Transparency, accountability and participation: a common agenda for social cohesion and governance in Latin America
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Preface

The series *Studies into Local and Regional Public Policies on Social Cohesion* has been produced by the URB-AL III Programme Orientation and Coordination Office. Its aim is to explore the current situation with regard to a set of core problems in the present agenda for political bi-regional European Union-Latin American discussions on social cohesion.

This study addresses the problems of transparency, accountability and participation, and their relation with those of social cohesion, confidence in institutions and governance.

In recent decades, the quality of public governance has become both an important political issue and a key variable in defining the degree of society’s welfare and development. A conceptual and operational analysis of the idea of good governance brings to the fore three key matters underlying this second phase of institutional enhancement aimed at improving society. These issues are transparency, accountability and third, but of no lesser importance, citizen participation.

More recently, and on a parallel basis, social cohesion as a target of and guide for public action has become another key item with which to enhance society’s welfare and development. Social cohesion is a collective result. As such, it cannot be attributed to any particular individual. There is nevertheless general agreement in the specialist literature and in circles associated with decision-making that governments carry a greater responsibility than other agents as they have sovereign authority over the collective public good. Good governance and, therefore, transparency, accountability and participation are key elements in implementing agendas and public policies that favour more cohesive societies.

It is at a local government level where the need for transparency, accountability and participation is perhaps clearest and most evident. The exercise of government in close proximity to the public often suffers from a scarcity of financial resources with which to meet needs. The relative significance of other resources with which to encourage the effectiveness and scope of government action often comes into play and this, therefore, is the easiest level at which the public can access their leaders and be aware of and supervise their actions. Against such a background, transparency, accountability and a constant eagerness for citizen participation are key resources for public leaders who understand the desirability of collaborative governance schemes. Such schemes, which rely on the generation of mutual voluntary, individual and collective social understanding to achieve common goals, are crucial for building greater territorial social cohesion. They are also key both to leaving behind dynamics associated with political disaffection and to enhancing the process of assumption by citizens of public affairs as their own and to reinforcing a sense of belonging to a group linked to a territory.
This study, therefore, presents transparency, accountability and participation as part of an indivisible package that facilitates progress toward the goal of greater local social cohesion. We believe that it may encourage some interesting reflections both in a Latin American and in a European context.

Jordi Castells i Masanés,
Director of International Relations
at Diputació de Barcelona and General Coordinator of the URB-AL III Programme
Orientation and Coordination Office
Promoting social cohesion has been one of the priorities of the bi-regional agenda of the European Union and Latin America in recent years. This commitment stems from verification of the growing disparity between “the economic growth and the quality of its social results” and the unacceptable increase in social divides and inequalities in most Latin American countries.

Social cohesion, a concept defined from a comprehensive, multidimensional perspective that goes beyond traditional palliative approaches associated with social integration, has been the focus of some of the efforts of the European policy of cooperation with Latin America, in both bilateral and regional programmes.

This commitment goes back to the EU-LAC 2004 Summit in Guadalajara and continued in Vienna (2006), Lima (2008) and Madrid (2010). At the latter, Heads of State and of Government pledged to “further strengthen this partnership with the goals of promoting inclusion and social cohesion.” Likewise, they expressed their commitment to “promoting integrated strategies as well as public policies -including social protection and fiscal policies- aimed at eradicating poverty and reducing inequality and social exclusion.”

Social cohesion is also a key vector inherent in the distinctive character of the European Union. Since the Treaty of Lisbon, the three-fold objective of economic, social and territorial cohesion has had a constitutional basis. Reducing disparities among citizens and territories and an attempt at true convergence (expressed as GDP per capita) among the regions of all Member States has been one of the cornerstones of EU policy, through its cohesion strategy, since the nineteen-nineties and particularly since the Maastricht Treaty entered into effect.

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2 The Maastricht Treaty (or Treaty on European Union [TEU]), thus named as it was signed on 7 February 1992 in the city of Maastricht, is a Treaty that amended the previous founding treaties of the European Communities: the 1951 Treaty of Paris, the 1957 Treaty of Rome and the Single European Act of 1986. It was a crucial step in the European integration process because for the first time, the initial economic goal of the communities was exceeded and a vocation of a political nature was introduced. This Treaty established the EU, which itself encompasses the three previous European communities, albeit with considerable modifications, particularly to the European Economic Community, which was thereafter referred to as the European Community. In addition, two systems of intergovernmental cooperation were adopted: the Common Foreign and Security Policy (CFSP) and Cooperation in Justice and Home Affairs (CJHA). The Treaty also featured announcement of the introduction of the euro. Negotiations on the Treaty ended in December 1991. The Treaty entered into effect on 1 November 1993. It was, in turn, amended by the Treaty of Amsterdam, which was approved by the Council of the European Union in 1997 and entered into force, after mandatory ratification by all Member States, on 1 May 1999. With the Treaty of Amsterdam the political structure of the EU was altered because of the envisaged expansion with other states. The Treaty of Nice also amended the TEU.
It is indeed interesting to note that although the concept is being significantly displaced in the formulation of the new European policy of development cooperation for the forthcoming 2014-2020 programming period, the principles underlying commitment to social cohesion remain effective. Hence, the Communication from the European Commission setting out its priorities for development cooperation in this period, entitled *Increasing the impact of EU Development Policy: an Agenda for Change,*\(^3\) includes, as one of two core priorities, inclusive and sustainable growth for human development, a concept that essentially reflects the pledge to social cohesion, even if it does involve something of a terminological and even conceptual reappraisal.

Similarly, the Joint Communication to the European Parliament and the Council entitled *Global Europe: a new approach to financing EU external action*\(^4\) also tackles the subject through the notion of human development, a term coined years ago by the United Nations Development Programme (UNDP), to which until recently little attention had been paid by the European Union.

In its proposal for a Regulation establishing a Financing Instrument for Development Cooperation,\(^5\) the European Commission likewise developed the issues to feature in the concept of human development. It is a broad concept that includes health, education, gender equality, employment, skills, social protection and social inclusion as well as aspects associated with economic development such as growth, employment, trade and private sector participation.\(^6\)

The notion of human development thus defined is one of the pillars of what is to be the *new Programme on Global Public Goods and Challenges.*\(^7\)

Evolution of concepts in the European Union policy agenda regarding development cooperation is nothing new. What is significant is that the principles underlying commitment to social cohesion remain valid within the new framework of priorities proposed in the Agenda for Change.

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The Commission’s strategy document itself also significantly reveals a clear appreciation of the close connection that must exist between inclusive and sustainable growth (social cohesion) and democratic governance. This connection is substantive and causal, which means that human development (based on the commitment to a new paradigm and inclusive and sustainable growth) is not possible outside a democratic framework characterised by respect for human rights and a clear pledge to quality governance.

Lastly, the Agenda for Change emphasises its key role as it points explicitly to local and regional governments as agents/partners with which to develop its cooperation strategies. Democratic states in which efficient formulas of good government prevail cannot be strengthened without local governments that are reinforced both institutionally and operationally. Neither is sustainable and inclusive growth possible without consideration for public policies and the services performed and provided by governments close to the people.

In line with this approach, the Economic Commission for Latin America and the Caribbean (ECLAC) and the Organisation for Economic Cooperation and Development (OECD), in its *Latin American Economic Outlook 2012*, both advocate use of the region’s solid economic growth to address “ambitious public policy agendas in the region, to reduce risks and allow the opportunities available for development.” They therefore point to the need to carry out “fiscal reforms to reduce the enormous gap between the requirements and the available resources.” It also underlines the need to transform the State in order to “respond better to the needs of its citizens and manage resources in a more effective, efficient and transparent way.”

Transparency and accountability as key factors for good governance, or democratic governance, are now essential core components on the agenda for strengthening and improving the institutions that governments –regardless of their territorial scope– and international organisations promote within the framework of their respective development strategies.

It is now understood better than in the past that there can be no development without legitimate, effective, transparent and participatory institutions and that legitimate and acceptable governmental institutions cannot be established in environments without the necessary conditions for them. Transparency, accountability and citizen participation are thus key items in the generation of social cohesion and in improving the quality of democratic governance; they are therefore established in core vectors of the current Latin American political agenda.

The relation between social cohesion and good government, the latter defined as a component of the ethical institutional infrastructure of a state, region or local government, and its positive association (which this study will attempt to show)
depends on various factors: on the institutional reinforcement and autonomy of public institutions; on the establishment of enforcement, audit and control mechanisms; on the implementation of good information systems; on tools for assessment and accountability; on the necessary inter-institutional coordination and cooperation; on citizen participation and also, probably, on international cooperation.

In Latin America and Europe there have been numerous local experiences showing that instruments that introduce transparency in the exercise of public power and citizen participation mechanisms both improve the quality of democracy and are highly effective tools in generating social cohesion.

This study is therefore intended to develop a political-conceptual theory based on an analysis of successful local experiences. The local environment has always been a good laboratory and has therefore been a constant focus of the work of the URB-AL Programme.

To this end, experiences have been identified with a view not only to describing specific, measurable, and assessable lessons, but also, on that basis, to prompting reflections, conclusions and recommendations on the positive links (based on cause and effect) between regulatory and political systems that guarantee transparency, accountability and citizen participation, and democratic governance and social cohesion.

In short, this study is intended to demonstrate that a suitable ethical institutional infrastructure is one of the essential elements for promoting territorial social cohesion. This requires not only analysis of the concepts that define the existence of such an infrastructure (which include a proper legal system and transparency, accountability and public governance mechanisms), but also association with highly significant issues for good government and social cohesion such as the struggle against corruption, on the one hand, and education as the core feature of the development, on the other.
The study is therefore intended to contribute to debate and to dialogue that public administrations should be encouraging on the issue, given that measures aimed at generating good public governance will enhance necessary public confidence in their institutions and in the public policies implemented thereby, and will prompt citizen involvement and participation, while exploring the importance of public services to guarantee equality and cohesion.

The experiences analysed will support the study's hypothesis and provide instruments and tools with which to design a road map for enhancing levels of inclusion, legitimacy, recognition, equality, participation and membership in the region, in order to yield inclusive and sustainable growth, to improve the effectiveness and legitimacy of institutions and to promote social cohesion.
1. Social cohesion: towards a civic and institutional analysis

1.1. Origin and geographical context

For over two decades now, historical, cultural and economic links have bound the European Union (EU) and Latin America and the Caribbean (LAC) and made them natural partners that share common principles, values and commitments in democracy, good governance and social cohesion.

1.1.1. Europe

The EU has deeply marked the history of Europe and the mentality of its citizens, and continues to do so because of its remarkable system of unprecedented political integration. The EU, which is in constant development, currently consists of three fundamental areas: a political Europe, an economic Europe and a social Europe. This is illustrated by the fact that for almost four decades social cohesion has been one of the EU’s most important objectives and a goal that not only remains valid, but now also represents one of the cornerstones of its political endeavour.

Although the origin of social Europe basically dates from the nineteen-seventies and the creation of the European Social Fund in 1974, it was in the 1992 Maastricht Treaty that the European Economic Community took a crucial leap in the process of political integration, progress that was reflected in the incorporation of social cohesion as a key EU objective and the adoption of the “Social Policy Protocol”, which was eventually included in the Treaty of Amsterdam in 1996. From that moment onwards, different initiatives have favoured the consolidation of social economic and social cohesion. The ESF is one of the EU Structural Funds, the funding of which is allocated to improving social cohesion and economic welfare in all regions of the Union. The Structural Funds are financial redistribution instruments that help to improve cohesion within Europe, as they concentrate spending in the less developed regions. ESF grants are specifically intended to support the creation of more jobs and better working conditions within the EU. The fund therefore jointly finances national, regional and local projects to improve levels of employment, quality of work and employment opportunities in Member States and their regions.

9 When the Treaty of Amsterdam entered into effect in 1999, it became the new legal regulatory system of the European Union, after review of the Maastricht Treaty. It was approved by the European Council of Amsterdam (16 and 17 June 1997) and signed on 2 October 1997 by the foreign ministers of the fifteen member countries of the European Union. It became effective on 1 May 1999 after ratification by all Member States. This Treaty was based on several key areas: employment, free movement of citizens, justice, common foreign and security policy, and institutional reform in order to deal with the admission of new members. These issues had remained pending at Maastricht. The Treaty of Amsterdam established the free movement of persons from EU Member States within EU territory.

8 The European Social Fund (ESF) is the EU’s main financial instrument for encouraging employment in Member States and promoting greater
Europe, although it was at the Lisbon Summit in March 2000, which led to the Union’s 2000–2010 Strategy, and the entry into force of the Treaty of Nice in 2003, that social inclusion and the fight against exclusion became active issues on the community agenda, which thenceforth prompted the need for a comprehensive Social Programme.11

Social cohesion policy continued to evolve, and the Treaty of Lisbon (2005) included territorial cohesion as one of its targets.12 This “new” dimension represents a milestone in the history of the European Union, as the treaties explicitly recognised “territorial cohesion”, together with economic and social cohesion,13 as a key objective intended to promote the harmonious and sustainable development of territories. Territorial cohesion is therefore not an isolated element of economic and social cohesion, but rather complements and reinforces it.

The European Union is currently making a huge effort to overcome the economic and social crisis that it is suffering. The Europe 2020 Strategy is its road map for achieving intelligent growth based on a more competitive economy that creates more jobs and encourages social cohesion. The Europe 2020 Strategy is founded on the need to create and consolidate a strong, effective system of economic governance that coordinates policy measures among EU and national governments through what has been called inclusive, sustainable and intelligent growth.

This has five key objectives:

/ 75% of the population between 20 and 64 years old must be employed.

/ 3% of European Union GDP should be invested in R&D.

/ The “20/20/20” climate and energy target should be met (including an extra reduction of up to 30% in emissions if the conditions so allow).

/ The percentage of early school leavers should be under 10% and at least 40% of the youngest generation should complete higher education.

/ The risk of poverty should threaten 20 million fewer people.

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11 According to Eurostat official data, in 2001, 15% of the EU’s population was at risk of poverty. In 2006, 72 million Europeans (of a population of 460 million) were still living at risk of poverty.

12 Articles 2 and 3, title XVIII of the TFEU and Protocol No. 28.

13 Article 3 of the amended Treaty on European Union, as amended by the Treaty of Lisbon, states that the EU will promote “economic, social and territorial cohesion, and solidarity among Member States.”
The intention is that these targets should be met through the promotion of two symbolic initiatives: the Agenda for New Skills and Jobs and the European Platform against Poverty and Social Exclusion.

In short, the EU as a complex and constantly evolving social, economic, political and cultural phenomenon has been building and strengthening its social cohesion policy since its appearance as the cornerstone of the supranational political union that represents and, as pointed out in the EU glossary, “is an expression of solidarity between the Member States and regions of the European Union. It fosters balanced development throughout the EU, reducing structural disparities between regions and promoting equal opportunities for all.”

1.1.2. Latin America and the Caribbean

In Latin America, social cohesion became the subject of debate when the processes of economic deregulation, promoted by the Washington Consensus\(^ {14} \) were introduced in the late nineteen-eighties.

The situation in Latin America has been very imbalanced on account of the emergence of different processes of economic integration in the region, and although various supranational policies have gradually been assumed, especially in economic and trade policies, they are still a long way from effective supranational social cohesion strategies. In recent decades, however, social cohesion in Latin America has become a priority because of the impact of economic globalisation and the dramatic transformation of society.

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\(^ {14} \) The Washington Consensus comprises a list of economic policies devised in the nineteen-nineties by international financial organisations and economic centres in Washington. It was presented as the best economic programme for implementation by Latin American countries in order to boost growth. Throughout the decade the list and its economic and ideological foundations were asserted and it became a general programme. The consensus did not yield the envisaged results.
The geopolitical context of LAC is not comparable with that of the EU and therefore some authors, such as Ballón, have gone further and argued that social cohesion is a term devised in and exported from Europe that crossed the Atlantic and is still in a phase of adaptation to the reality there.\footnote{Some doctrinal currents therefore considered that it may contribute important elements to the debates being held in the region in this area, while others reject it as an expression of a new version of Eurocentrism and demand it should be given its own content.}

Neither is the magnitude of the divides between rich and poor in both regions comparable. The great divide of inequality can be observed by looking at the income ratio of the richest 20% and poorest 20% in LAC.

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Chart 1. Ratio of income of the wealthiest 20% and the poorest 20% in LAC

Source: ECLAC. Created by the author based on the data that appear in CEPALSTAT (2002-2008)
Information provided by the Latinobarómetro on perception of the fairness of distribution of wealth similarly features percentages indicating that society perceives distribution of wealth as unfair. Regardless of how social cohesion should be constructed and defined in LAC, the data show that it is indeed necessary, as the effects of economic deregulation policies and the new social reality of Latin America have led to increased inequalities that prompt a need for comprehensive reappraisal of social cohesion policies.

Over the past decade, relations between the EU and LAC have been strengthened because of efforts by the European Commission. The starting point was the Strategic Partnership between the European Union (EU) and the countries of Latin America and the Caribbean (LAC), which was established in Rio de Janeiro in 1999 and represented a qualitative leap in bilateral relations between the two regions. Since it was founded, many initiatives have been performed to promote social cohesion in Latin America. An example are the successive Summits of the Heads of State and Government of both regions, at which social cohesion has always been a core area of discussion. These debates subsequently led to specific measures of a political and institutional nature such as the introduction in 2007 of the first EU-LAC Forum on Social Cohesion and the decision to allocate a significant part of the European Commission’s cooperation funds to social cohesion policies, a significant
feature of which are the mechanisms for dialogue and cooperation among government authorities, international institutions and civil society through the creation of programmes such as EUROsociAL I and II, and URB-AL III.

In 2009, ten years after the Rio de Janeiro Summit, the European Commission issued a Communication to the European Parliament and to the Council of Europe urging them to take stock of the Strategic Partnership with Latin America. For the EU, as also shown by its summits of Heads of State and Government, social cohesion is a priority in its relations with third countries and in particular with Latin America and the Caribbean. Social cohesion, however, albeit a common challenge in both regions, often refers to different problems that require different responses.

1.2. Circumscription of the concept: a definition based on its scope and principles

As a prior consideration, taking the history of both regions into account, defining social cohesion is indeed no easy task.

This is for many reasons, some of which are mentioned below.

/ It is a concept that has appeared and evolved over two decades at different rates.
/ It is subject to constant revision in different spheres of activity.
/ It coincides with similar notions that have elements of semantic convergence.
/ It features a host of both theoretical and operational definitions.
/ It covers a broad spectrum of public policies.
/ There are many indicators with which to make it operational.
/ It deals with different geographical, socio-economic and cultural contexts.
/ It is not without a certain ideological bias.

Despite these constraints, social cohesion has nonetheless become a key issue on the contemporary global public agenda. Since social cohesion involves desirable values it has become a vehicle for pursuing collective targets and influencing political processes aimed at achieving them.

As a concept linked to dynamism and associated with processes and not solely results, it should be asked whether social cohesion is a real or a utopian model. A good answer can be found in the definition offered by the Council of...
Europe (CoE) in 2004 when it declared that social cohesion is “the capacity of a society to ensure the welfare of all its members, minimising disparities and avoiding polarisation.”

It adds that “a cohesive society is a mutually supportive community of free individuals pursuing these common goals by democratic means”, and that “No society is fully cohesive. Social cohesion is an ideal to be striven for rather than a goal capable of being fully achieved.”

As pointed out above, in the last two decades social cohesion policies have become extremely significant on the development agenda. In LAC, this was because new global economic processes had led to increased social gaps, which, as ECLAC states (2007), “pose a real threat to the foundations of social cohesion, most significantly in: the loss of confidence in public institutions and governance problems; the weakening of traditional sources of identity and belonging, and the growing disinterest in participation and the exercise of citizenship.” In the EU, meanwhile, the integration process established the framework for social cohesion initiatives, while the transfer of funds

<table>
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<td>Low income rate after transfers (threshold set at 60% of median income)</td>
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<td>Low income rate after transfers (illustrative values)</td>
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Source: Council of Europe (2005); created by the author
from the most economically prosperous to the most disadvantaged regions was prioritised as a mechanism for reducing disparities in development and increasing competitiveness and employment. This policy direction gave rise to the Laeken indicators (see chart 2), one of the most significant experiences in measuring social cohesion and adopted by the Member States of the European Union at the European Council meeting in Laeken (2001).

One of the main criticisms of the Laeken Portfolio, however, is that it was too narrow and did not allow for monitoring of some EU social policies, and focused only on the most visible manifestations of exclusion, rather than on their origin, as expressed by the CoE, which comprehends that what matters are the processes that place individuals in areas of vulnerability and exclusion. Hence, as there was no place in the Laeken Portfolio for indicators associated with the deterioration of citizen participation and the loss of senses of belonging, a complementary approach emerged through the CoE Revised Strategy for Social Cohesion.

This strategy acknowledged social cohesion as a framework that “reflects the quality of the social and institutional bonds needed to ensure the well-being of society as a whole and that expresses the European social model, in an attempt to make growth compatible with social justice.” The CoE’s concept of cohesion represents a positive approach to cohesion, as it contemplates policies of inclusion and of access to basic rights, prioritises processes that prompt the formation of links in societies and addresses the more profound aspects of social life (attitudes, values) and their impact on cohesion.

One of the differences between the Council of Europe Methodological Guide and the approach taken in the Laeken Portfolio is the inclusion of institutional and subjective aspects of cohesion that provide information on public perceptions and attitudes regarding different processes to enhance social cohesion (social networking, citizen participation, solidarity, sense of belonging, tolerance and respect for diversity).

Latin America and the Caribbean, however, in the absence of a supranational integration policy

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17 These indicators are statistical constructs established in order to undertake ex-ante diagnosis of social reality and ex-post political assessment.

18 According to the Council of Europe (2005), social cohesion is society’s ability to ensure the welfare of all its members and ensure fair access to available resources, respect for human dignity, diversity, personal and collective autonomy, responsible participation and the minimisation of social and economic disparities in order to prevent polarisation. A cohesive society is a mutually supportive community that comprises free individuals who pursue common goals by democratic means (European Committee for Social Cohesion 2004). From the perspective of the Council of Europe, this concept prevents both solely functional and also negative approaches to cohesion.
framework such as the EU, lack sufficient resources or the legitimacy required to implement regional cohesion policies. A step forward in this direction was made by ECLAC (2007) with the development of an approach to the concept of social cohesion that distinguished it from other concepts with which it is undeniably connected—social integration, social capital, social inclusion and social ethics—and whereby it was defined as “the dialectic between established mechanisms of social inclusion or exclusion and citizens’ responses, perceptions and dispositions in relation to the way these operate (sense of belonging).”

Such a notion extends the boundaries of the economic and social divides towards the notions of a sense of belonging and the robustness of institutions. It favours association with different dimensions of

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<th>Components</th>
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<td>Quality of life, non-violent solution of conflicts, peace (well-being for all)</td>
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<tr>
<th>Key elements</th>
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<td>In the community</td>
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<td>At individual and interpersonal level</td>
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<td>General conditions for shared responsibility of stakeholders for the well-being of all</td>
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<th>Description</th>
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<tr>
<td>Non-violent solution of conflicts.</td>
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<tr>
<td>Sharing of the well-being objective: the universal and indivisible nature of human rights and sustainable development. Methods of shared responsibility: citizenship, associative approach and democratic skills. Economy geared to the well-being of each individual and the community.</td>
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</tbody>
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Source: Council of Europe 2005 and Villatoro and Rivera 2007
reality, and thus adapts to the region’s needs because, as stated by Juan Carlos Feres\textsuperscript{19} in LAC, the Laeken indicators must be surpassed for the following reasons:

- Evidence of disparity in social and economic environments in the EU and LAC.
- The possible analytical ineffectiveness of some indicators in LAC.
- The limitations in the databases necessary for the application of such indicators.
- The necessary exploration of a concept of social cohesion with new frontiers suited to the geographical, economic and cultural environment.

This approach identifies three components that, when associated with one another, can yield specific processes and outcomes in favour of social cohesion:

a) the distances or divides of inclusion,  
b) institutional inclusion/exclusion mechanisms, and  
c) citizens’ sense of belonging.

These considerations suggest that better social cohesion requires investment in shortening gaps, reducing inequalities, diminishing poverty, and building human and social capital, in order to establish greater and better social citizenship and improved, more legitimate, inclusive and credible institutions. Such a perspective is based on the argument that social cohesion is a frame of reference to be aspired to and, along the lines of the approach advocated by the Orientation and Coordination Office (OCO) of the URB-AL III Programme,

\begin{tabular}{|l|l|l|}
\hline
Distances & Institutional inclusion-exclusions mechanisms & Sense of belonging \\
\hline
Poverty and incomes & Democratic system & Multiculturalism and non-discrimination \\
\hline
Employment & Rule of law & Social capital \\
\hline
Social protection & Public policies & Social integration and membership \\
\hline
Education & Operation of the market & Citizen participation \\
\hline
Access to new technologies & Future expectations and prospects for social mobility & Health \\
\hline
Consumption of goods and access to basic services & \\
\hline
\end{tabular}

\textsuperscript{19}Feres 2006.

\textbf{Chart 4. Components and indicators of social cohesion (ECLAC)}

Source: ECLAC (2007), created by the author
is a multidimensional phenomenon that operates in different sectors of public intervention and is based on key principles that should guide all public initiatives in every dimension it covers.\textsuperscript{20}

Social cohesion, and its ability to generate inclusiveness in regional development, involves an integrated view of public policies from a two-fold perspective: territorial (different levels of government: national, regional and local) and sectoral (different matters that directly affect a community’s degree of social cohesion).

Social cohesion is not solely an end in itself, but also a means. It is an end in that public policies encourage environments suitable for making members of society understand that they are an essential part of it, and that they should and can act to generate an increase in social capital and an overall progress with mutual and reciprocal benefit. It is a means in that as a process it establishes the conditions for the generation of consensuses that prompt the design and implementation of long-term policies, which lay down the conditions of equal opportunities and generate greater adherence to the law, to institutions and to social values.

The concept of social cohesion currently used as a benchmark is that established in the URB-AL III Programme OCO Reference Document\textsuperscript{21} and, in line with ECLAC’s Latin American Economic Outlook 2012, notes that social cohesion is focused on an alternative sphere to that of programmes specially designed for the excluded, and is a universal conceptual mechanism that rejects social stigmatisation and establishes that “a socially cohesive community on any scale, whether local, regional or national, depends on its members sharing a sense of inclusion and belonging, participating actively in public affairs, recognising and tolerating differences and enjoying a degree of equality in access to public goods and services and the distribution of income and wealth. All of this should take place in an environment where institutions generate confidence and legitimacy and where the rights of citizenship are fully exercised.”

The hypothesis in this study is therefore based on the operational definition of social cohesion set out in the Reference Document of the URB-AL III Programme and its Methodological Guide, primarily for three reasons:

\textsuperscript{20} The different indicators shown must compulsorily be taken into consideration when analysing the concepts of governance, good government, transparency, participation and accountability – particularly the ECLAC system and the Revised Strategy of the Council of Europe.

\textsuperscript{21} Godínez 2010.
/ First, because of the scientific rigor of its approach to the notion of social cohesion, which takes into account what the scientific community and policy now understand thereby. It is an operational and all-encompassing definition that manages to synthesise the evolution of the concept and specifically draws on comparative analysis of the two regions under study.

/ Second, because the definition that establishes both the dimensions and the components is an essential starting point from which to demonstrate the relation among them and the principles of governance and good government that shall be discussed in the following sections, with specific analysis on civic and institutional dimensions and on the components of equality, legitimacy and participation, principles that in turn yield measures of legal certainty, transparency, accountability and citizen participation.

/ Third, because this operational definition of the concept shows that these components are the core features of local public social cohesion policies.
2. Governance: a new way of governing

2.1. Origin and background

Many studies present the concept of governance as the product of academic research on structural and operational transformations experienced by welfare states in the latter decades of the twentieth century. The nineteen-seventies saw the start of a period that marked the history of political and governmental science, which prompted discussions and intellectual and academic debates leading to new trends and theories that attempted to explain the moment of crisis being experienced by states as drivers of society.

On a parallel basis, societies developed according to growth in productivity based on available natural resources and on investments of both economic and social capital, while, through the measures of the Washington Consensus, an absolutely instrumental and technocratic approach followed by institutions brought about remarkable growth in the Latin American region.

In the late nineteen-nineties, however, Latin America suffered an unexpected slowdown in growth as a direct consequence of great crises like that experienced in Asia and this showed both the undeniable interaction of different regional economies worldwide and, also, that the Washington Consensus measures were not enough to yield real growth and sustainable development. It was not just these circumstances that shook the model, but rather the two following basic factors:

/ The assumption that the design, definition and implementation of public policies need not involve the institutions.

/ Disregard of the relation between politics and public policy.

This realisation prompted a review of the role of institutions, which led to the emergence of two schools of thought in debate on the development model:

/ Economic institutionalism, represented by the works of Douglass North, Oliver Williamson and Mancur Olson, which stresses the importance of legal and economic institutions in order to explain countries' development.

/ New institutionalism, the approach of which is based on a notion of development that goes beyond economic growth and incorporates principles and fundamental freedoms, reflected in political and social rights that, in turn, are consistent with the economic objectives of growth. This new paradigm is expressed both by Amartya Sen, with his notion of freedom as a means and end of development, and by the United Nations Human Development Index.

It was therefore verified that the State, as opposed to the free market, should recover a key role in the development of societies yet also demonstrated that

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22 Washington Consensus measures were based on policies that favoured the market and mainly consisted in privatisation, reducing deficit and debt control.
the State could not be the only agent involved in directing and managing common interests, and thus the theory of governance arose. The reason for its appearance is summarised perfectly by Cerrillo i Martínez (2001) when he states that “the world has progressed at breathtaking speed to become a more complex, dynamic and diverse place in which a single outlook is not enough, and thus traditional, highly state-centric systems of government based on hierarchy and unilateralism are not enough or even suitable for addressing the problems, challenges and issues that emerge, as, neither, are exclusively market-based approaches based on privatisation and deregulation.”

2.2. Circumscription of the concept: from doctrinal construction to international application

The rapid spread of governance led to awareness of a paradigm shift in power relations and revealed the inadequacy of the traditional concept of government to describe the changes that have taken place within the context of globalisation, and, as a notion, seeks to explain a complex systemic transformation arising at different levels –from local to global– and in different public and private sectors.

Numerous authors –Rhodes, Pierre, Peters, Kooiman (2005)– have analysed and are analysing the phenomenon of governance, probably because in the past two decades it has become one of the most significant manifestations of public management.

One of the most important theoreticians in this area is German sociologist Renate Mayntz (2005), who stated that belief in the unique power of the State as the driver of society was weakening and leading to the study of alternative forms of social governance, based on the principles of the market and of horizontal self-organisation as alternatives to hierarchical political control. This new form of leading states therefore turned its attention to cooperative and horizontal forms of societal self-regulation and of policy development, and includes different types of negotiation.23

Governance thus breaks traditional patterns of government (centralised, hierarchical and vertical) up to make it decentralised, horizontal and open. Governance consists of the social process of deciding the objectives of coexistence and the ways of working together in order to achieve them on the basis of interdependence-association-joint

23 The two most influential negotiation models were neo-corporatism –public policy networks involving public and private sectors– and systems of social self-regulation in which the State is not directly involved. The mid-nineteen eighties saw the introduction of new elements to the theoretical debate through terms such as decentralisation, cooperation and networking, clearly reflecting the importance of overcoming strictly hierarchical outlines and demonstrating the ability of public-private networks to solve problems.
production and the joint responsibility of government and private and social organisations: State, market and civil society (Aguilar 2007).

Governance as "the art or manner of governing with a view to lasting economic, social and institutional achievement and development and the encouragement of a healthy balance of the State, civil society and the market economy"24 considers the State to have some powers and an irreplaceable role, yet insufficient on its own to meet the objectives a society needs to achieve. It must therefore assume a new form in which it must operate as just another agent, and adapt flexibly to relations between State and civil society.

