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**LEGAL FRAMEWORKS AND CITIZENS  
CHARTS OF RIGHTS FOR  
eGOVERNMENT IN THE EUROPEAN  
UNION**

## Table of Contents

<b>SUMMARY .....</b>	<b>4</b>
<b>1. DEFINITION AND CONTENT OF THE RIGHTS OF CITIZENS BEFORE eGOVERNMENT .....</b>	<b>6</b>
<b>1.1. Basic rights .....</b>	<b>6</b>
<b>1.1.1. Right to communicate electronically .....</b>	<b>7</b>
<b>1.1.2. Right to personal data protection .....</b>	<b>7</b>
<b>1.1.3. Right to be informed by electronic means.....</b>	<b>10</b>
<b>1.1.4. Right to quality in information .....</b>	<b>11</b>
<b>1.1.5. Right to choose the electronic channel of communication .....</b>	<b>11</b>
<b>1.1.6. Right to use an electronic identity .....</b>	<b>13</b>
<b>1.2. Advanced Rights .....</b>	<b>14</b>
<b>1.2.1. The right not to resubmit data and documents which are already held by the administration.....</b>	<b>16</b>
<b>1.2.2. Right to present data and documents in an electronic format..</b>	<b>16</b>
<b>1.2.3. Right to track the status of an administrative procedure electronically. ....</b>	<b>16</b>
<b>1.2.4. Right to obtain electronic copies of documents.....</b>	<b>17</b>
<b>1.2.5. Right to use electronic means to know which administrative authorities are responsible for a procedure. ....</b>	<b>17</b>
<b>1.2.6. Right of access to public information in a reusable format .....</b>	<b>18</b>
<b>1.3. Common principles in electronic systems management .....</b>	<b>19</b>
<b>1.3.1. Accountability.....</b>	<b>19</b>
<b>1.3.2. Technological neutrality.....</b>	<b>19</b>
<b>1.3.3. Interoperability. ....</b>	<b>20</b>
<b>1.3.4. Open specifications.....</b>	<b>20</b>
<b>1.3.5. Training civil servants.....</b>	<b>21</b>
<b>1.3.6. Electronic information exchange.....</b>	<b>21</b>



1.3.7. Administrative Simplification.....	21
<b>2. THE STATE OF CITIZENS' RIGHTS BEFORE eGOVERNMENT IN THE EUROPEAN UNION .....</b>	<b>23</b>
2.1. The relevance of eGovernment in developing the European Union. 23	
2.2. The current state of citizens' rights before eGovernment in the European Union .....	24
2.2.1. Regarding lack of focus on citizens' rights in policies on eGovernment .....	24
2.2.2. The progressive recognition of citizens' rights.....	25
2.2.3. Rights currently recognised on a Community level. ....	27
<b>3. STATE AND PERSPECTIVE OF CITIZENS' RIGHTS IN MEMBER STATES</b>	<b>31</b>
3.1. Individual analysis of the situation in each State .....	31
<b>4. BASIS AND INSTRUMENTS FOR SUPPORTING CITIZENS' RIGHTS BEFORE EUROPEAN-LEVEL eGOVERNMENT .....</b>	<b>58</b>
<b>5. ANNEX: THE SPANISH PRESIDENCY'S PROPOSED CHARTER REGARDING CITIZENS' RIGHTS BEFORE eGOVERNMENT .....</b>	<b>64</b>
<b>6. ANNEX II: QUESTIONNAIRE SENT TO THE MEMBER STATES IN THE eGOVERNMENT GROUP IN ORDER TO PREPARE THE REPORT .....</b>	<b>71</b>

## SUMMARY

This report aims to present an initial diagnosis of the situation of the rights of citizens before the European and Member States' eGovernments in order to propose a possible consensus agreement between Member States addressing those rights.

With this goal in mind, we shall begin by classifying relevant rights as either basic or advanced, whilst also identifying their accompanying principles. Basic rights are those considered essential in order to guarantee the fundamental rights of citizens who use electronic means to interact with public administrations, and to ensure that the former do not suffer discrimination resulting from the use of such channels. Advanced rights are those referring to additional aspects of such interaction. And lastly, the principles are intended to contribute to proper action on the part of Public Administrations to ensure that these rights may be exercised.

After identifying the abovementioned rights and principles, we will then proceed to analyse their situation in the European Union. From this analysis, one can verify that all of these rights and principles have been set forth in different EU measures which very different scopes. Although nearly all of the basic rights have been legally recognised, many have only been partially (even if they do cover a wide scope). Advanced rights have less recognition due to their complexity, as do some of the principles over which the EU has no competence due to Member States' institutional autonomy.

After performing an analysis on the European level, we will then investigate the situation of the identified rights and principles in each Member State. That analysis will be carried out for only those States which responded to a questionnaire prepared for that purpose. Although the situations in individual Member States are quite asymmetrical with respect to the full set of all rights and principles, it is possible to point out that exist a wider consensus on the recognition of basic rights than for advanced rights. As for the rest, the each Member State's assessment of the importance of each right and the scope with which it should be implemented in Europe is surprisingly homogeneous. Nevertheless, when analysing these results,



we must keep in mind that they were generated through informal cooperation of some Member State in the context of EUPAN.

The analysis ends by offering an evaluation of the legal bases and instruments that may be necessary in order to implement these rights on a European level. We will therefore first identify the competences that may be called upon to that end and then specify the instruments which may be used, with special emphasis on the possibility of recognising rights through those instruments.

Lastly, Annex 1 includes a proposal by the Spanish Presidency that lists the set of rights and principles, systematically organised with articles in the form of a charter. The purpose of this proposal is to create a starting point for debates to be opened by other Presidencies or by the European Commission in the future. Annex II contains the questionnaire sent to Member States in order to elaborate the analysis of the state of rights on a national level.

# 1. DEFINITION AND CONTENT OF THE RIGHTS OF CITIZENS BEFORE EGOVERNMENT

As a starting point for a European-level analysis of the situation and the possibilities of citizens' rights before eGovernment, one must first define the rights in question. The preliminary assessment of those rights (section 1) enables us to analyse their situation in the European Union (section 2) and in each Member State (section 3). This is done in order to propose a potential homogeneous implementation of those rights on a European level (section 4), which is why we also include a proposed series of articles (Annex).

The analysis of citizens' rights before eGovernment bodies is not limited to a description of each right. Rather, the intent is to present them in a structured way by distinguishing between citizens' and business' basic and advanced rights before eGovernment bodies, and listing the principles which guarantee recognition of those rights by the public administrations.

## 1.1. *Basic rights*

Basic rights are the core set of citizens' rights before eGovernment bodies. Firstly, these rights guarantee that citizens' fundamental rights are respected when they use electronic means to interact with eGovernment bodies, and they also guarantee that citizens using them receive the same treatment as those who use the face-to-face channel.

Insofar as these rights apply to essential aspects in eGovernment development, we consider that they should constitute a common framework upon which to define other rights. Likewise, most of these rights have been either completely or partially included in various Community instruments, which should guarantee their recognition in all Member States.

### ***1.1.1. Right to communicate electronically***

The right to communicate electronically with eGovernment bodies is the main right in this regulation. It will clearly be difficult to set up, given that this must be done without substituting the traditional, mostly paper-based, means of interaction, and will therefore constitute an additional system working side by side with the first one.

Thus, according to its most general definition, the right to communicate electronically is envisioned as an additional, parallel means of interaction with public administration which will be applicable to and used by an increasing number of citizens, but which will not substitute the ordinary regimen.

It is true that framing the right to communication should be done from a very general perspective, since its content and scope actually depend on the way the rest of the rights are expressed. That is, it may or may not extend to procedural as well as informative activities, the technical means of interaction themselves, and connecting with other secure communications instruments such as digital signatures.

It is true, however, that although the right cannot be framed in a general way based on its positive aspects (meaning where it is applicable), there is an undeniable negative content, since the administration in question must create some sort of access system if the set of procedures cannot be done using the traditional method.

Nevertheless, it is clear that the content and extension of a right should be set forth in the regulations establishing that right. This delimitation will make up a framework with a scope that is either narrower or wider depending on whether or not access is granted to receive information only, or also to complete procedures.

### ***1.1.2. Right to personal data protection***

Use of electronic means to complete administrative activities (as is generally done in legal processes in our time) has a particular tendency to require processing personal information. Essentially, this processing has become easier with electronic transactions, data storage and the possibility of information exchange between all

public administrations as a whole. Likewise, building a proactive eGovernment will require guaranteeing data protection.

In this respect, although considerable advances have already been made toward raising consciousness about establishing and preserving a personal sphere without any unwanted interferences which could affect the owner of personal information, this matter is quite new and very closely linked to the technological advances in communications. These advances have resulted in such a degree of communication convergence that they could, in fact, lead to lack of protection in the personal sphere.

This concern is clearly reflected by various types of international laws:

1. Both the Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights of 1966 prohibit interference only if it is arbitrary and/or illegal. Article 12 of the Universal Declaration of Human Rights establishes that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks." This statement is repeated almost word for word by article 17 of the International Covenant on Civil and Political Rights. Both demand a situation which up until now, as stated before, had not produced concrete results on a universal level.

2. With Resolution 45/95, the General Assembly of the United Nations passed the so-called *Guidelines Concerning Computerised Data Files* on 14 December 1990. These Guidelines establish the principles behind the minimum guarantees which should be offered by national laws on that matter. However, they lack any binding legal force and do not list the set of principles referred to in this document.

3. The Organisation for Co-operation and Economic Development addressed the matter by approving several of its Council's Recommendations. These included the Recommendation of 23 September 1980, which established guidelines for protecting privacy during international exchanges of personal data, or the *OECD Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security*, passed by Recommendation of the Council on 25 July 2002. More recently, on 12 June 2007, the Council approved a Recommendation regarding international cooperation for privacy law enforcement.



4. The 29th International Conference of Data Protection and Privacy Commissioners, held in Montreal in September 2007, adopted the Resolution on the urgent need for global standards for safeguarding passenger data to be used by governments for law enforcement and border security purposes.

5. Likewise, the Council of Europe approved Convention 108, which opened for signature on 18 January 1981 and has been effective since 1 October 1985. It is now complemented by an Additional Protocol.

6. Within the European Union, the Lisbon Treaty replaced the above regulation with article 16 of the Treaty on the Functioning of the European Union and article 39 of the Treaty on European Union.

These circumstances also gave rise to fundamental, important content regulated by the following:

- Directive 98/48/EC, of 20 July 1998, amending Directive 98/34/EC and laying down a procedure for the provision of information in the field of technical standards and regulations.
- Regulation (EC) No 45/2001 of the European Parliament and of the Council, of 18 December 2000, on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.
- Commission Decision 2001/497/EC, de 15 June 2001, on standard contractual clauses for the transfer of personal data to third countries, under Directive 95/46/EC.
- Commission Decision 2002/16/EC, of 27 December 2001, on standard contractual clauses for the transfer of personal data to processors established in third countries, under Directive 95/46/EC.
- Decision 1247/2002/EC, of the European Parliament, of the Council and of the Commission, of 1 July 2002, on the regulations and general conditions governing the performance of the European Data Protection Supervisor's Duties.
- Directive 2002/58/EC, of the European Parliament and of the Council, of 12 July 2002, concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).
- Decision 2004/55/EC, of the European Parliament and of the Council, of 22 December 2003 appointing the independent supervisory body provided for in Article 286 of the EC Treaty (European Data Protection Supervisor).
- Regulation (EC) 460/2004, of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency.

- Directive 2006/24/EC, of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.

The summary of legislation listed above places us before an undeniable reality: European public authorities are committed to the establishment and maintenance of an ample framework for protecting the personal data of European citizens. It is obvious that this effort and the legal framework it creates must therefore be projected upon the way that public administrations work and the legal relationships established with those entities.

### ***1.1.3. Right to be informed by electronic means***

This refers to the right to be informed electronically on any matters for which public administrations have an obligation to inform citizens, or those for which citizens have the right to access such information.

There is no doubt that the first area to see a significant advance in administrative activity performed electronically will be precisely that activity for which there are no formal procedures. Such activity essentially performs the function of providing information so that citizens will have knowledge about organisation and competences of public administrations, and about the requirements and conditions for access to procedures and public resources in broader terms.

This activity of providing administrative information is extremely important for several reasons. The first reason is a purely practical one, because the activity has a recognised capacity for growth and diffusion. The second is that the technical requirements for its implementation are also very simple because they often involve no complex interaction processes. Lastly, these actions have a tremendous potential to extend the operational scope of eGovernment processes.

The larger challenge at present is precisely to extend that scope in order to provide true knowledge of the administrative activity and guidelines for interaction with administrative bodies, and most of all, to reconcile that right with true and up-to-date content so that information is sufficient at all times to meet the interaction goals to be established.

