

**Civil Society Follow-Up Strategy to the Implementation
of the Quebec Plan of Action**

MERCOSUR REPORT II° STAGE
“Systematization of Activities of Diffusion and
Incidence in Argentina, Brazil, Chile, Paraguay and
Uruguay”



CITIZEN PARTICIPATION IN THE SUMMIT OF THE AMERICAS

**Civil Society Follow-Up Strategy to the Implementation
of the Quebec Plan of Action
MERCOSUR REPORT**

Coordinating Agency



Supporting Agencies

Canadian International Development Agency (CIDA)
Inter-American Development Bank (IDB)
Inter-American Council for Integral Development of the Organization of American States (CIDI/OAS)
US Agency for International Development (USAID)
Inter-American Democracy Network (IADN)
Partners of the Americas (POA)
Corporación Andina de Fomento (CAF)

The opinions expressed in this document do not necessarily reflect those of the Organizations supporting the Project, neither of its bodies or of its staff nor that of the Member States of these Institutions.

Project Citizen Participation in the Summit of the Americas

PARTICIPA Corporation – María Luisa Santander 0321 – Providencia
Phone (562) 274-7413 – Fax (562) 274-7356 – E-mail info@sociedadcivil.org
www.sociedadcivil.org

TABLE OF CONTENT

I. INTRODUCTION	4
II. PRESENT SITUATION AT THE REGIONAL LEVEL VIS-À-VIS THE THEMATIC AREAS THAT HAVE BEEN MONITORED	6
III. ACTIVITIES SECOND STAGE	9
IV. FINAL CONSIDERATIONS	13

I. INTRODUCTION

The present report corresponds to the Second Regional MERCOSUR Report for the Project “Civil Society Follow-up Strategy to the Implementation of the Québec Plan of Action”. This Project is being implemented in 21 countries of the Americas and is coordinated by PARTICIPA, Chile, in conjunction with the Canadian Foundation for the Americas (FOCAL), the Regional Coordinator for Economic and Social Research for Central America and the Caribbean (CRIES), Universidad de los Andes of Colombia and the Latin American Faculty of Social Sciences (FLACSO) of Chile. The Project enjoys the support of the Canadian International Development Agency (CIDA), the Inter-American Development Bank (IDB), the Inter-American Council for Integrated Development of the OAS (CIDI/OAS), the US Agency for International Development (USAID), the Inter-American Democracy Network (IADN), Partners of the Americas (POA) and the Corporación Andina de Fomento (CAF).

This Strategy is part of the Program "Citizen Participation in the Summit of the Americas", whose aim is to educate citizens and Civil Society Organizations on the Summits of the Americas processes, familiarize them with the commitments undertaken by Governments at the Summits and on how these processes relate to the development of the countries and the well-being of its citizens. In addition, the Strategy seeks to both influence the commitments the governments undertake, as well as their subsequent implementation.

The phase of the Project now being developed, dating from December 2002 to December 2005, forms part of the Follow-up Strategy Project. The objective of this Project is to provide follow-up and support the fulfillment of the Quebec Plan of Action in the thematic area of strengthening of democracy by enhancing and broadening citizen participation through a network of Civil Society Organizations designing and applying advocacy and outreach mechanisms at the hemispheric, regional and national levels.

The first phase of the Project, which took place between December 2002 and July 2004, comprised the implementation of research mechanisms to indicate the level of fulfillment of the mandates of the Plan of Action.

The themes chosen for this follow-up exercise were: a) Access to information; b) Freedom of expression; c) Local government and decentralization; d) Strengthening of civil society participation, and e) Judicial reforms and access to justice.

To carry out the investigation, a series of indicators were outlined for each of the themes and using them as a basis, questionnaires were designed to gather information related to the level of fulfillment of the Quebec mandates in each of the countries.

This document constitutes the Report of the Second Phase of the Project, developed between September 2004 and March 2005. At the national level, this second phase focused its work on outreach and advocacy actions with the aim of influencing decisions taken on specific public policies, thus overcoming the obstacles encountered.

