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Public Administration and the
Transformation of Civil Service: A
Comparative (Law) Perspective

The transformation of the Civil Service in Spain

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Negli ultimi anni, le Pubbliche Amministrazioni hanno subito una significativa evoluzione, in particolare a causa dell'emergere di nuovi modelli di governance pubblica, del concetto di cittadinanza amministrativa (che riguarda il rapporto in evoluzione tra i cittadini e l'Amministrazione) e dell'impatto dirompente della tecnologia. Tuttavia, la Spagna deve ancora adattare il suo sistema relativo all'impiego pubblico per rispondere a questa nuova situazione. Inoltre, la complessità è ulteriormente aggravata dalla sfida di stabilire una doppia tipologia di dipendenti pubblici e dalla crescente inclusione di dipendenti assoggettati alle norme generali del diritto del lavoro. Il presente scritto affronta i principali problemi che questa situazione pone e mette in evidenza gli aspetti che dovrebbero essere affrontati senza indugio al fine di realizzare un'adeguata trasformazione del sistema del pubblico impiego in Spagna.

In recent years, Public Administrations in Spain has undergone significant evolution, particularly due to the emergence of new public governance models, the concept of administrative citizenship (which pertains to the evolving relationship between citizens and the Administration), and the disruptive impact of technology. However, Spain has yet to adapt its public employment system to effectively address this new situation. Moreover, the complexity is further compounded by the challenge of establishing a dual typology of public employees and the increasing addition of employees to which general labor law norms apply. This paper explores the key issues stemming from this situation and emphasizes the urgent need to address them promptly, in order to facilitate a suitable transformation of the Spanish public employment and civil service system.

Summary: 1. Approach.- 2. Essential characteristics of Spanish civil service.- 3. The current framework of new public governance.- 4. Proposals for the future.- 5. Conclusion.

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1. Approach

If one talks about the transformation of the Spanish civil service in the 21st Century, one must talk about the reforms that are yet to come, rather than about those that have already occurred^[1].

Although some changes have been introduced, as I will try to explain, their evolution has yet to keep pace with the metamorphosis that public administration is undergoing^[2].

Indeed, in this new millennium, now more than twenty years old, major changes have taken place in public administrations, mainly as a result of what has come to be known as the New Public Governance^[3].

This is a response to the new relationship between public authorities and citizens, who have moved from subjects to becoming real citizens of the administration and in the administration^[4].

A transformation in which we are still immersed, and which represents a real challenge for the 21st Century public administrations.

However, despite being an essential element in the success of this change, the Spanish civil service has remained essentially unchanged for almost a century.

Some change has indeed been introduced, especially with the approval of the Basic Statute for Public Employees in 2007 and, later, with the restrictions imposed by budgetary stability^[5].

However, it is generally agreed that these reforms are far from meeting the need for deeper change^[6].

Experts agree that the Spanish civil service system is still too rigid, not efficient or productive, and, to a large extent, improvised and unbalanced^[7].

Nevertheless, it is also a shared opinion that legislative reforms are not enough and that a real administrative culture change is needed.

Even more so if one takes into account the important challenges we must face, including the transition from an analogue to a predominantly digital administration^[8], responding to this new relationship between public authorities

and citizens, or introducing innovation, for example, through collective intelligence.

2. Essential characteristics of Spanish civil service

However, before briefly outlining the key points that must guide a profound reform of public employment in Spain in order to face the new challenges with certain guarantees of success, it is worth referring to the most essential characteristics of the Spanish model and some of the changes that, very modestly, have been introduced.

Thus, first of all, it should be recalled that the right to equal access to civil service is a fundamental right. In Spain, such access is based on the constitutionally established principles of merit and ability.

However, in my opinion, one of the most prominent dysfunctions of our civil service is the lack of adaptation of staff selection tests to the new needs of the administration⁹¹.

Competitions for access to civil service are still based, as always, on rote learning when it is clear that the administration of the 21st century, which must be proactive and innovative, needs something different.

Another essential feature of our system is the permanence/irremovability of civil servants, which means they have life tenure, a concept adopted from the French model.

This is intended to guarantee loyalty towards the civil service as well as impartiality of civil servants but has nevertheless been seen more as a privilege.

In my view, one of the primary hindrances to aligning the civil service with present-day requirements is the concept of irremovability, which should not be confused with immobility.

Immobility is defined in the Real Academia de la Lengua Española dictionary as the tendency to maintain a situation unchanged. I think nothing better describes what is happening in our public service.

