



Artificial Intelligence and Participation in Latin America: The National AI Strategies

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ACKNOWLEDGMENTS

Our deepest thanks go to the many individuals and organizations who contributed to the production of this work and who helped us better understand the specificities of stakeholder engagement in the National Artificial Intelligence Strategy development process of each country studied. We sincerely thank: Data Privacy (Brazil), Centro de Ensino e Pesquisa em Inovação (CEPI) – Fundação Getulio Vargas, Escola de Direito de São Paulo (Brazil), Artigo 19 (Brazil); Grupo de Estudios en Internet, Comercio Electrónico, Telecomunicaciones e Informática (GECTI) – Universidad de los Andes (Colombia); Carolina Gainza, Associate Professor of the School of Creative Literature and Director of the Digital Laboratory, Universidad Diego Portales (Chile); Danielle Zaror, member of the Public Observatory for Algorithmic Transparency and Inclusion (Chile); Patricio Velasco, Project Methodologies and Evaluation Coordinator, Derechos Digitales (Chile); Alejandra Erramuspe, Ex Director of Governance at the Agencia de Gobierno Electrónico y Sociedad de la Información y del Conocimiento – AGESIC (Uruguay); Daniel Carranza, Director of DATA Uruguay (Uruguay); and Matías Jackson (Uruguay).

This report was prepared by Derechos Digitales, with support from the International Development Research Centre (IDRC).



Canada

Since 2019, Derechos Digitales has been part of the IDRC's Cyber Policy Centres network, together with leading organizations in technology and public policy issues in the Global South. This report comes under the "Artificial Intelligence and Inclusion" area of work; for more information on this project, please visit <https://ia.derechosdigitales.org/en/>

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February 2022

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EXECUTIVE SUMMARY

During 2021, several Latin American countries presented their National Artificial Intelligence Strategies or Policies, in an effort to establish guidelines for implementing this technology, which was already being applied in specific cases in some countries.

It is commonly known that one of the recommendations for achieving sound implementation of a public policy in a country is the need to have participation in its development from the largest possible number of stakeholders. This recommendation is even more relevant when it comes to the use of technologies with the potential for producing unwanted encroachments on individual rights, as is the case with Artificial Intelligence.

This investigation was conducted to understand the level of stakeholder participation in development of the National Artificial Intelligence Strategies of Brazil, Colombia, Chile and Uruguay. In approaching this question, data for analysis included public information obtained from official institutional web sites in the countries under study, along with information provided by participants in the consultation processes in each country.

One main conclusion we can highlight is that efforts were made to create spaces for stakeholder input, using basic mechanisms for participation such as receiving comments via on-line platforms or e-mail. However, these efforts remain insufficient to empower citizens in decision-making on public policies that could directly affect the enjoyment of their rights.

In fact, it bears mentioning that these consultation processes continue to contain weaknesses such as the lack of effective inclusion of historically marginalized groups and of people with disabilities. Also lacking are effective transparency mechanisms that would make it possible to know the content of decisions made regarding the comments offered. At the same time, there are problems with tracking the end use of these comments, in terms of their acceptance or rejection and the grounds for such determinations.

This document has the following structure. A first section with the case studies of the four countries briefly describes each national strategy. It includes general information and a summary description of the strategies' objectives and lines of action.

The second section describes the process of developing the digital strategies. Particular focus is placed on evaluating the degree of stakeholder engagement in terms of the following criteria: accessibility and openness; information and transparency; diversity; effectiveness of the consultation process; effective public engagement; and decision-making accountability and traceability.

The third section briefly evaluates the outcome of the engagement process. To this end, a description is given of the participants, categorizing them into civil society, private sector, public institutions, academia, technical community and natural persons. The percentage of comments made by each of the categories is presented, along with the informants' assessment of whether or not they feel

their input was taken into consideration in the final national strategy document.

Then, a critical comparative evaluation of the results of the cases is presented, looking at the design of the engagement process and the verified results.

Finally, some conclusions and recommendations are offered on the degree of multi-stakeholder participation, which could provide more input for future digital public policymaking processes. The objectives of the recommendations are as follows:

1. Incorporation of **participation mechanisms starting with the public policy design phase**, as well as in later stages of the development process.
2. Incorporation of mechanisms promoting the **representation of participants from different genders, from historically marginalized groups and from groups distant from urban centers**.
3. Incorporation of off-line mechanisms for the publication of announcements, the delivery of documents and the receipt of comments, to complement the on-line tools, keeping in mind the **significant digital gaps**.
4. **Review of internal processes for implementing public consultations** to identify errors in communication of the objectives, rules of procedure, etc.
5. **Incorporation of stages for dialog and evaluation of the public policies in different phases** to promote the correction of errors or the amplification of emerging elements.
6. Maximization of **mechanisms for comment accountability and traceability**.

I. INTRODUCTION

Governments around the world are increasingly proposing or promoting the implementation of Artificial Intelligence (AI) technologies to deliver services to citizens more efficiently. In this rush, different projects using this technology have been implemented in the public sector in areas ranging from education, health and employment to security and more. In Latin America, we also find a few examples, such as the National Employment System (Brazil), the Child Alert System (Chile), the PretorIA Project (Colombia) and the CoronavirusUY application (Uruguay), to name just a few.¹

However, this technology presents challenges that must be analyzed before fully incorporating it into a government's public service. There are plenty of examples proving that, in the absence of public policy or regulations based on transparency, citizen engagement, human rights and accountability, this technology is not entirely harmless and can affect rights and democratic processes, reinforce prejudices and increase the social gap. These examples demonstrate that when certain technologies are adopted without due attention to these criteria, instead of efficiency in the public sector increasing, violations of citizens' rights may occur,² with a high likelihood of "harms to fundamental human values."³

The Latin American Development Bank highlights three areas of government responsibility where data and AI can be best used: to improve the formulation, implementation and evaluation of public policies; to improve the design and delivery of services to citizens and companies; and to improve internal management at governmental institutions.⁴

In this context, some governments have taken on the task of designing national Artificial Intelligence strategies to promote the use of this technology and take advantage of its benefits responsibly. In Latin America, countries such as Argentina, Brazil, Colombia, Chile, Uruguay, Mexico and Peru have developed or are in the process of developing such strategies. In their development, some of these countries have adopted the Organisation for Economic Co-operation and Development

1 A study on these cases can be found at <https://ia.derechosdigitales.org/casos/>

2 Venturini, Jamila; Velasco, Patricio. Decisiones automatizadas en la función pública en América Latina: Una aproximación comparada a su aplicación en Brasil, Chile, Colombia y Uruguay. Available at: https://ia.derechosdigitales.org/wp-content/uploads/2021/03/CPC_informeComparado.pdf. Accessed on November 3, 2021.

3 Latonero, Mark. Governing Artificial Intelligence: Upholding human rights & dignity. Available at: https://datasociety.net/wp-content/uploads/2018/10/DataSociety_Governing_Artificial_Intelligence_Upholding_Human_Rights.pdf, p. 2. Accessed on November 3, 2021.

4 Latin American Development Bank (CAF, formerly Corporación Andina de Fomento). EXPERIENCIA. Datos e Inteligencia Artificial en el sector público, 2021. Available at: <https://scioteca.caf.com/handle/123456789/1793>. Accessed on November 5, 2021.

(OECD) Principles for responsible stewardship of trustworthy AI,⁵ and more recently the United Nations Educational, Scientific and Cultural Organization (UNESCO) AI Ethics recommendations, adopted in November 2021 by the 193 member states.⁶ This construction of national strategies takes place in parallel with other debates over, for example, bills to regulate the use of AI.⁷

The participation of multiple stakeholders is important in drafting these policies. But it is even more important that this participation be real and effective. And while there may be debate over how to determine that a participatory process meets these characteristics, it is true that one good way to do it is for the participation to overcome the obstacles that have commonly been identified by some authors,^{8,9} such as the lack of political will from authorities to incorporate mechanisms for participation; lack of adaptation of the institutions to incorporate these mechanisms; civil society organizations' economic difficulties for participating in consultation processes; and the disenchantment of these organizations with participating, due to previous experiences in which their proposals were not taken into account.

The purpose of this comparative work is to evaluate the degree of citizen engagement in the development of national AI strategies in four Latin American countries (Brazil, Chile, Colombia and Uruguay), to identify good practices and errors and to subsequently offer a recommendation guide. The choice of these countries is based on their having finished and published the policies. To measure the degree of participation, a matrix was developed containing a series of criteria for evaluating the different levels of participation, crafted based on a literature review. This matrix was completed with information received from local informants who participated in the strategy development, with the addition of information taken from official documents available on the Internet. A qualitative analysis was applied to interpret—based on the quantity of criteria identified in each strategy—the degree of stakeholder engagement, in both the process of drafting the document and the outcome of the participatory process, as described in this report's methodology section.

5 OECD. Recommendation of the Council on Artificial Intelligence. Available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449>. Accessed on November 3, 2021.

6 UNESCO. Recommendation on the ethics of artificial intelligence. Available at: <https://en.unesco.org/artificial-intelligence/ethics#recommendation>. Accessed on December 18, 2021.

7 Souza, Michel Roberto. Inteligencia Artificial 2021: desarrollos importantes en el marco legal internacional. Available at: <https://www.derechosdigitales.org/17396/inteligencia-artificial-2021-desarrollos-importantes-en-el-marco-legal-internacional/>. Accessed on December 18, 2021.

8 Jaña, Soledad. Los Problemas para la Participación Ciudadana en el Ámbito Municipal, en *Nociones de una Ciudadanía que Crece*. Correa, Enrique; Noé, Marcela (Eds.), Santiago, Chile, FLACSO-Chile, 1998.

9 Viollier, Pablo. La Participación en la Elaboración de la Política Nacional de Ciberseguridad: Hacia un nuevo marco normativo en Chile. *Derechos Digitales y Global Partners Digital*, 2017. Available at: <https://www.derechosdigitales.org/wp-content/uploads/ciberseguridad.pdf>. Accessed on November 5, 2021.

2. METHODOLOGICAL APPROACH: CRITERIA FOR EVALUATING THE MULTI-STAKEHOLDER ENGAGEMENT PROCESS IN THE DESIGN OF PUBLIC POLICIES

2.1. Importance of multi-sector engagement in the design of Public AI Policies

Multi-stakeholder participation is important in the creation, use and implementation of AI in the public sector, inasmuch as it serves two goals: overcoming the challenges that need to be approached from different sectors and interests, and democratizing the integration of AI, where the inclusion of public interests acts as a counterweight to government power.

In an analysis of 49 documents containing AI-oriented policies, Ulnicane, et al., mention that in those documents, “...public engagement is prescribed as a solution to address concerns about concentration of power, increases in inequality, lack of diversity and bias.”¹⁰ And, within this mechanism, the need to call on a greater variety of people is emphasized as a key way to fight against some of the doubts held regarding AI.

As described above, the goal of this comparative study is to assess the degree of citizen engagement in the development of national strategies to identify best practices and errors. To this end, four Latin American countries were chosen: Brazil, Chile, Colombia and Uruguay. This assessment is focused on the engagement process in the preparation of national AI strategies and on the outcome of this process.

