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THE NEW NATIONAL CONTROL SYSTEM IN MEXICO

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Abstract: The significance of this investigation lies in the decrees published on May 7 and 27, 2015, which reform, add and repeal various provisions of the Political Constitution of the United Mexican States (CPEUM), to improve accountability, integrity, transparency and combating corruption. Based on these reforms, on June 22, 2015, the “Operational Bases for the Operation of the National Inspection System” were signed. The main changes that these reforms produced are: the elimination of the constitutional principles of annuity and posteriority, radically modifying the paradigm of the control of public resources with greater opportunity and quality. With the publication in the Official Gazette of the Federation (DOF) on July 18, 2016, of the General Law of the National Anti-Corruption System, which seeks the homogenization of processes, starting as a fundamental pillar of the National Inspection System (SNF), which is in charge of the designation of its responsible departments and the tasks of government audit in the different levels of government with the objective of maximizing the coverage and impact of the inspection throughout the country, to comply with article 74, section IV of our constitution. It is important to establish that the exchange of information must be truly effective between institutions, otherwise there is a risk of maintaining the vices and deficiencies that the previous inspection system had. Therefore, it seeks to establish a coordinated training program that will increase the professional quality of audit staff and thus improve transparency results in the oversight of public resources. Based on these reforms, concrete, coordinated and collaborative actions are proposed between the three levels of government to address the problem of corruption in accountability in which we are immersed as a country by implementing real-time audits.

Keywords: System, Inspection, Mexico

INTRODUCTION

On May 7 and 27, 2015, the reforms to the Political Constitution of the United Mexican States regarding Title IV “Of the Responsibilities of Public Servants, Individuals Related to Administrative Offenses” were published in the Official Gazette of the Federation (DOF). Serious or Acts of Corruption, and State Patrimonial “whose reformed articles were the following: 22, 28, 41, 73, 74, 76, 104, 109, 110, 113, 114, 116 and 122 in order to combat corruption in the country and promote audits of public spending, with the purpose of improving the quality and transparency in the administration of the treasury in the three levels of government, through the measurement of efficiency, effectiveness, economy, transparency and honesty, as these are the bases of these reforms that give rise to a new stage in the supervision of our country. Derived from these reforms, the National Anti-Corruption System (SNA) and the National Inspection System (SNF) were created with which the Federal government seeks to end the cancer of corruption and impunity. It has been observed that the vast majority of Latin American and Caribbean countries suffer from high rates of bureaucracy and corruption. Nowadays Mexico is no exception, given that in recent years too many corruption scandals have been found and to cite a few “the Odebrecht case” and the “Javier Duarte” case, the first case is one of the most corruption in the world of all time involving more than ten countries on the American continent and the second of a former governor who, with the help of 11 agencies and 128 shell companies, diverted more than 192 million dollars.

The Mexican government has designed a system to try to reduce corruption with the creation of the National Anti-Corruption System whose purpose is to prevent, detect, punish, supervise, control and combat

corruption, as well as the acts or omissions of public servants and officials. individuals with a design of public policies that seeks prevention, internal and external control, investigation and sanction and on the other hand the National Supervision System that seeks that the Supreme Audit Entities (SAI) submit their reports in advance to proceed in the determination of responsibilities in a shorter period of time. With Harmony, the SNA and the SNF seek to have greater control of public resources and better oversight with the elimination of the constitutional principles of annuity and posteriority. In addition to carrying out in a coordinated and collaborative manner with the different oversight departments of the federal, state and municipal public administration.

For this reason in the Congress of the Union, several reforms were made such as: Fiscal Coordination Law, Federal Penal Code, Organic Law of the Attorney General's Office of the Republic, General Law of Government Accounting, Organic Law of the Federal Public Administration and new ones were created: the Law Organic Law of the Federal Court of Administrative Justice, General Law of the National Anti-Corruption System, General Law of Administrative Responsibilities and the Law of Supervision and Accountability of the Federation, all were published in the DOF of July 18, 2016 and each of them to strengthen the SNA.