This is not to deny its primary role as guarantor of coexistence, but requires better understanding of the role of non-governmental agents and of networks in necessary participation in public policy.

Building governance has been defined not only in doctrine, but also by different international organisations such as the World Bank (WB), the International Monetary Fund (IMF), the Inter-American Development Bank (IDB), the UNDP and the European Union.

For the World Bank, good governance is the set of institutions and traditions by which the power of government is executed for the common good of a people (Kaufmann 2005), and therefore countries should look beyond dysfunctions in the public sector and improve "the institutional development of State, the processes of formulation, choice and implementation of policies, and the relations between citizens and their government", which includes three dimensions:

/ The process whereby those who exercise the power of government are elected, monitored and replaced, and the establishment of participation, accountability, stability and absence of violence as ideal mechanisms to this end.

/ The ability of a government to use its resources effectively and to implement stable and effective policies within the framework of its regulatory powers.

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24 Definition in the Diccionario de la Real Academia Española, which differs from the former use that referred to the action and effect of governing or of being governed.
Respect of the public and the State for the institutions that govern economic and social transactions to enable the rule of law to control corruption.

The UNDP, meanwhile, proposed a set of principles to define the characteristics of good governance from the perspective of State and society. These characteristics are:

- The creation or consolidation of impartial rule of law.
- The legitimacy of its actions, enshrined not only in the legal system, but also in citizen participation and the building of consensus.
- The application of principles of transparency and accountability.
- The achievement of optimal performance, resulting in responsiveness, effectiveness and efficiency.
- The design of a strategic approach and/or outlook.
- The encouragement of equity defined as universal access (including minorities) to equal opportunities of economic and social welfare.

The EU also noted the need to review its way of governing, and did so aware that even if there were rules of interaction among institutions, these were not enough to contribute to the transparency and efficiency of community policies. It therefore established reform of governance as one of its main strategic objectives, whereby governance refers to the set of “rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence” (European Commission, 2001).

The approaches proposed by the Commission on this issue were dealt with in what is known as the White Paper on European Governance (2001), which represented a reflection on the EU political process and established the following principles as the basis of good governance: openness, participation, responsibility, effectiveness and coherence.
Although the White Paper has become a benchmark for good governance, as noted at the beginning of this section, different international bodies have interpreted it in their own ways. The Asian Development Bank thus places emphasis on private sector participation in the management of companies; the Inter-American Development Bank stresses the importance of strengthening civil society in order to achieve higher levels of governance; the OECD underlines the importance of accountability, transparency, efficiency and effectiveness in the management of public interests, while the IMF encourages good governance in the sense that it covers “all aspects of the conduct of public affairs” within the framework of its lending operations.

The different meanings of the concept and of the criteria of normative judgment related therewith show that there are many definitions of governance, yet also demonstrate, however, that the goals established by these organisations, with regard to strengthening civil society, participation, cooperation, accountability, transparency and good government, are clear and convergent.

Agustí Cerrillo i Martinez, in one of the reference works on this subject, points out that if the governance involves decision-making in complex, changing contexts, and features diverse agents with different interests, then the principles of good governance should ensure that:

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1. All the agents are involved with their according role.

2. They should have the legitimacy with which to fulfil their role.

3. They have the power to make decisions.

As a result, and on the basis of Cerrillo’s analysis and a review of the principles recognised by different international agencies, five basic principles of governance arise.

All fundamental principles that form governance operate in a relational framework, in which different agents, including the State, work to fulfil society’s objectives, where networks are key players on account of intensified division into sectors and where intervention of political agents in the different stages of public policy is growing.

Public institutions must, however, achieve a greater degree of legitimacy and democratic quality, as democratic disaffection, estrangement of the public from institutions and the complex economic and social changes they face are factors that require the establishment of transparent governments whose

<table>
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<th>Principles</th>
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<td>Participation</td>
<td>/ It refers to the fact that all agents with interests, resources and outlooks should be able to participate in decision-making according to previously defined rules and guidelines. / It considers governance to be a network administration system.</td>
</tr>
<tr>
<td>Transparency</td>
<td>/ This principle is important because when different mechanisms of transparency are used, democratic legitimacy may increase and citizens can be helped to become active and not reactive participants in public affairs. / Transparency is based on a mechanism through which the principle of public authority accountability is manifest.</td>
</tr>
<tr>
<td>Accountability</td>
<td>/ Traditional vertical accountability systems, such as elections, must be accompanied with horizontal mechanisms created by the State in order to monitor abuses and inefficiencies that arise. / Accountability is hindered when there are numerous agents. / Each actor must be responsible before different publics, in accordance with the mechanisms implemented to this end.</td>
</tr>
<tr>
<td>Effectiveness</td>
<td>/ To achieve previously defined objectives. / Effectiveness should mean compliance with efficiency and economic criteria.</td>
</tr>
<tr>
<td>Coherence</td>
<td>/ Coherence has traditionally been coordinated through Parliament and the Government. / Coherence requires political leadership and a firm institutional commitment.</td>
</tr>
</tbody>
</table>

Source: Cerrillo i Martínez 2005
performance and conduct are guided by sound ethical principles based on direct relations with local residents, that encourage processes to foster improvements in the quality of citizen participation, and on what has been called good government.

A good government, which plays a key role in governance and which, as will be discussed in the following chapters, complies with a set of principles—lawfulness, equity, responsibility, transparency, participation, consensus, sensitivity, efficiency and effectiveness—that give it the legitimacy to overcome the crisis of public confidence, thus encouraging participation and, therefore, the social cohesion of the community. Local governments, which are the areas in which citizens and the Administration interact most, can be the best examples of good government, as they are aware of the public’s opinion when formulating public policy, which provides for the adoption of better and more effective public decisions.
3. Transparency and accountability: a pledge to good government

3.1. Circumscription of the concept

3.1.1. Transparency

Transparency is a prerequisite for participatory democracy. This premise is the basis for the current study and an initial step towards accountability as a right and duty and will ultimately provide the definitive impetus for the establishment of good government, for social governance and, therefore, for social cohesion. This study is therefore based on the conviction that non-transparent government generates social division. In short, justification for the concept of transparency as a starting point is based on an understanding of social cohesion from a comprehensive and multidimensional perspective.

Transparency is popular. It means openness, truth, public peace of mind, and is clear, ideal, positive, and advocated and promoted in law, politics, economics, and the media, etc. Despite such demand –even as a fundamental right–, its content and circumscription are nonetheless totally hazy and tend to be confused with the principles of openness, proximity, accountability and even citizen participation.

A precise definition is important because confusion of principles with others is not only confined to theory, but carries with it real and significant consequences. Confusing transparency with citizen participation, for example, entails the danger that, once transparency standards have been regulated, then citizen participation will be considered satisfied, when in fact they are neither comparable nor the same thing. As will be discussed in the appropriate section, transparency is nothing other than the prerequisite for citizen participation to take place. This established, it is now time to ask: what is transparency?

Characteristics

The first characteristic of transparency is that it is an instrument and an essential feature of Administration or political power and is therefore instrumental in the attainment of certain ends such as public participation, good government and social cohesion. The content of transparency is therefore not static, but varies depending on the purpose to which it is put; in other words, it is an open concept, and the rights, principles and characteristics that define it are determined by purpose and context.

The fact that transparency is a means is fundamental as, given its appeal, it is easy to confuse it with an end in itself. Cotino has therefore noted that:

(...) In the European Union there are clear reflections of perhaps a more dangerous phenomenon: the consecration of transparency or, in other words, making transparency an end in itself, and not the essential premise for a dubious form of legitimising participation but rather legitimisation itself in a word. Its consideration as a new fundamental right and constitutionalisation and its relative star of European governance neglect the
fact that transparency is nothing but an instrument that, when separated from its ends, is worth very little.26

Similarly, the European Commission states “Transparency is not an aim in itself, but permits increased participation by the public in the decision-making process, thus strengthening the democratic nature of the institutions and the confidence of citizens in the European Administration”.27

Its instrumental nature involves another characteristic: the objectivity of transparency. The right to transparency should be objective, notwithstanding the individual rights that may arise from it. The right to transparency must be established on the basis of a series of rules and institutions that define it as specifically as possible in accordance with the purpose for which the particular transparency measure is regulated. For example, if the public Administration is committed to active disclosure, the regulation must scrupulously govern the nature of the commitment and what consequences non-compliance therewith may entail; even if this objective regulation should give rise to individual rights such as access to information.

Content

Transparency has been defined in many areas and from a host of perspectives but can ultimately be reduced to two principles: an ethical principle and a legal principle.

Transparency as an ethical principle lies in the sphere of public ethics, which can be defined as practical knowledge addressed to the purpose, principles and means of the scope of operations of public officials who are responsible for or guarantors of the common good. Any public policy initiative involves human action of an ethical nature that can and should be valued as fair or unfair, straight or crooked with regard to principles that are reasonable and pursuant to the human good. Insofar as public policy is both a human act and an act the develops and is addressed to the political public realm, it is mainly governed by those principles that safeguard and correspond to this political otherness, such as justice, truthfulness, disclosure or transparency of an act, or policy, which is addressed to governing the freedom of citizens and which is also of a political nature or status.

In the relations of the public with political power, therefore, the former are entitled not only to be aware of what act of policy is being undertaken at any given time, but also to know and even take part in deliberating the reasons for the decision-making in such an act, and their implications and consequences. This requirement, which entails the concurrence of the political freedom of

26 Cotino Hueso 2005:728.
individuals and the political freedom of whoever is in government, and respect for the requirement itself, can be described in terms of transparency or disclosure of the political act.  

Transparency as a legal principle shall initially be defined here as the "provision of information", and complicated no further. Although definitions are ever vaster, they tend to place emphasis either on the government’s obligation to inform or on the public’s right to request and to be provided information. A definition in either direction biases the concept of transparency, which must meet both requirements.

Cotino has gathered together different illustrative points of view. He reproduces the definition of Mock, who defines transparency in the public sphere as "provision of information to the public on government action" and as an instrumental concept is "a measure of the degree to which information about official activity is made available to the interested party."

There is also the approach of Grigorescu, who summarises its meaning as "the ability of any citizen to gain access to information held by government".

The former definition, although it generally establishes that transparency is the “provision of information” and that provision may involve both active transparency and the supply of information arising from the exercise of the right of citizens to request it, limits provision to “government operations” and therefore ignores information concerning the government itself –salaries of public offices for example– and leaves the public Administration aside. The definition of transparency as an instrumental concept meanwhile focuses the provision of information on the “interested party” and therefore excludes anyone who does not have a specific interest. Lastly, Grigorescu’s definition ignores both the public Administration and the duty to active transparency.

In addition to doctrine, some institutions have also attempted to define the concept. For example, the Institute for Transparency and Access to Public Information of the State of Mexico (INFOEM) defines it as "the obligation of public servants to provide, clearly

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28 Kant warned that “All actions relating to the right of other men are unjust if their maxim is not consistent with publicity. This principle is to be regarded not merely as ethical (as belonging to the doctrine of virtue) but also as juridical (concerning the right of man)” (Kant 1998:61-62). More recent is the approach of Naessens who in her article “Ética pública y transparencia” defines public ethics as “the principles and values desirable for application in the conduct or people who perform a public function (…) and transparency is one of the values that all public servants must have and apply” (Naessens 2010). For deeper analysis of the ethical aspect of the concept of transparency, see: Carbonell 2009 and Villalta 2011.

and promptly, anyone interested in the acts of government arising from the functions that they perform”.30 For its part, the European Union, in the glossary of terms published on its website, states that transparency (access to documents) means “wider access to information and documents, as well as for greater involvement in the decision-making process” and better legibility of the texts.31

The contents of transparency may vary according to the concept and could include the following non-exhaustive list:

/ Access to documents;
/ Principle of openness;
/ Citizen participation;
/ Disclosure;
/ Active information policies;
/ Administrative simplification;

Reasons for administrative acts and access to the file;

Right to be heard, etc.

On the basis of the instrumental concept posited here, however, the contents of the transparency are confined solely (i) to access to documents and (ii) to an active information policy.32

The above statement is based, first, on the idea that the principles of openness, citizen participation and accountability –as previously mentioned– must be neither confused nor mixed up with transparency; and are therefore, neither

30 Available at <http://transparencia.edomex.gob.mx/informacion/formatos/preguntas2.htm>. The Government of Chiapas (Mexico) approaches transparency solely from the perspective of providing the public with information. It therefore defines it as “the act that consists in opening government information up to the public and to the scrutiny of society. It does not involve an act of accountability, but rather the democratic practice of displaying government information to the public so that people can review, analyse and if necessary, use it as a mechanism of sanction.”


32 Villaverde Menéndez has defined it in the same sense. Given that it is the right to information, he has pointed out that: “Freedom of information consists of the right to inform and be informed. The right to receive information and the right to seek information are different. The right to seek information is essentially the right to search for and obtain information that should not be denied by the State or, where applicable, by individuals. This right becomes the legal claim for the information to be provided, which connects the subject of the claim directly to the source containing the information. The right to receive information involves free receipt of the information disseminated by means of disclosure, including information transmitted by sources of information, regardless of whether such disclosure takes place through institutionalised vehicles, when thus required by law. Here, it is not a case of making information accessible, guaranteeing its availability, or imposing a duty on a third party, but rather that once disclosed, ensuring that its reception of the information is not impeded or hindered by interference or oversights of public authorities or private individuals” (Villaverde Menéndez 1994).
attribute nor content of transparency or transparency itself, but rather the consequence of transparent policy.\textsuperscript{33}

With respect to the motives behind administrative acts, the right of access to files or the right to be heard, as majority

\textsuperscript{33} Guerrero meanwhile describes an interesting differentiation between transparency and accountability: “The transparency of public management and accountability are associated but should not be confused. Democratic government should be accountable in reporting or explaining its actions. It should be transparent in order to demonstrate how it operates and be subject to public scrutiny. Accountability ensures that the authorities are accountable to someone for their actions. With transparency, government officials are being asked to act according to globally accepted principles because often ‘the need to be transparent’ is simply the need for the public’s cooperation and approval. With accountability the agent provides an explanation to his or her chief, and with transparency, the chief can determine whether the agent is lying” (Guerrero 2002).

A similar perspective is upheld by Ugalde who distinguishes transparency and accountability: “Transparency is opening the information of political and bureaucratic organisations up to public scrutiny through rating and disclosure systems that reduce the costs of access to government information. Transparency does not involve an act of accountability to a specific addressee, but rather the practice of displaying the information to the public so that those interested can review, analyse and, if necessary, use it as a mechanism for disciplining in the event it contains anomalies” (Ugalde 2002).

With regard to the distinction between the concept of transparency and citizen participation, Merino has noted that: “Participation is always a social, collective act and is the product of personal decision (...). It is often linked to transparent-public ends in the broadest sense of the term” (Merino 1997).

\textsuperscript{34} As can be observed, there are many definitions and classifications of the concept. Jurists, sociologists, and politicians have tried to develop a definition of transparency, ranging from access to information to citizen participation. In debate on the subject, an interesting approach is that of Jorge Carrera Doménech, judge and lawyer of the Spanish General Council of the Judiciary (CGPJ). This jurist’s concern for the issue prompted him to establish a discussion forum to yield a definition reached by consensus on transparency by collecting participants’ different perspectives. The latest version of the concept is: “Transparency in the management of public affairs is characterised by the adoption of policies, actions and attitudes addressed to allowing free access to all information recorded in the exercise of institutions’ powers or functions and that is generated, obtained, processed or kept for any reason in all areas and at all stages of processes and activities, with no limitations greater than those specifically established in law for the defence of privacy and the protection of personal data and fundamental rights and interests consistent with democratic constitutional order. Transparency requires not only openness, but also policies and measures that facilitate understanding of information, which must be truthful, timely, complete and up-to-date, in order to generate the trust of society in its public institutions. It is not a passive task
Disclosure and administrative simplification meanwhile are requirements of the right to access to documents and to active information, because a regulation on the right to access documents can hardly be created within a cumbersome bureaucracy or an active information policy with no disclosure.\textsuperscript{35}

That established, we shall now focus on the two pillars of transparency: (i) access to documents and (ii) an active information policy.

(i) Access to documents

This right involves access to documents or the information contained therein, either directly through originals, or by physical or electronic copy. The most critical item is access to documents held by the institutions by virtue of exercise of a right recognised as such. In its \textit{Global Corruption Report} of 2003,\textsuperscript{36} Transparency International (TI) stated: “Fundamentally, all information belongs to the public and it should be in the public domain unless compelling reasons exist to withhold it. (...) we need access to publicly held information if we are to have confidence in our public institutions and be assured that they are working as they should.”

(ii) An active information policy

An active information policy refers to the duty of actively providing information on the policy and actions of government and of public Administration, either by legal requirement or deliberately. It involves proactive information the boundaries of which are hard to define.

On the basis of the premise that disclosure should be the norm and that secrecy the exception, adopting an active information policy also entails the creation of accessible records that feature references to all the information dealt with by the institution, and discrimination of information that is public from other information that, because of exceptional circumstances, is confidential either on the grounds of data protection or of State secrecy. The creation of records is not a secondary matter: if the addressees of information are unaware of what information is available and what information they are entitled to consult or ask for, it is as if this information does not exist because they will make no use of it.

\textsuperscript{35} Along the same lines see also Finkelstein 2000.

\textsuperscript{36} See: Pope 2003.
An active information policy, moreover, does not mean the disclosure of each and every political or administrative act performed. This could well have the opposite effect: too much information involves misinformation. Comprehensive management of the information made public is necessary; otherwise, opacity, confusion and legal insecurity arise.

The concept of legal certainty is essential and a prerequisite even to transparency. Legal certainty as a principle and core value of political life has fundamental right status. This has been understood by the international community since the eighteenth century (1776 Virginia Declaration), by which men have innate rights, which include the means to seek and obtain happiness and safety. That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety (Article I). Legal certainty benefits citizens and, therefore, society. The existence of legal certainty gives rise to a feeling of confidence that in turn prompts voluntary compliance with established norms. Certainty thus contributes to voluntary compliance with rules and, therefore, opposes the concepts of uncertainty, arbitrariness or whim. The determination of what should and what should not be forbidden is essential to social harmony, and such a task can only be undertaken through the establishment of regulations or, in other words, through just and precise law. It is in this sense that legal certainty should be understood. The concept of legal certainty should provide sure knowledge of the contents of specific legislation, and the chance to envisage a present or future legal situation, based on the ability to calculate the result of a specific legal act. The legal system as a whole and specific legislation should, moreover, be clear and simple. Legislative systems that have too many rules and are unstructured or poorly organised should be avoided and, if possible, corrected. Legislative tidiness and orderliness are essential requirements. In short, good use must be made of legislative instruments. Legislation out of context generates high levels of legal uncertainty, as it is impossible to pinpoint their location. The legal system must be as stable as possible as stability means avoidance of excessively quick or abrupt regulatory change or reform. Substantial or significant modifications generally prompt distrust. Legal certainty, however, is not an absolute principle, but rather coexists with other constitutional principles and may be restricted, which yields uncertainty that must be sustained with regulatory innovations and changes insofar as political, economic and social progress so requires.
Another mission of proactive information is to train citizens in decision-making, obviously without any ideological conditions; informing thereby is virtually a byword for training so that choices are both free and made on a basis of freedom.

Assuming that access to information means a right to “all possible information”, it is important to take into account that even if the specific content is regulated, the issuer ultimately decides and selects the information. Independent institutions are therefore necessary in order to ensure compliance with obligations regarding the provision of information and the quality of information.

What is referred to as material access to all public information takes place against this background. Material access means the opportunity to obtain or access certain documents or information, particularly via the Internet, without the need to make a formal request to the institution that holds or generates this information. New technologies clearly represent an essential boost to transparency and a culture of eGovernment. The introduction of online offices that contain information consists of platforms that allow, primarily, greater accessibility, localisation, availability and access and, secondarily, interaction that helps to encourage citizen participation.

The implementation of eGovernment is a recent phenomenon that has taken place in just over a decade. In the 2000 Declaration of Florianopolis, representatives from Latin America and the Caribbean pledged to encourage efficient, effective and transparent Administration based on lines of information, mechanisms of monitoring and management, services, procedures and public procurement online.

In 2010, ministers and heads of delegations from different European Union, Latin America and Caribbean countries at the 5th EU-LAC Ministerial Forum on the Information Society took an important step and included a chapter on eGovernment and online public Administration in their agendas, with a view to providing society with easily accessible information and data of public interest that may be used by third parties to create new services for citizens and businesses.

In short, the basic objectives of transparency are to allow for control of the Administration and citizen participation. Transparency can be

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38 The Declaration of Florianopolis is the compromise reached by the representatives of Latin America and the Caribbean with the collaboration of ECLAC at the meeting held on 20 and 21 June 2000. This statement paved the way for participation at the UN Economic and Social Council’s high-level segment held at UN Headquarters in July of the same year. The text of the Declaration is available at <http://www.eclac.org/publicaciones/xml/2/4312/florianopolis.htm>.
described as an instrumental element (active information and access rights) and the basis upon which the Administration can be monitored by citizens and through which they may take part in taking decisions regarding public management (essential pillars of individual-Administration relations).

3.1.2. Accountability

The concept of accountability –as it is currently understood– took shape in the USA in the nineteen-sixties and spread to Europe in the nineteen-seventies. It has mainly developed in English-speaking culture and, more recently, in Latin American culture, yet almost half a century later, it remains a vague concept about which there is no political, or legal-philosophical or social unanimity.

Before dealing with the concept itself, it is first necessary to clarify the terminology: the Spanish term rendición de cuentas is a Latin-world adaptation of the term accountability. As with many translations, the concept loses strength and essence: strictly speaking, rendición de cuentas is not accountability, which is a much broader and attractive idea.

Accountability is the term originally used to describe the phenomenon under analysis here; it is appealing, principle of public life and in the First Report of the Committee on Standards in Public Life (1995) specific reference to accountability states that “The general principles of conduct which underpin public life need to be restarted. We have done this. The seven principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership (...).” It also states that “holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office” (at <http://www.public-standards.org.uk/Library/OurWork/1stInquiryReport.pdf>).

Second, because of its paradigmatic nature, mention is made to the Chilean Organic Law on Citizen Participation, passed in 2010, that assigns an entire chapter to accountability; Article 88, in particular, establishes that “citizens, either individually or collectively, communes, communities, peoples and indigenous nationalities, Afro-Ecuadorian and Montubio peoples, and other legal forms of organisation may, once a year, request accountability from public or private institutions that provide public services, manage public resources or perform activities of public interest, and from the social media, provided that such accountability is not envisaged by means of any other procedure in the Constitution and the law.” The items it regulates also include obligated entities, mechanisms and objectives.

39 The conceptual definition in this study endorsesthe doctrine established by Schedler, who to date is the author of the most complete and thorough investigation into the concept from a democratic, transitive perspective, based on the need for control of power and for the reform of states for the sake of good government. It describes the concept and establishes it as one of the essential ideas of democracy. In addition to Schedler, we also support the theories of O’Donnell and Schmitter. For a thorough analysis, see Schedler et al. 1999:13-28 and Schedler 2004.

40 Although the practical application of the concept with regard to administrative and political management does not arise from a legal regulation or concept or even from a peaceful agreement of international doctrine, two exceptions must be mentioned. First, in the United Kingdom, it is a
implies control, and is a requirement of participatory democracy; it is an obligation of power to its citizens and to itself and, ultimately, updates the original legitimacy conferred by voting; accountability could therefore be said to legitimise the exercise of power.

The Spanish term rendición de cuentas, however, seems almost like a benevolent grant from the “sovereign” or a laudable voluntary act, and not the result of obligation or requirement. It is therefore a watered down adaptation of the term accountability and closer in fact to the right to request than to the duties and rights involved in accountability, which could be defined as rendición de cuentas when it is obligatory.

Hence, even if the term rendición de cuentas is used in this study—not for linguistic reasons— it is meant with the full force of term in English.

41 Other terms used in Spanish to refer to accountability have been: fiscalización (enforcement) control (control) and responsabilidad (responsibility), which in our opinion are even further away from its meaning in English.

The two aspects of accountability

Accountability as a radial concept has two essential aspects: (i) responsibility and (ii) sanction linked with non-compliance. The notion of accountability includes, on the one hand, the obligation of politicians and public officials to report on their decisions and to justify them in public (answerability) and, on the other, the ability to sanction politicians and officials.

These two levels or aspects of accountability contain the three basic pillars of the broad concept: information, justification and punishment.

The attractiveness of accountability derives from its breadth. The concept is a comprehensive one. Rather than denoting one specific technique of domesticating power, it embraces three different ways of preventing and redressing the abuse of political power. It implies subjecting power to the threat of sanctions; obliging it to be exercised in transparent ways; and forcing it to justify its acts. I treat the first dimension under the heading “enforcement” and sum up the last two dimensions under “answerability.”

The three aspects together—enforcement,

42 According to an analytical distinction made by David Collier and James Mahon, accountability should be understood not as a “traditional” but rather as a “radial” concept. Traditional concepts have a hard and unchanging core of basic features. Radial concepts, meanwhile, rather than share a common essence, have some “semblance of family” (Wittgenstein). In their empirical instances, they may lack one or more of the elements that characterise the full or “prototypical” expression of the concept (Sánchez Hernández 2007:60).
monitoring and justification— turn political accountability into a multifaceted enterprise that copes with a considerable variety of actual and potential abuses of power.

Responsibility entails the obligation to report and to publicly justify not only the information made available to citizens, but also the act itself. Justification must be understood as meaning answerability, which is a concept that implies a capacity for criticism and dialogue. In other words, justification cannot be unilateral or isolated, but must involve constant ongoing dialogue. Responsibility therefore has one informative facet—clearly linked to duties of transparency— and other argumentative aspect.

As far as the elements of coercion and punishment are concerned, Schedler described enforcement as “the set of activities aimed at ensuring observance of the law. It essentially means asserting the law, if necessary, by force.”

This means that agents who demand accountability not only question, but also eventually punish the improper conduct of public servants. This pillar is essential because there must be control and sanctioning mechanisms in order for regulations to be effective. The idea, in short, is for non-compliance to be accompanied by punishment.

Controls and sanctions, meanwhile, can vary a great deal, and are constantly influenced by the proportionality principle typical of criminal law. In politics, criminal, civil and administrative sanctions are the types least frequently employed while public opinion—justice by media— and sanction by vote, or in other words the threat of “dismissal” by election, are often resorted to.

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43 Regarding pillar 1—Information— and how it relates to transparency, see the relevant sections in which it is dealt with in depth. The obligation to provide citizens with information is, however, a legal requirement included within accountability. Most countries have transparency laws by virtue of which the public sector is generally obliged, to a lesser of greater extent, to provide citizens with all kinds all public information, which basically guarantees the right of access and response to requests for unpublished information. The disclosure of documents tends to be the norm and restriction the exception, or at least this is usually the case. Accountability ensures there is transparency, and is the step prior to a demand for responsibility. If the necessary information on public management is unavailable, this hinders exercise of the right of accountability and therefore its holders are unaware of the specific matters about which they may or must require an explanation or justification, which ultimately also undermines the established mechanisms of control.

44 Schedler 2004:16.

45 “In institutionalized democracies, accountability runs not only vertically, making elected officials answerable to the ballot box, but also horizontally, across a network of relatively autonomous powers (i.e., other institutions) that can call into question, and eventually punish, improper ways of discharging the responsibility of a given official.” (O’Donnell 1994:61).
These latter means should, however, never be considered sufficient: dismissal does not mean accountability. As noted previously, elections intrinsically represent accountability, because if people are unhappy with management, the government will be sanctioned by changing it. In participatory democracy, however, this mechanism disregards the pillar of justifications of acts. The periods between elections, moreover, last for considerable amounts of time and accountability must be constant and cannot be limited to ex post explanations. Such dynamic accountability is only possible by encouraging mechanisms that enable society to express its concerns, that are included on the public agenda and, once included, can criticise public policy.

A certain degree of seriousness, they are clearly insufficient. Schedler has described them as accountability light:

*When presumptive agents of legal accountability, such as the Mexican National Human Rights Commission, for example, do not have prosecutory powers but can only issue non-binding statements of an advisory nature, many observers will feel that the soft and quasi-voluntary version of “accountability light” they practice does not deserve its name and that, in essence, inconsequential accountability is no accountability at all. If a police officer kills someone under his custody without due cause and still walks free, it does not satisfy the principle of accountability if a journalist documents this abuse of authority, or if a human rights ombudsman recommends that the policeman be arrested.*
and stand trial. Unless there is some punishment for demonstrated abuses of authority, there is no rule of law and no accountability.

The subjects of accountability

Parties subject to accountability

In a broad sense, accountability should apply to any agent who holds an office of responsibility and intervenes in some way in the political arena: politicians, political party staff, state personnel and employees of civil society organisations such as trade unions, human rights organisations, etc. Strictly speaking, accountability is limited to senior public officials.

In a social, democratic State ruled by law it would make sense for accountability to be limited not only to politicians, but at least to the three powers. It would therefore apply to governmental, legislative, administrative, military and judicial categories.

According to Jabbra and Dwivedi, accountability can be addressed using different criteria that can be considered under five main notions: (i) administrative or organisational (hierarchy, rules, regulations; assessment to determine compliance with procedures and effectiveness and efficiency, etc.), (ii) legal (compliance with legal and judicial procedures and control of the legality of regulations with regard to constitutions), (iii) political (acceptance by political leaders of the accountability of public servants; evaluation of the decisions and the qualities of politicians), (iv) professional (performance of tasks and duties based on professional standards) and (v) moral (acting in the public interest in a responsible manner, regardless of what is regulated). To these five criteria, Schedler added a sixth: (vi) financial accountability, which subjects the use of public funds not only to existing legislation, but also to transparency, austerity and efficiency standards.

Active subjects

Subjects who hold others to account vary in accordance with the type of accountability in question. If accountability is political or moral, they are citizens, civil society organisations, the media or even political parties themselves. If, however, accountability is administrative or financial, the agent is usually a supervisory of control body, such as the ombudsman, or audit or anticorruption bodies. In professional

48 Schedler 2004:32.
49 In Latin America and the USA, independent bodies have even been set up specifically to monitor and control compliance with new public communication obligations, such as IFAI (Mexico) or USGAO (US Government Accountability Office in the USA), an independent government office the mission of which is to support government in explaining its responsibilities and help it to improve in accountability in order to yield the greatest benefit for the public. On a European level there is no specific body to supervise accountability and transparency, or to investigate and issue reports or recommendations on public action; however, each Administration tends to
matters, subjects are ethics committees and, lastly, if it involves the law, they are the courts.

Some of the doctrine, including O’Donnell, agrees on differentiating vertical from horizontal accountability. The former describes an upward accountability of society to the State, basically through elections and through social mechanisms such as the media. The second is accountability within the organisation of the State when there exists a separation of powers, whereby one power offsets the other and controls possible abuses. Horizontal accountability nonetheless requires qualification, that usually can be articulated without suffering State coercion, and regular coverage by the media of at least the more visible of these demands and of apparently wrongful acts of the public authorities are dimensions of what I call ‘vertical accountability’. These are actions performed, individually or by means of some kind of organized and/or collective action, with reference to those who occupy positions in State institutions, elected or not” (O’Donnell 1997:2).

50 “Through the means of reasonably fair and free elections, citizens can punish or reward incumbents by voting for or against them, or the candidates they endorse, in the next election. Also by definition, the freedoms of opinion and of association permit articulating demands to and eventually denouncing wrongful acts of, public authorities. This is helped by the existence of reasonably free media, also demanded by the definition of polyarchy. Elections, social demands run its own internal surveys, statistics and reports on its performance and the degree of agreement by citizens.

51 “Now I define what I mean by horizontal accountability: it is the existence of State agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the State that may be qualified as unlawful” (O’Donnell 1997:13).

