



OECD Public Governance Reviews

Open Government in Biscay



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Foreword

Local governments are at the forefront of open government reforms. Their smaller size allows for greater proximity to citizens, making it easier for them to meet demands for transparency, accountability and responsiveness. It also allows them to implement more targeted and innovative public policies and to promote the principles of open government.

The government of the Province of Biscay has been implementing initiatives linked to the principles of open government for several years. It also has a long tradition of stakeholder participation, especially in the co-production of social services. Building on this, the current government of Biscay, elected in 2015, identified transparency, participation and closeness to citizens as guiding principles of its programme. As part of its open government agenda, in 2017, Biscay published an Open Government Action Plan that consolidates and builds upon previous participation and transparency initiatives, and includes a roadmap for achieving specific commitments. Biscay has asked the OECD for a thorough assessment of its open government agenda.

The analysis in this Review is based on the ten provisions of the 2017 OECD Recommendation of the Council on Open Government. It provides an in-depth assessment of Biscay's institutional, legal and policy frameworks for implementing open government initiatives, with a particular focus on the creation of a sound monitoring and evaluation system. The findings indicate that Biscay has demonstrated high-level political commitment and leadership around open government, which will help anchor it within the public administration. The government has also carried out important initiatives in the areas of transparency and stakeholder participation. However, further efforts are needed to develop a holistic open government strategy and to institutionalise the open government agenda to ensure their successful and sustainable long-term implementation. To that end, the Review includes recommendations for the Province of Biscay on how to foster a public governance culture that empowers all stakeholders to play an active role throughout the entire policy cycle.

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Abbreviations and acronyms

ATI	Access to Information
EUDEL	Basque Local Governments Association (<i>Asociación de Municipios Vascos</i>)
BBAG	Bilbao Biscay Action Group
CoG	Centre of Government
CSOs	Civil Society Organisations
EIF	European Interoperability Framework
GDP	Gross Domestic Product
IRM	Independent Reporting Mechanism
ICTs	Information and Communication Technologies
IT	Information Technology
LILE	Law of Local Institutions of the Basque Country (<i>Ley de Instituciones Locales de Euskadi</i>)
M&E	Monitoring and Evaluation
NAP	National Action Plan
NDP	National Development Plan
NGOs	Non-Governmental Organisations
OGAP	Open Government Action Plan
OGD	Open Government Data
OGP	Open Government Partnership
PEM	Public Employment and Management

Executive Summary

The Province of Biscay has embraced an open government agenda as a way to improve government efficiency and effectiveness while bringing the administration closer to its citizens. Biscay has made significant progress by developing an Open Government Action Plan (OGAP), adopting the Provincial Law on transparency, and creating a stakeholder participation framework. However, the implementation of the OGAP remains fragmented inside the public administration and according to thematic area, and the Province could consider creating and institutionalizing a comprehensive open government strategy and mainstreaming existing stakeholder participation practices across sectors and throughout the entire policy cycle to ensure long-term success.

Setting the scene for open government reforms

The Province of Biscay in Spain has a high degree of autonomy, particularly in its taxation regime and the size of its economy. Biscay has the largest gross domestic product (GDP) of the three Basque provinces, which provides it with the economic capacity and flexibility to implement ambitious policies, strategies and initiatives. The Province has a strong culture of stakeholder participation and public-private collaboration, especially in the co-production of social services. This culture shapes Biscay's open government environment to a large extent.

Strengthening policy, legal and regulatory frameworks for open government

Biscay has shown high-level political commitment and leadership in open government reforms. Its definition of open government reflects the particularities of the Province and seeks to change the culture of the public sector to improve public services. Although Biscay has developed a 2017-2019 OGAP with short-term commitments, the Province could consider developing a more comprehensive, long-term open government strategy that includes key open government initiatives, together with short, medium and long-term goals and indicators. Biscay adopted its own Provincial Law on Transparency in February of 2016 along with a plan to ensure its implementation. This Provincial Law complies, in general terms, with OECD good practices and important progress has been made in its application. The Province could continue its dissemination initiatives and awareness campaigns among all stakeholders to ensure compliance from entities and public officials subject to the law.

Ensuring a sustainable implementation of Biscay's open government agenda

In 2015, Biscay created two new institutional actors related to the open government agenda, demonstrating its materialising high-level political commitment. The first is the Observatory of Biscay, which is responsible for elaborating, co-ordinating, and monitoring the OGAP. The Observatory also monitors public policies and implements participative

initiatives. The second is the Cabinet of Modernisation, Good Governance and Transparency, responsible for initiatives focused on modernising the public administration and improving transparency. At the same time, implementation of the OGAP is fragmented by department and by open government principle. While these institutional arrangements are intended to encourage more ownership of open government initiatives, they are not sufficient to counter the risk of fragmentation of Biscay's broader open government agenda. Creating a committee that centralises the co-ordination of this agenda could address this risk.

Policy makers must be properly trained for reforms to be successful. Biscay has made significant efforts to include open government principles in competency frameworks, codes of conduct and the job profiles of its civil servants and appointed senior public officials. However, further training is needed to improve "open government literacy", which is the combination of awareness, knowledge, and skills that civil servants and stakeholders require to engage successfully in open government strategies and initiatives. Internal communication campaigns can further raise awareness, understanding and acceptance of the overall open government agenda.

Biscay has implemented several initiatives on digitalisation, promoting open data, reducing bureaucracy and encouraging the use of ICTs at the local level. It could build on these efforts by further cultivating external demand for data and working with municipalities to tailor new technological tools for related policy areas such as stakeholder participation.

Building a monitoring and evaluation framework for open government

The development of a monitoring and evaluation (M&E) system is a high priority for the government of Biscay. However, there is no legal or policy framework guiding M&E across government. The Province recognises the benefits of such frameworks and has started developing an M&E system. Policy makers could consider centralising responsibilities regarding M&E into a single institution in charge of developing a whole-of-government M&E system. Promoting the use and quality of evaluation results could be among the Province's priorities. To this end, Biscay could further develop an M&E culture by offering specific training and guidelines to develop these skills in public officials.

Biscay engaged citizens and public officials in assessing the progress of the OGAP, fostering, to a certain extent, a sense of ownership of it, as well as promoting open government principles both inside and outside public institutions. Biscay could complement its perception-based measurements with a monitoring mechanism that collects regular, up-to-date quantitative data on the implementation of open government initiatives. The gradual development of an M&E system will improve Biscay's capacity to evaluate the achievements of open government initiatives. In the long term, the government could also use a government-wide M&E system to conduct pilot evaluations of the openness of sectorial policies.

Mainstreaming stakeholder participation in Biscay

Biscay has a longstanding participation culture, especially in the social sector. The Province has demonstrated the importance it gives to stakeholder participation in the policy-making cycle. In 2018 Biscay published a Plan for Participation 2018-2019, a Model for Citizen Participation and a Map for Citizen Participation, which form a policy framework for implementing stakeholder participation initiatives. To consolidate such policy frameworks in the long term, other OECD countries have passed laws and

regulations. The current communication strategy for participation and open government focuses only on specific initiatives; there is a need to raise awareness and understanding among stakeholders of open government reforms as a whole.

Finally, Biscay is taking important steps to encourage consultation beyond regulatory processes. Stakeholder participation in policy design, implementation, monitoring and evaluation occurs mainly in social services, for example with the Civil Dialogue Table. Biscay could transfer and mainstream this good practice to other sectors of the Province to ensure that stakeholders are involved throughout the whole policy cycle.

Assessment and recommendations

Setting the scene for open government reforms

Biscay's particular multi-level governance structure

A country's or province's context plays an important role in the way its policies and service delivery are designed, implemented and monitored. It is crucial, therefore, to understand the drivers and the space in which open government reforms develop. The Province of Biscay has a particular multilevel governance mainly due to a division of competencies between the different administrations in the Basque Country (Basque Country, provinces and municipalities) that do not follow a hierarchical distribution. The whole region has a high degree of autonomy in relation to the central government of Spain. The main competencies of the Provinces of the Basque Country, including Biscay, are tax collection and policy, territorial planning, roads and public works, environment, cultural heritage and social welfare, as well as the economic and financial tutelage of the municipalities. Biscay is characterised by its high degree of autonomy. The fiscal system represents one of the region's most notable characteristics, which establishes that the Basque Provinces are responsible for setting, collecting and distributing taxes.

Biscay's socio-economic and cultural heritage

Biscay has the largest economy of the three provinces in terms of size of gross domestic product (GDP), which provides it with the economic capacity and the flexibility to implement ambitious policies, strategies and initiatives. Biscay, and more generally the Basque Country, have a strong culture of social participation and public-private collaboration. The historic culture of participation has led civil society to build strong links within its community. This particular sense of community has favoured participative processes in the social and economic sectors of the Province. The social side, or social model as it is known in Biscay, is based on historic collaboration between non-governmental organisations and other non-profit organisations (the so-called "third sector") and the Department of Social Services to co-create and co-implement public policies and services.

Strengthening policy, legal and regulatory frameworks for open government

An enabling environment is an essential and necessary precondition for open government reforms to flourish. Such an environment is composed of a sound and comprehensive policy, legal and regulatory framework. A policy framework consists of a holistic strategy that includes short-, medium- and long-term objectives, initiatives to achieve them, a definition of open government adapted to the context in which its reforms are meant to thrive and an explicit link to how the strategy will contribute to high-level policy objectives. Each legal and regulatory framework is by nature context-specific and can take several

forms, particularly in a local government such as Biscay, which has an articulated multi-level governance structure.

Biscay's Open Government Action Plan: Paving the way for a holistic strategy

Biscay has shown high-level political commitment to, and leadership for, open government reforms. In early 2017, Biscay launched the 2017-19 Open Government Action Plan (OGAP). In this plan, Biscay aims to change the culture of the public sector with the underlying objective of improving public service delivery through 14 specific commitments. Although the definition of open government outlined in the OGAP is in line with OECD good practices, public officials and municipalities did not seem to fully grasp it, underscoring a need to better communicate and disseminate it.

In addition, Biscay aims for an open state approach, as provided by the OECD Recommendation of the Council on Open Government. Nevertheless, the action plan only includes municipalities in one commitment while no other branches of government are included. Biscay has made significant efforts to align the OGAP with some of the actions of Bizkaia Goazen 2030, the provincial strategic plan; however, it is not clear how the OGAP contributes to the higher and long-term objectives established in the provincial strategic plan.

Overall, two-year action plans, like the OGAP, act as catalysts for the implementation of open government initiatives and can also help governments raise the profile of open government initiatives, as well as push for high-level reforms. However, they are not considered comprehensive strategies, as they establish short-term objectives and lack the long-term vision that a comprehensive one can provide. Building on the lessons learned from the OGAP, Biscay could consider developing a comprehensive open government strategy in order to ensure the success and long-term commitment of its open government agenda. In order to so, Biscay may wish to consider:

- Ensure long-term, high-level political will, commitment and leadership by making further efforts to foster them in public officials through, for instance, training and communication campaigns and involving them in the creation of the open government strategy.
- Better communicate and disseminate Biscay's definition of open government in order to ensure that all stakeholders have a common understanding of open government.
- Ensure coherence between the commitments and the goals of the strategy on the one hand, and the strategy with Biscay's high-level and strategic objectives, in the other hand.
- Streamline under the strategy all other related plans and initiatives to open government principles (mainly transparency and stakeholder participation) so that it becomes the baseline policy for all related plans and initiatives.
- Ensure an inclusive process and secure buy-in from a wide range of stakeholders for the creation of the open government strategy by:
 - Involving media associations and journalists, local governments as well as the legislative and judicial branches.

- Considering organising town hall meetings and using social media, so as to have a direct exchange with citizens and enlarge the spectrum of stakeholders consulted.

In relation to designing and implementing its open government agenda and moving towards becoming an open territory, Biscay could:

- Include other key actors of the Province, such as the legislative branch, and could benefit from the ongoing Open Government Partnership (OGP) Local Programme of the Basque Country to include the municipalities – beyond the ongoing co-operation for transparency and technology tools – as well other actors of the Autonomous Community such as the Basque Ombudsman, *Ararteko*, while respecting their level of autonomy.
- Further strengthen its collaboration with municipalities on aspects that go beyond transparency and information technology (IT). For instance, Biscay could provide capacity building on stakeholder participation for local governments. Furthermore, the Province could create a space to share good practices on the principles of open government with the Basque Local Governments Association (EUEDEL) and the municipalities.

The Provincial Law on Transparency at the core of Biscay's open government legal and regulatory framework

Acknowledging that access to information (ATI) laws are the cornerstones of open government and are a key element to reduce corruption and foster trust among citizens and their governments, Biscay adopted its own Provincial Law (*Norma Foral*) on Transparency in February of 2016. The objective of the Provincial Law is to guarantee transparency in two dimensions: proactive disclosure and the right to access public information. The scope of the Provincial Law includes the executive and legislative branches as well as private entities managing public funds; it does not cover other actors, such as the judicial branch or municipalities. The type of information disclosed proactively by the Provincial Law is in line with OECD standards. Citizens can request information electronically, on site or by mail, providing official proof of natural or legal identification; however, more and more countries are allowing anonymous requests. The administration has 15 days to respond once a request is filed; this falls within OECD standards. Nevertheless, it provides for administrative silence, which could potentially lead to discretion and legal insecurity, affecting the guiding principles of transparency.

Since the entry into force of the Provincial Law on Transparency in February 2016, Biscay has carried out additional activities that have contributed to its proper implementation, as well as worked to build a culture of transparency in the Province. One example is the Provincial Plan for Transparency, published in 2017. The annual monitoring report of the plan showed good progress; however, a certain level of internal resistance to change hampers the implementation of the law. As there may be a lack of awareness of the law and its provisions, public officials may perceive it as a burden in addition to their regular tasks, or that it creates extra responsibilities. In order to secure successful implementation of the Provincial Law on Transparency, Biscay could consider:

- Continue to carry out the dissemination and awareness-raising campaigns in order to increase knowledge among all stakeholders, and to ensure compliance from entities and public officials subject to the law.

- Continue to disclose the salaries of all public officials as well as their assets.
- Allow requests for information to be made anonymously.
- Continue the practice that every request is adequately responded to, either with the information that has been requested, with proper justification in case the request is denied by non-admission, or in the case of an exemption.

Ensuring a sustainable implementation of Biscay's open government agenda

Having the right institutional arrangements - understood as the existence and interaction of different stakeholders in a given national or local government that have a mandate and/or a role to play in the open government agenda - will ensure effective and efficient implementation of an open government strategy and its initiatives. Furthermore, as the use of information and communication technologies (ICTs) by governments and other stakeholders make many open government initiatives possible, it is essential to develop them and promote their use.

Towards robust institutional arrangements for effective and sustainable implementation of Biscay's open government agenda

Biscay has demonstrated its high-level political commitment to open government principles with the creation of two new institutional structures for open government: the Cabinet of Modernisation, Good Governance and Transparency (*Gabinete de Modernización, Buen Gobierno y Transparencia*) and the Observatory of Biscay (*Observatorio de Bizkaia*). Biscay chose a sectoral implementation of the OGAP so that each commitment is owned by the department in charge of its implementation. While these institutional arrangements are intended to provide more ownership, they are not sufficient to counter the risk of fragmentation of Biscay's broader open government agenda. Furthermore, the lack of institutionalisation of the open government agenda may hinder the long-term impacts of the strategy and real cultural change within the public administration. In order to build and consolidate robust institutional arrangements for effective and sustainable implementation of the open government agenda, beyond the OGAP, Biscay could consider:

- Designate an office responsible for developing and co-ordinating the strategy and the open government agenda as well as for monitoring its implementation, while maintaining sectoral ownership of the open government initiatives. The office needs to have a clear and well-disseminated mandate and use a more proactive approach to positioning it as the office in charge.
- Ensure that the office in charge of co-ordinating the open government agenda remains at the highest level, at the Centre of Government (COG) across political levels.
- Designate open government officers in each of the departments and bringing them together regularly, as members of a committee, to discuss the challenges they faced and the solutions implemented to overcome them, share good practices and explore synergies.
- Create an open government committee composed of all institutional actors involved – and not just those responsible – in each of the commitments. The committee could also include other key actors, such as representatives from the judicial and

legislative branches, the *Ararteko* (the Basque Country's Ombudsman), municipalities as well as EUDEL (the Basque Local Governments Association) to achieve an open territory.

Increasing open government literacy among Biscay's public officials

The 2018 OGAP's intermediate self-evaluation report identified the need to develop the capacity of its staff in charge of implementing open government initiatives as one of the priority areas for internal improvement. Biscay has made significant efforts to include open government principles in competency frameworks, codes of conduct and the job profiles of its civil servants and appointed senior public officials. However, "open government literacy", which is the combination of awareness, knowledge, and skills that public officials and stakeholders require to engage successfully in open government strategies and initiatives, could be further increased by providing training to civil servants and appointed senior public officials, as both are subject to different laws, on open government principles. Additionally, Biscay does not have a comprehensive internal communications campaign on open government for all public officials. Currently, the dissemination of information related to open government is fragmented by sectors and is mainly focused on transparency.

Further efforts are needed to co-ordinate messages on open government initiatives, both horizontally and vertically, and to raise awareness and understanding of the open government strategy and initiatives among public officials. To raise open government literacy among its public officials and embed skills and capabilities that promote accountability, integrity, transparency and stakeholder participation in public officials' daily responsibilities, Biscay could consider:

- Include open-government-related principles and skills in competency frameworks, codes of conduct and job profiles by:
 - Developing a code of conduct or charter on open government for all public officials, which would include transparency, integrity, accountability and stakeholder participation as principles, as well as clear guidelines on how to put them into practice in their day-to-day work. Biscay could go a step further and develop this code of conduct or charter in co-operation with public officials.
 - Including, for certain positions, specific skills related to stakeholder participation, such as negotiation skills, mediation skills and communication skills, among others, to design and implement successful open government strategies and initiatives as well as the capacity to design and implement participation practices.
- Ensure that training continually raises awareness and strengthens skills by:
 - Developing a training module for all public officials on the principles and the definition of open government as well as on the central tenants and benefits of the open government strategy. This training could be formally included in the Training Career Plan. More detailed and in-depth training on different aspects of open government could complement this comprehensive training.
 - Including a commitment that refers directly to training on several aspects of open government, when developing the next open government strategy.
- Reinforce internal communications to raise internal awareness and understanding of open government reforms by:

- Building on the efforts already made on transparency and expanding the content available in seminars and on the *Atarileku*, the online portal (Intranet) for public officials, to include information on the open government agenda as a whole. For example, information on the benefits of open government, its principles and the initiatives that Biscay has taken could be included. To draw greater attention from public officials, Biscay could also move away from only publishing on line (which requires an action from the public officials) and develop circulars and posters on the open government agenda on a more regular basis, a forum for public officials and pop-ups on the Intranet.
- Convening the open government officers of each department in a network to strengthen their involvement in communication about open government initiatives, and share good practices as well as lessons learned.
- Secure funding for the open government strategy and initiatives by considering elaborating a dedicated financial plan when it develops the next open government strategy. Both the strategy and the financial plan could be co-created with the departments that will be involved in the strategy in order to define the amounts, resources and specific responsibilities for the initiatives to be included.

Biscay's initiatives on digital government and open data contribute to the open government agenda

Biscay has implemented several digital initiatives as part of its open government agenda. For example, the Province launched its open data portal in February of 2018 and published 16 datasets in a standardised and open format. However, there seems to be a limited ecosystem of open data organisations in Biscay, limiting the external demand for provincial public data. Biscay has also made efforts to reduce bureaucracy by making online procedures possible and putting in use an interoperability agreement within the Departments of Biscay's central government, the municipalities and the Basque Country. Furthermore, Biscay is collaborating with municipalities to create online portals and provide e-services through BiscayTIK, a non-profit public institution dedicated to modernising the municipalities of Biscay. To continue with its efforts on digital government, Biscay could consider:

- Continue to collaborate with local open data organisations and Basque administrations, and organising activities to further develop external demand for data.
- Implement a targeted strategy to disseminate the online interactive tool for provincial budgets, in order to encourage awareness and use of the new tool by all stakeholders.
- Further increase collaboration with municipalities, through BiscayTIK, to tailor new technological tools that target stakeholder participation, in line with the characteristics and needs of the municipalities.

Building a monitoring and evaluation framework for open government

A robust monitoring and evaluation (M&E) system is essential to ensure that, as for any other policy area, open government strategies and initiatives are achieving their intended goals. It serves to highlight the achievements, relevance and visibility of these initiatives across government and therefore provides incentives to ensure that public policies are

designed and delivered from an open government perspective. Sound M&E can also help identify challenges and obstacles that hinder effective policy implementation, as well as show the way forward to address the challenges, based on lessons learned about what has worked (or not) in the past.

Towards a robust monitoring and evaluation system

The development of an M&E system is a high priority for Biscay's 2015-19 administration, as expressed in the OGAP and outlined in specific deliverables, such as the creation of evaluation tools and indicators. However, to date, Biscay does not have the needed legal or policy framework to guide M&E across government. Biscay's two key actors with shared M&E responsibilities are the Observatory of Biscay and the Directorate General of Good Governance and Transparency. A certain degree of overlap and confusion regarding the division of labour between the two bodies were found during the review process, as well as some gaps regarding responsibilities for defining the course of action for commissioning evaluations; developing skills, competences and/or qualifications of evaluators; and ensuring quality standards on M&E.

One of the challenges that Biscay is facing today is the lack of capacity-building activities (training courses) and tools (guidelines) to build skills development in M&E. Therefore, Biscay could invest in the further development of a coherent M&E system, supported by a sound institutional framework. More specifically, and as Biscay's M&E system currently is in its initial phases, the government could consider:

- Centralise responsibilities regarding M&E into a single institution in charge of 1) developing a whole-of-government M&E system; and 2) promoting the use and quality of monitoring and evaluation across government. Such an institution could be responsible for conducting M&E across government and/or developing guidelines, training courses, and quality checks for other departments wishing to carry out their own M&E. It could also promote the use of evidence resulting from M&E efforts.
- Provide a clear mandate that sets out specific tasks and responsibilities regarding the M&E agenda appropriate to the institutional set-up chosen.
- Establish a co-ordination instrument, such as an M&E council or committee, to co-ordinate M&E across government.

Fostering an M&E culture among public officials and stakeholders, Biscay could consider:

- Include a particular M&E dimension in the ethical code and training modules.
- Offer specific training courses on policy M&E for public officials, as part of the menu of training courses that the Directorate-General of the Legal Regime and Civil Service offers, and in parallel, developing guidelines to conduct M&E.
- Include *Behatokia* in the Civil Dialogue Table, which would allow *Behatokia* to engage with key stakeholders from the social sector in a systematic and more structured way. In particular, Biscay could use this platform to promote the establishment of a – formal or informal - network of policy monitoring and evaluation practitioners, which could include representatives of academia as well as other stakeholders.

Monitoring and evaluation of open government strategies and initiatives in Biscay

In order to collect the information for the 2018 intermediate self-evaluation report of the OGAP, Biscay developed a perceptions-based methodology that includes both citizens and public officials' views on the implementation of the commitments and priority axes of the OGAP. Engaging citizens and public officials in the assessment of the progress made on the OGAP may have created a sense of ownership of the open government agenda, as well as promoted its principles both inside and outside Biscay's public institutions. Nevertheless, data collected in this way is not necessarily completely reliable, as perceptions-based measurements of the efficacy of public institutions are usually biased due to external factors.

A specific set of indicators at different levels (input, process, output, outcome, impact) could help Biscay measure the performance of its open government initiatives more accurately, as well as analyse how these initiatives contribute to Biscay's broader open government strategic goals. Overall, the gradual development of an M&E system will positively influence Biscay's capacity to evaluate the achievements of open government initiatives. Therefore, Biscay could consider monitoring and evaluating open government strategies and initiatives by:

- Develop a monitoring mechanism to collect regular, up-to-date quantitative data on the implementation of the different open government initiatives. This could be operationalised, for instance, through the creation of a dashboard embedded in Biscay's data collection platform.
- Pursue specific initiatives to advance towards the development of governance indicators gradually. Adopting a theory of change approach could be instrumental in ensuring that each initiative carried out within the open government strategy pursues a specific objective (outcome and impact) related to the improvement of public governance and/or service delivery.
- Consider, in addition to standards to create robust indicators, engaging with key actors on indicator development through a quality assurance process. *Behatokia* and/or the institution responsible for the development of these indicators could involve experts both from the government as well as from academia and civil society, so as to receive their feedback on the quality of the indicators and specific recommendations on how to improve them.
- Make use, in the long term, of the development of a government-wide M&E system to explore conducting pilot evaluations of the openness of sectoral policies, in order to assess how open government approaches to policy making improves outcomes and impacts.

Mainstreaming stakeholder participation in Biscay

National and local governments alike are going beyond providing services to pursue greater partnerships with all relevant stakeholders, by moving away from one-way approaches to providing information, to new ones that encourage active, two-way dialogue. Stakeholders are no longer passive receptors but participate jointly with governments to build value and provide better and more targeted public services.

Ensuring a proper legal, institutional and policy framework for successful stakeholder participation

Biscay has a significant concentration of civil society organisations (CSOs) compared to the other provinces in the Basque Country; however, few CSOs exist in horizontal policies such as open government, open data, transparency and anti-corruption. Biscay has shown strong political commitment and leadership to consolidate stakeholder participation as an essential component of the policy-making cycle and as a core principle of its open government agenda. Biscay published throughout 2018 a Plan for Participation 2018-19, a Model for Citizen Participation and a Map for Citizen Participation, which are a conducive policy framework to implement stakeholder participation initiatives. In order to consolidate such a policy framework in the long term, other OECD countries have passed laws and regulations in this policy area. The current communication strategy for participation and open government reforms targets only specific initiatives, revealing the need to raise awareness and understanding of the open government reforms as a whole. Therefore, to ensure a proper legal, institutional and policy framework for successful stakeholder participation, Biscay could consider:

- Maintain its high-level commitment to stakeholder participation in policy making, design and implementation.
- Strengthen the existing CSOs and facilitating the creation of new ones for horizontal issues such as open government, open data, transparency, and anti-corruption by:
 - Benefiting from the current OGP process with the Basque Country, in particular through the commitment related to the creation of an I-Lab innovation for citizen engagement to encourage the creation of horizontal CSOs and other collaboration networks in the Province.
 - Ensuring that information about the outcomes of the participation initiatives is systematically provided to build trust and long-term commitment from different stakeholders.
- Reinforce the Model for Citizen Participation by:
 - Streamlining the model guidelines to ensure coherence among the different practices and departments.
 - Introducing additional elements that will help guide the decision of which initiative to replicate.
- Strengthen the Map for Citizen Participation by:
 - Listing the initiatives that have a specific focus on stakeholder participation under information, consultation and engagement if a new map is drafted.
 - Including in the next version of the map more information under each of the initiatives. The information could include the stakeholders involved, including characteristics and numbers to ensure all relevant actors are involved, including the media, business associations, independent institutions and vulnerable populations, such as migrants, youth/elderly as well as other marginalised groups of society; mechanism(s) used for participation; the time associated to it as well as cost; unit responsible within the department; roles and responsibilities of each party; and feedback loops, communication and evaluation mechanisms.

- Consolidate the Plan for Participation 2018-19, the Model and the Map as the framework for stakeholder participation by:
 - Carrying out a series of dissemination campaigns to ensure that the framework is well known and implemented by all departments.
 - Complementing the framework (Plan, Model and Map) with more tailored guidelines that address the particularities of each sector to increase their impact.
- Ensure that training courses are carried out within the public administration and for other stakeholders, including the municipalities, in order to raise awareness and increase buy-in.
- Ensure the continuity of an office responsible for the implementation and follow-up of the Plan for Participation 2018-19 so that it can reach its objectives. The office needs to remain at the centre of government and/or be the one in charge of co-ordinating the open government agenda. It should also be equipped with the necessary human and financial resources to carry out its tasks.
- Consider developing a communication plan dedicated to the open government agenda in order to raise awareness, ensure understanding and increase buy-in from new stakeholders. If Biscay decides to elaborate such a plan, it could consider using an inclusive approach so as to take into consideration marginalised and under-represented groups.
- Ensure that the creation of an additional newsletter dedicated to facilitating communication with citizens on participative processes and raising awareness of the channels available to participate is widely implemented by targeting new stakeholders while using various channels of communication, including social media.

Stakeholder participation in open government reforms

In the three consultation phases that were conducted for the elaboration of the OGAP, Biscay involved several stakeholders, including citizens, civil society organisations, and public officials from different departments of Biscay's central government, policy experts and academics. In addition, the OGAP's intermediate self-evaluation report showed that most stakeholders perceived positive progress made on the open government initiatives. According to the report, some OGAP commitments involved stakeholders in the design, implementation and monitoring of certain initiatives. However, this involvement seems to occur more on an ad hoc basis and only for certain initiatives, rather than systematically. In addition, the sectoral implementation of the OGAP implies that the stakeholders involved in some of the initiatives are not necessarily engaged, nor aware of, the overarching plan. Biscay could broaden stakeholder participation in open government reforms by:

- Involve, if Biscay were to elaborate a new open government strategy, more stakeholders in order to ensure buy-in from key actors, both within and outside the government.
- Make further efforts to engage stakeholders systematically in the development, implementation and monitoring of the open government strategy.

Developing and strengthening Biscay's stakeholder participation initiatives

In addition to the ATI, Biscay has created other mechanisms to share information with stakeholders. For instance, Biscay has implemented an innovative two-phase initiative for information and accountability. The first phase consists of a series of workshops called “*Encuentros con Unai*” in which President Unai Rementaría provides information regarding the governments’ actions. The second phase is the *Bizkaia Goazen* Bus, which consists of a bus equipped with interactive maps and touchscreens that display the services, projects and the general functioning of Biscay’s central government. Concerning regulations, Biscay has two mechanisms to encourage participation in regulatory processes: prior consultation (*consulta previa*) and public hearings and information (*audiencia e información pública*).

Setting policy priorities using a participatory process occurs mainly during the elaboration of certain sectoral plans. Such was the case for the Plan for Participation and Quality of Life of People with Disabilities in Biscay 2016-19. The co-design of the Plan was made with the different stakeholders associated with the sector through existing formal participative bodies, namely the Civil Dialogue Table (*Mesa de Diálogo Civil*), which constitutes an example of a forum where stakeholders participate in the evaluation of the plan and the implementation of the policies.

Biscay has several specific participation initiatives focused on improving public services. The most prominent example is the process it uses to elaborate service charters (*cartas de servicios*); Biscay drafted guidelines for the public service providers that have to use them. These guidelines include, as a crucial element, a consultation phase with users of the services provided. Building on these examples, Biscay could further foster and strengthen stakeholder participation initiatives by:

- Continue to expand the *Encuentros con Unai* and the *Bizkaia Goazen* Bus, as these initiatives allow citizens to exchange on a wide range of topics and discuss them directly with the president of the Province, and provides an innovative means to be informed and exchange with heads of departments (ministers) on sectoral topics.
- Make further efforts to increase awareness of the Provincial Decree of Biscay for the Elaboration of Proceedings, the prior consultation (*consulta previa*) and public hearings and information (*audiencia e información pública*), the Regulatory Annual Plan and their benefits through awareness-raising campaigns, as indicated in the Plan for Participation 2018-19.
- Ensure that the consultation phase takes place in the overall elaboration of the service charters of the other public entities, as this is a relevant way to integrate user needs when adapting public services.
- Involve citizens in the co-design of policy priorities in sectors other than the social sector, as well as in horizontal policies.
- Provide a more integrated approach to the Civil Dialogue Table and the Council for Elderly People by widening the net to involve other actors beyond the social sector related to the policy and its users.
- Develop more initiatives to participate in horizontal policies.
- Transfer the good practices and know-how of integrating key stakeholders to ensure that all plans – including horizontal policies - co-identify needs, co-draft, co-monitor and evaluate.

- Use the well-established Civil Dialogue Table platform to push evaluation practices with the participation of stakeholders to other policy areas.

Chapter 1. Setting the scene for open government reforms

This chapter sets the political, cultural and socio-economic context for open government in Biscay. The Province has a unique open government environment characterised by a particular multilevel governance and a favourable socio-economic and cultural context.

Introduction

Governments at all levels face complex and evolving challenges, from financial crises and rising inequality to slow economic recovery, increased migration and rapid technological developments. This has prompted a re-evaluation of the government's role and its capacity to adapt and respond to citizens' needs in a context of declined levels of trust in public institutions. Consequently, more and more governments have recognised the need for open, transparent, accountable and participatory administrations.

In fact, governments are increasingly implementing open government strategies and initiatives to improve their efficiency and effectiveness. These strategies and initiatives can be an important driver for administrative reforms, such as modernisation of the public administration and can act as a catalyst to achieve overreaching policy objectives in areas such as education, infrastructure projects, environment and health. Furthermore, local governments are playing an important role in the design and implementation of open government reforms, in particular in federal countries. Their size and proximity to citizens facilitate their responsiveness to their population's needs, leading to more targeted policies and improved service delivery, thus having more impact on people's lives. That is why many of the examples of successful open government strategies and initiatives come from local governments.

The Provincial Council of Biscay (*Diputación Foral de Bizkaia*, hereafter “Biscay”), which constitutes the government of the Province (“foral” territory) of Spain, has been implementing initiatives linked to open government for several years. It has a long tradition of stakeholder participation, especially in co-production of social services. For example, with the Civil Dialogue Tables (*Mesas de Diálogo Civil*), which is a co-creation initiative for social policies between the Department of Social Action and the third sector of Biscay.

Moreover, in 2015, Mr. Unai Rementeria Maiz was elected as president (*Diputado General*) of the province of Biscay (legally referred as “historic territory”¹) with a campaign focused on transparency, participation and proximity to citizens. After taking office, his government drafted and published a long-term provincial strategic plan called *Bizkaia Goazen 2030* with four main objectives and specific actions that set a vision and a roadmap for his mandate. This plan was the first in the history of the Province to be proactively published and to become subject to monitoring reports. The third axis of the plan included all the main elements of open government: transparency, citizen participation, monitoring and evaluation, accountability and integrity.

As part of the implementation of *Bizkaia Goazen 2030*, Biscay made important efforts to address the open government elements of the Plan. The transparency objectives were developed quickly through the approval of the Provincial Law on Transparency in early 2016, along with an ambitious transparency plan. Biscay then joined the Leaders' Tier Network of the Open Government Partnership (OGP) in 2016². Biscay participated in the Open Government Partnership's Global Summit, which took place in December 2016 in Paris. Recently, the Basque government – including its three provinces (among them Biscay), and the three capitals of the provinces – joined the OGP Local Programme.

In 2017, Biscay integrated those scattered efforts and published an Open Government Action Plan (OGAP). The OGAP presented several compromises and a specific roadmap to carry its transparency, integrity, participation and accountability agenda even further. The overarching objective of Biscay's open government agenda is to improve the efficiency and effectiveness of the government while bringing the administration closer to its citizens.

In order to ensure and enhance the implementation of this ambitious agenda, Biscay has asked the OECD for a thorough assessment of its open government initiatives.

The purpose of this chapter is to set the scene for this Review and analyse the political, cultural and socio-economic context of Biscay in view of its open government initiatives. A country's or province's context plays an important role in its policies; it is crucial, thus, to understand the drivers and the space in which open government develops. In that sense, Biscay's open government environment is characterised by a particular multilevel governance, a unique fiscal system and a favourable socio-economic and cultural context.

Open government reforms as a driver to improve public governance

Open government is a catalyst to improve public governance, which is a key factor for economic development, social well-being, and increasing trust in government. Trust in government is important because it legitimises governments' actions and decisions. Lower rates of trust can lead to lower rates of compliance with rules and regulations, thus affecting the quantity and quality of public services delivery. Lower citizen trust may also have an impact on investment decisions as citizens and businesses become more risk averse, affecting innovation, employment and long-term growth.

The implementation of open government principles - namely transparency, integrity, accountability and stakeholder participation (Box 1.1) - can provide better access and quality of public services, stronger accountability and more effective policies. Through these principles, governments ensure that the needs, preferences and concerns of all stakeholders are reflected in their policies, and allows stakeholders to participate in the implementation of these policies and on their monitoring and evaluation.

Box 1.1. Open government principles

Transparency

Government transparency is understood as the disclosure and subsequent accessibility of relevant government data and information. Fung, Graham and Weil (2007) differentiate between two generations of transparency policies: the first generation refers to the disclosure of official records to ensure access to information for the public. This generation focuses on the access to information laws, which nearly all OECD countries have implemented. The underlying idea is that unimpeded access to information leads to better ways for citizens to hold government accountable. The second generation of government transparency, which Fung, Graham and Weil (2007) coined, "targeted transparency", refers to the availability of information that serves a concrete purpose, with well-defined areas to which this information shall contribute. It is important that governments move towards more targeted transparency as doing so contributes to improving public policies only when the information is relevant, timely and useful for a targeted group of users in a format that is helpful.

Integrity

Public integrity refers to the consistent alignment of and adherence to shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector.

Accountability

Accountability refers to the government's responsibility and duty to inform its citizens of the decisions it makes as well as to provide an account of the activities and performance of the entire government and its public officials. In a democratic system of governance, the population is the main source of legitimacy for government officials' mandates. Citizens have thus the right to hold the government accountable for its actions in order to uphold and reinforce democratic order. At the same time, it should be the underlying culture of governments to be accountable to their citizens, with or without citizens actively calling for it.

Stakeholder participation

Participation typically refers to the involvement of individuals and groups in designing, implementing and evaluating a project or plan. Thus, participation refers to the idea that in order to fully reap the benefits of active interaction with their population, governments should acknowledge the benefits that all actors of society, especially citizens, civil society organisations and the private sector have to offer in providing information and in consulting - and most importantly - engaging with them. Actively engaging a wide range of stakeholders contributes to the well-targeted use of limited state resources and providing better public service design and delivery, for example through consulting citizens to identify their needs. For an effective approach to stakeholder participation, governments need to share their agendas with all relevant actors and show commitment that policy proposals generated jointly will have an impact on the policy cycle. At the same time, active participation requires that all actors accept their increased responsibility for policy making.

Sources: Fung, A., M. Graham and D. Weil (2007^[1]), *Full Disclosure: The Perils and Promise of Transparency*, Cambridge University Press, Cambridge; OECD (2017^[2]), *OECD Recommendation of the Council on Public Integrity*, <http://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf>; OECD (2016^[3]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>; OECD (2011^[4]), *Government at a Glance 2011*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2011-en.

Governments are recognising the potential benefits of open government (Box 1.2) and have engaged in open government reforms through the implementation of strategies and initiatives, as is the case of Biscay (see Chapter 2).

Box 1.2. Potential benefits of open government

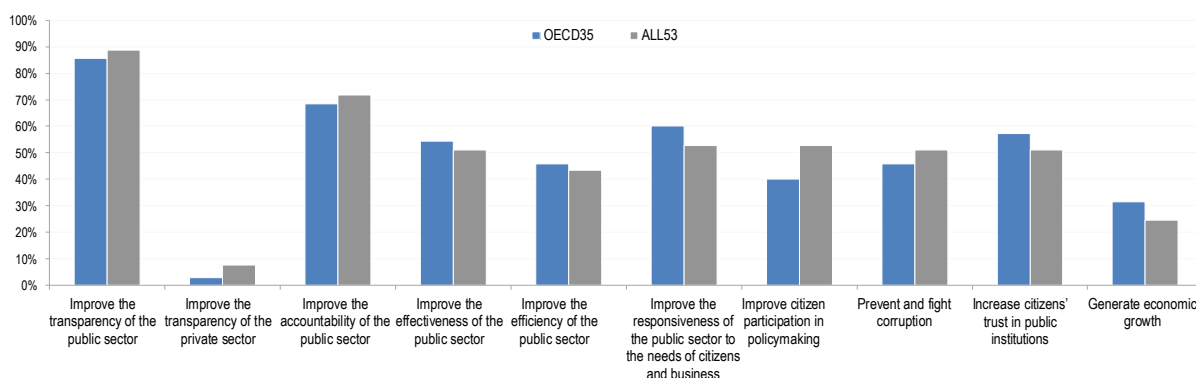
- **Establishing greater trust in government.** Trust is an outcome of open government that can reinforce government performance in other aspects. In addition, if citizens trust the government or specific government policies, then they may be more willing to pay (fees, contributions, taxes) to support these policies.
- **Ensuring better outcomes at less cost.** Co-design and delivery of policies, programmes and services with citizens, businesses and civil society offer the potential to tap a broader reservoir of ideas and resources.
- **Raising compliance levels.** Having people participate in the process helps them understand the stakes of reform and can help ensure that the decisions reached are perceived as legitimate.

- **Ensuring equity of access to public policy making** by lowering the threshold for access to policy-making processes for people facing barriers to participation.
- **Fostering innovation and new economic activity.** Public engagement and open government are increasingly recognised as drivers of innovation and value creation in both the private and public sectors.
- **Enhancing effectiveness by leveraging knowledge and resources of citizens who otherwise face barriers to participation.** Public engagement can ensure that policies are better targeted and address the needs of citizens, eliminating potential waste.

Source: OECD (2016^[3]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

While governments may have different objectives for implementing such strategies and initiatives, including improving transparency, efficiency, accountability or public services, the overarching purpose is to change the culture of governance inside the public administration and in its interaction with citizens and other stakeholders (Figure 1.1). This is line with Biscay's goal, which is to improve its public services through a change of culture of governance in the Province³. Biscay's open government strategy and initiatives aim to permeate the mind-set of its public officials and that the cultural change transcends political changes. The objective is also that they contribute to change the relationship between citizens and the public administration, and to trigger a new paradigm from "citizens being governed" to an active citizenship. In this sense, Biscay's view is in line with the OECD's vision of what governments should seek in open government reforms.

Figure 1.1. Objectives of countries' open government strategies



Source: OECD (2016^[3]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Biscay's particular multi-level governance structure

It is essential to understand the history of the Province and its current socio-political context to grasp their implications on its open government initiatives. This section describes Biscay's general context and discusses the multilevel governance of the province, highlighting, in particular, its high degree of autonomy, its political and regulatory structure

as well as the division of competences between the Spanish state, the Basque Country and its municipalities.

The governance structure of Spain comprises 17 autonomous communities, such as the Basque Country, Aragon and Andalusia, 2 autonomous cities (Ceuta and Melilla in Northern Africa), 52 provinces and 8 124 municipalities (INE, 2018^[5]). Biscay is one of the three provinces of the Basque Country in Spain, along with *Araba* and *Gipuzkoa*. The Province has a surface area of 2 217 square kilometres, representing 30% of the surface of the Basque Country and a population of 1.1 million inhabitants, making it the most populated province in the autonomous community (2.2 million in total). Biscay has 112 municipalities (*Araba* has 51 and *Gipuzkoa* 88); of which 39 have less than 1 000 inhabitants, 53 have between 1 000 and 10 000, 18 have between 10 000 and 100 000, and 2 have more than 100 000 inhabitants, Barakaldo and Bilbao. Bilbao is Biscay's capital city and economic centre, with approximately 345 000 inhabitants (INE, 2017^[6]).

The particular multilevel governance of Biscay is mainly due to a division of competencies between the different administrations in the Basque Country that do not follow a hierarchical distribution. The whole region has a high degree of autonomy in relation to the central government of Spain. The Spanish Constitution of 1978 recognises the right for autonomy and self-government to the territories or provinces with shared historic, cultural and economic characteristics (Government of Spain, 1978^[7]). These unique rights stem from the *Fueros Vascos*, which were historic special jurisdictions of the Basque territories (Box 1.3).

Box 1.3. The history and heritage of the *Fueros Vascos*

The *fuero* was a system of local law – both public and private - used in several Spanish municipalities since the Middle Ages. The *fueros* determined the norms and rights of certain municipalities, including fiscal and monetary autonomy, in exchange for recognising the authority of the king over each land. During the expansion and consolidation process of the Spanish monarchies that took place during the following centuries (15th to 18th), all the *fueros* were reduced or abolished except for the three *fueros* of the Basque territories and one from Navarra.

