

PROACTIVE TRANSPARENCY POLICY IN THE MERCOSUR LOCAL GOVERNMENTS: REGULATION VS. SELF-REGULATION*

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Abstract

The aim of this article is to develop the findings of a previous research on policies regarding proactive information disclosure, both voluntary and mandatory. We present and analyze new evidence on the factors that influence decisions taken in this respect. This study is focused on Mercosur area, a region that has received little previous research attention on these issues. To achieve the study goals, we analyze the proactive information disclosure made by local authorities, regarding both the degree of compliance with legal requirements and whether these local authorities are voluntarily and homogeneously implementing the proactive information disclosure policies recommended by the Organization of American States (OAS). Finally, with respect to the voluntary information provision, we determine the influence of environmental factors on information disclosure. The results obtained show that transparency is more an issue of attitude than of laws, and highlight the existence of a large gap between legal requirements, the OAS requirements and actual performance. Finally, it can be seen that five factors are statistically significant for the voluntary disclosure of the OAS recommended items: corruption, technology, size, mandatory disclosure policy and socio-economic development.

Keywords: factors, FOI Act, transparency policy, harmonization, website.

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* Acknowledgement: This research was carried out with financial support from the Regional Government of Andalusia (Spain), Department of Innovation, Science and Enterprise (Research Projects P10-SEJ-06628 and P11-SEJ-7700).

1. Introduction

Increasing perceptions among stakeholders that public funds are being mismanaged have eroded confidence in and credibility of public institutions (Tolbert and Mossberger, 2006). To restore this confidence, numerous authors consider that public bodies should be more transparent and allow greater access to public information (Cuillier and Piotrowski, 2009; Relly, 2012), and the development of a legal framework to support such access is of fundamental importance (Spahiu, 2012).

As regards legal requirements on access to information, two facets of transparency can be distinguished: proactive and reactive (Darbishire, 2010). The first of these is the obligation to disclose public information, without prior request, while the second means that information on government activity will only be provided when specifically requested.

In this context, Xiao (2010) observed that legislation is placing ever-greater emphasis on the inclusion of policies promoting proactive transparency. According to Relly (2012), such policies benefit citizens and government; stakeholders can thus obtain information more conveniently and at no charge, while public bodies, by making information available at all times, are freed of the burden of responding to numerous requests.

To implement proactive policies on transparency, new technologies such as internet websites are being used as a means of disseminating information without prior request (Cuillier and Piotrowski, 2009), and this circumstance has led to diverse legislative frameworks being established to regulate and enhance access to public information.

In Latin America, the Organization of American States (OAS) recently called for information disclosure laws to be adopted, taking into account the benefits of proactive disclosure based on the use of information and communication technologies (ICT). Accordingly, the OAS has issued a Model Inter-American Law (LMI, Spanish initials), as a blueprint for countries wishing to draft a national law in this regard (or to amend an existing one), with the aim of fostering a more homogeneous culture of transparency in Latin America.

Application of the LMI could make a vital contribution to political, economic and social integration in contexts such as Mercosur, whose goals include the harmonization of legislation within its member countries (Mercosur, 2010). Furthermore, globalization is spurring demands for greater transparency, because economic and financial decisions or events in one area may impact on other countries (Florini, 1999).

Currently, some Mercosur member countries (for example, Argentina) do not have information disclosure laws, and those that do may not have followed the LMI blueprint; this is the case of Uruguay, which adopted its legislation in this field before the model was published. Therefore, the legal situation regarding proactive policies on transparency varies considerably within the region.

Another point that should be taken into account is that the LMI, and laws based on it, merely stipulates minimum policy requirements. Information disclosure at this

level might be insufficient to achieve the legitimation sought by public bodies, which therefore may decide, voluntarily, to publish complementary information (Neuman, 2006). Thus, public authorities in the Mercosur region may be complying with LMI recommendations on proactive transparency (or exceeding them) even if this is not called for under their national legislation.

The factors and motivations that could influence self-regulation policies on information disclosure by public bodies vary widely, and have been addressed in many studies, especially in developed countries. However, little is known about the factors that may influence an organization's voluntary decision to apply the proactive transparency policies recommended by supranational bodies, especially when national laws in this respect must also be complied with.

In view of these considerations, the present study has a threefold objective: first, with regard to facilitating citizen participation in government affairs, to analyze the degree of compliance by local governments in Mercosur countries with national laws on proactive information disclosure. Second, to consider whether these local authorities are voluntarily and homogeneously implementing the proactive information disclosure policies recommended by the OAS, and to identify the measures still to be applied, in order to comply with the LMI guidelines on proactive transparency. Finally, as some of these recommendations may be followed voluntarily, we also examine whether local authorities in countries where the LMI is incorporated into national legislation are more likely to follow it, and whether they are also affected by other factors.

The fundamental aim of this study, thus, is to contribute to our understanding of mandatory policies on proactive transparency in contrast to self-regulation. In doing so, we present new evidence on the factors that influence a local government's decision to voluntarily apply the proactive transparency policies recommended by supranational bodies.

