



Local Government in Spain

Responses to Urban-Rural Challenges

edited by

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The H2020-MSCA-RISE-2018 project aims to provide solutions for local governments that address the fundamental challenges resulting from urbanisation. To address these complex issues, 18 partners from 17 countries and six continents share their expertise and knowledge in the realms of public law, political science, and public administration. LoGov identifies, evaluates, compares, and shares innovative practices that cope with the impact of changing urban-rural relations in major local government areas (WP 1-5).

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1. The System of Local Government in Spain

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Types of Local Government

The Spanish Constitution assigns public authority to four levels of government: the central state, autonomous communities, provinces and municipalities. Spain consists of 17 autonomous communities, two autonomous cities (Ceuta and Melilla), and two types of local bodies: 50 provinces and 8,131 municipalities.

The Constitution includes two principles regarding local government: the right to 'local autonomy' from all public authorities including the state legislature, and legislative powers over local government given to the central state and autonomous communities. The constitutional recognition of a right to local autonomy (Article 137 of the Constitution [CE]) implies that the municipalities and provinces are not merely internal divisions of the autonomous communities, but part of the state as a whole. The Constitutional Court has ruled that the guarantee of local autonomy 'does not ensure specific contents or spheres of authority established and fixed once and for all, but rather the preservation of an institution in terms that are recognizable for the image that society has of such institution in each time and place' (Ruling of the Constitutional Court [STC] 32/1981). Local autonomy is contrary to any hierarchical position of the local governments under the state or the autonomous communities.

Legal Status of Local Governments

The legal system of local government falls under the concurrent jurisdiction of the state and the autonomous communities. The state has the power to establish the 'basis of the legal system of the public administrations'. On the other hand, the statutes of autonomy confer to the autonomous communities complementary powers over local government. In interpreting the Constitution together with the statutes of autonomy, the Constitutional Court has concluded that the Spanish local system has a 'two-fold nature'. The state is responsible for the 'fundamental' regulations while the autonomous communities are responsible for the 'non-fundamental' or so-called 'development' regulations (STC 214/1989, FJ 4). When regulating the local government system, both state and autonomous communities' laws must respect local autonomy, as directly guaranteed by Article 137 of the Constitution. But the Constitution does not specify what this local autonomy shall consist of, since it limits itself to a vague connection between local autonomy and 'matters of local interest', without specifying



what these are. Consequently, both state and autonomous communities' laws have a wide margin for regulating the functions and organization of local governments.

The current fundamental regulations of the state on local government are primarily found in two Acts repeatedly amended: Law of the Basis of the Local System (LBRL) of 1985, and a Royal Legislative Decree of 2004, which approves the Restated Text of the Local Tax Authorities Act (LHL). This far, the state has interpreted its own 'fundamental' powers broadly, limiting the legislative and executive powers of the autonomous communities. The amendment of several statutes of autonomy since 2006 has not changed this situation.

Generally speaking, Spain's current local government system includes very limited state and autonomous community supervision or control on municipal and provincial activity. The Constitutional Court has ruled that the local autonomy guaranteed by Article 137 excludes these governmental controls to a great extent (STC 4/1981). In the absence of such controls, only courts are ordinarily responsible for oversight of the administrative activity of local councils. The LBRL replaces state and regional controls on local governments with a complex system of intergovernmental relations based on the idea of full respect for the powers of local institutions and the principle of cooperation. Basically, the LBRL establishes legal instruments to prevent conflicts between state and autonomous communities on one hand, and local authorities on the other while obliging local governments to share information with other government levels. To prevent or resolve conflicts of authority, the law promotes the 'free cooperation' of public administrations, either in the form of agreements or by participation in collaborative bodies, and by encouraging local level administrations to participate in the decision-making processes.

On this legal basis, the Spanish local government system has overall functioned satisfactorily since 1985. Local government is thoroughly democratized and has been receptive to new forms of participatory democracy. The elimination of controls from the upper-level territories has resulted in significant improvements to local public services, despite some cases of corruption in urban planning.

(A) Symmetry of the Local Government System

The Spanish local government system is very uniform and symmetrical due to the approaches of both the central state and most autonomous communities: the central state has established a common two-tier system with few variations for all Spain; and the autonomous communities have introduced very few particularities for the local government of their territory.

First, the state maintains a structure of local government that, to a large extent, was defined in 1833. That is, each village, town or city is a municipality. And the whole territory of Spain is divided into 50 provinces which currently (not originally) act as the second level of local government. Every municipality is integrated in a province.



Second, regional particularities within the 17 autonomous communities are scarce. It has been said before that each autonomous community has legislative power to develop the state basic legislation on local government. But since the state basic legislation is in fact very intense and extensive, and imposes a local government scheme made up of municipalities and provinces, the possibilities of innovation for any autonomous community are quite limited. Particular institutions have appeared especially in Catalonia and Aragon, which add a third level of government: the townships (*comarcas*). Also, in the areas of some large cities such as Barcelona, Madrid, Vigo or Valencia there are some metropolitan government structures, normally focused on the management of very specific municipal services. The metropolitan area of Madrid does not have its own government structure because that space is occupied by the regional government (the Autonomous Community of Madrid).

Political and Social Context in Spain

Local politics is largely symmetrical to national and regional ones. National or regional parties also act at the local level. And this limits the effective autonomy of local politicians, even though they are elected locally. Currently, after the municipal elections of May 2019, most municipalities have leftist governments, although many of them are minoritarian. Some very important cities, such as Madrid, Malaga or Zaragoza, have conservative municipal governments.

Provincial governments are indirectly elected, by the councilors of the municipalities in each province. In that indirect election the political parties have great power. In this way, provincial governments normally reproduce municipal political majorities.

Beyond the local level, the general political situation shows common features to many other European countries: strong polarization of politics and absence of clear majorities. This has led to the current – and for the first time since 1978 – coalition government, between the traditional center-left Social Democratic Party (PSOE) and a new radical left-wing party (Unidas Podemos).

The general social and political situation is marked by two circumstances. A national economy that, although formally recovered from the great crisis of 2008, still shows very high unemployment rates (around 15 per cent of the active population), and where income inequalities dramatically increase. The second major social and political concern is the territorial integrity of Spain. Since approximately 2010 a very strong independence movement has emerged in Catalonia, which is one of the richest regions in Spain. This secessionist movement has the support of approximately 50 per cent of the population of the region.

More than 80 per cent of the 8,131 Spanish municipalities are very small having less than 5,000 inhabitants. Given the technical and economic incapacity of these municipalities, in many tasks they are replaced by the 50 provinces, which show a remarkable financial capacity. In some



autonomous communities such as Catalonia or Aragon there are, in addition to the provinces, other intermediate supra-municipal local entities.

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Local Responsibilities and Public Services



2.1. Local Responsibilities and Public Services in Spain: An Introduction

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Responsibility Allocation System

State and autonomous region statutes confer powers to local entities in a wide range of matters. The Law of the Basis of the Local System (LBRL) ensures that these powers are related to a list of important action fields, such as urban planning, urban environment, water supply and sanitation services and collective transport, among others. In addition, this act sets up a limit to this allocation of powers: the possible duplication of responsibilities in different tiers of government (Article 25). Alongside this regulation, the LBRL (Article 26) requires municipalities to offer a list of services, which varies according to the number of inhabitants (less than 5,000, more than 20,000 and more than 50,000). In municipalities with less than 20,000 inhabitants, the provinces must coordinate the provision of some services, such as waste collection, water supply and sanitation services and street lighting. The number of inhabitants is an important difference that could be drawn between urban local governments (ULGs) and rural local governments (RLGs), considering that RLGs in Spain are significantly smaller than ULGs.

Local governments have a limited influence on the design of this responsibility allocation system. Capital cities usually play an important role in the policy-making processes of other tiers of government. So does the Spanish Association of Municipalities and Provinces (*Federación Española de Municipios y Provincias*, FEMP), which is the only and most important association of its kind, representing both ULGs and RLGs. Statutes often provide for the participation of this Association in different decision-making processes.

Forms of Public Service Management and Delivery

The Local Government Act lists several forms of public service management and delivery (Article 85 LBRL). On the one hand, there are modalities of direct service delivery, in which services are provided by the local government itself or by an entity (of a public or private legal nature) fully owned by the municipality alone or together with other municipalities or local authorities (in 2018 there were 4,331 of these entities); on the other hand, local governments can enter into public contracts by awarding service contracts or concessions governed by the Public Contracts Act (2017) (hereinafter LCSP) – these are always characterized as indirect service delivery forms.

When regulating these mechanisms of public service management, the LBRL makes no distinction between ULGs and RLGs. But there are important differences in practice. RLGs are usually smaller than ULGs and have fewer human and material resources. Therefore, they are



less capable of delivering public services on their own. In these cases, inter-municipal cooperation plays a very important role and so does the assistance role of the provinces helping RLGs rendering services. In both scenarios it is possible to create an inter-municipal cooperation scheme (*mancomunidad*); and/or to set up a new body, like a public company (jointly controlled by different municipalities or controlled by the province). Nevertheless, RLGs tend to prefer the first option, entering into agreements to establish inter-municipal cooperation schemes aimed at providing particular public services (i.e., waste collection, water supply). As for the ULGs, it is important to highlight the wave of remunicipalization processes that took place during the economic crisis (for instance, water supply in the City of Valladolid). Distrust of private contractors prompted a process of contracting-in certain public services in some municipalities (usually with left-wing governments). However, many of these attempts were frustrated because of the high transition costs and the legal and economic difficulties.

With regard to indirect service delivery, ULGs and RLGs are subject to the same legal provisions established in the LCSP. Smaller RLGs tend to resort to the general assistance of the province, as well as to the provincial centralized purchasing systems and those of the Spanish Association of Municipalities and Provinces (*Federación Española de Municipios y Provincias*). By doing that, they somewhat lose control over the contract awarding procedure.

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2.2. Digitalization of Rural Areas in Castilla y León

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Relevance of the Practice

Rural areas represent 85 per cent of the Spanish territory (6,678 municipalities), but only 20 per cent of the population live therein (7,686,815 inhabitants). These data reveal the cleavage that is increasingly opening up between urban local governments (ULGs) and rural local governments (RLGs). Territorial and social cohesion are threatened by rural depopulation and over-ageing population. Castilla y León, one of the largest regions in the European Union, located in the north of the country, is one of the autonomous regions that is most affected by these phenomena.



Figure 1: The Autonomous Community of Castilla y León in Northern Spain.¹

In 2017, the rural population accounted for 37 per cent of this region's total population (894,812 inhabitants), but this figure is rapidly decreasing. In the last 20 years the percentage of rural population fell by 14.3 per cent. Furthermore, the population of 65 and older reaches 23.3 per cent – almost five points above the national average (17.9 per cent). With the aim of reversing, or at least stopping, this trend, the Region of Castilla y León, along with its nine provinces, has launched the 'Smart Rural Territory' project. The main purpose of this project is

¹ Government Council of Castilla y León, 'Invertir en Castilla y León. Una apuesta segura' (*Junta de Castilla y León*, undated) <<https://invertirencastillayleon.com/>>.



to improve the delivery of public services in RLGs by using the smart technologies that are usually reserved to ULGs.

Description of the Practice

Since 2007, Castilla y León has been fostering the development of the Network of Digital Municipalities in its territory. All the provinces and the most important municipalities of the region joined the Network, that coordinated and assisted local governments by the implementation of ICT on public service delivery. In this context, the Government Council of Castilla y León approved the Research and Innovation Strategy for Smart Specialization (RIS3) of Castilla y León 2014-2020, in accordance with two key cohesion policy objectives of the European Union for the 2014-2020 period: Research and Development, on the one hand, and Information Society, on the other. Due to the Covid-19 pandemic the Strategy has been extended until the end of 2021.

Within the framework of this Strategy, Castilla y León has implemented the ‘Smart Rural Territory’ project for the digitalization of rural areas. The nine provinces and some municipalities of the region have entered into an agreement with the autonomous region to participate in this project. The service contract for developing the software system was awarded to Telefonica, after being chosen among 12 other bidders that participated in the tendering procedure. A significant share of the project funding comes from the European Regional Development Fund (ERDF) (EUR 1,115,500); the rest is contributed by the Autonomous Region of Castilla y León (EUR 750,000).

The project consists in developing a common software platform for the coordinated and intelligent provision of certain local public services, namely waste collection, water management and street lighting. Monitoring of service performance is done by installing intelligent and efficient sensors -so far, 42 sensors for waste collection, 11 for water supply and 9 for street lighting. In the future other services will be included in the project, such as bicycle rental service, environmental monitoring and intelligent parking, with the aim of creating new business opportunities for enterprises 4.0.

The main purpose of the project is to enhance effectiveness and transparency in public service management. The new technologies used in the project provide real time data collected by the provinces. This information can be very useful for assessing and improving service delivery in each municipality. An important outcome is the possible adaptation of the service performance to the actual needs of the population.

Besides this purpose, the project pursues other social and economic objectives. The most important are the following:

- improving the quality of life and well-being of the population in a sustainable manner;
- maintaining population in rural areas;



- creating new business opportunities in RLGs that could attract population to rural areas.

Assessment of the Practice

The ‘Smart Rural Territory’ project is the first regional initiative aimed at developing a smart rural platform for all the public authorities in the region: provinces, municipalities and the autonomous region itself. It has to be regarded as a significant attempt to promote innovation and better public service delivery at a local level. Additionally, it is a successful example of inter-territorial cooperation. From a technological standpoint, one of the project’s most important achievements has been the deployment of the Narrow Band IoT (NB-IoT), a wireless communication technology requiring a very low power consumption. Nevertheless, the project is still in progress. Therefore, it is difficult to thoroughly assess its outcomes from a social and economic perspective, such as cost savings or creation of new business opportunities.

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2.3. Tragsa as an Instrument of Providing Essential Services in Rural Areas

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Relevance of the Practice

Rural areas represent 85 per cent of the Spanish territory (6,678 municipalities), but only 20 per cent of the population live therein (7,686,815 inhabitants). These data reveal the cleavage that is increasingly opening between urban local governments (ULGs) and rural local governments (RLGs). In this context, Tragsa (Transformación Agraria, S.A.) was created more than 40 years ago as a publicly owned company with the aim of providing essential services in the field of rural development and environmental protection.

Originally, Tragsa was conceived as a company owned solely by the state and the autonomous regions. Over the years, local entities such as provincial councils, island councils and the autonomous cities of Ceuta and Melilla, were given the opportunity to own a shareholding interest in Tragsa by means of acquisition of shares. Additionally, 30 years ago a subsidiary of Tragsa, named Tragsatec, was created to carry out specialized, technical activities in the areas of rural development, marine environment, and public health. As a result, Tragsa Group is nowadays one of the most important public groups of companies in the country, responsible for delivering a wide range of services mainly in rural settings under the control of 52 different public entities.

Description of the Practice

Tragsa is a vehicle and technical service of the administration. As a public company, it could be regarded as a form of privatization from an organizational perspective. As a rule, public companies and foundations are entities subject to private law, although they have to comply with many public law provisions regarding public procurement, staff recruitment and internal accounts. According to the law, Tragsa shall be required to execute exclusively, by itself or through its subsidiaries, the works entrusted to it by the shareholders in matters falling within the company's purpose. Currently, Tragsa's share capital amounts to more than EUR 32 million, made up of 29,579 shares. All the shares belong to public entities at the state, regional, and local levels, as shown in the following chart.