The *Fueros Vascos* changed regularly during the centralisation process of the 19th century (the Napoleonic Wars, the Carlists' wars, among others) until 1877 when they were abolished by the central government. Nevertheless, the fiscal autonomy of the Basque territories was maintained under the form of an “Economic Agreement”. During the Spanish Civil War (1936-1939), the agreement was abolished in *Gipuzkoa* and Biscay for not supporting the uprising.

With the end of the dictatorship of Francisco Franco, period known as *Franquismo*, in 1975 came the democratic transition that gave way to major political reform and the Spanish Constitution of 1978. This restored the recognition of the right for self-government for the three historic territories and paved the way for the Statute of Autonomy as well as a renewed economic agreement (now called “concert”), which was formally established in 1981.

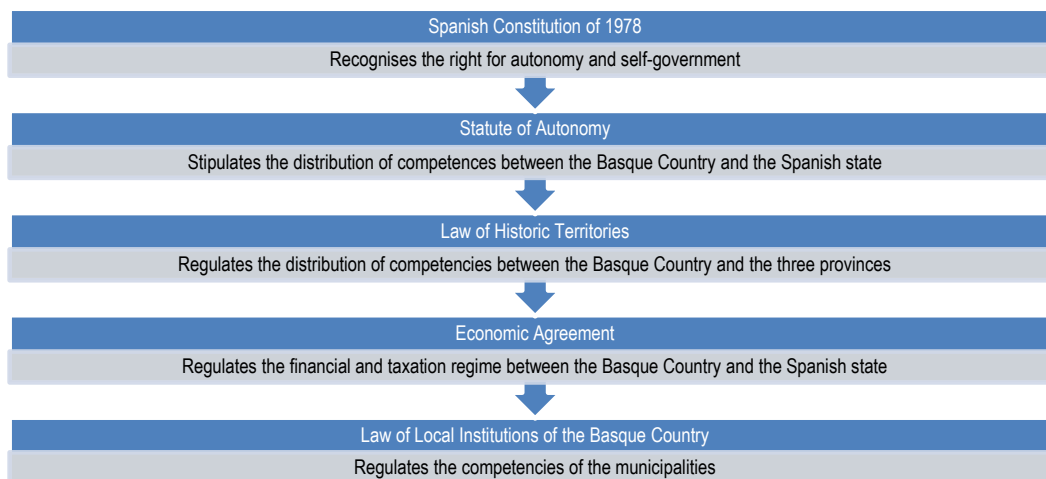
The *Fueros Vascos* helped shape the identity of the Basque territories and represent an essential element of the current socio-political context in the region. Likewise, they explain

the attachment to self-government and autonomy in the region. Finally, the *fueros* are the key difference with other territories and autonomous communities in the country.

Sources: Concierto Económico (n.d.^[8]), *Los Antecedentes (The Backgrounds)*, <http://www.conciertoeconomico.org/es/que-es-el-concierto/historia/500-anos-de-hacienda-foral/los-antecedentes>; Agirreazkuenaga Zigorraga, J. and E. Alonso Olea (eds.) (2014^[9]), *Historia de la Diputación Foral de Bizkaia 1500-2014 (History of the Provincial Council of Biscay 1500-2014)*, <http://bizkaikohistoria.com/includes/pdf/libro.pdf>; Ayuso, M. and R. Zallo (2009^[10]), *The Basque Country: Insight into its Culture, History, Society and Institutions*, Eusko Jaurlaritzaren Argitalpen Zerbitzu Nagusia, Basque Autonomous Community, http://www.kultura.ejgv.euskadi.eus/r46-714/es/contenidos/informacion/ezagutu_ch/es_eza_ch/adjuntos/eza_en.pdf.

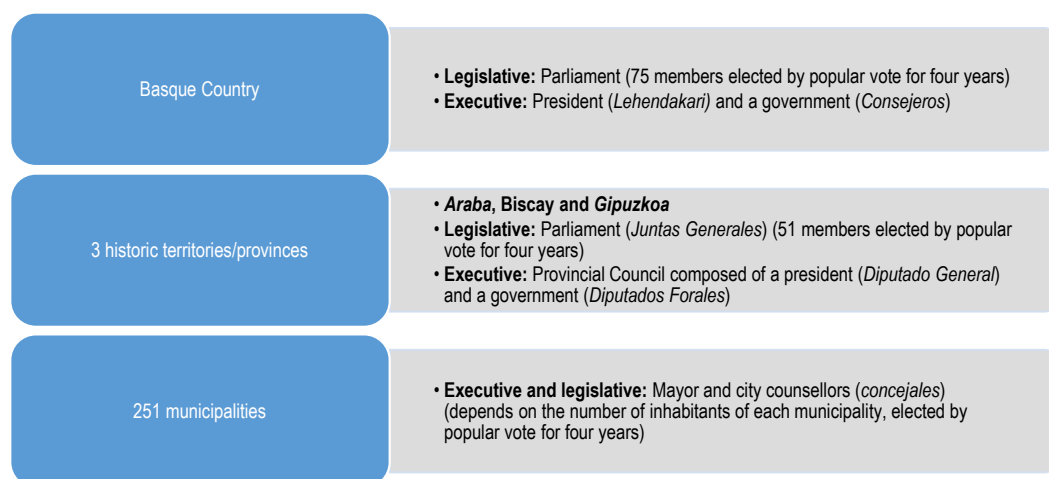
The Basque Country adopted its Statute of Autonomy in 1979, also known as the Statute of Guernica. The statute stipulates the composition of the autonomous community with the three historic provinces (Biscay, *Araba* and *Gipuzkoa*) as well as the distribution of competences between the Basque Country and the Spanish state, including the terms for disposing of fiscal autonomy (Congreso de España, 1979^[11]). The main competences of the Basque Country are healthcare, social affairs and education (Congreso de España, 1979^[11]), common sectors with high levels of citizen participation. See Figure 1.2 for an overview of the regulatory framework of the Basque Country.

Figure 1.2. The regulatory framework of the Basque Country



Source: Basque Government (n.d.^[12]), *Normativa vigente del Concierto Económico [Current legislations of the Economic Concert]*, <http://www.euskadi.eus/informacion/normativa-vigente-del-concierto-economico/web01-a2conci/es/>.

At the regional level, the political power in the Basque Country is exercised by a parliament composed of an equal number of representatives from each historic territory (75 parliamentarians in total), who are elected by a popular vote for a period of four years. The Executive Branch is composed of a president - also called *Lehendakari* in Basque - who is designated by the Parliament, who in turn appoints counsellors to form a government (Figure 1.3). The capital city is Vitoria-Gasteiz in the province of *Araba*.

Figure 1.3. Political structure within the Basque Country

Source: Author.

The province of Biscay, as well as the provinces of *Araba* and *Gipuzkoa*, is also called a “historic territory”, a term exclusive to the Basque Country that describes the political and administrative system of its three provinces. The political system is led by the provincial bodies, which comprise a parliament (*Juntas Generales*) and a provincial council. Each parliament is composed of 51 members who are elected by popular vote for a period of four years. The parliaments have the capacity to approve provincial laws and regulations. The executive power in the historic territories is exercised by the provincial councils, composed of a president (*Diputado General*) who is designated by the Parliament and a team of deputies, designated by the president, to lead the government. The main competencies of the provincial councils (which are greater in the Basque Country than in any other region in Spain) are tax collection and policy, territorial planning, roads and public works, environment, cultural heritage and social welfare, as well as the economic and financial tutelage of the municipalities (Basque Government, 2005^[13]). The Law of Historic Territories regulates the complex distribution of competencies between the Basque Country and the provinces (BOE, 1983^[14]).

The political power of the municipalities of the Basque Country is exercised by a city council composed of a mayor and of city counsellors (*concejales*). City counsellors are elected by popular vote for a period of four years and designate the mayor. The number of city counsellors per municipality depends on the number of inhabitants. The municipalities with fewer than 500 inhabitants have 3 city counsellors. It increases proportionally to 50 000 to 100 000 inhabitants for 25 city counsellors and for municipalities with more than 100 000 inhabitants, there is one additional city counsellor per 100 000 inhabitants. The competencies of the municipalities are regulated by the Law of Local Institutions of the Basque Government, also known as “LILE” for its initials in Spanish (BOE, 2016^[15]).

General elections take place for the 3 provincial parliaments and the city counsellors in the 251 municipalities at the same time (BOE, 1985^[16]). The most recent elections were held in May 2015 and the next elections will take place in May 2019.

The fiscal system

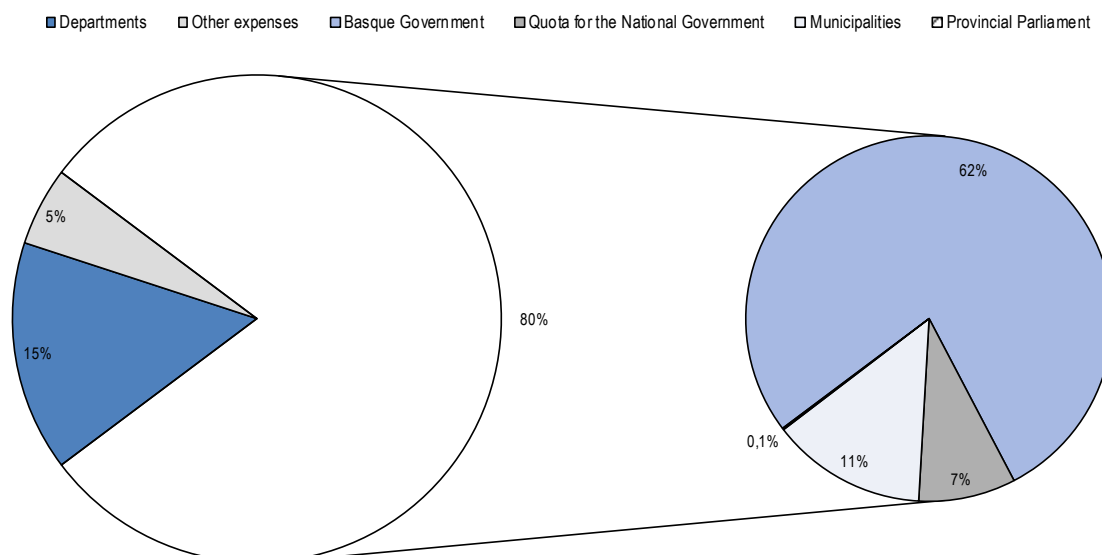
Biscay is characterised by its high degree of autonomy, particularly in fiscal terms, which are recognised as a historical right of the three Basque Provinces in the Spanish Constitution of 1978. The fiscal system of the Basque Provinces, called the *régimen foral*, represents one of the region's most notable characteristics, granting them a unique role within the Basque Country and the Spanish state. The main feature is its fiscal autonomy from the Spanish state, in contrast to the *régimen común* that was developed for the other autonomous communities, except for the Local Community of Navarre, which also has its own *régimen foral*.

The *régimen foral* establishes that the provinces are responsible for setting, collecting and distributing taxes based on the principles stipulated in the so-called “Economic Agreement” (Congreso de España, 1979^[11]). In practice, this means that the finance ministries of each province collect direct (corporate and personal income tax) and indirect taxes (value-added tax [VAT], special taxes on alcohol, tobacco and fuel). Subsequently, each province distributes the income vertically and horizontally: vertically to the Basque Country, to the Spanish State and to the municipalities; and horizontally among the provinces.

The amount that each province transfers to the Basque Country is defined by the Council of Public Finances of the Basque Country. It depends on the size of the economy of each province and is adjusted every year to the provision of tax collection of each. The Council also determines a methodology to distribute the resources between the institutions of the Basque Country (Basque Government, 2004^[17]). Finally, the parliaments of the provinces have provincial norms to determine the amount that each will contribute to their municipalities (BOB, 2005^[18]).

The fiscal relations between the Basque Country and the Spanish state are regulated by the aforementioned Economic Agreement. This agreement stipulates that the tax regime within the Basque Country shall respect the general taxation structure of the Spanish state. Similarly, it specifies that a quota will be paid as a contribution for all the charges of the state that are not assumed by the Basque Country (e.g. embassies, national defence) (BOE, 2017^[19]). The quota is revised and negotiated every five years; the current rate is 6.24% of the total tax collection of the three historic territories (BOE, n.d.^[20]). The transfers from the territories to the Basque Country are calculated every year based on the size of their economies and their revenue capacity. The transfers are regulated by a law and agreed by the Basque Financial Council, which is composed of 9 members: 3 from the Basque Government, 3 from the provinces and 3 from the municipalities (one for each province). In 2018, the transfers were paid 50.4% by Biscay, 33.2% by *Gipuzkoa* and 16.4% by *Araba* (Law 2/2007^[21]).

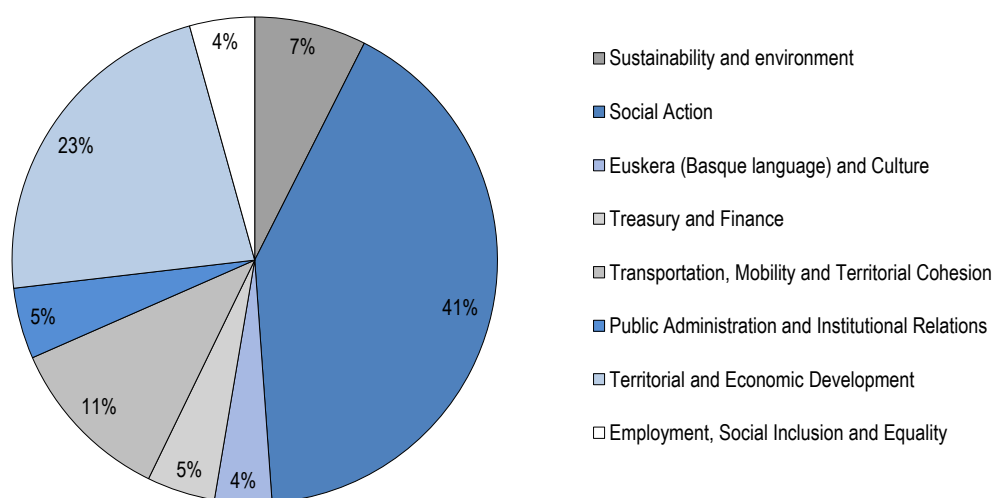
Revenues in Biscay come essentially from personal income tax and VAT. It has the highest income in the Basque Country, with a total income of approximately EUR 7.8 billion in 2018. In comparison, *Araba* had an income of EUR 2.4 billion and *Gipuzkoa* EUR 4.8 billion (Basque Government, 2018^[22]). Biscay's budget is divided to cover the Departments of the Provincial Council (or provincial ministries, hereafter “Departments”) (15% of the total budget), other expenses of the Province (5% of the total budget) such as public debt of the Province and staff costs. The remaining 80% of the budget is transferred, 62% goes to the Basque government, representing EUR 4.8 billion. In comparison, *Gipuzkoa* transferred EUR 3 billion and *Araba* EUR 1.5 billion (Basque Government, 2018^[23]). Other transfers from Biscay include 7% to the quota for the national government, 11% to municipalities and 0.1% to the Provincial Parliament (Figure 1.4).

Figure 1.4. Budget distribution in Biscay, 2018

Notes: The category “other expenses” includes the public debt of the Province of Biscay, staff costs of the Province and credit for global payment.

Source: Provincial Council of Biscay (2018^[24]), *Provincial Budget 2018 by Department and Chapter*, http://www.bizkaia.eus/ogasuna/presupuestos/presupuestos_berria/df/4.asp?tipo=6&ejercicio=2018&coid=9069&tem_codigo=10769 (accessed on 21 February 2019).

As seen in Figure 1.5, the budget of Biscay’s Departments, which represents 15% of the total, is spent in the Province’s main areas of competence: social action (41%), territorial and economic development (23%) and transportation, mobility and territorial cohesion (11%) (Provincial Council of Biscay, 2018^[24]).

Figure 1.5. Expenditures by Department in Biscay, 2018

Source: Provincial Council of Biscay (2018^[24]), *Provincial Budget 2018 by Department and Chapter*, http://www.bizkaia.eus/ogasuna/presupuestos/presupuestos_berria/df/4.asp?tipo=6&ejercicio=2018&coid=9069&tem_codigo=10769 (accessed on 21 February 2019).

In addition to having more local proximity to citizens, the capacity of Biscay to collect tax revenue and its degree of autonomy gives the Province the economic capacity and the flexibility to implement ambitious policies, strategies and initiatives.

Biscay's socio-economic and cultural heritage

Historically, industrialisation in the region was developed around the port of Bilbao. Biscay underwent an important industrialisation process in the 19th and 20th centuries. In parallel to the Basque Country, the Province specialised in sectors such as fishing, agriculture and mining – in particular iron. Mining gave way to the very fast economic development that spread in the region throughout the 19th century. The iron and steel industry soon attracted major shipping, electrical, chemical and paper industries and continued to grow throughout the 20th century. However, Biscay went through a major economic crisis in the late 1970s with the liberalisation of the economy and the end of *Franquismo* (Ayuso and Zallo, 2009^[10]). During the coming decades, the region transformed its high unemployment and low GDP with what is now called the “First Great Transformation”, which consisted of a strategy on multiple fronts to revitalise its economy via the promotion of industrial infrastructure, innovation and technological development, support for new initiatives and job creation (Agirreazkuenaga et al., 2014^[9]).

Biscay had the largest GDP of the Basque provinces in terms of size, with EUR 33.2 billion, compared to EUR 21.7 billion for *Gipuzkoa* and EUR 11.4 billion for *Araba* in 2015 (INE, 2015^[25]). At the national level, it has the sixth largest GDP, preceded only by the provinces of Madrid, Barcelona, Valencia, Seville and Alicante. In 2017, Biscay had an annual GDP growth of 2.9%, the same as the Basque Country (*Araba* was at 3.0% and *Gipuzkoa* at 2.8%). Nevertheless, Biscay has a slightly lower GDP per capita than the other provinces and the highest rate of unemployment at 11.4% (the average unemployment rate in the Basque Country is 9.58% (INE, 2018^[26])) for the 4th quarter 2018.

Services is the most important economic sector in Biscay, representing around 74% of its GDP, followed by industry and energy (19%), construction (6%) and agriculture, farming and fishing (1%) (EUSTAT, 2017^[27]). In 2017, Biscay saw an increase in its industrial activity, particularly in manufacturing and energy activities, translated into a rise in employment and internal demand. Exports increased and are an important driving force of the economy. In addition, 2017 was a historic year in terms of tourism, reaching new records of visitors (1.4 million) in the Province (Department of Treasury and Finance, 2018^[28]).

Biscay, and more generally the Basque Country, have a strong culture of social participation and public-private collaboration. One of the main roots of social participation lies in the practice of *Auzolan*, collaborative work between neighbours on community projects historically linked to the Basque Country. This culture of participation led civil society to build strong links within its community (Ayuso and Zallo, 2009^[10]). This particular sense of community has favoured participative processes in the social and economic sectors of the Province. The social side, or social model as it is known in Biscay, is based on the historic collaboration between non-governmental organisations and other non-profit organisations (the so-called “third sector”) and the Department of Social Services to co-create and co-implement public policies and services in this sector. On the economic side, historic public-private collaboration is reflected in the important number of cooperatives present in the territory and the region - 1 425 in Biscay, 1 116 in *Guipuzkoa* and 506 in *Araba* (High Council of Cooperatives in the Basque Country, n.d.^[29]). In addition, there are several partnerships from private companies and the public sector, in

particular with the Provincial Council, which collaborates on projects for the economic development of the region such as the Energy Intelligence Center, the Automotive Intelligence Center, the Nagusi Intelligence Center (research center on ageing issues) and the Financial HUB project.

The aforementioned context gives the sense that Biscay has a well-established environment prone for open government strategy and its initiatives to deliver upon its promises. The financial autonomy, its competencies as well as the cultural heritage allows and calls for stakeholder participation and a more open and transparent government.

The OECD approach to open government and the OECD Open Government Review of Biscay

The OECD approach to open government

The OECD has been at the forefront of the international open government agenda. It has been working since 2001 conducting reviews, collecting information and analysing data related to the open government principles of transparency, integrity, accountability and stakeholder participation. The OECD also undertakes dissemination activities and capacity-building exercises at the local, national and regional levels. Likewise, it has consolidated three networks on open and innovative government in the Middle East and North Africa, in Latin America and the Caribbean and in Southeast Asia. These provide governments the opportunity to exchange practices and experiences with other countries in their regions.

In 2015, the OECD conducted a survey on open government initiatives and practices with 54 countries, including all OECD countries and partner and other countries. The analysis resulted in the 2016 report, *Open Government: The Global Context and the Way Forward*. This stocktaking exercise showed that there are diverse definitions, objectives and implementation methodologies concerning open government and revealed the need to have a clear, actionable, evidence-based and internationally recognised reference and understanding of what open government strategies and initiatives require.

Based on this assessment, OECD countries requested that the OECD to develop a legal instrument on the governance of open government. The Organisation, building upon the accumulated evidence-based analysis and expertise on the topic, developed a draft proposal of the OECD Recommendation of the Council on Open Government. During a period of several months, the draft recommendation was subject to an online public consultation and to comments from participating countries. Finally, the Recommendation was adopted by the OECD Council, the OECD's governing body that has the power to adopt legal instruments, in December of 2017. The Recommendation defines open government as “a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth” (OECD, 2017^[30]). It also sets guidelines for the adherents and provides a comprehensive overview of the main tenets of open government strategies and initiatives. The strategies and initiatives of open government in Biscay are assessed and benchmarked against the provisions of the Recommendation (Table 1.1).

Table 1.1. OECD Recommendation of the Council on Open Government

Provisions	
1.	Take measures, in all branches and at all levels of the government, to develop and implement open government strategies and initiatives in collaboration with stakeholders and to foster commitment from politicians, members of parliaments, senior public managers and public officials, to ensure successful implementation and prevent or overcome obstacles related to resistance to change.
2.	Ensure the existence and implementation of the necessary open government legal and regulatory framework, including through the provision of supporting documents such as guidelines and manuals, while establishing adequate oversight mechanisms to ensure compliance.
3.	Ensure the successful operationalisation and take-up of open government strategies and initiatives by: (i) providing public officials with the mandate to design and implement successful open government strategies and initiatives, as well as the adequate human, financial, and technical resources, while promoting a supportive organisational culture (ii) promoting open government literacy in the administration, at all levels of government, and among stakeholders.
4.	Co-ordinate, through the necessary institutional mechanisms, open government strategies and initiatives - horizontally and vertically - across all levels of government to ensure that they are aligned with and contribute to all relevant socio-economic objectives.
5.	Develop and implement monitoring, evaluation and learning mechanisms for open government strategies and initiatives by: (i) identifying institutional actors to be in charge of collecting and disseminating up-to-date and reliable information and data in an open format (ii) developing comparable indicators to measure processes, outputs, outcomes, and impact in collaboration with stakeholders (iii) fostering a culture of monitoring, evaluation and learning among public officials by increasing their capacity to regularly conduct exercises for these purposes in collaboration with relevant stakeholders.
6.	Actively communicate on open government strategies and initiatives, as well as on their outputs, outcomes and impacts, in order to ensure that they are well-known within and outside government, to favour their uptake, as well as to stimulate stakeholder buy-in.
7.	Proactively make available clear, complete, timely, reliable and relevant public sector data and information that is free of cost, available in an open and non-proprietary machine-readable format, easy to find, understand, use and reuse, and disseminated through a multi-channel approach, to be prioritised in consultation with stakeholders.
8.	Grant all stakeholders equal and fair opportunities to be informed and consulted and actively engage them in all phases of the policy cycle and service design and delivery. This should be done with adequate time and at minimal cost, while avoiding duplication to minimise consultation fatigue. Further, specific efforts should be dedicated to reaching out to the most relevant, vulnerable, underrepresented, or marginalised groups in society, while avoiding undue influence and policy capture.
9.	Promote innovative ways to effectively engage with stakeholders to source ideas and co-create solutions and seize the opportunities provided by digital government tools, including through the use of open government data, to support the achievement of the objectives of open government strategies and initiatives.
10.	While recognising the roles, prerogatives, and overall independence of all concerned parties and according to their existing legal and institutional frameworks, explore the potential of moving from the concept of open government toward that of open state.

Source: OECD (2017^[30]), *Recommendation of the Council on Open Government*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

The OECD Open Government Review of Biscay

This *OECD Open Government Review of Biscay* is designed to offer Biscay support in its efforts to build a closer, more open, transparent, and accountable government. The assessment is based on the Recommendation of the OECD Council on Open Government. It provides the Province with an in-depth analysis of its open government initiatives and makes recommendations to integrate open government principles and practices into its policy-making cycles, and to monitor and evaluate their impact.

Chapter 2 of the review assesses the enabling environment of open government in Biscay by analysing its policy framework, its definition of open government (Provision 1) and its

legal and regulatory framework (Provision 2). Chapter 3 assesses the implementation of open government strategies and initiatives in Biscay by reviewing its institutional setting and co-ordination mechanisms (Provision 4), its literacy, human resources and capacities (Provision 3) and communication (Provision 6), information and data (Provision 7) and how it contributes to improving public services in the Province. Chapter 4 assesses the monitoring and evaluation mechanisms (Provision 5) by examining the monitoring methodology used by the Provincial Council of Biscay and analysing the construction of a policy evaluation system in Biscay. Finally, Chapter 5 assesses the stakeholder participation practices in Biscay (Provisions 8 and 9) by analysing the co-creation processes and the involvement of stakeholders in the policy cycle and service design and delivery.

Notes

¹ The Province of Biscay is legally referred to as a “historic territory”, a term exclusive to the Basque Country that describes the political and administrative system of its three provinces. In view of facilitating the understanding of the term for readers not familiar with the concept and of shortening the term repeated throughout the Chapters, the Review will refer to the historic territory of Biscay as “Province of Biscay”.

² This network was part of the pilot programme that the OGP launched for sub-national governments and civil society “who were already involved in open government and were further encouraged to engage in peer learning” (OGP_[31]).

³ As explained by officials in interviews with the OECD and in their Open Government Action Plan (OGAP).

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Chapter 2. Strengthening policy, legal and regulatory frameworks for open government

This chapter examines the enabling environment of the province of Biscay by assessing its open government policy framework, in particular, the Open Government Action Plan of Biscay, as well as its legal and regulatory framework, with a special view to the Provincial Law on Transparency of Biscay. The analysis focuses on how these elements contribute to the open government agenda in Biscay and provides recommendations on how to improve them.

Introduction

An enabling environment is an essential and necessary precondition for open government reforms to flourish. It is composed of a sound and comprehensive policy, legal and regulatory framework. A policy framework is the foundation for open government as it sets the roadmap for open government reforms defining the “what” and the “how”. A robust legal and regulatory framework should have the necessary laws and rules for open government to thrive and should be formulated in a comprehensive way, communicated to stakeholders and effectively enforced. Such a legal baseline is mainly composed of laws on access to information, citizen participation, citizen engagement in public procurement procedures, protection of personal data and archives, open data, whistle-blower protection and anti-corruption laws.

This chapter examines the enabling environment of the province of Biscay (legally referred as “historic territory”¹) by assessing its open government policy framework, in particular, the Open Government Action Plan of Biscay, as well as its legal and regulatory framework, in particular the Provincial Law on Transparency of Biscay. The analysis focuses on how these elements contribute to the open government agenda in Biscay and provides recommendations on how to improve them.

Biscay’s Open Government Action Plan: Paving the way for a holistic strategy

A sound and comprehensive policy framework is the foundation for open government reforms to deliver upon its promises, to achieve success and to ensure continuity. Such a policy framework is composed of a holistic strategy that includes short, medium, and long-term objectives, initiatives to achieve them, a definition of open government adapted to the context where its reforms are meant to thrive as well as the explicit link on how this strategy will contribute to high-level policy objectives. See Box 2.1. These high-level policy objectives are normally defined in a government programme or strategic development plan/strategy.

Box 2.1. Distinguishing principles, a strategy and the initiatives of open government

Open government principles: Transparency, integrity, accountability and stakeholder participation (see Chapter 1 for definitions).

Open government strategy: A document that defines the open government agenda of the central government and/or of any of its sub-national levels, as well as that of a single public institution or thematic area, and that includes key open government initiatives, together with short, medium and long-term goals and indicators.

Open government initiatives: Actions undertaken by the government, or by a single public institution, to achieve specific objectives in the area of open government, ranging from the drafting of laws to the implementation of specific activities such as online consultations.

Source: OECD (2017^[1]), *Recommendation of the Council on Open Government*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

The Recommendation of the Council on Open Government (hereafter the “OECD Recommendation”) calls for adherents to “develop, adopt and implement open government strategies and initiatives that promote the principles of transparency, integrity, accountability and stakeholder participation in designing and delivering public policies and services, in an open and inclusive manner” (OECD, 2017^[1]).

An open government strategy is critical for governments as it helps them set a clear direction, by clarifying the priorities and goals, and ensuring coherence with governments’ high-level and overarching objectives. The strategy is also a tool for effective management, for identifying structural obstacles that require changes, for inspiration and empowerment, for public accountability, for effective allocation of resources and for institutional synergy, as described in Box 2.2.

Box 2.2. The benefits of an open government strategy

1. A tool for effective management

A medium- to long-term, comprehensive and coherent open government strategy is a powerful tool for good public management as it provides a clear direction to its public administration by clarifying the priorities, goals and defining the means to achieve them. A strategy is also fundamental for measuring the performance of government actions and initiatives, based on clear and pre-defined standards and definitions. Such a strategy is usually based on an analysis of the current and future challenges and opportunities, ensuring long-term policy coherence and assessing the availability of the necessary resources and capacities.

2. A tool for identifying needed structural changes

An open government strategy helps to identify the structural bottlenecks that hinder open government initiatives to thrive. Those obstacles might be related to a complicated legal framework, to a counter-productive institutional culture or even to an inadequate institutional design of public institutions. By developing an open government strategy, governments might identify that short, medium and long-term positive changes should be made concerning those issues. Furthermore, the transparent public commitment is critically important in order to guarantee the continuity of open government policies in times of change of government and when political priorities change. Finally, an encompassing strategy is also a mechanism for consensus building between different government and non-government actors, which helps to eliminate divergent directives that could eventually weaken the endeavours for structural open government changes.

3. A tool for inspiration and empowerment

An open government strategy communicates to the bureaucracy and society as a whole about the government’s intention to build innovative, transparent and participatory policies. Under the principles and objectives settled by the strategy, policy makers are informed about the government’s intentions and can mobilise their efforts to act accordingly. An open government national strategy creates a powerful and coherent narrative that inspires policy makers to champion open government approaches in their areas of activities, building a safeguard for the development of open government initiatives. Furthermore, civil society, under the strategy’s umbrella, can demand open and innovative approaches to governance and can take part in and contribute to better policy making.

4. A tool for public accountability

The strategic plan is materialised in a formal document in which the government commits to delivering clear outputs according to a set timeline. The strategy creates additional liability for specific actors, who are in charge of implementing the strategies and represents a public commitment, which is a powerful tool for institutional and social oversight. By following what is agreed in the document, the institutional internal and external control mechanisms will be able to monitor the government's achievements formally and analyse their compliance with the strategy's objectives. Furthermore, civil society will find a powerful means in the document to push for the promised open government initiatives, requiring information about the strategy's implementation and call for formal justification when and if the government fails to deliver.

5. A tool for the effective allocation of resources

A whole-of-government, coherent strategic plan facilitates the bureaucratic communication between the public actors in order to clearly communicate the needs and priorities involved in the implementation of the open government initiatives. The strategy is a powerful tool to articulate the demands for human, financial and technical resources, both from national and international sources. The long-term strategy might also help to strengthen the hand of open government reformers, when dealing with technical or political negotiations, enabling the adequate and substantiated justification for the prioritisation of scarce resources to open government policies. Furthermore, by clearly articulating the open government policies' objectives and the means to achieve them, an open government strategy can mobilise, build and retain human or institutional capabilities needed to operate its intended structural changes.

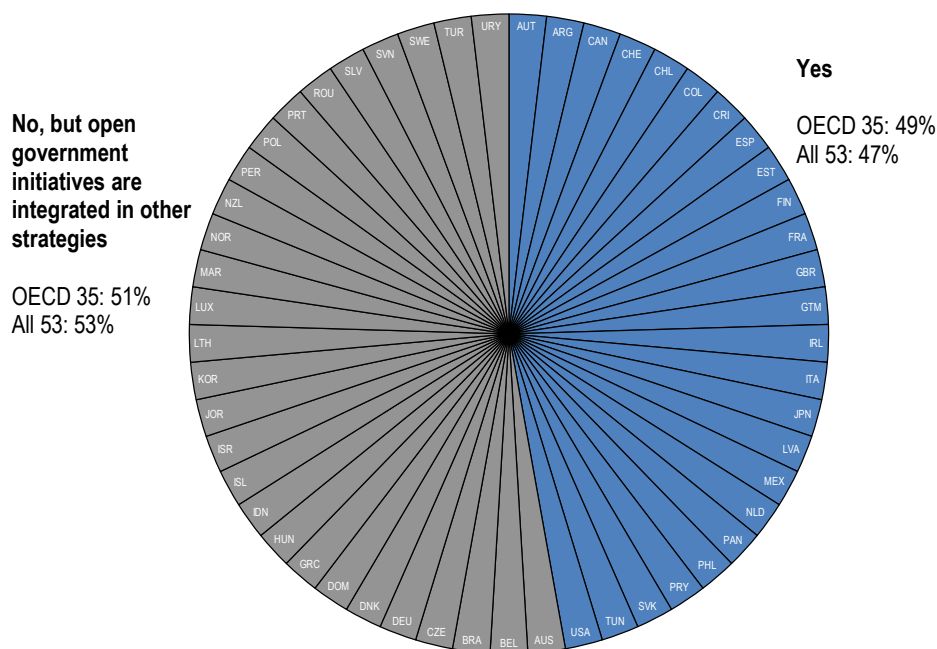
6. A tool for institutional synergy

It is not rare that different governmental institutions spend their time and a great number of public resources trying to develop solutions that might already be in place in other public or private institutions. An open government strategy, by clarifying the overall objectives and by catalysing institutional co-operation for innovation in the public service, helps to intensify joint efforts to create collaborative solutions to shared problems. It is also a common scenario that different government institutions fail to co-operate because they adopt a different understanding, and sometimes conflicting practices, related to open government policies. A concerted and communicated open government strategy can help government to elaborate and share common understanding and standards rules and processes related to open government directives, harmonising practices across different governmental agencies and institutions. This harmonisation between open government practices helps to eliminate fragmentation, facilitate co-operation and make possible better citizen understanding of the available open government mechanisms.

Source: Internal document; OECD (2016^[2]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

According to the OECD (2016^[2]) report, 47% of all participating countries (49% of OECD countries) have a single national open government strategy. While 53% of countries (51% of OECD countries) do not have such a strategy, they implement open government principles and initiatives in other sectoral policies or strategies (Figure 2.1).

Figure 2.1. Countries with and without a single national open government strategy



Source: OECD (2016^[2]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

In early 2017, the Provincial Council of Biscay (*Diputación Foral de Bizkaia*, hereafter “Biscay”), which constitutes the government of the Province, launched its 2017-19 Open Government Action Plan (OGAP). Although Biscay has been implementing numerous initiatives linked to open government principles for several years, mainly in the areas of transparency and stakeholders’ participation, the 2017-19 OGAP marked the first attempt to group a series of scattered initiatives under a single plan.

The document describes Biscay’s open government vision, as well as the consultation phases conducted for its elaboration. Its structure follows the Open Government Partnership’s (OGP) methodology (see Box 2.3) and as such, is designed for a two-year period (2017–19). It was published when Biscay joined the Leaders’ Tier Network of the OGP. Likewise, in April of 2018 the Basque Country joined the OGP Local Programme as a coalition of all the levels of government: the Basque government, the three provincial councils (Biscay, *Araba* and *Gipuzkoa*) and the city councils of the capital cities of the territories (Bilbao, Donostia-San Sebastian and Vitoria-Gasteiz) (see also Chapter 1). At the national level, Spain joined in 2011, the year the OGP was launched. The Autonomous City of Madrid joined in 2016.

Box 2.3. The Open Government Partnership

The Open Government Partnership (OGP) is an initiative that aims to bring “together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive and accountable.” Launched in 2011 by 8 member countries, the OGP has 71 national members (as of September 2018).

In order to be eligible to join the OGP, a government must meet the following criteria: 1) ensure fiscal transparency through the timely publication of essential budget documents; 2) have an access-to-information law that guarantees the public’s right to information and access to government data; 3) have rules that require public disclosure of income and assets for elected and senior public officials; and 4) ensure openness to citizen participation and engagement in policy making and governance, including basic protections for civil liberties.

Once the government interested in joining meets the criteria, it should send a letter of intent to join OGP signed by a senior political leader and include a commitment by the government to the principles of the Open Government Declaration. Afterwards, the government should identify a lead ministry and begin developing a national action plan and commit to OGP’s Independent Reporting Mechanism process.

The OGP has a specific methodology to develop a national action plan. The plan must be co-created with civil society and contain commitments that seek to improve transparency, accountability and participation. It should contain from 5 to 15 commitments and be developed for a two-year cycle. Also, a plan should include input from different stakeholders from inside and outside the government.

In 2016, the OGP developed a “Local Programme”, recognising that “many open government innovations and reforms are happening at the local level where governments can engage more directly with citizens, and many crucial public services are delivered.” It now has 20 sub-national governments, including cities, provinces and regions. The eligibility criteria, the accession procedure and the methodology for the action plan are the same for a national and a sub-national government.

Source: Open Government Partnership (n.d.^[3]), *OGP Local Program - About*, <https://www.opengovpartnership.org/local>; Open Government Partnership (OGP, 2016^[4]), *Open Government Partnership - Brochure*, http://www.opengovpartnership.org/sites/default/files/091116_OGP_Booklet_digital.pdf.

Although every open government strategy should be uniquely adapted to the context and needs of each national and local government, a comprehensive strategy should be composed, among others, of the following elements:

- high-level political will, commitment and leadership;
- a clear definition of open government and its principles;
- interrelated medium-term objectives, long-term goals and a set of initiatives to achieve them;
- connected to higher policy and strategic objectives (e.g. development plans).

Long-term high-level political will, commitment and leadership is essential to ensure the sustainability of the open government agenda

Open government reforms require strong political commitment since they cover several policy areas and thus entail policy coherence. Political commitment reflects the decision of leaders to use their power, influence, and personal involvement to ensure that reforms, plans and initiatives receive the visibility, leadership, resources, and the ongoing political support required to overcome resistance to change, internal and external opposition and avoid deadlock. In fact, “leaders are the role models in society: it is not only their votes but also their personal actions and behaviour that send strong signals about what is important” (The Policy Project, 2000^[5]).

In this sense, the OECD Recommendation calls for adherents to “take measures, in all branches and at all levels of the government, to develop and implement open government strategies and initiatives in collaboration with stakeholders and to foster commitment from politicians, members of parliaments, senior public managers and public officials, to ensure successful implementation and prevent or overcome obstacles related to resistance to change” (OECD, 2017^[1]).

Therefore, sustainable political support and commitment from high-level public authorities, such as the president, ministers, local and national legislators and other influential political figures, is a prerequisite for policy and institutional changes, and is essential for an effective open government strategy that reaches the government as a whole – not only in a specific area. Otherwise, there is a risk for an incoming government to see the open government strategy as representing the views or policies of its predecessor and could ignore it or even initiate a new strategy process more in line with its thinking (OECD, 2001^[6]).

Since the beginning of the current mandate, Biscay has shown high-level political commitment with open government principles. In his inaugural address, President Unai Rementeria declared that:

Society demands a more transparent, participative and open policy from us. I assume these three challenges. I assume them with conviction from the first day. The drive for initiatives to increase transparency and participation will be one of the first measures of our new governing team. (Rementeria, 2015^[7]).

Accordingly, the new government created two new institutional structures for open government: the Cabinet of Modernisation, Good Governance and Transparency and the Observatory of Biscay. These actions, along with the vision established in the *Bizkaia Goazen 2030* (the provincial strategic plan) and the OGAP show the strong leadership and vision-setting capacities of the Centre of Government² (CoG) of Biscay (see Chapter 3). Likewise, it demonstrates its capacity to translate policy into action by creating the needed structures for implementation as well as activating high-level political support for doing so.

To achieve the change of culture that Biscay wants to carry out through its open government agenda, long-term leadership and commitment are critical to ensuring the sustainability and implementation of the initiatives set in the strategy. Biscay could make further efforts to foster this commitment in career public officials through, for instance, training and communication campaigns and involving them in the creation of the open government strategy.

A well communicated and disseminated definition of open government and its principles ensures a common understanding for all stakeholders in Biscay

A single definition of what open government is and entails is vital for governments that wish to create an open government strategy and move towards a new culture of governance. According to the OECD (2016^[2]) report, a single, clear and accepted definition is important because:

- It informs the public about the essential elements of open government, as well as the extent and limitations of the term.
- It facilitates a common understanding and usage of open government, aligning all stakeholders and policy makers towards the same goals.
- It facilitates a robust analysis of the impact of open government strategies and initiatives across different institutions and levels of government.
- It supports international comparisons of open government strategies and initiatives.

Nevertheless, in order for a definition to be effective, it needs to incorporate and reflect the political, cultural and socio-economic context of each country or region (see Box 2.4 for national and local examples). Likewise, the definition should be developed, recognised, communicated and accepted by all stakeholders involved in the strategy or initiative, including the public sector, citizens, private sector, etc. This helps to ensure buy-in and promotes ownership across stakeholders.

Box 2.4. National and sub-national examples of single official definitions of open government

Canada

A governing culture that holds that the public has the right to access the documents and proceedings of the government to allow for greater openness, accountability and engagement.

Chile

A public policy applicable to the whole of the public apparatus, aimed at strengthening and improving the institutional framework and management of public affairs by promoting and consolidating the transparency and access to public information principles, as well as the mechanisms for citizen participation in the design, formulation, implementation and evaluation of public policies. All of this should be in the context of the current public institutions' modernisation process, whose goal is to move towards a state at the service of all citizens and to improve the population's quality of life.

Korea

Government 3.0 (Open Government Initiative) is a new paradigm for the government operation to deliver customised public services and creatively generate new jobs by opening and sharing government-owned data with the public and encouraging communication and collaboration between government departments. Government 3.0 aims to make the government more service-oriented, competent, and transparent, thus pursuing the happiness of its citizens.

Luxembourg

Government of an accountable and democratic constitutional state based on the rule of law and justice that works to achieve, as far as possible, useful and not in contradiction with human rights or other fundamental values, a maximum level of transparency and citizen participation.

Mexico

Open government is a new model of governance that seeks to transform the relationship between government and society to strengthen democracy. It is creating an environment that positions the government as a platform for innovation. Open government is based on a culture of transparency, collaboration, participation and accountability that allows for the creation of new ventures and the generation of solutions to public challenges surrounding the development of the country.

Edmonton (city), Canada

The city adopted an open city approach, defined as the civic perspective on the broader open government philosophy, which emphasises the value of greater transparency and accountability, increased citizen engagement, and innovation and economic opportunities driven by these values and by the release of data and information.

New South Wales (province), Australia

Open government embodies a collective right; a right enjoyed for the benefit of communities. This right provides the foundation upon which we as a fair and open society effectively uphold and actively participate in our system of democracy. Achieving open government requires legislation to enshrine citizens' right to access information and authorise decision makers to release information. Citizens expect government decision making to be open, transparent and accountable.