The SNF is made up of the Secretariat of Public Function (SFP), the Superior Audit of the Federation (ASF), the State Comptrollers' Offices, the Local Superior Audit Entities (EFSL), the Internal Control Departments of the Federal and Parastatal Public Administration, of the Legislative Branch, the Judicial Branch and the Constitutionally Autonomous Departments, the Internal Control Departments at the municipal level, as well as the comptrollers of decentralized

municipal agencies, will be integrated into the SNF in a progressive manner. The SNF will be made up of a governing committee and five working groups that will act jointly and simultaneously, which will be responsible for establishing the legal and methodological framework that will govern the audit, verifying compliance with the General Government Accounting Law., evaluate accounting harmonization and design an efficient reporting system to increase citizen participation.

Another important part within the National Anti-Corruption System and the National Control System is primarily to combat corruption and as a central part of everything it is through ICTs through a national digital platform for prevention, detection, sanction, inspection and control of the crimes. public resources through collaboration and exchange of specific information, public tenders, award processes, construction contracts, acquisitions, leases and provision of services as well as asset, interest and tax declarations of public servants, and the knowledge if any public or private servant has been sanctioned by any authority at any of the three levels of government.

For this reason, it is of utmost importance to combat corruption effectively, which seeks to strengthen respect for human rights, freedoms of expression, access to public information and transparency of public income and expenditure, reduce impunity of public servants, respecting the autonomy of powers, reduce insecurity rates, eradicate extreme poverty, reduce inequalities, seek a fair and inclusive society in the decisions of rulers, performance of public resources is executed with efficiency, effectiveness, economy, transparency and with its corresponding quality in the application of spending. Finally, that public servants and individuals who find themselves in the cases provided

for by legislation in any act of corruption be punished promptly and expeditiously.

Article 73 of the CPEUM grants the Congress of the Union the power to issue laws that regulate the organization and also powers to the Superior Audit of the Federation and the others that regulate the management, control and evaluation of the Powers of the Union and of federal public entities; as well as to issue the general law that establishes the bases of coordination of the SNF. The main objective is to formulate laws that help eradicate the corruption of which this country is a victim, essentially in the public sector. Likewise, it confers the power to issue the law with which the TFJA operates, which grants full autonomy to issue its rulings, and establishes its organization, operation and the resources with which its resolutions can be challenged. Therefore, the court will be in charge of resolving disputes that arise between the federal public administration and individuals.

The Superior Chamber of the Court is made up of sixteen Magistrates who will be appointed by the President of the Republic. The magistrates of the upper chamber will be ratified by two thirds of the present members of the Senate of the Republic, who will be in office for 15 non-extendable years. And the magistrates of the regional chamber will be ratified by a majority of the members of the senate of the republic and will remain in office for 10 non-extendable years. The only way that magistrates can be removed from their position is if they incur a serious offense mentioned in the organic law of the federal court of administrative justice or their term has ended.

Likewise, the Congress of the Union will be in charge of creating the General Law of Administrative Responsibilities that contributes to the better functioning and regulation of the National Supervision System, which aims to distribute powers between the levels of government to establish

the administrative responsibilities of the public authorities, their obligations, the sanctions applicable for the acts or omissions in which they incur and those that correspond to individuals linked to serious administrative offenses that are foreseen for this purpose, as well as the procedures for their application.

Article 109 of our Constitution imposes sanctions for public servants and individuals who incur responsibility before the State, punishing administrative offenses and acts of corruption, giving strength to the SNF. For which the senators and deputies of the Congress of the Union, the ministers of the Supreme Court of Justice of the Nation, the advisors of the Federal Judiciary, the Office Secretaries, the Attorney General of the Republic, the Circuit magistrates and District judges, the President counselor, the electoral counselors and the executive secretary of the National Electoral Institute, the magistrates of the Electoral Tribunal, the members of the autonomous constitutional departments, the general directors and their equivalents of the decentralized organizations, companies with majority state participation, companies and associations similar to these and public trusts when they commit acts or omissions that result in detriment to fundamental public interests or their good office.