On the other hand, there are two types of staff in Spanish public employment: civil servants, who are subject to a statutory regime provided for in administrative law, and contracted workers, whose legal regime is mainly contained in labour law.

The latter has increased considerably in recent years, even though the general rule is that the predominant category should be the former. And there is even a suggestion of considering an additional increase in contract labor as a means to enhance flexibility.

However, in this respect, it should be remembered that one of the problems that have caused most discussions between labour and administrative doctrine derives precisely from the difficulty of harmonising the rules of both branches of law.

This difficulty has even put the Spanish civil service system in check with the Social Chamber of the Supreme Court stating in a ruling of January 2022^[10] that the system of access to public employment, based on the principles of merit and ability of Article 103 of the Spanish Constitution, is contrary to European Union law.

A position that I cannot share but which is transforming de facto, not de jure, the most elementary rules of access to Spanish public employment.

This case law, making an interpretation, in my opinion, excessively extensive of the position of the Court of Justice of the European Union, has been accepting the subrogation of the personnel of private contractor companies in the Administration's staff in the event of the reversion of the service^[11].

This application of a labour law concept (subrogation of staff in the event of company succession) to the field of public administration clashes head-on with the rules on access to civil service and public procurement^[12].

However, it is increasing, even recognising, since the aforementioned ruling of 2022, the integration as permanent staff in the Administration's workforce.

This clearly violates the principles of merit and capacity, as it completely circumvents the tests for access to civil service.

This position, together with the labour reform approved at the end of 2021, which aims to reduce temporary employment to a minimum also in the public sector, fits poorly with the idea of greater flexibility, which is precisely what our civil service needs.

The Spanish administration has indeed abused interim employment for years, but it does not seem that the solution given now precisely matches the need for change.

The proposed solution is to carry out massive stabilisation processes. There are two types of stabilisations. Since the budgetary laws of 2017 and 2018, the so-

called ordinary stabilizations are based on competition-public entrance examination processes.

Moreover, they lead to a result which, as has been said, is at odds with the flexibility that is needed in the 21st century, but at least common and established selection techniques for access to civil service are employed.

However, the 2021 labour reform^[13] has brought with it another exceptional form of stabilisation, which relies solely on the merit-based competition, and which raises many doubts about its constitutionality.

The fact is that eliminating all competitive examinations benefits those who are able to show merit for having previously provided services to the Administration and limits or even prevents citizens who have not had this opportunity from participating.

Thus, even if the competitions are formally open to any participant (the opposite would be direct discrimination), in practice, there is obvious indirect discrimination.

This is because, as experts have pointed out, the tendency in the occasional civil service reform has been marked more by strengthening the rights of public employees than by making the provision of public services more effective and efficient.

Furthermore, while it is true that the rights of workers, including public employees, must be respected, one must not forget that the general interest is what must always guide the Public Administration.

Hence, perhaps, an excessively rigid interpretation of labour law, characterised by its protective nature, makes it even more difficult to see the need for a profound change in our system based on the efficiency of the Public Administration.

With the approval of the Basic Statute of the Public Employee at the beginning of this century, a significant opportunity to undertake a true modernisation of Spanish civil service was lost, among other reasons, because the proposals of the Commission of Experts were not adequately reflected in the final text.

Some novelties were indeed introduced, such as the very notion of good administration^[14] and the implementation of a distinct code of conduct for public employees, which significantly differs from the previous disciplinary responsibility regime. However, despite these advancements on paper, in reality, substantial change has not been accomplished, primarily due to the absence of

specific developments needed to enforce these fundamental rules.

3. The current framework of new public governance

In the context briefly outlined above, it becomes essential to analyze the transformation of the relationship between citizens and public administration to grasp the challenges that the Spanish civil service system is currently confronting. Consequently, this understanding is crucial to identify the far-reaching reforms that must be undertaken without delay.

The shift from considering the person who has a relationship with the administration or uses a civil service as the administered, the user (*administraté* or *usager* in French or *administrado* or *usuario* in Spanish terminology, as it is challenging to find an equivalent concept in English) to the idea of citizen, has implied a complete transformation that is reflected in administrative citizenship. However, the concept of administrative citizenship, commonly employed in systems like the French and Italian ones, remains unfamiliar in the Spanish system. In my opinion, though, it precisely mirrors the current situation.

It is this new position of the citizen with the administration that justifies the introduction of the principles on which the new public governance I have mentioned is based. That is, transparency, accountability, participation and public ethics, but it is also necessary to consider other principles such as innovation and efficiency^[16].