52 The separation of powers prompted the need for those with different responsibilities to be personally and institutionally distinct. Whoever
as it is difficult to design horizontality-based control, in which different forces are completely equal; control, at least, seems to require some kind of inequality or unlikeness, and even some aspect of superiority of the reviewing agency.

For horizontal controls, the whole series of supervisory bodies referred to above springs to mind and these cannot strictly speaking be included in this traditional horizontality. Its effectiveness depends precisely on organic and budgetary independence from the traditional—and obsolete in this case—separation posited by Montesquieu. This is because the concept of horizontality itself is not enough to investigate, demand and enforce, where applicable, sanctions, at least in the way required in accountability.53

legislates should neither judge nor execute, and whoever judges should neither execute nor legislate. The intention here is to generate a balance of power that yields both a need for cooperation among them and also a mutual resistance. This is a truth that Guizot was able to express in political language more accurately than Montesquieu: “Liberty cannot exist except by the possession of rights, and rights are worth—less if they are not themselves powers—vital and strongly constituted powers. ... Now resistance is only real and effectual when capable on all occasions of opposition to authority, when authority is compelled to treat with it at all times, to conquer or to yield.”(Guizot 2009: 750).

The above suggests that although the idea is ultimately that “power should limit power”, it is also true that in the separation of powers, power is not only “resisted”, but also “sustained” and therefore that reference to horizontal accountability is never, strictly speaking, sufficient if the aim is true participatory democracy with the effective capacity to establish the limits of power. The welfare State can be very misleading and may, for example, obtain all the limitless resources it wishes by making whoever spends and whoever approves expenditure appear to have different identities when, in fact, they are the same. These situations allow for unlimited power in disguise. Although Parliament passes the budget, Parliament in fact becomes simply an agency of State which, like the government, is actually run by the same party.

53 This is the very reason why, ultimately, even the need for more traditional accountability—legal—necessarily subjects executive to judicial power or to some type of external body that, in short, exercises the same functions as the judiciary. Remember that, according to the most radical theory of separation of powers, it is madness for the Administration to be subject to the third power, and hence the emergence of “dual jurisdiction” in France with the Council of State. The French revolutionaries were wary of an independent judicial power as the courts had historically been a stronghold of the aristocracy. They therefore interpreted the separation of powers not as a system for the balance of power and reciprocal control, but rather as a way of categorically forbidding the judges to interfere in administrative activities and to judge and control public officials in the exercise of their functions. However, given the need to ensure compliance by the administrative authorities in order to guarantee the rights of citizens and on the basis of desired legal certainty, there emerged a hierarchical resource that maligned citizens could use before the superior of the official who had taken the decision considered unlawful, resources that as a last resort would be resolved by the minister or the government. Later, in the Constitution of the year VIII, it was definitely assigned to a specialist, independent body called the Council of State. This function was subsequently assigned to Prefectural Councils. These bodies initially resolved cases brought against the decisions of the active Administration and had no decision-making power for themselves, but
“If the idea of horizontal controls is taken literally, the inevitable asymmetrical relations among agents and subjects of control seem like empirical anomalies. To correct this inaccuracy, some authors have introduced the notion of ‘diagonal’ or ‘oblique’ controls (Schmitter 1999 and Sklar 1999). These categories, which lie midway between horizontal and vertical, avoid the generation of the misunderstanding that the key players in accountability are in a situation of equal power. However, the accuracy gained using these is elusive. Since political agents in a democratic system, whether individuals or organisations, never encounter each other in a situation either of perfectly equal or perfectly unequal power, the result is that all accountability relations should be considered ‘diagonal’ or ‘oblique’.”

In short, although the traditional division between vertical and horizontal accountability is still the clearest, it must be based on a flexible outlook whereby vertical is defined as any kind of accountability that comes from civil society and horizontal is classified as any type of relations of control among state bodies.

In addition to the above there are also what are known as the transnational controls, which are characteristic of an era of states under international scrutiny, particularly with regard to human rights. Some supranational agencies are indeed capable of demanding accountability from states; these include the International Monetary Fund, and the Organization of American States. In between, some NGOs such as Amnesty International, Greenpeace and many others are also involved in the matter.

Lastly, mention should be made of the debate that has arisen about who should monitor the monitors. A pyramid system would be interminable and there would always be one agency free from being monitored; Schedler therefore proposes a network as a solution, in which relations among individuals are neither horizontal nor vertical, but rather intransitive, which makes John accountable to Mary, Mary to Charles, who is accountable to John.

“Remember the children’s game of rock-

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54 Schedler 2004:35.

55 Although Schedler, and others like Pastor and Diamond, argues that the extraterritorial status of transnational accountability does not fit either the vertical or horizontal model, we, on the other hand, believe that such controls can also be classified within globally organised civil society; the only difference is the international component. Regarding the third dimension of accountability, see: Pastor 1999:75-82 or Diamond 1995.
paper-scissors. Nobody is totally supreme and no one is always on the losing side. The monitors are eventually monitored by everyone else.”

Notwithstanding the abundant theory, in most countries accountability is at a very early stage and work needs to continue to develop it. In short, accountability is important as an obligation and a right as it directly influences levels of good government. In recent years, probably because of economic crisis and widespread corruption scandals, public awareness has been aroused and citizens are starting to raise their voices and call for greater transparency, particularly in managing their taxes and in the establishment of participation mechanisms. They are beginning to make a forceful claim to be heard in their criticisms of the public and political management of their communities. The authorities are very often reluctant to meet these new needs, which as yet they do not acknowledge as a duty, or as a right of the people they have before them. Politicians are, however, beginning to see that accountability regenerates lost public trust in institutions. The current task is therefore to regulate accountability so that governmental management is undertaken on a basis of clear objectives approved by the public, to prompt awareness among staff of the administrations of the importance of good management and the need to have an attitude constantly open to public opinions, and to improve mechanisms of complaint and control. It is an arduous yet essential task for new forms of democratic governance.

56 Schedler 2004:37.
3.2. Balance of the situation in Latin America and Europe

Having established a definition of the concept of transparency and accountability, it is important to have a clear understanding of the starting situation before looking at the case studies. An analysis of how transparency really stands in Latin America is required in order to place the local models proposed as a benchmark in context. It was stated above that at a legislative level most European countries have rules on transparency, although the notion has been given a more formal and technical dimension than a political one. By contrast, in Latin America –the region upon which particular focus is placed here– although legislative articulation is less sophisticated, the concept, which is associated with that of citizen participation, has developed very significantly.

3.2.1. Latin America

In addressing how rules and public policies associated with transparency stand in Latin America, the first obstacle is initially the lack of uniform standards and common institutions with which to draw a parallel with Europe.

However, transparency as an objective in Latin America, as stated above, is a real priority and is, at least, on government legislative agendas. It must be assumed that the objectives and levels of transparency can never be measured or analysed in immediate terms and that such analysis would neither be fair nor realistic. The international community is thus well aware that obligations –in human rights for example– to generate statistical information are progressive and not for immediate compliance; the same is the case for other transparency indicators.\(^{57}\)

Notwithstanding the specific considerations that will be mentioned later, from a global perspective, Latin America is indeed making advances in transparency at a breathtaking speed. Furthermore, unlike in Europe, this progress is not confined to technicalities or formalities. There is clear sensitivity and awareness of how important and urgent it is to implement transparency at all levels and of its direct broad and cross-sectoral impact on (i) accountability, (ii) good government and internalisation of (iii) public ethics and (iv) true democracy as priority issues.

The apparent awareness referred to here is, however, currently only established on a pan-American level and in organised civil society. Inter-American systems for the protection of human rights have been crucial in promoting transparency policies.

In Latin America, scarcely ten years have passed since countries began including in their regulatory systems specific measures concerning the protection and exercise of the right to access public information, with

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\(^{57}\) For an in-depth analysis of how to evaluate human rights indicators, see: Socio Cultural Project 2008.
the immediate intention of fighting corruption and, ultimately, guaranteeing human rights and strengthening accountability. The ruling of the Inter-American Court of Human Rights (hereinafter IACHR) of 19 September 2006—the case of Claude Reyes et al v. Chile—marked a before and after in the definition of transparency throughout the region especially in Chile. By this ruling, the Court confirmed recognition of the right and defined the obligations of states in access to information, when it stated that everyone has the right to request access to information held by the State, without the need to prove a direct interest in the attainment thereof. This is the first international ruling that conceptualises access to information as a human right and as part of the right to freedom of expression.

If it is possible to identify a key player in the fight against corruption and in the implementation of transparency in Latin America, then it is the Organization of American States (hereinafter OAS). This organisation is well aware that for the principles that inspire it—democracy, human rights, security and development—to be tangible, the primary objective must be to generate, strengthen and promote transparency. It has therefore taken a series of measures and created specific instruments, mechanisms, programmes and initiatives.

While all the instruments and actions mentioned here cannot be analysed as they far exceed the purpose of study, certain specific OAS actions that


59 For details of the case and of regional and international precedents on the right of access to information, see: OAS, IACHR 2006.

60 Note that this statement evidently includes, within the analysis of the region’s initiatives, international organisations—and this list is not intended to be exhaustive—as the Organisation for Economic Cooperation and Development (OECD), or banking institutions, such as the Inter-American Development Bank (IDB), Star, World Bank and UNODC, and the UN itself, which have been performing an arduous task to favour transparency in Latin America with a whole series of policies and decisive action, as well as platforms, NGOs, and civil society organisations, which have also been and remain crucial: Transparency International, CAINFO and, particularly, the Regional Alliance for Freedom of Expression and Information. That said, the OAS is the world’s oldest regional body, the forerunner of which was the First International American Conference of 1889; years later, in 1948—Bogotá—it was established in its present form. Its aim is for Member States “to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence” (Article 1 of the OAS Charter).

61 Also significant are other instruments such as the American Convention on Human Rights of 1969, which in the first paragraph of Article
undeniably strengthen Latin American cooperation against corruption do need to be mentioned.

First, the Inter-American Convention against Corruption (hereinafter IACC), adopted in Venezuela in 1996. This convention is the first international treaty that was adopted on the matter, contains preventive measures, classifications of offences and matters regarding international cooperation and assistance.

Second, the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (hereinafter MESICIC), approved in Costa Rica in 2001, which is intended to evaluate implementation of the Convention by the signatory States, and to facilitate and enhance cooperation among states.

Evaluating the implementation of the Convention’s provisions involves a series of annual reports that entail analysis, by rounds, of compliance with certain provisions by subject and by country, and the degree of compliance therewith, and a number of recommendations. The issue of the recommendations is followed by proactive monitoring of the assumption by states of these recommendations, progress reports and specific action plans. The end of each round sees the issue of a global report entitled the Hemispheric Report.

13 establishes that “Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice.” Article 4 of the Inter-American Democratic Charter of 2001 states that “The strengthening of democracy requires transparency, probity, responsibility, and effectiveness in the exercise of public authority, respect for social rights, and freedom of the press”, key elements in the exercise of democracy. The Nuevo León Declaration of the Extraordinary Summit in Mexico, 2004, by which governments of the countries in the OAS agreed to establish the legal and regulatory frameworks, as well as the structures and conditions necessary to ensure citizens the right to information, explicitly states that “Access to information held by the State, subject to constitutional and legal norms, including those on privacy and confidentiality, is an indispensable condition for citizen participation and promotes effective respect for human rights. We are committed to providing the legal and regulatory framework and the structures and conditions required to guarantee the right of access to information to our citizens.”

Note that it predates the United Nations Convention.

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63 The main features of this mechanism are: impartiality, inter-governmental equal treatment and the participation of civil society. It consists of the Conference of Signatory States, a Committee of Experts and a Technical Secretariat, which includes the Department of Legal Cooperation of the Secretariat for Legal Affairs of the OAS.

Third, the creation of the Anti-Corruption Portal of the Americas. This website is clearly a tool for legal cooperation in the fight against corruption. It features information relating to the OAS and national developments, all the documents and work of the MESICIC, plus other legal cooperation tools.

Fourth, the OAS produces legislative guides with the basic elements it considers should be included in national regulations and mechanisms for promoting transparency and integrity. The Model Inter-American Law on Access to Public Information, a reference tool featuring international transparency criteria and guidance on the implementation thereof, has recently been approved.

With such a panorama at regional level the issue of transparency for Latin America is therefore not a trivial matter, but rather a priority and not mere pretence of openness. As stated above, however, this growing awareness and performance of specific measures is not similarly applicable at infra-regional level.

Internally, countries are in fact still feeling the impact of dictatorships and authoritarian governments that by any reckoning created a culture of secrecy, which is the main cause of a lack of transparency and barriers to access to information. According to the IACHR:

| Little more than a decade ago, those who maintained that the offence of desacato was the only way to control violence against the State and maintain the majesty, dignity and legitimacy of its institutions were not minority voices. As such, the culture of secrecy prevailed, based on a pre-modern idea that the State’s institutions, by virtue of simply being what they were, were worthy of the people’s full trust and support. According to this view, government officials should be able to work in peace without the bothersome demands of transparency or requests for information, which were time-consuming, required funds, and contributed little to the country’s progress. |
| There were also other disastrous legacies of the authoritarian doctrines, including dramatically restrictive press laws and arbitrary systems for the allocation of public goods and resources fundamental to the exercise of freedom of expression, such as the distribution of government advertising, television and radio frequencies or subsidies for culture and the arts. |

Public administration generally perceives requests for information as an affront. The idea that information belongs to the body that keeps it and is the property thereof is deeply entrenched. Hence, however many

65 Link to the portal: <http://www.oas.org/juridico/spanish/lucha.html>.

66 Passed at the fourth General Assembly held on 8 June 2010, Lima, Peru. Available at <http://www.oas.org/dil/esp/AG-RES_2607-2010.pdf>.

67 Inter-American Commission on Human Rights 2009: points 4 and 5.
initiatives are undertaken at regional level, effort through positive action must be assumed by states.

Most states have some form of transparency rules, although countries and their regulations must be differentiated according to the legislative technique used. In other words, those states that have made it legally enforceable must be differentiated from those that have only adopted a decree, order or minor regulation, because the latter are relatively binding and not usually respected to the same extent as legally enforceable regulations. Logically, the coercive and psychological force of one or another regulatory tool directly affects levels of fulfilment of the regulated rights and is also a clear indicator of a particular country’s outlook towards transparency.

While regulations are very heterogeneous, it is possible to identify some common weaknesses or shortcomings that show the current state of affairs at infra-regional level. The most significant are those associated with procedural matters, implementation and monitoring agencies, and citizen participation.

First, it must be acknowledged that governments systematically breach international active transparency commitments. The information made available varies greatly not only from one country to another, but even according to the institution, body or official involved in the issue. There is disparity within governments themselves. It is therefore unsurprising that a single country should have one agency with an outstanding record in transparency yet may also have a ministry that it is impossible to localise. It is, however, uncommon to find bodies that deliberately set out to be transparent.

On the subject of the active transparency commitments of Latin American governments, the IACHR has noted that:

(...) Article 13 of the American Convention establishes a positive obligation for the State to provide the requested information in a timely, complete, and accessible manner. Otherwise, the State must offer, within a reasonable time period, its legitimate reasons for impeding access.

Uploading or publicising information, moreover, is insufficient; it must be done in a useful way. It is therefore imperative to establish uniform criteria on the levels of quality of information and on the media through which information is issued. For systems truly to meet citizens’ needs, “It is important to take into account that the right of access to

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68 See appendix A of this study: “Current situation of transparency legislation in Latin America.”
69 For a thorough country by country analysis of the situation, see: Regional Alliance for Free Expression and Information 2011 and CAINFO and Open Society 2011.
information allows access to processed data (in the form of statistics, an indicator, or any other data) as well as to raw data, which is data collected by the administration but not yet processed or categorized”.

As far as procedural issues are concerned, although proven experience has shown that legislating transparency does not mean that transparency has truly been implemented, the establishment of sufficiently clear and defined procedures enabling citizens effectively to access government and public sector information is in fact a matter pending in Latin America.

There is generally either a lack of specific procedures for access to public information; or they are very general procedures that take the shape of an ordinary application. These processes cannot be described as satisfying the right of access to information as a fundamental right. Although there always exists the option of recourse to court proceedings, this course of action is nevertheless completely tedious and inoperative for this purpose.

Supervisory, custody or implementation bodies, meanwhile, play a crucial role in pressurising states and as subjects that embody the role of fostering transparency in all areas of public affairs. They do have a major weakness however: there are no real, independent authorities with the power to monitor and enforce rules on access to information, except in Chile, which has the Council for Transparency, and in Mexico, with the Federal Institute of Access to Public Information (FIAPI)

Although there is a whole series of bodies before which it is theoretically possible to make a complaint or report some breaches, their decisions tend to be non-binding. The bodies are generally weak and cannot be said to safeguard or encourage the right. This happens for various reasons; because they are not independent, or even if they are, because they have a limited budget, or even because their powers are limited by the law. The IACHR has therefore been resounding in insisting:

(…) the importance that these laws expressly enshrine the principles contained in inter-American standards in this area, which lay the groundwork for this right to be fully guaranteed. This study also reveals the need for regulatory frameworks to assign responsibilities to autonomous, independent specialized units to resolve any disputes that may arise with respect to access or denial of access to public information; thus, it recommends that States follow the example of those States such as Mexico and Chile where the right to access is vigorously protected through such institutions.”

71 OAS, IACHR 2009a:298 sec. 81.

72 OAS, IACHR 2011:338 sec. 454.
There is therefore a clear need for these bodies to have real enforcement capacity. The option of giving them constitutional status has even been suggested.

In order to determine how transparency stands in Latin America it is also necessary to analyse the degree of citizen participation, because a global, cross-sectoral disciplinary concept of transparency entails real and effective participation on the understanding that the right to information has a direct impact on levels of participation.

Latin American regional legislation has identified the minimum content required in countries’ regulations in order to ensure participation. It highlights, in particular, the need for Open Government-Open Data; the encouragement of open meetings within the public sector which anyone who so wishes may attend without having to show legitimate interest and the right to make requests for information.

Regulations on access to information generally tend to meet internationally established minimum standards, although “tend to be weak in promoting the right. Promotion can take different forms, depending on the public and the purpose and on possible uses they will make of it, although it should never be forgotten that the primary goal is awareness of it and for people to feel it belongs to them.”

The way in which the authorities disseminate and promote the right so that the public may assimilate it as such is a core issue in a community with large social inequalities. Economic and educational factors do indeed directly influence levels of participation; the higher the economic and educational levels, the more information is accessed and the greater the participation and vice versa; the right must therefore be encouraged through a range of media, and there must be guarantees that dissemination of the right is non-exclusive and that is strengthened in the weakest sectors.

Without access for all and the participation of all, there can be no transparency. Reconsideration of how information should be disseminated, therefore, requires the design of a system intended to overcome discrimination or to articulate the resources necessary for the State likewise to safeguard the fundamental right of people who do not have sufficient resources to participate in open government.

73 Remember that a regulation may contain certain standards but this neither means it is effective nor implies it is implemented, which depends on other factors.

74 CAINFO 2011:88.
Organised civil society does take active part–especially internationally–and its involvement does have policy implications. It has very often been decisive in the adoption by a particular country of transparency measures; whereas participation of the business sector has been notably absent.

One aspect of the right to information that is often neglected is the use of the right to facilitate effective business practices. In many countries, commercial users are one of the most significant user groups. Public institutions hold a vast amount of information of all kinds, much of which is related to economic matters of potential utility for businesses. The right to information helps promote an agile flow of information between government and business, which maximises potential synergies. This is an important benefit of legislation on the right to information and helps allay the concerns of some governments about the cost of implementing such legislation.\textsuperscript{75}

What must be stressed, however, is that despite the existence of good transparency legislation in some countries, the public does not always use it.\textsuperscript{76} In such cases, the problem is clearly cultural and there is a need for dissemination processes capable of generating awareness and of providing sufficient tools and access to all. Only in this way will the public ask for information regardless of their social circumstances and only thus will the idea spread that it is not only possible for power to be controlled socially, but this is also a duty. Cultural change is an essential factor.

Two fundamental problems regarding scant and unequal participation can be detected:

/ Cultural: varying willingness of public officials to provide information.

/ Implementation related to structural problems and/or coordination in public administration that limit or condition the issue of complete and timely information (quote from Regional Report).

There is also an apparent lack of standardisation in the publication of information. This refers to sharing what is and what is not published; the extent of what is public; the scope of restricted and secret information; and limits to the protection of data of a personal nature. Systematisation and clarification of these issues also affects participation. If the public is aware of what it can request from each institution, of its rights, of what is and what is not restricted information, and of the circumstances in which information may be denied, the certainty this generates enables it interact more.

\textsuperscript{75} Mendel 2008:5.
\textsuperscript{76} In the Dominican Republic, for example, there are Information Access Offices that have not received a single request since they were established.
One step further must be taken: once the right of access has been safeguarded, it is necessary to create obligations to generate certain information of general public interest without it being requested, without disregarding the fact that the international community unanimously considers that obligations to generate statistical information are progressive and not for immediate compliance.

### 3.2.2. Europe

In Europe, meanwhile, the situation at regional and at national level also needs to be differentiated. Differentiation here is, however, clearer because of the existence of the European Union (EU).

In the EU, there has been a regulation on public access to documents since 2001. This regulation –directly applicable to all Member States– guarantees the right of any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, the right of access to documents held by an institution; in other words “documents drawn up or received by it and in its possession, in all areas of activity of the European Union.”

The right of access to EU documents is, moreover, acknowledged as a fundamental right in the Treaty on the Functioning of the European Union.

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77 See Appendix B of this study: “Current situation of transparency legislation in Europe.”
79 “The institutions may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State” (section two of Article Two of Regulation No. 1049/2001).
80 Section three of Article 2 of Regulation No. 1049/2001.
81 European Union. Consolidated Version of the
(TFEU) which establishes that to promote good governance and ensure the participation of civil society, institutions, bodies and organisations of the Union must act with the greatest possible respect for the principle of openness. It therefore establishes a number of obligations.

First, that every citizen of the Union and any natural or legal person residing or having its registered office in a Member State has a right of access to the documents of the Union’s institutions, bodies and organisations, whatever their format, in accordance with the principles and conditions established in the treaty.

As far as the European institutions themselves are concerned, European Parliament sessions must be public, as must those of the Council, when it is deliberating and voting on a draft bill. Publication of the documents relating to the legislative procedures must also be guaranteed.

Each institution, body or organisation must guarantee the transparency of its work while its internal regulations must feature specific provisions on access to its documents.

The Court of Justice of the European Union, the European Central Bank and the European Investment Bank are, however, only subject to these obligations when they are exercising administrative tasks.

The design and regulation of the TFEU on the right of access to documents has renewed and fuelled debate on the complexity of the European legislative process and the difficulty encountered by citizens and Member States themselves when accessing and locating regulatory documents. Reform and simplification work is planned.

Amendment of the Regulation is currently on the Parliament’s agenda and the regulation on right to access is being reappraised. This initiative has not been without controversy as there are certain currents in favour of restricting the right. The spokesman of the European Commission himself recently made some jocular and unfortunate statements on time wasted in responding to public requests for information. With specific regard to the European Commission on this issue, around 20 non-governmental organisations have complained to the European Parliament about repeated breaches by the Commission in its transparency commitments that involve either not responding to requests for access to documents, or not answering in time or raising objections for no reason. In the current crisis, which is not only economic but also one of transparency, there is clearly a need for reforms in law and in practice, involving all stakeholders.

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83 See: <http://euobserver.com/18/116533>.
in an open and constructive debate, while increased demands for proactive transparency are also required in order to reduce the workloads of staff attending to requests for documents.⁸⁴

With regard to governmental institutions, meanwhile, the Code of Conduct for Members of the European Parliament, which was adopted in 2011,⁸⁵ is an ethical code that is basically focused on prohibiting bribery and accepting any gift valued at over 150 euros.

Civil agents, organisations and NGOs such as Transparency International have drawn attention to the weakness of the code, which disregards essential issues such as incompatibilities with other activities by reason of holding office as an MEP or serious sanctions in the event of breach of the code, or the need for a period of several years to transpire before MEPs who leave office are allowed to join lobbies.

As for these lobby groups, the phenomenon of lobbycracy is currently one of the issues that certainly jeopardises transparency in the Union.⁸⁶ Although a record of lobby groups does exist, registration is voluntary.⁸⁷

This registry and a record of the aims of each lobby and the methods they intend to use to achieve them should be mandatory.

To conclude this overview of how things stand at a European level, mention should be made of public procurement, which is one of the most sensitive areas of the two sides of the transparency/corruption coin, for which basic regulatory jurisdiction lies with the EU. The European Commission has indeed tabled a proposal for a directive on the matter⁸⁸ to replace the obsolete 2004 directives. Although the directives currently in place at one time did represent a breakthrough and an effort to unify public procurement in different Member States and to implement basic principles such as publication, competition and, ultimately, transparency, the fact is that

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⁸⁴ Platforms such as ALTER-EU have stated that “In this context, it is clear that reforms to law and/ or practice are needed and all parties should be engaging in an open and constructive debate on how to best achieve this. For example, in addition to transparency portal, what is the best approach to increasing proactive transparency in order to reduce the burden of answering access to documents requests” [ALTER-EU, letter of 14 June 2012, addressed to the Vice-President, President and Secretary of the European Commission with regard to the spokesman’s declarations. Available at <http://www.alter-eu.org/sites/default/files/documents/Letter%20to%20Sefcovic%20re%20Gravili%2014%20June%202012.pdf>.


⁸⁶ After Washington, Brussels has become the world’s second centre of power and therefore a focus for such practices, which involve some 15,000 professionals in over 4,000 lobbies (in the European capital alone). These yield between 60 and 90 million euros each year.

⁸⁷ Whereas in Washington, registration is compulsory.

in practice excessive complexity in the procedures has enabled many countries to breach them repeatedly. Furthermore, the system of tying awards to thresholds has neglected and fostered corruption in awards for lesser amounts.

A new procurement policy could therefore represent a great step forward in the pursuit of transparency. As the current bill is drafted, however, not a lot of progress appears to have been made; it encourages the use of e-procurement, it specifies what is meant by *conflicts of interest*, and requires further motives for awards, however, given that such a high system of thresholds continues, many contracts still fail to comply with EU requirements.

An understanding of the phenomenon and the situation in Europe requires awareness of an entrenched assumption that corruption is a totally alien matter and only applies to underdeveloped or developing countries. Because of this belief, appropriate preventive measures have often not been taken and to date it has never been a political priority. The public plays a crucial role in this matter because, against the background of a severe and unsustainable economic crisis, movements such as 15M and NGOs, which include ProAcceso and Greenpeace and many others, have been directly responsible for rescuing transparency from neglect and fighting for transparency. We now appear to be witnessing a European awakening in transparency.

The general panorama of the EU thus considered, although this supranational institution, unlike Latin America, does have effective power over Member States, the infra-regional situation is nonetheless less disperse and heterogeneous than in the case of the former.

The European infra-regional situation is dealt with by Transparency International in a recently published comprehensive report on corruption in Europe. The report systematically analyses 25 European states and highlights European trends and progress and major shortcomings.

As mentioned above, cases are highly diverse and some systems are more firmly established than others. However, none of the countries studied was awarded Transparency International’s “bill of health.”

89 The 15-M Movement, also known as the indignados, is a citizens' movement that emerged from 15 May 2011 onwards as a series of peaceful protests in Spain, intended to encourage a more participatory democracy different from the bi-party government that dominates the country (Spanish Socialist Party –PSOE– and Popular Party –PP–) and from the influence of banks and corporations.

90 Transparency International 2012. The report was issued on 6 June 2012 and was funded by the European Commission and by Iceland, Liechtenstein and Norway.
According to Transparency International, the most opaque and corrupt countries are in southern Europe. Coinciding with their serious situations of economic crisis, they are namely Greece, Italy, Portugal and Spain. They have a severe deficit, both in the general public sector and in levels of accountability. Problems of inefficiency, negligence and uncontrolled corruption can also be observed. The links between corruption and the financial crisis cannot be ignored.

Without entering into detailed analysis, political parties, and the public and private sector have generally been identified as the weakest in the fight against corruption in Europe and are the institutions that come out worst. There is particularly scant regulation and lack of control in the funding of political parties, which is a high risk factor in the occurrence of corruption.

The most highly valued institutions are those of control and monitoring, such as the ombudsman and enforcement and auditing agencies as driving forces for integrity.

As on a regional level, it also warns of the danger posed by lobbies and their relations with political parties, which are opaque and give rise to an unacceptable peddling of influence. Such relations are scarcely regulated or monitored in any countries.

All countries have meanwhile generally developed regulations or have relevant legal provisions. Implementation, however, leaves much to be desired, there are countries where access to documents is taxed; where information is

91 Only Norway and Sweden have a private sector that is involved and engaged with government and civil society in the fight against corruption.

92 Unlike Latin America, where manifestations of corruption, such as bribery, are traditional, Europe suffers from true financial engineering whereby the public Administration, for example, attempts at any cost to establish different fictional accounting systems with which to turn capital transfers into financial assets and expenditure, thus shifting current burden to future generations and mortgaging budgets. The concept of financial engineering was coined by Lawrence Galitz and refers to “the use of financial instruments to restructure an existing financial profile into one having more desirable properties” (Galitz 1994). “In the context of the financial crisis, weak oversight and ineffective regulations have been widely linked to what may be considered ‘legal corruption.’ Legal corruption goes beyond bribery and includes influence peddling, for example the excessive and undue influence of lobbyists in the European corridors of power. It is promoted through opaque lobbying rules, trading in influence and the existence of revolving doors between the public and private sectors. All of these factors have resulted in a more subtle form of policy capture that skews decision-making to benefit a few at the expense of the many” (Transparency International 2012:10, our translation).
transferred slowly or not made available; and where the public is unaware of the right to information. There has been widespread regression consisting of the inclusion of exceptions and limitations on access to information on the grounds that it affects national security or is sensitive information on economic policy.

The same –or worse– applies to public procurement, which is where the highest risks of corruption lie. As mentioned above, although all EU countries have implemented the 2004 directives on public procurement to a lesser or greater extent, these are nonetheless systematically breached with some impunity. This paradoxical situation is caused by the complexity of the procedures regulated in the directives and the administrative burdens imposed on awarding powers. Legislation that is hard to enforce has encouraged practices in which contracting needs are continually being manipulated and the objects of award are being divided up in order not to exceed community thresholds and thus escape the application of EU law.
4. Citizen participation: participatory democracy as a complement to representative democracy

4.1. Prior considerations

A democracy only lives up to its name if citizens have real power to act as such or, in other words, if they can enjoy a series of rights that allow them to demand democratic participation and consider themselves entitled to such participation (Held, 2001).

In recent years, citizen participation, like governance, has also been the subject of discussion in political science, not with a view to defining the elements that shape it, but rather because of the broad debate on representative democracy and participatory democracy that arose as a result of the failures of the State and the market, which gave rise to review of the government model.

The early eighties saw renewed interest from different stakeholders –theoretical, political, and institutional agents and civil society– in citizen participation. The crisis of the welfare State also prompted the public to demand greater participation in political decisions and control of public expenditure through access to relevant information and more intense application of the principles of effectiveness and efficiency in economic and social management as an added value of democratic legitimacy.

Changes in both government action and in relations between State and society from the perspective of governance make participation a mandatory benchmark; it is acknowledged as such in the UNDP Report on Democracy (2002) when it states that “the strategy for human development in the twenty-first century involves fostering participation through the democratic management of public affairs.”

Despite differences between LAC and Europe, both regions underwent serious crisis arising from public weariness or, in other words, both a drop in public expectations of politicians and disenchantment with institutions. New models of social participation meanwhile appeared through the sectoralisation of interests, the organisation of new social movements, the resurgence of civil society, and multilevel governance.

