

**The Road towards
ending Corruption:
Mexico's National
Anticorruption System**

THE ROAD TOWARDS ENDING CORRUPTION: MEXICO'S NATIONAL ANTICORRUPTION SYSTEM

ABSTRACT

2016 will be remembered as the year of the Mexican Spring. In six months, the basic legal framework for the new National Anticorruption System was created. Seven new Laws were drafted and sanctioned through an unprecedented method of cooperation between civil society and Congress. New criminal, administrative and audit regimes have been created in order to fight corruption in three ways: 1) a comprehensive system of mechanisms and policy focused on prevention; 2) a system of coordinated authorities that can integrate thorough investigations; and 3) an effective system of sanctions to eradicate impunity. This document is a brief description of the reform process and a simple guide for the next steps in the implementation phase

INTRODUCTION

According to the Mexican Statistics Agency (INEGI in Spanish), corruption is perceived by the population as the second most important issue facing the country, only behind insecurity.

However, at the beginning of the current administration, the fight against corruption was simply a vague campaign promise. It was just part of the legislative reform agenda, not a matter of principle. That is why, without much conviction, a proposal was presented by the president to Congress, to create the National Anticorruption Commission (NAC), as part of a wider legislative package that was negotiated between the three biggest political parties, known as the "Pact for Mexico" (*"Pacto por México"*).

The President's proposal was rejected by many civil society groups and academics because they considered it to be narrow in vision and lacking in understanding of the complex phenomenon of corruption. Among the most important weaknesses pointed out was that it consisted of a sole entity, incapable of coordinating efforts between the many state and federal entities that already had capacities to audit public servant's actions and that lacked autonomy from other branches of power.

Academics said that there were no credible international experiences in which one single institution was able to control the whole problem of corruption. The Bill was passed by the Senate, but it was stopped by the lower Chamber.

Instead of a Commission (NAC), experts and academics proposed the creation of a "National Anticorruption System" (NAS), a coordination entity that would bring together institutions that were already in place

and that had the capacities to impede corruption, but that were operating in fractured ways, without autonomy or resources.

More than being an institution commanded by a “czar”, the NAS would be an entity regulated by a board. But perhaps the most radical idea of the NAS was that the board would be presided by a citizen and not by a State’s agency. A body integrated by five independent citizens would preside the System, design policy and also administer the entire intelligence platform against corruption.

In April of 2015 a constitutional reform to create the NAS was approved by the federal congress and sent to local congresses for their validation. To become a part of constitutional law, the reform needed to be validated by a majority of the 32 state legislations. By May of 2015, Mexico had approved the full creation of a NAS in its Constitution.

Once the NAS reform was promulgated, at least seven more secondary laws were required in order to build and regulate the whole System.

In early 2016, Mexico’s civil society groups, academics and activists gathered together to design one of those laws, using a recently created Mexican legal mechanism called “citizen initiative”. A “citizen initiative” is a bill presented by citizens that congress is legally required to discuss, if it is backed by at least 110,000 signatures (0.13 % of the electorate). Support for the bill must be provided physically (no electronic signatures are allowed) and must be accompanied by each person’s full name, detailed information from their voting card and their original signature.

The citizens’ initiative presented to Congress was a full proposal for one of the seven laws that had to be created, the Administrative Responsibilities General Law.

The law was nicknamed “*Ley 3 de 3*” (Law three out of three), because one of its main demands was that public servants mandatorily publish three declarations: 1) asset declaration, 2) declaration of possible conflict of interest and 3) proof of fiscal standing.

In early February 2016, the campaign to gather the necessary signatures was launched. From the start, students, citizens and business communities were on-board. Employers’ unions like COPARMEX, the biggest movie theater company in Mexico Cinépolis, banks, hotel chains, restaurants and many other businesses were also proactive allies in promoting the movement. Highly influential Mexican radio and TV anchors talked about it on their daily shows. Activists, academics and columnists discussed it endlessly.

One month later, on March 17th, the movement delivered 309,476 signatures to the Senate to be validated by the National Electoral Institute (INE).

The support for the initiative was such, that signatures kept on coming. By April 16th the movement was able to deliver an additional 324,667 signatures, resulting in a total of 634,143 citizen signatures in support of the Ley 3de3. The number represented over five times the original number required.

Once validated by the National Electoral Institute (INE), the initiative was passed on to the Senate to be discussed. A group of representatives of civil society that had pushed forward the citizens' initiative was invited to participate in the dialogue to discuss and define, not just the specific law proposed, but the whole anticorruption legislation package.

A. The significance of the Social Movement

Gathering five times the number of signatures required to discuss the citizen initiative in Mexico's congress was historic, not only because of the sheer amount of citizen mobilization it required¹, but also because it meant the de facto destruction of the monopoly that political parties had setting the national political agenda.

