Legal barriers to e-Government

*Administrative Law
&
Relationships between Public Administrations, citizens and other ICT actors*

Dr. Julián Valero

University of Murcia, Spain

Contents

⌘ Methodological issues

⌘ Relationships between public administrations, citizens and other ICT actors

⌘ Administrative Law (introduction)

⌘ Parallel small group session

Legal barriers to e-government

Methodological issues

- The research is in the first year (7 months)
- Analysis of EU documents and news (IST, IDABC, eEurope, eTEN…)
- First approach to initiatives of Member States
- First analysis of some national regulations
- Feedback welcome!!!

Compulsory use of ICT

✖ This measure should be carefully adopted

- ➡ Equality in the access to public services
- ➡ Unjustified limitations to citizens' rights unacceptable
- ➡ Several channels as a rule

✖ Public Administrations, civil servants, big companies should be obliged by Law

- ➡ Citizens' right no to submit administrative documents

Some problems for citizens

✖ They find difficult to use e-public services
  ➡ BISER report *e-Government-The regional dimension*
  ➡ It can become a definitive barrier for 1st time users
  ➡ Publicity of software's functioning
✖ There is no a right to use e-Gov services
  ➡ Only when allowed by Public Administration or Law
  ➡ A wider understanding of e-Gov is required

ICT companies

✖ Their opinion is essential but superiority of general interest must be guaranteed

✖ Importance of open standards for e-services

➡ Citizens cannot be forced to purchase commercial software

➡ Modify public contracts regulation if necessary

✖ Cooperation between Public Administrations in this field

➡ Open source? Costs, interoperability, IPR…

➡ *Admisource*: open source repository in France for PA

Administrative Law???

✖ Specific regulation for PA in many Member States

✖ Main characteristics:

➡ Attribution of significant and unilateral powers to PA

➡ Relevant formal guarantees for citizens

✖ What kind of barriers may appear in this field?

➡ Harder requirements than those demanded by technology

➡ Legal adaptations required by technology may be limited to general regulation for private individuals

Information Society

European Commission

Why Administrative Law is not adapted to technology?

✖ Regulation at EU level is not always the solution
  ➡ Not all Member States has a same model of PA
  ➡ EU hasn't got a general competence in this field
  ➡ Influence of Anglo-Saxon model of PA (Common Law)

✖ Relevant problems
  ➡ Inadequate implementation of Directives by Member States
  ➡ Risk of invalidity for administrative decissions
  ➡ e-commerce ≠ e-Government

Administrative Law

Administrative burdens and competitiveness

✖ Unjustified administrative requirements may affect the competitiveness of economy

✖ e-Government is an opportunity in order to simplify administrative procedures

➡ Data input by citizens, documentation to be provided…

➡ It's one of the main exigencies of citizens (60% in France says BVA)

✖ Several initiatives to reduce `administrative burdens´

➡ European consultation on `cutting the red tape´

➡ Projects launched by Member States: The Netherlands, Denmark, Sweden, France…

Administrative Law

Do you want to go more deeply into this topic?

- You should attend the small group session on ADMINISTRATIVE LAW after coffee break!!!
- Meanwhile, some questions:
  - What happens if a citizen cannot get access to an electronic administrative notification?
  - Is it possible to address an application form through Internet on public holidays?
  - Can administrative decisions be adopted by a computer?
  - Can PA process quicker those applications addressed through Internet?

Thank you very much for you attention!

Dr. Julián Valero
http://www.um.es/dereadmv
julivale@um.es