



Research Note

Improving records management to promote transparency and prevent corruption



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ARTICLE INFO

Keywords:

Transparency by design
Corruption
Records management
Spain
Public information
Regulation

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 through 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

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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 through 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 factors 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

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).

all, with qualified staff.

In this regard, recent years have witnessed the growing importance in Spain of the fostering of policies of transparency in public administrations, leading to the passing of a raft of regulations by both the Spanish State and the country's Autonomous Communities (Cerrillo i Martínez, 2016).

There is a raft of measures to prevent the risk of corruption, amongst them records management. Creation and management of records are integral to any organization's activities, processes and systems. They enable business efficiency, accountability, risk management and business continuity (ISO, 2011, 5).

Records management offers a wide range of possibilities with regard to the prevention of corruption. It is vital that there are good practices that permit the implementation of effective solutions to ensure that those records that should be created are created, leaving evidence of the activities of public servants, permitting the traceability of information back to its origin in accountability processes and ensuring the chain of custody for records, all in the aim of guaranteeing their integrity and reliability over time. In this way, maximum levels of transparency can be achieved.

Therefore, records management provides a methodology for ensuring that authoritative and reliable information about, and evidence of, business activities is created, managed and made accessible to those who need it for as long as required (ISO, 2011, 5). This does not mean that it directly hinders corruption or improves transparency, but it does boost organisations' capabilities in these regards. It therefore contributes to their improved management and enhances their legitimacy.

To achieve proper records management, there is a need for compulsory directives and regulations. There is a direct relationship between internal regulation and the more complete and accurate recording of government decisions and actions. Records provide evidence of compliance to regulations and records management rules provide the guarantees that the evidence is captured in a system and is readily available (Barata et al., 2001, 1).

If there is no control or proper management of records and information, it will be difficult to comply with obligations concerning transparency and access to public information, and it will also be difficult to prevent corruption. This is due to a series of threats (or risks) that lead to failures or incidents and that affect the quality of information. In this article, five risks most commonly associated with corruption are highlighted: the failure to create records (non-existence of evidence), improper access to information, which can lead to unauthorised changes or modifications to records or to the use of insider information, lack of control over traceability of records and, lastly, unauthorised destruction of records.

Identifying these risk situations and dealing with them will make a significant contribution to improving transparency and preventing corruption, either directly or indirectly. In any case, it should be borne in mind that records management itself will not halt corruption and bring about accountability, but it is an essential contributor to public sector integrity (Griffin, 2004, 71). It can contribute to transparency if there is a guarantee that the necessary records are created and if this occurs within reliable records management systems that ensure that the evidence of decisions and operations is complete and has not been interfered with (Cain et al., 2001, 409). It is therefore vitally important to create and retain records within the system to preserve their authenticity, reliability and integrity of over time, and to be able to prove that this is the case.

Capturing and preserving information in records management systems guarantees the possibility of traceability of the information back to its original source (record). It also permits the monitoring of all the operations/transactions through which the record has passed and with which it is associated (via metadata) from the moment of its creation and capture within the system. This means one can know if there has been improper or unauthorised access to the information and provides evidence of possible manipulation or deletion of documentation.

Changes or falsifications of the record had to be able to be tracked by the records management system, and the mere absence of recordkeeping controls would create suspicion that tampering had occurred. Within this paradigm, even if the record itself no longer existed, the recordkeeping system would have preserved evidence of who had accessed it and when, and who had appraised or destroyed it and when (Iacovino, 2010, 184). Traceability is particularly obligatory in accountability processes, due to the need for the facts to be verified. It is directly related to tools such as metadata schema, classification schemes and access roles, amongst others.

Working within a records management system also guarantees usability, which is what permits real access to information. Usability is directly related to preservation, since without long-term preservation policies it would be impossible to access the content of records (particularly electronic ones). This type of policies ensures that there is a standardised, guaranteed approach to format migration. There is no point in keeping documents or information that are inaccessible or illegible, even less if the purpose of keeping them is to make them publicly accessible. Some of the tools that can help with preservation and usability are file formats schemes, digital preservation plans, classification schemes and appraisal schedules.