This is a profound transformation of the relationship between the Public administration and the citizenry in line with the transition from democratic administration to administrative democracy.

The use of the notion of democracy in public administration reflects this change. It implies the granting of new rights to all citizens, as well as their participation in administrative processes.^[16]

The notion of *administrative democracy*^[17], as already mentioned, reflects a profound change in the traditional conception of the relationship between administration and democracy; the administration is no longer called upon to be democratic, but rather to become the spearhead and vector of a reformulation and consolidation of democratic logic. However, one must never lose sight of the fact that *administrative democracy* complements representative democracy and

does not substitute for it^[18]; it is a means of participation in power that does not end simply with the right to vote but extends to every moment of institutional life^[19].

Moreover, all this is linked to good administration^[20], in the sense of effectiveness, efficiency and better decision-making, as will be discussed below.

This changed relationship can be seen in various regulations where, as a matter of fact, the terms *administré*, *usager* and *partie intéressée* have been replaced by the term *citizen*. This is evident in France with the law n. 2000-321/2000 (*relative aux droits des citoyens dans leurs relations avec les administrations*)^[21] and, later, in Spain in the law n. 39/2015 (*de Procedimiento Administrativo Común de las Administraciones Públicas*)^[22], and the law n. 9/2017 (*de Contratos del Sector Público*)^[23].

Thus, by recognising that the *administré* is also a citizen, the regulations in force consider that the administrative relationship has a civic dimension. The administration must provide citizens with the means to exercise their citizenship, and access to it can be gained through the administrative relationship. This transforms the nature of the administrative relationship, where citizens have the right to participate in administrative action and to have access to the administration, with the administration being accountable to them.

Administrative citizenship thus understood covers two realities: on the one hand, due to the substitution of terms, all citizen rights can be considered citizenship rights; on the other hand, the civic dimension of the administrative relationship is affirmed as a support for political citizenship.

The administrative citizenship that thus emerges means that voters are at the same time citizens *of* the administration and citizens *in* the administration^[24]. In short, it is a matter, therefore, of making citizenship effective through citizens' participation in administrative power through prolonged participation, making it effective through the relationship with the Administration.

This gives us an idea of the change it also implies in administrative organisation and civil service.

As I have noted above, all this is linked to good administration, in the sense of effectiveness, efficiency and improved decision-making^[25].

In this way, it is necessary to explain that “good” should not be linked here to moral aspects or values, but that in the very definition given in the Dictionary of

the Royal Academy of the Spanish Language, in its first meaning, it is understood that such an adjective means «*of positive value, in accordance with the qualities that can be attributed to it by its nature*», passing secondly to consider it as «*useful and purposeful for something*»^[26].

These definitions of the adjective that accompanies the noun “Administration” already offer an image of the expression used here, as they evoke the idea that it is something in keeping with its nature, with its very purpose, in this case of the Administration. This inevitably leads us to remember what the Administration is and, especially, what function it fulfils. Without forgetting that its etymological origin indicates that the Administration is born for (*ad*) service (*ministratio*).

Thus, a first idea of what should be understood by good administration is that it should adequately fulfil its service function. Without forgetting that art. 103 of the Spanish Constitution, which is undoubtedly the first normative reference in any study of this discipline in Spain, explicitly states that the administration objectively serves the general interest.

Therefore, there will be a good administration when it adequately serves the general interest, without forgetting the necessary adaptation in this respect to the social needs which, as Alejandro Nieto rightly indicated, guide it towards the general interest^[27]. In this respect, the adequacy of the means at its disposal to this end will be decisive, as well as the decision-making process, hence the inevitable connection with discretionary powers.

This, in turn, correlates with the notion of efficiency, as highlighted by H. A. Simon when discussing good administrative behavior^[28]. Efficiency, considered a fundamental principle of administrative organization, is even acknowledged by Italian doctrine and referenced in Article 97 of the Italian Constitution concerning the proper functioning of the Administration^[29]. This concept has been addressed by classical doctrine even before its formal recognition^[30].

All of this emphasizes the link with the exercise of discretionary powers, as the Public administration must select the most suitable means to fulfill the general interest, which, in my view, as has been made clear in specific sectors^[31], implies that its decision is not free. Instead, through careful consideration, the most appropriate choice is made^[32]. In essence, it is not a matter of choosing between legal indifference, as previously thought, but rather making the best selection of means.