Table 1: Shareholders of Tragsa²

Shareholders	Number of shares	Ownership Percentage
SEPI (State Public Company)	15.086	51,0024%
State	14.452	48,8252%
Autonomous Regions and Autonomous Cities (Ceuta and Melilla)	19	0,0646%
Provincial Councils	21	0,0714%
Island Councils	11	0,0374%

Tragsa's articles of association provide its organization and decision-making procedures, in accordance with the provisions of Act 9/2017 on Public Contracts (*Ley de Contratos del Sector Público*), regarding Tragsa Group. The company's governing bodies are composed of shareholders' representatives in proportion to their shareholding interest, ensuring representation of shareholders at the regional and local levels. Control over Tragsa's activities and decisions by public entities is ensured thereby, in order to fulfill EU Directives requirements of 'control similar to that exercised over its own departments' as part of public-public vertical cooperation (in-house providing). Furthermore, Tragsa has no choice but to accept a demand made by the competent authorities (the shareholders) and their fee proposal for its services. As the ECJ stated in its ruling in the case of *Asemfo v. Tragsa (C-295/05)*, control is also sufficiently ensured.

Besides that, Tragsa and its subsidiaries may not participate in public procurement procedures put in place by the public authorities whose instrument they are (the shareholders), with the aim of protecting competition. However, in the absence of any tenderer, Tragsa may be entrusted with the execution of the activity subject to the public call for tenders.

Pursuant to the articles of association, Tragsa can pursue a wide range of tasks in rural areas, such as the following, among others:

- the carrying out of all types of actions works and supplies of services in respect of agriculture, stock-rearing, forestry, rural development, conservation and protection of nature and the environment, of aquaculture and fisheries, as well as the actions necessary for the improvement of the use and of the management of natural resources, in particular, the carrying out of works of conservation and enrichment of the historic Spanish patrimony in the countryside;
- agricultural activities, stock-rearing, forestry and aquaculture, and the marketing of the products thereof, administration and management of farms, mountains, agricultural,

² Prepared by the authors based on data supplied by Tragsa.



forestry environmental and nature protection centers, and the management of open spaces and natural resources;

- the promotion, development, and adaptation of new techniques of new agricultural, forestry, environmental, aquacultural, or fishery equipment and nature protection systems, and systems for the logical use of natural resources;
- the manufacture and marketing of moveable goods for the logical use of the same character;
- the prevention of and campaign against plant and animal disasters and diseases and against forest fires and the performance of works and tasks of emergency technical support;
- the preparation of studies plans and projects and all types of advice and technical assistance and training in respect of agriculture, forestry, rural development, environmental protection and improvement, aquaculture and fisheries, nature conservation, as well as in respect of the use and management of natural resources.

Additionally, Tragsa and its subsidiaries can be called directly by the public authorities to take immediate action in emergencies in rural or urban areas. To that end, Tragsa and its subsidiaries are integrated into the arrangements for danger prevention and into action plans and shall be subject to implementing protocols.

Assessment of the Practice

Tragsa is an interesting example of insourcing in very important fields of action in rural areas throughout the country. Furthermore, it is prepared to provide civil protection and public services in urban settings only in case of emergency, when there is no time to award a public contract. A consequence of its effectiveness is the increase in the number of shareholders, as well as the creation of public companies at the regional level following suit. This kind of institutionalized/vertical cooperation appears to be very useful in a highly decentralized state as Spain with a large rural territory, where the outsourcing of many services across the country seems to be more expensive and ineffective. In addition, its preparedness for emergencies in urban areas enables a quick response in comparison with public procurement procedures. Nevertheless, its full compliance with European and national provisions on public contracts is controversial. The ownership percentage of autonomous regions and autonomous cities, provincial councils and island councils could be considered too small to fulfill EU Law requirements of control which is similar to that which they exercise over their own. Furthermore, Tragsa's corporate purpose comprises a very wide range of activities, which has also been perceived as an obstacle to control its activity. These facts justify the convenience of conducting in-depth research on Tragsa in the future.



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2.4. Nursing Homes for the Elderly

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Relevance of the Practice

Municipalities in Spain play an important role in the provision of residential services for the elderly. They are one of the many services that municipalities provide to the aging population and which can be defined as one of the most intrusive in the elderly's existence, as they deprive them of the autonomy to organize their everyday life. It is also undeniable how living in a nursing home affects considerably some fundamental rights of the resident, such as freedom of movement or the right to privacy.

In general, municipalities have the power to create and operate nursing homes by themselves and to do so according to plans or decisions rendered at the regional level, always with their consent. *De iure*, all municipalities have these powers, regardless of their size. Although there are some budgetary or financial provisions that may prevent municipalities, especially smaller ones, from creating these nursing homes, it can be said that all municipalities have, in principle, the power to do so.

Notwithstanding, the map of residential services for the elderly is not evenly drawn throughout Spain. The first factor that must be considered is the distribution of the elderly population. It can be said that the smaller (or more rural) the municipality, the older the population (on average). In rural municipalities, 28.5 per cent of the population is over 65 years old, whereas this percentage is 20 per cent in middle-sized municipalities and in urban municipalities, it sinks to 18.5 per cent.³ Interestingly, however, this does not seem to be strongly related to the relative poverty risk ratios present in each municipality or region or the percentage of elderly people who own their own homes. On the contrary, this clearly shows the relevance of the rural-urban cleavage as regards nursing home policies and allows for a rich analysis of public services provided by municipalities and the influence the urban-rural divide exerts.

³ Rural municipalities are those with a population up to 2,000 inhabitants, middle-sized municipalities have a population between 2,001 and 10,000, whereas the population of urban municipalities is greater than 10,000 inhabitants.



Description of the Practice

Nursing homes provide residential service to persons, especially elderly and/or dependent persons, who find themselves in need of such a residence. As such, they are part of the social services catalog that each autonomous region passes and executes since social assistance is under their jurisdiction according to the Spanish Constitution. Although this leads to relevant differences in the regulation and provision of social services in each region, including residential services, it is nonetheless possible to study them as an aggregate.

From an organizational perspective, there are two basic types of nursing homes: public and private. Public nursing homes are those created and operated directly by a public body, without the intervention of private agents. Private homes, on the other hand, are created and held by private persons or entities, including those which comprise the Third Sector (associations, foundations, etc.). It is also possible that the administration, be it regional or local, implicates private nursing homes in order to provide residential services for which that same administration is responsible. Therefore, there are three main kinds of nursing homes: public, private, and private but publicly funded. This connects with the forms of public service management and delivery discussed above. What should be now underlined is that all autonomous regions have roughly the same regulations regarding the organization of nursing homes.

Hence, it is interesting to note that not all regions invest equally in nursing homes. Even when only the regions with an older population are considered, there are noteworthy differences between them. This may be due precisely to the fact that the aging population in some of these regions lives in rural areas. The dispersion of elderly persons in rural settings may well hinder the provision of 'aging in place' services (directly at home) and, in turn, encourage the creation of nursing homes and day-care facilities. That is the case of regions such as Extremadura, Castile and León, Aragon and Galicia, and contrasts with the highly urban region of the Basque Country. This also connects with the fact that elderly persons in rural areas need more intense attention due to the lack of proximity services, which is not the case for urban zones. This very housing dispersion may be a cause of the preference for nursing homes over 'aging in place' services, given the difficulty of providing with proximity services to such disperse populations.

The role of local governments as regards nursing homes is partially influenced by regional policy on that matter. Municipalities can choose to collaborate with the respective regional government in the execution of the regional residential policy or to develop their own, always within the confines of the applicable regulations. They may also opt for a combination of the two. Among the many elements that factor into the municipal decision regarding its nursing home policy, the financial element stands out (section 3 on local finances). In general, it can be said that municipalities have more financial incentives to collaborate with the regional government than to undertake their own policy execution. This is because the collaboration model will, as a rule, include provisions regarding the economic means to finance the residential service, which will be provided totally or partially by the regional government.



The existence of two decision levels regarding residential policy hinders, to some extent, the diagnosis of the causes of the uneven distribution of nursing homes. It is as yet unclear whether the abovementioned data regarding the distribution of nursing homes in rural and urban areas is a consequence of a regional policy choice, whether it is caused by local policy, or if it is the result of both.

Assessment of the Practice

The relevant differences in the provision of residential services not only between autonomous regions but also between regions with similarly aging population but the different urban-rural structure, suggest that this cleavage plays a decisive role in the nursing home policies of rural and urban municipalities. Therefore, this topic is ideally suited to provide another field in which to analyze the urban-rural axis and how it influences local policy-making and execution. Nursing homes also represent a fertile area in which to explore how local governments deliver public services, especially regarding the different forms in which this can take place according to the applicable regulations. The data, so far, clearly show us that the rural or urban nature of municipalities correlates strongly with the choice in relation to which public services are provided to the elderly and how this is carried out. These are, however, provisional results which would require a more thorough analysis to confirm this tentative assessment. The question that remains is to what extent local governments contribute to the provision of these services and their peculiar distribution between rural and urban areas when compared to the effects of regional policy on that same matter. This precise area is where the urban-rural cleavage between municipalities may play a decisive role.

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Local Financial Arrangements



3.1. Local Financial Arrangements in Spain: An Introduction

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General Structure

The Spanish local finance dimension represents the 6 per cent of the Spanish GDP, smaller than the countries around us (11,1 per cent of EU GDP). In terms of national accounts, local government expenditure accounts for 13,7 per cent of the total public expenditure. Regarding tax revenue (excluding social security contributions), local taxes represent 16.4 per cent of the total tax revenue.⁴

Local government financing in Spain is an exclusive competence of the state with hardly any involvement from autonomous communities (regions). However, some regions have established additional funds other than those considered here, thereby transferring part of their own tax revenues to local governments. These funds are of little and unequal relevance in qualitative terms.

Public Revenues

Local government financing is mainly based on taxes (52,9 per cent of its revenues), higher than the European average (38,1 per cent);⁵ the latter trend lends greater fiscal autonomy. The general transfers from the state budget to the municipalities cover a small part of their current income (22,2 per cent in 2015).⁶ Since the economic crisis in 2008, the differential growth of local taxes (31 per cent) with respect to general transfers from the state (2,1 per cent) is strengthened. The majority of the general transfers are unconditional transfers, from the Supplementary Fund for Financing (*Fondo complementario de financiación* - FCF) for the large municipalities (more than 75,000 inhabitants and provincial and autonomous communities' capitals), and the Local Sharing of the state Revenues (*Participación municipal en los ingresos del Estado* - PIE) for the rest of the municipalities. One issue of the general transfers system is that the changes of population between municipalities are not reflected in the transfers from FCF. The latter does not occur in the case of transfers from PIE. The FCF is determined, for each budgetary year, taking into consideration the rise on state tax revenues between the system base year (2004) and the year concerned. The PIE is also based on the rise on state tax

⁴ Ministry of Finance, 'Recaudación y Estadísticas del Sistema Tributario Español 2006 – 2016' (2019) 100 and 107.

⁵ Ministry of Finance, 'Informe de la Comisión de Expertos para la Revisión del Modelo de Financiación Local' (2017).

⁶ See *ibid.*



revenues, but once the total participation has been determined, the latter is distributed between the municipalities essentially taking into account three variables: population, average tax effort and the inverse of fiscal capacity.⁷

Tax System

Spain shows high shares of total taxes received by the non-central authorities (one of the highest in the EU together with Sweden, Germany, Belgium and Denmark), close to the 10 per cent of the total taxes⁸. The local tax system is primarily based on actual taxes on property (in particular, Real Property Tax – *Impuesto sobre Bienes Inmuebles* – IBI) that, in some occasions, have little connection with the ability to pay of the concrete taxpayer. The taxes for the provision of services have a moderate position in the total amount of revenue collected.

Public Spending

The structure of the local expenditure is focused on the traditional municipal functions, having a lower relative weight regarding welfare state benefits (0.8 per cent of the GDP on social protection, health and education services, compared with 6.1 per cent in the EU). Since the entry into force of the current financing system in 2004 until 2015, the local public spending has increased by 31 per cent. The most significant items are: economy and commerce (112.2 per cent), population aging (88.4 per cent), general services (67.2 per cent), fire protection services (57.7 per cent), waste management (54 per cent), transport (42.9 per cent) and sports and leisure services (41.7 per cent), accounting for 46.1 per cent of total expenditures in 2015. The rise in public expenditure has been more pronounced in municipalities with less than 50,000 inhabitants. However, since the beginning of the crisis in 2008, the local public spending has decreased significantly (-7.7 per cent in terms of GDP), a substantial reduction exceeding those of EU countries (-1.8 per cent), while the income has grown at a faster rate (8.3 per cent). This decrease is mainly the result of a strict application of the national rules on budgetary discipline, such as the obligation of maintain a budgetary position close to balance or in surplus or the fulfillment of the expenditure benchmark (mandates set out in Article 135 of the Spanish Constitution and Articles 11(4) and 12, respectively, of Spanish Organic Law no 2/2012 on Budgetary Stability and Financial Sustainability).

⁷ See report section 3.2. on Financing Rural Local Governments Faced with Ageing and Dispersion.

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3.2. Financing Rural Local Governments Faced with Depopulation, Ageing and Dispersion

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Relevance of the Practice

Rural areas face three enormous demographic challenges nowadays: depopulation, ageing and dispersion. These three factors impact negatively on municipal budgets. On the one hand, depopulation and ageing reduce tax revenue as they usually imply an economic downturn. On the other hand, the dispersion of population typical of rural areas, added to the increasing depopulation and ageing of several central regions of the country, may (and do) increase the cost of providing public services.

Description of the Practice

Having this in mind, the relevant practice relates to the insufficient attention paid to specific demographic issues (e.g. depopulation, dispersion and ageing) by the state within its financial transfer scheme. This reality lead to the undercompensation –if any– of the existing differences between large Spanish municipalities, which increase in population, and small and medium municipalities, which otherwise age and decrease in population.

Moreover, the unequal treatment of large and small (and medium) municipalities related to the already mentioned disregarded factors of depopulation, ageing and dispersion might even worsen taking into account the participation (approx. 2 per cent) of large municipalities (98) on state tax revenue collected in each large city (e.g. VAT and Personal Income Tax). This extraordinary revenue is based on three variables: total population of each city (75 per cent), average tax effort (12.5 per cent) and the inverse of the ability to pay or fiscal capacity (12.5 per cent). Theoretically, whereas the last variable refers to the broadness of tax bases, the second one refers to the tax rate set by each municipality. Small Spanish municipalities (8,026) do not receive these extraordinary revenues and this might exacerbate the unbalancing effects of the insufficient recognition of dispersion and ageing in the implementation of the general financial transfer scheme.



Assessment of the Practice

Under the Spanish legislation, local governments are required to provide certain services according to their size. Therefore, the main purpose of the financing system is to assign sufficient financial resources to local governments so that they may comply with that obligation.

However, insufficient recognition of depopulation dispersion and ageing within the financial transfer scheme might allow considering that the general financial system does not aim at an actual leveling between local governments. Indeed, it can exacerbate the divide between rural and urban areas. The following provisional conclusions could be drawn from recent empirical studies:

- cities of more than 500,000 inhabitants are *over*-financed (due to the status quo clause);
- there are enormous – and unjustified – *differences* regarding per capita financing (e.g., Barcelona receives EUR 701 per inhabitant, while Almeria receives EUR 227);
- unlike the financing system for autonomous communities, the current local government financing system does not address the main problems of rural municipalities: population decrease, ageing and dispersion;
- the system does *not* take into account the effective costs of service provision either, which may adversely affect rural municipalities, where public services are more expensive (due to the lack of diseconomies of scale).