Each of these records management risk situations is directly related with the goals of transparency, both active and passive, as well as the associated accountability processes. Dealing with these risks mitigates the threat, equips the public administrations with better records management and, accordingly, more effective and trustworthy transparency. Tackling these risks must necessarily start on the basis of the implementation and upkeep of records management systems in the public administrations. There is no need to create anything new, but simply to follow the existing methodology and systematically put it into practice.

The existence of records management systems in the public administration also entails working in accordance with clearly defined, standardised processes and procedures. Analysis of each and every process allows one to identify an organisation's information requirements, its workflows and the documents required for each work process (Casadesús de Mingo et al., 2016, 11). This work is carried out continuously, thus permitting the improvement and simplification of processes and procedures in organisations. This is a further added value of working within a standardised records management system.

This is why transparency and accountability should not be seen as end processes, but should be taken into account from the very moment of a record's creation, with the active participation of the record manager, from the viewpoint of what kind of record is created and by whom, how it is captured in the records management system and how it is made available to its producers and to society as a whole.

In this way, one can guarantee the reliability of not only the records and information published or made accessible, but also of the workings of the organisation's records management system processes. This provides the public administrations with added value and permits the trustworthy rendering of account of its actions and decisions, and also of its records management system. As it has been seen, all of this can have a positive effect on the prevention of corruption, even though it may not be enough on its own.

4. Discussion: an analysis of current Spanish legislation

Spain currently has a range of regulations in force defining a number of aspects important to ensuring records management's contribution to the fight against corruption. And, as it shall be seen in the coming pages, a number of different regulations govern elements of transparency by design.

Nonetheless, Spanish State legislation contains practically no reference to records management. Therefore, the analysis will focus on the legislation of the Autonomous Community of Catalonia, which displays a greater concern for records management with regard to

transparency by design (Cerrillo i Martínez & Casadesús de Mingo, 2016).

The elements that provide the legal make-up for transparency by design are scattered across a number of regulations that, for illustrative purposes, it shall be divided into three groups: those on public transparency, those on archives and records management and those on e-government:

4.1. Regulations on public transparency

Recent years have seen very significant developments on regulations on public transparency in Spain. In fact, Spain probably has today one of the world's most extensive and, in a way, ambitious, transparency-related legislation.

Despite this, generally speaking, legislation on public transparency makes no mention of records management, with the exception of the Catalan Law on transparency of 2014, whose articles include different concepts inherent in records management. In any case, Catalan legislation's provisions on transparency-related records management are unclearly expressed and insufficiently developed to be of any real use to public administrations in complying with their transparency obligations and, ultimately, in preventing risks that might give rise to cases of corruption.

Catalan legislation's concern for transparency by design is nothing new. In the past, legislation on archives and records management had explicitly acknowledged that: "the proper management of records is vital in terms of legal certainty and efficient and transparent actions and openness towards public participation" (preamble to Law 10/2001, of 13 July, on Archives and Records).

A reading of Catalan legislation on transparency reveals the inclusion of a number of tools of use in promoting transparency by design and that may play a significant role in preventing the risk of corruption.

Firstly, the administrations have the obligation of implementing a single records management system that guarantees the correct treatment of records and information in their active, semi-active and inactive phases (i.e. over their entire lifecycle) (Article 5.2 of Law 19/2014, of 29 December) so as to comply with their obligations: in this case, with regard to transparency. This records management system must integrate internal administration and information disclosure management, and must thus overcome the traditional, administrative management-related viewpoint and embrace a record's entire lifecycle, from its creation or incorporation (including the associated metadata), not to mention its classification, description, storage, conservation, access, destruction, use and traceability. The importance of this is clear, as can be seen from the Third Open Government National Action Plan for the United States of America (October 2015), which states that "the backbone of a transparent and accountable government is strong records management". The records management system must, therefore, allow for authentic documents to be facilitated, thus requiring that public administrations be in a position to guarantee that the information they provide is a faithful reflection of that contained in their records management systems. It must also be interoperable with both the transparency portal created by each public administration and with the records management systems of other public administrations.

Secondly, the records management system must facilitate the location of any record or information and its automatic linking with its access and disclosure system (Article 6.1.d of Law 19/2014). In this regard, the law also provides that public administrations must organise information in such a way that it be easily accessible and comprehensible.

