MINISTRY
OF THE PRESIDENCY, JUSTICE
AND RELATIONS WITH THE COURTS

PRELIMINARY DRAFT ORGANIC LAW REGULATING THE RIGHT TO RECTIFICATION

Regulatory Impact Analysis Report

EXECUTIVE SUMMARY

Proposing Ministry/Body - -	Ministry of the Presidency, Justice and Relations with the Courts	**Date**	24 July 2025
Title of the Regulation	Preliminary draft Organic Law regulating the right to rectification.		
Type of report	Normal ■ Abridged ☐		
TIMELINESS OF THE PROPOSAL			
Subject	This Organic Law provides for a complete regulation of the right to rectification, understood as the power of any person to rectify the information, disseminated by any means of social communication, of facts which concern them which they consider inaccurate and the disclosure of which may cause them harm. The regulation is based on the legal rules governing this right set out in Organic Law 2/1984 of 26 March 1984 regulating the right to rectification, which is repealed, although different aspects of the material and procedural rules governing it are updated in accordance with the new reality of the digital society and the legislative and jurisprudential changes that have taken place since the approval of Organic Law 2/1984 of 26 March 1984 and which affect the practice of this right.		
Objectives	The main purpose of the law is to facilitate the practice of the right to rectification, providing greater clarity and security to its exercise in the new context of the digital society and also in accordance with the legislative changes that have taken place and the case-law that has been established since the approval of Organic Law 2/1984 of 26 March 1984 and which affect the practice of this right.		
Main alternatives considered	The option of doing nothing has been rejected, on the understanding that the proposed regulation favours a more effective and secure application of this right.		

CONTENT	
The regulation is structured into an explanatory part and an operative part consisting of seven articles, one transitional provision, one repealing provision and four final provisions. Article 1 defines the subject matter of the right and the subjects involved in exercising that right. Article 2 lays down the rules governing requests for rectification addressed to the media service that disseminated the information. Article 3 sets out the conditions for publication of the rectification by the media service concerned. Article 4 regulates the time limit for exercising the legal action for rectification. Article 5, entitled 'Judicial Procedure for Rectification' establishes the procedure for lodging a concise complaint, the procedure for admitting the complaint, and the holding of the trial within seven days of the complaint being lodged. Article 6 concerns the conduct of judicial proceedings, in accordance with the rules laid down in the Code of Civil Procedure for oral trials, subject to the exceptions set out therein. Article 7 establishes the system of appeals by reference to the Civil Procedure Act. The single transitional provision lays down the rules applicable to pending judicial proceedings. The single repealing provision contains the repeal of regulations. The first final provision amends Article 85(2) of Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act), in order to adapt its content to that of this Organic Law. The second, third and fourth final provisions establish, respectively, the jurisdictional competences, the authorisation of the Government for the regulatory development of the organic law and the legal rules governing its entry into force.	
LEGAL ANALYSIS	
Rank of the regulation	This is an Organic Law.
Entry into force and validity period	This Organic Law shall enter into force on the 20th day following that of its publication in the Official State Gazette.

Regulations that are repealed	Organic Law 2/1984 of 26 March 1984, regulating the right to rectification, and any other regulations of the same or lower rank that conflict with the provisions of this Organic Law are expressly repealed.
CONFORMITY TO THE CONSTITUTIONAL ORDER ON THE DISTRIBUTION OF COMPETENCES	
This Organic Law is issued under the exclusive competences that Article 149(1)(6), (8), (21) and (27) of the Spanish Constitution attribute to the State in matters of procedural legislation, civil legislation, telecommunications and basic rules of the press, radio and television and, in general, all social media.	
DESCRIPTION OF THE PROCESS	
Public consultation	Yes ☐ No ■
Public hearing and information	Yes ■ No ☐
Reports issued	The following reports have been compiled: - Regulatory Coordination and Quality Office - Technical Secretariat-General of the Ministry of the Presidency, Justice and Relations with the Courts (pending issue) - Ministry of Territorial Policy and Democratic Memory - Ministry for the Digital Transformation and the Civil Service - Ministry of Economy, Trade and Business - Spanish Council for Consumers and Users - National Commission on Markets and Competition (CNMC) - Spanish Data Protection Agency - General Council of the Judiciary - Fiscal Council.
IMPACT ANALYSIS	

	General impact on the economy	The regulation does not have significant effects on the economy.
Economic and budgetary impact	With regard to competition	■ The regulation has no significant impact on competition. ☐ The regulation has a positive impact on competition. ☐ The regulation has a negative impact on competition.
	From the point of view of budgets, the regulation: ☐ Affects the budgets of the State Administration. ☐ Affects the budgets of other territorial administrations.	☐ Involves an expense. ☐ Involves an income. ☐ Involves a decrease in expenditure.
	With respect to administrative burdens	☐ It entails a reduction in administrative burdens. ☐ It introduces new administrative burdens. ■ It does not affect administrative burdens.
Gender-based impact	The regulation has an impact that is	Negative ☐ Neutral ■ Positive ☐
Other impacts considered	Impact on equal opportunities, non-discrimination and universal accessibility	Negative ☐ Neutral ☐

	for persons with disabilities Impact on family	Positive ■
OTHER CONSIDERATIONS		

1. TIMELINESS OF THE REGULATION

1.1. Rationale

Organic Law 2/1984 of 26 March 1984, regulating the right to rectification, has fulfilled the objective of developing and specifying the content of a right which, despite not being expressly included in the Spanish Constitution, fulfils an essential function as an instrument for the protection of certain fundamental rights, such as the right to honour and to one's own image (Article 18(1) of the Constitution), and the right to freely communicate and receive truthful information by any means of dissemination (Article 20(1)(d) of the Constitution).

In its legal configuration, this right is conceived as the right of any person concerned by the information appearing in social media, about facts that they consider inaccurate and whose disclosure they believe may harm them, to rectify such information with their version of those facts, requesting their dissemination through the same media.