Jalisco (state), Mexico

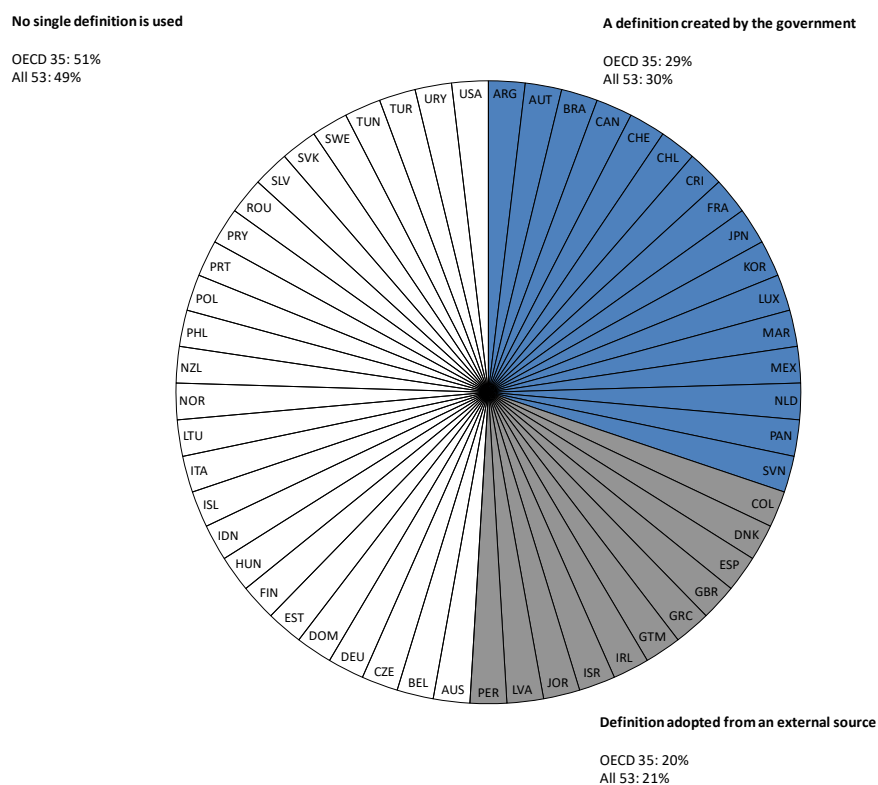
Open government is a modality of public management composed of three pillars: 1) transparency, which allows citizens to know the reasons, the costs and the forms in which the actions of the authorities are taken and implemented; 2) participation, which generates mechanisms in which citizens can express their points of view; and 3) collaboration, to put in practice the instruments to build a better society in a collective way. All of this, with an objective to create a government that meets the expectations of the citizens of the 21st century.

Note: Some of the definitions were translated from the original languages.

Source: City Council of Edmonton (2015^[8]), "Open City Policy", https://www.edmonton.ca/city_government/documents/PoliciesDirectives/C581.pdf; Information and Privacy Commission New South Wales (n.d.^[9]), "Open Government", webpage, <https://www.ipc.nsw.gov.au/open-government> accessed on 5 October 2018; OECD (2016^[2]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>; Technical Secretariat for Open Government in Jalisco (2016^[10]), "Gobierno Abierto" (Open Government), webpage, <http://gobiernoabiertojalisco.org.mx/>, accessed 5 October 2018.

The OECD (2016^[2]) report revealed that only 51% of all participating countries (49% of OECD countries) have a single definition of open government. From the countries with a definition, 30% (29% of OECD countries) have created their own definition, including Canada, Korea and Luxembourg (see Box 2.4) and 21% (20% of OECD countries) have adopted a definition from an external source, notably, from the Open Government Partnership (OGP), including Denmark, Ireland and Latvia (see Figure 2.2).

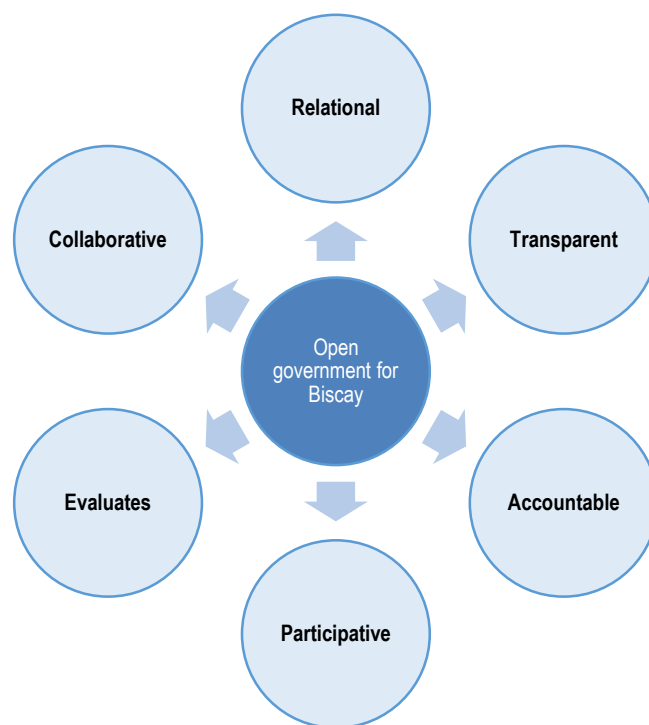
Figure 2.2. Countries with and without an official definition of open government



Source: OECD (2016^[2]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Biscay developed what they call a “model” of open government in the OGAP. According to the plan, their vision of open government does not have a rigid definition, but rather characteristics (or particularities) that help inform the understanding of open government for Biscay (Figure 2.3).

Figure 2.3. Characteristics of open government for Biscay



Source: Author.

Therefore, for Biscay open government is defined as:

- a **relational government** that seeks timely and constant follow-up in order to better know its citizens’ needs and direct public policies in a more efficient way
- a **transparent government** that uses ambitious tools to make transparency a means for easier access to information and to contribute to improving efficiency in public management
- a **participative government** with a joint responsibility perspective, which creates new spaces and processes for participation across the entire policy cycle
- an **accountable government** with new spaces to subject the government administration to public scrutiny, including a government strategic plan subject to annual reviews
- a **government that evaluates** in order to make responsible and efficient use of public resources by measuring, monitoring and evaluating public policies
- a **collaborative government** open to co-operating with other stakeholders.

In sum, Biscay sees open government as “a process and a means to accomplish a better, closer, more modern and responsible way to manage the public administration” (Provincial Council of Biscay, 2017^[11]). The overarching objective for Biscay is to start a cultural change embedded in an open government vision that will lead to a more efficient use of resources, the strengthening of public institutions as well as the increase of public trust in them. The definition reflects the particularities of the Province as it integrates the historic roots of participation with civil society organisations to generate social value and the longstanding and strong public-private collaboration. It also incorporates the vision of a responsible government due to the capacity of Biscay to collect taxes and illustrates the long-term vision that the Provincial Council has on the open government agenda. It aims for a change in the culture of the public sector with the underlying objective of improving public services, which is in line with the OECD definition of open government. The OECD Recommendation of the Council on Open Government defines open government as “a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth” (OECD, 2017^[11]). However, during the fact-finding mission, while all high-ranking officials directly related to the open government agenda clearly understood and adhered to the definition or “model”, other civil servants from other departments of the Provincial Council (or provincial ministries, hereafter “Departments”) and municipalities did not seem to fully grasp this definition. For instance, at times they misunderstood open government with e-government or with transparency only. Although the open government definition of Biscay described in the above-mentioned action plan is in line with OECD good practices, further efforts are needed to better communicate and disseminate it in order to ensure that all stakeholders in Biscay have a common understanding of open government.

Further, the plan states that “working towards an open institution necessarily implies working with a vision of an open territory” (Provincial Council of Biscay, 2017^[11]). This indicates Biscay’s intention for this open government agenda to permeate beyond a single institution but rather to attain the whole territory of Biscay with a particular emphasis in municipalities. This is in line with what the OECD has termed an “open state”, which means that “the executive, legislature, judiciary, independent public institutions, and all levels of government - recognising their respective roles, prerogatives, and overall independence according to their existing legal and institutional frameworks - collaborate, exploit synergies, and share good practices and lessons learned among themselves and with other stakeholders to promote transparency, integrity, accountability, and stakeholder participation, in support of democracy and inclusive growth” (OECD, 2017^[11]). As seen in the example of Costa Rica in Box 2.5, more governments are moving towards an open state.

Biscay aims for an open state approach, or what they define as open territory due to their local nature; nevertheless, the action plan only includes municipalities in one commitment while no other horizontal branches of government are included. It is not clear how this is going to be achieved given that the only direct mention to municipalities is in Commitment 8 of the OGAP, which aims to develop technological tools for the municipalities in Biscay. In order to strengthen the open territory approach by promoting openness and inclusiveness of all relevant public actors, Biscay could include other key actors of the Province, such as the legislative branch and could benefit from the ongoing OGP Local Programme of the Basque Country to include the municipalities – beyond the ongoing co-operation for transparency and technology tools (Chapter 3) – as well other actors of the Autonomous Community such as the Basque Ombudsman, *Ararteko*, while respecting their level of autonomy when designing and implementing their open government reforms.

Box 2.5. The Declaration for the Creation of an Open State in Costa Rica

On 25 November 2015 the president of the Republic of Costa Rica and the presidents of the three powers of the Republic of Costa Rica (which in Costa Rica are the Executive, the Legislative Assembly and the Supreme Court) and the Supreme Electoral Tribunal signed a joint declaration committing Costa Rica to moving towards an open state. The declaration states that each branch will build a plan of priority actions to “promote a policy of openness, transparency, accountability, participation and innovation in favour of the citizens”, which will be included in the institutional strategic plans and will be evaluated annually. The powers also agreed to strengthen and develop the mechanisms of citizen participation in order to contribute to a closer relationship between civil society and the leaders and to provide access to public information through the use of new technologies.

Costa Rica was the first country in the world to have signed such a promising declaration bringing together all the powers of the state. The declaration has significant potential to guide the country’s future open state agenda. In order for it to not remain only on paper, the country will now need to underpin its goodwill with concrete actions. This includes involving the sub-national and local governments, decentralised public institutions, independent state institutions, the business sector, media, academia and civil society to join forces to build an open state in Costa Rica.

Source: OECD (2016^[2]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Links between medium-term objectives, long-term goals and the set of initiatives to achieve them needs to be clearly made

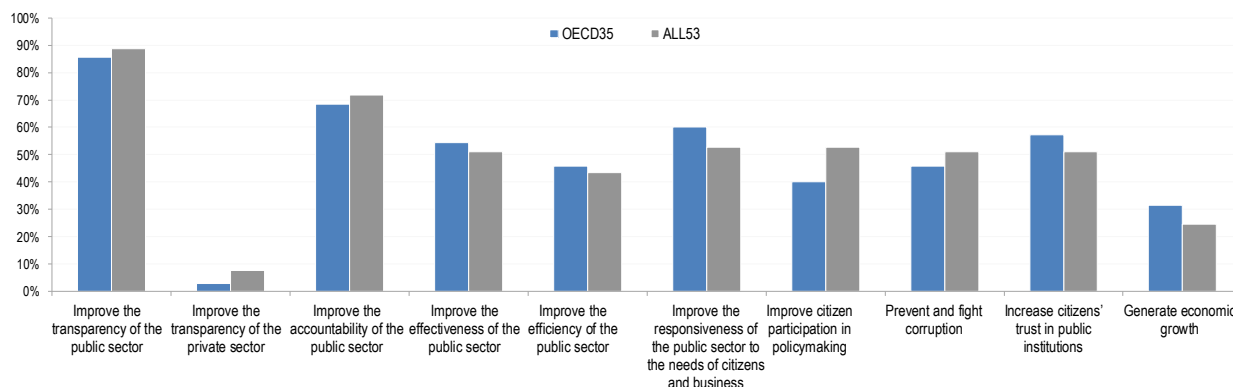
As the principles of open government are by nature horizontal and touch upon a variety of sectoral policies such as education, environment, budgetary governance, transportation, etc., the OECD Recommendation suggests that governments should develop a comprehensive, horizontal open government strategy that regroups scattered initiatives carried out in this policy area. While including open government principles in a wide range of initiatives and implementing them individually is an important step, when they exist in isolation or scattered in other strategies it limits the impact, may create duplication, may lead to overuse of scarce resources and negatively affects the potential that they can have collectively.

For instance, several governments have integrated open government principles in their strategic plans and often implement open government initiatives linked to a sectoral policy or a single principle (e.g. a transparency plan). For example, Australia, Denmark and Greece include open government principles in their public sector reform agendas; Luxembourg, New Zealand and Slovenia include them in their digital government agendas; and Costa Rica, Mexico and Peru include some of them in their constitutions (OECD, 2016^[2]).

The open government strategy should set its main objectives and establish medium to long-term goals. The strategy also needs to be linked and aligned with high-level objectives set by the government, normally at the beginning of each political term. The primary objective of the OGAP of Biscay is to “improve public management and to make it more effective by reinforcing the message that Biscay is built together [...] and to involve citizens in the management of the Provincial Council of Biscay” (Provincial Council of Biscay, 2017^[11]).

This is in line with some of the main objectives that several countries have included in their open government strategies. The OECD (2016^[2]) report found that objectives vary according to the policy priorities of each national or local government. For example, as seen in Figure 2.4, 89% of participating countries (86% of OECD countries) stated that improving the transparency of the public sector was one of the main objectives of their open government strategy and 72% (69% of OECD countries) reported that improving the accountability of the public sector was one of their main objectives.

Figure 2.4. Objectives of countries' open government strategies



Source: OECD (2016^[2]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Biscay's OGAP include 6 key priority and thematic areas and 14 commitments (see Table 2.1). Each commitment comprises the following elements: the department or actor in charge of its implementation; other departments or actors involved in the commitment; the goal that needs to be achieved or problem that needs to be solved; the main objective; a brief description of the commitment, the addressed OGP challenge; values of the OGP; ambition (expected results) and the measurable milestones to reach the commitment with a timeframe (Provincial Council of Biscay^[11]).

Table 2.1. Open Government Action Plan of Biscay: Priorities and commitments

Priorities/thematic areas	Commitments
Transparency and open data	Commitment 1. Create and implement a transparency plan for the Province. Commitment 2. Launch the open data service of Biscay. Commitment 3. Open provincial budgets.
Accountability	Commitment 4. Promote accountability initiatives in the management of the Provincial Council of Biscay. Commitment 5. Define a policy evaluation system for the Provincial Council of Biscay.
Citizen participation	Commitment 6. Develop a model for citizen participation. Commitment 7. Foster social participation in gender equality policies.
Technological development and innovation	Commitment 8. Develop technological tools for the municipalities in Biscay. Commitment 9. Set up a new comprehensive model to provide citizen services. Commitment 10. Reduce bureaucracy.
Promoting collaboration between the public and private sectors	Commitment 11. Generate economic value through collaborative initiatives with businesses within the territory. Commitment 12. Launch projects that bring together the public and private sectors to generate social value. Commitment 13. Launch projects that bring together the public and private sectors and involve young people to generate social value.
Strengthening public integrity	Commitment 14. Create and develop a provincial law for integrity, conflict of interest and incompatibilities.

Source: Provincial Council of Biscay (2017^[111]), *Bizkaia Irekia: Plan de Acción de Gobierno Abierto (Open Biscay: Open Government Action Plan)*, <http://gardentasuna.bizkaia.eus/documents/1261696/1397467/Plan+de+Gobierno+Abierto.pdf/d96264cf-022e-a2c0-3919-e1778372436c>.

These 14 commitments were established based on the challenges that were identified during the consultation phases. The challenges include:

1. developing a system for collective creation
2. generating open and disseminated knowledge
3. strengthening the legitimacy and trust in public institutions
4. constructing a shared identity and vision to strengthen community values
5. drawing on more inclusive, egalitarian values.

These challenges are articulated as general lines of action, which may imply that they are actually the medium-term objectives of the Plan. Each of the 14 commitments also has a main objective. However, the connection between each commitment and its main objective to the challenges (broader medium-term objectives) is not clear. This creates a set of disconnected initiatives. Furthermore, how all of them support the main objectives of the Plan is not well defined. There is no clear causality between the commitments in place and the objectives to be reached and/or the challenges to be overcome.

Although all of these objectives can be perceived as short (lines of action), medium (targets) and long-term objectives, it is essential to present them in a way that all stakeholders involved have the same understanding of what needs to be achieved and when. By clarifying the objectives and setting a timeframe, this will contribute to stronger commitment and buy-in from all involved. Biscay could ensure coherence between the commitments and the goals of the strategy on the one hand, and of the strategy with Biscay's high-level and strategic objectives, in the other hand, as seen in the example of the government of New South Wales (NSW), Australia (Box 2.6).

Box 2.6. New South Wales 2021 strategy, goals, targets and actions

In 2011, the government of New South Wales (NSW), Australia, launched the NSW 2021 as a ten-year plan to guide policy and budget decision making in order to deliver on community priorities. The plan sets long-term goals, measurable targets, and outlines immediate actions to achieve the goals.

The goals, targets and actions in this plan are integrated into the machinery of government, setting the priorities for funding, guiding decisions and focusing the day-to-day work of the public sector. The NSW 2021 is based around five strategies:

1. **Rebuild the economy:** Restore economic growth and establish NSW as the “first place in Australia to do business”.
2. **Return quality services:** Provide the best transport, health, education, policing, justice and family services, with a focus on the customer.
3. **Renovate infrastructure:** Build the infrastructure that makes a difference to both our economy and people’s lives.
4. **Strengthen our local environment and communities:** Improve people’s lives by protecting natural environments and building a strong sense of community.
5. **Restore accountability to government:** Talk honestly with the community, return planning powers to the community and give people a say on decisions that affect them.

The fifth strategy is composed of the following goals, targets and lines of action (extract):

Goals	Targets	Lines of action
Restore confidence and integrity in the planning system	Implement a new planning system	- Develop a new planning system for introduction to Parliament by November 2012, informed by community and stakeholder consultation.
	Up-to-date information about planning decisions	- Publish relevant planning decisions on the Department of Planning and Infrastructure website within five days. - Establish a new assessment procedure for all applications for development and infrastructure of state significance to ensure that 85% are assessed and determined within four months.
	Increase stakeholder satisfaction with planning processes and transparency	- Undertake an annual stakeholder satisfaction survey to enable feedback on the NSW planning system. - Establish a stakeholder satisfaction baseline as part of the review of the existing planning system.
Improve government transparency by increasing access to government information	Increase the public availability of government information	- Develop an open government plan to increase access to government information. The plan will identify opportunities for agencies to provide access to appropriate information. - Expand the Publications NSW website to include access to all agency information published as “open access” under the Government Information Public Access Act (GIPA).

	Up-to-date information about government services	- Increase the number of mobile phone applications that allow people to access government data, for example, Live Traffic NSW, SMS bus services, Police eyewatch and real-time hospital emergency information. - Build a new National Parks website to provide real-time information, online interactive maps, and a new online booking system for accommodation, camping and annual passes for park visitors.
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Note: This is an extract of the fifth strategy of NSW 2021.
Source: New South Wales Department of Premier and Cabinet (2011^[12]), *NSW 2021: A Plan to Make NSW Number One*, https://www.ipc.nsw.gov.au/sites/default/files/file_manager/NSW2021_WEBVERSION.pdf.

As seen in Box 2.6, each of the lines of action responds to the targets that in turn help achieve the strategic goals. Likewise, the goals help achieve the fifth strategy that is part of the strategic plan of the Province. The coherence between all the elements of the strategy simplifies understanding for policy makers and stakeholders and helps contribute to the proper implementation of the main strategy.

The open government strategy needs to be connected to high-level and strategic policy objectives

The document that sets the vision, policy and strategic goals to be achieved by the Province during the mandate of President Unai Rementeria is *Bizkaia Goazen 2030*. This strategic plan was published at the beginning of his term in 2015 and sets a long-term vision for the territory, extending it to 2030 with broader policy objectives to achieve.

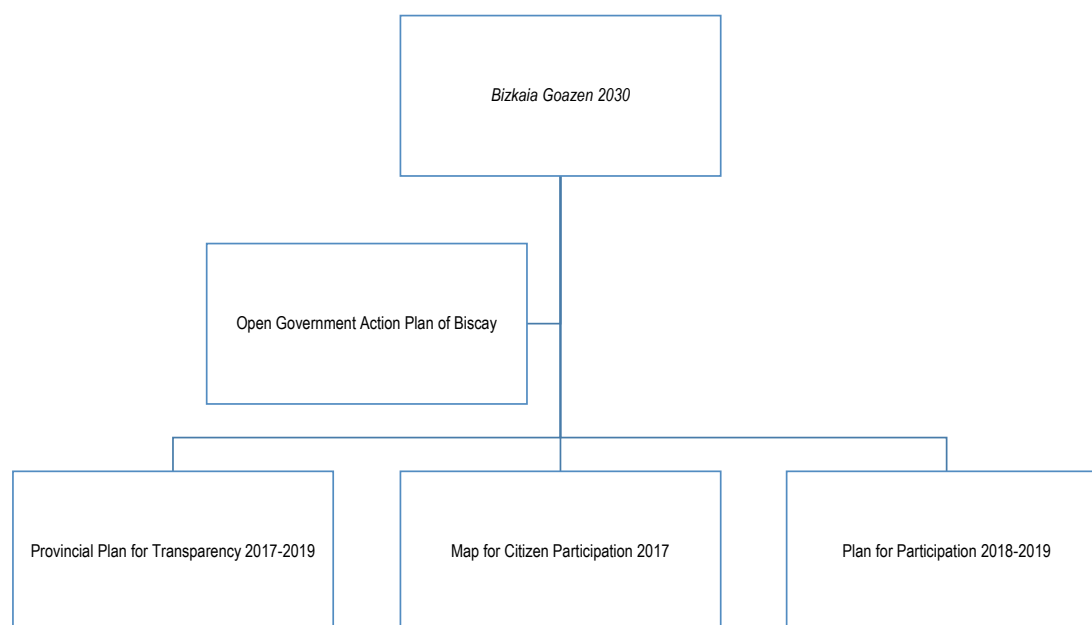
The first section of the strategic plan makes an in-depth analysis of Biscay's current challenges and opportunities and provides four axis of intervention: 1) economic activity and employment; 2) social and territorial cohesion and equal opportunities; 3) modern, close and responsible; and 4) connectivity to the world. Each axis has several strategic objectives with specific actions (120 actions in total) to be implemented with an allocated budget. It was elaborated with the purpose of doing yearly monitoring reports to measure the degree of implementation of all the actions (for more information on their monitoring and evaluation system, see Chapter 4).

The above-mentioned third axis, which aims for a modern, close and responsible public administration, is directly linked to open government. While it does not explicitly mention the term, it contains several principles and initiatives (actions in the document) that were later included in the OGAP. For instance, the two strategic objectives of the third axis, modernising the administration and achieving a closer provincial council, touch upon the principles of transparency, citizen participation, accountability and integrity and thematic areas related to open government such as digital government.

In turn, the OGAP builds upon several elements of the third axis of the *Bizkaia Goazen 2030*. For instance, in the case of transparency, the first commitment of the OGAP is to ensure the correct implementation of the Provincial Law on Transparency (*Norma Foral de transparencia de Bizkaia*) by creating and implementing a transparency plan for the Province (2017-19). The developed transparency plan sets an ambitious goal for the transparency agenda and clear guidelines to achieve it, which are embedded in Biscay's open government vision.

As for stakeholder participation, Commitment 6 of the OGAP calls for the development of a model for citizen participation. One of the outputs of that model is a document called the Map for Citizen Participation, which provides an overview of the initiatives in different policy areas in which citizen participation practices took place in 2017. Biscay also published a Plan for Participation 2018-2019, which sets a roadmap to increase citizen participation throughout the whole policy cycle (for more information on the stakeholder participation agenda, see Chapter 5) (Figure 2.5).

Figure 2.5. Strategies linked to open government in Biscay



Source: Author.

Biscay has made significant efforts to align its open government agenda with some of the actions of *Bizkaia Goazen*. However, it is not clear how the OGAP contributes to the higher and long-term objectives established in *Goazen*. Biscay could establish a more explicit connection between *Bizkaia Goazen 2030* and the current and forthcoming OGAP, which is composed mainly of short-term initiatives.

In sum, two-year action plans, like the OGAP, act as important catalysts for the implementation of open government initiatives. They can also help governments raise the profile of open government initiatives as well as push for high-level reforms. Such has been the case in Biscay, where the high-level political support for, and commitment to, open government pushed for the approval of the Provincial Law on Transparency and the creation of two new institutional structures inside the government dedicated to open government: the Observatory of Biscay and the Cabinet for Modernisation, Good Governance and Transparency. However, based on to the OECD definition of an open government strategy (see Box 2.1), these bi-annual action plans are not considered comprehensive national or local strategies, as they establish short-term objectives and lack the long-term vision that a comprehensive strategy can provide. Developing a holistic open government strategy implies moving from setting and implementing fixed plans towards creating an adaptive system that can continuously improve public governance and promote

coherence given different challenges. It also implies moving from a focus on output (e.g. initiatives and laws) towards a focus on outcomes (e.g. impacts of projects and legal changes). Therefore, Biscay could take the lessons learned from the OGAP and consider developing a comprehensive open government strategy in order to ensure the success and long-term commitment of its open government agenda and to streamline all other related plans (mainly transparency and stakeholder participation) so that it becomes the baseline strategy. Also, the legacy of a consolidated open government strategy would ensure continuity with a new government and would increase buy-in with current and new stakeholders and accomplish a real cultural change within the public administration. Further, a clear strategy facilitates adherence to and buy-in from all sectors and all levels of government, and it sets a baseline that can be used to measure the performance of open government.

An inclusive process for the creation of the open government strategy ensures buy-in

In order to reach the full potential of an open government strategy as well as ensuring its successful implementation, it is important to have the ‘buy-in’ from key actors, both within and outside the government. For this, internal communication with, and among, civil servants is essential. In addition, an early integration of civil society, including non-governmental organisations (NGOs), academic institutions, local governments and citizens is crucial for the development of the national or local strategy. Finally, the required reforms need to be communicated and made tangible to civil society, citizens and other stakeholders throughout the entire process (OECD, 2016^[2]).

Biscay conducted three consultation phases to develop the OGAP. The first phase was an external consultation for which, participants were selected through two main mechanisms. First, the Province opened a call to participate to the 8,000 subscribers of an online newsletter dedicated to participative initiatives in the Province (see Chapter 5 for more information on the newsletter). Then, it invited other stakeholders to participate, such as the private sector and trade unions, through Innobasque, the innovation agency of the Basque Country. From all of those that showed interest to participate, Biscay selected 36 participants (citizens, civil society entities, representatives from the private sector and trade unions) based on three criteria:

1. previous knowledge or experience in open government;
2. the degree of collaboration with the Provincial Council of Biscay; and
3. gender parity.

The output of this phase was the identification of the characteristics of what an open territory should be in Biscay, the challenges to be addressed and the necessary actions to overcome them. The second phase was undertaken with 59 civil servants and technicians from different departments of the Provincial Council of Biscay. It helped recognise the challenges and align the actions to their respective departments and sectoral plans or strategies already in place. Finally, the third phase was carried out with 14 policy experts and academics to enrich and consolidate the definition, the challenges and the proposed actions.

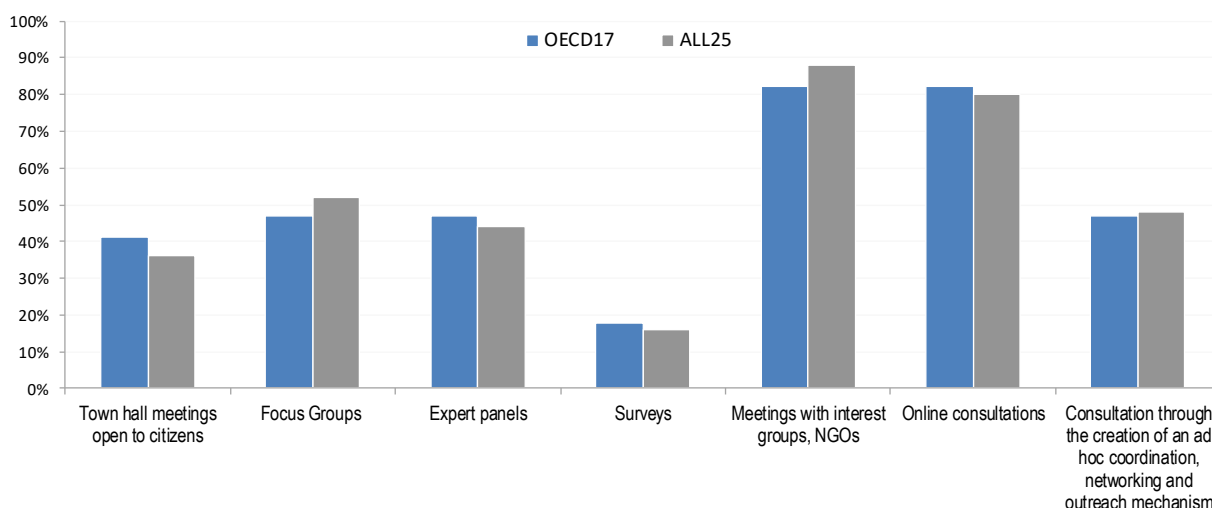
The process of developing and communicating an open government strategy is as important as the strategy itself, as it will set the scene for its adherence by stakeholders and to a certain extent, its success. All relevant stakeholders within and outside the government should be involved in the process; this will increase buy-in and commitment as well as continuity of

the open government agenda beyond a single administration. Further, communicating the definition, the objectives and the strategy itself will ensure support from the stakeholders involved and will help permeate the adherence of a larger public to the open government strategy.

For the elaboration phase, it is crucial to have an inclusive process such as the one used for the open government action plan. The OECD survey revealed that nearly all countries (96%) with an open government strategy had taken an inclusive and participatory approach. Like Biscay, most countries involve the concerned central government institutions, civil society organisations (CSOs), citizens and academics. For a more holistic and inclusive approach to open government, Biscay could consider involving media associations and journalists (such as the Netherlands), local governments (such as in Finland) as well as the legislative and judicial branches, while also fostering greater openness within those actors.

There are different ways to conduct the consultation phases. For the external phase, most countries carry out meetings with interest groups and CSOs (88% of survey respondents, 82% of OECD countries) and online consultations (80% of survey respondents and 82% of OECD countries) (see Figure 2.6). Biscay could consider organising town hall meetings, for example; this approach, carried out by 36% of participating countries (41% of OECD countries), offers a direct exchange with citizens. The use of social media can also be a useful tool to raise awareness and to increase response rates in online consultations or surveys, and they can act as an enabler to promote open government principles and the strategy itself (see Chapter 5 for the role of external communication in open government).

Figure 2.6. Consultation approaches used by countries during the development of an open government strategy



OECD (2016^[2]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

While Biscay made important efforts during the consultation phases that led to the OGAP, establishing a narrow criteria for the first phase, to those subscribed to those newsletter, that have experience on open government and have collaborated before with the Provincial Council of Biscay limits the spectrum of actors that can have a say during the process and hinders the participation of other actors that have not yet participated with the Provincial

Council of Biscay or that are related to open government. Conducting town hall meetings can widen participation to new actors who could enrich the open government strategy, broaden the scope of civil society that participates in the process, boost general knowledge on open government and increase buy-in from a wide range of stakeholders.

The Provincial Law on Transparency at the core of Biscay's open government legal and regulatory framework

An open government strategy needs a robust legal and regulatory framework in order to be effectively implemented. As stated in Provision 2 of the OECD Recommendation, national and local governments should “ensure the existence and implementation of the necessary open government legal and regulatory framework, including through the provision of supporting documents such as guidelines and manuals, while establishing adequate oversight mechanisms to ensure compliance” (OECD, 2017^[1]).

A robust legal and regulatory framework should be formulated in a comprehensive way, communicated to stakeholders and effectively enforced. Some examples of what such a legal baseline could include, but is not limited to, are: laws on access to information, citizen participation, citizen engagement in public procurement procedures, protection of personal data and archives, open data, whistle-blower protection and anti-corruption laws. Each legal and regulatory framework is by nature context-specific and can take several forms, particularly in a local government such as Biscay, which has an articulated multilevel governance structure.

The core legal basis for open government can take different forms in every country; however, the OECD survey showed that a significant number of OECD members introduce open government provisions in their constitutions, as is the case in Mexico, Norway and Sweden (OECD, 2016^[2]). Most of these provisions refer to access to information and citizen participation. As explained in Chapter 1, Biscay is a local government with unique multilevel governance arrangements. At the highest levels, the Spanish Constitution mentions access to information (Article 20 and 105.b) and the recognition of citizen participation as a right (Article 9) (Government of Spain, 1978^[13]). In addition, the Statute of Autonomy of the Basque Country reinforces Article 9 of the Constitution by stating that “the Basque public authorities will, within the scope of their competencies, facilitate the participation of all citizens in the political, economic, cultural and social life of the Basque Country” (Congreso de España, 1979^[14]).

Acknowledging that ATI and FOI laws are the cornerstones of open government and are “a crucial element to reduce corruption and deepen trust among citizens and their governments” (OECD, 2016^[2]), Biscay adopted its own Provincial Law (*Norma Foral*) on transparency in February of 2016 (Juntas Generales de Bizkaia, 2016^[15]). Before this, the legislation enforced at the Provincial level was the national Law for Transparency, Access to Public Information and Good Governance approved in December 2013 (BOE, 2013^[16]). This is not unique, in some countries with federal structures, local governments have passed ATI legislation; such is the case of ten provinces and three territorial legislatures in Canada.

ATI or FOI laws allow citizens to know their rights and to understand the role of the government better. They are also a tool to hold governments accountable and to make informed decisions. While providing access to information does not lead to an automatic increase of citizen participation or engagement (World Bank, 2016^[17]), it can act as an enabler. As indicated in the OECD (2016^[2]) report, ATI or FOI laws aim, among others, to:

- guarantee the greatest degree of transparency in government operations
- encourage the reuse of information
- generate economic value by private individuals and companies.

More than 100 countries worldwide have adopted ATI or FOI laws, including all OECD countries. While each ATI or FOI law is different as it is adapted to the particularities of each country or local government, the most shared elements of such a law include:

- objectives and principles
- scope
- proactive disclosure
- procedure to request information
- exemptions
- appeals procedures
- information officer

Objectives of the Provincial Law on Transparency

Although the Provincial Law on Transparency of Biscay was adopted in 2016, Biscay had been implementing transparency initiatives for several years. In 2005, the provincial strategic plan included transparency as one of the main horizontal axes; also, the strategy for the period 2011-16 included an objective on making the management of public administrations and public information more transparent. Biscay's efforts and progress in this matter are shown in the results of the Index of Transparency of the Provincial Councils of Spain, carried out by Transparency International. Since the index began in 2012, focusing only on proactive disclosure of information, the Provincial Council of Biscay is ranked among the first five most transparent in Spain (Transparency International Spain, n.d.^[18]). Taking into account the progress already made at the provincial level, the Provincial Law on Transparency of Biscay built on the state law and took as a reference a similar draft bill that was being discussed at the Basque Parliament at the time. The former draft bill was not enacted but the Basque Parliament is discussing a new version, which, as of February 2019, has not yet been approved.

The objective of the Provincial Law on Transparency of Biscay is to guarantee transparency in two dimensions: proactive disclosure and the right to access the public information of the Provincial Council of Biscay as well as of that of the state-owned enterprises. To achieve this objective, the Provincial Law has the following objectives:

- The information that is published must be true and accurate.
- The entities subject to this Provincial Law must meet with what is established.
- The information that is published must be useful.
- The information that is published must be simple and understandable for citizens.
- The access to information must be free, except in the case of fixed rates for the delivery of information or copies that are different from the original (Provincial Council of Biscay, 2016^[19]).

Scope of the law

Evidence from OECD countries shows that ATI laws vary in terms of applicability and scope. Only 25 OECD countries include local governments in their ATI laws, only half their legislative and judicial branches and few include state-owned enterprises

In Biscay, the Provincial Law on Transparency applies to the Provincial Council of Biscay (i.e. the executive branch), to the legislative branch, to other public entities (autonomous organisms, state-owned enterprises, foundations, and other provincial entities subject to public law), to private entities that receive funds from the Provincial Council (that receive EUR 100 000 or more, or that they represent more than 40% of their yearly income) to any natural or legal person that provides services to the Provincial Council and to other entities that receive subsidies such as political parties and trade unions. However, it does not cover other actors such as the judicial branch or municipalities.

For municipalities, the Law of Local Institutions of the Basque Government (BOE, 2016_[20]), also known as “LILE” for its initials in Spanish, regulates the competencies of the municipalities in the Basque Country and it includes provisions on transparency, i.e. access to information provisions and citizen participation. Table 2.2 summarises the scope of application of the ATI law at the state level, at the Autonomous Community (draft bill), in Biscay and in the municipalities.

Table 2.2. The breadth of access to information laws that apply in the Basque Country

Law or local law	Enacted by	Applies to
Law of Transparency, Access to Information and Good Governance (19/2013)	Spanish state	Central and sub-national governments Executive and legislative branches The Household of His Majesty the King, the Constitutional Court, the General Council of the Judiciary, the Bank of Spain, the Council of State, the Ombudsman, the Court of Audit, the Economic and Social Council and the similar regional institutions, in relation to their activities subject to administrative law Private entities managing public funds*
Draft bill on transparency and citizen participation in the Autonomous Community of the Basque Country (<i>draft bill</i>)	Autonomous Community of the Basque Country	Central government Executive and legislative branches Private entities managing public funds*
Provincial Law on Transparency (1/2016)	Province of Biscay	Central government Executive and legislative branches Private entities managing public funds*
Law of Local Institutions of the Basque Country (LILE) (2/2016)	Autonomous Community of the Basque Country	Central government (municipalities) Executive branch Private entities managing public funds*

Note: *Applies to private entities managing public funds under certain conditions (amount of money they receive or percentage owned by the state). The conditions vary in each law.

Source: Author

Proactive disclosure

Proactive disclosure of information, that is the information that is made available to the public without a prior request, is essential to achieve more transparency and openness in a government. It also reduces the costs of administrative procedures as it reduces information requests. All OECD countries proactively publish public information; nevertheless, the

type of information varies in each of them. The Provincial Law on Transparency of Biscay includes proactive disclosure for the following types of information:

- **Institutional:** Organisational information (e.g. organisational norms, plans), a list of high-ranking officials and their annual declaration of income, assets and property.
- **Legal and regulatory:** Draft bills, provincial laws, regulatory resolutions, etc.
- **Economic and financial:** Budget (updated every three months), provincial balance sheets (e.g. deficit, public debt), investments, tax revenues, etc.
- **Public administration:** Procurement, grants and subsidies, etc.
- **Sectoral policies:** Sectoral plans and programmes, service charters (*cartas de servicio*), etc.
- **Public employment:** Staffing structure, job offers, training programmes, etc.
- **General information:** Any information that can be useful for citizens including maps, social services, cultural activities, access to public services, citizen information services, etc.

The type of information disclosed proactively by the Provincial Law on Transparency of Biscay is in line with OECD standards. For example, like Biscay, most countries disclose budget reports (94%), annual ministry reports (84%) and audit reports (72%). However, very few countries (22%) publish the list of public servants and their salaries (OECD, 2011^[21]). In Biscay, like in Italy, the Netherlands and the United Kingdom, the disclosed salaries of public officials are only for top positions via an annual asset declaration. Concerning the salaries for civil servants, an income scale by position is made public. Biscay could continue to disclose the salaries of all public officials as in Chile, Estonia and Israel as well as their assets.

An important element of a transparency law is where and how information is published. In 81% of OECD countries, information is published in a single website, whereas for others it is done in each ministry's website or both. In relation to how the information is published, governments should ensure that the information is timely, up to date, reliable and re-usable (OECD, 2011^[21]). The Provincial Law on Transparency of Biscay specifies that information will be published on Biscay's updated and centralised online transparency portal, called Bizkaia Gardena (<http://gardentasuna.bizkaia.eus/es/>). This includes any information that concerns the central government and the executive branch, while the other public bodies shall publish their information on their own online portals. A unified format for online portals was elaborated for the public bodies subject to the Law. Also, the Provincial Law on Transparency of Biscay foresees that every portal shall have a space dedicated to what Biscay calls collaborative transparency, which is a space for citizens to submit their requests and needs as well as to evaluate the quality of public services. The Provincial Law on Transparency of Biscay establishes that all information shall be re-usable, in an open and standardised digital format. Finally, the Provincial Law on Transparency stipulates that a transparency plan shall be developed by the central administration of the Provincial Council and the entities of the public sector of the Province every three years in order to define the minimum targets of proactive disclosure and to establish new requirements of transparency.

Procedure to request information

All OECD countries establish standards for responding to information requests made by citizens; these include a time limit to respond, the eligibility conditions to file the request and, sometimes, fees. As for Biscay, in 71% of OECD countries any natural or legal person can file a request for information without the need to indicate the motivation or reason for the request. The process of requesting information in Biscay can be made electronically, on site or by mail. Electronically, the request can be submitted by filling in a form via the transparency portal or via the portals of the provincial bodies. In all cases, it requires the identification of the natural or legal person requesting it, which is also the case in the national Law for Transparency, Access to Public Information and Good Governance (BOE, 2013^[16]). Although Biscay does have an online channel that allows for anonymous requests, complaints and suggestions to be made called “*Laguntzaile*”, it is not part of the Provincial Law of Transparency and thus, not subject to the same standards (response time, opportunity to appeal, etc.). More and more countries, are allowing for anonymous request. For instance, some OECD countries such as Australia, Canada and the United States have enacted legislation that allows requests for information made anonymously. In case the Provincial Law is revised in the future, Biscay could consider the possibility of allowing the requests to be made anonymously.

Once filed, the provincial body in question has 15 days to respond; this period can be renewed for an additional 15 days in the case of an unusual volume or complexity of the information requested. This falls within the OECD standards, where the average time to respond is 20 working days, and even less in countries such as Estonia (5) and Portugal (10) (OECD, 2010^[22]). However, as the national Law for Transparency, Access to Public Information and Good Governance, the Provincial Law provides for administrative silence, which means that in the absence of response within the period specified, the applicant can consider his/her request denied. In this case, the requester can appeal the decision to the Complaints Commission (see section on appeals procedures). Even though Biscay currently has an internal commitment to respond to all demands, this is not reflected in the Provincial Law, which can hamper the confidence that citizens have in the law if the practice is not continued in the long term. The absence of a proper justification of a denial may lead to discretion and legal insecurity affecting the guiding principles of transparency, which imply that all public information is accessible and can only be withheld in order to protect other rights and national security, as stated in the Provincial Law. According to the Common European legal standards and the OAS Model Law on Access to Public Information, “no administration can deny access to a requested document without justifying its decision. Any refusal should mention the legislative exemption upon which it is grounded and clarify why the disclosure would harm the legitimate public or private interests protected by the exemption” and “in case exceptions to disclosure of the information are applied, they must be clear and narrow and must be legitimated and strictly necessary in a democratic society. The requester must be informed of the reason and legal provision of why the information is not given as well as the possibility to appeal the decision”, respectively (OECD, 2016^[23]). Biscay could continue the practice that every request is adequately responded to, either with the information that has been requested, with proper justification in case the request is denied by non-admission, or in the case of an exemption.

In Biscay, the request for information is free, although some administrative fees can apply in the case of issuing copies or of a change of format in a document, which can never exceed the real cost in accordance with the Provincial Law on Fees and Public Prices. In OECD countries, most fees depend on the number of pages or on the amount of time to process

the request. While most countries differentiate between the charging fees of a document already available with requests that require research or elaboration, only a limited amount of countries cap the size of the fee, such as Austria, Finland and France. Aside from cases that require research or elaboration, the OECD suggests that public institutions should consider removing all fees in order to ensure access to information to low-income citizens.

Exemptions

Every OECD country with an ATI law has exemptions where the access to information cannot be granted. The most recurring cases for exemptions include sensitive data and information on matters of national security, personal data or commercial confidentiality. The Provincial Law on Transparency of Biscay states the following causes for non-admission of a request:

- when the information requested is in the process of elaboration or publication
- when the information requested is supportive or instrumental (e.g. informal notes, drafts and internal communications)
- when the information requested needs a previous process of elaboration
- when the addressed body does not have the information requested
- when the information requested is repetitive, abusive or has disproportionate costs.

The exemptions of the Provincial Law include information on public security, commercial confidentiality, environmental protection, private life, personal data and child protection. While the use of non-admissions and exemptions are accepted, they should be limited and properly justified.