The turning point in Europe was marked by dwindling turnouts for the 1999 European Parliament elections. The White Paper on European Governance thus acknowledged that “democratic institutions and the representatives of the people, at both national and European levels, can and must try to connect Europe with its citizens. This is the starting condition for more effective and relevant policies” and added that people “still expect Europe-wide action in many domains, but they no longer trust the complex system to deliver what they want. In other words, people have disappointed expectations, but expectations nevertheless.”

Both the Latin American and European realities suggest that any reference today of the political processes of policymaking should mention the social agents involved in them, thus meaning
that citizen participation in public policy should be the key element of governance—and therefore at the heart of relations between government and society—and based on three basic dimensions: democracy, development and rights.\footnote{Report written by the Inter-American Development Bank (IDB) 2006.}

The participation of citizens in public affairs is inherent in democratic environments where State and society interact. Hence, as will be discussed later, the study will address participation from a three-fold perspective: citizen participation as a direct complement of representative democracy in environments of democratic governability; citizen participation as linchpin of governance, good government and social cohesion; and local citizen participation as a privileged space for the implementation of participatory democracy.

### 4.2. Circumscription of the concept

Citizen participation is inherent in democracy, and in environments of advanced democratic governability, and involves the participation of citizens in government, which is precisely the result of the level of development and the education of societies that are becoming increasingly critical and demanding of their governors.

There are different levels of understanding society’s participation in public policies: i) through electoral participation, via universal suffrage, ii) through mechanisms that involve consideration of citizens’ preferences and opinions in policymaking, and iii) through agencies with a view to influencing state structures and public policies through joint management or joint government; this study is based on an initial definition of the concept based on the second level.
Compared to political participation, which mainly depends on electoral turnout and associative participation of a political nature, citizen participation thus refers to the mechanisms that enable citizens to be informed about public issues, to issue complaints or suggestions through institutional channels, and to participate in deliberation and decision-making processes (Eva Campos 2010).

Given this distinction between representative democracy or political participation and participatory democracy or citizen participation, it should be emphasised that representative democracy and participatory democracy are not contradictory alternatives, but rather complement and enhance one other. The principle of participatory democracy is therefore only possible as a complement to representative democracy and functions in response to the shortcomings of the former, underpinning that citizens must assume a key role in the development of their community.

A democracy is therefore participatory when greater involvement of citizens in public decision-making is pursued by increasing the intensity of the impact of the latter with regard to normal practice in representative democracies. However, despite widespread recognition of the positive impact of citizen participation, there are still some drawbacks that do not favour opening up spaces for participation, which means therefore there are arguments for and against.

Some of the arguments against public participation are (Subirats, 2001):

/ It makes decision-making slower and increases its cost.
/ It does not include added value in decisions
/ It favours individual and singular interests.
/ It tends to focus on a short-term view.
/ It erodes institutions and political parties.
/ It is the ideal setting for elites or interest
groups, which champion certain interests that do not necessarily match those of an entire community.

There are nonetheless a greater number and more substantial arguments in favour of citizen participation as a mechanism for improving the quality of democracy.

1. As an ideal way to combat several of the pathologies suffered by democracies:

/ Political disaffection.

/ The crisis of confidence in political parties.

/ The inability to channel new demands.

2. As a necessary element for building dynamic and open democracies and therefore an essential item in dealing with the real problems of citizens as key stakeholders, in order to minimise problems and seek solutions.

3. As a generator of benefits such as:

/ Promoting joint citizen responsibility.

/ Saving on organisational and management functions of the public sector.

/ Generating social benefits to counteract uncivil conduct.

In short, public participation helps to improve democracy, and the efficiency and effectiveness of political decisions and public consensus, to enhance the legitimacy of political systems, to optimise institutional performance and to train better citizens and politicians. How, though, is citizen participation encouraged?

Citizens, who are increasingly well-trained and live in better conditions, are better prepared for involvement in collective problems and not only solely in the concerns of their own individual welfare. This is a prerequisite for participation in public life. Maslow, in his famous pyramid that described the hierarchy of human motivation (Abraham Maslow 1943), argues that as the most basic needs (bottom of the pyramid) are met, people develop higher needs and desires (top of the pyramid).

At the apex of the pyramid is human self-actualisation, which includes morality, creativity, acceptance of facts and problem solving, once basic and emotional needs are covered and the person feels safe and confident. This is the ideal condition for participation in public life, as argued by Adam Przeworski in his book Sustainable Democracy (1998) when he states that effective citizenship is only available to those people who enjoy “a modicum of material security, education, and access to information.”
References to citizen participation are often highly optimistic about the extent of participation when compared to little real involvement of citizens in public policy, which very likely sometimes arises because of the precariousness of basic social conditions for the exercise of citizens’ rights and/or the fact that such participation is reduced to mechanisms whereby the governors merely provide information to the governed, rather than true mechanisms of deliberation and decision-making. Citizen participation therefore requires permeable and transparent institutions for it to work, trained and active citizens capable of exercising control and influence, and suitable, flexible and dynamic mechanisms that allow for real participation.

According to Arnstein (1969), citizen participation features different levels of involvement in public processes:
// Informing citizens: through different channels, about decisions taken, the activities of the Administration and the options for participation. Transparency, as noted, is the necessary condition for any reference to participation.

// Admitting complaints from citizens: through mechanisms for lodging complaints on how services or matters of general interest work.

// Consulting citizens: periodically in order to detect needs regarding different matters that affect their environment.

// Deliberating with citizens: through processes that allow for discussion on issues of concern to the community, and the creation of mechanisms that train citizens to participate better in these processes.

// Decision-making with citizens: promoting their execution and the conditions that favour their implementation.

These levels of participation require citizen involvement in activities that are intended to influence the implementation of specific policy measures, these being defined as the process by which citizens, both individually and collectively, undertake a measure designed to link an opinion to public and political matters (Toto, 2000). The notion of citizen participation may, however, assume many forms and is in turn subject to historical, geographical and cultural circumstance.
There are nevertheless two essential conditions and requisites for citizen participation to be effective: transparency and accountability. Without transparency and accountability there can be no participation.

This relation shows that the use of different transparency and accountability mechanisms increases democratic legitimacy and credibility in the system. This encourages citizens to become active participants in public affairs, which, as will be analysed later, is an essential condition for good governance and social cohesion.
5. Social cohesion and governance: a common agenda based on transparency, accountability and citizen participation

5.1. Social cohesion, governance and good government: common principles

Throughout the study, the concepts of social cohesion, governance, transparency, accountability and participation have been analysed and defined in order to show that interaction among them is causal and positive. Consideration of the theory of governance has allowed attention to be focused on three of the five principles that define it: transparency, accountability, and participation. These three principles, which are also components of social cohesion, prove the convergence of social cohesion and governance, as both need them in order to be effectively achieved, and reveal the need for a common agenda based on the notion that the greater the transparency and participation within the framework of good governance, the greater the social cohesion.

Aguilar’s approach thus allows for a causal and positive connection to be established between good governance and social cohesion as it defines the latter as “the process whereby a society’s stakeholders choose their goals of coexistence –fundamental and situational– and the methods of coordination with which to achieve them: their sense of direction and capacity for leadership. The concept involves two fundamental dimensions of human life in society, the social purpose and the social capacity to turn intentions or ends into reality.” The first dimension refers to a definition of the society’s preferred objectives so that it may remain reasonably cohesive and increase its quality of life, while the second involves definition of the arrangement and process of production considered causally ideal and effective in order to achieve the established goals, and make them real.

These two dimensions raised by Aguilar could be described as referring to the *what*, the end –the attainment of greater social cohesion–, and the *how*, the means –through a form of horizontal, participatory, transparent and coherent government based on the governance model–. It is therefore in their function as a means that participation, transparency,
accountability and good government come into play, and these, as ends in themselves, here become the means for the ongoing achievement of social cohesion in its civic and institutional dimensions.

Chart 9 shows that the dimensions of social cohesion directly related to the principles of good governance are:

/ First, the civic dimension, as it is directly linked to the construction of active citizenship based on equality and associated directly with the promotion of participation in civil organisations and of citizenship in general, in processes of defining, implementing and monitoring public policies.

/ Second, the institutional dimension, as it places emphasis on the legitimacy of institutions, the enhancement of their capacities, the promotion of institutional mechanisms to promote public-private collaboration and the coordination of different levels of decision-making (multilevel governance).

Governance and social cohesion\(^{94}\) share principles that make them natural partners in guiding society. These principles encourage a new method of governing that yields the promotion of predictable, efficient, and legitimate and fair institutions that fight inequality, poverty, financial imbalance, corruption, clientelism, and insecurity in order to guarantee freedom, quality of life in democracy and sustainable development. Hence, while good government is not the only agent involved in building good governance, it is nonetheless a key player.

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\(^{94}\) Godínez 2010.
The convergent principles of governance, good government and social cohesion can be seen in chart 10 on the previous page.

This chart summary shows there are overlapping and complementary principles and others that are closely related, in which participation becomes the core feature of governance, good government and social cohesion. The relations among them are discussed below.

1. Complementary

/ Legitimacy and legality. Social cohesion must necessarily be built on a basis of collective thinking oriented towards the common good of a whole community. This immediately results in the essential existence of strong, legitimate institutions. These institutions –public and private– are very representative, and able to plan strategically and encourage spaces for mediation among individuals.

These legitimate institutions, however, must in turn be governed by a fair and impartial legal framework that ensures full protection of human rights, particularly those of the minority. Impartial imposition of the law requires an independent judiciary and incorruptible political power. The principle of legality of good government is a crucially important strategic ally in fulfilling the legitimacy component of social cohesion, the two notions representing two sides of the same coin.

/ Equality and equity. Equality and equity share the same meaning and purpose. Social cohesion means widespread and systemic commitment to distributive justice and to equity. A society that does not guarantee equal opportunities for all citizens generates dynamics of social fragmentation and of differentiated capabilities that erode and preclude its cohesion.

Good government is based on the notion that equity in a welfare society depends on whether there is a guarantee that all members feel they belong to it and do not feel excluded from mainstream society. All groups, and especially the most vulnerable, must therefore have the chance to improve or to maintain their welfare. Equity is a prerequisite for individuals to attain a sense of belonging, and makes citizens jointly responsible for leading their community.

2. Closely related

/ Belonging, acknowledgement and sensitivity, consensus. Belonging is associated with the development of a sense of collective connection with basic principles and values that are shared among citizens. A risk for social cohesion is thus the feeling of isolation that, under certain circumstances, may arise among individuals and social groups, while acknowledgement yields positive reconciliation of differences of identity, religion, culture, politics, ethnicity, and of values or of any other type that characterises society.
That fact that citizens feel that others accept and acknowledge them helps social cohesion, whereas any sense of rejection or intolerance endangers social cohesion. In order to help achieve this, therefore, two principles of good government –consensus and institutional sensitivity– are crucial because, given the host of agents and perspectives, proper mediation among different interests is required in order to reach broad consensus that benefits the community as a whole and, moreover, establishes the channels through which to fulfil them. This requires a broad and comprehensive understanding of the history, culture and social background of a particular society or community and, in turn, sensitivity of both governmental institutions and the private sector and civil society to the demands of the public and its stakeholders. An institution or an organisation should generally be sensitive to those affected by its decisions and measures. Sensitivity cannot be enforced without transparency and without acting in accordance with the law.

3. Coincidental

Participation, as noted above, is the linchpin that brings together social cohesion, governance and good government and is therefore an essential element with which to achieve them. Participation is essential for social cohesion because it leads to the broad involvement of citizens in public affairs. It should therefore be fostered while the appropriate channels must be created; encouraging citizen access requires the adoption of not only regulatory and legislative measures, but also educational ones. The active participation of all residents in the life of the local community contributes to the community’s prosperity and encourages integration.

Transparency as a prerequisite for participation is therefore an implicit principle of social cohesion, as a society can only participate if the public is well informed. Good government therefore means ensuring that decisions are taken in accordance with the law and that information is available, sufficient and easily understandable, which is an essential condition to guarantee freedom of expression.

In governance as a means to achieve this, the promotion of this necessary participation requires all stakeholders with interests, resources and outlooks to be capable of taking part in decision-making according to previously defined rules and guidelines. This necessarily requires transparent institutions and decisions.

Each and every one of these principles, not only integrates and defines social cohesion, governance and good government, but is also a key and essential public policy aimed at strengthening and improving institutions, which governments –regardless of their territorial scope– and international bodies promote as part of their development strategies.
There can be no development without promoting legitimate, efficient, transparent and participatory institutions, while legitimate government institutions cannot be established in settings that do not have the necessary conditions for them. Transparency, accountability and citizen participation are therefore core features of the new agenda for democratic governance and good government in Latin America and crucial for social cohesion in the region. Proof thereof, as shown in the case studies, can be observed in numerous local experiences in Latin America and Europe that show that instruments for introducing transparency in the exercise of public power, and mechanisms for citizen participation, improve the quality of democracy, and are thus extremely efficient tools for social cohesion.

Below, there follows an analysis of good government as a crucial element of this common agenda on governance and social cohesion. This analysis, which is focused on transparency and participation, will in turn show (both in this chapter and in the case studies) that local governments are the proper channel through which they are best and most readily expressed.
5.2. Good government as a guarantor of social cohesion based on transparency and citizen participation

As shown by the principles analysed above, good government is essential to provide governance and social cohesion with an adequate institutional reference that guarantees they are developed and attained. The nature of good institutions is to work according to rules that restrict inefficient, fraudulent and illegal conduct, and that encourage their legitimacy through efficient, stable and flexible conduct (North 2005).

A few initial questions should nevertheless be asked. First, is good government a duty of the Administration or is it a civil right? (Addink 2009). Second, who decides what good government is and on what basis is that decision made?

From our perspective, the answer to the first question is that good government is a shared duty. It is the duty of the Administration, as administrative law is part of the legal system that imposes legal obligations based on the general principles of good Administration. It is a civil right as it features among the fundamental rights approved in the constitutions of each country.

As for the second question, different documents prepared by several international organisations and institutions have addressed the issue of good government. These include the European Code of Good Administration, the European Ombudsman’s Code of Good Administrative Behaviour, the Charter of Fundamental Rights of the European Union, the Council of Europe Code of Good Government and the OECD Code of Good Government.

Many countries have likewise adopted or improved their legislation in this respect with a view to taking a step forward in the task of good government. They have thus been inspired by legislation adopted by some pioneering countries, such as the Netherlands, or by international instruments.

On the basis of all these references, good government can be said to refer to a series of declarations of best management practices that seek to generate trust and respect with regard to the democratic principles between the State and citizens, practices that a priori go beyond compliance with legal provisions and take shape in organisations on the basis of values intended to define public office as true public service. Hence, the eight major characteristics of good government featured in chart 11.

The concept of good government should therefore be accompanied with analysis of the levels of integrity, accountability, efficiency, impartiality, transparency and participation with which governments and administrations act; in other words, a set of formal and informal rules that encourage public ethics in administrations and governments. This set of precise rules subject to coherent application processes in turn requires organisations that are not
only rational institutional agents, but also moral agents that assume values and ends that justify them and guarantee respect and impartial application of the rules and of the processes.

Two of these eight principles, transparency and participation, are nonetheless essential in generating better social cohesion in society:

<table>
<thead>
<tr>
<th>Principles</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation</td>
<td>/ Both of men and women, is the key to good government.</td>
</tr>
<tr>
<td></td>
<td>/ May be direct or through intermediaries, institutions or legitimate representatives.</td>
</tr>
<tr>
<td></td>
<td>/ An attempt should be made to meet the needs of those most in need.</td>
</tr>
<tr>
<td></td>
<td>/ It should be informed and well-organised, which is a prerequisite for freedom of expression.</td>
</tr>
<tr>
<td>Legality</td>
<td>/ A fair and impartial legal framework.</td>
</tr>
<tr>
<td></td>
<td>/ Total protection of human rights, particularly those of the minority.</td>
</tr>
<tr>
<td></td>
<td>/ An independent judiciary.</td>
</tr>
<tr>
<td></td>
<td>/ An incorruptible political force.</td>
</tr>
<tr>
<td>Transparency</td>
<td>/ Decisions should be adopted in accordance with the law.</td>
</tr>
<tr>
<td></td>
<td>/ Information must be available to those affected by decisions.</td>
</tr>
<tr>
<td></td>
<td>/ Information should be sufficient and easily understandable.</td>
</tr>
<tr>
<td>Responsibility</td>
<td>/ Institutions and systems should serve all stakeholders within a reasonable framework of time.</td>
</tr>
<tr>
<td>Consensus</td>
<td>/ In view of the numerous agents and perspectives involved, proper mediation among different interests is required in order to attain a broad consensus that benefits the entire community and also establishes the channels through which to fulfil them.</td>
</tr>
<tr>
<td></td>
<td>/ A broad perspective and an understanding of the history, culture and social context of a particular society or community are required.</td>
</tr>
<tr>
<td>Equity</td>
<td>/ A welfare society requires all members to feel that they belong to it and not to feel excluded from mainstream society.</td>
</tr>
<tr>
<td></td>
<td>/ It requires that all groups, and especially the most vulnerable, have the chance to improve or to maintain their welfare.</td>
</tr>
<tr>
<td></td>
<td>/ Equity fosters a sense of belonging.</td>
</tr>
<tr>
<td>Effectiveness and efficiency</td>
<td>/ Procedures and institutions must achieve the results the society needs in the best way possible and with the available resources.</td>
</tr>
<tr>
<td></td>
<td>/ The concept of efficiency in the context of good government also includes the sustainable use of natural resources and environmental protection.</td>
</tr>
<tr>
<td>Sensitivity</td>
<td>/ Sensitivity is one of the keys to good government.</td>
</tr>
<tr>
<td></td>
<td>/ Both government institutions and the private sector and civil society must be sensitive to the demands of the public and its interest groups.</td>
</tr>
<tr>
<td></td>
<td>/ An institution or an organisation is generally sensitive to those who are affected by its decisions and actions.</td>
</tr>
<tr>
<td></td>
<td>/ Sensitivity can not be enforced without transparency and without abiding by the law.</td>
</tr>
</tbody>
</table>

Source: created by the author based on the study by Cerrillo Martinez, A. (2005) "Governance today: 10 reference texts"
5.2.1. Transparency

Transparency and accountability – as a complement to transparency – are essential principles of good government and associated with a properly functioning State and society, as indicated in the Transparency International\textsuperscript{95} rating, which points to the fact that good government is closely associated with democratic strength in such a way that the more democratic and developed a State is, the less corruption and the greater the social cohesion generated.

Transparency International’s Corruption Perceptions Index (CPI) rates 183 countries and territories with a score from 0 (highly corrupt) to 10 (very transparent) on the basis of perceived levels of corruption in the public sector. It uses data from 17 surveys that analyse factors such as the implementation of anti-corruption laws, access to information and conflicts of interest, and provides essential information on the strength of institutions, legal certainty, transparency and accountability, which determine the level of the confidence of citizens in their governments.

Below details are given of the evolution of the Corruption Perceptions Index both in Europe and LAC for the 2002–2011 period. These can be used to compare different regional and national realities, regardless of the region to which they belong.

In 2011, over two thirds of the countries assessed scored less than 5. New Zealand (outside of the geographical area analysed in this study) was rated highest, followed by Denmark and Finland, which came first in 2002. In 2011, Haiti (LAC) and Mexico (OECD) meanwhile were awarded some of the lowest scores of the CPI. Specifically, Mexico fell from 57th position in 2002 to 100th in 2011.

Of special interest are the scores attained by some countries in both regions, such as Chile and Uruguay, which rank similarly to European countries and even better than countries such as Spain and France, while the ratings of Costa Rica, Cuba and Brazil are similar to those of Italy and Greece.

The case studies will include analysis of a Chilean, two Spanish – the councils of Sant Cugat del Vallès and Bilbao, which some years now have been heading Transparency International’s ratings of cities in Spain – and an Italian experience – the Region of Tuscany and its law on citizen participation –.

The European interpretation of data for 2011 should, however, be considered in the context of the debt crisis, because some European Union nations scored lower compared than in previous years. This is the case of Spain, which fell from 20th position in 2002 to 31st in 2011. This partly reflects the incapacity of public authorities to address the key factors (such as tax evasion) that prompted the crisis.

\textsuperscript{95} Information available at <http://www.transparency.org/getinvolved/report>.
Chart 12. Perception of the degree of corruption in Europe

<table>
<thead>
<tr>
<th>Position</th>
<th>Score</th>
<th>Country</th>
<th>Position</th>
<th>Score</th>
<th>Evolution</th>
</tr>
</thead>
<tbody>
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<td>2</td>
<td>9.5</td>
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</tr>
<tr>
<td>2</td>
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<td>Finland</td>
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<td>↓</td>
</tr>
<tr>
<td>4</td>
<td>9.3</td>
<td>Sweden</td>
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<td>9.3</td>
<td>➕</td>
</tr>
<tr>
<td>7</td>
<td>8.9</td>
<td>Netherlands</td>
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<td>9.0</td>
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</tr>
<tr>
<td>11</td>
<td>8.5</td>
<td>Luxembourg</td>
<td>7</td>
<td>9.0</td>
<td>↓</td>
</tr>
<tr>
<td>14</td>
<td>8.0</td>
<td>Germany</td>
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<td>7.3</td>
<td>➕</td>
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<tr>
<td>16</td>
<td>7.8</td>
<td>Austria</td>
<td>15</td>
<td>7.8</td>
<td>➕</td>
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<tr>
<td>16</td>
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<tr>
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<td>6.3</td>
<td>Cyprus</td>
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<td>6.2</td>
<td>Spain</td>
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<td>7.1</td>
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<td>Bulgaria</td>
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<td>↓</td>
</tr>
</tbody>
</table>

Source: created by the author on the basis of Transparency International data (www.transparency.org)
According to Transparency International Managing Director, Cobus de Swardt, “2011 saw the movement for greater transparency take on irresistible momentum, as citizens around the world demand accountability from their governments. High-scoring countries show that over time efforts to improve transparency can, if sustained, be successful and benefit their people.”

<table>
<thead>
<tr>
<th>Position</th>
<th>Score</th>
<th>Country</th>
<th>Position</th>
<th>Score</th>
<th>Evolution</th>
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<td>Venezuela</td>
<td>81</td>
<td>2.5</td>
<td>↓</td>
</tr>
</tbody>
</table>

Chart 13. Perception of the degree of corruption in Latin America

Source: created by the author on the basis of Transparency International data (www.transparency.org)
5.2.2. Citizen participation

Citizen participation requires criteria for action that bring peace of mind, which makes good government crucially important as an instrument of political education: first, because it helps to establish the real costs of public services better and thus encourages citizen responsibility and moderation in the use thereof; second, because it improves public regard for public officials whose work is clean, upright and responsible; and, third, because transparency and good government are some of the best tools with which to counter political disaffection.

Only when citizens feel they are taking part and sense that their representatives are close to them is it possible to achieve commitment and participation.

Social cohesion seeks and requires the widespread involvement of citizens in public affairs, and good government encourages the mechanisms and channels necessary to achieve this participation through:

/ The promotion of a solid movement of associations and a participatory society.
/ The development of a relational and communicative Administration that involves and consults the public and different economic, social and cultural stakeholders.
/ The creation of specific tools suited to each level of government: referenda, polls, working groups addressed to specific projects, civic reflection workshops, and channels for drawing up participatory budgets.
/ Education and training for citizen participation.
/ Guaranteeing the right to information among citizens and political representatives and making full use of information technology.
/ The development of different forms of public evaluation of local management with which to assess the degree to which management objectives have been fulfilled and the extent to which the budget has been implemented.

96 Aranda Álvarez 2011.
In short, strong institutions favour the creation of a democratic political culture and yield the best conditions for the development of a civic culture based on issues as basic as respect for others, in order to turn the example set by the governors into a mirror in which citizens should see themselves reflected. Codes of ethics and good government are therefore an appropriate tool for defining and guiding socially accepted conducts, and should include their scope of application, their philosophical foundations, their specific contents and the procedures to ensure they are enforced.

5.3. Social cohesion and local governance

Social cohesion is the responsibility of all levels of government. In order to build fairer societies, cohesion has therefore become one of the primary objectives of different local, regional, national or supranational public authorities. By imagining them as concentric circles, the existence or absence of cohesion can be analysed through these territorial levels and through the host of definitions that currently revolve around combating different forms of social discrimination, inequality, alienation and exclusion.

Even taking shared responsibility into account, local and regional governments, as the most close-at-hand and direct agencies of public intervention, are however in a better position than other levels of government not only to respond to citizens’ demands, but also to plan medium- and long-term policies better and, therefore, encourage a virtuous circle revolving around social cohesion.

Regardless of whether local governments have a budgetary and regulatory framework that allows for suitable public intervention or not, they nonetheless tend to play the role of guarantor of social cohesion, proof of which can be observed in numerous European and Latin American examples of innovative initiatives aimed at improving the margins of cohesion in their community.
Adequate decentralisation of territories should therefore be encouraged. Decentralisation and strengthening governments in general, and in particular local governments, should act as the benchmark for those policies aimed at improving the public’s quality of life and achieving more cohesive societies, given that a great number of public policies are included under the umbrella of social cohesion –including urban and regional planning, public services, education, equality, participation, health, youth, migration, cultural diversity, and intergenerational relations–and all undertaken at a local level.

It is precisely this context that fosters the capacity of local agents to achieve consensus, to coordinate with one another and to take part in collective measures that encourage local development. Local governments in both regions are aware of the broad sectoral areas that can be pinpointed as cross-sectional spaces for local policies addressed to social cohesion. Regardless of socio-economic contexts, Victor Godínez therefore establishes four main sectoral areas that can be identified as horizontal connecting spaces for local social cohesion public that directly or indirectly yield conditions conducive to the development of sustainable dynamics of inclusion, legitimacy, acknowledgement, equality, participation and belonging of individuals and groups in society. These areas are:

- **Local economic development**, as a necessary prerequisite and foundation for social cohesion, as there can be no social cohesion without the existence or generation of an economic base and a base from which to promote employment.

- **Access to public services**, as guarantors of equal provision and universal access to them.

- **Participation**, as an essential element in joint responsibility for decision-making and for training the community, for a sense of belonging and for social capital.

- **Territorial cohesion**, both in the proper planning of towns, rural dispersion and equal access to services. It also includes the necessary integrated planning of population settlements.

One further area should be added to these four:

- **Local governance**, because, as previously stated, there can be no development without legitimate, effective, transparent and participatory institutions that take into account key stakeholders involved in public life and foster forms of open, horizontal and deliberative government, which in turn generates what might be referred to as political-social cohesion.

One of the spheres in which governance develops most is the local arena, a phenomenon that has been referred to as local governance.
This is because in a relational environment, local governments take part in the governance arising from decentralisation and local autonomy, act individually or through networks and do much of their work in a setting of multilevel governance, which allows them to extend and enlarge their area of operations.

The idea of local governance refers to “the set of formal and informal rules, structures and processes by which stakeholders collectively solve their problems and meet societal needs.

This process is inclusive because each stakeholder brings important qualities, abilities and resources. In this process, it is critical to build and maintain trust, commitment and a system of bargaining” (Bovaird 2002).

This approach to local governance reappraises the role of citizen participation in decision-making processes, in contrast with the new public Administration approach, which placed greater emphasis on the products, results and impacts of municipal management. The concept of governance, referring to the management

![Diagram](image.png)

Source: created by the author
of multiple networks and organisations, again bypasses the hierarchical exercise of power -government- in order to manage networks -governance- which also means a change in local government from a service provider to a capacity-builder or, in other words, empowering or building the capacity of others (whether citizens themselves, NGOs or private companies) to provide collective services.

It is local governance, through citizen participation, transparency and legitimate institutions, that can promote social cohesion. As the foundation for more inclusive societies, social cohesion policies should therefore include the following basic features:

1. Possession of an essentially preventive nature and focusing on capacity building to strengthen the community’s development.

2. The promotion of scenarios of democratic governability through an efficient institutional system and with the effective participation of citizens in decisions that affect them.

3. Encouragement of citizen participation for the creation of necessary links between citizens and institutions for better democratic governability. Participation in decision-making, enforcement, control and the implementation of policies gives institutions the legitimacy to operate with greater transparency and to generate social capital that strengthens the bonds of coexistence and values differences, thus building citizenship through acknowledgement and respect for diversity.

4. Establishment of mechanisms to evaluate and measure impact, in order to assess the sustainability of the results obtained.

5. Access to information through mechanisms of transparency and accountability conducive to mechanisms of mediation.

6. Investment in employment and local economic development policies, and the encouragement of local partnerships among public administrations, the business sector and organised civil society and citizens, that favour the construction of territorial governability.

Four of the six basic aspects for promoting social cohesion refer to the principles of good government through policies of transparency, accountability and participation, because, as Natera states (2004), at a local level government action is not limited to municipal organisation, but is extended or can be extended to other public, private, individual or institutional agents, in which the role of citizens involved in local issues and in local governance networks is essential and requires the development of a territory’s social capital and the existence of good government to sustain it. Hence the relevance of the theory of good local government in analysis of the causal and positive relations between governance and social cohesion.
5.3.1. Good local government

Local governments, endowed with the powers of jurisdiction and finance, are the ideal setting for the implementation of models of good government and of social cohesion, as the proximity inherent in their nature as a basic territorial institution makes them so. If any level of Administration is able to articulate mechanisms of aperture, consensus, sensitivity, equality, belonging, participation, transparency and accountability, it is a local one.

One of the main precedents regarding the significance of fostering good government at the local level emerged at the Congress of Local and Regional Authorities of the Council of Europe (CLRAE), Recommendations 60 and 86 which, passed in 1999, sought to inspire the conduct of local authorities in political ethics. Soon afterwards, the European Code of Conduct for the Political Integrity of Local and Regional Elected Representatives, approved by the CLRAE, advocated the promotion of codes of conduct for local representatives as instruments that would create trust among politicians and citizens and boost performance in the functions of public representatives with transparency, efficiency and effectiveness, thus fulfilling the mandate of the electorate which, in turn, is closely linked to a respect for ethical standards.

In order to mark the declaration on Democratic Participation and Public Ethics at Local and Regional Level (Valencia 2007), the European Ministers Responsible for Local and Regional Government likewise referred to the Budapest Agenda and other recommendations from the Council of Ministers and from the Council of Europe, and underlined the utility of the Handbook of Good Practice in Public Ethics at Local Level.

On the basis of these recommendations, and in compliance with the regulatory frameworks of each Member State of the Council of Europe, many of them saw fit to draft a set of principles and design instruments of government with a view to establishing guidelines of conduct for local elected representatives and thus shape common public ethics that would avoid mismanagement, prevent possible corrupt practices and conversely help to extend best practices.

A good example thereof is the Code of good local government adopted by the Spanish Federation of Municipalities and Provinces (FEMP) in 2009 in which the recommendations are taken into consideration. This code is intended to help improve the management models of local governments as guarantors of regional equality and solidarity, based on the acquisition of a commitment to public ethics and democratic quality aimed at enhancing the democratic and participatory structure of local councils. The code also represented a Statute for Local Elected Representatives, as it echoed one of the assertions in the European Code whereby “obligations cannot be imposed without providing guarantees that enable local and regional elected representatives to fulfil their duties.”
This code includes the essential principles of good local government, and the main measures that should be established in order to ensure proper compliance. The principles underlying good local government include:

/ Respect for and compliance with the law and principles of public ethics.

/ A drive for efficiency, for modernisation of the Administration and good public service, for the defence of general interests based on honesty, objectivity, impartiality, confidentiality, austerity and proximity to citizens.

/ Improvement in models of management to ensure the public good government as a guarantee of equality and solidarity, with the acquisition of a commitment to public ethics and democratic quality.

/ Encouragement of transparency and participatory democracy.

/ Work towards social inclusion and territorial balance.

/ Respect for the will of the public arising from universal suffrage and a struggle against political defection.

/ Respect for and encouragement of human rights and civic values.

