to which the status of spokesperson has been attributed are present.

When the Secretary and all the members of the collegiate body, or in their case the individuals who substitute them, meet in person or remotely, they may validly constitute themselves as a collegiate body for the holding

of sessions, deliberations and the adoption of agreements without the need for prior notice when all its members so decide.

3. The collegiate bodies may establish their own system of calls for proposals, if this is not provided for in their operating rules. Such arrangements may provide for a second call and specify for this second call the number of members required to validly constitute the body.

Unless this is not possible, the calls will be sent to the members of the collegiate body by electronic means, stating the agenda together with the necessary documentation for deliberation where possible, the conditions under which the meeting is to be held, the system of connection and, where appropriate, the places where the technical means required to attend and participate in the meeting are available.

4. No matter what is not on the agenda may be the subject of deliberation or agreement, unless all the members of the collegiate body attend and the urgency of the matter is declared by a majority vote.

5. Resolutions shall be adopted by majority vote. When attending at a distance, the agreements will be understood to have been adopted in the place where the collegiate body has its headquarters and, failing that, where the chairmanship is located.

6. When the members of the body vote against agreements or abstain from voting, they will be exempt from any liability that may arise from the agreements.

7. Those who prove that they have a legitimate interest may apply to the Secretary of a collegiate body for a certificate of its agreements to be issued. The certificate will be issued by electronic means, unless the interested party expressly states otherwise and is not obliged to interact with the Administrations in this way.

Article 18. Minutes

1. The minutes of each session held by the collegiate body shall be drawn up by the Secretary, who shall necessarily specify to those attending, the agenda of the meeting, the circumstances of the place and time in which it was held, the main points of the deliberations, and the content of the agreements adopted.

Sessions held by the collegiate body may be recorded. The file resulting from the recording, together with the certificate issued by the Secretary of the authenticity and integrity thereof, and any documents in electronic form used as documents of the session, may accompany the minutes of the sessions, without the need to record the main points of the deliberations.

2. The minutes of each meeting may be approved at the same meeting or at the next one. The Secretary will prepare the minutes with the approval of the Chairman and will send them by electronic means to the members of the collegiate body, who may express their agreement or objections to the text by the same means, for the purpose of its approval, considering it to have been approved at the same meeting.

Where a decision has been taken to record meetings held or to use documents on an electronic medium, they must be kept in such a way as to guarantee the integrity and authenticity of the corresponding electronic files and access to them by the members of the collegiate body.

Article 38. Electronic offices

1. Electronic offices are those electronic addresses, available to citizens through telecommunications networks, whose ownership corresponds to Public Administrations, or to one or more public bodies or public law entities in the exercise of their powers.

2. The establishment of an electronic office website entails the responsibility of the owner with respect to the integrity, veracity and updating of the information and services that can be accessed through it.

3. Each public administration will determine the conditions and instruments for the creation of electronic offices, subject to the principles of transparency, publicity, responsibility, quality, security, availability, accessibility, neutrality and interoperability. In any case, the identification of the head office body must be guaranteed, as well as the means available for the formulation of suggestions and complaints.

4. Electronic offices shall have systems in place to enable secure communications to be established whenever necessary.

5. The publication of information, services and transactions on electronic offices will respect the principles of accessibility and use in accordance with the rules established in this regard, open standards and, where appropriate, those that are widely used by citizens.

6. To identify themselves and ensure secure communication therewith, the electronic office website will use recognised or qualified website authentication certificates or equivalent means.

Article 39. Internet portal

An Internet portal is understood to be an electronic access point owned by a public administration, public body or public law entity that allows access via the Internet to the published information and, where appropriate, to the corresponding electronic office.

Article 40. Public Administration identification systems

1. Public administrations may be identified by the use of an electronic seal based on a qualified or recognised electronic certificate that meets the requirements of the legislation on electronic signatures. Such electronic certificates shall include the tax identification number and the corresponding denomination, as well as, where appropriate, the identity of the holder in the case of electronic stamps of administrative bodies. The list of electronic seals used by each public administration, including the characteristics of the electronic certificates and the providers that issue them, should be public and accessible by electronic means. In addition, each public administration shall take appropriate measures to facilitate the verification of its electronic stamps.

2. The Public Administration will be understood to have identified the information published as its own on its Internet portal.

Article 41. Automated administrative action

1. Automated administrative action is understood to be any act or action carried out entirely through electronic means by a public administration in the framework of an administrative procedure and in which a public employee has not been directly involved.