Notwithstanding this assessment, it must also be taken into account that the second tier of local government (the provinces) is obliged by the laws to provide the municipalities with financial and technical assistance, what partially rebalances the comparative underfunding of small -and mainly rural- local governments.

The workshops and interviews conducted for this ‘relevant practice’ show that the current local financing scheme ensures the provision of mandatory local services (water supply, sewerage, maintenance of public roads, etc.). In relation to this general conclusion, three important clarifications are necessary.

First, although demographic aging naturally results in a higher cost of public health and care services, this phenomenon does not necessarily produce an imbalance in local financing, since the provision of those services corresponds mainly to the autonomous communities, not to the municipalities.

Second, rural inhabitants do not receive any favorable treatment from the local financial system. Although the fiscal capacity of small municipalities is normally smaller than that of large municipalities (due to lower wealth rates and less economic activity), public services in small municipalities are also largely financed by local taxes. Consequently, the local *tax burden*



on the inhabitants of rural areas is very similar to that of the inhabitants of urban municipalities.

Third, the rural neutrality of the local financial system is partially offset by the technical and financial assistance and cooperation of the provinces (second tier of local government). However, this compensatory effect is very different among the 50 provinces. The workshops and interviews carried out in this relevant practice show that some provinces concentrate all their economic and personal resources in rural municipalities (as it is the case of Valladolid), while other provinces (such as Barcelona) allocate a significant part of their income to urban municipalities, so that rebalancing effect with regard to rurality is less relevant.

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3.3. The Local Recovery Plan to Overcome the Effects of Covid-19

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Relevance of the Practice

The outbreak of Covid-19 has significantly affected all aspects of life across Europe, impacting differently in urban and rural areas. In addition to threatening our health, the pandemic is also posing serious challenges to our socio-economic systems.

In rural areas, farmers, businesses, and communities have been affected, although probably not at the same level as in urban areas. As part of the 'Coronavirus response investment initiative plus' (CRII+), the European Commission announced a new set of measures specifically addressed to support farmers and rural areas, by allowing further flexibility in the use of Structural Funds and the European Agricultural Fund for Rural Development (EAFRD) and extending the deadline for Common Agricultural Policy (CAP) payment applications. The Covid-19 crisis has made us all more aware of the importance of food security and the need to help and to stand-by our farmers, who experience a very severe crisis, which in some cases threatens the survival of their business. In terms of local governments' financing, the loss of income in rural municipalities could be not too high, due to their lower relative dependence on taxes linked to economic activity and personal income. But, on the other hand, expenditure on social services could have increased dramatically, due to the greater elderly and dependent population.

In general terms, urban municipalities have been harder hit by Covid-19. The epidemic has led to increased expenditure on prevention and health surveillance. At the same time, urban municipalities have suffered a drastic reduction in the income generated by fees charged to users of public transit. Moreover, local taxes linked to the real estate business has also been significantly reduced.

In view of the different incidence of Covid-19 in urban and rural municipalities, the 'The Local Recovery Plan', proposed by the Spanish Federation of Municipalities and Provinces (FEMP), must pay different attention to the different types of municipalities and, at the same time, not exacerbate the financial differences between urban and rural municipalities. This plan should fulfill a dual simultaneous function: rebalancing local finances of *all* municipalities, insofar as all of them have been affected by the Covid-19 crisis and creating new opportunities to make rural areas more attractive places to live and work. In this framework, we intend to assess



whether the proposed ‘Local Recovery Plan’ may rebalance the growing economic and financial gap between rural and urban areas.

We endeavor to analyze the following guiding questions of report section 3 (local finances):

- Are there any special provisions on rural local government financing (e.g., special funds aimed at revitalizing the rural economy and contributing to socio-economic sectors)?
- How do financial arrangements cope with the challenge of increasingly depopulated rural local governments (RLGs) experiencing a decrease in taxpayers (through an exodus of young and working people) and an increase in service receivers?
- To what extent does the proposed ‘Local Recovery Plan’ deal with specific urban expenses such as public transport?

Description of the Practice

The proposal of the Local Recovery Plan is built on two pillars. The First Pillar deals with the use of the current savings of local entities—amounting to EUR 17.8 billion. In this regard, the relaxation of budgetary discipline (i.e., expenditure benchmark) is requested so that local entities can broadly spend their savings.

The Second Pillar demands the creation of three new funds:

- one fund designed to boost economic activity. This fund will amount to EUR 5 billion in 2020 and EUR 1 billion in 2021. Additionally, 14 per cent of the grants that Spain will receive from the EU will be allocated to this fund;
- an extraordinary fund for urban public transport to cover the current deficit caused by the Covid-19 crisis (passengers have dropped by 90 per cent). This fund will support both bus (EUR 1 billion) and subway (EUR 725 million) services;
- a third fund will compensate for the expenses incurred by local bodies in the implementation of the new guaranteed minimum income scheme.

Assessment of the Practice

The Local Recovery Plan does not aim at an actual leveling between local governments. Indeed, an inadequate design can exacerbate the divide between rural and urban areas.

Fund allocation criteria are not yet clearly defined. However, from the perspective of urban-rural interplay, the following should be considered. First, savings are particularly relevant in big cities, which are generally over-financed (due to the local financing system). Second, a distribution key based exclusively on the total population will not address the two main problems of rural municipalities: population aging and dispersion. However, among the six



priority axes of the Recovery and Resilience Mechanism scope of application is ‘social and territorial cohesion’, which can benefit the financial position of rural local entities. Third, the funds must consider the effective costs of service provision, which may adversely affect rural municipalities, where public services are more expensive (due to the lack of economies of scale). Fourth, the provincial councils are playing a unifying role to facilitate the provision of funding by the smaller municipalities. In Catalonia, for instance, provincial councils are involved in certain projects to be financed with European funds from the Recovery and Resilience Facility. For example, the Tarragona Provincial Council participates in the Tarragona Hydrogen Valley project. An alliance that aspires to be part of a strategic projects for economic recovery and transformation (known in Spanish as PERTE) around green hydrogen. Fifth, specific funds have been established to foster the digitization of rural areas. In general terms, if an inclusive digital transition is achieved, which reaches everybody, this will result in richer and more egalitarian municipalities. Finally, agriculture has been considered a key strategic sector to ensure food security. In fact, a strategic project for economic recovery and transformation (PERTE) in the agri-food sector is coming into being.

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3.4. Delegation of Tax Competences to Upper-Tier Local Bodies: The Case of OAPs

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Relevance of the Practice

Taxes in a broad sense account for approximately 59 per cent of the resources of municipalities on average,⁹ dropping to 50.6 per cent in the case of small (rural) municipalities – those accounting for less than 5,000 inhabitants.¹⁰ These figures show the relevance of local taxes to any municipality. Nevertheless, it is well known that rural municipalities face enormous challenges when it comes to the management, auditing, and collection of local taxes and other sources of public income. The technical, organizational and even economic complexities inherently related to the size of these municipalities¹¹ explain that they usually resort to upper-tier local bodies to fulfill their duties in terms of management, collection and, to a less extent, auditing of taxes.

Municipalities rule autonomously their taxes and do it so concerning their management, collection, and auditing within the limits of the state law and other possible regulations.¹² Nevertheless, they may also delegate the management, collection, and auditing of their taxes and other public sources of income to upper-tier local bodies (e.g. provinces) or the autonomous regions (*comunidades autónomas*).¹³ Actually, upper-tier local bodies like provinces legally aim at assisting small and medium-sized municipalities within their territory in different matters including taxation.¹⁴ Among different possibilities, the province may create an autonomous public body (single purpose body) to centralize the management, collection, and auditing of taxes of municipalities within its territory that may be willing to delegate such legal competences.

⁹ See Ministerio de Hacienda, 'Haciendas locales en cifras – Año 2017' (2019) 43.

¹⁰ *ibid* 44. It is relevant to recall that more than 80% (84.01%) of the 8,131 municipalities in Spain count less than 5,000 inhabitants. *Ibid* 12.

¹¹ As mentioned in the Introduction to Local Financial Arrangements in Spain, report section 3.1.

¹² See Art 106(1) and (3) of Law no 7/1985, of 2 April, on Local Government Basic Regulations [Reguladora de las Bases de Régimen Local] (hereinafter, LBRL).

¹³ See Art 106(3) LBRL. See also Art 7 of Royal Legislative Decree no 2/2004, of 5 March, approving the consolidated text of the Local Finance Regulatory Act (hereinafter, TRLHL).

¹⁴ See Arts 26 and 36 LBRL.



The analysis of this particular practice aims at confirming whether it is possible to alleviate the great differences between rural and urban municipalities concerning the efficiency and effectiveness of their own local tax systems by centralizing revenue and costs. This practice may ease the excessive burden of technical, organizational and economic resources that rural municipalities face with respect to their own tax system and may even allow fulfilling functions that would not be possible to fulfill without the assistance of the province due to the scarce resources and financial situation of rural municipalities. Nevertheless, it is relevant to highlight that several upper-tier bodies not only have competences and functions stemming from rural municipalities but also from larger ones.¹⁵ This might be because these bodies become a sort of technical specialized unit on taxes that allows them to better fulfill such functions and competences in terms of revenue and costs. In this regard, it might also be worth analyzing whether these bodies actually treat on an equal footing both urban and rural municipalities and whether the delegation of competences by larger municipalities to the relevant body does not undermine the legitimate interests and needs of rural municipalities.

Description of the Practice

Provinces may create Single Purpose Bodies (*Organismos Autónomos Provinciales* – OAPs) aimed at fulfilling the functions and competences delegated by municipalities in terms of management, collection, and auditing of taxes, as well as other public sources of income.

When established, municipalities within the province may delegate to the OAPs specific functions related to their local tax system that may go from one single tax and one single competence (management, collection or auditing) to all taxes and other sources of public income and all the competencies within the boundaries of the state law. In this regard, Article 7(3) TRLHL lays down that the delegation agreement must consider the extent and content of the delegation. It is relevant to point out that municipalities might revoke the delegation agreements at any time.

OAPs act vis-à-vis third parties (e.g. taxpayers) on behalf of the municipalities that have delegated functions and competencies to them and do it so to the extent of the delegation agreements. The exact scope of their competences and functions relate to the content of the delegation agreements.

¹⁵ With respect to the upper-tier local body created by the Province of Alicante, it is relevant to highlight, for instance, the municipalities of Altea, Benidorm, Calpe, Orihuela and Torrevieja (\approx 22,000, 69,000, 22,000, 77,500 and 83,000 inhabitants, respectively). See Spanish National Statistics Institute, 'Cifras oficiales de población resultantes de la revisión del Padrón municipal a 1 de enero' (*Instituto Nacional de Estadística*, 27 December 2019) <<https://www.ine.es/dynt3/inebase/index.htm?padre=517&capsel=517>> accessed 22 July 2020.



The territorial scope of OAPs is extended to the province and this may facilitate (and sometimes enable) the management, auditing, and the collection of the taxes in municipalities other than the ones they stem from.

OAPs usually charge municipalities a specific percentage depending on the different delegated functions and competences as well as on the collection of taxes and other public sources of income.

Municipalities may receive a down payment for the expected collection of taxes, especially when it comes to specific local taxes such as *Impuesto Sobre Bienes Inmuebles* (Local Property Tax) and *Impuesto Sobre Actividades Económicas* (Local Trade Tax) as considered in Article 149(2) TRLHL.

Assessment of the Practice

According to data collected in 2015, 25 out of 50 provinces created OAPs,¹⁶ and approximately 4,373 out of 8,131 municipalities have delegated some types of competencies and functions on management, collection, and auditing of local taxes and other sources of income, such as fines, to their respective OAP.¹⁷ The competences and functions of the different OAPs depend on the delegation agreement made by municipalities¹⁸, as already considered. Moreover, it is worth mentioning that the amplified territorial scope of the OAPs in comparison to each municipality on the collection of taxes has been proved the advantage of this delegation system.

Not only there have been achievements in terms of tax collection, also from the legal point of view, OPAs have raised issues and some legal changes that have turned out to be very beneficial for the municipalities (specially for small municipalities, due to the inability of carrying them out by themselves). For example, the request of large amounts from the state as compensation for bonuses granted to toll highways; or the amendment of the legislative framework to recognize the possibility of delegating the powers of management, inspection, and collection of non-public law income.

Having said all that, and given the differences among OAPs, the analysis of this practice has focused on the cases of Alicante and Barcelona taking into account e.g. the number of

¹⁶ See, for instance, Alicante, Barcelona, Granada, Salamanca, Sevilla and Toledo.

¹⁷ See Irene Belmonte Martín and Josefa Luna Martínez, 'El Mapa de la gestión tributaria local en España. Una primera aproximación al diseño de indicadores para su evaluación' (XII AECPA Congress, San Sebastián, July 2015) 7-9 <<https://aecpa.es/es-es/el-mapa-de-la-gestion-tributaria-local-en-espana-una-primer-a-aproxima/congress-papers/1322/>> accessed 24 June 2020.

¹⁸ See, for instance, the municipalities and functions delegated to the OAP of Barcelona (*Organisme de Gestió Tributària – ORGT*) in the following link, <https://transparencia-orgt.diba.cat/sites/transparencia-orgt.diba.cat/files/public/node-fitxers/a_-_quadre_delegacions_ajuntaments_2.xls#overlay-context=quadre-delegacions-ajuntaments> accessed 24 June 2020.



delegation agreements (141 and 309, respectively) and their figures on the collection of taxes (EUR 817.085.844,96 and EUR 1.888.750.842,79, respectively), among other reasons.¹⁹

The Barcelona OPA (*Organisme de Gestió Tributària* of the Province of Barcelona) is a good sample for a comparative analysis of tax collection delegations to the same upper-tier local body by so much small as also medium-sized and large municipalities. Delegations agreed by large municipalities with the OPA seem to be not as effective and sustainable as delegations agreed with small or rural municipalities. The delegation of tax collecting powers to the OPA by one or several large municipalities must properly dimension the material and personal resources that the management of the income of those municipalities will require. As an example, the delegation of the collection of fines from the Barcelona City Council was canceled because it absorbed excessive resources from the OPA (*Organisme de Gestió Tributària*)

In general terms, certain complex management functions (such as the granting of tax benefits or the inspection of public domain rates) are better carried out directly by municipalities than by a delegated OAP. On the contrary, delegation to an OAP proves more efficient for taxing functions which are less complex, such as the simple collection of the debts, as this is a task more likely to be computerized and treated with uniform procedures. This output suggests that only small municipalities should delegate wide tax managerial functions to the corresponding OAP, while large municipalities should delegate only the sheer tax collection.

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¹⁹ See, with respect to Alicante, 'Memoria Anual 2018' (SUMA and Fundación Pequeño Deseo 2018) 9 <<https://www.suma.es/memorias/2018/2018MemoriaSuma.pdf>> accessed 22 July 2020, and, with respect to Barcelona, Organisme de Gestió Tributària – Diputació Barcelona, 'Memòria de l'exercici 2019' 13 <http://transparencia-orgt.diba.cat/sites/transparencia-orgt.diba.cat/files/public/node-fitxers/memoria_orgt_2019.pdf> accessed 22 July 2020.