2. Regulating access to public information: case study of the Mercosur countries

The national constitutions of many countries include the right of access to public information. However, experience has shown that this right is merely hypothetical in the absence of appropriate legislation, if stakeholders cannot readily access their constitutional courts (Neuman, 2006).

The existence of a law on access to public information induces public servants to act in accordance with applicable laws in their area of responsibility (Coglianese, 2009). Therefore, the existence of a law guaranteeing this access can make a major contribution to the democratic development of a country (Piotrowski and Van Ryzin, 2007).

Additionally, these laws benefit the economy, as public-sector transparency and information contribute to achieving a climate of trust, because the positive evolution of the market largely depends on the reliable provision of information (Mendel, 2003;

Islam, 2006; Spahiu, 2012). Moreover, regulation of this area is a means of combating corruption, since the very act of requiring information alerts public servants that they must act in the public interest and not seek private gain (Bertot, Jaeger and Grimes, 2010).

However, as each country is sovereign in regulating this right, large asymmetries can arise in terms of legislative content, and various international agencies and NGOs are seeking to overcome this imbalance. In order to support the development of national laws, papers have been presented, focusing on general principles and requirements in this area. Such documents include the Open Society Justice Initiative (2005), Article 19 (2007) and the Council of Europe (2009), together with model laws (OAS, 2010). In many cases, these publications seek to contribute to standardizing the concept of transparency within a specific region (Commonwealth; African Commission on Human and Peoples' Rights).

In 2009, aware of an absence of harmonization in the content of their laws in this field, the OAS member states approved Resolution AG/RES. 2514, which called for the preparation of a Model Inter-American Law (LMI) on access to information, to provide member states with the legal framework to support this right, together with an implementation guide to ensure its proper functioning. The LMI was also intended to assist countries that had already adopted legislation in this area to harmonize their transparency policy with that of the other countries. After a year of preparation, the LMI was adopted by the OAS (as Resolution AG/RES. 2607 (XL-O/10)).

Among the Mercosur countries – Argentina, Brazil, Uruguay, Venezuela, Paraguay and Bolivia (the latter two, currently in a transitional stage of membership) – not all national constitutions incorporate the right of access to public information (Figure 1). Moreover, despite the important benefits believed to be obtained from information disclosure legislation, not all Mercosur countries have enacted such laws. Thus, only Uruguay (2008), Brazil (2011) and most recently Paraguay (2014), have adopted laws on public access to information. Bolivia regulates access to public information through Supreme Decree 27329/2004, as amended by Supreme Decree 28168/2005.

Nevertheless, for decades all the Mercosur countries have given international undertakings to guarantee access to public information, by ratifying international agreements in this respect, such as Article 13 of the American Convention on Human Rights (1969), Article 3 of the Inter-American Convention against Corruption (1996) and the UN Convention against Corruption (2003), Article 10 of which obliges each State Party to 'take such measures as may be necessary to enhance transparency in its public administration, including (...) procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration (...)'.

During the early years of the century, attempts by Mercosur countries to comply with these international commitments led to the parliamentary discussion of access to public information, but little was achieved until late 2006, when the pace quickened. Two events were probably responsible for this acceleration: first, in 2006 the

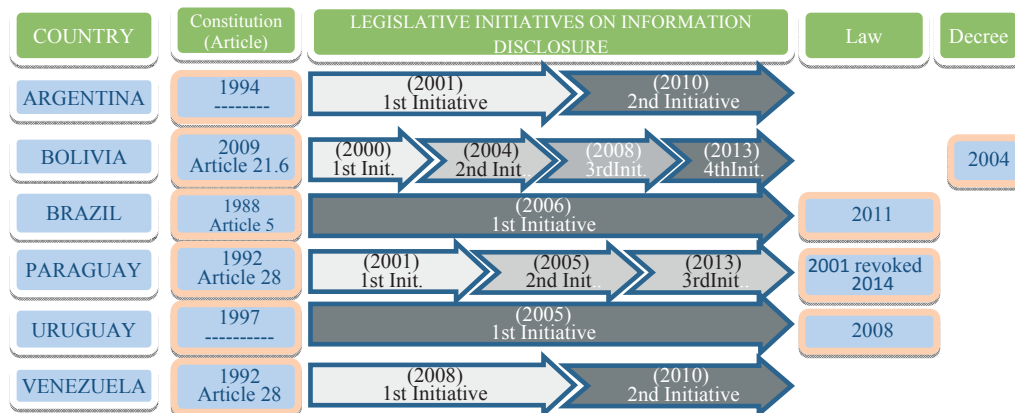


Figure 1: Information disclosure legislation in Mercosur countries

Source: Authors' own calculations

Inter-American Court of Human Rights handed down its first judgment on the subject, ruling against the State (in *Claude Reyes vs. Chile*); second, the Special Rapporteur for Freedom of Expression, of the Inter-American Commission on Human Rights, required the 32 member countries of the OAS to implement legal mechanisms to guarantee access to public information.

Paraguay pioneered action in this field, with its Administrative Transparency Act (1728/01). However, this law actually limited freedom of access to information, and was repealed only two months later. Subsequently, in 2005, the Steering Group on Access to Public Information (GIAI, Spanish initials), presented a Bill in Parliament, but this failed to advance. Finally, in September 2013, the organization Seeds for Democracy and GIAI sponsored another Bill, which was approved one year later.