2.2 Types of engagement in decision-making processes

There are several definitions of what is understood as public participation, as well as synonymous terms that are used interchangeably in the specialized literature. For example, the **Council of Europe** defines civil participation as “the engagement of individuals, NGOs [non-governmental organizations] and civil society at large in decision-making processes by public authorities.”¹¹ The **Organization of American States**, in turn, understands it as “all interaction between government and civil society, and includes the process by which government and civil society open dialogue, establish partnerships, share information, and otherwise interact to design, implement, and evaluate development policies, projects, and programs.”¹² However, regardless of the diversity in terminology, the elements they have in common can be noted as: (a) it implies receiving “input”

10 Ulnicane, Inga, et al. Framing governance for a contested emerging technology: insights from AI policy, *Policy and Society*, 2021, 40:2, 158-177, DOI: 10.1080/14494035.2020.1855800. p. 170

11 Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807509dd. Accessed on November 4, 2021.

12 Available at: https://www.oas.org/dsd/PDF_files/ispenish.pdf (English) and https://www.oas.org/dsd/PDF_files/ispspanish.pdf (Spanish). Accessed on November 4, 2021.

from the public; and (b) citizens have influence, whether individually or through interest groups, in the final result of decisions that affect their lives.

The extent to which participatory policymaking can lead to real, meaningful participation varies considerably from case to case, and a continuum can be traced to illustrate the levels of engagement achieved with different process designs. One such continuum, outlined in a Food and Agriculture Organization (FAO) document,¹³ suggests seven different levels:

Table 1. Levels of engagement and their characteristics

| Levels of engagement | Characteristics |
|------------------------------------|--|
| Contribution | Voluntary or other forms of input to pre-determined programs and projects. |
| Information sharing | Stakeholders are informed of their rights, responsibilities and options. |
| Consultation | Stakeholders are given the opportunity to interact and provide feedback and may express suggestions and concerns. However, analysis and decisions are usually made by outsiders, and stakeholders have no assurance that their input will be used. |
| Cooperation and consensus building | Stakeholders negotiate positions and help determine priorities, but the process is directed by outsiders. |
| Decision-making | Stakeholders have a role in making decisions on policy, project design and implementation. |
| Partnership | Stakeholders work together as equals toward mutual goals. |
| Empowerment | Transfer of control over decision-making and resources to stakeholders. |

The above categorization is useful for illustrating the depth of impact of multi-stakeholder engagement and unveiling the political narratives behind the activation of this participation.

The objectives for designing the engagement process can be defined in terms of the answers to questions formulated for the indicated design: What is the main objective of the public engagement exercise? To inform or to educate? To gather information and/or perspectives to debate using dialog? To enable those involved to participate fully in complex issues as a partner in the implementation of solutions?

Based on those answers, Rowe and Frewer (2000) propose a simplified categorization that differentiates three kinds of public participation: **communication, consultation and engagement**,

13 Karl, M. Cited by Jennifer Rietbergen-McCracken, Participatory Policy Making. Civicus. 2010. https://civicus.org/documents/toolkits/PGX_F_ParticipatoryPolicy%20Making.pdf

depending on the flow of information between participants and sponsors, and with it the various results in terms of the efficacy/utility, quality, representativity and transparency of the engagement process.¹⁴ This categorization can be useful when it comes to evaluating the engagement processes in the AI strategies and policies proposed by this study.

To characterize the degree of engagement, an evaluation matrix was developed containing six criteria taken from a review of documents with guidelines or criteria for the evaluation of public policies. This matrix was sent to the informants in each of the four countries evaluated, for them to fill out. Likewise, official documents available on the Internet were used to complete the matrices.

2.3. Criteria for evaluating the engagement process

The criteria for evaluating the degree of participation, contained in the evaluation matrix, are as follows:

Accessibility and openness: Used to verify whether the publication of the announcement regarding the strategy's development (invitation to stages prior to the adoption of the document) and a summary or the entirety of the draft were accessible to diverse groups (e.g., there were no language barriers). Also whether this dissemination was done using different channels and if the consultation process was adapted to the groups' needs in order to overcome obstacles that could have impeded stakeholder participation, such as physical, financial, geographic, cultural or linguistic barriers, or those based on gender, race, religion or sexuality, or due to bureaucracy or administration. In turn an attempt was made to confirm the mechanisms used to foster meaningful input to the process: in-person meetings for people with disabilities or geographically distant communities; whether the text of the consultation was adapted for people with reduced sight; or if videos were prepared for people who cannot read written texts, to cite just a few examples.

Information and transparency: Attempts to verify if dissemination of the announcement of the strategy's preparation, as well as a summary or the entirety of the draft document, were publicly available to any stakeholder or if they were only available via closed invitation. Also whether all participants registered for the consultation had the same opportunity to provide feedback on the document; whether power and knowledge differentials among the different groups interested in participating were taken into account, and whether instances of capacity building for Civil Society Organizations (CSOs) or unique participants were held; whether the announcement of the consultation was widely disseminated and with how much lead time; whether the informational content was adequate for enabling the stakeholders to prepare and participate; whether the public consultation was conducted in more than one format (mail, in-person or on-line discussions, etc.); and finally, whether multiple mechanisms were guaranteed for sending feedback and verifying how much time was available to send it.

14 Rowe, G., and L.J. Frewer. 2000. "Public Participation Methods: A Framework for Evaluation." *Science, Technology, & Human Values* 25 (1): 3-2.

Diversity: Attempts to verify if there was egalitarian representation of different genders among participants and if any mechanism for promoting this representation was considered; whether there was representation of historically marginalized groups and groups distant from urban centers, and whether any mechanism for promoting this egalitarian representation was considered; as well as confirming the percentage of participation from historically marginalized groups and those of different genders as compared to other stakeholders.

Effectiveness of the consultation process: Seeks to confirm what the objective communicated by the government agencies coordinating the process was with respect to the process's utility, and whether the objectives and rules of engagement were communicated clearly during the process, as well as verifying the level of satisfaction among the civil society organizations and individuals involved in the process, with regard to the government agencies' stated expectations.

Effective public engagement: Seeks to identify the number of civil society organizations or unique participants engaged in the process and the number of contributions received, as well as to determine whether there was political independence among the CSOs or unique participants involved in the process, where the majority of participants in the process were not subject to stated or publicly known conflicts of interests due to affinity with specific economic or political groups. **Decision-making accountability and traceability:** Attempts to confirm whether a grounded explanation was provided on the acceptance or rejection of stakeholder comments; if the contributions to the consultation process were published; if the discussions and decisions made during the consultation process were documented and disseminated publicly and completely; and finally if reference was made to the possibility of additional stages of dialog or iteration for later review of the public policy.

2.4 Criteria for evaluating the outcome of the engagement process

As a second stage of analysis, now on the results of the engagement process, the methodological structure used in an earlier evaluation of Chile's Cybersecurity Policy was adopted.¹⁵ However, it was necessary to make a small methodological adjustment to accommodate the fact that the current study is comparative. Evaluation of this item depends on the level of transparency and accountability confirmed by the responses to the criterion described above regarding "Decision-making accountability and traceability." Subsequent steps depend on an initial question regarding the accountability and traceability of decision-making. In other words, if there is traceability and accountability, and if this information is public, we can objectively evaluate the data and verify the coincidence between the draft document, the contributions made and the final version of the strategy, to determine if the input was incorporated into the strategy. In cases where this information is not available, the informants provided structured interviews to determine stakeholders' assessment of whether or not their input was considered, and thus determine the level of satisfaction with the processes' results among the CSOs and individuals involved.

15 Viollier, Pablo. La Participación en la Elaboración de la Política Nacional de Ciberseguridad: Hacia un nuevo marco normativo en Chile. Derechos Digitales y Global Partners Digital, 2017. Available at: https://www.gpc.org/sites/default/files/ciberseguridad_0.pdf

The selected criteria and the questions for informants were formulated with the goal of verifying: (1) Characterization of the participants, divided into six categories: civil society, private sector, public institutions, academia, technical community and natural persons; once categorized, the percentage of comments made by each of the categories was sought; (2) comments by category; (3) an assessment of the contributions by the participating actors.

These criteria allow us to provide important indicators: whether the participants consider that their input was taken into account in the development of the strategy or is otherwise reflected in the final document, as well as identifying the principal obstacles to having the input considered in preparing the strategy or otherwise reflected in the final document.

Once the information is gathered, the quantity of criteria identified in each of the strategies is verified. After processing the data, a qualitative analysis is applied to determine the degree of stakeholder participation, both in the process of preparing the document and in the outcome of the engagement process. The greater the number of criteria achieved, the greater the degree of participation assigned.

3. CASE STUDY ON NATIONAL ARTIFICIAL INTELLIGENCE STRATEGIES

This section presents the case studies.

For each case studied in this investigation: (i) the national strategy (including general information), its objectives and lines of action will be briefly described; (ii) the public engagement processes will be assessed, based on the criteria described in the methodology section of this report; and (iii) a brief evaluation will be made of the outcome of the engagement process.

The information for evaluating the criteria in this section was entirely provided by direct participants in each country's consultation process.

3.1. Brazil

3.1.1. Brief description of the Brazilian Artificial Intelligence Strategy

The Brazilian Artificial Intelligence Strategy (Estratégia Brasileira de Inteligência Artificial, EBIA)¹⁶ was published on April 6, 2021.¹⁷ It was developed in three stages: the first comprised the procurement of a consultant specialized in Artificial Intelligence; the second focused on a national and international benchmarking process;¹⁸ and the third stage encompassed the conduct of a public consultation via the federal government's electronic platform, from December 12, 2019 to March 3, 2020.

The EBIA states as its objective “...to boost development and use of technology in order to promote scientific progress and the solution of specific problems in the country, identifying priority areas

16 Brazil. Estratégia Brasileira de Inteligência Artificial. Available at: https://www.gov.br/mcti/pt-br/acompanhe-o-mcti/transformacaodigital/arquivosinteligenciaartificial/ia_estrategia_diagramacao_4-979_2021.pdf. Accessed on November 3, 2021.

17 The EBIA was established by Ministry of Science, Technology and Innovation (Ministerio de Ciencia, Tecnología e Innovación, MCTI) Ordinance No. 4.617 of April 6, 2021. Available at: https://www.gov.br/mcti/pt-br/acompanhe-o-mcti/transformacaodigital/arquivosinteligenciaartificial/ia_estrategia_portaria_mcti_4-617_2021.pdf. Accessed on November 3, 2021.

18 In the public arena, benchmarking is defined as the continuous and systematic process through which public services identify—based on a detailed phase of in-depth analysis—areas for improvement and make internal and external comparisons. The goal is to incorporate actions with shared objectives, in harmony with the government's general objectives, and to achieve cooperation among administrations in the network, in order to provide greater value to end users; and to procure the planning of improvements (Marchitto, 2001 and 2003, quoted by Del Giorgio Solfa, 2011).

with the greatest possibility of achieving benefits.”¹⁹ (Authors’ translation).

The EBIA is based on nine topical areas divided into three crosscutting axes and six silos. The crosscutting axes are: (1) Legislation, Regulation and Ethical Use; (2) AI Governance; (3) International Aspects. The silos are: (1) Preparation for a digital future (Education); (2) Labor force and training; (3) Research, development, innovation and entrepreneurship; (4) Application in productive sectors; (5) Application in public authorities; and (6) Public Safety.

The ordinance setting up the EBIA²⁰ also defines that the MCTI is responsible for (i) creating governance instances and practices to prioritize, implement, monitor and update the strategic actions defined in the EBIA; (ii) coordinating and establishing actions that facilitate the strategy’s implementation; (iii) inviting the public sector, private sector and academic institutions to support it in strategic actions; (iv) preparing evaluation reports on the implementation of strategic actions; (v) disseminating the reports; and (vi) assessing the frequency of updating the EBIA. In addition, the EBIA Steering Committee was created, which includes the MCTI and the MCTI/EMBRAPII AI Innovation Network, as well as participation by invited institutions.²¹

3.1.2. Evaluation of the engagement process

Accessibility and openness: Development of the strategy was announced on both the MCTI web page and on Twitter; the same happened with the draft strategy, which was made available on the same channels and was available only in Portuguese.

