

Day 4 – Thursday, 29 November 2007
Parallel Sessions – Session 3D 11.00am-12.30pm

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Position: Commissioner President

Organisation: Federal Institute for Access to Information, Mexico

Presentation Title: The relationship of sub-national FOI review bodies to their national counterparts: tensions and synergies

Mexico, with a population of 105 million citizens, is a federation composed of thirty-one states governed by a democratic, representative government based on a congressional legal system. The government has three levels: Federal, State and Municipal.

The Federation exercises jurisdiction over the Federal District and thirty-one states. Each state has an independently elected government, its own Constitution and Congress, as well as a judiciary power.

On June 12, 2003 the Federal Transparency and Access to Public Information Act came into force. The Act guarantees access by every person to the information in possession of the Federal Government, autonomous constitutional instrumentalities as well as any other federal entity.

The Transparency Act establishes a new government entity: the Federal Institute of Access to Public Information (IFAI), which is a public body with operational, budgeting and decision-making autonomy, in charge of promoting and disseminating the right to access public information, issuing resolutions on denial of requests for access to information, and protecting personal data in possession of departments and agencies.

Since 2003, every State has adopted its own Transparency and Access to Information Law. Unfortunately, there are many differences between them, among some examples of the heterogeneity are:

- In 16 cases the law requires the person requesting information to present an identification, fingerprint or signature to request any information.
- In some states the law requires individuals to live in the state where the information is requested.
- In other cases, controversies are settled by non-specialised tribunals or the authorities possess a ceremonial status.
- Only in some laws political parties are disclosing parties.

Because the right of access to information is a fundamental right that must be enforced by the State and must also be an obligation for every public servant, Mexico needed to take a step forward and promote a new generation of Access to Information Laws to resolve the standardization of this right. Last year, 5 State Governors presented to the Congress an amendment proposal to Article 6 of the Constitution. The proposal was approved unanimously by the Federal Con-

gress and the Federal Senate and then by 16 local Congresses. The President published the Constitutional reform on July 20th, 2007.

The Mexican constitution, like many in Latin America is long and detailed. The amendment to Article 6 of the Constitution enforces a series of universal conditions for access to public information in every public institution in Mexico, which guarantees coherence and cohesion for transparency laws in our Country:

- Establish the national extension of transparency.
- Establish the principle of maximum publicity of government information.
- Guarantee every person's right of access to information through an expeditious process, without the need of demonstrating their identity or legal interest.
- Create professional, autonomous and impartial institutions that will help create a culture of transparency and accountability and guarantee access to information.
- Establish sanctions for the public officials that deceitfully deny access to information.
- Establish the obligation of disclosure of information for all public bodies, regarding their management and performance.
 - Guarantee the protection of personal data in hands of public institutions.