2. In the case of automated administrative action, the competent body or bodies, as the case may be, must be established in advance for the definition of the specifications, programming, maintenance, supervision

and quality control and, where appropriate, for the audit of the information system and its source code. It shall also indicate the body to be held liable for the purpose of challenge.

Article 42. Signature systems for automated administrative actions

In the exercise of competence in automated administrative action, each public administration may determine the cases in which the following electronic signature systems may be used:

a) Electronic seal of public administration, body, public agency or entity governed by public law, based on a qualified or recognised electronic certificate that meets the requirements of the legislation on electronic signatures.

b) Secure verification code linked to the public administration, body, public agency or public law entity, under the terms and conditions established, allowing in all cases the verification of the integrity of the document through access to the corresponding electronic office.

Article 43. Electronic signature of the staff at the service of the Public Administrations

1. Without prejudice to the provisions of Articles 38, 41 and 42, the actions of a public administration, body, public agency or entity governed by public law, when using electronic means, shall be carried out by means of an electronic signature belonging to the head of the body or to a public employee.

2. Each public administration will determine the electronic signature systems to be used by its personnel, who may jointly identify the holder of the post or position and the administration or body in which her/she provides his/her services. For reasons of public security, electronic signature systems may refer only to the professional identification number of the public employee.

Article 44. Electronic data exchanged in closed communication environments

1. Electronic documents transmitted in closed communication environments established between public administrations, bodies, public agencies and public law entities, shall be considered valid for the purposes of authentication and identification of the issuers and receivers under the conditions established in this article.

2. When the participants in the communications belong to the same public administration, it will determine the governing conditions and guarantees that will, at least, include the list of authorised emitters and receivers and the nature of the data to be exchanged.

3. When the participants belong to different Administrations, the conditions and guarantees mentioned in the previous section will be established by means of an agreement signed between them.

4. In any case, the security of the closed communications environment and the protection of the data being transmitted must be guaranteed.

Article 45. Electronic signature assurance and interoperability

1. Public Administrations may determine the procedures and reports that include qualified and advanced electronic signatures based on qualified or recognised electronic signature certificates.

2. In order to promote interoperability and enable automatic verification of the electronic signature of electronic documents, when an administration uses electronic signature systems other than those based on recognised or qualified electronic certificates to send or make available electronically signed documents to other bodies, public bodies, public law entities or administrations, it may affix an electronic seal based on a recognised or qualified electronic certificate.

Article 46. Electronic archive of documents

1. All documents used in administrative proceedings shall be stored by electronic means, except where this is not possible.

2. Electronic documents containing administrative acts that affect the rights or interests of individuals must be kept on media of this nature, either in the same format from which the document originated or in any other format that ensures the identity and integrity of the information required to reproduce it. The possibility of transferring the data to other formats and media that guarantee access from different applications shall be ensured in all cases.

3. The media or supports in which documents are stored must have security measures, in accordance with the provisions of the National Security Framework, that guarantee the integrity, authenticity, confidentiality, quality, protection and preservation of the stored documents. In particular, they will ensure the identification of users and access control, compliance with the guarantees provided for in data protection legislation, as well as the recovery and long-term preservation of electronic documents produced by public administrations that require them, in accordance with the specifications on the life cycle of the services and systems used.

Article 95. Shared management of common services

1. The rule of creation of the public bodies of the state public sector will include the shared management of some or all the common services, unless the decision not to share them is justified, in the report accompanying the rule of creation, in terms of efficiency, in accordance with Article 7 of Organic Law 2/2012 of 27 April on Budgetary Stability and Financial Sustainability, for reasons of national security or when the shared organisation and management affects services that should be provided autonomously in view of the independence of the body.

The organisation and management of some or all of the common services will be coordinated by the assigned Ministry, by the Ministry of Finance and Public Administration or by a public body linked to or dependent thereupon.

2. The following, at least, are considered to be common services of public bodies:

a) Management of immovable property.

b) Information and communications systems.

c) Legal assistance.

d) Accounting and financial management.

e) Publications.

f) Public procurement.

Article 142. Collaboration techniques

The obligations arising from the duty to collaborate will be made effective through the following techniques:

a) The provision of information, data, documents or means of evidence which are available to the public body or entity to which the request is addressed and which the requesting administration needs to have available for the exercise of its powers.

b) The establishment and maintenance of integrated administrative information systems in order to have up-to-date, complete and permanent data on the different areas of administrative activity throughout the national territory.

c) The duty of assistance and aid, to meet the requests made by other administrations for the better exercise of their powers, especially when the effects of their administrative activity extend beyond their territorial area.

d) Any other techniques provided for in a law.