One positive aspect was that the accessibility measures for people with hearing disabilities—known as VLibras—was maintained.²²

19 Ministério da Ciência, Tecnologia e Inovações Secretaria de Empreendedorismo e Inovação (Brazil). Estratégia Brasileira de Inteligência Artificial. July 2021. p. 4.

20 Brazil. MCTI Ordinance No. 4.617, of April 6, 2021. Available at: https://www.gov.br/mcti/pt-br/acompanhe-o-mcti/transformacaodigital/arquivosinteligenciaartificial/ia_estrategia_portaria_mcti_4-617_2021.pdf. Accessed on November 3, 2021.

21 Brazil. Inteligência Artificial Estratégia - Governança. Available at: <https://www.gov.br/mcti/pt-br/acompanhe-o-mcti/transformacaodigital/inteligencia-artificial-estrategia-governanca>. Accessed on December 18, 2021.

22 The VLibras suite is a set of free tools and open source coding that translate digital content (text, audio and video) in Portuguese to Brazilian Sign Language (Língua Brasileira de Sinais, Libras), making computers, cell phones and web sites more accessible to deaf people. Authors’ translation. Available at: <https://www.gov.br/governodigital/pt-br/vlibras>. Accessed on December 5, 2021.

In terms of identified barriers to participation, our informants (members of civil society and academia) divided their assessment between two of the sub-criteria for technological barriers and administrative/bureaucratic barriers.

Regarding technological barriers, one of the informants stated that the web site was not intuitive and made navigation among the different topics under consultation difficult.²³ In addition, they mentioned that the contributions were made by filling in text boxes linked to specific topics in the strategy, which made effective social participation harder, since this format is more appropriate for public consultations in which the managing agency presents a basic text and allows people to make comments on specific actions and provisions. The process would have been easier if contributors could have presented complete texts in separate documents. However, another informant mentioned that they did not encounter any barriers in this vein, since they could navigate on the site to add comments with no major problems.

In terms of administrative/bureaucratic barriers, one of the informants mentioned that they did not receive notification of public hearings to discuss the consultation topics, nor was there time to speak to their authors. The other informant said they did not encounter barriers of this kind, since registration on the site for presenting responses was completed with no major problems.

For these informants, there were no language barriers, since the content was available in Portuguese; neither were there geographic barriers, given that the process took place on line, with no in-person events. They didn't identify any financial barriers, since, as one of the informants stated, they had the equipment necessary for participating on line. Aside from the barriers mentioned by one of the informants, no other obstacles of any kind were identified.

As a negative aspect, it should be pointed out that, according to the informants, no mechanisms intended to foster meaningful input were used in the process, beyond the accessibility tools mentioned above. Furthermore, these tools were already in place prior to the consultation.

Information and transparency: The invitation to participate in the development of the EBIA was public. The period during which the consultation was opened to receive input ran from December 12, 2019 to March 2, 2020 (81 days), a reasonable period for this purpose. The consultation was exclusively handled on line: the sole means for offering comments was the Participa.br government web site.

Regarding the relevance of the informational content in the document made available for participating in the consultation, the informants mentioned, on one hand, that the most relevant aspects of the consultation corresponded to topics that had already been addressed by the actors involved in the agenda and, on the other, that there was a presentation with a summary of the consultation. However, both informants pointed out a few weaknesses, such as: (a) dissemination

23 Brazil. Consulta pública: Estratégia Brasileira de Inteligência Artificial - Legislação, Regulação e Uso Ético. Available at: www.participa.br/estrategia-brasileira-de-inteligencia-artificial/estrategia-brasileira-de-inteligencia-artificial-legislacao-regulacao-e-uso-etico. Accessed on December 18, 2021.

of the invitation was not broad enough; (b) there was no opportunity for in-depth debate, since there was no public hearing; and, (c) some links containing the strategy's lines of action (each line had its own page) were broken.

As a positive aspect we can mention that all registered participants had the same opportunity to provide feedback on the document.

As a negative aspect, it must be pointed out that no attention was paid to power and knowledge differentials among the people interested in getting involved, via instances of capacity building for CSOs or unique participants.

Diversity: For this criterion, the evaluation is negative, since in addition to having no egalitarian representation of different genders—given that 57 men and 11 women participated (unique participants)—there were no mechanisms for promoting the representation of different genders, either.

This also happened with historically marginalized groups and groups distant from urban centers, for whom no mechanisms were identified for fostering their representation.

According to both the informants and the database we consulted, it was not possible to identify the representation of historically marginalized groups based on the contributions. Thus, it is not possible to know if there was equal representation of these groups, nor to know their percentage of representation.

Effectiveness of the consultation process: The informants stated that the objectives communicated to them regarding the significance of the process are described in the document containing the EBIA.²⁴

In terms of the clarity of the process's rules of engagement, the informants mentioned that these were clear. One of the informants, who had mentioned that there were no technological barriers, added that the platform's navigation was inductive and that the first page of the consultation contained a description briefly offering guidelines in the text for adding comments on the platform. With regard to their level of satisfaction with the government agencies' stated expectations, one of the informants indicated they were moderately satisfied, since they felt that considering it was the definition of a strategic plan for developing such an important technology with important ethical and socioeconomic impact, it warranted a broader, more public and more diverse debate. For their part, the other informant stated that the declared expectations were not very highly developed in the presentation of the public consultation, even pointing out the contradiction that exists, in their opinion, when the EBIA talks about OECD recommendations on facial recognition technology (human rights and risk analysis of its application), while at the same time the Strategy seems to aim at prioritizing the increased use of this technology.

24 The goal of the EBIA is found in the section briefly describing the Strategy.

In terms of the **Effective public engagement** criterion, 972 contributions were received in the consultation process, sent by 110 participants. This is a fairly high number and at first glance suggests a high level of involvement in the consultation.

According to our informants, some unique participants declared their affiliations with the private sector and/or research centers. There are no references to stated political affiliations. All in all, the informants stated that there was political independence among the participants.

Decision-making accountability and traceability: Evaluation of this criterion is negative. On the one hand, the informants indicate that no grounded explanations were provided on the acceptance or rejection of comments. Moreover, one of the informants stated that they received no feedback on their input.

Neither were the discussions and decisions made during the consultation process documented or publicly disseminated.

Another negative aspect is that no reference was made to the possibility of additional stages of dialog or iteration for a future revision of the strategy.

The only positive aspect under this criterion is that the contributions were published on the web site hosting the consultation.

3.1.3. Evaluation of the outcome of the engagement process

Characterization of the participants

As we saw above, the public consultation had 110 participants, belonging to five categories: Academia, government, individuals, private sector and civil society.²⁵

The following table shows the number of participants per category:

25 The characterization was done by one of the informants, whose team made its own classification, using data available at the ITS/Rio site: <https://itsrio.org/pt/publicacoes/estrategia-brasileira-de-inteligencia-artificial/>

Table 2. Participants by category—EBIA

| Category | No. of Participants | Percentage |
|----------------|---------------------|-------------|
| Academia | 6 | 5.5% |
| Government | 2 | 1.8% |
| Individuals | 68 | 61.8% |
| Private Sector | 19 | 17.3% |
| Civil Society | 15 | 13.6% |
| Total | 110 | 100% |

Source: Authors' work based on data provided by the informant.

Comments by category

As mentioned, these 110 participants sent 972 comments, whose percentage distribution can be seen in the following table:

Table 3. Comments by category—EBIA

| Category | No. of Contributions by Category | Percentage |
|----------------|----------------------------------|-------------|
| Academia | 103 | 10.6% |
| Government | 4 | 0.41% |
| Individuals | 521 | 53.6% |
| Private Sector | 194 | 19.96% |
| Civil Society | 150 | 15.43% |
| Total | 972 | 100% |

Source: Authors' work based on data provided by the informant.

Assessment of the contributions made

Under this criterion, there was a clear response from one of the informants: their input was indeed incorporated into the final version of the Strategy, especially in regards to a policy of regional integration and cooperation in the development of AI. The answer from the other informant seems to indicate that their comments were not taken into account, since their contributions were based on the premise that the guiding principle for analyzing AI systems should be human rights parameters, and the EBIA is mainly focused on the application of ethical standards.

The main obstacle this informant mentioned to their input being taken into account was their perception that the EBIA prioritizes promotion of AI implementation over an approach that takes human rights as the key analysis parameter, and which questions the solution-oriented and savior-complex rhetoric that tends to accompany the implementation of AI technologies in the design and application of public policies.

3.2. Colombia

3.2.1. Brief description of the Ethical Framework for Artificial Intelligence in Colombia

The Ethical Framework for Artificial Intelligence in Colombia (el Marco Ético para la Inteligencia Artificial en Colombia,²⁶ MEIAC) comprises the following documents: (1) CONPES²⁷ 3975 of 2019: National Policy for Digital Transformation and Artificial Intelligence;²⁸ (2) CONPES 4023 of 2021: Policy for reactivation, repowering and sustainable inclusive growth: New commitment for the future of Colombia;²⁹ (3) Ethical Framework for Artificial Intelligence in Colombia— Discussion document (Version 1);³⁰ (4) Conceptual model for designing Regulatory Sandboxes & Beaches in Artificial Intelligence (Document for comment);³¹ (5) Task Force for the development and implementation of Artificial Intelligence for Colombia;³² (6) International Council for

26 https://inteligenciaartificial.gov.co/static/img/MARCO_ETICO.pdf

27 The National Council on Economic and Social Policy (Consejo Nacional de Política Económica y Social, CONPES) is an advisory organization of the national government which leads economic and social development policy-making for the country.

28 <https://web.archive.org/web/20220217173538/https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/3975.pdf>. Accessed on December 21, 2021.

29 <https://web.archive.org/web/20220218153135/https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/4023.pdf>. Accessed on December 21, 2021.

30 <https://dapre.presidencia.gov.co/TD/MARCO-ETICO-PARA-LA-INTELIGENCIA-ARTIFICIAL-EN-COLOMBIA.pdf>

31 <https://dapre.presidencia.gov.co/AtencionCiudadana/DocumentosConsulta/consulta-200820-MODELO-CONCEPTUAL-DISENO-REGULATORY-SANDBOXES-BEACHES-IA.pdf>

32 <https://dapre.presidencia.gov.co/AtencionCiudadana/Documents/TASK-FORCE-para-desarrollo-implementacion-Colombia-propuesta-201120.pdf>

Artificial Intelligence in Colombia;³³ (7) Ethical Framework for AI in Colombia (Version 2);³⁴ (8) Ethical Framework for Artificial Intelligence in Colombia (Final version);³⁵ and (9) AI expert mission in Colombia.³⁶

On November 8, 2019, the development of the National Policy for Digital Transformation and Artificial Intelligence was publicized. In addition, the final version of the Ethical Framework for AI in Colombia was launched on October 12, 2021.

In four of the nine documents no spaces were opened for offering comments.³⁷ The following table presents the opening and closing dates for comments on the remaining five documents:

33 <https://dapre.presidencia.gov.co/TD/CONSEJO-INTERNACIONAL-INTELIGENCIA-ARTIFICIAL-COLOMBIA.pdf>

34 <https://dapre.presidencia.gov.co/TD/Marco-Etico-IA-Colombia-2021.pdf>

35 Document related in footnote 26.

36 https://inteligenciaartificial.gov.co/static/img/201021_Mision_de_Expertos_en_IA_de_Colombia.pdf

37 The documents for which space for comments was not provided include: CONPES 3971, CONPES 4023, Task Force for the development and implementation of Artificial Intelligence for Colombia and AI expert mission in Colombia.