#### ***1.1.4. Right to quality in information***

Information quality in itself is a generic concept that covers multiple facets of administrative workings. In this sense, we must indicate that one of the basic characteristics of use of electronic means in the area of administrative activities is an emphasis on having updated, precise information in the administrative circuit. This aspect refers both to periodical updating and to the knowledge of the moment at which information was updated and conserved.

In the end, quality has another perspective rooted in the structural configuration of that quality in such a way as to be useable by the entire population meeting general standards, and which is made available to citizens in a way that guarantees functional quality for the entire population.

#### ***1.1.5. Right to choose the electronic channel of communication***

There can be no doubt that one of the central aims of eGovernment consists of generalising the system until the general obstacles to technology use are eliminated. This is directly related with the problem of the social gap between those who can and cannot have consistent access to electronic services.

But the problem goes beyond that point as involve the gap that may arise from the presence of incompatible technologies. Beginning with this simple statement of fact, it is then necessary to ensure technological neutrality on the part of the Public Administrations, which must use electronic means that do not create a new technological gap between those who do and do not possess certain technological systems.

In its most general wording, we could state that this concept is a sub-product of the right to access, but it actually has a specific regulation with specific content. In fact, it is addressed specifically by content in the Riga Declaration (2007) and in the Manchester, Lisbon and Malmö Ministerial Declarations on eGovernment. All of these documents constitute a wealth of information about accessibility as regards the use of electronic techniques, access for the disabled, policies of the administrations themselves, and basically regarding providing services to administrations (Directives 2004/18/EC and 2004/17/EC, regarding the

requirements entailed in public procurement contracts). The use of electronic means should guarantee a trusted, inside market in the area of awarding public procurement contracts.

For the specific area analysed in this section, the intention is to guarantee that there will be several channels of access to the public administrations and that the administrations will not set conditions for any means of access. On the reverse side of this problem, we come across the right to use available means or channels without any conditions, and therefore, the right to use any one of them to gain access to the Public Administrations.

In this way, the choice of a means of interaction is merely an additional element in a wider principle, the principle of technological neutrality. Its final objective is to prevent technology use from becoming precisely the cause of an additional gap which would marginalise citizens or make it impossible for them to have recourse to Public Administrations.

It is true that we can find other points for including and extending this right. At the very least, we may refer to the following aspects.

1. Accessibility from a common perspective linked to the possibility that even those persons without electronic means will be able to use them.

This area refers to letting all citizens know that the presence of electronic means in administrative operations should not be considered a way of excluding those who lack electronic means. As stated previously, it is true that the electronic method must be maintained as an alternative channel, neither exclusive nor mandatory, for interactions with Public Administrations. However, we must indicate that during several years at the least, access to electronic means of interaction with Public Administrations must be guaranteed using public means to prevent the creation of a generational or economic gap obliging part of the population to resort to paper methods that may in time offer poorer quality and more uncomfortable access than that achieved through electronic means.

This framework obliges public administrations to set up electronic devices for public use, either in public offices or in private organisations, which are generally designed to overcome the social gap that may arise from the use of electronic techniques by different public administrations.

2. Accessibility from the viewpoint of disability and physical limitations involved in performing the function.

It is true that accessibility has another, equally important consideration, which consists of ensuring access to the entire population, and particularly to people with disabilities. Although now is not the time for a lengthy discussion of the leadership role which the Public Administrations must show in the struggle for equal social conditions between people with and without disabilities, we should mention that the functioning and set-up of electronic systems must be done with specific thought to their use by all members of the population. This refers to disabled persons in particular, who, with the establishment of an active equality policy, would probably be able to overcome or manage some of the real obstacles which often arise in administrative workings.

3. Lastly, and from another viewpoint, it could be said that the right to information is also ensured in one instrumental aspect by the use of mechanisms to reuse and transfer information.

#### ***1.1.6. Right to use an electronic identity***

The right to use an electronic identity is an instrumental and accessory right that is essentially located within the sphere of certifying the interactions that take place between public administrations and citizens. It is true that the advances made in this area were introduced by legislative blocks addressing the circulation of goods and services and as a way of facilitating commerce and bringing together legislation on the subject. Once more, this legislation purpose is wider than the one which we present here, focused only on administrative interaction. Nevertheless, public administrations make extensive use of such means.

Electronic means of accrediting identity are numerous. They are regulated by their specific standards and there is a significant correlation between the degree of security they offer for the interaction and the methods and requirements of guaranteeing secure use. In this way, and to avoid any inclination toward a single method, we can state that one often thinks of the electronic signature when mentioning an electronic identity. However, while this is the most common method, it is not the only means of electronically accrediting a citizen's identity.

To this end, the EU Signature Directive, Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures, establishes its own content in article 1, where it affirms that “[t]he purpose of this Directive is to facilitate the use of electronic signatures and to contribute to their legal recognition. It establishes a legal framework for electronic signatures and certain certification-services in order to ensure the proper functioning of the internal market. It does not cover aspects related to the conclusion and validity of contracts or other legal obligations where there are requirements as regards form prescribed by national or Community law nor does it affect rules and limits, contained in national or Community law, governing the use of documents”.

As a result of this legislation, Member States have laid down numerous regulations that address the different types of electronic signatures or means of accrediting identity. Its scope, guaranteeing secure transactions through a medium, is based on regulations which are not always homogeneous but which do share a common reference: the possibility of establishing electronic means of identity accreditation for interactions with Public Administrations.

## **1.2. *Advanced Rights***

This section includes a set of considerations characterised by having a progressive implementation with a wider scope than that indicated for the basic rights relating to technology-based interaction with public administrations. Additionally, the nature of the advanced rights is very much linked to inserting the administrative procedures, and their formal activities, into the framework.

In general, we can indicate that this refers to establishing some conceptual guidelines for including electronic methods within the administrative procedure framework, that is, within formal interaction, in keeping with the legality of the administrative action intended to apply legal norms to specific cases.

Within this context of using technology to complete the formal actions set out by public administrations, we can indicate that extending technology for administrative use depends on the purpose fulfilled by using it. In this respect, with a view to focusing the analysis, we propose classifying technological actions

in the administrative field into three large categories: A) Purely relational aspects. B) Aspects in documentation and information accumulation. C) Technology in administrative decisions.

From a procedural perspective, the set of problems raised by each of the listed categories is considerably different. In this sense, we could say that for the area we call "interaction aspects" (publications, notifications, records etc.), two legal concepts are added together. The common procedural legality is completed by the corresponding legislation regulating technology use that falls within the first category, and is therefore set up as a common element within the scope of valid administrative action. Based on that statement, transposing the reasons for recognising an administrative act as invalid depend on the procedure itself, and most of all, on the effects it may have on the affected person. This is especially true if, through a procedural violation (in a technological aspect), the affected person should become unprotected.

On the other hand, when technology is used for purposes of better data and file storage, the matter is an internal and organisational one. Projection before the affected party is realised through compliance with the requirements that ensure availability, access, integrity, authenticity, confidentiality and conservation of the data, information and services the administrations manage in order to fulfil their duties. The final result, and most importantly, the consequences of any violations will essentially depend on the effects they cause, particularly if situations have arisen which leave citizens in an unprotected state and which must be cancelled in order to be resolved.

Lastly, when technology is used to render automatically decisions that, up until now, were made by the civil servants and authorities, the question is clearly different. Here, we no longer have a legal status created by technological regulation overlapping administrative legality. This perspective works in another way: it is based on a set of instruments and programmes which substitute the civil servant by adopting decisions which previously corresponded to that person alone.

With this basis in mind, we can envision the following minimum catalogue.

### ***1.2.1. The right not to resubmit data and documents which are already held by the administration***

The intent behind establishing this right is to configure a set of citizens' rights regarding citizens' interactions with public administrations. According to these rights, the means and information held by public administrations will serve as a common good for all interactions with the administration, and therefore the citizen will not have to resubmit the same documents when the administration already has access to them.

This right may be required of all national public administrations and does not lessen depending on the different territorial or institutional levels in question. Technological means provide public administrations with easy access to any information provided by citizens, and the administrations may not, therefore, cite their autonomy as a reason to limit the scope of this right.

### ***1.2.2. Right to present data and documents in an electronic format.***

This is an additional consequence stemming from the citizens' own right to interact with the public administrations using electronic techniques. Very often, the force of this right is lessened if the documents and data may not be provided in an electronic format.

This is a right that may be complemented by additional rights, such as the possibility of providing information in a non-electronic format and converting information to that format.

### ***1.2.3. Right to track the status of an administrative procedure electronically.***

Through implementing this right, we may achieve two of the essential principles in administrative action: transparency and user participation within the field of the administrative procedure.

The proposed definition is as follows: the right to use electronic means to ascertain the status of a procedure, which is the simplest and broadest definition of the right



in question. It may be complemented by other minor rights, such as that of online access to the file in question and the documents contained in it.

In any case, we are addressing stages within the same problem, beginning with the first stage, which is the right to use electronic means to ascertain the file's current status, the process which it is currently undergoing, and even the additional steps which must be completed for the process to be finalised, indicating the entity or entities which handled each step and the estimated time until resolution.

#### ***1.2.4. Right to obtain electronic copies of documents.***

In line with that stated in section 1.2.3, and as a corollary of that statement, another facet of the same right may be established: the right to obtain electronic copies of documents. This shall be effective either because documents are already in that format in the file itself, or, if working with another format, the affected party chooses the electronic route and the administration converts the document in question to an electronic format from whatever format is used to store it in the administrative area.

#### ***1.2.5. Right to use electronic means to know the identity of public authorities.***

One of the essential rights contained in the area of procedural regulations is the right to know the identity of the civil servants and administrative authorities processing or resolving the administrative procedures, or overseeing management of the administrative units which may be involved in those procedures and in the electronic means used in public entities.

The guarantee specifically refers to the identity of the authorities, and therefore includes all activities permitting individuals and the organisation in which they work to be identified.

This right is complemented by the right to use electronic means to ascertain the status of the procedures listed in section 1.2.3, since it allows us to identify those responsible for processing.

### **1.2.6. Right of access to public information in a reusable format**

Information generated by means of a public administrative request, with the potential contributed by the development of the information society, is of great interest to business for operations in their spheres of action and for contributing to economic growth and job creation, and to citizens as an element of transparency and a guide for democratic participation. *Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information*, which covers both aspirations, was adopted in order to exploit the information potential of the public sector and overcome barriers in a fragmented European market by establishing homogeneous criteria, based on equitable, proportional and non-discriminatory conditions for treatment of information subject to reuse by physical or legal entities.

Different Administrations and bodies within the public sector collect, produce, copy and put out documents in order to carry out the public service function entrusted to them.

As Directive 2003/98/EC states, the use of said documents for other reasons, whether for commercial or non-commercial purposes, constitutes a reuse. On the one hand, it aims to harmonise use of information in the public sector, and particularly the digital information gathered by its various bodies in all areas of interest, including social, economic, legal, geographical, meteorological, tourism, commercial, patent and educational information. The purpose would be facilitating the creation of information products and services based on public-sector documents, and reinforcing the effectiveness of international use of these documents by citizens and private companies in order to offer added-value information services. On the other hand, publishing all of the documents held by the public sector and which may be accessed freely – referring not only to policy procedures, but to legal, economic and administrative procedures - is an essential instrument for developing the right to knowledge, which is a basic tenet of democracy.

In this sense, it would be a good idea to reformulate this right within the recently examined perspective, which is a purely administrative one addressing public administration policy. This is because the lack of promotion and direct competition in this area has led to the right being included within the framework of more

general public policy having to do with free circulation of goods or services (*Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market*). That situation offers a vision which is not always in keeping with the configuration one imagines.

### ***1.3. Common principles in electronic systems management***

Lastly, we establish a set of principles common to administrative operations. Due to their very nature, they cannot be set up as rights under a strict definition, since the process of making them into requirements would be quite complicated. Therefore, they exist more as guidelines or indications for the entire set of administrative actions, instead of having the mandatory basis pertaining to what we define as "rights" with respect to those possessing them.

We may set up the following administrative action principles within the sphere of public administration actions by establishing public policies intended to provide electronic services to all citizens.

#### ***1.3.1. Accountability.***

The use of new technologies must be subject to the principle of responsibility, both according to the classic idea of administrative action performed through electronic means and in the added plus of applying those methods.

It is true that there is a wide margin for determining the limit of this accountability, which encompasses accountability in establishing rights, updating and verifying the information provided by electronic means, and secure completion of administrative activities by electronic means. The scope and extension of accountability depends largely on the system established and its own scope.

