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Regulatory Framework of Local Citizen Participation: Instruments of Direct and Participative Democracy in the Municipal Field

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Abstract

This article focuses on the analysis of the regulatory framework of citizen participation in the local government, which organises direct and participatory democracy at the local level, and identifies the laws and mechanisms through which the constitutional requirements for participation are accomplished. Municipalities, the authority closest to citizens, are the best level of government since they directly involve civil society in the decision-making process experiencing the scope and appropriateness of the instruments by which it is channeled

Key-words

local citizen participation, local autonomy; direct democracy, participatory democracy, local regulations, participatory rights



Preliminary Remarks

The coming into force of the 1978 (SC) Spanish Constitution had immediate and very significant consequences at the local level, conceived until then as a mere ramification of the state administration and subject to its direction, supervision and control. In keeping with this spirit, the regulations contained in the local government Law, whose draft revised text was approved by government decree on June 24th, 1955, stipulated that the government presided over by the Head of State is to nominate the heads of all provincial and municipal authorities, i.e. the civil governor in provinces^I, the chairman in provincial councils^{II} and the mayor in municipalities^{III}. This system was modified by Act 41/1975 of November 19th, the basic law regarding the status of local government, which provided for the elected nature of both municipal mayors and provincial council chairs. Members of the local corporation (councillors in municipalities and deputies in provinces, representing family, trade union and corporate sectors in equal parts) elected the corporation's governing body via secret ballot^{IV}. This arrangement culminated with the new principles of decentralisation and participation being expressly recognised in the Constitution. Here municipalities and provinces, like autonomous communities, were conceived of as territorial bodies into which the state was organised and their autonomy "for the management of their respective interests" (Art. 137 of the SC) was recognised. However, above all, they became democratic bodies. The requirement of participation as an inherent element of the democratic state and of the assumption of democracy itself, involved the local, and particularly the municipal, field. Town councils were now entirely elected by universal suffrage under a proportional electoral system, or occasionally made up of all electors, forming a "*Concejo abierto*" [open council] system, envisaged in Article 140 of the SC^V. In short, municipalities were no longer mere administrations but bodies representing civil society exercising political power and therefore accountable to the citizens who elected them^{VI}.

These very few constitutional provisions, intended only to ensure the election of municipal organs of government, were complemented and extended at the infra-constitutional level, an area in which both state and autonomous legislators were involved, following the distribution of competences in Articles 148 and 149 of the SC. This meant



that in the case of local corporations as public administrations, it was up to the state to adopt the basic legislation on their legal conditions (Art. 149.1.18 of the SC), and to each autonomous community to adopt the law implementing these state conditions and bring them into effect.

In this context, this paper focuses exclusively on the analysis of the regulatory framework of direct citizen participation in the local (specifically municipal) area, which organises what is known as direct or participative democracy, and identifies the laws and mechanisms through which the constitutional requirements for participation are satisfied. Certainly, as territories able to exercise the power closest to the citizen, municipalities are obviously the best nuclei for directly involving civil society in the decision-making process, therefore, experiencing the scope and appropriateness of the instruments by which it is channelled. Given the above definition, any reference to institutions like the *Concejo abierto* is excluded, since despite its being a form of direct citizen participation in municipal government and administration, it is in fact an anomalous form of representative local government. The following issues will also be dealt with in this analysis: the right to vote as the vehicle for representative participation and, finally, consultations, which have been examined in detail in E. Martín Núñez's paper, also published in this volume.

1. Participation in State Regulations on Local Government

Seven years after the enactment of the Constitution, the Spanish state Parliament approved Act 7/1985 of April 2nd, regulating the bases of local government (LBRL), implemented by the government in the subsequent year by way of Royal Decree 2568/1986 of November 28th, regulating the organisation, operation and legal framework of local authorities (ROFRJEL). Among the various reforms introduced by the 1985 Act, the most important for the purposes of this work is Act 57/2003 of December 16th, on measures for the modernisation of local government, which, as indicated in its stated purpose, is intended to strengthen participation as an instrument for encouraging civil society to become more deeply involved in public life^{VII}.