Appeals procedures

In cases where the information requested is denied, natural and legal persons should be able to appeal. In Biscay, an independent body called the Complaints Commission was created to address appeals, which is composed of three civil servants, appointed by the executive branch of the Provincial Council of Biscay for a non-renewable term of four years. The appeal can be filed within one month after receiving the denial, and the Complaints Commission has three months to respond. In the case of a negative response from the Commission, the requester can appeal the decision in an administrative court. In other countries with an ATI law, the three most common approaches to appeal withholding information are:

- Individuals are given a right to make an “administrative appeal” to another official within the institution to which the request was made. If the administrative appeal fails, individuals may appeal to a court or tribunal, which may order disclosure of information.
- Individuals are given a right of appeal to an independent ombudsman or information commissioner, who makes a recommendation about disclosure. If the institution ignores the recommendation, an appeal to a court is permitted.
- Individuals are given the right of appeal to an information commissioner who has the power to order disclosure of information. No further appeal is provided for in the access law, although the commissioner’s actions remain subject to judicial review for reasonableness (World Bank, 2009^[24]).

In Biscay, the requester can file a complaint with the Complaints Commission in case the department or body in charge of responding to a request does not provide the information requested. In turn, the Commission analyses the complaint and can file a disciplinary inquiry into the department or body. In case of fault, the sanction applied will depend on the regulation corresponding to the person responsible.

Information officer

In order to implement an ATI law correctly, it is important to have adequate financial and human resources. Several OECD countries have an information officer to oversee and process the appeals. In Biscay, while appeals are dealt with by the Complaints Commission, the Cabinet of Modernisation, Good Governance and Transparency is in charge of the whole transparency agenda of the Provincial Council of Biscay. With regard to information requests, the Cabinet has what they call a decentralised model of implementation. In practice, this means that the Cabinet receives the information requests and sends the requests to the competent bodies or departments to respond. Likewise, the Cabinet produces reports related to transparency requests and manages the transparency portal.

Implementation

Since the entry into force of the Provincial Law on Transparency in February 2016, the Provincial Council has been carrying out several activities contributing to a proper implementation. For instance, since the beginning Biscay created a body to provide technical assistance to all public servants covered by the Law, set up the new transparency portal as well as an open data portal to reuse the content of proactive disclosure (see Chapter 3 for more information on open data initiatives). Biscay created the Complaints Commission and to facilitate the dissemination and understanding of the Law, Biscay published an easy-read version and conducted several awareness-raising public events. In addition, in 2017, Biscay decided to go a step further and published a Provincial Plan for Transparency to ensure proper implementation and to build a culture of transparency in the Province. The Plan was built around 6 strategic axes with 24 actions to achieve them, as seen in Table 2.3.

Table 2.3. Biscay's Provincial Plan for Transparency 2017-2019: Strategic axes and actions

Strategic axes	Actions
Biscay as a transparent territory	1. Organize informative conferences on transparency. 2. Support municipalities in the implementation and progress of transparency. 3. Support private entities that receive subsidies to comply with their obligations on proactive disclosure. 4. Promote transparency in the private entities of Biscay. 5. Recognize good practices of transparency in Biscay. 6. Participate in national and international forums to position Biscay as a transparent territory.
Foster and improve the content of proactive disclosure	7. Integrate new content of proactive disclosure to the transparency portals. 8. Integrate elements that facilitate the comprehension of the information. 9. Increase the reusable content of proactive disclosure.
Transparency in the key management processes of the Provincial Council of Biscay	10. Consolidate the transparency dimension of public procurement. 11. Progress in the transparency dimension of budgetary information. 12. Development of the transparency dimension of the provision and evaluation of public services. 13. Consolidate the transparency dimension in the elaboration of legislation. 14. Strengthen the transparency dimension of data protection.
Improve and implement new channels of communication	15. Improve the accessibility of the transparency portals. 16. Facilitate and improve the right to access public information. 17. Develop new channels to provide information on the governance of the administration.
Internal capacities to manage transparency	18. Include transparency in the training schemes of civil servants and the access plans of public job offerings. 19. Awareness and training of the Provincial Council of Biscay on transparency. 20. Sustainability of the transparency management system
Evaluation and monitoring of transparency	21. Periodic evaluation of the management of transparency. 22. External accreditation of the quality of the management of transparency. 23. Implementation of a consultation analytical system. 24. Elaboration of a follow-up report of the transparency plan.

Source: Provincial Council of Biscay (2017^[25]), *Plan Foral de Transparencia de Bizkaia 2017-2019* (Provincial Transparency Plan of Biscay 2017-2019), <http://gardentasuna.bizkaia.eus/documents/1261696/1266763/Plan+Foral+de+Transparencia+de+Bizkaia+2017-2019+.pdf/2826b52d-6cad-8948-ae1a-8e36d9ca8a46>

As in the OGAP, each action has an objective, a description of the action, the responsible body to implement it, as well as indicators and an estimated date for its implementation. The Cabinet of Modernisation, Good Governance and Transparency is in charge of the overall implementation and co-ordination of the Plan. Likewise, the Cabinet established an inter-departmental working group to ensure co-ordination within all the Departments that work on the Plan (Provincial Council of Biscay, 2017^[25]).

The annual monitoring report of the Transparency Plan published at the end of 2017 showed important progress in its implementation. For example, in municipalities, the Cabinet through BiscayTIK, supported the publication of new transparency portals through the online portal “*Udala Zabaltzen*”, an easy-to-use website created by BiscayTIK in 2014 for municipalities (see Chapter 3 for more information on this portal). Likewise, to use transparency to improve public services, Biscay developed service charters (*cartas de servicio*) for certain public offices that have constant contact with the public (for more information on service charters, see Chapter 5). In terms of requests for information, during 2017 Biscay received 19 in total. The most requested topics were related to institutional information (27%) as well as public works and urban planning (16%). The Complaints Commission has so far received two complaints since its creation. The numbers appear to be low, which is understandable due to the recent approval and implementation of the law. The Provincial Council has been carrying out efforts to better promote the Provincial Law,

both within the public administration and outside, so all stakeholders are well aware of their rights and obligations. Biscay has identified that some internal and external challenges still need to be addressed. On the institutional side, Biscay has raised that the resistance to change the internal culture hampers the implementation of the Law, as it may be considered a burden to civil servants' regular tasks, extra responsibility or lack of awareness of the law and its provisions. This challenge is not only related to the transparency law, it is also an important barrier for the implementation of the OGAP. From the user side (stakeholders), the Provincial Council has mentioned communication to better disseminate the instruments that stakeholders have at their disposal to access the information, to increase awareness and interest on the value of reusing data and more importantly, to know about the law, and the rights that stakeholders have under it, as the main limitations to a full implementation of the law.

Acknowledging these challenges, Biscay has carried out several activities to raise awareness and ensure compliance, for example, through technical seminars for all the Provincial Departments and the elaboration of guidelines for private entities subject to the law, as shown in Box 2.7. Biscay could continue to carry out the dissemination and awareness-raising campaigns in order to increase knowledge among all stakeholders, and to ensure compliance from entities and public officials subject to the law.

Box 2.7. Support of the implementation of the Provincial Law on Transparency to private entities in Biscay

To facilitate compliance with the Provincial Law on Transparency, Biscay elaborated a Transparency Guide for private entities that fall within the scope of the law. The Guide is a summarized document that outlines clear steps for private entities to facilitate compliance. It includes guidance on the information that should be published, the deadlines to respect, how to publish the information and the consequences for non-compliance. The Guide also includes a practical example to illustrate all the steps.

Further, the private entities that do not have electronic means to comply with the Provincial Law, can employ the transparency portal shared by other public entities and facilitated by the Provincial Council. Further, in order to advertise the Guide, Biscay organized two technical seminars during the course of 2017 with private entities.

Source: Provincial Council of Biscay (2017^[26]), *Guía de Transparencia (Transparency Guide)*, <http://gardentasuna.bizkaia.eus/documents/1261696/1265157/Descargar.pdf/29ab9b22-76c1-1d91-5671-cd913064e319>.

The Law of Local Institutions of the Basque Government

As mentioned in previous sections, Biscay has made several efforts to implement a vision of an open territory by focusing on strengthening collaboration with municipalities. In that sense, the Law of Local Institutions of the Basque Government (*Ley de Instituciones Locales de Euskadi*, LILE), is of particular importance. The LILE regulates the competencies of the municipalities in the Basque Country, including those in Biscay. Within this law, there is a dedicated chapter on open government with provisions for transparency and citizen participation.

Concerning transparency, the LILE provides for proactive disclosure and the right to access the public information. The scope of the law includes the executive branch of all municipalities as well as certain private entities managing public funds. The type of

information disclosed proactively is in line with OECD standards. The law also establishes that all information shall be re-usable, in an open and standardised digital format. A dedicated transparency portal is only obligatory for municipalities with more than 20 000 inhabitants. Once a request for information is filed, municipalities have one month to provide a response. The exemptions and limits that apply are the same as for the Provincial Law. The appeals procedures in municipalities fall upon the Basque Commission of Access to Public Information. Finally, the Law has an additional provision that phases the time that the Law will come into force according to the size of the municipalities. For example, municipalities with less than 2 000 inhabitants have five years to fully comply with all the obligations related to the transparency provisions of the LILE.

In terms of citizen participation, the LILE regulates the conditions that guarantee effective stakeholders participation in the elaboration of norms, local strategic plans and decision-making. The Law fosters stakeholders' participation throughout the policy cycle (initiative, design, elaboration, implementation and evaluation). Likewise, the LILE regulates the tools for citizen participation, including popular consultations (*consultas populares*), sectorial consultations (*consultas sectoriales*) and open citizen consultations (BOE, 2016^[20]).

During the fact-finding mission, some local governments recognized how comprehensive and useful the Law is, however, some mentioned that they struggled to meet all the obligations due to a lack of human and technical resources. To that effect, the Provincial Council is an important ally since it supports local capacity building through BiscayTIK, specifically in digital aspects that are used for the transparency obligations, as with the example of *Udala Zabaltzen*. This support can particularly help municipalities with less than 20 000 inhabitants by providing a level playing field; currently, 44 municipalities have this transparency portal. The Basque Local Governments Association (EUEDEL) also plays an important role representing and connecting municipalities in the Basque Country. It provides capacity-building activities targeted to open government principles. For example, in 2017 it implemented, in collaboration with the Council of Europe, a pilot project called the European Label of Governance' Excellence (ELoGE). This pilot benchmarked nine Basque municipalities with 12 principles of good governance, including one on openness and transparency and another on accountability. Initiatives such as ELoGe and *Udala Zabaltzen*, can provide the needed support and boost to small municipalities in order to further implement open government principles (Centre of Expertise for Local Government Reform, 2018^[27]). In order to become a transparent and open territory, Biscay could further strengthen its collaboration with municipalities on aspects that go beyond transparency and information technology (IT). For instance, Biscay could provide capacity building on stakeholder participation for local governments. Furthermore, the Province could create a space to share good practices on the principles of open government with the Basque Local Governments Association (EUEDEL) and the municipalities.

Recommendations and proposals for action

Biscay is in line with OECD practices, as in early 2017, Biscay launched its 2017-19 Open Government Action Plan (OGAP) as the first attempt to group open government principles and initiatives under a broader open government strategy. In addition, Biscay has shown high-level political commitment with open government principles since the beginning of the current mandate of President Unai Rementeria. However, Biscay still needs to carry out additional efforts to ensure the success and long-term sustainability of its open government agenda.

With regard to positioning open government as a holistic and long-term strategy, Biscay may wish to consider:

- Ensure long-term, high-level political will, commitment and leadership by making further efforts to foster them in public officials through, for instance, training and communication campaigns and involving them in the creation of the open government strategy.
- Better communicate and disseminate Biscay's definition of open government in order to ensure that all stakeholders have a common understanding of open government.
- Ensure coherence between the commitments and the goals of the strategy on the one hand, and the strategy with Biscay's high-level and strategic objectives, in the other hand.
- Streamline under the strategy all other related plans and initiatives to open government principles (mainly transparency and stakeholder participation) so that it becomes the baseline policy for all related plans and initiatives.
- Ensure an inclusive process and secure buy-in from a wide range of stakeholders for the creation of the open government strategy by:
 - Involving media associations and journalists, local governments as well as the legislative and judicial branches.
 - Considering organising town hall meetings and using social media, so as to have a direct exchange with citizens and enlarge the spectrum of stakeholders consulted.

In relation to securing a well implementation of the Provincial Law on Transparency, Biscay could:

- Continue to carry out the dissemination and awareness-raising campaigns in order to increase knowledge among all stakeholders, and to ensure compliance from entities and public officials subject to the law.
- Continue to disclose the salaries of all public officials as well as their assets.
- Allow requests for information to be made anonymously.
- Continue the practice that every request is adequately responded to, either with the information that has been requested, with proper justification in case the request is denied by non-admission, or in the case of an exemption.

In relation designing and implementing its open government agenda and moving towards becoming an open territory, Biscay could:

- Include other key actors of the Province, such as the legislative branch, and could benefit from the ongoing Open Government Partnership (OGP) Local Programme of the Basque Country to include the municipalities – beyond the ongoing co-operation for transparency and technology tools – as well other actors of the Autonomous Community such as the Basque Ombudsman, *Ararteko*, while respecting their level of autonomy.
- Further strengthen its collaboration with municipalities on aspects that go beyond transparency and information technology (IT). For instance, Biscay could provide

capacity building on stakeholder participation for local governments. Furthermore, the Province could create a space to share good practices on the principles of open government with the Basque Local Governments Association (EUEDEL) and the municipalities.

Notes

¹ The Province of Biscay is legally referred to as a “historic territory”, a term exclusive to the Basque Country that describes the political and administrative system of its three provinces. In view of facilitating the understanding of the term for readers not familiar with the concept and of shortening the term repeated throughout the Chapters, the Review will refer to the historic territory of Biscay as “Province of Biscay”.

² The CoG is known under different labels in different countries, such as Chancellery, Cabinet Office, Office of the President, Office of the Government, etc. It is playing more and more an active role in policy development, co-ordination, leadership, collaboration and co-operation across the public administration. It aims at securing a strong, coherent and collective strategic vision - especially when it relates to major cross-departmental policy initiatives (OECD, 2014^[28]).

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Chapter 3. Ensuring a sustainable implementation of Biscay's open government agenda

This chapter analyses the internal capacities and current initiatives in place in the province of Biscay to ensure a culture of open government. In particular, it examines the Province's institutional and co-ordination framework as well as its human and financial resources. Finally, it reviews Biscay's information and communication technology (ICT) environment as a key enabler to modernise its public administration through open government reforms.

Introduction

Due to the transversal nature of open government reforms and the need to involve different stakeholders, strong institutional arrangements with appropriate co-ordination mechanisms are needed. Having the right institutional arrangements - understood as the existence and interaction of different stakeholders in a given national or local government that have a mandate and/or a role to play in the open government agenda - will ensure effective and efficient implementation of an open government strategy and its initiatives.

The success and ability to reach intended goals and attain higher impact do not solely rely on a strategy or the existence of an office in charge. This office needs to provide strong leadership and effective co-ordination, as well as strategic guidance. Adequate human and financial resources are also key. To this end, policy makers and civil servants need to be well trained, informed and aware of the benefits that a comprehensive open government strategy and initiatives can yield to enhance transparency, integrity, accountability and stakeholder participation. Furthermore, as many open government initiatives are enabled through the use of information and communication technologies (ICTs) by governments and other stakeholders it is important to develop them and promote their use. Open government data (OGD) portals or online consultations are also vital for open government initiatives to thrive.

This chapter will therefore assess the various components that constitute the foundation for a change in the culture of governance towards effective open government reforms in the province of Biscay (legally referred as “historic territory”¹). While this selection of factors is not exhaustive, none of the open government initiatives can exploit its full potential if it is not empowered by each of these underlying components.

Towards robust institutional arrangements for effective and sustainable implementation of Biscay's open government agenda

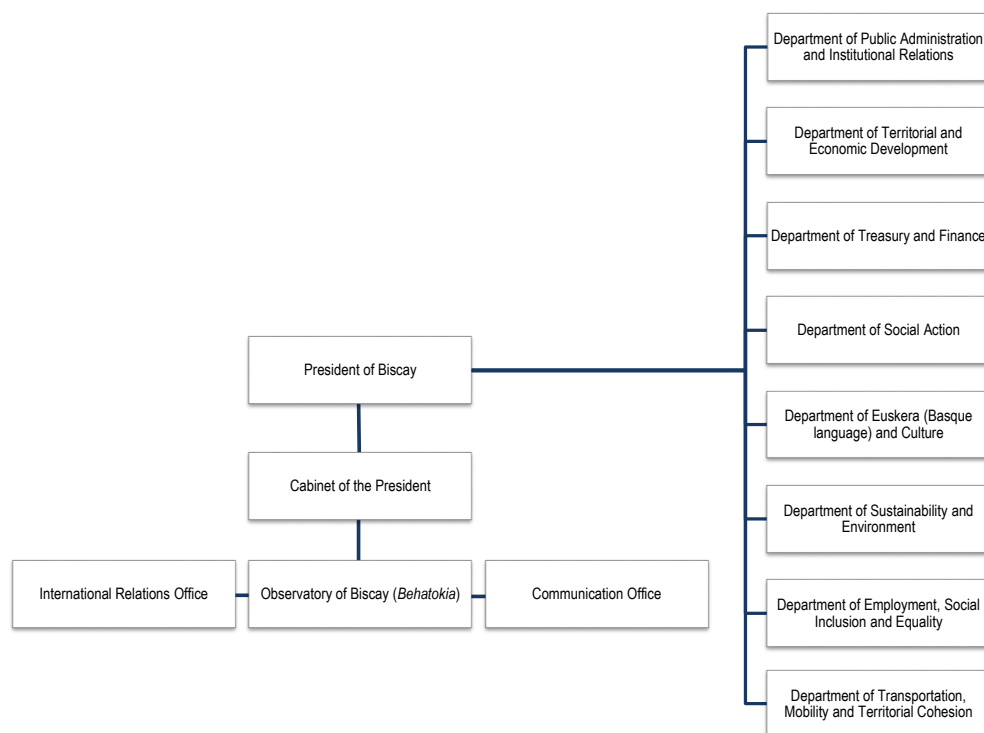
Successful open government reforms require that a variety of stakeholders be involved in their development and implementation, including public institutions at all levels, independent institutions as well as civil society organisations, academia and the media, to mention a few. The provision 4 of the Recommendation of the Council on Open Government (hereafter the “OECD Recommendation”) calls upon governments to “co-ordinate, through the necessary institutional mechanisms, open government strategies and initiatives - horizontally and vertically - across all levels of government to ensure that they are aligned with and contribute to all relevant socio-economic objectives” (OECD, 2017^[1]).

As discussed in Chapter 2, since the beginning of the current mandate in 2015, the Provincial Council of Biscay (*Diputación Foral de Bizkaia*, hereafter “Biscay”), which constitutes the government of the Province, has shown high-level political commitment to open government principles. Accordingly, the new government created two new bodies that now constitute the main institutional actors of the current open government agenda (see Figure 3.1) and are in charge of implementing most of the 14 commitments included in the Open Government Action Plan (OGAP) 2017-19:

- the Observatory of Biscay (*Observatorio de Bizkaia, Behatokia*) attached to the Cabinet of President Rementeria
- the Cabinet of Modernisation, Good Governance and Transparency (*Gabinete de Modernización, Buen Gobierno y Transparencia*) as a unit of the

Department of Public Administration and Institutional Relations, one of the nine departments (or provincial ministries, hereafter “Departments”) of Biscay

Figure 3.1. Organigram of the Provincial Council of Biscay



Note: This is a simplified version of the organigram of the Provincial Council of Biscay that includes only the cabinet and departments.

Source: Provincial Council of Biscay (2015^[2]), *Organigrama de la Diputación Foral de Bizkaia* (*Organigram of the Provincial Council of Biscay*), <http://gardentasuna.bizkaia.eus/documents/1261696/1266880/2018-10-09+Organigrama+DFB.pdf/535e2297-a09f-eda8-8edc-a9650266c974>.

The Observatory of Biscay (hereafter “*Behatokia*”) is responsible for monitoring and evaluating public policies, co-ordinating and implementing participative initiatives and co-ordinating transversal youth policies (Boletín Oficial de Bizkaia, 2016^[3]). In addition, *Behatokia* is the leading actor of the open government agenda. It is responsible for elaborating, co-ordinating and monitoring the OGAP, as well as implementing the following commitments:

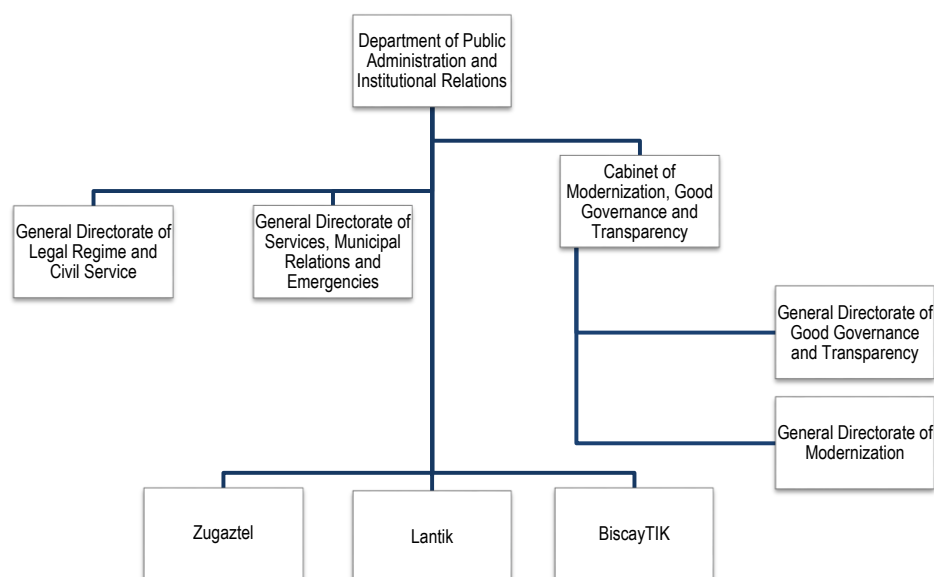
- Commitment 4. Promote accountability initiatives in the management of the Provincial Council of Biscay.
- Commitment 5. Define a monitoring and evaluation system for the Provincial Council of Biscay.
- Commitment 6. Develop a model for citizen participation.
- Commitment 13. Develop projects that bring together the public and private sectors and involve young people to generate social value.

The Cabinet of Modernisation, Good Governance and Transparency (hereafter the “Cabinet”) is composed of a Strategic Planning Office (*Jefatura de Gabinete*) and two

General Directorates (*Direcciones Generales*): 1) Modernisation (*Modernización de la Administración*); and 2) Good Governance and Transparency (*Buen Gobierno y Transparencia*) (see Figure 3.2). Both play an important role in the open government agenda. The main competencies of the Cabinet are to elaborate strategic guidelines and to identify priority areas for the administration. It is also responsible for co-ordinating inter-departmental initiatives and projects focused on modernising the public administration through digital government, improving public services for citizens, and making more efficient use of resources under a transparency and good governance umbrella (Boletín Oficial de Bizkaia, 2016^[4]).

In particular, the General Directorate of Modernisation is responsible for simplifying internal processes and reducing administrative burdens by developing the necessary technological tools through the state-owned enterprise, Lantik, dedicated to plan and implement the IT policies defined by the Provincial Council (for more information on Lantik, see the section “Biscay’s initiatives on digital government and open data”). In turn, the General Directorate of Good Governance and Transparency is in charge of implementing inter-departmental projects related to building a more modern, innovative and transparent administration. It promotes initiatives to make the use of public resources more efficient and implements all activities related to transparency, risk management and compliance (Boletín Oficial de Bizkaia, 2016^[4]) (see Figure 3.2).

Figure 3.2. Organigram of the Department of Public Administration and Institutional Relations



Note: The chart shows a simplified version of the department and includes units related to the open government agenda only. Zugaztel is a state-owned enterprise focused on providing support services to citizens through different phone and telematics channels. Lantik is also a state-owned enterprise dedicated to plan and implement the IT policies defined by the Provincial Council. BiscayTIK is a non-profit public institution with the overarching objective of modernising the municipalities of Biscay.

Source: Provincial Council of Biscay (2015^[5]), *Organigrama del Departamento de Administración Pública y Relaciones Institucionales*, <http://gardentasuna.bizkaia.eus/documents/1261696/1869179/OrganigramaAdministraci%C3%B3nP%C3%B3licayRelacionesInstitucionales.pdf/27b881aa-c91d-1c95-c9b4-1a1cb499bb6a>.

The Cabinet is responsible for the following OGAP commitments through its General Directorates:

- General Directorate of Good Governance and Transparency:
 - Commitment 1. Create and implement a transparency plan for the Province.
 - Commitment 2. Develop an open data initiative of Biscay.
- General Directorate of Modernisation:
 - Commitment 9. Set up a new comprehensive model to provide public services.
 - Commitment 10. Reduce bureaucracy.

In addition, other actors are part of the open government agenda in Biscay as they are responsible for a specific OGAP commitment or they play an important role in the implementation of the commitments (Table 3.1).

Table 3.1. Actors involved in the implementation of Biscay's Open Government Action Plan

Commitment	Main responsible actor	Other actors involved
Commitment 1. Create and implement a transparency plan for the Province.	General Directorate of Good Governance and Transparency	Public sector: Provincial Council and municipalities Other: Stakeholders committed to transparency
Commitment 2. Develop the open data initiative of Biscay.	General Directorate of Good Governance and Transparency	Public sector: Lantik, Departments of the Provincial Council, BiscayTIK Other: Re-users of data, private companies
Commitment 3. Open provincial budgets.	General Directorate of Treasury	Public sector: <i>Behatokia</i> , the General Directorate of Communication, the Cabinet
Commitment 4. Promote accountability initiatives in the management of the Provincial Council of Biscay.	<i>Behatokia</i>	Public sector: Departments of the Provincial Council Other: Social entities in the Province
Commitment 5. Define a policy evaluation system for the Provincial Council of Biscay.	<i>Behatokia</i>	Public sector: The Cabinet
Commitment 6. Develop a model for citizen participation.	<i>Behatokia</i>	Public sector: Lantik, BiscayTIK, Departments of the Provincial Council Other: Citizens, social entities
Commitment 7. Foster social participation in gender equality policies.	General Directorate of Equality, Cooperation and Diversity	Public sector: Departments of the Provincial Council and state-owned enterprises Other: Women associations, citizens
Commitment 8. Develop technological tools for the municipalities in Biscay.	Department of Public Administration and Institutional Relations and BiscayTIK	Public sector: <i>Behatokia</i> and General Directorate of Good Governance and Transparency Other: Start-ups and tech companies, companies specialised in transparency and citizen participation
Commitment 9. Set up a new comprehensive model to provide citizen services.	General Directorate of Modernisation and the Department of Public Administration and Institutional Relations	Public sector: Department of Public Administration and Institutional Relations and General Directorate of Municipal Services and Emergencies Other: Citizens and entities deployed in several regions of the Province

Commitment	Main responsible actor	Other actors involved
Commitment 10. Reduce bureaucracy.	General Directorate of Modernisation and the Department of Public Administration and Institutional Relations	Public sector: Departments of the Provincial Council Other: Social entities in the Province, the private sector and other stakeholders
Commitment 11. Generate economic value through collaborative initiatives with businesses within the territory.	General Directorate of Business Promotion and Economic Development and the Department for Economic Territorial Development	Other: Private sector, including SMEs
Commitment 12. Develop projects that bring together the public and private sectors to generate social value.	General Directorate of Promotion of Personal Autonomy and the Social Action Department	Other: Third-sector entities in Biscay
Commitment 13. Develop projects that bring together the public and private sectors and involve young people to generate social value.	<i>Behatokia</i>	Public sector: Departments of the Provincial Council Other: Municipalities, universities, Council of Youth of the Basque Country, youth
Commitment 14. Create and develop a provincial law for conflicts of interest and incompatibilities.	Department of Public Administration and Institutional Relations	

Source: Provincial Council of Biscay (2017^[6]), *Bizkaia Irekia: Plan de Acción de Gobierno Abierto (Open Biscay: Open Government Action Plan)*, <http://gardentasuna.bizkaia.eus/documents/1261696/1397467/Plan+de+Gobierno+Abierto.pdf/d96264cf-022e-a2c0-3919-e1778372436c>.

A well-positioned single office with a clear and disseminated mandate would be key for a successful co-ordination of the open government agenda in Biscay

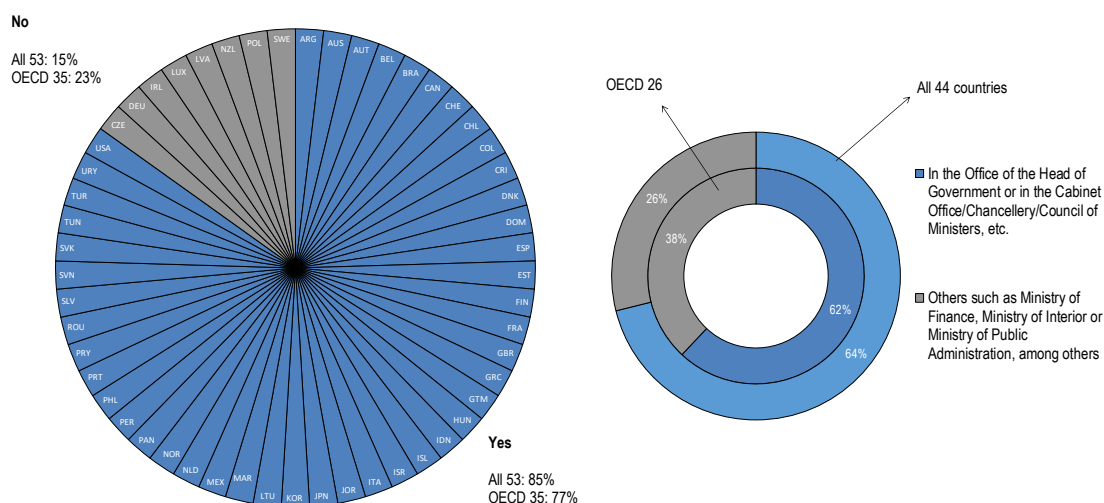
Open government touches upon a variety of transversal policy areas, making the creation of horizontal and vertical co-ordination mechanisms necessary to ensure that the goals outlined in the strategy are actually met. Given the existence of a comprehensive open government strategy that regroups a variety of distinct initiatives, implementation is made particularly more complex, as the responsibility for implementation lies with a significant number of actors across the public administration.

Evidence indicates that countries that have a single office in charge of co-ordinating, implementing, monitoring and evaluating the open government strategy and initiatives are more likely to achieve positive outcomes. Having a single office makes it possible to mainstream initiatives, ensure coherence in their implementation, support public officials, address challenges and ensure accountability with regard to the results and impacts of the open government agenda.

A majority of OECD countries has a dedicated office in the government responsible for the horizontal co-ordination of the open government strategy and initiatives (77% in OECD countries) (Figure 3.3). Most of these countries have added the open government agenda to an existing institution (70% in OECD countries) while only a few created a new unit to address it (19% in OECD countries).

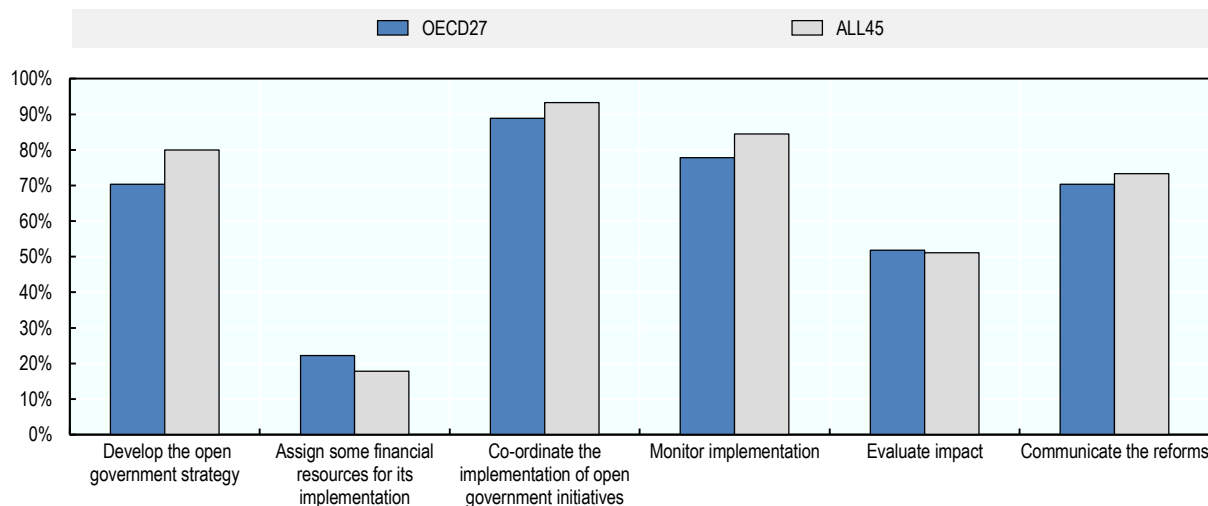
Biscay chose to decentralise the implementation of the plan so that each commitment is owned by the department in charge of its implementation, so as to create ownership and a shared responsibility of the OGAP (see Table 3.1). It allocated the responsibility for co-ordinating, elaborating and monitoring the OGAP to *Behatokia* (Provincial Council of Biscay^[7]). These are common responsibilities of the offices in charge of open government in OECD countries, as in 89% of OECD countries these offices are responsible for co-ordinating the implementation of open government initiatives and in 70% of OECD countries for developing an open government strategy (Figure 3.4).

Figure 3.3. Existence and location of a dedicated office responsible for the horizontal co-ordination of open government initiatives in OECD countries



Source: OECD (2016^[8]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Figure 3.4. Responsibilities of offices in charge of open government in OECD countries



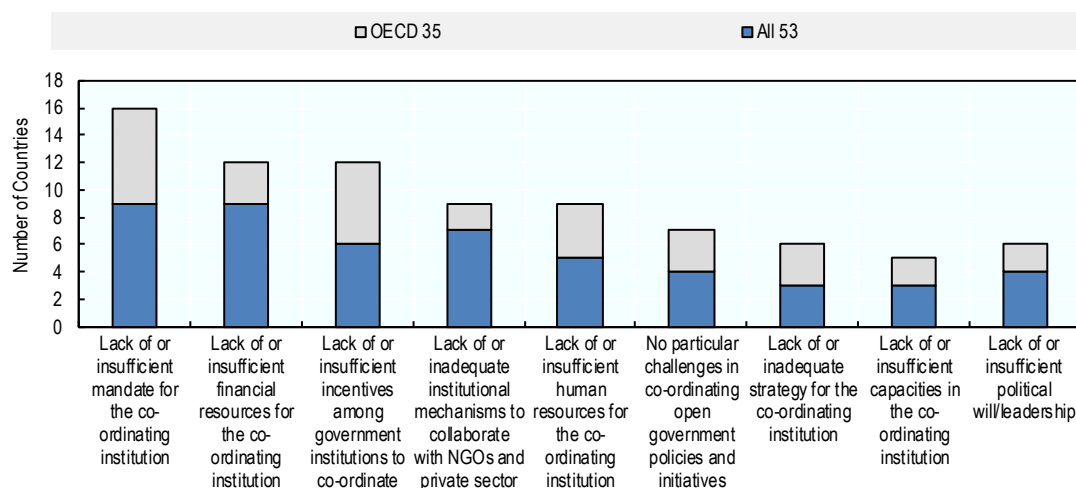
Source: OECD (2016^[8]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

The current institutional arrangements contribute to a sectoral implementation of the OGAP, which in turn, is replicated in the open government agenda, as the principles of open government (e.g. transparency) are scattered among different departments, leading to a fragmentation of the agenda. Although this could contribute to more ownership of each of the commitments of the OGAP, there is a lack of clarity with regard to which office is in charge of co-ordinating the OGAP and to which is in charge of the whole open

government agenda. This lack of clarity was noted during the OECD fact-finding mission. Public officials did not tend to associate open government to any mechanism or overarching strategy, but rather to parcelled initiatives, topics or even individuals. For instance, they were inclined to link transparency to the General Directorate of Good Governance and Transparency, and citizen participation and accountability to *Behatokia*, but few of them associated *Behatokia* as the main actor in charge of co-ordinating the OGAP. This can lead to working in silos, to a misinterpretation or narrow view of what open government is and can limit the potential for synergies between, and impact of, the initiatives and even to a lack of accountability as to who is responsible for the overall implementation, the success or failures of the plan as a whole.

For instance, few public officials referred to Biscay's open government definition as "a relational, transparent, participative, accountable and collaborative government that evaluates" (see Chapter 2), limiting the potential that the open government agenda may have and the change of culture the Province wants to achieve. Instead, some public officials only referred to open government as "transparency", while others to "citizen participation" or to "open data", depending on their contribution to a specific commitment or to the institutional actor with whom they need to speak.

As explained above, in Biscay, there are two offices taking the lead on open government related issues. So far, this unique institutional arrangement for open government has been working well and coordinated. However, to ensure effective and efficient implementation of an open government strategy and its initiatives, most OECD countries are moving to establish one office in charge of developing and coordinating the strategy and the open government agenda as well as monitoring its implementation. The office in charge needs to be fully recognised as leading the open government agenda and have a clear mandate that sets specific tasks and responsibilities with regard to it. Hence, information about the central role and responsibility of the office needs to be well disseminated and communicated to ensure that the open government strategy is coherently implemented. According to OECD data, the most common challenge in co-ordinating open government strategies is the lack of a clear mandate as it creates overlaps, confusion among stakeholders, lack of accountability with relation to the strategy, and misuse of scarce resources (OECD, 2016^[8]) (Figure 3.5).

Figure 3.5. Challenges in co-ordinating open government initiatives

Note: This chart illustrates the 3 main challenges in co-ordinating Open Government initiatives of countries. The X axis shows the main challenges cited by countries, and the Y axis represents the number of countries who named each challenge.

Source: OECD (2016^[8]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Given this, if Biscay wants to continue expanding its open government agenda beyond the OGAP and ensure its sustainability, it could designate an office responsible for developing and co-ordinating the strategy and the open government agenda as well as for monitoring its implementation, while maintaining sectoral ownership of the open government initiatives. The office needs to have a clear and well-disseminated mandate and use a more proactive approach to positioning it as the office in charge.

Furthermore, the institutional location of this office is essential, as it needs to have a whole-of-government approach to open government as well as the necessary political leverage. As mentioned in Chapter 2, political commitment, support and leadership are key to the success of an open government strategy. It allows policy leaders to use their power, influence, and personal involvement to ensure that reforms, plans and initiatives receive the visibility, resources, and the ongoing political support required to overcome resistance to change, internal and external opposition and avoid deadlock (The Policy Project, 2000^[9]). It is thus recommended that the office in charge of co-ordinating the open government agenda be located at what the OECD calls the Centre of Government (CoG) (OECD, 2014^[10]), so as to facilitate a comprehensive view, provide strategic oversight, leadership and co-ordination. Such is the case in Biscay, where *Behatokia* and the Cabinet are located at the CoG.

The CoG is known by different names in different countries, such as Chancellery, Cabinet Office, Office of the President, Office of the Government, etc. It is playing more and more of an active role in policy development, co-ordination, leadership, collaboration and co-operation across public administrations. The CoG aims to secure a strong, coherent and collective strategic vision - especially as it relates to major cross-departmental policy initiatives (OECD, 2014^[10]). OECD data show that as per Biscay, the office in charge of open government is most commonly attached to the office either at the Office of the Head of Government (37% in OECD countries) or to the Cabinet Office/Chancellery (27% in

OECD countries). Other institutions include the Ministry of Finance, the Ministry of Interior/Home Affairs or the Ministry of Public Administration (OECD, 2016^[8]).

Therefore, Biscay could ensure that the office in charge of co-ordinating the open government agenda remains at the highest level, as the CoG fosters the proper co-ordination of open government strategies and initiatives by:

- facilitating the link between open government objectives with the broader national ones by connecting open government principles, the strategy and its initiatives across government (including different sectors and different levels of government) as well as with non-state actors, so as to promote a shared vision of the open government agenda
- promoting visibility across the government and among citizens of existing good practices in the area of open government, as well as institutional champions in this area
- strengthening the strategic use of performance data across the public sector, as this helps to measure and evaluate the impact of the open government strategy and initiatives (OECD, 2016^[8]).

Ad hoc mechanisms for horizontal and vertical co-ordination are needed to ensure a sustainable implementation of the open government agenda

As in many local governments, Biscay's size allows it to work with a certain level of familiarity and informality, thus facilitating certain actions and activities, providing greater proximity to its citizens and granting more flexibility to policy makers to identify needs, tailor public policies and involve its citizenship in policy implementation and evaluation. In addition, it allows fluid exchanges between those involved, quicker kick-off of the strategy and initiatives, immediate solutions to common challenge and ease cooperation.

However, this lack of institutionalisation may hinder the long-term impacts of the strategy and real cultural change within the public administration. Biscay could ensure that the open government strategy permeates through all public institutions and reach a new culture of governance. As noted by the OGAP progress report, there is a need for "creating intermediate roles or profiles that hold a position of interlocution between transversal issues (such as open government) and the different Departments of the Provincial Council" (Provincial Council of Biscay, 2018^[11]). For this, Biscay could designate open government officers in each of the departments, as is done in other countries, such as Costa Rica and Canada (Box 3.1). It is important that these public officials not be dependent on political cycles, so as to ensure the consistency and sustainability of the open government agenda.

Also, it could be useful to bring these open government officers together regularly to discuss the challenges they faced, the solutions that were implemented to overcome them, share good practices and explore synergies. One measure to achieve this is through the creation of an open government committee that would centralise the co-ordination of open government while maintaining the decentralised system of implementation established in the OGAP. This mechanism could provide the formal structure needed to institutionalise open government for the current implementation of the OGAP and more importantly, facilitate the longer-term consolidation of the open government strategy and its initiatives, and ensure effective and efficient implementation.

Box 3.1. Canada's Departmental Open Government Co-ordinators and Costa Rica's open government contact points

Canada

In Canada, every department has identified an Open Government coordinator. They are the Treasury Board Secretariat's (the main co-ordinating entity) entry point into the department for anything related to open government. Open Government coordinators:

- facilitate open government activities throughout their organizations;
- help content owners in their organization with the process for releasing data (e.g. identification, preparation, approval mechanisms, and entry into the Open Data Registry);
- provide recommendations to the senior official responsible for approving the data release;
- provide assistance to clients in their organization requesting information on open.canada.ca;
- provide training in their organization, where possible, and
- participate in open government working groups, led by the Treasury Board Secretariat.

The OG coordinators are typically director level and below. There are monthly working group meetings that are co-ordinated by the Treasury Board Secretariat. The government is also planning to create a 'coordinators corner' where co-ordinators can interact easier if they wish. Moreover, the government of Canada plans to formally define the role of the coordinators in an upcoming update of the Directive on Open Government.

Costa Rica

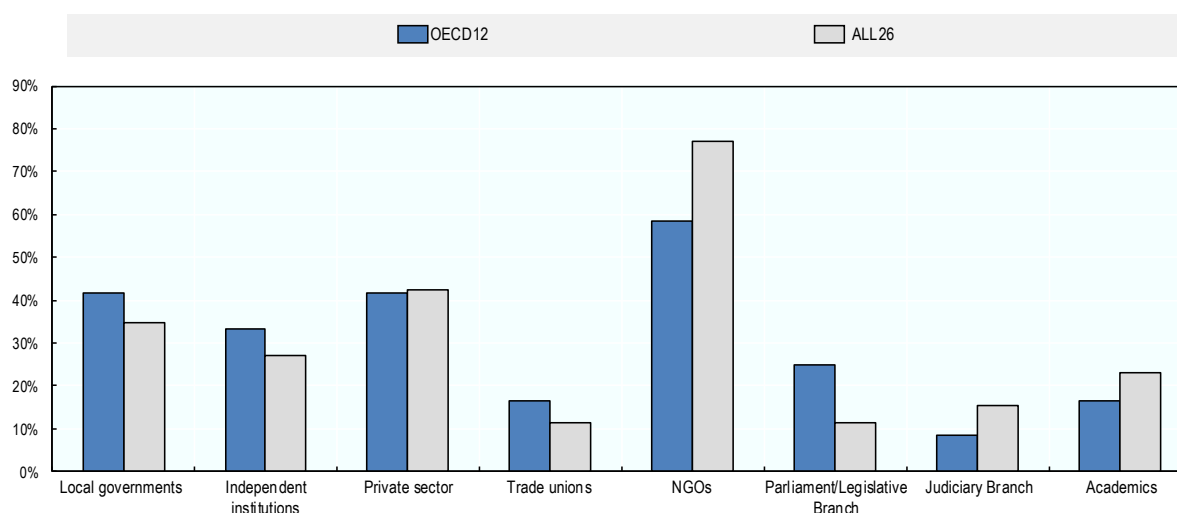
The *enlaces institucionales* (i.e. open government contact points), established for the design and implementation of the Second Open Government Partnership (OGP) Action Plan, are an important first step to ensure inter-institutional co-ordination. An initiative taken by the centre of government in Costa Rica, the *enlaces* comprise the contact points of: the Deputy Ministry of the Presidency, which is the main office responsible for open government initiatives in the country; the different central government ministries; decentralised institutions; some municipalities; the Ombudsman; the judiciary, etc.

