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*Challenging the Black Box: The Spanish BOSCO Case and the Judicial Push for Algorithmic Transparency**

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Computer applications and their source code, when held by a public administration and used in automated decision-making affecting citizens' rights, constitute public information. Access to the source code is a mechanism of algorithmic transparency, and may be restricted on grounds of cybersecurity or intellectual property only following a specific, justified and proportionate balancing of the interests at stake.

ABSTRACT The Spanish Supreme Court's ruling in the well-known BOSCO case recognizes the publication of the source code of an application developed by public administration as a mechanism for ensuring algorithmic transparency. This article examines the main contributions of the BOSCO judgment and assesses its potential impact on the digital transformation of public administrations.

KEYWORDS: Algorithmic transparency - Source code - Access to public information - Automated decision-making - Public administration

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1. *Introduction*

On 11 September 2025, the Spanish Supreme Court delivered a ruling in the well-known BOSCO case, recognizing the publication of the source code of an application designed by public administration as a mechanism of algorithmic transparency.[1]

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[1] The Supreme Court's judgment of 11 September 2025 has been evaluated in various recent comments. C. Velasco Rico, *La transparència algorítmica al sector públic: més enllà del cas BOSCO*, in *Revista Catalana de Dret Públic,* no. 71, 2025, highlights that the sentence is a pioneering and landmark decision. Likewise, B. Muñoz Enríquez, *La transparencia en los sistemas de inteligencia artificial usados por las administraciones públicas: el derecho de acceso al algoritmo (Sentencia del Tribunal Supremo de 11 de septiembre de 2025, rec. 7878/2024, caso Bosco)*, in *Revista General de Derecho de los Sectores Regulados,* no. 16, 2025 describes it as an 'inescapable reference for the configuration of the principle of algorithmic transparency'. In turn, J. Moreno García, *La transparencia de los algoritmos en la STS 1119/2025, de 11 de septiembre de 2025: El caso Bosco, un paso decisivo en la lucha contra la opacidad algorítmica*, in *Revista Vasca de Administración Pública,* no. 133, 2025 considers that the ruling 'lays the foundations of what will constitute the jurisprudential guidelines on algorithmic transparency within public administrations' being a 'pronouncement of notable relevance' and M. Bonnet Parejo, *El principio de transparencia algorítmica en el Derecho público español: fundamentos, jurisprudencia reciente y desafíos regulatorios*, in *Revista Canaria de Administración Pública,* no. 6, 2025 concludes that 'this resolution marks, from our point of view, a turning point in the interpretation of our legal system' being 'an important turn, and a cultural change'. J. Ponce Solé, *La sentencia 'Bosco': un punto —importante— y seguido*, in *Almacén de Derecho,* 27 September 2025, considers it an 'emblematic judicial precedent', a leading case. Likewise, J. Tahirí Moreno, *La transparencia algorítmica en la administración pública: Reflexiones a propósito de la STS 1119/2025, de 11 de septiembre (caso Bosco)*, in *Revista Aragonesa de Admininistración Pública,* no. 63/64, 2025 considers it a 'leading case whose resolution will transcend the borders of the right of access to public information'. On the other hand, the assessment of A. Huergo Lora, *"Juicio final" sobre*

This ruling constitutes an important milestone in the legal recognition of algorithmic transparency, not only in Spain but also as one of the few judicial decisions pronounced on these issues to date.[2]

However, despite the undeniable value and innovative nature of the judgment, its limitations must be noted from the outset. The judgment relates to a specific algorithm and responds to an appeal filed by a civic entity. Therefore, its scope will need to be assessed in relation to other algorithms and, in particular, with respect to artificial intelligence (AI) systems.

In view of the above, this article aims to present the main contributions of the BOSCO judgment from the perspective of algorithmic transparency and to assess its potential impact on the digital transformation of public administrations, particularly in relation to the use of artificial intelligence, both in the exercise of public powers and the provision of public services.

