

## *Artificial Intelligence and Democratic Values*

### Spain

#### *National AI Strategy*

Spain has identified AI as “one of the disciplines most likely to influence the rapid transition to a new society and economy.”<sup>842</sup> On December 2, 2020.<sup>843</sup> Spain unveiled the National Strategy for Artificial Intelligence. The Spanish government stated it will allocate €600 million for the implementation of the Strategy from 2021 to 2023.<sup>844</sup> The objective of the National Strategy for AI is to generate trust in the development of inclusive and sustainable AI which focuses on the needs of the citizens. The AI Strategy’s focuses on six goals:

- 1) invigorating scientific research, technical development, and innovation of AI;
- 2) promoting the development of digital capabilities, encouraging national talent and attracting global talent in AI;
- 3) developing data platforms and infrastructure technology to provide support to AI;
- 4) integrating IA in value chains to transform the economy;
- 5) encouraging the use of AI in public administration and in strategic national missions;
- 6) and establishing an ethical and normative framework to strengthen the protection of individual and collective rights and to guarantee inclusion and social wellbeing.

Spain’s National AI Strategy sets out five measures for the successful ethical framework:

- 1) the development of a national stamp of quality for AI,

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<sup>842</sup> Government of Spain & Ministry of Science, Innovation, and Universities, *Spanish RDI Strategy in Artificial Intelligence* (2019), [https://www.ciencia.gob.es/stfls/MICINN/Ciencia/Ficheros/Estrategia\\_Inteligencia\\_Artificial\\_EN.PDF](https://www.ciencia.gob.es/stfls/MICINN/Ciencia/Ficheros/Estrategia_Inteligencia_Artificial_EN.PDF)

<sup>843</sup> Government of Spain, *Estrategia Nacional de Inteligencia Artificial* (Dec. 2, 2020), <https://www.lamoncloa.gob.es/presidente/actividades/Documents/2020/021220-ENIA.pdf>

<sup>844</sup> Government of Spain, *Pedro Sánchez presenta la Estrategia Nacional de Inteligencia Artificial con una inversión pública de 600 millones en el periodo 2021-2023* (Dec. 2, 2020), <https://www.lamoncloa.gob.es/presidente/actividades/Paginas/2020/021220-sanchezenia.aspx>

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- 2) the creation of observatories for ethical and juridical evaluation of AI systems,
- 3) the development and launch of Digital Rights Charter,
- 4) the implementation of a national governance model for ethics in AI through the AI Advisory Council,
- 5) and the promotion of multisectoral national and international fora for dialogue, awareness, and participation.

The National Strategy for AI follows from the Spanish Research, Development and Innovation (RDI) Strategy for Artificial Intelligence, published in 2019.<sup>845</sup> The Spanish RDI Strategy for AI sets out Priorities and Recommendations “to be developed in initiatives and activities defined and financed through the Science, Technology and Innovation States Plans (PECTI), mobilizing the synergies between the different levels of public administration and through the co-development of the public and private sectors.” The Spanish RDI Strategy included plans to create a National AI Strategy, a Spanish AI Observatory, and a strategic framework for the development of AI in compliance with the “ethical, legal, and social commitments” of Spain and the European environment. Priority six of the RDI Strategy is to “analyze the ethics of AI from the perspective of RDI.”

Spain also endorses the ethical standards proposed by the European Union. Spain particularly support the ethical guidelines put forward by the EU’s High-Level Expert Group (HELG) on Artificial Intelligence in 2018. The EU HLEG AI Guidelines encourage the development of “Trustworthy AI” defined as AI which “(1) should respect fundamental rights, applicable regulation and core principles and values, ensuring an “ethical purpose” and (2) should be technically robust and reliable since, even with good intentions, a lack of technological mastery can cause unintentional harm.”<sup>846</sup>

To track the development of AI and ensure the carrying out of the RDI goals, Spain has created a dynamic Map of AI Technology Capabilities which “tracks and displays essential information on the entities which

