Manifesto

For a Public Data Space in the Field of Justice

2022



Preliminary version.

May contain translation errors.

MANIFESTO. FOR A PUBLIC DATA SPACE IN THE FIELD OF JUSTICE

State Technical Committee on Electronic Judicial Administration, 2022

0. INTRODUCTION

The **transformation of the socio-economic system through digital technologies** has generated two phenomena that are not aligned. On the one hand, there is a growing **dependence on empirical data and analysis for decision making.** On the other hand, **access and quality of data are not always guaranteed.** The difficulties are associated with the systems of both production as well as data exchange and dissemination.

TRANSFORMATION OF THE SOCIO-ECONOMIC SYSTEM BY DIGITAL TECHNOLOGIES

PHENOMENON 1: Reliance on data and empirical analysis for decision making.

PHENOMENON 1: Access and quality of data are not always guaranteed.

The need to produce data for decision making is perceived in **both the public and private sectors.** In both cases, data-oriented management is associated with **effectiveness and efficiency** as it allows selecting objectives, identifying good practices and evaluating results. Furthermore, data-oriented management allows for greater management control and greater citizen participation.

However, both in the production and in the use of data for management, **there are principles and values that can come into conflict and with respect to which it is necessary to achieve a balance:** the protection of fundamental rights and the dissemination of information; security in data management and the fundamental right to access information; the recognition of digital rights and the use of data as a resource in production processes; the added value of data-based management and the inequalities generated by the absence of technological means and training.

The preparation of data for public management in the justice system requires **the creation of a public space for data generation and exchange, as well as the design of a co-governance system for that space.** In its current scenario of the justice system, the production and exchange of data have not reached their maximum potential for various reasons such as fragmentation in watertight compartments of data production systems and information, the difficulties in reusing data, the limited interoperability of the systems, the difficulties of access by the citizens and public managers to data in real time through appropriate technical media, data orientation to describe the operation of the system and not to the achievement of objectives, among other reasons.

This manifesto aims to identify the principles on which to build a public data space in the justice sector based on the balance between the different interests that come together in the generation and exchange of data. The starting point is to consider data in **the justice sector as a public good** whose generation and protection the subscribers of this manifesto are directly involved, in order to guarantee the quality of the data, its alignment with the promotion of the public good and the general interests, respect for fundamental rights and prevention of an exclusive use of data.

The creation of a public data space starts from the recognition of **existing structures in the production and exchange of data that, within its autonomy, integrate services, identify high-value data needs, as well as directing their activity to dynamic data, in real time, accessible and reusable through innovative technological means.**

MANIFESTO. FOR A PUBLIC DATA SPACE IN THE FIELD OF JUSTICE

State Technical Committee on Electronic Judicial Administration, 2022

1. OBJECTIVES OF THE PUBLIC DATA-BASED JUSTICE SERVICE

OBJECTIVES

- Equality and cohesion
- Data-oriented management
- Data as a public good
- Innovation in the justice sector
- Public data space in co-governance

1.1 Justice system data as a public good

Data relating to the justice system is public in nature and, therefore, both its production and free access must be guaranteed. The production of data related to the public justice sector responds to a better functioning of the Rule of Law. In this sense, the production and use of data, for statistical purposes among others, of the justice system helps to guarantee the separation of powers, the rule of law and the effective guarantee of fundamental rights and public freedoms of citizens through greater knowledge of the functioning of the justice system and the evaluation of the impact of changes in the regulatory framework.

1.2 The management of the justice system as a data-oriented model

Data-oriented public management involves the identification and definition of indicators and indexes that reflect the demands, functioning and results produced by the justice system. That identification of indexes and indicators serve to improve the results of the justice system, collaborate in the production of data, as well as share and compare the results of the different initiatives and reforms in the justice sector.

1.3 Data aimed at promoting innovation and improvements in the public justice service.

The production of data and the management of the public justice service based on data does not predetermine a service model, but rather encourages innovation and the exchange of experiences with the aim of improving the system and provide solutions to specific problems. The data in the scope of justice includes those related to both the functioning of the judicial systems as well as the rest of the elements that make up the Rule of Law, in particular, the normative capacity in the resolution of disputes and the legal certainty.

1.4 Governance system and public data space in the justice sector

The quality of the data system in the justice system depends on the collaboration between the different levels of government, as well as the participation of public sector actors and private actors. The consideration of data as a public good requires the implementation of a system of co-governance aimed ultimately at creating a public data space of the justice sector that guarantees access and quality of shared data and encourage participation in it of the greatest number of public and private actors.