In Uruguay, the initiative was taken by an NGO, the Archives and Access to Public Information Group (GAIP), composed of various human rights groups and media associations, which prepared a draft Bill in 2005. This was presented to Parliament in 2006 and approved two years later.

In Brazil, several organizations (the Brazilian Association of Investigative Journalism, Transparency Brazil and *ContasAbertas*, among others), began work in 2003 to promote a culture of transparency. The first Bill was drafted in 2006, but it was not presented to Parliament until 2009, and was finally approved two years later.

In other Mercosur countries, all parliamentary initiatives on access to public information have failed to prosper, due to a lack of political will that neither parliamentary debates nor pressure from other member countries have been able to overcome. Thus, although Bolivia pioneered initiatives in this area in 2000, all successive attempts have failed. Although the attempt made in 2004 was unsuccessful, it did lead to Supreme Decree 27329/2004, which affected only the executive power.

In Argentina, the first attempt to regulate information disclosure took place in 2001, when the Anti-Corruption Bureau presented a draft document, but disagree-

ments between the government and the opposition prevented it from coming into law, and parliamentary procedures were abandoned in February 2006. After several years of neglect, the issue was revived in 2010, when a new Bill was passed by both houses. Nevertheless, as had happened previously, the initiative ultimately failed. Despite these setbacks, Argentina does have some legislation in this respect, such as Act 25.188/99 on public service ethics and Decree 1172-1103 to improve the quality of democracy and its institutions. In addition, regional legislation has been enacted in provinces such as Entre Ríos and Córdoba.

The country that was slowest to consider legislating on access to public information was Venezuela, where in 2008 the Pro-Access Coalition, together with Venezuelan journalists, presented a draft law to Parliament, without success. In 2010, another proposal was presented, by Transparency Venezuela and Public Space, but again nothing came of it. Nevertheless, as in Argentina, some regional initiatives have been taken to increase public sector transparency, in the states of Anzoátegui (2007) and Zulia (2010), among others.

The proactive information policy incorporated in the laws or decrees on access to public information that have been approved in Mercosur countries (i.e., Bolivia, Uruguay, Brazil and Paraguay) is very limited and undemanding, tending to favor a very conservative policy; thus, only 7, 11, 9 and 13 requirements, respectively, are imposed, and so public bodies are largely free to regulate themselves. It is noteworthy that Paraguay has adopted policies on proactive information that vary depending on the public organization in question, with demands being less stringent for local authorities. This contrasts with LMI recommendations on proactive information disclosure. The OAS is aware of the benefits of the latter, according to its content analysis of the LMI, and has urged that all laws drafted in this respect should incorporate the mandatory disclosure of at least 46 areas of information.

The nature of the proactive information required is shown in Table 1, where the data are distributed, following Transparency International (2010), in four groups. The LMI calls on local authorities to provide 15 specific items of proactive information, while the laws adopted actually require between 2 and 8 such items. Proactive information on institutional relations with citizens and society is virtually ignored in the regulations currently in force in the Mercosur countries, since only Uruguay and Paraguay take this question into consideration, although the LMI requires the proactive disclosure of 10 items in this respect. Proactive information on the organization's economic and financial position and on planning and public works is present in all the information disclosure rules of the countries analyzed, but these requirements are far less strict than those recommended by the LMI, to provide 9 and 12 items, respectively. In summary, despite the lengthy discussion of these regulations, most Mercosur countries have information disclosure policies that are far from being proactive.

Table 1: Policies on mandatory proactive transparency in Mercosur countries

REQUIREMENTS	LMI				URU				BRA				PAR						
	15	2	2	4	8	2	2	4	8	9	2	4	2	1	9	2	4	2	1
Proactive information about the municipal corporation																			
✓ Public-sector staff, responsibilities and salaries																			
✓ Communication mechanisms																			
✓ Mission, aims and annual operating plan																			
✓ Accomplishment of the operating plan																			
✓ Plans and programs being implemented																			
✓ Organic structure and regulatory framework																			
✓ Services provided																			
✓ Manuals of procedure																			
✓ Decisions taken and resolutions adopted																			
✓ Minutes of municipal sessions																			
✓ Archival and documentary instruments																			
✓ Pricing of municipal services																			
✓ Code of ethics or good governance																			
✓ Personnel: job titles and CV																			
✓ Official travel costs																			
Proactive information about relations with citizens and society																			
✓ Person responsible for responding to requests for information																			
✓ Information about mechanisms for citizen engagement																			
✓ Client attention center																			
✓ Application forms for services																			
✓ Information about procedures for access to public services																			
✓ Procedure to request information																			
✓ List of restricted/confidential information																			
✓ Appeals presented against the organization																			
✓ Subsidies, grants, etc. offered																			
✓ Requests and application by citizens resolved by administrative silence																			
Proactive information about economic-financial issues																			
✓ Consolidated and individual budget approved																			
✓ Execution of consolidated and individual budget																			
✓ Audit report																			
✓ Recipients of non-reimbursable public funds																			
✓ Statistical information on areas of municipal management of general interest																			
✓ Budget amendments																			
✓ Report and indicators of annual activity																			
✓ Consolidated and individual financial statements																			
✓ Comparative figures for the previous period																			
Proactive information about the procurement of goods and services																			
✓ Procurement of goods and services																			
✓ Bids and contract awards																			
✓ Agreements and contracts executed																			
✓ Information on major public works being executed																			
✓ Contracts for studies and consultancy																			
✓ List of persons/organizations in breach of contract																			
✓ Date of conclusion of major public works																			
✓ Information about public works executed and approved pending execution																			
✓ Publication of the General Town Plan																			
✓ Current regulations on municipal town planning																			
✓ Tendering projects and criteria for major public works																			
✓ Companies that have tendered for major public works																			
✓ Licenses, concessions and permits																			
✓ Data on municipal licenses																			
TOTAL NUMBER OF PROACTIVE INFORMATION ITEMS REQUIRED	46	7	11	9	13	10	0	2	2	10	0	2	0	2	9	2	4	2	13

