

To what extent has the high chamber fortified the integrity of the elections?

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1 SUP-RAP-749/2017



How was the Elections Rulebook modified regarding: the preliminary revision of votes, the transportation of electoral packages, polling and quick counts, gender parity, the quality of the electoral documentation, and the election results poster?

SUP-RAP-749/2017 (14/02/2018)

What happened?



- 1 The National Electoral Institute (INE) approved an agreement by which many articles of the Elections Rulebook were modified.
- 2 The National Action Party (Spanish: *Partido Acción Nacional*, PAN), MC Citizens' Movement (Spanish: *Movimiento Ciudadano*, MC) and MORENA National Regeneration Movement (Spanish: *Movimiento Regeneración Nacional*, MORENA) each presented an appeal against that agreement because they considered that the INE jeopardized the reservation of law principle. They claimed that the modifications:
 - Altered the vote computing and scrutiny process, which is written in the LEGIPE by implementing a preliminary revision process of votes to deperate ballots turned into the wrong polls.
 - Resulted in poll officers being exempt from their requirement to sign the electoral documents, by allowing the transportation of electoral packages organized by type of election.
 - No gender parity rules that apply to the postulations of local candidates were created.
 - The quality of the electoral documentation was jeopardized by allowing Public Local Electoral Organizations (Spanish: *Organismos Públicos Locales*, OPLEs) to present proposals for the hiring or acquisition of this material.
 - People who pretend to carry out result polls and quick counts are exempt of telling the government of this intentions.
 - By allowing fractioned filling of the election results poster, once the elections act has been filled (federal or local) it violates the principle of legality and certainty.

What did the High Chamber decide?

After reviewing the modification made on the Election Regulations the majority of the High Chamber:

- 1 **Revoked** the preliminary vote review rules.
- 2 **Revoked** the rules which allowed the transportation of electoral packages in accordance with the LEGIPE statutes.
- 3 **Revoked** the fractioned filling of the election results poster.
- 4 **Modified** the election regulations to make it mandatory for physical and moral entities that pretend to carry quick vote counts to notify electoral authorities about their intentions.
- 5 **Confirmed** that the INE's general council does not have the faculties to issue gender parity rulings for local candidatures.
- 6 **Confirmed** that the quality of the electoral documentation is not at risk.



The minority disagreed for the following reasons:

- 1 The voting's preliminary review does not alter the scrutiny procedure and the computing of votes.
- 2 The package's transportation regulation by "election type" became definitive and solid since that topic was not contested inside the SUP-RAP-609/2017 appeal.
- 3 The law does not define a moment for the filling of the election results poster and allowing the fragmentation of results will optimize the timetables.

2 SUP-RAP-42/2018

Can the information in the scrutiny and poll computing booklet be used to conduct an estimated count in the presidential and governor elections?

SUP-RAP-42/2018 (22/03/18)

Yes, because the information registered in the booklets does not affect the process; furthermore, it doesn't imply new procedures or stages to the ones established in the law.

What happened?

The General Council of the National Electoral Institute (INE) established that for the estimated count, activity which purpose is to know an estimate of the voting's result tendencies in the presidential and governors elections on the day of the elections. In this case, the information from the booklet will be used as a base to conduct the scrutiny and computing operations.



The Green Ecologist Party (Partido Verde Ecologista) asked for the agreement to be revoked and for the High Chamber to issue an interpretation criteria determining that the only proper material for estimated counts should be the scrutiny and computing act.

What did the High Chamber decide?

The High Chamber ratified the agreement for the following reasons:

- The nature of the challenged act is not of a substantial nature, it's instrumental, therefore it did not infringe the principle of certainty.
- The agreement did not add any extra rules or stages to the legal scrutiny and computing procedure, hence the INE's determinations given the estimated count's nature and the agreement's objective imply no damage to this procedure.
- The information set in the booklets for in-poll scrutiny and computing operations complies with the characteristics that give certainty to the estimated count procedure.
- There is no clash between the citizen's right to information and the principle of certainty in the electoral results, therefore a consideration judging was not necessary.



3 SUP-REP-155/2018

Is it possible to penalize a journalist of slandering a candidate according to electoral law?

SUP-REP-155/2018 (07/06/2018)

¿Qué sucedió?

- 1 A PAN candidate for the Lower House sued a journalist for publishing a column, because the candidate considered that it slandered him.
- 2 La Junta Distrital Ejecutiva del Instituto Nacional Electoral of the District Executive Board of the INE in the state of Nuevo Leon, dismissed the lawsuit since the board considered that it was not a case of political-electoral propaganda.
- 3 The candidate appealed this resolution.



What did the High Chamber decide?

