

Regulatory Production in Spain in 2017

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Introduction

The Spanish legislative framework is characterized by its high density and complexity, which forces companies to deal with a high, and often dispersed, level of regulation that causes distortions in the market and poses numerous administrative burdens. This situation has a direct impact on our capacity for economic growth, since it erodes the competitiveness of our companies: they are forced to allocate significant resources and efforts to comply with existing regulations, sometimes unjustified or disproportionate, and are unable to fully focus on their added-value generating activity, the one that creates wealth and employment.

With the aim of illustrating, one more year, this huge amount of regulation that is so detrimental to our competitiveness, this report collects data on the number of regulations approved at the national, regional and European levels, as well as the figures relating to the number of pages published in the different official gazettes. These statistics allow us to highlight the dedication and effort needed for entrepreneurs to keep on top of all the current legislation.

Initiatives such as the Annual Regulatory Plan, adopted for the first time this year and discussed under a section within this report, are headed in the right direction. The Plan establishes a schedule for the enactment of new regulations, thus improving predictability for the affected stakeholders, reducing “regulatory improvisation” and contributing to the rationality, transparency and coherence of regulatory projects. However, and since it’s a new tool, throughout the year it will be necessary to monitor whether it is complied with by comparing the number of regulatory actually passed with the number originally planned, in order to assess its accuracy.

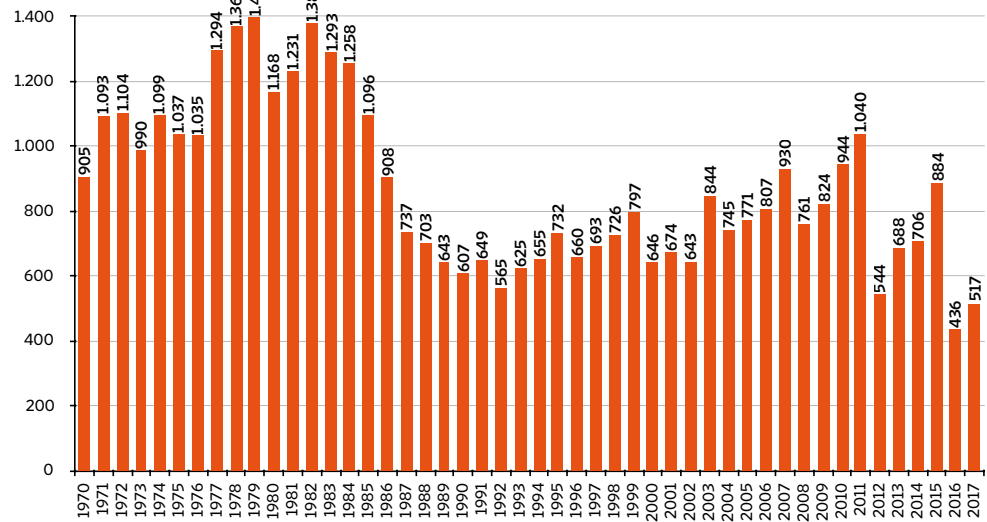
Apart from this and in general, the regulatory agenda should be focused on improving the efficiency and stability of the legislative framework, reducing its complexity, limiting the production of regulations, and guaranteeing a certain stability of the legal system. Similarly, only a small number of regulations should be enacted, and they should be clear and simple in order to avoid further interpretations; in addition, European regulations should be transposed without introducing additional administrative requirements or burdens, and the Public Administrations should adopt a system of legislative coordination among them.

If Spain wants to become a competitive pole within the globalized economy, it must have a simplified, modern and stable legislation and an Administration that serves the needs of businesses and citizens.