Thirdly, public administrations must create a transparency portal to comply with their disclosure obligations, and records management is a crucial tool in this, in that it helps capture, manage and facilitate access to records over time. This would also ensure compliance with the provisions of international protocols (ISO 15489:2016 or ISO 30301:2011) (article 5.4 of Law 19/2014).

Fourthly, public administrations must arrange information thematically and chronologically to facilitate its easy and intuitive finding by means of a records classification scheme (article 6.1.d) of Law 19/2014.

Fifthly, there is a need for records appraisal. It is the responsibility of Catalunya's National Committee for Records Access, Appraisal and Disposition to draw up records access and disposition tables for each series of records, the retention period and the criteria for applying the regulations that govern access to the documents.

So, according to Catalan transparency legislation, to achieve effective public transparency, there is a need to guarantee that all the information that has to be disseminated by the public administrations be duly classified, organised and structured pursuant to the records management system's pre-established specifications. In particular, there is a need to guarantee that transparency governs the entire records lifecycle, from the creation of the information to its dissemination, as it has already been established.

Beyond the regulation of a range of records management-related issues, one should also be aware of the Catalan Law's provisions regarding the different mechanisms for transparency, which are very detailed, and which thus doubtlessly have a positive impact on preventing the risks of corruption and may, as the case may be, facilitate the identification of any irregularities concealing cases of corruption.

The Law on transparency governs active transparency: this refers to the mechanisms by means of which the public administrations proactively disseminate public information, making available to the public information on the activities they carry out and the decisions they take, so that they may become aware of them in real time (Cerrillo i Martínez, 2016). In particular, the Law states that public administrations must disseminate truthful and objective information via transparency portals so that the public may be aware of the actions and workings of the public administration and exercise control over said actions. Additionally, the Law states that the information must be continuously disseminated and permanently updated, with express indication of the date it was last updated. Information must be organised in such a way that it is easily accessible and understandable and to facilitate simple and quick consultation via search tools equipped with the technical features to guarantee this. Furthermore, according to the Law, consultation of the information by computer must be facilitated with the use of easily understandable formats that permit interoperability and reuse (articles 5 and 6 of Law 19/2014, of 29 December).

Additionally, Catalonia's Law on transparency governs passive transparency, by means of which those over 16 may have access to public information, after requesting that the public administration show it to them or provide them with a copy (article 18 of Law 19/2014, of 29 December). This right to access may only be limited in the cases contemplated in applicable legislation, to protect other interests or rights whose protection is legally deemed a priority. Enforcement of these limits is not discretionary, must be duly motivated and applied in a way that is proportional and in line with the purposes and circumstances of the case in question (article 20 of Law 19/2014, of 29 December).

Lastly, Catalonia's Law on transparency makes allusion to collaborative transparency, which is associated with the possibility of the public reusing public administrations' information. Reusing public sector information can increase transparency, in that the public itself may provide greater dissemination for public information or information based thereon by means of the intensive use of technologies and monitor and supervise public activities (Cerrillo i Martínez, 2012). Reuse consists in the use of records in the hands of public administrations and bodies by physical or legal persons for commercial or non-commercial purposes, provided that said use does not constitute a public administrative activity or the exchange of records between public administrations in the exercise of the public functions assigned to them (article 16 of Law 19/2014, of 29 December, and article 3 of Law 37/2007, of 16 November, on the re-use of public sector information).

4.2. Regulations on archives and records management

Catalonia has historically shown an interest in archives and records management, and this has found form over the course of time in the adoption of a number of regulations aimed at developing an archive system inspired by the most cutting-edge models around the world.

Currently, Law 10/2001, of 13 July, on archives and records management in Catalonia, aims to ensure that recordkeeping in Catalonia complies with the functions and purposes of interest to society.

