



Revista de Estudios de la Administración Local y
Autonómica

ISSN: 1989-8975

Instituto Nacional de Administración Pública (INAP)

GARCÍA GARCÍA, María Jesús
Council Appointed Mayors in Spain: Effects on Local Democracy
Revista de Estudios de la Administración Local y
Autonómica, no. 6, 2016, November-April, pp. 70-78
Instituto Nacional de Administración Pública (INAP)

DOI: 10.24965/reala.v0i5.10388

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Council Appointed Mayors in Spain: Effects on Local Democracy

El sistema de elección del Alcalde en España: Efectos en la democracia local

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ABSTRACT

This paper deals with the influence of having council appointed mayors on local governments. Five elements of local government systems are considered: the electoral system and its influence on the political composition of the local government; the local government structure and the distribution of functions and powers between mayor and council; the role of political parties; scrutiny of the executive and accountability; and citizen participation. This analysis highlights the effect that a council appointed mayor system has in terms of accountability and legitimacy, transparency and efficiency.

Keywords

Local government systems, directly elected mayors, local governance, council appointed mayors, Local Government Structure; Political Parties; Citizen Participation; Accountability.

RESUMEN

El presente artículo toma en consideración los efectos que el sistema de elección del Alcalde tiene sobre la democracia local, basándose en la consideración cinco aspectos: el sistema electoral y su influencia en la composición política de las administraciones locales; la estructura de la administración local y la distribución de funciones entre los alcaldes y el pleno municipal; el papel de los partidos políticos; los mecanismos de control del ejecutivo local y la participación ciudadana. El estudio subraya especialmente la incidencia que el sistema de elección del alcalde por los concejales tiene en relación con los principios de responsabilidad, legitimidad, transparencia y eficiencia de la gestión local.

Palabras clave

Gobierno local, elección directa de los alcaldes, elección indirecta de los alcaldes, estructura del gobierno local, partidos políticos, participación ciudadana, responsabilidad política.

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1. INTRODUCTION

According to the Constitution Spain is divided into a three-tier structure: the central government, autonomous governments and local governments. The power is divided according to this division. Local governments are comprised of municipalities and provinces.

- Some municipalities are ruled according to a direct democracy system. These are municipalities that contain fewer than 100 inhabitants, or that have historically adopted this system. They are comprised of:
 - a mayor, elected directly by residents.
 - an assembly, comprised of those citizens who are entitled to vote.

In the case of larger municipalities, which are the majority, mayors are elected by the council or according to the following procedure established by the Local Government Act:

- Members of the council must nominate one of their members to be appointed mayor
- The candidate must obtain an absolute majority to be appointed mayor.
- If the required number of votes is not obtained, there is a second-round, in which the candidate who obtains a simple majority is appointed mayor.
- If the required number of votes is not reached, the election system turns towards an automatic election, according to which the person who ranks first on the largest party electoral list is appointed mayor.

Nevertheless, in Spain, an electoral reform in which a directly elected mayor system should replace the system based on council-appointed leaders has been suggested. The reasons for this new system to be implemented are directly related to an attempt to enhance democratic requirements such as transparency, accountability, legitimacy and efficiency.

The debate around directly elected mayors is currently particularly topical (e.g. Bäck, Heinelt, & Magnier, 2006; Bottom & Reiser, 2014; Eckersley & Timm-Arnold, 2014; Elcock, 2008; Hambleton & Sweeting, 2014;), as changes concerning European local governments have recently taken effect in parts of Europe (Page, E. & Goldsmith, M., 1987; Goldsmith, M., 1990,1992; Hesse, J. & Sharpe, L. J.,1991; Denters, B. & Rose, L., 2005; Copus, C., 2006; Bennett, R., 1993; Sánchez Blanco, A., 2003). These developments account for changes in local political leadership and are likely to bring about further change (Bäck, Heinelt, & Magnier, 2006). In this paper, we aim to give a contribution on this issue by discussing the possible effects on local democracy that account for a council appointed mayor system versus a system based on directly elected mayors (Ridao J. & García A., 2015; Mahillo, P. & Galán, A., 2015).

2. FACTORS AFFECTING LOCAL DEMOCRACY

We will focus our analysis on four specific variables: the local electoral system and its influence on the political composition of the local government; the local government structure and the distribution of functions and powers between the mayor and the council; the role of political parties; the scrutiny and accountability of the local government and governance and citizen participation.

These dimensions have been chosen both for their connections with the goals that have often triggered the shift towards the introduction of the direct election of the mayor and because they have been considered as relevant by the main literature.