The appealed resolution was dictated in accordance with the law because:

- Journalists constitute the backbone that makes the circulation of ideas and public information possible, therefore, their informative labour enjoys an ample judicial protection.
- To fulfil their function, those who exercise the profession of journalism have the right to perform their labour in the necessary conditions of freedom and independence.
- An independent and critical press is fundamental to secure other liberties of a democratic system; the debate of public interest issues must be uninhibited, robust and open.
- Therefore, the national law system excludes journalists as punishable subjects for slander, provided that the opinions that they express are an authentic exercise of journalism.
- This judicial interpretation aims to avoid any dissuasive or intimidating effect that may have an impact on the exercise of freedom of speech.



4

SUP-REP-32/2018 Y SUP-REP-34/2018 ACUMULADOS

Under which circumstances might a party's radio and television ads inhibit the freedom of press?

SUP-REP-32/2018 y SUP-REP-34/2018 acum. (28/03/18)

What happened?

The National Action Party (Spanish: Partido Acción Nacional, PAN) broadcasted a spot in which it declares that the supposed attacks conducted by the newspaper "El Universal" through an article aimed at Ricardo Anaya, the party's president at the moment were "not true". The spot included images from the newspaper and TV broadcasted news.



Did the spot make improper use of the propaganda subsidy?

The Regional Specialized Chamber decided that:

- The spot was not used to extend the right of replica of Ricardo Anaya Cortés regarding a press article regarding the increase of his and his family's estate.
- Its broadcasting did not imply an improper use of the propaganda subsidy nor a false statement.
- There were no premature acts of campaign from neither Ricardo Anaya nor PAN.

The High Chamber decided that:

Contrary to the regional chamber's resolution, it considered that there was an improper user of the propaganda subsidy because:



The spot does not comply with the ends of political propaganda, it addresses Ricardo Anaya's personal issues instead of promoting the party.

The PAN can not use the subsidy to debate against the media about uncomfortable articles regarding the party or its leaders. This could dissuade the media's duty to inform.

The political parties should be careful when using their propaganda subsidy in a way that might take the journalist work out of context in an unjustified manner.

Regardless, there was no over-exposure or personal positioning of Ricardo Anaya as well as no premature acts of campaign nor false statements.

Two of the justices considered that...

Political parties can use their subsidy to address general interest subjects, such as journalist investigations that are carried out with the objective of inquiring about the party leader's patrimony, since it doesn't only affect the person involved but it also affects the way the party is perceived. It is considered legitimate to broadcast critical opinions or information regarding the journalist work in the ads subsidized by the party when there are completely justified reasons to do so.

The improper use of the subsidy lies in the fact that the content vulnerated third parties' rights by indirectly referencing El Universal's investigation work and the way that this information was taken out of context and labeled as an "attack", hurting the legitimate exercise of journalism.

Utilizing the subsidy as a mean to undermine the media and its members translates into an indirect interference of the freedom of speech and the citizen's right to be informed. This interference has a hindering effect on the exercise of journalism and seriously harms the flow of ideas, this all becomes an obstacle for the informed exercise of the electorate's vote.

5 SUP-RAP-15/2018 SUP-RAP-19/2018 Y ACUMULADOS

ELECTORAL TOURISM

SUP-RAP-15/2018 Y SUP-RAP-19/2018 y acumulados (25/04/2018)

What happened?



1. In May 2013 three PAN senators lodged a complaint with the INE - known as the IFE at that time-, against whoever was responsible for the atypical increase of procedures to change the address to vote made by several hundred citizens, that relocated from the state of Yucatan to the state of Quintana Roo. The reason behind the relocation was to influence the outcome of the 2013 local elections by voting for the PRI.
 2. In January 2018, after finishing its investigation and concluding the sanctioning process, the INE ruled that:
 - 467 citizens were responsible for providing false information to the Federal Electorate Registry by requesting changes of address from Yucatan to Quintana Roo. Hence, the INE sanctioned them with a warning.
 - 145 more citizens were acquitted due to lack of evidence to prove their responsibility for presenting false information.
- 2 citizens were sanctioned for instigating other citizens to carry out the change of address.
 - The political party known as PRI was held responsible for its indirect responsibility, since it failed to comply with its duty of preventing these type of conducts (culpa in vigiland) since the people who promoted the changes of address acted on behalf of the party & the party did not distance itself from the instigators.
3. The PRI and MORENA appealed the resolution of the INE to the High Chamber



The High Chamber analyzed the three following topics:

1. Was it correct to hold the PRI responsible? Was its responsibility indirect -as determined by the INE- or direct?
 - The High Chamber ruled that: it was correct to hold the PRI accountable. The responsibility of the party was direct because it was demonstrated -through the statements of 35 citizens- that the agents, on behalf of the party, instigated the citizens to carry out the irregular changes of address in exchange of gifts.
 - The instigators participated directly in carrying out of the offence because they provided the citizens from Yucatan with documents and transported them to the offices of the INE in Quintana Roo.
2. Out of the 145 citizens that agreed to change their address, 140 were acquitted. Were the 140 acquitted citizens responsible as well?
 - The INE determined that they shouldn't be held accountable. Since their address could not be determined, it could not be concluded that they provided false information and documents. Due to the existence of a reasonable doubt, the citizens' innocence had to be presumed.
3. Was the seriousness of the violations assessed correctly?
 - No, it was not. It was necessary to increase the severity of the sanction. By providing false information, the integrity of the electoral registry was put at risk, which entails a violation of the principles established by the Constitution. Since the violations entail a greater seriousness than the one determined by the INE, the penalty should be increased.

What was the decision of the High Chamber?

It revoked the resolution of the INE and instructed it to dictate a new resolution in order to:

- Determine that the PRI had direct responsibility for the participation of agents acting on its behalf to alter the electoral registry with false information and documents.
- Modify the enforced penalties and individualize them. The individualization should consider the vulnerable situation of some the sanctioned citizens.



6 SUP-JDC-1163/2017



REQUIREMENTS TO QUALIFY AS AN INDEPENDENT CANDIDATE

SUP-JDC-1163/2017 (03/01/2018)

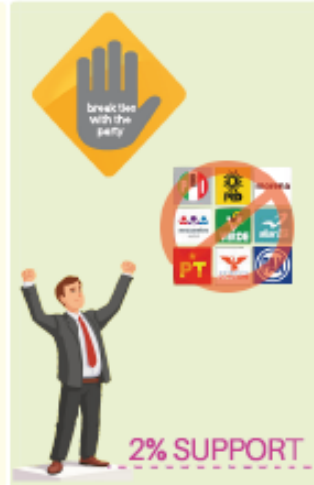
Should the rule of leaving a political party 12 months prior to becoming an independent candidate apply in the same way to a former militant as for a former director?

Must the support of an independent candidate be distributed geographically between a state's municipalities?

What happened?

1 The Electoral Tribunal of Puebla validated the guidelines to run and register as an independent candidate for the Puebla's 2017-18 electoral process. The guidelines, which reproduced what was established in the Electoral Code of the State, established the following:

- To be an independent candidate, the aspiring candidate should have separated from any political party 12 months prior.
 - To register, an independent candidate should obtain at least 2% of signatures backing support in two thirds of every municipality in the state.
- 2 An aspiring candidate challenged these two guidelines, as he considered them disproportionate and a violation to his right to be voted.



What did the High Chamber resolve?



✓ No previous militancy in a political party

Contrary to what is established by the State's Electoral Code, someone who has only been a militant of a political party should not be required to leave from it 12 months before the election. This due to the influence that a directive position possesses is not the same as the influence of a regular militant. It was considered when it refers to militants, as they only need to separate from the party one day before presenting the document of intent to register as an independent candidate.



✓ Geographic distribution of an independent candidate's support

An aspiring candidate must prove that he or she has enough citizen representation within the State. Therefore, demanding that their support be distributed geographically in at least two thirds of the State's municipalities is excessive. Hence, there should be no requirements demanding a geographical distribution of the candidate's support written in the Local Electoral Code.

7 SUP-REP-675/2018 Y ACUMULADOS

The handing over of food parcels and electoral propaganda

SUP-REP-675/2018 y acumulados (06/06/2018)

What happened?



- 1 Prior to the election day, the PRI denounced the coalition formed by the PAN, PRD and MC, as well as the coalition candidates to the Presidency and the Senate for Tamaulipas, for handing out food parcels coming from a state founded social program to promote the vote in their favour, an action that violated the principle of impartiality and the rules of political propaganda.
- 2 As a precautionary measure, the High Chamber ordered that steps should be taken to prohibit the handing out of food parcels due to the high, real and objective risk that these actions would negatively affect the elections.
- 3 After analyzing the controversy, the Specialized Chamber decided that the violations related to the misuse of public resources were proven. The Chamber also ruled that a local public official had broken the rules of electoral propaganda and, therefore, the Chamber notified the Office of the Comptroller and Auditor General of Tamaulipas. Finally, the Specialized Chamber imposed penalties on the denounced parties and candidates.
- 4 The PAN and the acting Minister of Welfare of Tamaulipas appealed the decision. They argued that neither the handing out of food parcels with an electoral purpose nor the participation of local officials and candidates were proven. The PRI also appealed the decision because it considered that the penalties imposed on the defendants should be increased.