The National Inspection System, in accordance with the laws, will determine the cases and circumstances in which public servants who, during their time in office, increase their assets, acquire assets or behave as criminally, must be penalized for illicit enrichment. owners over them, whose legal origin they could not justify and incur in contempt for the applicable regulations and have differences in their public account or do not fully verify the exercise of public resources.

Administrative sanctions will be applied to public servants when they are involved in acts or omissions that affect the legality, honesty,

loyalty, impartiality and efficiency that they must observe in the performance of their jobs, positions or commissions as established by the SNA law. These sanctions will consist of reprimand, suspension, dismissal and disqualification, as well as economic sanctions, and must be established in accordance with the economic benefits that, where appropriate, the person responsible has obtained and with the property damages and losses caused by the acts or omissions.

The SNF, based on the law, will establish the procedures for the investigation and sanction of said acts or omissions, for the same reason public servants are obliged to present their assets declaration from the moment they occupy a public position for the first time and at the time of their appointment. charge.

When a public servant commits a serious administrative offense, it will be investigated and substantiated by the Superior Audit Office (ASF), the Internal Control Departments (OIC) or by their counterparts in the federal entities as appropriate, and will be resolved by the TFJA. that is competent. Other non-serious administrative offenses and sanctions will be known and resolved by the internal control departments of public institutions; these resolutions must be made public through the National Anti-Corruption System. To carry out the investigation, substantiation and sanction of the administrative responsibilities or acts of corruption of the members of the Judicial Branch of the Federation, the bases established by the Constitution will be observed, without prejudice to the powers of the ASF in matters of supervision over the management, custody and application of public resources. The law will establish the assumptions and procedures to challenge the classification of administrative offenses as non-serious, carried out by the internal control departments of the different levels of government.

The SNF will rely on the internal control departments of public entities, which will be responsible for preventing, correcting and investigating acts or omissions that could constitute administrative responsibilities and this way sanction those other than those within the jurisdiction of the TFJA; review the entry, exit, management, custody and application of federal public resources; as well as present complaints for acts or omissions that could constitute a crime before the Specialized Prosecutor's Office in Combating Corruption referred to in this Constitution and with this make the transparency process shorter and more effective. State and municipal public entities, as well as those of Mexico City and its territorial demarcations, will have OICs that will have, within their scope of local jurisdiction, the powers to correct and investigate acts or omissions that could constitute administrative responsibilities or corruption, and individuals who incur or are linked to administrative offenses or acts of corruption will also be punished, and economic sanctions, disqualification will be imposed to participate in acquisitions, leases, services or public works; as well as compensation for damages and losses caused to the Public Treasury or to federal, local or municipal public entities and may suspend activities and dissolve companies. The SNF will apply the laws and procedures for the investigation and imposition of sanctions for said acts or omissions.

This seeks to reduce illicit enrichment and guarantee that the goods and services provided are of quality and do not lend themselves to the simulation of operations. Citizens may exercise their right to report if they gather sufficient evidence to substantiate and expose the act of corruption or administrative misconduct and it will be presented to the Chamber of Deputies of the Congress of the Union. The ASF and the Secretariat of the

Federal Executive responsible for internal control may resort to the determinations of the Specialized Prosecutor's Office in Combating Corruption and the TFJA, in accordance with the provisions of articles 20, Section C, section VII, and 104, section III of this constitution, respectively. The responsibility of the State to individuals for damages caused by an irregular administrative activity or wrong ruling by any member of the National Anti-Corruption System will be compensated in accordance with the bases, limits and procedures established by law.

On the other hand, article 113 establishes the structure and form of SNA management, this being the instance of coordination between the authorities of all levels of government competent in the prevention, detection and sanction of administrative responsibilities and acts of corruption, as well as in the supervision, control and correct management of public resources. The Coordinating Committee of the National Anti-Corruption System will be responsible for establishing coordination mechanisms with local systems, the design and promotion of comprehensive policies regarding oversight and control of public resources, prevention, control and deterrence of administrative offenses and acts of corruption. corruption adhering to applicable regulations. It will be in charge of making known the bases and principles for the effective coordination of the authorities of the government orders in matters of inspection and control of public resources and will be in charge of preparing an annual report showing the results of the application of anti-corruption policies and programs.