#### ***1.3.2. Technological neutrality.***

One of the additional principles that should motivate administrative action in this area is the principle of technological neutrality. In practice, this includes a set of attitudes held by public administrations which dictate that, when choosing means

of technological interaction, one should choose systems permitting connection by the most people and which do not include features that would serve as barriers to widespread use due to the type of technology used.

In this way, we may indicate that neutrality is in fact openness, that is, viability of common use rather than exclusion based on an established option.

### ***1.3.3. Interoperability.***

Interoperability is an essential requirement for guaranteeing the rights of citizens who would not be able to benefit from the advantages of interacting with the Public Administrations through electronic means if this option were limited to a single Administration, a certain geographical level, or to the Public Administrations in only one country.

Interoperability is understood as the ability of information systems, and by extension, the ability of the procedures that those systems support, to share data and make information and knowledge exchange possible.

It has a strategic nature for the promotion of eGovernment, which is in keeping with that stated in the Malmö Declaration establishing that identifying obstacles to cross-border interoperability and to mutual recognition were priority issues. To that end, it proposed reinforcing activities for basic instruments such as reliable electronic identity devices, the electronic signature and electronic documents, and continued developing a set of infrastructures, such as the internal market information system, which could be used by all Member State governments and the Commission in order to provide cross-border services. The programme of interoperability solutions for European public administrations and other European interoperability activities may play an important role in achieving this objective.

### ***1.3.4. Open specifications.***

In the same line we reviewed in the previous section, we can indicate that one of the central principles of administrative action is the use of open standards and applications that provide common or general access to the entire population.

Opting for open applications will not become reality in all areas except with recourse to a negative dictate, that is, the removal and elimination of closed standards that impede or block the population's common access.

#### ***1.3.5. Training civil servants***

As with all learning processes, it is true that introducing electronic techniques in the workings of an administration, which often lacks an updated organisational structure, requires an effort to design active and wide-ranging training policies for civil servants in order to achieve the most active response to the change and shorten response and use times.

Training and teaching policies are considered essential for reducing both the internal and external impact of the technological change where the usefulness of the technology is concerned.

#### ***1.3.6. Electronic information exchange.***

The introduction of electronic techniques in administrative workings will be a good moment for outlining administrative cooperation and collaboration systems, particularly those having to do with electronic exchange of information for the specific processes that each of those systems draws up.

Collaboration should comply with the legal framework for data protection and with all general legislation regulating the area. It constitutes a common objective that should lead toward a concept of the administrative process that is more open and interconnected, with more agents involved on a European level.

#### ***1.3.7. Administrative Simplification.***

The introduction of electronic techniques and reorganising processes and procedures in which they will be used is an ideal moment for reformulating administrative activity as a whole and obtaining outline elements to simplify administrative activity. This will improve management of the activities and contribute to improvement within the Administration itself and its working guidelines for its services.



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Legislation on internal market services and some other specific services already determine this as a specific objective to be fulfilled within the framework of sectoral regulations.

## ***2. THE STATE OF CITIZENS' RIGHTS BEFORE EGOVERNMENT IN THE EUROPEAN UNION***

### ***2.1. The relevance of eGovernment in developing the European Union.***

eGovernment has become a strategic element which is essential for European Union policy development. Its increasing relevance and requests by Member States have led to more and more interventions in its configuration on both the Community and State levels, and we may now consider that the foundations of a European eGovernment model have been laid.

In fact, eGovernment has been either directly or indirectly present in the general lines of development of European Union policies over the last decade. This has been the case since the proposal of the Lisbon Strategy in 2000, which aimed "to make Europe, by 2010, the most competitive and the most dynamic knowledge-based economy in the world, facilitating sustainable economic growth and creating more and better jobs as well as tighter social cohesion". Among its economic reform efforts, its goal from the very first moment was to reach an "information society for all" in which business and individuals would have access to quality communications infrastructures and services and possess sufficient knowledge and abilities to adapt to them. In the process of reaching this goal, the role played by public administrations was essential. Rather than merely promoting the policies necessary for achieving the objective, they acted as protagonists of the change process by absorbing electronic means in their internal workings and most of all, by communicating with citizens.

The relevance of eGovernment has been in place throughout the development of the Lisbon Strategy. In fact, at the time of its intermediate review in 2005, it received a significant push forward. When its economic reforms were re-examined, one of the proposals was to achieve a true single services market by reforming public intervention, and incorporating eGovernment was to be an essential part of this venture.

Given the upcoming conclusion of the Lisbon strategy in 2010, design of a new strategy for the next decade, the 2020 Strategy, has begun. This new ten-year reform programme is based on three objectives: intelligent, sustainable and integrating growth. It is developed through seven initiatives, including "A Digital Agenda for Europe" which is designed to accelerate high-speed Internet deployment and provide the benefit of a single digital market for families and business. Firstly, this plan intends to promote Internet access and Internet use by all European citizens as a European Union Initiative. Its second objective is for Member States to promote the deployment and use of modern online services, and specifically mentions the examples of eGovernment, online health, smart homes, digital certifications and security.

Developing the content in this Digital Agenda, where eGovernment is concerned, will take place by pursuing the objectives set by the past ministerial declaration in Malmö. Although the objectives listed in that declaration are heterogeneous in nature, they may all be applied toward recognising the rights of citizens in their interactions with eGovernment.

Therefore, in keeping with the guidepoints from the Malmö declaration, eGovernment is being shaped as an outstanding tool, not only in the future European Digital Agenda, but also in the development of every last reform mentioned in the 2020 Strategy. And the effectiveness of this instrument may be strategically strengthened through recognition of citizens' rights.

## ***2.2. The current state of citizens' rights before eGovernment in the European Union***

### ***2.2.1. Regarding lack of focus on citizens' rights in policies on eGovernment***

The current relevance of eGovernment does not correspond to the presence of a true, finished eGovernment model implemented on a European level. It has many defects, including lack of a system of rights to grant citizens a guaranteed position. This can be seen specifically in the general policy objectives listed in the various programmes that make up the basis for the European eGovernment model.



Regarding the structure on a policy level, the action programme eEurope 2002, designed to get citizens connected, mentioned eGovernment as a key objective of the information society policy for promoting Internet access. In these initial moments for the information society policy, it was not yet time to raise the question of citizens' rights: the priority was first to get citizens online.

The role of eGovernment grew under the programme eEurope 2005, aimed at offering interesting content, applications and services that would foster use of broadband and multi-platform access through different instruments such as interactive public services and public procurement. The topics that were to be addressed through the cooperative efforts within this programme included a basic view of citizens' rights before eGovernment: inclusive access available in very different environments (multi-platform access, broadband access, accessibility for the disabled, etc.), better trust (protection of personal data, authentication and identify management) and a better use of public-sector information, or *interoperability*.

The relevance of eGovernment was maintained in the i2010 Action Plan. One of its goals is to grow toward an inclusion-based European information society promoting growth and employment in a way that is compatible with sustainable development and prioritises improvements to public services and quality of life. This action plan considers eGovernment to be a priority, and has given it an important boost toward reaching the Malmö Declaration's 2015 objectives, which must be set out in a new Action Plan.

In fact, the European Commission is shaping the content of a new 2010-2015 Action plan. The intent behind the present study of citizens' rights before eGovernment is to offer enough information for the study to be considered a strategic element for developing eGovernment over the next five years.

It is precisely in this period, from now until 2015, when the policy on eGovernment will be sufficiently mature for us to examine citizens' rights on a European level as the definitive instrument for fostering eGovernment.

### ***2.2.2. The progressive recognition of citizens' rights.***

The absence of citizens' rights before the eGovernment in specific EU policy objectives for the information society has not been an obstacle to the recognition of numerous specific, unsystematic rights in the many concrete measures adopted on a Community level.

Many of these rights are not expressed as such; instead, they appear as obligations that Member States must fulfil in order to reach specific objectives. The regulations that express either direct or indirect recognition of citizens' rights include the following (in chronological order):

- a) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
- b) Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures.
- c) Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information.
- d) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts; Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.
- e) Directive 2005/32/EC of the European Parliament and Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55 EC of the European Parliament and Council, in which once again administrative cooperation and information exchange between Member State governments is entrusted to electronic means.
- f) Directive 2006/123/EC on services in the internal market, which imposes the procedures applicable to the electronic channel in order to assure the freedoms of establishment and the free movement of services and sets forth the steps and procedures for service activities and their performance.
- g) Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).
- h) Proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the

field of road transport and for interfaces with other transport modes also requiring such electronic means. Essential aspects of the proposal include electronic exchange of all types of data among Member State authorities, service providers and users.

### ***2.2.3. Rights currently recognised on a Community level.***

The adopted Community-level measures which directly or indirectly recognise citizens' rights in their dealings with eGovernment can be classified in such a way as to be used as a tool for extrapolating the basis for a true catalogue of rights.

By following the schema used to analyse citizens' rights before eGovernment in Section 1, we can identify which rights, within which scopes, are indeed recognised at present. They are as follows:

1. Among those classified as Basic Rights, the situation is the following:
  - a) The right to communication with eGovernments through electronic means is partially recognised according to the wording of Article 8 in Directive 2006/123/EC on Services and applicable to all administrative activity related to providing services, which covers approximately two thirds of all economic activity. Likewise, in the area of public procurement (Directive 2003/98/EC and Directive 2004/17/EC), Member States are given the option of introducing electronic measures. While this cannot be considered direct recognition of rights, it is certainly a promotional move.
  - b) The right to protection of personal data is fully recognised by Directive 95/46/EC.
  - c) The right to be informed electronically is also partially recognised by Directive 2006/123/EC on Services in Article 7, which imposes this obligation upon procedures that are precisely related to the provision of services. This increased access to public information is also one of the Malmö Declaration's express objectives for 2015.
  - d) The right to quality in the information provided by electronic means, and the right to correct it. This right is partially recognised for personal data under Directive 95/46/EC.
  - e) The right to choose the electronic channel under equal conditions, whether directly or through intermediaries. This is implicitly recognised, since all of the Community measures referring to the use of electronic means by

citizens (Directive 2006/123/EC on Services, Directive 2004/18/EC on Contracts) do not impose them; rather, they consistently enable citizens to make use of them as an alternative to traditional means.

Likewise, the Council of Europe's Resolution of 14 January 2003, "e-Accessibility: the access of people with disabilities to the knowledge based society" urges Member States to apply a series of measures in order to promote electronic accessibility.

- f) The right to use and be provided with an electronic identity is functionally recognised in an indirect way. Directive 1999/93/EC on electronic signatures calls for the creation of a common framework enabling all citizens to obtain electronic means of establishing identity, although it does not require Member States to introduce that right.

2. Logically, the Advanced Rights enjoy less recognition:

- a) The citizen's right to provide any required data and documents in electronic format. This is included in the right to electronic access recognised in Article 8 of Directive 2006/123/EC on Services, since the obligation to handle procedures related to establishing and providing services by electronic means implicitly entails the option of presenting documents in an electronic format.
- b) The right to track the status of an administrative procedure by electronic means. Although this is not recognised as such, the Malmö Declaration lists the need for increased transparency as one of its objectives.
- c) The right to use electronic means to know which administrative authorities are responsible for a procedure. This is not recognised, although the "buyer profile" described for contracting government bodies does constitute a precedent as stated by Directive 2004/18/EC on Contracts.
- d) The right of access to public information available through electronic means in a reusable format. This is one of the Malmö Declaration's objectives, and it already has a framework established by Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information.

Lastly, we have the principles on the use of electronic means by public administrations belonging to the European Union and its Member States in their interactions with citizens.

- a) Quality of the information provided by electronic means. Quality may only be demanded in the area of personal data, in accordance with that established by Directive 95/46/EC.
- b) Accountability for the information published or delivered by electronic means. Recognition of accountability has only been sporadic up until now. European institutions, aware of the transcendence of the information they publish, have been introducing disclaimers in their web pages.
- c) Availability of existing information or information submitted by electronic means so that it may be reused for commercial or non-commercial purposes. This principle is necessarily derived from Directive 2003/98/EC relative to reusing public-sector information.
- d) Technological neutrality for decisions by public authorities with respect to the systems, media and means used in their interactions with citizens and with other administrations. Although it is not directly recognised in the case of dealings with individual citizens, this principle is being incorporated into a parallel area, that of telecommunications network regulation, which requires Member States to favour technologically neutral regulation as much as possible (article 8 of Directive 2002/21/EC of the European Parliament and of the Council, of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)).
- e) Interoperability of information systems. This is not formally recognised as a principle, but it was recognised as a priority by the Malmö Declaration, based on such initiatives as Interoperability Solutions for European Public Administrations and other, more specific programmes.
- f) Preference on the part of public authorities for the use of open standards and sources. This was recognised by the Malmö Declaration that suggested orienting interoperability toward open standards and sources and encouraged Member States to incorporate them in their eGovernment initiatives.
- g) Training for civil servants in the use of electronic means, and in the treatment and rights guaranteed to citizens using such means. Although it is not explicit, Article 34 in Directive 2006/123 EC on Services provides for Member States, with assistance from the Commission, to adopt complementary measures to facilitate exchanges and training for civil servants responsible for providing reciprocal assistance. Training would include such subjects as languages and computer use.