In this regulatory area, it is highly significant that the first requirement of state law defines municipalities as the "basic entities in the state territorial organisation and the



immediate means by which the civil population participates in public affairs, given that they have the autonomy to institutionalise and manage the interests of the various social groups” (Art. 1.1 of the LBRL). According to this definition, the law envisages participation from two different but complementary perspectives.

The first and most important is that participation in its various forms is defined in Article 18 of the LBRL as the right of residents (i.e. every person who lives in the territory of the Spanish state and is recorded in the “*padrón*” [electoral roll]^{VIII} of a municipality (Art. 15 of the LBRL). Under the Title “Citizen information and participation”, Chapter 4 Section V of the LBRL specifies the different laws and instruments which in their own right formulate this right to participation. In addition, complementing this configuration as law, the state law also envisages participation as a principle which affects the organisation and the exercise of the municipality’s competences. Therefore, to facilitate and improve citizen participation “in the management of local affairs”, Article 24 of the LBRL provides for the creation of decentralised territorial administrative organs to which town councils can devolve functions and competences. Article 27.1 of the LBRL makes any delegation of the exercise of state, autonomous or local competences to the municipality and the achievement of greater administrative efficiency conditional on their achieving improved and increased citizen participation.

However, here state legislators wish to introduce only basic regulations. This means it is up to the municipal authorities themselves, within these prescriptive minimums and in the exercise of their competence over local rules, to establish the autonomous regulations which can extend and at their discretion regulate other forms of participation or create new instruments, other than surveys or consultations encouraged by the interactive use of the new technologies referred to in state law (Art. 70 *bis*.3 of the LBRL).

1.1. Prerequisites and limits to participation in local affairs

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Pérez Alberdi identifies three phases in all participative processes: reception, influence and decision^{IX}. While the last two phases are actively participative, the first



determines the framework within which all participative phenomena of any kind must occur, provided that what is received is information. Information thus becomes the prerequisite of participation.

If this premise is accepted, it is clear that the way state regulations treat participation goes beyond a merely objective vision and incorporates the recognition of a subjective right to receive.

The addressees of and/or holders of rights of access to information are both individual residents. Moreover, local associations created for the defence of general or sectoral interests which act as channels for resident participation, whose formation must be encouraged by local corporations themselves, award the use of public means and access to grant aid (according to Art. 72 of the LBRL and Arts. 232 to 233 to 236 of the ROFRJEL).

a) Objective perspective: the duty to inform. The state legislator establishes a mandate for local corporations to "facilitate the most complete information on their activity" (Art. 69.1 of the LBRL). This overall obligation is defined in the general requirement to advertise plenary sessions and to publicise and report on the agreements adopted by the local corporations' decision-making bodies (Arts. 70.1 and 2 of the LBRL^X). There are also provisions which complement the ROFRJEL (Art. 229) by specifying the circumstances involved (plenary sessions, plenary and governance committee agreements and resolutions of the mayor and his/her delegates) and the means by which this general information is to be made known (notice boards, regular information reports and publication in the social media). Similarly, an information office may be created to channel the entire corporation's publicising and information activity.

b) Subjective perspective: the right to receive information^{XI}. This is a right which the LBRL ascribes to a range of contents: the right to be informed "on prior request, giving reasons" regarding all municipal proceedings and documentation as provided for in Article 105 of the SC (Art. 18.e of the LBRL) and also the right to obtain copies and certifications accrediting agreements adopted by local corporations and their antecedents, and to consult archives and registers as set out in legislation (Art. 70.3 of the LBRL).

With respect to associations for the defence of general or sectoral interests of residents, Article 234 of the ROFRJEL recognises a series of specific rights which,



however, condition an express prior request: the right to receive summons to attend municipal organs and their decisions and resolutions at one's registered address as well as the right to receive regular or occasional publications issued by the town council at one's registered address, provided they are of interest to this entity.

1.1.2. Limits

Although various mechanisms and instruments are expressly envisaged by the state legislator, the common denominator is their restricted scope: none empowers the citizen to replace the competent municipal body in adopting a decision. The law facilitates purely deliberative participation, with no effective power of decision.