The Mayoral election system and its influences on the political composition of the government

The election of the Mayor on the basis of a direct election or on the basis of a council appointment have different consequences, which, at the same time affects the composition of the local authority. It is part of this study to analyse how the system adopted can increase political pluralism in councils and foster a different composition of the legislative and executive branches and the relationship between them.

Local government structure and the distribution of functions and powers between the mayor and the council

It is undeniable that the way in which the mayor is elected has an impact on the internal structure of local governments as well as on the distribution of functions between mayors and councils. Accordingly, one of the goals of our study is to determine the effects of a mayoral election system on the internal structure of local governments, their organization and the distribution of functions in order to determine what the difference is in terms of distribution and separation of powers (Denters, B., 2006).

The role of political parties

It is also part of this study to determine how the role of political parties can change, depending on the electoral system and depending on who elects the mayor. The independence of the mayor and the lack of a direct link with a political party make a difference in the role of political parties regarding the decision-making process. The importance of the political parties on the electoral process has been pointed out by other scholars (Bottom & Raiser, 2014), but apart from that, they can also have an influence in the decision-making process, if the connection between the decision-makers and the political parties is close enough to allow such a thing to happen (HM Government, 1993). This is especially true when mayors are chosen within the ruling party's apparatus. Whenever there is a dependence between people in local governments and national parties, the latter hold tight control over their representatives in the local council in all matters, including coalition formation and voting.

Scrutiny, executive action and accountability

The legal mechanisms established to hold the mayor and the executive branch of the local government to account are closely related to the way in which mayors are elected. There is also a close relationship between the effects of such mechanisms on the executive branch of the government and its continuity in power.

Governance and citizen participation

The choice between a directly elected mayor and a mayor appointed by the council has an influence on the participation of citizens in local elections, making them more or less interested in taking part in local elections. Therefore, turnout depends on their perception of the local authority when it comes to proximity to their interests and representativeness. In that sense it is interesting to analyse how the shift to a directly elected mayor system may have an influence on voting behaviour, making voters more interested in taking part in the electoral process (Colin Copus & Michael Dadd, 2014; Ragin, C. C., 1994).

3. A BRIEF DESCRIPTION OF THE SPANISH LOCAL GOVERNMENT SYSTEM: A COUNCIL-APPOINTED MAYOR

The electoral system and its influence on the composition of local governments

Generally speaking, it can be said that the local electoral system in Spain is based on a model, according to which mayors are appointed by the council (Martínez Marín, 1989). Directly elected mayors are an exception that the Spanish constitution specifies for small municipalities (i.e. those with fewer than 100 inhabitants) in which the residents (who have the right to cast their votes) happen to rule the council based on the principle of direct democracy (Martín Retortillo, 1982). Contrary to what happens in other countries, such as the UK, where local councils hold referendums on the question of whether or not to introduce an elected mayor, Spanish authorities are not obliged to consult local residents on their governance arrangements in order to ascertain demand for a directly elected mayoral system.

The Spanish constitution does not state which system is to be adopted by larger municipalities (Jiménez Asensio, 2001), as the parliament has the power to pass statutory legislation (Parejo Alfonso, 1987) to establish a directly elected mayor system or a council appointed mayor system. In that sense, the General Electoral Act, 5, 19/06/1985 establishes a council appointed mayor system, except in those small municipalities, in which a directly elected mayor system is provided by the Constitution (Vallés, 1986).

According to the aforementioned Law, the electorate votes for councillors by choosing from a list of candidates that has been put forward by the political parties, so that voters' choice has mainly to do with the election of the political party they would like to see ruling the council (Sánchez Morón, 1992). In adopting this electoral system, citizens vote for political parties rather than for individuals. The number of seats that each political party obtains in the council is based on a system of proportional representation. The benefits of proportional representation have been highlighted by several authors (Coscolluela Montaner, 2011; Muñoz Machado & Coscolluela Montaner, 1979).

This system implies that the largest party in the local government is successful in forming a coalition and capturing the greatest number of seats, so that it can appoint the mayor. In practice, the mayor is always the leader of the party with the greatest number of seats. The majority of councils are controlled by one of the main political parties or by some coalition of political parties. Thus, the largest political party, or a coalition of parties, forms a majority group which controls the council. The next largest group forms the opposition. The political party that captures the greatest number of seats dominates the decision-making process.

It is a council appointed mayor system, but, if the required number of votes is not obtained, then there is an automatic election, as stated by the Local Government Act (García García, 2011).

The election of the council on the basis of a proportional representation system fosters a plurality of political parties (Mouritzen & Svava, 2002), which makes it difficult to reach agreements between the different political parties, which happen to have a seat in the council. In contests where three or more parties stand, the winning candidate frequently receives fewer than 50 percent of the votes cast. Thus, the electoral system often delivers hung councils, that is, councils in which no single party holds more than half the seats available.

