



HOW SHOULD COMPANIES THAT RECEIVE R&D&I FUNDS COMMUNICATE? LEGAL REQUIREMENTS IN SPAIN

¿Cómo deben comunicar las empresas receptoras de ayudas de I+D+i? Requisitos legales en España



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Abstract

Companies receiving funds for their research, development and technological innovation (R&D&I) activities must comply with communication obligations so that citizens are informed of the projects that are financed using public funds. The information requirements are defined both in the European and Spanish legal framework. The objective of this paper is to compile this legislation and analyse the communication and data sharing obligations that are required for these funding recipients. The results indicate that the communication obligations of the subsidised projects are very general. It is compulsory to standardise the terms used, the actions requested and the content of these, and to promote data sharing in companies, all through a repository that brings together the R&D&I projects funded.

Keywords

Dissemination; Communication; Advertising; Data sharing; Innovation; R&D&I.

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Resumen

Las empresas receptoras de ayudas para sus actividades de investigación, desarrollo e innovación tecnológica (I+D+i) deben cumplir con unas obligaciones de comunicación para que la población esté informada de los proyectos que se financian con fondos públicos. Esos requisitos de información están definidos en el marco legal europeo y español. El objetivo de este trabajo es recopilar esta legislación y analizar las obligaciones de comunicación y *data sharing* que se exigen a los receptores de fondos. Los resultados indican que las obligaciones de comunicación de los proyectos subvencionados son muy generales. Es necesario homogeneizar los términos utilizados, las acciones solicitadas y el contenido de las mismas, y promover el *data sharing* en las empresas mediante un repositorio que aglutine los proyectos de I+D+i financiados.

Palabras clave

Difusión; Comunicación; Publicidad; *Data sharing*; Compartir datos; Innovación; I+D+i.

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1. Introduction

For its contribution to the progress and well-being of society, innovation (and its motivation) is the subject of public policies in the European Union (EU), and in the Spanish central and autonomous administrations, which focus on encouraging R+D+I in companies. For this purpose, a system of assistance has been organised that encourages companies to develop projects that would not be undertaken without public support (González; Jaumandreu; Pazó, 2005).

In 2017, Spain allocated 6,029 million euros to civil R&D (Minhap, 2017), with the goal of achieving an investment equivalent to 2% of GDP by 2020 (Mineco, 2013). These funds are distributed through various organisations such as the Spanish *Ministry of Economy, Industry and Competitiveness* (*Ministerio de Economía y Competitividad*, Mineco) or the *Centre for Industrial Technological Development* (*Centro para el Desarrollo Tecnológico Industrial*, CDTI), and mainly materialise in the form of direct grants (especially soft loans and non-refundable grants) and indirect aid (tax incentives and bonuses).

Although the promotion of R&D in companies is key, it is not the only aspect that concerns the agencies managing public funds. For some years, the EU and Spain have demonstrated the need to increase communication activities so that citizens are informed of the projects and companies that are supported, in order to achieve transparency.

a) For the EU and its member states, transparency is a fundamental issue on which they have focused their attention. As a result, the *Law on transparency, access to public information and good governance* has been enacted (España, 2013c), which aims to guarantee Spanish citizens access to public information.

Some initiatives have also been promoted, such as the *Transparency Portal of the Government of Spain* (*Portal de transparencia*) or the *National portal on grants and subsidies* (*Sistema nacional de publicidad de subvenciones*, SNPS) that collects information on the grants awarded, specifying the funding agency, the name of the program, the beneficiary and the amount granted.

b) The need to achieve greater transparency is linked to the interest in ensuring that public resources are used efficiently. Consequently, the EU managing bodies strive because the entities receiving aid make their data partially or wholly available to the rest of researchers. This field of study is known as *data sharing* and

"it consists of sharing the final research data among scientists, with the aim of maximising efforts and resources" (Torres-Salinas; Robinson-García; Cabezas-Clavijo, 2012).

The *Law on science, technology and innovation* in Spain includes both aspects and shows that

"dissemination and transfer are essential elements of modern culture".

