

Experiences and Challenges in Public Information Centers in the State of Morelos, Mexico

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Abstract: Democratic states are characterized by the participation of their citizens in the management of public affairs, getting institutions and administrations be considered as their own, close to them and open to their needs and aspirations, but above all, they acquire social legitimacy of their work. To achieve it, it is essential to establish mechanisms that enable institutions to open to the public, and help to gain citizen confidence. In the State of Morelos, the Public Information Act, Statistics and Data Protection was enacted on the 27th August, 2003. Derived from it, it is mandatory for all state and municipal public entities to ensure the exercise of the right to have access to public information, through its corresponding Public Information Center. Adecade after the enactment of the Act aforementioned, it is relevant to assess the progress achieved in this area, since we must keep in mind that the implementation of a public policy of transparency has an economic cost, as it is necessary to invest in administrative structures, human resources and materials, staff training, information dissemination, and other that must be anticipated and assumed, in order to prevent that the content of the law remains a rhetorical speech or as a programmatic content.

Key words: democratic state; transparency; public information; public policy; public information unit

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1. Introduction

The organization of modern society is based on the internationally recognized human rights, which most contemporary states have undertaken to respect, protect, ensure and promote by signing the Universal Declaration of Human Rights of 1948.

Article XIX of the Universal Declaration of Human Rights establishes the right of citizens to access the information, which in the past fifteen years has been developing in national legislation and to date, 60 countries

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have passed laws thereon.

In the case of Mexico, the right of access to information is relatively new, the Federal Law of Transparency and Access to Public Government Information entered into force in 2002. This law is a federal responsibility, so the states have had to enact their respective state laws.

The Congress from our entity incorporated the aforementioned article in Articles 2 and 23-A of the Constitution of the State, then, on 27th August 2003, the Law on Public Information, Statistics and Data Protection was promulgated.

Derived from the above legislation, the obligation for all state and local public entities to ensure the exercise of the right of access to public information is created, through its corresponding Public Information Center (UDIP for its acronym in Spanish).

2. Literature Review

The legislation of the State of Morelos establishes the existence of a guarantor body of the right to access to public information: The Institute of Public Information and Statistics (IMIPE by its acronym in Spanish), which has an index of indicators (Integral Index of Transparency in Morelos) by which assesses the degree of compliance of the Public Information Units in each obligated entity.

Periodically, the IMIPE performs evaluations in each UDIP to determine the degree of progress in fulfilling its obligations relating to transparency and accountability.

3. Methodology

This work includes the analysis of assessments made on Public Information Centers in the last three periods of the last municipal administrations, that is, during the triennium 2003-2006, 2006-2009 and 2009-2012.

The sample of the obligated is composed by UDIPS of the 33 municipalities of the State of Morelos, so no other entities are part of the study.

4. Results

Taking into consideration the above-mentioned approach, we can observe the progress of the UDIP's, regarding their obligation to guarantee the right of citizens to access public information found in defense of local governments, in the periods before indicated:

(1) Respect to the establishment of the Public Information Centers, in all municipalities have had errors of origin. For example, in the creation agreement of one of the municipalities, twenty starters of Public Information were established; in addition they noted names of public servants and not the charges, so by not being working the people referred to this council, such agreement is not legally valid. The same situation prevailed with respect to the establishing Agreement of the Council of Classified Information.

(2) As for the integration of Classified Information List and the Personal Data catalogue, even though most of the UDIP's have them, in many cases they are not updated. Added to this, there is the tendency of local authorities to integrate to the Classified Information List, information that for some reasons do not want to make available to individuals, even if they are not meeting the legal requirements to be classified as confidential or private.

(3) It is important to point out that the IMIPE evaluates the facilities and citizen service, so there are several

items that need to be addressed, such as:

(a) The office must have sufficient space for the user to write his/her application. In this regard, we can say that in most cases, the UDIP's do not have optimal conditions.

(b) There must be forms for requesting information and available to public view. It is usually the IMIPE who provides formats for each of the regulated entities.

(c) There must also be visible signs to locate the Public Information Unit within the institution. Most UDIP's do not meet this obligation.

(d) It is mandatory to put in the City Hall as well as in the office of Public Information, material that promotes the right of access to information, such as posters, banners, leaflets, brochures, etc. In this regard, the advertising used is developed, disseminated and provided by the IMIPE.

(4) To ensure the exercise of the right to public information, it is necessary to have a system of organization and systematization of information, through which this information is visible, which is why on 31st December, 2008, the Archival Guidelines for those regulated entities were published in the Official Gazette number 4671 of the State of Morelos "Tierra y Libertad", in terms of what is stated in the Law on Public Information, Statistics and Personal Data Protection of the State of Morelos. In its article 12 establishes the obligation on public bodies to form a File Coordinator Area determined by the head of the entity.

The Archive Coordinator Area is responsible for implementing the archival control system of the town hall, which must contain three sections:

- Process file.
- Concentration file.
- History file.

Most municipalities do not have an area that is specifically responsible for managing the municipal archives, a situation that has a negative impact on various aspects, it is therefore necessary to carry out the establishment of Archives Coordinator Area. The agreement on the appointment must be published in the Official Gazette of the State of Morelos "Tierra y Libertad".