/ A drive against corruption and against the exercise of prerogatives.

/ The formulation and implementation of local policies conducive to territorial sustainability and social cohesion.

The incorporation of these principles into codes of good government of a discretionary nature may be the first step towards their inclusion in respective legislations, thus turning ethical principles into compulsory principles of action with which to coordinate a better institutional ethical infrastructure. The councils of Bilbao and Sant Cugat, two of the case studies analysed, are two paradigmatic examples not only because of their commitment to transparency policies, but also because of the progress they have made in adopting a code of ethics in 2007 (Bilbao City Council), and the Plan of Integrity and Ethical Code (currently being developed by Sant Cugat City Council). The work of good local government goes further, however, as it also involves definition of basic measures for encouraging the management of democratic quality, forecasting incompatibilities in public office, defining pay and promoting instruments for participatory democracy.

With regard to these measures, the role of elected local representatives in the management of councils is essential for the democratic system to function because of their proximity to the public and must be generally exercised with a sense of responsibility, a commitment to serving society, and transparency, efficiency and total dedication to their public duties. Circumstances, however, show that
sometimes democratic systems are subject to mismanagement and corruption, and a lack of transparency in management, which causes a rift with the public, detachment of local elected officials from the social reality, possible collusion with private interests and a lack of sufficient channels with which the opposition can control management.

Such circumstances, whether exceptional or systemic cases, deteriorate and harm the democratic quality and social cohesion of the community. In order to deal with these phenomena, therefore, the only possible answer is to assume a commitment to the proper functioning of local democracy and to enhance it through honest and transparent conduct and openness to participation.

Local governments are indeed crucial to the economic and social transformation of regions and contribute to their collective progress. It is the local level that is best suited to fostering equality and social justice, to consolidating democracy, to imagining new forms of participation and to exercising the freedoms and rights of citizenship, to encouraging next-generation rights, to fighting corruption, to caring for those most in need, to creating jobs and, in short, to strengthening social cohesion and consolidating the welfare State.

The local environment in Europe and in Latin America, as shown in the case studies, is the strategic sphere for political action and the future of democracy, and for the development of citizens’ rights and an opportunity to make next-generation social rights a reality.
5.3.2. Transparency policies at a local level

As reiterated above on several occasions, the municipality is the administrative institution closest at hand to the public. Because of its size and resources, it plays a fundamental role in fostering democracy, it is the environment in which people go about their daily lives and it is the authority with which they initially have contact. The municipal environment is therefore ideal for implementing transparency policies, mainly of access to public information.

As can be observed in the case studies, municipal transparency must enjoy both objective and subjective support: legislation that regulates obligations and rights associated with access to and the supply of public information.
and the political will to be a transparent government. Local governments should therefore encourage plans and measures with which to improve transparency.

Municipal regulations on transparency must, first, feature regulation of the right of access to any public document without the need to prove legitimate interest and, second, clearly and comprehensively establish what information the Administration is required to make available to citizens, while differentiating in each case the duties of active and passive disclosure. Every municipality should, as a minimum, actively publish the following information (Chart 15).

The standard should, moreover, establish a simple procedure of access to unpublished information, and a system of recording and tracking requests for information. The municipality should use ICT for this purpose and the benefits provided by eGovernment. The local authority should also keep a physical file of documents either itself or with a body that the public can visit to request information.

<table>
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<tr>
<th>Structure</th>
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<tr>
<td><strong>Government information</strong></td>
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<tr>
<td>Operation (with applicable regulations)</td>
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<tr>
<td>Powers (with applicable regulations)</td>
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<tr>
<td>Government and Administration personnel: information and remuneration</td>
</tr>
<tr>
<td><strong>Public management</strong></td>
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<tr>
<td>Strategic plans</td>
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<tr>
<td>Municipal initiatives</td>
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<tr>
<td>Public services</td>
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<td><strong>Economic information</strong></td>
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<td>Budget</td>
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<tr>
<td>Public contracts</td>
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<tr>
<td>Investments</td>
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<tr>
<td>Management reports, <em>ex ante</em></td>
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<td>and <em>ex post</em> justification of budgets.</td>
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Source: created by the author
The duty of transparency requires real accessibility to public information and this means a simple process of access that involves widespread dissemination. The information, meanwhile, should have a clear structure and be expressed in clear language.

The success of a good transparency policy at local level is largely determined by the quality and quantity of information available to citizens and the immediacy with which requests for information can be met.

5.3.3. Citizen participation: a core feature of social cohesion and governance

Participation as an essential criterion of good governance fosters a sense of belonging and mutual acknowledgement among members of the community. Thus, if people are aware there are opportunities for effective participation in decision-making, they are likely to believe that participation is worth it, to participate actively and to defend the idea that collective decisions must be compulsory. On the other hand, if people are systematically alienated and/or poorly represented, they are likely to believe that their opinions or preferences will not be taken very seriously (Held 2001).

Effective citizen participation is a prerequisite for the achievement of social cohesion; such participation means taking an active part in public affairs. It is in this public realm that public participation is crucial for active involvement in matters of public interest. Hence, when citizens sense they are actively involved in public matters, they therefore feel integrated in projects on the public agenda and this has a positive impact on community cohesion.

Although it was stated earlier that this study would be focused on the aspect of participatory democracy as a complement to representative democracy, and more specifically on participation at a local level, it is worth taking a look at some general data on one of the essential elements that significantly
influence whether or not citizens choose to participate: confidence, and its significance for social cohesion.

As mentioned previously, social cohesion involves a set of essential dimensions and components associated with an aspiration for more and better society. As these include the factor of confidence in both the civic and institutional dimension of cohesion, it is therefore essential for the construction of active citizenship, the encouragement of participation in organisations, the strengthening of institutions and the generation of their credibility; in short, the confidence of citizens in one another and in their leaders and representatives.

The Council of Europe’s *Methodological Guide* establishes a triple dimension of confidence as an indicator of the degree of social cohesion: confidence in oneself and one’s personal relationships; confidence in institutions; and confidence in the future. In this context some interesting information is provided in the Latinobarómetro 2011 Report, which indicates that the most striking feature of Latin American culture is the low level of interpersonal confidence. In this light it recommends that “the recovery of public space as a meeting place in which to exercise greater symbolic equality, and focused, compensatory policies to reduce social divides and to alleviate poverty; while renewing the use of the land and the city. It is therefore possible to conclude that strengthening citizenship allows for improvement in levels of social cohesion. Involvement in collective projects is a basic condition for giving political support to meet challenges that arise.”

Figure 15 shows how interpersonal confidence in LAC stood at 22% in 2011, the same percentage as in 2006, and an increase of two percentage points on 2010. This is important not only from an individual perspective or as evidence that the mechanisms of confidence among citizens must improve in order to yield greater levels of citizen participation, but also because comparison shows that levels on this same indicator were close to 70% in European countries. This is one of the main differences between the two regions.

However, one of the types of confidence that increased most from 1995 to 2011 is confidence in governments, as the public sees them as essential agents for legitimising the region’s democracies.
**Figure 15. Interpersonal confidence**

**Question.** Generally speaking, would you say that most people can be trusted or that one can never be too careful when dealing with others?

"Most people can be trusted" only here.

**Figure 16. Eurobarometer - Latinobarómetro: confidence in government**

**Question.** Can you please take a look at this card and tell me how much confidence you have in each group, institution or person mentioned on the list?

"A lot" plus "A bit" only here.
The above comparative charts show that confidence in government is higher in Latin America than in Europe (based on Eurobarometer data). While in Europe average trust in government stands at 29%, in Latin America it is 45%. This situation has arisen from the crisis of confidence of European citizens in institutions, regardless of the level of government, resulting from the international economic crisis and its impact in Europe.

Lastly, public perception of shortcomings in democracy in the region is also of interest. Democracy is notably lacking the following areas: reducing corruption (48%), ensuring social justice (33%), increasing citizen participation (31%) and transparency of the State (31%). Only 13% said that democracy is not lacking anything and is fine as it is. These data show the need for improvement in democratic quality and the need, particularly in LAC, to encourage the civic dimension, which entails not only rights but also duties, in order to prompt greater confidence and combat these democratic shortcomings.

Confidence, therefore, is closely associated with participation. To increase it requires improvements in institutions through policies of transparency and accountability. The improvement in confidence based on the triple dimension suggested by the Council of Europe allows individuals to interact with one another and with institutions and, through participation, to plan shared goals.
Participation is thus an essential element in that equation, and although it is definitely true that a more participatory system in itself is not enough either to eliminate social inequalities or to yield true social cohesion, it is no less true that effective citizen participation encouraged on a basis of social equality is closely linked to the existence of a more equitable, more humane and more cohesive society. There are several examples in Latin America, of local communities in which effective participation in matters of public interest has yielded rates of social, economic and political development, as evidenced by the URB-AL II Programme Network on local financing and participatory budgeting, which will be analysed in the case studies.

It should not be forgotten that citizen participation, as the linchpin of good governance and social cohesion, is indeed a two-way tool; on the one hand it improves democratic quality from an institutional perspective, meaning that it has a positive influence both collectively and institutionally, while on the other it also benefits the public, both individually and collectively, through the exercise of their rights, the strengthening of social capital, of the organisational fabric and of social networks.

Lowndes, Pratchett and Stoker (2001) distinguish five participation formulae, which vary in accordance with the objectives pursued: 1) procedures based on the notion of the citizen as a client, and linked to the quality management approach with a view to improving a particular service; 2) methods required obligatorily in traditional administrative procedures of public or municipal information or the mandatory consultation of representatives of associations; 3) public forums or councils, comprising groups of citizens who meet in accordance with territorial criteria or because they share common interests in a municipal matter or area; 4) methods of direct democracy and innovations in methods of inquiry, which are intended to seek an opinion on a specific matter; 5) deliberative instruments, addressed to promoting discussion and public reflection on issues that affect citizens based on a deliberative process that includes citizens’ juries, deliberative polling, mediation groups or permanent

addressed to the satisfaction of citizens as clients of services (quality assessments through surveys or charters of services would be examples). Others, meanwhile, have a participatory nature along the same lines as governance. Experiences of citizen participation in many European municipalities range from self-management of certain municipal services (social and cultural centres, kindergartens, centres for the elderly, Internet access), shared management of certain local projects (festivals, leisure programmes, neighbourhood services, environmental projects, adult education) and decision-making on the urban environment (green areas, transport byelaws, lighting, street cleaning), to the awarding of citizens the role of advisor-client (quality circles, management of complaints, citizens’ forums, and planning groups).

98 Some participatory practices are designed in accordance with the ideas of New Public Management and oriented to effectiveness and efficiency

Since the appearance of public participation policies, the local arena has become a prime setting for the performance of many experiments both in Europe and in Latin America, as it is easier to apply the principles of good governance locally, given that the proximity between citizens and representatives yields closer communication channels and new participatory approaches to government that can provide innovative and more appropriate responses to the circumstances of the surroundings. Brugué, Font & Gomá (2003:14) raise some interesting ideas about citizen participation in the municipal arena:

/ Citizen participation is a way to overcome the administrative and political shortcomings that arose after the crisis of the welfare State, through the promotion of joint management and social capital.

/ It triggers individual roles and later provides a collective sense to relations between governors and the governed.

/ It features ongoing exploration of mechanisms of participation when identifying the best tools with which to implement it.

Local government indeed has some features that make the local arena the most suitable level at which to generate public participation initiatives. First, because municipal organisation responds to local circumstances and the interests of the collective and of the territory, which it deals with and is visible, close-at-hand and accessible; second, local administrations are more versatile and flexible in meeting the specific demands of citizens; and, third, because it is the local authorities that have the greatest power to establish conditions favourable to the inclusion of individuals or groups interested in public affairs.

Networks of citizen participation can likewise be encouraged by local governments for a range of reasons: to obtain good electoral results, to improve the management of services, to attempt to reduce municipal deficit by outsourcing the management of services to public initiatives, or with a clear will to enhance local democracy. Citizen participation initiatives therefore undoubtedly contribute further legitimacy to local public policies.
In short, in no other territorial area and at no other level of government is citizen participation as feasible and effective as it is in the local arena. However, while in Europe the trend has been to generate initiatives that complement and legitimise the initiatives of local governments upon consideration of citizens as the bearers of sovereignty and of the rights arising from it, in LAC, although the public participation process was formalised in the nineteen-nineties, there is an observable tendency for citizens to be viewed as clients or consumers rather than as political subjects, and this affects their capacity to perform a function of criticism and control that stretches beyond individual interests.
6. Case studies*

The series of case studies that now follows provides a basis upon which to analyse the strategies of transparency, accountability and citizen participation of different local governments in Latin America and Europe. These are novel, innovative experiences, which for different reasons can help to draw conclusions relevant to this study.

The first two are experiences of Spanish local government: the councils of Sant Cugat del Vallès and of Bilbao.

For some years, these two councils have been leading Transparency International’s rankings of Spain’s most transparent cities. As shall be observed, they have innovated and endowed themselves with new technologies in their commitment to transparency. The case studies will also include analysis of the Metropolitan District of Quito, as an example of good practice in transparency, and the Italian Region of Tuscany.

6.1. Sant Cugat del Vallès

Before dealing with the two Spanish local experiences, they should first be placed in a nationwide context, given the peculiarities of the Spanish political and legal system. Spain is one of five countries in the European Union, besides Greece, Luxembourg, Malta and Cyprus, that as yet does not have a transparency law allowing citizens access to public information.

Although the Spanish government has been promising to regulate the matter since 2004, the draft bill was not introduced to Parliament in the previous term. The public has indeed played a key role in this matter because against the backdrop of a severe economic crisis, movements such as 15-M and NGOs like ProAcceso and Greenpeace have been directly responsible for rescuing transparency from neglect and fighting to promote it. A new draft bill on transparency that has resulted from social pressure is now being processed.

That notwithstanding, the absence of specific legislation on the matter does not mean that no measures have been implemented; for example, the right of access to files and records is guaranteed by the Constitution—in Article 105—

* Appendix C of this study includes a chart comparing the case studies of Sant Cugat, Bilbao, the Metropolitan District of Quito and the Tuscany Region, and Appendices D and E, which include data from the URB-AL II Programme Network 9 and International Observatory for Participatory Democracy.

27 July 2012 saw the approval of the latest draft bill on transparency, access to public information and good government. However, given the slowness of the parliamentary process and the sensitivity of the matter, approval of the law will still take some time.
and in Articles 35 and 37 of Law 30/1992, of 26 November, on the Legal Regime of Public Administrations and the Common Administrative Procedure. It is also dealt with in different measures of transparency regarding disclosure, e-access and the centralisation of information introduced in sectoral regulations such as Royal Legislative Decree 3/2011, of 14 November, which approves the Consolidated Text of the Public Sector Contracts Act; and in the Code of Good Government of members of the Government and of High-Ranking Officials; and in Law 5/2006, of 10 April, which regulates conflicts of interest of members of government and of high-ranking officials of the General State Administration; the latter with a view to strengthening and preventing conflicts of interest in the public sector and to guaranteeing transparency.

Against this somewhat chaotic and hitherto not very transparent Spanish nationwide context, there are two leading cities in transparency that for some years now have been acknowledged as such by the international community.

Sant Cugat del Vallès is a municipality in the county of Vallès Occidental, in the province of Barcelona, Autonomous Community of Catalonia, Spain.

According to official figures from the Spanish National Statistics Institute (INE) in 2011 it had 83,337 inhabitants. It is the third most populated town in Vallès Occidental after the joint capitals of Sabadell and Terrassa, and the ninth most populous in the province of Barcelona.

The municipality of Sant Cugat includes some large companies such as Televisión Española. The sector to the north of the motorway is the business zone. There are also industrial areas such as Can Magí and Can Colapa, although these are not comparable to the large, extensive industrial estates of Rubí, Sabadell and Terrassa.

Sant Cugat, and the neighbouring towns of Rubí and Cerdanyola del Vallès, form the Catalonia Innovation Triangle (CIT). The three cities joined forces to work on a project to promote their industrial estates and economic zones on a joint, unified basis. These municipalities work together to improve access, promotion and economic development in this area of Vallès Occidental, which has 26 industrial estates and some 10,000 companies.

As mentioned above, although Spain is currently processing a draft bill, it is in fact one of the few European countries that does not have a law on transparency or access to public information. This municipality has nonetheless been implementing transparency policies for several years.

Since 2009, Sant Cugat has been ranked first in transparency ratings for municipalities: it was rated as 98.8% transparent in 2009 and 100% transparent in 2010.\textsuperscript{100}

\textsuperscript{100} The transparency index of municipalities (TIM) is produced by Transparency International. This annual index involves evaluation of the level of
6.1.1. Regulations and measures

In November 2009, the plenary session of the local government issued its first statement on transparency and good government. The declaration emphasised the need to initiate a process of reflection on policies that should be adopted in order to improve transparency. Transparency thenceforth became a priority on the local agenda.

Sant Cugat proposed aligning policy and management in order, first, to identify the specific needs of citizens; second, to integrate needs on the electoral programmes; and, third, to meet those needs. This all involved the widest possible dissemination.

2009 also saw the implementation of certain measures such as the dissemination of information on public services that were being provided. It was proposed that the same should be done for each policy developed with the ultimate goal that transparency should dominate any policy or management initiative.

On 21 June 2010, the plenary session of the council approved the first document on transparency: *Measures to improve transparency in municipal affairs* and a Regulation on Citizen Participation.

The document on measures to promote transparency contains a series of projects and establishes some guidelines with which to implement transparency. For example, it undertakes to provide the public all information on urban planning (reports, standards, plans, planning agreements, etc.) on the municipal website, plus information on the development of the Local Urban Development Plan; it features a plan to create a record of planning urban agreements –also via the website–.

With regard to improvements in government and public management, the council proposes the introduction of a code of ethics and of the right to good administration, as well as the adoption of a Regulation on Citizen Participation. It also assumed a pledge to establish a citizens’ Urban Planning Advisory Council with informative and deliberative participation.

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transparency of the Spanish councils that adhere to the index. Evaluation is based on 80 indicators that measure the levels of information made available to the public. Since 2010, Sant Cugat del Vallès shared the leading position alongside the municipalities of Bilbao (Vizcaya, Basque Country), Ponferrada (El Bierzo, León, Castilla y León), Puerto Santamaría (Cádiz, Andalusia), Gijón (Asturias) and Sabadell (Barcelona, Catalonia). The findings of the TIM report for 2010 are available at <http://www.transparencia.org.es/ITA_2010/RANKINGS_TRANSPARENCIA_GLOBAL_%202010.pdf>.

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101 <http://www.santcugat.cat/files/77-2210_fitxer/Transparencia_DocConclusions_20100705.pdf>. This document is valid for two years. A new document entitled Measures to improve transparency and good government in municipal affairs is currently being developed to replace the previous one.
powers in order to encourage citizen participation in decision-making. Most of these measures have been implemented. The Sant Cugat Regulation on Citizen Participation\textsuperscript{102} gives people the lead role in shaping the city and manifests the right of residents to intervene in public management. The regulation is focused on fostering a network of associations designed to encourage participation by promoting city, sectoral and collective councils. It also regulates what individual rights citizens have before the Administration, including the right of access to public information by any means and the right to a public hearing; it also regulates the duty of the city authorities to provide information on their activities and to collect proposals from the public.

The council is currently drafting a plan of integrity and an ethical code. The plan is being prepared by the Anti-Fraud Office of the Government of Catalonia\textsuperscript{103}

\begin{itemize}
\item Evaluation of the risk to the integrity of the organisation with a view to proper development and planning the framework of institutional integrity.
\item The approval of codes of good government that include values, duties and ethical commitments of the government team and local officials, as well as the appropriate sanctions in the event of non-compliance.
\item The development of a regulation on conflicts of interest and incompatibilities for local politicians and managers that, while respecting the general regulations, establishes duties for elected representatives and managers of the council.
\item The creation of an ethics commission to ensure compliance with codes of good government and regulations on conflicts of interest and incompatibilities.
\item The development of a plan to prevent risks of corruption.
\end{itemize}

\textsuperscript{102} The Regulation on Citizen Participation was issued under Article 29 of the 2006 Statute of Autonomy of Catalonia, according to which “The citizens of Catalonia have an equal right to participate in the public affairs of Catalonia, whether directly or through their representatives.” Available at <http://www.santcugat.cat/files/651-3866-fitxer/ROM_RPC_20110221.pdf>.

\textsuperscript{103} The Anti-Fraud Office of the Government of Catalonia is a public law entity with its own legal status and full capacity to act that is attached to the Parliament of Catalonia. The Office operates independently from the government in the exercise of its functions. Its purpose is to prevent and investigate specific cases of illegal use or assignment of public funds or any other irregular use arising from conducts involving a conflict of interest, or the use for private benefit of information arising from the functions of personnel who work for the public sector.
Until the Plan of Integrity has been issued, the council for the moment is running courses of awareness on administrative excellence and on combating corruption in the public sector for officials and administrative personnel.

The council’s star measure, however, is undeniably the PACTE104 (Plan of Alignment and Strategic Competitiveness). This plan represents a new way of presenting and managing the municipal budget and since 2007 has been a tool used for strategic planning and municipal budgetary management.

The PACTE is a completely innovative system, divides the budget up according to the proposed objectives, and throughout its duration the public may check the degree of compliance with objectives, budget entry allocations and compliance therewith. This tool indicates whether or not the council is fulfilling the commitments it has assumed.

Application of the PACTE allows for the definition of specific measures that determine the annual budget, and the identification of models of municipal action in line with programmes and policy strategies. The degree of economic and budgetary transparency achieved by this system is very satisfactory. For the 2011-2015 term, management has been focused on effectiveness and efficiency, all with an express commitment to accountability and evaluation of results.

6.1.2. Active information

The council works on the basis of the conviction that the municipality is the form of public Administration closest at hand to the public. The plenary session must embody real representation of the public. Sant Cugat thus considers it must conduct an electoral programme that involves all the political groups that are represented. To do so, days before each plenary session, the deputy mayor establishes informative commissions105 in which the political groups are provided with information on the projects that are to be discussed and approved.

The aim is for other political groups to become involved and active in the development of any policy so that citizens—and not just those who voted for the majority party—may be satisfied with local government and represented in a more meaningful way.

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104 The name Pacte—which means ‘pact’ or covenant—originates from its method of management. Establishing the PACTE involves agreement among three levels of the council: the elected political body, the body that implements policy, and other staff who work for each department. Together, the three decide on how best to apply the municipal budget to its policies.

105 The informative commissions are meetings of representatives from different political groups on the council. They are called by the Mayor’s Office sufficiently in advance to the plenary session. They offer political parties information on the projects that are to be discussed and approved at the plenary session.
This end is not achieved solely with informed management of budgets (PACTE) or with political collaboration. If Sant Cugat is a transparent council, it is due mainly to its proactive stance regarding the online information it makes available to the public.

Through its website106 anyone can access all kinds of information: ranging from biographies of municipal government members to a list of council suppliers, plus projects, plans and programmes currently in progress. Public management is therefore completely transparent and unpublished information is residual. The information can be structured into the following five main blocks:

<table>
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<tr>
<th>Government and council</th>
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<tbody>
<tr>
<td>Citizen information</td>
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<tr>
<td>Economics</td>
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<tr>
<td>Public procurement</td>
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<td>Urban planning</td>
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(I) The following information is published on the government and council:

/Documents:

- Publication of the basic rule by which the council is governed: Organic Municipal Regulation.107
- Regulations on creation and functioning of decentralised agencies, municipal institutions and municipal companies that report to the Council.
- Publication of regulations on citizen participation: Regulation on Citizen Participation.
- All documents on the government operating methods, even provisional documents, are likewise published.108
- Agendas, plenary session agreements and council minutes. Although local council meetings are public, the agenda is issued beforehand in order to inform on what is to be discussed, so that citizens can decide if they wish to attend.
- The agreements of the Local Government Board and the Government Strategic Plan are published.

108 By way of an example, the 2010 provisional Ethical Code may be consulted at <http://www.santcugat.cat/files/651-3714-fitxer/CodiEtica_Provisional_2010_100520.pdf>.

/ Details of members:

· This includes the biographies of all members of the government and of the municipal council.

· Email addresses are specified so that any citizen can send opinions, recommendations or complaints on an individual basis.

· A list of council positions and their pay are extensively broken down each year in the local budget.

/ Organisational structure:

· Government bodies and their functions. The organisational structure of the council and the email addresses of each body are published.

· Decentralised bodies, instrumental institutions and municipal corporations. Structure and staff.

There is also a Register of Personal Assets of members of the government. Although it may be accessed upon submitting an application, it is not available online.109

(ii) As far as citizen information is concerned, some administrative procedures can be done online:

/ Information on municipal aid and grants.

/ Option of filing tax-related procedures online.

/ The Council website provides direct access to the Local Tax Office, which collects municipal taxes.

/ Personnel recruitment process: public jobs are published online.

/ Work on the public highway. Information on all public works in progress. Road conditions can be consulted in real time to discover whether roads are closed to traffic and the status of work.

/ Environmental developments and projects in progress.

/ Information on the schedules and prices of cultural and sporting facilities.

/ Information on council festivities.

Leisure and culture. Information on different channels of citizen participation.

109 The Register of Personal Assets is kept at the office of the General Secretary of the council and is publicly available in accordance with Article 75.7 of Law 7/1985 of 2 April, Regulating the Foundations of Local Government, to anyone who has the status of an interested party. No data are published on the council website on account of application of the Law on Protection of Personal Data. However, Article 42 of the Organic Municipal Regulation governs that any interested party may request certification of the data by submitting an application that features an explanation of the motives for which the information is intended. The request is resolved by the Mayor’s Office upon audience with the councillors affected. If it is denied, an appeal for reconsideration is possible before court action.
Comprehensive information on municipal citizen participation councils, sector and district councils, and children’s and seniors’ councils.

Online discussion forums.

Option of conducting surveys on the exercise of public functions or the operation of online services.

Citizen advice and information phone line, contact mailbox.

(iii) For economic information, as mentioned above, the basic document is the PACTE, although the website also contains a whole series of additional documentation:

Breakdown of the general council budget.

Budget breakdown of independent bodies.

Report on the costs of essential public services.

Report on municipal returns.

Breakdown of municipal debts.

(iv) Extensive information is provided on public procurement:

Records of public procurement.

Awards, bids and contracts. These may be consulted by date.

Bids in progress. The Contractor Profile can be accessed.\textsuperscript{110}

Information on tender announcements and contracting boards.

Resolutions of tender bids.

Public tendering undertaken.

List of transactions made with suppliers, contractors and awardees.

Lists of sales and transactions made.

The council is developing an online e-procurement program in association with Portugal. The program’s database will provide a very simple method of improving relations between the Administration and bidders and facilitate supplier searches for the most interesting contracts.

\textsuperscript{110} The notion of Contractor Profile was established by Spanish Law 30/2007 of 30 October, on Public Sector Contracts (in Spanish LCSP), in order to promote the principles of equality, transparency, competition and disclosure. The Contractor Profile provides a remarkable means of disseminating this information. The LCSP requires all contracting bodies with the authority to award contracts to obtain a contractor profile. Article 42 of the LCSP –as originally drafted– establishes that contracting bodies shall make their contractor profile available on the Internet –on a web page–. This profile may feature any information regarding the contractual activity of the contracting body, plus aspects that the LCSP establishes as mandatory.
(v) Lastly, in urban planning:

- Publication of public works projects.
- Publication of files being processed: suspensions of licenses, approval of measures.
- Periodic information on the status of works through the PACTE.

The amount of data processed and made available to the general public makes Sant Cugat a benchmark for municipal transparency. As noted in previous sections, however, the question of how the information is managed is crucial. Too much information can, in fact, have the opposite effect and yield disinformation. Information is generally provided well and accessible although publication of information in itself is not enough. It should also be remembered that there are sensitive sectors of the population that may be discriminated against because information is disseminated online, especially the elderly and people with fewer economic or educational resources, who are often subject to technological exclusion. Special care is therefore required and it must be remembered that transparency manifested exclusively through the use of new technologies may, paradoxically, give rise to social fracture.

It is also necessary to regulate what needs to be published and what does not and a specific procedure to ensure the protection of real subjective rights. Requests for information –both online and physical– must therefore be dealt with in a context of legal certainty, thereby reducing the risks of discrimination mentioned above.

The process of applying for information must thus be supervised, because although the right of access to information is declared in the Regulation on Citizen Participation, no legal regime has been developed. Therefore, in the event a citizen should have his or her request denied, or no response is obtained, in the absence of a specific procedure, this would have to be dealt with according to the general rules laid down in Law 30/1992 of 26 November, on the Legal Regime of Public Administrations and the Common Administrative Procedure –a law applicable to Spain as a whole–. This law only contemplates access to archives and records and to administrative dossiers; inquiries that are unrelated to these ends are therefore not covered. The courts or the office of the Ombudsman –Sindic de Greuges in Catalonia– are mechanisms that in a last resort could provide some protection of the right to information. However, until there is specific regulation, citizens remain unprotected.

111 It is the task of the Sindic de Greuges (ombudsman) to address the grievances of anyone who is unprotected as a result of government action or oversight. It supervises the proper functioning of the Administration of the Government of Catalonia and of local authorities such as city, provincial and county councils. It operates as a supervisor of and associate with the Catalan government in assisting and improving its performance.
6.1.3. Control

Without specific legislation, it is not possible to create watchdog bodies.\footnote{112} The provision of information is neither an obligation nor an imperative. In Sant Cugat no institution is therefore assigned the purpose of monitoring and/or sanctioning the council with regard to its transparency duties or the degree of compliance therewith.\footnote{113}

The Council nonetheless considers the creation of such a body unnecessary. Sant Cugat defines transparency as a personal attribute, an intrinsic quality and inherent essence, and therefore the act of providing citizens with all public information is a completely voluntary one, intended to show public the inner workings of the council and the openness of its management.

The council therefore believes that the creation of a body intended to ensure transparency would be a coercive measure that would be detrimental to the nature of transparency in that it is a transparent council committed both to itself and to the public.

Neither is there a body intended to encourage transparency or the provision of information. The task of dissemination is assumed by the governing bodies: the Mayor’s Office and the Executive.

\footnote{112} The absence of monitoring bodies refers strictly to transparency, as other council action (particularly with regard to the budget) is constantly supervised by bodies that oversee the allocation of public resources. Sant Cugat, as a municipality in Catalonia, must issue its accounts and reports to the Government of Catalonia and the Secretary of State. It must submit its accounting information so that its management may be evaluated.

\footnote{113} There are examples in comparative law of regulations and bodies that monitor and encourage transparency. For example, Article 7 of the Organic Law of Transparency and Access to Public Information of Mexico (LOTAIP) establishes a list of information that the public authorities are required to publish or make available to the public. Besides, Article 11 and subsequent also regulate the establishment of an independent body that is assigned to ensuring that the Administration fulfils its duties with regard to information and also has disciplinary powers. The Administration is bound by law to release certain information and this is the essential reason for the issue of public information.

Mentioned should be made to the Institute of Strategic Management, Economic Development and the Information Society (IGEPESI). This is an independent body the mission of which is to ensure modernisation, quality and efficiency in the government and Administration of municipal resources. It is a think tank that works for the council in developing all its projects. This institute, albeit not a body that specialises in transparency, has helped to make the council more transparent.
6.1.4. Citizen participation and accountability

The Regulation on Citizen Participation, mentioned above, provides the basis for participation in the municipality. There are two main kinds of participation: associative and non-associative citizen participation.

Associative participation takes place through formal partnerships registered with the Register of Municipal Associations that promote initiatives of general interest. They are entitled to intervene at council meetings upon prior application and through citizens' councils such as the Council of the City, district councils and special councils for children and senior citizens. These councils are a key feature of non-associative public participation\(^{114}\) and consist of the mayoress, representatives from institutions on the municipal register, a representative from each municipal group, citizens from the district or sector, and representatives from other bodies.