The first step in breaking the monopoly was to impose the content of the legislative agenda. Political parties used to unilaterally decide what was discussed in Congress, how and when. Each parliamentary group used to meet a few days before the start of the legislative session, traditionally on a Mexican beach, to define their party priorities. The priority lists would then be negotiated amongst the groups to agree on the issues to be addressed and the timing of each².

Political parties in Mexico were accustomed to receiving general ideas, academic papers and generic proposals for discussions from the public. They would then take the suggestions, mix them with their own ideas and convert them into legal instruments that were plural but technically unfeasible and, sometimes, even harmful. In many ways, this process had turned the creation of laws in Mexico into a political response for social demands and the Mexican Congress into "the great translator" that transformed demands and social needs into reforms and regulatory bodies. Congress ended up responding to every issue discussed by the public opinion with a new law to try calm the unrest. It didn't matter whether the new law was necessary or even technically suitable. Clearly this cycle was plagued with inefficiencies.

¹ According to electoral legislation, to register a new political party, 220,000 signatures are required. Hence, the number of signatures gathered for the "Ley3de3" are enough to create almost three new political parties.

² With the exception of budgetary issues, which have an inescapable deadline set by the Constitution, if the regular period ends without having discussed an issue, it is stored in the drawer (supposedly to be discussed in the next legislative period).

The citizen's battle against corruption destroyed this scheme. Citizens brought to congress not just an idea but a finalized legal product, endorsed by specialists and practitioners, with large social backing. While the legislative agendas of all the parliamentary fractions saw corruption as an issue, no political force seemed to care about hurrying to process to create a concrete law to regulate it. Citizens did care and did the work for them. After long discussions, finally all the political parties agreed to use the citizens' initiative as the framework to lead the discussion on the topic.

The second fracture on the monopoly was changing the form of legislative discussions. Citizens demanded a public "open parliament" discussion from start to finish as well as the opportunity to allow the civil society groups to defend their initiative themselves. Social support for the citizen's bill was so strong that the Mexican congress had no option but to accept these proposed terms. Senators allowed the civil society groups that had drafted the bill to participate in the debate of all seven anticorruption laws and listened to their specific proposals and ideas.

Opening the legislative discussion to the public was a complete change in paradigm for Congress. Because Senate discussions were regularly held behind closed doors, parties were used to establishing politically correct positions in public while carrying out agreements and negotiations in private to minimize the costs of controversy.

With video cameras on, live coverage by the "Channel of Congress" (Mexico's C-SPAN) and mobile devices following the discussion on social media, politicians looked uncomfortable and out of their comfort zone. For the first time, parties needed to publicly reveal their true positions about complex issues such as the organizational structure of the NAS, the coordination and shape of the relationships between various authorities, sanctions under the new administrative responsibilities regime, transparency in declarations and a new model for the Administrative Tribunal.

Finally, the third major blow to the political monopoly was changing the timing of discussions. Previously, if a certain topic was deemed too controversial to be discussed during a period, parties would simply decide to set it aside without further argument. This option was tried again and again with the anticorruption legislation because the discussion overlapped with the electoral campaigns of 12 governors (half of them in very tight races) in June 2016. Parties and citizens failed to reach an agreement before elections, leaving the issue unresolved.

The ruling party had a very bad day on June 6th. Two months before the aforementioned elections took place, the ruling party was quite confident that they would win at least 9 out of the 12 electoral contests, according

to the electoral polls. The ruling party lost 7 states and came very close to losing two more.

The discussion of the anticorruption legislation could not be postponed any longer.

On June 17th, both Houses of Congress approved two new general laws and reformed five others after long deliberations, sessions and a sum of efforts from political parties to change the content of the citizens' initiative.

However, there was no place for celebration because at the last minute, in a session that was prolonged to 2am on Wednesday morning, the Senate changed the precise article that had become symbolic for the those who supported the initiative: the one that regulates the publicity of public officials' asset, interest and fiscal declarations.

Additionally, they changed another article that made it mandatory for private citizens and entities to hand in the same three declarations whenever they had any relationship with public money. This was viewed by entrepreneurial organizations and confederations as a vendetta for supporting and promoting the citizen's initiative.

B. The new National Anticorruption System

The main objective of the NAS was the coordination, collaboration and systematization of the operations of anti-corruption institutions that were already in place at federal and local governments. To do it, it focused on creating a system composed of (1) independent and effective authorities coordinated around a common mission to prevent and combat corruption; (2) a new comprehensive and integrated system of administrative responsibilities; (3) a new criminal regime to fight corruption; and (4) a new control and oversight system to coordinate state and local authorities.

