

TRANSPARENCY IN THE MEXICAN STATE OF COAHUILA

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In 2004, the Mexican state of Coahuila passed significant legislation on access to information, which is constitutionally binding, in three main areas:

1. Integration of the right, supported by fundamental principles such as “maximum disclosure”;
2. The creation of the Access to Public Information Institute of Coahuila (ICAI in Spanish) as an autonomous governing authority on the issue;
3. Application of the law as obligatory for: all three branches of the state government, municipal governments, any person or institution who receives public funds, and political parties.

However, the law also implies three limitations to access:

1. Information requests must be submitted with a signature, which limits the use of online request systems;
2. Bureaucratic limitations on appeals. If an information request is denied, one must appeal first to the same authority that initially denied the request, and only once this process is completed can a requestor further appeal to the ICAI;
3. The law does not provide for sanctions for officials who violate the right to information, and only refers to the Law of Responsibilities for Public Servants (*Ley de Responsabilidades de los Servidores Públicos*), which has yet to be reformed for this purpose.

The ICAI has gone through a process of “from less to more”: while their actions in their two and a half years of operation have been favorable in terms of the right to access information and greater transparency, the Institute has been affected by a reform that modified the term-limits for the President of the General Council. This reform provoked internal and public debates among the three councilors, causing them to lose some of the credibility that they had achieved.

The obstacles for exercising the right to transparency and access to information in the state include:

1. The culture of opacity and discretion in the patrimonial use of resources and public information that shapes public officials' attitudes;
2. The lack of willingness to change.

In order to deny access to information, there have been movements toward bureaucratic practices that extend the time-limits for responding to requests, discretionary use of the law to reserve information, counter-reforms to the law, and legal challenges through the courts, such as:

- The state Congress, by reforming its Organic Law, classified the legislative commissions' sessions as private (even though they are of an exceptionally public nature) and despite the fact that the old version of the Organic Law established the contrary. In the same way, it reformed the Organic Law for the Principal Treasury Accounting Office (Ley Orgánica de la Contaduría Mayor de Hacienda), preventing access to past Public Accounts reports.
- The Municipality of Torreón drafted a municipal transparency regulation in order to prevent the application of the state access law and to ensure that the ICAI would not have authority. The municipal government submitted a constitutional appeal claiming municipal autonomy and defending the regulation, which would grant it absolute power to classify information as reserved whenever its municipal officials saw fit. The State Constitutional Tribunal invalidated Torreón's regulation, but the appeal is currently before the Supreme Court.
- The Municipality of Saltillo approved a Regulation on Access to Public Information (as a parallel municipal law) contrary to the Constitutional reform and its Statutory Law. The municipal government has defended the validity of its regulation through a constitutional appeal. The State Constitutional Tribunal declared Saltillo's regulation as valid.
- The resolution of the State Constitutional Tribunal, which diminished the ICAI's power to revoke classifications of information as "reserved" in cases of information that the law itself declares public.

- Recently, Congress approved two reforms: 1) modification of term-limit for the President of the General Council of the ICAI into a rotating position; and 2) a slight modification of the requirement that requests carry a signature (only in the case of requests submitted through the internet, keeping the requirement in cases of written requests) and increased the time-limit on responses (the Law originally established 10 days for responses, and it was increased to 20).

However, the state Congress has forgotten about reforms that are indispensable to improve the law and to resolve difficulties that citizens encounter in trying to exercise their right to information, including changing the reconsideration appeal process and establishing procedures for sanctioning officials who violate the law.