This implicit determining factor in the regulations on the scope of each right addressed in the state regulations occurs expressly and unmistakably in two situations. First, referring to the freedom of local corporations to determine or regulate participation in their territorial area –also by legal mandate (*ex* Arts. 24 and 70 *bis* 1 of the LBRL). In this case, Article 69.2 of the LBRL stipulates that “the forms, means and procedures of participation established by corporation councils in the exercise of their power of self-organisation may under no circumstances diminish the powers of decision of representative organs regulated by law”. Second, when the ROFRJEL (Art. 235) recognises the rights of residents' associations to participate in a range of municipal organs, it limits such participation in all cases and as a general rule to organs of a deliberative or consultative nature. Only under circumstances expressly authorised by the law may they participate in decision-making organs. The type of participation which they may enjoy therein is not specified. However, in the light of how the state legislator restricts the scope of these rights, it is easy to conclude that such participation may be necessary, but never decisive, in the adoption of a decision.

1.2. Participation as a right

Article 18 of the LBRL lists among the rights of municipal residents the right to vote and be eligible to vote in local elections; participation in municipal administration; the right to information; the right to request popular consultations; and popular initiative and



petition for benefits and services, when these fall within the compulsory municipal competences.

Without detracting from the state legislator's intention to specify the legal requirement for citizen participation, it must be recognised that there is some confusion in the above list. There are two reasons for this: first, it treats the context in which participation takes place like a subjective right, i.e. municipal administration, requiring the establishment of a series of mechanisms to provide it (Art. 70 *bis*.4 of the LBRL). Second, and most importantly, rights of participation are mixed with the instruments through which the exercise of citizen participation is formulated in local government. Furthermore, within the former, references are made to different types of rights of participation which refer to different subjects according to the area in which they are envisaged. With the exception of the right to vote in local elections, which is excluded from the analysis proposed in this work, and the right to information which is referred to above, this means that while the rights of popular initiative and to request a consultation are only attributed to residents with a recognised right to active suffrage in municipal elections (therefore requiring either Spanish nationality, or citizenship of an EU member country or another state with which Spain holds a treaty of reciprocity)^{XII}; remaining rights are attributed to all persons who are considered residents of the municipality, a condition for which, as has already been indicated, Spanish nationality is not an essential requirement (Art. 15 of the LBRL).

- a) *Popular initiatives* (Art. 70 *bis* of the LBRL) allow residents to present proposals for agreements or actions as well as draft regulations on matters within municipal competence. Their exercise must be endorsed by a percentage of residents, depending on the number of inhabitants of the municipality (20% in municipalities with up to 5,000 inhabitants; 15% for municipalities with inhabitants ranging from 5,001 to 20,000 and 10% for municipalities with over 20,001 inhabitants).

In all cases, these initiatives must be submitted for debate and voting at a plenary meeting, without precluding their resolution by the competent body on the matter. They are also subject to prior monitoring on legality by the



Secretary, and a report from the council's auditor is required when the initiative affects the town council's economic rights and obligations.

- b) *Popular consultations* (Art. 71 of the LBRL) on matters of local interest which are particularly important for the residents and fall within the competence of the municipality. Consultations may not, under any circumstances, raise questions relating to local taxation. Consultations may also be proposed by residents, provided that they meet the requirements for the exercise of the right of popular initiative and are accompanied by a proposal to create an agreement, take action or draft a regulation as referred to in the previous right.

Notice thereof must be given by the mayor of the municipality, subject to the prior agreement of the plenary meeting by absolute majority and after its authorisation by the state government.

- c) *Hearings*. Residents do not have the right to hold hearings during the council's plenary meeting, but the mayor has the discretionary power to require the residents in attendance to express their opinions on one or several issues being dealt with at the plenary meeting. However, concerning associations, they are one of the specific contents of the right to participation. This means that associations may participate in several areas through a hearing:

- (i) At the town council's plenary meeting (Art. 228.1 of the ROFRJEL), provided the association intervenes as an interested party in the administrative processing of the resolution or agreement to be adopted at the meeting of municipal representatives, as stated in the agenda accompanying its announcement, and provided this has been requested by the mayor before the start of the session. Participation must occur before discussion of and voting on the proposal concerned, and is limited to the statement of the association's opinion on the proposal.
- (ii) in Advisory Committees (Art. 227.2 of the ROFRJEL), which normally do not hold public sittings, to whose meetings



associations may be called "with the sole purpose of hearing their opinion or receiving their report on a specific subject".