Table 4. Opening and closing dates for comments on AI documents—Colombia

| Document | Opening for commentary | Closing for commentary |
|---|--|---|
| Ethical Framework for Artificial Intelligence in Colombia—Discussion document (Version 1) | August 20, 2020 | The first closing date was August 28, 2020. The period was extended to September 15, 2020 (date set in DAPRE ³⁸). |
| Conceptual model for designing Regulatory | August 20, 2020 | September 15, 2020 |
| Sandboxes & Beaches in Artificial Intelligence. Document for comments. | | |
| International Council for Artificial Intelligence in Colombia | Technical discussion tables: the discussion tables were opened on November 25, 2020. These tables were open not to the general public, but rather by personal invitation. The discussions took place from December 7 to December 15, 2020. | December 15, 2020 |
| Ethical Framework for Artificial Intelligence in Colombia (Version 2) | February 28, 2021 | March 30, 2021 |
| Ethical Framework for Artificial Intelligence in Colombia (Final version) | May 15, 2021 | June 11, 2021 |

The objective of the document containing the MEIAC is: “...to provide a ‘soft law guide’ of recommendations and suggestions to Public Agencies, to address the formulation and management of projects that include the use of Artificial Intelligence (AI).”³⁹

This guide recommends adopting nine ethical principles: (1) Transparency and Explanation; (2) Privacy; (3) Human control over decisions inherent to an AI system; (4) Security; (5) Responsibility; (6) Non-discrimination; (7) Inclusion; (8) Primacy of the rights of children and adolescents; (9) Social benefit.

38 The Administrative Department of the Office of the President of the Republic (Departamento Administrativo de la Presidencia de la República, DAPRE) is the agency charged with aiding the President, as well as providing the administrative support needed for that purpose.

39 Marco Ético para la Inteligencia Artificial en Colombia, p. 23. Available at: https://inteligenciaartificial.gov.co/static/img/MARCO_ETICO.pdf. Accessed on December 2, 2021.

The main tool proposed for implementing these principles is the adoption of a monitoring dashboard for the MEIAC in which public agencies “report the manner in which they are implementing AI ethics in their projects.”⁴⁰

Alongside this dashboard, it is expected that the entities will also undertake the following activities: (1) Evaluation of algorithms; (2) Data “purging”; (3) Intelligent explanation; (4) Evaluation of legitimacy; (5) Definition and management of ethical risks; (6) Internal codes of conduct and/or ethics; (7) Impact analysis for privacy; and (8) Governance models to ensure AI ethics.

Finally, the MEIAC makes final recommendations to the public sector on: (1) AI ethics education and research strategies; (2) design of sustainable, trustworthy systems; and (3) strengthening ethics in human rights programs.

3.2.2. Evaluation of the engagement process

As a step prior to the evaluation and according to the criteria proposed in the methodology section of this study, it is worth mentioning the clarification made by GETCI⁴¹ on what is understood by “Strategy” in the Colombian context.

For this institution, a strategy in public policies encompasses the different government actions that seek ways to respond to society’s diverse demands. In this sense, the AI strategy is considered to contain both the closed discussion tables with stakeholders such as industry and international agents, and the public consultation. Given this background, the AI Strategy in Colombia must be understood in a broad sense.

Accessibility and openness: Generally speaking, the assessment of participation under this criterion is largely negative.

On one hand, no accessibility measures were implemented for people with disabilities. Likewise, no mechanisms were used to promote meaningful input from different actors in the process. For example, there was no simultaneous interpretation in sign language for the Co-Lab table.⁴²

Moreover, the informants identified a series of barriers, such as:

- a) **Technological barriers**, which include the first document for commentary being made available in an image file which made it impossible to search the text, thus limiting its access and availability; the exclusion of the Colombian population that lacks internet access, since

40 Marco Ético para la Inteligencia Artificial en Colombia, p. 43. Available at: https://inteligenciaartificial.gov.co/static/img/MARCO_ETICO.pdf. Accessed on December 2, 2021.

41 Grupo de Estudios en Internet, Comercio Electrónico, Telecomunicaciones e Informática de la Universidad de Los Andes, Colombia.

42 Laboratorio de Innovación de la Educación Superior (Co-Lab).

the public consultation (comments on the documents and technical discussion tables) was solely conducted over digital media (e-mail and videoconferencing); and finally, the limited access by various actors, such as public and private universities from cities other than Bogota and Medellin (e.g. Bucaramanga, Santander and Cartagena, whose universities have high-quality programs in the area of technology), public and private organizations working with AI (like CINFONIA at the Universidad de Los Andes, Engineering Associations and other groups like Legal Hackers); and residents in other cities.

- b) Geographical barriers**, demonstrated by the informants' perception that the comments made left clues that they belonged to people from Bogota and Medellin, which indicates the strategy was not consolidated in locations distant from large urban centers.
- c) Administrative/bureaucratic barriers**, which include the absence of an open strategy during the process of developing this one, which left a deficit in the participation of multiple stakeholders, and which also hampered the development of new questions, problems, and ethical, legal and technical issues from other actors. In addition, no large-scale visualization of the Ethical Framework project was made, nor was the population's active participation sought. The Colombian context was not taken into account for developing the Ethical Framework, to the extent that international entities were contacted over and above local actors with accumulated knowledge and experience. Finally, the informants indicated that the people who developed the strategies did not take part in forums and discussions held by civil society and academia.
- d) Other barriers.** The informants mentioned another barrier to participation, which was the short time allocated for presenting commentary. This had an impact on people's preparation and effective participation.

In addition, although the informants indicated they did not identify any language barrier to participation, since the consultation process was conducted in Spanish with the possibility of sending comments in English, Colombia's linguistic diversity must be mentioned. Spanish is used alongside indigenous, afro-descendent and Roma languages, which highlights how a mechanism was missing to include people who speak these other languages in the consultation of a strategy that also affects their rights. The same occurred with the availability of the draft MEIAC documents, which were available in Spanish and English (versions 1 and 2) and only in Spanish (final version).

No financial barriers were reported.

Now, among the positive aspects it must be noted that the announcement of the strategy's development was published on various media, including: the Office of the President's web page; the Office of the President and National Planning Department Twitter and Facebook accounts; the web page <https://inteligenciaartificial.gov.co/marco-eticos/>; and the El Tiempo and Portafolio newspapers.

In addition, seven of the documents were available in their entirety on the Office of the President's web page, as well as on its social network channels (Facebook and Twitter), although not all were open to comment, as mentioned above.⁴³

Information and transparency: Evaluation of this criterion, in light of the data provided by the informants, is also mainly negative.

First, while the invitation to provide comments on the documents for which this possibility was opened was issued to the public, the invitation for development of the strategy,⁴⁴ as well as for participation in the technical discussion tables, was extended via closed direct invitation. This manner prevents us from classifying participation in the preparation of the strategy as inclusive, since the only participation open to the public is limited to enabling comments on documents that have already been produced, in which only those actors directly invited had participation, thus excluding other stakeholders.

Second, there was no lead time in the publication of the announcement regarding the consultation and the period for providing background. Furthermore, in the informants' opinion, the time provided for commenting was too short for people to effectively prepare for and participate in the consultation. In this specific case, we must give greater emphasis to the informants' input since they know the Colombian context first hand. As was mentioned in the methodology section of this study, to conduct this evaluation the criteria chosen from the literature review should be contextualized in terms of the reality in each of the Latin American countries studied.

In this specific case, while it is true that the periods were fairly short (14 or 18 business days),⁴⁵ there were also periods of 20 and 22 days,⁴⁶ which could be judged adequate or sufficient in other

43 The available documents included: (1) Ethical Framework for Artificial Intelligence in Colombia—Discussion document. Version 1. (2) Conceptual model for designing Regulatory Sandboxes & Beaches in Artificial Intelligence. Document for commentary. (3) Task Force for the development and implementation of Artificial Intelligence for Colombia. (4) International Council for Artificial Intelligence in Colombia (5) Ethical Framework for Artificial Intelligence in Colombia. Version 2. (6) Ethical Framework for Artificial Intelligence in Colombia—Final version. (7) AI expert mission in Colombia.

44 According to the informants, Armando Guío Español, an affiliate of Harvard University's Berkman Klein Center for Internet & Society, participated in the preparation of version 1. The preparation of version 2 had the participation of Armando Guío Español, Elena Tamayo Uribe as Contractor for the Office of the President and Pablo Gómez Ayerbe as Presidential Advisory Counsel for Economic Affairs and Digital Transformation. In the final version of the document, the following people participated on direct invitation: Armando Guío Español, Elena Tamayo Uribe, Pablo Gómez Ayerbe and María Paula Mujica, as Presidential Contractor.

45 Fourteen days in the case of the technical discussion tables and 18 days in the case of Version 1 of the Ethical Framework and the Conceptual Model for designing Regulatory Sandboxes & Beaches in Artificial Intelligence. Regarding the technical tables, it must be noted that they were not open to the public and were developed from December 7 to 15, 2020.

46 Twenty-two days for the document from the International Council on Artificial Intelligence in Colombia and 20 days for Version 2 of the Ethical Framework.

contexts, depending on the topic, complexity, facilitation of engagement and other factors.

Third, the sub-criterion attempting to evaluate the content providing information on the consultation is rated negative. Here, the informants indicated that the informational content for participating was inadequate for active participation. There was no information on the structure of the consultation process, its stages, participant requirements and commitments from the authorities regarding stakeholder input; all was limited to publishing the document on the Office of the Presidents' web page and informing that comments could be sent.

Fourth, regarding the contribution of comments to the strategy, the only channel provided was via e-mail at transformaciondigital@presidencia.gov.co. This was how comments from different actors from civil society, the private sector, public sector, international organizations and academia were received.

However, according to the informants, there was also the possibility to make comments at the technical discussion tables held via videoconference. There were six technical discussion tables headed by the Latin American Development Bank, the InterAmerican Development Bank, Colombia's Ministry of Education, the Office of the President of Colombia, Co-Lab and the Berkman Klein Center for Internet & Society.⁴⁷ These discussions were held online.

In the case of this sub-criterion, we also rate it negative, since we consider that the channels for providing comments in such an important discussion were insufficient and had a low probability of real impact.

Finally, stakeholder power and knowledge differentials were not taken into account, and no instances of capacity building for CSOs or unique participants were set up.

According to the informants, all registered parties had the same opportunity to send feedback on the document, since they considered that the period for making comments was the same for all stakeholders. As a result, this sub-criterion can be rated as positive, despite the fact that the time allotted for participating in the discussion tables is unknown, since as mentioned previously, these tables were closed to public participation.

Diversity: The rating for this criterion is also negative. While it is true that the informants indicated it was difficult to identify the gender of the participants, due to the majority representation coming from organizations, companies, corporations and universities,⁴⁸ it must be noted that starting with the organizing phase, no mechanisms were included for promoting the participation of different genders.

47 The reports from the discussion tables are available at: <https://inteligenciaartificial.gov.co/mesas/>. Accessed on December 21, 2021.

48 Despite this difficulty, the informants mentioned that they were able to identify the contribution of a woman in her role as natural person within the matrix of consolidated comments; they also noted that in the Co-Lab discussion table, the only woman present was the director of GECTI.

The same occurred with participation from historically marginalized groups and groups distant from urban centers. The informants mentioned that, according to the comments and information contained in the reports, there is no evidence of participation from these groups. In addition, no mechanisms were considered for promoting their representation.

