

Date Printed: 01/05/2009

JTS Box Number: IFES_22

Tab Number: 54

Document Title: RIGHT TO PRIVACY AND SECURITY MATTERS

Document Date: 1996

Document Country: USA

Document Language: ENG

IFES ID: EL00315



**FEDERAL ELECTORAL INSTITUTE
FEDERAL REGISTRY OF VOTERS**

RIGHT TO PRIVACY AND SECURITY MATTERS

**RETURN TO RESOURCE CENTER
INTERNATIONAL FOUNDATION
FOR ELECTORAL SYSTEMS
1101 15th STREET, NW 3rd FLOOR
WASHINGTON, DC 20005**

**III Trilateral Conference
MAY /7-10 / 1996
Juan Manuel Herrero Alvarez**

RIGHT TO PRIVACY AND SECURITY MATTERS

Introduction

The Federal Electoral Institute, in accordance with the mandate of the Political Constitution of the United Mexican States, and through the Executive Administration of the Federal Electoral Registrar, has for many years been preparing a record of citizens who are entitled to vote.

In the integration of said electoral instrument and for its permanent updating, the Institute performs a series of activities and develops complex information systems. Only the political parties, as the law states, have access to the information thus integrated.

The characteristics of this registrar are intimately linked to the tasks of preparing electoral inputs and it is the object of auditing, supervision and permanent evaluation by the political parties to guaranty the accuracy of the specific information contained therein.

The forms of access to the information contented in the electors file to which the political parties have the right, in accordance with the corresponding law - the Federal Code of Electoral Institutions and Procedures (COFIPE) are given below, as well as the limitations and constraints set out in said legislation regarding this matter, whose purpose is to guaranty the privacy of the electors' data, and likewise, safeguard the confidentiality of the information furnished.

Forms and conditions of access to electoral records

1. Access by political parties

In principle, it should be stated that in conformity with the electoral law (3rd paragraph of article 135), the documents, data and reports furnished by the citizens to the Federal Electoral Registrar, in fulfillment of the obligations imposed by the Constitution and COFIPE shall be strictly confidential and may not be communicated or made known,

except in the case of trials or legal recourse and procedures in which the Federal Electoral Institute is a party or because of the General Population Law in matters referring to the National Registrar of Citizens or when ruled by a competent judge.

It is thus determined that in first instance, the Federal Electoral Institute shall ensure the strict confidentiality of the data and information furnished by the citizens to the Federal Electoral Registrar and the source documents used to compile the Electoral Rolls and name lists.

Nevertheless, the same legislation provides that the political parties shall have access (article 160, paragraph 1) to said information for which they shall have computer terminals at the National Oversight Commission of the Federal Electoral Registrar that allows them to have access to the information contained in the Electoral Rolls and the elector name lists. Likewise, and in accordance with the technical possibilities, the political parties shall have guaranty of permanent access to the data base, image base, image base, source documents and Roll movements.

Consequently, when determining access to said information, the same law defines the formats (article 160, paragraph 2). In this respect, it establishes that the Executive Administration of the Federal Electoral Registrar shall install State Electoral Roll Consultation Centers for use by representatives of the political parties before the Local Oversight Commissions.

Furthermore, the legislation states that the Federal Electoral Institute shall create, in accordance with article 160, paragraph 2, the consultation mechanisms in the district offices of the Registrar, to which all citizens shall have access to verify whether he or she has been registered in the Electoral Roll and duly included in the corresponding elector name list.

With this, in addition to the information that shall be available to the political parties, access will also be permitted for citizens, although it shall be exclusively restricted to information about their own records.

In this point it is worth mentioning that there is a limitation of the political parties' right to access which is clearly and precisely laid out in the electoral law (article 135, paragraph 4). Thus it states that the General, Local and District Councils, as well as the Oversight Commissions shall have access to the information that makes up the Electoral Roll exclusively for the fulfillment of their functions and may not put said information to any use or purpose other than the checking of the Electoral rolls and name lists.

Hence, it must be stated that the review of the information contained in the Electoral rolls and name lists is a power held by the representatives of the political parties in the Oversight Commissions of the Federal Electoral Registrar, at a nationwide level.

This is established in article 166 of COFIPE which assigns the following powers to the Oversight Commissions: ensure that the registration of citizens in the Electoral Rolls and electors name lists, as well as their updating is carried out under the terms established in this Code; ensure that the Voting Credentials are promptly delivered to the citizens.