(iii) in Sectoral Councils in the collegiate organs of decentralised administrations and the collegiate organs of the decentralised administrations of municipal services (Art. 235 of the ROFRJEL). This participation, which must be allowed under applicable legislation and structured according to the specialisation and representativity of the associations, is conditional to the express provision in corresponding municipal regulations or agreements, and must be in line with the terms of and within the scope envisaged therein.

d) The *right to petition* (Art. 231 of the ROFRJEL), through which residents may request explanations or actions from the town council of their municipality. These petitions must be presented in writing.

2. Local Participation from the Autonomous Legislator's Perspective

2.1. References to the local system in the Statutes of Autonomy

A common denominator of all the Statutes of Autonomy approved between the late 1970s and early 1980s is that while the local system was within the competence of the autonomous communities, there were different types of statutes with varying scopes. Beyond the issue of competence, the relevant statutory provisions basically only reiterated the constitutional definition of municipality and province and in some cases indicated the presence of other local bodies (for example, counties).

The reform of the Statutes of Autonomy, which began in mid- 2008, led to the replacement of texts approved in the early years of the Constitution by new texts with new wording and expanded contents, some of which dealt with the local system^{XIII}. Specific statutory sections were devolved to its regulation, which were not the only sections



containing provisions relating to the local bodies comprising the autonomous community; however, the Statutes of Autonomy themselves determined its competences and how it related to the autonomous institutions. The new statutory provisions also incorporated participation as a defining element of the municipality. Therefore, in addition to the classical conception of the municipality as one of the bodies into which the autonomous community is territorially organised, the adoption of the basic statement contained in Article 1 of the state LBRL was agreed upon, identifying the municipality as the "essential" or "most direct" instrument of participation by the local community in public affairs^{XIV}. Nevertheless, the new Charter of Rights in the new statutes also included the right to participation in the local government area (in particular, the right to petition and the right to instigate consultations).

2.2. Local participation in autonomous regulations

In exercising their competences as regards the local system contained in all the Statutes of Autonomy, the autonomous communities have approved their own regulations for local bodies, which have in turn implemented the provisions of state law in the autonomous territory.

In this context, three different regulatory situations must be distinguished. The first includes autonomous communities which (apart from a reference to the competence of local municipal councils to establish and develop structures for citizen participation) have not introduced any regulations regarding the right of local participation. This is the case of Murcia (Act 6/1988 of August 25th), Castile and León (Act 1/1998 of June 4th) and Andalusia (Act 5/2010 of June 11th). The second group is made up of autonomous regulations whose wording includes to a greater or lesser extent the regulation of participation in local authorities: Navarre (Act 6/1990 of July 2nd), Galicia (Act 5/1997 of July 22nd), Aragon (Act 7/1999 of April 9th), La Rioja (Act 1/2003 of March 3rd), Madrid (Act 2/2003 of March 11th), Catalonia (Legislative Decree 2/2003 of –April 28th), the Balearic Islands (Act 20/2006 of December 15th) and Valencia (Act 8/2010 of June 23rd). Finally, a third group includes autonomous communities which have approved laws - that also regulate citizen participation in general terms in the Autonomous Community of Valencia (Act 11/2008 of July 3rd), the Canary Islands (Act 5/2010 of June 21st) and the



historic territory of Guipuzcoa (“*ley foral*” [Regional Law] 1/2010 of July 8th); or that regulate one of the instruments of participation in the local area, specifically popular consultations - Andalusia (Act 2/2001 of May 3rd) and Navarre (Regional Law 27/2002 of October 28th).

Looking at the second and third groups, it is clear that autonomous legislation has introduced very few innovations to basic state regulations on local participation. All seem to consider local participation one of the defining elements of the municipality, and a structural principle for the exercise of their own or delegated competences, as well as a competence in its own right.

In terms of organs, local corporations must commit themselves to creating decentralised administrative organs, especially in fields such as health, sports and culture, to facilitate and channel resident participation, mainly in sectorised organs. In all these cases, organs are given powers of proposal, reporting and consultation. In this area, there is one new factor regarding state legislation: the provision in Act 20/2006 regarding the municipal and local system of the Balearic Islands. When the council’s plenary meeting so agrees, a consultative government body, a kind of social council, with participation by residents and the most representative bodies in civil society, can “guarantee citizen participation in municipal administration, whereby they may study and propose issues related to economic and social development, municipal strategic planning and major urban projects” (Art. 24.2 of this Balearic Islands Act).

