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POLICY BRIEF

# MIND THE GAP: UNDERSTANDING THE POLICY AND PRACTICE OF HORIZONTAL ACCOUNTABILITY MECHANISMS IN ARGENTINA

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ARGENTINA

This brief was developed by the authors as part of the ELLA Programme. It was developed based on a Regional Evidence Paper [The Deficits in Horizontal Accountability in Argentina: A Tale of two worlds](#) by the same authors, which contains an overview of regional evidence, as well as original data collection and analysis, on a particular research topic. All publications can be found in the [ELLA programme website](#).



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## Mind the gap: understanding the policy and practice of horizontal accountability mechanisms in Argentina

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**W**hile some threats to institutional quality still exist in specific countries, democracy has become the 'only game in town' in Latin America. But institutional weaknesses remain. This Policy Brief explores one of those weaknesses. It looks at the relationship between the executive and the legislature, and examines the question of horizontal accountability. Horizontal accountability expresses the concern for checks and oversight, for surveillance and institutional constraints on the exercise of power between the branches of government. It involves several ways of preventing and correcting the abuse of power. It opens up power for public inspection, forcing it to explain and justify its actions. A key component of horizontal accountability mechanisms is the existence of sanctions. In other words, accountability exists when the actions taken by executive bodies are held subject to oversight from the legislative authorities. But, is there a gap between what the law demands in

terms of accountability and what actually happens? When horizontal accountability performance is low, good governance, transparency and the quality of democracy itself are put in jeopardy.

By studying a set of accountability mechanisms the brief demonstrates that horizontal accountability is working imperfectly in Argentina. Key gaps relate to loopholes in regulations and to low incentives for both the executive and legislature to comply with existing regulations. Recommendations are presented focused on strengthening horizontal accountability mechanisms through an improvement to regulations, policies and institutions. The existence of specific regulations that assign responsibilities, set deadlines and sanctions is of vital importance. The findings and recommendations from the Argentine case have important lessons for capacity building in other democracies as well.

### SUMMARY

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## Accountability: Concepts and Mechanisms

Following their democratic transitions in the 1980s, Latin American countries were faced with the challenge of designing strong, inclusive institutions. Argentina is an interesting case for in-depth analysis as it is among the most socio-economically developed countries in Latin America while the quality of its political institutions is low.

As Mainwaring & Welna (2003) underline, effective accountability mechanisms are key to improving the quality of democracy. Horizontal accountability exists when the actions taken by executive bodies are held subject to oversight from the legislative authorities or directly from the public at large.

Accountability can refer to two dimensions: the means through which citizens, mass media and civil society seek to enforce standards of good performance on officials (vertical accountability), or the capacity of state institutions to check abuses by other branches of government, that is, the requirement for agencies to report sideways (horizontal accountability) (O'Donnell, 1998).

### What is horizontal accountability?

Horizontal accountability expresses the concern for checks and oversight, for surveillance and institutional constraints on the exercise of power between the branches of government. It involves several ways of preventing and correcting the abuse of power. It opens up power for public inspection, forcing it to explain and justify its actions. A key component of horizontal accountability mechanisms is the existence of sanctions.

Accountability has two main implications: (i) answerability, the obligation of public officials to inform about what they are doing, and (ii) enforcement, that is, the capacity of accounting agencies to impose sanctions on power-holders who have violated their duties (Schedler, 1999).

In Latin America, all countries in the region have passed legislation and established specialized independent units in charge of auditing public agencies, ensuring transparency, fighting corruption and requiring accountability for results in the use of public resources (Oszlak, 2006:424). An example of this is that there are provisions for the legislative branch to request information from the executive in Argentina, Brazil, Chile and Mexico. In the latter three countries the regulations set deadlines before which the Executive power has to answer a request for information.