- h) Information exchange by electronic means performed by the public administrations in question. An increasing number of sectoral Community initiatives include measures addressing this issue. Article 34 of Directive 2006/123/EC on Services provides for the creation of an electronic information exchange system to be used between Member States. A similar system is included in the Proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes.
- i) Administrative simplification. This is established as a principle in Article 5 of Directive 2006/123/EC on services in the internal market, for procedures related to providing services.

In conclusion, based on the analysis of the current state of citizens' rights before eGovernment, we can affirm that policy on eGovernment has become mature enough for us to recommend proposing its recognition on a European level. This possibility is backed up by the current recognition of a large number of rights, which would also recommend creating a systematic formulation to articulate and complete the rights existing at present.

## 3. STATE AND PERSPECTIVE OF CITIZENS' RIGHTS IN MEMBER STATES

### 3.1. *Individual analysis of the situation in each State*

Thirteen States responded to the questionnaire that was sent out:

- Cyprus
- Spain
- Ireland
- Iceland
- Lithuania
- Latvia
- Malta
- The Netherlands
- Norway
- Sweden
- Slovenia
- Slovakia
- the United Kingdom

However, when drawing conclusions, one must consider that these responses are provided by representatives of the above countries in the context of informal cooperation taking place within the EUPAN.

Country	CY-CYPRUS		
<b>Block 1: Role of such rights in European Union policy</b>	Cyprus considers that European legislation does not currently offer satisfactory regulation of this matter. The country promotes internal actions by means of an Information Systems Strategy to obtain progressive recognition of rights and foster implementing services, but its level has not yet reached that of the European framework. Cyprus has a positive view of adopting Community-level agreements on this matter in order to reach uniform conditions.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situation (*)</b>
	<b>Basic</b>	Right to communicate electronically	PR
		Right to personal data protection	CR
		Right to be informed electronically	PR
		Right to quality in information	NI
		Right to choose the electronic channel	PR
		Right to be provided with an electronic identity	PR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	PR
		Right to present data and documents in electronic format	NR
		Right to track the progress of an administrative procedure electronically	PR
		Right to obtain electronic copies of documents	PR
		Right to use electronic means to learn the identity of administrative authorities	NI
		Right to electronic access to information in reusable formats.	PR
	<b>Principles</b>	Accountability	NR
		Technological neutrality	CR
		Interoperability	PR
		Open specifications	NR
		Training of civil servants	PR
Electronic exchange of information		PR	
Administrative simplification		PR	
<b>Block 3: European-level consensus on rights</b>	Cyprus considers that an agreement could be reached, particularly for specific points. It understands that some premises, such as the interoperability framework, must be addressed before others. It expresses that all of the rights and principles seem very important for promoting agreement, except for one which it rates as only important. This country would accept agreements on all of the points, although many of them would require limitations (does not state which). It views all cases as guiding principles except for a few which it would consider binding rights (data protection, electronic identity, right not to submit previously provided data and the right to communicate electronically). Cyprus would be in favour of the regulation of a control mechanism guaranteeing uniform recognition of rights.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 26th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 28th</b>	
<b>General summary</b>	Most aspects of eGovernment rights seem to be recognised, but only in very specific sectors. Nevertheless, the country is in favour of promoting agreements on this subject for all of the rights, and of guaranteeing their uniform recognition in all Member States. However, this position is not		



	compatible with the opinion that the instrument for recognising rights should not be binding.
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(\*) **CR**: Completely Recognised. **PR**: Partially Recognised. **NR**: Not Recognised. **NI**: No information

Country	ES-SPAIN					
<b>Block 1: Role of these rights in European Union policy</b>	<p>Spain has a single legal framework for eGovernment: Law 11/2007, regarding electronic access to public services. This law expressly recognises a series of rights addressing citizens' interactions with administrations by electronic means.</p> <p>It feels that the recognition of citizens' rights before eGovernment is insufficient on the European level, and that it would be recommendable to come to some sort of agreement among Member States.</p>					
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situation (*)</b>			
				<b>Basic</b>	Right to communicate electronically	CR
					Right to personal data protection	CR
					Right to be informed electronically	CR
					Right to quality in information	CR
					Right to choose the electronic channel	CR
	Right to be provided with an electronic identity	CR				
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	CR			
		Right to present data and documents in electronic format	CR			
		Right to track the progress of an administrative procedure electronically	CR			
		Right to obtain electronic copies of documents	CR			
		Right to use electronic means to learn the identity of administrative authorities	CR			
		Right to electronic access to information in reusable formats	CR			
	<b>Principle</b>	Accountability	CR			
		Technological neutrality	CR			
		Interoperability	CR			
		Open specifications	CR			
		Training of civil servants	CR			
Electronic exchange of information		CR				
Administrative simplification	CR					
<b>Block 3: European-level consensus on rights</b>	<p>All basic rights are considered to be very important and are wholly acceptable; they should be guaranteed by mandatory legal instruments, provided that this does not cause undue difficulty.</p> <p>Advanced rights are important, but all of them may come to be guaranteed and binding if steps to this end are taken gradually, considering the difficulty this would present to Member States.</p> <p>All of the principles are very important and should be legally protected in all States in which they are not recognised.</p> <p>A user Ombudsman might be created similar to the one currently set up in Spain.</p>					
<b>Country's situation in reports and</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 4th of 31</b>				

rankings	Global e-Government Survey 2010 (UN) General Ranking	Ranked 5th
<b>General summary</b>	<p>Rights recognition in Spain is at a very high level and very well defined, with an effective guarantee system (including a specific Ombudsman). From this perspective, Spain finds the degree of recognition and protection of citizens' rights on a European level to be insufficient. This situation should therefore be resolved by an agreement entered into by Member States in order to progressively include these rights.</p> <p>The essential motive behind this strategy is not only the protection of citizens, but also the fact that the recognition of these rights would oblige administrations to provide the necessary means of guaranteeing them. This would imply a significant boost for eGovernment.</p>	

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Country	IE-IRELAND		
<b>Block 1: Role of such rights in European Union policy</b>	Ireland considers the current level of recognition of rights as significant and satisfactory. It believes that any advances in this matter should stem from citizens' true needs and rest on the premise of the legal requirements of technological factors. Ireland has promoted electronic rights and services in all involved areas. It believes that a European-level agreement on this subject is unnecessary.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situación (*)</b>
	<b>Basic</b>	Right to communicate electronically	PR
		Right to personal data protection	CR
		Right to be informed electronically	NR
		Right to quality in information	NR
		Right to choose the electronic channel	NR
		Right to be provided with an electronic identity	NR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	NR
		Right to present data and documents in electronic format	NR
		Right to track the progress of an administrative procedure electronically	NR
		Right to obtain electronic copies of documents	NR
		Right to use electronic means to learn the identity of administrative authorities	NI
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	NI
		Technological neutrality	NI
		Interoperability	NI
		Open specifications	NI
Training of civil servants		NI	
Electronic exchange of information		NI	
Administrative simplification		NI	
<b>Block 3: European-level consensus on rights</b>	Ireland believes that the degree of importance is high or very high for all basic and advanced rights and offers no response regarding the principles. However, it repeatedly insists that this does not imply the need to recognise rights as such. Ireland prefers effective channels providing practical services, except for a few cases in which it favours binding regulation (data protection, quality in information). Ireland is not in favour of using specific mechanisms to guarantee these rights.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 10th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 13th</b>	
<b>General summary</b>	Ireland's approach to this matter has a hint of critical scepticism. Although its legal system has not formally recognised these rights, it states that it fully accepts putting them into practice and exercising them by providing eGovernment services.		

(\*) **CR**: Completely Recognised. **PR**: Partially Recognised. **NR**: Not Recognised. **NI**: No information

Country	IS-ICELAND		
<b>Block 1: Role of such rights in European Union policy</b>	Iceland believes the current situation to be unsatisfactory. Four laws addressing these matters have been ratified in that country, and it believes that European-level consensus is necessary.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situatio n (*)</b>
	<b>Basic</b>	Right to communicate electronically	CR
		Right to personal data protection	PR
		Right to be informed electronically	PR
		Right to quality in information	NR
		Right to choose the electronic channel	PR
		Right to be provided with an electronic identity	NR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	NR
		Right to present data and documents in electronic format	PR
		Right to track the progress of an administrative procedure electronically	PR
		Right to obtain electronic copies of documents	PR
		Right to use electronic means to learn the identity of administrative authorities	NR
		Right to electronic access to information in reusable formats	PR
	<b>Principle</b>	Accountability	NR
		Technological neutrality	PR
		Interoperability	NR
		Open specifications	NR
Training of civil servants		NR	
Electronic exchange of information		PR	
		Administrative simplification	PR
<b>Block 3: European-level consensus on rights</b>	Iceland believes that it would be possible to reach European-level agreement. It rates all aspects as "very important" except for two, which it rates as "important": data protection and training for civil servants. Iceland would be completely in favour of the agreement except in the cases of the right to track the progress of an administrative procedure, training for civil servants and administrative simplifications. It would accept all of those aspects with certain limitations. The proper instrument to achieve these ends would be a mere declaration of principles. However, it believes that the right to data protection should be binding. It feels that the difficulties of reaching consensus in these areas are quite high in all cases, except for a few with a medium level of difficulty (rights to communicate electronically, to obtain electronic copies of documents and present data and documents in electronic format; principles of technological neutrality and training for civil servants). It ranks the level of difficulty as very high in other cases (tracking the progress of a procedure, being provided with an electronic identity and being informed electronically).		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>		<b>Ranked 23rd of 31</b>
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>		<b>Ranked 14th</b>

**General  
summary**

Responses from this country are sketchy and do not permit an in-depth pronouncement on their arguments. However, the country seems to favour reaching an agreement on these matters, although it believes it should be based on mere principles and not binding regulation. In any case, it believes it will be difficult to reach agreement on a European level regarding most of the proposed rights and principles.

(\*) **CR**: Completely Recognised. **PR**: Partially Recognised. **NR**: Not Recognised. **NI**: No information

Country	LI-LITHUANIA		
<b>Block 1: Role of such rights in European Union policy</b>	<p>On a national level, the development of citizens' rights before eGovernment has been partially achieved through an eGovernment Development Strategy. The main obstacles it identifies are interoperability, technical neutrality, open standards and the right not to resubmit documentation. It feels that recognition of citizens' rights before eGovernment is sufficient on a European level, but the problem is that these rights have not been implemented by all of the Member States. Lithuania believes that data protection is fundamental to achieving pan-European services, as is an agreement between all Member States.</p>		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situation (*)</b>
	<b>Basic</b>	Right to communicate electronically	CR
		Right to personal data protection	CR
		Right to be informed electronically	NR
		Right to quality in information	CR
		Right to choose the electronic channel	CR
		Right to be provided with an electronic identity	CR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	CR
		Right to present data and documents in electronic format	CR
		Right to track the progress of an administrative procedure electronically	CR
		Right to obtain electronic copies of documents	CR
		Right to use electronic means to learn the identity of administrative authorities	CR
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	CR
		Technological neutrality	CR
		Interoperability	CR
		Open specifications	CR
		Training of civil servants	CR
Electronic exchange of information		CR	
Administrative simplification	CR		
<b>Block 3: European-level consensus on rights</b>	Lithuania believes that all of the rights are essential for successfully developing eGovernment, and that each State should guarantee them to its citizens and those from other Member States. To this end, it recommends incorporating the guarantee of these rights as an element in the 2011-2015 eGovernment Action Plan being prepared.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 4th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked XX</b>	
<b>General summary</b>	Recognises that although citizens' rights before eGovernment are afforded sufficient recognition in Community instruments, Member States have not implemented them fully. It therefore considers that an agreement on a European level is important and should be a priority matter for the next Action Plan.		