1.5 Data as a public management tool for promoting cohesion and equality

Data-based management of the justice system is aimed at generating tools to contribute to cohesion, guarantee equality and respect for fundamental rights and public freedoms. The creation of a public justice service is aimed to data integration capable of constantly improving the public management.

2. DATA PRODUCTION AND PROCESSING IN THE PUBLIC JUSTICE SECTOR

- High value data
- Technological tools
- Policy comparison and impact analysis
- Protection of fundamental rights and rights of third parties
- Good practices and quality standards

2.1 High value data as a consequence of the identification of general interests

Data production requires investment and allocation of means, so that, prior to obtaining it, it is necessary to identify the objectives and purposes for which information is collected. The efforts must be directed to high-value data because they represent general interests or which affect the majority of citizens.

2.2 Commitment to compliance with quality standards in the data generation

The production of data must respond to the principles of relevance, accuracy, timeliness, accessibility, comparability and coherence in accordance with the provisions of the Regulation (EC) 834/2009 of the Commission on Community statistics on structure and activity of foreign subsidiaries, with regard to the quality reports. The use of validation tools and data quality control will be promoted from the public sector. In this sense, the production of data must be oriented towards its reuse offering dynamic data in real time with the highest level of possible disaggregation.

2.3 Use of technological tools and artificial intelligence in data production

The use of technologies and Artificial Intelligence (AI) tools, including Big Data management technologies, advanced information safeguarding technologies (Blockchain) and systems equipped with neural networks must serve the same general principles of quality and high value of data. There will be encouragement in the use of tools that allow knowledge of the processes used, their reproducibility and the use of open code tools and formats that guarantee the reuse of data. To this end, access to dynamic data through APIs based on the ease of use and security will be guaranteed.

2.4 Prioritise obtaining data that allows for the comparison and evaluation of the impact of decisions

The production of data will be aimed, as a priority, at allowing part of the public powers and citizens in general to be able to compare the functioning of formal and informal institutions and the impact of regulatory and

public policy measures. Data production will be oriented towards the generation of knowledge that can be integrated into individual and collective decision-making processes.

2.5 Obtaining data compatible with the protection of citizens' rights

When generating data, fundamental rights and public freedoms will be respected, as well as with respect to digital rights derived from the creation of the data itself (such as guaranteeing access, among others), in terms aligned with the international instruments in force in the European Union as well as the Charter of Digital Rights of citizens. For this purpose, the approval of good practices manuals is promoted for the description of the data generation process, which will always be respectful of the rights of citizens.

3. PRINCIPLES OF OPERATION AND COGOVERNANCE.

- Access to data as a right
- Safe, interoperable and reuse-oriented public space
- Innovation in the provision of public services
- Use of existing structures
- Prevention of discrimination and exclusionary practices

3.1. Access to data by citizens and the rest of public and private actors is configured as a right.

The different data production centres will report through their service charter or available compliance protocols of the data produced and the way of accessing it. The configuration as a right implies the possibility of demanding from the organisation responsible for the preparation and dissemination of data within all of its activities.

3.2. Commitment of public sector bodies to build a public space for the exchange of data on justice.

There is no organisation with sufficient capacity to produce all the data necessary for decision-making in the justice sector. For the generation of this space, the use of standards in the definition of the operations that lead to the generation of the data, as well as how the interoperability of the different technical means will be promoted. Participants in the public data space regarding Justice will establish standards related to security, interoperability and reuse that will allow the development of systems storage that guarantee data portability and adoption of measures to prevent non-consensual access (encryption and corporate policies).

3.3. Guidance in the production and exchange of data innovation, facilitation in citizen communication with the Administration and the provision of public services.

Training and participation in the generation and use of data across all sectors allowing the scientific community and citizens in general access and use of the data. The public sector actors will develop an ecosystem favourable to production, exchange, exploitation and dissemination of results.

3.4. Use of existing structures

The development of a data space in the field of justice is aimed at generating synergies between current data producers, prioritising the obtaining from those centres closest to the production of the data and fostering a secure environment for data sharing. The subscribers of this manifesto are committed to the need to create a structure of horizontal governance based on standardised procedures, assumption of responsibilities and the provision of sufficient means to contribute to the creation of a common data space in the field of justice.

3.5. Prevention of non-discrimination and exclusive practices

As a consequence of the consideration of data as a public good and configuration as a right of citizenship, adherents to the manifesto are committed to promoting knowledge of them, guarantee access and avoid practices or agreements that prevent the reuse of data or limit its dissemination by creating exclusive rights to reuse data. The organisations of the public sector of justice will respect the rights derived in matters of consumer protection and competition law.

