Research Note

# Improving records management to promote transparency and prevent corruption

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## ARTICLE INFO

## ABSTRACT

This paper pursues to show how regulation can facilitate the incorporation of transparency obligations into a record's lifecycle (transparency by design) to prevent the occurrence of any risk of corruption associated with the management of the information created by a public administration (missing or disappearance of information, lack of evidence, modification of documents, etc.). The paper analyses the mechanisms available to Spain's public administrations for managing these irregularities in records management though the raft of regulations and protocols that have been approved in the country. It assesses how the lack of specific regulations providing for transparency by design currently represents a limitation on the role of records management as a tool for preventing and fighting corruption. The paper shows that there is a need to guarantee proper records management, which includes transparency throughout a record's lifecycle. It concludes that legislation assessed does not properly reflect these ideals. Nevertheless, this concern is only partially and insufficiently reflected in legislation. Legislators usually ignore the instrumental and methodological fundamentals of records management. Therefore, there is a need to update legislation on archives and records management with regard to access to information, transparency and accountability.

## 1. Introduction

*Sunlight is said to be the best of disinfectants* (Brandeis, 1914). A century after Justice Brandeis highlighted the importance of transparency in the avoidance of fraud and corruption, it is a commonly held opinion that transparency in public administrations is a powerful weapon in preventing and fighting against corruption (Kaufmann, 2005b, 92).

Indeed, the public's knowledge of what is happening in the public sector assists with the effective monitoring of the activities of public officers and employees, hinders the occurrence of conflicts of interest and corruption, which flourish in situations of opacity and secrecy (Bauhr & Grimes, 2013, 2; Lindstedt & Naurin, 2010; Pereyra, 2013), and helps identify irregular situations, conflicts of interest and cases of corruption, in that it turns citizens into thousands of auditors (Kaufmann, 2002, 19).

To guarantee the greatest transparency in public administrations, records management systems need to facilitate the access to and the dissemination and reuse of public information. Records management systems should not only be used for internal purposes but also provide the basis for transparency, and which should be approached in this way

throughout the records' lifecycle. In this regard, the first version of the ISO 15489 standard, published in 2001 and based on the Australian Standard AS 4390, Records Management, from 1996, stated: "A records management system results in a source of information about business activities that can support subsequent activities and business decisions, as well as ensuring accountability to present and future stakeholders" (ISO 15489–1:2001).

Transparency by design refers to the incorporation of transparency obligations into a record's lifecycle, from the moment it is created, to guarantee effective public access to public information, and to also provide a guarantee of records' integrity and their traceability to the original source (Cerrillo i Martínez & Casadesús de Mingo, 2016).

Transparency by design calls for the carrying out of an in-depth study of the records created in every procedural stage, the circuits followed by the documents over the course of said procedure and the values they possess and accrue during their lifecycle. On the basis of this analysis, information on disclosure or dissemination, on accessibility or secrecy, on periods of conservation, elimination, publication, access, etc., can be incorporated into any public record by means of metadata, and thus be capable of being published. This is noted by Moyano, who states that "transparency requires records management

systems that make it possible to control records and, by extension, their content and other information resources from the very moment of their creation and throughout their entire lifecycle (Moyano Collado, 2015, 48).

So, as it has been shown previously, transparency by design can have a positive impact on enhancing the public administrations' capacity for transparency (Cerrillo i Martínez & Casadesús de Mingo, 2016). The aim of this paper is to show how transparency by design also has an *ad intra* positive impact in preventing the occurrence of any risk of corruption associated with the management of the information created by a public administration (missing or disappearance of information, lack of evidence, modification of documents, etc.). In particular, it is considered that, the more records management is improved and integrated into the day-to-day management of public institutions, the easier it will be to prevent irregularities that could conceal cases of corruption, by preventing or minimising the risks that frequently accompany them. Nevertheless, there is also a need for the presence of certain preconditions for it to be possible to carry out this improvement.

## 2. Methodology

In the following pages, it shall be analysed how transparency by design can make a significant contribution to tackling the risks of corruption associated with records management. More particularly, the hypothesis is that current regulations on transparency and records management do not incorporate transparency by design as a mechanism so that public administrations can tackle the risks of corruption associated with records management.

To confirm this hypothesis, the paper shall be analysing the mechanisms available to Spain's public administrations for managing these irregularities in records management though the raft of regulations and protocols that have been approved in the country. To contextualise the study, it shall firstly be examined the state of corruption in Spain, which has, in recent years, increased significantly. Secondly, it shall be explained the role that records management can play in managing and tackling corruption-related irregularities in records management (such as the integrity, availability and quality of information) and, in the end, in increasing public transparency. Next, it shall be analysed a range of regulations to identify the mechanisms contemplated by the legal framework to tackle these irregularities, to thus be in a position to place on record how this methodology does not yet have a proper fit in the legal framework. Lastly, it shall be assessed how the lack of specific regulations providing for transparency by design currently represents a limitation on the role of records management as a tool for preventing and fighting corruption.