Spanish regulatory production

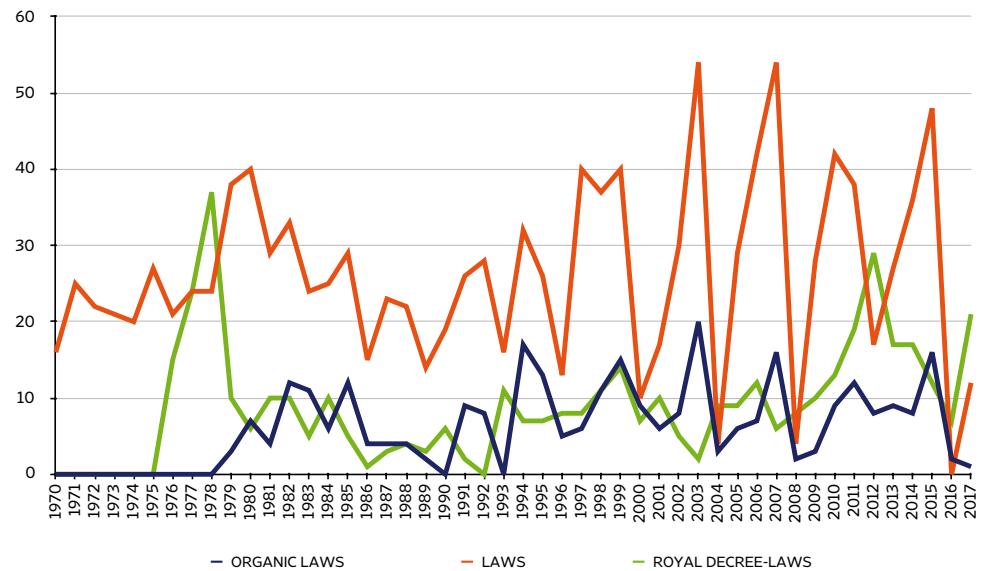
According to the latest data obtained from the Official State Gazette Agency, in 2017, 517 **new regulations** were approved at the **national level**, representing **an increase of 18.6%**, in comparison to 436 regulations adopted in the previous year. However, 2016 was an exceptional year where legislative activity was conditioned by the existence of an acting government for a good part of the year. If a little more perspective is added to the analysis, the 517 regulations approved in 2017 are the second lowest figure in the entire historical series. Wider diversity in the parliamentary spectrum of the current term could have affected this lower regulatory activity. Besides, between 1970 and 2017, a total of 41,883 national regulations were passed in Spain.

Total of national regulations



Source: Own elaboration based on Official State Gazette Agency data.

Evolution of Organic Laws, Laws and Royal Decree-Laws



Source: Own elaboration based on Official State Gazette Agency data.

NUMBER OF NATIONAL REGULATIONS ADOPTED BY YEAR (1970 – 2017)