Presented below are the main activities carried out by Asociación Conciencia in Argentina, Voto Consciente in Brazil, Corporación PARTICIPA in Chile, IDEA in Paraguay and Asociación Encuentro in Uruguay in the context of the implementation of the proposals selected. Firstly, we present a summary of the situation identified in the first report, complemented with information on the events which took place after the conclusion of the first report, to finalize with the activities carried out.

II. PRESENT SITUATION AT THE REGIONAL LEVEL VIS-À-VIS THE THEMATIC AREAS THAT HAVE BEEN MONITORED

Below we present the principal data showing the status of the follow-up themes for the five countries of this region. This report does not describe the status of the five issues in each country, it rather looks at the issue that each country focused their work on.

Table No.1: Proposals by theme selected in each of the countries

COUNTRY	THEMES ¹				
	AI	FE	J	LGD	SSC
Argentina					X
Brazil	X	X			
Chile	X				X
Paraguay	X		X		
Uruguay	X			X	
Total	4	1	1	1	2

Of the five themes of the follow-up exercise, the one which was chosen as a priority subject to focus the work of the second stage at the national level was Access to Information. This subject was selected by all the countries with the exception of Argentina. Second in line comes the issue of Strengthening of Civil Society, developed mainly in Argentina, country which chose this topic as its sole line of work.

Regarding Access to Information, the results indicate that this right is recognized in all the countries of the region, nevertheless in Chile and Uruguay the figure of Habeas Data is not acknowledged in the Constitution, in contrast with the recognition provided in Brazil and Paraguay (as well as in Argentina).²

Despite the existence of laws supporting Access to Information, it is a frequent occurrence that public offices or State organizations either refuse to provide information, even of very simple data or their information services are not competent, therefore it is almost impossible to access them directly and rapidly, and as a result the common citizen does not have real access to information.

In the case of Brazil, information relating to their line of work was requested from 112 websites belonging to different public organizations. The results show that only 32 replied that same day.

In Chile, 140 requests for public information were presented. The results show that only 36% of these requests were answered and in only 28.5% of the cases the requested information was made available.

¹ AI: Access to Information; FE: Freedom of Expression; J: Justice; LGD: Local Governments; and SCS: Strengthening of Civil Society.

² Although Uruguay does not have the figure of Habeas Data, the new government which took office last March 1, included this figure as one of the 27 draft laws which will receive preferential treatment in Parliament.

Paraguay can cite the impossibility of individuals to assist to “public” sessions of Congress.

According to the Annual Report of the trade union of journalists in Uruguay, Freedom of Expression and Access to Information were highly restricted during the year 2004. In “one of the worse years for the enforcement and respect of the right of Freedom of Expression, Freedom of the Press and Access to Information”, the Association of the Press lists restrictive legal verdicts as well as threats and censorship applied to communicators.

For example, in December 2004, a magistrate considered unlawful the fact that a journalist informs and gives his opinion on some controversial decisions taken by a Municipal Director, basing her judgment on out-of-date doctrines which favour a “privileged standing” for State officials.

Brazil worked exclusively on the theme of Freedom of Expression. The results show that in this country the status of this issue is worrying, due mainly to the concentration of ownership of the mass communication media and to the restricted coverage they offer. As an example, newspapers have a daily circulation of 8 million copies for a population reaching 170 million inhabitants.

Furthermore, in a recent study prepared by the NGO “Reporteros sin Fronteras” (Journalists without Borders), Brazil is placed 71 in a total of 166 countries examined.

The theme of Justice was selected only by Paraguay. Specifically, the work carried out related to the preparation of a *Código de Ética Judicial* (Code of Legal Ethics) which, currently, does not exist in the country. At present, it is not possible to ensure that the Paraguayan legal system has the necessary autonomy for the accurate exercise of their duties. The *Código de Ética Judicial* seeks to provide the Magistrates of the Judiciary with an orderly set of rules to guide their ethical behaviour *both* in the exercise of their public and private duties.