Finally, as regards the right to participation, only the Galician Act 5/1997 concerning local administration envisages a provision similar to Article 18 of the state LBRL in establishing the generic framework in which the right to participation must be represented in the law. Article 57 of this Act recognises the following residents’ rights: to vote and be eligible to vote; to participate in municipal administration; to use public municipal services; to be informed: to petition; to request popular consultations and demand the performance and establishment of a public service when it corresponds to a compulsory municipal competence. This last right, which does not appear as such in any other autonomous regulation, also includes the option of lodging claims against the initial approval of the municipal budget when it does not allocate the funds required to put these services into effect (Art. 58.2 of the Galician Act).



More specifically, all regulations included in this second group govern the right to information in terms which are very close to those of the state law. The main difference is the express provision of a range of rights broadly related to information: the identification of authorities, knowledge of the stage of processing of a procedure, access to registers, etc. Most of these are the result of the conversion into rights of participation of rights already recognised under Article 105 of the Constitution^{XV} and the law governing the legal system of public administrations and common administrative procedure, Act 30/1992 of November 26th (Arts. 35 to 46), on the relationship -between administrated persons and the administration, or in some circumstances, contents of the right to good administration, which are included in the Charter of Fundamental Rights of the European Union (2000)^{XVI}. This is confirmed in the laws governing the local systems or administrations of Galicia, Aragon, La Rioja, the Balearic Islands and Valencia.

In relation to other rights, autonomous regulations merely “import” provisions already contained in the LBRL, in particular all matters concerning residents’ associations and their preponderant role in participation in local organs and the holding of local consultations. Although, as already indicated, Martín Núñez has already addressed the issue of consultations in the paper published in this volume, so far these have been subject to individual regulation in the Autonomous Communities of Andalusia, Navarre and Catalonia (Act 4/2010 of March 17th^{XVII}).

Aside from slight differences in the content of the above regulations, one common element is their limited scope of participation: they may promote, inform or complement municipal action, but none of these instruments may diminish the powers of decision of the municipality’s representative organs.

As regards the third group of regulations, if for reasons already discussed autonomous laws governing popular consultations are discounted, there are some other specific regulations that regulate participation in the autonomous territory. Up to now, only two autonomous communities have regulated this matter: Valencia and the Canary Islands. In addition to these, there is also the “*norma foral*” adopted by the Guipuzcoa Provincial Council. This is a series of provisions intended to condense into one organised regulatory and systematic text the main rights regarding the participation of civil society in the public sphere, the mechanisms that can be activated to channel this participation, and the associated duties of public powers to bring it into effect. Their content is instrumental to



the concept of citizen participation as a "mechanism of cooperation in the action of governors"^{XVIII} which "brings public powers closer to civil society"^{XIX}.

Some of the rights pertaining to the local area are the right to information, hold hearings, access archives and registers, and petition (discussed above). Apart from these, regulations may specify other original rights such as the right to the collaboration of public powers on the not-for-profit activities of civil society which encourage participation, or the right to statutory initiative. In addition to rights, there is also a detailed regulation concerning the associations of civil society, establishing their legal systems and their due rights, as well as the duty to foster them. As regards the instruments which channel citizen participation, both regulations allude to mechanisms for citizen consultation which influence the process of adopting the corresponding decision, either in a permanent form (consultation fora) or temporarily (citizens' panels), or after the event, by evaluating the action or decision adopted (citizens' juries).

3. Municipal Participative Experiences

Under state or autonomous regulations, municipalities may not only adapt instruments of participation envisaged under their own special conditions, but also adopt additional mechanisms and formulae to foster citizen participation. Article 24 of the LBRL establishes the obligation of local bodies to create decentralised territorial administrative organs, for which the councils themselves must provide organisation and functions to enable participation. This is a mandate which Article 70 *bis*, Section One of this law reiterates and extends, by requiring that besides possessing these organs, town councils must be active in adopting regulations which govern appropriate procedures for effective citizen participation in local life. In compliance with the latter, town councils have progressively adopted either regulations regarding the organisation and operation of citizen participation, some sections of which regulate and specify the requirements for exercising various mechanisms of participation, or directly regulate it.