LMI: Model Inter-American Law; BOL: Bolivia; URU: Uruguay; BRA: Brazil; PAR: Paraguay

Source: Authors' own calculations

3. Policy on proactive information transparency and its determinant factors

Agency, institutional and dependence theory are the approaches most often used to explain policies adopted toward proactive transparency. Taking into account these theories, our review of the literature found that various studies have examined both internal and external factors that influence public entities' information disclosure policies. These factors include population size (García-Sánchez, Frías and Rodríguez, 2013), education (Evans and Yen, 2005), the political ideology of the governing party (Tolber, Mossberger and McNeal, 2008; Guillamón, Bastida and Benito, 2011), the economic level of the population (Mossberger and McNeal, 2008), the influence of mandatory information policies (Bajoet *al.*, 2009; Baginski, Hassell and Kimbrough, 2004) and the influence of technology (Debreceeny, Gray and Rahman, 2002; Xiao, Yang and Chow, 2004) or of corruption (Pina, Torres and Royo, 2007). Accordingly, the following hypotheses are proposed.

Corruption: Pina, Torres and Royo (2007) examined the relationship between the level of corruption and the level of voluntary information disclosure, and concluded that access to information enables citizens to participate in management, thus reducing opportunities for corruption (Bertot, Jaeger and Grimes, 2010). Therefore, it seems reasonable to believe that higher levels of corruption will hamper organizations' policies for voluntary transparency, and so we propose the following hypothesis: *H1: The level of corruption influences voluntary information disclosure.*

Political ideology: According to García-Sánchez, Frías and Rodríguez (2013), different political ideologies usually give rise to different styles of government, which can lead to the application of different policies on information disclosure. Various studies have analyzed the influence of conservative and left-wing governments on the type of proactive transparency policy employed (Alt and Dreyer, 2006). Although some authors have found left-wing governments to be more likely to employ proactive transparency policies (Guillamón, Bastida and Benito, 2011), others have obtained no conclusive results in this respect (Grimmelikhuijsen and Welch, 2012). Accordingly, we propose: *H2: Political ideology influences voluntary information disclosure.*

Technological development: Information disclosure via the internet requires public entities to have sufficient technological resources and political will. According to Rely and Sabharwal (2009), technology is a determinant factor of information disclosure, and these authors observed a positive relationship between these parameters; however, other authors have obtained contrary results (Tolber, Mossberger and McNeal, 2008). In this respect, we propose the following hypothesis: *H3: The level of ICT development in a country influences voluntary information disclosure.*

Size: Norris and Moon (2005) argued that municipalities with larger populations manage larger budgets and thus are under greater pressure from stakeholders and will provide a higher level of online information disclosure. Although some studies have reported a positive relationship between population size and information disclosure, others have found this relationship to be non-significant (Rodríguez, Caba and López, 2013), and in one case a negative relationship was recorded (Da Costa *et*

al., 2007). Therefore, we propose: *H4: The size of the municipality influences voluntary information disclosure.*

Mandatory proactive transparency: According to Kasznik and Lev (1995), the organizations that disclose more mandatory information will be less willing to provide voluntary information, in the view that they have already made sufficient disclosure. In the same line, Baginski, Hassell and Kimbrough (2004) reported that regulated entities subjected to high levels of mandatory information disclosure are less likely to provide voluntary information. Therefore, it seems reasonable to assume that the level of disclosure of mandatory information will influence municipal policy regarding voluntary transparency. Thus, we propose: *H5: A high level of information disclosure due to legal obligation has a negative influence on voluntary information disclosure.*

Socio-economic development: It has been argued that a high rate of literacy is required for citizens to access information (Martin and Feldman, 1998). In this respect, too, Evans and Yen (2005) reported that an adequate level of education was necessary to access and request information online. Similarly, Styles and Tennyson (2007) argued that the economic level of the population affected the degree of financial information disclosure by the local authority. These authors found that cities with a higher per capita income provide greater online disclosure of financial information, although Giroux (1989) observed a negative relationship in this respect. Since the combination of higher levels of education and greater per capita income gives rise to a higher degree of socio-economic development among the population, we propose: *H6: The socio-economic development of the population influences voluntary information disclosure.*

4. Method

4.1. Goal 1

In line with other studies of information disclosure (Díaz, Archundia and Nacif, 2007; López-Ayllón and Arellano, 2008), our first study goal was to develop an online mandatory index (OMI). The items comprising this index are those specified as being of obligatory provision as proactive information in the relevant law on access to public information. From this general index we then created four partial indexes, according to the nature of the information: a) online mandatory information on the organization profile; b) online mandatory information on relations with citizens and society; c) online mandatory information on the economic-financial situation; d) online mandatory information on service contracts.