The remainder of this article is organized into three sections. First, some preliminary considerations on algorithmic transparency are presented, then the main arguments of the Supreme Court ruling in the BOSCO case are outlined. Finally, the article concludes with some reflections highlighting certain limitations of this ruling.

2. *Preliminary Considerations: Algorithmic Transparency*

The development of artificial intelligence and its increasing use within public administrations offers numerous possibilities to improve decision-making or the provision of public services through data analysis, automation, personalization or proactivity. This can lead to greater effectiveness, efficiency or administrative simplification.

However, the use of artificial intelligence in public administrations can also negatively impact some operating principles; the complexity of the design or operation of AI systems can prevent or make it difficult to explain the process leading to results. This may pose challenges to the traditional mechanisms of transparency and accountability of public administrations.

First, the use of algorithms in public administrations can also lead to a lack of transparency, particularly those systems that use artificial intelligence. This manifests as a lack of information on how decisions are made when AI systems are used, or a failure to explain the results or the reasons underpinning decisions to those affected by the results. Algorithmic opacity can arise for several reasons.[3] Firstly, opacity can be caused by the complexity of the design of the AI systems themselves, or the large volume of data used both in their design, training, and in the preparation of results (technical opacity). Secondly, public administrations may be unable to explain to citizens why and how they make decisions using AI systems due to the need to protect various interests and rights, such as personal data or intellectual or industrial property, as provided for in transparency regulations (legal opacity). Thirdly, algorithmic opacity can also stem from a lack of information about AI systems in an adequate format for public consumption, or an unwillingness to disseminate it to prevent those affected by automated decisions from circumventing their effects (organizational opacity).

Second, to counter this, public administrations must guarantee algorithmic transparency. This involves ensuring access to

"Bosco": la sentencia del Tribunal Supremo, in *Almacén de Derecho,* 22 September 2025, is more prudent, considering the judgment to have 'more bark than bite'.

[2] Despite the preceding statements, previous pronouncements regarding algorithmic transparency in France, Italy and the Netherlands should be considered. Examples include the pioneering resolutions of the *Commission d'Accès aux Documents Administratifs* in France (specifically the resolutions of 8 January 2015 on access to the source code of the software that simulates the calculation of personal income tax [20144578] or that of 23 June 2016, on the post-bac admission algorithm [20161990], the decision of the Constitutional Council QPC 2020-834 of 3 April 2020 concerning the Parcoursup algorithm, and the judgment of 7 December 2022 of the Administrative Court of Paris on the Affelnet application). In Italy the judgment of 14 February 2017 of the Regional Administrative Court of Lazio on access to the algorithm of the program for the management of the interprovincial transfer of teachers, or that of 14 November 2022 of the Regional Administrative Court of Campania on the automated calculation of compensation by the AGEA provide other examples, as well as that of the judgment of 5 February 2020 of the Regional Administrative Court of the District of The Hague in the well-known SyRI case in the Netherlands.

[3] On algorithmic opacity see *in extenso* A. Cerrillo i Martínez, *La transparencia de los algoritmos que utilizan las administraciones públicas*, in R. Camp Batalla (ed.), *Anuario de Transparencia Local*, vol. 3, Madrid, Fundación Democracia y Gobierno Local, 2021.

information on AI systems, enabling citizens to evaluate or control whether an algorithm used by public administration has functioned correctly and whether the automated action aligns properly with the intended frame of reference. Algorithmic transparency has several facets. First, communication is key to ensuring that citizens, particularly those interacting with public administration, are aware that they are interacting with applications and that they are clearly identified as such, rather than being presented as human interactions. Second, traceability is essential to allow scrutiny of the design and operation of AI systems, the data used, or the processes that produce the result. Third, explainability is important for providing information about the AI processes and, ultimately, the foundations and rationale behind the results obtained.