As regards organs, municipalities have also – established general and sectoral consultative organs with citizen representation, to provide advice on the actions of the local corporation. In Spanish local government, variously-named municipal councils (the



most common being the *Consejo de la Ciudad* [City Council], or in Cordoba, for example, the *Consejo del Movimiento Ciudadano* [Citizens' Movement Council]), are set up as the highest participative organs in the municipal administration, whose role is to inform, study, debate and advise to determine the main lines of municipal policy in all fields (economic, social and cultural). These are also seen as the organs that coordinate sectoral councils created to facilitate citizen intervention in specific areas of municipal policy. There are many types, depending on the area of municipal action in question: educational or student councils; municipal or local social services councils; councils for the elderly; disability, gender and women's equality; youth and health; sports; sustainability; trade and consumption; immigration; cooperation and solidarity; security, and many more. In some municipalities, it is common for these sectoral organs to coexist with other territorial organs like the *Consejos de Barrio/de Distrito* [neighbourhood or district councils].

As regards specific participation mechanisms, *citizen panels* and *juries* are infrequent, while *participation workshops and fora* are much more widespread. In 2011, for example, the most significant panel was formed in a municipality in the province of Alicante to deal with urban mobility. Juries have been used since the late 1980s in several Andalusian cities (the provincial capitals, Almeria, Huelva, Malaga, Cadiz and Granada) to evaluate how water resources are administered. Municipalities in the Andalusian province of Almeria and the Basque city of Vitoria have held participation workshops on heritage conservation and urban mobility, respectively. Of the fora, many have been involved in municipal budgets: the so-called *presupuestos participativos* [participative budgets]^{xx}. This tool for participation in municipal administration is half-way between mere consultation and co-decision, and residents can make proposals and take general decisions on the municipality's expenditure, prioritising investments or local policies.

4. Some Final Conclusions

The analysis of the state and autonomous regulatory framework within which local participation functions clearly demonstrates the consolidation of the vision of citizen participation in the democratic state, which distinguishes the 1978 Spanish Constitution. In fact, through the constitutional regulation of participation as well as specific instruments



and their scope, the constituent fathers confirmed their decision to set up a constitutional democracy in the form of a representative democracy, in which participation is channelled through representatives freely chosen in periodic elections, to the detriment of direct democracy and people's participation without intermediaries. Moreover, as already shown in other works published in this volume, this doctrine has been maintained by the Constitutional Court since its earliest judgements on the matter. In this context it is relevant to recall an extract from constitutional case law on representative democracy, which states that it must "as a general rule, be complemented by instruments of direct democracy, which must operate logically and as constitutionally required, not undermining or replacing but reinforcing representative democracy" (for all, STC 103/2008, FJ 2 [judgment of the Spanish Constitutional Court]).

This has been the aim that has guided the work of both state and autonomous legislators when establishing the regulatory framework for citizen participation in the administration and action of local corporations. The absolute limit to citizen participation expressly included in several legal precepts has already been indicated: i.e. decision-making capacity is always the competence of the representative organs. This relegates participation to an incidental but still important role: that of acting as a source of greater legitimacy of public decisions and an instrument which contributes to the transparency of the adoption and efficiency of the execution of such decisions.

In spite of the restrictive regulatory configuration of all the above-mentioned participative instruments, real life offers some examples in which it is difficult to separate the propositive, informative and consultative nature of participation from decision-making power. This has been demonstrated through the experience of "participative budgets" in the many municipalities where they have been used, even though limitations to the material field of participation with respect to very specific issues of the municipal budget ensure that it has little effect.

Lastly, and leading on from the last paragraph, I believe that the aims indicated can only be achieved if the final decision adopted by the competent representative organ in the local corporation accepts the outcome of the participative process. Therefore, although it is true that replacement is never an issue, activating any participative process implies promoting the public authority's commitment so as to wholly or partly adopt the resulting



majority opinion. This is more obvious in the local area, where the proximity of decision-making bodies to civil society encourages not only participation, but also close contact between local representatives and the persons represented/participants, enabling the former to be held politically accountable for their administration more intensively and directly than in any other area, whether autonomous, state or community.