Throughout the long period of validity of Organic Law 2/1984 of 26 March 1984, the Constitutional Court has outlined the nature and meaning of the right to rectification, highlighting its dual virtues. On the one hand, it is a means that allows the person in question to protect their right to honour, or very personal assets associated with their dignity, social recognition or public esteem, against information that affects the way in which that person is presented to public opinion. On the other hand, it is a complement to the information made available to public opinion, promoting the free formation of public opinion by providing a 'counter-version' of the facts contained in the information disseminated by a media service. In this regard, the Constitutional Court explains that the exercise of the right to rectification cannot be regarded as an impediment to freedom of information 'but supportive of it', because rectification

‘makes it possible to compare conflicting versions, as long as none has been proven to be accurate, or discredited as definitively false, that is to say, with the force of res judicata’ (judgment of the Constitutional Court 99/2011 of 20 June 2011, FJ 4, and the judgments cited therein, reiterated by judgment of the Constitutional Court 139/2021 of 12 July 2021, FJ 4, which summarises the established constitutional doctrine).

In accordance with its configuration by Organic Law 2/1984 of 26 March 1984, which the present Organic Law preserves, this right does not entail a right of reply in the broad sense, since it is limited to the possibility of challenging a certain factual basis. In other words, it is not about the possibility of contesting opinions conveyed by a media service, but about the power to rectify the facts expressed in a given piece of information, so that the right holder may give their own version of those facts. Its role is limited to making both versions available to the public. The rectification does not enter into the veracity or falsity of the information originally disseminated or of the subsequent rectification, an aspect that is elucidated by other legal mechanisms available to individuals. That is why the exercise of the right to rectification, which consists of a quick and simple procedure, is compatible with other criminal, civil or other actions.

More than 40 years after the enactment of Organic Law 2/1984 of 26 March 1984, the changes in social media resulting from the use of new technologies have been extremely profound, affecting both the subjects who prepare and publish information, and the channels of dissemination, and even the content and form of the messages.

The traditional media – print media, radio and television – is now joined by the digital press, which has a strong presence. In addition, a large volume of information is currently disseminated through online platforms and digital services, which have become regular channels for the dissemination of content, posing new challenges for the exercise of the right to rectification and the safeguarding of fundamental rights.

Another relevant change is that the information circulating in these new media often comes from users or individuals, with a large number of followers, who, as opinion-makers, play a role very similar to that performed by journalists until now. On other occasions, these media disseminate messages from individuals who remain anonymous or information that has been generated through artificial intelligence.

In this new context, changes in the process of social communication also affect the structure and content of messages. On the one hand, in order to attract the attention of the recipient and encourage their engagement, there is a tendency to simplify the content of messages and to sometimes give them an emotional bias to the detriment of the complete and objective communication of the facts. On the other hand, the problem of fake news is gaining social relevance.

Another circumstance to take into account is that information circulating on digital platforms and media is disseminated and replicated with enormous ease, reaching any part of the world at an extraordinary speed. The specific problem

of the right to rectification on the internet has been addressed in our law, albeit with an incidental and limited perspective, by Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act), Article 85 of which expressly recognises this right and defines its content as part of the regulation of the 'Guarantee of digital rights' which it incorporates in its Title X.

At present, in order to strengthen the effectiveness of the right to rectification, especially in digital environments, a more complete and specific regulation is nevertheless necessary to update the regulations contained in Organic Law 2/1984 of 26 March 1984, so as to cover the reality of the publication of information on digital media and online platforms.

In this context, in order to strengthen the right to freedom of expression and to guarantee the right to truthful information enshrined in Article 20 of the Spanish Constitution, the Government has also adopted the 'Action Plan for Democracy', which implements and elaborates on the recommendations that were adopted by the European Commission in 2020 and 2023.

The Plan is structured into various lines of action, one of which is the strengthening of the transparency, plurality and accountability of our information ecosystem. In line with this task, the need to update the regulatory framework for the right to rectification has also been identified.

At the same time, as explained in section 2 of this report when referring to the new elements incorporated into the regulation, the reform has been used to make some specific changes to the material and procedural rules governing this right as provided for in Organic Law 2/1984 of 26 March 1984, in some cases, to facilitate its exercise and, in others, to better align its formal regulation with the changes that have taken place since Organic Law 2/1984 of 26 March 1984, and in other laws that affect this regulation (mainly, civil procedural legislation), and also to incorporate into the text of the organic law some contributions of the case-law produced during this period that affect the configuration of the right.

In particular, it takes up the line of case-law that admits the possibility that the rectification text, which in general must be limited to the facts mentioned in the piece of information, may exceptionally incorporate opinions or assessments when they are essential for understanding the context and cannot be separated from the facts, and also the line which recognises that the judge has the power to order the partial publication of the rectification, eliminating non-essential opinions or assessments, and admitting those that are essential for understanding the context, thus preventing rectification texts in which the removal of opinions or value judgements has not been fully respected from always being ineffective (in this sense, see the judgment of the Plenary of the Chamber for Civil Matters no 376/2017 of 14 June 2017, whose case law has been reiterated, among others, by judgments of the Supreme Court 1514 and 1500/2024 of 12 November 2024; 253/2021 of 4 May 2021; 199/2021 of 12 April 2021; 360/2020 of 24 June 2020; 594/2019 of 7 November 2019; 519/2019 of 4 October 2019; 80/2018 of 14 February 2018; 570/2017 of 20 October 2017, and 492/2017 of 13 September 2017; it is also worth noting the

Constitutional Court's assumption of the constitutional conformity of the option implied by these reasonings in judgment of the Supreme Court 139/2021 of 12 July 2021, FJ 5).

1.2. Goals and objectives pursued

The main purpose of the law is to facilitate the practice of the right to rectification, providing greater clarity and security to its exercise, by updating some aspects of the legal rules governing this right in accordance with the new reality of the digital society and the legislative changes that have taken place and the case-law that has been established since the approval of Organic Law 2/1984 of 26 March 1984 and which affect the practice of this right.

1.3. Analysis of alternatives

As regards the possible alternative solutions, the so-called ‘zero alternative’, i.e. regulatory inactivity, has been assessed, on the premise (as set out in the Methodological Guide for Preparing Regulatory Impact Analysis Reports) that the ‘do nothing’ option is in any case an alternative that must be considered, since it allows reference to be made to the effects envisaged in the event that the public authorities take no action.