These councils discuss matters that affect their specific sector, district or the people who form them. It is a mechanism for the organised channelling of inquiries, requests, suggestions and complaints, and for deciding on the future of public management.

The city council deals with citizens' propositions, interests, needs and concerns. It is therefore an open mechanism that allows for dialogue between government and the public: the council asks residents to define what projects they want to be undertaken in the municipality. By way of an example, the opinion of the Council of Children was taken into account in hiring musical groups for the patron saint's day festival. The relations established among these councils and the city council are examples of pure participation and accountability.

Collective forms of participation are, however, insufficient. There are people who prefer to participate on an individual basis. Sant Cugat also provides and encourages such forms of participation. Every week a public session takes place at the council meeting at which citizens can directly ask political representatives their questions. Two extraordinary assemblies are also held each year for the same purpose.

Other communication policies such as online discussion forums and the "Mayoress' Inbox" are also implemented; and polls and periodic surveys are run to determine the level of satisfaction with council management.

\(^{114}\) Their creation, composition and operation are regulated in the Regulation on Citizen Participation (articles 32 and subsequent).
6.1.5. Conclusions

An excellent job in active transparency

The quantity and quality of information available to the public makes Sant Cugat a transparent municipality.

The work of active transparency, however, does not end with issuing information on files or through web pages. It must also be released through traditional means so that people who do not have access to new technologies do not suffer discrimination. It is also important for information to be provided in a clear, simple and understandable way for it truly to reach recipients. This commitment to making the public Administration open to the public has deservedly set the Council of Sant Cugat at the top of the Transparency International index.

Internalisation and awareness of the meaning of transparency

The process of awareness regarding the development of transparent policies has evolved in an opposite direction to other cities. High levels of transparency, accountability and citizen participation are not the result of legal imposition, but of municipal government’s satisfactory and successful development of its own concept of transparency and pledge thereto as a prerequisite of good government for the public.

Monitoring bodies

Sant Cugat considers transparency as a council attribute that does not require external monitoring. However, governments and individuals do vary and so too does their way of doing things. Sensitivity towards transparency may change from one day to another. Monitoring mechanisms would not, however, undermine the voluntary climate of transparency and would ensure that the public’s right is satisfied.

Citizen participation, a growing value

The Regulation on Citizen Participation is an outstanding tool for establishing this new form of management: it regulates how citizens wish to be governed by listening to their needs and proposals through citizens’ councils, polls and surveys; in short, direct and critical dialogue with political representatives.

A journey that has only just begun

As mentioned, the council has numerous transparency policies and programmes. Of particular importance is its will to carry on fostering this value at all levels of the Administration: by raising awareness and providing training to administrative staff; by developing codes of conduct and anti-fraud plans; by transferring information simply (PACTE) and working with other institutions to continue improving transparency.

The council also has other projects in progress to continue improving local management and good government.
6.2. Bilbao

Bilbao is a municipality in the north of Spain, city of the same municipality, and capital of the province and historical territory of Vizcaya, in the Autonomous Community of the Basque Country. The city of Bilbao is the capital and only city in the municipality. It has a population of 352,700 inhabitants (2011), is the most populous city in the Autonomous Community, and heads the Greater Bilbao area, a conurbation with a population of over 900,000 that runs along the Bilbao estuary.

Upon its foundation in the early fourteenth century, it became a particularly important trading enclave on the coast of the Bay of Biscay on account of its port business, which came mainly from the export of wool from Castile and, to a lesser extent, from iron mined in Vizcaya. Throughout the nineteenth and early twentieth centuries, Bilbao experienced heavy industrialisation and became the heart of Spain’s second most industrialised region after Barcelona. The industrialisation process was accompanied by an extraordinary explosion in population and urban planning, which prompted the annexation of several adjacent municipalities. Today it is a thriving city of services immersed in a process of aesthetic, social and economic revitalisation, inspired by the symbolic Guggenheim Museum Bilbao.

In recent years Bilbao has won significant international awards for transparency: (i) the Municipal Transparency Award based on the TI transparency index, (ii) the Lee Kuan Yew World City Prize, (iii) the EPSA Award, and (iv) Città di Partenope Award.115

115(i) The Transparency award granted by the NGO Transparency International for the 2008 to 2011 period (inclusive). This is an annual award bestowed in acknowledgement of the transparent management of cities. It involves evaluation of 80 indicators that measure the transparency (defined as the flow of public information between local government and citizens) in Spain’s 110 largest municipalities.

(ii) The Lee Kuan Yew World City Prize of Singapore is awarded every two years and was bestowed on Bilbao in 2010. It is known as “the Nobel Prize for the cities” and acknowledges an integrated and holistic approach to urban transformation. The prize values the town’s way of life, vigour, sustainability and quality of life, factors that are fundamental to the success of any city. The award recognises Bilbao’s urban initiative that has involved good governance with innovation in policies that improve urban quality.

(iii) The EPSA European Public Sector Awards were launched in 2007 with a view to ongoing improvement and modernisation in public Administration. The European Commission awarded it to Bilbao in 2011. Bilbao competed in the “Smart Public Service Delivery in a Cold Economic Climate” category with a project entitled “Political Management based on Economic Stringency and Strategic Budgets.” Its management model is based on good use of available resources, economic efficiency –zero debt–, strategic and budgetary planning, and transparency.

(iv) The Città di Partenope Award was created in Naples in 2008. The city of Partenope is a virtual city that takes its name from the original city upon which Naples now stands. It has sought to change the image of Naples by encouraging civic-minded conducts among citizens. In 2012, the award was granted to the city of Bilbao for its extraordinary urban restructuring of the last twenty years, which has made the city a benchmark for study and imitation. All these awards have been granted to the Spanish city of Bilbao in acknowledgement of its good strategic management and transparency, and are the result of
Bilbao has undertaken urban planning projects, policies and programmes that have incorporated the principle of sustainable city development and has demonstrated its capacity to provide economic and environmental benefits to cities. According to the expert committees that granted the awards, Bilbao has shown that urban regeneration can be a strong social and economic driving force. Bilbao’s transformation has involved a shift from a rundown industrial to a knowledge-based economy. Recent years, moreover, have seen work to promote the environment, culture, internationalisation and design; it has improved its districts and invested in infrastructure. Twenty-five urban improvement projects have been undertaken over the last twenty-five years. The most recent was the formation of Bilbao Ría 2000, an example of a public-private partnership that ensured successful implementation of the city’s plans and projects.

Bilbao is therefore a city in constant movement, acknowledged for having been able to improve its outlook on the world in times of economic crisis with the implementation of budgets based on spending cuts. It is also a pioneer in innovation, transparency and citizen participation.

6.2.1. Regulations

Operating regulations

The city of Bilbao has had a Regulation on the Organisation of Districts and on Citizen Participation since 16 February 1989. For twenty years now, Bilbao has been arguing the city cannot be managed transparently without the establishment of methods of citizen participation that channel the direct collaboration of the public in municipal management. It therefore opted to set out the importance of this participation in a regulation. By this regulation, the city was organised into districts, each with its own government to facilitate management, and the option was established of creating citizen participation institutions for the defence of the general or sectoral interests of residents and sector councils in different areas of municipal activity. It also established that citizens are entitled to a public hearing in the districts, of popular initiatives for measures of public capacity and interest, the right to petition the government and the right to public consultation.

The regulation suggests that transparency in municipal information is a fundamental prerequisite for citizen participation. It includes a declaration that the duty to provide information should be an active one and performed either by means of social communication or through information offices; it emphasises the need for bodies to answer requests for information from residents.
More recent are the Organic Regulation concerning the Government and the Administration and the Organic Regulation on Plenary Meetings –both of 30 September 2004–. The former establishes a decentralised municipal organisation divided into territorial divisions called districts, for the promotion and development of citizen participation; and the latter covers the composition and functions of the local council, and also declares the rights and duties of councillors. This regulation contains some provisions that contemplate internal transparency measures. For example, Article 14 states councillors’ right to administrative information:

Councillors are entitled to obtain from the municipal government and Administration, records, data and information held by municipal services that are necessary for the performance of their functions. They may consult documentation on the premises where it is held.

The Registry of Councillors’ Interests and Assets was also created. This register contains councillors’ declarations and is intended to detect possible inconsistencies with their holding of office. They must declare any interest that earns them income.

The Property Registry is kept at the Council Secretary’s Office. Individuals can access it provided they show a direct and legitimate interest and make a written request.

**Ethical code**

Bilbao anticipated State legislation and began work on transparency by issuing to the local government and other agents, authorities and citizens an ethical code, known as the Protocol of Operation and Good Government of the Governing Board of the City of Bilbao, on 18 June 2007. This text, which was derived from European recommendations on political ethics, is not strictly a rule but shows a willingness to implement best practices in government with a view to establishing confidence, certainty and transparency in public affairs. It identifies a number of principles by which good government and officials of the Administration should be guided. It also points to a number of actions the government must take in order to satisfy general interests, such as the documentation required at ordinary sessions, and the publication of agreements, etc.

**Byelaw on eGovernment**

On 23 September 2010, Bilbao City Council approved the Byelaw on eGovernment. This byelaw is intended to improve online administrative management and provision of service through the municipal website. It is designed for the effective accomplishment of the principles of transparency, proximity and service to the public. It establishes two main lines of action: the renewal of the web portal and the introduction of online platforms for procedures.
The byelaw contains a list of organisational principles by which eGovernment is regulated. These notably include transparency as it facilitates maximum dissemination, disclosure and transparency of the information contained on files and with regard to administrative actions.\textsuperscript{116}

The byelaw moreover declares the right of the public to interact with the Administration, to obtain accurate, genuine information, to access information, records and files online, and to participate in decision-making processes. It therefore establishes the minimum public information that the government must provide,\textsuperscript{117} thus bringing it in line with other countries’ transparency laws. It also declares the right to initiate or be part of e-procedures or, in other words, request information, make queries, express intentions, make claims, issue and receive invoices, make payments and oppose rulings.

6.2.2. Active information
eGovernment / Open Data

The Council of Bilbao defines transparency as the provision of any information regarding any municipal act that may be relevant to citizens. The online office has turned the council web page into the Internet site for the public and a key site for the publication of local information. The website is the citizens’ portal: it is intended to offer information on all the services provided by the council. This information can be organised into five areas:

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<th>General information on activities</th>
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<tr>
<td>Council and government and corporation</td>
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<td>“My district”</td>
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<td>e-procedures</td>
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\textsuperscript{116} Section f of Article 5 of the Byelaw.
\textsuperscript{117} Article 13.1 specifically states that: “The following information, as a minimum, will be provided through the online office and municipal website: a) Composition of plenary council meeting and of the municipal government, b) Municipal budget, c) Internal regulations of the council of Bilbao, d) Organisational structure of the municipal administration and identification of its leaders, e) Catalogue of administrative procedures, featuring an indication of those available in e-format, f) Addresses of the municipal physical headquarters and other physical location data such as phone numbers or email addresses enabled to provide services to the public, g) The Contractor Profile regulated in the legislation on Public Sector Contracts, h) Offers of employment and information on procedures by which people are recruited, i) Announcements of grants and acts associated with award procedures, j) Urban planning instruments, k) A channel through which to formulate complaints and suggestions, l) Any other information deemed of interest to the public or required by law.”
General information on activities

This area provides information on activities, facilities, transport, council maps and public services.

Council and government and corporation

These two sections feature a detailed breakdown of the structure and operation of the council and of the local government.

The following information is provided on the local government:

/ Structure and operation of the municipal plenary session.
/ Composition and powers.
/ Personal information of councillors with contact addresses.
/ Information on the political groups that form the plenary session.
/ Institutional declarations.
/ Approved agreements: agendas and minutes.
/ Structure and operation of the Governing Board.
/ Composition and powers.
/ Government delegations with indication of the person in charge and their contact address.

/ Municipal organisational structure.
/ Municipal regulations on government and the council.
/ Pay.
/ Plans and programmes.

The following information is published on the city council:

/ Municipal directory on the people who form the council.
/ Municipal areas into which the government and the Administration are divided.
/ Council economic and financial information.
/ Municipal budget.
/ Employment and civil service examinations.
/ Contractor Profile.
/ Any information relating to transactions with suppliers and contractors.
/ List of sales.
/ List of successful bidders.
/ Information on the contract procedures.
/ Information on urban planning.
/ Status of the implementation of urban plans.
/ Municipal reports.
/ Studies on districts, reports on citizen satisfaction, report on the users of municipal services drafted from surveys among the public.
/ Council acknowledgements.
/ Municipal transparency.

In the section on municipal transparency, the council has used Transparency International’s 80 indicators for evaluating the transparency levels of different cities as a template for publishing information. This section systematises and streamlines enquiries.

Citizenry and personal situation

This area deals with relations between citizens and the council.

The citizenry section provides any information that may be of interest to groups of people: family, children, youth, senior citizens, couples, tourists, professionals, companies, associations or schools. It offers details on anything that might be of interest to the group in question. For example: the place and method for registration as local residents, children’s activities, young people’s vocational training, carers of dependents, information on housing under construction or on social housing, accommodation in the city, support for business start-ups, forms of citizen participation, education and training, etc.

The personal situation section, moreover, focuses on the citizen from an individual perspective and provides information on how to apply for certificates, authorisations, licenses, activities for which the Administration requires prior notification, official examinations, and other issues.

“My district”

One of the peculiarities of the city of Bilbao is that it has been decentralised and divided into eight districts. In the “My district” section it is possible to access district-specific information on the cultural agenda, facilities, news from the district and announcements on public works, road closures, occupation of roads or other issues that may be of interest to residents.

e-procedures

The Byelaw on eGovernment acknowledged the right of the citizens of Bilbao to manage some of their affairs online. This section offers the use of a portal created solely for this purpose. Residents can currently apply...
for licenses, provide the Administration with prior notifications, request the issue of some certificates; payments may also be made or invoices sent to the council by email.

*Bilbao Municipal Archive*

Bilbao City Council not only invests in eGovernment. The Bilbao Municipal Archive is a good example of other interests. Its function is the receipt, collation and maintenance of the general documentation produced as a result of the municipality’s regular activity. All this information is therefore available, any enquiry can be made and information can even go out on loan. The archive is intended to streamline the procedures involved in any request made. Requests may be issued by any means, be it in person, by telephone, using the register, or by email or ordinary mail. Any type of document may be consulted onsite and all that is required is for the person making the request to identify him or herself. Access may be denied for any documents that are not established by law as public content.

6.2.3. Measures

*Budget forecast document*

Some items in the municipal budget are allocated to implementing different transparency measures. The municipal forecast document features economic details of the Plan of Government for its term in office, the area in which each specific project is to be performed, the item and the amount allocated.

In the budget forecast document for 2007-2011, Bilbao City Council specifically defined Core Area 10 “transparency and management efficiency” as a general objective. Work in this core area has been addressed to encouraging transparency and citizen participation. Measures relating to transparency are undertaken by the Department of Public Relations, the Department of Human Resources and Council Area C. Area C is part of the Office for Quality and its mission is to contribute to and collaborate with different municipal departments with a view to improving and innovating in their internal management, and evaluating municipal services and projects.

As mentioned above, the city of Bilbao is divided into eight districts the function of which is not only to act as a territorial division geared to improving city management, but also to foster citizen participation. This is evidenced by the fact that the budget for public participation is not managed directly
by the council; instead, a budget item is allocated to each District Council, which manages it and assigns it to encouraging participation.

According to Core Area 10, in the 2007-2011 period measures to foster transparency and participation included the following:

/ Upgrading and improving the citizen information and advice phone line (010).

/ Improving service for taxpayers.

/ Statistical information on the city.

/ Improving the Bilbao.net website:
  · Creation of specific microsites.
  · Information systems on demand (search facility).
  · Online processing of applications for public offers.
  · Improved catalogue of municipal services.

As regards the provisional budget, the Council of Bilbao forecast a four-year allocation of 3,000,000 euros for the “Ongoing updating of information” allocated to Council Area C, which is in charge of the website. The most costly services are: e-archiving and digitalisation (230,000 euros) and the creation of specific microsites (211,335 euros).

**Department of Quality/Service Charters**

By focusing on transparency and efficiency in management, the council aims to provide quality services. This task is performed by the Department of Quality, which is also responsible for many of the transparency policies. A new tool has been designed not only to convey information on policies to be developed and on the rights of citizens, but also to assume the commitment to enforce them. It has assumed a pledge to the public through the drafting of Service Charters, which provide details not only on the functioning of the different services it provides and those it intends to provide, but also on quality standards. Compliance with the commitments assumed in the charters is checked regularly in external audits.

6.2.4. Accountability/Participation

**Polls and surveys**

There is no organ or body in Bilbao that monitors the information published. This is because of the way in which transparency is conceived: as in Sant Cugat, transparency is a way by which the municipal government operates. The council itself does, however, conduct periodic studies on different issues relating to its citizens’ quality of life. One of the aspects analysed is “Economic rigour, transparency and collaboration.” This item is used to determine the degree of public satisfaction with the information services provided by the council.
The most recent study on citizen perception –published in April 2012– concluded that it is generally men who feel better informed on public issues relating to the municipality. The degree of information available to the public is, moreover, proportional to age: the older the person, the greater the information.

In Bilbao, three out of ten people are aware of different ways of accessing information on public services, men aged from 35 to 44 years old being the best informed. Significantly, the proportion of people who are familiar with tools with which to access information is considerably lower among young people and the over 65s.

The number of citizens who know how to make complaints or suggestions and the actual number of complaints or suggestions made are also analysed. The most commonly used medium is the website (60%), followed by personal visits to the council (40%).

The study involves district-by-district surveys, a technique that allows for identification of the most uninformed districts and for the implementation of target-specific measures.

Other projects to improve channels of information are also being run. For example, 2012 saw the introduction of a service providing information on the schedules and operations of the Bilbobus public bus service. The information is available on screens installed at bus stops, while an application for smartphones called Bilbobus-N-tu-Móvil has also been developed to provide real-time information on mobile devices.

**Bilbao Innovation Agenda**

Recognition of Bilbao is the result of its firm and pioneering commitment to implementing transparent policies. A new transparency goal entitled the Bilbao Innovation Agenda is currently being developed.

Its implementation is intended to establish a multi-channel public information service by which 67% will be dealt with online. This is a strategic project to create a space for network interaction, the production of which will include all those involved: the public, the private sector and public Administration. This plan includes GeoBilbao, an information system designed to relay council plenary meetings and important


120 It was previously called the Bilbao Agenda. The aim was to improve ICT for city management and access to information. The new Bilbao Innovation Agenda was derived from the 2009 World Summit of Cities and Local Authorities. It has received the backing of the United Nations Institute for Training and Research (UNITAR) and of the World Council of United Cities and Local Governments (UCLG), the Commission on the Information Society –on cities and knowledge– of which was chaired by Bilbao.
acts online so that the information reaches the public without them having to leave their homes.

The government is aware that Internet access varies according to a city’s social groups. General statistics show that groups at risk of social exclusion or the elderly do not have the means or knowledge to access information online. The Innovation Agenda therefore plans to run courses and training activities. Different projects on information and ICT development are being undertaken in association with various bodies and administrations such as Vizcaya Provincial Council, the Basque Government, Zamudio Technology Park and the Ministry of Industry, La Caixa Welfare Projects, and the councils of Biarritz, Barcelona and Bordeaux. All these institutions are helping to foster the ICT literacy of those who have not yet adapted to technological society.

Channels of citizen participation

The council encourages the use of participation channels in order to open up dialogue with the public. Channels of participation are necessary so that the public does not merely receive information passively, but rather expresses opinions, criticism and ideas on government performance.

The Regulation on the Organisation of Districts and on Citizen Participation –mentioned above– gives districts the power to channel, to promote and to guide the cooperation of residents in order to prompt citizen collaboration with the council. The District Councils may form district committees of residents to formulate proposals.

The council plenary session likewise has the power to create sectoral or area councils that are also bodies of participation, information and proposal for municipal management. The Civic Council constitutes the paradigm for the councils. It is a consultative and deliberative body intended to provide a permanent institutional platform for dialogue and discussion on issues related to the city and its future. It is designed as a space for reflection with which to guide public management. It frequently runs participatory sessions to make transparent public management real and provide a space for public cooperation.

Citizen participation mainly occurs through these councils. They involve meetings, activities, courses and other forms of social participation that usually culminate with the publication of work done.

121 The Regulation on the Organisation of Districts defines their organisation, function and powers. Each District has a District Council with its Governing Commission. The District Council informs citizens of the announcement and agendas of meetings, and of the decisions taken.

122 For further information on how it is formed and how it operates see: <http://www.bilbao.net/cs/Satellite?c=BI0_Generico_FA&cid=1279102685164&language=es&pageid=3010942026&pagename=Bilbaonet%2FBIO_Generico_FA%2FBIO_Generico>. 
in reports, journals or on the websites of the city council or civic council. They are mechanisms for generating a political rapprochement between politicians and the public that extends beyond forms of participation in which dialogue is only possible by attending the council plenary meeting and by observing a strict rota of questions and answers prior to the debate.

Each council has its own operating rules. The Municipal Planning Advisory Council, for example, ensures local participation in matters of urban planning. It advises and issues reports on any initiative that affects general planning. It consists of associations, local institutions and political groups from the city. Its decisions take the shape of proposals, recommendations or alternatives.

Notwithstanding citizen participation through associations or council meetings, public participation should also be possible on an individual basis. In Bilbao, anyone may visit the council to make proposals, complaints, suggestions, and offer ideas, etc. To this end, the council has established Plan 21, which is a document by which citizens are called to different public centres in the city to be informed on government projects. The public and the council engage in dialogue at these explanatory meetings, which yield ideas, complaints or suggestions.

The council website also features different discussion forums in which the public can participate, not just individually, but also anonymously. Any enquiry or suggestion may also be made using the mailbox entitled “Your Council listens to you”, which was created specifically to this end.

6.2.5. Conclusions

Active information

Bilbao is a transparent city. Both quantitatively and qualitatively, the volume of information available to citizens is excellent.

Information is published online through the website, on physical formats, and is available upon personal visit to the information offices or at the Municipal Archive. All kinds of information about the council, its government and municipal management are available.

There is a commitment to ongoing improvement in the channels of information: simplification of the website, design of training projects for the public on how to work with and use ICT.

eGovernment: an up-to-date concept

eGovernment is an unknown quantity in most towns; at best, it is seen as something desirable for the future, especially as far as relations between citizens and the Administration are
concerned. This situation is more often than not the result of a shortage of means and resources, of ignorance or simply because of lack of custom.

Bilbao, however, has been studying, applying and improving the e-management of public affairs, procedures and formalities for years. The web portal for online procedures is an optimal tool with which to reduce—and eventually abandon—tedious onsite tasks. The time involved in paperwork has been reduced and schedules have been made more flexible, thereby improving the quality of public service.

Bilbao City Council continues its work in this direction with projects and policies aimed at expanding use of the Internet in all sectors of the Administration.

Citizen participation: an objective

Citizen participation is one of the greatest strengths of the Council of Bilbao. Both collective (sectoral and district councils) and individual (Plan 21, online discussion forums or e-mail: “Your Council listens to you”, plus other more traditional methods such as attending council plenary meetings and taking part at the question and answer sessions) effective citizen participation mechanisms have been built upon a strong basis of providing active information.

The district councils round off the city’s extensive fabric of associative participation. These councils provide a channel by which the opinion of people interested in public management may be taken into account.

In addition, questionnaires, surveys and polls that are designed to outline new public projects and define those already in progress are also run frequently.

The council’s challenge with regard to participation lies in searching for and implementing systems that enable citizens to manage local policy on a joint basis.

Control and accountability, tasks pending

Information is made public on a voluntary basis, notwithstanding the provisions of its municipal byelaws—minor legislation—on eGovernment, which express no obligation to do so. The fact that there is no legally applicable regulation that clearly establishes transparency rights and duties means that there exist neither pure supervisory bodies nor accountability. Without regulation there is no real right/duty and therefore no external body has the legitimacy to monitor or to enforce levels of transparency or of information provided, as such monitoring or enforcement would be subjective.

As in the case of Sant Cugat, the notion of transparency as a way of governing and not as a right in its strict sense means that no watchdog bodies have been established. However, what are now voluntary transparency policies may not be so in the future. The existence of these bodies ensures that the council operates properly regardless of its political persuasion.
Accountability, on the other hand, remains unclear. A good starting point is the reports on the Service Charters through which the government states whether or not the pledges made to citizens have been fulfilled. Dialogue between government and citizens generally takes place before projects are undertaken and is therefore more a transparency measure than one of accountability.

6.3. Metropolitan District of Quito

The Metropolitan District of Quito is in the province of Pichincha in northern Ecuador. It is capital both of the province and of the Republic. It is divided into eight administrations the function of which is to decentralise institutional bodies: Equinoccial Zone, Calderón Zone, Northern Zone, Central Zone, Southern Zone, Tumbaco Zone, Valle de los Chillos Zone, and Quitumbe Zone. The zones are divided into 65 parishes, 32 of which are urban and 33 rural. The district has a population of 1,839,853 (2011).

In 1978, UNESCO awarded World Heritage status to Quito with a view to preserving its colonial convents, churches and historical centre. The Metropolitan District of Quito was created on 27 October 1993 and, with the Constitution of 2008, it is now considered a city-region and thus endowed with powers of cantonal, provincial and regional government.

Over the last ten years, Ecuador has had ten governors and seven governments, of which only three have resulted from direct elections. The population has grown poorer and economic reforms, aimed at privatising public services and reducing the State, have all been questioned because of their lack of transparency. The democratic political system in Ecuador has therefore deteriorated, which has led to great instability and low credibility of the authorities. This in turn has prompted many organisations to present legislative bills on access to information, proposals that in 2004 yielded the enactment of the Organic Law on Transparency and Access to Public Information.

6.3.1. Regulations

Byelaw No. 240 of 21 January 1998

The first policy measures in transparency began scarcely ten years ago. With Byelaw No. 240 of 21 January 1998, Quito took its first steps in transparency by establishing that the Tender Awards Committee would ensure that the procurement process meets objectivity, impartiality, transparency and equality criteria.

Organic Law No. 2002-72 on Fiscal Responsibility and Transparency

The Organic Law on Fiscal Responsibility and Transparency was enacted in 2002. As it is a sector-specific law, its provisions deal with fiscal expenditure, adjustment
policies and payment of the public debt. It does however establish some definitions that affect transparency in public management. In particular, it envisages free access to documents and information on budgets, accounts, and operations and contracts of all public sector institutions, and the law itself states that citizen control of public management is only possible if there is free access to information.

Organic Law No. 2004-24 on Transparency and Access to Public Information

The Organic Law on Transparency and Access to Public Information (LOTAIP) was enacted on 18 May 2004 and awarded fundamental right status to access to information.\textsuperscript{132} This prior consideration is important in analysing the degree of transparency in the Metropolitan District of Quito and in understanding the implications of the duty to provide information.

This Act brought many institutional and regulatory changes, as well as the creation of organisations devoted entirely to information-related issues.

The LOTAIP develops the right to access sources of information contemplated in Article 81 of the Political Constitution of the Republic. It is a concise law that states that the right of access to information should be guaranteed by the State. It requires all institutions, bodies, entities and legal persons with a public or private legal status in which the State has a stake or licensees thereof, workers’ organisations and NGOs to publish certain information on a portal or website.

It also establishes that the monitoring bodies should ensure compliance with the law, the penalties applicable in the event of non-compliance and the administrative procedure for requesting information. It lastly establishes compulsory accountability in the government’s public management.

\textsuperscript{132} This right is expressed in Article 18 of the Constitution of the Republic of Ecuador of 20 October 2008: “All persons have the right to seek, receive, exchange, produce and disseminate accurate, verified, timely, contextual, plural, uncensored information on facts, events and processes of general interest, and to free access of the information generated by public institutions.”
6.3.2. Active information

Public information is defined as any document in any format that is in the possession of obliged institutions or has been produced with the resources of the State. The LOTAIP guarantees access to certain types of information of public interest on the basis that it affects the exercise of the political rights of the community.

The LOTAIP systematically establishes the minimum information that must be published by the government and the Administration. However, as seen in previous cases, regulation is not enough to measure the level of transparency. It is necessary to establish whether the regulation is put in practice.

The work of supplying active information appears on Quito’s website. The structure by which information is made available is suitable, although certain matters established in the LOTAIP still remain to be implemented.

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124 Article 7 of the LOTAIP establishes the type of information that should be published by all public administrations, which is as follows: "a) Functional organic structure, regulating legal basis, internal regulations and procedures applicable to the institution; the goals and objectives of the administrative units in accordance with their operational programmes. b) The institution’s complete directory and distribution of its personnel. c) Monthly pay per post and all additional income, including the compensatory system, as established in the respective provisions. d) The services it offers and the ways to access them, office hours and other indications necessary for citizens to exert their rights and fulfil their duties. e) The full texts of all the collective contracts in effect at the institution, as well as their appendices and amendments. f) Application forms or formats required for procedures inherent in their scope of action must be published. g) Complete information on the annual budget that the institution administers, with specification of revenue, expenditure, financing and operational results in accordance with budgetary codes, as well as settlement of the budget, with specification of the beneficiaries of issue of public resources. h) The results of internal and governmental audits of the budgetary period. i) Complete and detailed information on pre-contractual, contractual, award and settlement processes for contracting work, the acquisition of assets, provision of services, leasing and undertaken by the institution with natural or legal persons, including awards, licences or authorisations. j) A list of companies and people that have breached contracts with the institution. k) The institution’s plans and programmes currently in progress. l) The details of external or internal loan agreements; the source of the funds with which these loans are to be paid must be given. When they are loans or financing agreements, the credit operations and contracts, amounts, maturity, and financial costs or interest rates must be recorded as envisaged in the Organic Law on Financial Administration and Control, the Organic Law of the Comptroller General of the State and the Organic Law of Fiscal Responsibility and Transparency. m) Mechanisms of accountability to the public, such as goals, management reports and performance indicators. n) Travel allowances, work reports and certificates of national or international mobilisation of authorities, dignitaries and public officers. o) The name, office address, post office box and e-mail address of the person responsible for the public information dealt with in this Law.”

The website map is divided into exactly the same terms as those contemplated in the law. Public documents are uploaded in each section according to subject. Use of this pattern streamlines citizen access to public information.

The content of the different sections can be divided into five areas:

<table>
<thead>
<tr>
<th>Government and Administration</th>
<th>Economic information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic information</td>
<td>Public procurement</td>
</tr>
<tr>
<td>Public services</td>
<td>Accountability</td>
</tr>
</tbody>
</table>

The following information is published on Government and Administration:

/ General and functional organic structure.

/ Regulations by which it is governed: Law of the Metropolitan District of Quito.

/ Regulations applicable in the District: list.

/ Functions of offices.

/ Directory of government and Administration staff, with telephone contact information.

/ Table showing the total pay (per office and additional income) of members of government and of Administration staff.

/ “Goals and Objectives” document: a schematic chart with government objectives featuring mention of the plans and projects to implement them.

/ District plans and programmes: this is a table in which the plan of action and the outlines of activities to be performed are established.

The following economic-financial information is made available:

/ Coded general budget: table with a breakdown of the District's revenue and expenses.

/ List of expenses.

/ List of revenues.

/ Liquidated budget.

/ District list of purchases.

/ List of Administration loans.

The following information is available on public procurement:

/ Joint contract.

/ List of suppliers who have breached their contracts with the Administration, although the website states that currently no providers have breached a contract.

/ Access to National Public Procurement System.
Public services that may be accessed from the website are:

/ Direct access to procedures citizens can perform online:
  · Online payment of taxes and fees.
  · Tax enquiries.

/ Application forms for administrative procedures.

/ Full contact addresses of the Department of Information.

/ Contact with the District.

/ RevistaQ: a monthly publication featuring the District Agenda, plus services and activities offered by the municipality.