In conclusion, the concept of good administration, as used here, refers to an administration that effectively fulfills its function, serving the general interest while also considering and respecting private interests^[33]. It involves making a thorough evaluation of the means, circumstances, facts, and elements at hand, which is closely linked to motivation and the obligation of *due care* or *due diligence*, as emphasized by the Court of Justice of the European Union^[34], and which is the basis of fairness.

Public administration should make decisions based on this careful assessment, taking into account the most relevant procedure to ensure its success. This approach serves two primary purposes prominently: first, it facilitates optimal decision-making, and second, it guarantees the protection of the rights of those affected by the decisions made.

The need or advisability of connecting the notion of *good administration* - in the terms described above - and that of *administrative citizenship*^[35], is highlighted by the very fact that in the Charter of Fundamental Rights of the European Union, the chapter dedicated on citizenship, comprising Articles 39 to 46, not only includes the right to vote, free movement and residence and diplomatic and consular protection, but also the right to *good administration*, the right of access to documents, the European Ombudsman and the right to petition.

Furthermore, the link between the so-called *deliberative administration* - to which reference has already been made - and *good administration* is evident. Thus, the aim is to respond simultaneously to the need for a transparent and open administration, facilitating the acceptability of the decision, and to the need for a more efficient administration that allows a faster and more direct response to the needs expressed by citizens^[36]. Moreover, suppose deliberation means considering all aspects of a phenomenon in order to make the right decision about it. In that case, this connects with the idea of *good administration*, in the sense of seeking the best possible decision, considering all the elements present. This in turn can be linked to artificial intelligence systems and especially the handling of a more significant amount of data in decision-making.

In short, it is indisputable that if, in order to respond to the need for *good administration*, even if this is understood from a restrictive point of view connected with efficiency and effectiveness, it is necessary to have the inexcusable points of view to adopt the best possible decisions, one of them must necessarily

be that of the recipients of the service and of the citizens in general. This is connected with the so-called people-based design and with taking into account the needs to be covered by these services; in short, with providing a better response to them, which will make the Administration more effective and also complete its legitimacy and even achieve greater acceptance of its decisions.

As indicated above, this changes the nature of the administrative relationship, in which citizens have the right to participate in administrative action and to have access to the administration, which is accountable to them.

In short, let us remember that it is a matter of making citizenship effective through the broad participation of citizens in administrative action.

One example of this is the involvement of citizens in the design of public services through innovation labs.

There is no doubt that this scenario implies significant changes in public employment, which must face new challenges, among which digital disruption also plays a prominent role ^[37].

In short, it is essential that the transformation mentioned above goes hand in hand with changes in administrative organisation and personnel management ^[38].

Thus, together with this new relationship with citizens, another factor that is driving the change in administrations and, therefore, in their staff is the technological revolution.

4. Proposals for the future

If, up to now, I have tried to describe the past and present of Spanish civil service, it is now time to propose the changes that need to be made to adapt to the new context.

This task is by no means simple, as it is difficult to predict a future that is uncertain and changing, making obsolescence even more immediate. However, I will venture to point out several elements that seem to be indispensable in the transformation of Spanish civil service.

First, strategic planning is essential. It is necessary to identify what the missions of the future will be in order to adapt the structure, the jobs, the tasks to be carried out and, of course, the selection processes must respond to these new and changing needs.

It is clear, for example, that automation will mean a change in routine or repetitive tasks and that this must be reflected in the public employment offer.

On the other hand, it is worth mentioning the possible uses of AI by administrations. The benefits of using AI systems in the public sector are varied, some of them closely connected to the basic principles of public service delivery, such as universality, continuity^[39], and even the progress clause.

Suffice it to simply indicate the improvement of decisions, actions and services provided, thanks to the proper data management^[40], or with simulators that allow for a glimpse of the possible effects of measures, which is crucial in the *ex-ante* evaluation of public policies^[41].

A second benefit is the quality of the service as it is permanently available and constant over time, which in turn connects to the continuity of the service. However, one must not forget the so-called “stop button” which in turn makes it necessary to consider the possibility of malfunctioning and foresee how, in cases where services are fully managed in this way, they could be temporarily taken over by public employees.

Undoubtedly another potential benefit of using AI systems or other such tools (depending on the concept used) is the streamlining of procedures, saving time for both the administration and the targeted citizens, e.g., through repetitive tasks such as verification of authenticity, verification of compliance with conditions, even classification of applications in specific processing, etc.