In addition, it points out that there is a

"commitment to the universal dissemination of knowledge, through positioning in favour of policies of open access to scientific information" (España, 2011).

With its entry into force, for the first time it is obligatory to publish research results in open access and it is necessary to promote the development of public repositories. But these demands focus on the public domain of the *Spanish system of science, technology and innovation* (*Sistema español de ciencia, tecnología e innovación*) and their research staff, and makes companies exempt from these requirements.

2. Transparency and communication of R&D projects

There are studies that address transparency in Spanish public university research projects (Pacios; Vianello-Osti; Rodríguez-Bravo, 2016), transparency of information published by the central administration (Beltrán-Orenes; Martínez-Pastor, 2016) or by local administrations (Moreno-Sardà; Molina-Rodríguez-Navas; Simelio-Solà, 2017).

However, there are very few studies addressing the obligations of communication and transparency in private companies. This field of study is still to be explored if we take into account that there are cases of private companies receiving public funds, and which therefore should be obliged to carry

out communication activities. Despite the scarcity of scientific production on this topic, a prominent study analysing the correct implementation of the *Transparency law* in large Spanish companies (Cruz-Rubio, 2017) concludes that the information published by companies is incomplete, dispersed, and differs from one company to another in quality and specialty. Additionally, the contributions of Beltrán-Orenes and Martínez-Pastor (2017) conclude that, after analysing the information that should appear in the *Portal of Transparency of Spain* and the obligated subjects, private entities, in spite of being obliged to comply with the principles of transparency, do not publish the information stated by the *Law*.

2.1. Access to information on supported projects

The benefits of sharing data and the aim to promote it have led the *OECD* to develop principles and guidelines for access to research data on public funding (*OECD*, 2007). The fast development of information and communication technologies have opened new possibilities for the scientific community, through the creation of open access repositories.

The *European Commission* has developed policies and measures on open access since 2006, to ensure the widest possible dissemination of research results financed with public funds and optimise their impact. For this reason, in the European framework program that finances R&D&I projects (*Horizon 2020*), open access is a general principle, and one of the measures that has been adopted is to consider eligible the costs of publication to this system.

A measure to share information has been the creation of databases that gather scientific works. *Open Access Infrastructure for Research in Europe*, known as *OpenAIRE*, is one of the most outstanding initiatives in Europe. It is a project funded by the *EC* that brings together more than 21 million publications from nearly 2,400 data sources.

Another database is *Recolecta*, a project carried out in Spain between the *Spanish Foundation for Science and Technology (Fundación para la Ciencia y la Tecnología, Fecyt)* and the *Spanish Academic Libraries Network (Red de Bibliotecas Universitarias de España, Rebiun)*. It is a platform that links all scientific repositories and that seeks to give greater visibility to the results of Spanish research. Other initiatives are *Teseo*, which brings together doctoral theses conducted in Spanish universities, promoted by the *Ministry of Education (Ministerio de Educación)*.

However, these projects focus primarily on the university

research communities and research centres. There are no initiatives focused on research developed by private companies, which makes this an interesting point if we bear in mind that in the future everything points out that

“the projects that request funding must submit a research data management plan so that they can be shared” (Hernández-Pérez; García-Moreno, 2013).

If we consider the importance that the EU gives to communication, transparency and access to the data of the subsidised research, it is of interest to explore this matter to know what measures related to the communication and the exchange of data are being requested from the companies in the regulatory framework. This could be a starting point to define the requirements for communication and data sharing included in the future legal code.

3. Objectives and method

The objective of this research is to analyse the information, communication and data sharing requirements that must be fulfilled by companies that receive R&D&I funds in Spain. Specifically, it aims to compile and review the standardisation that (directly and indirectly) regulates R&D grants aimed at Spanish entities, to analyse, classify and describe the communication obligations that must be met.

To reach these objectives, all legal texts in force have been identified. In the case of direct aid, the websites of the *General Directorate of Community Funds* within the *Ministry of Finance and Public Function (Dirección General de Fondos Comunitarios del Ministerio de Hacienda y Función Pública)*, the *Secretary of State of Research, Development and Innovation (Secretaría de Estado de Investigación, Desarrollo e Innovación, Seidi)* and the *Centre for the Development of Industrial Technology (Centro para el Desarrollo Tecnológico Industrial, CDTI)* have been analysed. State and European regulations have been sought and compiled, as part of the grants are European funds.