1. Independent and effective authorities

Three Laws were discussed for this purpose. First, the Law that regulates the NAS. One of the most important aspects of this Law was the idea that a body of five citizens, with no strings to political parties or public institutions was going to preside the NAS, oversee their functions and obligations and generate public policy against corruption. Second, the creation of the Administrative Justice Federal Court Law. This law provides the Court with autonomy to enforce administrative sanctions on public servants, to balance and promote efficient processes as well as award the organizational capacity to simultaneously administer thousands of processes. Additionally, a specialized section of the Court was created, with regional chambers and specialists on the field. Overall, the Court was redesigned as a strong and independent body to promote accountability for acts of corruption. Another legislative agreement

included the commitment to redesign the Ministry of Public Function, to give it new capacities and functions required by the NAS (Auditing and investigative capacities as well as vigilance and control)³.

2. A new system of Administrative Responsibilities.

The basis for the Law was the citizens' initiative had called the "*Ley 3de3*" (Law 3 of 3). The Law creates a unified regime of responsibilities for public servants at all levels of government including autonomous bodies, organizations and institutions of the Mexican State. Some of the most important aspects are:

1. It establishes the obligation for public servants to provide three documents on a yearly basis (1) asset declaration, (2) declaration of possible conflicts of interest (3) proof of fiscal standing ("to provide all 3 of these 3 statements", thus the name of this law) The objective being that the public have access to information that can show the origin and evolution of a public servants' patrimony and interests.
2. It contemplates codes of ethics with specific legal implications.
3. It establishes responsibilities and steep penalties for all those involved in corruption in any way from candidates, union leaders, transition teams and public servants to private citizens.
4. It creates clear guidelines of ethical conduct for public servants.
5. It creates a digital platform --to house the information from the three declarations-- that will be capable of verifying the information through crosschecking with other government, property and fiscal databases connected to the platform.
6. It establishes specific types of corruption.
7. It contemplates new types of corruption that involve individuals and corporations.
8. It establishes special investigative tools and capabilities.
9. It gives autonomy and full capacities to investigating authorities.
10. It creates protection mechanisms for witnesses and whistleblowers.
11. It contemplates an innovative Chapter of Corporate Integrity (Compliance), which had never been regulated before in Mexico.
12. It provides mechanisms to guarantee effective sanctions and establishes a National Registry of Sanctioned Public Servants.

³ This Ministry disappeared from the Law when the NAC was proposed (in 2013) and has been functioning without a proper legal basis ever since.

13. It establishes penalties that are aggravated by the act's circumstances, its impact and the characteristics of the public servant involved.

3. A new criminal regime to fight corruption

The NAS created the figure of an Anticorruption Prosecutor, with full autonomy to pursue criminal offenses. There are at least five basic elements of this Prosecution Office:

1. Autonomy derived from special appointment and removal processes
2. Clear and complete functions
3. Management autonomy
4. Autonomy in the exercise of human, material and budgetary resources
5. Autonomy in the investigation and integration of prosecutorial case files

Additionally, a revision to the Federal Criminal Code was conducted to establish the offenses that should be considered acts of corruption and that will be investigated and enforced by specialized prosecutors.

4. A new type of control and oversight system

The Federal Control and Accountability Law was amended in 68 of its articles with the intention of creating a robust monitoring system able to coordinate the various authorities of internal and external control at all levels of government and capable of providing them with comprehensive powers to secure its efficiency.

The NAS strengthened the functions of the oversight bodies of the Mexican state and their relationship and authority towards the audited entities. It also created a new, more flexible and effective audit and review cycle, enabling a more complete and useful exercise of public resources at all levels of government.

C. The Implementation Phase

The second part of this document is intended to serve as a guide in four regards:

1. Explain the rationale for each body of the National Anticorruption System and its basic functions
2. The procedure that will follow for key appointments
3. Profiles for each key position
4. The basic agenda to be addressed by each of them

The clock started to tick following the publication of the Anticorruption Reform package (on July 19th, 2016) that established a 90-day timeframe to integrate the National Anticorruption System's first body: The Selection Commission (the deadline is October 19th. 2016).

1. SELECTION COMMISSION

The Selection Commission is responsible for appointing members of the Citizen Participation Committee (CPC). It will be responsible for the entire selection process of members in the Citizen Participation Committee. Members of the Selection Commission hold an honorary position and may not be selected to the membership of the CPC for six years following their participation in the Selection Commission.

