Chapter 2.

Mexico’s National Anti-corruption System: Advancing a more coherent and comprehensive public integrity system

This chapter examines the coherence and comprehensiveness of Mexico’s evolving public integrity system. In line with the principles of the OECD 2017 Recommendation on Public Integrity, it examines the recently reformed institutional arrangements for national and local anti-corruption systems with a view to further strengthening co-ordination and supporting the implementation of action plan initiatives at national and subnational levels. The chapter provides recommendations on supporting implementation through stronger monitoring and capacity building. Finally, the extent to which non-governmental stakeholders have been included is discussed. The chapter discusses how new reforms could be better mainstreamed across the whole of government, better served by the inclusion of additional stakeholders to reach target groups such as the private sector, and better supported by stronger senior leadership and resources to ensure effective implementation.

Note: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.
Introduction: Comprehensive and coherent integrity systems

The experience of OECD and non-OECD countries shows that an effective, comprehensive and coherent public integrity system is fundamental for enhancing public sector integrity and preventing and curbing corruption. In particular, countries need to clarify institutional responsibilities across the public sector by establishing clear responsibilities and ensuring appropriate mandates and capacities to fulfil responsibilities. Countries must also promote mechanisms for co-operation and co-ordination between actors at the central level, as well as with and between subnational levels of government.

As such, this chapter examines the coherence and comprehensiveness of new anti-corruption legislation in Mexico. A key component of the OECD’s 2017 Recommendation on Public Integrity (OECD, 2017) underscores the case for coherent and comprehensive integrity systems that adopt a whole-of-government and whole-of society approach to fighting corruption. Such approaches underscore how integrity policies should be mainstreamed throughout government in order to leverage complementary policies for integrity outcomes and highlight the key role of non-governmental actors in implementing integrity strategies. The engagement of relevant stakeholders can contribute to a more relevant and effective integrity system, and approaches must recognise their shared responsibility for upholding integrity values.

The chapter is divided into three sections on achieving coherence and comprehensiveness: 1) the adoption of a whole-of-government approach underpinned by adequate institutional arrangements; 2) the necessary elements in place to make legal reforms a reality and support sustainable implementation over the longer term; and 3) the adoption of a whole-of-society approach that recognises the role of non-governmental actors in supporting anti-corruption efforts.

Institutional arrangements for integrity

As per international good practice, the NACS Co-ordination Committee should broaden its institutional reach through the formal inclusion of additional government and stakeholders in the design and implementation of Action Plan initiatives through, for example, the establishment of specific working groups.

National Anti-corruption System (NACS) reforms have strengthened the institutional power of the Mexican State in the fight against corruption by improving co-ordination and co-operation between relevant entities. However, additional measures should be taken to ensure that integrity policies are mainstreamed across the whole-of-government, including the establishment of additional working groups, better alignment of action plan initiatives with other key national strategies, and a new public sector integrity strategy by the Ministry of Public Administration (Secretaría de Función Pública, SFP).

On 27 May 2015, Mexico’s Federal Official Gazette published the decree by which several provisions of the Constitution were amended, added or repealed (specifically, Articles 22, 28, 41, 73, 74, 76, 79, 104, 108, 109, 113, 114, 116 and 122). This reform first enshrined the National Anti-corruption System into law and set in motion the debates around, and eventually the passing of, secondary legislation necessary for bringing the system to life. Just over a year later, on 18 July 2016, these secondary laws were promulgated by President Peña Nieto and included:
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• **The General Law of the National Anti-corruption System** (*Ley General del Sistema Nacional Anticorrupción*): the cornerstone piece of legislation which establishes the institutional and governance arrangements for the system, as well as outlines objectives and required activities. With the status as a general law, it requires states to establish their own systems along similar lines. The law also requires certain information to be published and made available to the public on the newly-created digital platform (*Plataforma Digital Nacional del Sistema Nacional*).

• **The Organic Law for the Federal Public Administration** (*Ley Orgánica de la Administración Pública Federal*): this reform strengthened the attributes of the SFP in comparison with its previous mandate defined in 2009. The SFP, now a core member of the NACS Co-ordination Committee, is made responsible for integrity policies for the federal public administration, including codes of conduct and asset and interest declarations. It retains its previous mandate over internal control and audit, human resource management (HRM), public procurement, transparency and the administrative disciplinary regime. The appointment of the minister, unlike before, is now subject to ratification by the Senate.

• **The Organic Law of the Federal Tribunal of Administrative Justice** (*Ley Orgánica del Tribunal Federal de Justicia Administrativa*): the institution was made autonomous under the constitutional reform of 2015, and this new law established the organisation of the Tribunal and its Courts, including regional Courts. The law also sets out rules for the selection and removal of magistrates.

• **The Organic Law of the Attorney General’s Office** (*Ley Orgánica de la Procuraduría General de la República*): creates the position of Specialised Anti-corruption Prosecutor (*Fiscal Especializado en material de delitos relacionados con la corrupción*), outlining the responsibilities of this office and consolidating its role in the national anti-corruption system. The Criminal Code was amended accordingly to further clarify procedures for prosecuting corruption-related crimes under Chapter 10.

• **The General Law of Administrative Responsibilities** (*Ley General de Responsabilidades Administrativas*): a new law that will replace the existing Federal Law of Administrative Responsibilities when it expires in July 2017. The new law lays out the duties and responsibilities of public officials (including for the disclosure of private interest) and sets out administrative disciplinary procedures for misconduct, differentiating between less serious and serious offences, the latter of which may now fall under the jurisdiction of the Federal Tribunal of Administrative Justice. Notably, it also expands liability for alleged integrity breaches to natural and legal persons.

• **The Law of Auditing and Accountability** (*Ley de Fiscalización y Rendición de Cuentas de la Federación*): this new law extends the remit of the Supreme Audit Institution (*Auditoría Superior de la Federación*), permitting real-time audits and oversight over “participaciones” funds, an important category of transfers to subnational governments. The law also makes audit reports to Congress timelier in order to increase accountability for efficiency and results, and better inform budgetary decisions for upcoming fiscal years.