Certainly, and connected with streamlining, in my opinion, one of the benefits of AI systems is simplification^[42]. The fact is that we are increasingly immersed in a more complex reality, and despite the efforts made years ago to simplify administration, the truth is that this is far from being achieved. It is essential that the AI system does not copy complexity but converts it into simplification^[43], for example, through repetitive tasks which, as we have already seen, represent a field in which this type of technology fits perfectly, such as classification, the handling of applications, certain checks, some uses of voice recognition^[44], etc.

In an attempt to synthesize the various benefits of AI in the public sector, they can be traced back to three basic types, namely: improvement of decision-making processes and results in public decision-making^[45]; improvement of the provision of public service and the interaction between administrations and citizens^[46]; and, thirdly, optimization of internal management^[47].

However, on the other hand, the potential risks of the use of these AI systems by administrations should not be overlooked^[48].

In the upcoming years, one can expect a profound transformation and continuous evolution of current functions within public administrations. This shift will demand diverse professional profiles, especially with the integration of artificial intelligence into the administrative processes, as previously mentioned.

In this regard, it is crucial to break away from reliance on external entities and instead foster innovation from within the Public administration itself.

Indeed, it is also important to promote autonomy, or in other words, to avoid or reduce as much as possible dependence on others for a variety of reasons. Firstly, because the administration must be proactive and up to the task, even in order to be able to control. On the other hand, recourse to third parties entails important legal complications, from the causes of abstention and recusal, imputability for non-contractual liability purposes, problems related to transparency in the case of professional secrets, economic interests, etc.

In short, concerning their staff, Public administrations should ask themselves at least three questions^[49]:

What do I need to create?

What do I need to redesign?

What do I need not to replenish?

The activities of auxiliary, administrative and janitorial staff will have to be replaced by technology or at least complemented, while artificial intelligence specialists will have to be incorporated into the workforce.

A second issue to consider is the size of the public administration of the future, which should be smaller.

Connected to the previous point, there seems to be unanimity among experts that the size of the future administration will be smaller, precisely because of the implementation of new technologies. It will also need to be more flexible and changeable, which clashes with the supposed stabilisation and elimination of temporary employment that is currently taking place in Spain.

In other words, we are going against the tide.

However, one should not forget that the Spanish public administration workforce is very old and that there will be a significant number of retirements in the coming years^[50].

This shows that sometimes challenges also present opportunities. Thus, the opportunity for retirement should be used to change the typology of jobs and their functions in order to respond to new needs.

That is to say, to opt for a planned management of vacancies is quite the opposite of what has been done up to now, which is to call up the same vacancies.

Thirdly, implement a culture of change.

This is perhaps the biggest challenge, fighting against immobility and motivating and involving government staff in change.

It is worth recalling Tocqueville's statement that «*The ideas of the French Revolution triumphed because they were imposed on souls before they became the letter of the law*».

Regulatory change is necessary, but establishing a new administrative culture is even more urgent.

Fourthly, a new public management or public administration.

If, as we have already seen, we are currently witnessing a renewed idea of citizenship, in which it is essential to involve citizens in decision-making and, in general, in the life of the Administration. This inevitably connects with another crucial aspect in the functioning of the Administration itself: I am referring to what has come to be known as *new public governance*, i.e., it must be faithfully reflected in a new public management model⁽⁵¹⁾, with comprehensive, innovative, effective, efficient and inclusive public governance being essential in this new context as the cornerstone of the new public management.

Thus, very briefly, in order to understand this new current or idea of understanding the Administration and its interaction with citizens, it is necessary to point out that, from the field of Organization Theory and Administration Sciences, different models or paradigms that have guided the work of public administrations are analysed and exposed, that is to say, these are studied as organizations.

In this respect, the following models of public management are often mentioned: the *Weberian* model or PA (*Public Administration*), characterized by bureaucracy; later, with the crisis of the welfare state and the application of *management* techniques, the PM (*Public Management*) model is mentioned; then there is a change of paradigm in which the emphasis is placed on efficiency, and the citizen is conceived as a client, the NPM (*New Public Management*)

model; this model is based on participation, transparency and cooperation with citizens, i.e., the integration of governance, which in turn leads to the incorporation of NPS (*New Public Service*), i.e., the co-creation of public services with citizens^[52]. However, it should be borne in mind that this evolution does not imply the complete substitution of one model for another, but rather that on occasions they all coexist in the management of a specific public administration, with a predominance of one or the other.