Appointments

Members of the Selection Commission (Term duration: three years)

Requirements:

- I. ¿Who? Profile (Article 18, National Anticorruption System Law)
 - A. Five members with career experience in Higher Education and/or Research Institutions, with outstanding and distinguished contributions to oversight, accountability and the battle against corruption.
 - B. Four members from Civil Society Organizations (CSOs), specializing in oversight, accountability and the battle against corruption.
- II. ¿How? Procedure (Article 18, National Anticorruption System Law)
 - A. The Senate will publish an announcement summoning all interested Higher Education and Research Institutions and CSOs in the submission of candidates
 - B. The Senate will then select the candidates that will go on to be a part of the Selection Commission
- III. ¿When? (Fourth Transitory Article, National Anticorruption System Law)
 - A. This process should be completed by October 19th, 2016.

The Selection Commission will also be in charge of the first member renewals, given the echelon structure of the first five appointments. The reason behind the 3-year term is to prevent having an entire Citizen Participation Committee selected by one Selection Commission. However, the first Selection Commission will designate a total of eight members (the initial five members and the first three renewals)

2. CITIZEN PARTICIPATION COMMITTEE

The Citizen Participation Committee (CPC) is the presiding and centerpiece body of the NAS and one of the most important channels of interaction between civil society and government institutions. The introduction of this new body constitutes a new possibility for citizens to direct the efforts in the battle against corruption. The Constitution and the NAS Law provided citizens with the power to lead the system through the CPC's five slots.

The CPC has the power to put forward anticorruption policies, methodologies and evaluation indexes and, most importantly, oversee the system's proper functioning. Hence, the CPC will have to work together with the Coordinating Committee and the Technical Secretary to integrate citizen input in the issuing of reports, recommendations and public policies deemed necessary for the proper functioning of the NAS.

Appointments

Members of the Citizen Participation Committee

Term duration:

The first ever CPC will be integrated as follows:

- a. One member with a one-year term, who will serve as President and represent the Citizen Participation Committee in the Coordinating Committee.
- b. One member with a two-year term.
- c. One member with a three-year term.
- d. One member with a four-year term.
- e. One member with a five-year term.

The length of the Presidency of the CPC will be of one year and will rotate among the members of the CPC.

Beginning with the first substitution, each new member's term will be five years long. Each of these members will hold the Presidency once for one year.

Requirements:

- I. ¿Who? Profile (Article 16 and 34, National Anticorruption System Law)
 - A. Five prestigious citizens with contributions towards transparency, accountability or the battle against corruption who:
 1. Are Mexican citizens with full enjoyment of their rights
 2. Have at least five years of experience in the areas of transparency, accountability or the battle against corruption
 3. Are at least 35 years old
 4. Have held a Bachelor's Degree for at least 10 years
 5. Enjoy good reputational standing and have never been convicted for a felony
 6. Submit their "3de3" declarations: assets, possible conflict of interest and proof of fiscal standing in accordance to the Administrative Responsibilities Law
 7. Have not been a candidate in elections for public office or served as elected officials in the four years prior to their designation

8. Do not hold or have held a party leadership position at the national or state level in the last four years
 9. Have not been a member of any political party in the last four years prior to the designation
 10. Do not occupy the position of Secretary in the President's Cabinet, the Federal Attorney General or an Attorney General in any State, an official or an under-secretary in the Federal or State Government's Administration, Mayor of Mexico City, Governor or a Secretary in the State Government and/or a Judiciary Counselor. All of these may be excepted if the positions have been abandoned for at least one year prior to the time of designation
 11. Do not have another form of employment that may prevent them from freely executing their duties as members of the CPC
- II. ¿How? Procedure (Article 18, National Anticorruption System Law)
- A. The Selection Commission will make an announcement with all of the details involving the selection process. These will include the methods, terms and criteria for the selection of the CPC's members.
- III. ¿When?
- A. There is isn't an established term for the designation of the CPC's Members

Removal:

Members shall only be removed when involved in gross administrative misconduct, in compliance with the General Administrative Responsibilities Law

Priorities:

1. Develop adequate communication and coordination channels among its members
2. Create the internal norms that distribute the workload and govern internal functioning
3. Create a thorough and specific annual work program that sets clear short, medium and long term objectives
4. Design the formats for the asset and interest declarations for submission before the Coordinating Committee
5. Determine the profile and selection mechanism for the candidates to the Technical Secretary position. The end result should be a three candidate shortlist that will be submitted before the Coordinating Committee
6. Develop networks with Civil Society so that it becomes an integral part of the battle against corruption
7. Devise adequate communication channels with society, so that its activities, functions, goals and objectives are well-known to the public