The subject of Local Governments was taken up only by Uruguay. In that country one can find the national level (central State), equivalent to the provincial or departmental, but not the municipal or local levels proper, represented by the municipalities in other political and territorial structures. Even though a decentralization process is in process, this procedure has been extremely slow.

Furthermore, although the 19 “intendencias” have offices to enhance development and where most of the initiatives for citizen participation are processed, the level of influence of Civil Society Organizations on the decisions taken by the local government is low.

Lastly, and in relation to the theme of Strengthening of Civil Society addressed by Argentina and Chile, the data indicate that these two countries have one or more legal structures to regulate the creation of Civil Society Organizations (CSOs) and to promote, as a whole, the strengthening of civil society. Freedom of association and the efficient exercise of this right is guaranteed.

Nevertheless in the case of Argentina, the financial support provided to civil society organizations is insignificant. According to an article published by the newspaper La Nación of May 24, 2004 most countries encourage both the formation of public welfare institutions of the Third Sector and the presence of donors to finance their activities. In contrast, Argentina, does not follow this pattern.

One example is the deterioration experienced by the legislation favouring donations: in the decade of the 1970s, contributors could deduct up to 20% from the taxable net annual profit; today this figure is only 5% and for certain type of donations, so the great part are not tax-deductable donations.

For its part, in Chile in mid-2004 and after several years of debate on the subject between the Government and civil society, a Bill on citizen association and participation was sent to Congress. This project contains an ample ruling referring to freedom of association, but it is extremely weak on the topic of mechanisms for citizen participation in public administration.

III. ACTIVITIES SECOND STAGE

Table No. 2: Specific proposals to improve the level of implementation of the Quebec Plan of Action, by country.

COUNTRY	PROPOSAL
Argentina	<ul style="list-style-type: none"> • Strengthen participation of CSOs in the Summits process. • Create networks of Argentinian organizations to participate actively in the Summits in order to open up spaces of community cohesion with the public and private sector.
Brazil	<ul style="list-style-type: none"> • Advocacy activities so that local governments, through their website pages, make available to the citizens relevant information on the tasks they carry out in relation to the development of their localities. • Advocacy activities to include the theme of Freedom of Expression on the public agenda.
Chile	<ul style="list-style-type: none"> • Guarantee that the present legislation on access to information is honoured by the Public Services, so that effective access to information for citizens is ensured. • Insist on the Bills to be dispatched to Congress relating to financing, citizen participation and with the legal framework ruling CSOs.
Paraguay	<ul style="list-style-type: none"> • Present a Bill on Access to Information. • Develop a process to disseminate the Codes of Ethics for Magistrates and lobby for the approval of only one Code.
Uruguay	<ul style="list-style-type: none"> • Expedite a legislation which facilitates full access to Official Information (Habeas Data). • Encourage activities to promote the use of information technology in the systems of local information.

Table No. 3: Principal advocacy and outreach activities carried out by country.

COUNTRY	PRINCIPAL ACTIVITIES
Argentina	<ul style="list-style-type: none"> • National Seminar on “Capacidades de las OSC’s de Argentina y su Interacción con el Estado”. • Printing and distribution of a booklet showing the results achieved. • Lecture/Debate in the Judiciary, Buenos Aires. • Lecture/Debate in the city of Rosario. • Workshop and Debate in the Partido de las Heras, Mendoza. • Roundtables on practices of CSOs. • Interviews and fortnightly informative lectures in Radio Stations (FM10 and Radio Nacional) of Buenos Aires, and in provincial Radio Stations and FM Stations of Santa Fé, Paraná and Bariloche. • Seminar in the city of Santa Fé. • Informative Lectures on the results in the Judiciary of the city of Buenos Aires and in the Universities of Buenos Aires, Mendoza and Corrientes.
Brazil	<ul style="list-style-type: none"> • Participation in the debates taking place in the Câmara Municipal of Sao Paulo. • Dissemination of information on the project at the IV World Social Forum of Porto