/ Useful information for the inhabitants of Quito:
  · Information on road closures.
  · Cultural agenda.
  · Opening hours of public facilities.
  · Specific information for senior citizens (centres, associations in the Sesenta y Piquito programme).
  · Weekly agenda of Quito news.

The following information can be included under accountability:

/ Results of internal audits.
/ Matrix for monitoring plans.
/ Explanation of the results of plans.
/ Management reports: matrix showing the extent to which goals have been achieved.
/ Work reports.
/ System to monitor municipal commitments: accessible only by entering a user name and password.

6.3.3. Accountability

Accountability is approached from two perspectives in Quito: first, the authorities are obliged to provide information on their management and, second, it must be submitted to evaluation by its citizens. This issue is contemplated in Metropolitan Byelaw No. 0187, of 2006, on systems of participatory management, accountability and social control. The best form of accountability is considered to be that of public monitoring and is therefore very closely linked to mechanisms of participation.
Accountability deals with any act or oversight in the exercise of public office and in the administration of resources. In order to fulfil this obligation, the District government produces periodic reports and summary tables on the status of compliance with its commitments. Breach of this obligation is punishable by Quito Honesto.

The document entitled “Accountability of the Mayor’s Office 2011”, for example, is an extensive text in which the mayor addresses the public to explain the events and programmes undertaken during the year. Work performed and the goals pursued therein are discussed. If plans or programmes are still in progress, the mayor states that they are still being performed, although the degree to which they have been completed is not accounted for. In the budget management section, the mayor comments on the status of implementation and its relation with the forecasted annual estimate. Lastly, it assesses the measures that still need to be undertaken and renews its commitment to the development of Quito. As far as transparency is concerned, the mayor states in his accountability report that in 2011 tremendous efforts have been made to detect and punish corruption through work with the Internal Audit, the General Administration and Quito Honesto. Thirty-six indictments have been issued, of which 90% have been resolved. In addition, the objectives of the National Public Procurement System have been achieved and therefore citizens have access to information on the annual procurement plans.

In very close relation to the notion of accountability, the Municipal Council not only issues the annual accountability report, but also runs the Ventana Ciudadana (Citizen Window). This is a government plan in which the Municipal Council issues information on budget items in order to ensure the public is better informed about municipal management. It then runs surveys with the public, which receives the brochure and determines how it operates. This plan is part of a commitment to the development of transparency in Quito.

In addition, all internal and external audit reports from the Ombudsman, the Quito Honesto Commission and other institutions are published on the website of the municipality and on the Quito Honesto website.

Quito Honesto is the name given to the Metropolitan Commission to Combat Corruption. The mission of this body is to prevent corruption and to promote transparency in municipal management, through the application of tools of social control, the dissemination of values and ethical principles, and investigation into alleged acts of corruption by officials of the Municipal Council of the Metropolitan District of Quito.

According to the 2011 accountability report, this plan was scheduled to be performed in 2011. This has not occurred however. A new approach was adopted for 2012. Instead of explaining the budget, the focus was on establishing a link between municipal resources allocated to health and education in order to narrow down the terms of the report and thus make its performance feasible.
6.3.4. Citizen participation and social control

The basic regulation on citizen participation is the aforementioned Metropolitan Byelaw No. 0187 on participatory management systems, accountability and social control. It grants all citizens residing in Quito the right to participate in the process of formulation, planning, implementation, monitoring and control of plans, programmes and projects and the right to evaluation and receipt of accountability.

The 2006 byelaw prompted the creation of a System of Participatory Management, Accountability and Social Control, a series of institutions and procedures with which to encourage citizen participation, to streamline social control of citizens and to implement accountability at all levels. It is intended to establish forms of civic participation in order to prioritise public investment, implement the accountability system and encourage citizen control of the public Administration.

As a complement to electoral participation, different forms of civic association for participation in public management have been established in accordance with the municipality’s different regions, with the subject matter of participation, or with the groups.

There are also theme-specific, district and zone councils that orientate citizen participation in their specific arena to suit the territory or the subject.

The highest authority of public participation is the Quito Assembly, which brings the government and the council together with representatives from different citizen associations. The meeting establishes dialogue among all attendees on the future implementation in the town of all plans, programmes and budgets. The Assembly records opinions and input from the people of Quito with a view to processing agreements and revealing conflicts.

Citizen participation is managed by zone councils through district committees, participatory management committees, parish assemblies, and thematic or social committees that address the specific issues that affect them. After discussion, a plan to develop the adopted agreement is drafted and a list of priorities is established. These could be any civil works that need to be undertaken and implementation policies, for example.
Forms of citizen participation have been established that help to maintain a climate of transparency in the city. One significant form of citizen participation created by Quito Honesto is the citizen supervisory committees. These are temporary mechanisms of participation and social control through which citizens control the management of the Administration and have the power to intervene if they detect irregularities. The supervisory committees hold meetings and issue reports on the objects thereof, which are intended to be taken into account for future local policies.

6.3.5. Watchdog bodies

Ecuador considers the control of public management as the fifth function of the State. The Function of Transparency and Social Control refers to transparency, efficiency, equity and combating corruption. This function is undertaken nationwide by six independent agencies: the Comptroller General of State, Superintendencies of Banks and Insurance, Companies and Telecommunications, the Ombudsman and the Council of Citizen Participation and Social Control.

The Ombudsman

Article 12 of the LOTAIP establishes three bodies to control compliance with the law of transparency: the Ombudsman, bodies that may be established and, ultimately, those responsible for the Administration themselves.

The Ombudsman is entrusted with ensuring the exercise and fulfilment of the right of access to public information and is responsible for promoting any application or legal action regarding access to information when it has previously been denied.

129 These committees are formed voluntarily by citizens and representatives of organisations. They are not merely meetings of local residents with a common concern. Although they are initially established in this way, they must subsequently define the purpose of the supervisory committee and organise and formalise it.

130 By way of an example, in 2011 the supervisory committee for gender equality “For a life free of gender violence” initiated a process for the prevention and elimination of forms of gender violence and discrimination, in order to ensure full integration into society and encourage respect for human rights. Meetings among authorities have been held to establish the terms and timetable for compliance with the policies against gender violence to which the District is committed. In addition, a course for thirty supervisors entitled “Gender-based leadership” was run in collaboration with the Secretary’s Office for Social Inclusion of the Council of Quito and the Metropolitan Institute of Training. This same course was run for a group of around fifty “public servants” of the Municipality of Quito, in association with Quito Honesto.

131 The Comptroller General of State and the Superintendencies are independent bodies responsible for the economic control of public budgets. Although they do investigate the use of the District’s public resources, analysis thereof is beyond the scope of this study. For further information, see: <http://www.ftes.gob.ec/>.
Quito must issue an annual report on its activities and compliance with its commitments regarding public information. This report must be sent to the Ombudsman. Failure to do so may result in sanctions. The Ombudsman has the power to intervene in institutions and urge them to rectify any lack of information or misinformation or unclear information; sanctions, moreover, may even consist in dismissal from office.

**Quito Honesto**

As mentioned above, the Metropolitan Commission to Combat Corruption –Quito Honesto– is mandated to disseminate the values and principles of transparency in the management of public affairs. It consists of a representative from the Mayor’s Office, a university teacher, a subject from civil society, a professional member from one of the chambers of production that operate in the capital, and a professional from the Quito Chamber of Construction or from the professional associations of architects and engineers.

It is an independent body that plays a crucial role in the implementation of the LOTAIP, and in promoting a culture of transparency in government, as established in Metropolitan Byelaw No. 116 of 23 April 2004 that defines it as a “Specialised Unit of the highest hierarchy of the Metropolitan District of Quito acting on behalf of the citizens of the District”, subordinate to the Metropolitan Council of Quito and specifically to the Secretary General and President’s Office.

In accordance with its functions and with the LOTAIP now effective, in February 2009 Quito Honesto drafted the Regulation for Seal of Transparency of Information on the Websites of the Municipality. One of its main functions is to ensure that all the official council websites comply with the Law of Transparency and publish the information that the law establishes must be made public.¹³²

Quito Honesto is the most important transparency body.¹³³ It works with the government in implementing measures and controls of application of and compliance with the laws. Citizens can contact this body to request information or to report any negative situations or shortcomings in access to information.

¹³² It reviews all the web pages of the Municipal Council twice a year and awards them a transparency seal that must appear on official websites. Evaluation uses compliance with the obligations regulated by Law as a benchmark. The availability, use of the website, use of the information, level of interaction and response and the accuracy of the information published are studied. The transparency seal is awarded to sites that score at least 70 points out of 100.

¹³³ It performs its functions on the basis of different measures: (i) communication, by fostering a culture of honesty and transparency in the public administration; (ii) prevention, by enforcing the LOTAIP; and (iii) the building of codes of ethics and coexistence; (iv) the establishment of forms of citizen participation that support the development of these functions; and (v) research, working alongside the Attorney General’s Office in the struggle against corruption.
Quito Honesto also encourages the public administrations to be proactive in accountability. Its website provides models of matrices so that bodies can easily explain how they set about their public management.\textsuperscript{134}

\textit{Metropolitan Council of Quito}

The Metropolitan Council of Quito is the District government’s highest authority and each year prepares a Plan of Transparency on Information and on the degree of connection with the public. It also produces a Plan for the Supervision, Monitoring and Dissemination of the LOTAIP, the purpose of which is to enhance councillors’ commitment and sensitivity to citizen participation and to increase the number of web pages with the Quito Honesto transparency seal.

\textit{Citizen supervisory committees}

The citizen supervisory committees are also a form of participation and a mechanism of control. One of their functions is to monitor public sector institutions in the development of public policies, plans and programmes, processes and public works.

Any acts by a public authority may be monitored by the supervisory committees, which comprise citizens with the right of accountability.

\textit{Participatory management committees}

Within the structure of the System of Participatory Management, Accountability and Social Control, the participatory management committees are responsible for monitoring agreements reached in the general participation system.

They are formed by members of the citizen participation councils or assemblies and their job is to assess the extent to which the agreement reached by the committee, assembly or round table for citizen participation has been accomplished.

\textit{6.3.6. Conclusions}

\textit{Transparency with fundamental right status}

The 2004 LOTAIP is a good regulatory instrument for the implementation and protection of transparency, and has brought not only structural but also cultural change conducive to participatory democracy.

Although the legal obligations of disclosure are generally fulfilled, progress in administrative management is required.

\textsuperscript{134} Quito Honesto publishes information of all kinds about its structure, management, budgets and activities on its website. Each year it also issues a management report that outlines the projects that are to be undertaken during the year, and at the end of that year, submits an accountability report, with a progress report on the projects listed in the management report.
Furthermore, although the right to accountability is regulated and annual reports are produced by different agencies, these are not always explanatory enough.

The need to clarify and simplify the data being published online must be stressed, as only in this way will the LOTAIP become fully effective or, in other words, may social control with effective accountability be controlled and citizen participation consolidated.

**Citizen participation: the basis of control**

Citizen participation is the District’s strength. It has a specific regulation that provides for detailed organisation of citizen participation in public management. The views of citizens are taken into account when adopting public policies.

Participatory mechanisms have functions of control over public management. This makes the government a public servant that must adapt to the needs of the governed and must be accountable for its management.

**Quito Honesto: an essential role**

Quito Honesto plays a key role in spreading the values of transparency in the District’s Administration.

It supports the government and other public institutions by providing them information and accountability mechanisms in the implementation of transparent policies, and has monitoring and sanctioning powers.

### 6.4. Region of Tuscany

The Region of Tuscany in central Italy is divided administratively into ten provinces (Arezzo, Florence, Grosseto, Livorno, Lucca, Massa-Carrara, Pisa, Pistoia, Prato and Siena) and has a population of 3,734,355 (according to 2010 data). The capital of the region is Florence, which is also the most populous province.

The Region of Tuscany is acknowledged as the cultural heart of Italy. The primary sector is dominated by mining although the chemical, pharmaceutical and textile industries are also strong. The beauty of its landscapes and cultural history, which is reflected in its buildings and monuments, also give the region strong tourist appeal, which brings it significant revenue.

#### 6.4.1. Regulations

**State**

(i) Law No. 241, on administrative procedure and the right of access to administrative documents, of 7 August 1990.

Before commenting on the transparency situation in the Region of Tuscany, a look should first be taken at the State laws governing and applicable to the matter.

The first law in Italy to deal with access to public information is Law No. 241,
of 7 August 1990, on administrative 
procedure and the right of access to 
administrative documents. As in most 
European countries – and unlike the 
situation in Latin America – the 
commitment of public administrations 
to transparency is beginning to appear 
in regulations on administrative 
procedure. These rights of access are 
nevertheless limited to administrative 
documents in records and to subjects 
with legitimate interests.

An Anti-Corruption Law that envisages 
the creation of independent watchdog 
bodies to ensure that politicians, 
officials and institutions respect 
and follow the rules is currently going 
through Parliament.

Regional

(i) Tuscan Regional Law No. 15, 
of 4 March 2009, on the optimisation 
of the productivity of public work 
and the efficiency and transparency 
of public administrations.

The Tuscan Regional Law on the 
optimisation of the productivity of public 
work and the efficiency and transparency 
of public administrations establishes 
the principle of transparency as a way 
of operating in the public sector. It 
indicates that all data relating to the 
management of public resources or any 
other information that could be of public 
interest must be available to citizens.

The Law is based on a definition of 
transparency as “total accessibility” 
through publication. Total accessibility 
includes information regarding any 
aspect of the organisation, management 
indicators and use of resources to achieve 
institutional ends, the results of mediation 
and the evaluations of the competent 
odies. The purpose is to favour diffuse 
forms of control while respecting 
the principles of proper operability 
and impartiality.  

(ii) Legislative Decree No. 150 
of 27 October 2009.

Legislative Decree No. 150, of 27 October 
2009, develops Tuscan Regional Law No. 
15, of 4 March 2009, on the optimisation 
of the productivity of public work and 
the efficiency and transparency of public 
administrations. It regulates in detail the 
measures and mechanisms of control to 
which the public Administration should 
be subject in order to ensure good 
performance and greater transparency 
for citizens.

The Legislative Decree states that 
administrations should adopt a 
“Triennial Programme for Transparency 
and Integrity” that guarantees a level 
of transparency that befits the law and 
culture of integrity. The regulation 
establishes the duty to publish the 
programme under the name of 
transparency, evaluation and merit. 
The programme must include information 
on the Administration’s management,

135 The concept of transparency is regulated in Article 7 of Regional Law No. 15.
the structure of government, the pay of officers and any other information of public interest.\(^\text{136}\)

The Tuscan programme indicates as a priority objective the simplification of relations between the public and the Administration and all the data that must be published: the system with which to evaluate staff performance, legislation of reference, the organisational structure of the Administration, the institutional email, units responsible for administrative procedures with their respective heads, the curriculum vitae and the remuneration of leaders, disciplinary codes, annual accounts and information on the Administration payments and public procurement.

(iii) Tuscan Regional Law No. 1, of 26 January 2004, on the promotion of eGovernment and on the information and knowledge society of the regional system. Discipline of the Tuscany Region Data Communication Network.

Tuscan Regional Law No. 1 of 2004 establishes the disclosure of administrative documents –in a broad sense– and the right of all to access the contents of administrative acts of public interest as a principle; it also establishes the bases of eGovernment as a means of interaction with the public.

(iv) Tuscan Regional Law No. 38, of 31 July 2007, on public procurement, security and regularity in work.

In addition to the specific regulations on transparency and access to documents, there is also sectoral legislation that contains significant measures in this area. Tuscan Regional Law No. 38 on public procurement is a case in point, as it represented a step forward for the promotion of transparency in public procurement. These regulations have provided the basis for the creation of different regulations, covenants and bodies devoted to transparency and to the control of award and public procurement procedures.

(v) Regional Law No. 40, of July 2009, on administrative simplification.

Regional Law No. 40, of July 2009, on administrative simplification regulates the right of access of all citizens to documents without the need to provide a motive or proof of legitimate interest. This law is based on the right of access to information founded on Article 97 of the Constitution of the Republic, which establishes a constitutional mandate to act in accordance with the principles of good administration and impartiality.\(^\text{137}\)

\(^{136}\) The Region of Tuscany reviews its Triennial Programme for Transparency and Integrity every year. It may be consulted at <http://www.consiglio.regione.toscana.it:8085/trasparenza/documenti/progrtriennale.pdf>.

\(^{137}\) Interpretation of the Ministry of Education, Universities and Research in its introduction to the triennial programme for transparency and integrity.
(vi) 2010 Statute of the Region of Tuscany.

The 2010 Statute of the Region of Tuscany is the basic operating statute. It regulates the structure and government of the region and on different occasions establishes that transparency is a fundamental value.

The statute states that public power must be exercised in conjunction with citizens, by promoting participation and public debate as a guarantee of all those values acknowledged by the community. The public authorities are also instructed to act in accordance with the principles of good administration, impartiality, transparency and equity.

Transparency is one of the ends of the Region of Tuscany and is therefore seen as the ideal tool for simplifying relations between citizens and the Administration and a core prerequisite for citizen participation.

The statute is undeniably a renewed Citizen’s Charter, which is the result of joint effort by all political forces and different sectors representative of civil society.

(vii) The Pisa Charter, the ethical code.

June 2012 saw the submission of a proposed ethical code known as the Pisa Charter. The code sets out the conduct required of Administration staff. It specifies the general duties of diligence, loyalty, honesty, transparency, correctness and impartiality in the conduct of administrative staff, values that define the exercise of public functions and the responsibility of the Administration.¹³⁸

6.4.2. Control of transparency

The Region of Tuscany has a section on its website entitled “Transparency, evaluation and merit”, which includes all the information that the law states must be published. The Settore di Comunicazione Organizzativa e Tutela della Privacy (Department of Organisational Communication and Protection of Privacy)¹³⁹ strives to ensure that said information is indeed published. This organisation manages, develops and monitors the processes of transparency and accessibility of information on regional functions and activity. It also defines the rules for exercising the right of access and promotes and values positive actions that represent a guarantee

¹³⁹ This is a section of the Directorate General for Organisation and Resources of the Region of Tuscany, which reports to the Regional Board.
for equal opportunities and people’s welfare.

There is also the Commission for the Evaluation, Transparency and Integrity of the Public Administration (Civit).\textsuperscript{140} This is an independent body that works with the Presidency of the Council of Ministers (Department of Civil Service) to direct, coordinate and ensure transparency in evaluation systems.

There are also other methods of control such as the option of administrations using independent bodies to appraise performance and, as a last resort, the administrative body that directs each administration and managers of administrations.

Furthermore, all council action is controlled by the Nucleo Unificato Regionale di Valutazione e verifica degli investimenti pubblici della Regione Toscana (Unified Regional Unit for Evaluation and Verification of Public Investment, NURV). This provides technical support to the Regional Board for the evaluation of regional plans and programmes and for the control and verification of public investments.

\textsuperscript{140} Created by Legislative Decree No. 150, of 27 October 2009 –mentioned above–. Official portal: <http://www.civit.it/>.

6.4.3. Active information

As mentioned above, Legislative Decree No. 150 of 2009 establishes the duty to publish a whole series of information. The law also describes the way in which it must be published. The following information is divided into four sections on the “Transparency, evaluation and merit” section on the Region’s website:

<table>
<thead>
<tr>
<th>Regional government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic information</td>
</tr>
<tr>
<td>Relations with the public</td>
</tr>
<tr>
<td>Public procurement</td>
</tr>
</tbody>
</table>

The following information is published on \textit{Regional government}:

/ Government and corporation organisational structure.

/ Powers of each body.

/ Head of the different departments with their respective email addresses.

/ Personal details of leaders.

/ Pay of the President, of the Board and of the Council of the region.

/ Regional government activities, namely:

\begin{itemize}
  \item The triennial transparency programme.
  \item The government programme for the term.
\end{itemize}
The regional development programme.

The different sectoral plans on planning, contracts, and economics.

The region’s following economic-financial information is published;

/ Annual budgets.

/ The income and expenditure accounts.

The information of public interest section is very extensive. It features:

/ Social housing projects.

/ Transport information: schedules and operation.

/ Information on grants.

/ Information on cultural aspects of the region; opening times and prices.

/ Tourist information.

/ Citizen communication service: Posta Elettronica Certificata. This is a service for secure and certified communication between the public and administrations. It facilitates data communication between people and the Administration and thus enables certified and legally binding digital documents to be sent.

/ Online procedures. The enactment of the law of 26 January on the promotion of eGovernment was followed by the launch of the three-year programme for the promotion and development of eGovernment and the information and knowledge society, which involved the creation of the AP@CI Platform through which documents can be sent to and received from the Administration and their processing status may be checked.

/ Online tax office, with facilities for making payments and filing returns.

/ Online training through the Web Learning system of the Region of Tuscany (TRIO), where online courses on different subjects can be accessed.

Information on public procurement includes:

/ List of the region’s public contracts.

/ Status of implementation of the contracts.

/ List of suppliers.

/ Period of payment of invoices.

There is also a Regional Observatory for Public Contracts –established by Regional Law No. 38, of 2007, mentioned above–, which is intended to ensure transparency in public procurement. An online communication system of information on

141 <regionetoscana@postacert.toscana.it>.
contracts in Tuscany (Sitat)\(^{142}\) has been established with this body and therefore the region’s public contracts may be consulted. The Observatory also possesses supervisory power in executing these contracts.

Although information on planning is not specifically published in the “Transparency, evaluation and merit” section, urban plans and projects in the region are available in the Citizen Services section. The authority to prepare urban plans has been delegated to the municipalities.

It is interesting to note the regional government’s willingness to improve its active information channels. The need to improve procedures and services to access information is evident in the three-year programme. Special mention is made of the difficulty involved in administrative language that is “difficult to understand by anyone not used to it” and therefore “in the organisation and content of the Web section on transparency, the use of a style of writing addressed to simplification, and use by and the understanding of all user types” is advocated.\(^{143}\)

6.4.4. Accountability

The Presidency of the region is aware that the mere provision of data and disclosure of the government’s plans and acts is not enough for Tuscany to be considered a transparent region. The region therefore draws up a document entitled *Bilancio Sociale* (Social Balance) for the public. This balance is signed by the region’s president and according to him is “an act of duty of public institutions, an act of transparency, correct information to the public and an opportunity for participation in public affairs.” It is a lengthy document in which the president explains the social and economic situation, the model of governance and also gives citizens an account of what is being done to improve their welfare. It is a way to explain the data published.

\(^{142}\) Created by Ministerial Decree of 06.04.2001.
\(^{143}\) Literal extract from the 2012–2014 Triennial Programme for Transparency and Integrity.
6.4.5. Citizen participation

Closeness to the people is one of the government’s main objectives. For several years now the region has therefore been implementing other forms of citizen participation in the management of public resources—similar to the idea of participatory democracy—.

The year 2007 saw the approval of Regional Law No. 69 on the promotion of participation in the development of regional and local policies.

This law establishes citizen participation in the shaping of regional policy as a right, the exercise of which helps to renew democracy and strengthen the capacity of public policymaking, and provides for greater social cohesion.

The Autorità Regionale per la Partecipazione (Regional Authority for Participation) performs different measures to encourage participation such as round tables, courses, projects, online forums, public assemblies, house-by-house surveys and world cafés.¹⁴⁴

Any citizen can, meanwhile, participate on an individual basis by contacting the Office of Citizen Participation and submit questions, comments, criticisms, ideas and projects.¹⁴⁵

Through the Citizen’s Advice and Information Bureau, the Department of Organisational Communication and Protection of Privacy works to implement transparency by improving the quality of services and relations among institutions, the public and companies. Their tasks include management of the right of access to acts and administrative documents and the telephone information and guidance service. Anyone can exercise the right of access to a document of public interest directly at the Citizen’s Advice and Information Bureau by visiting in person or by email, or before the Administration that possesses the document to wish access is required.

These policies are simply intended to deal with requests and citizen applications for establishing new policies based on public demand.¹⁴⁶

¹⁴⁴ The World Café (WOKA) is a form of citizen participation that was developed by the Basque Innovation Agency Innobasque. It involves the provision of sites in which citizens, companies and the public sector can meet in peaceful and relaxed surroundings to discuss matters that affect people and to propose ideas for improvement.


¹⁴⁶ The first three years in which the law on citizen participation was effective saw the performance of 127 citizen participation processes, from which 68 public projects were subsequently undertaken.
6.4.6. Conclusions

*Young transparency legislation*

As mentioned above, legislation on transparency, citizen participation and eGovernment in Tuscany is new; however, although the region started from a law on administrative procedure that scarcely governed the right of access to administrative records, it has quickly acquired regulations that have made Tuscany an international benchmark.

The Administration’s operating bases have been unified. The regulations not only focus on establishing basic principles on transparency, participation and new administrative technologies, but also impose a commitment to conducting three-year development plans in order to specify policies that will subsequently be subject to accountability and monitoring with a view to establishing efficient public Administration.

*Information*

The official website of the Region of Tuscany is the key tool for access to any kind of public information. Although the information that must be published is regulated by the Regional Legislative Decree, that accessible via the web is not minimal information; it is much more complete. Its excellent work in active transparency does not end with the publication of information. Explanatory reports on the plans and programmes performed are also produced. Some bodies are dedicated to providing the information (both digital and physical) requested from them, which thus allows everyone access to information.

*Watchdog bodies*

The regulation in Tuscany addresses the issue of monitoring bodies. It establishes that all published information may be subject to evaluation by independent bodies. A specific independent body is assigned to monitoring transparency. Levels of transparency in the Administration’s management can therefore be controlled. It also works to encourage transparency. One of the most notable weakness is the lack of regulations establishing administrative penalties in the event of breach of the transparency rules.

*eGovernment*

eGovernment is undeniably the star of the public policy of the Region of Tuscany. The region places special emphasis on the development of ICT with citizen-Administration communication platforms and the option of performing most administrative procedures online.

The reason why so much emphasis is placed on eGovernment is because it is seen as a new channel for implementing good government.
Citizen participation: a developing channel

The Regional Authority for Participation is the key body for channelling citizen participation. Seminars, conferences and colloquia are held with the public. The region is striving to improve in this area by running specific courses designed to train specialists in citizen participation. Once trained, they may develop new public policies that support this form of public management.

6.5. URB–AL II Programme Network 9: local financing and participatory budgeting

6.5.1. Introduction: the URB–AL II Programme and its networks

URB–AL is a European Commission programme intended to develop decentralised cooperation networks among local governments of the European Union and Latin America in areas associated with urban development. The first two phases of this programme have involved the performance of 188 projects and the participation of over 750 local governments.147

These projects have been undertaken in different thematic areas, each of which is organised as a network. Phase one of URB–AL, which received 14 million euros in EU funding, took place from 1995 to 2000 and consisted of the following networks:

/ Network 1: Drugs and towns.
/ Network 2: Democracy in towns.
/ Network 3: Urban environment.
/ Network 4: Conservation of historic urban contexts.

Network 5: Urban social policies.

Network 6: The town as a promoter of economic development.

Network 7: Management and control of urbanisation.

Network 8: Control of urban mobility.

Phase two, which ran from the year 2000 to 2007, was allocated a budget of 50 million euros and involved the implementation of four thematic networks:

Network 9: Local finance and participatory budgets.

Network 10: The fight against poverty.

Network 12: Promoting the role of women in local decision-making bodies.

Network 13: Citizens’ safety in towns.

Through these networks, the URB-AL II has helped to strengthen the capacities of local governments in each of these thematic core areas. It has also fostered collaboration among local governments and civil society and increased local government involvement in the international arena.

6.5.2. Origin and objectives

The URB-AL II Network 9 was established in 2000 under the leadership of the city government of Porto Alegre. This city, which already had experience of participatory budgeting, designed a project aimed mainly at the technical staff of local governments and of civil society organisations and addressed to systematising and implementing best practices in the field of local finance and participatory democracy.

More specifically, the objectives of the network include:

Network 9: The search for data, systematisation and dissemination of best practices in the management of local public policies on local financing and participatory democracy.

Network 10: The identification of strengths and weaknesses regarding ways to implement popular participation practices in government decisions.

Network 12: The creation of instruments for developing participatory democracy practices.
6.5.3. Main activities

Under the leadership of Porto Alegre (Brazil), the direct members of Network 9 were as follows: in Latin America, the Municipal Prefecture of Belo Horizonte (Brazil), the Metropolitan District of Quito (Ecuador), the City Council of Rosario (Argentina), and the Mayor’s Office of San Salvador (El Salvador); and in Europe, Barcelona City Council, Córdoba City Council, (Spain) and the Region of Tuscany (Italy).

External partners and associate institutions included the Federal University of Rio Grande do Sul (UFRGS, Brazil), the International Centre for Urban Management-CIGU (Ecuador), the Data Processing Company of the Municipality of Porto Alegre (PROCEMPA), the Participatory Budget Council (COP) and the School of Public Management of Porto Alegre (EGP).

Ten projects associated with formulae for local funding and participatory budgeting were also selected.

- / Voluntary participation in the planning, execution and social control of the participatory budget (Municipal Prefecture of Diadema, Brazil).

A project addressed to studying formulae for voluntary participation in participatory budgeting initiatives with a view to exchanging experiences and encouraging their use locally.

- / Guide to best practices in local financial management (Madrid City Council, Spain).

The development of a guide to best practices in local financial management developed on a participatory and joint basis. The guide provides methodology and criteria with which to detect best practices in this area.148

- / Participating in local governability: impact of participatory budgeting in local public Administration (Córdoba City Council, Spain).

An initiative addressed to creating a space for networking based on an exchange of experiences, analyses and indicators that allowed for the production of innovative formations and methodologies in the development of formulae intended to improve citizens’ living conditions, through the establishment of new logics in the public Administration.

A project focused on the exchange of methodologies and tools addressed to enriching ongoing initiatives and encouraging new experiences of public-private partnership in the social economy.

/ Participatory budgeting as a tool for combating social and territorial exclusion (Municipality of Venice, Italy).

A project designed to promote the exchange of methodologies, indicators and tools for monitoring the impact of participatory budgeting in the struggle against social exclusion, with a view to enhancing the capacity of local governments to build territorial policies and projects that include the most disadvantaged groups of citizens.

/ Instruments for coordinating territorial planning and participatory budgeting (Municipal Prefecture of Belo Horizonte, Brazil).

An initiative devoted to analysis and dissemination of best practices that foster coordination between territorial planning and participatory budgeting. The main results appear in *Instruments and Mechanisms Linking Physical Planning and Participatory Budgeting*. A synthesis based on the experiences of Ariccia (Italia), Belo Horizonte and Guarulhos (Brazil), Bella Vista (Argentina) and Córdoba (Spain).

/ How to build a participatory budget: transfer of best practices from a perspective of reciprocal exchange (Municipality of Udine, Italy).

A project focused on encouraging debate among European and Latin American local governments and addressed to identifying best practices in participatory budgeting.

/ The impact of participatory budgeting in multiethnic and multicultural cities (Municipality of Cotacachi, Ecuador).

Analysis from a cultural and ethnic perspective of the impact of participatory budgeting formulae in different cities, in which such methodology can identify common measures and reduce tensions arising from coexistence.

/ e-Budgeting (Municipality of Esbjerg, Denmark).

An initiative that involves study of the use of new technologies in implementing participatory budgeting, which helps to streamline relations between the public Administration and citizens. Although new technologies can help to improve communication formulae among different stakeholders involved in local development, the digital divide presents an obstacle to implementing them in different environments.

/ Culture, ethnic relations and human rights as integrated intervention in the context of participatory budgeting in rural municipalities (Municipality of Monobamba, Peru).

A project addressed to reducing social fragmentation through the analysis and exchange of experiences and methodologies intended to improve public policies through participatory budgeting.
6.5.4. Results and most significant ideas

Network 9 has yielded several results. First, it has boosted the implementation of participatory budgeting formulae in both Europe and Latin America. These mechanisms enable local governments to identify areas of action and help reduce conflict by improving citizens’ living conditions. Second, identification of best practices helped to establish analysis and evaluation methodologies that serve as examples for local governments interested in implementing participatory budgeting formulae.