Structure of Local Government



4.1. The Structure of Local Government in Spain: An Introduction

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The number of local governments (municipalities) in Spain has slightly increased (around 0.2 per cent) along the last 40 years, since the first municipal elections of the democratic period took place. There are currently 8,131 municipalities but the reform for municipal consolidation (amalgamation) is not a salient issue in the political agenda in Spain. Although various attempts have been made in recent decades to encourage municipal mergers, all of them have failed. This explains why this option is not at the top of the current political agenda. In this failure, the strong identity factor proper to the municipalities in Spain has played a salient role.



Figure 2: Municipalities in Spain.

More than 80 per cent of the 8,131 Spanish municipalities have a very small size in terms of population, counting less than 5,000 inhabitants. In terms of population, 61 per cent of all municipalities in Spain have less than 1,000 inhabitants who account for only just over 3 per cent of the entire population of the country. In front of them, those with between 10,000 and 100,000 inhabitants (8.5 per cent of the total) and those of more than 100,000 (0.75 per cent) concentrate 80 per cent of the entire Spanish population (40 per cent each group). Given the technical and economic limitations of the small municipalities to provide services



autonomously, they are replaced or supplemented by the 50 provinces, which present a remarkable financial capacity.



Figure 3: Provinces in Spain.

In this context, inter-municipal cooperation plays a crucial role in local governance. It is usually based on inter-municipal agreements, which are bilateral or multilateral, and often lead to the establishment of inter-municipal institutions and associations, such as the *mancomunidades* (commonwealths) directly created by the municipalities. Inter-municipal cooperation is used in all its forms to profit from economies of scale effects and to prevent centralization of competences. Most Spanish municipalities cooperate in the field of water supply and treatment of waste water, as well as in garbage collection and waste disposal and many others, especially those of small sizes, in other services such as social policies.

Spain is a country with a high degree of urbanization, but concentrated in a very small territory. Despite the evidence of the metropolitanization process, the Spanish political/legal system has not responded to this phenomenon. The creation of metropolitan areas' governments or formal coordination agreements is a responsibility of the autonomous communities that, in general, have decided not to promote their establishment. In fact, Catalonia as well as Galicia and Valencia show reluctance and ambiguity when facing the creation of strong metropolitan governments in, respectively, the cities of Barcelona, Vigo and Valencia.



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4.2. The Role of Provinces for the Provision of Services by Small Rural Local Governments

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Relevance of the Practice

Provincial government can be considered a key piece of Spanish local government. Even from an organizational point of view, it could be considered as a territorial power structure characteristic of Spanish administrative law. Currently, the debate on the province revolves around the organization of the second level of local government. By definition, the first level of local government is the municipal level. But most Spanish municipalities cannot effectively exert the powers conferred to them by law due to a lack of human and financial resources. That makes it necessary a second tier of local government to assist small municipalities in carrying out their responsibilities. Otherwise, many of the municipal powers could not be carried out at all or should have to be exerted by the corresponding autonomous community. And this would have a deep impact on local autonomy.

The study of this practice is relevant for the LoGov-researchers as it will allow them to identify and discuss:

- some factors of success or failure of the role of provinces in the Spanish local government structure;
- the extent to which the provinces increase or decrease the centralization of power;
- if provinces or autonomous communities compete or even threaten the legitimacy or autonomy of municipalities;
- the impact of the provinces on the municipalities' actions, especially with regard to those with a population of less than 20.000 inhabitants (rural areas).

Description of the Practice

Article 137 of the Spanish Constitution recognizes the autonomy of municipalities and provinces and defines them as a territorial division of the state. In order to guarantee municipal autonomy, the Constitution also guarantees provincial autonomy and provides differentiated treatment for both institutions. By guaranteeing provincial autonomy, the Constitution is also



guaranteeing the autonomy of the small municipalities assisted and supplemented by the respective province. In this sense, provincial autonomy is instrumental to municipal autonomy.

Since their creation with the Constitution of Cadiz of 1812 and the Royal Decree of 30 November 1833, the provinces are rooted in Spanish society and have performed different functions: they are a type of local entity; a constituency in the electoral system; a territorial division for the fulfilment of the activities of the state; an entity with initiative in the process of creating the autonomous communities; and they participate in governance and service delivery. According to Basic Law no 7/1985, all provinces are ruled by a council, an executive body and a president. The members of the council are not directly elected, but designated by the councilors of all municipalities which make up each province. The core function of the provinces is to assist and supplement the small municipalities (of less than 20.000 inhabitants) although they can also provide high scale local services, such as urban waste treatment.

Provinces are often accused of having been the cornerstone of the territorial organization of a unitary, centralized and uniform state. On the other hand, it is also argued that they are unnecessary, because sometimes they involve duplication of services, thereby increasing public spending. Such a duplication certainly arises in big cities, where provinces and municipalities develop symmetric policies and programs, such as touristic promotion and cultural events. On the contrary, duplication of roles is rare in rural areas.

Provinces, have responsibilities to coordinate the horizontal cooperation among municipalities. They also assist to municipalities and therefore play a key role in the effective implementation of the principle of subsidiarity. This has a decisive impact on the distribution of powers between the autonomous communities and local governments: not every supramunicipal issue lies within the responsibility of the autonomous communities, but can continue to belong to the municipalities if the province helps the small municipalities provide their services.

Assessment of the Practice

The provinces have provided fundamental assistance to small municipalities, have sought to optimize available resources, and have invested in municipal and provincial projects and infrastructure. Most infrastructures or facilities in small villages and towns are financed or directly executed by the provinces. The provincial assistance to municipalities has increased since the approval of Law no 27/2013, of December 27, on the Rationalization and Sustainability of the Local Administration. Moreover, in current pandemic times the provincial assistance to municipalities has also been remarkable, mainly focused on boosting the local economy.



Therefore, the constitutional and legal provinces' objectives seem to have been partially met. Besides this, the relevant provincial role does not affect or undermine municipal autonomy, as provinces rarely deliver services or promote activities not previously demanded by the municipal governments. This said, a common opinion among local professionals and experts is that provinces are really useful and efficient in rural areas, and not so much when performing in big urban areas.

In order to fulfill its constitutional role more adequately, the provinces could require an institutional reform focused on internal rationalization, transparency, effectiveness and efficiency, and a more precise definition of their competences, which should be primary (competences). The potential overlapping of provincial government's actions with structures of inter-municipal cooperation remains an issue to be tackled more in-depth. It would be also advisable to overcome the system of indirect election of provincial councils, currently in the hands of political parties and not on citizens (voters), as this causes alienation and ignorance on part of the citizens. Furthermore, a more adequate definition of the electoral body is necessary. None of these advisable improvements are in the current political agenda.

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4.3. The Counties (*comarcas*) in Aragon and Catalonia

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Relevance of the Practice

The Spanish Constitution lays down municipalities and provinces as the two most important levels of local government. But it also allows the existence of groupings of municipalities different from the provinces. Especially in the regions of Aragon and Catalonia, the whole regional territory is divided into a network of counties (*comarcas*) asymmetrically overlapped with that of the provinces. Both the province and the county (*comarca*) are local entities with a second-degree democratic legitimacy. The creation of counties (*comarcas*) is legally more flexible than that of the provinces since it takes place under a legislative decision of the regional parliament. In this decision, it is possible to take into account criteria specifically aimed at a more balanced development of relations between rural and urban territories. In Aragon there are 3 provinces and 33 counties. In Catalonia there are 4 provinces and more than 40 counties.

Description of the Practice

The Spanish Constitution allows the existence of groupings of municipalities other than the provinces. Some of the fundamental laws creating the regions and the legal provisions of the central state regarding the foundations of local government in Spain specifically provide the creation of counties (*comarcas*), which can up to a certain extent replace the provinces in much of their powers. This form of municipal grouping has been developed especially in Aragon and Catalonia. In Catalonia, for instance, the regional law of the local government provides that the counties (*comarcas*) group together municipalities with common social, cultural, and historical characteristics and that are located in a territory geographically relevant for the structuring relations of economic activity. This allows us to think that these groupings of municipalities can adequately serve a more balanced development of relations between rural and urban territories.

The executive and legislative branches of the region and the municipalities are involved in the creation of the county (*comarca*). The municipalities and the executive of the region have a right of initiative for the relevant procedure. The laws of the autonomous communities determine the creation procedure and the territorial scope of the counties, the composition and operation of their governing bodies, as well as the powers and economic resources assigned to them (Article 42(3) of the Law on the Basis of the Local System, LBRL of 1985).



If the initiative has been exercised by the regional executive, a certain number of municipalities have a veto right. Article 42 LBRL establishes that the county cannot be created if two-fifths of the Municipalities that should be grouped in it expressly oppose it, provided that, in this case, such Municipalities represent at least half of the electoral roll of the corresponding territory.

The most interesting purpose of the analysis of this practice is probably to examine whether it is more suitable than the province to adequately integrate rural and urban territories in a better urban-rural interplay.

The (asymmetric) overlap of provinces and counties obviously results in a redistribution of local responsibilities and public services (report section 2), local financial arrangements (report section 3), and the shape of intergovernmental relations of local government (report section 5).

The regional power to largely establish the criteria which have to be taken into account in order to divide the regional territory into counties (*comarcas*) allows the regions to pay attention to their own actual territorial particularities when making that decision. That is not possible in relation to the division of the regional territory into provinces, because this decision is attributed to the central state, which will have to take into account the national interests and its own administrative ones when making it.

Assessment of the Practice

This relevant practice focuses specifically on the question regarding whether the county (*comarca*) in Aragon and Catalonia is a more effective and efficient type of local organization than the province to fit the necessities of a fair urban-rural interplay.

Frequently, both in political and economic fields, the counties (*comarcas*) of Aragon and Catalonia have been criticized for their supposed overlap with the provinces, and for their high operating cost, concerning the scarce services they provide. However, no empirical and analytical study has yet been carried out on the real usefulness and efficiency of the different *comarcas*. Some sector-oriented studies point to a favorable assessment in some specific subjects, such as waste management, environmental protection, and school busing between small municipalities within the same *comarca*.

According to an extended opinion of practitioners consistent with some empirical data, the *comarcas* are not currently playing a relevant role in local government. Compared to the provinces also acting in Catalonia and Aragon, the counties (*comarcas*) play a conspicuous secondary role. Provinces have solidly guaranteed sources of financing. That is not the case of the counties. The counties certainly carry out some important services for the balance between rural and urban areas: school busing, social services, selective waste collection, etc. But the relatively high costs derived from maintaining the organizational structure of the (numerous) counties raise doubts about their efficiency. There does not seem to be any precise economic



analysis in relation to this issue. It might be possible to draw the conclusion that the relevant public services carried out by the county could indeed be provided more efficiently through cooperation between municipalities or through organizational changes within the provinces.

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4.4. Exploring Sub-Municipal Units of Government in Rural Local Governments

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Relevance of the Practice

By definition, the first level of local government is the municipal level. However, beyond municipalities, there is a rich variety of multipurpose local entities that have been much less studied by academia. Both above and below the municipal level of government, a densely populated world of institutions (e.g. provincial, inter-municipal, district) is also in charge of providing services and addressing public demands.

Among them, sub-municipal units stand as a fascinating face of local democracy to look at, for two reasons. Firstly, due to their potential for accomplishing one of the core values of local government, citizens' participation and involvement. And secondly, because they embody two contrasting realities of self-government, with their distinctive traits, logics, and trajectories: the oldest—rural parishes—and the newest—urban districts. EATIMs (entities of a territorial area smaller than a municipality) and districts are both organizational structures placed below municipal governments. However, they have distinctive origins and logic and express specific answers to different circumstances. While the first is mainly found in rural areas and is the consequence of historically rooted institutions that have evolved up to the present without much change, the second emerged recently to give an answer to the functioning of big cities trying to put local democracy closer to citizens by decentralizing tasks and implementing citizens' participation mechanisms.

The study of this practice is of great relevance as it will allow them to identify and discuss:

- some factors of success or failure of the role the sub-municipal units of government in the Spanish local structure;
- the extent to which the institutions increase or decrease the decentralization/deconcentration of power;
- if the sub-municipal units have implications on the legitimacy or autonomy of municipalities;
- impact of sub-municipal units in the municipalities' actions;
- the contrast of sub-municipal units in big and small municipalities, especially, in rural areas.



Description of the Practice

According to the Law no 7/1985 on the Basis of the Local System, the regulation of these entities is a responsibility of the autonomous communities (the regions of Spain) and, thus, 13 out of 17 autonomous communities have developed a distinctive legal framework. Certainly, some of them have been especially active in this field, but still, the contents of the regulations have a common basis.

The general regulation of EATIM can be found in the Law no 7/1985, which awarded them the consideration of local entities. However, although they are distinct and autonomous local entities, their legal and real self-government is quite limited. First, because each city council decides the functional scope of the EATIMs; and second, because their autonomy is not guaranteed by the Constitution, but only by laws.

Special attention should be given to the last broad reform of the Local Government Act that entered into force in 2014 and included some changes in this matter. In the context of a severe economic crisis and according to the guidelines of European institutions, the Spanish Parliament approved a set of laws designed to restrict public expenditures and control public debt. Even though local finances presented favorable indicators, the majority of Spanish local entities were in the eye of the storm and therefore some of the measures included in the texts aimed to reduce the number of bodies or organizations and erode the capacities of those remaining. EATIMs were affected by these measures in several ways: decrease in income, limitation of expending capacity, reduction of competences, and tougher requirements in creating new EATIMs.

In Spain, districts have been part of the cities' functioning for decades (e.g. Madrid, Barcelona, Bilbao, Valencia), since the start of democratic town halls in the late 1970s. But municipalities with districts increased in the first years of the current century when the 2003 reform of the Local Government Act—the so-called Measures for the Modernization of Local Government—made them compulsory in large urban agglomerations to facilitate citizens' participation.

National legislation sets general guidelines that municipalities have to follow in setting up districts. They are included in the Local Government Act, Law no 7/1985, and in the Royal Decree no 2568/1986. The national legal framework is quite general and does not go into detail. It just allows municipalities to set territorial bodies for the deconcentrated 'management in order to facilitate citizens' participation in local issues management, according to the organization, tasks, and functions each municipality decides' (Section 24(1) Law no 7/1985). The link between this report section 4 on local government structure and the other report sections of this country report shall be scrutinized by the researchers. Mainly, the impact on service delivery (report section 2), financial arrangements (report section 3) and intergovernmental relations (report section 5).



Assessment of the Practice

Exploring sub-municipal units of government in Spain requires one to travel to two contrasting worlds: to the very small municipalities in rural areas, that delegate some functions to even smaller units (parishes, communities); and to the large and very large cities, that by means of internal subdivisions (districts) try to find a way to improve effectiveness and make citizens' participation doable.

The trip to the small municipalities is a trip to past and tradition and, particularly, a trip to the north of the country, where most of the EATIM are concentrated. These units were already present in the nineteenth century and even now they are still known by their old designations: *concejos*, *pedanías*, *parroquias*, *aldeas*. These smaller entities have their own governing body, whose members are designated by the municipal council. They do not participate in the election of the provincial government, nor in the municipal council on which they depend. There is a strong sense of identity or belonging of the citizens with respect to the sub-municipal units. In general terms, rural sub-municipal units of government are an effective alternative to the creation of new rural municipalities with low functional capacity. In this sense, although they are often inefficient units, they do not have a viable institutional alternative.