On the website of the aforementioned *Secretary of State for Research, Development and Innovation*, the texts that regulate indirect aid have been identified, and later the texts of the *Official State Gazette (Boletín Oficial del Estado, BOE)* have been extracted.

Once the standards have been compiled, the texts have been analysed to identify the requirements and statements exposed in them, related to communication, transparency and data sharing (Table 1).

Table 1. Variables analysed in legal texts

Variable to analyse	Revised content
Title of the article	Name of the article that introduces the communication measures
Dissemination activities to be carried out and content of the actions	Activities that are considered and content specifications
Intensity of the dissemination	Variation of dissemination intensity according to the characteristics of the project
Responsibilities	People responsible for carrying out communication activities
Non-compliance	Consequences of non-compliance with dissemination actions
Data sharing	Activities related to data sharing

We have analysed how these requirements are introduced in the code, what should be communicated, whether there is discrimination according to the characteristics of the project, who is responsible for carrying out the dissemination actions, what happens if the required measures are not implemented and whether activities related to data sharing are taken into account.

‘ The EU and Spain agree on the need to communicate more ’

4. Results

4.1. Compilation of the regulatory framework

There are ten regulatory documents that control direct R&D&I grants in Spain, as shown in Table 2. These contain explicit mention of communication and information requirements or, failing that, a reference to compliance with the obligations on the part of the beneficiaries: three are of European scope and seven of state scope.

Indirect aid is regulated by three state-level documents (table 2) and also by the *Framework on state aid for research and development and innovation* (European Commission, 2014), which is common to direct and indirect aid.

4.2. Communication requirements

The results of the analysis of the variables being studied (Ta-

ble 1) are presented below following the classification in Table 2, based on two large blocks: direct aid and indirect aid.

4.2.1. Direct aid

Title of the article

The terms advertising, information and communication are used interchangeably in legal texts. While the European reference provisions use the terms “information and communication” (European Union, 2013; European Union, 2014), the Spanish state texts speak of “advertising” the subsidies (España, 2003a; España, 2006; España, 2013a; España, 2013b; España, 2014b; España, 2015), and both mention transparency (España, 2013c; European Commission, 2014). In all cases they refer to the effort that beneficiaries must make to communicate the project, or its results, to the public.

Dissemination activities and their content

The dissemination activities and the content of the actions are contemplated in the different texts (table 3). In Europe, Annex XII of *Regulation n. 1303 (EU, 2013)* indicates that the beneficiary must assume the following obligations:

- Recognise support by inserting the reference, emblems, and logos.
- Create a description on the website that is proportional to the support received and that includes the objectives and results.
- Place a poster with the project information.
- Inform all parties of the financing.