Article 155. Data transmissions between Public Administrations

1. In accordance with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC and Organic Law 3/2018 of 5 December, on Personal Data Protection and the guarantee of digital rights and its development regulations, each Administration must facilitate access by the other Public Administrations to the data relating to the interested parties that are in its possession, specifying the conditions, protocols and functional or technical criteria necessary to access these data with the maximum guarantees of security, integrity and availability.

2. Under no circumstances may the data be further processed for purposes incompatible with those for which the personal data were originally collected. Pursuant to Article 5(1)(b) of Regulation (EU) 2016/679, further processing of personal data for archiving purposes in the public interest, for scientific and historical research or for statistical purposes shall not be considered incompatible with such initial purposes.

3. Apart from the case provided for in the previous section and provided that the special laws applicable to the respective processing do not expressly prohibit the subsequent processing of the data for a different purpose, when the Public Administration assigning the data intends to further process it for a purpose that it considers compatible with the initial purpose, it must previously notify the assigning Public Administration so that the latter can verify such compatibility. The assigning public administration may, within ten days, object with reasons. When the assigning administration is the General State Administration, it may in this case, exceptionally and with reasons, suspend the transmission of data for reasons of national security as a precautionary measure for the time strictly necessary for their preservation. As long as the assigning public administration does not communicate its decision to the assignee, the latter will not be able to use the data for such new intended purpose.

Exceptions to the provisions of the previous paragraph are cases in which the processing for a purpose other than that for which the personal data were collected is provided for by a regulation having the status of a law in accordance with the provisions of Article 23.1 of Regulation (EU) 2016/679.

Article 156. National Interoperability Framework and National Security Framework

1. The National Interoperability Framework comprises the set of criteria and recommendations regarding security, preservation and standardisation of information, formats and applications that should be taken into account by the Public Administrations for technological decision-making to ensure interoperability.

2. The purpose of the National Security Framework is to establish the security policy in the use of electronic means within the scope of this Law, and it is made up of the basic principles and minimum requirements that adequately guarantee the security of the information processed.

Article 157. Reuse of Administration-owned systems and applications

1. The Administrations will make available to any of them that requests it, the applications, developed by their services or that have been the object of contracting and of whose intellectual property rights they are owners, unless the information to which they are associated is the object of special protection by law. The grantor and grantee Administrations may agree on the impact of the cost of acquisition or manufacture of the assigned applications.

2. The applications referred to in the previous section may be declared open source when this results in greater transparency in the operation of the public administration or encourages the incorporation of citizens into the information society.

3. Public Administrations, prior to the acquisition, development or maintenance throughout the life cycle of an application, whether it is carried out with their own means or by contracting the corresponding services, should consult the general directory of applications, which is dependent on the General State Administration, to see if there are solutions available for reuse that can totally or partially satisfy the needs, improvements or updates that are intended to be covered, and provided that the technological requirements for interoperability and security allow for this.

This directory will contain both the applications available from the General State Administration and those available from the integrated application directories of the other Administrations.

In the event that a solution is available for total or partial reuse, the Public Administrations are obliged to use it, unless the decision not to reuse it is justified in terms of efficiency in accordance with Article 7 of Organic Law 2/2012 of 27 April on Budgetary Stability and Financial Sustainability.

Article 158. Technology transfer between Administrations

1. Public Administrations shall maintain updated directories of applications for free reuse, in accordance with the provisions of the National Interoperability Framework. These directories shall be fully interoperable with the general directory of the General State Administration, so as to ensure computer compatibility and interconnection.

2. The General State Administration will maintain a general directory of applications for reuse, support the free reuse of applications and promote the development of common applications, formats and common standards within the framework of the national interoperability and security frameworks.

Ninth additional provision. Sectorial Commission on e-Government

1. The Sectorial Commission on Electronic Administration, which depends on the Sectorial Conference on Public Administration, is the technical body for cooperation between the General State Administration, the Administrations of the Autonomous Communities and the Local Entities in matters of electronic administration.

2. The Sectorial Commission of the electronic administration shall perform at least the following functions:

a) Ensure the compatibility and interoperability of systems and applications used by public administrations.

b) Promote the development of electronic administration in Spain.

c) Ensure cooperation between public administrations to provide clear, updated and unambiguous administrative information.

3. When, by reason of the matters dealt with, it is of interest, the organisations, corporations or social agents deemed appropriate in each case may be invited to participate in the deliberations of the Sectorial Commission.