This option has been rejected as it is understood that the regulatory changes that are being introduced to the legal rules governing the right to rectification facilitate a more effective and secure application of this right in accordance with the new circumstances that exist in the current context, as described above, and that provide the rationale for the regulation.

1.4. Compliance with the principles of sound regulation

In drafting this Organic Law, the principles of sound regulation referred to in Article 129 of Law 39/2015 of 1 October 2015 (Common Administrative Procedure of Public Administrations Act) have been observed, that is, the principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency.

With regard to the principles of necessity and effectiveness, it follows from the considerations set out in sections 1.1 ‘Rationale’ and 2 ‘Content’ of this report that each of the measures adopted is necessary and that it is considered that they will contribute to improving the effectiveness of the right to rectification in the light of the new circumstances involved in the dissemination of information in the digital sphere.

The regulation is consistent with the principle of proportionality, since it has been ensured that the scope and content of the obligations imposed on online platforms are confined strictly to what is indispensable for guaranteeing the effectiveness of the right where the dissemination of the information occurs within their sphere. This same consideration is applicable to users of particular

significance, both because of the responsibility they assume in fulfilling the right to rectification, and because of the weighting made by the regulation in defining this category by taking into account the degree of social impact of the information they disseminate, since only those with a very large number of followers are considered as such. From the same perspective of its compliance with this principle of proportionality, it is finally noted that the regulation does not entail any restriction on the exercise of the rights and freedoms granted to citizens, but rather, on the contrary, tends to favour the exercise of a basic right of individuals, i.e. the right to rectification.

The law also meets the requirements of legal certainty because, on the one hand, it harmonises the regulation of the right to rectification with the regulatory reforms that have taken place since 1984 and affect its content, and on the other, it incorporates into its positive regulation some rules that have been shaped through established judicial practice, which confers greater homogeneity and certainty on its application.

In accordance with the principle of transparency, the procedure for drafting this Organic Law has allowed for the participation of its potential subjects. Likewise, the regulation clearly defines the objectives of the measures that it incorporates and both its explanatory part and this regulatory impact analysis report contain an explanation of the reasons that justify them.

In accordance with the principle of efficiency, the law does not entail new administrative burdens and its content does not affect public expenditure.

1.5. Annual Regulatory Plan

The proposal is included in the 2025 Annual Regulatory Plan of the General State Administration, approved by the Council of Ministers on 15 April 2025.

2. CONTENT

The regulation is structured into an explanatory part and an operative part consisting of seven articles, one transitional provision, one repealing provision and four final provisions.

The articles follow a similar order to the current Organic Law 2/1984 of 26 March 1984, while maintaining a large part of its current regulation.

The main innovations relate to the case where the information to be rectified has been published in digital media or online platforms – limited, in the latter case, to users of particular significance, who have a level of significance, for the purposes of disseminating information, equal to or greater than that of social media. Likewise, the reform has been used to introduce different adjustments that respond, in some cases, to the need to facilitate the exercise of the right to rectification and, in others, to the need to align its regulation with the legislative

changes that have taken place since 1984 and to incorporate some contributions from the case-law that have been produced during this time.

Its contents are summarised below, highlighting the main new elements.

Article 1 defines the subject matter and the holders of the right to rectification.

With regard to Organic Law 2/1984 of 26 March 1984, the traditional definition of the subject matter of the right is maintained, in that the rectification is limited to information on facts referring to the person, which the person considers to be inaccurate and the disclosure of which could cause them harm.

The main innovation is that, when defining the source of the information to be rectified, reference is made, in addition to social media – which includes digital media – to users of particular significance of online platforms.

This relates to those users who disseminate information and other content through these platforms and who, by virtue of the number of followers they have, have a scope and impact comparable to that of traditional media, establishing themselves as true shapers of communication and public opinion, and who should therefore be subject to the possibility of their content being rectified.

It is made clear that this Organic Law is based on a broader notion of 'user of particular significance' than the homonymous legal concept provided for in Article 94 of Law 13/2022 of 7 July 2022 (General Audiovisual Communication Act)[1]. The notion of user of particular significance on online platforms maintained in this law is not limited to those who use video-sharing platforms; it

[1] **Article 94 of Law 13/2022 of 7 July 2022 (General Audiovisual Communication Act)** establishes the obligations of users of special significance who use video-sharing platforms, a condition that is granted to those users who use video-sharing platforms and simultaneously fulfil the following requirements:

(a) the service provided entails an economic activity through which its owner derives significant revenue from their activity on the video-sharing platforms;

(b) the user of particular significance is editorially responsible for the audiovisual content made available to the public through the service;

(c) the service provided is aimed at a significant share of the general public and may have a clear impact on that public;

(d) the function of the service is to inform, entertain or educate, and the main objective of the service is the distribution of audiovisual content;

(e) the service is offered through electronic communications networks and is established in Spain in accordance with Article 3(2) of the Law.

Royal Decree 444/2024 of 30 April 2024 lays down the requirements relating to the obtaining of revenue and the maintenance of a significant audience, providing, for the purposes of the latter, that a service under the responsibility of a user shall be considered to be aimed at a significant share of the general public and may have a clear impact on it when it cumulatively meets the following requirements:

a) the service reaches, at some point in the previous calendar year, a number of followers equal to or greater than 1 000 000 on a single video-sharing platform, or a number of followers equal to or greater than 2 000 000, on an aggregate basis, considering all the video-sharing platforms on which the user is active;

b) on all video-sharing platforms on which the user carries out their activity, 24 or more videos have been published or shared in the previous calendar year, regardless of their duration.

is independent of whether or not an economic activity, for which certain income is obtained, is being carried on; and it is based only on the number of followers of the user, which is also substantially smaller than that foreseen for the purposes of the legal concept established in Article 94 of Law 13/2022 of 7 July 2022.