What was the decision?

The High Chamber confirmed that:

- 1 The facts and the infractions regarding the violation of the principles of impartiality and neutrality and the misuse of social programs in favour of the candidates were effectively proven (electoral clientelism).
- 2 Its decision was based on the analysis of all the existing evidence, including the testimonies and the two detailed official reports that registered the presence of a group of people standing in line outside a house, inside of which there were boxes with the state government seal and lettering from the Tamaulipas government, as well as 500 support formats with the names and pictures of the candidates and blank spaces to be filled with personal information of the receivers of the goods. Even though neither the handing out of the parcels nor their contents were credited, the existing evidence allowed the High Chamber to deduce that the violations were committed.
- 3 The penalty imposed by the Specialized Chamber was confirmed because the PRI did not fight the individualization of the assigned penalty.



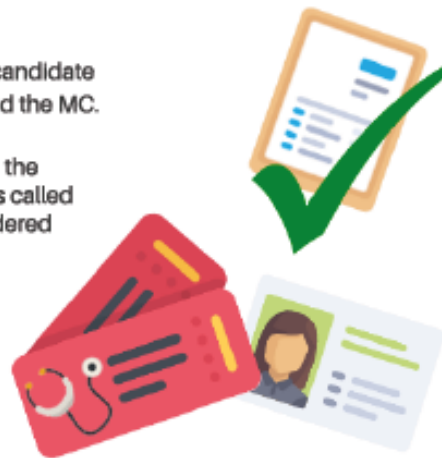
8 SUP-JE-20/2018

Is it legal to distribute vouchers with a promise of health services offered to the holders in case the candidate wins the election?

SUP-JE-20/2018 (06/06/18)

The facts

- 1 The local electoral institute approved the registration of the candidate for governor of Yucatan, who ran for both parties, the PAN and the MC.
- 2 A citizen denounced the PAN, its candidate for governor and the municipal government of Merida for handing out of vouchers called "health check book" among the citizenry. The plaintiff considered that the distribution of the vouchers generated:
 - a. Acts of pressure and voter coercion.
 - b. A misuse of the personal information of the beneficiaries of the municipal social program called "Home Visit Doctor."
 - c. A misuse of public resources and an improper promotion of the municipal social program.
- 3 The local electoral tribunal concluded that, from the assessment of the evidence presented, the violations could not be confirmed.
- 4 The plaintiff lodged this electoral trial in order to question the resolution of the local electoral tribunal.



What did the High Chamber decide?

- The local tribunal did not conduct a thorough analysis of the implications that the "health check book" entailed.
- From the assessment of all the evidence presented, the true nature and purpose of the vouchers cannot be established.
- The impossibility to establish the true nature and purpose of the vouchers arises because it cannot be determined whether the defendants tried to exercise an inappropriate influence on the electorate, which must probably be in a vulnerable position.
- For the aforementioned reasons, the High Chamber determined that the sentence of the local tribunal should be revoked and that the local electoral institute should be instructed to carry out the necessary, sufficient and pertinent proceedings to solve the controversy thoroughly. The High Chamber decided that only a thorough investigation would enable the local tribunal to pass judgement on the legality or illegality of the vouchers.

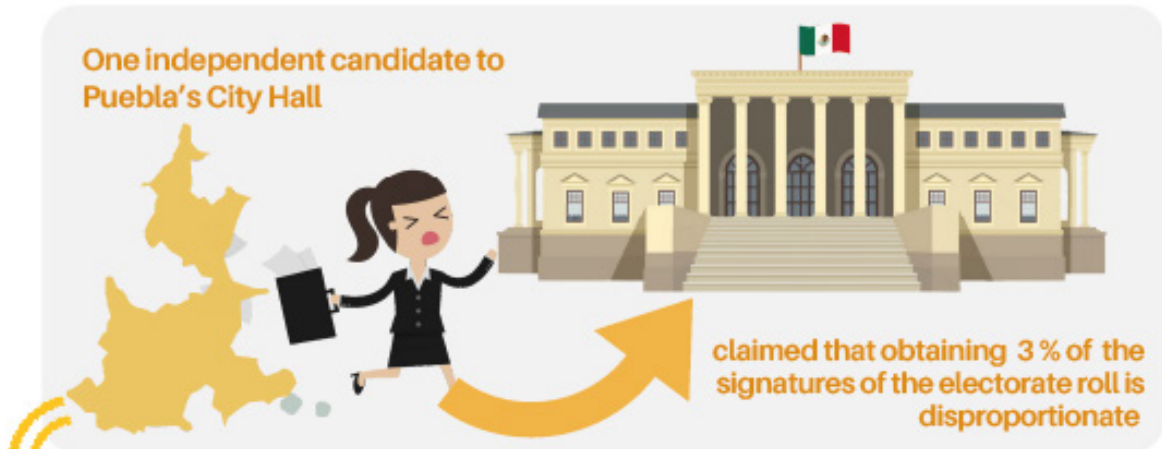


9 SUP-REC-82/2018

Accessible requirements for INDEPENDENT CANDIDATES

SUP-REC-82/2018 (15/03/2018)

One independent candidate to Puebla's City Hall



claimed that obtaining 3% of the signatures of the electorate roll is disproportionate

1% or 3% of the electorate roll?