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<sup>845</sup> Government of Spain & Ministry of Science, Innovation, and Universities, *Spanish RDI Strategy in Artificial Intelligence* (2019), [https://www.ciencia.gob.es/stfls/MICINN/Ciencia/Ficheros/Estrategia\\_Inteligencia\\_Artificial\\_EN.PDF](https://www.ciencia.gob.es/stfls/MICINN/Ciencia/Ficheros/Estrategia_Inteligencia_Artificial_EN.PDF)

<sup>846</sup> The European Commission’s High Level Expert Group on Artificial Intelligence, *Draft: Ethics Guidelines for AI* (2018), <https://ec.europa.eu/futurium/en/ai-alliance-consultation/guidelines#Top>

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develop, investigate, use, or lend services with AI technologies, on a national level as well as at the level of autonomous communities and provinces.”<sup>847</sup> The information on the map details Spanish technical AI capacity and informs on areas of priority in AI to meet RDI objectives. The Map of AI Technology Capabilities detail the use of AI in public agencies, private businesses, institutions of higher learning, and private non-profit institutions. The Map notes that AI in Spain is currently most used for big data and data analysis as well as machine learning. This information is publicly available, and additions can be submitted by the public.

In October 2020, the Spanish government, along with thirteen other countries, published a position paper on innovative and trustworthy AI.<sup>848</sup> This paper delineates a two-fold vision of the EU’s AI development seeking to promote innovation while managing risks through a clear framework and establish trustworthy AI as a competitive advantage. They state that “The main aim must be to create a common framework where trustworthy and human-centric AI goes hand in hand with innovation, economic growth and competitiveness in order to protect our society, maintain our high-quality public service and benefit our citizens and businesses. This can help the EU to protect and empower their citizens, underpin innovation and progress in society and ensure that their values are protected.”

According a report of the European consumer organization BEUC, 83% of those in Spain think that consumers should be well informed when they deal with an automatic decision system and 80% believe they should have the right to say “no” to automated decision-making.<sup>849</sup> The BEUC report also found high levels of concern in Spain about the potential failure of AI machines, the privacy of voice assistants, manipulation of consumer decisions, and unfair discrimination. More than half of those from Spain

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<sup>847</sup> Government of Spain, *Mapa de capacidades de tecnologías de IA*, <https://mapa.estrategiaia.es/>

<sup>848</sup> Position Paper on Behalf of Denmark, Belgium, the Czech Republic, Finland, France Estonia, Ireland, Latvia, Luxembourg, the Netherlands, Poland, Portugal, Spain and Sweden, *Innovative and Trustworthy AI: Two Sides to the Same Coin* (Oct. 2020), <https://www.permanentrepresentations.nl/binaries/nlatio/documents/publications/2020/10/8/non-paper---innovative-and-trustworthy-ai/Non-paper+-+Innovative+and+trustworthy+AI+-+Two+side+of+the+same+coin.pdf>

<sup>849</sup> BEUC, *Artificial Intelligence What Consumers Say: Findings and Policy Recommendations of a Multi-Country Survey of AI* (Sept. 2020), [https://www.beuc.eu/publications/beuc-x-2020-078\\_artificial\\_intelligence\\_what\\_consumers\\_say\\_report.pdf](https://www.beuc.eu/publications/beuc-x-2020-078_artificial_intelligence_what_consumers_say_report.pdf)

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surveyed in the BEUC poll “disagree or strongly disagree that current regulation is adequate to efficiently regulate AI.”

### *Artificial Intelligence Advisory Council*

In July of 2020, the Ministry of Economic Affairs and Digital Transformation established the Artificial Intelligence Advisory Council.<sup>850</sup> The Council is composed of Spanish experts in science, economics, education, and other relevant fields. The AI Advisory Council was created to analyze, assess, and support the government on matters of AI. According to the Ministry, the Advisory Council is intended to provide recommendations to the government on measures for the safe and ethical use of AI. The Council members will analyze the implications of AI in different areas, such as industry, the future of work, protection of fundamental rights, data management, the fight against discrimination, and the elimination of social disparities.