These differences are justified by the different meaning of this legal concept in the context of the two regulations. In particular, in the case of this Organic Law, the notion of user of particular significance is introduced in order to guarantee the very effectiveness of the right to rectification in the new environment represented by the digital world, in which the information on which public opinion is formed comes not only from the contributions of the media – traditional or digital – but also from the interventions of private individuals on online platforms. In short, what is at issue is that the right to rectification can be asserted against any information that reaches public opinion, a circumstance that may occur either because of the special qualification of the subject issuing it (as is the case with the media, regardless of how many followers it has), or because of the special impact that messages issued by users of online platforms who have a large number of followers can achieve.

As for the notion of online platform, it is taken from Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC (Digital Services Act), which defines this concept in its Article 3(1)(i).

Article 1 also includes two new clarifications regarding the active subjects of the law. On the one hand, an express reference is made to its exercise by persons with disabilities, in terms that are consistent with the provisions of Law 8/2021 of 2 June 2021 amending the civil and procedural legislation to support persons with disabilities in the exercise of their legal capacity. On the other hand, the subjects who may exercise the right to the rectification of information concerning deceased persons have been extended to include the closest family members and, if there is one, the person expressly designated by the deceased for that purpose.

Article 2 governs the submission of a request for rectification.

In essence, the current regulation is maintained, in particular the submission of the request in writing addressed to the media service in such a way as to allow its date and receipt to be recorded; and the requirement that the extent of the rectification does not substantially exceed that of the original piece of information, unless it is absolutely necessary.

In order to facilitate the effectiveness of the right, the deadline for requesting rectification is extended from 7 to 10 calendar days. In the particular case of information published by digital media or by users of particular significance on online platforms, a longer period of 20 calendar days is set, taking into account the fact that, in the digital context, the persistence of information is more pronounced than when it is published in a traditional medium.

Likewise, in relation to the current regulation, the requirement that the request for rectification be addressed specifically to the ‘director’ of the media service is dispensed with, since this role is not always easily identifiable in the organisation of certain media. In this way, the referral to the director becomes optional, and the request can also be addressed to the media service itself, without further specification of the body that should receive it.

A third important change is that, although the provision maintains the basic principle derived from the very nature of the right to rectification that it must be limited to the facts mentioned in the information, without accompanying it with opinions or assessments, it is qualified by the new caveat, in line with the most recent case-law, of allowing their incorporation when they are essential for understanding the context and cannot be divided or separated from the facts.

However, the most important new element is that the processing of the request for rectification is adapted to the type of media in which the information to be rectified has appeared.

With regard to traditional media, the current procedure is maintained, with the above-mentioned modifications.

With regard to online platforms, the procedure is adapted to their characteristics and operation. It is often the users of these platforms who constitute communicators of the opinions and information disseminated in this type of digital environment and decide autonomously what to publish on their channels or profiles, so their action is in many ways comparable to editorial decision-making or the exercise of editorial responsibility traditionally applicable to media (and recognised in Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act) or in Law 13/2022 of 7 July 2022 (General Audiovisual Communication Act)). This is particularly the case for the users of particular significance referred to above.

Adaptation to this new digital environment requires that, when it is the users of online platforms who decide autonomously – and effectively control – the information and content that is published on the profiles or channels of online platforms they manage, the right to rectification must be exercised against them, as they are responsible for the management of the profile or channel created on the online platform, as well as for the selection and organisation of the content that is published within it.

For this reason, the text or content of the rectification will be sent to the user who has effective control over the selection of the content or information, within the same period and with the formalities established for the case of digital media.

In order to make the exercise of rectification more effective, it establishes the obligation of online platforms – particularly those through which information susceptible to rectification can be disseminated – to have an easily visible and

accessible mechanism which allows the applicant, whether or not they are a user of the platform in question, to have a tool that ensures the direct and immediate transmission of the rectification, as well as the confirmation of receipt and the follow-up of the process. In this way, it seeks to avoid imposing excessive obligations on platforms or, as regards the exercise of rectification, that they may be involved in a possible conflict between the parties regarding content that they simply intermediate.

The requirement of this mechanism is also established for digital media, in a manner consistent with the way in which they disseminate information.

Article 3 establishes the legal rules for publishing the rectification once the rectification request has been received.

The current requirements are maintained with regard to the deadline for disseminating the rectification, which is three days from receipt of the request; the dissemination of the rectification being free of charge; and its provision in full and with a relevance similar to that of the original publication.

The main new element is some additional specific rules that have been established depending on the medium where the information has been published.

In the case of information appearing on a platform, the party obliged to disclose the rectification shall be the user who exercises effective control over the selection of the content or information, a concept taken from Law 13/2022 of 7 July 2022 (General Audiovisual Communication Act). That user shall fulfil its obligation by publishing the rectification in a visible place together with the original information and an express notice of the exercise of the right to rectification.

Where the information has been disseminated by digital media, the permanence of the news necessitates a double action for the effectiveness of the rectification: the rectification text shall be published by means of a new link to the original information, with relevance similar to that of the original information, and the digital media service shall also publish, in a visible place together with the original information, a notice showing that it has been rectified and which includes a link to the rectification text.

A last noteworthy new element is the provision of the assumption that the information has been disseminated on multiple channels, whether media or online platforms, providing that the rectification must be published on all of them, complying with the requirements applicable to each. This measure recognises the usual practice of disseminating content on multiple platforms and seeks to ensure that the rectification reaches the same audience as the initial information.

Articles 4 to 7 refer to the procedure for bringing an action before the civil jurisdiction, which may be exercised when the affected person considers that their right has not been duly addressed by the media service.

Like Organic Law 2/1984 of 26 March 1984, the proposed regulation governs, with the same special features, the oral proceedings provided for in Law 1/2000 of 7 January 2000 (Civil Procedure Act).

The main new procedural element introduced in Article 6(1) allows the lodging of a concise complaint, but exempting the response to the application from being in writing in order to speed up the procedure.

Likewise, Article 6(3) has taken into account the line of case-law maintained over time that allows the judge to carry out a balancing task, and order the partial publication of the rectification by eliminating non-essential opinions or assessments, and admitting those that are essential for understanding the context, thus avoiding that rectification texts in which the removal of opinions or value judgements has not been fully respected are always ineffective.