Table 2. Number of current legal texts analysed

		Description
Direct aid	European regulations	- <i>Regulation (EU) n. 1303/2013 of the European Parliament and of the Council</i> , of 17 December laying down common provisions for the <i>European Regional Development Fund</i> , the <i>European Social Fund</i> , the <i>Cohesion Fund</i> , the <i>European Agricultural Fund for Rural Development</i> , and to the <i>European Maritime and Fisheries Fund</i> , and laying down general provisions concerning the <i>European Regional Development Fund</i> , the <i>European Social Fund</i> , the <i>Cohesion Fund</i> and the <i>European Maritime and Fisheries Fund</i> . - <i>Framework on state aid for research and development and innovation (2014/C 198/01)</i> . - <i>Implementing Regulation (EU) n. 821/2014</i> , of 28 July, by which the provisions for the application of Regulation (EU) n. 1303/2013 of the <i>European Parliament</i> and of the <i>Council</i> as regards the specific modalities for the transfer and management of program contributions, the presentation of information on financial instruments, the technical characteristics of information and communication measures of operations, and the system for recording and storing data.
	State regulations	- <i>Law 38/2003</i> , of 17 November, <i>General law of subsidies</i> . - <i>Royal decree 887/2006</i> , of July 21, which approves the Regulation of Law 38/2003, of November 17, <i>General law of subsidies</i> - <i>Law 19/2013</i> , of 9 December, on transparency, access to public information and good governance. - <i>Order ECC/1780/2013</i> , of 30 September, which approves the regulatory bases for the granting of public aid of the <i>State program for research, development and innovation oriented to the challenges of the society</i> within the framework of the <i>State plan of scientific and technical research and innovation 2013-2016</i> . - <i>Order ECC/1402/2013</i> , of 22 July, which approves the regulatory bases for the granting of aid within the framework of the <i>State program for the promotion of talent and its employability of the State plan for scientific and technical research and innovation 2013-2016</i> . - <i>Law 15/2014</i> , of 16 September, on the rationalisation of the Public Sector and other administrative reform measures - <i>Order ECC/1133/2015</i> , of 2 July, approving the regulatory bases for the granting of public aid from the <i>State business leadership program in R+D+I</i> , within the framework of the <i>State plan for scientific research and technical and innovation 2013-2016</i> .
Indirect aid	European regulations	- <i>Framework on state aid for research and development and innovation (2014/C 198/01)</i> .
	State regulations	- <i>RD 1432/2003</i> , of November 21, which regulates the broadcast by the <i>Ministry of Science and Technology (Ministerio de Ciencia y Tecnología)</i> of the resulting reports regarding compliance with scientific and technological requirements, for the purposes of the application and interpretation of tax deductions for research and development activities and technological innovation - <i>Law 27/2014</i> , of November 27, on <i>Corporation tax</i> - <i>RD 475/2014</i> , of June 13, on bonuses in the <i>Social Security</i> contribution of the research staff.

- In infrastructure or construction works with aid of more than €500,000, a temporary poster must be displayed during execution with the project information.

In addition, in *Regulation n. 821 (EU, 2014)*, annex II indicates the technical characteristics for the exhibition of the Union logo and the reference to the fund or the funds that support the operation.

The *European Framework on state grants for research, development and innovation*, does not include an explicit reference to information and communication, but defines that

“Member States, the *Commission*, economic operators and the public should have easy access to all relevant acts and appropriate information on the aid granted” (*EC, 2014a*).

It also indicates that in operations where individual aid is greater than €500,000 it will be obligatory to publish the following:

- identity of individual beneficiaries; form and amount of aid granted to each beneficiary;
- date of the concession; type of beneficiary; beneficiary region; and
- primary economic sector in which it undertakes its activities.

In the Spanish regulatory framework, the *General subsidies law* refers to advertising:

“The beneficiaries must provide adequate publicity of the financing of programs, activities, investments or actions of any kind that are subject to subsidy, in the terms established by regulation” (*España, 2003a*).

Royal decree 887, by which the Regulation of the *General law of subsidies* is approved, talks about the “publicity” of the grant by the beneficiary. It specifies that the actions of

“dissemination must be adapted to the subsidised object, both in form and duration, and may include the inclusion of the institutional image of the grantor, as well as captions related to public financing” (*España, 2006*).

It should also be included in

“posters, commemorative plaques, printed materials, electronic or audio-visual media, or mentions made in the media”.

In addition to the two previous regulations, we must consider the contributions made by the *Transparency law (España, 2013c)*. It details the terms and conditions that must be fulfilled by, to mention a few, commercial companies in “whose share capital, the direct or indirect participation” of public administrations, autonomous agencies, state agencies, public business entities and public law entities, is greater than 50%, and private entities that receive public aid exceeding €100,000 or when at least 40% of their annual income includes aid (and reaches at least €5,000). Therefore, these entities must, among other things, publish

“subsidies and public subsidies granted detailing the amount, objective or purpose and beneficiaries”.

On the other hand, the *General law on subsidies* refers to the *Transparency law* to indicate that the beneficiaries must publicise the subsidies and aid and the information

“will be published in the corresponding electronic sites or websites and in a clear, structured and understandable way for those interested and, preferably, in reusable formats” (*España, 2013c*).