The link between this question and what has been said above with regard to the idea of a renewed citizenship and, in particular, what administrative citizenship implies is absolutely evident since, after all, the current paradigm of new public governance analyses how the public administration could improve its legitimacy *vis-à-vis* citizens from a management point of view^[53]; without forgetting that, in turn, citizen participation in administrative life and in the design of public services also contributes to the satisfaction of a good administration, through effectiveness and efficiency, in the sense of better adapting to the demands of society^[54].

On the other hand, the so-called *wicked problems* also require more interactive and horizontal governance models capable of associating more actors in the search for solutions, which implies radical changes in the structures and talent of public organizations. Not to mention that this whole phenomenon has had a frontal impact on the public sector, causing public organizations and governments to find other ways of exercising power more in line with the new situation, as they have lost the monopoly of legitimacy in society to define the processes of creating public value autonomously^[55]; as a consequence of all this, they have entered a scenario of shared authority, in which their role, rather than that of exercising power, is to aspire to lead complex interactions to tackle social problems, as has been pointed out by renowned experts^[56].

The original mission of administrations to stabilize societies, protect against vulnerabilities, guarantee real and effective equality, and make the future more predictable, is even more relevant today, but from a different perspective, as the traditional bureaucratic paradigm does not seem to be able to respond successfully to today's challenges^[57].

In order to provide an adequate response, Public administrations need to put into practice a genuine new public governance, integrating not only the

principles to which the doctrine has been most devoted, i.e., transparency and participation at the government level, but also within the administration itself and making other essential principles effective. In my opinion, these include effectiveness, efficiency, innovation, the gender perspective, and not forgetting new aspects that should be adopted in the Administrations, such as *open data* or artificial intelligence.

Linked to the above, executive leadership and professional public management, is needed to bring about this change.

Senior officials will increasingly be required to demonstrate highly specialised digital or technological skills^[58].

But also, soft skills: creativity, innovation, empathy, verbal and oral communication, resilience and adaptability, stress management, teamwork, etc.

And also, critical thinking, a strong culture of ethics and public values, as well as the ability to solve complex problems in their field.

All of which will require, once again, a profound change in the selection tests.

Public administrations should create stable structures of highly qualified civil servants in the field of STEM (Science, Technology, Engineering and Mathematics) qualifications^[59].

And some countries have even introduced behavioural science specialists into their teams, another important aspect.

5. Conclusion

In short, these are some changes that must inexorably take place in Spanish civil service^[60].

The situation in the future will differ significantly from today, and although complete disruption may not be imminent, a gradual adaptation is necessary. This process may be slower than desired, but it is undoubtedly unavoidable.

In essence, echoing Umberto Eco's sentiments, I advocate for an integrated approach rather than an apocalyptic one. Emphasizing a balanced and progressive transformation to address the challenges ahead.

From this point of view, I trust that the Spanish civil service has the capacity to adapt to the changing times and meet the present demands of society. In essence, it will strive to respond to the public interest in a manner that is effective,

efficient, innovative, and responsible, as this has always been and will remain its primary function.

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 15. Conseil d'État, *Les expérimentations: comment innover dans la conduite des politiques publiques?*, La Documentation Française, Paris, 2019.
 16. In the words of J. Chevallier, *De l'Administration démocratique à la démocratie administrative*, in *Revue Française d'Administration Publique*, vol. 137-138, 2011, pp. 217-227.
 17. According to C. Testard, is understood as the set of rules that tend to encourage the participation of citizens in the elaboration of administrative decisions (C. Testard, *Pouvoir de décision unilatérale de l'administration et démocratie administrative*, LGDJ, Paris, 2018).
 18. This is the line taken by the Conseil d'État, *La citoyenneté. Être (un) citoyen aujourd'hui*, La Documentation Française, Paris, 2018, p. 14; and J. Chevallier, *De l'Administration démocratique à la démocratie administrative*, cit., p. 227; G. Dumont, *La citoyenneté administrative*, cit., p. 367; and E. Debaets, *Protection des droits fondamentaux et participation de l'individu aux décisions publiques*, in *Juridictoria*, vol. 4, 2010, p. 175.
 19. A. G. Orofino, *La trasparenza oltre la crisi. Accesso, informatizzazione e controllo civico*, Cacucci, Bari, 2020, p. 53.
 20. As was stated by the Conseil d'État, *Consulter autrement, participer effectivement*, La Documentation Française, Paris, 2011, 92.
 21. Today the *Code des relations entre le public et l'administration* (adopted by Ordonnance n° 2015-1341 du 23 octobre 2015 relative aux dispositions législatives du code des relations entre le public et l'administration, *JO*, n° 0248, 25 octobre 2015, p. 19872, texte n° 2) which to a certain extent replaces the term citizen with that of public, should be taken into account, as shown by F. Pinel, *La participation du citoyen à la décision administrative*, Thèse, Droit, Université Rennes 1, 2018, pp. 19-20.
 22. Although, for example, the term "citizen" is mentioned 22 times in the Act, the change and its full implications are not made explicit.
 23. For example, when in Art. 312 it speaks of service contracts for direct services to citizens.
 24. G. Dumont, *La citoyenneté administrative*, cit., pp. 666-667.
 25. Regarding the notion of good administration, among others, J. Ponce, *La lucha por el buen gobierno y el derecho a una buena administración mediante el estándar jurídico de diligencia debida*, Cuadernos de la Cátedra de Democracia y Derechos Humanos, Madrid, 2019, R. Bousta, *Essai sur la notion de bonne administration en Droit public*, L'Harmattan, Paris, 2010, etc.
 26. <https://dle.rae.es/bueno?m=form> (Translation from spanish).
 27. A. Nieto, *La "nueva" organización del desgobierno*, III ed., Ariel, Barcelona, 2003, p. 147.