### *Charter on Digital Rights*

In November 2020, the Spanish Government, following the recommendation of a group of experts, proposed a Charter on Digital Rights.<sup>851</sup> The aim is to “recognize the challenges posed by the adaptation of existing rights to the virtual environment, and propose a frame of reference for their protection in that context.”<sup>852</sup> The aim is to create a “magna carta” with rules for the digital world. The 12-page document and 25 guidelines are open for public comment.<sup>853</sup> Spanish secretary of State for Digitalization and Artificial Intelligence, Carme Artigas says the Charter

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<sup>850</sup> Government of Spain, *El Gobierno constituye el Consejo Asesor de Inteligencia Artificial* (July 20, 2020),

<https://www.mineco.gob.es/portal/site/mineco/menuitem.ac30f9268750bd56a0b0240e026041a0/?vgnnextoid=51884ba89bc63710VgnVCM1000001d04140aRCRD>

<sup>851</sup> *Documento para Consulta Pública: Carta de Derechos Digitales* (Nov. 18, 2020),

[https://portal.mineco.gob.es/RecursosArticulo/mineco/ministerio/participacion\\_publica/audiencia/ficheros/SEDIACartaDerechosDigitales.pdf](https://portal.mineco.gob.es/RecursosArticulo/mineco/ministerio/participacion_publica/audiencia/ficheros/SEDIACartaDerechosDigitales.pdf)

<sup>852</sup> Government of Spain, Ministry of economic affairs and Digital Transformation, *The Government promotes the development of the letter of Digital Rights* (Nov. 18, 2020),

[https://administracionelectronica.gob.es/pae\\_Home/pae\\_Actualidad/pae\\_Noticias/Anio2020/Noviembre/Noticia-2020-11-18--Gobierno-impulsa-Carta-Derechos-Digitales.html?idioma=en](https://administracionelectronica.gob.es/pae_Home/pae_Actualidad/pae_Noticias/Anio2020/Noviembre/Noticia-2020-11-18--Gobierno-impulsa-Carta-Derechos-Digitales.html?idioma=en)

<sup>853</sup> Explica, *Government of Spain passes the letter of digital rights to public consultation* (Nov. 19, 2020), <https://www.explica.co/government-of-spain-passes-the-letter-of-digital-rights-to-public-consultation/>

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for Digital Rights works as a “prescriptive document, not regulatory, proposes a framework for the public authorities' action in a way that allows navigating in the current digital environment, taking advantage of all its potentialities and minimizing its risks.”<sup>854</sup>

The Charter guarantees the right that no citizen is discriminated against for decisions based on algorithms and maintains that “transparency, auditability, explicability and traceability” of the same will be ensured. It also adds that people have the right not to be the subject of a decision based solely on automated decision processes, thus recognizing the right to “request human supervision and intervention and challenge automated or algorithmic decisions.” The text recognizes that citizens must be explicitly informed when they are talking to an artificial intelligence system and that assistance by a human being must be guaranteed if the person concerned requests it.<sup>855</sup>

### *Algorithmic Transparency*

Spain is subject to the General Data Protection Regulation which established rights to “meaningful information about the logic involved” as well as about “the significance and the envisaged consequences.”<sup>856</sup> The Spanish data protection agency (AEPD) has published a detailed guide on processing with AI.<sup>857</sup> The AEPD report explains that “complying with this obligation by making a technical reference to the algorithm implementation may be obscure, confuse or excessive and leading to information fatigue. However, sufficient information must be provided to understand the behaviour of the relevant processing.” The AEPD provides many examples that “must be provided” to understand the behavior of the relevant processing, such as the relative importance or weight of each data category in the decision making, the quality of training data and the type of patterns used, and any reference to audits, “especially on the possible deviation of

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<sup>854</sup> IT Europa, *Spain offers digital rights charter as model* (Nov. 18, 2020), <https://www.iteuropa.com/news/spain-offers-digital-rights-charter-model>

<sup>855</sup> PledgeTimes, *Artificial intelligence and pseudonymity: the Government presents the first version of the Bill of Digital Rights* (Nov. 17, 2020), <https://pledgetimes.com/artificial-intelligence-and-pseudonymity-the-government-presents-the-first-version-of-the-bill-of-digital-rights/>

<sup>856</sup> [GDPR Art. 22, Art. 13.2.f]

<sup>857</sup> AEPD, *RGPD compliance of processings that embed Artificial Intelligence An introduction* (Feb. 2020), [https://www.aepd.es/sites/default/files/2020-02/adecuacion-rgpd-ia-en\\_0.pdf](https://www.aepd.es/sites/default/files/2020-02/adecuacion-rgpd-ia-en_0.pdf)

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inference results, as well as certification or certifications performed on the AI system.”