4. DATA DISSEMINATION AND EXCHANGE

4.1 Data reuse conditions and open access policies

Public justice sector organisations must guarantee the conditions of data reuse based on respect for individual rights, existence of a sufficient legal basis and requiring obtaining the consent when data subject to third party rights is present (trade secret, intellectual property or privacy). It will encourage elimination of access restrictions of both a technical and legal and economical nature.

4.2 Integrated data space as a boost to territorial cohesion, economic competitiveness and respect for citizenship rights

The interconnectivity between the different public sector organisations and between the different levels of government in the preparation and exchange of information is a learning tool that ultimately leads to promoting territorial cohesion and the use of a public space aggregation and exchange of high-value data.

4.3 Data and information exchange system between public sectors and private actors in matters of Justice

Public justice sector organisations commit to collaborate with data intermediaries and cooperatives when they provide services that affect the general interest by preserving the development of exclusive practices that condition access and use of data. The definition of public data space in justice will be carried out based on the characteristics of the data and its significance for the public service of justice and to this end, will encourage the participation of public and private actors.

4.4 Reliability control mechanisms and ethical criteria in the data utilisation.

Public sector actors targeted at data processing and reuse will have equipment or processes that guarantee data protection, privacy and confidentiality when they are affected by any right of third parties (anonymisation, pseudonymisation, differential privacy, generalisation, randomisation). Public sector actors

will establish a data typology based on their access conditions, the existence of rights of third parties, protection of commercial and statistical secrets.

4.5 Training in data use and interpretation of data-driven results.

Public sector bodies in the common data space in the field of justice are committed to the promotion and development of knowledge about of the production of data on justice, the techniques for its treatment and interpretation of results.

Dissemination and exchange

- Reuse
- Integrated data space
- Public and private actor interaction
- Control and security mechanisms
- Training

5. EQUIVALENCE TABLES

MANIFESTO – REGULATIONS/GOOD PRACTICES

OBJECTIVES

1.1. THE DATA OF THE JUSTICE SYSTEM AS A PUBLIC GOOD

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - "A European strategy for data" COM (2020) 66.

1.2. THE MANAGEMENT OF THE JUSTICE SYSTEM AS A DATA-ORIENTED MODEL

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - "A European strategy for data" COM (2020) 66.
- 2019-2023 Action Plan European e-Justice (2019/C 96/05)

1.3 DATA AIMED AT PROMOTING THE INNOVATION AND IMPROVEMENTS OF THE PUBLIC JUSTICE SERVICE

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - "A European strategy for data" COM (2020) 66.

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – "Shaping Europe's digital future" COM (2020) 67.

- Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.

1.4 GOVERNANCE SYSTEM AND PUBLIC DATA SPACE IN THE JUSTICE SECTOR

- Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.

- Order JUS/1126/2015, of June 10, which creates the electronic judicial headquarters corresponding to the territorial scope of the Ministry of Justice.

1.5 DATA AS A TOOL OF PUBLIC MANAGEMENT TO PROMOTE COHESION AND EQUALITY

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS "A European strategy for data" COM (2020) 66.

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – "Shaping Europe's digital future" COM (2020) 67.

- Territorial Agenda of the European Union 2020 - Towards an Inclusive, Smart and Sustainable Europe of Diverse Regions.

DATA PRODUCTION AND PROCESSING

2.1 HIGH VALUE DATA

- Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.

2.2 COMMITMENT TO COMPLIANCE WITH QUALITY STANDARDS IN DATA GENERATION

- Regulation (EU) 2019/1700 of the European Parliament and of the Council of 10 October 2019 establishing a common framework for European statistics relating to individuals and households, based on individual data collected from samples, amends Regulations (EC) No 808/2004, (EC) No 452/2008 and (EC) No 1338/2008 of the European Parliament and of the Council and repeal Regulation (EC) No 1177/2003 of the European Parliament and of the Council and Council Regulation (EC) No 577/98.

- European Statistics Code of Practice — revised edition 2017

- Commission Regulation (EC) No 834/2009 of 11 September 2009 implementing Regulation (EC) No 716/2007 of the European Parliament and of the Council on Community statistics on the structure and activity of foreign affiliates, as regards the quality reports.



2.3 USE OF TECHNOLOGICAL/AI TOOLS IN THE PRODUCTION OF DATA

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – "Shaping Europe's digital future" COM (2020) 67.

- Spanish Data Protection Agency. Compliance with Regulation (EU) 2016/679, General Data Protection Regulation (GDPR) for products and services that include Artificial Intelligence components (February 2020); Requirements for Audits of Treatments that include AI (January 2021). (In cases of data processing for non-jurisdictional purposes, in accordance with article 236 quarter LOPJ).