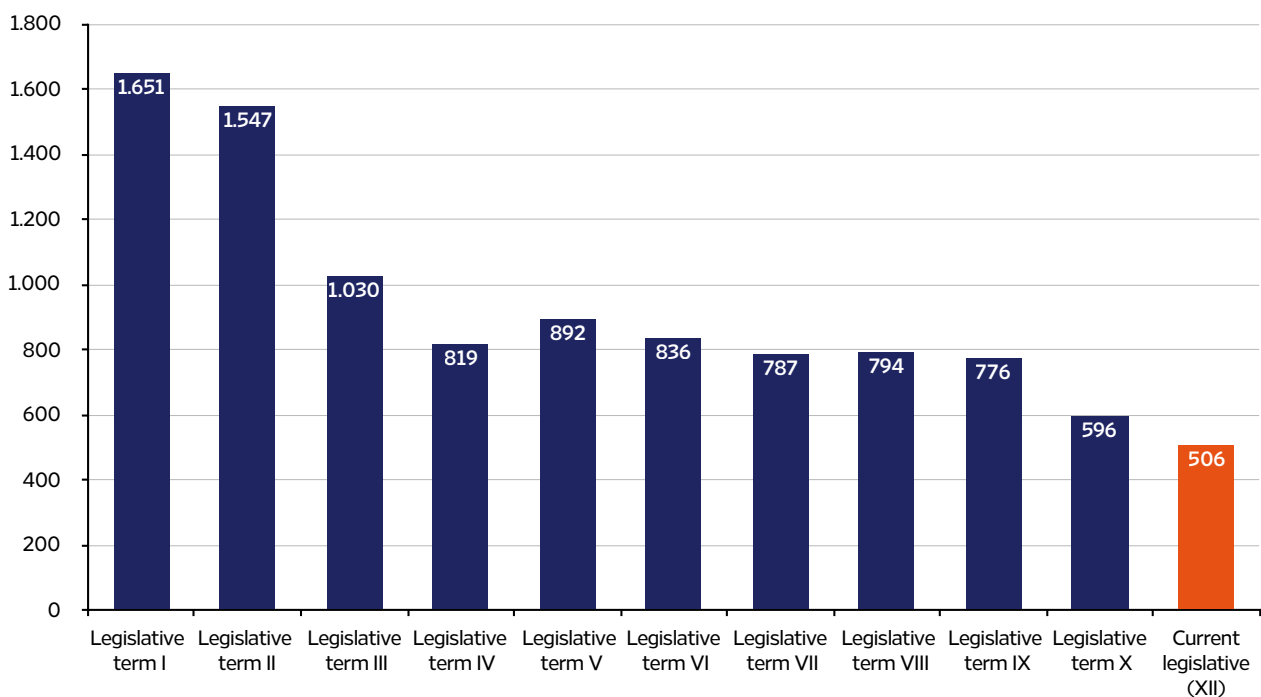
YEARS	ORGANIC LAW	LAW	ROYAL DECREE	ROYAL DECREE-LAW	LEGISLATIVE ROYAL DECREE	DECREE	DECREE-LAW	ORDER	TOTAL	ANNUAL CHANGE
1970	-	16	-	-	-	186	14	689	905	
1971	-	25	-	-	-	251	15	802	1,093	20.8%
1972	-	22	-	-	-	265	8	809	1,104	1.0%
1973	-	21	-	-	-	243	10	716	990	-10.3%
1974	-	20	-	-	-	343	6	730	1,099	11.0%
1975	-	27	-	-	-	292	11	707	1,037	-5.6%
1976	-	21	172	15	-	115	4	708	1,035	-0.2%
1977	-	24	393	24	-	-	-	853	1,294	25.0%
1978	-	24	384	37	-	-	-	924	1,369	5.8%
1979	3	38	417	10	-	-	-	957	1,425	4.1%
1980	7	40	341	6	-	-	-	774	1,168	-18.0%
1981	4	29	403	10	1	-	-	784	1,231	5.4%
1982	12	33	507	10	-	-	-	820	1,382	12.3%
1983	11	24	452	5	-	-	-	801	1,293	-6.4%
1984	6	25	569	10	-	-	-	648	1,258	-2.7%
1985	12	29	433	5	-	-	-	617	1,096	-12.9%
1986	4	15	326	1	10	-	-	552	908	-17.2%
1987	4	23	221	3	1	-	-	485	737	-18.8%
1988	4	22	208	4	1	-	-	464	703	-4.6%
1989	2	14	213	3	-	-	-	411	643	-8.5%
1990	-	19	236	6	2	-	-	344	607	-5.6%
1991	9	26	214	2	1	-	-	397	649	6.9%
1992	8	28	195	-	-	-	-	334	565	-12.9%
1993	-	16	232	11	1	-	-	365	625	10.6%
1994	17	32	260	7	2	-	-	337	655	4.8%
1995	13	26	401	7	1	-	-	284	732	11.8%
1996	5	13	357	8	1	-	-	276	660	-9.8%
1997	6	40	295	8	-	-	-	344	693	5.0%
1998	11	37	298	11	-	-	-	369	726	4.8%
1999	15	40	326	14	1	-	-	401	797	9.8%
2000	9	10	242	7	5	-	-	373	646	-18.9%
2001	6	17	261	10	1	-	-	379	674	4.3%
2002	8	30	236	5	1	-	-	363	643	-4.6%
2003	20	54	363	2	-	-	-	405	844	31.3%
2004	3	4	337	9	7	-	-	385	745	-11.7%
2005	6	29	264	9	-	-	-	463	771	3.5%
2006	7	42	266	12	-	-	-	480	807	4.7%
2007	16	54	345	6	1	-	-	508	930	15.2%
2008	2	4	314	8	2	-	-	431	761	-18.2%
2009	3	28	300	10	-	-	-	483	824	8.3%
2010	9	42	381	13	1	-	-	498	944	14.6%
2011	12	38	460	19	3	-	-	508	1,040	10.2%
2012	8	17	164	29	-	-	-	326	544	-47.7%
2013	9	27	208	17	1	-	-	426	688	26.5%
2014	8	36	232	17	-	-	-	413	706	2.6%
2015	16	48	295	12	8	-	-	505	884	25.2%
2016	2	0	117	7	1	-	-	309	436	-50.7%
2017	1	12	172	21	-	-	-	311	517	18.6%
TOTAL	298	1,261	12,810	430	53	1,695	68	25,268	41,883	

Source: Own elaboration based on Official State Gazette Agency data.