• **The Law of Fiscal Co-ordination** (*Ley de Coordinación Fiscal*): this law, which since 1978 has regulated the distribution of federal subsidies and tax-sharing
arrangements (“participaciones”), was amended to align to the new provisions of NACS, particularly those concerning the role of the Tribunal in disputes and the expanded remit of the Supreme Audit Institution of Mexico (Auditoria Superior de la Federación, ASF).

- **The General Law on Government Accounting (Ley General de Contabilidad Gubernamental):** amended financial reporting requirements for states and municipalities as per the extended auditing universe of the ASF over “participaciones” funds (transfers to states).

**Figure 2.1. Governance of the national anti-corruption system**

![Governance Diagram]

*Source: OECD based on NACS General Law. Ley General del Sistema Nacional Anticorrupción.*

**Table 2.1. Organisation and activities of national and local anti-corruption systems**

<table>
<thead>
<tr>
<th>NACS entities</th>
<th>Lead/Members</th>
<th>Summary of objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Co-ordination Committee</td>
<td>Presided over by the President of Citizen Participation Committee Additional members: Minister of Public Administration, Auditor-General (ASF), President of the National Institute for Transparency, Access to Information and the Protection of Personal Data (INAI), Specialised Anti-corruption Prosecutor, President of the Federal Tribunal of Administrative Justice (FTAJ) and representative from the Federal Judicial Council.</td>
<td>Develops national anti-corruption policies and monitors and evaluates progress in annual report; directs and oversees the work of the Executive Secretariat and Executive Commission.</td>
</tr>
</tbody>
</table>
### Table 2.1. Organisation and activities of national and local anti-corruption systems (cont.)

<table>
<thead>
<tr>
<th>NACS entities</th>
<th>Lead/Members</th>
<th>Summary of objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Executive Secretariat to Co-ordination Committee</strong></td>
<td>Governing Board (Organo de gobierno) led by the President of the Citizens Committee and comprised of members of the Co-ordination Committee</td>
<td>Provides technical support to the organisation of the Co-ordination committee, oversees the development and use of the national digital platform. Technical Secretary (Secretario Tecnico) elected by Governing Board members and tasked with managing the Executive Secretariat</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Executive Commission to the Co-ordination Committee</strong></td>
<td>Technical Secretary and Citizen Participation Committee (with exception of this Committee’s President)</td>
<td>Provides technical support in the design and implementation of Co-ordination Committee activities and responsibilities, including annual report and co-ordination with local systems.</td>
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<tr>
<td><strong>Citizen Participation Committee</strong></td>
<td>Presided over by the President of the Citizen Participation Committee, with one year term on rotating basis amongst five members. Total of five members, including the President, chosen by selection committee of nine experts chosen by the Senate for a period of three years. Members must have made “an outstanding contribution to transparency, accountability and combating corruption”.</td>
<td>Channels inputs from civil society into the work of the NACS and oversees progress and results. Can also conduct own programme of work (investigations, research, instruments and tools, etc.).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Local anti-corruption systems</strong></td>
<td>Should mirror the structure of the federal NACS with analogous governance structure and procedures.</td>
<td>Responsibilities and activities should mirror those of the federal NACS.</td>
</tr>
</tbody>
</table>

*Source: OECD elaboration as per Mexico’s General Law of the National Anti-corruption System, *Ley General del Sistema Nacional Anticorrupción.*

The General Law of the NACS calls for the creation of the Citizen Participation Committee, which will be comprised of five representatives renowned for their expertise and contributions to the field of anti-corruption, transparency and/or accountability in Mexico, and who will be selected by the specialised selection committee named by the Senate. The Citizen Participation Committee is tasked with formalising a network of civil society organisations and experts (via the creation of a registry) and channelling their inputs (i.e. research, recommendations) into the system, as well as implementing its own annual programme of work, which may include research, investigations and projects for improving the digital platform or reporting on corruption by the public.

The NACS General Law provides that a representative of the Citizen Participation Committee preside over the system’s Co-ordination Committee and Governing Board (the “supreme” governing entities of the system), which are also composed of the heads of the SFP; the Supreme Audit Institution; the Federal Tribunal of Administrative Justice (FTAJ); the Specialised Anticorruption Prosecutor; the National Institute for
Transparency, Access to Information and the Protection of Personal Data (INAI); and a representative from the Federal Judicial Council (Consejo de la Judicatura Federal). The Citizen Participation Committee also sits on the Executive Commission, which supports the Co-ordination Committee in the design and implementation of policies, and must produce an annual report on the activities and progress of NACS initiatives. The selection of the Citizen Participation Committee members is conducted by civil society (albeit individuals designated by the Senate), which arguably secures greater independence of the committee from potential political influence. Article 18 of the General Law states that the Senate must comprise a selection commission of nine experts to select Participation Committee members. Selection Committee members cannot nominate themselves as Citizen Participation Committee members.

The General Law of the NACS also establishes the national digital platform (Plataforma Digital Nacional), which should contain the following information:

1. Database of assets, conflict-of-interest, and tax declarations, as per the new General Law of Administrative Responsibilities.
2. Database of public officials involved in public procurement contracts.
3. Database of sanctioned public officials and individuals.
4. Information and communications system of the NACS and the national auditing system (NAS).
5. Database of sanctioned public officials and individuals.
6. Database of public procurement contracts.

The platform, and therefore these six components, will be managed by the Executive Secretariat and be (mostly) public, according to the open data standards of the national transparency system. The exceptions on proactive transparency will be less serious administrative offences that will not be disclosed, and, for privacy reasons, some information on asset, tax and conflict of interest declarations that the Co-ordination Committee may deem private according to the new General Law on Responsibilities and data privacy laws. Local anti-corruption systems are expected to participate in the platform and include their own relevant datasets. The expectation is that greater transparency of such data will keep reduce impunity and increase the accountability of institutions through greater citizen oversight.