Country	LV-LATVIA		
<b>Block 1: Role of such rights in European Union policy</b>	<p>On the national level, Latvia's eGovernment initiatives take the form of programmes that are articulated by specific regulations. Numerous legal initiatives were introduced over the last year which should give rise to a structured framework.</p> <p>It believes it unnecessary to address the topic of European-level recognition of rights, since they are already set forth in numerous instruments. However, it believes ensuring European service interoperability to be appropriate. It does not mention any other basic or advanced rights or principles apart from those included in the questionnaire, and provides no additional comments on the matter.</p>		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situation (*)</b>
	<b>Basic</b>	Right to communicate electronically	PR
		Right to personal data protection	CR
		Right to be informed electronically	CR
		Right to quality in information	PR
		Right to choose the electronic channel	PR
		Right to be provided with an electronic identity	PR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	CR
		Right to present data and documents in electronic format	CR
		Right to track the progress of an administrative procedure electronically	CR
		Right to obtain electronic copies of documents	PR
		Right to use electronic means to learn the identity of administrative authorities	PR
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	PR
		Technological neutrality	PR
		Interoperability	CR
		Open specifications	NI
		Training of civil servants	CR
Electronic exchange of information		NR	
Administrative simplification		CR	
<b>Block 3: European-level consensus on rights</b>	<p>Latvia recognises most of the proposed rights and principles as very important, and finds their content to be acceptable. Additionally, they state that the rights should be binding in nearly all cases, even where this would be very difficult to achieve.</p>		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 4th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 24th</b>	
<b>General summary</b>	<p>On a national level, Latvia presents a high degree of recognition for the rights and principles by means of numerous legal instruments. It states that the proposed rights and principles are very important and that they should be binding despite the difficulties which could arise. However, Latvia also feels that the Community-level legal basis is sufficient, although it should be strengthened to provide more interoperability.</p>		



	It does not mention any other basic or advanced right or principle apart from those included in the questionnaire, and provides no additional comments on the matter.
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(\*) **CR**: Completely Recognised. **PR**: Partially Recognised. **NR**: Not Recognised. **NI**: No information



Country	MT-MALTA		
<b>Block 1: Role of such rights in European Union policy</b>	Malta believes that although the rights have been recognised, they are not guaranteed for pan-European services or in other Member States. It summarises that country's efforts to promote ICTs through different projects. At this point in the questionnaire, it states that a European-level agreement is unnecessary, and that it believes the current Community definition of eGovernment to be sufficient.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situatio n (*)</b>
	<b>Basic</b>	Right to communicate electronically	PR
		Right to personal data protection	PR
		Right to be informed electronically	NR
		Right to quality in information	NR
		Right to choose the electronic channel	NR
		Right to be provided with an electronic identity	CR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	NR
		Right to present data and documents in electronic format	CR
		Right to track the progress of an administrative procedure electronically	NR
		Right to obtain electronic copies of documents	NR
		Right to use electronic means to learn the identity of administrative authorities	NR
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	PR
		Technological neutrality	NR
		Interoperability	PR
		Open specifications	NR
		Training of civil servants	PR
Electronic exchange of information		CR	
Administrative simplification		NR	
<b>Block 3: European-level consensus on rights</b>	<p>Malta considers that the Directive on freedom of circulation, 2004/38/EC, recognises nationals of one Member State located in another Member State as having the same rights as in their country of origin. It understands that [eGovernment] cross-border services will make this right a reality. It believes that all of the rights and principles are either important or very important. The agreement would be acceptable to Malta in all cases; the country would only place conditions on the rights to use the electronic channel, to obtain electronic copies of documents and the principle of technological neutrality. Malta is in favour of the agreement having binding instruments for all of the basic rights except that of information quality, which it would prefer to see expressed as a principle, along with all of the advanced rights (except that of not resubmitting previously provided data and documents, both of which it feels should be binding) and all of the principles (except that of electronic exchange of information, which it feels should be binding).</p> <p>Its assessment of the level of difficulty of reaching an agreement varies greatly depending on the right or principle being addressed. It states that it would be moderately difficult to reach an agreement for the entire list of principles, and the rights to track the progress of a procedure, quality in information and to communicate electronically. It believes that it would be</p>		

	easy to reach an agreement concerning data protection, being informed by electronic means, learning the identity of authorities and communicating electronically. It also finds that it would be difficult in the remaining cases: not resubmitting data, presenting documents in electronic format and obtaining electronic copies of documents.	
Country's situation in reports and rankings	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 2nd of 31</b>
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 21st</b>
General summary	The country shows a clear predisposition to the agreement and all of its rights and principles, which it would accept under few conditions except in the case of some specific rights. However, it is only in favour of binding instruments for basic rights (except for one); in its opinion, neither the advanced rights nor the principles should be binding on the States except in the case of two specific exceptions.	

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Country	NO-NORWAY		
<b>Block 1: Role of such rights in European Union policy</b>	Norway returned the questionnaire, but did not include any comments in this section.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situación (*)</b>
	<b>Basic</b>	Right to communicate electronically	CR
		Right to personal data protection	CR
		Right to be informed electronically	NR
		Right to quality in information	NR
		Right to choose the electronic channel	PR
		Right to be provided with an electronic identity	NR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	NI
		Right to present data and documents in electronic format	NR
		Right to track the progress of an administrative procedure electronically	NR
		Right to obtain electronic copies of documents	NR
		Right to use electronic means to learn the identity of administrative authorities	NR
		Right to electronic access to information in reusable formats	PR
	<b>Principle</b>	Accountability	NI
		Technological neutrality	PR
		Interoperability	PR
		Open specifications	PR
Training of civil servants		PR	
Electronic exchange of information		CR	
Administrative simplification		NR	
<b>Block 3: European-level consensus on rights</b>	Returned the questionnaire, but did not include any comments in this section.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 8th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 2nd</b>	
<b>General summary</b>	Returned the questionnaire, but did not include any comments in this section.		

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<b>Country</b>	<b>NL- THE NETHERLANDS</b>		
<b>Block 1: Role of such rights in European Union policy</b>	<p>Rights in the Netherlands are recognised by a wide selection of regulations which are completed by instruments inspired by a customer-oriented attitude. This is the e-Citizens Charter. The e-Citizen Charter (BurgerServiceCode) establishes an eGovernment quality standard seen from the citizen's perspective. Instruments for companies are called the <b>System of Standards (normenkader)</b></p> <p>Leaving aside the national situation, it believes that the relationship between the administration and its citizens is a national matter and does not require cross-border harmonisation at present. The cross-border situation should be limited to administrative cooperation, as stated in article 197 TFEU.</p>		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situación (*)</b>
	<b>Basic</b>	Right to communicate electronically	PR
		Right to personal data protection	PR
		Right to be informed electronically	NR
		Right to quality in information	NR
		Right to choose the electronic channel	NR
		Right to be provided with an electronic identity	CR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	NR
		Right to present data and documents in electronic format	CR
		Right to track the progress of an administrative procedure electronically	NR
		Right to obtain electronic copies of documents	NR
		Right to use electronic means to learn the identity of administrative authorities	NR
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	PR
		Technological neutrality	NR
		Interoperability	PR
		Open specifications	NR
		Training of civil servants	PR
		Electronic exchange of information	CR
		Administrative simplification	NR
<b>Block 3: European-level consensus on rights</b>	<p>It believes an agreement is not necessary under the principles of subsidiarity and proportionality. In the Netherlands, recognition of the right to communicate electronically does not exist on a legal level, but this has not caused problems.</p> <p>In any case, the country does assess the rights and identifies most of them as very important and acceptable with certain limits, stating that they should remain as principles.</p> <p>It does not mention any other basic or advanced right or principle apart from those included in the questionnaire, and provides no additional comments on the matter.</p>		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>		<b>Ranked 8th of 31</b>
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>		<b>Ranked 2nd</b>
<b>General summary</b>	The level of recognition for such rights in the Netherlands is very high, although it is not based on binding legal instruments. The Netherlands		

	considers that the legal basis at the Community level is not sufficient to recognise these rights, and that in any case their recognition would not be appropriate. This is because cooperation mechanisms, such as common standards, best practices etc. may be used as an alternative.
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Country	SE-SWEDEN		
<b>Block 1: Role of such rights in European Union policy</b>	Sweden has an ambitious plan for promoting eGovernment, which began in 2008 and will conclude in 2014: <i>Action Plan – A new basis for IT-based organisational development in public administration</i> . This plan is being developed through agencies coordinated by the eGovernment Delegation. Sweden believes it necessary to have a European-level agreement on such rights permitting them to be developed coherently and to overcome existing limitations, particularly where the need for those rights has not been identified on the national level.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situación (*)</b>
	<b>Basic</b>	Right to communicate electronically	CR
		Right to personal data protection	CR
		Right to be informed electronically	NR
		Right to quality in information	PR
		Right to choose the electronic channel	PR
		Right to be provided with an electronic identity	NR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	NR
		Right to present data and documents in electronic format	CR
		Right to track the progress of an administrative procedure electronically	NR
		Right to obtain electronic copies of documents	CR
		Right to use electronic means to learn the identity of administrative authorities	NR
		Right to electronic access to information in reusable formats	PR
	<b>Principle</b>	Accountability	CR
		Technological neutrality	NR
		Interoperability	PR
		Open specifications	CR
		Training of civil servants	NR
Electronic exchange of information		CR	
Administrative simplification		CR	
<b>Block 3: European-level consensus on rights</b>	Believes it necessary to recognise the rights on a European level, identifying most of them as very important, acceptable (with limitations on some) and stating that most should be binding. Does not mention any other basic or advanced rights or principles apart from those included in the questionnaire, and provides no additional comments on the matter.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 3rd of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 7th</b>	
<b>General summary</b>	Sweden affords a high level of recognition to the rights of citizens before eGovernment. From this position, it believes it necessary to have a Community-level agreement on these rights, since they are not generally recognised on a national level.		

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Country	<b>SI-SLOVENIA</b>		
<b>Block 1: Role of such rights in European Union policy</b>	Slovenia believes that there is still much to be done on a Community level toward offering cross-border eGovernment services, and to this end it highlights the importance of promoting interoperability. Slovenia has found it difficult to involve its citizens in the transition to eGovernment. It has an administrative simplification plan which is updated each year and includes concrete measures. The latest plan addressing eGovernment dates from July 2009. The Government has approved providing all citizens with a free electronic signature. It believes that reaching a European-level agreement on eGovernment rights is very necessary.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situation (*)</b>
	<b>Basic</b>	Right to communicate electronically	CR
		Right to personal data protection	CR
		Right to be informed electronically	CR
		Right to quality in information	PR
		Right to choose the electronic channel	CR
		Right to be provided with an electronic identity	CR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	CR
		Right to present data and documents in electronic format	CR
		Right to track the progress of an administrative procedure electronically	CR
		Right to obtain electronic copies of documents	CR
		Right to use electronic means to learn the identity of administrative authorities	CR
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	PR
		Technological neutrality	PR
		Interoperability	CR
		Open specifications	CR
		Training of civil servants	CR
Electronic exchange of information		CR	
Administrative simplification		CR	
<b>Block 3: European-level consensus on rights</b>	Slovenia believes reaching a European-level agreement to be possible. It rates all rights and principles as important or very important, and all would be acceptable to that country, although limitations would be applied in some cases. It feels that the following rights and principles should be binding (while the rest should merely be guiding principles): the right to electronic communication, data protection, not to resubmit previously delivered data, present documents in electronic format, obtain electronic copies, learn the identity of authorities through electronic means, accountability, electronic exchange of data and administrative simplification.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 6th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 20th</b>	
<b>General summary</b>	The Slovenian government has undertaken a systematic, rigorous programme to promote administrative simplification and eGovernment. It has clearly made an effort in these matters and is inclined toward lending the same effort on a European level. The result is ample recognition of these		



	rights on a national basis and a willingness to promote broad-scale agreements on a European scale.
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Country	SK-SLOVAKIA		
<b>Block 1: Role of such rights in European Union policy</b>	Slovakia states that it has made an effort to advance recognition of these rights in many areas, but recognises that it has not reached the European Community framework level or exceeded it in any area. The national strategy revolves around two governmental instruments of February and May 2008. It believes that reaching a European-level agreement is necessary in order to apply adequate eGovernment solutions in daily life.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situation (*)</b>
	<b>Basic</b>	Right to communicate electronically	CR
		Right to personal data protection	CR
		Right to be informed electronically	PR
		Right to quality in information	CR
		Right to choose the electronic channel	CR
		Right to be provided with an electronic identity	CR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	PR
		Right to present data and documents in electronic format	CR
		Right to track the progress of an administrative procedure electronically	CR
		Right to obtain electronic copies of documents	PR
		Right to use electronic means to learn the identity of administrative authorities	CR
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	CR
		Technological neutrality	CR
		Interoperability	CR
		Open specifications	PR
		Training of civil servants	PR
Electronic exchange of information		CR	
	Administrative simplification	CR	
<b>Block 3: European-level consensus on rights</b>	Slovakia qualifies nearly all of the points as very important, except for a few it considers important, and some to which it is indifferent: choice of the electronic channel, tracking the progress of a procedure and the use of open standards and sources. It is in favour of the agreement as regards all of the rights and principles, and believes that it should be binding in most cases except for the following: receiving information through electronic means, information quality, not resubmitting previously delivered data, identifying authorities, accountability, use of open standards and sources and administrative simplification. Slovakia believes it unnecessary to establish specific mechanisms to guarantee these rights.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 24th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 29th</b>	
<b>General summary</b>	The effective level of recognition of these rights in Slovakia seems higher than the modest assessment given by its government. It is strongly in favour of promoting European-level agreements on the entire list of rights and principles. It believes that agreements should be binding, except in the case of one fourth of the proposed rights and principles.		