The general OMI and each partial index (are determined by the relation between the total sum of mandatory items identified in the municipal website (omi_L) and the total number of items that comprise the total or partial index (L_j). To express this as a percentage, it was multiplied by 100. To assign a score, if the item appeared in the website it was assigned a score of 1, otherwise 0.

$$OMI = \frac{\sum_{i=1}^L omi_{L_i}}{L} \times 100 \quad OMI_j = \frac{\sum_{i=1}^{L_j} omi_{L_{ij}}}{L_j} \times 100$$

4.2. Goal 2

Our second goal was to obtain an online voluntary disclosure index (OVI). The items that make up this index are those corresponding to the proactive information requirements of the LMI (Table 1). For countries that do not have legislation on access to public information, any information disclosed by local authorities will be voluntary, and arises from self-regulation. For local authorities that are subject to an information disclosure law, the information that is published in accordance with the LMI and in compliance with national legislation is not voluntary but mandatory information disclosure. This index is calculated by the following expression, where OVLMI represents the LMI items that are not mandatory under national law, and OVDI is the sum of voluntary items identified in the municipal website. In the same way as for Goal 1, four indexes of voluntary information disclosure were developed, corresponding to the respective information groups.

$$OVI = \frac{\sum_v ovi_v}{OVLMI} \times 100 \quad OVI = \frac{\sum_j ovi_{vj}}{OVLMI_j} \times 100$$

Additionally, to determine to what extent the information disclosure approaches LMI recommendations and how much remains to be done, the voluntary and mandatory indices of information disclosure (oti_v) were combined, thus creating an online total disclosure index (OTI), with its corresponding sub-indexes.

4.3. Goal 3

The independent variables included in the hypotheses described in Section 3 were then contrasted with the total and partial indices of voluntary disclosure, taken as the dependent variable. The independent variables were measured using the magnitudes adopted in comparable earlier studies (Table 2).

Table 2: Independent variables used for the explanatory factors

Variable	Source	Description	Hypothesis	Expected sign
Corruption (CORR)	Transparencia Internacional	Corruption, measured by the index of perceptions of corruption (year in which the law came into force)	H1	-
Political ideology (POLIDE)	Electoral councils (latest municipal election)	Dummy variable with the value 1 when the governing party is left-wing, and the value 0 when its ideology is conservative.	H2	+
Technological development (TECH)	INE (2013)	The development of ICT, measured by internet penetration	H3	+
Size (SIZE)	INE (2013)	Municipal population	H4	+
Omi (MAND)	Derived by the authors	Number of items disclosed in accordance with legal requirements	H5	-
Socio-economic development (DVPT)	HDI (2013)	Measured by the HDI	H6	+

INE: Spanish National Institute of Statistics; HDI: Human Development Index

Taking into account the structure of the dependent variables, the association between the dependent and independent variables was tested using Tobit regression analysis.

4.4. Scope of the study

The empirical study focuses on analyzing the information disclosed by the local authorities of the Mercosur countries, since this level of government is the first level of citizen participation in public affairs.

Among the Mercosur countries, only Brazil, Paraguay and Uruguay have passed Access to Public Information laws that specifically address local authorities and oblige them to disclose information via the internet. However, in Paraguay this law was only recently adopted (in September 2014) and will not come into force until later in 2015. Thus, local governments in this country are not yet required to disseminate online information, and so for the purposes of the present study, the information that is published in Paraguay is considered voluntary. With regard to Bolivia, although the right to online public information disclosure is regulated by Supreme Decree 27329/2004, this does not apply to local governments, and so this information, too, is considered voluntary.

Following the criteria applied in numerous previous studies, we selected for analysis the 40 largest municipalities (by population) in each of the Mercosur countries, thus obtaining a total of 240 municipalities, which represent over 57% of the total population of the region.

The analysis was conducted in August-September 2014. It should be noted that only 175 of the local authorities examined had a municipal website. These represented 73% of the total sample and had approximately 50% of the Mercosur population. All of the 40 largest municipalities in Argentina and Brazil had a website, while for the other countries, the corresponding figures were Venezuela 80%, Bolivia 57.5%, Paraguay 52.5% and Uruguay 47.5%.

5. Mandatory vs. voluntary proactive information disclosure in Mercosur: Results

5.1. Compliance with legal obligations

As noted above, the local authorities in Brazil are outstanding in their level of compliance with mandatory proactive information disclosure requirements, providing 75% of the items stipulated. By contrast, those in Uruguay only achieve a compliance rate of 30% (although the number of items required in this country is slightly higher).