Regulatory production in the first year of legislature

The first year of the current legislature (the start of which is taken on the date of the opening session, i.e., the period going from November 17, 2016, to November 17, 2017) has been the first year with the least production of regulation out of all the legislative terms to date.

Regulations adopted in the first year of each legislative term



Source: Own elaboration based on Official State Gazette Agency data.

*Starting date of the term is taken on the date of the opening session:

Legislative Term I: from 9/05/1979

Legislative Term V: from 14/07/1993

Legislative Term IX: from 16/04/2008

Legislative Term II: from 25/11/1982

Legislative Term VI: from 08/05/1996

Legislative Term X: from 27/12/2011

Legislative Term III: from 28/07/1986

Legislative Term VII: from 03/05/2000

Legislative Term XI: acting government
(not represented on the graph)

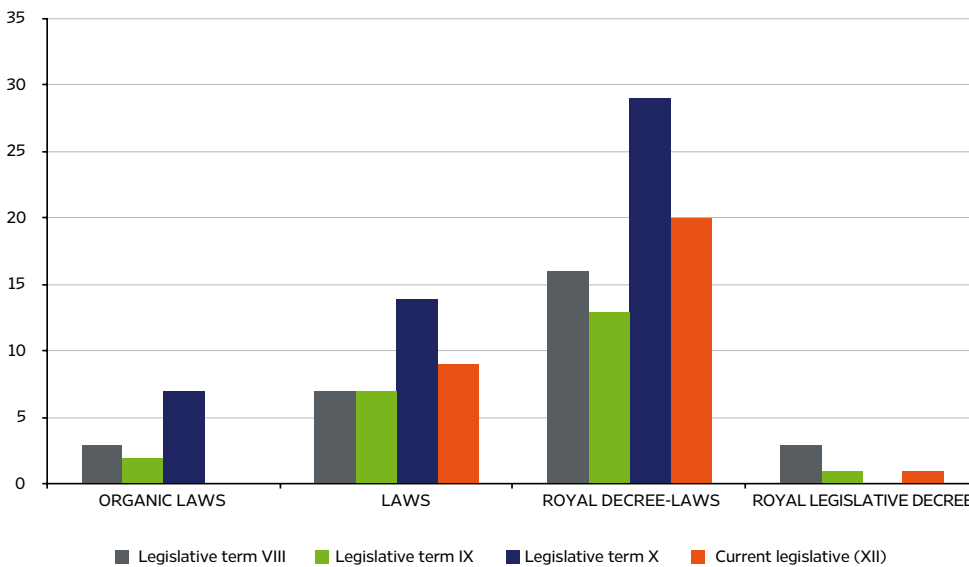
Legislative Term IV: from 06/12/1989

Legislative Term VIII: from 22/04/2004

Legislative Term(XII): from 17/11/2016

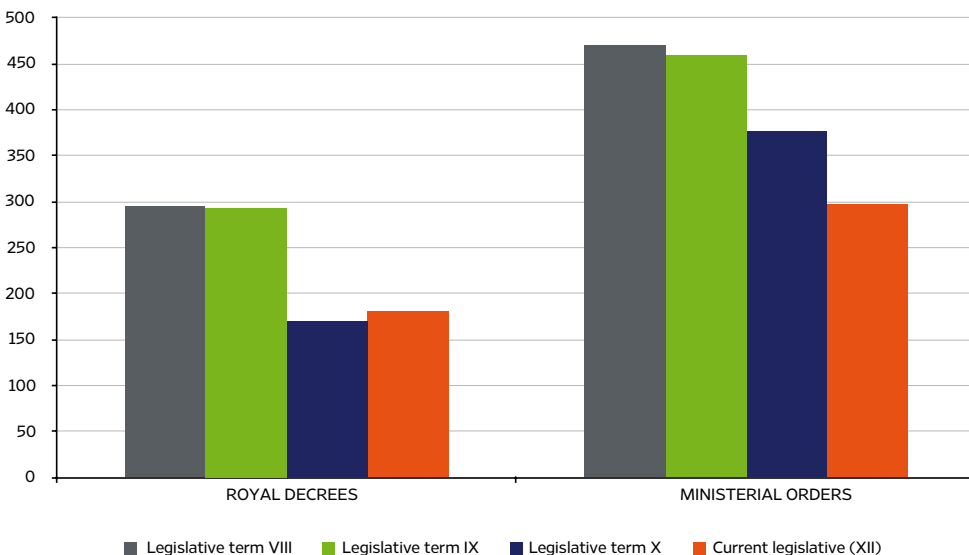
Comparing, for simplicity, the last four legislative mandates, by type of regulation, the main difference observed in the initial year of the present term is lower activity in the proliferation of regulations categorized as non-law regulations, in particular, ministerial orders, although the approval of royal decrees has also been lower, except when compared with the prior term (the one that started in 2011, i.e., excluding the term with an acting government). Meanwhile, with regard to the regulations with the status of law, the present term has had lower regulatory activity in terms of organic laws, while ordinary laws and royal law-decrees (although their number has been lower than in first year of the previous term) has surpassed the number of regulations passed during the first year of the terms that began in 2004 and 2008.