Finally, in Article 7, on the appeals system, the reference to the prior governmental complaint contained in Organic Law 2/1984 of 26 March 1984, which would have been rendered obsolete, has been replaced by a reference to the appeals system established in the Civil Procedure Act.

The **single transitional provision** takes into account the specific situation in which the judicial proceedings for the exercise of the right that are pending at the time this Organic Law enters into force, and therefore incorporates a rule by which Organic Law 2/1984 of 26 March 1984 continues to temporarily apply to them.

The **single repealing provision** repeals Organic Law 2/1984 of 26 March 1984 governing the right to rectification, and any regulations of the same or lower rank that conflict with the provisions of this Organic Law.

The **first final provision** modifies Article 85(2) of Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act), which regulates the right to rectification on the internet, in order to adapt its content to that of this organic law.

The **second final provision** sets out the jurisdictional competences that empower the State to enact the regulation (see its content in section 4 of this Report).

The **third final provision** empowers the Government to make all necessary provisions for the development and application of this Organic Law.

The **fourth final provision** establishes the entry into force of the law (see its content and justification in section 3.4 of this report).

3. LEGAL ANALYSIS

3.1. Legal basis and regulatory status

The regulation introduces new regulations regarding the right to rectification, which, although not expressly referred to in the Spanish Constitution, is in line with it insofar as it seems to be required to provide basic safeguarding of some of the fundamental rights established in Title I, Chapter Two, Section 1 of the Spanish Constitution, particularly the right to honour and to one's own image (Article 18(1)) and the right to freely communicate and receive truthful information (Article 20(1)(d)).

This situation, when viewed in the context of the requirement established by Article 81(1) of the Spanish Constitution that fundamental rights be governed by organic law, is what seems to have justified the fact that the regulation of the right to rectification has previously been provided for by organic law, both in the general provisions of Organic Law 2/1984 of 26 March, regulating the right to rectification, and in the more recent and specific regulation contained in Article 85 of Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act), in relation to the right to rectification on the internet (cf. the first final provision of the aforementioned Organic Law, which attributes this same character to its Article 85).

On the understanding that, in accordance with the above, the content of the regulation constitutes a development of fundamental rights – which is a matter for an organic law in accordance with Article 81(1) of the Spanish Constitution – and bearing in mind that the regulation also expressly repeals Organic Law 2/1984 of 26 March 1984 – which must be done by a regulation of the same rank, in accordance with Article 81(2) of the Spanish Constitution – it follows that it must be approved by means of a regulation with the rank of an organic law.

3.2. Links with the rest of the regulations of the legal system

A) European Union law

In European Union law there is currently no general regulation of the right to rectification in the sense of this Organic Law, except in the special field of personal data protection (cf. Article 8(2) of the Charter of Fundamental Rights of the European Union and Article 16 of the General Data Protection Regulation[2]),

[2]Article 8 of the Charter of Fundamental Rights of the European Union refers to 'Protection of personal data', paragraph 2 of which provides that 'Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified'.

Article 16 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) provides that, 'The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or

where the right to rectification nevertheless has its own characteristics that distinguish it from the one that is the object of this Organic Law.

Notwithstanding the foregoing, the regulation contained in this Organic Law has unquestionable connections with various EU secondary laws, both by reason of its subject matter and by the persons to whom it applies.

Among them, the first that should be cited is Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services **(Audiovisual Media Services Directive)**.

Article 28 of that Directive recognises the right of reply in television broadcasting by stating that 'Without prejudice to other provisions adopted by the Member States under civil, administrative or criminal law, any natural or legal person, regardless of nationality, whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a television programme must have a right of reply or equivalent remedies' (Article 28(1)). At the same time, it obliges Member States to 'establish the right of reply ... and shall determine the procedure to be followed for the exercise thereof' (Article 28(3)); to ensure that 'the actual exercise of the right of reply or equivalent remedies is not hindered by the imposition of unreasonable terms or conditions', that the reply is issued 'within a reasonable time subsequent to the request being substantiated and at a time and in a manner appropriate to the broadcast to which the request refers.' (Article 28(1)); to establish 'whereby disputes as to the exercise of the right of reply or the equivalent remedies can be subject to judicial review' (Article 28(5)).

Even though the legal configuration of the right to rectification, both in Organic Law 2/1984 of 26 March 1984 and in the present Organic Law, would not correspond to a right of reply in the broad sense, but is limited to the possibility of contesting a certain factual basis, its content articulates one of the ways through which the right recognised in Article 28 of the Audiovisual Media Services Directive is enshrined in our legal system, which is complemented by those provided for in Organic Law 1/1982 of 5 May 1982 on civil protection of the right to honour, personal and family privacy and to one's own image; in Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act) and in Law 13/2022 of 7 July 2022 (General Audiovisual Communication Act)[3].

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her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement.'

[3] The complementary confluence of the regulations identified in the transposition of the right of reply provided for in this European Union law is expressly reflected in Article 4(3) of Law 13/2022 of 7 July 2022 (General Audiovisual Communication Act), which provides that '3. Audiovisual media shall respect the honour, privacy and own image of people and shall guarantee the rights of rectification and reply, under the terms provided for in Organic Law 1/1982 of 5 May 1982 on civil protection of the right to honour, personal and family privacy and own image, Organic Law 2/1984 of 26 March 1984 regulating the right to rectification and Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act).'

Secondly, reference should be made to Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (**Digital Services Act**).

A first element of connection with this Organic Law is the concept of online platform, which is taken from this Regulation.

Article 3(i) of the Regulation defines 'online platform' as 'a hosting service that, at the request of a recipient of the service, stores and disseminates information to the public, unless that activity is a minor and purely ancillary feature of another service or a minor functionality of the principal service and, for objective and technical reasons, cannot be used without that other service, and the integration of the feature or functionality into the other service is not a means to circumvent the applicability of this Regulation'.