Effectiveness of the consultation process: One positive aspect that can be noted is that the objective referring to the usefulness of the consultation process was communicated by the government agencies organizing it. Thus, according to the informants, the following objectives were communicated: (1) Define mechanisms and tools to accelerate implementation of the Colombia's AI Strategy and of the Ethical Framework for Artificial Intelligence, among other initiatives; (2) Ensure monitoring of public agency projects using AI systems to provide more efficient and effective services to citizens; (3) Increase international cooperation and coordination with government and international agencies related to the AI policy to achieve appropriate implementation of the AI strategy in Colombia; (4) Develop mechanisms to promote access to and use of data for the design and development of AI systems; and (5) Increase collaboration with the private sector and the ecosystem for entrepreneurship in AI-related topics.

On the other hand, one negative aspect that must be mentioned is that the rules of engagement in the process were not clearly communicated: the informants consider that the consultation process structure was not provided, nor the stages, methodology, participants' obligations or the commitments by authorities regarding stakeholder input. There was no well defined initial road map so that all stakeholders could have a clear time line of how construction of the strategy would work.

Finally, regarding the sub-criterion for evaluating the level of satisfaction of CSOs and individuals who were involved in the process, based on the declared expectations of the government agencies, the evaluations were uneven: while one of informants stated they felt largely satisfied, the rest indicated they felt "not very satisfied" or "not satisfied". In this sense, the lowest possible score within the proposed scale was marked, and the highest rating was not achieved. Marking another score on the negative spectrum, we can note that this sub-criterion was also rated negatively.

Effective public engagement: Keeping in mind the clarification provided at the opening of this section, 13 participants were active in the process; of them, 6 were natural persons and 7 were CSOs.

The process also received the following contributions: 31 on the Ethical Framework for Artificial Intelligence in Colombia—Discussion document (Version 1) and the Conceptual model for designing Regulatory Sandboxes & Beaches in Artificial Intelligence; 9 on the International Council on Artificial Intelligence in Colombia; and 50 on the technical discussion tables, in which, according to DAPRE, there was engagement from more than 50 participants.

In the process, according to data provided by the informants, the participants were not subject to any declared or publicly known conflict of interest due to their affiliation with specific economic or political groups. Although the CSOs did not declare any political affiliation, other participants did state the company or sector with which they were affiliated. There were also individuals who participated personally, without affiliation.

Decision-making accountability and traceability: One positive aspect we can mention is that on the Office of the President's web page an Excel table was published containing the comments and responses; this same file was sent to the participants' e-mail addresses.

While it is true that seven reports from the technical discussion tables were published on that web site,⁴⁹ according to the informants, the reports were limited to briefly describing the main points covered, without describing either the participants' different points of view or their remarks. The kind of participation, who participated in these tables or what conclusions were reached were not mentioned, either. In this respect, the failure to fully document the discussion and the decisions made in the consultation process does not contribute to transparency.

Another negative aspect is that, despite there having been a response to each comment, these fell short and there was no grounded explanation on the rejection or acceptance of the comment. According to the informants, many of these responses were limited to indicating the possibility that the comment being addressed could be considered by the Task Force or the International Expert Council. In addition, it is not clear whether or not the participants' comments were incorporated in subsequent versions of the documents.

The final negative aspect is that there was no mention of additional stages for a future revision of the strategy.

3.2.3. Evaluation of the outcome of the engagement process

Characterization of the participants

As mentioned in the previous section, the AI Strategy in Colombia encompasses various moments and processes. To characterize the participants, we will only consider data for comments made on the MEIAC (Version 1), since similar data are not on hand for the other documents opened to comment, except for the International Artificial Intelligence Council in Colombia. The characterization of the latter will not be included, since: (1) there is no way to characterize the participation in more documents; and (2) the comments on the Ethical Framework carry more weight, as it is definitely the document that will serve as a guide for Colombia with respect to AI use.

Having made explicit the methodological choice, the table below details the categories of the 31 participants:

49 The Reports are: (1) Report on civil society participation. (2) Report from the Co-Lab participatory panel. (3) Report from the participatory space organized by representatives of the primary economic sectors. (4) Report from the participatory space organized by the National Education Ministry. (5) Report from the participatory space organized by the InterAmerican Development Bank (IADB). (6) Report from the participatory space organized by the Latin American Development Bank (CAF). (7) Summary report of Expert Roundtable on Colombia's Draft AI Ethical Framework: Lens on Youth Issues.

Table 5. Characterization of the participants in the MEIAC (Version 1)

| Category | Number | Percentage |
|---------------------|-----------|-------------|
| Civil Society | 4 | 13% |
| Private Sector | 14 | 45% |
| Public Institutions | 3 | 10% |
| Academia | 3 | 10% |
| Natural Persona | 6 | 19% |
| Technical Community | 1 | 3% |
| Total | 31 | 100% |

Source: Authors' work based on data provided by the informants.

Comments by category

The 31 participants made 309 comments, among which the majority made by the private sector stands out, as can be seen in the following table:

Table 6. Comments by category on the MEIAC (Version 1)

| Category | Number | Percentage |
|---------------------|------------|-------------|
| Civil Society | 27 | 9% |
| Private Sector | 151 | 49% |
| Public Institutions | 44 | 14% |
| Academia | 17 | 6% |
| Natural Persona | 41 | 13% |
| Technical Community | 29 | 9% |
| Total | 309 | 100% |

Source: Authors' work based on data provided by the informants.

Assessment of the contributions made

The perceptions of the participants—who belong to the industrial sector (1) and civil society organizations (2)—regarding whether they considered that the input was taken into account in developing the strategy or otherwise reflected in the final document, were divided among those who considered that they were partially taken into account (industry) and those who considered they were not taken into account (CSOs).

In terms of the main obstacles noted to have influenced whether or not the input was taken into account in the development of the strategy or otherwise reflected in the final document, the informants' responses can be summed up in two positions: (1) The participation takes place in a late stage of the public policy design, when the decision to publish the AI document had already been made; and moreover, when the participation takes place, it is through “minimum engagement” methodologies, e.g., when limited to the distribution of a document attached to an e-mail message; (2) There is no effort to respond appropriately to the comments and something is presented as “engagement” that does not really meet the definition.

Furthermore, for the informants from civil society, the traceability of the comments and their impact on the final version of the documents that were opened to citizen engagement has been complex, not only due to the short period for handling the official publication processes, but also because there are numerous written participations. The response to each one depends on the agency that issued the invitation, and its impact or reception in the final document is not easy to identify.

3.3. Chile

3.3.1. Brief description of the National Artificial Intelligence Policy

The National Artificial Intelligence Policy (Política Nacional de Inteligencia Artificial, PNIA)⁵⁰ was launched on October 28, 2021. An Expert Committee and an Interministerial Committee were created for its development. Likewise, preparation of the document comprised two stages of citizen engagement: in the first stage, input was received from individuals or organizations that wanted to offer their knowledge and experience; in the second stage, a public consultation was conducted on the first draft of the document. The public consultation stage for the draft PNIA was opened on December 15, 2020. The prior stage of engagement took place in the first half of 2020.

The stated objective for the National Artificial Intelligence Policy is:

To position Chile on the AI-related global vanguard and collaboration, with an ecosystem of research, development and innovation in AI that builds new capacities in productive, academic and

50 Available at: https://minciencia.gob.cl/uploads/filer_public/bc/38/bc389daf-4514-4306-867c-760ae7686e2c/documento_politica_ia_digital_.pdf. Accessed on November 3, 2021.

government sectors, in accordance with crosscutting principles of opportunity and responsibility that contribute to sustainable development and improve our quality of life.⁵¹

The National Artificial Intelligence Policy is made up of four crosscutting principles and three axes. The four principles are: (1) AI focused on the well being of people, respect for human rights and security; (2) AI for sustainable development; (3) Inclusive; and (4) Globalized.

For their part, the three axes are: (1) Enabling factors, which are structural elements that facilitate the existence and deployment of AI (talent development, technological infrastructure and data); (2) Development and Adoption, which comprise the space in which AI is developed and deployed (basic and applied research, technology transfer, innovation, entrepreneurship, improvement of public services, technology-based economic development, etc.); and (3) Ethics, Regulatory Aspects and Socioeconomic Impact, which stem from “...address[ing] the new debates that have arisen regarding human–machine interaction and the socio-technical system being configured.”⁵²

3.3.2. Evaluation of the engagement process

In Chile, the development of the PNIA was made public in August 2019. The dates during which the space for receiving input was open, during the public consultation phase, ran from December 15, 2020 to January 27, 2021.

On the **accessibility and openness** criterion, the noteworthy positive aspects of the engagement process include how more than one channel of communication was used (e-mail, web page and social networks, specifically) to publicize the announcement of the Strategy’s development, as well as to send the draft document.

While it is true that no technological, financial, bureaucratic or geographic barriers were reported, and we were informed that translation of these documents into other languages is not common in the country, we must not skip over the fact that the reinforcement of ethnic prejudice is one of the main risks in the application of AI, and the PNIA could very well have been translated to the languages of indigenous peoples who could be primarily affected by these kinds of biases.

In addition, while the first stage of citizen engagement included 69 regional working tables, 70 self-convened tables and 15 on-line thematic meetings in which a total participation of over 8,000 people is calculated, the data collected in the evaluation matrix reveal that one barrier faced was that there was no specific traceability mechanism for the changes implemented.

Finally, another ambivalent aspect in this engagement process is that, despite the fact that in the first stage of citizen participation debates were organized regarding the draft proposal and that in the citizen consultation stage the participation was guided using an on-line form—mechanisms for

51 PNIA, p. 18.

52 PNIA, p. 22.

fostering meaningful engagement—there were no special provisions that promoted the inclusion of communities facing specific difficulties in accessing the document, such as blind people.

On the **information and transparency** criterion, it must be noted that first, the invitation to contribute to the public consultation was open and positive standards were met in the sub-criteria referring to the time available to participants to find out about the consultation and offer their comments (30 and 42 days, respectively). The same is true regarding the relevance of the informational content that enabled participants to prepare for and participate in the consultation, and with respect to the equal opportunity among participants to send their comments.

The public consultation was only conducted digitally. To this end, e-mail, on-line forms (for the public consultation) and non-physical discussions (in the citizen engagement stage) were used.

Similar to the prior criterion, there were no mechanisms to motivate the participation of people with any type of disability or people whose primary language is not Spanish.

Regarding the **diversity** criterion, we could only find the percentages for participants' gender in the public consultation: 71.3% male, 21.1% female, 3.8% none of the above, 3.8% prefer not to answer.⁵³ There is no information available on the participation of historically marginalized groups, nor of groups geographically distant from the urban center. As Velasco (2021) points out,⁵⁴ this reveals the need for citizen engagement mechanisms to be oriented to priority groups.

Regarding the **effectiveness of the consultation process**, especially the sub-criterion that attempts to evaluate the clarity with which the rules of engagement in the process were communicated, we find that two of the informants indicated that yes, there was clarity. However, one of the informants stated that this was lacking, for two specific reasons. On the one hand, there was a lack of coincidence between the text shared in the meetings with experts and the one submitted for public consultation, which had already been pre-defined by the authorities. On the other hand, highly suggestive questions were used that could lead to a high degree of positive reception on some of the proposed topics (up to 75% in topics such as acceptance of the PNIA or acceptance of the ethical principles in the PNIA).

In the sub-criterion referring to the **level of satisfaction of CSOs and individuals**, the evaluation shows there was little satisfaction. Two of the informants indicated they felt “little satisfied,” while one of the informants declared herself “somewhat satisfied.” In other words, neither of the degrees of satisfaction was achieved (“largely satisfied” or “totally satisfied”) in the proposed scale.