## 3. Transparency and its impact on reducing corruption

Corruption is currently considered the second-most important problem by Spaniards, behind unemployment. According to the latest poll published by the country's Sociological Research Centre (*Centro de Investigaciones Sociológicas*, CIS), in February 2017, 37.3% of those surveyed regarded corruption as one of Spain's top three problems, and it was third in terms of the problems that most affected them personally (13.1%).[1]

Nevertheless, the high level of perception pointed to by this indicator must be qualified by other indicators that show how the real situation of corruption in Spain is not so generalised. Indeed, according to the study by Villoria and Jiménez, the figures on the perception of corruption are not consistent with those who have been the victims of it, something that could be the result of cultural factors affecting citizens' survey responses, associated with disaffection with the country's

institutions (Villoria Mendieta & Jiménez, 2012, 118). Additionally, analysis of judicial statistics, news in the media and summaries of proceedings lead these authors to believe that the perceived level of corruption is considerably greater than that supported by the data and that the corruption existing in Spain is political rather than administrative in nature, taking place mainly in the local authorities and basically planning-related (Villoria Mendieta & Jiménez, 2012, 128–129).

To tackle corruption in Spain, a number of measures to fight it have been promoted in the last years. Nevertheless, over time, it has been seen that the prosecution and repression of corruption are not having significant success in reducing it. Indeed, the most effective measures against corruption are not those that combat it directly, but rather those indirect ones that foster good government and good administration (Lapuente Giné, 2011; Rose-Ackerman, 1999).

The term 'transparency' usually appears accompanied by other positive words and expression such as openness, democracy, close to the citizens, accountability and efficiency (Dyrberg, 1997, 81). By way of contrast, it can also be found negative terms associated with it, such as democratic deficit, opacity and corruption, with the latter two being regarded as great threats to the workings and legitimacy of the public administrations and hence to open government and transparency. Opacity is what prevents the passage of light, and is viewed as something dark and closed. It is directly associated with the inaccessibility of information, the lack of transparency, mistrust and even lying. All of this is associated with corruption, which can be defined as the practice of using the functions and resources of the public administrations to the advantage, financial or otherwise, of their managers.

Generally speaking, corruption is hidden and thus opaque. No documentary evidence of this kind of action tends to be left, making its investigation and punishment all the more difficult. Opacity and corruption increase the public's mistrust of the credibility and legitimacy of its public administrations, making it a significant risk to both.

So, transparency is one of the leading measures in the fight against corruption. Indeed, a number of empirical studies show that greater levels of information mean a reduction in corruption levels (Rose-Ackerman, 2004, 316–322). Nevertheless, one cannot simply conclude that transparency always entails lower corruption levels (Cordis & Warren, 2014; Grimmelikhuijsen, 2010; Peisakhin & Pinto, 2010, 262).

Whatever the case, it is clear that transparency helps prevent the occurrence of conflicts of interest, minimises the possible negative consequences of their existence, fosters the integrity of public office and civil servants and prevents and discourages corruption, which is generally associated with informal agreements, outside of official and public decision-making channels (Arrowsmith, Linarelli, & Wallace, 2000, 38; Kaufmann & Bellver, 2005, 28, 42; Villoria Mendieta, 2012, 21).

Records management provides the operational basis for effective transparency in public administrations, as it permits the creation of quality documentation (authenticity, reliability and integrity), the tracking of decisions taken over time (traceability), the provision of the foundations for planning programmes, activities and budgets, the simplification and standardisation of records processes (simplification and standardisation), the fulfilment of the right to rapid access to information (accessibility and reliability) and the preservation of records over time (preservation) (Casadesús de Mingo et al., 2016, 16). In fact, even in the 1980s, some authors were already making reference to the direct relationship between poor records management and cases of corruption (McKemmish & Upward, 1993, 10), and this opinion has remained prevalent over the course of the years (Iacovino, 2010, 181).

So, access to accurate and complete records are crucial factions contributing to increasing the risk of exposing corruption. They provide the evidence to hold officials accountable and, where necessary, prosecute wrong doers (Barata et al., 2001, 38). For this to happen, public administrations need to have implemented records management systems, with the resources for their upkeep and improvement, and above

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[1] February 2017 poll. Accessible at: http://www.cis.es/cis/export/sites/default/-Archivos/Marginales/3160_3179/3168/esmar3168mar.html (last viewed in May 2017).