Regional Chamber of Mexico City

1% 



The High Chamber confirmed that



- 3% is not proportional
- the code of better practices used by the Venice Commission is an orientating factor

10 SUP-RAP-44/2018 Y ACUMULADOS

What happened with the contenders running as
INDEPENDENT CANDIDATES
for Puebla's governorship?


SUP-JDC-44/2018 y acumulados (26/02/2018)



The High Chamber ordered, by majority, to give independent candidates 30 more days to obtain sufficient signatures.

Why?

Because the deadline was not reasonable



as it excessively limits the right to be voted, since demanding candidates to obtain 132,552 signatures in 30 days is disproportionate and impossible.

11 SUP-RAP-202/2017



Can the National Electoral Institute (INE) revise the objective of a political party's campaign expense while auditing all of the party's expenses?

SUP-RAP-202/2017 (24/11/2017)

Should the distribution of cards that offered future social programs and that were handed out to citizens during a State's electoral process by a political party be considered lawful propaganda or vote manipulation?

WHAT HAPPENED?



The INE determined that the coalition "Por un Coahuila Seguro" (For a Safe Coahuila) used resources to distribute the cards "Mi Monedero Rosa" (My Pink Wallet), "Mi Monedero" (My Wallet), and "Mi Tarjeta de inscripción" (My Enrollment Card) the Coalition filled out an electoral roll with all the information from the possible beneficiaries upon delivering the cards. This action led to them being penalized.

The Coalition claimed that the cards were meant to be propaganda and so including them as a campaign expense was justified.

WHAT DID THE HIGH CHAMBER DECIDE?

The majority decided that:

- 1 The audit of the INE is nullified when the legitimacy of this specific expenditure is demonstrated.
- 2 The cards were in fact part of the legal campaign propaganda for the Coalition.

The minority considered that:

- 1 The cards were not part of the legal campaign expenses since they were a simulation of a social benefit program offer, and also because an electoral roll was created with the personal information of the cardholders.
- 2 The INE's ability to audit and determine the legality of a political party's expense includes the analysis of the use, purpose, and origin of a resource that was used by the political party.



12 SUP-JRC-388/2017, SUP-JDC-834/2017, SUP-JDC-389/2017 Y ACUMULADOS

Which "standard of proof" should be used to validate that patronage practices were committed?

SUP-JRC-388/2017, SUP-JDC-834/2017 y SUP-JDC-389/2017 acumulados (24/11/2017)

The facts



- 1 The National Action Party (Spanish: *Partido Acción Nacional*, PAN) and the National Regeneration Movement (Spanish: *Movimiento Regeneración Nacional*, MORENA) filed a complaint to the Electoral Institute of Coahuila about the distribution of the cards "Mi Monedero" (My Wallet), "Mi Monedero Rosa" (My pink wallet), and "Mi Tarjeta de Inscripción" (My enrollment card) carried out by the The Institutional Revolutionary Party (Spanish: *Partido Revolucionario Institucional*, PRI)
- 2 The cards existence was proven by a report of their production.
- 3 The Electoral Tribunal of Coahuila determined that the cards that were distributed by the PRI promised benefits through social programs therefore applying pressure to obtain the electorate's vote. As a result, the PRI and its candidate were sanctioned.
- 4 The PRI complained to the High Chamber.

What did the High Chamber decide?

The majority revoked the sanction as:

- 1 The elaboration of the cards were only demonstrated yet not distributed, therefore the cards were considered a valid electoral propaganda tool since they only contained campaign promises.
- 2 Regarding the creation of the electoral roll, the National Electoral Institute (INE) must determine what happens next since legal dispositions do not authorize the creation of this type of rolls by politicians or political parties.