More particularly, and for the purposes of this article, it is worth highlighting the following words from the Law's preamble: "the configuration of a transparent and democratic public administration that serves its citizens. In this period, the public administrations have become keenly aware of the importance of records management and of the proper organisation of archives as key elements in administrative management, in the services it provides the public and the social utility of a documentary heritage. The administrations have taken on board the existence of archives as another body in their organisation and as a basic resource for the range of cultural services they provide to the public. Also not to be forgotten, in the same period, is the constant and progressive development of information and communication technologies (ICT), which have had and continue to have an influence on records management and archives". So, Catalan legislation clearly links records management and transparency, and makes clear its wish for records management to provide a significant contribution to increasing transparency.

This link finds concrete expression in a number of the Law's precepts.

Firstly, the Law defines a records management system as the set of operations and techniques, integrated in general administrative management, based on the analysis of the production, processing and value of the records, whose purpose is to efficiently and systematically control the creation, receipt, upkeep, use, conservation and disposition or transfer of records (article 2.e of Law 10/2001, of 13 July). The records management system must guarantee the production of all the documentation associated with the activity of the public administrations. But it must also guarantee that, from its creation and throughout its lifecycle, the documentation incorporates all the metadata necessary associated with the applicable transparency system, to foster public awareness of the records.

Secondly, legislation on archives establishes that, after concluding the active and semi-active phases, all public documents must be subject to disposition regulations, on whose basis it will be decided either to conserve them, for their cultural, informative or legal value, or, alternatively, to destroy them (article 9 of Law 10/2001, of 13 July).

Thirdly, with regard to records destruction, the regulations implementing archive legislation govern retention periods and the possibility of regularly eliminating records as part of the normal activities of records management in a public administration, pursuant to the criteria established by the National Committee for Records Access, Appraisal and Disposition via the records assessment tables. This is an important aspect in tackling the risk of corruption, in that only records meeting the established criteria may be destroyed in line with the stipulated protocols. This prevents important evidences on cases of corruption from disappearing without record.

4.3. Regulations on e-government

Lastly, it cannot be ignored the fact that, today, public administrations use information and communication technologies for the creation, management and archiving of the records they produce. Spain also has highly detailed and ambitious regulations on the use of electronic media by the public administrations. More particularly, of special interest for the purposes of this article are Spanish legislation's stipulations with regard to the use of ICT for the archiving of public records, as well as the security and interoperability measures that must be

adopted by public administrations.

Regulation of e-government has experienced very significant developments in recent years.

In 1992, Spain was a pioneer in regulating electronic media in the activities of the public administrations.

Nevertheless, it was not until 2007 that Law 11/2007, of 22 June, on citizens' e-access to public services, led to important changes in the regulation of the use of electronic media, providing a step forward in the possibility of their use, in that the public administrations had to use them. This Law contemplated the possibility of electronically storing the records used in administrative actions. In particular, any e-records containing administrative acts affecting the rights or interests of private individuals must be kept in electronic form. Additionally, it established that they had to feature security measures guaranteeing the integrity, authenticity, confidentiality, quality, protection and conservation of the records stored, as well as identification of their users and access controls and compliance with the guarantees contemplated in data protection legislation (article 31 of Law 11/2007, of 22 June, on citizens' e-access to public services).

Currently, Law 39/2015, of 1 October, on the common administrative procedure for the public administrations, and Law 40/2015, of 1 October, on the public sector's legal regime, provide for the processing of administrative proceedings exclusively by electronic means, eliminating paper from public offices (Cerrillo i Martínez, 2016). Additionally, these laws have also represented an innovation with regard to the regulation of electronic archives. They contemplate that all public administrations must keep a single electronic archive of the e-records associated with completed procedures, under the terms established in the applicable governing regulation. These e-records must be stored in a format that guarantees the records' authenticity, integrity and conservation, as well as their ability to be consulted irrespective of the time that has passed since their issuing (article 17 of Law 39/2015, of 1 October, on the common administrative procedure for the public administrations, and Law 40/2015, of 1 October, on the public sector's legal regime.). The long-term retrievability and preservation of e-records produced by the public administrations so requiring must be guaranteed, pursuant to the specifications on the lifecycles of the services and systems employed (article 46 of Law 40/2015, of 1 October, on the public sector's legal regime).

