



MEASURES TO COMBAT CORRUPTION

MEASURES ADOPTED

The Spanish Government made **regenerating democracy one of the main planks in its reform programme**, aware of the importance of winning back the public's trust—not only in the economy, but also in institutions.

This goal has been and will remain a constant for the current government, as shown by the decisions it has made, **from the first Council of Ministers to the legislative programme** currently in Parliament.

Reforming the Organic Law on Political Party Funding (2012): A bill approved at the first Council of Ministers, regarding which there is broad agreement.

- A 20% cut in annual government grants to parties, in 2012 and 2013.
- A 20% cut in total grants to associations and foundations with ties to political parties, in 2012.
- Expansion of the number of persons unable to finance party activities, due to receiving direct or indirect contributions from different levels of government.
- Ban on accepting donations from foundations or entities that receive grants from the different levels of government, or whose budgets include public contributions.
- Ban on credit institutions cancelling more than €100,000 a year in debt to a political party, subsequently banned.
- Unequivocal attribution of authority of the national Court of Auditors to impose sanctions for very serious offences.
- Transparency: publication of accounting information after inspection by the Court of Auditors, notification of accepting donations of property and those higher than €50,000. Now, higher than €25,000.

Act 19/2013, of 19 December, on transparency, access to public information and good government: Launched during this government's first 100 days in office, and now in force.

- Regulation of the right to access public information, at the request of the public, which can access any document in the government's keeping.
- Active publicity: payments, grants, contracts, agreements, salaries and compensation, etc.
- Scope of application includes parties, trade and employers' organizations, entities financed primarily through public funds, the Royal Household.
- Creation of a Transparency Council to protect the rights of those petitioning the government, and resolve conflicts between the two.



- Legally binding definition of the principles of good government, and of sanctions.
- Monitoring of economic activities of “Persons of Special Political Relevance”.
- Launching of a Transparency Portal, 10 December 2014.

Organic Law 7/2012, on reforming the Penal Code provisions for transparency and combating tax fraud and Social Security fraud: Adapting the Penal Code to the new obligations of good government.

- Inclusion of political parties and trade unions under the general system of criminal responsibility for legal persons.
- New statutory definition to issue sanctions for hiding, simulating and falsifying public accounts.

The government was aware, however, of the need to go further. As early as the 2013 State of the Nation Debate, the President of the Government proposed that the political parties reach an **Anti-Corruption Transparency Pact**. As a result of this offer, a proposal was approved with broad parliamentary support—but not from the Socialist Party (PSOE)—in which both the Government and Parliament agreed to promote a wide-ranging **Democratic Regeneration Programme**.

The government **has repeated this offer of a Pact since then**, without receiving the backing of the PSOE, the main opposition party, for these efforts dedicated to dialogue. However, in the understanding that a commitment to political consensus could not trump the need to respond to the public’s concerns, **the Council of Ministers has complied with this mandate**.

This mandate was expressed in the approval of two laws, in the area of **monitoring the economic and financial activities of the political parties and of high government officials**, strengthening the sanctions against corruption through amendments included in the **Penal Code reform**, and **the reform of the Organic Law amending the Criminal Procedure Act** to favour streamlined procedures and the recovery of assets gained through criminal offences.

Despite the lack of a broad agreement, these **initiatives were greatly improved as they went through Parliament**, as a result of the amendments from the ruling Popular Party’s group and its willingness to accept those from other groups.



Organic Law 3/2015, of 30 March, on monitoring the economic and financial activities of political parties [...]:

Political parties

- Regulation of the minimum content of party statutes, establishing a deadline for their adaptation.
- **Requirement to establish a prevention and compliance oversight system** in parties' operational rules, resulting from the potential criminal responsibility.
- Requirement to approve **internal instructions on contracts**.
- Recognition of the capacity to create a political party of all EU citizens.
- Formulas for the direct participation of party members, especially in the processes for electing the top party governing bodies.
- Provision in the party statutes for the top party governing bodies to be renewed at least every four years.
- Provision in the party statutes for procedures enabling party members to appeal agreements and/or decisions of the party governing bodies.
- Provision in the party statutes regarding the official or body in charge of defending party members' rights.
- **Procedure for suspension of party membership after an indictment for an offence concerning corruption.**
- **Procedure for expulsion from the party after a receiving a sentence for any corruption-related offence.**
- Requirement for parties to have a website and publish their statutes, accounts, and contracting instructions.
- Clarification of the legal system for party members or affiliates.