Third, administrative transparency is a legal principle derived from the Spanish Constitution and is provided for in Article 3 of Law 40/2015, of October 1st, in the Legal Regime of the Public Sector. The principle of transparency has been implemented, in general terms, by the Law 19/2013 of 9 December on transparency, access to public information and good governance (LTAIBG), which was developed by a set of transparency laws approved by the regions (autonomous communities) in Spain.[4] Some of the standards included already specifically refer to transparency in relation to the use of technology and AI systems in particular.[5]

Fourth, the algorithm – the set of rules and procedures used by artificial intelligence systems to produce results – is public information, to the extent that it is in the hands of the public administration. This has been generally recognized for the past decade by transparency guarantee authorities such as the *Comissió de Garantia del Dret d'Accés a la Informació Pública* (Commission for the Guarantee of the Right of Access to Public Information of Catalonia),[6] or the *Consejo de Transparencia y Buen Gobierno* (Transparency and Good Governance Council).[7]

Fifth, algorithmic transparency can be conveyed through different mechanisms, such as algorithm registries, the dissemination of information in electronic offices or the publication of the algorithm source code in addition to the exercise of the right of access to public information.[8]

A final preliminary consideration is that the traditional mechanisms for ensuring administrative transparency have proven somewhat inefficient in guaranteeing algorithmic transparency, as evidenced by various studies and by disputes observed before transparency guarantee bodies.[9]

3. *A Brief Comment on the BOSCO Judgment*

Supreme Court Judgment No. 1119/2025 of 11 September 2025 concerns the appeal

[4] In addition to transparency legislation, when discussing algorithmic transparency, the provisions of Articles 13 or 50 of the Artificial Intelligence Regulation, and Articles 13, 14 and 15 of the General Data Protection Regulation must be considered.

[5] For example, reference may be made to the transparency criteria that public administrations must consider when using algorithms in decision-making, as provided for in Law 15/2022 of 12 July, integral to equal treatment and non-discrimination (Article 23), and Law 1/2022 of 13 April, on Transparency and Good Governance of the Valencian Community (Article 16).

[6] Resolution 200/2017 of 21 June states that the source code of a computer program used by the Administration in the appointment of the members of the evaluation courts constitutes public information. Previously, the resolution of 21 September 2016 addressed the estimation of Claims 123/2016 and 124/2016.

[7] In this regard, the resolution of 20 May 2021, 058/2021 issued concerning the request for access to the algorithm used for the calculation of pensions by the General Treasury of Social Security, the resolution of 23 August 2023 relating to the VIOGEN system, and the resolution of 24 September 2024 on access to the source code and technical specifications of the appointment prioritization application of the Ministry of Inclusion, Social Security and Migration, are all relevant.

[8] Regarding the different mechanisms to channel algorithmic transparency, see, in general, A. Cerrillo i Martínez and C. I. Velasco Rico, *La transparencia algorítmica*, in A. Cerrillo i Martínez and C. I. Velasco Rico (eds.), *La regulación de la inteligencia artificial en España: una propuesta normativa para su uso en las administraciones públicas,* Granada, Comares, 2025b. Regarding access to the source code, in the resolution cited in the previous note the Transparency and Good Governance Council stated that in the absence of other more effective transparency mechanisms 'the only effective resource for such purposes is access to the algorithm itself and its code, for its scrutiny both by those who may feel harmed by its results and by the public in general in the interests of upholding ethical principles and justice'.

[9] R. Galindo Caldés, A. Cerrillo i Martínez, J. Ponce Solé, C. I. Velasco Rico and M. Vilalta Reixach, *La transparència dels algoritmes als municipis metropolitans*, Barcelona, Estudios, 2019. These limitations had previously been highlighted R. Brauneis and E. P. Goodman, *Algorithmic transparency for the smart city*, in *Yale Journal of Law & Technology,* no. 20, 2017.

filed by the *Fundación Ciudadana Civio* (Civio Citizen Foundation) against the judgment of 30 April 2024, issued by the *la Sala de lo Contencioso-Administrativo de la Audiencia Nacional* (Contentious-Administrative Chamber of the National Court) (Seventh Section).[10] The latter judgment dismissed the appeal filed against the judgment of 30 December 2021, issued by the *Juzgado Central de los Contencioso-Administrativo* (Central Administrative Court) number 8, which dismissed the contentious-administrative appeal filed against the resolution of the Council of Transparency and Good Governance (CTBG) of 18 February 2019. This judicial process analysed the resolution of the *Consejo de Transparencia y Buen Gobierno* (Transparency and Good Governance Council) that had partially upheld the claim filed against the Ministry of Ecological Transition (MITECO) on access to information relating to the telematic application (BOSCO).[11]