The government aims to create at least one *enlace* in each institution that is involved in the implementation of its open government agenda. The *enlaces* have met regularly over the past months and have received capacity-building co-operation from the OGP Support Unit. While the *enlaces* do not formally report to the Deputy Ministry of the Presidency, they volunteer to collaborate with it and have the potential to provide the CoG with an effective co-ordination tool, both horizontally and vertically.

Source: OECD (2016^[8]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Furthermore, it is essential to involve a wide range of actors to ensure the success of a comprehensive open government strategy. According to the OECD Report on Open government (OECD, 2016^[8]), 49% of countries (34% of OECD countries) created an ad hoc mechanism for co-ordination purposes, such as an open government committee (as mentioned above). Such a mechanism is typically composed of different stakeholders involved in implementing the open government agenda. As shown in Figure 3.6, the members of this mechanism can include non-governmental organisations (NGOs) (as in 58% of OECD countries), local governments (as in 42% of OECD countries), the private sector (as in 42% of OECD countries), independent institutions (33% of OECD countries), academics (17% of OECD countries), trade unions (17% of OECD countries), and the judiciary branch (8% of OECD countries).

Figure 3.6. Composition of co-ordination mechanisms on open government



Source: OECD (2016^[8]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

As discussed in Chapter 2, the stakeholders involved in the OGAP, namely citizens, academics, civil society, the private sector and civil servants, only participated in the creation of the Action Plan and the progress report. Biscay could create an open government committee composed of all institutional actors involved in - not only those responsible for - each of the commitments (see Table 3.1). The committee could include other key actors such as the judicial and the legislative branches, the *Ararteko* (the Basque Country's Ombudsman), municipalities as well as EUDEL (the Basque Local Governments Association), so as to achieve the open territory approach that the Province aims for. Further, such a committee could contribute to the sustainability of Biscay's open government agenda beyond the OGAP. The Open Government Forums in Spain and in Italy (Box 3.2) are examples of open government co-ordination mechanisms steered by the CoG that bring together all relevant stakeholders.

Box 3.2. Open Government Forums: The cases of Italy and Spain

Italy

Italy has established an Open Government Forum in which 20 public administrations and 54 CSOs meet regularly. The Forum, co-ordinated by Department of Public Administration of the Presidency of Council of Ministers, is open to any new organisation or administration, both central and local, that wants to participate in the development of Italy's open government policies or intends to join the Open Government Partnership (OGP). The aim of the Forum on Open Government is to commit CSOs and public administrations to long-lasting collaboration and to co-designing the development and co-ordination of the implementation of the actions provided in Italy's OGP National Action Plan (NAP).

The Minister of Public Administration meets the Forum on a regular basis every six months. The Forum has clustered the thematic areas of open government into six groups: "transparency", "open data", "participation", "accountability", "digital citizenship" and "innovation and digital skills" and the Department of Public administration has established six working groups, inviting each OGP Forum participant to join them.

In this way, the Department has created a direct channel through which public administrations and civil society organisations can have regular meetings (every two to three months) and can communicate regularly on line. The aim is to give the officials responsible for the open government commitments (i.e. the NAP actions) the possibility to consult the CSOs about specific questions and to receive their feedback. Additionally, the CSOs can monitor the proper implementation of the commitments and provide input and ideas on how to develop new open government initiatives.

Spain

Spain established an Open Government Forum in February 2018 with the objective of institutionalizing the collaboration between public administrations and civil society to strengthen the permanent dialogue on transparency, collaboration, participation and accountability.

The Plenary of the Forum meets once or twice a year. More than 70 representatives of the Plenary include public administrations from the General Administration of the State, the Autonomous Communities and Cities and the Spanish Federation of Municipalities and Provinces, as well as representatives of civil society from the Royal Academy of Political and Moral Sciences, university professors and lecturers, civil society organisations (CSOs) and non-profit organisations (NGOs), the Council of Consumers and Users, as well as third sector entities.

The Forum also has a Permanent Commission whose role is to present proposals to the Plenary, to coordinate the work commissioned by the Plenary and act as the executive organ of the Forum. Finally, the Forum has three working groups where particular topics are discussed, including: 1) collaboration and participation; 2) transparency and accountability; and 3) training and awareness. The Plenary and the working groups allow for external participation and exchanges between different stakeholders.

Sources: Italy Open Government (n.d.^[12]), "Open Government Forum", <http://open.gov.it/open-governmentpartnership/open-government-forum>; Transparency Portal of Spain (n.d.^[13]) "Open Government Forum", http://transparencia.gob.es/transparencia/transparencia_Home/index/Gobierno-abierto/ForoGA.html

If Biscay establishes such a co-ordination mechanism to ensure the successful implementation of its open government initiatives, the following conditions must be met:

- The committee should be attached to a CoG institution (e.g. *Behatokia*), have the right mandate and clear guidelines for its functioning (e.g. rotating chair).
- Sufficient human and financial resources should be foreseen and provided to ensure its functioning.
- All relevant stakeholders should be included.
- Transparent procedures, as well as reporting and evaluation mechanisms, should be established to ensure accountability on results (OECD, 2016^[14]).

Increasing open government literacy among Biscay's public officials

To ensure successful implementation, the availability of the necessary human and financial resources is essential. Insufficient resources are among the most frequently cited challenges for the institution responsible for the horizontal co-ordination of open government strategies and initiatives (see Figure 3.5).

To address this, Provision 3 of the OECD Recommendation states that governments should “ensure the successful operationalisation and take-up of open government strategies and initiatives by: 1) providing public officials with the mandate to design and implement successful open government strategies and initiatives, as well as the adequate human, financial, and technical resources, while promoting a supportive organisational culture; and 2) promoting open government literacy in the administration, at all levels of government, and among stakeholders” (OECD, 2017^[11]).

Historically, the civil service in most countries was not established with open government principles (i.e. transparency, integrity, accountability and stakeholder participation) in mind. It was designed as a closed system that followed a hierarchical structure, predefined rules and procedures, and where information and accountability flowed vertically, limiting flexibility, innovation and openness. Moreover, in order to protect civil servants from undue influence, there was a clear separation between government on the one side, and citizens, academia and business, on the other (OECD, 2016^[8]). However, today's widespread use of digital technologies, improved Internet access, the increasing presence of politicians and public institutions on social media, and the diffusion of the principles and practices of transparency, integrity and stakeholder participation have reshaped the governance of legal, institutional and policy frameworks as we have known them so far (OECD, 2016^[8]). As a direct effect, the relationships between governments and citizens have changed: citizens around the world have become more demanding and more active, shifting from a traditional representative democracy towards a more direct engagement with their representatives, policy makers and public institutions (OECD, 2016^[8]).

This new way of policy making calls for a new set of values and capacities as well as a cultural change throughout the public administration. Biscay is fully aware of this and as described in Chapter 2, sees its open government agenda as a process and a means to accomplish a better, closer, more modern and responsible way to manage its public administration. This new approach will lead to the more efficient use of public resources, strengthened public institutions and restored public trust in the public sector (Provincial Council of Biscay, 2017^[6]).

As in many OECD countries, human resources is one of the main challenges in the implementation of the open government strategy and its initiatives identified by Biscay, particularly with regard to the change in its internal culture. The lack of or insufficient communication of the benefits of open government reforms among public officials (as in 22 OECD countries), general resistance to change in the public sector (as in 19 OECD countries) and the lack of or insufficient human resources are the main challenges faced by OECD countries working to implement the open government strategy and initiatives (OECD, 2016^[8]).

The 2018 OGAP's intermediate self-evaluation report identified the need to develop the capacity of its staff in charge of implementing open government initiatives as one of the priority areas for internal improvement (Provincial Council of Biscay, 2018^[11]). Ensuring open government literacy in Biscay - understood as the combination of awareness, knowledge, and skills that public officials and stakeholders require to engage successfully in open government strategies and initiatives - is essential to mainstream the open government principles and achieve the desired cultural change. Open government literacy could be increased through including principles and skills on competency frameworks, codes of conduct and job profiles, providing training and improving internal communication.

Including open-government-related principles and skills in competency frameworks, codes of conduct and job profiles

The OECD report, *Open Government: The Global Context and the Way Forward*, states that for a government to “move from passive awareness to affect a culture change and principles, skills and values of openness need to be identified, discussed and reinforced at every possible opportunity” (OECD, 2016^[8]). This means that said skills and values should be included, not only in vision documents and high-level strategic government priorities but also in public sector value statements and civil servant competency frameworks.

According to the above-mentioned OECD report, one-third of OECD countries develop the capacities of civil servants through the inclusion of open government principles in codes of conduct or codes of ethics (OECD, 2016^[8]). These documents set out in broad terms those values and principles that define the professional role of the civil service (integrity, transparency, etc.), or they can focus on the application of such principles in practice. Ideally, codes combine aspirational values and more detailed standards on how to put them into practice².

Biscay has an Ethical Code that sets aspirational values and commitments, including principles related to open government (e.g. accountability and transparency); it is signed by high-ranking officials (Provincial Council of Biscay, 2015^[15]). In addition, the General Directorate of the Legal Regime and Civil Service has developed sectoral codes of conduct, such as on IT (information technology), for new public officials and on recruitment processes, and is now working on the elaboration of others such as phone use and travelling. While the Basque Law of Civil Service applies to all civil servants of the Provinces of the Basque Country, the Provincial Law on Conflict of Interests and Incompatibilities only covers appointed senior civil servants in Biscay. Recognizing the different legislations applying to public officials and building on existing initiatives, Biscay could develop a code of conduct or charter on open government for all public officials, which would include transparency, integrity, accountability and stakeholder participation as principles, as well as clear guidelines on how to put them into practice in their day-to-day work. Biscay could go a step further and develop this code of conduct or charter in co-operation with public

officials. This could facilitate the understanding of open government and create the buy-in for the strategy and its initiatives, facilitating long-term adherence and ensuring the anchoring of open government strategies and initiatives beyond a single administration. Biscay could use the code of conduct elaborated by EUDEL, which includes the principles of open government for elected officials, as an example (see Box 3.3).

Box 3.3. EUDEL's "Code of Conduct, Good Governance and Commitment for Institutional Quality of Municipalities in the Basque Country"

EUDEL is the Basque Local Governments Association, founded in 1982. It represents all 251 municipalities of the three Basque provinces. In 2013, it created a "Code of Conduct, Good Governance and Commitment for Institutional Quality for Municipalities in the Basque Country". This document provides a list of principles and standards of conduct for elected officials as well as the commitments and responsibilities that they should respect in order to ensure institutional quality in the municipalities.

Among the listed principles, the Code includes transparency, integrity and accountability. Likewise, one of the commitments and responsibilities for civil servants is to "articulate networks and foster open government", describing the need for transparency and citizen participation mechanisms to improve governance in local municipalities.

This code was created in order to improve public governance in municipalities. The text is a draft and is meant for municipalities to adhere to or adapt to their own contexts.

Source: EUDEL (2013^[16]), *Código de Conducta, Buen Gobierno y Compromiso por la Calidad Institucional de la Política Local Vasca*, http://www.eudel.eus/destacados/codigodeconducta/files/2013/05/Codigo_Conducta.pdf.

As mentioned above, Biscay's appointed senior public officials (the president, heads of the provincial departments and general directors) are covered by the Provincial Law of Conflict of Interests and Incompatibilities enacted on October of 2018. This law sets for the first time provisions to manage potential conflicts of interest and updates the regulations on incompatibilities, as the previous applicable law was from 1987. The law includes several guiding principles of ethics and good governance, including one on open government. It guides the behaviour of senior civil servants to "adopt, execute, decide and evaluate their policies within an open government framework to provide citizens with the information of all their public activities" (Provincial Council of Biscay, 2018^[17]). The law also establishes clear norms to prevent and identify conflict of interests as well as the regime for incompatibilities. To ensure the adoption of the principles and the implementation of the law, it provides for the elaboration of guidelines. This type of initiative is in line with the 2017 OECD Recommendation of the Council on Public Integrity (see Box 3.4).

Box 3.4. OECD Recommendation of the Council on Public Integrity

The OECD Recommendation of the Council on Public Integrity, adopted in 2017, provides policy makers with the blueprint for a public integrity strategy. It shifts the focus from ad hoc integrity policies to a comprehensive, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society. It is built on three pillars:

- **System:** Having a system in place to reduce opportunities for corrupt behaviour.
- **Culture:** Changing a culture to make corruption unacceptable socially.
- **Accountability:** Making people accountable for their actions.

The Recommendation defines public integrity as the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector. The text recommends that OECD members and non-members build a coherent and comprehensive public-integrity system. To this end, adherents should:

1. Demonstrate commitment at the highest political and management levels within the public sector to enhance public integrity and reduce corruption.
2. Clarify institutional responsibilities across the public sector to strengthen the effectiveness of the public integrity system.
3. Develop a strategic approach for the public sector that is based on evidence and aimed at mitigating public integrity risks.
4. Set high standards of conduct for public officials.
5. Promote a whole-of-society culture of public integrity, partnering with the private sector, civil society and individuals.
6. Invest in integrity leadership to demonstrate a public sector organisation's commitment to integrity.
7. Promote a merit-based, professional, public sector dedicated to public-service values and good governance.
8. Provide sufficient information, training, guidance and timely advice for public officials to apply public integrity standards in the workplace.
9. Support an open organisational culture within the public sector responsive to integrity concerns.
10. Apply an internal control and risk management framework to safeguard integrity in public sector organisations.
11. Ensure that enforcement mechanisms provide appropriate responses to all suspected violations of public integrity standards by public officials and all others involved in the violations.
12. Reinforce the role of external oversight and control within the public integrity system.
13. Encourage transparency and stakeholders' engagement at all stages of the political process and policy cycle to promote accountability and the public interest.

Source: OECD (2017^[18]), *OECD Recommendation of the Council on Public Integrity*, OECD, Paris, <http://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf>.

The 2017 OECD report, *Skills for a High Performing Civil Service*, developed a framework for the skills needed by today's civil servants and included service delivery and citizen engagement as one of its four pillars (OECD, 2017^[19]). In addition, the OECD Recommendation on Public Service Leadership and Capability urges governments to invest in public service capabilities by identifying the skills and competencies needed to transform the political vision into services (OECD, 2019^[20]) (see Box 3.5).

Box 3.5. Recommendation of the Council on Public Service Leadership and Capability

The OECD Working Party on Public Employment and Management (PEM) has been working on Principles on Public Service Leadership and Capability, as public servants contribute to policy development, invest public funds in essential services collectively needed by communities, uphold the rule of law, and ensure fairness and equality in society. Public servants also deliver many goods and services, at times during critical events or crises, or when markets fail to do so.

The 14 principles are fit-for-purpose public service principles that fall under three main themes:

- a **values-driven public service** where commonly understood values guide a results-oriented and citizen-centred culture of leadership and policy and services design
- a **trusted and capable public service** with the ability to identify the skills and competencies it needs, and which aligns its employment systems to bring those skills and competencies in, develops them, motivates and provides the necessary resources for their use
- a **responsive and adaptive public service** with the empowerment, resources and agility needed to effectively and efficiently address fast-changing, ongoing and emerging challenges.

Governments should **build values-driven cultures and leadership in the public service, centred on improving outcomes for society**, by:

1. defining the values of the public service and promoting values-based decision making
2. building leadership capability in the public service
3. ensuring an inclusive and safe public service that reflects the diversity of the society it represents
4. building a proactive and innovative public service that takes a long-term perspective in the design and implementation of policy and services.

Governments should **invest in public service capability in order to develop an effective and trusted public service**, in particular by:

5. continuously identifying skills and competencies needed to transform political vision into services that deliver value to society
6. attracting and retaining employees with the skills and competencies required

7. recruiting, selecting and promoting candidates through transparent, open and merit-based processes
8. developing the necessary skills and competencies by creating a learning culture and environment in the public service
9. Assessing, rewarding and recognising performance, talent and initiative.

Governments should **develop public employment systems that foster a responsive and adaptive public service** able to address ongoing and emerging challenges and changing circumstances by:

10. clarifying institutional responsibilities for people management to strengthen the effectiveness of the public employment system
11. developing a long-term, strategic and systematic approach to people management based on evidence and inclusive planning
12. setting the necessary conditions for internal and external workforce mobility and adaptability to match skills with demand
13. determining and offering transparent employment terms and conditions (e.g. compensation, term length, job security, rights and obligations) that appropriately match the functions of the position
14. ensuring that employees have opportunities to contribute to the improvement of public service delivery and are engaged as partners in public service management issues.

Source: OECD (2019^[20]), *Recommendation of the Council on Public Service Leadership and Capability*, OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0445>.

Biscay has understood the importance of including transparency-related skills in civil servant competency frameworks. As of June 2017, it has included questions related to general knowledge on the Provincial Law on Transparency in its entrance exam to the public administration, for example. However, all open government principles are included neither in the exam, nor in the competency frameworks. Biscay could go a step further and, for certain positions, include specific skills related to stakeholder participation, such as negotiation skills, mediation skills, and communication skills, among others, to design and implement successful open government strategies and initiatives as well as the capacity to design and implement participation practices. It can follow the example of Finland (Box 3.6), which has acknowledged the significance of sound dialogue skills for civil servants and included commitments to further improving these skills as part of its open government action plan.

Box 3.6. Enhancing dialogue skills for civil servants in Finland

Effective communication is important in strengthening the relationship between governments and citizens. Finland acknowledged the significance of sound dialogue skills for civil servants and included commitments to further improve these skills in its first Open Government Partnership (OGP) Action Plan (2013-14). The following six concrete aims were formulated:

14. Standard language titles and resumes will be drafted for government proposals.
1. Visualisation of decisions with a special focus on expenditures of the state budget will be created.
2. Training will be organised for civil servants on the use of clear language and plain language, including committing to the use of terms already known.
3. The comprehensibility of texts produced by the public administration will be tested together with citizens and service users.
4. The terms and concepts used in public administration and service production will be standardised and clarified.
5. The comprehensibility of customer letters and decisions will be enhanced, especially when using standard texts.

These commitments were taken up again in the second OGP Action Plan, which contains a commitment on “clear administration”, among others. The main objectives that contribute to a more tangible and easy-to-understand bureaucracy are:

- Clear structures and processes in addition to customer orientation are targeted in major reforms.
- Structures and processes are described so that citizens know which authority should be contacted for different issues.
- The official parlance is correct, clear and easy to understand.
- Information on issues under preparation is available and can be easily found.
- Administration receives feedback and takes it into account when developing its ways of working.

Source: Government of Finland (n.d.^[21]), *First Open Government Action Plan, 2013-14*; *Second Open Government Action Plan, 2015-17*, <https://www.opengovpartnership.org/countries/finland>.

Furthermore, evidence has shown that OECD countries are struggling to attract and retain people with a diverse set of skills who can work on transversal issues. One possible solution is to establish an open civil service, which is understood as one that is accessible to all citizens, as Biscay has done (see Box 3.7). Establishing an open civil service implies the promotion of a diverse workforce and an inclusive workplace. As argued in *Open Government: The Global Context and the Way Forward*, an open civil service can contribute to open government when:

- Active efforts are taken to ensure that all citizens have equal opportunities to become civil servants regardless of their personal background, at various phases of their career, from a range of educational and professional paths.
- Career paths are multiple and varied, depending on civil servants' abilities, interests, ambitions and desires. This includes access to development, lateral and vertical career moves, and flexible working opportunities.
- Managers are trained to lead diverse teams and establish inclusive working environments that encourage collaboration, the open sharing of ideas, healthy discussion and debate (OECD, 2016^[8]).

Box 3.7. Hiring people with intellectual disabilities in the Provincial Council of Biscay

The Provincial Council of Biscay is the first Basque administration to reserve posts for a specific public employment vacancy, covering five subordinate staff positions for people with intellectual disabilities. For this reason, the institution has developed a series of specific materials and texts to adapt and to use in the selection process for persons with these characteristics, and has been advised at all times by third-sector organisations that work with this population, for example, the Basque Federation of Entities in Favour of People with Intellectual Disabilities (*Federación Vasca de Entidades en Favor de las Personas con Discapacidad Intelectual*, FEVAS), Apnabi, Gaude, Lantegi Batuak, the Down Syndrome Foundation of the Basque Country (*Fundación Síndrome de Down del País Vasco*), among others.

Thus, the materials for calls, forms, instances, instructions and the syllabus (with ten topics - eight theoretical and two practical) have been adapted for maximum comprehension, both in Basque and in Spanish, to the so-called reading system, Easy: a format for presenting information designed especially for people with reading comprehension difficulties and people with disabilities, who need access to reading, audio-visual and multimedia materials that they can read and understand properly.

To take part in the process, no qualification is required of applicants, but it is essential to have an intellectual disability and a recognised degree of disability equal to or greater than 33%.

Source: Provincial Council of Biscay (2018^[22]), *Diputación integra en su estructura a las personas con discapacidad intelectual con un proceso de selección "ad hoc" e innovador* (The Provincial Council integrates to its structure the people with intellectual disabilities in an "ad hoc" and innovative process), <http://web.bizkaia.eus/es/web/area-de-prensa/noticias/-/news/detailView/18746>

Training is key to raising awareness and strengthening skills

Focusing on including skills in competency frameworks and entry exams is key, but continuous training for new and existing public servants is as important to reinforce existing capabilities and develop new skills. Training on open government needs to be widespread and integrated into the public servant core curricula and should be updated regularly to reflect the latest changes.

As mentioned in Chapter 2, one of the aims of Biscay's open government agenda is to spur a culture change in the public sector. However, the OGAP does not include any direct commitment or milestone related to training or capacity building for the public service in

open government as a whole. There is an explicit mention of training in relation to citizen participation and an indirect mention in terms of transparency. Concerning citizen participation, the OGAP includes training courses in citizen participation at both internal and external levels. However, the May 2018 self-evaluation report of the OGAP recognised that this has not yet been done (Provincial Council of Biscay, 2018^[11]). In terms of transparency, the OGAP indirectly contains training and capacity building of civil servants through the creation and implementation of the Transparency Plan for the Province (Commitment 1). The Transparency Plan itself has included the development of a new module on transparency in the Training Career Plan of 2018 (*Plan de Formación Anual*).

Although training in transparency and citizen participation are essential and constitute good practice, not including them under an open government umbrella reinforces the fragmented approach of the open government agenda in Biscay, as mentioned above. Therefore, Biscay could develop a training module for all public officials on the principles and the definition of open government as well as on the main tenants and benefits of the open government strategy. This training could be formally included in the Training Career Plan. More detailed and in-depth training on different aspects of open government could complement this comprehensive training, including the courses already included in the Training Career Plan related to new technologies and digital competencies. See Box 3.8 for an example of an open government support package for civil servants in Finland.

Box 3.8. An open government support package for civil servants in Finland

Finland recognises the importance of providing training on open government to civil servants. Their third Open Government Partnership (OGP) Action Plan (2017-19) included two commitments to train regional civil servants on open government.

In order to do so, Finland created an “Open Government Support Package” for civil servants. The package includes clear and summarised information on the principles of open government as well as tools to promote open government at the regional level.

Within the framework of their regional reform, Finland also created a support site with all the main laws concerning stakeholder participation and transparency in the regions. Further, training sessions and specialised manuals were created in order to ensure the implementation of the laws.

Source: Ministry of Finance, Government of Finland (2017^[23]), *Open Government III Action Plan*, <https://vm.fi/documents/10623/4505456/Open+Government+III+Action+Plan+2017%E2%80%932019+Finland.pdf/21c926e6-b86b-435f-8d76-d4e9871ef45e/Open+Government+III+Action+Plan+2017%E2%80%932019+Finland.pdf.pdf>.

Furthermore, when developing the next open government strategy, Biscay could include a commitment that refers directly to training on several aspects of open government, as Ontario has done (Box 3.9).

Box 3.9. Training as a commitment in OGP action plans: The case of Ontario, Canada

Ontario is working hard to ingrain open government principles in the development of its programmes and policies across the Ontario public sector, which requires a change of culture. Its strategy includes a comprehensive educational initiative to increase the organisational capacity, knowledge and skill sets required to make Ontario's government more open.

As open government increases in prominence, it changes the way that public sector employees engage with their responsibilities and embed the principles of accountability, transparency and public participation that are inherent in a government that is open by default. In this sense, Ontario has focused its training on developing competencies in key areas of open government, such as public engagement, data literacy and information and change management.

To go even further, Ontario's Commitment 3 of its Open Government Partnership (OGP) focuses on "further embedding open government principles in the day-to-day work of the Ontario public service through the development of a new guide and training" in order to increase open government literacy in the Ontario public service, so as to ensure a consistent experience for Ontarians when they interact with government. The commitment is composed of the following milestones.

Milestone 1: Develop a (draft) guide with input from government ministries and agencies

Training tools, such as an open government guide, are key components to the learning framework and will lay the foundation for building open government capacity across the Ontario Public Service. The Open Government Guide will be a centralised collection of new and existing guidebooks and toolkits for open dialogue (public engagement), open information, and open data. The guide will evolve with input from users and as new information and resources become available.

Milestone 2: Establish a community of practice

A community of practice allows open government representatives across ministries to discuss the successes, challenges and opportunities in open dialogue, open information and open data. Their experiences from using the guides and tools will be shared within this community (and with others) and will lead to updates and clarifications in materials and cross-ministerial support.

Milestone 3: Undertake two ministry pilots

Engaging two different ministries to pilot the training guide and programme will serve as a testing ground for the clarity and salience of the open government training. Through the community of practice, ministry champions will be engaged in the training and equipped to deliver training within their ministry. Learnings from the pilot will be crucial to finalising the training and assessing its impact.

Milestone 4: Training the trainers

Through the pilot initiative and community of practice network, training of ministry staff across the Ontario Public Service will expand the capacity of the open government office to support the culture change and capacity building required.

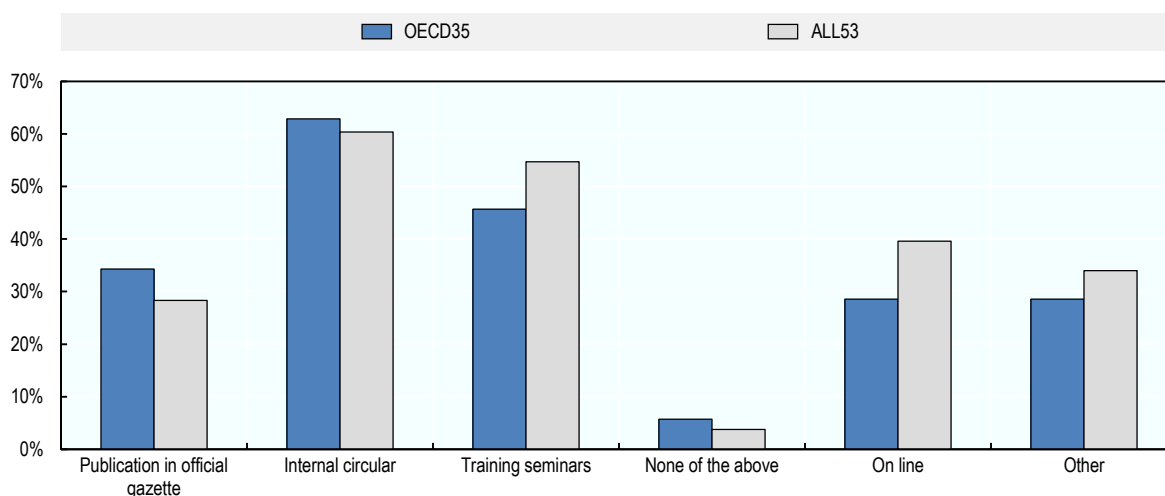
Source: Government of Ontario (n.d.^[24]), *Open Government Partnership: Appendix: Commitment implementation status*, 2018, <https://www.ontario.ca/page/open-government-partnership-progress-update#section-7>.

Internal communication as a means to raise awareness and understanding of open government reforms

A key element supporting the implementation of the open government agenda is effective communication within the public administration about the open government strategy and its initiatives, and the open government agenda as a whole. This contributes to securing a political commitment for reforms, having the same understanding about them and the intended goals to be achieved, and generating buy-in and ownership from all civil servants. A lack, or weakness, of such communication is often one of the main reasons why open government reforms do not reach their full potential. According to OECD data, 22 OECD countries identified the “lack of, or insufficient, communication and awareness of the benefits of open government reforms amongst public officials” as a key challenge to implementing open government reforms (OECD, 2016^[8]). It is therefore critical not only to inform civil servants about the existence of open government initiatives but also to engage with them in continual dialogue and include their inputs in the design, implementation and evaluation of the strategy and its initiatives. This is why, Provision 6 of the OECD Recommendation states that governments should “actively communicate on open government strategies and initiatives, as well as on their outputs, outcomes and impacts, in order to ensure that they are well known within and outside government, to favour their uptake, as well as to stimulate stakeholder buy-in” (OECD, 2017^[1]).

According to the OECD report, *Open Government: The Global Context and the Way Forward*, most countries use internal circulars (63% of OECD countries, 60% of all respondent countries) and training seminars (46% of OECD countries, 55% of respondent countries) to communicate about open government initiatives. Other countries communicate through publications in official gazettes (34% of OECD countries, 28% of respondent countries) or on line (29% of OECD countries, 40% of respondent countries) (see Figure 3.7).

Figure 3.7. Communication mechanisms used to inform public servants of the existence of open government initiatives



Note: “Other” includes, for example, regional and global events (Mexico), public announcements and collective bilateral meetings (France) or letters and meetings (Norway).

Source: OECD (2016^[8]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

However, most of these mechanisms focus on one-way communication channels, as is the case for Biscay. Besides publishing the OGAP on its online portal, and the fact that the directors of the departments with a direct or indirect commitment in the OGAP worked together during the elaboration and follow-up phases,³ Biscay does not have a comprehensive internal communication campaign on open government for all civil servants. Currently, dissemination of information related to open government is fragmented by sectors and particularly focused on transparency. For instance:

- A dedicated section on transparency was created in the “*Atarileku*”, the online portal (Intranet) for civil servants, which provides key information related to transparency concepts (e.g. proactive disclosure), the Provincial Law on Access to Information, and the Transparency Plan 2017-2019.
- A technical seminar (*Jornadas*) on transparency and access to information was given.

Further efforts are needed to co-ordinate messages on open government initiatives, both horizontally and vertically, and to raise awareness and understanding among civil servants of the open government strategy and initiatives, which is crucial to maximising their uptake. Given this, Biscay could build on the efforts already made on transparency and expand the content available in seminars and on the *Atarileku*, the online portal (Intranet) for public officials, to include information on the open government agenda as a whole. For example, information on the benefits of open government, its principles and the initiatives that Biscay has taken could be included. To draw greater attention from public officials, Biscay could also move away from only publishing on line (which requires an action from the public officials) and develop circulars and posters on the open government agenda on a more regular basis, a forum for public officials and pop-ups on the Intranet.

Furthermore, the office in charge of the open government agenda could convene the open government officers of each department -as mentioned above- in a network to strengthen their involvement in communication about open government initiatives and share good practices as well as lessons learned (see Box 3.1 on Costa Rica's open government contact points). It would also be important to invite the communication officers of the Provincial Council as well as other involved actors such as municipalities, EUDEL, and the BiscayTIK Foundation (hereafter “BiscayTIK”), to disseminate the same general messages throughout the Province about open government and the efforts carried out as a way to share good practice (see Box 3.10 for examples from Italy and Estonia).

Box 3.10. Examples of public communication networks facilitating co-ordination

Italy's #PASocial

In Italy, public communicators have been organising events since 2015 to exchange good practices and lessons learned around public communication and to facilitate co-ordination. This approach has since evolved towards the establishment of a public association (#PASocial), currently comprising 300 people. The association works for the promotion of good practices, exchange between peers and training in the field of public communication.

Estonia's Communication Co-ordination Council

To exchange information and organise communication activities, the inter-ministerial Government Communication Co-ordination Council meets every week in Stenbock House.

The council is responsible for discussing government communication topics, making proposals for instructions governing the organisation of the work in the field, providing consultation to the Government Office in amending and establishing legal acts pertaining to government communication and discussing and adopting positions on key matters pertaining to government communication. The working meetings of the council are chaired by the Director of Government Communication and include heads of communications units at the ministries. The Chancellor of Justice's public relations advisor and the head of the State Audit Office's communication service are also included in the work of the Government Communication Co-ordination Council.

Sources: Government Office of Estonia (2017^[25]), *Government Communication Handbook*, https://www.valitsus.ee/sites/default/files/content-editors/failid/government_communication_handbook_eng_13.09.2017.pdf PASocial (n.d.^[26]), *Statuto (Statutes)*, <https://www.pasocial.info/statuto/> Peer Exchange at Peer Review Mission in Tunis in November 2017.

Secure funding of open government strategies and initiatives is essential to guarantee their long term impact

National and local governments need adequate financial resources to ensure the successful operationalisation of open government strategies and initiatives. As argued in the OECD report (OECD, 2016^[8]), “while the legal, policy and institutional framework must be in place to establish and secure transparency and citizen participation, the passing of these frameworks alone will fail to increase openness if governments do not provide sufficient funding for their implementation.”

Data show that most OECD countries report a lack of financial resources as one of the main challenges for co-ordinating (43% of OECD countries, 45% of all respondents) and implementing (49% of OECD countries, 57% of all respondents) open government strategies and initiatives.

The sources for funding may vary in each government: they can come from a single central body, from the body responsible for the implementation or from external stakeholders (including the private sector). While further research is needed to determine if central funding or project funding is more efficient in supporting the open government strategy and initiatives, funding by more than one source could help raise adherence and engagement, as well as lighten the burden.

In the case of Biscay, while the OGAP does not have a centralised budget, both General Directorates at the Cabinet and *Behatokia* do have specific funding for certain initiatives, particularly for those that overlap with *Bizkaia Goazen 2030*, such as the elaboration and implementation of the Provincial Law for Transparency and the design of a citizen participation model. This means that the budget for the initiatives in the OGAP comes from each department in charge of its implementation. This is not an issue for both General Directorates at the Cabinet, nor for *Behatokia*, whose mandates are strongly aligned with the initiatives. However, it might become problematic for other Departments, as they might perceive their commitments as a time, human and financial burden. In order to address this, Biscay could consider elaborating a dedicated financial plan when it develops the next open government strategy, especially if it includes initiatives that go beyond the OGAP as those included in *Goazen 2030*. Both the strategy and the financial plan could be co-created with

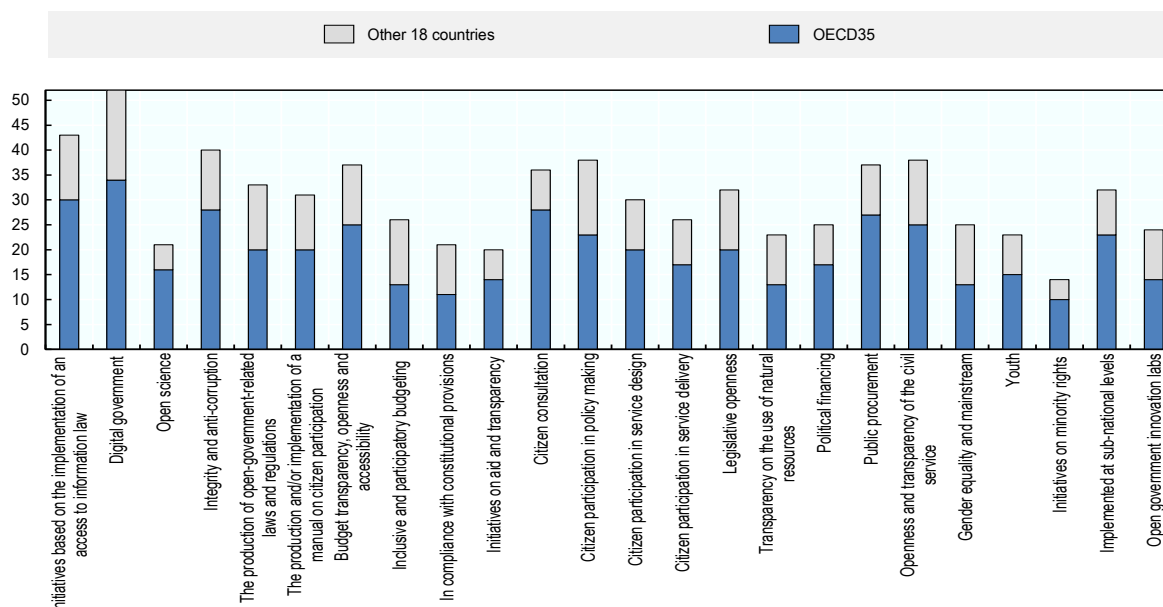
the departments that will be involved in the strategy in order to define the amounts, resources and specific responsibilities for the initiatives that will be included.

Biscay's initiatives on digital government and open data contribute to the open government agenda

Digital technologies are rapidly transforming how governments, citizens and businesses interact, communicate and collaborate. This has facilitated on the one hand, real-time and two-way communication between governments and stakeholders, allowing for more access to government data in a more user-friendly way and to citizen-driven public services. On the other hand, it has facilitated the modernisation of public administrations, which has led to greater efficiency and effectiveness.

Amid these transformations in the digital era, governments are evolving from electronic government (e-government) initiatives to more comprehensive and ambitious digital government strategies. The OECD defines *e-government* as the use by governments of ICTs, and particularly the Internet, as a tool to achieve better government. *Digital government* refers to the use of digital technologies, as an integrated part of governments' modernisation strategies, to create public value. It relies on a digital government ecosystem comprised of government actors, non-governmental organisations, businesses, citizens' associations and individuals, which supports the production of and access to data, services and content through interactions with the government (OECD, 2014^[27]). In fact, in many countries and regions, a digital government and open data agenda have driven the open government agenda (see Figure 3.8).

Figure 3.8. Initiatives on open government currently being implemented or have already been implemented



Source: OECD (2016^[8]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

The OECD Council adopted a Recommendation on Digital Government Strategies in 2014 as more and more national and local governments developed digital government strategies. The Recommendation aims to help governments implement these strategies and bring them closer to citizens and businesses (see Box 3.11).

Box 3.11. OECD Recommendation on Digital Government Strategies

The OECD Recommendation on Digital Government Strategies, adopted in 2014, aims to support the development and implementation of digital government strategies that bring governments closer to citizens and businesses. It recognises that today's technology is not only a strategic driver for improving public sector efficiency but can also support policy effectiveness and create more open, transparent, innovative, participatory and trustworthy governments. It recommends that governments develop and implement digital government strategies that:

- ensure greater transparency, openness and inclusiveness of government processes and operations
- encourage engagement and participation of public, private and civil society stakeholders in policy making and public service design and delivery
- create a data-driven culture in the public sector
- reflect a risk management approach to addressing digital security and privacy issues, and include the adoption of effective and appropriate security measures
- secure leadership and political commitment to the strategy
- ensure coherent use of digital technologies across policy areas and levels of government
- establish effective organisational and governance frameworks to co-ordinate the implementation of the digital strategy within and across levels of government
- strengthen international co-operation with other governments
- develop clear business cases to sustain the funding and focused implementation of digital technologies projects
- reinforce institutional capacities to manage and monitor projects' implementation
- procure digital technologies based on an assessment of existing assets
- ensure that general and sector-specific legal and regulatory frameworks allow digital opportunities to be seized.

Source: OECD (2014^[27]), *Recommendation of the Council on Digital Government Strategies*, <http://www.oecd.org/gov/digital-government/Recommendation-digital-government-strategies.pdf>.

From an open government perspective, the implementation of digital initiatives can help modernise the public administration and therefore contribute to a government's internal capacity to provide better services. Consequently, several synergies can be found between

digital and open government reforms. ICTs can provide the space and the means for more collaboration between different stakeholders and the public sector. For example, through dedicated online platforms, national and local governments can provide public information while empowering citizens to monitor government activities and results. Further, finding innovative spaces for participation in public initiatives can foster co-developing innovative solutions to public challenges.

In Biscay, the General Directorate of Modernisation has the overarching mandate to modernise the administration by simplifying internal processes and reducing administrative burdens. In order to implement this mandate, it develops the necessary technological tools and innovative solutions through Lantik, a state-owned enterprise created in 1981 dedicated to plan and implement the IT policies defined by the Provincial Council as well as tools and solutions for the provincial bodies. They are then transferred to the municipalities through BiscayTIK. Biscay has integrated several digital initiatives in its open government agenda through specific commitments in the OGAP 2017-19, such as open data, reducing bureaucracy and encouraging the use of ICTs at the local level.

For instance, Commitment 10 of the OGAP, “reduce bureaucracy”, aims to simplify the relationship between citizens and the administration. It aims to do so by reducing internal administration processes, by making online procedures possible and through use of an interoperability agreement. To this end, the General Directorate of Modernisation developed an application to facilitate interoperability within the Departments of the Provincial Council, the municipalities and the Basque Country.⁴ This means that, for certain procedures, public administrations at all levels exchange information and data through an application, instead of citizens making the same request for administrative procedures in each of the administrations. At a later stage, interoperability efforts from all provinces and Autonomous Communities will be integrated by the Spanish State, following the New European Interoperability Framework (EIF) (European Commission, 2017_[28]). Likewise, Modernisation developed through Lantik a dedicated software for certain online procedures such as citizen requests for benefits and subsidies.

Furthermore, open data is a key priority for Biscay, as evidenced by the fact that Biscay included two commitments of the OGAP related to open data: Commitment 2, “launch the open data initiative of Biscay”; and Commitment 3, “open provincial budgets”.

With regard to Commitment 2, Biscay launched the “Open Data Bizkaia” portal in February of 2018, for which Lantik provided the technological platform. The portal has published 16 datasets in a digitalised, standardised and open format with information from all the Departments of the Provincial Council.⁵ The objective of its open data portal is to encourage the creation of services based on public information derived from data analysis and to use it to create value. The recent OECD (2018_[29]) report on Open Government Data found that while former open data policies and practices were more focused on increasing access to public sector information, now governments are moving towards a more collaborative, problem-solving approach. This implies that, through the engagement of several stakeholders, open data can become a means to developing solutions to public sector challenges. In that sense, many governments are using open data “as a platform to favour public value co-creation” (OECD, 2018_[29]).

During the fact-finding mission, it was raised that there was certain resistance by some Departments to it as they did not understand the benefits and perceived it as a burden. It was also mentioned that the internal culture of working in silos resulted in poor co-ordination with regard to inter-departmental data production. Further, the OECD team found that there was a weak ecosystem of open data organisations in Biscay, limiting the

external demand for provincial public data. To remediate this situation, Biscay has met with local open data organisations to better understand their needs and demands.

For instance, an open data commitment was integrated in the Open Government Partnership (OGP) of the Basque Country (Box 3.12). As the three levels of the Basque Country will have to provide data for the integrated portal, this will help promote a data-driven culture inside the Biscay administration. Currently, the Province is working with Basque public institutions to identify the most demanded data sets. Concerning external demand for data, Biscay could continue its efforts to collaborate with local open data organisations and Basque administrations, and organise activities to further develop such demand.

Box 3.12. Open data commitment of the OGP in the Basque Country

Within the framework of the first Open Government Partnership (OGP) Action Plan of the Basque Country, one commitment targets open data. The three levels of government of the Basque Country (the autonomous community, the provinces and the municipalities) identified the main datasets of interest for citizens and included these in the commitment to increase impact further. Basque administrations will be responsible for standardising and “linking” the data, creating new opportunities to use and analyse it.