28. H. A. Simon, *Administrative behavior: a study of decision making processes in administrative organizations*, II ed., The Free Press, New York, 1957, pp. 38-39.
29. Thus, for example, according to S. Cassese, *Il diritto alla buona amministrazione*, in *Relazione alla Giornata sul diritto alla buona amministrazione per il 25° anniversario della legge sul "Sindic de Greuges" della Catalogna*, Barcelona, 2009, p. 3, this constitutional precept implies the enshrinement of the principles of impartiality and *good administration*.
30. As is well explained by, D. Vese, *L'efficienza dell'organizzazione amministrativa come massimizzazione dei diritti fondamentali*, in *P.A. Persona e Amministrazione*, 1, 2019, pp. 279-363.
31. Thus, for example, in the choice between the direct or indirect provision of public services, as has already been discussed in E. M^a. Menéndez Sebastián, *La buena administración en la gestión de los servicios públicos*, in L. Tolivar Alas, M. Cueto Pérez (coord.), *La prestación de servicios socio-sanitarios: Nuevo marco de la contratación pública*, Tirant lo Blanch, Valencia, 2020, pp. 171-200.
32. Adequate weighting and due diligence as referred to by the Spanish *Tribunal Supremo*, Contentious-Administrative Chamber, judgments 23 July 2015, ECI:ES:TS:2015:3601, and 20 November 2015, ECI:ES:TS:2015:5342.
33. Adequacy of resources, efficiency and good administrative behaviour are decisive H.A. Simon, *Administrative behavior: a study of decision making processes in administrative organizations*, cit., pp. 38-39.
34. Court of Justice, judgment 4 April 2017, C 337/15 P, *European Ombudsman v Staelen*, ECLI:EU:C:2017:256, or judgment 22 November 2017, C 691/15 P, *Bilbaina de Alquitranes and Others v Commission*, ECLI:EU:C:2017:882.
35. F. Delpérée, *Rapport de synthèse sur la citoyenneté administrative*, in *Annuaire Européen d'Administration publique*, Presses Universitaires d'Aix-Marseille, Aix-en-Provence, pp. 199-210.
36. As the Conseil d'État has held in *Consulter autrement, participer effectivement*, cit., p. 92.
37. See under this item, M^a. L., Rodríguez Fernández, *Humanos y robots: empleo y condiciones de trabajo en la era tecnológica*, Bomarzo, Albacete, 2020.
38. In this respect, T. Balbo Di Vinadio, C. van Noordt, C. Vargas Álvarez del Castillo, R. Avila, *Artificial Intelligence and Digital Transformation. Competencies for Civil Servants*, Unesco, 2022.
39. The aspect of continuity in *online* public services is discussed, among others, in A. Masucci, *Digitalizzazione dell'amministrazione e servizi pubblici on line. Lineamenti del disegno normativo*, in *Diritto Pubblico*, 1, 2019, pp. 142-143.
40. While some argue that more data does not make better decisions M. Bellotti, *A.I. Is Solving the Wrong Problem. People don't make better decisions when given more data, so why do we assume A.I. will?*, in <https://medium.com/>, 2021.
41. As A. Cerrillo i Martínez, *¿Son fiables las decisiones de las Administraciones públicas adoptadas por algoritmos?*, in *ERDAL*, vol. 1, 1-2, 2020, p. 17, AI can be useful in public