The matter derived from a request for access to information submitted by the Civio Citizen Foundation to the Ministry of Ecological Transition (MITECO) to obtain information related to the telematic application (BOSCO).[12] BOSCO is an application developed by the Spanish government to enable electricity supply companies to determine whether an applicant for the social bonus –aid aimed at vulnerable households to reduce electricity bills, as provided for in Law 24/2013 of 26 December, on the Electricity Sector– meets the requirements to be considered a vulnerable consumer.[13] According to the Supreme Court, BOSCO automatically determines whether a consumer will be a beneficiary of the aid.[14]

A reading of the Supreme Court ruling reveals various points of interest from the perspective of algorithmic transparency.

Firstly, the BOSCO judgment begins with the premise that the right of access to information is a constitutional right, recognized as a subjective right within the Constitution and intrinsically linked to various fundamental rights. Although these considerations are now widely accepted,[15] it remains important to acknowledge that they frame the content of the Supreme Court ruling. In line with its own extensive jurisprudence, the ruling affirms that 'the right of access to public information transcends its status as an objective guiding principle of public administration, as a constitutional right that can be exercised, as a subjective right before public administrations, derived from demands of democracy and transparency, and inseparably linked to the democratic state and the rule of law'.[16] It also reiterates that this 'subjective constitutional right is closely tied to fundamental rights and public freedoms'.[17]

Secondly, the Supreme Court recognizes the existence of a principle of algorithmic transparency. The ruling highlights that the digital transformation of public administrations is creating a new generation of risks, making new mechanisms that are tailored to these evolving needs necessary. Thus, the Court states that 'the configuration of the right of access to public information that we have outlined acquires special relevance to the risks involved in the use of new technologies in the exercise of public powers or the provision of public services'.[18]

At the time the judgment was issued the

[10] On this judgment, see, L. Cotino Hueso, *Caso Bosco, a la tercera tampoco va la vencida. Mal camino en el acceso los algoritmos públicos*, *Diario La Ley,* no. 84, 2024.

[11] Resolution 701/2018, of 18 February 2019.

[12] Accessible in: https://energia.serviciosmin.gob.es/Bosco (last consultation: March 2026).

[13] Article 45 developed by Royal Decree 897/2017 of 6 October, which regulates the figure of the vulnerable consumer, the social bonus and other protection measures for domestic consumers of electricity (in particular, Article 8 and the second transitional provision) and Order ETU/943/2017 of 6 October.

[14] The Supreme Court highlights in its ruling that the Spanish Data Protection Agency, in its resolution of 6 November 2024, qualified BOSCO as an automated individual decision in accordance with the provisions of article 22.1 of the General Data Protection Regulation.

[15] In Judgment 164/2021 of 4 October, the Constitutional Court recalls that 'Article 105 b) EC, framed in title IV, 'Of the Government and the Administration', incorporates an objective guiding principle of the action of public administrations (Article 103.1 EC), derived from requirements of democracy and transparency, as well as a subjective right of persons, exercisable against the administrations, with subjects, object and limits defined in the constitutional precept itself' (Legal ground 3). Likewise, the Supreme Court itself, in its ruling of 29 May 2024 (ECLI:ES: TS: 2023:4287), states that 'the right of access of citizens to administrative files and records contained in article 105 b) of the Spanish Constitution constitutes a manifestation of the principle of administrative transparency and, together with others, integrates the content of one of the so-called 'next generation rights'; the right to good administration contained in article 41 of the Charter of Fundamental Rights of the European Union' (Legal ground 4).

[16] Legal ground 9.

[17] Legal ground 6.