Number of regulations with the status of law adopted during the first year of the legislative term by type



Source: Own elaboration based on Official State Gazette Agency data.

Number of royal decrees and ministerial orders adopted during the first year of the legislative term



Source: Own elaboration based on Official State Gazette Agency data.

Pages in the BOE (Official State Gazette)

With regards to **the volume of the Official State Gazette (BOE), in 2017** a total of **223,043** pages were published, which represents a 29.7% increase in comparison to the 171,905 BOE pages published in 2016. In this regards, it should be pointed out that 46% of the pages corresponding to 2017 were concentrated in Sections I and III of the Official State Gazette, which means those that include the Central State provisions. In 2016, these two sections accounted for 39% of the total BOE pages published.

NUMBER OF PAGES PUBLISHED IN THE OFFICIAL STATE GAZETTE

	Section I	Section II	Section III	Section IV	Section V	Total	Annual change
2010	27,612	28,070	53,876	12,118	136,389	258,065	-5.9%
2011	55,203	29,031	63,297	14,134	91,655	253,320	-1.8%
2012	25,239	17,606	47,018	19,076	42,194	151,133	-40.3%
2013	28,568	14,936	63,814	23,184	42,836	173,338	14.7%
2014	32,395	14,622	60,643	19,101	43,113	169,874	-2.0%
2015	38,263	19,263	64,746	12,577	41,648	176,497	3.9%
2016	20,477	21,204	46,880	41,724	41,620	171,905	-2.6%
2017	26,370	24,672	77,087	44,877	50,037	223,043	29.7%

Source: BOE-Official State Gazette,
Section I: General provisions; Section II: Authorities and staff; Section III: Other provisions; Section IV: Justice Administration; and Section V: Announcements

Regulatory production at regional level

In addition, **regulations with the status of a Law** (laws, legislative decrees and decree-laws) adopted by the **Autonomous Regions**, and published in the Official State Gazette, amounted to **253 in 2017**, which represents a **3.3% increase** in comparison to the number of regulations adopted in 2016, when the number was set at 245.

LAWS ADOPTED BY AUTONOMOUS REGIONS

	2013	2014	2015	2016	2017
Andalucía	18	20	9	19	12
Aragón	19	13	21	16	19
Canarias	7	11	16	4	8
Cantabria	13	4	10	7	10
Castilla y León	14	16	11	9	10
Castilla-La Mancha	7	10	14	6	8
Cataluña	8	22	40	11	31
Extremadura	9	18	21	11	10
Galicia	8	15	18	18	9
R. de Murcia	25	18	24	21	10
La Rioja	13	7	8	4	10
I. Baleares	16	16	20	22	19
C. de Madrid	7	4	12	13	12
País Vasco	4	6	10	17	8
P. de Asturias	5	11	15	7	13
C. Valenciana	12	10	25	24	31
C. F. de Navarra*	53	33	30	36	33
TOTAL	238	234	304	245	253
<i>Annual change</i>	-43.3%	-1.7%	29.9%	-19.4%	3.3%