The minority considered that:

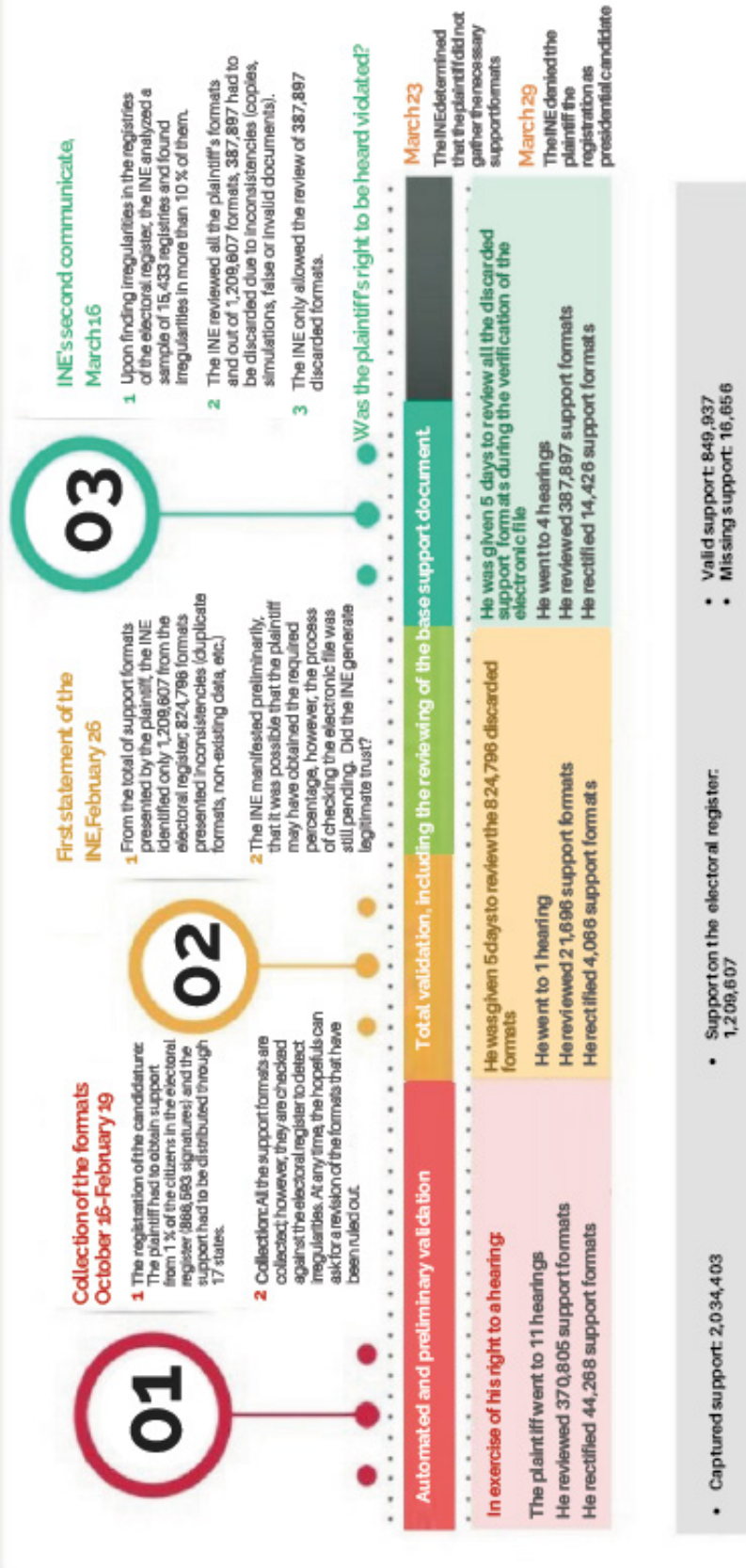


- 1 The facts were demonstrated as cards were distributed to focalized groups, such as families in poverty situations, women in vulnerable situations and young students during the electoral process,.
- 2 The distribution of cards were an instance of patronage malpractice, seeing as collecting personal data into an electoral roll, the pressure on the electorate to modify its electoral preference is presumed. Therefore the backing of decisions solely through direct proof, leads to impunity, unlawful acts and the electoral mal practice.

13 SUP-JDC-186/2018 Y ACUMULADOS

VALIDATION OF SUPPORT FORMATS FOR THE REGISTRATION OF INDEPENDENT CANDIDATES

SUP-JDC-186/2018 Y ACUMULADOS (09/04/18)



VALIDATION OF SUPPORT FORMATS FOR THE REGISTRATION OF INDEPENDENT CANDIDATES

SUP- JDC-186/2018 Y ACUMULADOS (09/04/18)

What was the decision of the High Chamber?

The majority of the Chamber ordered the INE to recognize the support formats as valid ones and, therefore, to register the plaintiff as a presidential candidate.

Legitimate trust

Majority

The plaintiff was certain he obtained the required percentage of support, based on the preliminary statement of the INE on February 26th.