Funding

- **Ban on donations to parties proceeding from legal persons** and from entities without legal status.
- **Ban on cancelling bank debts** of political parties.
- Ban on granting or negotiating credits under better than market conditions.
- Requirement of depositing donations into accounts opened exclusively to that effect, with required notification to the Court of Auditors.
- Requirement that credit institutions provide annual reports to the Court of Auditors regarding the donations deposited in party accounts.
- Return of improper donations to the donor, or deposit in the national Treasury.
- Legal regulation of the requirement of an agreement of the Council of Ministers for grants to political parties totalling more than €12 million.
- **Retention of grants if accounts have not been submitted to the Court of Auditors**, if they are not up to date in payments to the Tax Agency or Social Security, or if they are pending the repayment of grants.
- Requirement that all parties, regardless of whether they receive grants, submit their annual accounts to the Court of Auditors.
- **Publication of accounts**, including bank balance, income statement, outstanding credit, and grants and donations received.



- **Regulation of the office of Party Finance Chief, including requirements on eligibility and good repute.**
- Requirement of the Party Finance Chief to appear before Parliament once the Court of Auditors Report is issued.
- Legal declaration of the extinction of political parties for failure to comply with the requirement to adopt statutes, or to submit its accounts to the Court of Auditors.
- **Reduction to €50,000 of the donations limit** of natural persons to political parties.
- Notification to the Court of Auditors of all donations higher than €25,000.

- **Publication on the website of donations of more than €25,000, stating the donor.**
- Application of the procedure of a court order resolving the extinction of those parties that do not renew their governing bodies within 8 years.
- Clarification of the concept of donation to a political party. Drafting and establishment of requirements for obtaining grants through participative financing mechanisms.
- Notification to the Court of Auditors of all contributions of more than €25,000 made by party members.
- Persons subject to proceedings for offences involving disqualification or loss of the right to run for office may not be appointed to economic and financial management positions in a party, after their hearings have begun.
- Improved (more complete and more proportional) system for offences and sanctions.
- **Extension of the statute of limitations for offences.**
- Adaptation of the amounts of the grants for parties to variations in total national consolidated expenditure (without interest), according to the General State Budget, in order to provide a certain degree of stability to parties' funding.
- A 20% cut in grants for electoral mailshots.

Foundations

- Definition of foundations or entities linked to or dependent on political parties.
- Mandatory registration with the Register of Parties in order to access grants.
- Ban on receiving, directly or indirectly, donations from public organizations, companies or entities.
- Inspection by the Court of Auditors of the economic and financial activities of related foundations and entities.
- Regulation of the collaboration of public-sector entities and credit institutions with the Court of Auditors.
- Expanded criteria for determining the relations between a foundation or association and a political party.
- Publication by related foundations and entities of the conclusions of the auditing report.



Inspections

- Distinction between the Court of Auditors' inspection of parties receiving public grants and parties not receiving such grants.
- Classification of infringements as very serious, serious and minor, together with the corresponding sanctions and statutes of limitations.
- Provision for the Tax Agency to enforce sanctions imposed on parties during the enforcement period.
- Regarding the Court of Auditors' inspection of the public sector's economic and financial activities, reference to the principles of transparency, environmental sustainability and gender equality.

Act 3/2015, of 30 March, regulating the exercise of high office in the General State Administration:

- **Establishment of eligibility requirements and of a signed declaration.**
- **Assessment of the financial and property status of those holding high office at the end of their term, to verify whether there is evidence of unjustified enrichment.**
- Initial submission, together with their declarations of assets and activities, of **certification of their tax status with the Spanish Tax Agency (AEAT) (Amendment)**.
- Greater detail in the publication of declarations of assets and interests. (Amendment).
- Publication of remuneration, and limitation and control of representation expenses.
- **Ban on credit cards** for payment of representation expenses.
- Creation of an **early-warning system for conflict of interests**.
- Strengthening the Conflict of Interests Office.
- Definition of sanctions that may be imposed on those in high office: Dismissal, loss of entitlement to compensation after leaving office, or restitution of amounts.
- Non-eligibility for a new appointment during a period of 5 to 10 years in the event of very serious and serious offences.

Penal Code Reform:

- **New criminal offence of illegal funding of political parties**, punishable by a prison sentence of 1 to 5 years.
- **Increased sentencing with disqualification from office for offences involving corruption. Additional penalty of special disqualification from exercising the right to run for office.**
- **Extension of the statutes of limitation** for offences involving corruption.
- **Strengthening control over pardons.** Appearance before the Congress of Deputies of a senior official from the Ministry of Justice, following the submission of a report.
- **Creation of an Office for the Management and Recovery of Assets gained through criminal offences**, in order to achieve the highest possible return therefrom. Office inaugurated by the President of the Government on 23 October 2015.



Criminal Procedure Act Reform:

- **New rules on related actions**, which make it possible to accumulate proceedings, only in those cases where it would streamline or facilitate the course of investigations.
- **Streamlining proceedings: Deadline for instruction of criminal proceedings** (6 months for simple cases and 18 months for complex cases, which may be extended for a similar period).
- **New regulations on confiscation, to facilitate asset recovery**, through the introduction of presumptions and the amendment of the burden of proof.

