



Freeing Public Sector Software

LEGAL ACHIEVEMENTS AND CHALLENGES

Legal aspects of passing laws in favour of FLOSS
in the administrations

The case of Spain

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FLOSS laws in Spain



- Strong legal framework
 - Law 11/2007 - eAdministration
 - Sharing without agreement
 - Freeing code
 - Public repositories
 - Decree 4/2010 – Interoperability Framework
 - Licensing conditions
 - 4 freedoms + Copyleft
 - EUPL recommended
 - Public and federated repositories
 - Consult and publish in repositories



FLOSS laws in Spain



- Software reuse:
 - Some permissions
 - PA may share with other PA
 - PA may free code
 - PA may publish source code during/after development
 - Some obligations
 - PA must create repositories
 - PA must consult repositories
- NIF (national interoperability framework)
 - Standards
 - PA must use open or “generally used” standards + definition



FLOSS laws in Spain



- Obstacles in practice
 - Procurement
 - Framework agreements / “homologación” with suppliers
 - Divided in tiers/competencies
 - Points for skills (proprietary>FOSS)
 - Delivery process <> open source methodology
 - Procurement drafting
 - Warranty title (v. third party components)
 - Exclusive assignment of rights (v. GPL copyleft)
 - Subsequent (FOSS) relicensing (e.g. EUPL)



FLOSS laws in Spain



- Obstacles in practice
 - Reusing:
 - Worries about liability
 - Are disclaimers valid against PA?
 - Liability in collaborative projects / public-private initiatives
 - All PAs use “convenios” (agreements) to do anything



FLOSS laws in Spain



Three “choques” (clashes)

1. PA approach: Baroque cathedral
 - How to create the Bazaar in the Cathedral
 - How to make Cathedral part of the Bazaar
2. PA mentality:
 - Civil servant: RISK AVERSE, closed
 - Foss participant: RISK taking, open
3. PA knowledge:
 - What the PA can do
 - How the PA can do this

→ ¿Can we legislate for this?