The local government structure and the distribution of functions and powers between Mayor and council

The structure of local authorities may vary from one municipality to another depending on the number of inhabitants. In the case of municipalities with a small number of inhabitants (i.e. fewer than 100) or municipalities that have historically adopted this way of government, the power lies with all the residents who are entitled to cast a vote. They gather in an assembly that has the power to make decisions. This assembly is presided over by a mayor who has been elected by the members of the assembly (García Fernández, 2001; Parejo Alfonso, 2004).

Nevertheless, the system described above is an exception, since the majority of the municipalities adopt a different structure (Fanlo Lora, A., 1990; García Morillo, J., 1998; Mercadal Vidal, 1988; Morell Ocaña, 1988; Norton, A. 1994). This structure is as follows:

1. A mayor and a committee of councillors have executive functions. The committee is chosen by the mayor (Ortega, 1991), that is, the mayor forms a cabinet from among the councillors. The mayor and committee hold most of the executive powers (Copus, C., 2006). Each member of the committee has responsibility for a key area of the authority's functions. However, there are regular meetings of the full council, presided over by the mayor or chairman, which all members of the authority attend. Committee members have responsibility for particular areas of policy, and the mayor can delegate executive powers to such members, individually or collectively. This committee is not required to be politically balanced, since it can consist of members of just one party. The executive can, thus, formally be made up of a single political party or a coalition of parties.
2. The council or backbench councillors represent their electorate, share in the policy and budget decisions of the full council, suggest policy improvements, scrutinize the executive, and pass secondary legislation. Accordingly, the legislative power is held by the council, which is empowered to pass bye-laws. They also have the power to make executive decisions, in particular those that involve a great amount of public money. Therefore, some laws set out a strict division of the functions between the council, and the mayor and the committee, based on the amount of money involved (Calonge Velázquez, 2004-2005).

The relationship between the institutional design of local government and democratic accountability has been pointed out by some researchers (Baena del Alcazar, 2000; Aliende, 1996; Hambleton and Sweeting, 2014). This structure does not feature a complete separation of roles between the executive and the council. The system can make it difficult for the council to reach agreement, since the decision-making process requi-

res a quorum, and this is not always easy to achieve (Muñoz Machado, 2009). The latest reforms have tried to amend this situation by shifting power from the council to the mayor and the committee. At some point, it was thought that more executive powers should be transferred to the mayor and the committee, and this was done at the expense of the council, with the purpose of making it easier for local authorities to make decisions in a quicker and more effective way, according to local needs and interests. This resulted in a redistribution of power between both institutions, which increased the power of the mayor and the committee, even though they are not elected on the basis of a direct election of the mayor by the electorate.

To compensate for the powers that have been transferred to the executive branch, and also to prevent councillors from feeling excluded from the decision-making process, the council has another role: some of the councillors sit on an overview and scrutiny committee, on which there must be at least one councillor running executive arrangements (Parejo Alfonso, 2005). Their membership cannot include executive members of the council, and they must be politically balanced. The role of such committees is to review, scrutinize, make reports on, and issue recommendations concerning matters related to the council's executive functions. The role of overview and scrutiny committees has been enhanced by requiring councils to respond publicly to such committees' recommendations within two months of their having been made.

This is the reason the Local Government Act has been amended several times, in particular in 2003, in an attempt to redistribute the power between the mayor and the committee, and the council. In particular, the local government system that has been most affected by this reform is that of the larger cities. The reform implied transferring greater power to the mayor and the committee, as the executive branch of the local government, so that they should propose the policy framework and implement policies within the subsequent agreed framework. This redistribution of power gives the executive branch of the local government more power to bypass (override) an uncooperative local council. Under these reforms, the role of the full council has been reasserted, particularly with regard to passing key strategies, by setting the policy framework (the array of annual performance plans and strategies relating to such issues as community safety, libraries, and sports), passing the budget, and appointing key officers. Furthermore, a key duty of local councillors is that of overview and scrutiny.

The backbench councillors (or council) are in charge of passing secondary legislation (bye-laws) and controlling the executive. However, the separation of power is not complete. The reform means shifting power from the local council to the mayors, and, as a result, it has changed the decision-making process and the way in which decisions are taken and for whom. The decision-making power of the executive has been increased at the expense of the council. However, to compensate for this, the role of the council has been redefined giving it increased control over the executive. The reforms, which shift power from the council to the mayor and the committee, mean a change in the roles of the council and of the mayor. In any case, this shift or move to a new distribution of power does not represent a change in the power available to the local authority. There has been a redistribution of power, so that the mayor and the committee take over most of the executive power of the council.