In defining the concept, recitals (13) and (14) are also relevant. Recital (13) refers to online platforms as a sub-category within the general category of hosting services, and defines them in the following terms:

> 'Online platforms, such as social networks or online platforms allowing consumers to conclude distance contracts with traders, should be defined as providers of hosting services that not only store information provided by the recipients of the service at their request, but that also disseminate that information to the public at the request of the recipients of the service. However, in order to avoid imposing overly broad obligations, providers of hosting services should not be considered as online platforms where the dissemination to the public is merely a minor and purely ancillary feature that is intrinsically linked to another service, or a minor functionality of the principal service, and that feature or functionality cannot, for objective technical reasons, be used without that other or principal service, and the integration of that feature or functionality is not a means to circumvent the applicability of the rules of this Regulation applicable to online platforms. For example, the comments section in an online newspaper could constitute such a feature, where it is clear that it is ancillary to the main service represented by the publication of news under the editorial responsibility of the publisher. In contrast, the storage of comments in a social network should be considered an online platform service where it is clear that it is not a minor feature of the service offered, even if it is ancillary to publishing the posts of recipients of the service. For the purposes of this Regulation, cloud computing or web-hosting services should not be considered to be an online platform where dissemination of specific information to the public constitutes a minor and ancillary feature or a minor functionality of such services.
>
> Moreover, cloud computing services and web-hosting services, when serving as infrastructure, such as the underlying infrastructural storage and computing services of an internet-based application, website or online platform, should not in themselves be considered as disseminating to the

public information stored or processed at the request of a recipient of the application, website or online platform which they host.'

For its part, recital (14) adds:

'(14) The concept of 'dissemination to the public', as used in this Regulation, should entail the making available of information to a potentially unlimited number of persons, meaning making the information easily accessible to recipients of the service in general without further action by the recipient of the service providing the information being required, irrespective of whether those persons actually access the information in question. Accordingly, where access to information requires registration or admittance to a group of recipients of the service, that information should be considered to be disseminated to the public only where recipients of the service seeking to access the information are automatically registered or admitted without a human decision or selection of whom to grant access. Interpersonal communication services, as defined in Directive (EU) 2018/1972 of the European Parliament and of the Council (24), such as emails or private messaging services, fall outside the scope of the definition of online platforms as they are used for interpersonal communication between a finite number of persons determined by the sender of the communication. However, the obligations set out in this Regulation for providers of online platforms may apply to services that allow the making available of information to a potentially unlimited number of recipients, not determined by the sender of the communication, such as through public groups or open channels. Information should be considered disseminated to the public within the meaning of this Regulation only where that dissemination occurs upon the direct request by the recipient of the service that provided the information.'

As regards the substantive regulation of digital services contained in the Regulation, it is characterised by establishing a framework for the conditional exemption from liability of providers of intermediary services, while imposing specific due diligence obligations on certain categories of those providers and fostering cooperation and coordination between the competent authorities.

Although the Regulation does not specifically provide for the treatment of the right to rectification in the field of online platforms, some of the obligations it establishes maintain a final and functional connection with the right to rectification regulated by this Organic Law, as instruments guaranteeing and protecting the rights to honour and self-image of those whom this right serves.

This is the case, for example, for measures imposed on providers of intermediary services regarding content moderation (Articles 14 and similar); or for notification and action mechanisms to be maintained by hosting services, including online platforms, allowing any individual or entity to notify them of the presence on their service of specific pieces of information that the individual or entity considers to be illegal content (Article 16), and which may lead to the service provider deciding to restrict the visibility of the content – including

removing it, blocking access to it or relegating it; to suspend, cease or otherwise restrict monetary payments; to suspend or cease the provision of the service; or to suspend or delete the user account.

In the case of online platforms (excluding micro and small enterprises), the obligation to maintain an internal complaint-handling system (Article 20); the preferential handling of removal notices for illegal content submitted by 'trusted flaggers' (Article 22); or the obligation to temporarily suspend the accounts of users who frequently provide manifestly illegal content (Article 23).

In the case of very large online platforms (VLOPs) and very large online search engines (VLOSE)[4], additional obligations are imposed on them to assess and mitigate systemic risks (Articles 34 and 35), a category which includes, inter alia, those entailing any actual or foreseeable negative effects for the exercise of fundamental rights, in particular those relating to human dignity, respect for private and family life and the protection of personal data.

Finally, reference should be made to Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (**European Media Freedom Act**).

Article 2(1) provides that, for the purposes of that Article, 'media service' means 'a service as defined in Articles 56 and 57 TFEU, where the principal purpose of the service or a dissociable section thereof consists in providing programmes or press publications, under the editorial responsibility of a media service provider, to the general public, by any means, in order to inform, entertain or educate'.

Under Article 2(2) thereof, 'media service provider' means 'a natural or legal person whose professional activity is to provide a media service and who has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organised'.

For the purposes of defining the notion of media service, the clarifications contained in recitals (9) and (11) of the Regulation are also relevant:

> '(9) For the purposes of this Regulation, the definition of media service should be limited to services as defined by the TFEU and, therefore, should cover any form of economic activity. The definition of media service should cover, in particular, television or radio broadcasts, on-demand audiovisual media services, audio podcasts or press publications. It should exclude user-generated content uploaded to an online platform unless it constitutes a professional activity normally provided for consideration, be it of a financial or other nature. It should also exclude purely private correspondence, such as e-mails, and all services that do not have the provision of programmes or press publications as their principal purpose, meaning where the content is merely incidental to the service and not its

[4] Article 33(1) of the Regulation attributes the status of very large online platforms and very large online search engines to those with a monthly average of 45 million or more active recipients of the service in the European Union.

principal purpose, such as advertisements or information related to a product or a service provided by websites that do not offer media services. Corporate communication and distribution of informational or promotional materials for public or private entities should be excluded from the scope of the definition. Furthermore, since the operation of media service providers in the internal market can take different forms, the definition of media service provider should cover a wide spectrum of professional media actors falling within the scope of the definition of media service, including freelancers.