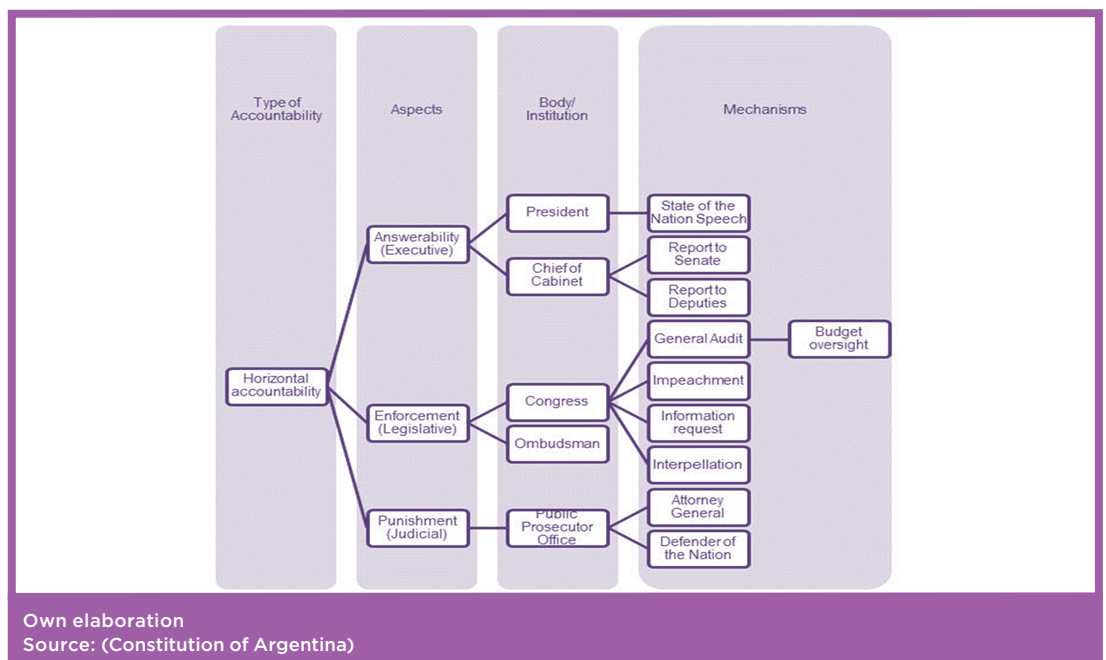
In Argentina the Constitution puts in place several horizontal accountability institutions and mechanisms (see Figure 1).

The poor enforcement of sanctions, and the distance between what the law states and what is actually done, are some of the main weaknesses of democracies in many developing countries. It is important to identify and understand the determinants of the low performance of horizontal accountability that limit transparency and better policy outcomes in Latin America.

In this brief, we focus on the performance of three of Argentina's routine oversight mechanisms that shape the accountability of the Executive to Legislative authorities:

- 1) Reports by the Chief of Cabinet to Congress.
- 2) Congressional information requests to the executive.
- 3) Congressional receipt and approval of National Audit Office reports.

Figure 1. Accountability mechanisms in Argentina



## Looking into the gap: what does the law demand?

In the first place, the Chief of Cabinet is obliged by the Constitution to appear before both chambers of the Congress to answer questions from legislators, alternating monthly his visits to the Senate and to the Chamber of Deputies. It is worth noting that the figure of the Chief of Cabinet is a relatively new feature of the political system, as it was introduced in the 1994 constitutional reform.

Regarding congressional information requests to the Executive, these are an institutional feature that allows legislators to request information from the executive. Requests for information only need the approval of one Chamber in order to be passed to the Executive.

Lastly, the National Audit Office (NAO, *Auditoría General de la Nación*) provides technical support to Congress through its auditing of the financial and managerial operations of the public sector. The NAO produces public reports that are presented to the Mixed Committee of Public Accounts (MCPA) which then decide how to proceed.

## Looking into the gap: what happens in reality?

When it comes to performance, is there a gap between what the law demands and what happens in reality? Our research leads us to believe that this is the case:

### 1. Reports by the Chief of Cabinet to Congress

Since the creation of the figure of Chief of Cabinet, the mandate to report to Congress has only been respected 35% of the time.

Attendance seems to be lower during electoral years, when it drops to 20%. In addition, even though the law states that the Chief of Cabinet should alternate visits between the Chambers every other month, this has not happened. Our research shows that out of every 10 visits, four were to the Lower and six were to the Upper Chamber. One finding is that attendance seems to be higher during Peronist administrations: 55% whereas during the Alianza administration, the only non-Peronist government of the period (which only lasted two years), attendance was lower (33%).