8. Partner up with the academic community in research projects, the development of tools and evaluations aimed at measuring the corruption phenomenon
9. Establish links with international organizations dedicated to the subject of corruption, so that cooperation and collaboration treaties are created
10. Oversee the development of the legislative agenda, both at the federal and state level, on the topic of corruption and the battle against it
11. Watch over the creation of the Local Anticorruption Systems (LSA) in each state and the correct installation of the Local Citizen Participation Committees
12. Oversee that the LSA's are properly integrated to the National System and that they guard the proper development of local legislative agendas
13. Promote the collaboration with public institutions dedicated to the battle against corruption, so that measuring and evaluation tools are developed with the goal of preventing, detecting and fighting corruption and gross administrative misconducts
14. Come up with the rules and procedures with which petitions, complaints and accusations from citizens are going to be handled and directed to the corresponding local and federal authorities
15. Put forward and submit propositions regarding the betterment of existing social control and oversight mechanisms, as well as become a channel through which information is received

3. THE NATIONAL ANTICORRUPTION SYSTEM'S COORDINATING COMMITTEE

The Coordinating Committee is the NAS's nucleus. Its primary function is the development efficient communication and collaboration mechanisms among the members of the Committee. This organism's transcendence relies on the possibility of constructing and authentic system that generates the Mexican State's policy against corruption, given its core position within the system. The Coordinating Committee pretends to avoid merely celebrating protocolary briefings

The Committee's horizontal structure will permit the complete integration of all of the System's components in order to enable its proper functioning. Furthermore, the Coordinating Committee will also be leading the Local Anticorruption System's integration to the National System. The Committee will receive periodic reports from the Local Systems and it will be in charge of supervising and evaluating their performance. The Coordinating Committee will issue non-binding recommendations to the authorities in regard to their performance, in so

that they seek to adopt them and take the necessary measures to repair their institutional deficiencies.

The Coordinating Committee has the great responsibility of initiating and setting the stage for the National Anticorruption System's operations.

The seven members of the Committee are:

1. The President of the Coordinating Committee is the President in turn of the Citizen Participation Committee
2. The head of the Congressional Audit Office (*Auditoría Superior de la Federación*)
3. The Anticorruption Special Prosecutor
4. The head of the Ministry of Public Function (*Secretario de la Función de la Pública*)
5. A Federal Judiciary Council Representative
6. The President of the National Institute of Information Access (*INAI*)
7. The President of the Federal Administrative Court of Justice

¿When?

The National Anticorruption System's Coordinating Committee shall begin its operations 60 days from the Citizen Participation Committee's complete integration

Priorities:

1. Assume its primary position as the System's governing body, create an annual work program and set the principles and bases for the member's effective coordination
2. Design, approve and promote the national anticorruption policy
3. Establish adequate tools and indexes for periodic evaluation of the anticorruption policy
4. Create the necessary alliances and collaboration programs in order to access datasets and information required to carry out its duties
5. Determine coordination mechanisms and principles with auditing and overseeing authorities
6. Establish coordination and collaboration mechanisms with the Local Anticorruption Systems and decide upon the autonomy and independence needed to be efficient
7. Create the National Digital Platform from the conceptual design to the technical and human requirements
8. Design of the formats to be used for the asset and interest declarations, as well as determine the fields that should be mandatorily public in each of the declarations.

9. Cooperate, at the international level, in mechanisms against corruption, adopt the best international practices and share the Mexican experience in the battle against corruption
10. Appoint the Technical Secretary

4. TECHNICAL SECRETARY

The Technical Secretary is in charge of executing the Coordinating Committee's decisions. It will have the responsibility of developing the National Digital Platform and will also design and implement the methodologies to measure the corruption phenomenon. The Technical Secretary must create indexes that enable the evaluation of the country's anticorruption policies. It is the Technical Secretary's duty to serve as the "middle man" between the Coordinating Committee, the National System's members and the Citizen Participation Committee.

The information gathered through evaluations and within the Digital Platform will be administered by the Technical Secretary. The Technical Secretary has the responsibility of communicating all of the breakthroughs or setbacks reached with the anticorruption measures in place. Therefore, the Technical Secretary will materialize the Coordinating Committee's agreements.

The Technical Secretary will be the head of the Executive Secretariat, an organism that serves as its technical apparatus. There will also be an Executive Commission working within the Executive Secretariat, integrated by the CPC (minus its President) and the Technical Secretary. The Executive Secretariat will be governed by the seven members of the Coordinating Committee.

Appointment

Technical Secretary (Term duration: five years)

Requirements:

- I. ¿Who? Profile (Article 34, National Anticorruption System Law)
 - A. Same requirements that apply for the members of the Citizen Participation Committee
- II. ¿How? Procedure (Article 12 and 33, National Anticorruption System Law)
 - A. The President of the Executive Secretariat's Governing Body will present a three-person shortlist, previously approved by the Citizen Participation Committee
 - B. Then, the Executive Secretariat's Governing Body will appoint the candidate with five votes from its members
- III. ¿When? (Fourth Transitory Article of National Anticorruption System Law)

- A. The Executive Secretariat and its Technical Secretary shall begin their operations no later than 60 days after the Coordinating Committee's installation.