With respect to information provided online about the municipal corporation, the local authorities in Brazil are also at the forefront, providing 87% of the items required under this subindex of mandatory information disclosure. In contrast, although Uruguay only requires the proactive disclosure of two information items of this nature, barely half of the municipalities examined provide these data.

Only 16% of the municipalities in Uruguay provide information on municipal relations with citizens and society. Brazil does not require the disclosure of any such information.

Regarding the subindex of mandatory economic-financial information disclosure, very little such information is provided by the municipalities analyzed. Again, those of Brazil (36%) achieve the highest rate of compliance, although this is much poorer than the figures corresponding to other types of information.

Finally, considerably more transparency was observed with respect to municipal service contracts than was the case with economic and financial information. In this field, too, the local authorities in Brazil achieve the highest degree of compliance with legal requirements (85%).

5.2. Voluntary information disclosure and convergence with the Model Interamerican Law

The local governments analyzed voluntarily disclose 30% of the information items identified as being of mandatory disclosure under the LMI. These authorities, thus, are voluntarily contributing to achieving greater homogeneity and transparency in their information disclosure.

Local managers in Brazil are those most closely following the LMI recommendations published by the OAS, scoring 50% on the voluntary disclosure index. Moreover, when information items that are mandatory in Brazil and consistent with the LMI (thus comprising the total disclosure index) are taken into account, this rate increases to 56%, indicating that an effort of 44% is required to fully comply with the proactive transparency policy recommended by the OAS.

Table 3: Index of proactive information disclosure by Mercosur countries, according to the nature of the information

		Argentina	Bolivia	Brazil	Paraguay	Uruguay	Venezuela	Mean
Information about the municipal corporation	omi _{op}			87		54		
	ovi _{op}	48	26	50	22	40	23	34.83
	oti _{op}	IDEM	IDEM	60	IDEM	42	IDEM	36.83
Information about relations with stakeholders and society	omi _{rc}			-		16		
	ovi _{rc}	42	15	44	16	36	20	28.83
	oti _{rc}	IDEM	IDEM	IDEM	IDEM	32	IDEM	28.17
Economic-financial information	omi _{fs}			36		22		
	ovi _{fs}	31	17	62	11	23	8	25.33
	oti _{fs}	IDEM	IDEM	57	IDEM	23	IDEM	24.50
Information about municipal procurement of services	omi _{cs}			85		35		
	ovi _{cs}	39	23	48	16	33	12	28.50
	oti _{cs}	IDEM	IDEM	61	IDEM	39	IDEM	31.67
Index of information disclosure	OMI			75		30		
	OVI	41	21	50	17	35	16	30.00
	OTI	IDEM	IDEM	56	IDEM	35	IDEM	31.00

OMI: online mandatory disclosure index; OVI: online voluntary disclosure index; OTI: online total disclosure index.

In Uruguay, voluntary information disclosure, with respect to the LMI requirements (35%), is higher than compliance with mandatory disclosure in this country (30%), a rather surprising result which suggests that local authorities tend to ignore the priorities imposed by legislators, preferring to disclose the information (i.e., the data fields recommended by the OAS) that they believe will confer greater legitimacy.

With the exception of Argentina, local managers in countries that have a law on access to public information are more likely to comply with LMI stipulations than those with no such legislation (Table 3). Nevertheless, for Argentinian municipalities the absence of legislation in this respect does not hinder the application of voluntary policies on transparency in moderate accordance (41%) with those recommended by the OAS.

Among the Mercosur municipalities analyzed, the information most often disclosed voluntarily is that concerning municipal corporation (34.83%), followed by information on service contracts (28.50%). Economic-financial information is least often supplied voluntarily by these local governments; within this area, statistical information on municipal management is the largest single component, but even this is only provided by 38% of the municipalities sampled.

The information disclosed voluntarily by these municipalities concerns the mechanisms of communication available (83%) and citizen attention services (83%). It is striking that in no case are stakeholders informed about what information is considered restricted or about requests and applications that have been resolved by means of 'administrative silence'. Moreover, only 12 information items are offered by at least 50% of the municipalities analyzed, and so much progress is still needed in this area.

As a final observation in this area, compliance with OAS recommendations, whether mandatory or voluntary, is only 31%. Therefore, to achieve the minimal OAS level of proactive information disclosure, a medium-high (69%) information gap remains to be overcome.

Goal 3: Determinant factors

Before performing the regression analysis, we determined the correlations between the independent variables proposed to test the hypotheses. As shown in Table 4, no strong correlations were found between the independent variables.

Table 4: Correlations between the independent variables

	CORR	POLIDE	TECH	SIZE	MAND	DVPT
CORRUPTION	1.0000					
POLITICAL IDEOLOGY	-0.1718	1.0000				
TECHNOLOGY	-0.0522	0.0283	1.0000			
SIZE	-0.0183	-0.1292	0.1324	1.0000		
MANDATORY DISCLOSURE	0.5063	-0.1921	-0.1007	0.3029	1.0000	
SOCIO-ECONOMIC DEVELOPMENT	-0.0881	-0.1396	0.2284	0.3259	0.3412	1.0000

The results of this analysis show that five factors are statistically significant for the voluntary disclosure of the OAS recommended items: corruption, technology, size,

mandatory disclosure policy and socio-economic development. The other factor proposed, political ideology, was not statistically significant with respect to the total index of voluntary disclosure (Table 5).