As indicated above, the Charter of Digital Rights strengthens principles of Algorithmic Transparency.

### *Lethal Autonomous Weapons*

Spain has responded to the threat of Lethal Autonomous Weapons Systems (LAWS) by affirming that the Spanish military does not have and will not develop such technology and emphasizing the need for meaningful human control for weapons systems to be compliant with international humanitarian law. Additionally, Spain has consented to the 11 Principles on LAWS launched by France in 2019.<sup>858</sup> The Spanish government, however, does not endorse the creation of a preemptive treaty prohibiting LAWS.<sup>859</sup>

### *OECD/G20 AI Principles*

Spain has endorsed the OECD AI Principles. However, many of the principles are still to be addressed in the National AI Strategy.<sup>860</sup> In June 2020, the OECD reported that Spain is in the “final stages” of developing its National Strategy on AI, with “a suite of objectives from promotion of research to the prevention of discrimination and respect for human rights.”<sup>861</sup> Spain published its national AI Strategy in December 2020.<sup>862</sup>

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<sup>858</sup> French Ministry for Europe and Foreign Affairs, *11 Principles on Lethal Autonomous Weapons Systems (LAWS)* (September 2019), <https://www.diplomatie.gouv.fr/en/french-foreign-policy/united-nations/multilateralism-a-principle-of-action-for-france/alliance-for-multilateralism/article/11-principles-on-lethal-autonomous-weapons-systems-laws>

<sup>859</sup> Human Rights Watch, *Stopping Killer Robots- Country Positions on Banning Fully Autonomous Weapons Systems and Retaining Human Control* (Aug. 20, 2020), <https://www.hrw.org/report/2020/08/10/stopping-killer-robots/country-positions-banning-fully-autonomous-weapons-and#>

<sup>860</sup> OECD G20 Digital Economy Task Force, *Examples of AI National Policies* (2020), <https://www.mcit.gov.sa/sites/default/files/examples-of-ai-national-policies.pdf>

<sup>861</sup> OECD G20 Digital Economy Task Force, *Examples of AI National Policies* (2020), <https://www.mcit.gov.sa/sites/default/files/examples-of-ai-national-policies.pdf>

<sup>862</sup>

[https://www.lamoncloa.gob.es/lang/en/presidente/news/Paginas/2020/20201202\\_enia.aspx](https://www.lamoncloa.gob.es/lang/en/presidente/news/Paginas/2020/20201202_enia.aspx)

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### *Human Rights*

Spain ranks highly for political rights and civil liberties (92/100). According to Freedom House, “Spain’s parliamentary system features competitive multiparty elections and peaceful transfers of power between rival parties. The rule of law prevails, and civil liberties are generally respected.”<sup>863</sup>

### *Evaluation*

Spain has developed a strong ethics-focused national AI strategy, created an independent AI advisory council, proposed a Charter for Digital Rights, and strongly endorsed the EU’s policies and statements on ethical AI as well as the OECD AI Principles. The Map of AI Technology Capabilities is the most authoritative source on AI developments in Spain, but it only includes technological capabilities without informing on adherence to ethical principles. On issues of data privacy, Spain has expanded upon the EU’s General Data Protection Regulation (GDPR) and issued a more robust human rights centered law.<sup>864</sup> This precedent shows that Spain is capable of undertaking initiative beyond what is required by the EU. Spain has not explicitly endorsed the Universal Guidelines for AI or the Social Contract for the Age of AI but the recently announced national AI strategy reflects elements of both.

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<sup>863</sup> Freedom House, Freedom in the World 2020 – Spain (2020), <https://freedomhouse.org/country/spain/freedom-world/2020>

<sup>864</sup> Gobierno de España- Boletín Oficial del Estado, *Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales* (2018), <https://www.boe.es/eli/es/lo/2018/12/05/3/con>