Removal:

The Technical Secretary may be removed by the Executive Secretariat's Governing Body on grounds of lack of diligence; personal use or benefit of confidential information; subtraction, destruction or withholding of confidential information; unlawful use of the information under his administration; and/or committing an act of corruption.

Priorities:

1. Seek integration and coordination with the Coordinating Committee to begin the Secretariat's operations efficiently
2. Come up with drafts for the methodologies, indexes and integral policies to be submitted before the Coordinating Committee
3. Prepare chronological agendas for the Coordinating Committee, the Executive Secretariat's Governing Body and the Executive Commission
4. As a member of the Executive Commission, look after the acquisition of all necessary supplies, administrative training and the requirements for the interconnectivity of the National Digital Platform
5. Administer the digital platforms that are established by the Coordinating Committee and ensure access to its members
6. Integrate the necessary information systems so that the results of evaluations are public and reflect the breakthroughs or setbacks reached by the National Anticorruption Policy
7. Serve as the Coordinating Committee's point of technical support
8. Certify the agreements reached by the Coordinating Committee
9. Execute and follow up the agreements and resolutions reached by the Coordinating Committee
10. Carry out specialized studies in the subjects of: prevention, detection and deterrence of acts of corruption and gross administrative misconduct, auditing and control of public resources

5. THE NATIONAL AUDIT SYSTEM'S GOVERNING COMMITTEE

This Governing Committee is the nucleus of the National Audit System.

Members: The Congressional Audit Office, the Ministry of Public Function and seven representatives from State Audit Offices and Internal Affairs Ministries. These seven members will be appointed for two years by the Ministry of Public Function and the Congressional Audit Office.

¿When?

The Committee will begin to operate as soon as the National Audit System is set up.

6. FEDERAL ADMINISTRATIVE COURT OF JUSTICE

The “Third Section” of the Federal Administrative Court of Justice is a completely new and exclusive jurisdictional space to sanction gross administrative misconducts amongst public servants. This body will also be in charge of determining damages that are to be paid to the Treasury or other public bodies.

This body is designed to be highly specialized, as it must set the bases for an entirely new judicial discipline: gross administrative misconducts amongst public servants.

With the new General Administrative Responsibilities Law and the amended Federal Administrative Court of Justice Law, the Third Section has all the tools necessary for an effective administration of justice.

Appointments

- Three new Justices for the Superior Level of the Third Section. (Term duration: 15 years, no re-election)
- Three magistrates for each of the five Regional Administrative Responsibility Sections - one for each district. Fifteen in total. (Term duration: ten years, no re-election)

Requirements:

- II. ¿Who? Profile (Article 45, Federal Administrative Court of Justice Law)
 - A. A Mexican citizen with full enjoyment of his/her rights
 - B. Is at least 35 years old
 - C. Enjoys good reputational standing and is recognized by his/her honesty, competence and professionalism
 - D. Has held a Law degree for at least 10 years
 - E. Has at least eight years of experience in the fields of tax law, administrative law or auditing, anticorruption and accountability.
- III. ¿How? Procedure (Article 43, Federal Administrative Court of Justice Law)
 - A. Designated by the President and ratified by 2/3 of the Senate. The president must justify his picks for Justice at the Superior Level's Third Section.
- IV. ¿When? (Fifth Transitory Article, National Anticorruption System's Law)
 - A. The President must send his shortlist to the Senate no later than February 1st, 2017

Priorities:

1. Installation of the Third Section in all aspects: human resources, supplies, budget and operations
2. Appointment of the Third Section's President
3. Establish coordination and communication mechanisms between the three Justices, so that priorities and short and medium term goals are set
4. Create training and specialization programs in the subject of corruption and administrative misconducts
5. Implement security measures, both for the Justices and their personnel
6. Establish quality trust control methods for all personnel
7. Design the collaboration scheme with the National Anticorruption System
8. Develop coordination and organization channels with the Regional Sections
9. Set standards and the criteria that will be used to determine the cases it will attract
10. Design policies and measures that guarantee that its rulings are executed

7. SPECIAL ANTICORRUPTION PROSECUTION OFFICE

The Special Anticorruption Prosecution Office is the result of a Constitutional Reform carried out in 2014. It is a special body within the Office of the Attorney General and was formally included in the Office of the Attorney General Law at the same time as the National Anticorruption System legislative package was published.