- European Charter of Ethics on the use of artificial intelligence in judicial systems and their environment, adopted by the European Commission for the Efficiency of Justice (CEPEJ) at its 31st plenary meeting held on December 3 and 4, 2018.

2.4 PRIORITISE THE OBTAINING OF DATA THAT ALLOWS YOU TO COMPARE AND EVALUATE THE IMPACT OF DECISIONS

- COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - "A European strategy for data" COM (2020) 66.

2.5 OBTAINING DATA COMPATIBLE WITH THE PROTECTION OF CITIZENS' RIGHTS

- REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL April 27, 2016 relating to the protection of natural persons with regard to the processing of personal data and the free circulation of these data and which repeals Directive 95/46/EC (Regulation general data protection).

- DIRECTIVE 2001/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL May 22, 2001 concerning the harmonisation of certain aspects of copyright and related rights in the information society.

PRINCIPLES OF OPERATION AND GOVERNANCE

3.1. ACCESS TO DATA BY THE CITIZENSHIP

- Law 19/2023 of the 9th of December, of transparency, access to public information and good governance.

- Royal Decree 3/2010, of 8th of January, for with the National Security Scheme in the sphere of Electronic Administration is regulated.

- REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL April 27, 2016 relating to the protection of natural persons with regard to the processing of personal data and the free circulation of these data and which repeals Directive 95/46/EC (Regulation general data protection).

- Organic Law 3/2018 on the protection of personal data and guarantee of digital rights and implementing regulations.

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



- Royal Decree 203/2021, of March 30, approving the Regulations for the action and operation of the public sector by electronic means.
- Organic Law 6/1985, of July 1, of the Judiciary.
- Organic Law 7/2021, of May 26, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal penalties.

3.2 BUILDING A PUBLIC SPACE FOR THE EXCHANGE OF DATA IN THE FIELD OF JUSTICE

- Royal Decree 4/2010, of 8th of January, by which the National Security Scheme in the sphere of Electronic Administration is regulated.
- DIRECTIVE (EU) 2019/1024 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on open data and the reuse of public sector information.
- Bases of the Judicial Scheme of Interoperability and Security (CTEAJE).

3.3 SUPPORT FOR INNOVATION AND FACILITATION IN COMMUNICATION BETWEEN CITIZENS AND THE ADMINISTRATION

- European Commission guidelines for successful data exchange between companies and public administrations of 25/04/2018 (B2G).

3.4 USE OF EXISTING STRUCTURES

- Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.
- Royal Decree 1708/2011, of November 18, establishing the Spanish Archive System and regulating the Archive System of the General State Administration and its Public Agencies and its access regime.

3.5 PREVENTION OF DISCRIMINATION AND EXCLUSIONARY PRACTICES

- Royal Decree 1495/2011, of October 24, which implements Law 37/2007, of November 16, on the reuse of public sector information, for the scope of the state public sector.

DISSEMINATION AND DATA EXCHANGE

4.1 DATA REUSE CONDITIONS AND OPEN ACCESS POLICIES

- Law 37/2007, of November 16, on the reuse of public sector information, amended by Law 18/2015 of July 9.
- Royal Decree 1495/2011, of October 24, which implements Law 37/2007, of November 16, on the reuse of public sector information, for the scope of the state public sector.
- Resolution of February 19, 2013, of the Secretary of State for Public Administrations, approving the Technical Standard for Interoperability of Reuse of Information Resources.

4.2 DATA-INTEGRATED SPACE

- Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.

4.3 DATA AND INFORMATION EXCHANGE SYSTEM BETWEEN PUBLIC SECTORS AND PRIVATE ACTORS IN JUSTICE MATTERS

- Guidelines for private sector data sharing in the European data economy accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Towards a common European data space" (25/04/2018).

- European Data Strategy of 19 February 2020 (G2B and B2G data exchange).

- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A European Data Strategy" COM (2018) 232.

4.4 RELIABILITY CONTROL MECHANISMS AND ETHICAL CRITERIA IN THE USE OF DATA

- Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (European Union Agency for Cybersecurity) and information and communications technology cybersecurity certification.

- Law 18/2011, of July 5, regulating the use of information and communication technologies in the Administration of Justice.

- FAIR Principles (15/03/2016).

4.5 TRAINING IN DATA USE AND INTERPRETATION OF DATA-BASED RESULTS

- Decision (EU) 2015/2240 of the European Parliament and of the Council of 25 November 2015 establishing a programme on interoperability solutions and common frameworks for European public administrations, businesses and citizens (ISA2 programme) as a means of modernising the public sector.



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