### 2. Congressional information requests to the executive

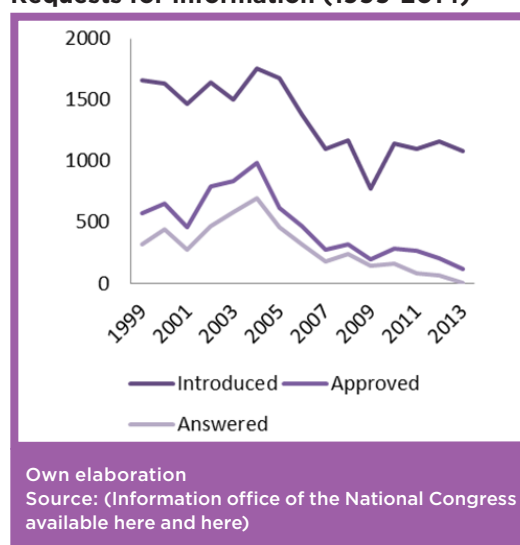
The situation is similar with Congressional information requests to the Executive. Only 35% of requests for information issued during 1999-2013 were approved. Also, although most appro-

ved requests did receive a response (80%), the responses often took over a year.

What is more, this mechanism seems to be getting weaker over time:

The available data shows that the total number of introduced and approved requests for information has been decreasing since 1997. Similarly, the number of requests answered by the executive branch has been decreasing since 2005.

**Figure 2.**  
**Introduced, Approved and Answered Requests for Information (1999-2014)**



### 3. Congressional Approval of National Audit Office reports

Finally, in the 1999-2014 period, 78% of NAO files were approved by the MCPA, which seems to show that the mechanism is working well. However, the average number of days elapsed between the introduction of a NAO file and its approval is 151. Approximately five months is an eternity in political terms. In this span of time the urgency of matters fade, the priority agenda shifts and along with it, the attention of the media and public opinion. In addition, MCPA approval of NAO files has seldom resulted in further administrative investigations or the filing of criminal cases against public officials.

**Some facts regarding Congressional information requests**

1. Who you are matters: Opposition legislators are less likely to have their requests for information approved. Also, information requests have a higher probability of being approved when they are initiated in the Senate or by Peronist legislators.
2. Who you are with matters: The number of party groups sponsoring a request matters. If there is more than one group, the request is more likely to be approved.
3. Timing matters: There are incentives coming from the electoral cycle. When presidential elections are near, requests for information have less probability of being approved.

**Why is there this gap in accountability?**

**The lack of effectiveness in Argentina's horizontal accountability mechanisms arises from shortfalls in regulations, institutions and incentives.**

**1) Chief of Cabinet's visits to Congress**

- 1. Unclear regulations:** Each Chamber of Congress has its own procedures to regulate the same mechanism, creating multiple, and sometimes contradictory, rules. Also, it is not clear which branch of government arranges the meetings or how the informative sessions should be conducted.
- 2. Lack of sanctions:** The lack of sanctions (institutional or social) for noncompliance means that the Chief of Cabinet's office has limited incentives to comply with regulations. On the one hand, the Chief of Cabinet risks nothing by not showing up and on the other, he or she is safeguarded from the scrutiny of opposition legislators who can ask compromising questions during the visit.
- 3. Difficulty in arranging the dates for the visits:** As the agenda of both chambers is not synchronized it is difficult to set dates for the visits to Congress.
- 4. Amount of questions asked:** Legislators tend to send a great number of questions (around 700) to the Chief of Staff for each visit, covering a wide array of policy areas and government decisions, meaning scrutiny is much dispersed.
- 5. Lack of coordination:** Lack of coordination

between legislators leads to the formulation of questions that are repeated or perhaps not even on the current political agenda.

**2) Congressional information requests to the executive**

- 1. Lack of sanctions:** The perception of a lack of sanctions for noncompliance acts as a negative incentive for the executive to deliver responses to the requests for information submitted by the Legislative.
- 2. Lack of a deadline:** The absence of deadlines for the Executive branch to respond to requests for information negatively affects the likelihood that the executive will respond in a timely manner.
- 3. Chaotic procedures:** The procedures for dealing with requests for information are intricate and leave much room for ambiguity.

**3) Approval of NAO files by Congress**

This mechanism is generally working well but some procedural features hinder its effectiveness.

- 1. The incumbent trap:** When the NAO is led by a member of the opposition, its files must be approved by the MCPA, which tends to follow congressional majorities and is therefore usually headed by the incumbent party. Thus, the latter may be able to prevent the approval of any deeply critical NAO files.
- 2. Lack of use:** Even when NAO reports are produced on time and according to the agreed plan, use of the reports is poor within the chamber. Only when external actors such as the media shed light on some reports, do these NAO reports have much impact.
- 3. Lack of sanctions:** NAO reports are not binding. As such they do not have immediate repercussions neither for the audited agency nor for the workings of Congress itself.