Minority

The statement of the INE did not create legitimate trust since it was clearly established that there might be some change, because the revision of the electronic files was still pending.

Right to be heard

Majority

The plaintiff couldn't exercise his right to be heard because:

- In the verification process he was not allowed to review the totality of his discarded formats, only the ones eliminated in the preliminary review
- In a unilateral manner, the INE registered as irremediable some of the discarded formats
- The negative of the INE produced an equality violation in the format verification procedure

Minority

The plaintiff did exercise his hearing warranty because:

- He appeared in front of the INE to review his formats and chose not to review the ones initially discarded
- During the verification procedure he was given the adequate conditions to defend himself and his rights if necessary

Effects

Majority

Given that the plaintiff rectified 8 % of his formats and fell short by only 2 % to comply with the requisite, it is reasonable to deduce that, had he been given the chance to review the entirety of the formats he would have rectified the missing percentage and obtained the 100% of the formats

To compensate the plaintiff, the INE has been instructed to consider valid the obtained support percentage

Minority

Had the damage to the plaintiff's right to be heard been proven during the revision procedure, the INE would have been compelled to repeat the procedure to help him to review them.

The main element which warrants the legitimacy of the participation and the concession of prerogatives to an independent candidate, is the criteria of authenticity and certainty of the formats the candidate delivers to the citizens.

14 SUP-JDC-281/2017

Did the local congress of the state of Guerrero neglect to adjust the local legislation to rule the way in which indigenous traditional elections should take place?

SUP-JDC-281/2017 (02/06/17)

What happened?

- In June 14th, 2014, the indigenous Municipality of Ayutla de los Libres, Guerrero, requested the National Electoral Institute to celebrate the following elections of 2015 according to their traditional practices.
- In February of 2017 the local congress of the state of Guerrero published a decree which stipulated the dates of the indigenous elections in accordance to their traditional practices, as well as the date in which the elected authorities would take office, for the upcoming general elections of 2018.
- Members of the municipality (who did not agree in celebrating their elections according to indigenous traditional practices) denounced that the local Congress had neglected to adjust the law in order to rule the procedures in which the elections of the indigenous Municipality should be celebrated. The Local Electoral Tribunal ruled that there was not such omission.

High Chamber's resolution:

The High Chamber confirmed the judgment of the Local Electoral Tribunal, considering that there was no omission. The minimum legal provisions that warranty that indigenous communities can celebrate their elections according to their traditional practices are provided by the local Constitution. Furthermore, the local Congress cannot rule the procedures in which indigenous communities should celebrate their elections. Rather, this falls within the scope of the own indigenous municipality, according to their rights of autonomy and self-government recognized in the Federal and Local Constitution.



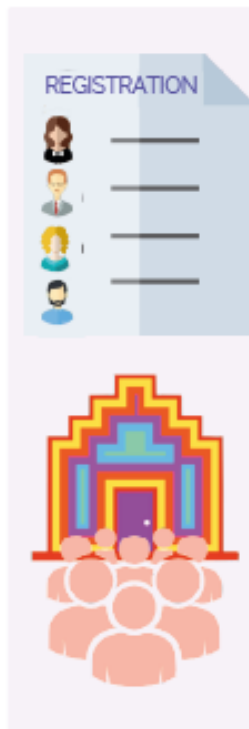
15 SUP-RAP-726/2017 Y ACUMULADOS



Are affirmative actions on the matters of gender and indigenous peoples valid?

SUP-RAP-726/2017 y acumulados (14/12/2017)

The Facts



- 1 The National Electoral Institute (INE) established affirmative actions in the matter of gender and indigenous peoples that must be complied by political parties when registering candidates for public office.

The gender affirmative actions for the following offices:

For relative majority in the Senate:

A first formula comprised of women and a second one comprised of men, will have to be registered in every state to achieve vertical parity.

The lists in the states should integrate 50 % of women and 50 % of men to achieve horizontal parity.

For proportional representation:

For deputations: 2 out of the 5 lists will have to be led by 2 people of the same gender.

For senatorships: the national lists will have to be led by a formula of only women.

The indigenous peoples affirmative action:

The national political parties will have to register formulas for deputation candidates by relative majority, integrated by self-enrolled indigenous peoples in 12 out of the 28 districts with a 40% or higher indigenous population. Out of these 12 districts, women must run in six of them, and men in the other six.

- 2 Some political parties and citizens were unhappy with this decision, and so they made a petition for the High Chamber to revise the approved affirmative actions.

What did the High Chamber decide?