The provinces and municipalities will benefit from the experience that Open Data Euskadi already has, as it was the first open data portal published in Europe outside of the United Kingdom since 2010. As the competencies within the Basque Country are divided by sector and level of government (for example, the Basque Country is responsible for education and the provinces for taxation), this multi-level, integrated approach to open data will further increase the possible impact of the initiative and of the potential of cross-sector data analysis to find innovative solutions to challenges in the Basque Country.

Source: Basque Country (2018^[30]), *OGP Action Plan for the Basque Country 2018-2020*, http://www.ogp.euskadi.eus/contenidos/documentacion/doc_plan_accion/en_def/adjuntos/cocreacion_plan/pla_n_ogp_revisado_en.pdf.

With regard to Commitment 3, “open provincial budgets”, Biscay has made significant efforts. The General Directorate of Treasury published all the budget documents for 2017, including an easy-to-read version. Currently, it is working to develop a new, online, interactive tool for the provincial budgets in open format⁶ so citizens will not only have an overview but will also be able to play with the data. When created, this initiative has the potential to increase knowledge on public finances and consequently, facilitate more public participation and democratic engagement. If created, Biscay could implement a targeted strategy to disseminate the initiative, in order to encourage awareness and use of the new tool by all stakeholders.

Finally, Commitment 8 of the OGAP aims to “develop technological tools for the municipalities in Biscay” as a free service, in collaboration with municipalities and while respecting municipal autonomy. In order to address the digital divide between municipalities (82% of the municipalities have fewer than 10 000 inhabitants), Biscay created in 2008, under the General Directorate of Modernisation, the BiscayTIK Foundation. BiscayTIK is a non-profit public institution with the overarching objective of modernising the municipalities of Biscay, and has three main goals:

1. to promote the use of ICTs in the municipalities and bring local authorities closer to citizens using the Internet
2. to work closely with the private sector in Biscay on projects related to ICTs and local governments
3. to bring new technologies to the inhabitants of Biscay

Currently, more than 100 municipalities collaborate with BiscayTIK to various extents, most of them working to create online portals and provide e-services. Every tool that BiscayTIK implements is developed by Lantik. BiscayTIK, thus, plays a crucial role within the Provincial Council, as it has become the conduit and driver for most of the initiatives with the municipalities. More importantly, it helps provide a level playing field for municipalities when helping them adopt new technologies, and thus provide better public services.

BiscayTIK has developed “*Udala Zabaltzen*”, an online open government portal for municipalities. The portal aims to promote transparency, good governance and stakeholders’ participation in municipalities. It works by providing an easy-to-use website, smartphones applications (such as fix my street) and newsletters to municipalities. In order to have the portal, a municipality must sign a collaboration agreement with BiscayTIK. In turn, BiscayTIK makes an analysis of the relevant information that the municipality should publish and helps setting up a transparency portal and/or smartphone applications tailored to their specific needs. *Udala Zabaltzen* was launched in 2014 and at that time, it was more focused on transparency. After the Law of Local Institutions of the Basque Government, also known as “LILE” for its initials in Spanish, was enacted in 2016, the portal also helped municipalities to measure compliance with the Law⁷. Over time, BiscayTIK added new functionalities on stakeholders’ participation and accountability. For example, through “*Kalezaindu*”, a tool inside the portal that allows citizens to signal flaws or shortcomings in public areas to their municipalities, such as fix my street. To date, *Udala Zabaltzen* has more than 78 signed collaboration agreements, from which 44 are transparency portals for municipalities with less than 20,000 inhabitants. This innovative approach helps provide a level playing field for municipalities that do not have the means to develop the technology on their own (BiscayTIK Foundation, 2017^[31]). In the OGAP’s self-evaluation report, Biscay recognised the need to incorporate new tools to encourage citizen participation and increase collaboration with other municipalities that do not yet use the portal (Provincial Council of Biscay, 2018^[11]). In order to do so, BiscayTIK could further increase collaboration with municipalities to tailor new technological tools that target stakeholder participation, in line with the characteristics and needs of the municipalities.

Recommendations and proposals for action

Biscay’s approach to working towards a culture of open government is in line with OECD good practices and has made significant efforts to position the open government agenda within the public administration. Although it has shown strong high-level leadership, commitment and support through the creation of two units (which have carried out most of the initiatives related to open government), further efforts are needed to ensure a successful, long-term implementation of the open government agenda. For this:

In order to build and consolidate robust institutional arrangements for effective and sustainable implementation of the open government agenda, beyond the OGAP, Biscay could consider:

- Designate an office responsible for developing and co-ordinating the strategy and the open government agenda as well as for monitoring its implementation, while maintaining sectoral ownership of the open government initiatives. The office needs to have a clear and well-disseminated mandate and use a more proactive approach to positioning it as the office in charge.
- Ensure that the office in charge of co-ordinating the open government agenda remains at the highest level, at the Centre of Government (COG) across political levels.
- Designate open government officers in each of the departments and bringing them together regularly, as members of a committee, to discuss the challenges they faced and the solutions implemented to overcome them, share good practices and explore synergies.
- Create an open government committee composed of all institutional actors involved – and not just those responsible - in each of the commitments. The committee could also include other key actors, such as representatives from the judicial and legislative branches, the *Ararteko* (the Basque Country's Ombudsman), municipalities as well as EUDEL (the Basque Local Governments Association) to achieve an open territory.

Biscay needs to increase open government literacy in its civil service and embed skills and capabilities into daily responsibilities that promote accountability, transparency and stakeholders' participation by:

- Include open-government-related principles and skills in competency frameworks, codes of conduct and job profiles by:
 - Developing a code of conduct or charter on open government for all public officials, which would include transparency, integrity, accountability and stakeholder participation as principles, as well as clear guidelines on how to put them into practice in their day-to-day work. Biscay could go a step further and develop this code of conduct or charter in co-operation with public officials.
 - Including, for certain positions, specific skills related to stakeholder participation, such as negotiation skills, mediation skills and communication skills, among others, to design and implement successful open government strategies and initiatives as well as the capacity to design and implement participation practices.
- Ensure that training continually raises awareness and strengthens skills by:
 - Developing a training module for all public officials on the principles and the definition of open government as well as on the central tenants and benefits of the open government strategy. This training could be formally included in the Training Career Plan. More detailed and in-depth training on different aspects of open government could complement this comprehensive training.
 - Including a commitment that refers directly to training on several aspects of open government, when developing the next open government strategy.
- Reinforce internal communication to raise internal awareness and understanding of open government reforms by:

- Building on the efforts already made on transparency and expanding the content available in seminars and on the *Atarileku*, the online portal (Intranet) for public officials, to include information on the open government agenda as a whole. For example, information on the benefits of open government, its principles and the initiatives that Biscay has taken could be included. To draw greater attention from public officials, Biscay could also move away from only publishing on line (which requires an action from the public officials) and develop circulars and posters on the open government agenda on a more regular basis, a forum for public officials and pop-ups on the Intranet.
- Convening the open government officers of each department in a network to strengthen their involvement in communication about open government initiatives, and share good practices as well as lessons learned.
- Biscay needs to secure funding for the open government strategy and initiatives by considering elaborating a dedicated financial plan when it develops the next open government strategy. Both the strategy and the financial plan could be co-created with the Departments that will be involved in the strategy in order to define the amounts, resources and specific responsibilities for the initiatives that will be included.

Biscay needs to continue with its efforts on digital government and open data by:

- Continue to collaborate with local open data organisations and Basque administrations, and organising activities to further develop external demand for data.
- Implement a targeted strategy to disseminate the online interactive tool for provincial budgets, in order to encourage awareness and use of the new tool by all stakeholders.
- Further increase collaboration with municipalities, through BiscayTIK, to tailor new technological tools that target stakeholder participation, in line with the characteristics and needs of the municipalities.

Notes

¹ The Province of Biscay is legally referred to as a “historic territory”, a term exclusive to the Basque Country that describes the political and administrative system of its three provinces. In view of facilitating the understanding of the term for readers not familiar with the concept and of shortening the term repeated throughout the Chapters, the Review will refer to the historic territory of Biscay as “Province of Biscay”.

² For a list of ethics codes and codes of conduct in OECD countries, see <http://www.oecd.org/gov/ethics/ethicscodesandcodesofconductinoecdcountries.htm>.

³ The source for this is Biscay's responses to the questionnaire.

⁴ For more information, see <https://www.ebizkaia.eus/es/interoperabilidad>.

⁵ For more information, see <https://www.opendatabizkaia.eus/es/info/open-data-bizkaia>.

⁶ As per the “Follow-up Action Plan”.

⁷ For more information on the LILE Law, see Chapter 2.

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Chapter 4. Building a monitoring and evaluation framework for open government

This chapter assesses the internal capacities and current initiatives in place in the province of Biscay to build a monitoring and evaluation (M&E) system for its public policies, as a commitment included in its Open Government Action Plan 2017-19. It examines the institutional framework with a special emphasis on the actors involved in the development of the system. Furthermore, it focuses on the monitoring and evaluation of Biscay's open government strategies and initiatives as a tool to enhance a new culture of governance.

Introduction

A robust monitoring and evaluation (M&E) system is essential to ensure that open government strategies and initiatives are achieving their intended goals. It serves to highlight the achievements, relevance and visibility of open government initiatives across government and therefore provides incentives to ensure that public policies are designed and delivered from an open government perspective. Sound M&E can also help to identify challenges and obstacles that hinder effective policy implementation, as well as show the way forward to address the challenges, based on lessons learned about what has worked (or not) in the past.

Given the strategic relevance of M&E, the OECD Recommendation of the Council on Open Government (hereafter the “OECD Recommendation”) stresses the importance of monitoring and evaluating open government strategies and initiatives. Provision 5 calls on adherents to:

“Develop and implement monitoring, evaluation and learning mechanisms for open government strategies and initiatives by:

- i. identifying institutional actors to be in charge of collecting and disseminating up-to-date and reliable information and data in an open format*
- ii. developing comparable indicators to measure processes, outputs, outcomes, and impact in collaboration with stakeholders*
- iii. fostering a culture of monitoring, evaluation and learning among public officials by increasing their capacity to regularly conduct exercises for these purposes in collaboration with relevant stakeholders.” (OECD, 2017^[1])*

Acknowledging the importance of M&E, the Provincial Council of Biscay (*Diputación Foral de Bizkaia*, hereafter “Biscay”), which constitutes the government of the Province, has committed to:

1. **using monitoring and evaluation as an enabler for openness**, by developing a whole-of-government M&E system
2. **monitoring and evaluating open government strategies and initiatives.**

Therefore, the first part of this chapter assesses the efforts of the province of Biscay (legally referred as “historic territory”¹⁾) to build a monitoring and evaluation system for its public policies, as a commitment included in its Open Government Action Plan 2017-19 (OGAP). The second part of the chapter focuses on the monitoring and evaluation of open government strategies and initiatives, assessing Biscay’s efforts to collect relevant information and to develop comparable indicators as referred to in Provision 5 of the OECD Recommendation.

Towards a robust monitoring and evaluation system

Conceptualising monitoring and evaluation

Notwithstanding their complementarity, monitoring and evaluation are two different practices, with different dynamics and goals. **Policy monitoring** refers to a continuous function that uses systematic data collection on specific indicators to provide policy makers and stakeholders with information regarding progress and achievements of an ongoing public policy initiative and/or the use of allocated funds (OECD, 2018^[2]) (OECD, 2016^[3])

(OECD, 2009^[4]). It contributes to *planning and operational decision making*, as it provides evidence to measure performance and can help to raise specific questions in order to identify implementation delays or bottlenecks. It can also strengthen *accountability* related to the use of resources, the efficiency of internal management processes, or the outputs of a given policy initiative (OECD, 2017^[5]).

Policy evaluation refers to the structured and objective assessment of the design, implementation and/or results of a future, ongoing or completed policy initiative. The aim is to determine the relevance and fulfilment of policy objectives, as well as to assess dimensions such as public policies' efficiency, effectiveness, impact or sustainability. As such, policy evaluation refers to the process of determining the worth or significance of a policy (OECD, 2018^[2]) (OECD, 2016^[3]) (OECD, 2009^[4]). It serves two main purposes. It fosters *learning* by helping policy makers understand why and how a policy was successful or not. Consequently, it contributes to strategic decision-making, by providing insights on how to improve the links between policy decisions and outcomes. In addition, policy evaluation promotes *accountability* as it provides citizens and a broad range of stakeholders – such as journalists and academics – with information whether the efforts carried out by the government, including the financial resources mobilised for them, are producing the expected results (OECD, 2017^[5]).

Therefore, while monitoring is descriptive and an important (but not exclusive) source of information that can be used within the context of an evaluation, policy evaluation is a different activity that seeks to analyse and understand cause-effect links between a policy intervention and its results. Table 4.1 highlights the main distinguishing traits of both functions.

Table 4.1. Comparing policy monitoring and policy evaluation

Policy monitoring	Policy evaluation
Ongoing (leading to operational decision-making)	Episodic (leading to strategic decision-making)
Monitoring systems are generally suitable for the broad issues/questions that were anticipated in the policy design	Issue-specific
Measures are developed, and data are usually gathered through routinised processes	Measures are usually customised for each policy evaluation
Attribution is generally assumed	Attribution of observed outcomes is usually a key question
Because it is ongoing, resources are usually a part of the programme or organisational infrastructure	Targeted resources are needed for each policy evaluation
Use of the information can evolve over time to reflect changing information needs and priorities	The intended purposes of policy evaluation are usually negotiated upfront

Source: Adapted from McDavid, J.C. and Hawthorn, L.R.L. (2006^[6]), Program evaluation and performance measurement, an introduction to practice, Thousand Oaks, California: Sage, in OECD (2017^[5]), “Towards Open Government Indicators: Framework for the Governance of Open Government (GOOG) Index and the Checklist for Open Government Impact Indicators”, Concept Note, internal document.

Developing a strategy to build a robust M&E system

Sound policy monitoring and evaluation means that M&E is part and parcel of the policy cycle; that M&E is carried out rigorously and systematically; that decision makers use its results; and that information is readily available to the public (see also Lazaro, (2015^[7]). It offers policy makers the tools and evidence to detect policy challenges, to adapt or adjust public policies, to understand their viability or their failures, as well as to communicate

policy results in a timely and accessible manner (OECD, 2016^[3]). A robust M&E system implies the presence of:

- An institutional framework for M&E that provides: (a) the legal basis to undertake M&E; (b) macro-level guidance on when and how to carry out M&E; and (c) clearly mandated institutional actors with allocated resources to oversee or carry out M&E.
- An M&E culture, including - among others - the promotion of the quality and use of policy evaluations across government, through a skilled public service and appropriate stakeholder engagement mechanisms.

The OGAP's commitment to build an M&E system

The development of an M&E system is a high priority for Biscay's 2015-19 administration. The strategic incentive to build such a system is provided by the Open Government Action Plan (OGAP) 2017-19, which regroups the Province's main open government initiatives. The plan describes Biscay's open government vision (see Box 4.1) and identifies an **open government** as a “**government that evaluates** in order to make responsible and efficient use of public resources by measuring, monitoring and evaluating public policies”, among other things.

Box 4.1. Biscay's open government vision

Biscay's open government vision is defined by the following characteristics (or particularities):

- a **relational government** that seeks timely and constant follow-up in order to better know its citizens' needs and direct public policies in a more efficient way
- a **transparent government** that uses ambitious tools to make transparency a means for easier access to information and to contribute to improving efficiency in public management
- a **participative government** with a joint responsibility perspective, which creates new spaces and processes for participation across the entire policy cycle
- an **accountable government** with new spaces to subject the government administration to public scrutiny, including a government strategic plan subject to annual reviews
- a **government that evaluates** in order to make responsible and efficient use of public resources by measuring, monitoring and evaluating public policies
- a **collaborative government** open to co-operating with other stakeholders.

Source: Provincial Council of Biscay (2017^[8]), *Bizkaia Irekia: Plan de Acción de Gobierno Abierto (Open Biscay: Open Government Action Plan)*, <http://gardentasuna.bizkaia.eus/documents/1261696/1397467/Plan+de+Gobierno+Abierto.pdf/d96264cf-022e-a2c0-3919-e1778372436c>.

Biscay's OGAP lists 6 priorities/thematic areas and 14 commitments (see Table 4.2). Commitment 5 explicitly refers to the “establishment of a system allowing the monitoring of the evolution of the territory and the performance of the Provincial Council of Biscay through an internal and external evaluation management” (Provincial Council of Biscay, 2017^[8]) (see Table 4.2 and Box 4.2). While the OGAP clearly includes a reference to evaluation (both in its title and narrative), exchanges with public servants during the OECD fact-finding mission indicate that the distinction between monitoring, on the one hand, and evaluation, on the other hand, is not always clear and leads to confusion.

Table 4.2. Open Government Action Plan of Biscay: Priorities and commitments

Priorities/thematic areas	Commitments
Transparency and open data	Commitment 1. Create and implement a transparency plan for the province. Commitment 2. Launch the open data service of Biscay. Commitment 3. Open provincial budgets.
Accountability	Commitment 4. Promote accountability initiatives in the management of the Provincial Council of Biscay. Commitment 5. Define a policy evaluation system for the Provincial Council of Biscay.
Citizen participation	Commitment 6. Develop a model for citizen participation. Commitment 7. Foster social participation in gender equality policies.
Technological development and innovation	Commitment 8. Develop technological tools for the municipalities in Biscay. Commitment 9. Set up a new comprehensive model to provide citizen services. Commitment 10. Reduce bureaucracy.
Promoting collaboration between the public and private sectors	Commitment 11. Generate economic value through collaborative initiatives with businesses within the territory. Commitment 12. Launch projects that bring together the public and private sectors to generate social value. Commitment 13. Launch projects that bring together the public and private sectors and involve young people to generate social value.
Strengthening public integrity	Commitment 14. Create and develop a provincial law for integrity, conflict of interest and incompatibilities.

Source: Provincial Council of Biscay (2017^[8]), *Bizkaia Irekia: Plan de Acción de Gobierno Abierto (Open Biscay: Open Government Action Plan)*, <http://gardentasuna.bizkaia.eus/documents/1261696/1397467/Plan+de+Gobierno+Abierto.pdf/d96264cf-022e-a2c0-3919-e1778372436c>.

Box 4.2. Commitment 5 of the Biscay Open Government Action Plan

This commitment, under the responsibility of the Observatory of Biscay, aims to define a policy evaluation system for the Provincial Council of Biscay, allowing for the assessment of the socio-economic situation of the territory and measuring the performance of the administration through internal and external evaluations. Based on the values enacted by the Open Government Partnership (OGP), this commitment envisages to provide elements for the articulation of an efficient and transparent accountability system. In order to do so, the commitment aims to deliver the following tools:

- **Social Barometer of Biscay** (*Barómetro Social de Bizkaia*): A tool for quantitative evaluation comprised of social perception indicators.
- **Neurbi**: A tool for qualitative evaluation comprised of perception-based indicators of the Council's performance.
- **Service charters** (*Cartas de servicio*): A tool to improve service delivery and a methodology of institutional communication with the public.
- A **dashboard of context indicators** for the territory.
- A **dashboard of management indicators** of the strategic plans of the Council's departments.

Source: Provincial Council of Biscay (2017^[8]), *Bizkaia Irekia: Plan de Acción de Gobierno Abierto (Open Biscay: Open Government Action Plan)*, <http://gardentasuna.bizkaia.eus/documents/1261696/1397467/Plan+de+Gobierno+Abierto.pdf/d96264cf-022e-a2c0-3919-e1778372436c>.

As outlined in Box 4.2, the government's commitment to developing an M&E system is expressed in the OGAP and is outlined in some specific deliverables, such as the creation of evaluation tools and indicators. However, building specific tools for data collection and carrying out quantitative and qualitative evaluations successfully also requires an underlying institutional framework, including the allocation of the necessary financial and human resources to carry out these tasks, as well as a strategy (roadmap, timeline and specific actions) to gradually develop an M&E system. A clear institutional framework supports the implementation of M&E activities and can provide guidance to anticipate potential legal, administrative and/or financial challenges.

Designing an institutional framework for policy M&E

An M&E institutional framework consists of specific legal and/or policy provisions and can include, among others:

- the institutional set-up for policy M&E, allocating responsibilities, resources and objectives to different institutional actors (ministries, departments, etc.)
- the identification of policies to be monitored and evaluated, based on criteria such as thematic considerations (government's priorities) or budgetary thresholds (policies exceeding certain costs)
- the definition of courses of action for commissioning M&E exercises.

These provisions can be embedded in the Constitution, primary legislation (laws or equivalent), secondary/subordinate legislation or administrative acts such as government

strategic plans. The formal anchorage of such provisions in legal and policy documents can facilitate their enforcement. While Biscay currently does not have a government-wide legal or policy framework guiding M&E across government, there are some legal provisions that identify key actors with shared M&E responsibilities:

- Observatory of Biscay (*Observatorio de Bizkaia*, hereafter “*Behatokia*”): Created by the Provincial Decree 17 of 2016, it is part of the Deputy General Cabinet.² According to its mandate, *Behatokia* is the main body responsible for the M&E agenda in the Provincial Council of Biscay. Article 6 of the Provincial Decree 17 of 2016 states that *Behatokia* should “propose a system/model of planning, organisation, administration, oversight and evaluation of common plans and policy actions of the departments of the Provincial Council of Biscay (or provincial ministries, hereafter “Departments”), except in those cases assigned to the Cabinet of Modernisation, Good Governance and Transparency” (Boletín Oficial de Bizkaia, 2016_[9]). Moreover, it is stipulated that in terms of the M&E agenda, *Behatokia* is responsible for assisting the departments in applying the monitoring system/model (once in place), for encouraging the creation of a data repository, as well as for monitoring all plans and policy actions of the Biscay government. Furthermore, as explained below, *Behatokia* is responsible for Commitment⁵ of the OGAP 2017-19 that refers to the development and establishment of an evaluation system of public policies.³
- Cabinet of Modernisation, Good Governance and Transparency (*Gabinete de Modernización, Buen Gobierno y Transparencia*): Created by the Provincial Decree 86 of 2016, it is one of the bodies of the Department of Public Administration and Institutional Relations.⁴ It is composed of a Strategic Planning Office (*Jefatura de Gabinete*) and two directorates: General Directorate of Public Administration Modernisation (*Dirección General de Modernización de la Administración*) and the General Directorate of Good Governance and Transparency (*Dirección General de Buen Gobierno y Transparencia*). According to its mandate, it is the leading body in charge of “formulating strategic guidelines and priority areas of action to guide planning of the Provincial Council, its Departments and the entities of the Provincial public sector” (Boletín Oficial de Bizkaia, 2016_[10]). In relation to Biscay’s M&E agenda, the General Directorate of Good Governance and Transparency is mandated, within the Cabinet, to “define and launch a model of evaluation and impact of public policies, Provincial services and programmes” (Boletín Oficial de Bizkaia, 2016_[10]).
- Lantik: A state-owned enterprise owned by the Provincial Council of Biscay, its objective is “to provide to the Provincial Council, its subsidiary organisms and institutions as well as municipalities of Biscay through BiscayTIK, data-processing systems and their management” (Bizkaia, 2018_[11]). More specifically, this entity is in charge of Biscay’s data collection platform. This platform is a tool used by the General Directorate of Modernisation to monitor, through progress indicators, plans and actions carried out by the different departments of the Provincial Council.

While the Directorate General of Judicial Regime and Civil Service (*Dirección General del Régimen Jurídico y Función Pública*) does not play a formal role in the M&E process, it is worth mentioning. The directorate is part of the Department of Public Administration and Institutional Relations. According to its mandate, it is the body responsible for the “promotion and elaboration of training programmes and the professional development of public officials” (Provincial Decree 86, Article 20). The General Directorate also

developed an ethical code for public officials that they must adhere to when employed by the government. While both the ethical code and the training modules do not have a particular M&E dimension for the time being, this could be considered for the future.

Table 4.3 lists the responsibilities of the bodies in charge of M&E in Biscay, using a list of common tasks performed by institutions responsible for M&E across government in OECD countries as a framework.⁵

Table 4.3. Responsibilities for monitoring and evaluation within Biscay's public entities

Functions	<i>Behatokia</i>	General Directorate of Good Governance and Transparency	General Directorate of Modernisation	Civil service
Defining and updating the evaluation policy	X	X		
Developing guideline(s) for policy evaluation		X		
Providing incentives for carrying out policy evaluations				
Undertaking policy evaluations	X	X		
Requiring government institutions to undertake specific policy evaluations				
Defining course of action for commissioning evaluations				
Developing skills, competences and/or qualifications of evaluators				X*
Developing standards for ethical conduct				X*
Design data collection tools supporting policy monitoring		X	X	
Ensuring quality standards of evaluations				
Ensuring the quality of monitoring data				
Promoting stakeholder engagement in policy monitoring and evaluation	X			
Overseeing the monitoring and evaluation calendar and reporting	X			
Reporting monitoring results	X			
Following up on evaluation reports				
Serving as a knowledge centre and providing a platform for exchange on M&E	X	X		
Use of data collected by policy monitoring				
Promoting the use of evaluation findings into policy making				

Note: *the Civil Service has two functions: developing skills, competences and/or qualifications of evaluators as well as developing standards for ethical conduct. However, these are not linked to M&E.

Behatokia stands for General Directorate of the Observatory of Biscay and Civil service stands for Directorate-General of the Legal Regime and Civil Service.

Source: Author.

Table 4.3 shows that *Behatokia* and the Directorate General of Good Governance and Transparency (hereafter the “Directorate”) share responsibilities in the areas of: 1) defining and updating the evaluation policy; 2) undertaking policy evaluations; and 3) serving as a knowledge centre and providing a platform for exchange. While sharing responsibilities in the area of M&E does not represent a challenge per se, it can generate overlaps if these institutions do not always work in a co-ordinated way. A certain degree of overlap was mentioned during the OECD fact-finding mission, as several stakeholders referred to some confusion regarding the division of labour between the two bodies, more specifically concerning the responsibility for providing guidance on M&E across government. Furthermore, stakeholders expressed the need to clarify which institution - *Behatokia* or

the Directorate - would lead the development of a model for policy evaluation, as both of them seem to be responsible for this function. Moreover, and as can be observed in Table 4.3, the current institutional mandates also show some gaps regarding responsibilities for defining the course of action for commissioning evaluations; developing skills, competences and/or qualifications of evaluators; or ensuring quality standards on M&E. All of these are potentially important factors for the development of a robust M&E system.

There is no one-size-fits-all model for setting up an institutional framework for M&E (see Box 4.3). In some countries, M&E across government is the responsibility of different institutions. For instance, while the management of a government-wide monitoring system can be the responsibility of the centre of government (Prime Minister Office, Cabinet Office, or equivalent), actual policy evaluation can fall under a line ministry or an independent agency. However, a clear division of labour - when several institutions are involved - is essential.

Box 4.3. Examples of institutions in charge of an M&E system in OECD countries

Centre of government

Finland

The centre of government of Finland, composed of the Ministry of Finance, the Ministry of Justice and the Prime Minister's Office, exercises the competences related to policy evaluation. In order to enhance the use of evidence, the government established in 2014 the Policy Analysis Unit under the Prime Minister's Office. The unit has the mandate to commission research projects and present evidence to support the government's decisions on future strategic and economic policy. The unit exercises strategic oversight to co-ordinate ministerial collaboration to implement the government's agenda, promoting a culture of self-reporting and partnership and decentralising the development and implementation to the ministries. The unit functions with independent funding and a fixed number of human resources in charge of co-ordinating research procurement, organising the process with ministries and systematically publishing the results for public consultation.

Autonomous agency

Mexico

The National Council of Social Development Policy Evaluation (*Consejo Nacional de la Política de Desarrollo Social*, CONEVAL), was created in 2004 as a decentralised body with budgetary, technical and management autonomy. It has the mandate (embedded in the Constitution in 2014) to set the standards and co-ordinate the evaluation exercises of the National Social Development Policy and its subsidiary actions and provide the guidelines to define, identify and measure poverty. The agency carries out or commissions the evaluation exercises of the social policies developed by the Mexican government.

Ministry of Finance

Chile

The Budgets Directorate (*Dirección de Presupuestos*), a dependent body of the Ministry of Finance (*Ministerio de Hacienda*), is the technical body in charge of ensuring the efficient allocation and use of the public funds. In order to do so, the Budgets Directorate carries out

ex ante, impact and value for money evaluations of different government policies and programmes. Moreover, it monitors the implementation of the government programmes to collect performance information that is then introduced in the budgetary process and communicated to stakeholders.

Source: Knowledge Sector Initiative (2017^[12]), “Global evidence units – Finland: Government Policy Analysis Unit”, http://www.ksi-indonesia.org/file_upload/Evidence-Policy-Unit-in-Finland-the-Government-Po-14Jun2017163532.pdf; Secretaría de Desarrollo Social (2005^[13]), “Decree for which the Council of Social Development Policy Evaluation is regulated”, Decree 24/08/2005, DOF, <https://www.coneval.org.mx/quienessomos/Conocenos/Paginas/Funciones.aspx>, Dirección de Presupuestos, Gobierno de Chile (n.d.^[14]), “Documentos en vedette”, <http://www.dipres.cl/598/w3-channel.html>, accessed 10 December 2018.

Considering the elements presented above, Biscay could invest in the further development of a coherent monitoring and evaluation system, supported by a sound institutional framework. More specifically, and as Biscay’s monitoring and evaluation system is currently under development, the government could consider:

- Centralising responsibilities regarding M&E into a single institution in charge of 1) developing a whole-of-government M&E system; and 2) promoting the use and quality of monitoring and evaluation across government. Such an institution could be responsible for conducting M&E across government and/or developing guidelines, training courses and quality checks for other departments wishing to carry out their own M&E. In cases where other institutions have the lead (e.g. Department of Public Administration and Institutional Relations for the area of training), the co-ordinating institution could ensure a coherent and collaborative approach across institutions. In addition, the co-ordinating institution could promote the use of evidence resulting from M&E efforts, as evidence “needs to be delivered to those who actually make the decisions, at the right time and in the right format” (OECD, 2017^[1]).
- Establishing a co-ordination instrument, such as an M&E council or committee, to co-ordinate M&E across government at an operational level. The case of the Committee for Monitoring and Evaluation of Federal Public Policies (CMAP) in Brazil presents an interesting example of such a co-ordination instrument (see Box 4.4).

Box 4.4. Committee for Monitoring and Evaluation of Federal Public Policies (CMAP) in Brazil

The Committee for Monitoring and Evaluation Federal Public Policies (CMAP under the co-ordination of the Ministry of Planning) was created in 2016 with the objective of improving the actions, programmes and public policies of the federal executive branch, as well as to improve the allocation of resources and the quality of public spending.

The committee regroups representatives of the Ministries of Planning, Budget and Management, Ministry of Finance, the Civil House of the Presidency of the Republic and the Office of the Comptroller General of the Union with the special participation of members of invited institutions, public or private.

Its role is to define the policies, programmes and actions that will be monitored and evaluated, and propose guidelines to improve them using thematic committees. Moreover, the committee makes recommendations to policy makers on the adoption of adjustments and improvements anchored in the principles of transparency and accountability.

Source: Diário oficial da Uniao (2016^[15]), “Portaria interministerial nº 102”, 7 April 2016.

Regardless of the institutional set-up chosen, body/ies in charge of M&E benefit from having a clear mandate that sets specific tasks and responsibilities regarding the M&E agenda. Such a clear mandate could subsequently facilitate the development of a full-fledged M&E strategy, as illustrated in Box 4.5.

Box 4.5. Monitoring and evaluation strategies

Several governments have developed strategies to structure the design, implementation and strengthening of their monitoring and evaluation systems, both from a government-wide perspective and from the sector level.

South Africa 2015-2020 Strategic Plan

The Department of Planning, Monitoring and Evaluation (DPME) of the Presidency of South Africa launched a 2015-2020 Strategic Plan, which is based on the National Development Plan (NDP) 2030. The Strategic Plan aims to set the DPME strategic priorities for the medium term, including on how to foster the co-ordination and monitoring of the implementation of the NDP. The plan outlines approaches to further strengthen institutional performance across government through regular monitoring, evaluation and support.

The Strategic Plan includes:

- A situational analysis (assessment of the performance, organisational and financial environment).
- The definition of the strategic, outcome-oriented goals as well as five key strategic areas:
 - administration

- outcomes monitoring and evaluation
- institutional performance monitoring and evaluation
- national planning
- a national youth development programme.

Each of these areas includes an objective statement as well as baseline information, explicit links with the NDP, expected outputs, indicators, and five-year targets.

UK Department for Transport

The UK Department for Transport (DfT) launched a Monitoring and Evaluation Strategy in 2013. According to the DfT website, “the strategy sets out a framework for generating good quality monitoring and evaluation evidence in order to inform decision making.” The strategy defines three objectives:

- establish a proportionate Monitoring and Evaluation Programme
- ensure a robust governance framework for monitoring and evaluation activity
- embed a culture of monitoring and evaluation.

The DfT also published a Monitoring and Evaluation Programme in 2013, which identified and reported the department’s main activities on M&E. An updated version of this programme was published in 2016.

Source: Republic of South Africa, The Presidency (n.d.^[16]), “Department: Planning, Monitoring and Evaluation: Strategic Plan 2015-2020”, <https://www.dpme.gov.za/publications/Strategic%20Plan%20and%20Annual%20Reports/DPME%20Strategic%20Plan%202015-2020.pdf>; GOV.UK (2013^[17]), “Department for Transport monitoring and evaluation strategy”, Department for Transport, <https://www.gov.uk/government/publications/monitoring-and-evaluation-strategy>; Department for Transport (2013^[18]), “Monitoring and Evaluation Programme”, DfT, London, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/249242/monitoring-evaluation-programme.pdf.

Fostering an M&E culture

The development of a sound institutional framework that ensures systematic policy M&E does not constitute an end in itself. For instance, poor quality M&E data could hamper learning, accountability, decision making and policy design. Likewise, high-quality M&E may be completely ignored due to a lack of incentives or skills for using it in policy making.

Fostering an M&E culture among public officials and stakeholders can be a concrete action to promote the quality and uptake of M&E results. Robustness and validity of M&E data will be enhanced if public servants feel better equipped (in terms of knowledge and skills) in how to collect and/or manage M&E information and how to ensure both quality control (deliverable-oriented) and quality assurance (process-oriented, i.e. doing the right thing, the right way).

One of the challenges that Biscay is facing today is the lack of capacity-building activities (training courses) and tools (guidelines) to build skills development in M&E. Therefore, Biscay could consider offering specific training courses on policy M&E for public officials, as part of the menu of training courses that the Directorate-General of the Legal Regime

and Civil Service offers, and in parallel, developing guidelines to conduct M&E. Training and guidelines could address, among other things, the following aspects:

- design of M&E strategies and plans
- course of action for commissioning evaluations
- identification of human and financial resources for M&E
- design of data collection methods
- quality standards of M&E
- independence of M&E
- ethical conduct for M&E activities
- stakeholder engagement in the M&E process
- reporting on M&E results
- use of evidence collected by M&E

A particular point of attention regards stakeholder engagement throughout the M&E process. As Biscay is taking its first steps towards the development of an M&E system, the Province does not yet function with dedicated stakeholder engagement tools for M&E. However, Biscay has in place a collaborative platform for social policies called Civil Dialogue Table (*Mesa de Diálogo Civil*) (see Box 4.6) that was created to discuss, design and implement policies related to the ‘third social sector’⁶ as a collegiate body. This Civil Dialogue Table, described in more detail in Chapter 5, is chaired by the President of Biscay and includes the participation of civil society representatives and public servants from the Department of Social Action. Currently, *Behatokia* is not a member.

Box 4.6. Civil Dialogue Table of Biscay

Created by the Provincial Decree 154/2016, the Civil Dialogue Table is the highest body of civil dialogue and co-operation between the Provincial Council of Biscay and the group of institutions of the third social sector. Its purpose is to:

- promote social policies, participation, social cohesion and stakeholder engagement
- provide a channel for the beneficiaries of social programmes to express their opinions and participate in the design, implementation and evaluation of public policies.

This collegiate organ chaired by the President of Biscay operates with the participation of representatives from 14 institutions of the third social sector and representatives from the Department of Social Action and Employment. Its members meet three times a year to discuss, plan and analyse the activities and programmes that the organ conducts.

Source: Provincial Council of Biscay (2016^[19]), “Foral decree formalising and regulating the Mesa de diálogo civil de Bizkaia”, Foral decree 154 of 2016, BOB 203.

Given the importance of M&E for social policies, as the delivery of social policies has an immediate impact on citizens, this Civil Dialogue Table could constitute a key platform to identify key stakeholders and engage with them on the monitoring and evaluation of social

issues. Biscay could consider including *Behatokia* in this Table. This would allow *Behatokia* to engage with key stakeholders from the social sector in a systematic and structured way. In particular, Biscay could use this platform to promote the establishment of a – formal or informal - network of policy monitoring and evaluation practitioners, which could include representatives of academia as well as other stakeholders.

Monitoring and evaluation of open government strategies and initiatives in Biscay

Provision 5 of the OECD Recommendation calls upon countries to “develop and implement monitoring, evaluation and learning mechanisms for open government strategies and initiatives.” In this regard, the current mandates of *Behatokia* and the Directorate on M&E, as well as their roles in advancing the open government agenda, provide an opportunity to strengthen these areas of work in an integrated way. This would imply the systematic application of M&E to open government strategies and initiatives. In addition, these institutions can play a key role in ensuring that the training courses and guidelines (as recommended above) reach the open government community and, in particular, those public officials working on the design and implementation of the open government agenda.

The OECD Recommendation also calls for the collection of up-to-date information and the development of “comparable indicators to measure processes, outputs, outcomes, and impact in collaboration with stakeholders.” This section will thus assess Biscay’s current efforts in building and collecting information and indicators for the monitoring and evaluation of open government strategies and initiatives.

Collecting reliable and up-to-date information to accurately monitor the open government strategy

As stated in the OECD Recommendation, identifying institutional actors in charge of collecting and disseminating up-to-date and reliable information and data in an open format is key to developing and implementing monitoring, evaluation and learning mechanisms for open government strategies and initiatives. Biscay has decided to monitor the implementation of the OGAP by collecting information from citizens and its departments on the progress made for each commitment or priority axis on a yearly basis and reporting this information through intermediate self-evaluation reports.

In order to collect the information for the 2018 intermediate self-evaluation report of the OGAP (Provincial Council of Biscay, 2018^[20]), Biscay developed a perception-based methodology that includes both citizens and public servants’ views on the implementation of the commitments and priority axes of the OGAP. The applied methodology consisted of two phases to assess the degree of fulfilment of the OGAP.

The first phase was composed of: 1) a citizens’ survey; and 2) a public servants’ survey for those involved in the implementation of the OGAP initiatives. The second phase was composed of interviews and questionnaires with public servants responsible for the delivery of each of the commitments in each of the departments.

During the first phase, the surveys aimed to assess the perception of progress made for each of the OGAP priority axes (Provincial Council of Biscay, 2018^[20]). Participants were asked to state the degree of progress made for each of the priority axes of the plan, using a four-option scoring system (from “very low” to “high”). In addition, public servants were asked to state - using a scoring system from one to four - the degree of progress made in overcoming the challenges identified by the OGAP.⁷ By way of illustration, the questionnaire addressed to public servants asked the following questions:

- “How much do you consider [the Provincial Council] has advanced on each of the challenges identified during the consultation phase of the design of the Open Government Action Plan 2017–2019?”
- “How much do you consider [the Provincial Council] has advanced on each of the action axes structuring the Open Government Action Plan 2017-2019?”

Engaging citizens and public servants in the assessment of the progress made on the OGAP may have potentially fostered a sense of ownership of the open government agenda, as well as promoted its principles both inside and outside the public institutions. Nevertheless, data collected in this way is not necessarily completely reliable, as perception-based measurements of the efficacy of public institutions are usually biased by external factors (e.g. positive or negative perception of the government due to a period of economic prosperity or economic crisis) (Kurtz, Marcus J; Schrank, 2007^[21]). This is partly because the information is collected through the voluntary participation of citizens, who usually participate because they have strong feelings (either good or bad) regarding the topic. Moreover, concerning the survey addressed to public servants, it is difficult to ensure that their answers reflect an overall assessment, rather than their individual contributions, given that respondents are also responsible for implementing the activities. Also, perceived progress does not necessarily accurately reflect actual progress.

During the second phase, information was collected through tailored questionnaires and bilateral interviews with those public servants responsible for the delivery of each of the commitments. This phase looked at three objectives: 1) obtaining a detailed view of the degree of progress made on each commitment in order to have an overview of the achievement of the plan as a whole; 2) identifying deviations and challenges in the implementation; and 3) identifying good practices (Provincial Council of Biscay, 2018^[20]).

The collection of information through the questionnaire and the bilateral interviews was useful to identify good practices and lessons learned, as well to identify some challenges and opportunities for improvement. However, this perception-based methodology does not generate an objective assessment of progress made on each commitment. Also, while the methodology focuses on (perceived) achievements, it is not particularly helpful in unpacking the “why” of strong or weak performance (e.g. lack of skills, lack of incentives, etc.).

In sum, the current data collection process only provides a snapshot of the situation in a specific moment, completely driven by perception-based analysis. Moreover, the approach is very resource-intensive (e.g. *in situ* interviews), compared to the information yielded (i.e. implementation progress). Therefore, Biscay could consider developing a monitoring mechanism to collect regular, up-to-date quantitative data on the implementation of the different open government initiatives. This could be operationalised, for instance, through the creation of a dashboard embedded in Biscay’s data collection platform (described above). Such a monitoring mechanism would provide systematic data to assess performance, contributing to better planning and, hence, to better decision making and accountability. As an example of tools that improve the monitoring of the open government agenda, Box 4.7 presents Mexico and Spain’s Open Government Dashboards.

Box 4.7. A dashboard for monitoring open government strategies**Mexico**

In its report on Mexico's first Open Government Partnership (OGP) Action Plan, the Independent Reporting Mechanism (IRM) stated that Mexico should aim to strengthen the monitoring and evaluation of the commitments included in its Action Plan. In response, Mexico developed its own methodology to monitor and evaluate its OGP commitments and ensure subsequent communication. Mexico's "Open Government Dashboard" identifies specific actions, deadlines and clear responsibilities, both for civil servants and for civil society; the data are public and include a control board powered by real-time information on the progress of each commitment. The Open Government Dashboard visualizes the advances or remaining challenges of each of the commitments, allows citizens to track the progress made so far on each open government commitment, and offers links to the government bodies in charge of the implementation to obtain further information and points of contact. In addition, the dashboard offers detailed explanations of the concrete actions that have been taken so far to fulfil the commitment.

Commitment 9 of Mexico's second OGP Action Plan, for example, aims to enhance transparency and accountability at the national and sub-national level in state expenditures for public construction projects. In the respective part of the website, representatives from the Secretariat of Finance and Public Credit (SHCP) and the Mexican Institute for Competition (IMCO), which are responsible for the fulfilment of the commitment, comment on the progress made and the remaining challenges. The website provides additional information for interested citizens and other stakeholders.

Spain

Spain established a dashboard for monitoring its third open government action plan. The progress made is updated every three months in all the available categories, including axis, commitment and category. Also, stakeholders can provide comments through a questionnaire available for each commitment. The dashboard provides detailed information on the progress, including briefing notes, outcomes, dates for each activities, and the state of implementation of each activity, among other. A general summary is provided with the progress made on the overall plan. This dashboard provides valuable data to monitor the implementation of the plan.

Source: OECD (2016^[22]), *Open Government Data Review of Mexico: Data Reuse for Public Sector Impact and Innovation*, OECD Digital Government Studies, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264259270-en>; Mexico's response to OECD (2015^[23]), "OECD Survey on Open Government Co-ordination and Citizen Participation in the Policy Cycle", OECD, Paris; Transparency Portal of Spain (n.d.^[24]) "*Compromisos del III Plan de Gobierno Abierto*", https://transparencia.gob.es/transparencia/transparencia_Home/index/Gobierno-abierto/iiiPlanAccion/CompromisosIIIPGA.html.