The trip to the big cities is a trip to the future, to the attempt of meeting the challenges urban areas pose from a democratic perspective. Through the introduction of districts, local governments in urban agglomerations try to put in place a vehicle of citizens' participation while adapting services to the specific needs of each neighborhood and improving on efficiency, effectiveness, transparency, and proximity. In legal terms and notwithstanding the diversity of urban districts, the contemporary creation of districts qualifies as administrative deconcentration to improve citizens' participation and efficiency in the provision of municipal services. The central bodies of the municipal councils coordinate the districts in order to achieve unity of action along the whole city. Sub-municipal districts have been largely promoted in large cities since 2003 and nowadays are well assessed by citizens.

Notwithstanding the general usefulness of both rural and urban sub-municipal units of local government, some reforms should be tackled, mainly referred to their democratic legitimacy and their managerial capacity.

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Intergovernmental Relations of Local Governments



5.1. Intergovernmental Relations of Local Governments in Spain: An Introduction

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General Framework of Intergovernmental Relations

Despite the fact that in the Spanish political system municipalities precede the creation of other territorial entities (i.e. autonomous communities), their sphere of competences is decided by the laws of the state and, to a lesser extent of the autonomous communities. The Spanish Constitution (Article 137) establishes the principle of local autonomy although with no further specification or delimitation of competences.

This top-down configuration of the local autonomy affects not only the competences of municipalities but also the intergovernmental relationships, both horizontal cooperation among municipalities and vertical coordination and cooperation between municipalities and other territorial entities (provinces, autonomous communities and the state).

The horizontal cooperation between municipalities is frequently channeled by the creation of single-purpose entities (i.e. the so-called *mancomunidades* or commonwealths) to provide public services, most frequently those related to environmental and social policies (e.g. waste management, social assistance). The Law of the Basis of the Local System (LBRL) of 1985 establishes formal requirements in the process of constitution of *mancomunidades*, leaving municipalities to define the scope and internal organization (Article 44 LBRL).

As for the vertical intergovernmental relationships, the LBRL refers to the principle of 'institutional loyalty' by which each level of government (state, regional and local) is supposed to cooperate with the others and not interfere in the legitimate exercise of other levels' competences. Therefore, vertical cooperation is understood as administrative assistance without compromising each level of government's competence. The cooperation between levels of government is made on a voluntary basis. In addition, upper levels of government (the state and the regions) may coordinate the action of municipalities to guarantee coherence and according to the subsidiarity principle (Article 58 and 59 LBRL).

Control and Supervision of the Local Government

Generally speaking, the Spanish current local government system includes very limited supervision or control on municipal and provincial activity by the state and the autonomous communities. The Constitutional Court has ruled that the local autonomy principle under the Spanish Constitution (Article 137) excludes governmental controls to a great extent. The LBRL replaces state and regional controls on local governments with a complex system of intergovernmental relations based on the idea of full respect for the powers of local



jurisdictions and the principle of cooperation. Basically, the LBRL establishes legal instruments to prevent conflicts between state and autonomous communities on one hand, and local authorities on the other, while obliging local governments to share information with supra-local authorities. To prevent or resolve conflicts of authority, the law promotes the 'free cooperation' of public administrations, either in the form of agreements or by participation in collaborative bodies, and by encouraging local level administrations to participate in the decision-making processes.

The most important control on the local governments is performed by the judicial branch (i.e. administrative courts). The inter-administrative litigation regarding local issues is abundant. All municipalities and provinces must communicate the decisions and by-laws adopted to the autonomous communities and the state. In case of infringement, both the autonomous communities and the state may require local governments to accommodate local decisions to the laws, or alternatively and directly bring the case before the administrative courts. The judicial proceedings deal with the legal correctness of local authorities' decisions and not with the political opportunity or necessity of adopting specific measures at the local level.

Despite the fact that local government action is controlled through the judicial branch of the government, there are also some cases of administrative supervision by regional or state authorities, as directly foreseen by sector-specific laws. This is the case of land use and urban planning policy where the approval of municipal land use plans requires the regional government's approval. This type of supervision is usually channeled through cooperative administrative procedures.

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5.2. The Coordinating Role of Local Government Associations in Intergovernmental Relations: The Case of FEMP

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Relevance of the Practice

Most municipal and provincial governments are integrated into associations, either in the Spanish National Federation of Municipalities and Provinces (FEMP), or in other regional associations. These associations, especially the FEMP, represent and defend local interests before the state and the autonomous communities, either through intergovernmental bodies, or by informal means.

The formal mechanisms for the intergovernmental relationships between the different tiers of government operate in two strands: between the state and the local governments and between the latter and the regional governments. State-local cooperation is channeled through two different committees: a permanent body, the National Commission of Local Administration (*Comisión Nacional de la Administración Local, CNAL*), and the Committee for Local Issues (*Conferencia Sectorial para Asuntos Locales, CSAL*).

The CNAL serves as a consultative organ whose decisions are not binding. CNAL's competences include, firstly, the preparation of reports in the case of draft laws and administrative provisions of state competence in matters affecting local government, secondly, the identification of criteria for local government's borrowing operations, and thirdly, the submission of proposals from local entities to the state in local administration.

In addition, the Committee for Local Issues (*Conferencia Sectorial para Asuntos Locales, CSAL*) was formally created in 2005 as a coordination platform gathering the three levels of government (state, regional and local jurisdictions). Up to date, the CSAL does not meet on a regular basis. Unlike other committees, the CSAL has not yet approved its own statute establishing its composition, functions and rules for the adoption of resolutions. These circumstances determine a limited operability of the CSAL and reinforce the division of intergovernmental relations into two main axes: state-local and regional-local. Regardless of the formal mechanisms, political actors (e.g. political parties, associations and interest groups) operating simultaneously at the different levels can additionally provide other channels of communication and cooperation between the three levels of government.



At the regional level, autonomous communities have passed legislation on local government that regulate intergovernmental relationships between local and regional authorities in a divergent way. In some cases, autonomous communities replicate the creation of a permanent body of consultation composed by representatives of local entities and the regional government (e.g. Castilla-La Mancha, Castilla-León, País Vasco, Andalucía, among others). Other autonomous communities (e.g. Aragón, Madrid, Murcia) reduce intergovernmental relationships to the interadministrative cooperation required for the exercise of each administration's competences. In the latter case, there is no permanent body gathering regional and local governments but different forms of cooperation (e.g. exchange of information, development of policy programs, creation of ad hoc commissions, among others).

In both cases (i.e. state and regional cooperative platforms), the representatives of the local entities are usually elected by the largest association of local governments at the national and regional levels respectively. This system of representation fueled the role of local entities associations as promoters or mediators of local interests. Regional and nation-wide associations of local entities are supposed to deploy different strategies to aggregate local interests and to access the intergovernmental platforms.

The process of aggregation of interests is especially troublesome in the case of the largest association of local entities, the FEMP. The heterogeneity of local interests based on territorial and socioeconomic conditions and the multiplication of intergovernmental platforms at the regional level may consolidate the heterogeneity of local interests.

One of the main areas where there is a need for integration of local interests concerns the division between urban and rural municipalities. The rural-urban divide is caused by the existence of phenomena mainly associated with the rural world, such as depopulation and ageing, or policies associated with this area, such as agricultural policy or the management of rural development funds. Aware of these differences, associations of local entities have also been developed, at national and regional levels, which try to coordinate the specific interests of rural municipalities (this is the case of the Spanish Association against Depopulation or the Spanish Network for Rural Development). These associations sometimes respond to partnerships between public entities and private interest groups of rural origin. This composition increases their lobbying capacity, although they do not have direct access to the intergovernmental platforms of coordination. The participation of these associations occurs through the regional and national associations of municipalities and provinces, as is the case of the FEMP. Integration within the latter is therefore an essential issue for the functioning of the organization of municipalities and provinces.

The consolidation of differences between territories challenges the role of the FEMP in achieving a unique voice representing local interests. The FEMP usually promotes the inclusion in the political agenda of certain programs to guarantee its leadership in the coordination of local interests. With regard to the rural-urban divide, the FEMP has taken advantage of its organizational resources and privileged access to intergovernmental platforms to play a leading role in representing specific interests in the rural world. This has been the case, for



example, with the creation of the Commission on Depopulation of the FEMP in 2016. This commission is aiming to promote the adoption of a National Strategy against Depopulation. The result of this initiative was the creation in 2018 of a working group between the FEMP and the CNAL to address the demographic challenge affecting rural areas.

Description of the Practice

The access of local entities to either the regional or the state level of government largely depends on FEMP's capacity to coordinate heterogeneous interests at the local level. The capacity to integrate members' interests is achieved through organizational mechanisms (e.g. representation in the permanent bodies of the FEMP, creation of study commissions or working groups), the exchange of information and the promotion of good practices or the provision of technical assistance by the FEMP to its members. The aggregation of preferences in one voice is key in intergovernmental platforms such as the CNAL or the regional institutions alike where decisions, although of non-binding nature, are adopted by a simple majority of their members.

At the national level, the CNAL consists of 5 representatives of the state administration, related to the areas of finance, public works, interior and security issues, social policy and industry and energy, along with 13 representatives of the local entities. The local representatives are designated by the largest association of local entities nation-wide. The FEMP is the largest national association of local entities, encompassing up to a 90 per cent of all local governments (i.e. 7,410 local entities). CNAL internal organization consists of the plenary, two subcommittees (cooperation and financial issues), and working groups related to salient issues at stake. Decisions are adopted by simple majority with the casting vote of the presidency. The presidency is occupied by a representative of the central administration. In addition, the secretariat is allocated in the representatives of the central administration.

The CNAL is responsible for two main functions. First, CNAL issues non-binding reports on laws and regulations affecting local government. More in concrete the CNAL adopts a position on three main areas: (i) law proposals and administrative decisions to be adopted by the state in matters affecting local government, (ii) criteria for authorizing public debt operations of local entities, (iii) dissolution of the governing bodies of local entities due to exceptional circumstances (Article 61 of the Law of the Basis of the Local System LBRL). Second, the CNAL makes proposals to the central government in matters of local administration (i.e. delegation of competences to local entities, distribution of subsidies, credits and transfers from the state to the local administration, local finance and general state budget). The CNAL requires reports to other administrative organs in fulfilment of its functions.

There are also regional associations of local entities in every autonomous community. Although the statutes of the regional associations converge in the defense of the local autonomy there are differences in certain aspects such as the relationship with the FEMP or the scope of their



activities. In some cases, the membership in a regional association does not imply to become a member of FEMP. In addition, some regional associations identify the regional government as the primary interlocutor whereas in other cases the area of influence of the association is defined nation-wide. These differences across regional associations may consolidate different political agendas based on territorial concerns. This fragmentation is fostered by the intergovernmental platforms at work in every region.

In this fragmented scenario, the FEMP develops different strategies to aggregate local interests. At first sight, the large composition of the FEMP does not help to achieve that objective. The Spanish Federation of Municipalities and Provinces is constituted by the municipalities, islands, provinces and other local bodies that voluntarily decide to join it for the promotion and defense of their interests. The FEMP does not replace the competence of their members, and in some cases, there may be conflicting interests such as in the case of municipalities and provinces in the allocation of competences or the distribution of economic resources.

The definition of the political agenda is a crucial stage in the influence of the FEMP for two reasons. Firstly, the agenda setting allows for the identification of common concerns among local authorities, while avoiding conflicting issues. Secondly, the agenda setting reinforces the role of the promoter and the need to coordinate efforts to achieve the final goal.

The process of shaping the public agenda on local issues is not straight forward. The FEMP presents mechanisms ad intra and ad extra to facilitate this objective. As for the ad intra mechanism, the internal organization of the FEMP is oriented to counteract the fragmentation and heterogeneity derived from territorial representation. The internal structure of the FEMP depends largely on party affiliation. In this respect, party affiliation determines the formation and functioning of several of the FEMP's main organs. This is the case of the Territorial Council in charge of implementing the agreements of the plenary. The Territorial Council is made up of (i) the presidency and the rest of the members of the governing board, (ii) sixty-one members elected by the plenary from among the full members of the FEMP and according to party affiliation. The members of the Territorial Council elected by the plenary who for any reason no longer belong to the political group for which they were elected shall automatically cease and be replaced by another representative that belong to the same political group. Likewise, the members of the governing board form groups in line with their partisan affiliation. In general terms, the organization of the FEMP gives priority to partisan dynamics over territorial criteria in the configuration of their organs. However, partisan dynamics can give way to a prevalent territorial pattern depending on the issues to be addressed. To this regard, the unequal distribution of demographic trends such as ageing or depopulation affecting mainly rural areas or economic circumstances can rebalance the weight of partisan and territorial factors in FEMP decision-making.

The FEMP also seeks to encapsulate the representation of local interests by creating sectoral commissions and promoting networks of local entities facing common challenges. The commissions and working groups make it possible to coordinate local interests in a wide range



of areas that even exceed the current competences of local authorities (e.g. development cooperation, employment and economic development, public employment, public health, international relations, among others) or that represent pressing issues such as the depopulation process or the digital agenda. This broad scope of the FEMP's work allows it to increase its influence in promoting local interests on issues that are discussed at the national level.

With regard to ad extra mechanisms, the FEMP maintains collaborative relationships with regional associations of local entities through different protocols that specify the scope of the collaboration and the instruments to do so. In addition, the FEMP has signed collaboration agreements with other institutions, public institutions and private entities relevant to the management of local affairs (for example, the General Council of Notaries, the National Institute of Statistics, the National Tax Agency, the society for the management of assets derived from bank restructuring operations, different ministries of the executive branch, among others). The broad representation of the FEMP is an incentive for third parties to reach collaboration agreements.

Other mechanisms for aggregating interests are related to the generation of knowledge. In this regard, the FEMP provides training and updated information or technical knowledge on complex local administration issues (finance, human resources management, among others). In addition, the FEMP disseminates examples of good practice by local governments.

Assessment of the Practice

The contribution of the FEMP to intergovernmental relations between the local, regional and state levels is its capacity to aggregate local interests that do not always coincide. The strengthening of a logic of representation more linked to party affiliation than to territorial representation, together with the creation of the public agenda through training, technical assistance or the dissemination of good practices, has allowed the FEMP to reinforce its role as a promoter of local interests both in formal (CNAL) and informal relations between the different levels of government.

However, the aggregation of local interests also takes place in other regional associations of local entities that also perform their functions in a diverse institutional framework created by regional laws on local governments. Hence, the scenario of intergovernmental relations is characterized by the fragmentation produced by the regional platforms of intergovernmental coordination and the regional associations of local entities.

The representation of local interests through the FEMP is a controversial issue. First, the aggregation of local interests by a nation-wide association limits the scope of the agenda to issues that do not generate debate internally or that are sponsored by the most influential entities or regional associations. In addition, consensus on proposals is achieved at the cost of not defining measures to be implemented. In this sense, the programmatic action plans



adopted by the FEMP are aimed more at setting priorities and objectives than at specifying the means to achieve them. The political stance of the FEMP tends to seek coordination and co-responsibility between administrations, avoiding issues that can lead to greater dissent, such as the financing of the execution of programs, the competencies and responsibilities to be assumed by each level of government, or the stages and timetables for policy action implementation. Second, the partisan logic of aggregation of local interests may prevent territorially defined issues from entering the public agenda on local government. In this sense, local interests and concerns are not distributed homogeneously throughout the different local entities (depopulation, aging, among others). The relevance of territorially defined issues makes regional associations and regional intergovernmental coordination platforms more suitable settings for addressing the demands of local governments. Thirdly, the FEMP does not eliminate the competences of their members, nor of the regional associations. In this scenario, the FEMP has signed up agreements with regional associations of local entities that do not respond to a single model. Therefore, the role of the FEMP as the sole interpreter of the local interest cannot be taken for granted.