53 Available at: https://minciencia.gob.cl/uploads/filer_public/6c/c1/6cc17cd7-ae58-48f0-ada1-d33a3e6e8958/informe_consulta_publica_ia_1.pdf, p. 8.

54 Velasco, Patricio. La política nacional de Inteligencia Artificial chilena y su proceso de participación ciudadana. 2021. Available at: <https://www.derechosdigitales.org/17010/la-politica-nacional-de-inteligencia-artificial-chilena-y-su-proceso-de-participacion-ciudadana/>. Accessed on November 7, 2021.

The main reason for this score, according to the informants, was that, in addition to the expert committee's lack of a multi-disciplinary nature, the discussion held on the working tables regarding cultural and social aspects of AI was not taken into account. Another reason mentioned was that consistency problems were identified in the document. Further, there was no explicit objective for the citizen engagement process; the closest stated that the objective was "to construct a highly participatory policy."⁵⁵

Regarding the **effective public engagement** criterion, we know that 180 natural persons and 29 legal persons participated in the process, and that they sent 209 contributions. This is a respectable number if we consider that in the public consultation process for the National Cybersecurity Policy, 43 entities participated who together sent 155 contributions.⁵⁶ Unfortunately, no information could be obtained on the participants' declarations of political, economic or business affiliation.

Finally, on the **decision-making accountability and traceability** criterion, the engagement process in the case of Chile had no positive evaluation. In addition to the fact that participants were not given a grounded explanation on the acceptance or rejection of their input, the discussions and decisions made in the consultation process were not disclosed, despite several different discussion spaces having been organized, such as the self-convened tables and the regional working tables.

Furthermore, although the input to the consultation process was published, there was no possibility to specifically track the changes made in the final product to these contributions. As Velasco mentions, although the document containing the PNIA indicates that the input was systematized, analyzed and consolidated together with the expert opinions and ministerial discussions, "...it is not known what the criteria were for the systematization and analysis of such input. Good, then, for participation, but bad in terms of the traceability of deliberative impact on coordination of the policy."⁵⁷

3.3.3. Evaluation of the outcome of the engagement process

Characterization of the participants

As mentioned earlier, the citizen engagement process was set up in two stages. In the citizen participation stage, 69 regional working tables were conducted, along with 70 self-convened tables and 15 on-line thematic meetings.

55 Ministerio de Ciencia, Tecnología, Conocimiento e Innovación (Chile). Consulta Pública de Inteligencia Artificial, Informe de Resultados. October 2021. p. 4. Available at: https://minciencia.gob.cl/uploads/filer_public/6c/c1/6cc17cd7-ae58-48f0-ada1-d33a3e6e8958/informe_consulta_publica_ia_1.pdf. Accessed on November 9, 2021.

56 Viollier, Pablo. La Participación en la Elaboración de la Política Nacional de Ciberseguridad: Hacia un nuevo marco normativo en Chile. Derechos Digitales y Global Partners Digital, 2017.

57 Velasco, Patricio. La política nacional de Inteligencia Artificial chilena y su proceso de participación ciudadana. 2021. Available at: <https://www.derechosdigitales.org/17010/la-politica-nacional-de-inteligencia-artificial-chilena-y-su-proceso-de-participacion-ciudadana/>.

The table below shows the categories of the participants who took part in this stage.

Table 7. Categories of participants in the PNIA Chile.

| Working tables: 400 people | | Self-convened tables: 1,300 people | |
|---------------------------------|-------------|------------------------------------|-------------|
| Category | Percentage | Category | Percentage |
| Academia | 39% | Academia | 22% |
| Industry | 30% | Industry | 35% |
| Public Sector and Civil Society | 17% | Public Sector | 7% |
| Other | 14% | Civil Society | 36% |
| Total | 100% | Total | 100% |

Source: Authors' work based on data from the "AI Policymaking Process" report.⁵⁸

Comments by category

In terms of this process, it is worth mentioning the consistent participation of the industrial sector, which maintained the same level of participation in both mechanisms (30% in the working tables and 35% in the self-convened tables). On the other hand, the participation of the academic sector was greater in the working table format; and although the disaggregation differs between the two mechanisms for the Public and Civil Society sectors, it is evident that the participation of the civil sector was greater in the self-convened tables (36%) than in the working tables (17% combined with the public sector).

Thus, it would be worth investigating the factors that could explain the apparently greater commitment of the civil society sector in one mechanism over the other.

There are no disaggregated data on the public consultation process that would enable us to learn the categories of the 209 participants in this stage, beyond knowing that of the total number, 86.1% were natural persons and 13.9% were legal persons.

58 Ministerio de Ciencia, Tecnología, Conocimiento e Innovación. Proceso de elaboración de la Política de IA. Available at: <https://minciencia.gob.cl/areas-de-trabajo/inteligencia-artificial/politica-nacional-de-inteligencia-artificial/proceso-de-elaboracion/>. Accessed on November 5, 2021.

Assessment of the contributions made

Regarding the criterion on assessing the input received, the informants stated that the contributions were partially taken into account in the development of the strategy or otherwise reflected in the final document.

The main obstacles to the input being taken into consideration, according to the informants, included: (i) absence of traceability indicators that would facilitate understanding which changes in the final document stemmed from the consultation; (ii) absence of a clear statement from the Ministry of Science, Technology, Knowledge and Innovation that would highlight the importance of the approval of regulations protecting personal data and the subsequent superficial, ancillary treatment of the matter within the PNIA, which is contrary to the input sent by one of the informant organizations; (iii) absence of a regulatory pillar for personal data protection, which is treated superficially and as ancillary to the policy; (iv) predominance of the focus on technology development solely as an issue of economy and investment, ignoring social and cultural dimensions in the public policymaking on technology.

3.4. Uruguay

3.4.1. Brief description of the Artificial Intelligence Strategy for Digital Government

The Artificial Intelligence Strategy for Digital Government (Estrategia de Inteligencia Artificial para el Gobierno Digital, EIAGD),⁵⁹ launched on January 1, 2020, states as its objective: “...to promote and strengthen responsible AI use in Public Administration.” (EIAGD, p. 9)

The Strategy is composed of four pillars which, in turn, have specific objectives and lines of action. These pillars are: (1) AI Governance in Public Administration. This primarily contains the objective of defining an AI governance model in Public Administration. (2) Capacity building for AI. This means both building capacities for the development and use of AI in public administration and creating knowledge spaces based on the exchange of experiences in using AI. (3) Use and application of AI. This basically means creating technical guides for the good use of AI in public administration, as well as fostering the transparency of algorithms. (4) Digital Citizenship and AI. This proposes developing consciousness raising and trust among citizens.

The process for this Strategy was preceded by a consultation and document titled “General Principles on the use of artificial intelligence for digital government.” These principles were then integrated into the Strategy. As a practical matter, especially for completing the matrix, the process and products of the Principles and Strategy are taken as a whole.

59 Available at: <https://www.gub.uy/agencia-gobierno-electronico-sociedad-informacion-conocimiento/comunicacion/noticias/inteligencia-artificial-para-gobierno-digital-hay-estrategia>. Accessed on December 21, 2021.

3.4.2. Evaluation of the engagement process

Accessibility and openness: Under this criterion, the positive situations that most stand out include, on one hand, the fact that the strategy's development was announced using more than one channel. The informants indicated that dissemination was handled using a web page, Twitter, national telecommunications campaigns and a newsletter. In addition, the fact that the draft was available in both Spanish and English is classified as positive, together with the informants' perception that there were no identifiable language barriers. Neither were bureaucratic, financial, geographic or technological barriers reported, any of which could have discouraged engagement with the strategy's development.

However, other kinds of obstacles were identified. The informants mentioned that one of the barriers identified is the lack of knowledge of the topic in society at large, since it is not an issue on the public agenda and thus it is difficult to reach a mass audience. In this same context, they identified that there was little publication of the consultation outside the circles most closely related to the Agency for Development of Electronic Government and the Information and Knowledge Society (Agencia de Gobierno Electrónico y Sociedad de la Información y del Conocimiento, AGESIC). In addition, they identified another potential barrier in the fact that the consultation and the channel used to receive comments were solely digital, which could lead to excluding perspectives and input from other angles, outside that realm.

In terms of the use of channels to access the draft under consultation, the web site⁶⁰ was the only medium established for that purpose. Although the informants indicated that in Uruguay other informal channels are usually used for exchanges between the government and civil society organizations specialized in these issues, they specified that in the case of the EIAGD, although the same could have happened, there is no evidence that these channels were actually used to send comments.

Regarding the inclusion of people with disabilities, the informants noted that there were no measures to facilitate access to the consultation by these individuals, which is a negative aspect of this process.

Likewise, although the informants considered that participation in this consultation was greater and more diverse than in other instances of open government, it is worth making a brief observation. According to the information provided, the Open Government Section of the AGESIC invited and supported the engagement of a specialized target audience, coming from civil society networks, in terms of transparency and access to public information. However, this data point, though to some extent positive, also marginalizes the participation of non-specialist public who could nonetheless see their rights affected by the implementation of artificial intelligence technologies. Thus, referring specifically to the sub-criterion by which assessment is made of whether or not mechanisms existed to promote meaningful engagement with the process, we can say that it was positive in terms of the

60 Comments on the strategy were made on the following platform: https://www.gub.uy/participacionciudadana/consultapublica/legislation_proposals?is_proposal=false

variety and quantity of specialized public, but negative in terms of another public, not necessarily specialized in the issue, who could nevertheless be interested in the implications this strategy could hold for their rights.

Information and transparency: Under this criterion, a positive aspect is found in the public nature of the invitation to participate in the strategy's development. In addition, specific messages were sent to contact networks, as mentioned by the informants for the previous criterion.

Moreover, the time frames established for both announcement of the development and providing comments during the consultation were reasonably long enough for those interested to learn of them, prepare themselves and participate. In the case of Uruguay, the public consultation on documents lasted 63 days: the preliminary consultation on General Principles regarding the use of artificial intelligence for digital government was available for 21 days starting on April 1, 2019. The period during which the consultation for sending comments was open was 42 days, starting on May 14, 2019.

It is also positive that the informants perceived the informational content of the consultation to be relevant for preparing for and participating in it, along with the fact that everyone who participated had the same opportunity to provide feedback on the document.

In terms of sending comments during the consultation, which was solely done in Spanish, it must be noted that this could only be done using the web site set up for that purpose. Neither sending contributions via e-mail nor holding on-line meetings were contemplated. This could be considered only moderately satisfactory to the extent that it reduces the possibility for stakeholders without Internet access or with a low level of experience with on-line platforms, or even people who do not know how to read and write, to participate in the consultation. In addition, for offering comments, no mechanisms were reported to promote the participation of people with disabilities.

Finally, the informants mentioned that there were no instances of capacity building, nor information prior to the consultation to balance out differences in knowledge among participants. The informants reiterated that the topic generates little interest in society. In fact, it is a very small group of people, in no way representative of society at large, who are involved in the issue.

Likewise, an issue they mention should be considered is that neither the legislative branch nor the judiciary were expressly consulted. This could lead to—in the words of the informants—difficulty in the applicability and effectiveness of the consultation's results.

Diversity: For this criterion, the evaluation leads to a negative score. On the one hand, the informants mentioned that there was no egalitarian participation of either different genders among the participants or historically marginalized groups and groups distant from urban centers. Furthermore, there were neither mechanisms nor strategies to promote the representation of these collectives among participants. According to the informants, the percentage of participation of historically marginalized groups, women and people from the LGBTQIAP+ community was 27% compared to other groups.