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Country	UK-UNITED KINGDOM		
<b>Block 1: Role of such rights in European Union policy</b>	The UK believes the country's situation to be satisfactory. The strategy for recognising these rights is part of the <i>Smarter Government</i> programme; this is really a broad-spectrum effort to modernise the administration in all of its aspects. It does not believe it fitting at this time to promote a European-level consensus for the recognition of electronic rights.		
<b>Block 2: State of such rights in the country</b>	<b>Type</b>	<b>Right/Principle</b>	<b>Situación (*)</b>
	<b>Basic</b>	Right to communicate electronically	CR
		Right to personal data protection	CR
		Right to be informed electronically	NR
		Right to quality in information	NR
		Right to choose the electronic channel	NR
		Right to be provided with an electronic identity	CR
	<b>Advanced</b>	Right not to resubmit data and documents in the Administration's possession	NR
		Right to present data and documents in electronic format	NR
		Right to track the progress of an administrative procedure electronically	NR
		Right to obtain electronic copies of documents	NR
		Right to use electronic means to learn the identity of administrative authorities	NR
		Right to electronic access to information in reusable formats	CR
	<b>Principle</b>	Accountability	CR
		Technological neutrality	CR
		Interoperability	CR
		Open specifications	CR
		Training of civil servants	CR
Electronic exchange of information		CR	
Administrative simplification		CR	
<b>Block 3: European-level consensus on rights</b>	The UK believes that reaching Europe-wide consensus would be impossible, since not all of the basic rights exist on a national level. It therefore states that it would be quite difficult to implement each and every one of the rights. It does not mention any other basic or advanced rights or principles apart from those included in the questionnaire, and provides no additional comments on the matter.		
<b>Country's situation in reports and rankings</b>	<b>2009 Capgemini Report (eGovernment Benchmark Measurement by the European Commission)</b>	<b>Ranked 4th of 31</b>	
	<b>Global e-Government Survey 2010 (UN) General Ranking</b>	<b>Ranked 1st</b>	
<b>General summary</b>	The UK's level of recognition of these rights is very high, but the country appears sceptical of the possibility of reaching consensus between all Member States, even where basic rights are concerned. It rates all of the rights and principles as "acceptable with some limitations" (without expressly indicate which limitations) and states that it would be important or very important to have Community-level recognition of all of the rights and principles, with the sole exception of the four advanced rights to which it is indifferent: presenting data and documents in electronic format, tracking the progress of a procedure, obtaining electronic copies of documents and		

	learning authorities' identity through electronic means. The ideal instrument would be a mere proclamation of principles, except in the case of the right to data protection (which should be binding) and the last four basic rights, which should be developed through other instruments. (It does not indicate which instruments, and perhaps refers to a declaration of intentions).
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### AGREEMENT ON EUROPEAN-LEVEL RIGHTS TABLE SUMMARISING POSITIONS (\*)

BASIC RIGHTS	Relevance in the policy strategies for eGovernment			Level of acceptance			Coverage of the implementation			Level of difficulty to implement at the EU level			
	Very important	Important	Indifferent	Acceptable	With limitations	Unacceptable	Mandatory	Principle	Other	Very high	High	Medium	Low
Right to communicate electronically	8	2	2	5	5	0	7	4	1	2	2	4	2
Right to personal data protection	11	1	1	11	0	0	10	2	0	1	3	2	5
Right to be informed electronically	6	4	1	9	2	0	3	7	2	1	3	1	5
Right to quality in information	5	5	1	9	1	0	4	7	1	2	3	1	4
Right to choose the electronic channel	5	6	2	6	5	0	3	6	1	0	4	2	3
Right to be provided with an electronic identity	7	4	1	7	4	0	6	4	1	2	5	2	1

(\*) Some countries have not yet responded to the questionnaire and are not included in this table. Also, some of the rows in the same blocks have different total sums because some countries responded to only some of the questions and left others blank.

ADVANCED RIGHTS	Relevance in the policy strategies for eGovernment			Level of acceptance			Coverage of the implementation			Level of difficulty to implement at the EU level			
	Very important	Important	Indifferent	Acceptable	With limitations	Unacceptable	Mandatory	Principle	Other	Very high	High	Medium	Low
Right not to resubmit data and documents	7	4	1	5	6	0	7	4	1	5	3	2	0
Right to present data and documents in electronic format	7	3	2	7	4	0	7	5	0	4	3	3	0
Right to track progress of an administrative procedure electronically	3	4	5	5	6	0	3	8	1	3	2	2	2
Right to obtain electronic copies of documents	5	5	2	7	4	0	6	5	1	3	2	3	2
Right to use electronic means to learn the identity of administrative authorities	4	3	3	8	2	0	3	7	1	3	0	1	4
Right to access to information in reusable formats	9	2	1	7	4	0	9	3	0	0	2	4	4

PRINCIPLES	Relevance in the policy strategies for eGovernment			Level of acceptance			Coverage of the implementation			Level of difficulty to implement at the EU level			
	Very important	Important	Indifferent	Acceptable	With limitations	Unacceptable	Mandatory	Principle	Other	Very high	High	Medium	Low
Accountability	8	2	1	9	2	0	3	8	0	0	2	3	3
Technological neutrality	6	4	1	6	5	0	3	8	0	1	0	5	1
Interoperability	9	2	0	7	4	0	3	7	0	3	2	2	1
Open specifications	5	5	1	7	4	0	1	9	0	1	3	5	0
Training of civil servants	2	8	0	8	3	0	1	10	0	0	0	4	4
Electronic exchange of information	10	1	0	7	4	0	8	9	0	3	2	2	1
Administrative simplification	8	3	0	7	4	0	5	6	0	0	5	2	1

### SITUATION OF RIGHTS IN MEMBER STATES TABLE SUMMARISING POSITIONS (\*)

	Right/principle	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IS	IT	LT	LU	LV	MT	NL	NO	PL	PT	RO	
Basic	Right to communicate electronically	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	PR	CR	NI	CR	NI	PR	PR	PR	CR	NI	NI	NI	
	Right to personal data protection	NI	NI	NI	CR	NI	NI	NI	NI	NI	CR	NI	NI	NI	CR	PR	NI	CR	NI	CR	PR	PR	CR	NI	NI	NI	
	Right to be informed electronically	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	PR	NI	NR	NI	CR	NR	NR	NR	NR	NI	NI	NI
	Right to quality in information	NI	NI	NI	NI	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	NR	NI	CR	NI	PR	NR	NR	NR	NR	NI	NI	NI
	Right to choose the electronic channel	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	PR	NI	CR	NI	PR	NR	NR	PR	NI	NI	NI	
	Right to be provided with an electronic identity	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	NR	NI	CR	NI	PR	CR	CR	CR	NR	NI	NI	NI
Advanced	» Right not to resubmit data and documents held by the Administration	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	NR	NI	CR	NI	CR	NR	NR	NI	NI	NI	NI	
	Right to present data and documents in electronic format	NI	NI	NI	NR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	PR	NI	CR	NI	CR	CR	CR	NR	NI	NI	NI	
	Right to track the progress of an administrative	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	PR	NI	CR	NI	CR	NR	NR	NR	NI	NI	NI	



	procedure electronically																									
	Right to obtain electronic copies of documents	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NR	PR	NI	CR	NI	PR	NR	NR	NR	NI	NI	NI
	Right to use electronic means to learn the identity of administrative authorities	NI	NI	NI	NI	NI	NI	NI	NI	NI	CR	NI	NI	NI	N	NR	NI	CR	NI	PR	NR	NR	NR	NI	NI	NI
	Right to electronic access to information in reusable formats	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	CR	PR	NI	CR	NI	CR	CR	CR	PR	NI	NI	NI
Principle	Accountability	NI	NI	NI	NR	NI	NI	NI	NI	NI	CR	CR	NI	NI	NI	NR	NI	CR	NI	PR	PR	PR	NI	NI	NI	NI
	Technological neutrality	NI	NI	NI	CR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NI	PR	NI	CR	NI	PR	NR	NR	PR	NI	NI	NI
	Interoperability	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	CR	NI	NI	NI	NR	NI	CR	NI	CR	PR	PR	PR	NI	NI	NI
	Open specifications	NI	NI	NI	NR	NI	NI	NI	NI	NI	CR	CR	NI	NI	NI	NR	NI	CR	NI	NI	NR	NR	PR	NI	NI	NI
	Training civil servants	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	CR	NI	NI	NI	NR	NI	CR	NI	CR	PR	PR	PR	NI	NI	NI
	Electronic exchange of information	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NI	PR	NI	CR	NI	NR	CR	CR	CR	NI	NI	NI
	Administrative simplification	NI	NI	NI	PR	NI	NI	NI	NI	NI	CR	NI	NI	NI	NI	PR	NI	CR	NI	CR	NR	NR	NR	NI	NI	NI

(\*): **CR**: Completely Recognised. **PR**: Partially Recognised. **NR**: Not Recognised. **NI**: No information

## **4. BASIS AND INSTRUMENTS FOR SUPPORTING CITIZENS' RIGHTS BEFORE EUROPEAN-LEVEL EGOVERNMENT**

The European Union, within the context of the Lisbon Strategy, committed itself to improving its legal and administrative framework in order to liberate business' potential. The possibility of business and citizens communicating electronically with public administrations across borders is contributing to the creation of an environment favourable to business initiative that facilitates citizens' dealings with public authorities.

Electronic communication is becoming increasingly present in several aspects of economic and public activity. In many cases, public authorities in Member States already offer electronic access to administrative services. Up until now, this has been done "focusing mostly on national needs and means, which has led to a complex system with different solutions", according to the Communication from the Commission on 20/11/2008, establishing the Action Plan on e-signatures and e-identification to facilitate the provision of cross-border public services in the Single Market. According to the Commission, this situation may create further obstacles for cross-border exchanges and weigh down functioning of the single market for business and citizens.

Some of the most serious obstacles that make cross-border access to eGovernment services difficult are related to the possibility of each Member State's establishing different requirements or standards for the way citizens may use electronic means to interact with the administration.

Furthermore, it is also necessary to achieve harmonised regulation of citizens' rights regarding the use of electronic means of interacting with public administrations in order to create conditions of security that win the trust of citizens and business and guarantee that all Member States comply similarly with the obligations imposed on them by other EU legislative dispositions, and particularly specific instruments addressing the internal market.

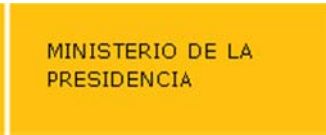
In this sense, there are many initiatives addressing the internal market which provide for business being able to use electronic means to communicate with public entities or to exercise their rights.

One of these is Directive 2006/123/EC on services in the internal market, which imposes the procedures applicable to the electronic channel in order to guarantee the freedoms of establishment and the free movement of services and sets forth the steps and procedures for service activities and their performance. We could also cite Directives 2004/18/EC and 2004/17/EC. These directives, within the scope of public procurement, call for the use of electronic communications as a way of making it easier to have an authentic internal public procurement market, which will generate substantial savings for companies. Further examples are Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information, which also refers to the use of electronic means, and Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products, which mentions using electronic means for administrative cooperation and information exchange between Member State governments.

Even more recently, the Proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes also requiring such electronic means made mention of electronic exchange of all types of data among Member State authorities, service providers and users as essential aspects in the proposal.

As we can see from the above list of regulations and proposals – which constitutes only a small percentage of the full list that could be drawn up – a large part of the action undertaken by the European Union and by the Member States themselves, in very different fields, is based on the daily incorporation of electronic communications into our habits and culture. This growing number of dispositions that support European policy covering the most wide-ranging objectives make it clear that information society instruments are now available and accessible, and are therefore subject to increasing use.

Whether through their own initiatives or with a view to applying Community regulations, Member States are facing the same need to depend on e-



communications use in order to provide citizens with better service and ensure their right to public administrations that function well.

However, it is true that the problems that we must resolve are not limited to the national scale; rather, they are common to all Member States. For example, the Service Directive which imposes the use of electronic means to permit access by providers in other Member States clearly demonstrates the cross-border nature of the problems being addressed in order to use information technology, and the necessity of finding common solutions.