[18] Legal ground 6.

principle of algorithmic transparency was not explicitly recognized in any rule, beyond its mention in Law 15/2022 of 12 July, integral to equal treatment and non-discrimination. Therefore, from a legal perspective, the reference to this principle is one of the most innovative contributions of the Supreme Court ruling. Specifically, the Supreme Court points out that 'thus arises, on the occasion of automated administrative activity, the so-called principle of 'algorithmic transparency', which imposes public information obligations on public administrations to facilitate citizens' access, to a greater or lesser extent, to the fundamental characteristics of the algorithms used in decision-making or their source code, as a manifestation of the principle of transparency, constitutionally enshrined (Article 105.b of the SC [*Spanish Constitution*])'.[19] Therefore, 'public authorities are obliged, among other obligations, to explain in an accessible manner how algorithms function as part of the decision-making that affects citizens, allowing them to understand, scrutinize and participate in public administration'.[20]

This principle is linked to the obligation of public authorities to clearly explain how algorithms are used in the exercise of public power or in the provision of public services. As we will see below, this offers citizens the possibility of controlling, auditing and monitoring how public authorities make their decisions, particularly those that are automated or use artificial intelligence systems.

The third key point is that in its ruling, the Supreme Court recognizes that a computer program or application that is in the power of a public administration constitutes public information.[21] Therefore, within the scope of that conclusion, the transparency mechanisms provided for in the legislation are applicable to this information. This is an interesting idea that, as has already been pointed out, had previously been recognized by a number of rulings by bodies responsible for guaranteeing the right of access to public information. It is significant that the court has reached the same conclusion.[22]

The fourth idea of interest of the judgment is the recognition that algorithmic transparency can be guaranteed through access to the source code of an application. That is, access to the computer language that defines the operation of the algorithm is a tool that guarantees that citizens have knowledge of the systematic process. It also provides the possibility of controlling its operation, to assess whether it is adequate or corresponds to what the public order provides. In this regard, the Supreme Court points out that 'when public administrations make use of automated computer decision-making systems in the exercise of public powers, affecting the rights of citizens, access to their source code is one of the mechanisms through which the algorithmic transparency required for the full exercise of the right to public information is guaranteed'.[23] Furthermore, the court identifies 'a public interest in accessing the BOSCO application source code to know how the decision to grant or reject the social bonus is made and to check if there are errors in said decision. This interest is related to the right to legal certainty (Article 9.3 of the EC) of those individuals subject to the BOSCO application, since it is used for the recognition of rights to consumers'.[24]

The Supreme Court warns that access to the source code is crucial for verifying an algorithmic system's compliance with current legislation. The judgment states that, 'in the case of automated administrative actions, access to the source code makes it possible to verify the conformity of the algorithmic system with the regulatory provisions that must be applied, since the –parametrized– motivation of the administrative decision that takes place lies in the design of the parameters that determine that source code'.[25] The Court particularly highlights the usefulness of access to the source code, stating that 'the transparency required in the operation of the BOSCO telematic application, with an obvious and relevant impact on the social rights of citizens, is not guaranteed by the

[19] Legal ground 6.
[20] Legal ground 6.
[21] In this regard, the Supreme Court states that 'there is no doubt that the applications or software are under the material scope of the application of the LTAIBG since they constitute public information' (Legal ground 6).
[22] In the words of the Supreme Court, it is possible to 'provide citizens with the necessary information about the decision-making process for their understanding, as well as to verify its adequacy to the rules whose application must govern its operation' (Legal ground 6).
[23] Legal ground 6.
[24] Legal ground 7.
[25] Legal ground 7.

mere functional explanation thereof, offered by the administration that owns the application, but requires access to its algorithm; otherwise it would not be possible to verify this operation accurately and in detail and, therefore, the subjection of the orders or instructions in computer language that contain the legal and regulatory provisions on the requirements necessary to obtain the social bonus'.[26]

While this statement is likely true in the context of the BOSCO system, its applicability to other algorithms, particularly artificial intelligence systems, requires careful consideration, as discussed in the next section.[27]

Finally, a fifth consideration relates to the Supreme Court's own interpretation of the limits of transparency provided for by the regulations.[28] The issue of transparency limits is generally relevant, but it gains particular prominence in prior judicial procedures and processes, where the debate on the BOSCO case has largely focused on the use of limits such as the protection of personal data, intellectual or industrial property, or public security. To resolve this issue, the Supreme Court adopts a very restrictive interpretation of the limits to the right of access, setting a very narrow boundary.