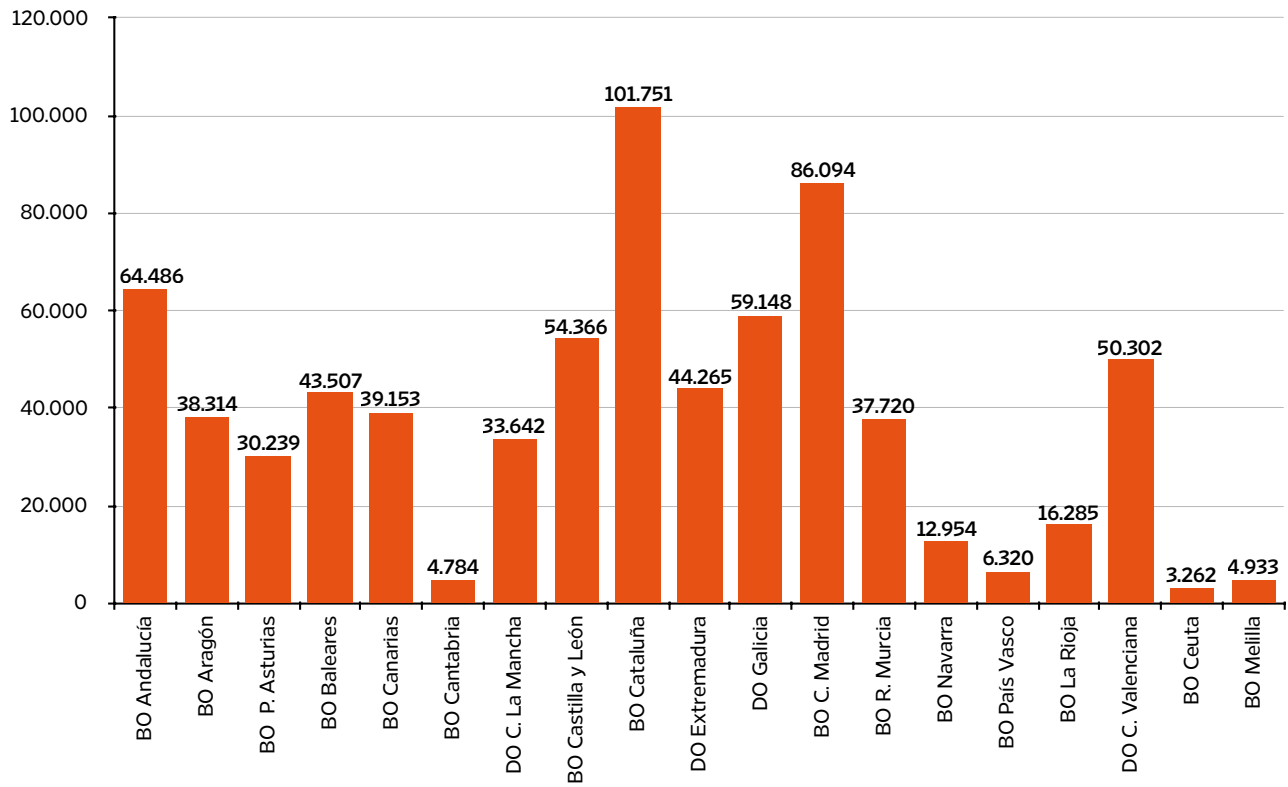
Source: BOE-Official State Gazette.

* Figures for Navarre include Foral Laws (specific only to this Community, which has a special status within the country).

Likewise, the number of **pages published by the Autonomous Regions** in their corresponding official gazettes was set at **731,525 pages** in 2017. Therefore, the total number of pages increased by 1.1% in comparison to the 723,915 pages published in the previous year.

In summary, all pages published by Autonomous Regions and Central State Official Gazettes accounted for **954,568 in 2017**.

Pages published in the Official Autonomous Regions Gazettes in 2017



Source: Own elaboration.
B.O. (Official Gazette); D.O (Official Gazette)