In the same way it is indicated that

“appropriate mechanisms will be established to facilitate the accessibility, interoperability, quality and reuse of published information, as well as their identification and location” (*España, 2013c*).

The *Public sector rationalisation law* also includes an explicit mention of the advertising of subsidies, specifying the same terms contemplated in the *Transparency law* and details that:

“The *National Subsidies Database (Base de datos nacional de subvenciones)* will serve as an electronic means for compliance with publicity obligations” (*España, 2014b*).

“The beneficiaries must inform the citizens”

As for texts that approve the regulatory bases for granting public aid directed to companies framed in the *State Plan for scientific and technical research and innovation*, they highlight the need, on the part of the beneficiary, to “publicise the aid”, mentioning the origin of the aid in

“service and labour contracts, grants, publications, presentations, equipment, inventoried material and activities to disseminate funded research results” (*España, 2013a; España, 2013b; España, 2015*),

in addition to the website.

Table 3. Summary of dissemination activities considered in European and state regulations

	European regulation: <i>Regulation (EU) n. 1303/2013</i>	State regulation: <i>RD 887/2006</i>
Recognise the support of funds	Yes	Yes
* Logo	Yes	Yes
* Reference to the funds	Yes	No
Description on the website	Yes	No
Poster about the project	Yes	No
Inform all parties	Yes	No
Declaration in all documents	Yes	No
Temporary poster in operations over €500,000	Yes	No
Poster or permanent plaque once the operation is finished	Yes	No
Instructions on the display of the logo and reference to funds	Yes	No
Technical characteristics of advertising plaques and posters	Yes	No

Intensity of dissemination

In the European legal order, *Regulation n. 1303 (EU, 2013)* specifies that a description should be included on the website, which should be proportional to the support received. Therefore, there is a gradation of the intensity that description should have, although it does not describe what proportion should be. In Spanish regulations, there is no specific mention of what kind of intensity dissemination activities should have, nor whether these should vary depending on aspects such as the amount received or the type of project supported.

Who is responsible for communication?

The responsibility for carrying out the communication falls on the beneficiaries of the projects, the managing authorities, as well as the institutions and the consultative bodies of the Union (*EU, 2013*).

The state texts point out that adopting the appropriate publicity measures on the grant obtained is one of the obligations of the beneficiaries (*España, 2003a; España, 2006; España, 2013a; España, 2013b; España, 2014b; España, 2015*). This is complemented by the contributions that must be made by the granting administrations, which must

“Refer to the *National Grants Database (Base de datos nacional de subvenciones, BDNS)* for information about calls and concession resolutions” (*España, 2003a*).

Advertising, information and communication are used interchangeably

Consequences of non-compliance

European regulations do not specify the cases of non-compliance with communication obligations. On the other hand, in Spanish state regulations these assumptions are included in practically all legal texts (explicitly or generally). It is established that beneficiaries will have a term of 15 days to carry out the communication corrective activities (*España, 2006; España, 2013a; España, 2013b; España, 2015*), and, in the case of being impossible to perform them

“the granting body may establish alternative measures, as long as they allow the dissemination of the public financing received with the same scope as initially agreed.” (*España, 2006*).

The *General subsidies law (España, 2003)* also mentions breach of advertising obligations by the beneficiary and points out that it will be cause for reimbursement.

Data sharing

The European and state legal texts analysed do not mention the need to share research data and when it is mentioned, this obligation is addressed to research and knowledge dissemination bodies (*España, 2013a; España, 2013b; España, 2015*). In addition, these texts refer to the *Law of science, technology and innovation (España, 2011)*, which in the section “Dissemination in open access”, indicates that public agents of the *Spanish System of Science, Technology and Innovation (Sistema Español de Ciencia, Tecnología e In-*

novación) should promote the development of open access repositories that combine the publications of their research staff.

4.2.2. Indirect aid

Neither the State nor the European texts that regulate indirect aid contain specific obligations of active publicity. That is, companies that benefit from indirect incentives do not have to carry out any communication activity.

Should we expand communication activities?