The archival system, understood as that which concerns the integral management of public documents, constitutes the indispensable premise for the operation and effectiveness of the right of access to information, since the conditions to guarantee the right of access to information are:

- The document exists.
- That is reachable by the public entity.
- That is identifiable by the population.

The problem which confronts the citizen to get information from a UDIP in the State of Morelos, in some cases, is not the refusal of public servants, but the impossibility of the administration itself to locate documents due the lack of organization and systematization of the municipal archive.

(5) As for the daily functioning of the UDIP's, it is noteworthy that they have no adequate monitoring implemented to public information requests submitted by the population, both received in writing at the office, as the received through INFOMEX system. Due to the above, most municipalities have disagreement actions brought against them in the IMIPE.

One of the most important aspects that arise from obligations of transparency, is the one related to the liability of the obligated parties to have an internet portal, in which information be published in accordance with the indicators set out in the Act of Public Information, Statistics and Personal Data Protection of the State of

Morelos, the Rules of such Act and the Integrated Index of Transparency in Morelos. In this regard, it is noted that a high percentage of municipalities do not have updated information; besides they do not publish it in terms of the provisions of the aforementioned documents.

It is also essential to consider that the designation of the UDIP's heads is the consequence of political commitments or campaign promises that are accompanied by serious drawbacks, such as the server does not have the appropriate profile, with all that it represents. Besides, the Public Information Center is sometimes the "cumbersome" from the municipal administration, which is not provided with the necessary financial, material or human resources to perform the function.

The greatest challenge is in the implementation of the law on transparency and access to public information and the consolidation of the independency of the guarantor bodies, and consequently, it is essential to rethink the legal nature of the UDIPS as autonomous bodies from the municipal administration.

A public servant, head of the Public Information Center faces a dilemma when there is interest from the City officials to hide certain information. In this regard, to ensure the effectivity of the right of access to information, it would be useful to think that Public Information is not subject neither functionally, nor organically to the Municipal Civil Service, so that the operator can act independently. Its design and concept must be designed to erect them as specialized organs, technicians, whose opinions and operation must ensure fairness and commitment, not with whom it is appointed and holds the office, but with the compliance of the law.

Another challenge is to solve the boundary problem, that is to say, to establish the border: to what extent advertising should be expanded and from where preserve secrecy, confidentiality. On the problem of the boundary between public and private, I believe that the answer lies in balance or harmonization of reality, because each case has its own peculiarities which must be taken into account, so the jurisprudence will be the one responsible to set the criteria to guide legal practitioners.

5. Conclusions

The right of access to public information is a fundamental feature of any democratic government, in Mexico has its basis in Article 6 of the Political Constitution of the United Mexican States. Consistent with this, the Congress of our entity incorporated it in Articles 2 and 23-A of the Constitution of the State, and later on 27th August 2003, the Law on Public Information, Statistics and Personal Data Protection was promulgated.

A society is democratic when its citizens are better informed, that is, are guaranteed the right of access to information and freedom of expression; in this regard, transparency becomes a tool to prevent the use of privileged information.

Municipal governments have failed in their attempt to comply with the transparency that is required by law, the main obstacles they face are: lack of citizen participation, secrecy and concealment of public information by municipal public servants, bad practice or resistance to comply with the rulings of the guarantor bodies, there is no real political will to make transparency a reality and poor dissemination of the right of access to information.

It is important to note that a Law on Access to Information, by very liberal and progressive that is designed will not guarantee individuals the right to access public information, but in reality should be a real tool for instrumentation of public policy and effective real transparency, coupled with a genuine political will, impeller of the principle of transparency.

On this new basis, it is going to be necessary a lot of will, resources, infrastructure and capacity to build

plenty of transparency policies, as many as the diversity of our municipalities.

The implementation of a policy of transparency has an economic cost, since it should be invested in administrative structures, human and material resources, staff training, information dissemination, and others, that must be foreseen and assumed to avoid that the contents of the law remains a rhetorical speech or program content.

Public entities do not provide complete information, and in general, the one that is offered is not detailed, nor presented to public with the opportunity and timing necessary, so what prevails is the spirit of corporatism or marketing over that of accountability. Therefore, the challenge is the implementation of a political culture so that there will be rulers committed to transparency. There should be attractive incentives that encourage ongoing training for those responsible to safeguard, manage, and release information.

References:

- Domínguez González L. A. (2006). El acceso a la información pública en los municipios de México” en López–Ayllón, S. (coord.), *Democracia, Transparencia y Constitución, Propuestas para un debate necesario*, México, IFAI-IIIJ/UNAM 2006, México.
- Escobedo F. (2010). *La invención de la transparencia, Serie políticas públicas*, Porrúa, México.
- Merino M (2005). “El desafío de la transparencia. Una revisión de las normas de acceso a la información pública en las entidades federativas de México”, en *Democracia y transparencia*, México, Instituto Electoral del Distrito Federal.
- Navarro F. and Villanueva E. (2008). *Medios de servicio público y transparencia: análisis para su medición de su desempeño*, Senado de la República–Instituto de Investigaciones Jurídicas de la UNAM, México.