**Table 1.**  
**Proposed reforms**

	Answerability	Enforceability
<b>Regulations</b>	<p>Regulations must be specific, establishing which branch of government is the one that sets the meetings and how the informative sessions should be held.</p> <p>Regulations must establish deadlines and sanctions.</p> <p>Regulations should promote dialogue and coordination between and within both chambers.</p>	<p>Regulations must be specific, assigning clear responsibilities and establishing deadlines and sanctions for noncompliance.</p> <hr/> <p>Congressional committees related to control faculties should be coordinated by opposition legislators.</p>
<b>Institutions</b>	<p>A national development plan will define the policy priorities and targets that the executive aims to achieve.</p> <hr/> <p>Argentina needs to improve its monitoring and evaluation policies. Strengthening the national statistical agency and promoting evidence based decision making is key.</p>	<p>The specialization of legislators should be promoted by lowering the number of committees.</p> <hr/> <p>Better dialogue between two branches could be promoted by putting in place routines to exchange information and promote coordination at lower levels of staffers.</p>

Table 1 summarizes a set of proposed reforms aimed towards achieving a better performance of HA mechanisms.

In the case of the Chief of Cabinet’s visits to Congress, we found that even when there are regulations specifying how this mechanism works, the regulations are vague and ambiguous. Having specific and harmonized rules would increase the incentives for the Executive to comply, as the cost of making and delivering the report would be reduced. In addition, a smaller set of questions and topics would allow for deeper analysis of the issues and would foster better dialogue on policies rather than politics.

Also, the formulation of a government-wide development plan is crucial for better control of government action. This would define the targets that the Executive aims to achieve during government and set the policy priorities. Control by Congress would be easier as it would be able to monitor the government, and track a set of objective indicators. However, for this to be possible, Argentina needs to improve its monitoring and evaluation capacities and policies.

In Congress, the regulations for congressional requests for information must also be improved. There is a need for clear deadlines and the enforcement of sanctions. Legislators have been interested in these reforms since 1983. Almost 30 legislative proposals have been introduced to es-

tablish a deadline by which the Executive is obliged to answer requests for information. These proposals also propose sanctions if the Executive branch does not comply.

The control function of Congress would also be strengthened if the Committees involved, for example the MCPA, were always controlled by opposition parties. This would mitigate the fact that opposition legislators face more difficulties in having their requests for information approved.

However, better control will not be possible without better capacities among legislators. Reducing the number of committees in Congress would allow legislators to become more specialized on topics. This would not only lead to legislative proposals that are technically better but it would also improve the quality of the requests for information, because they will be more specific and accurate. As such, they would challenge the Executive more than they do today.

Finally, as Calvo (2014) suggests, putting in place routines that facilitate the greater exchange of information and promote coordination between legislators (and their staff) and mid and low-level public officials in the executive (for example, directors and technical staff) would improve the level and quality of dialogue between both branches.

## Closing remarks – some good news

Despite the pitfalls mentioned in this brief, there is also some good news:

Opposition legislators have introduced 72 % of the total number of congressional requests for information to the executive, and are responsible for 74% of approved requests. This shows that, in theory at least, congressional requests for information are being used to in line with their legal objective of scrutinizing the incumbent administration.

On the same lines, even when NAO files are blocked by the incumbent-led MCPA, the institution employs other mechanisms to help Congress fulfill its function of horizontal accountability. Legislators can ask the NAO for information and

receive quick and specific answers.

These two examples show that **even though there is a need for improvement, these can build on current mechanisms that are broadly fulfilling their functions.**

Modern democracies must constantly reflect on their practices to guarantee transparency and good governance. When asked to name the causes behind the decision of the executive to answer some requests for information and to refuse others, the perception of former Chiefs of Cabinet and MPs is that much depends on the ministry targeted for the information request, as there is no general practice. **This arbitrariness is what must be avoided and what strong regulations and institutions can come to address.** Only in this way will it be possible to **achieve an improved functioning of existing mechanisms.**

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The opinion of the authors does not necessarily reflect the opinion of all the members of CIPPEC on the topic under analysis.

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