To this end, it starts from the principle of good administration which, as stated in the judgment, 'also leads to a broad and expansive interpretation of this constitutional right, which entails a restrictive interpretation of the limits opposable to access to public information, regardless of whether its justified and proportionate application is required'.[29]

Regarding security, previous judicial instances had recognized it as a limitation to accessing the algorithm's source code, based on a report from the National Cryptologic Centre. The report concluded that 'the disclosure of the source code objectively increases the severity of any computer application's vulnerabilities' and may affect national security, public safety or the safety of those affected. However, according to the Supreme Court, 'assessing the aforementioned risk of computer vulnerability as a general obstacle to accessing the source code would contradict the very requirement of proportionality and the balancing of interests at stake, as required by the LTAIBG. The public security limit can only prevent access to public information when justified and proportionate to its object and purpose, after balancing conflicting interests'.[30] Indeed, the High Court stated that 'even if, in the abstract, access to a program's source code could potentially increase some risks to the application's computer security, transparency could equally contribute to improving the code and strengthening its security'.[31] In any case, the Supreme Court concluded that 'the absence of a trial of proportionality and a balancing of interests at stake in the appealed judgment motivation, where no reasoning is omitted on the matter, violates article 14.2 of the LTAIBG and deprives the importance granted by that judgment to the risks of vulnerability of any justification'.[32]

Specifically, regarding the security and protection of personal data, the Supreme Court ruling states that 'in the case in which we are dealing with, the public information to which access has been requested – the source code of the BOSCO computer application – does not contain or include personal data of citizens requesting a social bonus because they are completely excluded from access to public information'.[33]

In terms of intellectual property, which Article 14.1.j) LTAIBG includes among the limits of the right of access, the judgment starts from the premise that BOSCO's intellectual property belongs to the state administration. Therefore, it considers that 'it could only prevent access to public information when justified and proportionate to its object and purpose, after weighing the conflicting interests, and given the right of access to information is configured in our legal system with a broad formulation, to the point of justifying a restrictive interpretation

[26] Legal ground 8.
[27] As J. Moreno García, *La transparencia de los algoritmos en la STS 1119/2025, de 11 de septiembre de 2025: El caso Bosco, un paso decisivo en la lucha contra la opacidad algorítmica*, cit., points out, 'The sentence applies well to the specific case raised but has limited applicability to algorithms in general'.
[28] In previous judgments, the Supreme Court, including in that of 8 April 2024 (rec. 681/2022), stated that 'the criterion set by this Chamber in the application of the limits opposable to the right of access of article 14 LTAIBG is that of its restrictive interpretation, in order not to undermine the right of access regulated broadly in the aforementioned rule' (Legal ground 4).
[29] Legal ground 6.
[30] Legal ground 8.
[31] Legal ground 8.
[32] Legal ground 8.
[33] Legal ground 8.

of such a limit, this Chamber concludes that it cannot identify any impediment to access to the requested public information – the source code of the BOSCO telematic application'.[34] According to the High Court, 'the mere risk of possible damage to the administration, as owner of the intellectual property right concerned, due to its unauthorized use or exploitation, as a result of access to public information, does not, by itself, constitute grounds for exclusion of the right of access, as it lacks the relevance necessary to operate with such a limiting effect'.[35] Ultimately, the Court concedes that 'the interest in access to the source code of the BOSCO telematic application takes precedence over the state administration's right to intellectual property and any damages that may arise from such access as a result of its unauthorized exploitation by third parties; damages whose risk can easily be minimized by subjecting access to certain precautions, such as, for example, the prohibition of the publication or use of the source code for other purposes without the express authorization of the administration, an explicit warning regarding the responsibility that the access applicant may incur for breaching that prohibition, the signing of a commitment of limited use of the information received, or the imposition of a duty of confidentiality with respect to the information consulted'.[36]

4. *Concluding Remarks*

In view of the five previous arguments that justify a positive reading of the Supreme Court ruling in the BOSCO case, this article could not conclude without also sharing some final reflections to define its scope, particularly in relation to the transparency of artificial intelligence systems.