decision-making. Indeed, the use of artificial intelligence allows public administrations to have a better understanding of the context in which they make decisions, to assess background and precedents more quickly, to anticipate the impact of decisions, to make decisions in an automated way or to evaluate their impact or effectiveness. In this way, the use of artificial intelligence can make the decisions taken by public administrations more efficient or of higher quality. However, despite the potential benefits of the use of artificial intelligence in public decision-making, we cannot ignore the risks it may also entail due not only to the current limitations of the technology that may result in errors, but also to the impact that the use of algorithms by public administrations may have on the principles that guide their actions and functioning (for example, legal certainty, equality or transparency) or on the rights of individuals (in particular, the protection of personal data, privacy or equality). See also OECD, *Artificial Intelligence in Society*, cit., 16-19.

42. G. Koubi, *Les mots de la modernisation des relations administratives*, in *Revue Française d'Administration Publique*, 146, 2013, pp. 339-350.
43. D.U. Galetta, *Algoritmi, procedimento amministrativo e garanzie: brevi riflessioni, anche alla luce degli ultimi arresti giurisprudenziali in materia*, in *Rivista Italiana di Diritto Pubblico Comunitario*, 3-4, 2020, pp. 501-516.
44. Thus, for example, *DigaLaw* from the consultancy firm SpeechWare, with legal speech recognition, automatic translation, etc., which is already collaborating with the Spanish *Ministerio de Justicia*.
45. For example, detecting problems faster than using traditional techniques, using artificial intelligence to monitor the implementation of public decisions or to improve citizen participation.
46. Providing more efficient and effective, but also new services.
47. For example, by better allocating human and financial resources.
48. In this respect, reference should be made to what was said in E. M^a. Menéndez Sebastián, *From Bureaucracy to Artificial Intelligence: The tension Between Effectiveness and Guarantees*, Cedam, Padova, 2023.
49. C. Campos Acuña, *El futuro del empleo público local: retos ante un mundo digital*, in *Documentación Administrativa*, 7, 2020, p. 137.
50. As reported in the OECD's *Government at Glance 2021* report, nearly half of Spain's central government civil servants are over 55 years old. It is the second OECD country with the second highest percentage in this age group, behind only Italy.
51. See, *inter alia*, in this connection, D. McBride González, P. Stephen Junior Valencia Navarro, L. Elcina Mejía Lozano, *La Nueva Gobernanza Pública ¿una nueva manera de gestionar lo público en el siglo XXI?*, in *III Congreso Internacional de Ciencias de la Gestión*, PUCP, Perú, 25, 26 and 27 September 2019.
52. M. De Miguel Molina, A. Bañón Gomis, D. Catalá-Pérez, *Management para las Administraciones públicas*, Universitat Politècnica de Valencia, Valencia, 2017.
53. D. Osborne, P. Plastrik, *Herramientas para transformar el Gobierno. Directrices prácticas, lecciones y recursos para revitalizar las escuelas, los servicios públicos y los organismos*

gubernamentales de todos los niveles, Paidós, Barcelona, 2003, p. 16.

54. This would also connect to a certain extent with the idea of F. L. Pinazo Hernandis, *Ciencia, burocracia y democracia en las políticas públicas: factores actuales para el análisis y evaluación*, in *Revista de Evaluación de Programas y Políticas Públicas*, UNED, 7, 2016, p. 68, that the Government-Administration obtains institutional legitimisation by what it does and not only by its origin.
55. Thus, as J. Villodre, *Innovación pública abierta*, in *Eunomía. Revista en Cultura de la Legalidad*, 17, 2019, p. 314, points out, open public innovation is a broad concept, which usually refers to the harnessing of internal and external knowledge with the aim of transforming organizations and generating public value.
56. See in this respect F. Longo Martínez, *La Administración Pública en la era del cambio exponencial. Hacia una gobernanza exploratoria*, cit., p. 56.
57. *Ibidem*, p. 60.
58. M. Porrúa, M. Lafuente, E. Mosqueira, B. Roseth, A. M. Reye (edited by), *Transformación digital y empleo público*, BID, Washington, 2020.
59. R. Jiménez Asensio, *Automatización y empleo público: algunos riesgos y consecuencias*, in *La mirada institucional*, 2019.
60. A draft Civil Service Law was presented in December 2022 with the aim of addressing the challenges outlined above, however, it has not been possible to pass it in this legislature.