OTHER MEASURES TAKEN DURING THE PRESENT TERM OF OFFICE

- Amendment of the Money Laundering Prevention Act, regulating control over the economic activities of “persons with public responsibilities”.
- Ban on cash payments of more than €2,500, to prevent fraud.
- Reinstatement of the criminal responsibility of political parties as legal persons.
- Ban on reception of grants by persons sentenced for offences involving corruption.
- Commitment to gradually reduce parliamentary immunity.

STEPPING UP RESOURCES TO COMBAT CORRUPTION

- Increase in judicial staff: 282 new judges last year, the highest number in 25 years.
- Increase in prosecution staff: 66 new prosecutors this year and an unprecedented effort in the Anti-Corruption Prosecution Office.
- Increase in Tax Agency staff: 2,332 new staff members in the past two years.
- Increase in Police and Civil Guard staff: 2,259 new members last year (2015).



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Spain Country Commitments

1. Expose corruption

- Spain will continue its commitment to achieve the highest level of transparency, currently guaranteed by the Spanish central register of company beneficial ownership information.
- Spain will continue its commitment to ensuring that financial intelligence unit, law enforcement agencies and tax agency have full and effective access to beneficial ownership information for companies and other legal entities registered in Spain.
- Spain is committed to ensure Spanish law enforcement authorities share the beneficial ownership information available in the Spanish central database with counterparts in third countries. We call other countries to follow an equivalent commitment in terms of sharing beneficial ownership information.
- Spain will take steps to ensure transparency of the ownership and control of all companies involved in property purchase and public contracting.
- The Spanish land registry and registry of movable assets centralize all the information regarding the owners of the land, real estate or movable assets irrespective of the citizenship of the acquiring person. The combined use of this tool and the information available concerning the beneficial ownership information of every company buying one of these properties have proved to be a very useful tool. Spain welcomes the establishment of transparent central registers of foreign companies bidding on public contracts and buying property.
- As one of the signatories of the G5 initiative, Spain is fully committed in the development of the pilot initiative for automatic exchange of beneficial ownership information.
- Spain commits to deploying public-private information sharing mechanisms to improve the ability to prevent and detect money laundering linked to corruption.
- Spain commits to continue the process of enhancing the information flow between the financial sector and the FIU to provide law enforcement with intelligence needed to detect and disrupt money laundering linked to corruption.
- Spain will continue to promote maximum transparency in public procurement procedures, only limited by due respect to confidentiality obligations deriving from EU Law (in particular, relevant EU Directives).



- Spain will set up a governance scheme aimed at detecting non-compliance or problems of systemic character within the public procurement procedures. Results of this activity of surveillance and supervision will be properly disclosed.
- Spain has joined and strongly supports the Common Reporting Standard initiative, as an essential tool for the proper automatic exchange of financial account information for tax matters.
- Spain will continue its significant budgetary effort in assisting developing countries to strengthen their tax systems, to increase domestic resource mobilisation. To this end, Spain welcomes the International Organizations Platform for Collaboration on Tax, will continue providing with technical support to regional tax fora and is working closely in developing the “Capacity Building” coordinated by the Forum on Tax Administrations.
- Spain supports the development of a global commitment for public country by country reporting on tax information for large multinational enterprises.

2. Punish the corrupt and support those who have suffered from corruption

- Spain commits to implement the robust provisions of the Penal Code in the fight against corruption.
- Spain commits to exploring ways of sharing information on corrupt bidders across borders.
- Spain commits to strictly enforce its asset recovery legislation, including through non-conviction based confiscation, extended confiscation and confiscation from a third party.
- Spain commits to fully develop the functions for which the Asset Recovery and Management Office was created so it becomes a pillar in the fight against crime.
- Spain supports the development of internationally-endorsed guidelines for the transparent and accountable management of returned stolen assets.
- Spain is willing to participate in the Global Forum for Asset Recovery.
- Since last May 6, a central database of bank accounts is fully operational in Spain. Notwithstanding this significant improvement, Spain will continue its commitment to developing adequate tools to strengthen the ability to trace and recover stolen assets.
- Spain welcomes the UK initiative to establish an independent International Anti-Corruption Coordination Centre (IACCC) and expresses its willingness to collaborate with this Centre, as well as the readiness of the Spanish law enforcement bodies to keep fighting grand corruption and boosting international cooperation.

3. Drive out the culture of corruption, wherever it exists

- Spain will support the International Sport Integrity Partnership.



- Spain will encourage good governance within national sports organisations.
- Spain is ready to participate in a practitioner partnership on institutional integrity, coordinated by the OECD.
- Spain commits to participating in an Innovation Hub that will facilitate the uptake of new approaches and technologies to tackle corruption.
- Spain will work with others countries, civil society, international organisations to support accelerated implementation of the voluntary provisions of the UN Convention against Corruption.