Each member of the NACS Co-ordination Committee holds a key piece of the puzzle to tackling corruption. The institutional arrangements of the system span the three main functions of a coherent integrity system, prevention, detection, enforcement, and there are also oversight mechanisms for the functioning and legality of the system as a whole (i.e. from civil society and the Judicial Council). Figure 2.2 demonstrates the main roles each institution plays regarding prevention, detection and enforcement mechanisms. The SFP’s responsibilities span all three, as the federal institutions responsible for ethics, internal control and audit, digital government, human resources management and disciplinary proceedings (for less serious offences). The ASF is also a prominent actor due to its performance audits of integrity systems, its guidance in the development of risk assessment and mapping guidelines (see Chapter 5), its financial and compliance audits, and its new function to conduct forensic audits and submit evidence to the Tribunal and Special Prosecutor. By aligning and leveraging transparency requirements with anti-corruption (i.e. release of sanctions data, public procurement information, asset and
conflict of interest declarations), it acts as a key player in supporting the prevention and detection of integrity violations. The Anti-corruption Prosecutor and Administrative Tribunal can both play a role in investigating and, if applicable, sanctioning/punishing administrative and criminal offences related to corruption.

**Figure 2.2. Institutional arrangements of the anti-corruption system can improve co-ordination and avoid fragmentation**

A great deal of the value-added from NACS is in bringing together key players to better align policies and approaches and to co-operate in implementation. Moreover, the inclusion of the ASF and INAI representatives support synergies with complementary agendas for stronger accountability and transparency policies by aligning with two other co-existing systems (the national auditing system led by the ASF and SFP, and the transparency systems led by INAI) promoting the anti-corruption agenda. The inclusion of the Tribunal and Specialised Anti-corruption Prosecutor allows for better co-ordination on investigations and sanctions (along with the ASF and SFP) to ensure that cases do not fall through the cracks and that there is consistency in procedures and interpretation of new laws. Reducing what is largely perceived as impunity for integrity violations has been at the core of these reforms (see Chapter 6).

However, there are additional areas of the public sector that could contribute to integrity policies and which are not formally included in the institutional arrangements created by the system. Anti-corruption is a cross-cutting issue that involves all of government. As explored in Chapter 4, for instance, the Ministry of Education could potentially play a stronger role in incorporating awareness-raising on corruption in education policy by adapting curricula requirements. Likewise, regulatory policy (overseen by the Governance Ministry, Secretaría de Gobernación), and specifically administrative simplification, is key to reducing opportunities for corruption. The Ministry of Interior plays a role in reducing corruption in security forces where reports of corruption are high. The Ministry of the Presidency is also not involved in the Co-ordination Committee and, as the centre of government, plays an important role in linking sectoral policy objectives together and with broader national socio/economic objectives.
The Ministry of Finance is also not included, risking that anti-corruption and integrity action plans may face an uphill battle in securing the necessary resources. The Tax Administration is also not included in the governance of the system, perhaps complicating the implementation of new asset requirements and co-ordination on investigating financial information. Finally, legislative and electoral bodies have been excluded from the governance of the system. The Senate and Chamber of Deputies Ethics Committees (in the case of the Senate the Commission for Parliamentary Practices), as well as the Mexican Electoral Institute, are key players in curbing corruption in political financing, lobbying, elections, and conflict of interest for legislators.

The inclusion of these institutions would significantly improve the design of future national anti-corruption plans, assuring better identification and articulation of the preventive anti-corruption objectives. It would also facilitate implementation and the mainstreaming of integrity objectives across the whole of government. A typical failure of anti-corruption strategies is that implementation is assigned to a single anti-corruption body (such as the Co-ordination Committee) without acknowledging that these bodies usually lack the authority to demand action from other public institutions (Hussmann et al., 2009). As such, while the inclusion of all relevant actors in the Co-ordination Committee may not be feasible immediately, going forward it would be important for the committee to establish formalised institutional mechanisms for consultation and implementation. Working groups should therefore be established with the aforementioned institutions. In the first place, a broad consultative working group should be established for the design of the national anti-corruption action plan. This participative approach would also help in generating ownership of the different institutions at a more technical level. Once initiatives have been outlined, the Co-ordination Committee could form additional groups centred on the implementation of concrete initiatives. During the implementation of a national anti-corruption plan, the technical working groups could meet to monitor and discuss implementation challenges and propose adjustments. Towards the end of the implementation, the technical working groups could provide valuable input for the evaluation phase and help to inform the design of the next plan.

To ensure a whole-of-society approach, the NACS Citizen Participation Committee should establish a specific working group comprised of private sector representatives in order to reflect private sector anti-corruption initiatives in the national action plan.

The system is designed to give civil society the opportunity to play an important role throughout the integrity policy cycle. This inclusive, broad approach can potentially improve the design and impact of integrity policies, which will benefit from the expertise and input of a greater number of stakeholders. Activities of the public sector take place in interactions with the private sector, civil society and individuals, and these stakeholders should respect the integrity of the public sector in these interactions. All actors in society should be aware of the benefits of public integrity; awareness campaigns could promote civic education on public integrity, especially in schools. This whole-of-society approach ultimately improves the content and effectiveness of integrity policies themselves, and enhances trust and legitimacy in the public integrity system.

In Mexico, civil society, based on citizens’ experiences with corruption, can direct policies and investigations and ensure that NACS activities are aligned with problem sectors, regions and institutions. The connection with the broader network of organisations and experts involved can also multiply the impact of activities by
supporting and monitoring implementation. The involvement of civil society is expected
to generate greater legitimacy of the policies themselves. According to Edelman’s World
Values Survey of informed citizens, in 2015, 73% of respondents in Mexico reported
having high levels of trust in civil society organisations, higher levels than for the
government, media and business. It is therefore an important oversight body of the system
as a whole which enjoys strong credibility in the eyes of the public.