The role of political parties

Political parties have an important influence on local government in Spain. This influence is arguably greater than it should be in local governments, as they have a role, not only in the electoral process, but also once the elections have been held, as will be explained later (Hambleton and Sweeting, 2014).

All councillors are elected as members of political parties. Council candidates contest elections on behalf of registered political parties. Once elected to the council, councillors sit in party groups. It is a legal requirement that those standing as candidates for local authorities are members of a party. Political parties decide who is going to run for local elections. In most local authorities, councillors are elected on the basis of the political party that they represent.

Political parties also have an important role when it comes to the election of the mayor, as the person who ranks top on the electoral list is the one most likely to be elected mayor, whether elected by councillors or elected through the alternative system that the Local Government Act stipulates. Mayors are dependent on their political parties because they owe their position to those party. Their principal loyalty is therefore to the party.

However, political parties have an influence, not only on the electoral process, but also once the election has taken place. This is because political parties meet on a regular basis to make policy decisions. The policy decisions of majority parties usually become council decisions in due course, after having been approved by

the council or by the committee. This is a way of enforcing party discipline, which has an effect on the smooth running of the authority.

What has been mentioned above also has an effect on relations between central and local governments. In Spain, the recent history of local government is one of excessive central government intervention. Local governments are often subject to constant reforms directed from the centre. Policy direction over local government tends to reflect a party's national standing in relation to its results at general elections rather than local polls.

Scrutiny of the executive and accountability

In addition to passing laws and making budget-related decisions, the council is also concerned with the efficiency and efficacy of the day-to-day workings of the process of administration. To this end, and through a variety of procedures, the council seeks to scrutinize the activities of those who are responsible for making decisions and implementing local government policy (Sánchez Blanco, 1982). The council is responsible not only for legislating, but also for holding the mayor and the committee to account.

The principal procedures used for this purpose are political accountability mechanisms:

- Questions for oral answers. Oral questions provide the council with the opportunity to question the mayor and members of the committee at meetings. Three days' notice of the proposed questions must be given.
- Select committee. These consist of a number of members, with the various parties being represented according to their proportion of seats in the council. There is a regular or permanent select committee that controls the actions of the executive. The setting up of this committee was due to the shift of power away from the council and to the mayor and the governing committee. This was a way of compensating for the shift of power and the greater power that was transferred to the executive branch of the government. This is the system of checks and balances.

Ad hoc select committees are also possible. They are appointed to investigate and report on specific topics.

These mechanisms are used, respectively, to extract information and explanations from government, to debate government policy and administration, and to undertake detailed inquiries into government operations.

- Vote of no confidence. The drastic sanction of a vote of no confidence is the only method by which the council can enforce collective responsibility (González Trevijano, 1996; Rebollo Puig, 1985; Santolaya Machetti, 1985). It requires the mayor and the governing committee to resign, if defeated by a vote of no confidence. The mayor and the committee will be forced to resign after losing a no-confidence motion, even if only by one vote.

This situation forces the mayor and the committee to resign because it means that they are no longer in effective control of the local government's affairs.

When the executive is defeated by a vote of no confidence, forcing the mayor to resign his post there is no need to hold interim elections, but a new mayor must be appointed. The promotion of a no-confidence motion by a certain number of councillors requires the proposal of a new candidate who will automatically be appointed if the no-confidence motion is successful.

There is no legal requirement for the councillors to remain in the same party once elected. Defections between parties on issues of principle and party discipline happen from time to time. Those councillors who leave their parties can join another party and can thereby cause the mayor to resign from his/her post.

When the vote of no confidence is linked with executive proposals, the procedure for appointing the new mayor is the same as the usual procedure for appointing a mayor (López Pellicer, 1990).

The reason the law states this system is to prevent an impasse in decision-making. The lack of agreement about important issues could hamper the local authority in adopting important decisions that are essential for the community, such as those that concern the budget.

Governance and citizen participation

The turnout for local elections in Spain as an indicator of public interest, and the health of local democracy has recently been a cause for concern, since it is significantly lower than it used to be. In fact, the

local turnout is very similar to that in general elections. The reason the number of votes cast has decreased lately in Spain has to do with the feeling of dissatisfaction towards politics and politicians owing to the recent scandals related to corruption.

The system, according to which the candidate who ranks first on the electoral list usually becomes mayor, enables people to identify the candidate who is running for mayor. Therefore, voters have a perception of representation that has an influence on voting behaviour, making them more interested in taking part in the electoral process (Sánchez Morón, 1992).