PAGES PUBLISHED IN THE OFFICIAL AUTONOMOUS REGIONS GAZETTES

	2010	2011	2012	2013	2014	2015	2016	2017	Annual change 16/17
Andalucía:	36,524	38,774	44,484	54,479	58,884	61,845	65,823	64,486	-2.0%
Aragón:	30,079	26,627	29,195	34,713	41,360	37,885	33,741	38,314	13.6%
Principado de Asturias:	32,443	29,438	27,732	47,807	47,666	44,286	38,114	30,239	-20.7%
Islas Baleares	29,061	26,914	44,974	64,176	61,556	50,323	40,315	43,507	7.9%
Islas Canarias	33,188	30,727	26,815	33,785	32,750	34,879	37,128	39,153	5.5%
Cantabria:	43,829	38,746	41,825	46,832	43,865	42,652	32,655	4,784	-85.3%
Castilla-La Mancha:	59,756	43,283	40,020	35,438	40,551	36,091	30,967	33,642	8.6%
Castilla y León:	101,806	99,206	80,917	84,511	87,936	71,823	59,428	54,366	-8.5%
Cataluña	94,672	66,868	64,692	70,148	74,884	90,536	90,856	101,751	12.0%
Extremadura:	31,928	30,878	28,175	33,983	40,136	40,209	35,426	44,265	25.0%
Galicia:	21,632	41,074	48,218	52,894	53,971	53,347	56,579	59,148	4.5%
Comunidad de Madrid	140,594	102,651	95,842	97,509	94,159	91,609	81,229	86,094	6.0%
Región de Murcia	67,814	51,085	54,197	51,307	50,265	43,794	40,533	37,720	-6.9%
C,F, de Navarra	17,126	17,600	14,392	13,436	14,394	13,682	12,654	12,954	2.4%
País Vasco	6,544	6,369	5,958	5,641	5,545	5,545	5,639	6,320	12.1%
La Rioja:	16,403	11,272	18,136	27,414	26,306	21,486	17,202	16,285	-5.3%
Comunidad Valenciana	47,525	42,773	37,129	37,071	32,320	33,823	37,206	50,302	35.2%
Ceuta:	3,048	3,405	5,208	4,062	4,683	4,323	1,729	3,262	88.7%
Melilla:	6,139	5,794	7,190	4,880	5,025	6,656	6,691	4,933	-26.3%
TOTAL	820,111	713,484	715,099	800,086	813,256	784,794	723,915	731,525	1.1%

Source: Own elaboration.

Annual regulatory plan for 2018

On December 7, 2017, the Council of Ministers passed, for the first time, the General State Administration's Annual Regulatory Plan for 2018. This plan includes the list of regulations (organic laws, ordinary laws and royal decrees) that are expected to be adopted during the year.

This measure, together with the Annual Report on Regulatory Assessment and the creation of the Board for Regulatory Planning and Assessment, intends, according to the Plan itself:

- To ensure coherence of all the initiatives enacted and prevent subsequent amendments to the legal schemes of a specific industry or activity sector in a short span of time.
- To make all stakeholders aware of the standards expected for each calendar year, increasing transparency.
- To streamline the regulatory activity, with the implied need to reflect when making the legislative program calendar.

Based on the figures provided in the plan, during 2018, 9 organic laws, 38 ordinary laws and 240 royal decrees are expected to be passed, amounting to a total of 287 regulations. Of these, 44 derive from the transposition of different European directives.

The following table shows a comparison by categories of the number of regulations expected to be passed in 2018 according to the Plan, compared to those enacted in 2017.

	2017	Forecast 2018	Annual change 17/18
Organic Laws	1	9	800.0%
Laws	12	38	216.7%
Royal Decrees	172	240	39.5%
TOTAL	185	287	55.1%

As shown, the legislative enactment this year is expected to be more numerous in all types of regulations: organic laws are expected to go from 1 to 9, ordinary laws to triple to 38, and royal decrees to increase by almost 40%. In total, the regulatory production, in terms of these 3 types of standards, would increase by 55.1%.

However, it must be taken into account that the Annual Regulatory Plan only includes an estimation of organic laws, ordinary laws and royal decrees. Therefore, and unlike the figures included in this report, ministerial orders, royal legislative decrees, or royal decree-laws are not included in the Plan. In addition, it only refers to national legislation and, thus, it also excludes regulations to be approved by the Regional Communities (these, in turn, have their own Annual Regulatory Plan).

Furthermore, and as the plan itself indicates: “the effective passing of the draft organic laws and ordinary laws foreseen in this Plan will depend on the current composition of the Parliament.” Likewise, the Plan is not a closed list of standards and does not prevent the approval of other standards that were not initially planned, provided that their need is duly justified in the Assessment Report of the Regulatory Impact.

Besides, 43 of these planned regulatory projects have been selected for their ex-post assessment, whereby the following aspects will be evaluated: (i) effectiveness (if the intended goals have been achieved), (ii) efficiency (administrative burdens that may not have been necessary, or may have been necessary but to a lesser degree), (iii) sustainability (unforeseen aspects that may compromise their viability) and (iv) results of their application (depending on the criteria for which they were submitted for assessment). In this regard, it should be noted that the two main issues that justify this subsequent assessment are those related to the *impact on administrative burdens* and *the impact on the economy as a whole or on certain sectors*.