While the involvement of civil society is positive for the effectiveness and legitimacy
of the system, it is not representative of all stakeholders in society that have a say in
corruption matters. The exclusion of private sector representatives in the system is
notable, and limits the involvement of a core group of stakeholders in the fight against
corruption. The NACS General Law places emphasis on academic institutions and
recognised think tanks and experts on anti-corruption. While this may cover some
organisations representing the private sector (such as Mexico’s International Chamber of
Commerce Commission on Anti-corruption), there are many others that could play a
more prominent role in the Citizen Participation Committee. Corruption often occurs at
the interface between public and private interactions, as well as between private sector
actors themselves. The public and private sectors are both responsible for taking measures
against corruption. Corporate practices must also adhere to stricter standards and reforms.
As discussed in Chapter 1, businesses lose when corruption is rampant, and most are keen
to support a “level playing field” that is free of bribery and additional costs to doing
business. Furthermore, the exclusion of the private sector may mean that systems fail to
address a large share of corruption in Mexico or, even if addressed, that implementation
will be threatened due to lack of buy-in and engagement. In Colombia (see Box 2.1), the
National Citizens Committee for the Fight against Corruption (NCCFFC) leverages such
partnerships to implement integrity initiatives that target the private sector (i.e. codes of
conduct.)

Furthermore, any civil society organisations or individuals later included in the
network registry should be held to the highest standards of transparency in terms of their
financing and activities. This would help ensure the independence and objectivity of their
input regarding the system. A large network of civil society organisations, the Network
for Accountability (la Rendición de Cuentas), has already been created in run-up to the
approval of the system, and is comprised of leading think tanks and academics in the
country. However, the Citizen Participation Committee should ensure that any additional
non-member organisations are given equal opportunity to participate, and may wish to
consider establishing specific working groups to better organise and cover identified areas
and ensure high inclusivity.

Just as civil society is aptly represented, the NACS Citizen Participation Committee
should consider creating an advisory body or working group comprised of private sector
representatives, and consult with them regularly. Implementation of initiatives involving
the private sector should further include such actors as partners. These steps could
potentially facilitate the implementation of policies by fostering greater awareness and
buy-in from the private sector and promoting greater accountability, as well as the
exchange of good practices across sectors. The cases of Colombia and Peru (see Box 2.1)
highlight the impact of adopting a multi-stakeholder approach to ensure the participation
of a wide variety of non-governmental organisations (religious institutions, media, trade
unions).
Box 2.1. Government and non-government stakeholders in National Anti-corruption Commissions: Colombia and Peru

**Colombia**

The Anti-corruption Statute established the National Committee for Moralisation (NCM), a high-level mechanism to coordinate strategies to prevent and fight corruption. The NCM is a multipartite body composed of the President of the Republic, the Inspector General, the Prosecutor General, the Comptroller General, the Auditor General, the head of the Congress and the President of the Supreme Court, among others. The National Committee for Moralisation is responsible for information and data exchange among the bodies mentioned above in order to fight corruption; it also establishes mandatory indicators to assess transparency in public administration. It adopts an annual strategy to promote ethical conduct in public administration, including workshops, seminars and pedagogic events on topics such as ethics and public morality, as well as duties and responsibilities of public officials.

The same Anti-corruption Statute of 2011 created the National Citizens Committee for the Fight against Corruption (NCCFFC), which is the body that represents Colombian citizens to assess and improve policies to promote ethical conduct and curb corruption in both the public and private sectors. This committee is composed of representatives from a wide array of sectors, such as business associations, non-governmental organisations (NGOs) dedicated to the fight against corruption, universities, media, social audits representatives, the National Planning Council, trade unions and the Colombian Confederation of Freedom of Religious, Awareness and Worship. The NCCFFC issues a yearly report on anti-corruption policy evaluation; promotes codes of conduct for the private sector, especially to prevent conflict of interest; closely monitors the measures taken in the Anti-corruption Statute to improve public management, public procurement, the anti-paperwork policy, the democratisation of public administration, access to public information and citizen services; and promotes the active participation of social media in reporting corruption.

**Peru**

Peru’s High-level Anti-corruption Commission (Comisión Alto-nivel de Anti-corrupción, CAN) was established by Law no. 29976 and its regulation in decree no. 089-2013-PCM, which also outlines CAN’s mandate and responsibilities. CAN’s main activities are: articulating efforts; co-ordinating the actions of multiple agencies; and proposing short, medium and long-term policies directed at preventing and curbing corruption in the country.

Like in Colombia, CAN is formed by public and private institutions and civil society, and co-ordinates efforts and actions on anti-corruption. Non-governmental actors include representatives of private business entities, labour unions, universities, media and religious institutions. Bringing diverse stakeholders regularly together aims to foster horizontal co-ordination and guarantee the coherence of the anti-corruption policy framework, as well as contributing to protecting CAN from undue influence by narrow interests.
Box 2.1. Government and non-government stakeholders in National Anti-corruption Commissions: Colombia and Peru (cont.)

Table 2.2. The composition of CAN (as of October 2016)

<table>
<thead>
<tr>
<th>Members with vote (10)</th>
<th>Members with voice but without vote (11)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• President of the Congress <em>(Congreso de la República)</em></td>
<td>• Comptroller General <em>(Contraloría General de la República, CGR)</em></td>
</tr>
<tr>
<td>• President of the Judiciary <em>(Poder Judicial)</em></td>
<td>• Ombudsman <em>(Defensoría del Pueblo)</em></td>
</tr>
<tr>
<td>• President of the Cabinet Office <em>(Presidencia del Consejo de Ministros, PCM)</em></td>
<td>• Executive Director of the Supervisory Body of Public Contracting <em>(Organismo Supervisor de las Contrataciones del Estado, OSCE)</em></td>
</tr>
<tr>
<td>• Minister of Justice and Human Rights <em>(Ministerio de Justicia y Derechos Humanos)</em></td>
<td>• President of the National Assembly of Deans <em>(Asamblea Nacional de Rectores)</em></td>
</tr>
<tr>
<td>• President of the Constitutional Court <em>(Tribunal Constitucional)</em></td>
<td>• President of the National Council for Public Ethics <em>(Consejo Nacional para la Ética Pública, Proética)</em></td>
</tr>
<tr>
<td>• President of the National Council of the Judiciary <em>(Consejo Nacional de la Magistratura)</em></td>
<td>• President of the National Confederation of Private Business Entities <em>(Confederación Nacional de Instituciones Empresariales Privadas)</em></td>
</tr>
<tr>
<td>• Attorney General <em>(Fiscalía de la Nación)</em></td>
<td>• Representative of the labour unions of Peru</td>
</tr>
<tr>
<td>• President of the National Assembly of Regional Governments <em>(Asamblea Nacional de Gobiernos Regionales)</em></td>
<td>• Representative from the Catholic church</td>
</tr>
<tr>
<td>• President of the Association of Municipalities <em>(Asociación de Municipalidades)</em></td>
<td>• Representative from the Evangelic church</td>
</tr>
<tr>
<td>• Executive Secretary of the National Agreement <em>(Acuerdo Nacional)</em></td>
<td>• Executive Director of the Peruvian Press Council <em>(Consejo Prensa Peruana)</em></td>
</tr>
<tr>
<td>• General Co-ordinator of CAN <em>(Coordinador General de la CAN)</em></td>
<td>• General Co-ordinator of CAN <em>(Coordinador General de la CAN)</em></td>
</tr>
</tbody>
</table>