4. DIRECTLY ELECTED MAYORS VS COUNCIL APPOINTED MAYORS: EFFECTS ON LOCAL DEMOCRACY

1. One of the main purposes of suggesting a directly elected mayor is to improve local democracy in terms of transparency, accountability, legitimacy and efficiency. However, we have to point out that the achievement of those aims depends, not only on how the mayor is elected, but also on other factors, such as the local electoral law and how the power is divided between the mayor and the council. Institutions matter, and the choice of political-administrative structures makes a difference. In particular, the option of a directly elected mayor implies a redistribution of power between the executive branch of the local government and the council. Thus, this kind of reform strengthens the separation between executive and representative roles and functions; this involves a shift of power in the sense that the mayor and the governing committee are able to make decisions without the council taking part in them. Summing up, the first main effect is that the decision-making process and policy implementation may benefit from the introduction of directly elected mayors in terms of efficiency, as decisions are made more quickly because it is easier to reach agreements.
2. Nevertheless, to stabilize the local government, it is also necessary to establish an electoral system according to which the mayor is supported by the majority of the members in the council, because of the relationship between the role of the council passing secondary legislation and making decisions regarding budgets and policy implementation. In this perspective, a directly elected mayor system must be supported by an electoral system that ensures smooth of the decision-making. This is the reason a first-past-the-post electoral system has been established in Italy. This system guarantees that the majority of seats go to the party of which the mayor is member, even at the expense of the representativeness of citizens, who could be better represented when the electoral system is that of proportional representation. This system can lead to a situation in which a political party dominates the council, but this situation is not the result of an overwhelming advantage in terms of votes cast. From this point of view, legitimacy is based on policymakers providing local services efficiently rather than on the idea of policymakers representing the electorate; in other words, local government action is orientated towards output legitimacy.
3. The separation of roles between the governing committee and backbench councillors is said to enhance efficiency, transparency and accountability. However, the direct election of the mayor is not a requirement in terms of the separation of roles and functions, and the reinforcement of the executive branch of local authorities. Similar effects can be achieved in the context of an indirect election system, which is the case of Spain. Here, the same separation of roles and functions in order to make the decision-making process easier has been possible without having a directly elected mayor. To compensate for the loss of executive functions, the legislative branch of the executive is given more powers to control and supervise the actions of the executive.
4. It has also been argued that the democratic requirements are best met in those cases in which the mayor is directly elected by residents, since in these cases it is understood that the mayor is more legitimate in their role because of the fact that the citizens have elected them directly. At the same time, it is thought that citizens become more involved in elections, because they are voting directly for the person of their choice. The Spanish system shows that the same results can be achieved even in cases in which a mayor is elected by the councillors. The system according to which mayors are elected in Spain implies that the person who comes first in the list is likely to be appointed mayor. Therefore, although this is not a directly elected mayor system, citizens behave and cast their votes following a pattern that is very similar to that of other countries such as Italy, where the system means citizens vote for the mayor directly.
5. Political parties play an important role in those cases in which the election of the mayor follows an indirect election system. Parties are responsible for appointing the candidates who will run for elections, and, in

the case of mayors, the candidate who ranks first in the list is the most likely to become mayor. Thus, the power of political parties to decide on this matter is particularly relevant. Candidates stand for elections on the basis of party positions. This arrangement also plays a decisive role after the elections, since political parties often tend to attempt to influence the decision-making process by persuading councillors or even mayors to make those decisions that best fit with their general policy. This system promotes party discipline among the members of the council, and so policy decisions of majority parties usually become council decisions. In contrast, in those political systems in which mayors are directly elected by citizens, the connection between political parties and mayors tends to be less strong. This system also separates mayors from council politics and reduces the power of parties in policymaking.

6. In terms of accountability, the option of a directly elected mayor or a council-appointed mayor determines the way in which the mayor is held to account. In the case of a council appointed mayor, the local leader is held to account by the full council through a vote of confidence, which is directly related to the way in which they are appointed. Moreover, the shift of power between the mayor and the full council has prompted the reinforcement of those functions of control and scrutiny as a mechanism to compensate for the loss of executive power. In the case of directly elected mayors, they are primarily accountable to the electorate, since the latter has the power to reinstate mayors in their positions by re-electing them at the next elections. In Italy, there are also mechanisms to force the mayor and the governing committee to resign from their posts, but they are unlikely to be used. This matter also raises a problem regarding the capability and legitimacy of the council to remove the mayor from his or her office, since mayors have been elected by voters, not by the council, and it stands to reason that those who have the option to choose the mayor must be also those who hold the power to remove the mayor from his or her post.

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