In short, the initiative is a step in the right direction, insofar as it establishes a schedule for the approval of new regulations and, as the case may be, its subsequent assessment, improving predictability for the affected stakeholders, reducing “improvisation” and regulatory “surprises”, and contributing to the improvement of transparency, coherence and rationality in the exercise of the regulatory power. However, it will be necessary to wait until the end of this year to validate the usefulness and reliability of the plan, which will depend on the how many standards are eventually enacted in comparison with how many are expected to be approved, hence, to what extent the Plan is met.

Regulatory production at the European Union level

At the European Union level, the number of **legislative acts** adopted in 2017 was set at **1,920**, spread over 1,105 regulations, 32 directives and 783 decisions.

In comparison to the previous year's legislative activity, there was a **1.5% decrease**, considering that in 2016 a total of 1,950 legislative acts were passed, of which 1,141 were regulations, 39 were directives and 770 were decisions.

LEGISLATIVE ACTS ADOPTED AT EUROPEAN LEVEL IN 2014, 2015, 2016 AND 2017:

	2014	2015	2016	2017	Annual change 16/17
Regulations	1,392	1,255	1,141	1,105	-3.2%
Directives	97	38	39	32	-17.9%
Decisions	902	764	770	783	1.7%
TOTAL	2,391	2,057	1,950	1,920	-1.5%

Source: Eur-Lex.
<http://eur-lex.europa.eu/statistics/2016/legislative-acts-statistics.html>

REGULATION IN FORCE AT THE EUROPEAN LEVEL BY TYPE OF ACT:

1. Total Directives, Regulations, Decisions, etc.	20,918
2. Total International Agreements	2,829
3. Total Court of Justice of the EU	22,400
TOTAL	46,147

Source: Eur-Lex.

Likewise, there are a total of 65,230 European regulatory standards, even though they are not considered legislative acts.

1. DIRECTIVES, REGULATIONS, DECISIONS, ETC.

Field	Number of legislative acts
01 General, financial and institutional matters	1,525
02 Customs Union and free movement of goods	1,170
03 Agriculture	3,109
04 Fisheries	792
05 Freedom of movement for workers and social policy	685
06 Right of establishment and freedom to provide services	515
07 Transport policy	741
08 Competition policy	574
09 Taxation	193
10 Economic and monetary policy and free movement of capital	571
11 External relations	4,377
12 Energy	388
13 Industrial policy and internal market	1,527
14 Regional policy and coordination of structural instruments	359
15 Environment, consumer and health protection	2,349
16 Science, information, education and culture	460
17 Law relating to undertakings	110
18 Common Foreign and Security Policy	654
19 Area of Freedom, security and justice	790
20 People's Europe	29
TOTAL	20,918

Source: Eur-Lex.
<http://eur-lex.europa.eu/browse/directories/legislation.html>

2. INTERNATIONAL AGREEMENTS

Field	Number of agreements
01 General, financial and institutional matters	12
02 Customs Union and free movement of goods	179
03 Agriculture	124
04 Fisheries	104
05 Free movement of workers and social policy	3
06 Right of establishment and freedom to provide services	6
07 Transportation policy	53
08 Competition Policy	3
09 Taxation	6
10 Economic and monetary policy and free movement of capital	14
11 External relations	1975
12 Energy	38
13 Industrial policy and internal market	12
14 Regional policy and coordination of structural instruments	0
15 Environment, consumer and health protection	87
16 Science, information, education and culture	19
17 Law relating to undertakings	6
18 Common Foreign and Security Policy	90
19 Area of Freedom, security and justice	97
20 People's Europe	1
TOTAL	2,829

Source: Eur-Lex.
<http://eur-lex.europa.eu/browse/directories/inter-agree.html>

3. JUDGMENTS AND ORDERS OF THE COURT OF JUSTICE

Field	Number of judgments/orders
1 The legal order of the European Union	2859
2 Institutional framework of the European Union	1238
3 Legal proceedings	8799
4 Internal policy of the European Union	5544
5 Association of overseas countries and territories	34
6 External Policy	483
7 General and final provisions	144
8 Accession of new Member States	125
9 Staff Cases	3174
TOTAL	22,400

Source: Eur-Lex.
<http://eur-lex.europa.eu/browse/directories/new-case-law.html?soe=true&locale=es>

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