Source: Peru, Law 29976 from 2013 which creates the High Level Commission against Corruption *(Comisión de Alto Nivel Anticorrupción, CAN)*.

The one year rotation period for the President of the Citizen Participation Committee may limit the leadership potential of both civil society and the Co-ordination Committee. The Government of Mexico may wish to evaluate the possibility of extending this period.

However, according to Article XI of the General Law of NACS, the President of the Citizen Participation Committee (and therefore of the NACS Co-ordination Committee) is limited to one year, and rotates amongst the other four members. This short tenure period may lead to a more consensus-based approach from leadership that supports the sustainability of reforms over the longer term. However, the lack of continuity could also lead to continuously shifting priorities, which may hinder the design and implementation of action plan initiatives. This short period severely limits leadership over NACS since it does not permit sufficient time to develop rigorous, evidence-based policies or adequately follow-up. Furthermore, the fact that action plans will span several years and will not be aligned with presidency periods could be detrimental to implementing initiatives. Therefore, in the future the Government of Mexico may wish to assess whether the one-year limit has adverse consequences and consider whether it should be extended. The Government of Mexico may also wish to evaluate the presidency periods of other countries with similar institutional arrangements (e.g. Colombia, Peru) to help determine the adequate length of time.
The NACS Action Plan should be mainstreamed into key national and sectoral strategies to ensure a whole-of-government approach to fighting corruption, and a new public sector integrity strategy should be designed. Likewise, the Co-ordination Committee should ensure individual organisations align their own risk and integrity plans to Action Plan objectives.

Currently, the General Law of NACS requires that the Co-ordination Committee takes on the important challenge of designing and implementing national anti-corruption policies, developing an action plan, and reporting on progress annually. States’ own systems (“Local Integrity Systems”), once established, will also be required to follow suit with their own state strategies. To ensure the mainstreaming of integrity throughout the public sector, it is essential that specific action plan measures are linked with key existing national strategies, such as the National Development Plan (Plan Nacional de Desarrollo, Figure 2.3). Reduced corruption has been included in the Sustainable Development Goals (SDGs) under Goal 16 and is a national issue, not just for members of the Co-ordination Committee. The plan expires in 2018, after which it is expected that corruption will be more explicitly included; however, at that time the hope is that anti-corruption will be viewed as a transversal issue that is addressed in all national goals. Including key action plan initiatives in the National Development Plan would be in line with the practice of other member and partner countries in the Latin American and Caribbean (LAC) region: Costa Rica, for example, has a pillar in its 2015-2018 National Development Plan that is dedicated to transparency and anti-corruption; Colombia and Peru also have concrete objectives on anti-corruption in their respective plans.

Figure 2.3. Mexico’s National Development Plan 2015-2018 does not currently prioritise corruption

Other key national strategies which could reflect, in the future, relevant anti-corruption measures from the action plan include:

- The National Digital Strategy (Estrategia Digital Nacional).
• The National Civic Culture Strategy (*Estrategia Nacional de Cultura Cívica*) once approved.

• The National Security Strategy (*Estrategia Nacional de Seguridad Pública*).

A whole-of-government approach to integrity requires broad national and local anti-corruption plans that cover integrity measures beyond the public sector. The action plans should also specifically address, and urgently update, public sector integrity measures that may warrant a separate sub-strategy of their own. Until now, no federal public sector strategy has been put in place. In 2015, eight concrete measures were put in motion by the SFP (see Table 2.3), however these were piecemeal in nature and did not constitute a longer-term vision on building public sector integrity that could be monitored and evaluated. Some of the measures existed previously and therefore were not new (registry of sanctioned officials, ethics committees), and some measures (such as the public procurement protocol) are discussed in this review as requiring further refinements and being potentially counterproductive for building integrity. The follow chapters will touch on the various additional initiatives that could be included in the drastically needed public sector integrity strategy, including: new institutional arrangements (i.e. ethics officers, closer mainstreaming with human resources management practices); new policies (on improving conflict-of-interest disclosure, pre and post-public employment, risk management); and even new legislation (on whistleblower protection for instance). The SFP should take the lead on designing this concrete strategy, which could be first vetted by the Co-ordination Committee and be accompanied by key performance indicators for monitoring implementation and evaluating impact.

Table 2.3. The eight-point public sector integrity measures of 2015 need updating

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Description</th>
<th>Status as of December 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>New formats/requirements for asset and conflict of interest disclosure</td>
<td>Expansion of the requirements for submitting declarations (greater scope of public officials) as well as information required, including for immediate family members. Made voluntary publishing of information possible.</td>
</tr>
<tr>
<td>2</td>
<td>Creation of Office for Ethics and Prevention of Conflict of Interest</td>
<td>A Unit within the SFP charged with developing and implementing ethics and conflict of interest policies in the federal public administration.</td>
</tr>
<tr>
<td>3</td>
<td>Code of Conduct and Integrity Rules</td>
<td>A new code of conduct and integrity rules for federal public servants, with the requirement that individual line ministries follow suit with similar new codes.</td>
</tr>
<tr>
<td>4</td>
<td>Protocol for public procurement officials in their interactions with the private sector</td>
<td>Specific code of conduct for public procurement officers concerning their interactions with potential suppliers.</td>
</tr>
<tr>
<td>5</td>
<td>Registry of public officials taking part in procurement activities</td>
<td>Database of public procurement officials at the federal level.</td>
</tr>
</tbody>
</table>
Table 2.3. The eight-point public sector integrity measures of 2015 need updating  
(cont.)