Developing robust indicators to monitor the initiatives of the open government strategy

Indicators serve as a tool to measure the degree of success in achieving an objective or to check whether an action has been implemented, enabling the reorientation of implementation when an action goes awry (Vági, Péter; Rimkute, 2018^[25]). According to *Behatokia*, the degree of advancement of each of the 14 commitments is determined by the

achievement or not of a milestone activity with a verifiable deliverable (*hitos medibles y verificables para alcanzar el compromiso*).⁸ These milestones include, for example:

- the elaboration of an annual transparency report (Commitment 1)
- an online dataset (Commitment 2)
- a participation map (Commitment 6)
- training courses on citizen participation (Commitment 6).

These milestones (*hitos*) represent important stepping-stones to achieve OGAP's commitments. Some of them refer to a process or an activity (e.g. drafting a report, providing training courses), while others focus on deliverable (e.g. a dataset) (see Box 4.8 for an illustrative typology of open government indicators). As mentioned in Box 4.2, the milestones to assess the degree of implementation of Commitment 5 (creation of a policy evaluation system) are the creation of: a social barometer; a tool for quantitative evaluation; a tool for qualitative evaluation; a methodology for institutional communication; a dashboard of context indicators and a dashboard of management indicators.

While these milestones suggest what should be done under Commitment⁹5, they only provide partial guidance for assessing actual progress and achievements in more detail. For instance, the following aspects are not (fully) addressed:

- **Input:** Resources invested such as staff, money, time, and equipment, e.g. the human and financial resources used for the establishment of the evaluation system.
- **Output:** The products delivered by the policy implemented; examples are provided as part of the identified milestones.
- **Outcomes:** The immediate changes produced by the policy implemented, e.g. more high-quality evaluations performed in the public sector.
- **Impact:** The long-term change produced by the policy implemented, e.g. better policies and service delivery.

Box 4.8. Typology of open government indicators

A classic typology of open government indicators discerns between:

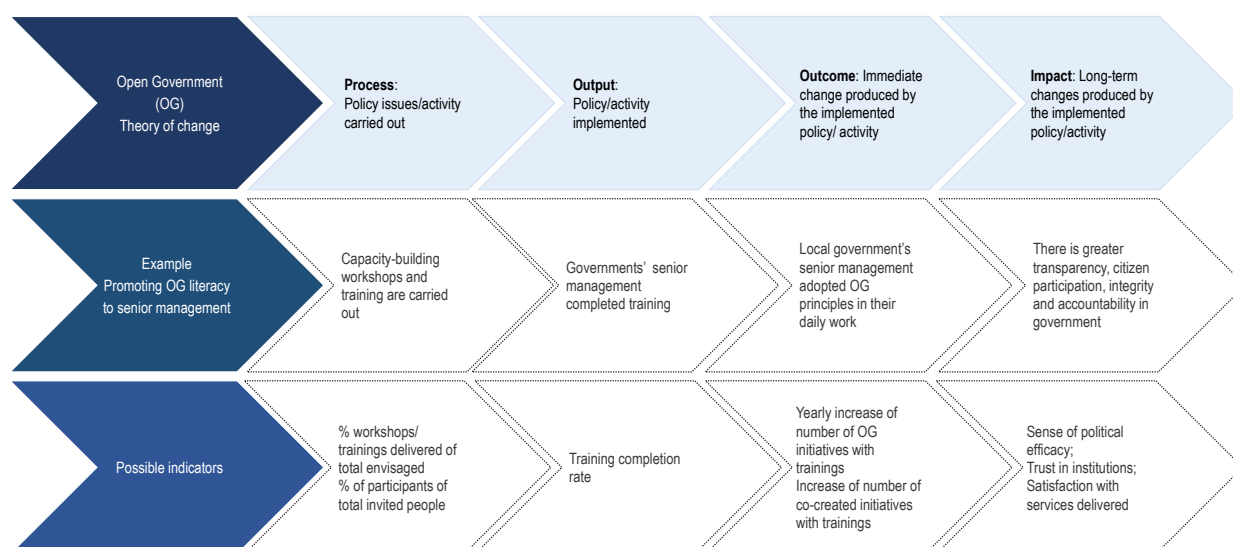
- **Context indicators**, when considering the public sector as an open system, can monitor external factors such as socio-economic trends, but can also include policy measures by other governments or supranational organisations (Van Dooren, W., Bouckaert, G., & Halligan, 2010^[26]). Ideally, a comprehensive M&E system should include indicators to monitor the existence and development of environmental/context factors that can influence the governance of open government strategies and initiatives.
- **Input indicators** measure resources in the broad sense, i.e. human and financial resources, logistics, devoted to a particular open government strategy or initiative. In the context of the governance of open government, input indicators could include the number of staff working in the office in charge of open government or the budget allocated for a given open government initiative.
- **Process indicators** refer to the link between input and output, i.e. activities that use resources and lead to an output. In the context of the governance of open government strategies and initiatives, these indicators could include the duration for creating an office in charge of the co-ordination of the open government strategies and initiatives or the time allocated to their design.
- **Output indicators** refer to the quantity, type and quality of outputs that result from the inputs allocated. Output indicators refer to operational goals or objectives. For instance, in the context of this policy area, it can refer to the existence of a law on access to information or the existence of training courses for public officials on the implementation of open government principles.
- **Outcome/impact indicators** refer to the (strategic) objectives of policy intervention. In a public policy context, intended effects often relate to a target group or region, but they can also relate to the internal functioning of an administration. Effects can occur or be expected with varying time gaps after the policy intervention. Outcome and impact are often the terms used together to refer to them. The difference is based on the chronological order: outcome usually refers to shorter-term effects, while impact refers to longer-term effects. In this field, these indicators could be the share of public servants aware of the open government strategy or the number of citizens' complaints about public policy decisions.

Source: OECD (2017^[27]), "Governing Better Through Evidence-Informed Policy Making", Draft proposal, internal document.

Furthermore, measuring output indicators only provides information on whether the products of the policy/plan are delivered or not. However, this does not account for the challenges encountered throughout the implementation process, therefore limiting the possibility to address them promptly. A specific set of indicators at different levels (input, process, output, outcome, impact) could help Biscay measure the performance of its open government initiatives more accurately, as well as analyse how these initiatives contribute to Biscay's wider open government strategic goals.

While acknowledging that the development of governance indicators is a complex endeavour for public administrations, Biscay could undertake specific initiatives to advance towards this goal gradually. Adopting a theory of change approach (as illustrated in Figure 4.1) could be instrumental in ensuring that each initiative carried out within the open government strategy pursues a specific objective (outcome and impact) related to the improvement of public governance and/or service delivery. Furthermore, this methodology will help Biscay ensure that each open government initiative contributes to the fulfilment of the broader open government strategic objectives.

Figure 4.1. Example of indicators associated with an OGAP commitment



Source: Author.

High-quality indicators (see Box 4.9) ensure the provision of robust information on the implementation pace for each objective. Such indicators allow for collecting relevant evidence to construct an informed benchmark of the overall degree of implementation of a plan or policy. In this regard, Biscay could consider adopting standards, like the ones outlined in Box 4.8, to create robust indicators. Also, Biscay could consider engaging with key actors on the development of indicators through a quality assurance process. *Behatokia* and/or the institution responsible for the development of these indicators could involve experts both from the government, as well as from academia and civil society.

Box 4.9. Criteria for quality indicators

According to the OECD (2016^[3]), a high-quality indicator to monitor a policy or plan should respect the following criteria:

- **Relevant:** An accurate measure of a practice, task or the expected goal.
- **Reliable:** Consistently measurable over time, in the same way by different observers.
- **Precise:** Operationally defined in clear terms.
- **Realistic:** It should not be too difficult or too expensive to collect the information.

- **Measurable:** Quantifiable using available tools and methods.
- **Validity:** It measures what it intends to measure.
- **Timely:** Provides a measurement at relevant time intervals, appropriate in terms of goals and activities.

Source: OECD (2016^[3]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264268104-en>.

The way forward: towards the evaluation of open government initiatives

The evaluation of open government initiatives is a relatively new – but key - area of interest of policy makers and is a shared challenge across OECD countries. OECD countries face challenges in designing appropriate evaluation approaches to open government, in particular in assessing the outcomes and impact of open government initiatives. While a large majority of OECD countries (86%) confirms that their government monitors open government initiatives, merely half of them evaluate their impact (OECD, 2016^[3]).

The gradual development of an M&E system will positively influence Biscay's capacity to evaluate the achievements of open government initiatives. Moreover, in the long term, the government could also make use of the development of a government-wide M&E system to explore conducting pilot evaluations of the openness of sectoral policies, in order to assess how open government approaches for policy making improves outcomes and impacts. The Transparency for Development Program, developed by Results for Development,⁹ is an interesting example of a specific evaluation that explores whether well-designed transparency and accountability interventions improve health outcomes (see Box 4.10).

Box 4.10. Transparency for Development Program

The Harvard Kennedy School in partnership with Results for Development launched the research project “Transparency for Development” that looks to disentangle whether, why and in what context community-led transparency and accountability activities improve social development programmes' outcomes. Working with local civil society, the project carried out an intervention in Indonesia and Tanzania where first, the implementers carried out a group of surveys to collect information on health infrastructure and new-born children and mothers. Secondly, the community was asked to discuss the information collected to identify the barriers preventing the improvement on the provision of public services for mothers and new-born children and come up with an action plan to overcome these barriers. After the implementation of the action plan, they will evaluate the impact of transparency and accountability on the intervention's results using a Randomised Controlled Trial (RCT) methodology. Finally, after analysing the results of the evaluation, the project will look to replicate the intervention in other areas to build a comprehensive view of different contexts.

Source: Ash Center for Democratic Governance and Innovation (2018^[28]), “Transparency for Development”, <https://ash.harvard.edu/transparency-development>; Results for Development (2018^[29]), “Transparency for Development: Do Transparency and Accountability Interventions Improve Health Outcomes?”, <https://www.r4d.org/projects/transparency-development-transparency-accountability-interventions-improve-health-outcomes/>.

In this respect, the existing Civil Dialogue Table plays an active role in the design, implementation and evaluation of social policies. Once Biscay moves forward with the implementation of its M&E agenda, this platform can become a relevant space to discuss specific pilot evaluations.

Recommendations and proposals for action

Biscay could invest in the further development of a coherent monitoring and evaluation system, supported by a sound institutional framework.

More specifically, and as Biscay's monitoring and evaluation system currently is in its initial phases, the government could consider:

- Centralise responsibilities regarding M&E into a single institution in charge of 1) developing a whole-of-government M&E system; and 2) promoting the use and quality of monitoring and evaluation across government. Such an institution could be responsible for conducting M&E across government and/or developing guidelines, training courses, and quality checks for other departments wishing to carry out their own M&E. It could also promote the use of evidence resulting from M&E efforts.
- Provide a clear mandate that sets out specific tasks and responsibilities regarding the M&E agenda appropriate to the institutional set-up chosen.
- Establish a co-ordination instrument, such as an M&E council or committee, to co-ordinate M&E across government.

Fostering an M&E culture among public officials and stakeholders, Biscay could consider:

- Include a particular M&E dimension in the ethical code and training modules.
- Offer specific training courses on policy M&E for public officials, as part of the menu of training courses that the Directorate-General of the Legal Regime and Civil Service offers, and in parallel, developing guidelines to conduct M&E.
- Include *Behatokia* in the Civil Dialogue Table, which would allow *Behatokia* to engage with key stakeholders from the social sector in a systematic and more structured way. In particular, Biscay could use this platform to promote the establishment of a – formal or informal - network of policy monitoring and evaluation practitioners, which could include representatives of academia as well as other stakeholders.

Monitoring and evaluating open government strategies and initiatives in Biscay by:

- Develop a monitoring mechanism to collect regular, up-to-date quantitative data on the implementation of the different open government initiatives. This could be operationalised, for instance, through the creation of a dashboard embedded in Biscay's data collection platform.
- Pursue specific initiatives to advance towards the development of governance indicators gradually. Adopting a theory of change approach could be instrumental in ensuring that each initiative carried out within the open government strategy pursues a specific objective (outcome and impact) related to the improvement of public governance and/or service delivery.

- Consider, in addition to standards to create robust indicators, engaging with key actors on indicator development through a quality assurance process. *Behatokia* and/or the institution responsible for the development of these indicators could involve experts both from the government as well as from academia and civil society, so as to receive their feedback on the quality of the indicators and specific recommendations on how to improve them.
- Make use, in the long term, of the development of a government-wide M&E system to explore conducting pilot evaluations of the openness of sectoral policies, in order to assess how open government approaches to policy making improves outcomes and impacts.

Notes

¹ The Province of Biscay is legally referred to as a “historic territory”, a term exclusive to the Basque Country that describes the political and administrative system of its three provinces. In view of facilitating the understanding of the term for readers not familiar with the concept and of shortening the term repeated throughout the Chapters, the Review will refer to the historic territory of Biscay as “Province of Biscay”.

² The Cabinet is composed of the General Directorate of Communication, the General Directorate of International Action and the General Directorate of the Observatory of Biscay (*Behatokia*).

³ The commitment envisages “defin[ing] a policy evaluation system for the Provincial Council of Biscay” (Provincial Council of Biscay, 2017^[8]).

⁴ The Cabinet of Modernisation, Good Governance and Transparency, the Directorate General of Judicial Regime and Civil Service and the Directorate General of Services, Municipal Relations and Emergencies compose the Department.

⁵ OECD analysis based on desk research.

⁶ The third social sector is composed of social initiative organisations whose main purpose is to promote, through activities of social intervention, social inclusion, development co-operation and the effective exercise of the rights of individuals, families, groups, groups or communities that face situations of vulnerability or exclusion, inequality, vulnerability, disability or dependence (Law 6/2016, Article 2).

⁷ For more information, see Chapter 2.

⁸ For more information, see <https://www.opengovpartnership.org/resources/ogp-process-step-2-develop-action-plan>.

⁹ For more information, see <https://www.r4d.org/about/our-history/>.

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Chapter 5. Mainstreaming stakeholder participation in Biscay

This chapter describes the importance of stakeholder participation in policy making and in service delivery and illustrates how stakeholders can be involved through information, consultation and engagement. Equally, it assesses the legal, institutional and policy framework for successful stakeholder participation in the province of Biscay. Finally, it reviews how participation is carried out in the context of the open government agenda, as well as throughout the policy cycle, in Biscay.

Introduction

Governments today are facing an evolving context in which citizens express lower levels of trust in public institutions and increased demand for transparency and accountability. There is higher scrutiny of public actions, decisions and the quality and quantity of public services delivered. This is happening at a time in which public governance's legal, institutional and policy frameworks are being transformed and the relationship between governments and citizens is being reshaped (OECD, 2016^[1]). This is a consequence of the widespread use of digital technologies, coupled with improved Internet penetration worldwide, the increasing presence of politicians and public institutions on social media, the open government movement and the consequent diffusion of the principles and practices of transparency and stakeholder participation.

As a direct result, a wide range of stakeholders is demanding greater participation in the design and implementation of the public policies that affect their lives, by requesting access to public information and demanding co-creation and, at times, co-delivery of public services. To that effect, ensuring stakeholder participation throughout the policy cycle allows governments to respond to these expectations, by designing better and tailored policies, and improve their implementation (OECD, 2011^[2]). National and local governments are going beyond the role of providing services to pursuing a greater partnership with all relevant stakeholders by moving away from approaches that have mostly focused on providing information, to new ones that encourage a focus on active, two-way dialogue. Stakeholders are no longer passive receptors but participate jointly with governments to build value and provide better and more targeted public services (OECD, 2016^[1]).

As in any other policy area, in the field of open government reforms, stakeholders can contribute by providing essential analysis, ideas and expertise to the development, implementation and monitoring of an open government strategy as well as its associated initiatives. Along these lines, the OECD Recommendation of the Council on Open Government (hereafter the "OECD Recommendation") has acknowledged the role of stakeholders and states three provisions to facilitate their involvement in open government reforms:

"Actively communicate on open government strategies and initiatives, as well as on their outputs, outcomes and impacts, in order to ensure that they are well-known within and outside government, to favour their uptake, as well as to stimulate stakeholder buy-in." - Provision 6

"Grant all stakeholders equal and fair opportunities to be informed and consulted and actively engage them in all phases of the policy cycle and service design and delivery. This should be done with adequate time and at minimal cost while avoiding duplication to minimise consultation fatigue. Further, specific efforts should be dedicated to reaching out to the most relevant, vulnerable, underrepresented, or marginalised groups in society, while avoiding undue influence and policy capture." - Provision 8

"Promote innovative ways to effectively engage with stakeholders to source ideas and co-create solutions and seize the opportunities provided by digital government tools, including through the use of open government data, to support the achievement of the objectives of open government strategies and initiatives." - Provision 9 (OECD, 2017^[3]).

This chapter describes the importance of stakeholder participation in policy making and service delivery, as well as Biscay's legal, institutional and policy framework to ensure its success. Finally, it reviews how participation is carried out in the context of the open government agenda, as well as throughout the policy cycle, in Biscay.

Ensuring a proper legal, institutional and policy framework for successful stakeholder participation

The OECD defines stakeholders as “any interested and/or affected party, including: individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector” (OECD, 2017^[3]). The role they can play is multiple. They can be watchdogs, in order to hold institutions accountable and promote transparency; advocates, to raise awareness of societal issues and challenges; and promoters of change, by identifying and creating solutions. They can bring unique knowledge and experience to shape public policies and strategies and, if needed, they can also deliver services to meet societal needs and be considered trainers to provide education, transfer knowledge and carry out capacity-building activities (OECD, 2016^[1]).

While the province of Biscay (legally referred as “historic territory”¹) has a strong participation culture, especially in the social sector (Box 5.1), participation has not been a constant in the Province. Historically, policies regarding association groups implemented during the dictatorship of Francisco Franco, period known as *Franquismo*, along with the actions of separatist groups in the region, slowed the development of active civil society. Currently, the Provincial Council of Biscay (*Diputación Foral de Bizkaia*, hereafter “Biscay”), which constitutes the government of the Province, is experiencing a change of paradigm; stakeholders are moving from being governed to an active society in different policy areas.

Box 5.1. The historical context of stakeholder participation in social policies in Biscay

The organisations and networks of the third sector in Biscay have extensive experience in engagement with the Provincial Council of Biscay. This collaboration dates back to the 1960s during the dictatorship of Francisco Franco, period known as *Franquismo*, when several informal organisations of neighbours and families started to spread in the territory to provide services for people with disabilities and with social inclusion problems.

During the democratic transition that came with the end of the *Franquismo* in 1975, the informal organisations became formal associations or foundations. Over time, they increased in scope, size and level of formality and became involved in the provision of services for the disabled as well as in the development of other activities, e.g. identifying the needs of the user, research in these topics, developing strategies to raise awareness, among others. This took place at a time of fiscal constraints and limited citizen participation due to the policies of the *Franquismo*.

During the democratic transition, these associations and foundations had limited support from the government due to the process that the Provincial Council of Biscay itself was going through, with the adoption of the Statute of Autonomy in 1979 and the economic agreement (now called “concert”), formally established in 1981.

As the Province progressed, so did the collaboration with associations. The latter contributed to the development of a framework of laws and regulations for social services in Biscay and the Basque Country. The first law in this sector was adopted in 1982 at the Basque Country level. Other laws and decrees followed. Notably, a Provincial Decree of 2003 defined civil dialogue and recognised the rights of the people with disabilities. This paved the way for the elaboration of the Civil Dialogue Table, a space where associations could collaborate with the Provincial Council to jointly plan, implement and evaluate social policies. This space was formalised and regulated with a Provincial Decree in 2016.

The decree defined civil dialogue as a “formal process of dialogue and collaboration between the public sector and the organisations and networks of the third social sector, to guide, drive and evaluate the social policies and any other initiative of the public sector and the third social sector.” Also, it stipulates which organisations are considered members of the third social sector in Biscay and lists the objectives as well as the composition and organisation of the Civil Dialogue Table.

Source: Bizkaia (n.d.^[4]), “Mesa de Diálogo Civil”, http://www.bizkaia.eus/home2/Temas/DetalleTema.asp?Tem_Codigo=6860&Idioma=CA; Bizkaia (n.d.^[5]), “Presentación de la Mesa de Diálogo Civil de Bizkaia”, <http://www.bizkaia.eus/home2/Archivos/DPTO3/Temas/Pdf/PRESENTACION%20MDC.pdf>; Departamento de Empleo, Inclusión Social e Igualdad (2016^[6]), “Decreto Foral de la Diputación Foral de Bizkaia 154/2016, de 18 de octubre, por el que se formaliza y regula la Mesa de Diálogo Civil de Bizkaia”, BOB 203, <http://www.bizkaia.eus/home2/Archivos/DPTO3/Temas/Pdf/decreto%20mesa%20dialogo%20civil.pdf?hash=2e2911868d1331a90da27876bbfe66f8&idioma=CA>.

Biscay has an important concentration of civil society organisations (CSOs) compared to the other provinces in the Basque Country. In 2015, Biscay had 2 000 CSOs in total, while *Gipuzkoa* had 1 000 and *Araba* had 500. Most of the CSOs of the province are developed around the social sector (25.9%), civil services including vulnerable groups (elderly; women; ethnic minorities; lesbian, gay, bisexual and transgender [LGBT+]; immigrants, etc.) (33%). Other sectors with a significant amount of CSOs in Biscay include education, youth and children (12.7%) and poverty alleviation and development aid (13.1%) (Observatory of the Third Sector, 2015^[7]). This reveals that few CSOs exist in horizontal policies such as open government, open data, transparency, and anti-corruption. In order to foster the creation of such CSOs, Biscay could benefit from the current Open Government Partnership (OGP) process with the Basque Country, in particular through the commitment related to the creation of an I-Lab innovation for citizen engagement to encourage the creation of horizontal CSOs and other collaboration networks in the Province. This laboratory would carry out research, test, learn and build concrete and usable citizen participation solutions in order to boost these initiatives in the Basque Country (OGP Basque Country, 2018^[8]).

Furthermore, governments are working to strengthen stakeholder participation in order to:

- improve the quality of policy, by tapping wider sources of information, perspectives, and potential solutions in order to meet the challenges of policy making under conditions of increasing complexity, policy interdependence and time pressures
- meet the challenges of the contemporary information society, to prepare for greater and faster interactions with stakeholders and to ensure better knowledge management

- integrate public views, comments and feedback into the policy-making process, in order to meet their expectations and needs
- respond to calls for greater government transparency and accountability, as public and media scrutiny of government actions increases, and as standards in public life become more common and known
- strengthen public trust in government and reverse the steady erosion of voter turnout in elections, falling membership in political parties and declining confidence in key public institutions (OECD, 2001^[9]).

If executed well, stakeholder participation in policy making and service delivery can be a sound investment as it bears a great number of instrumental and intrinsic benefits for all those involved. Instrumental benefits (i.e. better results) refers to the idea that participation can improve the quality of policies, laws and services, as they were elaborated, implemented and evaluated based on better evidence and a more informed choice. They may also benefit from the innovative ideas of citizens and be more cost-effective. Intrinsic benefits (i.e. a better and more democratic policy-making process), on the other hand, refers to a more transparent, inclusive, legitimate and accountable policy-making process contributing to strengthening representative democracy, building trust in government as well as in public institutions, and creating social cohesion (OECD, 2016^[10]), (OECD, 2015^[11]), (Corella, 2011^[12])).

The OECD Recommendation defines stakeholder participation as all the ways in which they can be involved in the policy cycle and in service design and delivery, including information, consultation and engagement (OECD, 2017^[3]). Stakeholder participation requires an adequate framework in order to be successfully implemented. There is no “one-size-fits-all” model for governments on how to engage with their citizens, as the specific context of every national and local territory affects these interactions (UNDESA, 2011^[13]). Having the right model adapted to each context is of utmost importance because if it is not implemented or designed correctly, it can have the opposite effect and engender feelings such as frustration, lack of trust, loss of legitimacy and less willingness to engage (Fung, 2015^[14]).

Increasingly, stakeholder participation is used for the provision of public services (OECD, 2015^[11]). As argued in the OECD report on open government, “this form of participation tends to challenge existing organisation values and practices in the sector and can have positive implications for accountability” (OECD, 2016^[11]). OECD evidence shows that co-design and co-delivery of public services have led to cost reductions, better service quality and improved user satisfaction (OECD, 2011^[2]). Therefore, national and local governments should consider investing adequate time and resources in building robust legal, policy and institutional frameworks in order to enable stakeholder participation.

In addition, a series of preconditions should also be considered, including a committed leadership with politicians and senior public managers that are supportive of these practices; a policy framework focusing on stakeholder participation in the policy cycle can be of great help; as well as the right capacities and skills for both public officials and citizenry.

Biscay’s political commitment and leadership towards stakeholder participation

Biscay has shown strong political commitment and leadership to consolidate stakeholder participation as an important component of the policy-making cycle since the beginning of President Unai Rementería’s mandate. As mentioned in Chapter 2, he declared in his

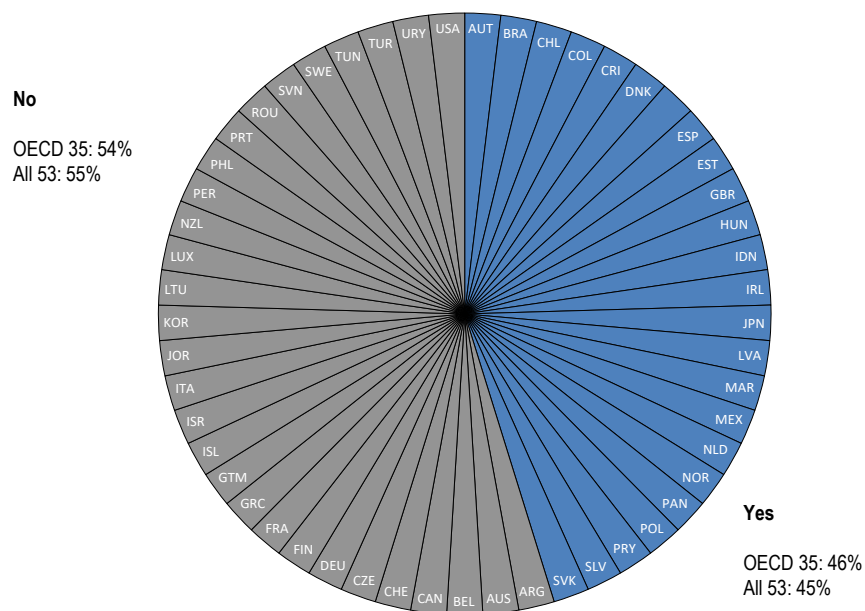
inaugural address that “the drive for initiatives to increase transparency and participation will be one of the first measures of our new governing team” (Rementeria, 2015^[15]). This commitment to participation is reflected in the third axis of *Bizkaia Goazen 2030*, the provincial strategic plan, which aims for a modern, close and responsible public administration. One strategic objective of this axis is “achieving a closer Provincial Council”, which touches upon citizen participation and underscores the importance of having active citizenship while recognising the role of the government in providing the tools to enable it (Provincial Council of Biscay, 2015^[16]).

Citizen participation is also a core principle of Biscay’s open government agenda. As mentioned in the characteristics of their open government definition in Chapter 2, Biscay seeks to become a participative government by creating new opportunities for participation across the entire policy cycle with a perspective of co-responsibility. This was included as a specific commitment of the Open Government Action Plan (OGAP), namely to “develop a model for citizen participation”. The objectives of creating such a model are to promote a participative culture in the Province and to consolidate participation as a mechanism to improve public governance and service delivery (Provincial Council of Biscay, 2017^[17]). However, changes that affect the individual, as well as ensuring that they are rooted in a new culture of governance, require a certain amount of time, which may last longer than one legislature. In order to guarantee the long-term sustainability of these efforts, Biscay needs to maintain its high-level commitment to stakeholder participation in policy making, design and implementation.

Consolidating the policy framework for stakeholder participation

Mainstreaming stakeholder participation across the public administration can help governments provide a common framework so that all initiatives have similar, standardised characteristics allowing for replicability and predictability. An overarching document may foster an integrated approach throughout the government by including a description of specific tools to involve citizens in all phases of the policy cycle as well as the different forms and mechanisms for participation. It should be linked to a government’s open government strategy in order to ensure that these practices are in line with broader objectives and that they are not carried out in isolation. This will reduce duplication and may create economies of scale. Such a document can take different forms, including that of a strategy, a policy, a law, an internal directive, a guide, or a manual (OECD, 2016^[18]). As shown in Figure 5.1, 54% of OECD countries do not have an overarching document focusing on citizen participation in the policy cycle. The 46% of OECD countries that do have one have documents that take different forms, such as a *policy* as in Turkey and the United Kingdom, a *strategy* in Austria, a *guide* in Ireland and a *law* in Korea and Sweden (OECD, 2016^[1]). As for the elaboration of laws, policies, guidelines or manuals on citizen participation ensuring the right implementation of measures and efforts is key to guarantee their success.

Figure 5.1. Availability of an overarching document focusing on citizen participation in the policy cycle



Source: OECD (2016^[1]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

In Biscay, as discussed above and in Chapter 2, Commitment 6 of the OGAP calls for the development of a model for citizen participation. The commitment established three actions for its creation:

1. develop tools (web/apps) to promote participation in projects, decrees, provincial laws, etc.
2. elaborate a map with all initiatives of participation in the Provincial Council
3. provide internal and external training for citizen participation (Provincial Council of Biscay, 2017^[17]).

Linked to the first action, the initial measure taken by the Observatory of Biscay (hereafter “*Behatokia*”) was to elaborate a website with the main characteristics of their model of citizen participation and with general guidelines and advice for any public institution or department of the Provincial Council (or provincial ministries, hereafter “Departments”) interested in elaborating a participative initiative. During the OECD fact-finding mission, the Provincial Council expressed that the objective of creating such a model was to provide general guidance to the departments while leaving enough space for adaptation for each department’s particular needs. The characteristics included a description of how the Provincial Council defines citizen participation, namely:

- Participation must have clear and measurable objectives.
- Participation is fostered in order to improve governance and service delivery; however, the responsibility relies on the institutions.
- The aim is to incorporate new voices in participation.

- To participate is to assume commitments.
- Participation initiatives are processes where everyone learns.
- Enough resources should be allocated to promote participation effectively.

The general guidelines included a list of suggestions on:

- how to elaborate a high-quality participative initiative (for example, by defining objectives and setting limits)
- what methodologies to follow (knowing what already exists)
- what mechanisms and tools could be used (for example, online tools or working groups)
- what measures to take into account with participants (for example, language or how to add new voices) (Provincial Council of Biscay, n.d.^[19]).

Although the guidelines should leave some room for each department to adapt it to their specific needs, Biscay could streamline the guidelines to ensure coherence among the different practices and departments. For instance, the guidelines mention that there is the need to establish the appropriate time for the participation process linked to the objective; however, they do not mention a set of good practices depending on what needs to be achieved. This can lead for example, to a divergence of time used by different departments while the same objective is being achieved. Also, if the guidelines are intended to be used as an information tool for departments, more information on the “how” is needed. For example, Biscay suggests adapting the language and the methodology of the initiative in order to have a wider range of stakeholders participating in the process; however, it does not say how to do so or what to consider when taking this decision. Further, additional elements could be introduced to help guide the decision of which initiative to replicate. This could take the form of a set of yes/no questions or a checklist that, depending on the answers, leads to the appropriate participation initiative for a particular objective.

As a second stage, and as an output of the second action of Commitment 6 of the OGAP, Biscay published a stocktaking exercise called the Map for Citizen Participation. This stocktaking exercise is a useful and practical reference for departments and any other public institution that wants to embark on a participation process. It provides an overview of the existing participative initiatives in different policy areas and different stages of the policy cycle during 2017 in Biscay. The map found the following 124 tools and channels for citizen participation in the Province:

- 38 formal bodies and forums (20 for external participation, 12 for institutional co-ordination, and 6 for internal co-ordination)
- 5 formal mechanisms and channels
- 63 participative processes (18 for the elaboration, monitoring and evaluation of plans and strategies, 24 for the elaboration of provincial laws and regulations and 21 to improve public services)
- 8 networks for collaboration with the private sector
- 10 accountability mechanisms linked to *Bizkaia Goazen 2030* (Provincial Council of Biscay, 2017^[20]).

This mapping exercise represents an important effort from the Provincial Council in order to have an extensive overview of the existing initiatives related to citizen participation. However, some of the examples mentioned under the formal bodies and forums do not necessarily fit the category of citizen participation as they refer more to co-ordination instances among public institutions for the implementation of policies. This is the case of the Territorial Fishing Council (*Consejo Territorial de Pesca*) or the Commission to Fight Against Fraud (*Comisión de Lucha contra el Fraude*).

For a next edition of the map, Biscay could list the initiatives that have a specific focus on stakeholder participation under information, consultation and engagement. Furthermore, as the map is intended to be a useful and practical reference for departments and any other public institution that wants to embark on a participation process, Biscay could include the following information under each of the initiatives:

- stakeholders involved, including characteristics and numbers to ensure all relevant actors are involved, such as the media, business associations, independent institutions and vulnerable populations such as migrants, youth/elderly as well as other marginalised groups of society
- mechanism (s) used for participation
- time associated
- cost associated
- unit responsible within the department
- roles and responsibilities of each party
- feedback loops, communication and evaluation mechanisms.

Concerning the third action of Commitment 6 on providing internal and external training on citizen participation, the 2018 OGAP's intermediate self-evaluation report indicates that this has not yet been implemented. However, Biscay has partnered with BiscayTIK to create the training courses for the municipalities (Provincial Council of Biscay, 2018^[21]). If implemented correctly, this collaboration with BiscayTIK could provide a wider reach to Biscay's participation efforts. Biscay then could ensure that implementation of training courses is carried out within the public administration and for other stakeholders, including the municipalities, in order to raise awareness and increase buy-in.

As a third stage, Biscay published a Plan for Participation 2018-2019. The plan builds upon the OGAP and sets a roadmap to increase citizen participation throughout the whole policy cycle. It has 5 key priority and thematic areas and 13 actions (Table 5.1).

Table 5.1. Biscay's Plan for Participation 2018-2019

Priorities/thematic areas	Actions
Strengthen the model for citizen participation	Action 1. Elaborate support materials to facilitate the design and management of participation initiatives. Action 2. Design internal training courses on participation and open government for the technical teams of the departments. Action 3. Organise activities to promote an exchange of best practices among departments and other public entities that have participative processes.
Develop participative processes linked to the elaboration of provincial laws and regulations	Action 4. Generate and diffuse a yearly calendar with the participative processes linked to the elaboration of provincial laws and regulations. Action 5. Conduct a yearly evaluation of the impact of the participative processes in the elaboration of provincial laws and regulations.
Consolidate other organs, forums, channels and processes of participation	Action 6. Strengthen participation in the forum for accountability. Action 7. Strengthen the Bizkaitarren Sarea project. Action 8. Standardise the operation of stable organs and spaces for participation.
Define a support system for participative initiatives for municipalities	Action 9. Strengthen the technical support provided by BiscayTIK to facilitate participation at the municipal level. Action 10. Provide training in participation and open government for municipalities.
Design communication and outreach for citizens and agents of the territory	Action 11. Improve the online participation website. Action 12. Elaborate and disseminate yearly a Map of Citizen Participation initiatives in the Provincial Council. Action 13. Create a provincial newsletter on participation that facilitates communication with citizens on participative processes and the channels to participate.

Source: Provincial Council of Biscay (2018^[22]), *Plan de Participación 2018-2019 (Plan for Participation 2018-2019)*, http://web.bizkaia.eus/documents/842933/2583713/PLAN_PARTICIPACION_201819.pdf.

Each action comprises the following elements: the department or actor in charge of its implementation; other departments or actors involved in the commitment; the goal that needs to be achieved or problem that needs to be solved; the main objective; a brief description of the action and the output indicators to monitor and evaluate its implementation (Provincial Council of Biscay, 2018^[22]). This document, published in November of 2018, represents a step further to consolidate the open government agenda, the principle of stakeholder participation and good practice.

The Plan for Participation 2018-2019, the Model for Citizen Participation and the Map for Citizen Participation that the Province has published throughout 2018 constitute the needed policy framework for stakeholder participation in Biscay. The Province could carry out a series of dissemination campaigns to ensure that the framework is well known and implemented by all departments. If implemented correctly, these complementary tools will help push forward the participation agenda and the open government strategy in the Province. To consolidate such policy framework in the long term, other OECD countries have passed laws and/regulations. To further increase their impact, Biscay could consider complementing the framework (Plan, Model and Map) with more tailored guidelines that address the particularities of each sector.

An adequate institutional framework

In addition to a policy framework for stakeholder participation and continued political commitment and leadership, national and local governments need to develop an adequate institutional framework. Similar to open government reforms, it is necessary that the office or committee in charge of the overall co-ordination of stakeholder participation initiatives be the same that co-ordinates the overall open government agenda. This can help ensure

coherence, share good practices among implementers, assist when needed and in many cases, benefit from more efficient use of resources.

While each Department of the Provincial Council implements its own initiatives for stakeholder participation, the body responsible for promoting and co-ordinating them is *Behatokia*, which provides general guidelines to the departments on how to implement a participative initiative and offers tailored technical support for departments that ask for specific advice. It is also responsible for the implementation and follow-up of the Plan for Participation.

Most OECD countries do not have a horizontal office, committee or mechanism for the overall co-ordination of participation initiatives like Biscay does. In most countries, participation initiatives take place at the sectoral level and are planned and implemented autonomously; few OECD countries do have an office within a ministry/department or create ad hoc mechanisms for specific initiatives (OECD, 2016^[1]). Biscay has the ideal institutional framework with its horizontal office situated at the Centre of Government (CoG) co-ordinating the initiatives; it can provide targeted advice and capacity building to departments and general guidelines through the Model and the Plan for Participation in the Province. It is important that Biscay ensure the continuity of an office responsible for the implementation and follow-up of the Plan for Participation so that it can reach its objectives. The office needs to remain at the centre of government and/or be the one in charge of co-ordinating the open government agenda. It should also be equipped with the necessary human and financial resources to carry out its tasks.

External communication and outreach with stakeholders

A key element supporting the implementation of participation initiatives and the open government agenda as a whole is having effective communication and capacity building. Chapter 3 addressed the internal aspect of communicating, engaging and carrying out capacity-building activities on open government reforms within the public administration, including on participation initiatives. This section will focus on external communication and outreach from Biscay with stakeholders outside of the administration on stakeholder participation as well as on open government initiatives in general.

Public communication plays a key role in the everyday lives of citizens as a means for information about and for engagement with the government. Beyond dissemination, information that is properly communicated can help improve service delivery and shape better public policies (Box 5.2).

Box 5.2. Tapping the potential of public communication to improve policy making and service delivery

Governments are increasingly recognising the potential of communication activities to improve policy making and service delivery, and are implementing a wide variety of innovative approaches to communicate with their audiences.

- The “Food is GREAT” campaign led by the UK Department of Food and Rural Affairs (Defra), as part of the government-wide “GREAT Britain” campaign has helped boost British trade in food and drink exports from GBP 20.1 billion in 2016 to more than GBP 22 billion in 2017-18. The campaign is on its way to achieving its 2020 target for exports of GBP 29 billion.

- The “Change4life: Sugar Smart” campaign by Public Health England, aims to improve the nation’s health by making sugar content visible and real through the Sugar Smart app and advertising across 750 supermarkets. The campaign has helped change the behaviour of families in England, with 30% of mothers reporting that the campaign made them reduce their child’s sugar intake. This figure rose to 80% among those who had downloaded the app. A test and control study outside of supermarkets showed that the campaign led to a 4% decrease in sales of sugary cereals, a 3% decrease in sales of sugary drinks and a 4% increase in sales of diet drinks during and post-campaign.
- The US Children’s Bureau ran the AdoptUSKids campaign aiming to increase the number of children being placed in permanent and loving homes. According to response numbers and follow-up surveys, the Ad Council estimates that the campaign has helped spur more than 24 000 adoptions of children from foster care.

Sources: Owen, J. (2018^[23]), “Case Study: Food is GREAT campaign celebrates surge in exports”, <https://www.prweek.com/article/1489784/case-study-food-great-campaign-celebrates-surge-exports>; Government Communication Service, United Kingdom (n.d.^[24]), *Case studies - GCS - Government Communication Service*, <https://gcs.civilservice.gov.uk/guidance/campaigns/case-studies/>; AdoptUSKids (n.d.^[25]), *Raising awareness of the need for adoptive families*, <https://www.adoptuskids.org/about-us/national-ad-campaign>.

In order to plan and implement successful and sustainable open government initiatives, in particular, those focused on participation, citizens need to be informed about their existence. At a sectoral level, most OECD countries inform stakeholders on participation initiatives through the website of each ministry/department. Other forms of communication include individual outreach activities targeted at selected participants, through social media, the central government website, traditional media (newspaper, TV, radio, etc.) or official publications like gazettes (OECD, 2016^[1]). In elaborating communication strategies, governments should consider that citizens do not necessarily search proactively for opportunities, and often they are not even aware of the existence of initiatives in which to participate. In addition, citizens have different media consumption habits and different ways to access information; for example, vulnerable groups may not have Internet access. Thus, governments need to ensure that both the message and the channels to communicate initiatives are tailored to different stakeholder needs, including those of under-represented and marginalised groups.

According to the questionnaire answered by Biscay, communication with stakeholders on the open government action plan takes place mainly through the centralised website, through a quarterly online newsletter (with 8 000 subscribers) and social media –Twitter and Facebook - for specific events or initiatives.

In addition, the Province has taken other approaches to promote stakeholder participation, one example is the network of *Bizkaitarren Sarea*, which is a network of volunteers (citizens and entities of the Province) located in Biscay that are willing to take part in different participation initiatives. These volunteers subscribe via a website of the Provincial Council and receive targeted information (initiatives, news) according to their profile (where they live, sector preferences, etc.) (Provincial Council of Biscay, n.d.^[26]). As mentioned above, one of the actions of Biscay’s Plan for Participation will focus on strengthening this network by increasing the number of subscribers.

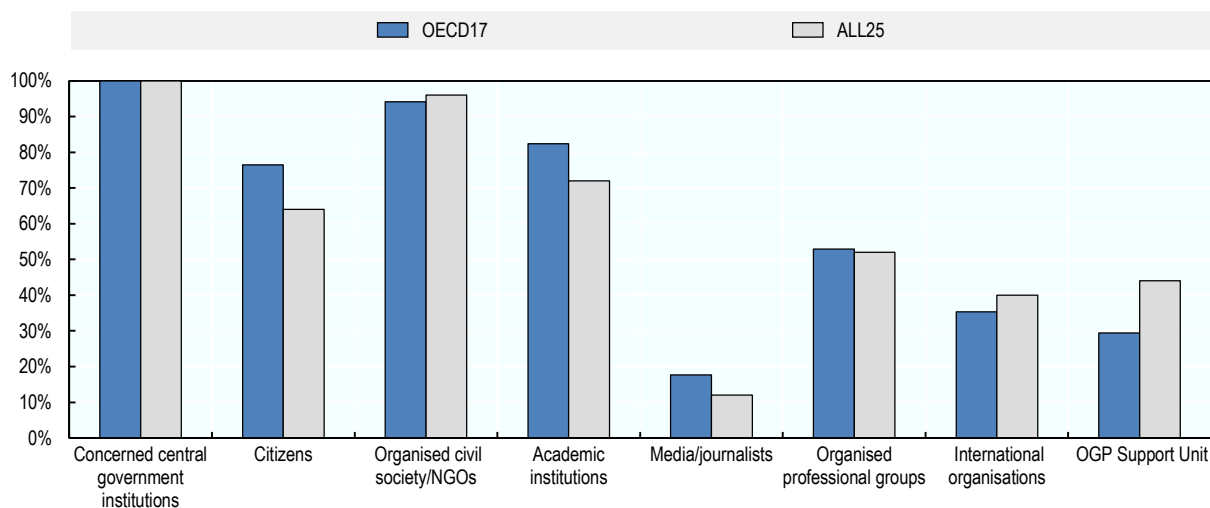
The current communication strategy for participation and open government reforms seems to work on an ad hoc basis by targeting only specific initiatives. The OGAP's intermediate self-evaluation report rightly recognises the need to raise awareness and understanding of the open government reforms with the stakeholders that the Provincial Council engages with, including municipalities. However, the report does not mention a strategy to expand collaboration with new stakeholders nor how to raise awareness on open government reforms. Biscay could thus consider developing a communication plan dedicated to the open government agenda in order to raise awareness, ensure understanding and increase buy-in from new stakeholders. If Biscay decides to elaborate such a plan, it could consider using an inclusive approach so as to take into consideration marginalised and under-represented groups. For instance, Biscay could use the newsletter dedicated to participation envisaged in Action 13 of the Plan for Participation. While this newsletter is focused on participation initiatives, Biscay could also use it to communicate other initiatives related to open government principles. Biscay could ensure that this action is widely implemented by targeting new stakeholders while using various channels of communication, including social media.