5. Conclusions

The analysis performed allows us to draw the following conclusions:

- The regulations that normalise direct R&D&I aid are more numerous and concrete than the regulations that normalise indirect aid. It could be of interest to homogenise the scope of these and also the provisions related to communication requirements.
- All the texts include a mention of the need to carry out activities that contribute to the public in general and the academic community being informed of the R&D projects that are subsidised. This is aligned with the guidelines of the *Spanish Science, Technology and Innovation System (Sistema Español de Ciencia, Tecnología e Innovación)* and with the communication, transparency and data sharing priorities indicated by the EU.
- Regarding communication requirements, different terms are used in European and State regulations. The first one mentions advertising, information and communication and the second one only advertising. Therefore, it would be of interest to homogenise the designation used.
- Both European and Spanish regulations establish the minimum activities to be undertaken, although they do not exactly coincide. We should consider whether these activities should match and be broadened, as currently these basically consist of the insertion of the logos and emblems of the managing agencies into the generated materials, the inclusion of a reference on the web or displaying informative posters when certain amounts are exceeded. It could also be assessed whether the requirements should be different depending on the type of aid (loan, subsidy, tax incentive...), the amount of the project or the type of project (research, development and innovation). Concerning transparency needs, the data that should be published is completely clear.
- The content of the communication activities is not detailed in all of the texts. European regulations indicate that the beneficiary company must include a web reference in which the objectives and results are described (*European Union, 2013*). This should also be considered in Spanish texts. In addition, in both cases, it would be useful to detail which sections should be published and how, in order to improve the quality of the information and its visibility and accessibility, which is often dispersed (**Cruz-Rubio,**

2017) or not available (**Beltrán-Orenes; Martínez-Pastor, 2017**).

- The proportionality of communication activities is not taken into account in all documents. European regulations clarify that a web reference proportional to the support received must be included (*European Union, 2013*). It would be better if it defined this proportionality. In the case of Spanish legal texts, it would be interesting to include this aspect.
- The responsibilities are clear in all cases and fall on the managing authorities and beneficiaries. Perhaps the managing bodies could develop more activities for the benefit of communication and transparency, in addition to submitting information on concession resolutions to the *National grants database (Base de datos nacional de subvenciones, BDNS)*.
- The cases of non-compliance are only included in the state regulations. In some cases, it is included as explicit mention and others in more general terms. Its homogenisation could be an improvement.
- Open access is a general principle, both for the EU and for Spain, and is included in the legal system that regulates R&D aid. However, it is mainly aimed at making the research carried out by public agents (universities, research centres, etc.) visible. Therefore, it could include measures that reward open access in private companies, that help make their research visible and that optimise public resources (**Torres-Salinas; Robinson-García; Cabezas-Clavijo, 2012**). This issue requires an in-depth analysis to determine: what measures can be requested without harming confidentiality, in what term they should do so and what kind of benefit can be offered for doing so.
- In accordance with the previous point, it would be interesting to expand the information contained in the *BDNS* referring to the companies that have obtained aid. This would be an advancement, without compromising confidentiality, and would include the title of the subsidised project and a brief description (proportional to the assistance received). Another useful option, which might complement or replace the previous one, would be the creation of a database similar to *OpenAIRE* or *Recolecta*, but focused on R+D+I projects executed by companies. *CDTI* or *Mineco* could play a prominent role in its implementation.
- There is a very significant difference between direct and indirect aid. In the latter, no mention is made of communication, transparency or data sharing, neither in the state nor in the European regulations. A practical first step would be to include the companies that are benefiting from these incentives in the *BDNS*.

“Data sharing should be encouraged in companies”

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PRÓXIMOS TEMAS

Número	Mes año	Tema	Envío textos
27, 4	Jul 2018	Infomediación y automatización	--
27, 5	Sep 2018	Información política y redes sociales (I)	--
27, 6	Nov 2018	Información política y redes sociales (II)	
28, 1	Ene 2019	Multidisciplinar (sólo artículos invitados)	10 nov 2018
28, 2	Mar 2019	Información y comunicación biomédica	10 nov 2018
28, 3	May 2019	Posverdad y desinformación	10 ene 2019



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