As we can see, what is sought is the transparency of the application of public resources in the executive, legislative and judicial powers of the federation, States, Mexico City, Municipalities, Autonomous

and Parastatal Departments, etc., whose main purpose is to identify and sanction public servants for serious administrative offenses, for non-serious administrative offenses, individuals for serious administrative offenses, combat crimes committed due to acts of corruption and with these precautionary and corrective measures contribute to correct oversight and accountability.

Nowadays it is sought that there be respectful, adequate and honest communication between public servants and individuals, in order to get Mexico out of this metastasis in which it finds itself, the main and most important thing above all things are the values of the people who are in charge of the institutions and in general all the public servants hired by them.

The implementation of a real-time, legal, harmonized and compared platform is sought with the various federal entities, municipalities, powers, parastatals, autonomous organizations and in general any supervised entity in national territory to contribute to the SNA and thus verify the impact that could have in comparison with other countries that carried out the National Anti-Corruption System or some analogous system.

METHODOLOGY

The investigation will be carried out with the following descriptors as the central axes of the investigation - Review of the National Inspection System - Legal framework - Level of implementation in the federal entities and municipalities of the SNF one year after starting operations and the effect on accountability.

METHOD

This research will be carried out under the mixed method (Deductive-Inductive), since the explanation of the topic will be presented in a general way and will be applied to a specific case and then it will be validated in a particular way to take it from the generality that will allow quantifying the effect of the investigation.

APPROACH

The work will be carried out by analyzing the information in a descriptive way; which will qualitatively be validated and verified with the researcher's position on the topic that will be developed.

KIND OF INVESTIGATION

The present work will be carried out with a type of descriptive research that will allow the analysis of secondary research sources with the objective of describing themes and subthemes related to the origin of the work, reviewing the foundations, concepts and theories, etc.

The investigation will take an explanatory bias by pointing out the deficiencies observed in the SNF of the State of Puebla and the weaknesses that the system itself presents, which prevents it from generating results at the state level.

RANGE

The investigation will be carried out with a transversal scope since the fiscal provisions in force in 2018 will be considered based on the Political Constitution of the United Mexican States, General Law of Administrative Responsibilities, Law of Supervision and Surrender of the Federal Public Account, Organic Law of the APF, Organic Law of the TFJA, General Law of the National Anti-Corruption System, Federal Penal Code (reforms), Organic Law of the PGR and other

laws, regulations, agreements and circulars that are applicable.

GEOGRAPHIC SCOPE

This investigation will be carried out in the State of Puebla, which may be applied to any audited entity in the Mexican nation.

DOCUMENTARY RESEARCH

The documentary research will be carried out by consulting secondary sources such as: books, newspapers, magazines, laws, tax compilations and electronic addresses.

The collection of information related to the topic was the cited sources, which will subsequently be selected, analyzed and synthesized with comparative tables that allowed the theoretical and referential framework of the work to be built.

FIELD RESEARCH

The field work will be carried out with the application of interviews and questionnaires with the support of experts in the area such as Public Servants, Lawyers, Accountants and other professionals who use or are applied to the regulations of the National Inspection System.

GOAL

Our objective is to make proactive proposals to generate better synergy in the National Supervision System, which integrates the powers, federal entities, municipalities, parastatals, autonomous organizations and in general all the audited entities of our country based on the reforms of May 7 and 27, 2015 indicated in title IV "Of the Responsibilities of Public Servants, Individuals Linked to Serious Administrative Misdemeanors or Acts of Corruption, and Patrimonial of the State" in our Political Constitution of the United Mexican States mainly strengthening the integrity policy indicated in article

25 of the General Law of Administrative Responsibilities for a better performance of public servants, intensifying transparency in public accountability to citizens through their Performance, seeking that public servants primarily count with ethical values such as justice, freedom, respect, responsibility, integrity, honesty, loyalty, equity among others.