Citizen Participation in the Summit of the Americas

	<p>Alegre.</p> <ul style="list-style-type: none"> • Posting a monthly Electronic Bulletin on a database comprising 2340 contacts. • Preparation and distribution of an informative leaflet on the project. Four thousand copies. • Analysis of information on the functioning of websites of different public organizations. In total, 112 websites were examined. • Analysis of data on the use of the figure of Habeas Data in the country. • Contact with the Ministry of Foreign Affairs and with the Plenipotentiary Minister Alfonso Cardozo to discuss CSOs participation in the Summits of the Americas process. • Roundtables with students of the Curso de Política sobre Acuerdos Multilaterales (Course on Policy related to Multilateral Agreements). These meetings were held in collaboration with the Organization “Memorial da América Latina” and the Legislative Assembly of Sao Paulo. • Participation, together with other organizations, in the debate on the formation of an Agencia Reguladora de la Prensa.
Chile	<ul style="list-style-type: none"> • Incorporation to the network of the Civil Society Organization PROACCESO. • Roundtables on the practices of access to information. • Interviews with Ministers of State. • Seminar of the British Council. • Training offered to officials of public services dealing with environmental issues in matters relating to access to public information. • Printing and distribution of the triptych and poster addressed to the citizens. • Claim against the Chilean State. • Analysis workshops on the Proyecto de Ley sobre Asociaciones y Participación Ciudadana.
Paraguay	<ul style="list-style-type: none"> • Incorporation to the Grupo Impulsor del Acceso a la Información (GIAI). • Conference: Access to Public Information. • Workshop Access to Public Information. • Seminar “Access to information and citizen participation”. • Working lunch with international experts. • Workshop: Principios para una legislación de acceso a la información pública. • International Conference: Acceso a la Información Pública: El ejercicio de un derecho fundamental. El caso mexicano (Access to public information: the exercise of a fundamental right. The case of Mexico). • Preparation of an informative triptych of GIAI. • Preparation of a sensitizer Video. • Preparation of television Spots. • Participation in a meeting with the Working Group of the Court. • Preparation of a basic manual on the legal system and the code of ethics. • The training course for the multiplying agents of this initiative was carried out.
Uruguay	<ul style="list-style-type: none"> • An uninterrupted follow-up exercise on the progress of this theme. • Publication and dissemination of the results of the project to NGOs, Government and communications media (press and radio). • Preparation of an academic paper on “Panorama de Acceso a la Información en América Latina”, On-line magazine Universidad Católica (unedited). • Feed and disseminate the website page of the Project with articles on Access to Information. • Meetings to exchange information and identify the process with opinion agents (APU) Asociación de la Prensa del Uruguay, and others. • Assessment and systematization of the advocacy and outreach activities carried out at

	<p>the national level during this second stage.</p> <ul style="list-style-type: none"> • Presentation of the report to officials of the Ministry of Foreign Affairs of the new Government.
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

As mentioned above, Access to Information was the priority issue to be developed in this region. In general, the work carried out on this theme refers to advocacy activities addressed to advance on legislative issues, i.e., to broaden the present legislation in an effort to delve deeply into the existing legal structures. Thus, in Chile, Paraguay and Uruguay the National Coordinators coordinated with other CSOs (e.g., in Chile the National Coordinator joined the network PROACCESO) seeking to give impetus to new Bills. The results of this advocacy exercise can be termed positive, as the end result were specific Bills presented to the respective governments for their consideration. For example, in Uruguay the new government which took office on March 1, 2005 included the figure of Habeas Data as one of the 27 draft laws which will receive preferential treatment in Parliament.

In addition to lobbying for legislation, the Regional Coordinators working on this subject performed various exercises to assess how Access to Information functions in practice. Thus, both in Brazil, Chile and Uruguay analyses of information were carried out on this topic. Emphasis can be given to the case of Brazil where 112 websites of different State organizations were studied, from whom information on their line of work was requested and to the case of Chile where an exercise soliciting 140 petitions for public information was implemented.

A third line of work addresses the issue of training. One of the main results achieved from the assessment carried out has confirmed the lack of knowledge and ability of public officials to respond to the requests for information presented by citizens. Thus, the Regional Coordinators of this region offered training courses for this group with the aim of strengthening their capacities in relation to Access to Information. For example, in Chile training courses were provided for public officials dealing with environmental issues in matters relating to access to public information.