The High Chamber's decision on the resolution was that:

- 1 It validated the gender affirmative action because, through a preferential treatment, equality between men and women will be more likely obtained.
- 2 It modified the indigenous affirmative action to optimize the participation of indigenous peoples and communities in an accelerated and effective manner: to achieve this, the parties have to postulate exclusively indigenous candidates in 13 electoral districts.



16 SUP-REP-647/2018



HOW SHOULD THE INDEPENDENT PRESIDENTIAL HOPEFULS BE PENALIZED WHEN THEY USED FALSE INFORMATION TO OBTAIN THEIR REGISTER AS CANDIDATES?

SUP-REP-647/2018 (18/07/2018)

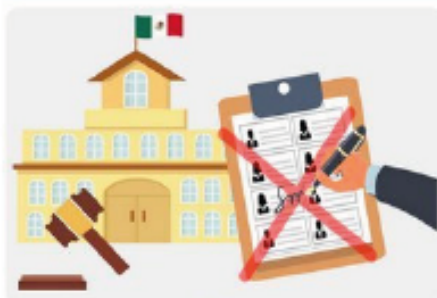
WHAT HAPPENED?

- 1 The INE detected that three of the independent presidential hopefuls used false documents to prove the support they got from the citizenry to obtain their register as independent presidential candidates.
- 2 As a result, a lawsuit was lodged with the Regional Specialized Chamber. The Chamber decided to sanction the hopefuls as follows:

| | | |
|----------------------------------|---------|--------------------------------------|
| Armando Rios Piter | 900,152 | \$ 4,836.00 Equivalent to 60 UMAs |
| Jaime Rodríguez Calderón | 355,707 | \$4,030 Equivalent to 50 UMAs |
| Margarita Zavala Gómez del Campo | 212,628 | \$3,224 Equivalent to 40 UMAs |

- 3 A political party appealed the decision of the Specialized Chamber, so that the penalty imposed to the candidates could be increased in accordance with the seriousness of the infractions.

WHAT WAS THE DECISION OF THE HIGH CHAMBER?



It determined that due to the seriousness of the infraction, it should be judged as an especially severe infraction.

Therefore, the Chamber decided that the penalty imposed to the candidates was not in accordance with the seriousness of their infraction, taking into account that the penalties in electoral law should deter people from committing future law violations. In consequence, the High Chamber revoked the appealed ruling of the Specialized Chamber and instructed it to revise the penalties.

Tools to approach intercommunity conflicts

SUP-REC-39/2017

What is an inter community conflict?

It's a conflict between two autonomous inside the same municipality. In certain occasions one community acts as the development agency and the other as the head of the municipality. Conflicts. An example of one such conflict could be the claim from one agency over the other's right to postulate candidates.

These conflicts bring out a tension between the universal right of voting and the right to self-governance and self-determination.



The following normative premises are used to solve these conflicts:



Legal pluralism

Looking for legal solutions, which are generated between the indigenous communities



Right of autonomy and self-determination of indigenous communities

The indigenous community is the subject of those rights which implies maximizing its autonomy and keeping government interventions to a minimum.



Differentiated municipal regimes

It is possible for two or more traditional authorities to coexist within the same municipality, with the same autonomy and self-determination rights.



The universality of the right to postulate candidates (passive vote) is not absolute

Indigenous communities can instate limits to the right to postulate candidates exclusively to members of their community.

Solution in case of inter community conflicts



The universal vote principle is not absolute, because a community can limit the right to postulate candidates so only members of the community may exercise it.

Dialogue and negotiation within the community should be prioritized when facing a conflict.

Considering the indigenous communities involved as equals, in both rights and obligations.

TEPJF's different stances

Promote a greater electoral participation from the agencies through arrangements and agreements between the communities; for example, conserving the inter community ways of participation.

Pros: It maximizes the community agreements, it goes hand in hand with a greater participation from the agencies to talk about other topics.

VS

Imposing vote universality duties (active or passive) to the community, despite participating directly.

Con: ignoring the political and cultural problems of indigenous communities.

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CONSULTING

INDIGENOUS COMMUNITIES

REGARDING DISTRICT DELIMITATION ISSUES

SUP-JDC-1959/2016 (22/02/17)

When consulting an indigenous community about its district location, which characteristics must this consultation comply?

Guidelines for consultation processes



The INE must carry out a consultation process with the communities which might be affected by the district re delimitation.



The consultation must occur prior to the re delimitation, must be informative, expressed through the community's representative authorities, as well as effective.



The indigenous people's right of consultation is not limited to making their opinions known, but also to participating.



Real participation includes that the opinion must be reflected in the re delimitation process. At the same time, the element of cultural identity must also be considered.



If the INE decides to relocate an indigenous a community to a district contrary to the community's desire, it must explain the reasons why it didn't comply with the consultation's results.



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