Table 5: Determinant factors of information disclosure policy

	TOTAL		A		B		C		D	
	Prob> chi2 = 0.00		Prob> chi2 = 0.00		Prob> chi2 = 0.00		Prob> chi2 = 0.00		Prob> chi2 = 0.00	
	Coeff.	t	Coeff.	t						
CORR	0.3227074	3.60***	0.3748279	4.03***	0.4945435	6.29***	-0.0376883	-0.15	0.6950815	3.51***
POLIDE	3.35499	1.52	2.263243	0.92	4.131846	1.89**	7.343422	1.33	3.311048	0.97
TECH	0.072626	3.05***	0.0535216	2.01**	0.0420058	1.85**	0.1326973	2.33**	0.0632326	1.72*
SIZE	2.81e-06	2.67***	1.38e-06	1.14	2.31e-06	2.32**	7.69e-06	3.12***	5.04e-06	3.14**
MAND	2.33982	4.62***	2.800991	2.63***	0.2503796	0.05	38.46912	5.21***	1.619721	0.24
DVPT	50.39908	3.10***	71.31413	3.93***	100.0947	6.83***	59.17001	1.55	57.12196	2.33**

* Significant at 0.10. ** Significant at 0.05. *** Significant at 0.01.

These results show that municipalities where levels of corruption are lower are more likely to supply online information voluntarily. These findings coincide with the effect proposed in our hypothesis, and with the results obtained by Pina, Torres and Royo (2007) and Relly and Sabharwal (2009). We conclude, therefore, that the local governments in the Mercosur region where levels of corruption are highest are the least willing to voluntarily disclose the information recommended by the OAS, preferring a policy of non-communication. It could be argued that when corruption is present, municipal politicians seek to create a defensive mechanism by controlling and limiting the data made public.

In contrast, the adoption of ICT within the municipality has a positive effect on the voluntary disclosure of the OAS information items, which is in accordance with our hypothesis. Following Pina, Torres and Royo (2007), we believe that new technologies facilitate public-sector information disclosure by reducing its cost. Our results show that municipal managers are aware that increased internet penetration raises the number of citizens who can obtain information online. This understanding creates a favorable attitude among these managers toward the OAS policy on transparency. These results are consistent with those obtained by Serrano, Rueda and Portillo (2009).

The size of the municipality, in terms of its population, is also related to the level of voluntary online information disclosure, which is in accordance with our hypothesis. Thus, and in agreement with Norris and Moon (2005), public managers in large municipalities within the Mercosur area deal with larger numbers of citizens requiring information and therefore have a positive attitude toward compliance with OAS recommendations on proactive information disclosure. Moreover, their task is likely to be facilitated by the fact that large municipalities usually have knowledgeable staff that is fully capable of creating a website for information disclosure. Since this task is considered a fixed cost, economies of scale can be obtained.

The socio-economic situation of the municipality is another determinant factor. In general, the higher the level of socio-economic development among the local population, the more information is made available online by municipal managers. Further-

more, high levels of education usually coincide with stricter ethical standards and demands. Thus, and in agreement with Evans and Yen (2005), we find that in Mercosur towns and cities where the population is more highly educated, opacity in governance is less acceptable, and municipal managers are more likely to provide higher levels of voluntary information disclosure. Analysis of the latter factor in conjunction with the level of economic welfare among society revealed a positive association with the level of disclosure by local governments in the Mercosur area, which corroborates the findings of Styles and Tennyson (2007).

The last of the parameters found to affect municipal policies of voluntary information disclosure is that of mandatory disclosure. In this case, however, the statistical sign measured is contrary to expectations and to that reported by Baginski, Hassell and Kimbrough (2004) and by Kasznik and Lev (1995). Our findings show that the Mercosur countries where most information is legally required to be provided, and is so provided, are also those where most information is supplied voluntarily. Thus, in towns and cities where information disclosure is mandatory and where municipal managers, therefore, are more accustomed to stakeholder supervision and to informing of the government's compliance with its election pledges, there is less reluctance to voluntarily provide further information, and thus the efficient management of local affairs can be publicized.

Let us now focus on the variables that affect the information disclosed, in terms of the nature of this information. Information on the municipal corporation is affected by the same factors as those relevant to total information, except for municipalsize, which appears to have no statistical effect. Thus, the fact that the organization is larger does not lead to managers voluntarily providing more information of this nature to reduce information asymmetries between managers and other stakeholders.

Neither information on relations with citizens and society nor information on service contracts are affected by the existence of a mandatory policy on proactive information disclosure. Therefore, the fact that the municipality is subject to external control by the legal obligation to supply information in these areas is of negligible importance in making managers more likely to voluntarily supply information of this kind. However, when control is exercised over economic-financial information, this does make municipal managers less reluctant to disclose it voluntarily.

Finally, it can be seen that the political ideology of the party in power only seems to be related to the information on relations with citizens and society. In this case, the trend is positive, which means that, in the Mercosur countries, left-wing parties are better disposed to the disclosure of information of this nature, a finding that is in accordance with Tolber, Mossberger and McNeal (2008).