From the interviews with representatives of the regional associations of municipalities, it is revealed that the FEMP's capacity to coordinate local interests is based on its role as the main interlocutor with the central government. The FEMP's involvement with the central government is channeled through various means such as the formal recognition of FEMP's representatives in consultative bodies of the central government, or the agreements with different bodies of the central government that also serve for the allocation of funds. The FEMP also operates as a platform for organizing local interests at the international arena and, mainly, at the European level. However, in some cases, the greater size and experience of the regional associations in managing international programs gives them a greater capacity to defend their interests independently at the international level.

The rural and urban dimension of local entities yields to the leading role of the territorial dimension in the definition of local interests. In other words, the coordination of local interests seems to follow territorial patterns related to the particular institutional aspects at play in each of the regions. For example, the fact that in some regions there are provinces affects the management of the funds available to local entities. Additionally, many of the policy initiatives with an impact at the local level (e.g. depopulation, circular economy or digitization) are part of plans and programs at the regional level which fosters the capacity of regional government in the integration of local interests.

Thus, a certain specialization of the tasks of the FEMP and the regional associations of municipalities can be observed. The latter build an agenda that is mainly regional in nature due to the main functions they perform. In this sense, the regional associations concentrate their influence capacity on participating in the legislative process at the regional level by informing legislative proposals in order to protect local autonomy. One consequence of this role is that the agenda of the regional associations of municipalities is largely determined by the government program of the regional government.



This scenario generates a positive assessment of the FEMP in terms of counterbalancing the relevance of the regional level and proving a common ground for local entities representation at the national and international levels.

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5.3. Regional Plans to Prevent Depopulation of Rural Areas

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Relevance of the Practice

The Spanish population has increased by about 36 per cent since 1975, from 34.2 million to 46.9 million²⁰. However, this demographic trend is coupled with a process of imbalance in the distribution of the population with a concentration of residents in large cities and the depopulation of rural areas. These trends are at work both at national and regional levels. As for the former, the population of the capital City of Madrid has grown by 73 per cent in the referred period whereas 44 per cent of the municipalities in the Region of Madrid have less than 2,500 inhabitants. These demographic trends represent a challenge to all levels of government. Up to 63.1 per cent of municipalities and 13 provinces have lost inhabitants between 2000 and 2018.

In addition, the demographic trends also affect the balance between urban and rural local governments since the provision of public services is affected by both an excess and a lack of demand. One of the main drivers of depopulation in rural areas is internal migration. The internal migratory flows reinforce the imbalance in the distribution of population and therefore the attracting force of large urban centers along with shrinking rural areas. The imbalance also increases deficiencies in the provision of goods and services, especially those of a collective nature. Consequently, depopulation is not a problem solely addressed by rural local government but also for urban local governments that may be the destination of migratory flows.

Up to date not all the Spanish autonomous communities have developed specific plans to tackle depopulation. In 2001, the Autonomous Community of Aragon approved the Comprehensive Plan on Demographic and Population Policy. The Autonomous Community of Castilla y León, the most affected region by depopulation, agreed on a policy document Regional Strategy to Fight against Depopulation in 2005. Afterward, the policy document turned into the Agenda for the Population of Castilla y León 2010-2020²¹ with a further specification of objectives and measures to be implemented. The regional Government in the Community of Madrid has sponsored a Strategy to revitalize rural municipalities in the

²⁰ Data in this section is obtained from the Spanish Statistical Office.

²¹ Available at <<https://www.jcyl.es/web/es/agendapoblacion/agenda-para-poblacion/agenda-poblacion-2010-2020.html>>.



Community of Madrid since 2018.²² Recently, the Autonomous Community of La Rioja elaborated on a Regional strategy to face the demographic challenge and depopulation in February 2020.²³

Description of the Practice

The regional plans on depopulation contain a set of priority actions to reverse the depopulation process in rural areas. The regional plans largely coincide in identifying the following areas of policy action: (i) education and training, (ii) infrastructure, (iii) information and communication technologies in rural areas, (iv) public housing, (v) transport, (vi) gender equality, (vii) regional incentives for the development of economic activities and entrepreneurship, (viii) environmental protection and use of natural resources, (ix) policies for the elderly, (x) culture and tourism, (xi) social participation. In general terms, the regional plans and strategies are subject to be reviewed in order to expand both their territorial coverage and the measures to be implemented. Therefore, the regional plans present an evolving dynamic fueled by particular initiatives not necessarily related to all rural areas but focused on the specific context of certain municipalities.

The regional plans commonly point to reduce the migratory flows from the rural to the urban centers if not to revert the flows. However, there are differences in terms of the scope of the strategies. In some cases, the regional plans especially focus on rural areas whereas others explore a broader set of measures targeting the regional territory as a whole. As for the latter, the regional plan of La Rioja is mainly designed at the regional level. This circumstance implies that most of their content is not territorially delimited (e.g. training programs and professional activities - self-employment and solidarity-based economic activities such as the implementation of ethical banking and finance; theatre and journalism workshops, grants for immigrants, integration-). Yet, part of the activities in the regional program aimed at the development of projects that foster the relationship between urban local governments (URLs) and rural local governments (RLGs) (e.g. the project 'Semillalab' consists of a ICT environment to connect people, institutions and undertakings). Regarding RLG centered programs, the Strategy to revitalize rural municipalities in the Community of Madrid targets the 78 RLGs with less than 2,500 inhabitants. In this context, the measures adopted address specific problems of RLGs such as the low participation of women in the economic or the limited access to ICT.

From an institutional perspective, the design of these regional plans follows a top-down approach with limited involvement of local governments in the initial stages. To a large extent, this top-down approach is influenced by the need to endorse regional development plans that are eligible for support from the European Commission's European Agricultural Fund for Rural Development. This scenario creates an incentive for centralizing the decision-making process

²² Available at <<https://www.comunidad.madrid/etiquetas/estrategia-revitalizacion-municipios-rurales>>.

²³ Available at <<https://www.larioja.org/agenda-poblacion/es>>.



at the regional level. Nevertheless, the participation of local governments normally occurs at a later stage in the implementation of the plans. In this regard, regional plans usually foresee the establishment of working groups that are set to follow up on the plans' actions. In some cases, the working groups are configured as a consultative body with rules of internal governance. The regulations of these working groups require a composition with a certain percentage of members representing local governments of rural areas.

In addition, the regional plans promote signing cooperation agreements between the municipalities targeted by the plans and the regional government in order to adapt the plans' objectives to municipalities' needs and preferences.

Assessment of the Practice

Depopulation is a widespread trend, but its causes and consequences may be determined by the most immediate context of the municipality. These circumstances make it difficult to adopt a general plan to tackle depopulation uniformly. On the other hand, depopulation produces effects not only on rural areas but also on urban municipalities as a consequence of migratory flows. Therefore, the regional plans face a complex scenario where a general approach towards depopulation in terms of the public policies and the territory covered has to be combined with tailor-made measures for certain rural areas.

This combination of flexible general goals and in-depth understanding of the specific characteristics of each rural area requires to anticipate the incorporation of the different types of local governments (urban and rural) to early stages in the elaboration of the regional plans on depopulation.

One of the problems presented by the late incorporation of the municipalities through monitoring groups or collaboration agreements with the regional administration is the overlapping of initiatives to face the same problems from different levels of government not necessarily coordinated, and with the participation of different stakeholders. Thus, the development of regional plans incorporates, for example, universities and associations of municipalities, and the initiatives to tackle depopulation at a local level integrate active members of the community and businesses. The assessment of regional plans will, therefore, depend on their capacity to integrate and coordinate stakeholders and initiatives that follow one another simultaneously.

In addition, the plans still have a limited scope in terms of promoting the leadership of local governments themselves and the coordination with other stakeholders in order to boost the economic and social development of the most depopulated areas. Local governments are mainly dependent on regional, state, and European initiatives in this regard. This is the case of the promotion of female employment in agriculture in RLGs. Despite of the nation-wide legal framework for promoting female management of farms (Law no 35/2011 on Shared Ownership of Farms) the results in terms of initiatives are quite diverse, ranging from 0 initiatives



(provinces of Madrid, Barcelona, among others) up to almost 300 in the Autonomous Community of Castilla y León (298 as for October 2020). This lack of convergence points to other factors at play such as the economic resources and grants placed by the regional governments to implement the legal framework.

Finally, regional plans to prevent depopulation of rural areas present a limited effort in the inclusion of assessment and monitoring tools or concerning the exchange of practices between regions. Ultimately, the comparison between the different initiatives would allow for identifying best practices.

The workshops and interviews conducted allow us to identify two dimensions in the development of regional plans to address depopulation that affect the local level of government. First, one dimension concerns whether the initiative is led by regional governments or sponsored by local entities. A second dimension of variability is whether the measures are contained in multi-year policy plans or are translated into regulatory provisions.

With respect to the first of the above dimensions, the interviews conducted point to a greater frequency of regional initiative in the development of these plans. This predominance is due to several factors, including the greater capacity of regional governments to attract public funds linked to depopulation plans.

The interviews also show that the phenomenon of depopulation is not necessarily linked to rurality. In this sense, some income guarantee programs, or aspects such as the proximity of rural entities to urban areas, have served to settle the population and avoid depopulation processes. In other cases, depopulation phenomena are localized in certain areas characterized by a productive system dependent on the primary sector or are not perceived as a generalizable phenomenon in the region's municipalities. In this sense, the main need to identify and locate where the depopulation phenomena occur in a concrete manner is observed in the plans. These circumstances make it difficult to draw up general plans on depopulation, consolidate the formation of specific local interests, question the generality of the relationship between rurality and depopulation and force the search for ad hoc solutions.

Regarding the second dimension that characterizes regional plans on depopulation, there are examples of autonomous communities, such as Castilla la Mancha, have passed legislative measures on depopulation instead of programmatic plans without binding force (i.e. Law no 2/2021, of May 7, on Economic, Social and Fiscal Measures against Depopulation and for the Development of the Rural Environment in Castilla-La Mancha). In this case, the municipalities are classified into different zones according to demographic, economic activity, land use and accessibility criteria in relation to the rural environment. The application of planning and programming measures for the territorial development of the rural environment is based on the characteristics of each of the zones thus defined. This model of depopulation plan with a legislative basis is presented as necessary in order to remove from the political debate the development of a policy that requires a sustained action in the medium or long term.



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5.4. The Basque Council for Local Public Policies

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Relevance of the Practice

In the Spanish legal system, the autonomous communities are entitled to develop further the legal system of local government while respecting municipal autonomy (Article 140 of the Spanish Constitution), the fundamental regulations of the state in local government and liability of the public administration (Article 149(1)(18) of the Spanish Constitution).

In the Autonomous Community of the Basque Country, the participation of local governments in decision-making processes is mainly articulated through collegial advisory bodies. These are made up of representatives from different levels of government. Article 7 of the Act 40/2015 on the Legal Regime of the Public Sector establishes that the so-called advisory administration may be articulated through specific bodies with organic and functional autonomy. The characteristic element of this collegial advisory administration is precisely its hierarchical independence in order to guarantee the fulfilment of its functions. In addition to collegiate advisory bodies, this legal framework makes it possible to create collegial bodies that can perform various functions (decision, proposal, advice, monitoring, or control). These collegial bodies share with the consultative bodies the hierarchical independence unless otherwise is provided for by their constitutional rule.

Recently, the Act 2/2016 on Local Institutions in the Basque Country established the Basque Council for Local Public Policies (BCLPP) as a permanent institution entrusted with the task of ensuring that institutional cooperation between local, regional and state levels of governments is effective, and guaranteed the recognition of municipal interests in the processes of design, preparation, execution, and evaluation of public policies. Hence, BCLPP plays an important role in planning and evaluating public policies. The BCLPP aims to promote cooperation or, where appropriate, coordination, for the integrated management of public policies by the different levels of government. Furthermore, the council is in charge of requiring the competent autonomous body (Basque Government Council) to file an appeal of alleged unconstitutionality when it identifies a breach of local autonomy.

One of the first actions taken by the BCLPP has been the elaboration of an Action Plan to evaluate collegial advisory bodies. The implementation of this Plan is instrumental for the development of the functions of the BCLPP since this entity is intended to replace a set of collegial bodies for the coordination in the provision of local services. The Action Plan is therefore a diagnostic exercise of how the bodies aimed at coordination for the provision of



public services have functioned. The result of this Plan is that the BCLPP is able to achieve a more efficient and effective coordination for the delivery of public services at the local level.

Description of the Practice

The BCLPP consists of eighteen members: six members representing the regional government, two members from each of the three provincial councils (*diputaciones forales*), and six members corresponding to the municipalities. As for the latter, at least one-third of the municipal representatives are elected from municipalities with a population of fewer than 5,000 inhabitants. At present, the representatives of the municipalities cover from municipalities with 78 inhabitants (Orexa) or 1,614 inhabitants (Asparrena) to cities with more than 300,000 inhabitants (Bilbao). Consequently, the balance between rural and urban municipalities is obtained through composition to a large extent. To this regard, the representation of urban local governments (ULGs) and rural local governments (RLGs) is channeled through the Association of Basque Municipalities (EUDEL) preserving the presence of municipalities from different sizes, so with at least one-third of the municipal representatives elected from municipalities with a population of less than 5,000 inhabitants.

The main functions of the BCLPP are the promotion of intergovernmental relations and the channeling of proposals to promote regulations on those matters related to the competences of the municipalities and within the scope of the Autonomous Community of Basque Country. The BCLPP's main organ, the board, adopts its decisions by plurality, and it is assisted by a Secretariat linked to the regional government. Despite of the fact that the BCLPP operates in complete organic and functional autonomy, the BCLPP is attached to a department of the Basque Government, although only for budgetary purposes.

The BCLPP is a relatively new institution that has to operate in an institutional context densely populated by different types of collegial bodies. In other words, the BCLPP competes with other bodies for the promotion of inter-administrative cooperation between local, provincial, and regional governments. In this scenario, the BCLPP aims at reorganizing the fragmented collegial advisory bodies landscape. In doing so, the BCLPP replaces those collegial bodies in their role of cooperation and coordination mechanisms for the integrated management of public policies by the different levels of government.

In general terms, collegial bodies are the most common form of collaboration between different public administrations. These collegial bodies are present in almost all areas of activity and may include representatives of civil society. Despite their role, there is a lack of knowledge about how these collegial bodies perform their function and how local interests are represented and integrated into public policies. Moreover, there are no evaluation criteria or indicators of efficiency and effectiveness that would allow these collegial bodies to be held accountable. To fill this gap, the CBPPL has promoted the development and implementation of



the Action Plan for the Evaluation of Interorganizational Collegial Bodies (APEICB) as part of the Strategic Plan for Governance and Public Innovation 2020.

The APEICB aims to (i) analyze the functioning of collegial cooperation bodies (i.e. regulations, structure and composition, meetings, plans and actions implemented), (ii) evaluate the strengths and weaknesses of the collegial advisory bodies in the Basque institutional systems, (iii) assess the impact that collegial bodies have on the definition, monitoring and evaluation of sectoral public policies, (iv) propose measures to rationalize and improve the work of collegial bodies, (v) identify the existing collegial bodies whose functions can be assumed by the BCLPP and the possible creation of Sectorial Commissions within it (Article 86(3) Act 2/2016). Therefore, the APRIAB's objective is to transform knowledge into institutional change.