Lastly, during this period several outreach activities were undertaken by the different regional coordinators. These consisted of seminars, roundtables, workshops, preparation and dissemination of leaflets and videos, and interviews with Ministers of State.

Touching on Freedom of Expression, Brazil was the only country working on this thematic area. The aim of the National Coordinator was to include this issue in the State agenda. To achieve their objective, they organized different debates with journalists, CSOs and students with the aim of giving support to this subject. In summary, the debates which took place during these meetings addressed the importance of creating an Agencia Reguladora de la Prensa.

Only Paraguay focused its work during the second stage of the project on the theme of Justice. Specifically they were seeking to develop a process to disseminate the Códigos de

Etica (Codes of Ethics) for Magistrates and to lobby for the approval of only one Code. To achieve this objective, work was carried out in conjunction with the Court of that country, a basic manual on the legal system and code of ethics was prepared and training was offered to representatives of a CSOs on the use of the above-mentioned manual. As an end result of this work, plus other elements, it can be stated that even though the courts in Paraguay still face some obstacles to act with total independence, there are signs pointing in the right direction.

Touching on Local Governments, Uruguay was the only country which selected this thematic area and its National Coordinator carried out efforts to delve deeply into this process which for some years has been in the process of development in that country. Strictly speaking, Uruguay does not have a local or municipal management proper, as Municipalities or other politico-territorial structures. This is why it is urgent to strengthen a process that although is moving forward, it is doing so at a very slow pace. In this context, the National Coordinator of that country joined other CSOs to organize seminars or open meetings with the attendance, among others, of State officials, CSOs, academics, to discuss the issue and seek ways to generate a common dynamic which will bring forward the decentralization process in a successful manner.

Lastly, on the theme of Strengthening Civil Society, selected by Argentina and Chile, the action taken consisted, among others, in holding seminars, meetings, lectures, to generate a debate process with the aim of seeking the best legislation to rule Civil Society Organizations and to provide a meeting place for these organizations so that alliances or networks can be formed.

IV. FINAL CONSIDERATIONS

On the eve of the Fourth Summit of the Americas, the situation in the MERCOSUR region can be described as coming to a standstill, if compared with the conditions existing in the region immediately after the Summit of Quebec.

After the conclusion of the Summit of Quebec, a group of Civil Society Organizations met and decided to design and implement a follow-up mechanism to some of the agreements emanating from the meeting, specifically the theme of strengthening of democracy. Thus, from the actions set out in the Plan of Action, a set of indicators was defined for the topics of Access to Information, Freedom of Expression, Judicial Reforms, Decentralization and Strengthening of Civil Society, and between June and December 2003 an assessment was made of the level of implementation of the mandates on the above-mentioned themes.

The results of this exercise showed an important deficit in all the topics evaluated, but at the same time it indicated that several initiatives were in progress which could contribute to solving some of these problems.

In this respect, the standstill which might exist is a consequence of the fact that the majority of these initiatives have not been successful. As the initiatives are mainly of a legal nature, they are in Parliament for debate for an extended period of time or they are not priority issues of the government.

As an example, mention can be made of the theme of Access to Information, a topic widely addressed by Civil Society Organizations members of the Project and belonging to this region.

In summary, Chile, Paraguay and Uruguay have Bills seeking to broaden the legal ruling on this subject, but which have not been enacted as laws because they are still under discussion in Parliament.

The stagnation is also reflected in the fact that, as shown in the exercises carried out with the aim of assessing how this subject works in practice (analysis of website pages and requests for information), it is not possible to assure that citizens have real access to information.

Therefore, the commitments undertaken by the governments in Quebec “for guaranteeing free access to information, with the aim of establishing best practices to improve the administration of information held by governments about individuals, facilitating citizens’ access to information” has not been fulfilled. The examples shown for this issue can be applied to all the other themes, progress has been much slower than expected and there are no mechanisms for CSOs to have a direct influence on the rapid implementation of the mandates.