* This work forms part of the activities of the research project “Estado autonómico y democracia: los derechos de participación en los estatutos de autonomía” (MCI, DER2009-12921).

^I According to Article 212 of the 1995 local government Act, this was "the first authority of the province as the representative of the government and permanent delegate of the central power" designated by the Council of Ministers (Art. 213). The Statute of Civil Governors approved by decree on October 10th, 1958 envisaged their direct nomination by the Head of State.

^{II} Despite assuming the representative nature of the provincial corporation, chairmen were appointed directly by the Minister of Governance (Art. 222 of the 1955 Act regulating the bases of local government).

^{III} Article 62 of the 1955 Act stated that mayors of municipalities of more than 100,000 inhabitants were to be appointed directly by the Minister of the Interior. Mayors of other municipalities were designated by the civil governor, after communicating with the Minister of the Interior.

^{IV} Fourth rule (section two) and fifth rule (section one) of said law of 1975 for mayors, and fourteen and fifteen (section one) for the chairmen of provincial councils.

^V The *Concejo abierto* [open council] is a system of local government whereby citizens participate directly in municipal government and administration: the plenary meeting of the town council is replaced by an assembly of all the residents of legal age of the municipality. This used to be the form of government of municipalities with less than one hundred inhabitants, traditionally operating with this singular regime, or whose geographical location suggested it for a better management of municipal interests or other circumstances. This particular form of local government, envisaged in the Constitution and implemented in the 1985 basic law of the status of local government, to which reference will be made in the text of this work, has been recently modified by Organic Law 2/2011 of January 28th, which reforms several aspects of the 1985 organic law on the general electoral system. At present, after the municipal elections held in May 2010, some municipalities with a *Concejo abierto* system have gone back to government by a system similar to other municipalities: in addition to a mayor, the plenary meeting of the town council consists of councillors elected by a proportional system. The special characteristics of these municipalities stems from the fact that the number of councillors is limited to two. The institution of the *Concejo abierto* remains in municipalities where it has been expressly agreed—to deal with occasional matters considered appropriate by the municipal corporation. For a more detailed study of direct government, I refer to the works of García Álvarez, 1978, and Orduña, 1988. Also a range of studies written by Cosculluela, 1987, 1989 and 2011.

^{VI} In the words of Francisco Caamaño (2004, 177): “democratically legitimated political centres directly answerable to citizens, capable of designing and implementing public policies in the area of their own interests”.

^{VII} See the comments on the reform in Carro Fernández, 2005, and more specifically, Rodríguez-Arana Muñoz, J., 2004.

^{VIII} For the purposes of the LBRL, the *padrón municipal* [municipal census] is a register of an administrative nature containing a list of the residents of a municipality. The data contained in this register are proof of residence in the municipality and of a person’s normal registered address (Art. 16).

^{IX} In addition to the paper that Pérez Alberdi has published in this volume, I refer to the studies of 2008.

^X Article 70 *ter* of the LBRL specifies these provisions for the sector of territorial ordination and town planning.

^{XI} A more detailed treatment of the law is contained in the work by Sánchez Morón, 1993-1994.

^{XII} As of December 2011, the states with agreements of reciprocity signed by Spain and in force are: Norway, Ecuador, New Zealand, Colombia, Chile, Peru, Paraguay, Iceland, Bolivia and Cape Verde.



XIII See Salazar, 2009, and Salvador Crespo, 2010.

XIV With the exception of the Statute of Autonomy (SA) of Andalusia, see Art. 86.1 of the Statute of Autonomy of Catalonia; Art. 82.1 of the SA of Aragon; Art. 75.1 of the SA of the Balearic Islands; Art. 44.1 of the SA of Castile and León and Art. 54. 1 of the SA of Extremadura.

XV Castellá has carried out a wide-ranging and exhaustive study in 2001.

XVI See Exposito and Castellá, 2008, 76-91.

XVII The state government appealed the Catalan Statute before the Constitutional Court. To date, the appeal of unconstitutionality is pending resolution.

XVIII Quotation from the stated purpose of the Canary Islands Act 5/2010.

XIX Quotation from the stated purpose of the Valencian Community Act 11/2008.

XX For further information on the form taken by this experience in different Spanish municipalities, please refer to www.presupuestosparticipativos.com and Ganuza Fernández, 2006.

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