The problem arises when it comes to establishing which records should be archived electronically. According to Law 39/2015, the administrative case file is electronic in format and contains, in order, the records and actions that provide the background to and basis for the administrative resolution in question, as well as the proceedings undertaken to enforce it. Nevertheless, the administrative file shall not include ancillary or supporting information, such as that contained in applications, files and computerised databases, notes, drafts, opinions, summaries, internal communications or reports or those between administrative entities or bodies, as well as value judgements issued by the public administrations (article 70 of Law 39/2015, of 1 October, on the common administrative procedure for the public administrations, and Law 40/2015, of 1 October, on the public sector's legal regime). Given this, there is information that could potentially have an impact on the risk of corruption that would not be included in the electronic archive.

Electronic archives should feature security measures, pursuant to the provisions of the National Security Framework, which guarantee the integrity, authenticity, confidentiality, quality, protection and conservation of the records stored. They must also ensure the identification of users and access controls, as well as compliance with the guarantees contemplated in data protection legislation. This Framework states that the public administrations must adopt a security policy that establishes the tools required for continuous management of security and that shall, amongst other things, carry out risk analysis and management, following an internationally-recognised methodology, and establish the mechanisms necessary for authorising and controlling

access by specific users and for the protection of the information stored. In particular, this security shall include procedures guaranteeing the long-term retrievability and preservation of the electronic records created by the public administrations within the scope of their powers. It should also be noted that all information in non-electronic format that has been the cause or direct consequence of the electronic information must be protected with the same level of security as the latter (articles 11 ff. of the National Security Framework – *Esquema Nacional de Seguridad*).

Furthermore, it should be borne in mind that the electronic case file must comply with the provisions of Spain's National Interoperability Framework. This establishes that public administrations must create electronic repositories that are, functionally speaking, complementary and equivalent to conventional archives. Furthermore, the Technical Interoperability Standard for e-records management policy establishes the protocols for managing records in digital format and also contemplates the duty to conserve this documentation (section VI, Technical Interoperability Standard for e-records management). However, it does not include a description of the lifecycle of the electronic case file.

Finally, it is interesting to note that the case file's electronic index provides a tool for guaranteeing the file's integrity and immutability: in other words, that it remains complete, with no alteration to any essential aspect. To this end, it is stipulated that the index be signed electronically (Technical Interoperability Standard implementation guide, 2016).

5. Concluding thoughts

Corruption and secrecy are closely linked. To tackle institutional opacity, there is a need to guarantee proper records management, which includes transparency throughout a record's lifecycle. When transparency reaches all the parts of records management in the public administrations, the better equipped they will be to prevent risks that may conceal cases of corruption.

Current legislation in Spain does not properly reflect these ideals. Only in Catalonia can one observe concern for the need to integrate records management and transparency. Nevertheless, this concern is only partially and insufficiently reflected in legislation. The Law on transparency and access to public information in Spain has been developed without taking into account the importance of having records management systems in the public administrations. Legislators have ignored the instrumental and methodological fundamentals, thus greatly hindering the ability to become truly transparent by the legally established deadlines.

Therefore, Spain has a need to update its legislation on archives and records management with regard to access to information, transparency and accountability. Currently, its legislation on records management does not reflect reality and suffers from important shortcomings. This has meant that professional records managers have been relegated to end-of-process tasks in a large part of the public administrations, ignoring the need to include them in the definition of records management policies for transparency and access to public information. In the end, public administrations are not promoting policies for the improvement of records management, either as a tool for enhancing transparency or as one for preventing the risk of corruption.

Additionally, regulations must provide a proper guarantee of all the information created by the public administrations' activities being properly documented, to provide the necessary evidence of the activities and procedures carried out. This matter is of particular importance with regard to documentation on senior officials, amongst whom most corruption in Spain is to be found.

In the end, above and beyond improvements in legislation, what is needed is greater investment in archives and records management, so that society can be sure that the information made public is reliable,

trustworthy and authentic, that it is complete, that it is accessible to the right people and that no information has been destroyed without complying with the established objective criteria. Only in this way will public administrations once again enjoy the legitimacy and credibility that have been so greatly tarnished in recent years by the countless cases of corruption.

All this cannot, again, be achieved without a real political will to eradicate corruption. The improvements and methodologies that have explained are a small contribution to creating a healthier, better-informed society.

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