Recognising the right of European citizens and business to interact electronically with public administrations in any Member States would enable us to eliminate the sectoral perspective which up until now has been the point of reference for each EU decision and initiative, and for those of each Member State, whether national or imposed by the EU. By doing so, we would manage to eliminate obstacles to exchanging goods and services, and we would promote a successful internal market. This would also enable us to give unitary treatment to the different EU initiatives directed at guaranteeing economic freedoms and eliminating competition distortions, thus helping resolve common problems having to do with secure communications, data protection, authenticating and identifying communicating parties, interoperability, safety, data retention etc. With these actions, solutions to the different problems listed above would be universalised, permitting a common and uniform treatment for the use of electronic communications, regardless of the specific sectors in which the solutions have been established up until now.

The legal foundation upon which the proposal for a harmonised regulation would be based consists of articles 53 (former art. 47), 62 (former art. 55) and 114 (former article 95) of the TFEU.

The same legal basis served as the foundation for Directive 1999/93/EC of the European Parliament and of the Council, of 13 December of 1999, establishing a Community framework for electronic signatures and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts. Articles 53 (former art. 47) and 62 (former art. 55) of the TFEU also serve as a basis for Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market

Article 53 of the TFEU, within the chapter on freedom of establishment, states that “In order to make it easier for persons to take up and pursue activities as self-employed persons, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, issue directives...for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self employed persons.”

Article 62 of the TFEU establishes the applicability of TFEU article 53 to free provision of services.

Article 114 of the TFEU grants the European Parliament and the Council the capacity to “adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market”.

The indicated legal basis would therefore permit the adoption of a Directive.

According to article 288, “a directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods”.

While in principle a Directive is only binding upon its addressees, which are the Member States, it normally constitutes a means of indirect legislation or regulation. Furthermore, the Court of Justice has already described a Directive as an act with a general scope (ECJ of 29 June 1993, Case 298/89, Gibraltar vs. Council).

By proposing the adoption of a common instrument recognising the right of citizens to interact electronically with any Member State government and eliminate obstacles to the full realisation of the internal market, we are very aware of the subsidiarity principle. This is because the EU may adopt measures, according to the subsidiarity principle described in article 5 of the Treaty, when the objectives of this proposal –establishing common standards to guarantee business and individuals the right to communicate electronically with public administrations– cannot be achieved in an adequate way by Member States. Therefore, due to the size of the action, this may be achieved more successfully on the EU level. Also in agreement with the principle of proportionality described in that article, the present proposed

Directive does not exceed that which is necessary to meet its abovementioned objectives.

Notwithstanding the comments on the legal basis of a potential Directive, we must examine the possibility that European Union institutions would consider beginning regulating the subject using a different type of instrument that would clear the way for a future Directive. This type of opportunity has at times been considered by the Commission, and cannot therefore be overlooked.

In this case, either a recommendation like those provided for in article 288 of the TFEU or another type of act not described in that section could be adopted. Through recommendations, European institutions urge Member States or individuals to adopt specific behaviours, and in the case of the former, to adopt modifications to their legislation.

According to the Court of Justice, "recommendations which, according to the fifth paragraph of Article 189 of the Treaty, are not binding are generally adopted by the institutions of the Community when they do not have the power under the Treaty to adopt binding measures or when they consider that it is not appropriate to adopt more mandatory rules". (ECJ of 13 December 1989, 322/88, Grimaldi case).

Recommendations themselves do not generate rights which individuals can invoke before a court of law. However, recommendations "*cannot therefore be regarded as having no legal effect*". The national courts are bound to take recommendations into consideration in order to decide disputes submitted to them, in particular where they cast light on the interpretation of national measures adopted in order to implement them or where they are designed to supplement binding Community provisions." (ECJ of 13 December 1989, 322/88, Grimaldi case).

Another alternative option would be adopting acts which are not provided for by article 288 of the TFEU, and which have the generic name of "atypical acts". These include declarations, resolutions, communications, codes of behaviour, decisions (*sui generis*), etc. In some cases, adopting such acts is not provided for in the TFEU, even if their adoption is linked to the exercise of an institution's competences, as is the case with Commission communications on competition law, for example. In theory, a communication regarding citizens' rights with respect to



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the use of electronic means of communication with public administrations would not be binding either.

Be that as it may, we must stress that a recommendation or a communication would obviously have less binding value than adopting a Directive.

## 5. ANNEX: THE SPANISH PRESIDENCY'S PROPOSED CHARTER REGARDING CITIZENS' RIGHTS BEFORE E-GOVERNMENT

This Annex contains the Spanish Presidency's proposal for a set of rights and principles that could be formulated on a European level, systematically organised and itemised in the form of a charter. Its purpose is to create a starting point for debates to be opened by other Presidencies or by the European Commission in the future.

### PREAMBLE

#### Article 1.

##### **Purpose.**

The present Charter outlines that which is necessary in order for the use of electronic means in citizens' interactions with public administrations to be recognised as a right instead of as an option provided to citizens by those administrations. This is done with a view to the current development of information technologies and the principle, common to all Member States, of the right to well-functioning public administrations.

The purpose of this Charter is to determine and establish the concept and scope of the right of citizens to interact electronically with public administrations, and to list the principles to which regulations and administrative practice must respond in order to make that right effective.

#### Article 2.

##### **Scope of application.**

The present Charter will be applicable to all nationals from Member States proposing the establishment of electronic communications with public administrations in their country of origin or any other European Union Member State, provided that such there are currently no explicit descriptions of the means by which this must be done.

This will apply equally to communications between citizens and European Union Institutions where the same conditions hold.



All communications with public administrations which may be performed by conventional means must also be able to be done through electronic means under the terms of this Charter.

CHAPTER ONE:

**BASIC RIGHTS OF CITIZENS (INDIVIDUALS AND BUSINESS) IN THE USE OF ELECTRONIC MEANS OF INTERACTION WITH PUBLIC ADMINISTRATIONS IN THE EUROPEAN UNION AND ITS MEMBER STATES.**

Article 3

**Recognition of citizens' basic rights**

1. The European Union and its Member States recognise the citizens' rights proclaimed in this Charter under the terms expressed in the same, and shall be bound to perform such legislative and executive actions as are necessary for those rights to be exercised.
2. The European Union and its Member States recognise the following basic rights for its citizens:
  - a. Right to communicate electronically with public administrations with regard to all kinds of matters and procedures, except in cases whose specific characteristics make the physical presence of the individual necessary.
  - b. Right to protection of personal data generated through using electronic communications in dealings with public administrations, without prejudice to general laws addressing protection of personal data.
  - c. Right to be informed electronically regarding any matters for which public administrations have an obligation to inform their citizens, or where citizens have the right to access such information.
  - d. Right to the quality of the information delivered through the electronic channel, particularly as concerns matters for which public administrations have an obligation of informing citizens or where citizens have the right to access that information. This includes guaranteeing that information is up-to-date, indicating the date on which it was revised, as well as guaranteeing usability or easy, intuitive access to all people, with no need of specialist knowledge, in a way that responds to the population's most general needs.
  - e. Right of citizens to choose one of the available channels, either directly or through intermediaries, whenever these adequately fulfil the functions expected of electronic communication. This includes the right to access by

disabled persons, to whom certain electronic means must be made available in certain places, along with help using the devices for purposes of interacting with public administrations.

- f. Right to use and be provided with an electronic identity.

#### CHAPTER TWO:

### **ADVANCED RIGHTS IN THE USE OF ELECTRONIC MEANS OF INTERACTING WITH EUROPEAN UNION AND MEMBER STATE PUBLIC ADMINISTRATIONS**

#### Article 4.

##### **Recognition of citizens' advanced rights**

The Member States and the European Union will do everything within their power to recognise the following advanced rights:

- a. Right not to resubmit data and documents which are already held by any Public Administration in the European Union
- b. Right to provide any data and documents required of citizens in electronic format.
- c. Right to track the status of administrative procedures using the electronic channel.
- d. Right to obtain electronic copies of the documents that are held by any public administration in the European Union
- e. The right to use electronic means to know the identity of administrative authorities responsible for procedures.
- f. The right for information available by electronic means to be presented in a reusable format.

#### CHAPTER THREE

### **PRINCIPLES APPLYING TO THE ACTIONS TAKEN BY PUBLIC ADMINISTRATIONS WHEN INTERACTING ELECTRONICALLY WITH CITIZENS**

#### Article 5

##### **Principles**

Public administrations in the European Union and Member States will be inspired by the following principles when adopting the dispositions, measures and practices necessary for implementing the rights listed in this Charter:

- a. Accountability derived from information that is published or delivered by electronic means.
- b. Technological neutrality for decisions by public authorities with respect to the systems, media and means used in their interactions with citizens and with other administrations.
- c. Interoperability of information systems.
- d. Preference on the part of public authorities for the use of open standards and sources.
- e. Training of civil servants in the use of the electronic channel and in the treatment and rights guaranteed to citizens using such means.
- f. Electronic exchange of information by the public administrations in question.
- g. Administrative simplification.

#### CHAPTER FOUR:

### **CONTENT AND SCOPE OF THE RIGHTS RECOGNISED FOR CITIZENS IN THEIR ELECTRONIC DEALINGS WITH THE ADMINISTRATION**

#### Article 6.

#### **Content and scope of the Rights recognised in the present Charter.**

1. The contents of this Charter shall include as a minimum, without prejudice to the specific provisions set forth in Community regulations or the Member States' national legislation, the following rights:
  - a. Right to perform all procedures electronically.
  - b. Right not to provide data and documents already held by the administration of a citizen's state of residence or by any other Member State.
  - c. Right to provide any data and documents required of citizens in electronic format.
  - d. Right to track the progress of administrative procedures by electronic means.
  - e. Right to obtain electronic copies of documents held by the administration (according to regulations regarding legitimate interest)
  - f. Right to use electronic means to know the identity of administrative authorities responsible for procedures.

Article 7.

**Extending the rights referred to in the previous article.**

1. The rights referred to in the previous article will, in all cases, include the presentation of all types of writs, requests, appeals and means of opposition and permit all types of electronic payment. This list is not exhaustive. All of the above may be performed using normalised or non-normalised procedures, dealings or registers.
2. In all cases, a written receipt of the citizen's communication and of its content must be automatically provided.
3. Member States will direct their best endeavours toward making electronic processing of procedures possible, depending on the nature of the procedure.
4. Electronic communication is a right granted to citizens and not an obligation. Citizens who do not wish to make use of electronic conditions will be assured of having traditional means of communication available.

Article 8.

**Conditions and requirements for effectively exercising rights.**

Exercising the rights recognised in the present Charter shall be dependent, with regard to privacy and personal data protection requirements, on justifying the existence of legitimate interest or on guaranteeing good functioning by public services.

The conditions and requirements which restrict those rights must be based on the need to guarantee the achievement of legitimate objectives, and to implement proportional restrictions on those objectives.

Article 9

**Effective implementation of the rights recognised in the Charter.**

1. Member States, without prejudice to the specific provisions contained in Community or Member State legislation, shall adopt such measures as are necessary in order for these rights to be effective beginning on 31 December 2010.
2. Notwithstanding the above, States which lack the resources, whether human, technical or economic, shall inform the Commission of this situation in order to establish an additional time period not to exceed two years, which shall be determined according to each State's individual situation. The

abovementioned time period may be extended after it has elapsed, due to reasons justified by the State in question and evaluated by the Commission.

#### Article 10

##### **Promoting the use of electronic communications**

1. Public administrations shall adopt the measures necessary in order for citizens to use electronic communications, provided that they do not adopt measures that would imply discrimination against users of traditional communication methods.
2. In particular, the different administrations shall place electronic means of communication in public places and offices, thereby permitting citizens to exercise their right to electronic communication.

#### CHAPTER FIVE:

##### **CITIZENS' RIGHTS IN SECTORAL AREAS OF eGOVERNMENT**

#### Article 11

##### **Promoting rights in specific sectors.**

Member States will specifically promote the progressive implementation of citizens' rights, where these are not already described by specific norms, in the sectoral areas indicated in this section. This is because of their particular impact on economic and social development, and their influence on the articulation of pan-European eGovernment services.

1. Procurement.
2. Service Activities.
3. Health Care.
4. Social Security.
5. Civil and Business Registers.
6. Property registers.
7. Cadastral registers.
8. Tax Administration.

CHAPTER SIX:

**COORDINATION AND COLLABORATION AMONG MEMBER STATES AND  
PUBLIC ADMINISTRATIONS**

Article 12.

**Coordination and cooperation among States and Administrations.**

Member states, without prejudice of the EU's competences, must coordinate and cooperate with each other in order to ensure compatibility and interoperability of systems and applications used by public administrations. To that end, they will establish the criteria and recommendations in the areas of information security, storage and normalisation, in addition to determining formats and applications.

Likewise, they will coordinate and cooperate with each other to establish security policies for electronic communications use and the minimum requirements and basic principles to protect information and electronic communications.

CHAPTER SEVEN:

**FINAL PROVISIONS**

Article 13.

