

## **Data Protection in Spain: A criminological approach to digital censorship**

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The Spanish authority “Agencia Española de Protección de Datos (AEPD)” for intrusive files inspections and 535 sanctions got 22,6 millions € in 2008 and now is involved in a serious censorship of any picture, video or private data published in any Website. Obviously, childhood protection is a undoubted duty of authorities, but officials and civil servants as well as politicians have, or must have, less rights than minors. Criminals can also ask for privacy against freedom of information and free expression in Spain asking for hard/expensive sanctions and inquisitorial procedures against writers in the Internet. Moreover, intrusive inspections can develop an official spying using uncontrolled computer intelligence that can feed very well organized blackmail, extortion, chantaje and racketeering. The key question now in Spain is this one:

**Who does protect us from the ones that pretend to protect us in the net?** The answer to this classical question from Plato is no Meletos against Socrates neither inquisitor Torquemada against digital journalists.

In a comprehensive and multidisciplinary approach required to prevent and combat corruption effectively, every Spanish AEPD official can (and must) be considered under UNITED NATIONS CONVENTION AGAINST CORRUPTION as “Public official” shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a “public official” in the domestic law of a State Party.

Beyond the AEPD “public official” a very complex industry of consultants, lawyers and computer experts is selling professional services for data protection in Spain. There are dozens of advertisements, for instance, at Google AdWords, and not very ethical marketing approaches to sell auditory and accomplishment of AEPD standards. However, no authority checks if AEPD public officials are always doing what they must do and not doing what they are not allowed to do. Many speeches and publications can be paid to AEPD managers and relationship with sponsors and companies, like Google, banks, insurance companies and other powerful organizations can be more than dangerous for data protection ethical approaches and future operations.

Criminals, even the ones that got political pardon can use AEPD rules to forbid publication of their names and information about their cases or official pardon documents. Public officials can also use AEPD to censorship true information about their not very ethical business. For instance, some public officials are paid as private expert witness and they do not want to see their names, pictures and videos in Court of Law published in a Webpage like <http://www.cita.es/peritos/incompatibles>

In Spain there is nothing like Freedom of Information Act (FOIA). Title 5 of the United States Code, section 552, generally provides that any person has the right to request access to federal agency records or information. All agencies of the U.S. Government are required to disclose records upon receiving a written request, except those records that are protected from disclosure pursuant to nine exemptions and three exclusions. Spanish AEPD denies access to press journalist and media even to the 31st INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY (November 2009) in which data protection authorities from over 50 countries approve the “Madrid Resolution” on international privacy standards and a group comprised of top executives from 10 large multinational companies has signed a declaration of support for the adopted proposal.

Censorship of freedom of information&expression and very well organized blackmail, extortion, chantaje and racketeering can be exported from Spanish “Agencia Española de Protección de Datos (AEPD)”, but unfortunately no FOIA equivalent can protect Spanish citizens from AEPD in the years to come.

Further information at <http://www.cita.es/artemi/rallo> and <http://www.miguelgallardo.es/aepd>