The first reflection concerns whether access to the source code guarantees algorithmic transparency, particularly in artificial intelligence (AI) systems. Access to the source code can guarantee traceability, allowing insight into the design of algorithms based on rules created by a computer scientist or engineer, informed by standard criteria in computer code, the data used or the system's operation. Source code access could also provide elements to explain, justify or motivate a decision based on, or directly adopted by, these algorithms. However, AI systems are often so complex that they can become veritable black boxes.[37] Consequently, access to the source code may not ensure traceability or explainability, even for individuals who have the knowledge or skills necessary to analyse or audit an algorithm. Therefore, recognizing access to source code as a mechanism of algorithmic transparency presents limitations when considering AI systems and, more generally, applications apart from BOSCO.[38] Indeed, when dealing with artificial intelligence systems based on general-purpose models trained with millions or trillions of data points, or with large databases using millions of indicators to make decisions, source code access may be either impossible or incomprehensible.

The second reflection is that the Artificial Intelligence Act, when regulating the obligations to be met by suppliers or those responsible for the deployment of AI systems, and particularly when defining the requirements of high-risk AI systems, does not stipulate that source code access should be facilitated.[39]

The third reflection relates to those entitled to request access to the source code. The judgment clearly limits this access, as the applicant in this case was the Civio Citizen Foundation, 'an independent non-profit organization, whose activity involves monitoring the operation of public institutions and their management of public resources, as well as promoting information to citizens about their operation, with the aim of fostering transparency'.[40] This qualification is particularly necessary, given that the Supreme Court itself recalls the criteria demanded by

[34] Legal ground 7.
[35] Legal ground 7.
[36] Legal ground 7.

[37] F. Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information*, Cambridge, MA, Harvard University Press, 2015.
[38] Similarly, A. Huergo Lora, *"Juicio final" sobre "Bosco": la sentencia del Tribunal Supremo*, cit., who warns that the application to other cases will be limited. Likewise, C. Velasco Rico, *La transparència algorítmica al sector públic: més enllà del cas BOSCO*, cit., observes that 'the truth is that the STS resolves a specific case, in very specific circumstances relating to the person requesting the information (Civio) and to the characteristics of the BOSCO program (owned by the AGE). Legal reasoning is difficult to extrapolate to other assumptions with different factual elements'.
[39] Article 13 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence.
[40] Legal ground 7.

the European Court of Human Rights to recognize the right of access to public information (among others, Judgment 18030/11 of 8 November 2016, the Maygar Helsinki Bizottság v. Hungary case), which highlights that the applicant must perform social surveillance functions associated with the guardianship and custody of democracy.[41]

Finally, it is worth considering whether recognizing algorithmic transparency might change how public administrations operate, particularly, when they automatize their functioning using artificial intelligence systems. While the preceding discussion suggests that public administrations could choose to report on the algorithms they use, their purpose, and their functionality, truly guaranteeing algorithmic transparency may require updating transparency laws. This update should encompass the needs arising from digital transformation or specifically regulate the use of artificial intelligence within public administrations.[42] Furthermore, public procurement administrative clauses and technical requirements should be updated to ensure that the companies providing AI systems to public administrations facilitate compliance with algorithmic transparency.

Despite a generally positive assessment of the judgment and its innovative nature, its limited scope beyond the specific case must be noted, particularly in regard to guaranteeing the transparency of the AI systems used by public administrations.

[41] Legal ground 7.

[42] In this regard, see the regulatory proposals formulated in A. Cerrillo i Martínez and C.I. Velasco Rico, *La regulación de la inteligencia artificial en España: una propuesta normativa para su uso en las administraciones públicas*, cit.