6. Discussion and conclusions

Numerous authors have noted that to ensure and enhance access to public information, it is useful to create mechanisms to this effect. In consequence, the regulation of access to public information has been strengthened throughout Latin America and much of the rest of the world.

In the legislation passed in this respect, increasing emphasis is being placed on promoting a policy under which basic information disclosure should be made in the broadest possible terms, without the need for prior request, using the internet (i.e., government websites) as a communication channel for this purpose. However, public managers may consider this policy of basic information disclosure insufficient to legitimize their governance. Accordingly, they may complement this minimal, mandatory disclosure with their own policy of voluntary information provision, and it is this activity that really defines the organization's position with regard to transparency.

In the Mercosur area, not all member countries have laws on access to public information, and among those that do, despite the long and complex process of adoption, the law often requires only minimal levels of proactive transparency. Within the region as a whole, the situation is very heterogeneous, which provokes major differences in the policies adopted on transparency, not only among the Mercosur countries, but even within the same country. In an attempt to alleviate this situation, the OAS has published a model of recommended measures, to act as an instrument of legislative harmonization.

The above model should be considered taking into account, for example, that local governments in Brazil achieve medium-high levels of mandatory proactive information disclosure, a situation that is totally contrary to that of Uruguay, where local authorities virtually ignore the existence of this legal obligation. Therefore, in many municipalities, even where there exists a legal framework requiring transparency, the culture of restricting information disclosure that has pervaded the region for so many years has not been eradicated. A great deal still remains to be done for these local authorities to comply with their legal obligations on transparency, and suitable control measures should be established to enforce these requirements. Local managers in these countries should be reminded that information disclosure is a legal obligation, and that it is of vital importance to create an effective culture of transparency.

Many local managers in the Mercosur countries, whether or not there exists a law of mandatory disclosure, seek to enhance their legitimacy and do so by means of voluntary proactive disclosure policies. Nevertheless, the outcome is still far removed from the OAS recommendations. Outstanding in this respect are the voluntary transparency policies established by municipal managers in Brazil and Argentina, where a greater effort is being made to approach the culture of transparency advocated by the OAS, but much remains to be done.

The nature of the information that is most often supplied voluntarily by municipal managers in the Mercosur area concerns the municipal corporation itself. Little information of an economic-financial nature, which is considered the most sensitive and/or controversial, is offered voluntarily. On the other hand, although policies on voluntary information disclosure vary widely, at least half of the municipalities analyzed voluntarily provide information on the same twelve information items.

It is the Brazilian municipalities which, overall, are making greatest effort (whether required to do so by law or voluntarily) to approach the culture of transparency

recommended by the OAS. In contrast, municipal managers in Venezuela are furthest from achieving full implementation of these policies on transparency. Therefore, more progress is still needed in the Mercosur area to make public managers aware of the importance of implementing policies on access to information, because if this culture of opacity were allowed to persist, it would prevent Mercosur from achieving its full potential.

Our analysis of the factors that most influence local managers' decision making in the field of voluntary proactive information disclosure highlights the importance of the level of ICT in the municipality, together with its socio-economic development, size, degree of corruption suffered and compliance with mandatory disclosure stipulations.

The Mercosur municipalities where new technologies have made most impact are aware that the information supplied online will reach more users, and this understanding encourages them to publish more information and thus enhance their legitimacy. Furthermore, municipalities that most fully comply with mandatory disclosure obligations already submit their management to the supervision of stakeholders through mandatory online disclosure, and are less reluctant to provide additional information, believing this will illustrate their efficient management of local affairs.

The results of our analysis show that the greater the corruption affecting a municipality in the Mercosur area, the more local managers will tend to maintain traditional policies of non-disclosure and ignore OAS recommendations. The data recommended would, of course, be of interest to stakeholders, but municipal managers might believe disclosure would also expose their own shortcomings. We found that municipalities with larger populations and higher levels of socio-economic development were closest to meeting the OAS recommendations, and assume that this is because a large, prosperous and well-educated population will require more ethical behavior of its government and demand transparency to verify this.

With regard to political ideology, our analysis shows that left-wing parties are more likely to follow the OAS recommendations for information on relations with citizens and society. This may be because these parties have a greater preference for socially oriented policies, and seek to achieve close affinity with stakeholders, to determine their needs and wishes in a direct way. And this goal is best achieved through transparency, by providing citizens with abundant information and enabling feedback.

Transparency continues to be a challenge for local governments in the Mercosur area, one calling more for a change of attitude than for new laws. The fact that some of these countries have a law requiring the online disclosure of certain information, of interest and/or value to stakeholders, does not seem to be sufficient for local managers to do so. The problem is that local authorities are often sidelined during the preparation of legislation but are subsequently called on to implement it in an environment in which control and supervision are in short supply.

It is therefore necessary to continue promoting access to public information, which is a fundamental right, to raise the threshold of democracy and of human rights with-

in Mercosur, and to empower society. Furthermore, in view of the current variability among these countries as regards transparency, we should consider whether existing laws on transparency within Mercosur should be harmonized, using the OAS recommendations as a model.

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