

Uruguay: The Electoral Court—A Fourth Branch of Government?

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The Oriental Republic of Uruguay gained independence in 1825 and, with influences from the Swiss republican model, a unique combination of quasi-presidentialism and a multiparty system was formed at the beginning of the 20th century. With the exception of a military interregnum from 1973 to 1984, Uruguay has held multiparty elections for more than a century.

The Electoral Law of 1924 marks the beginning of an autonomous and independent electoral management body. After almost a century in the hands of the executive power, elections and other election-related issues were finally brought together under the jurisdiction of the independent and permanent Electoral Court (Corte Electoral) which, as the new leading body of the electoral system, was made responsible for the conduct of elections. In 1934 the existence and powers of the Electoral Court were enshrined in the constitution.

The Institutional Structure of the EMB

The Electoral Court consists of nine members elected by both houses of Parliament. Five are politically impartial members, nominated on the basis of their professional skills, and elected by a majority vote of two-thirds; and four are representatives of the leading political parties, elected by proportional vote by the members of the respective party in the legislature. According to the constitution of 1952, the candidate with the highest number of votes among the five impartial members is chosen as president of the Electoral Court.

Subordinated to the centralized Electoral Court are 19 permanent electoral boards (Juntas Electorales)—one in each of the 19 departments of the country, a National Electoral Office (Oficina National Electoral), which acts as the court's secretariat, and 19 regional electoral offices, one for each department. The lower-level bodies are elected by popular vote, and thus the political party structure in Parliament is represented throughout all levels of the election administration.

The electoral boards are responsible for the conduct of elections at departmental level. They oversee the scrutiny at polling station level, keep and organize the departmental electoral archive, ensure that electoral laws and procedures are respected, and declare the results of elections at local and departmental level. The electoral boards report directly to the Electoral Court.

The main task of the electoral offices is to facilitate the work of the Electoral Court and the electoral boards. The National Electoral Office in Montevideo mainly handles the court's administrative matters, such as personnel, accounting and finances. It is also responsible for the National Electoral Archive and for general electoral services. The National Electoral Office functions as a technical division, heads the 19 departmental electoral offices, and reports directly to the Electoral Court.

The Powers and Functions of the EMB

Article 278 of the 1934 constitution assigns the Electoral Court the competences to:

- exercise overall responsibility for electoral acts and procedures;
- provide administrative, consultative and financial leadership over the electoral organs; and
- decide appeals and complaints, and undertake the functions of a supreme electoral court of justice.

The court's electoral competence thus includes a range of functions. It is not only the manager of elections, responsible for, among other things, voter registration and the issuing of voting cards to eligible voters; it is also the highest court on all election-related matters, and thus it also hears and reviews electoral disputes and complaints. With the affirmative vote of six of its nine members, of which at least three must be neutral members, the Electoral Court has the authority to formally investigate the outcome of all elections and referendums, to reject election results and declare them null and void, and to carry out a new scrutiny of the results of a ballot.

Moreover, the court has the authority to issue administrative, jurisdictional and regulatory acts, and none of the acts it issues can or may be revised by any branch of government. This is an exclusive competence

that no other independent organ of the state has: as Dr Carlos A. Urruty Navatta, President of the Electoral Court has said, 'The Court . . . has all the qualities needed to shape a branch of the government because it is created by the constitution, its competence is established in the constitution and its decisions are irrevocable'.

Other responsibilities of the Electoral Court are the conduct and oversight of the political parties' internal elections and university elections, the registration of voters, candidates and political parties, the maintenance of a permanent and updated electoral register, the issuing of voter cards and the announcement of the official results. The court does little in providing direct voter education and information, but on the other hand it does provide free electoral materials and offers the assistance of electoral officials for school education and mock elections held for educational purposes.

The Financing of the EMB

The activities of the Electoral Court are financed through the state budget; the budget is prepared by the court itself and submitted to the executive branch for comment. Parliament decides by majority whether to approve the budget as proposed by the Electoral Court or to incorporate the observations and changes suggested by the executive branch. The funds appropriated are not allocated to specific budget lines and the court is free to decide how best to spend its funds.

Accountability

There are no specific accountability requirements on the Electoral Court. As an organ with qualities similar to those of a branch of government, the court is not required to report on its activities to anyone. In practice, it is accountable to public opinion, partly expressed through the four political party representatives among its members. The EMB does, however, have financial accountability through external audit, and every year its accounts are submitted to the Tribunal of National Accounting.

The Professionalism of Electoral Officers and Staff

The permanent staff of the electoral administration adds up to 1,003 officials, of whom 668 work at the central level and the remaining 335 work at the departmental level. On polling day itself the number of electoral officials is increased considerably in order to staff the polling stations. All government employees are required by law to offer their services to the electoral administration during elections and referendums. At the beginning of an election year the Electoral Court estimates the number of extra personnel required for polling day. If by any chance the number of civil servants is not sufficient, the polling stations may designate other citizens to help in the electoral process. Courses and instruction are offered to all new officials. Electoral officers are generally well skilled. However, the court usually strives to enhance the technical skills of its staff by ensuring that promotion of officers is done strictly on the basis of their professional capacities. For each election the court designs and implements special training courses for its staff at all levels.

Relations with the Media and Other Institutions and Agencies

The Electoral Court has extensive relations with other institutions and agencies. Its principal relations are with the political parties, with whom it liaises regularly, and with Parliament and the executive branch concerning financing, electoral legislation, and security, transport and other logistical aspects of elections. Its relations with the media are fluid: the media have taken upon themselves the role of the principal source of information to the public on election matters. The Electoral Court does not have extensive relations with international institutions and agencies and receives no help from international actors.

The Electoral Court is well established within the democratic system of Uruguay and has been so since its establishment as an independent body in 1924. Because of its independence, professionalism and inclusiveness of political parties it is perceived among Uruguayan citizens as a widely-respected government institution. Even during the military interregnum in the 1970s, when most of the political institutions were occupied by the military, the court was left untouched and its decisions were respected. A classic example is the referendum for constitutional reform on the autocratic rule of the military that was organized by the court in 1980, when the court announced that the people had voted against continued military rule, and the military fully respected the outcome and withdrew from Parliament. This was the turning point for Uruguay and the end of the military regime. There is no doubt that the Electoral Court has been a

stabilizing and legitimizing democratic institution which has been of great importance for Uruguay's return to democracy.

Nevertheless, like many other institutions of government, the Electoral Court suffers from a lack of technological means and assistance, and may need to modernize and computerize great parts of its administration in order to become more cost-effective. Manual registration of voters and issuing of voter cards has been manageable because of the small size of the population, but from the point of view of cost-effectiveness it is precarious.