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Description</th>
<th>Status as of December 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.</td>
<td>List of sanctioned service providers</td>
<td>Database of sanctioned public officials.</td>
</tr>
<tr>
<td>8.</td>
<td>Greater co-operation with private sector</td>
<td>Agreements with private sector representatives.</td>
</tr>
</tbody>
</table>


Furthermore, the OECD Recommendation on Public Integrity underscores that the development, implementation, enforcement and/or monitoring of the elements of the public integrity system should be tailored to the specific integrity risks of sectors, organisations and officials, which may require the creation of public integrity sub-systems. While national and local action plans will be invaluable in elevating the debate on corruption and ensuring greater policy coherence and comprehensiveness, by nature they will inevitably be broad in scope and address various types of corruption. While this is understandable, it will mean that action plans will most likely not be able to address the specific integrity risks unique to individual organisations, potentially leading to gaps and wasted public resources as entities invest in areas or practices that may not be cost-effective given their particular contexts or activities.

As such, it is recommended that both national and local Co-ordination Committees adopt a risk-based approach by requiring both fraud and corruption risk mapping exercises and corresponding integrity plans of individual public sector organisations. Currently, at the federal level in Mexico, risk maps are required by the SFP and submitted as part of internal control frameworks with limited success (see discussion and recommendations on improving the Ministry of Public Administration’s risk management framework [the *Administración de Riesgos Institutional*, ARI] in Chapter 5 of this review). These cover all risks, not only for fraud and corruption, and the quality of mapping exercises varies drastically across organisations. The NACS Co-ordination Committee could consider reviewing the maps and plans of countries such as those mentioned in Box 2.2 to ensure quality. The ASF and SFP in particular would be well-placed to assess the quality of maps and plans on the basis of their prior audits.
Box 2.2. Corruption prevention plans at the institutional level

Several OECD member and partner countries require that individual line ministries or departments prepare corruption prevention plans that are tailored to their organisation’s specific internal and external risks. Every organisation is different, and risks for fraud and corruption therefore vary depending on mandate, personnel, budget, and infrastructure or IT use. For example, line ministries responsible for transferring social benefits face higher risks of fraud; likewise departments with higher public procurement spending (such as health or defence) may face corruption risks on this activity. In addition to ensuring prevention policies are developed on a risk-based basis, such plans also contribute to ensuring that, where relevant, organisations’ anti-corruption efforts are aligned with national and sectoral strategies.

Some countries therefore complement national anti-corruption plans with organisational-level strategies. In Latvia, for example, each ministry has a corruption prevention plan, with oversight of the national anti-corruption agency (the KNAB).

In Lithuania, the Special Investigation Service (SIS), an independent anti-corruption law enforcement body, is responsible for monitoring the implementation of the National Anti-Corruption Programme, along with the Interdepartmental Commission on Fighting Corruption, led by the Department of Justice. The SIS co-ordinates risk management activities throughout the public sector by requiring each public institution to design its own risk map that is submitted to the SIS for review. The SIS provides guidance and comments to improve these plans.

In Slovenia, the Commission for the Prevention of Corruption supports organisations in their development of unique integrity plans, which identify analyse and evaluate risks and propose appropriate mitigation measures. The Commission urges departments to adopt an inclusive approach in the development of their plans, since it was found that they were an opportunity to effectively communicate values and enhance a shared understanding on integrity. The Commission provides guidance, such as sample integrity plans, on its website.

The United States Office of Government Ethics (OGE) conducts reviews on organisations’ ethics programmes about once every four years. These Ethics Programme Reviews are OGE’s primary means of conducting systemic oversight of the executive branch ethics programme. The Compliance Division’s Programme Review Branch conducts ethics programme reviews at each of the more than 130 executive branch agencies to ensure consistent and sustainable ethics programme compliance with established executive branch ethics laws, regulations and policies, and provides recommendations for meaningful programme improvement. Individual reviews identify and report on the strengths and weaknesses of an agency’s ethics programme by evaluating 1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies; and 2) ethics-related systems, processes, and procedures for administering the programme.

In Colombia, individual organisations are required to have in place their own risk maps and anti-corruption plans. The Anti-Corruption Statute directs public entities of all orders to produce a strategy at least annually to combat corruption and improve citizen service. These plans are based on the criteria defined by the Secretariat of Transparency Presidency of the Republic.

Sources: OECD Integrity Review of Colombia (forthcoming), OECD accession report of Lithuania (not published), OECD accession report of Latvia (not published), for OGE: www.oge.gov/web/oge.nsf/Program%20Review.
Supporting the implementation of action plan initiatives

The creation of local anti-corruption systems serves to support a whole-of-government approach and address subnational levels where corruption is most prominent. However, to be effective, these systems must be held to the same standards as the national anti-corruption system, be better monitored, and be supported by stronger co-ordination mechanisms between levels of government.

Corruption is a concern at all levels of government in Mexico, but particularly at state and local levels where 75% and 70% of citizens, respectively, report that corruption is “very frequent” (see Figure 1.2 in Chapter 1). Opportunities for certain types of corruption can be more likely at subnational levels. Subnational governments’ responsibilities for the delivery of a large share of public services (e.g. education, health, security/justice, waste management, utilities, granting licences and permits) increases the frequency and directness of interactions between government authorities and citizens and firms, which creates opportunities to test the integrity of subnational governments.

Integrity at subnational levels in Mexico is of utmost importance. Mexico’s National Statistics Office (INEGI) conducts a biennial survey on citizens’ experiences with public sector corruption in a standardised sample of government-provided services. It then calculates a “corruption incidence” ratio by dividing the total number of citizens who interacted with public authorities in the request or receipt of a service by the number of acts of corruption reported in interactions with public authorities. The ratio is an approximate proxy for the extent to which certain interactions have been subject to corruption. It is not an exact figure of corruption experienced. Concerning the provision of public services, and as indicative in Figure 2.4 below, state and municipal governments showed greater incidences of experienced corruption, relatively speaking, when compared to the federal level. The Northwestern Region of Mexico demonstrated the highest levels of reported corruption in the delivery of public services.