During the negotiations in the Mexican Congress, civil society pushed for the creation of a new Attorney General Law (a consequence of the aforementioned reform). Instead, the old Attorney General Law was reformed to give the Special Anticorruption Prosecution Office a structure and attributions.

The head of this Office is the Special Anticorruption Prosecutor and is in charge of looking after the new anticorruption criminal regime. The Anticorruption Prosecutor is one of the seven members of the National Anticorruption System and one of the Attorney General's two Special Prosecution Offices.

The office will have three primary functions: the admission of criminal corruption cases that are presented to it by citizens and public institutions; the criminal investigation of these cases; and the role of prosecutor in Federal Courts on behalf of the Mexican State.

Appointment

- Special Anticorruption Prosecutor (Term duration: unrestricted)

Requirements

- I. ¿Who? Profile [Article 10, Section Four (“*Artículo 10 Quáter*”), Attorney General’s Law]
 - A. A Mexican Citizen with full enjoyment of his/her rights
 - B. Is at least 35 years old at the time of designation
 - C. Has held a Law Degree for at least 10 years
 - D. Enjoys good reputational standing
 - E. Has never have been convicted of a felony
- II. ¿How? Procedure (Eighteenth Constitutional Transitory Article, 2/10/2014)
 - A. The first Special Prosecutor will be appointed by 2/3 of the Senate’s votes. The President may object the appointment
 - B. Thereafter, the Special Prosecutor will be appointed by the Attorney General
 1. This appointment may be objected by 2/3 of the Senate’s votes
- III. ¿When? (First Transitory Article, Office of the Attorney General Law)
 - A. As soon as the Senate makes the appointment

Priorities:

1. Appoint the heads of all of its administrative units and directorates
2. Design an in-house quality trust control system, so that the Special Prosecutor is sure that his agents and police officers can be trusted.
3. Nominate candidates for specialized Agent positions
4. Participate in the design training programs for agents working for the Special Prosecution Office
5. Execute action plans and carry out intelligence activities for the battle against corruption
6. Come up with programs aimed at the detection of felonies related to corruption
7. Implement cooperation mechanisms with other authorities so that strategies are devised in order to battle corruption collaboratively.
8. Sign intelligence exchange treaties with all States and make sure it has access to all Public Property Records
9. Strengthen cooperation mechanisms with all government levels
10. Promote a culture of prevention and denouncement of corruption
11. Create alliances with Audit Offices, within all levels of government
12. Carry out the analysis of financial and accounting information available to the Special Prosecution Office
13. Develop its own methodological tools for identifying behavioral patterns related to illegal resources
14. Design technical manuals for its agents in the subjects of financial and accounting information analysis

15. Generate the necessary channels for acquiring all of the information required for its duties.

8. MINISTRY OF PUBLIC FUNCTION

Since 2012, the Ministry of Public Function had been dangling, literally holding on to dear life, to stay alive. A transitory article was the only legal basis that allowed it to continue operating. Its primary function is a delicate matter: the oversight of public servants' performance and federal finances. Clearly no easy feat. Transparency and autonomy are fundamental elements for an organism of this nature, but it was never really clear if it indeed had them.

As a result, the Federal Public Administration's Law was reformed to provide the Ministry with a more robust structure and legal framework.

The Ministry of Public Function is in charge of the internal control and oversight of all public finances at the Federal Government level. Its head is a member of the National Anticorruption System. The Ministry is responsible for the Federal Government's public procurement policies, the auditing of federal expenditures, coordinating the Internal Affairs departments in each federal agency as well as other risk assessment responsibilities. In addition, according to the new legislation the Ministry is to become responsible for the resolution of minor administrative misconduct controversies.

This vital Ministry will have a leading role in the creation of a new model of control and oversight. It will need to design, approve and promote integral policies aimed at inhibiting corrupt practices. Thus, its essential duty is risk reduction and assessment within the Federal Government's Administration.

Its inclusion in the National Anticorruption System is intended to give it a greater degree of independence from the Executive branch, through increased scrutiny and oversight of the Ministry.