Biscay is making significant efforts to put in place an adequate and comprehensive policy framework to foster a participative culture in the Province. In order to embed this culture of participation in the long term, Biscay could ensure that information about the outcomes of the participation initiatives is systematically provided to build trust and long-term commitment from different stakeholders.

Stakeholder participation in open government reforms

As discussed above, stakeholder participation can take place throughout all governance areas, but it is especially critical in open government reforms as participation is one of its principles. It also refers to the drafting and monitoring of open government action plans. As mentioned in Chapter 2, the Province involved several stakeholders in the elaboration of the OGAP. In the three consultation phases that were conducted, the stakeholders involved included citizens, civil society organisations, civil servants from different departments of the Provincial Council, policy experts and academics. This is in line with OECD practice, as 94% of OECD countries involve organised civil society in the elaboration of such strategies, 76% of OECD countries involve citizens, and 82% involve academic institutions. Other stakeholders involved include organised professional groups such as trade unions (53% of OECD countries), media/journalists and local governments (Figure 5.2).

Figure 5.2. Actors involved in the development of the open government strategy in OECD and other countries



Note: Only countries that answered that they had an open government strategy were asked this question.

Source: OECD (2016^[1]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

If Biscay were to elaborate a new open government strategy, it could involve more stakeholders in order to ensure buy-in from key actors, both within and outside the government (for more detail, see Chapter 2). For example, media associations and journalists, local governments, the legislative and judicial branches could also be involved.

Also, as noted in Chapter 4, various stakeholders participated in the elaboration of the OGAP's intermediate self-evaluation report. The Provincial Council, in particular, *Behatokia* (who is responsible for the co-ordination of the OGAP), conducted four phases of elaboration. The first phase was an online questionnaire that asked citizens about the general perception of progress made on open government initiatives by the Provincial Council. The results show that most stakeholders perceive positive progress made on the open government initiatives. For example, 87.5% of respondents think that the Provincial Council has made considerable, or a lot of, progress on accountability initiatives and 75% think likewise on transparency, open data and citizen participation initiatives. The second phase was a questionnaire to civil servants from different departments involved in the implementation of the OGAP on their perception of the progress made on the OGAP. The results indicate that most progress is perceived in transparency and open data, as well as in public integrity, accountability, technical development and innovation. The third phase consisted of in-depth interviews with the departments responsible for the OGAP commitments in order to measure progress and to identify the challenges faced. Finally, the fourth phase was an informal group meeting with the civil servants who primarily worked on the OGAP to discuss results, progress and challenges.

According to the questionnaire results from Biscay, some OGAP commitments involve stakeholders in the design, implementation and monitoring of certain initiatives. Such is the case, for example, for:

- Commitment 4: Promoting accountability initiatives in the governance of the Provincial Council (implementation and monitoring)

- Commitment 12: Launching projects that bring together the public and private sectors to generate social value (throughout the policy cycle)
- Commitment 11: Generating economic value through collaborative initiatives with businesses within the territory (design and monitoring).

However, this involvement seems to occur more on an ad hoc basis and only for certain initiatives, rather than systematically.

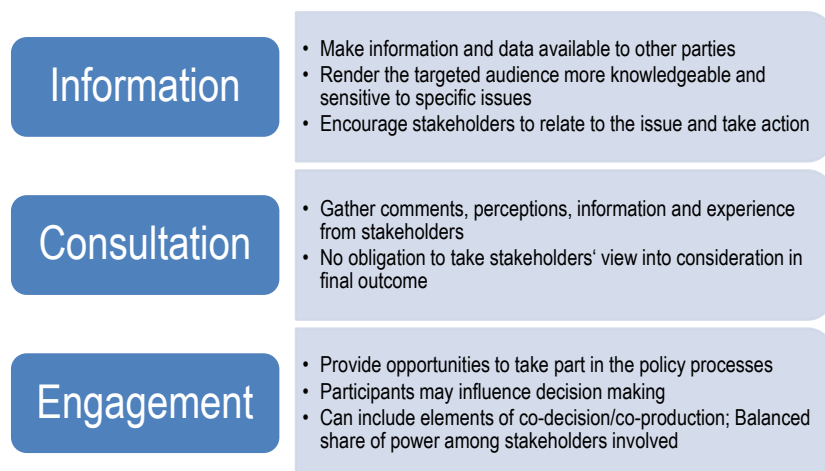
In addition, the decentralised implementation of the OGAP implies that the stakeholders involved in some of the initiatives are not necessarily involved, nor aware of, the overarching plan. In that sense, if Biscay were to create the open government committee composed of all the stakeholders involved in the OGAP, as recommended in Chapter 3, this could be a means to involve more stakeholders in the open government agenda and increase awareness, buy-in and engagement in the whole policy cycle. Even though Biscay has taken important steps to involve stakeholders in the open government process, Biscay could make further efforts to engage stakeholders systematically in the development, implementation and monitoring of the open government strategy.

Developing and strengthening Biscay's stakeholder participation initiatives

In order to improve outcomes, effective stakeholder participation initiatives should be implemented throughout the entire policy cycle and service delivery: from the definition of policy priorities or the service to be provided, to the drafting process, to its implementation and monitoring to its evaluation. This ensures that policies and services are well targeted and respond to citizens' needs and demands. Evidence from OECD countries shows that good practices exist at all levels of the policy cycle. However, most participatory practices are found in initiatives to solicit feedback on how public services work (in 73% of OECD countries) and less are found in the evaluation of the impact of policies (below 50% in OECD countries) (OECD, 2016^[1]).

Participation is understood as a process by which any person or group, who has an interest or stake in a specific policy area, can take part. It can be an interaction, either formal or informal, between any level of government, and stakeholders (citizens, civil society organisations [CSOs], academia, the private sector, etc.) to inform a specific policy to ensure well-informed decisions and avoid policy capture (OECD, 2016^[1]). The degrees of involvement vary from the basic provision of information, which is the starting point of the participation ladder, to full engagement forms such as co-production, co-delivery and co-evaluation. Each of these modalities of participation has different objectives and impacts (Figure 5.3).

Figure 5.3. The imaginary ladder of stakeholder participation



Source: Adapted from OECD (2015^[27]), “Policy Shaping and Policy Making: The Governance of Inclusive Growth”, Background report to the Public Governance Ministerial Meeting, 28 October, www.oecd.org/governance/ministerial/the-governance-of-inclusive-growth.pdf.

Information: The initial level of participation

Information is the initial level of participation characterised by a one-way relationship in which the government produces and delivers information to stakeholders. It covers both the on-demand provision of information and proactive measures by the government to disseminate information. As argued in Chapter 2, access to information (ATI) laws have been adopted by more than 100 countries worldwide as well as by numerous local governments such as Biscay. Some examples of how public administrations share information is through the use of websites and official gazettes. The growing influence and presence of technology, as well as the increased awareness and demands of transparency by stakeholders, has led to a significant increase of availability of public sector information. As argued by Gavelin, Burall and Wilson (2009^[28]), ATI is a precondition for stakeholders' abilities to inquire, scrutinise and contribute to decision making, and a cornerstone of open government reforms. However, while essential for democratic life, providing information on its own does not automatically lead to more engagement or participation (World Bank, 2016^[29]). Among other things, governments need to ensure that the information disclosed is relevant, understandable, and usable in order to foster engagement with stakeholders.

In addition to the ATI, Biscay has also created some mechanisms to share information. For instance, the website “*Generakzioa*” - Active Aging (*Espacio web “Generakzioa” – Envejecimiento Activo*) offers information related to the promotion of active ageing. It is conceived as a mechanism for information sharing and interaction with Biscay's citizens, public entities and elderly associations.

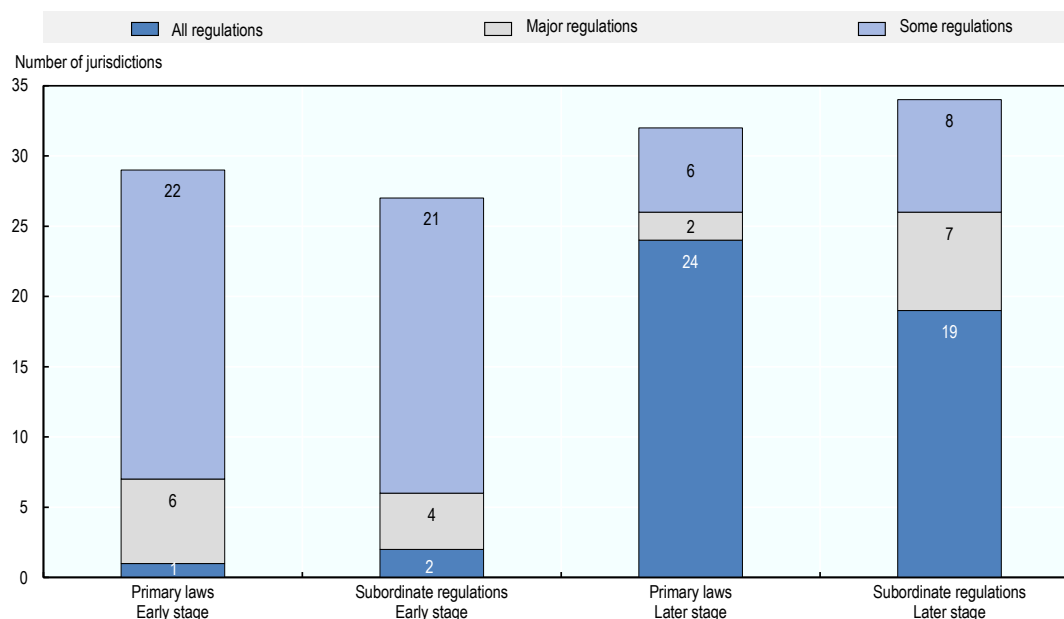
Biscay has also implemented an innovative two-phase initiative for information and accountability. The first phase consists of a series of workshops called “*Encuentros con Unai*” in which President Unai Rementaría provides information regarding his public actions. In total, ten workshops between November 2016 and May 2017 were carried out with the participation of around 645 people in different municipalities. These workshops are also a forum in which citizens provide proposals on a series of policy areas such as youth employment, support to small and medium-sized enterprises (SMEs), and reducing red tape, among others. The second-phase of this initiative is the *Bizkaia Goazen* Bus,

which consists of a bus equipped with interactive maps and touch screens that display the services, projects and the general functioning of the Provincial Council. Its objective is to provide information to stakeholders in a dynamic way and by travelling to rural municipalities of the Province. Since it started, more than 20 000 people have visited the bus in 65 municipalities. One of the features of the bus is a mailbox for comments and suggestions, not only on the bus itself but also on the projects and functioning of the Provincial Council. To increase awareness of the bus, Biscay collaborated with local schools and associations to organise visits. It has also provided a space for sectorial encounters between Provincial Heads of Departments (Ministers) and the local stakeholders involved in that topic (Provincial Council of Biscay, 2018^[30]). For 2019, Biscay will implement a third phase where the President will make more encounters to take stock of his mandate. This innovative initiative is a good practice as it serves as an information tool for stakeholders providing them with different ways to get informed and to provide an opinion on certain public policies. It is also a useful source of information for the Provincial Council, as the outcomes of both phases serve to set the priorities of the following year for the government. Biscay could continue to expand this initiative as it allows citizens to exchange on a wide range of topics and discuss them directly with the President of the Province and provides an innovative means to be informed and exchange with Heads of Departments (Ministers) on sectorial topics.

Consultation beyond the regulatory process

Consultation is a more advanced level of participation that entails a two-way relationship in which stakeholders are asked to provide feedback to governments and vice versa. It requires the provision of relevant information, in addition to responses on the outcomes of the process. In practice, governments define the issues they wish to consult on, prepare the questions and manage the process, whereas citizens provide their views and opinions (OECD, 2003^[31]). As argued in the OECD (2016^[1]) report on open government, “today, consultation is accepted as a valuable means of improving the quality of public policy while strengthening its legitimacy,” in the majority of cases, governments do not have an obligation to include the results in their policies, plans, or decisions. Consultation initiatives have helped governments gain more experience with measures to, for example, expand the delivery of service on line or to reduce red tape (Corella, 2011^[12]). A typical example of consultation practices include comments on draft legislations.

Participation initiatives on primary and subordinated regulations of national and local governments typically take place at the final stage of the process through public consultations via the Internet or selected groups such as business associations or trade unions (OECD, 2015^[11]) (Figure 5.4).

Figure 5.4. Consultations happening on primary and subordinated regulations (2014)

Note: Primary refers to stakeholder engagement that occurs at an early stage, to inform officials about the nature of the problem and to inform discussions on possible solutions. Subordinated consultation refers to stakeholder engagement where the preferred solution has been identified and/or a draft version of the regulation has been issued. Based on data from 34 countries and the European Commission as of December 2014.

Source: OECD (2014^[32]), “2014 Regulatory Indicators Survey results”, www.oecd.org/gov/regulatorypolicy/measuring-regulatory-performance.htm.

In Biscay, the Provincial Decree of Biscay for the Elaboration of Proceedings includes two articles on mechanisms for citizen participation for the process of elaboration of legal texts: prior consultation (*consulta previa*) and public hearings and information (*audiencia e información pública*) (Provincial Decree 2/2017^[33]). For prior consultation, before elaborating a provincial law, the department in charge shall conduct a public consultation in order to hear the opinion of its citizens and the groups concerned on the following topics:

- the problem being addressed by the future law
- why it is needed; what the objective is
- when it is the case, the existence of alternative regulatory solutions.

The public consultation takes place on line via the centralised website of the Provincial Council and for 15 calendar days. After that time, each department has 15 more days to elaborate and publish a report on the same website on the received proposals and observations and state why they were incorporated or rejected. Public hearings are conducted on line once the draft local law is written. The concerned department publishes the draft law on the centralised website of the Provincial Council so comments can be received. The timeframe to provide comments are the same as for the prior consultation; the only difference is that the departments have 30 days to draft the report. Some topics are exempt from public hearings, including budgets and provincial organisation (Departament of Public Administration and Institutional Relations, 2017^[34]). In addition, this Decree provides for the elaboration of an Annual Regulatory Plan (*Plan Annual Normativo*), which specifies the regulatory initiatives from the government for the coming year –provincial

laws, decrees, orders or resolutions- and specifies if they will be subject for prior consultation or public hearings and information. In case they are subject to none, a proper justification is provided. For example, the 2018 Annual Regulatory Plan announced 154 initiatives, from which 31 were subject to either one or both participatory mechanisms. The General Directorate of Good Governance and Transparency will publish a monitoring report to inform on the degree of compliance of the plan (Provincial Council of Biscay, 2018^[35]).

These two mechanisms to participate in the Normative Annual Plan are an important step to encourage participation in regulatory processes in Biscay while also providing transparency in the regulatory processes. According to an internal document from the Provincial Council, the average response rate for both mechanisms in 2017 and early 2018 is of two comments per initiative, some having more than 15 comments and others none. Even though the law was recently adopted and the monitoring report of the First Annual Regulatory Plan has not yet been published, the participation numbers suggest that stakeholders are aware to a certain extent of the mechanisms. Building on these efforts Biscay could further increase awareness of this Decree, its mechanisms, the Regulatory Annual Plan as well as the benefits it can bring through awareness-raising campaigns, as is indicated in the Plan for Participation 2018-2019.

Furthermore, Biscay has gone beyond the regulatory process and has created a series of mechanisms that are used to consult with a wide range of stakeholders on diverse policy issues. For instance, the Bilbao Biscay Action Group (BBAG), managed by the Economic and Territorial Development Department and regulated by a Provincial Decree, is a consultative body that brings together all the players of the territory and in which strategic issues are dealt with for the future of the tourism sector in Bizkaia. It is composed of the Provincial Council of Biscay, the Basque Government, EUDEL, the Bilbao Chamber of Commerce, the Port Authority, the Bilbao Airport, Bilbao Air, Biscay's tourist destinations as well as travel agencies (Provincial Decree 213/2015^[36]). Another example is the Ethics Committee for Social Intervention of Biscay (*Comité de Ética de Intervención Social*, CEIS), which is a consultative and interdisciplinary committee set up to analyse and advise on the resolution of ethical conflicts that occur while practising social interventions. It is composed of professionals in the field of social services and related areas (justice, education, health, etc.) as well as experts who provide advice.

Engagement: Providing better and tailored policy and services

Engagement can be defined as a relationship or collaboration between governments and stakeholders. It is a two-way relationship where stakeholders are given the opportunity and the necessary resources (e.g. information, data and digital tools) to collaborate during different phases of the policy cycle and in the design and delivery of services. In this kind of partnership, stakeholders collaborate with the government and can contribute to setting the policy agenda, shaping the policy dialogue and providing services. However, the responsibility for the final decisions taken rest – in most cases - with the government (OECD, 2016^[1]). This level of engagement requires, on the one hand, that governments are committed to, and comply with, the decisions jointly made (Corella, 2011^[12]), and on the other hand, that stakeholders assume increased responsibility in policy making (OECD, 2003^[31]). For engagement to work, it is important that governments provide enough space, time and flexibility for stakeholders to create new proposals, as well as mechanisms to integrate them into the policy-making process (OECD, 2016^[1]). A good example of this is participatory budgeting (Box 5.3).

Box 5.3. Examples of participatory budgeting

The 2015 OECD Recommendation on Budgetary Governance explicitly calls on governments to “ensure that budget documents and data are open, transparent and accessible” and to “provide for an inclusive, participative and realistic debate on budgetary choices.”

Over recent years, the trend towards participative budgeting has extended internationally and has been taken up with success in a number of OECD member countries and non-member economies. In practice, progress at the national level has been limited to date, with more activities and innovations emerging at the level of cities and municipalities.

Paris, France

Since 2014, the municipality of Paris gives its citizens the opportunity to decide on the use of 5% of its investment budget, which amounted to EUR 0.5 billion in 2014-20. The aim is to involve citizens in municipal politics to foster social cohesion and to learn about their preferences. It builds on the principles of open government and promotes a stronger relationship between citizens, their representatives and public institutions.

Since the 2015 edition of the *budget participatif*, participation was deepened by providing citizens with the opportunity to propose projects that would then be voted on. Attempting to harness Parisians’ creative ideas, the process is as follows: 1) Parisians propose their ideas for investment projects via a website; 2) the municipality evaluates the feasibility of the proposals; and 3) project proposals are submitted to the vote by Parisians.

New York City, United States

New York City (NYC) is host to the largest participatory budgeting (PB) in the United States in terms of participants and budget amount. First introduced in 4 council districts in 2012, the annual PBNYC process now spans 24 council districts and lets residents directly decide how to spend USD 36 million in capital discretionary funds. In 2018, more than 99 000 residents participated and voted for 124 community improvement projects. Also, NYC launched an online pilot application to track the implementation and outcomes of the voted projects, called myPB.

Sources: OECD (2015^[37]), “Recommendation of the Council on Budgetary Governance”, OECD, <https://www.oecd.org/gov/budgeting/Recommendation-of-the-Council-on-Budgetary-Governance.pdf>; OECD (2016^[38]), *Integrity Framework for Public Investment*, OECD Public Governance Reviews, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264251762-en>; Participatory Budgeting Project (n.d.^[39]), “Participatory Budgeting in NYCC: \$210 million for 706 community projects”, webpage, <https://www.participatorybudgeting.org/participatory-budgeting-in-nyc/>; Mairie de Paris (n.d.^[40]), *Budget participatif*, <https://budgetparticipatif.paris.fr/>.

Stakeholder engagement in policy design, implementation, monitoring and evaluation

Participatory identification of policy priorities can help national and local governments to adequately reflect the preferences and priorities of their citizens. OECD research shows that countries have made important progress in involving stakeholders both in the process of setting national or local priorities and in developing new laws and regulations (OECD, 2015^[11]), (OECD, 2016^[18]). An example of involving stakeholders in the definition of policy priorities can be found in Austria’s consultation on its national health targets (Box 5.4).

Box 5.4. Consultation on national health targets in Austria

In 2011, Austria identified its national health targets to set up national health reform. At the initial stage, the general public was asked two broad questions concerning their most relevant health targets and the means to achieve them. The answers culled from more than 4 000 people via an online platform were integrated into a plenum of 40 different institutions, including government representatives of all levels, social insurances, experts and institutions of the healthcare system, representatives of patients, the elderly and children, as well as socioeconomically disadvantaged people. The plenum then came to terms with ten national health targets, which were eventually adopted by the Council of Ministers and the federal Health Commission in Austria.

The targets form part of the current government programme and form the basis for the ongoing reform process. The plenum is currently working on the implementation process and has come up with meta-indicators and target values for the monitoring process. All future results will then be published on line. As noted by the government, the health sector alone cannot improve the health status of the population by itself. Thus, adopting an inclusive approach of incorporating the voices of almost all stakeholders allows for broad ownership, legitimacy and avoidance of a top-down approach so that the reform initiatives reflect the situation on the ground.

Source: OECD (2016^[1]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

In Biscay, setting policy priorities using a participatory process occurs mainly during the elaboration of certain sectoral plans, as shown in Table 5.2.

Table 5.2. Participative processes occurring in Biscay's plans and strategies

Plan/strategy	Department in charge	Identification of needs	Draft	Monitoring and evaluation
Plan for the Participation and Quality of Life of People with Disabilities 2016-2019 (<i>Plan para la Participación y Calidad de Vida de las Personas con Discapacidad 2016-2019</i>)	Social action	X	X	X
Strategic Plan for Elderly People of Biscay 2020 (<i>Plan Estratégico de Personas Mayores de Bizkaia 2020</i>)	Social action	X	X	
III Plan for Unprotected Children 2016-2019 (<i>III Plan de Infancia en Desprotección 2016-2019</i>)	Social action	X	X	
Strategy "Biscay, Territory for all Ages" 2016-2019 (<i>Estrategia "Bizkaia, Territorio para Todas las Edades" 2016- 2019</i>)	Social action	X	X	X
Territorial and Sectorial Plan of Roads of Biscay 2017-2019 (<i>Plan Territorial Sectorial de Carreteras de Bizkaia 2017-2029</i>)	Economic and territorial development	X		
Special Plan for the East Roads of Bilbao Variants (<i>Plan Especial Viario Variante Este de Bilbao</i>)	Economic and territorial development	X		
III Plan for Co-operation in Biscay 2017-2020 (<i>III Plan Director de Cooperación de Bizkaia 2017-2020</i>)	Employment, social inclusion and equality	X	X	
Comprehensive Plan against Human Trafficking in Biscay 2016-2019	Employment, social inclusion and equality	X		

Plan/strategy	Department in charge	Identification of needs	Draft	Monitoring and evaluation
<i>(Plan integral contra la Trata de Personas en Bizkaia 2016-2019)</i>				
Plan to Normalise the Use of Euskera 2013-2017 <i>(Plan de Normalización del Uso del Euskera 2013-2017)</i>	Euskera and culture	X	X	X
Plan for Youth in Biscay 2020 <i>(Plan de Legislatura Gaztedi Bizkaia 2020)</i>	Cabinet of the President	X	X	X
Provincial Plan for Transparency 2017-2019 <i>(Plan Foral de Transparencia de Bizkaia 2017-2019)</i>	Cabinet for Modernisation, Good Governances and Transparency	X	X	
Strategy for the Improvement of the Sound Quality in Biscay 2013-2017 <i>(Estrategia para la Mejora de la Calidad Sonora en Bizkaia 2013-2017)</i>	Sustainability and environment	X	X	X
II Programme of Biscay 21 2011-2016 <i>(II Programa Bizkaia 21 2011-2016)</i>	Sustainability and environment	X	X	X
Sustainable Energy Strategy for Biscay 2020 <i>(Estrategia de Energía Sostenible para Bizkaia 2020)</i>	Sustainability and environment	X		
II Comprehensive Urban Waste Management Plan for Biscay 2005-2016 <i>(II Plan Integral de Gestión de Residuos Urbanos de Bizkaia 2005-2016)</i>	Sustainability and environment	X	X	X
Education Action Programme for Sustainability of Biscay 2020 <i>(Programa de Acción de Educación para la Sostenibilidad de Bizkaia 2020)</i>	Sustainability and environment	X		
Comprehensive Action Plan for San Juan de Gaztelugatxe <i>(Plan Integral de Actuación para San Juan de Gaztelugatxe)</i>	Sustainability and environment	X	X	X
Partial Territorial Plan for Metropolitan Bilbao <i>(Plan Territorial Parcial Bilbao Metropolitano)</i>	Transport, mobility and cohesion	X	X	X

Source: Provincial Council of Biscay (2017^[20]), “Mapa de la Participación (Map for Citizen Participation)”, <http://web.bizkaia.eus/documents/842933/902194/MAPA+PARTICIPACION.pdf>.

Both the Plan for Participation and Quality of Life of People with Disabilities in Biscay 2016-2019 (Department of Social Action, 2016^[41]) and for the Strategic Plan for Elderly People of Biscay 2020 (Department of Social Action, n.d.^[42]) fall under the responsibility of the Department for Social Action of the Provincial Council. These plans set the priorities and guidelines and were co-designed with the different stakeholders associated with the sector through existing formal participative bodies, namely the Civil Dialogue Table (*Mesa de Diálogo Civil*) and the Council for Elderly People (*Consejo de Personas Mayores*). The Civil Dialogue Table is “a shared work space and a tool for bi-directional dialogue and co-operation between the Department of Social Action and the organisations and networks of the third social sector in the Province” (Department of Social Action, n.d.^[43]). In practical terms, it is a collegiate body (*órgano colegiado*) where decisions on priorities and initiatives for social policies are taken by consensus. The priorities feed the planning processes of the department, such as the current Plan for Participation and Quality of Life of People with Disabilities in Biscay 2016-2019. The 14 participating organisations and networks are in charge of implementing several initiatives decided by this body. Since 2016, the Civil Dialogue Table is regulated by a Provincial Decree (Departamento de Empleo, Inclusion Social e Igualdad, 2016^[6]) and meets at least three times a year. According to the findings of the OECD fact-finding mission to Biscay, for the participant

organisations and networks, this Table is a valuable space for dialogue and collaboration with the Provincial Council.

Similarly, the Council for Elderly People is a collegiate body for citizens who are older than 60 years old and for organisations related to this policy area. Its objective is to collaborate with the end users on the planning and implementation of the policies. The Council has a plenary session and three thematic commissions that work with a methodology of active dialogue and produces a report with recommendations for policy makers (Department of Social Action, n.d.^[44]). It renews its programme of work every two years and is regulated by a Provincial Decree since 2005 (Department of Social Action, 2013^[45]). The programme of work defines lines of action that shape the thematic commissions. For example, for 2018-20, the three lines of work are: active ageing, social services for the elderly and the elderly social image. The Council provided recommendations to the Strategic Plan for Older People of Biscay 2020 and approved its content and initiatives. As is the case with the Civil Dialogue Table, several of the participating organisations and networks implement some of the initiatives that are decided.

Though these mechanisms are good practice, they could benefit from a more integrated approach by widening the net to involve other actors beyond the social sector related to the policy and its users. For instance, in the case of disability, other stakeholders from the urbanism and construction sectors could be involved as well. The example of New Zealand's Ministry of Health and its review of the safety regulations in disability support demonstrates this inclusive approach (Box 5.5).

Box 5.5. Review of safety regulations in disability support in New Zealand

In a co-designing approach of new safety regulations in disability support, staff from different directorates (policy, implementation, regulation and certification) of the New Zealand Ministry for Health joined eight representatives of the disability community. They included, among others, independent expert advisors, two providers of disability support, a disabled person with limited learning capacities, parents of disabled children, and an advocate for family carers. Accordingly, the formation of the working group endeavoured to not only target but also include, disabled people themselves. Throughout the seven months (with monthly meetings), all information and papers were produced in an accessible format (easy-to-read language and screen readers).

Moreover, Māori advisors were consulted to take into account the indigenous perspective. Co-ordination staff from the ministry, as well as internal and external members of the committee, were paid for their time, travel expenses and accommodation. Overall, engaging experts, people concerned and policy makers in the early stages of reforming the security regulations in disability support led to a more profound understanding of the matter, questioning of orthodox assumptions and standard approaches to handling policies based on the extended range of experience and daily obstacles. In addition, the approach by New Zealand improved the quality of advice, relevance and applicability to the situation on the ground.

Source: OECD (2016^[1]), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268104-en>.

Furthermore, involving stakeholders in initiatives to monitor and evaluate the implementation of certain policies is important to have first-hand information from those directly affected by the policy, so as to improve its implementation processes, identify bottlenecks as well as successes. Evaluating the implementation of policies contributes to accountability as it provides citizens with information and tools to assess the results of the actions carried out by the government (OECD, 2017^[46]) (also see Chapter 4). In turn, it helps policy makers understand why and how a policy was successful or not. While OECD countries recognise that evaluation can increase the effectiveness and efficiency of public policies, less than half involve stakeholders in evaluation initiatives at a sectoral level (OECD, 2016^[1]).

Biscay has expressed a strong commitment to developing a solid monitoring and evaluation (M&E) system. However, the Province is still in its initial phases and must further define and develop certain structural elements, such as a dedicated strategy and a stronger institutional framework. However, there are a few initiatives that can be considered good practices. For instance, the Civil Dialogue Table and the Council for Older People also play a role in monitoring the policies that they co-design and co-implement.

For example, the Plan for Participation and Quality of Life of People with Disabilities in Biscay 2016-2019 established four working tables, one of them dedicated to monitoring the implementation of the plan. This working table (*mesa*) is composed of the Department of Social Action, the 18 participating social organisations included in the plan and the related autonomous organisms (for example, the Provincial Institute of Social Assistance, IFAS). The objectives of this table are to identify the relevant output indicators to measure the implementation of the plan, and to establish a methodology and practical tools to properly follow up, monitor and evaluate the implementation of the plan (Department of Social Action, 2016^[41]).

The Civil Dialogue Table constitutes an example of a forum where stakeholders participate in the evaluation of the plan and the implementation of the policies in the Province. As mentioned in Chapter 4, Biscay could use this well-established platform to push evaluation practices with the participation of stakeholders to other policy areas. A good practice in this area is the experience of Poland with the evaluation of its National Reforms Programme (Box 5.6).

Box 5.6. Evaluating the National Reform Programme in Poland

The Polish government invites a wide group of interested parties from the world of economy, science and civil society to participate in the development, implementation and monitoring of its annual National Reform Programme (NRP) in order to ensure the widest possible approval for the implementation of the Europe 2020 Strategy. This is done in the framework of the Inter-Ministerial Team for the Europe 2020 Strategy, headed by the Minister of Economy. This consultative and advisory body of the Prime Minister includes both representatives of the government bodies and a wide group of organisations of entrepreneurs, trade unions, economic and agricultural chambers, non-governmental organisations (NGOs) as well as research and scientific institutions.

The team's tasks involve consulting the official documents on monitoring and evaluating the NRP implementation and preparing recommendations on improved implementation of Europe 2020. The team also presents relevant problems that, in the stakeholders' opinion, should be reflected in the NRP updates. The team also serves as a forum for discussion on specific priorities and targets for the Europe 2020 Strategy.

For example, in 2014 and 2015, the team discussed the European Union energy and climate policy, improvement of tax administration for a better business environment, the realisation of the poverty target adopted in the NRP and recent reforms in the system of vocational education and training. Due to such a wide participation structure, the team has become a forum for discussion on key issues related to the implementation of the Europe 2020 Strategy in Poland and also contributes to the strengthening of joint responsibility for the implementation of the strategy on national and local levels.

Source: OECD (2016^[18]), *The Governance of Inclusive Growth: An Overview of Country Initiatives*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264265189-en>.

Biscay could transfer and mainstream these good practices to other sectors of the Province to ensure that all plans – including horizontal policies - co-identify needs, co-draft, co-monitor and evaluate. The implementation of the “Lithuania 2030” policy provides an example of the participation of key stakeholders in all stages of a transversal policy (Box 5.7).

Box 5.7. Lithuania 2030: Important steps towards co-implementation

In Lithuania, the most important policy document is the state progress strategy, “Lithuania 2030”, which provides long-term goals to be achieved by 2030. The strategy aims to create an economically and socially successful Lithuania, based on the three pillars of openness, creativity, and responsibility.

It recognises that the government should play the role of co-ordinator, delivering services together with its citizens, private sector, local communities and NGOs. Lithuania 2030 assigns great importance to the systematic and effective engagement of citizens in the political process and states that transparency and openness are important values that government should seek to promote.

Lithuania 2030 emerged from civil society. Government authorities, business and academic leaders, community groups, and prominent public figures actively participated in its development. The State Progress Council and the Open Progress Forum are two key platforms established through Lithuania 2030, uniting a variety of different stakeholders, including academics and civil society organisations, to ensure an inclusive process for drafting and implementing this key strategic document.

The development and implementation of the strategy illustrate the effective use of public participation results in the policy-making process and implementation. Civil society played a crucial and active role in drafting the strategy by engaging in public discussions, participating in the National Day of Ideas across the country, in an “idea week” in schools and online consultations. In total, more than 100 discussions and more than 1 000 proposals fed into the final draft of the Lithuania2030 strategy.

The Office of the Government co-ordinates the implementation process of the Lithuania 2030 strategy and the activities of the State Progress Council, which is now responsible for the monitoring of the results. To date, six Open Progress Forums were organised with broad participation from civil society (more than 2 500 participants). Proposals for policy improvement were developed in areas such as education (children’s creativity), lifelong learning, strengthening local communities, innovative public governance, etc. Social media (Facebook) and the website www.lietuva2030.lt have also been used as channels for two-way communication with citizens. The platform uses several tools to engage citizens, such as questionnaires, the possibility to ask questions, registering for an event, subscribing to a newsletter, and commenting, among others.

Source: OECD (2016^[18]), *The Governance of Inclusive Growth: An Overview of Country Initiatives*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264265189-en>.

Biscay also uses other indirect participation mechanisms to define policy priorities, including perception surveys. The first, Neurbi, is a survey used to assess citizens’ perceptions of the image of the Provincial Council and its initiatives as well as their economic and social concerns (Gizaker, 2017^[47]). The second survey, the Social Barometer of Biscay, measures the perception of citizens on economic and social issues as well as the performance of the Provincial Council (IKERFEL, 2018^[48]). *Behatokia* is responsible for this yearly survey and analyses the results to use them as pointers for the Provincial Council’s policies.

Stakeholder engagement in service delivery and its monitoring and evaluation

Public services can be delivered better when they are implemented in collaboration with stakeholders. Further, integrating their insights into the service delivery process can foster innovation. Increasingly, national and local governments resort to participation as a means to improve the quality of service delivery (OECD, 2015^[27]). Biscay has several specific initiatives of participation focused on improving public services. The most prominent example is the process to elaborate the service charters, also called citizens' charters (*cartas de servicios*).

In general, service charters are documents through which public entities inform their users about the services they provide, the quality commitments they have adhered to, and publish the rights and obligations of the users. The elaboration of service charters is a part of the Provincial Transparency Law and a commitment of the Transparency Plan. To ensure its implementation, the General Directorate of Good Governance and Transparency drafted guidelines for the public service providers that have to use them. These guidelines include, as a crucial element, a consultation phase with users of the services provided (Bizkaia Gardena, n.d.^[49]). Since the elaboration of the law in 2017, six public service providers elaborated such a document, including the County Offices for Farming, the Procurement Office, the Provincial Library, Early Care Services, two Provincial Institutes for Social Assistance, and *Garbiker*, the waste management service of the Province. The consultation phase for elaborating all service charters consists of two stages, the first focused on asking users to evaluate the services provided in order to define their importance, and the second consisted of defining better ways to provide the services. Currently, more provincial service providers are elaborating service charters with the same methodology. Building on these examples, Biscay could continue to include the consultation phase into the overall elaboration of the service charters of the other public entities, as this is a relevant way to integrate user needs when adapting public services, as done by the civic design lab team in Oakland City (Box 5.8).

Box 5.8. Civic Design Lab in Oakland City, State of California

The city of Oakland in the State of California launched the Civic Design Lab (CDL) in early 2018 as a civic innovation lab attached to the Oakland City Hall. The objective of the CDL is to “convene, incubate, and solve civil resiliency challenges for Oaklanders”. In order to do so, the city applies a human centered design and systems to solve public sector problems and make the city government more accessible and efficient. The CDL takes a data-driven approach to design the solutions so that these reflect the needs and values of the citizens. The CDL is the result of a community-led programme called the 100 Resilient Cities, in which Oakland participated for 3 years prior to the creation of the CDL.

The CDL is an innovative programme that fosters collaboration to improve service delivery while also building resilience through trust and transparency among stakeholders. Co-designing the solutions of the projects and involving key stakeholders throughout the process provides ownership and allows for an inclusive process for improving public services.

The CDL works on a four-phase methodology:

1. discovery: listen to key stakeholders directly affected by the problem as well by the service providers or specialists of that service;

2. discussion: bringing local and regional stakeholders that interface with the problem identified;
3. data: ensuring data analysis and asking the right questions; and
4. design: co-building new prototypes for services with key stakeholders involved.

The main projects in which the methodology is being applied are:

- the city's Rent Adjustment Programme (RAP),
- the Healthy Housing Initiative, and
- the Financial Empowerment Project.

For example, the RAP is a mechanism that connects property owners and renters in the city since 1980. The CDL designed a new portal to simplify these connects and also “to improve transparency, foster trust in the process, and to make it more accessible, by taking a user first approach”. The team upgraded the database and the online system and then organised a workshop with key stakeholders involved in the portal to understand priorities and main processes. Finally, the team co-ordinated a co-design workshop with property owners, renters and the city staff in order to design the interface for the new portal. As a result, the portal was simplified for both owners and renters; this helped reduce content duplication, simplified language for easy understanding and created a mobile-friendly functionality.

Sources: 100 Resilient Cities (2018^[50]), *Mayor Launches 'Civic Design Lab' to Make Government Services More Effective*, <https://100resilientcities.org/mayor-launches-civic-design-lab-make-government-services-effective/>; Oakland City Hall (n.d.^[51]), *Civic Design Lab*, <https://www.civicedesignlab.org/> (accessed on 26 February 2019).

A good example of monitoring public services through a participative platform is the *Buenos Aires Obras* initiative from the city of Buenos Aires (Box 5.9).

Box 5.9. The Buenos Aires Obras initiative to monitor public services

As part of the Open Government Ecosystem of the City of Buenos Aires, Buenos Aires Obras is an online platform that contains information about tenders and works, their progress, budgets and people in charge of them. It is a portal that seeks to increase transparency in the administration through real-time monitoring of the works carried out by the government, with updated and structured data in accordance with international transparency standards, integrated reporting, and with a clear and organised update frequency. At the same time, it has a participatory process to build indicators. In addition, users can see photos and videos of the progress of each public work. The information is updated every four months.

Source: Buenos Aires Ciudad (n.d.^[52]), “BA Obras”, <http://www.buenosaires.gob.ar/baobras>.

Recommendations and proposals for action

Citizen participation is at the core of Biscay's open government agenda, and important initiatives have been carried out to date. In order to continue building on them and to

achieve greater and long-term impact, further efforts are needed to ensure successful citizen participation in the Province. The government may wish to consider the following actions:

Ensuring a proper legal, institutional and policy framework for successful stakeholder participation in Biscay by:

- Maintain its high-level commitment to stakeholder participation in policy making, design and implementation.
- Strengthen the existing CSOs and facilitating the creation of new ones for horizontal issues such as open government, open data, transparency, and anti-corruption by:
 - Benefiting from the current OGP process with the Basque Country, in particular through the commitment related to the creation of an I-Lab innovation for citizen engagement to encourage the creation of horizontal CSOs and other collaboration networks in the Province.
 - Ensuring that information about the outcomes of the participation initiatives is systematically provided to build trust and long-term commitment from different stakeholders.
- Reinforce the Model for Citizen Participation by:
 - Streamlining the model guidelines to ensure coherence among the different practices and departments.
 - Introducing additional elements that will help guide the decision of which initiative to replicate.
- Strengthen the Map for Citizen Participation by:
 - Listing the initiatives that have a specific focus on stakeholder participation under information, consultation and engagement if a new map is drafted.
 - Including in the next version of the map more information under each of the initiatives. The information could include the stakeholders involved, including characteristics and numbers to ensure all relevant actors are involved, including the media, business associations, independent institutions and vulnerable populations, such as migrants, youth/elderly as well as other marginalised groups of society; mechanism(s) used for participation; the time associated to it as well as cost; unit responsible within the department; roles and responsibilities of each party; and feedback loops, communication and evaluation mechanisms.
- Consolidate the Plan for Participation 2018-19, the Model and the Map as the framework for stakeholder participation by:
 - Carrying out a series of dissemination campaigns to ensure that the framework is well known and implemented by all departments.
 - Complementing the framework (Plan, Model and Map) with more tailored guidelines that address the particularities of each sector to increase their impact.
- Ensure that training courses are carried out within the public administration and for other stakeholders, including the municipalities, in order to raise awareness and increase buy-in.

- Ensure the continuity of an office responsible for the implementation and follow-up of the Plan for Participation 2018-19 so that it can reach its objectives. The office needs to remain at the centre of government and/or be the one in charge of co-ordinating the open government agenda. It should also be equipped with the necessary human and financial resources to carry out its tasks.
- Consider developing a communication plan dedicated to the open government agenda in order to raise awareness, ensure understanding and increase buy-in from new stakeholders. If Biscay decides to elaborate such a plan, it could consider using an inclusive approach so as to take into consideration marginalised and under-represented groups.
- Ensure that the creation of an additional newsletter dedicated to facilitating communication with citizens on participative processes and raising awareness of the channels available to participate is widely implemented by targeting new stakeholders while using various channels of communication, including social media.

Broadening stakeholder participation in open government reforms in Biscay by:

- Involve, if Biscay were to elaborate a new open government strategy, more stakeholders in order to ensure buy-in from key actors, both within and outside the government.
- Make further efforts to engage stakeholders systematically in the development, implementation and monitoring of the open government strategy.

Fostering and strengthening Biscay's stakeholder participation initiatives by:

- Continue to expand the *Encuentros con Unai* and the Bizkaia Goazen Bus, as these initiatives allow citizens to exchange on a wide range of topics and discuss them directly with the president of the Province, and provides an innovative means to be informed and exchange with heads of departments (ministers) on sectoral topics.
- Make further efforts to increase awareness of the Provincial Decree of Biscay for the Elaboration of Proceedings, the prior consultation (*consulta previa*) and public hearings and information (*audiencia e información pública*), the Regulatory Annual Plan and their benefits through awareness-raising campaigns, as indicated in the Plan for Participation 2018-19.
- Ensure that the consultation phase takes place in the overall elaboration of the service charters of the other public entities, as this is a relevant way to integrate user needs when adapting public services.
- Involve citizens in the co-design of policy priorities in sectors other than the social sector, as well as in horizontal policies.
- Provide a more integrated approach to the Civil Dialogue Table and the Council for Elderly People by widening the net to involve other actors beyond the social sector related to the policy and its users.
- Develop more initiatives to participate in horizontal policies.
- Transfer the good practices and know-how of integrating key stakeholders to ensure that all plans – including horizontal policies - co-identify needs, co-draft, co-monitor and evaluate.

Note

¹ The Province of Biscay is legally referred to as a “historic territory”, a term exclusive to the Basque Country that describes the political and administrative system of its three provinces. In view of facilitating the understanding of the term for readers not familiar with the concept and of shortening the term repeated throughout the Chapters, the Review will refer to the historic territory of Biscay as “Province of Biscay”.

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ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

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Consult this publication on line at <https://doi.org/10.1787/e4e1a40c-en>.

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