Figure 2.4. Local anti-corruption systems address corruption where most prevalent, INEGI “corruption ratio” by level of government and region

Note: Central Region (Distrito Federal, Guerrero, Hidalgo, México, Morelos, Puebla and Tlaxcala); Western Region (Aguascalientes, Colima, Guanajuato, Jalisco, Michoacán de Ocampo, Nayarit, Querétaro and Zacatecas); Southeastern Region (Campeche, Chiapas, Oaxaca, Quintana Roo, Tabasco, Veracruz de Ignacio de la Llave and Yucatán); Northwestern Region (Baja California, Baja California Sur, Chihuahua, Sinaloa and Sonora); Northeastern Region (Coahuila de Zaragoza, Durango, Nuevo León, San Luis Potosi and Tamaulipas).

Having the character of a General Law, the NACS legislation applies to subnational levels. The creation of local anti-corruption systems are embodied in the law as members of the national system and, as stated earlier, states are required to pass the relevant legislation in line with the general laws within one year. However, there have already been threats made to the just implementation of this law at the state level. Several governors have introduced legislation that is not harmonised with the tenets of the general laws, and which are weaker in nature and shield the executive branch from sanctions (see Box 2.3 below). Therefore, the Co-ordination Committee should consider dedicating specific resources to monitoring subnational laws, and perhaps consider reviewing pending legislation. These same dedicated resources could support local systems’ own anti-corruption system (ACS) technical secretariats with guidance and support. A “Help Desk”, for example, could be established similar to the model adopted by the Netherlands to support municipalities in their integrity efforts.

Box 2.3. Ensuring local integrity systems comply with national legislation in Mexico

In the spring of 2016, the current (and outgoing) governors of Veracruz, Chihuahua, and Quintana Roo introduced bills to establish their respective states’ anti-corruption systems, including establishing the offices of the Anti-Corruption Prosecutor and judges for the administrative tribunals.

These bills were criticised by opposition parties and other organisations as containing provisions to shield them from future prosecution for corruption. Following the passing of these bills, the incoming governor-elect of Quintana Roo, Carlos Joaquin Gonzalez, filed a constitutional challenge against all three of the proposed bills. His challenge argued that the bills were not consistent with the principles of Mexico’s proposed national anti-corruption system.

In September 2016, the Supreme Court of Justice (Suprema Corte de Justicia de la Nación, SCJN) declared the respective anti-corruption laws of the states of Chihuahua and Veracruz unconstitutional, on the grounds that the regulations for the local anti-corruption systems had been issued and approved before the federal laws of the national anti-corruption system had been adopted.

The SCJN also declared that while the laws passed by the states of Chihuahua and Veracruz for the Anti-Corruption Prosecutors were unconstitutional, they could not remove nor invalidate the appointed prosecutors from their posts. Nevertheless, by virtue of these laws being unconstitutional, all acts derived from that law (such as their appointment) are void. While a ruling is still pending for Quintana Roo, it is expected that the reforms will follow along the same precedent.


The Co-ordination Committee should, for example, monitor the implementation of regional and local laws in a public and transparent manner, perhaps through scorecards or indices. Such approaches have been adopted in other countries, such as Colombia, where “naming and shaming” slow reforming regions can be an effective tool for central government to apply pressure on subnational levels. The indices of Colombia’s Observatory from its Anti-corruption Commission are one model example to consider. The Observatory has developed composite indices on topics such as fiscal performance and open government, which are available by region and municipality. This allows the public to benchmark and compare. One index measures the progress of regional anti-
corruption systems (*Comisiones Regionales de Morazalización*) and assesses their compliance with legislation, including: number of meetings/consultations with citizens, quality of action plans, and implementation of action plan items. Figure 2.5 below shows the ranking results according to these indicators. Results are available in numerical and map form, whereby regions are colour coded according to their scores. Regions in red and yellow are behind those coloured in green. Mexico’s Co-ordination Committee could consider a similar approach as a means of communicating progress to citizens more easily, and applying political and social pressure to implement reforms.

**Figure 2.5. Colombia’s index on regional anti-corruption systems**

![Figure 2.5](image)


Just as with NACS, while the state laws that will need to be passed to align to the system will be key to setting the “skeleton” of anti-corruption policy at the subnational level, there are countless policies, manuals, and guidelines that must be created and/or updated to align with the new tenets of the system. This level of detail is beyond the scope of the NACS technical secretariats, and instead the responsibility of its individual institutions/members (ASF, SFP etc.). The obligation of states to adopt the same policies and tools is not clear-cut given their autonomy over such matters. To ensure consistency, harmonisation, and implementation, co-ordination mechanisms between levels of government will be all the more important. Table 2.4 below presents the main co-ordination tools that must be leveraged by NACS and its members to reach states.
### Table 2.4. Vertical co-ordination mechanisms to be leveraged under NACS

<table>
<thead>
<tr>
<th>Co-ordination tool</th>
<th>Area of responsibility</th>
<th>Challenges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bilateral agreements with states 2015</td>
<td>Support on ethics and public sector integrity policies.</td>
<td>No binding mechanisms for compliance, voluntary, no monitoring or evaluation.</td>
</tr>
<tr>
<td>CPCE-F (member of NAS) Permanent Commission of State and Federal Controllers</td>
<td>Internal control and audit.</td>
<td>Member of national auditing system, but when functioning independently relies on informal meeting, voluntary compliance, little monitoring on commitments.</td>
</tr>
<tr>
<td>ASOFIS (member of NAS) Association of State Audit Institutions of Mexico</td>
<td>Internal control and audit.</td>
<td>Member of national auditing system, while more organised than CPCE-F, struggles with reaching municipalities and securing compliance from some state and local governments.</td>
</tr>
<tr>
<td>CONAGO/CONAMM National Conferences of Governors and Mayors</td>
<td>All matters.</td>
<td>Political institutions of governors and mayors. Does not provide much technical assistance to support implementation.</td>
</tr>
</tbody>
</table>

*Source: OECD elaboration.*

Many of the co-ordination mechanisms have existed for some time, however, they have had limited success due to the lack of compliance by members or a lack of resources (see challenges listed in Table 2.3). These issues must be addressed urgently if they are to take on an ever important role in supporting the implementation of NACS initiatives. Collaboration should become more formalised with better monitoring of commitments, and stronger technical and financial support offered.