In order to meet these objectives, the APEICB was structured in four main stages: (i) identification and elaboration of an inventory of inter-administrative collegial bodies, (ii) evaluation of the functioning of the organs, (iii) elaboration of an executive program of proposals, (iv) implementation of the executive program. Up to date, the APEICB has reached the third stage. The APEICB has allowed to mapping the landscape of inter-administrative collegial bodies. A total of 350 collegiate bodies have been established since the 1970s. The pace of creation has not been uniform, with the creation of bodies being concentrated in periods (V, VIII, and X legislative terms) – see the figure below.

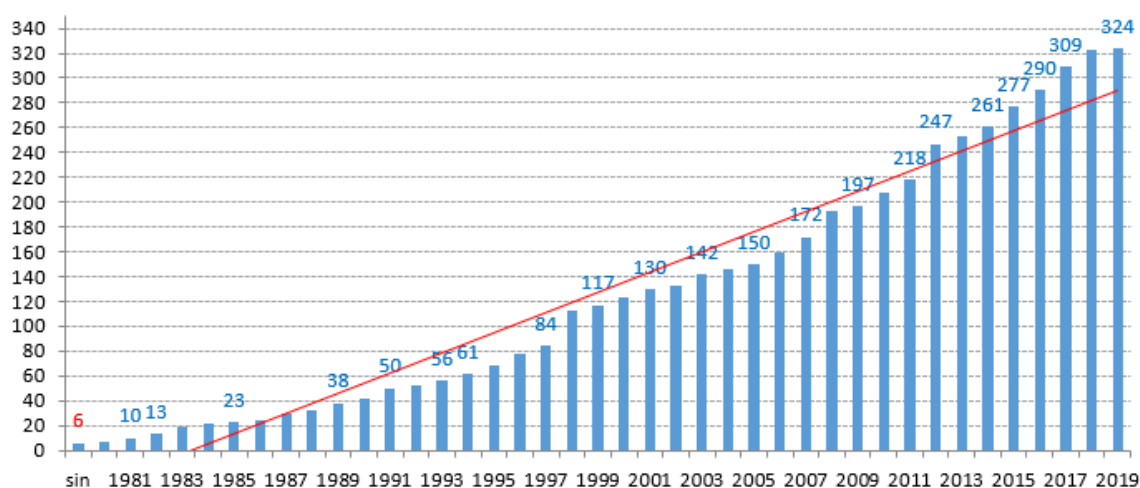


Figure 4: Evolution of inter-administrative collegial bodies.²⁴

Up to 74 of the 350 collegial bodies have been inactive for the past 4 years (i.e. no meetings or actions reported). Moreover, 174 of the 250 bodies did not have approved internal governance rules. The collegial bodies respond to a plurality of subjects, of which health (16 per cent), education (13 per cent), economy and finance (7 per cent), environment, and Basque language (5 per cent) are prevalent. The bulk of these bodies (119) are of an inter-institutional nature as other public administrations participate (provincial councils, municipalities, universities,

²⁴ Source: APEICB.



among others). Regarding their function, most of them are of an advisory nature (60 per cent), mainly executive (10 per cent), and more participative than other functions (14 per cent). Local governments participate in 34 per cent of these collegial bodies, and 38 per cent along with the provincial councils. Up to 38 per cent of the collegial bodies issue binding reports.

The above-mentioned results empowered the BCLPP to make proposals for institutional changes in the collegial bodies in order to promote efficiency, transparency and coordination of the different levels of government (e.g. suppression of duplicate or inefficient collegiate bodies, reallocation of functions in the BCLPP). In this regard, the APEICB presents several features to facilitate institutional change. First, the APEICB evaluates a broad range of administrative bodies regardless of their formal denomination (inter-administrative organs, committees, consultative bodies, among others). This broad definition allows BCLPP to gain full knowledge of the landscape of collegial bodies and therefore to legitimate their proposals for institutional change. Second, the APEICB elaborates on a methodological scheme to evaluate the collegial bodies systematically. In this regard, the APEICB is made of information about the legal framework, functions, organization, resources and methods, activity, impact on the design of public policies, gender equality dimension regarding the collegial bodies. Third, the APEICB was considered a collaborative instrument in itself since all the information gathered was shared through a SharePoint collaborative space located at the BCLPP. Finally, the APEICB foresees accountability mechanisms such as the requirement for collegial bodies to submit information to the BCLPP regularly to update the information of the database of collegial bodies.

To sum up, The BCLPP represents a balance in the influence and greater coordination between the ULGs and RLGs due to the characteristics of the composition of the BCLPP and the type of public management it carries out, which is based on the generation of knowledge and the accountability of the other collegiate bodies. Therefore, the APEICB is an example of instrument of political influence by the BCLPP through the management of knowledge.

Assessment of the Practice

The APEICB can be initially evaluated in terms of its ultimate goal, which is to make the BCLPP the institutional space for the design of local public policies. From this perspective, and although the APEICB is currently in the implementation phase of institutional change proposals, its capacity as an engine for institutional change can be foreseen. This capacity is based on two main elements. On the one hand, the generation of knowledge about the functioning of the collegial coordination bodies. On the other, the establishment of a system of accountability, since these collegial bodies are required to report on a series of activity indicators that will serve to propose new organizational changes in order to better achieve coordination of local public policies.



From this perspective, the APEICB may enhance the role of urban and rural municipalities in decision-making through monitoring and evaluation mechanisms. In the case of rural municipalities, rural local governments are granted with at least one-third of the representatives of the BCLPP. Secondly, the very configuration of the BCLPP as a center for promoting knowledge on public administration at the local level represents an opportunity for local governments to have a say in decision-making due to their access to information.

Notwithstanding the above, the level of compliance with the APEICB in terms of accountability and the extent to which the weaknesses observed can be addressed by the BCLPP remain open questions. The resources of the BCLPP are not significant due to its novelty, so its capacity to assume responsibility for the coordination of local public policies remains to be confirmed.

The results of the BCLPP are limited so far due to the profound transformation of the organizational structure involved and the recent implementation of its main mechanism, the APEICB. Its necessity, however, stems from the limitations of the other mechanisms for local entities involvement in upper levels of government. Specifically, local entities participation in the legislative process at the regional level is mainly channeled through regional associations of local entities. The latter associations verify that legislative initiatives respect local autonomy and the competences of local governments.

However, this participation does not necessarily imply that local entities may define the main issues on the political agenda. The determination of the issues to be discussed is still monopolized by the regional governments. Therefore, the BCLPP, through mechanisms such as the APEICB, tend to anticipate the participation of local government in the legislative process and therefore increase its political leverage.

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People's Participation in Local Decision-Making



6.1. People's Participation in Local Decision-Making in Spain: An Introduction

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The 1978 Spanish Constitution created a legal context that favors citizen participation. Under Article 9(2), all public authorities (and thus local governments) should 'facilitate the participation of all citizens in political, economic, cultural and social life' and Article 23(1) provides, as a fundamental right, (i.e., enforceable before a court of law, including the Spanish Constitutional Court) that citizens are entitled to 'participate in public affairs, directly or through representatives'. In compliance with the constitutional provisions, the Spanish Local Government Act (Act 7/1985, of April 2, LBRL) lays down a set of guarantees and procedures ensuring public participation at a local level and currently displays three sets of legal provisions regarding citizen participation. First, the so-called 'open council' or 'town meeting' (*concejo abierto*), a form of local government for small municipalities (usually not exceeding 100 people) where citizens gather in an assembly to rule the town (Article 29 LBRL). Second, Article 18(1)(b) LBRL expressly grants the enforceable right 'to participate' to all residents. Third, this same act also provides for several mandates addressed to local governments with the aim of promoting citizen participation (Articles 69 to 72 LBRL).

In sum, national and regional provisions have created a legal framework favoring citizen participation. However, these legal provisions often fail to implement tools and mechanisms to make such public participation effective. For a country like Spain where levels of social capital and citizens' involvement in public affairs are rather low, it is up to each municipality to implement strategies that make peoples participation effective. Actually, there are major differences between municipalities that simply allow for participation, yet they do not facilitate it or purposefully promote it and others that facilitate it and promote an inclusive participation. Differences can be explained by factors such as the availability of resources in place, a municipality's social fabric or the political orientation of the municipal government.

Recently, the presence of new political parties in municipal councils during the 2015-2019 period (classified as 'alternative left', such as Podemos), has reinvigorated participation in those municipalities ruled by them (including major Spanish cities like Madrid, Barcelona, Valencia or Zaragoza) emphasizing the importance of open and inclusive decision-making mechanisms and putting them in place.

These local strategies can take several forms but they respond to one of the two main types of participatory logic: people's participation is either implemented through permanent institutions or through processes open to all citizens. In both cases, the impact and results of citizens' participation (i.e. level of citizen information on the projects, transparency in policy making, political accountability) is an open question to be analyzed.



As the most relevant example of the first strategy, we find the so-called advisory boards or advisory councils (*consejos consultivos*). They can be either sectoral (engaging public and private actors in connection with a sector or sector-specific policies: the elderly, culture, sports or education, among others) or territorial (the actors engaged and the interests at stake revolve around a given district or neighborhood). These advisory boards are the oldest and most commonly used participation mechanisms in local governments in Spain. Despite their little media visibility (they are somewhat overshadowed by the new forms of online citizen participation, popular consultations or participatory budgeting), they are probably the main form of dialogue between governments and organized groups. Some of the municipal councils that took office in 2015 are drawing up plans to reinvigorate and activate advisory boards. Madrid, for instance, is turning them into bodies more open to citizens and not only to the associations' representatives.

In the second type, we find strategies like local referendums and public consultation processes in local planning. Concerning referendums, they are hardly held in Spain due to its regulation, that requires the national government's prior authorization, thereby subjecting this participation initiative to stringent procedural requirements unparalleled in other legal systems. But public consultations have experienced a remarkable increase recently. They have typically played a prominent role regarding two areas: urban planning and local budgeting, but there are also other fields where these consultations are carried out, including participatory budgeting.

In addition to this, recent legal provisions (local, regional and national) have regulated bottom-up citizen participation, under which citizens directly submit proposals to municipal councils regarding specific measures or public policies. For this type of initiative, a qualified majority of voters (at least 10 per cent in municipalities exceeding 20,000 people) are entitled to submit specific proposals to the local government, which must be subsequently voted in the municipal assembly. Due to its legal complexity and demanding requisites, this form of bottom-up participation has been barely used so far.

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6.2. Participatory Budgeting in ‘Decide Madrid’

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Relevance of the Practice

‘Decide Madrid’ is a form of public consultation implemented in the nation’s capital city. Inspired in principles derived from the theory of direct democracy, public consultations seek public input from individual citizens to be applied to local policy making. They can be organized through ICT tools in big cities like in this case or as traditional referendums using ballots in medium and small towns. Public consultations are an interesting case for the urban-rural interplay analysis as they are implemented in both territorial settings, in small towns or villages and in urban spaces, but supported in different tools or strategies; small spaces would privilege traditional mechanisms such as public audiences or referendums. We have selected the case of a public consultation strategy in a big city because it is implemented through a digital tool (a website) which presents the opportunity to investigate key issues and current academic debates in the field of participation, such as inclusive participation, quality of deliberation, digital literacy or levels of participation and impact on governance. In addition, this project allows for a hands-on experience on how to develop citizen participation ICT tools that guarantee individual rights (i.e. intimacy, protection personal data).

Many aspects of this participatory strategy make it relevant for in-depth analysis, among others:

- to what extent ‘Decide Madrid’ achieves broad participation of citizens, overcoming the disadvantages that other participatory settings – such as consultative boards – present in big cities (information about the projects, interaction between citizens);
- to what extent it achieves inclusive participation of citizens, overcoming the reluctance or unfeasibility to participate for those who are not digital natives;
- technical and legal complexity. There are many aspects that can jeopardize its effective implementation, such as proposals’ viability, legality or cost;
- to what extent voted and accepted proposals are finally implemented (effectiveness of citizens’ participation);
- the rules of the procedure and the extent to which they meet the goals of equality or efficiency;
- the quality of the deliberation among citizens.



Description of the Practice

'Decide Madrid's goals, as stated by the city government are, i) to increase resident participation in decision-making on the city's projects; ii) to generate a forum of debate where people can discuss the issues that matter to them the most.

The main strategy tool of this practice is its website.²⁵ It is an online platform launched by the City Government of Madrid to facilitate direct, individual participation in the city's public affairs. Once registered on the platform, all residents can create discussion threads, assess, comment on or support the various proposals, participate in the different processes and vote online on the participatory budgets. The website also encompasses information about the different projects (technical conditions, budget, time for execution, among others).

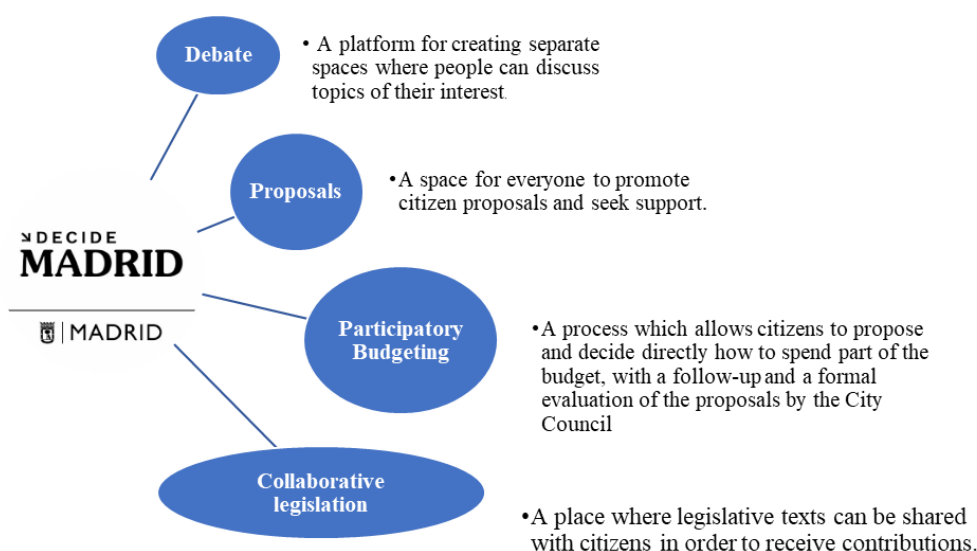


Figure 5: Functionalities of 'Decide Madrid'; own elaboration.

Decide Madrid allows users to elaborate their own proposals for courses of action to be undertaken by the city government and to support those of others, digitally. The platform enables proposals attaining support from 1 per cent of the city's registered population aged 16 years and above to be submitted for acceptance or rejection by the people; when the vote is favorable, the proposals are undertaken by the city government.

The website is also a tool for participatory budgets initiative, facilitating the submission of the spending proposals, gathering the support needed for them and making the presentation of the situation, collecting the support for the same and making possible the final electronic vote. In 2018, residents voted for proposals valued in EUR 100 million in total that are intended to

²⁵ Municipality of Madrid, 'Decide Madrid: portal de participación ciudadana del Ayuntamiento de Madrid' (*Decide_Madrid*, 2021) <<https://decide.madrid.es/>>.



be implemented in 2019. Some proposals that are repeatedly presented by citizens include building or renovation of sports centers, bikes paths, music schools, street lighting or kindergartens.

Assessment of the Practice

This tool has only been recently put in place, so it is challenging to make an assessment, even if it is preliminary. If one takes into account that there are currently 421,211 people registered on the website out of 3.2 million inhabitants in the municipality, and that no other type of open strategy for all citizens had been implemented before, then it deserves a positive evaluation. In addition, United Nations has awarded a prize to Decide Madrid for the best public service in 2018 in the category of 'Making institutions inclusive and guarantying participation in decision-making'.