Furthermore, it has the authority to receive from the political parties the observations made about the elector name lists; help in the annual Electoral rolls updating campaigns and the other activities conferred by the electoral Code.

1.1. Access to the Data Base

The Mexican electoral law guaranties permanent access by the political parties integrated in the oversight bodies to the contents of the information in the Electoral rolls, and the files of this registrar; although it reserves use solely for the fulfillment of the function to check the accuracy of said data and that the information may not be used or put to any purpose other than what is laid out.

With this legal provision, the legal right which gives the political parties unrestricted access to the information contained in the above mentioned electoral instruments is protected; correlatively, this becomes an obligation of the parties to respect the

confidentiality of the information furnished by the citizens in order to safeguard the privacy of the electors.

As can be seen, in electoral law, the Mexican legal system establishes the conditions for the political parties to have unrestricted access to the information in the Electoral Rolls; but it limits said rights to checking the accuracy of the data that make up the electoral files which may not be used or put to any purpose other than this activity.

Thus, in the preparation of said electoral instruments, the representatives of the accredited political parties in each Oversight Commission in the states may have access, as was mentioned before, to the information through the 32 State Consultation Centers and the National Center throughout the country, besides the centers installed in the National Oversight Commission.

As we have also mentioned, in the Consultation Centers, the party representatives have the use of an automated network whose computer terminals contain systems with the information about the records contained in the Electoral Roll data bases and the name lists.

1.2 Conformation of the Image Bases

This, in particular, refers to the Electoral Roll image base. Since 1993, the Federal Electoral Institute, through the Federal Electoral Registrar has implemented a digitalization process - by means of optical reading - of the receipts signed by the citizens when given the Voting Credential with a photograph and has stored the information and images contained in said documents (photograph, signature, thumb print and the data on the name, elector code, age and sex of the citizens recorded in the name lists) on magnetic formats. Said activity is performed in the 17 Regional Computing Centers (CRC) of the Executive Administration of the Federal Electoral Registrar, throughout the country, Therefore, each political party may consult said image base in accordance with a procedure adopted by them on the days and schedules established by lots.

Basically, the consultation procedures is that each representative of the respective political party attends the corresponding Regional Computing Center on the date and at the time established, with the electoral codes of the citizen records they wish to consult that are ordered by state, municipality and section.

The images are then called up on the terminal screen and checked against the photograph in the photostatic copies of the credential delivery receipts which are furnished, with prior application, by the Regional Computer Center to the representatives of the political parties.

Optionally, all accredited members of the political parties may apply to the Regional Computer Center to print the photographs of the citizen records in the sections they wish to consult in this way, in accordance with the printing capabilities of the equipment in each Center. This option has been made available to the political parties since August 13, 1994.

It should be mentioned that the Regional Computer Centers strictly safeguard the citizen information kept there, consequently the Federal Electoral Registrar has established for this purpose, with the approval of the representatives of the political parties, some guidelines for access by the parties to the centers in order to consult the image bases.

One of the above regulations establishes that the party representatives who have been specifically designated to consult the image bases must be accredited to the Federal Electoral Registrar Committee Members in the corresponding state, whose authority issues copies of all the accreditations presented to the Regional Computer Center.

Furthermore, in order to enter the Computer Centers, the political party representatives must identify themselves at the reception, with the corresponding accreditation, register themselves in the access book and shall only remain in the interior for the preestablished time.

When the accredited party representatives wish to consult original documents or source documents referring to application of registration in the Electoral Rolls, changes of

address, updating information or replacement of credentials, as well as receipts of credential delivery - which is stored in the same Regional computer Centers - this is made available with prior written request addressed to the persons in charge of the Regional Computer Centers.

If the consultation is made directly to the image bases, the political party representatives must already have the electoral code of each citizen to be consulted - said code is unique to each citizen - all of which are ordered by state, municipality and electoral section.

With these data entered into the computer, images are obtained in two media or formats; a display of said images on the monitor screen or in printed form.

With the image base consultation, the political party representatives check the images which are called up on the terminal screen against photographs of the photostatic copies of the credential delivery receipts and the other source documents which - as was mentioned before - are furnished, with prior application, by the Regional computer Centers.

Thus, the political parties can permanently verify the Electoral Roll and elector name list information, since in accordance with the corresponding law, they are the only persons authorized to consult this information.