Appointments

- Public Function Secretary or Minister

Requirements:

- I. ¿Who? Profile (Article 91 of the Constitution)
 - A. A Mexican Citizen with full enjoyment of his/her rights
 - B. At least 30 years old
 - C. Submit their "3de3" declarations of assets, possible conflict of interest and proof of fiscal standing in accordance to the Administrative Responsibilities Law
- II. ¿How? Procedure (Article 37, Federal Public Administration's Law)

- A. The President will nominate a Secretary, subject to the Senate's ratification
- III. ¿When?
 - A. As soon as the President submits his nomination

Priorities:

1. Regain the Ministry's prestige and respect, through tangible results in different areas
2. Regain control, coordination and leadership of all of the federal agency's Internal Affairs Departments.
3. Select its three undersecretaries wisely, following a meticulous selection process
4. Appoint its units' heads adequately; units such as the governmental purchases unit, auditing unit, investigation unit and control systems unit
5. Restructure its internal Auditing Unit so that it becomes an organism that speaks volumes of the Ministry's integrity
6. Create the Special Corruption Investigations Unit
7. Develop a new model for enhancing the personnel's integrity and capacities, given the new demands brought by corruption investigations
8. Create digital platforms that contribute to intelligence gathering
9. Acquire state of the art technology helpful in the investigation of corruption cases
10. Apply an efficient quality trust control system in all strategic areas
11. Develop a new auditing model that abandons the old "mere verification" philosophy
12. Return the national procurement platform "COMPRANET" to its original intended goal: a three stage transactional platform. The stages being: planning, public offering and contract execution
13. Connect the "COMPRANET" platform to other relevant systems such as "DECLARANET" (the current platform that gathers asset declarations of federal public officials) and later with the National Anticorruption System's National Digital Platform
14. Diversify and enhance the Ministry's policy on Public Procurement
15. Create special relationships and mechanisms to monitor Agencies with large budgets for public procurement
16. Set ambitious goals and commitments with international organisms dedicated to transparency and the battle against corruption
17. Restructure the Regional Operations Unit in order to grow and deepen its presence at the state level in attempt to increase collaboration in control and oversight of federal resources
18. Reach commitments with the "SAT" (Mexican equivalent to the American IRS) to improve the efficiency with which sanctions are applied

19. Create a specialized Intelligence Unit that has clear and formal covenants with other intelligence bodies in government to grant access to information that is needed by audit and investigative areas within Ministry
20. Set a forth a clear decision making scheme that establishes which decisions involve internal government control, and hence, should involve input from the Executive. Differentiate those from other decisions that should be made independently without external input.

9. CONGRESSIONAL AUDIT OFFICE (ASF)

The Congressional Audit Office is an autonomous body of the Mexican House of Representatives that oversees and audits federal expenditures. As a result of the legislative changes it now becomes a pillar of the National Anticorruption System and can now audit spending in real time as well as at the state level.

The body oversees federal resources (income, expenses and debt) administered by states and municipalities (including Mexico City) and has the power to request and review information from previous years.

The Congressional Audit Office is represented in the NAS' Coordinating Committee through its head and chairs the National Auditing System's Governing Committee. As a member of the Governing Committee, the Congressional Audit Office shall, with the other members of the body, design, approve and implement mechanisms of delivery, systematization and updating of information regarding public resources.

Priorities:

1. Redesign the concept of public auditing so that it becomes an effective tool for oversight and control
2. Institute covenants with other public institutions, to facilitate the exchange of information, between the offices and their public officials, so that the Con can access any data it needs to carry out its functions.
3. Establish new criteria so that recommendations, requests for clarification, observations, requests for tax verification, denunciations of administrative misconduct and suggestions to proceed with impeachment generate value added, are effective and, therefore, modify behaviors amongst public servants.
4. Propose amendments to the principles, rules, procedures, methods and systems for recording and accounting as well as the filing process, safeguarding of records and supporting documents that substantiate income, expenditure and public debt, or any other element that improves accountability and auditing best practices.
5. Redesign the model to audit the performance or compliance of objectives set forth in federal government programs as established in

- the Expenditure Budget. The audit should take into account the National Development Plan, sectorial programs, annual regional operational programs and the work of other audited entities.
6. Prioritize the verification of public procurement by the audited entities to verify if the resources for the investments and authorized expenditures were exercised in compliance with the terms of applicable provisions
 7. Design and enable permanent access channels to all of the information needed to carry out auditing functions
 8. Give greater importance to the oversight of federal resources given to states and municipalities and verify the compliance and efficiency of its recommendations.
 9. Create a Specialized Investigative Unit for gross administrative misconducts in compliance with the new responsibilities set forth by the Audit and Accountability Law and the General Administrative Responsibilities Law.
 10. Create a highly specialized program to research corruption acts in different high risk areas
 11. Develop an adequate follow-up system of processes to impose sanctions that arise through its investigations
 12. Create a Specialized Unit to draft criminal complaints that will be required to collaborate with District Attorneys to follow up on each of the cases
 13. Design agreements to expedite the collection of financial information, including accounting records, budgetary information and institutional reports of the accountability offices that all government entities are required to prepare. All of this with the objective of using this information as part of the auditing process.
 14. Establish working covenants with international organizations with shared objectives and goals
 15. Reinvent the model to follow-up on its observations and recommendations with the objective of increasing their efficiency