**Incorporation into internal law.**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with that established in the present Charter no later than 31 December 2010.
2. They shall forthwith communicate to the Commission the text of those provisions.
3. When Member States adopt these measures, they shall contain a reference to this Charter or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 14

**Entry into force.**

This Regulation shall enter into force on the day following its publication in the Official Journal of the European Union.

## 6. ANNEX II: QUESTIONNAIRE SENT TO THE MEMBER STATES IN THE eGOVERNMENT GROUP IN ORDER TO PREPARE THE REPORT

### Questionnaire:

#### Legal Frameworks and Citizen Charts of Rights for eGovernment Services

##### I. OBJECTIVE

*In December 2009, the MTP and WPs for the EUPAN in the period from January 2010 to June 2011 was approved in the 53th Directors General meeting. The Working Program for the eGovernment Working Group during the Spanish Presidency was approved that it will be focused in the study of "Legal frameworks and citizen charts for eGovernment services".*

*This study aims to highlight the importance of ensuring the rights of citizens and businesses in the area of eGovernment, something needed as the channel is getting more extended in its use in Europe and in order to reinforce its take-up. An effective and efficient electronic channel for government activities requires the same guarantees that are provided in the face-to-face channel. On the other hand, the study is strongly linked with the priority "an administration serving the citizens" defined in the MTP and with the quality of service perceived by the citizens.*

*The intended purpose of this study consists in identifying the rights, which are common amongst the Member States and also those, which could become common, and therefore agreed their enforcement by all of them. The study will set up the base of a common European framework for eGovernment that will help to reach the objectives set in the Ministerial Declaration of Malmö and the fulfilment of the "right to good administration", which is recognized in Article 41 of the Charter of Fundamental Rights of the European Union.*

*As the removal of legal obstacles is highlighted in the Ministerial Declaration of Malmö as a key enabler for the deployment of cross-border services and the full-deployment of eGovernment, the Spanish Presidency will promote the distribution of the results of the study to the European Commission. The study results could be a valuable input for the development of the eGovernment Action Plan 2015.*

##### II. METHODOLOGY

**Please return your completed questionnaire in section V (Word.doc format) to the SPANISH PRESIDENCY ([eupanegov@ap.mpr.es](mailto:eupanegov@ap.mpr.es)) by email, clearly marking your email with "Legal Frameworks eGov: [Country]" in the subject line.**

The deadline for sending your contribution is on **1 March 2010**.

To answer the questions, please **take into account the definitions in section IV**

### III. BACKGROUND

*In the latest years, the policies of the Union have taken seriously into consideration many aspects of the information society as well as the different directions of its possibilities. Since the definition of the Lisbon Strategy for growth and competitiveness, information technologies have been promoted for its use in business and every kind of social relations, in order to make Europe a leading-knowledge-based economy. Governments and Public Administrations were called to actively use the electronic channel in public services. Furthermore, many legal instruments of the Union that have been developed in the last decade are related with the use of ICTs by the Government in order to boost the implementation of critical policies. Among the latter and for instance, it can be referred to:*

- *The Directive 2006/123/EC on services in the internal market. It outlines procedures by electronic means to guarantee the right of establishment and the free movement of services.*
- *The Directives 2004/18/EC and 2004/17/EC, concerning requirements for conducting public procurement; the use of electronic means should ensure an internal and trustworthy market in the field of the award of public works contracts.*
- *The Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information,*
- *The Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council. It holds that administrative cooperation and exchange of information between the public authorities of the Member States shall take utmost advantage of electronic means of communication.*
- *The Proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of **Intelligent Transport Systems (ITS)** in the field of road transport and for interfaces with other transport modes. It includes the facilitation of the electronic data exchange between the relevant public authorities, the ITS service providers and all ITS users, **through electronic means.***

*Last but not least, after the Treaty of Lisbon, the Treaty on the Functioning of the European Union includes in its article 197.2, that the Union may support the increasing cooperation and efforts of Member States to improve their administrative capacity to implement Union law. Such action may include, in particular, facilitating the exchange of information. As ICT have become a critical component in the relations between the different European public authorities and, at the same time, an essential tool for the implementation of Union law (e.g. services directive), citizen rights in the use of eGovernment services could be seen in the following years as an area for the application of the article mentioned above.*

### IV. DEFINITIONS



In order to focus the debate on the rights of citizens regarding eGovernment services in the European Union, a following set of rights and principles can be used as a reference point. They may help to respond to the different questions of the questionnaire. Those rights and principles are linked with the use of electronic channel in the relationship between citizens and Public Administrations of the European Union and its Member States.

See below the rights and principles initially identified:

- “Basic Rights” appear in the first section. They have become binding European law thanks to different legal instruments and would be currently ensured by the majority of Member States.
  - Right to communicate electronically with public authorities with regard to any kind of matters and procedures, except in the cases that due to their specific characteristics the physical presence of the individual is made necessary.
  - Right to personal data protection and privacy in the field of eGovernment services, without prejudice to general laws in the matter.
  - Right to be informed electronically on any matters which Governments and public administrations are bound to inform their citizens.
  - Right to the quality of the information delivered through the electronic channel included the right to have rectified any erroneous, incomplete, existing information in electronic format.
  - Right to choose and use the electronic channel, directly or through intermediaries
  - Right to be provided with an electronic identity and to use it in eGovernment Services
  
- “Advanced Rights” are disclosed in the second section. They would imply a qualitative progress in comparison with “Basic Rights”. They are ensured by European law, in different sector fields, or by several Member States in a general legal framework. At a European level, these rights embody an objective to be achieved, so that EU institutions and Member States may do their best to implement them progressively.
  - Right to not resubmit data and documents which are already handled by any Public Administration in the European Union.
  - Right to present in electronic format any data or document required by a Public Administration
  - Right to track the progress of any administrative procedure in which he has legitimate interests using the electronic channel
  - Right to obtain an electronic copy of the documents of his legitimate interest that are handled by any public administration in the European Union.
  - Right to know electronically the identity of the public authorities responsible for an administrative procedure.
  - Right to electronic access to the public sector information in reusable and machine-readable formats
  
- “Principles” are described in the last section. They span cross-cutting issues which ground or enhance the use of the electronic channel by public authorities in their relationships with citizens. EU institutions and Member States shall take them into account as they progressively implement the “Advanced rights” as defined in the previous section.
  - Accountability for the information published or delivered by electronic means.
  - Technological neutrality with regard to systems, devices and means needed for eGovernment Services
  - Interoperability of information services.
  - Use of Open specifications and promotion of the Open Source model in eGovernment projects.

- *Training of civil servants in the usage of ICT and in the usage of the electronic channel for the relations between citizens and Public Administrations*
- *Electronic exchange of information between Public Administrations*
- *Administrative simplification and burden reduction*

#### IV. QUESTIONNAIRE

### Questionnaire: Legal frameworks and citizen chart of rights in eGovernment Services

Country	
Minister and Ministry in charge of eGov	
Contact person for the present questionnaire	
eGovernment Working Group member	

#### 1. THE ROLE OF CITIZENS AND BUSINESSES' RIGHTS IN EUROPEAN COMMUNITY EGOVERNMENT POLICY.

- a) *In the European Community legal framework, do you consider satisfactory the existing recognition of citizens and businesses' rights regarding eGovernment? (Besides a general consideration, please specify the reasons for the sufficiency/insufficiency of such implementation).*
- b) *Which has been the strategy for the recognition of citizens and businesses' rights regarding eGovernment in your country? Which major obstacles have been needed to overcome? Adoption or revision of the following acts*
- c) *In which aspects is your national legal framework related to eGovernment more ambitious than the EU framework?*
- d) *Do you find necessary to carry out an agreement on citizens and businesses' rights in the usage of eGovernment at European level? (Explain your reasons)*

## 2. THE SITUATION OF CITIZENS AND BUSINESSES' RIGHTS REGARDING eGOVERNMENT IN EACH MEMBER STATE.

a) *In relation with the internal situation of your country and according to the previous classification between "Basic Rights", "Advanced Rights" and "Principles", please respond to the following questions:*

<b>RIGHTS &amp; PRINCIPLES (BASIC RIGHTS)</b>	<b>Implementation by Member State</b>  (yes or no/ full or partial/ general or specific)	<b>Instrument of implementation</b>  (Name and date/ legally binding or soft-regulation)	<b>Reference (URL)</b>  (If the instrument exists)
Right to communicate electronically			
Right to personal data protection and privacy			
Right to be informed electronically			
Right to the quality of information			
Right to choice and use the electronic channel,			

directly or through intermediaries			
Right to be provided with an electronic identity			

<b>RIGHTS &amp; PRINCIPLES (ADVANCED RIGHTS)</b>	<b>Implementation by Member State</b>  (yes or no/ full or partial/ general or specific)	<b>Instrument of implementation</b>  (Name and date/ legally binding or soft-regulation)	<b>Reference (URL)</b>  (If the instrument exists)
Right to not resubmit data			
Right to present in electronic format any data or documents by			
Right to track progress of administrative procedures			
Right to obtain an electronic copy of documents			
Right to know electronically the identity of public			

authorities			
Right to electronic access to the public sector information			

<b>RIGHTS &amp; PRINCIPLES (PRINCIPLES)</b>	<b>Implementation by Member State</b>  (yes or no/ full or partial/ general or specific)	<b>Instrument of implementation</b>  (Name and date/ legally binding or soft-regulation)	<b>Reference (URL)</b>  (If the instrument exists)
Accountability			
Technological Neutrality			
Interoperability			
Open Specifications and Open Source			
Training of Civil Servants			
Electronic Exchange of Information			
Administrative Simplification			

### 3. CONCERNING THE AGREEMENT ON CITIZENS AND BUSINESSES' RIGHTS REGARDING eGOVERNMENT AT EUROPEAN LEVEL.

- a) *As electronic communication is the base of all others rights, do you think an agreement can be reached at the Community level, concerning the implementation and the coverage of this right? (Explain the drivers or the possible barriers for this agreement)*
- b) *Please, for each of the rights and principles described before, use the following table to provide your opinion about*
- *Relevance of the right or principle for the implementation of EU eGovernment policy*
  - *Level of acceptance for the implementation of the right or principle in the EU level*
  - *Degree of compulsion acceptable for the implementation of the right or principle in the EU level*
  - *Level of difficulty for its implementation at the EU Level*

<b>RIGHTS &amp; PRINCIPLES (BASIC RIGHTS)</b>	<b>Relevance in the policy strategies for eGovernment</b> (Very important/important/Indifferent/useless)	<b>Level of acceptance</b> (Acceptable/acceptable with some limitations/Inacceptable)	<b>Coverage of the implementation</b> (Legally binding/principle of behaviour/other)	<b>Level of difficulty for its implementation at EU level</b> (Very high/high/medium/low)
Right to communicate electronically				
Right to personal data protection and privacy				
Right to be informed electronically				
Right to the quality of information				
Right to choice and use the electronic channel, directly or through intermediaries				
Right to be provided with an electronic identity				

<b>RIGHTS &amp; PRINCIPLES (ADVANCED RIGHTS)</b>	<b>Relevance in the policy strategies for eGovernment</b> (Very important/important/Indifferent/useless)	<b>Level of acceptance</b> (Acceptable/acceptable with some limitations/Inacceptable)	<b>Coverage of the implementation</b> (Legally binding/principle of behaviour/other)	<b>Level of difficulty for its implementation at EU level</b> (Very high/high/medium/low)
Right to not resubmit data				

Right to present in electronic format any data or documents by				
Right to track the progress of administrative procedures				
Right to obtain an electronic copy of documents				
Right to know electronically the identity of public authorities				
Right to electronic access to the public sector information				

<b>RIGHTS &amp; PRINCIPLES (PRINCIPLES)</b>	<b>Relevance in the policy strategies for eGovernment</b> (Very important/important/Indifferent/useless)	<b>Level of acceptance</b> (Acceptable/acceptable with some limitations/Inacceptable)	<b>Coverage of the implementation</b> (Legally binding/principle of behaviour/other)	<b>Level of difficulty for its implementation at EU level</b> (Very high/high/medium/low)
Accountability				
Technological Neutrality				
Interoperability				
Open Specifications and Open Source				
Training of Civil Servants				
Electronic Exchange of Information				
Administrative Simplification				

- c) *Outline other possible “Basic” and “Advanced Rights”, “Principles” or contents which neither appear in the definitions section, nor are implemented in the legal internal framework of your country, and which you estimate they might worth being considered at EU level.*
- d) *Do you consider that it would be appropriate to set up specific guarantee mechanisms, such as an Ombudsman on citizen rights regarding eGovernment?*

#### **4. OBSERVATIONS**

*Feel free to introduce any further comment related with the topic of the study.*