1.3 Checking of name lists

Also, the electoral legislation (article 165 of COFIPE) provides for the exhibition, as from February 15 each and for twenty natural days, of the elector name lists in the district, municipal or Institute offices so that the citizens may personally verify the due inclusion of their data or the undue exclusion thereof.

Furthermore, the corresponding law (article 156 of COFIPE) states that the political parties shall have said lists available to them for review.

In this period, they prepare written observations about concrete and individualized facts and cases of those citizens who have been incorrectly recorded or unduly excluded from the name lists.

It is also established that the political parties may challenge the report presented by the Executive Administration of the Federal Electoral Registrar before the Central hall of the Federal Electoral court to the National Oversight Commission and General Council in reference to their observations about the name lists.

1.4 Verification and auditing

It should also be mentioned that in accordance with the powers conferred by the electoral law upon the General Council of the Federal Electoral Institute, as well as the Federal Electoral Registrar oversight bodies, political parties or private external institutions may verify or conduct audits to determine the accuracy of the information or the procedures used in the integration of the Electoral Roll or the elector name lists.

To this end, the participating institutions or party authorities shall abide by the provisions of the Federal Code for Electoral Institutions and Procedures regarding the strict confidentiality of the information, data or documents furnished by the citizens to the Federal Electoral Registrar, and thus safeguard the privacy of the electors.

2. Access by citizens

As has been stated, as from February 15 each year and for 20 natural days, the electoral law provides for the exhibition of the elector name lists in the district or municipal offices of the Federal Electoral Institute.

During this period, the citizens may, in their own specific cases, verify whether they have been correctly included or unduly excluded from the electoral lists. That is, they should only check the data referring to their personal records in the name lists.

This type of consultation of either the Electoral Rolls of name lists may be done privately by citizens at any time at the district offices of the Federal Electoral Registrar.

All citizens have access to said consultation mechanisms to verify whether they are registered in the Electoral rolls or duly included in the corresponding electoral name lists.

These mechanisms are independent of the Consultation Centers which are installed expressly for the checking of the Electoral rolls by the political parties and of the system adopted so that citizens may only consult their personal records.

2.1 Lists for application of article 163 of COFIPE

This is another means of access to the electoral records information which consists of the exhibition that must be made by the Institute - in accordance with article 163 of the corresponding law - of the lists or listings of citizens whose applications for inscription may have been canceled because of failure to go to the Institute's office or module corresponding to their home address to collect the Voting Credential later than September 30 of the year after the one in which inscription was applied for.

This item establishes that said listings must be exhibited between November 1 and January 15 of each year at the offices or modules of the Federal Electoral Institute or in those public places in electoral sections determined by the District Oversight Commissions in order to give notification of delay to interested citizens and to enable them to reapply for registration in the Electoral Rolls.

3. Safeguarding documents and information

This last point refers to the safeguarding and physical safety of the document sources, as well as the Electoral Rolls data bases and name lists.

In this respect, it should be stated that once the information is furnished by the citizens to the Federal Electoral Registrar, the documentation is sent to the 17 Regional Computer Centers for entry, where it is safeguarded.

In the Regional Computer Centers the information is loaded onto magnetic tapes which are transmitted to the National computer Center where, finally, they enable the updating of the national data base.

Furthermore, the information recorded on magnetic tapes for the generation of credential and receipt formats is sent to the National Printing Centers where it is kept in custody.

Conclusions

As was seen above, the characteristics of the Mexican electoral registrar establish, by legal mandate, the specific forms of access to its activities.

Precisely, because it is the principal element in the formation of electoral instruments, and a basic factor in helping attain transparency and legality in the Mexican elections, the legislation provides for the unrestricted access to the information in said electoral registrar by the political parties, as well as the establishment of constraints and conditions for this and the strict confidentiality of the information.

Furthermore, various forms of access to the information contained in the files were determined in order to incorporate the serious and responsible participation of the party authorities through the oversight commissions at each base for the preparation, formation, development and updating of the Electoral Rolls and name lists. Citizens, in particular, were allowed access for the sole and exclusive purpose of specifically consulting their own data.

The conditions established by the corresponding law for the access to the electoral registrar files make it possible, on one hand, to guaranty the privacy of the data furnished by the electors and, on the other, safeguard the confidentiality of the information contained in said electoral instrument.