[…]

(11) In the digital media market, video-sharing platform providers or providers of very large online platforms could fall under the definition of media service provider. In general, such providers play a key role in the organisation of content, including by automated means or by means of algorithms, but do not exercise editorial responsibility over the content to which they provide access. However, in the increasingly convergent media environment, some video-sharing platform providers or providers of very large online platforms have started to exercise editorial control over a section or sections of their services. Therefore, where such providers exercise editorial control over a section or sections of their services, they could be qualified as both a video-sharing platform provider or a provider of a very large online platform and a media service provider.'

Because of their relationship with the situations regulated by this Organic Law, some of the material provisions contained in the Regulation should be highlighted, such as the obligations imposed on media service providers to make their contact details and the names of their significant shareholders accessible to their recipients (Article 6(1)) or the requirements laid down in Article 18 of the Regulation concerning media service providers on very large online platforms. Among them, the declaration by the media service provider to the online platform of their status as a media service provider and of their legal name (Article 18(1)(a) and (f)); or the reciprocal provision of contact details, including an email address, through which they can communicate directly and quickly with each other (Articles 18(1)(f) and 18(3)). **B) Spain**

With regard to the incorporation of this Organic Law into the national legal system, it should first be noted how the regulation is linked with certain provisions of the Spanish Constitution.

As mentioned above, the Spanish Constitution does not contain an express and formal recognition of the right to rectification, although that right is generally understood to have an indirect basis therein, insofar as it constitutes a natural safeguard of certain fundamental rights established by the Spanish Constitution, as is the case of the right to honour and one's own image (Article 18(1)) and the right to freely communicate and receive truthful information (Article 20(1)(d)), with the constitutional case-law attributing to the right to rectification an

instrumental nature with respect to these (for example, see judgment of the Constitutional Court 139/2021 of 12 July 2021, FJ 4).

Secondly, with regard to the integration of the proposed regulation among those of its rank which currently regulate the right to rectification, it is to be noted that this Organic Law essentially maintains the legal configuration of this right, both in its substantive and procedural aspects, as conceived by Organic Law 2/1984 of 26 March 1984, which regulates the right to rectification. However, although the innovations introduced generally have a complementary or nuance function, depending on the case, with respect to the provisions of Organic Law 2/1984 of 26 March 1984, the fact that they affect almost all of its articles means that it makes more sense to enact a new law instead of merely partially reforming it.

As regards regulations of the same rank that contain special rules on the right to rectification, it is necessary to highlight two pieces of legislation.

The first is Article 85(2) of Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act), concerning the right to rectification on the internet. The inclusion in this Organic Law of the system for the rectification of information published in digital media and online platforms makes it necessary, in order to avoid double regulation, to simplify the content of the aforementioned Article 85(2), whose regulation of this right is now made by reference to this Organic Law.

The second is the special regulation of the right to rectification contained in Article 68 of Organic Law 5/1985 of 19 June 1985 (General Electoral System Act), the content of which is compatible with the provisions of this Organic Law, without prejudice to the fact that the references made in this article to Organic Law 2/1984 of 26 March 1984 should henceforth be understood to refer to the new organic law now provided for.

Thirdly, it has been taken into account that Article 4(3) of Law 13/2022 of 7 July 2022 (General Audiovisual Communication Act) provides, inter alia, that audiovisual communication shall guarantee the right to rectification in the terms provided for in Organic Law 2/1984 of 26 March 1984, a situation which is understood to be better provided for in the regulation now available.

Finally, this reform favours the linking of the procedural rules governing the right to rectification provided for in its own organic law with the organisation of civil jurisdiction contained in Law 1/2000 of 7 January 2000 (Civil Procedure Act), which logically was provided for in Organic Law 2/1984 of 26 March 1984, in terms corresponding to the organisation of this matter existing in the Civil Procedure Act then in force.

3.3. Repeal of regulations

The regulation entails the express repeal of Organic Law 2/1984 of 26 March 1984, regulating the right to rectification, and of any regulations of the same or lower rank that conflict with the provisions of this Organic Law.

3.4. Entry into force

As a general rule, entry into force is fixed at 20 days after the publication of the regulation in the Official State Gazette, in accordance with the general rule laid down in Article 2(1) of the Civil Code.

4. THE CONFORMITY OF THE REGULATION WITH THE CONSTITUTIONAL ORDER OF DISTRIBUTION OF COMPETENCES

This Organic Law is issued under the exclusive powers that Article 149(1)(1), (8) and (27) of the Spanish Constitution confer on the State in matters of regulation of the basic conditions that guarantee the equality of all Spaniards in the exercise of rights and in the fulfilment of constitutional duties; civil legislation and basic rules of the press, radio and television system and, in general, of all social media, without prejudice to the powers that fall within the purview of the Autonomous Communities in its development and implementation.

The obligations imposed on online platforms and users of particular significance also fall under the exclusive competence of the State in telecommunications matters, as provided for in Article 149(1)(21) of the Spanish Constitution.

Articles 4 to 7 and the single transitional provision fall under the State competence on procedural legislation, as established in Article 149(1)(6) of the Spanish Constitution.

The Federation of Autonomous Radio and Television Organisations or Entities (FORTA) was consulted on the proposal as part of the process of drafting the new regulation. Its statement of observations does not comment on the substantive content of the regulation and only proposes that the explanatory part should include a reference to the obligation of the audiovisual media service to guarantee objective, truthful and impartial information.

Finally, it should be noted that the regulation does not raise relevant questions of competence and that there are no precedents of conflict of competence, as stated in the report of the Ministry of Territorial Policy and Democratic Memory, which highlights in this respect that Organic Law 2/1984 of 26 March 1984 has not been the object of any questioning of competence in constitutional proceedings.

5. DESCRIPTION OF THE PROCESS

By means of the Agreement of the Council of Ministers of 17 December 2024, the **urgent administrative processing** of the Preliminary Draft Bill has been authorised, in accordance with the provisions of Article 27(1)(b) of Law 50/1997 of 27 November 1997 on the Government.

The Agreement is based on the need to adapt the existing legal framework of the right to rectification to the reality of the 21st century as quickly as possible,

in order to strengthen its effectiveness, given its status as an instrument guaranteeing fundamental rights. It also means that this regulation is part of the set of measures envisaged in the 'Action Plan for Democracy', adopted by the Agreement of the Council of Ministers of 17 September 2024, which aims to deepen the recommendations that have been approved by the European Commission in 2020 and 2023 within the 'European Democracy Action Plan'.