However, a more refined analysis on the aspects mentioned in the previous lines (inclusiveness, effectiveness, deliberation quality, etc.) would allow us to assess this practice from a more integral and systematic perspective.

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6.3. The Experience of ‘Local Action Groups’ as Quality Participation in Rural Areas

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Relevance of the Practice

In the 1990s, the European Union launched the LEADER initiative to respond to the social, economic and demographic problems of rural Europe: unemployment, aging and emigration, low levels of income and the weakness of its production systems. This rural development policy inaugurated an innovative model of public financing management that relies on the endogenous resources of the territories in question. Its method is to actively involve actors from civil society and making them design and manage development plans to be funded by LEADER. Local Action Groups (LAGs) represent, in rural areas, institutionalized governance networks in which local state and citizens – represented by their organizations – interact.

Their main function is the implementation of European rural development strategies, through the design, implementation and management of their local development strategies, which are the result of their own analysis of the needs of their territory and the consensus achieved between the different parties and interests. LAGs are agents for revitalizing the social and economic fabric of their area by promoting, among other things, the involvement of the population in their own development process and governance. They help to create municipal infrastructures, generate businesses, provide services for the population and generate employment. In this way, they give support to their respective rural areas especially through the implementation of small-scale projects. Their activities do not replace municipal action. They rather represent a form of local state – society relations, as consortia. They are non-profit associations which put public and private members together having as incentive the EU LEADER funds. According to the EU LEADER strategy. Through this approach, LAGs can target better the particular needs and priorities of their territory since they are part of the territory itself. This is the assumption of the EU LEADER strategy; but to the extent that it has been implemented for 20 years in all EU countries with this approach it might also be a conclusion.

Description of the Practice

At the beginning of each LEADER programming period, the LAGs are selected through a public call for proposals by the autonomous communities. Once in place, the LAGs work to stimulate the social and economic activity of their area, favoring, among other things, the involvement



of the population in its own development process and governance. There are currently 3,098 LAGs²⁶ spread over all European members; 252 in Spain also known as Rural Development Groups.²⁷

LAGS are legally established as non-profit associations in most of the cases, following the principles and obligations of the Spanish law regulating the right of association.²⁸ As such, they have their own by-laws establishing their governing institutions and their functioning rules. LAGs are in parallel to the local political institutions and organized around two types of institutional bodies where public-private interactions occur: the general assembly and the executive board. The general assembly is the main body of these networks, comprised of representatives of the public, social and economic sectors of each municipality associated with the LAG and partners from upper-level government. It also includes managers, technicians, administrative staff and other employees of the association who can influence decisions by 'voice' but not by 'vote'. The average number of assembly members in Spain is 103, but the variation is very high; six assemblies have fewer than 10 members and 53 have more than 150. The executive committee – elected by the general assembly – is the governing, management and representative body of the association. In addition, sector-specific working groups serve as consultative bodies for debates and the analysis of problems and solutions.

Public²⁹ and private actors agree in getting associated in LAGs. On the side of actors coming from the civil society they can be classified in three groups:³⁰

- members from the productive economic sector: companies, agricultural cooperatives and business associations. It is the most numerous and influential group among the private members. LAGs membership is not set from above. As associations, actors either agree in setting up a LAG or ask for joining it once it has been created;
- members representing the interests of certain groups: women's associations; youth associations; trade unions and professional agricultural organizations; and other associations and foundations;
- members linked to the educational and the financial sectors and others.

The program requires a balanced participation of public and private spheres in the assemblies (public actors may not exceed 50 per cent). However, despite this compulsory provision, not all the LAGs meet this standard.³¹ In addition, studies point to an underrepresentation of both

²⁶ 'LAG Database' (*European Network for Rural Development*) <https://enrd.ec.europa.eu/leader-clld/lag-database_en>.

²⁷ 'Grupos de Acción Local' (*Red Rural Nacional*, last updated 19 August 2020) <<http://www.redruralnacional.es/leader/grupos-de-accion-local>>.

²⁸ Organic Law no 1/2002, 22th of March, reguladora del Derecho de Asociación.

²⁹ Local governments and sometimes representatives of other levels of government like provincial or regional authorities

³⁰ Pedro B Moyano Pesquera, 'La implicación de los agentes sociales y económicos en el desarrollo rural: una necesidad insatisfecha' (2018) 17 *Economía Agraria y Recursos Naturales* 55.

³¹ *ibid.*



youth associations and women's associations. This reflects the rural state of affairs (an aging population) in which there does not seem to be a critical mass of certain groups from which associations might emerge.³²

Assessment of the Practice

This so-called LEADER method has had a major impact in Spain in terms of geographical coverage and mobilization of funds.³³ Most of LAGs in Spain have significant accumulated experience, having already been present during previous programming periods (2/3 are from LEADER I or II, and another 20 per cent joined LEADER +).³⁴ In total, the LEADER initiative has been managed by 264 Local Action Groups that have acted in 7,047 municipalities, covering a total area of 448,207 km² – 88.8 per cent of Spain's territory – and affecting a population of 12.4 million inhabitants (26.8 per cent of the national total).³⁵ In some regions, these percentages are even higher: in Extremadura region, in the period 2007-2013, LAGs covered 98.9 per cent of municipalities, and 70.9 per cent of the population, this meant that all the municipalities in Extremadura apart from the four urban ones were covered. In terms of budget allocation (total expenses) LAGs vary greatly, from the less financed with between EUR 1.5 and 2 million, to those of EUR 10 million.

There is evidence that LAGs, at least to a certain extent and in some territories, have become the driving force behind economic development processes, and that they are tools that serve to improve the resilience and adaptability of the rural areas.³⁶ Evaluation reports based on surveys of LAG members also make a very positive assessment of the experience of LAGs, but point to the need to reinforce the active participation of societal actors, considering that the social fabric in many cases does not emerge autonomously but is rather 'created'.³⁷

For the Spanish case, the involvement of local society in decision-making means a complete change as compared with traditional top-down strategies of rural development, and has

³² See Javier Esparcia and Rafael Mesa, 'Leader en España: cambios recientes, situación actual y orientaciones para su mejora' (Universidad de Valencia 2018) <http://www.redruralnacional.es/documents/10182/563684/Conclusiones_Propuestas_Evaluacion_LEADER_Esparcia_Mesa.pdf/5c5b29e6-54de-4dd5-b688-689a92cdb2de>.

³³ See Javier Esparcia, Jaime Escribano and J Javier Serrano, 'From Development to Power Relations and Territorial Governance: Increasing the Leadership Role of LEADER Local Action Groups in Spain' (2015) 42 *Journal of Rural Studies* 29.

³⁴ See Esparcia and Mesa, 'Leader en España', above.

³⁵ See Moyano Pesquera, 'La implicación de los agentes sociales y económicos en el desarrollo rural', above.

³⁶ Hugo S Lopez, Francisco M Arroyo and Jose LY Blanco, 'Los órganos de decisión de los grupos de acción local en el periodo 2007-2013 en España: relaciones entre los actores del medio rural' (2016) 245 *Revista Española de Estudios Agrosociales y Pesqueros* 47.

³⁷ Esparcia and Mesa, 'Leader en España', above.



constituted a way to empower local society.³⁸ In the academic classification of ways of addressing societal problems (hierarchies, markets and networks) this would be an illustration of network. The most important innovation of this approach to rural development has involved putting in the hands of local actors a large part of the decisions and management of their own development. The extent to which real partnerships emerge can be initially analyzed by assessing how balanced and diverse LAGs actually are, which implies a brief look at the composition of the LAG governing bodies and the diversity among the private actors.

An approach to the autonomy, stability and relevance of the network will throw the following preliminary assessment:

First, in terms of autonomy, the setting-up of LAGs is incentive driven rather than completely voluntary or imposed by the public authorities; these networks probably would not exist without the support of EU funds and the LEADER approach which demands that networks for defining and implementing common goals for rural economic development be established before funds are transferred. The initiative relies on public actors – the municipality – but internal coordination is the result of a joint action both by the assembly and by the executive committee, and the decisions are taken by majority vote. Rules are not strictly pre-defined, but LAGs have to meet certain broad criteria, such as the requirement of a limit (maximum 50 per cent) of public actors in the governing bodies.

Second, in terms of stability, the several institutions comprising LAGs (assembly, executive committee, working groups) are stable in character and meet periodically. They have accumulated experience after four rounds of LEADER programs, from which it can be inferred that they have developed common ground regarding the aims and forms of interaction even if those aims and forms are likely to be defined fairly broadly due to the diversity of actors in the network.

Finally, LAGs are among the most relevant participatory experience in Spain measured by the degree of impact of citizens' will in public decisions. According to the Arnstein ladder of participation, they will be placed at the level of 'partnership'³⁹ due to their theoretical capacity to design and implement the strategies of rural development jointly decided by their members. Indeed, it seems to involve a distribution of power among public and private groups, which form partnerships and share decision-making responsibilities, particularly in the executive committee. However, this trait should be verified through empirical methods.

³⁸ Moyano Pesquera, 'La implicación de los agentes sociales y económicos en el desarrollo rural', above.

³⁹ Arnstein's 'ladder of participation' differentiates from more citizen power to less citizen power between: i) 'delegated power', i.e. potentially high impact on policy; ii) 'partnership'; iii) 'placation'; iv) 'consultation' (= 1.25) and v) 'information', i.e. participations, but no ensured impact on policy. See Sherry R Arnstein, 'A Ladder of Citizen Participation' (1969) 35 Journal of the American Institute of Planners 216.



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6.4. Promoting Public Participation in Urban Planning Processes as a Bottom-up Process: Urban-Rural Differences

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Relevance of the Practice

One of the basic principles of Spanish urban law, since 1956, is that the development of planning instruments includes public participation, not only of the landowners but of any citizen, because the ‘city belongs to everyone’. However, this process has traditionally been led by the municipal administration: a top-down approach. This has been considered a failure of participatory processes since in the ‘city of architects, expert designers know more, and they design cities and spaces for people, but they do not feel comfortable designing with people’.⁴⁰

Sustainable Development Goal (SDG) 11 ‘Make cities inclusive, safe, resilient and sustainable’, and more specifically target 3, requires to ‘enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management’. It is in this context that the regulation of Article 4(2)(c) of Royal Legislative Decree no 7/2015, of 30 October, which approves the revised text of the Law on Land and Urban Renewal, sets public participation as a weighting process. It is conceived as a decision-making process that requires prior identification of the relevant interests and imposes a procedure for the participation of all possible affected parties. It is thus oriented towards a bottom-up logic, especially in the case of the so-called ‘tactical’ urban planning i.e. the planning that focuses on specific and concrete actions instead of giving a general and holistic vision over a territory.

Description of the Practice

Public participation in urban planning can be analyzed by comparing two real cases, one referred to as the medium-sized city (Torrelodones) and a second one regarding a small village (Lerín).

⁴⁰ David de la Peña, ‘Barcelona’s Superilles hit a snag’ (*David de la Peña*, November 2016) <<https://daviddelapena.com/2016/11/23/superilles/>>.



The Municipality of Torrelodones, located in the metropolitan area of Madrid, is characterized as a medium city (28,000 inhabitants). In 2017, the city government decided to start the urban planning procedure to renovate a central green area, the Pradogrande park, which covers more than 4 hectares, through a collaborative design process in which the different agents were targeted to be involved. The objective was to reform the park, as defined by the residents and users themselves. To this end, an innovative public participation methodology has been implemented that has managed to involve the population not only in the diagnosis and identification of the park's problems but also in the definition of architectural solutions.

The process was divided into three phases:

First, involve: The objective was to involve as many people as possible, for which an issue of the municipal magazine was dedicated to the process, a video was shot and disseminated on social networks; a letter was mailed inviting residents, it was taken to six meetings, in addition to involving associations and social agents.

Second, listening: The objective was to capture the participation of individuals and social agents through interactive mappings based on printed maps distributed among the citizens of the surroundings and user groups in the park itself, diagnostic and proposal walk open to all citizens, user interviews, digital questionnaires, and face-to-face questionnaires.

Third, transformation: The objective was to capture the participation of all those involved in the design of the specific solutions to the problems detected in previous phases so that the project implemented includes the preferences of the maximum number of perspectives of what the park

The results of the process were as follows:

Involvement and listening

Individual participation through interactive tools: an interactive physical map and a digital questionnaire. In addition, interviews were carried out to groups and users, an open action mapping, plus other complementary ones that allowed to move the debate to the group.

- interviews and preparation of perceptive maps of the park with associations, groups, technicians, and other agents of interest (15 interviews);
- an online questionnaire (114 responded, 63 per cent women, 47 per cent men, all age groups mostly between 30 and 60 years);
- big map of the park with instructions and stickers to leave proposals (73 maps, 52 per cent women, 48 per cent men, all age groups, mostly <20);
- mapping, tours of the park where proposals can be collected by groups;
- mapping of the elderly in the social center (6 participants over 65);
- open mapping (70 participants).



Transformation

Individual participation through the same interactive tools, but in this case, is aimed at evaluating the design alternatives resulting from the previous phase. Group participation was carried out through a temporary collaborative design office in which the details of the project are specified and discussed in depth.

- an online questionnaire to evaluate alternatives (117 participants, 61 per cent women 39 per cent men, all age ranges, the majority between 60 and 30 years old);
- assessment of alternatives for the renovation of the park (137 participants, 51 per cent women, 49 per cent men, all age ranges, the majority range between 30 and 50 and <15);
- a design office open for five days at the culture center (8 design sessions, 15 participants).

This has been considered a successful experience, but public participation seems to face more challenges in municipalities located in rural areas, with a smaller, older population, and, urban contraction processes. This was the case of Lerín (Navarre), 1,725 inhabitants (2018 census). In 2019 the Autonomous Community of Navarre led a project of inclusive urbanism like the one described above in the design of public spaces, developed from the perspective of active aging. It included measures such as improving pavements and pedestrian routes to ensure full accessibility, eliminating architectural barriers, limiting road traffic, improving lighting, the vegetation of the spaces, strategic placement of fountains or benches adapted and ergonomic as points of socialization, and improving access to public buildings and services or promotion of local commerce. The participatory process was open to all residents in the town, but it was particularly oriented towards the involvement of older people and has been developed over the last eight months in three participatory sessions, two of them in the local civic center and another in the Town Hall Square. The process has been articulated in three participative sessions, open to all citizens and with a playful character. One of the meetings took place practically through a tour of the most controversial places in the town, which allowed them to experience them collectively. But these processes involved only 4, 10, and 12 people (mostly women).

Assessment of the Practice

The advantages of these urban planning participatory processes are found, fundamentally, in their capacity to educate citizens on public issues and policy challenges, in this case in the field of planning, where the daily experience of citizens in urban design also generates an active and critical view of the environment. It is possible to appreciate that in the process of urban planning the main input comes from the local population (bottom-up), although filtered and complemented by the technical approach of the professional team responsible for the planning instrument. In any case, the participatory results become a valuable tool for the local administration. These participation mechanisms provide social legitimacy to the urban planning solutions adopted by the local authorities, making them resistant to wear and tear



and increasing the sense of belonging of citizens, thus being framed in the notion of governance. While in urban areas participation is broader, in rural communities it seems that greater involvement of local and regional authorities is required to foster participation that goes beyond mere testimony, at least in the case analyzed.

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