Propose the design of a homogeneous, legal and real-time National Inspection System platform for the timely detection of serious and non-serious offenses of public servants and individuals who are involved in any act of corruption and timely decisions can be made in real time that are inclusive within the individual and general reports that are presented in June and October of each year, that contribute in an efficient, effective and economic manner to the prevention of crimes of corruption, impunity and bribery of the entities in the three levels of government in our country.

RESULT

Corruption has been a severe problem throughout the world that impedes the development and progress of nations, since it represents large amounts of unproductive and informal money and as a consequence, due to these diversions, the Public Administration stops receiving income, reducing collection.

The reform of the Constitution regarding the fight against corruption and transparency in accountability was a transcendental step in the history of our country every time, which gave rise to the implementation of the National Anti-Corruption System, complementing the National Inspection System. and I grant powers to the Superior Audit of the Federation to supervise public resources in an unprecedented manner in terms of federal participations of the general branch 28 and federal contributions of the general branch

33 that include the Contribution Funds for Municipal Social Infrastructure (FISM) and the Contribution Fund for the Strengthening of Municipalities (FORTAMUN). To comply with these new powers, the ASP created a platform for compliance with the Financial Discipline Law that is capable of quarterly verifying the state of the economy maintained by the supervised entities regarding Public Debt by any supervised entity in Mexico.

All this so that the control of public resources is quick, effective and efficient and can be determined.

Administrative responsibilities in a timely manner to be sanctioned in accordance with the applicable law, and by having a law that sanctions administrative offenses incurred by public servants and individuals who benefit illegally.

The National Inspection System is a new model for Mexico, which presents deficiencies in its structure and its way of operating lacks an approved structure at the three levels of government.

- a) The procedure organization manual must be approved at the three levels of government to achieve effective communication and coordination between government oversight departments.
- b) Systems that allow greater coverage of the control of public resources, both federal and local, based on real-time audits by Supreme Audit Entities and other authorized organizations.
- c) A code of conduct applied to all public servants with monetary sanctions for non-compliance with it.
- d) Create a timely reporting system for public servants and individuals.
- e) Establish periodic and sporadic evaluations that ensure transparency and the correct application of public

resources and issue information that allows correct public decision-making through audit reports at the beginning and end of the year, with the aim of improving government management.

To achieve greater efficiency and effectiveness in the Internal Control Departments, it must be considered that they are appointed by the ASF, which is responsible for their fees and expenses arising from their performance, eliminating subordination between the public servants of the agencies and the members of the OICs and with this guarantee the best performance of public institutions.

The ASF could create a list of External Auditors to eliminate the subordination between the auditor and the audited entity, since it is not always possible to rule in accordance with the applicable regulations due to the conflict of interest that this may cause.

The investigation that was carried out is significant, since there is a generality in the non-compliance of the entities supervised in this country, which leads to poor accountability and causes a deficiency in the transparency of public resources used.

CONCLUSION

In accordance with the Political Constitution of the United Mexican States (CPEUM) in the reform of May 27, 2015, mainly of title IV referring to "On the Responsibilities of Public Servants, Individuals Linked to Serious Administrative Misdemeanors or Acts of Corruption, and Patrimonial of the State" as well as the different normative and secondary provisions reformed and created in the official gazette of the federation of July 18, 2016 such as the law of the National Anti-Corruption System, General Law of Administrative Responsibilities, Law of Supervision and Accountability of the Federation, among other laws, all of them strengthening the SNF, which must contain the elements

that allow the quantitative and qualitative aspects to be related, that is, the objectives, strategies, activities, goals in real time, duly homogeneous, will have to be articulated on a platform that strengthens the actions contained in the instruments of the National Inspection System.

With what has been described, it is clear that the National Supervision System really prevents, investigates, and sanctions serious and non-serious administrative offenses of public servants as well as individuals of acts of corruption, also strengthening harmonized, transparent oversight and accountability. accounts, since it allows the timely detection and correction of deviations, insufficiencies or inconsistencies in the course of the implementation and execution of actions, with the purpose of ensuring compliance with the strategies, policies, objectives, goals and allocation of resources in the public administration at the three levels of government, helping and contributing through the Coordinating Committee with the national digital platform with different comprehensive electronic systems with ideal and harmonized simplified measurement methodologies.