*Allocating and developing the adequate resources, both human and financial, will be essential to the effectiveness of the new institutional arrangements spurred by NACS.*

Having sufficient financial resources in place is necessary for the success of both national and local integrity systems and associated policy reforms. Without sufficient resources allocated to the different activities and institutions, even the best intended and planned policies can fall short of their targets. Adequate financing is also key to the autonomy of the system and to ensure that it can function without undue influence. While many NACS activities are divided across institutional mandates and are already resourced by those organisations, and savings and efficiencies will be generated through greater co-operation, there are also additional costs associated with these reforms, including: 1) new activities/institutions (such as the portal, the awareness-raising in society, reporting hotlines, ethics commissions); 2) scaling up of existing activities (such as investigations and sanctions); and 3) strengthening co-ordination mechanisms (the NAS and ASOFIS, CPCE-F, etc.)

According to the General Law of NACS, the Co-ordination Committee will rely on budget allocations set by the Congress, and these have yet to be determined. It is unclear how the resources will be distributed between the action plan activities and staffing/running of the executive secretariat and commission. Tables 2.5 and 2.6 present the budgets of national anti-corruption commissions in Peru and Colombia since 2012. While comparisons across countries can be difficult given different memberships and mandates, it is nonetheless important to ensure sufficient budget to function effectively, including for the Citizen Participation Committee. As such, it is paramount that Congress grant sufficient budget to NACS and member institutions.
At the time of publication, budgetary increases for individual institutions who are members of NACS were not planned due to fiscal constraints. This poses a significant challenge to the success of the reforms. Legal changes must be backed by the necessary managerial decisions to achieve results.

Human resources are also important to ensure the success of integrity reforms. Adequate human resources and skill-sets must be included in the executive secretariat staff to cover the variety of tasks it will oversee (from legal to investigative background, IT, public management, accounting, finance, sectoral knowledge, adequate support staff, etc.) In order to build and retain the required human capital and dispose of the expertise for carrying out its mandate and responsibilities, international experience recommends that the personnel of an anti-corruption body should enjoy an appropriate level of job security in their positions. Salaries need to reflect the nature and specificities of the work required. A certain degree of labour stability is important to ensure the building of specific knowledge and expertise and to enable a learning curve regarding the challenges of co-ordination among public institutions.

The same is true more broadly across public sector institutions in the federal, state and municipal governments. The Technical Secretariat may therefore consider specifically monitoring the quality and quantity of human resources for anti-corruption efforts across government as part of its annual report in order to be able to identify bottlenecks and make recommendations when warranted on improvements. The Co-ordination Committee should also consider human resources as a core component of its action plan, ensuring that capacity-building initiatives, merit-based recruitment and hiring practices, and performance assessments are the norm across the public sector.
Senior and middle managers in the public administration should be held accountable for their implementation of NACS initiatives, particularly regarding the extent to which they move forward with numerous pending reforms.

The NACS reform package implies numerous further reforms to organisational integrity policies and tool, such as manuals and guidelines, as well as internal policies and procedures for implementation. While political will has been strong in passing national and state legislation, managerial commitment will be equally important for implementation.

This is complicated by the fact that in Mexico, many (not all) senior officials are not included under the General Employment Framework of the civil service, and therefore these positions are not subject to the same standards of performance assessments and evaluation, which makes accountability for objectives less clear. Figure 2.6 below shows that Mexico ranks below the OECD average in terms of the use of performance assessments in the central government civil service. Senior managers should be held accountable by the NACS and the Senate for failure to institute the necessary reforms in their organisations and, in instances of performance evaluations, performance should be linked with compliance. This is particularly a challenge at subnational levels of government, where fewer officials form part of the civil service regime, and greater turnover is experienced.

Figure 2.6. OECD index on the use of performance assessments in central government civil service

Note: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Summary of proposals for action

The review has found that the sweeping reforms of NACS are a significant step forward in fighting corruption in Mexico and achieving a more coherent and comprehensive approach to an area that is transversal, stubborn and ever changing. The below list presents a summary of concrete proposals for action from the chapter, having assessed new institutional arrangements, support to implementation, and the adoption of an inclusive and whole-of-society approach.

- The NACS Co-ordination Committee should establish working groups comprised of additional key public sector institutions in the design and implementation of national action plan initiatives.
- The NACS action plan should be mainstreamed into other key national policies, including the National Development Plan.
- The national anti-corruption action plan should be accompanied by institutional risk mapping exercises and specific integrity plans at line ministry/agency level.
- NACS and other public sector institutions should be granted sufficient human and financial resources to carry out action plan initiatives.
- The one year presidency rotation for the Citizen Participation Committee could be re-assessed to ensure that it is not detrimental to implementation efforts.
- The Co-ordination Committee should closely monitor states’ implementation of local anti-corruption systems with public indices or scorecards and provide support.
- The Co-ordination Committee should scale-up capacity-building efforts at the subnational level to support implementation over the longer term.
- Managers at the line ministry/agency level should be evaluated on the extent to which they implement NACS initiatives through the numerous pending reforms to policies, guidelines and other tools.
- Co-ordination mechanisms between levels of government could be strengthened by making commitments binding, further allocation of resources and stronger monitoring.
- The Citizen Participation Committee should be inclusive beyond the existing network, such as through dedicated working groups, and it should ensure the transparency of members.
- The Citizen Participation Committee should consider a more formal role for involving private sector stakeholders, such as through an advisory board and/or through a specific workstream.
References


Mexico’s National Development Plan http://pnd.gob.mx/.


Further reading

Bergen: Chr. Michelsen Institute (U4 Issue 2010:4) 34 p.”An exception to the rule? Why Indonesia's Anti-Corruption Commission succeeds where others don't - a comparison with the Philippines' Ombudsman”. 


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