Effectiveness of the consultation process: Regarding the sub-criterion that seeks evaluation of whether the organizers of the consultation process communicated to participants the objectives of this mechanism, the informants did name the strategy's objective and its pillars.⁶¹ In this vein, they made no assessment of the communication of the objectives that were pursued, in and of themselves, in the consultation process. However, in this document AGESIC mentions as objectives for the process: "... to receive input from the different actors interested in the topic and from citizens in general, either as individuals or in representation of public organizations, organized civil society, academia or the private sector."⁶²

For the informants, the rules of engagement in the consultation process were communicated with sufficient clarity. In addition to having access to the draft strategy or its summary, information was provided on the structure of the consultation process, its stages, time frames, participation formats, participant responsibilities and commitments by the authorities regarding stakeholder input (including to read, publish and incorporate it into a new draft, and provide grounds where the contributions were not incorporated).

They also displayed high levels of satisfaction with the process, which they qualified as "correct," which was equally applied to the result and the comments. However, they indicated as a point requiring correction the unidirectional nature of the process, since there was no opportunity to engage in dialog or questioning on any of the points. The informants felt that the opportunities provided by the platform where the consultation was hosted were not fully taken advantage of.

Effective public engagement: Six agencies participated in the consultation process, generating 20 comments. This result should be interpreted in light of the comments provided by the informants under the Accessibility and Openness criterion. On the one hand, the informants stated that this topic is not of interest to society at large, which could explain the apparently low participation rate (six agencies); however, it would also have to be contrasted to prior experiences, if we consider that according to the informants, the process enabled a greater and more varied participation in open government instances.

On the other hand, an important aspect that should be considered is the quality of participation. For example, at least two interventions found on the web site for offering comments on the strategy refer to merely formal aspects. Though it may seem insignificant, this can also lead—in cases of massive participation—to time wasted when systematizing comments. Thus, this should be included in the participation guidelines to avoid setbacks.

On the participants' affiliations and interests, the informants indicated that there was political independence, although at the same time they mentioned that the participants had not declared

61 Strategy Objective and pillars, available at: https://www.gub.uy/participacionciudadana/consultapublica/legislation_proposals/3-consulta-publica-propuesta-de-la-estrategia-de-inteligencia-artificial-para-el-gobierno-digital

62 Available at: <https://catalogo-participacionciudadana.portal.gub.uy/noticias/consulta-publica-inteligencia-artificial-para-el-gobierno-digital> Accessed on November 23, 2021

their affiliations. Given this contradiction, this sub-criterion cannot be evaluated with the expected certainty.

Decision-making accountability and traceability: As a positive aspect we can mention that all the comments made using the web site were published. In addition, for each comment made, the participant received a standard response informing them of its receipt and subsequent analysis and systematization, along with an individualized response that also informed whether the comment had been incorporated into the document or not. Where it was not incorporated, a grounded explanation was provided.

Despite the publication of the responses to the comments received, the discussions held within the working group were not disseminated publicly. According to the informants, while the discussions were documented, they were not published. Though it is not a completely negative aspect, we can mention that the possibility should be promoted for interested parties to have access to the discussions where this kind of decision is made.

Finally, the informants stated that there was no reference made to additional stages of dialog or iteration for a future review of the strategy; this is classified as a negative aspect, since the on-going evaluation of a public policy, above all in the changing digital world, is necessary and should be incorporated starting with the policy's design.

3.4.3. Evaluation of the outcome of the engagement process

Characterization of the participants

In the consultation process, which includes participation both in the consultation process on General Principles and in the Strategy's process, six agencies participated, whose representation comprised civil society at 73%, and academia, public sector and private sector each with 9%.

Comments by category

In terms of the comments by category, of the 20 that were sent, 85% were from civil society, while academia, the public sector and the private sector provided 5% each.

The high percentage of participation by civil society must be highlighted, although this should be done with the same restraint mentioned by the informants for the Accessibility and Openness criterion in which the lack of interest in this topic by society in general is mentioned, alongside the majority participation of specialized parties over non-specialist parties who may have interest in public AI policies.

Assessment of the contributions made

In terms of assessing the contributions made, the informants indicated that the input was indeed reflected in the final strategy document. They recognized changes between the initial document

and its final version. However, they noted poor feedback on the decisions: while the decisions were documented, full clarity surrounding the decisions made and their grounds was lacking. In addition, the informants highlighted some problems with the systematization of the processes and results, noting that there was a multiplicity of processes and consultations that often were not in alignment, or which overlapped. The informants consider that it would be important to have unified pathways and criteria.

4. CRITICAL COMPARATIVE EVALUATION OF THE CASE RESULTS, CONSIDERING THE ENGAGEMENT PROCESS DESIGN AND VERIFIED RESULTS

One of the main methodological challenges in comparative analysis of the processes conducted in the four countries is the uneven number of documents included in each National Artificial Intelligence Strategy which were open to comments.

In all cases, there were stages prior to the consultation, in which the draft documents that were to be submitted for consultation were prepared. In most cases, these stages were closed to the general public and prepared either by consultants hired specifically for that purpose, or by directly invited institutions.

Brazil, for example, held one public consultation process, while Chile and Uruguay had two consultation processes. The emblematic case is Colombia, which submitted five documents to public comment.

Despite this fact, we consider it possible to analyze the engagement process itself, regardless of how many consultation stages may have been opened in the countries, since in the end, due to the fact that they were part of the Strategy as a whole, these processes can be assessed as a whole, applying the criteria selected in the methodology section.

In this context, the comparative analysis will be applied to the consultation processes for the National Artificial Intelligence Strategies of the four selected countries:

Engagement process

As indicated above, regardless of whether the engagement process was established in various stages, what is analyzed is the totality of the process to which each stage belongs. Below the processes will be analyzed comparatively, criterion by criterion.

Accessibility and openness

An element common to the four countries was the publication of the announcement of the Strategy's development: in the four cases, this announcement was made over more than one channel. In most cases it was done using the web pages of the government institutions involved, as well as their social networks (Facebook and Twitter). In other cases, media such as e-mail, newsletters and newspapers were used; and even, in the case of Uruguay, national telecommunications campaigns. The same media were used to access the draft for consultation, except in Uruguay, where the document could only be accessed on the platform created for that purpose.

Although at first glance this aspect could be considered positive, the rating must be qualified since both the announcement of the Strategy's preparation and access to the draft document were only

done using digital media. This may have excluded stakeholders who lack Internet access or have only limited access.

Another commonality among the four countries was the lack of mechanisms to promote meaningful input to the process and accessibility measures for people with disabilities. Except in the case of Brazil, which already had an accessibility measure for people with visual disabilities that was also available on the consultation platform, no other country took measures or implemented mechanisms for this purpose.

In the four countries studied, the informants did not report any language barriers that could discourage participation in the process. In this sense, the exclusive use of Spanish and English in countries with significant linguistic diversity, such as Colombia and Chile, was not considered an obstacle for the participants, although it is unknown if this could have discouraged participation by inhabitants from indigenous or afro-descendant communities in those countries.

Each country reported barriers of different kinds that discouraged stakeholder participation. Among the categories described no informant from any country reported **financial barriers**.

The informants reported **technological or administrative/bureaucratic barriers** in Brazil and Colombia, referring to navigation problems on the sites, exclusion due to lack of Internet access in segments of the population and unsuitable formats of documents available for comment. Chile and Uruguay, however, did not report these kinds of barriers.

Regarding **geographic barriers**, only in Colombia did informants consider that these existed, indicating that the comments made on the documents revealed that the invitation likely had not been received in locations most distant from large urban centers.

In terms of the **administrative/bureaucratic barriers** reported by Brazil and Colombia, the reasons noted are related to the lack of openness in the strategy development process, absence of public hearings and contact with organizers to promote debate, and lack of large-scale promotion of the consultation (in the case of Colombia).

Finally, other barriers identified by the informants in the countries (except Brazil) include: Little time given for offering comments, which affected effective preparation and participation (Colombia); lack of a specific traceability mechanism for the changes implemented (Chile); and little publicity of the consultation among the public not specialized in the topic (Uruguay).

Information and transparency

To analyze this criterion, the particularities of each process must be considered. It can be noted that the invitation to participate in the Strategy development was mixed; in most cases it was conditioned by the agencies involved in the process. In Brazil, the notice had a prior consultation stage in which the invitation was direct and a public consultation stage that was open. In Colombia, for the preparation of the documents submitted for consultation, the invitation was closed, whereas the opportunity to provide comments was public. In Chile, there was an Expert Committee,

invited directly, and two stages of citizen engagement, open to the public. Finally, in Uruguay, in addition to the public consultation, individual messages were sent to networks of contacts for their participation.

In terms of the lead time with which the Strategy development was announced, the durations vary widely: from 81 days in Brazil to inexistent lead time or fairly short periods, ranging from 14 or 18 working days or 22 days in Colombia, according to data provided by the informants. In the middle, Chile reported a period of 30 days for the second stage of citizen engagement (consultation). In the Uruguayan case, there were 21 days for the first stage of participation (consultation on Principles). Regarding the time during which the channels for offering comments were open, Brazil reported 81 days. The remaining cases have their own particularities: as mentioned, Chile and Uruguay had two stages of participation and Colombia opened five documents to comments. Each stage in these countries had a different duration, although in total the days open to participation for each stage were fairly similar: 74 days in Colombia, 72 days in Chile and 63 days in Uruguay. Except in the case of Colombia, there were no comments indicating that these time frames were insufficient for adequately preparing to participate.

In terms of the formats in which the consultation was conducted, it is important to note that in some cases specific platforms for offering comments were set up, as well as e-mail accounts. In other cases, it was possible to offer input in spaces such as on-line discussions. However, the point demanding greatest attention is that in all cases, the mechanisms for offering comments in each country became limited to just one; there was no country in which two or more channels were simultaneously made available. In addition, the whole process was conducted on-line, which excludes from participation those who lack Internet access or who have little proficiency in digital tools. One notable mitigating factor is that the choice of this format could have been conditioned by the COVID-19 pandemic.

Rating of the relevance of the informational content available in the announcement of the call to participate shows a majority tendency toward satisfaction. However, comments made for Colombia are noteworthy, as they reveal a lack in the informational content, since there was no information on the structure of the consultation process or its stages, participants' obligations and commitment from the authorities regarding the stakeholder input. Meanwhile, for Brazil, although there was no specific comment noting a lack in the information, there was mention of the absence of public hearings in which the debate could be further explored.

Finally, information common to the four countries refers to how all registered participants had the same opportunity to send feedback on the documents.

Diversity

For the four countries studied, evaluation of this criterion is negative. This is not only because the available data reflect an unequal participation among genders, but also because there were no mechanisms or strategies to promote the representation of these collectives among the participants. The same is true of historically marginalized groups and groups distant from urban centers. Statistics on the participants are not even broken down for these groups. In this sense, it

is urgent for citizen engagement mechanisms to be geared toward promoting the participation of priority groups.

Effectiveness of the consultation process

One important aspect is the clear communication of the rules of engagement for the process. In the evaluation of the four countries, the informants from two (Brazil and Uruguay) stated that the rules were clearly communicated to them. However, in the Colombian case the informants indicated that there was no clarity, since the structure of the consultation process, its stages, methodology, participant obligations and commitment of the authorities regarding stakeholder input were not provided. Furthermore, there was no initial road map defined so that all stakeholders could have a full time line of how the strategy would function. In the Chilean case, the rating was divided. For the negative assessment, the informant pointed to problems between the text discussed at the expert table and that submitted during the consultation, as well as the existence of leading questions that could generate a heightened level of positive reception for some of the issues proposed.