On the other hand, the oversight, transparency and public accountability found in the entities audited today are the cornerstones to prevent, investigate and punish in real time serious and non-serious administrative misconduct by public servants and of individuals. Serving the constitutional reform by removing the constitutional principles of annuality and posteriority also helps to evaluate their performance in the population, since they must report through their transparency pages the impact that the exercise of the treasury had on society. The result in the accountability process contributes to better performance of the auditing entities by reducing corruption

through the comprehensive digital platform and its technological systems, implementing an ideal methodology.

From what has been analyzed, it is clear that currently, the audited entities, in the fight against corruption, transparency and accountability, have the obligation to have all the supporting and supporting documentation that provides evidence that the operations carried out are real., but also, that they show that public expenditures were carried out with efficiency, effectiveness, economy, transparency and honesty and gender equity according to the indicators designed to measure each of the stated attributions, given that they are requirements so that, as a whole, classify that they were legal based on the reforms of the National Anti-Corruption System. Likewise, they also have the obligation to have computer systems that allow them to record their operations in real time in the terms provided by current regulations, since public servants will be responsible for the data contained in their financial, accounting, budgetary, programmatic and patrimonial; For their part, the authorities responsible for transparency in the supervision of public resources will have to provide regulations and technical aspects that contribute to correct compliance with the applicable regulations for the preparation of public accounts, and have technical elements that allow them to qualify in real time the public accounts through the individual and general reports of each audited entity in the country and, if appropriate, their approval and/or initiate a procedure to determine responsibilities against the public servants and individuals who were found in some serious or non-serious administrative failure of the different award processes in the different acquisitions, leases, services or public works in the audited entities of the country.

For all that has been stated, it is important that the National Inspection System provide

specific reports on the use and destination of the public resources themselves that are attached to the Performance Audit, to generate a greater commitment with all Mexicans so that compliance with the resources applied in the federation, federal entities and any audited entity can be verified, their actions are measured through the indicators strategic and management, based on article 134 of the CPEUM, are also linked to the National Development Plan, considering as its central axis its Budget Based on Results, the Matrix of Indicators for Results and the Methodology of the Logical Framework, which which will bring with it the respective approval of its public accounts, showing an efficient, effective and economic government with adequate accountability and mainly gradually reducing corruption in the country.

PROPOSAL

Our objective is to make proactive proposals to generate better synergy in the National Supervision System in which the powers, federal entities, municipalities, parastatals, autonomous organizations and in general all the audited entities of our country are integrated based on the reform of May 27, 2015 indicated in title IV “Of the Responsibilities of Public Servants, Individuals Linked to Serious Administrative Misdemeanors or Acts of Corruption, and Patrimonial of the State” in our Political Constitution of the United Mexican States mainly strengthening the policy of integrity indicated in article 25 of the General Law of Administrative Responsibilities for better performance of public servants, strengthening transparency in public accountability towards citizens through their Performance, seeking that public servants mainly have the values ethics such as justice, freedom, respect, responsibility, integrity, honesty, loyalty, equity among others.

Propose the design of a homogeneous, legal and real-time national inspection system platform for the timely detection of administrative deficiencies in the application of public resources caused by public servants and individuals who are involved in any act of corruption and can make timely decisions in real time and are inclusive within of the individual and general reports presented in June and October of each year, which contribute efficiently, effectively and economically to the prevention of crimes of corruption, impunity and bribery of entities at the three levels of government in our country. strengthening transparency in accountability.

From what has been stated, it implies that all the aforementioned actors have modern computer systems to guarantee timely and correct registration, prevention, investigation,

detection and control to contribute efficiently and effectively to the fight against corruption. In addition to implementing confidence exams for all public servants with the maxim that only those who accredit the exams may be in the public administration. With this we strengthen the values of public servants.

Finally, the proposal is that the internal control departments be hired by the supervisory entities, whether of the federation or the federative entities so that there is no direct subordination with them and at least one law graduate and an accountant are in them. public with their respective assistants to carry out optimal performance in the activities planned in the investigation and substantiation of administrative misconduct by public servants and individuals.

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