Another important feature was encouragement for the exchange of experiences (focus of the URB-AL Programme). Local governments were thus able to share their participatory budgeting initiatives while learning and picking up ideas from other public and private agents. Lastly, progress was made in the construction of a permanent network of local governments and civil society in this area.

Today, the city of Porto Alegre is a benchmark in participatory budgeting. The city currently runs what is known as the “Transparency portal”,149 the intention of which is to foster communication between the Administration and citizens and involve the latter in the design of public policies.

6.6. The International Observatory for Participatory Democracy

6.6.1. Introduction

The International Observatory for Participatory Democracy (IOPD) is an international network devoted to the analysis and exchange of experiences on participatory democracy at a local level with a view to strengthening democracy in cities. This network currently has over 500 members, most of which are cities.150

The IOPD was created in 2001 in the light of decentralised cooperation initiatives associated with the European Commission URB-AL Programme. It is associated with the Forum of Local Authorities for Social Inclusion (FAL), an initiative established within the framework of the World Social Forum to align public policies with public Administration conducts that generated social inclusion in cities through the recognition of cultural, political, and economic differences of different regions on the planet.

The IOPD is headed by Barcelona City Council, in association with the Municipal Prefecture of Porto Alegre and United Cities and Local Governments (UCLG). The IOPD is also associated with the Committee on Social Inclusion and Participatory Democracy of UCLG (chaired by Porto Alegre and with Barcelona City Council).

149 <http://www2.portoalegre.rs.gov.br/transparencia/>.

150 <http://www.oidp.net>.
Council as its Executive Secretary), which was established in 2005 within the global organisation of local governments. This committee includes three working groups: social inclusion, participatory democracy and global citizenship.\footnote{http://citieslocalgovernments.org/uclg/upload/newTempDoc/ES_308_informe_cisdp_esp.pdf.}

6.6.2. Structure and objectives

In addition to its members, the IOPD has a Chairman and a Technical Secretariat. A Coordinating Committee was also established in 2004.

The Presidency, which is elected each year, leads the network and establishes the broad outline of work to be pursued. Cities that have held the Presidency of the network since 2001 are: Barcelona (Spain), Quetzaltenango (Guatemala), Lille (France), Buenos Aires (Argentina), San Sebastian (Spain), Recife (Brazil), Nanterre (France), La Paz (Bolivia), Reggio Emilia (Italy), Lleida (Spain) and Porto Alegre (Brazil).

The Technical Secretariat is meanwhile responsible for coordinating the work of the network and ensuring the performance of planned measures (production of publications, boosting the network and support for the organisation of the international conference).

Although the secretary was initially supposed to change every three years, Barcelona City Council still holds the post. In 2011, however, a regional office of the IOPD was set up in Latin America in Porto Alegre, a city entrusted with heading the network in the region.

Lastly, a Coordinating Committee consisting of the most active members was subsequently established to propose ways of developing the IOPD.

The IOPD’s work is done according to the following objectives:

/ The exchange of experiences in participatory democracy among network members.

/ The encouragement of research on methodologies, mechanisms and tools for establishing and improving participation formulae locally.
The creation of synergies with organisations and networks with similar or complementary objectives, especially with the Forum of Local Authorities and the Committee on Social Inclusion and Participatory Democracy.

Support for the creation of local observatories for participatory democracy.

6.6.3. Activities

In order to achieve the above objectives, the IOPD’s activities include:

An annual international conference, which has been held twelve times (most recently in Porto Alegre in 2012).

The IOPD Distinction “Best Practice in Citizen Participation”, an award given to acknowledge innovative local experiences in participatory democracy.

The existence of working groups that foster reflection among members, thus allowing for the identification and application of formulae that strengthen local democracy.

The establishment of a network of Local Observatories for Participatory Democracy, which has involved the creation of ten local observatories in European and Latin American cities to evaluate the degree of democratic participation in different cities (funded through the URB-AL Programme).

The production and dissemination of publications on the subject. These notably include:

- Observando las democracias participativas locales 2004-2007
- Guía práctica para la creación de Observatorios Locales de Democracia Participativa
- Guía práctica para la evaluación de procesos participativos
- Viajando por los presupuestos

152 http://www.oidp.net/es/centro-de-recursos/biblioteca-oidp/observatorioslocales-de-democraciaparticipativa/.
6.6.4. Results and most significant ideas

The IOPD’s results are important for several reasons. First, the creation and consolidation of an international participatory democracy network has placed an issue of great importance on the global agenda, particularly given that public participation is now considered a strategy for dealing with the consequences of unequal distribution of wealth. It has made a noteworthy contribution to global initiatives such as the Global Charter-Agenda for Human Rights in the City.  

Best practices in the matter have also been identified; award-winning initiatives distinguished as best practices include participatory budgeting projects, the inclusion of indigenous women in local management, community entrepreneurship and the creation of local development plans. In research, several studies and analyses of local citizen participation have likewise been published.

The new city council of Barcelona has opted for continuity in the network by introducing a change of model based on the following points:

/ Evolution towards a global benchmark for the production of knowledge (R&D of participatory democracy).

/ Streamlining the exchange of experiences in order to enrich municipal governments’ public policies.

/ Reactivation of the Local Observatories for Participatory Democracy network and its working groups.

/ In today’s globalised world, the IOPD must work in association with other international organisations and seek positive synergies with them (especially with academic centres).

/ Support for the joint leadership and increasing contribution of Porto Alegre.

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Conclusions

The paradigms that inspired the way society is supposed to be guided –based on the State, market and society– are being questioned by the public and this has prompted a need for a thorough review of the governance model, in which good government, transparency, accountability and citizen participation should be the key parameters of a future that is inconceivable without social cohesion as a primary and ultimate goal of public authorities.

Both Latin American and European society must therefore urge the public authorities to encourage regional sustainable development in order to establish conditions to favour new growth that is more sustainable and able to create employment as an essential part of social cohesion. Good practice requires governments and administrations to evaluate the quality of life of their citizens and resulting expectations on the basis of the degree of social cohesion of their respective communities. This is where governance can develop innovative forms of government with a scope, anatomy, operating mechanisms and modes of implementation –albeit different on either side of the Atlantic– that can find relevant items of convergence for developing this new way of governing. Governance requires active and constructive collaboration at all levels of regional, national, and local government. Such collaboration should have the backing of civil society and social and economic stakeholders and be based on a decentralised view of society. Hence, while social cohesion is the responsibility of all levels of government, local governments have played and play a particularly crucial role in regional economic and social changes and have undeniably contributed to their collective progress. It is therefore the local arena that is best suited to encouraging equality and social justice, consolidating democracy, to coming up with new forms of participation and to exercising citizens’ freedoms and rights, to promoting next-generation rights, to fighting corruption, to caring for those most in need, and to creating employment: in short, to strengthening social cohesion and consolidating the welfare State. The main ally in the design of a new development model that ensures a balance of market forces and a strong structure of solidarity and social protection is local governance, through citizen participation, transparency and the promotion of legitimate institutions that favour more inclusive societies.
Transparency is the essential prerequisite of participatory democracy and is a necessary condition for public participation and accountability. It is therefore the initial requirement for achieving good government in which there is cohesive social governance. A government that is not transparent thus generates social division. Transparency is an ethical principle and a legal principle. As an ethical principle transparency lies in the sphere of public ethics and therefore in relations between citizens and the political authorities. In this context, citizens are entitled not only to be aware of what political acts are to be undertaken at any given time, but also to know and participate in discussion on the reasons for taking such acts, their implications and consequences. This requirement, which involves concurrence of the political freedom of individuals and the political freedom of governments, as well as respect for this very requirement, can be described in terms of transparency or disclosure of political action. Transparency as a legal principle is an instrumental quality intended to serve specific ends such as citizen participation, good government and social cohesion. The content of transparency is, therefore, not static, but rather varies depending on the purpose for which it is intended. It is an open concept and the rights, principles and characteristics by which it is defined are determined by the end and the context. Transparency is not an end in itself, but provides for greater public participation in the decision-making process and strengthens the democratic nature of institutions and public confidence in the Administration.

The content of transparency is confined exclusively to access to documents and to active information policies. The principles of openness, citizen participation and accountability should not be confused with transparency; they are thus neither an attribute or content of transparency nor transparency itself, but rather the result of transparent policy. Transparency objectives and levels can never be measured or analysed in immediate terms as such analysis is unrealistic. The duty to generate statistical information must always be progressive and not one that requires immediate compliance. The same is applicable to other transparency indicators. Transparency as a tool provides the basis upon which citizens can monitor the Administration and take part in decision-making on public management.

Accountability, meanwhile, should be understood as a radial concept with two essential aspects: responsibility and the existence of penalties associated with non-compliance. These two levels or aspects of accountability contain its three basic pillars: information, justification and punishment. Accountability is important as a duty and a right as it exerts direct influence on levels of good government. It is not a gracious, unilateral act granted by policymakers to the public, but rather a real right of citizenship that also regenerates trust that has been lost in institutions. Accountability should generally apply to any agent who holds a position of responsibility and intervenes in one way or another in the political arena: politicians, political party personnel, staff employed by the State.
and the officers of organised civil society such as trade unions or human rights advocacy organisations. Subjects who demand accountability vary depending on the type of accountability in question. If it is political or moral accountability, they are citizens, civil society organisations, the media or political parties themselves. If accountability is administrative or financial, agents are usually an enforcement or monitoring body such as the ombudsman, or audit or anticorruption agencies. In the professional arena, they are ethics commissions, and in the control of the law, the courts.

The current task must be to regulate accountability so that government is managed on the basis of clear objectives and subject to public deliberation; Administration staff must be made aware of the importance of good management and the constant need to have an attitude that is open to the opinions of the public and to improve complaint and monitoring mechanisms.

In the cases analysed, most states and municipalities have some transparency rules, although countries and municipalities and their regulations should be differentiated depending on the legislative technique used. Those states that have made it legally enforceable must be differentiated from others that have simply adopted a decree, order or lesser regulation, as the latter are only relatively binding and are not usually respected with the same rigour as a legally enforceable regulation. The coercive and psychological force of one or another regulatory tool directly affects levels of fulfilment of the regulated rights and is meanwhile a clear indicator of a particular country or municipality’s approach to transparency.

What should and what should not be disclosed must be regulated and a specific procedure that ensures the protection of truly individual rights must be established. This will ensure that requests for information –both online and physical– will be dealt with in a context of legal certainty, thereby reducing the risks of discrimination. Although the rules of access to information tend to meet internationally established minimum standards, they are usually weak in promoting the right.

The way in which the authorities disseminate and promote the right so that the public may internalise it as such is a core issue. A widespread lack of standardisation in publishing information can be observed. What is published and what is not, the limits to what is public information, the scope of secrecy and confidentiality, and the limits to the protection of personal data must be clearly established. Systematisation and clarification of these matters also affects participation; if citizens are clearly aware of what they may ask from each institution, of their rights, of what is and what is not restricted and the events in which the information may be denied, the certainty this generates enables them to interact more.
The question of how information is managed is a crucial one. Too much information can lead to misinformation.

Although proper channelling and accessibility are generally the norm, disclosure of information is insufficient. There are sectors of the population that may be discriminated against on account of the dissemination of information online, especially the elderly and people with fewer economic or educational resources, who are often technologically excluded. Transparency that materialises solely through new technologies may lead to social division.

Lastly, as stated previously, participation is the core feature and linchpin of social cohesion, governance and good government and therefore an essential element in their attainment. Many experiences, and specifically local ones, have indeed shown that instruments that introduce transparency in the exercise of public power and citizen participation mechanisms improve the quality of democracy and are highly effective tools in favouring it. Local governments are institutional spaces open to participation and to power sharing. Political participation in society is thus best expressed at a local level where innovative channels of connection among the people, political institutions and their representatives are to be encountered. Participation at a local level therefore generally has a positive impact in at least three areas: in economics and organisation, because it enables local governments to provide services that it would not be easy to guarantee without the cooperation of the public or local businesses; in social matters, as it generates social capital, confidence in society itself and its institutions, and unites the public; and in politics, as it involves a certain re-legitimisation of political institutions and of the representative system.

Democracy is more effective if citizens take part in the decisions that affect them. The path to greater democracy, which people require, is through a governance that ensures citizen participation in decisions that directly affect them in their communities, cities or regions. It is therefore essential that the public should be made aware of what helps to generate a democratic culture, based on active, positive and proactive citizen participation through the training of individuals in principles and values. The defence of a demanding democracy, however, requires citizen involvement in public life and such commitment can only arise if people are truly autonomous and feel economically, educationally and physically safe and secure. Hence, the need to build a society that collectively ensures a project of quality democracy.
Effective citizen participation is a prerequisite for achieving social cohesion and is necessary to establish the ideal conditions for the creation of institutions that allow the expression of different positions that there may be on issues of public interest, and to create a space for divergence with a view to yielding agreements on solutions that could be adopted.

While it is true that there can be no democracy without certain basic forms of consensus, the expression of conflicts should nonetheless also be allowed and this requires the creation of collective identities based on differentiated positions. The local environment is the perfect laboratory in which to put this into practice.
# APPENDIX A. Current situation of transparency legislation in Latin America

<table>
<thead>
<tr>
<th>Country</th>
<th>Constitution</th>
<th>Regulations</th>
<th>Law</th>
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<td>Article 8 of the Constitution <a href="http://www.resdal.org/Archivo/d0000008d.htm">http://www.resdal.org/Archivo/d0000008d.htm</a></td>
<td>Law 20285, on transparency of the civil service and on access to information of the State Administration <a href="http://www.leychile.cl/Navegar?idNorma=276363">http://www.leychile.cl/Navegar?idNorma=276363</a></td>
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<td>Ecuador</td>
<td>Organic Law on Transparency and Access to Public Information, published in the Official Gazette Supplement 337 of 18 May 2004</td>
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<td>El Salvador</td>
<td>Law on Access to Public Information (Decree 534) LAIP</td>
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<td>Mexico</td>
<td>Federal Law on Transparency and Access to Public Information</td>
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<td>Nicaragua</td>
<td>Law on Access to Public Information. No. 621</td>
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<td>Paraguay</td>
<td>National Constitution, Articles 26, 28, 45 and 137</td>
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<td>Peru</td>
<td>Law on Transparency and Access to Public Information. Law 27.806</td>
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<td>Uruguay</td>
<td>Law 18.381 on Right of Access to Public Information</td>
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<tr>
<td>Venezuela</td>
<td>Constitution of the Bolivarian Republic of Venezuela, Articles 28, 51 and 143</td>
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Source: created by the author
## APPENDIX B. Current situation of transparency legislation in Europe

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<td>Albania</td>
<td>Art. 10</td>
<td>Law 8503, of 30 June 1999, on the right of information on official documents guarantees any request for access to an official document. Ligji nr. 8503, datë 30.6.1999, Per të drejtën e informimit për dokumentat zyrtare</td>
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<td>Austria</td>
<td>Art. 16</td>
<td>Duty to Grant Information Act, of 1987</td>
<td>1987</td>
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<tr>
<td>Azerbaijan</td>
<td>Art. 47</td>
<td>Law of the Republic of Azerbaijan on right to obtain information, of 2005</td>
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<td>Belarus</td>
<td>Art. 34</td>
<td>Law on Information, Informatization and Protection of Information of the Republic of Belarus</td>
<td>2009</td>
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<tr>
<td>Belgium</td>
<td>Art. 32</td>
<td>Loi relative à la publicité de l’administration, of 11 April 1994</td>
<td>1994</td>
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<tr>
<td>Bosnia</td>
<td>Art. 2.3</td>
<td>Law of Freedom of Access to Information, of 2000</td>
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<tr>
<td>Cyprus</td>
<td>Art. 19</td>
<td>Freedom information act</td>
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<tr>
<td>Czech Republic</td>
<td>No</td>
<td>Law on Free Access to Information, of 1999</td>
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<td>Denmark</td>
<td>Art. 77</td>
<td>Access to Public Administration Files Act, of 1985</td>
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<td>Estonia</td>
<td>Arts. 44 and 45</td>
<td>Public Information Act, of 2000</td>
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<td>France</td>
<td>Declaration of the Rights of Man and of the Citizen</td>
<td>Loi n° 78–753 du 17 juillet 1978 portant diverses mesures d’amélioration des relations entre l’administration et le public et diverses dispositions d’ordre administratif, social et fiscal</td>
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<tr>
<td>Georgia</td>
<td>Art. 19</td>
<td>The general administrative code of Georgia, section (chapter 3), Transparency in Government Act, of 2008</td>
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<tr>
<td>Country</td>
<td>Article No.</td>
<td>Description</td>
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<tr>
<td>Germany</td>
<td>Art. 5</td>
<td>German Federal Law on freedom of information of 5 September 2005. Federal Act Governing Access to Information held by the Federal Government (Freedom of Information Act) It guarantees the unconditional right of all persons to access to official information without justification. In addition, further laws exit in 11 out of 16 federal states</td>
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<td>Hungary</td>
<td>No</td>
<td>Act CXII on Informational Self-determination and Freedom of Information, of 2011</td>
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<td>Iceland</td>
<td>Arts. 14 and 15</td>
<td>Information Act</td>
<td>1996</td>
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<td>Italy</td>
<td>Art. 21</td>
<td>Law on Access to Public Documents, of 1990</td>
<td>1990</td>
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<td>Lithuania</td>
<td>Art. 25</td>
<td>Law on the Provision of Information to the Public, of 2000</td>
<td>2000</td>
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<tr>
<td>Luxembourg</td>
<td>Art. 24</td>
<td>Draft bill on Freedom of Information</td>
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<tr>
<td>Macedonia</td>
<td>Art. 16</td>
<td>The Law on Freedom of Access to Public Information was enacted on 25 January 2006</td>
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<tr>
<td>Malta</td>
<td>Art. 41</td>
<td>Freedom of Information Act, of 2008</td>
<td>2008</td>
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<tr>
<td>Moldavia</td>
<td>Art. 34</td>
<td>The Law of the Republic of Moldavia on access to information was passed in May 2000</td>
<td>2000</td>
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<tr>
<td>Montenegro</td>
<td>Arts. 46 and 47</td>
<td>The Free Access to Information Act was adopted in November 2005</td>
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<tr>
<td>Norway</td>
<td>Art. 100</td>
<td>The Freedom of Information Act, of 19 May 2006</td>
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<tr>
<td>Poland</td>
<td>Art. 61</td>
<td>Law on Access to Public Information, of 2001</td>
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<table>
<thead>
<tr>
<th>Country</th>
<th>Article</th>
<th>Law Description</th>
<th>Year</th>
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<tr>
<td>Romania</td>
<td>Art. 30</td>
<td>Law of freedom of information and transparency in the decision-making process in the public Administration, of 2001</td>
<td>2011</td>
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<td>Serbia</td>
<td>Art. 46</td>
<td>Law on Free Access to Information of Public Importance, of 2000</td>
<td>2000</td>
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<tr>
<td>Slovakia</td>
<td>Art. 26</td>
<td>Freedom of Information Act, of May 2000</td>
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<tr>
<td>Slovenia</td>
<td>Art. 39</td>
<td>Law of Access to Public Information, of March 2003</td>
<td>2003</td>
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<tr>
<td>Spain</td>
<td>Art. 20</td>
<td>Law 30/1992 on administrative procedure</td>
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<td>Sweden</td>
<td>Chapter II Art. 1</td>
<td>Freedom of the Press Act, of 1949</td>
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<td>Turkey</td>
<td>Art. VIII 26</td>
<td>The Right of Information Act was signed on 24 October 2003</td>
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<tr>
<td>Ukraine</td>
<td>Art. 34</td>
<td>The Access to Public Information Act was enacted on 13 January 2011.</td>
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<tr>
<td>United Kingdom</td>
<td></td>
<td>Freedom of Information Act, of 2000</td>
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Source: created by the author
# APPENDIX C. Comparative table of case studies

<table>
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<tr>
<th>Sant Cugat del Vallès</th>
<th>Bilbao</th>
<th>Metropolitan District of Quito</th>
<th>Region of Tuscany</th>
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<td>/ Law on the optimisation of the productivity of public work and the efficiency and transparency of public administrations, 2009</td>
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<td>/ Regulation on Citizen Participation</td>
<td>/ Protocol of Operation and Good Government of the City of Bilbao. Commitment to act transparently</td>
<td>/ Legislative decree on the optimisation of the productivity of public work and the efficiency and transparency of public Administrations, 2009</td>
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<td>/ Ethical code</td>
<td>/ Plan of Government: transparency and efficiency in management</td>
<td>/ Regional law on the promotion of eGovernment, 2004</td>
<td>/ Statute of the Region of Tuscany</td>
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<td>/ Statute of the Region of Tuscany</td>
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<td>/ Establishment of an environment conducive to citizen participation</td>
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<td>/ No organ to oversee transparency</td>
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<td><strong>Objectives of transparency</strong></td>
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<td>/ Accessibility to unpublished information</td>
<td>/ To improve service and information for the public, staff development and internal management</td>
<td>/ Effective compliance with the LOTAIP</td>
<td>/ To guarantee transparency and accountability (health)</td>
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<td>/ Compatibility of transparency with data protection</td>
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<td>/ To connect policy and the public</td>
<td>/ Studies to measure citizen satisfaction</td>
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<td>/ Tuscan project of fiscal federalism</td>
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<td>/ To implement public participation policies</td>
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<td>/ Greater transparency and information on how to access credit in the region, on products, standards, options, subjects to which companies may resort</td>
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<td><strong>Specific measures</strong></td>
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<td>/ Adoption of the ethical code</td>
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<td>/ Production of an informative document on passive information</td>
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<td>/ Citizens’ councils</td>
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### Management indicators

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### Active transparency** : information

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| / Schedules of public services and establishments | / Schedules of public services and establishments | / Schedules of public services and establishments | / Schedules of public services and establishments |
| / Tourist information | / Tourist information | / Tourist information | / Tourist information |
| / Information for special groups | / Information for special groups | / Information for special groups | / Information for special groups |
| Economics | / Publication of account breakdowns / PACTE / Budget of independent bodies. / Report on the costs of compulsory public services / Report on municipal returns / Municipal debts / Publication of account breakdowns / Notification of compliance with Service Charters / Publication of a list of revenue and expenditure / Publication of budget / Tuscany straight and clear: explanatory report on budgets |
|---|---|---|---|---|---|---|---|---|
| Public procurement | / Records of contracts / Bids in progress / Resolutions / Operations with suppliers / Boards and awards / Contracts / Bids in progress / Resolutions / Operations with suppliers / Boards and awards / Special regulations on public procurement with transparency value / List of contracts made / Regional observatory on public procurement / Sitat |
| Urban planning | / Publication of projects / Urban planning / Files in progress / Regular information / Publication of projects / Urban planning / Files in progress / Regular information / List of projects with progress status / Publication of projects / Urban planning |
| Passive transparency: accountability | / Citizens' councils / Audience prior to plenary session / Extraordinary plenary sessions / Referenda and surveys / Citizen advice and information service / Evaluation of compliance with Service Charters / Significant development of culture of accountability: reports of administrations and public enterprises / Explanatory reports of acts of the regional government: Social Balance |
| Municipality strengths in transparency | / Institutional awareness / PACTE / Active transparency / Citizen participation: citizens' councils / Publication of all information on the website / Active transparency / Transparency awards / Methods of citizen participation / Control of citizens and institutions / Transparent website certificate / Bilancio Soziale (Social Balance) / Triennial programme / Instruments of citizen participation / "Transparency, valuation and merit" section / Results-oriented public Administration |
Municipal weaknesses
- Management of files
- Passive transparency
- Saturation of information
- No culture of accountability

/ No culture of accountability
/ Lack of information of public interest
/ Not very developed information
/ Difficult access to information
/ Complicated web page

Improvement plan
- Remodelling of website
- e-procurement

/ To improve eGovernment
/ ATARIA: decentralisation of management of personnel in processing internal files

/ Raising government awareness in accountability
/ Writing of the accountability report of authorities and companies that do not yet do so

/ Ethical code for the Administration
/ Simpler administrative vocabulary
/ Collaboration with municipalities involved in it

* What does each municipality do to assess transparency levels? Some have monitoring bodies (IFAI in Mexico), others produce periodic reports while others do not.

** Information published. Council: biographical data, addresses, positions of trust, record of assets. Organisation: on government bodies, agencies, degrees of compliance with commitments, strategic action plan, publication of minutes, agendas, agreements, ethical code of good government. Relations with the public: website, search function, citizen’s inbox, cultural information, online procedures, access to associations’ website, citizen participation measures (regulation and channels). Economics: budget breakdown. Public procurement: public procurement website, decisions on bids, online monitoring. Urban planning: online access, land planning, agreements, periodic information on the status of works.

Source: created by the author

Note: the information featured in the comparative table is a summary of the cases. This table contains a selection of indicators with which local transparency may be analysed.
# APPENDIX D. URB–AL II Programme Network 9: local financing and participatory budgeting

<table>
<thead>
<tr>
<th>Origin</th>
<th>In the year 2000 under the leadership of the government of the city of Porto Alegre (<a href="http://www2.portoalegre.rs.gov.br/transparencia/">http://www2.portoalegre.rs.gov.br/transparencia/</a>)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Members</td>
<td>Porto Alegre (Brazil), Municipal Prefecture of Belo Horizonte (Brazil), Metropolitan District of Quito (Ecuador), City Council of Rosario (Argentina), San Salvador (El Salvador), Barcelona and Córdoba (Spain) and the Region of Tuscany (Italy).</td>
</tr>
<tr>
<td>Objectives</td>
<td>Systematisation and dissemination of best practices in the management of local public policies on local financing and participatory democracy / Identification of weaknesses and strengths with regard to methods of implementing popular participation practices in public authority decisions / Creation of tools with which to develop participatory democracy practices</td>
</tr>
<tr>
<td>Projects</td>
<td>Link between participatory budgeting and public-private partnerships with the social solidarity economy (Municipality of Cuenca, Ecuador) / Voluntary participation in the planning, execution and social control of the participatory budget (Municipal Prefecture of Diadema, Brazil) / Guide to best practices in local financing management (Madrid City Council, Spain) / Participating in local governability; impact of participatory budgeting in local public Administration (Córdoba City Council, Spain) / Participatory budgeting as a tool for combating social and territorial exclusion (Municipality of Venice, Italy) / Instruments for coordinating territorial planning and participatory budgeting (Municipal Prefecture of Belo Horizonte, Brazil) / How to build a participatory budget: transfer of best practices from a perspective of reciprocal exchange (Municipality of Udine, Italy) / The impact of participatory budgeting in multiethnic and multicultural cities (Municipality of Cotacachi, Ecuador) / e-Budgeting (Council of Esbjerg, Denmark) / Culture, ethnic relations and human rights as integrated intervention in the context of participatory budgeting in rural municipalities (Municipality of Monobamba, Peru)</td>
</tr>
<tr>
<td>Results</td>
<td>Promotion of the implementation of participatory budgeting formulae both in both Europe and in Latin America / Establishment of methodologies of analysis and evaluation for the implementation of participatory budgeting formulae / Encouragement for the exchange of experiences</td>
</tr>
</tbody>
</table>

Source: created by the author
## APPENDIX E. International Observatory for Participatory Democracy

<table>
<thead>
<tr>
<th>Origin and purpose</th>
<th>Created in 2001 as a result of different decentralised cooperation initiatives linked to the URB-AL programme. International network devoted to the analysis and exchange of experiences in local participatory democracy with a view to enhancing democracy in cities.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structure and members</td>
<td>Led by the City of Barcelona, in association with the Prefecture of Porto Alegre and United Cities and Local Governments. It currently has over 500 members.</td>
</tr>
<tr>
<td>Objectives</td>
<td>To exchange experiences on participatory democracy among network members. The promotion of research into methodologies, mechanisms and instruments for establishing and improving local participation formulae. Creating synergies with organisations and networks with similar or complementary objectives, especially with the Forum of Local Authorities and the Committee on Social Inclusion and Participatory Democracy. Support for the creation of local observatories for participatory democracy.</td>
</tr>
<tr>
<td>Activities</td>
<td>Organisation of an annual international conference. IOPD Distinction &quot;Best Practice in Citizen Participation&quot;. Creation of a network of Local Observatories for Participatory Democracy, featuring the creation of ten local observatories in European and Latin American cities to evaluate the degree of democratic participation in different cities (funded through the URB-AL programme). Development and dissemination of publications on the subject.</td>
</tr>
<tr>
<td>Results</td>
<td>Creation and consolidation of an international network on participatory democracy. Contribution to global initiatives such as the Global Charter-Agenda for Human Rights in the City. Identification of best practices in participatory democracy. Publication of different studies and analysis on citizen participation at a local level.</td>
</tr>
<tr>
<td>Forecast</td>
<td>To develop into a global benchmark centre for knowledge production (R+D in participatory democracy). Encouragement for the exchange of experiences. Reactivation of the Local Observatories for Participatory Democracy network and its working groups. Promotion of relations between the IOPD and other international organisations while seeking positive synergies therewith (especially academic centres).</td>
</tr>
</tbody>
</table>

Source: created by the author


ARISTOTLE (2004): La Política, Tecnos, Madrid.


OAS, IACHR, SPECIAL RAPPORTEURSHIP FOR FREEDOM OF EXPRESSION (2009b): *Executive Summary of the Inter-American
Legal Framework Regarding Freedom of Expression, OAS, IACHR.


SANT CUGAT DEL VALLÈS CITY COUNCIL (SPAIN), (2010): Provisional ethical code.
SCHEDLER, A. (2004): ¿Qué es la rendición de cuentas?, IFAI, Mexico (Cuadernos de Transparencia, No. 3).


**Online resources**

BILBAO CITY COUNCIL <http://www.bilbao.net>

CEPALSTAT <http://website.eclac.cl/sisgen/ConsultaIntegrada.asp>

COMMITTEE ON STANDARDS IN PUBLIC LIFE <http://www.public-standards.gov.uk>

CONSIGLIO REGIONALE DELLA TOSCANA <http://www.consiglio.regione.toscana.it>

COUNCIL OF EUROPE <http://www.coe.int>

ECLAC <http://www.eclac.org>

ECUADOR. FUNCIÓN DE TRANSPARENCIA Y CONTROL SOCIAL <http://www.ftcs.gob.ec>

EUROPEAN AFFAIRS JOBSITE <http://euobserver.com>

EUROPEAN COMMISSION <http://ec.europa.eu/index_es.htm>

EUROPEAN UNION <http://europe.eu.int>

EUROSTAT <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home>
INTER-AMERICAN DEVELOPMENT BANK
<http://www.iadb.org/es/bancointeramericano-de-desarrollo,2837.html>

ITALIA. AVVISO PUBBLICO
<http://www.avvisopubblico.it>

ITALIA. CIVIT
<http://www.civit.it>

LATINOBARÓMETRO
<http://www.latinobarometro.org/latino/latinobarometro.jsp>

ORGANIZATION OF AMERICAN STATES
<http://www.oas.org>

SANT CUGAT CITY COUNCIL
<http://www.santcugat.cat>

TRANSPARENCY INTERNATIONAL
<http://transparency.org>

TRANSPARENCIA INTERNACIONAL
ESPAÑA
<http://www.transparencia.org.es>

UNDP
<http://www.undp.org/content/undp/es/home.html>

UNESCO
<http://www.unesco.org/new/es/unesco>

WORLD BANK
<http://www.bancomundial.org>
URB-AL III is a regional decentralised cooperation programme run by the European Commission, the aim of which is to contribute towards increasing the level of social cohesion in sub-national and regional groups in Latin America.

Led by Diputació de Barcelona, the URB-AL III Programme Orientation and Coordination Office’s mission is to facilitate the implementation of the programme by providing technical assistance and support in the different projects in order to help achieve the programme’s objectives.