The urgent processing means that **public consultation** provided for in Article 26(2) of Law 50/1997 of 27 November 1997 on the Government (this is in accordance with Article 27(2)(b) of the same law) will not be necessary.

Subsequent processing is planned as follows:

- Report of the **Office of Coordination and Regulatory Quality** of the Ministry of the Presidency, Justice and Relations with the Courts (Article 26(9) of Law 50/1997 of 27 November 1997 on the Government). Issued on 4 February 2025.

- The **public hearing and information procedure** (Article 26(6) of Law 50/1997 of 27 November 1997 on the Government), which allowed for the presentation of observations between 13 and 29 January 2025, both inclusive.

- **Report of the General Technical Secretariat of the Ministry of the Presidency, Justice and Relations with the Courts**, as proposer of the regulation (Article 26(5), fourth subparagraph, of Law 50/1997 of 27 November on the Government).

- **Report of the Ministry of Territorial Policy and Democratic Memory** (Article 26(5), sixth subparagraph, of Law 50/1997 of 27 November 1997 on the Government). Issued on 22 January 2025.

- **Reports from other Ministries** (Article 26(5), first subparagraph, of Law 50/1997 of 27 November 1997 on the Government):
    - Ministry for the Digital Transformation and the Civil Service. Issued on 29 January 2025.
    - Ministry of Economy, Trade and Business. Issued on 28 February 2025.

- **Other reports**:
    - Spanish Council for Consumers and Users. Issued on 29 January 2025.
    - National Commission for Markets and Competition (CNMC). Issued on 24 January 2025.
    - Spanish Data Protection Agency. Issued on 18 February 2025.
    - General Council of the Judiciary. Issued on 12 February 2025.

- Fiscal Council. Issued on 29 April 2025.

- **Notification to the European Commission**: the notification procedure for technical regulations established by Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

6. IMPACT ANALYSIS

6.1. Economic impact

A) Overall economic impact

The regulation has no impact on the economy in general.

In relation specifically to the economic sectors concerned, social media and online platforms, and, in particular, with regard to the obligations to provide channels for processing requests for rectification imposed on social media of a digital nature and online platforms, it is believed that these measures will not have a significant economic impact on these sectors. This is because it is not foreseeable that the cost of implementing these channels will significantly affect the cost structure of these companies, taking into account the intrinsic cost of implementing these channels and the fact that many of them already have electronic channels of communication with the public and, in the case of platforms, with their users too, on their own initiative or in compliance with the obligations imposed on them by the current Organic Law 2/1984 of 26 March 1984 and Article 85 of Organic Law 3/2018 of 5 December 2018 (Data Protection and Digital Rights Act).

B) Effects on competition

The regulation is not expected to have an effect on competition since it is considered that the measures contained in the regulation, even if their application may entail a certain economic cost for digital media and online platforms, will not have sufficient potential to limit the number or variety of operators in the market, or their ability to compete, and will not reduce the incentives that operators have to compete.

In this sense, the regulation will not significantly increase the market entry or exit costs for operators; it does not grant exclusive rights to an operator; it does not establish a differentiated system of licences, permits or authorisations to operate on the market; nor does it grant current operators on the market differential treatment with respect to new entrants or create uncertainty for them.

In its report on the preliminary draft of this Organic Law, the National Commission on Markets and Competition has considered that it does not contain restrictions on competition, meaning additionally as a positive element that 'From the point of view of the principles of non-discrimination and competitive neutrality, it seems advisable that a similar treatment can be applied to all operators (traditional or digital) who, through their activity, could affect the content of the fundamental rights involved here, such as the right to honour and to one's image and the right to freely communicate and receive truthful information by any means of dissemination'.

C) Effects on market unity

The regulation will have no impact on market unity, since economic operators will have the same rights throughout the national territory without maintaining differentiated treatment on the basis of place of residence or establishment.

G) Effects on SMEs

Taking into account the provisions of the previous sections, it is considered that the regulation will not have a significant differential effect on SMEs.

6.2. Budgetary impact

The budgetary impact of the regulation is estimated to be zero.

From the point of view of **income**, the measures are not expected to lead to an increase or decrease in the revenue of the General State Administration or of other public administrations.

From the point of view of **expenditure**, the measures will also not lead a priori to an increase or decrease in budgetary expenditure.

6.3. Analysis of administrative burdens

The regulation does not entail new administrative burdens or affect existing ones.

6.4. Gender impact

The gender impact of the regulation is null, as it affects an area of social reality (the exercise of the right to rectification) in which there is no lack of equal opportunities between men and women, and the regulation does not alter this situation.

6.5. Impact on children and adolescents

The regulation has no impact on children and adolescents, as it does not specifically affect the situation of minors, nor does it alter the circumstances in which minors or their representatives can exercise this right.

6.6. Impact on family

One of the new elements in the regulation consists in the extension of the list of subjects who may exercise the right to rectification when the injured party is a deceased person, which Organic Law 2/1984 of 26 March 1984 limits to 'their heirs or the representatives of the latter', and which the proposed regulation also extends to several of the relatives of the deceased (to their spouse or civil partner, descendants, relatives in the ascending line and siblings), in addition to the person who the deceased had expressly designated.

In this way, relevance in the exercise of the right is conferred on all members of the deceased's immediate family.

6.7. Impact on equal opportunities, non-discrimination and universal accessibility for persons with disabilities

The regulation will have a positive impact in this area, insofar as it expressly clarifies the legal rules governing the exercise of the right by persons with disabilities and this in a manner consistent with the powers that are granted in the civil sphere to these people in accordance with the reform introduced by Law 8/2021 of 2 June 2021 amending the civil and procedural legislation to support persons with disabilities in the exercise of their legal capacity, by providing that they may exercise it by themselves or with the supports they may have or be provided with.

6.8. Climate change impact

The regulation has no climate change impact.

7. *EX POST* EVALUATION

It is not expected that the regulation will be subject to *ex post* evaluation.