With the exception of the informants from Uruguay, one informant from Colombia and another from Chile, who rated high levels of satisfaction in terms of the government agencies' stated expectations, the remaining informants rated this aspect negatively (dissatisfied or not very satisfied).

The most important reasons for the negative scores included: lack of broader, more public and diverse debate, as well as deficiencies in developing the consultation's objectives. One of the Brazilian informants considers that there is a contradiction when the EBIA talks about OECD recommendations on facial recognition technology (human rights and risk analysis for its application) while the Strategy simultaneously seems to indicate prioritizing the increased use of this technology.

Effective public engagement

The number of participants in each country shows fairly pronounced variations. On the one hand, Chile and Brazil stand out with 208 and 110 participants, respectively, and contrast starkly with Colombia (13) and Uruguay (6). Although the number of participants on its own is not indicative of an inclusive public consultation, it can serve as a starting point for digging into the reasons due to which, for example, Chile saw an increase in participation in the AI Strategy compared to participation in the Cybersecurity policy. Even more importantly, why such an important policy does not generate higher participation, as in Uruguay's case.

The number of contributions also shows significant variations: from the 972 reported in Brazil—which in this case stand out vis-à-vis Chile, which received 209 contributions—to 90 received in Colombia, and 20 in Uruguay. In this case, it is also difficult to affirm that a high number of contributions represents a high level of value for the Strategy. Thus, it is advisable to probe in future investigations whether the contributions were substantive or if they were just comments with no significant impact on the Strategy.

In the case of the four countries, it was difficult to obtain data on the participants' political affiliations. In contrast, according to the informants, business, union or academic affiliations were disclosed. Despite the first point, the informants indicated that there was political independence among the participants.

Decision-making accountability and traceability

The publication of the comments made during the consultation was a shared element among the four countries studied. With the exception of Uruguay, it was also common that no grounds were given for the acceptance or rejection of a comment. In addition, the discussions and decision-making, although documented, were not published, thus there is no real desire for accountability in the processes studied for this report.

On the other hand, according to the informants, in none of the countries was reference made to future stages that could lead to dialog and an evaluation of the strategy, which is a negative aspect, since the necessary opportunity to correct any points not producing good results is excluded.

In this sense, it seems dire that the formats for consulting with citizens did not contemplate future dialog, especially if we consider that the development of a national strategy to address a topic with impact in broad sectors and in the population at large must posit social engagement in its design, implementation and evaluation. While not the focus of this study, we believe that in future investigations the governance mechanisms being created for the implementation of national AI strategies, as in Brazil, should be studied to verify how civil society is being effectively engaged in these forums.

Certainly, these aspects (lack of accountability and absence of an evaluation stage), in addition to the difficulty of tracking the changes made, must be put before the makers of these public policies so that this essential component can be improved in the future.

Evaluation of process outcome

In this section we will briefly analyze the result of the engagement process, in which special relevance is given to the perceptions of informants who participated in the public consultation processes in each of the countries evaluated in this study.

Characterization of the participants

As indicated on multiple occasions, the particularities of each process for developing the National AI Strategies leap out at every turn. In the specific case of the characterization of participants, two situations must be noted. First, information was not obtained for all categories in all the countries. Uruguay, for example, has no data on individuals or natural persons, and Chile did not disaggregate the participation of individuals in the public consultation and lacked data in this category for the first stage of participation. Second, some categories were assimilated since they dealt with similar connotations. In that case, when it involved natural persons, these were treated as individuals. When industry was mentioned, it was assimilated to the private sector, and when it came to

government or the public sector, these were grouped under public institutions. We consider that this approximation does not affect the result of the investigation.

So, the high levels of participation of individuals in Brazil (61.8%); of academia in Chile (39% at working tables and 22% at self-convened tables); of civil society in Uruguay (73%); and of the private sector in Colombia (45%) stand out, representing a variety of interests that would be suitable to explore more deeply in the future.

On the other hand, the input of public institutions, those who will be responsible for applying the Strategies, is low in all the countries: in Brazil they only represent 1.8%, in Colombia 10%, in Chile 7% and in Uruguay, 9%. The private sector, in turn, shows similar participation in all the countries: in Brazil, it represents 17.3%, in Chile 30% and 35% (for each of two stages) and in Uruguay, 9%.

For easy reading, a table with the percentage of participation of each category is shown:

Table 8. Percentage of participation of each category

| | Brazil | Colombia | Chile | Uruguay |
|---------------------|--------|----------|---------|---------|
| Academia | 5.5% | 10% | 39%/22% | 9% |
| Public Institutions | 1.8% | 10% | 7% | 9% |
| Individuals | 61.8% | 19% | | |
| Private Sector | 17.3% | 45% | 30%/35% | 9% |
| Civil Society | 13.6% | 13% | 36% | 73% |

Source: Authors' work.

Comments by category

As could be expected, the quantity of comments made per category is similar to the percentage of participants. Thus in Brazil, individuals sent 53.6% of contributions, in Colombia the private sector contributed 49% of comments, and in Uruguay, civil society contributed 85% of comments. As with the prior criterion, there are no disaggregated data from Chile that would allow us to know the composition of the participants by category.

An interesting data point is the contribution of public institutions in Colombia, with 14% of comments, which is the highest in comparison to the other countries.

Below is a table with the percentages of comments sent per category, with the exception of Chile, for the reasons given above.

Table 9. Percentage of comments sent for each category, excluding Chile

| | Brazil | Colombia | Uruguay |
|---------------------|--------|----------|---------|
| Academia | 10.59% | 6% | 5% |
| Public Institutions | 0.41% | 14% | 5% |
| Individuals | 53.6% | 13% | |
| Private Sector | 19.95% | 49% | 5% |
| Civil Society | 15.43% | 9% | 85% |

Source: Authors' work.

Assessment of the contributions made

Regarding the informants' direct appreciation of whether they considered that their input was taken into consideration in the development of the strategy or otherwise reflected in the final documents, two tendencies were revealed: one negative, stated by the informants from Chile and Colombia, who did not consider that their contributions had been taken into account (with the exception of one informant in Colombia, who considered that their comments were partially considered). The other tendency is positive: Informants from Brazil and Uruguay considered that on the whole they had been taken into consideration.

The informants who gave a negative rating indicated that the main obstacles to their comments being taken into consideration were, on the one hand, the preeminent focus on technology development solely as an issue of economics and investment, ignoring social and cultural dimensions in public policymaking on technologies. On the other hand, the participation happens in a late cycle of public policy design, when the decision to publish a document on AI has already been made. Moreover, when the engagement happens, it takes place under "minimum engagement" methodologies, expressed, for example, when participation is limited to sending a document as an e-mail attachment.

5. CONCLUSIONS AND RECOMMENDATIONS

In the development of a public policy, the goal of greater stakeholder engagement must be transformed into a need to be contemplated starting with the design stage. Although in the cases studied in this report an apparent interest is glimpsed for including the largest possible number of visions in the drafting of the National Artificial Intelligence Strategies, multiple weaknesses persist that keep this from becoming reality.

The problem of the lack of mechanisms promoting the participation of diverse genders, as well as of historically marginalized groups and groups distant from urban centers, continues to be rooted in Latin America's reality. This is confirmed by the scant participation of women and the failure of government institutions to provide disaggregated data which would demonstrate the representation of priority groups.

A similar situation occurs with the mechanisms for promoting the effective participation of citizens with disabilities; for this population group there are no alternatives enabling them to learn of and participate in the development of policies that could directly affect the enjoyment of their rights.

We cannot fail to mention the repeated choice of digital media, even when there are gaps in Internet access, access to the technological devices and the literacy needed to use the digital platforms, or channels designated for publication and participation. It is laudable that more channels for disseminating the announcements of public policymaking are used, and that in some cases the same number of channels for making comments is also set up. However, this does not guarantee that the aspirations to effective engagement are being met if the mentioned conditions are not corrected.

Despite the intent to establish accountability and traceability mechanisms in the consultation processes (such as publishing comments and responding to participants regarding the acceptance or rejection of their input), it continues to be insufficient due to the limited scope of these mechanisms and the lack of commitment to the achievement of this goal. Access to discussions and decision-making is essential to fully understand the reasoning behind the development of a public policy. The same is true of the traceability of comments, since the lack of this feature can discourage stakeholders from continuing to participate, if they fail to receive a justification for the adoption or rejection of their input and if the verification of changes in the final document is complicated.

Other problems that still remain—such as the lack of clarity with which the rules of the processes, their structure, stages, time frames, participation formats, etc. are communicated—can be addressed if there is a real interest in efficiently administering the feedback that the CSOs and unique participants provide when they rate the processes. This is linked to other weaknesses inherent to the design of the process: the incorporation of stakeholder engagement comes late in the cycle and often using methodologies with minimal engagement. Another weakness is the

lack of later stages of dialog and evaluation of the policies, which does not allow for correcting the defects that may be found in the implementation of the policies.

One additional aspect that must be reviewed in light of each country's context, is the period for announcing the development of a policy, as well as the period opened for making comments. Although it would appear that the periods in the countries studied were reasonable, there were critiques of the limited time the stakeholders had to prepare themselves and offer input effectively. Finally, regarding the classification of the level of engagement proposed in the introductory section of this report, we can conclude that, in the development of National AI Strategies in the four countries studied, the level of stakeholder intervention reaches the level of Consultation.

In light of the data provided by informants, as well as information available on official web pages of the four countries, there is no evidence that would allow us to state that a process with a higher level of engagement has been conducted, for the following reasons: **(a)** While the opportunity to interact and provide comments—and in some cases to offer suggestions and concerns—did exist, it was not always possible to establish dialog with the organizing authorities to express these concerns; **(b)** in some cases it was known that the comments were taken into account in the development of the final version of the Strategy, but the majority identified a basic problem in the impossibility of tracking the final destination of the comments and of knowing, with certainty, whether their comments were incorporated into the final text; and **(c)** the analysis and decisions were always made without stakeholder intervention.

With this background, we share some recommendations that may serve to improve the standards of engagement in public policy development processes:

- 1. Incorporate engagement mechanisms starting with public policy design stages, as well as in additional stages of the development process:** this allows for appropriation by citizens and avoids the participation being limited to sending comments on documents that have been prepared in advance.
- 2. Incorporate mechanisms promoting the representation of participants from different genders, from historically marginalized groups and from groups distant from urban centers:** this can include conducting in-person meetings for people with disabilities who are interested in the consultation, or to listen to geographically distant communities; adapting the text of the consultation for blind people; or preparing videos for people who do not know how to read the written word. Effective engagement must include all people who could be affected by a policy and who see limited opportunities to express their fears or recommendations due to the lack of attention to their conditions.
- 3. Incorporate off-line mechanisms for the publication of announcements, the provision of the documents and the contribution of comments, that complement the on-line tools:** this will enable greater engagement, given that significant digital gaps still exist.

- 4. Review the internal processes for implementing public consultations to identify errors in the communication of objectives, rules of the process, etc.:** in this way, the stakeholders will have the most information and can contribute more efficiently.
- 5. Incorporate stages for dialog and evaluation of the public policies in different stages to foster the correction of errors or expansion on emerging elements,** above all in policies that rely on technologies that due to their nature are constantly changing.
- 6. Maximize accountability and traceability mechanisms for comments** to ensure transparency and trust in the process and to avoid the discouragement generated by uncertainty around the acceptance of comments and subsequent modification of the final versions of the documents.

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